REMARKS OF
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It is an honor and a pleasure to address this distinguished audience – it has been a while.

This event offers a great opportunity to discuss recent developments in international aviation, including the issues of antitrust immunity ("ATI") and foreign repair stations. I will also outline some of the major provisions of H.R. 915, the "Federal Aviation Administration ("FAA") Reauthorization Act of 2009," and a few other issues that Congress faces this session.

Antitrust Immunity

In the past year, our attention in aviation policy has been focused on the survival of the U.S. airline industry, battered by reduced demand, and volatile fuel prices. This emphasis has been entirely appropriate. But we must not lose sight of the longer term issue of ensuring that when the airlines return to financial viability there will be enough competition to offer consumers good service at reasonable prices.

I have become increasingly concerned with the decline of competition in international markets, particularly between the United States and Europe. These markets used to be served by a substantial number of carriers from European countries, and the United States. Increasingly, the market has come under control of three alliances composed of one or more U.S. carriers and several European carriers.

The alliances began with "code sharing" in which one airline would sell tickets on the flights of another airline as though the flight were its own. Airlines have defended code sharing as providing better and more convenient service for consumers.

Next, in recent years, the airlines in alliances have worked to take the process to the next level, asking the Department of Transportation ("DOT") and the Department of Justice to grant alliance members antitrust immunity to jointly plan services and fares over international markets served by the alliance. Whenever antitrust immunity is granted, the airlines, protected from the antitrust laws, stop competing in highly traveled international markets.

In 2008, the DOT granted the SkyTeam alliance antitrust immunity to coordinate schedules and prices, and operate as though they are one carrier. The

SkyTeam alliance includes Delta/Northwest, Air France, KLM, and several other European airlines. Following ATI approval for SkyTeam, Continental Airlines filed an application to join the already antitrust-immunized Star alliance, which includes United and Lufthansa. Then American Airlines and British Airways filed an ATI application for the oneworld alliance.

One world, three airlines – time to reassess the value of this reduced level of competition, which results from antitrust immunity for alliances. U.S.-European aviation travel is now dominated by three major alliances: Star (United/Lufthansa), SkyTeam (Delta-Northwest/Air France/KLM) and oneworld (American/British Airways). These alliances have strong market power. Combined, the Star, SkyTeam and oneworld alliances account for almost 80 percent of the total world airline capacity, 78 percent of world revenue passenger kilometers, and 73 percent of passengers carried. These three alliances control over 87 percent of the traffic between the United States and Europe.

In essence, the granting of antitrust immunity is a de facto merger of these airlines over the routes involved. I warned about this consolidation last year, in our hearing on Delta/Northwest. When immunity is granted to an alliance, there is a substantial decline in competition. In 1990, the top three airlines in United States-Europe markets carried 37 percent of all passengers. By 2007, the three major

alliances (Star, SkyTeam, and oneworld) carried 85 percent of all passengers from the United States to Europe. A more specific example: in 1990, the New York JFK-Paris market had six competing airlines, today there are only three. Of the three remaining carriers in the market – Air France and Delta, which are part of the immunized SkyTeam alliance, have approximately 75 percent of the market share. Another major market, Chicago to Frankfurt, is dominated by Star members United and Lufthansa, which control an 85 percent share; the Amsterdam-Atlanta market will now be controlled entirely by newly immunized SkyTeam members Delta and KLM.

It has been suggested that if the remaining two pending immunity applications are approved, the U.S.-European market will essentially be locked down by the top 3 alliances, which will have a market share of over 95 percent. The American Airlines/British Airways-led immunized alliance will control the U.S.-United Kingdom market, while the Air France/Delta and the United/Lufthansa/Continental-led immunized alliances will have a stranglehold on traffic to Continental Europe. There would be no incentive for these alliances to compete with each other, and major entry barriers at the most important airports would make it extremely difficult for non-alliance carriers to seriously challenge the alliances.

