

“YOUTH FARES—CHAPTER TWO”

BY

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Over the past two years the problems of discount fares have taken on new and urgent aspects, and a great deal of public interest has been evidenced. The domestic youth fare case is presently in its third round

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* About midway of these events my curiosity as to the views of the public, which might be reflected in the incoming correspondence, again got the better of me and I renewed my examination of the mail which, remindful of 1969, was increasing. I will give a few samples. I found that some favored the youth fares, as one from Buffalo who put it this way:

“. . . the additional business . . . should be beneficial. . . . Besides, keeping youths on the planes decreases hitchhiking. . . .”

But others viewed the matter differently as one from Cleveland:

“She and I both think we are nice people but we dislike .. being told . . . we should pay . . . 2 ½ times the price a youth pays. . . .”

And this from New Jersey:

“Where is my equality?”

And this from California:

“We are paying through our grindstone-honed noses for the right of the young to turn up its collective nose at our lack of global insight.”

And this from Washington:

“. . . You see, Dad, . . . you cannot afford the trip . . . so give me \$200 and I'll go.”

And this from New York:

“Unresponsive as your agency has always been to the wishes of the people, I still want to let you know that there are two seething people at the above address.”

And another from New York:

“The . . . reduced rate is a typical example of the ‘Corporate State’ doing anything short of murder to reap a profit. . . .”

And this from Philadelphia:

“It seems . . . that the airlines have a tendency to think backwards.”

And this from Evanston:

“Every time I read the ads . . . about youth . . . fares to Europe I get mad. . . .”

And this from Brooklyn:

“This is the first time in my life that I have ever written a letter while feeling so angry.”

And this from Seattle:

“Frankly this just burns me up.”

And this from Islip:

“I am ready to man the barricades to correct this offense and I call ‘to arms the citizens of middle age.’”

And this from New York:

before the Board, and an international youth fare case is in its preliminary stages. I will, accordingly, address the subject of youth fares and expand it to other discounts. It may be observed to begin with that in 1969 about 42 percent of domestic air transportation was performed at discount rates of one kind or another.

In the interval the industry has experienced a good deal of buffeting, a buffeting nourished by the introduction of the wide-bodied jet. The Board has likewise had its share. There have been those who would constrain us, others who would merge us, others divide us, others add to our powers, and still others would terminate our functions altogether.

The Board's authorities to regulate domestic fares on the one hand, and international fares on the other, are by no means precisely the same.

A primary test applicable to both is that of unjust discrimination, *i.e.*, that of even-handed treatment of customers. The Board may order a formal investigation of any tariff, domestic or international, which on its face appears to fail this test.

Another primary test but applicable only to domestic tariffs is that of reasonableness. This is the economic test and, very broadly stated, is whether the fare will make a reasonable contribution to earnings. The Board may order a formal investigation of a domestic tariff which on its face appears to fail this test, but it has no authority to do so with an international tariff.

Furthermore, it may suspend the effectiveness of a domestic tariff for

"I write this letter to express my anger at the arbitrary, capricious and outright monopolistic-minded attitude of your organization."

And another from New York:

"After I complete this letter I am going to try to compose my emotions and write a list of grievances . . . in preparation for consultation with the local chapter of the ACLU."

And still another from New York:

"I find this . . . a violation of my civil rights."

And this from Massachusetts:

"It is your job to regulate fares. Why don't you do it?"

And this from New Jersey:

"May I remind you that your job is political and that my contemporaries and I are active registered voters. . . ."

And from Boston:

"You august gentlemen are derelict in your duty and you should all resign without delay. . . ."

And this from Pittsburgh:

". . . the discriminatory age limits imposed by the CAB violate the Constitution. . . . Besides, who needs the CAB anyway? . . . the CAB seems to me a parasite on the body of mankind. . . ."

a time during a period of investigation, but may not do so in the case of an international tariff.

The youth fares before the Board in 1969, all of them domestic, provided discount rates for those under 22 years of age. They were intended as promotional and many of them were aimed at more economical distribution of traffic. They were of two classes—standby fares at 50 percent discount subject to some blackout periods, and reservation fares at 33-1/3 percent discount. The Transcontinental Bus System filed a complaint. On this first round the Board was of the opinion that investigation was not required, and so ruled. On appeal, however, the court reversed, saying that absent justification on a record the fares appeared to be unjustly discriminatory. Accordingly, the Board sent the case to an examiner to make a record but who, based thereon, indeed found the fares to be unjustly discriminatory.¹ Thus the case reached the Board for consideration on the second round.

