



February 7, 2017

The Honorable Elaine Chao
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary of Transportation Chao,

As the CEOs of four leading U.S. cargo and passenger airlines, we offer our congratulations on your confirmation as Secretary of Transportation. We look forward to working closely with you on a wide range of issues that affect the aviation sector, as well as the hundreds of thousands of American workers that our companies employ.

Today, we write collectively as members of U.S. Airlines for Open Skies (USAOS) to highlight our strong support for maintaining the global framework of U.S. Open Skies aviation agreements. That framework supports U.S. jobs, reduces costs for airline passengers, facilitates U.S. exports, strengthens our national security, and promotes competition in the airline industry.

During the last three decades, under the leadership of both Republican and Democratic Administrations, the United States has negotiated Open Skies agreements with more than 100 countries around the world. These agreements eliminate government interference in commercial decisions about the routes, frequency, pricing, and capacity of airline service, both passenger and cargo. They also assure the ability of all U.S. airlines to create comprehensive international networks. Open Skies thus allows airlines to deliver more efficient and cost-effective service to American consumers, businesses, and the U.S. government, including the military.

Regrettably, three large legacy U.S. airlines (“legacy carriers”) – Delta, United, and American – are making demands that would jeopardize Open Skies and reduce competition in an already overly concentrated U.S. airline market. Specifically, they are asking the U.S. government to freeze access to U.S. routes for airlines from two U.S. Open Skies partners – the United Arab Emirates (Emirates and Etihad) and Qatar (Qatar Airways). The legacy carriers claim such action is a justified response to alleged subsidies the foreign carriers have received from their home governments. They assert these alleged subsidies breach our Open Skies agreements, but when asked directly by the U.S. government to cite a specific violation, the legacy carriers failed to do so. It is also telling that they have not pursued the established dispute settlement procedures under the Open Skies agreements and those administered by the DOT.¹

¹ 49 U.S.C. 41310, the International Air Transportation Fair Competitive Practices Act (IATFPCA) of 1974, as amended

By contrast, freezing U.S. routes *would* indisputably breach Open Skies, harm U.S. airline passengers, and endanger U.S. jobs. It would reduce competition not only on international routes where the legacy carriers and their joint venture partners already predominate but also in the domestic market by stemming the flow of passengers into the United States that has enabled smaller U.S. airlines to expand service and compete with the legacy carriers. It would also endanger the global networks of U.S. cargo airlines that deliver high-value U.S. exports and vital supplies for the U.S. military around the world.

In addition, claims by the legacy carriers that they have been injured by the Gulf carriers are unsupported by the facts. Contrary to their claims of job loss, the legacy carriers have hired more than 12,000 new employees during the last four years. Meanwhile, their operating profits have reached record levels, nearly tripling on average since 2007.

We formed USAOS, comprised of Atlas Air Worldwide, FedEx, Hawaiian Airlines, and JetBlue Airways, to make it clear that the legacy carriers do not speak for all, or even most, U.S. airlines. Our companies, as well as other U.S. airlines not aligned with the legacy carriers, collectively employ more than 942,000 workers, almost three-and-a-half times the number of workers employed by the legacy carriers (275,000). Our coalition opposes the demands of the legacy carriers, and we are pleased to be joined by organizations representing the U.S. travel, tourism, and hospitality industries, as well as local communities across the United States, including economic development agencies and airport authorities.

Madame Secretary, we urge you to reject the demands of the legacy carriers and protect the invaluable Open Skies network for the reasons described in the attached annex. We look forward to working with you to uphold and expand the vast benefits of the Open Skies regime that has served our economy so well.

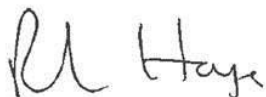
Sincerely,



William J. Flynn
President and CEO
Atlas Air Worldwide



David Bronczek
President and Chief Operating Officer
FedEx Corporation



Robin Hayes
President and CEO
JetBlue Airways



Mark B. Dunkerley
President and CEO
Hawaiian Airlines Inc.

USAOS Supports Open Skies and Opposes Demands of Legacy Carriers

1) Open Skies promotes U.S. jobs, competition, made-in-America exports, growth, and national security

