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

Comments of the Partnership for Open & Fair Skies On the Responses of Qatar Airways, Etihad Airways, and Emirates Airline

August 24, 2015

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Introduction

The Governments of Qatar and the UAE and their state-owned (SOE) airlines are in the process of eviscerating core Open Skies principles and violating their obligations under the Open Skies agreements with the United States. They are treating agreements explicitly designed to "minimize government interference" in the marketplace and to afford "a fair and equal opportunity" to compete as a license for governments to use massive subsidies to distort the market to the advantage of their SOE airlines, insulating them from market forces and using them as instruments of state industrial policy. This state-driven aviation mercantilism is fundamentally changing the nature of international competition, with government interference on an unprecedented scale.

The Gulf carriers claim that if the U.S. Government takes steps to address these distortions, it would "sound the death knell" for Open Skies. This is nonsense. Qatar and the UAE are global outliers: in the amount of the subsidies that they grant to their SOE carriers; in the rates at which their SOE carriers are growing their subsidized capacity, well in excess of global demand growth; in the extent to which their carriers are deploying that capacity on international routes; and in the extent to which their carriers are targeting the U.S. market for continued expansion. The Partnership has raised no concerns with respect to any other Open Skies agreement because no other country, and no other country's airlines, are engaging in such massive distortions of fair, market-based competition. It is telling that the Gulf carriers have failed to identify a single third-country government or airline that is engaging in practices of comparable magnitude or effect.

The impact of these distortions on international routes to the United States falls first and foremost on U.S. carriers and their employees, but is not limited to them alone. For example, U.S. carriers have been all but foreclosed from participating in the growth in demand for travel between the United States and many of the largest and fastest growing regions of the world, such as the Indian subcontinent. This loss of market opportunities harms not only U.S. airlines and their employees, but also consumers, airports, and U.S. cities that would have enjoyed additional non-stop service to key destinations in India and other destinations now saturated with subsidized Gulf carrier capacity. Gulf subsidies and the unfair competitive advantages that they bestow also jeopardize other U.S. Open Skies agreements and the rights and reasonable

expectations that other U.S. trading partners have in globally fair competition. The Gulf carriers' assault on these rights cannot be tolerated. The United States did not embark upon Open Skies to see it commandeered by foreign governments and foreign airlines with unlimited access to state treasuries.

Nor was Open Skies designed to create and foster a culture of impunity with respect to subsidies and market distortive behavior. Absent a response, the success of the subsidized Gulf carrier model will invite – indeed, compel – other governments with state-owned airlines to ratchet up their own subsidies to accomplish non-commercial ends, and ultimately engender subsidy wars among their participants as a means of dominating international traffic. This is precisely what is happening in the market today among the Gulf carriers themselves. These carriers and their government owners believe this is their right. They also believe that the United States is precluded from responding. As we demonstrate below, and as the record in this proceeding confirms, they are wrong.

The proceeding that the U.S. Government has established to examine these critical issues has confirmed the following:

- **There is no dispute that the governments of Qatar and the UAE are massively subsidizing their SOE airlines.** The Partnership uncovered evidence of measures taken by these governments that provide enormous financial advantages to their carriers, measures that under standard multilateral definitions constitute subsidies. None of the Gulf carriers have made a serious effort to counter any of this evidence. In most cases, they have provided no evidence whatsoever that the measures do not exist or have been misunderstood, no evidence whatsoever that the measures have not benefitted the Gulf carriers to the tune of tens of billions of dollars, no evidence whatsoever that two of the three Gulf carriers would not be "going concerns" without massive state support, and no evidence whatsoever that the measures would not be, under WTO, any other broadly accepted definitions, or common sense, classified as "subsidies." With respect to a small handful of measures, the Gulf carriers raise some mild objections to the Partnership's factual allegations, but as we show in this submission, these objections are without merit. And their silence with respect to the vast majority of the billions in demonstrated subsidies is eloquent.

- **The subsidies are harming U.S. carriers, and threaten further substantial harm.** The Partnership provided substantial empirical evidence showing that the rapid expansion of Gulf carrier capacity into the United States has come at the expense of U.S. and third-country carriers and not as a result of newly stimulated demand, with harmful effects that are already substantial and continuing to intensify. Gulf carriers are present on more than

9,000 U.S.-international city-pairs spanning much of Asia, Africa, the Middle East and Australasia, accounting for a substantial and growing share of U.S. carrier international passengers and revenues. *Each* Gulf carrier's presence on a city-pair reduces U.S. carriers' passengers by 8.7 percent, and 26.1 percent when all three are present; *each* carrier's presence reduces U.S. carriers' fares by 4.8 percent from Gulf carrier gateway cities, and 14.5 present when all three are present; these effects are far in excess of those attributable to other carriers; and Gulf carrier presence does not stimulate additional overall demand beyond what would have otherwise occurred given underlying population and economic growth. These are the empirical facts, based on a comprehensive econometric analysis, and the Gulf carriers do not make any systematic challenge to them. Instead, they focus on marginal issues and offer partial and anecdotal evidence that does not call into question any of these facts.

- **The effects of the harm to U.S. carriers have been significant, and the scope of the harm is accelerating.** The effects of the Gulf carriers' subsidized growth has already resulted in serious retrenchment of U.S. carrier service to the Middle East and the Indian subcontinent and increasing harm in southeast Asia, Africa, and other markets. The Gulf carriers' low cost of capital, which is the direct result of their massive subsidies, have allowed them to expand capacity far in excess of what the market demands, and their massive order books for new widebody aircraft – and announced plans to devote much of this new capacity to the United States – foretell even more lost passengers and revenue for U.S. carriers in the immediate future. And each lost widebody flight to the Indian subcontinent, *e.g.*, costs well over a thousand U.S. jobs. These real, significant, and growing harms to U.S. carriers and workers are caused, not by normal market competition, but by massive market intervention by foreign governments in the form of subsidies. Moreover, if Gulf carriers significantly expand fifth freedom service to the United States – as they have said they intend to do – the harmful effects of the subsidies will expand into many more markets, with substantial additional losses for U.S. carriers.

- **The Gulf carriers have no intention of stopping their market-distortive actions.** The Gulf carriers are unapologetic about their subsidies, which they are using to massively expand their capacity and to distort the market in service of their state owners' economic development strategies. The arrogance and sense of impunity demonstrated in their submissions and in their public statements confirms that they will continue their anticompetitive actions – which violate core Open Skies principles and the agreements themselves – if the United States fails to act.

This proceeding has also made clear that the Gulf carriers' defense rests on responding to arguments the Partnership has never made, ignoring proven facts that they make no effort to rebut, and making outsized assertions that any effort to examine their subsidies would have catastrophic effects. For example:

- **The Gulf carriers complain about the Partnership's definition of subsidy, but never offer an alternative definition.** In analyzing the Gulf carriers' subsidies, the Partnership

borrowed the multilaterally agreed definition of "subsidy" from the World Trade Organization agreements. The Gulf carriers state that the WTO agreements do not apply to airline passenger services – which is undisputed – but do not offer any other broadly accepted definition of "subsidy." Instead, the Gulf carriers imply (and sometimes even state openly) that, under the Open Skies agreements, they are entitled to receive any subsidies their governments choose to give regardless of any market distortion that may result. But this claim must be wrong; this massive, state-driven distortion of competition is wholly contrary to the very premises of Open Skies, and to the two Open Skies agreements at issue.

- **The Gulf carriers misstate the Partnership's arguments and attack straw men, while not responding to the claims and evidence actually presented.** The innumerable instances in which the Gulf carriers' submissions simply ignore the facts of record and rely on misstatements and falsehoods are too vast to summarize. For example, the Gulf carriers claim that they hardly compete at all with U.S. carriers (and therefore cannot possibly have harmed them) because their networks do not overlap – as if the empirical data showing that Gulf carriers and U.S. carriers compete directly on a rapidly growing number of U.S.-international city-pairs (numbering more than 9,000 in 2014) did not exist. To take another example, the Gulf carriers spend many pages of their submissions arguing against a supposed Partnership request for a unilateral freeze on Gulf carrier services to the United States, which request has not been made by the Partnership nor any participant in this proceeding.

- **The Gulf carriers have not used the opportunity of this proceeding to lift the shroud of non-transparency that conceals their subsidies from public view.** Although the Partnership provided substantial documentation of large subsidies, the aviation sectors in Qatar and the UAE are profoundly non-transparent, and presumably the Gulf carriers possess far more detailed information about the subsidies and the impact of the subsidies on their financial position. In fact, the U.S. Government created the public docket to obtain "information and views" on the question of Gulf subsidies. Although the Gulf carriers provided hundreds of pages in their submissions stating their "views," they provided no information at all about the subsidies – not a single actual document. In essence, the Gulf carriers are hoping the U.S. Government will simply accept their assertions on faith and consider the matter closed. Rather, the logical inference from their failure to provide any information is that the Gulf carriers would have provided information disproving the Partnership's allegations *if such information existed* – so the allegations should be treated as true. At the very minimum, actions designed to avoid transparency and shield massive, market-distorting subsidies from scrutiny cannot be countenanced as consistent with Open Skies.

- **The Gulf carriers use tired claims of "protectionism" to distract from their anti-competitive practices.** The Gulf carriers assert that the U.S. airlines are "protectionist" and in favor of overturning the market-based regime that U.S. Open Skies policy is meant to create. This is a fabrication. The U.S. airlines wholeheartedly support the Open Skies program and the negotiation of additional Open Skies agreements. However, the Governments of Qatar and the UAE are using subsidies and other aspects of state

> capitalism to protect their airlines and distort the international market in a way that is wholly contrary to Open Skies. No other country, and no other country's airlines, are engaging in such a massive distortion of fair, market-based competition. The Gulf carriers are trying to hide behind 115 well-functioning agreements to obscure their aberrant, outlier status among the air carriers of the world.

Our position is both direct and principled: Preserving Open Skies requires the U.S. Government to address this serious distortion of trade. A failure to act would 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. carriers and their employees, but also because other countries with state-owned aviation sectors will be incentivized to emulate the Gulf model – ratcheting up subsidies and maximizing state interference in the market on behalf of national champion airlines to fundamentally alter the nature of international competition. This result would vitiate the core objectives of Open Skies, the agreements themselves, and the Obama Administration's broader trade policies regarding unfair competition from subsidized SOEs.

This submission proceeds as follows:

- In Part I, we demonstrate that the Gulf carriers do not and cannot dispute the tens of billions in subsidies and other unfair advantages that the Governments of Qatar and the UAE have provided to their SOE carriers.

- In Part II, we show that the substantial harmful effects of the subsidies on U.S. carriers is also not seriously in dispute.

- In Part III, we refute the most egregious mischaracterizations and distortions that the Gulf carriers put forth in their submissions, including their absurd claim that Article 11 (Fair Competition) of the Open Skies agreements does not apply to subsidies and that the United States cannot request consultations under Article 13 (Consultations) of the agreements to address them.

- In Part IV, we rebut the Gulf carriers' meritless claims about alleged U.S. subsidies – a transparent, irrelevant and failed effort to change the subject.

- In Part V, we demonstrate that the Open Skies agreements authorize – and the integrity of U.S. Open Skies policy compels – the initiation of consultations with Qatar and the UAE to address the flow of subsidized Gulf capacity to the United States.

I. The Gulf Carriers' Submissions Confirm Their Massive Subsidies

The White Paper and the Capital Trade Report both documented over $42 billion in subsidies and other unfair benefits that the Gulf carriers have received from their government owners since 2004 alone. The primary thrust of the Gulf carriers' responses is (1) to mischaracterize the U.S. airlines' argument about the applicability of WTO subsidy rules to the air transport sector; and (2) to assert that the Open Skies agreements do not establish rules on subsidies, and that, as a result, their government owners are free to subsidize as they see fit. We explain in Part III of this submission why their position is wrong and why the United States has an absolute right to request consultations under the Open Skies agreements to address this gross distortion of fair, market-based competition.

In this Part, we address the Gulf carriers' responses to the substance of the subsidies and other unfair advantages that the White Paper and the Capital Trade Report identified. As we explain below, their responses confirm that the allegations are correct.[1]

A. Etihad's Submission Confirms that Etihad Has Received At Least $17 Billion in Subsidies from the Government of Abu Dhabi

Etihad provides no evidence whatsoever to refute the documents and analysis that the Partnership has submitted, which clearly demonstrates massive subsidization.[2] This is not surprising, as the facts are irrefutable: Etihad has received at least $17 billion in subsidies and other unfair benefits since 2004.

Remarkably, the only references to the information in Etihad's financial statements are in the materials that the U.S. carriers have submitted to the U.S. Government. Etihad continues to act as though its financial statements – and the evidence of vast subsidization they contain – do not exist.[3] Indeed, Etihad's submission does not include any evidence in support of anything it says

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[1] Capital Trade has prepared a supplemental report that includes a detailed point by point refutation of the Gulf carriers' arguments on the subsidy valuation issues and should be read in conjunction with this submission. Capital Trade, *Response to the Gulf Airlines' Comments on Subsidies Valuations* (Aug. 24, 2015) (Supplemental Capital Trade Report) (attached as Exhibit 1).

[2] See White Paper at 12-21; Capital Trade Report at 11-43.

[3] Etihad describes the financials in passing as "partial summaries filed by Etihad in certain countries for licensing purposes and media stories." If, by this, Etihad means to suggest that it is filing false or misleading financial reports, then it should immediately make complete versions of its financials publicly available.

– not a single document. And Etihad continues its public stonewalling as well; although it announced its annual results in May, it refused to release its financial statements, yet again.

Etihad's disavowal of its financials is understandable: the subsidies they disclose – and the fact that Etihad would not be commercially viable without them – are irrefutable. In addition, while Etihad has publicly asserted that it is profitable, its financials show that its so-called profits in recent years are based on accounting gimmicks, including transactions in which it has sold assets at inflated values to itself; accounting treatment that has no basis in the real world. Without these gimmicks, Etihad's accumulated losses would be nearly $6 billion – or approximately $2.5 billion higher than it already admits.

The U.S.-UAE Open Skies agreement entered into force in 2003. The Government of Abu Dhabi created Etihad the next year. Since that time, despite repeated denials, it has secretly provided at least $17 billion in subsidies to grow the airline at unprecedented rates and to keep it in operation in spite of its massive losses. Etihad's own financials show that the subsidies have not only continued, but accelerated – contrary to the basic principles of Open Skies. This is what Etihad is asking the U.S. Government to accept.

In this Section, we first discuss Etihad's 2014 financial statements, which Etihad has refused to publicly release, and which disclose that Etihad received record levels of new subsidies in 2014. We then discuss Etihad's responses to the substance of the subsidies, which confirm that the Partnership's allegations are correct.

1. Etihad's 2014 Financial Statements Disclose Record Levels of New Subsidies and Reconfirm that Etihad Would Not Be Commercially Viable Without Them

On May 28, 2015, Etihad issued a press release in which it claimed to have posted a net profit of $73 million in fiscal year 2014, "its strongest financial results to date."[4] As with previous years, however, while Etihad issued a cursory "performance summary" for the year, it did not release its financial statements. The U.S. carriers have recently managed to obtain a copy of the

[4] Etihad, *Fourth consecutive year of net profit* (May 28, 2015), accessible at http://www.etihad.com/en/about-us/etihad-news/archive/2015/etihad-airways-posts-fourth-consecutive-year-of-net-profit/.

statements from a corporate registry in a third-country jurisdiction, and they make clear why Etihad is refusing to release them.

First, the financial statements show that in 2014, as in every other year since 2007, Etihad received a significant cash infusion from the Government of Abu Dhabi. The total amount of the infusion in 2014 was a staggering *$2.6 billion* – a single year record, and over twice as much as the prior single year high of $1.25 billion in 2010. Notably, it appears that these new infusions may have been made to meet an unexpected need for cash, as almost the entire amount – $2.5 billion of the total $2.6 billion – was made prior to being authorized by the Etihad board of directors.[5]

Second, they disclose that Etihad received another $543 million subsidized "loan."[6] An additional $40 million has been committed by the government, but not yet drawn down.[7]

Third, they disclose that Etihad obtained $1.85 billion in long-term bank loans in 2014 "for financing its capital projects, contributions to investee companies and working capital requirements."[8] Although the statements do not identify the lenders, the notes to the statements strongly suggest that they are Abu Dhabi government-owned banks,[9] which may explain the remarkable fact that $1.4 billion of the loans outstanding at the end of fiscal year 2014 are unsecured – an amazing feat for a company with a going concern opinion that relied on several accounting gimmicks to create the illusion of profits.

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[5] Oddly, the $2.5 billion includes $323 million that is described as "Amounts due from the Shareholder" (which means it had not yet been paid as of the end of the fiscal year). Etihad Airways PJSC, Separate financial statements (31 December 2014) (Etihad 2014 Financial Statements) at 39 n. 16.2 (stating that the additional $323 million was received "subsequent to the reporting date" (i.e., sometime after the December 31, 2014 fiscal year end and the date that the financials were released (May 24, 2015)) (attached as Exhibit 2). Generally, increases to capital must be funded in order to be treated as capital.

[6] Etihad 2014 Financial Statements at 39. The notes to the financials indicate that the loans carry the same terms as prior shareholder loans – (*i.e.*, interest-free, unsecured, subordinate to all other debt and obligations, and with no fixed repayment schedule) – classic subsidies.

[7] Id.

[8] Etihad 2014 Financial Statements at 42 (Note 19). During the year, $277 million was repaid. The footnote also indicates that $208 million of the outstanding amount at December 31, 2014 was secured by the mortgage of certain aircraft, leaving $1,367 million unsecured.

[9] In 2014, Etihad changed its related party transactions footnote by stating for the first time that it transacts with state/government-owned financial institutions, and that it does so "on an [sic] agreed rates" (at 44) (*i.e.*, not on arm's length terms). The note also states that Etihad transacts with such entities with respect to loans and borrowings, and it cross references the footnote (Note 19) that describes the $1.85 billion in new long-term loans.

When combined with the $2.6 billion capital infusion and $543 million shareholder loan described above, it appears that Etihad received as much as *$5 billion* in new government-sponsored capital in 2014 alone. According to its 2014 financials, the expectation that government funding would continue was fundamental to the decision to prepare the financial statements on a going concern basis in 2014.

Fourth, they demonstrate that Etihad has continued its practice of using accounting gimmicks in order to claim that it is profitable, when it is actually losing hundreds of millions of dollars per year. For example:

- As the U.S. carriers have previously noted, Etihad recorded a $724 million "gain" in 2013 by selling its frequent flyer program to Etihad Guest, a company that it owns and controls. Etihad's 2014 financials confirm that Etihad owns 100 percent of Global Loyalty Company, and thus that Etihad also owns 100 percent of Etihad Guest.[10] Under IFRS, any gain recognized on the sale of an asset to a subsidiary is eliminated in consolidation; *i.e.*, a company cannot recognize a gain from selling something to itself. Without this transaction, Etihad would have incurred a loss in the hundreds of millions of dollars in 2013, instead of a profit.

- In 2014, Etihad recorded another $700 million "gain" by again selling something to itself – this time, by transferring its cargo business to a newly created, wholly-owned subsidiary (Etihad Global Cargo Management Company LLC) and then selling it to another wholly-owned subsidiary (Etihad Investment Holding Company LLC).[11] As in 2013, this single transaction made the difference between the so-called "profit" that Etihad reported for 2014 and a loss in the hundreds of millions of dollars. Because Etihad used "Separate" financial statements as the basis for its earnings announcement, the $700 million gain was not eliminated as it would have been in Etihad's consolidated financial statements if they were prepared in accordance with IFRS.[12]

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[10] In our response to Question 10 from the Departments, we stated that it appeared that Etihad controlled or owned Global Loyalty Company, the 50 percent co-owner of Etihad Guest. *Response to technical questions on governmental subsidies provided to Gulf airlines* at 19-20 and Tab 15 (April 9, 2015) (Partnership Answers to Questions). The 2014 financial statements have confirmed this point. Etihad 2014 Financial Statements at 3 (Statement of Profit or Loss), 36 (Note 12.4(b)).

[11] Etihad 2014 Financial Statements at 3 (Statement of Profit and Loss), 32 (Note 12.2(b)).

[12] Unlike in past years, the financial statements that Etihad used as the basis for its earnings announcement are not the company's consolidated financials (including Etihad's subsidiaries), but only those for the parent company (Etihad characterizes them as "Separate financial statements."). Unlike consolidated financial statements, the "Separate" financial statements did not eliminate profits from transactions between Etihad and its subsidiaries. (As previously explained, IFRS requires companies to "eliminate" the gains on sales to controlled entities.)

The "Separate" financials indicate that Etihad also prepared consolidated financial statements that present the consolidated performance and financial position of the entire Etihad Airways Group, including the consolidation of

- In 2014, Etihad reported $884 million in other operating income from "advertisement, marketing and promotion of supplier products" – an over 200 percent increase from the $282 million it reported in 2013.[13] No U.S. airline reports anywhere near the level of advertising and marketing services income that Etihad reported in 2013, much less what it reported in 2014. Etihad's auditors specifically called attention to the "significant judgments applied by the Company" in accounting for the transactions underlying those reported amounts in their auditors' report.[14]

- According to Etihad's cash flow statement, it appears that the transactions described in the preceding bullets – $2.6 billion in total – did not generate any cash in 2013 and 2014; the impression they created of an improved financial position was an illusion.[15]

- Etihad reduced its 2014 operating expenses and administrative expenses by $115 million simply by changing the useful lives for certain aircraft.[16] This accounting change by itself more than accounts for all of Etihad's reported $73 million operating profit.

- As in 2012 and 2013, Etihad did not include its share of the losses of its equity partner airlines in its results – approximately $300 million in 2014.

Finally, Etihad's 2014 financial statements are explicit: The company's status as a "going concern" is tied to the "expected continued financial support from the Shareholder of the Company" [*i.e.*, the government].[17] Simply put, without the subsidies, Etihad would not be commercially viable.

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subsidiaries and accounting for its associates and joint ventures in accordance with IFRS rules. See Etihad 2014 Financial Statements at 10. However, the Partnership has not been able to obtain copies of the consolidated financials, as it appears Etihad did not file them with third country regulators.

[13] Etihad 2014 Financial Statements at 8 (Statement of Cash Flows).

[14] Etihad 2014 Financial Statements, Auditors' Report, Other Matters ("Without modifying our opinion, we draw attention to note 24 which describes the significant judgments applied by the Company with respect to the accounting treatment of certain significant transactions and balances.") (emphasis added above). Note 24 describes the treatment of the income from advertising, marketing and promotion of supplier products. Id. at 60 (Note 24(a)).

[15] Etihad 2014 Financial Statements at 8 (Statement of Cash Flows) (showing negative values for the two "sales" to its subsidiaries and for the "advertisement, marketing and promotion of suppliers products" income category. Negative values represent income that did not generate cash).

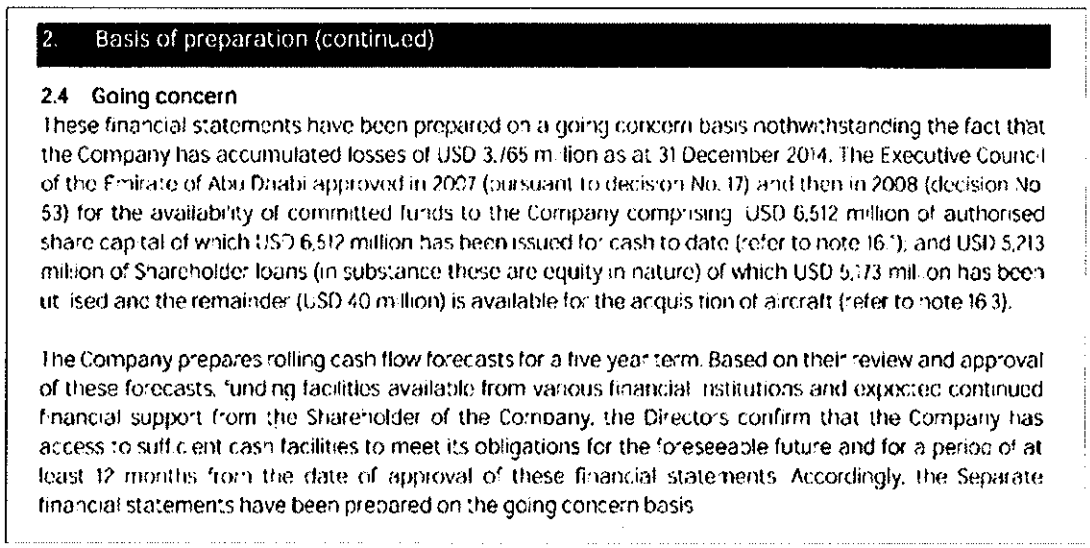
[16] Id. at 29 (Note 10(e)) . Note 10(e) states that:

> During 2014, the Company conducted a business review of the spend and the use of certain items of property, plant and equipment, which resulted in changes in the expected usage of these items of property, plant and equipment. These items, which management had previously intended to use for 5 years, are now expected to be used for 10 years from the date of purchase, resulting in an increase in useful life of the items of property, plant and equipment and consequent decrease in the residual value.

The note further explains that this change decreased depreciation expense by $115 million for 2014 (profit for the year was only $73 million). Thus, this change alone enabled Etihad to report a profit rather than a loss.

[17] Etihad 2014 Financial Statements at 11, Note 2.4 (Going concern).

Figure 1: Excerpt from Etihad 2014 Financial Statements[18]



2. Basis of preparation (continued)

2.4 Going concern

These financial statements have been prepared on a going concern basis notwithstanding the fact that the Company has accumulated losses of USD 3,765 million as at 31 December 2014. The Executive Council of the Emirate of Abu Dhabi approved in 2007 (pursuant to decision No. 17) and then in 2008 (decision No 53) for the availability of committed funds to the Company comprising USD 6,512 million of authorised share capital of which USD 6,512 million has been issued for cash to date (refer to note 16.1), and USD 5,213 million of Shareholder loans (in substance these are equity in nature) of which USD 5,173 million has been utilised and the remainder (USD 40 million) is available for the acquisition of aircraft (refer to note 16.3).

The Company prepares rolling cash flow forecasts for a five year term. Based on their review and approval of these forecasts, funding facilities available from various financial institutions and expected continued financial support from the Shareholder of the Company, the Directors confirm that the Company has access to sufficient cash facilities to meet its obligations for the foreseeable future and for a period of at least 12 months from the date of approval of these financial statements. Accordingly, the Separate financial statements have been prepared on the going concern basis

2. Etihad Confirms That It Has Received over $9 Billion in Subsidies from Government Equity Infusions

The Government of Abu Dhabi has provided billions of dollars of subsidies to Etihad in the form of equity infusions.[19] Etihad's only substantive response is to assert that as the Government of Abu Dhabi's equity in the airline grew, so did Etihad's value. But this is simply definitional: because assets = liabilities + equity, it goes without saying that if a company uses the proceeds from equity infusions to increase its assets, the total value of the company's assets will increase, unless the company incurs operating losses that exceed the value of the equity. In Etihad's case, the string of continuing and large operating losses has greatly reduced the value of the original equity infusions. Thus, the increase in the "value" of the company is only a fraction of the government's capital infusions, and in any event immaterial to the amount of subsidy.

Furthermore, the relevant test for determining whether an equity infusion constitutes a subsidy is not whether the value of the company increases as a result, but whether a reasonable private investor with multiple options for investing its capital and a goal to maximize its returns would

[18] See id.

[19] See "Restoring Open Skies: The Need to Address Subsidized Competition from State-Owned Airlines in Qatar and the UAE, (Jan. 28, 2015), (White Paper) at 16; Capital Trade Incorporated, Evidence of Actionable Government Subsidies Received by Etihad Airways, Qatar Airways, and Emirates Airline (Capital Trade Report) at 18-25 (attached as Exhibit 2 to the White Paper).

have made the investment. In this case, as the Capital Trade Report explained, a reasonable private investor would not have done so.[20] Etihad has made no effort to rebut this showing.

In addition, Dr. Krishna Palepu of Harvard Business School reviewed Capital Trade's analysis and endorsed its conclusion that Etihad was not "equityworthy" at the time of the infusions. Dr. Palepu also examined the infusions from the perspective of a "strategic investor" and reached the same conclusion.[21] Etihad has provided no response to Dr. Palepu's report.

Moreover, while Etihad briefly touches on the 2013 sale of its frequent flyer program to Etihad Guest,[22] its assertion that the accounting treatment and the recognition of the gain on the sale was fully compliant with International Financial Reporting Standards (IFRS) is demonstrably false, and contradicted by its own financial statements, which state that Etihad did not prepare the financials in full compliance with IFRS.[23]

Finally, as noted in Subsection I(A)(1) above, Etihad's 2014 financials disclose that the Government of Abu Dhabi infused an additional $2.6 billion in equity into Etihad in 2014, bringing the total amount of this single category of subsidy to over $9 billion to date.

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[20] See id.

[21] Krishna Palepu, *An Assessment of Etihad Airways, and Qatar Airways, and Emirates Airline* (Apr. 3, 2015) (Palepu Report) at 7-9 (attached to the Partnership's Answers to Questions as Exhibit 2). Dr. Palepu has a Ph.D. from the Massachusetts Institute of Technology and over thirty years of teaching graduate business students and senior executives at the Harvard Business School. He co-authored a widely-used text book, *Business Analysis Valuation using Financial Statements*, that focuses on analyzing published financial statements to draw economic inferences. He has also authored or co-authored many published papers and case studies in the area of financial analysis, accounting, and strategy.

[22] Etihad Airways Response to Claims Raised About State-Owned Airlines in Qatar and the UAE at 17 (May 31, 2015) (Etihad Submission).

[23] For example, the financials state that:

> These annual financial statements comply with International Financial Reporting Standards (IFRSs) in all aspects, except for IFRS 10 *Consolidated Financial Statements*, IFRS 11 *Joint Arrangements* and IAS 28 *Investment in Associates and Joint Ventures* as investments in certain subsidiaries, associates and joint arrangements have been stated at cost. Refer to note 2.2.

Etihad 2013 Financial Statements at 10 (Note 2.4, Statement of Compliance).

3. Etihad Confirms That It Has Received over $6.6 Billion in Subsidies from Interest-Free Government "Loans"

The White Paper and the Capital Trade report established that Etihad has received over $6.6 billion in subsidies in the form of interest-free shareholder "loans" from the Government of Abu Dhabi.[24] Etihad provides no substantive rebuttal to this issue, as it would have been futile to try. Interest-free loans are subsidies by definition,[25] and the other aspects of the loans – the twenty year grace period before Etihad's repayment obligation was due to begin, the fact that the loans were effectively forgiven in 2010, their subordinate status and the fact that they were unsecured – only further confirm this conclusion.[26]

Furthermore, as noted in Subsection I(A)(1) above, Etihad's 2014 financial statements show that Etihad received an additional $543 million in such loans in 2014, which in turn confirms the White Paper's conclusion that the total benefit from this single category of subsidy is at least $6.6 billion.[27]

Finally, Etihad claims in its submission, contrary to its own financial statements, that the loans are repayable. It has provided no evidence to this effect. And, as the Capital Trade Report has demonstrated, even if the loans were to be repaid – again, contrary to the financials – the present value of the loans would be almost equal to the original amount of the loans themselves, because they are interest-free and allowed for extremely generous grace periods (at least 20 years) before principal repayment was scheduled to begin.[28]

4. Etihad Confirms That It Has Received at Least $751 Million in Subsidies in the Form of Government Grants

The White Paper and the Capital Trade Report demonstrated that Etihad received a $111 million subsidy in 2008 in the form of a grant from the Government of Abu Dhabi. Etihad's claim that

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[24] White Paper at 13-15; Capital Trade Report at 30. The $6.6 billion includes $1.38 billion in interest that would have accrued if the loans had been on commercial terms. Capital Trade Report at 30.

[25] See, e.g., Panel Report, *European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft*, WT/DS316/R (adopted 1 June 2011) para. 7.489 (launch aid provided to Airbus at a zero rate of interest conferred a "benefit" on Airbus, and thus constituted a subsidy) (*EC – Large Civil Aircraft*).

[26] See White Paper at 15; Capital Trade Report at 30-31.

[27] Etihad 2014 Financial Statements at 39 (Note 16.3).

[28] See Capital Trade Report at 32, fn.58.

the $111 million was promotional consideration paid by the Abu Dhabi Tourism Authority is contradicted by Etihad's own financial statements, which make no reference to the Tourism Authority and describe the $111 million as an amount that the Government of Abu Dhabi "decided to contribute" to Etihad, not as an arm's length transaction between two commercial entities:[29]

Figure 2: Excerpt from Etihad 2008 Financial Statements

> In view of its economic contribution and its role in the development of Abu Dhabi in its campaign "Abu Dhabi to the world", the Government of Abu Dhabi has decided to contribute for 2008 an amount of USD 111 million which has been recognised in "other income" in the consolidated income statement *(Refer Note 19)*.

Notably, Etihad's docket submission fails to address this evidence from its own financial statements, and it fails to provide any documentary support for its own assertion.

Similarly, while Etihad asserts that it funded the $640 million cost of the sponsorship of the Manchester City Football Club "from its own liquidity," it provides no such evidence and fails to address the contrary evidence that the U.S. airlines submitted on this point: an internal study that Booz Allen prepared for the Crown Prince of Abu Dhabi, which states that the Executive Council of Abu Dhabi – not Etihad – covers the cost.[30] As an internal document that was not intended for public release, the Booz Allen study is particularly probative of the funding's true source.

Furthermore, there is no indication in Etihad's financial statements that it funded the cost of the Manchester City sponsorship itself; to the contrary, according to its 2011 financials, Etihad's total outstanding sponsorship commitments at the end of the fiscal year were just $166 million,

[29] Etihad 2008 Financial Statements at 21, Note 8 (Other Income).

[30] See White Paper at 17; Capital Trade Report 35-36; See also Joe Aston, *Leaked report reveals Etihad's long-denied royal funding*, Australian Financial Review (May 22, 2014) (reporting on the leaked Booz Allen presentation and linking to an online copy of the document).

or significantly below the amount of the Manchester City sponsorship alone.[31] The financials for subsequent years are consistent on this point.[32]

5. Etihad Confirms That It Has Received at Least $267 Million in Subsidies in the Form of Airport Fee Exemptions

The White Paper, the Kasper Report and the U.S. airlines' response to Question 5 from the Departments explain how the Government of Abu Dhabi subsidizes Etihad by exempting transfer traffic from payment of the AED 75 passenger service charge that UAE airports impose on departing passengers. Etihad's only response on this issue is to assert that UAE airports apply the charge equally to all carriers and that the United Kingdom imposes an air passenger duty on departing passengers but exempts transiting passengers.

The Partnership has already explained why the passenger fee exemption constitutes a subsidy to Etihad, and we will not repeat the explanation here.[33] However, Etihad's assertion that the charging practices at UAE airports are similar to the practices in the United Kingdom is wrong. London Heathrow applies a passenger fee on all departing passengers, including transfer passengers.[34]

6. Etihad Confirms That It Receives Additional Subsidies from Purchases of Goods and Services from Government-Owned Entities on Non-Arm's Length Terms

Etihad's submission devotes a single paragraph to the issue of its related party transactions, merely stating that it transacts with government-related entities at arm's length.[35] However, as with every other Etihad response on the issue of subsidies, Etihad provides absolutely no

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[31] See Etihad 2011 Financial Statements at 33.

[32] Indeed, a recent press report indicates that Etihad has modified the Manchester City sponsorship to increase its commitment to £80 million per year for multiple years. If the report is accurate, this single sponsorship is more than the total amount that Etihad disclosed for all sponsorship commitments in 2014 ($159 million).

[33] See White Paper at 17; Daniel Kasper, *Gulf Airport Subsidies*, at viii (Kasper Report) at viii (attached as Exhibit 3 to the White Paper); Partnership Answers to Questions at 11-13.

[34] London Heathrow imposes a GBP 39.75 fee per departing international passenger, and a fee of GBP 29.82 fee for transit/transfer passengers. See, e.g., IATA Airport, ATC and Fuel Charges Monitor, United Kingdom, London Heathrow, at 2-3 (Apr. 2014). Notably, the fee imposed on international passengers is higher than the fee imposed on passengers traveling within Europe, which supports the conclusion that the fee structure at London Heathrow – unlike Abu Dhabi International – is not designed to distort international trade.

[35] Etihad Submission at 24.

evidence in support of its statement, and it again ignores the language in its own financial statements that contradicts its position.

Furthermore, Etihad's 2014 financial statements changed the description of its transactions with infrastructure-related entities, which were the only related party transactions that it had previously described as being conducted at arm's length. The new description references both infrastructure related entities *and financial institutions*, and it says it transacts with such entities "on an [sic] agreed rates" (*i.e.*, not on an arm's length basis). Etihad provides no explanation for this change, which also further supports the conclusion that it obtained the $1.85 billion in new long-term loans discussed in Subsection I(A)(1) above from related-party banks, and that they are subsidies.

* * *

In sum, Etihad has received at least $17 billion in subsidies since 2004, which continue to escalate – reaching record highs in 2014. Its financial statements – which Etihad refuses to release or acknowledge – show that it is using accounting gimmicks to create an illusion of profitability and to conceal its increasingly massive accumulated losses from public view. Its status as a "going concern" is explicitly tied to the "expected continued financial support" from its government owners – which confirms that the subsidies will continue. This is the antithesis of Open Skies.

B. Qatar's Submission Confirms that It Has Received Over $16 Billion in Subsidies from the Government of Qatar

Like Etihad, Qatar denies that it is subsidized, but, as with Etihad, it fails to provide <u>any</u> documentary support for any of its arguments, including its own financial statements, which contradict its assertions, and which it refuses to publicly release. The rationale for Qatar's strategy is plain: the financials speak for themselves, and the subsidies they disclose – and the fact that Qatar would not be commercially viable without them – are irrefutable.

Moreover, Qatar's CEO recently stated that the Qatar Airways Board of Directors has decided to postpone any privatization of the airline for at least another decade because "private investors really don't have the stomach to invest to the extent that Qatar Airways will require for its

expansion."[36] In addition to confirming that the annual cash injections are subsidies, the statement also makes plain that Qatar's subsidized expansion will continue. Qatar argues that the U.S. Government has no right to raise concerns about these market distortive practices that are contrary to Open Skies, even though the U.S.-Qatar Open Skies Agreement never entered into force.[37] But Qatar is wrong.

In this Section, we discuss Qatar's responses to the $16 billion in subsidies that the Partnership has uncovered. We also discuss newly-discovered evidence which shows that the Government of Qatar is providing $7.5 billion in loan guarantees to Qatar's state-owned affiliate, Qatar Aviation Lease Company (QALC), to enable QALC to finance the purchase of aircraft and to lease them to Qatar at reduced rates. As we explain below, Qatar does not make a serious effort to rebut the subsidy analyses; its arguments serve only to confirm them.[38]

1. Qatar Confirms It Has Received at Least $8.4 Billion in Subsidies from Subsidized Loans and Shareholder Advances

The U.S. airlines demonstrated that Qatar has received at least $8.4 billion in subsidized loans and shareholder advances since 2004.[39] 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."[40] This is the same, flawed rationale that Etihad used to try to justify its equity infusions, and it must similarly fail.[41]

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[36] David George, *Qatar Airways Ramps Up Global Expansion*, Bloomberg Businessweek Middle East (Mar. 2, 2015), http://businessweekme.com/Bloomberg/newsmid/190/newsid/413. He made a similar comment in May, when he argued that the capital-intensive nature of the airline industry means an airline would not be able to expand in today's environment "without very strong financial background, especially from the government." Jon Ostrower, *Qatar Airways CEO Defends State Support*, WALL ST. J. (May 13, 2015). Under the WTO definition of subsidy, if a private investor would not have provided the equity in question, it is a subsidy. SCM Agreement, Art. 14(a).

[37] The U.S.-Qatar Open Skies Agreement is being applied on a provisional basis. See http://www.state.gov/documents/organization/206046.pdf.

[38] Qatar devotes a significant portion of its submission to an attack on the creditworthiness analysis in the original Capital Trade Report. The Supplemental Capital Trade Report thoroughly rebuts Qatar's arguments, which seriously misrepresent Capital Trade's analyses and fail to address the vast majority of the data and analysis that Capital Trade relied on in reaching its conclusions. See Supplemental Capital Trade Report at 22-25.

[39] See White Paper at 21-22; Capital Trade Report at 52, 55.

[40] Qatar Submission at 32.

[41] See Subsection I(A)(2); see also Supplemental Capital Trade Report at 7-9.

Furthermore, Qatar does not dispute that the 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.[42] Interest-free loans are subsidies by 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.

2. Qatar Confirms It Has Received at Least $6.8 Billion in Subsidies from Government Loan Guarantees

The White Paper and the Capital Trade report demonstrated that Qatar has received $6.8 billion in subsidies from government loan guarantees since 2004. Qatar's submission tries to rationalize the guarantees on the grounds that Qatar is not a member of the Cape Town Convention, which raises risks for lenders in the case of default, and because it does not have any publicly traded or rated debt, which makes it difficult for its liabilities to be rated or hedged.[43]

Qatar's explanation serves only to confirm that the loan guarantees constitute subsidies. The "benefit" of a loan guarantee is the difference between the amount that the recipient of the guarantee pays on the guaranteed loan and the amount it would pay absent the guarantee, adjusted for any difference in fees.[44] Taking Qatar's assertions at face value,[45] Qatar has confirmed that, but for the guarantees, it would have paid higher interest rates on its loans, if it had been able to obtain them at all. While the Government of Qatar's decision not to ratify the Cape Town Convention may affect the rate that Qatar would have paid for these loans without the guarantees, this does not change the fact that the guarantees reduced the rate Qatar actually paid, and therefore the guarantees confer subsidies.

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[42] See White Paper at 22.

[43] Qatar Submission at 32-33.

[44] SCM Agreement, Art. 14(c).

[45] As with every other part of its submission, Qatar provides no evidence in support of its assertions.

Furthermore, Qatar ignores that many other countries, such as Australia, France, and Germany, have not acceded to the Cape Town Convention, and airlines in those countries have been able to obtain commercial loans without government guarantees.[46]

3. Qatar Confirms It Has Received at Least $452 Million in Subsidies from Free Land

The White Paper and the Capital Trade report demonstrated that Qatar received $452 million in subsidies from free land.[47] Qatar's submission confirms that that the $452 million was a subsidy, as it explains that the Government deeded the land to Qatar in 2011, and then "appropriated" it in 2013 at its then market value ($452 million).

4. Qatar Confirms It Has Received at Least $443 Million in Subsidies from Airport Fee Exemptions and Rebates

Qatar's only response to the White Paper's demonstration that it receives hundreds of millions of dollars in subsidies each year as a result of the government's practice of exempting connecting passengers from the assessment of passenger fees is to argue that the fee structure is non-discriminatory, and thus permissible.[48] Qatar makes no effort to rebut the White Paper's subsidy analysis, however, and it does not contest that the exemption confers a significant cost advantage on the Gulf carriers in competing with U.S. and third country airlines for international passengers traveling between third countries (*e.g.*, India) and the United States.[49] Moreover, Qatar mischaracterizes the issue by claiming that Doha airport applies a "lower" fee to connecting

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[46] Indeed, an Australian government website notes that one consequence of the Cape Town Convention's entry into force in Australia (it is scheduled to enter into force in September 2015) is that Australian airlines will be able to access cheaper finance when purchasing aircraft. Australian Government, Department of Infrastructure and Regional Development, *The Cape Town Convention, Benefits for the Aviation Industry*, https://infrastructure.gov.au/aviation/international/consultation_cape_town.aspx.

[47] The U.S. airlines further discussed this subsidy in response to Question 7 from the Departments. See Partnership Answers to Questions at 14-15.

[48] Qatar also wrongly claims that similar approaches are widespread globally. This is wrong, as the Supplemental Kasper Report explains (at 19).

[49] See White Paper at 25; Partnership Answers to Questions at 11-13. The Supplemental Kasper Report has calculated the subsidy as $314 million per year.

passengers than it does for departing passengers; in reality, it completely exempts connecting passengers from the passenger fee.[50]

In addition, the White Paper and the Capital Trade Report demonstrated that Qatar received a $129 million subsidy from the refund of passenger fees that it did pay.[51] Qatar's submission does not contest that this measure constituted a subsidy.

5. Qatar Confirms It Has Received at Least $215 Million in Subsidies from the Assignment of Airport Revenues and $22 million in Route Subsidies

Qatar asserts that the $215 million it has received since 2006 from the assignment of airport revenues is not a subsidy because, "[t]o provide these services, the Company hires staff and operates equipment, and performs a host of other functions."[52] Qatar provides no substantiation in support of its assertions, nor does it quantify any of the relevant costs. The logical inference that should be drawn from its failure to provide any such information is that, if it were provided, the information would confirm the finding of subsidy.

Similarly, Qatar asserts that the $22 million that it reported in 2013 and 2014 in "incentives and route subsidies" was paid by airports other than Doha. As with the airport revenues, however, Qatar fails to identify the airports, or provide any proof that its assertion is true.

6. Qatar's Arguments About Its Aircraft Lease Rentals Fail to Note That Its State-Owned Affiliate Qatar Aviation Lease Company Is Also Massively Subsidized by the Government of Qatar

The White Paper noted that Qatar leases aircraft from its state-owned affiliate Qatar Aviation Lease Company (QALC), which was established to purchase aircraft and lease them to Qatar. The White Paper also noted that Qatar does not disclose the terms of its leases in its financial statements, and that QALC does not release its own financial statements, which makes it

[50] Kasper Report at vi.

[51] White Paper at 25.

[52] Qatar Submission at 34.

impossible to determine the extent of the subsidies that Qatar receives through below-market lease payments.[53]

The Partnership has recently obtained additional evidence that Qatar receives subsidies through its transactions with QALC. The evidence shows that the Government of Qatar has issued a decree that provides for *$7.5 billion* (QR 27 billion) in loan guarantees to help QALC finance the purchase of aircraft.[54]

The fact that the Government of Qatar is providing $7.5 billion in loan guarantees to QALC means (1) that QALC is likely able to finance the purchase of aircraft that it could not finance without the guarantees; and (2) lease the aircraft to Qatar at lower rates than would be possible without the guarantees. In addition, since Qatar is often the original purchaser of the aircraft and then sells them to QALC, these sale and leaseback arrangements also provide a mechanism for Qatar to obtain the benefit from these government guarantees without having to post additional debt on its balance sheet.[55]

While Qatar claims in its submission that its lease rentals from QALC are "at commercial rates," it does not explain what this means, and it provides no proof.[56] It also failed to disclose the subsidies that the Government of Qatar provides to QALC.[57]

Although public information on QALC is extremely limited, it appears to be related to Qatar, as Qatar's CEO Akbar Al-Baker is a member of the QALC Board of Directors, he is listed as the

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[53] White Paper at 26.

[54] Decree No. (56) of 2009 on the Qatari Government's Guarantee of the Financial Obligations Arising from the Loan Agreements Concluded by the Qatar Aviation Lease Company for the Purchase of Aircrafts 56/2009, Art. 1 (attached as Exhibit 3).

[55] The Partnership has located UK corporate filings identifying at least 28 aircraft that QALC is leasing to Qatar, including 14 777s, 10 A320s, and 4 A321s. It appears that Qatar was the original purchaser of at least half of these aircraft. In addition, press reports indicate that Qatar and QALC have recently entered into sale and leaseback transactions for a further 3 777s and 5 787s. Airline Economics, *Qatar Airways closes eight aircraft sale-leaseback* (Nov. 17, 2014).

[56] It also says, oddly, that QALC's lease calculation is "based on" a market rate.

[57] The fact that QALC is subsidized also undermines Qatar's assertion that QALC is profitable (which is impossible to verify in any event, since Qatar has refused to provide copies of QALC's financial statements).

company's "manager" on Hoovers and as the contact for QALC on the Qatar Chamber of Commerce website,[58] and he has recently described QALC as "a profit center for the airline."[59]

7. Qatar Has Failed to Rebut Evidence That It Receives Subsidized Fuel from Qatar Jet Fuel Company

As previously explained, the U.S. airlines obtained a copy of the 2014 financial statements for Qatar Fuel Company, which indicate that the prices that Qatar Jet Fuel Company (Q-Jet) charges Qatar for fuel are set via government resolution – and not by the market – and that the government subsidizes Q-Jet to compensate it for the prices it charges to Qatar.[60] Qatar's response to this issue is typical: it argues that it pays market prices for fuel at Doha – even though the Qatar Fuel Company financials clearly state that the prices are set by government resolution – but it provides no proof whatsoever to support its assertion.[61]

* * *

In sum, Qatar has made no serious effort to rebut the fact that it has received at least $16 billion in subsidies since 2004. Its CEO has made it abundantly clear that the subsidies will continue, as private investors "don't have the stomach to invest to the extent that Qatar Airways will require for its expansion."[62] The airlines' unapologetic defense of its subsidy-fueled growth is wholly contrary to Open Skies.

C. Emirates' Submission Confirms It Has Received at Least $5 Billion in Subsidies from the Government of Dubai

Emirates takes a similar approach to the other Gulf carriers by indignantly insisting that it is not subsidized but refusing to provide any actual evidence – not a single document – in support of its

[58] Qatar Chamber, "Search the Directory," Organization Details for Qatar Aviation Lease Company (attached as Exhibit 4).

[59] *Qatar Airways commits to double order for Boeing 777-9X aircraft*, Bloomberg (July 16, 2014). Al-Baker has also described plans to expand the company's leasing business to lease aircraft to other airlines in competition with the established aircraft leasing companies.

[60] See Partnership Answers to Questions at 7-8.

[61] For example, Qatar asserts that the price it pays is "the MOPAG price plus a differential charge," but it does not assert (or provide any proof) that the "differential charge" it pays is equivalent to the charge that foreign airlines pay, or that the terms of its transactions with Q-Jet are otherwise equivalent to those that prevail in arm's length transactions.

[62] See supra, note 36.

arguments. Its decision to take this approach is understandable, as the explanations it provides on the various measures confirm that they are subsidies.

In this Section, we first discuss the multi-billion dollar subsidy that the Government of Dubai granted to Emirates in 2008-09 by shielding it from the impact of potentially massive losses on its fuel hedging contracts. We then discuss the subsidies that Emirates receives from the subsidized airport infrastructure that the Government of Dubai provides to Emirates to ensure that it has the capacity it needs to continue growing without restraint and without regard to demand. We conclude with a discussion of the subsidies that Emirates receives from non-arm's length transactions with related parties.

1. Emirates Has Confirmed That the ICD Provided a Multi-Billion Dollar Subsidy by Assuming Emirates' Fuel Hedging Losses

As the Partnership has demonstrated, Emirates received a subsidy of between $1.6 and $4 billion as a result of the Investment Corporation of Dubai (ICD) taking over (novating) fuel hedging contracts that exposed Emirates to massive losses.[63] Although Emirates' submission tries to rationalize the issue away, its description of the transaction proves that the novation of the contracts constitutes a subsidy.

Furthermore, and of equal importance, Emirates' description of the novation and the circumstances surrounding it also definitively confirms that Emirates uses related party transactions with other members of "Dubai Inc." to shift costs off of its books and artificially increase its profits, and that it not does not disclose the transactions in its financial statements in a way that would enable a reader to discern them.

(a) The Novation of the Fuel Hedging Contracts Was a Subsidy

As an initial matter, it is well-established that a financial contribution confers a benefit on its recipient if the terms of the financial contribution are more favorable than the terms available in the market.[64] According to Emirates, the ICD agreed to take over the hedging contracts – which

[63] See White Paper at 27-29; Capital Trade Report at 79.

[64] See, e.g., Appellate Body Report, *Canada – Measures Affecting the Export of Civilian Aircraft*, WT/DS 70/AB/R (adopted 20 August 1999) paras. 157-158.

were showing extremely large losses at the time of the novation – even though Emirates was under no legal obligation to make the ICD whole for the losses that it would incur as a result.[65] A market-oriented counterparty would never have agreed to enter into such a ridiculously one-sided transaction, which conferred an obvious benefit on Emirates by transferring the liability for any losses on the contracts to the ICD. Emirates does not address this point, as there is nothing to say. The novation constituted a subsidy for this reason alone.

In addition, Emirates' attempt to rationalize the novation by arguing that it enabled Emirates "to provide a more meaningful reporting" of its financial results is an absurd statement that Emirates can only support by analyzing the transaction with the benefit of 20/20 hindsight.[66] In the real world, the novation took place in the midst of the 2009 financial crisis, and there was no way to know at the time of the novation whether oil prices would remain at their current levels or drop even further. At the risk of stating the obvious, it was for this reason – to shield Emirates from having to realize massive losses on the contracts, and to eliminate the risk of future losses and the uncertainty associated with the hedges in a volatile market – that the ICD agreed to step into Emirates' shoes and incur the losses itself.

Emirates' claim that it undertook the transaction to provide "more meaningful reporting" of its financial situation turns the entire idea of proper disclosure on its head. If Emirates had truly been concerned about providing "more meaningful reporting," it could have easily accomplished this feat by reporting its results in accordance with IFRS, and then providing additional, non-IFRS explanations that excluded the impact of the hedges. Contrary to the misleading insinuations in Emirates' submission,[67] this is the approach that Delta took in reporting its own fuel hedging losses during the same period.[68] Moreover, unlike Emirates, Delta provided

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[65] Emirates Submission at 8 (stating that Emirates "voluntarily" declared dividends to the ICD); id. at 10 (stating that it was not legally required to do so). Although the submission acknowledges that the contracts were showing significant losses at the time of the novation, it is careful not to disclose the amount of the losses that the ICD assumed, or the total losses that it ultimately realized.

[66] Id. at 10.

[67] See id. at 9.

[68] See, e.g., Delta Air Lines Inc., Form 10-K (filed 02/24/10 for the Period Ending 12/31/09), at 28 (stating that "[f]or 2009, we reported a net loss of $1.2 billion. These results reflect significant weakness in the airline revenue environment due to the global recession and $1.4 billion in fuel hedge losses. . . ."); id. at 32 (stating that "Aircraft fuel and related taxes decreased $5.0 billion in 2009 compared to 2008 on a combined basis . . . . These decreases were partially offset by $1.4 billion in fuel hedge losses for 2009, compared to $666 million in fuel hedge losses for

detailed information about its hedging portfolio in the press release that Emirates attached as Exhibit 3 of its submission.[69] Emirates omitted that portion of the release from Exhibit 3, however, and it also omitted the fact that the same press release specifically stated that Delta incurred $1.359 billion in fuel hedging losses in fiscal year 2009.[70]

Moreover, Emirates' attempt to minimize the commercial impact of the novation by focusing on the increase in fuel prices in 2010 and its alleged payment of subsequent "dividends" to the ICD fails to undermine the conclusion that the novation was a subsidy.[71] The relevant issue for determining the existence of a subsidy is the benefit to the subsidy recipient (Emirates), not whether the government (the ICD) incurred a cost in providing the subsidy. Furthermore, the benefit is determined at the time the subsidy is bestowed, and not at some future point when the commercial outcome of the actions are known. Finally, as discussed further below, it is well-established that a subsidy recipient cannot use dividend payments to "repay" subsidies.

It is undeniable that the novation benefitted Emirates in numerous significant ways. For example:

- Emirates' submission confirms that if the ICD had not taken over the hedging contracts, IFRS rules would have required Emirates to report a massive loss in fiscal year 2008-2009, instead of a $268 million profit.[72] If Emirates had been required to report the loss, it could have impacted its credit, affecting its ability to obtain loans and raising its financing costs.

- In addition to being unsupported by any evidence, Emirates' claim that the "paper" losses it would have incurred in 2009 would have turned into "paper" gains in 2010 is pure

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2008. The fuel hedge losses in 2009 are primarily from hedges purchased in 2008 during the period fuel prices reached record highs and were expected to continue to rise.").

[69] See http://news.delta.com/delta-air-lines-reports-2009-financial-results (Fuel Price and Related Hedges).

[70] See id.

[71] Emirates also mischaracterizes the true situation with respect to oil prices during the relevant period. While Emirates asserts that oil prices "recovered dramatically in the second half of 2009," see Emirates submission at 10, the reality is that oil prices did not recover to early-2008 levels until 2011. See Bloomberg CO1 chart (attached as Exhibit 5).

[72] Emirates Submission at 9. IFRS requires companies to mark-to-market (MTM) their hedge contracts to fair value each reporting period in order to properly reflect the changes in the contracts' fair value. Accordingly, such changes are recorded directly to the income statement unless they qualify and are designated for hedge accounting treatment. Because Emirates' hedges were not so designated, it would have had to record all of the MTM adjustments directly to its income statement if not for the novation.

speculation. As noted above, the novation took place in the midst of the 2008-2009 financial crisis and there was no way to know at the time which direction and at what rate oil prices were going to move. Accordingly, like other airlines with large hedging portfolios, Emirates would have been under pressure to terminate its contracts early – while they were in loss positions – in order to avoid incurring even larger losses and margin posting requirements. The novation effectively "de-risked" the contracts for Emirates and enabled it to avoid taking such steps, which would have turned its "paper" losses into realized (*i.e.*, cash) losses, eliminated the possibility of any subsequent gains, and possibly required it to sell assets or take on additional debt.

- Other airlines that did not have the luxury of transferring their hedging contracts to state-owned parent companies were forced to take such steps. For example, Delta early terminated $614 million in hedging contracts in 2008-2009, turning its own paper losses into realized losses. In total, Delta and Northwest reported $2 billion in hedging losses in the same period, and their combined hedge book was smaller than Emirates'. Delta also had to issue new debt at market interest rates and take other steps to raise cash to meet increased collateral obligations. Similarly, United and Continental reported nearly $1.5 billion in total hedging losses in the 2008-09 period. At year-end 2008, United and Continental were required to post $1.1 billion in cash collateral obligations related to hedge liabilities and took several steps including raising debt and equity to increase liquidity.

- Emirates' claim that the losses on its open hedging contracts did not involve cash ignores that, but for the novation, the negative positions would have required it to post cash or collateral to the counterparties as security.[73] And while Emirates asserts that it "fulfilled its role" in this respect by providing letters of credit to the ICD, it is unlikely that it would have been able to obtain the letters in the midst of an international banking crisis if the contracts had remained on its books, since it would have had to provide them to the true hedge counterparty, rather than to an SOE parent that had already demonstrated its intention to shield Emirates from incurring further losses and that was virtually certain not to draw on them (making it a no-risk prospect for the banks).[74]

- Emirates admits that the ICD posted $750 million on its behalf.[75] Its claim that the ICD "elected" to do so is not credible and irrelevant as a defense to subsidy. Furthermore,

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[73] Id. Indeed, Emirates' disclosure that the ICD posted $750 million to cover the hedges demonstrates that the novation eliminated an immediate call on the airline's cash reserves.

[74] Even with the novation, it is difficult to understand how a non-rated airline with modest profits was able to secure $1.6 billion in letters of credit in the midst of an international banking crisis; in 2008 (its most profitable year to that point), Emirates' profit was $1.4 billion. Given that Emirates' Chairman Sheikh Maktoum is also the Chairman of Emirates NBD (the largest bank in the UAE), one possible answer is that a significant portion of the letters were provided by Emirates NBD and other UAE state-owned banks. (Notably, while Emirates' submission states that "international and domestic banks" provided the letters, it refuses to identify them or to disclose the value of the letters that each bank provided or their terms.) See Emirates Submission at 11. To the extent that Emirates did receive letters from Emirates NBD and other state-owned banks, it further ensured that the letters would never have been drawn, as the government was effectively issuing them to itself.

[75] Emirates Submission at 11.

Emirates' claim that it had sufficient funds to post the $750 million itself is unproven. At the end of fiscal year 2008-2009, Emirates reported $1.74 billion in available cash on hand.[76] Thus, posting $750 million would have required it to part with 43 percent of its total cash and short-term deposits – an extreme hardship in that unstable time. Moreover, while Emirates states that it would have had sufficient "cash and credit to fund *all* the required collateral" itself, its financial statements show that it did not have sufficient cash without selling assets, and it has also claimed that it was already using credit/collateral to secure the $1.6 billion letter of credit that it had provided to the ICD.[77]

- It is impossible to verify Emirates' claim that a portion of the dividends it paid to the ICD was actually reimbursement for the hedging losses, as there is no reference to such reimbursements in the financial statements and Emirates has provided no supporting evidence. However, even if it did make such payments, it is well-established that a subsidy recipient cannot repay subsidies by paying dividends to its owners.[78] Emirates is undoubtedly aware of this fact, as it has refused to disclose the total amount of the alleged dividends, lest it quantify the subsidy.

