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FEB 24 1976

THE WHITE HOUSE  
WASHINGTON

February 24

TO: JACK MARSH.

FROM: PAUL LEACH

The attached airline reform  
brochure may be of interest.  
Senate and House hearings now  
scheduled for April.

DALM  




# Aviation Act of 1975

A bill to expand competition in the airline industry, to provide improved services by the airline industry to travelers and communities, and to better enable the airline industry to adjust to changing economic conditions.

United States Department of Transportation



# Aviation Act of 1975

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United States  
Department of Transportation  
Office of the Secretary  
Washington, D.C. 20590  
January 1976



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# To the Congress of the United States

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As part of my program to strengthen the Nation's economy through greater reliance on competition in the marketplace, I announced earlier this year my intention to send to the Congress a comprehensive program for the reform of transportation regulation. In May, I sent to Congress the Railroad Revitalization Act aimed at rebuilding a healthy, progressive rail system for the Nation. Today I am pleased to submit the Aviation Act of 1975 which will provide similar improvements in the regulatory environment of our airlines. To complete the package, I will soon be forwarding similar legislation for the reform of regulation governing the motor carrier industry.

The result of the regulatory reform measures proposed in this legislation will have a direct and beneficial impact on the American consumer. Countless Americans use air travel on a regular basis in connection with their jobs and leisure activities. But for many Americans, air travel has become a luxury too expensive to afford. In part, today's high costs of air transportation are attributable to inflation and the rising cost of fuel and labor. But they are also the result of long years of excessive economic regulation.

In 1938, when the Congress authorized the creation of the Civil Aeronautics Board, there was a belief that some form of government intervention was needed to protect the infant airline industry. Accordingly, the Board was instructed to regulate this industry in order to promote its growth and development. Entry into the industry was strictly

controlled. Even those airlines who were allowed entry into the industry were rigorously controlled with respect to what markets they could serve and fares were regulated. Real competition was intentionally dampened.

In the almost four decades since economic regulation of airlines was established, this industry has grown tremendously. It can no longer be called an infant. Consequently, protective government regulation established to serve the particular needs of a new industry has outlived its original purpose. The rigidly controlled regulatory structure now serves to stifle competition, increase cost to travelers, make the industry less efficient than it could be and deny large segments of the American public access to lower cost air transportation. A number of studies have indicated that the cost of air transportation to American consumers is far higher than necessary as a result of overregulation.

The overriding objectives of the proposed legislation is to ensure that we have the most efficient airline system in the world providing the American public with the best possible service at the lowest possible cost. We must make sure that the industry responds to natural market forces and to consumer demands rather than to artificial constraints set out by government. This legislation would replace the present promotional and protectionist regulatory system with one which serves the needs of the public by allowing the naturally competitive nature of the industry to operate. It provides the airline industry increased flexibility to adjust prices to meet market

demands. And it will make it substantially easier for firms who wish and are able to provide airline services to do so. These measures will be introduced gradually to permit the industry to adjust to a new regulatory environment. Government will continue to set rigid safety and financial standards for the airlines. But the focus of the new regulatory scheme will be to protect

consumer interests, rather than those of the industry.

I urge the Congress to give careful and speedy attention to these measures so that the over 200 million passengers who use our airlines every year are given the benefits of greater competition that will flow from regulatory reform of this industry.

GERALD R. FORD

THE WHITE HOUSE, October 8, 1975.

## Facts Concerning Aviation Act of 1975

The Aviation Act of 1975 is the first comprehensive legislative proposal for regulation of the airline industry since the Civil Aeronautics Act of 1938. By lessening economic controls over the industry and by placing maximum reliance on competition, the Act will enable the airline industry to provide more efficient, responsive and less costly service to the public. It will assure that inefficiency is not protected by an outdated system and that well-managed airline firms will be able to grow and prosper.

