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FEDERAL REGULATION OF THE TRAVEL AGENTS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION AND COMMERCE

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

H.R. 9068 and H.R. 6222

BILLS TO AMEND THE INTERNATIONAL TRAVEL ACT OF 1961 TO PROVIDE FOR THE REGISTRATION OF SELLERS OF TRAVEL OR TRAVEL SERVICES

SEPTEMBER 20 AND 21, 1977

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FEDERAL REGULATION OF THE TRAVEL AGENTS

TUESDAY, SEPTEMBER 20, 1977

House of Representatives,
Subcommittee on Transportation and Commerce,
Committee on Interstate and Foreign Commerce,
Washington, D.C.

The subcommittee met at 2 p.m., pursuant to notice, in room 2218 of the Rayburn House Office Building, Hon. Fred B. Rooney, chairman, presiding.

Mr. Rooney. The meeting will come to order.

Tourism as we all know is an enormous enterprise in this country. It is predicted we will spend about $127 billion a year by the year 1980. The sale of travel and travel services by travel agents generates almost $15 billion per year. Sellers of travel and travel services—12,000 of them in this country—represent air carriers, hotels, sightseeing companies, steamship lines, car rental firms, and many others.

In addition, there are hundreds if not thousands of other individuals who are travel promoters and passenger or tour consolidators but who are not appointees of the companies whose services or accommodations they sell directly or indirectly.

The role of these persons is growing in importance daily and the consumer is relying more and more heavily on their competence, stability, and integrity.

Unfortunately, however, there have been instances of abuse in the travel business, as we all know. Passengers have been stranded, and they have been stranded abroad, and people have been deceived as to the nature of the accommodations they pay good money for.

There have been isolated instances of out-and-out fraud and sums of money in effect stolen from the unsuspecting public. More subtly, questionable financial practices by tour wholesalers certainly have occurred.

Our study of this subject has revealed that the public is not adequately protected from abuse of this sort. The authority to correct such abuses to the extent it exists is scattered throughout various agencies of the Federal Government and exercise of that authority has often not been timely.

An increasing number of States are becoming very concerned about this problem. So far four have enacted legislation to control in one form or another the sellers of travel and travel services, but the problem is a nationwide one, and more often than not it involves interstate travel.

The enforcement of uniform standards, therefore, on a national level is the best way to adequately protect the consumer. Piecemeal legisla-

tion by various States cannot really help the public and would present an undue burden on sellers of these services.

Today before us are H.R. 9068 and H.R. 6222. H.R. 9068 would amend the International Travel Act of 1961 by adding a new title II: The Registration of Sellers of Travel or Travel Services Act.

It would require the Secretary of Commerce, with the advice of the National Travel Services Registration Advisory Council—herein created—to establish reasonable and necessary qualifications which a seller of travel or travel services would be required to meet.

The seller would be required to obtain a registration certificate from the Department of Commerce in order to engage in business. Certificates would be renewed every 2 years on a showing of the necessary qualifications and financial responsibility, and general travel practices would be periodically reviewed with a view toward keeping pace with the changing needs and adequate protection of the public.

The advisory council will consist of two persons in the travel business, one representative of the general public, one representative of the Air Traffic Conference, and a delegate from one of the following entities: The CAB, FMC, ICC, FTC, and Amtrak.

The bill will exempt common carriers otherwise regulated, intrastate carriers duly regulated by a State, the owner of a hotel or the like making reservations in his own or like place of business, and charitable or religious organizations in most situations.

An important feature of the bill is to forbid carriers from entering into contracts or any other arrangements with unregistered sellers of travel.

In addition, the Secretary can revoke or suspend a certificate on a finding of fraudulent practices. There are, as well, civil and criminal penalties for those who would sell travel or travel services without being registered.

I am advised that this legislation enjoys support from the administration, the American Society of Travel Agents, the Air Transport Association, and many other business and consumer groups.

It is, in my view, legislation which is badly needed. It is, as well, superior to our original intention, embodied in H.R. 6222, which was to create a full-time, but costly, Travel Agent Registration Board within the Department of Transportation.

Without objection, at this point, the text of H.R. 9068, H.R. 6222 and agency reports thereon will be placed in the record.

[The text of H.R. 9068, H.R. 6222, and agency reports thereon follow:]

[H.R. 9068, 95th Cong., first sess.]

A BILL To amend the International Travel Act of 1961 to provide for the registration of sellers of travel or travel services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by adding at the end thereof the following new title:

"TITLE II—REGISTRATION OF SELLERS OF TRAVEL OR TRAVEL SERVICES

"FINDINGS AND PURPOSES

"SEC 201. (a) The Congress hereby finds and declares that—

"(1) the travel industry is interstate and international in scope;

"(2) the travel indnstry has become a significant part of the economy of the United States;

"(3) the traveling public is increasingly dependent upon sellers of travel or travel services to make travel arrangements;

"(4) it is in the public interest to strengthen the travel industry and maintain public confidence in sellers of travel or travel services by providing for the Federal registration of travel agents aud other persons engaged in the solicitation or sale of travel or travel services.

"(b) The purposes of this title are to protect persons who patronize sellers of travel or travel services in the United States and to strengthen the travel services industry by making adequate provisions for the Federal registration of travel agents and other persons engaged in the solicitation or sale of travel or travel services.

"DEFINITIONS

"SEC. 202. As used in this title:

"(1) The term 'Advisory Council' means the National Travel Services Registration Advisory Council.

"(2) The term 'carrier' means any person engaged in the passenger transportation business regulated by an agency of the Federal Government.

"(3) The term 'Chairman' means the Chairman of the National Travel Services Registration Advisory Council.

"(4) The term 'couference appointment' means a grant of authority to sell travel or travel services from the Air Traffic Conference (ATC) or the International Air Transport Association (IATA).

"(5)(A) The term 'engage in the business of selling travel or travel services' means holding out to any person, directly or indirectly, as being able or offering or undertaking by any means or method (whether acting as principal, agent, broker, or otherwise) to acquire for a fee, commission, or other valuable consideration of any sort—

"(i) travel reservations or accommodations;

"(ii) tickets for domestic or foreign travel by air, rail, ship, bus, or other mode of transportation;

"(iii) hotel or other lodging reservations or accommodations;

"(iv) sightseeing, tours, or other travel related services; but

"(B) such term does not include—

"(i) a common carrier of passengers regulated by an agency of the Federal Government, or an employee of such carrier when engaged in his employer's business as defined in such carrier's certificate of public convenience and necessity.

"(ii) an intrastate direct air carrier regulated by any State, or an employee of such carrier when engaged in his employer's busiuess;

"(iii) the owner or employee of a hotel, motel, inn, or other such establishment offering accommodations to travelers, when engaged in making arrangements for accommodatious in his establishment or auy other such establishmeut, or in making arrangements for local sightseeing tours;

"(iv) a person engaged in making travel arrangements for his employees for which he or his company receives no fee, commission, or other valuable consideration, directly or indirectly, from the supplier of such travel arrangements; or

"(v) a religious, charitable, educational, or fraternal organization which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, when engaged in making arrangements for travel which is directly related to religious, charitable, or educational programs being carried out by such organization and for which such organization receives no fee, commission, or other valuable consideration, directly or indirectly, from any supplier of such travel arrangements.

"(6) The term 'intrastate direct air carrier' means any person who undertakes, directly or by a lease or other arrangement, to engage in air transportation pursuant to regulation by an agency of any State.

"(7) The term 'person' means an individual, or a partnership, corporation, association, or any other form of business enterprise.

"(8) The term 'registered seller of travel or travel services' means any person to whom a travel services registration certificate has been issued pursuant to this title.

"(9) The term 'Secretary' means the Secretary of Commerce or the designee of such Secretary.

"(10) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"NATIONAL TRAVEL SERVICES REGISTRATION ADVISORY COUNCIL

"SEC. 203. (a) There is hereby established in the Department of Commerce a National Travel Service Registration Advisory Council consisting of five members to be appointed by the Secretary.

"(b)(1) Two members of the Advisory Council shall be persons engaged in the business of selling travel or travel services.

"(2) One member shall be a representative of the general public.

"(3) One member shall be a representative of the Air Traffic Conference.

"(4) One member shall be a representative of one of the following five entities: the Civil Aeronautics Board, the Federal Maritime Commission, the Interstate Commerce Commission, the Federal Trade Commission, or the National Railroad Passenger Corporation (AMTRAK). Such member shall be selected from each entity on a rotating basis.

"(c)(1) The two members engaged in the business of selling travel or travel services shall serve a term of two years. All other members shall each serve a term of one year.

"(2) Upon the expiration of a term of office of a member, such member shall continue to serve until his successor is appointed and has qualified.

"(3) Any member appointed to fill a vacancy arising before the expiration of a term shall be appointed only for the unexpired term of the member being succeeded.

"(d) Notwithstanding any other provision of law, the Advisory Council shall continue to function at the pleasure of the Congress.

"(e) The Council is authorized to exchange information, make studies, conduct investigations, prepare reports, develop recommendations, and provide advice on its own initiative or at the request of the Secretary.

"(f) At the beginning of each calendar year, the Advisory Council shall select one of the members of the Council to serve as Chairman. The member so selected shall serve as Chairman for a term of one year and may so serve for one or more additional terms if so designated by the Advisory Council.

"(g) Members of the Advisory Council, except those in the full-time employ of the Federal Government, shall receive compensation at the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule under section 5332 of title 5 of the United States Code when attending meetings of the Advisory Council. Such members may be allowed travel expenses to and from Advisory Council meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons employed intermittently in the Government service.

"(h) The Advisory Council shall meet at appropriate times to be fixed by the Chairman or a majority of the members of the Advisory Council. Three of the members shall constitute a quorum of the Advisory Council.

"(i) The Advisory Council shall submit an annual report to the Secretary describing its activities under this title, including those activities related to rulemaking, issuance of Travel Services Registration Certificates, and budgetary matters of the Advisory Council.

"MINIMUM QUALIFICATION CRITERIA FOR A TRAVEL SERVICES REGISTRATION CERTIFICATE

"SEC. 204. (a) The Secretary, after consultation with the Advisory Council, shall establish the minimum qualifications criteria necessary for a travel services registration certificate. Such criteria shall include, but not be limited to, ethical business conduct, adequate personnel training and experience, sound financial structure and practices, and adequate business location.

"(b) A person holding a conference appointment shall be deemed to have met the minimum qualifications criteria and shall be eligible for and shall be issued a travel services registration certificate, subject to subsection (c) of this section.

"(c) No later than two years after the date of enactment of this title, the Secretary shall review the minimum qualifications criteria and determine whether such criteria are serving the purposes of this title, and after consulta-

tion with the Advisory Council, shall make changes as necessary to bring such criteria into compliance with the purposes of this title.

"REQUIREMENT OF TRAVEL SERVICES REGISTRATION CERTIFICATE

"SEC. 205. (a) Beginning one year after the date of enactment of this title, no person shall, directly or indirectly, engage in the business of selling travel or travel services without having first received a travel services registration certificate issued pursuant to this title.

"(b) Beginning one year after the date of enactment of this title, no carrier, person engaged in the selling of travel or travel service, or intrastate direct air carrier regulated by an agency of any State shall enter into any contract or other arrangement for the provision of travel to others with any person who is not a holder of a travel services registration certificate issued pursuant to this title.

"APPICATION FOR TRAVEL SERVICE REGISTRATION CERTIFICATE

"SEC. 206. (a) The Secretary, after consultation with the Advisory Council, shall prescribe such rules and regulations as may be necessary—

"(1) to provide for the appropriate form and content of applications for a travel services registration certificate issued pursuant to this title; and

"(2) to require that each applicant for a travel services registration certificate demonstrate that he satisfies each of the minimum qualificatiou criteria prescribed by the Secretary pursuant to section 204 of this title.

"(b) The Secretary shall not issue a travel services registratiou certificate under this title to any applicant—

"(1) if the Secretary determines that such applicant has failed to demonstrate that he satisfies the minimum qualification criteria prescribed pursuant to section 204 of this title.

"(2) if such applicant has been convicted, under Federal or State law, of any offense constituting a felony, including fraud or misappropriation funds.

TERM OF CERTIFICATES; NONTRANSFERABILITY; RENEWAL

"(SEC. 207. (a) All travel services registration certificates issued pursuant to this title shall expire on the second anniversary of the date of issuance.

"(b) A travel services registration certificate issued pursuant to this titie shall not be assignable or transferrable.

"(c) The holder of a travel services registration certificate issued pursuant to this title which has not been suspended or revoked may, prior to or on the date of the expiration of such certificate, request a renewal of such certificate. The Secretary shall grant such renewal if such holder demonstrates that he satisfies the minimum qualification criteria prescribed under section 204 of this title. Pending action by the Secretary on such request, the holder shall be allowed to continue in business. A request for renewal under this subsection shall be submitted in such form and contain such information as the Secretary may prescribe.

"(d) A bona fide purchaser or transferee of a travel services business from the holder, or the legal representative of a deceased holder, of a travel services registration certificate issued pursuant to this title may continue to use such certificate for a period of not more than one hundred and twenty days after the date of such sale, transfer, or death, under such conitions as the Secretary may prescribe.

"SUSPENSION OR REVOCATION OF CERTIFICATE

"SEC. 208. Any travel services registration certificate issued pursuant to this title may be suspended or revoked by the Secretary, if the Secretary determines, after a hearing, that—

"(1) the holder of such certificate has ceased to satisfy the minimum qualification criteria prescribed pursuaut to section 204 of this title; or

"(2) the holder of such certificate—

"(A) violated any provision of this title, or any rule, regulation, or order issued pursuant to this title;

"(B) made any false statement with respect to a material matter in any application or other statement required by or pursuant to this title;

"(C) engaged in fraud or bribery in securing such certificate; or

"(D) engaged in any fraud or fraudulent practices in the operation of selling travel or travel services.

"SUBPENA POWER

"SEC. 209. The Secretary shall have authority, for any purpose related to the enforcement of this title, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of failure or refusal to obey a subpena served upon any person under the provision of this section, the Secretary may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents, pursuant to such subpena.

"INJUNCTIONS AND OTHER RELIEF

"SEC. 210. Whenever it appears to the Secretary that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of this title, or any rule, regulation, or order issued pursuant to this title, the Secretary may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such act or practice and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. In addition to such injunctive relief, the court may also order restitution of moneys received as a result of any such violation.

"JUDICAL REVIEW

"SEC. 211. (a)(1) Except as otherwise provided in paragraph (2) of this subsection, the district courts of the United States shall have original and exclusive jurisdiction of any civil action arising under this title, or under any rule, regulation, or order issued pursuant to this title (including any civil action challenging the lawfulness of any such rule, regulation, or order) without regard to the amount in controversy.

"(2) Nothing in this subsection shall be construed to limit the power of any court of competent jurisdiction to hear, consider, and determine any issue raised, by way of defense, in any civil action before such court, other than an issue by way of defense based on the constitutionality of this title or the validity of action taken by the Secretary under this title. If in any such civil action an issue by way of defense is raised based on the constitutionality of this title or the validity of any such action of the Secretary, such civil action shall, upon the motion of any party, be removed to a district court of the United States pursuant to chapter 89 of title 28, United States Code.

"(b) Any rule, regulation, or order issued by the Secretary pursuant to this title shall be subject to review in accordance with chapter 7 of title 5 of the United States Code.

"CRIMINAL FINES AND IMPRISONMENT AND CIVIL PENALTIES

"SEC. 212. (a) Any person who knowingly and willfuly violates any provision of this title, or any rule, regulation, or order issued pursuant to this title, shall be fined not more than $5,000 or imprisoned for not more than six months or both, for each violation.

"(b) Any person who violates any provision of this title or any rule, regulation, or order issued pursuant to this title, shall be subject to a civil penalty of not more than $2,500 for each violation.

"AUTHORITY OF UNITED STATES ATTORNEYS

"SEC. 213. Upon the request of the Secretary, any United States attorney to whom the Secretary may apply is authorized to institute in the proper court, and to prosecute under the direction of the Attorney General, all necessary proceedings for the enforcement of the provisions of this title, any rule, regulation, or order issued pursuant to this title, or any term, condition of limitation of any travel services registration certificate, and for the punishment of any violation thereof. The costs and expenses of any such prosecution shall be paid out of the appropriations for the expenses of the courts of the United States.

"PREEMPTION

"SEC. 214. Upon passage of this title, no State or political subdivision thereof shall adopt or enforce any law regulating, or setting any standards with respect to, the activity of engaging in the business of selling travel or travel services.

"SHORT TITLE

"SEC. 215. This title may be cited as the 'Sellers of Travel or Travel Services Registration Act of 1977'.".

SEC. 2. (a) The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by striking out the first section thereof and inserting in lieu thereof the following:

"TITLE I—INTERNATIONAL TRAVEL

"SEC 101. It is the purpose of this title to strengthen the domestic and foreign commerce of the United States, and promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the United States and by facilitating international travel generally.".

(b) The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is further amended—

(1) by redesignating sections 2 through 8 as sections 102 through 108, respectively;

(2) in section 103, as so redesignated, by striking out "section 2" and inserting in lieu thereof "section 102";

(3) by striking out "this Act" each place it appears and inserting in lieu thereof "this title"; and

(4) in section 108, as so redesignated, by striking out "This Act" and inserting in lien thereof "This title".

[H.R. 6222, 95th Cong., first sess.]

A BILL To amend the International Travel Act of 1961 to provide for the cooperative regulation of the travel agency industry

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by adding at the end thereof the following new title:

"TITLE II—REGULATION OF TRAVEL AGENTS

"FINDINGS AND PURPOSES

"SEC. 201. (a) The Congress hereby finds and declares that—

"(1) the travel industry is interstate and international in scope;

"(2) the travel agency industry has become a significant part of the economy of the United States;

"(3) the traveling public is becoming increasingly dependent upon travel agents to make travel arrangements;

"(4) it is in the public interest to strengthen the travel agency industry and maintain public confidence in travel agents by providing for the cooperative regulation of travel agents or persons engaged in the solicitation or sale of travel services.

"(b) The purposes of this title are to protect the convenience, safety, and well-being of persons who patronize travel agencies in the United States and to strengthen the travel agency industry by making adequate provisions for the cooperative regulation of travel agents or persons engaged in the solicitation or sale of travel services.

"DEFINITIONS

"SEC. 202. As used in this title:

"(1) The term 'Board' means the Travel Agent Registration Board.

"(2) The term 'carrier' means any person engaged in the passenger transportation business regulated by an agency of the Federal Government.

"(3) The term 'direct air carrier regulated by an agency of any State' means any person who undertakes, directly or by a lease or other arrangement, to engage in air transportation pursuant to regulation by an agency of any State.

"(4)(A) The term 'engage in the business of conducting a travel agency' means holding out to any person, directly or indirectly, as being able or offering or undertaking by any means or method (whether acting as principal, agent, broker, or otherwise) to acquire for a fee, commission, or other valuable consideration of any sort—

"(i) travel reservations or accommodations;

"(ii) tickets for domestic or foreign travel by air, rail, ship, bus, or other mode of transportation;

"(iii) hotel or other lodging reservations or accommodations;

"(iv) sightseeing, tours, or other travel related services; but

"(B) such term does not include—

"(i) a common carrier of passengers regulated by an agency of the Federal Government, or an employee of such carrier when engaged in his employer's business as defined in such carrier's certificate of public convenience and necessity;

"(ii) a direct air carrier regulated by an agency of any State, or an employee of such carrier when engaged in his employer's business;

"(iii) the owner or employee of a hotel, motel, inn, or other such establishment offering accommodations to travelers, when engaged in making arrangements fo raccommodations in his establishment or any other such establishment, or in making arrangements for local sightseeing tours;

"(iv) a person engaged in making travel arrangements for his employees for which he or his company receives no fee, commission, or other valuable consideration, directly or indirectly, from the supplier of such travel arrangements; or

"(v) a religious, charitable, educational, or fraternal organization which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, when engaged in making arrangements for its members for travel which is directly related to religious, charitable, or educational programs being carried out by such organization and for which such organization receives no fee, commission, or other valuable consideration, directly or indirectly, from any supplier of such travel arrangements.

"(5) The term 'Executive Director' means the Executive Director of the Travel Agent Registration Board.

"(6) The term 'person' means an individual, or a partnership, corporation, association, or any other form of business enterprise.

"(7) The term 'registered travel agent' means any person to whom a travel agent registration certificate has been issued pursuant to this title.

"(8) The term 'Secretary' means the Secretary of Transportation.

"(9) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(10) The term 'supplier of travel services' means a person engaged in the business of providing transportation, accommodations, or other travel services for sale.

"TRAVEL AGENT REGISTRATION BOARD

"SEC. 203. (a) There is hereby established in the Department of Transportation a Travel Agent Registration Board to consist of five members to be appointed by the President, by and with the advice and consent of the Senate. Not more than three members of the Board may be of the same political party.

"(b) The members of the Board—

"(1) shall be selected from among citizens of the United States who (A) are eminent in the fields of travel and tourism, (B) have particular experience in the business of conducting a travel agency, and (C) are not regular full-time employees of the United States; and

"(2) shall be selected so as to provide, as nearly as practicable, a broad representation of various geographic regions of the United States and various kinds of talent and experience appropriate to the functions and responsibilities of the Board.

"(c)(1) Except as provided in paragraph (2) or (3) of this subsection, members of the Board shall be appointed for terms of three years. Upon the expiration of a term of office of a member, such member shall continue to serve until his successor is appointed and has qualified.

"(2) Of the members first appointed—

"(A) one shall be appointed to serve a term of one year;

"(B) two shall be appointed to serve terms of two years; and

"(C) two shall be appointed to serve terms of three years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy arising before the expiration of a term shall be appointed only for the unexpired term of the member being succeeded.

"(d) At the beginning of each calendar year, the President shall designate one of the members of the Board to serve as Chairman. The Board member so designated shall serve as Chairman for a term of one year and may so serve for one or more additional terms if so designated by the President.

"(e) The Chairman shall be compensated at the rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code. The members of the Board shall be compensated at the rate of basic pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(f) The Chairman shall appoint, with the concurrence of a majority of the Board, an Executive Director of the Board. The Executive Director shall serve as the administrator and chief executive officer of the Board, shall exercise such authority as may be delegated to him by the Board, and shall continue to serve at the pleasure of the Board. The Executive Director shall be subject to the provisions of title 5, United States Code, governing appointments in the competitive service, except that the appointment of the Executive Director shall be made without regard to section 5108 of such title 5. The Executive Director shall receive compensation at the rate of pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(g) The Board shall meet at appropriate times to be fixed by the Chairman or a majority of the members of the Board. Three of the members shall constitute a quorum of the Board.

"(h) The Board shall submit an annual report to the Congress describing its activities under this title, including those activities related to rulemaking, issuance of travel agent registration certificates, and budgetary matters of the Board.

"MINIMUM QUALIFICATION CRITERIA FOR REGISTERED TRAVEL AGENTS

"SEC. 204. The Board shall prescribe such rules and regulations establishing minimum qualification criteria as are necessary to carry out the purposes of this title. Such criteria shall include ethical business conduct, adequate personnel training and experience, sound financial structure and practices, and adequate business location.

"REQUIREMENT OF TRAVEL AGENT REGISTRATION CERTIFICATE

"SEC. 205. (a) After December 31, 1977, no person shall, directly or indirectly, engage in the business of conducting a travel agency without having first received a travel agent registration certificate issued pursuant to this title.

"(b) After December 31, 1977, no carrier, supplier of travel services, or direct air carrier regulated by an agency of any State shall enter into any contract or other arrangement for the provision of travel to others with any person who is not a holder of a travel agent registration certificate issued pursuant to this title.

"APPLICATION FOR TRAVEL AGENT REGISTRATION CERTIFICATE

"SEC. 206. (a) The Board shall prescribe such rules and regulations as may be necessary—

"(1) to provide for the appropriate form and content of applications for a travel agent registration certificate issued pursuant to this title; and

"(2) to require that each applicant for a travel agent registration certificate demonstrate that he satisfies each of the minimum qualification criteria prescribed by the Board pursuant to section 204 of this title. For purposes of initial registration only, a travel agent shall be deemed to have satisfied the minimum qualification criteria prescribed pursuant to such section 204 by demonstrating that he holds appointment from either the Air Traffic Conference or the International Air Transport Association.

"(b) The Board shall not issue any travel agent registration certificate under this title to any applicant—

"(1) if the Board determines that such applicant has failed to demonstrate that he satisfies the minimum qualification criteria prescribed pursuant to section 204 of this title; or

"(2) if such applicant has been convicted, under Federal or State law, of any offense constituting a felony, including fraud or misappropriation of funds.

"(c) The Board may charge such reasonable fees for the issuance of travel agent registration certificates, and renewals thereof, as it considers appropriate.

"TERM OF CERTIFICATES; NONTRANSFERABILITY; RENEWAL

"SEC. 207. (a) All travel agent registration certificates issued pursuant to this title shall expire on the second anniversary of the date of issuance.

"(b) A travel agent registration certificate issued pursuant to this title shall not be assignable or transferable.

"(c) A bona fide purchaser or transferee of a travel agency business from the holder, or the legal representative of a deceased holder, of a travel agent registration certificate issued pursuant to this title may continue to use such certificate for a period of not more than ninety days from the date of such sale or transfer, under such conditions as the Board may prescribe.

"(d) The holder of a travel agent registration certificate issued pursuant to this title which has not been suspended or revoked may, prior to or on the date of the expiration of such certificate, submit an application to the Board requesting a renewal of such certificate. The Board shall promptly grant such renewal if the applicant demonstrates that he satisfies the minimum qualification criteria prescribed under section 204 of this title, and pays any required renewal fee. An application for renewal under this subsection shall be submitted in such form and contain such information as the Board may prescribe.

"(e) If any application for a travel agent registration certificate by a person who is engaged in the business of conducting a travel agency on January 1, 1977, or by any purchaser or transferee referred to in subsection (c) of this section, has been filed with the Board pursuant to this title, such person, purchaser, or transferee, as the case may be, shall be entitled to continue in business until action is taken on such application.

"SUSPENSION OR REVOCATION OF CERTIFICATE

"SEC. 208. Any travel agent registration certificate issued pursuant to this title may be suspended or revoked by the Board if the Board determines, after a hearing, that—

"(1) the holder of such certificate has ceased to satisfy the minimum qualification criteria prescribed pursuant to section 204 of this title; or

"(2) the holder of such certificate—

"(A) violated any provision of this title, or any rule, regulation, or order issued pursuant to this title;

"(B) made any false statement with respect to a material matter in any application or other statement required by or pursuant to this title;

"(C) engaged in fraud or bribery in securing such certificate; or

"(D) engaged in any fraud or fraudulent practice in the operation and conduct of a travel agency business.

"SUBPENA POWER

"SEC. 209. The Board or its lawful delegate shall have authority, for any purpose related to the enforcement of this title, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of failure or refusal to obey a subpena served upon any person under the provisions of this section, the Board or its lawful delegate may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents, pursuant to such subpena.

"INJUNCTIONS AND OTHER RELIEF

"SEC. 210. Whenever it appears to the Board or its lawful delegate that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of this title, or any rule, regulation, or order issued pursuant to this title, the Board or its lawful delegate may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such act or practice, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. In addition to such injunctive relief, the court may also order restitution of moneys received as a result of any such violation.

"JUDICIAL REVIEW

"SEC. 211. (a)(1) Except as otherwise provided in paragraph (2) of this subsection, the district courts of the United States shall have original and exclusive jurisdiction of any civil action arising under this title, or under any rule, regulation, or order issued pursuant to this title (including any civil action challenging the lawfulness of any such rule, regulation, or order), without regard to the amount in controversy.

"(2) Nothing in this subsection shall be construed to limit the power of any court of competent jurisdiction to hear, consider, and determine any issue raised, by way of defense, in any civil action before such court, other than an issue by way of defense based on the constitutionality of this title or the validity of action taken by the Board under this title. If in any such civil action an issue by way of defense is raised based on the constitutionality of this title or the validity of any such action of the Board, such civil action shall, upon the motion of any party, be removed to a district court of the United States pursuant to chapter 89 of title 28, United States Code.

"(b) Any rule, regulation, or order issued by the Board pursuant to this title shall be subject to review in accordance with chapter 7 of title 5, United States Code.

"CRIMINAL FINES AND IMPRISONMENT AND CIVIL PENALTIES

"SEC. 212. (a) Any person who knowingly and willfully violates any provision of this title, or any rule, regulation, or order issued pursuant to this title, shall be fined not more than $5,000 or imprisoned for not more than six months, or both, for each violation.

"(b) Any person who violates any provision of this title, or any rule, regulation, or order issued pursuant to this title, shall be subject to a civil penalty of not more than $2,500 for each violation.

"AUTHORITY OF UNITED STATES ATTORNEYS

"SEC. 213. Upon the request of the Board, any United States attorney to whom the Board may apply is authorized to institute in the proper court, and to prosecute under the direction of the Attorney General, all necessary proceedings for the enforcement of the provisions of this title, any rule, regulation, or order issued pursuant to this title, or any term, condition, or limitation of any travel agent registration certificate, and for the punishment of any violation thereof. The costs and expenses of any such prosecution shall be paid out of the appropriations for the expenses of the courts of the United States.

"PREEMPTION

"SEC. 214. After December 31, 1978, no State or political subdivision thereof shall adopt or enforce any law regulating, or setting any standards with respect to, the activity of engaging in the business of conducting a travel agency.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 215. There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out the provisions of this title. Sums appropriated pursuant to this authorization are authorized to remain available until expended

"SHORT TITLE

"SEC. 216. This title may be cited as the 'Travel Agent Registration Act of 1977'.".

SEC. 2. (a) The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by striking out the first section thereof and inserting in lieu thereof the following:

"TITLE I—INTERNATIONAL TRAVEL

"SEC. 101. It is the purpose of this title to strengthen the domestic and foreign commerce of the United States, and promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the United States and by facilitating international travel generally.".

(b) The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is further amended—

(1) by striking out "this Act" each place it appears and inserting in lieu thereof "this title";

(2) in section 8 thereof, by striking out "This Act" and inserting in lieu thereof "This title"; and

(3) by redesignating sections 2 through 8 as sections 102 through 108, respectively.

AMTRAK, *May 16, 1977.*

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter dated April 18, 1977, enclosing a copy of H.R. 6222 and soliciting our comments.

In its present form the bill could effectively deprive Amtrak of the right to determine which travel agents shall be deemed qualified to represent it. In effect, any agent who could obtain a registration certificate from the Travel Agent Registration Board could claim the right to represent Amtrak and to be supplied with Amtrak ticket stock. It is believed that there are more than 12,000 agents in the United States.

At present Amtrak has some 5,000 appointed agents. These have been carefully selected on the basis of sales potential and financial reliability, with a view to protecting the best interests of Amtrak and the traveling public. Under the proposed bill, all agents are to be eligible to represent Amtrak regardless of its needs or wishes. Furthermore, no provision is made to protect carriers or public by requiring bonding of registered agents. It is evident, therefore, that Amtrak could be subject not only to substantially increased administrative costs, but also to substantially greater risk of financial loss through agency defaults or through misuse of its ticket stock.

We appreciate this opportunity to comment on H.R. 6222.

Sincerely,

BRUCE PIKE,
Vice President, Government Affairs.

CIVIL AERONAUTICS BOARD,
Washington, D.C., October 20, 1977.

Hon. FRED B. ROONEY,
Chairman, Subcommittee on Transportation and Commerce, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for the opportunity to submit a statement in connection with the Subcommittee's consideration of H.R. 6222 and H.R. 9068, which would amend the International Travel Act of 1961 to provide for the registration of sellers of travel or travel services. We understand that the issues in H.R. 6222 are essentially moot and that it is not necessary to comment on it at this time.

We are not aware of the underlying reasons for H.R. 9068, or the specific problems it is designed to correct. Absent a showing that existing Federal jurisdiction is inadequate to resolve whatever problems may be thought to exist, we question the need for this legislation. To assist you in your consideration, however, I would like to describe briefly the Board's jurisdiction and activities relating to travel agents.

The 10,000 or so agents who would be subjected to licensing under this legislation are already under appointment as independent sales agents for the airline members of the Air Traffic Conference of America (ATC) and the International Air Transport Association (IATA). The programs of these trade associations are essentially the same. Each applicant for ATC and IATA agency approval must submit a formal application, including information on its financial condition, the experience of both managerial and employee personnel, the premises to be occupied, and, in the case of ATC, a surety bond in the minimum amount of $10,000. If the application is approved, the agent may represent the airline members of the respective associations in the sale of air transportation. Such appointments are subject to review and, under certain conditions, to suspension or revocation. Applicants and agents are entitled to seek arbitration of decisions to disapprove their selection as agents or to remove them from the agency lists.

