



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

**Don Young**  
Chairman

**James L. Oberstar**  
Ranking Democratic Member

May 31, 2006

Lloyd A. Jones, Chief of Staff  
Elizabeth Megginson, Chief Counsel

David Heymfeld, 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:

It has come to my attention that a Department of State official, Mr. John Byerly, has had private meetings with European officials in which he has discussed numerous aspects of the Department's May 5, 2006, Supplemental Notice of Proposed Rulemaking (SNPRM) on *Actual Control of U.S. Air Carriers* (OST-03-15759). This rulemaking involves a proposal to allow foreign investors to control all commercial decisions of a United States airline.

In particular, it has been reported that in these meetings Mr. Byerly made statements regarding the intent of the proposal and took the position that new requirements announced in the SNPRM would not significantly limit foreign control of commercial decisions by United States airlines.

It is essential that persons interested in filing comments on the SNPRM have access to any such statements of intention or interpretation so that they can adequately assess the impact of the SNPRM.

It seems clear that if the meetings with European officials had been held by a Department of Transportation (DOT) official, the DOT official would be required to make a public disclosure of the discussion in detail. As DOT Order 2100.2 states, "interested members of the public should be afforded adequate knowledge of [any] such contacts [i.e., contacts between DOT officials and interested members of the public]. This is necessary to assure the equal opportunity to which all interested members of the public are entitled in making their views known to the Department." DOT Order 2100.2 further states that "in no event should any group or individual be given any information regarding the rule making that is not available to all groups or individuals."

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While Mr. Byerly may not be bound by DOT rules, disclosure of his conversations with individuals or groups regarding the DOT SNPRM would certainly fall within the intent of the rules.

The DOT and the State Department share responsibility for international aviation, and foreign control is a major issue in discussions with the European Union regarding an Open Skies agreement. European officials would assume that Mr. Byerly is speaking for the entire Executive Branch when he interprets the proposed rule. It is also likely that Mr. Byerly would inform DOT of any feedback he gets from European officials in these meetings.

Accordingly, I ask that a detailed report of Mr. Byerly's discussions with European officials regarding the SNPRM be placed immediately in the docket.

With all best wishes.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Oberstar". The signature is fluid and cursive, with a large initial "J" and "O".

James L. Oberstar  
Ranking Democratic Member