### Principal Objectives of Legislation

**1. To increase the ability of air carriers to respond to consumer interests.** This legislation directs the Civil Aeronautics Board (CAB) to allow competition to direct the setting of airline fares and to determine the services to be provided in response to market demand. The present regulatory system insulates the airlines from competition and protects industry interests instead of the public interest.

**2. To introduce and foster price competition in the industry.** Government regulation has limited price competition in the airline industry. The bill will encourage airlines to compete on the basis of price as well as service and create opportunities for low-cost air service.

**3. To liberalize entry into the industry and to reduce restrictions on the services which carriers can provide.** Government regulation has restrained competition by severely restricting the entry of new firms into the industry and by controlling the routes which existing airlines are allowed to serve.

This legislation will, over a period of years, permit qualified firms to enter new markets and offer new air transportation services.

**4. To eliminate anticompetitive air carrier agreements.** Presently, airlines are accorded special treatment under the antitrust laws. Unlike other industries, carriers are permitted to restrict capacity, pool revenues, and deliberately lessen competition. The bill will prohibit such agreements. However, carriers will still be able to enter into agreements which are not anticompetitive and which facilitate air transportation. Carriers, for example, can continue to transfer baggage on connecting flights, honor ticket exchanges and make joint reservations for the convenience of their passengers.

### Major Provisions of the Aviation Act

**1. Policy Changes.** The present Declaration of Policy, enacted in 1938, was framed in the context of an infant industry in need of protection. The Board has often relied on the Declaration of Policy to limit competition. Now, however, air transportation is a mature industry capable of operating in a competitive environment. The Aviation Act of 1975 revises this declaration to stress the desirability of competition rather than the protection of established carriers. The new declaration also directs the Board to encourage the entry of new firms into air transportation.

**2. Pricing Flexibility.** Price competition has been discouraged by Federal regulation and is virtually non-existent. Restrictions on price competition have significantly harmed



air travelers. For example, while carriers in intrastate markets are subject to Federal safety regulations, they are free from Federal economic restrictions on fares and routes. In these markets, prices have been lower than in comparable interstate markets. Scheduled commuter air carriers, operating equipment which is more costly per passenger mile, charge comparable or lower fares than regulated carriers for similar distances.

Ironically, air carriers have not earned unusually high profits from this lack of price competition. Excess profits that might have been earned have been dissipated through service competition—most visibly in the form of in-flight movies, free drinks, and other amenities but most expensively in terms of scheduling additional flights.

The Aviation Act of 1975 substantially increases airline pricing flexibility over a three-year period. During the first year of the Act, airlines may lower fares as much as 20 percent and in the second year as much as 40 percent below the fares in effect on the date of enactment, without CAB interference. By the third year, fare decreases may be disallowed only if they are below the direct cost of the service in question.

Fares may be increased up to 10 percent per year without CAB involvement.

Flexible pricing, coupled with liberalized entry and the removal of antitrust immunity, will assure the widest range of consumer choices for air transportation at the lowest possible prices.

**3. Entry Into Air Transportation.** The CAB controls the entry of new firms into the industry and the expansion of existing firms into additional markets. With minor exceptions, no new scheduled passenger carriers have been licensed since 1950. No new carrier has been permitted to enter major airline service since regulation was established in 1938. The Board has often been restrictive in allowing carriers to expand their routes. It maintained an unannounced route moratorium, during which it refused to consider major route applications, for most of the past five years.

The effect has been to deny consumers the benefits of services which efficient and innovative carriers have been willing to pro-

vide. For example, in 1967, World Airways (a large charter carrier) proposed scheduled transcontinental service with a one-way fare of \$75. The Board took no action whatever until it dismissed the application six years later as being "stale".

Numerous conditions and restrictions have also been attached to the operating certificates held by air carriers. For example, some flights may not carry local passengers, while others may not provide through service or must continue to points beyond their logical destination. These restrictions protect the markets of established air carriers and add to costs by wasting aircraft, fuel and labor.

