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Backgrounder UPDATE

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THE CASE FOR GROUNDING THE DANGEROUS AIRLINE BILL

(Updating *Backgrounder* No. 717, "Status Report: Airline Competition and Concentration Since Deregulation," June 30, 1989.)

Under the guise of preserving airline safety, the Senate soon may consider legislation to allow federal bureaucrats, rather than the marketplace, to decide who owns America's airlines. Similar legislation passed the House of Representatives on November 1. Safety, of course, is an extremely important concern. The trouble is, these bills have little to do with it. Rather, they would empower the federal government to block airline changes of ownership for a number of dubious economic reasons even when safety is not at issue. The result: the United States airline industry will be less competitive and, in the long run, jobs will be lost. Worse, by reducing airline efficiency and access to capital, the legislation actually could impair the safety of air travellers. If either of the pending bills passes, George Bush should not hesitate to fulfill his promise to veto them.

The bills now pending – H.R. 3443, sponsored by James Oberstar, the Minnesota Democrat, and S. 1277, sponsored by Wendell Ford, the Kentucky Democrat, and approved by the Senate Commerce Committee on October 18 – would impose a mandatory delay in certain transfers of airline stock, and grant the Secretary of Transportation new powers to stop transfers. H.R. 3443 would impose a 30-day delay on acquisitions of 15 percent or more of an airline's stock, pending Department of Transportation (DOT) review. Disapproval generally would be required if sales of airline assets would be made necessary by the transfer, if the number employees or their wages would be reduced, or if the purchaser previously had owned two or more airlines that had declared bankruptcy.

S. 1277 would prohibit completely transfer of a controlling interest in an airline unless DOT gives specific approval within 90 days. It specifies that the Transportation Secretary, in reviewing a proposed takeover, must consider the carrier's ability to maintain safety, replace aircraft, expand its fleet, and meet airport commitments.

Broad Authority. Such changes are not needed to protect the legitimate interests of air travellers. The Secretary of Transportation already enjoys broad authority to revoke the certificate of any airline that fails to meet safety standards. While there is no direct power to stop transactions that threaten safety before they take place, the Secretary always can achieve the same results by making his concerns clear in advance. At the same time, the Justice Department is empowered to review and challenge transactions that may lessen competition.

The pending bills, moreover, are worse than unnecessary: they threaten to harm both the airline industry and the financial markets. First, the waiting periods that they mandate would apply to most major takeovers, regardless of whether the takeover raises any serious concerns. Potential

purchasers would have to lock in their offers for 30 or 90 days. For politicians such a delay may seem insignificant, but on Wall Street it would make many otherwise viable deals impractical, thus killing many beneficial transactions.

Second, most of the factors that the Secretary would have to consider have little or even nothing to do with airline safety. Rather, many are intended solely to prevent change in the airline industry. Forbidding transfers that would lead to asset sales or payroll cutbacks, for instance, simply would insulate airline management from the need to keep firms efficient. In the long run, this would mean fewer, not more, jobs for the airline industry.

The Senate bill also requires that the airline's ability to enlarge its aircraft fleet be considered in DOT's review. According the committee report on the bill, the committee feared that "a highly leveraged airline will become much more conservative, focusing greater attention to its financial condition rather than undertaking aggressive, possibly risky, expansion plans," thus reducing U.S. presence in international markets. Here there is not even a pretense of protecting safety. Expansion, even if risky, is to be encouraged over more conservative management. Thus a decision that is purely a matter of business judgment would be made by the Secretary of Transportation rather than by those who own and run the airline. The inevitable result will be airlines that are less, not more, able to compete internationally.

Reducing Safety. Worse, in the long run, if these bills have any effect on safety, it likely will be to reduce it. For one thing, a less efficiently run airline is usually a less safe airline. And these bills would hinder the restructuring sometimes needed to ensure maximum efficiency. For another thing, safety requires a substantial and continuing investment. These bills make it harder for airlines to get capital for that investment, by making airline stock less attractive to investors.

The House and Senate bills are little more than attempts to transfer business decisions to the federal government. There is no indication that DOT judgment would be better than that of those who have invested their own money in these enterprises. Recognizing this, George Bush has pledged to veto the bills should they pass Congress. He should fulfill this promise. Not only are they unnecessary in view of the Secretary of Transportation's already broad powers to protect safety, but they could inflict substantial harm – in both lost efficiency and lessened safety – on the American air traveller.

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