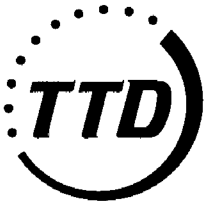

PROTECTING U.S. AVIATION JOBS IN INTERNATIONAL JOINT VENTURES

One of the hallmarks of sound U.S. transportation policy is conditioning regulatory approval of certain corporate transactions and arrangements on protecting the rights and jobs of affected workers. As a continuation of this policy, Congress must move to protect the jobs of aviation workers as U.S. carriers seek to utilize international joint venture arrangements to offshore U.S. aviation jobs in order to boost profit margins.

For nearly 20 years, the U.S. Department of Transportation (DOT) has been negotiating "open skies" air service agreements with other countries. In conjunction with this open skies policy, the DOT has also granted antitrust immunity to alliance agreements between U.S. air carriers and airlines that have their home in an open skies partner country. The current alliance landscape has carriers aligning in three large groupings: the oneworld alliance centered around American Airlines and British Airways with 15 carriers, the Sky Team alliance centered around Delta and Air France with 12 carriers, and the Star alliance of United, Continental and Lufthansa with 24 carriers.

The original purpose of the alliances was to allow carriers to offer their customers service to markets where they could not operate economically with their own aircraft. This was initially done through code sharing arrangements under which an airline would place its designator code on flights operated by its alliance partner for marketing purposes. Over the years the operations of the alliance carriers have grown much more integrated with respect to jointly offered international services. The grant of antitrust immunity for alliance activities has allowed the immunized carriers to conduct their route and schedule coordination, marketing, sales, pricing, product development, and other customer services as if they are a single carrier.

While these alliances have enabled U.S. carriers to compete and have allowed customers greater efficiencies and access in the international arena, one-sided arrangements can have a detrimental impact on the jobs of U.S. flight crews and ground workers. Several alliance partners have entered into or are seeking immunized revenue sharing arrangements as a means to provide "metal neutrality" in their operations. "Metal neutrality" is a scheme by which there is virtually no difference on the part of carriers' marketing staffs as to which one of the alliance partners actually operates the aircraft on routes covered by the revenue sharing agreement. This indifference is logical from the carriers' perspective: if all of the revenue generated by a particular set of routes goes into a common pool and is distributed according to a pre-existing formula, then the marketing staff has no economic incentive to sell flights on one alliance partner over another, and the airlines in the alliance gain major marketing efficiencies.

The concern for airline employees, however, is that this indifference over which airline flies a certain route also means indifference as to which carrier's employees do the flying and conduct ground operations on such route. This interchangeability could lead a carrier to decide that rather than use its own equipment and personnel to fly and service some or all of the routes

covered by a revenue sharing agreement, it will allow its alliance partners to do the flying and simply take a share of the revenue. This, in fact, is precisely what United Airlines intends to do in a joint venture revenue sharing agreement it has announced with Aer Lingus on flights between Washington, D.C. and Madrid, Spain. Aer Lingus will operate the flights with its own aircraft and using its own Irish operating certificate. United will provide marketing and will place its designator code on the Aer Lingus flights, but will not do any of the actual flying with its own aircraft or crews.

As a result, U.S. airline employees are faced with the stark prospect of seeing their employers essentially become ticket agents for their foreign partners who provide the most desirable flying in the industry – long haul, large aircraft, international routes. Maintenance and other ground workers would also see their work cut and outsourced as foreign carriers would turn to their own employees to perform these functions on their aircraft. This trend to cut labor costs by jettisoning significant portions of operations ultimately weakens our U.S. carriers, threatens our national economy, and should be of grave concern to U.S. policy makers.

Congress should ensure that there is a close correlation between the portion of revenue a U.S. airline receives from a revenue sharing arrangement that involves international air transport services and the amount of actual flying the airline contributes to that arrangement. While a one-to-one correlation would seem logical, we do recognize the realities of brand premiums and service contributions to the joint venture require that airlines be afforded a certain amount of flexibility in determining revenue shares.

Furthermore, Congress should require that revenue sharing arrangements between U.S. and foreign carriers be approved by DOT before they are implemented. As part of the review process, DOT should ensure that the amount of flying done by a U.S. airline participant in a revenue sharing arrangement bears at least a reasonable correlation to the portion of revenue the airline receives from the arrangement. Requiring U.S. carriers to "play to get paid" will help prevent wholesale outsourcing of jobs by U.S. carriers and ensure that U.S. workers receive a fair share of the jobs that support the revenue sharing partnership.

Congress should use every avenue, including the FAA reauthorization, to immediately require this important international joint venture approval process at the DOT. Such requirements will fulfill key public interest factors set forth in aviation statutes, including the effect of government action on "fair wages and working conditions." The airline workforce, like other sectors of the national economy, has seen massive furloughs over the last decade. If Congress doesn't intervene, it is inevitable that air carriers will misuse their international partnerships at the expense of more aviation jobs. It is in the nation's interest to prevent U.S. airlines from using labor cost advantages of foreign carriers to shift jobs overseas. Congress must act now.

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