



AIR LINE PILOTS ASSOCIATION INTERNATIONAL

THE WORLD'S LARGEST PILOTS UNION • WWW.ALPA.ORG

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April 2, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Department of Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

Dear Secretary Mnuchin:

I write on behalf of the over 63,000 pilots represented by the Air Line Pilots Association, International (ALPA) at 34 air carriers regarding your authority under P.L. 116-136, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, to distribute grants, loans, loan guarantees, and other federal credit instruments to U.S. airlines. We believe very strongly that the Treasury should use its authority to maximize airline employment, protect collective bargaining rights of employees, and protect hard-working Americans. Congress and the Administration have provided airlines with an extraordinary opportunity to access much needed capital—conditioned on reasonable worker protections—and we fully expect they will avail themselves of this bridge assistance to help shore up their enterprises, promote a strong workforce, and safeguard the U.S. airline industry.

We recognize and appreciate that this nation faces an unprecedented crisis and applaud the Administration and Congress for negotiating a unique, worker-focused relief package for the airline industry. For the first time in American history, rather than providing unfettered financial assistance to airlines, aid is conditioned to promote, rather than subordinate, the livelihoods of employees. In contrast, financial assistance provided to air carriers after the attacks of September 11, 2001 did not flow through to employees, was heavily conditioned on eroding workers' collectively bargained wages and benefits, and protected airlines' shareholders at the expense of workers and the taxpayers. Airlines were free to reject collective bargaining agreements and impose inequitable long-term conditions on their employees. In the process, aviation workers conceded \$83.5 billion in wage and retirement concessions, including the dissolution of almost every defined benefit pension plan. Two decades later, employees have only partially recovered from these devastating forced concessions. This legacy cannot be repeated.

Fortunately, the CARES Act, which you helped negotiate, and the attendant guidelines provided by your Agency create a framework to protect airline workers and taxpayers over both the short and long term. ALPA truly appreciates these important efforts. Accordingly, we offer the following input to assure financial assistance is provided consistent with the principles of the Act:

- **Collective Bargaining** – There is an asymmetry between the grant guidelines and the loan guidelines with respect to the application of collective bargaining protections. The grant section correctly notes that Section 4115 of the CARES Act precludes any governmental agency from conditioning assistance in relation to collective bargaining agreements or the pay and terms of employment. At present, the loan guidelines do not reference the application of a similar provision—Section 4025—that provides the same protective benefit to workers for loans, loan guarantees, and other investments. We recommend the Treasury clarify the application of the statutory collective bargaining protections so it is clear to all—most importantly the applicants—that the loan program will be administered on the same basis as was intended by Congress and the statute requires.
- **Long-Term Payroll Protection** – The CARES Act and Treasury guidelines appropriately ensure that grant money goes solely to payroll for employees. Specifically, the Treasury further clarifies Section 4112 of the Act by stating that for carriers to be eligible for grants they must “use such payments exclusively for the continuation of employee wages, salaries, and benefits” and refrain from “conducting layoffs or involuntary furloughs, or reducing pay rates and benefits.” We appreciate this clarity and commitment to workers. However, we believe it is important that Treasury ensures that any financial assistance granted to a carrier that is not exhausted by September 30, 2020 continues to flow exclusively to payroll for employees. Specifically, in the event an air carrier turns out to have less Q2/Q3 2020 payroll costs than in Q2/Q3 2019 because employees have provided voluntary relief to the carrier or for any other reason not precluded by the statute, it should be made clear that *the duration of payment shall extend beyond September 30, 2020 to ensure that all allotted financial assistance for that carrier is distributed to the carrier’s payroll*. This is in keeping with the intent of the loan and grant programs to maximize support for aviation workers *and* the express requirements of the statute, per Sections 4025 and 4115 of Title IV of the Act, which prohibits an agency from conditioning financial assistance related to an air carrier or contractor on changes to collective bargaining agreements or regarding pay or other terms and conditions of employment. *Employees who voluntarily sacrifice to help their employers weather this crisis should not be penalized for doing so.*
- **Collective Bargaining Application** – Section 4115 of the Act requires that collective bargaining protections apply through September 30, 2020 for grant recipients. As a result, any post September 30 payroll could be used for labor savings and collective

bargaining changes. Given the strong commitment to workers by Treasury and Congress to workers, we believe the Agency's broad authority under CARES should be exercised to ensure that these same collective bargaining protections extend through the exhaustion of all grants, including grants that are distributed beyond September 30. ALPA will be vigilant in its opposition to any federal intervention into the collective bargaining process at any time during this process.

- **Bankruptcy** – The Treasury grant guidelines help highlight the short and long-term problems that airline bankruptcies pose for employees. Specifically, the Treasury guidelines empower the Agency to consider employer behavior with regard to bankruptcy. While we want to ensure grants help prevent carrier bankruptcy, we also believe the Agency should be vigilant to ensure carriers that receive taxpayer assistance do not, as they did post 9/11, harm employees in bankruptcy, including through the use of Section 1113 of the bankruptcy code. Given that the Treasury makes careful note that its guidelines are subject to the Secretary's discretion to update or modify at any time, we believe the Agency should use its broad authority to help stave off future bankruptcies and condition aid on the preservation of collective bargaining rights. We make note that the conditions applied to Federal Reserve programs and facilities under Section 4003(3)(D)(i)(IX) of the CARES Act require that specific employers **not** abrogate an existing CBA for the term of the loan and a period of two years afterwards. The Treasury should use the same logic under its broad authority to require these same terms for air carriers receiving grants under Section 4003 as well.
- **Transparency** – As an organization responsible for representing the interests of frontline employees, we are in a unique position to help the Treasury ensure that carriers are playing by the rules throughout the process—including through review and analysis of carrier application filings for grants and other credit instruments, the certification of compliance with the Act and Treasury's requirements, and payroll assurances. If we have access to this information, we can help verify that recipient airlines are providing required information and upholding their commitments. We ask that the Treasury provide publicly accessible information to help us partner with the Department to ensure that taxpayer money provided to air carriers furthers the government's essential goal of providing direct benefits to employees.

Airline pilots, many of whom have worked for our companies for decades if not our entire careers, are committed to ensuring that the relief provided to airlines helps sustain the continued viability of our airlines and our industry to facilitate trade, safely move passengers, and transport cargo. Fortunately, the CARES Act takes lessons learned from the past and requires that relief provided to the industry helps save jobs and protect workers while supporting the U.S. airline industry to weather this current crisis.

Pilots are committed to being equal partners with our airlines to navigate through these turbulent times and we look forward to collaborating with you to ensure that we are successful.

We thank you for your commitment to the future of workers whose continued viability will be critical to help restore our industry and economy. We appreciate your consideration of our input and look forward to the implementation of a common-sense relief package that benefits all Americans.

Sincerely,

A handwritten signature in black ink that reads "Joseph G. DePete". The signature is written in a cursive, flowing style.

Joseph G. DePete
President