

CT-88/1

THE COMPETITION TRIBUNAL

IN THE MATTER OF an application by the Director of Investigation and Research under Section 64(1) of the Competition Act, R.S. c. C-23 as amended.

AND IN THE MATTER OF a Limited Partnership formed to combine the operations of the Reservec and Pegasus computer reservation systems.

AND IN THE MATTER OF The Gemini Group Automated Distribution Systems Inc.

B E T W E E N:

THE DIRECTOR OF INVESTIGATION AND RESEARCH,

Applicant

- and -

AIR CANADA
Place Air Canada
500 Dorchester Blvd. West
Montreal, Quebec
H2Z 1X5

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| COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE | | P R O D U I T |
| DEC 22 1988 <i>108</i> | | |
| REGISTRAR — REGISTRAIRE | | |
| OTTAWA, ONT. | | #292 |

- and -

AIR CANADA SERVICES INC.
c/o Air Canada
Place Air Canada
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Montreal, Quebec
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- and -

PWA CORPORATION
Suite 2800, 700 - 2nd Street S.W.
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T2P 2W2

- and -

CANADIAN AIRLINES INTERNATIONAL LTD.
Suite 2800, 700 - 2nd Street S.W.
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- and -

PACIFIC WESTERN AIRLINES LTD
c/o Canadian Airlines International Ltd.
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- and -

CANADIAN PACIFIC AIR LINES, LIMITED
c/o Canadian Airlines International Ltd.
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- and -

154793 CANADA LTD.
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- and -

153333 CANADA LIMITED PARTNERSHIP
c/o The Gemini Group Automated Distribution
Systems Inc.
1 First Canadian Place
P.O. Box 84
5th Floor
Toronto, Ontario
M5X 1K4

- and -

THE GEMINI GROUP AUTOMATED DISTRIBUTION
SYSTEMS INC.
1 First Canadian Place
P.O. Box 84
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Respondents

RESPONSE OF THE RESPONDENTS TO PART II OF THE
AMENDED STATEMENT OF GROUNDS AND MATERIAL FACTS
OF THE DIRECTOR OF INVESTIGATION & RESEARCH

1. This is the Response of the Respondents to Part II, paragraphs 53 to 69 of the Statement of Grounds and Material Facts for the Application by the Director of Investigation & Research under Section 64 of the Competition Act.

2. In paragraphs 53 to 57 of Part II, the Director makes reference to the proposed Gemini-Pars merger transaction as contemplated by a Memorandum of Understanding dated September 13, 1988 entered into by Air Canada, PWA Corporation, TransWorld Airlines Inc. and NWA Inc. However, as indicated in paragraph 59, on December 5, 1988, the Director was advised by the Respondents that such merger transaction would not likely be proceeded with. At present, no restructured or substitute transaction has been agreed upon, although the parties to the Memorandum of Understanding are continuing to discuss some form of association. At this time, it appears most likely that any such restructured or substitute transaction entered into between the parties would not constitute a merger within the meaning of Section 63 of the Competition Act.

3. In paragraphs 60 to 67 of Part II, the Director sets forth his perception of the impact on competition in CRS in Canada and in the airline industry of the Gemini-Pars merger. Since no such merger is now likely to occur, these allegations are irrelevant. To the extent allegations contained in these paragraphs refer to the Gemini merger, the Respondents reiterate their Response(s) made to the original Application by the Director.

4. In paragraph 66, the Director infers that Air Canada and Canadian Airlines International Ltd. could obtain access to confidential data on each other's sales and yields, leading to the possibility of coordinated pricing between them. The Respondents deny this allegation. Security codes have been established to

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maintain the confidentiality of data for each owner. Gemini does not maintain yield data. This unsubstantiated allegation suggesting the possibility, and even the likelihood, of criminal conduct by Gemini, the airlines or their employees is totally inappropriate.

5. In paragraph 68, the Director introduces the subject of display in Pars and alleges that the Pars algorithm penalizes interline connections as compared to on-line connections. In paragraph 69, the Director complains that Air Canada and Canadian Airlines International Ltd. have acquired feed carriers and that the interline penalty in the CRS display creates a barrier to entry to the airline market for Wardair.

6. Display algorithms are not a merger issue and are therefore irrelevant. However, even if they were relevant, on-line preference is a well accepted means of ordering display in CRSs in order to address consumer preference.

7. Display of flights in a CRS requires the establishment of criteria for the purpose of ordering the sequence of flights shown. Although each CRS is different, display algorithms take into account such factors as departure times, elapsed times, whether or not a passenger trip is non-stop, direct (same plane with stops) or requires connections and whether connections are on-line or interline. Generally, a preference is given to on-line connections (although this does not necessarily mean that on-line connections will always appear before interline connections) in recognition of the advantages consumers usually perceive from on-line connections over interline connections. Some of these advantages are:

- (a) Through flight responsibility is assumed by one carrier. This is especially important for children, the handicapped and senior citizens.

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- (b) Responsibility for baggage is assumed by one carrier. In the case of lost baggage, there is a greater certainty of recovery in a timely manner.
- (c) Baggage is checked through. In the case of some interline connections, passengers may be required to claim their baggage at connecting points and recheck it.
- (d) Many passengers prefer one carrier on which they accumulate frequent flyer points.
- (e) Through fares are often less expensive than the sum of local fares. Through fares are available for on-line connections, but are sometimes not available in the case of interline connections.
- (f) On-line connections usually result in closer proximity of gates between connecting flights and reduced likelihood of required terminal or airport changes.
- (g) Very often boarding passes for on-line connections may be obtained at the time of checking in for the first flight segment, while this is not possible in the case of interline connections.
- (h) In the event of traffic delays, there is a greater likelihood of coordination with connecting on-line than interline flights. This is especially important at connecting points such as Toronto where traffic delays are not infrequent.
- (i) The lowest discount fares are usually available for on-line and not interline connections.

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8. Agreements between trunk and feeder carriers are made in recognition of customer convenience and have brought significantly improved commercial air service to many smaller communities in Canada. The reasons outlined above as to why consumers prefer on-line connections apply to connections between affiliated carriers. It is for reasons such as these that consumers usually prefer on-line connections, including connections between affiliated carriers, and that CRSS respond to this preference by the display algorithm used to establish the sequencing of flights.

9. The Respondents submit that the Relief sought by the Director under Part II of his Application should be denied.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 21st day of December, 1988.

AIKINS, MacAULAY & THORVALDSON

BENNETT JONES

Per: *Mr. Rothstein / JH*Per: *John Stetson*