While the Board does not directly regulate the activities of retail travel agents, it does have the responsibility under section 412 of the Federal Aviation Act to approve or disapprove the inter-carrier agreements of ATC and IATA, including the ones that established the agency selection and retention procedures I have described. Thus, the Board has, for more than 30 years, examined each ATC and IATA resolution affecting agency matters.

In addition, the Board has approved an agreement among the supplemental airline members of the National Air Carrier Association, Inc. (NACA) establishing a program similar to the ATC and IATA programs for the designation of NACA agents.

H.R. 9068 appears also to subject tour operators of the registration requirements. The Board considers several classes of tour operators to be indirect air carriers within its jurisdiction. These provide air transportation under their own responsibility by purchasing air carrier capacity in bulk and reselling the seats to the public at a fixed price. The Board, through the exemption process, has authorized various tour operator activities (see enclosed chart) by relieving them from certain statutory provisions governing air carriers. At the same time, it has imposed on such authorizations various requirements designed to protect the tour participants, including surety arrangements for protection of customers' deposits.

The Board has, from time to time, strengthened its regulations governing tour operators, and, in fact, established an Ad Hoc Committee to determine whether we should establish even more stringent regulations regarding the financial security provided participants on charter flights operated by indirect air carriers. The Committee has submitted its report to the Board, which will act on it shortly. In general, our approach to problems involving tour operators has been to identify the specific difficulty and to deal directly with it by regulation or other action.

In another action involving tour operators, the Board issued an Advanced Notice of Proposed Rulemaking (SPDR-50, October 7, 1976, Docket 29165), a copy of which is enclosed, to consider various proposals from our Office of Consumer Advocate to expand our regulation of tour operators, including a proposal to license persons operating or organizing charter flights under the Board's Special Regulations.

Should the Subcommittee desire further information or comments on the legislation, we will be happy to provide it.

Sincerely,

ALFRED E. KAHN, *Chairman.*

Enclosures.

VARIOUS REQUIREMENTS OF THE BOARD'S CHARTER RULES

Applicable CAB regulations (Part)	Type of charter	Prospectus or statement must be filed with the CAB	Ground accommodations required	Organizer status	Pricing requirements	Length of stay required	Advance purchase required	Passenger list must be filed	Surety bond required	Eligibility requirements
207/208 212/214	Affinity	No	No	Not considered to be engaged in air transportation.	Cost to be prorated equally among all charter participants. Should not exceed that for consummating charter, except reasonable administrative costs.	None	No	No	No	Bonafide, members of organization not formed for purpose of travel, members for a minimum of 6 mo prior to flight except: students, employees of single school, government agency, industrial plant or mercantile establishment and immediate families thereof.
207/208 212/214	Single entity	No	No	do	Cost to borne by charterer not individual passenger.	do	No	No	No	Must be invited by charterer.
207/208 212/214	Mixed	No	No	do	Cost to be prorated equally among all charter participants, but borne jointly by participant and charterer.	do	No	No	No	Must qualify for both above (e.g., sales incentive program).
372	Overseas military personnel charter (OMPC)	No	No	Indirect air carrier	At discretion of charterer provided charterer has on file with the Board a currently effective tariff.	do	No	No	Yes	Military and DOD civilian personnel stationed overseas and their immediate families.

372a	Travel group (TGC).	Yes	No	do	Cost of charter to be prorated equally among participants plus a service charge, which must be sole compensation for organizer.	7 days, North America; 10 days, International.	60 days	Yes	Yes	Open to the public.
373	Study group (SGC)	Yes	All sleeping accommodations, 2 meals/day, all necessary surface transportation and tuition.	do	At discretion of charterer.	4 weeks	No	No	Yes [1]	Group formed for the purpose of educational instruction with formal academic study abroad.
378	Inclusive tour (ITC)	Yes	All sleeping accommodations and necessary surface transportation at 3 places at least 50 miles apart.	do	Cost to passengers shall be not less than 110 percent of any available fare (including charge for stopovers) for individually ticketed service on a circle route.	7 days	No	No	Yes	Open to the public.
378a	One-stop-inclusive (OTC).	Yes	All sleeping accommodations and necessary surface transportation.	do	Cost to passengers shall not be less than the pro rata seat cost plus $15 per night.	4 days, North America; 7 days, International.	15 days, North America; 30 days, International.	Yes	Yes	Do.
378e	Special event (SEC)	Yes	If over night stay is involved, all sleeping accommodations and necessary surface transportation and must also include ticket to special event, if required.	do	Cost shall be pro rate seat cost plus admission to event, plus $15 per night if hotel accommodation provided.	3 days, North America;[2] 6 days, International.	No	No	Yes	Do.
371	Advance booking (ABC).	Yes	No	do	Fixed price to be set at discretion of charter operator.	None. non-European; 7 days, European.	30 days, non-European, 45 days, European.	Yes	Yes	Do.

[1] This provision does not apply when the charterer qualifies as an "educational institution" under part 373.

[2] These are maximums; The special event charter is the only one with maximum stays.

UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD,
Washington, D.C. October 7, 1976.

(Special Regulations, Docket No. 29165)

Part 371.—Advance booking charters.
Part 372.—Overseas military personnel charters.
Part 372a.—Travel group charters.
Part 373.—Study group charters by direct air carriers and study group charterers.
Part 378.—Inclusive tour charters.
Part 378a.—One-stop-inclusive tour charters.

MISCELLANEOUS PROVISIONS RELATING TO CHARTER OPERATIONS, INCLUDING LICENSING OF CHARTER OPERATORS

ADVANCE NOTICE OF PROPOSED RULEMAKING

Notice is hereby given that the Civil Aeronautics Board has under consideration rulemaking action with respect to the various suggestions for regulatory action affecting general charter operations, which have been set forth in a petition by the Board's Office of Consumer Advocate (OCA). The petition requests rules which would: (1) regulate the terms of the contracts between charter operators and members of the public who travel by means of such charters ("participants"); (2) impose a wide range of liabilities on charter operators for various aspects of the charters; and (3) license persons operating or organizing charter flights under the Board's special regulations ("operators").

This Advance Notice of Proposed Rulemaking is being issued to invite participation by the industry (including air carriers, foreign air carriers, and travel agents), interested governmental agencies, consumer organizations, and members of the general public, in the Board's efforts to determine whether or not all or any of the rules requested by the petition should be considered for possible adoption by the Board, with or without modification, and in one or more separate proceedings.

The Board's tentative views with respect to the many issues raised by the petition are described in the attached Explanatory Statement. This advance notice is issued under the authority of sections 101, 204, 401 402, 403, and 416 of the Federal Aviation Act of 1958, 72 Stat. 737, 743, 754, 757, 758, 771, as amended, 49 U.S.C. 1301, 1324, 1371, 1372, 1373, 1386.

Interested persons may participate in the proposed rulemaking through submission of 20 copies of written data, views, or arguments addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All comments received on or before November 29, 1976, and reply comments received on or before December 20, 1976, will be considered by the Board before taking further action. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., upon receipt.

Those persons planning to file comments or responsive comments who wish to be served with such comments filed by others, and are willing to undertake to serve their comments on others, shall file with the Docket Section at the above address by October 26, 1976, a request to be placed on the Service List in Docket 29165. The Service List will be prepared by the Docket Section and sent to the persons named on it. Those persons are to serve each other with comments or responsive comments at the time of filing.

A list of all persons filing comments will be prepared by the Docket Section and sent to the persons named on it. In addition to those on the Service List who filed comments, persons filing responsive comments should also serve any person whose comment is dealt with in their responsive comments.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the above address, without the necessity of filing additional copies.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR, *Secretary.*

[SEAL]

Minetti and West, Members, filed the attached concurrence.

EXPLANATORY STATEMENT

The petition. The OCA petition stated that the rate of complaints submitted to that office concerning the operation of charters is growing both absolutely and relative to the total number of complaints: 913 complaints, representing 8 percent of the total for calendar year 1975; 240, representing 11 percent of the total for the period January 1 to March 15, 1976. The petition noted the increase in charter flights, particularly since the initiation of One-stop-inclusive Tour Charters (14 CFR Part 378a),[1] and concluded that the volume of complaints could be expected to grow. The main subjects of complaint have been requests for refunds, unsatisfactory land packages, application of regulatory requirements, and charter flight and itinerary changes.

OCA asserted that typical charter contracts contain insufficient protection for participants. The petition suggested regulatory provisions substantially as follows:

(1) Contracts pertaining to charters would be prescribed by regulation, between participants and operators, operators and carriers, and operators, carries, and depository banks.

(2) The operator-participant contract would describe all the major features of the charter, including names of operators and carriers, dates, itinerary, ground arrangements, and price.

(3) A change in any component part of a tour would require a complete refund unless the participant agreed in writing to the change.

(4) Full refunds would be granted in the event of documented serious illness, accident, or death of a participant or a member of his immediate family.

(5) Official notice to each participant by registered mail would be required in the event of cancellation, and the 60-day period for filing refund claims against the surety would not begin to run until such notice was received.

(6) Upon cancellation, the carrier would return any money received to the depository bank, if there were an escrow security arrangement, which would forward it to the participants. Any cancellation penalties payable to the carrier would be paid directly by the operator. Refunds to participants would be due within 7 days of cancellation, with a 10 percent penalty for later payment.

(7) All solicitation material would identify the operator by name, address, and license number.

(8) If the departure or return of the charter flight were delayed for more than 4 hours for domestic flights and 6 hours for international flights, each participant would be reimbursed by the operator at the rate of 25 dollars per additional hour.

(9) Overlooked participants would be entitled to refund of the charter air transportation cost, plus free transportation by scheduled service to the destination cities, paid for by the operator.

(10) Present bonding requirements would be replaced by open-ended surety bonds that assured operator performance with a depository arrangement as an alternative.

(11) The operator would be liable to the participant for "every aspect of the charter trip," including nonperformance of contracted services, and all injuries or property damage arising from the negligence of any person rendering services in connection with the trip. Liability insurance would be provided by the operator for baggage, and for personal injury related or unrelated to air transportation.

The OCA petition also advocated the formal licensing of operators as a prerequisite to their organizing charter flights. The petition argued that this was needed to "insulate" consumers from "persistent violators, those who operate tours substantially different from tours proposed and sold, those involved in anticompetitive agreements, and those that are undercapitalized or in a financially untenable position." OCA cited licensing procedures as a way of facilitating "enforcement against disreputable tour organizers who persistently fail to comply with the regulations." The suggested licensing procedure would require the submission of identifying and financial information. OCA stated that the current enforcement procedures are tediously slow, administratively burdensome,

[1] Although the petition did not specify those charter rules which should be amended, we read it as a request for revision of all of the Board's "special charter rules," *i.e.*, charters operated by indirect air carriers exercising operating authority conferred under an appropriate Part of our Special Regulations.

and ineffective, and that licensing would offer a swift sanction and potent deterrent to improper business practices.

The petition also suggested that, with licensing in force, it would not be necessary to review the prospectuses for each charter flight. A summary prospectus would presumably be sufficient to cover a group of charters assembled by the same operator.

Answers to the petition were filed by seven operators and two operator associations, two scheduled and three supplemental air carriers, and the American Society of Travel Agents.[2]

Most of the answers questioned the validity of the statistics presented by the OCA petition as justification for the new suggested requirements. They pointed out that the complaint categories used by OCA did not separate charters that involve operators from other types of charters or tours that do not, such as affinity group charters or tour packages via scheduled air carrier services. Many of the answers argued that charter tours are no more in need of regulation than tours via scheduled services. Almost all of the answers opposed the idea of making the operator liable for mishaps, delays, or nonperformance over which he has no control, on the grounds that it would add unnecessarily to the cost of charter travel and to some extent eliminate the differences that result in the cost advantage of charter travel over scheduled service.

The Board considered protection of the traveling public's interests to be of paramount importance. To the extent that this can be done by regulations that simply have the effect of prohibiting deceptive or otherwise unprincipled behavior, or of preventing or deterring negligent misconduct, on the part of those offering goods or services to the public, it should be done without hesitation. Unfortunately, however, regulations that fully meet that description are rare; most regulations involve costs. The assessment of those costs is crucially important to a regulatory agency that would act in the consumer's interest, for the reason that the consumer pays substantially all the costs, regardless of where they are initially imposed. The desire of the traveling public for lower-priced air transportation has been very strongly expresed to the Board. It is thus not sufficient to ask whether protection is desirable, or even whether the proposed regulation will succeed in providing it; we must also ask whether, in our judgment, the value of the protection received exceeds its cost to the consumer.

Mandatory contract terms. The OCA petition (item 1) suggested that the Board prescribe the contract between the various parties involved in a charter flight, and that staff review of each contract thereafter would be unnecessary. Several different issues are contained in this aspect of the petition.

1. *Operator-carrier contracts.* The justifications offered in the petition for the suggested rules, viz., the protection of individuals traveling by charter flight, did not bear directly on the matter of prescribing the contract between the operator and the direct air carrier, and the reason for prescribing such contracts is not obvious. Several answers argued against such a provision, on the grounds that it is not necessary to so restrict competition in this area, and that carriers should be free to compete by offering more liberal charter contract terms to operators. The Board agrees that no sufficient justification has been shown for a prescribed form of charter contract, which would prevent carriers from competing with one another in offering terms to charter operators, and, absent justification, the request should be denied. There was some comment by operators that the present contracts demanded by air carriers are unfair in that the carriers are free to raise their prices regardless of the contracts, and are similarly unfair to the operators in the event of force majeure or labor-dispute cancellations. The Board recognizes that some provisions of the present charter contracts may merit further regulatory attention, with a view to eliminating unfair aspects, and invites comments on specific provisions.

2. *Depository and surety provisions.* In the area of the agreement between the operator, the direct air carrier, and depository bank and the revision of the surety provisions suggested in OCA's item 10, the Board considers that a review

[2] The commenters, in their respective classifications were: Nationwide Leisure Corporation, American Leadership Study Groups, Vacation Ventures/Carefree Travel, Inc., Charter Travel Corporation, American Institute for Foreign Study, Inc., Pathfinder Corporation, American Automobile Association, Inc., Unitours, Inc., and David Travels, Inc.; Airline Charter Tour Operators Association, and United States Tour Operators Association, Inc.; American Airlines, and Delta Air Lines; Overseas National Airways, Trans International Airlines, Inc., and World Airways, Inc.

of existing rules is called for, and has already initiated staff action to study the matter and make recommendations. The petition on this polut has thus been anticipated. There was nothing in the petition, however, and the Board is not aware of additional evidence, to indicate that the situation requires immediate rectification; and we are therefore inclined to believe that we should wait for and consider the staff study before taking rulemaking action.

3. *Operator-participant contracts.* The petition asked that the Board "prescribe" the contract between the operator and the participants. This refers, of course, to the provisions other than the main features of the charter, which change with each tour. The Board tentatively agrees that some of the provisions of these contracts might usefully be standardized; and, indeed, we are currently awaiting various staff proposals for such standardization. The Board has also directed the staff to submit for our consideration some basic, detailed, "form" provisions that will make it possible for the Board to review prospective contracts more effectively. However, adequate justification for mandatory complete standardization of all provisions of operator-participant contracts has not been presented, and the Board is therefore not prepared to commit itself to that course at this time. Some of the specific provisions that OCA argued should be contained in these contracts are discussed below.

Insurance-type provisions. Several of the requirements suggested by OCA take the form of insurance, directly or indirectly. Item 11 would impose on the operator liability without fault for all nonperformance of services contracted for by businesses involved in the tour, and for any damages incurred on the tour. Similarly, item 8 would require payment at a high rate by the operator for flight delays of more than a few hours. Since these involve money payments to the participant as a result of a contingency, they would be paid for by each participant as an increment of the charter price to cover the added operator costs; they are therefore, in essence, a form of insurance that each participant would be required to purchase.

Commercially successful insurance depends on a positive margin between costs (i.e., premiums) and benefits (payouts for the insured loss). Sometimes purchasers are willing to pay more than the benefit may be worth (the prospective payout times the probability of receiving it) in order that they will not have to face the prospect of loss. But where relatively small amounts of money are involved, whose loss would not be catastrophic, regulation-forced insurance unnecessarily limits the consumer's freedom of choice. Not only is he foreclosed from deciding whether the risk is worth insuring against (insofar as the risk is now commercially insurable) but the "premium" he pays as part of the price of his travel is based on the average claims of all travelers, and not on his needs alone. Furthermore, imposing a regulatory liability on the operator leads to the most inefficient kind of insurance, since the operator has little control over the contingencies insured against, and cannot reduce costs by being more careful.

For these reasons, the Board is tentatively of the view that there is substantial doubt as to whether items 8 and 11 of the suggested charter contract would really be in the interest of consumers, since all of them would ultimately bear the costs, regardless of individual preference.

Although passengers on flights undoubtedly find delays to be annoying and inconvenient, no justification has been shown for an insurance-type remedy contemplated by item 8. As pointed out in several carriers' answers to the petition, flight delays are often due to factors such as mechanical difficulties or weather that cannot be prevented, so the behavior-modification effect of the penalties would be minimal. To force participants to pay more for their charter flights so that they may receive penalty payments for delays would partially defeat one of the main aspects of the charter "bargain."

Item 11 is more complex; it includes some types of insurance coverage that may be desirable to consumers. Collecting it all under an umbrella liability of the tour organizer, however, is likely to be inefficient, expensive, and freedom-limiting for the consumer. Such a plan would include large elements of double coverage. For example, many charter participants have insurance coverage for their baggage as part of their continuing personal insurance package. Where they do not have these types of insurance, they can readily purchase one or more such types measured to their own needs, on a short-term basis to cover a trip. It is not entirely clear what types of "nonperformance" by businesses providing services to the charter participants were intended by the petition to be covered, but this type of insurance coverage, obtained nominally by the tour organizer and

paid for ultimately by the consumer, would be expensive (as indicated in many of the answers), in light of the wide range of defaults involved.

For these reasons, we are inclined to the view that the proposals constituting item 8 and 11 of the petition's suggested liability rules should not be adopted. However, we specifically invite comments on all questions of operators' liability for nonperformance or misperformance in connection with charter flights and tours.

Cancellation and refund rights because of changes. Item 2 of the petition would require the operator-participant contract to describe all the major features of the charter, including names of operators and carriers, dates, itinerary, ground arrangements, and prices. Item 3 would provide that "a change in any component part of the tour (price origin, destination, hotel, air carrier, ground arrangements, or itinerary) shall automatically and immediately give rise to a complete refund unless the tour participant agrees in writing to accept such a change." These two items are both elements of the same proposed scheme and are considered together. he problem of changes in the tour plans is a difficult one, and to some extent inherent in the concept of tours, with the requirements for extensive advance arrangements by the operator for many aspects of the "ground package," as well as the uncertainties incident to contracting for plane capacity many months in advance without detailed knowledge as to the number of participants who will finnily travel. On the one hand, the traveling public certainly has a right to receive substantially what it contracts for, although a certain amount of latitude may be explicity provided for in the contract. On the other hand, as pointed out in many of the answers, late changes in tour arrangements are often entirely beyond the control of the operator, and the need for some adjustment in a tour package might be reasonably anticipated. A rule that gave each participant a right to a complete refund for any change in the plans, no matter what its nature, would be unfair, not only to the operator but also to the other participants, and could lead to confusion and argument over whether a change actually took place.

The question is not simply one of holding the operator to high standards of behavior. The charter rules limit (differently in the various charter forms) the rights of the operator to replace participants who cancel, regardless of their refund rights. It may fairly be assumed that in many cases the majority of tour participants are willing to accept changes and go on with their plans. Participants who cancel, therefore, create a difficult situation: if the entire charter is canceled, many persons' travel plans may be upset, and economic losses to the air carrier as well as the operator may be involved. If the tour goes on, the cost of the empty seats must be absorbed by someone. As discussed earlier, it would be naive to assume that the operators, or any businesses, consistently absorb the cost. Liberal cancellation rights, where the seats cannot be refilled, are an added cost that will ultimately be passed on in higher charter prices.

The conclusion tentatively drawn is that positions at either end of the spectrum would be unwise—either complete cancellation rights in the participant for any change, as suggested by OCA, or complete freedom in the operator to make changes at will. What is clearly needed is a middle position, a set of criteria to distinguish between changes that are major enough to give participants refund rights and those that are not. Insofar as the OCA petition requests rulemaking proceedings to arrive at such criteria, and any related rules that may be found desirable to curb possible operator abuses, those issues should be focused on specifically.

Hardship refunds. OCA suggested a right to withdraw with a complete refund in the event of serious illness or death in the participant's immediate family (item 4). Upon examination this can be seen to be a pure form of forced insurance, whereby each charter participant would be required to pay a hidden premium for the right to cancel on the happening of certain specified events. Several answers suggested that a more sensible course would be to allow participants to make their own economic choices in this area by their option to buy "trip insurance" for such contingencies.

The Board agrees, and we would be inclined to reject this proposal. Given the variety of factors that may induce people to cancel, it seems no useful purpose would be served by a selection process that would produce free cancellation rights for participants who encounter certain circumstances, but not to others. Furthermore, there is probably no way to distinguish, by regulatory language, between circumstances that constitute genuine hardship and those that do not. It is true that various types of catastrophic events give rise to general sym-

pathy, but the fact that in these cases cancellation appears personally appropriate or justified is not a sufficient basis for imposing insurance costs on participants who do not wish to pay for that type of protection. Optional insurance seems far preferable to forced, universal insurance in areas such as this, for reasons already discussed. The Board intends to develop a proposed requirement that tour operators make trip-cancellation insurance available to any participant who wishes it.

Official notice of cancellation. The suggested requirement (item 5) that each participant receive formal notice of a canceled tour, from which time the period for filing refund claims would run, appears reasonable, and should be included among the proposed rules developed in this proceeding. However, as a technical matter, certified mail would appear more appropriate than registered mail for that purpose, as pointed out in the answers.

Refunds for canceled charters. The Board accepts the principle that refunds should be promptly made to participants in the event a charter flight is canceled, and would expect to propose that portion of the petition as a general matter, with some modification, in order to reflect the fact that the nature of the refund should vary according to the circumstances of the cancellation.

The regulations pertaining to charters provide (14 CFR 207.13(b)) that in the case of split charters, the carrier must require payment of the full charter price not later than 30 days prior to the flight. This payment is not refundable in the event of cancellation of a charter by the operator (i.e., not by the carrier), unless another charter is substituted. This provision protects the interests of the participants in the other charters on the same flight, since the carrier is prohibited by statute from accepting less than the full charter price for performing the flight. The chartering operator is, of course, liable for the amount of its charter price, and the question is whether its debt should be to the carrier, or to the persons who would have been participants in the canceled charter and are awaiting the return of their money. The main problem would be a defaulting charterer, although that situation is mitigated by the surety requirements imposed on operators. In light of the facts that consumers' interests are involved on both sides, that considerable uncertainty could be injected into split charter flights if the carrier had to give up its payment in the event of a late cancellation and look to the charterer or its surety for reimbursement before departing, and that cancellations after full payment has been made to the carrier are relatively uncommon, the Board would be inclined to retain the present scheme with respect to cancellations of split charters during the last 30 days before departure, whereby the operator must reimburse participants directly for their payments from its own funds. However, we might further examine this position in light of the staff study on financial security arrangements. In any event, we would expect this proceeding to develop a rule requiring direct repayment of all money received originally from participants in other situations where a charter is canceled.

In this item OCA also requested that payment to the participants in a canceled charter be required within 7 days of the cancellation, with a 10 percent penalty for late refund. Several answers pointed out that 7 days appeared to be an unfairly short period, in light of the fact that parties other than the operator must normally participate in the transfer of funds, and that the 10 percent penalty was unjustifiably harsh. A requirement that refunds be required within a stated period appears sound, however, and the Board will consider these details, including a requirement for penalties for late refunds, in light of comments received in the course of developing its rules.

Identification of operator in advertisements. The identification of the tour operator in any solicitation or advertising material (item 7) appears to be a worthy suggestion, and should be included among our proposed rules. It would make it easier for members of the public to identify particular programs in case of an inquiry or a complaint to the Board, and would perhaps increase the sense of responsibility of operators who would otherwise be unknown to the consumers utilizing their services. Whether a useful purpose would be served by including the address of the operator in advertising material is a subsidiary issue for specific focus in the comments.

Overbooking penalties. The OCA suggestion (item 9) that overbooked participants receive a complete refund plus free scheduled transportation to the destination appears to be a uniform, harsh penalty applicable to a variety of situations in which the culpability of the operator differs widely. The petition contains little justification for such a sweeping approach in this area. Here, as with the refund-for-changes issue, the better course appears to lie somewhere between the ex-

tremes of no relief and automatic relief in all cases no matter the circumstances. The Board is of the opinion that prompt and effective action to protect the consumer's interests in this area is needed. It may well be that, in some instances, such action may include a requirement for substitute transportation. However, in order to formulate proposed rules regarding overbooked seats on charters, we invite comments offering reasoned suggestions as to specific ways in which the rules should be changed or supplemented.

Licensing of tour operators. Licensing of operators has some attractive aspects. Perhaps the strongest argument in its favor is that it would give the Board another enforcement sanction, whereby an operator who failed to comply with regulations could be put out of business, at least for an extended period of time. Putting a going business out of operation is a very serious matter, however, both legally and as a matter of public policy. It is highly unlikely that it would be done on the basis of a showing that an operator had violated some regulations unless it were conclusively shown that the violations were intentional, major and repeated. As has been discussed, the Board is moving to institute rules to protect charter participants in various ways, and it would appear wiser to examine the ameliorative effect of those actions before moving to the more burdensome procedure of licensing.

The screening aspects of licensing set forth in the petition are also subject to serious question. If, as the petition suggested, it would not be appropriate to use the licensing requirement to impose severe entry restrictions, it is difficult to envision how licensing could really screen out potential wrongdoers. The most important qualities in persons entering into the business of tour organization are integrity and business ability, and absent a thorough background investigation, which is clearly not feasible, there is no way for a Federal agency to make discriminating judgments in those areas on the basis of application documents. Even the financial stability that the petition cited as one of the goals of licensing would probably not be ascertainable, since with no financial history, the financial position of small business that is about to begin its life usually bears little resemblance to what it will be a year or two after it begins operation.

For these reasons, the Board believes that the benefits of operator licensing have not yet been shown to be sufficient to justify the major addition to the paperwork load, in both the public and private sectors, that such a procedure would involve. Moreover, as noted previously, the Board has instituted a staff study of the financial security provisions, which is porceeding on an urgent basis. It is undertaking, moreover, to reexamine all aspects of its charter regulations, with a view to revising them to serve best the interests of the public. The question of operator licensing will be given further consideration in that study. Finally, the changes that the Board is contemplating in the charter regulations, many of which have been noted herein, should do much to streagthen the protections for charter participants. Inasmuch as the proposal to license operators is regarded as a "consumer-protection" technique, our adoption of charter rules improving consumers' protection might thus render the licensing proposal unnecessary for that purpose, and thus remove the main apparent justification for this proposed restriction on free entry and competition for charter operators.

Termination of exemptions. The OCA petition also requested the termination of operators' exemptions, as indirect air carriers, from sections 401, 407(b) and (c), and 412 of the Federal Aviation Act (49 U.S.C. 1371, 1377(b) and (c), 1382). Upon examination, these exemption terminations appear to be merely supplementary to the requested licensing requirement, and will therefore be considered in that context. The section 401 exemption would be "restricted" to those obtaining licenses from the Board, so that it would actually be the licensing vehicle. The section 407 provisions relating to disclosure of major stockholders and stock ownership in carriers by officers and directors would relate to the information provided pursuant to the application for a license. Finally, the section 412 requirements for filing with the Board agreements between operators and direct air carriers would only be meaningful if the present requirements for pre-flight charter documentation are changed, since the actual contract must presently be filed with the Board as part of that documentation.

MINETTI AND WEST, MEMBERS, CONCURRING

The petition of the Board's Office of Consumer Advocate provides us with the opportunity to focus our attention upon possible improvements to the protections provided travelers using chartered air transportation. Safeguarding the in-

terests of the traveling public is a matter of continuing and preeminent importance to us. While we join in the issuance of this Advance Notice of Proposed Rulemaking, we wish to observe that we cannot go so far as to concur with the tentative conclusions contained therein which would deny in part the consumer-protection improvements sought by OCA. Whatever may be our ultimate conclusions in this proceeding, we remain unconvinced that the reasoning advanced by the Board supports the several tentative conclusions that it draws which would restrict the changes sought by OCA. Despite such tentative conclusions, we anticipate that the comments received from the public will contain full and vigorous responses to all the issues raised, directly or indirectly, by OCA's petition, as well as those specifically raised by the Board today.

(S) G. JOSEPH MINETTI.
(S) LEE R. WEST.

CIVIL AERONAUTICS BOARD,
Washington, D.C., December 5, 1977.

Hon. FRED B. ROONEY,
Chairman, Subcommittee on Transportation and Commerce, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Late in October, you received a letter from me dated October 20, purporting to summarize the Board's view on H.R. 9068, which would amend the International Travel Act of 1961 to require the licensing of persons who sell transportation services, including retail travel agents and charter operators. In that letter we described the regulations to which these people are already subject, and the proceedings in which we are considering the need for additional controls, and we questioned the need for this legislation.

That letter went to you by mistake. I had explicitly stated I was unwilling to express even so mildly negative an attitude toward H.R. 9068 as it reflected without clearer assurances than we had at the time that we already have statutory authority sufficient to give travelers the protection they require, and I had asked our staff to provide the Board with a systematic evaluation on the basis of which we could provide you with a firmer response to your inquiry. That investigation is still in progress. Meanwhile, however, we have some additional thoughts on the proposed legislation as it pertains to charter operators, which we would like to pass on to you; and we would like also to bring you up to date on some recent developments at the Board that might have a bearing on the Bill.

In that previous draft letter, I briefly mentioned that the Board has developed a series of regulations governing the sale of charters. They exempt charter operators from the licensing provisions in section 401 of the Federal Aviation Act, subject to the condition that they file certain documents with the Board before they advertise or sell charters to the public. These documents include contracts for the air transportation proposed, financial security arrangements to protect customer payments, and contracts which the operator must enter into with each passenger setting forth terms of the charter.

These regulations reflect an attempt to strike a balance between our desire on the one hand to avoid imposing burdens on charter operators such as might interfere unnecessarily with our objective of bringing the benefits of charter transportation to the general public at the lowest possible cost, while providing passengers with necessary protections. It was the first consideration that led the Board in the past to exempt charter operators from the licensing provisions of the act: it felt that a burdensome licensing requirement would stifle the development of charters, by inhibiting entry of charter organizers into the field; and it recognized also that the cost of licensing would ultimately be borne by the consumer of charter services. The question of tour operator licensing is, however, a complex one, and the Board is currently reexamining the issue in a pending rulemaking proceeding, SPDR-50.

In this sense, the regulations have been successful: charters have gained increasingly in popularity in recent years. This success has, however, brought with it a rising number of consumer complaints. The Board has become increasingly concerned over this problem and, as a result, we are actively reviewing ways to ensure that consumers are adequately protected against charter abuses. In my October 20 letter I mentioned two rulemaking proceedings, currently in progress, which deal with these problems. Additionally, the Board's Bureau of Enforcement is developing a strengthened program for enforcement action to prevent abuses of consumers in the area of publicly sold charters. The Board is using this proposed new program as a vehicle for developing a more comprehensive approach to the

prevention or remedy of abuses. Our staff is currently at work on this problem. Of course, as I have already observed, we must continue to try to strike a balance between ensuring greater consumer protection and avoiding excessive restrictions and regulations that might price charters out of the market. I can assure you that the Board will make a thorough inquiry, carefully keeping this dual objective in mind.

As this letter suggests, we are still genuinely uncertain about whether additional legislation is desirable. The attention that we are now giving to these matters may eliminate the need for the proposed legislation. But we are still not in a position to give you a firm judgment.

I did, however, want to correct any misimpression that you may have received from our previous letter to the effect that we had definitely decided no additional legislation is required, and to assure you that we will keep you informed as our own deliberations proceed. I hope this clarification of my earlier letter will be helpful to you.

