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ONE HUNDRED FOURTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

May 13, 2015

The Honorable John Kerry
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520

The Honorable Anthony Foxx
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, D.C. 20590

Dear Secretary Kerry and Secretary Foxx:

The House Judiciary Committee recently received allegations that the state-sponsored airlines of Qatar Airways, Etihad Airways, and Emirates Airlines (collectively, the "Foreign Airlines") are receiving subsidies from Qatar and the United Arab Emirates ("UAE"). If these allegations prove true, the state subsidies to Foreign Airlines likely are improper in light of existing "Open Skies Agreements" with Qatar and UAE. Furthermore, the alleged foreign subsidies may be distorting market-based competition and placing domestic, privately-owned airlines at a competitive disadvantage.

When negotiating and implementing Open Skies Agreements, the State Department and the Department of Transportation are required by law to "emphasiz[e] the greatest degree of competition," "strengthen[] the competitive position of air carriers to ensure at least equality with foreign air carriers," and "eliminate[e] discrimination and unfair competitive practices faced by United States airlines in foreign air transportation."¹ These statutory requirements are further implemented in the Department of Transportation's policy statement, which states in relevant part that the objectives of our national aviation strategy include "[e]nsur[ing] that competition is fair and the playing field is level by eliminating marketplace distortions, *such as government subsidies*"² As you know, Qatar and the UAE are counterparties to Open Skies Agreements with the United States.³

To the extent that the Foreign Airlines are in receipt of inappropriate subsidies, these airlines likely are expanding at a rate that is inconsistent with market demand. Accordingly, the

¹ 49 U.S.C. § 40101(e).

² 60 Fed. Reg. at 21844 (emphasis added).

³ The U.S.-Qatar Open Skies Agreement was signed on October 3, 2001. The U.S.-UAE Open Skies Agreement was signed on March 11, 2002.

expansion likely is at the expense of privately-owned airline carriers, which must rely on revenues derived from profits rather than sovereign funds to continue their operations. These market distortions may have a particularly problematic impact on airline routes to rural areas. Rural routes are economically viable, in part, due to a portion of the passengers on these routes ultimately traveling to international destinations.⁴ Accordingly, a non-market based diversion of international travel routes from privately-owned domestic carriers to the foreign-subsidized Foreign Airlines may endanger the viability of domestic, rural routes.

Furthermore, foreign subsidies may distort the market in a fashion that could produce significant long-term harms to consumers. Although foreign subsidies may cause consumer prices to be discounted in the short-term, these artificially low prices may cause rivals to exit the relevant markets, thereby increasing the market's reliance on foreign carriers and their subsidies. This, in turn, creates a more volatile market. Should the foreign subsidies ever abate or disappear, prices may dramatically correct themselves and may be unchecked by rivals, who could have already exited the market. Accordingly, in the long-term, this could leave consumers with higher prices and fewer choices.

The Committee on the Judiciary historically has exercised vigilant oversight of issues related to competition, foreign and domestic. In that regard, the Committee takes very seriously allegations of market distortion that may negatively impact American consumers.

In order for the Committee to better evaluate the allegations and the Administration's response to potential market distortions, please answer the following questions by May 20, 2015.

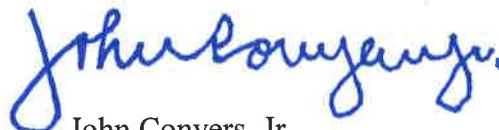
1. Are you aware of any foreign subsidies to the Foreign Airlines?
 - a. If not, have you determined the absence of any foreign subsidies, and how did you determine that?
 - b. If so, what will be the response to these subsidies, consistent with the departments' relevant statutory authority and stated policies?

Thank you for your attention to this potentially serious issue facing competition in the aviation marketplace. We look forward to your response.

Sincerely,



Bob Goodlatte
Chairman
House Committee on the Judiciary



John Conyers, Jr.
Ranking Member
House Committee on the Judiciary

⁴ See RESTORING OPEN SKIES: THE NEED TO ADDRESS SUBSIDIZED COMPETITION FROM STATE-OWNED AIRLINES IN QATAR AND THE UAE (Jan. 28, 2015), available at <http://skift.com/wp-content/uploads/2015/03/White.Paper-2.pdf>.



Tom Marino
Chairman
Subcommittee on Regulatory Reform,
Commercial and Antitrust Law
House Committee on the Judiciary



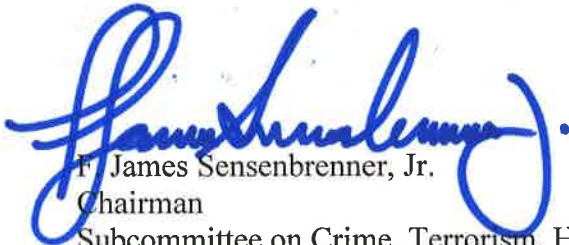
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Ranking Member
Subcommittee on Regulatory Reform,
Commercial and Antitrust Law
House Committee on the Judiciary



Blake Farenthold
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Subcommittee on Regulatory Reform,
Commercial and Antitrust Law
House Committee on the Judiciary



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and the Internet
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Subcommittee on Courts, Intellectual Property,
and the Internet
House Committee on the Judiciary



Luis Gutiérrez
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House Committee on the Judiciary



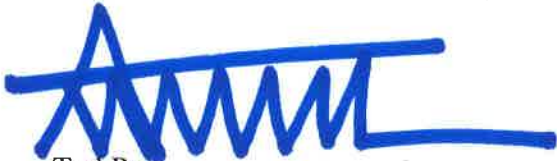
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