The Aviation Act of 1975 is designed to reduce substantially the barriers facing qualified firms that wish to enter into air transportation, expand into new markets, or offer innovative service. It provides for increased entry while giving airlines time to rationalize their operations and adjust to the changing regulatory environment.

Entry is facilitated by a variety of means. The new declaration of policy directs the CAB to encourage the entry of new firms into the airline industry. Other provisions allow carriers to offer new or better service:

**A. Certificate Restrictions.** The Act directs the Board to eliminate all existing operating restrictions within five years and prohibits it from imposing restrictions in the future.

**B. Discretionary Mileage.** Following the removal of operating restrictions in 1981, the Act allows each carrier to increase route mileage by about five percent per year. This allows carriers to expand and rationalize their route systems.

**C. Sale of Certificates.** After January 1, 1978, a carrier may sell, transfer, or lease any portion of its operating authority to any air carrier found by the CAB to be fit, willing, and able to provide air service. This will also enable air carriers to restructure their routes to improve service to the public. New carriers entering the industry under this provision will be eligible to increase their route mileage under the discretionary mileage provision.

**D. Scheduled Service by Supplemental Carriers.** The Act allows supplemental air carriers (charter carriers), who have been innovators in the air carrier industry, to apply for authority to provide scheduled service.

**E. Unserved Markets.** The Act requires that the CAB permit entry by qualified applicants for non-stop service between cities not receiving such service from certificated carriers.

**F. Charter Service.** The Act improves opportunities for low-cost service by reducing the strict limitations on charter services which have severely impaired their growth.

**G. Commuter Aircraft Restrictions.** Carriers operating aircraft up to 30 seats now are exempt from economic regulations but are subject to the same safety rules as certificated airlines. Operating within this exemption, a vigorous and rapidly growing industry of more than 200 commuter airlines has developed, primarily providing service to small and isolated communities not served by certificated carriers. The Act allows scheduled commuter carriers to increase the size of aircraft they operate from 30 to 55 seats. This will enable them to purchase larger turbo-prop, pressurized aircraft and provide improved service to many small communities.

**4. Abandonment of Service.** Certificated carriers require CAB approval to withdraw service from a city. Although abandonment does not seem to be a major problem, the existing standard for abandonment should be changed for two reasons. First, costs that a carrier incurs when it is compelled to serve markets at a loss, without subsidy, are defrayed by passengers elsewhere on the carrier's system. This is unjustifiable. If subsidy is desirable, it should be paid directly by the government rather than by air travelers flying elsewhere. Second, carriers are more likely to enter new markets if abandonment provisions are liberalized because they would then be able to withdraw from service if the market should prove unprofitable.

The Act deals with abandonment in the following manner. Carriers will be per-

mitted to exit upon 90 days notice if alternative scheduled air service is provided by another carrier. Where alternative scheduled air service is not provided, carriers will be permitted to exit whenever, taking subsidies into account, they could not cover fully allocated costs for one year or they could not cover direct operating costs for three months. The Board may require continued service if the community or another public body were willing to defray the carrier's losses.

The new provision will not substantially change abandonment practices. The Board has generally granted abandonment applications where a carrier can show that it has lost money on this service. This provision will ensure that appropriate economic criteria will continue to be applied in abandonment proceedings.

**5. Subsidies.** The Act proposes no substantive changes in the subsidy program. The Board now administers an annual subsidy program of nearly \$70 million directed at ensuring the continuity of service to small communities, primarily by local service carriers. The CAB has periodically recommended revision of the subsidy formula. The Act directs the Secretary of Transportation to undertake a comprehensive study of the present subsidy system and to report to Congress within a year. The Secretary will undertake this study in full consultation with the CAB, the affected communities and the airlines. The study will develop recommendations for legislation to improve the program.

