

Y 4  
. C 73/2

1047

94-94  
C 73/2  
94-94

94-94 AMEND THE FEDERAL AVIATION ACT OF 1958  
RELATING TO TARIFF CHANGES

GOVERNMENT  
Storage

DOCUMENTS

JUL 22 1976

THE LIBRARY  
KANSAS STATE UNIVERSITY

HEARING  
BEFORE THE  
SUBCOMMITTEE ON AVIATION  
OF THE  
COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

H.R. 7017

TO AMEND THE FEDERAL AVIATION ACT OF 1958 RELATING  
TO TARIFF CHANGES

JULY 22, 1976

Serial No. 94-94

Printed for the use of the Committee on Commerce



KSU LIBRARIES  
A11900 953243 ✓

4  
5/27/5  
94-94

Handwritten notes and numbers in the top left corner.

AMEND THE FEDERAL AVIATION ACT OF 1958  
RELATING TO TARIFF CHARGES

DOCUMENTS

THE LIBRARY  
KANSAS STATE UNIVERSITY

COMMITTEE ON COMMERCE

WARREN G. MAGNUSON, Washington, *Chairman*

JOHN O. PASTORE, Rhode Island  
VANCE HARTKE, Indiana  
PHILIP A. HART, Michigan  
HOWARD W. CANNON, Nevada  
RUSSELL B. LONG, Louisiana  
FRANK E. MOSS, Utah  
ERNEST F. HOLLINGS, South Carolina  
DANIEL K. INOUE, Hawaii  
JOHN V. TUNNEY, California  
ADLAI E. STEVENSON, Illinois  
WENDELL H. FORD, Kentucky  
JOHN A. DURKIN, New Hampshire

JAMES B. PEARSON, Kansas  
ROBERT P. GRIFFIN, Michigan  
HOWARD H. BAKER, Jr., Tennessee  
TED STEVENS, Alaska  
J. GLENN BEALL, Maryland  
LOWELL T. WEICKER, Jr., Connecticut  
JAMES L. BUCKLEY, New York

MICHAEL PERTSCHUK, *Chief Counsel*  
S. LYNN SUTCLIFFE, *General Counsel*  
ROBERT E. GINTHER, *Professional Staff Member*  
MALCOLM M. B. STERRETT, *Minority Counsel*  
JOHN C. KIRTLAND, *Minority Staff Counsel*

SUBCOMMITTEE ON AVIATION

HOWARD W. CANNON, Nevada, *Chairman*

WARREN G. MAGNUSON, Washington  
PHILIP A. HART, Michigan  
VANCE HARTKE, Indiana  
ERNEST F. HOLLINGS, South Carolina  
DANIEL K. INOUE, Hawaii  
FRANK E. MOSS, Utah  
JOHN V. TUNNEY, California  
ADLAI E. STEVENSON, Illinois  
JOHN A. DURKIN, New Hampshire

JAMES B. PEARSON, Kansas  
HOWARD H. BAKER, Jr., Tennessee  
TED STEVENS, Alaska  
ROBERT P. GRIFFIN, Michigan  
J. GLENN BEALL, Jr., Maryland

U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON, D.C.

## CONTENTS

	Page
Opening statement by Senator Cannon-----	1
Text of H.R. 7017-----	1
Agency comments: Department of Commerce-----	2

### LIST OF WITNESSES

De Lorenzi, managing director, Public Policy Division, American Automobile Association; accompanied by Willard R. Brown, director, Agency and Industry Relations, World Wide Travel Division-----	32
Driscoll, Edward J., president, National Air Carriers Association, Inc., Washington, D.C.-----	6
Haffer, Louis P., executive vice president and counsel, Air Freight Forwarders Association; accompanied by William J. Dixon-----	24
Miller, James A., senior vice president, American Society of Travel Agents, Washington, D.C.; accompanied by Paul S. Quinn-----	21
Robson, Hon. John E., Chairman, Civil Aeronautics Board-----	3
Seybold, Leo, vice president, Federal Affairs, Air Transport Association, Washington, D.C.; accompanied by Jerome F. Huisentruit, associate general counsel; and C. Crowell Squire, president, Airline Tariff Publishers-----	26
Prepared statement-----	29
Letter of July 28, 1976-----	30
Woodward, James W., senior vice president, The Reuben H. Donnelley Corp.; accompanied by Richard A. Nelson, publication manager, Pocket Flight Guide and North American Edition of the Official Airline Guide; Frank A. Vlazny, director, customer service development; and John H. Witmer, Jr., counsel-----	10

### ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Excerpts of policy statements and economic regulations of the Civil Aeronautics Board-----	35
Greene, James W., chief, Tariffs Section, Civil Aeronautics Board, letter of October 4, 1976-----	9
Industrial Traffic League, statement-----	33
Proposed amendment to H.R. 7017, submitted by National Air Carriers Association, Inc.-----	8
Witmer, John H., Jr., letter of July 27, 1976, with attachment-----	31
Woodward, James W., The Reuben H. Donnelley Corp.:	
CAB action on 1976 fare change requests-----	16
Proposed amendments to the Federal Aviation Act-----	17
Air Traffic Conference of America, resolution No. 1.16-----	20



# AMEND THE FEDERAL AVIATION ACT OF 1958 RELATING TO TARIFF CHANGES

THURSDAY, JULY 22, 1976

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
SUBCOMMITTEE ON AVIATION,  
Washington, D.C.

The subcommittee met at 10 a.m. in room 5110 of the Dirksen Senate Office Building; Hon. Howard W. Cannon (chairman of the subcommittee) presiding.

## OPENING STATEMENT BY SENATOR CANNON

Senator CANNON. Today's hearing is on H.R. 7017, a bill passed by the House which would extend the advance filing requirement for airline tariffs from the present 30 days to 45 days.

The bill would also require the Civil Aeronautics Board (CAB), in approving or disapproving tariff changes do this no less than 15 days prior to the tariff's effective date.

This bill when passed will do much to lessen the confusion and misunderstanding which invariably occurs when airlines raise or lower their fares. Under current law, public and travel industry have little advance knowledge of what final action on tariff change is likely to be. The result is often last-minute chaos at the ticket counter and loss of consumer confidence in airline or Government pricing practices. In addition, last-minute fare filings and CAB suspension at the 11th hour often results in passengers being charged incorrect fares.

The bill before us today would insure more adequate opportunity for the public, CAB, and travel industry to become familiar with tariff changes and to plan accordingly.

We have invited governmental and travel witnesses today to present testimony on the bill and amendments which several organizations would proposed.

[The bill and agency comments follow:]

[H.R. 7017, 94th Cong., 2d sess.]

AN ACT To amend the Federal Aviation Act of 1958 relating to tariff changes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 403(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1373) is amended to read as follows: "No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff—*

*"(1) of any air carrier, or foreign air carrier, directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of*

Staff members assigned to this hearing: Robert Ginther and John Kirtland.

property in air transportation, except after sixty days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section; and

"(2) (A) of any air carrier, or foreign air carrier, if such rate, fare, or charge is for the carriage of persons in air transportation, or (B) of any air carrier, or foreign air carrier, not directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after forty-five days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section."

(b) The first sentence of section 1002(g) of such Act (49 U.S.C. 1482) is amended by inserting "at least fifteen days before the day on which such tariff would otherwise go into effect" immediately after "and delivering to the air carrier affected thereby."

SEC. 2. (a) The amendment made by subsection (a) of the first section of this Act shall apply to any tariff change filed by any air carrier or foreign air carrier in accordance with section 403(c) of the Federal Aviation Act of 1958 after the thirtieth day after the date of enactment of this Act.

(b) The amendment made by subsection (b) of the first section of this Act shall apply to any tariff change filed by any air carrier for interstate or overseas air transportation in accordance with section 403(c) of the Federal Aviation Act of 1958 after the thirtieth day after the date of enactment of this Act.

---

GENERAL COUNSEL,  
OF THE DEPARTMENT OF COMMERCE,  
Washington, D.C., March 25, 1976.

Hon. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce, U.S. Senate,  
Washington, D.C.

DEAR MR. CHAIRMAN: We understand that H.R. 7017, an act "To amend the Federal Aviation Act of 1958 relating to tariff changes," is currently pending before your Committee.

H.R. 7017 would (1) require the airlines to file proposed tariff changes at least 45 days in advance of effective date; (2) limit the period during which the Board may suspend a proposed tariff to 30 days from the filing date; and, in effect (3) give the public, travel agents and the airlines at least 15 days advance notice of a tariff change.

Under the present law, (1) airline tariff proposals must be filed with the Civil Aeronautics Board 30 days before their effective date, and (2) if opposed by the Board, may be suspended any time before the expiration of the 30 days.

The proposed tariff goes into force automatically if it is not suspended at the end of 30 days; however, in practice, it may be suspended any time up to one day before it would otherwise take effect.

This fact increases the likelihood that incorrect fare information will be inadvertently quoted to the traveling public by travel agents and airlines who must book reservations *in advance* of flight departure. Faced with the prospect of an impending fare change, many agents are in doubt as to which tariff to quote during the interim period, the existing or the proposed fare. Foreign travel agents booking connections for clients on U.S. domestic carriers are confronted with the same problem. German tour operators complained only this month, during a meeting in Frankfurt, that late publication of domestic U.S. air fares has made it necessary to collect additional fares for tour programs based on fares formerly in effect.

Uncertainty over fare levels also affects the U.S.'s ability to compete for international congress and convention business, and discourages foreign travel agents from offering post-congress air tours held in conjunction with international congresses held in the U.S.A. Research study conducted for USTS in 1974, *The Character and Volume of the International Convention and Congress Market*, revealed that the congress-travel departments of several major European travel agencies are concerned over what they perceive to be "the impossibility" of accurately forecasting air fare levels over even short periods. One agency cited the instance of having to bill each of 250 European physicians attending a Congress in North America an unexpected additional \$100 per person due to fare rises, a fact which, the agency felt, would reflect adversely on it.

The proposed act would solve the problem of late publication by giving travel agents, tour operators and the public at least 15 days notice of tariff changes.

In view of its legislative mandate to encourage, promote and develop travel within the U.S., its territories and possessions; to promote travel to the United States by residents of foreign countries; and to encourage the simplification, reduction, or elimination of barriers to travel, and the facilitation of travel generally, the Department favors enactment of H.R. 7017.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

T. C. SMITH,  
*General Counsel.*

Senator CANNON. Our first witness is Mr. John E. Robson, Chairman of the CAB.

Mr. Chairman, we are glad to have you here with us today.

**STATEMENT OF HON. JOHN E. ROBSON, CHAIRMAN, CIVIL  
AERONAUTICS BOARD**

Mr. ROBSON. Thank you, Mr. Chairman.

It is my pleasure to appear before you today to offer the Board's views with respect to H.R. 7017, legislation that would increase the minimum filing period for tariffs.

Under the bill reported out of the House Committee on Transportation and Public Works, the period for filing tariffs would be generally extended from the current 30 days to 45 days.

A special provision of the bill would require the filing of freight rates by airlines 60 days in advance of their effectiveness in order to permit air freight forwarders to adjust their own rates and file their own tariffs within the new 45-day period.

In addition, the bill would require the Board to suspend a proposed tariff in interstate or overseas air transportation at least 15 days before the tariff would otherwise have become effective.

Currently, there is no such requirement and it is not infrequent for suspensions to be acted upon a day or two before the tariff is to become effective.

This type of legislation has been included in the Board's legislative program in recent years and we are gratified to have the opportunity to appear before you supporting H.R. 7017.

If the legislation is enacted the Board believes that air travelers would know with greater certainty that the price of their ticket would, in fact, be the price at which the transportation would be provided.

In addition, adoption of H.R. 7017 would improve the business practice of the industry.

For instance, the 15-day period between the time of a Board decision and the effective date of the fares would reduce the necessity for airlines to advertise fares with the caveat that they are "subject to CAB approval," which has been, as many of you know from your constituents, a source of consumer irritation.

The airlines also would benefit from this action because they would receive more timely notice of the suspension of a tariff by the Board and they would be able to mitigate whatever unfavorable public reaction may follow any last-minute suspension.

In short, Mr. Chairman, the Board sees no material drawbacks to this legislation. Rather, we see considerable public benefits.

The current 30-day statutory notice period allows the Board very little time to review and consider complaints which request the suspension of a proposed tariff.

The number of procedures that must be accomplished within the 30-day period often takes up most of the currently available time.

In such circumstances, the question of whether a tariff should be suspended cannot ordinarily be resolved until, at most, a few days before its proposed effective date.

As a result, the status of any tariff proposal is usually uncertain until immediately before the date on which the carrier has proposed that it become effective.

Obviously this uncertainty can result in serious inconvenience for the traveling and shipping public whether the Board suspends or does not suspend a proposed tariff.

