The Transpacific Route Investigation: Historical Background and Some Major Issues

Lucile Sheppard Keyes

Follow this and additional works at: https://scholar.smu.edu/jalc

Recommended Citation
Lucile Sheppard Keyes, The Transpacific Route Investigation: Historical Background and Some Major Issues, 34 J. Air L. & Com. 3 (1968) https://scholar.smu.edu/jalc/vol34/iss1/2

This Article is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Journal of Air Law and Commerce by an authorized administrator of SMU Scholar. For more information, please visit http://digitalrepository.smu.edu.
THE TRANSPACIFIC ROUTE INVESTIGATION: HISTORICAL BACKGROUND AND SOME MAJOR ISSUES

By Lucile Sheppard Keyes†

I. INTRODUCTION

THE TRANSPACIFIC ROUTE INVESTIGATION proceeding,¹ now pending before the Civil Aeronautics Board, is obviously of great importance as a determinant of the future fortunes of the applicant carriers and the status of airline competition in Pacific markets. The proceeding also raises issues of more general significance: notably, the problem of control of rates and fares of international air carriers (especially the possibility of effective regulatory influence by indirect means) and the extreme complexity, uncertainty, and costliness of the process of awarding major international air routes by an administrative process. In addition, the historical background of this proceeding represents an important part of the development of the present United States-flag international route structure and illustrates the basic policy presumptions and particular governmental machinery which have guided this development. The following discussion will focus in turn upon the background of the investigation and some of the major issues involved in it.

II. HISTORY OF THE PROCEEDING

A. Previous Cases

Though the present investigation was instituted in June, 1965, it is a direct successor to a similar proceeding² begun in 1959, decided upon by the Board in 1961, and under litigation for more than four years thereafter. Leading up to the earlier proceeding were a series of actions involving attempts by Pan American to obtain authorization to compete directly with Northwest on the Great Circle route between the United States and the Orient, an issue under review by the Board from 1954 until 1958.³ Thus the Board has been concerned with the question of additional United States-flag competition over the Pacific for more than thirteen years. A brief review of these antecedents will serve to place the present investigation in historical perspective, as well as to raise some interesting questions regarding the proper role of the President in the regulation of international air transportation by United States carriers.

† Ph.D., Radcliffe, 1948. Editorial Advisor to the Journal.
¹ Transpacific Route Investigation, CAB Docket No. 16242, 1 Jul. 1966.
Since 1954 Pan American's application for Great Circle authority from the Pacific Northwest has been in process, and on three separate occasions the merits of the application have been examined by the Board and the President.
The main components of the present United States-flag air service pattern over the Pacific had been established prior to 1950. Before World War II, Pan American had pioneered a transpacific route to the Orient (California-Hawaii-Midway-Wake-Guam-Manila-Macao and Hong Kong) and one to the South Pacific (California-Hawaii-Canton-New Caledonia-Auckland). In 1946, the Board's decision in the Pacific Case extended Pan American's route system to include Tokyo and points in Southeast Asia and to connect with its transatlantic route in India; making possible around-the-world service. The carrier's South Pacific route was extended to Australia. The same decision authorized Northwest to serve Tokyo, Manila, and certain northern Asiatic cities from the Pacific Northwest and other points on its domestic system, including Chicago and New York. It was intended that Northwest would connect at Shanghai with TWA's extended transatlantic route through Bombay to form a second United States-flag around-the-world service. This plan, of course, failed to materialize, and a subsequent attempt to substitute Manila as a connection point has proved to be commercially unsuccessful. Also in 1946, United was certified to serve Hawaii from California; and some two years later both Pan American and Northwest received authority to operate between Hawaii and the Pacific Northwest.

Since these early decisions, there has been only one important addition to the United States-flag Pacific route system. In 1957, Pan American was authorized to operate between California and Japan via the Great Circle route.

This authorization occurred in the midst of Pan American's long campaign for certification to compete directly on Northwest's Great Circle route to the Orient—a campaign which was chiefly distinguished by an extraordinary amount of interest on the part of the White House. In December, 1954, the Board submitted to the President a decision rejecting Pan American's application for service from Seattle/Portland to Tokyo via Anchorage. The President did not approve this order, but instead directed the Board to defer decision on the application. He then requested that the record be reopened for further consideration of the Pan American proposal in the light of "new and relevant circumstances or developments;" accordingly, the record was reopened in January of 1956. In 1957, as has been noted, the Board authorized Great Circle service by Pan Ameri-
can between California and Tokyo, but it again refused to permit direct point-to-point competition with Northwest. The President approved this decision in August, 1957; however, the following month he requested the Board to submit to him the "latest statistics of traffic between the United States and Tokyo" and prompted it to reconsider its order. This the Board did, and reaffirmed its earlier decision the following February (1958), at which time it again pointed out that new competition on this route would result in an unacceptable amount of diversion of revenue from Northwest.

While approving this order, the President again asked to be furnished with recent traffic data on the routes in question, and a year later wrote to the Chairman of the Board requesting that he "initiate a proceeding consolidating all Pacific air route matters into a single record and ... present its recommendations to [the White House] at the earliest possible date." The Presidential letter read in part as follows:

As you are aware, this Administration is firmly committed to the view that the public interest requires competitive American flag service at the earliest feasible date on all international air routes serving major United States gateways. With such competition the benefits to the Nation of international air transportation—increased trade and friendly relations abroad—become the greater. Over the North Atlantic our objective has been substantially achieved, but in the Pacific, because so far it has not been deemed feasible, very little progress in the desired direction has been made. This history only emphasizes that the American flag service we ultimately envision for the Pacific must be developed as rapidly as it can be justified by the growth of United States-Orient traffic.

The recommendations of the Board in the ensuing Transpacific Route Case included (1) the addition of a new domestic carrier (Western) in the United States-Hawaii market; (2) award to Pan American of a New York-Orient Great Circle route via Fairbanks, as well as addition of New York as a co-terminal on its Central Pacific route; and (3) award to Northwest of a Central Pacific route between the co-terminal points Boston, New York, Philadelphia, Washington, D.C./Baltimore, Detroit, and Chicago, the intermediate point Honolulu, and Japan.

In January, 1961, the President rejected all of the Board's major recommendations regarding international services and strongly suggested that
the proposed Hawaiian service should also be abandoned. The following are key passages from the President's memorandum:

When I requested . . . that this proceeding be undertaken by the Board, I sincerely hoped it would be possible at the conclusion of the case to provide greater competition among United States flag carriers in the Pacific.

My review of the record in this case persuades me that our foreign relations would be adversely affected were we at this time to add second carriers on our major routes to the Orient. Duplication of service on major routes presently served by a single carrier means inevitably—as history shows—that greater United States flag capacity would be offered. This result is made all the more certain by the advent in recent months of jet service which in and of itself means greater capacity because much larger and faster aircraft are involved.

Greatly increased capacity—always of considerable concern to other nations engaged in international commercial aviation—should not in my judgment be approved unless traffic forecasts for the routes in question plainly show that the additional capacity can be absorbed without engendering a legitimate fear abroad that the United States flag carriers will collect so much of the traffic as to make service on the route by a foreign carrier economically untenable or marginal at best. . . . * * * It is reasonable . . . to predict that approval of the Board's major recommendations in this case would unsettle our international relations—particularly with Japan which would be faced with an additional United States carrier on all but one of the now existing four routes from the United States to Tokyo.

