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## 1948 Annual Report to the Civil Aeronautics Board to the Congress - Selected Excerpts

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# FEDERAL

Department Editor: Walter H. Wager\*

## 1948 ANNUAL REPORT OF THE CIVIL AERONAUTICS BOARD TO THE CONGRESS—SELECTED EXCERPTS.

### INTRODUCTION

**D**URING the year summarized by this report, United States civil aviation, although continuing to expand and to develop, was faced with increasingly complex problems involving the financial and competitive position of the industry. Airline earnings during the fiscal year 1948, although somewhat improved over the preceding year, were nevertheless unsatisfactory. It is now apparent that the difficulties facing civil aviation are larger than those which can reasonably be ascribed simply to postwar adjustment.

The major task facing the carriers and the Civil Aeronautics Board in the year just past and the year ahead is the development of policies which will return the industry to a sound economic and financial basis and at the same time will foster the continued growth of civil aviation. Both objectives must be met at a reasonable cost to the Government. The carriers are clearly incapable of continuing their operations in the face of heavy losses. On the other hand, the requirements of the postal service, the foreign and domestic commerce, and particularly the national defense, dictate the continued growth and improvement of the air transportation system. The dictates of economy and simple good sense require that the existing system and future expansion be as nearly self-supporting as possible. Cases involving policy questions of this kind which were presented to the Board during the year just past are typified by the *Air Freight Case*, the *Freight Forwarder Case*, numerous mail rate proceedings, and various cases arising out of the operations of large irregular carriers. Each of these is discussed in detail in this report.

Although the safety record of the carriers in fiscal 1948 was substantially improved over that of the preceding year, the fact that it has been necessary to ground three of the four new postwar transport aircraft for varying periods of time, on a compulsory or voluntary basis, has made more difficult the economic problems confronting the industry and the Board.

#### *Mail rates*

Of fundamental importance, not only during the past year but also for the future, are the problems relative to Government support of the air transport industry through mail pay. The Board during the year just past has made progress with respect to the revision and reestablishment of final mail rates for various carriers, necessitated by increasing costs and the cessation of abnormal wartime load factors.

In March of this year the Board issued a revised "service" rate for the five largest carriers in the industry. This rate represented a substantial increase over the previously prevailing rate, but was not designed to contain any element of subsidy. Although planned by the Board as a new final "service" rate, the five carriers concerned excepted to the rate and it was accordingly established as a temporary rate. The reexamination of the adequacy of this rate and the establishment of either this or other rates as final rates for these carriers will be one of the major problems facing the

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Board over the next few months. The importance of the rate arises in part from the fact that these carriers represent, in terms of the total air transportation performed, approximately 80 percent of the domestic industry, and in part from the importance of the concept of the "service" rate as opposed to the "need" rate.

The Board's staff which has been assigned to work on the "Big Five" service rate case is exploring at the same time, for the benefit of certain Congressional committees, the feasibility of, and problems involved in, separating the subsidy elements of the mail rate from the cost of service elements. The completion of this study and the fixing of final mail rates for these five carriers represents one of the top priority matters now pending before the Board.

With respect to other mail rates, reasonable progress has been made with an admittedly insufficient staff in putting other domestic and international carriers on revised final rates of mail pay. Of the 11 domestic trunk carriers other than the Big Five, four are now on recently established final "need" rates. The calculation of "need" rates for four other carriers is at a sufficiently advanced stage so that they should be issued by, or soon after, the first of the year. By that time the three remaining domestic trunk carriers will have received increased temporary rates. In addition, the Board anticipates that the first of the year will see five feeder-line carriers on final rates, and it is expected that the balance of the feeder carriers will be on temporary rates which will closely approximate the final rates to which they will be entitled. Work on the establishment of final international mail rates is at a sufficiently advanced stage so that it is anticipated that approximately four will be issued during the first part of the coming year.

#### *Freight rates and passenger fares*

The problems of mail pay and the various studies being conducted by the Board in connection with mail rates are closely related to the passenger fare and freight rate structures and levels now in effect. In the late fall and early winter of 1947 the carriers in general instituted a second postwar fare increase. Believing that the level of the carriers' passenger fare structure still had not risen at a rate which approximated the rate of increase in the carriers' costs, and that this lag in fares was in part responsible for the increasing dependence of the carriers on the Government for mail pay, the Board on August 19, 1948, called a conference of the 16 domestic carriers and proposed further increases in passenger fares. As a result of this conference, there has been a general tendency in the industry to revise passenger fares upward while at the same time instituting promotional tariffs, which were also suggested by the Board at the August 19 meeting, to utilize existing unused capacity. The fare situation is by no means stabilized and will be closely scrutinized by the Board, since the importance of adequate fare levels is of particular importance in this industry where losses tend to fall on the Government through mail pay support.

The situation with respect to freight rates, which was discussed in our last Annual Report, was somewhat clarified by the issuance by the Board, in May 1948, of its opinion and order in the *Air Freight Rate Investigation*. This order established a minimum freight rate of 16 cents a ton-mile for all shipments involving transportation up to 1,000 ton-miles, and 13 cents for all transportation above 1,000 ton-miles. Subsequently the carriers were permitted to put into effect certain special tariffs designed to meet the unbalance between eastbound-westbound traffic movements. In establishing these minimum rates, the Board warned that they were not to be regarded as the basis upon which to set the general freight rate level. Despite this warning, there was a noticeable tendency as the summer progressed, toward

increasingly lower commodity rates. Accordingly, in October 1948 the Board suspended the tariffs of certain carriers and instituted a new investigation as to the general level of freight rates.