The Board's correspondence file at once began to accumulate letters in record-breaking quantity. The very numerous authors were by no means commonly motivated, nor did they express a like view. But whatever the view, it was usually expressed with emphasis, ornamented with colorful language, and sometimes the Board was unfavorably described.

On review of the examiner's decision on this second round the Board tentatively reversed him upon the issue of unjust discrimination, but returned the case to him primarily to reexamine the question of reasonableness, *i.e.*, the economic test, about which the Board had doubts.

By this time a series of events had begun tending to sidetrack major focus on the subject of youth fares. This came about because the industry was approaching the bottom of the deepest economic trough it has entered in the 45 years of its existence. Costs were outstripping revenues, earnings were in the red, there was talk of insolvencies, bankruptcies, and other calamitous things. In some instances there were doubts as to whether services could continue.

The hard pressed carriers became much more interested in the potentials of a nominal upswing in the fares of the passengers they already had, than in the advocacy of ventures of uncertain profitability. As one carrier official put it to the Board: ". . . what we are talking about today is what we can do to keep ourselves alive, until we can do the right thing, which I believe everybody recognizes is desirable."² Accordingly, there ensued a

1. I.D. Exam. Arthur S. Present, Jan. 21, 1969. Standby Youth Fares, Dkt. 18936.

2. Trans. of Conf. with Domestic Carriers, Aug. 14, 1969, Statement of F.C. Wisner, Pres., Trans World Airlines, p. 53.

great proliferation of new tariff filings seeking increased revenues.

The Board dealt with this state of affairs in two stages. First, following upon thorough staff studies tested under industry criticism, and amid a great deal of legal controversy, the Board allowed some general fare increases over a broad range, carefully allocated among different kinds of services. Among other results was substantial narrowing of the youth fare discounts.

The second was the launching of the Domestic Passenger Fare Investigation, perhaps the most exhaustive, thorough, comprehensive, and capacity taxing formal investigation the Board has ever undertaken on any subject, which put not only fare levels and structure in issue but nearly every one of the many ramifications of the regulation of domestic passenger fares. The investigation has now efficiently reached its final stages. In the course of it further increases have been allowed, and, depending in some degree on any post price freeze, more are possible.

Meanwhile, however, the examiner had again performed his duty with the domestic youth fare case; this time agreeing with the Board in its tentative view that the fares were not unjustly discriminatory, resolved the question of reasonableness affirmatively, and returned it to the Board where it was incorporated in the Discount Fares Phase of the Domestic Passenger Fare Investigation, and awaits final decision in the third round.³ That is essentially the present state of the matter regarding domestic youth fares.

While these events were transpiring another series began destined to renew attention to youth fares and with greater intensity. They arose in international transportation.

Until the early 1960's the endeavors of the U.S. supplemental carriers, *i.e.*, carriers who hold no scheduled route authority, and are expected to confine their activities to charters, had not been profitable. This may have been due in part to the uncertain nature of their status which was supported only by exemption orders. About that time the Congress enacted a new law which authorized the Board to formally license them. Thereafter these carriers progressed and by the early 1970's had attained a very considerable share of the transatlantic passenger market. In 1970 there were nearly 2 million charter passengers between the United States and Europe. More than two-thirds of them were transported by charter carries, U.S. and foreign.

It is not for me now to express an opinion as to whether or not this

3. I.D. Exam. Arthur S. Present, Dec. 2, 1970. Domestic Passenger Fare Investigation-Discount Fares, Dkt. 21866-5. CAB Order 70-2-121, Feb. 26, 1970.

has been newly developed traffic of a particular kind and stimulative of the entire market, as it is considered to be by the supplementals, or whether it is a part of normal growth and highly diverted from the scheduled route carriers, as viewed by them. It is not the facts, but what people think, which motivates action. It may be observed that there is more than one type of action that can behave like a boomerang. The scheduled carriers began to cast about for ways and means for action.

A very great deal of the appeal of the charters undoubtedly lay in low cost to the passengers. The North Atlantic route carriers took action by a multiplicity of discount fares agreed to in IATA, excursion, GIT, affinity and incentive group fares, with variations in depth of discount, required numbers, length of stay, seasonability, peaking, and in other aspects, which, when normal fares are added, and to the distress of many travel agents, has reached a present effective total of 48. Since the last IATA agreement, however, the scheduled carriers continued to cast around and some of them began to take particular interest in the fact that many of the charters are filled with youths.