The decline in the number of competitors will affect fares as well as service. Fares between the United States and Europe have been steadily rising in markets

served by alliances since the alliance carriers began the push for "consolidation" five years ago. If concentration levels by the alliances reach 95 percent, fares are likely to increase even more dramatically.

In addition, domestic competition could be hampered by immunized alliances. United States members of immunized alliances could use the profits realized as a result of anticompetitive behavior in international markets to subsidize domestic flying.

On February 3, I introduced legislation, H.R. 831, to require a major study of whether the benefits to consumers of alliances with antitrust immunity outweigh the adverse effects of the resulting loss of competition. This legislation has now been incorporated into H.R. 915, the "FAA Reauthorization Act of 2009." The legislation requires the Government Accountability Office ("GAO") to conduct a study of the legal requirements and policies followed by the DOT in deciding whether to keep exemptions from the antitrust law in connection with alliances.

In its study, the GAO must examine whether granting exemptions in connection with international alliances has resulted in public benefits, or in adverse effects such as, reduced competition, and increased prices. In addition, the legislation provides that no antitrust immunity for alliances may continue beyond three years

from the date of enactment of the legislation. U.S. and foreign air carriers can then reapply for antitrust immunity under any new policies adopted. This review is currently permitted under the terms of which immunity was granted. When DOT granted immunity for alliances, it wisely reserved the power to amend, modify, or revoke the immunity at any time. However, the legislation does not prohibit any of the pending antitrust immunity applications from going forward.

If you believe that deregulation was and is sound public policy, then you cannot afford to be complacent about the threat to competition posed by immunized airline alliances. As the evidence indicates, these immunized alliances hold great market power and have the potential for exercising that power to the exclusion of non-immunized carriers, thereby reducing competition in the international marketplace, as well as disrupting domestic competition. This legislation is an important step forward in determining whether DOT's antitrust policies are sound and whether the DOT gives appropriate consideration to the impact that granting antitrust immunity might have on competition here and abroad. If these immunized mega-alliances are allowed to proceed unchecked, the end result may be trading government control in the public interest for private monopoly control in the interests of the industry.

The opponents of my bill claim that the provision means the end of alliances. That is alarmist nonsense. Of course, it does not. If members of the alliances can

show that ATI provides net benefits to the public, my bill permits DOT to reissue the grant of antitrust immunity.

Foreign Repair Stations

The systematic outsourcing of airline maintenance – to domestic as well as foreign repair stations -- has long been a concern of mine. The Department of Transportation Inspector General ("DOT IG") has studied this trend. Based on data from nine major air carriers reviewed, the DOT IG's investigation found that the percentage of heavy maintenance outsourced by these carriers increased from 34 percent in 2003 to 71 percent in 2007. Furthermore, 27 percent of that maintenance was outsourced to foreign repair stations in 2007.

The increased use of outside maintenance vendors creates several significant challenges for the FAA. First, FAA needs to ensure that it has adequate resources and processes to oversee the organizations conducting the maintenance work. In addition, the DOT IG has, in past reports, found several vulnerabilities in FAA's oversight of both domestic and foreign repair stations. Specifically, the DOT IG has made it clear that more inspection and more oversight by FAA of outsourced maintenance work is needed. FAA inspectors have to strike a better balance between reviewing paperwork and actual aircraft work. I am deeply troubled the Transportation Security Administration's delay in issuing regulations to ensure the security of foreign and

domestic repair stations certified by FAA, and in completing a security review, and audit of foreign repair stations certified by the FAA. There is no excuse for this delay. Surely they can find enough bodies in this 215,000-person Department to do this job.

There has been much discussion in international aviation circles about the so-called "repair station" language in H.R. 915, which requires that the FAA certify that all part 145 certificated foreign repair stations, are inspected twice a year by an FAA safety inspector. The bill also modifies the repair station certification standards to require drug and alcohol testing for persons performing safety-sensitive functions on U.S. aircraft at foreign repair stations.