#### *Economy and efficiency*

A third, and virtually inseparable, problem connected with mail pay and passenger fares is the managerial economy and efficiency of airline operations including the volume of service which they offer. The carriers' reports, which are filed with the Board, disclose a trend toward declining load factors and indicate that the question of excess capacity is becoming of increasing importance. Plans and equipment programs laid immediately following the war and based on the generally favorable outlook for airline traffic are currently resulting in the installation of large quantities of larger and faster equipment which far exceed the capacity of older aircraft. It would be unwise and unwarranted to insist upon the maintenance of load factors comparable to those achieved during the war period. At the same time, neither the carriers nor the Government can long support the operation of capacity which is far in excess of a stable, or slightly diminishing, volume of traffic. The control of excess capacity will constitute a major problem for both the carriers and the Board in the year ahead.

The Board believes that during the past year the carriers have made notable progress in the elimination of unnecessary expense and service. Nevertheless, there appears to be still more which can be accomplished in this direction, particularly along the lines of eliminating duplicating facilities. Certain carriers have progressed much further in this direction than others and have amply demonstrated the economies and improved service obtainable through reasonable consolidation of ground facilities. The coming year should see more progress in this field.

#### *The route pattern*

Since the end of the war the route pattern, both domestic and international, has grown substantially. Changes in the type of equipment employed, the leveling off of passenger traffic, and the process of route consolidations make it appear that certain alterations and modifications of the existing route pattern are required. In the spring of 1948 the Board directed its staff to prepare a comprehensive and complete analysis of the domestic route pattern. This study, upon its completion in the early months of 1949, will assist in forming a more nearly adequate basis for future improvements.

#### *Feeder carriers*

Of the 21 feeder and local airlines<sup>1</sup> which have been awarded routes since the close of the war, 11 are now in operation. These carriers have been certificated for 3 years in order to provide an experimental period during which the value (and cost) of their services may be tested. In the *Additional Service to Florida* case (decided September 1, 1948) the Board declined to renew Florida's certificate beyond its expiration date of March 28, 1949. The Board noted that the cost to the Government through mail pay of Florida's service was excessive, despite the commendable efforts of Florida's management to reduce costs and to increase traffic. The Board concluded that the feeder experiment conducted in this particular region of the country was not successful and should not be continued.

The certificates of other feeder carriers expire at various dates, beginning with September 12, 1949. In the case of certain carriers, operations have been conducted for so short a time, because of inability to commence service immediately upon the issuance of the certificate, that the Board will consider the extension of the life of the certificates for 1 year or what-

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<sup>1</sup> Not including 3 helicopter and pick-up mail carriers.

ever period of time is necessary to assure a reasonable experiment.<sup>2</sup> The Board has directed its staff, in connection with the appraisal of the domestic route pattern mentioned above, to make a study and recommendations as to each feeder carrier which has operated for a reasonable period of time. Approximately a year prior to the expiration date of the carrier's certificate these studies and recommendations will form the basis of a show-cause order addressed to specific carriers for the purpose of determining whether the public convenience and necessity require the renewal, extension, modification, or possibly elimination of the temporary route structures.

In considering whether the certificate of a feeder carrier should be extended, the Board will take into consideration such items as the need of the communities for air service because of isolation, poor ground transportation, or other reasons, the public acceptance and use of the service, the cost to the Government of the service, and the feasibility of providing comparable service by trunk-line carriers. Each carrier, other interested carriers, and each community involved will be given an opportunity to be heard before the Board reaches its decision.

#### *Air freight*

The growth of air freight since the termination of the war has been extremely rapid. This class of traffic was the only one which showed a continued rate of growth during the year just past and which promises further growth for the future. In fiscal 1948 the estimated volume of air freight (excluding freight transported by the large irregular carriers, which was estimated, on the basis of incomplete data, at 25 million ton-miles) was 102.5 million ton-miles. Of this volume 53 million ton-miles were transported by the certificated trunk-line carriers and 49.5 million ton-miles were transported by the noncertificated all-cargo carriers. In September 1948 the Board, in its opinion in the *Freight Forwarder Case*, provided an exemption for approximately 58 domestic forwarders to engage in air-freight-forwarding activities under letters of registration. In the belief of a majority of the Board, freight-forwarder activities will be beneficial in developing substantial new areas of potential air cargo, and the exemption provided the forwarders will permit a more rapid growth of this industry than could be expected if solicitation of air freight business were left entirely in the hands of the direct air carriers.

The Board also had before it during the past year the *Air Freight Case*, in which certain all-cargo carriers are seeking certificates of public convenience and necessity in order to conduct a certificated all-cargo business. In May 1947 these carriers were provided with a special exemption which has the effect of allowing them to continue their operations on a common-carrier basis pending the decision in the *Air Freight Case*. On October 20, 1948, the Board reopened the record in the case in order to receive the latest and most complete data as to the financial and freight traffic experience, not only of the all-cargo carriers but also of the trunk-line carriers. The Board has provided for the expedited handling of the reopened case and it is expected that a decision in this case can be reached by the first of the year or shortly thereafter.

The Board recognizes that the further development of the air freight business, with a concomitant fleet of large cargo-transport aircraft which would constitute a reserve for strategic air movements, is of extreme importance, not only to the domestic and international commerce of the United States, but particularly to the national defense.

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<sup>2</sup> On November 12, 1948, the Board extended the certificate of Challenger Airlines until March 31, 1950, in order to allow it to operate for a 3-year period.

