



# NORWEGIAN AIR'S EVASIVE SCHEME THREATENS EVERY U.S. AIRLINE PILOT

U.S. government must  
reject Norwegian Air's  
bid to gain unfair  
advantage over  
U.S. airlines

By ALPA Staff

## TAKE ACTION

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In a pernicious new business scheme that threatens every U.S. airline pilot's job, Norwegian Air International (NAI) is seeking to evade its national laws to compete unfairly against U.S. airlines. ALPA is leading the fight to stop this scheme by calling on the U.S. Department of Transportation (DOT) to reject NAI's foreign air carrier permit application.

A subsidiary of Norwegian Air Shuttle (NAS), NAI is seeking to operate as an Irish airline—expressly to avoid its pilots and cabin crews' work falling under Norway's employment laws. In documents submitted to the DOT, ALPA and the European Cockpit Association assert that NAI plans for its flight crews to work under individual employment contracts that are governed by Singapore law and

that contain wages and working conditions substantially inferior to those of NAS's Norway-based pilots. At no point in its legal filings has NAI refuted ALPA's description of its business plans or the reasons behind it.

"NAI's plans are to exploit loopholes in international policy to dodge Norwegian's laws and regulations and undermine labor and working conditions," said Capt. Lee Moak, ALPA's president. "If this scheme is permitted to succeed, the company would gain a significant and unfair economic advantage over U.S. airlines in competing to attract international passengers flying to and from the United States and threaten the job of every U.S. airline pilot, now and in the future."



## Norwegian's plans for growth in the U.S.

Norwegian started its long-haul operation in 2013 with routes between Scandinavian countries and the United States and Thailand. The company reports that it plans in 2014 to expand its network to include

14 routes between European destinations and New York; San Francisco, Calif.; Fort Lauderdale, Fla.; Los Angeles, Calif.; and Orlando, Fla. Norwegian's flights to the United States will include, beginning in summer 2014, new B-787 service from London's Gatwick Airport to New York, Los Angeles, and Fort Lauderdale.

The company states it has nearly 200 aircraft on order, including B-737MAXs, B-737-800s, and B-787s. In its 2012 annual report, the U.S. Export-Import Bank reports that during 2012, it granted more than \$160 million in loan guarantees to Norwegian Air Shuttle for the purchase of widebody airplanes.

"With Norwegian rapidly expanding into many of the largest U.S. markets and competing with U.S. airlines for international passengers flying to and from the United States, it is frankly unbelievable that the U.S. government is at the same time using U.S. taxpayer money to help Norwegian purchase new widebody aircraft with low-cost financing that is unavailable to U.S. airlines," continued Moak.

## ALPA acts to halt scheme

Because of the scheme's serious threat to U.S. airlines and U.S. airline pilots' jobs, ALPA immediately developed a multifaceted action plan centered on opposing the application at the DOT to halt NAI's scheme.

ALPA filed an answer to NAI's application to the DOT for a foreign air carrier permit calling on the department to immediately reject the scheme because it is not in the public interest both because it conflicts with the terms of the U.S. aviation statutes and the U.S. air services agreement with the EU.

ALPA highlighted that, under aviation statutes, the DOT is charged with policy objectives to achieve while determining whether proposed foreign air transportation is in the public interest. Among the objectives is the encouragement of "fair wages and working conditions" and "strengthening the competitive position of [U.S.] airline carriers to at least ensure equality with foreign air carriers." ALPA asserts that approval of NAI's application would be inconsistent with both of these objectives.

ALPA also underscored how the U.S.-EU air transport agreement makes clear that the opportunities made available under the agreement are not to be used to reduce labor standards.

In its filing, ALPA explained: "As an entity under the control of Norwegian citizens, NAI could not expect to be granted a permit but for the opportunities made available by the U.S./European/Norway/Iceland Air Transport Agreement (ATA). The ATA includes a provision that states that the opportunities created by the agreement are not intended to undermine labor standards or the labor-related rights and principles contained in the laws of the signatories to that agreement."

"If NAI is permitted to mix and match the countries where it establishes its subsidiaries and employs its flight crews based on whether the legal and regulatory environment is to its economic advantage, U.S. carriers will be put at a severe competitive disadvantage because the United States has one set of laws and regulations that apply to all of its airlines," said Capt. Ron Abel (United), chairman of ALPA's International Affairs Committee. "The U.S.-EU air services agreement was never intended to allow a scheme such as NAI's, which is unapologetically designed to cheat the system."

## "Flag of convenience" business practice

ALPA also maintains that the NAI scheme raises the specter of the "flag of convenience" business practice that undermined the U.S. maritime industry by allowing a vessel to be registered in a country different from its ownership and apply the country of registry's laws to its operations.

The practice precipitated the decline of the U.S. maritime industry and the loss of tens of thousands of U.S. maritime jobs as companies flew the flag of countries with weaker labor and tax laws and regulations.

## ALPA, allies join forces

Four major U.S. airlines as well as other airline labor unions have joined ALPA in opposing the NAI scheme and in calling on the DOT to reject the company's foreign air carrier application.

Ed Wytkind, president of the AFL-CIO's Transportation Trades Department, shares ALPA's concern, stating in a December 2013 opinion piece published in *Aviation Daily*: "We must reject business models premised on scouring the globe for cheap labor

no matter the consequences, and not pretend this is somehow acceptable competitive behavior."

## Irish government must also reject NAI's bid

ALPA is also calling on the Irish government to reject NAI's attempt to register the aircraft in that country. "Ireland should not allow itself to be involved in NAI's avoidance scheme," said Moak.

"This move appears to many observers as an attempt to engage in social dumping at the expense of EU member states and any states NAI may operate to or from," charged the European Cockpit Association in its answer to NAI's foreign air carrier permit application to the DOT.

## U.S. airlines and employees eager to compete

Moak explained that U.S. airline industry employees are driven to compete with Norwegian, or any foreign airline, on a level playing field and in areas where airlines should compete such as on customer service and convenient flight times. "Fair competition is not what Norwegian is about—they are seeking to create an unfair race to the bottom on labor standards by evading what seems to be the clear language of the U.S.-EU air transport agreement to get around Norwegian labor laws.

"The NAI scheme must be immediately and unequivocally rejected," concluded Moak. "The DOT must not permit U.S. airlines and their employees to face an unfair competitive disadvantage from this runaway shop and the government must swiftly dismiss NAI's air carrier permit application."

## DECLINE OF THE U.S. MARITIME INDUSTRY