Sincerely,

ALFRED E. KAHN, *Chairman.*

FEDERAL MARITIME COMMISSION,
Washington, D.C., September 30, 1977.

HON. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to your request for the views of the Federal Maritime Commission on H.R. 6222 and H.R. 9068, both of which would amend the International Travel Act of 1961 to provide for the regulation and registration of sellers of travel or travel services.

These two bills are essentially similar in their purpose to register and regulate travel agents within the United States. The major distinction between the two bills is that, under H.R. 6222, the registration and regulation would be accomplished by a "Travel Agent Registration Board" within the Department of Transportation to be composed of Government employees, whereas, under H.R. 9068, the registration and regulation of travel agents would be accomplished by a "National Travel Service Registration Advisory Council," the members of which, except those already in full time Federal Government employment, would receive daily consultant pay. Under this Advisory Council, one member would be included from the Federal Maritime Commission for 1 year out of every 5 years.

Subject to the foregoing distinctions, our comments will be directed to the provisions of both bills.

The bills would require that all travel agents, as defined in the Act, obtain a registration certificate before carrying on the business of selling travel or travel services. The bills set up certain broad criteria for approval of such registration certificates and provide that no one will be permitted to operate as a travel agent without such certificate. There are provisions for certain grandfather rights and provisions setting forth the bases whereby such certificates could be denied, suspended or revoked for failure to meet specified qualifications.

With respect to the basic need for this legislation, we would defer to other agencies such as the Department of Commerce, Department of Transportation, Interstate Commerce Commission, Civil Aeronautics Board, etc., which have more direct responsibility with respect to tourism and travel. However, this Commission does have certain specific financial responsibility jurisdiction over the operators of passenger vessels which embark passengers at United States ports. The following comments are therefore directed to provisions of the proposed bills as they appear to affect this area of the Commission's jurisdiction.

Under Public Law 89-777 (46 U.S.C. § 817(e)), no person is permitted to arrange, offer, advertise or provide passage on a vessel having berth or stateroom accommodations for fifty or more passengers, and which is to embark passengers at U.S. ports, without first establishing his financial responsibility for indemnification of passengers for nonperformance of transportation. Owners, operators and charterers of passenger vessels have been required to comply with this law. Travel agents dealing with steamship passenger lines work under agency arrangements whereby the passenger lines assume reponsibility for the funds collected from prospective passengers by the authorized travel agents. While no travel agent as such has obtained a certification of financial responsibility from the Commission, several travel agents have chartered vessels. As charterers, they

have qualified for certificates of financial responsibility from the Commission, pursuant to the statute.

The Commission's General Order 20 (46 C.F.R. § 540.9(k)) delineates the responsibility of a certificate holder for money or deposits collected by its agents. It reads as follows:

"Every person in whose name a Certificate (Performance) has been issued shall be deemed to be responsible for any unearned passage money or deposits in the hands of its agents or of any other person or organization authorized by the certificant to sell the certificant's tickets. Certificants shall promptly notify the Commission of any arrangements, including charters and subcharters, made by it or its agent with any person pursuant to which the certificant does not assume responsibility for all passenger fares and deposits collected by such person or organization as deposits or payment for services to be performed by the certificant. If responsibility is not assumed by the certificant, the certificant also must inform such person or organization of the certification requirements of Public Law 89–777 and not permit use of its name or tickets in any manner unless and until such person or organization has obtained the requisite Certificate (Performance) from the Commission."

As you will note, the financial responsibility requirements under Public Law 89–777 cover only vessels which embark passengers at United States ports—they do not apply to steamship operators which embark passengers at foreign ports. Certain steamship operators and promoters have avoided the financial responsibility requirements of Public Law 89–777 and the Commission's regulations published thereunder by embarking passengers at ports in foreign countries, such as Windsor, Ontario, Vancouver, British Columbia, or nearby areas in the Caribbean. If all travel agents were effectively registered and required to furnish evidence of financial responsibility, passengers in the United States who purchase ocean transportation from United States travel agents and embark at foreign ports would be, to some extent, financially protected.

In this connection, we note that under both bills the term "engaged in the business of selling travel or travel services" would include any common carrier of passengers except for those regulated by an agency of the Federal Government when engaged in the business defined in such carrier's certificate of public convenience and necessity. With very minor exceptions, none of the passenger vessel operators regulated by the Federal Maritime Commission under Public Law 89–777 have certificates of public convenience and necessity, and would, therefore, be considered as "engaged in the business of selling travel or travel services" under the bills. Since these passenger vessel operators are already covered by the financial responsibility requirements of Public Law 89–777, they should be exempt, with respect to the embarkation of passengers at United States ports, from registration and regulations as "travel agencies," similar to the exemption for certificated common carriers.

However, non-certificated passenger vessel operators embarking passengers at other than United States ports, and promoting and selling such services in the United States, are not subject to the financial responsibility requirements of Public Law 89–777, and should therefore be considered and regulated as travel agencies with respect to their own direct sales in the United States.

We have two additional, general comments with respect to the proposed bills.

First, among the qualifications for registration as set forth in both bills is a requirement for "sound financial structure and practices" of the travel agency. If Congressional hearings demonstrate the need for regulation to protect travel purchasers from loss of advance monies paid to travel agents, then, in our view, it should be made clear in the legislation that the Advisory Council or the Registration Board should have authority to require specific evidence of financial responsibility in the form of insurance or surety bonds. The existing language of the bill is too vague and would create serious problems for the implementing agency if that agency were required to pass judgment on the financial strength of the company or individual travel agent.

Second, we would point out that under this legislation thousands of individual travel agents throughout the United States would have to furnish evidence of financial responsibility and meet other criteria for registration. If a determination is made that extensive regulation of this type is required at the Federal level, it could only be carried out effectively by a Government agency adequately funded and staffed, as opposed to a part time Advisory Council as proposed by H.R. 9068.

Sincerely yours,

RICHARD J. DASCHBACH,
Chairman.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., October 7, 1977.

Hon. FRED B. ROONEY,
Chairman, Subcommittee on Transportation and Commerce, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN ROONEY: In your letter of September 14, 1977, you request for the record the Commission's views on H.R. 6222, the "Travel Agents Registration Act of 1977," and H.R. 9068, the "Sellers of Travel or Travel Services Registration Act of 1977."

I am pleased to forward to you the comments of a majority [1] of the Commission, which are attached.

If I may be of further assistance, please contact me.

Sincerely yours,

A. DANIEL O'NEAL, *Chairman.*

Attachments.

COMMENTS OF A. DANIEL O'NEAL, CHAIRMAN, INTERSTATE COMMERCE COMMISSION ON H.R. 6222 AND H.R. 9068, BILLS TO AMEND THE INTERNATIONAL TRAVEL ACT OF 1961, SUBMITTED TO THE SUBCOMMITTEE ON TRANSPORTATION AND COMMERCE OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

I wish to thank you for this opportunity to comment on H.R. 6222, the "Travel Agents Registration Act of 1977," and H.R. 9068, the "Sellers of Travel or Travel Services Registration Act of 1977." These bills are very similar and generally provide for the Federal registration of travel agents and other persons engaged in the sale of travel or travel services. For the reasons set forth below, a majority of the Interstate Commerce Commission [2] does not believe that this legislation is necessary at this time. However, should Congress ultimately decide this legislation is in the public interest, we have some suggestions for improvement.

The Commision now regulates two sectors of the tour industry. First, certificates of public convenience and necessity are required for carriers transporting passengers by motor vehicle in interstate or foreign commerce. Since both bills exclude from coverage common carriers of passengers of their employees, it is not necessary to discuss common carriers further. Second, brokers of passenger transportation by motor vehicle are also regulated. Brokers are those who arrange tours by motor vehicle, generally by bus. The Motor Carrier Act of 1935 subjected such brokers to full economic regulation by the Commisison.

Section 204(a)(4) of the Interstate Commerce Act (the Act) provides that it shall be the duty of the Commission to regulate brokers and establish reasonable requirements with respect to the operations and practices of brokers. The Commission recently finished a thorough investigation of the tour broker industry.[3] (See Ex Parte No. MC-96, Entry Control of Brokers, 126 M.C.C. 476 (1977)). A majority of the Commission concluded that the only industry regulation necessary is regulation to insure that those who receive broker licenses are honest, financially sound, and capable of running a tour operation.

Thus, it seems that the latest Commission policy on passenger brokers goes in the opposite direction from this proposed legislation, by adopting less complex regulations for the licensing of passenger brokers.[4] The rules adopted in Ex Parte No. MC-96 eliminate any fee for filing a broker license application, raise the amount of surety bond required from $5,000 to $10,000, and limit the examination of an application for a passenger broker license to the issue of an applicant's fitness. In this fitness examination, the questions relate to an applicant's good

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[1] Vice Chairman Clapp was absent and did not participate. Commissioner Murphy is shown with a separate expression.

[2] Vice Chairman Clapp was absent and did not participate. Commissioner Murphy is shown with a separate expression.

[3] There is currently pending before the Commission a draft report in Ex Parte No. MC-93, *Operations and Practices of Passenger Brokers Affiliated With Motor Carriers.* The proposed regulations in Ex Parte No. MC-93 include a requirement that passenger brokers affiliated with motor common carriers of passengers file a "registration of affiliation" with the Commission. A decision in this proceeding is expected this month. When the report is issued, I will forward a copy to you.

[4] Admittedly, if the criteria listed in subsection 204(a) were applied as absolute minimums, it could be argued that the criteria are no more onerous than our new fitness standards. However, subsection 204(a) is "open-ended" and we cannot safely assume that its criteria will not be greatly increased and strictly applied

general character, ability to conduct the operations in an appropriate manner satisfactory to patrons, willingness to comply with Commission rules and ability to obtain a $10,000 surety bond. The procedures also require publication of the applicant's name and domicile in the Federal Register and allow protesting parties to contest the issue of an applicant's fitness.

During our investigation of the travel industry in today's economy, we also become convinced that it is not necessary to regulate the amount of competition within the industry. Moreover, we became increasingly aware of significant pressure within the industry to limit new entrants. Thus, we would not support new Federal regulation that would amonnt to a "public convenience and necessity test," or any requirement that an applicant show services that would contribute something of value, or be of benefit to carriers or the public.

The Commission is confident that this recent decision's focus on an applicant's fitness, and the higher bond limit requirements, will serve to strengthen the integrity of this industry, while making entrance requirements less procedurally cumbersome.

The new rules adopted in Ex Parte No. MC-96 were scheduled to take effect on September 29, 1977, but the National Tour Brokers Association has begun a court action attacking their validity. The Commission has postponed the effective date.

SUBSECTION 203(B)(4) OF H.R. 9068

Yonr letter reqnests specific comment on subsection 203(b)(4). Initially, we note that H.R. 9068 does not provide for repeal of any ICC authority in the Act. Accordingly, dual regulation of passenger brokers would result. Moreover, H.R. 9068 does not provide specifically for a bonding requirement similar to that contained in Section 211(c) of the Act. Under a dual regulation situation, it wonld be possible for a broker to obtain Interstate Commerce Commission authority but fail to meet the certification requirements of the new council. In addition, a broker could be suspended by this Commission for failnre to meet bonding reqnirements but could still be in compliance with the council, absent any requirement by that entity concerning bonds or other securities for the protection of the public. See S. Rep. No. 92-925, 92nd Cong., first Sess. 110-111 (1971), and 86th ICC Ann. Rep. 93 (1972).

The apparent purpose of Section 203(b)(4) of H.R. 9068 is to bring to the advisory council the expertise of existing regulatory entities. Since the terms of this section provide that a representative be selected to serve a one year term every fifth year, it does not appear to be undnly burdensome. However, if the dnal regulatory problem is not cured, a member of the newly created entity could be in the position of judging fitness of applicants as a member of the council, and also in his capacity as a member or employee[5] of the pertinent regulatory body. In addition, it seems that the regulatory agency, rather than the Secretary of Commerce, would be in a better position to designate the representative to the council.

More generally, the Commission, for two reasons, does not support creation of the National Federal Registration Advisory Council/Board contemplated by section 203 of both bills. First, it runs counter to the expressed desire of the Administration both to limit the growth of Federal agencies, in general, and, specifically, to reduce the number of Federal advisory commissions. Second, these entities would be authorized to exchange information, make studies, conduct investigations, etc., and, generally, provide advice to the Secretary. We believe that any properly functioning agency should be developing this same information on its own.

GENERAL COMMENTS ON SELECTED SUBSECTIONS

Section 202(5)(b) of both bills excludes from coverage religious, charitable, educational, or fraternal organizations. Under current Commission policy, such organizations would require a broker license when arranging tours for compensation, including both the intent to profit and actual profit. As a practical matter many such organizations gain profits unintentionally, and Commission policy is

[5] Three technical problems appear to us in section 203(b)(4). First, under the current wording, it is not clear if other than a commissioner can serve. This should be clarified. Second, since AMTRAK is not an independent regulatory body like the other agencies, we question its inclusion. Third, subsection 203(b)(3) places the representative of the Air Traffic Conference on equal footing with the agencies in 203(b)(4). We believe this to amount to over-representation of the air industry.

that the profit may not be retained. Such organizations often transport large numbers of people and this legislation should deal with the concept of profit capability.

We believe the better alternative to be compensation received in the form of profit, or intent to profit, from all sources. Travelers using these services are deserving of the same protections as travelers using travel agencies. This legislation should require these organizations to have some form of bonding or insurance to protect against accident or non-performance.

Section 205(b) states that no carrier shall enter into any contract or other arrangement for the provision of travel to others with any person who is not a holder of a travel services registration certificate. There are several problems with this requirement. First, it places part of the onus for noncompliance with the person who would be least likely to abuse the relationship with the consumers. The entire thrust of this legislation is to regulate the arranger of the services, to ensure that the travel agent is acting within the law. This subsection places part of that responsibility not only on carriers but also on other suppliers of parts of the travel package. This could mean that every bus company owner, hotel manager, etc., would have to evaluate the qualifications of any person who wished to buy a transportation or accommodation service in a large block, and decide whether that person must possess a registration certificate or come within the exclusions of 202(5)(b) of the proposed act. This knowledge would not reasonably be within the possession of the hotel owner or common carrier. There are many situations where advance reservations of a large amount of transportation or other travel services are made by charitable or civic groups, or even large family groups. In each of these instances, the hotel owner or common carrier would have to ascertain whether the representative of the group should be registered. This would impose a burden on both the carriers and the Commission since the carriers would have to peruse a list of approximately 6,000 to 10,000 names (an estimate of the current population of travel agents) to determine if an agent is registered and the Commission would have to set up a mechanism for informing the 1,200 or more passenger carriers it regulates of changes in the list of registered travel agents. We do not believe that subsection 205(b) is feasible and recommend that it be deleted.

Section 206(b)(2) specifies that the Secretary of Commerce shall not issue a travel services registration certificate to any applicant convicted of a felony, including fraud or misappropriation of funds. In our view all felons should not be included under this disqualification automatically. Too many times legitimate attempts to enter business by those with past criminal records are thwarted by blanket disqualifications of this kind. We would suggest that applications by such persons be handled individually, based upon policies developed by the Council, Secretary, or Board, as appropriate.

Section 207(a) contemplates expiration of the certificate after a stated time period, with provisions for renewal. No purpose would apparently be served by section 207(a) which cannot be met by enforcement action under section 208, Suspension or Revocation of Certificate. Requiring agents repeatedly to file renewal requests will only add to paperwork and create unnecessary review, especially where no complaints have been filed.

In summary, we believe this legislation to be unnecessary at this time, based on our recent thorough investigation in Ex Parte No. MC-96, Entry Control of Brokers. At the same time, creation of such national registration boards and advisory councils could result in a constriction of opportunities for new entrants at a time when there is increasing support, not only for reduction of Government presence in the marketplace, but also for increased competition and opportunities to compete.

Thank you again for the opportunity to comment on this legislation.

Commissioner Murphy wishes to express the following separate statement:

MURPHY OF COMMISSIONER MURPHY

I am not in agreement with the majority to the extent that it relies heavily on the decisions in Ex Parte No. MC-96[6] as a basis for objection to the proposed legislation. My position in Ex Parte No. MC-96 is fully stated therein, 126 M.C.C. 476, 529-430 and at pages 15-16 of the yet unprinted report on reconsideration. The need for explicit regulations found necessary in 1935 continues unabated in this

[6] *Entry Control of Brokers*, 126 M.C.C. 476 and, on reconsideration, —— M.C.C. —— (served Aug. 26, 1977).

period. Stated otherwise, the unsophisticated purchaser of transportation service in the 1930's has not evolved into a knowledgeable citizen today who can rely solely upon industry self-regulation to protect his interests.

DEPARTMENT OF JUSTICE,
Washington, D.C., November 21, 1977.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 6222 (95th Cong., 1st Session) a bill to amend the International Travel Act of 1961 to provide for the cooperative regulation of the travel agency industry.

The International Travel Act of 1961 was passed to strengthen the domestic and foreign commerce of the United States, and to promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the United States and by facilitating international travel generally. The Secretary of Commerce was given the responsibility for developing a program of low cost tours, low cost transportation, and travel generally.

H.R. 6222 would amend the International Travel Act of 1961 by adding a "Title II" requiring the registration of all travel agents, and by creating a regulatory body—Travel Agent Registration Board (Board)—within the Department of Transportation[1] to supervise and promulgate rules and regulations to be followed by the industry.

The bill would require that persons wishing to operate as travel agents apply to the five member Board for a registration certificate, to be issued on the basis of minimum qualification criteria, including ethical business conduct, adequate personnel training and experience, sound financial structure and practices, adequate business location, and such other rules and regulations as promulated by the Board.

The Board would be authorized to suspend or revoke registration certificates, after a hearing, if it found that the registrant had engaged in any one of several enumerated practices. Such Board orders would be subject to judicial review in accordance with the criteria established in Chapter 7 of Title 5, United States Code.

Thus, H.R. 6222 would establish a federal licensing scheme for all travel agents. It would prevent any individual from operating a travel agency business unless granted a federal registration certificate. Violation of the law or any rule or regulation promulgated pursuant to it could result in fines and/or imprisonment.

The Department of Justice recommends against enactment of this legislation. One of the prerequisites for a structurally competitive market is ease of entry. Where entry is relatively easy, prices cannot rise above the competitive norm in the long run because new entrants, attracted by excessive profits, will force prices back down by increasing supplies. This basic economic model is at the heart of our free enterprise system. It cannot work as it should if barriers to entry are made artificially high by the operation of regulatory schemes. It is recognized, for example, that in the regulated airline industry prices are maintained above the competitive norm because, among other things, there is no credible threat of new entry.

Licensing schemes necessarily create barriers to entry because of the expense, delay and uncertainty that attend the application process. Additional barriers are created if the regulator applies stringent entry standards. Such barriers presently do not exist in the travel agent industry. Under the present system, the Air Traffic Association (ATA) selects and accredits travel agents, but entry barriers are quite low. In 1975, 92.3% of all travel agent applications were accepted by the ATA. Thus, we know that the current standards are relatively flexible, and make possible a healthy competitive industry.

This could all change if H.R. 6222 were to become law. Entry standards would be formulated by the Board, and because the Board members would consist of, by statute, persons with experience in the travel agent industry, the tourism industry would in effect be choosing its *own* members (under present ATA procedure the air carriers select the agents). Such self regulation of an industry,

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[1] The members would be nominated by the President and confirmed by the Senate.

especially when pecuniary interests are at stake, carries considerable competitive risks, *cf. Gibson* v. *Berryhill*, 411 U.S. 564, 578 (1973). In addition, experience in other industries where entry controls exist demonstrates that existing members of the industry mount massive campaigns in both administrative and judicial review proceedings to oppose new entrants.

The reasons most often given for regulating travel agents (similar licensing schemes for travel agents have been proposed in the past) are that some individuals enter the travel agency industry for the primary purpose of obtaining discounts on foreign travel for their personal use and that some agents are incompetent, indifferent, or financially irresponsible. (See, "The Role of Small Business in the Air Transportation Industry," Hearings of Subcommittees 4 and 6, Select Committee on Small Business, House of Representatives, 89th Cong., 2d Sess., 1966, Vol. 2, and "The Role of Small Business in the Air Transportation Industry," House Report No. 2342, 89th Cong., 2d Sess., 1966.) These allegations do not justify entry control by a regulatory body. First, the risks to which customers are exposed in dealing with incompetent or dishonest travel agents are not significantly different from the risks to which they are exposed generally in dealing with retail merchants and suppliers of services. There are no particular obstacles to the normal operation of the market in rewarding those agents who provide good services to the public and penalizing those who provide bad service.

Second, bankruptcies of travel agencies, some of which have caused the stranding overseas of U.S. travelers, do not justify such regulation. Admittedly, the stranding of travelers is a serious matter. However, that problem is adequately dealt with in the existing statutory framework, without the necessity of broad regulation of the entire travel agency industry. The Civil Aeronautics Board now requires that tour operators who conduct Inclusive Tour Charters post a surety bond to insure that they will be able to meet their obligations to the chartered air carrier. (14 C.F.R. 378.16.) The regulations relate the amount of the bond to the length of the tour. In adition, the size of the bond is increased for tour programs of 10 to 21 flights in order to protect the public from travel agent or tour operator defalcation. Moreover, the Federal Aviation Act provides that performance bonds may be required of supplemental air carriers. (Section 401(n)(2), Federal Aviation Act of 1958 (49 U.S.C. § 1371(n)(2)).

The Civil Aeranautics Board has also acted to bring within its regulation study group charters, including organizations such as World Academy—the company responsible for stranding a small number of passengers in Europe in 1970. Thus, all study groups, except bona fide educational institutions, must comply with the Board's regulations, including the posting of a surety bond large enough to protect the participants of the study group. (14 C.F.R. 373, adpoted March 30, 1971, in Regulation SPR-46.)

In addition, the Civil Aeronautics Board has recently taken steps to solve violation of CAB regulations resulting from the formation of illegal affinity groups. Such groups were created by travel consolidators, who due to the large demand for inexpensive overseas flights, had incentives to evade the affinity charter regulations. With the inauguration of such charter packages as ABC, OTC, and GIT. the affinity charter problem has essentially disappeared. Now the general public has access to inexpensive charter flights without having to negotiate with unlawful and unscrupulous travel consolidators. Thus, the CAB has demonstrated its ability to regulate the travel agent industry under existing law.

In conclusion, the economic justification for many existing statutory schemes of entry control is being seriously questioned, particularly in the transportation area. It would be anomalous to impose new controls on unregulated sectors of the industry without a clear showing of defects in the functioning of the free market which are serious and not otherwise remediable. It is our view that this very clear showing is lacking. The Department of Justice recommends against enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

(S) Patricia M. Wald
PATRICIA M. WALD,
Assistant Attorney General.

Mr. ROONEY. With these initial thoughts, I will now proceed to welcome our first witness who is Mr. James C. Miller, president of the American Society of Travel Agents, New York. Mr. Miller will be accompanied by my great friend and former member of the Postal Service, Mike Barone, of Pennsylvania, and who is on the National Legislative Committee of ASTA, Mr. Arthur L. Schiff, director of the Legal, Government, and Corporate Affairs Division, ASTA; Mr. John Bennison, Washington director, ASTA; and, Mr. Paul Quinn, Esq., attorney, representing ASTA.

You may proceed.

STATEMENT OF JAMES A. MILLER, PRESIDENT, AMERICAN SOCIETY OF TRAVEL AGENTS; ACCOMPANIED BY MICHAEL BARONE, NATIONAL LEGISLATIVE COMMITTEE; ARTHUR L. SCHIFF, DIRECTOR OF THE LEGAL, GOVERNMENT, AND CORPORATE AFFAIRS DIVISION; JOHN C. BENNISON, WASHINGTON DIRECTOR; AND PAUL S. QUINN, ATTORNEY

Mr. MILLER. My name is James A. Miller. I am a travel agent from East Lansing, Mich. I began and together with my wife I own and operate travel agencies in East Lansing and Lansing. I am also president and chairman of the board of the American Society of Travel Agents, Inc. (ASTA), the world's largest professional travel association, which is comprised of over 15,000 members in over 120 countries representing all facets of the travel and tourism industry. The society's purpose is the promotion and advancement of the interests of the travel agency industry and the safeguarding of the traveling public against fraud, misrepresentation and other unethical practices. Members of ASTA in more than 8,000 travel agency locations throughout the United States arrange the travel plans of over 40 million American consumers annually who spend approximately $11 billion each year, in business and pleasure travel sales.

I am grateful to have this opportunity to appear here this afternoon as the spokesman for the members of ASTA to assist this subcommittee in its efforts to fashion legislation to develop standards for the travel industry.

I am one of more than 12,000 travel agents, located in virtually every community throughout the United States, who exist to serve the traveling public in the acquisition of all forms of travel and related services. To accomplish our objective, we represent air carriers, both scheduled and supplemental as well as other suppliers of travel and related services. The use of travel agents by the public is increasing at a dramatic rate. As a result, more than 75 percent of all international travel sales and almost 50 percent of all domestic airline sales are handled by travel agents, which resulted in travel agents in generating for the airlines, $5 billion of domestic airline sales alone in 1976.

The reliance by the traveling public on travel agents makes the proposals before this subcommittee of vital importance to us and our clients, the American traveler. Due to the responsibilities which travel agents have to the traveling consumer, I will attempt to provide my

assessment of the need for this legislation not only from the perspective of a travel agent, but also from that of the American traveler whose welfare should be the ultimate concern of all who consider this issue.

Mr. Chairman, you have described the intent of your legislation, H.R. 9068 under consideration today as one designed to develop uniform standards for all sellers of travel and travel services, a higher degree of professionalism for the industry, and better service and protection for the American consumer.

ASTA heartily endorses these objectives.

We have been supporting Federal legislation to accompany these goals since 1964. Before your committee today is our proposed legislation H.R. 6222. The bill was designed to meet those same goals. However, we feel that your bill, H.R. 9068, although it varies slightly in approach to ours, is clearly designed to attain the same goals.

Since the approach as spelled out in your bill meets the consensus of your committee and accomplishes the goals we all seek, we will give it our total support.

As I am sure you are aware, sellers of travel and travel services sold over $14.9 billion in travel and related services in 1976. In addition to sightseeing tours, air transportation, rail, hotel, sightseeing tours, cruises and a host of other travel-related services, the sellers of travel act as an important counselor in selecting a vacationer's itinerary.

Travel agent expertise and integrity have a significant impact upon the decision of a traveler to visit a particular location and to choose among various modes of transportation or define a choice of carrier.

Consequently, an upgrading of the public's confidence in sellers of travel cannot but help bring about an increase in travel and tourism to and within the United States.

Before I discuss the difficulties in the travel business generally and the necessity for legislation of the kind envisioned by your bill, H.R. 9068, specifically, I want to commend the subcommittee for holding these hearings on the important issues of increasing public and industry concern.

The overwhelming percentage of sellers of travel in the United States are responsible business men and women. However, an increasing number of "fly-by-night operators" have entered the field, victimizing the traveling public and bringing unfair public criticism and disrepute to legitimate sellers of travel.

It is ASTA's hope that at this hearing useful information and data can be developed and a record established which will enable the Congress to select the type of program best suited to the travel industry. At the outset I would like to emphasize that ASTA does not support this legislation in order to obtain protection by the Government from qualified competition. In fact, ASTA hopes that H.R. 9068, in addition to protecting the public, upgrading the professionalism of the industry, and preventing the inconsistent and contradictory results flowing from State laws, will also promote fair and legitimate competition among adequately qualified sellers of travel and travel services.

Since 1964, ASTA has been increasingly concerned with the financial irresponsibility of certain groups involved in the travel field and the resulting harm to the public and to legitimate and qualified sellers of travel.

The ASTA Board of Directors and membership have thoroughly reviewed this and related problems, and have considered a number of alternate solutions. After study and consultation with lawyers, economists, legislators, and interested members of the industry, we have concluded that Federal legislation will provide the most effective and comprehensive solution to most of the problems confronting the public and the industry as a result of the activities of a small percentage of so-called sellers of travel or travel services.

It may be helpful to the subcommittee to review briefly the structure of the travel industry.

First, there are the actual suppliers of travel and other services to the traveler. They include airlines, steamship companies, railroads, buslines, hotels, motels, sightseeing concerns, and car rental agencies.

Second, there are organizations which assemble travel and related services offered the traveler as a package tour. These are principally wholesalers, tour operators, or other travel organizations.

Third, there are the retail travel agents who take the tour packages developed by the wholesalers or the individual services provided by the various airlines and others in the trade and promote and sell them to the public. As I mentioned before, there are currently over 12,000 conference-approved travel agents in the United States.

While the description is functionally accurate, the discrete distinctions between suppliers of service, wholesalers, and retailers are not maintained. For instance, airlines, both scheduled and nonscheduled sometimes organize and promote packaged tours. In addition, travel agents in some instances maintain a wholesale operation or act as tour operators and frequently as tour organizers. Furthermore, there are a number of operations, illegal under current CAB regulations, which involve abuse of the affinity charter regulations and which, in reality, function almost as scheduled airlines.

The mechanics of the distribution and sale of travel services are really quite simple. The travel agent, through materials received from the various conferences and their individual supplier members, mailing by wholesalers, information from many regularly published trade papers detailed information received from a great many Government tourist offices and experience developed through years of service, is able to offer valuable and important counsel to prospective travelers.

The travel agent secures and receives payment for the services selected by his client and forwards it, after deducting of his commission, either directly to the supplier of the services or to the tour wholesaler.

The agent also distributes to his client the tickets or vouchers which indicate they have paid for such services such as airline space and hotel accommodations. The wholesaler is required to have made satisfactory arrangements with the hotel and transportation facilities involved so that they will honor the coupons he has issued.

In practice, the wholesaler, if he is financially stable, and reasonably well known, is given a certain number of days after the guest in question has left the hotel to pay the bills. But recently, some hotels have failed to honor coupons issued by some very competent tour operators. In the case of the airlines, the CAB has required that chartered aircraft be paid in full prior to departure.

The travel agent is essentially a middleman or broker who brings together the supplier of travel and related services with the traveler.

He counsels the traveler on the transportation and accommodation available, either singly or in a package provided by the wholesaler.

In any consideration of the registration of sellers of travel or travel services, we should examine not only the impetus to such registration but the nature of the product.

The purchaser of travel is sometimes identified as a dreamer, and his realization of his dream is as unique as his subjective self. Given identical physical experience, fellow tour-participants will all receive satisfaction according to background, taste and personality.

The purveyor of travel is their merchant of dreams. He has no floor samples, courtesy cars, "try-one" as tangible testers of these dreams. His client cannot touch, smell, see or hear the product. Nor does the client expect this. This travel agent has to give form to this dream out of expertise, experience, reliability and a little help from voluminous reference materials.

The travel agent is frequently selling an intangible, highly variable, subjective product, which requires professional interest and considerable competence.

In dealing with such intangible, unshowable products the client allows sales license to the travel agent, and the professional agent respects that license in the interests of his client. Regrettably, the nonprofessional, unethical seller of travel may take advantage of his client in the interest of making a sale, or for even less scrupulous reasons.

His abuses of the client relationship may range from a mismatched travel product to outright fraud, from the concealment of charges to the denial of refunds. Or, he may conspire to collect his payments and simply "walk away" with the money.

In this service industry, it sometimes seem easy to close down and leave no assets to speak of; consequently, the client has little or no recourse for the recovery of his advance payments.

In an incident in Boston last year, a proven, unscrupulous travel-enterpriser collected $40,000 for a charter trip, which did not materialize and was not intended to do so. To our knowledge, this money was not recovered from the enterpriser, for he had left town. The purchasers had no recourse. But, pertinent to our discussion, this operator had been convicted earlier for false pretenses by a Maryland court and was free on appeal. Subsequent to the collapse of the Boston enterprise, he "went west" and turned up some months later in Chicago in several new travel enterprises.

In another sensational incident involving a Superbowl package, a travel promoter, committed to provide football tickets to hundreds of tourists from the Pittsburgh area, failed to deliver the tickets to retain agents and their clients on their arrival in Miami. Many tourists watched the game in furious frustration in their hotel rooms, and the travel agents suffered losses through out-of-pocket scalping fees and other adjustments. To our knowledge, the travel promoter has not made good to the travel agents.

In the Boston case, ASTA and the trade press assisted in alerting the industry to the continuing enterprises of the travel promoter. In the Superbowl case, ASTA was instrumental in preventing a possible repeat of that disaster the following year through articles in the Boston Globe.