*Irregular carriers*

At the close of the war the availability of a large number of surplus transport aircraft of the C-47 and C-54 type, plus the large number of former military personnel who had extensive air transport experience, led to the establishment of numerous new air carrier ventures. By promulgation of section 292.1 of its Economic Regulations, the Board in 1947 granted an exemption to the so-called large irregular carriers to conduct nonscheduled irregular operations for passengers or property domestically and for property only abroad. The basis and intent of this regulation was that these carriers would provide needed air services auxiliary to those furnished by the certificated scheduled carriers and would serve an economic function similar to that of the tramp steamer in ocean shipping. Events and developments subsequent to the issuance of this regulation have demonstrated that the economic opportunities for irregular operations are limited. The result has been that many of these large irregular carriers have suffered extensive financial reverses. Others, in an attempt to survive economically, have gone far beyond the letter and spirit of section 292.1, and have engaged in what is in fact a scheduled service, in competition with the certificated carriers. The operations of many of these carriers appear to be illegal. Most of these operations have been confined to a limited number of areas in which there is a heavy flow of traffic, such as Puerto Rico to the United States, transcontinental, northwest to Alaska, etc. The charges and the general level of service which these carriers offer are substantially below those usually furnished by the certificated trunk-line carriers, and the service is frequently referred to as "coach-type" service.

In the spring and summer of 1948 the Board launched a vigorous enforcement program against those irregular carriers which appeared to be wilfully and flagrantly violating the exemption provided for them. (This group constitutes 25 or 30 out of a total of 110 large irregular carriers.) The Board also directed its staff to prepare a revised edition of its regulation which would provide clarification of the operating rights of the large irregular carriers.

If a substantial volume of "coach" traffic could be economically developed it would mean the addition of a substantial volume of equipment and trained personnel to the civil air transport system which would provide an important backlog for national defense purposes. The Board will attempt to determine whether the development of "coach-type" service is required by the public convenience and necessity.

*Other problems*

Progress was also made by the Board in areas other than those outlined above. With respect to the Alaskan carriers, the program initiated in 1947 of placing all Alaskan carriers under two classifications, either pilot-owner or certificated carrier, was carried forward. The result has been, and will be, a gradual rationalization of the air transportation pattern in Alaska, making for better regulation which at the same time will prove less of a burden to the carriers. In the fall of 1948 the Board extended to the domestic certificated carriers serving Alaska and the Alaskan certificated carriers an exemption which permits them to operate between Alaska and Seattle on a temporary basis pending the settlement of the west coast shipping strike.

There was a notable improvement in air safety during fiscal 1948. The year just past saw considerable improvement in the handling and processing of accident investigations. The importance which the Board ascribes to this function is demonstrated by the fact that during the year the Accident Investigation Section of the Safety Bureau was redesignated the Bureau of

Safety Investigation and established as an independent unit reporting directly to the Board.

In the field of safety regulation, progress has been made in revising the Civil Air Regulations and bringing them up to date, particularly along the line of placing more responsibility for formulating safe practices and procedures upon the aviation industry, subject to the general supervision of the aviation agencies of the Government. The policy of gradually revising the Civil Air Regulations along this line will be continued in the next calendar year. It is gratifying to be able to report that the necessarily close relationship between the Board and the Administrator of Civil Aeronautics in the field of safety regulations has markedly improved during the past year.

One of the principal contributions which the Board and its staff have made to air safety regulation during the past year has been its participation in the preparation and finalization of United States positions relative to the International Standards and Recommended Practices as promulgated by the International Civil Aviation Organization. These standards, which aim at world-wide minimum standards of safety for the carriers of all member nations, constitute annexes to the Chicago Convention. The first three of these annexes are now in force.

Despite a slightly increased budget for fiscal 1949, the Board is still seriously handicapped by personnel insufficient to keep abreast of day-to-day matters and at the same time reduce its backlog. The Board's budget for 1950, which has been submitted to the Bureau of the Budget, contains a realistic estimate by the Board of the personnel necessary if it is to handle problems as they arise and reduce the backlog substantially. . . .

#### AIR TRANSPORT ROUTE DEVELOPMENT

By the end of the 1948 fiscal year the domestic air transportation routes of the United States had expanded to a new record of 138,501 route miles, with 42 certificated air carriers authorized to serve a total of 746 cities.<sup>8</sup> Domestic air transportation decisions of the Board added 23,591 miles of new trunk-line and feeder routes to the interstate air transportation system, of which 12,217 represented trunk-line route additions and 11,374 miles represented temporary certification of experimental local-feeder and commuter service. This brought the total feeder and commuter service to approximately 24,000 route miles, with an additional 4,300 feeder route miles selected for operation by the Board but not yet certificated to the selected applicants. . . .

During the 1948 fiscal year the Board considered and passed on 101 new domestic route applications, 38 applications for extensions of existing routes, and 13 applications to engage in foreign air transportation. . . .

#### MAIL RATES

##### *Postwar air mail rate program*

With the end of the war 11 of the 16 domestic trunk-line air carriers were operating under service mail rates, 7 of which were established at 60 cents per ton-mile and 4 at 45 cents per ton-mile. Although no highly refined technique has been developed for distinguishing between subsidy and

<sup>8</sup> Route miles for certificated air carriers are computed on an airport-to-airport mileage basis, with all duplication of mileage within and between routes and carriers included in the total. Certificated airlines comprise 17 trunk-line carriers (including Catalina Air Transport), 2 territorial, 18 feeder and pick-up, 3 commuter, and 2 helicopter carriers. Cities authorized to be served by certificated airlines include 346 with trunk-line service only, 258 with feeder-line service only, and 142 with combination trunk-line and feeder-line service. Each certificated city is listed only once in this computation, regardless of the number of airlines serving it.

service elements of mail pay, none of these 11 carriers was considered to be receiving an element of subsidy for the carriage of mail. In the second half of 1946 the general financial condition of the air transport industry began to deteriorate rapidly, and carriers began to file for increases in mail pay. The fluctuations and instability within the industry did not permit the establishment of rates which would be final for any substantial period of time. Moreover, with virtually the whole industry petitioning at one time the Board did not have the staff to process final rates expeditiously. To meet this situation the Board started a temporary rate program.