By modifying section 403 of the act to require that the carrier give at least 45 days notice of any proposed tariff change, the traveling and shipping public and the airlines will have not less than 15 days before the tariff would otherwise go into effect to make whatever adjustments may be necessary if the Board either approves or suspends the tariff.

I realize, Mr. Chairman, that under the proposed legislation the Board would not get any additional time to work on tariff suspension problems.

However, with prudent management we can live with the 30-day period.

We believe that it is more important, from the standpoint of the public interest, that the traveling and shipping public and the airlines be able to make their plans with increased certainty.

A slightly different problem comes up in connection with tariffs in foreign air transportation.

Under section 801(b) of the Federal Aviation Act, which was added by the enactment of Public Law 92-259, any Board suspension order applicable to foreign air transportation must be submitted to the President before it becomes effective.

The President then has 10 days following such submission to disapprove the order.

As a result of this 10-day period and the 30-day notice period provided for in section 403 as it is now written, the Board currently must submit any suspension order to the President within 18 days after the filing of the proposed tariff.

This 18-day period is not adequate for users of air transportation or competing carriers to evaluate a tariff filing, formulate a meaningful complaint document to file with the Board, have answers filed by interested parties and have the staff and the Board adequately review the tariff and the related papers.

The Board has, in fact, received numerous complaints from the airlines and other persons concerning the unrealistic period allowed for these various steps.

Under the proposed legislation, 15 days would be added to the notice period for international tariff changes, and this would substantially ameliorate the present difficulties.

Finally, let me touch briefly on the matter of air freight forwarder rates.

The forwarders argue that they need a 15-day lead time following the filing of tariffs by the direct air carriers in order to adjust their own rates and file tariffs which would go into effect on the same day as the new direct air carrier rates.

Otherwise, if the airlines raise their rates, the forwarders claim that they are required to absorb the difference between the airlines rates and the forwarder rates for the 15-day period until their own new rates can become effective.

I testified before the House subcommittee considering this legislation that the Board did not believe that a special provision for air freight forwarder tariffs was really necessary.

On the other hand, the Board had no real objection to the provision.

As I mentioned earlier, the House Public Works Committee has included a special provision for air freight forwarder tariffs in its version of H.R. 7017.

While the Board does not believe that circumstances warrant the establishment of statutory tariff filing requirements that vary depending upon the carrier and subject matter involved, we do not feel so strongly as to oppose the inclusion of a separate filing requirement if this committee believes that such provision is necessary.

We simply point out that the forwarders are currently subject to the same 30-day requirement as the direct carriers and, at least to the Board's knowledge, there have been no serious problems as a result.

In short, Mr. Chairman, we see substantial advantages and no serious drawbacks to the proposed legislation and, therefore, we recommend enactment of H.R. 7017.

Senator CANNON. Thank you, Mr. Chairman.

In light of the fact that many air travelers buy tickets for air transportation more than 2 weeks in advance of their trip, do you believe that the bill could be strengthened by increasing to 60 days instead of 45 the advance filing requirements for tariffs?

Mr. ROBSON. Mr. Chairman, I think first that the statistical foundation for the assertion that the great bulk of people buy their tickets more than 2 weeks in advance, I am not sure that is sound.

But let's accept it for purposes of this discussion.

What you are doing is balancing on the one hand the individual's certainty against the desirability of letting the carriers exercise their business judgment as to what changes are needed in the marketplace within a reasonable time.

Our view on that was that 45 days strikes some balance and that 60 days is perhaps longer than needed.

Senator CANNON. The supplemental carriers will testify that charter tariffs, which generally vary from one trip to the next, should not be subject to 45- or 60-day advance filing because of the many differences between schedules and charter tariffs. Will you give the Board's assessment of that argument and make a recommendation with regard to whether we should treat the chartered tariffs differently than scheduled tariffs?

Mr. ROBSON. My impression would be, Senator Cannon, that the retention of the present 30-day period for charter rates would not create any significant problem.

The difficulty has arisen more in the area of fares for scheduled services.

On the face of it I don't see that that would create a big problem. Indeed, I think in our own legislative regulatory reform package, with respect to domestic charter transportation, we would only require the filing of rules tariffs, tariffs dealing with the nonprice aspects of transportation with charter.

So I think we would see no great difficulty with that.

Senator CANNON. What leads to the Board ruling on tariff changes only hours before they are scheduled to go into effect?

Mr. ROBSON. Time, Mr. Chairman.

Perhaps I could briefly describe the procedural steps.

A tariff is filed and, as you are aware, under law, unless the Board acts to suspend within 30 days the tariff becomes effective.

We have a 12-day period after a tariff is filed, during which complaints against that tariff may be filed by anyone who wishes to complain.

Then a 6-day period following the 12-day complaint period during which answers, or support of those complaints may be filed.

You have now used up 18 days since the filing of the tariff.

That leaves the Board with 12 days to complete its analysis and either take suspension action or determine to let the tariffs go into effect.

Frankly, that just isn't very much time. And we find ourselves unhappily, but with some frenzy, at the last hour taking action on tariffs.

I will be the first to concede that it has created a great deal of confusion when there are these last-minute changes, and that is why we think the 15-day notice period here is a darn good idea.

While it doesn't give us any more time, it does avert this last-minute effective date problem.

Senator CANNON. Thank you very much, Mr. Chairman.

Mr. ROBSON. Thank you, Mr. Chairman.

Senator CANNON. We appreciate your being here.

The next witness, Mr. Edward J. Driscoll, president of NACA.

#### STATEMENT OF EDWARD J. DRISCOLL, PRESIDENT, NATIONAL AIR CARRIERS ASSOCIATION, INC., WASHINGTON, D.C.

Mr. DRISCOLL. Mr. Chairman, we are pleased to have this opportunity to appear and state our views in connection with consideration of H.R. 7017.

This bill would amend the tariff provisions of the Federal Aviation Act in two respects:

(1) it would require air carriers to file their tariffs at least 45 days, rather than 30 days, before their effective date; and

(2) it would require the CAB, if it desires to suspend a tariff pending investigation, to so notify the carrier at least 15 days before the effective date.

Insofar as it applies to tariffs fixing scheduled fares, the bill would seem to be beneficial. The present 30-day filing period for such tariffs gives interested parties very little time to decide whether to file a complaint against a new fare, and also gives the Board very little time to decide whether to suspend such a fare.

Moreover, because of the shortness of time, the Board's suspension orders are very often issued only hours before a tariff would otherwise take effect—which, of course, can create great confusion and disruption.

The bill would alleviate these problems, thereby benefiting the Board, the carriers and the general public.

The legislation, however, was obviously drafted with scheduled tariffs in mind, and is totally unsuitable for charter tariffs. We urge, therefore, that the bill be amended to retain the present 30-day filing deadline for charter tariffs.

Let me explain the reasons for our position. Unlike scheduled fares, which are fixed unilaterally by the carriers, charter rates are generally negotiated between the charterer and the carrier.

Large charterers usually seek bids from several carriers in order to obtain the lowest possible price. Because of the nature of the charter business, charter rates differ considerably from one charter program to another, depending upon such variables as the time of the year, the day of the week, the length of the haul, the type of aircraft, the number of flights involved, the number of stops involved, the amount of ferry—or empty—mileage involved, and many other factors.

Not infrequently, after a tentative agreement has been reached, there is some change in the price because of a change in one or more of the factors I have mentioned. The charterer may find he needs more flights, or less; he may want to add a stop not originally contemplated, or eliminate one originally provided for; he may want to change the time or date of a flight, or the length of stay.

After all of these matters have been finally resolved and a firm charter contract has been executed, the carrier will generally file a specific "point-to-point" tariff reflecting the contract price.

Almost all of the supplementals' charters are performed pursuant to this type of tariff, rather than a mileage tariff, because of the many variables that affect charter prices.

Although the carriers generally do keep a general mileage tariff on file, the rates established in that tariff are infrequently used—except, perhaps, in the case of a last-minute charter flight which is arranged too late to permit the filing of a "point-to-point" tariff, or were unable to obtain a short-notice filing.

It should be apparent that a charter tariff serves a very different purpose than a scheduled tariff. Scheduled fares are fixed by the carriers unilaterally, without any discussion or negotiation with passengers.

A scheduled tariff is the only notice the public receives of new fares.

If the passengers are dissatisfied with a proposed fare, their only recourse is to file a formal complaint against the tariff. The bill is designed to give them more time to do this and to give the Board more time to consider any such complaint.

A charter tariff, however, merely reflects the result of a bilateral negotiation, between the charterer and the carrier, which has already taken place. It does not serve to notify the charterer of the rate he will have to pay—he already knows that rate and has already agreed to it.

Thus, the purpose of the present bill—which is to give interested parties more time to complain against new fares and the Board more time to decide whether to suspend such fares pending investigation—simply does not apply to charter rates.

Moreover, to require charter tariffs to be filed even earlier than they are now filed would impair the ability of the carriers and charterers to revise charter programs and adjust prices accordingly. It should also be pointed out that most charter contracts now provide for price adjustments for increases in fuel costs, and it is obviously desirable for such adjustments to be made as close as possible to the actual departure date.

Pricing flexibility serves the interests of both carriers and charterers and the public, and adoption of the proposed 45-day tariff filing requirement would needlessly impair that flexibility, as well as possibly increase the burden on the Board by more short-notice filing of tariffs.

In fact, it is questionable whether tariffs should be required for charter services at all. I was pleased to hear the Chairman's answer to your question that they were considering changing the rule regarding time for filing, as far as tariff filings are concerned.

The preparation and filing of thousands of point-to-point tariffs imposes an enormous burden and expense on both the carriers and the Board's staff and really serves no useful purpose.

One of the larger supplemental carriers has estimated that the preparation and filing of tariffs and tariff justifications costs it more than \$75,000 per year and involves 177 man-hours a week.

The Board, in a recent budget estimate, reported that 5 percent or 7,500, of the 150,000 tariffs reviewed by its staff during fiscal 1976 were attributable to charter operations.

We think there must be a better way to publicize charter rates—one which would both be easier to administer and would provide the necessary information in a more usable form.

Perhaps the committee, in its report on the present legislation, might suggest to the Board that it consider exempting charters from the tariff requirements of the act altogether and replacing them with some better system.

We hope to develop at an early date specific proposals for the Board in this regard.

For the present, however, we urge the committee simply to preserve the status quo with respect to charter tariffs, by leaving the present 30-day filing deadline intact.

I have attached to my statement an amended version of H.R. 7016 which would accomplish this purpose.

Thank you, Mr. Chairman.

I would be pleased to answer any questions you or the committee may have.

[The attachment follows:]

#### PROPOSED AMENDMENT TO H.R. 7017

Amend section 1 to read as follows (deletions are indicated in brackets and additions are indicated by italic) :

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) the first sentence of section 403(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1373) is amended by striking out ["thirty"] "thirty days' notice" and inserting in lieu thereof ["forty-five"] *forty-five days' notice in the case of tariffs applicable to scheduled services, and thirty days' notice in the case of tariffs applicable to charter trips*".

(b) The first sentence of section 1002(g) of such Act (49 U.S.C. 1482) is amended by inserting "at least fifteen days before the day on which *any* such tariff *applicable to scheduled services* would otherwise go into effect, or *any time*

*before any such tariff applicable to charter trips would otherwise go into effect," immediately after "and delivering to the air carrier affected thereby".*

Senator CANNON. Thank you, Mr. Driscoll.

In your statement you say the present 30-day filing period for such tariffs gives interested parties very little time to decide whether to file a complaint against a new fare and also gives the Board very little time to decide whether to suspend such fare.

The change as proposed here would not affect the time in which parties could protest nor the time in which the Board would have to decide. It simply requires an earlier filing date.

In other words, the 6-day period would not be changed at all, as I understand it.

Mr. DRISCOLL. No, that is correct, Mr. Chairman. We were looking at it from the basis that the Board has tried to get out their orders when they are going to suspend a tariff, in advance of the last minute. Unfortunately, in some cases they have had to issue last-minute orders. Again, with the 15 days, this does give more adequate notice, and possibly they could go up to the 30 days in there, where I think, as a general rule, they have tried to come out probably acting within 20 to 25 days. So it would give the Board a little more, but it doesn't give the public more time to file.

Senator CANNON. Do you have any figures on the numbers of charter fares that are protested once they are filed?

Mr. DRISCOLL. Sir, to my knowledge, there are very few, if any, that are ever protested or that the Board has ever suspended. I can think, in my time, that there was one military fare filed for domestic authorization which the Board suspended. But other than that, I don't recall any suspensions.

Senator CANNON. I didn't think to ask the chairman that, but I will ask the staff to get that information from the Board and make it part of the record.

[The following information was subsequently received for the record:]

CIVIL AERONAUTICS BOARD,  
Washington, D.C., October 4, 1976.

Mr. ROBERT E. GINTHER,  
Subcommittee on Aviation, Committee on Commerce, U.S. Senate, Washington,  
D.C.

