February 21, 2015

Skattedirektoratet  
Rettsavdelingen - Særavgiftsseksjonen,  
P.O. Box 9200 Grønland,  
0134 Oslo, Norway

Re: Air Passenger Tax Consultation

Dear Skattedirektoratet:

Airlines for America® (A4A) appreciates the opportunity to comment on the Air Passenger Tax Consultation and would like to again express its objection to the introduction of a tax on air passengers for flights departing from Norwegian airports, which would go into effect on April 1, 2016. A4A is the principal trade and service organization of the U.S. airline industry, and several of A4A’s member airlines operate and/or market service to Norway via their European alliance partners. A4A supports the comments that the International Air Transport Association (IATA) has previously submitted on the economic value aviation brings to Norway and the direct harm that the proposed tax would bring to the Norwegian economy. We sincerely hope that the Norwegian government will keep an open mind when considering stakeholder concerns that counsel strongly against the introduction of the tax. We take this opportunity to further reinforce that such a tax would be (1) counterproductive to the airlines’ ongoing efforts to improve on our already strong environmental record, (2) contrary to international law and policy, and (3) harmful to Norway’s air connectivity, including with the United States. Indeed, these very concerns have caused other countries, including Belgium, Ireland and The Netherlands, to abandon or eschew such departure taxes. We urge Norway to do the same with its proposed departure tax.

It is our understanding that the government of Norway asserts that this tax is intended as an environmental measure. Indeed, the Prime Minister has referred to it as such in official correspondence. We emphasize from the outset that A4A and our member airlines have a strong environmental record and are committed to sustainable aviation growth. For the past several decades, the U.S. airlines have dramatically improved fuel and greenhouse gas (GHG) emissions efficiency by investing billions in fuel-saving aircraft and engines, innovative technologies like winglets (which improve aerodynamics) and cutting-edge route-optimization software. As a result, between 1978 and 2014, the U.S. airline industry improved its fuel efficiency by 120 percent, resulting in 3.8 billion metric tons of carbon dioxide (CO₂) savings – equivalent to taking 23 million cars off the road on average in each of those years. Further, U.S. airlines burned 8 percent less fuel in 2014 than they did in 2000, resulting in an 8 percent reduction in CO₂ emissions, even though they carried 20 percent more passengers and cargo on a revenue-ton-mile basis.

Going forward, A4A members are working diligently to meet the International Civil Aviation Organization’s (ICAO) and industry’s shared goals of annual average fuel efficiency improvements through 2020 and carbon neutral growth from 2020, subject to critical aviation infrastructure and technology advances

1 A4A’s members are: Alaska Airlines, Inc.; American Airlines Group (American Airlines and US Airways); Atlas Air, Inc.; Federal Express Corporation.; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Continental Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.
achieved by government and industry. The initiatives our airlines are undertaking to further address GHG emissions are designed to responsibly and effectively limit their fuel consumption, GHG contribution and potential climate change impacts, while allowing commercial aviation to continue to serve as a key contributor to the local, national and world economies. With fuel representing one of our members’ greatest costs, their financial and environmental objectives for fuel and emissions savings are fully aligned.

With a strong track record of deploying new, quieter technology and the implementation of noise abatement operational procedures, airlines likewise have played an important role in reducing noise exposure. Statistics from the U.S. Federal Aviation Administration (FAA) confirm that the number of people exposed to significant levels of aircraft noise in the United States has dropped by 95 percent since the late 1970s, even as enplanements have tripled. As our member airlines have integrated newer and ever quieter aircraft into their flights, they have contributed to similar reductions in aircraft noise in international operations, including in Norway. This trend is expected to continue, as the ICAO has recently adopted more stringent “Chapter 14” aircraft noise standards, which will further reduce noise at the source beginning in 2017.

New taxes, asserted to be “green” or otherwise, are counterproductive because they siphon away the very funds that the industry otherwise could use for additional environmental improvements. Policies that compromise the aviation industry’s ability to invest in new equipment and technology by diverting limited available capital threaten the industry’s ability to continue to improve fuel efficiency and reduce noise exposure and will result in serious harm not only to the airline industry but to the environmental objective the government of Norway asserts as justification for the tax.