The greater part of 1947 was devoted to the processing of emergency temporary rate cases; and by early 1948 virtually every carrier in the industry, both domestic and international, was on a temporary rate, although the temporary rate applicable in the case of the five largest carriers had been proposed as an upward adjustment in the final rate.

Prior to the establishment of temporary rates extensive studies were made of the financial developments in the industry since the war through 1946. These studies indicated a trend toward substantial overexpansion through the commitments of the air carriers for new equipment and acquisitions of equipment from war surplus sources, and furnished evidence of inadequate financing on the part of the carriers to meet the expansion program. The studies afforded the basic factual background in support of the initiation of the temporary rates in lieu of final rates.

Because of the transitional nature of the periods through which the carriers were passing, the difficulties were greatly increased in establishing final rates for the future, as well as for the substantial periods that have accumulated with the filing of petitions. If rates were to be established within a reasonable time, a way had to be found to shorten the normal procedures. It was felt that considerable time and effort could be saved in the long run if, in advance of the issuance of a show-cause order, the Board's staff and the carrier met for the purpose of developing all the facts essential to the establishment of a rate, as well as exchanging views toward a more thorough mutual understanding of the carriers' problems. In that way it was hoped that many issues would be resolved in accordance with well-established principles, and those issues that remained would be clearly defined. Thus the time that normally elapses between the issuance of a show-cause order and the final establishment of a rate would be considerably shortened. Accordingly, the Board officially authorized certain conference procedures on November 14, 1947. While it is still too early to judge the accomplishments of the conference procedure completely, there being certain difficulties in the procedure itself, it appears that to date the disposition of several cases has been materially facilitated.

Postwar regulation of mail rates has made it increasingly clear that effective mail rate regulation is dependent upon the carrier's entire rate structure. Rapidly rising wage and price levels caused substantial increases in the costs of the various carriers, which in turn were reflected in decreased earnings positions. Inasmuch as the Civil Aeronautics Act requires the Board, in setting mail rates, to take into consideration the need of the carrier after considering all other revenues, it was readily apparent that rising costs would result in increased mail pay to the carriers unless other revenues were increased by raising nonmail rates.

#### *Domestic mail rate proceedings . . .*

The critical financial condition of most domestic air carriers, intensified by rising costs, conversion to new aircraft types, declining load factors and a tapering-off in the long-term growth trend in passenger traffic, brought



about the extraordinary circumstance of a rate proceeding pending for every domestic carrier. Eight final rate orders were entered by the Board during the fiscal year. In the cases of four of the final mail rate orders the Board established a sliding-scale incentive mail rate, under which the maximum mail rate applies when the minimum passenger load factors occur and the mail rate gradually declines with increases in the passenger load factor above the minimum. The sliding scale is so computed that the carrier's over-all profit and rate of return will increase with greater development of its nonmail traffic.

The particular urgency of early establishment of permanent mail rates for the feeder lines stemmed from the fact that the temporary certificates under which the feeders have operated were limited to relatively short periods. During the year, permanent mail rates were set for three feeder lines, and substantial progress was made in processing an additional number of cases. During the fiscal year 28 temporary rate orders were adopted, 11 of which applied to trunk lines and 17 to feeder lines.

The Board directed the five largest domestic trunk lines to show cause why they should not be subject to a uniform service-rate formula. Under the proposed formula mail up to a certain volume would be carried at a service rate of 75 cents per ton-mile with additional volume carried at decreasing block rates graduated downward to 40 cents per ton-mile of mail carried in excess of 30,000 daily ton-miles in any month. The proposed service rate represented an increase over the rate of 45 cents per ton-mile received by four of the carriers and 60 cents per ton-mile received by the remaining carrier. However, each of the five carriers has filed exception to the proposed rate as a permanent rate; and accordingly, the five cases are awaiting further consideration by the Board. Meanwhile, the proposed service rate has been placed in effect as a temporary rate. . . .

#### AIR CARRIER SERVICES AND FARES

##### *Services*

The Board received 2,731 operating-schedule filings during the year, covering changes necessitated by such factors as the inauguration of service at new points by existing carriers, inauguration of service by newly certificated carriers, the installation of new equipment, and the general increase in service throughout the domestic, overseas, and international air transportation network. The size of this increase is indicated by an analysis made of available seats scheduled weekly to and from 10 selected major cities throughout the United States, which shows an increase of 43 percent between April 1, 1946, and April 1, 1948, and 30 percent between August 1, 1946, and August 1, 1948. The increase in all cargo service of certificated carriers has also been significant. During the year the number of domestic one-way cargo flights increased from 136 to 286 flights per week, and the number of cities to which all cargo service was provided increased from 35 to 54. International all-cargo flights increased from 14 to 16 weekly, but the number of cities to which such service was provided decreased from 39 to 33.

Two carriers placed new postwar two-engine aircraft (the Martin 202 and Convair 240) in service over various segments of their systems. Where such service has been installed, flying time has been greatly reduced and the seating capacity has almost doubled. While the Board is mindful of the advantages inherent in the use of new types of equipment, plans for their use are being followed closely, so that, so far as is reasonably possible, communities with airports inadequate for new equipment will not suffer a decrease in service or temporary suspension of service should the older types of aircraft be completely replaced. Certain carriers have also inaugurated or increased

service with four-engine aircraft, providing improved service to and from the larger traffic-generating communities by means of long-range nonstop service. . . .

