



AMERICAN AIRLINES INC.

CABLE ADDRESS AMAIR

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August 8, 1945

Memorandum to the Directors:

The "Chosen Instrument" principle for all overseas air transportation conducted under the United States flag has for many years, and most intensively of late, been advocated by Mr. Trippe of Pan American and his associates in that enterprise. This matter has had considerable attention in the public press and it is quite probable that through knowledge of your association with air transportation you have been and will be asked many questions on that subject.

There is enclosed a summary of the national policy and legislative situation with respect to this subject. The principal points of interest may be said to be:

1. The Civil Aeronautics Act of 1938 is the basic air transportation legislation of this country and the terms of that Act establish the national policy on air transportation.
2. The premise of this national policy is "regulated competition", both in the domestic and overseas field. That is the national policy and that has been the national policy since 1938.
3. Pan American has endeavored to set aside that policy insofar as it pertains to overseas air operation, hoping to substitute, by legislation, a policy of "chosen instrument", that being another name for monopoly in that field.
4. In hearings before the Senate on this subject War Department, Navy Department, State Department, Commerce Department, Attorney General and Civil Aeronautics Board opposed the establishment of the principle of monopoly or "chosen instrument". No agency of the government appeared in favor of the proposal made by Pan American.
5. After hearings extending over a very long time the Senate Commerce Committee rejected the legislation which would have created the "chosen instrument". It is probable that this legislation will later appear again, but it has been rejected by the appropriate Committee of this Congress.
6. Pan American was awarded additional certificates in the North Atlantic case and these certificates included the right to operate from New York, Boston, Washington, Chicago, Detroit and Philadelphia. Pan American insists that this is not sufficient; that it should be permitted to operate domestic routes as well as overseas routes.

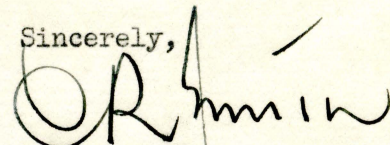
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7. There is no prohibition in the Civil Aeronautics Act against Pan American operating in domestic service, there being no such prohibition against any United States air carrier. But the Act does say that the applicant must file application with the Civil Aeronautics Board and must prove convenience and necessity. Pan American could have filed for domestic routes at any time since the passage of the Civil Aeronautics Act in 1938 and it can do so now.
8. It seems evident that Pan American would prefer to try its case for domestic routes before members of Congress and in the public press, rather than through the method established by law; i. e. application to Civil Aeronautics Board. Pan American has now filed with the Board but it seeks to exert pressure on the Board through papers emanating from members of the Congress.
9. Pan American adopts before Congress, and the Board, the interesting theory that it should be entitled to domestic routes for the reason that some of the domestic companies have been awarded overseas air routes. That theory could be sustained only on the basis that all overseas air routes under the United States flag belonged to or should belong to Pan American and that having taken away something which belonged to Pan American the Board should give Pan American domestic routes in return. It is obvious that such position cannot be sustained under the terms of the Civil Aeronautics Act and if you agree that all overseas services belonged to Pan American you are agreeing basically to the principle of the chosen instrument, a principle which has been rejected by our government.
10. None of the routes which belonged to Pan American, by certificates granted to it by the Civil Aeronautics Board have been taken from Pan American; on the contrary it has retained all of its old routes and has secured additional new ones. It will continue to receive new and additional routes, provided it can prove convenience and necessity to the Civil Aeronautics Board. Pan American should and ultimately will follow the same procedure in getting new routes that the law requires and all other companies have followed.

If there are additional questions on this subject I will endeavor to answer them. We take the position that this matter has now been disposed of by Congress and we do not intend raising the issue. That is what Pan American would like to have us do: sustain a public argument on a question which has for the present been settled by Congress and the President.

Sincerely,



C. R. Smith
Chairman of the Board