Negative Brief: Foreign Investment and Cabotage in Airlines

By Harrison Durland

***Resolved: The United States federal government should substantially reform its transportation policy.***

Affirmative plan removes cabotage restrictions (transportation from US city to US city) in current law that block foreign airlines from doing domestic air travel within the United States. It also eliminates current legal restrictions on foreign ownership or investment in US domestic airlines.

AFF plan is designed to increase competition and investment in the US airline industry and open up more competition. This brief argues that more deregulation and more investment are not what we need and not what’s missing in the US airline industry, and they will, in fact, only make things worse. The kind of “competition” we would get would be foreign governments subsidizing their state-owned airlines to run at a loss and drive the free-market US airlines out of business. In addition, the vital CRAF program (US airlines making planes available to the military in times of emergency) would be undermined, hurting national security.

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USER’S GUIDE: Main points/strategy

**Negative overview**

1. Their plan will not have serious economic benefits.
2. The limited economic benefits that do occur will be outweighed by economic harms.
3. *Even if* the economic benefits are assumed to outweigh the economic costs, the threats of foreign ownership to the military’s CRAF program outweigh even serious economic benefits.

**Step 1: Responding to their economic benefits claims**

1. They only liberalize in 2 specific ways, whereas some studies consider other liberalizations.
2. Their studies may reference the supposed benefits of *bilateral* liberalization, but this is not what the affirmative team can propose, since they can’t fiat what other countries do.
3. Perhaps **most importantly,** you need to get them to clearly commit (i.e. in CX) on how the liberalization solves, then respond to those mechanisms they described. Main examples include:
   1. Foreign carriers can better fund startups in America => more competitors
   2. Foreign investors/carriers can invest more capital in domestic carriers
   3. Foreign carriers can merge/cooperate more with domestic carriers
   4. Cabotage allows more efficient flight patterns
   5. Cabotage allows foreign carriers to compete on a regular route/basis
   6. (Unlikely but possible) It lowers regulations for labor, wage costs, taxes, etc.
4. There is a difference between stand-alone cabotage and “wet cabotage”: the latter is usually done as part of an international trip (e.g. French airline going from Paris to **Atlanta to New York** then back to Paris). The affirmative may try to appeal to this, which is likely to occur, but you should **attack it on significance** grounds (i.e. “Maybe, but it’s not a big deal”).
5. Aside from cabotage, the main issue to address is the notion of “We are overcharged yet have poor quality service; just look at the EU’s prices and service for comparison.” With this, the affirmative will suggest that the solution is more competition.
6. **The summarized philosophy** behind your response is “Air service is expensive in America because of issues like population dispersion and wealth, not lack of competition.”
7. “Deregulation decreased costs in Europe” – But Europe didn’t do the AFF plan.

**Steps 2 & 3: Regarding disadvantages**

* A lot of times, the most complicated issue is dealing with the concept of “**foreign ownership** of a **domestic-based carrier**” (from foreign investment) vs. “Foreign ownership of a **foreign-based carrier** operating in the US” (i.e. cabotage).
  + In response to disadvantages, affirmative evidence tends to say that stand-alone cabotage won’t become common. But when providing advantages, an affirmative will likely use studies/arguments which reference stand-alone cabotage as a justification—which is a partial contradiction.
  + This is why you need to establish in CX how they think their plan solves
  + Still, you should argue that cabotage ultimately won’t become common. This will *partially* undermine some of your disadvantages (e.g. CRAF, employment/growth, etc.), although some of the disadvantages are practically unaffected by this.
* If they require provisions against dropping fleet from CRAF, for not reducing international flights/labor/etc., for having revocability authority, or anything similar: Attack solvency on the grounds that people may not actually want to invest, either from uncertainty/hesitation or just that it takes the purpose out of it. (This is partially backed by evidence; see solvency section)

INHERENCY

1. A/T "Foreign capital investment" – Don't need it, we already have plenty of capital

Don't need foreign capital: US companies can get already get capital when they can show value

Duane Woerth 2006 (served as Chief Executive Officer, Chief Administrative Officer and President at Air Line Pilots Association International; served as US-ALPA's Director for the International Federation of Air Line Pilots Associations; B-747 captain, he has flown at Northwest for 20 years and at Braniff Airlines for five years.) May 9, 2006 “REVIEWING THE DEPARTMENT OF TRANSPORTATION'S NOTICE OF PROPOSED RULEMAKING THAT CLARIFIES THE RULES REGARDING FOREIGN INVESTMENT IN U.S. AIR CARRIERS” <https://www.gpo.gov/fdsys/pkg/CHRG-109shrg65069/html/CHRG-109shrg65069.htm> (To clarify, the original source includes multiple speakers/authors. This card specifically quotes Woerth)

In fact, there is evidence that when a U.S. airline shows some significant promise of profitability, it is able to find the capital it needs. For example, United Airlines, after engaging in extensive restructuring, cost-cutting and changes in operations and services while in Chapter 11, was able to obtain $3 billion in debt exit financing on terms that pleased United's management. The airline's own press release stated that it had received offers of subscription for more than twice the capital necessary to support the financing it sought and that the money was provided at rates better than it had expected to receive. Similarly, US Airways, after going through its own Chapter 11 restructuring and merging with America West, obtained $1.5 billion in exit financing, of which $350 million was in the form of equity commitments. Moreover, $75 million of the equity was foreign investment provided by ACE Aviation Holdings, the parent of Air Canada. These major financings strongly indicate that both foreign and domestic capital is available to U.S. airlines if they appear to offer a reasonable return to the investor. If there is hard evidence that the U.S. airline industry is seriously suffering from a dearth of capital, and that the existing rules relating to foreign control are somehow responsible for the problem, that evidence has yet to be produced. Before lack of capital is used as a rationale for considering dramatic changes in the foreign control rules, there should be a thorough and systematic study to determine whether the problem it is attempting to cure actually exists.

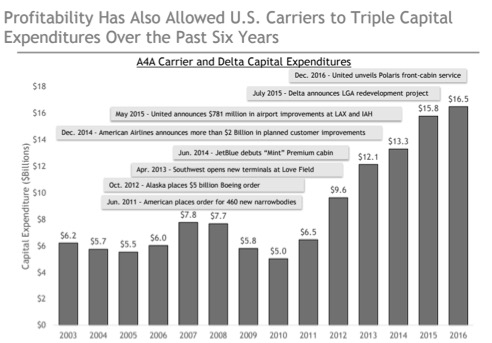
Maybe some small European nations have problems getting airline capital, but not in the U.S.

Dr. Boaz Moselle and the Brattle Group study team 2002 (Moselle is an economist with extensive expertise in international arbitrations and energy-related disputes; consults on competition, regulatory, and commercial issues.. Numerous others prepared or assisted in the report, including three other primary authors: James Reitze, Dorothy Robyn, John Horn.) December 2002 “THE ECONOMIC IMPACT OF AN EU-US OPEN AVIATION AREA” published by the Brattle Group. <http://www.brattle.com/system/publications/pdfs/000/004/875/original/The_Economic_Impact_of_an_EU-US_Open_Aviation_Area_Moselle_et_al_Dec_2002.pdf?1378772136>

Airlines located in relatively small Member States may have a genuine problem getting access to capital. Ownership restrictions limit the amount of equity that non-nationals can hold in such airlines, while the highly cyclical nature of the industry may restrict the use of debt finance. State-owned airlines, like other state-owned enterprises, may find that their access to capital is influenced by national budgetary and other political considerations. It is arguable that the current regulatory regime is a barrier to privatisation: again the pool of potential buyers is severely limited by ownership restrictions, and some airlines may be too small to be attractive as stand-alone enterprises. However, we are sceptical that access to capital is an issue for airlines located in the United States or in large EU Member States, where capital markets are big enough to provide an adequate potential source of funding. Difficulties in accessing external sources of finance therefore may reflect concerns as to the ongoing viability of the industry.