*Tariffs, fares, and rates . . .*

During the fiscal year, the domestic trunk-line air carriers increased most passenger fares approximately 10 percent and at the close of the fiscal year their fares averaged 5.29 cents per mile, as compared with 4.69 cents per mile at the close of the previous year. The fares of the feeder carriers averaged 5.12 cents per mile as compared with 5.56 cents at the end of the previous period. The fares and rates of the larger irregular air carriers — which provide nonscheduled services — are for the most part considerably below the fares and rates of the certificated scheduled carriers.

Although the fiscal year witnessed an increase in the level of passenger fares of trunk-line carriers, it also saw increased experimentation with various types of excursion fares to stimulate travel during travel slumps. These excursion fares offered reductions in the price of round-trip transportation services subject to certain limitations on their use, such as a limited period of time within which transportation must be completed, the absence of reservation privileges, or a restriction as to the days on which travel could take place. . . .

During the past fiscal year 16 formal complaints concerning tariffs were received by the Board. . . . During the fiscal year 1948 the Board received 263 informal complaints regarding certificated and noncertificated airline tariffs and service. . . . Most of the complaints related to service deficiencies. The increased interest of the public in, and the desire for, adequate air service is shown by the fact that complaints regarding adequacy of service increased 100 percent over the preceding period. There was a noticeable decrease in the number of complaints involving passenger-handling functions and flight cancellations. Cases concerning loss or delay of air cargo shipments increased more than 76 percent over the previous fiscal year and cases pertaining to flight delay increased 36 percent. Complaints involving noncertificated air carriers decreased 15 percent. This reduction appears to have resulted from the additional economic controls which became applicable to these carriers on June 10, 1947. More than half of these complaints related to advertising, service, and loss, damage, or delay of air cargo. . . .

AIR CARGO DEVELOPMENTS

The largest growth in air transportation during the past year occurred in the carriage of cargo, and the special problems presented by this type of traffic have assumed increasing importance to the Board. . . . In 1941, the last prewar year, cargo ton-miles came to less than 4 percent of passenger ton-miles; in 1945, the proportion reached 7 percent. In 1946 and 1947, respectively, the percentage of cargo to passenger traffic rose to approximately 10 and 20 percent, and it is probable that the proportion will reach 30 percent for 1948.

*Air freight routes*

Air cargo service has been offered not only by the certificated airlines, but also by a number of new firms carrying air freight exclusively. In 1946, 13 such firms filed applications for certificates of public convenience and necessity to engage in air freight transportation. After a public hearing, an examiner's report was issued in the *Air Freight Case*. The examiners recommended that five of the applicants be authorized to conduct a specialized freight-only service between specified areas in the northwestern, west

coast, southwestern, southern, central, eastern, and northeastern sections of the country. In addition, it was recommended that one carrier be authorized to conduct an experimental short-haul freight service in the southern part of Texas. These recommendations limited the authority to be granted to a temporary period of 3 years. At the end of the fiscal year this case was awaiting oral argument before the Board.

While the above proceeding was in progress, the Board on May 5, 1947, adopted section 292.5 of the Economic Regulations, which established a classification of air carriers known as "noncertificated cargo carriers" and which exempted such carriers from certain provisions of Title IV of the Act with respect to interstate and overseas air transportation of property only. This particular classification of carriers included those which, as of May 5, 1947, were actively engaged in the business of carrying property by air either irregularly as common carriers or, regularly or irregularly, as noncommon carriers, and which did not hold a certificate of public convenience and necessity, but had applications pending with the Board for authority to conduct direct scheduled interstate or overseas air transportation of property only. Pursuant to its power under the Act, the Board granted to this new classification of air carriers authority to operate as a common carrier of property without obtaining a certificate of public convenience and necessity pursuant to section 401 of the Act. These carriers were, however, subjected to a considerable measure of economic regulation under other provisions of Title IV of the Act. The authority granted is for a limited time only and will expire 60 days after final Board action on any application filed by the particular carrier prior to May 5, 1947. The regulations also limit the geographical scope of operation by carriers in this class and confine them generally to service between points previously served on a more or less frequent basis. Most of the applicants in the *Air Freight Case* referred to above have availed themselves of the privileges accorded under the exemption regulation, and are operating various services pending determination of their respective applications.

#### *Freight rates*

Under the new regulation 292.5, the air cargo carriers were required to file tariffs with the Board. Such tariffs named rates considerably below those which the certificated air carriers had in effect. In August 1947 all of the certificated trunk-line domestic carriers and certain feeder-line carriers published a consolidated air freight tariff in which most of the volume rates formerly published in individual issues of the carriers were eliminated and the 100-pound rates were reduced approximately 25 percent, or from a basis of 26½ cents per ton-mile to 20 cents per ton-mile. In the fall of 1947 certain of the certificated carriers established specific commodity rates which were considerably lower than their general commodity rates, ranging as low as 12 cents per ton-mile. Several formal complaints against these specific commodity rates were filed with the Board, requesting their suspension and investigation. The Board declined to suspend but instituted an investigation of the rates. Later certain certificated carriers proposed to extend these rates to additional commodities and additional points, and to reduce the general commodity rates. As it was evident that a rate was developing between certificated and noncertificated cargo carriers, the Board acted to maintain the status quo of air freight rates, and suspend certain of these rates.

