



***Aviation in Transition:
Challenges & Opportunities of Liberalization***

Session 3: Liberalized Airline Ownership and Control

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Liberalised Airline Ownership and Control

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Good afternoon ladies and gentlemen. It is a pleasure to be in Montreal again, despite the cold, and an honour to be invited to address you on the subject of airline ownership and control rules.

As I am sure you all know, later this year we are celebrating the 100th anniversary of the first powered flight by the Wright brothers. What many of you may not be so well aware of is that this year is also the 150th anniversary of another milestone in the development of aviation. Sir George Cayley was born in Yorkshire, England, in 1773 and lived for almost 84 years. He was a prodigious inventor. For example, in 1825 he invented the caterpillar tractor, from which derive all modern tracked vehicles of peace and war.

But it was in the sphere of aeronautics that Cayley really stood out. He was recognised by many, including the Wright brothers, as the father of aeronautics, or as the Frenchman Charles Dollfus and Henry Bouché said, "the real inventor of the aeroplane." Alphonse Berget, also of France, in 1909 described Cayley as "the incontestable forerunner of aviation."

In 1853, 150 years ago, Cayley built and flew what he called his "new flyer", the world's first man-carrying (but not piloted) glider flight. Being 80 years old by this time, and no fool, Sir George did not actually fly in this aircraft himself. Instead, he instructed his coachman, his far from enthusiastic coachman, to get aboard, eliciting the immortal words: "You must be joking!". Actually, the words were: "Please, Sir George, I wish to give notice. I was hired to drive, and not to fly." However, industrial relations being what they were in 1853, fly the coachman most certainly did, across a dale in Sir George's home estate. And probably as much to his surprise as anyone's, he survived.

Anyway, whether we are celebrating a 100th or 150th anniversary, one point is clear: aviation is not an immature young industry. Air transport has made enormous progress over the decades and no longer needs to be treated as a "special" industry requiring protection. The archaic rules and regulations that have become associated with this business have long since outlived their usefulness, if they ever had a use.

Few would now argue that economic liberalisation brings substantial benefits to both the industry and the travelling public. Over the past 20 years or so we have seen the deregulation of domestic air services within the United States, the creation of the internal market in the European Union, the signing of no less than 53 open skies bilateral agreements by the US, as well as numerous other examples of airlines being freed from the shackles of regulation. There are still some who resist this reform, or who doubt its positive results, but it is clear that

the momentum for economic liberalisation in air transport is now unstoppable.

However, there is one major area of activity that so far has remained almost untouched by reform. That is the rules governing who may and may not own and control an airline. It is true that within the EU these rules have been relaxed, and we have seen a brave experiment by Australia to allow 100% foreign ownership of domestic carriers. A few other countries have similarly dabbled with reform. But fundamentally air transport still stands out as a major industry forced to operate according to highly restrictive ownership rules.

These rules fall into two separate categories:

- restrictions on who may own and control a national airline;
- the right of a country to refuse to accept the designation of an airline under a bilateral air services agreement if that airline is not majority owned and controlled by citizens of the country of designation.

To say that the retention of these restrictions borders on madness is an understatement. What is so special about air transport that it requires to be treated so differently from most other businesses? I have spoken many times of the fact that overwhelmingly most of the 250 or so companies that make up the Virgin Group are free to expand or invest in other countries. Indeed, as with most foreign investment, countries and regions go to enormous trouble and expense to encourage such investment. Thus, in North America alone Virgin has

invested in retail outlets, mobile telephones, ground transportation, soft drinks, and so on. Yet when we declare that we would also like to set up an airline here, hands are thrown up in horror.

There is a major irony in all this. By its nature international air transport is a global business, yet there is not a single global airline. We have seen repeatedly how attempts at cross-border airline mergers or take-overs have been frustrated because of the fear of the loss of the all-important bilateral traffic rights. Instead of consolidation that other industries are free to engage in, airlines have been forced to form loose, unstable alliances that many believe do not offer a long-term solution to many of the industry's problems.

For me, the answer is very simple. Air transport should be treated just like any other mature industry. The question is not whether rules governing ownership and control, or cabotage, or aircraft leasing, or anything else, should be reformed, but rather why on earth would anyone want to keep such restrictions? For an industry with the financial problems that face aviation at present, it is extremely short-sighted to build in barriers to the full access to the global capital market. We are just shooting ourselves in the foot, indeed in both feet.

Fortunately there is real hope of reform, especially for opening up airline ownership structures to foreign participation. I have lost count of the number of conferences and seminars I have attended over the past couple of years at which this has been one of the principal topics for discussion. Overwhelmingly the

consensus has been in favour of reform, and even of radical reform. Governments cannot ignore such pressure, and I very much hope that we shall see widespread support for a more logical approach to this critically important subject at the ICAO Worldwide Air Transport Conference next week.

IATA has devoted considerable resources to developing a policy on airline ownership and control, and I was fortunate to be invited to chair the group of airlines from around the world charged with undertaking this task. IATA, of course, represents airlines from every background and geographical region. The fact that IATA was able to produce a policy that was acceptable to the membership at large should surely indicate that there is every reason to expect that governments themselves will similarly be able to agree on reform.

The key to IATA's approach is that irrespective of a country's policy towards the ownership of its own airlines, it should not stand in the way of other countries adopting a more liberal policy. In other words, if Japan, for example, decides to continue to insist that Japanese airlines are majority owned and controlled by Japanese citizens, it should not object to, say, French or Australian carriers being owned and controlled by non-Frenchmen or non-Australians. That is a very modest reform in many ways, but potentially it could make an enormous difference to the future structure of the aviation industry by removing the main barrier to cross-border mergers and take-overs.

With the recent decision of the European Court of Justice, of course, there will inevitably be considerable

pressure on countries to accept the designation of EU airlines rather than national airlines of individual EU States. There is also the hope, even expectation, that negotiations between the EU and US, when they eventually take place, will result in the creation of a Trans-Atlantic Common Aviation Area, and subsequently even a broader Common Aviation Area, with no restrictions at all on ownership and control.

Understandably there is concern that economic liberalisation should not bring with it any diminution in safety standards. No-one wants to see the creation of "flags of convenience" in aviation. IATA's solution is to propose that any airline designated by a country should have an Air Operators Certificate from that country. That would certainly go a long way towards removing the concern about safety. However, it may not satisfy the European Commission, which insists that an AOC from any EU State should be sufficient for designation by any other EU Member. Handling this issue will be one of the more interesting and potentially difficult areas in the forthcoming EU/US negotiations.

So, in conclusion, the archaic ownership and control rules which continue to apply in the air transport industry are well past their sell-by date. Their removal will do more than anything else to drag the industry into the 20th if not the 21st Century. Despite continued resistance to reform from certain quarters, I am optimistic that the next few years will see considerable progress. I certainly look forward to the day when the Virgin Group will be able to follow its success in establishing airlines in the UK, Brussels and Australia with other carriers in other parts of the world.

Thank you.

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Nb. References to Sir George Cayley are taken from "Sir George Cayley's Aeronautics 1796-1855" by Charles H. Gibbs-Smith (HMSO, 1962).