

Opening Remarks: Aviation Panel Holds Hearing on Congestion in NYC Airspace

STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
CONGESTION MANAGEMENT IN THE NEW YORK AIRSPACE
JUNE 18, 2008

I want to thank Chairman Costello and Ranking Member Petri for holding this hearing to discuss the complex issue of air traffic delays in the New York airspace. In particular, this hearing focuses on Department of Transportation's (DOT) efforts to impose administrative caps and initiate slot auctions at New York's three main airports: LaGuardia, John F. Kennedy International (JFK), and Newark Airport.

One of the most difficult issues that we face is the growing problem of congestion and delays. According to the DOT, 2007 was the second worst year for delays since 1995, with nearly 27 percent of flights arriving late, and unprecedented ground delays. This is especially true at the New York airports. Approximately one-third of the nation's flights and one-sixth of the world's flights either start or pass through the airspace that supports LaGuardia, JFK and Newark. Accordingly, delays in the northeast have a rippling effect across the country.

In 2007, the BTS lists JFK, LaGuardia, and Newark as the three worst on-time arrival major airports in the United States. Less than 60 percent of flights at these airports arrived on-time. According to the BTS, the first third of 2008 was not much better for these airports: LGA ranked last, EWR 3rd worst and JFK 6th worst for on-time arrivals. Even though in the last twelve months scheduled flights to LGA and EWR fell almost 3 and 4 percent respectively, delays continued to plague these airports. At JFK scheduled flights have increased 12 percent in the past twelve months, and since 2000, they have increased 27 percent. While other parts of the United States may see a downturn in traffic due to air carrier capacity decreases, flights to the New York area airports are still very much in demand.

Since last summer, the DOT has taken several steps to combat delays in the New York airports, including imposing administrative caps at LaGuardia, JFK and Newark. In addition, the DOT has proposed to conduct slot auctions at all three airports. I have several serious concerns with the Department's slot auction proposal.

First, I have learned that FAA believes that it can implement auctions without legislation authorizing them. Many question whether the FAA has the legal authority to impose slot auctions, arguing that the FAA's power to manage the airspace does not include the authority to lease landing rights, conduct an auction of them, and then retain and use the proceeds for further congestion mitigation or allow the carriers to keep them, in the absence of clear delegation of Congressional authority. The FAA itself determined in 2006 that it lacks the power to implement congestion pricing or slot auctions. In a

proposed rulemaking regarding LaGuardia Airport, the agency stated that “legislation would be necessary to employ market-based approaches such as auctions or congestion pricing at LaGuardia because the FAA currently does not have the statutory authority to assess market-clearing charges for a landing or departure authorization.” However, in the current proposals, the FAA appears to be taking the position that it has the right to charge for its services on the basis of the highest bid, rather than the cost to FAA of providing the service. FAA needs to explain what statutory authority it has for assessing this type of charge.

Second, I am seriously concerned that imposition of slot auctions could limit competition by preventing entry of new carriers and limited incumbent air carriers, that often do not have the resources of the legacy air carriers to buy the slots necessary to remain viable and competitive. In addition, auctions could increase the monetary cost to travelers in the New York-metro area, with no guarantee of delay reduction and a potential loss of flights and service options.

Moreover, if carriers are forced to cut back on existing schedules, service to small communities could decrease because there will be pressure on air carriers that lose slots to move slots currently used for small community service to larger, more lucrative markets. Similarly, slots purchased at an auction are likely to be used only for larger markets. This would limit the opportunities of those in smaller communities to have reliable access to the New York area and could also erode the hub structures formed at the New York area airports.

DOT has said that it intends to allow slots acquired at an auction to be subsequently sold. This would allow carriers to profit from the sale of a public resource. Buying and selling slots would create the same problem as auctions with respect to competition, small community air service and consumers. There is a broader policy issue: I question whether the sale of slots to a carrier that may not produce any real competition is the best use of these slots, which are a resource in the public’s domain.

I look forward to hearing the testimony of the witnesses today. The issue of delays and congestion in the New York area will not go away anytime soon. I hope we can all work together to find some near-term solutions to avoid total gridlock, as we press ahead with critical, long-term improvements.

**STATEMENT OF
THE HONORABLE JERRY F. COSTELLO
SUBCOMMITTEE ON AVIATION
HEARING ON
CONGESTION MANAGEMENT IN THE NEW YORK AIRSPACE
JUNE 18, 2008**

I welcome everyone to our Subcommittee hearing on Congestion Management in the New York Airspace.

I want to welcome our colleagues, Senator Charles Schumer, and Congressman Chris Shays, to our hearing. I am interested in hearing their perspectives on this issue.

Over the last year, we have seen record delays and congestion in the skies with nearly 27 percent of flights delayed, according to the Bureau of Transportation Statistics (BTS). The Department of Transportation Inspector General (DOT IG) found that of those delayed, 88,234 flights were delayed over an hour; 7,659 had ground delays of between two to three hours; and almost 1700 flights were delayed over three hours.

The New York area airports have been hit particularly hard with delays. According to the BTS, less than 60 percent of flights arrived on-time at these airports in 2007. These airports, at present, do not have adequate capacity to meet the demand and, as such, the Department of Transportation (DOT) has capped operations at JFK, LaGuardia, and Newark; 83, 83, and 75 slots respectively.

I believe any type of administrative cap is a short term solution to a long term problem. At O'Hare for example, the short term solution to congestion and delays at the airport was to cap the airport. The long term solution is making additional capacity improvements, like the O'Hare Modernization Program. On Monday, the FAA announced that the cap is being lifted as the new runway comes online in the Fall.

DOT is not only proposing to cap the NY airports, but also to auction a percentage of those slots at each airport. Many have questioned both the DOT's legal authority for such a proposal, and the likelihood that slot auctions would decrease congestion and delays. Under one of the proposals, the auction revenue would revert to the air carriers -- in no way guaranteeing that the proceeds would be used to mitigate congestion and delays in the New York airspace.

In my view, auctioning slots is a bad deal for consumers. During these tough financial times for our carriers, consumers are being asked to pay more for less. Any additional costs to access these markets more than likely would be passed on to consumers, resulting in higher fares and absolutely no guarantee of congestion and delay reductions. Further, service to small communities has already been affected by carriers pulling down capacity because of increased fuel prices. Should auctioning be allowed, carriers could potentially limit service to small communities in favor of access to more lucrative markets.

I am interested in hearing from our witnesses on how they believe the DOT caps and slot auctioning proposals will affect service and pricing in the New York airspace, and if there will be any significant reduction in congestion and delays as a result of these measures.

With that, I want to again welcome our witnesses today and I look forward to their testimony.

Before I recognize Mr. Petri for his opening statement, I ask unanimous consent to allow 2 weeks for all Members to revise and extend their remarks and to permit the submission of additional statements and materials by Members and witnesses. Without objection, so ordered.