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FORUM

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During the early stages of the US airline industry, there were no formal government regulatory controls. "Prior to 1938, only airmail carriers had been subject to government regulation" (Lin 3). The Civil Aeronautics Act of 1938 laid the ground work for the federal regulatory policies of the airline industry which remained intact for nearly 4 decades. The main goal of this act was to "strengthen the air transport system in this country through tight regulation and restriction of new competitors"'"(Miller 4).

The 1938 Act created defined order by allowing all established carriers to continue service on existing routes. Further proposals concerning all new routes and competitors had to be approved by the government. The authorization of new routes was abased on the mandate stating that proposals must show potential profitability, and that existing carriers would not be placed in economic jeopardy by the plan (Miller 5). The act also classified airlines into categories which included: "trunk, local service, commuter, supplemental, or all-cargo operators" (US Dept. of Commerce 5). Trunk airlines were composed of the largest carriers, while local service airlines acted as the feeders for the trunk carriers. Commuter airlines flew small aircraft and supplemental carriers acted as charter companies, while all-cargo operators flew freight. Control and enforcement of the provisions of the Civil Aeronautics Act was delegated to the newly formed Civil Aeronautics Authority, "later renamed the Civil Aeronautics Board" (Lin 3).

The Civil Aeronautics Board (CAB) was given the great task to regulate an industry that had previously been free to operate without constraint. The CAB was granted specific authorities as established in the Civil Aeronautics Act which included: "control of entry, control of exit, fare regulation, subsidy approval, control of mergers and inter carrier agreements, and investigation of deceptive trade practices and unfair methods of competition" (Thomas 2).

Control of entry and exit dealt with the establishment of new carriers and routes. Largely focusing on entry of new competitors, the CAB protected existing carriers by crushing an endless number of new proposals. Those who were able to gain approval for new routes were forced to go through a time consuming process of investigations headed by the CAB. In the later years of regulation, the CAB stopped approving new proposals altogether. An investigation of airline regulation in 1975 found that "out of 94 applications for trunk carrier authority received since 1950, none and succeeded" (Miller3). Existing carriers were not allowed to abondon routes without authorization from the board, however, some were forced to end service due to corporate instability. Since very few new entrant proposals had been granted, the number of existing carriers dwindled as mergers and exit out of the industry occurred. This severly limited US airline growth, which later became an important basis in the argument for deregulation.

Other key areas of CAB authority focused on fares and subsidies. Fares for passengers were directly controlled by the CAB, and although airlines were able to request specific rates, the board had final authority. The "fare-level was based on hypothetical industry costs instead of actual cost experience" (Miller 5). This allowed fares to be unnaturally inflated, which cost the consumer heavily. The CAB also controlled the payment of subsidies to airlines. The purpose of these payments was to provide service to many of the smaller communities in the US. The subsidies were given to the airlines in the form of contracts for carrying US mail (Miller 0).

The remaining authorities of the CAB, pertaining to inter-carrier agreements and airline trade practices, were secondary areas of focus. Merger and inter-carrier agreement control was largely manipulated by the board's policies of industry entry and exit. Certain mergers were ratified in order to save existing airlines that had become financially unstable. Mutual airline agreements, once approved by the board, "were automatically given immunity from antitrust laws" (Miller 7). Investigation into deceptive trade practices and unfair methods of competition dealt primarily with false advertising and lack of airline adherence to regulated ticket prices. Airlines trying to bend these rules faced stiff penalties and in-depth CAB investigations.

The goal of the Civil Aeronautics Board was to create strong national airlines, and undoubtedly it did. The airline industry was seen as an infant industry, as described by some economists, which needed protection from competition in order to develop and mature. The CAB and regulation did indeed serve their purpose, but in the late 1960's and early 1970's the industry was becoming constrained by these protective government policies (Thomas 4). Consumers complained of inflated ticket prices, and small airlines were eager to gain entry into this market. Noted economists also remarked similar views, and soon politicians took an interest in the issue of disbanding the CAB and pushing for airline deregulation.

The political interest in deregulation found its basis in the Watergate investigations of the Nixon administration (Petzinger 78). Stephen Breyer, a lawyer on the Watergate Special Prosecutions force, discovered that American Airlines was one of the companies which had contributed funds to the Nixon administration. Breyer realized that American Airlines must have been trying to influence someone in government who was possibly connected to the CAB. He also noted the interesting fact that Gerald Ford, the president at the time, was trying to decrease US inflation yet "the airline industry was gouging the traveling public with higher and higher fares" (Petzinger 80).

During this period, Senator Edward Kennedy was looking to run for the presidency in the upcoming election. Kennedy realized that he would need an issue to base his campaign on. Breyer propositioned Kennedy with his discovery, and the senator decided to use this as his platform. The goal of the campaign was to establish a Senate inquiry to examine government control of the airline industry, champion deregulation, and elimination of the CAB. Knowing that this was going to be no easy task, Breyer enlisted the help of Phil Bakes an associate from college. Bakes was also a lawyer and part of the Watergate Prosecution force.

The first obstacle on the path to deregulation was Senator Howard Cannon. Cannon had a vested interest in aviation because he was from Nevada, a state which relies heavily upon airlines to transport vacationing travelers. He was also chairman of the Senate Subcommittee on Aviation, as well as the chairman of the Rules Committee which controls the budgets for all other Senate committees (Petzinger 81). Clearly Kennedy's inquiry had to be sensitive to the concerns of Senator Cannon.