**6. Mergers.** The Act brings airline merger standards more in line with antitrust laws. Under the new standards, the Board could not approve a merger which would tend to create a monopoly or substantially lessen competition, unless it found that the anti-competitive effects were outweighed by the probable benefits to the communities to be served and that no less anticompetitive alternatives were available. The Board would have one year to decide on a merger application. Because there is a substantial difference between the current and the proposed merger standards, a 30-month transition period is provided. During the interim, existing merger procedures would be retained.

**7. Anticompetitive Agreements.** Currently, agreements among carriers are immune to antitrust challenges once Board approval is given. Although most agreements filed with the Board do not raise antitrust considerations, some agreements, particularly those which restrict capacity, have anticompetitive effects.

The Aviation Act of 1975 prohibits the Board from approving agreements to control levels of capacity, equipment or schedules, or which relate to pooling or apportioning of earnings or of fixing of rates. The Board could continue to confer antitrust immunity on other agreements between airlines, but before granting approval it would have to find that the agreements meet a serious transportation need and that reason-

able, more competitive alternatives are not available.

**8. Procedural Changes.** The Board has often refused to hear applications or to render decisions in a reasonable period of time. It has also used procedural motions to settle substantive questions. The Act requires the Board to hear and decide cases speedily. In order to avoid burdening the Board with spurious applications, it will be allowed to dismiss certain cases. However, any cases dismissed shall be dismissed on the merits, and the dismissal may be reviewed by the Court of Appeals. This will end the practice of dismissing applications on procedural grounds, leaving the applicants with no recourse to court review.

## Questions and Answers About the Aviation Act of 1975

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### General

**What are the goals of the Aviation Act of 1975?**

The purpose of the bill is to modernize Federal economic regulation of the air transportation industry. It reflects the Administration's desire to rely more heavily on competition and to improve and update airline regulation to meet today's economic needs. Competition among carriers will cause them to meet travelers' and shippers' needs most efficiently.

**Why is the Administration proposing reform now?**

The Aviation Act of 1975 is part of the Administration's overall program to revitalize the free enterprise system and it is one of three proposals seeking fundamental reform of economic regulation governing the transportation industry. As President Ford has noted: "Such regulation, established long ago, in many instances no longer serves to meet America's transportation or economic needs."

Federal regulation has not kept pace with the growth of the airline industry. The Civil Aeronautics Act of 1938 was intended to protect, nourish and foster the growth of an infant industry. Airlines have now grown and matured into the dominant mode of public intercity passenger transportation. The regulatory practices of the Civil Aeronautics Board are badly out of date and no longer serve the public interest.

The regulatory system has attempted to protect established firms within the airline industry from the forces of competition. This has resulted in higher fares than necessary. Low cost service innovations have been discouraged. Ironically, there is little evidence that regulation has actually helped the established carriers. Competition in the form of costly services has replaced price competition.

**What effect will the bill have on airline safety?**

None whatsoever. The CAB has no responsibility for safety regulation. The Federal Aviation Administration (FAA) is responsible for assuring that all airlines maintain the highest safety standard. The safety enforcement powers or duties of the FAA are not changed in any way. The Administration's bill deals solely with economic regulation by the Civil Aeronautics Board.

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## Competition and Efficiency

**How does the bill benefit consumers?**

Enactment of the proposed bill will result in lower average fares and more responsive service. By removing unnecessary operating restrictions and undue reliance on costly service competition, airlines will be able to reduce costs. And by providing for increased entry and price competition, the bill insures that these cost savings will be passed on to consumers.

**Airlines compete actively for passengers—ads, drinks, movies, special luggage compartments. Why is more competition desirable?**

One form of competition of interest to consumers—price competition—is currently unavailable. The existing regulatory system largely limits airlines to service competition, which raises the cost of air travel. Airlines should be able to offer lower fares and innovative services. The Act will allow airlines to do this rather than relying heavily on costly frills.