The ethical, professional travel agent is already subject to substantial regulation now, through the various carrier conferences. He may

not welcome more of it, for it represents another encumbrance in an already complex operation. But neither does he need the continuing sensational failures, intentional and otherwise, that plague his industry, damages his reputation by mistitled association, and ultimately takes support income from his pocket and money from the consumer.

The time for Federal registration of sellers of travel is now. The relaxation of charter regulations, and introduction of the "fast buck," nontravel professional into the industry have crystallized the need to set uniform standards and fix accountability for all concerned. Moreover, the voice of the frustrated, disappointed consumer grows stronger, and his State legislators more responsive. The prospects of a patchwork of conflicting, overlapping State legislation are thoroughly unacceptable in an already heavily, and by indirection federally regulated industry. Orderly, uniform registration is the urgent, overdue answer.

At the least, such registration will weed out the worst of the promoters and achieve protection of a sort for the legitimate and qualified sellers of travel and consumers who deal with them. At best, the industry may be encouraged and assisted in beginning further professionalism enhanced esteem in the eyes of the traveling public.

In answering the basic question posed by the subcommittee—whether or not Federal involvement in the sale of travel and travel services is appropriate—it is ASTA's view that it is indeed.

The CAB has some authority over sellers of travel or travel services through rather indirect means, and over some areas of the tour operator business it has direct control. In addition, the Federal Maritime Commission and the Interstate Commerce Commission have limited jurisdiction over some of these activities. However, as pointed out earlier, passenger strandings, loss of money, and loss of confidence in the travel industry continue to visibly and dramatically occur. It is evident that this piecemeal, roundabout control is not adequate to solve the problems which exist.

Let me turn now to efforts by States to regulate sellers of travel or travel services. ASTA has had much experience in dealing with various State regulatory schemes. Our local chapters, headquarters staff, and legal counsel have participated in literally hundreds of consultations and hearings at the State and local level. They have aided members and committees of at least seven State legislatures concerned with the problem of regulation of the sale of travel.

Numerous proposals have been explored by the industry and various State legislators ranging from bonding through full licensing schemes.

It is obvious to ASTA that attempts to regulate the travel industry on a State-by-State basis are unwise and, in the last analysis, much more burdensome to the public and the industry than establishing uniform standards at the Federal level.

A case in point is the experience of the interstate charter bus companies under State regulation. The Midwest Research Institute found, in a study concluded in April 1975, for the Federal Highway Administration, that individual State regulation of bus companies has led to multiple permit requirements; lack of reciprocity; excessive fees and charges; and excessive paperwork.

One state requires bus companies to complete an application, at a cost of $2 each, for each of its coaches which may be operated in the State, regardless of

whether a company itself is based in the State. Each applicattion contains repetitive information with the exception of the make of each coach, its serial number, unit number, and license number.

"The same State requires bus operators to register their Interstate Commerce Commission authority with the State at a one-time fee of $25; file for, and purchase, identification stamps for each coach at a cost of $1 each; file a form to register the carrier's agent in the State for service of process; obtain a motor fuel tax report at a cost of $1 per vehicle—which then must be filled out once a month whether or not the vehicle traversed the State.

Upon entering the State, each bus regardless of whether it has previously been weighed in the State, is required to be weighed, with passengers being forced to wait as buses share lines with trucks being weighed.

"The National Association of Motor Bus Owners, trade association of the Nation's bus lines, has charged that," "the proliferation of restrictive laws and regulation by the States has imposed heavy burdens on intercity bus companies, particularly smaller carriers, by making it costly and difficult for them to arrange and operate long-distance charter coach movements and pleasure tours."

Because of the importance of this explosion of State legislation, a quick review of laws already enacted, and those pending elsewhere, is of importance and interest. The State of California was the first State to actually adopt legislation to "regulate" the sale of travel. Disclosures of substantial information about the seller of travel and the trip purchased is mandated, and penalties are established for failure to comply.

The States of Hawaii and Ohio have generally followed the California pattern with slight differences. In essence, both require registration by all who sell travel in those States, but licenses and bonds from only those sellers of travel who do not hold carrier appointments. The Hawaii bond is in the amount of $10,000 per company; the Ohio bond is much greater—$100,000.

The Legislature of Rhode Island, in 1976, enacted the first State law that regulates all sellers of travel—appointed and nonappointed. The Rhode Island law requires a license for any person, firm, or corporation holding itself out as a travel agency or a seller of travel.

The State of New York in 1974 adopted what has been referred to as "truth in travel" legislation. That law collects and sets out a series of "prohibited practices"—practices which were already violations of New York consumer law or CAB regulation. Basically, these prohibitions focus on misrepresentation in statements by agents and their advertising, as well as discounting and rebating.

The legislatures of a great number of other States have considered a wide variety of licensing, bonding, and regulatory lgeislation affecting travel agents and other sellers of travel. These States include Michigan, Pennsylvania, New York, New Jersey, Massachusetts, Connecticut, Maryland, Missouri, Minnesota.

Proposals for New York legislation include requirements for licensing and bonding.

The attorney general of Minnesota prepared draft legislation including requirements for licensing and bonding.

The attorney general of Minnesota prepared draft legislation to regulate sellers of travel services. This particular draft included the requirement that sellers of travel services maintain a trust account or a bond in an amount equal to the amount of the contract between he and a carrier. A particularly difficult provision of the bill would have allowed a consumer to bring an action on the bond—or escrow—to recover damages where the travel promoter "fails to provide travel serv-

ices for which passengers contracted, or to make refunds." As you can imagine, this language leaves a great deal to interpretation by consumers and small claims courts. It is anticipated that the Minnesota attorney general will renew his interest in this legislation in 1978.

The legislature of the State of Michigan, too, has had considerable interest in the regulation of travel agents. Various bills have been introduced and are presently pending.

The legislature of the State of Pennsylvania has also been active in this area and presently pending is senate bill 393 which requires a $25,000 bond "conditioned for the faithful performance of all obligations incurred by the travel agency—to or for their clients.

As part of our prepared statement we have addressed the efforts of a number of States to impose legislation upon this essentially interstate and international industry.

These examples are contained in my statement.

I would like to comment just briefly on some of the inconsistencies being faced by the travel agents in the State of Michigan with legislation pending in that State.

The legislation implies that the local travel agent will be financially responsible if United Airlines operates an airplane flight 15 minutes later than printed upon a passenger's ticket. And that is the State will provide the consumer with the opportunity to recover from the travel agents bond for such inconvenience.

In a similar manner, the Michigan regulation would require immediate refund of deposits for travel arrangements made to a travel agent, even though at the customer's request such deposits may have been transmitted to Egypt or to India.

As a result of the cancellation the travel agent obviously will earn nothing upon the deposits so transmitted.

Then as expected by such proposed legislation to utilize on funds to satisfy the consumers immediate refund request while he waits the processes of international exchange to recover the placement of those deposits which again were done at the request of the consumer.

This is basically unfair and this appears consistently in some of the different forms of State legislation that we have described.

In summing up, there can be no doubt that failure to adopt a Federal uniform scheme for sellers of travel or travel services will result in a growing number of States adopting inconsistent and inequitable State and local laws to protect consumers. From the point of the industry and the consumer, and most significantly, from the point of view of the economic viability of the multibillion-dollar business in the United States, the Congress should act now to eliminate the uncertainty and inconsistency that the proliferation of State and local legislation will insure. If there is to be orderly and well-founded reform, it really must be at the Federal level.

ASTA reached the decision to seek a Federal system reluctantly. ASTA is convinced that failure to take prompt action will increase the impetus for State licensing in the various States with the public and the industry suffering as a consequence.

There is a further reason for action on the Federal level at this time. Today, a substantial number of foreign countries regulate their sellers of travel and travel services. In some of these countries sub-

stantial bonds are required. On at least one occasion in the past nationals of these countries have suffered substantial financial losses as the result of the failure of a few American tour operators. If such a pattern continues, it is feared that foreign countries might require bonds of American operators or impose other heavy restrictions or serious financial burdens on those of us well qualified to responsibly facilitate the American travelers visits to their shores.

Let me focus on the provisions ASTA seeks in any Federal program. First and foremost, ASTA believes it is essential that everyone who sells travel or related services be under the supervision of one agency. The piecemeal approach by the CAB, FMC, and ICC has failed to produce significant customer protective results, nor, ASTA believes, could State efforts to legislate in this area be of any meaningful value.

Furthermore, bringing all individuals engaged in the sale of travel or travel services under one registration system would tend to prevent the enforcement problems concurrent with and arising from conflicting State laws.

Under a registrative system the burden would be on the organization to register if it intends to realize any direct or indirect remuneration from the sale of travel or travel services, assuming they have met or can meet the requirements established by the law and the regulations of the Secretary of Commerce and the advisory council.

A further advantage to the proposed legislation is the diversity of representation on the advisory council; sellers of travel or travel services, the general public involved Government agencies dealing in this area and the Air Traffic Conference. This wide variety of expertise and experience is necessary to insure that the travel industry is further developed in a fair, sensible and orderly manner.

Emphasis on an assurance of the financial stability of the agent or a criterion will aid both the traveling public and all responsible retail sellers of travel. Additionally, it will be of benefit to a carrier in selecting his appointed agents, and will aid in resolving some present and continuing controversies on industrywide financial responsibility.

The time, we feel, is long past due for the Congress to scrutinize carefully the important role which sellers of travel or travel services play on behalf of the traveling public to assure and insure that this role is being fulfilled as competently, efficiently, and reliably as possible.

Like all independent businessmen, we are anxious to coutinue to conduct our business affairs free of unnecessary Government entanglement or supervision. However, it is clear to ASTA that the very troublesome areas which do exist or have been proposed in connection with the sale and distribution of the travel product should be dealt with on a Federal level without delay.

The objective which ASTA seeks, and I trust your subcommittee will share that objective, is to find new and better ways, through effective cooperation between Government and industry, to develop procedures which assure that sellers of travel or travel services can fulfill in a secure and qualified manner their growing and important role to the traveling public. Such progress should prove rewarding by bringing to an everincreasing percentage to the public, the joys and benefits of travel and tourism confidently in a professional, reliable, and

efficient manner by a federally qualified registered, and responsible travel agency industry. These objectives may clearly be advanced by the passage of your bill, H.R. 9068.

It is for these many reasons you have the full support of the American Society of Travel Agents to enact this important legislation and our sincere thanks for allowing us to participate in these hearings today. And we look forward to working further with the committee toward the final structure and definition of this proposed legislation.

Mr. ROONEY. Thank you very much, Mr. Miller, for that very comprehensive and fine statement.

Most professions and businesses today don't want to be regulated either at the local, State, or Federal level, and I commend you as the president and chairman of the board of the American Society of Travel Agents for your forthright statement.

How many travel agents does ASTA represent?

Mr. MILLER. Somewhat in excess of 8,000 at the present time, sir.

Mr. ROONEY. And what other organizations represent the travel trade.

Mr. MILLER. Well, there are some smaller organizations that operate independently. There is an organization known as the Association of Retail Travel Agents. It has been extremely difficult to secure a list of their membership, although we are aware that it represents somewhere between 300 and 500 travel agency companies as compared to the 8,000 which we represent.

That encompasses, perhaps, the size of one of our medium chapters. We have 26 chapters throughout the United States.

Similarly Triple A is involved but in many cases Triple A is embraced under one ownership umbrella, and represents if I am correct somewhere in the vicinity of 600 operating offices.

Essentially they are supported as I understand from within the automobile insurance business and expanding into the travel field. But it is perhaps a different type of organization than the independent sellers of travel that we represent. We do have some members in our organization who are members of Triple A, and we also have a number of members in our organization who are also members of ARTA, the other organization that I have mentioned.

There is a fourth organization of travel agents in the United States, the Association of Bank Travel Bureaus which if I understand correctly, their membership is in the low 200 figure as far as I know at this time.

I am very pleased to add, if I may, for the record of this committee hearing, a letter that we have just received from the American Express Co., which as you may or may not know has approximately, if I am correct, 164 offices. It is in that area to the best of my knowledge, and they have written a letter to Mr. Bennison, our director in Washington.

With respect to possible federal licensing of travel agents, my company has long favored greater professionalism and financial integrity in the industry. We have tended to avoid position taking on the licensing question since we are relatively larger than most travel agents, and wish to avoid any charges of attempts to take any advantage.

We think that a reasonable federal scheme promulgating rules which would promote professionalism and financial integrity is a desirable goal, and if the industry as a whole supports H.R. 9068, we would also endorse the principles it

represents. Of course, certain areas of the bill will need clarification during the legislative process.

Sincerely,

HARRY L. FREEMAN.

Mr. Freeman is vice president of American Express, and he has asked if I would please insert this in the record of our hearing.

Mr. ROONEY. Without objection, it is done.

[The letter referred to follows:]

AMERICAN EXPRESS,
Washington, D.C., September 20, 1977.

Re H.R. 9068.

JOHN BENNISON,
American Society of Travel Agents,
Washington, D.C.

DEAR JOHN: With respect to possible federal licensing of travel agents, my company has long favored greater professionalism and financial integrity in the industry. We have tended to avoid position taking on the licensing question since we are relatively larger than most travel agents, and wish to avoid any charges of attempts to take any advantage.

We think that a reasonable federal scheme promulgating rules which would promote professionalism and financial integrity is a desirable goal, and if the industry as a whole supports H.R. 9068, we would also endorse the principles it represents. Of course, certain areas of the bill will need clarification during the legislative process.

Sincerely,

HARRY L. FREEMAN.

Mr. ROONEY. What is involved in the travel regulations to secure an appointment?

Mr. MILLER. It is rather a lengthy process. It encompasses two pages of instructions as to the qualifications for membership. There is a financial qualification which is important, and location qualification which is important, and experience qualification in the processing of air transportation and travel which is important.

The elements of qualification are carefully drawn out, to go with a book of regulations which I would say is approximately 2 inches thick.

A similar series of specifications on regulations have been implemented by the International Air Transport Association. To a goodly degree, they are prepared with some very definite differences one with another. They are very involved processes and they are slow. They can be improved upon and are being improved upon in the process of appointment and the requirements to better recognize the qualification process to represent the air carriers.

There is continuing work developing on a rather constant basis.

Mr. ROONEY. What benefits flow from that certification?

Mr. MILLER. From the qualification as an agent, an agent is then able to represent the carriers of that conference and receive a commission on the sale of transportation tickets for travel on those carriers. It is out understanding that without that, there can be no such distribution of compensation by the carriers.

Mr. ROONEY. You talk about commissions. What are the commissions?

Mr. MILLER. Well, the commission structure on domestic air transportation is basically 7 percent from point-to-point travel sold by a travel agent.

For promotional fare travel, such as the "Discover America" program, promotional programs on the new "no frills" program, the travel pass program that allows you a number of days to travel wherever

you wish—these promotional fares are compensated at 8 percent commission.

Inclusive tours are compensated, with sales transportation in concert with these, at 11 percent.

Mr. ROONEY. What do you get from the hotels?

Mr. MILLER. Hotels are commonly 10 percent in commission throughout the industry.

Mr. ROONEY. In your testimony, you talked about the prospective traveler coming into your office with a dream. I have heard that travel agents from time to time try to send that dreamer to some place that he or she has never seen. Is that true?

Mr. MILLER. I would think so; yes, sir.

Mr. ROONEY. Well now, how can you do that?

Mr. MILLER. There are many places that a traveler has never seen that we know would be attractive.

Mr. ROONEY. How would you know? Supposing I would come into your office with a dream and I want to go somewhere and I want to go to Hawaii or want to go to Japan, and you have never been there, or no one in your office has ever been. How can you write that dream into reality?

Mr. MILLER. We can bring that dream into reality because of our complete knowledge of the technical parts of putting you in that precise destination. We also have full information on that destination at our fingertips, and over the past years because of experience I will perhaps have processed 100 passengers with a similar dream to visit that destination, and will have researched thoroughly the available features of that destination, will have had followup reports from fellow members of my community who have visited that area, and will be able to make very competent recommendations.

Mr. ROONEY. When you say 10 percent for hotel and 7 percent for an airline, does Amtrak pay anything?

Mr. MILLER. Yes; indeed they do. They have an appointment process. I hope that I mentioned them, and if I did not——

Mr. ROONEY. You didn't mention what they paid.

Mr. MILLER. Well, their commission structure is 10 percent commonly to travel agents, and they have a separate little formula for distribution compensation with which we don't quite agree at the moment, which is a level at 5 percent. That is to appointed travel agents who do not necessarily seek Amtrak appointment.

Our company, my own company, have been members of Amtrak since it was formed, as appointed agents; and in the past, most experienced travel agents were members of the rail Travel Promotion Agency, which was the predecessor travel agency distribution program of the railroads of the United States.

Mr. ROONEY. Many of the large corporations in the community today do not rely on travel agents, per se; is that correct?

Mr. MILLER. Many of the large corporations?

Mr. ROONEY. They do not?

Mr. MILLER. I would think, sir, that that would be incorrect. I would believe that more of the large corporations do rely on travel agent services than do not at the present time.

Mr. ROONEY. I thought many of them had their own in-house travel service.

Mr. MILLER. That does exist in a number of corporations, but remember that our distribution system, the travel agent distribution system in 12,000 locations, represents a great number of the major corporations of the United States in the processes of their work.

Mr. ROONEY. Are the in-house corporate offices compensated similarly?

Mr. MILLER. No; the in-house corporate travel operations are not compensated.

If a travel agent locates his business in-house for a major corporation, he is compensated at a lower percentage than if he were completely independent and separate from the corporate residential facility, if you will.

There is an in-house travel agent compensation system which means an independent travel agent locates within a major corporation and provides travel service to it.

Mr. ROONEY. How about major corporations that have their own separate travel arrangements sections. Are they reimbursed by the railroads, and are they reimbursed by the airlines, and are they reimbursed by the hotels?

Mr. MILLER. Mr. Quinn would like to respond to that.

Mr. QUINN. The CAB has taken the view as have the airlines that it would be an illegal rebate for a corporation that has its own travel department to earn commissions or moneys for handling its own travel requirements.

ASTA is of the view that that is a proper interpretation of the Federal Aviation Act.

Mr. MILLER. And we believe the proper principle for the conduct of travel business.

Mr. ROONEY. Supposing they get a discount other than compensation?

Mr. QUINN. If it is a discount related to air transportation, it would be considered by the CAB as to be an indirect rebate and illegal.

Under that act the purchasers of travel have to pay the amount in the tariff specified by the air carriers and it is illegal for a travel agent or airline to collect or charge greater or lesser amounts than that specified. This has been a rather controversial issue in the industry.

You asked about the percentage of corporate travel by travel agents. There has been a dramatic increase in the last several years in reliance by large corporations on travel agents, and I think the percentage is now beyond 50 percent where some years ago it was 35 percent of all travel being handled by travel agents.

So with increasing frequency, corporations are closing down their own travel departments and looking to travel agents to handle their travel requirements.

Mr. ROONEY. In your statement you keep referring to qualified travel agents. Define a qualified travel agent.

Mr. MILLER. That is a very good question, sir.

A qualified travel agent would mean competent to handle the processes of travel of varying types for the consumer and to give competent counsel and the consumer realistic benefits of transportation and travel in a number of different directions.

I believe this requires training and experience which is measurable when you are involved and working within the transportation and travel business over a period of years.

It is also possible to secure training through various schools. Michigan State University for example has a 4-year degree program in tourism at the present time, as do a number of other schools.

There are also various trade opportunities for training and experience to prepare young people for service in the travel industry.

These elements plus actual experience can ultimately qualify a person to be a fully fledged and qualified travel counselor. This experience and training we believe is important in the interest of the consumer.

Now qualified also would have relationship to financial ability to fulfill and properly perform the responsibilities of a travel agent with respect to the handling of consumer funds, and the funds of transportation companies and carriers for whom he would collect those funds.

Mr. ROONEY. When you talk about financially able, what are you talking about?

Mr. MILLER. Adequate financial capability and responsibility.

Mr. ROONEY. What financial responsibility or capability does an agent need? He opens an office and he gets brochures from any country in the world and he gets brochures from the Pocono Mountains or some place out in the western part of Pennsylvania, and he decides to open up an office. A customer comes in and wants to book a flight on Eastern Airlines to go to San Francisco and from San Francisco to elsewhere and so forth. What kind of a financial requirement is required?

He books the ticket, and he books the hotel; what kind of requirement is necessary?

Mr. MILLER. He would be expected to have an adequate cash balance to pay for his help, and pay for his rent.

Mr. ROONEY. Many of the agents today are "Mom and Pop" agents, are they not?

Mr. MILLER. There are a great number but you will find with increasing frequency that the average size is growing from the normal "Mom and Pop" agency to an average of 7 people in a travel agency throughout the United States. This is a little larger now, and it becomes a going business operation with responsibility for taxes, airline bonds, as well as all of the normal compenses of operating a business, including employers compensation, the compensation and insurance requirements of the State, the liability insurance that many of us carry in order that we can adequately protect the consumer in the event that a supplier down the line doesn't really fulfill what the customer expects.

Again when we represent airlines, we report our sales to them weekly, and there is a considerable accumulation of funds in the process of selling tickets for a week's time.

It is a very large sum of money and the airline appointment is made on the premise that reliably, honestly, and responsibly the travel agent will faithfully delivery those moneys at the end of a 1-week period of sale.

Therefore, it is important, I believe, to have some assurance both on behalf of the consumer and of the supplier that the person designated

for work in the travel agency industry indeed has the integrity that will complement the rest of the people who are also serving in that work.

Mr. ROONEY. What is the average time, let us say, a customer comes into a travel agent, and he wants to plan his vacation, and what is the average time that the average individual requests for you to plan his vacation for the year?

Mr. MILLER. The average amount of their interview time or the average length of time in travel?

Mr. ROONEY. No, no, I know the average length of his stay is probably somewhere less than 2 weeks, wouldn't you say?

Mr. MILLER. Yes.

Mr. ROONEY. But let us say this is the average individual who is going to plan a vacation and comes in to see a travel agent. How soon after the time he comes in does he want to travel?

Mr. MILLER. Our experience is that plans are made probably 30 days ahead.

Mr. ROONEY. Thirty days ahead?

Mr. MILLER. Yes; for vacations and discretionary travel.

Mr. ROONEY. So you make all of the arrangements?

Mr. MILLER. Yes, sir.

Mr. ROONEY. And within that 30-day period you give him receipts for his air transportation, for his ground transportation and for his hotel accommodation.

Why is there a need for a bond?

Mr. MILLER. Well, the bond has been imposed upon us by the aviation industry in protection against default from within our industry, which deprives them of the money for their air ticket.

I am, of course, one of those who is somewhat outspoken against that bond, and we have nothing to say about it, and we have nothing really at this time to say about who is appointed a representative agent, and yet we are required to carry a bond dependent upon the volume of our sales in order to protect the total industry against loss of airline money.

That seems a little improper, but nevertheless it exists.

Mr. ROONEY. Do you think that we ought to have a section in this bill that requires a bond for the respective agents?

Mr. MILLER. I would leave that to the discretion of the Secretary of Commerce. I think that would be the best way to have it.

Mr. ROONEY. Well, I certainly do appreciate your appearance before the committee this afternoon, Mr. Miller, and I commend you for your statement.

I would also like to include in the record at this time: "What Travel Really Means to This Nation as an Engine of Employment."

At this part of the record, I would like to insert this.

[The following material was received for the record:]

TRAVEL: AN ENGINE OF EMPLOYMENT

A Discover America Travel Organizations Report

Based on Research of the U.S. Travel Data Center

1977
Discover America Travel Organizations
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Price: $5.00

21-670 O - 78 - 4

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INTRODUCTION

The travel industry's contribution to employment in America is vital to the nation's economy. Travel [illegible] employment in every state of the nation. It is a major economic mainstay in many regions of the country. Over the past ten decades travel has created jobs at twice the rate of the overall economy.

This job creation continues through economic downturns as well as prosperity, making travel an important and reliable part of our economy. Travel offers relatively more employment opportunity than other industries to disadvantaged groups traditionally discouraged by the job market.

Travel is vitally dependent upon adequate supplies of petroleum. While travel away from home requires relatively little of the nation's annual petroleum supplies, such travel would not be possible without this small amount. Policies that attempt to extract extraordinary petroleum savings from travel will weaken the industry's employment generation powers and impose human costs on our economy beyond the inconsiderable benefits that might be derived.

It has been estimated, for example, that closing gasoline service stations on weekends would reduce petroleum consumption by less than one percent but cut travel industry employment by over 475,000 jobs. This is a heavy price to pay for such insignificant savings, yet this approach has been seriously advanced by some to help deal with conservation of petroleum supplies.

The effects of such a discrimination energy policy go beyond the jobs lost. The travel industry consists almost entirely of small businesses. Such a plan would strain the resources of many of these firms past the breaking point and cause them to fail. This is a serious cost in a nation that seeks to reduce its unemployment and strengthen small business opportunities.

The employment loss among both entrepreneurs and employees caused by petroleum shortages might be made up through governmental policies directly aimed at increasing jobs, such as a public service employment program. However, a comparison of the costs of such a program against job creation in the private sector is not encouraging. Some estimates place the true cost of creating an additional job through public service employment programs as high as $[illegible] per job at an annual rate. The U.S. Travel Data Center estimates that initial travel expenditures of $25,5[illegible] currently supports one retail job in the travel industry. It makes little sense to eliminate a private sector job supported by $25,500 and to replace it with one costing possibly three times as much for minimal energy benefits.

The travel industry is a major engine of employment. Our economic and social well-being are protected and enhanced if policy makers recognize this reality.

William D. Toohey
President
Discover America Travel Organizations

TRAVEL: AN ENGINE OF EMPLOYMENT

Travel away from the home community has become an integral part of the American way of life. Rising income and increasing leisure time have stimulated a growing American population to visit nearby areas or faraway places for pleasure and relaxation. Moreover, travel today is an essential part of the nation's way of doing business, improving the exchange of ideas and resources in a free enterprise economy.

Despite the pervasive nature of travel in American life, its economic contributions are not generally perceived, particularly by policy makers. There is a tendency among some to regard this industry, which makes it possible for Americans to more fully enjoy their leisure time and facilitate their business activities, as frivolous and non-essential. When conditions demand a reduction in energy consumption, these people say limit the petroleum available to travel, ignoring or under-estimating the injurious economic effects of such a policy.

Aside from restricting an activity that provides communication between people, cultural understanding, physical and mental health benefits and facilitation of commerce, such policies are shortsighted from the standpoint of the nation's economic welfare. The industry that has developed to serve the traveler in America contributes enormously to the U.S. economy. In 1976, the U.S. Travel Data Center estimates that travelers spent $104 billion in the U.S. on trips involving an overnight stay away from home and day trips to places 100 miles or more away. The $104 billion in expenditures includes spending by foreign visitors as well as U.S. residents. This activity, in turn, generated $22 billion in wage and salary income and $13 billion in Federal, state and local tax revenue.

But the most impressive contribution of travel to the American economy must be measured by jobs. Travel directly generated 3.8 million jobs in 1976 and indirectly an estimated additional two million jobs.

Travel's contribution to employment goes far beyond simple estimates of volume. As the following pages indicate, the travel industry stands out among major U.S. industries in creating new jobs, resisting economic downturns and providing a major source of jobs for minorities, women and youth.

Moreover, small businesses dominate the industry. Ninety-nine percent of the 1.4 million travel-related business firms in the U.S. are classified as small businesses. Energy, tax reform, and other policies that discriminate against the travel industry will impact heavily on the small businesses that comprise the industry, producing failure and loss of employment in this sector. These characteristics of employment and small businesses in the travel industry should be of vital concern to national leaders committed to employment opportunity for all Americans who want to work.

However, this strength in producing jobs and income is particularly dependent upon adequate supplies of petroleum fuel; travel requires transportation and transportation requires petroleum. Without the provision of adequate supplies of fuel for transport, the travel industry engine of employment will eventually grind to a halt. This would be a severe loss in our nation where creating and maintaining employment opportunity remains a top priority.

Increased travel activity and its job-creating capacity can also be used as an effective tool of public policy. Given additional demand for travel, this labor intensive industry can absorb large numbers of unemployed and underemployed workers. Such increased demand generally can be accommodated quickly to increase employment without immediate large-scale investment to expand capacity.

As the economy shifts to a service orientation and as the nation wrestles with its problem of high unemployment, it would appear to be in the public interest to view the travel industry as a vital element in an expanding U.S. economy. Travel activity has contributed to the balanced growth of the U.S. economy and employment and to the development of depressed areas, many of which have been aided in developing their travel resources by government funds.

Travel activity offers some special opportunities for the economic support and involvement of low-income groups. Public policies designed to increase travel activity have important potential as the nation seeks to reduce the increasing burdens of income maintenance programs. Increased travel activity can be accomplished by more efficient vehicles, better travel planning, group travel and other adjustments for more efficient use of the nation's petroleum fuels.

THE U.S. TRAVEL INDUSTRY IS A MAJOR U.S. EMPLOYER

Travel away from the home community is an important part of the American lifestyle. The 1972 National Travel Survey indicates that at least one out of every two U.S. residents takes at least one trip to a place 100 miles or more away from home in a given year.

On an average day, nearly 8 million Americans are traveling away from home, a vast, mobile population equal to that of the Chicago metropolitan area. A vital industry has developed to transport and serve these travelers.

Despite the enormity of travel activity, the contribution of the industry to U.S. employment is frequently overlooked. This is strikingly evident in the past design of public policies to deal with actual or potential petroleum shortages. Too often, travel has been characterized as frivolous and non-essential by those attempting to manage scarce petroleum resources.

There is nothing frivolous and non-essential about the jobs generated by travel activity. Table I indicates that the travel industry provides substantial employment in every state in the nation. A total of 3.8 million jobs were directly created by travel activity during 1976, or nearly 5 percent of total nonagricultural payroll employment.

The direct employment impact, however, identifies only part of the total effect of travel spending on the U.S. economy. Additional jobs are created along the production chain as travel industry retailers purchase goods and services from wholesalers, manufacturers and other business sectors.

The indirect employment created by this activity is substantial. The National Tourism Resources Review Commission estimated that for every 100 jobs directly generated by travel spending in America, 48 jobs are generated indirectly. This means that the total impact of travel spending on U.S. employment may be as high as 5.7 million jobs in 1976, or 7 percent of total payroll employment.

Travel activity and the industry that serves it is solely dependent upon a healthy passenger transportation system, which in turn, depends upon adequate supplies of petroleum fuel. While other industries can utilize coal, natural gas, nuclear power or other sources for most of the energy they require, transportation needs petroleum for 97 percent of its energy. Travel transportation to places 50 miles or more away from home, however, accounts for only 10 percent of annual petroleum consumption, or about 4.6 percent of the total energy consumed in the U.S. If this relatively small amount of petroleum were unavailable, the travel industry would cease to operate and millions of jobs would be lost.

Table 1: 1976 U.S. Travel-Generated Employment

	Thousands		Thousands
Alabama	36	Nevada	39
Alaska	9	New Hampshire	26
Arizona	68		
Arkansas	37	New Jersey	92
California	348	New Mexico	34
		New York	167
Colorado	72	No. Carolina	78
Connecticut	35	No. Dakota	14
Delaware	12		
D.C.	34	Ohio	125
Florida	283	Oklahoma	62
		Oregon	53
Georgia	71	Pennsylvania	152
Hawaii	45	Rhode Island	8
Idaho	20		
Illinois	127	So. Carolina	58
Indiana	58	So. Dakota	16
		Tennessee	67
Iowa	42	Texas	225
Kansas	38	Utah	33
Kentucky	56		
Louisiana	61	Vermont	21
Maine	33	Virginia	73
		Washington	68
Maryland	52	West Virginia	25
Massachusetts	92	Wisconsin	96
Michigan	139		
Minnesota	132	Wyoming	14
Mississippi	31		
		Total U.S. traveler-generated	3,625
Missouri	108	Foreign visitor-generated	213
Montana	19		
Nebraska	23	**GRAND TOTAL**	**3,838**

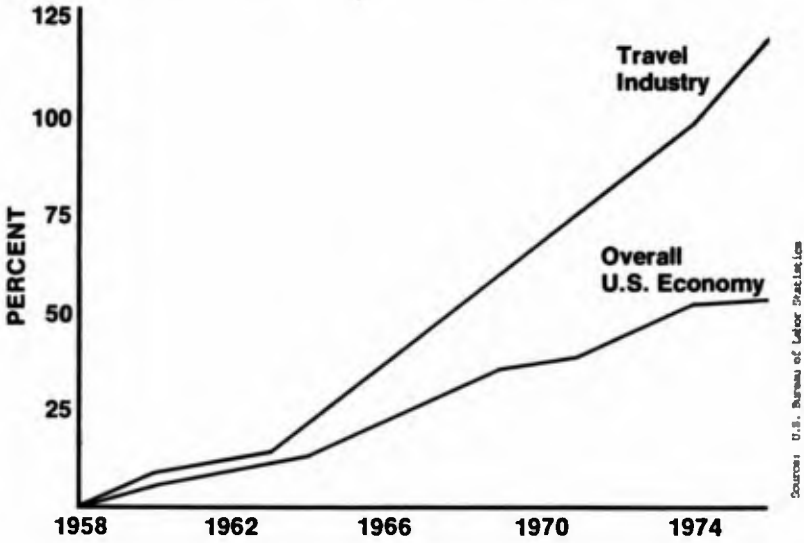
TRAVEL CREATES JOBS AT TWICE THE RATE OF THE OVERALL ECONOMY

The travel industry has been an engine of employment for at least two decades.