In addition to ignoring airlines’ existing economic and environmental incentives to reduce fuel use and GHG emissions, imposing the Norwegian departure tax on environmental grounds ignores that Norway has imposed a domestic CO2 tax on aviation and that the majority of the aviation GHG emissions from Norwegian flights are also already covered under the European Union’s Emissions Trading Scheme (EU ETS). Further, to the extent that international flights from non-EU nations are currently not covered by the ETS, this is the direct result of the EU ETS regulation, which specifically exempts such flights through 2016. The air transport tax is directly contrary to both the spirit and text of this EU regulation, which was immediately applicable in all Member States upon passage by the European Parliament and the Council of the European Union. Moreover, at the 38th ICAO Assembly in 2013, the ICAO Member States agreed to an Assembly Resolution providing that States would not impose GHG market-based measures on international aviation without the agreement of the State of registry of the foreign aircraft. Any attempt by Norway to tax international flights to purportedly address GHG emissions would have the same jurisdictional and policy infirmities that caused such widespread international opposition to the extraterritorial application of the EU ETS and were the basis for the ICAO Assembly provision against the imposition of unilateral GHG emissions measures on international aviation.

The proposed air transport tax is also contrary to several bilateral and multilateral agreements to which Norway is a signatory, including the U.S.-E.U. Open Skies Agreement and the Convention on International Civil Aviation (commonly referred to as the “Chicago Convention”). Article 15(2) of the U.S.-E.U Open Skies Agreement requires that a party considering environmental measures “evaluate possible adverse effects on the exercise of rights contained in the Agreement.” Yet Norway does not appear to

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2 See ICAO, Assembly Resolution A38-18, Operative Paragraph 16.

3 See Article 15(2) of the Air Transport Agreement, as amended by the Second Stage Protocol (Official Journal of the European Union, L 223, 25 August 2010, p.3). Per the agreement of all parties, the Kingdom of Norway was added to this agreement in 2011.
have undertaken such an assessment. In addition, to the extent the proposed air transport tax is intended to address the environmental impacts of noise, the tax is clearly contrary to Article 15(4) of the Open Skies Agreement, which reaffirms the commitment of the parties to the use of the Balanced Approach to address aircraft noise. The Balanced Approach calls for an assessment of the noise situation at particular airports, a review of the array of measures that might be employed, cost-benefit analysis, and a tailoring of chosen noise-related measures to the specific outcome of the analysis.\(^4\) Again, Norway has undertaken no such assessment. With regard to the Chicago Convention, the air transport tax violates Article 15, which provides that “no fees, dues, or other charges shall be imposed by any contracting State in respect solely of the right of entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon.” As the tax is not linked to any demonstrated environmental impact and will not result in any environmental benefit, the tax measure serves as a *de facto* levy on the right of exit from Norway, in direct contravention of Article 15.

Further, the departure tax is contrary to the ICAO Council’s Resolution on Environmental Charges and Taxes, which urges states considering the introduction of emission-related charges to take into account the following principles: 1) there should be no fiscal aims behind the charges; 2) the charges should be related to costs; and 3) the charges should not discriminate against air transport compared with other modes of transport.\(^5\) The proposed air transport departure tax violates all of these principles, as it is not dedicated to environmental mitigation and is thus fiscal. Norway has made no attempt to correlate the charges to actual environmental costs, and it would be applied only to departures via air. Moreover, the implementation of the tax would be contrary to the Policies on Taxation in the field of International Air Transport, as set forth in ICAO Document 8632, under which States have agreed to “reduce to the fullest practicable extent and make plans to eliminate …all forms of taxation on the sale or use of international transport by air, including taxes on gross receipts of operators and taxes levied directly on passengers or shippers.”

Finally, experience demonstrates that an increase in costs can lead to a loss of valuable airline service. The causality and economic harm to Norway that will result are detailed in IATA’s letter. In addition, we provide a specific example from A4A member experience. United Airlines recently replaced year-round service with seasonal service to Oslo, in large part because of the poor financial performance of the service. An increase in costs in Norway occasioned by the new departure tax could well compromise United’s seasonal service, thereby depriving Norway of important connections to the U.S. market and beyond. It seems ill-conceived that the government would risk losing such connectivity, which is so vital to its trade and tourism.

In light of the above, we urge you the government of Norway to withdraw the proposed air departure tax. Thank you for your consideration. Please let me know if you have any questions regarding our comments.

Sincerely yours,

\[\text{Sharon L. Pinkerton} \]
Senior Vice President, Legislative & Regulatory Policy

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