



PRESIDENT'S DEPARTMENT
AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

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June 6, 2017

Mary B. McCord
Acting Assistant Attorney General for National Security
U.S. Department of Justice/NSD
FARA Registration Unit
600 E Street, NW
BICN Building — Room 1300
Washington, DC 20530

Channing D. Phillips
United States Attorney
United States Attorney's Office
555 4th Street, NW
Washington, DC 20530

Re: Potential FARA and LDA violations by U.S. Travel Association

Dear Ms. McCord and Mr. Phillips,

It has come to our attention that the U.S. Travel Association (“U.S. Travel”) has not registered under either the Foreign Agents Registration Act (“FARA”) or the Lobbying Disclosure Act (“LDA”) for its political activities on behalf of foreign state-owned airlines with respect to practices of the United Arab Emirates (“UAE”) that are inconsistent with the Open Skies agreement between the United States and the UAE. The attached information from the U.S. Travel website indicates that its activities have been funded by Etihad Airways (owned and controlled by the government of Abu Dhabi) and Emirates Airline (owned and controlled by the government of Dubai).¹

¹ This information has been recently revised, and U.S. Travel’s website no longer discloses funding from Emirates.

The Air Line Pilots Association asks the Department of Justice and the U.S. Attorney's Office to investigate potential FARA and LDA violations by U.S. Travel and to ensure that U.S. Travel complies with federal law. The American public deserves to know that the ultimate beneficiaries of U.S. Travel's lobbying campaign are the governments of Abu Dhabi and Dubai, which have a direct financial interest in the preferential treatment that U.S. Travel is seeking on behalf of their respective state-owned airlines.

The Foreign Agents Registration Act

FARA requires U.S. agents of foreign principals to register with the Department of Justice and to file any informational materials with the Department within 48 hours of their dissemination to the public. *See* 22 U.S.C. §§ 612(a), 614(a). U.S. Travel has done neither.

Foreign Principal, Defined. While the exact terms of U.S. Travel's arrangement(s) with Etihad and Emirates have not been disclosed, those entities indisputably qualify as foreign principals under FARA, which defines "foreign principal" to include a "corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country." 22 U.S.C. § 611(b)(3).

Emirates is wholly owned by the Investment Corporation of Dubai, a Government of Dubai entity.² Etihad is wholly owned by the Government of Abu Dhabi.³ In addition, public filings by others establish that these airlines have their principal places of business in Dubai and Abu Dhabi.⁴

Agent of Foreign Principal, Defined. FARA broadly defines an "agent of a foreign principal" as "any person who acts as an agent, representative, employee, or servant, or *any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal*, or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person—(i) engages within the United States in political activities for or in the interests of such foreign principal; (ii) acts within the United States as a public relations counsel, publicity agent, information-service employee, or political consultant for or in the interests of such foreign principal; [or] (iv) within the United States represents the

² *See* Emirates 2015-2016 Annual Report at 88, http://content.emirates.com/downloads/ek/pdfs/report/annual_report_2016.pdf.

³ *See* Etihad website, Corporate Profile (stating that Etihad is the national airline of the United Arab Emirates, established by Royal Decree in July 2003), <http://www.etihad.com/en-us/about-us/corporate-profile/>.

⁴ *See* APCO, Lobbying Disclosure Act Registration Form (LD-1) (filed Feb. 6, 2015), <http://disclosures.house.gov/ld/ldxmlrelease/2015/RR/300710557.xml> (disclosing Etihad Airways as client and identifying Abu Dhabi as Etihad's principal place of business).

interests of such foreign principal before any agency or official of the Government of the United States.” 22 U.S.C. § 611(c)(1) (emphasis added).