Since 1958, employment in the travel industry, according to estimates of the U.S. Bureau of Labor Statistics, has grown 121 percent, or more than twice as fast as overall non-agricultural payroll employment.

The travel industry contributed 10 percent of the 28 million new jobs created over that period. Its share of total non-agricultural payroll employment grew from 4.3 percent to over 6 percent in 1976.

EMPLOYMENT GROWTH SINCE 1958



TRAVEL INDUSTRY JOB CREATION CONTINUES DURING RECESSIONARY PERIODS

Payroll employment in the travel industry has grown every year since 1958, when relevant data first became available. In contrast, total non-agricultural payroll employment has declined in two of these years. This pattern suggests that the travel industry resists recessions better than the average industry in the economy.

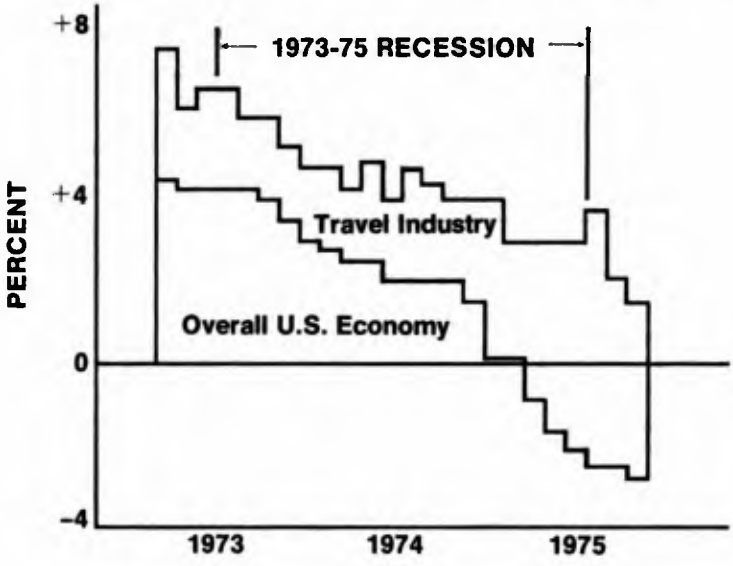
This indication is borne out by an analysis of the 1973-75 recession, the worst economic downturn since the Great Depression of the 1930's.

As indicated in the following chart, total payroll employment declined three percent below year-earlier months during the recession. On the other hand, travel industry employment rose significantly throughout this period.

In June, 1975, when the recession depressed total payroll employment 2.2 million jobs below its year-earlier mark, travel industry employment was 700,000 jobs **above** its year-earlier level.

The travel industry also outperforms the overall economy in job creation during economic recovery. By December, 1976, travel industry employment had grown nearly three times as fast as total employment over year-earlier levels.

EMPLOYMENT CHANGE DURING...



Source: U.S. Bureau of Labor Statistics

THE TRAVEL INDUSTRY OFFERS MORE JOB OPPORTUNITIES THAN THE U.S. OVERALL AVERAGE

Minority groups, women and youth have generally registered higher unemployment rates than the overall average in the U.S. These workers have generally found it more difficult than other employees to find a job.

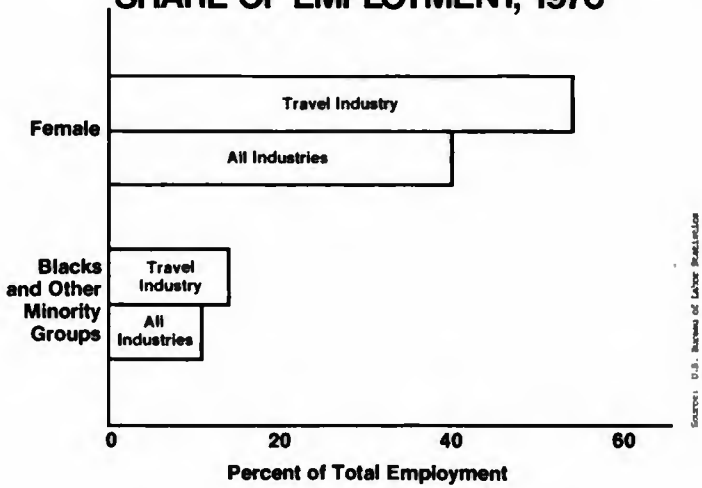
The travel industry provides an abundant number of jobs for both members of minority groups and women. In 1976, blacks and members of other minority groups made up 13 percent of the employment in the travel industry, compared to less than 11 percent for total U.S. employment. Hotels, motels, other lodging places and railways are particularly strong at providing job opportunities for minorities.

Female employees account for nearly 55 percent of employment in the travel industry, against 40 percent for the overall economy. Restaurants, hotels, motels and other lodging places are heavy employers of women.

The travel industry also offers substantial employment opportunities for high school and college-age youth. This group traditionally shows unemployment rates two to three times as high as the total economy, indicating the difficulty that young people have in finding jobs. The travel industry is better than other industries in providing jobs for this important group.

For example, entertainment and recreation services including travel attractions, an important part of the travel industry, provided 287,000 jobs for youths aged 16 to 21 years old in 1976, or one-third of all jobs in this category. This percentage of youth employment was greater than for any other industry for which data are available and compares to less than 14 percent for all U.S. industries.

DISADVANTAGED GROUPS' SHARE OF EMPLOYMENT, 1976



Source: U.S. Bureau of Labor Statistics

CERTAIN REGIONS ARE HEAVILY DEPENDENT UPON TRAVEL-GENERATED EMPLOYMENT

The travel industry provides substantial employment in certain regions of the country. For example, the "sun belt" area of America, represented by the South and Frontier West travel regions, depends upon travel for nearly five and one-half percent of its total non-agricultural payroll employment.

Studies indicate that the less industrialized areas of the country are more dependent upon the travel industry for employment than other regions. As the table shows, the Mountain West region relies on travel-generated employment the most. U.S. resident travel generates 1 out of 16 non-agricultural payroll jobs in this area, compared to the national average of 1 out of 23.

The above comparisons indicate the employment effects of travel by U.S. residents. However, foreign visitors generate another 194,000 jobs throughout the nation. If these could be allocated among the regions, the travel-generated shares of total employment, of course, would be higher.

Table 2: Direct Travel-Generated Employment and Total Non-Agricultural Payroll Employment by Travel Region, 1975

Travel Region	Travel-Generated Employment (thousands)	Total Non-Agricultural Payroll Employment (thousands)	Travel-Generated Share of Total (percent)
New England: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	198.4	4,699	4.2
Eastern Gateway: New Jersey, New York	239.4	9,479	2.5
G. Washington Country: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia	320.6	8,961	3.6
South: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee	715.7	13,604	5.3
Great Lakes: Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Wisconsin	662.2	17,625	3.8
Mountain West: Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming	175.4	2,738	6.4
Frontier West: Arizona, Kansas, Missouri, New Mexico, Oklahoma, Texas	494.1	8,905	5.5
Far West: Alaska, California, Idaho, Nevada, Oregon, Washington, Hawaii	538.5	10,888	4.9
U.S. OVERALL	3,344.7	76,899	4.3

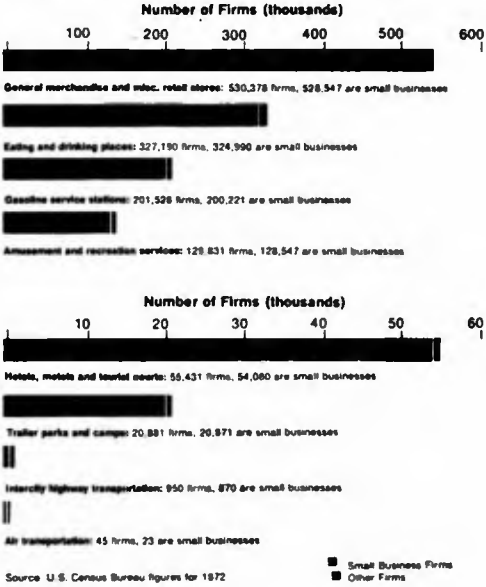
TRAVEL INDUSTRY EMPLOYMENT DEPENDS UPON THE VIABILITY OF SMALL BUSINESSES

Small businesses dominate the travel industry. The most recent data indicate that 99 percent of the nation's 1.4 million travel-related firms are classified as "small businesses" under U.S. government definitions.

Small businesses are less able to weather business declines than large corporations. Energy, tax reform and other policies that discriminate against the travel industry will impact heavily on the small businesses that comprise it, producing failures and loss of employment in the sector.

Policy makers must take this into account as well as the nation's commitment to fostering small business opportunities when national policies and priorities are decided.

Small Businesses Dominate the Travel Industry and Prosper with it.



Source: U.S. Census Bureau figures for 1972

SOURCES AND DEFINITIONS

The estimates of travel-related employment contained in this report were developed from two basic sources. The Travel Economic Impact Model, designed and operated by the U.S. Travel Data Center, provided estimates of employment in 50 states and the District of Columbia directly generated by travel expenditures in the U.S. during 1975. Developed initially for the U.S. Department of the Interior, the Model is based upon data from the Bureau of Labor Statistics, U.S. Department of Labor and the U.S. Bureau of the Census, as well as the Data Center's own annual National Travel Surveys.

Travel as defined in the Model includes trips by American residents involving an overnight stay away from home, and day trips to places 100 miles or more away. Due to the nature of the basic Census Bureau data, specifically, excluded are daily commuting trips, travel by operating crews of transport vehicles, military travel on active duty, and travel by students away at college. Traveler spending on transportation, overnight accommodations, food, entertainment and recreation, gifts and incidentals are estimated by the Model, and generate the estimate of employment, payroll and tax revenues.

Foreign visitor spending in the U.S. includes $5.9 billion spending by foreign residents traveling in the United States as estimated by the Bureau of Economic Analysis, U.S. Department of Commerce.

For further information on the Model, see: Frechtling, Douglas C., et. al., **Travel Economic Impact Model: Final Economic Analysis Methodology.** U.S. Travel Data Center, Washington, D.C. 1975, 108 pp.

The Model has produced annual estimates for 1972, 1974 and 1975. For the historical analysis of travel-related employment and the types of workers employed in the travel industry, employment estimates from household and establishment surveys conducted by the Bureau of Labor Statistics were used. Four industries were chosen from among those for which data are available to represent the travel industry: intercity highway transportation (SIC 413); air transportation (45); eating and drinking places (58); hotels, motels and tourist courts (701). These industries are primarily travel-related in nature and constitute a major portion of the overall travel industry.

For further information on the details of this report, contact the U.S. Travel Data Center, 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Mr. MILLER. If I may add just one or two other comments, we think that this legislation would be in great support of the efforts of the United States Travel Service in their work to promote and encourage travel to the United States and within the United States.

We would look upon it as a positive element in support of their work.

Similarly, we think that this legislation would be important in aid of a problem that is occurring at the present time where we observe a recent measurement of travel on the North Atlantic where some 40 percent of it has been assigned to charter travel.

It should be noted that much of the charter travel selling of travel to the consumer at the present time is done by nonconference-appointed representatives. Relatively in many cases, as I put it, they are unqualified to fully provide service. So we believe that this is one of the urgencies that we address in encouraging legislation proposed.

Mr. ROONEY. Let me ask one final question, and I will direct it to Mr. Barone. What is Pennsylvania doing with respect to legislating licenses for travel agents?

Mr. BARONE. Well, Senator Early, primarily, has been trying to get a bill through the legislature, both when he was a Representative and now as a Senator. His latest bill, Senate Bill 393, was something that he proposed about 3 or 4 years ago, which required a $25,000 performance bond on all travel agents, plus a $25 registration fee with the State, and we had modified that.

We had gone to see him in Pittsburgh and Harrisburg, and Mr. Schiff has been there, too, and then he had turned around and was gearing it to promoters, the ones that we are concerned about.

Then all of a sudden he went back to the other bill, and there just happened to be a lull, one of those freaks—there happened to be a lull in the committee in the State, so the chairman of the committee said there was nothing else to do, so we will put the bill on the floor. That is after we found out about it. It was in the early days of the session.

Mr. ROONEY. I thought they only do that in Congress.

Mr. BARONE. You know something about Pennsylvania, and the lower you go down the echelons of the government, the more problems we have.

So we found it was on the floor and we didn't know about it. You know I had alerted Governor Shapp that we were working on national legislation, and his position and his staff's position was that we would wait to see what would happen on the national level before they got involved in any state bills.

That was the position of the Department of Commerce.

A group of us went up there, and I and Schiff, and we had quite a session with Chairman Suebrella and told him what was in the bill, and he was quite thoroughly knowledgeable about travel, and we were convincing enough and we educated them enough on the travel problems that the Senate went back in session, and within an hour he pulled it off the floor and put it back into committee.

So the bill was back in committee and Mr. Schiff has presented on behalf of ASTA a position paper on where we stand and that we are seeking national legislation and so it is held in abeyance in the committee there.

But you never know when suddenly it will come up, just like it happened. It was an odd thing when the chairman himself said, "Well, there are no other bills around and we weren't doing anything and the Senator wanted it, so we threw it on the floor just to show that we were doing something."

That is what happens. None of them knew what was in the bill and none of them knew what a performance bond was and none of the committee members knew anything about all of the things that Mr. Miller mentioned today, so our job was an educational one, to let them know what travel agents were, and what appointments were and bonding requirements, and so forth.

So it is held in abeyance depending upon what happens to the bill here. If this bill passes then I am sure that the Governor would be very thankful.

Mr. ROONEY. He won't be around by the time that this passes.

Mr. MILLER. There is a very excellent example of what happens with various State legislative efforts. It is evident in Canada where three differing sets of regulations have been promulgated in three different Provinces, and it has gotten to the point where a travel agent in Ontario under his own existing regulations is unable to sell a tour product advertised from Quebec, because of the differing laws between the two provinces.

It is absolutely and terribly confusing and it is proving a very, very difficult system to follow in legislation for the traveling industry.

Mr. ROONEY. Thank you very much, Mr. Miller.

Mr. MILLER. Thank you, sir.

Mr. ROONEY. Thank you.

The next witness will be Mr. Gabriel Phillips, vice president and traffic services, Air Transport Association of America, Washington, D.C.

STATEMENT OF GABRIEL PHILLIPS, VICE PRESIDENT, TRAFFIC SERVICES, AIR TRANSPORT ASSOCIATION OF AMERICA, ACCOMPANIED BY GEORGE A. BUCHANAN, VICE PRESIDENT, TRAVEL AGENCY ASSOCIATION

Mr. PHILLIPS. My name is Gabriel Phillips. I am vice president, traffic services, of the Air Transport Association of America, the trade and service organization representing virtually all of the scheduled airlines of the United States. I am accompanied today by George A. Buchanan, ATA's vice president, Travel Agency Association. Mr. Buchanan is also executive secretary of the Air Traffic Conference of America, the marketing and services division of the association.

The scheduled airlines of the United States welcome this opportunity to comment on the proposal to provide for the registration of sellers of travel or travel services.

Travel agents are an extremely valuable sales arm of the airlines. As such, the airlines have an immense stake in the travel agency industry. There are presently approximately 13,000 travel agency locations in the United States which are accredited under an airline-sponsored program administered by the Air Traffic Conference. Last

year, these travel agencies sold $7.5 billion in international and domestic air transportation. Hence, it can be seen that travel agency sales are indeed important to the airlines and air transportation in turn is a vital component of the travel agency industry.

BACKGROUND OF THE AIR TRAFFIC CONFERENCE AGENCY PROGRAM

The domestic airline travel agency program has a history of over 30 years in its development. Prior to World War II, the airlines utilized the services of outsiders, such as hotel porters, bell captains, taxicab drivers, and the like, to sell tickets. Recognizing that the use of outsiders untrained in the air travel business had the potential of creating great disservice to the traveling public and to the airlines, a standardized industry travel agency program was developed and implemented in 1945. Since then, the program has constantly been modernized and streamlined.

The Civil Aeronautics Board, whose approval of any program changes has always been required, has played an important role in this evolution. One of the most significant program changes—the application of specific objective standards in the accreditation of travel agents—was adopted as a result of a CAB investigation of the program in 1959.

Not all of the program improvements desired by the airlines have been noncontroversial. There have been, and perhaps always will be, some differences of opinion between the travel agents and the airlines concerning various aspects of the program. These areas of controversy have declined significantly in recent years. Today, the travel agency organizations and the airline industry have a continuing dialog.

The airline agency program is made possible by a series of interairline agreements unanimously arrived at through the machinery of the air traffic conference and filed with the Civil Aeronautics Board for its approval or disapproval pursuant to section 412 of the Federal Aviation Act of 1958. In discharging its responsibilities the Board, of course, seeks the comments of travel agents and other interested parties, when appropriate, before acting upon the various agreements.

Mr. Chairman, I think you should have a brief overview of what this program entails. Basically, the program works as follows:

There are a series of objective standards that have been established and these must be met and continually maintained by anyone desiring to become an ATC accredited travel agent. These standards cover such general areas as type of office and location, experience of the personnel, records and relevant history of personnel and arrangements for security of travel documents, finance, and others. In the area of finance I should point out, because of a question that you asked the previous witness, that the only financial requirement we really have, that we are allowed to impose by the Civil Aeronautics Board, is to require a bond. We are not permitted to employ other financial criteria.

The purpose of these standards of course is to insure that the travel agent is knowledgeable and can be depended upon by the traveling public and that the airlines can rely upon the agent to represent them in a professional manner.

To meet these standards, accreditation is granted and an agreement, or form of contract is entered into between the parties with the executive secretary acting on behalf of the member airlines.

Then the tools of the trade are provided and the agent may represent the airlines to the general public as their official agent. An airline, may for good cause, elect not to be represented by a particular agent, of course; however, this situation rarely occurs.

If an applicant is denied accreditation, the reasons are set forth and the applicant may request review of that decision by the travel agency commissioner. Decisions of the commissioner are final and binding, subject to the agent's rights of appeal to an arbitral tribunal.

Additional standards are established for the continuing retention of travel agents on the list of ATC accredited agents. These are generally directed toward the reporting of airline ticket sales and the remitting of ticket sales proceeds collected on behalf of the carriers.

A number of the administrative functions of the program are handled by a professional staff of 65 employees of the Air Transport Association augmented by airline staff for local city requirements. These functions include such things as the initial screening and processing of applications, followup and compliance with the ticket sale reporting and monetary remitting requirements, and continuing compliance with the objective accreditation standards.

It is difficult in a brief summary to do justice to a program of the size, magnitude and importance at the ATC agency program. On the other hand, it is not our wish to burden this record with pages of detail describing each and every facet, and the many public benefits and assurances which derive therefrom.

Suffice it to say that through the present program which has evolved from many years of experience and considerable influences of marketplace requirements and technological advances, the public is served in thousands of communities throughout the 50 States by 13,000 sales outlets operated by highly skilled and professional travel entrepreneurs. With few exceptions, each outlet through one common system and program, represents to the public about 75 domestic and international certificated airlines and with the expertise and necessary means to arrange travel needs throughout the world.

Mr. ROONEY. Why do you have these agents? You have ticket agents at every airport in the country, and you have ticket agents all over. Why do you have to pay a travel agent 7 percent of your sales for the services rendered by the private carriers?

Mr. PHILLIPS. There are not airline ticket offices everywhere, Mr. Chairman. Travel agents are located in small communities and elsewhere.

Mr. ROONEY. At every airport, are there not?

Mr. PHILLIPS. At every airport there are airline ticket offices, yes. The airlines try to discourage ticket sales at airports to avoid congestion.

By virtue of being able to appoint all of these travel agents. We can extend the marketing network; that is the main reason the airlines prefer to use travel agents.

Mr. ROONEY. Do you require them to come up with "x" number of dollars per year?

Mr. PHILLIPS. No; there is no volume requirement. They can sell as little as one ticket or as much as a million dollars' worth of value a year.

Mr. ROONEY. They can issue that ticket right from the travel agent's office?

Mr. PHILLIPS. Yes, sir, they are furnished standard tickets by the ATC, once they are accredited, and those tickets are given an identification plate. They have individual airline plates and with these devices they can issue a ticket on any airline.

Mr. ROONEY. What bond do you require?

Mr. PHILLIPS. The bond is a variable bond. It has a minimum of 9,000 and maximum of 47,500, designed to cover a month's sales exposure.

Where the volume increases, that bond is supposed to increase up to a limit of $47,500 for all practical purposes.

Mr. ROONEY. You may proceed. Excuse me for interrupting.

Mr. PHILLIPS. On the Federal regulation of sellers of travel or travel services, an airline passenger who purchases and receives a ticket from an accredited travel agent for transportation on the scheduled airlines, runs absolutely no risk of losing that transportation dollar even though the travel agent may ultimately not remit the proceeds to the airlines concerned. This is so because the airline is responsible for the acts of its agents, and the airline is required to perform the transportation even though it may never receive payment. However, the airlines recognize that, while they deal only with travel agents who meet the high standards of their organized travel agency programs, they have no authority to govern the non-air transport aspects of travel agency activities, nor do the scheduled airlines have control over travel organizers with whom they do not do business.

Even where the agent made the air transportation arrangements on ATC or IATA carriers, the passengers may still suffer large losses for deposits entrusted to the agent for ground arrangements such as hotels, sightseeing, et cetera. The customer is seldom protected by the companies performing the ground service where the agent has a business failure.

We believe the public has a right to expect that moneys paid to travel agents for interstate or foreign travel, and for ground arrangements in connection therewith, will be protected and that the public will actually receive the services paid for. Unfortunately, there often is no protection for the transportation or nontransportation features of a tour package because of the total lack of regulation of certain sellers of travel or travel services, with the exception of CAB's escrow requirements for organizers of charter travel.

The airlines are aware that several States have enacted travel agent regulation laws, and that such action is being considered by other States. These several individual laws could result in a proliferation of travel agency regulatory concepts, differing widely from State to State and placing undue burdens on interstate and foreign commerce. However, it appears that the States are moving into this field because of the losses and inconvenience suffered by the public and the apparent lack of Federal concern.

If the Congress concludes that Federal regulation of sellers of travel or travel services is necessary, H.R. 9068, with some amendments which we will propose, deserves your careful consideration as a means of accomplishing that objective, and the ATA member airlines would have no objection to the bill's enactment.

Now I will identify those sections of H.R. 9068 which we think need some further clarification.

First, the airlines should not be precluded from establishing or enforcing criteria for the selection, retention, or appointment of travel agents which is more stringent than the criteria in the legislation or in the rules ultimately promulgated by the Secretary of Commerce. The carriers feel that they must be able to apply their own more stringent standards through their own travel agency program, which is specifically tailored to the needs of air travelers and the airlines. The requirement for such separate criteria in the case of the airlines is evident when it is considered that the airlines are legally responsible for the acts of their designated agents, and that the travel agents are entrusted with billions of airline dollars annually.

The committee may be assured that the airlines would take every effort to coordinate the criteria of their program with the Federal rules and regulations so as to avoid to the maximum extent possible, the application of dual standards to prospective or existing travel agents.

Mr. ROONEY. Let me ask you, the committee is considering a new subsection D to that section 204 which would read, and I quote:

> Nothing in this title shall preclude Air Traffic Conference or International Air Transportation Association or any other bona fide representative, sellers of travel or travel services, from establishing or enforcing criteria for the selection, retention or membership of travel agents which are in addition to or more stringent than the criteria set forth in this Title by the regulation promulgated pursuant thereto.

I wonder if you have any comment on this proposal.

Mr. PHILLIPS. Yes, sir, I do. That is language which we would prefer seeing in the legislation, and it would do what we think would meet our objective.

As a continuation of those principles, and for the same reasons, the carriers request that the bill be clarified to provide that no airline be required to appoint an agent holding a Federal registration certificate as an agent of that airline. Such decision should continue to rest with each individual carrier. It is understood, of course, that no carrier would be permitted to appoint a nonregistered agent.

It is recognized that there is nothing in H.R. 9068 which would prevent the airlines from establishing their own standards, or which would require them to appoint those who hold a registration certificate. However, the carriers urge that the bill be amended to contain provisions dealing with the carriers prerogatives, and recommended language is contained in appendix A hereto.

The distinction is that once a person is given a Federal certificate, he isn't automatically an airline agent. The airline should have discretion as to whether or not he appoints a ticket agent.

The second important principle concerns the exclusion of airline employees from the Federal registration requirements. Section 202, paragraph (5)(b)(i), clearly excludes the airlines as companies, but this paragraph is somewhat ambiguous as to the exclusion of airline employees when acting on behalf of their employer. This is caused by the employee exclusion being related to carrying out his employers business "as defined in such carriers certificate of public convenience and necessity."

Airline certificates of public convenience and necessity refer only to the cities and routes which the carrier is authorized to serve. The cer-

tificate of public convenience and necessity only refers to the cities and routes which a carrier is authorized to serve. They do not cover such important things as the ability of airline passengers to obtain reservations on an interline basis with other airlines or other modes of transportation, to book hotel rooms or car rentals, or to obtain tour packages from an airline.

Literally, Mr. Chairman, that section will put an end to these valuable airline services unless all airline employees who perform these duties obtained Federal Registration Certificates.

The airlines are closely regulated by other governmental agencies and their employees should not be subject to this additional regulation. Nor do we believe that it is the intent that they be so regulated.

Mr. ROONEY. You mentioned earlier the fact that the airlines would rather have these reservations booked with other agents, but frequently—not frequently but every time I make arrangements at the National Airport at Washington, flying to or from some place in the United States or for that matter my hometowns of Allentown and Easton—invariably the agent will respond "Can we provide any services, car rental services for you and hotel rental services?"

Do you think that the airline agent should be regulated if he is arranging these accommodations for me.

Mr. PHILLIPS. No; that is our point. Your underlying objective in the whole legislation is to insure that people who are in the business of selling air transportation and booking these services for the traveling public are responsible people. The airlines are regulated by the Federal Government in a number of ways which clearly demonstrate their responsibility. There is no need for their employees to have special registration certificates to be sellers of travel, since that is what the company's business is all about in the first place.

The very fact that travel agents who provide such services may be required to be licensed, if you will; an airline employee can also provide such services but he doesn't need the same licensing for the reasons that I have just elaborated on.

Mr. ROONEY. It seems to me that if one of your ticket agents offers me some assistance for car rental, hotel, and so forth, and I get there and there is no car rental and there is no hotel available, I think that that airline should be responsible just as ASTA should be responsible.

For that matter I don't think he should be involving himself with car rentals or hotel accommodations.

Mr. PHILLIPS. The airline is responsible for providing the services it holds out to the customer.

Mr. ROONEY. Most of the airlines or some of the airlines have hotels that they own and car rentals that they own, do they not?

Mr. PHILLIPS. Many of the airlines have hotel subsidiaries. I am not aware of any that are engaged in car rental but there may be one or two.

We have some language in the appendix which would clarify the distinction between airline activities here that would remove our concern on this provision.

Continuing to identify other parts of the bill that may be useful for you to look at, in its present form the bill would appear to make the Federal registration requirements applicable to all employees of organizations engaged in the business of selling travel or travel serv-

ices (unless specifically exempted), as well as to the business owner or entity. This would mean, for example, that all travel agency employees would be required to obtain a registration certificate.

Such a requirement would place an unnecessary burden on the Secretary and would also tend to tie the hands of travel agency owners in their employment of new personnel. We suggest that consideration be given to having the registration run to the travel agency owner or entity, regardless of the form of business organization. The regulations promulgated by the Secretary could provide for the employment of technically qualified personnel at each place of business.

There are approximately 13,000 agencies under appointment but there are about 80,000 employees involved and I don't think you intend to have each agent authenticated as long as the agency itself is. That is the way the conference procedure works and it is administratively more convenient than having each agency employee certificated.

You may wish to consider that, Mr. Chairman.

Mr. Chairman, we have also covered some additional clarifying matters in appendix A hereto, and we offer these for the committee's consideration.

By extending the exclusion from licensing only to passenger carriers, you thereby include cargo carriers who occasionally engage in passenger charters, and I assume you don't really intend to do that. You can take care of that by simply referring to carriers rather than passenger carriers.

Finally, there is one other technical point. The bill permits a purchaser or transferee of a certificate or license to continue to hold that license for 120 days after the transfer and without any further review procedure by the Secretary or the Board.

I would call your attention to the fact that it is during that most critical time in the agency business where we find most of the shady conduct frequently occurring. If someone wants to get into the travel agency business and foist a fraud on the public, he can buy an existing travel agency and, before the appointment is consummated or approved by another authority, go ahead and carry out his objective.

I would suggest that the committee may want to require some kind of review before the transfer of the agent duly takes place to avoid that from happening.

Mr. Chairman, our direct testimony is concluded and Mr. Buchanan and I will be happy to answer any questions you may have.

Mr. ROONEY. You have answered most of the questions I have and you have indicated you are endorsing this legislation with certain minor amendments.

Do you feel an airline ticket agent, an employee of that airline, should be regulated if he is booking an individual on a flight on another airline because his airline is booked?

Mr. PHILLIPS. Under those circumstances, do you mean that the airline should have employee A be registered under this legislation?

Mr. ROONEY. That is right.

Mr. PHILLIPS. I don't believe that that is necessary.

Mr. ROONEY. What assurance do I have from that airline that, despite the fact that "A" airline is booked, "A" will assist me in getting me on "B" airline?

Mr. PHILLIPS. You have a contractual arrangement between the airlines which is supervised by the Civil Aeronautics Board.

Mr. ROONEY. The airlines never overbook, do they?

Mr. PHILLIPS. Yes; they do overbook, Mr. Chairman. That is a rather contentious issue right now and, in fact, is the subject of a CAB investigation. It has been a contentious issue for a number of years and the best minds in industry and Government have yet to find a way to solve it.

Mr. ROONEY. Why do they overbook?

Mr. PHILLIPS. They overbook for a number of reasons. Some are deliberate and some are not.

Reservations are made not only by the airlines themselves but by thousands of travel agents and other airlines, and occasionally in the process bookings can be made for more seats than there are on a given flight.

It is a complex system and permits error.

In some cases there are deliberate overbookings where an airline has a history of a lot of passengers not showing up on a critical day and, in order not to deprive other passengers of the ability of getting a seat, they have engaged in that practice.

There are a lot of arguments to be made in defense of deliberate overbooking as well as to criticize and the airlines have done so before the Civil Aeronautics Board. The issue still is not settled, Mr. Chairman.

Mr. ROONEY. What are they doing to improve it?

Mr. PHILLIPS. If they do not overbook they run the risk of depriving thousands of travelers the opportunity to fly on flights of their choice. Many of the airlines feel that there is value in deliberate overbooking and that they should be able to continue.

I am really not in a position to either defend or argue against overbooking practices, Mr. Chairman.

Mr. ROONEY. Of course, I must say in defense of the airlines I have on many occasions been told that the flight was completely filled and they wouldn't even take a standby reservation, and I have oftentimes gone out to National Airport and found a dozen seats available.

Mr. PHILLIPS. That is the no-show problem which has precipitated most of the overbooking practices. Until we find some way to make sure that people who book will actually use the flight or cancel it, we are going to have this problem.

Mr. BUCHANAN. I might add, in answer to a question which you asked earlier about what the airlines are doing about reservations or the overbooking situation, that I have had about 31 years experience in the airline industry, starting in a reservation office a good number of years ago. At that time the overbooking situation was serious and quite drastic for the many reasons which Mr. Phillips has enunciated.