DEAR Mr. GINTHER: This is in response to a request you made to Mr. James Kolstad that we verify Mr. Driscoll's statement before the Senate Aviation Subcommittee that "very few if any formal complaints are filed with this Board against charter tariff filings".

We have reviewed our records for the period January 1, 1971 through September 27, 1976, and determined that during that period approximately thirty-eight formal complaints were filed with the Board against charter tariff filings. This results in an average of slightly less than 7 complaints per year. Since in some cases more than one complaint was lodged against the same filing, less than thirty-eight filings have been the subject of complaints.

Charter tariff pages account for approximately 4 percent of all tariff pages filed with the Board, and during the calendar year 1975 approximately 316 complaints were filed with the Board against all tariffs. Were such complaints spread equally among all tariffs, approximately 13 complaints would have been filed against charter tariffs. On this basis, complaints against charter tariffs are less than the average of complaints against all tariffs.

Most complaints received by the Board relate to scheduled passenger tariff filings and direct air carrier freight tariff filings. Relatively few complaints are received against charter tariff filings and air freight fowarder tariff filings.

We would therefore agree with Mr. Driscoll that relatively few complaints are filed with the Board against charter tariffs.

We hope the above information is responsive to your request. If we may be of further assistance in this matter, please contact us.

Very truly yours,

JAMES W. GREENE,  
Chief, Tariffs Section,  
Bureau of Economics.

Senator CANNON. If it is serving no useful purpose to require the filing, as you suggest herein, the charter flights; in other words, if nobody protests and there are never any suspensions, it would seem it may be a useless act.

Mr. DRISCOLL. We were coming forward and suggesting complete elimination; but on detailed consideration, we decided not to, for one reason. We do think there has to be a surveillance system available to the Board because of international complications.

As you well know, ECAC has tried to insist the U.S. Government establish minimum charter levels.

The Board has resisted it, Government has resisted it, and the industry has resisted it.

However, we have agreed with ECAC in the negotiations that are bilateral that a surveillance system on charter filings before the Board would supplant the establishment of minimum rates.

We believe that to continue that type of system, something has to take place—on the tariff filings.

We believe they serve no useful purpose and there should be a new system, but we believe the Board has to have the ability to surveil. We want to come forward to the Board with suggestions in that regard, and we would hope the Board would come up with some systems themselves to preserve their ability to surveil to satisfy the international bilateral requirements.

Senator CANNON. Thank you very much, Mr. Driscoll.

Mr. DRISCOLL. Thank you sir.

Senator CANNON. Next we have Mr. James W. Woodward, executive vice president to Reuben H. Donnelley Corp.; Mr. Richard A. Nelson, publications manager, North American Edition of the Official Airline Guide; Mr. Frank A. Vlazny, director, Customer Service Development; and Mr. John H. Witmer, Jr., counsel.

**STATEMENT OF JAMES W. WOODWARD, SENIOR VICE PRESIDENT,  
THE REUBEN H. DONNELLEY CORP.; ACCOMPANIED BY RICHARD  
A. NELSON, PUBLICATION MANAGER, POCKET FLIGHT GUIDE AND  
NORTH AMERICAN EDITION OF THE OFFICIAL AIRLINE GUIDE;  
FRANK A. VLAZNY, DIRECTOR, CUSTOMER SERVICE DEVELOP-  
MENT; AND JOHN H. WITMER, JR., COUNSEL**

Mr. WOODWARD. Good morning.

Senator CANNON. Gentlemen.

Mr. WOODWARD. Mr. Chairman, my name is James W. Woodward. I am a senior vice president of the Reuben H. Donnelley Corp., and general manager of its Transportation Guides and Services Division.

I am also responsible for our Travel Magazines Division.

With me are Richard A. Nelson, publication manager, Pocket Flight Guide Edition and North American Edition of the Official Airlines Guide, Frank A. Vlazny, director, Customer Service and Development John H. Witmer, Jr., a partner in the law firm of Sidley & Austin.

We wish to thank you, Mr. Chairman, and the members of this subcommittee for the opportunity to appear before you today on behalf of the Reuben H. Donnelley Corp., to express our views on this timely and most significant legislation.

The Reuben H. Donnelley Corp., is a wholly owned subsidiary of Dun & Bradstreet Cos., Inc. Donnelley is a diversified company serving the business community and consumer market in areas of specialized selling, publishing, consumer market research, and sales promotion in the United States and abroad.

As the publisher of the Official Airline Guide (OAG), Donnelley has a significant interest in legislation, such as S. 1836 and H.R. 7017, which would result in providing airline passengers and the travel industry with increased notice of tariff changes.

The OAG is the most widely used source document for determining the availability and cost of airline flights and services. It is a working tool of all people engaged in arranging air travel and writing airline tickets. The OAG contains, among other things, flight schedules, including connecting service, for all scheduled airlines, fares, type of equipment, meal service, classes of service, and so forth.

The only other printed source for fare information is the actual tariff—and its frequent amendments—which is bulky, complex, and difficult to use.

The North American Edition of the OAG contains information relating to the air carrier service on the North American Continent, Hawaii, and in the Caribbean, and is published to be effective on the 1st and 15th of every month. There are approximately 176,000 subscribers to the first-of-the-month edition, and 96,000 of these subscribers also receive the midmonth issue. These copies go to airlines, travel agents, businesses, and government and serve the needs of millions of air travelers.

The Worldwide Edition of the OAG, which contains flight schedules, fares, and other information relating to air carrier service around the world, is published monthly. Approximately 56,000 copies of this publication are subscribed to on a monthly basis.

A sample copy of the North American Edition has been provided for each member of the subcommittee and for use by the staff.

We have come to this hearing to endorse the concept of providing airline passengers with additional notice of changes in fares. Under existing law, airlines are required to file tariff changes with the Civil Aeronautics Board at least 30 days prior to the proposed effective date of the change. The Board may then reject or suspend the proposed change as late as the day before it is scheduled to go into effect. H.R. 7017, the bill passed by the House of Representatives, as well as S. 1836, would change this to a 45- and 15-day requirement. We do not believe this change is adequate.

I am certain that those who testify on this legislation, and others who communicate with this subcommittee, will indicate that the current practice of waiting until the last minute for approval or rejection

tion of tariff changes results in considerable confusion, misquoting of fares, and frequent over and under payment of the proper fare.

I am equally certain that the traveling public and the travel industry desire sufficient notice prior to the effective dates of tariff changes.

During the first half of 1976, we have encountered many examples of what can happen under the present law. The following three paragraphs from an article that appeared in the Wall Street Journal on February 2, 1976, effectively describe the situation as it exists today:

The differential is small for now—only 1 percent, the amount of increase authorized by the Civil Aeronautics Board for the industry last Thursday. But the disunity that has arisen among the carriers on the size and timing of fare increases is complicated by pending petitions for other increases: Eastern Airlines and United Airlines both have filed for a second boost of 2 percent in domestic fares to be effective March 1, while Delta Air Lines, Northwest Airlines and National Airlines have formally disclosed plans to file for a 3 percent April 1 increase, indicating they won't raise fares before then, even though permitted.

Among the 10 major domestic trunk airlines only 6 posted the 1 percent increase yesterday. They are United, a unit of UAL, Inc.; American Airlines; Trans World Airlines; Braniff Airways; Continental Airlines and Western Airlines. Spokesmen for these carriers said the increase was effective on all U.S. routes (except to Hawaii and Alaska) even where competitors didn't apply the increase. Under the CAB regulations, the increase is supposed to be collected even on tickets sold and paid for before the effective date, if the travel begins on or after the effective date.

In addition to Delta, Northwest and National, Eastern said it reluctantly wasn't implementing the increase, because of competitive pressures on much of its structure from those 3 carriers. A spokesman said Eastern was studying its options and had filed a request with the CAB to defer its application of the 1 percent boost until March 1. Although TWA was first to request the 1 percent increases, Eastern followed quickly and has perhaps been the industry's most outspoken advocate of immediate fare increases.

Which airlines did what? And, when did they do it? The final CAB and airline decisions concerning these tariff changes were made at the last minute, leaving no time to disseminate the necessary information to the appropriate individuals.

The article only illustrates part of the confusion that results under the current law. I have attached to my statement a listing of the actions taken by the CAB in response to the 11 major fare changes filed to go into effect during the first half of 1976.

In almost every case, the CAB waited until the last possible moment before approving or suspending the fare change, or permitting it to go into effect by not taking any action.

Under these circumstances, it is impossible for anyone to adequately circulate fare information to the thousands of ticket writers and travelers on a timely basis.

The legislation pending before this subcommittee will not provide adequate relief from the problem, since it would still be impossible to make a timely circulation of fare changes within the proposed 15-day period.

The CAB actions relating to the three fare changes scheduled to go into effect on May 1, 1976, can help illustrate the magnitude of the problem.

In each case, the CAB action occurred on April 30, the day before the fare changes were scheduled to go into effect. First, the proposed fare changes involving Alaska were suspended.

Second, the 2-percent fare increase requested by a majority of the air carriers was approved.

Third, the 5-percent fare increase requested for the Mainland-Hawaii flights was permitted to go into effect for the excursion fares, and suspended for the normal fares.

It must have been extremely difficult to be a ticket or travel agent during the month of February or May 1976. The last-minute decisions on fare increases were almost impossible to work with.

Large numbers of travelers undoubtedly arrived at airports during February and May with tickets in hand, only to discover that they had to pay an additional fare before they could get on the airplane.

Donnelley believes that the 45- and 15-day proposal contained in S. 1836 and H.R. 7017 is a small but inadequate step in the right direction. It would provide 15 days not now available to advise the public and the travel and ticket agents of fare changes. However, 15 days is not enough.

Once it is finally determined that a fare will be increased or decreased, it is necessary to disseminate this information to travel agents, ticket agents, businesses, and other airline users.

Our experience, and the experience of the rest of our industry, has shown that the dissemination process can easily take longer than 2 weeks.

It is generally acknowledged that a high percentage of tickets are purchased during the 2-week period prior to a particular flight and in the event of a late fare change will be written incorrectly.

Many tickets are purchased even further in advance, and fares are frequently quoted many weeks before the actual flight date.

Thus, even with a 15-day notice period, many tickets will be purchased prior to the time that the revised fares can be adequately disseminated.

For this reason, Donnelley urges that the Federal Aviation Act be revised to require airlines to file tariff changes at least 60 days prior to the proposed effective date and especially urge that the CAB be required to reject or suspend such changes at least 30 days prior to the proposed effective date.

If these modifications are adopted, the CAB will continue to have 30 days within which to act on proposed tariff changes.

At the same time, there would be 30 days between the time the tariff is approved and the day it becomes effective.

This would provide adequate time to disseminate the new tariff data before flights are booked and fares are paid.

We believe this proposal would not create an undue hardship on the airlines. The Chairman of CAB, in correspondence with the House Committee on Public Works and Transportation, indicated that a number of tariff changes are currently filed as much as 60 days in advance of the effective date.

Recently, this subcommittee heard from several witnesses who endorsed the 45/15 day proposal. We believe that their testimony does not represent the views of the vast majority of travel agents, ticket agents, and businesses that are involved in airline travel.

The overwhelming majority of these people believe that more than 15 days is needed to disseminate information concerning tariff changes.

Letters written to the Senate Commerce Committee in the fall of 1974, when the committee was considering action on a similar proposal without conducting hearings, showed support for a 30-day or longer period of time between the CAB's final action and the effective date of the tariff change.

Also, shortly after we advised our subscribers that this legislation was being considered, many wrote to this subcommittee and its counterpart in the House of Representatives.

If the copies of these letters provided to us by their authors are representative of the letters sent to this subcommittee, the need for at least a 30-day notice should be obvious.

While I am aware that representatives of the American Society of Travel Agents will testify before this subcommittee today, I have not been informed of their exact testimony.

I do know that the Air Committee of ASTA has unanimously recommended that ASTA indicate support for the 60- and 30-day periods.

We have also been advised that the Midwest chapter of ASTA unanimously approved a resolution calling for a minimum of 30 days' notice between the time the CAB acts and the effective date of the tariff.

Those who wrote to this subcommittee, and those that belong to travel agent organizations, are the people most directly affected by fare changes. They face the traveling public daily. They are the ones who write airline tickets frequently without knowing the proper fares. They know, as do we, that an additional 15 days is an inadequate amount of relief.

The OAG, being the principal source of information relating fares to schedules, is in a unique position to provide the traveling public with the correct fare information.

However, if the OAG, or any other similar service, is to fully perform the service it is capable of providing, it is absolutely essential that there be at least 30 days between the time the CAB takes its final action, and the date the revised tariff become effective.

It might be helpful at this time to describe our schedule for producing an issue of the OAG. If, for example, the OAG is preparing its issue for August 1, work must begin no later than July 1.