In sum, Emirates claims that its status as a non-public entity enabled it to "pursue a different approach" that made it unnecessary to report its hedging losses.[79] But in reality, it was not its "non-public" status that enabled it to do so – even as a non-public entity, Emirates purports to report its results in accordance with IFRS, and IFRS requires mark-to-market reporting of hedging losses. Rather, what made its "different approach" possible was its status as an SOE airline whose state-owned parent company was willing to subsidize its operations by shielding it from the consequences of the bad bets that it made on its fuel hedging contracts.

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[76] Id. at n.18.

[77] Emirates' financial statements for fiscal year 2008-2009 show just AED 771 million ($210 million) in margins placed against letters of credit issued by banks. Emirates 2008-09 Financial Statements at 102. It is unclear from Emirates' submission whether the letters of credit it allegedly obtained from banks were related to the $1.6 billion letter of credit it claims to have provided to the ICD. This issue is discussed further in the Supplemental Capital Trade Report (at 37-52).

[78] See, e.g., Panel Report, *EC – Large Civil Aircraft*, para. 7.269 (noting the EC's agreement that the payment of dividends to a shareholder does not diminish the benefit of prior financial contributions, particularly where the distribution constitutes nothing more than a "transfer of resources between a company and its sole owner . . . ."); id., para. 7.277 and n. 2220 (stating that "it is difficult to see how a firm could eliminate a subsidy simply by transferring funds to its owners" and agreeing with the United States that accepting the contrary proposition would create opportunities for the laundering of subsidies); Appellate Body Report, *EC – Large Civil Aircraft*, WT/DS316/AB/R (adopted 1 June 2011) n.1705 (the Appellate Body noting the EC's acknowledgement that "there are circumstances in which a cash extraction would *not* remove the benefit of a subsidy . . . for example, through payment of dividends to shareholders . . . or where the distribution constitutes nothing more than a transfer of resources between a company and its sole owner, forming an economic entity").

[79] Emirates Submission at 10.

(b) Emirates Confirms That It Uses Related-Party Transactions to Avoid Incurring Costs and to Artificially Bolster Its Income Statement

In addition to confirming subsidy, Emirates' description of the novation transaction proves that Emirates uses related party transactions to avoid incurring costs and to artificially bolster its income statement.

It is important to understand that dividends are not treated as expenses for accounting purposes and do not have to be listed as such on a company's income statement. Thus, by recording its "repayments" to the ICD as dividends – something it would not have been able to do if the novated hedging contracts had remained on its books – Emirates was able to increase its net income by an amount equal to the losses incurred on the fuel hedging contracts. The resulting higher net income increased Emirates' equity, which made it possible for Emirates to declare dividends of that amount and present the "repayment" as a return of capital rather than as an expense. And by including the payments with the year-end dividends in its financial statements, Emirates made it impossible for a reader to understand the total value of the fuel hedge losses fronted by the ICD that Emirates allegedly "reimbursed" – a question that remains a mystery, even today.[80]

Emirates' admission also calls into question all of the other "dividends" that it claims to have paid to date, since there is no way to know if these transfers truly were dividends, or if they too were actually repayments of other undisclosed costs or financial obligations that the ICD has assumed on Emirates' behalf, or in what amounts.

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[80] Emirates' assertion that "[t]his novation agreement is clearly disclosed in Emirates' financial statements for the fiscal year ended March 31, 2009 " is audacious, given the near total lack of transparency around the accounting sleight of hand that is the claimed basis for the novation. The disclosure of this major financial transfer appears in the fifth note to the 32nd footnote of Emirates' 2009 annual report on page 103, and states, in its entirety, that:

> "During the year, the majority of Emirates fuel hedging contracts have been novated to the parent company."

Furthermore, none of the alleged dividend repayments for the fuel hedging losses is transparent in Emirates' financial statements, and the result of these transactions is that a reader of the financial statements is unable to discern what cash losses from fuel hedging contracts Emirates or its parent company was exposed to or ultimately incurred.

Similarly, Emirates' admission that it made payments to third parties on the ICD's behalf without disclosing that fact in its financial statements raises the question of whether the ICD and other members of Dubai Inc. purchase services or make payments to third parties on Emirates' behalf that are neither reported nor disclosed in Emirates' financial statements.[81]

The novation transaction is a concrete example of how the opaque web of ownership relationships and transactions that constitutes Dubai's state-owned aviation sector can be used to transfer financial liabilities and obligations among enterprises to hide the real operating results of the flagship airline. We discuss this issue further in Subsection I(C)(3), below.

2. Emirates Confirms That the Government of Dubai Has Provided Billions of Dollars in Subsidies in the Form of Custom-Built Airport Infrastructure for Emirates' Exclusive Use

The Government of Dubai has provided Emirates with at least $2.8 billion in subsidies in the form of subsidized airport infrastructure since 2004. In its submission, Emirates concedes that the Government of Dubai has provided all of these subsidies – and more. Rather than contest the showing of an enormous subsidy, however, Emirates argues that the Government of Dubai is completely free to spend billions of dollars to subsidize the construction of airport facilities for Emirates' exclusive use and to provide these facilities to Emirates at grossly inadequate rates. It also argues that the United States has no right to raise any objections in response. But Emirates is wrong on both counts.

As the attached supplemental report by Daniel Kasper explains in detail,[82] and as we summarize below,[83] the airport-related subsidies that Emirates receives at Dubai International Airport (DXB) give it a significant advantage in competing against U.S. and third-country airlines for international connecting passengers, principally those traveling between Asia, Africa and the Middle East on the one hand, and North America on the other. The subsidies also enable

[81] See Emirates Submission at 10 (stating that "[t]hese dividends were paid by Emirates either by making payments on behalf of ICD or directly to ICD.").

[82] Daniel M. Kasper, Response to Emirates Report on Gulf Airport Subsidies (August 24, 2015) (Supplemental Kasper Report) (attached as Exhibit 6).

[83] The Supplemental Kasper Report includes a detailed point by point refutation of Emirates' submission and should be read in conjunction with this submission.

Emirates' unprecedented expansion of subsidized capacity by giving it the space it needs to continue growing without restraint and without regard to demand.[84]

The Supplemental Kasper Report also explains that the Emirates submission shows that the original Kasper Report underestimated the magnitude of the subsidies that Emirates receives at DXB. When the calculation is adjusted to reflect the information in Emirates' submission, the annual value (in 2013) of Emirates' Terminal 3 subsidy increases from $292 million to **$584 million**, and the total subsidy since 2004 increases from $1.39 billion to **$2.79 billion**.[85]

(a) Emirates' Submission Confirms That the Subsidy Is Even Larger than the White Paper Alleged

Because Dubai Airports Company (DAC) does not make its financial statements public, the Partnership has been unable to determine the full extent to which the revenues DAC collects from airlines and other airport users at Dubai International Airport (DXB) cover the billions of dollars that it costs to construct and operate airport infrastructure. However, Emirates' submission has confirmed that the Government of Dubai directly subsidizes the costs of building and operating DXB with general government funds and that DAC does not seek to recoup these costs from airport users.[86] This practice sharply distinguishes DXB from airports in the United States and elsewhere in the world. As the Supplemental Kasper Report explains:

> Large airports in the United States, the EU, and many other countries are generally expected to be self-financing, that is, to earn revenues from landing fees, passenger fees, facilities rentals, and other user charges that are sufficient to cover the airport's operating and capital costs. Likewise, airports cannot generally use state aid for the purpose of keeping fees low to unfairly compete against other airports. On the contrary, large airports are expected (or required) to set fees and charges that are neither discriminatory nor excessive and that are sufficient to recover the costs of building and operating the airport.[87]

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[84] As the Supplemental Kasper Report notes, the same issue exists in Abu Dhabi and Doha. However, neither airport discloses the information that would be needed to quantify the subsidies they receive as a result. They are undoubtedly significant, however, and the discussion in this section applies equally to both.

[85] Supplemental Kasper Report at 17.

[86] Emirates Submission at 38.

[87] See Supplemental Kasper Report at 7-8.

These differences in approach reflect fundamental differences in aviation and economic policies. The Governments of Qatar, Abu Dhabi and Dubai each has created and supports financially and otherwise a single "national champion" international airline.[88] Each has also built and funds world-class airport infrastructure designed to accommodate and promote its airline. In all cases, neither the airline nor the airport has "domestic" competition, and that is by design. Subsidized airport infrastructure is a key part of this design, as the airlines' success would suffer if they were required to pay charges and fees sufficient to cover the true costs of the infrastructure, and they would be unable to continue their rapid growth without it.

In the United States, by contrast, various laws and policies are designed to promote and protect competition, not competitors. There are a multitude of airlines as well as statutory and regulatory provisions that proscribe efforts by airports or governments to favor one airline over another. This explains why Emirates could not, and has not even tried, to demonstrate that U.S. airport incentive programs have any effect on international competition. Emirates' suggestion that such programs are in any way similar in design or effect to the enormous airport subsidies provided by Qatar and the UAE and the policies that drive them is not credible.

Emirates' submission does not deny that it receives a subsidy "benefit" from the extremely low fees and charges that it pays as a result of the subsidies – and also from the infrastructure itself, which the government constructed (and continues to construct) to ensure that Emirates has the airport capacity it needs to continue growing without restraint. Instead, Emirates tries to minimize the legal and factual consequences of these massive subsidies. These arguments fail.

As an initial matter, Emirates objects that the Kasper report focused its analysis solely on DXB's Terminal 3 and Concourse A, which were built for Emirates' exclusive use at a cost of $7.8 billion.[89] In fact, the Kasper Report took this approach in order to be conservative, focusing only on the subsidies provided for the sole benefit of Emirates rather than all of the subsidies provided for the construction and operation of DXB generally. In doing so, the Kasper Report deliberately did not examine or measure billions of dollars in additional subsidies, such as the funds that the

[88] That is, Etihad in the case of Abu Dhabi, and Emirates in the case of Dubai. Dubai has also created a low-cost carrier, flydubai. However, the Chairman of flydubai is also the Chairman of Emirates, and the two airlines do not compete.

[89] Emirates Submission at 37-38.

government spends on runways and other common facilities. Nonetheless, these subsidies also disproportionately benefit Emirates, which is the airport's biggest user by a significant margin.[90]

Next, Emirates argues that any and all subsidies provided to build DXB fall within the SCM Agreement's exemption of a government's provision of "general infrastructure" from the definition of subsidy for WTO purposes. According to Emirates, DXB is a "complete airport," and therefore it was inappropriate for the Kasper Report to focus only on the facilities that the airport provides for Emirates' exclusive use. However, the most directly relevant WTO precedent on what does and does not constitute "general" infrastructure is directly contrary to Emirates' assertions. In the *EC – Large Civil Aircraft* dispute, the panel agreed with the United States that the extension of a runway at Bremen Airport was not general infrastructure, because the extension was constructed specifically for Airbus and reserved for its exclusive use. The fact that the extension constituted one portion of a "complete airport" was not relevant to the panel's analysis.[91] The Appellate Body affirmed the panel's subsidy finding.[92]

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[90] As the Supplemental Kasper Report explains:

> It is also important to note that my subsidy estimate is based only on the benefit to Emirates from the subsidies at Terminal 3. It does not include other substantial capital costs for the runways, taxiways, parking pads, and other infrastructure that the Dubai Government built in order to accommodate the large scale of Emirates' operations, including the large number of super-jumbo A-380 aircraft, and the high volume of connecting traffic required by the scale of Emirates' operations. Since these capital costs – like those for Terminal 3 – are not being recovered from Emirates (or other airport users), the actual amount of Emirates' subsidy is substantially greater than the subsidy for Terminal 3 alone.

Supplemental Kasper Report at 10-11 (footnote omitted).

[91] Panel Report, *EC – Large Civil Aircraft*, paras. 7.1113-7.1121. The Kasper Report's approach is also consistent with the approach that the European Commission applies in evaluating airport-related subsidies under the EU's state aid regime. Specifically, under EU state aid rules, the "advantage" (benefit) of state aid to an airport will be treated as aid (*i.e.*, a subsidy) to a specific airline if the infrastructure in question is dedicated to that airline and not open to all airlines, and if the airline does not pay tariffs covering at least the incremental cost of the infrastructure, which includes the investment costs:

> For instance, if the airport needs to expand or build a new terminal or other facilities mainly to accommodate the needs of a specific airline, such costs should be taken into consideration when calculating the incremental costs.

See *Communication from the Commission, Guidelines on State aid to airports and airlines* (2014/C 99/03), para. 64. Here, Emirates concedes that the Government of Dubai directly paid the $7.8 billion in capital costs for Terminal 3 and Concourse A with general revenues and that Emirates does not pay fees sufficient to cover those costs (indeed, the airport makes no effort to recoup any portion of the costs). Thus, under the EU's state aids regime, the Government of Dubai is providing "aid" to (i.e., subsidizing) Emirates.

[92] Appellate Body Report, *EC – Large Civil Aircraft*, paras. 991-992. The WTO panel report that Emirates cited in support of its argument is easily distinguishable. See Emirates submission at n.73. In the *US – Large Civil Aircraft* dispute, the roads in question were not limited to Boeing's exclusive use and the panel found that there was

In this case, DAC boasts that Terminal 3 and Concourse A were "built for the exclusive use of Dubai's flagship carrier Emirates."[93] And while Emirates claims that there is "nothing unique about Terminal 3 that could not be said of all the airport facilities" at DXB and that "whatever benefit the government provides, it provides to all users of the airport's facilities,"[94] its own description of Concourse A clearly proves the opposite:

> Emirates' new A380 hub at Dubai International Airport is the first facility of its kind in the world – purpose designed and built for the world's largest fleet of A380s. The new 528,000m^2 facility, spread across 11 floors, offers Emirates customers a seamless and unrivalled experience in terms of sheer comfort, convenience and choice of facilities. From the direct boarding from the lounges for First Class and Business Class passengers, to the expanded duty free shopping, dining options from cafes to fine dining, a full service Timeless Spa, hotels and other amenities. The new concourse represents another first from Emirates in providing innovative products and services that give customers an unsurpassed travel experience.[95]

By contrast, over 100 airlines – including United and Delta – operate in DXB's Terminal 1.

In addition, the Supplemental Kasper Report discusses how Terminal 3 differs from the other terminals at DXB, and how the Government's policy of absorbing DXB's capital costs confers a substantial competitive benefit on Emirates that other airlines serving the airport do not enjoy:

> In contrast to other airlines serving DXB, Emirates' operations there are specifically designed to carry connecting passengers between third countries with only a connection in Dubai. Even though other passenger carriers serving DXB may pay lower fees than they would if the Government of Dubai had not absorbed the capital costs incurred to build DXB, it gives these carriers no competitive advantage relative to other carriers.
>
> In contrast, the Government's policy of absorbing DXB's capital costs, and particularly the costs to build Terminal 3, provide a substantial competitive benefit to Emirates. Terminal 3 was purpose built for Emirates at a size and scale

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insufficient factual support for the EC's contention that they were specifically designed to benefit Boeing. *United States – Measures Affecting Trade in Large Civil Aircraft*, WT/DS353/R (adopted 23 March 2012) paras. 7.431, 7.456.

[93] Dubai Airports Strategic Plan 2020 at 5.

[94] Emirates Submission at 38.

[95] Emirates, *Concourse A, Home of the Emirates A380, Fast Facts.* In any event, even if there was nothing unique about Terminal 3, that relevant question is whether the terminal is reserved for Emirates' exclusive use, not whether it is unique.

> designed principally to give Emirates a competitive advantage over U.S. and other international carriers for connecting passengers. As noted in my Report, 'The [Terminal 3] subsidies are particularly beneficial to Emirates in competing for connecting traffic against airlines that do not receive comparable subsidies at their hub airports.' In short, the Government of Dubai is providing a subsidy to Emirates that enables it to compete against U.S. international carriers, in large part for traffic moving between 3rd countries and the United States.[96]

Apart from its unjustified "general infrastructure" claims, Emirates' only other substantive response to the Kasper Report's subsidy calculation is to assert that Kasper created an "alleged shortfall of airport revenue" by adding a "hypothetical interest cost" that DXB did not actually incur.[97] But as the Supplemental Kasper Report explains in detail, the key factor in the shortfall between the $7.8 billion cost of Terminal 3 and the fees paid by Emirates is the initial $7.8 billion capital expenditure, not the interest rate.[98] The Emirates submission simply ignores that if DAC (like a normal airport authority) were to recoup this investment over time through commensurate passenger fees and other charges, it would need to include an interest rate for the outstanding portion of the original $7.8 billion investment. And Emirates' efforts to justify the subsidies by pointing to the Government of Dubai's interest in creating spin-off economic benefits is misguided. It is well established that the benefits to a country from the improved performance of its subsidized industry are not relevant to determining the existence of a subsidy.[99]

In sum, Emirates has failed to rebut the U.S. airlines' showing that the Government of Dubai's funding of airport construction and the airport's failure to recoup the costs of the construction from airport users confers a subsidy to Emirates of approximately $584 million per year, and $2.79 billion since 2004.

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[96] Supplemental Kasper Report at 9.

[97] Emirates Submission at 42.

[98] See Supplemental Kasper Report at 12. The Supplemental Kasper Report also explains why it was appropriates to include an interest cost in the subsidy calculation. Id. at 13-15.

[99] See, e.g., Panel Report, *EC – Large Civil Aircraft*, para. 7.1081 (stating that "merely that the Hamburg authorities were furthering a public purpose does not suffice to demonstrate that the project . . . constitutes general infrastructure. To the contrary, . . . it is any event always likely to be the case that public authorities will have reasons of public policy when expending public funds.").

(b) The Gulf Airport Subsidies Enable the Gulf Carriers' Unprecedented Expansion of Subsidized Capacity, Which Is Targeted at Sixth-Freedom Traffic

While Emirates claims that it is "ridiculous" to suggest that it is unfair for DXB to expand capacity in excess of what is needed to serve the local population,[100] it ignores the real issue, which is that the government is subsidizing the expansion precisely in order to enable its SOE airline's unconstrained international growth, and that the target of that subsidy-enabled growth is sixth-freedom traffic that Emirates diverts to Dubai at the expense of U.S. and third-country carriers.[101] To paraphrase Emirates, it is a "beggar thy neighbor" strategy that is designed to grow Emirates, and Dubai's aviation sector, at the expense of everyone else.[102]

A chart in a recent DAC publication illustrates the symbiotic relationship between the subsidized expansion of Gulf airport infrastructure and the expansion of the Gulf carrier fleets, which the infrastructure enables.[103] It shows the "old" forecast for passenger traffic at Dubai's airports and a "revised" forecast that reflects "input from stakeholders including Emirates and flydubai for the unconstrained growth of Dubai's total passenger traffic."[104] The publication then cites the "revised" forecast as the rationale for constructing the airport infrastructure that will make it possible for Emirates and flydubai to achieve that growth, which they could not achieve

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[100] Emirates Submission at 42.

[101] As the CEO of Dubai Airports Company recently stated, "[w]e are not competing for the local market in Dubai. We are competing globally." Shereen El Gazzar, *Dubai Airport chief fears moves towards aviation alliances*, the National (Apr. 28, 2015).

[102] As the White Paper noted (at 10), Emirates' Chairman Sheikh Ahmed bin Saeed Al Maktoum (who is also the Chairman of DAC) has described the government's strategy as follows:

> By 2020 some 98.5 million passengers and over four million tonnes of air freight will pass through our airports. The fleets and networks of Emirates and flydubai will grow considerably to accommodate traffic and capture market share. Similarly, our infrastructure must expand to enable this growth and facilitate the trade, tourism and commerce that in turn will support the prosperity of Dubai. This is what our Strategic Plan 2020 sets out to achieve.

Dubai Airports Strategic Plan 2020 at 3.

[103] As DAC has explained:

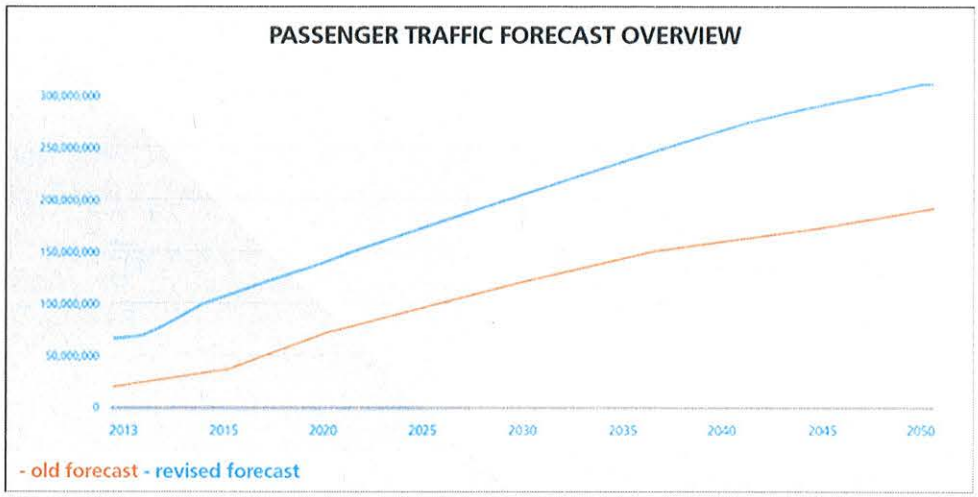
> Emirates enjoys a close and highly effective relationship with Dubai Airports, aided significantly by Emirates' Chairman and Chief Executive Sheikh Ahmed bin Saeed Al Maktoum who is also the Chairman of Dubai Airports. Accordingly, infrastructure expansion plans are the result of close stakeholder collaboration. Terminal 3 is a recent example of the benefits of that relationship.

Id. at 19.

[104] Dubai Airports, *The Airport of the Future: Dubai Airports 2050* (2015), at 5 (Dubai Airports 2050).

otherwise,[105] and which will come at the expense of other countries' airlines. As Emirates' submission confirms, the government will fund the expansion with subsidies.[106]

Figure 3: DAC Revised Growth Forecast



It is also important to place the expansion in its proper context. In 2014, DXB served 70.4 million passengers, surpassing London Heathrow to become the world's busiest international airport. By 2020, DXB is expecting to serve over 100 million – a nearly 50 percent increase from today, for an airport that is already the world's busiest.[107] The ultimate goal of the Dubai World Central (DWC) project – which will cost $32 billion for the *first phase* alone – is to increase that airport's capacity to *240 million* passengers/year – more than three times the number that DXB currently serves (and about five times the size of Chicago O'Hare). The DWC capacity will be in addition to the capacity at DXB (100 million passengers/year by 2020, 28

[105] In 2014, Emirates' President Tim Clark identified capacity constraints at DXB as the biggest single threat to the airline's ability to continue its growth plans (even after the opening of Concourse A of Terminal 3). Rory Jones, *Emirates Airlines' Boss Bemoans Dubai Bottleneck*, WALL ST. J. (June 2, 2014); Rory Jones, *Dubai to Invest $32 Billion in Airport to Meet Emirates Airline Growth*, Wall St. J. (Sept. 8, 2014) (noting that Clark had "previously warned that an infrastructure bottleneck at the current airport Dubai International would impede his airline's ambitions").

[106] Subsidies to expand airport capacity to help a particular airline expand and capture international passenger traffic are no different from subsidies to expand a steel plant for a steel company or a semiconductor fab for a semiconductor company. In each case, the subsidies reduce the subsidized company's costs and give it an unfair advantage over its unsubsidized competitors. And the subsidies are particularly distortive in the case of the Gulf carriers because the subsidy-enabled growth is deployed entirely on international routes.

[107] See, e.g., Dubai Airports 2050 at 7.

miles from DWC), Abu Dhabi (50 million passengers/year, 45 miles from DWC)[108] and Doha (50 million passengers/year, 225 miles from DWC), all of which is financed with subsidies.

Emirates is already the world's largest airline by international passengers carried, and Emirates' President Tim Clark recently stated that Emirates could "easily" double in size again with enough airport capacity to support such an expansion.[109] The Government of Dubai has made it clear that it is willing to spend tens of billions of dollars to build that airport capacity, and Emirates has confirmed that the government will fund the expansion with subsidies. Because the local market is already saturated, Emirates (and the other Gulf carriers) can only use this subsidy-enabled increased capacity predominantly to target sixth freedom traffic that would otherwise travel on U.S. and third-country airlines, and to divert it to their own networks.

(c) Emirates Wrongly Claims That Article 10 of the Open Skies Agreement Shields Its Subsidies from Any Challenge

Since Emirates cannot deny that the Government of Dubai massively subsidizes the airport infrastructure that enables it to pursue its subsidized expansion, it tries to change the subject by arguing that the Partnership has not established a violation of Article 10 of the U.S.-UAE Open Skies Agreement (User Charges).[110] But there is no support in the text of Article 10 for Emirates' claim that the provision "occupies the field" with respect to infrastructure subsidies, or that it precludes the United States from raising concerns about such subsidies with the Government of the UAE.[111] In fact, there is no basis in the text of the article or otherwise to claim that the article even applies to airport-related subsidies. Emirates' argument to the contrary is part of its broader strategy to mischaracterize various provisions of the Open Skies Agreement in order to shield its subsidies from review. As discussed in detail in Part III below, however, this strategy finds no support in the text of the agreement.

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[108] Upon completion of the new Midfield terminal, expected to be in 2017 (source: http://www.kpf.com/project.asp?T=12&ID=128).

[109] Mary Schlangenstein and Karl Lundgren, *Emirates President Says Airline Could Double in Size*, Bloomberg Businessweek (June 11, 2015).

[110] Emirates Submission at 28.

[111] As the Partnership has previously noted, discrimination in the assessment of charges is an important issue, but it is separate from the issue of subsidies. See Partnership Answers to Questions at 5.

Emirates' assertion that Article 10 provides the "governing law" on this issue is demonstrably false. As even a cursory examination of the provision makes clear, Article 10 establishes disciplines to ensure that a Party does not impose discriminatory or unfair user charges on the airlines of the other Party.[112] It does not address a Party's provision of subsidies to its own airlines, which is an entirely different issue.[113] There is nothing in the text of Article 10 that states that a Party cannot request consultations under Article 13 (Consultations) with respect to infrastructure subsidies that it believes are distorting trade, or that Article 10 overrides (or even relates to) the rights of a Party under other provisions of the agreement that such subsidies directly implicate, including Article 11 (Fair Competition).[114]

By focusing its arguments on Article 10, Emirates is trying to convince the U.S. Government to look at the problem through the wrong lens. As noted above, the airport-related subsidies that Emirates receives at DXB give it a significant advantage in competing against U.S. and third country airlines for international passengers traveling between third countries (*e.g.*, between the United States and the Indian Subcontinent). While Emirates connects such passengers at its hub, U.S. and third country airlines connect them over their own hubs or fly them nonstop. Although this traffic does involve direct competition between carriers (and often between their hubs), it does not involve direct competition at DXB, so whether DXB unjustifiably discriminates in the application of charges on foreign carriers operating at DXB is not the issue. The real issue is subsidies. Article 10 is simply not relevant.

It is also important to note that the U.S. airlines are not contending that Article 10 of the Open Skies Agreement requires airports to set airport charges at a level that is sufficient to recover the full cost of providing the relevant services to airport users, nor that the agreement prohibits airports from maintaining airline incentive programs.[115] Emirates' claim to the contrary is a

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[112] See, e.g., U.S.-UAE Open Skies Agreement, Art. 10.1 ("User charges that may be imposed by the competent charging authorities or bodies of each Party on the airlines of the other Party shall be just, reasonable, not unjustly discriminatory, and equally apportioned among categories of users. . . .")(emphasis added).

[113] Indeed, the White Paper and the Kasper Report focused on the low level of the charges primarily as evidence that the Gulf airports do not recoup the costs of financing the airport infrastructure from airport users. Emirates has made the task much easier by admitting to the subsidies.

[114] We discuss the proper interpretation of Article 11 in Section III below.

[115] In any event, Emirates has failed to explain how its points about incentive programs are relevant to the issue at hand, which is the subsidized expansion of airport facilities for the specific benefit of a particular airline, not

mischaracterization of our position that is intended to frighten U.S. airports and foment opposition to our request that the U.S. Government request consultations to address Gulf subsidies.[116] Rather, our position is that the tens of billions of dollars in subsidies that Qatar and the UAE grant to their SOE airlines – including the tens of billions that Qatar and the UAE are spending to construct the airport infrastructure that the Gulf carriers need to expand their fleets, and which the governments do not seek to recoup from the airlines – give an unfair advantage to the Gulf carriers that grossly distorts competition for international passenger traffic, contrary to Open Skies. The Departments should disregard Emirates' convoluted attempt to use Article 10 – which addresses an entirely different issue – to shield its subsidies from review.

3. Emirates Confirms That It Receives Additional Subsidies from Purchases of Goods and Services from Government-Owned Entities on Non-Arm's Length Terms

The White Paper noted – but did not include in its total subsidy estimate – that Emirates purchased over $2 billion in goods and services from related parties in fiscal year 2013-2014, and approximately $11 billion over the past ten years (although it has consistently failed to identify what it purchases, or from whom).[117] It also noted that Emirates' financial statements do not assert that the airline transacts with related parties on terms equivalent to those that prevail in arm's length transactions, that under international accounting standards, a company should not make such an assertion unless it can substantiate that it does transact on such terms, and that Emirates' silence creates a rebuttable presumption that it does not.[118]

As discussed above, the most telling aspect of Emirates' submission with respect to this issue is its description of the novation of its fuel hedging contracts and the circumstances surrounding the

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"special financial privileges" that an airport may occasionally grant to attract flights. The Supplemental Report explains why Emirates' arguments on these points are meritless. Supplemental Kasper Report at 25-34.

[116] Emirates' argument that the U.S. airlines' "connecting passenger fee" subsidy claim would require hub airports to impose such fees on connecting passengers is another mischaracterization. See Emirates Submission at 43-45. Each of these false claims stems from Emirates' broader claim that if Article 11 (Fair Competition) of the U.S.-UAE Open Skies Agreement covers subsidies, then all subsidies are prohibited. We explain in Part III below why this claim is wrong. See Part III(B). With respect to the broader issue, the Partnership explained in response to Question 5 from the Departments why the exemption of connecting passengers from passenger fees constitutes a subsidy, and the Supplemental Kasper Report also thoroughly discusses the issue. See Partnership Answers to Questions at 11-13; Supplemental Kasper Report at 18-23.

[117] White Paper at 31-34.

[118] See, e.g., Ernst & Young, International GAAP 2014.

novation, which definitively confirms that Emirates uses related party transactions with other members of "Dubai Inc." to shift costs off of its books and artificially increase its profits. Given this admission, the Departments should dismiss Emirates' claim that it would serve "no purpose" to require its auditors to substantiate that Emirates transacts with related parties on terms that are equivalent to those that prevail in arm's length transactions.[119] To the contrary, ensuring that Emirates and the other Gulf carriers transact on such terms would serve the critical purpose of helping ensure that they are not receiving subsidies from their government-owned suppliers.

Furthermore, Emirates' primary response to this issue is to argue that its fiscal year 2014-2015 financial statements (which Emirates prepared after the U.S. airlines submitted their White Paper to the U.S. Government) included a statement that its related party transactions "have taken place on an arm's length basis."[120] But this proves nothing, because the relevant standard under IFRS is not whether the transactions took place "on an arm's length basis," but whether they "were made on *terms* equivalent to those that prevail in arm's length transactions" – a question that Emirates avoids.[121]

The Supplemental Capital Trade report explains why the reference to the terms of the transaction is critical:

> The reason that the reference to terms in an affirmative arm's length statement is critical is because it is often not possible to identify identical transactions with the same precise good or service and terms of sale between the company being audited on the one hand and both related and unrelated party providers on the other. Therefore, comparisons for purposes of determining the arm's length nature of related party transactions typically involve a comparison of all the material terms of the related party transactions in question with all of the material terms of similar transactions with an unrelated party or parties. The Association of Chartered Certified Accountant (ACCA) provides the following guidance on why the terms of the comparative transactions are important:
>
> > The auditor may face some practical difficulties when trying to obtain audit evidence in respect of all the various aspects of a related party transaction. In fact, while the auditor may be able to confirm that such a transaction has been conducted at market price, like a similar arm's-length transaction, as audit

[119] Emirates Submission at 20.

[120] Emirates 2015 Financial Statements at Note 37.

[121] IAS 24, ¶ 23 (emphasis added). In addition, Emirates says nothing about the related party transactions for years prior to its fiscal year ending March 31, 2014.

> evidence in that respect may be readily available, it may be difficult to confirm whether other terms and conditions are equivalent to those that would apply with an independent party. For instance the transaction may feature different credit terms or provisions for contingencies or charges.
>
> Thus, in typical arm's length assessments, it is not only base prices or charges that are being compared for purposes of validating arm's length claims, but the other material terms that affect that net cost or revenue. Because it includes no references to the terms of the transactions, or disclosure of prices or charges, the arm's length reference in the Emirates FY2015 annual report says little to nothing about whether Emirates pays full commercial prices for these goods and services.[122]

The shortcomings in Emirates' disclosure can be seen by comparing the language it used to the equivalent language in other airlines' disclosures. For example, the related party disclosure by Air France-KLM states that "Air France-KLM considers that such transactions are concluded on terms equivalent to those on transactions with third parties":[123]

AIRFRANCE KLM

As a part of its normal business, the Group enters into transactions with related parties including transactions with State-owned and governmental entities such as the Defense Ministry, the Paris Airport Authority ("Aéroports de Paris", or "ADP") and the French civil aviation regulator ("DGAC"). Air France-KLM considers that such transactions are concluded on terms equivalent to those on transactions with third parties. The most significant transactions are described below:

Similarly, Singapore Airlines' equivalent disclosure states that its related party transactions are "carried out in the normal course of business on terms that prevail in arm's length transactions . . . ."[124]

SINGAPORE AIRLINES

40 Related Party Transactions (in $ million) (continued)

In addition to the related party information disclosed elsewhere in the financial statements, these were the following significant related party transactions which were carried out in the normal course of business on terms that prevail in arm's length transactions during the financial year:

Moreover, Finnair's disclosure states that its related party transactions were at arm's length and "with similar terms" as those carried out with independent parties:[125]

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[122] Supplemental Capital Trade Report at 56-57.

[123] Air France-KLM Group Consolidated Financial Statements Financial Year Ended December 31, 2014; page 76.

[124] Singapore Airlines Annual Report FY 2013/14 at 201

FINNAIR

Transactions with related parties are with arms length, and are with similar terms than transactions carried out with independent parties. Management remuneration is presented in note 3.8. Management has not been granted any loans and there has not been any other transactions with management. For 2014, Finnair has recognised the write-downs of 10.8 million euros (subordinated loan and interest) and 11.3 million euros (advance payments and other operational receivables) regarding to joint venture Flybe Nordic Group.

In addition to highlighting the important differences between Emirates' disclosure and the actual language of the accounting standard, these disclosures by three other major airlines also show that there is no basis for Emirates' suggestion that it is unusual for an airline to make such a disclosure or that there is no good cause for doing so.[126] To the contrary, given the pervasiveness of the related party relationships in the Gulf aviation sectors – virtually every supplier of goods, services and capital that the Gulf carriers need are related parties (most of which do not publish financial statements) – and the obvious potential this creates for cross-subsidization, the need for such confirmation is particularly acute.

Similarly, Emirates asserts that one "cannot infer that, in the absence of an affirmative declaration, dealings with related entities are therefore not at arm's length."[127] Setting aside that Emirates has once again stated the wrong standard, its assertion is unsupported. It is also wrong. According to Ernst & Young, for example, IAS 24 "implies a rebuttable presumption that related party transactions are not on an arm's length basis unless the reporting entity can demonstrate otherwise."[128] Dr. Krishna Palepu, a professor of accounting at Harvard Business School, has also confirmed that it is reasonable to infer from Emirates' silence that its related party transactions "were not conducted on arm's length terms, and thus, that Emirates Airlines receives subsidies from other entities controlled by the Government of Dubai."[129]

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[125] Finnair Annual Report, 2014 at 105

[126] The Supplemental Capital Trade Report includes several additional examples of such statements by other airlines. See Id. at 56.

[127] Emirates Submission at 18-19.

[128] Ernst & Young, International GAAP 2014, at 21.

[129] Palepu Report, supra note 21, at 20-21.

Emirates and the other Gulf carriers are objecting strongly to the prospect of having to publicly release copies of the financial statements of their related party suppliers.[130] The reasons for their objections are clear: public release of the documents would help the U.S. Government and other stakeholders determine whether the Gulf carriers are receiving subsidies through related party transactions on non-commercial terms. Given the opaque web of ownership relationships and financial transactions that typify the Gulf aviation sectors, full transparency is vital to ensuring that Open Skies works as intended.[131]

D. The Gulf Carriers' Submissions Also Confirm That the Gulf Carriers Benefit from Other Artificial, Government-Conferred Cost Advantages

In addition to subsidies, the Partnership has 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 fail to rebut their substance.

1. The Gulf Carriers Benefit from Their Governments' Bans on Labor Unions

Trade unions are illegal in the UAE, workers in Qatar are not allowed to unionize or strike, and the Gulf carriers enjoy significant cost advantages as a result.[132] Etihad claims that it is "disingenuous" and "insulting to the sovereignty of the UAE" for the U.S. airlines to note these points, and that is an "odd issue" to be raised in a trade dispute. However, it is U.S. law – specifically, Section 301 of the Trade Act of 1974 – that treats the denial of the right of association or the right to organize and bargain collectively as an unfair trade practice.[133] If Etihad believes the provision is disingenuous and insulting, it may wish to direct its concerns to Congress.

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[130] See, e.g., Emirates Submission at n.28 (describing the request as "clearly improper and well outside the scope of the Open Skies Agrèement").

[131] The Supplemental Capital Trade Report includes further discussion of these related party issues, including a rebuttal to the arguments that Emirates makes about its transactions with specific related parties. See Supplemental Capital Trade Report at 53-63. As a general matter, the most striking aspect of the Emirates arguments – like every other argument in its submission – is that it is devoid of evidentiary support.

[132] White Paper at 36-38.

[133] 19 U.S.C. § 2411(d)(3)(B)(iii)(I)-(II).

For its part, Emirates feigns confusion about the Partnership's arguments in order to assert that WTO subsidy rules do not apply to the air transport sector, even though the White Paper clearly states that the bans on unions are additional unfair practices, not subsidies.[134] It also criticizes the White Paper's quantification of the realized labor advantage from the union ban. However, rather than refute the White Paper's demonstration of the advantage, Emirates merely suggests that the estimated advantage, an 11 percent lower wage cost, is not exact. Given the lack of data from Emirates, this is not a surprise and is hardly a serious criticism. Emirates also criticizes the lack of a comparison to U.S. airlines, but making this comparison only strengthens our case.

(a) Emirates Fails to Rebut That It Enjoys Labor Cost Advantages Because Collective Bargaining Is Illegal in the UAE

Emirates' submission claims that the 11 percent impact on wages from unionization used in the White Paper is flawed because it relies on "a 25-year-old study of industrial wages solely in the United States . . . It has no bearing on aviation, on services industries, or on the Middle East."[135] First, academic studies continue to find largely the same, or even greater, effects of unionization. For example, a more recent extensive survey found that while "[c]onventional wisdom among labor economists holds that the average union wage premium is approximately 15 percent . . . arguments presented herein show that there exists a substantial downward bias in standard union gap estimates."[136] There simply is no reason or evidence to suggest that the union wage premium has changed.

Second, while most unionization studies investigate the developed world (partially due to data limitations), a recent study of the union wage gap in Bolivia, Chile and the United States estimated the wage premium to be between 12 to 18 percent, concluding that "[u]nions are found to have similar and substantial effects in reducing wage inequality in the three countries."[137] That is, there is no evidence that the union wage gap differs across countries or types of countries (*i.e.*, developed versus less developed). The literature serves to rigorously demonstrate that

[134] See, e.g., White Paper at 36. Qatar also feigns confusion on this point. Qatar Submission at 35.

[135] Emirates Submission at 49.

[136] Barry T. Hirsch, *Reconsidering Union Wage Effects: Surveying New Evidence on an Old Topic*, Journal of Labor Research, Vol. XXV, No. 2, 233, 259 (Spring 2004).

[137] Fernando Rios-Avila and Barry T. Hirsch, "Unions, Wage Gaps, and Wage Dispersion: New Evidence from the Americas," Industrial Relations, Vol. 53, No. 1 (January 2014) at 24.

changes in bargaining power impact wages, and that an 11 percent premium is a reasonable – and indeed conservative – estimate to use.

(b) Emirates' Claim That It "Complies Rigorously with Applicable Labor Laws" and Has Employees Outside the UAE That Are Free to Collectively Bargain Is Irrelevant[138]

The Partnership has not questioned whether Emirates must obey the laws of the countries in which it has local operations. Nevertheless, since most of their employees are based in Dubai, and these workers cannot unionize and therefore do not have the upward wage pressure that the ability to unionize gives, Emirates gains an important cost advantage. Indeed, the Emirates submission does not deny the fact that the inability of its employees to collectively bargain has enabled it to impose work rules and other working conditions that would not be permitted in the United States, consequently providing substantial cost savings. And while Emirates asserts that it provides "exemplary" employee benefits, [139] there is a growing body of evidence that suggests that Emirates, in its rapid growth, is pushing its labor force in ways that unions would likely respond to in other countries, or that would possibly lead employees to seek union protection. For instance, a recent article noted that "Emirates Airline faces questions from regulators and staff over whether it overworks pilots, adding to challenges for the carrier that include . . . discontent among cabin-crew staff."[140]

(c) Emirates' Claim That It Provides Benefits for Staff That "Meet or Exceed Industry Norms" Does Not Undermine the Conclusion That It Receives Unfair Cost Advantages from the Union Ban

Emirates claims that it "provides competitive salaries in the aviation industry, which allows it to attract and retain staff from across the world."[141] But its primary evidence for this assertion seems to be that it pays profit sharing. In fact, it may be that for some industry groups such as pilots, for which Emirates hires some U.S. and European pilots that can also fly for international

[138] Emirates Submission at 50.

[139] Id.

[140] Rory Jones, *Pilot Workload at Emirates Under Question Airline's Policies Pose A Further Challenge To The Carrier*, WALL ST. J. (Apr. 9, 2015); see also, Rory Jones *Labor Strife an Unwelcome Novelty for Emirates Airline: Cabin crew complain of working longer hours and shortened layovers*, WALL ST. J. (Mar. 20, 2015) (stating that "[labor] dissent comes as the airline is growing rapidly and recruiting aggressively...").

[141] Emirates Submission at 51.

airlines based in countries that permit collective bargaining, Emirates faces some degree of labor market pressure that results in it compensating those employees at close to market rates. But this would not be the case for the majority of workers (baggage handlers, mechanics, reservations agents, airport customer service, etc.) that are based in Dubai and drawn from more localized labor markets. These are the workers for which Dubai's laws push compensation rates downward, giving Emirates a cost advantage. Emirates has presented no data to suggest that this is not the case.

Emirates also claims that because it receives many applicants for jobs, this must be an indication that it compensates its employees well. In actuality, it is exactly when there is such competition for jobs that the ability to unionize makes the biggest difference. The fact that Emirates faces a surplus of applicants for its jobs in a context where its employees cannot collectively bargain is likely to put an even greater downward pressure on its compensation to its employees.

2. The Gulf Carriers Benefit from Their Exemptions from General Sales Agent Requirements

International airlines doing business in Qatar and the UAE are required to contract with locally-owned general sales agents (GSAs). The GSAs charge a sales commission that historically has averaged 2-3 percent of revenues. The actual fee is subject to negotiation with the GSA, so it is not necessarily the same for every airline. Nevertheless, it is an additional fee that foreign airlines are required to pay that does not apply to local airlines. The discriminatory application of this requirement unfairly increases the costs of U.S. and other foreign airlines in their competition with the Gulf carriers.

Apart from asserting that the U.S. airlines are exhibiting a "quasi-colonial attitude" by pointing out this obvious discrimination, Etihad makes no effort to rebut this issue, as the facts are plain. Emirates argues that the WTO General Agreement on Trade in Services (GATS) does not apply to air transport services – an issue that the Partnership never alleged – and then dismisses the issue on the grounds that other countries do the same thing.[142] And while Qatar claims that foreign airlines are not required to appoint a GSA, the experience of U.S. airlines in Qatar has been the opposite.

[142] Emirates Submission at 56.

3. The Gulf Carriers Benefit from Their Exemptions from Competition Laws

Etihad claims that the Partnership is "simply wrong" in asserting that the UAE does not have an antitrust law. The White Paper never made such an assertion. In actuality, the White Paper stated, accurately, that while the UAE and Qatar have competition laws, they explicitly exempt government-owned entities (as well as the entire transportation sector) from their scope.[143]

The non-applicability of these laws to the Gulf carriers explains, for example, how the Chairman of Emirates can also serve as the Chairman of the low-cost carrier flydubai and ensure that the two carriers do not compete. The wholly, vertically-integrated nature of the Gulf aviation sectors – with all of the artificial cost advantages that it confers on the Gulf carriers – would be impossible in the United States. And while Emirates argues that there is nothing in the Open Skies agreement that requires a "specific domestic competition law or policy," it does not dispute the accuracy of the U.S. airlines' observation.[144] Qatar does not address this issue at all.

4. The Gulf Carriers Benefit from Their Exemptions from Taxation

The White Paper accurately noted that the UAE has a corporate tax regime and that it does not enforce the law with respect to domestic companies. It also noted that the non-application of the law to Emirates saved the airline as much as $523 million in fiscal year 2013-2014 alone, and $4.6 billion over the past 10 years.[145] Emirates does not dispute the accuracy of the U.S. airlines' calculation.[146]

The White Paper also noted that the Gulf carriers receive an additional benefit from the fact that Qatar and the UAE do not impose fuel taxes. The Gulf carriers do not respond to this point at all.

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[143] White Paper at 39.

[144] Emirates Submission at 58.

[145] White Paper at 39.

[146] Etihad's only response to this issue is to assert that it does not receive tax breaks or exemptions from the UAE government and that the UAE is a tax-free country. Etihad Submission at 24. Typically, it provides no evidence to support its assertion. And Etihad simply ignores the fact that Article 11 of the Amiri decree that established the airline (Law No. 1 of 2003) exempted Etihad and its affiliates from all taxes and duties, including taxes on any dividends from its partners or its affiliates' partners and income taxes and customs duties on everything the company imports "to achieve the company's purposes." See White Paper at 18-19.

5. The Gulf Carriers Benefit from Their Lack of Independent Regulatory Oversight

Unlike U.S. airlines, the Gulf carriers are not subject to oversight by independent regulators in their home markets.[147] While Etihad tries to deflect this point by mischaracterizing the U.S. airline position as opposing regulation of government-owned airlines, and Emirates does the same by falsely claiming that the White Paper questioned safety standards in the UAE, neither airline addresses the actual point: Like airlines that are not SOEs, the Gulf carriers should be regulated by independent regulatory bodies that do not have ties to the airlines they regulate.[148]

The absence of independent regulation is a serious issue in the SOE context that the U.S. Government is seeking to address in several ongoing trade negotiations. As the OECD has pointed out:

> The SOE Guidelines recommend separation of the state's ownership functions from its regulatory responsibilities. Full administrative separation of ownership and market regulation responsibilities is necessary to create a level playing field between SOEs and their private sector competitors, especially when SOEs are used as an instrument of industrial policy. The latter concern is considered especially relevant to Gulf economies.[149]

As the White Paper noted, the Chairman of Emirates is also the President of the Dubai Civil Aviation Authority (DCAA) and a Director of the General Civil Aviation Authority of the UAE. Thus, it is not surprising that a recent OECD publication described the DCAA as "at least as much a support agency for Emirates as a classical regulator."[150] Similarly, the Chairman of Qatar's Civil Aviation Authority is also a Member of Qatar Airways' Board of Directors. And it is indisputable that Qatar and the UAE use the Gulf carriers as instruments of industrial policy.

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[147] White Paper at 39.

[148] Qatar does not address this issue in its submission.

[149] Amico, Alissa (2012), "Priorities for improving governance and performance of state-owned enterprises in the Middle East and North Africa", *in* OECD, Towards New Arrangements for State Ownership in the Middle East and North Africa, OECD Publishing at 30, http://dx.doi.org/10.1787/9789264169111-3-en.

[150] Hertog, Steffen (2012), "How the GCC did it: formal and informal governance of successful public enterprise in the Gulf Co-operation Council countries", *in* OECD, Towards New Arrangements for State Ownership in the Middle East and North Africa, OECD Publishing at 80, http://dx.doi.org/10.1787/9789264169111-5-en.

In sum, this is not an issue of safety or "quasi-colonialism," it is an issue of the need to create a level playing field, as the OECD has clearly stated, and as the U.S. Government has acknowledged.

II. The Subsidies Have Caused Substantial Harm to U.S. Carriers and Threaten Substantial Additional Harm in the Immediate Future

In our earlier submissions, we demonstrated that the harm to U.S. carriers from the subsidized growth of the Gulf carriers is already substantial, and threatens to become even more substantial in the near future.[151] Nothing in the submissions of the Gulf carriers or any other submission in this proceeding calls this analysis into question. To the contrary, the submissions of the Gulf carriers – stripped of their rhetorical excesses – largely confirm our prior analysis.

As we show below, the Gulf carriers' submissions do not in any way undermine the key findings of the Compass Lexecon reports – including the finding that the presence of Gulf carriers in U.S.-international city-pairs suppresses the fares of and reduces the number of passengers traveling on U.S. carriers, or the finding that Gulf carriers have failed to meaningfully stimulate demand and, therefore, their growth must necessarily come almost completely at the expense of U.S. and other carriers.

First, in Section II(A), we recall the key Compass Lexecon empirical findings (as updated in the Supplemental Compass Lexecon Impact Report),[152] regarding the observed effect on U.S. carriers of Gulf carrier competition in the more than 9,000 O&D city-pairs between the United States and international destinations where they compete. We will show that this observed effect, both in terms of passenger losses and price effects, constitutes significant, material harm

[151] See Partnership Answers to Questions at 23-83; Darin Lee & Eric Amel, "Assessing the Impact of Subsidized Gulf Carrier Expansion on U.S.-International Airfares and Passenger Traffic," Apr. 2015, appended to Partnership Answers to Questions, Tab 1 (Compass Lexecon Impact Report); Darin Lee & Eric Amel, "Assessing the Impact of Subsidized Gulf Carrier Expansion on U.S.-International Passenger Traffic," May 2015 (Compass Lexecon Traffic Report).

[152] Darin Lee & Eric Amel, "Supplemental Comments Regarding the Impact of Subsidized Gulf Carrier Competition on U.S. Carriers," Aug. 2015, (Supplemental Compass Lexecon Impact Report) (attached as Exhibit 7). As described in the Supplemental Compass Lexecon Impact Report at 13 n.54, the underlying Marketing Information Data Tapes (MIDT) used in the original Partnership White Paper and Compass Lexecon studies have been revised to correct for a processing error impacting the number of bookings on some itineraries. While the effect on the empirical results in the prior Compass Lexecon reports is minor, Appendices B-1 to B-4 of the Supplemental Compass Lexecon Impact Report includes updated versions of all the key empirical results using the updated data.

to U.S. carriers, and that the Gulf carriers' submissions do nothing to challenge these empirical findings.

Then, in Section II(B) below, we describe one the most concrete examples of the current harm suffered by U.S. carriers because of the glut of subsidized Gulf carrier capacity: the fact that U.S. carriers have been all but foreclosed from serving one of the largest and fastest growing markets in the world, i.e., India. We also discuss how the Gulf carriers are utterly incapable of offering any plausible explanation for why U.S. carriers would be (as they claim) simply inattentive to some of the largest and fastest-growing international passenger markets in the world, while the subsidies received by the Gulf carriers are of a nature and extent to fundamentally distort competition in a way that would be expected to produce precisely the effects that are observed.

In Section II(C), we will show how the empirically observed effects discussed in Sections II(A) and II(B) are the direct result of the enormous subsidies that have been provided to the Gulf carriers. The subsidies materially reduce the Gulf carriers' cost of capital and therefore enable them to expand more rapidly than the market would otherwise dictate. Over time, the subsidies therefore directly result in the diversion of passengers and market share by the Gulf carriers without meaningfully stimulating demand, exactly as the empirical evidence shows has occurred. The Gulf carriers themselves describe the same empirical phenomena – that the Gulf carriers have expanded rapidly, especially in growing markets, while U.S. and other carriers have not been able to take advantage of these opportunities.

In Section II(D), we show that the Gulf carriers' submissions do not in any way undermine the Compass Lexecon finding that Gulf carriers have not meaningfully stimulated demand. Therefore, as a matter of simple arithmetic, their growth must have come almost completely at the expense of other carriers, including U.S. carriers. These findings continue to provide strong validation of the empirical evidence of harm caused by the subsidies to the Gulf carriers.

Next, in Section II(E), we show that the Gulf carriers' claims to provide substantial benefits to the U.S. economy are largely spurious, and in any case are far outweighed by the real and substantial harm to U.S. economic interests, far beyond the bottom lines of the U.S. carriers. Finally, in Section II(F), we show that – contrary to the assertions in the Gulf carriers'

submissions – the threat of additional substantial harm to U.S. carriers from subsidized Gulf carriers is real, immediate, and very substantial. All of these significant harms are directly attributable to the market distortions caused by the subsidies that have been provided, and are still being provided, to the Gulf carriers, compelling the conclusion that the United States must exercise its rights under the Open Skies agreements to ensure the free and fair competition that they promise.

A. The Gulf Carriers Fail to Show That They Have Not Significantly Displaced U.S. Carriers and Caused Significant Price Effects on U.S. Carriers

The Compass Lexecon Impact Report demonstrated, through the use of regression analysis of passenger traffic and fare data from 2008 through the third quarter of 2014 at a city-pair level, that the presence of Gulf carriers on a given city-pair significantly reduces the number of passengers on U.S. carriers and depresses fares received by U.S. carriers.[153] For example, the initial Compass Lexecon Impact Report demonstrated that, if Gulf carrier presence is defined at a threshold of a 3 percent market share in a particular quarter, the presence of *each* Gulf carrier reduces U.S. carrier passengers in that city-pair, on average, by 8.1 percent;[154] based on updated MIDT data, the effect is 8.7 percent on average.[155] These effects are cumulative; if all three carriers are present the declines are 26.1 percent. Further, the initial Compass Lexecon Impact Report showed that on city-pairs to and from one of the Gulf carriers' U.S. gateway cities, the presence of *each* Gulf carrier reduces average fares for U.S. carriers on that city-pair, on average, by 4.3 percent.[156] Based on updated MIDT data (and extending time period to cover the most recent quarter of U.S. DOT data), the effect is 4.8 percent, on average.[157] These effects are also cumulative; if all three carriers are present the decline is 14.4 percent, on average.

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[153] Compass Lexecon Impact Report at 40-53.

[154] Partnership Answers to Questions at 34.

[155] Supplemental Compass Lexecon Impact Report, Appendix B-2.

[156] Partnership Answers to Questions at 26.

[157] As shown in Appendix B-1 of the Supplemental Compass Lexecon Impact Report, based on the updated MIDT data, the presence of each Gulf carrier with at least a 3 percent share reduces average fares for U.S. carriers on city-pairs to/from Gulf carriers' U.S. gateway cities by 4.4 percent, on average. Exhibit 8 in that same report updates the fare regression through the fourth quarter of 2014 and shows that the presence of each Gulf carrier with at least a 3 percent share reduces average fares for U.S. carriers in that city-pair by 4.8 percent.

In their submissions, the Gulf carriers largely do not challenge the substance of these empirical findings. Rather, they attempt to distract from these facts by citing other (often irrelevant or incorrect) data and by making the audacious claim that U.S. and Gulf carriers don't even compete. As explained below, their transparent attempts to rebut the substantial evidence of harm that we have already established cannot withstand scrutiny.

1. The Significant Effects of Gulf Carrier Presence Are Confirmed by Substantial O&D City-Pair Overlap

Several submissions have contended that Gulf carriers cannot have caused harm to U.S. carriers because of the limited direct overlap in their networks. For instance, Emirates asserts that U.S. carriers "compete with Emirates only on a few routes"[158] and Qatar claims that "no US airline competes with Qatar Airways in any nonstop market".[159] If there is little actual competition between U.S. and Gulf carriers, the suggestion is, the amount of harm to U.S. carriers must be insubstantial.

The fundamental flaw in these analyses is that they are confined to overlap in the *routes* of U.S. and Gulf carriers, whereas the market for actual passengers is in the O&D city-pair.[160] There are multiple ways to fly from Washington to Mumbai – connecting at Doha via Qatar or connecting at Newark via United are just two of the possible options among many. That these two routings between Washington and Mumbai do not precisely overlap – i.e., that one cannot fly nonstop from Newark to Mumbai on Qatar or from Doha to Mumbai on United – does not mean that Qatar and United do not compete on the Washington-Mumbai O&D city-pair. Indeed, given that a substantial number of the Gulf carriers' U.S. passengers have a behind-gateway connecting

[158] Emirates Submission at 87.

[159] Qatar Submission at 43.

[160] Supplemental Compass Lexecon Impact Report at 3-4. Even Edgeworth Economics correctly observes that competition occurs at the city-pair level, not on the non-stop overlapping routes. See Edgeworth Economics', *Empirical Investigation and Analysis of Economic Issues Raised in "Restoring Open Skies: The Need to Address Subsidized Competition From State-Owned Airlines in Qatar and the U.A.E.,"* (May 21, 2015) (Edgeworth Report) at 4-5: "The appropriate level of analysis when examining competitive alternatives for passenger air travel is between origin and destination combinations and not between a particular carrier's hub (i.e., Abu Dhabi) and a destination".

flight in the United States, U.S. and Gulf carriers compete not only on city-pairs involving one-stop routings but also two-stop routings.[161]

Simply put, the submissions of Emirates and Qatar assume away *even the possibility of harm* by fundamentally mischaracterizing how airlines compete, and in some cases, ignoring basic facts. For example, according to Emirates "*the Legacy Carriers serve only two U.S.-Indian Subcontinent city pairs with their own aircraft: Newark-Delhi and Newark- Mumbai*,"[162] while in fact the Supplemental Compass Lexecon Report shows that United offers one-stop service on 158 U.S.-Indian Subcontinent city pairs (plus its two-non-stop routes) using their own aircraft.[163] Compass Lexecon also showed that U.S. carriers and their JV partners serve over 1,800 U.S.-Indian Subcontinent city-pairs with two or fewer stops.[164]

In our earlier submissions, we demonstrated that city-pairs on which Gulf carriers were present at the 3 percent level accounted for [ ] percent of U.S. carriers' trans-Atlantic and trans-Pacific passengers in the first three quarters of 2014.[165] No submission raised any questions about this figure. The supplemental Compass Lexecon empirical analysis, which was also conducted entirely on the O&D level, shows that in 2014, U.S. and Gulf carriers overlapped on more than 9,000 U.S.-international city-pairs, up from 3,500 in 2008.[166] And as shown below, the geographic breadth of the overlap between U.S. and Gulf carriers is not limited to a single region (i.e., the Indian Subcontinent), but rather, spans much of Asia, Africa, the Middle East and Australasia.

[161] Supplemental Compass Lexecon Impact Report at 16-17. Qatar's submission (at 43) also asserts that it has "almost no one stop overlap with U.S. carriers", a statement that is also untrue.

[162] See Emirates Submission, page 114.

[163] Supplemental Compass Lexecon Impact Report at 14.

[164] Id.

[165] Partnership Answers to Questions at 43. For the full year 2014, and using updated MIDT data, [ ] percent of U.S. carriers' trans-Atlantic and trans-Pacific passengers travel on city-pairs with Gulf carrier presence.

