

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

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DOCKET SECTION

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Disclosure of Code-Sharing Arrangements

and

Long Term Wet-Leases

NPRM 94-11

Dockets 49702
48710 ✓

REPLY COMMENTS OF TRANS WORLD AIRLINES

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November 8, 1994

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REPLY COMMENTS OF TRANS WORLD AIRLINES, INC.

While some carriers have requested clarification and others have objected to limited portions of the proposed rule, the Department's basic proposal to require greater disclosure of code-share information has drawn general support. TWA continues to support adoption of the proposed rule, with a few minor clarifications. Its response to the Comments of other parties is as follows:

1. - Applicability - All parties support the Department's proposal to make the proposed regulation applicable to U.S. carriers, foreign airlines and travel agents. Only British Airways objects to the applicability of the rule for sales outside the United States. However, the Department has carefully limited the applicability of the rule to sales by ticket agents in the U.S., and does not propose to impose duties on sales agents who do not do business in this country. With respect to foreign carriers, British Airways' concerns are overstated. It suggested that the proposed rule would apply to all code-share or wet

lease flights within a foreign carrier's network, even to sales and operations wholly within a foreign country.¹ Of course, this is incorrect. The Department's jurisdiction extends only to foreign air transportation -- flights between the U.S. and another country. Therefore, the duty of disclosure with respect to sales made abroad would be extremely limited. Nevertheless, application of Part 257 to inbound sales would be important because it would protect consumers abroad who are buying transportation to the U.S., and is clearly within the jurisdiction of the Department.

2. - Notice In Schedules - TWA's Comments emphasized the need for proximity between the identifier in the schedule and the name of the code-share carrier. We suggested that all CRS's should be required to show the actual name of the code-share carrier in the availability display or timetable schedule, rather than merely display an asterisk which would have little meaning to the average consumer. Galileo's Comments fully substantiate TWA's argument. While Galileo suggests that an asterisk should be adequate, the display attached as Exhibit 1 to its Comments demonstrates the total ineffectiveness of such notice. In the Apollo display, the carrier code is located in positions four and five of the availability display line, while the asterisk is in position 63. The travel agent would need to look **from** one end of the display line to the other to find the code-share signal. The only normal reason for looking over that far in the display line would be to check number of stops **enroute**. The agent may, therefore, miss the **code-share** indicator entirely.

American and ASTA proposed modification of the screen display to show dual airline codes for code-share flights. American notes that the **software** modifications to do this can be achieved at minimal cost. TWA believes that this approach would be very

¹ Comments of British Airways PLC, pg. 5.

helpful, and should perhaps be adopted. However, we continue to believe that the name of the code-share carrier should also be included in the display. **WorldSpan** does so now, and other **CRS's** can easily modify their system to achieve the same results.

3. - Oral Notice - Several parties have noted the looseness of the requirement that notice be given “before booking transportation”. TWA suggested that the notice be given as early in the conversation as possible. American would require that the notice be given in any reservation conversation, regardless of whether the consumer makes a reservation.² This proposal is reasonable, because many consumers would be shopping around to determine on which carrier they should make a reservation. Information about code-sharing will be important in such a preliminary conversation.

Northwest also notes that the proposed rule is unclear as to when the notice should be given. However, its proposed solution - notice “during, as opposed to before the booking” -- is inadequate because it moves the notice even later in the conversation, to a time after the consumer has made his decision.

4. - Written Notice - Several parties, including TWA, American, ASTA, and Qantas, have noted the need for the clarification of the phrase “at the time of sale” in proposed Section 257.5(c). TWA believes that the solution should be to require the written notice at the earliest point in the reservation transaction at which a piece of paper is transmitted. This could be with the itinerary, or even earlier, if the travel agent faxes a list of flight alternatives back to a customer. TWA has no objection to providing a reasonable implementation time for carriers such as USAir, who have to reprogram their reservation systems.

² American Comments, pg 10.

United and Galileo note that Apollo produces a “mini-itinerary” which can be attached to the front of the ticket package. Both carriers proposed to allow continued use of the term “via”, instead of the phrase “operated by”, in the “mini-itinerary”. TWA believes that the mini-itinerary approach, when stapled to the ticket package, is an adequate substitute for requiring notice of a code-share carrier on the ticket coupon. However, we believe that the word “via” is ambiguous. “Via” usually means “by way of an intermediate point -- not “operated by another carrier”. We believe that, if put to the test, United and Galileo could easily reprogram the mini-itinerary to use the words “operated by”. Certainly, on United’s example (Exhibit UA - 1) there seems to be adequate space for a phrase “operated by: Lufthansa”, which is about the same length as “via: Lufthansa Airlines”.

With respect to notice on the ticket, American notes that such a notice could be placed on ATB stock, but not on transitional automated ticket stock. TWA, therefore, suggests that the notice be required either on the ticket stock or on the mini-itinerary stapled to the ticket. Adequate time should be allowed for reprogramming to accomplish this.

5. - Advertising - TWA’s Comments noted that rule should be clarified to ensure it applied to fare advertising as well as to schedule advertising . United and Northwest have both understood the proposed rule as clearly applying to price advertising .³ So that there can be no dispute about this issue, the Department should rephrase the first part of Section 257.5(d) to state “In any advertisement of fares or service in a city-pair market.”

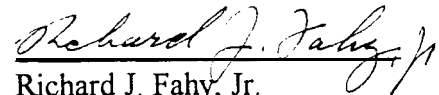
³ Northwest Comments pg. 6; United Comments pg. 10.

Several parties suggested that the rule should not apply to radio or TV advertising. TWA does not understand why such advertising should be excluded. Certainly, even in a TV advertisement, notice of code-sharing could be scrolled over the video.

CONCLUSION

While carriers have taken varying positions on some of the details of the proposed rule, there is a general consensus supporting its adoption. The Department should act expeditiously to finalize the proposed regulation.

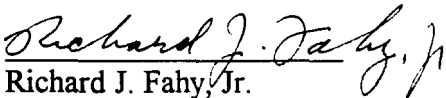
Respectfully Submitted,


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November 8, 1994

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Reply Comments of Trans World Airlines, Inc. by first-class mail, postage prepaid, upon all parties named on the attached service list.


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November 8, 1994

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