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AMEND THE FEDERAL AVIATION ACT OF 1958, RELATING TO GRANTING RELIEF BY EXEMPTION

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HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

S. 3684

TO AMEND THE FEDERAL AVIATION ACT OF 1958, AS
AMENDED, TO BROADEN THE POWER OF THE CIVIL AERO-
NAUTICS BOARD TO GRANT RELIEF BY EXEMPTION IN
CERTAIN CASES, AND FOR OTHER PURPOSES

AUGUST 3, 1976

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CONTENTS

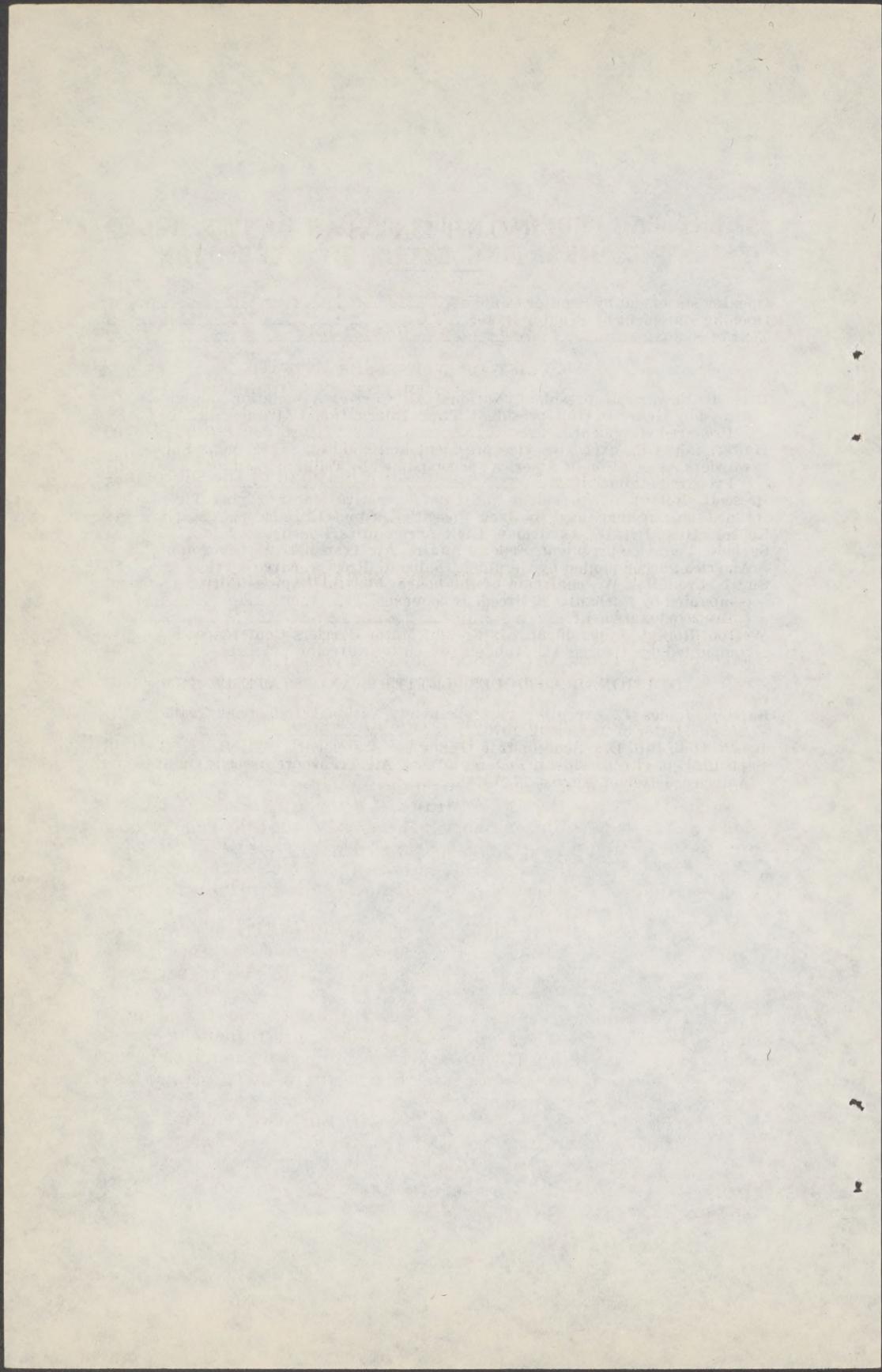
	Page
Opening statement by Senator Cannon.....	1
Opening statement by Senator Baker.....	2
Text of S. 3684.....	2

LIST OF WITNESSES

Driscoll, Edward J., president, National Air Carrier Association; accompanied by Henry P. Huff, president, Trans International Airlines.....	88
Prepared statement.....	90
Haffer, Louis P., executive vice president and counsel, Air Freight Forwarders Association of America; accompanied by William J. Dixon.....	68
Prepared statement.....	73
Prescott, Robert W., president and chief executive officer, Flying Tiger Line, Inc.; accompanied by Jack Rosenthal, counsel.....	44
Robson, Hon. John E., Chairman, Civil Aeronautics Board.....	4
Seybold, Leo, vice president, Federal affairs, Air Transport Association of America; accompanied by Gerald J. Godbout, director, cargo services.....	56
Smith, Frederick W., chairman of the board, Federal Express Corp.; accompanied by Nathaniel P. Breed, Jr., counsel.....	8
Prepared statement.....	17
Weston, Robert O., president, Air Freight Motor Carriers Conference; accompanied by George H. Mundell, executive director.....	94

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Bartley, James T., executive vice president, National Industrial Traffic League, letter of August 12, 1976.....	95
Brock, Hon. Bill, U.S. Senator from Tennessee, statement.....	3
Seybold, Leo, vice president, Federal affairs, Air Transport Association of America, letter of August 17, 1976.....	97



AMEND THE FEDERAL AVIATION ACT OF 1958, RELATING TO GRANTING RELIEF BY EXEMPTION

TUESDAY, AUGUST 3, 1976

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

The subcommittee met at 8 a.m. in room 5110 of the Dirksen Senate Office Building; Hon. Howard Cannon (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Robert E. Ginther and W. Douglas Buttrey.

OPENING STATEMENT BY SENATOR CANNON

Senator CANNON. The hearings will come to order.

Today's hearing of the committee is on S. 3684, a bill introduced by Senators Baker and Brock to amend the Federal Aviation Act with respect to the exemption authority of the Civil Aeronautics Board (CAB).

Briefly, the bill would broaden the authority of the Board to grant exemptions from title IV of the act for cargo transport operations, pending a certificate proceeding for such operations, if the Board found such exemption to be in the public interest.

Earlier this year the Board denied a petition of Federal Express Co., a nationwide shipper of small packages by air, to engage in large aircraft operations as part of the package delivery business.

Currently, Federal Express operates as an air taxi, exempt from the CAB's economic regulation. As a consequence, it must limit its operations to small aircraft only.

Federal Express will testify that as a result of increase in the demands for services, it has nearly reached the capacity saturation point with its small aircraft fleet and needs authority to operate large aircraft over certain of its segments.

In the petition for example the Board did not make a finding on the merits of the case. Instead, the Board determined that the exemption authority in section 416 of the act was not broad enough to permit it to consider the question of the use of large aircraft on a regular basis in the small package shipment business.

Therefore, Federal Express was left with only two remedies. First, to apply for a certificate to become a certificated air carrier, a process that would take several years under the best of circumstances, or to seek legislative relief.

This bill provides such relief by specifically empowering the Board to provide exemption authority to all cargo carriers while the Board considers a certificate for permanent authority.

It should be noted that the authority is discretionary—the Board would have to make a judgment whether such exemption requests were in the public interest.

This morning we will hear from a number of witnesses.

OPENING STATEMENT BY SENATOR BAKER

Senator BAKER. Mr. Chairman, I have a brief statement I would like to submit, if I may.

On July 21, 1976, I introduced for myself, Senator Brock, and Senator Eagleton, S. 2684, a bill to broaden the power of the CAB and to grant relief by exemption in certain cases.

On July 22 I wrote to our distinguished chairman of the subcommittee, and requested that he schedule early hearings on this bill.

I want to express my appreciation and gratitude to the chairman for this expeditious and early response to my request here at 4 minutes after 8 in the morning.

Briefly, S. 3684 would add a proviso to section 416(b)(1) of the Federal Aviation Act enabling the CAB to grant an exemption from the normal certification of such operations, upon a finding that the exemption is in the public interest.

This represents a modest expansion of the Board's exemption power and would permit the Board to act expeditiously to foster and promote new all-cargo air transportation services whose development would be impeded or effectively precluded by complicated and lengthy administrative delays inherent in the certification process.

I would emphasize that this legislation does not affect the basic statutory certification process.

Once this legislation is enacted, the Board will be able to respond expeditiously to applications for exemption authority to perform the subject services.

Federal Express recently applied for Board authority to operate larger aircraft in an all-cargo configuration than the present air taxi regulations allow.

The Board denied the application on the ground that:

The authority requested is more appropriately a matter for examination under the normal certification procedures of Section 401 of the (Federal Aviation) Act.

Although the CAB announced that it "stands ready to give prompt and careful consideration to any appropriate application that might be filed by Federal Express" pursuant to that section, the Board was obviously unable to provide interim relief.

In short, the problem is before us, and the only way to enable the CAB to act is for Congress to act. This, I urge, we do quickly.

[The bill follows:]

[S. 3684, 94th Cong., 2d sess.]

A BILL To amend the Federal Aviation Act of 1958, as amended, to broaden the power of the Civil Aeronautics Board to grant relief by exemption in certain cases, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Except as otherwise specified, wherever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the refer-

ence shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958, as amended.

SEC. 2. Section 416(b) (1) is amended by adding the following at the end thereof: "Provided, however, That nothing in this section shall prevent the Board from granting an exemption from the requirements of this title so as to authorize the conduct of all-cargo operations in interstate air transportation, pending consideration of an application for initial certification pursuant to section 401, if the Board finds that the issuance of such exemption is in the public interest."

SEC. 3. Section 101 is amended by renumbering paragraphs (11) through (38) thereof as paragraphs (12) through (39) and by inserting after paragraph (10) the following new paragraph:

"(11) 'All-cargo air transportation' means air transportation of property, or of property and mail, only."

Senator BAKER. Mr. Chairman, Federal Express is headquartered in Memphis, Tenn. Its chairman, Mr. Frederick W. Smith, appeared before us during the subcommittee hearings on deregulation at which time he explained their problems.

Now that we have legislation before us that offers a solution to their dilemma, Mr. Smith has returned to express support for S. 3684.

Of course, he needs no new introduction to you or the subcommittee, but I do want to warmly welcome Fred Smith. I look forward to his testimony, as well as that of the other witnesses, particularly the chairman of the CAB, John Robson.

I ask unanimous consent as well, Mr. Chairman, that I may include in the record a statement from my colleague, Mr. Brock.

Senator CANNON. It may be included in the record.

[The statement follows:]

STATEMENT OF HON. BILL BROCK, U.S. SENATOR FROM TENNESSEE

Mr. Chairman, I strongly recommend that the Subcommittee act favorably and swiftly on S. 3684 sponsored jointly by Senator Baker and myself. This bill will broaden slightly the exemption power of the Civil Aeronautics Board to allow all-cargo operations in interstate air transportation to function efficiently during the initial certification process provided that the exemption serves the public interest.

Mr. Chairman, I realize that the law purposely limits the exemption authority of the CAB for very good reasons. However, it has become clear that the Board's lack of authority in at least one case has had the undesired result of being contrary to the public interest. We cannot let such a situation exist, for it is the purpose of the government through its regulatory agencies to promote the public interest, not block or inhibit it through strict adherence to old procedures, in this case dating back to 1938. The world and the air transportation industry in particular has changed drastically since 1938.

Federal Express, an all-cargo airline specializing in door to door delivery of small packages, has run smack up against counterproductive government regulations. This young company, providing an innovative service not offered elsewhere in such a convenient and efficient form for its customers, is caught in a web of government regulations which is stifling its growth and forcing it to operate inefficiently. This in turn means higher rates for its customers. Amazingly, Federal Express is making a profit under these conditions and still has a satisfied clientele. But there is no excuse for allowing this situation to continue indefinitely.

The problem is a simple one. Federal Express' business has grown so much in three years of existence that larger planes are needed to efficiently perform its task. Government regulations require air taxis to fly planes with a payload not exceeding 7500 pounds. Early in its existence this was fine for Federal Express' needs. However, business has expanded to the point that 5-6 planes of this size flying the same routes at the same time are needed to handle the volume of priority packages on routes such as Los Angeles to Memphis, and New York and Boston to Memphis.

One's first reaction might be to say, "Fine, buy bigger planes." But the answer is not quite so simple. Federal Express petitioned the CAB for an exemption to the 7500 pound rule to permit it to use DC 9's or 727's. The CAB rejected the petition on the grounds that it did not have such authority. S. 3684 would give the Civil Aeronautics Board this authority.

The new authority provides for a very limited expansion of the exemption powers to provide needed flexibility without upsetting the certification process unnecessarily. Federal Express will apply for certification, the exemption will not function as a permanent solution. In addition, the new exemption authority will be limited to initial applications for certification for all cargo airlines. This will curb the potential for any negative impact on passenger services. Because the certification process takes a minimum of two years and often much longer, it only makes sense to allow Federal Express to operate the much needed larger craft in the meantime.

If the passenger and other airlines were providing services directly comparable to that provided by Federal Express, the exemption might not be justified. However, it is clear that Federal Express is providing a necessary and vital service to their shippers as evidenced by the spectacular growth in business which Federal has experienced in just three years.

Mr. Chairman, the most striking feature of the dilemma facing Federal Express today is the fact that the company is forced to use 30,000 more gallons of precious jet fuel per night than would be used if it were permitted to fly the Douglas DC9 or Boeing 727. In a world where energy is increasingly dear and in a nation which is struggling to conserve fuel, this is inexcusable. We have an example where one government agency, the FEA and the U.S. Congress are committed to increasing fuel efficiency and independence from foreign sources, and another government agency, the CAB is requiring the waste of 30,000 gallons of jet fuel per day. This figure astounds me, Mr. Chairman.

We have here a situation where the very country which was founded on free enterprise and who developed into a technological giant because of the freedom of its economic system is inhibiting the growth of a new and innovative service concept. The Congress must step in to correct this problem, in this specific situation and in every other case so that we might encourage creativity and growth in our economy, rather than stop it.

In closing, I might point out, that although only Federal Express will gain immediate benefit from the passage of this bill the language is written in such a way that future competitors would have the same access to the exemption pending certification.

Senator CANNON. Our first witness is Hon. John Robson.

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

Mr. ROBSON. Mr. Chairman, it is a pleasure to be here this morning. It is always a pleasure to be here at any time of the day or night.

It is our particular pleasure to appear here today to present the views of the CAB with respect to legislation designed to permit the Board to grant a temporary exemption from the certification requirements of the Federal Aviation Act to facilitate the provision of all-cargo air service.

The Board views S. 3684 as a positive approach toward giving the Board an additional mechanism with which to encourage competition and the development of new and innovative services in the all-cargo field.

As you know, the Board was recently presented with an application by Federal Express Corp. seeking exemption authority from the statutory certification requirements to enable Federal Express to operate DC-9 jet aircraft in all-cargo scheduled operations.

The Board was receptive to Federal Express' proposal, but found that our enabling statute did not permit us to extend exemption relief so far. In this connection we stated:

We would stress * * * that it is by no means our intent to discourage the entry or growth of new cargo carriers or to impede the introduction of innovative services in the air transportation system. Our holding here is merely that in the circumstances of this case, the authority requested is more appropriately a

matter for exemption under the normal certificate procedures of section 401 of the Act. In this regard, the Board stands ready to give prompt and careful consideration to any appropriate application that might be filed by Federal Express pursuant to section 401 of the Act.

While the Board possesses tools to bring new all-cargo carriers into the current system, the regulatory licensing requirements contemplate a limited entry regime and extensive administrative proceedings. This necessarily deters applications for new entry.

On the other hand, in its recently issued decision in the supplemental renewal proceeding, the Board recommended to the President that a new all-cargo supplemental carrier—Rich Airlines—be given a certificate of public convenience and necessity.

The Board currently has other applications for all-cargo certificate authority on its active docket. Clearly, however, the certification procedures take more time since the current law contemplates that the Board will carefully examine the credentials of a new applicant, the need for that applicant's services, and the effect of the entry of new carriers on the financial health of existing airlines. That type of examination cannot realistically be undertaken on the basis of papers submitted in connection with an exemption request.

The Board is sympathetic to innovative proposals. But we find ourselves handcuffed by the restrictive procedural and other requirements which the statute currently imposes. For this reason we support this legislation which would expand the Board's powers to grant authority more easily in the all-cargo area.

The bill under consideration is consistent with the Board's legislative program presented to this subcommittee last April. We continue to support these recommendations regarding the phased elimination of entry, exit, and pricing regulation of domestic air-freight services and believe they offer the potential for long-run improvements in carrier efficiency and service, as well as the expansion into new markets that are now served primarily by surface transport. While not as comprehensive as our legislative proposal, the current bill is clearly a step in the right direction.

The bill under consideration proposed simple modification of the Board's exemption power. However, it signals and provides means for a substantial relaxation of the regulation of entry for domestic all-cargo carriers. We would certainly construe Congress favorable action on this legislation as a clear indication by Congress that the Board should not be restrictive in considering requests for all-cargo exemption authority.

As we indicated earlier, we urge that Congress consider two modifications in S. 3684. First, as we understand it, S. 3684 is not intended to reach applications for new all-cargo service by existing certificated carriers. This limitation causes us concern.

We are not aware of convincing reasons for giving existing carriers less flexibility than the bill grants to new entrants. Absent such reasons, we believe that basic fairness calls for equal treatment, and we support removal of the limitation.

The second modification we suggest arises from the fact that the bill is limited to *pendente lite* exemptions. Since the exemption is not limited to entry and extends to rate flexibility as well, it seems to us incongruous to extend this rate flexibility during exemption status and withdraw it when the exemption authority ripens into a certificate.

We believe that this change is necessary and that the incongruity may have been overlooked in the drafting of S. 3684. There is no substantial reason to preclude the Board from continuing rate flexibility where it is found to be in the public interest—so long as control over predatory or discriminatory pricing is maintained—and we would suggest the deletion of the pendent lite condition on the exemption.

Our proposed modifications are consistent with the objectives of the legislation as introduced, and, in our judgment, improve upon it by enabling the Board to exempt all-cargo carriers from the certification and rate provisions of the act.

However, the current statute contemplates a certificated system so the Board would not have unfettered authority to exempt cargo service.

Congress, by enacting this legislation as modified would be taking a significant step toward a more flexible and competitive domestic cargo system. We encourage you to take this step.

I am prepared, along with the Board's staff, to answer any questions which the committee may have.

Senator CANNON. The scheduled carriers will testify that the act should not provide different standards and procedures for regulation of passenger operations and cargo operations. Obviously, the Board has concluded that the present statutory framework is not adequate in terms of meeting cargo needs. Why then, should Congress or the Board differentiate the procedures for entry into cargo versus passenger operation?

Mr. ROBSON. Well, as we said last April, Senator Cannon, we think there are reasons for distinct treatment of different aspects of the air-transport system.

If you will recall in our testimony last April, we did suggest different treatment of different features of the system. We recommended then the elimination, phased elimination, of all entry, exit, and pricing control in the cargo area.

We made the point then that this was an aspect of the air-transport system that we believed was not as central as the regular passenger system and therefore could accommodate a different treatment.

Senator CANNON. The air freight forwarders will testify that the massive erosion of overnight all-cargo services by the scheduled certificated carriers has become so serious and threatens to become even more so that an expedited grant through the exemption process pending a hearing may be the order of the day.

Isn't it a fact that these services have been reduced to the extent that shippers' needs are not being met by the certificated system?

Mr. ROBSON. There has been some decline, Senator, in the provision of freighter services.

We have before the Board now a proceeding, a comprehensive proceeding which has been designed to look at the question of aircargo and the impact of various rate alignments and such on the system. There has been some decline in freighter services. Whether there has been an overall decline in cargo service I am not prepared to say that.

Indeed, in the case of belly cargo, they are flying at reasonably low-load factors; that is, in terms of the amount of cargo they are capable of carrying.

Senator CANNON. If this bill were passed with the amendments that the Board recommends, would it be the Board's position to grant to all

qualified entrants extensive cargo authority in the domestic system whether they be existing certificated carriers, part 298 carriers, or entirely new carriers?

Mr. ROBSON. As I indicated in our testimony, Mr. Chairman, we would look on congressional enactment of this law as an encouragement to the Board to look at new entrants into the system.

We would take you seriously on that.

Senator CANNON. Would it be unfair to existing carriers and airfreight forwarders to allow new entrants on the exemption basis who are not subject to any other CAB regulations?

Mr. ROBSON. That is the point we made in our testimony.

Certainly there are, today, cargo operators such as Federal Express, operating without regulatory constraints on them, operating under exemption.

Our feeling is that we ought to broaden the authority so that we can treat existing and new entrants in a similar fashion. That was the point which we made in our testimony.

Senator CANNON. Flying Tiger will testify that over the years it has rarely, if ever, made a profit from its domestic airfreight business. On the other hand, Federal Express has since its inception shown that profitability can be achieved in the market. How does the Board account for the historical lack of profits for domestic all-cargo carriers, while Federal Express appears to be profitable?

Mr. ROBSON. I would like to say for the record, Mr. Chairman, the representatives of both of those distinguished companies are here and they, in my own view, are fine managers and both run darn good companies. I think they have different kinds of services.

Senator CANNON. Along that line, the suggestion has been made that if an exemption were granted, it ought to have a limit as to package size because of the different types of services offered. Would the Board propose to consider that particular point if an exemption were granted?

Mr. ROBSON. Senator Cannon, my reaction would be that to get us out there with our tape measures strikes me as an unnecessary limitation on the authority. I wouldn't know where you would draw the line. And it strikes me that that is something that puts you in a box of a size that may not fit the requirements of the commerce of this country.

I would just as soon see the legislation enacted without a specific weight or package size limitation to it.

Senator CANNON. Well, I am sure you recognize the problem there. If the present carriers see this route as a method of encouraging competition for them in a business that is already being carried out, they would prefer that it go through the normal process. On the other hand, if it is a specialized business that is not going to be competitive with those carriers, then that would present somewhat a different picture.

Mr. ROBSON. I think the question would be, what is and what is not "competitive."

It strikes me that those kinds of limitations are difficult to manage and perhaps not really necessary to the interests that you mention.

Senator CANNON. In assuring rate flexibility in all-cargo operations you say the Board should still have the authority to deal with dis-

criminatory rates. What authority would you choose to exercise over the cargo rates of exempted carriers?

Mr. ROBSON. Certainly with respect to predatory and discriminatory rates, Senator Cannon, we would as we proposed in our legislative package last April, want to exercise that authority.

With respect to other aspects, it would depend on the situation.

Senator CANNON. Senator Baker?

Senator BAKER. Mr. Chairman, I have no questions. You have covered the field very carefully. I wish to commend the chairman for his depth of knowledge on the subject and for his excellent statement. And once again to thank you for having these hearings at a discommodious hour.

Senator CANNON. I appreciate your getting up this early in the morning to come and join us.

Mr. ROBSON. Had to milk the cow, Mr. Chairman.

Senator CANNON. Counsel has a question?

Mr. GINTHER. Just a moment ago you were discussing the question of competitive impact of exemption authority on existing carriers. Is it the Board's position that the exemption authority ought to be broad enough so that all existing carriers, certified or otherwise, would be technically eligible to pursue the same sort of business interests that Federal Express has pursued under exemption?

Mr. ROBSON. The point we made in our testimony, Mr. Gintner, was that there seemed to be no reason why a new entrant ought to have an opportunity that an existing carrier shouldn't have.

For the reasons you mentioned, we thought they ought to be treated evenhandedly.

Mr. GINTHER. So the Board, as a matter of policy, wouldn't discriminate in favor of any class of carrier necessarily, if that class of carrier chose to seek a broader authority in the cargo field by exemption?

Mr. ROBSON. I don't see why we should have a legal barrier to being able to treat the old and new evenhandedly, no.

Mr. GINTHER. If Flying Tiger decided to initiate a service similar to that offered by Federal Express, in your view would there be any impediment to the offering of such services by exemption by the Board?

Mr. ROBSON. I would certainly see no policy reason for us to preclude someone else who wanted to offer a competitive service from getting into the game.

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

Our next witness is Mr. Frederick Smith, chairman of the board, Federal Express Corp.

**STATEMENT OF FREDERICK W. SMITH, CHAIRMAN OF THE BOARD,
FEDERAL EXPRESS CORP., MEMPHIS, TENN.; ACCOMPANIED BY
NATHANIEL P. BREED, JR., OF SHAW, PITTMAN, POTTS & TROW-
BRIDGE, WASHINGTON, D.C.**

Mr. SMITH. I would like to introduce Mr. Nathaniel Breed, who is Federal Express' Washington counsel, who will be here at the table.

Mr. Chairman, I am going to extemporaneously highlight the points in my testimony.

I would like to point out that we have submitted to the committee a rather lengthy document here which is a composite of the previous testimony given before this committee and its House counterpart in

an open briefing which we gave to the CAB which we would like to have entered in the record.

I would like to thank you, Mr. Chairman, on behalf of our employees for having us at these hearings.

I would like to make a couple of points at the outset, the first of which is that Federal Express continues to waste \$25,000 a day because it must fly multiple small aircraft operations over certain lanes where one large aircraft could fulfill the same requirement.

More importantly, I would point out the legislation here wouldn't change what Federal Express does one iota.

If passed, S. 3648 would give us the potential of providing our services more efficiently at lower rates and to more points for our 32,000 shippers.

I would like to point out further that to my knowledge—and I have scoured the testimony fairly carefully in the hearings held on the Aviation Act of 1975—and to date I have found no place where the information on the deterioration and lack of services for air cargo shippers has been contradicted by any other carrier.

I would also like to point out that Chairman Robson was not intimately familiar with the reduction in all-cargo service as he might not be expected to be.

But in the large testimony that we have, CAB statistics indicate in 1972 there were over 74,000 all-cargo departures. In 1974 that had decreased to 57,000 or a reduction of almost 25 percent of the services offered.

More importantly, the air cargo move by certificated carriers in combination aircraft had basically doubled.

The essential points we made in our testimony is air cargo is a supplementary system to lower cost surface modes.

Speed of service justifies cost differential of air, whereas the long-haul passenger transport is the cheaper primary mode.

That is a very essential point because the CAB has historically failed to recognize that the air passenger transaction begins at the airport terminal. The requirement for the movement of goods by air begin in the shipper's shipping room.

That essential difference has caused the CAB to apply the disciplines that are properly used in passenger transportation to a completely different business.

People use air transport for the movement of goods which are the most critical in the U.S. transportation system.

Services needed by these shippers are door-to-door service, late afternoon pickup, overnight transportation to all points with next morning delivery. Not just to major traffic lanes which happen to get good all-cargo service.

Now, there are a lot of people that would point out that there are many thousands of departures between the hours of 9 o'clock at night and 7 o'clock in the morning.

We point out that over 90 percent of the U.S. airline fleet is grounded during that period of time. These thousands of departures that are referred to by opposition to progressive changes in the air cargo system fail to point out that each and every one of these departures take place in only the top 20 to 25 markets. Thereby denying critical service between small and off-line points.

The nature of the traffic being moved is generally small in its physical characteristics. It has heavy concentration to and from small points.

Our information indicates that over 80 percent of all cargo moved by air is originated outside of those top 25 markets or it is destined to a point outside the top 25 markets which means the time to service and origin and destination patterns provided by the certificated airline system is directly antithetical to what the needs of the shippers are.

Finally, and this is the most important point we made, the U.S. airline system has utterly failed to meet the needs of this critical market.

There is no question whatsoever that that has been the case.

Again this has been caused by the incompatibility of passenger operations with the shippers basic needs.

Continued reduction of all-cargo service and increased daytime use of passenger aircraft underbellies for shipment really needing overnight service is contrary to the public need.

It is fine to say that the underbellies of passenger airplanes are only 30 percent full. It is also fine to say everyone in this room should have taken a bus into Washington today rather than drive their personal automobile.

The point is that an extra day's delay for a radioactive isotope or a part that keeps a plant open the following day is just as critical as any transportation movement that takes place in this country.

In short, our archaic regulations have been the major cause of the dismal record of all-cargo operations.

I would like to point out that domestic and international air cargo are two separate distinct markets in our opinion because of the significant differences between transit times and overall costs associated with all terms and modes.

We make no comment on international freight.

Regulatory deficiency results from the erroneous view that air cargo is a duplicate of the passenger business. It is not. It is a separate and distinct requirement.

Operating in a nonregulated environment Federal Express has grown from zero to over 19,000 average shipments per day and from nothing to a \$100 million in annualized revenue.

Surely among the many hours of testimony heard by this subcommittee this uncontroverted demonstration of need contrasts with the hypothetical views presented in other areas.

There has not been to my knowledge one dissenting view presented as to the disparity of the shippers' needs and the services currently offered them.

We believe the aviation regulations should be changed to reflect the need of the air cargo market less this unmitigated record of failure be perpetuated.

We believe very strongly that the proper format that these aviation regulations should take should allow only fitness as a determinant of entry and freedom of pricing with only basic protection against predatory rates as the limit.

A lot of people that oppose this legislation have accused us as being insincere in not having applied for a certificate to this point.

There are very compelling reasons why we have not.

Time, cost, and most importantly the danger of these same passenger disciplines that I mentioned being erroneously applied to a different market need.

But the basic reason we have not taken this step is that it happens to be totally against every rationale we can come up with as to what the Federal Aviation regulations ought to be for air cargo.

Now, if my history reminds me correctly, in Federalist Paper 67 the author talked about competing ambitions and how compromise was the genius of our system.

We have listened very carefully to the other carriers and what they have had to say, and it is clear to us that the majority of them believe that a certificated system should be maintained.

Moreover, we do not detect any great movement at this time on the part of the Congress to change that basic requirement.

As a consequence of that we fully support the certification requirements and the bill in question here in recognition that it is the will of the majority that a certificated system be the primary one used to authorize air transportation although that does not happen to be our basic belief as to what is the proper way to authorize all cargo transportation.

Another thing: This bill has been called the Federal Express bill. I would like to say I take a great deal of pride in that for two reasons.

One, what this bill really is is an air cargo service bill.

In light of the record of all-cargo service in this country, there is no question that something has to be done.

The second thing that I would like to point out is that I listened many times to the testimony of other carriers before this subcommittee, and to its House counterpart, and listened to the Senators and Congressmen ask the air carriers specifically what could be done to improve the air transport system and to correct regulatory errors.

We are very proud to be somewhat unique in supporting specific change rather than being totally involved in just dialog which seems to be the habit of a number of people in the industry in my opinion.

I would like to take the objections to this legislation head on and give you our views about them.

In my testimony the basic intent of the Federal Aviation Act would be abridged if this bill were enacted.

The intent, the way I read it, in 1938 was to promote the public interest, not to promote any particular type of system or licensing or particular segment of the aviation community.

In this interest the public interest is not being met.

Moreover, it is mandated and as a consequence obviously Federal Express would move expeditiously to apply for a certificate of convenience and necessity.

Two, this act would favor all-cargo and exempt carriers. It does not favor all-cargo carriers. It promotes all-cargo service.

Nothing prohibits, would prohibit the grant of such authority to any carrier if a simple change were made changing it from an initial certificate application to make it an initial certificate applicant or applicant for an amendment to a certificate.

Federal Express would strongly support modification of this bill to include that so this bill could be used by the combination or the all-cargo carriers.

Some carriers might be unfairly advantaged by not having reporting or tariff filing requirements imposed by the Board.

We have no objection if those requirements are made part of this act or if in fact under the new act the CAB imposed them on Federal Express, we would be perfectly willing to comply to either one of those requirements.

Four, the Board's power might be used to grant exemption to a carrier which was unfit especially an exempt carrier and, moreover, exempt carriers could be granted exemption for conduct of new operations which would be unfair to others operating on the route or unfair to certificate holders who had previously attempted to get such authority.

Criteria for entry might be previously demonstrated fitness by ton-mile formula, something like that.

We have no objection to that.

Five, the bill might allow exempted carriers to engage in charter operations.

We make no comment on charter operations. We have no particular interest in them. We leave that to the discretion of the subcommittee as to what you do in that area.

Six, grant of exemption by the CAB and subsequent carrier investment in equipment would mitigate against denial of the requested certificate.

I don't think the CAB or Congress has particular responsibility to protect private capital.

It seems we are going that way more and more.

If a company's board of directors feels its argument is meritorious and the public need and profits are there and it makes an investment on a lease or purchase basis and then the CAB in turn finds out the certificate should not be issued, then I don't think the shareholders of that company have anything to expect other than the loss that they should get because their decision was not justified and quite rightly then unrewarded.

We think strongly this type doctrine is totally invalid except as rhetorical event to stifle progressive action on the part of the Congress in effecting this legislation.

Seven, this legislation would be a disincentive for rapid CAB processing of the certificate application.

I am not really sure how to respond to this.

The—first, there haven't been too many cases I have read about where the CAB has ever moved too promptly on anything. But this extraordinary problem justifies this change to the Federal Aviation regulations to speed up a situation that has deteriorated to an extremely serious level.

Moreover, I think it could be expected as long as the certificated system is the primary system advocated under the regulations, that the CAB would move promptly to end the exemption status of a carrier who was using the *pendente lite* authority.

So that argument can cut both ways and we don't think it has a great deal of merit in stifling in legislation.

Eight, S. 3684 is too broad in that aircraft of unlimited size may be used by the exempt carrier.

If that is a concern by some of the carriers, we have no objection to a maximum payload limit.

We would respectfully suggest that that be approximately 50,000-pound structural limit purely because the aircraft that are most widely available to conduct such services, the B-737, DC-9, would fit into that category.

That would make any carrier that would fall into this category not eliminated de facto from providing service by lack of equipment.

In a sense the manufacturers decided a long time ago what would and would not be available for the carriers. We think that is an appropriate limitation.

Fine. This bill doesn't recognize the years of effort of some carriers who have been denied applications at the CAB.

I better not make comment on that. I don't think that is a particularly valid argument here.

This act is dealing with a current and urgent problem now. It cannot redress the grievances of the past, but the Congress can change the situation for the future.

We do not think that is a valid argument to hold up this legislation.

Mr. Chairman, we believe we are the living proof that there is demonstrated public need for improved domestic all-cargo service specifically domestic express small-package-small-shipment services which we provide.

While changes to the other areas of our transport system may well be debated in light of the apparent adequacy of passenger service, there can be no argument that current regulations have impeded all-cargo service.

This is absolutely indisputable.

It is also indisputable that this service is slightly needed in the Nation's commerce.

At Federal Express the waste caused by these archaic constraints have reached incredible proportions which must be borne by our shareholders, employees, and thousands of shippers.

While we might be the most dramatic beneficiaries of the passage of this bill—and I might point out that is only because we are there first—est with the mostest and have proved with private capital and enterprise in the best traditions of the American system that there is a need existing for the type service we promote, this bill would open up promotion of all-cargo service by many, many additional carriers.

There are some 30 air taxi exempted all-cargo carriers that might avail themselves of this.

If the change was made as I suggested up in point 1, every one of the combination and all-cargo carriers could petition the CAB to expand all-cargo service.

If one argument can be made, just one argument, that this bill is not in the best interest of the shipping public of the United States, then Federal Express would withdraw its support for this bill.

We have examined the issues very carefully. We can find no such inhibition against the public interest, only inhibitions against certain vested interests.

We feel very strongly that this subcommittee doesn't need any direction from us as to which choice to make on that.

The last page of my testimony is simply a summary of the present deficiencies in the regulatory system and what enactment of this bill would provide, we believe.

Thank you very much, Mr. Chairman.

Senator CANNON. Thank you, Mr. Smith.

Why have you not filed an application to the Board for formal certification at this time?

Mr. SMITH. Again, sir, we feel very strongly that the requirements of the domestic all-cargo market are such that the shippers' best interest and ours and other carriers are not served by a certificated system.

This market should be open to free entry with the qualification of fitness only and that secondarily, the pricing constraints should be for predatory pricing. However, there are other risks as I said in my testimony. So that is basically the reason.

We don't feel that we should throw ourselves into a situation that we don't believe in without some change toward the area that we think the business has to go.

To give you an idea of the type of sometimes incongruous decisions on the part of the Board in this type situation, in less than 48 hours the Board granted an air taxi and exemption to fly large aircraft, Air Chicago, between Chicago Midway and Philadelphia, and at the same day or the day after, prohibited Airlift International providing all-cargo nonstop service from Cleveland to Los Angeles.

Now in both cases the shipper needs that service. But by following the disciplines that are traditionally used in the passenger business of diversion from this carrier to another, the Board has not made cogent decisions in light of what the shippers actually need.

Now we are prepared to file a certificate and certainly if this act is passed, we will file expeditiously. That is the reason we haven't done it to date.

Senator CANNON. In light of what you have just said, why do you propose retention of the traditional certification requirement at all?

Mr. SMITH. Again, because we can't talk anybody else into trying to get rid of it. If that is the will of the majority, then we will certainly respect that and correspond to it.

Senator CANNON. You indicated that if this were enacted you would seek to expand your present operations. To what extent would you propose to expand pursuant to the liberalized procedures here?

Mr. SMITH. Well, Mr. Chairman, as far as our featured service, what we would hold out to the public, we would offer air express overnight service restricted to shipments composed of pieces not greater than 70 pounds for any individual piece in this shipment.

In terms of destinations, we would use our small aircraft to open up additional small communities as the service was needed.

We are currently serving 73 airport locations now and we are quite confident that there are at least another 30 to 40 cities that would vitally need this service. But since there are only, I think, 21 airports in the United States that receive all-cargo service anyway and we already serve every one of those points, certainly the expansion of our all-cargo express service into the new point would not duplicate any service that was already there.

Senator CANNON. Would you be willing to submit the tariff filing and reporting requirements?

Mr. SMITH. Absolutely; yes.

Senator CANNON. Would Federal Express acquire its larger aircraft by lease or purchase?

Mr. SMITH. I'm sure by lease, Mr. Chairman, for two reasons: One, fundability—our financial capability. And in the event we were not successful in our certificate application, it would give us an opportunity to get rid of the aircraft.

Senator CANNON. If this legislation were passed and an interim exemption granted, wouldn't that amount to a prejudgment of certificate of application?

You indicated you would immediately file for a certificate.

Mr. SMITH. Well, Mr. Chairman, we feel very strongly that the way Federal Express ought to get a certificate, if it applies to CAB, is by acclamation because the public need is demonstrated every day by these 19,000 shipments.

If Federal Express put large aircraft in service and the rates charged were economical and the traffic built and the shippers needed that type of service, then we would expect to demonstrate the public interest in that manner. That is the classic "catch 22" that the CAB has always had.

You know, if you give me this authority I will prove to you that the public interest is there. The reason we think this exemption or this type of authority is appropriate in this case is because of the tremendous reduction in authority. But I can see how somebody would make that argument.

Senator CANNON. As a matter of fact, you would make it yourself.

Mr. SMITH. Sure. Absolutely. No question about that.

Senator CANNON. If the exemption were granted, do you think that that would speed up or slow down the processing of normal certificate applications?

Mr. SMITH. I think it would speed it up because I believe the Board, as Chairman Robson I think in the last page of his testimony there says, as long as the certificated system is retained as the primary one by Congress and the Federal Aviation Act, I think the Board would be duty bound to move very expeditiously to remove the exemption status of a major carrier.

Senator CANNON. Senator Baker?

Senator BAKER. Mr. Chairman, the Clean Air Act is on the floor now and I am going to have to leave so I would like to ask one or two abbreviated questions.

Mr. Smith, what assurance can you give us that if in fact you are permitted to operate heavier aircraft, that you won't reduce your smaller aircraft fleet and drop from your route system the service to smaller communities that is so valued by so many shippers?

Mr. SMITH. Well, first of all, Senator Baker, to paraphrase a leading political candidate, you can depend on we won't do that, and the reason we won't—

Senator BAKER. The leading political candidate is sort of like the call of an umpire in a baseball game, when somebody said was that a strike or was that a ball, he said, "It ain't nothing until I call it," and there ain't no leading political candidate.

Mr. SMITH. I am going to have to take that back with me.

Senator BAKER. Do you want to back up and start that over again?

Mr. SMITH. I will have to take that back to Memphis.

In any case, Senator Baker, in our testimony in the large—the large testimony we have submitted, you will find we state what the basic needs of air express shippers are. You will find that 80 percent of the volume we carry comes out of the major markets.

So, not only would it be contrary to Federal Express' best interests to reduce service to small cities, it is in our absolute best interests to expand service into the small cities. In fact, the only thing we would like to achieve is to find an aircraft that is even more efficient than the smaller one we are operating now.

Senator BAKER. I believe that is entirely right and I am glad to have you say it for the record, Mr. Smith.

But I am also troubled with the example of the trunkline carriers who served many more small communities previously and are now in the business of flying transcontinental or at least long haul and bypass many of the smaller cities. I can understand the economies of scale and advantages of route thinning, but I don't want to see that happen here.

You have a good thing going and I need to be reassured that if in fact you can use larger aircraft it won't be done at the sacrifice of the service you presently render, which is unique. I hope you will continue to render that service and expand.

