

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the above-named defendants, and complains and alleges as follows:

I.

JURISDICTION AND VENUE

1. This Complaint is filed under Section 4 of the Sherman Act, 15 U.S.C. § 4, in order to prevent and restrain violations by defendants of Section 1 of the Sherman Act, 15 U.S.C. § 1.

2. Each of the defendants transacts business and is found within the District of Columbia, within the meaning of 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

II.

DEFENDANTS

3. Airline Tariff Publishing Company ("ATP") is a District of Columbia corporation with its principal place of business in Chantilly, Virginia. ATP is wholly owned by a group of airlines that includes the airline defendants.

4. Alaska Airlines, Inc. ("Alaska") is an Alaska corporation with its principal place of business in Seattle, Washington. Alaska's combined domestic and international operating revenues ("total revenues") in 1991 were \$1.1 billion.

5. American Airlines, Inc. ("American") is a Delaware corporation with its principal place of business in Ft. Worth, Texas. American's 1991 total revenues were \$12.1 billion.

6. Continental Airlines, Inc. ("Continental") is a Delaware corporation with its principal place of business in Houston, Texas. Continental's 1991 total revenues were \$5.3 billion.

7. Delta Air Lines, Inc. ("Delta") is a Delaware corporation with its principal place of business in Atlanta, Georgia. Delta's 1991 total revenues were \$10.1 billion.

8. Northwest Airlines, Inc. ("Northwest") is a Minnesota corporation with its principal place of business in St. Paul, Minnesota. Northwest's 1991 total revenues were \$7.5 billion.

9. Trans World Airlines, Inc. ("TWA") is a Delaware corporation with its principal place of business in Mt. Kisco, New York. TWA's 1991 total revenues were \$3.7 billion.

10. United Air Lines, Inc. ("United") is a Delaware corporation with its principal place of business in Elk Grove Village, Illinois. United's 1991 total revenues were \$11.7 billion.

11. USAir, Inc. ("USAir") is a Delaware corporation with its principal place of business in Arlington, Virginia. USAir's 1991 total revenues were \$6.0 billion.

12. As used in this Complaint, "airline defendants" means Alaska, American, Continental, Delta, Northwest, TWA, United, and USAir.

13. Whenever this Complaint refers to any act, deed, or transaction of any defendant, it means the defendant engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they actively were engaged in the management, direction, control, or transaction of its business or affairs.

III.

CO-CONSPIRATORS

14. Various others, not named as defendants, have participated as co-conspirators with defendants in the violations alleged in this Complaint, and have performed acts and made statements in furtherance thereof.

IV.

TRADE AND COMMERCE

15. During the period of time covered by this Complaint, each of the airline defendants has been engaged in the business of selling and providing air passenger transportation services throughout the United States.

16. Each of the airline defendants provides scheduled domestic air passenger transportation services in numerous city pairs. A city pair is a set of two cities between which scheduled air passenger transportation services are provided. Each airline defendant competes with each other airline defendant for travelers in numerous city pairs.

17. Total sales of domestic air passenger transportation services were approximately \$40 billion dollars each year during the time period covered by the Complaint.

18. During the complaint time period, a substantial portion of each of the airline defendants' revenues has been derived from the sale and provision of air passenger transportation services between different states. During the complaint time period, the activities of each of the airline defendants that are the subject of this Complaint have been within the flow of and have substantially affected interstate trade and commerce.

19. During the complaint time period, defendant ATP has been engaged in the collection and dissemination of air passenger transportation fare data. As described below, the airline defendants transmit, electronically and by mail, fare information, such as fare amounts and restrictions, to ATP, which in turn disseminates the information for compensation to

airlines and other ATP subscribers throughout the United States. During the complaint time period, the activities of ATP that are the subject of this Complaint have been within the flow of and have substantially affected interstate trade and commerce.

20. Each of the airline defendants is an owner of ATP, and ATP maintains on their behalf a data base of airline fare information. For each fare submitted by an airline defendant to ATP for processing, the airline defendant supplies ATP with, among other things, a fare basis code (the name of the fare), the dollar amount, and the fare rules. The fare rules contain the conditions under which a fare can be used or sold ("fare restrictions"). In addition, each airline defendant can attach up to two footnotes to each of its fares.

21. Footnotes, which are identified by alphanumeric codes ("footnote designators"), also contain conditions on the use of the fare. Typically, the footnotes contain first ticket dates or last ticket dates, but they also may contain other limitations, such as applicable travel periods. An airline can attach the same footnote to more than one fare.

22. A first ticket date indicates the first date that a fare would be available for sale if the fare were ultimately offered to the public. Until the first ticket date arrives, no passenger may purchase a ticket for travel at that fare.

Airlines often change the first ticket date to an earlier or later time or withdraw the fare before the first ticket date arrives.

23. A last ticket date indicates the last date that a fare may be sold. After the last ticket date has passed, no passenger may purchase a ticket at that fare. Airlines often change the last ticket date to an earlier or later time or withdraw the fare before the last ticket date arrives.

24. Using first ticket dates, the airline defendants can create fares that are not currently available for sale, and by changing those first ticket dates, they can change the date that the fares are scheduled to become available. Using last ticket dates, fares currently available for sale can be scheduled to end at some future date, and by changing last ticket dates, fares can be rescheduled to end on a different date. The airline defendants can link two or more such fare changes by using a common footnote designator. The airline defendants submit such fare changes, among others, to ATP at least once each weekday.

