UNITED STATES OF AMERICA

+ + + + +

DEPARTMENT OF TRANSPORTATION

+ + + + +

NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY

+ + + + +

HEARING

+ + + + +

WEDNESDAY,
JUNE 12, 2002

+ + + + +

The hearing was held at 10:00 a.m. in the Hemisphere A Room of the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, N.W., Washington, D.C., David L. Winstead, Chairman, presiding.

PRESENT:

DAVID L. WINSTEAD	Chairman
THOMAS P. DUNNE	Commissioner
TED R. LAWSON	Commissioner
ANN B. MITCHELL	Commissioner
PATRICK V. MURPHY, JR.	Commissioner
JOYCE ROGGE	Commissioner
GERALD J. ROPER	Commissioner
PAUL M. RUDEN	Commissioner

ABSENT:

MARYLES CASTO	Commissioner

COMMISSION STAFF PRESENT:

RICHARD FAHY Executive Director
ANGEL ANDERSON
DOROTHEA COLLINS
TILLIE A. FOWLER
BILL JACKMAN

WITNESSES PRESENT:

MARK H. BROWN	AAA
CATHY CUPP	Galileo
AL LENZA	Northwest Airlines
MICHAEL MACNAIR	MacNair Travel Management
WILLIAM A. MALONEY	ASTA
ROBERT MCGURK	NBTA
TREY NICOUD	American Airlines
BURTON RUBIN	ASTA
DAVID A. SCHWARTE	Sabre, Inc.
MICHAEL THOMAS	OneTravel.com

I-N-D-E-X

P-R-O-C-E-E-D-I-N-G-S

10:00 a.m.

CHAIRMAN WINSTEAD: If I might call this meeting to order. My name is David Winstead and I'm the Chair -- we're right on the money at 10 a.m. here -- chair of the National Commission to Ensure Consumer Information and Choice in the Airline Industry.

This is our first meeting, and we've planned three others, and we'll add to that schedule if needed. But for those of you -- I know everybody here is both representing industry, consumer, travel agents, and other businesses in the travel industry, and we really appreciate you taking your time to join us here in Washington.

We have a -- the commissioners are all present except for one, who is, unfortunately, could not be here today, but we are all here and fully engaged in listening to you all and getting into our business.

As you know, this commission was created by the Aviation Investment and Reform Act passed in April, 2000. An established Commission was actually started and initiated, in terms of timing, through action taken by Secretary Mineta in appointing the final commissioners to this on May 16th.

There are nine commissioners. You'll hear from all of them today, and we're going to be engaged over a six-month period, on our objectives. And, basically, the charter -- I know that many of you have all looked at it, but the charter of the legislation, the Commission, is to really examine the financial condition of travel agencies and the issue of decline, in terms of those agencies and their impact on consumers.

And in addition, whether there are impediments to information regarding services and products offered by the airline industry, and if so, what affect have these impediments had on the travel agencies, the Internet distributors, and consumers.

I think our focus, and a lot of what the commissioners have shared with me this morning is again, looking at both the consumer and impact of these changes in the industry, and essentially looking also, very carefully, at the financial condition of small travel agencies and in the legislation, those having revenues under one million.

The Commission intends to have hearings over the next two months, and the next hearing will be in the Midwest on June the 26th, in Chicago. We will have a meeting and a hearing in San Francisco on July the 11th. And then, return back here to Washington on July the 31st and August the 1st.

We have talked about, given the interest that we see here this morning, and the hearing schedule, and witnesses, and I'm sure the interest that this hearing will generate, we have discussed the concept of perhaps extending into early August with some additional hearings here in Washington, D.C.

I'd like to just share with you -- obviously, we're going to hear from a lot of people this morning that understand this issue, and these impacts on the travel industry and the airlines, to a very large degree. There is an effort underway to make sure that we give ample time to all the witnesses. And what we'll be trying to do, if we can, is to have at least 15 minutes for each witness to present their testimony.

We have fortunately, thanks to all of you all that are testifying, we got copies of all your testimony in advance, so all the commissioners have, in fact, been able to review the testimony, at least the written testimony, which was -- will be presented today.

Obviously, there are issues in scope in terms of studying the market condition and general condition of the travel agents; examining financial condition; exploring, again, the impediments to information regarding services and products of the airline industry. And then, the Commission will make recommendations on how to improve the conditions of both travel agents, and enhance consumer access to travel information.

So, that's our basic charge, and I'm pleased, just to identify myself. I'm an attorney here in Washington, D.C., and have been involved in transportation matters as well as real estate. I was secretary of Maryland Department of Transportation, for Governor Glendening, from 1995 to 1990, and in that regard, the Maryland Aviation Administration was under the Department, one of the five modes, and I did chair the Maryland Aviation Commission. So, my perspective is coming more from those four years of operating BWI Airport, and managing the Aviation Commission in Maryland.

Again, I think that the appointments that have been made by the Secretary and Congress have been excellent, and we will be hearing from the commissioners themselves.

I thought it would be helpful, before we get into the witness list, for each of you all to kind of know the commissioners and where their -- where they reside, their profession and a perspective on their background a little bit. So, I've asked them, individually, to make some opening comments, that you all can know both their professional background and their interest in this topic and issue.

And I might start to my -- just to make this simple -- the far right, with Ann Mitchell, and then, we'll just work through the head table here, and let everybody just share their sort of engagements, affiliation, and interest. Ann?

DR. MITCHELL: Thank you, David. I'm Ann Mitchell. I'm president of Carlson Wagonlit Travel in Starkville, Mississippi. I've been in the travel industry approximately 20 years, and prior to that, was in higher education.

I still maintain contacts with higher education and other education endeavors, but of course, my main focus and interest has been in the travel industry over the last 20 years.

I was privileged to serve on the Consumer Advisory Board for Carlson Travel -- Carlson Wagonlit Travel, representing the southeast in that effort. That has given me an opportunity to understand a broader context of the travel industry, and being a very small agency, in a small town, to have the opportunity to focus on what is in the broader realm of travel, indeed, internationally.

ASTA has also been an interest, and I have served on several committees and find work there to be most stimulating in regard to the changing and developing travel industry.

We have an opportunity today, and over the next six months, to do something right for the consumer. And if the consumer wins, we all win. Thank you.

CHAIRMAN WINSTEAD: Okay. Thank you, Ann. Ted?

MR. LAWSON: I'm Ted Lawson, with -- I'm CEO of National Travel, out of the wild, wonderful state of West Virginia, and that's where we have more deer than we have people. I've been in the industry, gee, 30 years now. And between the airlines and the hotel management firm, and then, as CEO of National Travel.

We're a travel management firm. We serve companies across the United States from our center in Charleston, West Virginia. I was participating and had the privilege of serving on Senator Rockefeller's Aviation Board, looking at air service to small communities.

I've also been on the board of directors of the Behold Travel Trust consortium, which was a business travel consortium.

And it's certainly an honor to be here. I'm just flattered to be here; and I've read the testimony of the witnesses; and there's a lot of effort that's being put forth here; and I appreciate the effort of the people that are going to testify in coming here.

But, again, very honored to be here. Thank you.

MR. RUDEN: I'm Paul Ruden, Senior Vice President for Legal and Industry Affairs of the American Society of Travel Agents. I've been kicking around in the travel business since '67, when I got out of law school. I don't know how many years that is, but it's enough.

I've worked at the Civil Aeronautics Board, went into private practice, and eventually ended up on the ASTA staff, in 1990, and have been there ever since, doing a wide variety of things.

And heavily involved in the -- what I will call the change that is taking place, that we are going to be talking a lot about during these hearings.

And I, of course, am an advocate for ASTA by occupation and employment.

But I'm also sitting on this commission as a commissioner, and I have an obligation, and will fulfill it, to consider all the testimony and judge it as fairly as I can.

I do expect to have questions for the witnesses, some of them, anyway, and look forward to building a good record from which we can issue a report.

And my final thought in this is to everyone to stay focused on what the product here is. The outcome of this is a report to congress, with recommendations, perhaps, for action by congress, or federal agencies, or otherwise.

The Commission is, in and of itself, not going to enact any regulations or change any laws. And so, we have a responsibility to the congress, to deliver what the statute calls for, and I expect we'll do that. Thank you.

CHAIRMAN WINSTEAD: Thank you, Paul. Gerry?

MR. ROPER: Paul, I'm glad we're not going to enact any laws. We have enough in this country, according to the Chamber of Commerce, so -- I'm Gerry

Roper, president of the Chicagoland Chamber of Commerce, and glad to be here and serving with the other commissioners.

My background touches all different aspects of this issue, from running the Convention and Tourism Bureau for the city of Chicago for over ten years, and now the Chamber of Commerce for ten years. The members of our Chamber and the Convention Bureau are across the board of travel agencies, tourism, airlines, etc.

Then on to, before that, running a major trade show, the National Restaurant Show, for about eight years, and so, this industry was very, very important to me. Then, before that, managing a number of hotels throughout the Midwest, so again, touching every aspect of this initiative.

And my -- I won't go beyond that because then, I'll have to start showing baby pictures, so I -- but, I mean, my issue here is to eventually have us come out with what I'd consider the most efficient system for corporate America, who are consumers, of these services, being able to make reservations the way they want to, that we have efficient airports because down the other end of it is if we don't have an efficient airline system, a rail system, etc, perhaps some of this won't make any difference, and obviously, the transfers to and from these airports.

So, the every, every aspect of this issue that we're going to discuss touches at least me, in one way or another. So, thank you. Joyce?

MS. ROGGE: Thanks, Gerry. I'm Joyce Rogge. I'm the senior vice president of marketing at Southwest Airlines, and I've been at Southwest Airlines and involved in the travel industry for 14 years now.

Prior to that, I worked for marketing, advertising agency firms in Texas and Manhattan.

And I think I would agree with Ann, that I think the issues before us are very wide, and very broad. And one of the challenges we commissioners are going to have is to remain focused on what our charge is. And if we keep the consumer in front of us, we have a saying at Southwest Airlines, at least in the Marketing Department, called WIIFM, and that stands for what's in it for me. And we say that if the consumer is sitting at the table with us, and we are always checking on the WIIFM aspect of it, that we can stay true to our goals. So, I think that will be an important thing for us commissioners to, also, keep front of mind. So, it'll be a fun time.

CHAIRMAN WINSTEAD: Pat?

MR. MURPHY: My name is Patrick Murphy. I'm an aviation consultant here in Washington, D.C., representing and working with the large airlines, small airlines, and airports.

Before moving into the consulting business two years ago, I spent 30 years in the federal government, working on commercial aviation issues with the Civil Aeronautics Board for 14 years, and with the Department of Transportation.

I feel like I have spent most of my career trying to promote competition in the aviation business, beginning with working on deregulation.

I'm glad to hear my fellow commissioners emphasize the consumer, and an efficient system. I think that our goal is to make sure that we have a highly competitive and workable system, and that we have recommendations to Congress to make sure that that's in place. Thank you.

CHAIRMAN WINSTEAD: Tom?

MR. DUNNE: My name is Tom Dunne. I'm chairman and CEO of Fred Weber, Incorporated, in St. Louis, Missouri. We are in the heavy highway construction business, also build airports and presently working in Lambert Field, in our new addition. And also, in the material business.

Basically been a St. Louis native all my life. I've seen many transitions between Ozark, TWA, and now American. We've been hub, airlines hub for these airlines, and I'm certainly interested in the consumer aspect of airline travel. I think the airlines have to maintain the strength and stability to make this country what it is today because I think it's a great national asset, the airline industry we have. I'd like to see it work better, in harmonious ways, and certainly that the consumer comes out on -- in the best possible shape. Thank you.

CHAIRMAN WINSTEAD: Thank you, Tom, and thanks to all the commissioners. We have a witness list that has been out front for any of you all that do not have it, but this will be our agenda for today.

I would like to mention that, between 10 and 12:30, we're going to try to group at least two or three of the -- probably get through five of the witnesses, and then we'll take a break, if it's all right with you all, from 12 to 1:30, and then regroup at 1:30 to 4 for that four more witnesses. So, that will be our protocol effort.

I would like to also mention, as I said earlier, this Commission, you've heard the charge and some of the expectations from the commissioners.

We actually got underway on May the 15th. That was when the final appointment was made. We do have a group of people that we brought in to assist us in this effort. That could grow, in terms of other needs, as we identify and listen to the testimony today, in terms of analyst (indistinguishable) consultants.

But I did want to introduce Dick Faye -- he is right behind us -- who is the executive director of the Commission, and Dick, do you want to just stand up and identify yourself, and share a little bit of your background?

MR. FAHY: Well, Tom, I think I've probably been in the travel business longer than anybody on the -- on the panel. I think I started in 1965 with Pan American, and then, many years with American in the legal department, private practice here, then was general counsel for vacation.com.

So, I've been at both sides of the equation, and I've been involved with the distribution system, and with Sabre, from the very beginning in 1975. So, I've been sort of focused on the whole CRS and the distribution side of the industry for many years. Thank you.

CHAIRMAN WINSTEAD: Okay. Thanks, Dick. Also, Bill Jackman, if you could stand up? Bill is helping with the public relations aspects of the hearing and again, has a lot of background in the industry, in the travel industry. Also, Tillie Fowler, who is in the front row, is assisting Dick as a practicing, or attorney-in-training, and has had Hill experience with some of the Transportation Aviation Subcommittee.

In addition, we have Dorothy in the back. The people out front have been -- come to us, administrative support, and Angel Anderson, who are helping us and getting -- really making sure these hearings are set up properly, and that we get our job done. So, we want to thank all the people that are assisting in this effort.

Just to get into the agenda, our first witness is William Maloney, who is executive vice-president and COO of ASTA. Paul, obviously, is a close colleague of his, but he will start off with some presentations in terms of major focus on the travel agency industry, and some of the concerns and economic impact recently, and obviously, the changes in that industry.

And so, we'll start with him, and then

move on to the other witnesses after Bill. So, Bill, if you'd come on up, appreciate it.

MR. MALONEY: Well, good morning, Mr. Chairman, Commissioners, ladies and gentlemen, and welcome.

First of all, let me introduce my colleagues who are with me this morning. On my right is Burton Rubin, who is the general counsel for the American Society of Travel Agents.

On my left is John Pittman, who is the director of industry affairs for ASTA.

During the recent heartbreaking days following September 11th, the nation stood suspended in shock. The nation's travel agents, however, pressed into action, working hard, around the clock, to assist travelers who were stranded by the nation-wide airport closures. Agents across the country worked overtime to find ways to get scared and frustrated travelers home, and to reunite families suffering from the terrible tragedy. Many agents provided free assistance to people who had bought their tickets on the Internet and had no one else to contact for help.

One Pennsylvania agent told of a client stranded in an Alaska airport, called her to rebook a flight, and then passed his cell phone through the line so that she could help other travelers.

ASTA's Rocky Mountain Chapter immediately formed a bank of volunteer travel agents to assist the general public in Colorado, Utah, and Wyoming in rescheduling flights during the national emergency.

Other agents drove their clients to their destinations or picked them up at the airport when their flights were canceled.

For example, Mark Murry, owner and manager of Country Travel in Bismarck, North Dakota, personally drove a client to Minneapolis, six-and-a-half hours away, to make a business appointment.

Some agents had the difficult task of reuniting family members to mourn the loss of a loved one. Travel agent in Matawan, New Jersey, for example, worked with the State Department to secure a flight for a couple on vacation in Finland who learned that their son was one of the missing New York City firemen.

September 11th was a dramatic example of the valuable services travel agents provide each and every day. In the days ahead, as security rules change, and flights may be canceled for a host of reasons, the public is going to want and need travel agents more than ever.

Consumers will need to talk to real people, preferably someone they know and trust, with a current knowledge of the system, the new rules and requirements for achieving safe and expeditious travel.

Travel agents are the family farms of the transportation industry. The public should not be cut off from the irreplaceable agency services at a time when they need them the most.

At this point, I'd like to illustrate, visually, what's happening to these small business people.

First, a word about our charts. The statute that created the Commission calls for the evaluation of the financial condition of travel agencies, especially small travel agencies. However, no direct evidence of agency profits exist, so it must be inferred from other data. The only hard, statistical data generally available is generated by travel agency sales reports filed each week with the airline reporting corporation, and published monthly by ARC.

Airlines and the GDS, however, have their own hard data on sales, but ASTA is not privy to that information. Chart 12 is a spreadsheet containing raw data drawn from monthly ARC reports that was used to create ASTA's charts. Viewed in the light of the patronage the public has given travel agents over the years, the inferences that must be drawn from the available data are extremely disturbing. Let's begin with an overview.

Chart number one, you will find in front of you, shows the total number of travel agency locations and total number of travel agency firms. I must point out that, much as the founders and prophets of deregulation had hoped, starting in 1978, with the advent of deregulation, there was a robust growth in the economy, air transportation options grew, places to buy and be serviced by travel agencies also grew. However, this alarming trend, starting in 1995, with the closure of travel agency firms and travel agency branches.

Our next chart really talks about the closure of travel agencies and how these people are responsible business people. While the rate of travel agencies' closures grew since 1995, those terminated by default remained steady or declined. Travel agents went out of business, voluntarily and honorably, paying all debts to people they owed.

Chart number three shows the response that travel agents have had, and the support that travel agencies have had from the consumers. And from 1997, travel agencies did approximately $9.2 billion worth of sales to a peak of almost $80 billion in 2000. Travel agencies have helped the airlines grow and prosper. In that period of time, regardless of fare increases, you will note that travel agencies went from writing 51 million tickets a year, to 195 million tickets a year, a testament to the faith that American Consumers have in travel agencies.

Our next chart shows what everyone already knows. Staring after 1994, the airlines chose to cut the base compensation rates of remuneration to travel agencies, both on domestic and international fares.

The next chart shows that not only do the rates cut, but the absolute dollar amounts were grossly affected.

Our next chart shows that the industry contraction was (sic) not offset the loss of compensation. What this chart shows is that the commissions per agency location continued to decline. So, in spite of the fact that there were fewer travel agencies out there, less revenue to all of them meant a decline for all of them as well.

The next chart shows the painful cuts of the agency commissions from 1995 through the present time, when they were getting zero base commission from the vast majority of all the airlines in the United States.

Next chart shows the effect that this has had on travel agency locations. During the period from 1994 to 2000, 17 percent of the travel agency locations closed, but what's more troubling is 30 percent of the firms that ran those travel agencies closed, many of them being one-location firms. These are the small travel agencies.

Chart number nine shows that ten years after 1992, the average travel agency location finds itself in worse economic straits than it was ten years ago. The average compensation of travel agencies now, commission per location, is 131,000, when ten years ago, it was 164,000.

From 1994 to 2000, it's a very sad, but compelling, and very clear story. Fares sold by travel agents were up 20 percent, tickets issued were up 4 percent, yet for all their hard work, travel agents were paid 43 percent less commission, and the resulting economic effect was the loss of 30 percent of the firms.

The next chart is an ASTA chart, which shows that agencies are charging fees, but these fees alone cannot compensate for the $6.4 billion in lost commissions that is a result of the airlines cutting travel agency commissions.

Chart 12, as I said before, is just a spreadsheet of all these data, and would be glad to take questions, after I finish my oral testimony, on any of the charts or any of the questions.

CHAIRMAN WINSTEAD: Thanks, Paul.

MR. MALONEY: As I said a minute ago, the governing statute calls for an investigation of airline marketing practices. It's written to impair consumer access to comparative information. Consumers need to optimize choices when buying air travel.

There are essentially three broad categories of issues related to that inquiry. Though each of the categories is closely related to the others, the categories may be stated as: one, use of airline market power to reduce travel agency compensation below the level a competitive market would produce; two, collective and individual actions to raise the operating cost of travel agents and to encourage consumers to book elsewhere; and three, collective action, funneled through Orbitz, to deny travel agencies equal access to all published fares.

All of this takes place against a background of outmoded CRS regulations that impair the ability of agents to adapt to new marketplace realities, and then enable airlines to exercise their market power by securing information to which, in our view, they are not entitled.

To begin with the first category, it is utterly implausible to believe, as the airlines would argue, that air travel booking and ticketing services performed by travel agencies have zero value to the airlines, yet they are able to enforce zero commission policies for such services.

It's clear, we believe, that the largest airlines have exercised market power against travel agents by driving agency compensation below the level that a truly competitive marketplace would provide.

In view of the availability of the Internet, a new, alternative distribution technique, that figure may not be 10 percent, but it most certainly is well above zero.

The history of commission cutting is set out in ASTA's full, written testimony, and is familiar to most people, so I won't spend time, today, going through all the details. Suffice it to say that the departure from at least the air travel portion of our industry, of 30 percent of the business entities, and 17 percent of the locations since 1994, is directly and largely attributable to the commission reductions.

This has occurred despite the fact that almost all agencies have instituted service charges, and our surveys, as well as extensive and consistent anecdotal reports, show that most consumers will pay service fees rather than attempt self-service in the purchase of air travel.

It has occurred despite significant downsizing, use of the Internet, and consolidators as alternative booking tools, and considerable merger and acquisition activity that has created efficiencies in agency operation.

Agencies, with the help of ASTA and others, are adopting database management, niche marketing, customer and marketing specializations, and many other techniques to sustain their businesses in the face of what might be called a forced recession of huge proportions.

I say "forced" because the public continues to love what agents do, and seeks their services as they have in the past, yet the economics of operating a travel agency have been undermined by the airlines' market power, perhaps forever.

Airline travel agency compensation policies are not merely benign examples of cost cutting for efficiency's sake. The policies are calculated to disadvantage agents by forcing them to sell tickets at a higher price than those of the airlines.

Airlines have not offered agents prices whereby both airlines and agents would mark up from a common, wholesale price level, thereby giving the most efficient sellers an advantage. Instead, they price at one level to the public, and now tell travel agents, you get the same price to sell, but with no compensation.

The end result is that any travel agent trying to sell airline tickets must add a fee to the retail price, thereby appearing to be more expensive than the airlines themselves. Examples of the second category are numerous, and outlined fully in the written testimony.

I want to focus here, today, on one or two of the really most major problems. One of the most important of these are the productivity booking thresholds that are contained in the travel agency CRS contracts. These provisions operate as a fundamental deterrent to a travel agency's attempt to move air bookings to the Internet or consolidators in order to accommodate the client's demand for the absolutely lowest fare, and to be able to mark up or add a service fee to the ticket.

Another major issue, in this category, is the punishment that the airlines mete out against travel agents who violate their rules. Perhaps the worst example, though by no means the only example, is American Airlines' assessment of $200 penalties on agencies that process certain refunds through the airline reporting corporation, where all other tickets and refunds are handled. The details are set out in full written testimony.

This incident is one of the countless cases in which travel agencies are assessed penalties that are grossly disproportionate to any loss an airline occurs. In fact, in the American case, the refunds were unquestionably correct, and American lost no money as a result of the agents processing through ARC. They even recalled the agent commission, a common practice in the airline industry, even if the reason for the refund is attributable entirely to the airlines' own actions, and the travel agent is completely free of fault.

These punishments amount to thousands of dollars in some cases, and have real economic impact on small travel agencies. In the American case, an agent would have to sell ten tickets that qualified for the maximum of the then prevailing cap commission rate in order to recoup just one of American's debit memos. American's "too bad" policy towards these agents was reminiscent of the way the airlines treated travel agents in the aftermath of the September 11th attacks.

The airlines then recalled an estimated $73 million in commissions related to the flights that the airlines did not operate. This occurred even as the airlines were persuading Congress to grant them $15 billion bailout.

Interesting, the United States airlines continued to pay commissions, sometimes even as high as 9 percent in other countries, even though they have reduced travel agents in this country to zero.

ASTA has also repeatedly objected to the airlines being allowed to buy marketing information tapes from the CRS companies. These tapes contain very detailed data about travel agent generated transactions not only on the airline that buys the tapes, but also on the competitors of that airline.

Two other practices warrant mention here. When the airlines first capped commissions in 1995, we asked them to incorporate a box on the ticket where the travel agents could, if they wish, insert its service charge and have the charge processed by ARC along with the ticket price. The airline position was that service charges is the agent's problem and the airlines would do nothing to accommodate this need for more efficient settlement process.

ARC did create a document that agents can use for this purposes (sic), but it requires two settlement documents when one would be sufficient. This means more work, more risk for error, and generally, more problems for the agent.

Finally, for present purposes, there is a matter of discriminatory ticketing practices. Major airlines refuse to permit agents to offer certain benefits and concessions to consumers, such as refund of the so-called nonrefundable tickets, while reserving to themselves the right to make such refunds. Transgressions are punished severely. Airlines levy penalties against agents that agents must pay without question or recourse, or risk losing their ability to issue tickets altogether. Yet the airlines themselves often issue such refunds. The airlines then typically force the agent to repay the commission earned on the initial sale.

Similar discrimination in competitive practices occurs with respect to price saving ticket combination opportunities, such as the sale of back-to-back and hidden city tickets, which are prohibited to travel agents, with severe penalties when detected, but are routinely issued by the airlines themselves.

In addition, major airlines penalize travel agents when consumers buy inexpensive roundtrip tickets, travel one way, and throw away the return portion of the ticket. Such policies confuse and anger the public, while undermining the relationship between the travel agent and his client, who expect the agents to find and ticket the lowest fare available.

The third and final category of issues involves two connected problems. Not only do the airlines use inducements like bonus frequent flyer miles to draw consumers to their Web sites and away from their agents, they also price many of the services on their Web sites at lower levels than the prices for identical services available to the agents through the CRS.

The Internet fares are often many hundreds of dollars below the fares offered through agents. These differentials vastly exceed any conceivable cost differential between channels.

There can be only one conclusion. Airline Internet distribution policies are designed to induce consumers not to buy through travel agents.

That situation would be difficult enough, Mr. Chairman, but now the end game has begun. Its name is Orbitz. The joint airline ownership of Orbitz is designed to impair travel agencies' ability to compete by favoring Orbitz over other channels, while simultaneously denying effective access to the lowest fares for Orbitz' competitors both online and off-line.

Orbitz is the airline's chosen instrument for reshaping the air travel distribution market to suit the collective aspirations of the five largest U.S. airlines to dominate the distribution of air travel product in this county. A major goal of this industry is to combine in one retail location, owned and controlled by the largest airlines, the Internet only fares offered to consumers and not available for sale by independent travel agency community.

The current Orbitz' Web site makes clear that it offers, quote, "deals that are currently only available on the airlines' own Web sites," unquote.

Orbitz' claim that its internal arrangements leave airlines free to trade on the same terms with others is a sophistic mirage. Since the earliest days of commercial aviation, there has been an independent presence in the market, offering consumers an alternative to dealing directly with the airlines.

Today, tradition travel agents have embraced Internet technology and new, fully online agencies have emerged. Both provide an efficient means to deliver one-stop, accurate, and unbiased comparative travel information and advice that consumers value.

These services often defeat the airline yield managements by showing consumers ways to economize and to get greater value from their air travel purchase. To gain the field for itself and its airline owners, Orbitz has plans only recently revealed, that indicate a role far beyond anything that any travel agency ever conceived.

Since we and others have covered the details of the Orbitz' business operations in great detail in the full, written testimony, I will not go over all the ground in my verbal presentation. Few highlights would suffice to show why Orbitz threatens the public interest.

The core problem with Orbitz' business plans are that, one, the airlines who created it and their partners are favoring Orbitz over all other distributors; and two, the management structure both today and after the public offering recently announced will place the five largest United States airlines in a position to jointly plan and coordinate their retailing strategies under the guise of managing Orbitz.

In light of the Orbitz' business plan, the following are, in our view, necessary conclusions. One is predicted by ASTA and even the Department of Transportation. Orbitz has received exclusive low fares accessed from the airlines, exactly the result the airlines wanted.

Two, Orbitz is assured of higher unit revenue than competing Web sites and competing travel agencies of the more traditional kind.

Three, since its inception, the founding airlines have invested more than $200 million in Orbitz, which lost $153 million of that investment while returning to the founders a mere $6 million in GDS booking fees for six million travel transactions.

The Orbitz' plan is not the stuff from which significant consumer price reductions can be expected, even if the airlines improbably passed along these cost savings.

Four, the founding airlines will continue, indefinitely, to control completely the entire Orbitz' business enterprise. An interesting and recent example of this is the fare sale announced just last week by Orbitz. The five founders used the Orbitz site to simultaneously announce the sale on almost identical terms. Needless to say, those prices are not offered to travel agents, through their CRS systems.

Five, Orbitz will create an enormous obstacle to the future innovators seeking to enter the retailing market.

Six, the Orbitz' boardroom will become a legitimizing device for airline collaboration on all manner of issues involving the competition between Orbitz, the airlines, and other retailers, both on and off the Internet.

Seven, the Orbitz' concept also removes the company from risks attended to participation in the business of retail travel distribution, risks that all its major competitors face, and that in many major cases, are controlled by Orbitz' owners.

Eight, the most favored competitor clause also insulates Orbitz from the uncertainly that the revenue stream from participating airlines will be cut off. When Northwest Airlines announced it was eliminating commission to online retailers, the transaction fee floor in the Orbitz' deal assured Orbitz of a continuing revenue stream, even as one of its owners cut off the revenue stream to competitors.

The airline and Orbitz have argued that travel agencies are free to sell Internet only fares by finding them for consumers and adding a service charge to reflect the value of the service provided to the consumers, but for two decades, those same airlines encouraged, indeed, demanded that travel agents rely upon the GDS systems that they developed.

Those GDS mostly now recognize their dependence upon the survival of the large travel agency retail distribution system. The fact remains that for most travel agencies, most of the time, there is no effective passenger record management system that equals the GDS systems; and two, Internet bookings do not count towards GDS segment productivity thresholds, thereby punishing the agency for every online booking it makes.

The reality is, due in major part to the airline actions over the years, travel agencies still must rely on the CRS for information and for making bookings.

Using Internet booking services means that agents must masquerade as the clients, and then, all communications go directly to the client, defeating the agency's role as the manager of the transaction it sold and booked for the client. Schedule changes, for example, would not be noticed to the agency, but to the client directly.

