

BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
WASHINGTON, DC

<hr/>	)	
Application of	)	
	)	Docket No. OST-2015-0261
NORWEGIAN AIR UK LIMITED	)	
	)	
for an exemption under 49 U.S.C. § 40109	)	
and a foreign air carrier permit pursuant to	)	
49 U.S.C. § 41301	)	
<hr/>	)	

ANSWER OF LABOR PARTIES TO  
NORWEGIAN AIR UK LIMITED'S APPLICATION FOR AN EXEMPTION

Edward Wytkind, President  
Transportation Trades Department,  
AFL-CIO  
815 – 16th Street NW  
Washington, DC 20006  
Phone: 202-628-9262  
Email: edw@ttd.org

Russell Bailey  
David Semanchik  
Air Line Pilots Association  
1625 Massachusetts Avenue NW  
Washington, DC 20036  
Phone: 202-797-4086  
Email: Russell.Bailey@alpa.org  
David.Semanchik@alpa.org

Alex Garcia, Secretary-Treasurer and Air  
Transport Division Director  
Transport Workers Union of America  
AFL-CIO  
501 3rd St. NW - 9th Floor  
Washington, DC 20001  
Phone: 202-719-3870  
Email: agarcia@twu.org

Sara Nelson, President  
Association of Flight Attendants-CWA  
501 3rd Street NW  
Washington, DC 20001  
Phone: 202-434-0574  
Email: snelson@afacwa.org

**Sito Pantoja, General Vice President  
International Association of Machinists  
and Aerospace Workers  
9000 Machinists Place  
Upper Marlboro, MD 20772  
Phone: 301-967-4596  
Email: [spantoja@iamaw.org](mailto:spantoja@iamaw.org)**

**Philip von Schöppenthau,  
Secretary General  
European Cockpit Association  
Rue du Commerce 20-22  
B-1000 Brussels, Belgium  
Phone: 32-2-705-3293  
Email: [pvs@eurocockpit.be](mailto:pvs@eurocockpit.be)**

**Dated: January 5, 2017**

**BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
WASHINGTON, DC**

Application of	)	
	)	
	)	Docket No. OST-2015-0261
NORWEGIAN AIR UK LIMITED	)	
	)	
for an exemption under 49 U.S.C. § 40109	)	
and a foreign air carrier permit pursuant to	)	
49 U.S.C. § 41301	)	

**ANSWER OF LABOR PARTIES TO  
NORWEGIAN AIR UK LIMITED'S APPLICATION FOR AN EXEMPTION**

The undersigned labor organizations ("the Labor Parties") oppose the contingent application of Norwegian Air UK Limited ("NAUK") for exemption authority. Any exemption from the requirement that a foreign air carrier hold a foreign air carrier permit must be consistent with the public interest. Six months ago, DOT denied a previous request for an exemption by NAUK, finding that a grant of the carrier's application would not be consistent with the public interest. Order 2016-6-22 at 2. For the reasons set out below, the Department should deny NAUK's current request as well.

**DISCUSSION**

NAUK's contingent application is premised on the notion that the Department's final order granting a foreign air carrier permit to NAUK's sister carrier Norwegian Air

International (“NAI”) “fully and finally resolved” the issues posed by NAUK’s application. NAUK Motion at 5. That is not the case.

In the NAI case, DOT found that it did not have to undertake an assessment of whether grant of NAI’s application was consistent with the public interest factors set forth in 49 U.S.C. § 40101. The criterion to be met for an exemption, however, is “that the exemption is consistent with the public interest.” 49 U.S.C. § 40109(c). Among the factors that Congress has directed the Department to apply in assessing the public interest are the encouragement of “fair wages and working conditions” and “strengthening the competitive position of air carriers to at least ensure equality with foreign air carriers.” 49 U.S.C. §§ 40101(a)(5) and (15).