Capital investment has tripled over the last 6 years

Daniel Kasper and Dr. Darin Lee 2017 (Kasper - has frequently served as an expert witness on a range of economic and competitive issues in the aviation and broader transportation industries; Executive Vice President in the Boston office of Compass Lexecon, a Sloan Industry Affiliate, and specializes in the economics of the airline industry, auctions, labor and game theory. Dr. Lee has over 15 years of consulting experience in the airline industry; Ph.D in Economics from Brown University) June 26, 2017 “An Assessment of Competition and Consumer Choice in Today’s U.S. Airline Industry” <http://darinlee.net/pdfs/airline_competition.pdf>



**Analysis:** Ultimately, if we allow carriers to profit rather than encourage more failed startups to swamp it (as the affirmative claims), then that should enable the kind of stable expansion we need.

HARMS / SIGNIFICANCE

1. A/T “United Airlines ‘overbooking’ incident”

It’s not just US Airlines that overbook – almost every airline does. It's normal, not a harm or defect

Brennan 2017 (staff writer for The Journal, holding a master’s degree in journalism from Independent Colleges Dublin) April 11, 2017 “Explainer: Why on earth do airlines overbook flights? And do Irish airlines do it?” <http://www.thejournal.ie/overbooking-flights-explainer-3335188-Apr2017/>

Those passengers were asked to leave due to the plane being overbooked for its journey, and United needed to get four of its employees to Louisville in order to make their shifts for the following day elsewhere on the airline’s network. But that doesn’t mean that overbooking is uncommon. It happens all the time on flights across the board, not just American ones. It’s perfectly legal (and mostly common sense), and it’s not unheard of it happening in Ireland either. “As with all other airlines our flights can be overbooked from time to time,” a spokesperson for Aer Lingus told TheJournal.ie, when asked as to the airline’s policy on the subject.

“Overbooking” incident was mishandled by airport security, not the airline

The Telegraph 2017 (British newspaper; no author listed ; British news media source widely regarded as a national "[newspaper of record](https://en.wikipedia.org/wiki/Newspaper_of_record)" and it maintains an international reputation for quality, having been described by the [BBC](https://en.wikipedia.org/wiki/BBC) as being "one of the world's great titles") April 11, 2017 “Officer on leave after forcibly removing passenger from overbooked United Airlines flight” <http://www.telegraph.co.uk/news/2017/04/10/shock-man-forcibly-removed-overbooked-flight/>

An aviation security officer who dragged a passenger off of an overbooked United Airlines flight to make room for employees has been placed on leave, Chicago authorities said on Monday. The officer - one of three involved in the Sunday night incident - did not follow protocol, according to a statement from the Chicago Department of Aviation, and as a result "has been placed on leave effective today pending a thorough review of the situation.” "The actions of the aviation security officer are obviously not condoned by the Department," the statement said.

2. A/T "Low quality / Bad service on US airlines"

Quality is low because Americans typically prefer price over service quality

Matthew Yglesias 2012 (journalist who has written for various publications such as Vox, Slate, The American Prospect) Nov. 1, 2012, “The Failure of Virgin America and the Hypocrisy of the American Air Traveler” <http://www.slate.com/blogs/moneybox/2012/11/01/virgin_america_the_best_airline_in_america_is_failing_and_it_s_all_your.html>

Everyone complains about the poor quality of airline service, so why doesn't someone try to make a better airline? Well, Virgin America did it and as Brad Tuttle writes [despite getting rave reviews from customers they're consistently losing money](http://business.time.com/2012/10/25/why-an-airline-that-travelers-love-is-failing/?iid=tl-article-mostpop2). The basic moral of the story is that airline service is bad because customers want bad airline service. Or, rather, they don't want to pay a premium for better service. Things used to be different. Before Jimmy Carter took office, there were federal regulations in place sharply limiting price competition on interstate airline travel. Where meaningful intra-state markets existed you saw a lot of cheap fares and stripped down service. Texas was the main market for intra-state air travel, and not coincidentally Southwest has its origins as a provided of intra-state aviation in Texas during the regulation era. But outside of Texas and LA-to-San Francisco almost all the routes were fairly cozy monopolies and/or had legal restrictions on price competition. Airlines responded by overcharging customers and then competing by offering a high level of service quality. But since deregulation, customers have consistently shown that they'd rather take a cheaper flight than a better one.

A/T “Fares are cheaper in Europe” – Lots of reasons in addition to regulation. Although Angie Mohr in 2012 believes US regulations do raise fares, she says there are a lot of other factors

Angie Mohr 2012 (Chartered Accountant and Certified Management Accountant who has worked with thousands of business and personal finance clients from home-based entrepreneurs to rock bands to celebrity chefs) January 20, 2012 “Why Europe Has The Cheapest Airfare” <http://www.investopedia.com/financial-edge/0112/why-europe-has-the-cheapest-airfare.aspx>

**More Alternate Airports**The geography of many European countries lends itself to lower prices. The physical closeness of cities allows for more alternate airports to spring up nearby to established airports, in order to alleviate delays and air traffic snarls. London, for example, is serviced by its main airport, Heathrow, but has Gatwick, Stansted, Luton and City nearby. More airports allow travelers more choices for departure and arrival points. Some of the smaller airports have lower landing fees and, therefore, tickets are less expensive. Travelers within the U.S. have fewer alternative options, which keeps pricing high. (For closer look at the industry, read [A Look At The Airline Industry](http://www.investopedia.com/financial-edge/0112/a-look-at-the-airline-industry.aspx).)  
**Excess Capacity**According to the International Air Transport Association, the United States has done an efficient job of cutting down capacity (both number of flights and number of planes) to reflect a reduction in demand for flights. This enables the U.S. to "right-size" its operations and cut down on the fixed costs of keeping flight routes.   
The European Union, on the other hand, has been slower to react to a decline in demand and has more excess capacity. Because most of the costs of running a flight are fixed - meaning the cost is the same if there is one flyer or 200 - airlines are more willing to offer bargain airfares to fill the seats. This keeps the overall price of the average ticket lower in Europe.  
**Volume**The final reason that flights are cheaper in Europe is that there are simply more of them. Because of the density of the population, air travel is fast and convenient for most Europeans. The population of Europe is approximately 857 million versus America's 300 million in a space about two and a half times smaller. Europeans, on average, fly more often than Americans and airfares must compete with other convenient methods of traveling short distances, such as driving or taking the train.

SOLVENCY

1. Deregulation historically failed

A/T “Past deregulation was great” – Turn: wasn’t perfect; even faster liberalization could worsen situation

Dr. Andrew Goetz and Timothy Vowles 2009 (Goetz - professor in Dept of Geography and the Environment at Univ of Denver;PhD in Geography from Ohio State Univ. Vowles is an adjunct faculty member in the Dept of Geography at Univ of Northern Colorado) July 2009 “The good, the bad, and the ugly: 30 years of US airline deregulation” <https://doi.org/10.1016/j.jtrangeo.2009.02.012>

