

Congress of the United States
Washington, DC 20515

April 29, 2016

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

Dear Secretary Foxx:

We write to express deep disappointment in the show cause order issued by the Department of Transportation (DOT) on April 15th which recommends that Norwegian Air International Limited (NAI) be granted a foreign air carrier permit (Docket: DOT-OST-2013-0204).

Many of us have previously written to you in opposition to the NAI application on the grounds that the airline's business model would violate the letter and spirit of the U.S.-EU Air Transport Agreement (ATA) and Article 17 *bis* in particular. NAI has done nothing to address the serious concerns that have been raised about its application. We respectfully ask that you reverse course and deny the NAI application for a foreign air carrier permit.

The applicability and enforcement of Article 17 *bis* – which was negotiated and adopted by this administration during the Second Stage of negotiations in 2010 – has been central to the debate over NAI's application. This article states that “the opportunities created by the Agreement are not intended to undermine labour standards or the labour-related rights and principles contained in the Parties' respective laws.” NAI has taken advantage of an opportunity created by the ATA by establishing itself in Ireland, something that, as a Norwegian-owned company, it could not do but for the ATA. The stated purpose of establishing NAI outside of Norway was to avoid the application of strong Norwegian labor and social laws, and to undermine its existing collective bargaining contracts with its Norwegian flight crews. NAI further plans to use pilots and flight attendants hired under Singaporean or Thai employment contracts and based in Bangkok. Quite simply, this is a flag of convenience scheme to lower operating costs and undercut competition – a clear violation of Article 17 *bis*.

It is troubling then that DOT does not appear to have done its own analysis of whether the application does in fact violate the terms of the agreement. In its show cause order DOT acknowledges the problematic details of NAI's business model and notes that “these are important issues that warrant proceeding with caution and careful consideration.” The order then goes on, however, to completely ignore these concerns. Instead, DOT only concludes that Article 17 *bis* cannot be used as the basis for denying an application. This troubling conclusion indicates that DOT either cannot or will not enforce the very labor protections that it itself negotiated.

Furthermore, in addition to ignoring the explicit labor protections included in the agreement, DOT's approval of NAI's application would violate Congressional directive. As part of both the FY 2015 and FY 2016 Transportation, Housing and Urban Development Appropriations bills,

Congress included language which stated that no funds shall be used to grant a foreign air carrier application that violates Article 17 *bis*. Congress has clearly stated that it expects the administration to uphold and enforce the labor protections it negotiated in implementing this the ATA.

The U.S. aviation industry is a pillar of our economy and an important middle-class job creator. Bilateral air transport agreements have enjoyed wide support in this country because they have successfully fostered increased competition while providing greater opportunities for U.S. airlines and their workers. However this success is dependent on the implementation and enforcement of agreements that promote balanced competition and business practices that encourage growth and high labor standards. Approving NAI's application would set the wrong precedent, undermine trust in the Administration's ability and willingness to enforce current and future trade agreements, and cost the U.S. economy billions of dollars.

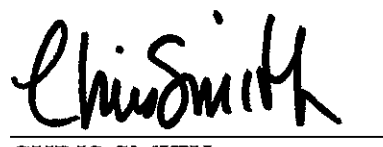
We ask that DOT take the appropriate steps to fully enforce Article 17 *bis* by rejecting the show cause order and denying NAI's application for an air carrier permit. Thank you for your consideration.


Sincerely,


ALBIO SIRES
Member of Congress



FRANK LOBIONDO
Member of Congress


BILL PASCRELL, JR.
Member of Congress


CHRIS SMITH
Member of Congress


FRANK PALLONE, JR.
Member of Congress


BONNIE WATSON COLEMAN
Member of Congress


DONALD M. PAYNE, JR.
Member of Congress


DONALD NORCROSS
Member of Congress