

BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of)	
)	
DREAMJET SAS)	
)	
)	Docket No. OST-2014-0063
)	
for an exemption pursuant to 49 U.S.C. § 40109)	
and a foreign air carrier permit pursuant to)	
49 U.S.C. § 41301 (US-EU Open Skies))	
)	

REPLY OF AIR LINE PILOTS ASSOCIATION (ALPA),
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO (TTD)
AND EUROPEAN COCKPIT ASSOCIATION (ECA) TO
ANSWER OF NORWEGIAN AIR INTERNATIONAL LIMITED

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May 9, 2014

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ALPA, TTD and ECA (“Joint Parties”) hereby reply to the Answer of Norwegian Air International (“NAI”) in support of the application of Dreamjet SAS (“Dreamjet”).

NAI first states that it “fully supports the prompt grant” of Dreamjet’s applications for an air carrier permit and exemption in accordance with the provisions of the U.S.-European Union Air Transport Agreement (“ATA”) and the Application Procedures for Foreign Air Carriers of the European Union. NAI then argues that it, too, is entitled to a prompt grant of its own permit request that is subject to consideration in Docket No. 2013-0204. While the Joint Parties do not oppose the prompt grant of Dreamjet’s requested authority, we believe that NAI’s application raises materially different and more complex issues than those posed in this proceeding and thus warrants a more comprehensive review by DOT.

DISCUSSION

NAI asserts that applications “similar” to its own have been granted in an average of one month after the answer period expires and that five months have elapsed since its application has

been filed. NAI then argues that since the adoption of the ATA, that it “is the *only* EU carrier to be subjected to such unprecedented scrutiny and delay” and that “no basis exists for the Department to subject *any* EU carrier that complies with the requirements under the [ATA] and the Department’s streamlined procedures to the types of unprecedented delays” that NAI has experienced.

The short answer to NAI’s assertions is that the reason its application has been subjected to “unprecedented scrutiny and delay” is that the issues presented by that application are unprecedented and that, because of the nature of these issues, a number of airlines and employee organizations on both sides of the Atlantic have opposed that application.

In particular, a substantial record has been developed in connection with NAI’s application that demonstrates that approval of that application would be inconsistent with the ATA and the public interest. That record shows that NAI’s parent company, Norwegian Air Shuttle (“NAS”), did not wish to have Norwegian employment laws apply to its long-haul operations and, accordingly, sought to establish a subsidiary (i.e., NAI) outside of Norway to conduct those operations. Ultimately, it decided to establish the subsidiary in Ireland, which has granted NAI an Air Operator Certificate. The record also shows that this establishment of NAI in Ireland appears to allow NAI to use pilots who are contracted from an Asian hiring company that employs them on short-term individual contracts on terms and conditions substantially inferior to those of the pilots employed by NAS. The opponents to NAI’s application argue that this use of an opportunity created by the ATA in a manner that undermines the labor standards and principles contained in the laws of Norway -- and potentially those of the U.S. -- means that grant of NAI’s application would be inconsistent with the ATA and the public interest as expressed in the U.S. aviation statutes.

In short, NAI's application is a far cry from that presented to the Department by Dreamjet and by the many other unopposed applications that have been presented to the Department by European carriers following implementation of the ATA.¹ It is appropriate that DOT carefully consider the record that has been developed in connection with NAI's application and it may be appropriate for the Department to further develop that record by seeking additional information on why NAI was established outside of Norway and which laws apply to the various aspects of the employment of the flight crew who work on NAI's aircraft.

CONCLUSION

For the foregoing reasons, the Department should decide the application of Dreamjet in this docket on a time table appropriate for consideration of its merits and the application of NAI in Docket No. 2013-0204 on a time table appropriate for consideration of its own separate merits.

Respectfully submitted,

[signatures on following page]

¹ See Consolidated Reply of NAI at 6 n.15 (Docket No. 2013-0204, entered Jan. 2, 2014) and Joint Reply of ALPA, TTD and ECA to Reply of NAI at 10-11 (Docket No. 2013-0204, entered Jan. 8, 2014).



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May 9, 2014

CERTIFICATE OF SERVICE

The undersigned certifies that on May 9, 2014, a true and correct copy of the foregoing Reply of Air Line Pilots Association (ALPA), Transportation Trades Department, AFL-CIO (TTD) and European Cockpit Association (ECA) to Answer of Norwegian Air International Limited was served by electronic mail on the individuals identified below:

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