Five working days, or about 1 week, are required to process the information concerning changes in airline schedules and tariffs.

Approximately 2 days are then required to check and audit the changes being made. Printing takes an additional week, and is completed by no later than the 18th day of the month, at which time the book must be mailed. If it is mailed any later in the month, the users would not have the necessary information in time to schedule and book flights for trips being made on or shortly after the first of the month.

In addition to providing the basic information about fares and schedules, the OAG provides an additional service to the traveling public.

In instances where there is no published tariff for a combination of two flights between the traveler's origin and destination cities, the fare must be calculated by someone so that the passenger is charged the lowest legal fare.

In a computer analysis of the 127,000 connections—contained in the July 1, 1976 issue of the OAG, direct on-line fares were applicable

to 21.3 percent of the connections, and interline joint fares were applicable to 46.2 percent of the connections.

The proper fare had to be calculated for the remaining 32.5 percent by utilizing the appropriate tariff rules and conditions.

Because of the difficulty in calculating fares where no published fare exists, the traveling public is very likely to experience overcharges on many flights, unless the ticket sellers have access to preconstructed fares.

Since October 1, 1974, the travel industry and the traveling public have benefited by the fact that the OAG has been calculating, and publishing, by use of a unique computer program, these connection fares. That is, whenever a proposed tariff change is filed with the CAB, the information is fed into Donnelley's programmed computer.

However, the tariff is still subject to CAB approval and may not become effective. If it does become effective, the proper lowest legal fare for individual passenger travel is automatically calculated and included in the proper edition of the OAG.

Donnelley's computer program, in conformance with the Federal Aviation Act and the CAB tariff rules, operates on the principle that no passenger may be charged more for travel to an intermediate point, than he would be charged to a more distant point, and that no passenger may be charged for a higher class of service. To accomplish this, fare construction rules have been resolved by the computer program.

Prior to Donnelley's introduction of its fare construction capability in the October 1, 1974 issue, the booking agent was required to manually calculate these unpublished fares.

An example of how difficult this calculation is can be seen by the fact that each one of the 41,275 constructed connecting fares in the July 1, 1976 issue, required an average of approximately 170 computer searches; a total of more than 7 million searches.

It has been clearly shown in the past that travel agents and ticket agents cannot readily determine the proper fares that they may be called upon to quote.

A publication such as the OAG can provide that service for them. Unless there is sufficient advance notice of the tariff changes, however, there is no way to insure that these preconstructed fares will be distributed prior to the dates upon which they are to be used.

In addition to the 60- and 30-day changes, Donnelley also proposes that tariff changes be made effective only on the 1st or 15th day of the month as a further means of simplifying the dissemination of tariff changes.

These dates coincide with the effective dates of the OAG. They have also been agreed to by the Air Traffic Conference of America.

Unfortunately, resolution No. 1.16 of the Air Traffic Conference of America, approved by the ATA on May 3, 1973, and has been accepted by the CAB on May 4, 1974, contains a sufficient number of exceptions so that many tariff changes still occur at irregular times.

Despite this agreement, the CAB, in its rules of procedure, has more often than not required changes to become effective on other than the 1st and the 15th.

In summary, Mr. Chairman, the Reuben H. Donnelley Corp. endorses the concept of providing a greater period of time between the final approval date of a tariff change and the day on which it becomes effective.

However, Donnelley believe that if the traveling public is to get the full benefit needed from the proposed statutory change, a minimum of 60 and 30 days must be provided.

That ends my prepared remarks, Mr. Chairman.

I have attached to this statement a more detailed discussion of Donnelley's views on this legislation, a copy of resolution No. 1.16 of the Air Traffic Conference of America, and a draft of a proposed bill which incorporates all the statutory changes proposed by Donnelley. I request that they be inserted in the record in their entirety at this point.

Thank you again for providing us with the opportunity to express our views on this important legislation.

Senator CANNON. Thank you, Mr. Woodward.

The submissions that you have made will be made a part of the record, and we are happy to have your testimony.

I take it you don't have any position with respect to the fling of charter fares, because that is something you really can't acquaint the public with.

Mr. WOODWARD. That's right. We are not involved with that at all.

Senator CANNON. Well, thank you very much, gentlemen. We appreciate your helpful testimony.

[The attachment follows:]

<i>Fare filing and effective date</i>	<i>CAB action</i>
1. 1 percent increase by majority of carriers, Feb. 1, 1976 -----	<sup>1</sup> Permitted.
2. 2 percent increase by majority of carriers, Mar. 1, 1976 -----	Do.
3. 2 percent increase by majority of carriers, Apr. 1, 1976 -----	Do.
4. Military reservation extension, Apr. 1, 1976-----	Approved Mar. 30, 1976.
5. United States-Canadian Trans Border increase, Apr. 25, 1976-----	<sup>1</sup> Permitted.
6. United States-Hawaii 5 percent increase, May 1, 1976 -----	Excursion fares permitted; normal fares suspended on Apr. 30, 1976.
7. 2 percent increase by majority of carriers, May 1, 1976 -----	Approved Apr. 30, 1976.
8. Alaska and Alaska-United States 3 percent increase, May 1, 1976-----	Do.
9. Restructure of excursion fares, June 1, 1976-----	Approved on May 28, 1976.
10. 2 percent increase-Eastern, June 1, 1976-----	Rejected on May 24, 1976.
11. 2 percent increase by majority of carriers, July 1, 1976 -----	Suspended on June 25, 1976.

<sup>1</sup> The CAB takes no action when it "permits" a fare change. In other words, the airlines do not know until the very last minute whether or not the fare change will be allowed to go into effect.

MEMORANDUM IN SUPPORT OF THE REUBEN H. DONNELLEY CORPORATION'S  
PROPOSED AMENDMENTS TO THE FEDERAL AVIATION ACT

The Reuben H. Donnelley Corporation is a wholly-owned subsidiary of Dun & Bradstreet Companies, Inc. Donnelley is a diversified company serving the business community and consumer market in areas of specialized selling, publishing, consumer market research and sales promotion in the U.S. and abroad.

*Donnelley's proposed changes to Federal Aviation Act*

In its capacity as the publisher of the Official Airline Guide ("OAG"), Donnelley is proposing several amendments to the Federal Aviation Act of 1958 ("Act"). Specifically, Donnelley proposes that the Act be amended as follows:

1. Section 403(a)<sup>1</sup> should be amended to:
  - (a) require the CAB to reject the proposed tariff change, if it intends to reject it, at least 30 days prior to the proposed effective date of the change.
  - (b) require that tariff changes be made effective only on the 1st or 15th day of a month except when it is necessary to correct clerical errors.
2. Section 403(c)<sup>2</sup> should be amended to:
  - (a) delete the 30 day notice requirement and, insert in its place a 60 day notice requirement.
  - (b) Permit the CAB to allow a shorter notice period only when it is necessary to correct clerical errors.
3. Section 1002(g)<sup>3</sup> should be amended to provide that if the CAB suspends a proposed rate change, it must do so at least 30 days prior to the date on which the tariff would otherwise have gone into effect.

*Amendments pending in the Congress*

Amendments similar in concept to some of those being proposed by Donnelley were introduced by members of both the House and Senate during the 93rd Congress and again in 1975. Some of the bills would require (1) air carriers to file their proposed tariff changes with the CAB 45 days rather than the currently required 30 days prior to the proposed effective date, and (2) the CAB, if it intends to suspend a proposed tariff change, to notify the air carrier at least 15 days before the time the tariff would otherwise go into effect. The House of Representatives passed H.R. 7017, which contains the 45 and 15 day requirements, on February 17, 1976. The Act presently provides no such time limit.<sup>4</sup>

*Donnelley's purpose for amending the act*

As noted earlier, Donnelley's interest in amending the Act arises because it is the publisher of the OAG, the most widely used source document for determining the availability and cost of airline flights and services. The OAG contains, among other things, flight schedules for all scheduled airlines, fares, connecting flights, meal service, class of service, etc. The only other source for tariff information is the actual tariff and its frequent amendments. Since the tariff is both bulky and complex, it does not provide a practical alternative to the OAG for travel agents, ticket agents or the traveling public. The published OAG tariff information is obtained from the weekly updates supplied to the OAG by Airline Tariff Publishers.

The North American Edition of the OAG contains information relating to air carrier service on the North American continent and within the Caribbean, and is published on the 1st and 15th of every month. Paid circulation for the June 1, 1976 issue of the North American Edition was:

	Copies	Percent
Airlines.....	33,300	18.9
Travel agents.....	35,900	20.4
Businesses.....	106,700	60.7
Total.....	175,900	100.0

<sup>1</sup> 49 U.S.C.A. § 1373(a).

<sup>2</sup> 49 U.S.C.A. § 1373(c).

<sup>3</sup> 49 U.S.C.A. § 1482(g).

<sup>4</sup> In actual practice, the Board often acts as late as the day before the effective date of the proposed changes.

The Worldwide Edition of the OAG, which contains flight schedules, fares and other information relating to air carrier service around the world, is published monthly. Paid circulation for the June 1976 issue of the worldwide Edition was:

	Copies	Percent
Airlines.....	15,500	27.8
Travel agents.....	21,300	38.2
Businesses.....	19,000	34.0
Total.....	55,800	100.0

All changes in schedules, fares, or services must be obtained by Donnelley and included in the appropriate edition of the OAG. While some changes to the OAG can be relatively quickly and easily made (e.g., change in meal service) others are much more complex and require additional time (e.g., schedule and fare changes).

To more fully understand the need for the additional notice time contained in Donnelley's proposed amendments, it is necessary to understand how Donnelley schedules the preparation and mailing of the OAG. For purposes of this explanation, it will be assumed that the OAG under consideration is the issue providing information as of the first of the month (e.g., September 1). Similar time requirements exist for all other editions.

Work must begin on the September 1 issue no later than the first day of August. Five working days (i.e., one week) are required to process the information concerning changes in airline schedules and tariffs (August 7th). Two or three days are then required to check and audit the changes made to the OAG (August 11th). Five additional working days (i.e., one week) are needed for printing the book.

The printing is completed by the 18th of the month—a total of 18 calendar days after work began—at which time the book must be mailed. If it is mailed any later in the month, the users would not have the necessary information in time to schedule and book flights for trips being made on or shortly after the first of the month. Early arrival of the OAG is essential since it is generally agreed that most flights are booked within a one to two week period before the flight takes place.

Thus, in order to accurately reflect the tariffs that exist on the effective date of the OAG, Donnelley requires a minimum of 30 days between the time the CAB acts on a proposed tariff change and the date on which the tariff change actually goes into effect. Under the present system, or under any regulatory scheme whereby the CAB could act on less than 30 days notice, Donnelley cannot be certain what the tariff will be on the effective date of any given issue of the OAG. So long as printing must begin approximately 20 days before the CAB is required to act, the possibility of publishing inaccurate information will always exist.

Each issue of the North American Edition contains an average of 47,000 direct flights and 128,000 connecting flights which necessitate a tariff data base of approximately 600,000 total fares. Since duplicating fares do not have to be published, but are identified by code, the July 1, 1976, issue contained approximately 106,000 individual fares.

Donnelley has determined that during a recent six month period an average of 361,000 fare changes were required to be made to the data base each month.

In instances where there is no published tariff for a combination of two flights between origin and destination cities, the fare must be calculated so that the passenger is charged the lowest legal fare. In a computer analysis of the 127,000 published connections in the July 1, 1976 issue, direct online published fares were available for 21.3 percent of the connections and published interline joint fares were available for 46.2 percent of the connections. The proper fare had to be calculated for the remaining 32.5 percent by utilizing the appropriate tariff rules and conditions. This required more than 7,000,000 computer searches.

Because of the difficulty of calculating fares where no published fare exists, the traveling public is very likely to experience overcharges on many flights unless the ticket sellers have access to preconstructed fares. Beginning October 1, 1974, the travel industry and the traveling public have benefitted by the fact that the OAG has been calculating, through use of a computer program, the unpublished interline fares. That is, whenever a proposed tariff change is filed

with the CAB, the information is fed into Donnelley's programmed computer. The proper lowest legal fare for individual passenger travel is automatically calculated and included in the proper edition of the OAG.

Donnelley's computer program, in conformance with the Federal Aviation Act and Civil Aeronautics Board tariff rules, operates on the principle that no passenger may be charged more for travel to an intermediate point than he would be charged to a more distant point and that no passenger may be charged more for a lower class of service than he would be charged for a higher class of service. To accomplish this, fare construction problems have been resolved by the computer programs. The following four types of fare construction problems are discussed in order to illustrate how difficult it would be for a travel agent, ticket agent or member of the traveling public to calculate the correct fare:

1. *Point beyond—Double Point Beyond.*—All possible cities prior to passenger's point of origin and/or beyond the passenger's destination are computer searched for possible lower fare calculations.

