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**Testimony of Edward P. Faberman
Executive Director, Air Carrier Association of America**

Before the

**U.S. House of Representatives
Committee on Small Business**

Regarding

***“Grounded: How the Air Transportation Crisis is Affecting
Entrepreneurs and the Travel Industry”***

June 26, 2008

UNITED STATES HOUSE OF REPRESENTATIVES

Committee on Small Business

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STATEMENT OF EDWARD P. FABERMAN

EXECUTIVE DIRECTOR, AIR CARRIER ASSOCIATION OF AMERICA

Good morning Chairwoman Velázquez, Ranking Member Chabot, and Members of the Committee on Small Business.

I am very pleased to be here today to talk about issues that are critical to the nation’s air carriers, communities throughout the country, businesses of all sizes and to the traveling public. My name is Ed Faberman and I am Executive Director of the Air Carrier Association of America. The ACAA and its low-fare carrier members are dedicated to providing affordable airfare travel options to travelers and communities that receive significant economic benefits when low-fare options are available.

We thank this Committee for holding this hearing, and for highlighting the importance of a strong transportation system. Unfortunately, as a result of airport congestion, delays and elimination of service, we are at a point in time that if steps are not taken to promote competition, we may see the disappearance of travel options for millions of travelers. If that happens, communities and business will be negatively impacted.

We appreciate the situation faced by the Federal Aviation Administration in addressing delay and congestion issues that are once again plaguing the industry and disrupting travel plans for thousands of passengers..

Unfortunately, these are not new issues.

Let me read a statement:

“Throughout the year, there were strong indications that the airport and airway system was on the verge of saturation, especially within the so-called golden Triangle --

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Chicago, New York and Washington. Flight delays were far beyond mere annoyance and inconvenience. Time spent in holding patterns became all too frequent. For example, traveling between New York and Washington sometimes took as long as four hours. The airports serving all three of these cities and the airway system connecting them were simply congested during too many hours each day. This deplorable situation was uppermost in the minds of local and federal transportation officials, including DOT/FAA, and local airport operators. And in the minds of airline and their passengers. Everyone agreed that airport and airway capacity in critical areas of the nation needed to be increased, but there was no consensus as to how soon this could be accomplished, or exactly what to do in the meantime.”

THIS STATEMENT DESCRIBED CONDITIONS IN 1968!!

During the fall of 1968, the Secretary and the Acting Administrator of the FAA expressed the belief that government action limiting operations at some of the busiest airports would probably become necessary. Unfortunately, those restrictions have now been in place for **40 years**.¹

¹ FAA has on multiple occasions in the past addressed growing congestion problems. Unfortunately, the fixes developed have closed markets and limited competition. In 1968, the Acting Administrator of the FAA (Notice of Proposed Rule Making and Notice of Public Hearing; 33 FR 12580, September 5, 1968) stated:

Delays of varying magnitude are encountered at many terminal areas... Congestion at these terminals frequently requires the imposition of traffic flow restrictions creating backup delays throughout the air transportation system.
A reduction in air traffic delays can be accomplished only by increasing the capacity of the system or decreasing the demands placed upon it. Certain changes in air traffic and airport procedures and practices are already planned by the FAA to increase aircraft handling capacity.

On November 9, 1969, as a response to the delays in terminal areas, the FAA established the high density rule. When the rule was promulgated, the FAA stated, “the rule should be considered to be only a temporary solution.” Unfortunately, thirty-nine years later the high density rule remains in place at Ronald Reagan Washington National Airport (“National”) and La Guardia Airport (“LaGuardia”) and may have to be reinstated at other airports to prevent continued delays.

The FAA addressed delays/congestion in 1984 and 1987:

There can be little doubt that our nation’s air transportation system is currently facing a substantial delay problem. According to DOT, airlines and travelers suffered 39,000 delays of

While we agree that it is important to reduce delays and congestion throughout the system and create a method of distributing airport capacity for the long term, immediate steps must first be taken to ensure that airline competition and deregulation do not become only memories of a system that used to exist. If immediate steps are not taken to ensure that travelers and communities have travel options, leisure and business travel will face additional setbacks and we will forever lose those critical travel options. Such a result would not be in the best interest of the nation's economic future.