We believe it is now clear that the airline's long run goal is the effective disintermediation of independent travel agencies as an effective, national, economic force, off-line and online, replacing them with instrumentalities such as Orbitz, that are collectively controlled by the airlines.

If the airlines succeed at their long run goal, consumers will have less access to optimize comparative price and service information for air travel, and will pay higher than necessary prices.

If the airlines' long run strategy succeeds, the industry will have returned to the state they existed before 1984, when the airline manipulation of the computerized reservation systems impaired and distorted airline competition, forcing the government to regulate CRS practices.

The glory days of airline manipulation of the CRSs are not forgotten. Orbitz has now made an arrangement whereby its services are being sold to large, corporate-focused travel agencies. There are indications that if it can secure suitable, to both it and its airline owners, changes in the CRS regulations, Orbitz will offer its services to other travel agencies as well.

Thus, we are on the verge of the final round in which a joint airline owned and tightly controlled instrumentality is positioning itself to completely dominate the retailing of air transportation produced by its owners and their partners.

If not contained, their plan will devastate what remains of the travel agency distribution system. The system continues to be the primary means by which most consumers, most of the time, buy their air travel.

Major curtailment of the core distribution system will harm not just consumers. The cruise and tour industries depend almost entirely upon travel agency distribution system to sell their services to the public.

Moreover, travel agents serve at least three crucial functions essential to assuring a competitive air travel environment. First, they facilitate entry, exit, price, and service competition among existing and new entrant airlines. Second, travel agencies serve as the only one-stop, neutral source of comprehensive information and counseling about an incredibly complex, constantly changing array of fares and services. Third, they promote the use of air transportation services, providing the expanding universe of customers necessary to support a healthy air transportation system, but of special importance to the new and potential new entrants.

The vast majority of travel agencies are independently owned, small businesses, which, in addition to their other roles, compete with airlines and other travel suppliers engaged in direct selling.

Since deregulation of the U.S. airline industry in the late 70s, the public has had a choice of buying directly from suppliers, such as the airlines, at no additional cost, and overwhelmingly, has chosen to deal with travel agents.

The airlines soon came to understand,

however, that consolidation of the airline industry, combined with the success of passenger loyalty programs, has given them genuine market power over travel agencies.

An apparent alternative to distribution through travel agencies has emerged, the Internet, by which the airlines believe they could control directly the information provided to the public without meddlesome interference by travel agents, telling a somewhat different and clearly unbiased story.

Travel agencies provide a crucial, competitive check upon individual carrier's ability to exploit consumers' lack of information to obtain ticket prices that are effectively higher than the competitive prices. This problem is especially acute at the major hub markets, where major U.S. carriers can and do extract fares substantially higher, upwards of 40 percent, than fares for comparable service at non-hub markets.

It's therefore not surprising that these same dominate carriers are the ones that have been most active, imposing restraints on travel agencies' ability to protect themselves.

Major airlines have generally misrepresented the reason for agency commission cuts, citing a need to reduce expenses, and pass savings along to consumers. Yet, you know what? There is no evidence that a single penny of the alleged cost saving has been passed on to consumers through either better service or lower ticket prices.

More fundamentally, Mr. Chairman, and members of the Commission, and in conclusion, we must not be hypnotized by the short term claims of price reductions, real or imaginary, in assessing the effects of airline marketing practices we have discussed.

The airline siren song is like a morning mist. When the agents are gone, and the airlines dominate the information flow, the discounts will be nowhere to be found. Question, then, is whether the airlines' commercial interest or the public's interest will dominate the air transportation system in the years ahead.

When the record is nearing completion in this Commission's hearing process, ASTA will submit detailing recommendations to address the core issues that must be covered by your report to Congress. Until then, we thank you all for your attention.

CHAIRMAN WINSTEAD: Thank you, Bill. I really appreciate it. And John Burton, have anything to add or -- okey doke.

Bill, obviously, it's a very thorough presentation. The charts, and the demonstrating the decline, the 10 percent, in terms of the agency locations and the -- and the revenues are obviously very -- very real and very disturbing.

I would -- want to -- a couple questions that you referred, in the charts, that since the airlines have reduced the commissions to zero, what's happened on the override programs, and the impact of them to your -- the agencies, the travel agencies?

MR. MALONEY: Mr. Chairman, you're going to have to ask the airlines that, because they refuse to publish any information or give us any access to any data regarding the override.

CHAIRMAN WINSTEAD: In the testimony itself, on page 13, you refer to the issue of market power, and I would like you to elaborate a little bit on that, in terms of the airlines' power to increase fares, and its impact on the travel agencies, if you could.

MR. MALONEY: Well, in an -- the airlines would like you to believe that it is a free marketplace, and that it operates as a free marketplace, and nothing could be further from the truth.

They would like to have the consumers come right to the Internet, and they would like the consumers to believe that there are two or three logical fares in a market.

Nothing could be further from the truth. There are hundreds of fares; there are thousands of choices. They've created a jungle out there and you need a guide to get through it. And that's the role of the travel agencies.

They find us an expensive nuisance. They've eliminated the expense. Now, they're trying to eliminate the nuisance.

CHAIRMAN WINSTEAD: That's the market power.

MR. MALONEY: Right.

CHAIRMAN WINSTEAD: Let me ask -- I know we -- your testimony was quite lengthy, and took up quite a bit of time. I think I'd like to shift and -- and ask some of the commissioners for questions that may have arisen during both your overview on the economics, and in terms of your testimony.

MR. MALONEY: Certainly.

CHAIRMAN WINSTEAD: We do need to move on. So, Ann, could I turn to you in terms of questions for

Bill and the panel?

DR. MITCHELL: Thank you. Bill, thank you for that presentation, and it was quite thorough, and it certainly -- bring the message of the airlines would like to control the customer. And travel agents, in your opinion, provide a service to consumers that is valuable, and also, a service to the airline industry.

Do you see some way that some accommodation can be worked out at some point in time, that we could work together for the good of the consumer?

MR. MALONEY: Ann, we have repeatedly expressed our openness to dialogue with all the major airlines, and none of them have taken us up on any dialogue. I think it's overwhelmingly clear to -- and will be overwhelmingly clear to members of the Commission, that if you look at the long range picture, that airlines have reduced and eliminated our revenue stream, at the same time, raising our operating costs.

I think that's clear to anybody, and the reason for that is apparent. They want to put us out of business, and have the consumers come directly to them.

In spite of this, in seven years of caps, and cuts, in spite of all of this thing, the travel agencies today still are responsible for over 75 percent of all the airline revenue. Why is that? Because the consumers love us. The consumers are voting with their feet and voting with their dollars. They are coming to travel agencies because the travel agents are providing a service for them.

It is not a free marketplace, and the creation of Orbitz has proven this. They would like you to believe that the consumers are entitled to the latest technological advances so that consumers can have access to all these things.

Ladies and gentlemen, that is a myth. That's like saying that the Amazon.com, Barnes and Nobles, and Borders are all going to get together and come up with one Web site where they're going to have all of the sale books at the lowest prices available and deny access to that -- to any bookseller in the United States.

It's not happening in any other normal industry. There's something wrong with the airline industry that's allowing them this market power.

CHAIRMAN WINSTEAD: We'll be right --

MR. MALONEY: Okay.

CHAIRMAN WINSTEAD: Ted, moving on to you, I know that you've been a veteran of this industry for many decades. I'm sure you've got some issues.

MR. LAWSON: Thank you, and thank you very much, Bill. It was tremendous testimony, I believe, and we definitely appreciate it.

I was looking at your chart, where the decline of travel agencies began in 1995, but if you look at it, the chart, and the tickets issued, it appears that the tickets issued continued to increase. Is that due to consolidation to larger travel companies, and perhaps the smaller travel companies were being squeezed out, or what's your opinion on that?

MR. MALONEY: Well, my opinion is that if you look at the number of branches, they did not decline as rapidly as the number of offices, head offices. So, it's clearly the smaller agencies are disappearing faster than the large agencies who have multiple branches.

Secondly, in spite of the increase in the number of tickets, there was another chart in there that showed that the average amount of compensation at all of the locations has dropped regardless of -- because they were pulling out the remuneration faster than they were pulling out the work that we were doing.

MR. LAWSON: Okay. And just a quick follow up because I heard you address it from the Orbitz standpoint, and I would like your opinion on it. I think it's probably a little troubling. Are you saying that it is the airlines' contention, then, that the travel agents can masquerade or disguise themselves as the ultimate consumer, and go on the net, and book on Orbitz and -- what is the legal ramification of that?

MR. MALONEY: Well, I'm not a lawyer, but I can tell you that the -- the myth that was there before was that the airlines had put out all of these fares in the GDSs, which were commissionable, and therefore, inherently more expensive than these Internet only fares. And they had to keep them higher because of the expense of dealing with these agencies and paying these segment fees to the CRS rather than these wonderful efficiencies that they were going to get from these Net only fares.

And as I pointed out in the testimony, the gap between the Internet fares and the GDS fares are so enormous, there is no possible way that any economist could ever explain away any possible cost savings. So the airlines would always say, well, if you want Internet fares, there's always availability. Simply go and charge your customer. But in many cases, what would have to happen is the agent would then have to use the booking credit card of the consumer, would have to then make the booking in terms of the consumer's name, all kinds of different things that are outside the normal retailing operations that the airlines have set up for many, many years.

CHAIRMAN WINSTEAD: Yeah. Go ahead.

MR. RUBIN: I think the bottom line here is as Bill has explained, it is not a viable economic alternative. And to specifically address the point of your question, there are many legal difficulties with it. It is not a viable legal alternative as well.

So, what we have is a situation in which the airlines are saying, "Here are some alternatives you can do." They're not realistic and they're not viable.

MR. LAWSON: Okay. Thank you very much.

CHAIRMAN WINSTEAD: Ted -- ah, Paul?

MR. RUDEN: Now, not surprisingly, I don't have a whole -- anything, really, to add to Mr. Maloney's testimony. In the interest of time, I'll pass for now.

CHAIRMAN WINSTEAD: Okay. Great. Gerry?

MR. ROPER: Bill, you did a wonderful job. I've read the testimony two or three times. I've almost went blind but I think I got most of it.

Just based on your recent statement, where you said that over 75 percent of all airline tickets were being done through the travel agents, it would seem to me that you're still the 900-pound gorilla in this game.

MR. MALONEY: No, we're not the 900-pound gorilla, Gerry. I wish we were, because we can't get together and exercise market power that the airlines seem to have been able to do without any trouble from the Department of Justice or the Department of Transportation.

Remarkable things have been approved in this town in the past 10 or 15 years, yet it is inherently illegal for any travel agencies or group of travel agencies to get together, and, in a concerted effort, and exercise any kind of market power.

In any other industry you might see a strike or a boycott. Those are illegal under our antitrust laws, and we have upheld the laws of the land, apparently, with little reward for it.

MR. ROPER: Just one other one, just

playing off of something that you had mentioned toward the end, just in this last explanation about the use of the individual's credit card, etc. Are you really saying that the travel agent isn't set up to do all of that, that --

MR. MALONEY: The Internet isn't set up to do it, Gerry. The Internet is a wonderful place for finding information and doing little bits of commerce in little different places.

For example, if you go on to an airline site and book an airline reservation, you may then want to go to a car rental site and book a car that you specifically want or a hotel site. If the airline has a schedule change, under today's system, there's a unified management of that passenger name record, that if the airline record is changed or updated, or cancelled, there's a down-line trickle effect to both the hotel and the car.

The Internet doesn't have any facility for doing any of these things. Individual confirmation numbers, individual itineraries, individual billing records. It is not a business system. It's the business system that's in place to allow the management of international sale of travel is the GDS of global distribution systems. Hotels can be sold there, airlines can be sold there, cruise ships can be sold there, and airlines can be sold there.

Any attempt to undermine that really undermines the ability of this industry to market itself as a whole. That's an underlying problem.

MR. ROPER: Well, when you come to Chicago, I'll have to introduce you to my wife, because she does it all, so --

MR. MALONEY: She's great.

MR. ROPER: She is.

MR. MALONEY: I'd like to meet her.

MR. ROPER: Yeah. We'll do that.

MR. WEBERMAN: Joyce?

MS. ROGGE: Bill, thanks. You've done a wonderful job. Throughout your written testimony that we reviewed, and then today's comments, you bring up the collective -- you give several examples of collective actions by airlines, and would it be correct, then, that your primary concern is the collective action that airlines take?

MR. MALONEY: Absolutely, Joyce. I mean, I think that Southwest is a prime example of how airlines don't all have to act in lock step. You do what's right for the customer, and what's right for Southwest. You have a different business model. That seems to be very pleasing to consumers and very pleasing to agents.

However, most of what you do is not in lock step with the old airline way of thinking with the majors. Gee, what a surprise. You're successful and make money, and don't have a lot of enemies. They are unsuccessful, have lots of enemies, and don't seem to make any money.

MS. ROGGE: Thanks. I'll stop there.

MR. MALONEY: You get a phone --

(Laughter)

CHAIRMAN WINSTEAD: And you -- Pat?

MR. MURPHY: Thank you. Mr. Maloney, thank you for the testimony. It's quite informative. But I have to say, some of the -- some of the charges in there are very strong and I'm not sure can be supported with the views that the airlines are now in an end game with Orbitz, to put the travel agencies out of business, devastate your industry.

I'd like to focus a little bit on the internal industry itself. You focus mainly on external forces you feel are pressing on you. But if you look at your charts, you'll see how the number of agencies grew at a tremendous rate, following deregulation; and then leveled off for a considerable period of time; and then, have begun to decline in the mid-90s, long before there was an Orbitz, as many other factors took place in the industry.

And many other industries were seeing consolidation, retail consolidation, everything from drug stores, to hardware businesses. The Internet is affecting some of this, but some of this just has to do with larger entities.

In your own industry, are the larger travel agencies becoming more and more prevalent, and as they franchise out, is the mom and pop you described as the family farm model, are those being pushed out by developments within your own industry?

MR. MALONEY: Well, I think, Mr. Murphy, that probably both are happening. There is consolidation in every industry in the United States economy, that I can see. There's consolidation in the airlines, there's consolidation in the hotel companies, consolidations in the cruise lines. Just last week we looked and saw Compaq and Hewlett-Packard getting together. So, it's a phenomenon of our system. There's always going to be consolidation and there's always going to be change.

But I think what you're seeing here is more directly related to a deliberate strategy, by the airlines, to eliminate travel agencies.

MR. MURPHY: Another question. You had mentioned earlier that there's no data available on override commissions, and you've stated, several times, that there's no compensation -- of course, there's no base compensation. We know that the airlines still pay a considerable amount of money to travel agencies through overrides.

The agencies now have their own direct fees. Do you have any data on how much money is being collected by the travel agencies directly, through their own fee structure?

MR. MALONEY: No. That -- I have no information on that. You might be able to obtain that information from the airlines reporting corporation, since they collect some fees for some agencies. Not all agencies collect their fees through ARC.

I do have the data from our latest survey, which showed that 88 percent of agencies charge fees of some type, not for every customer, not for every ticket, and the average is about 13 dollars.

MR. MURPHY: Thirteen. How would that compare to the average base commission they would have received?

MR. MALONEY: Well, the average base

commission, up until -- the maximum, maximum commission that they could earn on a ticket in the United States, prior to March, was $20.

MR. MURPHY: Okay. Thank you.

MR. WEBERMAN: Tom?

MR. DUNNE: Mr. Maloney, I certainly appreciate your written as well as your verbal presentation this morning.

On the written presentation that you forwarded to us, on page 13, there's one thing that really hit my eye. And as I spoke earlier, I live in the hub city, and I've seen many transitions and many promise of better fares, and things like that, and never have really seen it come to fruition.

You put in -- here's a statement. It says, "By limiting access to travel agencies, individual airlines can and do exercise and maintain market power in discreet geographic markets for air transportation, especially city-pairs involving a 'hub' where the carrier is the dominant or a monopoly provider."

Would you give me an example of how they would control it or how they -- how that affects the hub, or how it affects the fares in the hub city?

MR. MALONEY: Well, there have been

studies by independent entities, not by the American Society of Travel Agents, who have shown that airfares in hub cities, dominated by one or more carriers, have been as much as 40 percent higher than other comparable fares.

I think it's no -- anyone could see that a travel agency in a major hub market must do whatever that dominant airline wanted it to do.

Let me give you a good example. Perhaps there was a travel agency in St. Louis who wanted to give some business to Southwest. Well, because of the -- if -- if -- fortunately, Southwest can be booked directly, and the marketing information tapes, sales data, don't necessarily go to competitors. But in many cases, travel agencies in large hubs have been threatened by the dominant hub for selling non-hub airlines.

If you own a certain hub, they have the information, not only on what you sell for them, but what you sell for other people. It's like somebody coming in to your business, every day, and taking your cash register tapes, whether you like it or not. And then, they go out and see, not only what you're selling of them, but what you're selling of everybody else. And they use that against travel agencies to exert more market power.

MR. DUNNE: Okay. So then, the, as you said, the 40 percent reduction -- or 40 percent increase, that is really is not a -- I'm saying, a joint effort between the agency and the airlines --

MR. MALONEY: Hardly.

MR. DUNNE: -- (indistinguishable) price. It's really the fact of this is what the airline itself exerts upon the travel agency.

MR. MALONEY: Right.

MR. DUNNE: Okay. Thank you.

CHAIRMAN WINSTEAD: Bill, one question. On the revenue, percent revenue, the 75 percent identified through the agency channel, what is the basis of that number?

MR. MALONEY: If you look at a total overall sales, settled through the airline reporting corporation, as a percent of the airlines domestic passenger revenue, that's approximately the range. And it's been cited as fairly accurate testimony for the major airlines for quite some time.

CHAIRMAN WINSTEAD: Right. Are there any other compelling -- we do have another eight witnesses.

MR. ROPER: Just give me one. I will get

through it quickly.

And getting back to this -- I'm saddened to see this sort of divorce come between the airlines and the travel agents, because I remember days when this was such a great relationship, and to see this happening. And from the corporate side, I'll lump you both in together in the failure, because if you've been selling all of those tickets over the years, I see you as part of the overall failure, except for the airlines sitting to my left.

But, what's wrong with the disclosure part of it, that -- getting back to the consumer? Why wouldn't the travel agent want to just say, "Okay, I no longer get this from the airlines," and you disclose that, "I'm charging you an extra $50 or $60 to go through this process." What's wrong with that? I mean, that's telling the consumer exactly what they should be hearing.

MR. MALONEY: Well, the consumer is hearing from travel agents today. If you're talking about service fees, they are saying that it is going to cost for their services.

MR. ROPER: Okay.

MR. MALONEY: And there's nothing inherently wrong with that. Consumers want to make choices all the time.

The issue is, is that the airlines now have forced the agents to -- let me put it another way. If you look at the economics today, and anyone wants to say they want to run an efficient business. The cheapest way to distribute a ticket today are travel agencies, okay, because we cost nothing. We're at zero cost. The most expensive way to issue a ticket today is, guess what, the airlines because that's where all the costs are.

So -- and what are they doing? What is the economics of the way they're operating their business? They are forcing us, because we get no remuneration from the airlines -- we were never a direct expense. We were a variable expense -- to charge fees which, in fact, forces the consumer to the least effective cost of distribution. That's the definition of insanity. It's broke and it doesn't work.

We don't have a problem charging the consumers. What we're saying is that the current system, we have to charge them too much. The airlines are charging them nothing when they have huge costs to handle the same transactions. They're being dishonest.

MR. MURPHY: Mr. Maloney, one follow up on that.

MR. MALONEY: Sure.

MR. MURPHY: I mean, you said the airlines, that you were the cheapest outlet for them. I thought, when the airlines booked through a traditional travel agent, they have to pay booking fees to the GDS or the CRS systems that are very significant, and by selling tickets directly, off their own Web sites and through their own employees, they void some of those fees.

MR. MALONEY: Oh, they do avoid some of those fees, but unfortunately, Mr. Murphy, they substitute those costs with other, and I would argue, greater costs. Web sites are not free. Computers cost thousands and millions of dollars. And every time that a consumer wants to talk to an airline employee, believe me, they are talking to a very expensive employee, sitting on some very expensive real estate. Those costs are shifted. Variable costs are now fixed costs for the airlines. I wish them the best of luck.

CHAIRMAN WINSTEAD: Bill --

DR. MITCHELL: May I --

CHAIRMAN WINSTEAD: Yeah, Ann.

DR. MITCHELL: -- if I might --

CHAIRMAN WINSTEAD: Yeah.

DR. MITCHELL: -- just for (indistinguishable).

DR. MITCHELL: Has it been your experience with agencies having gone to fees, at least many of them did in '95, and we did, and we now are at zero, which we had anticipated. What we did not anticipate was being in a position of not having access to the lowest fares for our customers. Have you found that to be true within the organization, from what you're hearing from agencies, that if we charge services fees, our consumers have accepted that? We dislike having to raise the fees, but are you finding that the real problem is inaccessibility to the lowest fares?

MR. MALONEY: Absolutely, Ann. Another analogy I might draw is to the stockbrokerage industry. You know, everyone said that stockbrokers were going to be disintermediated (sic) by the Internet, when this deregulation hit in the stock markets. There were no longer fixed commissions. Everyone had to justify their own commissions, and look what's happened in that industry in the last 15 or 20 years.

Some firms have consolidated. Some have

gone out of business. New firms have emerged. Charles Schwab didn't exist many, many years ago. Now, you see things like e-trade, these new online services.

That's good for the economy, and consumers are making choices, and guess what, some of them are still going to the old brick-and-mortar stockbrokers like the Merrill Lynches of the world. They're making free choices.

But in no instances are those people at Merrill Lynch denied information, services and pricing that any other channel in that distribution can have. It doesn't happen. only in the airline industry.

If we're free to compete with free access to information, free access to all fares, and the ability to manage our own customer relationships without interference from other people, we'll do fine. We'll prosper. We're not looking for a handout, we're looking for a level playing field.

CHAIRMAN WINSTEAD: Bill, thank you very much. I want to appreciate it. It was a very thorough, informative testimony, and obviously, we're going to consider both the association's position as well as individual agents. I might just mention, before we go to the next panel, that we do have a hearing on the 26th, in Chicago, and a number of independent, small agencies have signed up to testify already.

MR. MALONEY: Good.

CHAIRMAN WINSTEAD: So, we'll be hearing from a lot of the small agents around the country.

MR. MALONEY: Good. Thank you ladies and gentlemen.

CHAIRMAN WINSTEAD: Thank you very much. If we could move on, I would appreciate it if Mark Brown, executive vice president of AAA Association Club Service, and also, Michael MacNair, who's president of MacNair Travel Management, if they could come up together.

There are three seats, two mics, and we'd like to bring you both up to move things along. Not to infringe on your time allocation, but just convenience.

Mark, thank you for joining us, and as we did before, take time, both -- we have your testimony, but take time both to review the testimony and then we want ample time for Q and A. We'll probably do both of you when we open it up to Q and A, if that's okay.

MR. MCNAIR: Great.

MR. BROWN: That's great. Thank you. Mr.

Chairman and Commission members, I personally thank you for the opportunity to be here today to testify on the status of the travel agency and the travel industry.

I'm Mark Brown. I'm executive vice president of the Association and Club Services for AAA. In that capacity, I actually oversee the operations and strategic development at our national headquarters, which is located in Orlando, Florida. And I started my career in 1978, as a frontline travel agent in Omaha, Nebraska. So, as I speak today, I hope you'll think of me in that role.

I'm pleased to be here today because I believe that we at AAA can provide somewhat of a unique perspective on the travel business. We are first and foremost, a membership travel organization, and we strive to really represent the best interests of our members and the consumers, that same consumer that many of you talked about as you gave your introductions this morning.

By way of background, AAA, as you probably know, is a not for profit, fully taxpaying federation of about 80 clubs in the U.S. and Canada, with 1,100 offices in the United States and Canada. Collectively, AAA Travel is the largest leisure travel agency in the United States, with more than $3.4 billion in sales.

AAA and our counterpart in Canada, provide services primarily to our 45 million members, and we also provide these services, and they range from things like travel agency insurance, financial auto club services, many of them to the general public and consumers.

As a federation, AAA travel agencies are comprised of primarily small and medium size businesses, which provide service at a reasonable price. We provide service through locations, telephone centers, and also through our Internet site with a booking engine, AAA.com.

We operate in communities across the country. Just last year we sold about $850 million of airline travel to about 3 million travelers.

As a point of overview, my written testimony, which has been submitted to you, gives you somewhat of a broad detail on AAA's perspective of some of the recent industry changes and their impact on consumers and the travel services we provide. Among the challenges I highlighted are the tragic events of September 11th, airline commission cuts, the soft economy, and also, I commented some on Orbitz.

For the purpose of my statement today, I'd like to first focus most of my time on one key change, commission cuts, as it affects consumers.

You know, amid all the press outlining how the elimination of airline commissions have hurt the travel agency industry, which I'll speak to, what's really lost is consideration of the ultimate victims. It's the consumers. Commission cuts have had more than a ripple effect on our consumers. I'm from Florida, so bear with me.

What it's really had has been somewhat of a riptide effect, hurling people out into deep sea without a lot of assistance. And we see the key harms in that riptide as really being threefold. The first one being that the consumer is ultimately paying more for travel; the consumer is losing access to expertise; and thirdly, the consumer is losing access to service after the actually buying transaction.

So first, let's talk a little bit about why the consumers pay more for travel. When airline commissions were cut initially, many agencies did implement the service fees we spoke of earlier this morning. Travel agencies, as we measure them, saw about 70 percent of the tickets.

It gets a little convoluted because some of the people that call themselves travel agencies are really Internet companies selling through ARC, so figure 70 to 75 percent.

It's a sizeable portion of agency sales and income, or at least it was. And when those commission cuts first occurred, it did impact and affected the consumers, even those early commission cuts.

Obviously, the progression to zero commissions increased the number of travel agencies who jacked up their fees in order to sell airline tickets. Thus, the cost of purchasing an airline ticket, fundamentally, increased to the end consumer.

When commissions were eliminated, airlines did not lower the cost of their travel, their ticket, long term and across the board. So, as Bill said, the consumers do pay twice. They pay twice because the ticket still includes that margin that was paid to travel agents, and, of course, the travel agent, again, has to charge a service fee to stay in business.

The distribution cost has been shifted to any consumer who prefers to use a travel agency to going it alone. And what's important to keep in mind, this is really an action that the consumer didn't have a lot of choice in. Service fees did not adequately, and do not adequately, today, cover the $15 to $30 processing cost of selling airline tickets.

And travel agencies, frankly, don't have a lot of incentive, these days, to sell airline tickets. And if travel agencies decide, candidly, to stop selling airline tickets, consumers could be left without much needed assistance.

Secondly, the consumer is losing access to expertise. The travel agent provides a knowledge base that's very unfamiliar to most consumers. Availability, penalties for scheduling or itinerary changes, rules and regulations, fare differentiation, assistance with special needs, translating all that industry jargon. And even the more complex, international considerations are all important, behind-the-scenes details that many consumers, most consumers are not aware of, that travel agents do.

The consumers who contact individual airlines on their own or use online sites to book air travel may find what they're looking for, but do they always find and do they really find what's best for them? A travel agent is, indeed, the only unbiased source for comparative price and service information. And without an agent's assistance on just everything probably but the simplest routings, consumers are at a distinct disadvantage, and probably a costly disadvantage.

Thirdly, the consumer is losing access to service after the transaction. The third harmful effect to zero commissions is, indeed, the loss of service. Hopefully, most consumers have smooth travel plans, where there aren't any problems. But as we learned so painfully, last September, things can go wrong. Most of us don't have contingency plans and rely on a travel agent, who sold us the ticket, to help us with unexpected delays, changes in plans, and compensation for problems not under their control.

Who does the consumer turn to when there is no travel agent standing behind them when it's no longer profitable for that agent to sell the ticket? None like large volume travel agencies. The individual consumer does not have the leverage for things like waivers and favors, or other considerations that he may need to complete this travel under these conditions.

I think the bottom line is that there are fewer and leaner financial incentives today for agencies to continue to serve the general public, a public that still has a very high demand for travel services, and it's growing every day.

The implementation of service fees has not made up for the lost income. There has been some back-end commission deals, but they're few and far between. The additional fees make the agency uncompetitive with airline direct prices.

In addition, when major airlines eliminated domestic commissions back in March, March 15th, they were really, as was stated earlier, no effective mechanisms to build in those service fees. Unless changes are made soon, consumers will pay more for travel, and gradually lose access to the expertise and post-transaction services. Most travel agents have a separate transaction for their service fees.

Orbitz. Another area I'd like to focus on briefly is the impact of Orbitz on consumers. I think that's the appropriate way to look at what Orbitz does.

We believe that all distribution channels, including travel agents, should have fair access to all the fares and inventories sold by airlines to the public. The recent decision by Orbitz to make some of its technology and Web fares available to certain travel organizations, albeit at a price, is certainly welcome news. However, it's not necessarily permanent, and it remains to be seen whether it's adequate from the consumer's perspective.

As to its permanency, Orbitz' offer could be seen as a result of the Department of Transportation's recent subpoenas to the airlines for information on how they participate in Orbitz. And we at AAA, we commend the DOT for its enforcement authority, but you know, business by subpoena is not the way we like to do business at AAA, and it is not the most stable environment for travel agents, or for that fact, airlines to do business in.

As to the adequacy of Orbitz' offer, a couple of questions remain. Access, will the fee itself become a competitive obstacle, the fee to use that technology? Will the operation of the software be a competitive obstacle?

The breakthrough on Orbitz does not really address the concern AAA has about fares and the availability on airline Web sites. Should consumers who prefer to book only through a travel agent not have access to the lowest fares as a result? What about consumers who don't have access to the Internet, or who, for privacy reasons or any number of reasons, simply chose not to use the Internet? Are they to be deprived access of the lowest possible fare because they trust and utilize a travel agent to book their travel?