One of those is communications delayed in the pipelines. Throughout the years the airlines have invested literally hundreds of millions of dollars in highly sophisticated computerized systems and this to a large degree has kept down the number of overbookings even though, as Mr. Phillips stated, under certain conditions some airlines may do this deliberately.

Taken as percentage of the total passengers boarded, I believe one would find that the airlines reservation system is even more pure than Lux's 99.44 percent pure. I think our air ratio is something less than one one-hundredths of 1 percent.

Thank you, sir.

Mr. ROONEY. Thank you, and thank you, Mr. Phillips and Mr. Buchanan, for your very fine presentation.

Our next witness is Mr. Carpenter, managing director of worldwide travel, American Automobile Association, Falls Church, Va.

STATEMENT OF CHARLES H. CARPENTER, MANAGING DIRECTOR, WORLDWIDE TRAVEL, AMERICAN AUTOMOBILE ASSOCIATION, ACCOMPANIED BY WILLARD R. BROWN, DIRECTOR OF AGENCY AND INDUSTRY RELATIONS; AND DARRYL L. WYLAND, COUNSEL

Mr. CARPENTER. Good afternoon, Mr. Chairman.

My name is Charles H. Carpenter. I am managing director of worldwide travel for the American Automobile Association. With me this morning are Willard R. Brown, director of agency and industry relations, and Darryl L. Wyland, counsel for AAA.

We are very pleased to have the opportunity to give you our views on H.R. 9068 which would amend the International Travel Act of 1961 to provide for the registration of sellers of travel and travel services.

The American Automobile Association, which is currently observing its 75th anniversary, has nearly 19 million members in the United States and Canada. AAA serves the motoring and travel needs of these members with 211 clubs and a total of 937 offices.

AAA and its affiliated clubs also serve the American traveling public through more than 570 travel agency locations which do more than half a billion dollars in travel agency sales annually. These agency locations are accredited by the Air Traffic Conference of America and the International Air Transport Association and all are open to the general public.

To provide our customers with the most professional service possible, AAA agents regularly attend training schools, workshops, and seminars which deal exclusively with travel agency activity. In addition, AAA national headquarters conducts an extensive in-house training program designed exclusively for AAA travel agency personnel.

If there be any concern about the quality of travel agency business through the American Automobile Association, let me add to the testimony of my good colleague, Mr. Miller. AAA travel agency locations, the individual offices that sell travel to the American public, do an average of $50,000 a year more in air ticket sales than the average travel agency in the United States.

So lest there be some concern about the quality or size of AAA travel agency locations I felt I had to qualify that at this time.

For 10 years AAA has opposed legislation that would call for the licensing or registration of travel agents, and we are not talking about tour operators and we are not talking about the variety of people who set up tours. We are talking about the 13,000 accredited travel agents in the United States today as opposed to this vast number of people who do other things in the travel business.

For more than 6 years our organization has approved in its annual national meeting a resolution concerning this item, and I would like to take this opportunity to read that resolution in full to you.

GOVERNMENT REGULATION OF THE TRAVEL INDUSTRY

The American Automobile Association recognizes the need for protecting the traveler and urges that appropriate Federal agencies exercise the authority they now have to provide essential protection and safeguards to the traveling public.

While AAA strongly condemns practices which mislead, defraud or otherwise perform a disservice to the traveling public, it believes that Federal and State legislation, which would license accredited travel agencies and/or their individual employees, would represent an unnecessary, unwarranted and excessive level of government interference. Such legislation would not provide for improved consumer protection and would ultimately result in higher costs being paid by the public without alleviating the conditions which called it into being.

AAA points out that numerous Federal agencies, bureaus and offices presently have sufficient authority under existing law to deal with illegal, deceptive and unethical practices. In addition, the more than 10,000 U.S. travel agents appointed by the Air Traffic Conference of America, the International Air Transport Association and other conferences and associations of passenger carriers are controlled by rigid conference and association selection, appointment and retention standards.

That figure is closer to 13,000 now.

Let me add that these standards are available to the committee and we would be happy to answer any questions concerning them. I think a previous witness did refer to them in detail.

"Therefore, AAA opposes the Federal and/or local licensing of the travel agent industry as an unnecessary and wasteful imposition of a third level of control. Instead AAA calls for thorough and impartial enforcement of existing laws and regulations which are fully adequate to control any abuses found in the travel industry."

This is the end of the quotation which outlines the resolution which has been approved by the American Automobile Association for over 6 years.

H.R. 9068 has not changed our position. However, we commend you for scheduling these hearings so that this concept can be fully examined in a public forum.

We feel strongly that licensing has been oversold as a cure-all for an ailment that may not exist. We hope that we can provide some answers to the questions you raised last April 7 when you introduced H.R. 9068's predecessor, H.R. 6222.

We oppose passage of H.R. 9068 for the following three reasons:

One, no need for this legislation has been demonstrated.

Two, The Civil Aeronautics Board and other Federal agencies already possess the authority to deal which may affect or may be caused by travel agents.

Mr. ROONEY. Isn't it true though that the CAB regulations do not cover the entire area of selling travel and travel services?

Mr. CARPENTER. That is correct, but we do feel that there are other agencies in the Federal Government as well as local government which now have laws on the books such as laws against fraud, laws against illegal advertising and a host of other things that are covered in the general business lexicon, and these don't have to be leveled directly at travel agents.

We feel they cover the travel agent now and certainly travel agents must abide by them or be prosecuted by local or Federal law.

Third, an additional layer of regulation seems contrary to the current trend toward less regulation.

Let me try to address these points in greater detail.

AAA has long been puzzled by the ardor of certain elements of the industry for travel agent licensing. After all, it is not often that an unregulated industry cries out for regulation. We have tried to perceive how H.R. 9068 or any of the earlier proposals would impact favorably on the consumer or, for that matter on the industry. We fail to see the benefits.

We have listened today to the testimony and we have heard in the past from people talking about the need for regulation, but every time that this need is demonstrated or the attempt is made to demonstrate it, the burden of the demonstration falls on somebody other than a travel agent, quite often a tour operator. As the previous testimony went along I jotted down a few other terms:

We've heard about travel organizers, tour operators, and consolidating organizations. These are not travel agents. These are people who may need regulation. On that part of it we will not quibble. But travel agents per se have not been justly accused of creating the problems that we have been talking about, which have created the need for this legislation.

Normally you might expect to see increased interest in licensing after an air charter stranding or last year's Super Bowl fiasco. These problems were not caused by accredited travel agents. The Civil Aeronautics Board, we are glad to say, was able to take effective action on these matters.

Some have advanced the theory that one Federal law is preferable to a number of different State laws. This would seem to be small justification for the creation of more Federal bureaucracy.

More over, we believe that authority and potential authority already exist in several government agencies to deal with travel agent abuses. For example, the CAB's Bureau of Enforcement has the power to deal with consumer abuses and we understand they are about to issue a notice of proposed rulemaking that would strengthen certain air charter bonding and escrow requirements.

The CAB has also added an office of Consumer Advocate which has the task of highlighting consumer problems and seeking remedies. We understand that the Board has opposed the concept of licensing in the past. We realize, of course, they have not had time to comment on this latest proposal. We hope of course that they will comment on this latest proposal.

The Board's current enforcement structure should be adequate to handle potential travel agent abuses. Refinement of existing regulations and careful drafting of new rules such as the upcoming air charter bonding and escrow proposals would seem to be more productive remedies to any problems that exist.

Further, the Air Traffic Conference of America (ATC) and the International Air Transport Association (IATA) have established stringent ongoing selection, appointment and retention standards which an agent must meet to receive accreditation. These standards are subject to CAB approval and Federal oversight.

If manpower is a problem for the CAB's Enforcement Bureau, as well as ATC and IATA, we would prefer to see these staffs bolstered rather than starting anew in the Department of Commerce. These agencies will probably need additional staff whether or not H.R. 9068 becomes law. Duplication of these efforts appears wasteful to us.

That brings me to our third reason for opposing H.R. 9068.

The current trend in government is toward less regulation rather than more. Senate hearings have been held to consider proposals to deregulate the airline industry. And October hearings have been scheduled by a House Public Works subcommittee to consider similar proposals. In addition the Interstate Commerce Commission has recently done away with the "need" clause for operators of interstate motorcoach tours. We agree that overregulation has limited competition and led to increased consumer prices in many areas and we see no reason to extend that to the travel agency industry.

In summary, AAA believes that the public will be best served by an industry that adheres to the highest standards of professionalism and is driven by the forces of competition. We believe that enforcement authority currently exists in the CAB and other agencies to remedy any abuses, and that this enforcement authority can be used to overcome whatever ailments now exist or those that people imagine may exist, and we must oppose what we believe to be the superfluous regulation imposed by H.R. 9068.

Thank you, Mr. Chairman.

We will be glad to answer any questions you might have.

Mr. ROONEY. Thank you, Mr. Carpenter, and I want to commend the AAA for the service they provide to the motoring public in this Nation today.

As a member of AAA I know the services rendered to me in the Allentown-Bethlehem area but it is very difficult for me to comprehend why the AAA opposes this legislation when virtually all of the others connected with the travel industry support it. We don't have the problems with the AAA that we do with other agents throughout the country, and this is why I think it is much-needed legislation.

I commend our travel agents who basically are conservative, middle-of-the-road Americans who want to support this type of legislation.

Mr. Miller gave an excellent testimony as president of the American Society of Travel Agents—and these are the people that don't want Government involvement but at the same time they want to see their industry obtain a high degree of support from the American people.

You say on page 3 of your statement that some have advanced the theory that one Federal law is preferable to a number of State laws. I say to you, It is not true that there are a number of States which do not have or do not intend to impose any regulations for travel agents?

Mr. CARPENTER. Well, to answer your question, I guess it is a multipart discussion, but first of all we are not too sure nor convinced by Mr. Miller or by anyone else that he has grassroots support from the travel agents of this country. I might read you a statement that appeared on September 22, "Area director Tyler Tanaka told Miller at a Southern California chapter meeting that he opposes the bill, contending that it offers few hopes of improving the quality of agents' services."

[From the Travel Weekly, Sept. 22, 1977]

HOUSE VERSION OF AGENCY BILL SUPPORTED

NEW YORK.—ASTA president James Miller said the Society will support an agency licensing bill proposed by Rep. Fred Rooney, (D-Pa.) chairman of the House transportation and commerce subcommittee. Although the bill differs

slightly from a version proposed by ASTA, it accomplishes the same goals, Miller said.

Meanwhile, area director Tyler Tanaka told Miller at a Southern California chapter meeting that he opposes the bill, contending that it offers few hopes of improving the quality of agents' services.

This is a regional chapter of ASTA. Undoubtedly there are people who have varying opinions but we don't feel from our sampling of the travel agency industry that there is grassroots support for regulation.

I don't know of any agent, who wants to be regulated. He may say regulate my competition but no one says regulate me.

When it comes down to licensing, someone who hasn't done anything wrong or has not had the capacity really to do anything wrong without being prosecuted by existing Federal law or local law, I don't know of anybody that wants added regulation.

Mr. ROONEY. You are not going to find an association in this country, whether it is the Triple A, or the travel agents, or whatever organization you have, where you are not going to find some discontent or disagreement within the organization. We even have it in the Democratic party.

Mr. CARPENTER. Well, we feel from our sampling of the travel agents' industry, there is a strong grassroots feeling that this type of legislation is not necessary. You are talking about the travel agency industry and you are talking about things that have happened, and there are some horrible things that have happened but when you trace those back, licensing of travel agents as you have proposed it in this bill would not have prevented any of them.

What we are saying is if we had some regulation perhaps of the people who develop travel and create travel and create the packages that are going bad, and that are foisted off on travel agents as being good solid packages and thing that we should invest our money in and sell to our clients, that we could control those people and there might be some ground for this thing.

But to legislate against the travel agents we feel is totally unnecessary at this point. AAA does not think it will help any. There has been no demonstrated need that travel agencies need to be registered, licensed or whatever at this point. That is our contention.

We don't think that the agencies themselves feel that they should be.

Further, there is some indication to us—and this is a sidelight I guess—but there is some indication that such a law might limit the entry of the smaller travel agent into this business, depending upon what the Secretary of Commerce might decide would be the entrance requirements.

It is doubtful that a lot of prospective travel agents would endorse such legislation unless they knew what requirements we are talking about.

All they know is that somebody, not somebody in the travel agency business, is going to develop a minimum requirement level and they don't know what that level is going to be. Certainly that causes a great deal of apprehension when the agents or proposed agents or people who might come into this business think about it today.

Mr. ROONEY. Thank you very much. We certainly do appreciate your statement.

I have no further questions.

Mr. CARPENTER. Thank you.

Mr. ROONEY. Our final witness is Mrs. Lillian F. Bliven, principal licensing examiner for travel agencies, Department of Business Regulations of the State of Rhode Island.

STATEMENT OF LILLIAN F. BLIVEN, PRINCIPAL LICENSING EXAMINER FOR TRAVEL AGENCIES, DEPARTMENT OF BUSINESS REGULATION, STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Mrs. BLIVEN. Mr. Chairman and members of the committee, I am Lillian F. Bliven, principal licensing examiner of travel agents for the Department of Business Regulation, State of Rhode Island and I am here today to testify on the Federal registration of travel agents, bills H.R. 6222 and H.R. 9068.

Rhode Island at the present time is the only State that licenses and regulates all travel agencies and travel agents under the provisions of of title 5, chapter 52 of the General Laws of Rhode Island which became effective January 3, 1977. The State of Hawaii, as you know, has also enacted legislation but their law provides for the licensing of only the nonappointed agents. Upon review of H.R. 6222 and H.R. 9068, Rhode Island's Travel Agency Act runs parallel with the Federal bills being discussed today.

Rhode Island's Travel Agency Act exempts certain groups such as schools, churches, and fraternal organizations from the need to be licensed but requires those groups to register with the State and requires them to notify their traveling groups that they are not licensed, bonded, or regulated by the Rhode Island law. This provision has succeeded in halting proliferation of the travel business by unauthorized groups.

Based on a day-to-day exposure during the first eight months of regulating travel agents, I would like to testify as to the nature of the tasks the department of business regulation performs and present the following observations.

The department of business regulation provides and processes the application to assure that the applicant does possess the proper qualifications as to competency, financial integrity, that he or she has filed a surety bond and that the agent possesses the moral criteria and reputation to conduct the business in such a manner as to safeguard the interests of the public. Upon approval of the application the department issues the license and collects the fee.

We must maintain all records pertaining to licensing, be responsible for handling consumer complaints, do investigations and process claim for informal settlement. Over a period of 6 months the Department has received in excess of 30 consumer complaints which, Mr. Chairman, I strongly feel, on behalf of the consumer, can be best handled on a State level. The attorney general of the State may bring an action on behalf of the State or the general public to restrain or prevent any violation of the act.

The Department is responsible for onsite travel agency inspections in order to insure compliance with the law. This inspection consists

of evaluation of agency advertising, evaluation of accounting procedures, checking on disclosure statements which must be provided by the agency to the consumer, and seeing that the agency and agent licenses are prominently displayed.

Bonding requirements provided by Rhode Island law establish a standard for financial responsibility and have served as an indirect method for screening the business reputation of the applicant.

Some agencies which were unable to meet the standards of the insurance industry chose to go out of business. Also, in some instances the requirement for this bond became somewhat of a time factor and somewhat of an unpopular procedure on the part of the applicant.

The relatively small cost for the $10,000 protection for the consumer heavily outweighted any administrative problems that were encountered. The standard premium in Rhode Island for this protection is $100 per year to be paid by the licensee.

In spite of licensing requirements there is no constitutionally approved standard which would enable the Rhode Island regulatory agency to prevent former bankrupt agencies from being licensed in instances where they can meet the bonding standards.

Tour operators and wholesalers involved in interstate activities are a large area of concern. It is virtually impossible for the traveling public or the agent to gain recourse from a majority of nonlicensed tour operators and wholesalers doing business in Rhode Island due to the extensive responsibility clauses established in their favor.

It is my personal opinion, because of experience gained from the day-to-day performance of my duties, that if Federal registration of travel agents is enacted, it must be all inclusive covering not only appointed agents but also nonappointed agents, outside salesmen, tour operators, and wholesalers. This would greatly assist in the clarification of responsibility, as no one seems to want to take the responsibility when a travel arrangement goes amiss. Consumer complaints could be more expeditiously processed.

If we are, as stated in H.R. 9068, section 201(4)(b), "To protect persons who patronize sellers of travel or travel services . . . ," does it not seem more expedient for the State to exercise supervision of the travel agencies and their agents?

It is the general consensus that State legislation has succeeded in setting standards, methods and procedures of operation for local agencies and agents so that the local consumer may be afforded some degree of protection. In addition, the State regulation provides a standard to establish a higher degree of professionalism among those who are licensed.

Mr. Chairman, complexities of consumerism mandate State involvement, and any Federal statute should provide for a sharing of the functions, duties and enforcement with the States as suggested in the chart attached. If Federal registration becomes a reality, joint jurisdiction of any Federal program should be provided.

In addition, all States should be granted adequate facilities and financial assistance to properly administer the program. It is strongly suggested that the States have every opportunity to administer their own State agency under the jurisdiction and standards set by the Federal Government.

Mr. Chairman, based on the testimony presented here today, it seems rather obvious that some form of regulation would provide comity among the various States and should be most beneficial to the many consumers who seek and receive the various travel services sold throughout the United States.

Mr. Chairman, I wish to thank you and the members of the committee for allowing me this opportunity to testify, and I shall be pleased to answer any questions the committee may have.

Thank you.

[Attachments to Mrs. Bliven's prepared statement follow:]

RECEIVED
STATE DEPT.

DEPARTMENT OF BUSINESS REGULATION
STATE OF RHODE ISLAND

Title 5, Chapter 52, Businesses and Professions

RULES AND REGULATIONS
TRAVEL AGENCIES AND AGENTS

PART I - AUTHORITY

1.1 AUTHORITY. These rules and regulations are promulgated pursuant to Title 5, Chapter 52, Section 13 of the General Laws of Rhode Island, as amended.

PART II - PURPOSE

2.1 PURPOSE. The purpose of these rules and regulations is to promote the general welfare of the citizens of Rhode Island by implementing Title 5, Chapter 52, Section 13 of the General Laws of Rhode Island so that the provisions thereunder may be best effectuated and the public interest may be most effectively served.

PART III - SEVERABILITY

3.1 SEVERABILITY. If any provisions of these rules and regulations are held invalid, such invalidity shall not affect other provisions of application of these rules and regulations which can be given effect without the invalid provision or application and to that end the provisions of these rules and regulations are severable.

PART IV - DEFINITIONS

4.1. "Department" means the Department of Business Regulation.

4.2 "Director" means the Director of the Department of Business Regulation.

4.3 "License" means a license issued by the State of Rhode Island pursuant to the provisions of Title 5, Chapter 52 of the General Laws of Rhode Island.

4.4. "Travel Agency" means any person, firm or corporation who holds out directly or indirectly that they are able or offering or undertaking by any means or method, to arrange or book travel by air, rail, ship, bus, or other medium of transportation or hotel or other lodging for a fee, commission or other valuable consideration.

4.5 "Travel Agent" means any person employed by a travel agency whose principal duties include consulting with and advising persons concerning travel arrangements or accommodations in the conduct or administration of its business.

4.6 "Exempt Groups" means any school, school system, or fraternal organization or church group. Participation in travel services sponsored or provided by exempt groups is limited to the members of the specific group to which the member belongs and the immediate family of the member.

(a) Also included in this category are direct common carriers.

4.7 "Exempt Groups' Employees" means employees of direct common carriers and employees of exempt groups.

4.8 "School" is a division of the school system consisting of pupils comprising one or more grade levels or other identifiable groupings, organized as one unit with one or more teachers to give instruction of a defined type and housed in a school plant of one or more buildings.

4.9 "School System" means an entity which comprises all of the schools and supporting services controlled by a school committee or by any other organization licensed by the Department of Education to operate one or more schools.

4.10 "Fraternal Organization" means any incorporated society, order, or supreme lodge, without capital stock, (including those listed under the provisions of Section 27-25-24 (a), (b), (c), and (d) of the General Laws of Rhode Island, whether incorporated or not) conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with a ritualistic form of work, having a representative form of government.

4.11 "Church Group" means churches and parishioners of churches of recognized denominations, religious organizations, or societies, and institutions operated, supervised or controlled by a church, religious organization or society.

4.12 "Advertise" means to make any representation in the solicitation of land, air, or sea transportation, either separately or in conjunction with other related services.

4.13 "Own published ads or brochures" means ads or brochures created specifically by or at the request of a travel agency operating in Rhode Island and does not mean or refer to literature distributed to a travel agency from a national clearing house or other similar source.

4.14 "Own Group Transportation" means a contract which has been contracted for by or between the agency and principal for transportation and/or other related services which are provided to a client for a specific date or reservation.

4.15 "Principal" means a hotel, tour operator, or common carrier that solicits business from or provides travel services directly to the public.

PART V - EXEMPTIONS

5.1 Exempt groups, with the exception of direct common carriers, shall register with the Department by filing an application for exemption on a form provided for by the Director and shall give to each member of the tour group such written notice as deemed appropriate by the Director which

includes a warning that the exempt group is not licensed, bonded, or regulated by Title 5, Chapter 52, of the General Laws of Rhode Island. When conducting a tour, exempt groups shall register with the Department for an exemption. Application for an exemption shall be made to the Department without fee. Exsmpt groups' employees need not apply for an exemption.

5.2 Any exempt group found to be in violation of any of the provisions of PART V of these rules and regulations shall immediately lose its exempt-group status.

5.3 If an exempt group's employee is terminated and he commences employment with a non-exempted travel agency, the employee shall be licensed prior to commencement of such employment.

PART VI - TRAVEL AGENCY

6.1 No travel agency shall engage in the business of selling travel services unless he holds a license issued by the Department obtained under Title 5, Chapter 52 of the General Laws of Rhode Island and the rules and regulations promulgated by the Director.

6.2 No duly licensed travel agency, whether person, firm, or eorporation, shall be required to hold concurrently while engaged in the business of a travel agency, the license of a travel agent.

6.3 On or after February 15, 1977, but prior to February 15, 1978, any existing resident or non-resident travel agency, whether person, firm or corporation, who books travel reservations or aceommodations, tickets for domestic or foreign travel by air, rail, ship, or bus, or other medium of transportation or lodging for a fee, eommission, or other valuable consideration, or whose principal duties include eonsulting with and advising persons concerning travel arrangements or aceommodations in ths conduct or administration of a travel agency's business, shall eertify in the place provided for on the application that the person in whose name the travel agency is licensed has been engaged in offering all of the above travel-related services for at least one year prior to ths effeetive date of Title 5, Chapter 52, of the General Laws of Rhode Island. Ths person in whose name the travel agency is licensed shall also eomply with the provisions of Section 5-52-5 (1) (2) of the General Laws of Rhode Island. Subsequent to February 15, 1978, a person, firm, or corporation who applies for a travel agency license shall comply with all of the provisions of Section 5-52-2 (1) (2) (3) of the General Laws of Rhode Island.

6.4 Any braneh area office of a travel agency or any agent representing an agency, making travel arrangements within the state for any agency which has its principal place of business outside of Rhode Island, shall be subject to all of the provisions of Title 5, Chaptsr 52, of the General Laws of Rhode Island.

PART VII - TRAVEL AGENTS

7.1 No travel agent shall engage in the business of selling travel services unless he holds a license issued by the Department obtained under Title 5, Chapter 52, of the General Laws of Rhode Island and rules and regulations promulgated by the Director.

7.2 All applicants for a travel-agent license shall be:

(1) not less than eighteen (18) years of age;

(2) a person who has a good reputation for honesty, truthfulness, and fair dealing, and who is competent to act as a travel agent in such a manner as to safeguard the interest of the public;

(3) employed by a duly licensed travel agency.

PART VIII - LICENSE

8.1 The Director shall issue a license to a travel agency or travel agent applicant who has complied with all requirements and paid all fees. The license to conduct a travel agency and the licenses of all employed travel agents shall be posted in a conspicuous place in the main room of the principal place of business or employment.

8.2 Duplicate licenses shall be issued by the Department without additional fees to valid license holders operating more than one office.

8.3 Licenses for travel agency or travel agent shall be valid for one (1) year commencing annually by February 15, 1977.

8.4 Licenses shall not be transferable except that a bona fide purchaser of a travel agency may continue to use the license for 45 days after purchase, provided he applies for a new license within 15 days of the purchase.

8.5 Licenses for travel agencies shall be valid only as to the travel agency and the premises provided in the application and permanent branch offices. The location of the agency shall not be changed without notification to the Director.

PART IX - APPLICATION FOR LICENSE

9.1 For every person, firm, or corporation seeking a license to act as a travel agency or travel agent, he or she shall file a written application with the Director which shall contain the required information in the form prescribed by the Director.

9.2 All applications for license shall be accompanied by the fees, proof of bond, (copy or endorsement) and documents required by the Director. Such bond shall be written by a recognized surety company approved by the Commissioner of Insurance.

9.3 No travel agency shall be issued a license unless the travel agency certifies on the application that the travel agency is financially

qualified to do business in Rhode Island.

PART X - LICENSE RENEWALS

10.1 Failure, neglect, or refusal of a travel agency or travel agent to renew their licenses by the anniversary date of issuance of the original license, as required by Section 5-52-5 of the General Laws of Rhode Island, shall constitute a forfeiture of license.

PART XI - BOND

11.1 Every travel agency shall deliver to and file with the Secretary of State prior to the issuance and reissuance of a travel agency license, a surety company bond, written by a company recognized and approved by the Commissioner of Insurance and approved by the Director with respect to its form, manner of execution and sufficiency in due form to the state of Rhode Island, in the principal sum of ten thousand dollars ($10,000.).

11.2 Liability of the surety on the bond shall be limited to indemnify the claimant only for his actual damage. Such bond will not limit or impair any right or recovery otherwise available pursuant to law, nor shall the amount of the bond be relevant to determining the amount of damage or other relief to which any claimant shall be entitled. The bond shall be accessible only after all other legal remedies have been exhausted.

PART XII - DISCLOSURE

12.1 A travel agency or travel agent representing such agency shall not receive money or other valuable consideration in payment for land, air, sea, or rail transportation, or any other services offered by the travel agency or agent in conjunction with such transportation unless at the time or before the time of such receipt the travel agency or agent furnishes to the person making such payment, a written statement setting forth the following information:

(1) The name, business address, and telephone number of the travel agency;

(2) The amount paid, the date of such payment, the purpose of the payment made, and a statement of the balance due, if any;

(3) The name of the carrier with which the travel agency or agent has contracted to provide the transportation, and the date, time, and place of such departure, if available.

(4) The conditions, if any, upon which the contract between the travel agency/agent and the carrier may be cancelled, and the rights and obligations of all parties in the event of such cancellation;

(5) The conditions, if any, upon which the contract between the travel agency/agent and the purchaser may be cancelled, and the rights and obligations of all parties in the event of such cancellation;

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(6) A statement that upon cancellation of the transportation or other related services through no action of the purchaser, all sums paid to the travel agency/agent for services not performed in accordance with the contract between the travel agency/agent and the purchaser will be, unless the consumer otherwise advises the travel agency/agent in writing, refunded by the travel agency/agent to the purchaser in accordance with the options available under Sections 5-52-4 and 5-52-6 of the General Laws of Rhode Island.

12.2 The services contracted for a person are not available substantially as represented by the travel agency or travel agent in its employ, the travel agency or agent shall refund to that person monies lost by him in accordance with the provisions and options set forth by Section 5-52-6 of the General Laws of Rhode Island.

PART XIII - FORBIDDEN PRACTICES

13.1 A license issued pursuant to Title 5, Chapter 52, of the General Laws of Rhode Island may be suspended or revoked by the Department should a travel agency or agent:

(1) Misrepresent the quality of the kind of services available in connection with any trip or tour;

(2) Misrepresent the fares and charges for transportation or services in connection therewith;

(3) Misrepresent that special priorities for reservation are available when such special considerations are not in fact granted;

(4) Sell transportation to a person or persons or a reservation or charter basis for specified space, flight, or time, or represent that such definite reservation or charter is or will be available or has been arranged, without a binding commitment with a carrier for the furnishings of such definite reservation or charter as represented or sold.

(5) Sell or issue tickets or other documents to passengers to be exchanged or used for transportation if such tickets or other documents will not or cannot be legally honored by carriers for transportation;

(6) Misrepresent the requirements that must be met by a person or persons in order to qualify for a charter or group fare rate;

(7) Fail to account for or pay over money belonging to others;

(8) Advertise that agencies' own group transportation or other related services are or may be available unless, prior to advertisement, such transportation or other services have been contracted for;

(9) Offer free, or at reduced rates, tickets and other services to non-exempt individuals who are participating in group travel for their own aid in inducing others to purchase tickets for transportation or other services, except that nothing herein shall be construed to prevent tour operators allowed free or reduced fares under regulations issued by the Federal Civil Aeronautics Board, or under regulations issued by the Air Traffic Conference, from accepting receipt or use of same.

PART XIV - ADVERTISING

14.1 No travel agency shall put before the public any advertisement in any form which contains any untrue assertion, representstion, or statement of fact, or which is designed to be deceptive.

14.2 A travel agency shall in its own published advertisements, brochures, and promotional material use the name of the agency as it appears on the license.

14.3 An own published advertisement or other solicitation which shows transportation fares shall state in print whether the fare is a one-way fare.

14.4 When travel guides are mentioned in any own published travel ad or brochure, the role of the guide or escort shall be clearly specified by the agency at some time prior to the trip or before cancellation in order to enable the consumer purchasing the service to determine in advance whether the tour, trip, or the mode of travel contracted for is a closely supervised tour, trip or mode of travel, or one in which the role of the escort or guide is limited chiefly to supervising transfers between destination points.

14.5 Where an own published travel ad or brochure covers a range of tours, accommodations, prices, etc., the ad or brochure must show the lowest price package available. Where a brochure specifies a number of services or locations to be included, it must clearly specify exactly which components of the package are available for the exact price quoted.

PART XV -ACCOMMODATION SUBSTITUTION

15.1 Whenever a travel agency is forced to substitute accommodations, it must inform the purchaser whether or not the substituted accomodation provided for the purchaser as a replacement shall be substantially equal quality to that accomodstion originally contracted for.

PART XVI - RECORDS AND REPORTS

16.1 Every travel agency shall keep accurate and up-to-date records on all travel arrangements made for purchasers. The records required by law or rules shall be perserved for a period of at least two (2) years. Such accounts and records shall be open to inspection at any time for an authorized representative of the Department of Business Regulation when investigation of the accounts or records is necessitated by specific complaint (s).

PART XVII - REVOCATION, SUSPENSION OF LICENSE

17.1 The Director may revoke, suspend, or cancel a license granted under Title 5, Chapter 52, of the General Laws of Rhode Island for a travel agency's or travel sgent's violation of any section of the law and these rules and regulations. Such revocation, suspension, or cancellstion shall not affect and shall not relieve a travel agency or agent of any obligations accrued prior thereto.

17.2 A travel agency, or travel agent whose license has been revoked shall be ineligible to make application for a license until the agency or agent has satisfactorily complied with the provisions of Sections 5-52-9 or 5-52-10 of the General Laws of Rhode Island.

