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BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
DOCKETS
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In the matter of

THIRD EXTENSION OF COMPUTER
RESERVATION SYSTEMS (CRS)
REGULATIONS

Docket OST-2000-6984 - 5

RESPONSE OF THE
AMERICAN SOCIETY OF TRAVEL AGENTS, INC.

Communications with respect to this document should be sent to:

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The American Society of Travel Agents, Inc. ("ASTA") hereby responds to the Department's proposal to extend the expiration date of the CRS regulations, 14 CFR Part 255, until March 31, 2001.

Clearly the Department is not ready to propose a final rule in this proceeding. As between terminating the rules in two weeks or extending them for another year, the latter course is plainly the only viable path.

ASTA believes, however, that this extension should not be used as the basis for simply continuing with regulatory business as usual. The Department recognized in the extension proposal that "some issues may be of such overriding importance that they should be addressed before the completion of the overall reexamination of the rules." 65 Fed. Reg. At 11010.

While there are a number of possibilities for such treatment, ASTA strongly believes that the leading candidate is section 255.10, the rule that directs the CRS vendors to sell to all carriers the travel agency-generated transaction data that it generates "from its system." The Department should immediately begin a proceeding

to terminate this rule at the earliest possible date, or, alternatively, to restrict its effect to transactions in which the system owner is a party (i.e., any transaction for transportation on the vendor owner's lines and any interline participating carrier in those particular transactions).

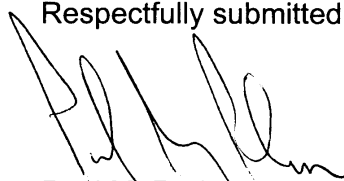
We have reexamined all of the historical justifications for the data sharing rule, going back to 1984. The sole basis for it appears to be that any attempt to restrict the use of the data by a system owner would be unenforceable and, therefore, the conclusion was to compel the sharing of the data with all carriers with the resources to pay for it. The effect of the rule is to provide competing airlines with information that, in the absence of airline ownership of CRS vendors (a condition toward which the industry appears to be moving), carriers would not be able to obtain lawfully in direct exchanges with each other.

Imagine a scenario in which representatives of the major airlines sit in a room together and pass across the table nearly current information about each transaction initiated by a common agency, such that each carrier then learns, in near real-time, what the agent is selling on each carrier in the room. This data includes identity of the customer, the class of service, price paid, date of purchase and the route selected. Can there be any doubt that such an information exchange would be viewed as unlawful as price-fixing, in that its main, perhaps sole, purpose and effect is to stabilize and/or eliminate price competition among the participants in the data exchange? Companies engaged in competitive bidding usually do not know all the details of their competitors' business transactions. Airlines should be in the same position.

Why then mandate the opposite outcome on an industry-wide basis? The only clearly stated reason that appears in the historical record is that a prohibition on the data exchange would be “unenforceable.” Why this should be so is not apparent. The rationale is repeated throughout the evolution of the regulations but never really explained. Why, for example, would it not be possible to enforce a rule that prohibits the generation of information for any CRS owner-airline except information about transactions to which that airline is a party? Violations would be detected when an airline possessed of inappropriate information surfaced a marketing campaign around it.

The changes occurring in the distribution of information warrant an immediate look at this rule whose sole effect appears to be the elimination of uncertainty that normally characterizes competitive operations. ASTA therefore asks the Department to schedule an expedited review of section 255.10 while the rest of the proceeding on the overall CRS regulations goes forward.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul M. Ruden', written in a cursive style.

Paul M. Ruden
Attorney for the American
Society of Travel Agents, Inc.

March 14, 2000