I am now reassured.

Mr. SMITH. Thank you.

Senator CANNON. Counsel has a question.

Mr. GINTHER. Mr. Smith, one of the arguments we have heard time and again for the granting of this authority is that Federal Express is about to run out of cargo capacity with its fleet of small jets.

The question has been raised by opponents of this legislation that that does not provide any great public disservice because Federal Express, if the business continues to grow as it has, certainly can continue to acquire small jet aircraft or other aircraft to be operated pursuant to the part 298 exemption.

So why would you say that it is critical to get the large aircraft authority when you do have the alternative to continue to purchase or lease smaller aircraft to meet the growing demand for the service?

Mr. SMITH. First I would like for those opponents, especially if they are wealthy opponents, to help us finance those aircraft, or at least get see our bankers with us. You have got to understand that the small aircraft we fly to the smaller cities are not a functionable piece of equipment. They are specialized equipment that we have designed and developed and are proprietary to us. It was very difficult to get financing on that to begin with. That is one point.

The second point is that the logic of that argument really troubles me. We have shown that to move traffic, for instance, from Los Angeles to Memphis and back, what that really is, that is traffic that is going to some 10,000 communities, not just between Memphis and Los Angeles.

And again, people tend to focus on that traffic lane as if it was a passenger movement. It is not. It is costing us today, approximately \$16,000 to provide the landhaul for that movement. One Boeing 727 in that traffic lane would provide the same capacity plus 20,000 pounds of additional capacity for less than \$8,000.

We just don't think it is prudent from a business point of view to invest in additional small equipment to fly major routes. We do not believe that it is in the best interests of the shippers that they should have to pay a premium for the service they are getting and that is what they are buying from Federal Express, they are buying our ability to take those pieces out of Los Angeles and get them any place to the consignee's door by noon the next day.

That is a physical and theoretical impossibility using the certificated airline system.

So yes, I suppose if we had all the money in the world and we just didn't care about our profit margins, and we really didn't care very much about how our rates were set, it would be an option. But it is not a viable one at all from a balance sheet standpoint, from a profitability standpoint, from an operational standpoint, or from a rate standpoint.

Mr. GINTHER. What would be your mode of action if Congress, for some reason or other chooses not to enact this legislation this year? What alternatives will you face, and how will you respond to them?

Mr. SMITH. We would have to embargo traffic. There is no question about that.

We are flying well over 85 percent load factor by weight and 100 percent load factor by volume. We have exhausted the ability to lease outdated and really inefficient 298 eligible aircraft like DC-3's and Twin Beeches and that sort of thing.

We would simply have to pull in our horns and deny the service to people.

Senator CANNON. Thank you very much, gentlemen.

[The statement follows:]

STATEMENT OF FREDERICK W. SMITH, CHAIRMAN OF THE BOARD, FEDERAL EXPRESS CORP.

Mr. Chairman, I appreciate the privilege of appearing before your subcommittee this morning to testify on behalf of Federal Express Corporation with respect to the proposed "Aviation Act of 1975" and other proposals for air transport regulatory reform.

The necessity for improvements in the regulation of air transportation has been the subject of active debate for some time. It is a matter of direct and intense concern to Federal Express. For the reasons I will discuss shortly, Federal Express is sincerely and justifiably concerned that the present regulatory system may jeopardize our ability to survive. At the very least, it will continue to suppress my company's orderly and efficient development to the detriment of our 31,000 shippers unless you take action.

I believe we will present an interesting and somewhat different perspective to your research for two reasons. First, my testimony will relate solely to the area of domestic air cargo regulation—not to the wholly different subject of passenger transportation, which will undoubtedly tend to dominate the focus of these hearings, as it does the Administration bill, and as it does the attention of the Civil Aeronautics Board. This is only natural since domestic air cargo revenues represent only about 7% of the certificated carriers' total. Secondly, Federal Express' comments will not only center on this usually neglected area of air commerce, but we will certainly present a different view towards regulations than most of the other carriers. This is because we have built our business not because of the current regulatory system, but in spite of it.

At the onset, I would like to state three basic goals of our company :

1. We do not want higher tariffs. Quite the contrary—we desire to hold or lower our rates.
2. We do not want to drop service to small communities—we want to add smaller points to our system.

3. We do not fear competition nor expect the government to protect or subsidize us. We think we have developed a better "mousetrap", and as a consequence—we simply want the ability to operate as efficiently and profitably as we can.

These objectives are not based on any philanthropic motivation—they happen to be sound business goals which will improve our profitability; enhance our employees' welfare; and, most importantly, will benefit our customers. The fact that these goals are clearly in the public interest speaks strongly to the point that a service company can only be successful if it provides the customer what he wants, not what is simply convenient to provide.

Because these objectives are so dissimilar from most of the other carriers, you will undoubtedly want to know what causes these differences. To understand this, it is necessary to first look at the air cargo business itself, which is almost totally misunderstood. And since any business is composed of demand and supply, both aspects of our industry must be addressed.

Also, in light of the dismal record of all-cargo service in the past, it will be necessary for you to understand Federal Express' operations to appreciate what has caused our meteoric rise in this field.

To understand the demand for air cargo, the Committee must first know why people use these services. Basically, there are three types of air shippers:

First, many industries, which require high value parts and supplies use air service to connect a central depot with branch offices or to ship directly to their customers. Examples are electronics, computer spares, hospital supplies, drugs, aircraft parts, and production components. These shippers cannot predict where these items may be needed on any given day. Moreover, for them to stockpile such costly parts, or drugs, or components, in every place where they may be needed, is economically impossible. For example, Federal Express' largest single user is the U.S. Military which uses our system to support sophisticated equipment on an overnight basis throughout the country—thereby avoiding millions of dollars of duplicated inventories and, I might add, additional millions in federal expenditures.

Secondly, shippers use air to routinely transport items which require minimal transit times between the first and subsequent holder of the goods. This group includes financial houses, laboratories, television and print media, advertising firms, and governmental agencies such as the FBI and IRS.

Finally, air transportation allows the fast movement of *any* emergency item, even for shippers whose business does not normally require such expedition.

Air shippers run the gamut from giant corporations to the smallest of businesses. Reliable air express service, in fact, is often an essential element in allowing many small local firms to compete with industrial giants who can better afford field inventories and branch offices.

In every case, however, the air shipper requires the controlled and documented movement of high value items in the fastest time frame. Generally, this service requirement is for overnight movement and next morning delivery. Moreover, the shipper wants these items picked up at his door and delivered, in turn, to the door of the recipient. A passenger, on the other hand, has to move himself to and from the airport to use the air transportation system.

This ambulatory capability of air passengers is not the only difference between people and packages. First, in relative terms, passengers generally come in the same shape and size—cargo varies tremendously in its physical properties. Secondly, most passengers are moving to major business centers—air shipments are usually destined to small cities where post World War industry has located. Third, people desire the convenience of daytime flights, especially for business needs—air shippers want nighttime service to coincide with late afternoon pickups. Fourth, passengers are influenced by non-stop or through plane service—air shipments require only that the service needs be met, regardless of routing. Finally, people generally fly round trip—goods tend to fly only in one direction for any single shipment.

Most importantly, air "freight" is really a "parcel and piece" business. Official statistics indicate that more than 92% of all shipments are less than 500 pounds; over 75% are less than 100 pounds; and at least 50% are less than 50 pounds. The small shipments themselves indicate that air freight transport plays a supplementary role in our national transportation system. As such, the movement of goods by air, except for a few specialized items such as produce, occurs over random traffic lines rather than following predictable and repetitive patterns such as passengers or motor freight.

Federal Express was founded on a very simple premise, and that was that the supply side of this critical transportation market was not being adequately furnished by the airline industry. We set out to fill a void for the movement of the small, high priority shipments which characterize this "air freight" industry.

This void was created by the "supply" side of the air cargo industry, the airlines. We believed, and our marketing surveys indicated, that the U.S. airline system was incapable of providing the type of service needed by this market. The fact that airline system was (and is) essentially operated for passengers made the service really needed by air shippers impossible to obtain in the vast majority of cases. This is in stark contrast with the great "promise" that air cargo has long represented. Federal Express did not, and does not, believe that air freight will ever be the primary business of the airline industry. This is based on elementary economics and the basic laws of physics. The belief that the air cargo business is similar to air passenger travel or motor freight has led many to treat the movement of goods by air as being a smaller replica of the much larger air passenger.

It is a simple fact that an aircraft is 11 times more energy intensive than a truck in producing an equivalent ton mile of freight capacity. Moreover, the extensive and modern structure of most of our nation's road and rail networks provide efficient means for the transport of large volumes of goods. Until radical new aviation technologies emerge, these inherent disadvantages of air transport will dictate that the vast majority of freight will move by truck and rail; and for the foreseeable future, air freight service will continue to provide a supplementary system for more service sensitive transportation needs.

In contrast, air passenger travel, over distances which require more than a reasonable driving period, is a primary system. A coach passenger flying coast to coast pays approximately the same fare he would be charged for a much longer and less comfortable bus ride. For this reason, air travel has become the primary mode of intercity common carriage over long distances. A hundred weight of freight, however, would cost approximately \$35.00 for this same air movement, while truck charges would be less than \$10.00.

Since most freight is not particularly time sensitive, a "collection" period that increases volume, or improves the "load factor" of a particular movement, permits lower rates to be changed by a surface carrier for larger loads. Furthermore, since transit time is generally not a critical element (so long as the service rendered is reliable and performed within a reasonable time frame) shippers primarily rely on the less costly surface modes for over 99% of all freight movements.

Thus, except for a very few specialized commodities, shippers use air for high priority items which are supplementary to the larger shipments distributed by surface transport. The value or urgency of these items that do move by air, however, inherently precludes their being consolidated into larger and cheaper shipments. These movements then are, by definition, extremely critical to the nations' economy as a whole.

As illustrated before, the long distance movement of passengers is a primary mode. Quite naturally then, airlines fly where and when passengers dictate. As a consequence, service between small, geographically distant cities (where plants are primarily located) and nighttime flights (when passengers do not want to fly) is extremely poor. The fuel crisis and widebody jets have simply exaggerated this dichotomy to the point that over 60% of all airline movements occur in the top twenty-five markets, and only ten percent of the airline fleet is flying after 10:00 p.m.—and then between those same top twenty-five passenger markets. In contrast, over 80% of the small critical shipments which Federal Express carries are either originated in, or destined to, communities smaller than the top twenty-five cities. A simple perusal of the Official Airline Guide will show that there is no nighttime service which leaves, cities such as Rochester, El Paso, Moline or Charlotte, after 7:00 p.m. and arrives in other off-line cities like Maco, Grand Rapids, Austin or Albuquerque before 8:00 a.m. But I assure you, the critical drug or computer part moving between such points needs exactly that type of service. And each such shipment is just as important as one which travels between New York and Chicago where there is a high level of passenger service. The fact that perhaps only one or two shipments per night move on a particular traffic lane again does not mitigate the urgency of such shipments against any other.

In short, both from the standpoint of origins and destinations, and time of service, the passenger operations of U.S. carriers are diametrically opposed to

the true needs of air shippers. "Forcing" these shipments through a system designed for passengers results in poor service for goods moving between off-line points, and requires unneeded and expensive handling, transfers, and paperwork, all of which subject these shipments to delay, damage and loss.

The record of the certificated airline industry in providing all-cargo service, the service really needed by shippers, speaks for itself in answering whether the "supply" side has been successful.

Of the 10 domestic trunk carriers, five have either ceased to provide, or are in the process of eliminating, all-cargo services.

Two trunk carriers have publicly announced that they are formally reviewing their already limited all-cargo operations with an eye towards total cessation of such service.

Of the three remaining trunk carriers which provide all-cargo service, plane miles flown in such service are down 50% from 1966.

In providing all-cargo service, the combination carriers have not had an operating profit since Fiscal Year 1967!

No regional service carrier provides any all-cargo service.

From a high of some 50 points receiving all-cargo service shortly after World War II, domestic airports being served by certificated all-cargo aircraft currently number only 21.

The three certificated all-cargo carriers are authorized to serve a total of 27 different civil airports in the continental United States. Of these, currently Airlift has suspended service at 8 airports, and Flying Tigers trucks from four of their authorized points to another airport. A fourth certificated all-cargo carrier, Slick Airways, ceased all operations in 1965.

Except for Flying Tiger's performance in Fiscal Year 1973, no all-cargo carrier has reported an operating profit since 1967. For Fiscal Year 1975, these carriers lost \$17,107,000.00 providing domestic all-cargo service.

In CAB testimony, seven trunks and Flying Tigers stated that a 50-pound air shipment, moved 1,100 or 2,700 miles, resulted in an average loss of over \$7.00 and \$3.00 respectively for the airport-to-airport movement, in either all-cargo or combination aircraft.¹ These and similar findings prompted the CAB Administrative Law Judge in the Domestic Air Freight Rate Investigation to rule last June that air freight rates must be increased by over 30%! And this is despite the fact that air freight rates have already dramatically increased since 1969.

The record above is perhaps matched only by the spectacular losses of the nationalized industries of Great Britain and Italy which are so much in the news these days. Moreover, the "great promise" of the air transport industry has always been cargo. Numerous analysts have predicted that at some point in the future, cargo will surpass passengers as the primary income source of the United States air carrier industry. Indeed, the business has expanded greatly. In fact, with the loss record of all-cargo operations, it may seem incredible revenue ton miles in Fiscal Year 1975 grew over 30% from the level flown in 1970.

Many in the airline industry would point out that with the introduction of the jet aircraft and more recently, with the widebodies' lower deck compartments, belly capacity has increased at an even faster rate than cargo enplanements. As a consequence, they would argue, all-cargo statistics are now meaningless due to these developments, and that in light of the poor historical performance of domestic all-cargo operations, passenger flights, with unused belly space, are the proper focus of air cargo developments. To this Federal Express would point out that this may (due to incremental revenues) or may not (in light of the factors leading to the Law Judges decision above) be of benefit to the certificated combination carriers. More importantly, however, it is definitely not in the public interest.

As stated above, air shipments are critical in nature and include items such as electronic and computer parts; drugs and hospital supplies, financial documents; and films. Again, the high inventory costs or the urgency of these shipments warrant expedited movement inherently. If this were not the case, shippers would opt for less expensive, but more time consuming, surface movements via truck or rail which now carry over 99% of all intercity freight in the United States.

Moreover, these shippers all want late afternoon pickup; controlled and documented overnight service; and next morning delivery at the consignee's door—and they want and need this service regardless of the destination. A critical surgical need, or a plant shutdown, is just as important in a small city as it is our larger metropolitan areas.

¹ CAB BE-18, *Minimum Charges Case*, Docket 20, 398.

Consequently, we believe that air "freight" service provided by combination flights is not in the public interest. Moreover, Federal Express' record gives incontrovertible proof to this fact.

I would like to point out several statistics about our company which I believe the Committee will find of interest and then I would like to show you a film which can describe our operations better than any testimony I could give.

In 1971, we began development of Federal Express. There were three basic principles on which we based our business. They were, quite naturally, that (1) air "freight" is primarily composed of small, high priority shipments which are moving around the country due to a generally urgent and unpredicted demand; (2) these shipments generally need overnight, door-to-door service due to their critical nature; and (3) shippers need the same service between all cities, not just between major markets.

Operating under the blanket Air Taxi exemption of the CAB's regulations, we commenced common carrier operations on April 17, 1973. On that night we served twenty-two cities, had ten aircraft and employed 150 people. We carried 15 packages.

Today, Federal Express is a thriving entity providing a vital and unique service for the country's economy. And our all-cargo express service is today provided to seventy-five airports, by 41 aircraft, 500 vehicles, and over 2,000 employees. Our daily volume is now averaging almost 19,000 shipments!

Moreover, our safety and operational standards are as high as those of any U.S. air carrier. Our service is an important and unique asset to our nation's economy. We are, in short, fit, willing, and able, and we have great faith in our governmental system to permit such progressive and productive activities within our free enterprise system.

Remembering the record above, it should further interest you to know that our anticipated results for the fiscal year just ended May 31st will be as follows:

Revenues -----	\$75, 000, 000
Expenses -----	65, 300, 000
Operating profit-----	9, 700, 000
Interest -----	6, 000, 000
Profit -----	3, 700, 000

Until the advent of Federal Express, this critical need was largely unmet. Our dramatic growth is solely a function of our having addressed the market in the way the customer required, not because our passenger flights happened to have unused belly space.

The following film will aptly demonstrate how we provide the unique service provided by our company:

If one believes that the genius of our free enterprise system is in rewarding the individual or company that fulfills an unmet commercial need, Federal Express is the embodiment of that principle.

As you saw, the quantum improvement in service has been made possible by our route structure and operating disciplines which are totally designed to serve shippers, not passengers. The system obviously operates in a fashion similar to a bank clearing house or a telephone switching network, in that it provides identical and non-discriminatory service to all points which we serve.

Equally important, for the movement of small, single package shipments, our service is provided at rates which are generally less expensive than the services offered by the airlines directly, or the services of the airlines in concert with the air freight forwarders. Service, especially between small and distant cities, is better by substantial, and sometimes critical, margins. In fact, Opinion Research Corporation of Princeton, N.J., recently documented in an independent test that our service achievement for overnight, door-to-door delivery by noon the day after shipment, was 93% compared to our next leading competitor's performance of 42%! It is for these reasons that we have grown to serve over 30,000 shippers, large and small, and our files literally bulge with letters from customers commenting on the dramatic improvement in service which is now available, for the first time, as a result of our system.

I believe another important point that we should make is that we are, by far, the largest air carrier of hazardous materials. The movement of these critical items for governmental, commercial, and medical shippers has been of inestimable public benefit. Since the majority of these "hazardous" items are medical isotopes, our service in this area has included many episodes of which we at Federal

Express are most proud—lives saved, which would heretofore have been lost, were it not for our ability to effect overnight delivery of critical medical items between distant, off-line points. Our unique system of single entity control, operated by specially trained ground and air crews, providing the shortest possible transit time between off-line points, has been a godsend to the shippers of these critical items.

Unfortunately, our aircraft size limitations have precluded our serving both the hazardous materials shipper and the shipper of live animals. As a consequence, we recently have had to discontinue live animal service—much to the detriment of hundreds of animal shippers. This resulted from our simply not having enough space to adequately segregate animals from potentially toxic elements, and is truly unfortunate since our main deck pressurization and climate control, not to mention the rapid travel time afforded by our system, is significantly better for animals than the lower baggage holds of passenger aircraft.

As an aside, I think it is obvious that our employees have benefitted greatly from our efforts as well. Naturally, the fact that today there are 2,000 more jobs which did not exist four years ago is powerful statement in itself. I would also point out, however, that we have wage rates that are among the highest in the industry. In fact, the dedication and hard work of our employees have been the most important elements in Federal Express' growth. This coming year will see even further improvements in their benefits which will include a program which allows each employee to become a shareholder through an Employee Stock Ownership Trust. Naturally, our ability to make these improvements depends on our profitability. Most importantly, our employees know this as well as our management, and we believe that our emphasis on employee communication holds a significant lesson for those that would provide a service to the public.

Mr. Chairman, in light of the remarkable success and growth which Federal Express has experienced during its relatively brief existence, you may well wonder what we are so concerned about. The system would appear to be working well.

The answer is that Federal Express does not operate as a carrier subject to most of the economic requirements of the present regulatory scheme. It is exempt from those requirements under the blanket exemption of so-called "air taxi operators" under the CAB's regulations. That exemption freedom, extended to all small-aircraft operations, is in the indispensable means by which Federal Express has been able to enter the industry and grow to its present size. Under the present law, however, Federal Express has reached the limits of its unregulated growth.

Due to the demand for our services, Federal Express is bulging at the seams—our capacity is strained to the breaking point. Over the past year, Federal Express has been forced to wastefully fly, virtually "wing tip to wing tip", multiple small aircraft flights into many of our markets. Our small jets are flying routinely with load factors of over 90 per cent in terms of weight, almost 100 per cent in terms of volume. We have been forced to lease out-dated and inefficient equipment as supplements to our fleet to meet the ever-increasing number of shipments tendered to us.

Last September, we petitioned the CAB for an exemption to operate five DC-9's on the basis that the savings and efficiency offered by our use of these more productive machines was clearly in the public interest. In fact, we would have dramatically improved our service while accomplishing all three of our corporate goals which I listed at the outset:

The unit cost reduction would have lowered our line haul costs. This would have translated to our customers by not having to have effected rate increases this past spring.

Our small aircraft, released from our larger markets, would have been used to open service to smaller cities.

We would have been able to compete more effectively due to improved profitability.

It is imperative to note that our selective use of large aircraft does nothing more than allow the more efficient transport of small shipments to all of our cities. In fact, our largest traffic lane, as shown in the Appendix, is 65 pieces and less than 1,000 pounds per day from New York to Chicago!

In spite of the indisputable merits of this, Federal Express' application for this authority was met with an almost hysterical outcry from most of the airline industry. The Certificated carriers objected to our application on the basis of two main points: (1) Federal Express was diverting traffic from them; and (2) Federal Express must obtain a Certificate of Public Convenience and Necessity

before it can operate larger aircraft. Whether these carriers believe they are "entitled" to the traffic which we carry, or whether they truly believe Federal Express must obtain a Certificate, this clamor represented, in our opinion, a very unhealthy attitude.

Let's look at both of these points.

First, Federal Express probably has diverted many shipments from the airline industry, but our surveys also indicate that the service improvement permitted by our system has also generated approximately 30% of all of our shipments by diverting them from surface modes or by permitting reduced inventories—a welcome financial benefit for many of our customers. In addition, almost every air carrier who opposed our application has previously testified before the CAB that the tariffs for "minimum rated" or small shipments of 50 pounds or less did not even cover their airport-to-airport handling costs!² Finally, to say that the airlines deserve all small shipments in their underbellies, just because passenger airplanes happen to have unused space, is as ridiculous as having forced all covered wagons to be transported by river boat, or all horseless carriages to be moved on railroad cars. The resultant delay to pioneers or early motorists may have been somewhat longer than the extra day's delay of an air shipment moving via passenger flights, but I assure you that, in relative terms, even a few hours when a plant is shut down or when surgery is delayed, is a far more critical delay than the absurd examples above, which represent apocryphal extremes of this type of thinking. Fortunately, this philosophy of deserved rights, perhaps even the "unalterable" right to provide poorer service, and maybe to lose money as well, was not a central point in the development of our country. If it were, Federal Express would probably not be faced with these problems since we would still be locked within the bounds of the 13 colonies.

Secondly, the CAB, in denying our application, supported the opposing carrier's argument that existing law required Federal Express to seek and obtain a Certificate of Public Convenience and Necessity for an exemption of this scope. In fact, the CAB stated that this was our only path to effecting the desired economics of larger aircraft. This finding was made despite a brief by the Justice Department in support of the CAB's right to use their exemptive powers in this unique situation. In fairness to the Board, we agree that it is arguable that the existing regulations are not wholly consonant with the exemption requested. Moreover, it has been pointed out to us by many in the industry that an exemption for a less controversial and less efficient aircraft such as a turboprop, would have been, or could be, more in harmony with the Board and industry views.

Regulation or competition holds no fear for Federal Express. Why then have we not accepted the Board's invitation to seek a Certificate?

First, the original Aviation Act of 1938 took little, if any, note of air cargo activities. This is not particularly surprising when one realizes that over 90% of the goods moving by air were not even being produced in 1938. Moreover, the fact that air cargo represents only a small part of the airlines' revenue has focused the CAB's attentions on the much larger issues of passenger transportation.

Secondly, the CAB is steeped in the disciplines of point-to-point, passenger operations. Moreover, it has often taken a protectionist attitude as being a requirement of its statutory authority. Thus, the classical passenger mechanisms such as routing restrictions, closed door policies, and geographical limitations, if applied to Federal Express' cargo operations, could be disastrous for our company. More importantly, utilizing these protective principles for the different market which we serve is simply at odds with what our shippers demand and would be contrary to the public interest.

Thirdly, the existing regulations themselves do not recognize the different requirements of air freight and passenger travel! It is interesting to note that the ICC long ago identified passengers, bulk freight, and small shipments as three disparate and separate markets, and it has accordingly authorized distinctly different types of carriers to serve these markets, each using differing disciplines. Thus, long haul motor carriers have strict point-to-point routes, while United Parcel Service and buslines have nationwide, unrestricted geographic coverage for small shipments. In air transportation, however, since neither the regulations themselves nor the historical actions of the CAB seem to recognize that air express is a totally different business from passenger operations, the propensity for even the most meritorious arguments to be defeated is very real indeed.

Fourth, virtually everyone knowledgeable of CAB affairs has predicted that any certification case involving Federal Express would last a minimum of two

² BE-18, Minimum Charges Case, Docket 20,298; CAB.

years and could stretch to ten or more! And since we are not proposing any "pro-forma" service whose merits are speculative and unproven, such a delay would be catastrophic if we had to endure our current waste and inefficiency. We have a critical and pressing need for relief now not when regulatory delay has sapped our profitability and energies and caused us to charge more for our service than necessary. Such lethargy might well result in the demise of our company. Moreover, it has not been lost on us that the larger, more established carriers may look upon the delay of any such proceeding as a competitive weapon of and in itself.

Lastly, since there are simply no other efficient equipment options available to us which do not exceed our current 7,500 pound payload restriction as an air taxi, relief can only be forthcoming from the CAB or the Congress.

The concerns above bring me to the primary business before this Committee—the need for, and specifics of, appropriate regulatory reform.

In general, we support those aspects of both the Administration's bill and Senator Kennedy's legislation which tend to facilitate entry and competition, and place primary reliance on marketplace forces to determine service and pricing. We are most interested in the very thoughtful and comprehensive statement recently presented to the Congress by Chairman Robson on behalf of the unanimous Board. In particular, we will await the specifics of the CAB's proposal to deregulate entry, exit and pricing of domestic cargo operations with great interest.

We agree that our air transport system is the finest in the world, and that it has played an integral part in our country's development in this century. And even though we also believe that Congress must proceed cautiously and deliberately before effecting drastic changes which might improvidently threaten this system, we hold these beliefs only as they apply to the transport of people—not packages. Today's regulations have not permitted the development of a system which permits the efficient movement of priority shipments over distances requiring the speed of the airplane. This has been done only by Federal Express, in spite of current regulations.

To rectify the deficiencies cited above, Federal Express would respectfully commend to this Committee's attention four basic concerns which, in our view, require prompt corrective action in the public interest.

1. The unique requirements for cargo shipments must—at long last—be recognized in our scheme of air transport regulation. Federal Express would urge the adoption of legislation permitting and directing the CAB to grant unrestricted area authority—rather than the present mandatory point-to-point authority—to certificated all-cargo operations.

2. The necessity for regulatory interference with cargo service pricing should be limited to policing against such clearly harmful practices as predatory and discriminatory rates. Federal Express urges legislation which will greatly reduce the Board's power to suspend and investigate air cargo rates. We would note, in this connection, that the present ratemaking and rate review procedures have had the principal effect of maintaining and protecting high rates and providing a forum for competitor interference with and delay of the rates proposed by others. Normal competitive forces will keep prices low and fair far more efficiently than will regulation.

3. The most universal and deserved criticism of the regulatory process is the intolerable delay which it entails. Federal Express recognizes that complex cases—and administrative due process—take time. It is nevertheless imperative that the general pace of the administrative process be accelerated, and that the means for immediate action in appropriate circumstances be broadened.

4. Most importantly, it must be remembered that Federal Express has been able to meet a critical demand to an unprecedented extent because we were free from many regulatory restraints up to this point. Now, however, our very success and growth may be strangled by a regulatory framework which is inappropriate to our market and our operations. Moreover, our remedies would appear

to be so distant in terms of time, and so expensive in terms of costs and effort that our very existence may be threatened. This situation is patently opposed to the fostering of the essential element in our free enterprise system—efficient competition. In our arena, competition is controlled by regulatory barriers to entry. Federal Express strongly supports the elimination or substantial reduction of those barriers. With its own experience as a guide, Federal Express believes that the best means of fostering unique and innovative transportation ventures (assuming retention of improved certification procedures) lies in an expansion of the Board's present exemption power. Such an adjustment would give the Board a needed measure of regulatory flexibility, and would have the particular advantage of making expeditious action possible in appropriate cases, now precluded by out-dated limits on the Board's power.

We earnestly believe that our efforts to date, and the resulting public benefit of the expansion and improvement of our system should now be jeopardized due to the historical accident that our air transport regulations were framed in 1938, under conditions which could not even remotely have contemplated Federal Express.

In asking the help of Congress, we would point out that large aircraft authority will not change what we do one iota! Such equipment would only allow us to do it more efficiently and at greatly reduced costs. Our shippers, our employees, and our shareholders, are all paying the bill for this deficiency in our current regulatory system. Each night that we continue to waste thousands of gallons of fuel, deny critical air express service to scores of smaller cities who need it, and charge more than is necessary is a continuation of an injustice of the highest order.

We do not believe this is what Congress intended when it first regulated air transport in 1938. The clear mandate to "foster" air commerce is being put to its most extreme case in light of Federal Express' situation.

We thus urge the Congress to recognize our industry as an important and critical transportation mode which deserves new and appropriate regulations. The changes would allow Federal Express and others to efficiently and profitably serve this vital public need.

Moreover, we would respectfully point out that since air cargo is a supplement to the much larger surface freight systems, while air passenger travel is a *primary* system, the larger and more complex issues surrounding the passenger industry should not delay swift and decisive actions by the Congress to correct the deficiencies of the air cargo regulatory system.

We urgently request that you allow us to efficiently and profitably accomplish our public service objectives by at least addressing the issues of the CAB's exemption powers.

We have exhausted every other remedy.

With great confidence in our legislative system, we turn to you for help.

Thank you.

INFORMATION BRIEFING BEFORE THE CIVIL AERONAUTICS BOARD BY
FEDERAL EXPRESS CORP.

Federal Express is a nationwide, all cargo air carrier specializing in the transport of priority small shipments.

Federal Express provides a unique and unduplicated service which meets the specific needs of a critical segment of the shipping public.

The company is a single entity carrier which provides integral door to door service as well as air transport.

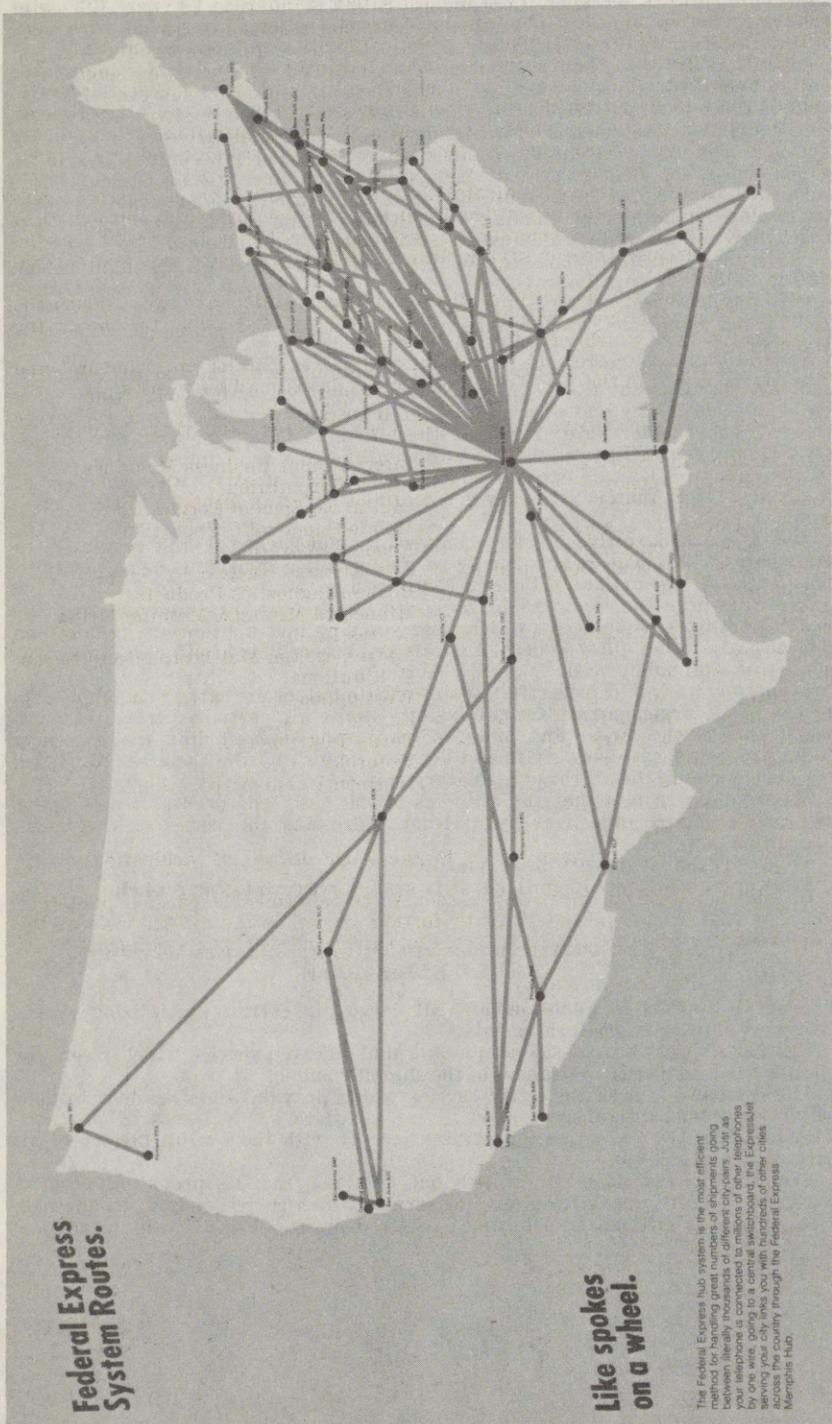
Federal Express' experience contrasts sharply with the overall history of all cargo air carriage.

Federal Express' dramatic growth has resulted from its providing shippers with a heretofore unavailable level of service which corresponds to the needed, and sometimes critical, transit times required by the type of traffic carried.

Federal Express System Routes.

**Like spokes
on a wheel.**

The Federal Express hub system is the most efficient method for handling great numbers of shipments going between, literally thousands of different city pairs. Just as spokes on a wheel connect a central hub to the rim, so by one wire, going to a central switchboard, the ExpressMail saving your city links you with hundreds of other cities across the country through the Federal Express Memphis hub.



Federal Express operates to the highest safety standards: Far part 121 maintenance; rigorous air crew requirements; heavy training investment with high professional standards; and highest technical quality maintenance and flight.

Federal Express is the leading carrier of hazardous materials for industrial, governmental and medical use. As a single entity carrier, Federal Express is uniquely qualified to provide this vital public service due to our—Experienced hazardous materials management; rigorous and recurrent training requirements for all air and ground personnel; sophisticated control systems; and free shipper instruction by the company.

Federal Express' research indicates that over 30% of its traffic has been generated by virtue of its unique service. Reduced field inventories and new logistical approaches for many customers have resulted from Federal Express' non-discriminatory service—thereby saving millions of dollars by corporate and governmental shippers.

New service levels, especially for distant, off line, points, have saved thousands of hours of production time and have been directly responsible for the saving of numerous lives which would previously have been lost.

Federal Express' customers include virtually every major governmental and industrial concern in the U.S. as well as thousands of small businesses.

EXAMPLES OF GOVERNMENT USERS

Internal Revenue Service
 Defense Supply Agency
 Federal Aviation Agency
 National Bureau of Standards
 Atomic Energy Commission
 Energy Research and Development Administration
 NASA
 Food and Drug Administration
 U.S. Army
 U.S. Air Force
 U.S. Navy
 Department of Commerce
 Department of Treasury
 Department of Interior
 Department of Justice
 Federal Bureau of Investigation
 Veterans Administration

SOME MAJOR INDUSTRIAL SHIPPERS

International Business Machines
 Xerox Corporation
 Digital Equipment Corporation
 Mobile Chemical Corporation
 Abbott Laboratories
 New England Nuclear
 Roche Diagnostics Products
 Minnesota Mining & Manufacturing
 Collins Radio
 Addressograph-Multigraph Corporation
 E. I. duPont
 Westinghouse
 Exxon
 Texas Instruments
 Motorola
 Western Union Corporation

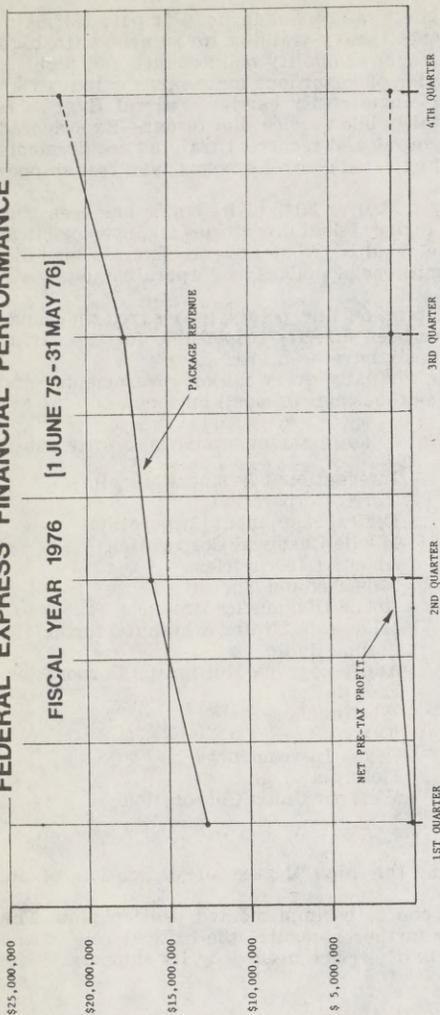
Federal Express' primary asset is the high degree of dedication of its employees.

In addition to high wages and a soon to be implemented pension plan. The company has programs underway to further recognize the critical role of the employees in providing the high levels of service needed by its shippers.

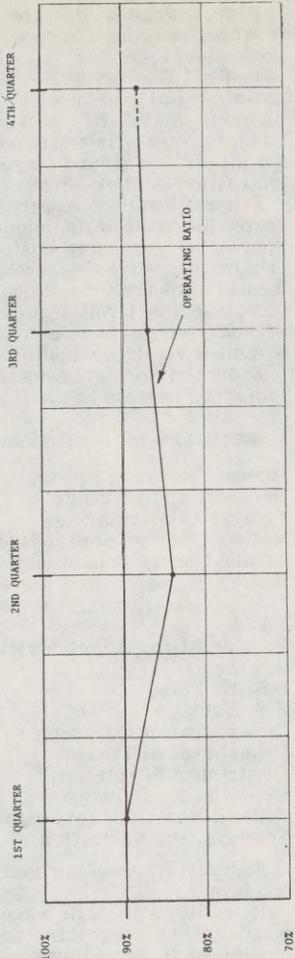
- (1) Profit sharing plan.
- (2) Wage dividend program.
- (3) Employee stock ownership trust.

FEDERAL EXPRESS FINANCIAL PERFORMANCE

FISCAL YEAR 1976
[1 JUNE 75 - 31 MAY 76]



PACKAGE REVENUE (in \$ millions)
NET PRE-TAX PROFIT (in \$ millions)
OPERATING RATIO
(Operating Cost/Revenue)



21.6
1.1
88%

17.6
1.2
87%

16.0
1.1
88%

12.8
.1
90%

4TH QUARTER

3RD QUARTER

2ND QUARTER

1ST QUARTER

OPERATING RATIO

100%
90%
80%
70%

To understand Federal Express, it is necessary to understand the basic differences in the various modes for intercity transport of goods. Generally, the unit value bears a direct relationship with the transportation cost. Moreover, the more critical the transportation cost, the less important speed is in the movement. There are four general categories of goods being transported.¹

(1) Cargo—bulk, raw materials, or heavy volume of finished goods. Primary modes—water and rail. Purchase decision—rate sensitive.

(2) Freight—manufactured goods for either production or consumption. Primary modes—truck and rail. Purchase decision—rate sensitive. Sometimes service sensitive.

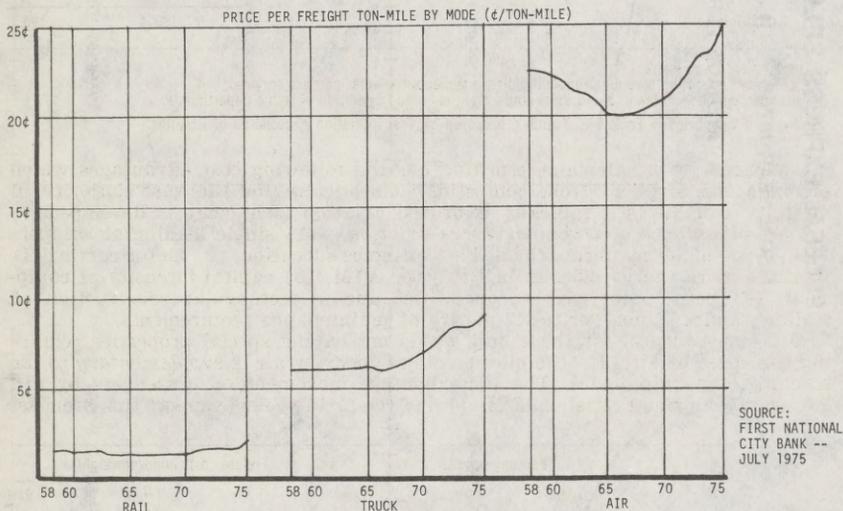
(3) Express—hard or soft goods, usually in small quantities requiring special expedition or control. Primary mode—air. Purchase decision—extremely service sensitive. Rates are of secondary importance.

