STATEMENT OF BROCK ADAMS, SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON AVIATION, HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE, REGARDING H.R. 11145, MARCH 7, 1978.

Mr. Chairman and Members of the Subcommittee:

I appreciate this second opportunity to appear before this Subcommittee to discuss aviation regulatory reform. I am particularly pleased with this hearing because it gives me the opportunity personally to thank Chairman Anderson, Chairman Johnson, Congressmen Levitas and Mineta, and the other members of the Committee who worked so hard to produce H.R. 11145. The members of your staffs are also to be congratulated. I will provide some comments later concerning that bill, but let me say right from the beginning that H.R. 11145 is a fine bill to take to markup.

I have already testified why I strongly believe we need legislation to modernize the present system of economic regulation of the airlines. The airline industry is simply too heavily regulated and in the past that regulation has resulted in air fares that are too high, in an industry that does not have enough entry and competition, and with deteriorating service for many of our small communities. Our air regulatory system has to serve the

needs of the whole Nation, and it is not doing this when about 180 communities have lost certificated service in the last fifteen years.

There has been a lot of activity at the Civil Aeronautics Board recently in connection with proposals for lower fares. When we first started this campaign for regulatory reform we used to point to the experience of a few carriers in Texas and California who were able to offer lower air fares under a more flexible regulatory system.

Opponents of reform -- who were fairly strong in number at that time -- argued that those low fares in Texas and California could not be produced in other parts of the country, and that regulatory reform would not bring lower fares.

After a time, however, the gospel of low-fares seems to have spread and in a fairly short time we had "no-frills" fares and "peanuts fares. Now we have Freddy Laker and super-saver fares, and just about every airline is offering discounts from many of their regular coach fares in the neighborhood of 30-50 percent.

This is a welcome turn of events. These lower fares -- many of which are now offered by past opponents of regulatory reform -- prove that the benefits of regulatory reform are not just theory but real savings for the flying public.

I want to emphasize, however, that we still need legislative reform. Please remember that when we started this dialogue, airline discounts were extremely limited. Airlines advertised discount fares, but they often seemed to apply only in the early hours of the morning or late at night and the discounts were quite shallow. Instead of peanut fares we had peanut discounts. It was only after the threat of legislation became imminent that airlines began to experiment with significantly lower fares. And it was only because we had a new Chairman and Board at the CAB that some of the new discount fares were accepted by the Board. Take away the threat of legislation or change the Board and airline fares once again may soar out of the reach of the ordinary consumer.

Even if those events do not take place, I question whether the Board, within the constraints of the existing law, can process all the new applications within a reasonable time. The law is simply too complicated and the opponents of reform too resourceful to allow for an expeditious hearing of all the new applications. If there is one theme that I wish to convey today it is that we must find a way to allow more entry and pricing flexibility that by-passes the existing cumbersome Board procedures. Even with

the best of Boards, "expedited" procedures today take years to complete.

Let me now discuss H.R. 11145, the Air Service Improvement Act of 1978 that was just introduced by Chairmen Johnson and Anderson and Congressmen Levitas and Mineta.

It is a fine bill. I am particularly pleased that the bill incorporates some of the suggestions that I made at my last appearnce before this Subcommittee. The policy statement has now been clarified to remove any ambiguous language that might be interpreted to imply a less competitive approach to international aviation. The pricing flexibility section has been modified so that pricing flexibility is better coordinated with the entry provisions. The upward limit of the zone is now limited to 5 percent per year, applies only in non-monopoly markets, and takes effect only after the automatic entry provision is put into effect. For price decreases, there is ample downward flexibility, but the Board retains power to protect against predatory pricing. I am also pleased the bill retains a very strong dormant entry section, excellent procedural reforms, and a section that in essence shifts the burden of proof in entry cases by providing that entry is presumed in the public interest.

That the bill contains an automatic entry provision pleases me, but I must say that my preference is still for a provision that would leave less discretion to the Board. Under the provision in the bill, the Board is given full discretion to design any automatic entry provision although it may not require carriers to pass a public convenience and necessity test.

I believe that we should give more direction to the Board. No other aspect of the industry has been more closely monitored by the Board than its entry procedures. New carriers have found entry to be extremely prohibitive while existing carriers have usually been restrained from entering new markets. But entry is critical to the whole program of reform. Without new entry or the threat of entry we are not likely to see price competition or innovation for any length of time.

The provision in the bill gives the Board authority to design a provision and later to change it if it wishes to. In many ways the key problem with this approach is the uncertainty that it creates, and this uncertainty may make it difficult for the industry and for the financial community to do the necessary planning. We have gone through a long process of deliberations, and the time has come to put the uncertainty to an end.

Moving on to the other portions of the bill, the small community provisions will provide a new and better means of providing quality service to our small communities. The provision would provide a ten year guarantee of adequate service to all points now on the certificates of our CAB carriers and it would provide this service through our commuter carriers. I would recommend two changes to these provisions, nevertheless. These provisions leave the existing and inefficient subsidy system in place along side this new subsidy system. Although we should provide a period of transition, we do not need both systems permanently. We should phase out the existing system as was done in the Senate bill.

This bill would also allow new communities to be added to the list of communities now eligible for subsidy. I believe that we should put some dollar limit or cap on this part of the program that deals with new communities and provide for local participation in the program.

I support the provision expanding the commuter exemption to those airlines using planes with under 56 seats, but I recommend that the general exemption authority of the Board be expanded also.

This bill would continue and expand the loan guarantee program. This program has not been helpful in the past for our small communities and I have not been presented with any evidence that it could be made successful in the future. This program has helped our local air carriers buy larger planes, but those larger planes have made many of the local carriers anxious to leave the smaller communities. An expansion of the program also raises serious questions about the proper federal role in the investment decisions in the industry. Finally, I do not believe that the restrictions proposed for Section 801 cases are necessary in light of the existing Executive Order governing these cases.

I would suggest one additional provision not in the present bill. The Board has indicated that it is of a mind to liberalize the charter rules, and I believe it would be worthwhile to clarify the Board's authority in this area to forestall any possible legal challenges.

Mr. Chairman and members of the Subcommittee, I want to make sure that although I have certain suggestions for changing the bill that I leave you with the impression that I am quite happy with the bill. We are very close to enactment of legislation that will substantially reform the airline industry and this bill is very definitely a giant step in that direction.

I and a number of the top officials in my Department

have spent a lot of our time talking to a great number of people who work in the aviation industry or who would be affected by a change in the industry. I can tell you that the general expectation is that there will be a bill and it will be a meaningful bill. A great deal of the credit for this change in expectations must go to this Committee.

I stand ready to work with this Committee in any way I can to ensure that we enact this legislation this Spring. This completes my prepared remarks, and I would be most happy to answer any of your questions.