There were two barriers to the scheme which one or more of the European carriers developed. One was the existing IATA agreement concerning discount fares. That could be gotten around if the carrier's government would direct the introduction of a nonconforming fare. The other was that although the Civil Aeronautics Board had not been given jurisdiction over the reasonableness of international rates, or power to suspend tariffs, it did have jurisdiction over unjust discrimination, power to investigate, and power at the end of the investigation to take some action. But the European carriers or their U.S. representatives had followed the course of the domestic youth fare case with interest, and had taken note of the fact that the examiner, and the Board, albeit tentatively, had already held that youth fares were not unjustly discriminatory. International youth discount fares then, it may be surmised, appeared to offer a particularly attractive opportunity to improve competitive position.

There then began a series of filings of transatlantic student fares and youth fares at discounts more than fifty percent below economy class, and usually with age limits extended considerably above those applicable to domestic youth fares, albeit they all required nominal reservation periods.

The first of these occurred in mid-spring. It applied to the New York-Belgium market, and was made effective May 27, 1971 at a basic price of \$200 round trip. This tariff was observed and caused concern to carriers who did not serve this market, lest their traffic in other markets be diverted. Accordingly it was followed by others variously covering services

to Amsterdam, Paris, Frankfurt, London, Glasgow, Zurich, Copenhagen, Oslo, Stockholm, Belfast, Shannon, Helsinki, Prague, Tel Aviv and Moscow. Many of them were extended to other U.S. points, and to other points in the respective countries in Europe. Fares at similar distances were the same as the Belgian fare, but adjusted upward or downward if distances varied materially. This great proliferation of such sharply reduced selective discount fares began to cause concern in official circles lest the carriers had considerably overreached, and the Board took an initial step by cautioning that student discount fares, which many of these were, as distinguished from discount fares available to all youths, had long been considered to be unjustly discriminatory.⁴

In June, one of the European carriers filed a youth fare tariff New York-Rome at \$199—which on a distance basis was much lower than any theretofore filed. There were no advance reservation requirements, and the fare was for year-around application. Furthermore, it was a short-notice filing, *i.e.* the carrier proposed to place it in operation immediately, and it proceeded to advertise, sell tickets, and transport passengers. The Board had neither obligation nor disposition to permit effectiveness before the expiration of the statutory period of thirty days. Accordingly, it rejected the short-notice filing and turned the matter over to its Bureau of Enforcement.

This lack of welcome caused the carrier to become unhappy. In one of its several efforts to persuade the Board to change its mind it said—that the Board's rejection, in relation to its fundamental problem, was “like trying to destroy an enormous iceberg with a two-inch screwdriver.” Furthermore, it said, considerately, “the effect . . . is clearly contrary to the interests of the youthful American traveler.” Both of these propositions, of course, may be so.

These transatlantic youth fares were not, in their turn, overlooked by the charter carriers. The National Air Carrier Association promptly filed a complaint asserting that the youth fares are unjustly discriminatory and asking an expedited investigation. This was quickly supplemented by the United States Department of Transportation, likewise asserting that the youth fares are unjustly discriminatory and asking for an investigation. Quite likely these complaints in their turn attracted the attention of the route carriers, many of whom had filed the youth fares primarily for competitive reasons.

About this time the members of the International Association of Air

*4. Letters from students.

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Transport Airlines met at Montreal in the hope of creating some order. But the fare structure which finally evolved, and was acquiesced in by the majority, is essentially the current structure to which would be added an off-season group inclusive tour fare, a youth fare at \$195 basic, and as a principal new ingredient an advance purchase fare, called APEX, likewise at \$195 basic. This last, at least, "shares the wealth," if there is any. But the package would appear to add to the already complex nature of the structure. But not all of the carriers agreed and it now appears that as of February 1, 1972 an open rate situation may exist over the North Atlantic.

On September 15, 1971 Lufthansa filed tariffs for February 1, 1972 effectiveness. That package does possess the virtue of simplicity. It embraces regular economy fare New York-Germany at \$420 or \$116 less than present services, a 14-45 day excursion fare at \$210 basic, a 21-day, 5-passenger group inclusive tour fare at \$180, and youth fare at \$195 basic. But it is reported that the carrier, in announcing the fares, frankly acknowledged that profitability is not expected during the first year of operations. If this is so it means that a great deal of new traffic, at least new to Lufthansa, must be developed in order to bring the operations into eventual profitability. The Lufthansa fares were matched by other carriers and stimulated other innovative filings. KLM has offered a senior citizen fare at youth fare levels.

According to the Aviation Daily, on September 22, the German supplemental carrier, Atlantas Airways, announced a round trip New York charter rate at \$135 for February 1, 1972 effectiveness, and that the North American manager stated that the services will probably have to be subsidized from other services to Spain and the Mediterranean. The Daily also recently carried a line to the effect that the transatlantic situation has become so chaotic, that the going rate for under-the-counter tickets is said to be as low as \$45 one way.