(4) Parcels or post type goods—consumer or inventory items of light weight, low value. Primary mode—truck. Purchase decision—Rate sensitive. Dependability sensitive.

The great "promise" of the airlines has always been freight. Many forecasters have predicted that air freight would become the dominant business of the air transport industry. For example:

"At some time in the future, perhaps as early as the start of the 1980's, revenues from air cargo are going to surpass those from air passengers".²

DUE TO THE BASIC COST STRUCTURE OF THE THREE PRIMARY DOMESTIC TRANSPORT MODES OF RAIL, TRUCK, AND AIR, MOST VOLUME GOODS DO NOT AND CANNOT USE AIR TRANSPORT. PRICES PER TON MILE FOR THIS MODE ARE AS SHOWN.



¹ Federal Express definitions.

² See, e.g., Burkhardt, *The Civil Aeronautics Board*, p. 120.

The truck with its great flexibility utilizing the extensive U.S. highway system, is the primary mode for the movement of goods in the U.S. The great predominance of this mode can be seen below:

1973 U.S. TRANSPORTATION OUTLAYS

	Amount (billions)	Percent
Freight: ¹		
Truck.....	\$103.9	79.7
Bus.....	.1	.1
Total highways.....	104.0	79.8
Railroads.....	14.8	11.3
Water:		
International.....	4.0	3.0
Domestic.....	2.2	1.7
Total.....	6.2	4.7
Oil pipelines:		
ICC regulated.....	1.4	1.1
Non-ICC regulated.....	.3	.2
Total.....	1.7	1.3
Air:		
Domestic.....	1.0	.8
International.....	.6	.5
Total.....	1.6	1.3
Forwarders and REA Express.....	² .4	.3
Other shipper costs.....	³ 1.7	1.3
Grand total.....	130.4	100.0

¹ Includes mail and express.

² Figures are operating revenues remaining after payments for other carriers services.

³ Costs associated with loading and unloading freight cars, and operation of traffic departments.

Source: "Transportation Facts and Trends" prepared by Transportation Association of America.

Compared to the airplane, trucking has the following cost advantages which preclude the airplane from competing domestically for the vast majority of intercity freight until radically improved aviation technology is developed.

Cost advantages of trucking versus aviation.—(1) single loading at shippers dock—no handling until offloaded at consignee's location, (2) motor carriage is 10 times more energy efficient in Btu's per ATM, (3) capital intensity of equipment, (4) better cube/weight capabilities due to rectangular construction of trailers, and (5) non "critical" nature of maintenance requirements.

As a consequence, for those bulk goods not having special properties requiring the speed of aircraft, the movements of goods by air is *supplementary* to the trucking and rail modes. The long distance movement of passengers by air, however, is a primary system. Examples of the tariffs below support this premise.

	Passenger costs			Freight cost (hundredweight)		
	Air coach	Bus	Train	Air	Truck	Rail
NYC-LAX.....	\$194	\$135.45	\$165	\$33.85	\$16.18	\$11.88
ORD-MIA.....	108	68.90	74	18.60	9.76	7.14
IAD-ATL.....	64	32.30	42	9.95	5.99	1.35

Air transport for the movements of goods is chosen only when the unit value of the goods: the perceived value of the service: or the value of service justifies a cost premium over the cheaper surface modes. In the vast majority of cases,

the nature of air "freight" is small, high priority shipments requiring rapid delivery.

Until such time as the industries which need air freight services have increased their demand by 20 times, or until radical new technologies emerge which can reduce air freight costs to 1/6 of their current level, air freight will *not* be the primary revenue source for air transport.

The air "freight" market, like any other, can be broken down into demand and supply. It is important that these be viewed as to the realities of the marketplace.

THE DEMAND FOR AIR FREIGHT

There are three basic types of demand (or shippers) for air cargo services.³ These are:

(1) Distribution needs—Shippers having large inventories of multiple parts of high value. Duplicated investment is prohibitively expensive. Each and every part cannot be stockpiled at every point where demand may occur (e.g. electronics: drugs: machine parts, computer components: surgical kits). Air service allows inventories to be centrally controlled and dispatched. The ability to provide this service determines the shipper's very efficiency in the marketplace due to his customer's demands for after sales support. Rapid air service allows small firms to compete with large companies which can better afford branch locations and field inventories.

(2) "Rapid transit"—Shippers who have the need to transport goods in the minimal amount of time from one user to another due to the uniqueness of the item, or the timeliness of its use upon arrival. Examples are: TV and movie films: investment materials: financial documents: computer tapes: and legal documents.

(3) Emergency—Any shipper, even those not normally expedited service, who needs rapid intercity delivery of goods due to an unexpected requirement.

All shippers have common service needs for the majority of their domestic air shipments.

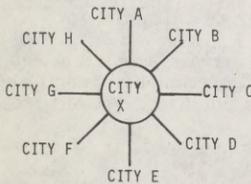
- (1) Single entity responsibility.
- (2) Door to door service.
- (3) Late afternoon/early evening pickup.
- (4) Overnight transport.
- (5) Identical or non-discriminatory service to all points.
- (6) Positive control and tracing.
- (7) Single source documentation and billing.

SHIPPERS NEED FOR NON-DISCRIMINATORY SERVICE

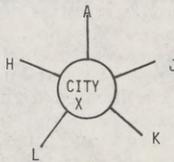
BECAUSE OF THE NATURE OF THE UNPREDICTABLE DEMAND WHICH RESULTS IN THE DECISION TO USE AIR SERVICE, SHIPPERS DO NOT HAVE A REPETITIVE SHIPPING PATTERN. TRAFFIC LANES VARY FROM DAY TO DAY DEPENDING ON WHERE THE NEED ARISES. THE MARKET THUS CORRESPONDS TO A RANDOM POINT MATRIX RATHER THAN A PRIMARY LANE SYSTEM AS DOES THE AIR PASSENGER OR RAIL TRANSPORT MARKETS.

SHIPPER A

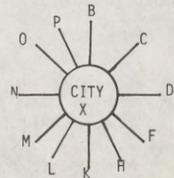
MONDAY DEMAND



WEDNESDAY DEMAND



FRIDAY DEMAND



³ Federal express definitions.

PHYSICAL CHARACTERISTICS OF DOMESTIC AIR FREIGHT

92% of all shipments are less than 500 pounds.

75% of all shipments are less than 100 pounds.

55% of all shipments are less than 50 pounds.

Over 90% of all shipments are composed of individual pieces that weigh less than 70 pounds each.

Air "freight" is really a "parcel and piece" business.

Generally, except for several special commodities (such as produce), air "freight" is not analogous to bulk freight or cargo which moves on predictable, repetitive traffic lines.

AIR SHIPPER LOCATIONS

Federal Express' research and experience indicates that 80% of all air shipments are originated from and/or are destined to cities other than the top twenty-five markets.

The overwhelming majority of all air freight is shipped by industries which have developed since World War II. Shipping locations are, as a result, often located in small cities or towns throughout the country where this new industry has grown up.

Due to the inherently critical nature of the products shipped by air, shippers need overnight service to all points regardless of originating location.

Federal Express' traffic data supports the random point nature of the market and the relatively small size of air shipments in general.

PACKAGES/POUNDS OF SELECTED FEDERAL EXPRESS TRAFFIC LANE, 3D QUARTER, FISCAL YEAR 1976

Traffic lane	Pieces per day	Pounds per day
Chicago-New York	70.4	678
New York-Chicago	59.7	850
Burbank-New York	58.5	558
Boston-Chicago	57.3	662
Boston-San Jose	30.8	341
Newark-Houston	16.8	221
Minneapolis-Dallas	16.6	176
Chicago-Phoenix	13.2	134
Denver-Washington	11.1	88
Indianapolis-Philadelphia	7.0	84
Memphis-Detroit	6.9	100
Atlanta-St. Louis	3.7	38
San Francisco-Indianapolis	3.6	80
Austin-Miami	1.1	15
Oklahoma City-Omaha	1.1	11

THE SUPPLY SIDE OF AIR FREIGHT

The U.S. certificated airline industry provides approximately 90% of the lift for all domestic air cargo with 40.4% being tendered by air freight forwarders.

The airlines are predominately passenger oriented since over 90% of all revenues are derived from the transport of people.

Both time of service and origins and destinations of U. S. certificated airlines are dictated by passenger requirements.

Domestic all cargo services have historically been unprofitable and have been systematically reduced so that air cargo is now predominately moved in combination aircraft.

U.S. AIRLINES COMBINATION SERVICES ARE HEAVILY CONCENTRATED TO PASSENGER DEMAND

Almost 40% of all certificated activities occur at four (4) airports.

Over 60% of all movements are in the top 25 markets.

This origin and destination concentration reflects both gross population concentrations and the centralization of many business and governmental functions.

Almost 90% of total U.S. certificated airline fleet is not flying between the hours of 9:00 p.m. and 7:00 a.m.

Origin and destination patterns, and time of service needs, of air "freight" are diametrically opposite from those of passenger travel.

Service value of overnight transportation needs dictates that two day service, using combination aircraft is not acceptable to shippers.

COMBINATION CARRIERS MUST NECESSARILY SCHEDULE FOR PASSENGER CONVENIENCE—NOT CARGO NEEDS

Flight segment	Prime postal or cargo time flights		Next preceding flights	
	Time of departure	Load factor (percent)	Time of departure	Load factor (percent)
Washington-Cleveland.....	9 p.m.....	30	5:40 p.m.....	82
Washington-O'Hare.....	10 p.m.....	37	7:15 p.m.....	70
Des Moines-O'Hare.....	8:05 p.m.....	31	5:15 p.m.....	83
Fresno-San Francisco.....	11 p.m.....	17	6:10 p.m.....	61
Grand Rapids-O'Hare.....	8:35 p.m.....	21	5:45 p.m.....	76
Minneapolis-O'Hare.....	8:10 p.m.....	38	5:15 p.m.....	71
Omaha-O'Hare.....	8:10 p.m.....	29	5:45 p.m.....	74

The airlines over the counter service does not satisfy the needs of most air "freight" users since the demand for the service does not even exist until the majority of daytime passenger flights has departed.⁴ This service often eliminates non productive transfers since it is limited to single plane or on route city-pairs. It is exceptionally expensive compared to general cargo rates due to the over-the-counter requirements for shipping. As a consequence, the shippers' need for late afternoon pickup is not met for the vast majority of O & D requirements.

The limited single plane service of the scheduled carriers requires two to four costly and non-productive handlings. Except for only the heaviest traffic lanes, even this service is unavailable until the day after consignment.

All services by scheduled services have become more concentrated (through 1974).

TRENDS IN ANNUAL SCHEDULED AIRLINE DEPARTURES

Year	U.S. total	New York	Chicago	Los Angeles	Washington
1969.....	5,377,202	340,488	301,521	170,259	138,653
1970.....	5,037,653	329,792	301,377	177,076	137,453
1971.....	4,712,663	348,033	295,720	164,931	134,223
1972.....	4,774,529	348,959	303,732	153,846	136,114
1973.....	4,856,526	350,174	305,128	158,247	140,614
1974.....	4,486,704	300,120	284,679	144,629	125,719
Percent down.....	-17	-11	-6	-15	-9

Among the top 50 markets only 10% of all activities occur between 10:00 p.m. and 6:00 a.m. (May 1975)

Total operations..... 16,440
Between 10 p.m./6 a.m..... 1,645

These operations are heavily concentrated to/from only top markets.

There is virtually no cargo "prime time" service available for small city pairs.

⁴ U.S. House of Representatives Subcommittee on Postal Service, Testimony of Andrew M. de Voursney, Senior Vice President—Corporate Planning, United Airlines, Inc., Sept. 13, 1973.

DOMESTIC ALL-CARGO SERVICE HAS NOT BEEN SUCCESSFUL

Of the 10 domestic trunk carriers, five have either ceased to provide, or are in the process of eliminating, all cargo services.

Two trunk carriers have publicly announced that they are formally reviewing their already limited all-cargo operations with an eye towards total cessation of such service.

In providing all-cargo service, the combination carriers have not had an operating profit since fiscal year 1967!

No regional service carrier provides any all cargo service.

From a high of some 50 points receiving all cargo service shortly after World War II, domestic airports being served by certificated all-cargo aircraft currently number only 24.

The three certificated all-cargo carriers are authorized to serve a total of 27 different civil airports in the continental United States. Of these, currently Airlift has suspended service at 8 airports, and Flying Tigers trucks from four of their authorized points to another airport. A fourth certificated all-cargo carrier, Slick Airways, ceased all operations in 1965.

Except for Flying Tiger's performance in fiscal year 1973, no all-cargo carrier has reported an operating profit since 1967. For fiscal year 1975, these carriers lost \$17,107,000.00 providing domestic all-cargo service.

The remaining certificated all cargo service is heavily concentrated in only the top market.

AIRLINE PRIME TIME (OVERNIGHT) ALL-CARGO SERVICE WITHIN 30 MAJOR HUB MARKETS

	Number	Percent
City pairs.....	870	100
Receive service.....	109	13
No freight service.....	761	87

FOUR OF THESE MARKETS ACCOUNT FOR 81 PERCENT OF ALL ORIGINS AND DESTINATIONS

Markets	Origin	Destination	Total
New York.....	14	15	29
Chicago.....	12	14	26
Los Angeles.....	6	11	17
San Francisco.....	6	10	16
Total.....			88

	Number	Percent
City pair points receiving service.....	109	100
Flights to or from San Francisco/Los Angeles/New York/Chicago.....	88	81
All others.....	21	19

U.S. DOMESTIC ALL-CARGO SERVICE MARKETS WITH PRIME TIME (OVERNIGHT) SERVICE

Origin	Destination														
	Atl	Bal	Bos	Buf	Clt	Chi	Cvg	Cle	Dfw	Day	Den	Dtw	Bdl	Iah	Ind
Atl					X	X						X			
Bal						X									
Bos						X		X				X	X		
Buf															
Clt															
Chi	X	X	X						X			X	X	X	
Cvg															
Cle						X			X						
Dfw						X								X	
Day			X									X			
Den						X						X			
Dtw						X						X			
Bdl			X			X									
Iah									X						
Ind															
Mkc															
Lax			X			X						X			X
Mem															
Mia	X					X									
Mke															
Msp															
Nyc	X		X			X		X	X	X		X		X	X
Phi								X				X			
Pit															
Pdx						X									
Stl			X						X						
Sfo		X	X			X					X	X	X		
Sea						X									
Syr			X												
Was															

Origin	Destination														
	Mkc	Lax	Mem	Mia	Mke	Msp	Nyc	Phi	Pit	Pdx	Stl	Sfo	Sea	Syr	Was
Atl		X										X			
Bal		X										X			
Bos		X					X					X			
Buf															
Clt															
Chi		X					X	X	X		X	X	X		
Cvg															
Cle		X										X			
Dfw		X					X					X			
Day												X			
Den												X			
Dtw							X					X			
Bdl												X			
Iah							X					X			
Ind							X	X							
Mkc							X	X			X	X			
Lax	X						X	X			X	X			
Mem															
Mia							X								
Mke					X		X								
Msp					X		X								
Nyc		X			X	X		X	X	X	X	X	X		
Phi							X								
Pit															
Pdx							X						X		
Stl		X					X								
Sfo		X					X								
Sea							X		X						
Syr															
Was															

Note: X denotes prime time all-cargo service is available.

Source: Cargo Economics Inc., Domestic Air Forwarder Growth and Competition, May 1, 1976, exhibit 4.

ALL-CARGO SERVICE DETERIORATION

Major domestic airport cities	All-cargo departures		Major domestic airport cities	All-cargo departures	
	1972	1974		1972	1974
Atlanta.....	4,168	2,028	Los Angeles.....	8,872	8,512
Baltimore.....	962	564	Miami.....	1,678	561
Boston.....	2,277	1,810	Minneapolis.....	915	549
Charlotte.....	1,563	9	New York.....	9,873	7,946
Chicago.....	14,555	12,037	Newark.....	3,482	1,526
Cleveland.....	1,866	936	Philadelphia.....	2,719	2,481
Dallas.....	3,110	2,553	St. Louis.....	1,253	709
Denver.....	1,250	486	San Francisco.....	6,831	6,605
Detroit.....	3,222	2,239	Seattle.....	1,893	1,823
Honolulu.....	1,899	2,306			
Houston.....	1,081	803	Total service opportunities at the above cities.....	74,379	57,072
Kansas City.....	910	585			

Source: C.A.B. Airport Activity Statistics, table 7.

CONVERSION OF AIR FREIGHT TO COMBINATION SERVICE

[Domestic Air Freight Revenue ton-miles (thousands)]

	Total freight	Portion moved via combination aircraft	Portion moved via all cargo aircraft	Percent via all cargo service
1970.....	2,109,487	743,981	1,365,506	64.7
1971.....	2,195,318	826,688	1,368,630	62.3
1972.....	2,480,098	1,015,125	1,464,973	59.1
1973.....	2,821,909	1,201,145	1,620,763	57.4
1974.....	2,808,407	1,460,781	1,347,674	48.0
Fiscal year 1975.....	2,680,033	1,432,992	1,247,041	46.5

Note.—The above table includes UPS 2d-day service parcel traffic moving on daytime all cargo flights. If UPS data are removed from the analysis, the percentage of "regular" air freight moving on combination aircraft equals about 60 percent.

Source: Cargo Economics Inc., Domestic Air Forwarder Growth and Competition, May 1, 1976, p. 5.

The O & D and time of service requirements of Air Freight make the general service really needed by shippers impossible to obtain from the U.S. Airlines System over the vast majority of traffic lanes.

Late afternoon pickup requirement precludes next morning delivery between most city pairs even though "urgency" requirements are identical for all lanes.

Dichotomous O & D requirements of Air Freight vs passengers results in multiple handlings; susceptibility to pilferage, loss and damage; storage requirements; and increased costs.

Air freight forwarders/airline system results in duplicated expenses in areas such as overhead, facilities, and equipment.

Culling of shipments to various carriers is inefficient and expensive for shippers. Multiple handlings result in unprofitable operations for general commodity, minimum rated shipments tendered directly to the air carriers.

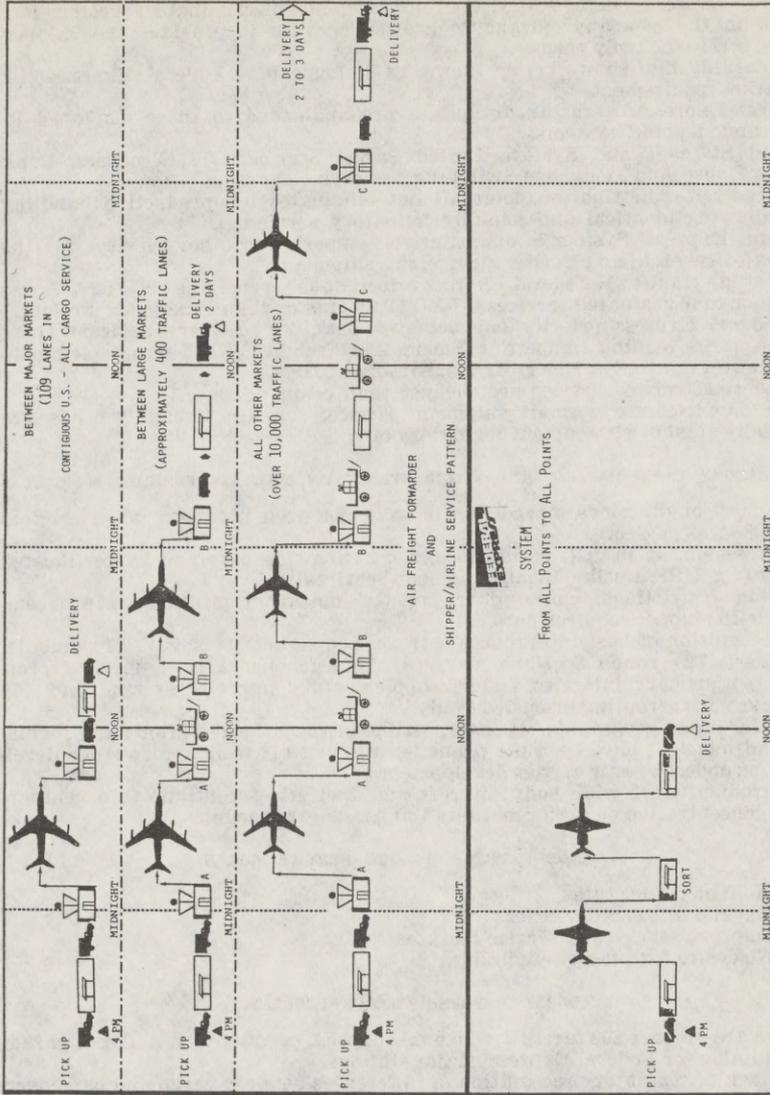
The non productive handling of small shipments between most city-pairs results in heavy expense for the certificated point to point carriers.

REPORTED DIRECT CARRIER COSTS OF TRANSPORTING SMALL SHIPMENTS COMPARED WITH CHARGES
IN DIRECT CARRIER PUBLISHED TARIFFS

[50-lb shipments]

	Total cost plus return and taxes per shipment					
	1,100 miles			2,700 miles		
	Combination aircraft	All cargo aircraft	Tariff rate	Combination aircraft	All cargo aircraft	Tariff rate
American	\$21.98	\$16.61	\$10	\$33.08	\$23.11	\$21.50
Braniff	14.30	13.92	10	21.97	21.04	21.50
Delta	17.57		10	23.19		21.50
Eastern	14.10	15.87	10	19.75	23.95	21.50
Northwest	16.28		10	25.24		21.50
Trans World	19.85	16.44	10	30.44	24.33	21.50
United	18.84	15.42	10	26.62	20.55	21.50
Flying Tigers		27.90	10		34.29	21.50
North Central	15.10		10			
Average	17.25	17.69	10	25.76	24.54	21.50

Source: Minimum charges per shipment of air freight, CAB, docket No. 20,398, Apr. 19, 1972.



DOOR-TO-DOOR AIR CARGO SERVICE
(TYPICAL 1000 MILE ROUTE)

Federal Express' single entity, door to door, non-discriminatory system has resulted in the company's dramatic growth because it provides the shipper with the service he truly needs.

The ensuing film shows better than any dialogue how Federal Express fills this market requirement.

Federal Express' operating disciplines are analogous to those employed in other "random point" systems.

United States Postal System, United Parcel Service, LTL Truckers, Bank Clearing House, and Telephone Switching Network.

The central redistribution point all but eliminates non-productive handling while allowing identical and non-discriminatory service.

Federal Express' System is quantitatively superior to other services for the vast majority of high priority air freight shipments.

ORC study results: 1. Federal Express priority one service was 39%-52% faster than other four evaluated services. (FEC 39.2% faster than Emery Air Freight.)

2. Federal Express priority one achieves next day delivery at least twice as often as its leading competitor Emery Air Freight. (FEC actual pickup to actual delivery at 92.8%, Emery 41.7%, Airborne 25.0%.)

3. Federal Express services are cheaper than competitors.

As a supplementary, small shipment service, the air "freight" needs are historically at odds with current regulatory law.

REGULATORY INADEQUACIES AND THEIR EFFECT ON THE AIR FREIGHT MARKET

Over 90% of all goods moved by air were not even produced when original act of 1938 was passed.

No provision, as in ICC regulations, for nationwide coverage by certificated carriers (e.g. UPS, Busline Small Shipment Services).

Routing restrictions, closed door policies, market limitations, are incompatible with shipper requirements.

No recognition of basic differences between people and packages: (1) ambulatory/insert, (2) round trip/one way, (3) homogenous/varying physical properties, (4) primary intercity system/supplementary intercity system, and (5) routing sensitive/routing insensitive only.

Need for broad geographic coverage; airline passenger orientation; and regulatory inadequacies; have been the primary causes of air freight forwarder development as opposed to air carrier development.

Introduction of wide body aircraft and fuel crises continue to accentuate airline concentration on major markets and passenger schedules.

FEDERAL EXPRESS' PUBLIC SERVICE GOALS

- (1) Hold or reduce rates.
- (2) Expand into smaller cities.
- (3) Improve service and service features.
- (4) No desire for subsidy eligibility.

FEDERAL EXPRESS' MAJOR PROBLEMS

There are no part 298 aircraft which meet speed, productivity, and cost parameters suitable for Federal Express' major stations.

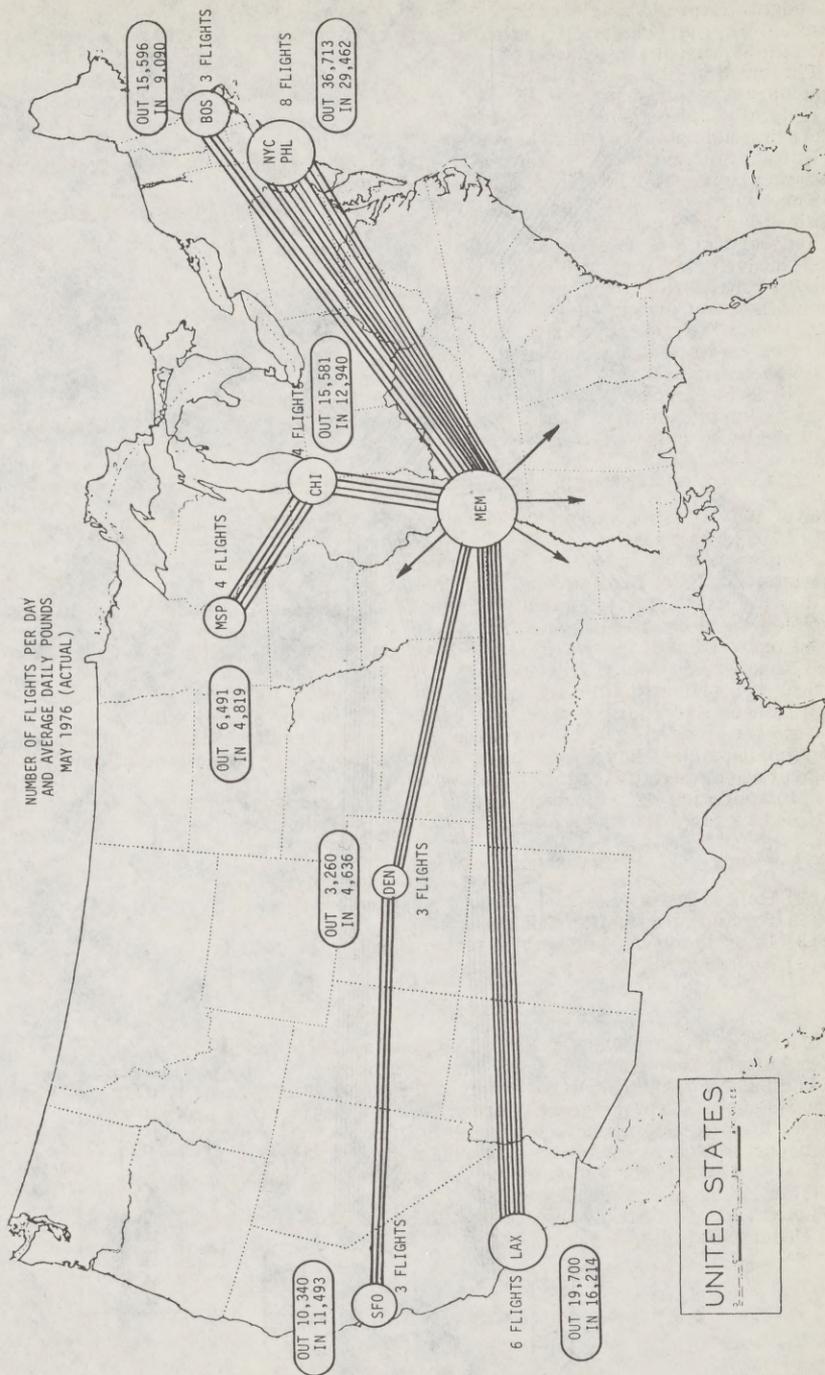
The lack of regulatory recognition of differences between cargo and passengers cause Federal Express great concern for any certification proceeding.

The historic approach to cargo disciplines as being analogous to passenger transport is incorrect. Air cargo is a completely different business.

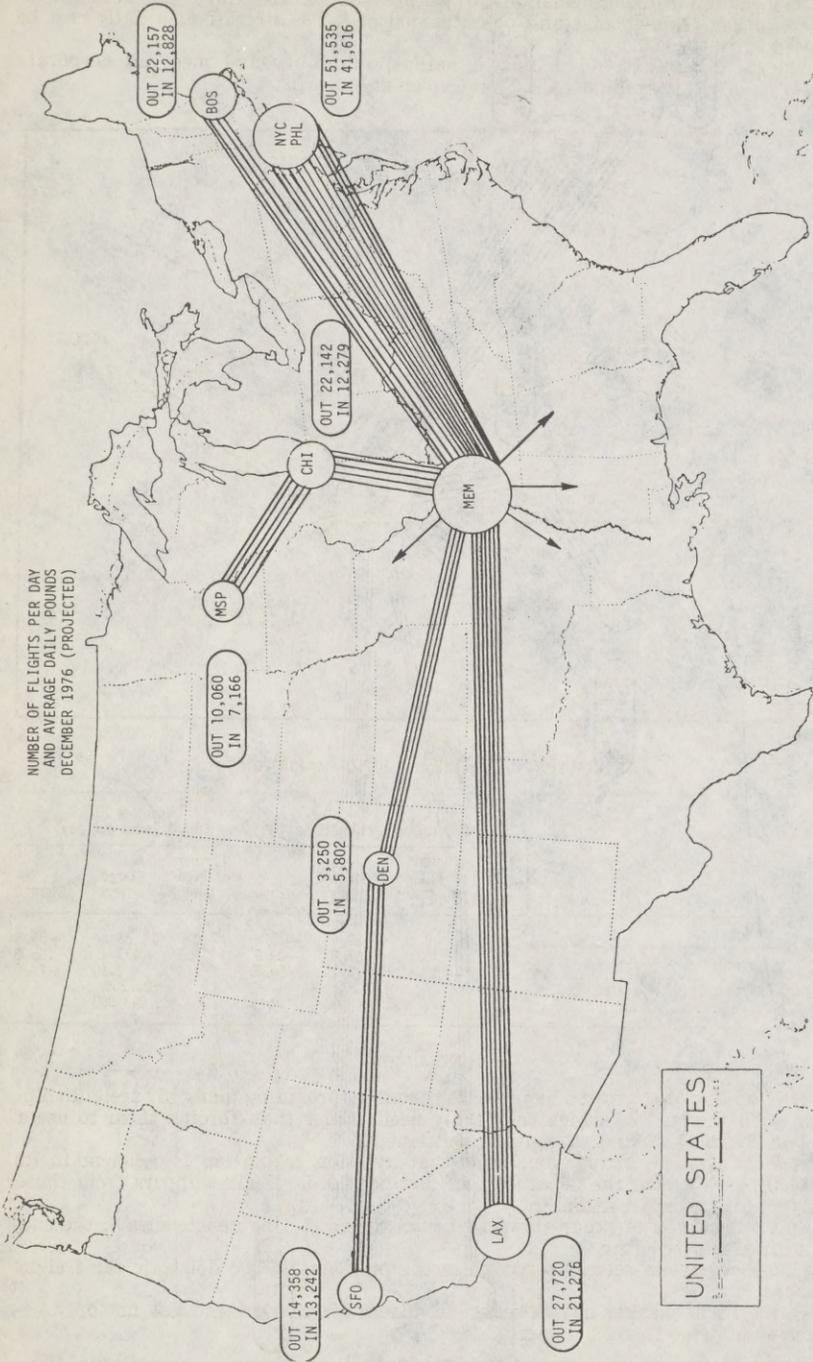
Past CAB actions which force air cargo into combination aircraft, reflect carrier, not shopper, orientation.

Length of certification proceedings under existing law would be a great burden on Federal Express.

NUMBER OF FLIGHTS PER DAY
AND AVERAGE DAILY POUNDS
MAY 1976 (ACTUAL)

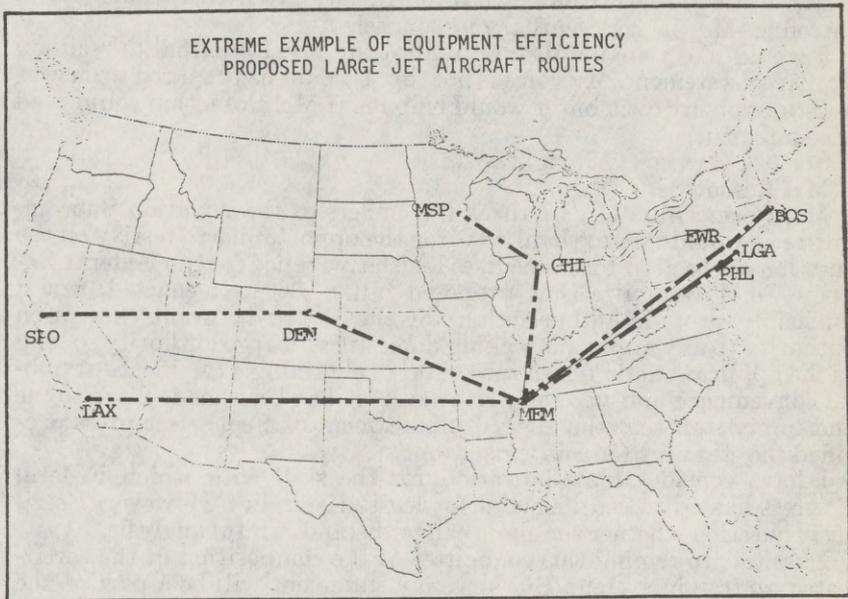


UNITED STATES
1000 MILES



To meet the growing demand of its shippers, Federal Express has been forced to wet lease 11 inefficient and/or outmoded part 298 aircraft at a daily cost in excess of \$20,000.00.

Federal Express could achieve greater profitability and meet all corporate goals if we had the ability to add more efficient aircraft.



SUBSTITUTION OF AIRLINE JET OUT OF MAJOR POINTS

	May 1976 (flight hours per day)			December 1976 (flight hours per day)		
	Number of large jets	large jets	Change	Number of large jets	large jets	Change
Large jet.....	0	30.4	+30.4	0	30.4	+30.4
Falcon.....	246.5	157.0	-89.5	277.3	171.4	-105.9
Suppl. lift.....	52.4	2.1	-50.3	77.0	2.1	-74.9
Daily DOC expense saved W/5 large jets.....		\$23,600			\$36,200	
Annualized.....		\$5,904,000			\$9,043,000	

CONCLUSION

Federal Express' growth has resulted from its providing many air freight shippers with the service which they truly need rather than forcing them to use a system designed around passenger requirements.

Federal Express strongly believes that aviation regulation is deficient in its failure to recognize the separate and distinct needs of air shippers from those of other air transport users.

An examination of other views will confirm the glaring deficiencies of the current air cargo structure.

Almost everyone seems to recognize the problems in the domestic air freight market.

This critical market has at least one direct air carrier who has not only listened—but acted to meet its needs.

Senator CANNON. Next witness, Mr. Robert Prescott, president, Flying Tiger.

STATEMENT OF ROBERT W. PRESCOTT, PRESIDENT AND CHIEF EXECUTIVE OFFICER, THE FLYING TIGER LINE, INC.; ACCOMPANIED BY JACK ROSENTHAL, COUNSEL

Mr. PRESCOTT. Mr. Chairman, I am Robert Prescott. I would like to introduce Mr. Jack Rosenthal, our counsel.

I would like your indulgence in allowing Mr. Rosenthal to read my prepared statement. My voice is not top. I would be prepared to answer questions on my own, but it would help me if Mr. Rosenthal could read the statement.

Senator CANNON. All right, sir.

Mr. Rosenthal.

Mr. ROSENTHAL. Mr. Chairman, members of the Aviation Subcommittee, I would like to thank you for the opportunity to testify on the question of the need for immediate legislative relief for the Federal Express Co. I recognize that proposed bill S. 3684, if enacted, would ostensibly provide authorization for the Board to grant exemption authority to any applicant seeking domestic all-cargo authority so long as the applicant hadn't been successful in obtaining a certificate of public convenience and necessity. However, it has been made clear to me and to my staff that the alleged predicament of Federal Express provided the stimulus for this legislation.

I have considerable admiration for the skill with which Federal Express has advanced its claim for legislative relief. However, I seriously question whether the claim can withstand careful analysis.

I hesitate to remind this committee of the composition of the certificated airfreight system. But since my statement will be a part of the official record and reviewed by others with less expertise than the members of this committee, let me beg your indulgence in a brief description.

The certificated airfreight system has two major components which together serve the entire spectrum of airfreight demand. The first of these components—the combination carriers—have authority, in virtually every market of significance in this country, to provide scheduled freight service, utilizing for that service the belly compartment of passenger aircraft, pure freighter aircraft, or both. Of the carriers' own choice, most of this service is provided in combination aircraft; wholly domestic freighter services are now being provided by only three combination carriers and only in major airfreight markets. The second major component consists of the all-cargo carriers. These specialists are authorized to serve only a limited number of the major airfreight markets; and the Board has on various occasions in the past several years largely denied applications by these carriers to expand the area of their domestic freighter operations.

This certificated system provides a full line of services for large as well as small companies, for big as well as small air shipments, for individuals and airfreight forwarders alike. Being able to offer freighter aircraft scheduled to meet the needs of the shipper, not the passenger, is, however, soundly acknowledged to be an indispensable element of the system if the shipping public is to be served properly.

Competition is a hallmark of the certificated airfreight system. In every major airfreight market, the number of certificated carriers authorized to provide freighter service exceeds the number of carriers

authorized to compete for passenger traffic. This is true, though on the average there is four or five times as much passenger traffic as there is freight traffic in these markets.

Under the provisions of title IV of the Federal Aviation Act of 1958, the certificated carriers operate under a system of tariff filings and rate regulation (a) which places an effective ceiling on prices which can be charged for airfreight service; (b) which is intended to inhibit predatory pricing on the low side; and (c) which prevents undue pricing preference or prejudice among areas served and unjust pricing discrimination among shippers.

This system, which we believe to be vital to the national interest, unfortunately has not been profitable for the operators of freighter aircraft. Between 1965 and 1975, the freighter operators accumulated \$210 million in pretax losses.

Obviously, an unprofitable domestic freighter industry is in a poor position to make additional investment in modern freighter equipment. And, it has been the three all-cargo carriers which have historically made the major commitment of modern long-range cargo aircraft. This is a serious problem which affects not only the provision of domestic freighter services but which also impacts the availability of long-range freighter aircraft for the civil reserve air fleet. Granting Federal Express exemption authority to permit operation of DC-9's, for example, will not contribute one iota to this essential emergency capability.

As I see it, the basic question before the Congress is whether it should adopt legislation—such as that now under consideration—which would favor one class of freighter aircraft operator over another.

If enacted and implemented by the Board as the Congress would apparently then intend, one class of freighter operator would have unrestricted authority to operate freighters of any size or description in any market or markets of its choice. This class would have complete pricing freedom to charge as much as service value would permit or as low as necessary to attract traffic from other carriers; to discriminate in favor of large and regular shippers as opposed to small and infrequent ones; and to acquire other air-related businesses without prior Board approval.

The other class—the members of which would be distinguished from the first one only on the basis that they pioneered airfreight service losing millions of dollars in the process, and devoted the personal and economic resources necessary to obtain certificates of public convenience and necessity—would be restricted in the markets which they could serve; subject to the statutory hearing process; rate regulation; the burden and expense of regulatory recordkeeping and reporting; as well as prior Board approval of acquisitions.

It takes no stretch of the imagination to recognize that the first class would advance in market share and profitability largely at the expense of the second class.

But relative carrier interests aside, what the Congress must decide is whether such a dual regime would best advance the public interest in a sound national air freight system.

I recognize that Congress intends to deal with the general subject of regulatory reform in the next session. But the form of that legislation, much less the fact of enactment, is still open to question. In the

meantime, the Flying Tiger Line and its fellow members of the second class would remain under the disabilities referred to while the first class would have been effectively deregulated. Further, it is doubtful that the Board having exempted Federal Express' pending certification would push completion of a certificate proceeding which might be rendered moot by deregulation legislation which the Board itself was advocating.

The proponents of this legislation have failed totally to make a rational case for emergency relief. This is not a situation where an agency is foreclosing the provision of a useful public service. On the contrary, Federal Express' operations are ostensibly being conducted now under exemption authority granted by the Board. Nor is this a case where the burden of administrative action or inaction is forcing a business to operate at a loss. Indeed, Federal Express is projecting a significant operating profit for 1976 on projected revenues of \$96 million, and it's my understanding that Federal Express is the only domestic airfreighter operator which will do that well. Flying Tiger has been in the domestic airfreight business for over 30 years and has never generated as much as \$96 million in scheduled service revenue. In only 2 of those 30 years was it able to earn as much as \$6 million on its domestic scheduled services.

Certainly, operation of large aircraft would extend Federal Express' capability and could be of economic benefit to the carrier. But there is no evidence that, without such authority, it could not continue to grow and to operate profitably—at least until Congress has had time to consider broadly the regulatory regime it wishes to provide for domestic freighter services.