STATE OF RHOOE 1SLANO & PROVIOENCE PLANTATIONS

OEPARTMENT OF BUSINESS REGULATION
TRAVEL ACENCY SECTION
100 NO. MAIN STREET, PROVIOENCE, R1 02903

FOR OFFICE USE

FEE PAIO

_____

TRAVEL ACENCY
LICENSE

1NSTRUCTIONS:
1. Pleeee priot or type
2. No liceoee will be ieeued uotil ell queetione ere properly ecknowledged

1. OPPICIAL NAME OP AGENCY

2. CORPORATION OR PARTNERSNIP NAME 1P OIPFERENT FROM OFFICIAL NAME

3. Priocipel Bueioeee Addreee: Street City/Town Srete Zip Telephooe

4. Neme of Owoer Oete of Birth U.S. Citizeo Yee____ No_____

Resldentiel Addreee: Telephone_____

5. Liet oamee of officere end dlrectore of corporetioo or pertnerehip:

6. Ie there eny pereon or corporetion whoee neme ie not dieclooed ebove who hee finenciel intereet in the applicent or who otherwiee exercieee cootrol or directioo over the epplicent? Yee___ No___ If YES, give full perticulere
Neme: Addreee: Perticulere:

7. Will the epplicent (or eny pertner, in the ceee of e partnerehip, or eoy officer or director, in the ceee of e corporetion) be engeged, occupied or employed in eny buelneee, occupetioo or profeeeion other then the bueineee for which thie regietretioo ie requeeted? Yee___ No___ If YES give full perticulere:

8. Any corporetion or pertnerehip ehell deeignate the oeme of the one principel ective officer of the company to whom euch licenee ehell be ieeued. Every other agent of eeid compeny le obliged to obtein an individuel licenee.
Name:

9. Brench Officee (if eoy)
Addrese:_____ Neme of Brench Meneger:_____

10. Number of Agente within the egency:_____
(Attech list of nemee)

11. Neve you beeo a trevel egent for more then ooe yeer? Yee___ No___
Length of time_____

12. Have you filad a $10,000 Suraty Bond with tha Secretary of Steta? Yee___ No___

13. Suraty Compaoy:_____
(ATTACH PROOF OF BOND)

14. Hava you complated a traioing program or achooling ralatad to the traval induatry? Yea_____ No_____ Typa of training:

15. Experianca:

16. Haa aoy partnar, offlcer, member, dlractor or atockholder of the above agancy had a licaoee refuead, auepaodad or revoked by tbe Stata of Rhoda Ialand or any othar atate? Yaa___ No___ if YES, axplain:

17. Have you haretofore ever been dlacharged; indicted or found guilty; baen chargad with any miaconduct or lrreguleritlea ln the performenca of your dutlee; baen chargad witb mlaappropriating or convarting moniaa of othere or withholding auch moniea, at any time, by any firm, corporation, atc., or ara you now undar indictmant in thia or any other atata? if YES, axplain:

18. Are you (a) A diacharged or undiacharged bankrupt? Yaa___ No___
(b) Praeantly e party to bankruptcy proceadinge? or, Yea___ No___
(c) Have you aver baen involved as en officar, director, or majority sharaholder with a corporation that ia bankrupt or that ia preaantly a party to benkruptcy proceadinga? Yea___ No___

If YES to any of the above quaationa, give full particulare including dataa:

19. Are thare aoy unpaid judgament(a) outatanding ageinet you? Yea___ No___
If YES, giva full particulara.

20. Liet travel organization memberehipa:

21. Are you familier wlth Title 5, Chaptar 52, of tha Ganaral Lawe of the Stata of Rhoda Ialand and the Promulgatad Rulas & Regulationa of aald Act? Yea__No__

SEAL OF
NOTARY PUBLIC

I hareby make oath that the anewere to tba foregoing quaationa ara trua.

Signatura of Applicant_____

Subecribad and aworn to at_____before me thia _____day of_____AD, 19_____

_____
NOTARY PUBLIC

FOR OFFICE USE:
Licanaa Grantad - Date_____

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS

DEPARTMENT OF BUSINESS REGULATION
TRAVEL AGENCY SECTION
100 NO. MAIN STREET, PROVIDENCE, RI 02903

FOR OFFICE USE

FEE PAID

_____

TRAVEL AGENT
LICENSE

INSTRUCTIONS:
1. Please print or type
2. No license will be issued until all questions are properly acknowledged

1. Name of Applicant: Last First Middle Date of Birth U.S. Citizen Yes___ No___

2. Residential Address: Street City/Town State Zip Telephone:

3. Agency Affiliation:

4. Agency Address: Telephone:

5. Are you employed by any other travel Agency? Yes____ No_____
(If so, state Agency's name)

6. Will you be engaged in any other business, occupation or profession? Yes___No___
If yes, give full particulars:

7. Have you completed a training program or schooling relating to the Travel Industry? Yes___ No___ Type of training:_____

Job experience:

8. List travel organization membership:

9. Have you heretofore ever been discharged; indicted or found guilty; been charged with any misconduct or irregularities in the performance of your duties; been charged with misappropriating or converting monies of others or withholding such monies at any time, by any firm, corporation, etc., or are you now under indictment in this or any other state? If YES, explain:

10. Are you familiar with Title 5, Chapter 52 of the General Laws of the State of Rhode Island and the Promulgated Rules and Regulations of said Act?

Yes___ No____

11. Previous employment record during past three (3) years:

Name & Address of Employer	Nature of Business of Employer	Nature of Employment	Period of Employment

12. STATEMENT OF LICENSED TRAVEL AGENCY

I, the undersigned, being a Travel Agency owner in the State of Rhode Island certify that the applicant_____is/was employed as an agent by my agency for the following period.

Employment dates From: To:	Hours per week:	Agency Owner's Signature: Address:

SEAL OF
NOTARY PUBLIC

I hereby make oath that the answers to the foregoing questions are true.

Signature of Applicant_____

Subscribed and sworn to at_____before me

this_____day of_____AD, 19_____

_____
NOTARY PUBLIC

FOR OFFICE USE:
License Granted -Date_____

Mr. ROONEY. Thank you, Mrs. Bliven; and I want to commend the State of Rhode Island for having such a very fine department that you run in that State. All of the testimony that you have delivered here today, I believe, is encompassed in our bill.

Mrs. BLIVEN. They are almost the same, the two bills.

Mr. ROONEY. And the only thing I wish is that 49 of the other States would encompass laws similar to that, and believe me I wouldn't be sitting here this afternoon holding hearings on this legislation.

Mrs. BLIVEN. It has been a little difficult.

Mr. ROONEY. Maybe we could transfer you to Washington and take over the Department.

Mrs. BLIVEN. That would leave Rhode Island without any staff, and I am the only one.

Mr. ROONEY. Thank you very much for your testimony, and we do appreciate your appearance before the committee.

Mrs. BLIVEN. You are quite welcome.

Mr. ROONEY. The committee will recess until 10 a.m. tomorrow at room 2218.

[Whereupon, at 3:50 p.m. the committee recessed to reconvene at 10 a.m., Wednesday, September 21, 1977.]

FEDERAL REGULATION OF TRAVEL AGENTS

WEDNESDAY, SEPTEMBER 21, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND COMMERCE,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2218 Rayburn House Office Building, Hon. Fred B. Rooney, chairman, presiding.

Mr. ROONEY. The subcommittee will come to order.

Without objection, I would like to place in the record two documents furnished by one of the witnesses yesterday, Mrs. Lillian F. Bliven, principal licensing examiner for the travel agencies, depart- of business regulation, for the State of Rhode Island. This material includes rules and regulations for travel agencies and applications for licenses for the agencies and agents in effect for the State of Rhode Island [see p. 73].

Mrs. Bliven informed me that the development of these rules and regulations and application forms for license were developed by her in a period of less than 1 month. Based on this evidence and other testimony received yesterday, I am convinced that the administration of H.R. 9068 would take a minimum of personnel.

Mrs. Bliven further stated that for the 6 months in which the Rhode Island law was in effect, there had been only 30 complaints. Twenty-three of these complaints have already been settled, and it is anticipated that there will be no reason to resort to court action.

In my opinion, the experience of Rhode Island substantiates the necessity for a national law. For example, an instance has occurred whereby one tourist agency was unable to meet the requirements for licensure and therefore moved its operation half a mile across the State line to Massachusetts. I think that this is another indication of why this bill should be passed.

Mr. ROONEY. I call on our very distinguished witness this morning, Ms. Jeanne R. Westphal, Deputy Assistant Secretary for Tourism, U.S. Travel Service, Department of Commerce. We are very fortunate in having Ms. Westphal in this very important position because I know of no one in this great field of tourism who knows about its problem as much as Ms. Westphal.

Ms. Westphal, we are very please to have you with us this morning.

STATEMENT OF JEANNE R. WESTPHAL, DEPUTY ASSISTANT SECRETARY FOR TOURISM, DEPARTMENT OF COMMERCE, ACCOMPANIED BY JEAN O'BRIEN, SENIOR POLICY ANALYST, OFFICE OF POLICY ANALYSIS, U.S. TRAVEL SERVICE

Ms. WESTPHAL. Thank you, Mr. Chairman. I appreciate the opportunity to be here. I would like to submit the complete testimony for the record, but ask permission to read some of the highlights.

Mr. ROONEY. Without objection, it is so ordered.

Ms. WESTPHAL. Mr. Chairman, my name is Jeanne R. Westphal, Deputy Assistant Secretary of Commerce for Tourism. I am appearing here this morning to testify on H.R. 6222 and H.R. 9068, two bills currently pending before your subcommittee.

H.R. 6222 would, among other things, make it unlawful for any carrier, supplier of travel services, or direct air carrier regulated by an agency of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States to enter into any contract or other arrangement for the provision of travel to others with any person who is not a registered travel agent; make a federally issued travel agent registration certificate a requisite to directly or indirectly engaging in the business of conducting a travel agency in the United States, beginning January 1, 1978; establish a travel agent registration board in the Department of Transportation which would be empowered to:

(1) Establish qualification criteria for Federal certification;

(2) Issue, renew, or revoke travel agent registration certificates;

(3) Conduct revocation hearings;

(4) Request the Attorney General to enjoin illegal practices and to order restitution; and

(5) Request any district attorney of the United States to initiate enforcement proceedings.

H.R. 9068 contains similar provisions. It differs from H.R. 6222, principally, in that it replaces the Travel Agent Registration Board with a National Travel Services Registration Advisory Council which would be established within the U.S. Department of Commerce.

Mr. Chairman, with your permission, I would like to outline, for the record, the basis for our position.

A number of Federal agencies possess varying degrees of regulatory authority with respect to travel agents and charter organizers. The Interstate Commerce Commission, pursuant to 49 U.S.C. 309a(f) is empowered to "regulate tour brokers and to establish reasonable requirements with respect to licensing, financial responsibility, accounts, records, reports, operations, etc."

However, only a fraction of the travel agents operating in the United States today, about 3 percent, are tour brokers licensed by the Commission.

The Federal Maritime Commission, pursuant to 46 U.S.C. 817e, sets financial responsibility standards for common carriers who sell their own sea transportation. However, passenger sea transportation represents only a small percentage of the sales of U.S. travel agency industry. The American Society of Travel Agents estimates that air transportation accounts for about 80 percent of the sales of member agents.

The Civil Aeronautics Board has jurisdiction over travel agents who arrange and sell air travel. Further, the Board has promulgated regulations establishing surety bond and/or depository agreement requirements applicable to charter organizers who operate travel group charters, study group charters, inclusive tour charters, and one-stop inclusive tour charters. Unlike the Interstate Commerce Commission, however, the Board does not have the power to establish licensing requirements for, or to license, brokers of air transportation.

In addition to meeting financial resonsibility standards established by Federal agencies, agents who represent most U.S. and foreign scheduled airlines and steamship lines must also satisfy appointment standards set by the appropriate carrier association or conference. There are five principal carrier conferences: The Air Traffic Conference (ATC), the International Air Transport Association (IATA), the International Passenger Steamship Association (IPSA), the Pacific Cruise Conference (PCC), and the National Railroad Passenger Corporation (AMTRAK).

ATC standards include:

(1) Personal experience;

(2) financial responsibility;

(3) Suitable premises accessible to the general public.

To meet the financial responsibility standard, a prospective agent must normally furnish surety bond. The conference bonding requirement is $10,000 for a newly appointed travel agency, and this requirement increases in amount as sales expand, up to a maximum of $50,000.

The prospective agent is carefully investigated by the bonding company from which he seeks to purchase coverage. His financial statements are reviewed. If the agency is a corporation, statements are required not only of the corporation itself, but of the principal stockholders as well. If the statements fail to meet certain criteria, full collateral is required before the bond is issued. In addition, the bonding company obtains bank confirmation of the agency's bank balance.

Mr. Chairman, I would also like to mention that we have learned that the Board of the U.S. Tour Operators Association, last week, approved the proposal to require each of its members to obtain a $100,000 bond in the case of a default starting January 1, 1978.

Despite the existence of bonding and other entry requirements, the travel agency industry has grown dramatically in recent years. The number of conference appointed agencies alone has increased 83 percent since 1970. By the end of 1976, there were approximately 12,240 such agencies.

The dollar volume of bookings made by the industry in 1976 was roughly $15 billion. In that year, agents arranged 34.9 million trips for some 51 million Americans who spent 430 million person nights away from home. Agents arranged more than 43 percent of all air trips during the year and 44 percent of trips to destinations outside the country.

Almost all travel agents sold some type of charter program offered by tour operators during 1975 and 1976. Eighty-eight percent of the agents reported selling one-stop tour charters (OTC's), 72 percent travel group charters (TGC's), and 65 percent inclusive tour charters (ITC's).

In addition to selling charter programs offered by tour operators. approximately one-third of the agents, or more than 4,000, blocked space on charter flights and operated their own tours during 1975 and 1976.

Existing bonding and appointment requirements may have been insufficient in certain circumstances to prevent unscrupulous, inexperienced, unqualified, and irresponsible operators and travel promoters from willfully or unwillfully victimizing the public.

A travel agent needs no conference appointment to represent non-conference carriers. More importantly, while the CAB requires charter operators or organizers to ufrnish a surety bond or bonds for a charter or series of charters, a number of qualified surety companies have been reluctant to write the bonds without full collateral, and many regard the bond as cumbersome.

Consequently, many operators/organizers elect to exercise the option, permissible under current CAB rules, of:

(1) Furnishing a bond or bonds in an amount less than the charter price; and

(2) Entering into an agreement with a designated bank and the direct air carrier whereby participants' checks are made payable to the bank.

The bank is obligated to pay the direct air carrier an amount equal to the price of the charter at least 60 days before departure and to pay other vendors upon presentation of their bills and upon certification by the organizer/operator that the amounts billed are correct.

In certain cases, retail agents and prospective charter participants have not been adequately familiar with the escrow procedure. Instances have been reported in which the customer has made out his check to the retailer who booked his package. The retailer, in turn, has issued his own check to the depository bank, minus his commission. Or he has issued his check—erroneously—to the wholesaler/operator, who may or may not have forwarded it to the depository bank.

If, in the first instance, the tour fails to operate, either the bank or the customer must recover the amount of the commission from the retailer, an attempt which is not always successful, especially if the retailer is experiencing cash flow problems.

In the second instance, the retailer must recover payment from the wholesaler/operator and cases of lengthy delay in the return of such funds have been reported. The Department of Commerce is not in the possession of data that would indicate the scope and extent of this problem, however.

Hearings during the 93d Congress, 1st session, revealed that fraudulent and unprofessional business practices by charter operators and/or their sales personnel were responsible for the stranding of between 1,600 and 2,500 Americans in 7 European cities in the course of a summer. Most of the strandings occurred because the organizers were (1) undercapitalized; (2) using separate air carriers for the outbound and return legs of the trip; (3) collecting round trip transportation from passengers but paying for only the outbound portion of the flight.

Public concern and pressure arising partly out of this situation has led to attempts by the individual States to regulate various aspects of the sale of travel. For example, New York enacted truth-in-travel

legislation in 1974. Since enactment of the New York law, Rhode Island and Hawaii have adopted legislation requiring travel agents and travel agencies to be licensed, and California has enacted a travel promoter law.

Approximately 11 other States either have considered or are presently considering similar legislation. Legislation is now under active consideration in five States—Pennsylvania, New Jersey, Massachusetts, Ohio, and Michigan—and additional legislation, beyond truth in travel, is being studied in New York State.

The bills under study at the State level provide for a variety of forms of regulation, including bonding, licensing, registration, establishment of escrow accounts, and consumer notification.

Some have questioned whether having several States regulating agents may impede the growth of tourism in the United States. However, we think it is premature to establish a Federal regulation program at a time when we are all concerned with reducing Federal regulation wherever possible in the absence of clear evidence of its need.

Moreover, we believe that perhaps a distinction could be drawn between retail agents who merely sell the services of travel vendors on a commission basis and those travel sellers/promoters who organize and/or operate their own tour programs.

Although there is a lack of definitive data, the bulk of consumer complaints concerning the travel agent industry seem to involve operators/organizers. However, unless a conclusive case can be made for licensing agents or organizers, we believe that it would be unjust to burden the agents, organizers, and the Federal Government with such a requirement.

We would prefer to see voluntary self-regulation, perhaps by an industry group modeled after the National Association of Securities Dealers, and more rigorous enforcement of existing laws and regulations. Further study of this question is indicated, in our view.

In the meantime, Mr. Chairman, we must advise that we do not favor enactment of H.R. 6222 or H.R. 9068 at this time. Mr. Chairman, if I may, I would like to address our objections to H.R. 6222.

First, while certain of the functions prescribed by H.R. 6222 would be quasi-judicial rather than administrative, we are of the opinion that a deliberative-type body is not the most effective organizational entity for carrying out the purposes of the act.

Second, section 203 of the proposed bill provides that members of the Board "shall be selected from among citizens of the United States who (A) are eminent in the fields of travel and tourism; (B) have particular experience in the business of conducting a travel agency; and (C) are not regular full-time employees of the United States.

While the Department concedes that many of the issues coming before the Board would involve facts of a technical nature, and that a case can be made for an expert body to deal with such facts, we believe that the broader national interest would better be served if a majority of Board members was selected from outside the travel agency industry.

Third, in contrast to the Presidential term of 4 years, Board members, under the proposed bill, would be appointed for terms of 3 years. Normally, the prescribed term of office of members of regulatory-type commissions is longer than the Presidential term in order to insulate

the membership, to the extent possible, from political pressures, and to protect the integrity of their quasi-judicial determinations. Were H.R. 6222 to be enacted, the Department believes that section 203 of the bill should be amended to provide for a 6-year term of office for members.

Fourth, as drafted, the proposed bill makes no provision for the removal of Board members. Since the President should be empowered to remove a member who is not faithfully discharging his public responsibilities, the committee may wish to amend the bill to prescribe the causes for which a member may be removed.

Fifth, section 203 would locate the proposed Board in the Department of Transportation. While travel agents are engaged in the sale of transportation, the Department of Commerce recommends against placing the onus for travel agent licensing on the Secretary of Transportation.

Travel agents are not solely vendors of transportation. They also sell nontransport travel services such as hotel and resort accommodations and sightseeing tours and, in addition, arrange admissions to performing arts events, theme parks, and other attractions whose operations and welfare are beyond the purview of the Department of Transportation.

More importantly, limited regulation of travel agents is already performed by the Civil Aeronautics Board, the Federal Maritime Commission and the Interstate Commerce Commission, and while neither the CAB nor the FMC has licensing authority, the creation of an independent Travel Agent Registration Board in the Department of Transportation might tend to invite programmatic overlap and fragmentation among the agencies.

A related question of jurisdiction is raised by the fact that travel agency regulation, globally, is generally a function of the world's national tourist offices. In 49 countries, the national tourist office draws up travel agency regulations and in 47 it is responsible for the application of such regulations.

The national tourist offices of 44 countries issue operating licenses to travel agencies, tour guides and interpreters. The Department of Transportation is without authority for tourism promotion.

Sixth, the terms used in the bill need much greater definition. "Ethical business conduct," "sound financial structure," and "adequate business location" are not defined. Given the criminal penalties involved, these terms are much too general and constitute too tempting an invitation to collusive practices to limit entry, to stifle innovation, and to prevent cost competition.

Mr. ROONEY. I think that the subcommittee will recess for 10 minutes, there is a vote on the floor.

[Brief recess.]

Mr. ROONEY. You may proceed.

Ms. WESTPHAL. Mr. Chairman, I would like to now turn my attention to H.R. 9068.

In addition to the question I raised earlier, concerning the applicability of the licensing requirement, the Department has two remaining reservations relating to H.R. 9068.

First, section 203(g) would authorize compensation for members of the advisory council at the daily equivalent of the annual rate of

basic pay in effect for grade GS-18 of the general schedule. In addition, each member could be allowed per diem and travel expenses to and from meetings of the council.

It is not the Department's policy to compensate members of advisory boards. It has been our practice to minimize the cost and expense associated with outside advisory groups. We are, therefore, recommending that section 203(g) be amended to eliminate the authorization for compensation.

Second, section 207(a) provides that travel services registration certificates issued pursuant to title II expire on the second anniversary of the date of issuance. We believe that, if enacted, this provision would necessitate an enormous amount of unnecessary paperwork both for the Department of Commerce and for individual agents. The travel services registration certificate should remain valid unless and until revoked by the Secretary for cause.

Finally, I would like to observe that the proposed section 214 of the proposed bill provides that, "Upon passage of this title, no State or political subdivision thereof shall adopt or enforce any law regulating, or setting any standards with respect to, the activity of engaging in the business of selling travel or travel services."

However, the bill does not prohibit individual States from requiring travel agencies to file evidence of Federal registration. In the absence of such a prohibition, some States might impose such a requirement—the same as they have for bus operators.

The Department, therefore, suggests that to obviate the unnecessary pyramiding of Government regulations, section 214 be amended to prohibit the States from requiring any federally certificated travel agency to file proof of Federal registration with any agency of any State.

Mr. Chairman, I appreciate the opportunity of appearing before your subcommittee. This concludes my testimony.

[Ms. Westphal's prepared statement follows:]

STATEMENT OF JEANNE R. WESTPHAL, DEPUTY ASSISTANT SECRETARY OF COMMERCE FOR TOURISM

Mr. Chairman. My name is Jeanne R. Westphal, Deputy Assistant Secretary of Commerce for Tourism. I am appearing to testify on H.R. 6222 and H.R. 9068, two bills currently before your Subcommittee. The Department of Commerce has an interest in this matter by virtue of its authority to:

Encourage the development of low cost unit tours (22 U.S.C 2122)

Cooperate with private travel agencies in the display of exhibits, and in the collection, publication, and dissemination of information with respect to places of interest, routes, transportation facilities, accommodations for the purpose of encouraging, promoting or developing travel within the United States. (16 U.S.C. 18a)

Encourage the simplification, reduction, or elimination of barriers to travel, and the facilitation of international travel generally. (22 U.S.C. 2122)

Mr. Chairman, H.R. 6222 would, among other things:

Make it unlawful for any "carrier, supplier of travel services, or direct air carrier regulated by an agency of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States (to) enter into any contract or other arrangement for the provision of travel to others with any person who is not a registered travel agent";

Make a federally issued travel agent registration certificate a requisite to directly or indirectly engaging in the business of conducting a travel agency in the United States, beginning January 1, 1978;

Establish a Travel Agent Registration Board in the Department of Transportation which would be empowered to (1) establish qualification criteria for Federal certification; (2) issue, renew and revoke travel agent registration certif-

icates; (3) conduct revocation hearings; (4) request the Attorney General to enjoin illegal practices and to order restitution; and (5) request any district attorney of the United States to initiate enforcement proceedings.

H.R. 9068 contains similar provisions. It differs from H.R. 6222, principally, in that it replaces the Travel Agent Registration Board with a National Travel Services Registration Advisory Council which would be established within the U.S. Department of Commerce. The Council would advise the Secretary concerning the minimum qualification criteria for a travel services registration certificate. The Secretary would be authorized to establish the criteria and to issue Travel Services Registration Certificates to qualified applicants.

The Department of Commerce is in accord with the purposes of both bills which is to protect the traveler from unscrupulous travel agents, operators and promoters who arrange, contract for, or sell travel to the public. However, we do not at this time favor enactment of H.R. 6222 or H.R. 9068.

Mr. Chairman, with your permission, I would like to outline, for the record, the basis for our position.

A number of Federal agencies possess varying degrees of regulatory authority with respect to travel agents and charter organizers. The Interstate Commerce Commission, pursuant to 49 U.S.C. 304 a, (4), is empowered to "regulate (tour) brokers . . . and to establish reasonable requirements with respect to licensing, financial responsibility, accounts, records, reports, operation etc" Pursuant to 49 U.S.C. 311 c the Commission is further authorized to "prescribe reasonable rules and regulations for the protection of travelers or shippers by motor vehicle, to be observed by any person holding a brokerage license." "No such license shall be issued or remain in force unless such person shall have furnished a bond or other security approved by the Commission . . ." However, only a fraction of the travel agents operating in the United States today, about three percent, are tour brokers licensed by the Commission.

The Federal Maritime Commission, pursuant to 46 U.S.C. 817 e, sets financial responsibility standards for common carriers who sell their own sea transportation: "No person in the United States may arrange, offer, advertise, or provide passage on a vessel unless a certificate (performance) has been issued to or covers such a person." However, passenger sea transportation represents only a small percentage of the sales of U.S. travel agency industry. (The American Society of Travel Agents estimates that air transportation accounts for about 80% of the sales of member agents).

The Civil Aeronautics Board, by virtue of authority contained in 49 U.S.C. 1377e and 49 U.S.C. 1381, has jurisdiction over travel agents who arrange and sell air travel. The Board is authorized "at all times . . . access to . . . all accounts, records and memorandums, including all documents, papers and correspondence . . . kept . . . by air carriers, foreign carriers or ticket agents and it may employ special agents or auditors . . . to inspect and examine all such . . . accounts, records and memorandums." In addition, "The Board may, upon its own initiative or upon complaint by any air carrier, foreign air carrier or ticket agent . . . investigate and determine whether any air carrier, foreign air carrier or ticket agent has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof. If the Board shall find . . . that such air carrier, foreign air carrier or ticket agent is engaged in such unfair or deceptive practices or unfair methods of competition, it shall order such air carrier, foreign air carrier or ticket agent to cease and desist . . ." Further, the Board has promulgated regulations[1] establishing surety bond and/or depository agreement requirements applicable to charter organizers who operate Travel Group Charters, Study Group Charters, Inclusive Tour Charters and One-stop Inclusive Tour Charters. Unlike the Interstate Commerce Commission, however, the Board does not have the power to establish licensing requirements for, or to license, brokers of air transportation.

In addition to meeting financial responsibility standards established by Federal agencies, agents who represent most U.S. and foreign scheduled airlines and steamship lines must also satisfy appointment standards set by the appropriate carrier association or "conference". There are five principal carrier conferences: the Air Traffic Conference (ATC), the International Air Transport Association (IATA), the International Passenger Steamship Association (IPSA), the Pacific Cruise Conference (PCC), and the National Railroad Passenger Corporation (AMTRAK).

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[1] 14 CFR Parts 372(a), 373, 378, 378(a).

ATC standards include (1) personal experience; (2) financial responsibility; (3) suitable premises, accessible to the general public. To meet the financial responsibility standard, a prospective agent must normally furnish surety bond. The Conference bonding requirement is $10,000 for a newly-appointed travel agency, and this requirement increases in amount as sales expand, up to a maximum of $50,000.

The prospective agent is carefully investigated by the bonding company from which he seeks to purchase coverage. His financial statements are reviewed. If the agency is a corporation, statements are required not only of the corporation itself, but of the principal stockholders as well. If the statements fail to meet certain criteria, full collateral is required before the bond is issued. In addition, the bonding company obtains bank confirmation of the agency's bank balances.

Despite the existence of bonding and other entry requirements the travel agency industry has grown dramatically in recent years. The number of conference-appointed agencies alone has increased 83 percent since 1970. By the end of 1976, there were approximately 12,240 such agencies.

The dollar volume of bookings made by the industry in 1976 was roughly 15 billion.[2] In that year, agents arranged 34.9 million trips for some 51 million Americans who spent 430 million person nights away from home. Agents arranged more than 43 percent of all air trips during the year and 44 percent of trips to destinations outside the country.[3]

Almost all travel agents sold some type of charter program offered by tour operators during 1975 and 1976. Eighty-eight percent of the agents reported selling One-stop Tour Charters (OTCs), 72 percent Travel Group Charters (TGCs), and 65 percent Inclusive Tour Charters (ITCs). In addition to selling charter programs offered by tour operators, approximately one-third of the agents, or more than 4,000, blocked space on charter flights and operated their own tours during 1975 and 1976.[4]

Existing bonding and appointment requirements may have been insufficient in certain circumstances to prevent unscrupulous, inexperienced, unqualified and irresponsible operators and travel promotors from willfully or unwillfully victimizing the public. A travel agent needs no conference appointment to represent nonconference carriers. More importantly, while the CAB requires charter operators or organizers to furnish a surety bond or bonds for a charter or series of charters, a number of qualified surety companies have been reluctant to write the bonds without full collateral, and many regard the bond as cumbersome. Consequently, many operators/organizers elect to exercise the option, permissible under current CAB rules, of (1) furnishing a bond or bonds in an amount less than the charter price and (2) entering into an agreement with a designated bank and the direct air carrier whereby participants' checks are made payable to the bank. The bank is obligated to pay the direct air carrier an amount equal to the price of the charter at least 60 days before departure and to pay other vendors upon presentation of their bills and upon certification by the organizer/operator that the amounts billed are correct.

In certain cases, retail agents and prospective charter participants have not been adequately familiar with the escrow procedure. Instances have been reported in which the customer has made out his check to the retailer who booked his package. The retailer, in turn, has issued his own check to the depository bank, minus his commission. Or, he has issued his check—erroneously—to the wholesaler/operator, who may or may not have forwarded it to the depository bank. If, in the first instance, the tour fails to operate, either the bank or the customer must recover the amount of the commission from the retailer, an attempt which is not always successful, especially if the retailer is experiencing cash flow problems. In the second instance, the retailer must recover payment from the wholesaler/operator and cases of lengthy delay in the return of such funds have been reported. The Department of Commerce is not in the possession of data that would indicate the scope and extent of this problem, however.

Hearings during the 93rd Congress, 1st Session, revealed that fraudulent and unprofessional business practices by charter operators and/or their sales personnel were responsible for the stranding of between 1600 and 2500 Americans in seven European cities in the course of a summer. Most of the strandings occurred because the organizers were (1) undercapitalized; (2) using separate

[2] Louis Harris and Associates, Inc., *The Character and Volume of the U.S. Travel Agency Market: 1976.*
[3] U.S. Travel Data Center, *1976 National Travel Survey, Full Year Report.*
[4] Harris, ibid.

air carriers for the outbound and return legs of the trips; (3) collecting round-trip transportation from passengers but paying for only the outbound portion of the flight.

Public concern and pressure arising partly out of this situation has led to attempts by the individual states to regulate various aspects of the sale of travel. New York enacted "Truth in Travel" legislation in 1974, among other things prohibiting any travel consultant from "knowingly selling transportation . . . on a reservation or charter basis for a specified space, flight or time . . . without a binding commitment with a carrier for the furnishing of such definite reservation or charter. . ." Since enactment of the New York law, Rhode Island and Hawaii have adopted legislation requiring travel agents aud travel agencies to be licensed, and California has enacted a "travel promoter" law, which among other things, (1) prohibits a promoter from "advertisiug that air or sea transportation is . . . available unless he has, prior to such advertisement, contracted for the transportation advertised with an air carrier," and (2) requires promoters operating in the State to "deposit 90% of all sums received for air or sea transportation or any other services or goods offered by the . . . promoter in conjunction with such transportation in a trust account in a Federally insured bank or savings and loan association."

Approximately 11 other states either have considered or are presently considering similar legislation. The legislatures of Ohio and Illinois adopted legislation in 1976 and 1973, respectively, but the enactments were vetoed by both States' governors. In Maryland, Connecticut, Wisconsin, Minnesota and Missouri, bills have been introduced but died short of enactment. Legislation is now under active consideration in five states: Pennsylvania, New Jersey, Massachusetts, Ohio and Michigan, and additional legislation, beyond "Truth in Travel," is being studied in New York State.

The bills under study at the state level provide for a variety of forms of regulation, including bonding, licensing, registration, establishment of escrow accounts and consumer notification.

Some have questioned whether having several states regulating agents may impede the growth of tourism in the U.S. However, we think it is premature to establish a Federal regulation program at a time when we are all concerned with reducing Federal regulation wherever possible in the absence of clear evidence of its need.

Moreover, we believe that perhaps a distinction could be drawn between retail agents who merely sell the services of travel vendors on a commission basis and those travel sellers/ promoters who organize and/or operate their own tour programs. Although there is a lack of definitive data, the bulk of consumer complaints concerning the travel agent industry seem to involve operators/organizers. However, unless a conclusive case can be made for licensing agents or organizers, we believe that it would be unjust to burden the agents, organizers and the Federal government with such a requirement. We would prefer to see voluntary self-regulation, perhaps by an industry group modeled after the National Association of Securities Dealers, and more rigorous enforcement of existing laws and regulations. Further study of this question is indicated, in our view.

In the meantime, Mr. Chairman, we must advise that we do not favor enactment of H.R. 6222 or H.R. 9068 at this time.

Mr. Chairman, if I may, I would like to address our objections to H.R. 6222.

First, while certain of the functions prescribed by H.R. 6222 would be quasi-judicial rather than administrative, we are of the opinion that a deliberative-type body is not the most effective organizational entity for carrying out the purposes of the Act.