[166] Supplemental Compass Lexecon Impact Report at 20-21.

Figure 4: Number of U.S.-International City-Pairs (by Foreign Destination) with Overlapping U.S. and Gulf Carrier Competition (2014)



Source: MIDT, 2014.
Notes: Map shows all city-pairs aggregated by foreign endpoint for which at least one Gulf carrier and at least one U.S. carrier has at least a 3% share of bookings for in 2014. A booking is a U.S. or Gulf carrier booking if a U.S. or Gulf carrier is the dominant operating carrier (i.e., the carrier flying the longest total distance), respectively. U.S. carriers include: American, Delta, US Airways, and United.

Moreover, these city-pairs accounted for approximately [ ] percent of U.S. carriers' trans-Atlantic and trans-Pacific revenues in 2014.[167] Further, these figures reflect U.S. carriers' revenue levels *after* the suppressing effects of the Gulf carriers (on U.S. carriers' fares and passengers) that have already been experienced. In sum, empirical analysis has demonstrated that 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.[168]

2. The Gulf Carriers Have Not Even Challenged the Compass Lexecon Fare Suppression Analysis

Interestingly, the Gulf carriers' submissions fail to address the demonstration in Compass Lexecon's econometric analysis that the presence of Gulf carriers on an O&D city-pair depresses

[167] Id. at 20.

[168] According to OAG data, the Gulf carriers offered an average of approximately 14,800 seats per day to and from the United States in 2014, a figure which had increased by more than 35 percent to over 20,000 daily seats in 2015.

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fares for U.S. carriers. The Edgeworth report contains a brief discussion of fare trends on certain routes based on published fares,[169] but published fares in the airline industry often provide little information about the fares that are actually paid by consumers or received by carriers.[170]

In its supplemental report, Compass Lexecon confirms and updates its earlier findings.[171] First, they confirm (using updated MIDT data and extending the data period through the end of 2014) that the presence of *each* Gulf carrier on an O&D U.S.-international city-pair at a 3% minimum level reduces fares, on average, by 4.8 percent from Gulf carrier U.S. gateway cities and 1.3 percent from all other U.S. cities. In addition, the estimated coefficient for Gulf carrier presence from Gulf carrier gateway cities is more than ten times the estimated coefficient for non-Gulf carrier presence, showing that the price effect from subsidized Gulf carrier competition is much more pronounced than the price effect from competition involving other carriers.[172]

Next, the Compass Lexecon report shows that the average yields of U.S. carriers have been suppressed in regions where they face the strongest Gulf carrier presence, such as the Middle East and the Indian Subcontinent.[173] In addition, it shows that U.S. carrier yields between New York City and Milan are, by a considerable margin, the lowest from New York City to any city in Europe.[174] This confirms the earlier Compass Lexecon findings with respect to the very substantial price effects of Emirates' fifth freedom service between New York and Milan.

3. The Gulf Carriers Provide No Reason to Undermine the Compass Lexecon Regression Analysis Demonstrating that the Presence of Gulf Carriers Reduces the Number of Passengers Traveling on U.S. Carriers

In addition to rigorously demonstrating that the presence of Gulf carriers suppresses the fares of U.S. carriers across thousands of U.S.-international city-pairs, the Compass Lexecon Impact Study also demonstrated that Gulf carriers' traffic gains have largely come at the expense of U.S. and other carriers. In particular, they provided detailed econometric evidence showing that the

[169] Edgeworth Report at 16-21.

[170] Supplemental Compass Lexecon Impact Report at 37.

[171] Id. at 30-38.

[172] Id. at 31-32 Exhibit 8.

[173] Id. at 33-34.

[174] Id. at 35-37.

presence of each Gulf carrier with as little as a 3% booking share on a city-pair reduces the number U.S. carriers' passengers on that city-pair by approximately 8% on average (i.e., when all three Gulf carriers are present on a U.S. international city-pair, U.S. carrier passengers are—on average—24% lower than they would otherwise be, but for Gulf carrier presence).[175] The regression analysis also demonstrated that on city-pairs where each of the Gulf carriers has at least a 10% share involving a Gulf carrier U.S. gateway city, U.S. carrier passengers have been reduced by approximately 50%, on average.[176]

While not providing any econometric evidence to the contrary, the Gulf carriers' submissions make several technical criticisms of Compass Lexecon's methodology, all of which have been shown to be incorrect or irrelevant.[177] Likewise, Emirates' assertions that its entry into four U.S. markets has stimulated demand to the benefit of U.S. carriers as well as Emirates are simply incorrect.[178] In reality, bookings on U.S. carriers and their joint venture partners from cities they have entered to regions served by Emirates fell substantially after Emirates entered these markets.[179]

B. The Limited Presence of U.S. Carriers in Markets Such as India Is a Result of the Subsidy, Not a Lack of Interest or Attention

Another common refrain in the Gulf carriers' submissions is the assertion that they have simply taken advantage of a business opportunity created by the alleged lack of interest by U.S. carriers in serving the Indian Subcontinent and other supposedly underserved markets. For example, Etihad claims that U.S. carriers "affirmatively and voluntarily choose not to directly serve Etihad's key Middle East and Indian Subcontinent markets in a meaningful way,"[180] and blames U.S. carriers' "affirmative choices not to properly serve these markets" for their poor market

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[175] Compass Lexecon Impact Study, at 47. Based on the updated MIDT data, the average effect becomes 8.7%. Supplemental Compass Lexecon Impact Report, Appendix B-2, column (3).

[176] Compass Lexecon Traffic Report, at 3. See also Supplemental Compass Lexecon Impact Report, Appendix B-3, column (1), indicating a negative impact (using the updated MIDT data) of 17.6% per Gulf carrier present.

[177] Supplemental Compass Lexecon Impact Report at 75-79.

[178] See, e.g., Emirates Submission at 111 ("Far from harming the Legacy Carriers, in a large number of cases Emirates has helped stimulate these emerging markets *to the benefit of the Legacy Carriers* . . . .:).

[179] Supplemental Compass Lexecon Impact Report at 55-56.

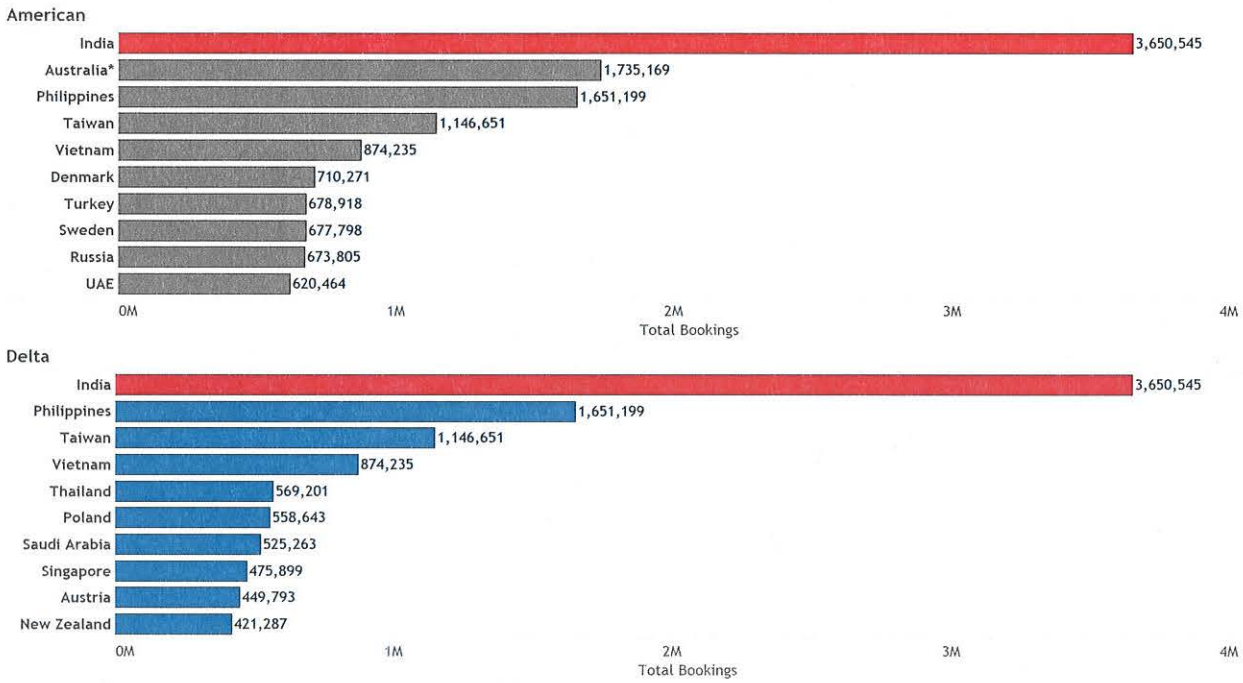
[180] Etihad Submission at 8.

shares in these regions.[181] For its part, Qatar claims that "US carriers have long ignored the India/ISC market" and "US carriers for years have largely ignored the US-ISC market."[182] And Emirates states that U.S. carriers "simply made a business decision not to commit their capacity" to the Indian Subcontinent markets.[183]

1. India is the Second Largest Country in the World—Yet It is Not Served by Two of the Three U.S. Carriers

As an initial matter, it strains credulity to argue that U.S. carriers (with or without their European joint venture partners) have simply decided, for no apparent reason, not to serve the world's second largest country and one of its fastest-growing economies. As shown below, India is—by a wide margin—the largest country in the world that is not served by either Delta or American.

Figure 5: Largest Countries Not Served By American and Delta Non-Stop From The United States (By 2014 Bookings To/From The United States)



Sources: MIDT; OAG (July 2015-December 2015).
*As of December 2015 American will serve Australia (*see* http://hub.aa.com/en/nr/american-airlines-and-qantas-airways-to-add-new-flights-between-the-united-states-and-australia-6-9-2015)

[181] Id. at 43.

[182] Qatar Submission at 40.

[183] Emirates Submission at 113.

The Gulf carrier submissions put forward no plausible explanation for this major gap in the present global coverage of the U.S. carriers, other than to imply that, perhaps, U.S. carriers just don't feel like flying to India. It is far more plausible that there is an *economic* reason why three global, publicly traded U.S. carriers have all significantly scaled back or eliminated their services to this major and growing market. Saying, as the Gulf carriers do, that the U.S. carriers' choice to reduce or eliminate their capacity was a "voluntary" one says nothing; clearly, it was not a choice compelled by an external prohibition, but this was never in question. What matters are the *reasons* that gave rise to this choice, but the Gulf carriers simply offer no explanation, satisfactory or otherwise, in their submissions.

The facts are straightforward. As shown below, U.S. carriers (as well as their European JV partners) long ago identified India as a potential significant growth market,[184] and between 2005 and 2008, Delta, American, and Continental (now part of United) each launched non-stop service between the United States and India.[185] Delta, for example, identified seven additional U.S.-India markets which could support nonstop service at then-existing yields, and ordered several long-range 777-200LRs to provide the service.[186] By the time those aircraft arrived, the Gulf carrier build-up had caused fares to the region to plummet and flights to those markets were no longer viable at Delta's costs. During the severe recession and sharp traffic declines following the global financial crisis in 2008, both the U.S. carriers and their joint venture partners suspended their growth to the Indian Subcontinent, but Gulf carriers accelerated their capacity growth to the region, with the result that neither U.S. carriers nor their joint venture partners have been able to restore their capacity to pre-recession levels.[187] It is the massive subsidized growth in Gulf carrier capacity to this region, not an inexplicable lack of interest, that has precluded all other carriers, including U.S. carriers and European carriers, from even restoring

[184] The Business Confidential appendices to the Partnership Answers to Questions contain additional, company-specific confidential information about the business plans of certain U.S. airlines in this respect.

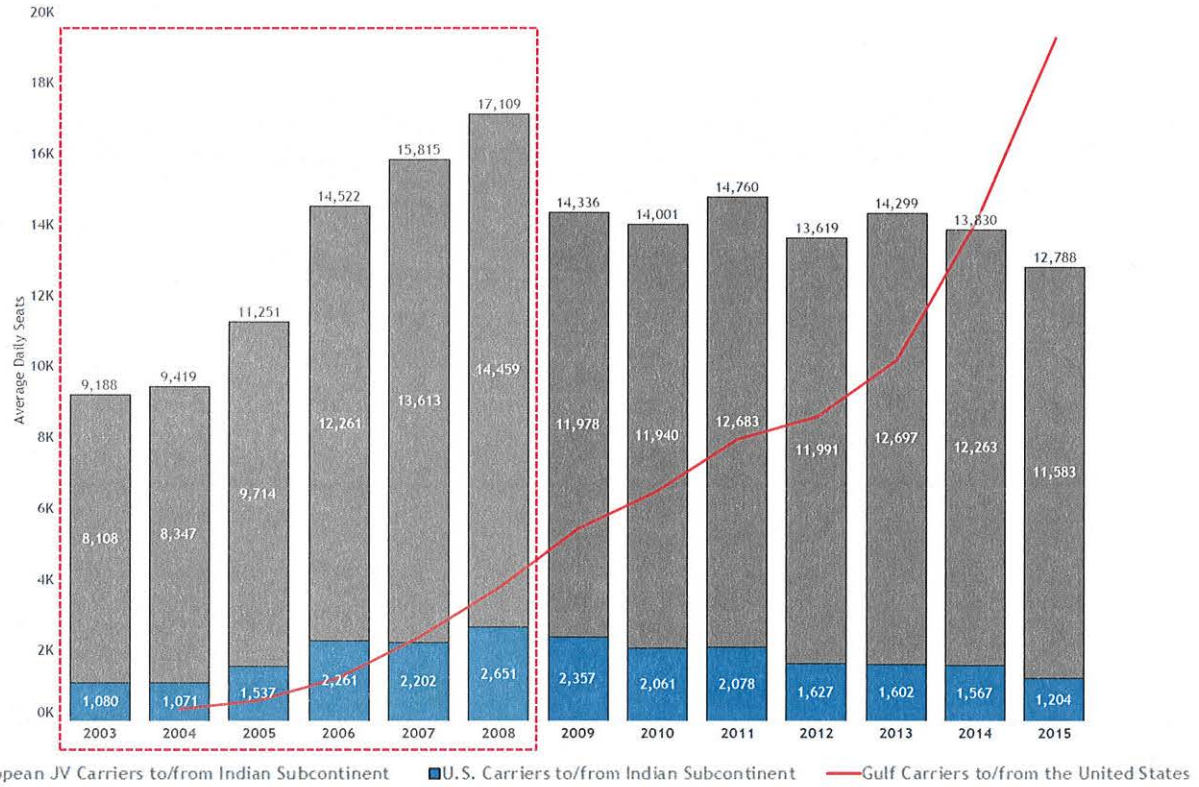
[185] Supplemental Compass Lexecon Impact Report at 42.

[186] See Business Confidential appendices to the Partnership Answers to Questions.

[187] Supplemental Compass Lexecon Impact Report at 43.

their pre-2009 levels of service to the Indian Subcontinent, let alone to grow that capacity in line with actual and projected market expansion.[188]

Figure 6: U.S. and JV Partner Carrier Average Daily Seats to/from the Indian Subcontinent vs. Gulf Carrier Average Daily Seats to/from the United States



Source: OAG.
Notes: Gulf carrier seats include flights between the United States and DXB, AUH, and DOH. European JV partners include Air France/KLM, Alitalia, Virgin Atlantic, British Airways/Iberia, Lufthansa, Swiss, Brussels and Austrian. The Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka.

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[188] Id. at 43-44.

Both Emirates and Qatar point out that some of the U.S. carriers have, at various times, attributed particular actions taken with respect to service between the United States and India to a variety of causes, including but not limited to the Gulf carriers. See Emirates submission at 117-120; Qatar submission at 39-40. Of course, in a dynamic market, any one particular decision by any one particular carrier at a given moment in time can be determined by a confluence of many factors – competition from Gulf and non-Gulf carriers, costs such as fuel prices, general economic trends, and a host of other factors. But it does not follow that the vast capacity buildup by subsidized Gulf carriers, *over time and in the aggregate*, cannot itself be responsible for market conditions that dictate a significant reduction in the amount of capacity in which U.S. carriers can reasonably invest, regardless of what other factors may affect a particular decision to launch or curtail a particular service at any particular moment. Given that Gulf carriers are subsidized to an unprecedented degree, that their capacity is (not coincidentally) growing more rapidly than other carriers, and that they have more than ten times the price depressing impact of other carriers, a significant portion of the U.S. carriers' withdrawal from these markets must be attributed to Gulf carriers and their subsidies, even if other market factors also play a role from time to time in particular decisions.

If the Gulf carriers are all increasing their capacity to serve the Indian Subcontinent – or any other region and U.S. (and European) carriers that are reliant on capital markets for their funding are all scaling back their capacity to that region, this is a clear indication that the Gulf carriers have an advantage in serving that market (in terms of a lower cost of capital) or are making decisions based on criteria other than profitability. In either case, the massive subsidies provided to all of the Gulf carriers inevitably play a central role in enabling these capacity decisions, as we explain in more detail below in Section II(C). But we need not wonder why the Gulf carriers uniformly decline to offer an explanation for why U.S. carriers have "affirmatively and voluntarily" ceded this important, growing market to them. It is because U.S. carriers cannot expand their capacity to that market profitably, while the Gulf carriers apparently have the resources to serve this market consistent with their own criteria.[189] And the Gulf carriers would apparently prefer not to dwell on what, precisely, enables them to do what U.S. carriers cannot in this market.

Thus, Emirates' speculation that U.S. carriers could dominate the U.S.-Indian Subcontinent market, if they really wanted to, by offering more nonstop service that would compete favorably with Gulf carriers' one-stop service through Gulf hubs,[190] inevitably falls flat. If U.S. carriers were in a position to obtain an acceptable, market-based return by serving this region with nonstop flights from the United States – thereby providing valuable services to passengers in a way that is economically sustainable for an unsubsidized, publicly traded company – they would clearly do so, as this would be in their interest. Indeed, as explained above, *until* the Gulf carriers began to substantially increase their presence in the Indian Subcontinent, U.S. carriers had begun to serve this growing market.

In any event, more than 60 percent of passengers flying between New York City and Mumbai and Delhi (the two currently available nonstop routes on U.S. carriers between the United States and India) utilize connecting itineraries, and for these passengers one-stop service via a Gulf

[189] See David C. Forward, "Growing Quietly, Quickly, in Qatar," *Airways Magazine*, Sept. 2002, 37, at 39 ("'How can you put enough people on a wide-bodied aircraft to make money on New York-Doha?' is the obvious question. The answer, given by a senior manager: 'Who cares about making money? If we fly the most impressive aircraft nonstop to New York and only average half a dozen first- or business –class passengers a day, we'll lose at least $10 million on the route. But what's $10 million to Qatar? The Emir gives that much away to a charity at a single event. It's about prestige. Look at what it would do for Qatar Inc.'").

[190] Emirates Submission at 117-18.

carrier is demonstrably competitive with the non-stop services offered on these two routes.[191] There is simply no basis to believe that the alleged lack of interest by U.S. carriers in particular markets, including the Indian Subcontinent, has any basis other than the U.S. carriers' experience of the lack of viable market opportunities available to them, given the vast, massively subsidized Gulf carrier presence in these markets. The Gulf carriers' failure to give any plausible alternative explanation for U.S. carriers' withdrawal from these important markets is clear evidence of harm.

2. Loss of Market Share Is an Appropriate Measurement of Displacement

Several submissions, while not disputing that U.S. carriers and their JV partners have lost market share to Gulf carriers in important markets such as the Indian Subcontinent, contend that the absolute number of bookings on U.S. carriers and their JV partners has nonetheless increased in those markets, such that U.S. carriers and their JV partners cannot be said to be harmed by the loss of market share in a growing market.[192] These arguments have no factual or legal merit.

First, both Etihad and Qatar (drawing on the Edgeworth report) contend that the overall number of bookings on U.S. carriers and their JV partners to the Indian Subcontinent was higher in 2014 than it was in 2009. While true, this fact is highly misleading in that bookings on U.S. carriers and their JV partners to the Indian Subcontinent were down very substantially in 2009 from 2008 (due to the "Great Recession" following the 2008 financial crisis).[193] Specifically, there were 1.73 million such bookings in 2008, which fell to1.43 million bookings in 2009, increased to 1.55 million in 2011, and fell again to 1.50 million by 2014.[194] It is true that the 2014 figure is higher than the 2009 figure – but this isolated fact says more about the unique economic conditions of 2009 than it does about the trend in U.S. carrier/JV partner bookings to the Indian

[191] Supplemental Compass Lexecon Impact Report at 39-40. According to OAG, both United and Air India offer nonstop flights between New York City and these two Indian cities, and Air India also serves Chicago-Delhi. Further, the economic viability of any route in a hub-and-spoke network like those of the U.S. (and Gulf) carriers depends on both local and connecting passengers. Supplemental Compass Lexecon Impact Report at 40-41.

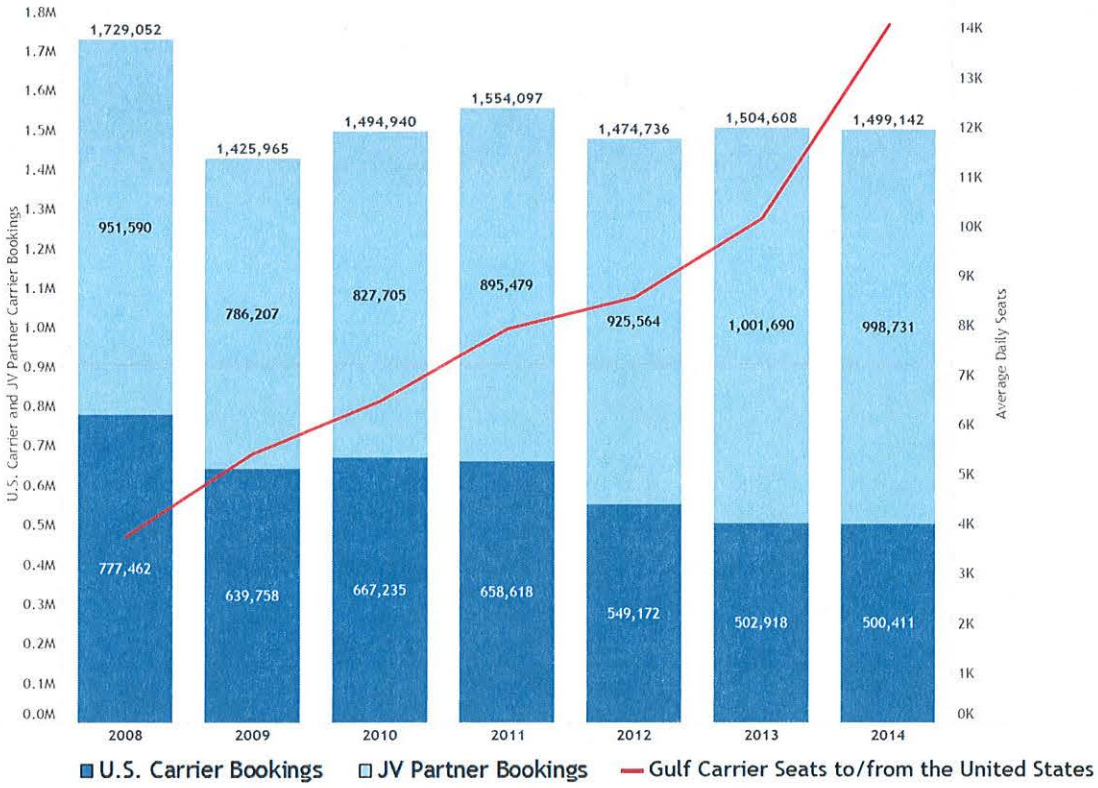
[192] E.g., Emirates Submission at 110-17; Qatar Submission at 6-7; Etihad Submission at 6.

[193] IATA referred to the downturn of 2009 as "the deepest [cyclical downturn] experienced by the commercial airline industry since the 1930s" (See IATA Annual Report, 2010, page 10) and also noted that "[i]n terms of demand, 2009 goes into the history books as the worst year the industry has ever seen." See "2009: Worst Demand Decline in History – Encouraging-end Improvements", IATA Press Release No., January 27, 2010.

[194] Supplemental Compass Lexecon Impact Report at 51, Exhibit 19.

Subcontinent, which remain well below their levels in 2008 (when the Gulf carriers began their subsidy-fueled sharp increase in seats offered to the United States).[195] Moreover, as shown below, when the focus is limited to bookings on U.S. carriers, the trend has been clearly downwards, even using 2009 as a starting point.[196]

Figure 7: U.S. and JV Partner Carrier Bookings Between the United States and the Indian Subcontinent vs. Gulf Carrier Seats to/from the United States



Source: Delta MIDT. OAG.
Notes: JV partners include: Delta (Air France/KLM, V-Australia, Alitalia, Virgin Atlantic), American (British Airways/Iberia, Qantas, JAL), United (Lufthansa, Swiss, Brussels, Austrian, Air Canada, ANA). Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka. Gulf carrier seats include flights between the United States and DXB, AUH and DOH.

Moreover, even if it were true that in a growing market for air travel, U.S. carriers were gaining absolute volumes of passengers while losing market share to Gulf carriers, this would not preclude the conclusion that the Gulf carriers were displacing U.S. carriers in that market.[197]

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[195] Id. at 51-52 Exhibit 20.

[196] Id. at 51-52.

[197] While not dispositive for present purposes, the WTO disciplines on subsidies that cause serious prejudice defines "the displacement or impeding of exports" as including any case in which "there has been a change in *relative* shares of the market to the disadvantage" of the competing producer, as measured "over an appropriately representative

As explained more fully in the next subsection, a showing that U.S. carriers are significantly worse off than they would have been without the subsidies is sufficient to demonstrate that the subsidies have caused commercial harm to U.S. carriers. Even if the claims in the Gulf carriers' submissions of absolute passenger growth for U.S. carriers were accurate – and they are not – this would not amount to a refutation of the significant harm in the form of lost passenger bookings in thousands of city-pair markets.

3. That U.S. Carriers Are Profitable Does Not Preclude a Finding of Harm from Gulf Carriers

Finally, several submissions by the Gulf carriers assert that U.S. carriers are currently profitable and therefore cannot be said to be harmed by Gulf carriers.[198] Indeed, Emirates makes the peculiar argument that U.S. carriers are especially profitable in markets where Gulf carriers are not present, particularly on trans-Atlantic routes where, they say, harm is "nowhere to be found,"[199] while (as discussed above) U.S. carriers "choose" not to compete seriously in markets where Gulf carriers have a substantial presence, such as the Indian Subcontinent. It is unclear how an argument that U.S. carriers do quite well *except* where they have been driven out of the market by the subsidized Gulf carriers advances the Gulf carriers' *opposition* to a finding that Gulf carrier presence harms U.S. carriers.[200] And, as usual, Emirates' assertion is at odds with the facts – U.S. carriers' trans-Atlantic capacity peaked in 2008, fell substantially in 2012, and has been basically flat since, while Gulf carrier capacity has grown substantially.[201]

As a legal matter, however, Emirates is incorrect when it states that a successful claimant in a WTO or other international trade dispute about subsidies "normally is facing financial

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period sufficient to demonstrate clear trends." WTO Agreement on Subsidies and Countervailing Measures, art. 6.4 (emphasis added). An *absolute* increase in sales to the market (especially one over a *non-representative period*, as in the case of the claims of Etihad and Qatar with respect to Indian subcontinent bookings compared to 2009) would not in any way preclude a finding of displacement or impedance based solely on the capture of *relative* market share by subsidized firms under WTO rules.

[198] Emirates Submission at 87-102; Qatar Submission at 39.

[199] Emirates Submission at 94.

[200] See also Etihad Submission at 43 ("U.S. carriers are enjoying extremely high load factors and record profits in the markets they choose to serve.").

[201] Supplemental Compass Lexecon Impact Report at 52-54.

challenges," or that usually "the leading companies are losing money."[202] Under WTO rules, a finding of serious prejudice from subsidies need only be based on a showing that the affected industry is significantly impaired in particular markets due to the subsidy, regardless of its overall financial condition.[203] Nothing in WTO rules, then, provides any basis to suggest that U.S. airlines (and the U.S. Government) must wait until the U.S. industry is in a severely impaired state before being permitted to raise any questions about Gulf carrier subsidies and their effect on competition.

C. The Harm to U.S. Carriers Is Directly Caused by the Subsidies

We have shown, notwithstanding the claims made in the Gulf carriers' submissions, both (1) that the Gulf carriers have benefited and continue to benefit from enormous subsidies, and (2) that the growing presence of Gulf carriers in international city-pair markets has significant adverse effects, both on the number (and share) of passengers and on the prices, for U.S. carriers. In this subsection, we connect these two dots by showing how the harm to U.S. carriers is caused by the subsidies.

The causal relationship between the subsidies and harm is straightforward. The subsidies enable the Gulf carriers to grow their capacity much more quickly than they otherwise would. The explosive growth of the Gulf carriers in recent years, far beyond anything that could be justified by underlying demand growth, is well documented, and the Gulf carriers' submissions do nothing to undermine this conclusion. As a result, there is excess capacity in the market, which depresses prices as carriers seek to fill as many seats as possible, until the market eventually adjusts by eliminating higher-cost capacity. This phenomenon explains the market share and price effects of Gulf carrier presence that are empirically established in the Compass Lexecon report.

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[202] Emirates Submission at 87.

[203] As the WTO panel reviewing European subsidies to Airbus concluded, "we see no basis on which improvements in the condition of Boeing, or consideration of whether it is more or less profitable, should be taken into account in our analysis of serious prejudice." Report of the Panel, *European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft*, WT/DS316/R, (adopted as modified on other grounds by the Appellate Body June 1, 2011) para. 7.1737.

1. The Rapid Expansion of Gulf Carriers Greatly Exceeds the Growth Justified by Market Forces

We have already shown that the Gulf carriers have rapidly become some of the largest airlines in the world by adding capacity at a remarkable rate – as measured by available seat miles, more than 1,500 percent since the United States negotiated the Open Skies agreements with Qatar and the UAE.[204] These rates of capacity growth are substantially in excess of what markets are able to absorb, given global GDP growth and forecast passenger growth rates (which are closely linked to global GDP growth).[205] In particular, Gulf carriers have been adding capacity to the United States at an average compound annual rate of 25.2 percent for each of the past five years.[206]

The submissions of the Gulf carriers challenge this analysis, arguing that their capacity growth targets parts of the world where GDP and passenger growth is higher than the global average.[207] But their allegations fail to withstand scrutiny. For example, a majority of Gulf carrier bookings are for travel to or from *developed* countries (and in a not insignificant proportion of cases, both to *and* from developed countries), not between rapidly growing developing countries.[208] The Edgeworth report, in particular, tries to show that the Gulf carriers' capacity plans are reasonable by suggesting that the "implied growth in demand for air travel" for Emerging and Developing Asia should average around 13%.[209] However, Edgeworth's own exhibits show a supposed annual growth rate of 6.2 percent in bookings between the United States and India, but it is able to produce this figure only by taking the recession year of 2009 as its base year; if the pre-recession year of 2008 is used as a base, the annual growth rate is only 2.1 percent.[210]

In any event, not even Edgeworth's purported growth rates starting from the bottom of the Great Recession (much less the growth rates from before the recession) come close to the *actual*

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[204] White Paper at 39.

[205] White Paper at 41.

[206] Supplemental Compass Lexecon Impact Report at 22-23.

[207] See Edgeworth Report at 26-30; Emirates Submission at 130-137; Qatar Submission at 41.

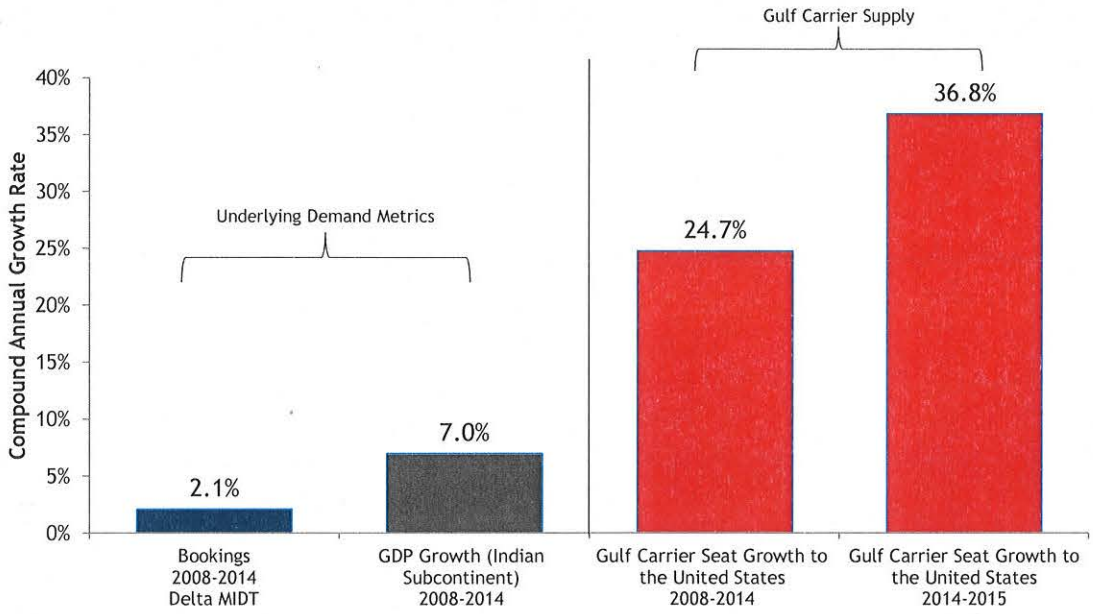
[208] Supplemental Compass Lexecon Impact Report at 23-24.

[209] Edgeworth Report at 29-30.

[210] Supplemental Compass Lexecon Impact Report at 24-25.

growth rate in Gulf carrier capacity deployed to the United States, which is more than ten times the growth rate in bookings during 2008-2014. Nor do they come close to the capacity growth rates that the Gulf carriers have already announced in the immediate future. After having grown at an annual rate of around 25 percent for the past seven years, Gulf carrier capacity is set to increase further by an additional 36 percent in 2015, and Qatar has announced plans to expand its capacity an additional 50 percent by the end of 2016 over its 2015 levels.[211]

Figure 8: CAGR of Gulf Carrier Seat Growth Between the United States and Gulf Hubs and Booking Growth Between the United States and The Indian Subcontinent



Sources: MIDT; OAG; World Bank.
Notes: Seat from the United States to the carriers home countries. Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka.

Nothing in the Gulf carrier submissions suggests underlying passenger growth rates anywhere near a level that would justify such large increases in capacity. Indeed, given that Gulf carriers are growing their capacity to the United States at multiples of expected passenger demand growth between the United States and the regions where the bulk of their traffic is generated, it is a matter of basic arithmetic that their past and future traffic gains have and will come at the expense of other carriers. And market forces are an entirely implausible explanation for the Gulf carriers' extraordinary capacity increases.

[211] Id. at 26.

2. Subsidies Enable Gulf Carriers to Expand Much More Quickly than Otherwise Possible

The undeniable observation that Gulf carriers are growing more rapidly than the underlying demand for air travel raises a further question: How, and why, do the Gulf carriers follow a strategy of rapid expansion at a pace that is not commensurate with market realities, on a scale not matched by any other carrier? The answer is that the enormous subsidies received by the Gulf carriers are the only mechanism that both make such rapid capacity growth possible and enable the strategy of rapid capacity growth that the Gulf governments are expressly seeking to foster.

Airlines, like any other business, will invest capital in capacity (by purchasing aircraft and other assets) only if the expected return on their investment covers the expected cost of that capacity, including both operating costs and the cost of capital, over the full business cycle.[212] According to publicly available data from Bloomberg, the weighted-average cost of capital (WACC) for the major U.S. carriers is approximately 8.3 percent,[213] which means that U.S. carriers will set a "hurdle rate" near (or somewhat above) this figure. A project's expected returns must meet or exceed this hurdle rate before the carrier will invest capital in it. By comparison, Etihad claims in its most recent financial report to have a WACC of only 7.6 percent,[214] even though its auditors are not willing to certify that Etihad would even be a "going concern" without government subsidies.[215] According to Emirates' 2014-2015 annual report, Emirates has an even lower WACC, at 4.9 percent.[216] The subsidies received by the Gulf carriers – especially the equity infusions, subsidized loans, and debt relief – clearly reduce both the cost of debt and the cost of equity for these carriers, which fully explains why these carriers have a substantially lower WACC than publicly traded carriers that must raise their capital in the markets.[217]

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[212] Compass Lexecon Impact Report at 5.

[213] Partnership Answers to Questions at 33 n.102. According to IATA data, the WACC for the global airline industry as a whole has been in the range of 7 to 8 percent for more than a decade. Compass Lexecon Impact Report at 7 Exhibit 1 (citing IATA, "Economic Performance of the Airline Industry," June 1, 2014).

[214] Etihad 2014 Financial Statements at 29.

[215] See White Paper at 19.

[216] Emirates 2014-2015 Annual Report at 83.

[217] Qatar's financial statements do not disclose its WACC.

Thus, the Gulf carriers appear to have a *lower* WACC – and, therefore, presumably lower project "hurdle rates" – than the cost of capital that they would have, in the absence of any subsidies. With a lower threshold for new investments, the Gulf carriers can justify adding capacity by expanding service in circumstances where carriers dependent on market financing cannot. In particular, in a growing market the Gulf carriers can add new capacity *earlier* than the market would otherwise justify, gaining first mover advantages.[218] And, in a situation where more capacity has been introduced into a particular market than the underlying economics would justify, carriers with higher costs of capital will be the ones who drop out[219] – or never enter in the first place.[220]

Under normal circumstances, the cost of capital for financially weak or failing companies would be substantially higher than that faced by businesses that are going concerns. Yet neither Etihad nor Qatar would be classified by their auditors as a "going concern" in the absence of the substantial equity subsidies that have been provided to them.[221] Hence, any harm caused by the entry of these carriers can be attributed directly to the subsidies, as "but for" the subsidies these carriers would not be commercially viable and likely would not exist. Subsidies also enable key aspects of Emirates' capacity expansion, which depends critically on the subsidized expansion of Dubai's airport infrastructure, as discussed in detail above. Even if Emirates' cost of capital were more like that of a normal airline, rather than (as it is) significantly lower than that of a typical large international carrier, it is inconceivable that it could grow at nearly the rate that it has grown and expects to continue to grow.

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[218] In fact, if overall demand for air travel is growing, one would expect that if a carrier with an artificially low hurdle rate due to subsidies adds capacity earlier than it otherwise would, in the absence of subsidies that carrier (or another carrier) would in fact add that capacity when the market justifies it, albeit somewhat later. This phenomenon is consistent with the Compass Lexecon empirical finding, discussed in detail above, that the Gulf carriers' additional capacity does *not*, over the long term, stimulate additional demand.

[219] It seems clear, for example, that the current situation in the New York City-Milan market, which is already plagued by overcapacity even as Emirates is further expanding its capacity there, will eventually force one of the other carriers to withdraw from that market – after which fares will more likely return to more typical levels. See Partnership Answers to Questions at 33-34.

[220] If the Gulf carriers are able to capture the lion's share of growth in a market due to their artificially low cost of capital, such that carriers with normal capital costs are unable to compete effectively, it may *appear* that the latter carriers are simply "uninterested" in that market and "affirmatively choose" not to compete there – but that does *not* mean that subsidies play no role in that outcome. Quite the contrary.

[221] White Paper at 19-20 (Etihad), 26-27 (Qatar).

Without the subsides, then, it is very likely that there would be at most *one* Gulf carrier with a cost of capital and investment strategy in line with those of other major international airlines, not *three* Gulf carriers all growing at rates far in excess of what the market would support. The rapid growth rate of the Gulf carriers, and the harm to U.S. carriers flowing from that rapid growth, is the direct result of the subsidies that have been provided them.

3. Excess Gulf Carrier Capacity Creates Overcapacity that Depresses Prices and Forces Competitors Out of Markets

As the original Compass Lexecon Impact Report explained, the overall return on invested capital (ROIC) of the global airline industry over the course of a business cycle has consistently lagged the industry's WACC for a considerable period.[222] This sustained shortfall is strongly indicative of overall excess capacity in the global airline market.[223] The introduction of excess capacity into a market can be expected, in the short run, to lead to downward pressure on fares, and over time to the withdrawal of capacity as carriers are forced to exit routes (or forgo introducing new service) as the net revenue from particular routes falls below their cost of capital.[224] This is, of course, precisely what the empirical study of U.S.-international city-pairs with Gulf carrier presence shows: (1) reduced fares when Gulf carriers are present, with more than ten times the effect of the presence of non-Gulf carriers; and, (2) over time, the ceding of market share and passengers to Gulf carriers with no meaningful overall increase in actual passenger demand beyond what would have occurred naturally due to economic growth.

D. The Gulf Carriers Fail to Show That Their Rapid Capacity Expansion Has Meaningfully Stimulated Passenger Traffic Growth

The Compass Lexecon Impact Report demonstrated, through the use of regression analysis on passenger traffic from 2008 through the third quarter of 2014 at a city-pair level, that the Gulf carriers have not meaningfully stimulated passenger traffic growth. Put more precisely, they found that "on average, the presence of Gulf carriers on a city-pair to/from the United States does *not* have a statistically significant impact on traffic levels on the city-pair after controlling

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[222] Compass Lexecon Impact Report at 6-7 (citing IATA data).

[223] Id. at 6-9.

[224] Id. at 8-9.

for other factors that affect passenger demand such as per capita income and population."[225] As a result, "Gulf carriers have failed to meaningfully stimulate additional traffic to the United States above and beyond what underlying demand would have otherwise dictated."[226]

Because the presence of Gulf carriers on a city-pair does not, on average, have a statistically significant effect on the number of passengers who would be traveling between those cities if the Gulf carriers were not present, it follows that the rapid growth of the Gulf carriers has come almost completely *at the expense of U.S. and other carriers.*[227] Given the importance of this conclusion to any analysis of whether the subsidized expansion of the Gulf carriers has harmed other carriers, including U.S. carriers, it is surprising that Etihad and Qatar have not even bothered to challenge these findings in their submissions.[228] Only Emirates claims in its submission to have "grown the pie" by "attract[ing] new travelers to routes . . . without significantly diverting passengers" from U.S. carriers.[229] However, none of these submissions present any evidence that undermines the Compass Lexecon empirical finding of no meaningful demand stimulation.

1. Econometric Analysis of O&D City-Pair Traffic Is the Most Reliable Methodology for Assessing Whether Gulf Carriers Have Stimulated Demand

Emirates' primary critique of the Compass Lexecon analysis is: "Massive, worldwide econometric analysis is a poor tool to resolve questions of stimulation."[230] However, Emirates provides no explanation for its assertion, other than its (erroneous) claim that a more "simple" approach provides a "compelling" demonstration of a different conclusion.[231]

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[225] Id. at 3 (emphasis in original).

[226] Supplemental Compass Lexecon Impact Report at 70.

[227] Compass Lexecon Impact Report at 36.

[228] At least one Etihad official has publicly suggested that Etihad serves passengers who would not have travelled but for the service offered by Etihad. See Supplemental Compass Lexecon Impact Report at 70, n.226 (quoting Etihad general counsel as reporting that most of the passengers on his Etihad flight from Abu Dhabi to Los Angeles "wouldn't have come here" but for Etihad's service). However, neither Etihad nor its economic consultant chose to repeat these (unsubstantiated) assertions in their submissions.

[229] Emirates Submission at 103.

[230] Id.

[231] Id. at 103-04.

As an initial matter, economic regression is exactly the proper tool to examine quarterly O&D data from all U.S./international city-pairs where Gulf carriers are present over a period of nearly seven years in order to separate and distinguish the effect of Gulf carrier presence from other variables likely to affect overall demand (such as per capita income and population). Whether the presence of Gulf carriers *in itself* is associated with higher demand for airline travel between two cities, or whether that demand is fully explained by other variables, is precisely the sort of question that is amenable to regression analysis, especially where there is a large amount of data that can be assessed. As there were nearly 9,000 O&D city-pairs with a measurable level of Gulf carrier presence in the fourth quarter of 2014 alone,[232] almost anything could be argued using selectively chosen data points.

Eschewing a comprehensive approach to the available data as a "poor tool," Emirates proposes instead a "simple" comparison using O&D bookings:

- between only four U.S. airports (Boston, Dallas-Fort Worth, Seattle, and Washington), not all U.S. cities where Gulf carriers are present on an O&D basis as in the Compass Lexecon analysis;
- to the aggregate of selected cities in each of two (for Dallas-Fort Worth and Seattle) or three (for Boston and Washington) international regions, not individual city-pairs as in the Compass Lexecon analysis; and
- for only the year prior to Emirates' initial service to those cities to the following year, not all quarters between Q1 2008 and Q3 2014 as in the Compass Lexecon analysis.[233]

Emirates offers no explanation for why such a "simple" analysis should be expected to produce a more meaningful or robust result than the detailed examination of all the available data contained in the Compass Lexecon report. In the absence of any more compelling justification, one can only assume that Emirates prefers its "simple" methodology because Emirates thinks only the less comprehensive approach supports the conclusion it would like to reach. Even so, as explained in the following subsection, Emirates' methodology – even taken on its own terms – does not in fact prove that Emirates has stimulated growth in demand for air travel even in the markets it chooses to examine.

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[232] Compass Lexecon Impact Report at 20. The updated MIDT data shows 8,736 city-pairs with Gulf carrier presence. Supplemental Compass Lexecon Impact Report at 13, n.53.

[233] Emirates Submission at 103-109.

Emirates has in prior public statements – though not in its most recent submission – cited an academic paper by Martin Dresner *et al.* that purports to find that Gulf carrier entry stimulates passenger growth.[234] The Dresner paper, of course, uses precisely the "poor tool" of economic regression applied to a comprehensive passenger data set that Emirates now disparages in order to reach this result.[235] As explained in the original Compass Lexecon Impact Report, the MIDT data used by Compass Lexecon are more comprehensive and better suited to measure Gulf carrier effects at an O&D city-pair level than the data used by Dresner.[236] Even so, to the extent that the studies overlap, the Dresner paper largely corroborates the empirical results of the Compass Lexecon regressions on the volume and price effects of Gulf carrier presence.[237] That Emirates has now abandoned even the concept of comprehensive econometric analysis of passenger traffic data, after having cited such analysis for exactly the same purpose just a few months ago, is further evidence of the outcome-driven rationale for its current position.

2. Emirates' Attempt to Show "Massive" Demand Stimulation in Certain Locations Fails to Achieve Its Goal

The Supplemental Compass Lexecon Impact Report examines in detail Emirates' claim that its "simple" examination of a limited amount of passenger data demonstrates "massive" levels of demand stimulation.[238] The report identifies several major flaws in Emirates' analysis that render its conclusions invalid.

First, the MIDT data apparently used by Emirates purports to show substantially more growth than do the MIDT data used in the ordinary course of business by American, Delta, and United, as well as similar data put forth by Qatar and Etihad.[239] MIDT aggregates booking data

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[234] Supplemental Compass Lexecon Impact Report at 75 n.245 (citing and quoting Emirates Press Release, "American Consumers and Regional State Economies the Ultimate Victims of US Carriers' Protectionist Campaign, Cautions Emirates Airline's President," Mar. 18, 2015).

[235] See Martin Dresner *et al.*, "The Impact of Gulf Carrier Competition on U.S. Airlines, Transportation Research Part A: Policy and Practice, forthcoming, at 10: "We obtained the international DB1B data for the period for the period from the first quarter of 2008 to the second quarter of 2013 and then aggregated these data . . . ."

[236] Compass Lexecon Impact Report at 26 n.65 (explaining that "lacking the MIDT data, [Dresner *et al.*] are unable to control for Gulf carrier presence *at the city-pair level*" (emphasis in original)).

[237] See Partnership Answers to Questions at 38-39.

[238] Supplemental Compass Lexecon Impact Report at 77-94.

[239] Id. at 6, n.25.

"collected by a variety of third-party Global Distribution Systems (GDSs) such as Amadeus, Apollo, Axess, Galileo, Sabre, Worldspan, etc."[240] Individual airlines subscribe to MIDT, but their subscriptions do not always cover precisely the same universe of GDSs, and individual airlines may also adjust the data (or request that their data vendors do so) based on their particular preferences.[241] The Compass Lexecon reports rely on the MIDT used by American, Delta, and United in the ordinary course of business, while the Emirates submission claims to use the MIDT data available to Emirates.[242] As the MIDT subscriptions of these four airlines are similar – and in the case of Emirates and Delta, almost identical[243] – these minor differences should not substantially affect the reported number of bookings.

However, Emirates claims that its MIDT data show large increases in total passenger bookings in the time periods Emirates chooses to examine that do not appear in the MIDT data available to American, Delta, and United. For example, Delta's MIDT data show that total passenger bookings from Dallas-Fort Worth (DFW airport) and the Indian Subcontinent increased from 125,715 to 139,706, or 11.1 percent, for the same period examined by Emirates, while Emirates asserts that its MIDT data show an increase from 84,376 to 155,198, or 83.9 percent.[244] This data discrepancy accounts for a large amount of the alleged increase in passenger demand that Emirates claims to find.

[240] Id. at 80 n.265.

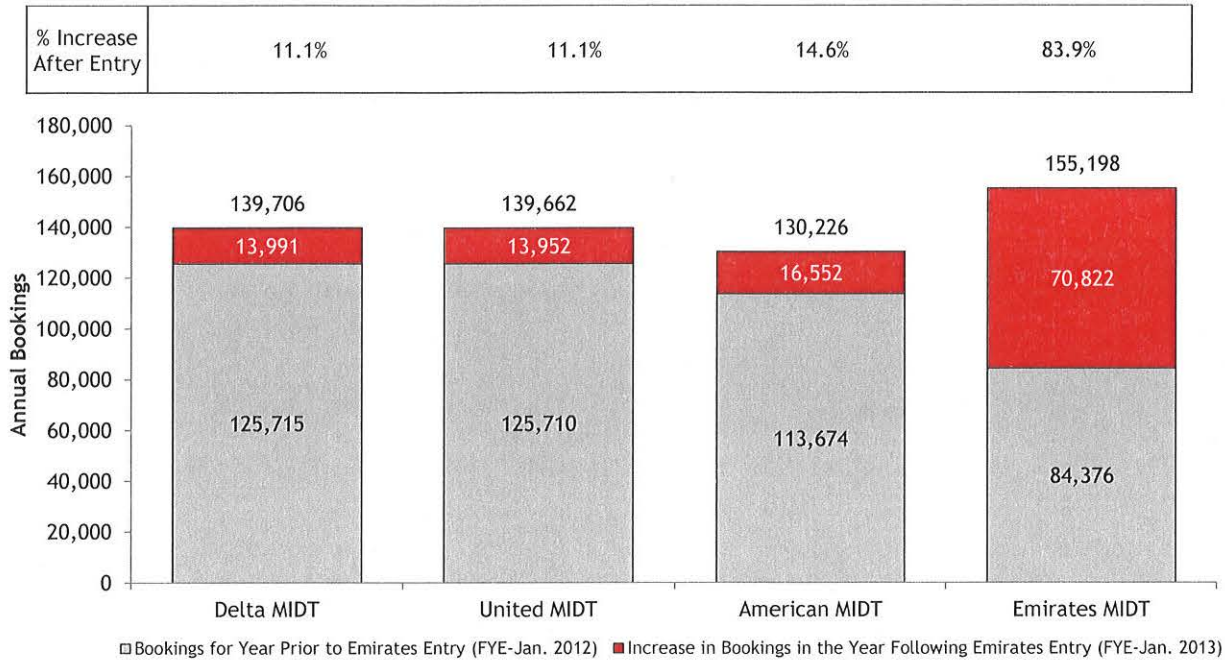
[241] Id. at 80 n.267.

[242] Id. at 80 n.267; Emirates submission at 104 n.223.

[243] Supplemental Compass Lexecon Impact Report at 82 n.269. The only difference between Emirates' and Delta's MIDT subscriptions is that Delta's subscription covers Axess, a GDS based in Japan, while Emirates' does not. As the routes at issue are geographically quite distant from Japan, this difference is unlikely to substantially affect the analysis.

[244] Id. at 82 Exhibit 28.

Figure 9: Comparison of Growth in MIDT Bookings Between DFW and the Indian Subcontinent, FYE-January 2012 vs. FYE-January 2013



Sources: Delta Air Lines; United Airlines; American Airlines; Emirates Submission, page 106.
Notes: Growth in bookings between U.S. city and cities in the Indian Sub-Continent served by Emirates. Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka. Percentage growth reflects change in bookings from YE Jan. 2012 (pre-entry) vs YE Jan. 2013 (post-entry).

Second, unlike Compass Lexecon – which controls for economic factors likely to affect passenger demand independent of which airlines offer service – Emirates simply compares passenger traffic in the year prior to its entry into a particular market to passenger traffic in the year following its entry, without attempting to control for any other relevant factors. However, using this method, Emirates cannot know whether any growth in passenger demand that may have occurred during the particular year is attributable to the introduction of its service or to those other factors. Thus, if Emirates had applied its methodology to the introduction of its service to San Francisco and Los Angeles in 2008/2009 (at the height of the financial crisis), it could only have concluded that Emirates was fully responsible for the *decline* in passenger traffic between those cities and the Indian Subcontinent in the year following its entry into those markets. Such a result would be absurd – but so too is assuming, as Emirates does, that all of the growth in traffic between Boston and the Indian Subcontinent in 2014-2015 is attributable to Emirates' March 2014 entry into Boston.[245]

[245] Id. at 84-86.

Third, by focusing on the growth in traffic from the individual *airports* where Emirates introduced service, rather than cities or markets, Emirates includes as "growth" attributable to its services any diversion of traffic from other airports in the same city or region.[246] Thus, for example, while bookings between Washington Dulles (IAD) and the relevant international regions increased by 39,329 passengers in the relevant year (according to Delta MIDT data), bookings to the same regions decreased for Washington Reagan (DCA) by 9,346 and for Baltimore-Washington (BWI) by 6,799 – indeed, bookings decreased for many other airports in the region, including Philadelphia, Richmond, Norfolk, and Roanoke, among others.[247] Thus, a large portion of the apparent increase in bookings from IAD reflects a reallocation of passenger traffic rather than the stimulation of new traffic.[248]

Fourth, by focusing only on the year prior to entry and the year following Emirates' initial entry into the four selected airports, Emirates' methodology magnifies the effects of temporary phenomena such as introductory promotional pricing, competitive responses of other carriers, and the like.[249] A more robust analysis, such as the Compass Lexecon methodology, is far more effective (and reliable) in measuring the effect, *over time*, of the presence of Gulf carriers on particular routes. Thus, for example, Compass Lexecon examined the 60 percent increase of Gulf carrier capacity between New York and their Middle Eastern hubs from about 2,600 daily seats in 2010 to 4,200 daily seats in 2014. Total bookings between New York City and the relevant regions increased in this period by about 500 per day, or 1.6 percent per year. Given that annual GDP growth alone in these regions has far surpassed 1.6 percent, it is likely that most, if not all, of demand growth on the order of 500 additional daily passengers over four years

[246] Id. at 88-90.

[247] Id. at 89 Exhibit 32.

[248] Reallocation of traffic, rather than actual traffic growth, can occur on the destination side as well as on the departure side. For example, at least some portion of any increases in passenger traffic between U.S. destinations and Dubai and other Gulf carrier hubs likely reflects the growth in international meetings and events that have moved to these hubs from other locations. If a meeting that would otherwise have been held in London is now held in Dubai, the number of passengers traveling to Dubai may have increased, but the overall number of passengers traveling worldwide would not. Supplemental Compass Lexecon Impact Report at 90-91.

[249] Id. at 91-92.

would have occurred in any event, rather than attributable to the 1,600 additional daily seats being offered by the Gulf.[250]

In sum, the one-year growth in traffic between four U.S. airports and two or three (depending on the airport) international regions immediately following Emirates' launch of service to those airports is, even on its own terms, far from "stunning," as Emirates asserts.[251] Indeed, what is "stunning" is the claim that Emirates' "simple methodology" is not only probative but actually superior to the careful, comprehensive, robust, and empirical demonstration by Compass Lexecon that the Gulf carriers do not meaningfully stimulate demand.

3. The Edgeworth Criticisms of the Compass Lexecon Methodology Are Incorrect or Do Not Affect the Results

The only other methodological criticism of the Compass Lexecon methodology comes from the Edgeworth Economics report,[252] which alleges two methodological errors relevant to the question of demand stimulation. Both are demonstrably wrong.

First, Edgeworth alleges that, by calculating an *average* effect across all routes (including routes that Etihad does not fly, such as between the United States and Europe), the Compass Lexecon methodology cannot test whether Gulf carriers stimulate demand on routes that they do fly.[253] However, this is simply incorrect. All potential city-pairs between the United States and destinations in Europe, Asia, Africa, the Middle East, and Australasia are included in the model, but the model then distinguishes city-pairs on which "zero" Gulf carriers are present from those in which one or more Gulf carriers are present. Indeed, this is precisely how the model estimates whether the presence of Gulf carriers, among other things, is associated with higher overall demand than would be expected even if Gulf carriers were not present.[254] In any case, Compass Lexecon re-estimated its model excluding city-pairs between the United States and Europe, and

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[250] Id. at 92-93.

[251] Emirates Submission at 109.

[252] Edgeworth Report, Section X.E.

[253] Id. at 38.

[254] Supplemental Compass Lexecon Impact Report at 76-77.

the result was the same. The presence of Gulf carriers does not have a statistically significant impact on the overall level of bookings in a city-pair.[255]

Second, Edgeworth notes that the Compass Lexecon independent variables examine whether zero, one, two, or three Gulf airlines are "present" on a given city-pair in any given quarter, and questions whether this approach may cause distortions when a particular carrier enters and exits the market several times over the full period.[256] In response, Compass Lexecon estimated the model with a variation of the Gulf carrier "presence" variable, "Number of Gulf Carriers *Ever* Present," to distinguish situations when no Gulf carriers are, or have ever been, present in a given quarter from those in which no Gulf carrier is currently present, but one or more have exited the city-pair during the period studied. When this variable is used, the results of the regression are virtually unchanged.[257] Thus, Edgeworth's suggestion not only fails to demonstrate any flaws in the conclusions of the Compass Lexecon analysis, but in fact show its robustness under a variety of assumptions.

4. The Gulf Carriers' Accusations of Entitlement Are Both False and Irrelevant to the Demonstration of the Lack of Meaningful Demand Stimulation

Neither Etihad nor Qatar attempt, in their submissions, to quarrel with the empirical demonstration of the absence of any meaningful demand stimulation by the Gulf carriers, or the corollary finding that the growth of the Gulf carriers must therefore have come largely, if not entirely, at the expense of U.S. and other carriers. Instead, they merely contend that there is nothing wrong with carriers growing by taking business from their competitors, and – in high dudgeon – attempt to portray the U.S. airlines' initiative to address the massive subsidization of the Gulf carriers as anticompetitive at best and even reflective of an attitude of entitlement towards their customers.[258] The Emirates submission and the Edgeworth report make similar arguments.[259]

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[255] Id., Exhibit 1.

[256] See Edgeworth Report at 39.

[257] Supplemental Compass Lexecon Impact Report at 76-77.

[258] See, e.g., Etihad Submission at 55-57; Qatar Submission at 44.

[259] Emirates Submission at 102; Edgeworth Report at 39-41.

As an initial matter, the idea that U.S. carriers, by drawing the attention of the U.S. Government to the massive subsidization of the Gulf carriers and the detrimental effects of those subsidies on the open and fair competition promised by the Open Skies agreements, are actually attempting to shield themselves from that open and fair competition, is utterly false. These carriers compete vigorously with one another and with dozens of carriers all around the world for the privilege of serving international passengers. Addressing the unfair advantage conferred on a few carriers by government subsidies facilitates competition, and does not undermine it.

