

February 8, 1995

Federal Aviation Administration
Office of Aviation Policy, Plans, and Management Analysis
800 Independence Ave., SW
Washington, D.C. 20591

Dear Sir or Madam:

The Competitive Enterprise Institute would like to comment on the draft of the Child Restraint Study Report:

1) Safety of Air Travel vs. Ground Travel

A few panel participants claimed that auto safety was unrelated to the question of whether mandating child restraint systems (CRSs) on airplanes will improve safety. If the proposed change in the law is enacted, there may be marginal safety benefits for air travel. However, looking only at air safety is ignoring the major part of the story, ie. safety on the ground.

The FAA should acknowledge that a) the effects of mandating CRSs on airplanes does have a crucial effect on overall safety, due to passenger diversion to cars, and b) the FAA has a duty to examine the overall effects of such a change in the current law, and that this duty includes studying ground safety issues.

No one questions that the risks associated with air travel are much lower than the risks of travel by car. The FAA should continue to affirm the fact that although a change in the law might produce small benefits in air safety, the effect of higher risks on the road will be a net loss in overall safety.

2) Elasticity of Demand and Rates of Diversion

Judging from the elasticities presented in Exhibit 2-4 of the draft report, non-business travel, especially for lower income travelers, is very sensitive to price changes in airplane tickets.

The proposed change in the law does not *require* families to purchase an extra ticket for their children under age two. However, to ensure a seat for their child, especially on busy holiday flights, parents would be obliged to purchase an extra seat. Furthermore, as noted in Panel 4, air carriers do not usually have specially-priced tickets for children, and they have given no sign that

this would change.

For example, under the changed law, a couple who usually travel with their child as a "lap baby" would find themselves burdened with the cost of an extra round trip ticket to ensure the extra seat. They have many options: buy the extra ticket, stay at home, or drive to that destination or a different one. Because of the extra cost and the high elasticity of air travel, it is likely that many families would hit the road.

All of the families who are "diverted" from flying to driving will find themselves at a higher risk of injury or death. This is the conclusion that most of the studies included as part of the FAA review process reached, as well as the position of the FAA for the past several years. CEI trusts that the possibility of these extra deaths and injuries will receive the highest possible consideration.

CEI would also ask that the FAA carefully consider and publicize from the outset the risks that the proposed legislation entails. Rather than a "dollars vs. lives" framework, the FAA should engage in a "lives vs. lives" risk analysis.

The FAA's own studies show that of the 10 infant fatalities in air crashes in the past 15 years, the use of CRSs would have prevented at most two, and no one has given any evidence that the number could be higher. We suggest that the FAA contrast those air tragedies with the number of people who might die on the road as a result of the proposed law before proposing any changes in it.

3) Anti-Competitive Aspects

The Airline Transport Association, the Association of Flight Attendants, and several airline representatives have all voiced their support for mandating CRSs on airplanes. From Panel 5, as noted in the draft report:

Even though air carriers feel that children would be safer using a CRS, they cannot individually implement a new policy requiring the use of such devices without negatively affecting their market share. In addition, they cannot concurrently implement such a change without raising an anti-trust issue. The FAA needs to act for CRSs to be required in air transportation.

Airlines, however, are not as handicapped as they make themselves out to be. The auto industry, for example, spends a great deal of time extolling the extra safety features included on certain models. Volvo, for example, advertises safe designs and sturdy materials. Consumers who want more safety are willing to pay more for a Volvo.¹ Likewise, airline passengers who

¹ The risk involved in driving a car less safe than a Volvo is far greater than the risk of carrying a "lap baby" on an airplane, yet auto makers are not clamoring for a blanket law mandating that all cars be as safe as the Volvo. Consumers decide for themselves.

want more safety will pay more for an extra seat for their child. In fact, many already do.

Furthermore, in the recent press coverage over air safety in general, several airlines proudly noted that they often exceeded federal safety standards. Why individual airlines, as part of their "superior" safety standards, cannot require that children under age two also be restrained has not been satisfactorily answered.

CEI must point out that the airlines, claiming to be acting in the public interest, are collectively asking the government to impose a rule that would prevent them from competing with one another. They are asking for a federal regulation to force consumers to buy something which they do not want. In short, the arguments airlines have presented in favor of regulation sound suspiciously like classic oligopoly behavior, and suggest that their arguments should be carefully scrutinized.

4) Questions of Efficacy of CRS

The Civil Aeromedical Institute, in its September, 1994 report, noted that "the performance of certain types of child-safety restraint devices does not enhance the level of safety for child transport-airplane passenger seats." If CRSs are mandated on airlines, and are not effective, then one can only conclude that overall safety will drop even further. This is obviously not the intent of the law, but would certainly be its effect.

Clearly, more research has to be completed before effective restraints are developed. However, even when they are available, CEI nonetheless strongly hopes that their use will not be mandated, for the reasons noted above.

5) Consumer Choice

Parents who chose to fly with their children on their laps are making reasonable decisions based on the excellent safety of airlines. They are certainly in a better position than the FAA, Congress, or any other advocacy organization to decide what is best for them. Most of the discussion has centered on what could happen during turbulence or an air accident; little has been said about the fact that emergency situations on airplanes are extraordinary and that the risks of flying are extremely low. Parents who feel comfortable flying with their children on their laps are free to do so; otherwise they can simply buy an extra seat.

6) Enforcement

Assuming the proposed legislation were put into effect, how could this law be enforced? If the most dangerous parts of the flight are take-offs and landings, and flight attendants are required to be seated during those times, there is no way that anyone could prevent a mother from

unbuckling her crying baby, thereby negating the effect of the CRSs (see attached letter). Moreover, few other passengers would stop parents from attempting to quiet an upset baby; would the FAA?

CEI applauds the FAA's previous acknowledgement of the diversion effect, as well as its taking into consideration the various problems which would ensue in the event that CRSs are mandated on airplanes. We strongly hope that the FAA will continue to refrain from such "action" in a time when government agencies are constantly being asked to "do something." In this case, doing nothing is the right thing to do.

Respectfully,

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Competitive Enterprise Institute