MOVING THE AMERICAN ECONOMY

U.S. Department of Transportation
Office of Public Affairs
Washington, D.C.
www.dot.gov/affairs/briefing.htm

Speech

Remarks of

Jeffrey N. Shane
Under Secretary for Policy
U.S. Department of Transportation

American Bar Association Forum on Air & Space Law
Annual Meeting and Conference

Montreal, Canada
October 1, 2005

It is a great pleasure to be back in Montreal today and to have the opportunity to join so many colleagues and friends. The Forum is very special -- bringing our community together in one venue, enabling us to compare notes, voice concerns, and chart our course in aviation. How fitting, too, that we have convened in Montreal, home to the institution – the International Civil Aviation Organization – that has played so vital a role in charting that course.

For all these reasons, I am grateful for the invitation to join you today. Let me also thank our Canadian hosts for their hospitality – and in particular McGill University, which has for years enjoyed one of the strongest air and space law programs on the planet. We in the United States value enormously the transportation partnership we have built with Canada, and we continue to work with Transport Canada on a range of priorities covering transportation in all its forms.

Hurricane Response

Before sharing a few thoughts on some of the issues you have been discussing here this week – the Forum is to be complimented on putting together so timely and stimulating an agenda -- I would like to say a word about the hurricanes that have recently battered the Gulf Coast. The devastation wrought by Katrina and Rita was unprecedented in North American history, and the reaction has been as well. DOT's emergency response to Katrina focused on several priorities, including the airlift of evacuees from the New Orleans International Airport. The evacuation amounted to the largest single civilian airlift in American history, allowing tens of thousands of people to leave the city safely in the aftermath of the storm. Fourteen U.S. airlines and Air Canada operated charity flights around the clock for four days until the job was done, handling passenger flows that on several days exceeded what the airport typically experienced on an average pre-Katrina day. DOT issued a series of emergency orders exempting these operations from normal regulatory requirements. As we measure the precise extent of the damage and needs across the Gulf region, we know that there is a huge challenge ahead of us. But we also know that the New Orleans airlift represents this industry at its very best.

One of the first calls I received after Katrina was from Transport Canada. They expressed condolences and offered help. We are profoundly grateful to the Government of Canada for its generous contribution to the relief and recovery effort. Along with making a substantial pledge to the Hurricane Relief Fund, Canada deployed multiple search-and-rescue helicopter teams, four Canadian Forces and Canadian Coast Guard ships, several cargo helicopters, and two self-sustaining diving units, among other contributions. From my country to yours, a heartfelt thank-you.

And another special thank-you to McGill for so generously accommodating a number of displaced Tulane students. Gestures like these remind us what is so special about this bilateral relationship.

The Department's Agenda

The hurricanes have occupied a fair bit of our time recently, but the world has not stopped flying. Even as we continue to participate in the recovery in the Gulf Coast region, we continue to push forward with DOT's aviation agenda. That agenda has never been more ambitious. It is animated by two big ideas.

The first is that government has a fundamental responsibility to ensure that those features of the system *uniquely within the purview of government* are fully capable of accommodating whatever the market may deliver in terms of demand.

The second idea is that airline deregulation is still unfinished business – a work in progress. We need to take it further to enable the industry to respond more effectively to the challenges and opportunities presented by the market.

These two, interrelated themes – and of course an unwavering commitment to safety -- drive all of our efforts in the aviation sector. I would like to spend a few minutes today discussing some of the ways in which these themes are playing out at the moment, because they are likely to have significant implications for practitioners.

Preparing for the Future

This year, commercial airlines are going to carry more passengers than ever before, even more than in the record year of 2000. Cargo operations are also expanding, with U.S. commercial air carrier revenue ton miles predicted to increase by more than 5 percent in both 2005 and 2006. After the shocks that the industry has suffered over the past few years – 9/11, SARS, the Iraq War, and now hurricanes and a giant spike in the price of fuel – this is obviously welcome news. It is also a bracing reminder, however, that the capacity of our existing system is not limitless, and that we must begin working now to ensure that we can meet the demands of passengers and shippers in the years to come.

We are responding to that challenge in a number of ways, and two deserve special mention here. First, we have embarked on a thoroughgoing review of how we fund airport operations and capital investments in air traffic management. In anticipation of aviation program reauthorization for 2007, the FAA last April hosted a two-day Trust Fund conference to solicit the views of industry stakeholders and to articulate the principles that will guide the changes we recommend. As Administrator Marion Blakey said then, the current funding method is broken. The lion's share of the taxes that make up the Trust Fund is linked to ticket prices. With the explosion of regional jet service, the proliferation of low-fare operations, and the collapse of airline pricing power, this linkage has produced an anomalous result: substantially increased traffic, together with less revenue to support the system. Meanwhile, the Aviation Trust Fund continues to spend down, and the FAA continues to face a $2 billion annual tab just to maintain existing infrastructure. Indeed, the Trust Fund's uncommitted balance now sits at its lowest point since 1997, just when we need additional resources to meet the needs of an industry that's finally growing again.