Why has the US airline industry’s financial performance been so miserable over the 30-year period of deregulation? Part of the answer lies in the cyclical nature of the industry and its particular vulnerability to economic conditions. When the economy is doing well, the airline industry tends to perform very well, such as during the late 1990s in the midst of the dot-com boom. But when the economy retrenches, such as during the economic/international security crises of the early 1990s and the early 2000s, the airline industry is negatively affected far more than other industries. The early 1990s economic recession and Gulf War intervention depressed demand for air travel, leading to a loss of over $13 billion from 1990 to 1993. Likewise, the “perfect storm” of negative events from 2001 to 2005 led to a loss of over $30 billion. But there are other factors that contributed to the size of the losses. The airlines themselves are to blame for mismanagement and poor financial decision-making. Many industry observers also cite overly generous bankruptcy laws that allow insolvent airlines to continue flying while restructuring under Chapter 11 protection from creditors. This results in maintaining additional capacity and lower fares during economic downturns, thus causing greater losses for the entire industry. The other part of the answer to the miserable financial results has to do with deregulation itself. Under the period of regulation, from 1938 to 1978, the US airline industry never experienced financial losses anywhere near the scale of those of the post-deregulation period. The US airline industry was profitable and enjoyed steady growth and development during those forty years, albeit not without problems as identified earlier in this paper. Once the industry was deregulated, however, the airlines were allowed to make their own decisions regarding entry, exit, fares, and mergers and acquisitions. Left to their own devices, some airlines made good decisions, some made bad decisions, while others were just plain ugly. In theory, the invisible hand of the free market should have weeded out the underperformers, but because the airline industry is naturally oligopolistic, the competitive strategies taken by some firms affect the behavior of others not necessarily in a logical manner, and the collective results are not necessarily positive. Thus, there is a compelling need for at least some regulatory oversight over this industry, since it exhibits a tendency towards destructive competition. A vital and viable airline industry is important to national economic competitiveness, regional economic development, and the “public interest,” and should not be left solely to an imperfectly competitive laissez-faire regime. This is not to suggest that we should return to the overtly heavy-handed regulation of the past, but that we should never abdicate responsible regulatory oversight in an industry that is naturally oligopolistic and is so vital to the national interest.

2. A/T “More competition” – won't happen

Major entry barriers = no guarantee that many entrants will appear, let alone bring prices down

D’Costa with IBISWorld 2016 (lead analyst at IBISWorld, frequently writing industry reports with a focus on power, utilities, finance, and insurance || Founded in 1971 by noted businessman and futurist Phil Ruthven, IBISWorld provides meticulously researched business information and market research on thousands of procurement categories and industries worldwide.) September 2016 “IBISWorld Industry Report 48111b Domestic Airlines in the US” (Report can only be accessed via subscription from university/etc.)

Costs to purchase aircraft and specialist machinery, hangar and other airfield space, as well as costs to attract skilled labor and to comply with stringent safety requirements are high and a significant barrier to industry entry. Purchasing aircraft may cost millions of dollars, which may be hard to secure, given the competitive nature of the industry. Complying with government requirements is costly and timely, making it harder to enter the industry. Skilled labor may be hard to come by in times of pilot shortage, considering the extensive training required to be able to work in the industry. Once a new company enters the industry, barriers to success become even harder. Existing incumbents may already have network alliances, a wide network of industry contacts, a proven safety record and the evidenced ability to deliver projects on time. As such, new entrants could struggle to win business even after massive initial capital outlays. Existing major players can use economies of scale to win business by consistently undercutting smaller players on price and speed of delivery, which ultimately improves their industry reputation.

3. Other legal barriers not solved by AFF plan

Other laws and regulations besides federal law will block foreign airline entry

Dr. Boaz Moselle and the Brattle Group study team 2002 (Moselle is an economist with extensive expertise in international arbitrations and energy-related disputes. ; others prepared or assisted in the report, including three other primary authors: James Reitze, Dorothy Robyn, John Horn.) December 2002 “THE ECONOMIC IMPACT OF AN EU-US OPEN AVIATION AREA” published by the Brattle Group. <http://www.brattle.com/system/publications/pdfs/000/004/875/original/The_Economic_Impact_of_an_EU-US_Open_Aviation_Area_Moselle_et_al_Dec_2002.pdf?1378772136>

We note a possible caveat concerning stand-alone cabotage. Most US aviation law experts believe that, even if the statutory restriction on cabotage were eliminated, a foreign carrier operating in US domestic commerce would nevertheless be subject to all of the laws and regulations that apply to other US-based companies. Stated differently, US law may require that a foreign-owned carrier qualify, and be regulated, as a US carrier in order to provide purely domestic air transport services. Presumably, by the same logic, a US airline operating in European domestic commerce would be subject to the laws and regulations of the European Union and the appropriate Member State. Legal arguments alone do not normally decide the outcome of a debate about policy prescription: from a public policy standpoint, the law should conform to decisions about what represents good policy, rather than the reverse. However, in this case, aviation experts are divided over the policy merits of “true” cabotage—i.e., foreign carriers operating *qua* foreign carriers in a domestic market. Moreover, those who favour true cabotage in principle also concede that it may not be legally practical, because it would require suspending or amending scores of federal, state, and local laws and regulations that govern any business entity that operates in domestic commerce.

Because of all the other regulations: Foreign cabotage is unlikely/unrealistic from a business choice perspective

Dr. Boaz Moselle and the Brattle Group study team 2002 (Moselle is an economist with extensive expertise in international arbitrations and energy-related disputes. ; others prepared or assisted in the report, including three other primary authors: James Reitze, Dorothy Robyn, John Horn.) December 2002 “THE ECONOMIC IMPACT OF AN EU-US OPEN AVIATION AREA” published by the Brattle Group. <http://www.brattle.com/system/publications/pdfs/000/004/875/original/The_Economic_Impact_of_an_EU-US_Open_Aviation_Area_Moselle_et_al_Dec_2002.pdf?1378772136>

However, the second assumption is flawed. Legal requirements and business strategy almost certainly would compel the European buyer of a US carrier to operate it as a US subsidiary, giving the US government the identical leverage. The alternative—operating as a European carrier in US domestic commerce—would amount to stand-alone cabotage. Cabotage operations on that scale would be highly impractical from a commercial standpoint. In addition, most US aviation law experts believe that, even if the statutory restriction on stand-alone cabotage were eliminated under an Open Aviation Area, a foreign carrier operating in US domestic commerce would be subject to all of the laws and regulations that apply to other US-based companies.

[**END QUOTE. In a later chapter, it continues**]

However, for reasons discussed in Chapters 1 and 7, stand-alone cabotage is probably a non-issue. For sound business reasons, a foreign carrier that wanted to provide stand-alone domestic operations in the United States would likely establish a US subsidiary. Alternatively, even if the carrier wanted to operate as a foreign entity in US domestic commerce, the law would probably require US incorporation. In either case, as a foreign-owned but US-incorporated carrier, its operations would come under the direct oversight of the FAA.

4. No jurisdiction

The US can’t legally regulate foreign carriers if they started operating domestic routes (cabotage)

Dr. Boaz Moselle and the Brattle Group study team 2002 (Moselle is an economist with extensive expertise in international arbitrations and energy-related disputes. ; others prepared or assisted in the report, including three other primary authors: James Reitze, Dorothy Robyn, John Horn.) December 2002 “THE ECONOMIC IMPACT OF AN EU-US OPEN AVIATION AREA” published by the Brattle Group. <http://www.brattle.com/system/publications/pdfs/000/004/875/original/The_Economic_Impact_of_an_EU-US_Open_Aviation_Area_Moselle_et_al_Dec_2002.pdf?1378772136> ) (brackets added)

First, under the Chicago Convention principle of flag state regulation, stand-alone cabotage operations in a given country normally would be the regulatory responsibility of the foreign airline’s home country rather than the country where the operations occur. FAA officials point out the obvious: it would be more difficult for a CAA [civil aviation authority] to oversee operations that take place entirely on another state’s soil. A second concern is that cabotage operations would be subject to a different safety standard from traditional domestic operations, and the standard could be lower, depending on the operator’s flag country. This is an issue now with foreign operations to and from the United States, say FAA officials: under the Chicago Convention, the FAA can hold foreign carriers only to ICAO standards, not to its own, more demanding FARs. That problem would increase exponentially with domestic cabotage networks.