You know, 46 percent of the U.S. population, in spite of what we read in the continued growth of Internet, does not use the Internet. And for the first time in 21 years, the growth of U.S. households with Internet access actually dropped by 200,000 households in the first quarter of this year.

The consumer should not be prevented from getting the best prices available and access to that inventory. While the online booking sites have allowed consumers the abilities to certainly do it themselves, the infrequent traveler has difficulty with the complexities in the shopping and buying processes.

Airline pricing is, in fact, still rather complex, and is somewhat illogical at times. And there's a lot of fares and a lot of routes to sort through. A travel agent serves as an objective source for consumers, to help them sort through these complex transactions.

To AAA's recommendations. We recommend to continue to offer the consumer an independent source of comparative price and service information. We'd like to see the somewhat antiquated agency compensation model modernized to include the following: first of all, we'd like to see equal access to airline inventory pricing, regardless of the distribution channel. Preference should not be given to certain organizations and companies by limiting or creating competitive hurdles to inventory and pricing. I said earlier, we actually operate an Internet booking site.

Secondly, add a ticket-processing fee, that's called TPC (sic), to the standard documents, to the airline ticket documents, to more fully explain the ticket costs. And that, of course, is going to require the unanimous consent of IATA, the International Air Travel Association, that needs to be embodied in the ticket documents.

The third thing, the Department of Transportation needs to be very viligent (sic) during these times in investigating the airlines distribution practices as they affect consumers. And don't hesitate to use enforcement authority to represent the interests of those same consumers.

Mr. Chairman and Commission members, we understand your goal is to better understand the travel agency business and the effects of the changes on it, and how it's going to affect the traveling public. To summarize, AAA believes the industry has, indeed, been adversely affected, and these developments have the great potential to negatively affect the real important category, the end consumer.

Without a healthy travel agency industry, consumers are paying more and will pay even more for travel, have less access to the expertise of the travel agent, and certainly will have less service access post the purchase transaction.

The absence of a viable travel agency in the industry will greatly limit the consumer's ability to make informed choices and derive the best value from the existing U.S. air transportation system. It's going to have a negative effect on consumers who rely on agents to be the unbiased source of information and provide valuable service at a reasonable price.

Yes, the travel agency is, in fact, suffering. And the way we conduct business, we readily admit, will have to change. But it's being done. All this is happening without our consent and without the consent of the consumer. How we conduct business will have to be worked out within the travel agency industry and the travel industry as a whole.

Again, let's not leave out of the equation the reason we're in the business. Airline travel may be becoming a commodity industry, but it's still relying on one thing, the end consumer, and their willingness, and need, and desire to purchase travel. He was the catalyst for when we were developed many years ago. Therefore, it's important that the consumers' needs and rights be given a priority as you do your analysis. In the current industry environment, we think the consumer is clearly being overlooked.

Mr. Chairman, Commission members, thank you.

CHAIRMAN WINSTEAD: All right. Thank you very much, both for the written testimony, excellent presentation on concerns and the consumer.

Why don't we go on, Mike, to you, and then we'll open it up for questions.

MR. MACNAIR: Thank you, Mr. Chairman. I'm going to wing my presentation a little bit, only because most of my points have been very eloquently made by Mr. Brown and Mr. Maloney.

So, in the interest of time, I'll try to go through mine in a little bit more casual fashion and talk about what I think hasn't yet been covered.

I am Mike MacNair, and my wife and I own

MacNair Travel Management, whose headquarters is here, in the Washington suburb of Alexandria, Virginia. We're a regional agency, and we are a representative, meaning privately owned office, of American Express Travel.

We have 43 employees and $25 million in sales. So, with that background in mind, I want to make some comments, mostly related to our experience.

We feel that finding the lowest available fare is far more complex than ever before because one must check the GDS, Internet travel agencies, sites like Orbitz, and/or airline sites, sites like southwest, and Jet Blues, and tour operators and consolidators in order to find a consumer the best fare.

This complexity requires that consumers have access to advocates -- and when I refer to advocates today, I will talk about travel agents -- to walk them through the complex maze of fares and their associated rules and regulations.

It is my opinion that the airlines will keep us from being able to provide this service. The cost associated with not searching all these locations is a higher average ticket price for the consumer and American business. Therefore, we would like to request that the government ensure fair and equal access to all published fares so that travel agents, advocates, can continue to serve the customer in an unbiased fashion.

The effect of the airlines' efforts to create a parallel booking system, the Internet and the GDS, have hurt individual travelers in a big way, but let's not forget American business. I have large, corporate accounts in this area like the United States Chamber of Commerce and others, and I manage their travel. But I also manage travel for 280 other small businesses and trade associations in this region whose medium spend is about $75,000 in airfare per year.

While large corporations are cutting deals directly with the airlines to avoid any cost differentials, small businesses have no voice and don't know where to go to manage their travel. I know this.

I recently held a town hall meeting with my customers, and they had this question for me, "How do I manage my travel," over and over again, "Why should I go to you?"

Travel's the third largest expense for the average U.S. business, and in a recent speech, President Bush noted that small business owners are the backbone of American economy, and they create more than 66 percent of all jobs in America.

Additionally, I'd like to quote Federal Reserve Board Governor Edward Graham, who stated that there were 23 million small businesses in America, representing more than 99 percent of all firms. In the parallel distribution system environment, business travelers are enticed to find fares on the Internet for upcoming business trips and are not always selecting the best value. No travel professional is checking the GDS, Internet travel sites, airlines like Southwest and others not represented on sites like Orbitz, and tour operators and consolidators.

The professional counselors at my firm search all these locations, and then explain the rules and regulations of these fares to ensure the proper purchase. When travelers are performing these duties, the cost is not only a higher average ticket cost, but a mind-boggling amount of wasted time.

In addition to wasted time and money, there are other dangers to allowing travelers to book tickets solely on the Internet. When one of my counselors books a ticket for the customer on the GDS, they are afforded access to key pieces of information regarding their reservation.

When we find a fare for our customers on the Internet, and we are doing it, and there are risks, but we feel it's our commitment to our customers, we lose control of these key pieces of information.

If the airlines are required to put the fares they offer on the net, in the GDS, our mutual customers will be better served through price and advocacy. In doing so, the consumer will receive a wide array of choices and a better price; they'll understand the fare rules and regulations; changes will be facilitated, and we have found, over the years, that business people make lots of changes.

Receiving a refund will be made easier, exchanging a ticket for another will become less cumbersome, and tickets will be voided when possible. We will also be able to notify customers of itinerary or time changes, and customers can receive, from the travel agency, reports and other pieces of information that allow them to run their business more efficiently.

When we book a ticket on Orbitz, for example, we book a ticket as the customer, not for the customer. This is a time consuming, manual process that gives us less control.

A prime example is that we're not notified of flight and time changes in order to better serve our customers. We perform this service manually. We are also penalized by our GDS by not issuing this ticket through that system.

If it really costs the airlines a few dollars more to place fares on the GDS, and what I have read, it's a few dollars -- why not add the Internet fare to the GDS, plus a few dollars, to create a win/win -solution for all parties? My customers are asking me for this package and I can't tell them why I can't give it to them.

I want to be part of a system that keeps American business moving. The government's spending time and money to prepare our country for possible future terrorism attacks. We can be a part of the solution. We can also be part of the solution when airlines go on strike, or when major weather issues affect a transportation system.

Travel advocates, like my staff, were around at my significant cost to support travelers, answer their questions, get them home, answer their family's questions, provide security data and daily updates, and settle them down after 9/11. I had more than one CEO call me on 9/11 and ask me to provide a report for them of where all of their staff was and how I was going to get them home.

Small businesses are buying their tickets through multiple locations because they don't know what to do. I call this travel anarchy and travel anarchy is dangerous.

We were part of the solution and we felt great about it. We helped our customers and our airline partners finish all the customer service issues, notification on new rules and regulations. We processed refunds, exchanges and voids, a time-consuming job that could never be accomplished by the Internet and the staff that backed up these systems.

We have always provided this support for our customers and our airline partners during major weather problems and strikes. For anyone who's been in an airport crippled by such acts, you know that we need as many hands as possible on deck, to help the consumer.

We're the best deal in town for the airlines and for the public. We need to be given the right to work on behalf of our customers. These same customers have paid into a transportation system infrastructure, through their taxes, that allows the airlines to operate.

Please help bring us back together in a fashion that allows the consumer, both the business traveler and the personal traveler, travel agencies, and the airlines, and our country to all win.

CHAIRMAN WINSTEAD: Thank you, Mike and Mark. I really appreciate it and again, congratulations on both your handling of your clients after 9/11 and the growth of your business. It's quite a great success story.

We have some questions from the Commissioners. I had wanted, in the testimony, Mark, that you had, you sort of -- you dealt with the ticket processing fee issue, and I'd like you just to elaborate a little bit on that, as regards to the Commission and our view of that process, and what we might do, and looking at solutions.

MR. BROWN: Well, I think, what we're recommending is that embodied in the actual ticket document is a category that would allow you to put your service fee into the price of that ticket.

Right now, if you walk into an agency, the majority -- a vast majority of the agencies, you do the transaction, you buy the airline ticket, pay, and that's settled through ARC. And then you also will get a fee, a $45 fee or whatever the service -- or

$15, whatever it is. It's a separate transaction. It will actually show up on your VISA statement or any other statement as a separate line item.

We're suggesting that that is a competitive disadvantage and actually, it highlights the fundamental problem, in that the consumer is paying for the same ticket that has the imbedded commission fees in it. They had them in it before March 15th. That fee, basically, is still the same, and they're turning around and getting another fee on top of that, and that's the fundamental problem.

But the process is also a problem. You could take it one step further. Orbitz lost money last year. I think they took in $43 million and had a net operating loss of $100 million. What would their fee be on that ticket if it wasn't subsidized?

So, I think the bottom line is a ticketing process that is not cumbersome. It can be settled through ARC, that has the fee in it, that the consumer understands that there's a distribution cost imbedded in that document. When you buy groceries at the grocery store, you don't get a bill for the groceries, and then turn around and get a bill for the counting of them.

CHAIRMAN WINSTEAD: Thanks, Mark. Mike,

you had something to add?

MR. MACNAIR: I'd like to add a business comment to that. I meet with the financial people at my corporate accounts all the time. And they're frustrated with the fact that they have to reconcile two charges for every ticket. And the fee charge doesn't necessarily correspond with the ticket, so there's a business challenge here, which is wasting time and money for American business as well.

CHAIRMAN WINSTEAD: Let me -- Ann, do you want to chime in here, with these two witnesses?

DR. MITCHELL: I'd just like to congratulate you all for being so succinct, and focusing on that consumer that we certainly need to be concerned about, and to highlight the kinds of things that are before us at this time.

In looking back on changes that have occurred, certainly, I think most would agree that travel agencies have changed, dramatically, over the last seven years. Those that have not changed are no longer with us. And those that have not changed appropriately with the latest times are headed out the door in a hurry.

So, we are not saying, and I don't think you're saying, that agencies don't have responsibilities, as businesses, to have their act together. Would that be a fair statement and --

MR. MACNAIR: Absolutely.

DR. MITCHELL: -- and would you then be saying that --

MR. BROWN: Oh, I think it's more than fair. And actually, I would commend people like Mr. Murphy for the work that was done on deregulation. We're not advocating that we re-regulate this industry. I remember filing pages of tariffs. We don't want to go back to that stuff. But the fact of the matter is, agents are resilient and willing to change. That's my --

MR. MACNAIR: Absolutely, and we're fighting for our customers by providing them service and providing them value in our fair search, and hopefully, saving them time. We just want to be able to have access to all fares in order to provide them an even better value.

MR. BROWN: A level playing field.

CHAIRMAN WINSTEAD: Ted?

MR. LAWSON: Yes. And I do think it was a very good presentation by both of you, and we definitely appreciate it.

I think, Mark, you really honed in on from the consumer's perspective, which is, after all, the most vital element.

In that, without the travel agencies, or as the travel agencies decline, in your opinion, then could the airline suffer losses, additional losses from what they're already suffering from, the fact that customers simply do not fly?

MR. BROWN: Well, there's -- clearly, right now, there's a lot of factors why airline traffic is down, and I probably would be misguided to tell you that some of the things that are happening in the travel agency industry directly contribute to that. I think there are external factors, economic factors that we're dealing with, in addition to the fundamental issues here.

But the consumer is certainly being tossed about right now, in terms of travel agency relationships. It is a highly fragmented business comprised of both arch businesses, and also the majority, smaller business people.

The consumer's going to pay more and, in fact, I think, just an example, last year, we had default of at least three major tour operators. I'm not sure about Mike's firm, but we ate, as the travel agency, we ate and wrote off default costs from people like Kingdom Tours, American Classic Voyages, and why do we do that? Well, we did that because we believe in the industry and it's our obligation, as the agent, to either insure those risks or eat them.

I think ultimately, the consumer is going to pay more. I think the distribution channel of the travel agency industry, in fact, is quite efficient. And I think earlier, there was some discussions about the cost burden to airlines. It would be very high if the shift went the other way.

The Internet is clearly the cheapest form of distribution, and I would advocate -- as I said earlier, we have an Internet site. And I'd love my customers all to use the Internet. And I'd love to have my GDS supplier backroom engine, booking engine, have access to the same things Orbitz has.

My question -- this knowledge of the -- my question is when is that going to happen? And give us that even playing field. And I think you'll find that the travel agency industry will continue to be rather efficient.

MR. LAWSON: Very good. Mike, I'm curious because some of the airlines said, of course, you've got access to the Internet. There's -- book them on Orbitz.

MR. MACNAIR: Right.

MR. LAWSON: How does that work when a flight is cancelled or something, or there's a delay, and your customer calls you, and the airline pulls it up and says, "Well, this was not booked through you."

MR. MACNAIR: Right.

MR. LAWSON: Because you're really masquerading as the client, right?

MR. MACNAIR: Yes. I just went through a lengthy process, at a significant cost to me, to work through the legalese of this challenge with our customers, because a paradigm change is taking place on how I'm booking tickets for them. But we felt we have no other choice. Our job is to find our customers the best fares. That's why I got into the business and that's why I hope to be able to continue to be in the business.

In order to do so, I need to look everywhere, and my first thought is that we would provide a recommendation that the customer go in and book it, and charge for it, but I have some extremely savvy and talented staff members who showed me that we could do it for the right customer who signed off on our ability to do that for them.

But yes. We're masquerading as them. We

have to actually manually key in the reservation to our GDS system so that we can generate an invoice for them, and so that the accounting office of XYZ corporation can see everything we've bought for that customer.

And then, we have to queue it back to ourselves a number of instances, and make sure that we're checking to make sure itinerary and time changes are notified to the customer.

And we went through a long process of coming up with the legalese that needs to go at the bottom of the invoice.

We're going to fight hard to serve our customers. We wish we didn't have to. And *Travel Weekly* recently had a conference out in Chicago where there were lots of technology companies showing how they were going to insert Orbitz' fares into this and that and the other thing.

The bottom line is, we're still acting as the customer and not for the customer in those instances, and the only reason why this unbelievable waste of time, and energy, and technology is taking place is because we're not just given access to the fares in the first place, to the GDS, which has been made to seem like something that we, as travel agents, invented to cost the airlines more money. I paid my dues to get into the travel business and fund the darn thing.

MR. LAWSON: Thank you very much.

CHAIRMAN WINSTEAD: Paul?

MR. RUDEN: Mark, I noticed, in your written testimony, and I think I heard you say it verbally, reference to a breakthrough with respect to Orbitz. I don't want to overly focus on Orbitz, but breakthroughs come in many kinds. You can have a breakthrough that is a good thing and you can have a breakthrough when you fall through the ice and find that the water is very, very cold.

And you've been around the business a long time. I know your father was in it before you, and I knew him quite well, and respected him very much.

Does it -- in the old days, which I'll define for this purpose as before November of '99, when Orbitz was announced, and you dealt with airlines, did you tend to encounter them in groups? Did they come to visit with you as a group, to negotiate deals or discuss business problems, efficiency issues, CRS questions and the like, or did they come one by one, as a general rule?

MR. BROWN: As a general rule, they would come one by one.

MR. RUDEN: Well, does it bother you at all that Orbitz is owned by five of the largest airlines on the planet, and when Orbitz comes to you, it is, in a sense, the five of the airlines coming together? Does that change your view about the nature of the relationships that are being offered to you?

MR. BROWN: I think probably the answer in that is how it affects the consumer again. And what's happening, if that, indeed is the case, and we haven't had those kind of discussions with Orbitz, candidly, but what are the conditions that are placed on that relationship? What are the costs? What are the technology conditions?

And I guess there's question, too, of who is the customer really securing the travel through, and who's representing their interest if we did that kind of a deal? Is it AAA, the small agency in Birmingham, or is it Orbitz? I'm not sure.

If they came to us -- very simply, I don't particularly need Orbitz in my life. What I need is access to those same inventory and fares. That's what I'd really like. That's what the consumer would really like. They'd like to be able to come to our dot-com sites and be able to see the same inventory, because they're, in fact, my customers, not Orbitz' or anybody else's.

MR. RUDEN: Okay. Thank you. Mike, I was really affected listening to you as a businessperson who's in the marketplace. I know Mark is in the marketplace more than, I guess, I am, because I work for an association that represents everyone, but you're out there, trying to run a business which is bigger than the average business, travel agency business, but not a big business in any sense.

You said that -- I thought I heard you say that you could accept a situation in which whatever CRS costs were involved in putting the low fares, the Internet fares in your GDS, you would accept that as a differential.

MR. MACNAIR: If I had to.

MR. RUDEN: If you had to.

MR. MACNAIR: Sure.

MR. RUDEN: As a better alternative than not getting the fares at all, or having to go through the -- rigmarole is not the right word, but the inefficient and extensive efforts you now have to go through to check all kinds of different places to come up -- in a totally un-unified environment, to come up with the best advice for your clients. That would be a better solution for you.

MR. MACNAIR: Yes.

MR. RUDEN: Mark, I saw you nod affirmative. You agree with that?

MR. BROWN: I think segment fees and things like that have evolved, and yes, I think -- the answer, yes to that.

MR. MACNAIR: Well, but what are Orbitz' costs or any airline's cost? I think Mr. Maloney made the good point that Web development is costly. That system cost a pretty penny, and from what I understand, each airline pays Orbitz a fee of some sort for distributing their ticket. And there are people behind that, somewhere.

I mean, the technology crash of the last few years is mostly by technology companies who didn't put any people behind anything. So you have to have people behind technology, so there is a cost for that. And I think, if you really investigate it and analyze is the cost differential, we are probably the cheaper option, but okay, if you want to just go with segment fees, okay. If I have to, that's fine.

MR. RUDEN: At least short term.

MR. MACNAIR: Yes.

MR. RUDEN: Yes. Okay. Thank you very

much.

CHAIRMAN WINSTEAD: Thanks, Paul. Gerry?

MR. ROPER: Well, I guess both of you. Are you still both receiving -- you're considered large agencies.

MR. MACNAIR: Yes.

MR. BROWN: But we're a federation of --

MR. ROPER: Right, but you said --

MR. BROWN: I would say -- I would say --

MR. ROPER: So, are you both still receiving commissions from the airlines?

MR. MACNAIR: Some.

MR. BROWN: No front-end commissions. Some relationships on the back end.

MR. ROPER: Okay. Paul brought us -- was trying to bring us back, also -- the Orbitz thing. It seems like it's an Orbitz meeting. And I had to ask Dick, how long has Orbitz been around because maybe I've just been too damn busy, and I thought, based on everything that we've been hearing, that it's been awhile.

It seems to me, since it's only been a year, are we really -- and we want to get back to Mr. Maloney's concern, and that is on the smaller agents. I'm looking at the charts, and I'm seeing that probably the high was 1997, and then, things started to drop off '98, started to go down, and Orbitz, as I just heard, wasn't really brought on until 1999. What are we talking about?

MR. BROWN: Well, I think what you're seeing there, and that's why I lead with my comments on commission cuts, I don't think you can separate the two because actually, Orbitz, by itself, may not have been catastrophic to our industry. And how they conduct their business, I'm not here to really talk about that. Bill covered that pretty well.

But it's the cascading of the two events that I think has caused more of a cathartic decline in the travel agency industry. And some of the previous issues probably have more to do with commission reductions as they occurred by suppliers. Some agencies have shifted more their business to cruise and tour. A lot of corporate agencies have added fees. Just like every other industry out there, travel agency industry has experienced some consolidation.

So, I think it's -- I think what it really is why, on some of the radar screen today, is because these two cascade together and have caused somewhat of a competitive issue in the marketplace, and the travel agency industry.

MR. ROPER: Then, just speak for me the last part is that this concern -- I'm just as concerned about the corporate America and these additional costs that you're going to have to go through. What percentage of it is -- that you're going through because you have to go through these numerous steps?

MR. MACNAIR: We project that time and energy costs about $55 to $65 to purchase a ticket on Orbitz for one of our customers. And I'm charging less than half of that.

I'm still on the learning curve, so I haven't adjusted my fee accordingly, but I'm willing to take the loss because -- in the short term because I'm passionate about the fact that you'll come up with a solution that will allow me to have access to all these fares and nothing -- you know, no pressure.

(Laughter)

Forty-three families. Ah --

But I know the technology will change. We're having a good discussion here, so I want to wait and see how the industry shakes out, but it is costing me a pretty penny to offer that service at this point.

MR. ROPER: I want to get back to Mark's

statement and then I'll be quiet. Is that we'd better watch what could be, may be internally, wishing for because we could end up with regulation again, if we keep -- you know. That's what concerns me.

MR. BROWN: I think one of the issues really isn't the cost of conducting business here. It's what you're dealing with in terms of a net margin -- the net margins of a travel agency, and I think Dr. Mitchell could probably tell you, and Mike, that what's happening is revenue came down, and the expenses, in relative terms, have stayed up or gotten higher because of having to do the things we're having to do to survive.

If we had the access to the equal playing fields, so the consumers felt comfortable that they were going to be exposed to a choice model, I think we could survive in that environment.

CHAIRMAN WINSTEAD: Thank you, Gerry. Joyce?

MS. ROGGE: I just wanted to clarify a little bit. I hear -- and this could go to both of you.

The discussion about the level playing field, and I want to make sure that I understand that. And what I hear you saying is that if an airline is going to put fares out to an Orbitz or a Travelocity, or whoever, but a online travel service, that you would like those to also be available through your GDS system.

And I'm a little bit confused on the fee structure as well. I mean I know, Mark, you mentioned the new AQUA or the new way that Orbitz is going to make whatever fares they get available to the agencies and is there -- have you been told what that cost is?

So, I guess it's a two-pronged question.

MR. BROWN: Well, I'll take a run at it first. First of all, your second part, we've had some discussions with Orbitz, and what you have to come to in order to work this out is an agreement on what that technology costs, and we haven't gotten to the actual costs of that at this point.

Yes, we want an equal playing field because the fact of the matter is, I think most agencies, certainly ours, we view it a little bit differently. All the things we're talking about are distribution channels.

You still have someone wanting to buy travel, and you have a supplier, whether it comes through the phone, the Internet, or in the office, the cost of transportation should be relatively the same.

The cost of distribution, it may vary, but the fact of the matter is, if I could have access to those type of fares and inventory on AAA.com, if I could have Southwest fares on AAA.com, I'll work out the deals on the back end with the -- on the side with the GDS supplier. They're going to have to migrate from whatever they do today. They're more Internet robust systems, too.

So, I think, yes, the answer is we would like access to those fares, what you want for people in your planes.

MS. ROGGE: Well, let me clarify again, because I think there's a distinction, or at least I see one, and I wanted to make sure that I was understanding your testimony correctly, that there's a distinction between an airline that is acting independently, and not offering their fares in a myriad of places, as Southwest airlines does. Our fares are only on our Web site. So, we're not making it at a competitive disadvantage in that we'll give them to somebody else and not to you. And the contrast means another airline or a group of airlines that is picking and choosing.

And so, I didn't know if you saw a distinction in that, and if you don't, that's fine. I just want to be clear on it.

MR. MACNAIR: Well, I'll have to point out that we're powered by Sabre and we don't have full access to Southwest, but that information is available to our consultants at the point of sale, and we use it, and we're very happy to have it.

MS. ROGGE: The fares that aren't Web fares?

MR. MACNAIR: Correct.

MR. BROWN: I think the bottom line is we, as agents, can book Southwest fares and have access to your inventory. The only thing you probably have are some private fares that we can't access, that you might do for corporations or some other group.

MS. ROGGE: Right. Well, I think that's true, and I was just wondering if you saw that as a distinction when you're talking about a level playing field.

MR. BROWN: Yes. I think within the level playing field, there are different types of airlines, too, and Southwest has presented itself to the agency industries with a very different model from its onset. So, within the travel agent -- within the airline industry, there are difference between carriers.

MS. ROGGE: Okay.

CHAIRMAN WINSTEAD: Thank you. Pat?

MR. MURPHY: Okay. Thank you. Thank you for the testimony. It was very helpful.

Mark, if you could help educate me just a little bit. We heard, today, how the base commissions have gone to zero, but we've also learned there are other overrides, in other ways, that the airlines can compensate agents. And there's also the concept of net fares that are offered to the agents, which I gather are lower than the retail price.

Can you educate me on net fares and how they work between you and the airlines?

MR. BROWN: Well, you have -- you do have the ability to negotiate fares with certain suppliers under certain conditions, contractual agreements, and you have, I guess, the right or privilege to sell those at some type of retail value.

There's a lot of nuances to all that. There are also consolidators out there that you can deal with, which look like, smell like a little bit of net fares.

There are ways to get to that. What it takes to get there, though, is typically a very large consortia. The average consumer doesn't have access, in most cases, to those types of fares.

You also -- you have a condition that the net fares may not be in the best interest. It depends on the supplier and the marketplace. I may buy a net fare today and -- for a trip eight weeks from now, and a month from now, there may be a fare, that's not a Net fare that would be more favorable, so it may put you at somewhat of a risk.

There are all those dynamics, and there are -- there are very limited, at this point, but there are some agreements and some agencies for back end commissions. I can tell you that they do not make up for the front end commissions that have been removed.

MR. MURPHY: Are the net fares that the agencies sell a significant part of their revenues?

MR. BROWN: I think you'll probably get -- you'll probably get two different answers from the two of us. I'm not sure about his agency.

MR. MACNAIR: Yes. I don't have any Net fares.

MR. BROWN: As a leisure agent, we have very limited Net fares.

MR. MURPHY: Okay. The other question, then, you had talked about a level playing field and equal access to the Web fares, and I think you had agreed if there is some fee associated with that, that might be appropriate or it might be acceptable.

Would you envision those fares coming through the CRS or GDS systems, or coming directly to you from Orbitz or the airlines?

MR. BROWN: The people that are on the GDS systems also run Internet type protocols. I think they're struggling with whether they want to be a GDS system or whether they want to provide access to inventory through a more Internet based -- I guess my feeling is I'm still waiting to see how this all shakes out. What's Galileo going to look like two years from now, under SEN and their acquisition of Internet companies? Sabre, the same thing. So, I don't think we really know at this point.

My optimism is that we'll go to the dance with the one that brung (sic) us, and I would like to think that AAA doesn't get too big in the technology business. We're in the travel agency business, that we can find partners that we can partner with for the distribution of travel as it changes. And I think the GDSs, frankly, are going to change.

MR. MURPHY: Yes. One concern I'd have is if there was some sort of a fixed fee, and these fares are funneling through the GDSs, one of the problems, I think the airlines feel they face is the CRS fees are going up as fast as the base commissions are going down, it seems, and how do we control those fees if they're going to be sort of standard and put on top of a --

MR. BROWN: I've always --

MR. MURPHY: -- fare?

MR. BROWN: I've always been an advocate of a free and open marketplace, and I'd like to think that given the types of technology we're talking about, there could be enough suppliers to keep that in check, I believe. If one's fees get out of hand from a GDS type supplier, somebody else will step up and I'll do business with them.

MR. MURPHY: Okay. And Michael, appreciate your being here. Over the years, in Washington, debating deregulation and CRSs and everything, we always talk about the mom and pop, and I guess you're the pop.

MR. MACNAIR: Right.

MR. MURPHY: Welcome to Washington. The industry structure, I had asked an earlier witness about, as the industry, the travel agency industry is changing, like many other retail businesses, what that structure might look like at the end of the day. Will all the agents be affiliated with larger groups, like American Express, or AAA? Do you have any views on what the structure of the travel industry might look like in a few years?

MR. MACNAIR: Boy. I've spent a lot of sleepless nights thinking about it over the last few years, and I have a couple of thoughts, but they're clearly just my thought.

And one of the reasons why we're here today, making sure we have equal and fair access to fares is that we are just -- disassociate ourselves from the airlines, and are really just working for our customers, and justify our existence by providing them a value, by searching all these different locations and providing customer service and a time savings. That's one route.

And there's a lot of discussion in our industry about dealerships, and we become dealerships of different suppliers. We may become dealerships of certain GDSs, you know. Sabre just came out with Sabre Exclusive, which are their Net rates on certain things. I don't know.

You know, it's really difficult to run your business when no airline partner can tell you what their future vision is, and when they do cut your commissions, it's like 12:00 tonight, your revenue is gone, 20, 30 percent gone. And then -- but I can't comment on it. That's how, over the last 12 years, I've gotten the notification that my revenue was going away.

So, it's been difficult to figure out where to go. I have been successful because I have worked hard to come up with value for my customers, and I'm mostly here to make sure that I can continue to provide them a value.

They believe there's two worlds for fares, the Internet world, where everything is fee and cheap, and the expensive travel agent world. I don't believe that to be true at all. I think if you look at all the places there are, and we haven't talked about tour operators and consolidators that are out there in the world, which are another creation by our industry. But if you look at all those places, you're going to save some money. And we do that for our customers, and we do save them money, but there is -- there is a jeopardy, that if we've not allowed to access those fares, or blocked access to certain Internet fares and they become more popular, then that value that we bring may be harder to justify.

