H.R. 780, THE PASSENGER ENTITLEMENT AND COMPETITION ENHANCEMENT ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. DINGELL. Mr. Speaker, today I rise to introduce H.R. 780, the ''Passenger Entitlement and Competition Enhancement Act of 1999.''

This legislation has two purposes. First, it will give airline passengers the rights they deserve and have been calling for. Second, it will protect the American public from harmful, anticompetitive market concentration in the airline industry. With monopolized routes and unprecedented levels of market concentration, airline profits have soared at the expense of consumers' checkbooks, comfort, and convenience.

The first title of my bill is all about passenger protections. Recently, due to complications involving bad weather and a severe lack of planning, thousands of passengers were stranded onboard aircraft at Detroit Metropolitan Airport for intolerable lengths of time. Many of these passengers were detained on the tarmac for seven, eight, or nine hours. They ran out of food and water, and the restroom facilities became unusable. Situations like this can pose major obstacles to emergency medical treatment and cause serious anxiety among the passengers and their families.

This bill would require all airlines to have an emergency plan on record with the Department of Transportation to ensure that, in the event of an emergency, all boarded passengers would have access to all necessary services and conditions. Also, the plan should outline the means to deplane the passengers safely. Failure to have such a plan on file would result in the suspension of the carrier's license. Also, violations of the emergency plan would yield $10,000 fines.

Additionally, aggrieved passengers should be entitled to compensation for unreasonable delays. My legislation would establish air carrier liability to each passenger on an aircraft for an excessive departure or arrival delay which the carrier could have avoided. If the departure or arrival delay is more than two, but less than three hours, the airline would be required to compensate each passenger in an amount equal to twice the value of the price paid for the passenger's ticket. If the delay is at least three hours in length, then each passenger is entitled to compensation equaling the number of hours (or portion thereof) multiplied by the price paid for their ticket. Also, air carriers would be required to give each passenger sufficient and accurate notice of information it has regarding any potential or actual significant delays in the departure or arrival of any flight segment. Wherever possible, such notice shall be given to the passengers before boarding an aircraft.

Passenger complaints about their mishandled baggage continue to climb and they need to be addressed. Under this bill, air carrier liability would be doubled from the current $1,250 for lost or damaged baggage to $2,500 for provable damages that the passenger incurred because of the carrier's improper baggage handling.

Many airlines engage in the business practice of overbooking flights to ensure that as many seats as possible are sold on their flights. Often, ticket holders do not show and carriers can maximize their revenue by having properly predicted how many seats it can overbook to fill in this gap. While this may be an intelligent practice for an airline, from time to time it can tremendously inconvenience a ticket holder when the airline guesses wrongly. Too many seats are sold, and the passengers are all there to fly to their destinations as promised. In this situation, some cannot fly and must be ''bumped.''

My legislation would simplify the current bumping regulations. Should a passenger be involuntarily denied boardin, the air carrier would not be absolved of its responsibility to carry the passenger to the passenger's final destination. Further, if the scheduled arrival time of the alternate transportation is not within two hours of the originally scheduled arrival time, then the airline must also provide affected passengers with a voucher or refund equal in value to the original price paid by the passenger for the original flight.

Without this legislation, passengers rights are woefully lacking. Passengers also need to be advised of their rights, and good airlines should endorse this idea. Under the legislation, the Secretary of Transportation would be required to establish a statement that outlines the consumer rights of air passengers, including the rights contained in the bill. Each air carrier would be required to provide the statement to each passenger along with its existing onboard seat-back safety placard and ticketing materials. The statement would also be conspicuously posted at all ticket counters.

The second title of my bill concerns competition in the airline industry. Competition can increase consumer choice, lower price, and improve customer satisfaction. Many will note that there is growing public interest and concern over the issue of predatory conduct by major air carriers. Such practices eliminate competition in the air travel industry and create formidable barriers for entrepreneurs to break into the market. As an example of some suspect conduct, one has only to look back to when Northwest Airlines cut its fare from Detroit to Boston to as low as $69 from an average of $259 when Spirit Airlines entered the market in 1996. Coincidentally, once Spirit was pushed out of the market, the average fare went up to $267, exceeding even the original level. More recently, Northwest ran an upstart, Pro Air, out of the Detroit-Milwaukee market and is engaged in some curious behavior in the Detroit to Baltimore market. To provide a level playing field, vigorous competition must be permitted to take root. Unfair exclusionary practices that eliminate that competition must be rooted out.

When carriers respond to new competitors with severe price drops and capacity expansion in order to run the new carrier out of the market, it ill serves consumers in the long run. After a new entrant is grounded, the major carrier simply retrenches and raises fares higher still in its resumed control.

