flight number for the passenger's entire itinerary even though the passenger changes planes, but in addition, the single flight to or from the exchange point itself has multiple numbers: one for each segment with which it connects and one for the local market in which it operates. That flight is thus listed in CRSs under different numbers in different city-pair markets. As an example, an airline might operate three flights to London from three European cities: Flight 100 from Frankfurt, Flight 200 from Paris, and Flight 300 from Rome. In London, passengers from all three flights board a single aircraft bound for New York. The London-New York flight would carry all three flight numbers plus its own number. Schedules would show direct or through flights to New York from Frankfurt, Paris, and Rome as well as the nonstop flight from London.

49 U.S.C. § 41712, formerly section 411 of the Federal Aviation Act, authorizes the Department to identify and ban unfair or deceptive practices or unfair methods of competition on the part of air carriers, foreign air carriers, and ticket agents. Under § 41712, the Department has adopted various regulations and policies to prevent unfair or deceptive practices or unfair methods of competition, such as the CRS rules (14 CFR Part 255) and our policy on fare advertising (14 CFR § 399.84), for example., The Department's current CRS rules, adopted in September of 1992, require that CRS displays give notice of any flight that involves a change of aircraft en route Id at 43835; 14 CFR 255.4(b)(2). In addition the Department requires as a matter of policy that consumers be given notice of aircraft changes for change-of-gauge flights. See Order 89-1-31 at 5.

## Petition for Rulemaking

On May 16, 1991, American Airlines. Inc., filed a petition for rulemaking to prohibit funnel flights, claiming that they deceive consumers and prejudice airline competition. American maintains that uninformed consumers are harmed when they decide to buy transportation on funnel flights, because they mistakenly believe that they will be traveling from origin to destination on one plane, thus avoiding the risk that they or their baggage will miss connections. American maintains that competing carriers suffer harm in two ways. First, they fail to sell their own connecting services of equivalent quality to the misinformed passengers. Second, in CRS displays for any citypair, they have only one listing for their connecting services, whereas a funnel

flight is listed twice, both as a direct flight with a single flight number and as a connecting service. According to American, this double listing not only gives undue exposure to the funnel flights but also pushes competitive connecting services to later CRS screens where they are less likely to be sold.

American acknowledges that CRSs in the United States attempt to call funnel flights to the attention of their travel agent subscribers by including the notation "CHG" with these flights' CRS listings. (The adoption of 14 CFR 255.4(b)(2) supra, occurred after American filed its petition.) Despite this precaution, however, American claims that many consumers still buy tickets on funnel flights without understanding that they will be making a connection and not remaining on one plane throughout their journey. American states that confusion may result for a number of reasons: the travel agent may fail to explain matters adequately to the traveler; the person making the reservation may not be the person taking the trip, and even if the former understands the situation, he or she may fail to explain matters adequately to the latter; or the traveler may become confused upon receiving just one flight coupon instead of the two that one would normally expect for a connection.

American contends that funnel flights offer no offsetting benefit to the traveling public to justify their existence. American also contends that no carrier will forgo the practice as long as any of its competitors maintains it. Therefore, except in the case of "true" change-of-gauge flights that are specifically authorized or required by bilateral agreements to have a single flight number, American urges that funnel flights be prohibited. It proposes that the Department adopt the following language as a new paragraph (c) to § 399.81 of our regulations, "Unrealistic or deceptive scheduling" (14 CFR

(c) Except as otherwise expressly approved by the Department, it is the policy of the Department to regard as an unfair or deceptive practice, and an unfair method of competition, the use by an air carrier, commuter air carrier, or foreign air carrier of multiple flight numbers for a single aircraft operating on any given day in a single citypair for interstate, overseas, or foreign air transportation.

American proposes that this rule take effect 90 days after its adoption in order to allow for an orderly transition.

## **Comments and Reply Comments**

Seven air carriers (Lufthansa German Airlines, British Airways PLC, Delta Air Line, Inc., Swissair [Swiss Air Transport

Company, Ltd.], Air France, Virgin Atlantic Airways, Ltd., and Sabena Belgian World Airlines), one group of fourteen airlines (the Orient Airlines Association), two other groups (the American Society of Travel Agents, Inc. [ASTA] and the Dallas/Fort Worth Parties), one individual (Donald L. Pevsner, Esq.), and one travel agency (Magic Carpet Travel Agency) filed comments in response to American's petition. Three carriers (American Trans Air, Inc., Air Canada, and American) filed reply comments. All of these pleadings may be reviewed in the docket. In reaching our decision to propose the rule discussed below, the Department has considered the information provided and arguments advanced by the commenters.

To summarize the pleadings, all commenters except Air Canada support a prohibition of funnel flights, although some suggest variations on American's proposed language that would more clearly permit code-sharing and blocked space arrangements or that would ban all change-of-gauge flights that are not required by bilateral agreements. Some suggest addressing funnel flights through the CRS rules rather than by amending our policy statement on unrealistic or deceptive scheduling. Several foreign carriers take the position that foreign carriers are particularly harmed by funnel flights and that this practice violates the spirit if not the letter of certain bilateral agreements. Mr. Pevsner also asks the Department to go so far as to ban all ticketing of two or more flight segments on a singlecoupon, whether in interstate or foreign air transportation.

## Funnel Flight Complaints Against Continental

On April 18, 1994, three foreign air carriers filed nearly identical complaints in which they ask the Department to order Continental Airlines, Inc. to cease and desist from operating funnel flights between the United States and Latin America. TACA International Airlines, S.A., Aviateca, S.A., and Nicaraguense de Aviacion, S.A. ("NICA") filed their complaints in Dockets 49511, 49512, and 49513, respectively. The three complainants argue that Continental's funnel flights deceive and confuse consumers and harm competition. Specifically, they maintain that the funnel flights keep consumers from buying the most convenient transportation and give them the mistaken impression that Continental offers far more flights to Latin America than it actually does. They also maintain that Continental's funnel flights harm competition not