

**STATEMENT OF SUSAN L. KURLAND
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before the

**SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY, AND SECURITY
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

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Chairman Rockefeller, Ranking Member Hutchison, Chairman Dorgan, Ranking Member DeMint, and Members of the Subcommittee --

Introduction

Thank you for the opportunity to appear before you today to discuss the Department of Transportation's role regarding operations at the two Metropolitan Washington Airports Authority airports, Ronald Reagan Washington National Airport and Washington Dulles International Airport. With me today is Mike Sammartino, Director of System Operations for the Federal Aviation Administration's Air Traffic Control System Command Center.

For many years, Congress has shown a unique interest in the metropolitan Washington airports. In 1940, Congress authorized the Federal Government to acquire a tract of land near the Capitol and construct what is now Reagan National. As of 1959, the newly-created Federal Aviation Administration took over the operation of that airport. Shortly afterwards, Congress determined that a second major airport, Washington Dulles International Airport, should be established to serve the Washington, DC region and be owned and operated by the FAA. Dulles opened in 1962. These are the only two major commercial airports that have been authorized and established by Congress.

In December, 1984, an advisory commission established by then-Secretary of Transportation Dole found that the two airports were well managed by the FAA but needed extensive capital improvements, in order to respond to the growing commercial and air travel needs of the region, and that those improvements could not be financed by the federal government alone. The commission recommended that Congress transfer control of the airports to a Congressionally-approved regional authority that would have the authority to issue tax-exempt bonds to finance capital improvements at the airports. In April and December of 1985, respectively, Virginia and the District of Columbia each enacted legislation creating a regional authority to acquire Reagan National and Dulles airports from the federal government.

Also in 1985, the Department of Transportation transmitted a legislative proposal for transfer of the airports that was consistent with the advisory commission report, and legislation was enacted in October, 1986 that authorized the transfer of the airports to the regional authority, known as the Metropolitan Washington Airports Authority (MWAA). The transfer was executed by means of a 50-year long-term lease, which was subsequently amended to extend until 2067. The Congressional purpose was to “achieve local control, management, operation, and development of these important transportation assets.” Key among Congress’s findings was that “the United States government has a continuing but limited interest in the operation of the 2 federally owned airports,” and that “operation of the [two airports] by an independent local authority will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act.”

The Transfer Act also employed two important and unique operational constraints at National—the “slot” rule and the “perimeter” rule. Congress applied the High Density Slot Rule (HDR) to Reagan National by prohibiting MWAA from either increasing or decreasing the number of instrument flight rule takeoffs and landings authorized by the HDR as of October 1986, or imposing a passenger cap there. Second, Congress prohibited an air carrier from operating nonstop air transportation from National and another airport more than 1,250 statute miles away. Reagan National is the only commercial airport in the United States at which Congress has imposed such constraints.

By incorporating FAA’s existing rules into MWAA’s operation of Reagan National, each flight operation must have a slot from the Federal Aviation Administration, with the total number of

takeoffs and landings limited to 48 commercial slots per hour, of which 11 are for commuter aircraft, during an 18-hour period from 6:00 am to midnight. Further, 12 additional slots per hour are available to general aviation or other aircraft that do not operate on a scheduled basis, such as military or corporate aircraft.

Given Congress' unique interest in and attention to operations at Reagan National Airport, the Department of Transportation – consistently through many administrations – has deferred to the Congress on how best to address issues such as capacity and congestion. Accordingly, the Department of Transportation has taken no position as to whether the perimeter rule should be modified or terminated altogether, or whether the airport should add more flights.

We can, however, state, as we have in the past, that FAA's traffic programs and procedures can accommodate some increase in commercial operations at Reagan National, within the existing cap, with the precise number of additional flights that can be accommodated dependent on the fleet mix and the runway use that would be required.

The Department has also focused on its role as steward of the specific statutory requirements that apply to Reagan National Airport and the Congressional goals and objectives that underlie them. Accordingly, we have sought to ensure that there is continuing compliance with the laws and principles established by Congress, as well as to implement new statutory requirements. In that role, the Department, for example, is currently conducting a carrier selection proceeding for two open slot exemptions, and recently proposed a limited divestiture of slots in connection with a major proposed transaction between US Airways and Delta involving a swap of slot holdings at Reagan National and LaGuardia airports.

