



STOPPING FOREIGN CONTROL OF U.S. AIRLINES

In its rush to strike a new trade deal with the European Union (EU), the Administration is pushing a wildly unpopular and misguided regulatory change that would allow foreign interests, including foreign airlines, to exercise actual control of U.S. airlines. This initiative, unveiled as a Notice of Proposed Rulemaking (NPRM) last fall, has significant security implications, would weaken the aviation industry, threaten jobs, is contrary to the plain meaning of the statute, and was drafted without any congressional input.

This NPRM is clearly an attempt by the Administration to make significant changes to aviation policy through the regulatory process that it knew would be rejected by Congress if proposed as legislation. In fact, Congress refused to grant the Administration's formal request, last made in 2003, to relax foreign ownership rules. Congress not only rejected the Administration's legislative proposals – it went in the exact opposite direction by reaffirming in that year's FAA reauthorization bill that U.S. airlines must be under the "actual control" of U.S. citizens.

In its NPRM, DOT attempts to get around this clear statutory requirement by proposing that foreign interests can control "commercial" aspects of a carrier but somehow will have no say over the safety and security decisions of a U.S. airline. Besides the fact that this proposed remedy has no support in the statute, it is simply unworkable and does not address the security questions that arise when a foreign interest is so integrally involved in controlling the operations of a U.S. air carrier.

The fact is that safety and security issues cannot be parceled out and separated from the day-to-day commercial activities of an air carrier. More importantly, U.S. airlines, under the Civil Reserve Air Fleet (CRAF) program, provide our military with critical transport capabilities for troops and equipment in times of war and conflict. While the Administration would have us believe that a U.S. citizen would, under the proposed new rules, be responsible for deciding whether to participate in CRAF, we question what would happen if a foreign superior, who controls the commercial aspects of the carrier, does not want the carrier to aid the U.S. military.

Moreover, the DOT has offered no details on how it would ensure that U.S. citizens are indeed in control of security decisions. In a post 9/11 world, it is simply irresponsible to allow foreign interests to control key components of our transportation system, including our nation's airlines, in a manner that could jeopardize national security. At a minimum, this nation needs to understand who is in control of U.S. airlines and that security questions and issues are handled in a manner consistent with U.S. interests. We submit that the Administration's proposal fails this important test.

It is no secret that this proposal was offered in an attempt to secure a new air services agreement with the EU. While we support efforts to expand international opportunities that create jobs and truly benefit U.S. aviation interests, making fundamental changes to our foreign control rules would simply do more harm than good. In short, the Administration is on the verge of completing yet another bad trade deal at the expense of the aviation industry and its workers, and our national and economic security.

We know that this NPRM would directly threaten the jobs and rights of the hundreds of thousands of workers we represent as companies are given yet another tool to seek out and utilize the lowest cost labor available. Lucrative pilot positions could be lost to foreign airlines, flight attendants jobs outsourced, and carriers have already demonstrated an ability and keen interest in outsourcing as much maintenance work as possible overseas to foreign contractors. Our members have quite frankly suffered enough economic pain in recent years and the prospects of another “race to the bottom” in terms of wages and working conditions would be a disaster.

It must also be remembered that outsourcing schemes often have security implications that are not addressed. In fact, Congress directed the Transportation Security Administration, working with the Federal Aviation Administration (FAA), to issue security regulation for aircraft repair stations by August 2003. TSA and the FAA are now 19 months delinquent in meeting this mandate and have not yet conducted security audits of foreign stations that are also required by federal law. We find it ridiculous that the Administration is pushing a proposal that would only encourage additional outsourcing while failing to address the security vulnerabilities of repair stations that Congress identified over three years ago.

We are pleased that Republican and Democratic Members of Congress alike have come out in full force against this proposal and are actively working to stop the Administration’s unilateral move. Legislation in the House (H.R. 4542), introduced by Reps. James Oberstar and Frank LoBiondo, would prevent the Administration from finalizing this rule for at least a year and require proper Congressional oversight. Similar legislation (S. 2135) has been introduced in the Senate by the Commerce Committee Ranking Member, Senator Daniel Inouye, and several other Senators have likewise voiced their opposition to the NPRM.

In the House, H.R. 4542 now has 162 cosponsors, including a majority of the Aviation Subcommittee and a majority of the full Transportation and Infrastructure Committee. At a hearing convened by the Subcommittee on the NPRM, the bipartisan condemnation of the Administration’s proposal was overwhelming and not a single Member offered anything more than token defense of the Administration’s proposal.

Most recently, the full House Appropriations Committee went on record voicing its “serious concern” with this proposal and directing the DOT not to move forward for 120 days. While this is clearly a step in the right direction, it is unclear if the Administration will heed this call, therefore, advancing the Oberstar-LoBiondo bill remains critical. This legislation is exceedingly reasonable – it would simply bar the DOT from moving to a final rule on foreign control for one year and require the DOT to report to Congress on the consequences of allowing greater foreign control of U.S. airlines.

Transportation labor will continue to mobilize against this dangerous and unprecedented proposal. We will work to build support for the Oberstar/LoBiondo and Inouye bills and not allow the Administration to sell-off yet another vital American industry. The Administration has the burden to show the American people that this proposal, clearly made to satisfy the demands of foreign governments, will not jeopardize the economic and national security of our country. It is clear that they have failed this most basic test.

Congress must now move swiftly to stop this Administration from implementing a proposal that will further damage an already weakened aviation industry and threaten the jobs of thousands of U.S. aviation workers.

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