

1984

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Recommended Citation

Bert W. Rein, *Book Review: Pricing and Capacity Determination in International Air Transport by Peter P. Haanappel*, 50 J. AIR L. & COM. 187 (1984)
<https://scholar.smu.edu/jalc/vol50/iss1/6>

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Book Review

PRICING AND CAPACITY DETERMINATION IN INTERNATIONAL AIR TRANSPORT By Peter P. Haanappel. Kluwer-Deventer: The Netherlands, 1984, 199 pp.

Following his earlier volume, *RATEMAKING IN INTERNATIONAL AIR TRANSPORT*, Professor Haanappel now has attempted the broader task of analyzing both pricing and output controls under international agreements and relevant national laws. Professor Haanappel's instinct in attempting this formidable task is sound because pricing and output are inevitably intertwined so that isolating one factor can present an inadequate view of the nature and effect of government control. For example, under the Bermuda I agreements which were the U.S. standard between 1946 and 1978, capacity appeared to be loosely regulated while close government supervision of fares and rates was clearly permissible. Pricing decisions, which largely determined break-even load factors, however, had a substantial role in fixing the economic limits of capacity. Similarly, regulatory regimes where capacity is closely controlled and limited will almost inevitably push prices upward as demand exceeds available supply.

Professor Haanappel's work is organized into four interrelated but self sufficient chapters. The first examines the regulatory framework of international aviation, commencing with the failure to reach multilateral agreement on economic regulation at the Chicago Conference of 1944 and tracing the consequent network of bilateral and regional agreements to the present. While succinct, Professor Haanappel's study is a rich resource which cites and extracts key agreements and also references virtually all of

the critical source materials. Professor Haanappel gives detailed attention to new U.S. "liberal" (i.e., regulation-limiting) scheduled service bilaterals and the non-scheduled (i.e., "charter") bilaterals which foreshadowed them. By relating these developments to changes in U.S. national regulation, he properly places them in the context of a shift in regulatory philosophy rather than a tactical pursuit of improved traffic share.

In the second chapter, IATA is considered as a multilateral vehicle to which governments have delegated the initial task of formulating internationally acceptable fares and rates. Professor Haanappel usefully avoids polemics about IATA and deals in detail with its governing legal instruments and internal procedures. His work is particularly useful in examining the 1978 reorganization of IATA's tariff coordinating conferences and the importance of the new forms of sub-area agreements, limited agreements and innovative fares and rates in increasing IATA's responsiveness to market and regulatory conditions on specific routes. He correctly points out, however, that this increased IATA focus on local flexibility "may detract from IATA's traditional emphasis on a multilateral system of inter-linable, *worldwide* fares, rates and tariffs." (p. 115).

In the third chapter Professor Haanappel turns his attention to regulation of charter and scheduled services operated by carriers not participating in IATA tariff coordination. After correctly observing that non-IATA scheduled carriers remain subject to the same government capacity and pricing controls as IATA carriers, Professor Haanappel examines the scope and rationale of non-IATA scheduled operations. The reader, however, may be troubled by the absence of material on precisely how governments have regulated non-IATA pricing, particularly since such carriers as Laker Airways have had a major impact on key international routes. This somewhat limited treatment of non-IATA scheduled service stands in some contrast to Professor Haanappel's detailed examina-

tion of charter deregulation under national law both as to charter type (i.e., rules of organization) and pricing. Even in the charter area, however, Professor Haanappel might have given additional consideration to the direct quantitative restraints imposed on charters by some major aviation powers (e.g., Japan).

The final chapter of Professor Haanappel's text deals with recent developments largely arising from U.S. deregulation and the growing interest in ICAO and economic regulation. Professor Haanappel shows an admirable scholarly detachment in dealing with a controversial and highly-charged subject. His work documents the translation of U.S. deregulation philosophy into liberal bilateral agreements, points out the limited scope of their acceptance and correctly notes that other nations may have entered into them to obtain route benefits rather than to endorse a liberal philosophy. With similar objectivity, however, Professor Haanappel recognizes that the contradictory thrust of ICAO documentation toward more comprehensive regulation may not seriously impact operative bilateral agreements and national laws.

Professor Haanappel limits his personal observations and clearly identifies them to the reader when he makes them. Because he proceeds from the traditional premise that international aviation is a public utility service with oligopoly characteristics, his evaluations may not be cheerfully received by supporters of liberal policy. Indeed, fair questions could be raised as to whether developed countries relying on market forces to supply most of their necessary goods and services should single out air transportation for public utility regulations. Similarly, deregulation advocates would certainly question the application of oligopoly theory to international routes operated under conditions of relatively free entry where the threat of such entry itself might control market pricing.

Professor Haanappel's study does not deal in detail with the national security, industrial development and tourism goals against which many governments measure

the success of their aviation policy and which leads them to reject market solutions whose hallmark is simply cost efficiency and demand-dictated service patterns. Undoubtedly, a thorough exploration of the causes of conflicting national policies would have greatly expanded the volume and unduly complicated the subject. Nevertheless, the self-imposed analytical limitations of Professor Haanappel's work strongly suggest that its major use will be as a scholarly resource. In short, *PRICING AND CAPACITY DETERMINATION IN INTERNATIONAL AIR TRANSPORT* is a solid addition, and perhaps an essential one, to any collection for serious legal students of the subject. It is of far less interest to the casual reader or to those whose major concern in international air transport is economics.

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