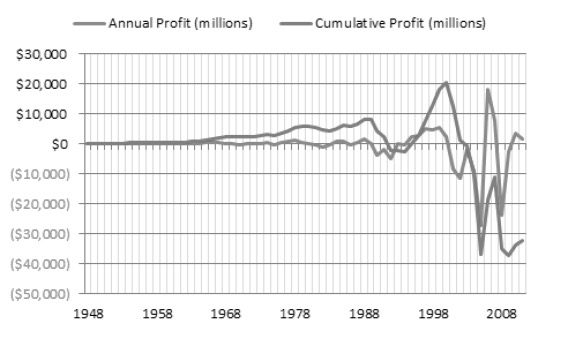
5. More competition won't solve

US airlines struggling to stay afloat and constantly losing money.

**Analysis: What would more competition accomplish? They're already competing for who can lose the most money**

Matthew Yglesias 2012 (journalist who has written for various publications such as Vox, Slate, The American Prospect) Nov. 1, 2012, “The Failure of Virgin America and the Hypocrisy of the American Air Traveler” <http://www.slate.com/blogs/moneybox/2012/11/01/virgin_america_the_best_airline_in_america_is_failing_and_it_s_all_your.html>

That said, in defense of Virgin America they're hardly alone in losing money. Data on [cumulative earnings among airlines](http://www.airlines.org/Pages/Annual-Results-U.S.-Airlines.aspx) makes it clear that absent state-sponsored monopolies nobody makes money doing this:



The only individual airline to make consistent profits is Southwest. The industry as a whole is a disaster area. Virgin America is doing surprisingly poorly in the sense that new airlines often do manage to make money for a while before fleet aging and labor disputes eat their profits up. By contrast "since 2007 Virgin America has posted a net loss of $671 million, and an operating loss of $447 million" and [now they're furloughing workers](http://www.bloomberg.com/news/2012-10-17/virgin-america-trims-flights-labor-cost-on-slower-winter.html). But in general the main reason the inter-city air travel network we know and love to complain about exists is that entrepreneurs seem to have a bottomless appetite for losing money by investing in this industry. Passenger rail used to operate on a similar basis, but eventually there were no more suckers to be found and we ended up with Amtrak. Something similar might happen to airplanes someday, but until then let's offer at least two cheers for those who are willing to lose money on failed efforts to make it work.

Nobody knows what air travel is "supposed" to cost. Consumers just click on the lowest price

Derek Thompson 2013 (senior editor at The Atlantic, where he writes about economics, labor markets, and the media.) February 28, 2013 “How Airline Ticket Prices Fell 50% in 30 Years (and Why Nobody Noticed)” <https://www.theatlantic.com/business/archive/2013/02/how-airline-ticket-prices-fell-50-in-30-years-and-why-nobody-noticed/273506/>

When [US Airways and American Airlines](http://dealbook.nytimes.com/2013/02/13/american-and-us-airways-said-to-vote-for-merger/) announced their mega-merger this year, it set off national hysterics, as flyers claimed the new behemoth would painfully raise prices. The reaction seemed unaware that consumers have enjoyed an amazing (and unsustainable) three decades in cheap flying while the price of fuel, which accounts for more than a third of airfare costs, has gone up 260 percent since the turn of the century. Between falling prices, 9/11, and fuel inflation, there have been 47 airline bankruptcies since 2001. Some companies died. Others merged. Others survived with leaner contracts. Through attrition and consolidation, a less crowded marketplace for flying is inevitable. Why don't we appreciate this heyday in bargain flying? The first, and obvious, answer is that flying through the air in a big machine powered by a scarce resource will always cost a big number, and your average family expends very little energy adjusting big numbers for inflation. If you buy a round-trip ticket from New York to Columbus for $280 every year between 1986 and 2010, would you suddenly realize, after 24 years, that the real price of your ticket had dropped by exactly 50 percent? Probably not. You'd probably think, correctly, "I guess flying to Ohio costs $280." The second, and less obvious, reason why we don't recognize the amazing fall in ticket prices is that average consumers don't know what a plane ticket "should" cost. Some prices, we know, as if by heart. Parents know the price of socks, teenagers know the price of Cheetos, and college kids know the price of PBR. These numbers hardly change. Their constancy anchors an expectation. But quick, what's \*the price\* of flying to Los Angeles? You have no idea. It could be $300 or $700, depending on the route, the time of day, the number of seats left, the number of days notice, and so on. Essentially, Americans are expert shoppers, not mathematicians. Don't ask us to divine the true cost of something, or to adjust for inflation. We only know how to click the cheapest price. And, for the airlines, that's precisely the problem.

6. A/T “European liberalization success” – EU didn’t do the AFF Plan. They still have restrictions within the EU

Dr. Boaz Moselle and the Brattle Group study team 2002 (Moselle is an economist with extensive expertise in international arbitrations and energy-related disputes. ; others prepared or assisted in the report, including three other primary authors: James Reitze, Dorothy Robyn, John Horn.) December 2002 “THE ECONOMIC IMPACT OF AN EU-US OPEN AVIATION AREA” published by the Brattle Group. <http://www.brattle.com/system/publications/pdfs/000/004/875/original/The_Economic_Impact_of_an_EU-US_Open_Aviation_Area_Moselle_et_al_Dec_2002.pdf?1378772136> (Brackets Added)

Although the bilateral Open Skies agreements are more liberal than the open market agreements they replaced, they embody a number of restrictive features either by omission or by explicit provision:   
Nationality clause: Like traditional bilateral air services agreements, US-Europe Open Skies agreements allow a State to reject a foreign designated air carrier if the carrier is not “substantially owned and effectively controlled” by the designating State or its nationals. The nationality clause serves the same function as rules of origin in preferential trade agreements—namely, to prevent third countries from obtaining the negotiated privileges through the back door. As discussed below, its effect is to limit cross-border investment and competition.   
Limits on foreign ownership and control: Under US law, at least 75 percent of the voting stock of a US airline must be owned or controlled by US citizens, and the president and two-thirds of the board of directors of the carrier must be US citizens. Administrative decisions by the Civil Aeronautics Board, and later by DOT, have interpreted the law to require that the airline must be under the actual control of US citizens (i.e., the airline must have US ownership and control), although administrative interpretations of what constitutes control have changed over the years. Similarly, EU law prohibits non-EU shareholders collectively from owning a majority of an EU carrier, or having the possibility directly or indirectly of exercising decisive influence over an EU carrier. In addition, some EU Member States have their own prohibitions on airline takeovers by non-EU investors.   
No right of establishment: A right of establishment allows an airline or other investor from one country to establish an airline in another country, either by acquiring an existing carrier or starting up a new one. The newly established airline must be incorporated in, and operate under the laws and regulations of, the other country. Open Skies agreements do not provide a right of establishment.   
No stand-alone cabotage: An airline from one Open Skies country cannot carry domestic traffic solely between two points within the territory of the other country. For example, under the US-Germany agreement, Lufthansa cannot carry US domestic passengers solely between any two airports inside the United States. Likewise, a US airline cannot carry German domestic passengers solely between any two airports in Germany.

