



U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

Don Young
Chairman

James L. Oberstar
Ranking Democratic Member

June 22, 2006

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Elizabeth Megginson, Chief Counsel

David Heymsfeld, Democratic Chief of Staff

The Honorable Norman Y. Mineta
Secretary of Transportation
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, DC 20590

Dear Secretary Mineta:

Congress has recently taken two actions indicating our strong disapproval of the Department of Transportation's (DOT) proposed rulemaking to allow foreign investors to control United States airlines. We urge you to respect these Congressional actions by ending the rulemaking. If you still believe that it would be in the public interest to allow foreign control of U.S. airlines, the Administration should submit a legislative proposal for Congress to consider.

First, the Conference Report on H.R. 4939, *Making Emergency Supplemental Appropriations for the Fiscal Year Ending September 30, 2006*, includes "language preventing the Secretary from issuing a final rule regarding foreign control of U.S. airlines for 120 days." Second, during consideration of 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* (TTHUD appropriations), the House adopted, by an overwhelming vote of 291 to 137, our amendment prohibiting the Department from finalizing or implementing the policy proposed in the rulemaking during the next fiscal year.

With these two decisive actions, Congress has taken a strong position that a major change to the current law regarding foreign ownership of U.S. airlines should be accomplished only by Congressional action, not unilaterally imposed by the Executive Branch.

As was made clear in the debate in the House, we and many of our colleagues believe that DOT has no legal authority to "interpret" the statutory requirement that U.S. citizens must have "actual control" of a foreign airline, to mean that U.S. citizens only need to control safety, security and the Civil Reserve Air Fleet program, and that foreign citizens may control all of an airline's commercial decisions, such as the cities served, the fares charged, and the aircraft purchased. The

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June 22, 2006
Page 2

courts have ruled that an Executive Branch agency does not have authority to interpret a law in a manner inconsistent with the plain meaning of the words of the law. We can see no basis for an argument that DOT's proposed interpretation of "actual control" is consistent with the plain meaning of these words. We are confident that if the proposed interpretation goes forward it will be challenged in court, and the court will overturn the interpretation.

We would therefore urge the Department to respect the Congressional actions and end the rulemaking proceeding.

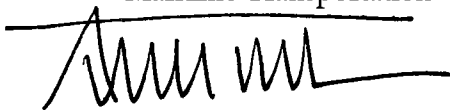
Sincerely,



Duncan Hunter
Chairman
Committee on Armed Services



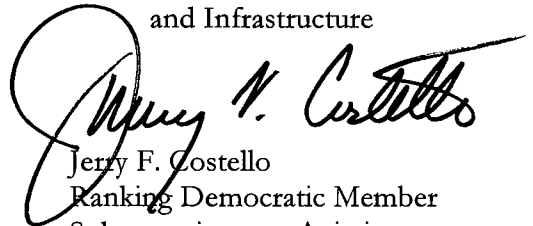
Frank A. LoBiondo
Chairman
Subcommittee on Coast Guard and
Maritime Transportation



Ted Poe
Member of Congress



James L. Oberstar
Ranking Democratic Member
Committee on Transportation
and Infrastructure



Jerry F. Costello
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Subcommittee on Aviation