The CAB expressly invited Federal Express—almost 8 months ago—to file an application for a certificate of public convenience and necessity. The Board committed itself “* * * to give prompt and careful consideration to any appropriate application that might be filed by Federal Express pursuant to section 401 of the act.” If Federal Express had promptly filed such an application, the decision could have been pending before the Board today. And had Federal Express filed an application 18 months ago at a time when, by its own account in CAB docket 28354, it recognized the economic benefits it could achieve with large aircraft, the certification proceeding could have been completed. In short, if Federal Express is being economically disadvantaged by its not now having certificate authority to operate large aircraft, it cannot be attributed solely to the regulatory agency.

As a matter of fact, I believe that there is a considerable misunderstanding of the reasons why the Board did not grant Federal Express' application for an exemption from section 401 of the act and part 298 of the Board's economic regulations. The format of S. 3684, which broadens the Board's current exemption powers under section 416 of the Federal Aviation Act of 1958, seems to suggest that the Board's action was bottomed solely on lack of legal power. But this is not the case.

The Board made it plain that entirely apart from the “* * * statutory limitations of the Board's exemption powers, we would not be prepared to conclude on the basis of contested pleadings that Federal Express' operations would not have a significant impact on certificated carriers and airfreight forwarders.” In short, the Board clearly noted

that there were factual issues relevant to a dual standard of regulation for Federal Express and the other competitors for airfreight traffic which needed to be resolved before Federal Express could obtain the broad authority it sought for large aircraft operations without entry restrictions.

We do not believe that the Congress is in any better position than was the Board to resolve these issues with only the limited nonadversary type of hearing in which we are now engaged.

Parenthetically, on July 26, 1976, the Board granted Air Chicago, an air taxi operator, authority to operate certain large freighter aircraft in the Chicago-Philadelphia market. The Board noted the inadequacy of nighttime freighter services for which there was a demonstrated need and the disproportionate cost of certification proceedings to the "expected traffic and revenues."

One further observation is appropriate. Unless the legislative draftsman responsible for the bill now before you regards the draft as a legislative directive to the Board to issue an exemption, it is plain that it would not be effective to achieve the authority sought by Federal Express since passage of the legislation would not otherwise be effective to cause the Board "* * *" to conclude on the basis of contested pleadings that Federal Express' operations would not have a significant impact on certificated carriers and airfreight forwarders."

However, if the Congress were to identify the legislation as a directive for Board action favoring Federal Express, the legislation would be of doubtful constitutionality. While the Federal Constitution does not specifically preclude "special legislation" by the Congress, the Supreme Court has no more than one occasion called into question legislation which does not treat all persons similarly situated on equal terms.

I have heard the claim that Federal Express is entitled to the relief here proposed because the service it is providing is "unique." I contest that claim. Federal Express competes with the individual direct air carriers and with the airfreight forwarders for traffic which because of its time sensitivity is largely air directed. In fact, in testimony before the House Committee on Public Works and Transportation on June 9, 1976, Federal Express' spokesman conceded that at least 70 percent of its traffic was previously handled by the certificated system either directly or through tenders from the airfreight forwarders. And Federal Express' advertising specifically calls attention to its competition with Emery, the largest domestic airfreight forwarder which has specialized in expedited small package services, as well as with the direct carriers' expedited small parcel services.

While it is true that Federal Express currently limits its carriage to shipments of under 300 pounds and packages of under 70, this range covers more than 50 percent of all the airfreight shipments tendered to the industry today. Small parcel service constitutes the revenue backbone of the scheduled freight system. It includes the total of the expedited package service which the combination carriers sell on their passenger aircraft, and is traffic for which major airfreight forwarders have designed their own "express" services.

In fact, as we analyze Federal Express' operations and its own advertising, its only "uniqueness" is the use of small aircraft to expedite

its service. And it is this very "uniqueness" which its legislative effort is seeking to dilute.

We have reviewed carefully Federal Express' case for legislative relief as made in Mr. Smith's June 9 testimony. Mr. Smith argues that Federal Express did not respond to the Board's invitation to file a certificate application because:

First. The CAB's attentions " * * * are focused * * * on the much larger issues of passenger transportation."

Second. The Board's traditional emphasis on point-to-point certification " * * * is simply at odds with what air shippers demand and would be contrary to the public interest."

Third. In view of the Board's failure to recognize fundamental differences between airfreight and passenger travel, " * * * the propensity for even the most meritorious arguments to be defeated is very real indeed."

Fourth. It has been predicted that the delays inherent in the certification process " * * * might well result in the demise of our company."

Accordingly, Federal Express urged " * * * the adoption of legislation permitting and directing the CAB to grant unrestricted area authority—rather than the present mandatory point-to-point authority—to certificated all-cargo operations."

In short, Federal Express' own analysis suggests a dissatisfaction with the statutory scheme as it applies generally to the all-cargo carriers. Federal Express did not urge, nor could it, that the present regulatory scheme was suitable for the all-cargo industry generally but in appropriate for Federal Express. Mr. Smith's recommendations were instead consistent with our position; which is, that if the Congress is dissatisfied with the present regulatory scheme either in whole or as applied to airfreighter services, then it should not dismantle it piecemeal for the benefit of a particular carrier or a limited class of carriers. It should act at one and the same time for all carriers similarly situated.

Unlike the certificated all-cargo carriers, Federal Express has, under broad exemption authority unavailable to Flying Tiger, been able to fly where it wants and charge what it chooses.

We have attached as appendix A a history of Federal Express rate actions. I would like to call attention to the fact that between April 1973 and today Federal Express doubled the rates for its major service. During the same period, the certificated carriers, although subject to the same cost pressures, were limited to rate increases of approximately 45 percent for their predominant services.

Using the freedom from regulation thus afforded it, Federal Express has in less than 4 years grown to the point where it operates practically nationwide and where it forecasts 1976 revenues greater than the domestic scheduled service revenues of the Flying Tiger Line in any of the more than 30 years it has provided such service. Moreover, although Flying Tiger has tried, via the traditional certificate process, with its attendant expense and delay, to obtain operating rights for a nationwide airfreight system, it has been unsuccessful. Consequently, although it is the largest certificated all-cargo specialist, Flying Tiger has authority to provide airfreight service in less than 10 percent of the markets in which its larger trunkline competitors can provide such services.

With these factors in mind, it is evident that there is absolutely no warrant for granting Federal Express or other noncertificated carriers exclusive access to legislative relief from the strictures of the Federal Aviation Act.

There is one further point which I would like to make. There is the suggestion that since the direct air carriers have unsuccessfully sought higher rates for small shipments, further diversion of this traffic to Federal Express would actually prove to be an economic boom to the certificated system. This is simply not true. In the first place, as I have already noted, the expedited small package services of the combination carriers are an increasing and important revenue source. To date, the Board has permitted the pricing of this part of the business on a value-of-service basis and this aspect of the airfreight business is undoubtedly profitable. But more significantly to the all-cargo sector of the business, small parcel tenders provide for our largest shippers—the airfreight forwarders—a major source of revenue. Small parcels have the highest per ton yield of the freight which the forwarded tenders to the direct air carrier.

If you will see appendix B, you will get a comparison of the typical forwarder yields with airline yields for large and small shipments. Reduction of the relative volume of this traffic carried by the forwarder would reduce his average revenue per ton. The forwarder, therefore, will have less revenue with which to pay the certificated carriers for linehaul service—which will place further downward pressure on the direct carriers' rate structure. Parenthetically, conversely, if the forwarder increases his rates to shore up his revenues, this increases his exposure to diversion by the newly enfranchised carriers with the same results to the certificated system. I reference appendix C which shows the extent to which Federal Express' rates undercut Emery's in a major freight market. But that rate structure is already unduly depressed, as the administrative law judge found in the pending domestic airfreight rate investigation.

The fact is that, faced with a practical inability to compete directly with Federal Express for high-yield, small parcel services, and subject to increasing downward pricing pressure on large shipments from the forwarders which are competing with Federal Express, the most likely alternative would be for further withdrawals of freighters from purely domestic services.

And this is the way in which we see this bill, as being adverse to the interests of the shippers of the United States.

Mr. Chairman, very frankly, I can tell you that my company has already invested tens of millions of dollars in developing domestic airfreight services. It is not our desire nor intention to withdraw from that service. We have made a very substantial investment and we are prepared to continue our efforts, which we believe serve an important public need. But we also believe that we are entitled, and that you will agree that we are entitled, to at least equal competitive opportunity with carriers not yet in the market or whose entry came just shortly over 3 years ago.

Before closing, let me state that we have received authorization from Airlift and Seaboard World Airlines, both of whom have reviewed copies of this testimony, to express their concurrence with the position set forth.

[The appendixes follow:]

APPENDIX A

FEDERAL EXPRESS RATE HISTORY FROM APRIL 1973 WHEN OPERATIONS WERE INAUGURATED¹

PRIORITY ONE—FEC'S MAIN PRODUCT

Rates have doubled since April 1973, when FEC began.

In 1973, about 3 increases of about 5 percent each.

In 1974, 3 increases of 8 percent, 12 percent and 13 percent, respectively.

In 1975, 10 percent increase in May and 7 percent in September.

In 1976, 6 percent increase in March, and 6.5 percent average increase in July. The July 1976 increase varied by length of haul and number of packages shipped, the increase being greater for longer hauls and for fewer packages picked up at once. Some services received as low as a 2 percent increase.

NOTE.—FEC's rates vary by number of pieces per shipment and number of shipments picked up at once. This structure has also changed several times.

STANDARD AIR SERVICE

Present rates are "much lower" than they were in April 1973, when FEC began. In September 1975, these rates were not increases when Priority One rates were. In January 1976, rates were reduced 40 percent on the average (some as much as 60 percent). In July 1976, 8 percent increase on the average.

COURIER PAK

Started at \$7.50, raised 33 percent to \$10.00, and raised an additional 25 percent to \$12.00 in March 1976.

Also have changed pick-up requirements several times (i.e., daily pick-up was required for awhile at \$5.00 per week).

APPENDIX B

COMPARISON OF EMERY'S YIELDS WITH AIRLINE YIELDS FOR SMALL AND LARGE SHIPMENTS

Shipment weight (pounds)	Emery charge ¹	Emery rate per 100 lb	Emery rate per ton	Emery yield per ton-mile (cents) ²	Airline charge per ton-mile (cents) ³	Emery yield in excess of airline charge (cents)	Percentage Emery yield is greater than airline yield
1.....	\$7.07	\$707.00	\$14,140.00	577.61	26.83	550.78	2053
5.....	7.47	149.40	2,988.00	122.06	26.83	95.23	355
10.....	16.96	169.60	3,392.00	138.56	26.83	111.73	416
12.....	18.43	153.58	3,071.60	125.47	26.83	98.64	368
15.....	21.25	141.67	2,833.40	115.74	26.83	88.91	331
20.....	25.06	125.30	2,506.00	102.37	26.83	75.54	282
30.....	31.00	103.33	2,066.60	84.42	26.83	57.59	215
40.....	36.20	90.50	1,810.00	73.94	26.83	47.11	176
41.77.....	41.77	83.54	1,670.80	68.25	26.83	41.42	154
60.....	46.85	78.08	1,561.60	63.79	26.83	36.96	138
70.....	51.98	74.25	1,485.20	60.67	26.83	33.84	126
80.....	56.94	71.18	1,423.60	58.15	26.83	31.32	117
90.....	62.53	69.48	1,389.60	56.76	26.83	29.93	112
100.....	67.09	67.09	1,341.80	54.81	26.83	27.98	104
200.....	123.48	61.74	1,234.80	50.44	26.83	23.61	88
500.....	286.50	57.10	1,142.00	46.65	26.83	19.82	74
1,000.....	492.50	49.25	985.00	40.24	26.83	13.41	50
2,000.....	971.20	48.56	971.20	39.67	26.83	12.84	48
3,000.....	1,425.60	47.52	950.40	38.82	26.83	11.99	45
3,200.....	1,520.64	47.52	950.40	38.82	26.83	11.99	45

¹ Emery Air Freight Corp., airfreight rates tariff No. GC-2, 2d revised p. 88-D and 3d revised p. 88-E.

² NYC-LAX 2,448 miles.

³ CAB No. 227, 36th revised p. 166; FT A-2 container GCR, \$1,051, at 3,200 lb pivot weight.

¹ Based upon discussions with Federal Express marketing personnel; published data not readily available.

APPENDIX C

COMPARISON OF FEDERAL EXPRESS, EMERY, AND FLYING TIGER'S PRIORITY AND NONPRIORITY RATES
[Newark to Los Angeles Door to Door]

Shipment size (lb)	Nonpriority (shipment)			Priority (packages)		
	FTL	Federal Express	Emery	FTL	Federal Express	Emery
1.....	\$30.80	\$6.87	\$18.07	\$36.20	\$17.47	\$93.07
5.....	30.80	9.35	18.47	36.20	20.71	93.47
10.....	30.80	12.74	27.96	36.20	27.99	102.96
12.....	30.80	13.99	29.43	36.20	31.69	104.43
15.....	30.80	15.85	32.25	36.20	35.15	107.25
20.....	30.80	18.98	36.06	36.20	37.94	110.06
30.....	31.70	25.20	42.00	37.40	43.08	117.00
40.....	38.00	30.31	47.20	45.60	47.66	122.20
50.....	44.30	36.26	52.77	53.80	52.25	127.77
60.....	50.60	42.48	57.85	62.00	56.97	132.85
70.....	52.05	48.72	62.98	63.85	61.71	137.98
80.....	52.05	54.31	67.94	63.85	186.11	142.94
90.....	52.05	58.61	73.53	63.85	195.66	148.53
100.....	52.05	61.96	78.09	63.85	100.60	153.09

¹ Two packages.

COMPARISON OF PRIORITY SERVICES

[Based on a varying number of pieces for a 60-lb shipment, Newark to Los Angeles]

Number of pieces per shipment	FTL	Federal Express	Emery
1 piece at 60 lb.....	\$62	\$56.97	\$132.85
2 pieces at 30 lb.....	62	82.72	132.85
3 pieces at 20 lb.....	62	102.45	132.85
4 pieces at 15 lb.....	62	123.80	132.85
5 pieces at 12 lb.....	62	136.25	132.85
6 pieces at 10 lb.....	62	138.90	132.85
12 pieces at 5 lb.....	62	188.88	132.85

Senator CANNON. Thank you very much, Mr. Rosenthal and Mr. Prescott. You have indicated that the proposed legislation would favor one class of freighter aircraft operator over another, and that one class would have complete pricing freedom.

How would you view the situation, if any cargo carrier seeking an exemption would be required to comply with the other requirements of title 4, if a special exemption was granted?

Mr. PRESCOTT. Well, when we asked ourselves this question, Mr. Chairman, we only saw the bill that was before us. How would we look at it, if we were granted equal rights? Naturally, we would expect to be treated equally under the law, but we don't still see the reason for Federal Air Express or any other carrier to come in on a free ride, based on the kind of work we have done through the last 30 years in the aircraft business. We are not objecting to Federal Air Express doing what they are doing today.

They are a specialty carrier. They are serving off-line points, off-line as far as we are concerned, because they are small lines. They are doing it at a very high price, and they now want to trade their motorcycle in for a Mack truck and get into the airfreight business that we are in.

We would like to contest that right in an adversary proceeding.

We wouldn't like to have a certificate proceeding here done for the Senate or the House, which is exactly what is happening.

Senator CANNON. Of course, you could still contest the exemption application before the Board.

Mr. PRESCOTT. You don't get the same opportunity. If you could, then there would be no reason for this bill. You don't get the same opportunity to contest a certificate hearing as you do with an exemption. If that is—if what you say is true, then why waste your time passing this bill?

Senator CANNON. If the proposed legislation was broadened so as to treat certificated and noncertificated cargo carriers equally, would you consider that equitable and could you then support the legislation?

Mr. PRESCOTT. We wouldn't support the legislation. I call your attention to what Chairman Robson just told you, that he would consider this almost a directive to the CAB to put these people into our business. Not into the business they are doing. There is nobody—we have heard of nobody trying to restrict Federal Air Express from doing what they are doing today.

We are not. We have never raised a voice about it. We are just happy that they do it. We don't believe they should use this as a path to come in and get a free ride in the certificated air freight business that we have spent millions of dollars developing. We have invested more than a third of a billion dollars in equipment getting ourselves prepared to give what we regard as public service. He doesn't seem to think it is much public service, but we do. We don't think he ought to have a free ride in here.

We don't think there is any necessity for this legislation.

Senator CANNON. You state there is no evidence that Federal Express could not continue to grow and operate profitably with small aircraft. That has not been the testimony. I would like to ask you if it would not be contrary to public interest, if Federal Express is forced to use uneconomic aircraft, waste fuel and have to charge the public a higher price, as a result.

Mr. PRESCOTT. You are just pointing out the reasons for an adversary proceeding. He comes in here and makes statements like he's doing \$96 million worth of business, making \$5 million profit. We don't see those numbers.

We are not allowed to cross-examine him. You haven't the faintest idea whether this is true or not. We have no idea how he is going to use these airplanes. If we had him in an adversary proceeding we would say, "Tell us what you are going to do, then we would find out. But he is giving so-called evidence here that we don't believe at all.

Senator CANNON. You are not suggesting the Board wouldn't go into those factors in an exemption proceeding, are you?

Mr. PRESCOTT. Well, again, why the exemption process, if you are not going to have an adversary proceeding? I will read again from Chairman Robson's statement, which we just saw this morning.

It says:

We will certainly consider Congress's favorable attention on this legislation as a clear indication by Congress the Board should not be restrictive in considering the requests for all cargo exemption authority.

In other words, you get an exemption without going through an adversary proceeding.

Senator CANNON. It would appear that Federal Express is now providing a service that has not been adequately provided by the certificated carriers. How would the public be served if Federal Express and other cargo carriers in similar circumstances were denied the opportunity to expand?

Mr. PRESCOTT. I will repeat, we are not opposing what they are doing. Expanding means getting into our cabbage patch that we have pioneered.

Don't you understand the difference?

Senator CANNON. Let me ask this: Since entry of the Federal Express into the small cargo business, what impact, if any, has Federal Express had on Flying Tiger?

Mr. PRESCOTT. By Federal Express' own statement, 70 percent of the traffic they have taken has been taken away from the certificated air-freight business.

Here, again, here are the facts—they aren't facts, they are not proven by any means at all. They are just told to you. Even he admits 70 percent of his traffic comes from the certificated cargo business. That is diversion.

Senator CANNON. Do any of the certificate carriers or all-cargo operators have an in-hours door-to-door capability?

Mr. PRESCOTT. We have asked for it and been denied by the CAB. We do have door-to-door service by contract with truckers. We have asked the CAB many times to give us an authority to file door-to-door rates, but have been denied.

Senator CANNON. The proposed legislation, if enacted, would only give Federal Express and other all-cargo operators seeking initial certification an opportunity to present their case to the Board with the hope of some relief.

How would the grant of such a fishing license be detrimental to Flying Tiger, certificated carriers, or the public interest?

Mr. PRESCOTT. It is, again, I will quote Chairman Robson's statement: "This legislation is a clear indication that the Board should not be restrictive in considering requests for all-cargo exemptions."

Let me emphasize, again, Mr. Chairman, these people are not hanging on the edge of bankruptcy. By their own statement here, they are making \$5 million a year, which is much more than we are making in the airfreight business.

They are going to find out when they get into larger airplanes that \$5 million is going to disappear in terms of reading. But that isn't going to help us any. It is going to cost us more. We are going to watch them go down the drain. They should stay on their motorcycles and the special delivery business, where they should be.

Senator CANNON. You did everything but answer my question. How would the granting of such a fishing license be detrimental to Flying Tiger, the certificated carriers or the public interest?

Mr. PRESCOTT. You asked two questions. It would be detrimental to us if it took traffic away from us. We don't have enough traffic now with our system to fill our airplanes.

You divert some more traffic from us, that is going to hurt us. What it is going to do to the public, we don't know. If our airfreight service, which you can describe as main haul service, disappears because the

losses mount because of these diversions, and we have to withdraw, and the certificated, combination carriers withdraw their all-cargo service, and that burden falls on Federal Air Express, they are going to say oh, no, we don't want any part of that. We are special delivery boys. We don't even want an airplane bigger than a 727. If you take the line haul of the DC-8's and 747's out of the business today, you are going to hurt the public interest.

There is no question about that.

Senator CANNON. Senator Stevens?

Senator STEVENS. I have no questions, thank you.

Senator CANNON. Counsel?

Mr. GINTHER. Mr. Prescott, in questioning Chairman Robson a few moments ago, the question was raised as to whether if this legislation were broadened, so as to provide the same basic exemption authority for existing carriers, as well as 298 carriers or new entrants, the Board would presumably follow a policy of liberal entry in treating applications which might come from your company or from other companies to engage in the type of business that Federal Express is engaged in.

Conversely, one might presume from that statement that the Board would look with favor upon exemption applications from other applicants to engage in different kinds of air cargo services.

In effect, the legislation, as amended, as suggested by the Board, would provide an equal opportunity for existing carriers, for 298 carriers and for new carriers to compete in this market. I don't understand how that necessarily is detrimental to Flying Tiger Line at all. It might be very helpful in the future.

Mr. PRESCOTT. Mr. Ginther, I guess we could describe what you are saying as deregulation. We started out in 1938 with deregulation. It was a jungle. The air transport business was a jungle. We talk about deregulation. We are going back to the Ice Ages.

This is where we all began. This is why the Civil Aeronautics Act of 1938 was passed in the first place.

Anybody who could buy an airplane and gas could get in the airline business. Your trend is right back to that. Why you are taking on the air cargo business, which is the toughest part, I don't know. You are deregulating, in effect, you are saying, "Sure, we are going to give equal rights. You can apply for exemptions." We have been living under this law for 31 years. We have made a success, because of our own ability to move, in spite of our losses in the domestic business, we have been able to survive.

We see nothing wrong with it all. We do think the CAB should always be encouraged to expedite their decisions.

You tell me, why should we complain if we are going to be given equal rights?

Well, we complain, because we don't think we ought to be back to the law of the jungle in the air freight business.

These people don't even want rate regulations. They want nothing. They want no public responsibility.

Regulation is also for the benefit of the public. These people don't say they are going to do anything, they don't want to be responsible to the public. They want to fly to Waco, Tex. Tomorrow they will fly. If they don't, they won't.

In response to Senator Baker's question, "What assurance do I have that you are not going to desert these small towns?" He says, "Well, I will give you that assurance, you can depend on it." That is not much reliability. That is nothing to base a certificate on or right to fly on.

You are serving the public.

Mr. GINTHER. It seems all the testimony indicates that the freight business in the United States is on the decline, that the Board has to, by exemption, grant licenses, such as the one issued last week to Air Chicago, because there is not service between Philadelphia and Midway Airport.

Given this regulatory climate, it doesn't seem as if the shippers' needs are being met by the present system.

Mr. PRESCOTT. The example you use between Philadelphia and Chicago, and their particular need, I guess—you see a demonstration. The Board was able to give that authority.

I mean your passing this Act wouldn't enlarge that authority. I don't quite understand, you are saying the airfreight business is declining. It is not declining. The profitability has gone. We were just about on the edge of making, in fact, we did make a profit in the domestic airfreight business, until the oil crisis came. We are coming back now and getting close to making a profit.

But the airfreight business is not in the decadent state these people would have you believe, that the introduction to this bill, the bill introduced in the House, air cargo business has been just neglected.

I would like to have Congress—the \$300 million investment and our \$200 million in losses in the last 30 years and tell me, therefore, we need more competition. It just doesn't make sense.

Mr. GINTHER. Do you contest the testimony that the number of freighter departures has declined 25 percent since 1973?

Mr. PRESCOTT. I haven't had a chance to contest it. I haven't seen the numbers. I have heard this testimony. We don't have any evidence here to contest. I will say the—they have reduced their number of departures, because their 747 and DC-10 and 11 bellies—

We have not reduced our departures. We have reduced availability. We have gone from the CL-4 to the 708 and to the stretch DC-8. They have larger capacity.

So if you have the same number of departures we had 10 years ago, with a CL-44, you have the same number of departures with a stretch DC-8, you have doubled your departures, your capacity.

Mr. ROSENTHAL. One other thing you might recall, Mr. Ginther, the numbers Mr. Smith used were comparison of 1972, which was a pre-oil crisis year with 1974 which was an oil crisis year, in which the air carriers were severely restricted in the amount of fuel they could use, and one of the first things they did was cut down on all cargo departures, because of the relatively much lower profitability. As a matter of fact, losses in all cargo services compared with passengers. I think it is a totally unfair comparison.

Mr. GINTHER. One of the statements that will be made in a few moments by a following witness is that the lack of overnight freighter capacity in the U.S. has become so desperate, as far as the air freight forwarders are concerned, that they are now actively turning to chartered aircraft.

If that is their estimate and the estimate of Mr. Smith is coincident, it seems to me the Board concurs that the freighter capacity in the United States today is not adequate to meet the shipping public's needs.

Mr. ROSENTHAL. I think to the extent that there has been a decline in all-cargo departures, is largely in the short-haul markets. A large part of the problem with short-haul markets is the fact that under existing rate structures, which, if the Board ever gets around to issuing the domestic airfreight decision, might be correct, the rates are just too low to be profitable.

As a result, the carriers have reduced their services, but it us largely in the short-haul markets and not the long-haul markets.

Mr. PRESCOTT. Let me add to that. Passing this bill is not going to correct the situation just described, unless you foresee Federal Express buying large equipment to satisfy these all cargo departures.

Unless they throw away their motorcycles and get some Mack trucks.

They are small parcel operators at a very high price. Their average revenue is \$1.46 a pound. Our is in the neighborhood of 25 to 30 cents a pound. We are line-haul carriers. They are special delivery boys who want to come in and be line-haul carriers.

We don't see the need for it. We would like to contest their rights to it.

We can't contest it here with no evidence to attack.

Senator CANNON. Thank you very much, gentlemen.

The next witness, Mr. Leo Seybold, vice president, ATA.

STATEMENT OF LEO SEYBOLD, VICE PRESIDENT, FEDERAL AFFAIRS, AIR TRANSPORT ASSOCIATION OF AMERICA, WASHINGTON, D.C.; ACCOMPANIED BY GERALD J. GODBOUT, DIRECTOR OF CARGO SERVICES

Mr. SEYBOLD. Thank you, Mr. Chairman.

I have with me Mr. Godbout, director of cargo services of the Air Transport Association.

My name is Leo Seybold. I am vice president-federal affairs of the Air Transport Association of American which represents most of the Nation's scheduled certificated airlines.

These airlines have a deep interest in legislation affecting the air transportation of cargo. They have developed and offer an extensive variety of nationwide cargo services reaching virtually every community.

These services include priority airfreight, regular airfreight, small-package-counter service, and pick-up and delivery service.

A summary of the cargo services provided by the scheduled airlines is contained in appendix A of my statement.

We appreciate this opportunity to present the industry's views on S. 3684, a bill which would expand the exemption authority of the Civil Aeronautics Board in relation to all-cargo air transportation.

We strongly oppose S. 3684 because it raises serious regulatory issues, and because a more meaningful and equitable solution to the problem faced by the proponent of the bill is available.

As I shall describe, that solution is the elimination of regulatory lag through the imposition of specific time limits on the Civil Aeronautics Board in the consideration of certificate applications.

Among the more serious regulatory policy issues raised by S. 3684 are:

First, whether section 416 of the Federal Aviation Act, which was carefully drafted to meet truly exceptional circumstances, should be broadened to permit an entire special class of applicants to circumvent the public protection and public obligation principles of the certification process;

Second, whether the grant of an exemption under the provisions of S. 3684 would unduly influence the Board in its consideration of basic certification issues; and

Third, whether the structure of the act should be undermined by special interest legislation, especially when such legislation is discriminatory both in principle and in practice.

We believe a detailed examination of these issues and their impact on both established legislative and regulatory principles will make clear that special legislation of this kind, representing the effort by one private interest to achieve its particular objective, creates many more problems of far-reaching consequence than might be seen at first glance.

CIRCUMVENTION OF THE CERTIFICATION PROCESS

The certification process in title IV of the act has a significant, meaningful purpose in relation to the regulation of air transportation.

Certification is intended to assure, in the broad public interest, that all of the elements of the public convenience and necessity are met, and that those who provide air transportation are fit, willing and able.

The determinations necessary to provide these assurances cannot be effectively made without examining all pertinent facts and circumstances.

There are hidden pitfalls in S. 3684 that would undermine the validity of the certification process.

The intent of the bill is to permit the Board to confer immediately the benefits of certification to an applicant for an all-cargo certificate, pending certification, before subjecting the applicant to the searching scrutiny of the certification process.

Apparently the Board would retain the discretion under S. 3684 to determine what, if any, of the obligations normally associated with certification would be imposed on the applicant pending certification.

However, the Board would be precluded from imposing on the applicant at least one obligation that is essential in order to assure that all of the public interest obligations of title IV of the act will be satisfied—the obligation of meeting the burden of showing that the public convenience and necessity require the certification, and that the applicant is fit, willing and able to perform the transportation authorized.

The exemption authority set forth in section 416 of the act was designed, by its terms, to be used only to a "limited extent" or "unusual circumstances."

We do not believe that section 416 should now be amended to permit one certificate applicant or an entire class of applicants to effectively circumvent the basic certification requirements of the act by obtaining summary Board approval to provide air transportation pending "consideration" of certification.

Nor do we believe there is justification for such a major deviation from the guiding purposes of the act.

Granting the authority imposed in S. 3684 would constitute a significant weakening of the act by prejudicing and subordinating basic certification principles.

The Board recognized the essentiality of the certification process when it denied the application of Federal Express for a permanent exemption from certification requirements.

The Board found that such an exemption would be contrary to the broader purposes and standards of the act. A portion of the Board's decision of December 8, 1975, of special pertinence to this issue reads as follows:

"Upon consideration of the pleadings and all the relevant facts, we have concluded that Federal Express' proposal is not appropriate for grant under the exemption provisions of section 416 of the Act. It is well established that the Act contemplates a basic framework of certificated air service. Federal Express' proposal involves the use of five DC-9-15 aircraft, each having a maximum payload of over 24,000 pounds, to be operated on routings serving 10 major airports across the country and transporting freight in numerous major markets now served by certificated air carriers. The large traffic growth which has been experienced by the carrier is a result of its marketing efforts and expanded service, and it appears that such growth trends are likely to continue so that the carrier's operations will expand even further in the future. In our view, the certification process is the only appropriate means of appraising the type of long-term authorization of large-scale jet cargo operations in major markets which Federal Express contemplates. Under these circumstances, we cannot find that enforcement of the provisions of section 401 of the Act would be contrary to the public interest.

"We would stress, in this regard, that it is by no means our intent to discourage the entry or growth of new cargo carriers or to impede the introduction of innovative services in the air transportation system. Our holding here is merely that in the circumstances of this case, the authority requested is more appropriately a matter for examination under the normal certification procedures of section 401 of the Act. In this regard the Board stands ready to give prompt and careful consideration to any appropriate application that might be filed by Federal Express pursuant to section 401 of the Act." (Italics supplied.)

In a certificate proceeding an applicant must determine that it is "fit, willing and able" to perform the air transportation proposed.

This is one of several steps in the certification process designed to protect the public interest.

S. 3684 provides for no such test.

We do not suggest that the Board would fail to apply in some manner a test to determine whether the applicant is "fit, willing and able."

But it is submitted that S. 3684, by suggesting that something less than the full certification process is in order, would restrict the Board's consideration of this issue normally given in a certification proceeding.

Finally, in juxtaposition with section 401 a court might conclude that section 416, as amended by S. 3684, would preclude the application of the "fit, willing and able" test.

UNDUE INFLUENCE ON CERTIFICATION

The problem in initially bypassing the fact-finding, as permitted in S. 3684, goes to the heart of the certification requirement itself since an applicant obtaining an exemption to operate while awaiting certification would undoubtedly make financial commitments for the purpose of exercising such an exemption.

Such financial commitments made in expectation of ultimate certification could result in tremendous losses to the applicant if certification were ultimately denied and the exemption authority terminated.

As a result, the Board would, consciously or unconsciously, be influenced by a desire not to render a decision ruining an applicant which has made such commitments.

While the Board must properly consider the factors enumerated in sections 102 and 401 in determining whether ultimately to certify the applicant receiving the exemption, the Board would be influenced improperly by a real and immediate financial investment consideration which bears no logical relation to the purposes of the Act.

Clearly this would have the practical effect of permitting any applicant which gets its "foot in the door" to open the door all the way.

Thus legislation like S. 3684 would undermine the basic purpose of the Act by effectively permitting certification on improper grounds and without a full determination of the issues.

SPECIAL INTEREST LEGISLATION

It is no secret that S. 3684 was introduced because of the denial by the Board of the application of one all-cargo carrier for an exemption to operate extensive services with large aircraft without obtaining certification.

Legislation of narrow scope enacted in response to a special problem would transform a logically framed and workable statute into one with exceptions, ambiguities, and internal inconsistencies.

The Act should not be permitted to become an illogical patchwork of exceptions at the behest of private special interests.

In addition to benefiting one special interest, S. 3684 would, perhaps inadvertently, create two classes of all-cargo operators—those which are regulated—that is, certificated—and those which are not regulated; that is, exempted pending certification.

The Board would have authority under section 416 to subject unregulated operators to the same standards and requirements that regulated operators must meet such as requirements to file tariffs, offer satisfactory service, file on-time report, and maintain minimum insurance.

However, inasmuch as the Board has not always imposed such requirements, it would only be a matter of speculation in each instance whether the Board actually would do so in the absence of a statutory mandate.

Thus, S. 3684 creates the distinct possibility of discrimination between the regulated and the unregulated operators with the former governed by public protection provisions which might not be imposed upon their competition.

We believe these questions of equity and protection of the public interest require careful examination.

Certainly the public is entitled to the protection provided by certification, and surely discrimination between carriers and types of services ought not be legislated.

Finally, the bill has the effect of regulating cargo and passenger services differently. Unquestionably, there are differences between cargo and passenger operations.

The question that has not been addressed is whether those differences are of a type and magnitude to justify or require differences of treatment under the act.

This issue, which goes to the heart of the regulation of air commerce, deserves the most careful consideration before the enactment of any statutory differences in the treatment of cargo and passenger service.

Also requiring consideration is the manner in which the act should reflect any differences in treatment that are found to be merited.

Whatever those differences in treatment should be, if any, it is highly questionable whether the concept embodied in S. 3684 represents the proper method of adjusting the legislative framework to provide for differences.

If it is determined that cargo service should be regulated differently than passenger service, any such differences should be considered carefully in the light of an all-encompassing, structurally logical framework which would affect many portions of the act.

S. 3684 affords special treatment only to new applicants for all-cargo operations. Thus, another question raised is whether all-cargo services should be treated differently than other cargo services such as those provided in combination aircraft.

This significant question has also not been examined and must be carefully considered before being cast into legislation.

The proponents of S. 3684 are concerned about delay in the certification process. This was the justification given for broadening the Board's exemption power as proposed in this bill.

Few would disagree that one of the major problems inherent in regulation is the delay which attends so many Board activities and decisions.

We have advocated the imposition of specific regulatory time limits to reduce delay. We believe this approach is the only effective way to reduce regulatory lag and resolve certification delay questions.

However, the solution proposed in S. 3684 would increase rather than decrease regulatory lag by creating a situation where, once the summary exemption is granted, neither the applicant nor the Board would have any real incentive to expedite the certification process.

No legislative modification which would increase regulatory lag should be considered unless it also secures a clear and necessary public benefit otherwise unobtainable.

No such benefit is evident in S. 3684.

We find it perplexing that the proponent of this bill has not yet filed an application for a certificate, although almost 8 months have passed since the Board's denial of the exemption authority sought.

One must wonder why Congress is now being requested to pass special legislation when the normal procedure available to all applicants has not been pursued.

For all of the reasons we have discussed, enactment of S. 3684 to provide special treatment addressing one carrier's complaint would be both inappropriate and unwise, and would create more problems than it is designed to resolve.

We respectfully urge the subcommittee to reject this bill.

Thank you.

[The appendixes follow:]

APPENDIX A

SCHEDULED AIRLINES OFFER A WIDE VARIETY ON NATIONWIDE AIR FREIGHT SERVICES

The U.S. airlines operate 12,000 scheduled flights daily in interstate air transportation. Virtually, all of these flights carry air freight. In 1975, the nation's airlines transported over 45 million shipments of domestic freight weighing over 2 million tons, and producing over \$750 million in revenue.

As a result of 50 years of air freight experience, combined with an \$18 billion investment in aircraft and ground facilities, the scheduled airlines offer a wide range of air freight services to meet the needs of the occasional customer, the shipper of small packages, the air freight forwarder, the industrial community and the shipper who must move highway-size containers.

Because of the vast range of service needs, it is necessary for the scheduled airline industry to offer a "super market" of cargo services. Such offerings afford the customer the opportunity to select the service that fully meets his needs.

These services are offered through 600 U.S. airports, and extend to more than 10,000 other communities as a result of combined use of 630 air freight trucking specialists of Air Cargo, Inc. (ACI). ACI is the airline ground service organization through which pick-up and delivery service is arranged, and through which is offered full "door-to-door" air freight services nationwide.

With the demise of REA Air Express most of the scheduled airlines instituted new priority air freight services. They offer reserved space, guaranteed on-line flights designated by the shipper. This service is available for shipments of any size, weight or number of pieces (within aircraft limitations). Service can be arranged by contacting the airline directly. This is a door-to-door service under which delivery normally is made the next morning. Same day service is provided depending upon time of day and length of flight.

To meet the additional needs of priority service for small packages, the airlines also offer, usually at a flat rate, "over-the-counter" small package service. Shipments can be brought to the airport ticket counter up to 30 minutes before flight departure and picked up at destination 30 minutes after flight time. This provides a "same day" service. This service is limited to packages weighing up to 50 lbs. and measuring up to 90 inches in outside dimension. In 1975, the airlines carried 1.3 million shipments in this over-the-counter small package service.

Building upon the success of small package service, some airlines have begun giving shippers the option of pick-up and delivery for complete door-to-door service. Such pick-up and delivery service is accomplished up to 90 minutes before departure and after arrival.

Despite the rapid growth in "priority" type services, most air cargo continues to move in *regular air freight*—as bulk freight or in containers—in the bellies of combination aircraft, as well as in freighters. Regular air freight service which costs less than priority air freight is a nationwide interline service accommodating shipments from small package to full container loads. Complete door-to-door service is available and a single phone call to any airline can accomplish shippers needs.

The nation's airlines offer many additional shipper services including:

(1) Containerization, which includes container incentive rates, intermodal programs, and shipper use of airline units;

(2) Specific Commodity Ratings;

(3) Accessorial Services, which includes signature service, assembly and distribution, and protection services for high value shipments.

To facilitate these services the scheduled airlines function under uniform industry handling procedures and documents. They make use of computer-backed information systems for improved monitoring and tracing of shipments.

Today's fleet of aircraft numbers over 2,000 airplanes including 75 all-cargo aircraft with a payload capacity ranging from 26,000 lbs. to 200,000 lbs. and accounting for 969 flight departures per week.

Further enhancing cargo airlift capacity are 293 widebody aircraft (747's, DC-10's and L-1011's) which can accommodate about two-thirds of the cargo load of a conventional jet freighter even when carrying a full load of passengers and baggage.

The scheduled airline fleet continues to make prime cargo time departures at night. For example, there are approximately 7,500 scheduled departures per week between the hours of 8:00 p.m. and 3:30 a.m.

To fill the need of the smaller communities not served directly by the scheduled airline network, the airlines work jointly with air commuters and air taxi operators. Through the standard Airline Air Taxi Interline Air Freight Traffic Agreement (which is open to any air taxi operator conducting operations under Part 298 of Economic Regulations of the Civil Aeronautics Board), the airlines offer any community access to the nationwide air freight system, through direct interline exchange of traffic. Attached to my testimony is a list of participating parties to this agreement as of December 1, 1975. (Appendix B)

Thus it is clear that the scheduled airlines have developed a nationwide network of cargo services designed to meet the needs of shippers in communities large and small.