If control is revocable, investors likely won’t invest

***Note to reader***: *As further explained in the strategy section, this is a response specific to any plan that claims to avoid threats to CRAF, etc. by making investments “revocable.”*

Jeffrey Smisek 2006 (was chairman, president and CEO of [Continental Airlines](https://en.wikipedia.org/wiki/Continental_Airlines), which merged with United in 2010. Previously a partner at the law firm of [Vinson & Elkins](https://en.wikipedia.org/wiki/Vinson_%26_Elkins)) May 9, 2006 “REVIEWING THE DEPARTMENT OF TRANSPORTATION'S NOTICE OF PROPOSED RULEMAKING THAT CLARIFIES THE RULES REGARDING FOREIGN INVESTMENT IN U.S. AIR CARRIERS” <https://www.gpo.gov/fdsys/pkg/CHRG-109shrg65069/html/CHRG-109shrg65069.htm> (Note: the article includes multiple speakers/authors. This card specifically quotes Smisek) In the context of proposed rulemaking related to foreign ownership restrictions and the US-EU Open Skies Agreement,

The DOT is trying to convince both sides of the Atlantic that everyone gets exactly what they want. DOT is promising foreign investors that they will have control over U.S. airlines, because, otherwise, the EU would refuse to sign the Open Skies Agreement. And DOT is promising Congress that foreigners won't have control of U.S. airlines. So, the proposed rule will create years of substantial uncertainty for both foreign and domestic investors as the legal and practical consequences are sorted out and, I assure you, litigated. Now, I've got a research report from JPMorgan that just came out. JPMorgan said in this research report that, “We would now advise--this is based on the SNPRM--that, We would now advise European airlines not to invest at all under conditions of revocable authority currently proposed.”  
[End quote. Later in the report, it continues]  
I think Mr. Shane's previous testimony made it very clear that foreign carriers could dominate and control every commercial aspect of a U.S. airline other than safety, security, CRAF, and the organizational documents. Now, they've add--that was in the original proposal--now they've added this concept of revocability, which is completely illusory, because if truly those matters were revocable, then the foreign investor would never make the investment. JPMorgan makes that point. And if it's nonrevocable, that means basically that the foreign investor will be in total domination and control of a U.S. airline.

**Impact/Summary:** We can’t have it both ways: either we don’t reserve the right to ruin someone’s investments, or we allow CRAF and other interests to face threat. Revocability is unrealistic and “completely illusory.”

DISADVANTAGES

1. Labor standards reduced

US employees suffer harm if bought out by foreign airlines

Duane Woerth 2006 (served as Chief Executive Officer, Chief Administrative Officer and President at Air Line Pilots Association International; Boeing-747 captain) May 9, 2006 “REVIEWING THE DEPARTMENT OF TRANSPORTATION'S NOTICE OF PROPOSED RULEMAKING THAT CLARIFIES THE RULES REGARDING FOREIGN INVESTMENT IN U.S. AIR CARRIERS” <https://www.gpo.gov/fdsys/pkg/CHRG-109shrg65069/html/CHRG-109shrg65069.htm> (brackets in original; The original source includes multiple speakers/authors. This card specifically quotes Woerth)

U.S. workers would also suffer injury because U.S. labor laws do not apply to foreign air carriers. When two or more U.S. carriers are commonly controlled, the employees of all of them are subject to the Railway Labor Act and therefore have the same collective bargaining rights and opportunities. This allows the employees on all the affiliated carriers to try to equalize their wages and working conditions, thereby preventing the carriers from playing one employee group against another. When one of the affiliated carriers is foreign and therefore not subject to the same labor law, the employees of all the affiliates are placed at a severe disadvantage and face the prospect of being bid against each other without effective recourse against the entity (perhaps a foreign holding company) that is allocating the work. These are not hypothetical concerns. In the early 1990's when British Airways bought into US Airways, and KLM bought into Northwest, flight crew jobs were either moved to or grew disproportionately at the foreign partner.

A/T “They would remain domestic, so standards don’t change” – Wouldn’t solve, because 2 sets of standards are in play

Duane Woerth 2006 (served as Chief Executive Officer, Chief Administrative Officer and President at Air Line Pilots Association International; Boeing-747 captain) May 9, 2006 “REVIEWING THE DEPARTMENT OF TRANSPORTATION'S NOTICE OF PROPOSED RULEMAKING THAT CLARIFIES THE RULES REGARDING FOREIGN INVESTMENT IN U.S. AIR CARRIERS” <https://www.gpo.gov/fdsys/pkg/CHRG-109shrg65069/html/CHRG-109shrg65069.htm> (brackets in original; The original source includes multiple speakers/authors. This card specifically quotes Woerth)

First, DOT states that even if foreign entities control the operations of a U.S. airline that airline would still be subject to the Railway Labor Act and thus ``all employees at any U.S. carrier would retain all the protections created by United States' labor laws.'' But that truism has never been at issue. The concern, as stated above, is that U.S. labor laws may be inadequate to deal with the job allocation issues that may arise if two airlines subject to two separate sets of labor laws are under common ownership.

2. US business losses

Link & Uniqueness: SQ policy preserves the competitiveness of US airlines [same context as the card above]

Duane Woerth 2006 (served as Chief Executive Officer, Chief Administrative Officer and President at Air Line Pilots Association International; Boeing-747 captain) May 9, 2006 “REVIEWING THE DEPARTMENT OF TRANSPORTATION'S NOTICE OF PROPOSED RULEMAKING THAT CLARIFIES THE RULES REGARDING FOREIGN INVESTMENT IN U.S. AIR CARRIERS” <https://www.gpo.gov/fdsys/pkg/CHRG-109shrg65069/html/CHRG-109shrg65069.htm> (brackets in original; The original source includes multiple speakers/authors. This card specifically quotes Woerth)

What would likely happen when a foreign carrier acquires control of a U.S. carrier is that the foreign carrier might well use the U.S. carrier to create a domestic network that would support and feed traffic to the foreign carrier's international operations. As a result, any pre-existing international operations of the U.S. carrier could diminish or disappear, while those of the international carrier would be expanded. Such a result is fundamentally inconsistent with 49 U.S.C. Sec. 40101(a)(15), which sets forth as a U.S. policy goal:  
strengthening the competitive position of [U.S.] air carriers to at least ensure equality with foreign air carriers, including the attainment of the opportunity for [U.S.] air carriers to maintain and increase their profitability in foreign air transportation. [Emphasis added.]  
This goal simply could not be accomplished if foreign carriers are permitted to control the basic operations and business strategy of U.S. carriers.

Impact: US airlines lose. Foreign airline owners would shut down parts of US domestic airlines upon buying them out

Duane Woerth 2006 (served as Chief Executive Officer, Chief Administrative Officer and President at Air Line Pilots Association International; Boeing-747 captain, he has flown at Northwest for 20 years and at Braniff Airlines for five years.) May 9, 2006 “REVIEWING THE DEPARTMENT OF TRANSPORTATION'S NOTICE OF PROPOSED RULEMAKING THAT CLARIFIES THE RULES REGARDING FOREIGN INVESTMENT IN U.S. AIR CARRIERS” <https://www.gpo.gov/fdsys/pkg/CHRG-109shrg65069/html/CHRG-109shrg65069.htm> (To clarify, the original source includes multiple speakers/authors. This card specifically quotes Woerth)

When one air carrier seeks to acquire control of another, the goal of the acquisition is almost always to combine the operations of the two carriers so as to create an integrated network. Since foreign carriers cannot operate domestically, the reason a foreign carrier would seek control of a U.S. carrier would normally be to combine the U.S. carrier's domestic services with the foreign carrier's international services. While this also occurs when U.S. and foreign carriers form alliances, an acquisition of control is very different from an alliance. In an alliance each carrier remains autonomous and able to protect its own economic interests. A very different situation would be created if a foreign carrier is permitted to acquire control of the key economic elements of a U.S. carrier's business strategy--such as route structure, schedules, fleet type, and the like. In such a situation, it is inevitable that the foreign carrier would exercise its control to maximize its own interests, not those of the U.S. carrier. What would likely happen when a foreign carrier acquires control of a U.S. carrier is that the foreign carrier might well use the U.S. carrier to create a domestic network that would support and feed traffic to the foreign carrier's international operations. As a result, any pre-existing international operations of the U.S. carrier could diminish or disappear, while those of the international carrier would be expanded.