MR. BROWN: Just to comment on that, I

feel absolutely, and I hope other people in the room agree with me, that the travel agency industry will continue to exist. I couldn't sit here and look at you and say anything else. I think that it's what the consumer wants, and so, it's going to exist.

How it's done is going to be different, though. Clearly, the economic model's going to be different, and when I think of -- when we sit here and think of ourselves as an agency, what's radically changed is the model of distribution. And that's really -- we've got -- that's -- as I said earlier, that's what we've got to work out, but give us that playing field.

MR. MURPHY: I appreciate that comment. I mean, the previous witness led to the suggestion there would be no travel agency industry. I happen to believe there will be, but it's all going to shake out, and it's going to look pretty different. Thank you.

CHAIRMAN WINSTEAD: Great. Tom?

MR. DUNNE: Thank you. First of all, gentlemen, thank you for your presentations this morning. Certainly were enlightening. I have just a couple minor questions.

Mr. Brown, does AAA at all use Orbitz, or check Orbitz for their customers, or anything at any time?

MR. BROWN: We do not have a relationship with Orbitz. I imagine that we have agents that go in and perhaps do some things. Mike's agents -- any agent can play that process. As a practice, though, we don't.

MR. DUNNE: Okay. Thank you. Mr. MacNair, going back to what you said earlier about working with your customers, which I think is commendable, and I realize you charge them a fee and that was one of my questions. And you stated that you charge, basically, half of what you think the cost is, cost being $55, $60 a ticket, and roughly half of that.

But going in on Orbitz and saying what the pricing structure is, is the tickets -- are the tickets generally much cheaper or the same as what you could do through the GDS or your basic information system that you have available?

MR. MACNAIR: Maybe two out of ten times, one or two out of ten times they're cheaper on Orbitz versus other sources, and that's us looking at our tour operators and consolidator opportunities as well.

MR. DUNNE: Which is other links that you have over and above Orbitz, too?

MR. MACNAIR: Correct.

MR. DUNNE: -- check out --

MR. MACNAIR: Correct.

MR. DUNNE: -- okay.

MR. MACNAIR: There's probably a Topaz report that somebody's going to discuss at one period of time, would show that travel agents are finding better fares for their customers than -- than people are finding on their own, on the Internet. I don't know if that's been around -- been out yet, but there's a report that backs that up a little bit.

MR. DUNNE: Okay. And then, my last question would be to the point is that when Orbitz, when you use Orbitz, if you go online yourself, as an individual, and you say you represent that individual on there, notifications that they have a change of flights, or itineraries, or things of that nature, then, would come back to you, e-mail-wise, and then you'd have to what then, notify your customers of the changes manually, or through e-mail or something, yourself?

MR. MACNAIR: Right. Well, we would get an electronic notification, but we also set up -- we call it a queue, so that the agent is reminded to give that airline a call and make sure that everything's a go before the customer departs.

MR. DUNNE: Okay. And last -- final question is, it sounds like you have to -- you've had to seek -- how would you say? Legal -- legalese in order to be able to put this connection together to represent this person on the Internet, etc.?

MR. MACNAIR: Correct.

MR. DUNNE: Okay. Thanks.

MR. MACNAIR: Mr. Dunne, one other comment, though. I think we can't forget how Orbitz' marketing model is. It doesn't say, "Give Mike a call." It says, "Go to planet Orbitz," or whatever. And I think ultimately, the end game for Orbitz is to conduct commerce directly with the consumer and not through Mike.

MR. DUNNE: Right. No, I understand that because I've been -- I've used it myself, not knowing that all this -- I'm learning up here, but I've used it myself. A notification came back on e-mail, and it was -- proved to be pretty satisfactory until I changed flights in-between the going and coming, and then, it was a little hectic. So, thank you.

MR. MACNAIR: Thank you.

CHAIRMAN WINSTEAD: Gentlemen, I think,

Paul, you had one question.

MR. RUDEN: Just one, if you'll indulge me for a brief moment, because I know it's getting late. Mike, in particular. You didn't become a $25 million agency overnight. You started someplace and grew your business.

Looking back at the earlier days, when you were smaller, and with reference to the -- repeated references both of you have made to the business model and how it has to change and is changing. We talked about a situation where you could get a fare with a CRSV markup attached to it, that that's better than no fares at all.

What about a model in which it works the way other retail relationships tend to work in the marketplace, in which the airlines backed out of their price, their distribution costs, and gave themselves and you a wholesale price? This sound a lot like Net fares, and I don't want to debate whether it is or isn't, but on both sides, there would be a wholesale price. And then, they would produce a price to the public, a final price, that includes their judgment or their distribution expenses. And you would do the same. And Orbitz and anybody else who's surviving in the marketplace, if Orbitz is allowed to continue, would add their distribution costs and thus, the people in the retail distribution end of the business would be competing with each other on the basis of their efficiency as distributors.

But everyone would be getting the same prices, whether it's an Internet price or another kind of price, it would be a true wholesale price with those distribution costs stripped out of it.

As a small agency, and today, would you find that a viable way to do business, where you're forced to price on the basis of how efficient you can be as a deliverer of distribution services?

MR. MACNAIR: I'm not against that concept. I mean, there's, obviously, a lot of considerations there, how it will be done.

MR. RUDEN: Right.

MR. MACNAIR: I mean, Mark talked about, you know, where does the markup go? Is it on the ticket? Is there a separate charge? And you and I know that there's private fares, there's tour operator fares. I mean, the complexity of that process is pretty significant, but --

MR. RUDEN: I'm speaking more about just sort of the general, publicly available, if someone says I want to go from A to B, those published prices that the airlines have out there, which today, you again, have to add a price on top of.

In this model, you would get a wholesale price, and you'd add something on top of that to reflect how effective and efficient you were in delivering your part of the deal, which is the distribution, the research advice, and the booking.

MR. MACNAIR: Yes.

MR. RUDEN: That would work for you.

MR. MACNAIR: I'd say consumers would favor that over to what they're being subjected to today. I don't know if that's the ultimate, best solution --

MR. RUDEN: That's what I'm ultimately getting to.

MR. MACNAIR: That -- that's --

MR. RUDEN: At the end of the day, nobody really cares what happens to the intermediaries. It's about the end result, what happens to consumers if something happens to the intermediary.

MR. BROWN: Well, in that scenario, there may be different costs by your line; there may be different costs by distribution mode, too.

MR. RUDEN: But you'd feel comfortable going up against that, where you'd have to be more efficient than they are, in effect, to beat their price?

MR. BROWN: I think that levels the playing field some, yes.

MR. RUDEN: Okay. Thank you very much.

MR. MACNAIR: But that wouldn't preclude anybody from throwing lost liters our there.

MR. BROWN: Right.

MR. MACNAIR: I mean, there'd be no regulation --

MR. RUDEN: That's right.

MR. MACNAIR: -- which I believe is what's happening now, so -- I mean, it's about gaining market share. So, who -- make sure that everybody was adding their markup. I don't know if that can realistically be done.

MR. RUDEN: Okay, good. That's an astute observation. Thank you.

CHAIRMAN WINSTEAD: Mike, Mark, thank you all very much. I think it's very valuable testimony and response to questions. I would mention that what we're going to try to do, if we could, is to take our break now until about one o'clock, and then would reconvene here for about three panels, the remaining witness panels, and I -- we would hope that the timing of that could be about an hour apiece.

Some of the commissioners need to head out by 5 p.m., I think, to some of the airports. So, if you will -- with your indulgence, if that would work for you, we'll give about a 45-minute break, come back at one o'clock, and resume with the panel of Sabre and Galileo. Thank you.

(Whereupon, the foregoing matter went off the record at 12:18 p.m. and went back on the record at 1:10 p.m.)

CHAIRMAN WINSTEAD: Well, maybe if Ann's still -- I'm sure, on her way, but why don't we just -- why don't we get underway, if we could?

David, I appreciate you joining us, and also Cathy. If you could -- I don't know whether you were here all morning with us, but you probably heard the discussion this morning.

If you could, as introduction, your name and affiliation, and then -- oh, here she comes. Good. We're all here.

We appreciate you joining us. We do have your testimony and would be pleased to hear -- probably we've got 50 minutes to cover both your testimony and Q & A, if that works. We're going to try to do --

MR. SCHWARTE: Did you say 1-5 or 5-0?

CHAIRMAN WINSTEAD: Five-zero. Thank you. But thanks for joining us.

MR. SCHWARTE: You're welcome. Good afternoon, everybody. Chairman Winstead, members of the Commission, I appreciate the opportunity to testify before you today, on behalf of Sabre.

My name is Dave Schwarte. I'm general counsel for Sabre, based in the Dallas-Ft. Worth area.

As I listen to the Commissioners explain their background today, I was very impressed with the depths of expertise, also the years of expertise.

For my part, I can say I've been in the travel and transportation business for almost 30 years, so not as long as some members of the panel. I'm not sure what it entitles me to, but I can say I wasted my youth in this field.

I intend to address today what is needed to protect the rights of consumers to have full and fair access to travel information, and in particular, I will address the actions that the U.S. Government should take to preserve the rights of consumers to get full and fair and comprehensive flight information for the nation's thousands of travel agencies, and the consumers who prefer to shop on them.

We heard, this morning, from many of the panelists who put, in very eloquent terms, the vital role that the travel agency plays in serving the public, and in protecting the consumers' interest. At Sabre, we believe that that interest should be safeguarded against anti-competitive behavior.

First, a few quick words about Sabre. Since March of 2000, Sabre has been completely independent of any airline ownership. Given the discussion I heard this morning, I just want to make that very clear to the travel agencies in this room.

There are some important ramifications that flow from our being separate from the airlines. As a consequence of us being a separate business with no airline ownership, Sabre has absolutely no incentive to sell high price tickets as opposed to low price tickets. In fact, we love low fares because we sell more tickets that way, and hence, the more low fares the better.

More importantly, for this Commission's perspective, we want to sell those tickets to as many travel agency outlets as possible, and to sell those tickets through all the travel agencies who we are lucky enough to have use Sabre.

The Sabre computer reservation system,

also called a GDS, competes against three other GDSs, worldwide. That vigorous competition has been very good for consumers. The four computer reservation systems, or GDSs, vie with one another to create the best tools for the travel agents who serve the needs of the traveling public to find the flight and fare option that best meets that traveler's needs.

As you heard this morning, from a couple of the witnesses, in addition to providing flight information, the GDSs also provide comprehensive booking tools, car, hotel, tours, and allow the travel agents to track the reservations for their client. Hence, we really allow the travel agents to integrate their total travel experience and provide reports that are quite good for consumers and for business travelers, and it's one of the vital roles that travel agents play, and we try and facilitate that.

Sabre is here today because the travel and tourism sector confronts as serious a threat as it has ever faced to having access to information on the carriers that consumers travel on most often. And that peril has arisen because of the systematic denial of access for all independent distributors of air travel, by the largest five carriers in the U.S., to critical, low fare information.

And it is information that they agree among themselves, over two years ago, when they founded Orbitz, that they must share with Orbitz, what I like to think of as the company store.

This decision to favor Orbitz, by the five big carriers with respect to content, was compounded in March of this year when the same five airlines moved to eliminate all base commissions for travel agents. Today, as this audience knows even better than I, travel agents get no commissions on airline tickets, unless they are among those lucky enough to qualify for an override program, and they get it only if they deliver a premium share of theirselves (sic) to the airline that provided the override. There's an important implication of that. I'll come back to that momentarily.

Now, by contrast, in the founding documents under which the five big carriers decided to establish Orbitz, they have contractually committed to pay transaction fees -- codeword, commission -- to Orbitz, which at present are $6.37 per ticket for every ticket Orbitz issues on all five of them.

The question I would pose is how can the freedom of consumers to choose the travel agency, online or off-line, of their choice be protected in the face of that stacking of the deck in favor of Orbitz?

The collective discrimination by the five largest carriers in the land against independent travel distributors raises substantial policy questions that Congress, the Department of Transportation, the Department of Justice, and the state attorney generals simply must address.

No one should underestimate what is at risk as the neutral distribution channel is under assault and struggles to compete with distributor owned channels like Orbitz.

A couple of years ago, a body called the Transportation Research Board, which was commissioned by Congress to look into the aviation and travel and transportation, issued a report which crisply summarizes, in my view, the beneficial role that travel agents and neutral CRSs play in the travel and transportation field. And if you'll bear with me, I'll read you a fairly short quote.

That board found the following:

"The system for distributing airlines has changed significantly since deregulation. Travel agents using computer reservation systems are now the predominant source of fare information, reservations, and ticketing. This system is considered beneficial to travelers, providing a comprehensive and impartial channel of information on competing fare and service options."

From its founding, the purpose of Orbitz has been to undermine that comprehensive and impartial channel of information, and the weapon used was to make Orbitz the only outlet for the lowest fares that the five carriers who represent over 75 percent of (indistinguishable) in this country would offer to consumers.

Now, the potency of that weapon is unmistakable. Evidence of the underlying intent for Orbitz can be found in the agreement that airlines must sign in order to be participants in Orbitz. Under that contract, airlines may no longer have unique sale or specials with any particular online or off-line travel agency. They can't even have those specials on their own Web site. All of those fares have to be shared with Orbitz.

If it's a published fare, you have to share it with Orbitz. You may not have a special with any other site, including an off-line travel agency, and published fare is very broadly defined under the agreement.

In addition to whose clauses which lawyers would call MFN clauses, and there are two, the owner-carriers also agree among themselves, when they founded Orbitz, that they would all undertake in-kind promotional obligations to support Orbitz, and one where you can discharge that obligation is to make fares available exclusively on Orbitz. It's in the contract.

These unusual contract provisions were the subject of much controversy in 2000 and 2001, as the Department of Transportation decided what safeguards, if any, should be put in place before Orbitz was to be launched. Regretfully, the Department of Transportation allowed Orbitz to launch without any limits on its ability to enforce these anti-competitive clauses.

An analysis of the decision of the Department of Transportation, which was issued in April of 2001, April 13th, to be exact, and an examination of the events which have followed since its launch in June of 2001, can only lead to one conclusion. If there were ever a basis for allowing Orbitz to enforce either one of those two provisions, and for allowing Orbitz to operate free and clear of the regulatory safeguards traditional CRSs have long labored under, then that justification evaporated long ago.

A key premise of the Department of Transportation's decision to allow Orbitz to launch unfettered in how it behaved was that that a, quote, "very limited proportion of supplier inventory would be made available, on an exclusive basis, to Orbitz." In fact, in May of 2001, the CEO for Orbitz told the Arrow Club the following.

He said, "We estimate that about 99 percent of the time that Orbitz produces a lower fare, it will not be because we had access to a fare others did not, but because we found a fare that everybody had access to but could not find or not everyone chose to display."

Now, as many travel agents in this audience who have been observing Orbitz over the last several months will know, Orbitz' behavior and that of its five owning carriers has not exactly lived up to that storyline.

In the last 11 months since Orbitz launched, there have been massive Internet discount fares available on Orbitz only, and the owning carrier Web sites, and no place else. No independent travel agency, brick-and-mortar or online, was the beneficiary of the right to sell those same low fares, and as we all know in this business, it is low fares that drives consumers to purchase tickets. And if you can't offer a low fare next time, your consumer will go somewhere else.

In a filling that we made with the Department of Transportation on March the 28th of 2002 -- so just a couple of months ago -- we documented, for the Department of Transportation, that a large majority of the fares that Orbitz offered were Internet only fares that nobody else received.

I won't go through the details here. I will tell you that the numbers were in the 60s and 70s in terms -- percentiles, in terms of the first 20 to 30 options that Orbitz offered. And you know that's where the action is. People buy the first options, not the most expensive and the later options.

In the last two months, another significant tactic to prefer Orbitz has emerged. We've heard a lot of discussion about that this morning. As of March, none of the owning airlines of Orbitz paid a base commission to any travel agency, but all five, all five paid this commission -- what they call a transaction fee -- for Orbitz, to Orbitz, and is pursuant to an agreement that is multiple year.

At present, the amount that Orbitz has guaranteed for every ticket, irrespective of its selling performance, is $6.37 per ticket.

Now, if the same rules that have long applied in the traditional CRS fare had been adopted by DOT, and applied to these new, electronic distribution channels, that form of discrimination by carriers who owned a distribution outlet would not be permitted with respect to commissions.

Today, under the rules, carriers who own a system can't discriminate against other carriers, against travel agents, based on the system they select. I would submit to you the same rules should apply in the Internet environment.

Now, there is an important effect of the actions of Orbitz' carriers eliminating commissions for all other travel agents that I want to focus your attention on. As you watch the Orbitz' debate, you will no doubt have seen that the Orbitz' owners have justified their wish to deal with Orbitz on a preferred basis, and to pay Orbitz when they don't pay others on the grounds that Orbitz is neutral. And yet, at the same time, they've changed the model of compensation to every other travel agency.

They will pay you, the travel agency, only if you deliver a premium share of your business to Orbitz. Ladies and gentlemen, if they were handing out academy awards for hypocrisy, I would tell you there'd be a lot of airlines contending for the Oscar.

The actions by Orbitz' carriers to eliminate base commission also destroyed another argument that they made about why they refused to deal with independent travel agencies. They said that they made their lowest fares available only to Orbitz because Orbitz was a, quote, "cheaper distribution channel." If you do the math, that is no longer the case in light of the elimination of base commissions from those travel agencies.

You've heard a lot of debate about booking fees. I have the feeling I'll be asked a couple of questions on that and I welcome that. But let me give you the math.

The average price per booking fee for the big five carriers today, all in for a ticket driven through Sabre, is under $11. It's $10.98 on average.

Let me do the math for you for Orbitz. Today, they pay a booking fee to Worldspan, which we understand is discounted. We think it works out to about $8.30 a ticket for booking fees, plus they pay Orbitz $6.37 per every ticket issued. And they pay the travel agency, who used Sabre, nothing.

So, if you add that up, you'll see that a brick-and-mortar travel agency ticket, driven through Sabre, by any of the members of ASTA, will cost the Orbitz' owners under $11. Today, they pay Orbitz $14.67, 33 percent higher.

I should add that a *Travel Weekly* story, published on April the 16th, 2002, reported that Orbitz did not dispute Sabre's calculations.

There's one other piece of data that I want to bring to this Commission's attention, and it is data that has ominous overtones for airline competition.

When Orbitz was announced, a large number of parties predicted that Orbitz would not be designed in ways that would be friendly to smaller carriers, but in fact, would operate to disadvantage them.

Well, we now have many, many months of booking data under our belt. We actually have access to all of the reservations made through Travelocity, Expedia, and Orbitz, and we can analyze that data. And I'll just give you the high level view.

The high level view is that the five carriers that own Orbitz get a substantial premium of sales in Orbitz, vis-à-vis how they do in both

Travelocity and Expedia. It's about a 14 percent premium. And moreover, if you take a look at the share of sales that they get from travel agents who use Sabre in the United States, or Amadeus, or Galileo, or Worldspan, they also get a premium in Orbitz vis-à-vis how they do in all of the neutral GDSs.

In its filing of February 24th, 20002, the National Business Travel Association framed the issue that the U.S. now confronts with great clarity. NBTA said, "Without DOT oversight, the major airlines will use their control over the windows through which travelers are allowed to make their choices, and cloud the transparent consumer choices that existed prior to the birth of the non-CRS linked Internet sites."

Now, let me change gears a bit. Orbitz and its owners have often tried to characterize the debate about the controversial contract provisions and their controversial business plan as an effort, by established businesses like Sabre, to prevent competition.

Ladies and gentlemen, nothing could be further from the truth. Sabre has never asked that Orbitz be stopped from operating. Instead, what Sabre has asked is that guarantees be put in place so that the five largest carriers in the united States could not systematically discriminate against all independent sites with respect -- and travel agents, with respect to the data that they make available.

That is the exact approach that the Department of Transportation's rules have long applied in the traditional CRS sphere. If you own a CRS, you must make available the same information to competing systems so long as those systems offer commercially reasonable terms, and that's all that Sabre has ever asked be done in this sphere, which is void the anticompetitive contract provisions and apply the same rules in the Internet line of business that have long applied in the traditional sphere, and have served well to protect competition.

And I would ask, if Orbitz is so confident of its "sectology," why have Orbitz and its five owning carriers so vehemently fought the application of rules of fair play that have applied for over a decade in the traditional CRS sphere?

Now, on that note, I believe that the audience will find it ironic that three of the five carriers that now own Orbitz took exactly the opposite position in December, 1997, when the Department of Transportation initially called for comments on whether or not the CRS rules should apply to the Internet.

For its part, American said, in the concluding paragraph of its filing, "Most important, the Department must update the rules to cover new methods of electronic distribution of travel services. The failure to do so is likely to lead to substantial consumer deception and harm, and is certain to lead to some competitors being unfairly hobbled in their ability to compete."

Northwest submitted a filing on that very same date. Northwest says follows.

"While Northwest generally opposes broad expansion of the Department's regulations beyond the travel agency distribution system, the Department should modify its existing CRS rules to make them explicitly applicable to all distribution channels held out as neutral."

You are to remember, Orbitz is held out as neutral. "To the extent a distribution system may be viewed by consumers as neutral, the potential for consumer deception is reintroduced."

Mr. Chairman, thank you for the opportunity to testify, and I look forward to working with the Commission as it continues to look into the dangerous impact of Orbitz on travel agencies.

CHAIRMAN WINSTEAD: Great. Thank you, David. (Indistinguishable) Sabre to generate some questions. Appreciate it. Cathy, you want to --

MS. CUPP: Okay. Thank you. My name is Cathy Cupp. I am senior vice president and general counsel of Galileo International. I've been with Galileo since 1991, and I'm very pleased to be here to speak on behalf of my company.

Galileo International appreciates the opportunity to provide its views to the national commission.

As a subsidiary of Cendant Corporation, Galileo operates a leading global distribution services company that provides extensive airline, rental car, hotel, tour and cruise information and booking and ticketing capabilities to approximately 45,000 travel agency locations in 115 countries worldwide.

Galileo, which has approximately 23 hundred employees, has its principal domestic offices in Rosemont, Illinois; Denver, Colorado; and Parsippany, New Jersey.

Through its computerized reservation system known as the CRS, Galileo serves thousands of travel agency locations in the United States. Galileo is a neutral provider of travel information with a vested interest in the success of all travel industry participants, including travel agents and travel suppliers, as well as the traveling public.

Today, I will first discuss specific types of support Galileo provides to the travel industry. Next, I'll address important economic issues currently under discussion within the industry, including the availability of so-called Web fares, and the level of CRS fees. Finally, I will address the subject of CRS regulation and its impact on the travel agency community and consumers.

CRSs provide travel agents, airlines, and other travel suppliers with a highly efficient tool to manage millions of pieces of constantly changing travel information. As the American Society of Travel Agents recently told the Department of Transportation, quote, "The scope of total information available through CRS is unequalled by any other technology."

Since its inception in the mid-1970s, Galileo has invested hundreds of millions of dollars to add new features to improve the capabilities of travel agents and travel suppliers. As to travel agents, Galileo has helped to define their needs, and provide products and services that assist them in building their businesses.

One of the most significant steps taken by Galileo to help agencies manage their businesses was the enabling of broad access to Galileo's system architecture and data platforms. This allows agencies greater access to CRS data, and allows third party developers to create new products designed to help agencies succeed.

Galileo has also developed solutions for travel agents to use the Internet to support new opportunities and enhance the sales process. With Galileo's e-Agent feature, for example, travel agents can quickly navigate travel related Web sites to offer additional services to their customers.

Galileo has also devoted special attention to the needs of small and medium sized travel agencies through our small business accounts management organization. This team utilizes a productivity appraisal service designed exclusively for smaller agents to help them use the many Galileo product solutions.

In addition to providing travel agents with an extensive range of services to enhance their productivity, Galileo also offers them significant financial support. In some cases, this financial support can be sizable, where an agency books a large volume of transactions through the Galileo system.

In recent years, Galileo has observed significant deterioration in the financial condition of the travel agency business. This has been due, in significant part, to the major airlines' decision to cut back on the commissions they paid to travel agents.

As agents have earned less money from commissions, they have turned to Galileo and other CRSs to help make up the difference. Incentive payments to travel agencies amount to many millions of dollars. Commission costs are currently Galileo's largest operating expense, and these costs continue to rise.

Galileo constantly searches for ways to support the travel agency community. As one example, in the wake of the September 11th tragedy, when the entire travel industry came to a virtual standstill, Galileo was the first CRS to provide financial relief to the industry. We provided relief totaling tens of millions of dollars.

In addition, Galileo has provided financial relief by recently introducing a flexible pricing program known as "Select and Connect," designed to help small agencies that generate fewer than 20,000 bookings per year.

Turning to the subject of Web fares, this is one important area in which both travel agencies and CRSs have been disadvantaged by airline policies. Travel agents and consumers they serve have always benefited from the comprehensive information on airline services and fares that Galileo and other CRSs have been able to offer.

Now, however, the major airlines have chosen to make their Web fares available only on the airlines' individual Web site and through Orbitz. This practice is supported by various contractual arrangements between Orbitz and its airline members, including a most favored nation provision.

Galileo and travel agents have attempted to persuade air carriers to make all of their fares, including Web fares, available through the Galileo system in a cost-effective manner, with very little success.

Today, Galileo's travel agents cannot access these fares through normal channels. In turn, consumers who chose to use a travel agent to make their flight arrangements miss out on these fares.

Importantly, there are a large group of consumers who do not have access to the Internet, and therefore are unable to take advantage of the low Web fares.

I think one of the panelists said that only 46 percent of the U.S. population does not use Internet, so it's about half of the U.S. population.

In essence, as a result of the airlines restrictive policies, this group of consumers has been disenfranchised from the lowest fares offered by the airlines. Thus, in the short run, travel agents cannot provide the best service, and consumers are disadvantaged because they do not obtain complete information about important travel options.

In the long run, the lack of access to Web fares will make travel agencies less competitive.

Ultimately, even if they would prefer to use a travel agency, fewer and fewer customers will do so because they will question their agency's ability to provide them with low Web fares.

Travel agents cannot compete effectively if a single entity, such as Orbitz, maintains proprietary access and monopolistic control over the lowest fares. If CRSs and travel agents continue to be shut out from access to these fares, consumers will suffer as their options are reduced.

Furthermore, over time, travel agents, especially the small ones, will inevitably go out of business, and many already have. As a matter of fact, from January through April of this year, more than 1,000 agencies have gone out of business.

Orbitz has attempted to defend its exclusive access to Web fares by claiming that large increases in fees the CRS charge to airlines are responsible for the airline's decision to limit the availability of these fares.

This attempt to cast the blame on CRSs is clearly misguided. In fact, it constitutes an effort to deflect attention from the anticompetitive strategy the airlines are following through Orbitz.

Galileo wishes to set the record straight. Orbitz has provided few specifics to support its claims about CRS fees. The fact is that over the past 17 years, the basic fee for the simplest booking transaction in our U.S. system has hardly increased at all.

In late 1984, after regulations governing CRSs were put into place, the basic segment fee was $1.85. Today, for the same simple transaction, the segment fee is $1.95.

Over the year, Galileo and other CRSs have added sophisticated functionality that provides airlines with a far higher level of service than the basic service available 17 years ago. Rather than buying a basic service, most airlines today are buying premium services demanded by and prepared for the airlines. Not surprisingly, these more sophisticated services are more costly.

Orbitz has asserted, without support, that CRS costs have decreased, and that CRSs, therefore, should have reduced their fees to airlines. Galileo's costs, however, have increased. While some types of computing and telecommunication costs may have fallen over time, many Galileo costs, including hardware, development, personnel, and marketing costs have increased very substantially.

Simply keeping up with the increasing complexity of airline operations requires CRSs to make very substantial investments. There is no reason to conclude that travel agents should cover those costs as has been suggested by some airlines. Indeed, some airlines actually suggest that they should pay nothing for CRS services, and that CRS fees should be paid 100 percent by travel agents.

Galileo strongly disagrees. In this regard, it is important to note that it has been the airlines, not the CRSs, and not the travel agents, that have driven up costs by creating ever increasing and ever more complex fare rules. The airlines have done so for their own economic self-interest, and should not now complain about the consequences.

Moreover, contrary to Orbitz' suggestion, the impact of CRS fees on the finances of airlines has not increased. Galileo's average booking fee has remained reasonably constant as a percentage of the average airfare.

In 1992, the Department of Transportation noted that the average CRS booking fee was somewhat more than two percent of the average ticket price per segment. Galileo estimates that its current average booking fee is approximately two percent of today's average airfare.

So far as Galileo can determine, Orbitz' claim that it offers lower distribution costs than CRSs is also incorrect. Based on available information, Galileo understands that Orbitz passes on to its airline customers, a fee it has negotiated with Worldspan, and also charges a service fee to the carrier in connection with each booking.

As reported in the recent article by *Travel Weekly*, which is attached to our written submission, the resulting Orbitz' distribution cost is approximately $14 for a trip of two-and-a-half segments, with no reservation changes, far higher than the Galileo fee of approximately $5.83 for the same average trip of two-and-a-half segments.

Thus, there appears to be no basis for Orbitz' claim that the airlines' decision to supply Web fares only to Orbitz, and to deny them to the CRSs and travel agents is due to the higher cost of CRS distribution.

On its face, it therefore appears that the airlines' failure to provide Web fares to distribution channels other than Orbitz has little to do with cost, and much to do with control.

Based on what Galileo has observed, air carriers appear to be seeking to provide special preference to their own system, Orbitz, in the hope that will ultimately displace other forms of distribution.

If the airlines succeed in shifting large amounts of business away from travel agents, and into the Orbitz' channel, the travel agent community will experience even greater financial distress.

As travel agents close their doors, consumers will lose the opportunity to choose to have experienced professionals handle their travel arrangements. Once exploited, the airline stranglehold on the distribution of low fares will ultimately result in higher costs to the traveling public.