2. *Single hidden construction—Double hidden construction.*—All possible cities authorized on a carrier's route between the passenger's point of origin and the passenger's actual connecting city and/or the passenger's actual connecting city and the passenger's destination are computer searched for possible lower fare constructions.

3. *Hidden construction and point beyond.*—All possible combinations of points beyond and hidden construction are computer searched for possible lower fare calculations.

4. *Lower fare at higher class.*—Whenever the passenger is required to take unequal classes of service or is offered night coach service, parallel computer constructions at the higher class of service are calculated to insure that a lower fare is not available for the higher class of service.

Prior to Donnelley's introduction of its fare construction capability in the October 1, 1974 issue, the booking agent was required to calculate these "unpublished" fares. An example of how difficult this calculation can be is seen by the fact that each one of the 41,000 constructed connecting fares in the July 1, 1976 issue required an average of approximately 200 computer searches.

It is unlikely that travel agents or ticket agents can determine all of the proper fares that they may be called upon to quote. Publications such as the OAG provide that service for them. Unless there is sufficient advance notice of tariff changes, however, there is no way to insure that these fares will be distributed prior to the dates upon which they are to be used.

Donnelley is not alone in its desire to require the CAB to respond to proposed tariff changes well in advance of the effective date. During late 1974 when the Senate Commerce Committee asked for written comments concerning S. 1873 (introduced by Senator Frank Moss, D, Utah, on May 23, 1973), it was the almost unanimous recommendation of the respondents that the Act should contain a provision requiring the CAB to act well in advance of the proposed effective date of the tariff change. Many, including the American Society of Travel Agents, Inc., urged that more than the 15 days contained in S. 1863 be provided. It was the consensus that 15 days was not sufficient time to permit the revised tariffs to be distributed within the industry. If a 30 day limit is established, the OAG will be able to fulfill the industry's needs in this regard.

If the 30 day notice period is enacted into law, it would be necessary to require the air carriers to file their proposed tariff changes by an earlier date. By requiring these changes to be filed at least 60 days prior to the proposed effective date, the CAB would continue to have 30 days to suspend, reject or approve the change.

Donnelley also urges that the Act be amended to require that tariff changes go into effect on only the 1st or the 15th of the month. These dates would coincide with the publication dates of the OAG. Since the air carrier industry has already agreed with this concept (See Resolution No. 1.16 of the Air Traffic Conference of America attached hereto), the amendments would formalize and guarantee the continuation of the present practice.

#### Conclusion

The Amendments proposed by Donnelley will benefit both the travel industry and the traveling public. They are intended to provide assurance that all changes in tariffs will be made available to the general public before they go into effect. Donnelley strongly urges that these proposed amendments be enacted into law as quickly as possible.

A BILL To amend sections 403 and 1002 of the Federal Aviation Act of 1958, as amended, relating to tariff changes and suspensions

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 403(a) of the Federal Aviation Act of 1958, as amended, is amended to read as follows:

"Every air carrier and every foreign air carrier shall file with the Board, and print, and keep open to public inspection, tariffs showing all rates, fares, and charges for air transportation between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier when through service and through rates shall have been established, and showing to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such air transportation. Tariffs shall be filed, posted, and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe; *and not less than thirty (30) days prior to its effective date, the Board may reject any tariff so filed which is not consistent with this section and such regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariffs may also state rates, fares, and charges in terms of currencies other than lawful money of the United States, and may, in the case of foreign air transportation, contain such information as may be required under the laws of any country in or to which an air carrier or foreign air carrier is authorized to operate. Tariffs shall be effective on the first or the fifteenth day of the month, provided however, that clerical errors may be corrected at any time.*

Section 403(c) of the Federal Aviation Act of 1958, as amended, is amended by striking out the words "thirty days" and inserting the words "sixty days" in their place in the first sentence, and by repealing the third sentence in its entirety and inserting the following in its place: "The Board may allow such change upon notice less than that herein specified only when it is necessary to correct clerical errors."

Section 1002(g) of the Federal Aviation Act of 1958, as amended, is amended by inserting in the first sentence immediately after the words "and delivering to the air carrier affected thereby" the words "at least thirty (30) days prior to the date on which such tariff would otherwise go into effect."

#### AIR TRAFFIC CONFERENCE OF AMERICA, TRADE PRACTICE MANUAL

##### COMMON TARIFF EFFECTIVENESS DATES

1. No member shall file with the CAB a tariff proposal which is applicable to scheduled air transportation of passengers and their baggage within the United States or between the United States and Canada unless such tariff proposal is scheduled to become effective on the first day or the fifteenth day of a month; PROVIDED, That the changes may become effective on the last Sunday in April or October to coincide with general Daylight Savings Time conversion dates. Tariff expiration dates shall be the day prior to the dates established above.

2. This Resolution will not be applicable when a tariff filing is made:

- a. To meet the tariff filing of another air carrier;
- b. To comply with an order or regulation or other authorization of the Civil Aeronautics Board or the Canadian Transport Commission;
- c. To provide fares, rules and charges for newly certificated service, new services resulting from schedule changes, or for suspended service which is being reinstated; or
- d. To correct clerical or typographical mistakes or where the filing is merely technical in nature.

Concurred in by all Regular Members except National Airlines, Inc.  
CAB agreement No. 23694.

Dates of Approval: ATC: ATC, 5/3/73; CAB: 23694 2/14/74.

Senator CANNON. The next witness is Mr. James A. Miller, senior vice president of ASTA.

**STATEMENT OF JAMES A. MILLER, SENIOR VICE PRESIDENT,  
AMERICAN SOCIETY OF TRAVEL AGENTS, WASHINGTON, D.C.;  
ACCOMPANIED BY PAUL S. QUINN**

Mr. MILLER. Mr. Chairman, members of the subcommittee, my name is James A. Miller. I am a travel agent from East Lansing, Mich., and, together with my wife, own and operate travel agencies in East Lansing and Lansing. I am also senior vice president and chairman of the National Air Committee of the American Society of Travel Agents, Inc., ASTA, the world's largest trade association in the field of travel and tourism, representing more than 7,500 travel agency members throughout the United States and Canada.

I am accompanied this morning by Paul S. Quinn, a partner in the Washington law firm of Wilkinson, Cragun, & Barker, general counsel to ASTA.

Mr. Chairman, as you are fully aware because of your extensive knowledge and experience in dealing with our air transport system, one of the most serious and troublesome problems confronting that system and the American public is the confusion which surrounds the introduction and publication of airline tariffs.

For many years, the Congress, the CAB and the airlines have been aware of this continually worsening problem. However, no one has been more directly aware or more concerned with this problem than the Nation's more than 13,000 appointed and qualified travel agents.

As you will recall, on June 14, when this subcommittee had hearings on legislation to deregulate the air transport industry, my colleague, Carl L. Helgren, president emeritus of ASTA, appeared and testified on various deregulation proposals. And he also called this subcommittee's attention to the increasingly urgent need for prompt enactment of the legislation which you are considering here today.

He emphasized at that time, and I would like to again emphasize today that ASTA believes that there is complete justification for enacting legislation which would provide for a minimum of 30 days' notice to both the public and their travel agent representatives before any tariff change could be implemented. This would be accomplished by modifying H.R. 7017 to require that any proposed tariff change would have to be submitted to the CAB not less than 60 days before its effective date, and the Board would have to act, if it were to suspend that tariff, not less than 30 days prior to the effective date.

This is the formula which ASTA endorsed in hearings held by the House Aviation Subcommittee, and it is the formula which I endorse today. However, if there is some compelling reason why the 60-30-day formula should not be enacted—and I am aware of none—then, at a very minimum and as a compromise, the 45-15 formula currently contained in H.R. 7017 should be enacted immediately.

I would like now to take a few moments to explain why, from a travel agent's point of view, enactment of this legislation is urgently needed.

Mr. Chairman, the enactment of H.R. 7017 would do a great deal to reduce or eliminate the uncertainty, confusion, and unnecessary expense which so often results from frequent airline tariff changes im-

plemented without adequate lead time. Lack of adequate lead time has for years caused serious problems to air carriers, their employees, air travelers, and travel agents alike.

As the situation has gotten progressively worse because of the increased frequency with which the air carriers have felt it necessary to change their fares, ASTA has vigorously supported legislation to require additional lead time in order to assure that all connected with the travel industry will have sufficient time within which to adjust to tariff changes and properly inform the passengers they serve.

At the present time, air carriers and foreign air carriers are required to file tariff changes 30 days in advance of the effectiveness date. Under the CAB's economic regulations, complaints against a tariff filing must be submitted to the Board at least 18 days prior to the effectiveness date. That, of course, leaves only 12 days between the filing of a tariff change and the date by which interested members of the public may respond.

Carriers are not required to serve notice of their filings upon any third parties and, in fact, no such service is made. It is obvious that under such a structure, members of the traveling public are effectively denied a real opportunity to voice informed comments on proposed tariff changes.

In most cases, the result is that the CAB receives no meaningful input from any parties other than the filing carrier. Even when an interested or affected person does become aware of a tariff filing sufficiently in advance of the effective date to file opposition, such party obviously does not have time to collect and present the economic data necessary to make a persuasive challenge to the tariff. The Board therefore hears only one side of the story.

From the viewpoint of the Nation's 13,000 travel agents, inadequate lead time in tariff changes is an administrative nightmare which needlessly results in wasted time, money, and effort.

As members of an intensely competitive industry, travel agents are wholly dependent upon the confidence and goodwill of their clients. Last-minute tariff changes, often occurring after the sale of air transportation, have proven to be a severe obstacle to the cultivation of customer goodwill.

The agents have also watched with concern frequent occasions when uncertain costs have caused prospective travelers to postpone or cancel plans to use our national air transport system. The potential number of prospective air travelers who have been deterred from even inquiring about flights as a result of almost continuing public announcement of escalating air fares is a worrisome factor indeed to all of us who promote the air transport industry.

Another aspect of the inadequate lead time problem is reflected in the fact that travel agents and tour wholesalers are forced unnecessarily to expend large sums of money to have brochures and other advertising materials republished because of last-minute tariff changes. Similarly, it is extremely difficult for wholesalers to package and price tours with any certainty due to air fare changes.

On June 5, 1975, the CAB issued an advance notice of proposed rulemaking advising that it had under consideration a proposal to require carriers to publish and disseminate to the traveling public

simplified information relating to the various air fares available and their applicable restrictions. In responding to that proposed rulemaking, ASTA indicated it was in full agreement with the Board's stated objective but pointed out the specific proposals contained in the Board's notice would not in and of themselves provide meaningful or practical relief from the current confusion and uncertainty.

Rather, we pointed out that there are specific steps which, if taken, would eliminate current confusion and uncertainty regarding airline fares, assure the public had access to reliable and simplified air fare information, and reduce unnecessary expenditures for air carriers and travel agents alike.

Principal among those recommendations was ASTA's urgent request that the Board and all segments of the travel industry work in concert to encourage the Congress to enact H.R. 7017 and a companion bill in the Senate, S. 1836, introduced by Senator Moss. We are very pleased that Chairman Robson has strongly endorsed such action at this hearing today.

Other steps which we urge be taken by the CAB and the carriers included: (1) new filing procedures for tariffs to make them simpler and more accessible to the public and the travel agency industry; (2) a reduction in the frequency of tariff changes; (3) the establishment of regular periods for implementing tariff changes—for example, proposals which would allow tariff changes to take place only on the first of each month, every 60 or every 90 days, or some other stated period; (4) adequate notice to the public when tariffs are being changed; and (5) wherever possible, the standardization of rules and regulations for promotional fares.

Let me again stress that the purpose of this legislation would be much more effectively served if the bill were to be amended to require that the tariff changes be filed 60 days in advance of the effectiveness and that the Board be required to act within 30 days—30 days' notice to the public of fare changes is, we believe, much more desirable than the presently proposed 15 days' notice.

Such an amendment would impose no additional burden on the CAB and would have a minimal impact upon the air carriers. It would, however, be a tremendous aid to prospective travelers who, we believe, should be permitted some confidence in their purchase of air transportation. Such an amendment would greatly reduce the number of situations in which travelers purchase air transportation only to learn after the fact that they must pay additional money for transportation for which they have already contracted, and, most importantly, provide some time to print and distribute to travel agents reliable tariff information.

There is one further aspect of the tariff lead time problem which, while not actually addressed by the pending legislation, should be brought to the subcommittee's attention.

As I indicated earlier, the problem of tariff changes has been exacerbated in recent years due to the fact that carriers have found it necessary to effect such changes with increased frequency. Many of the changes are, of course, militated by economic pressures beyond the control of the carriers and the CAB. However, we believe that the Board could act to reduce the frequency of tariff changes.

At the present time, the Board will approve tariff changes only if the proposed changes are based upon the filing carriers' rate of return as of the date of filing. It has on numerous occasions rejected tariff changes based upon forecasted economic data, however reliable such data may be. This policy has contributed substantially to the problem of increasingly frequent tariff changes.

