



A bold voice for transportation workers

February 9, 2014

Mr. Leo Varadkar, T.D.
Minister
Department for Transport, Tourism and Sport
44 Kildare Street
Dublin 2, Ireland

Re: Application of Norwegian Air International for an Air Operator Certificate

Dear Minister Varadkar:

The Transportation Trades Department AFL-CIO (TTD) understands that the Irish Aviation Authority (IAA) is considering issuing an Air Operator Certificate (AOC) and the Commission for Aviation Regulation (CAR) is considering issuing an Air Carrier Operating License (ACOL) to Norwegian Air International (NAI) in the near future. TTD is a national U.S. labor organization whose 32 member unions represent several million workers in the transportation sector, including the vast majority of employees in the aviation sector. We urge you to ask the IAA and the CAR to consider the views set out below before taking any action on NAI's applications. We also believe that consideration of those views should lead the CAR to deny NAI authority to operate commercial services to the United States.

We have heard that the IAA believes that it must grant NAI an AOC if the conditions set out in EU Regulation No. 1008/2008 on the operation of air services are met. That view, however, overlooks the fact that in addition to any compliance review of these regulations, Ireland, as a signatory to the EU-U.S. Air Transport Agreement (ATA), must ensure that its action with respect to NAI's application is consistent with the terms of that agreement.

The EU-U.S. ATA includes a provision that is unique in the universe of air transport agreements. That provision is Article 17 bis ("Social Dimension") which reads in pertinent part:

1. The opportunities created by the Agreement are not intended to undermine labour standards or the labour-related rights and principles contained in the Parties' respective laws.

Transportation Trades Department, AFL-CIO

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Edward Wytkind, President / Larry I. Willis, Secretary-Treasurer



2. The principles in paragraph 1 shall guide the Parties as they implement the Agreement.

(The full text of Article 17 bis is attached.)

The inclusion of Article 17 bis was heralded as an important step forward by both U.S. and European negotiators. On March 25, 2010 Siim Kallas, the European Commission Vice President Responsible for Transport released a statement proclaiming that “For the first time in aviation history, the agreement includes a dedicated article on the social dimension of EU-US aviation relations. This will not only ensure that the existing legal rights of airline employees are preserved, but that the implementation of the agreement contributes to high labour standards.” (The full statement is attached.)

Application of Article 17 bis should follow its intent, and lead Ireland to deny NAI authority to provide commercial air transportation services to the United States.

Prior to being superseded by the ATA, the Ireland-U.S. air services agreement required that, in order to provide air transportation services to the U.S., Irish carriers must be owned and controlled by Irish citizens or entities. After the ATA was applied, Irish carriers could be owned and controlled by citizens of any ATA signatory. In 2011 Norway became a signatory. Thus, when seeking Irish authority to fly to the U.S. as a Norwegian-controlled airline, NAI is using an “opportunity created by the agreement.”

NAI is also seeking to establish itself as an Irish carrier precisely to avoid application of Norway’s labor laws to the pilots and flight attendants who operate its aircraft. See attached news articles. If it is successful in obtaining Irish operating authority it would thereby “undermine labor standards or the labor-related rights and principles contained in the Parties’ respective laws.”

Clearly, NAI is employing a strategy to evade its collective bargaining obligations. As you are aware, NAI is basing its crews in Thailand and employing them on individual contracts governed by the laws of Singapore. As a major Norwegian airline, we wonder why NAI is not using Norwegian airline employees and why it is refusing to staff its expansion with employees with whom it has long-standing collective bargaining relationships under Norway’s labor laws.

When it decides whether or not to grant NAI license authority to serve the U.S., Ireland is “implement[ing] the Agreement” and must keep in mind the principles in paragraph 1 of Article 17 bis. We believe that those principles clearly dictate that NAI’s request for authority to serve the U.S. should be denied.

We urge you, the IAA, and the CAR, to carefully consider the implications of NAI’s application. The negotiators of the ATA recognized that the fact that each European signatory to the ATA has its own national labor law might entice airlines to “shop around for a better deal.” In order to prohibit airlines from doing that, they added Article 17 bis to the Agreement. It is important that the provision be applied in a manner consistent with the principles set out in that Article.

I appreciate your consideration of our views. If there is additional information that you would like us to submit or if you would like to discuss this issue further, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Wytkind', with a large, stylized flourish at the end.

Edward Wytkind
President

cc: Ms. Anne Nolan