With regard to CRS regulation, the CRS rules were promulgated in 1984, in order to address abuses by the airlines, which were the sole owners of CRSs at the time. The Civil Aeronautics Board found then, that the airline system owners were using the CRSs in an anticompetitive fashion, to the detriment of consumers and airline competition. The CRS rules have proven largely effective in eliminating the conduct that originally gave rise to this concern.

Today, the airlines are recreating an anticompetitive strategy on the Internet, raising concerns of the sort that initially prompted promulgation of the CRS rules almost 20 years ago. The government must again step in to regulate such conduct by the airlines in order to promote airline competition, preserve the ability of travel agents to compete, and to provide a full range of information to their customers and ultimately reduce consumer costs.

As to the Internet, currently, the CRS rules do not extend to services provided directly to consumers over the Internet. The Department of Transportation should add provisions that regulate use of the Internet by airlines that own, operate, or market online travel services.

With regard to Web fares, provisions of the Orbitz' airline participation agreements are having an anticompetitive effect in the marketplace. The DOT should prohibit airlines from agreeing among themselves through most favored nation provisions or otherwise, to make fares available only through airline controlled ventures.

In conclusion, Galileo endorses measures to strengthen the financial viability of travel agents and to ensure that agents can provide the full range of travel options to consumers. Travel agents should have the opportunity to compete on a level playing field. Air carriers should not enter into agreements that result in denying CRSs and travel agents to important fare options.

Galileo urges the Commission to recommend that Congress and the Department of Transportation takes steps to ensure that CRSs, the travel agents they serve, and the consumers who choose to use the professional services of travel agents have access to all fares offered by air carriers. Maximizing such access is the best way to ensure the existence of consumer information and choice in the airline industry.

On behalf of Galileo, I want to thank the Commission for the opportunity to present our views. If the Commissioner and members desire further information, please feel free to contact me. Thank you.

CHAIRMAN WINSTEAD: Cathy, thank you. And David, appreciate it. You had -- on page two, Cathy, you talked about a percentage of bookings at a base rate, and I was wondering what percent of your bookings are at the 1.95, $1.95 rate.

MS. CUPP: That is the very basic fee. There are still some carriers and for some flights that are booked at that $1.95 flight. I don't have the percentage right now. I can certainly get it for you.

CHAIRMAN WINSTEAD: That'd be great.

MS. CUPP: Okay.

CHAIRMAN WINSTEAD: I appreciate it. Let me -- I know there are some questions, I'm sure, from Cathy and Ted (sic) on this one, Cathy -- I mean, Ann, do you want to go first on --

DR. MITCHELL: Oh, thank you.

CHAIRMAN WINSTEAD: Yes.

DR. MITCHELL: I have one question and then a follow up, please. And this would be to both of you and you can both respond.

How would you respond to the fact that GDSs, along with travel agents, might be said, by the airlines, to have missed the boat by not being far enough ahead to have booking capability and all the other related activities on the Internet, thereby keeping their cost too high?

And then secondly, you said that approximately 50 percent of the people did not have access to the Internet, and that the airlines are placing their fares on the Internet and therefore, 46 to 50 percent of the people do not have access.

Would there be any thought that there would -- that the airlines might prefer to have that 50 percent that are looking on the Internet as opposed to all customers that might come? Do you think they might be the greater portion of the traveling public, or do you have any information on that?

MR. SCHWARTE: Since I'm to her left, I'll take the question first. I think that's the order we arranged here.

Commissioner, let me respond to the first question you raised about is there any basis for airlines to assert that CRSs and the travel agents have missed the boat because they were slow to warm to the Internet.

I think that is absolutely wrong. I think that we have not found travel agencies slow to adapt at all. We heard from a number of speakers this morning who showed they were extremely adaptable and had focused on the need to distribute products through the Internet, and we all know that is the most cost efficient way to do it.

So, we don't find travel agents failing to adopt the Internet at all. As a matter of fact, we offer a number of products at Sabre where we provide the booking engine for any travel agency that wants to have a Web site, and we operate thousands of those Web sites for travel agents.

So, I don't think it's lack of technical sophistication or lack of adaptability at all. The problem the travel agents have who want to compete with their own Web sites is lack of data. And it's data that the company store gets that you do not.

In terms of -- the second question was people who aren't automated --

DR. MITCHELL: David, excuse me. If you

would please follow up that same charge being made about the GDS systems, because they are so expensive.

MR. SCHWARTE: Well, thank you for that. Well, that's a -- I don't want to monopolize the answers here, but let me try it this way.

DR. MITCHELL: I already knew the answer about --

MR. SCHWARTE: On the technology side, no one could claim that Sabre has been slow of foot on technology. In fact, we pioneered bookings on the Internet when we introduced Travelocity in 1996, and there are many of us who would say, you know, it was the airlines who were slow to embrace technology, and really only began using the Internet a couple of years after we sort of forged the way.

Let me address the cost issue, which, Commissioner, was to the last point that you raised.

I must tell you that I've been in this industry for a very long time. And when I hear airlines, who now own Orbitz, complain about the level of booking fees, the whole discussion gets this other-worldly quality for me, because I step back and I say, wait just a second. There are four GDSs in the world. Who owns two of those? Airlines. They own them completely and they control them.

And then I say, until March 2000, who owned Sabre? American. They owned 82 percent of us. They had a majority stake in us.

Who owned Galileo until very recently? United.

When I hear that carriers who divested them selves of interest in CRSs, such as American and United, complain about booking fee levels, I'm reminded of the architect who builds a home, lives in it for years, sells it for a handsome profit, and the next day moves next door and files a complaint that the first home is out of code. That's exactly what's going on here.

Now, on the merits, let me tell you that our average price per ticket, at the very highest level, all end costs just $10.98, similar to the percentages that Cathy mentioned.

Our percentage of the average ticket price sold through Sabre is somewhere between 2 and 3 percent. It'll vary by carrier. Some carriers have higher fares, some have lower fares.

Of course, it's seasonal. No doubt, at the moment, it might be slightly higher because business travelers are staying home in droves, as we all know.

And I would also say, to put that 2 to 3 percent figure in perspective, have any of you bought a ticket through Ticket Master lately? If you buy a ticket through Ticket Master, you can get a $48 ticket and pay $11.25 in transaction fees to buy that ticket, 25 percent cost.

So, I think that the notion that the big airlines are complaining about the level of distribution fees really, really smacks of hypocrisy, and second, there is no basis for it, in fact.

DR. MITCHELL: Thank you.

MR. SCHWARTE: You're welcome.

MS. CUPP: To answer your first question, with respect to technology, no, I don't feel that Galileo and the travel agents are behind in the technology ballgame at all.

I mean, as I mentioned, that we've been doing very many things, like with e-Agent, open architecture and the travel agents have been very receptive to that, so we are working with our customers to make sure that they have the technology that they need.

Costs. Okay. We, you know, I don't get the answer to your question about $1.95, but I had just written down some numbers, and I just thought I would go through them with you.

First off, on a Web fare, when it's just booked, usually a passenger just books it and flies, because you can't make changes because you'll get penalties. So that would result in a very low GDS fee, I believe, in all the systems.

But, for instance, last week I flew here, to Washington. I had $1,100 dollar fare on American. The GDS fee for that fare was $4.70 roundtrip. That's less than one half of one percent. Yesterday, I flew on United. My ticket was $850. The GDS fee on that was $4.70, less than 1 percent.

I think I had made a statement about 2 percent, that it's still around the 2 percent. And how we come up with that is we take a $400 fare, as just an average fare, and the GDS fee would be $8.64, roundtrip, and that's at the highest functionality for an airline. That's 2.16 percent.

So, I would allege that, you know, all this crying about GDS fees is really unfounded. It really depends on the mix and the time, but as I just gave you some examples, it is not exorbitant.

Does that answer your question?

DR. MITCHELL: Yes. So, based on what you're saying, then, you're saying that it should not be the cost, the CRS --

MS. CUPP: No, that's causing Web fares --

DR. MITCHELL: -- or the cost of a travel agent, which, of course, is at zero.

MS. CUPP: Right. And also, I should note, both Galileo and the travel agents have been trying to get Web fares through the GDS, and we've even gone to our customers and asked them, said that for those Web fares on the GDS, we would offer lower GDS fees, because as I said, those are just booked and people fly. And, to date, we haven't had anybody take us up on the offer.

CHAIRMAN WINSTEAD: Ted, do you have any --

MR. LAWSON: Sure, very quickly. I thought your testimony, both of you, was very enlightening. Clarify for me, if you would, so Orbitz is really powered by Worldspan --

MS. CUPP: That's correct.

MR. LAWSON: -- is that correct? So that's their -- the booking engine. So, one out of the four is actually an Orbitz' booking engine.

MS. CUPP: That's correct.

MR. LAWSON: What -- I'm having a hard time getting my mind around how the fees fluctuate because obviously, we're looking at an average of $10.98, or 2 percent. The charge has been made, by the airlines, that it's $15 to $25, and what is the factors that the fees go up and down, either one of you?

MR. SCHWARTE: I'll give you the Sabre booking fee model, and I can actually give you the real numbers, and I'll show you how the math works.

I'll focus only on the carriers who pay us the most amount of money, not those who pay the cheapest level. And the most amount are those who are the highest level of connectivity, called "Direct Connect Availability." It's very robust. It gives them real-time information on the system -- let's just say it's the space shuttle version.

And for a -- per segment, which is one passenger, flown on one flight number, the charge at that highest level is $4.25 per segment. There are an average of 2.5 segments per PNR, or per ticket.

Now, it would understate the actual cost to the airlines in Sabre's case because we have a slightly different billing methodology if I left you with just $4.25 as the base rate.

We also charge a cancellation fee if we have a booking that's made and not used at all. It's cancelled. It's nominal. It's 14 cents.

So, if an airline -- if you made a booking for an airline on Sabre, and we stored that reservation for two months, and you -- the traveler just decided not to go, and it was 2.5 segments, and you just canceled it entirely, our only bill to the airline is 14 cents per segment, times 2.5, for all of that work that we did.

When you factor in the impact of a cancellation rate on our segment fee, you actually get up to around $4.39 per segment. So, if you multiply 4.39 times 2.5, the math gives you about 10.98, unless I've missed on my sums.

And that is precisely how we price in Sabre, and that's the only charge that we assess for participating in the system. You don't pay anything to have your -- for an airline to have your fares loaded. We do that for nothing. You don't pay to get your schedules loaded. You don't pay to send us your availability.

So, Commissioner, I hope, for Sabre, at least, I've laid out for you our methodology, and it's just average math, and the average is $10.98 per ticket, including the impact of cancellations.

MR. LAWSON: You mentioned somewhere in

your text, about -- noted the rules of fair play for the CRS. Can you elaborate on that?

MR. SCHWARTE: Yes. I've been involved in both rounds of CRS rule makings. One was in 1983 through '84, and another through 1992.

And the first round addressed only one of the risks to competition that existed, and that was airlines manipulating computer reservations systems to better their lot as airlines.

What DOT -- what the CAB didn't do, in 1984, was put in place rules that precluded carriers that might be dominant in a particular area, from withholding participation from competing computer reservation systems for the purpose of, shall I say clubbing travel agents into taking their system. As you will know, if you can't get the lowest fare on a hub carrier through a system, that system's not much good for you.

So, in the first set of rules did not contain a protection against that sort of abuse. And from 1984 through 1992, a number of carriers took that as an open invitation to do just that. And by 1992, the Department of Transportation found that it had to act in order to prevent airlines from using their power as airlines to destroy competition in the market for the distribution of airline tickets.

So, in 1992, they amended the rules to require that if you owned five percent or more of a computer reservation system, you have what's called a duty of mandatory participation. You have to participate at the same level in systems you do not own, as in a system you do own, so long as the competing systems offer you commercially reasonable terms.

It is that protection that we think has to be extended to the Internet, Commissioner. And if you think about it, the risk here, in competition, is far greater than in 1992, because in 1992, you might have had one, two, maybe three airlines who owned a computer reservation system but you had competing airlines who owned the others.

Here, we have the collective might of the five largest carriers in the United States that back one outlet. The power to drive consumers away from travel agents and to that site is enormous.

MR. LAWSON: Okay. Thank you very much.

MR. SCHWARTE: You're welcome.

CHAIRMAN WINSTEAD: Thank you, David.

MR. RUDEN: Thank you, Mr. Chairman. As we get closer to the mother lode here, I guess my questions are increasing in number.

Mr. Schwarte, do you remember the secondary display dispute that arose? Am I ringing a bell?

MR. SCHWARTE: Paul, you and I are probably only two of about four people who remember that.

MR. RUDEN: Well, if you do remember --

MR. SCHWARTE: We -- we really have nothing better to do, do we?

MR. RUDEN: Yeah. Could you --

MR. SCHWARTE: Yes.

MR. RUDEN: -- in a brief way, for the record, talk about that a bit?

MR. SCHWARTE: Here was the dispute. And I guess it's a measure of creativity and the government having to respond that'll work this way.

There was a huge fight in the late 70s and early 80s, culminating in the CRS rules in 1984, where the U.S. government finally said, thou shalt not bias the CRS displays because it distorts airline competition. But what they said was that you had to offer a primary display, that is one display that was unbiased.

Well, they didn't say you couldn't have

other or secondary displays that were. So, a major carrier -- wasn't where I worked at the time -- a major carrier decided that that was a pretty good invitation, and what they did was they provided agents the ability to lock on biased displays, therefore gutting entirely the utility of the neutral displays because they didn't see them.

Well, that lasted about two months. There was quite a hue and a cry, and eventually, the U.S. Government said, you know, that's really not what we intended for you to do.

And I guess, Paul, the relevance is that there is a very powerful incentive for an airline that owns a distribution outlet through which travel is sold, to find a way to distort that in its favor. And that is a lesson I would take away from that.

MR. RUDEN: Okay. Thank you. Ms. Cupp, I am often asked the question, by members of ASTA, why did they cut commissions? And my explanation is because they could. They had the power to do it, and they suffered no marketplace consequences from doing it. You touched on the subject of shifting booking fees to agents, I think.

MS. CUPP: Yes.

MR. RUDEN: I know the Justice Department has, at various times in the past, suggested that booking fees should actually be paid by travel agents, and through some mystical process I've never been able to understand, agencies would then negotiate for the cheapest CRS. I don't know how that works, but that theory's been out there and filed with DOT a number of times.

The lesson I take out of all that, though, is, as we hear from airlines talking about shifting distribution expenses to -- to consumers, through agents, and then the possibility that this other cost could be somehow shifted to agents and passed on to consumers, it strikes me that these are really inputs.

The airlines are in the business of producing air transportation services, moving people from A to B and so forth, and inputs to that business, among many other inputs, fuel, labor costs, aircraft, are the distribution part of it. You make a product, you have to sell it, and then you have to deliver it.

Do you know, from your experience, can you think of any other industries that don't pay for all their inputs?

MR. CUPP: Absolutely not. And, I mean, the airlines are alleging that it should be all paid by the travel agent.

It's the Association of European Airlines which some of you have probably seen their study that they recently did for the EC, it almost is effectively a price increase for consumers, because if they shift their distribution costs to the travel agent, that passes it on to consumers, they don't pay commissions anymore, do you think they're going to lower their airfares? I doubt it.

MR. RUDEN: Mr. Schwarte, I guess I want to close with two areas in which we may disagree ever so slightly.

You mentioned the Internet sort of in passing. One of your early remarks was the most cost efficient way to book, but you were here when Mr. MacNair was here this morning, I think, and you heard him talk about trying to use the Internet, and looking at it, not just as an isolated action that has a discreet cost, but rather looking at it as a business person trying to satisfy a customer, and facing the necessity today to search the Internet, to look at consolidator information, to look in the CRS, and then assess and evaluate that, and come up with advice for a client.

To the extent that that whole process is necessary, a necessary part of the customer service equation, wouldn't you agree that that's maybe not the most efficient way to do business?

MR. SCHWARTE: Thank you, Commissioner Ruden, because we don't disagree on this subject at all.

MR. RUDEN: Okay.

MR. SCHWARTE: My point simply was that the Internet, if you have access to data, is the most efficient way to distribute it because you have less manual intervention and if the system were operating in a way where all the Internet sites, travel agency owned, independent Web site, had access to those, then it would be a very economical way to distribute tickets.

The problem I heard this morning was that the system has become completely vulcanized. There is no longer one comprehensive source of information that you, the traveler, can check, your travel agency can check, that the traveler can check, and because fares are being withheld, that are being placed available to Orbitz, then your users -- your members obviously have to go through an expensive, laborious, and really sort of idiotic process. And I agree with you completely on that, Paul.

MR. RUDEN: Thank you. Finally, your

testimony on page 22, the written testimony, has the title, "Should Orbitz be permitted to operate," and you note there that, unlike other critics, Sabre has never really asked that Orbitz be blocked. You want them to be regulated, their behavior to be controlled by the government. And you know that we do disagree on this point.

My question is, beyond getting the fares, and recognizing that the five airlines -- you've read the S1 Registration Statement that Orbitz filed for their securities offering, I trust.

MR. SCHWARTE: I have.

MR. RUDEN: Okay. And in that statement it says, among many other interesting things, that the five airline owners will control Orbitz absolutely and indefinitely by having complete control of the board of directors.

Given that, that they will sit -- one of them is the president of a major airline, the two chief financial officers, and I think two top marketing people constitute the board -- the majority of the board of Orbitz, will sit in the room together to discuss the business of retail, air transportation, not just involving Orbitz' narrow piece of it, but the whole of it, because that's the environment in which they compete, what government regulation do you think is going to be effective to manage those discussions and protect consumers from what would otherwise seem, on the face of it, to be a overt conspiracy?

MR. SCHWARTE: Thank you. You've really put your hands on some concerning facts about Orbitz, much of which surfaced in the S1, perhaps for the first time, although I guess, in many ways, it just sort of confirmed what many of us thought all along.

I'll answer your question this way. I am obviously here on behalf of a commercial enterprise, Sabre. And our wish is to be able to compete, to compete successfully, and what we require in order to do that is data. Once we get that data, we believe we'll be able to do quite well and moreover, enable all of the travel agents, whom we know are dependent on us, to do quite well as well.

Sabre is not here to urge that Orbitz be banned, and we have never done that. From a personal perspective, however, I understand the risks that you have just identified.

There will be a number of opportunities to communicate among the board members which would be concerning, and I think the S1 made it very clear that they will continue to control not just the board, but the commercial policies of Orbitz.

So, I guess I would conclude by saying that I'll leave that to perhaps better minds to address than mine.

MR. RUDEN: Fair enough. Thank you, Mr. Chairman.

CHAIRMAN WINSTEAD: Great. Did you, Gerry?

MR. ROPER: Yes. Just very quickly. Just taking a look at it from the corporate side, what we read is the airlines are losing money, lots of money. Some of them are going out of business. We've heard Cathy's statement that a thousand travel agents have gone out of business.

Explain to me your business model and how -- how you, what you mentioned just briefly, that you do some incentives to the travel agents, etc., etc. How are we going to save this? I mean, how much do you pay to the small travel agents to keep them going, and why did a thousand of them go out of business as a result of just -- well, you keeping mentioning the "O" word and I want to get back to the travel agent, but the "O" word keeps popping up time and time again.

How did this happen so quickly?

MS. CUPP: Well, I think the thousand

travel agents, that was all GDSs travel agents. It wasn't just Galileo's, okay? So it was everybody's.

And I think it was when the commission -- they've been able to go through some of the commission cuts, but the last commission cut, or the last two commission cuts, they just couldn't survive anymore. And smaller travel agencies probably don't have the level of bookings that they get financial incentives on, so it wasn't enough to survive. They survived probably with the financial incentives and the commissions that the airlines were paying them.

MR. ROPER: So, did you cut them off also?

MS. CUPP: No, we did not cut them off.

MR. ROPER: Okay.

MS. CUPP: No. But I'm just saying the two together helped them survive. And you know, it might have gotten to a certain where, you know, if they were making such a small amount of money, it just wasn't worth for them anymore. They couldn't live on it or they couldn't support the people that work for them.

MR. ROPER: Do you think, based on the economy or the, you know, (indistinguishable) --

MS. CUPP: No. I --

MR. ROPER: -- they might have gone out

anyways?

MS. CUPP: Who's to say?

MR. ROPER: Yes, right.

MS. CUPP: I mean, September 11th had a big effect on everybody.

MR. ROPER: I think we need to figure that out.

MS. CUPP: Right.

MR. ROPER: The Commission --

MS. CUPP: Right.

MR. ROPER: -- or who (indistinguishable)

MS. CUPP: Yes. Absolutely. I mean, September 11th had a big effect on the whole economy, but I think the commission cuts were what put them over the edge, I will say. I think that's --

MR. SCHWARTE: Commissioner, your question, I -- I -- the question I think I'll focus on is what's the role of GDSs in helping travel agents who are interfacing with travel agents --

MR. ROPER: Well, and then, if you've cut them off also.

MS. CUPP: Have you --

MR. ROPER: You -- you --

MR. SCHWARTE: Absolutely not. Yes. Unlike --

MR. ROPER: -- (indistinguishable) agents and continues to get money from you.

MR. SCHWARTE: Yes. Let me tell you the role we play with travel agencies. And I know I'm preaching to the choir here, in many ways. I hope none of them, I hope, disagree with me.

And it goes this way. First of all, we actually -- we continue to pay travel agents to help sell products through our system. Unlike the airlines, we did not cut off travel agents in the wake of September the 11th. We continue to pay travel agents who have incentive agreements with us, revenue sharing, in order to help sell products through the system.

We continue to do that. Travel agents are obviously more dependent on that sort of income as commission revenue has dried up entirely.

Another way that we help travel agencies is we provide them technology that enables them to become even more competitive. I mentioned before we provide Web fare booking engines to many travel agents. I think all the GDSs do this. It's not unique to us.

Recently, we've announced some tools for travel agents in the wake of the commission cuts, that will allow them to better do their own form of yield management, where, if they're Sabre users, they can track sales on carriers on a daily basis, so that if they can get close to hitting an override, they don't miss it by a few thousand dollars and cost themselves a lot of money.

And I will say we've recently also introduced a new product line, because you heard some of the travel agents today say perhaps airlines will become less interesting to them in terms of products.

Well, we've introduced a new hotel product that is fully commissionable, very attractive rates, called Sabre Exclusive. They're hotels that have agreed to give us very low bargain prices that we make available through our travel agents so they can sell it and make a full commission.

So, I like to think that we are part of the solution for travel agents. We don't agree on every issue, obviously, but I think we've been quite helpful in assuring more of them survive than would otherwise have been the case.

MS. CUPP: We also introduced recently this "Select and Connect" program, where, for small agencies that have less than 20,000 bookings, there's no thresholds or commitments on their part, but they're still able to earn financial incentives.

And also, Galileo gave $50 million to the travel industry as a result of September 11th. That was both travel suppliers and travel agents.

So, we have been trying to help as much as we can. We view ourselves as a real partner to the industry.

CHAIRMAN WINSTEAD: Okay. Joyce, Pat?

MS. ROGGE: Well, really, actually, I think I'm going to pass. The two questions that I had got asked now, at the other end of the table. So, in the essence of time, I'll just yield.

CHAIRMAN WINSTEAD: Okay. Pat?

MR. MURPHY: Thank you. I'll take your time.

(Laughter)

MR. SCHWARTE: No such luck with Pat, huh?

MR. MURPHY: First of all, let me say, David, that I'm pleased to say that this is not the Orbitz Commission.

You know, as we sit here today, and Travelocity and Orbitz, and other large entities can argue about future market share and who's disadvantaged whom. Fortunately, DOJ and DOT are due to report to Congress on their views on this within a matter of weeks, and I'm anxious to see what they have to say about this.

Nevertheless, there are a lot of numbers been thrown around. Earlier, we heard there were 200 million tickets issued by the travel agents, and we heard you say the average, the highest level is about $10 a ticket. That's a lot of money. That's $2 billion that we're arguing about here, and how that gets distributed.

And the airlines claim that your fees keep going up, but we've heard today they haven't gone up significantly.

What I would like, from both of you if possible, if you would be willing to provide, for our record, some data, perhaps average booking fees over the last ten years, and what your costs -- what you have cost the airlines over the last ten years, so we can get a handle on whether your fees are going up as dramatically as we've been told or not. And if you would provide that, that would be --

MR. SCHWARTE: I have the per booking data and can give that to you shortly.

MR. MURPHY: Great.

MS. CUPP: I actually have a chart that goes from 1984 until now, and it breaks apart the booking fees that, you know, tells about the basic fee, which is $1.45 a ticket (indistinguishable). And it goes through everything.

MR. MURPHY: Okay.

MS. CUPP: Galileo did change, in 1990, from a net segment basis to a transaction basis. You'll see that in the chart. But I can probably give you that today.

MR. MURPHY: I would appreciate that.

MS. CUPP: Okay.

MR. MURPHY: The other thing, David, I'd like to ask you, you did complain, today, about the airlines having a special relationship with Orbitz, but I've heard, for years, that Sabre has a special relationship with Southwest.

Can you explain that relationship and why is that different than airlines having a relationship with Orbitz?

MR. SCHWARTE: Thank you, Pat. First of all, we have an excellent relationship with Southwest. They have a marketing agreement with us. We value them because they are so consumer friendly. They help us distribute the system, and that is as far as it goes.

We also have a marketing relationship with

American. As you'll see momentarily, marketing relationships don't necessarily buy you a lot. So, they participate in Sabre. They chose, a long time ago, to participate in only Sabre. That was their unilateral decision. I'm not sure what underlies it. I'm not going to talk them out of it, but they participate in only us. I think they chose to do that because they like working with us, but I think the rest of that question you'd have to direct to them, Pat.

MR. MURPHY: Okay. Cathy, for 12 years I was constantly having to go to the Hill for the Congress, for the DOT, and explain the airline industry to members of Congress who were unhappy. And typically, they would tell me it was the most hated industry on Capital Hill. And today, I'll have to say, hearing the family feud, this is truly the Ozzy Ozbourne of all industries, so --

MS. CUPP: We make strange bedfellows, don't we?

MR. MURPHY: Now that the base commissions have fallen to zero, do you have any feeling for whether the decline in the number of agencies level off? If this has been a function of declining commissions, have we now reached the point of leveling off?

MS. CUPP: I know our fax machine isn't ringing off the hook as much as it was for, you know, terminations. Probably a little bit of leveling off, but there's still probably a lot of small agencies that are trying to make it work, and we'll probably see some more this year. Probably see more consolidation in the industry as well. I think other people have spoken to that.

MR. MURPHY: Okay. Thank you. That's all I have.

MR. DUNNE: Thank you, Patrick. First of all, I appreciate your testimony. I think both of your presentations were very informative to me. Being in the business that I'm in, the road building business, and we are regulated by the DOT also.

However, after a couple grand juries, a couple things I've been before, we must have a whole different set of regulations than you all have. That's all I can tell you.

We have a hard time, within two weeks of a (indistinguishable) even talking to a competitor without going to jail, so all I can say is good luck. You've got a good thing going, but anyway --

Not making light on it but seriously, I

had to go along with Patrick. It sounds like family feud in some respects, but I do, I think, see the general direction that the industry is heading, and that, as I said earlier, alarms me because I think, without the airline industry, this county could be severely hampered.

In this morning's presentations, you talked about information being the key, and it's, I guess, really what I see it boiling down to is who's in control of the information, because he who has the best information controls the game. That's all there is to it.

Secondly, it's been asked of us to find the solution to what Patrick called the family feud, which, I think, is a little bit deeper, and I don't know if we can find that to everybody's grand stale.

Business by subpoena, I don't think, is an operative way to do business. There's no doubt about it. I don't think it's fair in our business, being as what it is, nor is it fair in anybody else's business. But I do think that the consumer, in all of this, has taken it in the chops, you might say, as well as so has the agents that went out of business.

And so, I guess what it really boils down to is that are you really serious when you say about that these airlines have agreed, amongst themselves, to make Orbitz an agency to literally drive the industry and drive people out of business? So, if that's the case, I think -- I guess my question to you is, isn't that a serious antitrust violation, no matter -- I'm just going from the road building side, and I'd already be in jail.

But, you know, I mean, and perhaps the -- perhaps the airline industry would just be flying, that's all. I mean, I'm not sure, but if it's that serious, is it -- I mean, is that something that's -- we're heading?

MR. SCHWARTE: Commissioner, you brought some wisdom that only the others outside the industry would bring.

We think that the Department of Justice, in fact, should carry forward this inquiry which has been going on for some time. And there are a lot of questions about the cooperation that is being engaged in by the five carriers.

For example, they jointly adopted the contract provisions that we're here, complaining about today. MFNs incentives to exclusivity were put in place before Orbitz was a separate venture, up and running. It was the five owning carriers who would have shepherded that through.

In terms of the fix, however, I would like to tell you that I think actually, the fix can be surgical, it can be crisp, it can be done without subpoenas, and it can be done by really changing a few words in an existing regulation.

You've heard a lot about the Department of Transportation's CRS regulations, the rules of fair play, as I called them. In Canada today, those rules, their counterpart, apply to Internet ventures entirely.

The U.S. rules are ancient. They were last updated, substantively, in 1992, before the Internet was a gleam in anybody's eye.

The solution is very easy. If the CRS rules were amended so that a parent carrier was not just a carrier that owned five percent or more of a traditional CRS, but five percent or more of an Internet travel agency that they jointly own with another carrier, you've fixed the problem. Because, what it brings with that very small change is a duty for the owning carriers of Orbitz not to discriminate against competing sites and travel agents with respect to data so long as they can get commercially reasonable terms.

And moreover, I would say, look, if what the carriers are really interested in is low cost and low prices, if you amend the rules, we're going to have to go negotiate to get those rates, and we're going to have to offer commercially reasonable terms. And that's going to require us to make concessions. Today, we can't get our foot in the door.

