PARTNERSHIP FOR
OPEN & FAIR SKIES
A LEVEL PLAYING FIELD FOR ALL

An Overview of the Partnership's Rebuttal Filing to the U.S. Government

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After evidence emerged earlier this year that Emirates, Qatar Airways and Etihad Airways received over $42 billion in government subsidies in violation of Open Skies agreements, they promised to disprove the claims with detailed evidence submitted to the U.S. government. Instead, their formal comments effectively admitted their subsidies while trying to change the subject with inaccurate claims about Open Skies and the US aviation industry.

On August 24, 2015, The Partnership for Fair and Open Skies submitted a response that details the false claims made by the Gulf carriers and outlines how their comments actually prove massive subsidies from the governments of Qatar and the United Arab Emirates. This new document:

1. **Demonstrates that the Gulf carriers have effectively conceded that they receive tens of billions in specific government subsidies and other unfair benefits from the Qatar and UAE governments.**
2. **Demonstrates the substantial harmful effects of the subsidies on American jobs and the U.S. aviation industry.**
3. **Refutes the Gulf carriers' efforts to mischaracterize key provisions of the U.S. Open Skies agreements.**
4. **Rebuts the Gulf carriers' false claims about alleged U.S. subsidies – a transparent and failed effort to change the subject.**
5. **Demonstrates that Open Skies compels the initiation of consultations to address Gulf carrier subsidies and maintain the integrity of the Open Skies agreements worldwide.**

1. Demonstrates that the Gulf carriers have effectively conceded that they receive tens of billions in specific government subsidies and other unfair benefits from the Qatar and UAE governments.

- All three Gulf carriers – Etihad, Qatar and Emirates – fail to provide any evidence whatsoever to refute the documents and analysis that the U.S. carriers have provided to the U.S. government, which clearly demonstrate massive subsidization.
- Etihad's own financial statements, obtained by the Partnership but never filed with the U.S. government, confirm record levels of subsidies: $4.5 billion in new government funding in 2014 alone.

- Etihad's financial documents also demonstrate that the company would not be commercially viable without subsidization. The airline received a $543 million subsidized "loan," and $1.85 billion in long-term bank loans in 2014 "for financing its capital projects, contributions to investee companies and working capital requirements."
- The Partnership had previously demonstrated that Qatar has received at least $8.4 billion in subsidized loans and shareholder advances since 2004. Qatar's only defense of the loans is to argue that they should not matter, because they have since been converted to equity and their value is "accounted for in the increased value of the company." This is the same, flawed rationale that Etihad used to try to justify its equity infusions, and it is similarly misplaced.
- Qatar does not dispute that these loans were unsecured and interest-free, nor that the government effectively forgave them in 2009 when it converted them to "shareholder advances" and made repayment optional. Interest-free loans are subsidies by legal definition, and forgiving the loans effectively transformed them into grants.
- Qatar provides no rebuttal at all with respect to the additional $6.2 billion in shareholder advances that Qatar received on an annual basis between 2009 and 2014, $452 million in subsidies from free land, $616 million in subsidies from airport fee exemptions and rebates, and at least $215 million in subsidies from the assignment of airport revenues and $22 million in route subsidies.
- Emirates' own filing has confirmed that the Investment Corporation of Dubai provided a subsidy between $1.6 and $4 billion by assuming Emirates' fuel hedging losses.
- An analysis of the Emirates filing also confirms that the government of Dubai has provided Emirates with at least $2.3 billion in subsidies in the form of subsidized airport infrastructure since 2004, enabling unprecedented expansion.
- Since Emirates cannot deny its subsidization, it tries to change the subject by arguing that the U.S. airlines have not established a violation of Article 10 of the U.S.-UAE Open Skies Agreement (User Charges). But there is no support in the text of Article 10 for Emirates' claim.
- The U.S. airlines have also demonstrated that the Gulf carriers benefit from other artificial cost advantages that flow from their governments' polices, including bans on unions, exemption from general sales agent requirements, exemption from competition laws, and the lack of independent regulatory oversight. While the Gulf carriers' submissions object to the U.S. airlines raising these issues, they failed to offer any constructive answers on substance.

2. Demonstrates the substantial harmful effects of the subsidies on American jobs and the U.S. aviation industry.

- The Partnership's earlier report, prepared by Compass Lexecon, demonstrated that the Gulf carriers have not meaningfully stimulated passenger traffic growth. Because the presence of Gulf carriers does not effect on the number of passengers traveling on a route, it follows that the rapid growth of the Gulf carriers has come almost completely at the expense of other carriers.
- Etihad and Qatar have not even bothered to challenge these findings in their submissions. Only Emirates claims in its submission to have "grown the pie" by "attract[ing] new travelers to routes…without significantly diverting passengers." However, none of these submissions present any evidence to undermine the Compass Lexecon empirical finding of no meaningful demand stimulation.
- Empirical analysis has demonstrated the presence of competition from Gulf carriers both reduces U.S. carrier passengers and revenues, and the share of U.S. carrier passengers and revenue exposed to such competition is already substantial and increasing rapidly. Each lost or foregone

daily U.S. widebody flight results in a net loss of at least 848 U.S. airline industry and related industry jobs.