Noting that because of Hawaiian statehood he no longer had jurisdiction over this phase of the proceeding, the President nevertheless expressed his "hope" that "the Board would reconsider its decision to authorize additional service between the Mainland and Hawaii by a carrier which heretofore has not been engaged in service over the Pacific. At some future time," he continued, "it may be deemed advisable from every standpoint to add a second United States carrier on the California-Hawaii-Tokyo route. The carrier selected—which would presumably be a carrier customarily engaged in international commercial aviation in the Pacific—should also be authorized to carry local traffic between the Mainland and Hawaii," in order that this carrier should not be unduly handicapped in competition with Pan American.

At the same time, the President recommended to the Board "that within the next several years it update the evidence in this case and again consider the addition of second United States-flag carriers on major routes to the Orient." Complying with the President's suggestion, the Board withdrew its approval of Western's Hawaiian application. This action, however, was contested by the carrier, which in June, 1965, obtained a court decision holding that the Board's order had not been supported by its findings. Shortly thereafter, the Board reopened the record on the domestic phase.

---

17 Memorandum for the Chairman, Civil Aeronautics Board, from President Eisenhower, 18 Jan. 1961, quoted in Transpacific Route Case supra note 2, at 976-77.
18 Transpacific Route Case supra note 2.
of the earlier case as a part of the present *Transpacific Route Investigation*,
initiated at that time in accordance with the President's 1961 recommenda-
tions.\(^{20}\)

**B. The Role Of The President**

While the President's disapproval of the international phase of the
*Transpacific Route Case* may well have been required for the maintenance
of good relations with Japan, it is difficult to justify on foreign policy
grounds his excursion into the realm of domestic regulation. Moreover, it
is at least doubtful that the President's role in the control of international
air transportation by United States-flag carriers should include persistent
prodding of the Board concerning a particular route extension, or the
direction to that agency of broad pronouncements concerning economic
regulatory policy. A stricter adherence to a rule limiting the actions of the
Executive to those clearly essential to the successful conduct of relations
with other nations would at any rate help to dispel suspicions of improper
political interference in the regulatory process.\(^{21}\)

**C. Overall Policy Towards United States-Flag Competition**

Late in 1960, in its initial decision in the *Transpacific Route Case*, the
Board described and explained the policy which had governed its actions
concerning routes in the transpacific market:

Over the years, the Board, with the approval of the President, has developed
a policy favoring balanced competition between the United States-flag carriers
serving the transpacific area. In order to achieve maximum American-flag
competition against foreign-flag operators and optimum competitive United
States-flag services in the United States-Orient market, the Board’s transpacific
policy has been reflected in the establishment of a route system across the
Pacific founded upon a concept of "area" competition as distinguished from
point-to-point competition, except in markets where the traffic volume is
sufficiently great to warrant service by more than one carrier. As traffic has
grown, there has been some enlargement in the markets where direct compe-
tition between the American-flag carriers has been authorized. But, by and
large, traffic at major gateways has been primarily designated for one Ameri-
can-flag carrier or the other, without direct duplication of routings. Thus,
under the current route structure, Northwest has the exclusive authority
for providing service between the eastern half of the United States and the

\(^{20}\) In the Matter of the Transpacific Route Case, CAB Docket No. 7723, CAB Order No.
E-22314, 15 June 1965.

\(^{21}\) Though doubtless justified by broad considerations of fair treatment, a letter sent
by the President to the Chairman of the Board in February, 1966, requesting expeditious treatment of
the Transpacific Route Investigation is perhaps also difficult to explain in terms of foreign rela-
tions; a key passage reads as follows:

> In view of the present operating rights of B.O.A.C. and Qantas, and the recently
> negotiated Bilateral Air Transport Agreement with the Government of Japan, em-
> bracing a route to New York and beyond to Europe, it is important that we proceed
> quickly to determine whether our transpacific route pattern should be altered so as
to place our carriers in a satisfactory competitive position in the Pacific with foreign
> flag carriers operating into the East Coast. (Brief of Northwest Airlines, quoted in
> CAB Docket No. 16242 et al., 1 Sept. 1967.)

Particularly at issue here was Pan American’s lack of authority to carry transpacific pas-
senters to New York and beyond, a right which had by that time been conceded to the three foreign
carriers named. The Board subsequently granted this right to Pan American (AVIATION WEEK
Orient via the shortest routing; i.e., the Great Circle course. Pan American's access to the Orient from the Eastern United States is limited to connecting service over the longer Central Pacific route and a Great Circle routing via the California gateways of Los Angeles and San Francisco. As to the West Coast gateways, Pan American has exclusive authority at Los Angeles and San Francisco, whereas Northwest has primary access to Seattle and Portland through its exclusive Great Circle routing to the Orient. In the Orient, both Pan American and Northwest are authorized to serve Tokyo, Manila, and Hong Kong, but the other points in that area are the exclusive domain of one or the other carrier, with Northwest operating exclusively into Okinawa, Taipei, Seoul, and Pusan, and Pan American into Saigon, Singapore, Djakarta, Bangkok, and Rangoon [emphasis supplied].

As the Board's Bureau of Operating Rights has remarked, the Pacific route system includes "(1) no point-to-point U.S. flag competition involving U.S. gateways and (2) limited point-to-point [U.S.-flag] competition in foreign city-pair markets." Though both the American carriers are authorized to operate between Hong Kong and Tokyo and between Manila and Tokyo, Pan American does not serve the latter route; and point-to-point competition between TWA and Pan American is limited to the Bangkok-Hong Kong market.

Despite the Board's appeal to the principle of "area competition" in the statement cited above, the context makes it quite clear that there is no established policy of avoiding point-to-point competition "where the traffic is sufficiently great to warrant service by more than one carrier," or to authorize indirect competition where the traffic will not support it. Moreover, the extremely light density of traffic on the South Pacific route resulted in maintenance of a single United States-flag service to this area; the Board's continued refusal to allow Pan American to duplicate North-West's Great Circle route in the 1950's was grounded solidly on "undue diversion" (that is, on exactly the same reason as that on which the Board has judged the advisability of new competitive service on domestic routes); and, in 1960, the Board was willing to authorize a considerable amount of point-to-point competition on the basis of "economic feasibility."

Similarly, there is no reason to believe that the Board deliberately set out to establish a "carrier system in which one United States-flag carrier...

---

22 Transpacific Route Case supra note 2, at 981.
24 Id. at 8.
25 Id. at 10.
26 Transpacific Route Case supra note 2, at 984: We are authorizing competitive U.S.-flag service only where it is economically feasible; e.g., New York, San Francisco, Los Angeles, and Honolulu. At the weaker gateways (Seattle, Portland, Boston, Philadelphia, Washington, D.C./Baltimore, Detroit, and Chicago), we are providing direct service only by Northwest.

And at 982: The primary difficulty that we find in the examiner's decision is that it would authorize excessive point-to-point competition between Northwest and Pan American and thereby sacrifice the Board's long-standing policy of area competition. Thus, the examiner would permit Pan American and Northwest to operate in point-to-point competition at lesser gateways in both the United States and the Orient where the volume of traffic is not substantial enough to warrant two-carrier competition [emphasis added.].
has access to world markets on a scale comparable to that of the flag carriers or combinations of carriers of other major civil aviation powers, and other United States carriers [are] authorized to served one or more areas of the world in over-all competition with this carrier.\footnote{Statement on International Air Transport Policy (24 April 1963). This Statement, approved by the President, was submitted to him by an Interagency Steering Committee composed of representatives of the Federal Aviation Agency, the Bureau of the Budget, the Civil Aeronautics Board, the Agency for International Development, and the Departments of State, Commerce, and Defense.} Before the Board came into existence, the foundations had been laid for service by Pan American on all three major air routes leading out of North America, and the carrier was operating extensively in Latin America as well as over the United States-Orient and United States-South Pacific routes. Transatlantic service was initiated by Pan American in 1939. Given the established position of this airline, the present system over the Pacific as well as elsewhere in the world represents the natural outcome in the international field of the application of policies regarding new services and choice of carrier similar to those which were (and are) followed by the Board with respect to domestic air transportation: that is, competition where no "undue" diversion of revenues from incumbent carriers would result, and choice of carrier largely by reference to convenient integration into an existing system.

