

United States Senate

WASHINGTON, DC 20510

March 12, 2014

The Honorable Anthony Foxx
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue S.E.
Washington, DC 20590

Dear Secretary Foxx:

We write regarding Norwegian Air International Limited's (NAI) pending applications for an exemption and foreign air carrier permit. As you evaluate these applications, we strongly urge you to ensure they comply with the U.S-EU Open Skies Agreement and are in the public interest.

The Department of Transportation (DOT) has a strong record of negotiating air transport agreements that have increased international competition and expanded aviation market access. The U.S.-EU Open Skies Agreement, in particular, is a landmark agreement that has resulted in substantial benefits. Market liberalization has created both greater service options for consumers and increased fare competition. It has also increased access to foreign markets, expanded growth opportunities for U.S. carriers and U.S. jobs, and boosted tourism and business travel to the United States.

The benefits to U.S. competitiveness and job growth have resulted in part because negotiators on both sides of the U.S.-EU Open Skies Agreement took steps to make certain our labor forces continue to enjoy strong employment protections. Specifically, a new provision – Article 17 *bis* – was included in the agreement that recognizes the importance of high labor standards. Article 17 *bis* states, “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.”

This is consistent with U.S. law that requires the DOT to apply, among other factors, a public interest standard to make sure that U.S. air carriers are on at least an equal footing with foreign carriers when reviewing and approving applications from foreign air carriers to provide new air service. We recognize that this arrangement would add trans-Atlantic flight options for consumers. We support competition, but urge you to ensure that this agreement will not come at the expense of U.S. industry.

Given these provisions, we want to ensure that NAI's pending applications are consistent with the U.S.-EU Open Skies Agreements. NAI, a subsidiary of Norwegian Air Shuttle, is seeking to take advantage of the new opportunities provided under this agreement and establish new service between the United States and the European Union (EU). NAI's parent company is based in Norway, and NAI is owned and controlled by Norwegian citizens. However, NAI will operate as an Irish air carrier, even though it

does not plan to operate any flights in Ireland at this time. Furthermore, it is our understanding that NAI plans to hire at least some of its workforce through a recruitment firm based in Singapore, which is not a party to the U.S.-EU Open Skies agreement.

NAI's structure raises several questions about what employment protections will apply to NAI's workforce and whether this arrangement was created to allow the airline to avoid Norwegian or other EU member labor and employment laws. These questions are precisely the type that Article 17 *bis* was intended to address. As the DOT reviews NAI's application for an exemption and air carrier permit, we strongly urge you to examine this arrangement to ensure its full compliance with the U.S.-E.U. Open Skies Agreement labor provisions and consistency with U.S. law.

We support competition and increased consumer choice, but not by unfairly disadvantaging U.S. airlines or threatening U.S. jobs. We need to make certain that the high labor standards envisioned by the agreement are upheld through its implementation to ensure a fair and equal opportunity of U.S. and EU airlines to compete in the trans-Atlantic market. Again, as DOT considers NAI's applications, we request that you ensure that they are in full compliance with the U.S.-E.U. Open Skies Agreement and in the public interest. Thank you for your consideration of these important issues.

Sincerely,

Brian Schatz

Ray Hunt

Jay Ruppelle

Edward J. Markey

Jerry Moran

Wm F. B. A

Mark R. Warner

Kirsten Gillibrand

Patty Murray

Paul Linn

Mark Begich

Barbara Boxer

Tom Udall

Debbie Stabenow

Amy Klobuchar

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