In particular, the repeated suggestions in these submissions that U.S. airlines are insulated from competition through their joint ventures that have received antitrust immunity from the United States are completely false and unwarranted.[260] U.S. law governing such joint ventures clearly establishes that the Secretary of Transportation shall approve applications for antitrust immunity that are "not adverse to the public interest" and shall normally disapprove (or discontinue) an application that "substantially reduces or eliminates competition."[261] Indeed, the bulk of the economic literature finds that such agreements substantially *reduce* fares.[262]

Further, the Compass Lexecon finding of no meaningful demand stimulation – and its corollary finding that the growth of the Gulf carriers has therefore been at the expense of other carriers – is simply an *empirically demonstrable fact.* To point out this fact is not, as the Gulf carriers claim, equivalent to asserting that "existing carriers are entitled to their existing traffic as well as a share of market growth: in other words, to be insulated from competition."[263] It is merely to observe a fact.

If it is true that the presence of the Gulf carriers has not meaningfully stimulated demand – and

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[260] Etihad Submission at 47-55.

[261] 49 U.S.C. § 41309(b).

[262] See Supplemental Compass Lexecon Impact Report at 3 n.128 (quoting Jan Bruckner, "International Airfares in the Age of Alliances: The Effects of Codesharing and Antitrust Immunity," 85 Review of Economics & Statistics 105, 105 (2003) ("[T]he presence of antitrust immunity reduces the fare by 13%-21%."); W. Tom Whalen, "A Panel Data Analysis of Code-Sharing, Antitrust Immunity, and Open Skies Treaties in International Aviation Markets," 30 Review of Industrial Organization 39, 40 ("Alliances that are granted antitrust immunity are associated with fares that are 13 to 20% lower than traditional interline fares . . . .")). The assertion in the Edgeworth report that Etihad's (published) fares are justifiably low when compared to allegedly supracompetitive "immunized" fares on U.S.-Europe routes, Edgeworth report at 22, is completely off the mark.

[263] Emirates Submission at 102.

the very inability of the Gulf carriers to challenge the empirical evidence analyzed by Compass Lexecon supports the conclusion that it is true – then it follows that the growth of the Gulf carriers has harmed U.S. carriers and that this harm is attributable to the subsidies given the Gulf carriers. As already explained, the harm is real, significant, and empirically demonstrated. But, regardless of the implications of the absence of demand stimulation by the Gulf carriers, its absence is also simply an empirically demonstrated fact. No amount of bluster can change that fact.

E. The Economic Effect of the Harm from Gulf Carriers Is Significant and Widespread

The rapid growth of Gulf carriers in U.S. international markets has already produced harm that is significant and widespread. As we have previously explained, each lost or foregone daily U.S. widebody frequency results in a net loss of at least 848 U.S. airline industry and related jobs.[264] In their submissions, the Gulf carriers dispute this figure and claim that, in any event, the services provided by the Gulf carriers provide economic benefits to the U.S. economy.

According to Emirates, each of their widebody flights to the United States supports nearly 4,000 jobs, virtually all of which are attributable to the economic activity arising from foreign tourists visiting the United States on such flights.[265] Emirates suggests that all such spending by visitors traveling on Emirates should be included in a calculation of economic effects, thus implicitly assuming that 100 percent of such visitors would not have traveled to the United States but for Emirates' service. Likewise, Emirates suggests that no U.S. jobs have been lost to displacement by Gulf carriers, on the theory that there has not been any such displacement.[266] As explained above, these assumptions are pure fantasy; the empirical evidence of lack of demand stimulation and of significant displacement is overwhelming.[267] Other claims in Gulf carriers' submissions regarding the alleged positive impact of the Gulf carriers on the U.S. economy or on aircraft manufacturers suffer from a comparable flaw, as they all simply assume – against the evidence – that none of the passengers flying to the United States on Gulf carriers, and none of the aircraft

[264] Partnership Answers to Questions at 56-69.

[265] Emirates Submission at 141.

[266] Id. at 140-42.

[267] Supplemental Compass Lexecon Impact Report at 95-96.

purchased by Gulf carriers, would exist but for the Gulf carriers.[268] When more realistic assumptions are used, the positive impacts claimed by the Gulf carriers evaporate.

To the contrary, the total harmful impact of the Gulf carriers on U.S. carriers has already been substantial. For example, in our previous submissions, [

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Indeed, to the extent that the primary reductions in passengers traveling on U.S. carriers has been seen in the Indian Subcontinent, the direct job losses are even greater than we have previously explained. As the supplemental Compass Lexecon report explains, the figure of 834 U.S. jobs per U.S. carrier widebody flight foregone is based on the average number of aircraft – 1.34 – used for each international widebody flight by U.S. carriers. However, ultra-long-haul flights to India generally require *two* widebody aircraft, more than the international average. Thus, the net difference in U.S. airline and related jobs from each displaced or foregone daily *non-stop frequency to India* is 1,537 jobs.[272]

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[268] Id. at 94-102.

[269] Partnership Answers to Questions at 46-48.

[270] See Business Confidential Appendices to Partnership Answers to Questions.

[271] See Business Confidential Appendices.

[272] Supplemental Compass Lexecon Impact Report at 47-48 & Exhibit 18. This updated figure for flights between the United States and India also includes the induced jobs related to the indirect jobs that were inadvertently excluded from the original calculation. See Supplemental Compass Lexecon Impact Report, p. 47, n.156.

Moreover, because airlines are network businesses, these first-order, directly harmful effects also have spillover effects that are harmful in their own right. For example, aircraft that have been purchased specifically because their range enables them to serve ultra-long-haul flights between the United States and India (such as the Boeing 777-200 LR) have been forced to be redeployed sub-optimally on other available routes that do not require such specialized ultra-long-range aircraft.[273] Likewise, the economic viability of entire routes that depend on seasonal traffic may be affected by Gulf carrier displacement of even a relatively small group of passengers.[274] Moreover, U.S. (and other) carriers may shift capacity from Gulf-saturated routes to other, less immediately affected routes, thus shifting some of the excess capacity to a route where Gulf presence is less apparent. Similarly, the loss of incremental revenue from cargo transported on passenger flights may affect the economic viability of some services.[275] These types of spillover effects are difficult to isolate and quantify, and we have not attempted to include them in our calculation of harm. Nonetheless, these examples illustrate some of the ways in which harm from Gulf carrier subsidies manifests itself as their effects radiate through airline networks.

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[273] For example, even though Delta purchased its subfleet of ten 777-200 LRs to support its then-existing nonstop service to India (JFK-BOM is approximately 7,800 miles), since Delta has been forced to terminate its India service, many of these aircraft have had to be deployed sub-optimally on routes where ultra-long-haul aircraft are not required, such as LAX-NRT (5,438 miles), as well as on a variety of routes between the United States and Europe.

[274] To take one possible example: passenger traffic between the United States and Europe tends to peak in the spring and summer, while traffic between the United States and India peaks in the fall and winter. See India Tourism Statistics at a Glance 3 tbl.2 (2014), http://tourism.gov.in/. Passengers traveling to India over a European hub during the winter months may be a key factor allowing a carrier to invest capacity in a year-round service to Europe; displacement of passengers to India may therefore have significant economic effects on the viability of such a flight beyond the direct displacement itself.

[275] For example, based on U.S. DOT Form 41 data, cargo accounted for approximately 5% of U.S. carriers' transatlantic revenue in 2014. Because subsidized Gulf carrier service to the United States has also resulted in overcapacity in cargo capacity (i.e., "belly space" inside of their widebody passenger aircraft) this has also put downward pressure on U.S. carriers' cargo yields. See, for example, "New data reveals extent of global air cargo slump", *Journal of Commerce*, Aug. 1, 2015, (http://www.joc.com/air-cargo/new-data-reveals-extent-global-air-cargo-slump_20150801.html): "The analyst found global revenue was down by 9.3 percent compared to the first half of last year. Among the largest 100 city-pairs in its database, those outside the trans-Pacific market virtually all suffered a considerable revenue loss year-over-year. The main origin and destination points between Asia Pacific and Europe suffered heavily, with revenue losses varying between 13 percent and 47 percent of the previous year's revenues, which was due more to yield deterioration than to volume loss. Carriers have struggled to lift yields as freight rates tumble to new lows. Drewry's East-West Air Freight Price Index showed that rates had fallen below $2.90 per kg for the first time since the index was launched in 2012. Drewry expects air freight pricing to remain weak over the next few months, as carriers release additional passenger capacity... Between June 2008 and June 2015, WorldACD data showed that none of the 12 inter-regional markets saw a yield increase. The best performing market was North America to Asia Pacific, where the yield decrease was limited to -9 percent. In all other markets, the decreases ranged from -22 percent (Middle East South America-Europe) to -41 percent (Asia-Europe)."

F. Gulf Carriers Threaten Substantial Additional Harm to U.S. Carriers

In their submissions, the Gulf carriers summarily dismiss the suggestion that they threaten any additional imminent harm to U.S. carriers. To the extent that their submissions address the question at all, they note that in WTO subsidy disputes, any claim of threatened injury must be based on more than "allegation, conjecture, or remote possibility,"[276] and assert that U.S. carriers have failed to provide anything other than conjecture in this regard.[277]

The WTO agreements are instructive here. They identify five types of evidence that should be examined in the context of any determination of threatened harm, not all of which will be applicable to all industries and no one of which is determinative. These types of evidence include (1) the nature of the subsidies and their trade effects, (2) recent trends in market share and reasonable projections from those trends about future market share; (3) the availability of additional capacity, existing or planned, to serve the relevant market, taking into account whether other markets can absorb that capacity; (4) recent trends in prices and reasonable projections from those trends about future effects in the relevant markets; and (5) outstanding inventories of finished products.[278] The last of these factors is not relevant to the airline industries, as there can be no stored "inventories" of passenger seats. However, the evidence already presented by the U.S. carriers demonstrates that *each* of the other relevant factors points to additional harm to U.S. carriers in the imminent future. Taken together, the evidence of threat of additional harm is overwhelming.

The nature of the subsidies and their effects on trade. As described in Section II(C) above, the subsidies provided to the Gulf carriers significantly reduce their cost of capital, thereby enabling them to acquire more new capacity than they would have absent the subsidies. As the CEO of Qatar Airways explained earlier this year, "Private investors really don't have the stomach to invest to the extent that Qatar Airways will require for its expansion."[279] Indeed, as previously noted, two of the Gulf carriers would not exist but for the subsidies, and the subsidized

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[276] SCM Agreement, art. 15.7.

[277] See Emirates Submission at 135-36; Qatar Submission at 38-39.

[278] SCM Agreement, Art. 15.7.

[279] David George, *Qatar Airways Ramps Up Global Expansion*, Bloomberg Businessweek Middle East (Mar. 2, 2015), http://www.businessweekme.com/Bloomberg/newsmid/190/newsid/413.

expansion of the Dubai airport is a key element in the international expansion strategy of the third.

By creating additional capacity in excess of what the market demands, the Gulf carriers depress fares and increase the number of passengers they carry without meaningfully stimulating additional demand over the long term, thus causing harm to competing carriers, including U.S. carriers. Moreover, the subsidies and the subsidy-fueled rapid expansion of the Gulf carriers shows no signs of abating, as explained in the following two paragraphs.

The Gulf carriers' share of U.S.-international bookings is growing rapidly. Gulf carriers have captured large amounts of traffic between the United States and key international markets over the last few years. As explained in our original White Paper, Gulf carriers have increased their market share for bookings between the United States and the Indian Subcontinent from 12 percent in 2008 to 40 percent in 2014, and for bookings between the eastern United States and southeast Asia from 1 percent in 2008 to 13 percent in 2014.[280] The number of O&D city-pairs with Gulf carrier presence reached 8,736 in the fourth quarter of 2014, accounting for [ ] percent of U.S. carriers' remaining trans-Atlantic and trans-Pacific passengers in the first three quarters of 2014 (up from only [ ] percent in the first three quarters of 2008) and [ ] percent of their revenue (up from [ ] percent), notwithstanding that Gulf carrier presence has diverted passengers and depressed fares for these city-pairs.[281]

The Gulf carriers' outstanding aircraft orders and expansion plans to the United States will lead to substantial additional harmful effects. All three Gulf carriers plan very substantial international capacity increases worldwide, as evidenced by their large pending orders for new aircraft. At the beginning of 2015, the Gulf carriers had 363 widebody passenger aircraft in service, and by 2020 – taking into account only firm orders for delivery before 2020 and assuming a 12-year retirement age for current aircraft – this number will increase by at least another 130 aircraft.[282] By 2020 these three carriers will have a total widebody capacity

[280] White Paper at 47-48 & figs. 22, 24.

[281] Partnership Answers to Questions at 43, revised to reflect updated MIDT data.

[282] White Paper at 40, updated to reflect revised MIDT data.

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significantly larger than all U.S. carriers combined.[283] The Gulf carriers will operate at least 160 Airbus A380s; indeed, Emirates alone will account for nearly half of the *global* A380 fleet.[284] With about 588 widebody aircraft on order or option (plus over 100 in optional orders) – nearly one-quarter of the entire worldwide widebody fleet in 2014 – the Gulf carriers will continue to expand their international capacity at high rates for years to come.

Further, with Gulf carrier capacity in many other markets already reaching saturation levels, the United States is a clear target for much of this new capacity. Indeed, since the release of our initial White Paper in January of this year, Emirates has announced that it would add its 10th U.S. destination (Orlando, effective September 1, 2015) and has or will soon double its daily frequencies between Dubai and Seattle (effective July 7, 2015) and Boston (effective October 1, 2015). Likewise, Qatar announced that it would add new daily non-stop service between its Doha hub and Los Angeles (effective January 1, 2016), Boston (effective March 16, 2016) and Atlanta (effective July 1, 2016), as well as an additional daily frequency to New York City (effective March 1, 2016).[285] Indeed, Gulf carrier officials have repeatedly stated that Gulf carriers are planning to devote significant new capacity to the U.S. market.[286] These plans include not only additional service through their Gulf hubs, but also "fifth freedom" services on trans-Atlantic and trans-Pacific routes.[287]

Finally, the Supplemental Compass Lexecon Report shows that the recent surge in Gulf carrier capacity growth to the United States closely parallels a similar surge in capacity growth to

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[283] Id. at 40.

[284] Id. As we demonstrated above, the subsidization of the Dubai airport to finance the upgrades necessary to accommodate this massive Emirates A380 fleet is a key element of this business plan.

[285] Source: OAG and "Qatar Airways Set to Expand its USA Network with the Addition of Three New Routes", Qatar Airways Press Release, May 4, 2015. http://www.qatarairways.com/global/en/press-release.page?pr_id=pressrelease_usa.

[286] White Paper at 42-23 (citing many sources).

[287] Robert Wall & Chris Jasper, *Emirates Seeks Global Supremacy wit A380s Flying Asia-US Routes*, Bloomber (June 4, 2013), http://www.bloomberg.com/news/articles/2013-06-04/emirates-seeks-global-supremacy-with-a380s-flying-asia-us-routes (quoting Emirates CEO Tim Clark as explaining that "[t]he open skies arrangement that the U.A.E. has with the U.S. allows us to take passengers on a fifth-freedom basis from the west coast and central points in the U.S. to points in Asia," and that "[w]here we will go, when we will do it, and with what, is under plan at the moment").

Europe that began in the years following the 2008-2009 financial crisis and recession.[288] That surge (which came on the heels of several years of steady—albeit slower—capacity growth to Europe) resulted in the termination of numerous routes by Europe carriers to regions now saturated with Gulf carrier capacity, as well as thousands of job losses at those carriers. That is, given the similarity between the situation in the United States currently and the situation in Europe just a few years ago, there is every reason to expect similar adverse impacts.[289]

Price effects, especially in head-to-head markets, are substantial and will increase significantly when Gulf carriers expand fifth-freedom services to the United States. As we have explained above, Gulf carriers have been depressing fares for U.S. carriers on all O&D city-pairs where they are present, and especially on O&D city-pairs involving their U.S. gateway cities, to a degree that is observed to be more than ten times that associated with the presence other carriers. Where U.S. carriers and Gulf carriers compete *on identical routes*, these effects have been even more pronounced. The fifth-freedom Emirates service between New York and Milan is a case in point. Prices have fallen sharply since Emirates launched this service in October 2013.[290] The New York-Milan route now has the lowest yields and fares of any major U.S.-Europe route, yet Emirates continues to expand its capacity on this route.[291] Eventually, one or more of the other carriers on this route will be forced to exit, after which yields and fares can be expected to return to normal levels.[292] If and when the Gulf carriers fulfill their stated intention to substantially expand fifth-freedom services to the United States, the severe price depression (and eventual long-term displacement) already seen on this initial fifth-freedom route will be seen on many more routes.

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[288] Supplemental Compass Lexecon Impact Report at 28.

[289] Delta recently announced that it is reducing its daily scheduled flight between Atlanta and Dubai, effective October 1, due to overcapacity in the market, leaving only one daily flight between the United States and the Gulf on a U.S. carrier. Jeffrey Dastin, *Delta Air Lines Shrinks Dubai Service, Points to Gulf Carrier Growth*, Reuters (Aug. 9, 2015), http://www.reuters.com/article/2015/08/09/airlines-competition-delta-idUSL1N10K06W20150809.

[290] The four other carriers serving this route are Alitalia, American, Delta, and United (from Newark).

[291] Supplemental Compass Lexecon Impact Report, Exhibits 25-27.

[292] Partnership Answers to Questions at 30-34.

In sum, each of the traditional "threat" factors relevant to the airline industry show that the already substantial harm experienced by the U.S. carriers will only continue to grow, causing additional substantial harm in the imminent future.

III. The Gulf Carriers Are Misstating the Facts and Mischaracterizing Key Provisions of the Open Skies Agreements in Order to Shield Their Subsidies from Review

Unable to defend their subsidies or the harm they cause, the Gulf carriers have resorted instead to distorting the Partnership's arguments and mischaracterizing key provisions of the Open Skies agreements in order to shield their subsidies from review. In this Part, we address the most egregious mischaracterizations and distortions, including the absurd claims that Article 11 (Fair Competition) of the Open Skies agreements does not apply to subsidies and that the United States cannot request consultations under Article 13 (Consultations) of the agreement to address them.

First, we explain the reasons why it is appropriate to borrow the WTO definition of "subsidy" to evaluate the subsidies that the Gulf carriers have received. Second, we explain how the Gulf carriers are willfully mischaracterizing key provisions of the Open Skies agreement in order to deter the United States from requesting consultations with the Governments of Qatar and the UAE. Third, we explain why, if the Gulf carriers' mischaracterizations were accepted, it would lead to absurd results that would seriously undermine the U.S. Open Skies program. Finally, we demonstrate that Qatar and the UAE are breaching their commitments to allow U.S. airlines a fair and equal opportunity to compete in providing international air transportation services under the agreements.

A. It Is Entirely Appropriate to Use WTO and U.S. Definitions of "Subsidy" to Evaluate the Subsidies that the Gulf Carriers Have Received

Emirates devotes an entire section of its submission to the proposition that the WTO *Agreement on Subsidies and Countervailing Measures* (the SCM Agreement) and the WTO *General Agreement on Trade in Services* (GATS) do not apply to air transport services – an issue that is not in dispute. As Emirates is fully aware,[293] the Partnership has never asserted that the WTO

[293] See, e.g., White Paper at nn. 45-47 and accompanying text.

agreements apply to air transportation services generally and have not asked the U.S. Government to initiate a dispute settlement proceeding at the WTO against Qatar and the UAE.

Rather, the Partnership has asked the U.S. Government to initiate consultations under Article 13 (Consultations) of the Open Skies agreements with Qatar and the UAE, in order to address the tens of billions of dollars in subsidies that the two countries have provided to their SOE carriers. As is clear, the Partnership has used the WTO definition to evaluate subsidies, not because WTO subsidy rules apply to the air transport sector, but because the WTO definition is an objective, preexisting, and multilaterally-agreed definition that has been accepted by all 163 WTO Members, including the United States, Qatar and the UAE. No other objective, internationally-recognized definition exists.

This approach – using the WTO definition to evaluate subsidies in other contexts – is the same approach that the WTO Appellate Body has used in disputes under the WTO *Agreement on Agriculture*, which does not include its own definition of subsidy.[294] The definition is also the definition that the United States has established in its domestic law for evaluating claims of unfair subsidization, and thus is highly probative here. Other aspects of WTO subsidy rules – shifts in market share as a result of subsidies, price suppression, lost sales, all of which exist in this case – also reflect an international consensus on the types of situations where subsidies are properly viewed as trade-distortive and harmful to other countries. The Gulf carriers have provided no legitimate basis for the United States not to use this definition in determining whether the Gulf carriers are being subsidized by their governments, and they have not offered any other broadly-accepted definition of "subsidy" that would result in the conclusion that the billions of dollars they receive from their governments are not subsidies.[295] The gist of their argument – that the Open Skies agreements do not define the term "subsidy," and therefore the United States has no right to request consultations to address them – is indefensible.

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[294] See Appellate Body Report, *Canada – Measures Affecting The Importation Of Milk And The Exportation Of Dairy Products*, WT/DS103/AB/R (adopted May 9, 2003), para. 87.

[295] The fact that the Gulf carriers offer no alternative definition is telling. But the absence of a definition does not mean that the agreement does not discipline subsidies. Indeed, this was the case for the GATT itself prior to the establishment of the WTO in 1994. The GATT 1947, for example, contains disciplines on subsidies in Articles VI and XVI, and the 1979 GATT "Tokyo Round" Subsidies Code also contained disciplines on subsidies, but neither agreement contained a definition of the term "subsidy" comparable to the definition in Article 1 of the 1994 SCM Agreement.

While WTO subsidy rules do not apply directly to the air transport sector, there is no rational basis – and indeed, harm to U.S. aviation policies and overall U.S. trade and economic policies – for not considering massive government subsidies to be a threat to U.S. interests in both contexts. Though the legal regimes are different, the underlying policies – as expressed in U.S. Open Skies on the one hand and in WTO subsidy rules (and every other administration initiative with respect to subsidized SOEs) on the other – are fundamentally the same. As DOT has stated, subsidies and other unfair government practices:

> distort competition and deprive the aviation system and consumers of the benefits that greater cost efficiency and lower prices would encourage. In the long run, these efforts will work against the overall best interests of the world economy.[296]

The United States risks undermining its own core international economic legal and policy objectives if it were to tolerate – in contravention of its Open Skies policy – such massive competition-distorting subsidies in the air transport industry.

B. The Gulf Carriers Mischaracterize the Open Skies Agreements to Shield Their Subsidies from Review

The Gulf carriers assert that the Partnership is claiming that Open Skies agreements establish a "blanket prohibition" on subsidies, and that if the U.S. Government endorses this claim, it will have to terminate, renegotiate or rewrite scores of U.S. Open Skies Agreements. This is a nonsensical theory that the Gulf carriers have invented out of whole cloth. The real issue is not whether Open Skies agreements establish a blanket prohibition on subsidies – a question that no party has raised – it is that the Gulf carriers are seeking to convince the U.S. Government to adopt an interpretation of the agreements that would give U.S. trading partners free license to use massive subsidies to distort competition in the international market, and that would deny the United States any recourse. There is no support for this radical theory in the agreements' texts.

First, while the Gulf carriers devote a significant portion of their submissions to a discussion of various provisions of the Open Skies agreements, they completely ignore the provision that is the subject of the Partnership's request: Article 13 (Consultations), which provides each Party the

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[296] U.S. Department of Transportation, *Statement of United States International Air Transportation Policy*, 60 Fed. Reg. 21841, 21844 (May 3, 1995) (DOT Policy Statement).

unilateral right to "request consultations relating to this Agreement" at any time.[297] Remarkably, there is no reference to Article 13 in any of the Gulf carrier submissions. The text of the provision is broad and unqualified and places no constraints on the issues a party is allowed to raise, including subsidies.[298] This fact alone provides sufficient grounds for the U.S. Government to dismiss the Gulf carriers' attempts to preclude the United States from raising questions about the Gulf subsidies with the governments of Qatar and the UAE.

Second, the Gulf carriers mischaracterize the provisions of the agreements that they do address. For example, while the Gulf carriers admit that Article 11 of the agreement (Fair Competition) requires each Party to allow the other Party's airlines a "fair an equal opportunity" to compete, they wrongly assert that the provision does not apply to subsidies, and thus that a government cannot breach the provision by using massive subsidies to distort the international market in favor of its carriers. There is no support for their interpretation in the text of the provision, which does not contain any text carving out subsidies from its scope. To the contrary, the provision is broad and unlimited: by its plain terms, any government action that does not allow a fair and equal opportunity of airlines to compete is inconsistent with Article 11.

The negotiating records of many Open Skies agreements are replete with statements from U.S. negotiators resisting other countries' efforts to add specificity and definitions to various provisions and instead supporting general language on issues like fair competition, with a resort to consultations in the event concerns arise. [

[297] U.S.-UAE Agreement, Art. 13; U.S.-Qatar Agreement, Art. 13. Such consultations "shall begin at the earliest possible date, but not later than 60 days from the date the other Party receives the request unless otherwise agreed." Id.

[298] See id. U.S. negotiators of Open Skies agreements have consistently taken the position that the consultation provisions are intentionally broad and unconstrained. This position is an integral element of the U.S. approach to Open Skies, which very deliberately avoids specificity and detailed definitions in key areas (*e.g.*, Fair Competition) in favor of more general provisions and an open-ended right to consult.

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The preamble to the agreement provides contextual support for the conclusion that a government can breach Article 11 by subsidizing its airlines.[301] For example, the preamble states that one purpose of the agreement is "to promote an international aviation system *based on competition among airlines in the marketplace, with minimum government interference* and regulation."[302] This plainly implies that government interference in the market can distort competition among airlines, which is the focus of Article 11. It cannot seriously be disputed that subsidies are a form of government interference in the market that can distort competition, and it would be illogical to interpret Article 11 – the primary article that is concerned with ensuring fair competition – to exclude them.[303] Indeed, in the case of the sixth freedom traffic that is most relevant here, the provision of subsidies is one of the principal ways in which a government can intervene to distort competition in the market and adversely affect the fair and equal opportunity of airlines to compete.[304]

] See Confidential Appendix.

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] See Confidential Appendix.

301 Under Article 31 of the Vienna Convention, a treaty "shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose." *Vienna Convention on the Law of Treaties*, Art. 31.1. The context for the purpose of the interpretation of a treaty includes its preamble and appendices. Id., Art. 31.2.

302 Emphasis added.

303 The preamble also states the parties' shared desire "to facilitate the expansion of international air transport opportunities." Subsidies are contrary to this objective as well, as they can foreclose such opportunities by making routes uneconomic for the non-subsidized airlines, as has occurred in this case.

304 For example, when U.S. airlines compete with Gulf carriers for passengers traveling to the United States from Asia, U.S. airlines transport the passengers nonstop or over the hubs of their JV partner airlines. In such cases, the issue is not whether the Gulf governments are taking actions that are affecting the ability to compete at their airlines' hubs in Qatar or the UAE, but whether they are taking actions that are negatively affecting the conditions of

In addition to being contrary to the text of the provision, the Gulf carriers' interpretation of Article 11 is also directly contrary to the views of U.S. aviation policy makers and negotiators dating back to the beginning of U.S. efforts to negotiate Open Skies agreements. As the attached affidavit by Daniel M. Kasper, the former Director of International Aviation, U.S. Civil Aeronautics Board (CAB), explains, U.S. negotiators:

> were acutely aware that the shift from the then-prevailing (Bermuda I) bilaterals to Open Skies agreements would result in the elimination of bilateral provisions governing fares, routes and entry (designations) that had theretofore allowed the U.S. Government to effectively limit the harm to U.S. airlines by subsidized foreign competitors. And we also knew from experience that there were many possible ways – both direct and indirect – that governments might seek to subsidize (and otherwise unfairly advantage) their national carrier(s).
>
> In light of political opposition to our efforts to liberalize competition in international aviation markets, we recognized that if the Open Skies initiative were to move forward, it was essential that the U.S. Government maintain the ability to respond effectively in cases where other governments sought to use subsidies to distort competition and unfairly disadvantage U.S. airlines. . . .
>
> The use of government subsidies to finance below cost pricing by state-owned carriers was the most salient concern at that time, and it was specifically mentioned in the pricing article of U.S. air service agreements. But we were also well-aware from first-hand experience that subsidies could adversely and unfairly impact U.S. airlines in other ways than by directly supporting below-cost pricing. Hence, it was clear to us that any new aviation agreements would have to retain the U.S. Government's ability to respond to subsidies in myriad of possible guises. In this regard, the "fair and equal opportunity to compete" article contained in the new bilateral agreements was critical. . . .
>
> Rather than seeking to specify in advance every possible means by which governments might attempt to unfairly advantage their own airlines at the expense of U.S. carriers, we . . . continued the longstanding U.S. practice of relying on the "fair and equal opportunity clause," which utilized a more flexible, "common law" approach based on the specific facts of each case. . . .
>
> Since the dawn of modern international aviation, the United States has relied on the fair and equal opportunity to compete provisions contained in every U.S. air service agreement as protection against the harmful, market distorting effects of foreign government policies designed to advantage their national airlines at the expense of U.S. carriers. And contrary to Emirates' position, U.S. concerns about subsidies and other market distorting activities by foreign governments did not end with the advent of "Open

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competition in the international marketplace where the competition between U.S. and Gulf airlines is actually taking place.

> Skies." Rather, ensuring "that competition is fair and the playing field is level by eliminating marketplace distortions, such as government subsidies..." was specifically cited as an objective of U.S. "Open Skies" aviation policy. This history, plus the patently obvious regulatory, negotiating and political concerns that arose from the elimination of bilateral provisions that had limited the potential of subsidies to distort competition and harm U.S. carriers under pre-Open Skies bilaterals, makes abundantly clear the total implausibility of Emirates' claim that the fair and equal opportunity to compete article was not intended to apply to state subsidies.[305]

Furthermore, as the Kasper Affidavit states, DOT's 1995 Open Skies Policy Statement specifically cited financial aid to national airlines as one of the government actions that "distort[s] competition and deprive[s] the aviation system and consumers of the benefits that greater cost efficiency and lower prices would encourage."[306] Given this evidence of the U.S. Government's policy views at the time that it promulgated the policy, it is not credible to conclude that Article 11 – the principal Article concerned with safeguarding against competitive distortions – does not apply to subsidies.

It is also notable that when the United States and the EU decided to include a fleshed out subsidy provision in the U.S.-EU open skies agreement, they specifically recognized that subsidies may adversely affect the fair and equal opportunity to compete.[307] And when the CAB instituted an investigation into UK subsidies to the Concorde, the State Department and the Department of Transportation both urged the CAB to investigate whether the subsidies were depriving U.S. carriers of a fair and equal opportunity to compete.[308] Both of these actions reflect the obvious fact that subsidies can, indeed, adversely affect the fair and equal opportunity to compete that Article 11 is designed to protect.

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[305] Affidavit of Daniel M. Kasper, paras. 8-13 (footnotes omitted) (Kasper Affidavit) (attached as Exhibit 8).

[306] DOT Policy Statement, 60 Fed. Reg. at 21843-44.

[307] Article 2 of the US-EU agreement requires each Party to allow a fair and equal opportunity for the other Party's airlines to compete. Air Transport Agreement, U.S.-EU, Art. 2. The preamble and Article 14 of the agreement both recognize that government subsidies and support may adversely affect that opportunity. Id., Art. 14. Moreover, Article 14 includes an illustrative list of subsidies that includes many of the types of subsidy that the Gulf carriers have received, including capital injections, cross-subsidization, grants, loan guarantees, and tax exemptions.

[308] See *Complaint of Pan American World Airways, Inc. Against the Government of the United Kingdom and British Airways and In re Miami-London Concorde Fare of British Airways, Order Consolidating Complaints and Instituting Investigation*, Order 84-6-70, June 22, 1984 (DOT Dockets 41909 and 41956), Appendix A.

This point bears repeating: Subsidies can adversely affect the fair and equal opportunity to compete in a way that is inconsistent with Article 11. But accepting this argument does not require one also to accept that Article 11 establishes a "blanket prohibition" on subsidies. The Partnership has never made such an argument, and the Gulf carrier claim to the contrary is another fiction that they have invented in an effort to catastrophize the outcome of any effort to examine their subsidies, in order to deter the U.S. Government from requesting consultations.

For example, because the U.S. airlines are not alleging that Article 11 establishes a blanket prohibition on subsidies, Emirates' argument that embracing this non-existent theory would require the United States to "terminat[e], renegotiate[e] or rewrit[e] scores of U.S. Open Skies Agreements" is both incendiary and irrelevant.[309] Its assertion that requesting consultations with respect to Gulf subsidies would "end Open Skies" and return the United States to a "mercantilist regime" is similarly baseless.[310] And it is a particularly audacious charge, coming as it is from an airline whose government has enacted an overtly mercantilist aviation policy that is designed to distort the international market in favor of its subsidized, SOE carrier.

Notably, apart from distorting the U.S. airlines' arguments, the Gulf carriers make no effort to explain why subsidies cannot deny a fair and equal opportunity to compete. Instead, they argue that the agreements' pricing article (Article 12) occupies the field with respect to subsidies. But there is no support for their interpretation in the text of Article 12, which is entitled "pricing," not "subsidies."

As its title makes clear, the purpose of Article 12 is to establish a special mechanism that a Party may use if it wishes to intervene in the market with respect to a particular price charged by an airline of the other Party. Article 12 clearly states that there are only three situations in which a Party is entitled to use the pricing mechanism, including in cases where a price is artificially low because of governmental subsidy or support. But there is nothing in the text of Article 12 to support the Gulf carriers' contention that if a Party has concerns about subsidies, its only option is to challenge individual prices under Article 12 – and that it cannot raise broader subsidy concerns under Article 13. Nor is there any support in the text for the proposition that subsidies

[309] See Emirates Submission at 72.

[310] See, e.g., id. at 77.

are carved out of Article 11. The Gulf carriers are trying to read words into Article 12 that are not there.[311]

Furthermore, the Gulf carriers anchor their interpretation in the fact that the term "subsidy" appears in Article 12, but not in Article 11.[312] By this logic, Article 11 does not apply to "discriminatory" practices either, because Article 12 explicitly refers to discriminatory practices, while the term does not appear in Article 11.[313] But Emirates and Etihad both assert that Article 11 applies to discriminatory practices, which is further evidence that their interpretation of Article 12 is unfounded.[314]

Finally, the Gulf carriers argue that if Article 11 applied to subsidies, it would render the "procedural safeguards" of Article 12 inutile, contrary to the "principle of effectiveness" of treaty interpretation.[315] But they are wrong. Under the proper interpretation of the relevant provisions, if a Party wishes to raise concerns about another Party's subsidies, it may request consultations under Article 13, and it may choose during those consultations to raise whether there has been a breach of Article 11. However, if the Party wishes to intervene in the market with respect to a particular price charged by the subsidized airline, it would only be able to do so pursuant to Article 12. These dual tracks reflect that, as discussed above, Article 12 establishes an exclusive mechanism for intervening in the market to challenge particular prices, not an exclusive avenue for addressing subsidies.[316]

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[311] "[I]t is not the function of interpretation to revise treaties or to read into them what they do not, expressly or by implication, contain." Yearbook of the International Law Commission, 1966, Vol. II, Report of the International Law Commission on the work of its eighteenth session, at 220-221 (Geneva, 1966) (citations omitted); see also Appellate Body Report, *European Communities – Measures Affecting Meat and Meat Products (Hormones)*, WT/DS26/AB/R (adopted 13 February 1998) para. 181 (discussing the fundamental rule of treaty interpretation that a treaty interpreter must "read and interpret the words actually used by the agreement under examination, and not words which the interpreter may feel should have been used").

[312] See, e.g., Emirates Submission at 69.

[313] Compare, Art. 12.1(a) with id., Art. 11.

[314] See, e.g., Emirates Submission at 75; Etihad Submission at 36.

[315] See, e.g., Emirates Submission at 73. The principle of effectiveness holds that an interpreter must give meaning and effect to all the terms of a treaty. An interpreter is not free to adopt a reading that would result in reducing whole clauses or paragraphs of a treaty to redundancy or inutility. See, e.g., Appellate Body Report, *United States – Standards for Reformulated and Conventional Gasoline*, WT/DS2/AB/R (adopted 20 May 1996), at 21.

[316] See Kasper Affidavit, para. 11. [

NON-CONFIDENTIAL VERSION

C. The Gulf Carriers' Interpretation Would Lead to Absurd Results

It is obvious why the Gulf carriers are advancing the theory that Article 12 is the exclusive basis under the Open Skies agreements for addressing concerns about subsidies: Article 12 is a "double-disapproval" provision that gives each Party a unilateral veto over any concerns that the other Party raises. But the fact that Article 12 gives each Party a unilateral veto demonstrates why the Gulf carriers' interpretation cannot be correct, as it would lead to the manifestly absurd result that a foreign government that entered into an Open Skies agreement with the United States could subsequently create an airline with subsidies, give it free aircraft, free fuel, free rent at its hub, and unlimited subsidies to cover its operating losses, no matter how significant, and the United States would have no recourse – even if the subsidies caused serious harm to U.S. airlines and cost thousands of U.S. jobs. It is simply not credible to conclude that U.S. Open Skies policy gives U.S. trading partners free license to distort the market through massive subsidies and handcuffs the ability of the United States to respond.[317]

The correct interpretation – and the only one that is consistent with the objective of U.S. Open Skies to "ensure that competition is fair and the playing field is level by eliminating marketplace distortions, such as government subsidies"[318] – is that Article 11 applies to subsidies, just as it applies to any other actions that adversely affect the fair and equal opportunity to compete, and that a Party is fully within its explicitly unilateral right to request consultations under Article 13 to address its subsidy concerns.

When Emirates' lobbyist John Byerly was serving as Deputy Assistant Secretary of State, he described the "fair and equal opportunity" clause as [

] See Confidential Appendix.

[317] As noted in the Kasper Affidavit, U.S. aviation policy makers and negotiators were acutely aware of the enhanced risks posed by government subsidies under Open Skies agreements.

[318] DOT Policy Statement, 60 Fed. Reg. at 21844. This is also the only interpretation that is consistent with the statutory authority that underpins the Open Skies program, including the objectives to "strengthen the competitive position of air carriers to ensure at least equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation" and to "eliminat[e] discrimination and unfair competitive practices faced by United States airlines in foreign air transportation." 49 U.S.C. §40101(e)(1), (e)(9).

] the rise of massive and distortive state capitalism and heavily subsidized SOEs – a problem that the United States did not anticipate when it entered into the Open Skies agreements with Qatar and the UAE,[320] but one that Article 11 covers. Mr. Byerly's statement is also significant because it illustrates why the United States chose not to define further the Fair Competition commitment. It is precisely because the aviation world changes rapidly, and today's negotiators may not envision tomorrow's threats to fair competition.

D. Qatar and the UAE are Breaching Article 11 of the Open Skies Agreements

As noted above in Subsection III(B), Article 13 gives each Party a unilateral right to request consultations at any time, and for any reason.[321] It is not necessary for the United States to allege or conclude that Qatar and the UAE are violating the agreements in order to request consultations here. However, contrary to the suggestions of the Gulf carriers, the record of this proceeding demonstrates clearly that Qatar and the UAE are breaching their obligations under Article 11 of the agreements to allow U.S. airlines "a fair and equal opportunity" to compete.

Article 11.1 states as follows:

> Each Party shall allow a fair and equal opportunity for the designated airlines of both Parties to compete in providing the international air transportation governed by this Agreement.

Given the plain language of the provision, a few points are immediately clear. First, Article 11.1 is concerned with the impact of a Party's measures on the "designated airlines" of the other Party. Emirates' suggestion that the U.S. Government should determine instead whether there has been "harm to the objectives of Open Skies – not merely effects on specific competitors" – is

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[319] See Confidential Appendix. [

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[320] See, e.g., DOT Policy Statement, 60 Fed. Reg. at 21844 (stating that "no individual government can control all facets of its airlines' marketplace.").

[321] U.S.-UAE Agreement, Art. 13; U.S.-Qatar Agreement, Art. 13.

flatly inconsistent with the agreement's text.[322] If a Party's measures do not allow the other Party's airlines a "fair and equal opportunity" to compete, they violate Article 11.1.

Second, the requirement for a Party to "allow a fair and equal opportunity . . . to compete" in providing international air transportation means a government must not interfere in the market in a way that gives its airline(s) unfair competitive advantages over the other Party's airline(s).[323] Measures that distort (*i.e.*, render unfair or unequal) competition in favor of a Party's airlines over others are not allowed. As discussed in Subsection III(B), the provision of subsidies is one of the principal ways in which a government can accomplish this result.

Third, it is not necessary to show harm to a particular airline or airlines in order to establish a breach of Article 11.1, although harm may be evidence of a breach. This conclusion is apparent not only from the text of the provision itself, which makes no reference to harm, but also from the remainder of Article 11, which includes numerous obligations that a Party could breach without causing meaningful harm to the other Party's airlines.[324] The focus of Article 11 is on the impact of the challenged measures on fair and equal competition.

In this case, Qatar and the UAE are breaching their commitment to allow U.S. airlines a fair and equal opportunity to compete. As the Partnership has amply demonstrated:

- A principal objective of U.S. Open Skies agreements is to minimize government interference in the market and to promote an international aviation system based on competition among airlines. The Governments of Abu Dhabi, Dubai and Qatar are acting directly contrary to this objective by pursuing overtly mercantilist aviation policies that are designed to distort the international marketplace in favor of their subsidized, SOE carriers by shifting traffic to their airlines from other airlines, including U.S. airlines.

- The evidence of massive subsidy is irrefutable, and the evidence is overwhelming that the Gulf carriers could not expand their capacity at the rates they have been (and will continue to expand) without them. Indeed, as their own financials show, but for the

[322] Emirates Submission at 84.

[323] This is consistent with the preambles to the U.S.-UAE and U.S.-Qatar agreements, which state that one purpose of the agreements is "to promote an international aviation system based on competition among airlines in the marketplace, with minimum government interference and regulation."

[324] For example, a Party would breach Article 11.4 if it failed to minimize the administrative burdens of a requirement to file schedules, even if the "harm" caused by such burdens was negligible. See U.S.-UAE Open Skies Agreement, Art. 11.4.

subsidies, two of the three Gulf carriers would not be commercially viable and likely would not exist, and the third would be smaller. Without subsidies, including their subsidized airport infrastructure, none of the Gulf carriers would be able to continue their unconstrained expansion.

- Because the Gulf carriers have essentially no domestic markets, their subsidies and their subsidized capacity is targeted entirely at international routes, including routes to the United States. The success of their governments' industrial policy strategies depends on the Gulf carriers using their subsidized capacity to capture sixth freedom traffic from U.S. and third-country carriers and to divert it through their hubs. This is the primary purpose of the ongoing, subsidized expansion of their airports, which already have capacity that vastly exceeds the amount needed to serve their local populations.

- The subsidies are denying U.S. airlines a fair and equal opportunity to compete in markets that are flooded with subsidized Gulf capacity. The U.S. airlines have been almost completely foreclosed from serving Qatar and the UAE and from providing nonstop service to India, the second most populous country in the world. U.S. airlines' JV partners have also been adversely affected, canceling many routes to Asia, Africa and the Middle East, thereby preventing U.S. airlines from providing joint service between the United States and these destinations.[325] And as shown in the Compass Lexecon study,[326] this has resulted in less demand, and hence less capacity by U.S. airlines, on trans-Atlantic routes. The negative impacts of the subsidized competition on international markets will continue to intensify as the Gulf carriers continue to massively expand their fleets.

- Although Article 11 does not require a showing of harm to a particular airline or airlines, the Partnership has demonstrated that the harm to U.S. carriers from the subsidized growth of the Gulf carriers is already substantial, and threatens to become even more substantial in the near future. Subsidized Gulf carrier capacity is depressing prices for U.S. carriers, causing U.S. carriers to lose passengers in thousands of U.S.-international city-pairs, and costing thousands of U.S. jobs.

- The Partnership has established beyond doubt that the subsidies have fueled capacity between the Gulf and the United States that has distorted competition on international routes between the United States, on the one hand, and the Gulf, India, and other fifth and sixth freedom markets that the Gulf carriers serve, on the other. The subsidies will continue to distort competition by causing U.S. airlines to make future aircraft purchase and route-entry decisions based on competitive considerations that would not exist absent the subsidies.

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[325] See "Subsidies to carriers from the Gulf – Impact on airlines of the Lufthansa Group," Lufthansa Group (June 11, 2015).

[326] Supplemental Compass Lexecon Impact Report at Ex. 21.

As the Gulf carriers have repeatedly stated, Article 11 of the agreement prohibits Parties from unilaterally limiting frequencies or routes.[327] It is simply not credible to argue that it is a violation of Article 11 for a Party to deny an airline a single weekly frequency (which would cause relatively little harm), but it is not a violation for a Party to subsidize its airline to such an extent as to effectively preclude the other Party's airlines from providing any frequencies at all. To conclude otherwise would mean that grossly market-distortive subsidies are permissible under Article 11, which, by its very language, is not the case.

IV. The Gulf Carriers Have Failed to Demonstrate that the United States Provides Subsidies to U.S. Carriers That Have Caused Harm or Otherwise Distorted International Competition

The Gulf carriers' claims about alleged U.S. subsidies explain their opposition to the Partnership's use of WTO definitions: using the same objective, international standards, the Gulf carriers have no complaint. The confused and half-hearted nature of their analyses shows that they are not genuinely concerned or impacted by the measures they have identified. Their true purpose – like their distortions of the U.S. airlines' arguments and their mischaracterizations of the Open Skies agreements – is to obfuscate and shield their own subsidies from review. This gambit must fail.

The aviation mercantilism practiced in Qatar and the UAE has no analogue in the United States, and baseless assertions that the United States does not have "clean hands"[328] cannot deter the U.S. Government from taking action to defend U.S. Open Skies policy or the agreements themselves. The claim that U.S. companies have received subsidies has never been and cannot be an impediment to the enforcement of trade agreements against unfair foreign practices that harm U.S. companies.[329]

In this Part we respond to each of the Gulf carriers' allegations. In each case the carriers fail to demonstrate some or all of the necessary elements for establishing a subsidy: the existence of a "financial contribution" by the government; the conferral of a "benefit" on the U.S. airlines; or

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[327] See, e.g., U.S.-UAE Open Skies Agreement, Art. 11.2.

[328] Emirates Submission at 76.

[329] For example, the EU's complaint against the United States for alleged subsidies to Boeing did not deter the United States from vigorously challenging the EU's subsidies to Airbus at the WTO.

"specificity" to a particular airline or the industry as a whole. They also fail to establish – and indeed, make no effort to demonstrate – any harm to themselves or to international competition more broadly.

A. Chapter 11 Bankruptcy Is Not a Subsidy

The Gulf carriers assert that the U.S. airline industry's reorganizations under Chapter 11 of the U.S. bankruptcy law is tantamount to a subsidy.[330] 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 a core requirement for the existence of a subsidy.[331] Nor is Chapter 11 specific: a broad range of industries have availed themselves of the Chapter 11 process.[332]

The U.S. Government has made clear its view that the U.S. airlines' bankruptcy reorganizations did not constitute subsidies. In Open Skies negotiations with the EU, for example, the U.S. delegation specifically stated that Chapter 11 bankruptcy is not a subsidy because no government funds are involved (*i.e.,* there is no financial contribution) and it does not distort competition:

> The European delegation raised American Airlines' recent filing for Chapter 11 bankruptcy and said that it viewed Chapter 11 as a government subsidy and was concerned about the competitive impact of bankruptcy on the trans-Atlantic aviation market. The U.S. delegation responded that it did not consider Chapter 11 bankruptcy to be a government subsidy or support, that no government funds

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[330] Emirates Submission at 147; Risk Advisory, "Financial & Other Government Benefits Provided to American Airlines, Delta Air Lines & United Airlines" (May 14, 2014) (Risk Advisory Report) at 6. Specifically, Chapter 11 of Title 11 of the United States Code (Chapter 11 or the Bankruptcy Code).

[331] Here and throughout this section, the terms "financial contribution," "benefit," and "specificity" are given the meanings established under the SCM Agreement and as interpreted by the WTO's Dispute Settlement Body.

[332] Recent examples range from well-known retailers (Eddie Bauer, Brookstone) to key players in the auto industry (General Motors, Chrysler) to large fast-food restaurant chains (Quiznos, Sbarro). Emirates states without support that the "air transportation industry . . . is one of the leading users of Chapter 11." Emirates Submission at 147-48. In actuality, neither the U.S. airlines nor any other company in the "air transportation industry" has been among the 20 largest public company bankruptcies based on the companies' pre-bankruptcy value. See "Largest Public Company Bankruptcy Filings of 1980-Present," bankruptcydata.com, available at http://www.bankruptcydata.com/largest.asp?y= (last visited 7 July 2015).

Furthermore, many U.S. industries on whose behalf the U.S. Government has acted have been through Chapter 11 reorganization. For example, last year the United States prevailed at the WTO in its challenge to China's unjustified imposition of duties on American cars and SUVs. The fact that Chrysler and General Motors reorganized under Chapter 11 did not prevent the United States from taking action to defend the companies against these unfair foreign measures. Nor have the various bankruptcies of the U.S. steel industry (or their receipt of loan guarantees, past protection through import quotas, or other measures) prevented the United States from investigating foreign government subsidization of steel and imposing appropriate remedies.

were involved in Chapter 11, and that Chapter 11 had not been shown to distort competition.[333]

The United States has also confirmed in filings made in third-country countervailing duty proceedings that bankruptcy is not "specific." Rather, as the U.S. Government has recognized, Chapter 11 is a broadly available legal process that ensures the orderly enforcement of contracts by and between private, commercial parties, without any provision of funds or relief of debt by the government. Chapter 11 proceedings occur transparently in impartial courts that are designed to protect the rights of creditors and not the economic interests of the filing companies.

The U.S. airlines' bankruptcy reorganizations did not involve any subsidies by the U.S. Government, and the Gulf carriers have failed to demonstrate otherwise.[334] Given the utter absence of evidence to the contrary, therefore, each Gulf carrier argument on this issue will be rapidly disposed of, in turn.

1. Chapter 11 Involves No Financial Contribution by the Government

Emirates argues that the U.S. airlines' bankruptcy reorganizations "resulted in the forgiveness of debt, which represents a financial contribution for SCM Agreement purposes."[335] Indeed, debt forgiveness *can* constitute a financial contribution – when the government is the creditor. This is not the case here, nor is this the role that the U.S. Government plays under Chapter 11 or played in the U.S. airlines' bankruptcy reorganizations.[336] The U.S. Government assumed no debt on

[333] Tenth Meeting of the U.S.-EU Joint Committee Record of Meeting (Dec. 8, 2011), para. 19, available at http://www.state.gov/e/eb/rls/othr/ata/e/eu/192096.htm). The fact that the United States defended the bankruptcies against the subsidy charges proves that subsidies are covered by Article 11. If they were not so covered, then the United States' defenses of the measures were pointless.

[334] In addition to not being a subsidy, Chapter 11 is distinguishable from the actual subsidies that the Gulf carriers receive for several other reasons. Most notably, when the U.S. airlines were forced to undergo Chapter 11 bankruptcy reorganization, it required significant consolidation, the loss of jobs, and other financial concessions by the U.S. airline industry. The Gulf carriers' subsidies, by contrast, have directly enabled their rapid expansion and – with respect to Qatar and Etihad – their continued existence. And as the *Economist* has observed, Chapter 11 restructurings are "conducted under the watchful eye of an independent judiciary. By contrast, decisions about the organization of Gulf-carrier balance sheets are taken behind closed doors, by dynastic rulers who have no accountability to their citizens. . . ." *Feeling the heat, Airline subsidies in the Gulf*, The Economist (Mar. 6, 2015), available at http://www.economist.com/blogs/gulliver/2015/03/airline-subsidies-gulf.

[335] Emirates Submission at 147.

[336] While Emirates cites the *Japan-DRAMS* Appellate Body report in support of its argument, it misleadingly fails to note that the Appellate Body found that the Korean manufacturer's creditors had modified pre-existing loans at the direction of the Korean government, which is one of the bases for finding a financial contribution under Article 1.1 of the SCM Agreement. Appellate Body Report, *Japan - Countervailing Duties on Dynamic Random Access*

behalf of the U.S. airlines nor otherwise directed that private creditors eliminate the airlines' debt. Consistent with these facts, and as previously noted, the U.S. Government has specifically stated in other bilateral Open Skies contexts that no U.S. Government funds are involved in Chapter 11.[337]

2. Chapter 11 Is Not Specific to the U.S. Airlines

As noted above, Chapter 11 bankruptcy is not *specific* to the U.S. carriers or any particular industry. It is available to and used by thousands of companies across a wide range of industries.

The U.S. Government position on this issue is clear: bankruptcy reorganizations do not confer subsidies where, as in this case, (i) the bankruptcy protection is generally available in the country in question, and (ii) the bankruptcy in question was consistent with the typical practice in the country.[338] The U.S. airlines' Chapter 11 bankruptcies were conducted pursuant to the generally available U.S. bankruptcy provisions without any government interference or effort to advantage the airlines or confer special treatment, and the Gulf carriers have not alleged otherwise.

3. The U.S. Carriers' Alleged "Tax Savings and Annual Cost Savings" Are Not Subsidies

Emirates claims without any analysis that the U.S. airlines receive $11 billion in annual cost savings as a result of their bankruptcies, and that these savings constitute subsidies.[339] This is a silly argument, as evidenced by Emirates' own treatment of the allegation, which makes no effort to explain how these alleged savings involve any financial contribution by the government or why they are "specific."

Memories from Korea (Japan-DRAMS), WT/DS336/AB/R (adopted 17 December 2007) para. 250. But Emirates has failed to allege – and cannot plausibly do so – that the U.S. Government entrusted or directed any private creditors to modify the terms of the U.S. airlines' pre-existing loans such that a financial contribution *by the government* could be said to have occurred in any of the U.S. airlines' Chapter 11 bankruptcies.

[337] Tenth Meeting of the U.S.-EU Joint Committee Record of Meeting (Dec. 8, 2011), para. 19, available at http://www.state.gov/e/eb/rls/othr/ata/e/eu/192096.htm.

[338] Where the bankruptcy protection is generally available, and the particular proceeding is consistent with the typical practice for administering a bankruptcy, there is no subsidy unless the company receives some special or differential treatment in its bankruptcy by the government. See, e.g., *Final Results of the Countervailing Duty Administrative Review of Corrosion-Resistant Carbon Steel Flat Products from Korea*; 2010, 78 Fed. Reg. 19210 (Dep't Commerce Mar. 29, 2013), and accompanying Issues and Decisions Memorandum, at 21.

[339] Emirates Submission at 163-64.

Emirates' allegation that the U.S. airlines' ability to carry forward net operating losses constitutes a subsidy is similarly unfounded.[340] While Emirates claims that the ability to do so is a financial contribution by the government in the form of "revenue foregone," it misleadingly fails to note that "foregone" revenue can only constitute a financial contribution if it was "otherwise due."[341] Such loss carry forwards are routinely available to and claimed by virtually all companies under U.S. tax law, and do not involve the foregoing of revenue that is otherwise due.[342]

Emirates' critique of this feature of the U.S. tax system is particularly ironic in light of the fact that neither it nor the other Gulf carriers pay any corporate taxes in their home countries.

4. The Pension Benefit Guarantee Corporation Is Not a Subsidy

The Gulf carriers assert that the PBGC's assumption of pension liabilities constitutes a subsidy.[343] But they fail to note that the PBGC is an insurance program that is not supported by taxpayer funds and is used by a wide range of industries. The PBGC does not confer subsidies, and it is not "specific."

The PBGC protects the retirement incomes of more than 41 million American workers in nearly 24,000 private-sector defined benefit pension plans.[344] Its benefit insurance program is available to virtually all private-sector companies and union plans with defined benefits plans. The PBGC's "financing comes from insurance premiums paid by companies whose plans we protect, from our investments, from the assets of pension plans that we take over as trustee, and from recoveries from the companies formerly responsible for the plans, *but not from taxes*",[345] and "PBGC is not funded by general tax revenues. PBGC collects insurance premiums from employers that sponsor insured pension plans, earns money from investments and receives funds

[340] Id. at 155-56.

[341] SCM Agreement, Art. 1.1(a)(ii).

[342] See 26 U.S.C. § 382(g)(3)(A)(i). The provision also is not specific to the airlines.

[343] Emirates Submission at 145; Risk Advisory Report at 7.

[344] PBGC, "Who We Are," *available at* http://www.pbgc.gov/about/who-we-are.html (last visited Aug. 24, 2015).

[345] PBGC, "General FAQs about PBGC," *available at* http://www.pbgc.gov/about/faq/pg/general-faqs-about-pbgc.html (last visited Aug. 24, 2015) (emphasis added).

from pension plans it takes over."[346] This program is designed to provide insurance to pensioners in a range of industries.

The PBGC participated in the U.S. airlines' bankruptcies as a member of the unsecured creditors' committees along with various other commercial creditors and sought to minimize its own liabilities as a party adverse to the debtor airlines. Like Chapter 11 itself, PBGC involves no financial contribution by the government.[347] PBGC is not supported by U.S. taxpayer funds nor is it backed by the full faith and credit of the United States.[348] By statute, the United States is not liable for any obligation or liability incurred by PBGC.[349] It is a privately funded insurance program, and it is broadly utilized. No pension liabilities were assumed by the U.S. Government and no subsidy exists.

5. Legal Protections and Competitive Conditions in the United States Are in Stark Contrast to Those in the Gulf

Bankruptcy and other formal proceedings for the structured reorganization of a company's debt are a common feature of many legal systems. However, although the UAE itself provides legal rights to distressed companies, UAE law forbids seizure of "public or private assets owned by the state or any of the Emirates" (*e.g.*, state-owned airlines).[350] Indeed, Emirates was incorporated by a decree that restricted the rights of creditors to recover debts or other

[346] 29 U.S.C. § 1305(b)(1). See "Who We Are," *available at* http://www.pbgc.gov/about/who-we-are.html (last visited Aug. 24, 2015). It can hardly be said that the airlines were part of a small group of users of the PBGC's benefit insurance programs; for example, in 2014, PBGC paid retirement for nearly 813,000 retirees in 4,600 different pension plans.

[347] Emirates argues that the "U.S. Government takeover cost the government in excess of $10 billion," Emirates Submission at 145, but cites to 2005 Senate committee testimony that does not provide any support for the statement. In fact, PBGC does not "cost" the U.S. Government anything. The $10 billion in losses referenced in that testimony were covered through the ordinary operation of PBGC, which relies on premiums paid by private companies, PBGC recovered assets, investment earnings, and bankruptcy recoveries.

[348] See Pension Benefit Guaranty Corporation, "How PBGC Operates," available at http://www.pbgc.gov/about/how-pbgc-operates.html (last visited Aug. 24, 2015).

[349] 29 U.S.C. § 1306(a).

[350] Legal experts analyzing restructuring and insolvency law in the UAE have found that "[t]he UAE bankruptcy regime in Law 18 is the UAE's equivalent to Chapter 11 proceedings in the United States" but also that "the bankruptcy provisions in Law 18 may not apply to state-owned entities as the Civil Procedures Law prevents the seizure of 'public or private assets owned by the state or any of the Emirates'" and that "UAE courts may defer or refuse a declaration of bankruptcy if to do so would be in the 'best interest of the national economy.'" See "Restructuring and Insolvency in the United Arab Emirates," (March 2011), *available at* http://www.lw.com/upload/pubContent/_pdf/pub2881_1.pdf.

obligations against it. Similarly, Qatar Airways has asserted that the laws of Qatar do not permit insolvency.

Chapter 11 bankruptcies are enormously disruptive and costly: to the company, its shareholders, its creditors, and its employees. Debtholders become equityholders and the companies shrink amidst massive layoffs. By contrast, the Gulf carriers continue to grow at unprecedented rates, fueled by subsidies and fully protected from loss or insolvency.

B. The FAA's Grandfathering of Airport Slots Is Not a Subsidy

Emirates claims that the "monetization" of certain airport slots constitutes a subsidy to the U.S. airlines. It does not. The FAA's slot management policies – beginning with the so-called "grandfathering" of slots half a century ago at a few select airports – have been in furtherance of promoting 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 on them.[351] Moreover, the Gulf carriers themselves participate in the "monetized" slot market.