### III. Issues Involved in the Present Proceeding

As has been seen, the present United States-flag air service in the Pacific area was planned and established before the advent of jet aircraft, with the attendant increase in range, speed, and comfort of air transportation as well as savings in operating cost, which have resulted in a very rapid expansion of international air traffic in recent years. Table I shows the remarkable gains in the traffic carrier by United States-flag transpacific

#### TABLE I

<table>
<thead>
<tr>
<th>Year</th>
<th>Passenger Revenue</th>
<th>Over-all Revenue</th>
<th>Passenger Revenue</th>
<th>Over-all Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Ton-miles)</td>
<td>(Ton-miles)</td>
<td>(Ton-miles)</td>
<td>(Ton-miles)</td>
</tr>
<tr>
<td>1962</td>
<td>53,892</td>
<td>91,329</td>
<td>222,574</td>
<td>330,398</td>
</tr>
<tr>
<td>1963</td>
<td>74,366</td>
<td>116,233</td>
<td>261,224</td>
<td>375,466</td>
</tr>
<tr>
<td>1964</td>
<td>100,262</td>
<td>159,275</td>
<td>291,238</td>
<td>439,214</td>
</tr>
<tr>
<td>1965</td>
<td>148,801</td>
<td>235,853</td>
<td>307,182</td>
<td>586,376</td>
</tr>
<tr>
<td>1966</td>
<td>222,227</td>
<td>371,144</td>
<td>490,597</td>
<td>1,013,658</td>
</tr>
</tbody>
</table>

Percent increase,

1966 over 1965 49.3% 57.4% 59.7% 72.9%

airlines between 1962 and 1966. This upsurge of traffic was cited by the Board in support of its finding that "the public interest in the development of a sound air transportation system requires the institution of a new transpacific case;" another important basis for this finding was the very high rate of return earned by United States-flag transpacific air carriers. In connection with these high rates of return, the Board noted that it had "found it advisable to urge a reduction in transportation rates [on the Pacific], although this objective [had] not yet been accomplished."

A. Rates Of Return And Attempts At Regulation

Perhaps the most striking feature of United States airline operations on the Pacific in the immediate past has been their relatively high profitability, which on many occasions—most recently in September, 1967—has caused the Board to urge the carriers to lower the level of rates and fares. Even before the institution of jet service and economy fares on the Pacific, the

### TABLE II
Rate Of Return On Investment\(^1\) For United States-Flag Transpacific Services Calendar Years 1956-1966

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Pan American (Pacific)</th>
<th>Northwest (International)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1956</td>
<td>6.1</td>
<td>10.8</td>
</tr>
<tr>
<td>1957</td>
<td>9.1</td>
<td>23.1</td>
</tr>
<tr>
<td>1958</td>
<td>10.7</td>
<td>19.1</td>
</tr>
<tr>
<td>1959</td>
<td>5.8</td>
<td>13.1</td>
</tr>
<tr>
<td>1960</td>
<td>10.4</td>
<td>4.5</td>
</tr>
<tr>
<td><strong>Average, 1956-1960</strong></td>
<td><strong>8.4%</strong></td>
<td><strong>14.1%</strong></td>
</tr>
<tr>
<td>1961</td>
<td>10.8</td>
<td>13.0</td>
</tr>
<tr>
<td>1962</td>
<td>15.7</td>
<td>15.0</td>
</tr>
<tr>
<td>1963</td>
<td>21.5</td>
<td>17.8</td>
</tr>
<tr>
<td>1964</td>
<td>19.9</td>
<td>28.8</td>
</tr>
<tr>
<td>1965</td>
<td>18.3</td>
<td>35.4</td>
</tr>
<tr>
<td>1966</td>
<td>22.0</td>
<td>29.8</td>
</tr>
<tr>
<td><strong>Average, 1961-1966</strong></td>
<td><strong>18.0%</strong></td>
<td><strong>23.3%</strong></td>
</tr>
</tbody>
</table>

\(^1\) Net income before interest as a percent of total investment (excluding investment tax credits).

\(^2\) For the 12 months ended 30 Sept. 1967, rates of return for Northwest (International) and Pan American (Pacific) are reported at 28.2 and 17.0 percent, respectively.


\(^{28}\) In the Matter of the Transpacific Route Case, CAB Docket No. 7721, CAB Order No. E-22314, 15 June 1965.

\(^{29}\) Id.

Board had twice refused to grant approval of proposed fare increases because of lack of need for revenue in this area. Since early 1963, the Board has again and again pointed out the high level of profits and emphasized the desirability of price reduction. The accompanying table (Table II, supra) showing rates of return for United States-flag carriers on the Pacific for the years 1956-1966, affords ample evidence in support of this position.

As the Board has pointed out, recent average rates of return "compare very favorably with the 10.125 percent rate of return . . . found reasonable for the major domestic trunkline carriers in the General Passenger Fare Investigation." Although 1965 and 1966 were extremely good years for international air transport operations in general, rates of return for all United States-flag international and territorial combination carriers having averaged 14.7 and 13.8 percent in 1965 and 1966 respectively, these figures are substantially exceeded by Pan American (Pacific)'s 18.3 and 22.0 percent and Northwest (International)'s 35.4 and 29.8 percent.

The Board's exhortations obviously have not been notably successful in bringing about a level of charges on the Pacific which would produce rates of return that would be regarded by the Board as reasonable. In fact, despite the existence of an "open rate" situation in the United States-Orient market from April, 1963 until fall of 1967 (i.e., a situation in which no IATA rate agreement was in force), no rate reductions were initiated in this area during this period until the spring of 1966, when other important pressures toward reduction had begun to operate. In this connection, it is interesting to consider the timing of recent price decreases on the Pacific in the context of other related events. Such decreases have occurred in May, 1966, January, 1967, and October, 1967. In mid-1965, the Transpacific Route Investigation was formally instituted by an order which emphasized the high rate of return earned by the incumbent carriers as well as the recent rapid growth of traffic in the affected area. September of that year saw a recommendation by the Examiner in this investigation that three supplemental airlines be certificated to provide charter service, including group inclusive tours and split charters, in the Pacific area. The following March, the Board itself approved domestic inclusive tour authority for supplemental carriers, and in September granted similar authority for supplementals in international and overseas service. By midsummer, 1967, it had become evident that the strenuous battle being

---

56 AVIATION WEEK & SPACE TECHNOLOGY, 6 Sept. 1965, at 37.
waged to outlaw the new authority by court action was not going to have the desired serious dampening effect on competition by the supplementals, at least in the immediate future.86

Here, as in other areas of the world, the Board's attempts at direct influence on the level of rates and fares apparently have not been entirely ineffective; however, it would appear that indirect methods of influence, through relaxation (or contemplation of relaxation) of barriers to new competition, have proved to be more successful in bringing about significant price reductions. After all, no one should be surprised to learn that an agency of an individual national government has not been able to control prices charged for services provided by carriers of many flags and involving the interests of many sovereign states. The Board has, of course, no power to regulate the charges of foreign carriers whose operations are covered by Bermuda-type bilaterals, nor is it likely to receive such power. Moreover, the Board has no authority to regulate charges for United States-flag international air transportation, nor is it likely that such authority could be an effective instrument for the accomplishment of its aims.86

B. Precedents For The Consideration Of Price Proposals
In A Route Proceeding

It has been suggested that the whole question of rates and fares is out of place in a route proceeding, and that the consideration of this question in such a context is contrary to long-standing precedent. However, while it is true that the emphasis placed on price proposals in the present investigation is certainly unusual,40 it is not unprecedented. In the 1957 Service to Puerto Rico case,41 Trans-Caribbean's authorization to compete in scheduled service with incumbent certificated carriers appears to have been justified largely by the demonstrated willingness and ability of that carrier (as a supplemental) to provide a viable service on the route in question at low fares, as compared with the evident reluctance of the certificated airlines to institute fare reductions.