The second major obstacle encountered by Kennedy's team was the airlines. Nearly all of the trunk carriers opposed the notion of deregulation. The major concerns of the airlines were based on the intensive fear of competition and the drastic reduction in fares brought about by low cost entrants. The main impediment Kennedy faced relating to the airlines was lobbyists. The airline industry had developed one of the largest pools of lobbyist in government, who were very influential about decisions affecting airline profitability. There was a glimpse of hope for Kennedy's efforts though. Dick Ferris, CEO of United Airlines, believed that United could benefit from deregulation (Lin 6). Ferris felt that government regulation was restricting the growth of US airlines. He believed that deregulation was inevitable and the company should take the lead in promoting Senator Kennedy's ideas.

Support for deregulation also came from within the CAB. "Alfred Kahn of Cornell argued that the policies of the CAB tended to raise cost to the level of price" (Petzinger 82). This idea emphasized the inefficiency that government regulation had promoted. Monte Lazarus, a high ranking official within the CAB, saw this inefficiency and refused to take part in the government bureaucracy any longer. Lazarus decided to go to work for United as a consultant, hoping to aid in the deregulation process.

At this point, the Subcommittee on Administrative Practice and Procedure began to review the findings which Kennedy's investigation had uncovered (Petzinger 84). Many issues including inefficiency and illegal practices of the CAB were discussed. The fact that deregulation had already begun within the industry was brought to light. Airlines such as Texas International were taking advantage of the CAB's decreased control over fare policies by introducing discounted fares. The subcommittee found particular interest in the allegations of illegal practices of the CAB. It was discovered by Bakes, of Kennedy's team, that investigations into the CAB's connection with the Watergate scandal were internally covered up by members of the agency.

As the hearings progressed, Senator Kennedy's Democratic Presidential nomination was lost to Jimmy Carter. Carter, later elected president, supported Kennedy's drive for airline deregulation. It was also during this period that United Airlines officially voiced its support of deregulation. Several other smaller airlines (Frontier and Southwest) joined United's stance regarding deregulation (Miller 27).

The tide turned against government control when John Robson, then chairman of the CAB, testified before the Senate subcommittee in favor of deregulation. This important event changed the opinion of Senator Cannon, chairman of the subcommittee, regarding the importance of deregulation. Now the last hurdle for the Kennedy team had been conquered. To further ensure victory in their effort, Phil Bakes got Alfred Kahn appointed chairman of the CAB as a replacement for Robson (Miller 28). Kahn acted as a puppet for the Kennedy team to manipulate, so as to ensure that the deregulation legislation would not be defeated.

Bakes also used other clever techniques to convince congressional supporters of government control to vote for the Airline Deregulation Act. The act passed through the Senate but was voted down in the House of Representatives. After Senator Kennedy used his political presence in fundraising events, as a favor to particular members of the House, the Airline Deregulation Act of 1978 was passed by both the House and Senate.

The main goal of the Airline Deregulation Act of 1978 was to increase competition within the airline industry. The act goes against most of the principles outlined in the Civil Aeronautics Act of 1938. The 1978 act promotes the entrance of new carriers, as well as existing carriers into new areas. Other areas of focus included "continued support of service into small communities and the use of secondary airports as major metropolitan areas " (Miller 11). An emphasis on air safety had also been mandated in the act.

After the Airline Deregulation Act of 1978 was passed, the power of the CAB quickly began to diminish, and drastic changes were made to its previously regulated authority. Major changes in authority affected policies regarding: control of entry, routes, fare control, modifications to subsidy programs, and antitrust legislation. These areas of control were gradually delegated to various governmental agencies, and the CAB lost all control when it ceased existence on January 1, 1985.

Protection of existing carriers was no longer the goal of the US government. Rules for entry into the airline industry became quite liberal after the Deregulation Act was passed. The liberalized role of government is also seen in the area of airline route control. The new route structure allowed airlines to automatically enter into certain locations without going through a lengthy bureaucratic process. This greatly increased competition that could not be experienced under the constraints of the CAB. In addition, deregulation now allowed airlines to set their own fares based on their competition, rather than an arbitrary level. Fares were allowed to vary according to passenger concentrations and the time of year.

Other changes in authority involved subsidies and antitrust legislation. Subsidy regulation was drastically changed, and control over these payments was given to the Department of Transportation in 1985 (Miller 11). The 1978 act provided that once a carrier decided to withdraw from a subsidized route, the subsidy was terminated. This initially hurt smaller destination airports which benefited from the subsidy program, but commuter airlines quickly filled these vacant roles. Complete control of legislation concerning mergers and agreements was given to the Department of Justice in 1`983. Antitrust issues have been a major concern in light of the recent merger proposals amongst the industry's largest established carriers.

The deregulation of the airline industry has restructured corporate business strategies. Today's airlines are much more efficient and cost conscious in every aspect of business activity. Competition demands that airlines utilize all available resources. New ideas and technologies are developed quickly in order for companies to gain competitive advantages over other firms. Advancements such as the use of computer reservation systems and online ticket auctions are pushing the industry to new limits. Under this free market system, the possibilities are limitless for the airline industry.□

From time to time those of us in aviation education receive excellent papers from our students through the routine of our classes. Some of these are worthy of publication. Such is the case of this paper. Its author, William J. Zink, an undergraduate (!) student submitted it as a requirement for a class in aviation legislation.

The editorial board of this journal encourages aviation educators in both graduate and undergraduate aviation programs across the county to submit deserving papers from their students for review and potential publication.

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