MS. CUPP: And that, just that small tweak in the rules would provide the level playing field and give the consumers the choice that they need, meaning all the Web fares would be available through all the channels, and that would ensure the most consumer choice.

MR. DUNNE: Very good. That looks like the most sensitive way -- or sensible way for both to survive and for the industry to really thrive instead of -- be throttling itself from two ends. Thank you.

MR. SCHWARTE: Absolutely.

MR. LAWSON: Is there redirect? Can you tell us what that rule is again?

MR. SCHWARTE: Sure. Not that I have wasted my youth in this field, but it's 14 CFR, Part 255 --

UNIDENTIFIED: Part being Code of Federal Regulations.

MR. SCHWARTE: It's in the Federal Regulations. It is a set of rules that really apply very tightly to the traditional CRS fear, to the extent that the CRSs are used by travel agents.

Paul was intimately familiar with it. He was also one of the few people here who was around at the -- at the birth.

MR. RUDEN: Thank you for reminding me.

MR. SCHWARTE: You're welcome. Yes, you're welcome.

MR. RUDEN: Again, huh?

MR. SCHWARTE: And the fix, it's been hotly contested, but as a drafting matter, is relatively easily done.

CHAIRMAN WINSTEAD: Great. Are there --

MR. DUNNE: One other thing here.

CHAIRMAN WINSTEAD: Yes, Tom.

MR. DUNNE: I would not say what I said today if it wasn't for two attorneys giving the testimony that you gave, okay? That's my disclaimer.

MR. SCHWARTE: Thank you.

CHAIRMAN WINSTEAD: Thank you both very much.

MR. SCHWARTE: You're welcome.

CHAIRMAN WINSTEAD: I'm sure we'll have

follow up questions and you've got some data you'll get us. Thank you again.

MR. SCHWARTE: Thank you very much.

CHAIRMAN WINSTEAD: Could I -- we have Michael Thomas, president and CEO, OneTravel.com, and also, we've had a bit of a switch here in representing the National Business Travel Association. We've got Robert McGurk, who is vice president of Corporate Travel Services for Turner Broadcasting who will be speaking on their behalf, on NBTA's behalf.

Michael, you want to start off here? I appreciate you all joining us and --

MR. THOMAS: Sure. Mr. Chairman, I'm Michael Thomas, president and chief executive of OneTravel.com, an online travel agency based in East Greenville, Pennsylvania.

I appreciate the opportunity to appear before the Commission today to discuss critical issues relating to online travel distribution systems, and the inability of our online agency to access and sell the best fares.

I founded OneTravel in September, 1995, in a barn, on a sheep farm, in rural Pennsylvania, just as the online travel industry was developing. I wanted to build a viable business before investing in office space. The barn reinforced the culture I wanted to create for OneTravel, one of thrift and creativity.

OneTravel is a value-oriented travel Web site, dedicated to offering consumers low prices and expert advice on travel. We grew the company organically, and have 92 employees with annual sales of approximately $100 million. Having started the company in a barn with an outhouse -- as a matter of fact, the company tag line used to be, "great things from a company with no plumbing." So, I think I can speak with authority on the point of being a low cost provider.

My understanding is that this Commission was established to explore whether consumers are receiving fair and complete information about air travel options so they may make informed choices and benefit from competitive options.

Unfortunately, major airlines have acted concertedly so that consumers today are not receiving, through most online or tradition travel agents, the benefits of the best domestic fares that are made available by those carriers. For reasons that appear to relate to their desire to control the distribution of airfares, these airlines have created Orbitz and designed it so that they will benefit to the detriment of other airlines, other travel distribution outlets, the consumer, and ultimately, competition.

The launch of Orbitz in June, 2001, marked a major turning point in the distribution of travel services since Orbitz was formed by and is wholly owned by the five largest U.S. airlines, who collectively control about 80 percent of the domestic air travel market.

Orbitz was structured by its airline owners so that it would inevitably dominate the distribution of air travel. This domination results from two provisions in the contract that airlines must sign in order to attain benefits from Orbitz.

First, a most favored nation, or MFN provision, under which an airline must offer to Orbitz any fare that it offers anywhere else, as well as all its Web fares posted on its own site. This provision has the effect of eliminating the incentive for airlines to negotiate special deals with other travel distribution outlets, thus ensuring that Orbitz alone receives the best fares.

Second, the Orbitz agreement provides that airlines must fulfill annual promotional support for the benefit of Orbitz and that is one of the means of meeting their promotional obligations to provide fares exclusively to Orbitz.

These two contractual provisions found in ten year contracts that Orbitz has entered with its owners have resulted in Orbitz' dominance in the offering of exclusive discounted Web fares for domestic airline travel. We find ourselves unable to effectively compete against Orbitz.

It is no surprise that in the period since its launch in June, 2001, Orbitz is now virtually as large as Travelocity and Expedia, and on a course to dominate the online distribution of airfares. It has already attained booking revenue in excess of a billion dollars.

Ironically, while the number of users of online services is growing, we and other agencies are effectively being foreclosed from the sale of domestic airline tickets, and being forced to do as best we can in refocusing on tourist cruises and other travel services.

Given its ownership by the five major U.S. airlines and these anticompetitive contract clauses, Orbitz warrants a scrutiny by the Department of Transportation and the Department of Justice for antitrust and other fair competition concerns.

DOT, in fact, expressed concerns about Orbitz and exclusive fare offerings in April, 2001, but allowed the site to launch, given that, at the time, it had no market share and promised that its exclusive fare offerings would be minimal. Neither of those conditions exist any longer.

The MFN clause in Orbitz' contract and the contract provisions that offer incentives for exclusive fare arrangements seriously and significantly reduce competition. Special negotiated deals between the big five airlines and certain online travel agents were commonplace before the formation of Orbitz. Now, they are virtually nonexistent.

The five airline owners of Orbitz, in particular, reserve for Orbitz and their own Web sites, specially discounted fares on major domestic routes that are simply not made available to independent sites like OneTravel, or to CRSs for broader distribution to all travel agencies.

Orbitz' claim on which DOT relied in giving that Web site a yellow light to launch, that Orbitz-only Web fares would constitute only a tiny fraction of its offerings has proven to be false. These Web fares form the critical mass of fares that give Orbitz its anticompetitive advantage. Our experience has shown that a difference of only a few dollars between competitive airfares is frequently sufficient to determine the consumer's choice of Web sites for purchasing tickets.

The impact of the Orbitz-only Web fares on our business is clear. While the total number of unique side visitors to OneTravel has increased substantially over the past year, the look-to-book ratio has declined 45 percent, to a mere 0.63 percent of all unique visitors. This means that while OneTravel is experiencing some of the same general increase in interest by the public that the large, online travel agencies are experiencing, fewer customers are actually booking on OneTravel because it does not offer competitive pricing in many markets due to its lack of Web fares and special deals with Orbitz owner airlines.

OneTravel's total monthly revenue from domestic air bookings has declined substantially since Orbitz' launch. I attribute this loss of revenue, in large measure, to Orbitz' ability to use the joint power of its owners to restrict the fare access and thus competition. In fact, this marks the first year since the launch of the company that we experienced a significant reduction of revenue in one of our key business segments.

Naturally, this loss in domestic airline booking revenue has also made it more difficult for us to diversity our business in other travel areas. Lost airline bookings lead to lost hotel and car rental bookings, and the reduced opportunity to grow our business in other areas.

Orbitz claims that its growth is not due to these anticompetitive clauses in its contract, but because it uses a superior search technology, this is not accurate. Orbitz uses a search technology license from ITA. That technology is available to others, including OneTravel.

Orbitz' growth is due, instead, to its exclusive access to low cost Web fares. According to a recent Sabre filing with DOT, on any given day, up to 75 percent or more of the first ten options displayed on Orbitz, in response to a specific city fare request, are Web fares that are not distributed to independent travel agencies like OneTravel.

I have also submitted for the record a fair search comparison that shows that the Orbitz' fare advantage is not based on its use of the ITA software, but rather on special deals offered to Orbitz by airlines.

Orbitz claims that it is unbiased, and that it is the only neutral travel Web site. However, the truth is that Orbitz is heavily biased in favor of its owner airlines, which reserve their best fares for Orbitz alone. This not only disadvantages other online travel agencies, it also disadvantages small airlines.

According to Sabre's recent filing with DOT, from the period of July 1st, 2001, to February 28, 2002, 71.6 percent of the airline bookings made on Orbitz were for flights on Orbitz owner airlines. This compares to 51.3 percent of big five bookings on OneTravel.

The airline owners of Orbitz claim that they have formed Orbitz in response to the alleged high cost of distributing airline travel to its CRSs. However, with the elimination of most airline commissions on domestic tickets, the claims of Orbitz and its owners that Orbitz is needed to reduce distribution costs ring hollow. OneTravel is willing and able to meet or beat the distribution costs airlines incur when they use Orbitz.

The disinterest of the big five airlines in using our outlet and others that can provide broad ticket distribution at a cost comparable to Orbitz or lower speaks to the fact that the big five airlines are using Orbitz to retain control of distribution, not to reduce costs. The big five airlines would rather distribute it to their own outlet than negotiate special arrangements with independent distributors. Again, it is the consumer that loses here.

As an airline-owned entity displaying fares to the public, Orbitz should be subject to the same rules that govern CRSs. These rules would require Orbitz to adhere to nondiscrimination requirements and would require its owner airlines to share their fares with all the CRSs, enhancing consumer choice.

In recent weeks, Orbitz has taken a further step to blur the distinction between itself and the regulated CRSs by announcing that it has entered into an agreement with AQUA software, a division of Navigant, under which the latter is developing software that would allow travel agencies to access Orbitz' Web fares and book travel through Orbitz.

Orbitz is likely to tout this as a full response to the concerns that we and others have raised about the exclusivity arrangements that Orbitz maintains with the airlines.

However, not only has the software not yet been developed, but Orbitz has acknowledged that if it pursues business plans designed to encourage travel agents to use an Orbitz booking engine, Orbitz may become, and we believe it would become, a regulated CRS under current DOT rules.

That, in our view, would be a positive, pro-competitive result. Where the CRS rules apply to Orbitz, a broader range of consumers would have access to Web fares that are, today, found only on Orbitz. In sum, to address these consumer harms and competition concerns, this Commission should urge the Department to prohibit Orbitz by virtue of its joint airline ownership from enforcing its MFN clause, and from entering into arrangements that allow it exclusive access to Web fares.

The Commission should also take such steps as are appropriate to encourage the Department of Transportation to find that Orbitz, by virtue of its joint airline ownership, should be subject to the same DOT nondiscrimination rules that govern CRSs, particularly to the extent that Orbitz begins to market its services to travel agents for which it would effectively serve as a booking engine.

Thank you for your consideration of my testimony.

CHAIRMAN WINSTEAD: Great. Thank you, Michael. Appreciate it. Robert?

MR. MCGURK: Mr. Chairman and members of the Commission, thank you for allowing me to present the views and the concerns of the customer at this very important hearing.

My name is Robert McGurk, and I'm a member of the National Business Travel Association. NBTA represents over 1900 corporate travel managers from the Fortune 1000 companies. And collectively, we spend $135 billion in air transportation on an annual basis.

Before I begin my remarks, I'd like to take a moment to thank you for holding this hearing. It's good to hear from leaders of the travel community, because the contributors to this candid forum have the power to move the travel industry towards a more competitive and consumer-friendly environment.

NBTA would like to communicate to Congress, the Department of Transportation, the airlines, travel agencies, and the global distribution systems what's truly at stake here, and that's impartial, secure, cost efficient, and value added services, as defined by the consumer and the corporation, not by the providers of travel services.

In the turbulent months that followed September 11th, many aspects of the business and personal lives have changed. Issues such as safety concerns, economic instability, have forced companies to revamp their corporate travel policies. Corporate travel managers agree that the industry can only recover once the economy recovers.

In an NBTA survey conducted between March 8th and 11th this year, 73 percent of NBTA members answered that a stable economy must happen before travel expenditures will return to their normal levels. And 53 percent predicted it would take a year to do that.

We have found, however, in the past two months, the recovery is a little bit more robust and it's picking up a little bit more than we had thought it would. And while we're struggling with that, we are still handicapped by a cartel-driven distribution system that fails to adequately grant impartial consumer information and choices.

Over the past five years, a revolution has started within the aviation industry with partial solutions. The December (indistinguishable) of travel purchasing, allowing the customer to search and book directly from travel suppliers, has produced more promises than true cost and efficiency savings.

While opportunities are exciting, corporations and business travelers are concerned that the airlines and travel Web sites have no real understanding of the needs of their most important customers, and that's corporate America.

They've now added a new wrinkle to an old problem, best fares. Fare availability has always been a moving target and will remain so because of airline yield management. The so-called low cost Web fares are predominately more hype than substance. Although there is just enough there to put the credibility of the travel agencies, and I might add, the corporate travel departments, into question, there's been more expended in cost, of time, in acqusitions [sic], in research and audits, and in analysis of Web fares than have been saved by the use of these airfares.

Corporate travelers with budgets don't understand this and they don't care.

As the events of September 11th have demonstrated, when corporate travelers locate, purchase, book, find, research cheaper airfares that are unavailable through their designated corporate travel office, the corporations can't track the employees, can't help find them if something happens, can't track their spend toward their corporate volume agreements, can't arrange last minute changes, can't arrange refunds, can't track unused tickets.

Web fares are misleading to business travelers, and almost impossible for corporations to track and manage. Corporate travel agencies and travel managers continually search for lower Web fares and discover that they can't find them on the GDS and can't find them through the various sites. This confusion increases corporations' distribution costs, misleads travelers, and wastes time and resources.

In the survey completed in March by NBTA, 99 percent of corporate travel managers stated that giving corporations equal access to Web fares or distressed inventory contained on the airline Web sites, and on Orbitz, would best address the issue of Web fares.

When asked what the corporations could offer in exchange for this equal access, the top responses were consideration of additional business and the ability to track volume.

In addition, some corporate travel managers expressed that access to these Internet airfares would increase corporate airline loyalty and clean up the disparity between business and leisure fares.

In a follow up survey, corporate managers said Web fares have affected their company's ability to manage its corporate travel program, influence traveler choices, or reach the volume thresholds they need to keep their corporate discount programs in place.

Currently, when an employee purchases an airline ticket over the Internet, whether it's through an airline's own Web site or through a site like Orbitz, the purchase will not be counted toward a corporation's negotiated contract, in most cases. As a result, many corporations forbid their employees from booking on these sites, even though it will save them money.

Trouble-free Web site functionality and easy access has demystified much of the reservation process for the consumer, for the traveler with a modicum of online travel experience can received significantly more information about availability and pricing options in a format that's easier to qualify than the traditional telephone conversation with the travel counselor. In that regard, travel Web sites are better, faster and cheaper. While this advancement is significant, the functionality is still limited, opening the door for more abuses.

As of March 15th, the current industry environment has changed. The elimination of travel agent commissions, which will undoubtedly diminish the role of the impartial agent, and the emergence of airline owned and operated sites like Orbitz that cater to a select group of individuals, which is 7 percent of the booking population right now, have created an environment that has blocked consumers from looking at all available fares.

The impartial agent has now been officially locked out of the system because travel distribution roles do not require the airlines to make Internet Web fares available on all distribution channels, and the agents are forbidden to book Internet fares because of the distribution channel restrictions governing performance thresholds.

In an effort to return to the impartial agent, the DOT should make Internet fares available for sale by regular travel agencies or corporate travel departments, even online agencies that are

Orbitz' main competitors.

The DOT is charged with protecting consumers from deceptive airline practices. The DOT created the travel distribution regulations, assuming that the participating airlines had created a single system so that the potential airline customer could determine price, availability, and fare rules on any given flight.

These assumptions also carried an informal guarantee that travel agents and corporate travel departments, whether off or online, would provide impartiality in determining fare and travel options.

As noted in the DOT 1999 Inspector General Report on commission overrides, deregulation allowed the development of complex and frequently changing airfare structures. In response, travelers have increasingly relied on travel agents with access to broad-based flight and fare information for travel information and ticketing.

In 2001, travel agents booked 80 percent of travel and less than 7 percent was booked on the Internet.

Currently, many of the Web fares found on the airline sites, on the Web sites like Orbitz, are not found in the GDS, the traditional method of reservations acceptable for corporations and travel agents. Over the near and long term, as the independent and neutral distribution channels such as the GDSs other online and off-line agencies are weakened, the largest carriers will gain evermore control over the window through which travelers are allowed to see their options.

NBTA recommends that the DOT keep that window open. NBTA asks the DOT to make it a priority to immediately address the misleading and inaccurate information contained on the airline sites and sites like Orbitz.

NBTA urges the DOT to address whether the consumers, corporations and travel agents should be given full access to Web fares offered outside the GDS.

Without DOT oversight, the major airlines will use their control over the windows through which travelers are allowed to make choices, and cloud the transparent consumer choices that existed prior to the birth of non-GDS linked Internet sites.

Why are consumers, corporations and the online and off-line travel agencies that serve the corporate customers' needs any less deserving of protection against the (indistinguishable).

The DOT has many times determined the airlines who own distribution channels for airline tickets have both the incentive and means to commit.

I would urge Congress to call on the General Accounting Office to investigate the impact of the elimination of commissions and the regulation of distribution channels on impartial consumer information and airline competition.

This hasn't been addressed since 1999. NBTA is not asking for return to regulation. We urge the DOT to give consumers, corporations and travel agencies full access to all airfares.

I thank you for listening to the views of the customer, and will be happy to answer any questions.

CHAIRMAN WINSTEAD: Thank you, and Michael. Appreciate it. I'm sure we've got a bunch of questions.

One to Robert, on page four, you -- can you explain a little more the term, the kind of terms that are in negotiated contracts, and how they offset any cost savings that might have been achieved on the Internet fares for your professional corporate?

MR. MCGURK: From my perspective within my company, and also my colleagues at NBTA, approximately

90 percent of the members of NBTA have managed travel programs, and over 85 percent of them have contracts with airlines, which provide us with private fares, or Net fare arrangements, that sit outside the CRS.

The current CRS provisions allow us to display those private fares to our customers. In return for the private fares, we have to hit certain contractual thresholds, either market share, dollars, or combination of market share and dollars in selected markets around the country.

The fares that are offered outside the GDS don't count in those areas, and if, in fact, they're sold, many times they're at or below our current level.

And the example I can best give you is we use an online booking product at my company that displays our corporate discounts, the Orbitz fares, and the airline Internet fares.

Our travelers can't access those directly. They have to link out on the Internet to find them. But if a good corporate citizen sees airline X, and they know it's a corporate customer, and they see they can link out to another site and receive the perks that are offered at that site, and the airfare is the same, because it's a non-discounted airfare, as what our discount would be, but it's within a dollar, fifty cents, a dollar-and-a-half, they will link out. They will buy it. They will leave our system.

We can't track their travel. We can't track their spend. We can't help them if they're in an emergency, and the dollar volume does not count toward our contractual commitment. So, in fact, we are competing with airlines with whom we have contracts. And it opens us up to tremendous risk in being able to keep our contracts in place.

We could actually drive market share to a preferred airline and not make market share if a third of those were booked directly on the airlines' Web site.

CHAIRMAN WINSTEAD: Robert, let me ask you, in terms of your suggestions about government regulation, and oversight, and this, do you see any discernable difference between your constituency and the corporate, full time professional travel management group versus the others we've heard on earlier today, the smaller agencies or --

MR. MCGURK: I think we share -- we -- a vast majority of the members in NBTA use the travel agency. We share their same concerns. We are just -- from a viewpoint of the corporation, we employ an agency on a fee basis, so we -- commissions are not an issue with us. Our costs went up, but we had budgeted for a loss of commissions. So, I think we share the same views and share the same concerns.

And I think we all share the same -- there is a simpler solution out there, if the regulations are expanded to include provision for all, equal fare access.

CHAIRMAN WINSTEAD: Michael, you want to comment?

MR. THOMAS: Yes. I have a lot of difficulty getting my arms around what the Web fare is, and it seems to be defined as any fare that is not in the GDS, and is not a private fare, or a Net fare contract.

And it seems to me, as I've watched the industry evolve over the last few years, that in '96 or so, when the first Web fares made their appearance, that it was really just distressed inventory. In order to create stickiness around the airline sites, in order to incentavise (sic) consumers to come and look on the airline sites directly in order to buy directly from the airlines.

And the disturbing trend that I've seen is that there is really nothing to preclude airlines from increasing the number of Web fares that they put out.

So originally, we started off with just a few Web fares to compellingly create stickiness and now, all of a sudden, it's become a primary driver, and you see broad-based fares being put out that are just a few dollars below the GDS fare.

So essentially, it's a forced disintermediation of the traditional channel through this mechanism called Web fares, that doesn't incur distribution costs through the GDS and obviously, the travel agents.

CHAIRMAN WINSTEAD: All right. Yes?

MR. MCGURK: If I could add to that. Everyone assumes Web fares are cheaper. Web fares, by their definition, do not have to be cheaper, and once a booking pattern is established, you can actually spend more money buying a Web fare than you can buying a cheap fare. And that's one major concern for corporations. Once you leave travel policy, you could end up spending more money.

MR. THOMAS: Well, that's certainly the concern. The big picture concern in the big five airlines being able to create the aura that Orbitz is the place that you, as a consumer, are going to get a low fare the majority of the time. Certainly, today, that is the case. And once, over the next few years, the channel is successfully disintermediated, then it certainly won't continue to be the case.

And one of the reasons clearly, or I think the statistics bear out, that the percentage -- the difference in the percentage of the big five airline tickets sold on Orbitz vis-à-vis OneTravel or other neutral travel agency sites points to the fact that Orbitz utilizes the Web fares to successfully shift share to its big five, owner airlines. That's a disadvantage of the low cost carriers.

And some of those low cost carriers have put in writing -- the Vanguard for example, has put in writing that they felt aggrieved when they worked with Orbitz, because Orbitz was -- was -- and the details are pretty involved, but essentially, messing up their schedules and so on. So -- and I believe Southwest had also had issues with Orbitz.

CHAIRMAN WINSTEAD: Thank you. Let me turn to the right here and see if Ann, Ted, Paul have any questions.

DR. MITCHELL: I just have a brief question and you'll be surprised to know that I'm going to ask you to forget about Orbitz for a minute. I know that's tough, but we're charged to look at what's happening for the consumer, and to the travel agency community.

If Orbitz were neutralized somehow or was not there, would there be anything, in the Web fares that you are involved in, that we should be concerned about for the travel agency community and the consumer?

MR. THOMAS: I'm not sure I understand that question. Could you just rephrase it, please?

DR. MITCHELL: Just think my asking you that question and you didn't even know Orbitz ever existed.

MR. THOMAS: So is anything that OneTravel is doing that is to the detriment of the consumer and/or other travel agents?

DR. MITCHELL: That's correct.

MR. THOMAS: Is that what you mean?

DR. MITCHELL: Yes.

MR. THOMAS: We work with a large number of airlines and have negotiated, in some part, competitive fares. Obviously, we haven't had much success in working with the big five airlines, given their preference to work with Orbitz.

We list all our fares according to the lowest price first. We understand that the business is so competitive that, unless we are able to provide low fares, we're not going to get the business, and the reason why we have seen a significant decline year after year of our domestic U.S. published business is because we don't have good contractual arrangements with the five major airlines that control 80 percent of the market.

DR. MITCHELL: Do you think your fares should be in the GDS?

MR. THOMAS: I'm open minded about how and where I get my fares from. I just believe that I should have access -- OneTravel, the way it was founded, the way I built the company is we were the lowest cost channel out there, in the sense that there isn't a company in American selling tickets online that has a lower operating cost than OneTravel, so if we can't succeed at selling tickets online, nobody can.

And ultimately, I understand and I sympathize with the predicament that the airlines are in, and I fully appreciate that they need to look at reducing costs and operating costs, and obviously, times are difficult, and I fully understand where they're coming from.

By the same token, I believe that, as a

distributor of product, I would have equal access to all fares so that we have a level playing field.

MR. MCGURK: From my perspective on Orbitz?

DR. MITCHELL: Yes, yes, sir.

MR. MCGURK: Well, I have concerns about equal access to fares regardless of who's providing them. And I base that on my company's experience. One third of my travelers do not have access to the Internet, do not have computer workstations, and travel extensively.

So, if they're out and they call the travel department to find a cheap fare, they can't get it. If they call an airline directly, they aren't given the Internet fare. They're given the airfare that the airline is selling directly.

So I have a fundamental issue with lack of fairness, if it's out there.

DR. MITCHELL: So, your perspective, it would be helpful for all that information to be in the GDS?

MR. MCGURK: Absolutely.

DR. MITCHELL: Okay. Thank you.

CHAIRMAN WINSTEAD: Ted, did you have any?

MR. LAWSON: No. I'm fine. They have a

great presentation but I have no questions.

MR. RUDEN: I have just a couple. Mr. McGurk, I have been around a long time, as Mr. Schwarte so kindly reminded us.

MR. MCGURK: As have I, sir.

MR. RUDEN: And I'm not naïve, I don't think, but I find myself caught up a little short listening to you talk about these big companies. Turner Broadcasting, that you work for, is a pretty big outfit. Who are some of the other entities that are names I might recognize in NBTA?

MR. MCGURK: Um --

MR. RUDEN: Black and Decker, I know, is a --

MR. MCGURK: NBTA's constituency goes from companies that have one and two hundred million dollars worth of air spend down to companies that have less than a million dollars worth of air spend.

So, the constituency of NBTA is -- can be a law firm down the street, with an average spend of $30 or $40 thousand. So, it's --

MR. RUDEN: But at the other end --

MR. MCGURK: Yes.

MR. RUDEN: -- you've got some very big companies, and you work for one of those --

MR. MCGURK: Yes, I do.

MR. RUDEN: -- and you've related the experience you have. And my point, I suppose, is that there's a tendency at some quarters, at least, and maybe I'm guilty of it, too, to say, well, these big companies, because they're huge customers, can take care of themselves. And the airlines, we'll respond to them because, after all, you spend $100 million a year in travel. And that's a hell of a lot of money by any standard.

And I gather that you, nonetheless, in your companies, even at that level, feel frustrated that you are not getting the response as major customers. You referred to these folks as the best customers the airlines have, and in a sense, that's right. And you're not getting a response.

MR. MCGURK: Our concern with access to Web fares goes beyond the actual fare itself.

MR. RUDEN: Right. I understand.

MR. MCGURK: Our concern with access to Web fares is finding our people when there are issues. The security surrounding travel at Turner Broadcasting, as you can imagine, post September 11th, is exceptionally high. And the fact that my travelers can find airfares in another channel, and go off and travel on their own, puts us all at risk of being able to retrieve them in a hostile situation.

So, where my concerns may not revolve around the dollars involved, they are, nonetheless, around the safety and security of my travelers. However, all of the companies that have travel spends with large discounts, as you know, have large risks if they don't make their numbers in terms of keeping discounts intact. And by leaving the system, we are put in a position where we may not be able to meet our contractual obligations, even though we are giving the market share that's required.

So, we cross that on both sides.

MR. RUDEN: Mr. Thomas, page six of your testimony at the bottom, you make reference to fares that you got through consolidators, and you say that -- you mentioned two occasions, one with American, and one with Continental in which you say they effectively prevented you from selling consolidator fares. Could you elaborate on that? What's that all about?

MR. THOMAS: I would up getting an e-mail one morning from a lady at American that basically passed on some information where it showed that we had fares that were cheaper than what Orbitz was listing, so I believed the source to have originated at Orbitz, and that American basically told us, in no uncertain terms, that we couldn't do that. And they contacted the consolidator and threatened to pull the contract if they would continue to sell these ticket to us. So, we -- from that day on, we haven't sold that American product.

So, it's -- and something similar happen with the Continental instance. So, I believe that Orbitz utilizes its MFN clause to police the fares that are out in the marketplace and to the extent that an independent agent finds access to fares that are more competitive than what they have, they essentially find ways to make sure that that doesn't happen.

MR. RUDEN: Okay. Very interesting. At the top of page eight, I guess, is a carryover from page seven. You talk about Orbitz being subjected to the current CRS rules, and that you think that would be a positive, pro-competitive result.

My understanding is that Orbitz' interest in distributing something to what I'll call regular travel agents assumes that they can get the CRS rules changed, fundamentally, so that they are not subject to mandatory participation, for example. If that were to be the case, your view might change, I take it.

MR. THOMAS: I'm primarily concerned about getting access to the fares, even if it was an API of some form, that we could interact with, that would meet our business needs. But obviously, we already have the infrastructure in place, with the GDS, so it's easiest for us to obtain all the fares through one channel, building multiple APIs and we have lots of different APIs to different types of providers, is just a cumbersome process, but we will do whatever it takes in order to get access to fares so that we can be competitive in the marketplace.

MR. RUDEN: Okay. Finally, on page nine of your testimony, you discuss what you say is a fact, that Orbitz has higher service fees for non -- I guess we'd say nonparticipating airlines. America West is not, to my knowledge, either an owner or a charter associate. And that Orbitz is imposing a disproportionate fee, service fee on them. Do you understand that to be the normal practice?

MR. THOMAS: I think it's just the very early flavor of the way that Orbitz would likely abuse its power, once it becomes a dominant distributor of travel products in North America. Since they weren't able to get -- since America West is not a charter member, they have the ability to put a higher service fee, and thereby making America West less competitive, vis-à-vis other carriers that they want to favor. So, for those purposes, it's a form of biasing.

MR. RUDEN: Okay. Thank you very much.

MR. ROPER: One quick one. Is your association or the members developing technology to sort of go around all of this? I mean, if you've got all the money in the world, you can do it, and what's surprising -- what's surprising --

MR. MCGURK: We don't have all of the money in the world.

(Laughter)

MR. ROPER: Judging by the AOL stock prices.

MR. MCGURK: Yes.

