



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Served Aug 11 1998

**Action on IATA Agreement
Issued by the Department of Transportation
on the 5th day of August, 1998**

Agreement adopted by the Tariff	:	Docket OST-97-2607
Coordinating Conferences of the	:	Docket OST-97-2727
International Air Transport Association	:	R-1 and R-2
relating to electronic reservation	:	
system providers	:	

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (the Code), and Part 303 of the Department's regulations. The agreement, dealing with electronic reservation services providers, was adopted by mail vote of the Passenger Services Conference. ¹2/ The Passenger Agency Conference defined an ERSP as "a Person established on the Internet or other on-line service, promoting reservation information in the same format as provided by a Member's system or CRS. The 'ERSP' provides the user with instruction, screen formats, real-time display, booking capability or other information in respect to a travel supplier's inventory. The 'ERSP' provides to its user a Reservations facilitation service and the referral of the user's ticketing requirements to the Member or its agent."/

As originally filed, the agreement contained two resolutions. R-1, Passenger Agency Conference Resolution 898a, Electronic Reservation Services Providers (ERSP's), establishes listing procedures for entities seeking to be registered by IATA as electronic reservation services providers, and certain conditions for listing. ²/ Under this resolution, reservation procedures to be followed were to be outlined by the Passenger Services Conference. The resolution did not apply to entities located in the United States. Resolution 898a had also been filed previously in Docket OST-97-2607 on June 10, 1997, and had been approved under assigned authority on June 12, 1997.

¹1/ IATA memorandum PSC/MV/107, filed with the Department July 16, 1997.

R-2, Passenger Services Conference Recommended Practice (R.P.) 1784, Electronic Reservation Services Providers, recommends procedures to be followed by ERSP's, airlines, and CRS's when selling air transportation via electronic commerce, and further defines terms and limitations of ERSP's. Recommended capabilities that an ERSP should offer include the ability to allow airlines to specify ticketing options, automatic cancellation options, and booking controls; the ability to provide for information security; the ability to collect payment information (which would be provided to the ticketing airline or its agent); the ability to collect user profile data (e.g. name, address, phone number, passport number, etc.) and data on an individual's usage of the ERSP, particularly with regard to bookings; and the ability to assign a unique identifier to each individual using the services of the ERSP to verify the user's identity. As with Passenger Agency Conference (PAC) Resolution 898a, above, Passenger Services Conference (PSC) Resolution 1784 excludes application in the United States.

On September 4, 1997, American Express Travel Related Services Company, Inc. (AETRS), filed a "Comment On The Application For Approval Of Agreements", with motion for leave to file late. AETRS claims that Resolution 898a and R.P. 1784 unfairly discriminate against ERSP's, as opposed to traditional travel agencies; that their implementation would be extremely difficult and costly for on-line travel agencies; that they violate consumer privacy laws and AETRS's corporate policy; and that their implementation will ultimately mean reduced competition and higher prices for the consumer. AETRS recognizes that the resolutions do not apply to sales in the United States, but indicated it operates worldwide and would be impacted by their approval.

On September 12, 1997, IATA withdrew PAC Resolution 898a (R-1) from Docket OST-97-2727, indicating that it should have been included for informational purposes only, having been previously approved.

We will grant AETRS's motion for leave to file late, accept IATA's withdrawal from Docket OST-97-2727 of the previously approved R-1, and approve Resolution PSC(MV)1784 (R-2).

As recognized by AETRS, neither the resolution nor R.P. applies for sales in the United States. We have generally given wide latitude to resolutions that do not directly affect U.S. consumer interests. While we have carefully reviewed AETRS's concerns, we have determined that the agreement does not appear to contain any provisions that would adversely affect the type of U.S. consumer interests or competition concerns that would normally prompt our regulatory intervention. We have also found nothing in the agreement that appears unfair, deceptive, or inconsistent with Department regulations or our ticketless travel policy.^{1/}

Title 49 of the United States Code (U.S.C.) directs us to approve any agreement or modification of an agreement if we do not find it adverse to the public interest or in violation of other controlling provisions of section 41309. We find that the agreement in Docket OST-97-2727 is not adverse to the public interest, in violation of section 41309 of the U.S.C., or likely to lessen competition substantially, and find therefore, that it should be approved.

Furthermore, we conclude that the approved resolution should be granted antitrust immunity to the extent necessary to permit its implementation. Where new provisions are created, they perform administrative and facilitatory functions similar to other resolutions that have been approved and

^{1/3/} Ticketless Travel: Passenger Notices, 62 Fed. Reg. at 19473-19477, April 22, 1997.

immunized. As a result, none raises immunity issues not previously considered, and the conferral of immunity is consistent with our policy of conferring immunity on amendments coextensively with the underlying agreements.

Acting under Title 49 of the United States Code, and particularly sections 40101, 40103, 41308, and 41309:

1. We accept IATA's withdrawal of Resolution R-1, PAC 898a, from Docket OST-97-2727, as having been previously approved and provided for informational purposes only;
2. We do not find that Resolution R-2 of the agreement in Docket OST-97-2727 is adverse to the public interest, or in violation of other provisions of 49 U.S.C. 41309; and
3. To the extent that the above agreement is approved, we exempt any person affected by this order from the operation of the antitrust laws as provided in section 49 U.S.C. 41308.

ACCORDINGLY,

1. We approve the agreement in Docket OST-97-2727, as set forth in finding paragraphs one, two, and three, subject, where applicable, to conditions previously imposed, and
2. We grant AETRS's request for leave to file comments late.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation and
International Affairs

(SEAL)

*An electronic version of this document is available
on the World Wide Web at
<http://dms.dot.gov/general/orders/aviation.html>*