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Submission to:
THE HOUSE OF COMMONS STANDING COMMITTEE ON TRANSPORT

Regarding:

Bill C-26 An Act to Amend the Canada Transportation Act and the Railway Safety Act, to enact VIA Rail Canada Act, and to make consequential amendments to other Acts

I am Captain Dan Adamus and I am here representing the Air Line Pilots Association, International (ALPA). I am the Vice-President of ALPA's Canada Board. As well, I am a pilot for Air Canada Jazz. With me today is Art LaFlamme, ALPA's Senior Representative in Canada. On behalf of the Air Line Pilots Association, I would like to thank the Committee for this opportunity to comment on the proposed legislation.

The Air Line Pilots Association, International (ALPA) represents more than 66,000 professional pilots who fly for 42 airlines in Canada and the United States. Both as our members' certified bargaining agent and as their representative in all areas affecting their safety and professional well-being, ALPA is the principal spokesperson for airline pilots in North America. ALPA therefore has a significant interest in the economic health and well-being of this industry, and we welcome this opportunity to provide input into this new legislative framework for transportation in Canada.

As a general matter, with the country's major carrier and its various subsidiaries in the midst of restructuring in bankruptcy protection, we urge extreme caution initiating legislation that could affect the airline industry. Before we know what will emerge from this process, it is simply not an appropriate time to be setting out restrictions on the redevelopment of this deeply-troubled industry. We believe that the approach taken by the Government ought to be one that is supportive of the efforts of the stakeholders in the restructuring process - which include our members at Air Canada Jazz - to once again make this industry an economically viable and a productive one, and to continue to serve the interests of all Canadians.

ALPA has recently had the opportunity to make detailed representations to this Committee, and I will not repeat the general comments here. I will simply refer the Committee to the submissions we made to the Committee on April 3, 2003.

Our specific comments on the Bill before the Committee will focus on the proposed amendments that would provide carriers interlining access to Air Canada's network.

Section 28 of Bill C-26: Involuntary Interlining

ALPA wishes to express its strong objection to the proposed addition of section 85.2 of the *Canada Transportation Act*, (contained in section 28 of the Bill) whereby domestic carriers could be obligated, against their considered interest, to enter into interlining agreements with other carriers. Despite the general language used in the amendment, it is apparent that this amendment attempts to target Air Canada's network, an important part of which is operated by the pilots we represent at Air Canada Jazz.

We believe that, as a matter of principle, this targetting of a network carrier is unfair. As a practical matter, the targetting is inaccurate, in that it will serve primarily as an impediment to the potential profitability of Air Canada Jazz. And under the present circumstances, imposing onerous "doing business" requirements on a network carrier in the midst of its restructuring - when we don't know in what form, or even whether it will survive - simply makes no sense. We respectfully request that the Committee recommend that the Government delete this proposed amendment or amend it as we will suggest, or at the very least, table it for future consideration once the nature of the restructured carrier becomes apparent.

Targetting the Network Carrier is Unfair

Air Canada is a network carrier. It provides critical linkages from small communities to hubs, and through its transborder operations, its international services and by means of its allied carriers, to literally thousands of destinations around the world. Not surprisingly, the infrastructure cost for a network carrier, such as Air Canada, is considerably higher than for a point-to-point operation. But only a network carrier will serve both small centres and as well as international routes. As in any industry, you do not get something for nothing.

While we do not suggest that Air Canada be protected from competition, the fact of the matter is that the existence in the market of point-to-point carriers erodes a network carrier's ability to perform the international and smaller centre flying, which is the hallmark of the full service carrier. The proposed amendment, we suggest, is nothing short of legislatively institutionalizing this process of erosion. It would permit small point-to-point carriers access to, and the ability to take full advantage of, the Air Canada network without fully participating in the attendant costs. And, as can be seen from Air Canada's current situation, it would shield these competing carriers from the entrepreneurial risk involved in establishing an airline network. In short, it would permit them to be free riders.

An airline such as Air Canada is more than just the sum of its parts. It cannot simply be replaced with a multiplicity of new entrants. Nor can the role it plays in the Canadian transportation system be meaningfully reduced to a route-by-route analysis. We believe that this important perspective is lost in the formulation of this proposed amendment and with it, any semblance of fairness. And, we believe that this perspective must be borne in mind when the government is imposing additional burdens affecting this airline's profitability.

The Proposed Amendment Targets Air Canada Jazz, Not Air Canada

As the Committee is of course aware, the amendment's origins are found in the "undertakings" made by Air Canada to the Government upon is purchase of Canadian Airlines in December 1999. These undertakings have been incorporated into the current legislation.

However, it is important to point out that the proposed amendment would have a dramatically adverse impact, particularly on the regional operations performed by Air Canada Jazz. Air Canada's undertakings in 1999 require it to give access to its network to carriers that are members of the *International Air Transport Association* (IATA), and hence, of a certain stature, reputation and size. By contrast, the proposed amendment drops the IATA limitation and provides access to *any* airline that is eligible to establish the minimum regulatory requirements to operate in Canada.

As a result, the competitive impact of this amendment will be felt primarily not by Air Canada, but by Air Canada Jazz, which provides connection from smaller regional centres to the larger hubs. This, we respectfully suggest, is not a rational targetting by the proposed legislation. Air Canada Jazz is operated as a separate entity, with its own licence. It has a distinct group of employees who are not employed by Air Canada. However, it is part of the Air Canada network, and its viability fundamentally in large part depends upon its exclusive interlining and code share arrangements with Air Canada. This basic business function of the company would be seriously undermined were its regional competitors to have access to the Air Canada network.

We do not believe that a case has been made that would justify this Government force-feeding of competition into the regional sector of the industry. Along with the rest of the industry, the regional sector of the industry has been hit by the various evils affecting our industry - such as the decline in business travel, international terrorism, the war in Iraq, and, now, SARS. In addition, the regional industry has been disproportionately affected by the various government-imposed surcharges, the most notorious of which is the Security Surcharge. Air Canada Jazz has lost 88 million dollars in the last year, and, along with Air Canada, is in the midst of bankruptcy protection. Placing the additional burden contemplated by the proposed legislation makes no policy sense at all, and for that reason, the proposed amendment should be rejected.

At the very least, we respectfully submit, the legislation should provide for the consideration of the interests of Air Canada Jazz. Sub paragraph 85.2(2) (a) of the proposed amendments provides that, upon an application for interlining by a third party carrier, the Canadian Transportation Agency is to consider the financial interests of the carrier required to interline (i.e., Air Canada); there is no similar requirement that the financial interests of a carrier currently operating under an interlining agreement (i.e., Air Canada Jazz) be considered. While it is our view that this legislative initiative ought to be rejected in its entirety, were the Committee to continue in this direction, the language ought to be amended to provide for the consideration of the adverse financial impacts of a proposed interlining agreement upon carriers already performing that function.

Targetting a Carrier in Bankruptcy Restructuring Makes No Sense at All

Our last point is, we respectfully submit, an obvious one. Air Canada, along with Air Canada Jazz, is in the course of bankruptcy restructuring. The fate of the airline, and with it, its 40,000 jobs, are in the balance. It is simply impossible to know what impact the legislation would have after restructuring. Although the future is obviously uncertain, one thing we do know is that the carrier emerging out of bankruptcy protection will be entirely different from the one we know today. Under these circumstances, it would be entirely inappropriate to press ahead with legislation that may have entirely unintended consequences. We therefore respectfully submit that the proposed amendment, if not rejected completely, be shelved until a rational assessment of the situation may take place.

Once again, I would like to thank the Committee for the opportunity to make these representations. We would be happy to answer any questions you may have.