- Open Skies agreements create competition by allowing air carriers, not governments, to decide the routes, capacity, frequency, and pricing of their services, based on market demand. This competition benefits all sectors of the U.S. economy, facilitating the movement of people and goods around the world, fueling growth and creating jobs. As with many other American businesses, the airlines in our coalition depend on Open Skies every day to compete successfully and grow in domestic and global marketplaces.
- Open Skies agreements are an essential part of a rules-based economy. Without these agreements, market access for our airlines and our customers would depend entirely on the discretion of foreign governments, and the shifting political winds that can influence their decisions.
- Open Skies enables U.S. companies large and small to reach export markets and maintain global supply chains through worldwide delivery networks established by U.S. air cargo carriers. Over 300,000 U.S. businesses, 98 percent of which are small and medium-sized businesses, depend on these supply chains to sell and compete in the global market place.
- Open Skies benefits U.S. consumers by reducing the cost of and increasing access to international air travel. According to a study by the Brookings Institution, existing Open Skies agreements generate approximately \$4 billion in annual savings for passengers on U.S.-international routes.
- Open Skies expands international air service to more U.S. cities, making them more attractive locations for businesses to establish and expand. Before Open Skies, cities such as Detroit, Las Vegas, Memphis, Minneapolis, Portland and Salt Lake had limited or no direct access to international destinations. After the United States built its robust network of Open Skies agreements, service expanded dramatically.
- Open Skies increases demand for international air travel, which in turn promotes jobs and economic growth. A study by InterVISTAS concludes that air service liberalization leads to a 16 percent increase in air traffic, which in turn supports approximately 9 million additional jobs in aviation and aviation-related industries.
- Open Skies increases the number of foreign tourists who visit the United States. In 2014, the Gulf carriers alone brought 140,000 international visitors to the United States, who spent nearly \$1 billion and generated over \$2 billion in economic output. This spending benefits a wide array of travel-related businesses such as hotels, rental car companies, restaurants and retailers. In fact, because tourism spending has such far-reaching effects, adding a single daily wide-body flight carrying predominantly foreign-originating tourists can result in \$65 million in direct spending, \$117 million in U.S. GDP growth, and more than 1,150 U.S. jobs.

- Open Skies benefits U.S. consumers by increasing competition on domestic routes. Gulf carriers and other foreign airlines not aligned with the legacy carriers bring thousands of passengers to the United States, creating demand for connecting flights for smaller U.S. airlines, such as JetBlue Airways and Hawaiian Airlines. These additional passengers allow smaller passenger airlines to expand their domestic services, creating more competition, which promotes innovation in the aviation sector and more choices and lower prices for consumers.
 - Open Skies allows U.S. airlines to maintain global delivery networks through which they transport troops and vital supplies for the U.S. military. U.S. carriers rely on Open Skies to overfly partner countries; stop for refueling and repair in partner countries; and transport supplies and troops between the United States and partner countries, and between those countries and destinations beyond. Since 1991, commercial carriers operating under the Civil Reserve Air Fleet (CRAF) have transported almost 40 percent of the equipment, supplies and food to support operations in Iraq, Afghanistan, and the Persian Gulf, and more than 90 percent of U.S. forces to and from Iraq.
- 2) The legacy carriers' subsidy allegations, even if assumed to be true, do not establish a breach of Open Skies**
- The legacy carriers have effectively acknowledged there is no breach of Open Skies. As part of its investigation of these claims, the U.S. government asked the legacy carriers to identify the specific provisions of the UAE and Qatar agreements that these parties have breached. The legacy carriers dodged the question and failed to identify a single operative provision of either agreement.
 - The legacy carriers completely ignore the one specific provision of these agreements that relates to subsidies. This provision allows a party to request consultations if the prices charged by an airline of the other party are “artificially low due to direct or indirect governmental subsidy or support.” The legacy carriers do not claim that Gulf carrier fares are below their own, much less that they are “artificially low.”
 - Instead, the legacy carriers rely on the general obligation to accord airlines of the other party a “fair and equal opportunity ... to compete.” This obligation requires each party to refrain from imposing any of a series of restrictions (e.g., on volume, frequency, and aircraft type) on the *airlines of the other party*. The legacy carriers offer no support for their argument that the obligation applies to subsidies or other government measures that a party takes in respect of *its own airlines*.
 - The legacy carriers attempt to support their claims by selectively invoking inapplicable WTO rules. They incorporate rules and definitions from the WTO agreement on subsidies, which applies only to goods, not services. They ignore the WTO agreement on services, which does not discipline subsidies and specifically carves out airline services from the scope of the agreement. The trade rules are inapplicable because the United States – with the support of

the legacy carriers – and many other governments decided that Open Skies, not trade agreements, should regulate international airlines services.

- If the legacy carriers were more confident about their claims, they would have utilized the complaint procedure established by the International Air Transportation Fair Competitive Practices Act (IATFCPA). This procedure allows U.S. airlines to file complaints regarding unfair practices by foreign governments and airlines, which the Department of Transportation then investigates. The legacy carriers likely were hoping that their demands would be decided in a political context rather than a thorough, evidence-based proceeding.

3) The demands of the legacy carriers, if pursued, would endanger Open Skies

- Open Skies works because countries abide by their commitments and refrain from restricting airline traffic. The legacy carriers are asking the United States to renege on this commitment and take unilateral actions that would breach Open Skies.
- The legacy carriers are asking the United States to violate its commitments by freezing the Gulf carriers' access to the U.S. market. Open Skies agreements explicitly prohibit either party from acting unilaterally to limit access by airlines of the other party. While the legacy carriers occasionally disavow this demand, it appears repeatedly in their public statements and written submissions. Such a freeze not only invites retaliation from the UAE and Qatar but also raises questions in the minds of all U.S. partners about its overall commitment to Open Skies.
- The legacy carriers' demands would invite other countries to make similar claims against the United States. Many governments support their domestic airlines, including the United States, whose airlines have received tens of billions of dollars through programs such as the Fly America Act, the Air Transportation Safety and Stabilization Act, federal and state tax credits, and debtor-friendly bankruptcy laws. If the U.S. government were to pursue the claims of the legacy carriers, foreign governments seeking to protect their airlines from U.S. competition could target these programs.