It is ASTA's belief that the Board should be encouraged to reexamine and, hopefully, to change its policy in this regard. We believe, Mr. Chairman, that this subcommittee would be an appropriate body to provide such encouragement.

Mr. Chairman, I want to thank you and the members of the subcommittee for the opportunity to appear before you this morning. I hope that the subcommittee will act expeditiously and decisively to see to it that the Federal Aviation Act is amended to provide the traveling public with at least 15 days' notice of airline passenger tariff changes. This is a matter of great importance to the public and to the Nation's travel agents. The enactment of H.R. 7017 should not be delayed.

Thank you, Mr. Chairman.

Senator CANNON. Thank you, Mr. Miller, for a very fine statement.

I take it that ASTA has no position with respect to the charter filings?

Mr. MILLER. Mr. Chairman, I do believe that the public is equally affected by frequent changes in charter tariff filings. Certainly, the strictures under which charters may be sold these days would seem not to be in conflict with the goals of advance tariff filing, as we have suggested. Since contracts for most charters must be entered into well in advance or departure.

Therefore, I do not think it might be appropriate that we have any exception for charter tariffs but that we do have such advance notice just as we should have for scheduled service.

Senator CANNON. Thank you very much, Mr. Miller, for your very helpful testimony.

Mr. MILLER. Thank you, Senator.

Senator CANNON. Next witness is Mr. Louis Haffer, executive vice president and counsel, Air Freight Forwarders.

**STATEMENT OF LOUIS P. HAFFER, EXECUTIVE VICE PRESIDENT  
AND COUNSEL, AIR FREIGHT FORWARDERS ASSOCIATION;  
ACCOMPANIED BY WILLIAM J. DIXON**

Mr. HAFFER. Thank you, Mr. Chairman.

My name is Louis P. Haffer. I am executive vice president and counsel for the Air Freight Forwarders Association of America and I am accompanied by a gentleman whom you obviously know, William J. Dixon, who is associated with me.

The association we represent is an association of air freight forwarders who are authorized by the CAB to engage in the air transportation of property; that is, of freight.

We are commonly referred to as indirect air carriers or air carriers not directly engaged in the operation of aircraft. Our industry generates over 40 percent—closer to 45 percent—of the freight by volume

carried in the scheduled service of the U.S. domestic carriers. Our tariffs for the transportation of freight on behalf of our shipping public customers must be filed with the CAB just as are the tariff of direct air carriers or airlines. They are subject to review by the Board just as are airline tariffs.

We strongly support H.R. 7017 as enacted by the House of Representatives which would amend section 403(c) of the Federal Aviation Act to provide for a 15-day period between the minimum effective date of airline freight tariffs and the minimum effective date of airfreight forwarders tariffs. This would be accomplished in the bill as passed by the House and that is now before you by providing that no change shall be made in any freight tariff filed by any direct air carrier; that is, any airline—except after at least 60 days from filing with the Board; and no change shall be made in the freight tariff of any air carrier not directly engaged in the operation of aircraft; that is, an airfreight forwarder—except after at least 45 days from filing with the Board.

The overriding reason for the need for a shorter period for forwarder tariff effectiveness following the filing of airline tariffs was recognized by the Air Transportation Association which has supported a 15-day differential and by the Public Works and Transportation Committee of the House, which passed the bill before you.

I note with some pleasure that now Chairman Robson, who testified on behalf of the Board today, has said at a minimum that the Board has no real objection to the inclusion of this 15-day lead period.

Approximately 45 to 50 percent of a forwarder's revenue is paid to the airlines for underlying air transportation. It is obvious, therefore, that substantial airline rate tariff changes must be responded to very promptly by the airfreight forwarders in their own tariffs.

But where an airline files a substantial or major tariff increase, it takes time for a forwarder to respond, to analyze the frequently complex increases, to prepare his own tariff changes and to file with the Board. In the ordinary situation this takes at least 2 weeks following the airline filing.

If the same statutory minimum effective date is applicable to the forwarder's tariff as to the airline tariff, the forwarder's increase would then not become effective until at least 2 weeks after the airline increases.

This inequity results in substantial monetary losses to the forwarder, and for no purpose whatsoever. Forwarders have experienced such major losses from this situation in the past. Indeed, depending on the extent of the airline increases to which forwarders must respond, a 2-week required delay by the forwarders in matching a single airline industry increase could cost the air forwarder industry more than \$1 million in losses.

What the bill before you does is simply permit the forwarder to pass through to his own customers comparable increases at approximately the same time the airline increases become effective—and no sooner.

Under the House bill before you, the shipper will still have substantial notice of the forwarder's tariff changes. Shippers are aware, of course, that forwarders have to adjust by raising their own rates

when the airlines raise their rates. We know of no shipper group that has considered it to be equitable or just to require the forwarder to lose money on the traffic he carries during the period following the effective date of the airline increase while the forwarder is engaged in the mechanics of preparing to file in response to an airline increase.

We urgently recommend the passage of this bill now before you. It can have no adverse effect on the shipping public or on the airlines. Retention and perpetuation of the same statutory minimum effective date for the forwarders as for the airlines, however, will continue to offer the prospect of serious financial loss to forwarders as it has in the past.

Please accept our gratitude for the opportunity to appear and to testify before you today.

Senator CANNON. Well, thank you very much, Mr. Haffer, for your very fine and helpful testimony. We are happy to see Mr. Dixon here with you, with whom we have worked over a number of years, and also happy to note the former Chairman of the Board in the audience today.

We are glad to welcome you here to a busman's holiday, I presume, today.

VOICE. It's so much more pleasant to be involved with aviation than railroads, Mr. Chairman, that I thought I would come have a little enjoyment.

Senator CANNON. Thank you.

Next witness is Mr. Leo Seybold, vice president of Federal Affairs, ATA.

**STATEMENT OF LEO SEYBOLD, VICE PRESIDENT, FEDERAL AFFAIRS, AIR TRANSPORT ASSOCIATION, WASHINGTON, D.C.; ACCOMPANIED BY JEROME F. HUISENTRUIT, ASSOCIATE GENERAL COUNSEL; AND C. CROWELL SQUIRE, PRESIDENT, AIRLINE TARIFF PUBLISHERS**

Mr. SEYBOLD. Good morning, Mr. Chairman.

I have with me Jerome F. Huisentrut, associate general counsel of the ATA, on this side, and Mr. C. Crowell Squire, president of Airline Tariff Publishers, on my right.

I have a very short statement which I would like to file for the record and then make a short oral statement.

Senator CANNON. All right, sir.

Mr. SEYBOLD. We strongly support the bill as reported by the House and feel that it is long overdue. I know this committee made an effort several years ago to try to move the bill, but it was frustrated by the diversity of opinion which I think is now beginning to gel toward the bill the House has passed.

We hope the committee will be able to move it very quickly and that this will become law as promptly as possible.

I would be glad to answer any questions.

Senator CANNON. First let me ask you this about this proposal for 60 and 30 days rather than the 45 and 15.

What is your position with respect to that?

Mr. SEYBOLD. I think our position would be about the same as the Chairman of the CAB.

We would prefer the 45-day—45- and 30-day arrangement on the basis that the carriers need some flexibility to meet changing conditions. The 45-day bill would be an improvement over the present law everyone is living with. Sixty days locks you in and removes a certain amount of flexibility.

The present bill does make a 15-day improvement and gives everyone the notice they don't get now, and I think we would prefer 45 days.

Senator CANNON. I would admit the present bill as proposed is certainly an improvement, but it seems to me that the 60- and 30-day idea—along with making a simplified change so that you knew, perhaps, that you weren't going to have a rate change except effective on the 1st or 15th, instead of having to look at every day of the month—might simplify the process somewhat, and certainly facilitate the giving of information to the public.

Unless you had some major objections to it, which I don't see at the present moment, I would be inclined myself to support the 60-30 provision with a 1st and 15th effective date.

Mr. SEYBOLD. I think the carriers would hate to be locked into the 1st and 15th, but I think one of the prior witnesses, I believe it was Mr. Woodward of Reuben H. Donnelley, who was condemning the rule for its lack of enforcement actually submitted data that shows that most of the changes that have been made this year did occur on the 1st and 15th.

So I think the carriers would prefer to keep that with flexibility to vary it under special circumstances. We would hate to see that locked into the statute.

Senator CANNON. Let me ask you this.

If we were to make the 60- and 30-day change and simply said in the committee report that we hoped filings would be accomplished so that they were made effective the 1st and 15th of the month to simplify the process—in other words, give some direction in the committee report, but not absolutely bind it into law, would that be a satisfactory trade off as far as your association is concerned?

Mr. SEYBOLD. I don't know whether that's trading a horse for a rabbit or not, Mr. Chairman. It looks like it might be.

I want to point out that there is a resolution of the Air Traffic Conference in effect and approved by the CAB that does provide that the carriers will file their tariffs 45 days in advance today, and that that is the practice, that by agreement of the carriers of through the Air Traffic Conference on a resolution approved by the CAB, it is the common practice to file 45 days in advance.

Senator CANNON. If it is the common practice to file 45 days, you certainly would have no objection to going an additional 15 days in order that we could better spread that information out to the public.

I think this could be a great public relations improvement for the air carriers at a time when we need all the support for them we can get.

That is what I am looking at, the user, the guy that goes in and can't really determine what his fare is going to be, and frequently finds out it is wrong because the information isn't up to date.

I have had that happen to me, and while it doesn't create any problem as far as I am concerned because I understand what it is, I can understand how a person might go in to buy a ticket someplace—our staff counsel here was just up in Alaska, and how many segments did you have, 16? How many errors were there on the ticket?

Mr. GINTHER. Seven were correct and nine were incorrect.

Senator CANNON. Seven correct and nine were incorrect.

So you know the reaction if that happens to somebody that is outside and that doesn't know—I think we could eliminate part of the problem just in this one simplification, if it doesn't create any major problem for the carriers.

Mr. SEYBOLD. Well, I think as far as the Alaska accuracies and inaccuracies are concerned, I don't know whether that was in any way related to the tariffs, the tariff filing date or effective date.

Senator CANNON. It may not have been, but the point is that if we can eliminate any errors that occur for whatever reason, I think it would strengthen the image of the air carriers themselves.

Mr. SEYBOLD. I would expect the industry would hopefully on a voluntary basis continue to apply the additional 15 days so everyone would have the full notice, but I just hate to see us locked into that by statute.

Senator CANNON. Can you tell us how many of the carriers now make a practice of filing at least 60 days in advance?

I am told it is common practice among some of the carriers now.

Mr. SEYBOLD. I don't think it is, but I would ask Mr. Squire to answer that, because he is the man who files them all and should know.

Mr. SQUIRE. That is not true, sir.

Very few tariffs are filed in excess of 45 days.

Senator CANNON. Well, what percent?

Mr. SQUIRE. I would say less than 1 percent.

Senator CANNON. Would you review the filings, say, for a fixed period of time in recent history and supply us what your percentage of filings show so that we could have that for the record?

Mr. SEYBOLD. We would be glad to do that. And I am suggesting that if the bill should come out on a 45-day basis, that those additional 15 days undoubtedly would be built in by agreement among the carriers with Board approval to add those 15 back in so it would come out 60 days.

But a statute locks you in.

Senator CANNON. I understand.

Mr. SEYBOLD. I would like to make a comment about Mr. Driscoll's proposal on charter tariffs.

I think I would like a little more time to check it out, but from what I have been able to determine so far, our members, I believe, would prefer that the charter tariffs be on the same basis as the scheduled tariffs for the reason that the public and the tour organizers are entitled to as much advance knowledge on charter tariffs as they are scheduled.

I think that the negotiation that he described may be—perhaps it is for his particular group of carriers, and maybe our carriers use it to some extent, too.

But by and large, our members operate on an established tariff that is filed and approved and known well in advance by the Board and the public, and it is usually on a mileage basis.

I suspect that these last minute negotiations on charter rates which he describes which still have to be filed 30 days in advance, are perhaps competitive efforts to steal charters away from each other, I don't know.

Senator CANNON. Thank you very much, gentlemen.  
We appreciate your being here.

STATEMENT OF LEO SEYBOLD, AIR TRANSPORT ASSOCIATION OF AMERICA

My name is Leo Seybold, I am Vice President—Federal Affairs of the Air Transport Association of America (ATA). The ATA is a trade and service organization representing virtually all of the U.S. scheduled, CAB certificated air carriers.

I am appearing before this Committee on behalf of our members to lend their endorsement and strong support to H.R. 7017. This legislation is a simple bill to correct a statutory deficiency. It would amend the Federal Aviation Act of 1958 (the Act) in two respects:

(1) Section 403(c)—Change from 30 to 45 and 60 days the advance date by which passenger and cargo tariffs, respectively, must be filed with the Civil Aeronautics Board (Board), and

(2) Section 1002(g)—Assure that the Board's authority to suspend a proposed tariff ends on the 15th day before the effective date rather than the last day before the effective date.