MR. ROPER: What surprises me a little bit is this going outside the system that the corporation can't control their own employees. But, I know that that eventually will be taken care of, but, I mean, when you -- corporate America's frustrated at this whole thing. Why -- and you know that the airlines are losing money, so why not --

MR. MCGURK: I don't -- I don't fundamentally have, personally, at Turner Broadcasting, have an issue with trying to come up with work-around solutions. And we've done that.

We've spent considerable amount of money, over the past year to year-and-a-half, dealing with work-around solutions, and allowing us to go out and we have negotiated with some airlines to try and capture the data, try and be able to track our travelers when they travel and leave our system.

It adds considerable cost to the way we do business. And if it could be streamlined through a GDS or single format, would make it much easier and much more cost effective for us.

We've invested heavily in technology that allows our travelers -- if you call our travel agency, you get the airfares that are in the GDS. We have provided every traveler with an online booking took that will look at Internet fares, Orbitz fares, Web fares, airline fares, you name it, we've got it linked. But that was not an inexpensive venture. And it still is not a complete solution.

CHAIRMAN WINSTEAD: Joyce?

MS. ROGGE: First, Michael, for you. When you were talking, and after reading your testimony, you were making the comparison of the Web fares that you received prior to Orbitz' startup, and that that has changed now. I'm curious. Can you quantify that?

MR. THOMAS: We never had access to Web

fares per se, but we have more negotiated contracts with the large carriers that -- and those types of discussions became very unfruitful, once --

MS. ROGGE: You were able to get contracted rates --

MR. THOMAS: Contracted.

MS. ROGGE: -- similar to what --

MR. THOMAS: The net fares. The difference with the net fare contract is obviously, that you get the fare that you have the ability to mark up to whatever level you deem to be competitive. And then, you charge -- you merchant the whole fare on your own credit card as opposed to GDS fares.

MS. ROGGE: One other question, too. When we were talking about ITA, do you use them?

MR. THOMAS: No, we don't. No. But we looked into it, and we're actually in the process of rolling out something that is of a similar type of system.

But we did a lot of research with regard to ITA and what it could do for our business, but we recognized that certainly, in terms of competing head to head with Orbitz, that it's not really the ITA platform that gives you the competitive edge. It's really the Web fares that they have access to --

MS. ROGGE: Access to fares.

MR. THOMAS: -- that we don't have access to. Exactly. As a matter of fact, Travel By Us was a consolidator in a company that had access to the ITA software platform a year before Orbitz went live. And they never wound up doing a lot of business, which again, underscores the fact that it's not the technology in and of itself, it's really the entire value proposition with all the Web fares wrapped into it.

MS. ROGGE: Yes. Thanks. And then, Robert, there's so many issues around corporate travel, and you lined them out nicely.

One of the questions that always comes up when -- in various settings, when it's being talked about in front of me, is the back office accounting and tracking of travelers. And on the accounting side of it, isn't it possible to go back to the carriers that you have these volume agreements with and add in the linked travel to reach your volumes?

MR. MCGURK: It is possible to do. It has taken us six months for one negotiation. So, yes, it's possible, and we are, as I said, we've spent a lot of time and effort doing that.

We run into -- we start to look at the

other privacy issues. We start to look at how things are tracked, and we're hiring third party systems in order to allow us to do that.

MS. ROGGE: So, it's --

MR. MCGURK: But it's cumbersome.

MS. ROGGE: So, if you were going to -- I mean, I understand that you're in the position today of representing both NBTA and then, you know, the fact that your -- Turner. But if you were going to try to crystallize it for me as to the issue that is the most important, what would that be?

MR. MCGURK: The issue that's most important --

MS. ROGGE: I mean, that you wanted us, as a Commission, to address.

MR. MCGURK: The issue that's most important from my perspective, for the Commission to address, is there is a relatively simple solution that will solve most of these, and that is to treat Internet bookings with the same rules that the GDS is treated by. That gives equal access to fares. Let's us design a system that will allow us to track it because we will know what the rules are.

Right now, there are a lot of rules on a lot of airlines, and a lot of sites, and it's very difficult to design one solution that'll let you capture what you need to, to effectively manage and control travel spend.

MS. ROGGE: That will allow you to capture the accounting type information.

MR. MCGURK: Well, it's the accounting data, it's the travel spend patterns, it's the --

MS. ROGGE: But your business data.

MR. MCGURK: It's our business data, but it's also security data. We are very aware now, because of the nature of our business -- if you know our companies, we tend to go places where everyone else is leaving. We need to know -- we need to know where everyone is.

MS. ROGGE: Yes. I'm sympathetic with that.

MR. MCGURK: And it's very difficult for us, in the current environment, to design a solution that allows us to catch that.

MS. ROGGE: Right. And yet, I question whether it's this Commission's job to -- or our job to ask someone to legislate that.

MR. MCGURK: If we can standardize the access to the fares, I think every corporation in America can work around the other issues.

MS. ROGGE: Okay. Thank you.

MR. MCGURK: If we have access to the information, we can figure out a solution.

MR. MURPHY: Michael, question for you. Recently, we saw a June, 2002 *Consumer Report Travel Letter*, where they ranked the Web sites, the travel Web sites, yours, Orbitz, Travelocity, Expedia. And they found that Travelocity and Expedia, in some ways, were the best, had the most low fares. And they didn't rank yours as well.

Why is it then, that Orbitz didn't rank as high, in terms of having low fares and ease of access? Why do you find them to be your concern when these other sites appear superior to yours, at least from this survey?

MR. THOMAS: That's a very good question. We've competed with Travelocity and Expedia from the get-go. We were one of the first travel sites out there. Unfortunately, we weren't blessed with a silver spoon, so we had to work our way up and build a business up. And we did so successfully. Obviously, companies that have access to a lot of capital were able to build big businesses. We built a more nominal business, but not insignificant, nevertheless.

Obviously, as you can see from the public companies, Travelocity or -- not any more, but -- or Expedia, you can see that they've spent in excess of a hundred million dollars on technology. It stands to reason that they have the ability to have better technology as a result.

We continue to work on our systems. Obviously, I'd love to have access to the same technology, but we haven't had the resources to invest to have systems of -- very comparable systems. So, we continue to work on our systems. I think that the *Consumer Reports'* analysis was flawed in a number of ways. We intend to write a letter to *Consumer Reports* about it, but they certainly didn't paint us in as positive a light as they did Expedia and Travelocity.

MR. MURPHY: Okay. And Robert, I have to say, even though some of my Commission has asked you, I still have a hard time understanding your concern as it involves the federal government.

Your large members negotiate private fares which aren't available to the average traveler. And then, your employees stray onto the Internet and book their own fares, and then you can't track them. And so, for your sake, you would have the government, then, tell the airlines how to display their fares.

It seems to me if the government came to your companies and said, "You will sell your product on the Internet the same way you sell it otherwise," your members wouldn't be too happy with that. But yet -- because you can't get this thing as tidy as you would like, with your employees, I just don't understand why the federal government needs to get involved, and why, as Joyce suggested, why don't you go back and renegotiate your minimum usage provision so that when your employees do stray, you still get credit for it?

MR. MCGURK: If you are talking to me as Turner Broadcasting, I will have one set of answers. If you're talking to me representing the members of NBTA, who don't all have the size and scope and power of the major corporations in America, you'll get a totally different answer.

There are far more corporations in the United States, in terms of size and number, that don't have our size and scope, that are deeply affected by this issue from the size specifically related to Turner Broadcasting.

As I said, we have spent several hundred thousand dollars over the past year, to allow our people to have access to view the fares, knowing full well that when they look at our corporate discounts, and they see the other fares listed on the same Web page, 95 to 98 percent of the time, they will come back, and they will look at our fares, and they will purchase our fares from our site.

We are discovering, however, that the airlines are starting to introduce fares that do not apply to have corporate discounts, that are only available on their Web site, that are much cheaper than we can offer. So, it gets to be an issue of pricing and concern, along those lines.

So, there are -- if the person who's controlling the booking engine also controls the fares that go into the booking engine and the display, and they negotiate in good faith, and then come up with another display that doesn't apply, it gets to be a concern for us.

But today, I'm not here representing Turner Broadcasting. I'm representing the vast majority of members of NBTA who do not have our size and scope, who are very concerned with this.

MR. THOMAS: Mr. Murphy, I don't think I fully answered your question, because you specifically asked me why am I more concerned about Orbitz as opposed to the other players.

I think it largely stems from the fact

that, even though we're a smaller company, we've largely been able to get access to very similar deals that Travelocity and Expedia have had access to, from airlines, and even though we don't have the (indistinguishable) in terms of the number of users or the sales, we felt that we were able to compete.

With Orbitz, we see a wholesale disintermediation, where they have access to fares from the carriers that represent 80 percent of the lift, and we just don't have the ability to compete.

And the big problem that I see, and I think we spent a lot of time today talking about the impact of airfare and airfare revenue on travel agencies. And I think that's a little bit narrow in scope, in terms of what's at stake here.

I believe that it's really the entire travel distribution in North America that's at stake, given that the air travel, especially domestic air travel, is akin to milk in a grocery store. It's about the selling the airline ticket, even if it winds up being a low revenue driver for us, it allows us to sell hotel in conjunction with a lot of the airline tickets. It allows us to sell cars.

And I believe that, with the disintermediation of the travel agents, a lot of hotel business is going to go -- is going to have to find new, channels because a lot of travel agents are marginal businesses today, and if they go out of business, then these consumers that go to them are going to have to find alternate channels for hotel bookings as well as car rental bookings.

So, I think it's much broader in scope than just the airline ticketing, but I think the airline ticketing is obviously critical, because it drives so many other transactions. And that's one of the reasons why we're so concerned about the developments that we see in the marketplace.

MR. MURPHY: Thank you. That's all I have.

MR. DUNNE: I'll pass, Mr. Chairman.

CHAIRMAN WINSTEAD: Great, Tom. Michael and Robert, thank you very much. I'm sure we'll have more questions for you, but I appreciate your testimony, both written and appearing, of course.

We're going to take just a -- while the airlines come up, our last two witnesses, we're going to take just a five-minute break. And if you all could regroup at about 20 after, and then, we'll hopefully finish up by 4:15 or so. And you might --

(Whereupon, the foregoing matter went off the record at 3:13 p.m. and went back on the record at 3:25 p.m.)

CHAIRMAN WINSTEAD: Thank you again for joining us and being the last on the agenda. (indistinguishable) tolerance and patience. We appreciate it.

I might, if you all could start, just for the record, state your name and affiliation. We do appreciate -- we look forward to hearing both from American and Northwest on the issues that we've been dealing with today, and thank you for joining us.

MR. NICOUD: I'm Troy Nicoud. I'm associate general counsel at American Airlines. I'm responsible for antitrust, environmental, and OSHA. And if we get any OSHA or environmental questions today --

(Laughter)

UNIDENTIFIED FEMALE: We're in big trouble.

MR. NICOUD: It's really been a long day. Thank you very much for having me here.

I listened to all the presentations this morning and have heard, with great interest, the incredible amount of experience in the travel industry that many of the witnesses have had, as well as the

Commissioners. I thought it might be interesting. I'll take just a minute.

I actually come to the industry from a different path. My career for the bulk of it now, spent 10 to 15 years in private practice as an antitrust lawyer, and continued when I got to American, primarily focusing on competition law. And so, I come to the industry with a little bit different perspective.

And maybe one of the things I would start with is I heard, this morning, many of the Commissioners express a desire to think of the consumers' interest as you go through your deliberations, and I heartily endorse that.

I also heartily endorse what, for many of us who have spent our careers focusing on competition law and antitrust, is a core believe that competition really is about the best system that we've been able to come up with for generating consumer benefits.

It can be rough and tumble at times. I think the current circumstances in the airline industry and in the travel industry illustrate that, but I really don't think we've seen a better system, and I heartily encourage the Commissioners to think of taking to heart the same admonition that Congress gave to the Department of Transportation, to rely to the maximum extent possible on free market forces.

With that, again, thank you very much for the opportunity to be here, and I understand the written testimony got to you, although, unfortunately, due to some courier difficulties, for which I apologize, it was late, and so I will try and be succinct.

I think it's difficult to think about where the travel industry is today, and where travel agents are today without starting with the airline industry, which is, at least, continues to be the principle product that is, in fact, sold through the travel agent distribution channel. And it's fair to say that today, the airline industry is in a state of crisis.

My employer, American Airlines, lost $500 million in the first three months of this year. The industry, as a whole, lost over $2 billion. We're going into a summer which normally is a good time in the airline industry, with everyone expected to continue losing money for awhile.

U.S. Airways, just this week, filed an application for $900 million in federal loan guarantees.

One of the things that that has prompted, at least at American, is a reexamination of -- to paraphrase somebody this morning, talking about the major airlines, nobody likes us. It's a challenge. We don't make any money. But other than that, it's great. And it's prompted a reexamination, really, of everything we do, and how we do everything.

We have, as an exercise, tried to look at our airline versus Southwest Airlines. Southwest Airlines is probably a paradigm of an airline that even this morning, everyone was expressing fond wishes, great admiration for, and I certainly admire Southwest. They've done a wonderful job.

They are, in fact, making money in this environment, and we have stepped back and asked ourselves, hum. We're losing money. They're making money. I wonder if we ought to think about trying to do some things more like the way they do things.

And we have done that sort of examination throughout the company, even to the point of examining whether we have too many lawyers or not enough lawyers, compared to Southwest.

But one of the big differences that got highlighted very early on, and it's in the written testimony, is how we distribute our tickets. American

Airlines today, 70 percent of our tickets continue to be sold and distributed through travel agents, using CRS, GDS systems that we've heard about today. Southwest, Southwest Airlines, on the other hand, our information suggests that less than 20 percent are sold through travel agents.

We heard some debate, this morning, about CRS booking fees, and I think we could spend yet another full day going through examples and trying to get to the bottom of whether they're too high, not high enough, whether they're fairly high. How much is attributable to functionality? We do think they're high, but at least, in the competitive environment, trying to get down to the last penny on that may not be the real fruitful source.

For us, what we look at is, on a unit cost basis, trying to compare us versus how Southwest distributes its tickets, our cost, per boarded passenger, comes out to over $3 per boarded passenger. For Southwest, we think it's less than 50 cents.

That's a big disparity. And one of the things we want to do is try and say, well, looks like that would probably be helpful to us in continuing to sell our services, and I think one of the things that's been missed in the debate, I think we were described earlier today, is the family feud, and the Ozzy Osbourne industry.

I think one of the things that would be helpful for all of us is to realize that, to a large degree, travel agents, airlines such as American, and CRSs are in the same boat. We sell a service. We have hub and spoke. We have international destinations. We sell a service and a product that is somewhat inherently more complex than what Southwest sells. Like any other business, the more complex the product, the more likely you are to be interesting in a higher level of sales support. Travel agents have done this historically.

Many corporations, who are some of our most important customers, the business travelers, they desire active management of their travel. Travel agents have done this historically. Some corporations end source it, some don't, but that's their choice. But they demand active management of their travel.

To the extent that we fail to find a way to make this more efficient and more cost effective, we're going to lose ground to airlines like Southwest, and Jet Blue is even more extreme. As we understand from their securities filings, filings with the Securities and Exchange Commission, over 95 percent of their tickets are sold without a travel agent. That's an enormous cost advantage.

As a result, we have to find some way to try and get this turned around, get this fixed, get this system modified for the new age of the Internet economy and for technological change, which is happening in the economy, regardless of what any of us do.

What we, at American, have decided to do, and try to do, is to pursue a strategy of using competitive market forces, not asking for government regulation, not asking as some airlines have done, for CRS booking fees to be regulated. We think that's a misguided approach and ultimately, will not help.

Instead, what we have sought to do is to take advantage of something that we have the opportunity to do, of use Web fares and make them available on low cost distribution channels, which, in turn, should drive consumers to be attracted to those channels.

As consumers increasingly use lower cost distribution channels, two things happen. One, we realize lower cost right away on those sales that are happening at that moment. Also, as consumers get used to using a different channel, they will increasingly go to that channel in the future, in the same way that travel agents try very much, undoubtedly, if they get a customer, they'd like to get that customer back. Most businesses prefer to have a repeat customer than really one, and then they go to somewhere else the next time.

To the extent that we get consumers changing their buying habits, what that will do is create competitive pressures. And we'd all love, I suppose, not to have to live with competitive pressures, but they are the way our economy works.

Those competitive pressures on CRSs and on travel agents should lead to a circumstance where others, besides Orbitz, will come to airlines and say, I tell you what, I'll make you a deal. I will give you better distribution economics, and you, airline, give me your Web fares. American very much wants to do that, to the extent it has been suggested that American or -- I can't speak for the other Orbitz' owners, but to the extent it's suggested that American has a desire that Orbitz be the only outlet other than AA.com, for American Airlines Web fares, that is simply not the case.

We would prefer to have there be additional outlets. Frankly, we would prefer there to be as many additional outlets as possible, because that means we get lower cost distribution economics on a broader set and larger set of our ticket sales. That, in turn, is going to hopefully give us the opportunity to be more competitive with our competitors, airlines such as Southwest and Jet Blue.

That's the kernel of what we see as the current large game in the travel agent distribution world. We've tried to do a few things to encourage that. We have selected to participate in Orbitz. We've also asked the DOT not to try to regulate more, but rather to try to regulate less.

One of the things that is a constraint today is that, as a practical matter, airlines are unable to negotiate with CRSs over booking fees. Today, as a practical matter, if you participate -- if you happen, as American, to be an owner of a CRS, if we -- we must participate in all CRSs.

Now, as a practical matter, if you have a customer who comes to you, and you know they have to buy your product, you don't have a whole lot of pressure to negotiate a price. At the same time, there are nondiscrimination rules, in the DOT rules, that limit CRSs' ability to say, all right, well, maybe I will give different airlines different prices.

I do not mean to criticize what the DOT did. It was responding to activities and circumstances in the industry at a time, frankly, long, long ago now. And the world's changed, and it's time that we all change with it.

In the interest of brevity, let me kind of close with two remarks. First, I would urge the Commissioners to think carefully whether your views would be different than much of what we heard this morning and earlier today, if two months from now, three months from now, whatever it is, instead of only airline Web sites and only Orbitz having Web fares, if there were two or three other online travel agencies that also had Web fares, or heaven forbid, even if a major travel agency, for example, were to come to an airline and say, "Gosh, airline. All those CRS productivity payments that I get from the CRS, maybe I will share some of those with you, so that your distribution economics are lower and you give me Web fares," and they get made available."

If we make a recommendation to have government intervention, you're going to take away the competitive incentives for the market to find a solution. I don't know what the solution is, but the competitive system that we have in this country largely works because it forces businesses to go think, and go work, and go struggle, and go figure out a good solution.

And with that, since I do have environmental also under my wing, I, every now and then learned a little bit about other fields. I'm reminded of biology, where the current learning is not that the fittest survive, but the most adaptive to change survive.

And with that, thank you again for the opportunity to be here. I appreciate it.

CHAIRMAN WINSTEAD: Thanks, Trey. Al?

MR. LENZA: Mr. Chairman and members of the Committee, thank you for allowing Northwest Airlines to participate in this important forum.

My name is Al Lenza, and I'm vice president of distribution and e-commerce for Northwest. I've been in the travel industry, both the airline side and the GDS side, for nearly 25 years, the last date with Northwest. And I'm responsible, in addition to the business relationships with the GDSs, our Internet and other distribution strategies, including our third party Internet sites, and many of our other e-commerce initiatives.

I must say, just one aside, that this

session has already been productive even before I was able to testify, because hearing the testimony that our booking fees are less than $11 a ticket, or $1.95 a segment, I did a quick math, and I must have been over-billed by about $30 million in the last 12 months, so I'm going to go back and re-look at that.

I think everyone knows how very difficult the financial environment has been for our industry. We have continued to place great importance in insuring that we can sell our product from as many distribution channels as possible, and in the most efficient means available to us.

Unlike some airlines who chose to do business differently, Northwest has been and continues to be a full participant at the highest level of participation, meaning the most expensive and richest functionality in all the GDSs. This ensures that traditional travel agents, third party Internet sites, and other airlines have full access to our inventory and fares in real-time, and that they're always in sync with our yield management and our pricing systems.

Our industry has always been very competitive. The slowdown in business travel, which began early 2001, followed by the events of 9/11, and the recession, have placed even more significant pressures on industry revenues. Our goals, from a distribution standpoint, have evolved as the Internet has grown, but they're pretty straightforward.

First, we want to continue to grow our share of business from traditional travel agents, while bringing down the cost of distribution wherever possible.

Second, we continue to develop our Web site, to capture the growing number of customers who are choosing the Internet to purchase travel and, in the end, a series of other products.

Third, we seek to capture our fair share of the fastest growing market segment in travel distribution -- that's third party Internet sites -- and to do so at a competitive cost of distribution.

Finally, we have two objectives that are at the heart of the issues being discussed here in front of the Commission, and deal directly with the end consumer, which is, after all, what we're here to discuss and learn.

First, we are insistent that our distributors, both traditional and Internet distributors, present and sell Northwest product fairly and in an unbiased manner. And I know that unbiased or biased can mean lots of different things to lots of different people, but the concept still holds and it's very important to us.

Secondly, we're also pulling all stops to harness the fastest growing distribution expense for Northwest, the GDS booking fees, which now count for nearly $14 per ticket and not $11, certainly, for us.

The growth of GDS fees has been approximately 7 percent per year. And I'm sure that the charts that will be supplied to the Committee will show that we certainly welcome the ability to provide similar information to you.

We will spend more than $200 million in GDS fees, despite reduced traffic levels. That's two-and-a-half percent of our revenues, and we have relatively high fares relative to the industry. Smaller carriers pay substantially more on a percentage basis.

These last two issues were really the driving force behind our support of the creation of what we believe is the industry's first neutral industry site, Orbitz. The concept of Orbitz was that it would be neutral to all airlines, and not just the owners, address the rising costs of distribution, particularly GDS fees, and place competitive pressures on the duopoly of expedient Travelocity to be more unbiased and more cost effective to airlines.

For consumers, Orbitz would offer the advantage of access to an unbiased site that always displays the lowest available fares on all airlines. By charter and by contract, it must do that.

By every measure, Orbitz is delivering on its objectives, not just to us, but to the consumer. We've already saved over $2 million in booking fees in the first year, and we're posed to save substantially more in the next few years, particularly after we implement a direct link that fully bypasses the GDS this coming September.

Orbitz' success has been driven primarily by -- and I think survey after survey confirms, as did the *Consumer Report's* one, that it has a very powerful booking engine, and along with the other two leading sites, it has been very successful at delivering low fares to customers.

In response to Orbitz' value proposition to the airlines, the GDSs who have annually dictated price increases to airlines, increased booking fees, in 2002, by the lowest percentage in 15 years, about 3 percent.

For the first time since I've been in the industry, the GDSs are actually coming to us, they certainly come to Northwest, offering reduced booking fees in return for extending the broad distribution of certain channel specific Internet fares.

Consumers are the big winners because they benefit from the new technology that's been brought to the marketplace, to help them find these low fares. I think it's very encouraging to hear representatives like from NBTA and from other sources, that are starting to see that low fares are -- and we can argue all day about whether it's because they're getting Web only fares or whether the pricing engine is doing the job, probably some combination of both, the competition is working.

While continuing to complain about the so-called MFN clauses in the Orbitz agreements, the two largest sites remain unwilling to commit to matching Orbitz' supplier-friendly proposition. That's not just cost, that's also neutrality.

There was some discussion here earlier, from OneTravel's representative, that we have refused to do business with OneTravel. We have never heard from OneTravel.

Just last month, the two leading competitors of Orbitz refused to load or to feature a number of Northwest low fares to Europe because they conflicted, we believe, with preferred agreements that they have with of Northwest's international competitors.

These are the same people that are asking for Web fares when it suits them. While they hold themselves as unbiased, and they are unbiased a good portion of the time, they do have preferred marketing arrangements, they do have advertising arrangements that result in annoying pop-ups in the middle of your search screen, and they do do e-mail campaigns that are for sale.

So, when we mean unbiased, we mean unbiased in the broadest sense.

There have been significant discussions today and elsewhere about so-called Web only fares, and that Orbitz is automatically entitled to obtain these fares. The facts are that nothing in our Orbitz' agreement prevents us from filing any fare in any channel. And in most cases, we do exactly that.

Someone earlier today mentioned a 20 percent companion or ticket that you could purchase in the fall. That offer has expanded well beyond Orbitz, and is available in multiple channels.

Unlike Southwest Airlines, which doesn't publish any price or any inventory to any Internet site, nor to the majority of travel agents, the vast majority of Northwest prices are published in all channels and to all distributors. We continue to obtain 70 percent of our revenue from traditional travel agents, and now obtain about 10 percent from third party Internet sites.

We are expanding our Web site dedicated to travel agents by soon offering a booking site exclusively for travel agents. This will offer us with a platform to reach travel agents without the need to sell via GDS.

Until this functionality is in place, and we can argue about how efficient or inefficient it is, there is nothing to prevent a travel agent from accessing any fare at NW.com that may be there that isn't someplace else, in those small percentage of times that it exists, and book it on behalf of the customer. In fact, many of them are doing exactly that.

There are also several third party companies that are assisting distributors in shop comparing on many airline and third party sites.

A little bit about our decision to publish targeted offers on certain channels. This is no different than business has been done for the 25 years I've been in the industry. Before the Internet and even now, airlines have used consolidators or specialized agents to sell inventory to target market segments, which have never been available in public retail channels.

A customer who appeals to the ethnic Chinese market can reach a channel or a market that cannot, or the airline doesn't wish to reach on a national basis. Serves a very important role, and it's been that way for 25 years.

We offer certain corporate discounts to specific corporations that are not available to travel agents, or to Internet sites, or to any other distributor, and those fares are designated, privately, to the corporation and to the travel agent that they designate handle their arrangements.

There's a view among some that all prices should be available in all channels at all times. It is our view that if such a regulation or process were to become a requirement, airlines would lose their incentive to offer targeted low fares and cost-friendly distribution sites or channels, and lose any leverage over GDS fees. The net result is that consumers would lose the opportunity to purchase some low fares.

When we evaluate whether to publish a target offer in a specific channel or distributor specific, we look at a number of factors. In the corporate side, we obviously look at the corporate arrangement, the whole business relationship. In the leisure side, or on the Internet, or in the travel agency community, or consolidators, we look at how many seats do we have to sell, what is our cost of distribution by channel, how much do we need the business, etc.

In many cases, what starts out as a limited tactical filing made for competitive reasons end up being published at all channels. In fact, that happens most of the time. It is important to note that some of Northwest pricing and other incentives, such as frequent flyer mile bonuses for online purchases, are designed to encourage customers to visit our Web site, to create some loyalty, so that they perform other services on their own, that saves us labor costs and other expenses.

For example, the ability to allow customers to do refunds and exchanges online, check flight arrival, departure information, frequent flyer information, has considerable benefits for customers in addition to Northwest.

The travel distribution landscape is undergoing significant structural change as the Internet allows individual customers direct access to all of the content previously available only through intermediaries. Unlike access to a GDS, which is essentially closed to those particular users, the Internet is available to anyone with a computer, or a cell phone, or a Palm Pilot for certain functions.

I did hear the number 46 percent, but if you look at the statistics of customers who purchase travel, it is a substantial majority of the customers who have Internet access.

And a customer intermediary or any other party, who doesn't like what they see on one Internet site, can quickly click on any other competing site. In fact, there is software in the marketplace that even eliminates the need for customers to have to hop from one site to another. There are these robots that allow that search among multiple sites to be handled on behalf of a customer, or a travel agent on behalf of a customer.

Direct access to all this information provides significant customer benefits because it allows airlines, for the first time, to more tailor promotions to individual customer segments. For example, Internet sites like Hotwire and Priceline allow airlines to distribute inventory in a way previously not feasible, but with the right fences that make segmentation possible and allow us to offer low price to consumers that otherwise would not be possible.

As for Orbitz, there has never been a more scrutinized entity in the travel business, at least not in the 25 years that I've been in the business. The fact that we are a competitor and an aggressive competitor with American and with the other owners of Orbitz, alone should ensure that Orbitz will be operated neutrally and fairly.

But nevertheless, it doesn't matter what I think with respect to that issue. What matters is that the DOT, the DOJ, and all the other regulatory bodies are looking at the contracts, the minutes of meetings, all of the documentation that has been occurring since the creation of Orbitz. And we believe that the reviews of its operations will confirm what we've been saying all along, that Orbitz has been pro-competitive for both airlines and consumers.

Rather than interfere with a competitive landscape through special rules or regulation, we encourage the committee to allow market forces to continue to drive the direction of travel distribution, and not to recommend measures that artificially protect or promote certain interests whose ultimate goals are to protect their businesses from competition.

In this very difficult financial environment, Northwest must have the flexibility to maximize our revenues at the lowest cost possible and thank you for your attention. I'd be happy to answer any questions now or subsequent to this.

CHAIRMAN WINSTEAD: Great. Al, Trey, thank you both for your testimony and your written submittal before.

We do have a couple of commissioners that are under a time crunch to get out of town, and I think I might start with Tom Dunne, and let him ask questions, and then a couple others. I think, Ted --

MR. LAWSON: Right.

CHAIRMAN WINSTEAD: -- you've got to leave, too. So -- and then we'll get back to the other panelists.

MR. DUNNE: Thank you. First of all, Jim -- I thank your for your presentation. Believe me, it was very much enlightening, and as you said earlier, I don't think we're trying to solve a family feud, but it does sound like it. Nice to have the other side of the family in here and both of you can see that you can get along without at least going to war in front of us.

I have just a couple of questions, basically. First of all, Mr. Lenza, are you an attorney?

MR. LENZO: No, I'm not.

MR. DUNNE: Oh, okay. That's refreshing.

MR. LENZO: Was that okay?

MR. DUNNE: That's fine. Second of all, if Mr. Nicoud would not take it against me. I'm going back on American. Don't cancel my ticket, so I'll ask my question.

No, I think I see a little bit more of the inside of where you fellows are coming from. I was particularly impressed in the testimony of American Airlines and looking at the ability to resist the high CRS fees, etc. And I understand that that Part 255 makes it mandatory for you to accept the CRS fee.