- Their submissions also assert that the Gulf carriers have simply taken advantage of a business opportunity created by the alleged lack of interest from U.S. carriers in serving the Indian subcontinent and other supposedly "underserved" markets. But there is simply no basis to believe the alleged lack of interest by U.S. carriers in particular markets are due to anything else but diminished opportunities available to them in the light of the vast, massively subsidized Gulf carrier presence in these markets.
- Subsidies have enabled the Gulf carriers to expand far beyond what market forces can justify, magnifying the adverse effects, both on market share and traffic, for U.S. carriers.

3. Refutes the Gulf carriers' efforts to mischaracterize key provisions of the U.S. Open Skies agreements.

- Unable to defend their subsidies or the harm they cause, the Gulf carriers rely instead to serial distortions of the U.S. airlines' arguments and mischaracterizations of key provisions of the Open Skies agreement. Contrary to the Gulf carriers' objections, there are clear provisions in the Open Skies agreements for the U.S. government to request consultations with Qatar and the UAE.

4. Rebuts the Gulf carriers' false claims about alleged U.S. subsidies – a transparent and failed effort to change the subject.

- The Gulf carriers assert that the U.S. airline industry's reorganizations under Chapter 11 of the U.S. bankruptcy law are tantamount to subsidization. But they have not and cannot demonstrate that Chapter 11 bankruptcy is a subsidy because it does not involve a financial contribution by the government, which is the core, threshold test for the existence of a subsidy.
- The Gulf carriers claim that the "monetization" of certain airport slots constituted a subsidy to the U.S. airlines. It did not. The FAA's slot management policies – beginning with the so-called "grandfathering" of slots half a century ago – aim to promote competition while ensuring the safe operation of highly-congested airports. In carrying out these policies, the U.S. government and the FAA have never made a financial contribution to the U.S. carriers, nor conferred any benefit to them. Moreover, the Gulf carriers themselves participate in the "monetized" slot market.
- The Air Transportation Safety and System Stabilization Act of September 22, 2001, was a direct response to the terrorist attacks of September 11. As the U.S. government has stated in discussions with other Open Skies partner countries, the purpose of the emergency assistance was to compensate airlines for losses attributable to the September 11 terrorist attacks. Emirates' attempt to use the Act to justify its subsidies is insulting and baseless.
- The Gulf carriers have alleged that various airport financing measures in the United States are analogous to the subsidies they receive from their governments. They are not. Emirates has conceded that in the UAE (as in Qatar), the government directly subsidizes the cost of airport infrastructure, including infrastructure built for Emirates' exclusive use, and that it does not seek to recoup the cost through fees and charges paid by airlines and other airport users. In the United States, by contrast, airports cover their capital and operating costs through such fees.
- And while Emirates tries to equate U.S. antitrust immunity with the benefits it receives from its own exemption from the UAE's competition law, it fails to note that the U.S. airlines would never be allowed to structure their operations as Emirates is able to – with a single individual serving as the Chairman of the airline, the airport, the duty free operator, the leasing company, and every

other significant player in the aviation value chain. While the Gulf carriers' subsidies are market-distortive and anticompetitive, antitrust immunity is neither.

5. Demonstrates that Open Skies compels the initiation of consultations to address Gulf carrier subsidies and maintain the integrity of the Open Skies agreements worldwide.

- The Gulf carriers are asserting that our request that the U.S. government open consultations with the Governments of Qatar and the UAE is a "protectionist" effort to reverse Open Skies. This is a lie.
- The U.S. airlines fully and wholeheartedly support Open Skies.
- However, the Gulf carriers and the governments of Qatar and the UAE are attempting to dismantle core Open Skies principles, transforming a market-oriented policy into one that uses tens of billions of dollars in subsidies to distort the international market on behalf of state-owned airlines that are insulated from market forces and used as instruments of state industrial policy.
- Our position is direct and principled: Preserving Open Skies requires the U.S. government to address this serious distortion of trade. Failing to act will undermine the long-term viability of the Open Skies program, not only because of the significant harm that the Gulf subsidies are causing and will continue to cause to U.S. airlines and their employees, but also because it would signal acquiescence to subsidized state capitalism on a massive scale.