**What inefficiencies in airline operations are caused by the absence of price competition?**

Passengers often receive services that they would not buy separately, such as meals, drinks and fancy decor. Another kind of inefficiency involves airline scheduling and results in too many airplanes flying with too many empty seats. Because all airlines charge the same fare, they are forced to compete by offering "more flights to . . ." or "a flight every hour . . ." This form of competition results in empty seats and higher ticket prices.

**What inefficiencies in airline operations are caused by route regulation?**

Over the years, numerous types of conditions and restrictions have been attached to the operating certificates held by air carriers. For example, a carrier may not be allowed to provide through-plane service between two cities, forcing passengers to change planes unnecessarily. In other cases, carriers must continue flights to points beyond a certain destination, whether or not there is sufficient demand for such service. Often they are not permitted to carry "local" passengers who only want to travel one leg of a particular route. These restrictions waste aircraft capacity, fuel and labor. They raise costs and passenger fares and they prevent airlines from providing service many passengers might like to have.

**If reliance on service competition is reduced, won't service to the public suffer?**

In competing for customers, carriers will have the incentive to provide the types of service their customers want. If consumers prefer lower fares, less frequent service and fewer amenities, then this is the type of airline service that will be offered. If travelers' preferences are sufficiently varied, then a variety of combinations of services and fares will be offered.

**How will the bill affect airlines' fuel efficiency?**

It will make the airlines more fuel efficient. One result of the current reliance on service competition is that the airlines are encouraged to fly more often than is desirable. With increased price competition, airplanes will tend to be more fully loaded, thus saving energy and increasing fuel efficiency. Fewer empty seats mean less fuel will be consumed per passenger mile traveled.

**The bill eliminates antitrust immunity for agreements between air carriers. Does this mean airlines won't transfer baggage or cooperate on connecting flights?**

No. Airlines will still be permitted to make agreements which do not result in anti-competitive behavior, such as ticket exchange and baggage transfer agreements.

**Will travel agents continue to be able to function if airlines are allowed to set fares competitively?**

Yes, travel agents will arrange for air travel in the same way they arrange for other services like steamship travel, hotel accommodations, rental cars, and air charter trips. The prices of these services are set in the marketplace rather than by regulation.

## Airline Fares

**What effect will the bill have on air fares?**

Under current regulation competition takes the form of service competition rather than price competition. This leads to excessive scheduling and consequently to a large percentage of empty seats and to the inefficient use of aircraft, fuel and labor. While some passengers enjoy an uncrowded flight, empty seats mean higher costs and therefore higher fares. The provisions of the Administration's bill will encourage airlines to reduce costs. Competition will insure that these cost savings are passed on to consumers in lower fares.

**Under a flexible pricing arrangement, why won't prices simply go up, considering rising fuel costs and other factors?**

Price competition and the threat of new competitors will prevent fares from simply going up. If an airline tries to raise its fare too high, one or more of its competitors will charge a lower fare and take the traffic.

If costs rise, then fares probably will rise. This is true under the current regulatory system and it will be true under the proposed system. But average fares will be lower if the bill is enacted than if the present system continues unchanged.

**Will discount fares still be available and will there still be different classes of travel—first class, coach, etc.?**

The word "discount" is misleading. There will be fare differences based on cost differences. Coach fare is, and should be, lower than the first-class fare because less service and fewer amenities are provided, seating is denser, and free drinks are not given. Night flying on some routes are lower priced than day flights because unused aircraft are available. The range of cost-based price differentials will remain and probably expand.

Students and senior citizens, whose travel schedules generally are more flexible than others, should benefit especially from a wider choice of ticket prices. Of course, they will also benefit from the generally lower level of fares which will result from price competition.

**Airlines give discounts to people who plan ahead and buy tickets well in advance. Will these reduced fares remain?**

Probably, and the general level of fares will also drop. If discounts result from cost savings they will stay. But if the discounts exist because some travelers are discriminated for or against, then competition will ensure that they disappear.