On at least two occasions, on the other hand, the Board has refused to give substantial weight to proposed fare reductions, in one instance even though the applicants making the proposals had been able to provide low-fare service on a nonscheduled basis. The opinion in the Trans-Continental

86 Wall Street Journal, 24 July 1967. However, the Second Circuit and the D.C. Circuit are in conflict as to approval of the CAB's authorization of these "inclusive tours," and the Supreme Court has granted certiorari to consider their validity in the case of World Airways, Inc. v. Pan American World Airways, Inc., 36 U.S.L.W. 3308.
41 See, e.g., P. Cherington, Airline Price Policy 450 (1958). "[T]he Board rarely gives explicit recognition to the fare policies of a carrier in making route awards..."
42 26 C.A.B. 72 (1917). In distinguishing this case from the majority of route proceedings, the Examiner stated a more traditional position on the matter of rates and fares at 151:
Clearly, no route should be judged solely on the fare representations of competing applicants since a decision on such a basis would in effect constitute a return to the unsatisfactory bidding system which preceded the Civil Aeronautics Act. Nevertheless, it must be recognized that the Puerto Rico market is probably more responsive to low-cost service than any other U.S. market.
Coach-Type Service Case seems to lean toward the view that low-fare services by new entrants should not be authorized if the incumbents are merely able (but not necessarily willing) to institute comparable fares. However, here the rejection of the would-be new entrants was also supported by a conclusion that they had not demonstrated the long-term viability of their proposals, by evidence that the incumbents were interested in promoting coach-type service, and, above all, by the Board's conviction that excess profits from lucrative routes should be available in order to support losing services elsewhere. In the other case, the proposals of the would-be entrant appear to have been decided speculatively, and each of the incumbent carriers had "indicated its intent to propose coach service if and when it becomes justified;" "The Record," continued the Board in this connection, "is inconclusive as to whether or not this particular type of lower-fare service is justified at this time."

Since there is ample evidence that the Board considered the incumbent transpacific carriers unwilling to reduce fares, and furthermore believed that such reductions could be made without jeopardizing the profitability of these airlines, its emphasis on fare proposals in the present proceeding seems entirely in line with existing precedent.

C. Fares, Rates And Costs On The Pacific

In general, it would seem that the high rates of return earned by United States-flag transpacific carriers are largely attributable to low operating costs rather than to "high" prices—that is, that the general level of charges on the Pacific, while high relative to costs in that area, is not extremely out of line with charges in other areas. The following discussion will present some evidence which appears to support this view.

In past years, the level of passenger fares on the Pacific has been higher than that on the North Atlantic. Both tourist and economy fares were introduced in the former area some two years later than in the latter; more recently, Pacific promotional fares have also tended to lag behind. Partly on the basis of the evidence contained in Table III, the Board's Bureau of Operating Rights has concluded that "inordinately high fares prevail and yields are obtained throughout the area, except in respect to

---

42 4 C.A.B. 720 (1951).
43 Id. at 725 and 778.
44 Id. at 724.
46 Id. at 1017.
47 See, for example, the testimony of Board Chairman Boyd in International Air Fares, Hearings on H.R. 465 Before the Subcomm. on Transportation and Aeronautics of the House Comm. on Interstate and Foreign Commerce, 89th Cong., 1st Sess., at 16 (1965):
The Board strongly urged U.S.-flag carriers attending the IATA meetings in Athens for the purpose of negotiating worldwide fares for a two-year period beginning April 1, 1965, to propose a substantial reduction in transpacific economy-class fares. The U.S. transpacific carriers, however, made no effort whatsoever to achieve the objectives sought by the Board, and the conference adjourned without producing an agreement . . . . The proceedings of the IATA conference confirm the Board's belief that no carrier, U.S. or foreign, will voluntarily reduce rates for this area.
See also the Board's statement at these Hearings at 39:
In the Pacific . . . we are convinced that substantial reductions can and must be made and, in fact, are long overdue.
United States-Hawaii, despite the fact that passenger hauls are among the longest in the world. However, there are obvious pitfalls involved in judging relative fare levels by comparisons of individual yields for trips of comparable length. For example, such comparisons do not reflect the actual incidence of payment of the various types of fare available between any two points; again, the particular choice of routes being compared can produce misleading results. In connection with Table III, it should be noted that the United States-Caribbean fare level is relatively very low, as compared with other areas; that United States-Hawaii is also notably a low-yield route (both of these markets having been significantly affected by nonscheduled competition, and the latter quite probably by the threat of new scheduled competition in the Transpacific Route Case); and that fares applicable to trips involving United States transcontinental segments or origins in the United States interior must to some extent reflect the level of domestic fares on alternative carriers.

Somewhat the same inconclusiveness attaches to the low “break-even passenger load factors” sometimes used as evidence of unduly high fares on the Pacific. The “break-even passenger load factor,” as defined by the Board, is

The revenue passenger load factor in scheduled service that would have been required for passenger revenues in addition to all other operating revenues except subsidy to equal over-all operating expenses. This break-even load factor is derived by dividing (1) revenue yield per passenger-mile in scheduled service into (2) cost per available seat-mile determined after reducing over-all operating expenses by an amount equal to operating revenues other than those applicable to scheduled passenger service and subsidy.

It is certainly true that break-even passenger load factors for United States-flag carriers have reached extremely low levels in recent years: in 1966, for example, Northwest (International) and Pan American (Pacific) achieved break-even passenger load factors of 0.4 and 34 percent, respectively, as compared with 43.6 percent for all international and territorial operations of United States combination (i.e., passenger-and-cargo) carriers. When considered in conjunction with actual passenger load factors—53.3 percent for Northwest (International) and 63.8 percent for Pan American (Pacific)—these figures surely show that these carriers could have covered operating expenses at a far lower fare level than that actually charged. However, as the Board’s definition clearly indicates, it is not possible on the basis of these figures immediately to recommend a drastic fare reduction, since revenues other than passenger revenues are taken as fixed in calculating the break-even passenger load factor. In

46 Statement of Position and Summary Brief of the Bureau of Operating Rights to Examiner Robert L. Park, CAB Docket No. 16242 et al., 28 July 1967, at 3. The Bureau here refers specifically to Northwest’s yield on the Seattle-Tokyo route, which, it says, “is among the highest, if not the highest, in the world.”
47 Supra note 2.
50 Civil Aeronautics Board, Air Carrier Analytical Charts and Summaries, 12 Months Ended 31 Dec. 1966.
51 Id. For the international and territorial operations of all United States combination carriers, the figure was 58.2 percent.
### Table III