To avoid the inevitable results of destructive competition, the Board instituted a general investigation of air freight rates.<sup>4</sup> As a result of the

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<sup>4</sup> Docket No. 1705 et al.

investigation, the Board fixed minimum rates of 16 cents per ton-mile for shipments of 1,000 ton-miles and under, and 13 cents per ton-mile for all in excess of 1,000 ton-miles per shipment to apply to all air carriers.<sup>5</sup> In its opinion fixing the 16-cent and 13-cent minimum rates, the Board held the proceeding open to permit any interested party to apply for modification of the minimum rates as to any commodity. Subsequently certain of the carriers filed petitions requesting that the minimum rates be modified to the extent of permitting them to establish lower rates in the unbalanced direction of traffic. In July 1948 this was permitted on a temporary basis for seven commodities on shipments originating at points in California, Texas, and Florida. At the same time the Board ordered a further investigation and hearing on all the petitions proposing specific directional commodity rates below the minimum rates. The carriers are making available to the Board detailed information on the movement of commodities, and a hearing before an examiner is scheduled for December.

#### *Freight forwarders*

The interest in direct air freight transportation so stimulated activity in the field of indirect air freight transportation that a number of firms have been organized to offer assembly and distribution services and act in the role of freight forwarders. Some 78 forwarders sought authority from the Board to participate in the forwarding services which it was anticipated would be required by the air freight industry. These applications were consolidated into a proceeding in which the Board also considered the request of the Railway Express Agency, Inc., for authorization to continue its air express operations and to engage in handling air freight on a permanent rather than a temporary basis. In order that it might have before it all pertinent data, the Board instituted and consolidated into this same proceeding an investigation into matters relating to the indirect carrying of property by air, excepting matters relating to rates. Specifically, the inquiry was to determine whether and to what extent there might be a general need for air freight forwarder service or for an expansion of the air express services of the Railway Express Agency, Inc. . . .

An examiner's report was issued in this case recommending that the air freight forwarders be permitted to operate under exemption orders pursuant to section 1 (2) of the Act for such length of time as those operations may continue to be in the public interest, or until such time as appropriate amendments are made to the Civil Aeronautics Act which will meet the deficiencies that exist in the Act, which does not now provide for affirmative authorization of indirect air carriers. The report also recommended that Railway Express Agency, Inc., be permitted to continue to operate under the exemption order now applicable to its operations, and that the order be expanded to permit Railway Express to utilize the service of the noncertificated air cargo carriers.<sup>6</sup> . . .

### ECONOMIC REGULATION

#### *Changes in regulations . . .*

In the course of the fiscal year, the Board adopted a total of 16 amendments to the Economic Regulation. In the case of 12 of these amendments, the Board issued notices of proposed rule making. Numerous replies were received and considered. On 2 occasions the Board conducted hearings in the nature of oral argument before the Board as to the desirability of proposed amendments. . . .

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<sup>5</sup> Order E-1639, June 2, 1948.

<sup>6</sup> The Board's decision in the *Freight Forwarder Case* was issued September 8, 1948.

Among other things, these 16 amendments require irregular carriers and cargo carriers to file comprehensive reports with the Board; "small" irregular carriers are authorized to carry persons in foreign air transportation; some requirements are eliminated from the procedure for authorizing nonstop flights and obtaining authority to use airports; Alaskan air carriers are placed under separate regulations; and a new class of carriers is authorized in the Territory. . . .

The establishment of a reporting requirement for irregular carriers and cargo carriers was particularly important. The information obtained as a result of the regulation will be used by the Board in enforcing existing regulations and in appraising the need, if any, for changes in the regulations governing these forms of air transport services. Granting small irregular carriers the right to carry persons in foreign air transportation has opened up a new type of air transport activity which is virtually noncompetitive with scheduled operations, yet fills a definite public need and provides a new field for profitable air transport business. More particularly, it makes possible special flights by small planes into neighboring countries, especially Mexico and Canada, for such purposes as sporting expeditions or vacations in out-of-the-way places. The ban against carriage of persons in foreign air transportation by "large" irregular carriers was continued because of the adequacy of comparable services already afforded by the certificated carriers.

#### *Enforcement of regulations*

An increase in the number and activity of the irregular air carriers, accompanied by the promulgation of new Economic Regulations governing such carriers, resulted in a situation calling for new enforcement techniques. . . . Accordingly, in the case of irregular air carriers failing to file tariffs and otherwise failing to comply with the provisions of section 292.1 of the Board's Economic Regulations, orders were entered providing for the automatic suspension of the letters of registration held by such carriers unless they complied within 15 days. If compliance was effected, a method was provided for summary reinstatement of those letters suspended. Under the arrangement, 122 suspensions were ordered during the year. This method of enforcement proved to be effective. . . .

Informal enforcement action was taken in 151 cases involving a wide range of activities, such action usually taking the form of warning letters, conferences with the carriers, and an occasional stipulation by which the carrier agreed to refrain from certain operations considered unauthorized. Formal enforcement action was taken by the Board in six cases. . . .

Large irregular air carriers are not permitted to engage in the foreign air transportation of persons, and noncertificated cargo carriers are not authorized to engage in common-carrier operations between the United States and foreign points. Liaison between the State Department and the Board has resulted in closer surveillance over the operations of these carriers to and from foreign points. Upon request by air carriers for State Department intercession in securing landing rights from foreign powers, the Department formerly followed the practice of acting upon such requests without consulting the Board as to the operating authority of the applicant. During the year it was decided by the State Department that no further intercession would be made in these cases without prior clearance with the Board where there was any question as to the carrier's right under the Civil Aeronautics Act to conduct the contemplated operations.