Under Section 403(c) of the Act, an airline must file with the Board any proposed change in an existing tariff thirty days in advance of the effective date of the change. Under Section 1002(g) of the Act, whenever an air carrier files a proposed change, the Board is authorized to enter upon a hearing as to the lawfulness of the new proposal. Pending the hearing, the Board may suspend the operation of the proposed tariff for a period of 90 days, extendable up to 180 days. Such a suspension delays the implementation of the proposed tariff pending the investigation and decision on its lawfulness. If the Board has not suspended the proposed tariff change at the end of 30 days, it automatically goes into effect.

Therefore, unless the Board has affirmatively exercised its suspension power or has notified the airlines in advance that it will not suspend the proposal, the traveling and shipping public, travel agents, freight forwarders and the airlines have no advance notice concerning whether a new tariff will go into effect at the expiration of the 30 days. The Board is permitted to suspend as late as the last day before the tariff would go into effect, and is under no obligation to inform the airlines or the public in advance of its decision. The end result is that in most cases nobody knows before the effective date whether a tariff proposal will be suspended or allowed to go into effect. This is by no means meant as a criticism of the Board, but rather is a fact of life under the present statutory scheme. The Board may well need the full 30 days to reach its decision.

Airlines strongly support H.R. 7017 because we believe all parties need reasonable notice of actual tariff changes. The bill would assure the public, travel agents, freight forwarders, shippers and the airlines reasonable notice of any tariff changes no less than 15 days in advance of their effective date. The legislation would accomplish this by increasing the time period airlines must wait before implementing tariffs. The Board still would have at least 30 days, 45 days in the case of cargo rates, to analyze and review tariff changes.

In the case of cargo rates, the reason for the additional 15 days is to give the freight forwarder time to adjust its tariffs in response to airline tariff changes and still be able to meet the 15 day public notice objective. The airlines are willing to forego the advantage of the shorter filing period in order to be able to give the public 45 days notice of a proposed passenger fare change, 60 days in the case of a proposed cargo rate change and at least 15 days notice of the passenger fare or freight rate that actually will be in effect. As we mentioned earlier, currently that fare or rate may not be determined until the moment of its effectiveness.

The matter is further complicated by the fact that the airline sales network includes approximately 11,000 travel agency locations throughout the United States which account for approximately 45 percent of all passenger ticket sales. At the present time the travel agent is in the same situation as the individual airline when it is faced with the decision of which tariff to quote or charge during the interim period.

Adoption of this legislation will go far toward eliminating the problems of confusion and uncertainty, and the specter of last-minute additional assessments or refunds.

For example, a great many passengers purchase their tickets two weeks prior to departure date. With the assurance of a 15 day lead time the travel agent and airline will know exactly what fare will be in effect on the date of travel, and, more importantly, the passenger will know that there will be no last minute change in the fare for his trip. The effect of this bill will be overwhelmingly beneficial to all parties—the traveling and shipping public, the travel agents, the freight forwarder and the airlines. Therefore, the airlines strongly support the bill and urge your favorable consideration and early passage of this legislation.

Thank you for permitting me to present the airline view on this simple but very necessary and important amendment to the Act.

[The following information was subsequently received for the record:]

AIR TRANSPORT ASSOCIATION OF AMERICA,  
Washington, D.C., July 28, 1976.

HON. HOWARD W. CANNON,  
Chairman, Subcommittee on Aviation, Committee on Commerce, U.S. Senate,  
Washington, D.C.

DEAR MR. CHAIRMAN: During the hearings on July 22 on H.R. 7017 a number of issues were raised on which further information was called for.

#### ADVANCE NOTICE ON SCHEDULED TARIFF CHANGES

You asked us to furnish the Committee with a review of the filings of air carriers for "a fixed period of time in recent history" as to the percentage of filings which have been made 60 or more days in advance of the proposed effective date of the tariff change.

Mr. C. C. Squire, President of Airline Tariff Publishing Company, has furnished the following information in response to this question.

"The Airline Tariff Publishing Company filed with the Civil Aeronautics Board, during the period of January 1, 1976 to July 22, 1976, 28,840 revised passenger and cargo tariff pages. 1,129 of these revised tariff pages (3.9 percent) were filed on 60 or more days notice. We would like to point out that 769 of these 1,129 pages were filed on 60 days notice pursuant to C.A.B. Order 75-12-157 leaving *only 360 pages (1.2 percent) that were filed on 60 days notice voluntarily by the air carriers.*"

#### ADVANCE NOTICE ON CHARTERS

In addition, there was a discussion of the scheduled carriers' views with respect to the proposal by Mr. Driscoll that charter tariffs remain on a 30 day basis even though there is general support for changing the advance notice for most tariffs to 45 or more days. A check of a substantial number of the scheduled carrier members of the Air Transport Association, including both trunk and regional carriers, indicated that our members would prefer to see any extension of the advance filing requirement made applicable to both charter and scheduled tariffs.

A number of the carriers file their charter tariffs well in advance of the effective date so that chartering parties, tour organizers and other prospective charterers may know what the air transportation costs will be in planning their charters. For example, United Airlines, which has the largest volume of domestic charters, has already filed its charter rates for the calendar year 1977 for the very purpose of enabling prospective charterers to know well in advance what the charter rates will be. As I said in my testimony, I suspect that the last minute negotiations referred to by Mr. Driscoll may reflect efforts of different carriers to switch prospective charters away from their competition.

## PROTEST OR SUSPENSION OF CHARTER TARIFFS

Contrary to the impression which may have been left with the Committee by another witness, who contended that there are few, if any, protests or suspensions of charter tariffs, the fact is that every so often third parties do protest charter tariff filings. Moreover, the C.A.B., on its own initiative sometimes suspends tariffs for a number of reasons. Among these are:

- (1) Bulk or volume tariffs, which may be discriminatory;
- (2) Cancellation or penalty provisions which may be unjust or unreasonable; and,
- (3) Tariffs which may be restricted to special categories of persons and thus not available to the general public, and which, therefore, are or may be discriminatory.

## FILING ON THE FIRST AND FIFTEENTH OF THE MONTH

A recheck with the carriers indicates that they want to continue to restrict tariff filings for effectiveness on the first and the fifteenth of the month, with exceptions for change overs to and from daylight saving time and other special circumstances. Thus, they would prefer that this requirement be governed, as it is at present, by an Air Traffic Conference resolution approved by the Board rather than by a rigid statutory provision.

I hope the above information will be of assistance to the Committee.

Sincerely,

LEO SEYBOLD,  
*Vice President,*  
*Federal Affairs.*

SIDLEY & AUSTIN,  
*Washington, D.C., July 27, 1976.*

Senator HOWARD W. CANNON,  
*Chairman, Subcommittee on Aviation, Room 5108, Dirksen Senate Office Building,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR CANNON: On July 22, 1976, the Subcommittee on Aviation held hearings on H.R. 7017 and S. 1836. These bills would require airlines to file proposed tariff changes with the Civil Aeronautics Board (CAB) at least 45 days before the proposed effective date. The CAB would then be required to act on the proposed change at least 15 days before the proposed effective date. The Reuben H. Donnelley Corporation has strongly urged that the bills should be amended to provide for a 60 and 30 day notice requirement.

During the course of the Hearing, one witness indicated that the airlines currently file their proposed changes with the CAB approximately 45 days before the proposed effective date. The witness stated that if the Congress were to enact a 45/15 day requirement, the airlines would try to file proposed changes approximately 60 days in advance.

Donnelley believes that the proposal suggested by the witness will not provide the desired relief. While some airlines have made tariff filings approximately 45 days prior to the proposed effective date, the required CAB action still does not occur until the last minute. Attached to this letter is a modified version of an exhibit that was included with the testimony of James W. Woodward, Senior Vice President, The Reuben H. Donnelley Corporation. The original exhibit, which was designed to show the last minute action by the CAB, showed the major fare change requests filed during the first half of 1976, the effective date of the changes and the CAB's action. In addition to that information, the revised exhibit contains the date of the initial filing by an airline, including the name of the airline.

As can clearly be seen, the early filings did not result in additional notice for travel agents, ticket agents or travelers. Thus, it is highly unlikely that a statutory 45 day notice period, plus an additional 15 days informally agreed to by the airlines, will result in a 30 day period between the time the CAB acts and the effective date of the tariff change.

Donnelley continues to urge that H.R. 7017 and S. 1836 be modified to provide for a 60/30 day notice requirement.

Sincerely,

JOHN H. WITMER, JR.

Attachment.

## CAB ACTION ON 1976 FARE CHANGE REQUESTS

Fare filing	Filing date <sup>1</sup>	Effective date	Total days	CAB action
1. 1 percent increase by majority of carriers.	Dec. 16, 1975 (TWA).....	Feb. 1, 1976	46	Permitted. <sup>2</sup>
2. 2 percent increase by majority of carriers.	Jan. 16, 1976 (Eastern).....	Mar. 1, 1976	45	Do. <sup>2</sup>
3. 2 percent increase by majority of carriers.	Feb. 17, 1976 (Eastern).....	Apr. 1, 1976	44	Do. <sup>2</sup>
4. Military reservation extension...	Feb. 18, 1976 (National).....	do.....	43	Approved Mar. 30, 1976.
5. United States-Canadian Trans Border increase.	Mar. 19, 1976 (Air Canada)...	Apr. 25, 1976	37	Permitted. <sup>2</sup>
6. United States-Hawaii 5 percent increase.	Mar. 19, 1976 (United).....	May 1, 1976	43	Excursion fares permitted; normal fares suspended, Apr. 30, 1976.
7. 2 percent increase by majority of carriers.	Mar. 17, 1976 (Eastern).....	do.....	45	Approved, Apr. 30, 1976.
8. Alaska and Alaska-United States 3 percent increase.	Mar. 30, 1976 (Alaska Air- lines).	do.....	32	Suspended, Apr. 30, 1976.
9. Restructure of excursion fares fares.	Apr. 16, 1976 (TWA).....	June 1, 1976	46	Approved, May 28, 1976.
10. 2 percent increase, Eastern	Apr. 23, 1976 (Eastern).....	do.....	34	Rejected, May 24, 1976.
11. 2 percent increase by majority of carriers.	May 21, 1976 (Eastern).....	July 1, 1976	41	Suspended, June 25, 1976.

<sup>1</sup> Includes name of 1st airline to file the proposed change.

<sup>2</sup> The CAB takes no action when it permits a fare change. In other words, the airlines do not know until the very last minute whether or not the fare change will be allowed to go into effect.

Senator CANNON. The next witness, Mr. John de Lorenzi, managing director, public policy division, American Automobile Association (AAA); and Mr. W. R. Brown, director of agency and industry relations.

**STATEMENT OF JOHN DE LORENZI, MANAGING DIRECTOR, PUBLIC POLICY DIVISION, AMERICAN AUTOMOBILE ASSOCIATION; ACCOMPANIED BY WILLARD R. BROWN, DIRECTOR, AGENCY AND INDUSTRY RELATIONS, WORLD WIDE TRAVEL DIVISION**

Mr. DE LORENZI. Good morning, Mr. Chairman.

I am John de Lorenzi, managing director of the Public Policy Division of the AAA. I am accompanied by Williard R. Brown, director of agency and industry relations for our World Wide Travel Division.

We are most grateful for the opportunity to appear before you this morning to testify in support of H.R. 7017, which would amend the Federal Aviation Act of 1958 to insure that airline passengers and travel agents have at least 15 days notice of changes in airline fares. We feel that this legislation will greatly benefit the American traveling public.

The AAA, which is about to celebrate its 75th birthday, has more than 17,800,000 members. Our surveys show clearly that travel, not only by automobile but also by air, is one of the great common denominators of our membership. To help serve these members by making their domestic and foreign travel planning as carefree as possible, AAA is made up of 913 clubs and branch offices in 49 States. This includes 551 accredited travel agency locations throughout the country. These travel agencies serve the general public as well as AAA members.

AAA feels that one of its prime responsibilities is giving its members and the general public precise information about their destinations and the cost involved. Unfortunately, the present procedure governing submission and approval of proposed air tariff changes has, on more than a few occasions, caused great inconvenience, hardship, and con-

fusion through last-minute fare adjustments. For this reason AAA has supported a change in the Federal Aviation Act to require greater leadtime for approval or disapproval of air fares.

Frankly, we feel that the 15 days provided for by H.R. 7017 is not adequate and would prefer a 30-day leadtime requirement for domestic flights and a 90-day leadtime requirement for overseas flights which generally require more extended planning periods. We feel that these extended time periods would allow for a greater publicizing of the revised fares which would help prevent inaccurate ticketing. We also believe that air carriers could still be able to respond adequately to changing economic conditions under this procedure.

