

The Director also warned of the dangers to pay TV of cross-media ownership. He stated:

"Cross-media ownership is likely to reduce competition among the various media but, perhaps more importantly, results in the loss of economic incentives to fully exploit the potential of pay television. Firms with vested interests in other media may not pursue as aggressively the development of pay television that would be in competition with their newspaper or broadcast concerns."

STUDY UNDERLINES HIGH COST OF CANADIAN AIRLINE REGULATION

A study by Prof. William A. Jordan of York University Faculty of Administrative Studies concludes that the performance of Canadian airlines would be substantially improved by deregulation. Entitled Performance of Regulated Canadian Airlines in Domestic and Transborder Operations, the study was prepared for the Bureau of Competition Policy of the Department of Consumer and Corporate Affairs.

The study compares the performance during 1978 and earlier of U.S. state regulated airlines with that of U.S. federally regulated airlines and Canadian airlines. According to the author the U.S. federally regulated interstate airlines were at that time under a regulatory environment which was generally comparable to that in Canada. In contrast, there were intrastate carriers each operating within Texas, Florida or California which were under much less restrictive state regulation and which competed directly with federally regulated carriers. Under the state regulations entry by new airlines was permitted subject to safety regulations; all were permitted to choose their own routes without restriction as to types of aircraft used; extensive price competition was permitted; and there were no restrictions on service quality or quantity.

Economy fares offered by the Canadian and the U.S. federally regulated carriers were found to be virtually the same per mile on comparable flights. However, they were from 50 to 100 percent higher than those of the intrastate carriers and 100 to 180 percent higher than the off-peak evening and weekend fares of the intrastate carriers. No systematic relation between the levels of fares and profits was found, but costs of the intrastate carriers were far lower than those of the other carriers.

Much of the study is devoted to investigating the causes of the lower costs of the intrastate carriers. The author concludes that the most important factor was their high utilization of inputs, including labour, fuel and probably aircraft. He relates this, in turn to the greater specialization of the intrastate carriers. He states:

"Individual U.S. intrastate carriers (especially Air California and Southwest) seldom operated more than two aircraft types at one time, and generally operated only one type ... They served relatively few cities and routes, and those served had traffic densities and distances compatible with their aircraft type. They never offered more than one type of service (always economy class), and their fare structure was generally uncomplicated with few promotional fares (other than off-peak which applied to every seat on every specified flight). The implications of this uncomplicated type of operation apply to such things as employee training, maintenance and engineering, passenger ticketing and handling, schedule planning, tariffs, and so on."

Based upon his findings, the author predicts that Canadian airline performance would change in the following ways under deregulation:

- "1) Prices would decrease by as much as 50 percent.
- 2) The fare structure would become much less complicated.
- 3) Operating costs of successful airlines would be substantially reduced.
- 4) Profits of successful airlines would be comparable to the historical levels of present-day carriers.
- 5) The number of airlines would increase, with each being more specialized than existing regulated airlines.
- 6) Service quality would decline somewhat, with the elimination of first-class service, increases in seat densities, and increases in average load factors.
- 7) Charter service would decline substantially and would be largely limited to single-entity services.
- 8) There would be no change in safety, with existing safety regulation continuing under the Ministry of Transport."

The Economic Council of Canada, in its report "Reforming Regulation" which appeared last June, called for substantial deregulation of Canadian airlines.

The Jordan study comes at a time when the proposals announced in August by Transport Minister Jean-Luc Pépin to continue and even strengthen Canadian airline regulation are under discussion. The proposed policy affirms Air Canada and CP Air as the only national carriers, divides the country in half to establish two operating regions for regional carriers rather than four as at present, and restricts local carriers to the use of non-jet equipment.

In Europe the highly regulated and cartelized airlines have so far largely escaped from the attention of the European Economic Community competition authorities, in part because of the extensive involvement of governments. However, the EEC appears to be moving towards intervention. The following statement appeared in the Bulletin of the European Communities No. 7/8 1981 Vol. 14:

"On August 10 the Commission sent to the Council a proposal for a regulation laying down detailed rules for the application to air transport of Articles 85 and 86 of the Treaty. Once the Regulation has been adopted by the Council, the Commission will be able to apply the competition rules to airlines fully and effectively."

While the tone of the announcement may be unduly sanguine, it does indicate a trend.

DR. DEMELTO LEAVES COMPETITION BUREAU

Dr. D. DeMelto has left the Bureau of Competition Policy, where he was one of the two Deputy Directors of Investigation and Research, to join the Department of Industry, Trade and Commerce as Director General Policy Analysis.

FOREIGN AND INTERNATIONAL

U.S. ANTITRUST OFFICIAL ENUNCIATES SOFTER GOVERNMENT LINE ON PATENT AND KNOW-HOW RESTRICTIONS

Mr. Abbott B. Lipsky, Jr., Deputy Assistant Attorney General in the Antitrust Division, in an address before the Antitrust Section of the American Bar Association on November 5, dealt at length with the current views of the Antitrust Division respecting patent licensing restrictions. The views which he expressed reflected the more permissive attitude of the Reagan administration towards vertical restrictions in general. Mr. Lipsky indicated that the implications for the know-how field would also be discernible from his analysis. The text of most of his address follows:

"For the better part of the last decade, Division enforcement policy toward patent licensing has been advertised using a list of forbidden practices commonly known as the 'Nine No-No's'.¹ Each of these practices is thought to be especially deserving of antitrust condemnation by virtue of some inherently anticompetitive feature. I will discuss these practices and their allegedly anticompetitive aspects in a moment.

1. Department of Justice Luncheon Speech on Licensing Practices: Myth or Reality? Remarks by Bruce Wilson, January 21, 1975.