DOT must review NAUK’s exemption application for consistency with these public interest factors. In addition, the Department should assess whether a grant of an exemption would be consistent with the intent of the parties to the U.S.-EU Air Transport Agreement, as expressed in the agreement’s preamble and in Article 17 *bis*. As previous filings by the Labor Parties have pointed out, the application contains no information as to the employment arrangements that will apply to the pilots and flight attendants who will staff the aircraft that NAUK intends to use to serve the U.S. This means that several critical questions remain unanswered: will NAUK employ pilots and flight attendants directly?; will it contract them from a UK hiring agency?; will it contract them from non-EU hiring companies that employ the pilots and flight

attendants on extra-European contracts, as it is currently done by NAUK's parent company, Norwegian Air Shuttle?; what country's law will apply to the crew contracts? The fact that these questions have not been answered provides a firm basis for the issuance of the information and document requests we have asked the Department to direct to NAUK. Docket Nos. OST-2015-0261-0002 and 0008. NAUK should respond to those requests before DOT decides whether to issue the carrier any operating authority.

The Department rejected NAUK's exemption request once because the public interest did not justify it. Nothing has changed about the particulars of NAUK's application to justify a change of the Department's position.

### **CONCLUSION**

NAUK's application raises serious questions about whether its business plan is consistent with the public interest and the U.S.-EU Air Transport Agreement. In order to clarify NAUK's staffing plans for its services to the U.S., DOT should seek the additional information specified in the Labor Parties' December 2015 and January 2016 filings, and interested persons should be given a reasonable opportunity to respond to that information before the Department acts on NAUK's application. The Department should not issue the exemption authority NAUK has requested until those steps have been completed.

Respectfully submitted,

/s/ Edward Wytkind

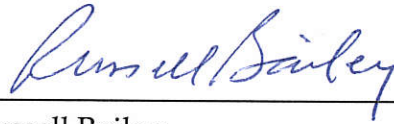
Edward Wytkind, President  
Transportation Trades Department,  
AFL-CIO  
815 – 16th Street NW  
Washington, DC 20006  
Phone: 202-628-9262  
Email: edw@ttd.org

/s/ Philip Von Schöppenthau

Philip Von Schöppenthau,  
Secretary General  
European Cockpit Association  
Rue du Commerce 20-22  
B-1000 Brussels  
Belgium  
Phone: 32-2-705-3293  
Email: pvs@eurocockpit.be

/s/ Sito Pantoja

Sito Pantoja, General Vice President  
International Association of Machinists  
and Aerospace Workers  
9000 Machinists Place  
Upper Marlboro, MD 20772  
Phone: 301-967-4596  
spantoja@iamaw.org



Russell Bailey  
David Semanchik  
Air Line Pilots Association  
1625 Massachusetts Avenue NW  
Washington, DC 20036  
Phone: 202-797-4086  
Email: Russell.Bailey@alpa.org  
David.Semanchik@alpa.org

/s/ Sara Nelson

Sara Nelson, President  
Association of Flight Attendants-CWA  
501 3rd Street NW, 10th Floor  
Washington, DC 20001  
Phone: 202-434-0574  
Email: snelson@afacwa.org

/s/ Alex Garcia

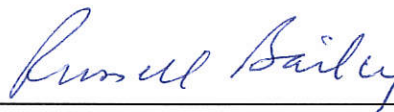
Alex Garcia, Secretary-Treasurer and  
Air Transport Division Director  
Transport Workers Union of America  
AFL-CIO  
501 3rd St. NW - 9th Floor  
Washington, DC 20001  
Phone: 202.719.3870  
Email: agarcia@twu.org

Dated: January 5, 2017

### CERTIFICATE OF SERVICE

I certify that on this 5th day of January, 2017, I have caused to be served the foregoing Answer of Labor Parties to Norwegian Air UK Limited's Application for an Exemption by electronic mail to the addresses identified below:

romanow@pillsburylaw.com  
steve.morrissey@united.com  
dan.weiss@united.com  
chris.walker@delta.com  
robert.wirick@aa.com  
howard.kass@aa.com  
rpommer@atlasair.com  
anita.mosner@hklaw.com  
jennifer.nowak@hklaw.com  
nssparks@fedex.com  
cefelts@fedex.com  
john.allen@faa.gov  
englets@state.gov  
brownpa@state.gov  
gareth.alston@fco.gov.uk  
david.batchelor@sesarju.eu  
mark.bosly@dft.gsi.gov.uk  
henrik.hololei@ec.europa.eu  
deniz.aktug@ec.europa.eu  
vegard.einan@parat.com  
efisaacson@jamhoff.com  
dberg@airlines.org  
oherrnstadt@iamaw.org  
sschembs@afanet.org  
bdanaher@twu.org



---

Russell Bailey