However, we are fully aware of the time considerations at work in an election year, and we believe that passage of H.R. 7017 is a step in the right direction. We believe that the need for this legislation has been adequately documented. Therefore, we urge your speedy approval of H.R. 7017, preferably with these aforementioned amendments, so that the full Senate can give it timely consideration.

However, if H.R. 7017, as presently worded, is passed, we urge you to continue to monitor this situation to determine if the 15-day leadtime is adequate.

Thank you. We will be glad to try to answer any questions you might have.

Senator CANNON. Well, thank you very much, Mr. de Lorenzi. We appreciate having your views.

I take it from what you have said, then, that you would prefer that we went to the 60/30-day provision.

Mr. DE LORENZI. Absolutely.

Senator CANNON. Do you think it would also be helpful if we required the filings to be effective, for example, on the 1st or the 15th of the month to lend a little more certainty to the sale process?

Mr. DE LORENZI. Certainly. If you had a regular procedure it is easier to follow.

Senator CANNON. Thank you very much. We appreciate your being here and for the information of those present. We will schedule a meeting to mark up this bill next week, if at all possible.

The committee will stand in recess, subject to the call of the Chair.

[Whereupon, at 10:40 a.m., the hearing was adjourned, subject to the call of the Chair.]

[The following information was subsequently received for the record:]

#### STATEMENT OF THE INDUSTRIAL TRAFFIC LEAGUE

The League is a voluntary organization of shippers, shippers' associations, boards of trade, chambers of commerce and other entities concerned with rates, traffic and transportation services of all carrier modes. It is the only shipper organization which is both nationwide and consisting of all types of shippers geographically, by commodity, and large, medium and small, using all modes of transportation. The League is not a panel or committee of a trade group, or a spokesman for a particular commodity or transportation point of view, and does not permit carrier membership.

The League's primary concern is to provide for the nation and all its shippers, a sound, efficient, well-managed transportation system, privately owned and operated.

To arrive at positions reflective of the broad range of shippers interests within the League, the League membership at its annual and special meetings considers, debates and votes on actions to be taken. During its more than sixty years of existence, the League has frequently been the spokesman for the nation's shippers before Congress on proposed transportation legislation.

At its 1971 Annual Meeting, League members unanimously approved the recommendation of its Air Transportation Committee that the League vigorously take issue with existing CAB-approved practices and procedures which too often result in the receipt of freight tariff changes after passage of the effective date of such changes. The Air Transportation Committee also recommended, and League membership approved, the taking of action which will lead to the elimination of CAB procedures which make it difficult and at times impossible, because of time limitations, for a shipper to seek suspension of unreasonable tariff provisions prior to their effective date.

Although H.R. 7017 is intended to require the Civil Aeronautics Board to afford the public 45 days' notice of changes in air carrier fares and rates, we do not believe that that objective will be attained for shippers of air freight unless additional language is incorporated in the bill.

It is worthwhile to note that the Board has an effective policy at this time which *permits* tariff publications to be filed on notice of 45 days or longer and which provides that the Board will issue an order of suspension and investigation, if any, at least 15 days before the effective dates of tariffs in the case of interstate and overseas air transportation, or at least 7 days with respect to foreign air transportation (Part 399.36, Statements of General Policy, CAB Economic Regulations. See copy attached). Accordingly, the proposed statutory language will make mandatory what heretofore has been permissive.

From the standpoint of passenger tariffs, the 45 days' mandatory notice of proposed changes, plus the requirement that the Board must act at least 15 days before the effective date, has merit. Without such a time lapse an advance purchaser of a passenger ticket might find himself holding an invalid ticket in the case where the Board waits until the last minute to suspend.

From the standpoint of air freight tariff publications, however, a somewhat different situation prevails. Transportation service is not contracted for until a shipment is tendered to a carrier. Unless a shipper is aware at that time of any tariff changes which may have been filed by a carrier, he is at a disadvantage as opposed to the carrier who has known for some 30 or 45 days that a rate has been changed.

Passengers of airlines, although affected by carriers' tariffs, have no contact with those publications, nor need they, as long as they can rely upon the good offices of the Civil Aeronautics Board to protect their best interests. Fortunately, the changes to passenger tariffs are relatively infrequent as compared to freight tariffs and the Board has the facilities to closely screen increases in passenger fares so as to determine whether they are reasonable and in the public interest.

Tariffs which govern the movement of freight by air carriers are in an altogether different category. For example:

1. They are subject to frequent changes. In a recent nine-month period a local and general airline commodity tariff was changed 4,004 times.

2. The Civil Aeronautics Board has neither the staff nor the capability to determine the reasonableness of such numerous and frequent tariff changes upon the many shippers who are affected by those changes.

3. To shippers of air freight, the tariffs and their frequent changes are price lists which must be in hand and referred to before a determination can be made whether to ship or not to ship by a given carrier or mode of transportation.

4. To guard against the imposition of unreasonable freight charges, shippers must not only have tariff changes prior to shipping their goods but also sufficiently in advance of their effective dates so as to permit protests to be filed with the Civil Aeronautics Board to prevent such changes from becoming effective when a shipper concludes that a proposed tariff change is unreasonable.

The Board requires freight tariff protests (petitions for suspension) to be filed by shippers 18 days in *advance* of the effective dates of tariff changes (see Part 221.160 of the CAB Economic Regulations, attached). Unfortunately, however, the Board has not placed a requirement of carriers or their tariff publishing agents to distribute tariff changes to subscribing shippers in sufficient time for them to meet the 18-day deadline. To the contrary, it has adopted tariff filing procedures which make it doubly difficult for shippers to protest tariff changes.

For example, Part 302.505 of the Board's Economic Regulations (copy attached) requires protests to be filed 12 days *after* the "posting" dates of tariffs. Part 221.31 of the regulations, also attached, permits carriers to place "posting" dates on their tariff changes in lieu of "issued" dates. No reason is given. The effect on users of air freight tariffs of the use by carriers of this permissive "posting"

technique is to nullify the 18-day provisions of Part 211.160 and substitute a 12-day period, the running of which commences at a time that is known to the carriers and to the Board but not to shippers.

The proposed 45-day filing requirement will do nothing to correct this situation and the Board has held that it is without authority to monitor the freight tariff distribution practices of the publishers of airline tariffs. *In the Matter of Henry M. Karel v. Airline Tariff Publishers, Inc.*, CAB Docket 27465, Order 75-7-32, July 7, 1975.

In the cited proceeding complainant *Karel* alleged that he was precluded from filing a timely complaint with the Board against a tariff change which had been published by the air carriers' publishing agent, Airline Tariff Publishers, Inc. (ATP) because he has not received prompt distribution of the revision. The Board responded as follows:

"ATP provides notification of tariff revisions for its subscribers. However, the airlines have the responsibility to post the tariffs, and to insure their public accessibility. Because that duty has not been delegated to ATP, it will not be held accountable for any alleged violation of [the Board's Economic Regulations.]"

The Board's refusal to assert jurisdiction in the *Karel* case is puzzling inasmuch as ATP is a creature of the airlines and their agent, pursuant to an agreement which has been filed with and approved by the Board.

Equally puzzling is the Board's statement that ATP "provides notification of tariff revisions for its subscribers," the failure of ATP to timely provide a revision being the essence of the complaint in the *Karel* case. Like many other shippers, *Karel* had subscribed to ATP's "advance" mail service<sup>1</sup> at the premium charge which has been established for such service.

Faced with a similar situation with respect to delayed distribution of tariff changes by surface carriers, the Interstate Commerce Commission in *Regulations For The Transmission of Tariffs and Schedules To Subscribers and Other Interested Parties*, 349 I.C.C. 119 (1975) established a requirement that tariffs must be transmitted to all subscribers on the same day they are transmitted to the Commission for official filing. Carriers are required to certify to the Commission that such distribution has been accomplished and their certification must accompany each tariff change which is filed with the Commission.

In view of the prevailing unsatisfactory air tariff distribution practices, The National Industrial Tariff League at its Annual Meeting in Houston, Texas, on November 19-21, 1975 adopted a recommendation that the following language be included in H.R. 7017 as related to air freight tariffs:

"Unless specifically authorized by the Civil Aeronautics Board in individual cases, for good cause shown, one copy of each new tariff, supplement, and loose-leaf tariff page, must be transmitted to each subscriber thereto by first-class mail (or other means requested in writing by subscribers), not later than the time the copies for the official filing are transmitted to the Civil Aeronautics Board."

If shippers are to have any voice in the formulation of the tariff rates which they must ultimately pay for the transportation of their goods, the League believes it essential that the foregoing provision or a provision of similar import be contained in H.R. 7017. This is especially so because of the Board's refusal to exert regulatory control over the practices of air carrier tariff publishing agents.

#### EXCERPTS OF POLICY STATEMENTS AND ECONOMIC REGULATIONS OF THE CIVIL AERONAUTICS BOARD

##### § 399.36 Processing of tariff publications filed on notice of 45 days or longer.

When a tariff is filed with the Board 45 days or more in advance of its effective date and bears a posting date as provided in § 221.31(a) (10) of this chapter, it is the policy of the Board to issue an order, if any, suspending the tariff and ordering an investigation at least fifteen (15) days before such tariff is to become effective in the case of tariffs containing rates, fares or changes solely for interstate or overseas air transportation, or at least seven (7) days before such tariff is to become effective in the case of tariffs containing rates, fares or charges for

<sup>1</sup> ATP offers two subscription categories: (1) *Regular*, which provides subscribers with effective tariff provisions and (2) *Advance Mail*, which is intended to provide subscribers with tariff proposals at the time such proposals are filed with the CAB. In *Karel's* case the "advance" tariff changes arrived two weeks after the changes became effective. The annual charges for the two categories are, respectively, \$54.00 and a prohibitive \$182.00. The latter sum is sufficient to defray the cost of first-class postage for 140 pounds of tariff changes. Although ATP is prolific, its outpouring of freight tariff changes does not approach that amount.

foreign air transportation. In the event the Board, for any reason, cannot take action on a tariff within the time specified herein, the Board will notify the filing carrier or its agent of this fact at least (15) days before the effective date of the tariff in the case of tariffs containing rates, fares, or charges solely for interstate or overseas air transportation, or at least seven (7) days before the effective date of the tariff in the case of tariffs containing rates, fares, or charges for foreign air transportation. However, this policy statement should not be interpreted as limiting the Board's power under section 1002 of the Act to suspend a tariff for interstate or overseas air transportation at any time prior to this effective date and to suspend a tariff for foreign air transportation at any time. (14 C.F.R. 399.36)

\* \* \* \* \*

#### § 221.160 Required notice.

(a) Thirty days' notice required. Unless otherwise authorized by the Board, all tariffs, supplements, and loose-leaf tariff pages and all fares, rates, charges, ratings, routings, rules, amendments, and other tariff provisions therein (including initial rates, fares, charges, and tariff provisions) as required by this part shall be filed with the Board at least thirty days before the date upon which they are to become effective, regardless of whether or not any changes are effected thereby. (14 C.F.R. 221.160)

\* \* \* \* \*

#### § 302.505 Complaints requesting suspension of tariffs—answers to such complaints.

(a) Formal complaints seeking suspension of tariffs pursuant to section 1002(g) or 1002(j) of the Act shall fully identify the tariff and include reference to the name of the publishing carrier or agent, to the CAB number, and to specific items or particular provisions protested or complained against. The complaint should indicate in what respect the tariff is considered to be unlawful, and state what complainant suggests by way of substitution.

(b) A complaint requesting suspension, pursuant to section 1002(g) of the Act, of a tariff for interstate or overseas air transportation ordinarily will not be considered unless made in conformity with this section and filed at least eighteen (18) days before the effective date of the tariff, or, in the event a posting date is printed on the tariff, unless the complaint is filed within twelve (12) days after said posting date. (14 C.F.R. 302.505)

\* \* \* \* \*

#### § 221.31 Title page.

(10) Issued date or posting date. The date on which the tariff is issued shall be shown in the lower left-hand portion of the title page in the following manner:

Issued \_\_\_\_\_, 19\_\_\_\_

(Show month, date, and year in full, using no abbreviations)

Provided, however, That a posting date may be set forth in the lower left-hand portion of the title page in lieu of an issued date. Notwithstanding the notice provisions of § 221.160 and the posting periods required by § 221.171, any tariff on which a posting date is shown must be received by the Board on or before the designated posting date; must be posted by each carrier party thereto at its stations, terminals or offices on or before the designated posting date; and must contain a posting date that is more than thirty (30) days earlier than the designated effective date of the tariff. The posting date and accompanying "Note" shall be set forth as follows:

Posting date: \_\_\_\_\_, 19\_\_\_\_

(Show month, date, and year in full, using no abbreviations)

NOTE.—In accordance with § 302.505 of this chapter (CAB Procedural Regulations) any complaints as to this tariff must be filed within 12 days after this date. (14 C.F.R. 221.31)