

The Honorable James L. Oberstar
Remarks at
International Aviation Club
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Although this year's Presidential election has been unusual, to say the least, there has been nothing unusual about the relationship of the election to aviation issues. As has always been the case, aviation issues were largely ignored in the debates and speeches of the Presidential campaign. The new Administration will take office without any strong commitments on aviation.

Today's luncheon gives us a good opportunity to begin the discussion of the major aviation challenges the new Administration will face. In my remarks, I will focus on four of these issues:

- 1) Adequate staffing of the Department of Transportation (DOT);
- 2) Modernization of the Air Traffic Control System,
- 3) Delays and Congestion, and
- 4) Ensuring Adequate Airline Competition.

DOT Staffing

The first issue I will discuss, the erosion of DOT's aviation staff, is perhaps the least exciting. It doesn't involve new technology, multi-billion dollar mergers, or millions of delayed passengers. But we will not develop the best solution to any of these aviation issues, unless we have adequate staffing of the government offices dealing with aviation.

A leading case in point is the staff in the Office of DOT's Assistant Secretary for Aviation and International Affairs and the Office of General Counsel. These offices have many important aviation responsibilities. This is the staff that:

- Serves as the backbone of the delegations that negotiate international aviation rights for our airlines with the experienced and very competent career aviation officials of foreign nations;
- Provides expert advice to the Department of Justice when Justice is considering airline mergers that will determine whether there will continue to be adequate competition; and

- Furthers its own regulatory responsibilities for competition, including dealing with predatory practices by major carrier against new entrants, and ensuring adequate competition in ticket sales over the Internet.

The DOT staff has many other regulatory responsibilities, particularly in international aviation, since DOT must select airlines for international routes when there are not open skies agreements, and approve alliances and code sharing agreements for international operations.

Given these important responsibilities it is very unfortunate that, over the past fifteen years, DOT's aviation staff has been eroded by budget cutting decisions in the Executive Branch and the Congress. The aviation staff in the Assistant Secretary's Office has decreased from 166 at time of CAB sunset in 1985 to fewer than 100 today. The reductions have been accomplished by not filling vacancies and, as a result, the staff has been aging and now has a median age of 51. As much as half the staff could retire in the next five years.

Unless this situation is quickly reversed, our airlines are likely to find themselves disadvantaged in foreign markets, and there will be a decline in the quality and timeliness of the regulatory decisions that ensure adequate competition, protect

consumers and enable our airlines to expand their services through alliances and other new ways of doing business.

The need for adequate staffing is particularly acute when we consider the challenging problems DOT will face in the next few years, such as the rapid development of ticketing through internet sites, and the major competitive issues now before us, including mergers and unfair competitive practices.

We are not talking about busting the budget – the DOT aviation staff budget is now about \$10 million. I urge the new Administration to make the small investment and the intelligent personnel decisions needed to ensure that we always have the first class government aviation staff that the industry and the public need and deserve.

Modernizing the Air Traffic Control System

When the new Administration takes office it will face major challenges in completing the modernization of the air traffic control system (ATC). Fortunately, the new Administration will be able to build upon the substantial progress that has been made in the last few years. During this time, FAA has replaced a large amount of older equipment with more modern technology. The new equipment is designed

to serve as a flexible platform to add new functionalities as we move into the next era of ATC. Here are some of the highlights of the last few years:

- The **Host and Oceanic Computer System Replacement** has replaced older, less efficient and less reliable mainframe computers in all 20 Air Route Traffic Control Centers and 3 oceanic centers. This program was completed in May 2000, just 18 months after contract award.
- The **Display System Replacement** has been completed and all 20 Air Route Traffic Control Centers (ARTCC) now have new, fully operational controller displays, replacing controller displays that were between 20 and 30 years old. The last site went operational in May 2000.
- **Common ARTS (Automated Radar Terminal System)**, has replaced aging backroom processors and peripherals at 131 of the smaller TRACONS, and at the 5 large TRACONS. The final site was completed in May 2000.
- The **Airport Surveillance Radar, Model 9 (ASR-9)** has replaced obsolete radars at all high-density airports. This is a digital radar, which provides substantially improved capability in the terminal environment for determining aircraft position and providing weather data. This radar is

compatible with ARTS and, as it becomes available, STARS. As of September 2000, all 129 of these radar systems are operational.