Comparative Yields In The Atlantic-Caribbean Area And The Pacific Area (Cents Per Mile)

<table>
<thead>
<tr>
<th>Selected Cities</th>
<th>Pacific</th>
<th>Atlantic/Caribbean</th>
<th>First Class Yield</th>
<th>Coach Yield</th>
<th>Difference</th>
<th>First Class</th>
<th>Coach Yield</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manila-Okinawa</td>
<td>10.00</td>
<td>10.00</td>
<td>11.30</td>
<td>9.04</td>
<td>2.26</td>
<td>1.50</td>
<td>1.50</td>
</tr>
<tr>
<td>Hong Kong-Saigon</td>
<td>12.86</td>
<td>8.80</td>
<td>7.21</td>
<td>5.06</td>
<td>2.15</td>
<td>4.74</td>
<td>4.74</td>
</tr>
<tr>
<td>Tokyo-Okinawa</td>
<td>10.50</td>
<td>2.44</td>
<td>11.37</td>
<td>8.71</td>
<td>2.66</td>
<td>0.87</td>
<td>0.87</td>
</tr>
<tr>
<td>Manila-Saigon</td>
<td>12.48</td>
<td>8.81</td>
<td>12.72</td>
<td>8.33</td>
<td>4.39</td>
<td>-2.4</td>
<td>-2.4</td>
</tr>
<tr>
<td>Bangkok-Hong Kong</td>
<td>15.55</td>
<td>13.59</td>
<td>13.59</td>
<td>10.5</td>
<td>3.09</td>
<td>-2.8</td>
<td>-2.8</td>
</tr>
<tr>
<td>Guam-Wake Island</td>
<td>11.50</td>
<td>8.33</td>
<td>9.63</td>
<td>6.36</td>
<td>3.27</td>
<td>1.97</td>
<td>1.97</td>
</tr>
<tr>
<td>Hong Kong-Tokyo</td>
<td>12.54</td>
<td>9.15</td>
<td>7.27</td>
<td>4.88</td>
<td>2.39</td>
<td>4.27</td>
<td>4.27</td>
</tr>
<tr>
<td>Nandi-Sydney</td>
<td>9.74</td>
<td>6.95</td>
<td>7.42</td>
<td>5.38</td>
<td>2.04</td>
<td>3.45</td>
<td>3.45</td>
</tr>
<tr>
<td>Honolulu-Wake Island</td>
<td>15.00</td>
<td>9.53</td>
<td>10.61</td>
<td>7.22</td>
<td>3.39</td>
<td>4.39</td>
<td>4.39</td>
</tr>
<tr>
<td>Honolulu-Pago Pago</td>
<td>6.19</td>
<td>5.74</td>
<td>11.92</td>
<td>7.57</td>
<td>4.35</td>
<td>5.77</td>
<td>5.77</td>
</tr>
<tr>
<td>Route</td>
<td>Miles</td>
<td>Fares</td>
<td>Fares</td>
<td>Fares</td>
<td>Fares</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------</td>
<td>-------</td>
<td>--------</td>
<td>--------</td>
<td>--------</td>
<td>--------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bangkok-Tokyo</td>
<td>11.03</td>
<td>7.98</td>
<td>Boston-Shannon</td>
<td>11.63</td>
<td>6.42</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nandi-Honolulu</td>
<td>13.98</td>
<td>9.89</td>
<td>Boston-Lisbon</td>
<td>11.74</td>
<td>6.58</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tokyo-Anchorage</td>
<td>16.61</td>
<td>10.05</td>
<td>Detroit-Glasgow</td>
<td>11.19</td>
<td>6.17</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Guam-Honolulu</td>
<td>11.34</td>
<td>6.61</td>
<td>New York-Dakar</td>
<td>14.44</td>
<td>9.06</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Los Angeles-Papeete</td>
<td>12.64</td>
<td>9.32</td>
<td>Chicago-Paris</td>
<td>10.81</td>
<td>6.48</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Honolulu-Auckland</td>
<td>12.38</td>
<td>8.83</td>
<td>New York-Rome</td>
<td>10.96</td>
<td>6.70</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seattle-Tokyo</td>
<td>13.46</td>
<td>8.28</td>
<td>Seattle-London</td>
<td>10.93</td>
<td>6.56</td>
<td></td>
<td></td>
</tr>
<tr>
<td>San Francisco-Tokyo</td>
<td>12.53</td>
<td>7.71</td>
<td>San Francisco-London</td>
<td>9.98</td>
<td>6.54</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 Higher yield indicated under respective area.
2 One-stop by U.S. flag carrier. Mileage is nonstop distance.
3 A thrift fare is also available.

other words, it may well be that reductions in charges other than fares should absorb all or a large part of any recommended change in the price level. It would appear that the over-all rate of return on investment remains the best general indicator of the feasibility of price reduction, and that the proper distribution of such a reduction among classes of traffic is a matter of relative elasticities of demand and effect on average cost of service.

As is shown in Tables IV and V, the Board's statistics of average passenger-mile yield and average passenger revenue per passenger revenue ton-mile in recent years do not support the conclusion that these have been exceptionally high on the Pacific; and the present writer's calculations for 1966 indicate that a broadly similar relationship between Northwest (International) and Pan American (Atlantic) continued in that year. (This particular comparison is perhaps the most significant in the present context, since figures for Pan American (Pacific) and (LAD) are de-

### TABLE IV

**Passenger Yield per Revenue Passenger-Mile (Scheduled Service), Selected Years, 1959-1963**

(Cents per Mile)

<table>
<thead>
<tr>
<th>Calendar Years</th>
<th>Northwest (International)</th>
<th>Pan American (Pacific)</th>
<th>Pan American (Atlantic)</th>
<th>Pan American (LAD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td>6.91</td>
<td>6.21</td>
<td>7.67</td>
<td>5.23</td>
</tr>
<tr>
<td>1961</td>
<td>6.95</td>
<td>5.72</td>
<td>7.21</td>
<td>5.37</td>
</tr>
<tr>
<td>1962</td>
<td>6.76</td>
<td>5.49</td>
<td>6.78</td>
<td>5.07</td>
</tr>
<tr>
<td>1963</td>
<td>6.33</td>
<td>5.30</td>
<td>6.72</td>
<td>5.26</td>
</tr>
</tbody>
</table>

**Source:** Civil Aeronautics Board, *Yields and Costs per Revenue Ton-Mile, Passenger Yield per Revenue Passenger-Mile, and Operating Expenses per Available Ton-Mile, Certified Route Air Carriers, 12 Months Ended 31 December 1959, 1961, 1962, and 1963.*

### TABLE V

**Passenger Revenue per Revenue Passenger Ton-Mile (Scheduled Service), Selected Years, 1959-1966**

(Cents per Mile)

<table>
<thead>
<tr>
<th>Calendar Years</th>
<th>Northwest (International)</th>
<th>Pan American (Pacific)</th>
<th>Pan American (Atlantic)</th>
<th>Pan American (LAD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td>68.0</td>
<td>60.6</td>
<td>75.2</td>
<td>56.1</td>
</tr>
<tr>
<td>1961</td>
<td>68.5</td>
<td>56.5</td>
<td>71.4</td>
<td>53.9</td>
</tr>
<tr>
<td>1962</td>
<td>66.6</td>
<td>54.3</td>
<td>67.3</td>
<td>50.4</td>
</tr>
<tr>
<td>1963</td>
<td>62.7</td>
<td>52.5</td>
<td>66.8</td>
<td>52.2</td>
</tr>
<tr>
<td>1966</td>
<td>56.4</td>
<td>57.1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Sources:** Civil Aeronautics Board, *Yields and Costs per Revenue Ton-Mile, Passenger Yield per Revenue Passenger-Mile, and Operating Expenses per Available Ton-Mile, Certified Route Air Carriers, 12 Months Ended 31 December 1959, 1961, 1962, and 1963.*

pressed by exceptionally low yields in the United States-Hawaii and United States-Caribbean markets, respectively.)