**Would lower stand-by fares be prohibited by the Act?**

No. The Act provides that fares cannot be disallowed for being too low so long as they cover the direct costs of the specific service in question. Stand-by passengers occupy seats that would otherwise be empty. Therefore, the direct costs of stand-by service are lower than that for reservation passengers, and discounts are appropriate.

**How much rate flexibility is actually provided?**

Airlines may lower their rates 20 percent in the first year and 40 percent in the second year below the rates in effect at the time of enactment. Rate increases of up to 10 percent per year are also allowed. Beginning with the third year a rate cannot be disallowed on grounds that it is too low, if it covers the direct costs of providing the service in question.

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## Entry

**Why does the bill propose liberalizing entry?**

The Administration believes that it is in the long-term interest of both consumers and the industry to rely to the maximum extent possible on competition to regulate fares in the airline industry. Therefore, it has proposed a gradual introduction of pricing flexibility to allow airlines to adjust fares within limits without government intervention.

To assure that this additional flexibility does not permit the airlines to raise their rates unreasonably, the Administration has proposed a corresponding relaxation of entry restrictions to encourage competition. Then, if an airline tries to charge a rate that is unreasonably high, there is always the threat that a competitor will enter the market, charge a lower fare, and take over the business.

**Won't increased entry into the airline business mean more planes and an additional burden on congested airports?**

The number of airlines has little to do with the number of planes or with airport congestion. The number of planes in use is determined by the amount of air travel and by the number of seats that are occupied in each plane. With price competition replacing the current reliance on service competition, there will be fewer empty seats. This will reduce the number of flights. Congestion is largely the result of airlines bunching their departure times at the start and end of the business day. With greater price flexibility, airline schedules will provide for a better dispersion of flight times because people will be more likely to choose to fly at off-peak times with lower off-peak fares. This will tend to reduce congestion.

**The bill liberalizes entry by permitting airlines to sell operating rights to other air carriers. Couldn't this have an adverse effect on safety?**

No. The same safety rules apply to all air carriers. The CAB must also determine that the buyer is "fit, willing and able" to provide air service.

**What are the specific entry provisions of the bill designed to achieve?**

The bill proposes a gradual relaxation of entry regulation which has been carefully designed to avoid short-term disruptions in the industry. First, the CAB is directed to phase out artificial route restrictions which reduce airline efficiency. This is to be accomplished in an equitable manner by January 1, 1981. To permit carriers additional flexibility to rationalize their route structures, the bill permits the sale, transfer or lease of operating authority between cities beginning in 1978. Six years after enactment of the bill, carriers are given limited discretion to expand their operations into new markets. These provisions permit a gradual move toward a more competitive marketplace.

**What effect does the bill have on international air travel?**

Nothing in the bill directly affects international aviation, but U.S. carriers with international routes will be able to adjust their domestic routes so they feed better into their international traffic. This should enhance the financial health of these carriers and enable them to compete more favorably with foreign carriers which cannot carry passengers between U.S. cities. International travelers from inland areas will also benefit because there will be less need to change airlines.

**Many airlines are facing financial difficulties. Won't increased entry and lower fares lead to bankruptcy?**

Some airlines are having a difficult financial time, as are other businesses and individuals. In fact, the existing regulatory system, by emphasizing service competition, has encouraged airlines to overinvest in equipment. This results in high fixed costs and makes airlines more sensitive to fluctuations in the economy than would otherwise be the case. The bill provides for gradual introduction of both price and entry competition. This will reduce vulnerability to economic fluctuations and will enable efficient and well-managed airlines to prosper, attract capital and grow.