Safe and efficient and competitive air travel connects us with each other and certainly is what connects us with the rest of the world. We rely on our airlines and airports for leisure and business travel – and that in turn supports so many local industries and businesses in all of our various communities. The downturn in air travel has already affected many businesses and neighborhoods surrounding our nation's airports.

For a number of years, flight delays have significantly impacted the U.S. aviation system, posing a threat to our economic growth and future. And the problem is only getting worse. Last year, U.S. airlines experienced a lower rate of on-time flights than in 2006. We have also experienced bankruptcy filings by several airlines.

more than 15 minutes in July of this year alone...It is premised on the view that a significant part of the delays stems from the hubbing practices of various carriers that results in the concentration of many flights within a short period of time every day... We tentatively concluded, however, that airline scheduling practices were a significant source of delays, since airlines appeared to be scheduling more flights at peak periods at major airports that could be accommodated by the available taxiways, runways, and airspace...Our show-cause order relied upon the excess schedules operated at Atlanta and Boston to show that airline scheduling practices cause much of the delay problem. [Docket 42410, "Application For Discussion Authority and Prior Board Approval of Carrier Agreements to Integrate Schedules," Order 84-8-129], "Order Granting Discussion Authority," August 31, 1984]

We find that the discussions are necessary to help alleviate the serious inconveniences caused the traveling public by the worsening delay problem, and that the discussions should therefore be approved and granted antitrust immunity. We are reluctant to authorize carrier schedule discussions, but the worsening delay problem demands that action be taken to help alleviate the problem. We believe that scheduling discussions are the only available alternative that can be {Docket 44634, "Discussion Authority For Carrier Agreements to Shift Schedules," Order 87-3-39, "Final Order Granting Discussion Authority," March 11, 1987]

Last month, the Travel Industry Association released a landmark survey² revealing that deeply frustrated air travelers avoided an estimated 41 million trips over the past 12 months, costing the U.S. economy more than \$26 billion. Air travelers' primary concerns are delays, largely due to an antiquated air traffic control system, and inefficient security screening. The research also demonstrated that air travelers express little optimism for positive change, with nearly 50 percent saying that the air travel system is not likely to improve in the near future. We applaud the TIA for this study and recognize Jon Tisch for his work on these issues and for leading efforts to promote tourism in New York and around the country.

In addition, the Administration should address other issues that impact domestic and international travel. In this connection, I reference a Statement by Gene Prescott, Chairman of the Board, The Greater Miami Convention & Visitors Bureau Miami, Florida USA.

The USA entry process needs to be improved. As a result of problems with the system, international visitation to the USA is still down by 11% from pre-911 levels despite the weak dollar. This has cost hundreds of thousands of USA jobs.

Two things need to be done:

1. Improve the entry process by proper staffing (and training) at gateway airport, by improving the visa filing process, including electronic visa filing.

² **Air Travelers: Travel Process is Bad and Getting Worse**

- 78% of air travelers believe the air travel system is either "broken" or in need of "moderate correction."
- 62% believe the air travel system is deteriorating.
- 33% of all air travelers are dissatisfied with the air travel system, and 48% of frequent air travelers (5+ trips per year) are dissatisfied.
- 39% of all air travelers feel their time is not respected in the air travel process, and among frequent air travelers that number surges to 51%.
- Travelers are most irritated about the air travel process, not the airlines. Issues the federal government can address are travelers' top concerns: delays, cancellations and inefficient security screening.

2. Passage of a Travel Promotion Act to establish a USA Travel Promotion Agency similar to ones in other countries.

The airline industry is at a defining point in its history. We have recently seen several low cost carriers file for bankruptcy and cease all operations. We also have before us proposals that would increase airline consolidation. At the same time, airline costs are out of control and they continue to rise. As a result of the significant increase in operations added at Newark International Airport, John F. Kennedy and LaGuardia Airport all New York airports continue to be closed to competition. After closing these airports, the Department of Transportation has not taken the necessary, corresponding steps to promote entry and competition.

Airports that are slot controlled have less low fare service and competition than most other airports in this country. Legacy carriers control 95% of the operations at LaGuardia and Newark. At LGA, small carriers are limited to 10 roundtrips.