Public filings by U.S. Travel reveal that it has lobbied both houses of Congress and various components of the Executive Branch on issues involving the “Open skies agreements with the UAE and Qatar” and “airline competition issues.”⁵ Public documents also reveal the close coordination between U.S. Travel and Etihad and Emirates. For example, both U.S. Travel and Etihad released studies by Oxford Economics in May 2015 extolling the purported benefits of Gulf airline flights to the U.S. economy,⁶ which they each submitted to a U.S. government docket in support of Etihad’s and Emirates’ position.⁷ In addition, Emirates has repeatedly included supportive quotes from U.S. Travel’s CEO in press releases announcing new U.S. routes.⁸ In turn, U.S. Travel has issued numerous press releases and disseminated materials promoting Etihad’s and Emirates’ presence in the United States and criticizing efforts to enforce the U.S.-UAE Open Skies Agreement with respect to subsidized competition from the two airlines.⁹

Whether U.S. Travel is acting at the request of the foreign carriers or at the direction of one of the many U.S. lobbyists these airlines have retained is immaterial under Department of Justice regulations: in either case, it would qualify as an “agent of a foreign principal” obligated to register under FARA. *See* 28 C.F.R. § 5.100(a)(7); *id.* § 5.100(a)(8) (“The term *foreign principal* includes a person any of whose activities are directed or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal[.]”).

⁵ U.S. Travel Association, LD-2 Quarterly Report (Apr. 20, 2016), <http://disclosures.house.gov/ld/ldxmlrelease/2016/Q1/300798257.xml>.

⁶ *The Economic Impact of Etihad Airways on the United States Economy*, Oxford Economics, May 2015; *Gulf Carrier Traffic to the USA: An Economic Analysis of the Competitive Landscape and Economic Impact*, Oxford Economics, May 2015, https://www.ustravel.org/cdn/farfuture/ySu8Hwy9Fc2t7lkhS-X6dO_77tX1vpHBa7tx0RSGwJQ/mtime:1490135342/sites/default/files/Media%20Root/Document/USTA_Traffic_Analysis_Briefing_6_18_2015.pdf.

⁷ *See* U.S. Department of Transportation, *Information on Claims Raised About State-Owned Airlines in Qatar and the UAE*, 80 Fed. Reg. 25,671 (May 5, 2015) (submission of U.S. Travel), <https://www.regulations.gov/contentStreamer?documentId=DOT-OST-2015-0082-0285&attachmentNumber=1&contentType=pdf>; *id.* (cover letter to submission of Etihad), <https://www.regulations.gov/contentStreamer?documentId=DOT-OST-2015-0082-0141&attachmentNumber=1&contentType=pdf>; *id.* (submission of Etihad), <https://www.regulations.gov/contentStreamer?documentId=DOT-OST-2015-0082-0141&attachmentNumber=2&contentType=pdf>.

⁸ *See, e.g.*, Press Release, Emirates, *Emirates To Launch New Daily Service to Fort Lauderdale* (Dec. 15, 2016) (quoting U.S. Travel President & CEO Roger Dow), <https://www.emirates.com/media-centre/emirates-to-launch-new-daily-service-to-fort-lauderdale#>; Press Release, Emirates, *Emirates Announces a New Daily Service to Orlando* (Mar. 25, 2015) (quoting U.S. Travel President & CEO Roger Dow), <https://www.emirates.com/media-centre/emirates-announces-a-new-daily-service-to-orlando-to-be-distributed-at-9-am#>.

⁹ *See e.g.*, U.S. Travel Fact Sheet, *Preserving Open Skies*, https://www.ustravel.org/system/files/2.%20Fact_Sheet_OpenSkies%20%282%29.pdf; Press Release, U.S. Travel, *No, President Trump Should Not Stop Emirates’ Newark-Athens Flight* (Mar. 14, 2017), <https://www.ustravel.org/news/no-president-trump-should-not-stop-emirates%E2%80%99-newark-athens-flight>; Press Release, U.S. Travel, *Travel Community Declares Victory for Open Skies Agreements* (June 27, 2016), <https://www.ustravel.org/press/travel-community-declares-victory-open-skies-agreements>.

The Lobbying Disclosure Act

Just as U.S. Travel did not disclose its relationship with Emirates and Etihad under FARA, so too has it not disclosed its relationship with them under the LDA.

Mandatory Disclosure of Affiliated Organizations. The LDA requires that any registration statement include “the name, address, and principal place of business of any organization, other than the client, that—(A) contributes more than \$5,000 to the registrant or the client in the quarterly period to fund the lobbying activities of the registrant; and (B) actively participates in the planning, supervision, or control of such lobbying activities.” 2 U.S.C. § 1603(b)(3). The LDA also mandates that registrants update their disclosures each quarter to capture any affiliated organizations not captured by the initial registration. *See* 2 U.S.C. § 1604(b)(1).

