

106TH CONGRESS
1ST SESSION

S. 477

To enhance competition among airlines and reduce airfares, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 1999

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To enhance competition among airlines and reduce airfares,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Airline Competition
5 Act of 1999”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) AIR CARRIER.—The term “air carrier” has
9 the meaning given that term in section 40102(2) of
10 title 49, United States Code.

1 (2) AIRCRAFT.—The term “aircraft” has the
2 meaning given that term in section 40102(6) of title
3 49, United States Code.

4 (3) AIRPORT.—The term “airport” has the
5 meaning given that term in section 40102(9) of title
6 49, United States Code.

7 (4) ATTORNEY GENERAL.—The term “Attorney
8 General” means the Attorney General of the United
9 States.

10 (5) SECRETARY.—The term “Secretary” means
11 the Secretary of Transportation.

12 **SEC. 3. PREFERENCE FOR LOW-COMPETITION AIRPORTS.**

13 (a) DEFINITIONS.—Section 41714(h) of title 49,
14 United States Code, is amended—

15 (1) by redesignating paragraphs (3) and (4) as
16 paragraphs (5) and (6), respectively; and

17 (2) by inserting after paragraph (2) the follow-
18 ing:

19 “(3) LARGE HUB AIRPORT.—The term ‘large
20 hub airport’ means an airport described in section
21 47134(d)(2).

22 “(4) LOW-COMPETITION AIRPORT.—The term
23 ‘low-competition airport’ means an airport that—

24 “(A) is not a large hub airport; and

1 “(B) the Secretary determines has
2 substantially—

3 “(i) less service than the average serv-
4 ice at airports in the United States; or

5 “(ii) higher airfares than average air-
6 fares for airports in the United States.”.

7 (b) PREFERENCE.—Section 41714(c)(1) of title 49,
8 United States Code, is amended by adding at the end the
9 following: “In granting exemptions under this paragraph,
10 the Secretary shall give preference to air transportation
11 provided to low-competition airports that are located with-
12 in a 500-mile radius of a high density airport.”.

13 **SEC. 4. UNFAIR COMPETITION.**

14 (a) GUIDELINES.—Not later than 30 days after the
15 date of enactment of this Act, the Secretary, in consulta-
16 tion with the Attorney General, shall issue regulations that
17 define predatory practices and unfair methods of competi-
18 tion of air carriers for the purposes of applying this Act
19 to complaints of predatory practices or unfair methods of
20 competition filed under section 41712 of title 49, United
21 States Code, or any other applicable provision of law.

22 (b) DETERMINATIONS REGARDING ACTIONS
23 FILED.—

24 (1) ACTIONS FILED BEFORE THE DATE OF EN-
25 ACTMENT OF THIS ACT.—Not later than 9 months

1 after the date of enactment of this Act, the Sec-
2 retary shall complete action on any complaint alleg-
3 ing a predatory practice or unfair method of com-
4 petition by an air carrier that was filed with the Sec-
5 retary under section 41712 of title 49, United States
6 Code, or any other applicable provision of law before
7 the date of enactment of this Act.

8 (2) ACTIONS FILED ON OR AFTER THE DATE
9 OF ENACTMENT OF THIS ACT.—

10 (A) IN GENERAL.—Not later than 90 days
11 after a complaint alleging a predatory practice
12 or unfair method of competition by an air car-
13 rier is filed with the Secretary under section
14 41712 of title 49, United States Code, or any
15 other applicable provision of law, the Secretary
16 shall make an initial finding concerning whether
17 the practice that is the subject of the complaint
18 constitutes a predatory practice or unfair meth-
19 od of competition.

20 (B) APPLICABILITY.—Subparagraph (A)
21 shall apply to a complaint filed with the Sec-
22 retary on or after the date of enactment of this
23 Act.

24 (c) RESTRAINING ORDERS.—

1 (1) IN GENERAL.—In a manner consistent with
 2 section 41712 or any other applicable provision of
 3 law, the Secretary shall enjoin, pending final deter-
 4 mination, any action of an air carrier that the Sec-
 5 retary finds to be a predatory practice or unfair
 6 method of competition under subsection (b).

7 (2) PERIOD FOR TAKING ACTION.—The Sec-
 8 retary shall carry out the requirements of paragraph
 9 (1) not later than 15 days after an initial finding is
 10 made with respect to a complaint under subsection
 11 (b) (or if the initial finding is made before the date
 12 of enactment of this Act, not later than 15 days
 13 after the date of enactment of this Act).

14 **SEC. 5. LIMITS ON COMPETITION IN AVIATION INDUSTRY.**

15 Not later than 1 year after the date of enactment
 16 of this Act, and annually thereafter, the Secretary shall
 17 transmit to Congress a report concerning barriers to
 18 entry, predatory practices (including pricing), and other
 19 limits on competition in the aviation industry.

20 **SEC. 6. PROVISIONS TO PREVENT INCREASED AIRCRAFT**
 21 **NOISE.**

22 (a) SECRETARIAL AUTHORITY UNDER THIS ACT.—
 23 Nothing in this Act or the amendments made by this Act
 24 shall authorize the Secretary to take any action that would

1 increase aircraft noise in any community in the vicinity
2 of an airport.

3 (b) STAGE 4 NOISE LEVELS.—

4 (1) PROPOSED REGULATIONS.—Section 47523
5 of title 49, United States Code, is amended by add-
6 ing at the end the following:

7 “(c) STAGE 4 NOISE LEVELS.—

8 “(1) PROPOSED REGULATIONS.—Not later than
9 1 year after the date of enactment of the Airline
10 Competition Act of 1999, the Secretary shall issue
11 proposed regulations that—

12 “(A) establish, in a manner consistent with
13 this chapter, stage 4 noise levels applicable to
14 aircraft designated by the Secretary as stage 4
15 aircraft; and

16 “(B) provide for the implementation of the
17 stage 4 noise level requirements by the date
18 that is 36 months after the date of issuance of
19 the proposed regulations.

20 “(2) CRITERIA FOR NOISE LEVELS.—The stage
21 4 noise levels established under this subsection
22 shall—

23 “(A) provide for a significant reduction in
24 the level of noise generated by aircraft; and

1 “(B) be consistent with the noise levels at-
 2 tainable through the use of the most effective
 3 noise control technology available for stage 3
 4 aircraft (as that term is used under section
 5 47524(c)), as of January 1, 1999.”.

6 (2) **LEGISLATIVE PROPOSALS.**—At the same
 7 time as the Secretary issues proposed regulations
 8 under section 47523(c) of title 49, United States
 9 Code, as added by paragraph (1) of this subsection,
 10 the Secretary shall submit to Congress such pro-
 11 posed legislation (including amendments to chapter
 12 475 of title 49, United States Code) as is necessary
 13 to ensure the implementation of stage 4 noise levels
 14 (as that term is used in such section 47523(c)).

15 **SEC. 7. CLARIFICATION OF LEGAL STANDING.**

16 Section 41713(b) of title 49, United States Code, is
 17 amended by adding at the end the following:

18 “(5) This subsection shall not bar any cause of action
 19 brought against an air carrier by 1 or more private parties
 20 seeking to enforce any right under the common law of any
 21 State or under any State statute, other than a statute pur-
 22 porting to directly prescribe fares, routes, or levels of air
 23 transportation service.”.

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