Boards tend to lack accountability and the capacity to act with reasonable dispatch. In addition, a board comprised of politically-appointed officials requiring highly-specialized professional qualifications and experience would inevitably be subject to both paritsan and special interest pressures which might compromise its ability to function impartially, and in the public interest. We are particularly sensitive to this because the Board's regulations would carry criminal penalties.

Second, Section 203 of the proposed bill provides that members of the Board "shall be selected from among citizens of the United States who (A) are eminent in the fields of travel and tourism; (B) have particular experience in the business of conducting a travel agency; and (C) are not regular fulltime employees of the United States. . ."

While the Department concedes that many of the issues coming before the board would involve facts of a technical nature, and that a case can be made for an expert body to deal with such facts, we believe that the broader national in-

terest would better be served if a majority of board members was selected from outside the travel agency industry. Regulatory-type bodies are continually subject to the demands of regulated interests for special consideration. When those who regulate are from the same industry as those who are regulated, there can be a tendency to accommodate specialist concerns at the expense of the broader, public interest, including limits on entry or fixing of prices. This, if it occurs, can defeat the public purposes of regulation and impair public confidence in the effectiveness of government. Accordingly, we suggest that were H.R. 6222 to be enacted, Section 203 be amended to eliminate the specific requirement that all members be eminent in the fields of travel and tourism and have particular experience in the business of conducting a travel agency.

Third, in contrast to the presidential term of four years, Board members, under the proposed bill, would be appointed for terms of three years. Normally, the prescribed term of office of members of regulatory-type commissions is longer than the Presidential term in order to insulate the membership, to the extent possible, from political pressures, and to protect the integrity of their quasi-judicial determinations. Were H.R. 6222 to be enacted, the Department believes that Section 203 of the bill should be amended to provide for a six year term of office for members.

Fourth, as drafted, the proposed bill makes no provision for the removal of Board members. Since the President should be empowered to remove a member who is not faithfully discharging his public responsibilities, the Committee may wish to amend the bill to prescribe the causes for which a member may be removed.

Fifth, Section 203 would locate the proposed Board in the Department of Transportation. While travel agents are engaged in the sale of transportation, the Department of Commerce recommends against placing the onus for travel agent licensing on the Secretary of Transportation. Travel agents are not solely vendors of transportation; they also sell non-transport travel services such as hotel and resort accommodations and sightseeing tours, and, in addition, arrange admissions to performing arts events, theme parks and other attractions whose operations and welfare are beyond the purview of the Department of Transportation. More importantly, limited regulation of travel agents is already performed by the Civil Aeronautics Board, the Federal Maritime Commission and the Interstate Commerce Commission, and while neither the CAB nor the FMC has licensing authority, the creation of an independent Travel Agent Registration Board in the Department of Transportation might tend to invite progammatic overlap and fragmentation among the agencies.

A related question of jurisdiction is raised by the fact that travel agency regulation, globally, is generally a function of the world's national tourist offices. In 49 countries, the national tourist office draws up travel agency regulatious and in 47, it is responsible for the application of such regulations. The national tourist offices of 44 countries issue operating licenses to travel agencies, tour guides and interpreters. The Department of Transportation is without authority for tourism promotion.

Sixth, the terms used in the bill need much greater definition. "Ethical business conduct", "sound financial structure", and "adequate business location" are not defined. Given the criminal penalties involved, these terms are much too general and constitute too tempting an invitation to collusive practices to limit entry, to stifle innovation, and to prevent cost competition.

Mr. Chairman, with your permission, I would now like to turn my attention to H.R. 9068.

In addition to the question I raised earlier, concerning the applicability of the licensing requirement, the Department has two remaining reservations relating to H.R. 9068.

First, Section 203(g) would authorize compensation for members of the Advisory Council at the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule. In addition, each member could be allowed per diem and travel expenses to and from meetings of the Council.

It is not the Department's policy to compensate members of advisory boards. It has been our practice to minimize the cost and expense associated with outside advisory groups. We are, therefore, recommending that Section 203(g) be amended to eliminate the authorization for compensation.

Second, Section 207(a) provides that all Travel Services Registration Certificates issued pursuant to Title II expire on the second anniversary of the date of issuance.

We believe that, if enacted, this provision would necessitate an enormous amount of unnecessary paper work both for the Department of Commerce and for individual agents. The Travel Services Registration Certificate should remain valid unless and until revoked by the Secretary for cause.

Finally, I would like to observe that the proposed Section 214 of the proposed bill provides that, "Upon passage of this title, no State or political subdivision thereof shall adopt or enforce any law regulating, or setting any standards with respect to, the activity of engaging in the business of selling travel or travel services." However, the bill does not prohibit individual states from requiring travel agencies to file evidence of Federal registration. In the absence of such a prohibition, some states might impose such a requirement—the same as they have for bus operators. The Department, therefore, suggests that to obviate the unnecessary pyramiding of government regulation, Section 214 be amended to prohibit the states from requiring any Federally-certificated travel agency to file proof of Federal registration with any agency of any state.

Mr. Chairman, I appreciate the opportunity of appearing before your Subcommittee. This concludes my testimony.

Mr. ROONEY. Needless to say, Ms. Westphal, I am shocked at your testimony. As you know, the committee has been studying this bill for months. I can recall the first bill that we introduced, there were several objections to, and we worked with you and your staff in the Department. Now you have come up with testimony indicating that you are absolutely opposed to the legislation.

You indicate in your closing statement that there are three objections to H.R. 9068. If the committee agreed with you, and we amended the bill accordingly, do you think that the Department of Commerce and, perhaps, OMB would support the bill?

Would you rather not comment?

Ms. WESTPHAL. I would rather not comment.

Mr. ROONEY. Legislation to regulate travel agents and the travel industry has been with us for the past 10 years, as you know. This particular legislation is the product of months of work by my staff and, as I said earlier, in conjunction with your Department.

Ms. Westphal, is this more an OMB decision than the Department of Commerce, which I really think it is? Has OMB objected to it; let me ask that question.

Ms. WESTPHAL. OMB has objected to it, and has made some revisions which are incorporated in this testimony.

Mr. ROONEY. It seems to me that there is not that much money in the bill. We have five members of the board which would be paid $50 per diem. They will only meet 8 to 10 days out of the year.

It seems to me that with all of the agencies involved in this, which you mention in your testimony, the Department of Transportation, the Department of Commerce, the ICC, and other departments, it seems to me if we all put them together and put them under the Department of Commerce, we could come up with a bill that would not cost taxpayers one nickel, and come up with a good committee to supervise travel agents and regulate them.

STATEMENT OF JEAN O'BRIEN

Ms. O'BRIEN. I am Jean O'Brien, and I am the senior analyst with the United States Travel Service. It is our understanding that OMB's problem is not with the money in the bill. OMB has been weighing a number of policy priorities that the administration has.

The priority of deregulation, of trying to reduce the amount of Federal intervention in the private sector has taken priority over our uniform approach of travel agency registration.

Mr. ROONEY. Perhaps you can answer this question. Ms. Westphal mentioned in her testimony the various agencies and departments that have jurisdiction. Let me ask one further question about the celebrated case in Pittsburgh a couple of years ago.

I understand that the tourists were bilked by an individual from Ohio, who originally bought the tickets from a man in California. Can you tell the committee which of the laws presently on the books would have dealt with this situation?

Ms. O'BRIEN. I am not sufficiently familiar with the facts in the case to be able to tell you that. I am not certain whether any of the laws or regulations could have dealt with the case, quite frankly.

Mr. ROONEY. It seems to me that if we are going to have a tourist industry in this country—it is now the third largest industry in the United States—we have to have some kind of Government involvement.

I gave you comments that were made yesterday by Mrs. Bliven. It is a one person show in Rhode Island, and she is doing an excellent job. There were less than 50 complaints. It is not costing the State of Rhode Island any additional moneys.

Are you familiar with that department?

Ms. WESTPHAL. No; I am not.

Mr. ROONEY. I certainly do appreciate your testimony this morning, and thank you for appearing before this committee.

There is another vote on the floor, and the subcommittee will stand in recess for another 10 minutes.

[Brief recess.]

Mr. ROONEY. The next witness will be Mr. Raymond Young, Acting Deputy Assistant Secretary for Plans and International Affairs, U.S. Department of Transportation. You are accompanied by Mr. Chip Bishop?

Mr. YOUNG. Yes, Mr. Bishop is with the Department's Office of Congressional Affairs.

Mr. ROONEY. The Chair must apologize for the interruptions. Unfortunately, when this hearing was scheduled, we did not anticipate a 10 o'clock session of Congress. You may proceed.

STATEMENT OF RAYMOND A. YOUNG, ACTING DEPUTY ASSISTANT SECRETARY FOR PLANS AND INTERNATIONAL AFFAIRS, U.S., DEPARTMENT OF TRANSPORTATION

Mr. YOUNG. Thank you, Mr. Chairman.

I appreciate this opportunity to present the views of the Department of Transportation on H.R. 6222 and H.R. 9068 concerning Federal regulation of the travel trade industry. I am appearing here in my capacity as Acting Deputy Assistant Secretary for Plans and International Affairs.

With your permission, I will enter my full statement in the record, and summarize it.

Mr. ROONEY. Without objection.

Mr. YOUNG. The U.S. travel industry is a huge conglomeration of businesses and associations that provide a vital service to an increas-

ingly mobile America. It is comprised of common carriers, conferences, consolidators, wholesalers, tour operators, travel promotors, and retail travel agents. In financial terms, its annual volume is over $100 billion. It moves millions of U.S. citizens across our continent and across the oceans. In spite of the U.S. travel industry's size, it is also a fragmented, diffused, and to many observers, a highly disorganized industry. And yet, the Department of Transportation believes that it is, in general, doing an exceptional job of providing travel services to the American public.

As a matter of basic principle, the Department believes that Federal licensing or certification of the travel trade industry should be considered only to the extent necessary to protect the consumer. It is unfortunate that the public's increased desire to travel and its increased dependency on travel agents and other "experts" has sometimes resulted in travelers being deceived by unscrupulous operators. These operators, by the unsound and abusive practices in which they engage, not only victimize travelers, but serve to discredit the vast majority of legitimate travel agents and travel wholesalers. Which abuses have been identified in earlier testimony in these hearings, the overwhelming number of agents and tour organizers are honest businessmen and women.

Mr. ROONEY. Why don't they want to be regulated, then? They are the ones who want to be regulated. They want the Government to help police their operations.

Mr. YOUNG. I am not sure that there is unanimity among the travel agents in wanting to be organized. I think there is some concern that the organization and the regulation they are facing, is fragmented. They are being faced with the problem of different States trying to impose different consumer protection regulations on travel agents.

Mr. ROONEY. Does it make it confusing?

Mr. YOUNG. I think that you are quite correct there, Mr. Chairman. In addressing H.R. 6222, the bill as drafted calls for the President to appoint five travel agents for terms of 3 years to a Travel Agent Registration Board, which would be situated in the Department of Transportation. One member of the Board would be designated annually by the President to serve as Chairman.

The Department would have no control over the Board, other than providing funds for its operation. The Department opposes H.R. 6222 for several reasons. First because we believe that a Board comprised solely of travel agents would lack credibility, it would be subject to criticism that it might not operate in the consumers' best interest.

The powers given to the Board to issue rules, regulations, and orders are very broad and undefined, and carry criminal penalties. The Department is concerned that the regulatory system will stifle the development, and that entry may be limited. I note from the American Society of Travel Agents' testimony that they, too, share that concern. One of our goals is to avoid such entry limitations.

The Department would be reluctant to sanction an industry registration board without some sort of policy or administrative control, in this case, by the Secretary of Transportation. In addition, the Department is uncertain whether licensing alone would induce financial and operational integrity.

Finally, the Department is not convinced that establishment of a publicly funded licensing board is the most cost efficient way to protect the consumer from the malpractice of certain elements in the travel agency industry.

Next let me address H.R. 9068, which is the bill that the Department would prefer. H.R. 9068 establishes a National Travel Services Registration Advisory Council within the Department of Commerce. It does address certain of the problems we have with H.R. 6222. Most importantly, the council would be comprised of members from industry, Government, and the general public. The Secretary of Commerce, after consulting with the council, would establish minimum qualification criteria for certificates, and rules and regulations for applying for certificates. However, our concern remains as to whether the proposed Advisory Council represents the most cost efficient way of protecting the consumer who will eventually pay for this protection through public funding.

As an alternative the Department suggests that the subcommittee consider tighter enforcement of existing Federal regulations and improved administrative practices, supplemented by a self-regulated, privately funded travel agent association, perhaps comparable to the National Association of Security Dealers (NASD).

The NASD is an example of an industry organization which has been effective in controlling abuses in the securities industry through strict oversight and required membership in either the NASD or a stock exchange conference. The NASD operates under the supervision of the Securities and Exchange Commission.

Mr. ROONEY. You know, this is exactly what this bill does. Just as the SEC oversees what the NASD does, we are asking the Commerce Department to do the same thing for the travel agents. It is exactly the same thing.

Mr. YOUNG. As I understand it, the NASD is funded through levies on the industry, which is an effective way of trying to insure an efficient or cost effective mechanism.

Mr. ROONEY. Then, they have the clout of the SEC telling them, if they step out of line, if they do anything that is illegal, they are subject to fines, penalties, and the like. We are doing the same thing here. This is all this bill does.

Mr. YOUNG. Mr. Chairman, we appreciate that. I think that from our point of view, one of the differences would be that this bill would create a heavy administrative burden on the Commerce Department.

Perhaps, if you are going to do this, it would be more effective to give the council some staff, so that they could act as a self-policing agency.

Mr. ROONEY. Did you read yesterday's testimony of Mrs. Bliven from Rhode Island? It is a one-person operation in the State of Rhode Island.

Mr. YOUNG. Yes, sir, but Rhode Island does not have the problem of regulating 12,000 retail travel agents. If five manhours per travel agent were required to examine certificates and review the qualifications of a travel agent, some 60,000 man-hours per year would be required to support this council. On a national level, I think that our problems are somewhat different than Rhode Island.

We believe, as an alternative, that consideration should be given to accomplishing the purposes of this legislation by expanding authority in existing associations which may already have the machinery to do this job.

The Department believes that existing entities such as the Air Traffic Conference (ATC) within the Air Transport Association or the Traffic Conference Agency Administration Board within the International Air Transport Association (IATA) could be approached regarding whether they might be reconstituted to perform this role under adequate Government supervision.

Although the ATC and the IATA conferences are concerned only with air transport travel agents, the fact is that nearly all travel agents offer air transportation sales. With reference to these two conferences, no travel agent can legally receive a commission from an IATA or an ATA carrier for the sale of air transportation on scheduled flights without holding an appointment in the trade associations' respective traffic conference.

In fact, it is DOT's understanding that preliminary discussions are underway to merge these two conferences, both of which serve as a clearinghouse in the payment of commissions between carriers and travel agents, and in setting standards.

Mr. ROONEY. Mr. Young, my colleague from New York, Congressman Murphy, has just arrived. He has another meeting to go to, and we would like to accommodate him.

I have a few questions to ask you, after you complete your testimony, so if you would stay right there in the chair.

We will now recognize Mr. Murphy.

STATEMENT OF HON. JOHN M. MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. MURPHY. Thank you, Mr. Chairman. I certainly appreciate the indulgence of the subcommittee on this vital issue.

It is a great pleasure for me to appear before such a great panel on a matter as important as the registration of the sellers of travel or travel services. For years I have sponsored legislation to bring about some overall continuity to this multimillion-dollar industry.

The bills under consideration today are designed to develop uniform standards for this industry. I cosponsored H.R. 6222, and then Mr. Rooney introduced a further and broader version, H.R. 9068. Both of these bills were designed to meet the goals of unification and continuity while strengthening the travel industry, as well as maintaining public confidence in the sellers of travel and travel services. I endorse the Rooney bill which is designed to accomplish these same purposes.

In light of the hard work done by the staff of this subcommittee resulting in some redefinition which clarifies and strengthens certain areas of the bills, I fully support H.R. 9068.

This bill recognizes the fact that the travel industry is broad in scope and crosses both state and international boundaries. As a Member of Congress, I am actively involved in promoting those proposals which will bring equity and fairness to the American marketplace as well as in protecting the consumer from circumstances which could deteriorate the quality of life in this country. The majority of legisla-

tion I have supported over the years has been designed to improve and enhance our quality of life. It is my belief that the tourist industry plays a vital role in this concept.

It is recognized that tourism and travel are major factors in this country's economic and social structure. As I have said, tourism and travel is a multibillion dollar industry in this country.

The U.S. Department of Commerce reports that during 1976, the United States hosted 17.5 million international visitors. This is an increase of 11.6 percent over 1975. This increase primarily reflects the impact of the Nation's Bicentennial celebration on international travelers. In addition, a worldwide experience of improved economic conditions provided a major impetus to the increase of international travel in 1976.

Total receipts from these visitors in 1976 is estimated at approximately $6.7 billion. This is a significant 18-percent increase over 1975 visitor receipts.

In general, travel patterns in 1976 indicate a continuing increase in the charter and group travel market. Since they are more affordable and provide travelers with an increased sense of security, these low-cost travel options have become increasingly popular. This increased availability of low-cost tour and charter travel has provided a stimulant for international travel throughout the middle income market.

The National Tourism Resources Review Commission projects annual tourism spending to continue to rise to expenditures of $127 billion annually by 1980. Tourism has served the recessionary trauma of the early 1970's. The American people have made it clear how much importance they attribute to their leisure time by not abandoning it under increasing financial stress. Economic hardships bring changes to the tourism industry, but by no means is it destroyed.

In view of these facts, I find it difficult to accept the unfortunate fact that the United States is the only major Nation without a coordinated tourism policy with some degree of centralized authority. The wide range of the overall economy of the United States, and the increasing dependence of the traveling public on travel agents, makes this lack of coordination and centralization all the more inexcusable.

The Federal Government must play an active role in the promotion and development of travel and tourism. In this active role, we must call upon the broad expertise of the tourist industry. I believe it is not only appropriate but necessary for the Federal Government to promote the travel trade. Federal legislation should aid efforts toward coordination and centralization of a national tourism policy, and Federal funds should be authorized for a domestic tourism program as well as for international and domestic programs of the U.S. travel service.

The travel and tourism trade needs the support of Congress to insure its promotion and recognition as a major national industry. Tourism and travel will continue to grow and flourish in the years to come, and I firmly believe that the industry will insure that this growth will be characterized by competence, integrity, and professionalism. The industry and the Federal Government must work together to correct any existing inequities and promote the growing benefits of travel and tourism.

In strengthening the travel services industry by making adequate provisions for Federal registration of travel agents and others engaged

in the solicitation of sale of travel or travel services, we will protect the consumers of these services.

This legislation will result in bolstering the faith and trust which the traveling public places in the industry as impartial and objective professional counselors.

Mr. ROONEY. That is a very fine statement, Mr. Murphy, and I commend you for it.

The Chair has no questions, and we will recess for 10 minutes for what I believe will be the final vote of the morning.

Mr. Russo?

Mr. RUSSO. I have no questions, Mr. Chairman.

Mr. ROONEY. We will recess for 10 minutes.

[Brief recess.]

Mr. ROONEY. Mr. Young, you may proceed again. I want to apologize. You have been a very patient witness this morning.

STATEMENT OF RAYMOND A. YOUNG—Resumed

Mr. YOUNG. Mr. Chairman, travel agents must meet certain financial and operational standards in order to receive an appointment from either the ATC or the IATA conferences.

Since the conferences closely scrutinize the financial dealings and practices of the agents, they are in an excellent potential position to serve as the industry's self-regulator.

Membership in either conference is not now mandatory. However, virtually all travel agents selling tickets on scheduled flights hold appointments in one or both of the conferences, although there are a small number of agents who hold no appointment. Certain industry observers have advised us that it is this small percentage of unappointed travel agents who are responsible for many of the abuses affecting the consumer.

We would propose, therefore, that consideration be given to requiring such agents to secure an appointment in order to continue their operations. We might also include the wholesaler operators.

We further propose that any such industry association receive general oversight from the Department of Transportation or the Department of Commerce. I would comment at this point that we are prepared to support the general objectives of H.R. 9068. We would say that such an appointment in any self-regulating body should be open to any fit and willing agent, and that the industry association should not be controlled or dominated by any one segment in the overall travel industry. The Department would be happy to explore this alternative with your staff, and with all the interested parties.

In the area of air travel wholesaling the tightening of regulations should result in better consumer protection. For the protection of the consumer, the CAB currently requires tour operators to deposit all of the passenger revenues associated with one-stop inclusive tour charters, or ITC's, and advance booking charters in an escrow account pending the completion of the tour. Enforcing the escrow requirement would go a long way to protect the consumers against unscrupulous or dishonest wholesalers. This requirement would cover 80 percent of the charter tours currently operating. The Department would like to see this requirement expanded to cover other forms of charters such as affinities and inclusive tours.

In summary, the Department sympathizes with consumers who have fallen victim to malpractice in the travel industry. This administration is also sympathetic to the great majority of taxpayers in this Nation who are concerned with the growth in the Federal Government. Both the executive and legislative branches of government have an obligation to explore other possible avenues of consumer protection, before asking the American public to finance an additional bureaucratic structure.

Thank you, Mr. Chairman.

[Mr. Young's prepared statement follows:]

STATEMENT OF RAYMOND A. YOUNG, ACTING DEPUTY ASSISTANT SECRETARY FOR PLANS AND INTERNATIONAL AFFAIRS, U.S. DEPARTMENT OF TRANSPORTATION

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to present the views of the Department of Transportation on H.R. 6222 and H.R. 9068 concerning the Federal regulation of the travel trade industry. The Department welcomes the review of practices and operations of the travel industry which these hearings afford.

The U.S. travel industry is a huge conglomeration of businesses and associations that provide a vital service to an increasingly mobile America. It is comprised of common carriers, conferences, consolidators, wholesalers, tour operators, travel promoters, and retail travel agents. In financial terms, its annual volume is over $100 billion. It moves millions of U.S. citizens across our continent and across the oceans. In spite of the travel industry's size, it is also a fragmented, diffused, and, to many observers, a highly disorganized industry. And yet, the Department believes that it is, in general, doing an exceptional job of providing travel services to the American public.

As a matter of basic principle, the Department believes that Federal licensing or certification of the travel trade industry should be considered only to the extent necessary to protect the consumer. It is unfortunate that the public's increased desire to travel and its increased dependency on travel agents and other "experts" has sometimes resulted in travelers being deceived by unscrupulous operators. These operators, by the unsound and abusive practices they engage in, not only victimize travelers, but serve to discredit the vast majority of legitimate travel agents and travel wholesalers. While abuses have been identified, it is my impression that the large majority of agents and tour organizers are honest businessmen and women. The chances of problems are certainly less than consumers experience when dealing with stores, repair shops and the like.

First, I would like to briefly address H.R. 6222. The purpose of this legislation is to amend the International Travel Act of 1961 to provide for the cooperative regulation of the travel agency industry. The bill, as drafted, calls for the President to appoint five travel agents for terms of three years to a Travel Agent Registration Board which would be situated in the Department of Transportation. One member of the Board would be designated annually by the President to serve as Chairman. The Chairman would appoint an executive director to be administrator and chief executive officer. The Department of Transportation would have no control over the Board other than providing funds for its operation. The Department opposes H.R. 6222, which provides for the establishment of this Travel Agent Registration Board for several reasons. First, the Department believes that a Board composed solely of travel agents would lack credibility and would be subject to the criticism that it might not operate in the consumers' best interest. The powers given the Board to issue rules, regulations and orders are very broad and undefined and carry criminal penalties. Such powers may very well stifle new development and limit entry by innovative travel agents. Also, the Department would be reluctant to sanction an industry registration board without some form of policy or administrative control by the Secretary of Transportation. In addition, the Department is uncertain whether licensing, alone, would induce financial an doperational integrity. Finally, the Department is not convinced that establishment of a public funded licensing board is the most cost efficient way to protect the consumer from the malpractices of certain elements in the travel agency industry.

H.R. 9068, which establishes a National Travel Services Registration Advisory Council within the Department of Commerce, addresses certain of the problems

DOT has with H.R. 6222. Most important, the proposed Council would be comprised of members from industry, government, and the general public. In addition, the Secretary of Commerce, after consulting with the Council, would establish minimum qualifications criteria for certificates, and rules and regulations for applying certificates. However, our concern remains as to whether the proposed Advisory Counsel represents the most cost efficient way of protecting the consumer who will eventually pay for this protection through public funding.

As an alternate solution, the Department suggests that the Subcommittee consided tighter enforcement of existing Federal regulations and improved administrative practices, supplemented by a self-regulated privately-funded travel agent association, perhaps comparable to the National Association of Security Dealers. The NASD is an example of an industry organization which has been effective in controlling abuses in the securities industry through strict oversight and required membership in either the NASD or a stock exchange conference. The NASD, of course, operates under the supervision of the Securities and Exchange Commission.

Rather than the establishment of a new travel trade association to oversee the industry, the purposes of this legislation might be accomplished by simply expanding the authority of an existing association. The Department believes that existing entities such as the Air Traffic Conference (ATC) within the Air Transport Association or the Traffic Conference Agency Administration Board within the International Air Transport Association (IATA) could be considered to see whether they might be reconstituted to perform this role under adequate government supervision. Although the ATC and the IATA conferences are concerned only with air transport travel agents, the fact is that nearly all travel agents offer air transportation sales. With reference to these two conferences, no travel agent can legally receive a commission from an IATA or ATA carrier for sale of air transportation on scheduled flights without holding an appointment by the trade associations' respective traffic conference. In fact, it is DOT's understanding that preliminary discussions are underway to merge these two conferences. Both conferences essentially serve as a clearing house in the payment of commissions between carriers and travel agents. Travel agents must meet certain financial and operational standards in order to receive an appointment from either of the two conferences.

Since the conferences closely scrutinize the financial dealings and practices of the agents, they are in an excellent position to serve as the industry's self-regulator. Membership in either conference is not now mandatory; however, virtually all travel agents selling tickets on scheduled flights hold appointments in one or both of the conferences, although there are a small number of agents who hold no appointment. Certain industry observers have advised us that it is this small percentage of unappointed travel agents that are responsible for many of the abuses affecting the consumer. We would propose, therefore, that consideration be given to requiring such agents to secure an appointment in order to continue their operations. We further propose that such an industry association receive general oversight from either the Department of Transportation or the Department of Commerce. Of course, such appointments should be open to any fit and willing agent and the industry association should not be controlled or dominated by any one segment of the overall travel industry. The Department would be happy to further explore this alternative with all the interested parties.

In addition to the regulations imposed by the CAB, the travel agent industry must also conform to the regulations of other regulatory bodies. Within the Federal spectrum, the industry is also regulated by the Federal Maritime Commission under Public Law 89–777, ocean-going transportation; the Interstate Commerce Commission under the Motor Carrier Act of 1935 concerning group travel on motor buses; and the Federal Trade Commission under the Unfair Trade Practice provision of the Federal Trade Commission Act.

It is in the area of air travel wholesaling, that tightening of existing regulations should result in better consumer protection. The CAB, for the protection of the consumer, currently requires tour operators to deposit all passengers revenues associated with one-stop inclusive tour charter and advance booking charters in an escrow account pending the completion of the tour. Enforcing the escrow requirement would go a long way to protect consumers against unscrupulous wholesalers. This requirement would cover 80 percent of charter tours currently operated. The Department would like to see this requirement expanded to cover other forms of charters such as affinities and inclusive tours other than one stop inclusive tour charters.

In summary, the Department sympathizes with consumers who have fallen victim to malpractices in the travel industry. However, this Administration is also sympathetic to the great majority of taxpayers in this Nation who are concerned with the growth in the Federal Government. Both the Executive and Legislative branches of government have an obligation to explore other possible avenues of consumer protection before asking the American public to finance an additional bureaucratic structure.

Thank you Mr. Chairman.

Mr. ROONEY. Thank you, Mr. Young.

In that last comment, "the American public to finance an additional bureaucratic structure." How much is this going to cost the Department of Commerce?

Mr. YOUNG. Mr. Chairman, we meant that comment in a very broad term. Bureaucratic structures impose certain costs that go beyond purely financial costs. I have no estimate of the amount of staff necessary to support this council.

Mr. ROONEY. When these bills were introduced, they were introduced with the understanding that the Departments of Transportation and Commerce did have full knowledge that H.R. 9068 was a bill that this committee was going to mark up. It is appalling to me, today, to see the Departments of Commerce and Transportation at the last minute, come in and oppose this bill.

I think that it is a good bill, and I don't think that the bill would cost any additional money to the taxpayers. In fact, we consolidated a lot of the agencies that handle these complaints, and put them in the Department of Commerce to take care of the needs of this legislation.

You also suggest that we consider tighter enforcement of existing regulations and improved administrative practices; isn't this the function of the executive branch?

Mr. YOUNG. I think that our comments here are aimed at those enforcement activities and administrative practices with which the Congress has charged the independent regulatory commissions. Our specific examples were aimed at the Civil Aeronautics Board enforcement in the administration of sales of air travel by agents. Neither the Department of Commerce nor the Department of Transportation currently have an operating responsibility in this area.

Mr. ROONEY. Mr. Skubitz?

Mr. SKUBITZ. Mr. Chairman, like you, I am rather surprised at the Department of Commerce and Transportation coming down with the position they have taken. I am rather surprised that my friend here comes down and talks about bureaucracy when he is a part of the biggest bureaucracy in Washington, the Department of Transportation.

How long have you been with the Department, sir?

Mr. YOUNG. Since 1974.

Mr. SKUBITZ. Thank you, Mr. Chairman.

Mr. ROONEY. I have no further questions. I do hope that the Department of Transportation will continue to work with the subcommittee, and I hope that sometime we will be able to come up with some kind of legislation that might be appealing both the Department of Transportation and the Department of Commerce.

Mr. YOUNG. We share that hope, Mr. Chairman. We will be happy to continue to work with you.

Mr. SKUBITZ. Has the Commerce Department testified?

Mr. ROONEY. They testified earlier.

Mr. SKUBITZ. May I say one word about the Commerce Department?

I have just read a statement by Mr. Murphy that I agree with 100 percent. Mr. Murphy says:

In view of these facts, I find it difficult to accept the unfortunate fact that the United States is the only major Western nation without a coordinated tourism policy with some degree of centralized authority.

I agree 100 percent with Mr. Murphy. You will recall that I made an inspection tour last year, I guess I was one of the first that went to these different tour groups in Europe. I want to say this, Mr. Chairman, after making these surveys. Tourism in the rest of the world has increased. It is not because of the activities of the Commerce Department, it is in spite of it.

That is all, Mr. Chairman.

Mr. ROONEY. The committee stands adjourned.

[The following letter was received for the record:]

NATIONAL PASSENGER TRAFFIC ASSOCIATION, INC.,
New York, N.Y., September 28, 1977.

Re H.R. 6222 (H.R. 9068) amendments to the International Travel Act of 1961.

Hon. FRED B. ROONEY,
Chairman, Subcommittee on Transportation and Communications, House Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN ROONEY: The National Passenger Traffic Association, Inc. (NPTA) as you may know, is a voluntary, nation-wide organization of hundreds of companies and business firms operating business travel departments which perform vitally important reservations and ticketing services on behalf of their employee business travelers. Business travel departments (BTDs) save significant expenses for the carriers which have a fundamental responsibility to perform or provide for such essential services.

We have just learned of the recent hearings of your Committee on H.R. 9068, and request an opportunity to have our views considered and added to the record. In the revised travel agency licensing legislation, there is a broad definition of regulated agent in Section 202(5)(A) which might conceivably be extended to BTDs and subject them to unintended regulation. This would only add severely to the unfair burdens now imposed on BTD's. The language of subparagraph (B)(iv), which appears intended to exclude BTDs, might under some circumstances be construed in a manner which would result in application of the regulations to BTDs, companies operating BTDs, or related companies. This would be contrary to the obvious purpose of the legislation and would be severely detrimental to NPTA members and the business community at large. Accordingly, we request that the present language of Sec. 202(5)(B)(iv) be deleted and replaced by the following:

"(iv) a person engaged in making travel arrangements for his employees or those of affiliates or subsidiaries."

We urge that the above amendment, or similar language, be added to avoid the unintended impact of subjecting BTDs to federal regulation.

Sincerely yours,

C. PATRICK DORAN.

[Whereupon, at 11:45 a.m., the subcommittee adjourned.]

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