I know very well that certain elements in the industry are worried that this will bring retaliatory measures by the European Union ("EU"), and will delay the implementation of the U.S.-EU Safety Agreement. I would note that the foreign repair station provision was contained in H.R. 2881, the "FAA Reauthorization Act of 2007," which passed the House on September 20, 2007. Yet, the EU had no issue with signing the U.S.-EU Safety Agreement in June of 2008. So, I think that the argument that this provision will somehow be the downfall of the U.S.-EU Safety agreement is unfounded. I have had this discussion with the EU Transport Ministry, in Brussels, Slovenia and here 2 weeks ago and with Paolo Costa, Chair of the EU

Parliament Committee on Transportation and his colleagues – in French, in Italian, and in English. They understand – they do not like it – but they understand.

The fact is that the provision in H.R. 915 will simply ensure that foreign entities conducting repair work on U.S. aircraft adhere to U.S. safety standards and regulations. I welcome the same scrutiny by the EU of U.S. repair stations; the United States and the EU should be working together to harmonize standards and to make the system safer, rather than decreasing oversight and accountability. Alarmism about retaliation is premature and speculative at best.

Foreign Ownership

The bill we recently reported also includes a provision from last year's bill that clarifies the long standing requirement that U.S. airlines must be under "actual control" by U.S. citizens. The language in our bill clarifies the term "actual control" by providing that an air carrier shall not be deemed to be under the "actual control" of U.S. citizens unless U.S. citizens control all matters pertaining to the business and structure of the air carrier, including operational matters such as marketing, branding, fleet composition, route selection, pricing and labor relations.

Some opponents of this provision have claimed that the provision would prevent a U.S. airline from employing foreign citizens in management positions in

designated areas, such as pricing and route selection. The provision in this bill will not have this effect. The provision does not prevent a U.S. airline from employing foreign citizens, including middle and upper management, in any area of operations so long as U.S. citizens retain the authority to make final decisions on all matters pertaining to the business and the structure of the carrier.

Modernizing the Air Traffic Control System

There is a strong need to modernize our air traffic control system, and to coordinate our programs with those of our foreign trading partners. The FAA forecasts that airline traffic will grow to carry more than 1 billion annual passengers in the next 7-12 years, increasing from approximately 769 million in 2007. The system is already straining to accommodate current levels of traffic, and modernization to meet growing demand is imperative. To increase the system's capacity to meet these needs, H.R. 915 provides nearly $13.4 billion for Air Traffic Control ("ATC") Modernization and the Next Generation Air Transportation System ("NextGen") programs.

Modernizing our air transportation system is a national priority. The United States must modernize ATC while also improving the level of safety, security, efficiency, environmental performance, and affordability of the national airspace and aviation services. Efforts must leverage investments in civil aviation, homeland, and national security to meet the needs of all system users, civil and military.

In addition, the United States must work with the EU to guarantee a safe and efficient air traffic control network. Like the United States, the EU is embarking on the modernization of its air traffic management infrastructure. On February 5, 2009, the EU issued a proposal that would mandate Automatic Dependent Surveillance-Broadcast (known as ADS-B) after February 5, 2015, five years earlier than the U.S. proposed mandate. With both the United States and the EU working towards next generation ATC systems, it is critical that we find ways to harmonize our respective efforts to modernize ATC systems, and to ensure seamless global operations for users without duplicative avionics requirements.

Environment

We also need to work closely with our international partners to deal with global climate change, the tremendous build-up of greenhouse gases -- such as carbon dioxide ("CO_2") and methane -- in the atmosphere. These gases are currently present at far higher levels than they have been in over 10,000 years. These gases are very good at capturing heat energy. As a result, the more CO_2 or methane emitted into the atmosphere, the more heat energy is trapped – and the warmer the planet becomes. The world's top atmospheric scientists say that the evidence that the climate has warmed is "unequivocal."