U.S. Travel has not disclosed *any* affiliated organizations, either in its registration statement or in its quarterly reports—effectively attesting that no organization that contributes more than \$5,000 to U.S. Travel in any quarter (including any foreign carrier) actively participates in the planning, supervision, or control of any of its lobbying activities.

Mandatory Disclosure of Foreign Entities.¹⁰ The LDA requires that any registration statement include “the name, address, principal place of business, amount of any contribution of more than \$5,000 to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that—(A) holds at least 20 percent equitable ownership in the client or any [affiliated organization]; (B) *directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances, or subsidizes the activities of the client or any [affiliated organization]*; or (C) is an affiliate of the client or any [affiliated organization] and has a direct interest in the outcome of the lobbying activity.” 2 U.S.C. § 1603(b)(4) (emphasis added). The LDA also requires that the quarterly reports filed by registrants include “a description of the interest, if any, of any foreign entity identified under section 1603(b)(4) ... in the specific issues [on which the registrant engaged in lobbying activities].” *Id.* § 1603(b)(2)(D)

U.S. Travel has not disclosed any foreign carrier or government in any of its LDA filings. Its LDA filings thus stand in sharp contrast to those of the private lobbyists that the foreign carriers have retained to carry out their Open Skies lobbying campaign. For example:

- ***Etihad Lobbyists.*** APCO Worldwide, Inc.’s most recent LD-2 report for its lobbying on behalf of Etihad Airways states: “The Government of Abu Dhabi ... would

¹⁰ Under the LDA, “[t]he term ‘foreign entity’ means a foreign principal as defined in section 1(b) of the Foreign Agents Registration Act.” 2 U.S.C. § 1602(6).

indirectly benefit from the advancement of the commercial interests of Etihad Airways.”¹¹ And its LD-1 registration identifies the “Government of Abu Dhabi c/o Etihad Airways PJSC” as a foreign entity required to be disclosed.¹² The LDA filings by lobbyist Chris McCannell contain identical disclosures.

- **Emirates Lobbyists.** Lobbyist Michael Korens discloses “the Investment Corporation of Dubai” as an interested foreign entity on his registration form for Emirates Airline and his quarterly reports have described its interest as follows: “Preservation of U.S. Open Skies policy and opposition to anti-competitive restrictions on international air services or other measures to restrict existing rights or services of Emirates Airline, thereby limiting consumer choice” and “Emirates Airline – 100%.”¹³

In light of the public record created by the foreign carriers’ other lobbyists, we ask the Department of Justice and the U.S. Attorney’s Office to take all appropriate steps to ensure that U.S. Travel complies with U.S. law.

Air Line Pilots Association

The Air Line Pilots Association (“ALPA”) represents and advocates for more than 55,000 pilots at 32 U.S. and Canadian airlines, making it the world’s largest airline pilot union. ALPA provides three critical services to its members: airline safety, security, and pilot assistance; representation; and advocacy. Through unbiased, fact-based evaluation of airline safety and security issues, ALPA works to ensure that the airline industry remains safe. ALPA represents pilots’ views to decision-makers, including Congress and federal agencies, and ALPA pilot groups have negotiated hundreds of contracts with airlines.

Respectfully submitted,



Tim Canoll
President
Air Line Pilots Association

¹¹ APCO, LD-2 Quarterly Report (Apr. 17, 2017), <http://disclosures.house.gov/ld/ldxmlrelease/2017/Q1/300866732.xml>.

¹² APCO, Lobbying Disclosure Act Registration Form (LD-1) (filed Feb. 6, 2015), <http://disclosures.house.gov/ld/ldxmlrelease/2015/RR/300710557.xml>.

¹³ Michael Korens, Lobbying Disclosure Act Registration Form (LD-1) (filed Feb. 17, 2015), <http://disclosures.house.gov/ld/ldxmlrelease/2015/RR/300710873.xml>; Michael Korens, LD-2 Quarterly Report (Apr. 19, 2015), <http://disclosures.house.gov/ld/ldxmlrelease/2015/IA/300721412.xml>; Michael Korens, LD-2 Quarterly Report (Apr. 21, 2017), <http://disclosures.house.gov/ld/ldxmlrelease/2017/Q1/300878705.xml>.