

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
ROOM 2163 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515**

June 13, 2006

KEEP U.S. AIRLINES UNDER U.S. CONTROL:

VOTE "YES" ON

**THE OBERSTAR-LOBIONDO-POE AMENDMENT
TO STOP A DEPARTMENT OF TRANSPORTATION RULE THAT WOULD ALLOW
FOREIGN INTERESTS TO CONTROL U.S. AIRLINES**

Dear Colleague:

As the House considers H.R. 5576 - the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act for Fiscal Year 2007, we urge you to support our amendment that would prevent the Department of Transportation (DOT) from finalizing or implementing a Notice of Proposed Rulemaking (NPRM) that would allow foreign interests to control United States airlines.

DOT has no legal authority to change 65 years of law and policy that requires U.S. citizens to control U.S. airlines. The governing law requires that U.S. citizens have "actual control" over a U.S. airline. In the NPRM, DOT attempts to "interpret" this requirement to require that U.S. citizens *only* control decisions affecting the Civil Reserve Air Fleet, security, and safety. DOT's proposed rule would allow foreign interests to control all commercial aspects of a U.S. airline's operations, including fleet mix, routes, frequency, classes of service and pricing. How can it possibly be claimed that it is a reasonable interpretation of "actual control" to not require control over commercial decisions that are at the heart of an airline's operations? The courts have made it clear that although an Executive Branch agency has the discretion to interpret a statute, an agency does not have the discretion to make interpretations that conflict with the "plain meaning" of the statute.

DOT's NPRM is not an interpretation of the law; it is an amendment of the law, which only we in the Congress have authority to do. It is noteworthy that, a few years ago, DOT proposed that Congress amend the law to allow greater foreign control of U.S. airlines through stock ownership. Congress declined, and now DOT is attempting to produce the same result by "interpretation."

If DOT's proposed policy change is allowed to be implemented, there could be serious consequences for our national aviation system. Foreign interests could restructure the route system and fleet of a U.S. airline so that the U.S. airline would become, in effect, a "feeder" for the international operations of a foreign carrier. Such a restructuring could hurt small community air service. A foreign investor could also decide to take an airline out of the Civil Reserve Air Fleet

program, or it could accomplish this indirectly by changing the fleet mix of a U.S. airlines to reduce the number of large, wide-body civilian aircraft that the Department of Defense needs during a time of war.

In addition, U.S. airline employees could lose high-quality job opportunities, in favor of employees of the foreign carrier. There could be similar effects on other aviation industry employees. Foreign investors would be inclined to support the purchase of aircraft produced by foreign companies, and to have the airline use foreign repair stations.


The DOT's proposed policy would make fundamental changes to our nation's aviation system, is contrary to recent Congressional mandates in this area, and should not be unilaterally imposed by the Executive Branch. Rather, such a major change should only be accomplished after thorough debate by the appropriate Congressional committees that are vested with the jurisdiction in such international aviation matters.


Accordingly, our amendment would prohibit the DOT from finalizing or implementing the policy proposed in the NPRM during the next fiscal year. This will give the DOT an opportunity to propose, and Congress to consider, whether there should be changes in the law governing foreign control. Any changes in the law must come from Congress – not by administrative fiat.

We urge you to help us keep U.S. airlines under U.S. control by voting “yes” on our amendment to H.R. 5576. Allowing the daily operations of our airlines to be controlled by foreign interests could result in the loss of U.S. jobs and undermine our homeland security and national defense during a time of war.

Sincerely,


James L. Oberstar
Ranking Democratic Member


Frank A. LoBiondo
Member of Congress


Ted Poe
Member of Congress