APPENDIX B

LISTING OF PARTICIPATING PARTIES TO AIRLINES AIR TAXI INTERLINE AIR FREIGHT TRAFFIC AGREEMENT

Party to agreement	Party code	Nonparticipating member
Air Charter West (Zoom Zoom), P.O. Box 2446, Airport Station, Oakland, Calif. 94614, Jan. 22, 1975. ¹	ZO.....	AA, TW.
Air Idaho, P.O. Box 64, Joslin Field, Twin Falls, Idaho 83301, Sept. 18, 1970. ¹	TJ.....	AA, BN, NA.
Air Kentucky, Owensboro Aviation, Box 901, Owensboro, Ky. 43201, Nov. 26, 1974. ¹	KN.....	NA, UA, WA.
Air New England, P.O. Box 270, Logan International Airport, East Boston, Mass. 02128, July 5, 1970. ¹	NE.....	4, BN, WA.
Air Trans Airlines, Lang Freight Terminal, Logan International Airport, East Boston, Mass. 02128, Apr. 15, 1974. ¹	NE, AA, BN, TW.
Air Wisconsin, Inc., Outagamie Airport, Appleton, Wis. 54911, May 6, 1960. ¹	ZW.....	NA.
Allegheny Airlines, Inc., National Airport, Washington, D.C. 20001, Sept. 18, 1970. ¹	AL.....	DQ.
Alpine Aircraft Charters, Inc., d.b.a. Alpine Air Freight, P.O. Box 7191, Park Hill Station, Denver, Colo. 80207, Sept. 30, 1974. ¹	7.....	AA, BN, NA, TW.
Altair Airlines, Inc., P.O. Box 5346, Philadelphia International Airport, Philadelphia, Pa. 19153, May 6, 1970. ¹	AK.....	BN, WA.
American Airlines, Inc., 633 3d Ave., New York, N.Y. 10017, June 21, 1970. ¹	AA.....	ZO, TJ, 4, 7, DQ, DE, 3, HG, ZQ, 1, ZJ, 6, 5, YR, ZY, SL, XU, FW, JV.
Apollo Airways, Inc., 404 William Moffett Rd., Goleta, Calif. 93017, Nov. 3, 1975. ¹	ID.....	TW.
Astro Airways Corp., Grider Field, P.O. Box 7007, Pine Bluff, Ark. 71601, Dec. 30, 1975. ¹	JW.....
Braniff International, P.O. Box 35001, Dallas, Tex. 75235, Apr. 12, 1971. ¹	BN.....	TJ, NE, 4, 7, AK, DE, GS, 1, MB, 6, YR, ZY, FS, XU, HX, CG.
Cochise Airlines, Tucson International Airport, Tucson, Ariz. 85706, Mar. 20, 1972. ¹	DP.....	EA, WA.
Davis Airlines, Inc., P.O. Box 3968, Bryan, Tex. 77801, Sept. 18, 1970. ¹	ZK.....	WA.
Delta Airlines, Inc., Continental Colony Parkway, Atlanta, Ga. 30320, May 6, 1970. ¹	DL.....
Downeast Airlines, P.O. Box "C", Rockland, Maine 94841, May 6, 1970. ¹	DE.....	AA, BN, WA.
Eastern Airlines, Inc., Miami International Airport, Miami, Fla. 33148, May 6, 1970. ¹	EA.....	DP, XJ, IU, YR, GM, ZY, FW.
The Flying Tiger Line, Inc., 7401 World Way West, International Airport, Los Angeles, Calif. 90009, May 6, 1970. ¹	FT.....
Georgia Air Freight, Atlanta International Airport, AMF P.O. Box 45143, Atlanta, Ga. 30320, Oct. 27, 1975. ¹	GS.....	BN.
Golden West Airlines, Inc., P.O. Box 1877, Newport Beach, Calif. 92663, Nov. 11, 1974. ¹	GW.....
Great Western Airlines, Inc., Division of Ross Aviation, Route 5, Riverside Airport, Tulsa, Okla. 74107, July 8, 1974. ¹	DQ.....	AA, AL, NA, TW.
Gulf Coast Aviation, Inc., Municipal Airport, Gulfport, Miss. 39501, Mar. 20, 1972. ¹	AA, TW, WA.
Harbor Airlines, Inc., P.O. Box 775, Oak Harbor, Wash. 98277, July 5, 1971. ¹	HG.....	AA, NA, TW, WA.
Lawrence Aviation, Inc., Lawrence Municipal Airport, R.F.D. No. 3, Lawrence, Kans., Sept. 16, 1974. ¹	ZQ.....	AA, NA.
Lompoc Flight Service, Inc., P.O. Box 998, Lompoc, Calif. 93436, June 21, 1970. ¹	1.....	AA, BN, TW.
Los Angeles Helicopter Airlines, 5436 West Imperial Highway, Los Angeles, Calif. 71601, Jan. 9, 1976. ¹	QW.....

LISTING OF PARTICIPATING PARTIES TO AIRLINES AIR TAXI INTERLINE AIR FREIGHT TRAFFIC AGREEMENT—Con.

Party to agreement	Party code	Nonparticipating member
Mesaba Aviation, Division of Halvorson of Duluth, Inc., 2002 Airport Rd., Grand Rapids, Minn. 55744, ⁵ Dec. 29, 1973.	XJ.....	AA, EA, NA, TW.
Metro Airlines, P.O. Box 58608, Houston, Tex. 77058, May 6, 1970. ¹	HY.....	WA.
Metro Flight, P.O. Box 58608, Houston, Tex. 77058, May 6, 1970. ¹	FY.....	WA.
Midstate Air Commuter, Box 277, Marshfield, Wis. 514449, May 6, 1970. ¹	IU.....	EA, NA.
Mississippi Valley Airways, Inc., 2809 Fanta Reed Rd., La Crosse, Wis. 54601, Dec. 25, 1970. ¹	XV.....	NA, WA.
Mountain Air Transport, Inc., Old Pan Am Bldg., Post Office Box 2504, San Francisco International Airport, South San Francisco, Calif. 94080, Aug. 26, 1974. ⁵	MB.....	BN, WA, TW.
National Airlines, Inc., Box 2055, Airport Mail Facility, Miami, Fla. 33159, Dec. 1, 1975. ¹	NA.....	TJ, KN, ZW, 7, DO, HG, ZQ, XJ, IU, XV, 6, JV, 2, PP, GM, MJ, DN, FS, XU, FW, ¹
New Born Wings, Sarasota-Bradenton Airport, P.O. Box 13061, Sarasota, Fla. 33578, May 16, 1975. ¹	5.....	AA, TW, WA.
New Ulm Flight Service, Inc., Route No. 1, New Ulm, Minn. 56073, Sept. 15, 1972. ¹	6.....	AA, BN, NA, TW.
North Cay Airways, Inc., International Airport, San Juan, Puerto Rico 00913, June 14, 1973. ¹	JV.....	AA, NA, WA.
North Central Airlines, Inc., 7500 Northliner Dr., Minneapolis, Minn. 55450, May 6, 1970. ¹	NC.....	
Northwest Airlines Inc., Minneapolis-St. Paul International Airport, St. Paul Minn. 55111 May 6, 1970. ¹	NW.....	ZY.
Ortner Air Service, Inc., Rural Delivery No. 1, Wakemen, Ohio 44889, Apr. 12, 1971. ¹	2.....	NA, TW, UA, WA.
Phillips Airlines, Inc., Joe Phillips Michigan City Airport, Michigan City, Ind. 46360, Apr. 4, 1974. ¹	PP.....	NA, UA.
Piedmont Aviation, Smith Reynolds Airport, Winston-Salem, N.C. 27102, Jan. 5, 1974. ¹	PI.....	
Pilgrim Aviation & Airlines, Inc., dba Pilgrim Airlines, P.O. Box 1743, New London, Conn. 06320, Apr. 28, 1975. ¹	PM.....	WA.
Pinehurst Airlines, Inc., P.O. Box 911, Pinehurst N.C., 28374, Mar. 25, 1974. ¹	MQ.....	AA, BN, TW.
Rio Airways, Inc. Post Office Box 636, Killeen, Tex. 76541, Sept. 18, 1970. ¹	XO.....	WA.
Royale Airlines, Inc., Shreveport Regional Airport, Shreveport, La. 71109, Mar. 6, 1973. ¹	OQ.....	WA.
Scenic Airlines, Inc., McCarran International, Post Office Box 11227, Las Vegas, Nev. 89111, Sept. 24, 1973. ¹	YR.....	AA, BN, EA.
Scheduled Skyways, Inc., Post Office Box 1344, Drake Field, Fayetteville, Ark. 72701, Feb. 17, 1973. ¹	GM.....	EA, NA, WA.
Sedalia Marshall Boonville Stage Line, Inc. (S.M.B.), 5805 Fleur Dr., Des Moines, Iowa 50321, May 6, 1970. ¹	MJ.....	NA, WA.
Skystream Airlines, Inc., Plymouth Municipal Airport, Plymouth, Ind. 46563, Sept. 18, 1970.	DN.....	NA.
Skyway Airlines, a division of Skyway Aviation, Inc., Post Office Box 67, Fort Leonard Wood, Mo. 65473, May 6, 1970. ¹	ZY.....	AA, BN, EA, NW, WA.
South Central Air Transport, 127 South Commerce St., Post Office Box 567, Natchez, Miss. 39120, Aug. 26, 1974. ¹	CG.....	BN, WA
Southeast Airlines, Inc., Post Office Box 592498 A.M.F., Miami, Fla. 33159, Apr. 12, 1971. ¹	SL.....	AA, WA
Summit Airlines, Inc., International Airport, Philadelphia, Pa. 19153, June 20, 1972. ¹	DU.....	WA
Sun Valley Key Airlines, AMF Box 22065, Salt Lake City, Utah 80217, May 6, 1970. ¹	FS.....	BN, NA
Trans Mo Airlines, Post Office Box 831, Memorial Airport, Jefferson City, Mo. 65101, May 6, 1970. ¹	XU.....	AA, BN, NA, UA, WA
Trans World Airlines, Inc., 605 3d Ave., New York, N.Y. 10016, Apr. 14, 1975. ¹	TW.....	ZO, 4, 7, ID, DQ, 3, HG, 1, XJ, MB, 5, 6, 2, FW
United Airlines, Inc., Post Office Box 66100, Chicago, Ill. 60666, May 6, 1970. ¹	UA.....	2, PP, XU, KN
Virginia Air Cargo Co., Inc., Post Office Box 5492, Charlottesville, Va. 22902, Sept. 18, 1970. ¹	HX.....	BN, WA
Western Air Lines, Inc., Post Office Box 92005, World Way Postal Center, Los Angeles, Calif. 90009, June 21, 1970. ¹	WA.....	NE, AK, DP, ZK, DE, 3, HG, HY, FY, MB, 5, JV, 2, PM, XO, OQ, GM, MJ, ZY, SL, XU, DU, HX, XV, KN, CG
Wright Air Lines, Inc., Burke Lakefront Airport, Cleveland, Ohio 44114, Dec. 25, 1970. ¹	FW.....	AA, EA, NA, TW
Zoom Zoom.....	ZO.....	See Air Charter West.

¹ Date entered agreement issued—Dec. 1, 1975.

DECODING OF PARTICIPATING MEMBERS

AA—American Airlines, Inc.
 AK—Altair Airlines, Inc.
 AL—Allegheny Airlines, Inc.
 BN—Braniff International
 CG—South Central Air Transport
 DE—Downeast Airlines

DL—Delta Air Lines, Inc.
 DN—Skystream Airlines, Inc.
 DP—Cochise Airlines
 DQ—Great Western Airlines, Inc.
 DU—Summit Airlines, Inc.
 EA—Eastern Air Lines, Inc.

FS—Sun Valley Key Airlines	PM—Pilgrim Aviation & Airlines, Inc.
FT—The Flying Tiger Line, Inc.	PP—Phillips Airlines, Inc.
FW—Wright Air Lines, Inc.	QW—Los Angeles Helicopter Airlines
FY—Metro Flight Airlines	SL—Southeast Airlines, Inc.
GM—Scheduled Skyways, Inc.	TJ—Air Idaho
GS—Georgia Air Freight	TW—Trans World Airlines, Inc.
GW—Golden West Airlines, Inc.	UA—United Airlines, Inc.
HG—Harbor Airlines, Inc.	WA—Western Air Lines, Inc.
HX—Virginia Air Cargo Company	XJ—Mesaba Aviation
HY—Metro Airlines (Houston)	XO—Rio Airways, Inc.
ID—Apollo Airways	XU—Trans Mo Airlines
IU—Midstate Air Commuter	XV—Mississippi Valley Airways, Inc.
JV—North Cay Airways	YR—Scenic Airlines, Inc.
JW—Astro Airways Corp.	ZK—Davis Airlines, Inc.
KN—Air Kentucky	ZO—Air Charter West (Zoom Zoom)
MB—Mountain Air Transport	ZQ—Lawrence Aviation, Inc.
MJ—Sedalia-Marshall-Boonville Stage Line	ZW—Air Wisconsin, Inc.
MQ—Pinehurst Airlines, Inc.	ZY—Skyway Aviation
NA—National Airlines	1—Lompoc Flight
NC—North Central Airlines, Inc.	2—Ortner Air Service, Inc.
NE—Air New England	3—Gulf Coast Aviation, Inc.
NW—Northwest Air Lines, Inc.	4—Air Trans Airlines
OQ—Royale Airlines, Inc.	5—New Born Wings
PI—Piedmont Aviation	6—New Ulm Flight Service, Inc.
	7—Alpine Aircraft Charters, Inc.

Senator CANNON. Thank you for your testimony.

Why has domestic all-cargo service been such a failure and Federal Express so successful?

Mr. SEYBOLD. Well, I think the results are not yet in on Federal Express.

It was only a few years ago that Federal Express was having to raise a lot of money and plead with the Board for special time to perfect its financing. As I understand it, its financial reports are not filed with the Board. As an earlier witness has indicated, no one has had an opportunity to examine them. In the normal process that the Board follows for carriers that are not operating under an exemption, the records are open and available to anyone.

I think they are performing a special service. Maybe their service is really profitable as they indicate, but it is a specialized service and I don't think it is demonstrated that it is beyond question so much more successful ultimately than the services presently being performed by other carriers.

Senator CANNON. Do you feel that the primary need of the air shippers is for overnight service and next morning delivery to the major point, to most of the points?

Mr. SEYBOLD. I think there is a certain myth that has been propounded to this committee. There is no question that most freight moves at night. And I think that the specialized service, 5 nights a week that this fly-by-night operation performs in relation to 7 days a week and all times of the day that are performed by the regular carriers, may meet some special need. There is no question about them performing a need and attracting a sizable amount of business.

But the combination carriers and the all-cargo carriers operating both day and night have services that give shippers the variety of services they need, sometimes with same-day service. The scheduled carriers provide pickup and delivery services, over-the-counter service and priority and regular airfreight service which meet the variety of shipper needs not being met by Federal Express.

Senator CANNON. What percentage of air shipments tendered to the certificated independent industry receive overnight service and before noon delivery? Do you have a figure on that?

Mr. SEYBOLD. We don't have a figure, but we know it is growing in volume all the time.

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

It is our estimate that more than 50% of all air freight shipments receive overnight delivery and that, of the remainder, over a million pieces receive same day service and the balance, receives second day delivery. This means that, of the approximately 50 million shipments moving in air freight, over one million receive same day service, and about 25 million receive overnight service.

Senator CANNON. If the variety and quality of services offered the shippers by the certificated industry are as broad and as good as you indicated in your last statement, why has Federal Express been able to grow to 19,000 shipments and \$100 million a year in revenue?

Mr. SEYBOLD. I think the primary factor has been—and apparently it has never been discussed by anyone else, but the Board's order putting REA out of the air express business, which was issued in 1973, became final in late 1975. It was during this period that Federal Express, which was just beginning its operation, had its most meteoric rise.

I think that the demise of Railway Express Agency was a major factor in the growth of Federal Express.

Senator CANNON. Of course, REA was historically unprofitable rather than profitable.

Mr. SEYBOLD. That's true.

Senator CANNON. What percentage of nighttime departures that you mention in your statement take place between the top 25 markets?

Mr. SEYBOLD. We don't have that figure, but I would imagine it is a fairly large percentage.

Senator CANNON. Do you have it available so you can supply it for the record?

Mr. SEYBOLD. I think we can find it. We would be glad to furnish it for the record.

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

While the majority of the night time departures serve the major markets, a review of the 1,000 page listing of the U.S. Postal Service of the 12,000 daily scheduled flights shows that hundreds of communities are served by flights which depart 8:00 p.m. or later.

Senator CANNON. Has the ATA made any attempt to counter Federal Express' data that was furnished to us in previous hearings? ¹

You have had considerable time to look at it since the hearings on the Aviation Act of 1975. I don't recall receiving any data that would dispute their claims.

Mr. SEYBOLD. I think the appendix to my statement will cover some of it.

I will be glad to furnish additional information that counters some of the statements that were unsubstantiated or misleading.

Senator CANNON. Senator Stevens?

¹ See p. 97.

Senator STEVENS. Has the ton-mile availability increased or decreased, with this significant reduction in departures?

Mr. SEYBOLD. The ton-mile—let me ask, Senator, ton-mile availability of all freight capability, is that your question?

Increased or decreased?

Mr. Godbout says there has been a slight decrease in available ton-miles in 1974 and 1975 and increase ton-miles in 1975 only. Thus, the volume of cargo ton-miles carried by the airlines has continued to increase with only a slight dip during the depression year of a year ago. Total ton-miles—

Mr. GODBOUT. If I might add to that—I was referring, when there was a dip, to the total ton-miles carried. There was a slight drop 1 year. It is back up again now, and this year for domestic traffic we are 10 percent higher than last year. The available ton-miles continues to substantially exceed the revenue ton-miles.

Our freighter all-cargo operations is operating at a 56 percent load factor, and our wide-bodied and other passenger combination aircraft are operating at 26 percent load factor, so if there are some shippers out there that want to use airfreight there is a lot of space available.

Mr. SEYBOLD. Incidentally, there has been some depreciation of the efficacy of carrying cargo in the bellies of combination aircraft. Fifty-one percent of the more than 2 billion ton-miles of freight that was carried last year was carried in the bellies of combination aircraft.

Senator CANNON. You said there is lots of space available.

Are you referring now to those 25 cities, those 25 markets, or are you referring generally that there is lots of space available?

Mr. GODBOUT. I am referring to a nationwide operation. Although we might not have aircraft flying to every point, we do have through trucking arrangements, both local trucking and over-the-road truckers, to service more than 13,000 communities in the United States.

Senator CANNON. Yes, but you used the example that you had 50 percent capacity in your all-cargo service.

Now, isn't that only to 25 cities?

Mr. GODBOUT. All-cargo flights serve 47 different cities. We also count, because of the capacity in the bellies, the wide-bodied operations as cargo operations.

Senator CANNON. But you made a distinction between those. You said 50 percent in your all-cargo service and 25 percent in your passenger belly service.

Mr. GODBOUT. The cargo aircraft are operating today in 47 markets, 47 cities.

Senator CANNON. Forty-seven markets?

Mr. GODBOUT. Yes.

Moreover, our combination aircraft are serving over 600 markets.

Senator STEVENS. When you refer to shorthaul, what are you talking about?

Mr. GODBOUT. I don't recall I mentioned shorthaul.

Mr. SEYBOLD. What the Senator is saying is, What is shorthaul? Some people have used the term.

There is no definition. I guess anything under 500 miles would be generally shorthaul.

Mr. GODBOUT. But in freight it is not that clearly defined because again you have certain barriers; water, for instance, or terrain, that might make it more economical to fly 60 miles than 600 miles. So we don't have a definite mileage figure as far as shorthaul goes.

Senator STEVENS. Is there any substantial difference between the published rates for your certificated carriers and Federal Express?

Mr. SEYBOLD. In small packages they are probably lower than the scheduled carriers. After you get over a certain weight and the actual weight varies, but say up somewhere in the 30-pound range, the scheduled carrier rates begin to get lower.

Senator STEVENS. I just saw on television one of Federal Express' ads. It indicated that if a parcel was shipped via Federal Express it could only be in the body of a small jet or in a truck. Thus, it would not be mixed up in bins or any other sorting places, because there is no handling in between.

Is there comparable service by certificated carriers that eliminates any possibility of delay due to mishandling?

Mr. SEYBOLD. There are several points have raised, Senator Stevens.

First of all, it is a rather interesting ad because as I understand this operation of Federal Express', these airplanes take off simultaneously all over the country and fly to Memphis, where there is a scrambled operation and packages are moved from one airplane to another airplane, or through a warehouse to another airplane to go to their ultimate destination.

Many services of the scheduled carriers don't have to change, although obviously if it is a connection type of shipment there is a transfer. But, the on-line services that the scheduled carriers have would obviate that transfer operation that takes place at Federal Express.

As to the question of loss liability, the airlines sustained the lowest loss ratio last year of any known transportation mode for any period in which records have been kept.

Senator STEVENS. Thank you very much.

Mr. GINTHER. Mr. Seybold, could you compare for us the loss or claim rates for damage or lost freight shipments on the certificated air carrier system compared with the claim that Federal Express has made in its testimony?

Mr. GODBOUT. Our loss ratio last year was .84, I believe. I know it was in the 80's. That is 84 cents—per \$100 of revenue.

Mr. SEYBOLD. I am not familiar with the Federal Express experience. I know they have made the statement that they never lose anything or if they do, they have got it somewhere.

I don't know what their exact loss ratio is. I have never seen that figure, so I couldn't make a comparison. They do not file with the CAB as we do.

Mr. GINTHER. Their testimony was, it was less than one-half of one percent.

Mr. SEYBOLD. If that is true, it would be lower than our industry average for last year. Three-tenths of one percent difference.

Senator CANNON. Thank you very much, gentlemen.

Next witness, Mr. Louis P. Haffer, executive vice president and counsel, Air Freight Forwarder Association of America.

**STATEMENT OF LOUIS P. HAFFER, EXECUTIVE VICE PRESIDENT
AND COUNSEL, AIR FREIGHT FORWARDER ASSOCIATION OF
AMERICA, WASHINGTON, D.C.; ACCOMPANIED BY WILLIAM J.
DIXON**

Mr. HAFFER. Mr. Chairman, Senator Stevens, Mr. Ginther, thank you for the privilege of being here.

My name is Louis P. Haffer. I am executive vice president and counsel of the Air Freight Forwarders Association.

With me is my associate, Mr. William J. Dixon. We are here to testify on behalf of the association which represents air freight forwarders who are indirect air carriers.

Every single piece of freight we sell on behalf of the shipping customers has to go on a direct air carrier.

Consequently, we depend upon the direct air carriers primarily for service to our shipping customers.

In fact, our industry generates between 40 to 45 percent of the freight volume flown by the scheduled domestic U.S. air carriers.

I understand the time constraints here imposed upon you. In the interest of that I will try to shorten my prepared statement, but with the request that it be included in toto in the printed hearing record.

Let me begin with what for the industry I represent is an overriding fact of economic life and indeed economic survival: the forwarder requires adequate overnight all-cargo airline freight lift in order to serve the needs of his shipper customers.

While passengers may want to travel when they are awake, most airfreight needs to travel when people are asleep in order to be there when they wake up.

Freight in large part then must travel during the night hours.

Based on such need, the airfreight forwarder would vigorously support the increased all-cargo lift that this bill at least gives some promise of generating.

It is of no practical or theoretical concern to him whether that lift is made available through the exemption power granted by the Board to new all-cargo operators or new all-cargo operations, or by certification.

Indeed, the massive erosion of overnight all-cargo service by the scheduled, certificated carriers on which the forwarder principally depends has become so serious and threatens to become even so much more critical that an expedited grant through the exemption process, pending a hearing on a certificate application, may be the order of the day.

Indeed, it may well be the only feasible, and certainly the most expeditious, method to fill the deep void that the schedule, combination carriers have consciously created in the overnight freight lift.

For the past 30 years the forwarders have built and sold the concept of overnight service as the norm for airfreight users.

This is not myth nor is it an utter myth as one of the previous witnesses has appeared to indicate.

In the main, this concept of service, which is really routine service to the airfreight shipper, has required the utilization of nighttime cargo or so-called freighter flights, which, as I have indicated, is prime time.

But overnight airline cargo service has substantially diminished in the last several years and is continuing to deteriorate at a rapid rate.

The statement by Chairman Robson during the course of his testimony that there has been some decline in all-cargo service has to be the understatement of the year.

This deterioration invades virtually all airfreight markets. In 1972 there were over 74,000 nighttime departures of freighters from the major domestic airport cities.

By 1974 this had dropped to 57,000 departures.

There are now over 800 hub city pairs that are not provided prime time, that is overnight freighter service by the scheduled airlines.

In brief, only about one-third of the total airfreight market now receives prime time overnight air service.

These service cutbacks have had far-reaching effects on both the quality of the domestic airfreight service available nationwide and on the costs to the airfreight forwarders and hence to their customers.

In many markets, the performance of overnight service has now become one of major difficulty for forwarders. It is only through ingenuity, split-second timing, use of combination of air and truck services, and through expensive chartering of aircraft that they have been able to maintain their traditional service superiority.

With further expected diminution of usable lift, their ability to maintain this level of service is highly questionable.

Senator STEVENS. What makes you think there is going to be a diminution of usable lift?

Mr. HAFFER. Well, if the past is prologue, Senator, there has been a continuous decline by the combination carriers in—and termination by the combination carriers of overnight freighter service, all-cargo freighter service.

Senator STEVENS. In volume, or in the number of cities served?

Mr. HAFFER. Both in terms of number and volume and number of cities served.

Overnight all-freighter service has been eliminated totally from a number of city pairs.

Senator STEVENS. Thank you.

Mr. HAFFER. With artificially induced shortages in overnight freighter lift, it is inevitable also that airline rates for this overnight service will increase substantially.

Convincing evidence of that already occurring is apparent in the so-called priority reserved airfreight operations of the airlines, mostly of the combination carriers.

In that case the Board some time ago allowed the airlines to charge a 30-percent premium for nighttime lift where, on a particular flight segment, there was not enough freight lift to meet the requirements of all shippers and forwarders.

By artificially inducing shortages through elimination or reduction of nighttime all-cargo service, the carriers have been able to insist on what amounts to a 30-percent rate increase for what previously had been performed at regular airfreight rates.

This is grimly reminiscent of the early cartel days when manufacturers cut back on production to create a shortage and then raised their prices but were still able to sell at the higher price because demand exceeded the supply.

It is the consumer, however, who suffers both in terms of price and quality of service.

Consequently, we would support any reasonable bill which would offer the possibility of more available all-cargo space, at least to eliminate the deficiencies for which the combination carriers have been responsible in the last several years.

We would thus endorse the principle of the bill before you.

However, without an amendment of the kind I am about to suggest, as presently drafted, and as the Chairman of the Board has indicated he would interpret it, the bill would certainly have destructive effects upon the airfreight forwarder industry.

As now drawn, the bill would authorize the Board to grant an exemption from any and all requirements of the Federal Aviation Act to permit all-cargo operations in interstate air transportation in any size aircraft where the Board finds that such an exemption is in the public interest.

This means that the Board could grant exemptions not only from the certificate requirement of section 401, but also from sections such as 403 and 404 and others, of the Federal Aviation Act, to which the forwarders are totally subject and which are the tariff filing and adherence requirements, the antirebate provisions, and the antidiscrimination provisions of the act.

That the Board could and might do this is no idle threat.

Federal Express, the prime motivator of this legislation as drafted, is already expressly exempted from these as well as other sections of the act under the Board's regulations, part 298, governing air taxi operators.

Yet Federal Express does, and any other carriers that may be granted all-cargo operations using larger aircraft under this section would compete directly in their sales, in their marketing and in their advertising, with the airfreight forwarders.

All of you are undoubtedly familiar with Federal Express advertising which is all forwarder-customer oriented.

Indeed, just about a year ago the president of Federal Express stated in an interview, I believe—perhaps it was testimony before another subcommittee—that at least 70 percent of his freight had been obtained from the customers of airfreight forwarders and airlines.

It clearly makes no sense, in justice or in logic, to permit an even larger-scale operation which could be authorized under this amendment to be totally free of the economic regulatory restrictions which are applicable to those whom those carriers deem to be their basic competitors.

I do want to emphasize that the forwarder is not fearful of competition. His segment of the industry has been subject to free entry from everybody and his brother since the forwarding industry's birth. All we ask is that our competitors, no matter how numerous, be required to play under the same rules that govern us; and that by statute or regulation they be given no unfair competitive advantage over us.

And we trust that that is not too much to ask.

Now, we do not believe that we can rely upon discretion of the Board to impose the same kind of restrictions upon our competitors as are imposed upon us under this legislation.

Our worst fears were found in Chairman Robson's testimony today when he indicated that he would expect to provide rate flexibility for those granted operating authority under the act as drafted.

This presumably means no tariff filing, no tariff adherence requirements, and, in all probability, the nonapplication of the basic provision, the antidiscrimination provision of section 404 of the Federal Aviation Act.

So while a ban on the differing treatment of competitors could be handled in one of two ways to give us equality of treatment, by either freeing the forwarders of the same regulations that these carriers would be—and now are—relieved of, or by making these carriers subject to the same economic regulations as the airfreight forwarders. In general our industry would prefer the latter course.

I might also add that the fact that there should be written into the act restrictions, if it is to be enacted at all, restrictions against the grant of exemptions to these carriers which are denied the airfreight forwarders. This is evident from a decision just rendered last Thursday by the CAB to which reference has heretofore been made, the Air Chicago case.

That carrier was granted an exemption to fly C-46's 7 nights a week between Midway Airport and Philadelphia in both directions on the finding that there was no adequate night time all-cargo lift.

We have no objection to that.

In fact, we probably would support it.

We think the grant was correct. But the circumstance and conditions which the Board failed to impose are significant in that case.

Having granted the exemption to use larger aircraft than is permissible under part 298, the Board nevertheless said that this carrier shall operate as if it were a part 298 carrier, meaning exempt from 403, 404, and all the other sections of the act from which air taxi operators, smaller aircraft operators, are exempt.

So here we have a carrier using larger aircraft, competing directly with the airfreight forwarder, the airfreight forwarder is subject to all these requirements in that market, and Air Chicago is not.

This is why I say we must have something, some protection written directly into the Act, if this bill is to be adopted and enacted.

Now, the alternatives are as far as we are concerned—and I have just mentioned two—the first alternative would be instead of authorizing the Board to grant an exemption, "from the requirements of this title"—meaning any and all sections of the Federal Aviation Act—the Board's authority should be limited to granting an exemption only from the requirements of section 401 of this title, meaning the requirement for obtaining a certificate.

As we understand it, this is all that the proponents of this bill basically seek, the right to be granted the interim authority to fly larger aircraft in freight service during the possibly lengthy period the Board may be holding a hearing on an application for a certificate by the same carrier.

As I understand the testimony of Mr. Smith today, that is exactly what he wants and only what he wants.

And, as I understand his further testimony, he would be amenable to having the act provide, if it is adopted, that his new operations

be subject to the same provisions of the Act as the airfreight forwarders are subject.

I should like to attach to this testimony and have made a part of this record the following:

As a matter of fact, his statement today with respect to that is no different from his statement filed in his consolidated answer with the CAB back on October 28 of last year when they filed their exemption to use the DC-9s.

The second alternative, the second proposed amendment to the bill before you, which would guarantee us the statutory protection that I have indicated is necessary, would be to leave the present—to leave the proposed bill as it is but to add an additional sentence at the end of section 2 of the bill to read as follows:

But in no event shall the Board exempt such operations from Sections 403, 404, 407 through 415, nor any provision of Section 416 other than specified herein.

These listed sections are also those to which the airfreight forwarder competitors are expressly subject under the Act.

I might add in closing that it would seem somewhat incredible for the smallest airfreight forwarder which does not fly aircraft to be subject to all or most of these provisions while a major cargo carrier is free of these requirements.

Federal Express, as has been noted earlier, has reported revenues of \$73 million for the last fiscal year, with forecast revenues of at least \$100 million for the next year, and this without the use of larger aircraft.

I should like to attach to this testimony and have made a part of this record the following:

First, the AFFA answer before the Board to Federal Express' exemption application to use DC-9's, dated October 14, 1975;

Second, excerpts from Board regulations part 296 and 298 showing, respectively, the sections of the Federal Aviation Act from which forwarders and air taxis are currently exempt;

Third, a summary of the Board's regulations from which air taxis are now exempt but to which forwarders are subject.

Please accept our sincere thanks for the opportunity to testify today.

Senator CANNON. Thank you very much. We will make the other exhibits a part of the record.

Why do you think the certificated airline industry has failed to provide adequate service, especially between small distant points?

Mr. HAFFER. I think the tendency is on the part of the airlines to move the freight into daytime bellies and to save money that way.

They regard that as simply an added cost on an added cost theory and consequently it returns revenue to them without substantial outlay of capital.

Senator CANNON. Do you believe Federal Express' ability to provide such service has been the basic reason for its growth?

Mr. HAFFER. I think there are a number of reasons for Federal Express' growth and it would depend upon who you talked to.

The reasons may be different, Mr. Chairman.

I think one of the reasons was alluded to by Mr. Seybold. They were on the scene at the time of the untimely demise of REA and picked up a substantial amount of that small package freight.

I think one of the basic reasons, however, for the rapid growth of Federal Express is that they have a built-in advantage that airfreight forwarders and certificated carriers do not, by virtue of their exemption from certain provisions of the Federal Aviation Act.

For example, the exemption from section 404, which is written expressly into part 298, is not available to the airfreight forwarder.

As a result of such exemption, Federal Express has been able to offer discounted rates to the airfreight shipper based upon number of shipments picked up at one point no matter how many different destinations and cities they are going to, to give one shipment, the shipper gives one shipment he gets a certain rate.

If he gives two, even though they go to different cities, he gets a discount on each shipment up to 10 shipments.

One forwarder tried to put that kind of rate into effect a number of years ago, the so-called aggregate tender rate. The Board, after hearings, held that this would be unlawfully discriminatory under section 404 of the Federal Aviation Act.

Senator CANNON. What have the airfreight forwarders done to try to overcome the service deficiencies that exist?

Mr. HAFFER. I think I alluded to that in my prepared statement. We used everything including the bicycles that have been referred to. We used the total system, including air taxi operators, including combinations of trunk lines and truck service, and including the charter of aircraft.

Those have been the three basic methods by which the forwarders have attempted to overcome the service deficiencies.

The road has been a tough one. It has been very hard. We doubt we can keep that up with any further erosion of the service.

Senator CANNON. If the carriers were exempted by the Board under this provision, but, as you suggest, were exempt only for section 401, in other words the Board would require them to file tariffs and subject them to other restraints which you have enumerated, do you believe passage of this bill would then be in the best interests of the shipping public and would your organization support the bill?

Mr. HAFFER. Yes; we would.

Senator CANNON. Thank you very much. We appreciate you being here.

[The statement and attachments follow:]

STATEMENT OF LOUIS P. HAFFER, EXECUTIVE VICE PRESIDENT AND COUNSEL, AIR FREIGHT FORWARDERS ASSOCIATION

Good morning. I am Louis P. Haffer, Executive Vice President and Counsel of the Air Freight Forwarders Association. I am accompanied by William J. Dixon, my associate. We are here to testify on behalf of our Association, which represents air freight forwarders.

Air freight forwarders or indirect air carriers are licensed by the Civil Aeronautics Board to engage in the transportation of property for shippers. We are air carriers even though we do not own or operate aircraft. We purchase space on the direct air carriers on behalf of our shipper customers, pick up the freight from our shippers, deliver it to the airlines, receive it at destination end and deliver it to the consignees. Our specialty is door-to-door service. We also perform all the documentation and paper work, bill our customers and alone are responsible to them as carriers from origin to destination. The only identification our shippers have is with us and not with any of the underlying airlines we may use.

Our industry generates between 40-45% of the freight volume flown by the scheduled domestic U.S. air carriers. For the transportation we purchase

from the airlines, we pay their published tariff rates just as does any shipper. We, in turn, are required to file tariffs with the Civil Aeronautics Board for the transportation that we provide on behalf of our shipping customers and to adhere to these tariffs. Our shippers pay our filed tariff rates. Our tariff obligations under Board regulations, and the Board's authority, including its suspension power, are identical with those applicable to the airlines.

We consider the legislation before you today of major significance and as justifying the most searching analysis. Nevertheless, we are mindful of your time problems in these waning days of the 94th Congress; and we will attempt to keep our direct testimony within the time limit requested. To meet this limitation, we would like to submit more detailed information than we can possibly cover this morning and have it incorporated in the record. I shall refer to this at the end of my remarks.

It has been said of most people that there is some good in the worst of us and some bad in the best of us; and that truism is equally applicable to the Bill before you. If it is to be enacted, we earnestly hope, and indeed are confident, that the good can be retained and even improved upon, and that what is truly bad about it will be given a respectful but speedy burial by this Subcommittee.

Let me begin with what for the industry I represent is an overriding fact of economic life and, indeed, economic survival. The forwarder requires adequate overnight all-cargo airline freight lift in order to serve the needs of his shipper customers. While passengers may want to travel when they are awake—in the daytime—most air freight needs to travel when people are asleep in order to be there when they wake up. Freight in large part them must travel by night.

Based on such need, the air freight forwarder would vigorously support the increased all-cargo lift that this Bill at least gives some promise of generating. It is of no practical or theoretical concern to him whether that lift is made available through the exemption power granted by the Board to new all-cargo operators or new all-cargo operations, or by certification. Indeed, the massive erosion of overnight all-cargo service by the scheduled, certificated carriers on which the forwarder principally depends has become so serious and threatens to become even so much more critical that an expedited grant through the exemption process, pending a hearing on a certificate application, may be the order of the day. It may well be the only feasible, and certainly the most expeditious, method to fill the deep void that the scheduled, combination carriers have consciously created in the overnight freight lift.

For the past thirty years the forwarders have built and sold the concept of overnight service as the norm for air freight users. In the main, this has required the utilization of nighttime all-cargo or so-called freighter flights, which for freight, as I have indicated, is prime time.

But overnight airline cargo service has substantially diminished in the last several years and is continuing to deteriorate at a rapid rate. This deterioration invades virtually all air freight markets. In 1972 there were over 74,000 night time departures of freighters from the major domestic airport cities. By 1974 this had dropped to 57,000 departures. There are now over 800 hub city pairs that are not provided prime time, that is, overnight freighter service, by the scheduled airlines. In brief, only about one-third of the total air freight market now receives prime-time overnight air service.

These service cutbacks have had far-reaching effects on both the quality of the domestic air freight service available nationwide and on the costs to the air freight forwarders and hence to their customers. In many markets, the performance of overnight service has now become one of major difficulty for forwarders. It is only through ingenuity, split-second timing, use of combination of air and truck services, and through expensive chartering of aircraft that they have been able to maintain their traditional service superiority. With further expected diminution of usable lift, their ability to maintain this level of service is highly questionable. Moreover, with the cutback in all-cargo service, large container rate economics relied on by many air freight forwarders and by other large shippers using the scheduled service has been able to be preserved in only a few major domestic traffic lanes where some limited night time freighter service is preserved.

With artificially induced shortages in overnight freighter lift, it is inevitable also that airline rates for this overnight service will increase substantially. Convincing evidence of that already occurring is apparent in the so-called priority reserved air freight operations of the airlines. There the Board sometime

ago allowed the airlines to charge a 30% premium for nighttime lift where, on a particular flight segment, there was not enough freight lift to meet the requirements of all shippers and forwarders. By artificially inducing shortages through elimination or reduction of nighttime all-cargo service, the carriers have been able to insist on what amounts to a 30% rate increase for what previously had been service performed at regular air freight rates. This is grimly remindful of the early cartel days when manufacturers cut back on production to create a shortage and then raised their prices but were still able to sell at the higher price because demand exceeded the supply. It is the consumer, however, who suffers both in terms of price and quality of service.

We therefore would support any reasonable Bill which would offer the possibility of more available all-cargo space, at least to eliminate the deficiencies for which the combination carriers have been responsible in the last several years. We would thus endorse the principle of the Bill before you. However, without an amendment of the kind I am about to suggest, as presently drafted the Bill would certainly have destructive effects upon the air freight forwarder industry.

As now drawn, the Bill would authorize the Board to grant an exemption from any and all requirements of the Federal Aviation Act to permit all-cargo operations in interstate air transportation in any size aircraft where the Board finds that such an exemption is in the public interest. This means that the Board could grant exemptions not only from the certificate requirement of section 401 but from sections such as 403 and 404 of the Federal Aviation Act, to which the forwarders are totally subject and which are the tariff filing and adherence requirements, the anti-rebate provisions, and the anti-discrimination provisions of the Federal Aviation Act.

That the Board could and might do this is no idle threat. Federal Express, the prime motivator of this legislation as drafted, is already expressly exempted from these as well as other sections of the Act, under the Board's Regulations Part 298 governing air taxi operators. Yet Federal Express does, and any other carriers that may be granted all-cargo operation using larger aircraft under this section would, compete directly in their sales, in their marketing and in their advertising, with the air freight forwarders. All of you are undoubtedly familiar with Federal Express radio, TV, and other advertising which is all forwarder-customer oriented. Indeed, just about a year ago, the President of Federal Express stated in an interview that at least 70% of his freight had been obtained from the customers of air freight forwarders and airlines.

It clearly makes no sense, in justice or in logic, to permit an even larger-scale operation which could be authorized under this amendment to be totally free of the economic regulatory restrictions which are applicable to those whom those carriers deem to be their basic competitors.

Moreover, not only a present air taxi operator but even a present certificated carrier like Flying Tiger or United Air Lines could use this section to obtain an exemption to serve routes not now covered by their certificates. Unless it is specifically restricted, the Board could grant for these new routes an exemption from the tariff filing, anti-discrimination and other requirements while the certificated service of these carriers would be subject to such provisions, a truly anomalous result.

I do want to emphasize that the forwarder is not fearful of competition. His segment of the industry has been subject to free entry from everybody and his brother since the forwarding industry's birth. All we ask is that our competitors, no matter how numerous, be required to play under the same rules that govern us; and that by statute or regulation they be given no unfair competitive advantage over us. Is that too much to ask?

While a ban on the differing treatment of competitors could be handled in one of two ways, by either freeing the forwarders of the same regulations that these carriers would be (and now are) relieved of, or by making these carriers subject to the same economic regulations as the air freight forwarders, in general our industry would prefer the latter course.