- The **Terminal Doppler Weather Radar (TDWR)**, which greatly improves ATC system safety by providing hazardous weather alerts and permitting timely redirection of air traffic, has been installed at 42 of the planned 44 sites. The remaining two sites will be commissioned in May and June of 2001.

While these accomplishments are laudable, we must not forget that significant challenges still exist in our efforts to ensure the ATC system can handle the expected growth in air traffic in the next several decades.

One area of the ATC system that needs FAA's focused attention is the oceanic airspace. The United States manages 80% of the world's controlled oceanic airspace. While only 5% of air carrier operations are oceanic operations, these operations represent 28% of the passenger revenues of our airlines. With this level of importance, the current airspace inefficiencies are unacceptable. Aircraft separation continues to be managed through infrequent position reports transmitted via radio and manual flight tracking. Due to the inaccuracies inherent in this process, the separation standards over the ocean have remained at 100 miles versus the 5 miles required in domestic en route airspace. These system inefficiencies cause additional

fuel costs, increased crew costs and passenger delays. Air travel is becoming increasingly global in nature, and therefore the FAA must make modernizing the oceanic ATC system a high priority. FAA has already taken a first step in this area by evaluating two competing vendors for a new oceanic automation system. Staying on course with this procurement activity is extremely important.

FAA is also undertaking the extremely important and extraordinarily difficult task of redesigning the national airspace. The National Airspace Redesign Program will allow us to move away from our reliance on a fixed route system and establish a more efficient system of flexible routes. The basic design of ATC has not changed since the installation of ground-based radios in the 1920s. Today's ATC procedures are all built on top of the original non-radar procedures developed at a time when the controllers tracked aircraft on paper and calculated their positions through a difficult mental process (this remains the current back-up procedure). When automation tools were added in the 1970s, the underlying procedures remained relatively unchanged. Our reliance on a fixed route system severely limits airspace capacity. If airspace capacity improvements are to be achieved, the ATC routing system must be more dynamic and more effectively utilize the airspace.

Another challenge facing the ATC system is the congestion of the radio frequencies used for ATC services. The radio airwaves that pilots and controllers use

to communicate are almost filled to capacity, threatening the ability of the aviation system to meet the growing demand for air travel. Separate frequencies are required for each ATC sector; for airport fire and rescue personnel; for navigation aids, such as instrument landing systems; and for automated weather reporting systems.

The current radio system used for controller-pilot communication has been expanded to its limit. Any further enhancement would require expensive new equipment on the ground and in the air. The FAA has been looking at new technologies for long-term solutions to the radio frequency congestion problem. However, FAA's long-term solution could take approximately 12 years to implement. Many suggest that the crisis in radio frequency congestion will climax much earlier. FAA and the aviation industry must look at both interim fixes that will allow the ATC system to handle the impending growth in air traffic and provide ways to expedite the long-term solution.

With these and other challenges, it is clear that the new Administration will have a full plate in going forward with ATC modernization. I strongly urge it not to be distracted by proposals to privatize the ATC system, or to move ATC to a public corporation separated from the rest of FAA. Wholly apart from the serious problems I have with these proposals on their merits, I would remind the new Administration that there is a history of rejection of these proposals. Most recently, in the mid-1990s,

the Clinton Administration undertook a major effort to promote an ATC corporation. The proposal was opposed by aviation leaders in the Congress and by major groups in the industry. It did not gain substantial support in either the Democratic 103rd or the Republican 104th Congresses. I continue to have major objections to any separation proposals, and I believe that others in the Congress and the industry will also continue to object.

