

Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366-4731.

SUPPLEMENTARY INFORMATION:

Electronic Access

You can view and download this document by going to the webpage of the Department's Docket Management System (<http://dms.dot.gov/>). On that page, click on "search." On the next page, type in the last five digits of the docket number shown on the first page of this document, 14484. Then click on "search." An electronic copy of this document also may be downloaded by using a computer, modem, and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara/index.html>.

Discussion

We adopted rules governing CRS operations, 14 CFR part 255, because almost all airlines operating in the United States relied on the CRSs in marketing their airline services and each system was then controlled by one or more airlines or airline affiliates. 57 FR 43780, September 22, 1992. We found that rules were necessary to ensure that each of the airlines and airline affiliates that controlled a system did not use the system to unfairly prejudice the competitive position of other airlines and to ensure that travel agents and their customers could obtain accurate and unbiased information from the systems. Our rules contained a sunset date to ensure that we would reexamine whether the rules remained necessary and, if so, whether they were effective.

As a result of the sunset date provision, we began a proceeding to reexamine whether the rules were necessary and effective by issuing an advance notice of proposed rulemaking. 62 FR 47606, September 10, 1997, followed later by a supplemental advance notice of proposed rulemaking that asked the parties to update their comments. 65 FR 45551, July 24, 2000.

We recently issued a notice of proposed rulemaking in which we tentatively found that elements of the rules may remain necessary, at least in the short term, and that some changes to the rules may be justified. 67 FR 69366, November 15, 2002. We also proposed to eliminate some rules, primarily the rules barring systems from charging airlines discriminatory booking fees and requiring airlines with a significant ownership in one system to

participate in other systems at the same level if the terms for doing so are commercially reasonable. We invited comment on whether the public interest would be served by full and immediate sunset of the rules. Our notice includes a detailed discussion of the rulemaking issues and our tentative findings on the relevant features of the airline distribution and CRS businesses. Comments and reply comments on our tentative findings on the need for CRS regulation and our proposals are due March 16 and May 15, 2003, respectively. 67 FR 72869, December 9, 2002.

To maintain the existing rules in effect while we complete our reexamination of those rules, we proposed to extend the sunset date to January 31, 2004. 68 FR 7325, February 13, 2003. We noted that the March 31, 2003, sunset date will come only two weeks after the close of the comment period on the notice of proposed rulemaking for our overall reexamination of the rules and that the reply comment period will close seven weeks later. We clearly cannot complete our rulemaking by the March 31 sunset date. We tentatively found that allowing the rules to sunset during our reexamination of them could be contrary to the public interest. We are aware that our final decision in our overall reexamination of the rules may be that the rules do not actually serve the public interest in the short term or in the long term.

Eleven persons commented on the proposal. U.S. Airways, Sabre, Galileo International, Amadeus Global Travel Distribution, and the American Society of Travel Agents ("ASTA") supported the proposal, Worldspan, Northwest, United, and LanChile opposed any extension, and American and Orbitz stated their willingness to accept only a shorter extension.

We have determined to change the rules' expiration date to January 31, 2004, as we proposed. This will allow the rules to remain in effect while we complete our overall reexamination of the existing CRS rules. We recognize the need to complete the major rulemaking as soon as possible so that the rules reflect current industry conditions and economic realities. We intend to make a final decision promptly in that proceeding.

Background: Rulemaking History

Our notice of proposed rulemaking set forth our tentative findings and analysis on the nature of the airline distribution and CRS businesses and on whether the CRS rules should be kept or changed. We recognized the changes occurring in

the airline distribution system, especially the Internet's erosion of the airlines' dependence on the systems, and the potential that these changes may eliminate the need for many or all of our rules. 67 FR 69376, 63977. Nonetheless, we tentatively concluded that at present some rules should be maintained to protect airline competition and consumers. We have requested comment on whether the non-discriminatory booking fee and mandatory participation rules noted above could be eliminated, since airlines may have more bargaining leverage against the systems than we have found in past rulemakings. 67 FR 69368. We will also consider comments contending that additional rules are unnecessary or counterproductive. We will take these comments into account in considering whether to retain some or any of the rules, or whether full and complete sunset may be in the public interest.

We initially established a sixty-day comment period and a thirty-day reply comment period. As a result of a petition submitted by nineteen commenters, we extended the comment period by sixty days and the reply comment period by thirty days. 67 FR 72869, December 9, 2002.

While we have been conducting our reexamination of the rules, we have changed the sunset date five times to maintain the rules pending our completion of that reexamination. Our most recent extension was to March 31, 2003. 62 FR 66272, December 18, 1997; 64 FR 15127, March 30, 1999; 65 FR 16808 March 30, 2000; 66 FR 17352, March 30, 2001; and 67 FR 14846, March 28, 2002.

Our Proposed Sunset Date Extension

We again proposed to extend the expiration date for our CRS rules, to January 31, 2004, in order to maintain the rules while we complete our reexamination of the need for the rules and their effectiveness. 68 FR 7325, February 13, 2003. We explained that we could not issue final rules by the current sunset date, March 31, 2003. Changing the sunset date would enable us to preserve the status quo until we determine which rules, if any, should be retained. We tentatively determined that doing so would be in the public interest. In that regard we referenced our notice of proposed rulemaking for the overall reexamination of the rules, where we tentatively concluded that elements of the rules may be necessary, at least in the near term, to protect airline competition and consumers against potentially unreasonable and unfair CRS practices. We further cited our