It may be argued that it should be left to the Board's discretion to decide whether to exempt a major all-cargo operator under this amendment from such sections as 403, 404 and related sections and that the Board should not be foreclosed by your writing such a prohibition into the Act. That such discretion should not be remanded to the Board is convincingly demonstrated by a Board decision rendered just last Thursday involving "Air Chicago Freight Lines, exemp-

tion" (Docket 28353; Order 76-7-97). The Board had previously denied an application of Air Chicago for an exemption from Section 401 of the Act and Part 298 of the economic regulations to permit it to operate DC-6 aircraft in all-cargo operations between Chicago and Philadelphia. In a Petition for Reconsideration, Air Cargo indicated its willingness to limit its operations to smaller C-46 aircraft on seven roundtrip flights per week in scheduled service for a two-year period in that market on the grounds that there is no certified all-cargo service to Midway Airport in either direction, which Air Chicago intends to serve. The Board issued the grant.

We are not contending that the Board was not right in granting an exemption under these circumstances and that such nighttime all-cargo lift was not necessary. It doubtlessly was. But the Board still continued to exempt Air Chicago from Sections 403, 404 and other sections of the Federal Aviation Act to which forwarders are subject for the new service authorized, even though it would obviously compete in that market with the air freight forwarders. Consequently we repeat that there must be some built-in statutory restrictions so that the Board may not similarly exempt any additional all-cargo service it may authorize under the proposed bill.

We would therefore urgently recommend that if this Bill is to be enacted (and the rationale behind it, that there is substantial need for a radical improvement in the prime time all-cargo service, is uncontroverted), that it be amended in either one of two ways:

Alternative 1: Instead of authorizing the Board to grant an exemption "from the requirements of this Title" (meaning any and all sections of the Federal Aviation Act), the Board's authority should be limited to granting an exemption "only from the requirements of section 401 of this Title" (meaning the requirement for obtaining a certificate). As we understand it, this is all that the proponents of this Bill basically seek, the right to be granted the interim authority to fly larger aircraft in freight service during the possibly lengthy period the Board may be holding a hearing on an application for a certificate by the same carrier. Indeed, in its consolidated Answer filed with the C.A.B. dated October 28, 1975, to various objections to FE's application for exemption to use DC-9's, while FE indicated that it saw no need for removing their exemptions from sections to which the forwarders were totally applicable, it indicated it did not oppose the application of the same sections to it.

Alternative 2: Or the serious problem I have mentioned can be handled by an alternative amendment. Since any carrier authorized under this proposal will undoubtedly be authorized to fly much larger aircraft than is now permitted to a Part 298 air taxi operator, the Board should be expressly prohibited from including in any exemption grant from the certificate requirements any exemption from any and all other sections of the Act from which air taxis are now exempted under Part 298. This could be accomplished by adding an additional sentence at the end of Section 2 of the Bill before you, to read as follows:

"But in no event shall the Board exempt such operations from sections 403, 404, 407, 408, 409, 410, 411, 412, 413, 414, 415, nor any provision of section 416 other than specified herein." The listed sections are also those to which the air freight forwarder competitors are expressly subject under the Act.

I might add in closing that it would seem somewhat incredible for the smallest air freight forwarder which does not fly aircraft to be subject to all or most of these provisions while a major cargo carrier is free of these requirements. Federal Express, it should be noted, has reported revenues of \$73 million for the last fiscal year, with forecast revenues of at least \$100 million for the next year, and this without the use of larger aircraft.

I should like to attach to this testimony and have made a part of this record the following:

- (1) The AFFA Answer before the Board to Federal Express' Exemption application to use DC-9's, dated October 14, 1975;
- (2) Excerpts from Board Regulations Part 296 and 298 showing, respectively, the sections of the Federal Aviation Act from which forwarders and air taxis are currently exempt;
- (3) A summary of the Board's Regulations from which air taxis are now exempt but to which forwarders are subject.

Please accept our sincere thanks for the opportunity to testify today.

ANSWER OF MEMBERS OF THE AIR FREIGHT FORWARDERS ASSOCIATION TO
APPLICATION OF FEDERAL EXPRESS CORP.

(Docket 28354)

INTRODUCTORY STATEMENT

These comments by members of the Air Freight Forwarders Association (AFFA) are filed in response to the Application of Federal Express Corporation (FE), dated September 26, 1975, for an exemption pursuant to Section 416(b) of the Federal Aviation Act to use five DC-9's in its all-cargo service¹ now operated under the limited aircraft exemption of Regulations Part 298.

The position of AFFA is that Federal Express is a direct and substantial competitor of the air forwarding industry (and of the airlines); that it is free of virtually all economic and reporting controls to which the forwarders are fully subject; that such freedom reserved to one company alone and denied to its competitors readily permits the one company to engage in predatory pricing practices against its regulated competitors and to offer discriminatory pricing and services; and that if the Board is to grant the authority requested here (in fact, even if it does not grant such further expansion) it should eliminate each of FE's exemptions from economic controls and reporting requirements to which the air freight forwarders (and the airlines) are subject.

In this connection, we can conceive of no possible opposition from any source to the principle that equal competitors should be subject to the same or similar regulation (or be equally free of it). There can in our judgment be hardly any rational or equitable basis for contending, for example, that in the case of Safeway and A&P (both "free to enter" the supermarket business), Safeway should be required to file a price list subject to regulatory suspension, should be subject to strict statutory non-discrimination provisions, and should be required to submit extensive financial and sales data while the A&P is free of all of these requirements. That is currently the case of FE vis-a-vis the forwarders.

In view of FE's uniquely total relief from regulation, we find it somewhat incongruous for FE to characterize as "learned wisdom" the Board's words in the Express Service decision to the effect that "the free play of competition has stimulated the development of air cargo." (Appl., p. 32). That Board statement was made in the context of rejecting REA's monopoly on priority of boarding its freight over that of every air freight forwarder, and its decision to open up the carriage of "air express" to everyone. That position is one we wholeheartedly endorsed in that case. If FE really supports the principle of "free play of competition," it should have no quarrel with the application of the same economic controls and reporting requirements to it. It is axiomatic, of course, that there can be free competition only if parties competing are either equally free, or equally restrained.

It is AFFA's further position that if there is any disposition on the part of the Board to grant this Application without imposing similar or equal economic and reporting controls on FE, then the Application should not and cannot be granted without an evidentiary hearing. FE itself has said that "central to every aspect" of its Application (p. 17) are two factual contentions: (1) that FE provides a "superior service" to all other air transportation modes; (2) and that it does so at "moderate" rates competitive with or below that of other air modes with which it competes. By its own admission these are the predicates of its request for its authority to use larger aircraft, and indeed of its present operations using only Falcons. These issues, along with the issue of predatory, below-cost pricing, cannot be resolved on FE's own say-so in unilateral filings by it without the acid test of cross-examination. The Board is well aware, how the long-proclaimed myth of REA's "nation-wide," superior" service at lower rates than its competitors evaporated when subject to the hard, cold scrutiny of an adversary proceeding based on a record made in an adjudicatory proceeding.

¹The present Application, while covering only five DC-9's is, we are expressly warned by FE, only the precursor to further requests for exemption for "additional increases" in fleet capacity utilizing larger, unspecified aircraft. (Appl., p. 4, ftn 1). Moreover, it should be noted that the request, though discussed in terms of certain specified "saturated traffic lanes," expressly seeks "flexibility" to utilize the aircraft "wherever their intended function is served." (Appl., p. 39).

Finally, we would note that the Board has not yet resolved the grave questions in the Federal Express/General Dynamics Control proceeding (Docket 25953) which on March 13, 1975 it ordered set down for an expedited hearing (Order 75-3-52). That case, as the Board itself has indicated, raises serious issues regarding the legality and propriety of the control of an air carrier by certain financial interests as well as the question whether FE is itself not close to bankruptcy or involency, despite its entirely unsupported statement in its present Application that it is now "approaching marginal profitability."² The AFFA's position is that it would be inconceivable, without a resolution of these major issues raised in the Control proceeding, including the financial condition and stability of FE³ that the Board would consider expanding the authority of FE, at least without the full imposition of economic controls to prevent FE from destroying or seriously impairing others while in its own extremis, and without full reporting so that the Board and others may be apprised on a regularized basis of FE's impact and of what FE is and has been doing.

I. FEDERAL EXPRESS AND AIR FREIGHT FORWARDERS ARE SUBSTANTIAL COMPETITORS FOR THE SAME TRAFFIC AND THE SAME CUSTOMERS

There can be no serious claim that FE's service is not directly and principally oriented toward competing with the domestic air freight forwarding industry on both a rate and service basis. We would normally not expend any time and effort on establishing something so patent but FE, riding the horses of both competition and non-competition, now makes an apparent effort to minimize the degree of this competition. The direct and substantial competition, however, is evident beyond cavil from circumstances both within and without the four corners of the Application. Set out below are but a few such indications:

(a) FE expressly and repeatedly states in the Application that its rate structure is competitive with, or below, the rates charged for comparable weights and distances by the "major air freight forwarders" (e.g., Appl., pp. 13, 31). It also attaches statements from some of its alleged shippers (incidentally, with no identification of the person "quoted") verifying that FE is "superior" on a rate and service basis to forwarders.⁴

(b) Included also as an Exhibit to the Application is a "study" by Opinion Research Corporation commissioned by FE, entitled "A Performance Appraisal of Five Air Freight Services," which "compares" the speed, cost, tracing efficiency and "secondary" considerations of FE and two air freight forwarders. This, it is understood has been distributed widely to potential customers of FE and to present customers of the forwarding industry, and has been featured extensively in FE's national media advertising.

(c) FE has a self-imposed maximum limit of 70 pounds on its package weight (300 pounds per shipment weight consisting of more than one package 70 pounds or under). The average weight per domestic shipment received by the top 24 forwarders from their customers is 38 pounds.⁵ The average forwarder shipment weight thus falls well within the range of FE's maximum package limitation. In fact, by far the largest percentage of most forwarder shipments would be within this 70 pound package limit of FE.⁶ If we were to utilize the piece weight of shipments of most forwarders, more properly the equivalent of FE's "package" weight, the average piece weight would be lower than the shipment weight.⁷

² The Application of FE for Board approval of Control etc. in that proceeding shows that for the 8 months ended February 1974, FE had a loss of \$8,621,000 (Appendix A, p. 3 thereof).

³ The present Application, it should be emphasized is absolutely devoid, even on a unilateral basis, of data relating to the financial health of FE.

⁴ The Xerox "endorsement" (FEC-19) states that, with regard to price, FE "wipe[s] the freight forwarders out." Whatever the degree of price differential and however accurate this statement, it is at least convincing proof of the fact of direct competition on a price (as well as a service) basis.

⁵ See Quarterly Economic Report Air Freight Forwarders, June 1975, prepared by Bureau of Accounts and Statistics dated September 1975, "Economic Summary—Second Inclusion of the smaller forwarders who usually have smaller weighted shipments from Quarter 1975." The average weight for the *entire* industry would be even lower, with the customers. Thus for the top 50 forwarders, an examination of their Part 244 reports for First Quarter 1975 shows an average domestic shipment weight of 32 pounds. (Source, Cargo Economics, Inc., based on Form 244 Reports)

⁶ For example, Airborne's August 1975 figures (a typical month) show that 77 percent of its shipments received from customers weighed between 0 and 74 pounds. (Source, Company records)

⁷ For example, Airborne's average piece size for 1974 and the last several years has been 32.2 pounds. (Id.)

(d) Even on the basis of FE's own figures, FE "concedes" that it carries 5 percent of the forwarders combined "volume", meaning pounds, in 11 major cities. The percentage of shipments it carries of the total FE and forwarder shipments would, of course, be substantially higher since the forwarders would also have a number of shipments in these markets above 300 pounds. On any basis, even if we were to limit the comparison to these markets and accept FE's own figures, the degree of competition between FE and forwarders for shipments is obviously substantial and clearly not de minimis.

(e) FE's statement that forwarders do not "rely primarily on overnight small-package revenues to support their basic cargo-forwarding operations" (Appl., pp. 30-31) is simply not true. In this connection we refer to the figures noted above for the average size of forwarder shipments which prove the contrary. Moreover, most forwarders, large, medium and small, move a substantial number of single shipment consolidations each night to secondary and tertiary points. These are in their nature small package shipments and occur when forwarders cannot effect a consolidation for the same destination airport.⁸

(f) It also is totally false that "forwarders do not compete with Federal Express' Priority One service in a significant percentage of its nearly 5,000 city pair markets . . ." (Appl., p. 30). That FE service is overnight service which is the same as the forwarder's standard service in most markets. FE's so-called Standard service is "guaranteed" only to be next-day (that is, 2 days after the day following pickup).

For high-expedite movement, almost all of the forwarders have a premium-type service which covers practically any point in the United States. FE's so-called "Courier Pak" service is directly competitive with this.

Forwarders, of course, have dramatically expanded the geographic scope of their services in recent years. As the Board found in the Express Service case and as was recently stated by the Court in affirming the Board in *REA Express, Inc., v. Civil Aeronautics Board et al* (2d Cir., October 6, 1975, slip opinion, p. 6312), the forwarders offer "broad geographic coverage." The pace of this has moved even more rapidly forward since the record on which the Board decision was based. This service includes not only all-air but also a combination of air, and surface, frequently using the forwarders ex-air forwarder authority from the I.C.C.⁹

(g) FE claims it now moves on the average of 13,000 "packages" per night in its system. If this figure is correct, it exceeds by far the daily shipment movement of any single forwarder, even Emery,¹⁰ and would equal the daily movement of the next four largest domestic forwarders combined. Thus, for the Second Quarter 1975, the latest period for which figures are available, Emery had an average daily shipment count of 12,350; Airborne 6,292; Shulman 2,268; Burlington Northern 2,530; WTC 1,991; NOVO 1,755; Jet 1,460; Profit-By-Air 1,412; AEIC 882.¹¹

(h) FE's recent expensive media advertising campaign also gives the lie to its contention that its impact upon the forwarders is now and would be "negligible" and "of no decisional significance." Practically all media advertising of FE has been directed against forwarders, intended to compare the alleged superior speed, lower rates, and other claimed advantages of FE over forwarders. Copies of these ads are readily available to the Board. It need hardly be said that if FE's advertising campaign were expected to have only a "negligible" impact on forwarder volume and shipment count, the Company should properly be charged with wildly dissipating its advertising budget in a wasteful feud with the wrong "competitor".

(i) That FE's hoped-for competitive impact on the forwarding industry has apparently been successful is reflected in an extensive article on Federal Express appearing in the October 3, 1975 Business and Financial section of the Los Angeles Times newspaper. In a story under the by-line of Harold D. Watkins, the president of Federal Express, Frederick W. Smith, is quoted as stating that he "estimates about 70% of Federal's volume has been taken from forwarders and airlines own direct service . . ."

⁸ Single shipment consolidations (basically, small package shipments) for most domestic forwarders would probably represent at least 30 percent of their total shipments.

⁹ It should be noted, moreover, that while the Application is curiously silent on this, FE serves a substantial number of its cities by independent truckers which are not under its own control. These so-called "extended area cities" are included in its publication "System Routes & Tariffs—September 1975."

¹⁰ Except UPS.

¹¹ On basis of 66 days operation per Quarter, April-June 1975. (Source, Cargo Economics Inc. compilation of statistics, based on Form 224 filings with C.A.B.)

II. FEDERAL EXPRESS, UNLIKE AIR FORWARDERS, IS CURRENTLY EXEMPT FROM VIRTUALLY ALL PROVISIONS OF THE FEDERAL AVIATION ACT AND BOARD REGULATIONS

FE attempts to equate its own "exemption" under the Act with that of air freight forwarders, and to argue, by some perverse kind of legerdemain, that FE and air freight forwarders are equal beneficiaries of the same "limited regulation." From this it concludes that the forwarders have no more right to seek protection from FE's competition than FE does from them. (Appl., p. 30).

Apart from the fact that the conclusion in this syllogism of FE is just plain wrong and that the Board must consider the impact of any new policy on the economic health of the existing freight forwarding industry since their "continued health . . . is of utmost importance not only to themselves but to the future of air freight,"¹² its fundamental major premise is also erroneous. For the simple truth is that the only "exemption" common to FE, as an air taxi, and to air freight forwarders is that each is exempt from the requirement of obtaining a certificate of convenience and necessity under section 401.¹³

But there the similarity ends. Once a company obtains air freight forwarder authority, it is subject to virtually the full spectrum of economic and other regulatory control and reporting requirements applicable to direct air carriers. (See Regulations Part 296.11; Part 221.165; Part 244.) On the other hand, once an air taxi such as FE commences operations, it is almost totally exempt from both the provisions of the Federal Aviation Act and the Board's Regulations.

Thus, forwarders must not only file their tariffs with the Board but these tariffs, just as airline tariffs, must be accompanied by "economic justification" for the rates filed (Part 221.165). Forwarder rates may be suspended and investigated (or rejected) because unreasonably high or unreasonably low under criteria set out in Section 403 of the Act which is also specifically applicable to forwarders. FE, on the other hand, is specifically exempt from Section 403 of the Act, and hence from the need for even filing its rates under Part 221 (the tariff Regulation) and therefore, of course, from submitting any economic support to indicate that its rates are not below cost, predatory, unreasonable and so on. It need not even indicate that its rates fall within a "zone of reasonableness." In the level of rates it charges its shipper customers, it has complete regulatory carte blanche.

This absolute freedom also extends to its pickup and delivery rates. In FE's operations, as in the case of air freight forwarders, door-to-door service is a major sales and service attraction. But while forwarders must file their p&d rates with the Board and meet the test of Section 403 criteria relating to cost justification as well as Section 404 relating to unlawful discrimination etc., FE is entirely free of such requirements. It is also expressly exempt from Section 404 of the Act. If forwarders were to file "give-away" p&d rates, they would be subject to suspension either as uneconomic and unreasonable under Section 403 or as unlawfully discriminatory under Section 404 (that is, in effect, a rebate as an inducement for obtaining a shipper's business). FE, however, can do this, and has done this with impunity since it is totally exempt from both of the Sections of the Act. Thus, while it is not clear what the specifics of FE's p&d rates are at this time (the Application is silent on this), it is common knowledge that at least in the recent past FE had a \$5 per week charge for pickup, irrespective of the number of shipments, on the basis of one-call a day to a shipper on a five-day-a-week basis. A similar filing with the Board by a forwarder would be rejected or suspended out of hand as both unreasonable and unlawfully discriminatory.

FE's express exemption from Section 404 of the Federal Aviation Act has manifested itself in an even more egregious example of unfair competition with the forwarders. As a major element in its rate schedule and its promotion to shippers, FE offers a graduated discount based on the number of packages or shipments given to FE at the same origin point by a shipper even though each one of the packages or shipments in the group offered may be destined for a different consignee at a different destination city. As FE states in its publication

¹² *ABC Air Freight Company, Inc. et al v. Civil Aeronautics Board*, 391 F. (2d) 295, 300 (2d Cir., 1968).

¹³ Each operates pursuant to Board Regulations. FE under Part 298 and forwarders under Part 296. Forwarders have to file applications of course, and while authority is routinely granted in most cases (that is, there is "free entry"), hearings may be required in others. An air taxi can begin with no application; it merely has to register with the Board under Part 298.50. This is basically a notification and is administratively processed by the Board. (See Part 298.51. See also, Part 298.52 as to notification of change in operations.)

distributed to shippers, entitled "System Routes & Tariffs—September 1975": "As your package shipment volume increases you become eligible to use the respectively lower rates on subsequent Rate Charts."

It is illegal for forwarders to offer similar so-called Aggregate Tender discounts. When one forwarder filed a tariff to do just this (even before the commencement of FE's operations), the Board suspended the filing; and after hearing, the Board concluded that such a system of discounting was unjustly discriminatory and hence in violation of Section 404(b) of the Act. (Revised Aggregate Rates proposed by WTC, Order 73-2-61; Docket 22617). The only reason, of course, that FE is able to offer this "discriminatory" discount is that air taxes, including FE, are now expressly exempt from Section 404 of the Act prohibiting unlawful discrimination etc. The reason forwarders are not able to offer similar discount systems is that they are expressly subject to Section 404.

These illustrations are merely those of which we are aware, or which are possible on their face, of the significantly superior competitive position of FE by reason of its total exemption from economic regulation and its total exemption from the requirement to avoid unlawful discrimination in its rates and services. Under its relief from both of these requirements, FE can engage in pure predatory pricing of the most destructive sort while its competition (forwarders and airlines) are restricted from responding. At the same time it can engage in a variety of discriminatory practices favoring certain classes of shippers, size of shippers, their location, their commodities etc. in an infinite variety of ways. Except for those examples adverted to earlier, we are foreclosed from further information or details since FE is required to file absolutely nothing with the Board for public review in this area.

What we have said heretofore refers to the present major inequities in economic regulatory requirements between FE and the air freight forwarding industry. There is an equally fundamental discrepancy in the reporting requirements of both for financial and traffic data.

FE is required to report practically nothing in either area. On the other hand, while forwarders have for many years been required to file traffic data and some financial data under Part 244, this Regulation was made even more detailed and extensively broadened, and as to financial data placed on a uniform basis, as of January 1 of this year with the adoption by the Board of the Uniform Systems of Accounts and Reports for air freight forwarders with annual revenues over \$3 million (amended Part 244).

In ER-887, preceding the amendment and re-issuance of Part 244, the Board set forth its reason for widening the scope of its reporting regulations for forwarders, as follows:

"In EDR-258, the Board stated that the *dramatic growth* of the air freight forwarding industry necessitated more effective regulation. In the Board's view, one of the essential keys toward the accomplishment of this objective is the development of *a more sound and reliable data base* which will permit more accurate financial and statistical comparisons both between forwarders and between accounting periods." (Emphasis supplied)

Even a cursory examination of the financial information and the traffic schedules under Part 244 will reflect the extent to which the Board, the public, the forwarder and airline competitors can inquire into the operations of the 24 individual forwarders reporting pursuant to the Regulations requirement. From the data supplied, the Board is able to evaluate the financial condition of individual forwarders as well as the industry itself, the role the industry is playing in the development of the air freight market at selected cities, and so on, as a tool for assessing its own regulatory policy toward the industry. Since the information on individual forwarders is also public, it is available to airlines, other forwarders, investors, and to Federal Express.¹⁴

Because FE files nothing similar, it is not only relieved of the financial burden now sitting on the shoulders of the forwarding industry (and of course the

¹⁴ On October 7, 1975, the Board published a document entitled "Economic Report Air Freight Forwarders." As the Board press release (CAB 75-156) accompanying the report indicates:

"This quarterly report summarizes by operation (System, Domestic, and International) profit and loss, balance sheet, traffic statistics, and certain financial and traffic ratios for 24 carriers. The 24 forwarders included in the report were the ones with over \$3 million in air freight forwarding revenues for calendar year 1973. On a system basis, they accounted for over 84 percent of the industry's air freight forwarding revenues in calendar year 1974."

The quarterly report is but a partial summary of the vast information which the forwarders now must submit pursuant to Part 244.

certified airlines), but the Board is bereft of any sound and reliable data base upon which to evaluate FE's role in the air freight industry, its impact on the rest of the industry, and its own financial condition. In view of the fact that in two and one-half years FE, by its own claim, has moved from 0 to 13,000 shipments per night, exceeding the nightly movement of the largest general forwarder, it hardly requires even stating that FE has likewise experienced dramatic growth and in a far more capsulated period than the air forwarding industry.

III. COMPETITORS OFFERING THE SAME SERVICE SHOULD BE SUBJECT TO THE SAME REGULATORY REQUIREMENTS; IF THE APPLICATION IS TO BE GRANTED, THE CURRENT EXEMPTION OF FEDERAL EXPRESS FROM THE APPROPRIATE PROVISIONS OF THE ACT AND REGULATIONS SHOULD BE TERMINATED

It would appear elementary that if FE is a major competitor of the forwarder, as is clearly evident from the review heretofore, it should be treated the same in the regulatory process as its competitors and be subject to the same rules of the game. Any continuation of the existing imbalance in economic controls, application of the provisions of the Act, and reporting requirements, even without the grant of the expanded authority requested, would make a mockery of the principle of fair and equitable treatment which should properly govern the Board's administration of those subject to its jurisdiction.

There is no doubt whatsoever that FE's rapid escalation in the small package air transportation market has been a product of its lack of any regulatory responsibility to which its competitors are fully subject, and has been at the expense of such competitors. It is perhaps fortunate therefore for both the Board and the rest of the air freight industry that this Application has been filed at this time so as to focus the attention of both the Board and the rest of the industry on the complete disparity between forwarders and FE in regulatory treatment.

We believe, in light of the issues and facts now made clear even through FE's own Application, that the Board should, from this point on, subject FE and others engaging in a nationwide operation of this kind in competition with other segments of the air transportation industry to the same range and degree of regulatory controls. The AFFA so requests.

IV. THE BOARD SHOULD CONSIDER SEVERAL OTHER MATTERS IN PASSING UPON THE APPLICATION

The principal concern of AFFA, as indicated heretofore, is that the air freight forwarding industry, as a fully regulated and responsive industry, should not continue to be placed in an untenable economic position, by reason of its totally different regulatory treatment, with a company that has openly aimed its operations at garnering the traffic of the air freight forwarding industry.

There are ancillary considerations that we also believe the Board may well consider in its evaluation of the present Application:

(a) The Board should consider in depth whether the financial problems of FE do not long antedate the inception of the present Application and whether they are inherent in the attempted establishment of any nation-wide air freight operation with the kind of equipment permissible under Part 298. In this connection, the Board may well review whether the original purpose of Part 298 contemplated the public interest possibility of a nation-wide air freight operation utilizing such equipment.

FE contends that the Falcons are now uneconomic aircraft at a 100 percent load factor or at what it calls "saturated" levels, but only if it is required to put on second or additional sections. Should the prospect of saturated loads have appeared evident to any company commencing operations as an air taxi under Part 298 to begin with? Was the original purpose of Part 298 only to provide an adjunct, or supplemental or regional service as an add-on to the scheduled carrier industry and not in competition with them on a nation-wide basis? Was it only because FE utilized Part 298 for purposes other than contemplated that it was able to develop the kind of volume that it did and therefore to "require" the larger aircraft not permitted under the exemption? Is it in the public interest for the Board to permit a carrier to consciously utilize Part 298 as an admission ticket to a service that Part 298 was not intended to cover? If FE is to be granted this exemption, should not Part 298 itself be amended to allow other air taxi operators to utilize the same type of aircraft on a uniform basis? On the other hand, is the proper course of action for FE, in view of its traffic development, to apply for certification, and thus bring it into the family of regulated carriers?

(b) Apart from AFFA's concern lest FE continue to remain exempt from regulation, it is also concerned lest the grant of the present Application, directed as it is towards major traffic lanes, induces a further erosion by the certificated carriers of all-cargo lift upon which the forwarder depends for service to its own customers.

Although in theory the forwarder is permitted to use the airport-to-airport service of FE, since both offer basically door-to-door services and since FE has directed its promotion towards the customers of the forwarding industry, it is self-evident that the forwarders, even were lift available from FE, would be placing their freight in the hands of the carrier with whom they are in direct competition.¹⁵

The forwarder must continue to depend upon the maintenance of effective all-cargo service by the certificated carriers as well as adequate belly lift in minor markets at suitable times. The Board should carefully consider whether the grant of this Application would necessarily induce a further attrition in such services. If so, could the Board not be fathering a much more dominant one carrier monopoly in the small package field, in both primary and secondary markets, than it has ever known, to the potential debilitation of the forwarding industry and substantial harm to both the combination and the all-cargo carriers? The Board is only now in the final stages of ridding itself, and the public, of a monopoly small package indirect carrier (REA) which it has wisely concluded had retarded the development by forwarders of competitive service in secondary, hinterland markets. Now, finally nearing the end of that long and arduous struggle, should the Board not be specially circumspect in avoiding the establishment of potentially an even more dangerous institution here? And since, here, the issue involves a direct carrier, is it not possible that the other direct carriers, in addition to the forwarders, may suffer adverse consequences?

(c) The Board should also recognize in evaluating this Application that while there is free entry it is relatively easy for an economic enterprise, with unlimited capital, to mushroom its participation in any business if it has no concern about its losses for a substantial period of time. This is especially true in a case like that of FE where there is not only free entry but complete economic regulatory freedom after entry. Neither the claimed excellence of service nor the rapid growth of business of such an enterprise should be particularly surprising where "money is no object" and losses are accepted for the apparent purpose of buying one's way into a particular business.

It is for this reason that we would suggest that the Board evaluate carefully the present financial condition of FE, its investment structure and the actual losses experienced in the two and one-half years of its existence in reaching its present plateau and in seeking to enter the "promised land" through its present Application.

These are elements that should be of great public concern to the Board because while the Board should, of course, be responsive to encouraging low cost, efficient air transportation, it is equally obligated to insure that such is not the product of predatory practices and below-cost pricing offered on a short-term basis for the purpose of carving a niche in the air transportation industry.

CONCLUSION

The AFFA believes that the Board, in acting upon this Application, should at the very least apply the same economic controls and reporting requirements to FE as are applicable to its major competitors, the air freight forwarders, and should remove the exemption of FE from those provisions of the Federal Aviation Act which permits it to engage in discriminatory pricing and practices.

LOUIS P. HAFFER.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this Answer by mailing a copy, first class mail, postage prepaid to each of the carriers or their representative listed in the Service list attached to the Application.

JANET NUNN.

October 14, 1975.

¹⁵ Moreover, FE's existing tariff authorizes a maximum \$2 allowance if its customer dispenses with FE's pickup and delivery service. Needless to say, the forwarder could hardly perform p&d for its own shipper customers at this rate and at the same time pay the line-haul charge of FE.

SUMMARY OF EXEMPTIONS OF AIR TAXI OPERATORS
FROM FEDERAL AVIATION ACT PROVISIONS

Under Part 298.11 of the Board's Regulations, air taxi operators like Federal Express are exempt from the following provisions of the Act to which forwarders are subject:

(1) Section 403 (except for tariffs for through rates or interline tariffs): Under Subsection (a) among other things, carriers subject thereto are required to observe and charge just and reasonable rates and to observe just and reasonable regulations and practices. It is under this subsection that forwarders and airlines (but not air taxis) are required to file tariffs (under Section 1002 such filed tariffs may be suspended by the Board).

Under Subsection (b), carriers subject thereto are forbidden from charging any more or less than is specified in the tariff on file with the Board for air transportation or for any service in connection therewith; and may not rebate any portion of the rates charged or extend to any person any special privileges or facility. Air taxis are not bound by these restrictions.

(2) 404(a): Those subject to this subsection must establish, observe and enforce just and reasonable individual rates and just and reasonable rules and regulations and practices relating to air transportation. In addition, this section requires the provision of safe and adequate equipment and facilities.

404(b): Those subject thereto are forbidden from giving any undue or unreasonable preference to any person or description of air traffic or to subject any person or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage. Air forwarders, but not air taxis are covered by 404 (a) and (b).

(3) Section 407(b)(c)(d): Subsection (b) requires at least an annual filing with the Board of a list showing the name or stockholders holding at least 5% of the capital stock or other interests in any air carrier, any person engaged in any phase of aeronautics, or any common carrier. Subsection (d) provides that the Board shall prescribe the accounts and records to be kept by the Board and that it shall be unlawful for a carrier to keep any accounts or records other than those prescribed or approved by the Board.

Forwarders are fully subject to Sections 403, 404 (a) and (b) and 407(b)(c) and (d). They must, for example, maintain a prescribed uniform system of accounts. Air taxis are totally exempt.

(4) Section 408(a): This subsection is a general section making it unlawful without Board approval for an air carrier to consolidate or merge with another air carrier or to control another air carrier or any other common carrier or any person engaged in any phase of aeronautics. Forwarders are fully subject to this subsection of the Act. In other words, Board approval is required. Air taxis are exempt from any need for obtaining Board approval in any merger or control situation except where they wish to merge with any person who operates large aircraft or who engages in air transportation not covered by the air taxi exemption. Thus, presumably, an unlimited number of air taxis can merge without even seeking Board approval; one or more can be controlled by a company engaged in a phase of aeronautics; and an air taxi no matter how large can acquire or be acquired by any other common carrier not only without Board approval but without even notifying the Board. Forwarders are fully subject to all subsections of 408.

(5) Section 409: Air taxis are exempt from 409(a) except where they enter into an interlock arrangement with a larger aircraft company.

(6) 412(a): Air taxi operators are exempt from Subsection (a) of this Section, which requires the filing (and under subsection [b], Board approval or disapproval) by any air carrier of various agreements with any other air carrier or other common carrier regarding various matters therein listed, including agreements for so-called cooperative working arrangements. Forwarders are subject fully to the filing requirements of this section and to Board action under this section. All that air taxis have to do is file with the Board a memo of an agreement affecting air transportation between them and "any person (excluding air carriers) who operates large aircraft for compensation or hire." They are thus totally immune from seeking Board approval and even from filing commission agreements, pickup and delivery agreements and so on to which the forwarders are totally subject.

SUBPART B—EXEMPTIONS

§ 296.11 Exemption of air freight forwarders and international air freight forwarders.²

Subject to the other provisions of this part, air freight forwarders and international air freight forwarders are hereby relieved from all provisions of Title IV of the Act, other than the following:

- (a) Section 403 (Tariffs);
- (b) Subsection 404(a) (Carrier's Duty to Provide Service, etc.), insofar as said subsection requires air carriers to provide safe service, equipment and facilities in connection with air transportation, and to establish, observe, and enforce just and reasonable individual rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to air transportation;
- (c) Subsection 404(b) (Discrimination);
- (d) Subsection 407(a) (Filing of Reports): *Provided*, That no provision of any rule, regulation, term, condition, or limitation prescribed pursuant to said subsection 407(a) shall be applicable to air freight forwarders or international air freight forwarders unless such rule, regulation, term, condition, or limitation expressly so provides;
- (e) Subsection 407(b) (Disclosure of Stock Ownership);
- (f) Subsection 407(c) (Disclosure of Stock Ownership by Officer or Director);
- (g) Subsection 407(d) (Form of Accounts): *Provided*, That no provision of any rule, regulation, term, condition, or limitation prescribed pursuant to said subsection 407(d) shall be applicable to air freight forwarders or international air freight forwarders unless such rule, regulation, term, condition, or limitation expressly so provides;
- (h) Subsection 407(e) (Inspection of Accounts and Property);
- (i) Section 408 (Consolidation, Merger and Acquisition of Control);
- (j) Section 409 (Prohibited Interests);
- (k) Section 410 (Loans and Financial Aid);
- (l) Section 411 (Methods of Competition);
- (m) Section 412 (Pooling and Other Agreements);
- (n) Section 413 (Form of Control);
- (o) Section 414 (Legal Restraints);
- (p) Section 415 (Inquiry into Air Carrier Management); and
- (q) Section 416 (Classification and Exemption of Carriers).

Provided, however, That the provisions of sections 403 and 404 shall not be applicable insofar as they would otherwise prohibit any air freight forwarder or international air freight forwarder from engaging in joint loading as defined in § 296.1(g) and shall not be applicable to any international air freight forwarder with respect to property inbound to any place within the United States from any place outside thereof: *Provided, further*, That the provisions of subsection 404(b) shall not be applicable insofar as they would otherwise prohibit the exercise by any air freight forwarder of its reserved option to act as either a forwarder or as agent of the shipper in accordance with the provisions of § 296.3 or prohibit the exercise by any international air freight forwarder of its reserved option to act as either an international air freight forwarder or as agent of the direct air carrier or the shipper in accordance with the provisions of § 296.4.

§ 296.12 Exemption of cooperative shippers associations.

Subject to the other provisions of this part applicable thereto, cooperative shippers associations are hereby relieved from all provisions of Title IV of the Act, other than the following:

- (a) Subsection 40(a) (Filing of Reports): *Provided*, That no provision of any rule, regulation, term, condition, or limitation prescribed pursuant to said subsection 407(a) shall be applicable to cooperative shippers associations unless such rule, regulation, term, condition, or limitation expressly so provides;
- (b) Subsection 407(b) (Disclosure of Stock Ownership);

² NOTE: Although this Part in terms exempts indirect air carriers from the provisions of Section 401(k) of the Act (compliance with labor legislation), Section 401(k) is deemed inapplicable to indirect air carriers. The National Labor Relations Board asserts jurisdiction under the National Labor Relations Act over employee-management relations of indirect air carriers.

- (c) Subsection 407 (c) (Disclosure of Stock Ownership by Officer or Director) ;
- (d) Subsection 407 (e) (Inspection of Accounts and Property) ;
- (e) Section 408 (Consolidation, Merger and Acquisition of Control) ;
- (f) Section 409 (Prohibited Interests) ;
- (g) Section 411 (Methods of Competition) ;
- (h) Section 412 (Pooling and Other Agreements) ;
- (i) Section 413 (Form of Control) ;
- (j) Section 414 (Legal Restraints) ;
- (k) Section 415 (Inquiry into Air Carrier Management) ; and
- (l) Section 416 (Classification and Exemption of Carriers).

Provided, however, That cooperative shippers associations shall remain subject to the requirements of sections 403 and 404 of the act insofar as they engage in joint loading except as defined in § 296.1(g).

Provided, further, however, That cooperative shippers associations are hereby relieved from the requirements of section 412 of the act insofar as agreements relate to joint loading as defined in § 296.1(g) ;

Provided further, however, That unless the reserved option of any cooperative shippers association to act as an indirect air carrier or as agent of the shipper is exercised in accordance with the provisions of § 296.5, the provisions of subsection 404(b) shall be applicable insofar as they would otherwise prohibit the exercise of such option.

§ 296.13 Duration of exemptions.

The exemption authority provided by this part shall continue in effect until the Board shall find that the continuation of such authority with respect to air freight forwarders, international air freight forwarders or cooperative shippers associations, or all such classifications, is no longer in the public interest, and thereafter the authority with respect to such classification or classifications shall terminate.

§ 298.4 Requests for statement of authority.

In any instance where an air taxi operator is required by a foreign government to produce evidence of its authority to engage in foreign air transportation under the laws of the United States, the Secretary of the Board will, upon request, furnish the carrier with a written statement, outlining its general operating privileges under this part for presentation to the proper authorities of the foreign government.

SUBPART B—EXEMPTIONS

§ 298.11 Exemption authority.

Air taxi operators are exempt from the following provisions of Title IV of the Act:

- (a) Subsection 401(a) ;
- (b) Section 403 ; except that the requirements of that section shall apply to: (1) Tariffs for through rates, fares, and charges filed jointly by air taxi operators with air carriers or with foreign air carriers subject to the tariff-filing requirements of section 403 of the Act ; and (2) Tariffs required to be filed by air taxi operators which embody the provisions of the counterpart to CAB Agreement 18900 as specified in Subpart G of this part ;
- (c) Subsection 404(a), except the requirements that air taxi operators shall provide safe service, equipment, and facilities in connection with air transportation ; shall observe and enforce just and reasonable joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices as provided in tariffs filed jointly by air taxi operators with certificated air carriers or with foreign air carriers and shall establish just, reasonable, and equitable divisions of such joint rates, fares, and charges as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers ;
- (d) Subsection 404(b), except that the requirements of that subsection shall apply to through service provided pursuant to tariffs filed jointly by air taxi operators with air carriers or with foreign air carriers ;
- (e) Subsection 450(b) ;
- (f) Subsections 407(b), (c), and (d) ;
- (g) Subsection 408 (a) ; except that no exemption is granted hereby for any air taxi operator to enter into any of the transactions or relationships prohibited by subsection 408(a) with any person who operates large aircraft for com-

pensation or hire, or who engages in air transportation from which the air taxi operator is excluded by the limitations imposed by this part ;

NOTE: The above exemption is applicable to air taxi operations only. It does not relieve other persons subject to section 408(a) from the obligations of that section with respect to any relationships they may have with respect to air taxi operators. For additional exemptions from section 403(a) applicable to air taxi operators, see Part 299 of the Board's Economic Regulations.

(h) Subsection 409(a) ; except that no exemption is granted hereby for any air taxi operator to enter into any of the relationships prohibited by subsection 409(a) with any person who operates large aircraft for compensation or hire, or who engages in air transportation from which the air taxi operator is excluded by the limitations imposed by this part ; and

(i) Subsection 412(a) : *Provided*, That air taxi operators shall not be relieved from filing with the Board a true copy, or, if oral, a true and complete memorandum of every contract or agreement (whether enforceable by provisions of liquidated damages, penalties, bonds, or otherwise) affecting air transportation, between any air taxi operator and any person (excluding air carriers) who operates large aircraft for compensation or hire.

§ 298.12 Effect of exemption on antitrust laws.

The exemption granted in § 298.11 from sections 408(a), 409(a) and 412(a) of the Act, shall not constitute an order under such sections, within the meaning of section 414 of the Act, and shall not confer any immunity or relief from operation of the "antitrust laws," or any other statute (except the Federal Aviation Act of 1958, as amended) with respect to any transaction, interlocking relationship, or agreement otherwise within the purview of such sections.

§ 298.13 Duration of exemption.

The exemption from any provision of title IV of the Act provided by § 298.11 shall continue in effect only until such time as the Board shall find that enforcement of such provision would be in the public interest or would no longer be a burden on air taxi operators: *Provided*, That upon such a finding as to any air taxi operator or class of air taxi operators, such exemption shall be that extent terminate with respect to such operator or class of operators.

§ 298.14 Approval of certain interlocking relationships.