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## Service to Small Communities

**Won't airlines stop flying to many small cities?**

No. Air service to small cities is largely provided by scheduled commuter air carriers. These airlines are unsubsidized and unregulated by the CAB. The FAA regulates them in safety and operational matters. Commuter carriers will be allowed to use larger aircraft and this will permit improved service. Also, many small cities are served by CAB-regulated airlines that receive a subsidy for providing service. Nothing in the proposed bill changes the subsidy arrangements. There are fewer than a half dozen cities that receive service only from scheduled, unsubsidized airlines where service might be curtailed.

**Will airlines be allowed to stop serving unprofitable markets?**

If, despite subsidy payments, an airline loses money on its service to a city, then it will be allowed to stop service to that market upon reasonable notice.

**Does the Administration bill change the Federal subsidy program?**

The existing Federal subsidy program is not changed.

**Does the provision of State or local subsidy make an airline ineligible for Federal subsidy?**

No.

**The Air Transport Association (ATA), the industry's trade association, claims that many markets will lose service as a result of this legislation. Is this likely to happen?**

The ATA's claim appears unjustified. Airlines are required to fly few, if any, of the routes described by ATA as subject to curtailment or abandonment. On many of these routes, several carriers now compete—without any requirement that they do so. Also on many of the routes which the ATA says are endangered, there is service by carriers that are not regulated by the CAB, such as commuter airlines or intrastate carriers. Hence, it is unlikely that many markets will lose service as a result of a lessening of CAB regulation. The opposite is more likely to be the case. This legislation would eliminate the route and operating restrictions which now prevent or hinder service to many communities.

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## Other Issues

**Some people feel the bill does not go far enough—that the air transportation system would be better off with no regulatory controls at all. Why does the Administration bill stop short of deregulation?**

The bill provides for a gradual lessening of economic controls but maintains those which are desirable. A fairly long transition period is incorporated into the bill because abrupt change might be disruptive. If, after some experience under the new regulatory climate, it is felt that still less regulation is in the public interest, appropriate proposals could be made at that time.

**Some critics suggest that the CAB should be abolished. How does the bill affect the Board's authority?**

The bill reduces the CAB's discretionary authority to restrict competition. The Board will continue to license carriers, authorize routes, approve fares, and administer the subsidy program. But the bill changes the criteria which the CAB must apply in regulating air transportation. The new criteria ensure a greater reliance on market forces in determining fares and service.

**Critics say the results of the bill will be to turn the clock back to pre-1938 conditions when there was no regulatory system. Is this true?**

No. In 1938 air transport was a new industry, struggling to become established. Few people flew, and the equipment used by airlines was primitive by present standards. The air transport industry is now large and sophisticated. Airline travel has become routine: about 200 million Americans travel by air each year. There is no way to turn the clock back, and the Administration certainly does not want to do so. But the regulatory system of the thirties simply is not appropriate to the current situation, and it requires modernization.

**Critics of the legislation claim it will disrupt air travel and destroy our air transportation system. Is this true?**

No. As a result of regulatory reform, the nation's air transport system will improve. Businesses survive and prosper if they provide a service people want and for which they are willing to pay. People want to fly and are willing to pay for flying. Existing air carriers will continue to be able to serve their customers and charge fares on the basis of costs incurred. Existing as well as new carriers will be able to enter new markets where they can provide better or lower cost service. The service to the public will improve.

**Why is the airline industry strongly opposed to this change?**

The Act will change the economic environment in which the airlines operate. Airline managements have been sheltered from certain kinds of competition and have been restricted in making certain business decisions. Under the Act, they will no longer be offered these protections.

The bill recognizes that airlines must earn profits if they are to attract capital and serve their growing markets. Under the bill, efficient, well-managed carriers will thrive, creating jobs and providing low-cost service. Poorly-managed firms will have every incentive to improve their efficiency and productivity through better management of their operations, without present excessive regulatory restrictions.

# Effects of Implementing Aviation Act of 1975

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## *Existing Law*

### Policy Statement

Directs the CAB to ensure adequate, safe, economical, and efficient air service to the public.

Directs the CAB to promote the growth and development of the aviation industry.