Congress expressly gave the Department of Transportation authority to stop any ''unfair or deceptive practice or unfair method of competition.'' Further, Congress has directed the Secretary of Transportation by statute to consider ''preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation'' as being in the ''public interest and consistent with public convenience and necessity.'' The Department of Transportation's action under this authority stands to be improved. The federal government should do its job to expeditiously help the public.

The Secretary of the Department of Transportation should take real action to advance the pro-competition policy objectives of the Congress. That action includes ensuring that the Department of Transportation's guidelines, which it is currently developing to deal with predatory activity, are effective. And the Congress ought not seek to delay the implementation of a reasoned and appropriate rulemaking. As proposed, the guidelines would permit the Secretary to impose sanctions if a major carrier should respond to a new entrant into a market in an unfair or exclusionary manner. More tools are needed and this bill provides them.

The bill would permit the Secretary to fine any air carrier deemed to be engaged in an unfair method of competition or unfair exclusionary practice. Such a tool should give a carrier pause for thought before implementing any activity that would unfairly respond to legitimate competition. The bill would increase the monetary penalty for such unfair methods of competition under the U.S. Code from the current $1,000 to $10,000 for each day the violation continues or, if applicable, for each flight involving the violation.

Further obstacles to competition arise from the fact that at the four slot-controlled or high-density airports, the vast majority of the scheduled take off and landing slots are controlled by the major carriers at these key hub airports. The airports are: New York's Kennedy and LaGuardia airports; Chicago's O'Hare; and Washington's National airport. For meaningful competition to develop, new entrant carriers must have a real opportunity to provide service in those markets. Of the more than 3,100 domestic air carrier slots at these four airports, fewer than forty-five slots are held by all the new entrant air carriers combined. Moreover, foreign air carriers have more than twice as many slots as domestic new entrant air carriers combined. Most of these slots were grandfathered to the major carriers more than a decade ago. The slots are government property, and it is time that the federal government use them to benefit the taxpaying public rather than just a handful of airlines.

In order to remedy this barrier to competition, the bill would give the Secretary the authority to create and, as a last resort, withdraw and auction slots at each slot-controlled airport for assignment to new entrant air carriers and other carriers with very limited access. The Secretary would be authorized to use pro-consumer criteria to withdraw slots from a carrier who is not using its slots in a competitive fashion. If there is a withdrawal of slots for an auction, the Secretary may not auction more than ten percent of existing slots for the first auction and five percent for each succeeding auction. Auctions may not take place earlier than two years from each preceding auction. Income from any auctions would finance improved airport infrastructure for the American public.

Slot possession at the four key airports where such controls are in place is a major issue, but questions like long-term exclusive gate leases at other airports represent just as nearly insurmountable obstacles to meaningful

competition in the airline industry. For that reason, it makes good sense that such arrangements be reviewed. The bill would direct the Secretary to issue a study on the ability of and proposals for new entrant air carriers and those with limited access at major hub airports to obtain gates and other facilities at airports on terms substantially equivalent to the terms provided to the major carriers already using airport facilities. The airfield must become a level playing field for competition.

It is important that the American public have access to useful information about the market and who in the industry is providing the best consumer value. Various studies by the General Accounting Office and private organizations have shown that concentration in the domestic airline industry is at extraordinarily high levels and continues to grow. Where such concentration exists, fares have increased with a significant impact on residents and businesses in those communities. In order to evaluate consumer value and review potential implications of market concentration at hub airports, the bill would require the Secretary to prepare two quarterly reports for the public. One would rank the top and bottom ten domestic routes with regard to their average cost to the passenger, and the second would rank the large hub airports by market concentration and identify the market share of each airline operating at each of those airports. As has been said, sunlight is the best disinfectant; let's let it shine on the airline industry.

At best, the promised benefits of deregulation have not been fully realized. The traveling public is still captive to monopolized routes and airports. Indeed, since 1978, the Nation has endured unregulated monopoly on many routes and airports. Indeed, since 1978, the Nation has endured unregulated monopoly on many routes. While I fully support the goals of competition, two decades of experience reveal consolidation, diminished choice, and higher prices in many markets. To the extent that deregulation has failed, the Congress should respond and correct its course. Full and fair competition is what consumers demand and deserve. When any carrier dominates a hub, it can lose its edge and the incentive to meet consumer needs. This ought not be the case. The Congress has the opportunity to act now to remedy the defects in the law that permit our constituents to be exposed to undue and intolerable grief.

The American public has been held hostage by the poor service and excessive fares at the hands of the cartels in the air for too long. That is why I am pleased to introduce this bill to generate legitimate competition and secure appropriate protections for the country's airline passengers. To my friends in the airline industry, I want to observe that one airline executive recently told me that a good airline should be doing these things anyway. While the airlines may feel their best option is to fight and hope to block this bill in Congress, I believe it would be vastly preferable to start working to solve these problems on their own. As with any problem, the first step on the road to recovery is to stop denying and start accepting. Today, the major airlines are the guests of honor at my ''intervention.''