Over the past 50 years, the United States has used slot management not to benefit "legacy" carriers, but to promote the best interests of all parties – including consumers, air traffic

[351] In the late 1960s, the Federal Aviation Administration (FAA) sought to address significant congestion and flight delay issues at five U.S. airports (JFK, EWR, LGA, DCA, ORD). The so-called High Density Rule imposed limits on the number of take offs or landings (or "slots") during certain periods of the day prone to congestion. Under the High Density Rule, airline scheduling committees and the airlines agreed to an initial allocation of slots based on then-existing usage of the airports by the airlines. The government's logic was simple: airlines that had invested in establishing and ensuring ongoing service to those airports had a reasonable expectation to continued access to the airport infrastructure at levels they were operating when the rule was imposed. Over time, however, the United States has modified its approach to slot control in response to changing competitive dynamics, including and especially the arrival of new entrants after airline deregulation. After deregulation in the 1970s, increased competition made it harder for the scheduling committees to reach agreement on slot allocation. The Civil Aeronautics Board and/or the Department of Transportation would periodically intervene to resolve these disputes, including by divesting a small percentage of slots from incumbent airlines and reallocated them to new entrants. In 1985 the FAA established the "Buy/Sell Rule," which allowed airlines to buy, sell, and trade slots and to pledge them as security for loans. The FAA also "provided for the withdrawal of up to five percent of slots at slot-controlled airports through a reverse lottery to provide a pool of slots for new entrants and limited incumbents." Notably, the Buy/Sell Rule "included use-or-lose provisions and explicitly stated slots were an operating privilege and not the carriers' property." In the 1990s, Congress relaxed the High Density Rule to promote competition among new entrants. By 2000, Congress phased out and terminated the High Density Rule at three airports (JFK, LGA and ORD) and directed the Secretary of Transportation to provide certain exemptions to promote more competition and to improve service to small communities. 80 Fed. Reg. 1274, 1277-78 (Jan. 8, 2015).

controllers and other aviation professionals, the communities that host the nation's airports, and new market entrants.[352]

Emirates argues that the U.S. Government's efforts to address airport congestion amounts to a "windfall" for the U.S. airlines, and a subsidy. Emirates is wrong. Slot controls are in place at over 150 airports worldwide, including every major European airport. They involve no financial contribution: no provision of funds by the government to the airlines; no government revenue otherwise due that is foregone; no provision of goods or services or purchase of goods by the government; and no other form of financial contribution.[353] And Emirates' theory of "benefit" – *i.e.*, that the U.S. legacy carriers "received the lion's share of slots" – is false. In fact, the airlines that received slots in the 1960s did so on the basis of having invested in establishing and ensuring ongoing service to those airports. They thus had a reasonable expectation to continued access to the airport infrastructure at the levels at which they were operating when the rule was imposed.

In any event, the "lion's share" of slots were allotted (as agreed by all the airlines then operating at the relevant airports) to airlines other than Delta, United, and American, and those three carriers have generally paid for the slots they have acquired over the years in arm's length transactions with other airlines.[354] The Gulf carriers know this: they have participated in the same slot market in which the U.S. airlines participate, as they have acquired slots from U.S.

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[352] See, e.g., id. at 1280 (describing the establishment of the New York Aviation Rulemaking Committee "to help the DOT and FAA explore available options for congestion management" and the committee's design "to provide opportunity for extensive input by all stakeholders, having members from every major U.S. air carrier, several foreign carriers, associations representing different aviation interests, and the Port Authority of New York and New Jersey").

[353] In *US-Softwood Lumber IV*, the WTO Appellate Body found that "what matters, for purposes of determining whether a government 'provides goods' in the sense of [the SCM Agreement], is the consequence of the transaction. Rights over felled trees or logs crystallize as a natural and inevitable consequence of the harvesters' exercise of their harvesting rights." Appellate Body Report, *United States-Final Countervailing Duty Determination With Respect to Certain Softwood Lumber from Canada*, WT/DS257/AB/R (19 Jan. 2004), para. 19. Here, the "natural and inevitable consequence" was not the provision of goods, or the provision of services, by the government. The consequence of the government's allocation of slots (half a century ago) was to formalize pre-existing access to airport infrastructure in the interest of consumer welfare and the safe operation of the civil aviation system at congested airports. It was and continues to be the airlines, not the government, that provides services.

[354] The breakup of Eastern Airlines – which had initially been "grandfathered" slots in the 1960s, is illustrative. In 1991, Northwest Airlines bought 67 slots at DCA from Eastern Airlines for $35.5 million. See "Airport Slots: International Experiences and Options for Reform," Achim I. Czerny, et. al, eds., Ashgate Publ'g, Ltd. 2008 at 230-31. United Airlines acquired 21 slots and three gates at ORD for $54 million. And Continental Airlines received 64 LGA slots from Eastern Airlines (in addition to other assets) for $85 million in debt reductions. Id.

airlines on commercial, arm's length terms, just as the U.S. airlines have.[355] In at least one case, they have actually received "grandfathered" slots themselves from the FAA.[356] And slot constraints exist at all three Gulf carrier hubs.[357]

C. The Air Transportation Safety and System Stabilization Act Was Not a Subsidy

In the immediate aftermath of the September 11, 2001 terrorist attacks on New York and Washington, D.C., the FAA ordered a temporary shutdown of the nation's airspace. The government-mandated shutdown effectively cut off the airlines' means of generating revenue, although they continued to incur substantial costs while prohibited from flying. In addition, capital and insurance markets were substantially or totally frozen. Credit for the airlines was nearly impossible to obtain, and insurance providers cancelled carriers' war risk insurance coverage.

In response, on September 22, 2001, the President signed into law the Air Transportation Safety and System Stabilization Act (Act), which provided $5 billion in emergency assistance to compensate for "direct losses incurred beginning on September 11, 2001 by air carriers as a result of [the FAA's ground stop order] . . . and the incremental losses incurred beginning September 11, 2001, and ending December 31, 2001, by air carriers as a direct result of" the terrorist attacks.[358] It also provided for up to $10 billion in Federal credit instruments and provided authority to the Secretary of Transportation to address the war risk insurance market failure by effectively maintaining pre-9/11 insurance costs.[359]

Remarkably, Emirates is attempting to use the Act – a direct response to the terrorist attacks on the United States, and narrowly tailored to address the acute impact of the attack on the U.S.

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[355] For example, Etihad has swapped slots at JFK with Air Berlin and Air Canada, Qatar and United have transferred slots between one another at JFK and EWR, and Emirates operates at JFK thanks to slots it has received from JetBlue.

[356] Qatar was grandfathered a slot at EWR when that airport became slot controlled in 2008. When Qatar flew instead to JFK, it transferred the EWR slots to United.

[357] DXB is Level 3 under IATA's guidelines – requiring the highest level of airport coordination to address congestion – and both DOH and AUB are Level 2. IATA Worldwide Slot Guidelines (WSG) - Annex 11.12.

[358] Pub. L. No. 107-42, § 101(a)(2), 115 Stat. 230 (2001).

[359] Id., §§ 101(a)(1), 201(b)(1).

airlines – to justify the Gulf carriers' subsidies, going so far as to equate the impact of the attacks with the "fuel-inefficient flight paths" that it encountered during the wars in Iraq.[360] The argument is insulting and baseless.[361] The U.S. Government has confirmed in other Open Skies negotiations that these measures following the terrorist attacks on September 11, 2001 were not subsidies.

1. The Emergency Assistance Was Not a Subsidy

As the U.S. Government has stated in discussions with other Open Skies partners, [

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Emirates' claim that the "driving rationale" for the Act was the "weak financial condition of the carriers" prior to September 11 is wrong.[363] To the contrary, the Act specifically limited the funds to the "direct losses" caused by the FAA ground stop order, plus incremental losses through December 31, 2001 "as a direct result of" the September 11 attacks.[364]

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[360] Emirates Submission at 152-54.

[361] Emirates brazenly tries to equate the impact of the September 11th terrorist strikes with the "challenges" it has faced from "wars and international instability", which it claims have "resulted in significant additional costs for Emirates, including fuel efficient flight paths, additional insurance costs, and a negative effect on tourism." However, an Emirates corporate history produced to commemorate the airline's 20th anniversary asserts that it was "business as usual" for Emirates within a few weeks of the Iraqi invasion and that the airline took advantage of the 9/11 attacks to increase its market share, with business largely recovering after just six weeks. See Graeme Wilson, *Emirates: The airline of the future*, at 65, 251 (2005).

[362] [

] See Confidential Appendix.

[363] Emirates Submission at 152.

[364] Pub. L. No. 107-42, 115 Stat. 230 (2001), Sec. 101(a)(2). The U.S. Department of Transportation (DOT) distributed the funds set aside by Congress under "a structured claim review process to help ensure that the $5 billion in disaster relief funds were used only to compensate carriers for their September 11 related losses." United States General Accounting Office, "Air Transportation Safety and System Stabilization Act: Aviation Assistance Programs; Information on Payments Made Under the Disaster Relief and Insurance Reimbursement Programs" (Sept. 17, 2003), Briefing for Congressional Requesters at 12. The process by which DOT distributed the funds was

Ultimately, the funds did not cover the total losses that the U.S. carriers incurred as a result of the U.S. Government's mandated closure of U.S. airspace: as the GAO found, "many carriers were compensated less than their September 11 losses."[365] Indeed, only $3.2 billion of the $5 billion authorized was distributed to the U.S. carriers (and just another $900 million to other U.S. airlines), a figure which fell far short of the airlines' total losses as the direct result of the September 11 attacks.[366]

2. The Loan Guarantees Were Not Subsidies

Emirates also asserts that the post-9/11 loan guarantees received by certain U.S. airlines constituted subsidies. Like the emergency assistance discussed above, however, these post-9/11 loan guarantees were not provided because of the "deteriorating" financial condition of the U.S. airlines prior to 9/11, as Emirates alleges, but to compensate them "for losses incurred . . . as a result of the terrorist attacks on the United States that occurred on September 11, 2001."[367] The ATSB issued just six loan guarantees in response to 16 applications, and only two of these were provided to airlines that fly internationally in competition with the Gulf carriers.[368]

Although Emirates asserts that the loan guarantees "conferred 'benefits'" to the U.S. carriers, it fails to provide any substantive analysis to support its claim, which, in any event, is wrong. The "benefit" of a government loan guarantee is the difference between the amount the firm pays on the guaranteed loan and the amount it would pay on a comparable commercial loan, adjusted for any difference in fees.[369] Emirates fails to note that the U.S. Government required US Airways and America West, the two airlines at issue, to provide equity warrants and pay guarantee fees

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transparent, carefully calculated to ensure that certain losses (such as impairment losses) were not reimbursed, and carried out by DOT accountants, economists, and aviation analysts. Id. at 7, 15.

[365] United States General Accounting Office, "Air Transportation Safety and System Stabilization Act: Aviation Assistance Programs; Information on Payments Made Under the Disaster Relief and Insurance Reimbursement Programs" (Sept. 3, 2003), Briefing for Congressional Requesters at 8, available at http://www.gao.gov/assets/100/92214.pdf).

[366] U.S. Department of Transportation.

[367] Pub. L. No. 107-42, § 101(a), 115 Stat. 230 (2001).

[368] Testimony of Michael Kestenbaum Executive Director Air Transportation Stabilization Board Before the Subcommittee on Aviation United States House of Representatives, June 3, 2014, *accessed at* http://www.treasury.gov/press-center/press-releases/Pages/js1710.aspx. ATSB rejected applications from several U.S. carriers – including United Airlines. Neither American Airlines, Delta, Continental, nor Northwest applied.

[369] SCM Agreement, Art. 14(c).

that more than offset the difference in the amounts that the airlines would have paid on comparable commercial loans in a functioning debt market.[370] Moreover, in the case of at least one ATSB loan guarantee, an investment fund provided a term sheet indicating that it would have committed funding on terms substantially similar to those ultimately included in the final loan guarantee agreement with the ATSB. These two airlines ultimately paid off the loans in full.[371]

3. War Risk Insurance Was Not a Subsidy

The terrorist attacks of September 11, 2001 threatened to create a crippling market failure for the U.S. airline industry. Commercial providers of airline insurance either canceled their war risk insurance plans entirely or offered them at unreasonably high rates.[372] Because regulators across the world require that airlines carry war risk insurance to operate, the U.S. Government offered a temporary solution to address the irrationality of the markets. But this action did not constitute a subsidy as it did not confer a "benefit" on the U.S. carriers: Section 201(b)(1) of the Act stipulated that insurance rates provided to airlines would be calculated based on the commercial rates set the week before September 11, 2001.[373] And as private insurance providers increased

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[370] US Airways was particularly affected by 9/11 because (1) it was the largest carrier operating out of Washington Reagan National Airport, which did not restore full operations until 2002; and (2) the 9/11 terrorist attacks had a more significant impact on short-haul carriers, like US Airways, than long-haul carriers. US Airways received a $900 million guarantee on a $1 billion loan package. The guaranteed portion of this loan package carried an interest rate of LIBOR plus 0.4 percent. The remaining, non-guaranteed, portion of the loan package carried an interest rate of LIBOR plus 4.0 percent. US Airways, however, was obligated to pay an annual guarantee fee on the guaranteed portion of the loan package of 4 percent in the first year, increasing by 0.1 percent each year the loan was outstanding. In addition, the ATSB received stock options from U.S. Airways. Thus, the fees on the guaranteed portion of the loan package exceeded the interest rate reduction attributable to the guarantee; accordingly, this loan guarantee clearly provided no benefit to US Airways using standard WTO and U.S. Department of Commerce methodologies.

The guarantee fees for America West, which received a $429 million loan package, of which $380 million was guaranteed, were even higher, amounting to 5.5 percent in year one, and 8 percent in each year the underlying guaranteed loans were outstanding. In addition, the ATSB and lenders received stock options that, at the time of the loan, were valued using standard option pricing models at $34 million. As a point of comparison, the ATSB-backed financing was somewhat *more* expensive than financing that America West had negotiated immediately prior to the 9/11 attacks (unsecured debt financing of $150 million at an interest rate of 5.5% in the first year and 8.0% thereafter).

[371] Though not relevant under a subsidy analysis, we note that the U.S. Government realized a $300 million profit through its various loan guarantees under the ATSB loan guarantee program.

[372] See BART ELIAS, RACHEL Y. TANG, & BAIRD WEBEL, CONGRESSIONAL RESEARCH SERVICE AVIATION WAR RISK INSURANCE: BACKGROUND AND OPTIONS FOR CONGRESS 1 (2014).

[373] Air Transportation Safety and System Stabilization Act, Pub. L. No. 107-42, 115 Stat. 230 (2001). Furthermore, Emirates' methodology for calculating the alleged benefit to the U.S. airlines is flawed. It bases its estimate on

their capacity and again provided coverage, U.S. airlines migrated back to the private providers.[374] The FAA subsequently ceased providing war risk insurance.[375]

Emirates is familiar with the challenges associated with war risk insurance following the 9/11 attacks. Its own government provided a $2 billion guarantee to cover the airline's third-party war risk insurance.[376]

D. Airport Financing and Incentive Measures Are Not Subsidies

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. As discussed in Part I above, 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, large commercial airports cover their capital and operating costs through such fees. Emirates has also failed to demonstrate that any of the contested financing was for projects other than "general infrastructure," which do not confer subsidies.

1. Airport Development

Emirates knows that general aviation infrastructure is not a subsidy,[377] and the Kasper Report did not include funds that the Government of Dubai spent on general infrastructure in its calculation of the subsidies that Emirates has received. Yet it likens the U.S. system for supporting general aviation infrastructure to the dedicated infrastructure that its government owner builds, with

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Continental Airlines' 2001 10-K, which noted that its projected cost per available seat mile in 2002 was expected to rise due in part to anticipated increases in insurance costs of approximately $85 million. Even if true, the benefit would be the difference between the airlines' premium payments under the War Risk Insurance program and the payments they would have made to a private insurance provider. Emirates has failed to demonstrate the amount that the airlines paid under the program, or the amount that they would have paid otherwise, nor that the $85 million estimate by Continental Airlines is a meaningful commercial benchmark.

[374] See ELIAS ET AL, *supra* note 371, at Summary.

[375] PREMIUM WAR RISK INSURANCE, https://www.faa.gov/about/office_org/headquarters_offices/apl/aviation_insurance/ext_coverage/ (last modified Feb. 9, 2015).

[376] See *Emirates, Gulf Air provide war risk funds*, UAEinteract (Sept. 26, 2001), *available at* http://www.uaeinteract.com/docs/Emirates,_Gulf_Air_provide_war_risk_funds/394.htm.

[377] See Emirates Submission at 159.

subsidies, for Emirates' exclusive use. There is no analogue in the United States to the subsidized airport infrastructure that the Gulf governments provide.

For example, Emirates argues that the "estimated savings on airport debt issued as tax-free or secured municipal bonds totaled $1.6 billion in 2013" and that this "could" be a subsidy.[378] But Emirates has not even tried to conduct a proper subsidy analysis,[379] and in any case municipal bonds used to finance airport improvements are paid back either directly by the affected airline(s) or by airport revenues generated by fees and charges imposed on airlines (including PFCs) and other airport users – unlike in Qatar and the UAE.[380] Moreover, municipal bonds are not specific; they are widely used by states, municipalities, and special purpose entities to fund a wide range of infrastructure projects. From 2003-2012, municipal bonds were overwhelmingly used to construct schools ($514 billion), hospitals ($288 billion), and water and sewer facilities ($258 billion).[381] By contrast, just $49 billion was used during that time to construct airports.[382]

Emirates also complains about the U.S. Government's "grants" for airport construction.[383] But Emirates neglects to mention that the source of the funds is the FAA's Airport and Airway Trust Fund, which is funded by dedicated taxes and fees paid by airlines, passengers, and other airport users. Airfields and air traffic control improvements in the United States are paid for through funds collected from users and specifically earmarked for airport improvements. Thus, even if the infrastructure was not "general", it does not confer a "benefit" on the airlines, because they pay for the infrastructure through fees.[384] But, of course, the infrastructure is "general," and the

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[378] Id. at 160.

[379] For example, it has not explained how such bonds would constitute a financial contribution to the airlines.

[380] See id. at 161.

[381] National Association of Counties, Policy Research Paper Series, "Municipal Bonds Build America: A County Perspective on Changing the Tax-Exempt Status of Municipal Bond Interest," Issue 1 at 4 (2013).

[382] Id.

[383] See Emirates Submission at160-61.

[384] Under the SCM Agreement definition of subsidy, the provision of a good confers a benefit only if provided for "less than adequate remuneration." Art. 14(d). This is not the case here.

U.S. Airport Improvement Program – the source of Emirates' subsidy allegation – is primarily used to fund smaller airports, not U.S. carrier hubs.[385]

Emirates also suggests that it "would be open to factual argument" whether passenger security fees and passenger facility charges are subsidies.[386] This is an ironic argument, given that Qatar and the UAE also impose such fees, but they exempt connecting passengers from the assessment of the fees in order to give the Gulf carriers a competitive advantage against U.S. and third country carriers for international passenger traffic.[387] The White Paper and the Kasper Report did not include the fees assessed in Qatar and the UAE in their subsidy calculations, since they plainly do not involve financial contributions from the government to the airlines, or provide a "benefit." Emirates' effort to treat payments to the government as financial contributions from the government turns the entire notion of subsidy on its head.[388] As Kasper explains in his response to Emirates' arguments on Gulf airport subsidies, these are fees on airlines and they have the same effect as any other charges imposed on the airlines.[389]

Finally, Emirates also argues that the "disproportionate" use of certain U.S. airport hubs (ATL, MSP, DFW, IAH, and ORD) by U.S. carriers makes the "financial losses absorbed by state and local government agencies" a subsidy that is specific to the U.S. airlines.[390] Emirates treats this nonsensical argument even less seriously than the rest of its airport "subsidy" arguments, as it relegates the discussion to a footnote.[391] It makes no effort to identify particular airports that allegedly incurred such losses, much less that they incurred the losses in connection with

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[385] 71 percent of AIP grants went to smaller airports between 2009 and 2013. GAO Report, "Airport Finance: Information on Funding Sources and Planned Capital Development" (Apr. 2015), GAO-15-306 at 17.

[386] Emirates Submission at 161.

[387] See White Paper at 29-31.

[388] These fees are collected by the airlines for the benefit of the Transportation Security Clearinghouse (TSC) and the airports. The TSC is a non-profit arm of the American Association of Airport Executives that operates in partnership with TSA to ensure that aviation workers who require secure access to airports are subject to security threat assessments and criminal background checks. Like the taxes and fees supporting the Airport and Airway Trust Fund, the airlines are charged with collecting passenger security fees that are specifically dedicated to the efficient and safe operation of the United States' aviation infrastructure and air transit system.

[389] See Supplemental Kasper Report at 28-29.

[390] Emirates Submission at 160 n.305.

[391] Emirates' underlying data source relies on national tabulations of all "state and local" revenues and expenditures for airports (apparently, every airport in the United States), including the costs of regulating the airline industry.

terminals operated for the exclusive use of any particular airline. By contrast, the Kasper Report limited its subsidy analysis solely to Terminal 3 and Concourse A of DXB, which the Government of Dubai built for Emirates' exclusive use, and which it paid for with subsidies.[392]

2. Local Incentives

The Gulf carriers have also alleged that the U.S. carriers have been subsidized through tax exemptions and other incentives offered by state and local airport authorities and governments. These allegations are risible: to the extent any of the programs at issue are at all questionable, the amounts alleged are trivial and cannot be compared to the complex interrelationships between Gulf carriers, their government owners, government institutions, airport authorities, and other wholly state-owned players in the Gulf aviation ecosystem that enable the Gulf carriers' subsidy-fueled global strategies.

In one egregious example of the Gulf carriers' disregard for honest analysis, Etihad alleges that the full value of a $1.3 billion bond for a new American Airlines terminal at JFK constituted a benefit.[393] But Etihad did not demonstrate that the measure actually conferred a benefit to American Airlines, and its own cited source suggests it did not.[394] Rather, American Airlines paid to construct the terminal. The issuance of the bonds in question hinged on the same factors (*e.g.*, ability to repay debt) that a private lender would consider. American Airlines is in the process of repaying the full $1.3 billion, plus interest and incurred costs, and the Port Authority of New York and New Jersey can actually re-take possession of the facility even though American Airlines paid for its construction. Etihad has failed to explain how the bond constitutes a subsidy, because it cannot.[395]

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[392] The Supplemental Kasper Report further distinguishes the U.S. hub system from DXB and other Gulf airport hubs. See Supplemental Kasper Report at 31-34.

[393] Risk Advisory Report at 12.

[394] "Conduit financing has generally posed little risk for the City. Borrowers are screened to meet criteria relating to ability to repay the debt, and legally the borrower, not the City, is responsible for the debt." "Citizens Budget Commission, "Managing Economic Development Programs in New York City: Lessons for the Next Mayor From the Past Decade at 25.

[395] See Risk Advisory Report at 12.

In several other cases, the Gulf carriers intentionally mischaracterize the nature of the measures in question and fail to demonstrate that they are "specific."[396]

- Etihad alleges that American Airlines received a $80-85 million "subsidy" from the state of Missouri to help fund the redevelopment of a facility in the state.[397] But in actuality, only $8 million of the bond revenue was actually used, and the revenues were dedicated to ordinary repairs to a 1970s-era overhaul base that the city – not the airline – owned (thus the city was acting like any rational property owner by investing in needed improvements). Moreover, the source that Etihad cites in support of its allegation refers to a $40 million bond measure, not $80-85 million, because $37 million of the available bonds were never even issued (and if they had been, American Airlines would have been responsible for 100 percent of the debt service).

- Emirates' assertions are equally sloppy. For example, it alleges that a financial package to Northwest Airlines from the state of Minnesota *in 1992* was a subsidy, but (i) ignores that the airline was solely responsible for servicing the debt for the municipal bonds; (ii) cites a benefit, $761 million, which was the total amount of the financing rather than the difference (if any) between what the airline received and what it would have received from a private lender (which Emirates makes no effort to calculate); and (iii) ignores that the source it cites in support of its allegation states that the total financing package ultimately was several hundred million dollars less than Emirates alleges.

In most cases the Gulf carriers make no effort to demonstrate that the measures are specific, because they clearly are not. For example:

- Etihad complains about the City of Chicago's Tax Increment Financing program, but the program is not exclusive to United or to airlines.[398]

- Emirates cites a $7 million measure from the City of Fort Worth to American Airlines, but it fails to note that the measure was part of the city's tax abatement program, which is

[396] Conclusory statements are insufficient to support the Gulf carriers' subsidy allegations. Emirates, for example, states that tax incentives to U.S. carriers provided by the states "are specific because they are awarded to a specific enterprise." Emirates Submission at 155. That is not what the specificity test entails, as Emirates is well aware. A proper specificity analysis under WTO rules requires an examination of the totality of evidence based on defined factors that Emirates has ignored. See SCM Agreement, Art. 2.1(c).

[397] Risk Advisory Report at 10.

[398] See City of Chicago, Planning and Development: Tax Increment Financing, Frequency Asked Questions, available at http://www.cityofchicago.org/city/en/depts/dcd/supp_info/frequently_askedquestions.html ("Since 2001, TIF funds have helped more than 400 businesses in more than 40 TIF districts ...") (last visited Aug. 24, 2015).

available to – and used by – companies in all industries, including construction, health care, manufacturing, tourism, and others.[399]

- Etihad criticizes the New Jersey Economic Development Authority's Business Employment Incentive Program, but fails to mention that the program is available to any "economically viable expanding or relocating business that creates jobs in New Jersey."[400]

Nor do the Gulf carriers allege that any of the measures they identify have caused them any harm or adversely impacted global competition. This is not surprising. For example, while Emirates complains about airport incentive programs, it fails to note that Boston Massport reportedly granted Emirates $1.5 million in incentives in connection with its March 2014 launch of service to Dubai, agreeing to waive landing charges for one year and pledging $350,000 in marketing support.[401]

E. U.S. Jet Fuel Taxes Are Not Subsidies

The Gulf carriers' complaints about alleged subsidies from jet fuel taxes are ridiculous, given that they pay no jet fuel taxes at all at their hubs in Qatar and the UAE.

Furthermore, their arguments suggest that they do not understand the operation of the U.S. fuel tax regime, as U.S. commercial carriers effectively subsidize non-commercial carriers.[402] The U.S. Government simply collects aggregate taxes differently among the two types of carriers.

For example, while Etihad claims that U.S. federal tax on jet fuel is levied at a lower rate for commercial carriers than for non-commercial carriers and implies that the difference is a subsidy, it fails to note that commercial carriers pay several additional types of taxes that non-commercial

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[399] See City of Fort Worth, Tax Abatement Agreements to Date, available at http://fortworthtexas.gov/uploadedFiles/HED/Business/tax-abatement-agreements-2014.pdf (last visited Aug. 5, 2015).

[400] See NJEDA Business Employment Incentive Program, available at http://www.njeda.com/about/Public-Information/Inactive-EDA-Programs/Business-Employment-Incentive-Program-(BEIP) (last visited Aug. 24, 2015).

[401] See *Massport lands Boston-Dubai trips after offering $1.5 million in subsidies to Emirates*, Boston Business Journal (Sept. 19, 2013), *available at* http://www.bizjournals.com/boston/blog/bottom_line/2013/09/massport-offers-15m-to-emirates.html.

[402] Etihad has also made several unsupported subsidy allegations about state jet fuel taxes. Risk Advisory Report at 9. It has failed to demonstrate, for example, that any of the states' tax treatment of fuel constitutes a financial contribution as revenue otherwise due that was foregone, or that any of the identified measures is specific.

carriers do not pay, because they do not carry passengers. The composition of the tax scheme is as follows:

- **7.5% domestic ticket tax**
- 6.25% cargo waybill tax on domestic shipments
- **$4.00 domestic passenger segment tax**
- **$17.50 international passenger arrival/departure tax**
- **$8.70 passenger departure tax from Alaska/Hawaii**
- 4.3¢ per gallon tax on commercial aviation fuel
- 21.8¢ per gallon tax on non-commercial fuel other than gas
- 19.3¢ per gallon tax on aviation gasoline
- 35.9¢ per gallon tax on liquid fuel used in fractional ownership operation

The items marked in bold are applicable only to commercial passenger carriers, and are not paid by non-commercial carriers.[403] To compensate for that limitation, the U.S. Government imposes a higher tax rate on jet fuel for those non-commercial carriers. These taxes directly support the FAA's Air Traffic Organization (ATO), and, taken in the aggregate as a means to fund the ATO, commercial passenger carriers pay a disproportionate share of the costs (*i.e.*, in excess of their use of the ATO system).[404]

Moreover, Etihad has not even tried to demonstrate that the alleged difference in taxation constitutes a financial contribution, which requires a showing that the government did not collect revenue that was "otherwise due" – a burden that Etihad cannot meet.[405]

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[403] Taxing on a per passenger basis is impractical for non-commercial travel as there is no sales or ticketing vehicle through which to impose such a tax.

[404] By way of example, in FY13 American Airlines paid $2.75 billion in taxes used to fund the ATO. U.S. commercial carriers in total paid around $10.5 billion. General aviation and Part 135 operators (*i.e.*, non-commercial operators) together paid approximately $225 million. Notably, foreign carriers are subject to these same taxes (where applicable).

[405] SCM Agreement, Art. 1.1(a)(iii).

F. Antitrust Immunity Is Not A Subsidy

Antitrust immunity does not involve a financial contribution from the government, and the Gulf carriers have not tried to demonstrate otherwise. 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, notwithstanding antitrust immunity, the U.S. airlines would never be allowed to structure their operations as Emirates does – 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.[406] While the Gulf carriers' subsidies are market-distortive and anticompetitive, antitrust immunity is neither. The Department of Transportation grants antitrust immunity only when and to the extent that it determines that such a grant is in the public interest.[407]

G. Emirates' "National Treatment" Arguments Are Nonsense

In addition to its subsidy arguments, Emirates complains of alleged "national treatment" violations by the United States.[408] Each demonstrates confusion. For example, Emirates argues that the U.S. Defense Department's Civil Reserve Air Fleet – which augments commercial aircraft for use by the U.S. military in emergencies – is a potential violation of the GATS when in fact it would be subject – if at all – to the WTO's Agreement on Government Procurement.[409] And although "national treatment" rules have nothing to do with subsidies, Emirates seeks to quantify an annual subsidy amount – without any actual subsidy analysis – in its "national treatment" critique of the Fly America program.[410] As we explain below, its complaints are baseless.

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[406] White Paper at 39.

[407] 49 U.S.C. § 41308(b). For a complete discussion of the competitive benefits of antitrust immunity, see American Airlines, Delta Air Lines and United Airlines Response to June 2, 2015 Letter of JetBlue Airways (Jun. 16, 2015).

[408] See Emirates Submission at 164-68.

[409] Id. at 167. Notably, unlike the United States, neither the UAE nor Qatar has agreed to subject its government procurement practices to the disciplines of the WTO Agreement on Government Procurement.

[410] See id.

1. Cabotage

Limitations on cabotage have been recognized since the 1944 Chicago Convention on International Civil Aviation, and are nearly universal: 190 signatories – including the UAE and Qatar – have imposed limits on the ability of other countries to provide such services. Emirates' claim that U.S. cabotage rules are permissible "only because the United States has not agreed that national treatment applies to aviation services" is false: Article 2.2 of the U.S.-UAE Open Skies Agreement specifically confirms each Party's right to maintain such rules.[411]

Furthermore, cabotage rules do not preclude Gulf carriers from code-sharing or entering into interline agreements with U.S. airlines, and they have taken advantage of those rights to gain substantial access to traffic at non-gateway cities throughout the United States.[412]

2. CRAF

President Truman created the Civil Reserve Air Fleet (CRAF) in 1951 to support the airlift needs of the U.S. military in times of crisis.[413] U.S. airlines have provided considerable airlift support throughout numerous armed conflicts since the Korean War, up to an including Operations Desert Shield, Desert Storm, and Iraqi Freedom.[414] According to the U.S. Transportation Command: "CRAF benefits the nation by providing up to half of the nation's long-range airlift capability, allowing the government to avoid having to buy additional aircraft, pay personnel costs, or maintain the aircraft during peacetime."[415]

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[411] See U.S.-UAE Open Skies Agreement, Art. 2.2. For this reason, there is no possible basis for Qatar or the UAE to argue that U.S. cabotage rules are inconsistent with the bilateral agreements, either. Moreover, Emirates' national treatment argument shows that it does not understand how WTO services rules work. Even if WTO services rules applied to aviation services, it would be up to the United States to decide whether to make a national treatment commitment with respect to services supplied wholly within the United States (*i.e.*, services supplied via the so-called "mode 3."). The GATS would not require it to do so, because WTO services commitments are made on a "positive list" basis: Only services proactively listed by the country are subject to GATS obligations.

[412] Indeed, such arrangements are key to their respective strategies.

[413] See WILLIAM KNIGHT & CHRISTOPHER BOLKCOM, CONGRESSIONAL RESEARCH SERVICE, CIVIL RESERVE AIR FLEET (CRAF) 1 (2008).

[414] Report to Congressional Committees by the U.S. Government Accountability Office, "Military Airlift: DOD Needs to Take Steps to Manage Workload Distributed to the Civil Reserve Air Fleet" (June 2013) at 6, *available at* http://www.gao.gov/assets/660/655338.pdf.

[415] Id. at 2.

As noted above, Emirates has alleged that CRAF is a potential violation of the GATS when in fact it would be subject – if at all – to the WTO's agreement on government procurement. But that agreement – to which neither the UAE not Qatar are parties – specifically exempts "procurement indispensable for national security or for national defence purposes" from its coverage.[416] The CRAF program has, since inception, served a crucial role in allowing the military to accomplish its goals, and promoting U.S. national security interests is central to the CRAF program. In any event, foreign air carriers such as Emirates are eligible to operate as sub-contractors to CRAF participants, and the Department of Defense has paid over $3 billion to foreign carriers from 2002-2012.[417]

3. Foreign Ownership

Emirates argues that restrictions on foreign ownership confer a "significant cost advantage" on U.S. airlines, but it has not explained how.[418] Nor has it reconciled its argument with the fact that Emirates is 100 percent owned by the government of Dubai, and that U.S. airlines would not be allowed to own any interest in Emirates, much less 25 percent. The same situation applies to Etihad and Qatar. In contrast to the Gulf carriers, the U.S. airlines are all publicly-traded companies – in complex and dynamic equity markets – that compete aggressively in the United States and internationally and that are open to foreign shareholding.

4. Fly America Act

The Gulf carriers have criticized the U.S. Government's *Fly America Act* [419] requirements for government-funded travel.[420] Although Emirates has placed its critique in a section of its submission objecting to alleged "national treatment" violations by the United States, it actually implies that the program is a subsidy.[421] It is not. The Fly America Act requires U.S. airlines to

[416] Art. III(1), Revised Agreement on Government Procurement.

[417] Report to Congressional Committees by the U.S. Government Accountability Office, "Military Airlift: DOD Needs to Take Steps to Manage Workload Distributed to the Civil Reserve Air Fleet" (June 2013) at 18, available at http://www.gao.gov/assets/660/655338.pdf.

[418] Emirates Submission at 167.

[419] See 49 U.S.C. §40118

[420] Emirates Submission at 167-168; Risk Advisory Report at 13.

[421] Id. ("the estimated annual value of the subsidized purchase of air transport services by GSA is over $550 million annually.").

competitively bid for traffic, the result of which is that the U.S. Government pays ticket prices that reflect commercial rates (indeed, U.S. Government contract requirements are for unrestricted tickets, and the rates bid for this business are well below commercial, published rates for unrestricted tickets).

Furthermore, although the *Fly America Act* reserves certain official U.S. Government travel to air transportation that is provided by U.S. airlines, the U.S. Government may also grant foreign airlines formal access rights to such traffic in bilateral negotiations, if the other party provides sufficient trade benefits in return.[422] Qatar and the UAE have either not sought access to this traffic or have not offered sufficient trade benefits to justify the grant of those rights. But even if foreign carriers do not receive formal access rights to *Fly America* traffic, they can and do still routinely carry U.S. Government-funded passengers pursuant to code sharing arrangements with U.S. carriers that are consistent with the requirements of the *Fly America Act.*[423] Indeed, many foreign carriers participate in such code sharing arrangements, including the Gulf carriers.

V. Open Skies Agreements Authorize – And The Integrity Of U.S. Open Skies Policy and the Agreements Themselves Compel – The Initiation Of Consultations With Qatar And The UAE

The Gulf carriers and their U.S. supporters assert that our request for U.S. consultations with the Governments of Qatar and the UAE is a "protectionist" effort to reverse Open Skies. This is a fabrication. The Partnership fully supports Open Skies. However, the Governments of Qatar and the UAE are in the process of transforming a market-oriented policy into one that uses tens of billions of dollars in subsidies to fundamentally alter the nature of international competition – distorting the market on behalf of SOE airlines that are insulated from market forces and used as instruments of state industrial policy. Their goal is to enshrine government-dominated aviation policy in the international sphere. Absent a U.S. response, they will succeed.

Preserving Open Skies requires the U.S. Government to address this manipulation of the international aviation environment and serious distortion of competition. A failure to act would

[422] See 49 U.S.C. § 40118(b). The United States is currently party to four bilateral/multilateral aviation agreements that the Department of Transportation has determined meet the requirements of the *Fly America Act*. See, e.g., U.S. GEN. SVCS. ADMIN, Fly America Act, http://www.gsa.gov/portal/content/103191 (last visited Aug. 17, 2015).

[423] See *Fly America Act – Code Sharing – Transportation by U.S. Carrier*, B-240956, Sep. 25, 1991, 70 Comp. Gen. 713.

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 the growth of state capitalism on a massive scale. Inevitably, other countries with state-owned aviation sectors will be impelled to emulate the Gulf model – ratcheting up subsidies and maximizing state interference in the market on behalf of national champion airlines – directly contrary to the core objectives of Open Skies policy and the agreements themselves, including the objective to "[e]nsure that competition is fair and the playing field is level by eliminating marketplace distortions, such as government subsidies . . . ."[424] This outcome would, moreover, be inconsistent with DOT's statutory objectives, fly in the face of the Obama Administration's broader trade policies regarding unfair competition from subsidized SOEs, and undermine its efforts to discipline such activities in other contexts.[425]

The Gulf carriers claim that if the U.S. Government takes steps to address their subsidies, it would "sound the death knell" for Open Skies. This hysteria, which pervades their submissions, is calculated and transparently false. Qatar and the UAE are global outliers:

- **They are outliers in the extent to which they are using their airlines as instruments of mercantilist state industrial policies.** Unlike any other countries in the world, Qatar and the UAE have not only placed their SOE airlines at the center of their national aviation policies, they have made them key instruments of their overall economic development policies, which require these airlines to continue growing without restraint, and to continue adding massive amounts of subsidized capacity into the international market, regardless of demand. The Gulf carriers have failed to identify any other countries that are taking such overt steps to distort the international marketplace in favor of their subsidized, SOE carriers.

- **They are outliers in the amount of the subsidies that they are granting to their SOE airlines.** Qatar and the UAE have provided over $42 billion in subsidies and other unfair benefits to their SOE airlines since 2004. These subsidies are accelerating. The Gulf carriers have failed to identify any other government that is providing comparable levels of subsidies to its airlines, much less demonstrate that any other countries' airlines are using subsidies to similarly distort international competition.[426]

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[424] DOT Policy Statement, 60 Fed. Reg. at 21844.

[425] See, e.g., The President's 2014 Trade Policy Agenda at 6.

[426] For example, while Qatar claims that China Eastern has been "heavily subsidized by its government," see Qatar Submission at 22 n.69, the article it cites in support of its assertion states that the Civil Aviation Administration of China would disburse $150 million in subsidies to Chinese carriers in 2014, and that China Eastern would receive

- **They are outliers in the rates at which their SOE airlines are growing their subsidized capacity.** The Gulf carriers have 588 widebody aircraft on order. The three major Chinese carriers – serving a country of 1.3 billion people – have 61 (total) on order. Turkish Airlines – serving a country of 75 million – has 20. Singapore Air Group is reducing the capacity offered by its full service Singapore Airlines carrier, including to the United States. The Gulf carriers have failed to provide any evidence of third-country airlines that are similarly focused on continued, massive growth in international services, unrelated to demand growth or the profitability of routes.

- **They are outliers in their insignificant domestic markets.** The Gulf carriers deploy 100 percent of their subsidized capacity on international routes, relying overwhelmingly on taking share from U.S. and other countries' carriers. By contrast, China and Turkey have large domestic markets, and their carriers' international expansion has been balanced by domestic expansion.[427] They also offer meaningful market access opportunities to U.S. carriers.[428] And while Singapore Airlines' domestic market is similar to Qatar and the UAE, it has shown that if it cannot profitably fly a route, it won't (it has canceled all direct service to the United States, and it is reducing its long-haul international capacity – in part because of subsidized Gulf carrier competition).[429]

Stated plainly, the Partnership has raised no concerns with respect to any other Open Skies agreement because no other country, and no other country's airlines, are engaging in such massive distortions of fair, market-based competition. It is telling that the Gulf carriers have failed to identify a single third-country government or airline that is engaging in practices of this magnitude or impact.

It is also telling that the Gulf carriers and their U.S. supporters have built their entire campaign on the false claim that the Partnership is seeking a unilateral freeze of Gulf carrier services to the

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$35 million of the total amount. *CAAC doubles subsidies to Chinese domestic carriers in 2014*, http://www.ch-aviation.com/portal/news/24427-caac-doubles-subsidies-to-chinese-domestic-carriers-in-2014. By contrast, Qatar received approximately *$1 billion* in subsidies in 2014.

[427] China Eastern currently serves 129 domestic destinations, China Southern serves 131, and Air China serves 108. Turkish serves 50 domestic destinations.

[428] Moreover, Turkish Airlines is publicly-traded and only 49 percent state-owned. Unlike the Gulf carriers, it has to answer to non-Government shareholders.

[429] Like Turkish, Singapore is publicly-traded and just 56 percent state-owned. Unlike the Gulf carriers, it has to answer to non-Government shareholders and its plans reflect those of a rational, profit-maximizing firm. It has not added capacity to the United States in a decade, and its capacity to the United States is down over 30 percent in that time. It is increasingly orienting its growth toward Southeast Asia and the Southwest Pacific, where its potential financial opportunities are greatest.

United States. No party to these proceedings is asking for a unilateral freeze.[430] Because there is no such consideration, there is no possibility that the United States would violate its Open Skies commitments by imposing one, and there is no risk that Qatar and the UAE – or other U.S. trading partners – would take "mirror or retaliatory actions" in response.

Even more to the point, there is no risk that the action the Partnership is seeking – a U.S. request for consultations with Qatar and the UAE – would induce either country, or any third-country, to violate its Open Skies commitments to the United States. Contrary to the self-serving insinuations of the Gulf carriers and their U.S. supporters, a request for consultations is not an adversarial act, and the right to request consultations under Article 13 of the Open Skies agreements is unqualified and absolute. If a Party requests consultations, they "shall" begin at the earliest possible date. It is not possible for a Party to violate an Open Skies agreement by making such a request. The Gulf carriers know this, which is why their submissions pretend that Article 13 does not exist.[431]

The U.S. Government initiated this proceeding to gather information and views on the Gulf subsidies and the distortive impact that the subsidies are having on international competition. A broad majority of aviation stakeholders has responded by urging the Administration to take immediate action to request consultations and enforce its Open Skies agreements with Qatar and the UAE. For example:

- 21 U.S. Senators sent a letter to U.S. Secretary of State John Kerry and U.S. Secretary of Transportation Anthony Foxx calling on them to hold the UAE and Qatar accountable for their unfair business practices, which undermine Open Skies agreements.
- 262 Members of Congress sent a letter to the Secretaries urging them to request consultations with the governments of Qatar and the UAE to address the billions of dollars in unfair subsidies. Separately, 19 Members of the U.S. House Judiciary

[430] See, e.g., April 17, 2015 Letter from the CEOs of American Airlines, Delta Air Lines and United Airlines to the Secretaries of State, Transportation, and Commerce (noting their January request that the U.S. Government "request Qatar and the UAE to voluntarily freeze air service at then-current levels pending resolution of this matter.") (emphasis added).

[431] In any event, the Gulf carriers' suggestion that third countries would react to a U.S. effort to address the Gulf subsidies by retaliating against the United States is ludicrous. Not only would there be no incentive to do so – the U.S. market is the most valuable market in the world – but the fact of the matter is that the Gulf subsidies are harming innumerable third-country airlines.

Committee sent Secretary Foxx a letter expressing concern about the market distortions that are caused by the unfair subsidies.

- More than 75 Mayors from cities across the country wrote letters to the Administration urging them to open consultations with Qatar and the UAE.

- The U.S. Conference of Mayors, representing 1,400 mayors, passed a resolution asking the Administration to initiate talks with Qatar and the UAE before additional harm is done to U.S. cities.

- Airline workers from across the country – including the major aviation hubs of Chicago and New York, as well as pilots and flight attendants visiting Capitol Hill– called on the U.S. Government to act.

- 30 local and regional airports sent letters to the U.S. Secretaries of Transportation, Commerce and State, as well as members of Congress, explaining the impact of inaction on airline service to small and midsize markets across the country.

- Groups representing the economic interests of thousands of American businesses urged the U.S. Government to begin consultations with Qatar and the UAE to address the subsidies that put American businesses at risk. Organizations expressing their support included the National Gay & Lesbian Chamber of Commerce, the Latino Coalition, the U.S. Hispanic Chamber of Commerce and over 70 local Chambers of Commerce.[432]

Moreover, while the Gulf carriers claim that many stakeholders support their position, the reality is that the vast majority of their purported supporters actually support the Open Skies program – not Gulf subsidies – a position that the Partnership shares. Others – such as FedEx and JetBlue – oppose consultations for their own business or other reasons, but their submissions ignore the serious issues that the Gulf subsidies raise for U.S. Open Skies policy.

VI. Conclusion

This submission completes months of work, analysis and production of evidence. There are now thousands of pages of arguments and exhibits in the docket. The Gulf carrier submissions have vastly simplified the analytics and underscore the only appropriate response in this matter.

First, the record is entirely clear: The evidence of massive subsidy is indisputable. While their submissions are full of bluster and false outrage, the Gulf carriers have provided no substantive evidence to counter the Partnership's case. They have largely avoided joining the issues on the

[432] Additional evidence of the overwhelming support for the initiation of consultations is attached as Exhibit 9.

merits and have focused instead on mischaracterizing the Open Skies agreements in a way that would allow them to subsidize with impunity. There is no support in the agreements or in Open Skies policy for this radical position.

Second, it is entirely clear and undisputed that the Gulf carriers' growth has come not from meaningfully stimulating new demand, but from extracting growth at the expense of U.S. and third country airlines. The competitive distortions that this subsidized competition is causing are already substantial and will intensify further as the Gulf carriers continue to expand their fleets and continue to target international routes to the United States.

Third, Qatar and the UAE are violating the Open Skies agreements. The only way to find to the contrary is to conclude that the United States – having established an aviation policy based on minimizing government interference in the market – negotiated agreements that preclude it from responding to overtly mercantilist, beggar-thy-neighbor policies that are actively distorting the market in favor of subsidized SOE airlines. No international agreement fashioned and entered into by the United States has ever led or could conceivably lead to this result. What would be the point of Open Skies principles if, in practice, there are none. And what would be the point of having Open Skies agreements in the first place if, in any event, no rules pertain.

The overwhelming consensus of those who have filed in the docket – including 60 percent of the House of Representatives, 21 Senators and the Conference of Mayors – is that the United States must immediately initiate consultations to address this massive distortion of competition. Far from undermining Open Skies, addressing this issue will ensure that U.S. international agreements are enforced, that the integrity of the Open Skies regime will be maintained, and that the rights of all parties to it will be respected. This is and should be the goal.

In a recent interview, Qatar's CEO Akbar Al-Baker said there would be "no olive branch on this issue," notwithstanding the irrefutable evidence of massive subsidies that the Partnership has documented, and that Qatar has been hiding from public scrutiny.[433] And he is taking this position even though he has also asserted that "private investors really don't have the stomach to

[433] Alwyn Scott, *Qatar Airways CEO sees no need for concessions to U.S. airlines*, Reuters (June 8, 2015), accessible at http://www.reuters.com/article/2015/06/09/us-airlines-iata-qatarairways-idUSKBN0OO2L420150609.

invest to the extent that Qatar Airways will require for its expansion," which demonstrates that the subsidies will continue.[434] Similarly, Emirates' Chairman, Sheikh Maktoum, recently stated that Emirates would press ahead with its expansion despite the subsidy concerns because "We always learn we cannot stop, and this is really the direction of the UAE government and the Dubai government. The minute you stop, somebody will pass you. . . . In terms of expansion, we will continue."[435] Sheikh Maktoum's reference to the UAE and Dubai governments is both ironic and telling – the airline and the government are one and the same.

The record is clear and the dictates of Open Skies are equally clear. The United States must enforce its rights under these agreements by invoking consultations to address the flow of subsidized Gulf capacity to the United States.

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[434] David George, *Qatar Airways Ramps Up Global Expansion*, Bloomberg Businessweek Middle East (Mar. 2, 2015), http://businessweekme.com/Bloomberg/newsmid/190/newsid/413#cnttop. If a private investor would not have provided the equity in question, it is a subsidy. SCM Agreement, Art. 14(a).

[435] Associated Press, *Emirates airline eyeing U.S. expansion as Dubai hub continues rapid growth* (May 5, 2014), http://www.nydailynews.com/news/world/emirates-airline-eyeing-u-s-expansion-dubai-hub-article-1.2210979.

Exhibits

1. Supplemental Capital Trade Report
2. Etihad 2014 Financial Statements
3. Decree No. (56) of 2009 on the Qatari Government's Guarantee of the Financial Obligations Arising from the Loan Agreements Concluded by the Qatar Aviation Lease Company for the Purchase of Aircrafts 56/2009
4. Qatar Chamber, "Search the Directory," Organization Details for Qatar Aviation Lease Company
5. Bloomberg CO1 chart
6. Supplemental Kasper report
7. Supplemental Compass Lexecon Impact Report
8. Affidavit of Daniel M. Kasper
9. Additional evidence of the overwhelming support for the initiation of consultations

EXHIBIT 1

Response to the Gulf Airlines' Comments on Subsidies Valuations

August 24, 2015



Charles L. Anderson

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I. Introduction

In our January 25, 2015 Report, Capital Trade, Inc. ("CapTrade") documented the nature and magnitude of the subsidies received by Etihad Airways ("Etihad") and Emirates Airline ("Emirates") of the United Arab Emirates, and Qatar Airways ("Qatar") of the State of Qatar. The CapTrade report was prepared using only information obtained from public sources.[1] In their written comments, all three Gulf airlines have provided critiques of CapTrade's subsidy findings.[2] Notwithstanding the fact that the three airlines have full access to proprietary company data and documents not available to CapTrade, none of them have presented anything approaching a comprehensive, fact-based analysis to support their claims that they are not subsidized. Indeed, the responses of all three airlines share at least one thing in common: a paucity of source documentation or other official government or company information on the various types of subsidies identified in our report. Most of their rebuttals are limited to highly selective attacks on isolated or minor elements of CapTrade's analysis, or are criticisms of particular phrases or analyses that are secondary to our principal findings. Many of the critical elements of CapTrade Report, including the three-pronged analysis of Financial Contribution, Benefit, and Specificity for each subsidy program, have gone unrebutted.

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[1] *Evidence of Actionable Government Subsidies Received by Etihad Airways, Qatar Airways, and Emirates Airline*, January 25, 2015, Capital Trade Incorporated, ("CapTrade Report") available at: http://www.openandfairskies.com/wp-content/themes/custom/media/Exhibits.pdf (last visited 5 August 2015).

[2] See: *Etihad Airways Response to Claims Raised about State-owned Airlines in Qatar and the United Arab Emirates,* May 31, 2015 ("Etihad Response"); *Comments of Qatar Airways Q.C.S.C. re: Information on Claims Raised about State-Owned Airlines in Qatar and the UAE,* July 30, 2015 ("Qatar Comments"); and *Emirates' response to claims raised about state-owned airlines in Qatar and the United Arab Emirates,* June 29, 2015 ("Emirates Response").

As a result, almost all of the arguments raised by the three Gulf airlines involve the calculation of the benefit.

After having carefully reviewed the comments of Etihad, Qatar, and Emirates, the total actionable subsidies disbursed through 2014 increases to 40.2 billion:

Table 1: Updated Summary of Gulf Airline Subsidies ($ millions)

Disbursed	**Etihad**	**Qatar**	**Emirates**	**Totals**
Equity Infusions	8,890			8,890
Loans	1,630	618		2,248
Loan Guarantees		6,809		6,809
Debt Forgiveness/Hedging Assumption	5,173	7,756	2,395	15,324
Grants	111	22		133
Provision of Airport Terminal Facilities for LTAR*			1,976	1,976
Provision of Airport Revenue		215		215
Provision of Goods and Services for LTAR*		452	1,855	2,307
Passenger Fee Exemptions	267	443	917	1,627
Assumption of Promotional Expenses	640			640
Subotals Subsidies (Disbursed)	**16,711**	**16,315**	**7,143**	**40,169**

Committed	**Etihad**	**Qatar**	**Emirates**	**Totals**
Equity Infusions	0			-
Loans	40			40
Totals by Airline	**40**			40
Subtotal Subsidies (Disbursed and Committed)	**16,751**	**16,315**	**7,143**	**40,209**
Labor	246	984	1,878	3,108
Capital and Ind Tax Subsidies + Labor	**16,998**	**17,299**	**9,021**	**43,318**
Income Tax Exemption			4,555	4,555
Grand Total	**16,988**	**17,299**	**13,576**	**47,783**

**Less than Adequate Remuneration*

Changes include:

- Revisions to Emirates' subsidy related to the provision of airports for less than adequate remuneration;

- Revisions to the subsidies received by all three Gulf airlines related to connecting passenger fee exemptions; and
- Update of capital subsidies received by Etihad as disclosed in its FY 2014 financial statements.

Of the three, the additional subsidies received by Etihad in FY 2014 are especially relevant. Well after a decade after its original founding, Etihad was the recipient of the largest ever capital infusions from the government, notwithstanding the fact that its core operations was losing money at alarming rates. The massive capital requirements of all three Gulf airlines pursuing the large Middle-East hub, long haul international business model continues to be met by government contributions. Increasing competition among Etihad, Qatar, and Emirates is likely to keep returns low, thus increasing the pressure for additional government financial support.

In the following sections, we address the specific criticisms of CapTrade's Report that have been levelled by the three airlines and explain the revisions to our subsidy calculations.[3]

[3] While we have included the updated Dubai International airport subsidy and passenger fee exemption calculations in this report, we are not responding to criticisms of these programs, as they are dealt with in the separate Compass Lexecon response report by Daniel M. Kasper.

II. Etihad

Nothing in Etihad's response has caused us to change in our estimates of the value of total subsidies received by the airline between 2004 and 2013. However, based on a recently-obtained FY 2014 Etihad financial statement, CapTrade has calculated **$3.4 billion** in additional subsidies, as shown in **Table 2**:

Table 2: Updated Summary of Etihad Subsidies ($ millions)[4]

Disbursed	**Originally Reported**	**Subsidies Received in 2014**	**Revisions to Original Calculations**	**Revised Totals 2004-2014**
Equity Infusions	6,291	2,599		8,890
Loans	1,375	255		1,630
Debt Forgiveness/Hedging Assumption	4,630	543		5,173
Grants	111			111
Passenger Fee Exemptions	501		(234)	267
Assumption of Promotional Expenses	640			640
Subotals Subsidies (Disbursed)	**13,548**	**3,397**		**16,711**

Committed	**Originally Reported**	**Changes in 2014**	**Revisions to Original Calculations**	**Revised Totals 2004-2014**
Unspecified Capital	3,589	(3,589)		0
Loans	583	(543)		40
Subtotal Subsidies (Disbursed and Committed)	**17,720**	**(735)**		**16,751**
Labor	246			246
Grand Total	**17,966**	**(735)**		**16,997**

Updated subsidy calculations for Etihad are described in the following sections.

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[4] As shown in **Exhibit 1**, there is a discrepancy between the 2013 and 2014 financials with respect to authorized future capital contributions. In its 2013 financials (note 2.1 at p. 9), Etihad was listing a recently approved future capital contribution (form unspecified) of $3.504 billion. This commitment disappears in the FY2014 financial statement (See Note 2.4, at p. 11); however, an additional $2.514 billion in contributed capital is identified in Note 16.2. (at p. 39). Thus, it is not clear if the $2.514 billion is part of the $3.504 billion authorized in 2013, or is an entirely separate contribution, leaving the $3.504 billion still authorized but not disbursed. To be conservative, CapTrade has not included the $3.504 billion in its total subsidy calculations.

a. Equity Infusions and Shareholder Loans – Etihad's Response

In its Response, Etihad confirmed that it has received substantial capital infusions ($14.3 billion) in the forms of equity and loans from the Abu Dhabi government[5]. Etihad does not challenge any aspect of the CapTrade analysis of whether these equity infusions or shareholder loans constitute subsidies under international trade law. In particular, the Etihad Response does not address either the "financial contribution" or "specificity" findings put forth in our report. Nor does it challenge CapTrade's finding that the airline has received at substantial financial benefit from these capital contributions.

Etihad's only defense of these massive government contributions is that they have increased the "value" of the airline[6]. A simple increase in company value, however, does not establish that these capital infusions were reasonable when benchmarked against the standard of a private commercial investor. In fact, the "increased value" argument simply points of a fundamental accounting equation; namely, book value is equal to assets minus liabilities. It therefore goes without saying that if a company receives additional loans and equity infusions and uses the capital to purchase assets, its total book value will increase, provided that the value is not completely eroded by operating losses (more on this point below).

The commonly accepted test for determining whether government equity infusions constitute subsidies is whether a private investor would have made the same equity investment on the same terms at the time that the government investment was made. In its Report, CapTrade provided substantial analysis and support for its conclusion that no private investor would have made the

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[5] Etihad Response at p. 15.

[6] Etihad Response at p. 15.

equity infusions that Etihad received from the Abu Dhabi government. Similarly, for shareholder loans, the standard for determining actionable subsidies is whether the terms of the loans are consistent with those that would be offered by a non-government lender. Loans that are interest free, unsecured, and have no fixed repayment schedule, fall well short of this standard.

Even though it is not a standard test under international subsidies law for determining whether an actionable subsidy has been bestowed, it is enlightening to assess Etihad's claim that the government's capital injections (equity and loans) are justified by the value that has been created. One way to do this is to compare the value of Etihad's net assets to the magnitude of the government's total capital contributions. As is shown in **Exhibit 2**, using its own reported results, as of 2014, Etihad's net asset book value represented a fraction – around two thirds – of the government's accumulated capital contributions. If JV airline partner losses and other questionable accounting treatments (discussed in Section I.c. below) are excluded, the net book of assets drops to around half of the value of the original capital contributions[7].

Over time, not only has the government's capital infusions into Etihad generated no investor returns whatsoever (in the form of dividends or interest payments), the government's capital contributions have failed to create any shareholder value above the value of the original cash injections. Quite the opposite: the value of the government's original investment has been eroded by Etihad's large and continuing annual operating losses. No private investor would be willing to see the value of his/her original capital investment disappear in such a manner, particularly if there were no offsetting compensation in the form of hefty dividend or interest

[7] See **Exhibit 2**.

payments. In sum, Etihad has failed to provide any valid argument that its equity infusions and shareholder loans were consistent with commercial considerations.

b. An Update on the Total Magnitude of Etihad's Capital Subsidies

A copy of Etihad's 2014 fiscal year unconsolidated financial statement was recently made available to CapTrade. The financial statement indicates that the Abu Dhabi government granted Etihad as much as $5 billion in new capital in FY 2014, in the following forms:

- New equity infusions of $2.599 billion, comprised of $2.276 billion received in FY2014 and an additional $323 million received sometime between the end of FY2014 and the publication of the financial statement;[8]

- New shareholder loans of $543 million, with an additional $40 million committed but not disbursed;[9] and

- New long-term bank loans of $1.852 billion.[10]

Capital Trade believes that all of three types of capital injections received or committed in 2014 provide additional actionable subsidies to Etihad. Each form is discussed below.

i. Equity Infusions

As mentioned, the 2014 Etihad financials disclose that the government has provided Etihad with an additional $2.599 billion in equity infusions.[11] It appears that these new infusions

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[8] See Etihad 2014 financial statement, statement of cash flows statement at p.9 and Note 16.2 at p. 39. A total of $85 million in authorized share capital and $2.191 billion in contributed capital were received in FY2014, with an additional $323 million in contributed capital received sometime after the close of the fiscal year.