Directs the CAB to promote aviation safety.

### Entry

Existing statute gives regulators broad authority to impose restrictions on airline operations. Restrictions have been imposed to limit the number of carriers in the industry, the routes they are permitted to fly, and where they may pick up passengers. These restrictions raise costs, inhibit competition and impair the ability of the industry to serve the public.

Carriers wishing to provide new service must go through lengthy application procedures with an uncertain outcome.

Carriers operating aircraft which carry fewer than 30 passengers or 7,500 pounds of cargo are exempt from economic regulation.

## *New Law*

No change.

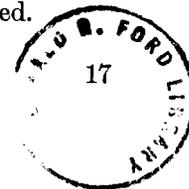
Revised to deemphasize promotion of the industry and to stress the desirability of competition in the public interest.

No change.

Prohibits new certificate limitations and mandates development of a 5-year plan to phase out existing restrictions. After the transition period each carrier could provide non-stop service between any points it now serves. Beginning in 1981, carriers would be allowed to expand their operations by a limited amount each year without government approval.

Qualified applicants proposing innovative services will be authorized. Applicants for routes without non-stop scheduled air service would have to prove only that they are "fit, willing and able", but not that the service is "required." Applicants would be able to begin service without procedural delay.

Exemption from economic regulation would be expanded to aircraft which carry up to 56 passengers or 16,000 pounds of cargo, enabling scheduled commuter airlines to improve their services. Further increases in aircraft size would also be permitted.



The Act has been interpreted to prevent supplemental (charter) carriers from receiving scheduled authority. The interpretation has been used as one basis for limiting entry by qualified applicants.

## Procedural Expedition

No time limits for acting on applications for new route authority now exist. Some decisions on applications have been delayed for up to eight years.

## Route Transfers

Government approval is required before any carrier may transfer route authority to another. In practice, approval is difficult and time consuming to obtain.

## Mergers

Carrier mergers are now exempt from Federal antitrust laws.

## Abandonment

Carriers may petition for permission to discontinue service. Abandonment may be allowed if there is inadequate public support for the service, but carriers are sometimes required to continue money-losing services.

Supplemental carriers will have their applications for scheduled authority heard on their merits.

Applications must be set for hearing within 60 days or dismissed "on the merits," to allow court review. A final decision must be reached in 10-12 months from filing date.

Route transfers to qualified applicants must be approved unless the proposed transfers would lessen competition.

After a 30-month transition period, air carrier mergers would become subject to the antitrust laws in a manner designed to permit accommodations between antitrust and regulatory policy. A merger could not be approved if it resulted in a monopoly. If the merger would substantially lessen competition, it could not be approved unless the anti-competitive effects are outweighed by the transportation benefits.

Abandonment will be facilitated where carriers can demonstrate they have operated at a loss. Federal subsidy, as at present, provides for continuation of needed services.

## Intercarrier Agreements

The CAB may approve intercarrier agreements and immunize them from antitrust prosecution. This authority has been used to approve capacity and other anti-competitive agreements, without public hearing or reference to the public interest.

## Rates

Price competition among carriers has not been permitted. The CAB has broad authority to set rates. This has resulted in rates which are higher than necessary. The CAB has required that rates be the same in markets of equal distance, despite cost differences due to variances in density or type of traffic.

There is no time limit on rate decisions and cases may take years.

Some anti-competitive agreements (such as those regarding capacity, pooling and price fixing) will be outlawed. Other agreements which tend to reduce competition could be approved only if they meet a serious transportation need, and if less anti-competitive alternatives are not available. The Secretary of Transportation or the Attorney General may request that hearings be held, and the CAB would be required to comply.

Price competition will be fostered. The CAB's rate-setting authority will be limited by authorizing carriers to reduce rates to variable costs. CAB authority over ultimate lawfulness of increases is retained.

Rate decisions must be made within 180 days.

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