Moreover, the past year has seen significant fare reductions. In January, 1967, the 15 percent reduction in the one-way basic economy fare, which had been put into effect for the winter months by an agreement reached in May of 1966, was extended to include a greater portion of the year, and provisions relating to travel at group fares were liberalized so as to make them more widely available. In August, the carriers agreed on further fare reductions which have been described by the Board as follows:

The subject agreement . . . [provides that] Round-trip economy fares between the West Coast and Tokyo during the peak season will be reduced from $760.00 to $722.00. The peak-season fares are to apply between July 1 and October 31 for departures from the West Coast. A minimal reduction will be offered in the off-season fares which apply during the balance of the year. These fares for round-trip travel will be reduced from $703.00 to $684.00. The current inclusive tour-basing fares available for individual travel will be reduced during both the peak and off-seasons. During the peak season inclusive tour travel fares will be reduced from $660.00 to $641.00. Off-season fares will be reduced from $603.00 to $584.00. The availability of these fares will be subject to the requirement that the total price, including air fares, be equivalent to the normal economy-class round-trip fares plus $100.00 (this would require, West-Coast-Tokyo, the purchase of ground accommodations with a minimum price of $200.00). Present affinity group fares of $555.00 per person for groups of 25 or more, and $500.00 for groups of 70 or more on West Coast-Tokyo round trips will be retained without a change. Round-trip first-class fares West Coast-Tokyo will be cut by a minimal amount of $19.00 from $1,235.00 to $1,216.00.32

These fares became effective on 1 October 1967, for an intended period of eighteen months. Later in the fall, agreement was reached on a lower group inclusive tour fare, for a minimum of fifteen persons, to go into effect 1 January 1968. According to Aviation Week, under these fares, a "Typical 15-day package from the West Coast to Japan will be $1,048 compared with $1,098 for the lowest individual tour price available."

Though these reductions may be sufficient to maintain a fare level not out of line with other comparable areas, they may well be insufficient, even together with recent freight rate decreases, to produce rates of return regarded as reasonable by the Board. Indeed, in the above-cited order (see footnote 52), the agency stated its belief "that the carriers have substantial financial leeway to offer reductions in the Pacific area greater than those encompassed in the agreement," and noted that "the carriers have failed to adopt an individual economy-class excursion fare of general application throughout the Pacific area, such as applies on the North Atlantic, which the Board has long urged." Such a fare, the Board held, "is economically feasible for the carriers, . . . would serve to build tourism in Asia, and . . . would serve as an adjunct to the various 'Visit U.S.A.' programs promoted

---

33 Aviation Week & Space Technology, 13 Nov. 1967, at 50.
As measured by average freight revenues per freight revenue ton-mile, cargo rates on the Pacific have been appreciably higher on the Pacific than on the Atlantic (see Table VI). Like passenger fares, cargo rates have been significantly reduced since mid-1965. In August of that year, after failure of a spring traffic conference to reach agreement, Japan Air Lines and Pan American initiated substantial reductions in specific commodity rates and made other tariff revisions which amounted to effective reductions for certain types of traffic. The following spring, agreements were reached which embodied the 1965 decreases and provided for certain other minor changes. In approving this agreement for a limited period of time, the Board noted that certain of these changes effected rate reductions, but indicated lack of sympathy with certain others with the opposite effect. These, the agency said, were unjustified in view of the recent tremendous rise in the freight revenues of the United States-flag Pacific carriers. In the spring of 1967, the carriers arrived at an agreement, effective 1 October 1967, which, among other changes, included important rate reductions on the Pacific. Though the actual effect of these reductions cannot yet be evaluated, the following account in International Aviation will give some idea of their general impact:

Lower cargo rates agreed upon . . . in San Juan this spring . . . entail cuts of 15 percent in shipping costs from North America to the Far East via the North and Central Pacific routes. In addition to a major reduction in general cargo rates, a broad range of specific commodities to most points in the Orient will benefit from reductions of more than 23 percent. In the eastbound direction across the North and Central Pacific, additionally reduced developmental rates will offer shippers savings of from 32 to 44 percent.

<table>
<thead>
<tr>
<th>Calendar Years</th>
<th>Northwest (International)</th>
<th>Pan American (Pacific)</th>
<th>Pan American (Atlantic)</th>
<th>Pan American (LAD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td>40.9</td>
<td>39.7</td>
<td>37.9</td>
<td>25.6</td>
</tr>
<tr>
<td>1961</td>
<td>39.5</td>
<td>32.7</td>
<td>29.7</td>
<td>26.1</td>
</tr>
<tr>
<td>1962</td>
<td>36.2</td>
<td>30.1</td>
<td>26.1</td>
<td>25.7</td>
</tr>
<tr>
<td>1963</td>
<td>37.8</td>
<td>29.2</td>
<td>27.8</td>
<td>26.5</td>
</tr>
<tr>
<td>1966</td>
<td>26.0</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


It was also here estimated that rate cuts on the North Atlantic would amount to approximately 10 percent, "with several low developmental specific commodity rates offering additional savings."

The Board approved these agreements while at the same time making clear its opinion that further reductions were called for:

While the agreements incorporate some reductions on cargo traffic moving via the North/Central Pacific, we would observe that the rate levels remain higher than those applicable via the North Atlantic; but, there is no indication that transportation costs are higher. We are approving these agreements since they do embrace reductions. This is a step in the right direction. However, the Board believes that further reductions are warranted, and expects that future I.A.T.A. negotiations will be directed toward achieving this objective.\(^7\)

It is evident that the apparently higher level of freight rates on the Pacific is not in itself sufficient to account for high rates of return in this area, even with the remarkable freight traffic increase which has recently occurred. In 1966, freight revenue ton-miles for Northwest (International) were 98.7 percent higher than in 1965; for Pan American (Pacific), the corresponding percentage was 38.4. Only 26.2 percent of the former carrier's revenue ton-miles were freight in 1966, and only 22.1 percent of the later's.\(^8\)

**TABLE VII**

**Total Operating Expenses per Revenue Ton-Mile, Selected Years, 1959-1966**

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Northwest (International)</th>
<th>Pan American (Pacific)</th>
<th>Pan American (Atlantic)</th>
<th>Pan American (LAD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td>50.8</td>
<td>48.7</td>
<td>60.5</td>
<td>51.6</td>
</tr>
<tr>
<td>1961</td>
<td>44.6</td>
<td>39.4</td>
<td>56.6</td>
<td>49.6</td>
</tr>
<tr>
<td>1962</td>
<td>42.3</td>
<td>35.0</td>
<td>49.9</td>
<td>44.7</td>
</tr>
<tr>
<td>1963</td>
<td>37.5</td>
<td>33.0</td>
<td>47.8</td>
<td>45.0</td>
</tr>
<tr>
<td>1966</td>
<td>19.7</td>
<td>22.6</td>
<td>37.2</td>
<td>41.6</td>
</tr>
</tbody>
</table>


The most important factor underlying the high Pacific rate of return would appear to be relatively low operating costs per revenue ton-mile, which are due in part to exceptionally long hauls and in part to the composition of the traffic. As Table VII shows, average expenses per revenue ton-mile have been much lower than in other areas, and the inter-area...\(^{87}\) Agreements by the International Air Transport Association relating to worldwide cargo rates, CAB Docket No. 18650, CAB Order No. E-25127, 15 Aug. 1967.\(^{88}\) Civil Aeronautics Board, Air Carrier Traffic Statistics, 12 Months Ended 31 December 1966.
difference has widened in recent years. In 1962, for example, average operating expenses for Northwest (International) and Pan American (Pacific) were about 85 and 70 percent respectively of those for Pan American (Atlantic); in 1966, the corresponding percentages were about 53 and 61.