[9] *Id.*, Note 16.3, at p. 39.

[10] *Id.*, Note 19.2, at p. 42.

[11] *Id.*, Note 16.2, at p. 39.

may have been to meet an unexpected need for cash, as they were made prior to being authorized by the Etihad board of directors. This single year record equity infusion (over twice as much as the prior single year high of $1.248 billion in 2010)[12] was provided in a year in which Etihad, as set forth Section I.c. below, after adjusting for questionable accounting, was having its single worst annual financial results in its history.

In light of Etihad's string of losses in the years leading up to the equity infusions, CapTrade finds the totality of the 2014 equity infusions to be inconsistent with commercial considerations, and an actionable subsidy under the standards set forth in our original report. As detailed previously, Etihad's financial indicators were abysmal in the years leading up to the equity injections[13]. Specifically, as is shown in Exhibit 1 of the CapTrade Report, Etihad experienced negative net income, negative equity, a negative return on equity, negative working capital, a negative debt to equity ratio, and negative operating cash flows, in addition to large accumulated losses and substantial negative operating cash flows. In addition, for the seventh straight year, in 2014, Etihad relied on an explicit statement of unlimited government support to classify the

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[12] See CapTrade Report, Table 3, at p. 13 for a list of government equity infusions received in prior years.

[13] Under international trade law, the U.S. Commerce Department's longstanding practice is to look at a firm's financial indicators "at the time" an equity infusion or loan was provided in order to determine whether a private investor or a commercial bank would have invested in a company or provided it with debt financing. To do so, Commerce evaluates the financial indicators of the firm in the years leading up to an equity infusion or the receipt of debt financing. *See*, 19 C.F.R. § 351.507(a)(4)(i); 19 C.F.R. § 351.505(a)(4)(i). *See also*, *Certain New Pneumatic Off-the-Road Tires From The People's Republic Of China: Final Affirmative Countervailing Duty Determination And Final Negative Determination Of Critical Circumstances*, 73 Fed. Reg. 40480 (Dep't Commerce Jul. 15, 2008), and accompanying Issues and Decision Memorandum (Jul. 7, 2008) at "Comment 4 - Starbright's Creditworthiness For 2002"; *Final Affirmative Countervailing Duty Determination: Sulfanilic Acid From Hungary*, 67 Fed. Reg. 60223 (Dep't Commerce Sept. 25, 2002), and accompanying Issues and Decision Memorandum (Sept. 18, 2002) at "Creditworthiness"; and *Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments*, 62 Fed. Reg. 8818, 8830 (Dep't Commerce Feb. 26, 1997). Exhibit 1 of the CapTrade Report calculates Etihad's financial ratios through 2013, and therefore were relied on (along with other factors cited above) for purposes of determining Etihad's equityworthiness in 2014.

enterprise as a going concern (i.e., likely to remain in business for the next twelve months).[14] In short, due to Etihad's poor financial performance in the past three years, and because Etihad's financial condition have only deteriorated in FY 2014, we continue to find them to be unequityworthy. Thus, the value of the subsidy from these new equity infusions is **$2.599 billion.**

ii. Shareholder Loans

New shareholder loans were $543 million in FY 2014.[15] As of the end of the fiscal year, an additional $40 million had been committed by the government but not yet drawn down by Etihad.[16] The financial statement does not disclose the interest rate (if any) on these new shareholder loans[17]. However, the notes to the financials do indicate that the loans carry at least some of the same terms as prior shareholder loans: no fixed repayment schedule, and subordination to all other debt and obligations in liquidation or bankruptcy.[18] Consistent with our original report, we find that these shareholder loans should be treated as forgiven debt, given the complete absence of repayment obligations. Thus, through FY2014, the loans provide additional actionable subsidies in the amount of **$543 million** in actual receipts and an additional **$40 million** in committed funds.

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[14] For the 2014 "going concern" statement, See Etihad 2014 financial statement, Note 2.4, at p. 11. Similar statements have appeared in Etihad's financials since 2008. See CapTrade Report at p. 24, fn. 38.

[15] Etihad 2014 financial statements, Note 16.3, at p. 39.

[16] Id.

[17] The parallel notes on shareholder loans in earlier years, however, disclose that they are interest free. See Etihad 2009 financial statement, Note 22, at p. 29; Etihad 2008 financial statement, Note 23, at p. 27.

[18] Etihad 2014 financial statement, Note 16.3, at p. 39.

iii. Long Term Debt

The Etihad 2014 financials also list – for the first time in its history – the receipt of substantial amounts of long term loans (other than shareholder loans). The total amount provided by an unidentified source or sources in 2014 was $1.852 billion.[19] These loans reportedly varied in repayment terms of two to six years, and "carry interest at commercial rates."[20] In addition, the bulk of this financing – $1,367 million out of $1,575 million outstanding – as of the end of FY2014, was unsecured[21].

Given Etihad's dismal financial performance, its future capital commitments, as well as its potential liabilities from its JV partners, it is hard to imagine that any independent non-government bank would have lent Etihad this amount, especially on an unsecured basis. A careful comparison of Etihad's financial statement notes from the latest and prior year would suggest that the bank or banks providing at least some of the loans are not privately owned. In Note 21(a) on related party transactions in its 2013 financial statement (prepared prior to the receipt of the large long term loans), Etihad stated:

> [m]ost infrastructure-related entities are owned by the Abu Dhabi Government and the Group necessarily enters into transactions with those entities in the normal course of business on an arm's length basis.[22]

In 2014, Etihad added "financial institutions" to the comparable note:

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[19] Id., Note 19.2 at p.42.

[20] Id.

[21] Etihad 2014 financial statement, Note 19 at p. 42.

[22] Etihad 2013 financial statement at p. 46.

> [m]ost infrastructure related entities *and financial institutions* are owned by the Abu Dhabi Government and the Company enters into transactions with those entities in the ordinary course of business on an [sic] agreed rates.[23]

This explicit addition to the related party note reveals that Etihad was borrowing from related party (i.e., government-owned) financial institutions in 2014. Further, terms of the borrowing were "agreed rates" and not on arm's length commercial levels of interest. The 2014 financials provide additional evidence that at least some of Etihad's debt is obtained from related party (i.e., government-owned) banks. Paragraph 3 of Note 21(a) (Related party transactions and balances) indicates that Etihad transacts with related parties that provide loans and borrowings. Thus, the evidence suggests that Etihad was obtaining even more "loans" from government-owned sources, in addition to the shareholder loans identified separately in the financial statements.

To the extent (if any) that non-Abu Dhabi government-owned financial institutions were involved in these new long term loans, the available evidence suggests that these lenders required a government guarantee as a condition for lending. As set forth below, Etihad was uncreditworthy at this time. In addition, as mentioned, over 85 percent of the loans were unsecured. Moreover, as discussed in detail in Section I.c. below, in 2014, Etihad was incurring enormous losses on its day-to-day airline operations. In light of Etihad's overall weak financial condition and its unbroken history of poor financial performance, it is reasonable to presume that receipts of these loans were premised on some form of guarantees by the Abu Dhabi

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[23] Etihad 2014 financial statement at p. 44 (italics added).

government. Indeed, the going concern statement in the financial in itself provides an explicit government guarantee that all of Etihad's debts will be repaid.[24]

Whether a government guaranteed loan provided by a non-government financial lender, or a preferential loan provided by a government-owned bank, the calculation of the net financial benefit to Etihad would be the same. The subsidy would be the difference between what Etihad would pay a commercial lender for a non-government guaranteed loan and what it did pay for the loans it did receive.

No lender operating on commercial terms would have extended such large amounts of credit to Etihad during this time period. Etihad's financial performance in the three years leading up to the receipt of long term loans was extremely poor. As detailed previously, Etihad's financial indicators were abysmal in the years leading up to the provision of long-term financing. Specifically, Etihad experienced negative net income, negative equity, negative return on equity, negative working capital, a negative debt to equity ratio, and negative operating cash flows, in addition to accumulating large losses and experiencing substantial negative operating cash flows.[25] Further, the deteriorating financial condition of Etihad in 2014 (discussed in Section I.c. below) provides additional evidence that commercial lenders would not be willing to loan to Etihad at anything other than high risk venture capital rates. Given this dire situation, it is not surprising that, for the seventh straight year, the Etihad financial statements repeat the explicit statement of unlimited government support as a condition for classification as a going concern

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[24] See paragraph 2 of the "going concern" statement, as set forth in Note 2.4

[25] As explain in footnote 13 above, the Commerce Department's longstanding practice is to evaluate a firm's financial indicators in the years leading up to the receipt of debt financing. Therefore, Exhibit 1of the CapTrade report forms the basis for this analysis.

(i.e., likely to remain in business for the next twelve months).[26] Thus, we find Etihad continued to be uncreditworthy in 2014. Using standard U.S. Department of Commerce methodology for calculating the benefits of long-term loans to uncreditworthy companies, as shown in **Exhibit 3**, we have calculated a subsidy from these government-sourced, and/or government-backed loans of **$256 million**.

c. Etihad Has Masked Its True Losses through a Number of Questionable Accounting Treatments

In May 2015, Etihad released a statement claiming that it had made a profit of $73 million in fiscal year 2014.[27] As in the past several years, Etihad's public claim that it has been profitable is based entirely on aggressive financial reporting measures, including the questionable reporting of substantial revenues from related party suppliers, and the exclusion of Etihad's shares in the financial results of its joint venture airlines. At the outset, the reported $73 million profit is not Etihad's net financial result, as it the net result before certain items that it chooses to classify as "other comprehensive income and expenses." Included in that category in FY 2014 are hedging losses of minus $1.327 billion, almost all of which ($1.193 billion) relate to fuel hedge contracts.[28] Etihad's total "comprehensive" results for the year show a loss of minus $1,060 million on total revenues of $7,545 million[29]. While unrealized gains and losses on fuel hedging can appropriately be classified as "other comprehensive income/losses" under International

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[26] For the 2014 "going concern" statement, See Etihad 2014 financial statement, Note 2.4, at p. 11. Similar statements have appeared in Etihad's financials since 2008. See CapTrade Report at p. 24, Fn. 38.

[27] See Etihad press release, *"Fourth consecutive year of net profit,"* available at http://www.etihad.com/en/about-us/etihad-news/archive/2015/etihad-airways-posts-fourth-consecutive-year-of-net-profit/ (last visited 20 August 2015).

[28] Etihad 2014 financial statements, Note 16.4(b) at p. 40.

[29] See **Exhibit 4**.

Financial Reporting Standards (IFRS), it is misleading for Etihad not to disclose its full financial results to the public.

In addition to the selective disclosure of items on the audited financial statement, Etihad engages in a several questionable accounting treatments that contribute significantly to its apparent profitability. As is shown in **Exhibit 4,** when these items are excluded, the financial results of Etihad in 2014 swing from marginally positive to deeply negative. Each of these questionable accounting treatments is discussed in turn below.

i. Etihad's Sale of its Frequent Flyer Program to a Related Party

In its report, CapTrade identified one instance involving the sale of its customer loyalty program in which Etihad masked its true financial losses by engaging in questionable accounting methods regarding related party transactions.[30] CapTrade did not allege that Etihad's sale of its frequent flyer program in and of itself was a subsidy. Instead, in its equityworthiness and creditworthiness analysis, CapTrade simply adjusted Etihad's financial results to exclude the gain, as it does not appear to be true earned income but is phantom revenue that was never received.[31] Etihad challenges CapTrade's analysis by claiming that the sale of the frequent flyer program was at an arm's length price.[32] Whether or not the value of the "sale" was at arm's length, however, is irrelevant to CapTrade's analysis. Whatever the sales price of the program, the amount of the gain or loss should not have impacted Etihad's financial results. In essence,

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[30] See CapTrade Report at pp. 20-21.

[31] *Id.* As part of its argument that the transaction created phantom income, CapTrade pointed out that the $350 million "paid" by Etihad Guest L.L.C. was never received by Etihad, as it was listed at the end of 2013 as an amount due from related parties. See CapTrade Report at p. 20. One year later, the full $350 million is listed as being due from Etihad Guest L.L.C. See Etihad 2014 financial statement, Note 21(b)(ii), at p.45.

[32] Etihad Response at p. 17.

Etihad sold its frequent flyer program to itself, and then loaned itself the money to consummate the "sale."[33] Since no revenues were received, no real profits were generated from the sale, and therefore the income related to the sale of the customer loyalty program should not have been recorded as other income in Etihad's financials.

ii. Other Operating Income Reported on Sale of Cargo Management Company to an Affiliate

In 2014, Etihad fashioned a "Cargo Management Company" from its existing operations and subsequently sold this new company to a wholly-owned Etihad affiliate for $700 million.[34] The full $700 million was recorded as "other operating income" in the Etihad profit and loss statement.[35] Etihad's financials disclose that, prior to the creation of this company, Etihad's cargo management operations were valued at zero.[36] Moreover, as the cash flow statement shows, in 2014 Etihad received none of the $700 million sales price from its affiliate.[37] As is the case with the customer loyalty program, Etihad is claiming income, not only on a related party transaction that normally would be eliminated in consolidation, but appears to be claiming revenues that have not been paid.

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[33] At the time of preparation of the initial report, CapTrade was unable to identify the ownership of Global Loyalty Company," one of two 50/50 shareholders in the new customer loyalty program company. See CapTrade report at p. 20. A review of Etihad' 2014 financial statement solves the mystery, as Note 12.1 at p. 32 lists Global Loyalty Company as 100% owned by Etihad. Thus, it appears that Etihad has gone to some lengths to obscure the true nature of this transaction.

[34] See Etihad 2014 financial statement, Note 12.2(b) at p. 32.

[35] *Id.*, at Note 5 at p. 26.

[36] *Id.*, at Note 12.2(b) at p. 32.

[37] *Id.*, at p. 6 (deducting the full $700 million posted as other income from the statement of cash flows from operating activities).

Further, the value of the Cargo Management Company appears to be seriously inflated. As shown in Note 4 on page 26, total revenues from Etihad sales of cargo services in 2014 amounted to $1.105 billion. Given that freight forwarders (akin to "Cargo Management Companies") usually work on commissions of 2 to 4 percent of revenues, and have costs of at least half of that, a generous estimate for annual cargo management earnings is $16 million. The $700 million "sales price", therefore, amounts to a 44 times earnings multiple – an astounding amount for a company previously valued at zero.

iii. Other Operating Income Reported on Sale of Advertising and Marketing Services to Suppliers

In 2014, Etihad also reported other operating income of $884 million earned on sales of advertising and marketing services to suppliers.[38] To put it mildly, Etihad's auditors seem less than enthusiastic about the Etihad management's decision to report these revenues as other operating income. In its opinion letter, Etihad's auditors include a cautionary note that specifically calls the readers' attention to Note 24 of the financial statement. That note, entitled "Significant judgments for certain transactions and balances," casts doubt on the validity of the advertising revenue claim. According to Note 24, Etihad's management records the revenues as "other operating income," when the management determines that the revenues are not linked to the purchase of services or assets of the company. Further, according to Note 3.1.2(b), Etihad books the revenue from these services when, in the opinion of management, it has performed the

[38] Etihad 2014 financial statement, Note 5 at p. 26. It is interesting to note that in the prior year, these revenues were only $282 million, or less than 1/3rd the total for 2014. Total Etihad reported revenues from advertising and marketing services to suppliers shot up by $602 million in one year, even though its advertising and marketing expenses increased by only $42 million (from $108 million in 2013 to $150 million in 2014. See Note 7 at p. 27.

advertising services as required by the contract with the suppliers. Thus, the timing and amounts for booking these revenues is entirely at Etihad's discretion.

The $884 million in advertising and marketing income amounts recorded in 2014 under other operating income represents over 15 percent of Etihad's reported core business operating income of $5,855 million. These advertising revenues also seem suspiciously high in comparison to Etihad's reported expenses for direct advertising and promotion activities of $150 million; and its *total* general and administrative salary and benefit costs of only $453 million.[39] Indeed, if some or all these funds truly were being paid by government-owned suppliers, Etihad likely would be receiving an additional subsidy in the form of payment for services at more than adequate remuneration.

But the record demonstrates that these revenues are not being paid to Etihad. According to its cash flow statement, Etihad did not receive *any* of the $884 million in advertising and marketing revenues accrued in 2014; nor did it receive *any* of the $282 million accrued in the prior year.[40] Indeed, as shown in **Exhibit 5**, based on Etihad's reported receivables as of the end of FY2014, for the past four years, Etihad, it seems, has received little (if any) of the revenues booked in this category. If Etihad is not receiving these amounts, then these unpaid revenues could be used to offset future payment obligations to its suppliers, a number of which are government-owned. If the latter occurs or has occurred, then this could easily constitute an

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[39] See Etihad 2014 financial statement, Note 7 at p. 27.

[40] See 2014 Etihad financial statement at 8 (Statement of cash flows from operating activities deducting the full $884 million in 2014 and $282 million in 2013 related to "advertisement, marketing and promotion of suppliers products.")

additional subsidy, in the form of above-market discounts (which translates into below-market net prices) on the purchases of goods and services.

iv. Reduction of Operating Expenses through Change in Depreciation Practices

Etihad reduced its 2014 operating expenses and administrative expenses by $104 million and $11 million, respectively, simply by changing its depreciation policies in that year.[41] Specifically, Etihad increased the average useful lives of some of its assets by 5 to 10 years, thereby reducing current year depreciation expenses. This accounting change by itself more than accounts for all of Etihad's reported operating profit of $73 million.

v. Exclusion of Related Party Results

In 2014, Etihad's joint venture airlines continued to post substantial losses. See **Exhibit23**. However, Etihad's share of these results, estimated by CapTrade to be almost negative $300 million, is not included in Etihad's financial statements.[42] The exclusion of these losses greatly inflates Etihad's claimed profitability, and also overstates its book value.

vi. Recalculation of Etihad's Annual Results

In **Exhibit 5**, we present an alternative analysis of Etihad's 2014 results, after taking out all of the questionable accounting treatments discussed above. The adjusted financials present a very different picture of Etihad's financial performance in the most recently concluded fiscal year. When all questionable accounting classifications are excluded, Etihad's net result goes

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[41] *Id.*, Note 10(e) at p. 29.

[42] Another way of gauging the financial impact of Etihad's investments in its affiliates is to compare the value of Etihad's capital contributions ($1.264 billion) with the current market value of Etihad's shares ($550 million). See Etihad 2014 financial statement, Note 12.3, at p. 33. This comparison excludes Etihad's additional capital contributions through the purchase of its JV partners' customer loyalty programs.

from a reported positive $73 million to a negative *minus $3.053 billion* in 2014. Accumulated losses after all adjustments (including JV losses from prior years) reached *minus 5.751 billion*[43]. The recalculated 2014 loss represents Etihad's largest annual deficit by far since its start-up in 2003, and is very close to the $3.142 billion in additional equity and shareholder loans provided by the Abu Dhabi government in that year.

vii. Assumption of Promotional Expenses

In its report, CapTrade provided an internal Booz Allen PowerPoint which indicated that the government of Abu Dhabi "covers" Etihad's Manchester City Football Club sponsorship expenses. In its response, Etihad countered that it funded the $640 million cost of the sponsorship of the Manchester City Football Club "from its own liquidity."[44] There is no indication in Etihad's financial statements that it fully funded the cost of the Manchester City sponsorship itself. To the contrary, according to its 2011 financials, Etihad's total outstanding sponsorship commitments at the end of the fiscal year was just $166 million, or significantly below the amount of the Manchester City sponsorship alone.[45] Read in conjunction with the missing costs in the financials, the phrase "from its own liquidity," therefore, raises questions regarding the ultimate source of the funds. It simply could mean that equivalent funds to cover the sponsorship costs were provided by a government party to Etihad, and Etihad in turn remitted the funds to the Manchester City Football Club. Etihad has provided no documentary evidence that would cast light on its statement that the funds were "from its own liquidity." Further, Etihad has not challenged the validity of the documentary evidence that the U.S. airlines

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[43] See **Exhibit 2** for a recalculation of accumulated losses through 2014.

[44] Etihad Response at pp. 19-20.

[45] See Etihad 2011 financial statements at p 33.

submitted on this point: an internal study that Booz Allen prepared for the Crown Prince of Abu Dhabi, which states that the Executive Council of Abu Dhabi – not Etihad – covers the cost.[46]

[46] See CapTrade Report at pp. 35-36; *see also* Joe Aston, *Leaked report reveals Etihad's long-denied royal funding*, Australian Financial Review (May 22, 2014) (reporting on the leaked Booz Allen presentation).

III. Qatar

A summary of our latest calculations of Qatar's actionable subsidies is provided below:

Table 3: Updated Summary of Qatar Subsidies ($ millions)

Disbursed	**Originally Reported**	**Revisions to Original Calculations**	**Revised Totals 2004-2014**
Loans	618		618
Loan Guarantees	6,809		6,809
Debt Forgiveness/Hedging Assumption	7,756		7,756
Grants	22		22
Provision of Airport Airport Revenues	215		215
Provision of Goods and Services for LTAR	452		452
Passenger Fee Exemptions	616	(173)	443
Subotals Subsidies (Disbursed)	**16,488**		**16,315**
Labor	984		984
Grand Total	**17,472**	-	**17,299**

The only change in the calculations is in the total subsidy attributable to the passenger fee exemptions. These figures are explained in the separate Compass Lexecon report.

Like Etihad and Emirates, Qatar Airways provides no documentation or data to support its claims that it has not received subsidies. Instead of providing fact-based analysis, Qatar resorts to selective attacks on a few relatively minor supporting items in the CapTrade Report. From these few selective criticisms, Qatar concludes that the CapTrade Report is "replete with factual and methodological errors, if not outright deceptions."[47] In this section, CapTrade

[47] Qatar Comments at p. 4.

responds to the specific Qatar criticisms of our report. We also highlight the critical portions of our analysis that Qatar does not dispute.

a. Qatar's Criticisms of The Rational Investor Passage

In its Comments, Qatar twice highlights a single passage from the CapTrade report to support its allegation that CapTrade's work is systematically biased and deceptive.[48] That passage (referred to herein as "The Rational Investor Passage") appears in an appendix that is found on pages 104 to 105 of the CapTrade Report. The appendix presents an alternative subsidy analysis of the Qatari government shareholder loans, treating the capital contributions as equity as opposed to debt. The appendix was provided only as an alternative way of valuing the subsidies associated with some of the capital contributions made by the Qatari government, and is not critical to any of the principal findings made by Capital Trade.

Nevertheless, for the record, we respond to Qatar's claims that the Rational Investor Passage is riddled with error. In its Comments, Qatar identifies three distinct errors in this passage; namely

- The year in which Qatar was founded;
- The order in which the three Gulf airlines were founded; and
- The CapTrade statement that Qatar was pursuing a "niche" business model.

In its Comments, Qatar only cites part of the Rational Investor Passage. The passage is cited in full herein, so that the reader can more readily assess the validity of Qatar's allegations of error:

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[48] Qatar Comments at pp. 5-6 and p. 28.

> However, even in a declining market, there can be successful start-ups that identify a niche that is not being served, or a business model that is superior to those on offer from existing suppliers. In the first decade of the 21st century, private investors considering an investment into a start-up Middle Eastern long haul carrier would have taken into account the fact that Qatar Airways was pursuing a niche business model (a Middle East-based international carrier focused on long haul routes using wide body aircraft) already being pursued by two other major state-backed entities – Emirates and Etihad. Emirates is based less than 400 kilometers from Qatar's home airport while Etihad's home base is less than 320 kilometers away. At the time these capital contributions were made, both Emirates and Qatar Airways already had substantial existing or planned capacity. While this niche strategy may have appeared to be financially viable for the first, or the most efficient party, a private investor would have understood that the market was too narrow to support multiple parties and certainly would be hostile to an unsubsidized start-up. As "second to the party," Qatar Airways undoubtedly would have had an especially difficult time persuading private investors to inject equity.

The only "mistake" in the above passage is that "Emirates and Qatar" is cited in the fourth sentence when it should have said "Emirates and Etihad." Nevertheless, this single mistake does not change the general meaning or the overall accuracy of the passage.

With regard to Qatar's specific claims listed above, we note first that the year in which Qatar was founded is not mentioned at all in the Rational Investor Passage. The passage clearly focuses on the *first decade of the 21st century*, because that is the period during which the massive capital contributions to support international expansion were being granted to the three Gulf airlines, including Qatar. In fact, the vast majority of the Qatari government loans and shareholder advances – 98 percent of the total $7.756 billion – were received after 2004, the founding year of Etihad.[49]

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[49] Calculated from Table 5 of CapTrade Report, at p. 47 ($178.3 million in loans received prior to 2005); Table 6 at p. 55 (total loans and shareholder advances as of the end of 2014 of $7.756 billion).

Second, the order in which the three Gulf airlines' were established is not mentioned at all in the passage. However, the last part of the complete passage –which Qatar failed to reproduce in its report – clearly identifies Qatar as "second to the party," i.e., established before Etihad.

Third, the focus of the passage is Qatari government investment in the first decade of the 21st century. The principal purpose of the large capital contributions being made in this time period was not Qatar regional development, but long-range international travel, with a Middle Eastern hub as the center of operations. As Qatar itself admits, the regional development phase occurred earlier. That the government capital received in the first decade of the 21st century was intended to support Qatar's entry into the market for long-range international travel is clear from the type of aircraft – long range wide-bodies – being ordered at that time.[50] At the same time, only two other airlines – Etihad and Emirates – were pursuing this business model in such an aggressive fashion. Given the hundreds of airlines in existence at the time, labelling this particular market as "niche" is entirely justified.

As set forth above, the Rational Investor Passage contains none of the errors identified by Qatar. More importantly, the overall thrust of the statement is correct and has gone unchallenged. Indeed, a very similar statement is found in the separate report of Dr. Krishna

[50] A table showing Qatar's deliveries, by aircraft type and year, is provided at **Exhibit 6.** As the table shows, while Qatar did take delivery of some narrow body aircraft between 2001 and 2010, the bulk of Qatar's new aircraft in that period (particularly when expressed in available seat miles) consisted of widebody aircraft.

Palepu, a professor of accounting at the Harvard Business School.[51] The Rational Investor passage stands on its merits.

b. Shareholder Loans and Debt Forgiveness

Nowhere in its Comments does Qatar dispute the fact that it has obtained billions in government loans on terms that are unheard of in private lending markets, including no interest and no obligation to repay the principal. However, in its Comments, Qatar argues as if the whole subsidy attributable to these loans rests on an erroneous finding that Qatar was uncreditworthy between 1998 and 2010. This claim, however, is based on a gross misrepresentation of CapTrade's analysis. Setting aside for the moment Qatar's nitpicking of the CapTrade creditworthiness ratio analysis, not even the most creditworthy companies can obtain zero interest, zero repayment obligation loans from private capital markets. Tellingly, Qatar has not challenged CapTrade's findings of financial contribution, benefit or specificity, nor has it provided any alternative calculations of potential shareholder loan/debt forgiveness subsidies based on its claims of creditworthiness.

c. Qatar's Comments on CapTrade's Creditworthiness Analysis

Rather than provide an alternative analytical framework to support its case, Qatar limits itself to attacks on tangential elements of CapTrade's creditworthiness finding. In particular, Qatar highlights its quarrel with CapTrade's return on equity ("ROE") calculations. Almost half (7 out of 15 pages) of the subsidy rebuttal section in its Comments is spent on this one point. As

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[51] *An Assessment of Etihad Airways, and Qatar Airways, and Emirates Airline* (April 3,2015), Krishna Palepu ("Palepu Report"). Dr. Palepu has a Ph.D from the Massachusetts Institute of Technology and over thirty years of teaching graduate business students and senior executives at the Harvard Business School. He co-authored a widely-used text book, *Business Analysis Valuation using Financial Statements*, which focuses on analyzing published financial statements to draw economic inferences. He has also authored or co-authored many published papers and case studies in the area of financial analysis, accounting, and strategy.

explained in more detail below, Qatar's ROE criticisms are misleading at best and seriously flawed at worst. Most importantly, however, Qatar fails to address the vast majority of the data and analysis relied on by CapTrade for its analysis of Qatar's creditworthiness. ROE was only one of *eight* discrete financial indicators cited by CapTrade in its creditworthiness analysis.[52] Moreover, CapTrade did not rely wholly on financial ratio analysis for its conclusion that Qatar was uncreditworthy. In addition to these financial indicators, CapTrade relied heavily on other factor, including:

- The repeated publication of the "going concern" statement in Qatar's financials over many years; and[53]
- The virtual absence of any non-government or government-guaranteed long-term loans.[54]

CapTrade only mentioned Qatar's ROE as one of many factors contributing to the creditworthiness finding. Moreover, while ROE is an important determinant of equityworthiness in international subsidy analysis and a major element in cost of capital calculations, it is not a major factor in creditworthiness assessments. A company' creditworthiness, after all, is a function primarily of whether it can demonstrate an ability to repay its debt. Financial indicators of liquidity, such as times interest earned, quick ratios, and current ratios, are far more important indicia that ROE for creditworthiness analysis. After reviewing these indicators, it is clear that Qatar was not creditworthy at the time that it was obtaining substantial shareholder loans:

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[52] See CapTrade Report at pp. 49-50. Other financial indicators cited were 1) net income; 2) equity balance (negative or positive); 3) debt-to-equity ratio; 4) working capital availability; 5)current ratio; 6) quick ratio; and 7) accumulated profit/losses.

[53] We note that, in its Comments (at pp. 30-31), Qatar writes as if the "going concern" statement was a "one-off" occurrence in 2009. The reality is that a "going concern" note in the Qatar financials appears in every year from 1996 through 2013.

[54] CapTrade Report at pp. 50-51.

Table 4: Select Qatar Liquidity Indicators

	2004	2005	2006	2007	2008	2009
Current Ratio	0.60	0.54	0.49	0.47	0.45	0.92
Quick Ratio	0.55	0.48	0.43	0.42	0.39	0.86
Working Capital to Total Assets	-0.13	-0.14	-0.16	-0.17	-0.17	-0.02
Sales to Working Capital	-2.95	-2.92	-2.99	-2.60	-2.86	-26.22
Times Interest Earned	0.71	Negative	Negative	Negative	1.06	0.60

As mentioned, Qatar's criticism of CapTrade's creditworthiness findings fixates on only one metric – the ROE comparison. More specifically, Qatar alleges that CapTrade's comparison of Qatar's ROE to a three year average of comparable airlines is distortive and intentionally misleading.

Before responding to Qatar's claim of deception, it is important to note that the appropriate benchmark under U.S. Department of Commerce creditworthiness analysis is all commercial enterprises in the host country (regardless of industry sector), and not a global industry control group. CapTrade included the latter in its analysis only to provide a framework for what an investor might expect in a long haul international airline start-up situation. Qatar does attempt to take on the practice of using a "country-wide" comparison group in its Comments, arguing that a "comparison of returns between airline investments and investments in other sectors is entirely irrelevant to a discussion of subsidies."[55] Qatar also asserts, without any support, that it is inappropriate to use a standard that applies to producers of goods to providers of air transport

[55] Qatar Comments at p. 25.

services.[56] The U.S. Department of Commerce reliance on a national economy-wide metric, however, makes perfect sense for international subsidies analysis. A private investor has many options besides airlines and will choose to invest his/her money based on the potential for greatest return, regardless of whether the investor is considering investments in the goods or services sectors, and regardless of specific industry segment. Indeed, Qatar's reference to the dead last performance of the airline industry compared to other industries in the 1965-2007 timeframe provides yet another reason why the Qatari government capital contributions were inconsistent with commercial considerations: airlines in general at that time were an extremely poor investment alternative.[57]

Notwithstanding the fact that the global airlines ROE comparison serves a minor tangential role in the CapTrade analysis, Qatar spills a great deal of ink on its claims that CapTrade engaged in "cherry picking" in creating an airlines control group and in how it compared ROEs for that group to Qatar.[58] As detailed in our Report, however, there was solid reasoning behind the formulation of the airline industry control group. Specifically, the control group consisted of publicly-traded airlines (or otherwise that had publicly available financial information) that had crossed the threshold of having 15 or more widebody aircraft sometime after 1979. To that group, we added JetBlue because it had had a similar start date.[59] The reason that we relied on this formulation is because airlines meeting these criteria are the most comparable benchmark for

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[56] *Id.*

[57] *Id.*

[58] *Id.*

[59] We note that the inclusion or exclusion of JetBlue does not materially change the results.

an airline like Qatar in start-up mode (with respect to the long-haul international focus) but rapidly growing.[60]

In its Comments, Qatar claims that CapTrade ignored the data points that went against our overall findings – in particular, the apparent 102.8% ROE for Qatar in fiscal year 2005.[61] It is Qatar, however, doing the cherry picking, and not CapTrade. The single year ROE of 102.8% highlighted by Qatar repeatedly in its comments was preceded by *eight straight years of negative ROE, and followed by three straight years of negative ROE.*[62] Moreover, Qatar audaciously states that the average of its ROE for the period 2004 to 2007 was 25.7% -- a metric, it says, that was also ignored by CapTrade. How did Qatar reach that 25.7% figure? By dividing 102.8% by 4 (years)! In other words, in calculating the four year average, Qatar's results-driven/deceptive math zeroes out its deeply negative returns on equity for 2004, 2006, and 2007. If, as shown below, the sum of the total earnings for the three years is divided by the sum of the year end value of equity, the resulting ROE ratio is negative.[63]

Table 5: Average Qatar ROE, 2004-07

	2004	2005	2006	2007	Totals
Net Income	22,494	9,529	(118,413)	(181,860)	(268,251)
Equity	(97,763)	9,272	(77,314)	(386,062)	(551,866)
Ratio	Negative	102.8%	Negative	Negative	Negative

[60] Qatar also complains that U.S. airlines were excluded from the benchmark. This is because they did not meet the profile of a start-up long-haul international airline. However, the addition of more mature U.S. airlines to the control group would not materially change the results. See *the U.S. airlines' response to technical questions on government subsidies provided to Gulf airlines,* April 9, 2015, at p. 20.

[61] Qatar Comments at p. 5 and p. 27.

[62] See CapTrade Report, Exhibit 12.

[63] Data extracted from CapTrade Report, Exhibit 12 (originally sourced from Qatar financials).

Even the positive 102.8% ROE for 2005 is highly suspect. A careful review of Qatar's 2005 financials indicates that a one-time non-operating gain on the disposal of available–for-sale investments of QR 211 million was over 6 times its modest reported net profit of QR 35 million – the profit that gave rise to the isolated, one out of twelve-year positive ROE.[64] The financials do not disclose the details of this one-time gain, but a potential private borrower would certainly discount this in its assessment of Qatar's ability to repay loans going forward, as its ability to earn such revenues in future years was limited. In 2014, the value of Qatar's available for sale investments of QR 886 million represented less than 2 percent of its total assets. A gain of 5 percent per year would yield less than QR 45 million in annual profit.

On the one hand, Qatar lauds the one year ROE of 102.8% as proof of its creditworthiness, but then attacks CapTrade for choosing a control group that includes single year ROE returns of 289% and 36% for other airlines in its three year averages. Qatar, however, cannot have it both ways: if its 102.8% is an important data point, then so too are the few single year high rates of return for individual airlines. Moreover, unlike Qatar, CapTrade dilutes the impact of these so-called anomalous data points by calculating averages across multiple airlines to use as the basis for comparison.

In its Comments, Qatar claims – with no citations – that CapTrade relied on an airline industry control group average ROE covering the 2004 to 2007 time period to find Qatar uncreditworthy between the years of 2004 to 2010.[65] Once again, this is a misinterpretation of

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[64] See Qatar 2005 financial statement at p. 2. Note that the entire 211 million QR reported as income is backed out of the cash flow statement (*Id.*, at p. 4), indicating that the disposal did not give rise to cash received.

[65] Qatar Comments at p.4.

CapTrade's creditworthiness analysis, based apparently on a presentational format in an Etihad exhibit in the CapTrade report. In fact, when making its creditworthiness assessment, CapTrade compared Qatar's performance for three years prior to each year in which a new loan or loan guarantee was granted, to average performance of Qatar enterprises in the year of receipt, as well as the similar average performance for the airline industry control group. See **Exhibit 7** for a reformatted (and slightly expanded) comparison table for Qatar, country wide, and airline control group financial ratios.

Another charge levelled by Qatar against the CapTrade analysis is that it includes data from the mid-1990s – long before the airline began flying to the United States. While that data is included in back-up tables, none of it was used in the valuation of Qatar's subsidies. CapTrade limited the subsidy calculations to 2004 forward, both for government loans and loan guarantees.

Finally, CapTrade is not alone in finding that Qatar was uncreditworthy in the first decade of the 21st century. In his report, Dr. Palepu reached a similar conclusion. Like the CapTrade report, Dr. Palepu's findings are based on a multi-faceted approach that encompasses a review multiple financial ratios and comparisons with other airlines. Dr. Palepu also places substantial weight on the repeated "going concern" statements in the Qatar financials. When the totality of the relevant evidence is weighed, there is no doubt that Qatar was uncreditworthy between 2004 and 2010.

d. Qatar's Recent Financial Performance

In its Comments, Qatar reproduces its recent financial performance from fiscal years 2010 to 2014 to support its position that it was creditworthy.[66]. This data, however, is irrelevant to CapTrade's creditworthy analysis for the years 2004 through 2010.[67] Because the standard rule for assessing creditworthiness is to look at the three prior year's financial performance from the point at which the loans or loan guarantees are given. Qatar's performance in the first decade of the 21st century (through 2009) is the relevant time period.

e. Loan Guarantees

In its Comments, Qatar claims that the "sole basis for finding loan guarantees to be a benefit is [CapTrade's] uncreditworthy finding".[68] This is another fundamental mis-characterization of CapTrade's analysis. As CapTrade explained in its report, a government loan guarantee provides a benefit to the recipient to the extent that it lowers the total cost of borrowing – including any guarantee fee – from the cost that the recipient would pay for a non-government guaranteed loan.[69] Even in years in which it was creditworthy, Qatar may have received benefits from the government loan guarantees if they lowered its overall borrowing costs. To be conservative, however, CapTrade did not include loan guarantee benefits from these years in its calculations.

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[66] *Id.*, at p. 31.

[67] The last year in which CapTrade found Qatar to be uncreditworthy was its fiscal year 2010. Following standard U.S. Department of Commerce methodologies, Qatar's financial ratios from the prior three fiscal years (2007, 2008, and 2009) were the basis of that finding.

[68] Qatar Comments at p. 32.

[69] CapTrade Report at p. 59.

Qatar also points to its record of never having defaulted on a loan as evidence that the guarantees provide it with no financial benefit.[70] Under WTO subsidy analysis, the benefit from a loan guarantee is measured as the savings to the recipient, in terms of lower borrowing costs, at the time the guarantee is granted, and not the *ex post* cost to the guarantor. Even if it never defaulted, Qatar benefited from substantial savings on its capital costs.

With respect to whether government guarantees provided Qatar with a financial benefit, it is noteworthy that Qatar made no claims that it ever paid the government anything (much less commercial rates) for the guarantees it received. Further, the absence of any evidence that Qatar was able to obtain guarantees from non-government sources, or commercial loans with no guarantees, is also telling. Given its poor financial performance over much of this period, as well as the repeated going concern statements in its financials, the lack of any citations to non-guaranteed borrowing is not surprising.

Qatar's other defense for the loan guarantees is its claim that they were necessary because the country is not a signatory to the Cape Town Convention.[71] Airlines operating in other countries that are non-signatories to the Cape Town Convention, however, have been able to obtain non-government guaranteed financing to purchase aircraft. For example, airlines in the United Kingdom, Australia and Canada all placed enhanced equipment trust certificates ("EETCs") prior to their countries adopting the Cape Town Convention. There is no evidence that any of their governments provided loan guarantees. Additionally, neither France nor Germany has adopted the Cape Town Convention and yet airlines in those countries still have

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[70] Qatar Comments at p. 30.

[71] Qatar Comments at p. 30.

been able to obtain aircraft secured loans. Airlines headquartered in these countries may have to pay higher interest rates to cover the additional risk and potential higher repossession costs; however, such additional costs are part of doing business in that country. A fundamental axiom of subsidy quantification is that the value of a subsidy bestowed by government action cannot be offset by real or perceived economic disadvantages as a result of nature, or of other government laws, policies or actions. For example, subsidies to disadvantaged locations have been countervailed by the U.S. government repeatedly, with no offsetting adjustment for the cost associated with the economic disadvantages.[72]

f. Airport Revenue with No Corresponding Costs

In making this allegation, CapTrade relied on some unusual revenue recognition patterns (back-dated fee payments for airport operations management) as well as an absence of material operating costs increases at the time the revenue streams commenced, for its conclusion that

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[72] See., e.g., Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review, 69 Fed. Reg. 70,657 (December 7, 2004) and accompanying Issues and Decision Memorandum at 9-12 (countervailing subsidies provided to disadvantaged regions, "In 1986, the European Union ("EU") initiated an investigation of the GOI's regional subsidy practices. As a result of this investigation, the GOI changed the regions eligible for regional subsidies to include depressed areas in central and northern Italy in addition to the Mezzogiorno (southern Italy). . .In past reviews in this proceeding, we found grants made through this program to be countervailable. See, e.g., Certain Pasta from Italy: Final Results of the Second Countervailing Duty Administrative Review, 64 FR 44,489, 44,490-91 (August 16, 1999) Pursuant to section 771(5) of the Act, the grants are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, no new information, evidence of changed circumstances, or comments from interested parties were received on this program that would warrant reconsideration of our determination that these grants are countervailable subsidies."); Grain-Oriented Electrical Steel From Italy; Preliminary Results of Full Sunset Review of Countervailing Duty Order, 65 Fed. Reg. 39,129 (June 23, 2000) and accompanying Issues and Decision Memorandum at Comment 2.A.5 ("Law 675/77 Preferential Financing. Designed to bring industrial assistance measures from the GOI under a single system, Law 675/77 had at its core three main objectives: (1) the reorganization and development of the industrial sector as a whole; (2) the increase of employment in the South; and (3) the promotion of employment in depressed areas."), affirmed in Grain-Oriented Electrical Steel from Italy; Final Results of Full Sunset Review of Countervailing Duty Order, 65 Fed. Reg. 65,295 (November 1, 2000); and Final Affirmative Countervailing Duty Determination: Stainless Steel Bar From Italy, 67 FR 3,163 (January 23, 2002) and accompanying Issues and Decision Memorandum at II. (countervailing "waste disposal benefits provided by the Regional Government of Valle D'Aosta ("Regional Government") to CAS").

Qatar likely was receiving revenue for airport management without incurring all of the costs associated with such services.[73] Qatar's only rejoinder is that it does incur some expenses to manage Doha airport operations.[74] However, Qatar has provided no documented profit and loss analysis for airport management operations, or any agreements that govern how the management fees are determined. Without any detailed and documented analysis of both revenues and costs, it is not possible to assess Qatar's claim that it receives no benefit from this arrangement.

g. Land for Less than Adequate Remuneration

In its Comments, Qatar downplays the magnitude of this subsidy, suggesting that the government "granted" the land only temporarily to Qatar in 2011 and then "appropriated" the same parcels in 2013.[75] A careful reading of the Qatar Comments, however, indicates that at the time of appropriation, the government paid Qatar "market value" for the land. This is consistent with its financial statements, which continues to record the value of the land as of the end of 2013 and 2014 on the balance sheet as a "capital reserve."[76] Given that the government was the original and the final owner of the land, the compensation that the government paid to Qatar is a grant.

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[73] CapTrade Report at pp. 65-66.

[74] Qatar Comments at p. 34.

[75] Qatar Comments at p. 35.

[76] Qatar 2013 financial statements at p. 4; Qatar 2014 financial statements at p. 8.

IV. Emirates

Other than the airport subsidies (addressed in a separate report by Compass Lexecon), the principal subsidy programs cited in the Emirates section of the CapTrade report were: A) the fuel hedging contract novation; and B) the purchases of goods and services at less than arm's length. The Emirates report has only served to demonstrate that our original calculations understated the amount of the subsidy. The summary table below sets forth our current estimates of subsidies received by Emirates:

Table 6: Updated Summary of Emirates Subsidies ($ millions)[77]

Disbursed	**Originally Reported**	**Revisions to Original Calculations**	**Revised Totals 2004-2014**
Debt Forgiveness/Hedging Assumption	2,395		2,395
Provision of Airport Terminal Facilities for LTAR*	1,392	584	1,976
Provision of Goods and Services for LTAR*	1,855		1,855
Passenger Fee Exemptions	871	46	917
Subtotals Subsidies (Disbursed)	**6,513**	**630**	**7,143**
Labor	1,878		1,878
Capital and Ind Tax Subsidies + Labor	**8,391**	**630**	**9,021**
Income Tax Exemption	4,555		4,555
Grand Total	**12,946**	**630**	**13,576**

[77] The Emirates airport terminal subsidy (provision of airport terminal facilities for LTAR) and passenger fee exemptions are presented in a slightly different format herein than in the Compass Lexecon Response report. Specifically, the airport terminal subsidy in Table 6 above is the net subsidy – after the offset for passenger fee exemptions – while the passenger fee exemption is the gross subsidy associated with that program. The sum of the two subsidies in this report is the same as the total listed in the Compass Lexecon Response report.

a. The Fuel Hedging Contract Novation

Notwithstanding its strident denials, Emirates has provided virtually no hard facts, contemporaneous records, or documents that would cast light on whether and to what extent the fuel hedge contracts novation provided a subsidy. In particular, Emirates has failed to provide any agreements or understandings that laid out the terms of the novation, the associated letters of credit, or any information on the magnitude of Emirates' total financial exposure at the time it transferred the hedging contracts to its parent.

Nevertheless, Emirates' Response confirms that, at a time of financial crisis, its government-owned parent company, ICD, stepped in and assumed large and material financial liabilities that Emirates had incurred on its fuel hedging operations. The Emirates response concedes that:

- The ICD posted $750 million in collateral (peak value) against these contracts;[78] and
- The ICD incurred real losses over time as a result of the hedging contract novation, as is evident from Emirates' "dividend offset argument"[79] (discussed in more detail below).

i. Emirates Applies the Wrong Analytical Time Frame for Assessing the Financial Contribution and the Financial Benefit of the Novation

The observation that, but for the novation, Emirates would have had to report substantial losses in its 2009 financials has gone unrefuted. However, Emirates seeks to minimize the losses it would have had to post as "mark-to-market paper losses" rather than actual cash losses—ones that would ultimately reverse (to some undisclosed extent) as pricing improved.[80] This is a convenient and incorrect application of an "after-the-fact" framework to the assessment of the

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[78] Emirates Response at p. 11.

[79] Id., at pp. 11-12.

[80] Id., at pp. 9-11.

benefit provided by the novation. Emirates' alternative framework for measuring the benefit from the novation ignores the grave financial crisis that Emirates, the ICD, and the hedging counterparties all were facing in 2008-2009.[81]

Indeed, Emirates' response is carefully crafted to apply hindsight in an effort to hide the benefit it received from the fuel hedging contract novation. For example, Emirates states that "The result of [disclosing the fuel hedging losses on its own books] would have been the reporting of large paper losses in 2009, followed by large paper profits to revalue the contracts after fuel prices reversed in 2010 and beyond."[82] At the time of the novation, however, Emirates had no way of knowing the direction in which fuel prices would move in later months and years. Had Emirates been blessed with such foresight, it would have had no reason to novate the contracts to its parent in 2008/09, assuming that its claim of an ultimate net $100 million gain on these contracts is accurate. Setting aside the rhetoric, the fact that Emirates passed on these liabilities to its parent in a period of enormous economic volatility is evidence that at the time of the novation, Emirates and its parent deemed the costs and risks to Emirates of continuing to hold the contracts to be unacceptably high. Those costs included at least three distinct elements: 1) the immediate need to post substantial cash with counterparties to meet margin calls; 2) the possibility that, to reduce future losses, certain portions of the hedging positions would have to be unwound, thus locking in losses in the current period; and 3) higher costs in future periods through purchases of fuel or settlement of other hedging instruments at higher than market value.

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[81] The depth of the financial crunch faced by Emirates was laid out in the book by Kate Kelly in her book *The Secret Club that Runs the World* (2014). See CapTrade Report at p. 76. The portions of Kelly cited in the CapTrade report were not challenged by Emirates in its Response.

[82] Emirates Response at p. 9.

In addition, as discussed in more detail below, the full assumption and disclosure of Emirates' hedging-related costs would have altered its reported financial results substantially, resulting in higher future borrowing expenses.

Emirates' application of hindsight is disingenuous. As noted in footnote 13 above, benefits from subsidies are measured at the time of bestowal, and not at some later date, when the commercial risks facing the recipient and the provider at the time of bestowal may have been dissipated or enlarged by time.[83] For example, determinations of creditworthiness and equityworthiness for purposes of determining the existence and magnitude of financial benefit are made based on recent past financial experience and market projections available at the time the loans or equity were granted, and not several years later, after the company benefits were received.[84]

ii. Emirates Fails to Acknowledge the Full Range of Benefits Received from the Novation.

Emirates' Response does not address the full range of benefits received when the "ICD stepped into the shoes of Emirates by assuming the fuel hedging contracts."[85] At that point in time, to Emirates benefit, the state-owned parent assumed all of the risks inherent in those contracts. The commercial benefits to Emirates included not only the foregone additional hedging-related costs at the time of settlement (when cash losses would have been incurred) but

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[83] See, e.g., *British Steel PLC v. U.S., United States Court of International Trade,* 879 F. Supp. 1254, 1273 (Ct. Int'l Trade 1995) ("British Steel"): "Commerce has consistently maintained that it does not measure the effects of subsidies once they have been determined by Commerce. In other words, subsequent events are irrelevant."

[84] See, e.g., *Preamble to the U.S. Department of Commerce Countervailing Duties Regulations,* 63 FR 65,348, 65,374 (November 25, 1998) ("In order to be considered in our equityworthiness analysis, any [independent] study must have been prepared prior to the government's approval of the infusion . . . .")

[85] Emirates Response at p. 10.

also substantial benefits that accrued prior to settlement, when fluctuations in prices could (and reportedly did) drive collateral requirements upwards, and place pressure on the company to eliminate future additional losses by winding down its hedging positions. In other words, the full financial impact of the hedging contract novation extends far beyond the "mark-to-market" adjustments for outstanding contracts as of financial year-end.

If the only costs of the contracts at the time of novation were "paper" in nature, then it is hard to see how their disclosure "alongside the normal operating results of the company", to paraphrase Emirates, "would have greatly distort[ed] Emirates' actual operating position."[86] To clarify the "paper" nature of the losses, simple footnote disclosures – like those made by Delta, United, Southwest, and other airlines – should have sufficed.

A vivid way of illustrating the full benefit to Emirates at the time of novation is to compare the results of Emirates' "cleaned slate" of fuel hedging liabilities with the three distinct type of hedging-related costs incurred and reported by other airlines at around the same time; namely 1) substantial cash collateral requirements; 2) losses at the time of purchase and consumption; and 3) costs associated with winding down of the contracts early:

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[86] *Id.*, at p. 9.

1. Cash Collateral Requirements

Delta

At December 31, 2008, our counterparties required us to fund $1.2 billion of fuel hedge margin. (2008, p. 15)

United

Company's fuel hedges require that it post cash collateral with applicable counterparties if crude oil prices change by specified amounts. The Company provided cash collateral of $965 million to its fuel derivative counterparties as of December 31, 2008, which decreased to $780 million as of January 19, 2009 primarily due to the settlement of December 2008 contracts" (2008, pp. 6-7)

American

. . . the obligation to post cash collateral to secure loss positions on fuel hedging contracts, also pose challenges to our liquidity. (2008, p.33)

US Airways

Actual collateral requirements, fuel purchase costs and cash requirements for hedge losses will vary depending on changes in forward fuel prices, modifications to the Company's fuel hedge portfolio and other factors. The table below outlines the Company's estimated collateral provisions at various crude oil prices, based on the hedge portfolio as of January 16, 2009.

Price of Crude Oil, in Dollars per Barrel	Approximate Change in Cash Collateral for each $5 per Barrel Change in the Price of Crude Oil
Above $105	No collateral required
At or above $85, but below $105	$45 million
At or above $25, but below $85	$60 million
Below $25	$40 million (2008, p. 74)

Southwest

As of December 31, 2009 and 2008, the Company had provided cash collateral deposits to its fuel hedge counterparties totaling $330 million and $240 million, respectively" (2008, p. 55).

2. Current and Future Losses at Time of Settlement

Delta

Losses on our derivative contracts that relate to jet fuel purchases in 2009 are deferred on our Consolidated Balance Sheet for 2008 and will be recognized in 2009 when the hedged jet fuel is purchased and consumed. (2008, p. 30)

Southwest

At December 31, 2008, the Company was a party to over 536 financial derivative instruments, related to its fuel hedging program, for the years from 2009 through 2013. The fair value of the Company's fuel hedging financial derivative instruments recorded on the Company's Consolidated Balance Sheet as of December 31, 2008, was a net liability of $992 million, compared to an asset of $2.4 billion at December 31, 2007" (2008, p. 35).

3. Costs Associated with Early Settlement

Delta

Additionally, during the December 2008 quarter, we terminated certain fuel hedge contracts with other counterparties to reduce our exposure to projected fuel hedge losses due to the decrease in crude oil prices. In accordance with SFAS 133, we recorded an unrealized loss of $324 million, which represents the effective portion of these terminated contracts at the date of settlement, in accumulated other comprehensive income on our Consolidated Balance Sheet. (2008, p. 53)

United

In 2008 the Company began modifying its fuel hedge portfolio by purchasing put options contracts to effectively cap losses on its short put option positions from further oil price decreases. The Company may take additional actions to reduce potential losses and collateral requirements that could arise from its short put option positions" (2008, p. 76).

US Airways

In 2008 the Company began modifying its fuel hedge portfolio by purchasing put options contracts to effectively cap losses on its short put option positions from further oil price decreases. (2008, p. 74)

Southwest

> Due to the manner in which the Company reduced its fuel hedge for these future years (primarily by selling swap instruments, which in most cases were sold at lower prices than the positions that were previously purchased), and disregarding any future potential activity involving fuel derivative instruments, the Company has fixed some losses associated with these instruments and expects to pay higher than market prices for fuel for these periods. (2008, p. 20)

> Additionally, in 2009 and 2008, there were net losses recognized in Fuel and oil expense, of $222 million and $188 million, respectively, due to the fact that the Company had previously recognized gains associated with settling contracts in each period that were associated with ineffective hedges or derivatives that did not qualify for special hedge accounting" (2009, p. 27).

Overall, the three major U.S. airlines, which had no government-provided hedging safety net, posted losses of almost $2 billion in 2009[87].

iii. The Benefit from Elimination of Cash Collateral Requirements

The above excerpts graphically illustrate the three types of hedging-driven costs that non-state supported airlines incurred during this period. Unlike Emirates, non-state-owned, state-supported airlines did not have the "option," as Emirates itself put it, "to pursue a different approach, one that made it unnecessary to report large paper losses and gains."[88] Rather, non-state supported airlines were required to absorb and report the losses and suffer the financial consequences.

The record before the U.S. government demonstrates that Emirates was under pressure in 2008/09 to put up cash to cover its potential hedging losses. Emirates goes to great lengths to attack the CapTrade analysis of Emirates' own ability to cover the reported margin calls at the

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[87] See CapTrade Report, Exhibit 17.

[88] Emirates Response at p. 10.

time they apparently were made.[89] Notwithstanding Emirates' criticism of the CapTrade report, the financials clearly demonstrate that Emirates did not have the cash on hand to cover a reported $4 billion margin call. Emirates' own recalculation of its available cash at the time was only about half of the $4 billion.[90] Moreover, Emirates could not have exhausted a large part of its cash reserves on hedging margin calls, as a fair amount of liquidity would have been required to support ongoing operations and service debt. Moreover, even if Emirates had the cash, or the ability to raise the cash, at the time of the margin call, the fact remains that Emirates *did not* cover the margin calls on its own but instead novated these financial liabilities to its government-owned parent, which in turn provided the counterparty with a substantial collateral payment and later, incurred real losses as the financial instruments were wound down and/or settled.

iv. Emirates' Claim that it Reimbursed the ICD for Costs Associated with the Novation of the Hedging Contracts through the Issuance of Specific Dividends is Unproven and Inconsistent with International Trade Law Subsidy Benefit Calculation Methodology

A major element of Emirates' rebuttal to the novation subsidy argument is that it "paid back" the actual hedging losses assumed by the ICD through specific equivalent dividend payments.[91] If true, this is an unconventional use of dividends. In the world of commerce, dividends are compensation to an investor for the use of the investor's capital contribution. Dividends are not "payback" for operating costs passed on to, or assumed by, the investor. Indeed, rarely does a normal commercial investor "assume" the operating costs of an invested enterprise. Because

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[89] Emirates Response at pp. 12-13. What makes Emirates' criticisms of the CapTrade calculations sound even hollower is that it provided no documentation whatsoever showing the precise timing and magnitude of the margin calls or the other costs associated with the novation.

[90] Emirates Response at p. 12, fn 22. Emirates calculates that it had $1.95 billion in cash available at the time.

[91] Emirates Response at p. 8.

dividends are payments for the use of capital, they are not considered to be an allowable offset to subsidies under international trade rules.[92]

Even if offsetting dividends were an appropriate element of benefit determination and subsidy quantification, Emirates has provided no contemporaneous agreement demonstrating an explicit legal *quid pro quo* between the ICD and Emirates for assumption of these liabilities in exchange for repayment of any losses through specific dividends. In fact, at page 10 of its response, Emirates concedes that there was no such explicit agreement.

Moreover, in neither its response nor in its contemporaneous financial statements does Emirates ever disclose the amount of the so-called 'specific" dividends that were provided to cover ICD's losses on the novated hedging contracts. In fact, the term "specific dividends" never even appears in any of the Emirates' annual reports of from fiscal years 2009 to 2014.[93]

Nor can the claim that a portion of the declared dividends were to repay the ICD for losses it incurred on the assumed hedging contract be inferred by an analysis of Emirates' annual reports. As is shown in **Exhibit 8**, over the years, the amounts of Emirates' dividend disbursements have varied substantially, and do not seem to be related to any particular financial performance metric. Indeed, as is evident from the cash flow statements, in the last three fiscal years, the value of the actual dividends paid have fallen well below the level of dividends announced. The level of

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[92] See Preamble to the Commerce Department Countervailing Duties Regulations, 63 FR 65,348, at 65,372 and 65,374-5 (November 25, 1998). See also *British Steel*: "Furthermore, the Court rejects plaintiffs' argument that Commerce's grant methodology must be revised to account for the offsetting costs of certain post-infusion events including privatization, *the payment of dividends*, and the retention of retained earnings. In valuing the benefits of subsidies, Commerce's determination that its grant methodology need not consider events subsequent to the original equity infusion is reasonable." (emphasis added).

[93] Perhaps Emirates did not release this information because it would have enabled the U.S. government with a tangible value to assign to this subsidy.

announced dividends seems to be driven more by public relations, and the level of paid dividends may reflect a balancing act against the competing cash requirements of Emirates and those of its parent, the ICD. On that point, it is worth noting that during the financial crisis of 2008-09, the ICD reportedly was acting as a lender of last resort for a number of other failing Dubai enterprises.[94] The ICD's need for substantial cash during this period could easily explain the higher level of dividends paid by Emirates in that year, just as the recovery of some of the other ICD investments in recent years could explain the significant fall-off in Emirates' dividend payments.

