

BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, DC

Application of)	
)	
NORWEGIAN AIR UK LIMITED)	Docket No. OST-2015-0261
)	
for an exemption under 49 U.S.C. § 40109)	
and a foreign air carrier permit pursuant to)	
49 U.S.C. § 41301)	
)	

JOINT ANSWER OF AIR LINE PILOTS ASSOCIATION,
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO,
TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO, ASSOCIATION OF
FLIGHT ATTENDANTS-CWA, INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
AND EUROPEAN COCKPIT ASSOCIATION

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Dated: January 4, 2016

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MACHINISTS AND AEROSPACE WORKERS,
AND EUROPEAN COCKPIT ASSOCIATION**

The undersigned labor organizations (“the Labor Parties”) at this juncture oppose the application of Norwegian Air UK Limited (“NAUK”) for a foreign air carrier permit.¹ NAUK is a wholly-owned subsidiary of Norwegian Air Shuttle (“Norwegian”)² that has been established, in part, to provide long-haul service from European points to points in the United States. In these respects, NAUK is similar to

¹ This Joint Answer to NAUK’s permit application is identical in substance to the Joint Answer that the Labor Parties filed on December 28 in response to NAUK’s exemption and permit application. Because the response was due on an expedited basis in the middle of the December holidays, the AFA and the IAM were unable to review and join that Joint Answer. Both support the opposition to the exemption.

² Norwegian Air Shuttle is a Norwegian air carrier.

Norwegian Air International (“NAI”), another subsidiary of Norwegian. The Labor Parties have challenged NAI’s application for an air carrier permit on the grounds that because of NAI’s employment model for its pilots and flight attendants, approval of its application would be incompatible with the provisions of Article 17 *bis* of the U.S.-European Union Air Transport Agreement (“ATA”).³ While NAUK’s minimalist application does not disclose what the applicant’s plans are with respect to employment of the pilots and flight attendants who would staff its long-haul operations, it is possible that NAUK intends to use the same model employed by NAI. Therefore, before deciding how to act on NAUK’s application, DOT should require NAUK to provide responses to the information and document production requests attached to this Joint Answer and allow interested persons a reasonable time to comment on NAUK’s application once those responses are submitted.

DISCUSSION

The record in the NAI proceeding shows that NAI is staffing its long-haul flights with flight crew based in Thailand and employed by non-European crew supply companies on employment contracts governed by Asia law: Singapore law in the case of pilots and Thailand law in the case of flight attendants. The record in that case further shows the terms and conditions of employment for those pilots and flight

³ See Application of Norwegian Air International Limited, Docket Nos. OST-2013-0204-0002, -0011, -0044, -0148, -0161, and -0217 (Labor Party and ALPA filings).

attendants are substantially inferior to those that apply to pilots and flight attendants employed directly by Norwegian or its subsidiaries. The Labor Parties showed that granting NAI either an exemption or a foreign air carrier permit would be inconsistent with the public interest standards set out in the aviation statutes and the provisions of the ATA, in particular, Article 17 *bis*.⁴

NAUK's application contains no information as to the employment arrangements that will apply to the pilots and flight attendants who will staff the aircraft that NAUK intends to use to serve the U.S. NAUK may plan to hire those pilots and flight attendants directly; it may plan to contract them from a UK hiring agency; or it may plan to contract them from non-EU hiring companies that employ the pilots and flight attendants on extra-European contracts, as it is currently done by Norwegian and NAI.

This ambiguity is highlighted by how Norwegian has staffed its UK operations at Gatwick to date. To staff its Gatwick Boeing 737 operations Norwegian has contracted for a number of pilots who are employed by OSM Aviation ("OSM") and based in London. OSM has signed a recognition agreement covering those pilots with the British Air Line Pilots Association ("BALPA") and has engaged in negotiations with BALPA over the employment terms that will apply to them. Some months ago BALPA was led to believe by OSM and Norwegian that the pilots who are to operate NAUK's Boeing

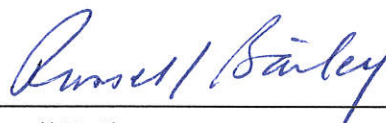
⁴ See footnote 3.