I can't tell you what the fix will be, because I don't know. But I can tell you that it will embody several principles. A new funding mechanism must tie the Trust Fund not to the price of an airline ticket but instead to the actual cost of providing air traffic services and making capital improvements to airports. And don't kid yourself: in a tight budget environment, we will not be able to rely on a larger share of money from the *General* Fund to offset the strain on the Trust Fund.

Our system is unique in many ways – including, for instance, our dynamic and growing general aviation sector – and we have to find ways to fund the system that's fair to all of its users – in whatever category.

The Trust Fund issue no doubt has many chapters still to be written, but there should be no doubt that change is on the way. And if you represent any entity that has a stake in the outcome, you need to stay engaged.

A second element of our response to the capacity crunch is, of course, the Next Generation Air Transportation System initiative that Secretary Mineta announced early last year. We now have an evolving plan to guide the creation of a national airspace system that can accommodate the tripling of traffic over the next 20 years. We completed the first edition of the plan late last year and transmitted it to Congress after conducting a comprehensive review of the best thinking among interested Executive Branch departments and industry leaders. The plan established goals for building the new system, and directed eight integrated government/industry teams to begin the process of getting from generalities to specifics, and from objectives to deployment.

This is not another blue-ribbon panel whose findings can be expected to provoke some chin-stroking but ultimately not much else. Instead, it is intended to drive a system-wide transformation through specific improvements to the way we manage air and space traffic, utilize airport infrastructure, and handle inclement weather, just to name a few. The Next Generation initiative is the real deal -- one of the most important aviation programs the government has undertaken in many years, and it is yet a further example of our determination to get out in front of changes before they swamp us.

I don't mean to suggest that you are going to have to wait 20 years to see improvements in our aviation system. The FAA is also working hard in the near term to modernize the system, to make it safer and more efficient, and to save airlines money in the bargain.

Let me mention just two recent FAA innovations in this connection. First, the FAA has made substantial progress in implementing an initiative called Required Navigation Performance, or RNP. RNP is a set of navigational improvements that allow pilots to fly more direct routes with greater precision and accuracy. RNP improves safety in all stages of flight: departure, en route, and arrival. It not only allows for more efficient airspace management, but also reduces fuel costs. Canada and other aviation partners around the world are embracing RNP as well, promising greater efficiencies for the international operations that our own carriers continue to expand.

A second and related advance is something we call Reduced Vertical Separation Minima, or RVSM. Using improvements in air traffic technology and upgraded avionics, air traffic controllers now permit properly equipped aircraft to fly more direct routes at the most fuel-efficient altitudes for each flight. This single improvement has *doubled* the number of routes in the critical 29,000 to 41,000-foot range that can be made available to commercial aircraft in domestic airspace. RVSM shortens flight times, saves fuel, and thus reduces greenhouse gas emissions. Even before the current fuel spike, the FAA estimated the savings to U.S. airlines at more than $5 billion over ten years. The advent of RVSM earlier this year across the entire Western Hemisphere extended similar benefits to international operations without degrading the safety of flight in any way.

These are the kinds of improvements that quicken the pulse of aviation technology experts, but that attract little attention from the traveling public. That's okay. I cite them only because they are good examples of our efforts to make greater operational flexibility available to our airlines, and to make it possible for them to operate with the efficiency that the commercial market now demands.

So that's the first big theme: preparing for a robust future for commercial aviation.

Deregulation: Unfinished Business

Let me turn, then, to the second area – one with which most of you are likely to be more familiar -- economic regulatory policy. As I indicated earlier, we treat deregulation as a work in progress. The over-arching conviction is that our oversight of the airline industry needs to be limited to those areas in which that oversight adds value. For that reason, we have been reviewing carefully the entire corpus of DOT regulations in order to ensure that they pass this essential test. Where the value-added test is not met, we need to consider getting rid of the regulation in question.