Emirates' new disclosure that some portion of its past dividend payments to its parent in reality were reimbursements for assumed operating expenses raises two very important questions regarding the credibility of Emirates' public financial data. First, this characterization raises the question of how many other costs have been absorbed by the ICD over the years. The novation is a concrete example of how the opaque, complicated web of ownership relationships and transactions that is the integrated Dubai air transportation ecosystem can be used to transfer financial liabilities and obligations among enterprises to hide the real operating results of the flagship airline. As is the case with the novation, the impact of such transfers cannot be traced through to the assuming party, because they do not publish financials.

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[94] See *Investment Corporation of Dubai reveals first financial results,* ft.com, May 7, 2014, available at: http://www.ft.com/cms/s/0/3c651a5c-d5ff-11e3-a239-00144feabdc0.html#axzz3fDC6im00 (last visited 20 August 2015). (" ICD acted as "lender of last resort" during the financial crisis, when Dubai staved off a near sovereign default with the help of more than $20bn in loans from Abu Dhabi, its oil-rich neighbour.")

Second, while Emirates repeatedly points to its dividend payments as evidence that it operates on commercial terms,[95] the fact that that some unspecified amount of those dividends in actuality were reimbursements for operating expenses undermines Emirates' claims of commercial viability. Emirates cannot point to the string of past dividends as evidence of its financial health and ability to thrive without government support, and at the same time claim that at least some of those dividends in fact were for operating costs reimbursements that were not on the company's books.

v. Payment of Operating Costs through Dividends Distorted Emirates' Financial Results

In its Response, Emirates claims that reporting the "paper" losses in 2009 would have been misleading.[96] The real deception, however, was in Emirates' use of this highly unusual repayment mechanism to cover its financial costs. Discretionary dividends are not treated as costs in financial statements, nor are they considered to be costs by potential investors or financiers. Rather, they are viewed as being the portion of profits that the enterprise decides to return to its shareholders. By substituting dividends for direct payments to cover its fuel hedging losses, Emirates in effect eliminated fuel hedging losses from its reported profit and loss statements, thereby publicly overstating its profitability.

Since Emirates' sole shareholder – the counterparty to the novation – had full knowledge of the true costs of the fuel hedging losses, who was Emirates misleading? The answer can only be potential lenders and leasing companies, as well as other creditors and the public at large. By

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[95] See, e.g., the opening section of the Emirates Response at p. 4. "The airline was started with minimal capital, and the total capital invested by the Government of Dubai is U.S. $218 million. This amount—miniscule for a business that earned $23.6 billion in revenue last year—has been repaid many times over through dividends."

[96] Emirates Response at pp. 9-10.

painting an overly-rosy picture of its profitability and cash flow from operations, Emirates is misleading potential financiers and others as to the company's performance and thus, lowering its financing costs.

vi. This Distortion to Emirates' Financial Results Provided an Additional Benefit

Emirates claims that it was never in financial peril and could have covered its own hedging losses.[97] However, if Emirates had sufficient funds to cover margin calls, higher fuel costs, or wind down its exposure on its own, then why did the airline feel it necessary to transfer its fuel hedging obligations to the ICD? Such a complex and unusual transaction would only have been undertaken by Emirates and its parent company with the intention of providing Emirates with a tangible commercial benefit.

If nothing else, a reduction in unrealized or realized hedging losses in its own financials would have enabled Emirates to obtain cheaper financing going forward, especially since private investors would be looking at better financial results and a healthier balance sheet. Indeed, Emirates made sure that the financial community would notice the change in its hedging liabilities, stating in its 2009 financials that "During the year, Emirates has significantly reduced its open positions and at the balance sheet date has minimal exposure to fuel price risk."[98]

An important corollary benefit of the novation is that it provided private banks and investors a concrete example of the government's unqualified commitment to Emirates at a time when it

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[97] Emirates Response at pp. 12-13.

[98] Emirates 2009 Annual Report at p. 108. Note that this statement corroborates the conclusion that Emirates was under no legal obligation to reimburse the ICD for any fuel hedging losses incurred by the parent as the result of the novation.

was facing a severe financial crunch. In this sense, Emirates' is correct in its characterization of the novation as providing the investment community with a clearer picture of the level of risk associated with providing capital to the airline. Indeed, the explicit demonstration of government backing that novation provided amounted to an implicit guarantee of government financial support whenever Emirates was facing a severe financial crisis. Commercial banks and leasing companies could not help but notice this commitment. For example, one investment analyst commenting on Emirates Airline bonds has noted that "Investors tend to treat Dubai names as birds of the same feather, with Emirates 2016 notes likely to perform in line with Dubai sovereigns over the next few months . . ."[99] Or, in the words of another analyst, "The company is cash rich, well financed *and enjoys unlimited support from the sovereign.*"[100] Ultimately, the demonstration of government backing in a crisis may have provided a greater financial benefit to Emirates than the assumption of the hedging losses themselves.

vii. With Respect to the Novation, Emirates' Financial Statements are Not Transparent

Emirates' position that, "This novation agreement is clearly disclosed in Emirates' financial statements for the fiscal year ended March 31, 2009"[101] is audacious given the near total lack of transparency around this transaction. The disclosure of this major financial transfer appears in the fifth note to the 32nd footnote of Emirates' 2009 annual report on page 103. The buried note

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[99] Arif Sharif, *Emirates Airlines' Bonds Rise on Tourism, Oil Drop: Arab Credit*, Bloomberg Business, September 8,2011, available at: http://www.bloomberg.com/news/articles/2011-09-08/emirates-airlines-bonds-rise-on-tourism-increase-oil-drop-arab-credit (last visited 20 August 2015).

[100] *Emirates Airline's bond yield falls to record low,* Bloomberg, March 9, 2012, reprinted at Arabian business.com, available at: http://www.arabianbusiness.com/emirates-airline-s-bond-yield-falls-record-low-449117.html#.VZlQdflViko (last visited 20 August 2015).

[101] Emirates Response at p. 10.

cryptically states: "During the year, the majority of Emirates fuel hedging contracts have been novated to the parent company."[102]

Further, none of the claimed specific dividend reimbursements for the fuel hedging losses is transparent in Emirates' financial statements, and the result of these transactions is that a user of the financial statements is unable to discern what cash losses from fuel hedging contracts Emirates or its parent company was exposed to or ultimately incurred.

viii. The Disclosure that the Beneficiary of the Letters of Credits Was the ICD Also Raises Additional Questions

In its Response, Emirates makes a great deal of noise about CapTrade's mistaken identities of the provider and the beneficiary of the $1.6 billion letters of credit.[103] Given the lack of detail in the financials, as well as the direction of the risk transfer associated with the novation,[104] and the absence of any other indication of a comparably-sized potential liability in the Emirates financials, it was reasonable for CapTrade to assume that the letters of credit were being provided by ICD to Emirates.[105] The letters of credit, however, were not used by

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[102] Emirates 2009 financial statement at p. 103.

[103] See Emirates Response at p. 15.

[104] One of the principal reasons that CapTrade interpreted the note in the financial as being letters of credit from the ICD to Emirates is that it made no sense for ICD to accept the risk, and then pass it back to Emirates in the form of an L/C requirement to cover the losses.

[105] In its Response (at p. 15), Emirates states: " As plainly and publicly reported in Emirates' financial statements, letters of credit were obtained *by Emirates* from banks on its own credit, and were provided by Emirates to ICD to meet collateral calls on the novated hedging contracts." (italics in original) Emirates cites only *Annual Reports* and its website to support its claim. The only reference to the letters of credit in the 2009 annual report is as follows:

> 34. Related party transactions
>
> The following transactions were carried out with related parties: . . . .
>
> **(vi) Provision of letters of credit**

CapTrade to determine if there was an actionable subsidy under international trade law, nor to calculate the financial benefit of the subsidy. Therefore, Emirates' attack on the CapTrade mistake in identifying the provider and beneficiary of the letters of credit is a red herring.

However, the new clarification from Emirates that it issued the letters of credit to the benefit of ICD, ostensibly to cover the ICD's losses from the transferred fuel hedging contracts raises other important questions. First, while the amount of the letters of credit in the financial statement is listed as $1.6 billion, elsewhere in the financials, the reported cash margin covering all letters of credit is only $210 million, or 13 percent of the face value of the novation-related letters of credit alone.[106] In light of the times and the level of risk, these are extremely favorable terms, and raises the question of from what financial institution or institutions Emirates was able to obtain such letters of credit. As mentioned, the global economy was experiencing a widespread financial crisis. Both financial institutions and companies were facing substantial capital shortages and unknown levels of risk.[107] Second, Emirates makes no claim that the ICD ever exercised any of these letters of credit.[108] Rather, according to Emirates, any losses incurred by the ICD on the novation assumption were reimbursed through earmarked dividends. Therefore, given that the ICD must have been aware of, and agreed to, the use of dividends to

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Parent company **5 ,887,819**

The note does not indicate who was providing the letters of credit to whom, but only that the counterparty was the parent company. Thus, the financial statement does not "plainly and publicly report" the provider and beneficiary, as Emirates claims.

[106] Emirates 2009 Annual Report, Note 30, at p. 102. (Margin calls of AED 771.225 million, or $210 million).

[107] Ironically, Emirates certainly would not have been able to obtain such favorable collateral terms if it had held on to its hedging contracts.

[108] Of course, it would have been in Emirates' interest to make such a disclosure in its Report if in fact the ICD had exercised the letters of credit, as it would have supported Emirates' claim that it covered the ICD's costs related to the novated hedging contracts.

reimburse the hedging-related costs, the question that naturally arises is why Emirates ever opened such letters of credit in the first place. One possibility is that the L/Cs provided Emirates with a paper claim that the transfer of the hedging-related liabilities to the ICD was nullified by the letters of credit that ostensibly covered any subsequent losses incurred by the ICD. Without these paper promises to pay[109], Emirates arguably would have been required under IFRS rules regarding government grants (IAS 20) to report a substantial benefit in its financials in the form of the value of the novation provided by its government-owned parent.[110] If this theory is correct, then the real purpose of the letters of credit was to hide the true value of the subsidy associated with the novation.

* * * *

Despite all of the inflammatory rhetoric, Emirates has failed to provide any compelling argument or evidence to support its assertion that the fuel hedging contracts novation was not an actionable subsidy, under the commonly accepted rules of international trade law. Further, in light of Emirates' failure to provide alternative data or analysis, CapTrade has no basis for adjusting its original estimate of the value of the fuel hedging novation.

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[109] CapTrade suspects that the L/Cs were only paper IOUs, never intended to be exercised. A beneficiary of a standard L/C has a unilateral right to claim payment, as long as the underlying terms have been met. Emirates has stated that the L/Cs were to cover losses and that the ICD incurred losses. However, the ICD appears never to have exercised its right to request payment under the L/Cs.

[110] Wiley's International Financial Reporting Standards (2014 Ed.) at pp. 512-13 states: "IAS 20 deals with accounting treatment and disclosure requirements of grants received by enterprises from a government. It also mandates disclosure requirements of other forms of government assistance." Under IAS 20, government assistance, according to Wiley, is defined as "action taken by government designed to provide an economic benefit to an entity or range of entities qualifying under certain criteria." All government grants and assistance meeting these definitions must be disclosed in the financial statements.

b. Purchases of Goods or Services at Less than Adequate Remuneration

Emirates' defense that its transactions with related parties are at arm's length rests entirely on a statement in its 2015 financials, released less than three months ago, after the allegation of purchases at non-arm's length prices had been publicly disclosed, that its related party transactions meet this standard.[111] As a starting point, we note that Emirates says nothing about the comparability of related party transactions to transactions with unrelated party for the critical years prior to its fiscal year ending March 31, 2014, when Emirates was building its operations on the back of significant related party purchases of goods and services. Thus, with respect to the period 2004 through 2013, when Emirates was growing substantially and engaged in almost $9 billion of related party transactions, the allegation that Emirates purchases goods and services from related parties on preferential terms has not been addressed.[112]

CapTrade acknowledges that Emirates is under no accounting requirement to comment on the arm's length nature of their related party transactions. Contrary to Emirates' assertion, the CapTrade Report never suggested that Emirates *was required* under IFRS to make an arm's length statement.[113] However, in our report, we did state that because most enterprises find it in their best interest to provide affirmative statements of arm's length for related party transactions, it is reasonable to infer from the lack of such an affirmative statement that related party transactions were *not* at arm's length. Notwithstanding Emirates' strident rhetoric damning the

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[111] Emirates Response at p. 19.

[112] See, e.g., CapTrade Report at Exhibit 18 (sum of Emirates related party purchases, as reported in their annual reports, equal $8.895 billion from FY 2004/5 through 2012/13).

[113] See CapTrade Report at p. 88: "While, under IFRS, Emirates technically may not be required to make [arm's length statements] for transactions with government-owned or controlled entities, the fact is that many companies do so, in order to provide potential investors with assurance that financials are not being inflated by non-arm's length transactions."

CapTrade inference, we are not alone in drawing such a conclusion. According to Ernst & Young, for example, IAS 24 "implies a rebuttable presumption that related party transactions are not on an arm's length basis unless the reporting entity can demonstrate otherwise."[114] The same inference was drawn by Dr. Krishna Palepu, professor of accounting at the Harvard Business School.[115] The negative inference is especially apt for a company like Emirates. Related parties supply Emirates with a number of key goods and services that are vital to its operations and comprise a very large share of its total business activities. With so many key suppliers being related, an explicit related party statement is an important element for disclosure for an enterprise that touts its financial reporting transparency.

Even for fiscal years FY2014 and FY2015, the newly published arm's length statement in the Emirates financials does not come close to settling the matter, as Emirates suggests. The statement in the FY2015 Emirates annual report is extremely imprecise and vague. In its new related party statement, Emirates simply states that such transactions "*have taken place on an arm's length basis.*"[116] The phrase *"have taken place on an arm's length basis"*, however, in fact says very little about the nature of the transactions. This cryptic statement could be nothing more than a reference to the fact that transactions between the related parties were subject to negotiations, just as transactions between unrelated parties normally are negotiated. The key language missing from the arm's length statement in the recently released Emirates annual report

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[114] Ernst & Young, International GAAP 2014, at p. 21.

[115] Palepu Report at pp. 20-21.

[116] Emirates 2015 Financial Statements at Note 37 (emphasis added).

is whether the transactions "were made *on terms equivalent to those that prevail in arm's length transactions*."

The IFRS standard accounting disclosure language for arm's length transactions with related parties that Emirates has carefully avoided reads as follows:

> A statement that related party transactions were made *on terms equivalent to those that prevail in arm's length transactions* should be made only if such terms can be substantiated. [IAS 24. ¶21] (emphasis added)

As is shown in the following table, the reference to the *terms* of the transactions (or their equivalents, such as price) is standard language for affirmative related party statements:

Table 7: Arm's Length Statements in Airlines' Financial Statements

Airline	Fiscal Year	Statement on Related Party Transactions
Air France-KLM	2014	"Air France-KLM considers that such transactions are concluded *on terms equivalent* to those on transactions with third parties." (94)
Singapore Airlines	2014/15	"In addition to the related party information disclosed elsewhere in the financial statements, these were the following significant related party transactions which were carried out in the normal course of business *on terms that prevail* in arm's length transactions during the financial year:" (201)
Finn Air	2014	"Transactions with related parties are with arm's length, *and are with similar terms* than transactions carried out with independent parties." (106)
Lufthansa	2014	"These extensive supply and service relationships take place on the basis of market prices. … All transactions take place on arm's length *terms*." (217)
Thai Airways	2014	"THAI purchases goods at a market price on an arms' length basis and *on commercial terms as unrelated parties.*" "The Pricing/terms of transactions and interest rate are on an arms' length basis and *on commercial terms as unrelated parties*." (100-116)
British Airways	2014	"Transactions with IAG (parent company) are on an arm's length basis. *Sales and purchases with associates are made at normal market prices* and outstanding balances are unsecured and interest free. Cash settlement is expected within the standard settlement terms." (70)
Malaysia Airlines	2013	"The Directors are of the opinion that all inter-segment transactions have been entered into in the normal course of business. Belly space charges from Airline to Cargo are based on an internal pricing policy, which is supported and reviewed by external studies prepared by an industry expert. All other inter-segment transactions have been established on terms and conditions that are not materially different from those obtainable in transactions with unrelated parties." (122)
Qantas	2013/14	"A number of Key Management Personnel and their related parties have transactions with the Qantas Group. All transactions are conducted on normal commercial arm's length *terms*." (62)

Source: Annual reports of the respective companies.

The reason that the reference to *terms* in an affirmative arm's length is critical is because it is often not possible to identify identical transactions of the same precise good or service, and the same terms of sale between the company being audited on the one hand and both related and

unrelated party providers on the other. Therefore, comparisons for purposes of determining the arm's length nature of related party transactions typically involve a comparison of all the material *terms* of the related party transactions in question with all of the material *terms* of similar transactions with an unrelated party or parties. The Association of Chartered Certified Accountant (ACCA) provides the following guidance on why the *terms* of the comparative transactions are important:

> The auditor may face some practical difficulties when trying to obtain audit evidence in respect of all the various aspects of a related party transaction. In fact, while the auditor may be able to confirm that such a transaction has been conducted at market price, like a similar arm's-length transaction, as audit evidence in that respect may be readily available, it may be difficult to confirm whether other terms and conditions are equivalent to those that would apply with an independent party. For instance the transaction may feature different credit terms or provisions for contingencies or charges.[117]

Thus, in typical arm's length assessments, it is not only base prices or charges that are being compared for purposes of validating arm's length claims, but the other material *terms* that affect that net cost or revenue. Because it includes no references to the terms of the transactions, or disclosure of prices or charges, the arm's length reference in the Emirates FY2015 annual report says little to nothing about whether Emirates pays full commercial prices for these goods and services. The specific formulation of the disclosure that Emirates chose to make public is an insufficient basis for concluding that related party transactions in FY2014 and FY2015 were on arm's length terms.

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[117] ACCA, *The Audit of Related Parties and the Application of Professional Skepticism,* available at http://www.accaglobal.com/ca/en/discover/cpd-articles/audit-assurance/related-parties15.html (last visited 20 August 2015).

c. The Sale Leaseback Transactions with DAE

In its Response, Emirates states that CapTrade found that Emirates' sales and leaseback of aircraft in and of itself constituted a subsidy.[118] CapTrade did not make such a claim. In its report, CapTrade used the Emirates sale and leaseback transactions with DAE as a measure of the degree to which the Dubai government was willing to provide Emirates with benefits at the expense of other government controlled entities that supply the airline.[119]

CapTrade relied on the two Emirates/DAE transactions for this purpose because it did not have access to any actual Emirates related party and unrelated party pricing and other sales term information. Accordingly, CapTrade used the gain to Emirates from these transactions as a proxy to estimate the magnitude of benefits from all related party transactions. We continue to use these transactions for this purpose, as Emirates has failed to provide any documented data regarding its related party transactions.

In using the transactions for this purpose, it does not matter if they were on "arm's length terms", as Emirates claims.[120] In its report, CapTrade never argued that the terms were not at arm's length. Instead, the point made by CapTrade in its report was that, given that the parties

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[118] Emirates Response at pp. 22-23.

[119] See CapTrade Report at pp. 89-90.

[120] Emirates Response at p. 24. For this reason, the Statement and Analysis of John Miller regarding aircraft prices is not relevant to CapTrade's analysis. However, we note for the record that Mr. Miller appears only to have conducted an agreed-upon procedures review, which was limited to looking at derivative information selected and provided to him by Emirates and/or dnata. Based on his affidavit, Mr. Miller does not appear to have been asked to test the completeness or accuracy of the prices, rates, and net costs he was asked to review.

were owned by the same parent, the sale and leaseback deals undoubtedly represented a transfer of an immediate financial benefit from one related party to another – even if the terms on which the transaction was completed were comparable to an unrelated party transaction. Moreover, the timing of the deals are odd: not long after the sale and leaseback transactions were concluded DAE found itself in a severe capital crunch and cancelled orders for 200 aircraft.[121] Thus, it appears that DAE was transferring substantial cash to Emirates at a time when it could ill afford it.

Whether or not the two aircraft transactions with DAE were at arm's length depends on *all* of the material terms of these related party deals, including the sale of the aircraft and/or purchase rights, as well as the terms of the subsequent leases. However, as set forth below, Emirates provides only partial and entirely undocumented information to support its claims that neither transaction provided Emirates with a non-commercial financial benefit. For the A330-200 aircraft deal, Emirates provides only undocumented purchase price comparisons, and no information whatsoever on the subsequent leases. For the Boeing freighter deal, Emirates provides only an affidavit, with no underlying information, that attests to a comparison of prices and purchase rights costs to undocumented price quotes. Moreover, Emirates fails to provide any information on the precise lease terms of this transaction.

The Sale and Leaseback of Airbus A330-200 Aircraft

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[121] See: *Struggling DAE Capital cuts $8 billion of orders from backlog*, Flightglobal, 17 August 2010, available at: http://www.flightglobal.com/news/articles/struggling-dae-capital-cuts-8-billion-of-orders-from-346038/ (last visited 20 August 2015); *Dubai Aerospace Enterprise cancels 32 737s,* Flightglobal, 4 February 2011, available at: http://www.flightglobal.com/news/articles/dubai-aerospace-enterprise-cancels-32-737s-352814/ (last visited 20 August 2015); *Dubai Jet Order Is at Risk,* Wall Street Journal, June 29, 2010, available at: http://www.wsj.com/articles/SB10001424052748703279704575334850598306286 (last visited 20 August 2015)

With respect to the sale and leaseback of the thirteen Airbus A-330-200 aircraft, Emirates' only response is that the purchase prices paid by DAE were at arm's length. In its response, Emirates provides a comparison of sales prices to DAE and a non-affiliated party, ALLCO, to support its position.[122] The pricing data provided, however, is very summary and not backed up by any source documentation. Therefore, it is impossible to say whether or not the purchase price comparison provided represents all of the commercially relevant aspects of the sales.[123] Moreover, the selling price is only half of the equation in sales and leaseback arrangements. The commercial consistency of any such deal can be assessed only if *complete* information on the purchase price and the leaseback terms has been provided. Emirates has not provided any information or documentation whatsoever on its leasing terms for the A330-200 aircraft in question.

The Sale of Purchase Rights and Leaseback of 18 Boeing Widebody Freighters

In discussing the Emirates sale of purchase rights to DAE for eighteen Boeing widebody freighters, Emirates acknowledges that it received a substantial financial gain on the transaction, but claims that the deal was in DAE's best interest, because it enabled DAE to gain earlier delivery dates for the aircraft.[124] The claimed earlier delivery dates, however, clearly provided no financial benefit at all to DAE, as the aircraft, as Emirates admits, were leased back to the

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[122] Id., at p. 23.

[123] Also notable is the fact that, while Emirates asked its outside consultant to review some information on the Emirates sales prices of the Boeing freighter aircraft to DAE and a Boeing offer to sell directly to DAE, the consultant was not asked to review the A330-200 prices or the underlying data. See Emirates Response, Exhibit 4.

[124] Emirates Response at p. 24.

original purchaser (i.e., Emirates).[125] Emirates took delivery of the subject aircraft at the same time as originally scheduled, providing no benefit to DAE as the lessor. DAE essentially paid substantial cash to Emirates in advance of delivery just to do a sale and leaseback with Emirates. No value to DAE was created by this arrangement. The two parties just as easily could have entered into the sale and leaseback arrangements at the time of delivery.

The "earlier" delivery dates might have provided DAE with some potential benefit if it had an opportunity to lease the aircraft to one or more third parties at attractive rates, provided the metal was available at the scheduled delivery times for the Emirates aircraft. There is no evidence, however, that DAE had any such third party leases were in the works at the time it acquired the purchase rights from Emirates. Contemporaneous articles indicate that the aircraft would be leased directly back to Emirates.[126] Further, DAE's current website shows only 11 Boeing 777 freighters and no 747 freighters current aircraft in its portfolio.[127] It appears that all of DAE's Boeing 777 freighters involved in this deal were leased to Emirates.[128]

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[125] Id. Although Emirates reports that only 13 of the total 18 aircraft were leased back to Emirates, the remaining 5 aircraft do not appear to have been leased to any other airline. DAE Capital lists only 11 B-777F freighters in its fleet and no B747 aircraft. See http://www.daecapital.com/en/our-aircrafts/dae-capital-portfolio-summary.html (last visited 20 August 2015).

[126] See *DAE expands portfolio with 18 freighters,* gulfnews.com, July 16, 2008, available at http://m.gulfnews.com/business/aviation/dae-expands-portfolio-with-18-freighters-1.118557 (last visited 20 August 2015);and DAE Capital acquired 747/777 Freighters, Flightglobal.com, obtained from cache on 20 August 2015 at http://webcache.googleusercontent.com/search?q=cache:JqMq9qLnInsJ:www.flightglobal.com/news/articles/dae-capital-acquires-747777-freighters-225662/&hl=en&gl=us&strip=1&vwsrc=0

[127] See http://www.daecapital.com/en/our-aircrafts/dae-capital-portfolio-summary.html (last visited 20 August 2015).

[128] See DAE press release, dated 17 November 2013, *DAE adds three new Boeing 777-200 Freighters to its growing fleet,* available at : http://www.dubaiaerospace.com/index.php/latest-news-npr-org/61-17-november-2013-dae-adds-three-new-boeing-777-200-freighters-to-its-growing-fleet (last visited 21 August 2015). The press release indicates that Emirates is the lessor of 10 B777F aircraft owned by DAE. An article dated 21 August 2014 in AviTrader indicates that DAE Capital has leased 13 B777F freighters to Emirates. See: *DAE announced recent*

With respect to the leaseback arrangement for the freighters, Emirates states that the lease payments charged by DAE to Emirates for the aircraft covered DAE's purchase price for the aircraft, plus the premium it paid Emirates for the purchase rights.[129] However, once again, Emirates provides no support for this claim. Moreover, even if DAE's full acquisition costs were covered by the lease rates charged to Emirates, those lease rates could still be below arm's length prices. Any lease agreement involves the base amount (purchase price) as well as a lease rental factor. Any non-government, counterparty to such transactions would require that the lease rental factor cover its operating costs, financing expenses, plus a profit. Thus, a claim that the lease rates covered DAE's acquisition costs is an insufficient basis for asserting that no subsidy was provided to Emirates in this transaction.

d. ENOC Jet Fuel Pricing

In its Response, Emirates provides data on its jet fuel costs to support its contention that it is not subsidized through the provision of jet fuel at discounted prices.[130] The summary data provided by ENOC, however, is not a sufficient basis for finding its fuel costs to be subsidy-free. The data consists of multi-month averages covering a very short period (one year), with no underlying quantity and value information. Moreover, as fuel prices can be very volatile, a valid comparison could only be made if quantities and values were broken out in smaller period

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aircraft leasing transactions, available at: http://www.avitrader.com/2015/08/21/dae-announced-recent-aircraft-leasing-transactions/ (last visited 21 August 2015).

[129] *Id.*, at p.24.

[130] Emirates Response at p. 21.

increments, such as months or weeks, and that data was provided over multiple years.[131] Finally, the data provided by Emirates is described as being averages of daily prices. Prices, however, are not the only sales term that should be compared. In addition to prices, a complete arm's length comparison, as set forth in Section IVb. above, would encompass discounts or post-sale price adjustments, payment periods, and any other material terms that affect the final "all-in" price for all parties. Given the substantial mark-up between the Emirates' reported average purchase prices and the Platts Jet Arabian Gulf Prices for the same period (between 14 percent and 23 percent), there is plenty of room for secondary price adjustments.[132]

To assess the validity of Emirates' reported jet fuel prices, CapTrade was asked to review comparable data obtained from U.S. airlines that fly to DXB. The comparison, which, is being provided in a separate business confidential submission, raises some serious questions about the reliability of the pricing data provided by Emirates.

Finally, we note that one of the other major suppliers identified by Emirates in its Report, Emojet, is also majority state-owned.[133] Accordingly, their prices should have been identified as well.

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[131] See **Exhibit 9.** Platts Jet Arabian Gulf prices ranged from a high of $2.82 in the first month of the period to a low of $1.60 at the end of the final month of the reference period chosen by Emirates.

[132] See **Exhibit 9**. Also, the prices that Emirates has provided indicate that they are paying between 33 to 46 cents a gallon above the Platts reference price.

[133] Emirates Response at p. 21. Emojet is a joint venture between EMARAT (the state-owned Dubai petroleum distribution company) and Exxon Mobil. EMARAT reportedly owns 65 percent of the joint venture. See *Emarat Extends Emojet JV Agreement with ExxonMobil* available at: http://www.emarat.ae/about/fullstory.php?id=354 (last visited 20 August 2015).

List of Exhibits

1. **Etihad 2014 Capital Commitments and Disbursements, 2013-2104**
2. **History of Etihad Capital Infusions and "Value" Generation**
3. **Etihad 2014 Long-Term Loan Subsidy Calculations**
4. **Etihad 2014 Adjusted Financial Results**
5. **Etihad Revenues Earned on Sales of Advertising and Marketing Services to Suppliers**
6. **Qatar Large Commercial Aircraft Deliveries, 2001-2010**
7. **Qatar Airways Loans, Ratio Calculations, and Comparison Ratios**
8. **Emirates' Dividend History, 2002-2015**
9. **Platts Arabian Gulf Jet Fuel Prices and Emirates Reported Prices**

Exhibit 1

Exhibit 1

CapTrade Updated Gulf Airlines Report

Etihad Capital Commitments and Disbursements, 2013-2014

As of 12/31/13	*Approved*	*Disbursed*	*Remainder*	
Share Capital	6,512	6,427	85	Note 2.1, 2013 FS
Shareholder Loans	5,213	4,630	583	
Unspecified Capital	3,504	-	3,504	
Total	15,229	11,057	4,172	

As of 12/31/14	*Additions*	*Approved*	*Disbursed*	*Remainder*	
Share Capital	85	6,512	6,512	-	Note 2.4, 2014 FS
Shareholder Loans	543	5,213	5,173	40	
Contributed Capital	2,191	2,191	2,514	(323)	Note 16.2, 2014 FS
Total	2,819	13,916	14,199	(283)	

Change in reported commitments	(1,313)
Less capital received after FY14 closed	323
Net	(990)

Sources: Etihad 2013 and 2014 financial statements

Exhibit 2

Exhibit 2

CapTrade Updated Gulf Airlines Report

History of Etihad Capital Infusions and "Value" Generation

		US $'000										
	Reported Results	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
	Equity Infusions	54,436	81,655		1,238,977	575,845	330,765	1,247,842	438,672	1,242,000	1,217,000	2,276,000
	Accumulated Equity Infusions	54,436	136,091	136,091	1,375,068	1,950,913	2,281,678	3,529,520	3,968,192	5,210,192	6,427,192	8,703,192
	Shareholder Loans		623,001	343,529	532,185	662,426	360,196	-	447,100	155,000	1,016,000	543,000
	Accumulated Shareholder Loans	491,417	1,114,418	1,457,491	1,989,676	2,652,102	3,012,298	3,012,298	3,459,398	3,614,398	4,630,398	5,173,398
	Total Accumulated Capital Infusions	545,853	1,250,509	1,593,582	3,364,744	4,603,015	5,293,976	6,541,818	7,427,590	8,824,590	11,057,590	13,876,590
	Total Assets	594,373	1,453,064	2,735,359	4,807,536	5,646,556	5,833,981	6,847,243	8,093,063	10,229,000	13,492,000	19,379,000
	Total Liabilities	(648,433)	(1,599,405)	(3,580,747)	(4,966,135)	(6,204,181)	(3,727,478)	(3,954,912)	(4,398,000)	(5,253,000)	(6,302,000)	(10,107,000)
	Assets Minus Liabilities	(54,060)	(146,341)	(845,388)	(158,599)	(557,625)	2,106,503	2,892,331	3,695,063	4,976,000	7,190,000	9,272,000
	Percentage of Capital Contributions Retained	-10%	-12%	-53%	-5%	-12%	40%	44%	50%	56%	65%	67%
	Total Accumulated Losses, per F/S	(108,375)	(329,095)	(1,028,431)	(1,666,770)	(2,280,684)	(3,247,428)	(3,841,661)	(3,828,000)	(3,814,000)	(3,804,000)	(3,765,000)
Acq Date	**JV Results**											
Dec-11	airberlin								(14,233)	2,546	(122,365)	(145,934)
Jan-12	Air Seychelles									378	1,231	1,280
Jun-12	Virgin Australia									1,373	(16,526)	(59,001)
Nov-13	Jet Airways										(6,928)	(89,542)
	Total JV Results								(14,233)	4,297	(144,588)	(293,197)
	Questionable Related Party Transactions											
	Sale of Frequent Flyer Program										(724,000)	
	Sales of Cargo Management Business											(700,000)
	Restated Depreciation											(115,000)
	Additional Accumulated Losses								(14,233)	4,297	(868,588)	(1,108,197)
	Recalculated Accumulated Losses	(108,375)	(329,095)	(1,028,431)	(1,666,770)	(2,280,684)	(3,247,428)	(3,841,661)	(3,842,233)	(3,823,936)	(4,682,524)	(5,751,720)
	Recalculated Assets Minus Liabilities	(54,060)	(146,341)	(845,388)	(158,599)	(557,625)	2,106,503	2,892,331	3,680,830	4,966,064	6,311,476	7,285,280
	Percentage of Capital Contributions Retained	-10%	-12%	-53%	-5%	-12%	40%	44%	50%	56%	57%	53%

Sources: Etihad financial statements

Exhibit 3

Exhibit 3

CapTrade Updated Gulf Airlines Report

Etihad 2014 Long-Term Loan Subsidy Calculations

Year	Loan Received (US$)[1]	National Avg Interest rate[2]	Term (years)[3]		Adjusted Interest Rate[4]	Benchmark Interest	Actual Interest Paid [5]	Avoided Interest [6]
2014	1,852,000,000	4.23%		4.00	17.1%	316,640,884	62,000,000	254,640,884

Notes:

[1] *2014 F/S at Note 19.2(a)*

[2] 1998-2003: IMF interest rates (see attached) 2004-2010: National Average Interest Rate obtained from Qatar Central Bank,

[3] Term based on average of 2 to 6 years, *2014 F/S at Note 19.2(c)*

[4] Eihad found be be uncreditworthy in 2014. Accordingly, benchmark interest rate calculated based on US Department of Commerce

[5] Total interest expense reported on respective year's income statement.

[6] Assumed full year outstanding because of significant portion of payback in 2014, *2014 F/S, Note 19.2(a)*

Default Rates Used to Calculate Uncreditworthy Benchmark

Year	Investment grade default rate	Investment grade default rate
1	0.05%	20.51%
2	0.16%	28.55%
3	0.34%	34.10%
4	0.60%	37.60%
5	0.84%	41.44%
6	1.11%	47.24%
7	1.40%	51.52%
8	1.71%	56.91%
9	2.05%	60.82%
10	2.40%	63.13%
11	2.77%	65.96%
12	3.17%	65.96%
13	3.55%	65.96%
14	3.94%	65.96%
15	4.35%	65.96%
16	4.79%	65.96%

Exhibit 4

Exhibit 4

CapTrade Updated Gulf Airlines Report

Etihad 2014 Adjusted Financial Results

1. Recalculation of Items Disclosed in the Financials

	As Reported USD million	Adjustments		Adjusted USD million
Revenue	5,855			5,855
Other Operating Income	1,690	Sale of Cargo Management Company to Affiliate Sale of Ad and Marketing Svcs to Suppliers	(700) (884)	106
Operating Expenses	(6,276)	Increase in useful lives	(104)	(6,380)
Admin and Marketing	(1,028)	Increase in useful lives	(11)	(1,039)
Finance Income	20			20
Finance Expense	(202)			(202)
FX Gain(Loss)	14			14
Profit (Loss) for the Year	73			(1,626)
Profit (Loss) Before Comp Items as a % of Revenue	***1.2%***			***-27.8%***
Profit (Loss) on Principal Operations	(1,617)			(1,732)
Profit (Loss) on Principal Op as a % of Revenue	***-27.6%***			***-27.8%***
Other Comprehensive Income				
Remeasurement of Defined Benefit Obligation	(25)			(25)
Cash flow Hedging Gains (Losses)	(1,327)			(1,327)
Cash flow Hedging Reclassified to P&L	154			154
Change if Fair Value of Available for Sale Financial Assets	65			65
Total Comprehensive Gain/Loss for Year	(1,060)			(2,760)
Comprehensive Profit and Loss as a % of Revenue	***-18.1%***			***-47.1%***

2. Adjustment for Items Not in Financials

Etihad's Share of Losses in Joint Ventures	(293)
Total Restated Losses	(3,053)
Total Restated Losses as a % of Revenue	-52%

Source: Etihad 2014 financial statements

Exhibit 5

Exhibit 5

CapTrade Updated Gulf Airlines Report

Etihad Revenues Earned on Sales of Advertising and Marketing Services to Suppliers

	2011	2012	2013	2014
Totals Revenues Earned	54,000	291,000	282,000	884,000
of which, Total Unpaid	not reported	not reported	282,000	884,000
Total Accumulated Revenues	54,000	345,000	627,000	1,511,000
Total "Other" Accounts Receivable			1,180,000	1,478,000
Total Advertising and Promotional Expenses	62,892	87,000	108,000	150,000
Total SG&A	558,161	676,000	814,000	1,028,000
Revenues as a % of Reported A&P Expenses	86%	334%	261%	589%
Revenues as a %of total SG&A	10%	43%	35%	86%

Source: Etihad Financial Statements

Exhibit 6

Exhibit 6

CapTrade Updated Gulf Airlines Report

Qatar Large Commercial Aircraft Deliveries, 2001-2010

Body Type (WB or NB)	*Aircraft Type*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*Totals*
NB	A319				1							1
NB	A320	2	2	4	2			1		2	4	17
NB	A321				2			1	4		4	11
NB	Total	2	2	4	5			2	4	2	8	29
WB	B777							2	3	8	8	21
WB	A330		2	3	6	4	7	4	3			29
WB	A340						3	1				4
WB	Total		2	3	6	4	10	7	6	8	8	54

Source: Ascend

Exhibit 7

Exhibit 7

CapTrade Updated Gulf Airlines Report

Qatar Airways Loans, Ratio Calculations, and Comparison Ratios
2004-2014

Capital Infusions Received (US$)	2004	2005	2006	2007	2008	2009	2010
Shareholder Loans	178,319,231	178,319,231	178,319,231	774,231,044	1,516,534,066	3,251,727,747	
Loan Guarantees	493,718,956	449,881,593	817,017,857	2,058,659,615	1,339,706,319	1,397,496,703	319,737,912

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Current Ratio	0.42	0.45	0.60	0.54	0.49	0.47	0.45	0.92	1.40	1.90	1.56	1.71	1.62
Quick Ratio	0.36	0.39	0.55	0.48	0.43	0.42	0.39	0.86	1.34	1.82	1.48	1.62	1.54
Debt to Equity Ratio	negative	negative	negative	207.51	negative	negative	negative	1.88	1.17	0.68	0.57	0.39	0.29
Working Capital to Total Asse	-0.34	-0.18	-0.13	-0.14	-0.16	-0.17	-0.17	-0.02	0.08	0.16	0.12	0.15	0.14
Sales to Working Capital	-1.99	-2.41	-2.95	-2.92	-2.99	-2.60	-2.86	-26.22	4.69	2.76	4.39	3.98	4.48
Total Sales to Total Assets	0.68	0.43	0.38	0.40	0.47	0.44	0.49	0.45	0.38	0.43	0.52	0.61	0.63
Equity to Total Assets	negative	negative	negative	0.4%	negative	negative	negative	28.1%	38.8%	50.7%	52.8%	57.7%	61.8%
Times Interest Earned	negative	negative	0.71	negative	negative	negative	1.06	0.60	2.77	3.28	0.18	1.63	negative
Return on Equity	negative	negative	negative	102.8%	negative	negative	negative	-2.6%	4.8%	3.5%	-1.1%	0.6%	0.9%

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Country-wide										
Average										
Current Ratio	2.14	2.47	2.25	2.36	2.14	2.17	1.96	1.83	1.96	1.84
Debt to Equity Ratio	0.09	0.11	0.23	0.18	0.30	0.32	0.35	0.40	0.45	0.30
Total Sales to Total Assets	0.30	0.28	0.36	0.44	0.46	0.43	0.43	0.41	0.42	0.43
Equity to Total Assets	75%	74%	67%	65%	62%	66%	64%	57%	58%	64%
Times Interest Earned	56.60	137.89	11.97	(4.57)	(80.09)	7.49	17.62	26.31	17.59	110.89
Return on Equity	10.7%	14.2%	11.7%	13.9%	18.5%	13.3%	14.7%	16.5%	16.1%	14.4%
Other Airlines										
Mean										
Current Ratio	0.81	0.85	0.82	0.78	0.53	0.60	0.71	0.69	0.62	0.66
Quick Ratio	0.59	0.61	0.61	0.55	0.34	0.42	0.53	0.52	0.46	0.50
Debt to Equity Ratio	4.46	3.04	3.34	3.45	4.28	7.84	8.25	16.68	2.77	2.23
Total Sales to Total Assets	0.85	0.86	0.89	0.84	0.76	0.67	0.83	0.86	0.88	0.77
Equity to Total Assets	0.29	0.31	0.31	0.29	0.11	0.16	0.25	0.24	0.23	0.33
Times Interest Earned	2.49	1.50	2.10	1.05	0.51	1.40	4.01	2.53	2.15	2.15
Return on Equity	0.33	-0.09	0.06	0.07	-0.92	0.03	0.27	-0.06	0.26	0.05
Median										
Current Ratio	0.76	0.92	0.72	0.63	0.56	0.49	0.51	0.44	0.45	0.56
Quick Ratio	0.53	0.48	0.36	0.38	0.30	0.23	0.43	0.34	0.33	0.40
Debt to Equity Ratio	2.53	2.17	2.78	2.19	4.88	4.34	2.80	2.86	2.00	1.94
Total Sales to Total Assets	0.71	0.72	0.69	0.67	0.63	0.56	0.74	0.77	0.77	0.75
Equity to Total Assets	0.28	0.31	0.26	0.31	0.16	0.18	0.26	0.26	0.30	0.34
Times Interest Earned	2.48	0.98	1.00	0.89	0.51	1.04	3.51	2.06	2.31	2.17
Return on Equity	11%	4%	2%	8.8%	-38%	4%	30%	5.0%	9.8%	6.5%

Exhibit 7

CapTrade Updated Gulf Airlines Report

Average

Note: Excluded Abberational ratios (i.e., >7)

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Median	CAGR
1	QATAR NATIONAL BK	251221	Financials	Diversified Banks	USD											-	-	
2	ETISALAT	274234	Telecommunication Service	Integrated Telecommunicat	USD	1.43	1.64	1.00	0.73	0.73	0.83	0.79	0.80	1.04	1.05	0.93	1	(4.3%)
3	INDUSTRIES OF QATAR	258696	Industrials	Industrial Conglomerates	USD		4.17	4.42	2.48	2.78	4.85	2.95	3.24	3.14	10.80	4.55	4	-
4	FIRST GULF BK	282949	Financials	Diversified Banks	USD											-	-	
5	DP WORLD	284856	Industrials	Marine Ports & Services	USD			0.43	2.17	1.40	2.56	3.04	1.19	1.45	2.18	2.91	2	-
6	EMIRATES NBD PJSC	286983	Financials	Diversified Banks	USD											-	-	
7	EMAAR PROPERTIES PJSC	251248	Financials	Real Estate Development	USD											-	-	
8	NATIONAL BK OF ABU DHABI	251249	Financials	Diversified Banks	USD											-	-	
9	EZDAN REAL ESTATE COMPANY	288383	Financials	Diversified Real Estate Acti	USD											-	-	
10	ABU DHABI COMMERCIAL BK	251138	Financials	Diversified Banks	USD											-	-	
11	EMAAR MALLS GROUP LLC	318453	Financials	Real Estate Operating Com	USD											-	-	
12	MASRAF AL-RAYAN	279152	Financials	Diversified Banks	USD											-	-	
13	MESAIEED PETROCHEMICAL HOLD	317253	Materials	Commodity Chemicals	USD										40.46	13.09	27	-
14	DUBAI ISLAMIC BK	251246	Financials	Diversified Banks	USD											-	-	
15	QATAR ISLAMIC BK	251223	Financials	Diversified Banks	USD											-	-	
16	OOREDOO	135709	Telecommunication Service	Integrated Telecommunicat	USD	1.62	1.59	1.23	0.61	0.58	0.99	1.73	1.01	1.05	1.21	0.96	1	(5.1%)
17	EMIRATE INTEGRATED TELECOM	279381	Telecommunication Service	Integrated Telecommunicat	USD		91.37	3.77	0.45	0.94	0.61	0.73	1.09	1.19	1.21	1.42	1	-
18	QATAR ELECT & WATER	258639	Utilities	Multi-Utilities	USD	3.48	1.58	1.84	1.57	0.50	0.99	0.75	0.91	0.86	2.17	1.14	1	(10.5%)
19	ALDAR PROPERTIES	284153	Financials	Diversified Real Estate Acti	USD											-	-	
20	DRAGON OIL	201676	Energy	Oil & Gas Exploration & Pro	USD	0.73	4.10	3.79	3.28	4.08	3.49	3.07	3.09	2.75	2.81	2.90	3	14.7%
21	MASHREQ BK	260797	Financials	Diversified Banks	USD											-	-	
22	BARWA REAL ESTATE	275422	Financials	Diversified Real Estate Acti	USD											-	-	
23	UNION NATIONAL BK	282075	Financials	Diversified Banks	USD											-	-	
24	COMMERCIAL BK OF DUBAI	274393	Financials	Diversified Banks	USD											-	-	
25	QATAR INS.	258644	Financials	Property & Casualty Insura	USD											-	-	
26	COMMERCIAL BK OF QATAR	254642	Financials	Diversified Banks	USD											-	-	
27	DAMAC PROPS DUBAI	319007	Financials	Real Estate Development	USD											-	-	
28	ABU DHABI ISLAMIC BK	251139	Financials	Diversified Banks	USD											-	-	
29	DUBAI FINAN. MARKET	282945	Financials	Specialized Finance	USD											-	-	
30	QATAR FUEL	258641	Energy	Oil & Gas Refining & Marke	USD	1.85	1.53	1.45	1.52	1.91	2.30	2.52	2.64	2.71	2.36	2.14	2	1.5%
31	DOHA BK	251243	Financials	Diversified Banks	USD											-	-	
32	VODAFONE QATAR	292438	Telecommunication Service	Wireless Telecommunicatio	USD					0.01	0.62	0.49	0.49	0.60	0.56	0.44	0	-
33	GULF INTL SVCS	288907	Energy	Oil & Gas Drilling	USD		3.04	2.18	1.92	1.86	1.78	1.58	1.48	1.41	1.39	1.17	2	-
34	NATL BK OF RAS AL KHAIMAH	284899	Financials	Diversified Banks	USD											-	-	
35	QATAR GAS TRANSPORT(NAKILAT)	274295	Energy	Oil & Gas Storage & Transp	USD			2.28	13.45	6.21	2.91	2.19	2.00	2.08	1.80	2.57	2	-
36	QATAR INT ISLAM BK	258646	Financials	Diversified Banks	USD											-	-	
37	DUBAI INVST.	274891	Financials	Asset Management & Custo	USD											-	-	
38	QATAR NAT NAVIGAT	258649	Industrials	Marine	USD	3.32	1.43	0.95	0.55	1.66	1.55	2.08	0.96	2.21	2.10	2.52	2	(2.7%)
39	ORASCOM CONSTRUCTION LTD	319332	Industrials	Construction & Engineering	USD								1.25	0.92	1.01		1	-
40	ARAB TECHNICAL CONST.	274386	Industrials	Construction & Engineering	USD		0.99	1.16	1.03	1.04	1.17	1.20	1.22	1.26	1.50	1.53	1	-
41	NMC HEALTH PLC	312098	Health Care	Health Care Facilities	USD						0.97	0.88	1.27	2.02	2.13	1.56	1	-
42	AAMAL HLDG	287946	Industrials	Industrial Conglomerates	USD		1.51	4.28	4.69	3.28	3.23	1.28	1.27	1.12	1.18	1.50	2	-
43	AHLI BK Q.S.C.	258623	Financials	Diversified Banks	USD											-	-	
44	UNITED DEV.	258713	Financials	Real Estate Development	USD											-	-	
45	DUBAI PARKS AND RESORTS	318771	Consumer Discretionary	Leisure Facilities	USD									3.82	0.38	7.96	4	-

Exhibit 7

CapTrade Updated Gulf Airlines Report

Average

Note: Excluded Abberational ratios (i.e., >7)

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014 Median		CAGR
46	AL KHALIJ COMMERCIAL BK	285891	Financials	Diversified Banks	USD											-	-	
47	UNITED ARAB BK	284163	Financials	Diversified Banks	USD											-	-	
48	AIR ARABIA PJSC	285482	Industrials	Airlines	USD	1.44	1.33	1.40	10.42	4.34	4.12	3.37	2.11	1.50	1.16	0.94	1	(4.1%)
49	QATAR NATIONAL CEMENT	254656	Materials	Construction Materials	USD	11.86	6.47	2.21	2.01	0.87	1.18	2.48	3.22	3.43	5.08	2.75	3	(13.6%)
50	QATARI INV GRP	285366	Materials	Construction Materials	USD			110.19		2.16	1.51	1.38	2.45	1.81	2.44	1.76	2	-
51	DAMAC REAL ESTATE DEV LTD	316822	Financials	Real Estate Development	USD											-	-	
52	EMIRATES ISLAMIC BANK	283434	Financials	Diversified Banks	USD											-	-	
53	NATL BK OF UMM AL-QAIWAIN	284188	Financials	Diversified Banks	USD											-	-	
54	NATIONAL BK OF FUJAIRAH	284425	Financials	Diversified Banks	USD											-	-	
55	ALMEERA CONSUMER GOODS CO	293086	Consumer Staples	Hypermarkets & Super Cen	USD				1.45	1.42	1.38	1.25	1.06	1.43	2.72	1.93	1	-
56	MEDICARE GROUP	274886	Health Care	Health Care Facilities	USD	1.12	3.61	2.51	0.99	1.11	1.36	2.11	2.60	3.15	3.76	5.00	3	16.1%
57	ARAMEX PJSC	274887	Industrials	Air Freight & Logistics	USD	1.75	3.62	1.94	2.11	2.31	2.55	2.60	1.95	1.87	2.22	1.89	2	0.8%
58	MANNAI Q.S.C	285864	Industrials	Industrial Conglomerates	USD			1.25	1.70	1.61	1.96	1.85	1.25	1.66	1.03	1.01	2	-
59	WAHA CAPITAL PJSC	251233	Financials	Specialized Finance	USD	1.32	2.63	2.66	2.56	0.71	0.45	68.66	4.92	5.39	0.59	3.36	3	9.8%
60	DEYAAR DEV. PJSC	286064	Financials	Diversified Real Estate Acti	USD											-	-	
61	AGTHIA GROUP PJSC	284156	Consumer Staples	Packaged Foods & Meats	USD		3.38	2.83	3.12	2.12	2.43	2.30	2.02	2.42	1.99	1.60	2	-
62	QATAR GENERAL INS & REINS	268687	Financials	Property & Casualty Insura	USD											-	-	
63	UNION PROPERTIES	275442	Financials	Diversified Real Estate Acti	USD											-	-	
64	INVEST BK	284157	Financials	Diversified Banks	USD											-	-	
65	ABU DHABI NATIONAL ENERGY	279336	Utilities	Multi-Utilities	USD		2.89	4.52	1.38	1.48	1.20	1.25	1.22	0.88	0.86	1.29	1	-
66	SHARJAH ISLAMIC BK	278810	Financials	Diversified Banks	USD											-	-	
67	DANA GAS	282884	Energy	Integrated Oil & Gas	USD			97.97	6.91	3.81	3.69	3.40	0.87	1.09	8.42	9.96	4	-
68	BK OF SHARJAH	282984	Financials	Diversified Banks	USD											-	-	
69	AMLAK FINANCE	274384	Financials	Consumer Finance	USD											-	-	
70	GULF WAREHOUSING CO	274893	Industrials	Air Freight & Logistics	USD	24.38		11.75	3.09	2.58	3.81	2.11	1.59	1.83	1.44	1.76	2	(23.1%)
71	LAMPRELL	279384	Energy	Oil & Gas Equipment & Ser	USD		2.06	1.71	1.60	1.48	1.97	1.61	1.23	1.09	1.44	2.16	2	-
72	ABU DHABI NATIONAL HOTELS	282983	Consumer Discretionary	Hotels, Resorts & Cruise Lir	USD	4.23	4.39	3.90	4.24	2.11	1.74	1.22	0.98	0.96	1.32	1.15	2	(12.2%)
73	RAS AL KHAIMAH CERAMIC CO	284191	Industrials	Building Products	USD	2.11	2.89	1.83	1.84	1.57	1.42	1.49	1.46	1.34	1.86	1.62	2	(2.6%)
74	GULF PHARMACEUTICALS	282886	Health Care	Pharmaceuticals	USD	3.75	3.03	3.71	3.28	2.12	2.63	2.39	1.71	1.85	2.27	2.42	2	(4.3%)
75	NATL CORP FOR TOURISM & HOT	284158	Consumer Discretionary	Hotels, Resorts & Cruise Lir	USD	2.92	3.06	0.76	0.50	0.42	1.41	1.53	1.30	1.38	1.20	1.05	1	(9.7%)
76	COMM BANK INTL PLC	282985	Financials	Diversified Banks	USD											-	-	
77	QATAR IND. MFG	251225	Financials	Multi-Sector Holdings	USD											-	-	
78	AJMAN BANK	289096	Financials	Diversified Banks	USD											-	-	
79	ABU DHABI NATIONAL INS CO	268827	Financials	Multi-line Insurance	USD											-	-	
80	MAZAYA QATAR REAL EST DEV	295967	Financials	Diversified Real Estate Acti	USD											-	-	
81	DUBAI REFRESHMENTS	283433	Consumer Staples	Food Distributors	USD	1.84	1.86	1.29	1.20	1.54	1.92	2.22	2.30	2.41	2.04	2.05	2	1.1%
82	GULF MEDICAL PROJECTS	284186	Health Care	Health Care Facilities	USD	2.55	2.97	0.69	1.22	0.91	0.77	0.84	1.27	1.68	1.46	1.29	1	(6.6%)
83	ESHRAQ PROPERTIES CO	301091	Financials	Real Estate Development	USD											-	-	
84	DRAKE & SKULL INTL	291718	Industrials	Construction & Engineering	USD			1.19	1.17	1.02	1.88	1.48	1.32	1.34	1.28	1.33	1	-
85	GULF GENERAL INVESTMENT CO	275440	Financials	Multi-Sector Holdings	USD											-	-	
86	MANAZEL REAL ESTATE PJSC	318742	Financials	Real Estate Development	USD											-	-	
87	ARKAN BUILDING MATERIALS	284154	Materials	Construction Materials	USD	5.17	7.78	29.05	16.91	0.90	2.36		1.03	3.54	1.43	2.20	3	(8.2%)
88	SALAM INTERNATIONAL INVT CO	274903	Financials	Multi-Sector Holdings	USD											-	-	
89	AMIRA NATURE FOODS LTD	14033	Consumer Staples	Packaged Foods & Meats	USD							1.11	1.18	1.78	1.64		1	-
90	NATIONAL CEMENT CO	278373	Materials	Construction Materials	USD	6.14	6.25	4.93	3.14	2.23	2.28	1.99	2.11	3.54	3.40	2.48	3	(8.7%)

Exhibit 7

CapTrade Updated Gulf Airlines Report

Average

Note: Excluded Abberational ratios (i.e., >7)

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Median	CAGR
91	EMIRATES REIT (CEIC) LTD	317443	Financials	Diversified REITs	USD											-	-	
92	RAS AL KHAIMAH PROPERTIES	284161	Financials	Diversified Real Estate Acti	USD											-	-	
93	ZAD HOLDING CO	274901	Consumer Staples	Packaged Foods & Meats	USD	0.44	0.78	1.23	0.89	0.89	1.70	2.05	0.77	0.91	0.89	1.31	1	11.6%
94	DOHA INSURANCE	258667	Financials	Property & Casualty Insura	USD											-	-	
95	ABU DHABI AVIATION	284151	Industrials	Air Freight & Logistics	USD	2.20	1.86	1.73	1.71	1.69	2.31	4.02	3.09	3.00	3.52	2.77	2	2.3%
96	NATL MARINE DREDGING	284159	Industrials	Marine Ports & Services	USD	4.23	2.72	4.17	5.35	6.39	3.75	2.97	2.55	2.13	2.70	2.56	3	(4.9%)
97	ISLAMIC INS CO	274834	Financials	Multi-line Insurance	USD											-	-	
98	DEPA LTD	179766	Industrials	Diversified Support Service	USD			1.21	1.13	1.86	1.80	1.65	1.58	1.50	1.39	1.51	2	-
99	EXILLON ENERGY	293578	Energy	Oil & Gas Exploration & Pro	USD					562.77	3.68	6.18	4.15	4.74	1.49	1.77	4	-
100	WIDAM FOOD COMPANY QSC	274902	Consumer Staples	Packaged Foods & Meats	USD	126.66	9.45	8.92	5.62	6.27	3.07	3.14	1.98	1.67	1.61	1.90	3	(34.3%)
101	NATL CNTL COOLING (TABRD)	274899	Industrials	Building Products	USD	1.95	1.85	2.01	1.35	0.63	0.17	0.19	1.34	1.38	1.47	1.38	1	(3.4%)
102	ALKHALEEJ TAKAFUL GROUP	268686	Financials	Property & Casualty Insura	USD											-	-	
103	TAMWEEL PJSC	282848	Financials	Thrifts & Mortgage Finance	USD											-	-	
104	EMIRATES INSURANCE CO (PSC)	260795	Financials	Multi-line Insurance	USD											-	-	
105	FINANCE HOUSE	284102	Financials	Consumer Finance	USD											-	-	
106	AL WATHBA NAT INSURANCE CO	284859	Financials	Multi-line Insurance	USD											-	-	
107	NATIONAL LEASING HLDG Q.S.C.	258737	Financials	Real Estate Operating Com	USD											-	-	
108	AL AIN AHLIA INSURANCE CO	260794	Financials	Multi-line Insurance	USD											-	-	
109	UNION CEMENT CO	274921	Materials	Construction Materials	USD	15.59	15.99	17.88	4.50	3.90	7.68	5.37	3.70	4.17	2.87	4.18	5	(12.3%)
110	ISLAMIC ARAB INSURANCE CO	275441	Financials	Property & Casualty Insura	USD											-	-	
111	GULF CEMENT CO	275275	Materials	Construction Materials	USD	4.98	9.85	6.37	8.69	7.46	8.70	9.31	6.61	6.07	4.95	3.89	7	(2.4%)
112	DLALA HOLDING	275089	Financials	Investment Banking & Brok	USD											-	-	
113	SHUAA CAPITAL	275784	Financials	Specialized Finance	USD											-	-	
114	RAS AL KHAIMAH CO FOR WHITE	282157	Materials	Construction Materials	USD	9.26	11.88	8.95	9.21	3.16	3.09	2.28	1.37	0.94	0.99	0.94	3	(20.4%)
115	MARKA PJSC	318423	Consumer Discretionary	Specialty Stores	USD											182.94	183	-
116	ABU DHABI NATIONAL TAKAFUL	284152	Financials	Multi-line Insurance	USD											-	-	
117	AL BUHAIRA NATIONAL INS	284086	Financials	Multi-line Insurance	USD											-	-	
118	INTL FISH FARMING CO	284187	Consumer Staples	Packaged Foods & Meats	USD	23.67	20.10	21.75	15.81	25.49	22.48	0.77		1.01	1.15	3.42	18	(17.6%)
119	NATIONAL GENERAL INS CO	274898	Financials	Multi-line Insurance	USD											-	-	
120	ABU DHABI SHIP BUILDING	284185	Industrials	Aerospace & Defense	USD	0.92	1.49	1.82	1.93	2.09	2.21	1.57	1.14	1.20	1.24	1.17	1	2.5%
121	ISLAMIC HOLDING GROUP	288627	Financials	Investment Banking & Brok	USD											-	-	
122	SHARJAH INSURANCE CO	284110	Financials	Multi-line Insurance	USD											-	-	
123	RAS AL KHAIMAH CEMENT CO	282895	Materials	Construction Materials	USD	0.89	4.33	8.95	5.10	3.46	5.67	7.02	3.72	4.50	5.59	5.52	5	20.0%
124	QATAR & OMAN INVESTMENT CO	287712	Financials	Asset Management & Custo	USD											-	-	
125	EMIRATES DRIVING	284155	Consumer Discretionary	Education Services	USD	1.08	2.73	2.37	6.48	6.37	8.36	5.01	2.64	2.92	3.50	3.54	4	12.6%
126	AL DHAFRA INSURANCE CO	260793	Financials	Multi-line Insurance	USD											-	-	
127	RAS AL KHAIMAH NATL INS CO	269640	Financials	Multi-line Insurance	USD											-	-	
128	NATIONAL INVESTOR (THE)	318867	Financials	Asset Management & Custo	USD											-	-	
129	FOODCO HOLDING PJSC	282986	Consumer Staples	Food Distributors	USD	0.79	0.71	0.82	0.71	0.59	0.37	0.50	0.63	0.54	0.55	0.66	1	(1.7%)
130	UNION INSURANCE CO (UAE)	284084	Financials	Multi-line Insurance	USD											-	-	
131	DUBAI NATL INS & REINS	274892	Financials	Multi-line Insurance	USD											-	-	
132	ARABIAN SCANDINAVIAN INS CO	283342	Financials	Multi-line Insurance	USD											-	-	
133	EMIRATES INVESTMENT BANK	283339	Financials	Investment Banking & Brok	USD											-	-	
134	GULF LIVESTOCK CO	293128	Consumer Discretionary	Distributors	USD						6.77	2.34	2.35	2.63	2.32	1.95	2	-
135	QATAR CINEMA & FILM	275063	Consumer Discretionary	Movies & Entertainment	USD	1.37	0.88	1.76	2.31	1.50	0.74	0.91	0.53	0.58	0.61	0.82	1	(5.0%)