25. After ATP receives the fare changes from the airline defendants, it processes the changes, and disseminates information on those fare changes at least once each weekday to the airline defendants and other ATP subscribers, including

computer reservation systems owned by airline defendants. The information disseminated by ATP includes, among other things, the fare basis codes, dollar amounts, footnote designators, first and last ticket dates, and rules involved in each airline's pricing actions.

26. The airline defendants, either directly or through an ATP subscriber, employ sophisticated computer programs that sort the fare information received from ATP and produce detailed reports. These reports allow the airline defendants to monitor and analyze immediately each other's fare changes, including ticketing dates and the ties or links among fare changes in various markets.

V.

FIRST CAUSE OF ACTION

(Price Fixing)

27. During the period beginning at least as early as April 1988 and continuing through at least May 1990, each of the airline defendants and co-conspirators engaged in various combinations and conspiracies with other of the airline defendants and co-conspirators in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. The offenses are likely to recur unless the relief hereinafter prayed for is granted.

28. These combinations and conspiracies consisted of agreements, understandings, and concerted actions to increase fares, eliminate discounted fares, and set fare restrictions for tickets purchased for travel in domestic city-pair markets in the United States.

29. For the purpose of forming and effectuating these combinations and conspiracies, the airline defendants and co-conspirators, through ATP, did the following things, among others:

(a) exchanged proposals to change fares and negotiated increases to fares, changes in fare restrictions, and the elimination of discounts, using, among other things, first and last ticket dates, fare codes, and footnote designators;

(b) traded fare increases or the elimination of discounts in one or more city-pair markets for fare increases or the elimination of discounts in other city-pair markets; and

(c) agreed to increase fares, eliminate discounted fares, and set fare restrictions by exchanging mutual assurances.

30. These combinations and conspiracies had the following effects, among others:

(a) price competition among the airline defendants for the provision of air passenger transportation services in certain domestic city-pair markets at certain times has been unreasonably restrained; and

(b) consumers have been deprived of the benefits of free and open competition in the sale of air passenger transportation services.

VI.

SECOND CAUSE OF ACTION

(Coordination Facilitating Device)

31. During the period beginning at least as early as April 1988 and continuing through to the date of the Complaint, the airline defendants, ATP, and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. The offense will continue unless the relief hereinafter prayed for is granted.

32. This combination and conspiracy consists of an agreement, understanding, and concert of action among defendants and co-conspirators to create, maintain, operate, and participate in the ATP fare dissemination system for domestic air passenger transportation services. The fare dissemination system has been formulated and operated in a

manner that unnecessarily facilitates coordinated interaction among the airline defendants and co-conspirators by enabling them to, among other things:

(a) engage in a dialogue with one another about planned or contemplated increases to fares, changes in fare restrictions and the elimination of discounts;

(b) communicate to one another ties or links between proposed fare changes in one or more city-pair markets and proposed fare changes in other city-pair markets;

(c) monitor each other's intentions concerning increases to fares, withdrawals of discounted fares, and changes in fare restrictions; and

(d) lessen uncertainty concerning each other's pricing intentions.

33. The combination and conspiracy has had and continues to have the following effects, among others:

(a) coordinated interaction among the defendants and co-conspirators has been made more frequent, more successful, and more complete;

(b) price competition among the airline defendants for the provision of air passenger transportation services has been unreasonably restrained; and

(c) consumers of air passenger transportation services have been deprived of the benefits of free and open competition in the sale of such services.

VII.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that defendants and co-conspirators engaged in unlawful combinations and conspiracies in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

2. That each defendant, its officers, directors, agents, employees, and successors and all other persons acting or claiming to act on its behalf be enjoined and restrained for a period of ten years from:

(a) agreeing with any other airline to fix, establish, raise, stabilize, or maintain any fare or fare restriction; and

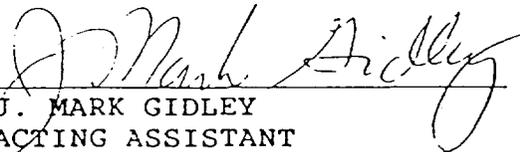
(b) disseminating certain information concerning any planned or contemplated fare or fare restriction or any planned or contemplated change to fares or fare restrictions.

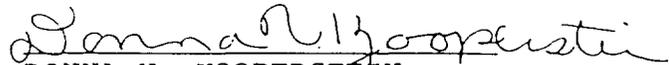
3. That each defendant, for the term of the Final Judgment, shall file with plaintiff on or before the anniversary date of the Final Judgment, an annual Declaration reporting that such defendant has complied with the terms of the Final Judgment and has had no communications of the type prohibited by the Final Judgment.

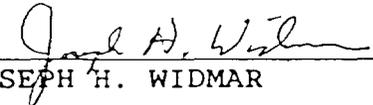
4. That plaintiff have such other relief as the nature of the case may require and the Court may deem just and proper.

5. That plaintiff recover the costs of this suit.

DATED: December 21, 1992

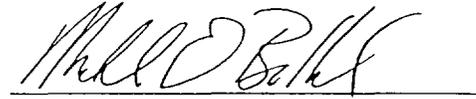

J. MARK GIDLEY
ACTING ASSISTANT
ATTORNEY GENERAL


DONNA N. KOOPERSTEIN


JOSEPH H. WIDMAR


MARY JEAN MOLTENBREY


MARK C. SCHECHTER


MICHAEL D. BILLIEL
D.C. Bar # 394377


ROGER W. FONES


JILL PTACEK

Attorneys
U.S. Department of Justice


BRADLEY S. LUI
D.C. Bar # 425033

Attorneys
U.S. Department of Justice
Antitrust Division
555 4th Street, N.W.
Room 9104
Washington, D.C. 20001
(202) 307-6388