Evidence of fallout from the transatlantic situation on scheduled route carriers elsewhere commenced long ere this, *i.e.*, scheduled carriers serving other markets began to perceive the potential diversionary impact. For effective date in August, Aeronaves de Mexico filed youth fare tariffs U.S. Mexico at about one-half the economy rate. These were quickly followed by other carriers.

Evidenced of the fallout has also begun to appear in the domestic markets and has nourished a second reversal in carrier interest in the characteristics of new tariffs. A multiplicity of new and varying discount fares have been filed, some have been suspended, and many have gone into

effect. As put by the Board's eminently capable director of the Bureau of Economics, Mr. Robert J. Sherer—"We've got a lot of swinging deals on file here." Typical supporting language included in a new carrier filing is as follows: "The current and expected additional reductions in promotional fares on the North Atlantic creates substantial new competition for the U.S. domestic travel market. Domestic promotional fare offerings must be available to meet this competition."

That there is an effect upon the fortunes of the domestic carriers can hardly be doubted for many a potential passenger is likely to be diverted from a domestic trip, if he can cross the Atlantic at a lower price. Furthermore, he is quite likely to be diverted by a discount rate of another domestic carrier established to hold its market against the competitive influence of the international markets. It seems much more than possible that this state of affairs will continue, and the dominos to tumble, and with accelerating rapidity, until and unless means are found to bring it under control.

On September 1, 1971 the Board did indeed enter an order for a formal investigation into the question of whether or not the international youth fares are unjustly discriminatory.⁵ This is the beginning of round one. In doing so it made mention of the fact that the New York-London fare represents discounts of 62 and 58 percent, and the New York-Rome fare discounts of 72 and 66 percent, below present economy levels, whereas the domestic youth fares now in effect represent discounts of but 20 and 33 percent. It observed that the international youth fares involve significant differences from domestic youth fares, that they encompass a broader age span, and are subject to different levels in relation to normal fares. This is a more ambitious proceeding of its kind than the Board has undertaken before, and it will undoubtedly be highly controversial. But if the fares prove to be unreasonable, *i.e.*, uneconomic, as it appears they may be, the Board is without statutory authority to strike them down on that ground, nor can it suspend them during the period of investigation. On October 18 the Board ordered an investigation of the KLM senior citizen fare similar to that of the youth fares.⁶

The Board at this point has completed no evaluation of the economic impact of either the Montreal or Lufthansa proposals, and pending that I can express no firm opinion concerning them, much less of other proposals which they may trigger. On the other hand I am in no position to say that the situation is not fraught with danger which extends not only to

5. CAB Order 71-9-3.

6. CAB Order 70-10-71.

the carriers but to the public. Although the North Atlantic carriers made a subsequent effort to patch their differences in a conference in Lausanne; that conference broke down on October 30.

What is urgently needed is that the Board's authority to deal with international rates be expanded sufficiently to permit it to come adequately to grips with the situation. This is a power possessed by the aeronautical authorities of virtually all other governments. The historical method of dealing with international rates by the United States has lain in the Board's veto power over IATA agreements. This power has never been adequate, has several times failed in its exercise, and as it pertains to the problems which now confront us, exists not at all.

In calling hearings for October 19 on a bill to give the Board an expanded role, Senator Howard W. Cannon, Chairman of the Commerce Subcommittee on Aviation of the United State Senate among other things said:

“Only with fares that are fully compensatory and economical can carriers maintain the safety and quality of services that has established aviation as the superior form of public transportation throughout the world.”⁷

The first witness was the CAB Chairman, Secor Browne. His major emphasis was this:

“. . . the need . . . is to put the United States on a basis of equality . . . with foreign governments.”⁸

The regulation of rates is a miserable business at best. The passengers don't like fares and would much prefer to do without them. Furthermore, if there were no fares the carriers would be relieved of a tremendous administrative burden and there would be appreciable savings in costs. But thus far no one has come forward with any plan whereby air transport services can be provided without fares. Until someone does we may expect to continue to have them. Fares should be adequate, they should be reasonable, and they should be even-handed. The Board will continue to do its best with such tools as it has to see that they are. We could use some more.

7. Release from Off. of Sen. Howard W. Cannon, Washington, D.C., Sept. 17, 1971, p.2.

8. Statement of Secor Browne, Chairman, CAB, before the Subcom. on Aviation of the Com. on Commerce, U.S. Sen., Oct. 19, 1971, p. 9.