This very recent drop in relative costs on the Pacific has been associated with the rise in freight traffic already mentioned and also with a phenomenal increase in mail revenue ton-miles. In 1966, mail revenue ton-miles for Pan American (Pacific) rose by 158 percent over 1965 to a total of 296 million, or over 60 percent of that year's total for all international and territorial operations of United States combination carriers; for Northwest (International), the 1965-1966 percentage increase was 36.3 percent to a total of over 51 million revenue ton-miles. For the latter carrier, mail revenue ton-miles in 1966 represented 13.8 percent of its over-all revenue ton-miles; for Pan American (Pacific) the corresponding percentage was 29.2, as compared with less than 5 percent for all other international and territorial operations of United States combination carriers (i.e., excluding the two transpacific operations). The large proportional importance of this relatively low-cost traffic, moving in quantities sufficient to fill a relatively high proportion of available space on scheduled passenger flights, must contribute significantly to the profitability of the transpacific carriers, even though present mail rates are some 10 percent lower than those on the Atlantic. At least since the transfer of transpacific military mail to commercial carriers in the mid-'fifties, mail traffic has been an important cause of the prosperity of the transpacific airlines.  

59 Id.  
60 By CAB Order No. E-21458, 28 Oct. 1964, transatlantic and transpacific mail rates were set at 40 cents and 36 cents per ton-mile, respectively. According to the Board, this action brought about a reduction of 25.2 percent from the . . . transatlantic service mail rate of 53.3 cents per mail ton-mile, a reduction of 22.5 percent in Northwest's . . . rate of 46.44 cents to Tokyo and beyond, and a composite reduction of about 34 percent in Pan American's . . . transpacific rates of 46.44 cents to Tokyo and 66.05 cents to other Pacific points.

The previous rates had been set in 1955, and reflected the higher operating costs prevailing at that time.  

61 Reopened Transpacific Certificate Renewal Case supra note 3, at 533:

Another of the more important changed circumstances which occurred since the earlier hearing has been, in Pan American's opinion, the decision by the Department of Defense, in the latter part of 1954, to use commercial carriers in the transportation of military mails across the Pacific . . . . In fact both carriers did operate without subsidy in the calendar year 1955 . . . . The importance of the military mail as a revenue producer may be seen from the fact that in 1955 it accounted for 33 percent of the total revenue received by Northwest and Pan American in operations between the States and Tokyo. The addition of U.S. civil mail and foreign mail increases this percentage appreciably.  

And at 561:

The overall effect of the large upsurge in traffic being carried by Northwest and Pan American has been to remove a subsidy burden from the taxpayer which in 1952 amounted to $12,691,000 . . . . In 1955, subsidy payments for Northwest's international operations and Pan American's Pacific operations were completely eliminated.
D. Problems Of Market Forecasting

The Transpacific Route Investigation presents an extraordinarily difficult and complex problem to the regulatory agency. Added to the usual uncertainties attending economic forecasting—such as those relating to the probable course of the Vietnamese war, the United States balance of payments, and the state of world economic activity—are those related to the future policies of other nations towards United States-flag airlines. While foreign-flag competition on the Pacific has not developed to the extent that it has on the Atlantic (a far larger market), there is already a great deal of such competition; there will no doubt be more of it in the not too distant future; and past experience with restrictionist policies in the Far East is anything but reassuring. The most important elements in the present competitive set-up have been outlined as follows by the Board’s Bureau of Operating Rights:

The sole third and fourth freedom or primary [foreign-flag] carriers are as follows:

<table>
<thead>
<tr>
<th>CARRIER</th>
<th>COUNTRY</th>
<th>PRIMARY TRAFFIC ROUTE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FAR EAST</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Japan Air Lines</td>
<td>Japan</td>
<td>Japan-Honolulu-San Francisco-New York</td>
</tr>
<tr>
<td>(2) Philippine Air Lines</td>
<td>Philippines</td>
<td>Philippines-Honolulu- San Francisco</td>
</tr>
<tr>
<td>(3) (Permit authority issued but carrier not operating) Korea</td>
<td>Korea</td>
<td>Korea- Anchorage- Seattle Hong Kong- Honolulu- San Francisco-New York</td>
</tr>
<tr>
<td>(4) BOAC</td>
<td>United Kingdom</td>
<td>San Francisco-New York</td>
</tr>
<tr>
<td><strong>SOUTH PACIFIC</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Qantas</td>
<td>Australia</td>
<td>Australia-Honolulu-San Francisco-New York</td>
</tr>
<tr>
<td>(2) Air New Zealand</td>
<td>New Zealand</td>
<td>New Zealand-Honolulu- San Francisco</td>
</tr>
<tr>
<td>(3) U.T.A.</td>
<td>France</td>
<td>Tahiti-Honolulu-Los Angeles</td>
</tr>
</tbody>
</table>

The actual operations of these carriers are much more extensive in the area because of fifth freedom and beyond homeland operations . . . . At present BOAC’s South Pacific route is the only trans-ocean fifth freedom operation. Undoubtedly there will be more but they will become, as traffic grows, of decreasing significance in markets served by primary carriers as are, for example, fifth freedom operations in the North Atlantic primary markets. 48

The special significance of “primary traffic” carriers (i.e., those operating between the home country and the United States) arises, of course, from the ability of the home country to take restrictive action against competitors of other nationalities. There is reported to be an immediate prospect of additional transpacific competition by Thai Airways International,

which already operates between Bangkok and Tokyo and is said to be planning to extend that route to Honolulu and Los Angeles "before the end of 1968." The Thai Government has only recently removed a restriction which prevented TWA from carrying local Bangkok-Hong Kong passengers, and could, of course, again impose such measures if its airline fell upon evil days.

Because of the very great relative importance of Japan as origin and destination of transpacific traffic, particular interest attaches to the probable policies of that nation towards foreign-flag competition. Recent reports indicate that "Japan Air Lines intends to seek capacity restrictions for United States-flag carriers if results of the Transpacific Route [Investigation] jeopardize what it considers its fair share of the market." It is further reported that JAL estimates its "fare share" as "one-third the total number of passengers and one-third the total volume of cargo transported" between the United States and Japan in 1970 (as compared with an estimated 38 percent at present); and that JAL's president would "like" to see its share of United States bound traffic originating in Japan increase from its present approximately 30 percent to "about one-half." According to the same official, "Japan has a reciprocal policy of exchanging schedules on an equal basis with all countries except the United States," though it does not intend "to become that inflexible with the United States." Moreover, the Japanese Government is reported to encourage travel agents "to give JAL all the business it can handle and then apportion the rest to foreign flag carriers." On the specific question of new United States competitive authorizations, the Japanese official indicated that his country would accept "one large and possibly one small carrier," provided the two have separate routes so there can be more flexibility in regulating capacity," the "small" carrier possibly being an all-cargo airline.