3. More capital would be bad

Link: AFF claims they will get more capital

Link: Our INHERENCY evidence says we don't need more. Here's why more would be bad…

Link: Airline investments are almost guaranteed to lose money. Warren Buffet says airline investing is a “death trap”

Ted Reed quoting Warren Buffett 2013 (contributor for Forbes, frequently covering airline news; masters in journalism from Columbia University) May 13, 2013 “"Buffett Decries Airline Investing Even Though at Worst He Broke Even" <https://www.forbes.com/sites/tedreed/2013/05/13/buffett-decries-airline-investing-even-though-at-worst-he-broke-even/#569b0383b5e7> [Brackets and their ellipses added]

At the recent [Berkshire Hathaway](http://www.forbes.com/companies/berkshire-hathaway/) annual meeting, Buffett responded negatively when asked a question about airline investing. [quote] "Investors have poured their money into airlines and airline manufacturers for 100 years with terrible results," Buffett said, according to [TheStreet](http://www.forbes.com/companies/thestreet/). "It's been a death trap for investors," he said of the airline industry, after he was asked whether airline consolidation has altered his long-standing view that investors should stay away from airlines.

**[END QUOTE. Later, the evidence continues by quoting a 2002 interview with Warren Buffet. Quote]**

Nevertheless, over the past two decades Buffett has made a series of widely reported repudiations of airline investing, including this statement from a 2002 interview with the London newspaper The Telegraph: “If a capitalist had been present at Kitty Hawk back in the early 1900s, he should have shot Orville Wright. He would have saved his progeny money. But seriously, the airline business has been extraordinary. It has eaten up capital over the past century like almost no other business because people seem to keep coming back to it and putting fresh money in. You've got huge fixed costs, you've got strong labor unions and you've got commodity pricing. That is not a great recipe for success. I have an 800 (free call) number now that I call if I get the urge to buy an airline stock. I call at two in the morning and I say: 'My name is Warren and I'm an aeroholic.' And then they talk me down.”

Impact: More capital increases risky behavior and promotes weaker airlines – Turn on the AFF's advantages

Alex Cosmas, Dr. Peter Belobaba, and William Swelbar 2008 (Cosmas is a Booz Allen chief scientist specializing in predictive analytics across the transportation, travel, and consumer sectors. He is a recognized expert in the use of probabilistic and causal models to perform both deductive and inductive reasoning from large data sets. Belobaba is principal research scientist at MIT’s AeroAstro, PhD from MIT). Swelbar is a Research Engineer in MIT’s International Center for Air Transportation) 2008, “Framing the Discussion on Regulatory Liberalization: A Stakeholder Analysis of Open Skies, Ownership and Control” published with MIT. <http://web.mit.edu/airlines/news/news_new_documents_files/Cosmas_ICAT2008_RegulatoryLiberalization.pdf>

In addition, diversifying investor risk profiles allows U.S. airlines with weaker credit ratings to seek capital. A secondary benefit is that foreign airline investors impact the culture of acquired airlines, encouraging them to adopt best practices. However, limiting the pool of capital encourages stronger, less risky business plans. If we assume the quality and number of business plans remains constant, additional funding favors weaker plans.

4. Subsidized competition

Foreign state owned enterprises (SOEs) avoid true competition and kill US jobs. Example: SQ subsidies on foreign routes

Air Line Pilots Association 2016 (represents and advocates for more than 57,000 pilots at 33 U.S. and Canadian airlines, the world’s largest airline pilot union.) (Ethical note about the date: article is undated but was written at least in 2016 or more recently, based on internal references to events) “We Keep America Flying” <http://www.alpa.org/~/media/ALPA/Files/pdfs/news-events/white-papers/keep-america-flying.pdf?la=en> [Brackets and ellipses in original]

Per the U.S. Trade Representative, “SOEs [state-owned enterprises] are increasingly competing with U.S. businesses and workers . . . in some cases distorting global markets . . . and undercutting U.S. workers with subsidies” The U.S. airline business is no exception to this rule. Airlines and their workers face increasing competition from SOEs. The resulting loss of market share is costing the United States thousands of good airline jobs. The largest and most threatening of these SOE air carriers are located in China, Qatar, and the United Arab Emirates (UAE). The Chinese government’s support for their national industries is well known. The Chinese government owns and financially backs Air China, China Southern, and China Eastern, all of which do business across the globe. Until Chinese carriers operate without any government support, we must not allow them access to the whole U.S. market via an Open Skies agreement. As referenced above, the United States has signed bilateral Open Skies agreements with Qatar and the UAE. These two countries have given their three national airlines (i.e., Emirates Airline, Etihad Airways, and Qatar Airways) more than $50 billion in documented subsidies since 2004. Subsidies on this scale clearly violate the Open Skies agreements’ provisions regarding the fair and equal opportunity to compete. The harm to the U.S. economy from these subsidies is evident, and it is increasing. Every widebody route lost or forgone because of this illegal competition costs the United States more than 800 jobs. Delta and United both recently had to cut their service to Dubai from the United States because of this subsidized competition. Over the past year, the Gulf carriers have increased their capacity to the United States by more than 40 percent, putting further pressure on U.S. airlines and their workers.

Foreign government subsidies undermine competitiveness

**Note to reader:** The reason the subsidy estimate changes between $42B, $39B, and >$50B generally depends on date and whether “other unfair state support” is included.

Partnership for Open and Fair Skies 2015 (a coalition composed of American Airlines, Delta Air Lines and United Airlines, along with the Air Line Pilots Association, Int’l, the Allied Pilots Association, and other organizations) January 18, 2015 “RESTORING OPEN SKIES: THE NEED TO ADDRESS SUBSIDIZED COMPETITION FROM STATE-OWNED AIRLINES IN QATAR AND THE UAE” <http://www.openandfairskies.com/wp-content/themes/custom/media/White.Paper.pdf>

As the key instruments of their governments’ aviation-fueled economic development strategies, the three Gulf carriers benefit from active government industrial policies that are distorting the global aviation marketplace in a way that is wholly contrary to the goals of U.S. Open Skies policy. Most significantly, newly discovered evidence – including Etihad’s and Qatar’s non-public financial statements – shows that in spite of their repeated and vehement public denials, Etihad, Emirates and Qatar have collectively received over $39 billion in subsidies in the last decade alone. This massive government support has enabled the three airlines to expand their capacity and operations at a pace that would have been impossible otherwise, and, in the case of Etihad and Qatar, has kept them in business in spite of their enormous losses. According to their own financial statements, if not for the subsidies, Etihad and Qatar would not be commercially viable. In addition to the subsidies, the three carriers also receive significant benefits from other aspects of their governments’ industrial policies. Artificially low labor costs (a result of their governments’ bans on unions and other well-documented labor practices), freedom from taxation, exemptions from their countries’ competition laws and lack of independent regulation are only a few examples. Together with the subsidies, these government-conferred advantages artificially decrease the Gulf carriers’ costs and give them significant competitive advantages over U.S. and third-country airlines.