The one “closed” airport that has low-fare competition is JFK because the Department took specific action to provide JetBlue (formerly New Air) with significant entry at the airport when it first started its operation.³

³ JetBlue has a major presence at JFK because in Order 99-9-11 (September 16, 1999), the Department granted New Air Corporation (now JetBlue) 75 slot exemptions at JFK. In that order, the Department clearly emphasized the importance of low-fare competition at airports dominated by legacy carriers:

The GAO’s 1996 study, Airline Deregulation: Barriers to Entry Continue in Several Key Domestic Markets (the GAO Report), stated that “control of slots by a few airlines greatly deters entry at key airports in Chicago, New York and Washington,” We made clear our support for increased competition and our willingness to invoke available tools to promote competition when we stated in our January 6, 1997, response to the GAO Report that “the Department intends to be more receptive to considering competition as a factor in granting slot exemptions to new entrants under the exceptional circumstances criterion.”

* * * *

As we noted earlier, many authorities, including members of Congress, have concluded that the High Density Rule is a serious barrier to entry, which has had a dampening effect on domestic airline competition.

* * * *

JetBlue’s business plan is to bring to the New York metropolitan area and many of its short- and medium-haul communities of interest a route system of price-competitive transportation services comparable to those that Southwest Airlines has brought to other cities throughout the nation. It is indisputable that Southwest has had a singularly positive effect on fare competition in literally every market it has chosen to serve. In many other markets, other low-fare new entrants have also had a salutary impact on domestic fares. Wherever those carriers have gone, fare competition has followed and traffic has increased, in many cases dramatically.

At the NY Scheduling Meeting (October 23, 2007), Secretary Peters stated, “I am not in favor of a system that limits competition, nor do I want to reduce the ability of new entrants to fly into New York.”

FAA and DOT have repeatedly emphasized the importance of increased competition and frequently stated that establishing a competitive environment is a priority.⁴

Multiple studies and reports prepared by the federal government, local governments and airports, along with independent groups, set forth the enormous benefits that low-fare airline competition provides to this country.

A 1993 DOT paper on the impact of low-fare service developed a phrase called the “Southwest Effect” that showed the characteristics of a low-cost carrier’s market entry and the side-effects that come with it.

The “Southwest Effect” has been well chronicled and looked at by many journals, newspapers and industry magazines. Those stories outline the effects on air fares, passenger counts and even the economy of the surrounding communities when low fare service is added at an area airport. As one article mentioned in 1999 on the arrival of Southwest to the city of Hartford, Connecticut, “The biggest economic boom

⁴ Promoting entry and competition is also an essential mandate placed on the Department by Congress when it enacted the Airline Deregulation Act of 1978 49 U.S.C. 1301 – which charges the Department with facilitating new entry and competition in the airline industry. Under 49 U.S.C. § 40101:

(a)...the Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity.

(7) The prevention of unfair, deceptive, predatory, or anti-competitive practices in air transportation and the avoidance of

A. unreasonable industry concentration, excessive market domination, and monopoly power; and other conditions;

B. that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety quality, and price of air transportation services.

you can bring to an area is to improve your transportation, and a cheaper price is one aspect of that.”

A study prepared for the Allegheny County Airport Authority on August 8, 2007 called “The Economic Benefit of Low Cost Carriers to the Pittsburgh Region” stated that the study estimates that an additional 110,000 people visited the region in 2006 as a result of low-cost carrier service at Pittsburgh International Airport. This low-cost carrier-related visitor activity, supported \$43.3 million in economic output in the Pittsburgh regional economy.

The study praised the benefits that LLCs, including AirTran Airways, brought to Pittsburgh. The study added that if low-cost carriers were to leave Pittsburgh International Airport, the Pittsburgh business and leisure traveler would be left with four options, which were the same options Pittsburgh travelers had before low-cost carrier service gained traction at the airport. Those options were:

- Pay higher fares
- Drive to distant airports
- Use other modes of transport; and
- Forego traveling

Other airports have also praised the benefit of low-fare service. A June 2008 Air Service Update from the Akron-Canton Airport noted that CAK is the 19th lowest air fare market in the United States largely because of AirTran Airways’ and Frontier Airlines’ flights. The airport notes that a key advantage of having a low-cost carrier like AirTran Airways in its market has been that close-in bookings to key business markets like New York, Boston and Atlanta, are 30-70% less than similar nonstop flights offered from Hopkins, which saves business travelers hundreds of thousands of dollars annually.