To the extent that any officer or director of an air taxi operator would be in violation of any of the provisions of section 409(a) (3) and (6) by participating in interlocking relationships covered by the exemption granted in § 298.11(h), such participation is hereby approved by the Board, subject, however, to the provisions of § 298.12.

SUBPART C—REGISTRATION AND REREGISTRATION FOR EXEMPTION

§ 298.21 Filing for registration by air taxi operators.

(a) Every air taxi operator (whether or not he is also a commuter air carrier as defined in this part) who plans to commence operations under this part shall register with the Board not later than 30 days prior to the commencement of such operations, unless, upon a showing of good cause satisfactory to the Director of the Bureau of Operating Rights, registration within a lesser period of time is allowed.

(b) Every air taxi operator (whether or not he is also a commuter air carrier as defined in this part) shall reregister with the Board on or before July 1, 1975, and every 2 years thereafter, commencing on or before July 1, 1977.

(c) Registration and reregistration shall be accomplished by filing with the Board's Bureau of Operating Rights:

(1) CAB Form 298-A, "Registration, Reregistration and Amendments under Part 298 of the Economic Regulations of the Civil Aeronautics Board" executed in duplicate.⁶ This form shall be certified by a responsible official and shall include the following information:

- (i) the name of the carrier and its mailing address;
- (ii) the carrier's principal place of business, if different from its mailing address, and its area code and telephone number;

⁶ CAB Form 298-A is filed as part of the original document and can be obtained from the Publications Service Section, Civil Aeronautics Board, Washington, D.C. 20428.

(iii) the carrier's FAA certificate number, if any, and the address and telephone number of the carrier's local FAA office;

(iv) whether the carrier proposes to perform (or, for reregistration, whether the carrier is currently performing) scheduled passenger or cargo, on-demand passenger or cargo, and/or mail service;

(v) a list of the aircraft which the carrier proposes to operate (or, for reregistration, the aircraft which the carrier is currently operating) in air taxi operations, and the aircraft type, FAA registration number and passenger capacity of each such aircraft;

Senator CANNON. Next witness is Mr. Edward J. Driscoll, president, NACA.

STATEMENT OF EDWARD J. DRISCOLL, PRESIDENT, NATIONAL AIR CARRIER ASSOCIATION, WASHINGTON, D.C.; ACCOMPANIED BY HENRY P. HUFF, PRESIDENT, TRANS INTERNATIONAL AIRLINES

Mr. DRISCOLL. Mr. Chairman. I have with me Mr. Henry Huff, who is president of Trans International Airlines.

We appreciate the opportunity to appear before your subcommittee to discuss cargo matters in general and to recommend specific legislation which we believe is essential in order to provide shippers the real opportunity to take advantage of low-cost cargo charter transportation. As you know, I am speaking on behalf of the supplemental industry—members of the National Air Carrier Association.

While we strongly support the objectives of the legislation before you today, S. 3684—namely, to increase the availability of needed air cargo services to the public—we cannot support the specific bill for two reasons:

First, it is entirely too broad in one respect; but

Second, it is too narrow in another, in that it does not cover split cargo charter authority or international air cargo charter authority.

I would like to summarize the rest of my testimony, Mr. Chairman, and have the rest put into the record.

The development of the air cargo service in the United States hasn't kept pace with passenger development. While great strides have been made in the development of cargo service and new vehicles, wide-bodied, oversized capability of the L-100, 747's and DC-10's have been added, we haven't been able to make a real breakthrough in the cargo area.

The natural question is why? I think there are two reasons. The regulatory climate in which cargo has been treated by the CAB and the lack of specific authorization by the Board to permit the low-cost charter system to really be tailored to public need. You will recall that at one time on the passenger side one had to charter the entire capacity of an airplane. The Board liberalized that, allowing you to split it two, three ways.

They established a group of 40 as the basic charter element. Now they permit on the passenger side to charter to groups of 40 up to the number of splits the capacity of the aircraft will accommodate. Such is not the case in the cargo area.

We have been restricted to full-plane operations. The operations by the charter companies in all areas, except the North Atlantic, have been coextensive with their passenger operations, but in the North Atlantic we have been precluded, except by specific exemption, from

offering cargo service. There may have been a reason at one time when the supplemental carriers were initially certificated for this, because at that time Seaboard World was in the embryonic stages, which is no longer the case. We have repeatedly applied for cargo authority for that area before the Board only to have it denied; and the latest case just 3 weeks ago, when the *Trans Atlantic Renewal* case was transmitted to the President, the Board in that case stated that they had been unable to consider the cargo question, and they remanded it for further proceedings before the Board. This, again, will make another case for 2 or 3 years. And we will be without authority across the North Atlantic.

We have been denied these 10 years. We, therefore, believe there is equally as important a case for liberalizing the requirements of the Board for the requirement of blanket exemptions for cargo service, split cargo authorization, as there is for the Federal Express authorization that is being suggested.

I want to make it clear we fully support the Federal Express proposals that have been made to this committee, especially those that have been suggested by Mr. Smith here this morning, they would be subject to all elements of title 4; that he would only use the 401 as the basis for getting his exemption; that he would restrict himself to 50,000 pounds' capacity of aircraft; and they would confine his operation of that to the present market, using his smaller aircraft to further expand into other areas.

I think this is a case of the age-old saying, "If you build a better mousetrap, the public will beat a path to your door."

I think he's proved it. We think he is entitled to favorable consideration. We were pleased to see that the chairman of the Board this morning welcomed this legislation. Hopefully, he will welcome it with the modifications we have suggested which are appended to my testimony, all of which were acceptable to Mr. Smith.

We do not see that there should be any distinction between the passenger and cargo operations of the supplementals. We should be permitted to charter cargo in all areas where we are permitted to operate passenger. We have been granted specific exemptions. To date, in 1976, exemptions across the North Atlantic and waivers to all classes of carriers total 261 for the first 7 months, more than 1 a day.

That is at a substantial cost, Mr. Chairman. Every time we file for an exemption, we pay the Board a fee of \$110. There is a legal fee in there, probably any place from \$150 to \$200, so it's costing \$200 to \$300 per exemption.

We don't think that type of administrative cost should have to be added into our rate levels and tariffs and passed on to the public. We believe the Board should grant blanket exemptions pending final certification.

In regard to the split cargo authority—which is the only element I haven't covered here—again, we believe that a weight break of 20,000 pounds or one-half the cargo capacity of the aircraft, would protect the scheduled system from any erosion and would make available to small shippers, as well as large shippers, the availability of low-cost charters, since you could combine the operation of one or more shippers. This is what is done in the passenger. We see on the passenger side, just the North Atlantic, over the past 10 years, 1963 to 1973,

that market developed tenfold. In the cargo area, according to figures we have been able to get on the cargo, that's only developed fivefold.

So we believe that giving the blanket exemptions, authorizing the split cargo authority, would take and aid the public in expanding air transportation. We need additional capacity to serve the DOD in time of emergency. This is one way without any promise of adding, but with the potential of adding, that that could also be benefited. I might add, it is consistent with the national air transport policy of the United States, as it states charter services by scheduled and supplemental carriers—holding down rate levels and expanding passenger and cargo markets.

They also point out in there that the services of both the scheduled carriers and the charter-only carriers should be competitive—that one should not have distinct advantage over the others. In the North Atlantic, the scheduled carriers do have a distinct advantage over us—they can offer charter service that we cannot, except by exemption.

That precludes us from building back-to-back charter programs which give the lowest possible rate to the shipping public.

That, sir, concludes my prepared statement.

We would be glad to answer any questions you may have.

Senator CANNON. Thank you very much, Mr. Driscoll. We appreciate your both being here today.

[The statement follows:]

STATEMENT OF EDWARD J. DRISCOLL, PRESIDENT, NATIONAL AIR CARRIER ASSOCIATION

We appreciate the opportunity to appear before your Subcommittee to discuss cargo matters in general and to recommend specific legislation which we believe is essential in order to provide shippers the real opportunity to take advantage of low-cost cargo charter transportation. As you know, I am speaking on behalf of the supplemental industry—members of the National Air Carrier Association.

While we strongly support the objectives of the legislation before you today, S. 3684; namely, to increase the availability of needed air cargo services to the public, we cannot support the specific bill for two reasons:

1. It is entirely too broad in one respect; but

2. It is too narrow in another, in that it does not cover split cargo charter authority or international air cargo charter authority.

Mr. Chairman, development of air cargo services in the United States has not kept pace with passenger development. While great strides have been made and while new modern turbine-powered cargo equipment has been made available to serve the public; while out-sized and wide-bodied aircraft have been manufactured, such as the L-100, 747 and DC-10; the industry, as a whole, has been unable to make the needed breakthrough to permit full development of our cargo potential.

The natural question that arises is why? We can ascribe two reasons for this:

1. The regulatory climate to which cargo has heretofore been subjected and

2. The lack of specific authorization by the Board to permit low-cost cargo charter systems to be tailored to public need.

You will recall, Mr. Chairman, that at one time it was essential to contract or charter the entire capacity of an airplane in order to obtain low-cost transportation for the movement of passengers. However, the Board gradually altered this requirement and established groups of 40 as the basic charter element. The Board first permitted the industry to charter up to two groups, then to three, and later up to the number of groups of 40 the capacity permitted. We all know what transpired as a result of these forward steps by the Board. In the North Atlantic alone passenger charter traffic multiplied more than tenfold in a ten-year span, 1963 to 1973—from 241,268 in 1963 to 2,785,657 in 1973.

During this same period, however, the supplemental carriers were restricted to offering full planeload cargo service to shippers, so that only the very large shippers could take advantage of this low-cost system. In the North Atlantic

the supplemental carriers were precluded from engaging in cargo charter service except by specific exemption from the Board—this, notwithstanding the fact that foreign charter companies were given some cargo authority across the North Atlantic.

The legislation before you and before the other body has been prompted by the sponsors to overcome and correct a deficiency in our regulatory system and we commend these sponsors for their forward thinking; but much more is needed, as I said before.

You will recall, Mr. Chairman, that in the early 1960's the Department of Defense adopted a policy of awarding contracts for the movement of military traffic to those carriers that would commit themselves and equip themselves with modern turbine-powered cargo equipment. That program ushered in the 707-320C's and the DC-8F freighters. Many new pieces of equipment were added to the U.S. inventory. This military program was designed to overcome the shortage of civil cargo capability available to the military in time of emergency. While mammoth strides were made during 1963 through 1973 in adding new equipment to the inventory, including the Lockheed 100, the Boeing 707 and 747 and the Douglas DC-8 and DC-10, there still remains a tremendous shortage of cargo capacity to satisfy military requirements in the event of an airlift emergency. Peacetime requirements have declined substantially and there is little likelihood, as things stand now, that the cargo being made available to civil carriers by the Department of Defense will stimulate the development of air cargo service or air cargo capability. Unfortunate as it may appear, the regulatory regime for civil cargo development did not parallel the military program. As I stated, restrictive rules and regulations were in effect which retarded the development of the movement of air cargo by low-cost charters. These restrictions continue.

I have cited this background only for the purpose of laying a predicate for the proposal we advance; namely, legislation that would authorize (a) air taxi operators who have demonstrated over a three-year period their ability to develop the cargo market, to use aircraft with a structural payload capacity not to exceed 50,000 pounds; whereas, today they are restricted to a structural payload capacity of 7,500 pounds; and (b) split cargo charters on the same basis as split passenger charters are permitted; and (c) the supplemental carriers to perform cargo service coextensive with their passenger authority.

With regard to (a) the Federal Express has developed a unique system within the United States which is providing a valuable service to shippers, and yet the Civil Aeronautics Board has failed to permit the use of larger aircraft than the 7,500-pound payload currently authorized. This, as I understand it, has forced Federal Express to fly two or more aircraft, wingtip to wingtip, between points in order to satisfy the demand at a much higher cost than could be achieved by using larger aircraft. We see no valid reason why Federal Express should be denied this opportunity to demonstrate what can be achieved; but more importantly, we see no reason why the shipping public should be denied the economies of the lowest cost transportation that can be made available on an economic basis by an air carrier. Use of aircraft with the structural payload capacity of up to 50,000 pounds will permit further development of this system with the potential of reduced costs because of using more efficient aircraft.

With regard to (b) we fail to see the distinction between passengers and cargo where passengers can move in groups of 40 while movement of things by shippers must be restricted to full-plane capacity. Surely, if one is to develop a service to the public—a service which we believe is vitally needed, a service which could aid in developing additional capacity which would be available to the Department of Defense in times of emergency—such should be authorized. The Board, however, has repeatedly denied our request for this authority. Therefore, legislation appears our only recourse.

With regard to (c) we see no valid reason why the supplemental carriers' authority for movement of cargo should not be coextensive with their passenger authorizations. While there may have been reason during the developmental days of Seaboard World to restrict the supplementals in the North Atlantic, such is not the case today; and yet the Board in its recommended position to the President only three weeks ago has failed again to consider cargo and award cargo authority to the supplementals. A substantial record was made during that proceeding; but more importantly, the record of exemptions which the Board has granted on an individual basis at substantial administrative cost to the industry, which is in turn passed on to the shipping public, was available to it. For exam-

ple, across the North Atlantic, which includes Africa and the Middle East, individual exemptions and waivers totaled 261 during the first seven months of 1976—more than one a day. During the same period of 1975, 101 exemptions and waivers were granted. This record clearly demonstrates the need for additional cargo capacity across the North Atlantic. We see no valid reason why the industry should be subjected to what appears to be excessive administrative requirements.

While we support the concept of S. 3684, we feel that as presently drafted, it is too broad. It contains virtually no restrictions upon eligibility for exemption. Further, it permits exemption from all the requirements of Title IV of the Act. It should, we think, contain some controls. We suggest that this blanket exemption should be granted to carriers which have proved themselves over a period of time by effective public operations. Thus, it should be available only to air taxi operators; that is, carriers operating pursuant to Part 298 of the Board's economic regulations—which have been in operation for at least three years and which, during the 12 months preceding their application for certificate authority, have operated at least 35 million revenue ton miles of interstate cargo carriage. Secondly, we think that the carrier should be required during the exemption period to operate the same type of service it has previously operated. It should not be permitted to expand, either in terms of service or of points served, except pursuant to certification or under its existing authority. In the case of Federal Express it would thus be allowed, under the interim exemption, to operate its existing small package service (up to 70 pounds apiece with a combined girth and length of 108 inches) with large aircraft to and from the points it has been serving. We suggest that the exempted carrier should be subject to all the requirements of Title IV of the Act except the certificate requirement. A carrier should not obtain all the benefits of certification without being subject to its responsibilities. Finally, we believe there should be a limitation on the size of aircraft which may be operated during the exemption period. The applicant should not, in the interim before the Board acts on its application, be permitted to operate with an aircraft whose large size has the potential of disrupting the competitive scheme which has been established in prior Board proceedings. We think that a reasonable limitation for the applicant during the exemption period is an aircraft with a maximum payload not exceeding 50,000 pounds.

We have incorporated the foregoing suggestions in our legislative proposal. With these suggestions, we believe that the legislation will give some impetus to the proper development of air cargo services.

Along with this, we urge that the supplemental carriers be given the same type of interim blanket exemption as is being proposed in S. 3684. I have described our inability to obtain transatlantic cargo authority. At best, it appears that final administrative action on our certification is years away. Therefore, our legislative proposal calls for the Board to grant an interim air cargo exemption, coextensive with the carrier's passenger authority, to any supplemental carrier which has applied for an air cargo certificate. As in the case of the exemption accorded air taxis, a supplemental carrier would not be eligible for an interim exemption unless it had conducted certificated supplemental cargo charter operations for a period of at least three years.

Also, specific legislative authority should be given to the Board empowering it to allow split cargo charters. The Board's failure to grant this authority in the past is, we think, an anomaly. We see no legal impediment to such a grant under existing law; however, the Board has questioned its own authority. We therefore propose legislation which would clearly authorize split charters for the certificated industry. We suggest that the minimum split-cargo shipment be fixed at the lesser of 20,000 pounds or one-half the cargo capacity of the aircraft, whichever is less. This alternative phrasing would permit existing air carriers to utilize currently-owned aircraft, some of which have a capacity of less than 40,000 pounds.

Such a provision would, we think, make available low-cost air transportation to shippers who now use surface transportation and would thus give much-needed stimulation in the cargo charter area.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer questions.

A BILL To amend the Federal Aviation Act of 1958, as amended, to broaden the power of the Civil Aeronautics Board to grant relief by exemption in certain cases, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Except as otherwise specified, wherever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958, as amended.

SEC. 2. Section 416 is amended by adding the following new section 416(c) :

"(1) The Board may grant exemption from the requirements of section 401 to any carrier which is an applicant for a certificate to perform all-cargo air transportation under section 401 and which has been authorized by the Board for a period of at least three years to perform without certification direct air transportation utilizing aircraft with a minimum payload capacity of not more than 7,500 pounds, such exemption to authorize operations of the same type as it conducted, and to and from the same points as it served during the 12 months immediately preceding such carrier's application for a certificate utilizing aircraft with a maximum payload capacity not exceeding 50,000 pounds, where such carrier has demonstrated the public need for such authority by the operation of 35 million revenue ton miles of cargo carriage in interstate air transportation in the 12 month period immediately preceding such carrier's application for a certificate.

(2) The Board may grant exemption from the requirements of section 401 to any carrier which has been authorized by the Board pursuant to Section 401(d) (3) for a period of three years to perform civil cargo charter transportation between any pair of points or geographic areas where the public interest has been demonstrated by such carrier's performance of air transportation between such points or areas for a period of at least three years immediately preceding such carrier's application for a certificate of public convenience and necessity to perform cargo charter air transportation, such exemption to authorize such air carrier to operate cargo charter air transportation coextensive with such carrier's certificated passenger charter authority pending final certification by the Board.

(3) Nothing contained in this subsection shall limit the power granted to the Board under subsection (b) hereof."

SEC. 3. Section 101 is amended by renumbering paragraphs (11) through (38) thereof as paragraphs (12) through (39) and by inserting after paragraph (10) the following new paragraph:

"(11) 'All-cargo air transportation' means air transportation of property, or of property and mail, only."

SEC. 4. Section 401(e) is amended by adding the following new section 401(e) (7) :

"(7) Any certificate issued under this section or any exemption granted therefrom which authorizes the carriage of property on charter trips in air transportation shall be deemed to authorize air transportation performed for a shipper (including an air freight forwarder) where less than the entire capacity of an aircraft has been engaged for the movement of property *provided however* that any such shipper must block and pay for not less than 20,000 pounds of capacity or one-half the payload capacity of the aircraft, whichever is the lesser, and provided further that the entire payload capacity of the aircraft is contracted to one or more such shippers."

Senator CANNON. The next witness, Mr. Robert O. Weston, Air Freight Conference.

STATEMENT OF ROBERT O. WESTON, PRESIDENT, AIR FREIGHT
MOTOR CARRIERS CONFERENCE; ACCOMPANIED BY GEORGE H.
MUNDELL, EXECUTIVE DIRECTOR

Mr. WESTON. My statement will be short and to the point. My name is Bob Weston. I'm president of Weston Trucking Co., Encinitas, Calif., and also president of the Air Freight Motor Carriers Conference of Washington, D.C., hereinafter referred to as AFMCC. My statement is on behalf of AFMCC.

The conference is a national trade association. Its membership is composed of motor carriers who specialize in the handling of airfreight for the certificated air carriers, both combination—passenger/cargo—and all-cargo carriers. We also perform a similar service for airfreight forwarders and air commuters, including Federal Express. Our operation consists basically of three functions:

First, within the air terminal zone, an area roughly within 25 miles of the airport or airport city limits, under an exemption from the Interstate Commerce Act for traffic defined as "incidental to air";

Second, beyond the air terminal area under certificates of public convenience and necessity as granted by the Interstate Commerce Commission, which in most cases specifically restrict the transportation to that freight having a prior or subsequent movement by air; and

Third, between airports in substitute for air service, in instances where for specific reasons shipments are routed via truck in lieu of adequate airlift.

The airfreight motor carrier specialist is an integral part of the national airfreight network. He provides service within the air terminal area pursuant to contracts with Air Cargo, Inc., the airlines' subsidiary responsible for arranging ground service for the airlines; and beyond this area has established interline agreements with the airlines. We participate in the airlines' tariffs filed with the CAB and the ICC for joint rates and liability on door-to-door traffic. We also have equipment interchange agreements with the airlines. All in all, the airfreight motor carrier is a totally intermodal, integrated partnership on a nationwide basis.

Any legislation that will tend to weaken the total airfreight network will harm the airfreight motor carrier. The certificated air carriers, as represented by the Air Transport Association of America, have expressed their concern with S. 3684 through the statement of Mr. Leo Seybold, vice president of Federal affairs. The members of AFMCC support his statement. The all-cargo carriers—namely, Flying Tigers, Seaboard World and Air-Lift International—have also expressed their concern with S. 3684 through the statement of Mr. Robert Prescott, president of Flying Tigers. AFMCC wholeheartedly supports his position.

We are very much concerned that the granting of an exemption as proposed by this bill, in allowing for new operations both in size of aircraft and market areas by Federal Express, or any other party interested in getting into the airfreight business, will dilute traffic of the certificated air carriers, both combination and all-cargo; and concomitantly reduce the volume of freight available for pickup and delivery by the motor carriers serving the certificated air carriers. Neither the airlines nor the trucking companies can afford any reduc-

tion in their revenues. Adequate income is required to continue to provide a level of service consistent with the demands of the shipping and receiving public—both in the large cities and in the small communities.

In addition, we interpret this specific legislation as a method of providing open free entry. Such a move will only eliminate the value of the operating certificates now in use—both by the airlines and the trucking companies certificated by the ICC. Any dilution of revenue resulting from noncompetitive diversion of traffic enjoyed by the certificated airlines and motor carriers will reflect substantially in the investment, not only in our certificates, but in rolling stock, material handling equipment, terminal facilities, and, last, but not least, our labor obligations.

The members of AFMCC who have been granted certificates from the ICC are well aware of the efforts involved in obtaining operating authority, but recognize the need for this procedure in order to maintain a well-balanced transportation system. It is our position if any carrier feels there is a need for a service accommodation by the public that they be required to follow the existing procedures and prove there is a need for public convenience and necessity just as we have been required to do.

In conclusion, I would like to express my appreciation to the committee for allowing us the opportunity to appear and express our feelings.

Senator CANNON. Thank you very much, Mr. Weston. We are pleased to have you here and hear your views.

That will conclude our hearings today. The committee will stand adjourned.

[Whereupon, at 10:30 a.m., the hearing was adjourned.]

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

THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE,
Washington, D.C., August 12, 1976.

HON. HOWARD W. CANNON,
Chairman, Senate Commerce Aviation Subcommittee,
Washington, D.C.

DEAR CHAIRMAN CANNON: Enclosed is a statement submitted on behalf of The National Industrial Traffic League for inclusion in the official hearing record on S. 3684, a bill to permit the Civil Aeronautics Board to grant a temporary exemption from the certification requirements of the Federal Aviation Act to facilitate the provision of all-cargo air service.

The National Industrial Traffic League is the only national shipper organization consisting of all types of shippers geographically, large, medium and small, using all modes of transportation and shipping all types of commodities. Included in the League's 1800 members are chambers of commerce, boards of trade, ports, shipper associations, and other entities concerned with rates, traffic and transportation services of all modes.

The League supports S. 3684 as a positive step toward providing the CAB with additional tools and to encourage competition and develop new and innovative services in all-cargo operations. This bill would authorize the Board to permit the conduct of all-cargo operations pending consideration of an application for the initial certification of such operations, upon a finding that the grant of such an exemption is compatible with the public interest.

At the 1972 Annual Meeting of The National Industrial Traffic League, the members approved a statement of views with respect to improvements in the air transportation system, including air carrier regulations. This statement urged: "a relaxation of regulations so as to permit air carriers more freedom to experiment with rate and service innovations."

In summary, the League supports S. 3684, with the CAB modifications, to provide the Board with additional tools, and to encourage the development of inno-

vative air-cargo services. The action by the Senate Commerce Committee in sponsoring an exemption provision for the ICC in the recently enacted RRRR Act of 1976 furnishes ample precedent for early enactment of this similar authorization for the CAB. Therefore, the League urges your Subcommittee to take early and favorable action on S. 3684 as a step toward air regulatory reform.

The League appreciates the opportunity to present its views on this important bill and thanks you, Senator Cannon, for including the League's statement in the record of hearings on S. 3684.

Sincerely,

JAMES E. BARTLEY,
Executive Vice President.

STATEMENT OF THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE

The National Industrial Traffic League supports early enactment of S. 3684, with the CAB proposed modifications, to broaden the power of the Civil Aeronautics Board to grant relief by exemption from the certification requirements of the Federal Aviation Act to facilitate the provision of all-cargo air service.

The National Industrial Traffic League is the only national shipper organization consisting of all types of shippers geographically, large, medium and small, using all modes of transportation and shipping all types of commodities. Included in the League's 1800 members are chambers of commerce, boards of trade, ports, shippers associations, and other entities concerned with rates, traffic and transportation services of all modes. Carriers are not eligible for membership in the League.

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.

The League supports S. 3864 as a positive step toward providing the CAB with additional tools and to encourage competition and develop new and innovative services in all-cargo operations. This bill would authorize the Board to permit the conduct of all-cargo operations pending consideration of an application for the initial certification of such operations, upon a finding that the grant of such an exemption is compatible with the public interest.

On July 19, 1976, the League announced its support for the objectives of air regulatory reform: to encourage competition and to reduce economic regulation where unnecessary in the public interest. Among the changes supported by the League are legislation which would relax, liberalize and speed up certification of new entry, and the removal of restrictions on existing carriers.

At the 1972 Annual Meeting of the League, the members approved a statement of views with respect to improvements in the air transportation system, including air carrier regulations. This statement urged: "a relaxation of regulations so as to permit air carriers more freedom to experiment with rate and service innovations."

For a number of years the League members have voted their support for comparable legislation to amend the Interstate Commerce Act to authorize the ICC to exempt certain segments of surface transportation from all or part of the regulatory requirements of the Interstate Commerce Act when such regulation is not of public importance. In the present Congress, such a bill was introduced at the request of the ICC as S. 2456.

The Railroad Revitalization and Regulatory Reform Act of 1976, P.L. 94-210, which was the subject of extensive hearings and consideration by the Senate Commerce Committee contains the following provision in Section 207:

EXEMPTIONS FROM INTERSTATE COMMERCE ACT

Sec. 207. Paragraph (1) of section 12 of the Interstate Commerce Act (49 U.S.C. 12(1)) is amended by inserting "(a)" immediately before "The Commission" and by adding at the end thereof the following new subdivision:

"(b) Whenever the Commission determines, upon petition by the Secretary or an interested party or upon its own initiative, in matters relating to a common carrier by railroad subject to this part, after notice and reasonable opportunity for a hearing, that the application of the provisions of this part (i) to any person or class of persons, or (ii) to any services or transactions by reason of the limited scope of such services or transactions, is not necessary to effectuate the national transportation policy declared in this Act, would be an undue burden on such person or class of persons or on interstate and foreign commerce, and would serve little or no useful public purpose, it shall, by order exempt such

persons, class of persons, services, or transactions from such provisions to the extent and for such period of time as may be specified in such order. The Commission may, by order, revoke any such exemption whenever it finds, after notice and reasonable opportunity for a hearing, that the application of the provisions of this part to the exempted person, class of persons, services, or transactions, to the extent specified in such order, is necessary to effectuate the national transportation policy declared in this Act and to achieve effective regulation by the Commission, and would serve a useful public purpose."

The League strongly supported this provision, and agrees with the following statement contained in the Report of the Senate Commerce Committee on this bill (S. 2718, Report No. 94-499, November 26, 1975), page 53:

"* * * the power to exempt from regulation in whole or in part will enable the Commission to commit its limited resources in areas where they are most needed, by enabling it to deregulate those areas which have no significant bearing on the overall regulatory scheme."

We note that the ICC supported this provision in the railroad legislation and that the CAB supports this provision, with broadening amendments in S. 3684. The League agrees with the proposed modifications to S. 3684 suggested by the Board in its testimony for the purpose of improving the bill by enabling the Board to exempt all-cargo carriers from both the certification and rate provisions of the Act, with the understanding as stated by Chairman Robson that: "the current statute contemplates a certificated system so the Board would not have unfettered authority to exempt cargo service."

In summary, the League supports S. 3684, with the Board modifications, to provide the Board with additional tools, and to encourage the development of innovative air-cargo services. The action by the Senate Commerce Committee in sponsoring an exemption provision for the ICC in the recently enacted RRRR Act of 1976 furnishes ample precedent for early enactment of this similar authorization for the CAB. Therefore, the League urges your Subcommittee to take early and favorable action on S. 3684 as a step toward air regulatory reform.

[The following information was referred to on p. 65:]

AIR TRANSPORT ASSOCIATION OF AMERICA,
Washington, D.C., August 17, 1976.

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

DEAR SENATOR CANNON: During the course of my testimony before the Aviation Subcommittee on S. 3684 on August 3, 1976, you asked if ATA had made any attempt to counter Federal Express' data that was furnished in earlier hearings. At that time I indicated that some of this data was answered in the appendices of my statement but that additional information would be furnished. Pursuant to your question, attached hereto are "Comments of the Air Transport Association on Issues Raised by the Statements and Data Presented by Frederick W. Smith, Chairman of the Board, Federal Express Corporation before the Senate and House Aviation Subcommittees 1976." I would appreciate it if these comments could be made a part of the hearing record.

We have published a brochure called, "Air Cargo on the Move" which depicts the range and types of service and opportunities available to shippers in the use of air cargo. A copy of this brochure is attached and I would appreciate it if this could be made a part of the hearing record.

We appreciate the opportunity to furnish the answers to these questions and we will reserve the right to comment further on the statements submitted by others in the hearing.

Sincerely,

LEO SEYBOLD.

COMMENTS OF THE AIR TRANSPORT ASSOCIATION ON ISSUES RAISED BY THE STATEMENTS AND DATA PRESENTED BY FREDERICK W. SMITH, CHAIRMAN OF THE BOARD, FEDERAL EXPRESS CORP.

1. *Issue.* "The issue at hand, broadening Federal Aviation Regulations in the neglected area of air cargo * * *."

Answer. The "issue" is whether special interest legislation should be passed by Congress to change existing law and Civil Aeronautics Board regulations to meet the special pleadings of one company even though special interest legisla-

tion creates discrimination and raises many unanswered questions about regulation policy.

2. *Issue.* "The issue * * * is of vital interest to our company, our employees and our shippers."

Answer. The issue is also of "vital interest" to all shippers, all airlines, all air freight forwarders, all air taxi operators, all air cargo commuters, all air freight motor carriers and to the millions of postal patrons. They want to know what impact the special treatment proposed to be extended to Federal Express would have on them.

3. *Issue.* "* * * neglected area of air cargo."

Answer. This uninformed and inaccurate comment is belied by the very fact of the nationwide network of 32 scheduled air carriers, hundreds of commuter airlines and air taxi operators, over 300 air freight forwarders, and hundreds of supporting air freight motor carriers furnishing a variety of priority and non-priority air cargo services, day and night, seven days a week to large and small shippers at more than 13,000 points served by interline and intermodal agreements.

In 1975 over 250,000 shippers used this system to deliver over 50,000,000 shipments consisting of more than 150,000,000 pieces. In addition, this system was used by the U.S. Postal Service to deliver more than 200,000,000 priority air parcel post packages, 57% of which receive overnight delivery.

4. *Issue.* "Services these shippers need: door-to-door service; late afternoon pickup; overnight transportation to all points with next morning delivery; documented and controlled movement of the goods shipped."

Answer. This statement is inaccurate. Some shippers want such service but many shippers have other needs. The statement is belied by extensive shipper usage of the large variety of cargo services available nationwide from the scheduled carriers. Consider the following:

(a) Shippers have varying needs—some want same day delivery, some next morning delivery and, for some, 48 hour delivery is all that is required.

(b) The scheduled airlines' over-the-counter small package service moves over a million shipments a year on shipper-designated flights, mostly in the daytime, with service measured in terms of hours.

(c) The scheduled airlines offer rate incentives for tender of freight in containers during daylight hours and many shippers satisfy their needs with this type of service.

(d) United Parcel Service—The world's largest private handler of packages has an expedited service with 48 hour delivery which handles 25,000 daily shipments. This is about 1% of its annual total of 900,000,000 shipments which move primarily by surface carriers, apparently satisfying these shippers needs.

(e) Federal Express itself offers second day delivery for its standard service.

(f) One critical requirement for any transportation company to provide overnight service is timely tender of the shipment to meet available transportation schedules. For example, Federal Express has strict time limits for tender of shipments and recommends calls for pick-up be made before noon.

(g) Although the scheduled air carriers have offered pick-up and delivery service for over 30 years, the percentage of shipments utilizing this service is only about 30%. Shippers like the option of pick-up and/or delivery with a separate charge. (Federal Express offers only a small discount for self delivery.)

(h) All shipments of cargo anywhere in the world on scheduled airlines are documented and controlled by uniform and standard forms and procedures. Regular air freight shipments can be made to any destination in the world on one bill of lading.

5. *Issue.* "80% of all air shipments are originated from and/or are destined to cities other than the top twenty-five markets."

Answer. The opposite is true of the total airfreight picture since the top twenty-five airfreight markets generate more than 80% of the traffic.

The statement is also incorrect according to Federal Express' own submitted data.

An analysis of Federal Express' computer data contained in its testimony indicates that, in the February-March 1976 period, 46% of its average daily number of packages were from or to 23 major markets (see Attachment A). These

23 Federal Express origin and destination major market points are included in the scheduled airlines top twenty-five major markets.

Attachment B is a list of top 25 airports ranked in order of freight ton miles enplaned by the scheduled airlines in 1975.

There is no question of scheduled airlines ability to satisfy shipper requirements between these major points.

Also using Federal Express data, 26 origin cities originate 10 or more pieces a day to 36 destination cities. (Attachment C) In 90% of these markets the scheduled airlines have equal or better service with departures after 8:00 p.m. The remaining 10% of these volume markets can be served by the scheduled airlines overnight with departures between 5:50 p.m. and 8:00 p.m. (Forty of Federal Express' 77 cities have departure times before 10:00 p.m. and seventeen have departure times before 8:00 p.m.)

6. *Issue.* "Airfreight service provided by combination flights is not in the public interest."

Answer. The statement reflects incredible absurdity, 51% of the almost six billion revenue ton miles of air cargo (freight, express and mail) carried by the U.S. scheduled airlines in 1975 was carried in combination aircraft. This service, plus the all-cargo service, affords shippers and postal patrons the convenience and timeliness of around-the-clock, seven days a week cargo service. (See Attachment D)

7. *Issue.* Reference was made to the special characteristics of many air cargo shipments "such as hazardous materials and drugs." "The U.S. airline system has utterly failed to adequately meet this critical market—caused by the incompatibility of passenger operations with shipper's basic needs."

Answer. The statement is also erroneous and misleading.

(a) The scheduled air carriers offer air transportation service for all kinds and sizes of cargo including hazardous materials, drugs, live animals, fresh fruits, vegetables, flowers, seafood, printed matter, auto parts, electrical equipment, wearing apparel, machinery, and others of endless variety.

(b) Scheduled air freight services carry many categories of air freight and many heavy items of a type which Federal Express will not accept.

(c) Federal Express alleges that it is the largest carrier of hazardous materials. There is no evidence to support such a statement. All scheduled airlines carry hazardous materials including eteological agents, drugs and radioactive materials under federal regulation.

8. *Issue.* "We recently have had to discontinue live animal service * * * This is truly unfortunate since our main deck pressurization and climate control * * * is significantly better for animals than the lower baggage holds of passenger aircraft."

Answer. The scheduled airlines have transported live animals for many years. In 1975 they safely carried over 1,500,000 live animal shipments.

9. *Issue.* "Almost 90% of the total U.S. certificated airline fleet is not flying between the hours of 9:00 p.m. and 7:00 a.m."

Answer. The statement is eroneous and misleading.

(a) Many scheduled flights originating earlier do not terminate until after 9:00 p.m. Perhaps the statement was intended to say that almost 90% of scheduled departures occur before 9:00 p.m. and after 7:00 a.m.

(b) Federal Express is to be thanked for pointing out that about 1,000 of the scheduled airlines daily departures occur after 9:00 p.m. All of the more than 200 aircraft which scheduled airlines operate after 9:00 p.m. offer cargo service to and from various cities. Many such flights are all-cargo, but some are in combination aircraft.

10. *Issue.* "Federal Express wastes \$25,000 per day because it must fly multiple small aircraft over certain lanes where one large aircraft could fulfill the same requirement."

10. Answer. (a) If shipments between small cities constitute 80% of its business as Federal Express says, exactly how will larger planes serve the small cities better? Or does Federal Express plan a major shift of operations into the larger cities? Has Federal Express furnished information on the additional cost effect of operating larger aircraft on short hauls to small cities? Rather than Congress assuming the responsibility, based on unsubstantiated statements, of

evaluating such factors, this type of information should be brought out in an evidentiary hearing before the Civil Aeronautics Board—the regulatory agency established by Congress for this purpose.

(b) Federal Express incurs fuel waste by circuitous routing of its shipments since all parcels must go to Memphis for transshipment. For example, a parcel going 955 miles from Seattle to Los Angeles must travel 3,491 miles to get there via Memphis. There would be less waste if the parcel were flown straight to Los Angeles as the scheduled airlines do!

11. Issue. "All-cargo service has been disastrously reduced." "Archaic regulations have been the major cause of the dismal record of all-cargo operations in this country."

Answer. (a) These statements are erroneous and misleading in every respect. The question should be "what has happened to air cargo service?" not "what has happened to all-cargo operations?"

(b) Scheduled carriers growth in available ton miles of air cargo service over the last 12 years has been dramatic with volume increases in virtually every year except for slight dips in 1974 and 1975. (See Attachment E) This cargo capacity of almost 18 billion available ton miles continues its growth in 1976.

(c) Expanded cargo capability, resulting from the addition of widebody air freighters and other aircraft, has offset reduction in the number of QC, or quick change, aircraft which some carriers operated in volume a few years ago on an experimental basis.

(d) While the airlines move less than 1% of the total tonnage of U.S. freight, the goods transported in air freight represent 25% of the total value of all shipments. This represents a substantial contribution to U.S. commerce.

12. Issue. "From a high of some 50 points receiving all-cargo service shortly after World War II * * * only 21 domestic airports receive all-cargo service."

Answer. Wrong—forty-seven (47) airports are served by the scheduled airlines with all-cargo service today; 653 airports are served with all-cargo and combination aircraft.

13. Issue. "Federal Express services are cheaper than competitors."

Answer. This is incorrect. Air parcel post rates are much lower than Federal Express. Airport to airport small package over-the-counter rates of the scheduled airlines for shipments in the 30 to 50 pound range are lower than Federal Express. Airline priority air freight and regular air freight rates for all shipments above 30 pounds are lower. Some freight forwarder rates are lower. See Attachment F for a table for "Rate Comparison" for a 30 pound shipment.

14. Issue. "Federal Express Public Service Goals"—hold or reduce rates.

Answer. A little-discussed fact about Federal Express growth (aside from its coincidence with the demise of Railway Express Agency) is its history of attracting business with exceptionally low non-competitive rates followed by a succession of rate increases. Since 1973 when Federal Express began, its rates on its prime service "Priority One" have doubled.

15. Issue. Diversion:—"Over 30% of its traffic has been generated by virtue of its unique service."

Answer. This means 70% of Federal Express traffic, representing millions of dollars of revenue, has been diverted from the scheduled carriers.

Such diversion weakens the capability of the scheduled air carriers to maintain and expand their fleet of passenger and cargo aircraft dedicated to military call-up as part of the Civil Reserve Air Fleet.

Such aircraft, particularly all-cargo or convertible aircraft, provide an emergency cargo capability heavily depended upon by the military according to General Paul K. Carlton, Commander of the Military Airlift Command, in testimony before the House Armed Services Committee earlier this year.

ATTACHMENT A

FEDERAL EXPRESS AVERAGE DAILY NUMBER OF PACKAGES—FEBRUARY—MARCH 1976

City:	From—	To—	Total
Atlanta.....	131.6	270.8	402.4
Boston.....	735.0	400.6	1,135.6
Seattle.....	626.1	128.1	754.2
Los Angeles/BUR/LGB.....	947.2	690.8	1,638.0
Cleveland.....	263.9	244.7	508.6
Dallas.....	526.1	368.7	894.8
Denver.....	157.3	202.2	359.5
Detroit.....	257.3	285.1	542.4
Newark.....	668.9	423.8	1,092.7
Houston.....	188.2	266.0	454.2
Washington, D.C.....	237.0	351.2	588.2
New York City.....	715.2	760.8	1,476.0
Miami.....	186.6	296.8	483.4
Kansas City.....	69.4	177.3	246.7
Minneapolis.....	335.6	220.6	556.2
New Orleans.....	54.4	123.8	178.2
Oakland.....	212.7	251.0	463.7
Chicago.....	837.7	625.9	1,463.6
Philadelphia.....	396.5	348.9	745.4
Phoenix.....	97.1	168.0	265.1
Pittsburgh.....	157.2	145.4	302.6
St. Louis.....	232.6	228.8	461.4
Tampa.....	51.8	108.8	160.6
Total.....	8,085.4	7,088.1	15,173.5
Percent ¹	43	49	46

¹ Percentage based on average of 16,500 packages daily.