The ''Passenger Entitlement and Competition Enhancement Act'' is common sense legislation that responds to the call for fair play and substantial justice in the airline industry. I applaud the efforts of my colleagues who are helping to advance the message of our constituents, which I began to carry last year, and ask that they join me at their earliest opportunity.

TRIBUTE TO ROBERT D. COCHRAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. MATSUI. Mr. Speaker, I am honored to rise in tribute to Mr. Robert D. Cochran who will retire after more than thirty years of public service as a member of the Southgate Recreation and Park District Board of Directors in Sacramento, California.

Mr. Cochran has made an outstanding contribution to the Southgate Recreation and Park District. As a dedicated board member, he has ensured that this special district operates efficiently and has advocated the need for updates to many of its policies and procedures.

From 1971 until 1974 Mr. Cochran served on the Board of Directors of the California Association of Recreation and Park Districts. He has also been active in the Sacramento Council of Recreation and Park Agencies.

In 1995 Mr. Cochran was recognized as a Distinguished Board Member by the California Special Districts Association. He was nominated for that honor by the very employees and board members with whom he serves in the Southgate Recreation and Park District.

As a senior board member of an organization which oversees 35 parks and millions in assessment dollars, Mr. Cochran's contributions to his community have been invaluable. I salute his tireless commitment to public service.

Mr. Cochran's remarkable work has earned him re-election to the Southgate Recreation and Park District Board of Directors every term since 1970. His staying power is a testament to his efficacy as a special district trustee.

Mr. Speaker, I ask all of my colleagues to join me in recognizing Robert D. Cochran every success in all of his future endeavors in Banning, California.

IN RECOGNITION OF MS. MARSHA SHARP

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. COMBEST. Mr. Speaker, I am most honored to rise today to extend my sincere congratulations to Ms. Marsha Sharp, head coach of the Texas Tech University Lady Raiders basketball team, for being inducted into the Texas Women's Hall of Fame. Coach Sharp was selected as one of only seven women to receive this prestigious honor, which I know she richly deserves.

Coach Sharp is in her 17th season as head coach of the Texas Tech Lady Raiders. Her professionalism, love of the game, remarkable coaching talents, and winning attitude have left her only five victories short of 400 victories while at Texas Tech, and a record of 395–128. Coach Sharp is widely respected by her players, her colleagues, and Lady Raider fans.

Throughout her career at Texas Tech, Coach Sharp has been recognized for her outstanding coaching abilities by other associations. She was the 1998 Big 12 Coach of the Year in women's basketball. In 1993, the Texas Tech Lady Raiders forged ahead to bring home the coveted NCAA national championship title, and Coach Sharp, the force behind the success, was named the National Coach of the Year in 1993 by the Women's Basketball News Service and the Columbus, Ohio Touchdown Club. She received the same honor in 1994 from the Women's Basketball Coaches Association. While Texas Tech University was still in the Southwest Conference, she was named the women's basketball coach of the year an impressive seven times.

Away from the game, Coach Sharp has served on the WBCA Board of Directors, Converse Coach of the Year Committee, Kodak All-American Selection Committee, NCAA Regional Selection Committee, Southwest Conference Tournament Committee, and Texas Girls Basketball Association Committee. She presently serves as the director for the Lady Raider Basketball Camps, and is actively involved with Special Olympic Celebrity fund raisers and the Jerry Lewis Labor Day Telethon. Coach Sharp is dedicated not only to her team and Texas Tech University, but to the entire Lubbock community.

It is with great pleasure that I recognize and congratulate Ms. Marsha Sharp on here unsurpassed achievements and contributions that have earned her the distinct honor of being inducted into the Texas Women's Hall of Fame.

THE MADRID PROTOCOL IMPLEMENTATION ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. COBLE. Mr. Speaker, today I am introducing the Madrid Protocol Implementation Act. This implementing legislation for the Protocol related to the Madrid Agreement on the International Registration of Marks was introduced in the past three Congresses. While the Administration has still not forwarded the treaty to the Senate for ratification, the introduction of this legislation is important in that it sends a signal to the international community, U.S. businesses, and trademark owners that the Congress is serious about our Nation becoming part of a low-cost, efficient system for the international registration of trademarks.

The World Intellectual Property Organization (WIPO) administers the Protocol, which in turn operates the international system for the registration of trademarks. This system would assist our businesses in protecting their proprietary names and brand-name goods while saving cost, time, and effort. This is especially important to our small businesses which may only be able to afford world-wide protection for their marks through a low-cost international registration system.

The Madrid Protocol took effect in April 1996 and currently binds 12 countries. Without the participation of the United States, however, the Protocol may never achieve its purpose of providing a one-stop, low-cost shop for trademark applicants who can—by filing