Close cooperation is maintained with the Administrator of Civil Aeronautics to insure that foreign registered aircraft entering the United States under authority of a permit issued pursuant to section 6 (c) of the Air

Commerce Act of 1926 are not engaging in common-carrier activities. Since common-carrier flights by foreign-flag air carriers would be in violation of the Civil Aeronautics Act in the absence of specific authority therefor, the applications are referred to the Board for a determination as to whether or not they are engaging in common carriage. If the Board is of the opinion that the proposed flight does not involve common carriage, the Administrator is advised of such opinion and the permit generally issued; otherwise the permit is denied. Approximately 250 such applications were reviewed during the period covered by this report. . . .

#### *Noncertificated operations*

In the year following amendment of section 292.1 of the Economic Regulations to require irregular air carriers to secure letters of registration from the Board, 1,855 such letters were issued, 142 to large irregular carriers and 1,713 to small irregular carriers. Approximately 109 large irregular carriers and 1,701 small irregular carriers still held effective letters of registration at the end of the fiscal year, the numbers having decreased due to suspensions by the Board or voluntary surrender by the holders. . . . Applications for letters of registration by large irregular carriers listed 346 aircraft grossing over 10,000 pounds. This number included 247 Douglas DC-3's, 35 Douglas DC-4's, and 15 Curtiss C-46's. . . .

#### *Agreements*

A new postwar peak in cooperative intercarrier arrangements was reached during the fiscal year 1948, when 1,104 contracts and agreements were filed with the Board under section 412 of the Act. Concurrently, procedures designed to facilitate the disposition of constantly increasing filings were developed, which resulted in final Board action on 491 contracts and agreements.

During the fiscal year the Board reconsidered its approval of the participation of the United States air carriers in IATA. The previous approval had been for a period of 1 year. The Association, composed of some 60 or 70 companies engaged in international air transportation and representing some 50 sovereign states, revised its Traffic Conference procedures and regulations during this period to improve the efficiency of the organization. The Board reapproved the participation of the United States air carriers and the reorganization of the IATA Traffic Conferences for a period of 2 years, during which time it will consider and act upon the individual agreements adopted by the Traffic Conferences. . . .

The most significant decision by the Board to date on industry-wide agreements was made with respect to an arrangement involving the establishment and operation of Air Cargo, Inc. The latter has as its primary purpose the consolidation of existing ground facilities at the major airports for the handling of air freight transported by participating air carriers. The Board takes the position that cooperative arrangements, especially those of an industry-wide nature embracing large groups of certificated air carriers, should permit the future participation of other certificated air carriers upon an equitable basis. The Board indicated that if a group of air carriers could exclude, by restrictive admission provisions, any or all future participation by other carriers in arrangements for the consolidation of ground and terminal facilities, the advantage to the industry and the general public flowing from these arrangements would to that extent be diminished and the development of consolidated activities would be retarded.

Meanwhile, Air Cargo, Inc., proceeds to implement its ground consolidation functions with the accelerated filing of comprehensive pick-up and

delivery agreements. The new arrangements appear designed to eliminate a substantial amount of duplication and overlapping of ground services which had prevailed theretofore, in connection with the transportation of air freight. Over 100 such agreements had been filed as of the close of the fiscal period, and close to 200 are expected eventually as the program achieves its goal.

*Interchange of equipment and acquisition of control of air-carrier property*

The ideal air transportation system, as far as the public is concerned, would be a one-plane service between any two points in the country. However, the cost of providing such service by one company, even if possessing the requisite authority, would be prohibitive. Nevertheless, there are many pairs of points providing connecting services which do not generate sufficient traffic to justify the certification of a competing one-carrier service, but which could be afforded one-plane service. Through interchange of equipment, one-plane service could be established without the necessity of extending authorizations of existing carriers where such extensions are not justified by the traffic potential. Equipment interchange arrangements thus take on ever greater significance as the industry attempts to consolidate its present route structures and develop more fully their existing potentialities.

Under the Pan American-Panagra interchange agreement, approved by the Board, Panagra's planes fly up the west coast of South America to the Canal Zone, where the aircraft are then chartered by Pan American for through flight to continental United States. . . .

Also approved during the fiscal year was the TWA-Delta equipment interchange agreement providing for a connecting service at Cincinnati where the respective carriers install their own crews for the operation of the one-plane service over their routes. The approval indicated that the Board would be receptive in the future to similar proposals which provide single-plane through service without uneconomical duplication of existing services. . . .

A number of interesting problems arose during the past year involving the acquisition of control and property of air carriers. One of the most important of these involved the transfer by Western to United of its Denver-Los Angeles route, together with the physical properties appurtenant thereto, for a purchase price of approximately \$3,750,000, which was about \$2,000,000 in excess of the book value of the physical properties. The Board, with the Chairman dissenting, approved the transaction on the condition that the excess of the purchase price over the book value of the physical properties be charged to surplus on the books of United and excluded from its rate base in future mail rate proceedings. Upon representation that the charge to surplus would impair United's ability to pay dividends, the Board modified the condition to require that the acquisition excess be amortized out of earnings for a period of 5 years. Shortly thereafter the Board reopened the proceeding, which is still pending, to consider the financial provision which should be made by the parties for those employees displaced by reason of the purchase transaction.

Several of the problems currently pending present situations of original and novel significance. Among these may be found the first application by a "feeder" air carrier seeking to acquire a 151-mile route segment from a domestic trunk-line carrier; the first instance in which issues are raised respecting a potential increase in mail pay which may result from the merger of a wholly-owned subsidiary into the parent corporation; the first case in which issues are raised whether an increase in the extent or effectiveness of

a control over an air carrier by a person engaged in a phase of aeronautics requires additional Board authorization where the original acquisition of such control has previously been approved by the Board. . . .