Slot Exemptions

In 2000, with enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR-21"), Congress mandated that the Department grant exemptions to the slot rules to allow for expanded operations at Reagan National. At that time, it directed that the Secretary award 12 slot exemptions for service beyond the perimeter, and 12 more within the perimeter. It also specified the criteria that the Department of Transportation was to apply in making these

awards, which included promoting air transportation by new entrant air carriers, protecting the interests of smaller airports and communities, and, for the within-perimeter exemptions, producing maximum competitive benefits, including low fares.

In 2003, Congress expanded the slot exemption program with the Vision 100 – Century of Aviation Reauthorization Act. It added 12 more beyond-perimeter exemptions, to a total of 24, and 8 more within-perimeter ones, to a total of 20. Together, the two statutes effectively added an average of three commercial slots per hour, or about 5% to the total slot operations.

In implementing its authority under the two statutes, DOT awarded exemptions that brought nonstop DCA service to large beyond-perimeter hubs such as Seattle, Los Angeles and Las Vegas. Within the perimeter, the awards have improved competition and brought low fares to hubs like Atlanta and Fort Lauderdale, while bringing new nonstop service to smaller communities such as Jackson, MS, Chattanooga, TN, and Akron-Canton, OH.

Congress also specified that, unlike HDR slots, these exemptions cannot be bought, sold, or leased, so they must be used by the slot exemption holder for service to the particular destinations for which they were awarded. Because of forfeitures or withdrawals arising due to mergers and acquisitions, or the unexpected underperformance of a market, DOT sometimes must conduct reallocation proceedings. We have one such proceeding currently underway, affecting two exemptions originally awarded to Midwest Airlines for service to Kansas City. That airline has now ceased to exist as a carrier after its acquisition by Republic Airways. We have solicited applications for these two exemptions, with carriers being invited to propose service that they believe would fit the statutory criteria (which could of course include service to Kansas City as well as other destinations). Since this is an ongoing proceeding, it would not be appropriate for me to address the substance of the matters involved, but I can assure you that we will consider each application on its merits, and in accordance with the selection criteria that Congress has set out.

The Proposed US Airways/Delta “Slot Swap”

On May 4, Secretary LaHood and FAA Administrator Babbitt jointly issued a final notice on an application by Delta and US Airways to exchange certain slot holdings at Reagan National and LaGuardia Airports. That application was occasioned by the need for a waiver from buy-sell limitations in the LaGuardia Order before the transaction could proceed. The carriers’ proposal in primary part was to exchange 125 US Airways’ slot pairs at LaGuardia for 42 Delta slot pairs at Reagan National. We reviewed the slot swaps as a single, unified transaction, because we found the LaGuardia slots purchase and sale would not occur without the Reagan National slots purchase and sale, and *vice versa*. We granted the carriers’ petition for a waiver from the limitations in the LaGuardia Order subject to the condition that the carriers divest themselves of a number of slot pairs at LGA and DCA. The slot divestitures, to be made to new entrants and limited incumbent carriers, would have enabled both airports to preserve competition and provide greater public benefits and increased efficiencies. The carriers opted not to accept the Department’s conditions.

In the course of our analysis of that proposed transaction, we observed a number of characteristics concerning service at Reagan National that may be of interest to the Committee. We found that:

- Reagan National is a relatively high-fare airport, having the third highest fare premium of the 121 city markets that were examined;
- For a large portion of passengers, especially time-sensitive passengers, the three airports in the Baltimore-Washington metropolitan areas are not effective substitutes for each other, with price competition from Thurgood Marshall Baltimore-Washington Airport and Dulles International Airport not effectively disciplining the fares at Reagan National;
- There is a relatively low level of competition afforded by low cost carriers at Reagan National, with only 3.3 per cent of the slots held by them; and
- Barriers to entry continue to exist at the airport, in particular as the secondary slot market has not facilitated the degree of new competition by either new entrants or limited incumbents as originally envisaged.

On-Time Statistics

As you may know, the Department compiles and publishes data showing on-time performance at the nations' major airports, and on this score Reagan National and Dulles fare reasonably well compared to other large hub airports. From January through June of 2010, 84.2% of the departures from Reagan were on-time, and 81.4% of those from Dulles. The average on-time performance at large hubs over the same time period was 79.1%.

Conclusion

In conclusion, let me stress again that the Department has long recognized that Congress has maintained a strong interest in capacity, congestion, and operational issues at the MWAA airports, particularly Reagan National.

We look forward to continuing cooperation with the Congress, and with the Airports Authority, in assuring that Reagan National and Dulles provide our Nation's capital with gateways that are safe, modern, convenient, and affordable.

This concludes my prepared remarks. I thank the Subcommittee for the opportunity to offer these comments to you on behalf of the Department, and I will be pleased to answer any questions that you may have.