

POINTS OF VIEW

Airlines: It's time to reregulate

Given what air passengers have suffered in recent years, it's not at all surprising that the "Passenger Entitlement and Competition Enhancement Act" got a favorable hearing last week in Washington.

Sponsored, among others, by Michigan's Rep. John Dingell, D-Trenton, the bill has two parts.

One would, in effect, re-regulate the airline industry. It would require airlines to pay passengers' damages if they get stranded for more than two hours on a plane, increase airline liability for lost or misdirected baggage and discourage passenger bumping when flights are oversold.

Over the years, I've become more and more skeptical of attempts by government to resolve complex and subtle issues by passing yet more laws or imposing more and more complex regulations. Passing an "airline passengers bill of rights" probably won't do much harm, but I seriously doubt that long-suffering air passengers will get instant relief through the actions of the House Committee on Transportation and Infrastructure.

The airlines - Northwest among them - told the committee that re-regulation wouldn't work and would likely drive up costs. They argued that the industry, left to itself, would cure whatever problems might exist. They're right.

But my skepticism of government regulations is, if anything, overmatched by my distrust of an industry with magnificently developed instincts for profiting through monopoly rather than good service and competitive pricing.

Here's Rep. Dingell on the subject: "Since 1978 we have had unregulated monopoly rather than regulated monopoly or competition. It has resulted in increased consolidation, diminished choice, and higher prices in many markets. In Detroit, statistics indicate that new entrant Pro Air saved consumers \$180 million by introducing price competition."

"In fact, for Northwest Airlines - the dominant carrier in the Detroit market - the fare between Detroit and the Washington area appears to be directly influenced by whether a competitor is in the market. Pro Air operates from Detroit to Baltimore-Washington International airport for about \$100 and so does Northwest. However, Northwest also flies directly into National Airport where it faces no competition from Pro Air - for about \$400."

That's why the second part of the bill - to change the ground rules in air travel to promote market competition - has far more potential.

The legislation would give the Secretary of Transportation the power to create, withdraw or auction landing slots at airports so as to increase competition between airlines. (Northwest Airlines, for example, controls nearly 60 percent of the flights and 80 percent of the air passenger traffic at Detroit Metro Airport by owning the majority of landing gates. Other airlines control monopolistic "fortress hubs" - Atlanta (American), Cincinnati (Delta), Salt Lake City (United) are examples - by similar means.



PHILIP POWER

The legislation would also require the secretary to establish and publicize a statement enumerating the consumer rights of air passengers. And it would authorize reports ranking costs for various domestic routes among airlines and relate those costs to the degree of market concentration possessed by airlines at their hubs.

All this makes sense.

Up to now, airline passengers - at least those without a law degree and a good pair of glasses to assist reading the fine print on tickets - have no idea of their rights when being abused by airlines. And objective studies detailing how ticket prices go up when airlines monopolize hub airports will be a valuable first step.

First step to what?

To an amendment to antitrust laws such that any airline holding a stranglehold on a given hub - say, 60 percent or more of flight departures or more than 70 percent of passenger traffic - would automatically be in violation of anti-monopoly statutes.

The remedy? Giving the Secretary of Transportation the power to compel monopolistic airlines to sell gates to competing carriers so as to allow competitive forces room to work in fortress hubs.

The result? Improved service and reduced ticket prices.

Carry on, Rep. Dingell!

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A view

This is in response to Tim Richard's Feb. 11 column on the Federalist Society.

First, let me say the column was more benign than others on this subject. However, there are few principles which I believe would be helpful in understanding the work of the Federalist Society.

The Federalist Society does not categorically condemn judge-made law - it cannot and would not take such a position because much of what is known as common law is precisely that - judge-made law.

The significant point where the Federalist Society differs from the judicial philosophy known as "activism" is in the arena of "constitutionalizing" issues. Saying an issue is controlled by the U.S. Constitution when it is not, wrongfully takes the issue out of the arena for public debate and the decision away from the voters by this judicial sleight of hand.

Let me give you an example - abortion. The pertinent question is not are you for or against abortion, but who should make that decision. The Federalist Society contends, correctly in my view, that the abortion issue is not one which is either endorsed or prohibited, much less addressed by, the U.S. Constitution.

What it regards as improper is the "constitutionalizing" of this and other issues so that states, through its voters and representatives, no longer have a say on whether abortion, or other such key issues are legitimate nor not.

For example, you will recall that in the doctor-assisted suicide case, the Supreme Court said - something which the Federalist Society has been saying for years - that the question of doctor-assisted suicide is not controlled by or even addressed in the Constitution and therefore rests, as it should, in a democratic society, with the people to vote as we did in Michigan, and as voters did in Oregon.

I believe the central tenet of the Federalist Society is intellectual honesty. That is, if the legislature passes a law, it is irrelevant whether a judge likes or dislikes the legislation; judges simply should apply the law as written. To do otherwise, would be to take away power from the people as surely as the United States Supreme Court has improperly done in a number of cases.

No doubt there are areas, be it Miranda or Gideon - where reasonable minds may differ on whether or not the Constitution actually affords a right articulated by the United States Supreme Court. However, there are areas which are clearly in the arena of the democratic process wherein the people should vote and the courts should

LETTERS

not decide an issue for hundreds of millions of judicially disenfranchised citizens. As you know, federal judges are not elected and therefore, not accountable to the people - and, accordingly, if we err at all, judges should err on the side of advancing democratic, not elitist principles.

Clearly, this is a very complicated subject and there are volumes written on this subject and the foregoing discussion is, by necessity, an oversimplification. However, I thought it might be helpful for you to hear at least one view from one judge who is a member of the Federalist Society.

Judge Henry W. Sand
Michigan Court of Appeals

Disturbed with roads

I am an eighth-grade student in Farmington, and I am disturbed at the condition of the roads in our city. I realize that it takes money to make repairs, but I see no reason why a tax of some sort can't be levied.

Maybe if public awareness was raised, more action would take place. I believe that there are many roads in Farmington that need repairs. But when they begin construction, too much time is spent repairing one road. If repairs are necessary, they should be completed in a timely manner.

Sabrina Keeseo
Power Middle School
Farmington

Creative effort

Jay Leno's sponsor had an ad on TV that struck me very funny yesterday.

The passengers on an airplane were frantically searching for a pilot! I figured it was a Northwest flight and that the pilot went on strike mid-flight and had bailed out (leaving the plane in automatic drive)! It turned out that the airbound passengers were just looking for a Pilot ball-point pen! A very creative ad!

Leon I. Schoelich
Farmington Hills

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