Specific Gulf Airline example: Etihad

Partnership for Open and Fair Skies 2015 (a coalition composed of American Airlines, Delta Air Lines and United Airlines, along with the Air Line Pilots Association, Int’l, the Allied Pilots Association, and other organizations) January 18, 2015 “RESTORING OPEN SKIES: THE NEED TO ADDRESS SUBSIDIZED COMPETITION FROM STATE-OWNED AIRLINES IN QATAR AND THE UAE” <http://www.openandfairskies.com/wp-content/themes/custom/media/White.Paper.pdf>

In a 2013 submission to the U.S. Department of Transportation, Etihad flatly stated that it “operates to a commercial mandate and does not receive state subsidies.” Etihad’s CEO James Hogan has similarly claimed that “there is no form of subsidisation from the government to the airline.” He has made similar claims on numerous occasions in the past. But these claims are false. Etihad’s audited financial statements – which Etihad refuses to publicly disclose – demonstrate that in the period from its inception to the end of 2013 (the latest information available), Etihad received over $13.5 billion in subsidies in the form of interest-free government loans, equity infusions, airport fee exemptions, and other types of government funding that have enabled the airline to continue in operation despite its $4 billion in accumulated losses. The financials also show that the Government of Abu Dhabi has already committed an additional $4.2 billion in subsidies to Etihad – including $3.5 billion in 2014 – which means the total subsidy amount will exceed $17 billion.

A/T “Hypocrisy: US Airlines received $155 billion in subsidies” – Report is ridiculous in definitions

***Note to reader:*** *The reason the subsidy estimate changes between $42B, $39B, and >$50B generally depends on date and whether “other unfair state support” is included.*

Dennis Skaal 2015 (business and consumer Editor, Columnist and Reporter covering online, mobile and social travel and technology.) April 09, 2015 “WikiLeaks Disclosure Shows U.S. Airlines Received Billions in Subsidies” <https://skift.com/2015/04/09/wikileaks-disclosure-shows-u-s-airlines-received-billions-in-subsidies/>

The Partnership for Open and Fair Skies, the airline and union coalition fighting the Gulf carriers’ subsidies, rejects the congressional report as “laughable.” “It is laughable that a two-decade-old unpublished paper examining U.S. aviation since 1918 is being trumpeted as ‘evidence’ that U.S. airlines are supported the way that the United Arab Emirates and Qatar routinely subsidize their airlines,” said Jill Zuckman, Partnership for Open and Fair Skies spokesperson. “This is a case of distract and dissemble,” Zuckman said. “Funding for air mail, Post Office support, and the National Weather Service is a far cry from the well-documented $42 billion dollars in direct subsidies and other unfair state support the Middle East carriers receive. “Even more preposterous, the vast majority of the so-called subsidy includes the entire annual budgets for the Federal Aviation Administration from 1958 to 1998 and the cost of building air traffic control towers decades ago. Calling FAA funding a subsidy for commercial airlines is akin to calling paved roads and traffic lights a subsidy for the taxi industry. In fact, U.S. airlines send billions of dollars to the federal government every year to cover the cost of aviation services.

A/T “Hypocrisy: Chapter 11 and other benefits are domestic subsidies” – Not comparable

Peter Fricke 2015 (journalist) May 15, 2015 “Gulf Airline Blasts US For Aviation Subsidies” <http://dailycaller.com/2015/05/15/gulf-airline-blasts-us-for-aviation-subsidies/>

Etihad identifies a range of benefits that the federal government and the states provide exclusively to U.S. carriers, including tax incentives, fuel subsidies, and pension bailouts. The majority of the alleged assistance, though, relates to Chapter 11 bankruptcy protections. The Partnership for Open & Fair Skies, which represents the U.S. carriers, counters that there is no legitimate basis for comparing bankruptcy protections with direct cash subsidies. [**(RELATED: Group Releases List of Unfair Government Competition)**](http://dailycaller.com/2015/01/15/group-releases-lists-of-unfair-government-competition/)“The Chapter 11 process is not a ‘subsidy’, as established by international trade law, and many other countries have similar procedures in place,” said Jill Zuckman, chief spokesperson for the group, [in an email to Gulf News](http://gulfnews.com/business/aviation/etihad-commissioned-report-a-turning-point-in-subsidy-row-1.1511241). “In addition, US taxpayers are not liable for any restructuring of airline pension plans in bankruptcy.”

5.The “back door” problem

Link: Traffic rights may be lost if one country opens up to foreign ownership and others don’t

Bimal Patel 2008 (associate with O'Melveny & Myers LLP; Stanford University (B.A.), John F. Kennedy School of Government, Harvard University (M.P.P.), and Georgetown University Law Center (J.D.). Mr. Patel has worked on international, regulatory, and antitrust issues for multiple U.S. airlines as well as the U.S. Department of Justice.) Summer 2008, “A Flight Plan Towards Financial Stability - The History and Future of Foreign Ownership Restrictions in the United States Aviation Industry” in The Journal of Air Law and Commerce. (Only accessible via a university/etc.)

Shifting to the potential loss of traffic rights, the problem is illustrated by the following hypothetical. Suppose that there are three countries: A, B and C. A liberalizes its foreign ownership restrictions. Suppose then that the airline of country B buys the airline of country A. This allows the airline of country B to use the traffic rights of country A that country A had previously negotiated with country C. The problem is that country C had not negotiated rights with country B. There may be reasons why country C would not want country B to have these rights. Country C could then respond by terminating the previously negotiated agreement with country A. This situation actually occurred upon British Airways' purchase of the French airline, Air Liberte. When this occurred, the Moroccan government imposed guarantees on the French government to ensure that the traffic rights that Air Liberte had possessed between France and Morocco would be maintained. Absent these guarantees, the traffic rights between France and Morocco could have been lost, illustrating an instance under which foreign ownership could lead to a loss of traffic rights.

Impact: Turn the “competitiveness” advantages of the AFF plan. They may get worse with an AFF ballot.

6. CRAF (Civil Reserve Air Fleet) Threatened

Link: What is CRAF? Critical to capabilities in times of emergency

Lt Col Donald Schauber 2008 (US Air Force, is a graduate of the Air War College; former commander of the 35th Student Squadron; formerly air attaché to the US Embassy, Lima, Peru.) April 2008 “Impact of Foreign Ownership on the Civil Reserve Air Fleet” with the Air University Air War College <http://www.au.af.mil/au/awc/awcgate/maxwell/mp42.pdf>

The 2004 National Military Strategy is based on continued US engagement and leadership abroad and calls for “rapidly deployable, employable, and sustainable forces that can defeat a wide range of adversaries.” Currently, two sources of strategic airlift—the Civil Reserve Air Fleet (CRAF) and the organic (military) fleet—are critical enablers in meeting this strategy. The CRAF was developed to supplement organic airlift with civil passenger, cargo, and aeromedical capabilities during times of national emergency. The latest planning factors state that the Department of Defense (DOD) relies on the CRAF to handle approximately one-third of its wartime airlift requirements. Most recently, the long-range passenger segment of the CRAF was activated for Operation Iraqi Freedom (OIF), reinforcing DOD reliance on the CRAF and the impact of the CRAF on national security.

Link: CRAF would decline and be undermined if foreign companies control US airlines

Duane Woerth 2006 (served as Chief Executive Officer, Chief Administrative Officer and President at Air Line Pilots Association International; Boeing-747 captain, he has flown at Northwest for 20 years and at Braniff Airlines for five years.) May 9, 2006 “REVIEWING THE DEPARTMENT OF TRANSPORTATION'S NOTICE OF PROPOSED RULEMAKING THAT CLARIFIES THE RULES REGARDING FOREIGN INVESTMENT IN U.S. AIR CARRIERS” <https://www.gpo.gov/fdsys/pkg/CHRG-109shrg65069/html/CHRG-109shrg65069.htm> (To clarify, the original source includes multiple speakers/authors. This card specifically quotes Woerth)

The decline in international operations by U.S. carriers that would result from foreign control would also undermine the CRAF program, because it would necessarily cause a reduction in the number of long-range wide-bodied aircraft in the U.S. carrier's fleet. Although the Department's proposed rule attempts to protect the CRAF program by ensuring that U.S. citizens retain control of a carrier's CRAF commitments, the fact is that a foreign carrier that has economic control of a U.S. carrier would be able to determine how many CRAF-eligible aircraft the U.S. carrier has in its fleet. And it is predictable, for the reasons stated, that the foreign carrier's business strategy would cause that number to diminish over time.