ATTACHMENT B

TOP 25 AIRPORTS RANKED IN ORDER OF FREIGHT TONS ENPLANED—1975

[Domestic and international]

	Freight tons enplaned	Aircraft departures
Chicago.....	348,594	276,723
John F. Kennedy.....	344,813	97,394
Los Angeles.....	312,927	134,119
San Francisco.....	194,882	107,233
Atlanta.....	114,631	197,347
Miami.....	112,586	76,671
Seattle-Tacoma.....	97,521	50,006
Detroit.....	87,226	78,217
Boston.....	74,198	87,161
Dallas-Fort Worth.....	70,282	136,737
Honolulu.....	67,345	38,157
Philadelphia.....	60,857	69,404
Newark.....	56,213	62,924
Denver.....	52,861	98,179
Cleveland.....	51,173	57,283
Minneapolis.....	47,337	62,277
Houston.....	39,783	52,918
La Guardia.....	32,013	118,341
St. Louis.....	29,187	85,512
Pittsburgh.....	22,344	87,132
Washington National.....	21,682	96,677
Kansas City.....	19,545	51,867
New Orleans.....	16,026	40,519
Tampa.....	13,921	45,851
Phoenix.....	11,559	42,956

ATTACHMENT C

FEDERAL EXPRESS ORIGIN AND DESTINATION FOR 10 OR MORE PACKAGES

From Atlanta to: Fort Lauderdale, Chicago, and Philadelphia.

From Hartford to: Los Angeles and Cleveland.

From Boston to: Baltimore, Los Angeles, Cleveland, Dallas, Denver, Detroit, Newark, Houston, Washington, D.C., Indianapolis, New York City, Little Rock, Memphis, Miami, Kansas City, Minneapolis, San Francisco, Chicago, Philadelphia, Phoenix, Raleigh-Durham, San Antonio, San Jose, Salt Lake City, and St. Louis.

From Nashville to: New York City.

From Burbank/Los Angeles to: Boston, Dallas, Denver, Detroit, Newark, Houston, New York City, Miami, Oakland/San Francisco, Chicago, and Philadelphia.

From Cleveland to: New York City, Los Angeles, Miami, and Philadelphia.

From Cincinnati to: New York City and San Jose/San Francisco.

From Dallas to: Newark, New York City, Memphis, Oakland/San Francisco, Chicago, Philadelphia, and San Jose/San Francisco.

From Denver to: New York City.

From Detroit to: New York City and Chicago.

From Newark to: Atlanta, Boston, Burbank/Los Angeles, Dallas, Detroit, Houston, Washington, D.C., Indianapolis, Memphis, Kansas City, Minneapolis, Oakland/San Francisco, Chicago, Phoenix, San Antonio, and St. Louis.

From Houston to: New York City and Los Angeles.

From Washington, D.C. to: Boston, Houston, New York City, Los Angeles, and Chicago.

From Memphis to: Chicago and New York City.

From Miami to: New York City and Chicago.

From New York City to: Atlanta, Boston, Los Angeles, Cleveland, Charlotte, Cincinnati, Dallas, Denver, Des Moines, Detroit, Houston, Washington, D.C., Indianapolis, Los Angeles, Memphis, Miami, Kansas City, Milwaukee, Minneapolis, Oakland/San Francisco, Chicago, Philadelphia, Phoenix, Pittsburgh, Louisville, San Jose/San Francisco, and St. Louis.

From Long Beach/Los Angeles to: Atlanta, Boston, Cleveland, Dallas, Denver, Detroit, Newark, Houston, Washington, D.C., New York City, Miami, Chicago, Philadelphia, and St. Louis.

From Kansas City to: Chicago.

From Oakland to: New York City, Newark, and New York.

From Minneapolis to: Boston, Los Angeles, Dallas, Detroit, Newark, New York, and Chicago.

From Chicago to: Atlanta, Baltimore, Hartford, Boston, Seattle, Los Angeles, Cleveland, Columbus, Cincinnati, Dallas, Dayton, Denver, Detroit, Newark, Houston, Washington, D.C., New York City, Los Angeles, Memphis, Miami, Minneapolis, Kansas City, Oakland, Philadelphia, Pittsburgh, San Jose/San Francisco, and St. Louis.

From Philadelphia to: Atlanta, Boston, Los Angeles, Cleveland, Dallas, Houston, New York City, Los Angeles, Little Rock, Miami, Minneapolis, and Chicago.

From Pittsburgh to: New York City and Chicago.

From Rochester to: Los Angeles, Dallas, Newark, Washington, D.C., New York City, and Chicago.

From St. Louis to: New York City and Chicago.

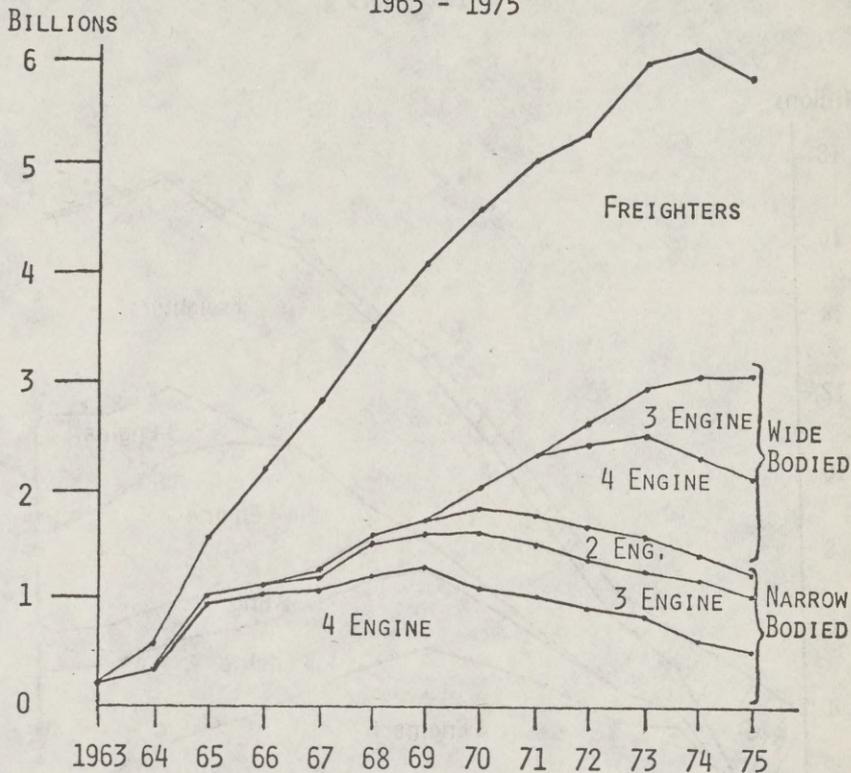
From San Jose to: Boston, Dallas, Newark, Washington, D.C., New York City, Pittsburgh, and Chicago.

ATTACHMENT D

REVENUE TON MILES - CARGO SERVICE

JET EQUIPMENT
U.S. SCHEDULED AIRLINES

1963 - 1975

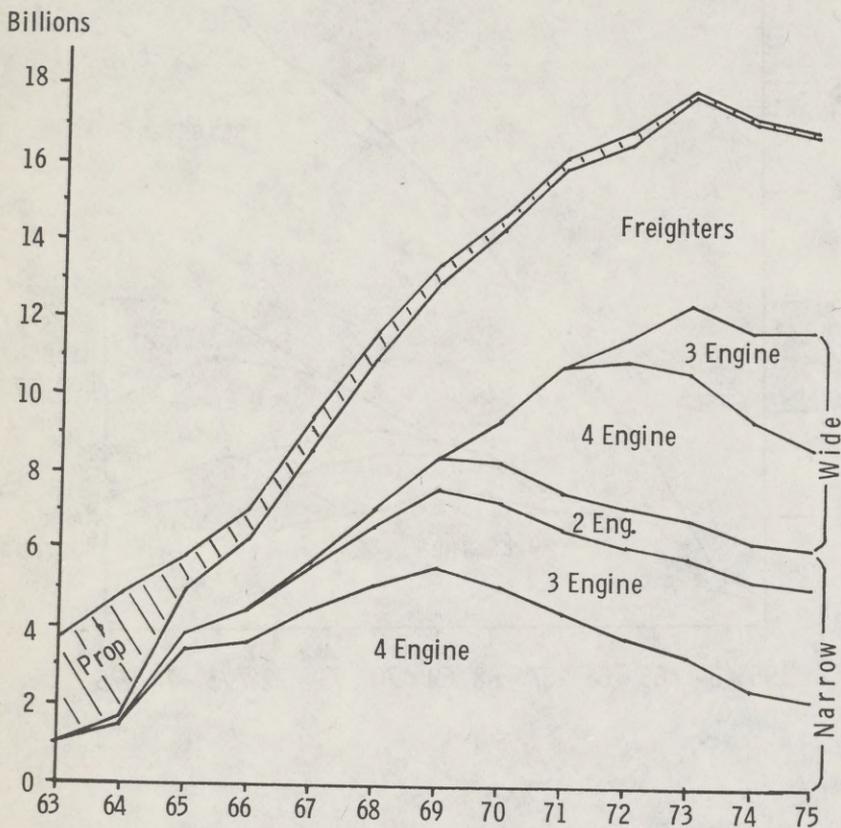


ATTACHMENT E

AVAILABLE TON MILES - CARGO SERVICE

U. S. SCHEDULED AIRLINES

1963 - 1975



ATTACHMENT F

RATE COMPARISON—30-LB SHIPMENT (TAX INCLUDED)

	Federal Express services			U.S. scheduled airline services		
	Priority 1	Standard air	Courier pak	Priority air freight (air express)	Regular air freight	Small package over-the-counter
From Washington, D.C. to:						
Dallas/Fort Worth	\$41.21	\$25.08	Not available ¹	\$21.85	\$16.80	\$29.40
Atlanta	\$37.10	\$23.59	Not available ¹	\$17.75	\$13.65	\$26.00
Seattle	\$44.80	\$26.21	Not available ¹	\$24.57	\$19.53	\$36.75
Shipment size and weight limits.	1 piece, 70 lb, 70 in.	Total maximum 300 lb per piece, 70 lb, 70 in.	1 piece, 2 lb.	None ²	None ²	1 piece, 50 lb, 90 in.
Pickup service	Price included.	Price included.	Conditioned	Regular/special \$5/ \$15 ³	Regular/special \$5/ \$15 ³	Special \$18. ⁴
Time	Same day	Same day	do	Same day/2 h.	Same day/2 h ³ .	90 min of flight departure.
Delivery service	Price included.	Price included.	Included	Regular/special \$5/ \$15 ³	Regular/special \$5/ \$10 ³	Special \$18. ⁴
Time	12 m. next business day.	24-48 h	12 m. next business day.	24 h, 2 h flight arrival.	24-36 h, 2 h flight arrival.	90 min of flight departure.
Same day service available.	No	No	No	Yes	Conditional	Yes.

¹ Flat rate of \$12—2 lb limit.

² Aircraft limitations.

³ National average rates.

⁴ Pickup and delivery not applicable to all carriers.

AIR CARGO On The Move

... The U.S. airlines
operate some 13,000
scheduled flights daily
and virtually all of
these flights carry
some kind of cargo...

This is air cargo—the expanding freight and mail services of the U.S. scheduled airline system, the world's finest. Domestically and internationally, air cargo is on the move.

The nation's airlines now transport about 20 million freight shipments annually and move 80 per cent of the country's intercity first class mail.

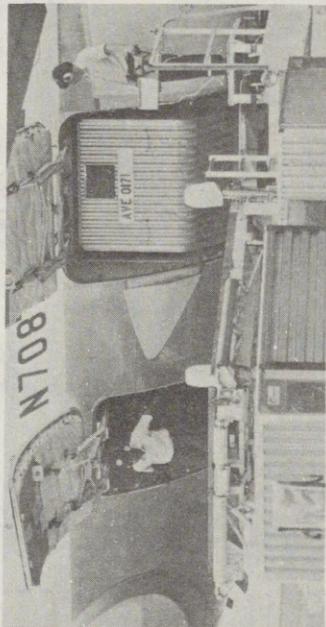
Air cargo is a door-to-door service. Its coverage reaches some 600 American airports served directly by the airlines and is extended to more than 10,000 other communities through the combined use of air and truck. The airlines give cargo a jet-speed international reach by flying mail and freight to more than 100 points in countries throughout the world.

The regularly scheduled shipment of goods by air was begun more than 50 years ago by an auto manufacturer with the foresight to use air transportation to insure a timely supply

of parts for production lines. Auto parts remain a leading commodity in the air freight traffic mix.

Auto parts have been joined by a host of other leading air freight commodities . . . household appliances . . . electronic equipment and parts . . . newspapers, magazines and other printed matter . . . many kinds of machinery parts . . . cut flowers . . . high fashion clothes . . . plastics . . . photographic equipment . . . chain saws and other tools . . . and fresh fruits and vegetables.

About half of the current air freight volume of about 3.3 million tons a year is carried in the underbellies of passenger jets. The airlines' cargo airlift capability has been increased enormously in recent years with the introduction into airline fleets of about 290 wide-body passenger aircraft. These are the 747's, the DC-10's and the L-1011's. Even when carrying a full load of passengers and their baggage,



13,000 DAILY FLIGHTS—Air cargo moves on virtually all of them. Larger cargo compartments on newer jets, like the one above being loaded with containerized freight, increase cargo airlift capability.

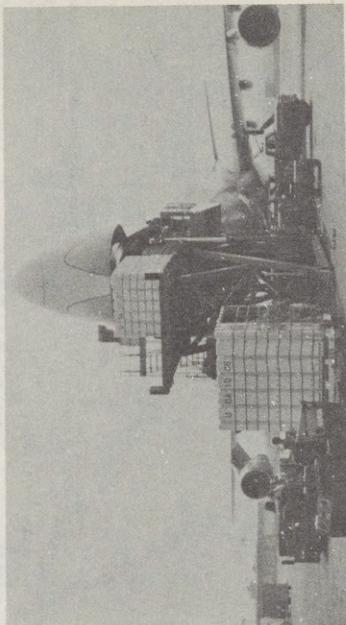
each of these aircraft still has enough space remaining in its cargo bins to accommodate about two-thirds the cargo load of a conventional jet freighter. Shippers can realize substantial savings by taking advantage of lower daylight rates offered on containerized shipments moving in the lower decks of wide-body aircraft.

Jet freighters—both conventional and wide-body—continue to make prime-time air shipping departures at night, handling shipments tendered late in the day for delivery early next morning. The jet freighter accommodates outsized shipments, larger containers and other freight tied down on a pallet as a unit load.

Wide-body jet freighters offer the capability to airlift cargoes that could not have been accommodated as single air shipments a few years ago. These big freighters have carried

as single shipments such things as two printing presses weighing 30,000 pounds, a complete chemical production line, all of the sections of a 70-ton oil well tower and heavy construction equipment.

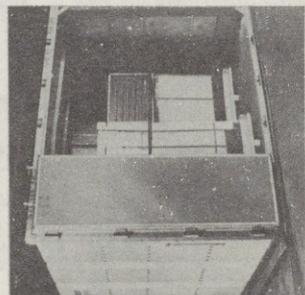
One result of the airline industry investment of \$18 billion in advance-technology aircraft, ground facilities and support equipment is an ability to move a wider range of air shipments—everything from a small package of vitally needed architect's drawings to a highway-size container loaded with men's suits. Along with the common, everyday things that move in common carriage, many special cargoes move by air because this is the best way of shipping them. Precious gems, furs and other articles of extraordinary value move by air because of better security. Pharmaceuticals used in medical diagnosis, treatment and research move by air because of a critical time factor.



JAWS OF AIR COMMERCE—Big wide-body jet freighters, such as the one shown above being nose loaded with containerized freight, give air cargo a new lift.

Shippers, who now spend more than \$1.3 billion annually for air freight transportation, frequently turn to air cargo as a means of giving their products new values of time and place. Computers move by air because they are too valuable to be shut down in long transit time. Top quality produce moves in air freight to reach markets in prime condition. Here are some of the principal reasons given by shippers for using air cargo:

- Urgency of the shipment.
- Need for superior service—in terms of speed, better control, better tracing, less handling and higher security. These characteristics of air cargo have been described as its "no worry" benefits. They apply to all categories of air freight, but they are becoming increasingly important in the small shipment field.



COMPUTERS BY AIR—Computers, like the one above, move by air so they won't be out of action during long periods of transit.

- Cost versus revenue considerations, in which the selection of a more rapid distribution system more than pays for itself in preventing stock-outs and otherwise preventing lost sales.
- Opportunities to reach new markets.
- Increasingly, the request by the consignee for delivery via air freight.

The air cargo system draws upon a number of services. The interchange of cargo among airlines and the effective combined use of air and other freight transport modes have extended air cargo's reach. Priority service, with guaranteed space, is now available for large and small shipments. And various size containers have been designed for air cargo. What follows is a review of air cargo services, a report on the airline role in transporting mail and an analysis of factors likely to shape air cargo's future.

The Reach of Air Cargo

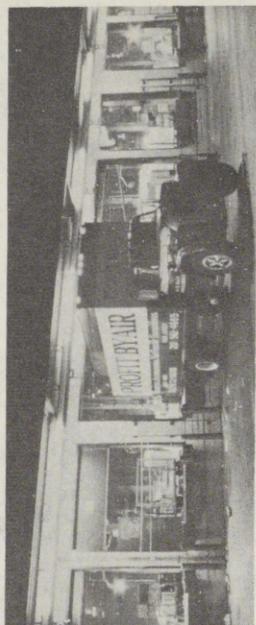
The reach of air cargo is nationwide and worldwide, and is available with a single phone call. With one call to an airline freight office, a shipper can arrange shipment to any point in the United States and to most of the world. Air freight interlining—the system by which cargo is transferred from one airline to another, if necessary to airlift shipments to destination—is the most efficient and expeditious in freight transportation.

Air freight is a classic example of intermodal transportation, using the flexibility of the truck to get cargoes from shipper to planeside and from destination airport to the consignee. The U.S. scheduled airlines own a ground service organization, Air-Cargo Inc. (ACI), to arrange pick-up-and-delivery and over-the-road "con-necting door-to-door" service.

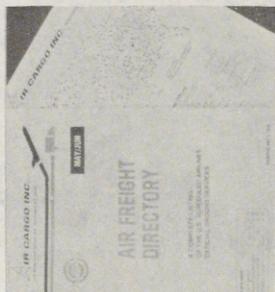
ACI has contracts with about 470 local trucking companies to provide pick-up-and-delivery services for air freight within a specified area usually within a 25-mile radius of the airport but it can be much larger, as in the case of the New York Metropolitan Area. ACI has contracts with about 140 other trucking companies to transport air cargo "over the road" to reach communities not served directly by an airline airport. Together, these trucking services help airlines move freight on a regularly scheduled basis to more than 10,000 communities in continental United States and in Hawaii, Alaska and the Virgin Islands.

Airlines provide single carrier responsibility in both domestic and international freight transportation. Air freight is the only form

of freight transport that can move shipments throughout the world on a single piece of paper—the Air Waybill.



DOOR-TO-DOOR SERVICE—Combining jet speed in the air with the flexibility of trucking on the ground gives air freight a reach to customers' receiving docks nationwide and throughout most of the world.



HELPING SHIPPERS USE AIR FREIGHT—The ACI Directory lists the trucking companies moving air freight to 10,000 U.S. communities and the nearest airline served airport.

ACI trucking contractors provide ground support for the movement of more than five million air freight shipments annually. These shipments range in weight from a pound or two to 25,000 pounds of freight loaded into a standard 20-foot container. ACI trucking contractors are equipped to handle air freight containers of various sizes.

An air freight directory published by ACI quotes the rates for trucking freight from thousands of communities to the nearest airport served by the airlines. The directory would show, for example, that moving 100 pounds of rubber products for the auto industry from a plant in Waycross, Ga., to Atlanta's Hartsfield International Airport would cost seven dollars.

The directory shows a minimum rate, as well as rates for 100, 1,000, 2,000 and 5,000 pounds. These are freight-all-kinds rates, so called

because they apply across the board to most commodities moving in air freight. Some airlines operate additional air-truck services on their own.

The shipper can arrange for pick-up-and-delivery or over-the-road connecting service in his single call to the airline freight office.

Another source of origination for air freight shipments is the air freight forwarder. There are more than 300 air freight forwarding firms in the United States. They consolidate and expedite air freight shipments and can provide door-to-door service for shippers. As is the case with the airlines, an air freight forwarder's rates and services are contained in tariffs filed with the Civil Aeronautics Board.

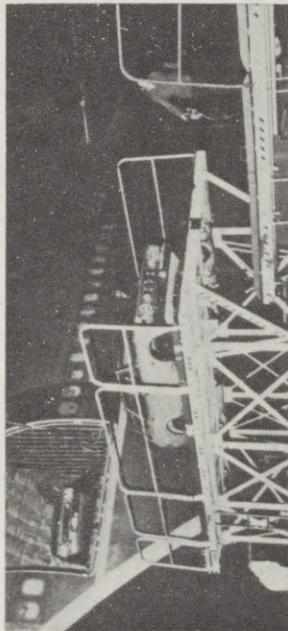
Shippers and receivers seeking to use the international reach of air freight can turn for expert advice and services to the airlines and to a host of other specialists. The latter include

can be brought to the airport ticket counter up to 30 minutes before a flight departure and can be picked up at destination in the baggage claim area 30 minutes after the flight arrives.

Films, television videotapes, blueprints, computer cards and tapes, cancelled checks, engravings, legal documents and items people just plain forgot to take with them on their trips are among the things that move frequently in the counter service. This service now moves more than 1.3 million shipments annually.

Generally, packages weighing up to 50 pounds and measuring up to 90 inches in total outside dimensions are acceptable at the airport ticket counter. The shipper, of course, should notify the consignee of the flight on which the package is moving and the scheduled time of arrival.

The counter service is available throughout an airline's domestic system and there are



EXPORTS AND IMPORTS BY AIR—By moving autos as well as auto parts, big generators as well as small electronic gear and prepared food as well as animals for breeding, air freight plays an expanding role in world trade and helps shippers convert goods to cash more quickly in international commerce.

Air Cargo Services For Many Shipper Needs

As air cargo grows, so does the list of air freight commodities. These commodities differ in size, weight, density, value, packaging and security needs and in delivery time requirements.

The scheduled airlines have developed a wide range of services to meet shipper needs. Here are some examples:

Small Package Counter Service

In the increasingly important field of priority service for small packages, most of the nation's airlines offer a service in which a shipment

international air freight forwarders, cargo sales agents appointed by the International Air Transport Association (IATA) to solicit and process international air freight in return for commissions paid by airlines, and customs house brokers certified by the U.S. Bureau of Customs to handle details for importers and others participating in international commerce.

Although intermodal air freight usually involves the combined use of air and truck, airlines have teamed up with other modes to meet some shipper needs. Some airlines have worked with shipping companies to develop programs in which freight moves by sea to either the East or West Coast and is then transported by air to inland points. In the case of some commodities, such services represent an optimum combination of cost and timely delivery.

**COUNTER DELIVERY SMALL PACKAGE SERVICES
U.S. SCHEDULED AIRLINES**

Carrier	Name of Service
Alaska Airlines	Gold Streak Package Express
Allegheny Airlines	PDO—Packages Delivered Quick
American Airlines	Priorily Parcel Service
Braniff International Airways	Promo Package
Continental Airlines	PBX—Proud Bird Express
Delta Air Lines	DASH—Delta Airlines Special Handling
Eastern Air Lines	SPRINT
Frontier Airlines	Kwickkee Service
Hughes Airwest	Rapid Package Service
National Airlines	Sun Streak Service
North Central Airlines	VIP Service—Very Important Package
Northwest Orient Airlines	EPS—Expedited Package Service
Ozark Air Lines	First Flight
Pan American World Airways	Clipper Package Service*
Piedmont Airlines	PEP—Piedmont Expedited Package Service
Southern Airways	SWIFT
Texas International Airlines	QUICK-PACK
Trans World Airlines	Next Flight Out
United Airlines	SPD—Small Package Dispatch
Western Air Lines	Speed Pak Service
Wien Air Alaska	ESP—Expedited Small Package

* (Available between the U.S. and selected points overseas.)

some provisions for interlining. In some cases, an airline charges a flat fee to move a package anywhere on its system. Other airlines have some variation in charges, depending on the route segment. The service is available for \$20, for example, from Houston to San Antonio and from Atlanta to Boston, for \$23 from St. Louis to Washington, D.C., for \$25 from New York to Chicago, for \$35 from Los Angeles to New York and for charges ranging from \$40 to \$60 for shipping from the East Coast to Hawaii.

Often, there are signs at the airport directing shippers to the ticket counters accepting the small packages.

Small Packages Door to Door

Building upon the success of the small package counter service, some airlines have begun giving shippers the option of pick-up and delivery—for complete door-to-door service for these small packages.

Under the various telephone directory listings for an airline there will be a number for its small package service. The shipper calls this number, designates the flight on which the shipment is to move, and requests the pick-up-and-delivery service. The call should be made at least two hours before scheduled flight departure if the shipper is in an urban location, and 2 1/2 - 3 hours in advance for suburban locations.

The size and weight limits are the same as if the package were being brought to the airport ticket counter—up to 50 pounds and up to 90 inches in total outside dimensions. Delivery to the consignee's door is guaranteed within two hours after the flight arrives at the destination airport or early the next morning if the consignee's office is closed. Confirmation of delivery is available upon request. In the door-to-door small package service, charges

of \$18 each, for pick-up and delivery services are added to the air transportation charges.

New Air Express and Priority Services

The scheduled airlines offer shippers express and priority freight services that have an important advantage over the old Air Express formerly offered in conjunction with REA. Shippers using the new priority services can designate the flights on which their shipments are to move.

Express and priority service is now available for big air freight shipments, as well as small packages. The size of a shipment that can move as priority air freight is limited only by

the capability of the aircraft on the flight the shipper selects. There is no limit to the number of pieces in a shipment.

Shippers call the airline freight office to arrange for the express service, and shipments must be received at the cargo terminal 90 minutes before the flight's departure. Door-to-door service is available nationwide. The shipper can arrange for pick-up-and-delivery when he calls the airline's freight office.

Space is reserved on the flight designated by the shipper. The shipment can be picked up on arrival at the destination airport or delivery can be provided by the airline—usually by the next morning or at least within 24 hours. In

the event the shipment does not go out on the designated flight, the difference between the price of the priority service and the regular air freight rate is refunded.

The new express services are designed for shipments requiring the highest priority and controlled handling. Shippers give various reasons for using the priority services—one-

time emergencies, recurring traffic with a critical delivery date or traffic destined to a city served by limited space and schedules.

The shipments receive special handling in the terminal, close monitoring and, if necessary, transfers from one flight to another within an airline's system.

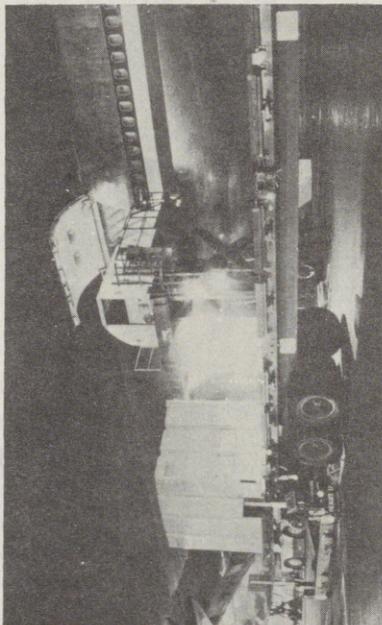
Express and Priority Air Freight Typical Rates Airport to Airport

	50 lbs.	100 lbs.
Minimum Charge		
Chicago—New York	\$18.20	\$19.50
New York—Los Angeles	\$23.40	\$41.00
Atlanta—Chicago	\$16.90	\$16.90
Dallas/Fort Worth—New York	\$22.10	\$30.50
Washington, D.C.—Miami	\$16.90	\$18.50
Los Angeles—Miami	\$16.90	\$29.00
		\$27.45
		\$51.05
		\$18.60
		\$40.05
		\$20.80
		\$39.35

Chicago—New York
New York—Los Angeles
Atlanta—Chicago
Dallas/Fort Worth—New York
Washington, D.C.—Miami
Los Angeles—Miami



PRIORITY SERVICE—At airport ticket counters, in cargo terminals and elsewhere, shippers are able to go out on flights designated by the



AT WORK TONIGHT FOR THE CONSUMER TOMORROW—The growing use of containers and modern support equipment enables big jet freighters, like the one above, to be loaded quickly to get goods to the consignee for the opening of the next day's business.

Regular Air Freight

Despite the rapid growth in airline priority shipping services, most air cargo moves as regular air freight—as bulk freight or in containerized shipments, in underbellies of passenger aircraft and in jet freighters.

Regular air freight costs the shipper less than the priority air freight services, although delivery is usually accomplished within 24 hours or 48 hours. Although regular air freight can and does handle small packages and meets the needs of the occasional shipper, it is the air transport service used most frequently by the big volume air freight shippers—the regular shippers of produce, clothing, auto parts and electronic components. And it handles many other cargoes that can best be transported by air, such as livestock going to countries overseas or thoroughbreds moving to a new race meeting in a service that enables a groom to accompany the shipment.

Examples of Regular Air Freight Rates

General Commodity Airport to Airport

	Minimum Charge	
	50 lbs.	100 lbs.
Chicago—New York	\$14.00	\$15.00
New York—Los Angeles	\$18.00	\$21.10
Atlanta—Chicago	\$13.00	\$39.25
Dallas/Fort Worth—New York	\$17.00	\$14.30
Washington, D.C.—Miami	\$13.00	\$30.80
Los Angeles—Miami	\$12.00	\$16.00
		\$30.25

Examples of International Air Freight Rates

General Commodity Airport to Airport

	Minimum Charge	
	50 lbs.	100 lbs.
New York—Frankfurt	\$95.00	\$145.00
New York—Rome	\$30.00	\$147.00
Seattle—Tokyo	\$18.00	\$166.00
San Francisco—Hong Kong	\$18.00	\$117.00
		\$174.00

Regular air freight has a broader reach than other freight services, in the sense that it is transferred from one airline to another—when necessary to accomplish nationwide and worldwide distribution. Like other air freight services, regular air freight can be arranged with a single phone call. Pick-up-and-delivery services are available, including pick-up and delivery of containers.

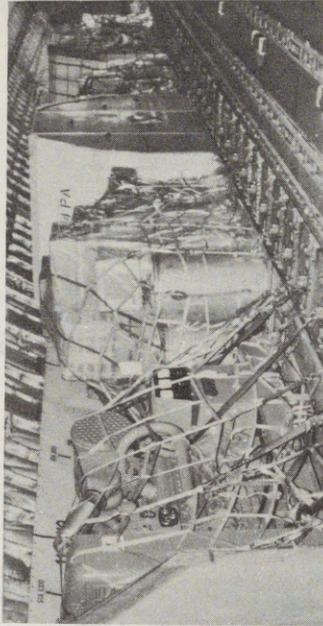
Regular air freight moves under various kinds of rates. In addition to general commodity and specific commodity rates, there are weight breaks in which the unit cost decreases as shipments exceed various weight levels. In mid-1976 a few airlines began offering rate reductions designed specifically for non-containerized freight of high density. In the case of some commodities, these rates can reduce the cost of air transport to that of motor carriage.

Air Freight Containerization

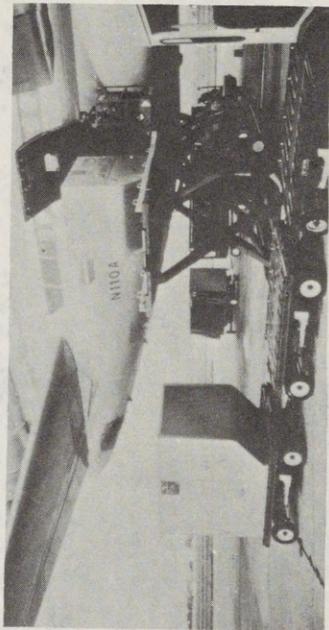
Increasingly, air freight shippers are tendering freight in containers—to take advantage of container incentive rates and because airlines have introduced a wider range of container sizes into the air freight system. At the small end of the scale, the E and the Q-D containers accommodate 500 and 400 pounds of freight respectively and can be carried in the cargo bins of even the smallest jets. Containers filled with 25,000 pounds of cargo are carried on the main decks of some wide-body jet freighters.

Here are some examples of the most widely used types of air freight containers:

The Type A container is the most widely used in air freighter operations. It is contoured to take advantage of the cabin interior of a conventional jet freighter and, for this reason, is often called an igloo. It covers the entire



UNIT LOADING—To qualify for container incentive rates, air freight shippers can tie down shipments on pallets or use containers that cover the entire pallet surface. Both types of unit loading are shown on the freighter aircraft above.



DAYLIGHT SAVINGS. Shippers containerizing freight for daylight movement in the underbellies of wide-body jets can realize substantial savings.

surface of an air freight pallet, such as the commonly used one, 88 by 125 inches. The A container can carry up to 12,500 pounds. Even when the actual igloo is not used and the shipment is tied securely to the 88 by 125" pallet with nets and protected by other material, it can qualify for Type A container incentive rates. Many air freight shipments are unitized in this manner.

Other containers have been developed especially for the lower decks of wide-body passenger jets. The most widely used is the LD-3. It can accommodate up to 3,500 pounds. Other lower deck containers, such as the LD-7, can handle up to 10,200 pounds. Many shippers use an insert that has been developed for the lower deck containers. It is the LD-N. It can handle about 3,000 pounds, gives shippers more flexibility in loading and unloading and can be fork lifted.

The Type A containers and most lower deck containers are owned by the airlines and made available to air freight customers. Shippers provide the LD-N, the E and the Q-D containers, although some airlines also provide the LD-N. Other shipper owned containers include the B, the B-2 and D. They are carried aboard freighter aircraft and can handle gross weights ranging from about 5,000 pounds in the case of a B to about 2,000 pounds for the D.

Freight loaded into containers by shippers before it is tendered to the airlines moves at lower rates than would the same amount of bulk freight. Container incentive rates are based upon minimum weights that vary by container size (about 3,200 pounds in a Type A container, for example). There are other types of container incentive rates based upon density, with the unit rate going lower as the weight of the shipment per cubic foot in-

Typical Container Rates

Airport to Airport

Type of Container	Minimum Weight	Charges
A	3,200 lbs.	\$ 1,051.00
A	3,200 lbs.	\$ 483.00
D	512 lbs.	\$ 175.00
D	512 lbs.	\$ 99.00

New York—Los Angeles
Chicago—New York
New York—Los Angeles
Chicago—New York

creases. Another type of incentive container rate is based upon the tender of containerized shipments to move during daylight hours in the underbellies of wide-body passenger jets.

Under the daylight container programs, shippers making effective use of container capacity realize substantial savings. Daylight rates for the E container, for example, are based on 250 pounds, but the E holds 500

pounds. Daylight rates on LD-3 containers in some markets are about the same as would be the charge for moving 700 pounds of bulk air freight. An LD-3, however, can hold up to 3,500 pounds. In a very real sense then, the shipper making effective use of daylight container programs is receiving many pounds of free air freight transportation.



MORE MAIL BY AIR—Carrying the mail helped many of today's airlines get their start. Now airlines move eight out of every ten intercity first class letters and millions of mail parcels.

In addition to incentive rates, containerized air freight produces a number of other advantages for the shipper.

- Prior to departure, containerized freight has the latest cutoff.
- Upon arrival, containerized freight offers the quickest recovery.
- Air freight moving in containers requires less packaging than bulk freight.
- Containerized freight has the least exposure to loss and damage.

Other Air Freight Services

The airlines are making increasing use of computer backed information systems for better monitoring and tracing of shipments. Uniform procedures are now in effect throughout the airline industry to protect articles of extraordinary value moving in air freight.

There are a host of accessorial services available from the airlines for the air freight shipper. Airlines offer an assembly service under which they pull together shipments from two or more shippers in the same city and assemble them into a single shipment for air transportation to one consignee. There is a distribution service in which an airline takes a single shipment and, at destination, distributes various parts of the shipment to various consignees.

Special packaging and insulated containers are provided by the airlines for sensitive and delicate freight such as some electronic equipment, office machines, garments on hangers and produce. There are many more accessorial services—too many to list here—but the shipper should contact any scheduled airline with questions about special service needs.

The Mail Side Of Air Cargo

The United States has about six per cent of the world's population and occupies about seven per cent of the world's land mass, but its scheduled airlines provide the U.S. Postal Service with more than 60 per cent of all of the air transportation of mail produced throughout the world—by all of the world's airlines, for all of the world's postal systems.

A decision by Congress 50 years ago that air mail be carried by commercial air carriers helped many of today's airlines get their start. Now the nation's airlines move eight out of every 10 intercity first class letters. Airlines provide mail transportation to the U.S. Postal Service at one of the best bargain rates in transportation history, receiving less of a share of the price of a stamp than they did nearly two decades ago. Out of the current 13-cent first class postage stamp, the airlines receive four-tenths of a cent each time a letter goes by air. Back in 1958, the airlines received seven-tenths of a cent out of each six-cent air mail stamp of that day.

Largely because of the scope and reliability of the scheduled air system, the Postal Service in October, 1975, was able to put into effect a significant advance in first class mail service. The Postal Service consolidated the process-

ing of air mail and first class mail to give first class letters a level of service equal to or exceeding that formerly given air mail.

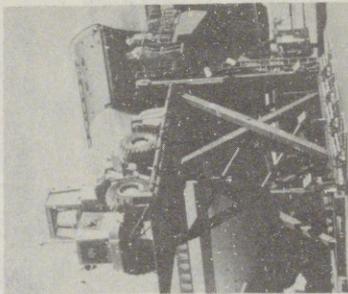
Air Parcel Post

In air parcel post, the Postal Service uses scheduled air transportation for the movement of small packages. The packages reach the consignee on normal postal delivery rounds, hence air parcel post costs less than some of the other small package services using air transportation.

The Postal Service will accept air parcel post packages weighing up to 70 pounds and having total outside dimensions of 100 inches. Shippers now use air parcel post most frequently for packages weighing up to 5 pounds; but the service is often a good transportation buy for shipments weighing up to 35 pounds and airlines are working with the Postal Service to expand the use of air parcel post.

The U.S. Postal Service may soon be using air transportation for the movement of more packages now moving in surface parcel post. Long delivery times encountered in the inter-city surface movement of packages in the mail sometimes militates against the use of surface parcel post.

The Postal Service has recently launched an experiment to test the feasibility of using air to move parcel post packages over long distances and using trucks in the destination city for final delivery.

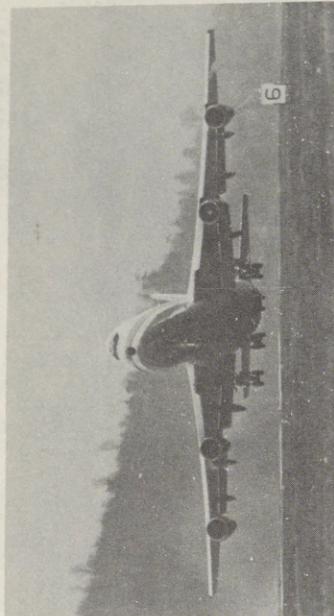


EARTH MOVING BY AIR—Big air freighters move big machines throughout the world to do big jobs in a hurry. Earth-moving vehicles, heavy tractors and other machinery, and material now move regularly in air cargo.

Air Cargo is likely to benefit from a number of economic trends now in evidence within the United States and throughout the world. Here are some examples:

- More production of high-value, advanced-technology goods will create an increasing need for rapid and reliable distribution by air.
- Continued decentralization of population and manufacturing in the U.S. will increase the need for more service-responsive and flexible transportation, thereby continuing the growth market for the combined use of air and truck.
- Success of renewed efforts in the public and private sectors to expand world trade will have profound impact upon air cargo.
- The recent trend to more industrialization in developing nations is already resulting in more international air transportation of construction equipment and other heavy material.

The Future of Air Cargo



• The worldwide search for petroleum and other fuel places increased reliance upon air transportation as a freight pipeline to remote places.

• The growth in high capital-cost industries, combined with shortages of capital, places greater emphasis on speedier commercial transactions, requiring rapid transportation of the goods involved.

A Final Word

How to move something from here to there? The decision can be important—personally, to a company or to the economy. *AIR CARGO On The Move* has been presented as one way of helping people make effective shipping decisions. More information is available from the Air Transport Association or any of the nation's scheduled airlines.

ATA MEMBER AIRLINES

ALASKA AIRLINES
 ALLEGHENY AIRLINES
 ALOHA AIRLINES
 AMERICAN AIRLINES
 BRANIFF AIRWAYS
 CONTINENTAL AIRLINES
 DELTA AIR LINES
 EASTERN AIR LINES
 THE FLYING TIGER LINE
 FRONTIER AIRLINES
 HAWAIIAN AIR
 HUGHES AIRWEST
 NATIONAL AIRLINES
 NORTH CENTRAL AIRLINES

NORTHWEST ORIENT AIRLINES
 OZARK AIR LINES
 PAN AMERICAN WORLD AIRWAYS
 PIEDMONT AIRLINES
 SOUTHERN AIRWAYS
 TEXAS INTERNATIONAL AIRLINES
 TRANS WORLD AIRLINES
 UNITED AIRLINES
 WESTERN AIR LINES
 WIEN AIR ALASKA

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