

Peter W. Carter
Executive Vice President - Chief Legal Officer

August 18, 2016

OVERNIGHT DELIVERY

Kris E. Durmer, Esq.
General Counsel
U.S. General Services Administration
Room 2024
1800 F Street, N.W.
Washington, D.C. 20405

Re: Route Award Contract for Air Service Between New York's JFK Airport and Milan-Malpensa Airport

Dear Mr. Durmer:

On behalf of Delta Air Lines, Inc., ("Delta"), I write to express our concern and disappointment at the award by the U.S. General Services Administration ("GSA") of a route contract between New York's JFK Airport ("JFK") and Milan-Malpensa Airport ("Milan") to JetBlue Airways Corp. ("JetBlue"). As you are well aware, this award is for JetBlue in name only, as 100% of the flights on the contracted route will be operated by Emirates Airline ("Emirates"), a United Arab Emirates-flag carrier.

The GSA's program solicitation for this route specified that offers had to comply with the Fly America Act, 49 U.S.C. § 40118. As has been recognized by the U.S. Government Accountability Office ("GAO"), Congress designed the Fly America Act "to help improve the economic and competitive position of U.S.-flag carriers against foreign air carriers." Fly America Act - Code Sharing - Transportation by U.S. Carrier, B-240956, Sep. 25, 1991, 70 Comp. Gen. 716. Beyond failing to further that goal, this award actively undermines it. Emirates is not just a "foreign air carrier"; it is a state-owned Gulf carrier that exploits an improper advantage over U.S.-flag carriers by receiving massive subsidies from its home government. The resulting imbalanced playing field is currently under formal review by, among other agencies, the U.S. Department of Transportation ("DOT").

To be clear, Delta does not assert that U.S. carriers may never engage foreign codeshare partners to assist in the operation of international contract routes for U.S. government-funded travel. Such codeshare arrangements, when reasonably structured, may fully comply with the letter and spirit of the Fly America Act. Here, however, we are presented with a situation in which the putative awardee, JetBlue, has no long-haul trans-Atlantic operations whatsoever. JetBlue is not asking Emirates to supplement its own flights between JFK and Milan; it is asking Emirates to provide all of the service between JFK and Milan that the contract requires. Indeed, if for some reason Emirates were unable to conduct all flights as promised, JetBlue could not step in to carry out the operations because JetBlue itself does not own any aircraft capable of making such long-haul flights. These two carriers are not "partners" in any real sense. In this relationship, JetBlue is clearly the agent and Emirates the principal, not vice versa.

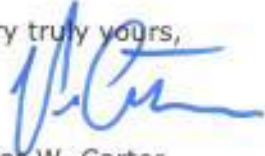
Kris E. Durmer, Esq.
General Counsel
U.S. General Services Administration
August 18, 2016
Page 2

In the wake of this award, and in addition to the subsidies it receives from its own government, Emirates will benefit from a revenue stream of U.S. taxpayer dollars. That benefit will impair the ability of U.S. carriers to compete in that market. This appears to be a glaring contravention of the Fly America Act's vision of "help[ing to] improve the economic and competitive position of U.S.-flag carriers."

In addition to the economic contributions that they make through jobs and wages in our country, U.S. carriers contribute significantly to security and emergency response planning. For example, many U.S. airlines, including Delta, American, and United, participate in the Civil Reserve Air Fleet program ("CRAF"), a national plan to utilize airlift resources of U.S. air carriers to support the Department of Defense in the event of a national security contingency. In return for providing their aircraft to the CRAF program through contractual agreements with the air mobility command, the participating carriers are given preference in carrying commercial peacetime cargo and passenger traffic for the Department of Defense.

I urge the GSA to reconsider this decision and set aside the award.

Very truly yours,



Peter W. Carter

cc: Susan Poling
General Counsel
U.S. Government Accountability Office
Room 7182
441 G Street, N.W.
Washington, D.C. 20548