

Remarks of David Winstead, Chairman
National Commission to Ensure Consumer
Information and Choice in the Airline Industry
National Press Club, Washington, D.C.
November 13, 2002

Thank you, Dick. And thank you for your outstanding work in guiding the Commission and its staff through the past six months.

Today, I have the honor of transmitting to President Bush and to the members of Congress the report of the National Commission to Ensure Consumer Information and Choice in the Airline Industry. The Commission, created by Congress, came into existence on May 16, 2002, and will submit this report within the six-month period required by statute.

The legislation required the Commission to study, first, whether the financial condition of travel agents is declining and, if so, its effect on consumers; and, secondly, whether there are impediments to obtaining information about airline industry services and products and, if so, the effects of such impediments on travel agents, online distributors and consumers.

The airlines held hearings in Washington--twice, Chicago and San Francisco. We heard from numerous travel agents as well as airlines, computerized reservation system companies and other industry experts. Some 33 witnesses in all.

As the chairman, I was privileged to work with a group of eight hard-working and dedicated commissioners who took time from their important jobs to study the difficult economic issues that needed to be understood before conclusions could be reached and a report written. Many of these commissioners are with us today and they are all identified, with brief bios, in your press kit.

Our study found that the travel agency industry has been severely impacted by the events of the last several years. More than a third of all travel agencies have disappeared since their peak of 24,000 agencies in 1994.

This substantial decline has been due to several factors:

The elimination of airline commissions was, of course, a key issue. The American Society of Travel Agents (ASTA) testified that “as airlines have continued to reduce and then eliminate agency commissions, many agencies have been forced out of business. Those that survive are inevitably being forced to charge higher service fees, placing travel agent services beyond the means of millions of consumers.

The development of the Internet has also had a major impact on travel agents, as consumers make their travel purchases online. We found that two-thirds of all adults have access to the Internet; 66 percent use it to get travel information, and 42 percent actually buy or make a reservation for travel.

In its testimony, Delta summed it up: “The e-commerce revolution has dramatically improved the access of every consumer to air travel information. Consumers now have more options than just calling an individual airline reservation system or using a travel agent in order to obtain airline tickets.” We found that today, “anyone with a connection to the Internet has direct access to every airline’s schedule and published fares—information that is as sophisticated and complete as that delivered through the old CRS systems.”

The sharp reductions in travel spending tied to the recession and post-9/11 environment has been the final blow for many agencies. Many agencies could not survive even with service fees when traffic declined so substantially. According to our findings, “Perhaps no other industry has suffered as much in the last two years as air transportation and its affiliated businesses, including the travel agency industry.”

Finally, the airlines' strategy of encouraging travelers to bypass agents has had an effect. This is sometimes called "disintermediation", but "bypass" is simpler. That strategy has two elements – driving traffic to each carrier's web site, and the establishment of an online agency, Orbitz, owned by five major carriers. The airlines argued that web fares are lower because they avoid the cost of CRS booking fees and commissions. But we believe that there are more strategic reasons for this differential. The airlines want to attract consumers to their web sites, and do not want the consumer to use intermediaries that would give objective advice about airline choices.

The Commission found, however, that the decline in travel agents did not have an adverse impact on consumers because the Internet gives them more access to travel information than they ever had before. For the same reason, we also found that, even with the reduction in travel agents, there were no impediments for consumers in obtaining travel information.

The Commission did make several findings about the continued importance of travel agents. These included findings that the survival of travel agents to provide an independent source of information is important to protect consumers; that the Internet does not always produce better results than traditional travel agents; and that the refusal of airlines to make web fares available to agents through CRS's is an impediment to efficient operation of agencies. We were seriously concerned with the financial health of the travel agency industry, but we were unable to recommend new legislation or regulations that would reverse the trend toward industry consolidation.

While we had numerous proposals for regulation, and weighed each of them carefully, we believe that most of the proposals were designed to protect competitors rather than to benefit consumers. Rather than interfere with competition, we chose to allow market forces to drive the direction of travel distribution, and did not recommend measures to artificially protect one interest over another. As one witness stated, "Any

regulatory intervention that restricts competition will inevitably result in less choice and higher prices for consumers.”

On one proposal made by agencies and CRS’s, we did not support mandating that web fares be made available to all travel intermediaries. We believed that, if airlines did not retain flexibility in choosing distribution channels, they might withdraw some web fares altogether. Doing that would harm consumers more than it would help agents.

There were several major developments during the course of the Commission’s existence that suggested that improved agent access to web fares would ultimately be achieved in the marketplace. We learned about third party web search tools that enable agents to search airline web sites concurrently, rather than consecutively, and were concerned about the efforts of some airlines to block access of such software to their web fares. Our position is that, if airlines publish fares beyond their own individual sites, they should be available to consumers through modern technology, so long as this does not impose an undue burden on carrier systems.

We did not recommend legislation or regulation with respect to the online agent, Orbitz, but did have concerns about it, in particular about its ownership by the five largest airlines. It is the collective action that concerns the Commission. We recommended that the government immediately consider whether Orbitz should be allowed to maintain contract clauses that allegedly keep airlines from offering web fares to other agents. These most-favored-nation and marketing incentive clauses were strongly criticized by travel agents, CRSs, and online agency competitors. We believe that the Departments of Justice and Transportation move forward expeditiously to conclude their investigations of these claims.

The Commission also recommended the following actions that could help agents compete more effectively in the future:

(1) Agents should be protected from the arbitrary action of airlines in debit memo disputes. This should be done by amending and strengthening the Travel Agent Arbiter program so that it can adjudicate disputed debit memo claims. The arbiter could serve as the neutral party so clearly needed to relieve this burden.

(2) The industry should provide travel agents a special box on tickets to include their service fee charges. The Commissions believes that feature would be more efficient for agents, and would provide consumers with better information on the elements comprising their ticket purchases.

In addition, to ensure that Congress stays abreast of developments in this area, DOT should be required to report to Congress every two years on distribution issues.

Despite the decline in the number of travel agencies, agents still sell the majority of airline tickets in the U.S. The new technology is gradually changing those numbers, but the Commission believes that agents do, and will continue, to provide valuable services to consumers.

You know, travel agents were vital to the growth of air travel in the United States, representing the airlines in smaller cities and towns throughout the country. In many cases it was travel agents who cajoled people into flying the early DC-3s before and after World War II.

Today, airlines seem no longer interested in such a partnering arrangement, but millions of Americans still depend on the services of agents in their communities. That requirement has not changed, and many agents have begun to capitalize on the new business environment. Travel agents that have changed are prospering.

The Commission believes that expert advice from travel advisors will remain a vital service in the marketplace. Still, the government must be vigilant to ensure that the services of travel agents remain available to consumers. It must also ensure that future

changes in distribution do not deprive consumers of the benefits they have already received from the development of the Internet.

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