There is a consensus in the scientific community that the lion's share of the increase of these greenhouse gases is man-made: whether it is power-plants, vehicles, or other activities that consume fossil fuels. To date, aviation has not been a major contributor: the Intergovernmental Panel on Climate Change found that aviation only accounts for about 3 percent of the world's greenhouse gas emissions. In fact, aviation has made changes that reduce its emissions. Because of the importance of fuel costs to airlines, they have increased the efficiency of their fuel use, which helps the environment. In the last 40 years, aviation emissions per passenger mile have decreased by 70 percent. According to the FAA, CO_2 emissions dropped in the United States by 4 percent between 2000 and 2006, at the same time, commercial aviation moved 12 percent more passengers and 22 percent more freight.

As I mentioned earlier, the FAA forecasts that airlines are expected to carry more than 1 billion passengers in the next 7-12 years, increasing from approximately 769 million in 2007. An increase of this magnitude has the potential to cause adverse environmental effects, which could lead to government action to slow the growth of aviation.

The environment is the third leg of a three-part capacity enhancement initiative – the other two are ATC modernization and increased physical capacity at airports. If we go forward with ATC modernization and expand the physical capacity of airports

to accommodate more aircraft – and the result is increased aviation emissions and noise, which cause public concern, then the other two advances will be nullified.

The FAA is working to establish aviation environmental analytical tools and methodologies to assess interdependencies between noise, emissions, and economic performance and more effectively analyze the full costs and benefits of proposed actions.

One of these proposed actions is the implementation of NextGen, which will have a dual impact of modernizing the aviation system while providing benefits to the environment. The goals for NextGen include reducing the number of people exposed to significant noise levels, as well as lessening air quality impacts of aviation, and improving aircraft fuel consumption rates.

Aviation emissions not only have the potential to limit capacity domestically, it also has that potential impact internationally. According to the EU, its aviation emissions have increased by 87 percent since 1990. To deal with this problem, the EU has decided unilaterally that beginning in 2012, the EU emissions trading scheme ("ETS") will include the United States and other non-EU airlines. By this action, the EU has sidestepped the normal process for dealing with aircraft emissions through

the International Civil Aviation Organization ("ICAO") and international air service agreements.

Under the EU action, air carriers landing in EU countries will be required to buy allowances for 15 percent of the emissions from those flights.

While I am a strong supporter of responsible action to deal with global climate change, I do not like the EU's unilateral decision to impose a solution on the United States. The EU emissions trading scheme violates international aviation law, offers no protection to U.S. airlines from multiple charges, and diverts revenue to subsidize EU industry and governments. The EU plan unilaterally mandates a single solution rather than negotiating with the United States and other countries to develop a performance-based approach. How does that view square with our safety provisions? Safety is not negotiable – just as I said that the United States and the EU should harmonize safety standards, so shall we cooperate on emissions.

I am concerned about any unilateral approach to dealing with aviation emissions, and think that any efforts to reduce emissions should be done by consensus through ICAO.

I should note that in our reported bill we have included several provisions addressing the environment. An important provision mandates the creation of the Continuous Lower Energy, Emissions, and Noise ("CLEEN") Engine and Airframe Technology partnership to develop, mature and certify CLEEN engine and airframe technology for aircraft over the next 10 years. Under the program, FAA and industry would share the costs of developing promising technologies to reduce aircraft environmental impacts and energy usage. Other environmental provisions in the bill include: an airport environmental mitigation pilot program; the phasing out of noisy stage II aircraft; an aircraft departure queue management pilot program; and broadened AIP eligibility to include several energy saving terminal projects. These programs will serve us well as we strive to increase capacity without harmful effects on the environment.

Conclusion

As I have done over many years – I invite, and hope that I have provoked a lively discussion of the major aviation issues faced by Congress this year – in both our international and domestic aviation arenas. These issues are important and difficult -- how we deal with them will go a long way towards determining whether we will continue to have outstanding domestic and international aviation systems.