The Japanese Government did impose frequency restrictions on United States airlines in the 1950's, and more recently has limited the number of all-cargo flights by Pan American which could discharge and pick up commercial cargo in Tokyo. The new bilateral agreement arrived at by Japan and the United States late in 1965 requires that 60 days' notice be given to the Japanese Government if the United States authorizes an additional transpacific United States-flag carrier.

Other Far Eastern nations have also restricted the operations of United States airlines. A study by the Civil Aeronautics Board provides the following description of certain restrictions existing in August, 1966:

Under the restrictions imposed by Indonesia, Pan American is not permitted to carry Fifth Freedom (or local), stopover, or connecting air traffic between Jakarta and Singapore in either direction . . . A passenger arriving by Pan American may not, for example, get off at Singapore, visit the city and island,
and then go on to Djakarta on another Pan American flight. The Philippines limits the United States to four frequencies per week. . . . Northwest and Pan American each operate two frequencies weekly to Manila, the maximum allowed in total. Singapore, similar to Indonesia, does not allow Pan American to carry local, stopover, or connecting traffic between Singapore and Manila in either direction.  

The scope and impact of such restrictions is likely to vary inversely with the prosperity of the national carrier at whose protection they are aimed. If in the future traffic growth should taper off, or the number of carriers in each market show an excessive increase, the effect of restrictive policies on United States airlines could be serious indeed.

Other important unknowns affecting the future of the market are (1) the future level of rates and fares and (2) the closely related matter of the effect on airline economics of new equipment of high productivity (e.g., the Boeing 747 and the supersonic transport) which will be coming into use within a few years' time. In line with the Board's declared interest in lower prices, carrier applicants in the Transpacific Route Investigation, both combination and all-cargo, are offering a bewildering variety of proposals for fare and rate reductions, accompanied by an array of traffic forecasts reflecting largely conjectural notions of demand elasticity. In view of the very large capacity of such aircraft as the 747, it is possible that certain routes which could have supported multi-carrier service with low-productivity aircraft may become unable to do so, despite an expected decrease in available ton-mile costs.

E. The Extreme Complexity Of The Problems Of Choice Of Routes And Carriers.

An outstanding characteristic of the Transpacific Route Investigation is its large geographical scope and extreme complexity. The area covered in the proceeding is bounded on the west by longitude 70° east, and on the east by eastern coast of the United States, mainland China and the U.S.S.R. being excluded. Also excluded from consideration is the question of "local" service in the Pacific, i.e., "inter-island local air services in the South, Central and West Pacific, notably among the islands comprising the U.S. Trust Territories."  

Proposals under consideration in the Investigation are those "involving service between the U.S. mainland on the one hand, and Hawaii and other areas of the Pacific to be served directly or through Hawaii, on the other hand." Services to non-United States Western Hemisphere points, except Mexico, were ruled out of the proceeding as not bearing "directly on the principal issue of United States-Pacific service."

To make the proceeding manageable at all, it was necessary to place some additional limits on proposals to be reviewed. To this end, the Board designated twenty-five United States cities as possible co-terminals, "in a
manner which gives due regard to their size, traffic-generating capacity, and geographical location," namely: Boston, Buffalo/Niagara Falls, New York/Newark, Philadelphia, Pittsburgh, Washington, D.C., Baltimore (or Washington/Baltimore), Chicago, Cleveland, Detroit, Kansas City, Minneapolis/St. Paul, St. Louis, Atlanta, Miami (or Miami/Fort Lauderdale), Dallas (or Dallas/Fort Worth), Houston, New Orleans, Phoenix, Denver, Los Angeles (or Los Angeles/Long Beach or Los Angeles/Burbank), San Diego, San Francisco (or San Francisco/Oakland), Portland, and Seattle/Tacoma. In addition, the Board announced that no new domestic operating authority in the continental United States would be considered in this proceeding.

A very large number of carriers have presented proposals to the Board. Applicants include all the United States domestic trunklines except one (Northeast), Pan American, one supplemental airline, one local-service carrier, one Alaskan airline, and the three all-cargo air carriers. The possible combinations of routes and carriers which could be chosen from this selection of proposals are evidently very numerous indeed.

Moreover, the factors which are relevant to the question of choice of carrier are extraordinarily diverse and difficult (if not impossible) to reduce to some common denominator of "public interest." Among these factors are: number and importance of designated United States co-terminals served, experience on the Pacific (including contract operations for MAC), interest in and plans for aiding the development of tourism in the area, experience in such development in this area and others, plans for new equipment and willingness and ability to invest large sums in it, and rate and fare proposals, as well as more usual considerations such as need for correction of a weak route system, prospective diversion of revenue from existing services, and "fairness" in the over-all allocation of new routes.

Given the number of parties involved and the complexity of the issues, the proceeding is and must in the nature of the case be extremely time-consuming and costly. If the area involved were purely domestic, one might have little hesitation in suggesting that the choice of new services

---

72 Id. Here the Board states:

With minor exceptions necessitated by considerations of geographical balance, the cities selected are in the top 25 cities from the standpoint of population, with metropolitan area populations of 1 million or more, and rank in the top 25 mainland U.S. cities in terms of domestic passengers produced. These are the cities which can, in fact, most realistically be related to foreseeable future service requirements.

73 For fiscal 1965, the dollar value of MAC contracts on the Pacific was reported at $146.8 million; and the following carriers had contracts: Continental, Flying Tiger, Northwest, Pan American, Seaboard World, Slick, Southern Air Transport, Trans-Caribbean, Trans-International, World, and United. AVIATION WEEK & SPACE TECHNOLOGY, 27 Sept. 1965, at 37.

74 The present writer has found only fragmentary data relating to the cost of the proceeding. However, some idea of its magnitude can be obtained from the fact that during the formal hearings held in 1967 the Examiner was reported to have "collected 9,421 pages of transcript from 433 witnesses, including 18 airlines and 45 civic, city and state parties." (Washington Post, 29 July 1967.) In the earlier Transpacific Route Case supra note 2, Hawaiian Airlines alone was reported to have spent $650,000 trying to get authorization to operate between Hawaii and the mainland United States (AVIATION WEEK & SPACE TECHNOLOGY, 7 Nov. 1966, at 43). This authorization was recommended by the Examiner but turned down by the Board.
would be better left to the usual market mechanism. There is no reason to suppose that all the present applicants, or, indeed, more than a very few of them, would in fact put their proposals into effect if this were legally and politically possible. What they are applying for is a position sheltered by the certification process rather than an opportunity to compete in a free market.

However, such a solution is not available in international air transportation. The United States Government is inevitably involved in the matter of international air routes (as it is in the matter of international air rates and fares) because other governments are involved. Without governmental support, in the form of negotiations for rights to serve foreign points and continued representation of the interests of the carriers, it is doubtful that United States-flag airlines could enter foreign markets on a large scale or defend themselves against the restrictive measures of foreign governments. Again, it would not be feasible for the United States to attempt to support all proposals for new United States-flag services; such a policy would obviously meet with little success abroad. Since services to be supported by the United States Government cannot be chosen by experience in the market (the market being effectively closed to carriers not already receiving such support), some sort of administrative method of choice would appear to be inevitable; it will continue to be needed as long as the present close relationships persist between governments and their flag carriers throughout the world.