#### SAFETY ENFORCEMENT

During the fiscal year 898 safety rule violation cases were filed with the Board and 13 cases reopened, making a total of 911 cases received, with a backlog of 618 cases from the preceding fiscal year. These cases involved for the most part disciplinary cases arising out of alleged violations of air traffic rules by holders of pilot certificates. Some of the cases involved violation by mechanics, a few involved air carriers classified as irregular or non-scheduled holding an air carrier operating certificate, and a few cases involved the physical qualifications of pilots.

During the year 416 suspensions and 209 revocations of pilots' certificates were ordered, 59 cases were dismissed, and 82 were withdrawn by the Administrator of Civil Aeronautics. In addition to these, 10 cases involving a review of the Administrator's refusal to issue an airman certificate made a total of 776 cases disposed of during the fiscal year. Of the cases disposed of, hearings were held in approximately one-third. . . .

TABLE OF ACCIDENTS — FISCAL YEAR 1948

Operator	Reported	Extensively investigated
Scheduled domestic operators.....	58	40
Scheduled international operators.....	15	10
Irregular domestic operators.....	34	22
Irregular international operators.....	2	1
Alaskan operators .....	14	5
Total air carrier accidents.....	123	78
Non-air-carrier .....	9,794	1,569
Total all types of accidents.....	9,917	1,647

#### LEGISLATION

During the fiscal year 1948 the following six amendments to the Civil Aeronautics Act were passed:

1. Under the provisions of § 1003 (b) of the Act, if an air carrier desired to provide through service with a common carrier subject to the Interstate Commerce Act, it was required that the carriers establish joint rates for such through service. However, it was found that the mechanics of agreeing upon joint rates and the division thereof, and the duplicate publication of such rates in the tariffs of each carrier, would have the effect of preventing the establishment of through service between air carriers and surfaces carriers on a wide scale. Accordingly § 1003 (b) was amended by eliminating the requirement that joint rates be established in such a case, and substituting a requirement that just and reasonable rates be established.<sup>7</sup>

2. Section 401 (1) of the Act, amended in 1942, because of wartime conditions, to authorize an increase in the maximum number of hours which pilots could fly in a given period, was amended to reinstate the original provision that rates of compensation, maximum hours, etc., of air carrier pilots and copilots should conform to decision numbered 83 of the National Labor Relations Board.<sup>8</sup>

3. A new section, numbered 504, was added to clarify the liability of a holder of security interest in an aircraft for injury or death caused by aircraft to third persons on the surface.<sup>9</sup> The laws of some States provide that an owner of aircraft shall be absolutely liable for injuries caused by such aircraft to persons and property on the ground. This has raised a question as to whether holders of a security interest only, such as conditional vendors

<sup>7</sup> 61 Stat. 763.

<sup>8</sup> 61 Stat. 449.

<sup>9</sup> 62 Stat. 470.



or holders of equipment trust certificate, may not be absolutely liable in such cases. This doubt in the minds of bankers and lending institutions had been sufficient to handicap air carriers seriously in financing the purchase of new equipment. The new section 504 was enacted to eliminate this difficulty by providing that no person having a security interest in aircraft shall be liable solely by reason of such interest for injury or death to persons, or damage to property, on the surface.

4. Another provision designed to remove impediments to air carriers in their financing arrangements was the amendment to section 504 relating to recording of aircraft ownership.<sup>10</sup> The amendment broadens the recording provisions of the Act to permit the recording of two additional types of liens; the first, specific liens on certain types of engines, the second, the so-called "floating charge" or "basket-lien" on spare parts.

5. Section 302 was amended by adding a new subsection lettered (d), which will enable the Administrator of Civil Aeronautics to train air-traffic control-tower operators, either through the use of his own facilities or by contract with educational institutions.<sup>11</sup>

6. Several sections of the Act were amended to clarify and amplify the powers of the Administrator of Civil Aeronautics and the Civil Aeronautics Board.<sup>12</sup> A new section, numbered 601, was added authorizing the Civil Aeronautics Board to delegate to the Administrator the power to prescribe rules and regulations relating to safety. As stated in the report of the House Committee which considered the matter, it is the purpose of this amendment to facilitate coordination between the Board and the Administrator, and to provide only such delegations at an operating level as are necessary to effectuate practical administration of the safety regulations.<sup>13</sup> It is not anticipated that the Board will employ this power of delegation to effectuate on a permanent basis any large-scale transfer of rule-making power to the Administrator.

In addition, a number of laws pertaining to aviation were passed which were not in the form of amendments to the Civil Aeronautics Act, but nevertheless have an important effect upon the activities and responsibilities of the Board. These included legislation setting up an air parcel post system and similar laws, many of which affected the Administrator of Civil Aeronautics more than the Board. . . .

The past year witnessed a continued increase in air transport services performed by other than scheduled air lines, and the situation presents numerous problems for consideration by the Board. Certain air transport services performed by other than scheduled carriers do not fall under the economic jurisdiction of the Board because the Civil Aeronautics Act defines the regulatory power of the Board over economic matters in terms which limit it to "common carriage." Thus certain operations conducted by private carriers for hire are not subject to the economic regulatory jurisdiction of the Board. The gap in the Board's jurisdiction leaves unregulated an increasingly large portion of air transport operations performed by private carriers for hire and greatly handicaps the Board in its administration of nonscheduled common-carrier activities. It is imperative, in the Board's opinion, that legislation be enacted granting the Board regulatory power over contract carriers. . . .

In addition, legislation should be enacted, as recommended in previous Annual Reports, authorizing the Board to regulate rates for foreign air transportation and to control issuance of securities by air carriers.

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<sup>10</sup> 62 Stat. 493.

<sup>11</sup> 62 Stat. 1093.

<sup>12</sup> 62 Stat. 1216.

<sup>13</sup> House Report No. 2315, 80th Cong. 2d. Sess.