I don't have time today to reiterate the reasons I believe that ATC separation would diminish safety and likely be inefficient. But if these proposals go forward, you can be assured that I and those who share my views will raise our objections in the strongest possible terms. In the end, I don't believe that the Congress will adopt any proposals to separate ATC from the rest of FAA. I strongly urge the new Administration to focus its energies on improving the existing system, rather than tilting at the windmills of privatization or public corporations.

Congestion and Delays

One of the most difficult issues the new Administration will face is the growing problem of congestion and delays. For the past two years, delays have been increasing and, in January through June 2000, delays were 13.5% higher than during the same period in 1999. Unless we act promptly, the problem will grow worse.

United States domestic and international passenger enplanements are expected to increase from approximately 660 million in 1999 to almost 1 billion by 2009. To accommodate the growing traffic, the airlines will have to add flights or use larger aircraft. The existing flights cannot accommodate much more traffic. Load factors this summer averaged over 80%, which is essentially full capacity because those empty seats are primarily on the nighttime tag flights.

Recently, the delay problem reached crisis proportions at New York's LaGuardia Airport. In September 2000, there were more than 9,000 flight delays at LaGuardia, up from 3,108 in September 1999. In September 2000, LaGuardia accounted for 25% of the flight delays in the United States, up from 12% in September 1999.

There are no easy solutions to the problem at LaGuardia. LaGuardia is situated on approximately 660 acres of land, with two 7,000-foot intersecting runways. The airport is landlocked, bordered entirely by communities and water, with no viable room to expand. LaGuardia is also unique in that it is a destination airport and is not controlled by any one major carrier. Thus, LaGuardia does not have the luxury that some other hub airports might have where a dominant carrier can make unilateral decisions with limited competitive impact to adjust its operations to ease delays. Rather, any solution imposed to curtail congestion at LaGuardia will exact pain from a number of parties.

The problem at LaGuardia was recently exacerbated by an increase of about 300 flights a day, with the possibility of an additional 300 in the near future, because of the slot exemptions authorized by the recently-passed AIR-21 legislation. In that Act, slot limitations were ended at LaGuardia in the year 2007. In the interim, the Act authorized exemptions for service to smaller airports with aircraft of 71 or fewer seats, for services by new entrants not then serving LaGuardia, and by limited incumbents with fewer than 20 slots at LaGuardia.

Apparently, the long years of slot limitations at LaGuardia produced a pent-up demand for access to the airport. The 600 exemptions applied for represent an increase of 56 percent over the operations allowed under the slot rules. Eight percent of the exemptions were requested by new entrants and the rest by commuter partners of the nation's largest airlines.

Given the already serious delay problem and the prospect that it would grow worse, I believe that FAA had little choice but to limit operations at LaGuardia. However, some serious questions are raised by FAA's specific proposal. We are now reviewing this proposal and will gain further information at a hearing in December.

First, I am concerned with the series of events that led to FAA's proposal to limit exemptions at LaGuardia to 150 flights a day. The proposal was issued shortly after the airport operator, The Port Authority of New York and New Jersey,

announced on its own initiative that it would impose a moratorium on flights at LaGuardia. I agree with Secretary Slater that airport operators do not have authority to impose flight limitations to relieve congestion and delays.

I further believe that LaGuardia is a unique situation. At other airports, it is much less clear that there is a need to limit operations, or that a LaGuardia-type solution would be the best means of administering any limitation needed.

I hope FAA will make it clear to other airports that it will not be influenced by threats of unlawful actions by airport operators. I also hope that FAA will continue to emphasize the point it has already made -- that the LaGuardia solution is an interim solution, and that a longer-term solution will consider other, less disruptive measures, such as air traffic control and airport capacity improvements, and measures to encourage airlines to spread their schedules throughout the day, or to use other airports.

I also have concerns about some of the specifics of FAA's proposal to solve the problem by limiting only the new slot exemptions, and by allocating the slots in a way that may require the loss of service to communities currently being served. I recognize that these are difficult issues, and that any proposal to allocate operations

creates winners and losers. I hope that we will not need to repeat the LaGuardia solution at other airports.

