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# The Impact of Governmental Regulation on Air Transportation

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# SYMPOSIUM: THE IMPACT OF GOVERNMENTAL REGULATION ON AIR TRANSPORTATION

## FOREWORD

HAMILTON DESAUSSURE\*

**T**HE FOURTH ANNUAL International Law Symposium held at the University of Akron on November 13 and 14, 1975, concerning the impact of governmental regulation on air transportation, presented the issue of whether too much regulation of the domestic airline industry exists, and if so, how such regulation can be curtailed without diminishing route stability or damaging the public interest in a broad, well-integrated air transport network. This subject is of great importance to the traveling public. It is an issue which has drawn the particular attention of Congress.

In late 1974 and early 1975, the Senate Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, chaired by Senator Edward M. Kennedy, held hearings on the role of the Civil Aeronautics Board in the regulation of airlines. The Board was created by Congress to regulate commercial air transportation, and in performing its duties under the Federal Aviation Act of 1958, it is required to promote economical service by air carriers at reasonable charges and without discrimination and unfair competition. The present air transportation system is largely the product of the decisions and regulations of the Board. At the center of the present controversy is the efficiency and economic viability of the route and rate structure resulting from the Board's intense regulation.

Those favoring less governmental control point out that in its 38 years the Board has never authorized a new major carrier and that the network of trunk or major routes throughout the nation is served by 10 airlines. Five of these, United, Trans World Airlines, American, Eastern, and Delta, share 70 per cent of the total domestic business. Promoters of deregulation contend that the Board's control over fares, route structure and entry and exit into the system have depressed competition and stifled initiative. Freer entry and more flexible fares, they believe, would stimulate more competition and force fares down. On the other side, proponents of regulatory control over the airlines point to the need for a balanced

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EDITOR'S NOTE: Professor DeSaussure was the moderator of the Fall Symposium.

system of air transportation operating in all areas, including remote or unprofitable places, when such service would be in the public interest. Advocates of continued regulation also point to the benefit to the economy, to the health and well-being of the country, and to our national security to have a pervasive and orderly system of air routes and established air carriers.

On October 8, 1975, President Ford sent to Congress a proposal for an Aviation Act of 1975, which his administration said would increase competition, decrease air fares, and give airlines more flexibility in setting their own fares and making route decisions. At the present time the bill is being considered by Congress against the background of the Kennedy Report and the Regulatory Reform Report of the Civil Aeronautics Board's special staff.

The Akron Law School was fortunate to have representation from Government, Industry and Consumer groups, the combination of which provided lively and provocative panel discussions. It has become traditional to publish in the Spring Issue of the Akron Law Review some of the major presentations of the Annual Fall Symposium. Senator Kennedy kindly accepted our invitation to provide comment to these presentations, including his own observations on the subject of regulatory reform of the airline industry and some of the suggestions of the Subcommittee on Administrative Practice which he chaired.