I am proud of the progress DOT has made during this Administration in easing the burden of regulation:

- Recognizing the need to pare back regulation of airports where appropriate, we eased the requirements on airports relating to the filing of competition plans.
- Recognizing that the Internet today affords consumers nearly perfect information about air travel options, we repealed DOT's 20-year-old regulations governing the use of computer reservation systems.
- We have taken steps to streamline procedures that govern the licensing of U.S. and foreign air carriers, such as awarding U.S. and foreign air carrier permits concurrently with the award of exemption authority in uncontroverted cases, obviating the repeated renewal requests that are required under our earlier rule.
- We announced the creation of an expedited, simplified procedure to award "route integration authority" for five years to all U.S. carriers who apply for it, thereby giving carriers the business flexibility that route integration affords them without the delay typically occasioned by the previous approach.
- We have eased tariff filing requirements for the airlines of countries with which the U.S. enjoys a liberal aviation relationship, even if it is not an Open Skies agreement. In essence, we have relieved those carriers from the burden of having to file a justification for a fare increase unless an objection has been filed. The change puts these airlines on the same footing as the airlines of Open Skies partners.
- We simplified the requirement for disclosure of code-share and long-term wet lease arrangements in print advertisements of scheduled passenger services, allowing airlines to disclose generically that some of the advertised service may involve travel on another carrier without having to include a lengthy and largely impenetrable footnote in the ad.
- We have tried to clarify the requirements that Congress has imposed on airlines to carry the passengers of any carrier that terminates service, as well as increasing the fee that the carrier can charge such passengers.
- We granted an innovative request by the TACA Group (TACA International Airlines, Lineas Aereas Costarricenses, AVIATECA, Nicaraguense de Aviacion, TACA de Honduras, and Trans America Airlines) to register for their collective use the trade name "TACA" and use a single "TA" designator code for all of their services to and from the United States.

We certainly don't intend to stop there. Secretary Mineta announced a few weeks ago that the Department would shortly seek comments on whether it should modify or repeal its airline advertising regulations. Moreover, DOT's General Counsel, Jeff Rosen, launched an outreach effort a few months ago seeking public comment on whether there are other opportunities within the vast corpus of DOT's regulations for simplification, modernization, or even repeal. Some of you participated in that exercise, and we are grateful for your contributions. Our review of the input is in its final stages, and you will be hearing more in the near future about the ideas we are proposing to embrace.

Exporting Deregulation Through Open Skies

Our efforts to get unnecessary government constraints out of the way of the airline industry extend to international markets as well as domestic. By negotiating more liberal bilateral air services agreements – and adhering to the Open Skies model wherever possible – we have created vast new commercial opportunities for U.S. carriers and brought the benefits of affordable air travel to consumers around the world.

Indeed, the agreements that Secretary Mineta has signed in the last few years -- including with China, India, Thailand, and Indonesia -- has produced new opportunities that U.S. airlines have already begun to exploit. Our new agreement with Mexico expands the number of U.S. carriers that can fly to the major resort destinations, significantly increases the opportunities for all-cargo services, and formalizes third-country codesharing into the U.S.-Mexico market. We congratulate and commend Mexico on its decision to liberalize this market – which both countries rightly regard as a critical piece of the broader bilateral economic relationship – and we look forward to the day when we can eliminate all air services restrictions between our two countries.

Our work isn't done. For example, we look forward to bringing the air services agreement between the U.S. and its largest trading partner into the Open Skies camp. I am referring, of course, to Canada. We have a solid, liberal agreement with Canada today, but it still places restrictions on some operations. Our two governments should get together soon and rid the agreement of those constraints.

We also remain committed to reaching a comprehensive Open Skies accord with the European Union. Informal discussions about the basis for resumption of formal negotiations have taken place at the staff level, and senior leaders on both sides have reaffirmed the importance of reaching an agreement. It has been an uphill climb, but we continue to engage with our Commission colleagues on finding a way forward. The reason for our doggedness is plain: A bilateral agreement between the U.S. and the European Union would bring nearly 750 million people and many of the world's great airlines together under a single liberalized regime. It would give us immediate momentum to do even more in follow-on U.S.-EU accords. And it would instantly become the standard for aviation liberalization elsewhere in the world.

Make no mistake: A U.S.-EU agreement would take liberalization to the next level, linking two huge markets and allowing airlines from both sides of the Atlantic unprecedented flexibility in how they build, manage, and expand their operations. It would be, quite simply, the most important thing we could do in the further evolution of deregulation.

Conclusion

Aviation is flying through some difficult times. But the industry's resilience has been demonstrated repeatedly throughout its history. I am confident that it will overcome today's challenges and emerge larger, stronger, more efficient, and more competitive. To come back to our two central objectives, government's job is to ensure that our aviation infrastructure is capable of supporting future growth, and to see that government itself doesn't impede that growth. We understand those obligations, and we are making meaningful progress. We will never realize the full potential of these core policies, of course, without the help of the industry itself. As practitioners, therefore, you have an affirmative responsibility to ensure that the industry is properly at the table as government begins to make important choices about the future. All of us at DOT look forward to working with you closely on these vital issues.

Thank you for allowing me to share these remarks with you this afternoon.

# # #