Impact: National Security. Foreign airlines could refuse CRAF and frustrate US military objectives

Ryan Patanaphan 2011 (J.D. Candidate, Ohio St. Univ Moritz College of Law, 2011; B.A. International Studies Johns Hopkins Univ) April 2011 “Navigating the Complex Skies: A Caveat on Liberalizing Foreign Ownership Restrictions in U.S. Airlines” <http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/72.1.patanaphan.pdf>

Opponents of liberalizing foreign ownership restrictions argue that the government will have fewer options in ensuring that CRAF has adequate support for its wartime initiatives, once foreign companies gain control of U.S. airlines. U.S. airlines presently have a strong financial incentive not only to participate in CRAF, but also to fulfill their CRAF obligations if the program were to be activated. As a result, the concern over foreign ownership does not rest solely on whether a foreign-controlled airline will participate in CRAF, but whether the airline will come through on its obligations. With U.S. airlines, the government has the power to threaten to revoke an airline’s operating certificate (causing it to cease operations altogether) or threaten litigation upon company officers and directors, if noncompliance causes CRAF participation to fall below military requirements. Foreign-owned airlines, particularly those controlled by foreign governments, could be at odds with U.S. foreign policy, and if they exerted control over U.S. carriers necessary for the success of CRAF, they could frustrate the U.S. government’s military objectives abroad, even when non-participation in CRAF were financially damaging to the airline. For this reason, both proponents and opponents of liberalization have voiced a need for the U.S. government to exert sizeable influence over airlines controlled by foreign or domestic entities.

A/T “Companies would still do CRAF” – Not a safe assumption. Kind of hilarious, actually

Lt Col Donald Schauber 2008 (US Air Force, is a graduate of the Air War College; former commander of the 35th Student Squadron; formerly air attaché to the US Embassy, Lima, Peru.) April 2008 “Impact of Foreign Ownership on the Civil Reserve Air Fleet” with the Air University Air War College (brackets in original) <http://www.au.af.mil/au/awc/awcgate/maxwell/mp42.pdf>

The first and most important underlying subissue is the alignment or, more appropriately, the mismatch between political and national security interests. When the CRAF is required for activation, the United States will be engaged in a conflict with a foreign adversary during a time of global instability. Given these conditions, how could the DOD not have reservations concerning CRAF participation if foreign ownership were allowed? The relationships between foreign airlines and their home governments are often fundamentally different from the relationship between US airlines and the US government. Unlike the United States, many foreign countries have a very limited number of airlines operating within their borders, with the majority having only one. Being a single carrier within a foreign country makes that carrier very susceptible to political pressures from the government. So the primary concern is if the United States were to enter into an “unpopular” conflict, could a foreign-owned carrier be counted on to participate if it or its respective government disagreed with US actions? This concern is illustrated in the following account of a seminar discussion at the Fifth Worldwide Air Transport Conference, with the topic of OIF as a backdrop:

[T]he seminar discussion said [the effect of] unrestricted foreign ownership of a US airline would be minimal on the Defense Dept.’s Civil Reserve Air Fleet program. An airline with a majority of investment from overseas would most likely be operated as a US subsidiary, he said, subject to the same responsibilities as any other flagged carrier. Concerns could be allayed by applying existing regulations such as those related to licensing.

Discussions on this issue prompted the seminar chairman . . . to question whether Air France, if it owned a US subsidiary, would permit the subsidiary to operate supply missions to the Middle East. The query caused a wave of laughter through the hall packed with 600 participants.

Quantification: CRAF moved big percentages of the men & cargo used in WW2, Korean War, Vietnam, and Desert Storm

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Criticality of CRAF  
Although formal activation of the CRAF has only occurred twice, it has been an integral force multiplier in every major US conflict since its inception. Besides WWII, mentioned above, the CRAF voluntarily moved 67 percent of all DOD passengers and 56 percent of DOD cargo requirements during the Korean War. The CRAF again voluntarily stepped in during the Vietnam War and transported over 11 million soldiers and over one million tons of cargo. It was not until the early 1990s that the CRAF was formally activated during Operations Desert Shield/Desert Storm (ODS), where both Stage I and Stage II were activated. To highlight the capabilities of the CRAF, during ODS the activated CRAF aircraft accounted for 67 percent of the passengers and 25 percent of the cargo during the deployment phase and 85 percent of the passengers and 42 percent of the cargo for the redeployment phase.

Impact: CRAF = billions of dollars and critical to national security

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From the examples above, it should be intuitively obvious, despite the difficulty of forecasting future mobility requirements, that the US military is very dependent on civilian airlift during times of conflict. With an approximate cost of $379 million to the taxpayers in 2007, the CRAF program offers an avenue for the military to obtain a large portion of critical lift capability at a minimal cost. This avenue becomes increasingly important as the military continues to work with shrinking budgets and decreased overseas bases while transforming to an expeditionary force where engagements throughout the globe will undoubtedly continue to rise along with the need for strategic lift. A 1999 congressional report estimated it would cost over $50 billion to procure an organic fleet equivalent to the capabilities provided by the CRAF fleet plus approximately $1–3 billion annually to operate it. In other words, it costs the military approximately $152 to move one ton-mile per day with its organic fleet while the CRAF cost is less than $12. These numbers are stark reminders of the US reliance on the CRAF and its vital importance to supplement military airlift requirements, a vital element of national security.

A/T “US revokes their license if they don’t do CRAF” - They could still pull out of CRAF

Ryan Patanaphan 2011 (J.D. Candidate, Ohio St. Univ Moritz College of Law, 2011; B.A. International Studies Johns Hopkins Univ) April 2011 “Navigating the Complex Skies: A Caveat on Liberalizing Foreign Ownership Restrictions in U.S. Airlines” <http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/72.1.patanaphan.pdf>

Any discussion involving a liberalization of foreign ownership restrictions should preclude the possibility for increased cabotage rights—that is, the right for a foreign airline to commercially operate U.S. domestic services. Foreign carriers in such a scenario would likely displace some U.S. carriers in the market, resulting in possible pressure for DOD to open up the CRAF program to those foreign carriers. CRAF commitments are likely enforceable in situations where a U.S. carrier is controlled by a foreign carrier; it is less certain that these same commitments would be enforceable against a participating foreign carrier—one that is registered and incorporated in a foreign country. Foreign airlines, both public and private, can be influenced by their home governments. Just as U.S. airlines are subject to U.S. regulations and potential U.S. government control, foreign carriers still fly subject to their home country’s “sovereignty, regulatory authority, or influence,” thereby weakening their commitments to CRAF even if they had earlier chosen to participate. While it is still likely that foreign carriers operating domestic U.S. services will want to abide by their commitments to CRAF, it is less certain that they will ultimately fulfill those commitments when their home governments vehemently oppose a U.S. war effort. As a possible form of enforcement, a foreign government could threaten to withhold the foreign airline’s registration or certification to operate services if the airline chose to serve the U.S. military. In some cases, the foreign government may be able to seize or condemn the airline’s aircraft. On the reverse side, U.S. airlines, even those controlled by foreign carriers, can be subject to a DOT revocation of their operating certification. Without other recourse, U.S. airlines are strongly deterred from reneging on CRAF commitments by the fact that they may be forced out of operation. DOT could revoke a foreign carrier’s cabotage rights if the foreign carrier did not meet its CRAF obligations, though it is not certain whether this threat of revocation will actually deter the foreign carrier from reneging on its commitments. If the foreign carrier’s operations in the U.S. are minimal, the foreign carrier can afford to discontinue these routes. If they are significant, the foreign carrier’s home country could attempt to retaliate by revoking any access rights to U.S. carriers.

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