So, what you're -- are you saying, in that respect, that if you were to modify that, that would help lower your costs, and make everybody a little bit more competitive in respect to cost?

MR. NICOUD: I wouldn't pretend to know exactly what would happen, but we think it would give us the opportunity to try and lower our cost, and actually negotiate over fees in the same way that other businesses negotiate over their inputs.

I think we heard travel distribution earlier described as an input, and one of the problems we have is that we really have no ability to negotiate on a major, major piece. And we have asked the DOT -- we hear that the CRS rules are under consideration, and we would very much like the DOT to reconsider that component of the rules.

MR. DUNNE: And that CRS rule is put on top of you previously because of regulations and what have you, or imposed regulations because of competition before, or --

MR. NICOUD: The CRS rules have developed since -- actually, since CRSs first came into being, roughly, I believe, in the late 1970s, well before, unfortunately, I was involved in with the industry.

MR. DUNNE: Okay. Very good. Going back to Mr. Lenza, looking at Orbitz, there's no doubt about it. We've probably heard that word more than anything today, and the scrutiny it must be going under in all segments is amazing, but the one thing I was somewhat impressed by the fact is your statement in there that you're competitiveness with the industry, period, ensures that there's no -- how would you say -- one for all, all for one, with regards to Orbitz, and your industry push to be competitive solves that problem, is that correct?

MR. LENZA: Yes. Just to clarify, you mean the fact that we are competitors of one another --

MR. DUNNE: Exactly.

MR. LENZA: -- ensures that we offset --

MR. DUNNE: And consequently, you do have lower fees or have other fees with other people that you deal with, or does that favored nations -- I guess that's what I'm trying to ask, is that, that favored nation thing, does that preclude you from doing that?

MR. LENZA: No. The most favored nation just means that Orbitz -- that anything that is publicly available on the Internet is that they have a right to obtain that, but, for example, a promotion we have out there now is available in most other Internet channels.

There is nothing in the Orbitz' agreement that precludes us from doing that, and in fact, we welcome the ability to, with other third parties on the Internet who want to negotiate an agreement that is cost effective, provides us the neutrality commitments -- there is a reason that our share, through Orbitz, actually mirrors our market share that we have in the industry, and it's lower in the other channels. And we think it's because it is totally neutral. So, with those elements being addressed, we certainly are very open to those bilateral agreements.

Now, I think someone mentioned earlier that the cost of distribution has, in fact, narrowed between channels. And so, I think, you know, we're certainly reexamining, in our enterprise, whether the whole Web fare issue, whether if you even offer a tactical offering, if the channels are cost competitive, where's the benefits?

So, I think we're all reexamining that, given the parity and the cost structures. I'm not sure if I answered --

MR. DUNNE: Yes, you did. Thank you very much. Mr. Chairman?

CHAIRMAN WINSTEAD: Ted, are you --

MR. LAWSON: Sure.

CHAIRMAN WINSTEAD: -- (indistinguishable) too.

MR. LAWSON: Thank you very much. Boy, your presentations were excellent, and very well done. I think very insightful.

I think that -- some of the terminology that would probably help us a little bit, from the standpoint I think we all believe you had a perfect right to have different distribution channels, up and down.

I guess if, in the perfect world, if the GDS fees were costing you money, and you gave access to the travel agencies with exactly the same fares, perhaps with a GDS fee on top of it, how would you view that?

MR. LENZA: Either one of us?

MR. LAWSON: Either one of you.

MR. LENZA: I would, in whatever form it takes, I think a reduction in the GDS fee. But what we are not interested in is the propositions we've received to date is 1 percent of the fares are currently available outside of the GDS, we believe, is a very tiny number, and we'll give you 1 percent -- break on 1 percent of the fees, and 99 percent will keep jacking them up 7 percent a year. And I think that's the -- we'd like to influence the 100 percent and not just the 1 percent.

MR. DUNNE: Okay. Has Orbitz made money yet?

MR. LENZA: It has not.

MR. DUNNE: Okay. And you've got --

MR. LENZA: But I should say that it's -- and somebody, I think, had a misleading information about -- yes, they have lost a lot of money. There has been a lot of startup capital, but it's -- it's comparable to any startup business, and if you look at the numbers, they probably are doing better, faster, than the other two startups when they did. So, I --

MR. DUNNE: Do you see a relationship, kind of a symbiotic relationship between the Internet, the regular travel companies, and the airlines, and is there a connection there that they all do bad, or they all do well, or that we all help each other?

MR. LENZA: I guess, from my perspective, I don't know that there's any one answer there. I think the Internet and the technology that's behind that creates all sorts of opportunities that really weren't there five and ten years ago. I don't know that it is necessarily the case that travel agents win in that environment, or airlines win in that environment.

I think what we'll see is some doing very well, and some not adapting very well. I don't know that I think there's an automatic answer on it.

MR. LAWSON: Okay. Thank you very much.

CHAIRMAN WINSTEAD: Any other people that need to leave by plane or -- great. Let me follow up on -- you were -- and then, we'll go to the others.

On the fare charges the DGS (sic) charges, you said 7 percent a year you've been experiencing increases. Obviously, on the travel agency side, we've seen the kind of innovation and kind of moving into different markets to grab business when the commissions were cut out, you know, and the usual market sense.

How do you translate -- and the airlines certainly have their issues with the half a billion in the first quarter you've lost, where do you attribute that fare increase being driven? I mean, is it really related to technology innovations at Sabre and some of these others, or it is -- I'm just wondering your reflection on the rationale for that fare increase.

MR. LENZA: Why GDS fees have gone up?

CHAIRMAN WINSTEAD: Yes. I just would -- you mention --

MR. LENZA: Because they can. I mean, that's kind of the -- because they can, and we are, basically, don't have any tools to deal with it --

CHAIRMAN WINSTEAD: Right.

MR. LENZA: -- effectively. And I think the creation of Orbitz certainly had to do with stimulating competition among GDS pricing, to some extent.

We saw a slower increase last year but, you know, I think that they may have been sensitive to the industry's predicament and to the 9/11 events, so we'll have to see, this year, whether we go back to the 9 percent of two years ago.

But certainly, I mean, from the airline perspective, we believe that the GDS performs a service for the airline, and for the travel agents, and for the Internet sites, but all the costs are borne by the airline, and all of the price increases are borne by the airline.

MR. LENZA: I think one way -- certainly, American's perspective is that a very large chunk of the increase is not a result of technology.

We've tried to look at, and the Commission may have some interest in looking at the SEC filings of the major GDSs, and look, in particular, under the line "marketing and expenses." I know a couple of the ones I looked at, the GDSs reported that their marketing expenses, which is their phrase, and it is, indeed, their cost of marketing their services to travel agents, they do include productivity-based rebates, and those cost money. The funds for those monies come from airline booking fees. And to the extent those go up, that costs them more, which means they charge us more. Thank you.

CHAIRMAN WINSTEAD: Going back -- and Ann, did you want to --

DR. MITCHELL: I just have --

CHAIRMAN WINSTEAD: It's all yours.

DR. MITCHELL: -- one question. On the CRSs, American Airlines, at one time, owned Sabre. How long has it been?

MR. NICOUD: Mr. Schwarte, who is here, probably has the dates memorized, but my recollection is that in '96 or '97, the initial set of shares were sold to the public, and then, if I get it right, and I know he'll correct me, March, 2000, was the complete --

DR. MITCHELL: So, it's been fairly recent.

MR. NICOUD: Fairly recent.

DR. MITCHELL: And Mr. Lenza, does Northwest own some or all of the --

MR. LENZA: Yes, we do.

DR. MITCHELL: -- CRS --

MR. LENZA: We own a minority share of Worldspan.

DR. MITCHELL: Could one assume that you all taught them how to set those fees and make those charts?

MR. LENZA: Oh. You want us to do what you're telling us we do in Orbitz, huh?

DR. MITCHELL: You know, you set it up and -- anyway.

On another question, you raised the point about being free to work in different markets, which I think all of us in business would agree is something that we need to be able to do.

Are you aware of any other time since, at least, the CRS regulations came into effect, that the lowest fare was marketed extensively to the general public? We know that there are special fares that go to business, and go to consolidators, and so forth, but are you aware of any fares that have been made widely available to the general public and promoted out the kazoo, that were not available to travel agents?

MR. LENZA: Pre-Internet, I can't remember the -- other than consolidators and corporations.

DR. MITCHELL: Thank you.

MR. NICOUD: So, are we out of time here?

(Laughter)

UNIDENTIFIED: You're not there yet.

MR. RUDEN: Don't tempt me. Would you like to come back to Chicago? We --

It is tempting, I suppose, to use this opportunity to stay here through dinner, but I will not do that, though I do have a few questions I need to ask. And I want to start by observing, in response to Trey's remark about everybody's in the same boat, that to some degree, I think that's true, but the people that I work for, outside this Commission, feel that this is like a boat that's lost at sea, and what happens in those boats is sometimes, there's cannibalization, and that that's really what's happening here. The big and the powerful are eating the small.

And it's a -- you can say it's the marketplace at work, but the same problems the airlines have about needing to have efficient operations, needing to have low costs, needing the ability to negotiate, all those needs exist for the people who serve you as your agents as well. So, in that sense, certainly, there is a kind of common interest, but it appears, now, that it has broken down, and that is part of why we're here.

Al, I -- it's good to see you again after a long time. We won't go back through that age thing.

I heard you, understood you to say that this fare sale, this 20 percent deal that came out on Orbitz recently, had been expanded to other channels. Is that sale available through GDSs to what I'll call the regular travel agents?

MR. LENZA: It's -- I know, for sure, it's available in all the major third party Internet sites. I am not sure whether, in the last couple of days, it made its way through 100 percent of the channel -- of the distribution system.

MR. RUDEN: When it was originally announced, though, it was not available to anybody but Orbitz, isn't that right?

MR. LENZA: When -- well, it depends on what you mean by we announced. One airline launched, and then, a bunch of airlines then matched, and then, some airline expanded it, and then, that got matched, and then on and on and on. I'm not exactly sure of the specific days of when everything happened, but that's kind of how it happened.

MR. RUDEN: So -- all right. Well, if you're not familiar with it, I don't want to spend our time struggling over it. We'll -- we'll address that in a different -- a different context.

How long, Trey, has Jet Blue been in business, roughly speaking? I'm not going to hold you, like Schwarte did, to a specific date. Months.

MS. ROGGE: Two years.

UNIDENTIFIED: No, two years.

MR. NICOUD: I thought it was a couple years.

MR. RUDEN: Okay. Two years. And their public offering was?

MR. NICOUD: Earlier. I believe it was in 2002.

MR. RUDEN: Okay. Do you know -- you say that 95 percent of their business is done without travel agents, and I noticed, in your testimony, you talk about that at the bottom of page three, that 41 percent comes through the Web site, and 48 1/2 percent come through the telephone.

There's no way to know who's making those reservations, is there?

MR. NICOUD: Certainly not by me. That's merely -- that's the information they provide to the

Securities and Exchange Commission.

MR. RUDEN: Is Jet Blue available in any of the CRSs?

MR. NICOUD: I don't believe that they are.

MR. RUDEN: Yes.

DR. MITCHELL: I think they are.

MR. NICOUD: Are they?

MR. RUDEN: All right. Well, we'll pursue that factual matter another way as well.

Later on in your testimony, page eight, you talk about this inability to reject what you call exorbitant CRS fees and you note that travel agents have not recognized, in your words, "their long term incentives to choose CRSs that charge lower booking fees."

What CRSs are those?

MR. NICOUD: None.

MR. RUDEN: All right. So --

MR. NICOUD: I would describe that as the problem.

MR. RUDEN: So that whatever is going on there, travel agents' failure to find those people and make deals with them is not really the issue, because there's no real difference in those fees, is that right or not?

MR. NICOUD: No, I --

MR. RUDEN: Or am I misunderstanding what you said here?

MR. NICOUD: No, I think I do have to disagree on that. I think part of what I've tried to suggest today, by suggesting that we are in the same boat and frankly, I would prefer to call for us not to use our paddles to try and hit each other, but instead, to try and find a way to improve our ability to compete, both for the airlines, the travel agents sell, and for travel agents.

And I think one of the ways to do that is -- I hope I'm trying to encourage that travel agents think over the long term, that the system we have needs to be efficient and cost effective, and to think more broadly about that rather than all of us just continuing to fight over the nickel that may be lying at our feet today.

MR. RUDEN: If there were a CRS that charged lower fees, and it were not Sabre, would American Airlines be indifferent to all the agents in Dallas, for example, signing up with the other CRS?

MR. NICOUD: We have a contractual -- two answers. We have a contractual obligation with Sabre that runs out, I believe, in 2005.

But independent of that, American would be delighted to see Travel agents shift to a low cost CRS because that would, indeed, result in lower distribution costs for us.

MR. RUDEN: So, you would be okay in Dallas, with all the agents in Dallas who now have Sabre, going somewhere else?

MR. NICOUD: I believe that's right.

MR. RUDEN: Very interesting.

At page ten of your testimony, you talk about the strategies you've adopted to favor low cost distribution channels, as you conceive them having various consequences. It almost sounds like these agents should like the commission cuts because some day, some time, they're going to make life better for everybody.

How long, in your judgment, is it going to take, given things as they are today, for all these things to occur, so that travel agents can celebrate?

(Laughter)

MR. RUDEN: And I don't mean to be snide about it, but you're talking here about consumers using low cost channels, and facing competitive pressures, and eventually, this is somehow going to result in more business for travel agents. And if all this stuff is somehow, at the end of the long day, going to come back to them and make their lives better, I'm just asking how long. How long do they have to survive before that day comes?

MR. NICOUD: I really can't predict that.

MR. RUDEN: Okay. Well, suppose a travel agent, an individual travel agent, one of the small ones that's called a mom and pop by some people, were to approach American and say, "I will pay back to you, by some efficient method, the average CRS booking fees generated by my bookings, if you will give me all your fares."

MR. NICOUD: If that is for a long term commitment, for lowering costs on all sales, not just the Web fares, I believe we would strongly entertain -- we would strongly entertain those discussions. I can't predict -- I can't negotiate for the business folks.

MR. RUDEN: No. I understand. I'm not asking you --

MR. NICOUD: That is very much what we would like to see.

MR. RUDEN: I'm talking, now, about a single agent making that offer to you, to, in effect, solve the problem of your booking fees by saying I'll give it back to you.

MR. NICOUD: I would not want to --

MR. RUDEN: Are there any other issues that would interfere, at that point, with you saying, "Okay. Here's all the fares."

MR. NICOUD: I would not want to rule that out. We do not want to foreclose any creative ideas for lowering distribution costs.

I don't know, because I'm not in that business unit, I don't know the practicalities. I don't know exactly what it would take to make it work, but I do know we are open to creative ideas, whether it be a single small travel agent, or multiple large ones.

MR. RUDEN: Okay. Al, you're in that business unit. What do you think?

MR. LENZA: Hum. Now, I really wish I was a lawyer now.

(Laughter)

MR. LENZA: Um --

MR. RUDEN: I'm glad you're not.

MR. LENZA: No, I -- actually, I'd just defer to their pricing, but no. I think that, again, if we're not just talking about one-off, if we're talking really, about a serious -- if you're suggesting that DOJ proposal on the one-off, where the travel agents would actually -- they're the ones with the leverage with the GDS. They're the ones that negotiate their inducements. They're the ones that can convert from one to another. If you're suggesting that one or more of those say, you know, "Your booking fee is 14, and I can negotiate to get 5 back, and I'll eat the 9," if you give me -- "if you add me to the MFN list," that's what you're asking, we would be --

MR. RUDEN: I'm not talking about any MFN list. I'm saying that you have articulated that Web fares are not made available, through CRS, to regular travel agents because that's an expensive channel, because the CRS booking fee's involved. And I don't know about Trey's suggestion, that agents could somehow find cheaper CRSs, so I'm asking whether an agent simply said, "Okay, that's the problem. I'll solve the problem. I will kick back to you the booking fees that I create through my bookings, but you will then give me all the Web fares, including those that are hundreds, and hundreds, and hundreds of dollars below what are currently being published today in CRS."

MR. LENZA: We would be very open to that.

MR. RUDEN: Open to it.

MR. LENZA: But these hundreds, and hundreds, and hundreds are, I think, are exaggerated.

DR. MITCHELL: Could we get you to continue those hundreds of dollars, lower fares, not just get us to pay you back?

MR. LENZA: Well, that's -- and that's a very good question because, obviously, if we choose today to have a targeted sale for a specific market that needs the help, we just started back our fourth bank in Memphis, and you want to just -- you don't need to sell a billion seats. You only need to sell 100. You pick one or two places. Potentially, if you don't need huge help on a system-wide basis, and it's tactical, and you have to expand it everywhere, you may not do it. So that's -- that's a very good question.

MR. RUDEN: This booking site you talked about that you're going to build, is it linked to -- will it be the kind of booking site that's linked to the back office, just like the CRS is?

MR. LENZA: We plan to file our data for that travel agent directly with ARC, so there will be reconciliation, yes.

MR. RUDEN: No. I'm asking whether in the agent's own office, their back office system can link to this Web site thing that you're going to create, the way it is now linkable to the CRS system, and so that the transactions generated through the CRS go right into the back office to create a management report --

MR. LENZA: Not --

MR. RUDEN: -- for the company --

MR. LENZA: Not in phase one.

MR. RUDEN: Okay. When you build it and have phase one in effect, is Worldspan going to give the agents who use its segments credit on their CRS contracts for the transactions that are booked through this system?

MR. LENZA: No.

MR. RUDEN: No. Okay. Well, rather than keep everybody here late and provoke arguments, let me -- oh, I do have one other thing I have to ask Mr. Lenza.

Your testimony you said orally and in writing at page three, it saved you $2 million in GDS fees, using Orbitz. The S1 Registration Statement that Orbitz filed says that, in the first year of their operations, there was a $6 million refund to all of the five owners. So, can I take those two facts to mean that you got a third, essentially, of -- that Northwest alone accounted for one-third of the transactions?

MR. LENZA: No. The $2 million is actuals through, I believe, the end of the first quarter, and an estimate of what we've actually saved but haven't gotten the money yet. So, it's probably about a million one or a million two of the six for the same --

MR. RUDEN: Okay.

MR. LENZA: -- for the comparable period.

MR. RUDEN: All right. All right. So, roughly a sixth would be Northwest's share of the savings?

MR. LENZA: Yes. Maybe a little less than that.

MR. RUDEN: Yeah. Final question, I guess. On page seven, you talk about that your Internet prices are -- and the bonuses for online purchases are designed to get customers on your Web site for purposes other than selling things to them. You want them to transact other things there, like refunds and exchanges. What do you all pay travel agents today to do refunds and exchanges?

MR. LENZA: If it's a -- on a refund and

exchange is -- I believe it's nothing.

MR. RUDEN: Yes.

MR. LENZA: On the -- you're not asking about change fees or --

MR. RUDEN: No, that's what I'm asking you, is this --

MR. LENZA: Okay. No.

MR. RUDEN: That's the comparable thing --

MR. LENZA: Now --

MR. RUDEN: -- to what people could --

MR. LENZA: Well --

MR. RUDEN: -- (indistinguishable) on your Web site.

MR. LENZA: This service is available for travel agents to have either their customers or them on behalf of their customers, do it on an automated basis.

MR. RUDEN: Okay. Thank you very much.

MR. ROPER: I'm going to just turn Paul's nautical theme around from fish to boats, and I think that, from what I've been hearing, is that I think the lead boats are sinking, obviously, and it's time for the smaller boats, the CRNs and travel agents to look at some ways to help save the big boats.

The reexamination that you're going

through here is -- the reasons behind it. The question I have to ask is that do you believe that the consumers, that the travel agents of CRNs truly understand how bad a shape the airlines are really in?

MR. NICOUD: Actually, I doubt it but, then again, that's not necessarily -- you know, if I'm as a consumer, I tend to think of whatever products, I look at availability and convenience, and do I have access to it at the moment, and I may not think very well about how the provider of that product or service is doing.

We are in dire straits, and have to find ways -- we are asking ourselves questions that are very similar to what I suspect travel agents are also asking themselves.

What is it that we do that consumers really value, because that's what consumers will pay for. If we're doing things that consumers don't value, we have to ask whether we want to keep doing them. If we're doing things that consumers do value, how do we do it most efficiently? And that's what we're trying to think about in every piece of our business, and I think that's something that the state of the industry is forcing on all of us.

MR. ROPER: Know anything to add or --

MR. NICOUD: Ditto or --

MR. LENZA: No. I mean, I think in the last few weeks and months, I think there perhaps has been a little bit more of a realization, although I didn't see it evident in the testimony here previously, I think -- I don't know if it's -- if they really believe they are a great value to us.

We think they provide a service. We think they're a very efficient means of distribution but, at some point, the cost exceeds the value of the utility, and I think we're past that point.

And so, we've taken some actions in the marketplace, with our Web site, with other things, to try to break that hold and stimulate some competition, and hopefully -- but I think there's increasing -- certainly, I believe travel agents share the gloom and doom that we've had to deal with the last few months. I mean, they've -- they've -- we talked about -- I believe there was testimony that the cost of distribution, through traditional travel agents, is now very close or set that even lower, which is not the case, but even if that's the case, it's been borne, a hundred percent, on travel agents' back, not because the GDS did anything to assist the economics of the airlines.

MR. ROPER: Okay. Thank you.

CHAIRMAN WINSTEAD: Joyce?

MS. ROGGE: I wanted to thank you both for coming, and I'll be as brief as possible as well.

A lot of the testimony this morning, and you alls as well. I mean, you all were here, so you heard it, that the agencies are just looking to have the level playing field. They're looking to have the fares that you're making available on Orbitz, also available to them, to sell to their consumers, and we all had a lot of discussions about being very pro consumer.

And yet, in your testimony, both of you, in different ways, referenced that you were open to making that deal, or making a deal with anyone that would come forward and work that out with you. And doesn't the MFN clause preclude you from doing that?

MR. LENZA: No, not at all. We can -- Orbitz has a right to the lowest fare published on the Internet, but that doesn't mean they have the exclusive right, or that they can block us from publishing it everywhere.

MS. ROGGE: So, you almost wouldn't even need to have that if it's not going to preclude you from get -- from helping the travel agencies that way, then there's not really -- you're saying that it's not something that's going to get enforced on you.

MR. LENZA: Well, there's no obligation for us to limit anything to Orbitz. We are free to publish whatever fare we want anywhere.

MS. ROGGE: And so then, how would you respond to Ann when she said, "Can't we get those fares?"

MR. LENZA: Well, the question is on what economic terms, and on what terms that you're comfortable that you're getting a fair display.

MS. ROGGE: Which then brings us to the issue of what really is the cost. And while I appreciate your very nice comments regarding Southwest Airlines -- I mean, we are in totally different businesses.

And so probably, David, one of the things we need to do is better understand that, but --

MR. LENZA: Well, we may have been -- if I may -- we may have been, at one time, in very different businesses, but I think, with all due respect, Commissioner, I think we've been getting a lot closer in the competitive space that we compete, long haul, short haul, so I don't know.

MS. ROGGE: Although, I still get those

customer letters and they want me to assign seats like you, and I know that costs them money.

MR. LENZA: It does, it does, but customers want it, so we try to keep it in there, and try to minimize the cost of it, but -- yes.

CHAIRMAN WINSTEAD: Pat?

MR. MURPHY: I'll try to be brief because I'm probably the last questioner. First of all, Paul brought up Jet Blue, and I just want to mention, as an example for the other Commissioners, I'm very familiar with Jet Blue.

And to show you how creative people are in trying to deal with the distribution channel today, Trey's numbers were pretty accurate, but when they sell half their tickets through the telephone, through their own internal ticket agents, they don't use the typical ticket agent that most airlines think of, people working in an office.

They have retained housewives in Utah, the home state of David Neeleman, who worked part time, several hours a day, in their homes, and it's a seamless process. You call Jet Blue, and you are linked to a housewife, typically, in Utah, who's working several hours a day for Jet Blue. You never know that, even though the airline's based in New

York.

And with regard to the Internet, this is an airline that took off with www.jetblue.com painted on the airplane. That's a new distribution system. That's what the major carriers, and the GDS systems, and the travel agents all have to learn to live with that kind of creativity, because it's not going away.

We talked earlier about what is not in your Web site for travel agents, Al. Could you describe what will be there for the travel agent, and what will they have available they don't have today?

MR. LENZA: Well, they'll be able, basically, to, in addition to purchase, they can do a lot of the things. They can order collateral. They can basically monitor their performance if they have an incentive agreement with us, online. We'll facilitate links, too, if they want to book their frequent flyer, cash in their miles, customers that -- they want to do it on behalf of their customer. And we'll be able to do targeted offers.

So, for example, today we have these certificate drops that we call, that we are targeting a city and we offer $50 off, and we have paper certificates. We'd be able to deliver them -- what we call e-certificate or e-cert numbers, and they could redeem them online.

So, it's -- and it will give us the ability, I think more readily, to extend -- to the extent we do Web fares, to them, because our cost of distribution will, again, become more favorable. So, that will give us another outlet that we can use for those.

Now, again, we're going to battle with the inefficiencies of them having the potential concern about losing a little bit of the customer ownership, and we're going to have to deal with those issues, what incentives might be necessary to get them to try it.

MR. MURPHY: Okay. The last thing I would do is ask both of you if you could provide us, as I did ask for the GDS systems, to the same information historically, perhaps over ten years, for your booking fees.

And I'd always been led to believe that there are different -- you have different channels of outlets, and that the cheapest was your own Web site, and the most expensive was the brick-and-mortar travel agent, operating through the GDS system.

If you could provide data on how expensive it is to use different outlets. And by the way, my understanding is based on GAO studies, which have shown different outlets and how expensive they are. Anything you could provide us would be useful because obviously, we've had a lot of conflicting information today. Thank you.

MR. RUDEN: Mr. Chairman, I would urge you, though, if you're going to do that, to be complete, so that the unit costs and the volumes can all be seen. Don't just give us a set of numbers and say this is what it costs.

DR. MITCHELL: David --

CHAIRMAN WINSTEAD: All right. Ann, go -- absolutely.

DR. MITCHELL: This would be somewhat on the same subject that Joyce mentioned seat assignments. And mentioned earlier today, with the GDS system people, and with you, that there are different levels, within the GDS system, that the airlines participate in.

Do you have any -- just talking about a seat assignment, if you think that's important to sell your product, and you've made that available to the travel agent who then takes the time to make that seat assignment, do you know what it would have cost the airline to do that?

You know, that's -- I don't want you to answer it today, but that's the kind of concern that I think, in looking at the cost, where we really are on that.

MR. RUDEN: If I might ask one question that was suggested by something down here, on this new Web site, Mr. Lenza, if you made Web fares available to agents, through that system, you would also have to make them available to Orbitz, would you not, under the MFN clause?

MR. LENZA: Yes.

MR. RUDEN: Okay. Thank you. You could not choose to experiment with the traditional distribution system by itself.

MR. LENZA: It depends.

MR. RUDEN: It depends. Everything depends.

MR. LENZA: If -- well, if it's -- if it's filed in a way that is not publicly available to an Internet customer, so if it was potentially password protected, and that transaction is handled like a consolidator transaction, where it's private, potentially yes. If it's going to be publicly available, that anybody can come in and purchase, yes, we would have to extend it to Orbitz.

MR. RUDEN: Okay. Yes. So, you couldn't choose to make it publicly available on your Web site and give it to the agents to see what happens and leave Orbitz out of that.

MR. LENZA: Right.

MR. RUDEN: Yes. Thank you. Thank you, Mr. Chairman.

CHAIRMAN WINSTEAD: Great. Well, are there any other comments or questions from -- let me just, just in closing. I want to thank both of you all for -- and all the witnesses for participating today and for extending it now to 4:30. We are -- the Commission now has offices here in Washington, established at 1110 Vermont Avenue, Suite 1160, and the telephone number is 202-501-3700, and we will have both e-mail and Web site link. The testimony will be on our Web site. We're working to get that set up, correct?

UNIDENTIFIED: Right.

CHAIRMAN WINSTEAD: And hopefully, as soon as possible. We just moved in the other day.

I also, obviously, encourage those that have stirred interest and have additional perspective to share with us, obviously, send in written or online testimony and on the 26th, we're going to be Chicago.

Gerry's working on a spot for us to have our hearing out there. So, we would hope that other, perhaps airlines, travel agents, and other interested members of the industry will join us there.

Our task, I think we started out, was very clear, in terms of what Congress charged us with, and I think we've talked through almost all those issues. I think, from the standpoint of this hearing, we certainly have achieved one of our major objectives, and that was, clearly, to have an open record and to try to have a diversity of views on the subject that we've been asked to report back to Congress and the administration on.

I think the perceptions and the issues vary largely, in terms of the position and the distribution chain, but we certainly have had some great suggestions today. I mean, we've had both requests for the Commission to consider certain things in its recommendations and the report, and we've also had some options that have been tossed out here for consideration, that might benefit certain of the travel agency interests and others.

So, I think we've certainly learned a lot, and I don't want to prejudice any of our considerations or debate from here going forward, but clearly, in terms of the traveling public, the airline industry and the travel agents have a very important role to play and everybody that testified today. And we look forward to working with you all and to working through the Commission's activities.

I will say that we're trying to manage our hearing schedule to have, basically, all solicitation of testimony witnesses by the beginning of August, because we do have a timeline of getting a report done by the middle of November. And we need to have time to meet, and to digest the input, and to draft a final report.

But I wanted to just, again, thank you all for taking the full day with us and I just open it up, if any commissioners have any closing comments they would like to make, be happy to -- Gerry or --

MR. ROPER: No.

CHAIRMAN WINSTEAD: -- you're not? Great. Well, thank you all again.

(Whereupon, the proceedings in the above-entitled matter was concluded at 4:38 p.m.)