Ensuring Adequate Competition

Finally, the new Administration may have to deal with the proposed United-US Airways merger. The merger is now pending before the Department of Justice (DOJ) for review under Hart-Scott-Rodino procedures. If DOJ review is not completed before the Clinton Administration leaves office, the next Administration will have to deal with the problem.

I believe that this merger must be rejected if we are to continue to have adequate competition in the airline industry. In 1978, when I cast my vote for airline deregulation, I did so in order for consumers to have greater choices, customer-oriented service and competitive prices in air travel.

Fewer choices, higher fares and a deterioration in service is not what Congress contemplated in 1978; yet it is the likely result if a United-US Airways merger is approved by the DOJ.

I believe that if the proposed merger were to be approved, the remaining airlines would feel compelled to merge to retain their shares of the overall market. We would soon be reduced to an industry of three major competitors.

Airline competition history has long revealed that, whenever the established major carriers control markets, the tendency is for the carriers to follow each other's fare changes so that the fares are identical, and passenger choice is limited. These tendencies would be magnified if there were only a few major airlines. Enormous incentives would exist for each carrier to avoid competing with the others at their strong hubs and routes.

Recently, there has been speculation that the DOJ may consider a compromise in which it would not object to the merger if the proposal was revised to require divestitures of additional assets – including a different disposition of the 200 National Airport slots to be given to DC Air, and/or to impose limitations on post merger operations. This type of compromise would not remove the basic problem with the proposed merger -- that the merger is likely to trigger other mergers and reduce the industry to three mega-carriers with worldwide networks.

In evaluating the threat that a United-US Airways merger would present to other large carriers, I would note that United is already the nation's largest carrier with

system revenues of almost \$2 billion a year more than American. If US Airways' substantial network were added to United's, the post-merger carrier would have 65 percent more revenue than American -- \$26 billion a year versus \$16 billion. The post-merger carrier would have nine hubs, more than any other carrier, and in seven they would have a market share of more than 50%.

In these circumstances, the motivations of American and Delta to merge would not be changed by any conditions that DOJ could impose. The main point of a United-US Airways merger is to permit United to expand its network substantially. The types of conditions that DOJ could consider would still leave us with a substantially bigger United, and other major carriers would still seek to merge.

Moreover, if the United-US Airways merger is approved, low-fare entrants would face great difficulties in competing with the surviving major airlines. New entrants already have great difficulty in entering new markets because incumbent carriers tend to meet new entry by matching the fares and increasing service. If there are mergers and the incumbent carriers are even larger, they would be even more likely and more able to destroy new entrants.

Mergers would jeopardize the substantial consumer benefits now provided by low fare carriers. A 1996 DOT study showed that low-fare carriers saved more than

100 million travelers a total of \$6.3 billion. These benefits are not likely to continue in an industry of three mega-carriers.

For these reasons, I have asked DOJ and DOT to use their authority to stop the United-US Airways merger under the antitrust laws. While federal regulators deliberate the fate of the proposed merger, it is imperative that Congress contemplate the steps that should be taken to protect consumers if competition in the industry is reduced to a point where it is no longer an effective check on monopolistic behavior. To begin the discussion, I introduced legislation, the Airline Competition Preservation Act of 2000, which reflects my initial thoughts on protection of consumers against monopolistic abuses.

The legislation would give DOT the authority to protect the American consumer should a series of mergers or other acquisitions be approved so as to leave our domestic market with three or fewer air carriers accounting for over 70% of scheduled revenue passenger miles. Under the bill, airlines would remain free to set prices and provide service without prior government approval. The bill, however, would give the DOT authority to intervene if the airlines take unfair advantage of the absence of sufficient competition.

I emphasize that this type of legislation is not my preferred approach. I would

greatly prefer to continue to have consumers protected by adequate competition in a free market. If the airlines choose another course, however, it may be necessary to fine-tune this legislation for introduction in the 107th Congress.

In conclusion, I hope my remarks today will start a discussion of the major aviation issues faced by a new Administration. The issues are important and difficult. How we deal with them will go a long way towards determining whether we will continue to have the world's finest aviation system.