787s – including NAUK’s 787 service to the US – would also be based in London, employed by OSM, and covered by the recognition agreement. To date, that has not happened, and Norwegian, NAUK and OSM have not made clear the hiring and basing plans for the 787 pilots. A similar structure exists with respect to flight attendants: OSM has a recognition agreement with labor union Unite for the London-based flight attendants who work on Norwegian’s Gatwick 737 flights, but it is not clear whether the flight attendants who are to staff NAUK’s Gatwick 787 flights will be covered by that agreement.

CONCLUSION

NAUK’s application raises serious questions about whether its business plan is consistent with the public interest and the U.S.-EU ATA. In order to clarify NAUK’s staffing plans for its services to the U.S., DOT should seek the additional information specified in the attached information request, and interested persons should be given a reasonable opportunity to respond to that information before the Department acts on NAUK’s application.

Respectfully submitted,



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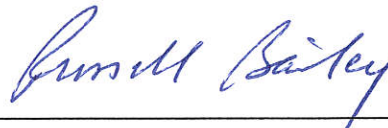
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Dated: January 4, 2016

CERTIFICATE OF SERVICE

I certify that on this 4th day of January, 2016, I have caused to be served the foregoing Joint Answer of Air Line Pilots Association, Transportation Trades Department, AFL-CIO, Transport Workers Union of America, AFL-CIO, Association of Flight Attendants-CWA, International Association of Machinists and Aerospace Workers, and European Cockpit Association by electronic mail to the addresses identified below:

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Russell Bailey

ATTACHMENT

INFORMATION AND DOCUMENT PRODUCTION REQUEST FOR NORWEGIAN AIR UK LIMITED (“NAUK”)

1. Who will be the employer of the pilots and flight attendants who will staff the aircraft that NAUK plans to operate to the United States?
2. Where will the pilots and flight attendants who will staff the aircraft that NAUK plans to operate to the U.S. be based?
3. Which country’s or countries’ labor laws will apply to the employment contracts of the pilots and flight attendants who will staff the aircraft that NAUK plans to operate to the U.S.?
4. Has NAUK or Norwegian Air Shuttle (“Norwegian”) or any Norwegian affiliate entered into a recognition agreement with any employee representative (e.g., labor union) that would apply to the pilots and/or flight attendants who will staff the aircraft that NAUK plans to operate to the U.S.? If so, are all the non-management pilots and flight attendants who will staff the aircraft that NAUK plans to operate to the U.S. covered by the agreement or agreements?
5. Has any crew hiring company that will provide pilots or flight attendants who will staff the aircraft NAUK plans to operate to the U.S. entered into a recognition agreement with any employee representative (e.g., labor union) that will apply to those pilots and flight attendants? If so, are all the non-management pilots and flight attendants who will staff the aircraft that NAUK plans to operate to the U.S. covered by the agreement or agreements?
6. What are the terms and conditions of employment that will apply to the non-management pilots and flight attendants who will staff the aircraft NAUK plans to operate to the U.S.?
7. Please provide any recognition agreement with any employee representative (e.g., labor union) that applies or will apply to the pilots and/or flight attendants who will staff the aircraft that NAUK plans to operate to the U.S.
8. Please provide the employment contracts (either individual or collective) that apply or will apply to the pilots and flight attendants who will staff the aircraft that NAUK plans to operate to the U.S.

9. Please provide any contract or other agreement between Norwegian, NAUK or any entity affiliated with Norwegian on the one hand, and any crew supply company on the other, that sets out any terms and conditions of employment for the pilots and flight attendants who will staff the aircraft that NAUK plans to operate to the U.S.