Bishop International Airport has said in a paper, “How AirTran Airways Impacted FNT’s Air Service Development,” as AirTran Airways grew at FNT, other airlines spotted an opportunity for their network’s growth. In order to compete with AirTran Airways, and to keep up with the traffic they have stimulated in the FNT

market, Northwest Airlines increased their flights and upgraded their equipment to all net service FNT.

Clearly, it is a benefit to all passengers when other carriers match new service and utilize larger aircraft.

AirTran Airways spurred all of this growth, success and expansion. As a result, our airport has slowly changed from a largely turbo-prop facility, to a predominantly jet operation – and a viable airport. Passengers prefer jet service, and AirTran Airways provides area residents with all Boeing 717 and 737 service.

The Department of Transportation has emphasized that it can take steps to promote competition. The LaGuardia Airport Congestion Management NPRM highlighted that there is clear statutory authority to promote competition when allocating slots/operating authorizations:

Keeping available a variety of adequate, economic, efficient, and low-priced air services; placing maximum reliance on competitive market forces and on actual and potential competition; avoiding airline industry conditions that would tend to allow at least one air carrier unreasonably to increase prices, reduce services, or exclude competition in air transportation; encouraging, developing, and maintaining an air transportation system relying on actual and potential competition; encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry. (Docket FAA-2006-25709, 71 Fed.Reg. 51360, Aug. 29, 2006.)

It is time for the Department to take such steps.

We are not operating in an environment where costs are stable – rather costs, including fuel, security and facility expenses, continue to significantly increase. Smaller carriers are not in a position to take extra steps at all airports to manage costs because they may have limited operations and facilities at those airports. Therefore, the costs for smaller carriers are higher at many airports. To manage those costs, it is essential that these carriers are allowed to expand their presence at these critical airports.

As part of its “solution” to address congestion and entry at the New York airports, the Department has proposed a market approach that includes an auction.

Many questions remain about the Department’s auction proposal. An argument exists

that this type of approach will increase the cost of travel. Before market approaches are considered, immediate steps must be taken to make sure competitive options survive the current situation faced by the industry. As large carriers announce a reduction in operations at major airports, the elimination of aircraft from their fleets and possible mergers, now is the time to withdraw some slots and facilities and make them available to carriers with small numbers of slots.

After first providing slots to smaller carriers, we do not object to the consideration of market mechanisms. Those approaches if adapted must enhance competition, and ensure that all carriers have a chance to obtain operating authorizations. There are immediate steps that can be taken to ensure that the competitive aviation system that has created substantial benefits to this country continues.

First and foremost, we ask this Committee to urge the FAA to take steps to improve the nation's airspace system to reduce delays and congestion that are significantly increasing costs and frustrating passengers. At the same time, we ask the Committee to urge the Department of Transportation to take immediate steps to preserve the competitive airline system that we have had in this country since Airline Deregulation. It is not in the best interest of this country for passengers to have limited travel options.

To accomplish this, the Department must allow smaller carriers to enter congested and closed airports.

Conclusion

This Committee has an opportunity to play an active role in improving the nation's aviation system and in expanding competition and travel options for consumers. We thank you for holding this hearing. We are anxious to work with the Committee to address issues that significantly impact carriers, passengers, communities and economic growth.

It is essential that we create a first rate system that makes flying easier and safer. At the same time we must continue the dream of deregulation. All actions taken must ensure that competition is not blocked. Some of the actions being taken to

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address delays and congestion could forever close the door on competition and prevent the growth of small carriers at major airports. Special care must be taken to ensure that this does not happen. Our dream of deregulation is to create a high tech, safe, “delay free” and secure system that maximizes consumer choices and ensures that low fares are available to all. Let’s not make that dream just a memory. Instead, together let’s make this dream become a reality.

Madam Chairwoman, we look forward to working with you and the Committee to preserve a competitive travel industry that will continue to provide economic benefit for businesses and communities on this and all matters. Thank you.