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Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

AVIATION ACT OF 1977

The President is transmitting to Congress today the Aviation Act of 1977. This legislation substantially improves upon the Administration's Aviation Act of 1975 and is designed to make the domestic aviation industry more competitive and responsive to the American consumer and to permit efficient, well-managed companies to earn a fair return on investment.

The Aviation Act of 1977 builds upon:

- The extensive public record developed during major committee hearings in both houses of Congress in 1976.
- Consideration of the useful approaches advanced in other aviation reform legislation proposed last year.
- Consultations with industry representatives and members of the financial community.
- Further refinements in economic analysis of the aviation industry.
- Meetings with State and local officials.

This bill is a simpler, more direct approach to achieving gradual reform of the outdated economic regulation now governing the Nation's airlines.

HIGHLIGHTS OF THE LEGISLATION

Entry. The bill allows both existing and new airlines to enter markets in several ways. The bill shifts the burden of proof in disputes over new entry onto objecting competitors, who will have to prove that a prospective application for new service is not consistent with the public convenience and necessity. Injury to a competitor in and of itself is not sufficient cause to deny the application.

Airlines could apply for the removal of existing restrictions on their operating rights. All restrictions inhibiting non-stop service are eliminated at the end of a three-year period and the CAB is prohibited from creating new restrictions. In addition, United States international carriers are given rights to fill-up planes on the domestic portions of international flights.

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Beginning in 1980, any existing or new carrier found to be fit, willing, and able may apply to serve a market which is presently authorized for, but is not receiving, non-stop service by another carrier.

Beginning in 1982, any existing or new fit, willing, and able carrier may apply annually to serve any four additional pairs of cities, subject to a mileage limitation.

Finally, airlines are permitted to hold both charter and scheduled certificates.

Abandonment. The bill permits a certificated carrier to abandon service in any market after 90 days notice, unless the Board finds that abandonment would leave the community involved without essential air service. In that case, abandonment could be suspended for up to six months to allow time to make alternative arrangements for continued air service.

Pricing. Airline pricing flexibility is substantially increased in a two-phase process. Immediately after enactment, a carrier can reduce its fares by any amount so long as the direct operating costs of providing the service are covered by expected revenues. In addition, except in monopoly markets, the Board's maximum ratemaking authority is limited. Until 1982 annual rate increases of 10% and after that time increases of 20% may not be found unjust or unreasonable.

While increased entry possibilities and competition are expected to provide more than sufficient market control of this increased pricing freedom, the bill includes a safeguard provision which permits the Board to take appropriate action if it finds a carrier is earning an excessive long-term rate of return which is not due to superior carrier efficiency.

Mergers and Agreements. Beginning in 1982, the CAB's power to protect airlines mergers from the normal operation of the antitrust laws is removed. Instead, the Attorney General will review proposed mergers using a new antitrust standard which provides for the careful weighing of transportation needs against the anti-competitive effects of a proposed merger. The Board retains the right to disapprove a merger which it determines would cause substantial injury to the national transportation system.

Carrier agreements are subject to normal antitrust law except that the Board retains strictly limited authority to approve capacity agreements in national emergency situations.

Charter Air Transportation. The bill provides a definition of charter air transportation which adopts by statute the Board's recent, more liberal charter flight regulations. In addition, charter carriers are subject to the same entry standards as scheduled carriers and may participate in the expanded entry opportunities provided by the bill. Finally, the bill provides that domestic and foreign charter regulations must not be unduly restrictive.

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Commuter Carriers. The bill broadens the present commuter exemption to allow airlines using planes which can carry up to 55 passengers or 18,000 pounds of property to be exempt from CAB economic regulation.

Service to Small Communities. A new 10-year subsidy program would ensure adequate service to small communities which might be threatened with abandonment. Subsidies would be awarded using a competitive bidding system among fit, willing, and able carriers, including commuter airlines. This provision will ensure essential air service to small communities while substantially reducing the cost of the existing subsidy program.

Expedited Procedures. The bill provides a nine-month limitation on the time within which the Board must act on domestic entry cases. This period can be extended for 90 days in cases involving extraordinary circumstances.

Federal Preemption. The bill prohibits States and localities from regulating rates, routes and service in interstate, overseas or foreign air transportation. It does not affect existing Federal-State relationships with respect to such matters as environmental or noise regulation.

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