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Average

Note: Excluded Abberational ratios (i.e., >7)

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Median	CAGR
136	FUJAIRAH BUILDING INDUSTRIES	284104	Materials	Construction Materials	USD		1.37	1.94	1.87	1.73	2.09	1.93	1.89	1.60	1.61	1.52	2	-
137	GULF NAVIGATION HOLDING	282951	Industrials	Marine	USD	2.42	7.64		4.38	2.48	2.30	2.17	0.21	0.13	0.39	0.09	2	(28.3%)
138	UNITED KAIPARA DAIRIES CO	283493	Consumer Staples	Packaged Foods & Meats	USD	1.67	1.56	1.55	1.59	1.60	1.82	2.05	3.06	1.91	1.33	0.73	2	(7.9%)
139	ABU DHABI NATL CO FOR BLDG	284080	Materials	Construction Materials	USD	1.24	2.47	1.49	1.31	1.03	0.88	0.74	0.61	0.51	0.39	0.58	1	(7.3%)
140	AL SALAM BANK SUDAN	291941	Financials	Diversified Banks	USD											-	-	
141	UNITED INSURANCE CO	284426	Financials	Property & Casualty Insurar	USD											-	-	
142	METHAQ TAKAFUL INSURANCE CO	289054	Financials	Multi-line Insurance	USD											-	-	
143	QATAR GERMAN CO ME	258642	Health Care	Health Care Supplies	USD	2.65	0.63	0.50	0.24	4.08	3.48	3.01	4.58	1.74	1.03	0.62	2	(13.5%)
144	TAKAFUL EMARAT	289326	Financials	Life & Health Insurance	USD											-	-	
145	NATIONAL TAKAFUL CO WATANIA	311415	Financials	Multi-line Insurance	USD											-	-	
146	AMAN	275439	Financials	Property & Casualty Insurar	USD											-	-	
147	AL KHAZNA INSURANCE CO	104579	Financials	Multi-line Insurance	USD											-	-	
148	EMIRATES REFRESHMENTS CO	283375	Consumer Staples	Soft Drinks	USD		4.58	3.30	3.06	1.81	1.24	0.88	0.98	1.46	1.57	1.47	2	-
149	RAS AL KHAIMAH PLTRY & FEED	284876	Consumer Staples	Packaged Foods & Meats	USD			0.50	3.74	6.20	5.89	1.66	1.20	1.00	1.32	1.40	1	-
150	GULFA MINERAL WATER	291230	Consumer Staples	Soft Drinks	USD	1.49	1.42	2.39	1.83	1.75	1.74	2.14	2.33	3.14	3.65	5.72	2	14.4%
151	POLARCUS LTD	292880	Energy	Oil & Gas Equipment & Ser	USD					2.13	2.07	1.67	2.03	1.37	1.40	1.68	2	-
152	TAKAFUL HOUSE	289398	Financials	Property & Casualty Insurar	USD											-	-	
153	GREEN CRESCENT INSURANCE CO	291787	Financials	Life & Health Insurance	USD											-	-	
154	3POWER ENERGY GROUP INC	187366	Utilities	Renewable Electricity	USD						0.01	0.00	0.01	0.00	0.00	0.00	0	-
155	OMAN INSURANCE CO PSC	268793	Financials	Multi-line Insurance	USD											-	-	
156	DUBAI INSURANCE CO (P.S.C.)	260796	Financials	Multi-line Insurance	USD											-	-	
157	ALLIANCE INSURANCE (PSC)	104580	Financials	Multi-line Insurance	USD											-	-	
158	KINGDOM HOTEL INVESTMENTS	276929	Consumer Discretionary	Hotels, Resorts & Cruise Lir	USD	1.53	7.92	6.45	2.64	1.91	2.05	2.19	0.68				2	-
159	FIRST FINANCE COMPANY	279335	Financials	Other Diversified Financial S	USD											-	-	
160	DAMAS INTERNATIONAL LTD	293285	Consumer Discretionary	Specialty Stores	USD	1.74	2.04	1.45	1.94	1.72	0.85	0.88					2	-
161	AXIUS INC	179660	Consumer Discretionary	Distributors	USD						0.00	0.52	1.55				1	-
162	QATAR REAL ESTATE INVT CO	258650	Financials	Diversified Real Estate Activ	USD											-	-	
163	EMIRATES BANK INTL LTD	251250	Financials	Diversified Banks	USD											-	-	
164	AL FIRDOUS HOLDINGS	287151	Consumer Discretionary	Hotels, Resorts & Cruise Lir	USD		23.89	22.79	5.82	873.46	1,337.19	246.66	118.60	152.50	85.43		119	-
165	MARITIME INDL SVCS CO	284079	Energy	Oil & Gas Equipment & Ser	USD	1.53	1.90	1.85	1.60	1.32	1.55	1.42					2	-
166	AVEC CORP	151594	Industrials	Heavy Electrical Equipment	USD	0.03	0.01	0.01									0	-
167	QATAR SHIPPING	258663	Industrials	Marine	USD	1.39	4.33	4.24	1.83	1.66	1.63						2	-
168	AABAR IINVESTMENTS PJSC	284150	Financials	Multi-Sector Holdings	USD		13.98	2.57	2.38	7.02	5.63						6	-
169	AL SAGR NATIONAL INSURANCE	269641	Financials	Multi-line Insurance	USD											-	-	
170	UNITED FOODS CO P.S.C.	283483	Consumer Staples	Packaged Foods & Meats	USD	1.98	1.68	1.45	1.36	0.99	1.61	2.17	1.96	3.34	4.15	4.03	2	7.4%
171	SOROUH REAL ESTATE	284162	Financials	Diversified Real Estate Activ	USD											-	-	
172	CRESCENT PETROLEUM CORP	3597	Energy	Unclassified	USD											-	-	
					Average Ratios	**2.14**	**2.47**	**2.25**	**2.36**	**2.14**	**2.17**	**1.96**	**1.83**	**1.96**	**1.84**	**1.98**		

Data Source: McGraw-Hill Companies' S&P Capital IQ

Exhibit 7

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Current Assets - Total

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Median	CAGR
1	QATAR NATIONAL BK	251221	Financials	Diversified Banks	USD											-	-	
2	ETISALAT	274234	Telecommunication Services	Integrated Telecommunicat	USD	2,602	3,531	3,691	3,512	4,570	5,325	5,258	5,299	7,187	7,677	10,393	5,258	14.9%
3	INDUSTRIES OF QATAR	258696	Industrials	Industrial Conglomerates	USD		1,752	2,057	2,624	3,865	2,570	2,761	3,419	4,224	3,369	2,967	2,864	-
4	FIRST GULF BK	282949	Financials	Diversified Banks	USD											-	-	
5	DP WORLD	284856	Industrials	Marine Ports & Services	USD			3,961	3,837	2,013	3,806	5,310	4,916	2,538	3,305	4,522	3,837	-
6	EMIRATES NBD PJSC	286983	Financials	Diversified Banks	USD											-	-	
7	EMAAR PROPERTIES PJSC	251248	Financials	Real Estate Development	USD											-	-	
8	NATIONAL BK OF ABU DHABI	251249	Financials	Diversified Banks	USD											-	-	
9	EZDAN REAL ESTATE COMPANY	288383	Financials	Diversified Real Estate Activ	USD											-	-	
10	ABU DHABI COMMERCIAL BK	251138	Financials	Diversified Banks	USD											-	-	
11	EMAAR MALLS GROUP LLC	318453	Financials	Real Estate Operating Com	USD											-	-	
12	MASRAF AL-RAYAN	279152	Financials	Diversified Banks	USD											-	-	
13	MESAIEED PETROCHEMICAL HOLD	317253	Materials	Commodity Chemicals	USD										28	401	215	-
14	DUBAI ISLAMIC BK	251246	Financials	Diversified Banks	USD											-	-	
15	QATAR ISLAMIC BK	251223	Financials	Diversified Banks	USD											-	-	
16	OOREDOO	135709	Telecommunication Services	Integrated Telecommunicat	USD	508	607	661	1,613	3,289	4,384	8,423	7,526	5,895	7,788	7,054	4,384	30.1%
17	EMIRATE INTEGRATED TELECOM	279381	Telecommunication Services	Integrated Telecommunicat	USD		1,090	555	205	627	606	1,272	1,083	1,408	1,925	2,276	1,087	-
18	QATAR ELECT & WATER	258639	Utilities	Multi-Utilities	USD	486	313	338	383	642	835	1,089	1,383	1,464	756	689	689	3.5%
19	ALDAR PROPERTIES	284153	Financials	Diversified Real Estate Activ	USD											-	-	
20	DRAGON OIL	201676	Energy	Oil & Gas Exploration & Pro	USD	59	278	381	678	991	1,238	1,482	1,997	2,313	2,751	2,976	1,238	48.1%
21	MASHREQ BK	260797	Financials	Diversified Banks	USD											-	-	
22	BARWA REAL ESTATE	275422	Financials	Diversified Real Estate Activ	USD											-	-	
23	UNION NATIONAL BK	282075	Financials	Diversified Banks	USD											-	-	
24	COMMERCIAL BK OF DUBAI	274393	Financials	Diversified Banks	USD											-	-	
25	QATAR INS.	258644	Financials	Property & Casualty Insurar	USD											-	-	
26	COMMERCIAL BK OF QATAR	254642	Financials	Diversified Banks	USD											-	-	
27	DAMAC PROPS DUBAI	319007	Financials	Real Estate Development	USD											-	-	
28	ABU DHABI ISLAMIC BK	251139	Financials	Diversified Banks	USD											-	-	
29	DUBAI FINAN. MARKET	282945	Financials	Specialized Finance	USD											-	-	
30	QATAR FUEL	258641	Energy	Oil & Gas Refining & Marke	USD	173	293	479	478	780	931	1,212	1,320	1,633	1,934	2,037	931	27.9%
31	DOHA BK	251243	Financials	Diversified Banks	USD											-	-	
32	VODAFONE QATAR	292438	Telecommunication Services	Wireless Telecommunicatio	USD					9	62	81	78	109	114	108	81	-
33	GULF INTL SVCS	288907	Energy	Oil & Gas Drilling	USD		173	249	316	399	454	560	601	839	676	848	507	-
34	NATL BK OF RAS AL KHAIMAH	284899	Financials	Diversified Banks	USD											-	-	
35	QATAR GAS TRANSPORT(NAKILAT)	274295	Energy	Oil & Gas Storage & Transp	USD			1,202	706	584	517	661	714	673	608	885	673	-
36	QATAR INT ISLAM BK	258646	Financials	Diversified Banks	USD											-	-	
37	DUBAI INVST.	274891	Financials	Asset Management & Custo	USD											-	-	
38	QATAR NAT NAVIGAT	258649	Industrials	Marine	USD	172	233	240	208	265	230	498	508	771	766	1,282	265	22.2%
39	ORASCOM CONSTRUCTION LTD	319332	Industrials	Construction & Engineering	USD								1,830	1,789	1,927		1,830	-
40	ARAB TECHNICAL CONST.	274386	Industrials	Construction & Engineering	USD		331	439	916	1,984	1,910	1,684	1,704	1,766	2,742	3,175	1,735	-
41	NMC HEALTH PLC	312098	Health Care	Health Care Facilities	USD						213	253	267	513	540	578	390	-
42	AAMAL HLDG	287946	Industrials	Industrial Conglomerates	USD		37	177	330	215	226	221	416	468	406	465	278	-
43	AHLI BK Q.S.C.	258623	Financials	Diversified Banks	USD											-	-	
44	UNITED DEV.	258713	Financials	Real Estate Development	USD											-	-	
45	DUBAI PARKS AND RESORTS	318771	Consumer Discretionary	Leisure Facilities	USD									4	5	1,275	5	-
46	AL KHALIJ COMMERCIAL BK	285891	Financials	Diversified Banks	USD											-	-	

Exhibit 7

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Current Assets - Total

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Median	CAGR
47	UNITED ARAB BK	284163	Financials	Diversified Banks	USD											-	-	
48	AIR ARABIA PJSC	285482	Industrials	Airlines	USD	17	37	70	846	547	624	660	510	510	539	550	539	41.5%
49	QATAR NATIONAL CEMENT	254656	Materials	Construction Materials	USD	192	367	124	115	212	142	187	187	223	265	281	192	3.9%
50	QATARI INV GRP	285366	Materials	Construction Materials	USD			214		175	64	234	93	148	224	241	195	-
51	DAMAC REAL ESTATE DEV LTD	316822	Financials	Real Estate Development	USD											-	-	
52	EMIRATES ISLAMIC BANK	283434	Financials	Diversified Banks	USD											-	-	
53	NATL BK OF UMM AL-QAIWAIN	284188	Financials	Diversified Banks	USD											-	-	
54	NATIONAL BK OF FUJAIRAH	284425	Financials	Diversified Banks	USD											-	-	
55	ALMEERA CONSUMER GOODS CO	293086	Consumer Staples	Hypermarkets & Super Cen	USD				57	72	63	59	67	124	276	230	69	-
56	MEDICARE GROUP	274886	Health Care	Health Care Facilities	USD	8	35	27	70	14	22	35	43	55	77	109	35	30.2%
57	ARAMEX PJSC	274887	Industrials	Air Freight & Logistics	USD	54	141	153	178	215	255	288	268	287	378	408	255	22.3%
58	MANNAI Q.S.C	285864	Industrials	Industrial Conglomerates	USD			146	218	298	293	346	377	1,034	975	1,030	346	-
59	WAHA CAPITAL PJSC	251233	Financials	Specialized Finance	USD	44	249	117	139	169	166	175	217	277	365	1,008	175	36.7%
60	DEYAAR DEV. PJSC	286064	Financials	Diversified Real Estate Acti	USD											-	-	
61	AGTHIA GROUP PJSC	284156	Consumer Staples	Packaged Foods & Meats	USD		78	106	122	152	175	201	201	266	312	343	188	-
62	QATAR GENERAL INS & REINS	268687	Financials	Property & Casualty Insurar	USD											-	-	
63	UNION PROPERTIES	275442	Financials	Diversified Real Estate Acti	USD											-	-	
64	INVEST BK	284157	Financials	Diversified Banks	USD											-	-	
65	ABU DHABI NATIONAL ENERGY	279336	Utilities	Multi-Utilities	USD		1,504	5,331	3,206	2,639	2,809	4,226	4,430	4,286	3,629	3,396	3,513	-
66	SHARJAH ISLAMIC BK	278810	Financials	Diversified Banks	USD											-	-	
67	DANA GAS	282884	Energy	Integrated Oil & Gas	USD			774	698	415	469	476	902	1,154	1,229	1,344	774	-
68	BK OF SHARJAH	282984	Financials	Diversified Banks	USD											-	-	
69	AMLAK FINANCE	274384	Financials	Consumer Finance	USD											-	-	
70	GULF WAREHOUSING CO	274893	Industrials	Air Freight & Logistics	USD	24		54	34	23	31	40	91	98	115	115	47	16.9%
71	LAMPRELL	279384	Energy	Oil & Gas Equipment & Ser	USD	0	116	138	317	408	307	473	846	676	708	788	408	-
72	ABU DHABI NATIONAL HOTELS	282983	Consumer Discretionary	Hotels, Resorts & Cruise Lir	USD	288	313	348	363	318	272	221	255	203	237	163	272	(5.5%)
73	RAS AL KHAIMAH CERAMIC CO	284191	Industrials	Building Products	USD	316	444	682	795	791	853	958	998	928	1,033	929	853	11.4%
74	GULF PHARMACEUTICALS	282886	Health Care	Pharmaceuticals	USD	136	189	215	276	203	238	262	286	321	446	488	262	13.6%
75	NATL CORP FOR TOURISM & HOT	284158	Consumer Discretionary	Hotels, Resorts & Cruise Lir	USD	56	63	44	47	52	77	81	78	92	91	91	77	5.0%
76	COMM BANK INTL PLC	282985	Financials	Diversified Banks	USD											-	-	
77	QATAR IND. MFG	251225	Financials	Multi-Sector Holdings	USD											-	-	
78	AJMAN BANK	289096	Financials	Diversified Banks	USD											-	-	
79	ABU DHABI NATIONAL INS CO	268827	Financials	Multi-line Insurance	USD											-	-	
80	MAZAYA QATAR REAL EST DEV	295967	Financials	Diversified Real Estate Acti	USD											-	-	
81	DUBAI REFRESHMENTS	283433	Consumer Staples	Food Distributors	USD	24	33	46	43	31	55	69	110	130	128	110	55	16.3%
82	GULF MEDICAL PROJECTS	284186	Health Care	Health Care Facilities	USD	18	22	21	33	58	43	43	61	72	85	76	43	15.4%
83	ESHRAQ PROPERTIES CO	301091	Financials	Real Estate Development	USD											-	-	
84	DRAKE & SKULL INTL	291718	Industrials	Construction & Engineering	USD			83	192	305	849	914	1,020	1,251	1,399	1,741	914	-
85	GULF GENERAL INVESTMENT CO	275440	Financials	Multi-Sector Holdings	USD											-	-	
86	MANAZEL REAL ESTATE PJSC	318742	Financials	Real Estate Development	USD											-	-	
87	ARKAN BUILDING MATERIALS	284154	Materials	Construction Materials	USD	65	89	378	351	205	99	0	123	150	195	242	150	14.0%
88	SALAM INTERNATIONAL INVT CO	274903	Financials	Multi-Sector Holdings	USD											-	-	
89	AMIRA NATURE FOODS LTD	14033	Consumer Staples	Packaged Foods & Meats	USD							224	206	302	395		263	-
90	NATIONAL CEMENT CO	278373	Materials	Construction Materials	USD	72	112	98	141	115	102	68	106	93	93	80	98	1.0%
91	EMIRATES REIT (CEIC) LTD	317443	Financials	Diversified REITs	USD											-	-	
92	RAS AL KHAIMAH PROPERTIES	284161	Financials	Diversified Real Estate Acti	USD											-	-	

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Current Assets - Total

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Median	CAGR
93	ZAD HOLDING CO	274901	Consumer Staples	Packaged Foods & Meats	USD	3	5	10	13	44	52	64	101	118	102	185	52	48.8%
94	DOHA INSURANCE	258667	Financials	Property & Casualty Insurai	USD											-	-	
95	ABU DHABI AVIATION	284151	Industrials	Air Freight & Logistics	USD	72	111	188	217	235	210	309	314	334	324	314	235	15.9%
96	NATL MARINE DREDGING	284159	Industrials	Marine Ports & Services	USD	122	239	203	266	313	483	616	764	949	991	957	483	22.8%
97	ISLAMIC INS CO	274834	Financials	Multi-line Insurance	USD											-	-	
98	DEPA LTD	179766	Industrials	Diversified Support Services	USD			205	307	640	619	490	497	560	587	544	544	-
99	EXILLON ENERGY	293578	Energy	Oil & Gas Exploration & Pro	USD					57	39	70	151	149	110	105	105	-
100	WIDAM FOOD COMPANY QSC	274902	Consumer Staples	Packaged Foods & Meats	USD	31	42	50	38	50	54	63	106	138	128	121	54	14.4%
101	NATL CNTL COOLING (TABRD)	274899	Industrials	Building Products	USD	128	244	544	295	409	284	341	434	361	367	323	341	9.7%
102	ALKHALEEJ TAKAFUL GROUP	268686	Financials	Property & Casualty Insurai	USD											-	-	
103	TAMWEEL PJSC	282848	Financials	Thrifts & Mortgage Finance	USD											-	-	
104	EMIRATES INSURANCE CO (PSC)	260795	Financials	Multi-line Insurance	USD											-	-	
105	FINANCE HOUSE	284102	Financials	Consumer Finance	USD											-	-	
106	AL WATHBA NAT INSURANCE CO	284859	Financials	Multi-line Insurance	USD											-	-	
107	NATIONAL LEASING HLDG Q.S.C.	258737	Financials	Real Estate Operating Com	USD											-	-	
108	AL AIN AHLIA INSURANCE CO	260794	Financials	Multi-line Insurance	USD											-	-	
109	UNION CEMENT CO	274921	Materials	Construction Materials	USD	107	179	170	110	124	114	108	98	99	101	107	108	(0.0%)
110	ISLAMIC ARAB INSURANCE CO	275441	Financials	Property & Casualty Insurai	USD											-	-	
111	GULF CEMENT CO	275275	Materials	Construction Materials	USD	123	288	281	352	308	281	279	166	189	180	194	279	4.6%
112	DLALA HOLDING	275089	Financials	Investment Banking & Brok	USD											-	-	
113	SHUAA CAPITAL	275784	Financials	Specialized Finance	USD											-	-	
114	RAS AL KHAIMAH CO FOR WHITE	282157	Materials	Construction Materials	USD	65	110	116	172	103	86	58	54	49	68	72	72	1.0%
115	MARKA PJSC	318423	Consumer Discretionary	Specialty Stores	USD											131	131	-
116	ABU DHABI NATIONAL TAKAFUL	284152	Financials	Multi-line Insurance	USD											-	-	
117	AL BUHAIRA NATIONAL INS	284086	Financials	Multi-line Insurance	USD											-	-	
118	INTL FISH FARMING CO	284187	Consumer Staples	Packaged Foods & Meats	USD	46	48	40	35	65	61	126	217	111	128	88	65	6.8%
119	NATIONAL GENERAL INS CO	274898	Financials	Multi-line Insurance	USD											-	-	
120	ABU DHABI SHIP BUILDING	284185	Industrials	Aerospace & Defense	USD	175	190	194	315	401	506	543	452	498	414	359	401	7.5%
121	ISLAMIC HOLDING GROUP	288627	Financials	Investment Banking & Brok	USD											-	-	
122	SHARJAH INSURANCE CO	284110	Financials	Multi-line Insurance	USD											-	-	
123	RAS AL KHAIMAH CEMENT CO	282895	Materials	Construction Materials	USD	31	43	73	69	93	69	53	54	57	58	46	57	3.9%
124	QATAR & OMAN INVESTMENT CO	287712	Financials	Asset Management & Custo	USD											-	-	
125	EMIRATES DRIVING	284155	Consumer Discretionary	Education Services	USD	2	21	19	29	48	64	59	35	36	42	60	36	37.8%
126	AL DHAFRA INSURANCE CO	260793	Financials	Multi-line Insurance	USD											-	-	
127	RAS AL KHAIMAH NATL INS CO	269640	Financials	Multi-line Insurance	USD											-	-	
128	NATIONAL INVESTOR (THE)	318867	Financials	Asset Management & Custo	USD											-	-	
129	FOODCO HOLDING PJSC	282986	Consumer Staples	Food Distributors	USD	13	25	33	28	34	19	24	28	33	35	61	28	16.4%
130	UNION INSURANCE CO (UAE)	284084	Financials	Multi-line Insurance	USD											-	-	
131	DUBAI NATL INS & REINS	274892	Financials	Multi-line Insurance	USD											-	-	
132	ARABIAN SCANDINAVIAN INS CO	283342	Financials	Multi-line Insurance	USD											-	-	
133	EMIRATES INVESTMENT BANK	283339	Financials	Investment Banking & Brok	USD											-	-	
134	GULF LIVESTOCK CO	293128	Consumer Discretionary	Distributors	USD						41	17	17	20	31	29	24	-
135	QATAR CINEMA & FILM	275063	Consumer Discretionary	Movies & Entertainment	USD	1	1	2	3	3	3	10	7	6	5	7	3	19.1%
136	FUJAIRAH BUILDING INDUSTRIES	284104	Materials	Construction Materials	USD		11	30	39	49	51	48	41	51	47	48	47	-
137	GULF NAVIGATION HOLDING	282951	Industrials	Marine	USD	8	21		211	194	147	150	66	36	120	17	93	8.6%
138	UNITED KAIPARA DAIRIES CO	283493	Consumer Staples	Packaged Foods & Meats	USD	19	22	26	33	35	37	36	30	31	29	18	30	(0.4%)

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Current Assets - Total

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014 Median		CAGR
139	ABU DHABI NATL CO FOR BLDG	284080	Materials	Construction Materials	USD	91	191	211	167	256	138	104	84	64	44	35	104	(9.0%)
140	AL SALAM BANK SUDAN	291941	Financials	Diversified Banks	USD											-	-	
141	UNITED INSURANCE CO	284426	Financials	Property & Casualty Insurar	USD											-	-	
142	METHAQ TAKAFUL INSURANCE CO	289054	Financials	Multi-line Insurance	USD											-	-	
143	QATAR GERMAN CO ME	258642	Health Care	Health Care Supplies	USD	2	1	1	2	17	12	6	4	6	8	10	6	16.9%
144	TAKAFUL EMARAT	289326	Financials	Life & Health Insurance	USD											-	-	
145	NATIONAL TAKAFUL CO WATANIA	311415	Financials	Multi-line Insurance	USD											-	-	
146	AMAN	275439	Financials	Property & Casualty Insurar	USD											-	-	
147	AL KHAZNA INSURANCE CO	104579	Financials	Multi-line Insurance	USD											-	-	
148	EMIRATES REFRESHMENTS CO	283375	Consumer Staples	Soft Drinks	USD	0	7	6	7	9	8	6	9	10	9	9	8	-
149	RAS AL KHAIMAH PLTRY & FEED	284876	Consumer Staples	Packaged Foods & Meats	USD			11	31	57	51	27	19	17	20	22	22	-
150	GULFA MINERAL WATER	291230	Consumer Staples	Soft Drinks	USD	4	5	8	7	7	7	8	9	11	12	14	8	12.8%
151	POLARCUS LTD	292880	Energy	Oil & Gas Equipment & Ser	USD					190	166	244	196	320	214	188	196	-
152	TAKAFUL HOUSE	289398	Financials	Property & Casualty Insurar	USD											-	-	
153	GREEN CRESCENT INSURANCE CO	291787	Financials	Life & Health Insurance	USD											-	-	
154	3POWER ENERGY GROUP INC	187366	Utilities	Renewable Electricity	USD						0	0	0	0	0	0	0	-
155	OMAN INSURANCE CO PSC	268793	Financials	Multi-line Insurance	USD											-	-	
156	DUBAI INSURANCE CO (P.S.C.)	260796	Financials	Multi-line Insurance	USD											-	-	
157	ALLIANCE INSURANCE (PSC)	104580	Financials	Multi-line Insurance	USD											-	-	
158	KINGDOM HOTEL INVESTMENTS	276929	Consumer Discretionary	Hotels, Resorts & Cruise Lir	USD	56	249	473	252	321	438	565	174				287	(100.0%)
159	FIRST FINANCE COMPANY	279335	Financials	Other Diversified Financial S	USD											-	-	
160	DAMAS INTERNATIONAL LTD	293285	Consumer Discretionary	Specialty Stores	USD	384	549	815	972	1,240	670	633					670	(100.0%)
161	AXIUS INC	179660	Consumer Discretionary	Distributors	USD						0	0	0				0	-
162	QATAR REAL ESTATE INVT CO	258650	Financials	Diversified Real Estate Activ	USD											-	-	
163	EMIRATES BANK INTL LTD	251250	Financials	Diversified Banks	USD											-	-	
164	AL FIRDOUS HOLDINGS	287151	Consumer Discretionary	Hotels, Resorts & Cruise Lir	USD		3	3	132	170	170	171	173	172	174		170	-
165	MARITIME INDL SVCS CO	284079	Energy	Oil & Gas Equipment & Ser	USD	56	57	199	276	355	391	157					199	(100.0%)
166	AVEC CORP	151594	Industrials	Heavy Electrical Equipment	USD	0	0	0									0	(100.0%)
167	QATAR SHIPPING	258663	Industrials	Marine	USD	107	395	360	184	295	232						263	(100.0%)
168	AABAR IINVESTMENTS PJSC	284150	Financials	Multi-Sector Holdings	USD		337	333	601	358	6,716						358	-
169	AL SAGR NATIONAL INSURANCE	269641	Financials	Multi-line Insurance	USD											-	-	
170	UNITED FOODS CO P.S.C.	283483	Consumer Staples	Packaged Foods & Meats	USD	24	23	30	46	42	36	40	46	41	44	38	40	4.9%
171	SOROUH REAL ESTATE	284162	Financials	Diversified Real Estate Activ	USD											-	-	
172	CRESCENT PETROLEUM CORP	3597	Energy	Unclassified	USD											-	-	

Data Source: McGraw-Hill Companies' S&P Capital IQ

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CapTrade Updated Gulf Airlines Report

Current Liabilities - Total

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Median	CAGR
1	QATAR NATIONAL BK	251221	Financials	Diversified Banks	USD											-	-	
2	ETISALAT	274234	Telecommunication Services	Integrated Telecommunication Services	USD	1,814	2,154	3,705	4,810	6,221	6,394	6,664	6,584	6,933	7,322	11,189	6,394	20.0%
3	INDUSTRIES OF QATAR	258696	Industrials	Industrial Conglomerates	USD		420	466	1,057	1,389	530	936	1,055	1,345	312	652	794	-
4	FIRST GULF BK	282949	Financials	Diversified Banks	USD											-	-	
5	DP WORLD	284856	Industrials	Marine Ports & Services	USD			9,177	1,767	1,434	1,484	1,747	4,142	1,749	1,514	1,554	1,747	-
6	EMIRATES NBD PJSC	286983	Financials	Diversified Banks	USD											-	-	
7	EMAAR PROPERTIES PJSC	251248	Financials	Real Estate Development	USD											-	-	
8	NATIONAL BK OF ABU DHABI	251249	Financials	Diversified Banks	USD											-	-	
9	EZDAN REAL ESTATE COMPANY	288383	Financials	Diversified Real Estate Activities	USD											-	-	
10	ABU DHABI COMMERCIAL BK	251138	Financials	Diversified Banks	USD											-	-	
11	EMAAR MALLS GROUP LLC	318453	Financials	Real Estate Operating Companies	USD											-	-	
12	MASRAF AL-RAYAN	279152	Financials	Diversified Banks	USD											-	-	
13	MESAIEED PETROCHEMICAL HOLD	317253	Materials	Commodity Chemicals	USD										1	31	16	-
14	DUBAI ISLAMIC BK	251246	Financials	Diversified Banks	USD											-	-	
15	QATAR ISLAMIC BK	251223	Financials	Diversified Banks	USD											-	-	
16	OOREDOO	135709	Telecommunication Services	Integrated Telecommunication Services	USD	313	381	538	2,636	5,702	4,407	4,867	7,442	5,624	6,462	7,315	4,867	37.0%
17	EMIRATE INTEGRATED TELECOM	279381	Telecommunication Services	Integrated Telecommunication Services	USD		12	147	461	665	1,001	1,754	995	1,179	1,593	1,608	998	-
18	QATAR ELECT & WATER	258639	Utilities	Multi-Utilities	USD	140	198	183	244	1,292	847	1,454	1,523	1,695	349	604	604	15.8%
19	ALDAR PROPERTIES	284153	Financials	Diversified Real Estate Activities	USD											-	-	
20	DRAGON OIL	201676	Energy	Oil & Gas Exploration & Production	USD	80	68	101	207	243	355	482	646	841	981	1,028	355	29.1%
21	MASHREQ BK	260797	Financials	Diversified Banks	USD											-	-	
22	BARWA REAL ESTATE	275422	Financials	Diversified Real Estate Activities	USD											-	-	
23	UNION NATIONAL BK	282075	Financials	Diversified Banks	USD											-	-	
24	COMMERCIAL BK OF DUBAI	274393	Financials	Diversified Banks	USD											-	-	
25	QATAR INS.	258644	Financials	Property & Casualty Insurance	USD											-	-	
26	COMMERCIAL BK OF QATAR	254642	Financials	Diversified Banks	USD											-	-	
27	DAMAC PROPS DUBAI	319007	Financials	Real Estate Development	USD											-	-	
28	ABU DHABI ISLAMIC BK	251139	Financials	Diversified Banks	USD											-	-	
29	DUBAI FINAN. MARKET	282945	Financials	Specialized Finance	USD											-	-	
30	QATAR FUEL	258641	Energy	Oil & Gas Refining & Marketing	USD	93	192	330	315	408	406	481	499	602	820	950	408	26.1%
31	DOHA BK	251243	Financials	Diversified Banks	USD											-	-	
32	VODAFONE QATAR	292438	Telecommunication Services	Wireless Telecommunication Services	USD					879	100	164	158	181	204	243	181	-
33	GULF INTL SVCS	288907	Energy	Oil & Gas Drilling	USD		57	114	165	215	255	354	405	597	486	725	305	-
34	NATL BK OF RAS AL KHAIMAH	284899	Financials	Diversified Banks	USD											-	-	
35	QATAR GAS TRANSPORT(NAKILAT)	274295	Energy	Oil & Gas Storage & Transportation	USD			528	53	94	177	302	357	324	338	344	324	-
36	QATAR INT ISLAM BK	258646	Financials	Diversified Banks	USD											-	-	
37	DUBAI INVST.	274891	Financials	Asset Management & Custody Banks	USD											-	-	
38	QATAR NAT NAVIGAT	258649	Industrials	Marine	USD	52	163	252	379	160	149	239	527	350	365	509	252	25.6%
39	ORASCOM CONSTRUCTION LTD	319332	Industrials	Construction & Engineering	USD								1,463	1,948	1,915		1,915	-
40	ARAB TECHNICAL CONST.	274386	Industrials	Construction & Engineering	USD		334	379	888	1,908	1,633	1,398	1,395	1,402	1,822	2,080	1,400	-
41	NMC HEALTH PLC	312098	Health Care	Health Care Facilities	USD						220	287	211	254	254	371	254	-
42	AAMAL HLDG	287946	Industrials	Industrial Conglomerates	USD		24	41	70	65	70	173	327	418	343	309	122	-
43	AHLI BK Q.S.C.	258623	Financials	Diversified Banks	USD											-	-	
44	UNITED DEV.	258713	Financials	Real Estate Development	USD											-	-	
45	DUBAI PARKS AND RESORTS	318771	Consumer Discretionary	Leisure Facilities	USD									1	14	160	14	-
46	AL KHALIJ COMMERCIAL BK	285891	Financials	Diversified Banks	USD											-	-	
47	UNITED ARAB BK	284163	Financials	Diversified Banks	USD											-	-	
48	AIR ARABIA PJSC	285482	Industrials	Airlines	USD	12	28	50	81	126	152	196	242	341	465	582	152	47.6%
49	QATAR NATIONAL CEMENT	254656	Materials	Construction Materials	USD	16	57	56	57	243	120	76	58	65	52	102	58	20.3%
50	QATARI INV GRP	285366	Materials	Construction Materials	USD			2		81	42	169	38	81	92	137	81	-
51	DAMAC REAL ESTATE DEV LTD	316822	Financials	Real Estate Development	USD											-	-	
52	EMIRATES ISLAMIC BANK	283434	Financials	Diversified Banks	USD											-	-	

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CapTrade Updated Gulf Airlines Report

Current Liabilities - Total

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Median	CAGR
53	NATL BK OF UMM AL-QAIWAIN	284188	Financials	Diversified Banks	USD											-	-	
54	NATIONAL BK OF FUJAIRAH	284425	Financials	Diversified Banks	USD											-	-	
55	ALMEERA CONSUMER GOODS CO	293086	Consumer Staples	Hypermarkets & Super Centers	USD				40	50	45	47	63	86	102	119	57	-
56	MEDICARE GROUP	274886	Health Care	Health Care Facilities	USD	7	10	11	70	13	16	17	17	18	21	22	17	12.1%
57	ARAMEX PJSC	274887	Industrials	Air Freight & Logistics	USD	31	39	79	84	93	100	111	138	153	171	216	100	21.4%
58	MANNAI Q.S.C	285864	Industrials	Industrial Conglomerates	USD			117	129	185	149	187	301	622	942	1,022	187	-
59	WAHA CAPITAL PJSC	251233	Financials	Specialized Finance	USD	34	94	44	54	237	364	3	44	51	621	300	54	24.5%
60	DEYAAR DEV. PJSC	286064	Financials	Diversified Real Estate Activities	USD											-	-	
61	AGTHIA GROUP PJSC	284156	Consumer Staples	Packaged Foods & Meats	USD		23	37	39	72	72	87	100	110	157	215	80	-
62	QATAR GENERAL INS & REINS	268687	Financials	Property & Casualty Insurance	USD											-	-	
63	UNION PROPERTIES	275442	Financials	Diversified Real Estate Activities	USD											-	-	
64	INVEST BK	284157	Financials	Diversified Banks	USD											-	-	
65	ABU DHABI NATIONAL ENERGY	279336	Utilities	Multi-Utilities	USD		521	1,179	2,328	1,784	2,348	3,388	3,625	4,856	4,244	2,642	2,495	-
66	SHARJAH ISLAMIC BK	278810	Financials	Diversified Banks	USD											-	-	
67	DANA GAS	282884	Energy	Integrated Oil & Gas	USD			8	101	109	127	140	1,041	1,060	146	135	135	-
68	BK OF SHARJAH	282984	Financials	Diversified Banks	USD											-	-	
69	AMLAK FINANCE	274384	Financials	Consumer Finance	USD											-	-	
70	GULF WAREHOUSING CO	274893	Industrials	Air Freight & Logistics	USD	1		5	11	9	8	19	57	53	80	65	15	52.0%
71	LAMPRELL	279384	Energy	Oil & Gas Equipment & Services	USD	0	56	81	197	275	156	293	690	622	491	365	275	-
72	ABU DHABI NATIONAL HOTELS	282983	Consumer Discretionary	Hotels, Resorts & Cruise Lines	USD	68	71	89	86	151	156	182	259	211	181	142	151	7.6%
73	RAS AL KHAIMAH CERAMIC CO	284191	Industrials	Building Products	USD	149	154	372	432	503	603	644	682	692	555	574	555	14.4%
74	GULF PHARMACEUTICALS	282886	Health Care	Pharmaceuticals	USD	36	62	58	84	96	91	110	167	173	196	201	96	18.7%
75	NATL CORP FOR TOURISM & HOT	284158	Consumer Discretionary	Hotels, Resorts & Cruise Lines	USD	19	21	58	94	124	55	53	60	67	76	86	60	16.2%
76	COMM BANK INTL PLC	282985	Financials	Diversified Banks	USD											-	-	
77	QATAR IND. MFG	251225	Financials	Multi-Sector Holdings	USD											-	-	
78	AJMAN BANK	289096	Financials	Diversified Banks	USD											-	-	
79	ABU DHABI NATIONAL INS CO	268827	Financials	Multi-line Insurance	USD											-	-	
80	MAZAYA QATAR REAL EST DEV	295967	Financials	Diversified Real Estate Activities	USD											-	-	
81	DUBAI REFRESHMENTS	283433	Consumer Staples	Food Distributors	USD	13	18	35	36	20	29	31	48	54	62	54	35	15.0%
82	GULF MEDICAL PROJECTS	284186	Health Care	Health Care Facilities	USD	7	7	31	27	64	56	51	48	43	58	59	48	23.5%
83	ESHRAQ PROPERTIES CO	301091	Financials	Real Estate Development	USD											-	-	
84	DRAKE & SKULL INTL	291718	Industrials	Construction & Engineering	USD			70	165	298	452	619	775	933	1,096	1,305	619	-
85	GULF GENERAL INVESTMENT CO	275440	Financials	Multi-Sector Holdings	USD											-	-	
86	MANAZEL REAL ESTATE PJSC	318742	Financials	Real Estate Development	USD											-	-	
87	ARKAN BUILDING MATERIALS	284154	Materials	Construction Materials	USD	13	11	13	21	227	42	0	120	42	137	110	42	24.2%
88	SALAM INTERNATIONAL INVT CO	274903	Financials	Multi-Sector Holdings	USD											-	-	
89	AMIRA NATURE FOODS LTD	14033	Consumer Staples	Packaged Foods & Meats	USD							201	174	169	241		187	-
90	NATIONAL CEMENT CO	278373	Materials	Construction Materials	USD	12	18	20	45	52	45	34	50	26	27	32	32	10.6%
91	EMIRATES REIT (CEIC) LTD	317443	Financials	Diversified REITs	USD											-	-	
92	RAS AL KHAIMAH PROPERTIES	284161	Financials	Diversified Real Estate Activities	USD											-	-	
93	ZAD HOLDING CO	274901	Consumer Staples	Packaged Foods & Meats	USD	8	6	8	15	49	30	31	131	130	114	141	31	33.3%
94	DOHA INSURANCE	258667	Financials	Property & Casualty Insurance	USD											-	-	
95	ABU DHABI AVIATION	284151	Industrials	Air Freight & Logistics	USD	33	60	109	127	139	91	77	102	111	92	113	102	13.2%
96	NATL MARINE DREDGING	284159	Industrials	Marine Ports & Services	USD	29	88	49	50	49	129	207	300	445	367	373	129	29.2%
97	ISLAMIC INS CO	274834	Financials	Multi-line Insurance	USD											-	-	
98	DEPA LTD	179766	Industrials	Diversified Support Services	USD			169	272	344	343	297	314	374	422	360	343	-
99	EXILLON ENERGY	293578	Energy	Oil & Gas Exploration & Production	USD					0	11	11	36	31	74	60	31	-
100	WIDAM FOOD COMPANY QSC	274902	Consumer Staples	Packaged Foods & Meats	USD	0	4	6	7	8	17	20	54	83	80	64	17	74.1%
101	NATL CNTL COOLING (TABRD)	274899	Industrials	Building Products	USD	66	132	270	219	648	1,626	1,768	325	262	249	234	262	13.5%
102	ALKHALEEJ TAKAFUL GROUP	268686	Financials	Property & Casualty Insurance	USD											-	-	
103	TAMWEEL PJSC	282848	Financials	Thrifts & Mortgage Finance	USD											-	-	
104	EMIRATES INSURANCE CO (PSC)	260795	Financials	Multi-line Insurance	USD											-	-	

Exhibit 7

CapTrade Updated Gulf Airlines Report

Current Liabilities - Total

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Median	CAGR
105	FINANCE HOUSE	284102	Financials	Consumer Finance	USD											-	-	
106	AL WATHBA NAT INSURANCE CO	284859	Financials	Multi-line Insurance	USD											-	-	
107	NATIONAL LEASING HLDG Q.S.C.	258737	Financials	Real Estate Operating Companies	USD											-	-	
108	AL AIN AHLIA INSURANCE CO	260794	Financials	Multi-line Insurance	USD											-	-	
109	UNION CEMENT CO	274921	Materials	Construction Materials	USD	7	11	9	24	32	15	20	27	24	35	26	24	14.0%
110	ISLAMIC ARAB INSURANCE CO	275441	Financials	Property & Casualty Insurance	USD											-	-	
111	GULF CEMENT CO	275275	Materials	Construction Materials	USD	25	29	44	41	41	32	30	25	31	36	50	32	7.2%
112	DLALA HOLDING	275089	Financials	Investment Banking & Brokerage	USD											-	-	
113	SHUAA CAPITAL	275784	Financials	Specialized Finance	USD											-	-	
114	RAS AL KHAIMAH CO FOR WHITE	282157	Materials	Construction Materials	USD	7	9	13	19	32	28	25	39	52	69	76	28	26.9%
115	MARKA PJSC	318423	Consumer Discretionary	Specialty Stores	USD											1	1	-
116	ABU DHABI NATIONAL TAKAFUL	284152	Financials	Multi-line Insurance	USD											-	-	
117	AL BUHAIRA NATIONAL INS	284086	Financials	Multi-line Insurance	USD											-	-	
118	INTL FISH FARMING CO	284187	Consumer Staples	Packaged Foods & Meats	USD	2	2	2	2	3	3	163	0	110	111	26	3	29.5%
119	NATIONAL GENERAL INS CO	274898	Financials	Multi-line Insurance	USD											-	-	
120	ABU DHABI SHIP BUILDING	284185	Industrials	Aerospace & Defense	USD	190	127	106	163	192	229	346	397	416	333	306	229	4.9%
121	ISLAMIC HOLDING GROUP	288627	Financials	Investment Banking & Brokerage	USD											-	-	
122	SHARJAH INSURANCE CO	284110	Financials	Multi-line Insurance	USD											-	-	
123	RAS AL KHAIMAH CEMENT CO	282895	Materials	Construction Materials	USD	35	10	8	14	27	12	8	14	13	10	8	12	(13.4%)
124	QATAR & OMAN INVESTMENT CO	287712	Financials	Asset Management & Custody Banks	USD											-	-	
125	EMIRATES DRIVING	284155	Consumer Discretionary	Education Services	USD	2	8	8	4	7	8	12	13	12	12	17	8	22.4%
126	AL DHAFRA INSURANCE CO	260793	Financials	Multi-line Insurance	USD											-	-	
127	RAS AL KHAIMAH NATL INS CO	269640	Financials	Multi-line Insurance	USD											-	-	
128	NATIONAL INVESTOR (THE)	318867	Financials	Asset Management & Custody Banks	USD											-	-	
129	FOODCO HOLDING PJSC	282986	Consumer Staples	Food Distributors	USD	17	36	41	39	59	52	48	44	61	63	92	48	18.4%
130	UNION INSURANCE CO (UAE)	284084	Financials	Multi-line Insurance	USD											-	-	
131	DUBAI NATL INS & REINS	274892	Financials	Multi-line Insurance	USD											-	-	
132	ARABIAN SCANDINAVIAN INS CO	283342	Financials	Multi-line Insurance	USD											-	-	
133	EMIRATES INVESTMENT BANK	283339	Financials	Investment Banking & Brokerage	USD											-	-	
134	GULF LIVESTOCK CO	293128	Consumer Discretionary	Distributors	USD						6	7	7	7	13	15	7	-
135	QATAR CINEMA & FILM	275063	Consumer Discretionary	Movies & Entertainment	USD	1	1	1	1	2	4	11	13	10	9	9	4	25.3%
136	FUJAIRAH BUILDING INDUSTRIES	284104	Materials	Construction Materials	USD		8	15	21	28	24	25	22	32	29	31	25	-
137	GULF NAVIGATION HOLDING	282951	Industrials	Marine	USD	3	3		48	78	64	69	319	276	311	199	74	51.6%
138	UNITED KAIPARA DAIRIES CO	283493	Consumer Staples	Packaged Foods & Meats	USD	12	14	17	21	22	20	18	10	16	22	25	18	8.2%
139	ABU DHABI NATL CO FOR BLDG	284080	Materials	Construction Materials	USD	73	77	142	128	249	157	141	138	124	113	60	128	(1.9%)
140	AL SALAM BANK SUDAN	291941	Financials	Diversified Banks	USD											-	-	
141	UNITED INSURANCE CO	284426	Financials	Property & Casualty Insurance	USD											-	-	
142	METHAQ TAKAFUL INSURANCE CO	289054	Financials	Multi-line Insurance	USD											-	-	
143	QATAR GERMAN CO ME	258642	Health Care	Health Care Supplies	USD	1	2	2	7	4	3	2	1	4	8	16	3	35.1%
144	TAKAFUL EMARAT	289326	Financials	Life & Health Insurance	USD											-	-	
145	NATIONAL TAKAFUL CO WATANIA	311415	Financials	Multi-line Insurance	USD											-	-	
146	AMAN	275439	Financials	Property & Casualty Insurance	USD											-	-	
147	AL KHAZNA INSURANCE CO	104579	Financials	Multi-line Insurance	USD											-	-	
148	EMIRATES REFRESHMENTS CO	283375	Consumer Staples	Soft Drinks	USD	0	2	2	2	5	7	6	9	7	5	6	5	-
149	RAS AL KHAIMAH PLTRY & FEED	284876	Consumer Staples	Packaged Foods & Meats	USD			23	8	9	9	16	16	17	15	16	16	-
150	GULFA MINERAL WATER	291230	Consumer Staples	Soft Drinks	USD	3	4	3	4	4	4	4	4	3	3	2	4	(1.4%)
151	POLARCUS LTD	292880	Energy	Oil & Gas Equipment & Services	USD					89	80	146	97	234	153	112	112	-
152	TAKAFUL HOUSE	289398	Financials	Property & Casualty Insurance	USD											-	-	
153	GREEN CRESCENT INSURANCE CO	291787	Financials	Life & Health Insurance	USD											-	-	
154	3POWER ENERGY GROUP INC	187366	Utilities	Renewable Electricity	USD						2	3	6	9	7	6	6	-
155	OMAN INSURANCE CO PSC	268793	Financials	Multi-line Insurance	USD											-	-	
156	DUBAI INSURANCE CO (P.S.C.)	260796	Financials	Multi-line Insurance	USD											-	-	

Exhibit 7

CapTrade Updated Gulf Airlines Report

Current Liabilities - Total

No	Company Name	GVKEY	Sector	Industry Segment	Currency	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Median	CAGR
157	ALLIANCE INSURANCE (PSC)	104580	Financials	Multi-line Insurance	USD											-	-	
158	KINGDOM HOTEL INVESTMENTS	276929	Consumer Discretionary	Hotels, Resorts & Cruise Lines	USD	36	31	73	96	168	214	258	254				132	(100.0%)
159	FIRST FINANCE COMPANY	279335	Financials	Other Diversified Financial Services	USD											-	-	
160	DAMAS INTERNATIONAL LTD	293285	Consumer Discretionary	Specialty Stores	USD	221	269	563	500	719	789	716					563	(100.0%)
161	AXIUS INC	179660	Consumer Discretionary	Distributors	USD						0	0	0				0	-
162	QATAR REAL ESTATE INVT CO	258650	Financials	Diversified Real Estate Activities	USD											-	-	
163	EMIRATES BANK INTL LTD	251250	Financials	Diversified Banks	USD											-	-	
164	AL FIRDOUS HOLDINGS	287151	Consumer Discretionary	Hotels, Resorts & Cruise Lines	USD		0	0	23	0	0	1	1	1	2		1	-
165	MARITIME INDL SVCS CO	284079	Energy	Oil & Gas Equipment & Services	USD	36	30	107	172	269	253	111					111	(100.0%)
166	AVEC CORP	151594	Industrials	Heavy Electrical Equipment	USD	1	4	12									4	(100.0%)
167	QATAR SHIPPING	258663	Industrials	Marine	USD	77	91	85	100	178	142						96	(100.0%)
168	AABAR IINVESTMENTS PJSC	284150	Financials	Multi-Sector Holdings	USD		24	130	253	51	1,193						130	-
169	AL SAGR NATIONAL INSURANCE	269641	Financials	Multi-line Insurance	USD											-	-	
170	UNITED FOODS CO P.S.C.	283483	Consumer Staples	Packaged Foods & Meats	USD	12	14	21	34	42	23	18	23	12	11	10	18	(2.3%)
171	SOROUH REAL ESTATE	284162	Financials	Diversified Real Estate Activities	USD											-	-	
172	CRESCENT PETROLEUM CORP	3597	Energy	Unclassified	USD											-	-	

Data Source: McGraw-Hill Companies' S&P Capital IQ

Exhibit 8

Exhibit 8

CapTrade Updated Gulf Airlines Report

Emirates' Dividend History, 2002-2015

Reported Dividends

Fiscal Year	Total Declared Dividends from Changes in Equity Statement	Dividends Paid per Cash Flow Statement	Difference Between Dividends in Equity and Cash Flow Statements
2015	2,237	937	-1,300
2014	964	864	-100
2013	837	137	-700
2012	583	583	0
2011	1,794	2,394	600
2010	1,591	991	-600
2009	2,061	2,973	912
2008	1,035	523	-512
2007	431	417	-14
2006	454	436	-18
2005	368	339	-29
2004	300	390	90
2003	200	56	-144
2002	100	125	25
Totals	12,956	11,165	-1,791

Operating and Cash Flow Metrics

Profit Before Income Tax	Retained Earnings at End of Year	Addition to Retained Earnings	Net Cash Generated From Operating Activities
4,771	27,253	2,244	13,265
3,464	25,009	2,280	12,649
2,472	22,729	1,473	12,814
1,673	21,256	886	8,107
5,543	20,370	3,576	11,004
3,665	16,794	1,185	8,328
960	15,609	505	5,016
5,104	15,104	4,020	7,335
3,326	11,083	2,696	5,765
2,649	8,387	2,414	4,106
2,492	5,973	1,972	3,798
1,701	4,002	1,274	2,555
977	2,728	707	2,252
504	2,022		1,328
39,301		25,231	98,322

Declared Dividends as a % of:

Fiscal Year	Profit Before Income Tax		Addition to Retained Earnings	Net Cash Generated From Operating Activities
2015	47%		100%	17%
2014	28%		42%	8%
2013	34%		57%	7%
2012	35%		66%	7%
2011	32%		50%	16%
2010	43%		134%	19%
2009	215%		408%	41%
2008	20%		26%	14%
2007	13%		16%	7%
2006	17%		19%	11%
2005	15%		19%	10%
2004	18%		24%	12%
2003	20%		28%	9%
2002	20%			8%
Totals	33%		51%	13%

Source: Emirates Annual Reports

Exhibit 9

Exhibit 9

CapTrade Updated Gulf Airlines Report

Platts Arabian Gulf Jet Fuel Prices and Emirates Reported Prices

In $/gal

1. Platts Prices

Period Beginning		Last Three Months	Last Six Months	Twelve Months
4/1/2014	2.82			2.82
5/1/2014	2.79			2.79
6/1/2014	2.82			2.82
7/1/2014	2.77			2.77
8/1/2014	2.71			2.71
9/1/2014	2.61			2.61
10/1/2014	2.35		2.35	2.35
11/1/2014	2.23		2.23	2.23
12/1/2014	1.80		1.80	1.80
1/1/2015	1.45	1.45	1.45	1.45
2/1/2015	1.69	1.69	1.69	1.69
3/1/2015	1.60	1.60	1.60	1.60
	Platts Averages	1.58	1.85	2.30

2. Prices Reported by Emirates

ENOC	1.98	2.34	2.65
Supplier B	1.84	2.22	2.59
Supplier C	1.98	2.34	2.65
Supplier D	1.97	2.33	2.64
Supplier E	1.97	2.33	2.64

3. Emirates Reported Prices -- Spread above Platts

ENOC	0.40	0.49	0.34
Supplier B	0.26	0.37	0.28
Supplier C	0.40	0.49	0.34
Supplier D	0.39	0.48	0.34
Supplier E	0.39	0.48	0.34
Average Spread	0.37	0.46	0.33
Average Spread %	23%	25%	14%

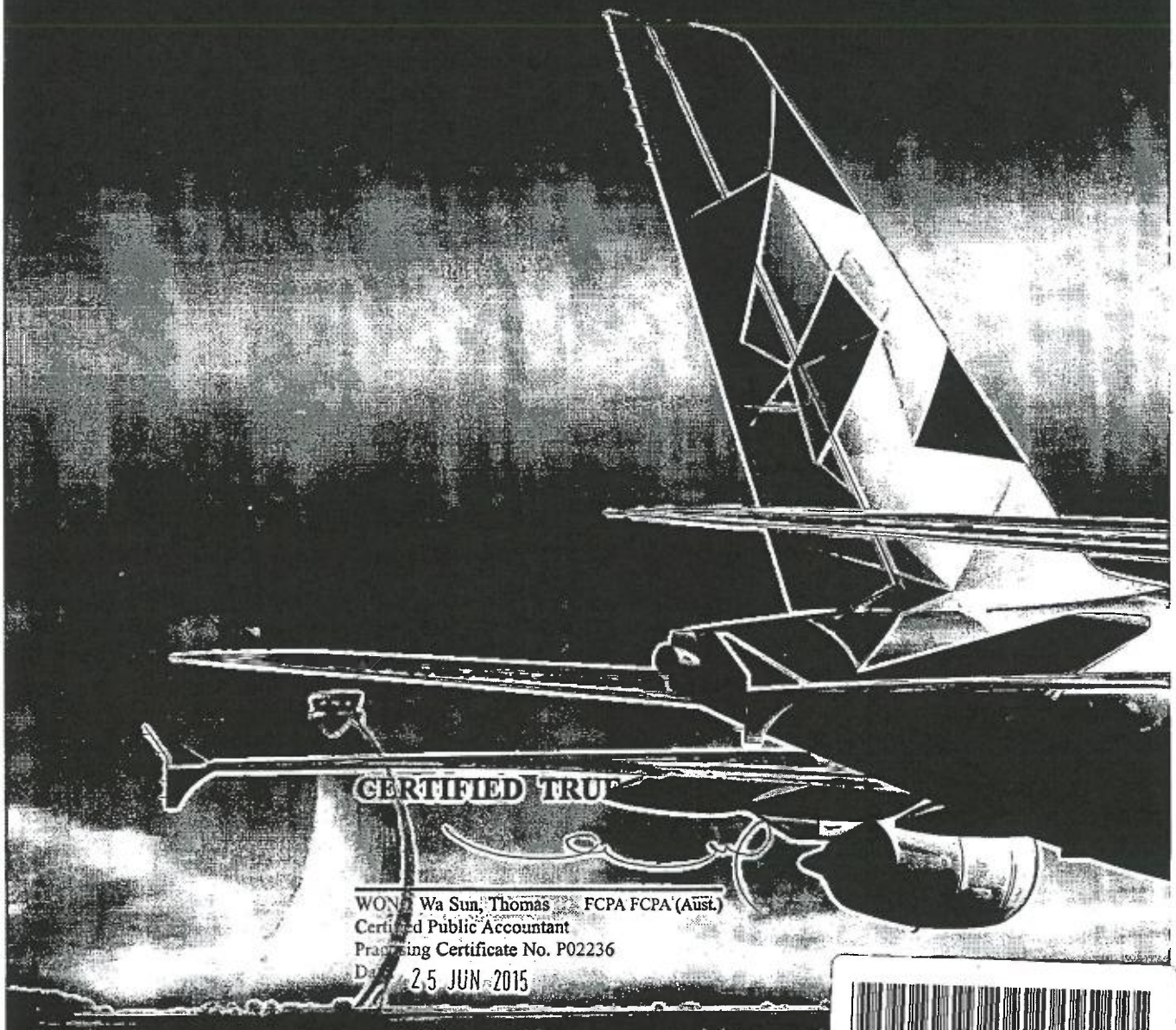
Sources: Platts and Emirates Response at p. 21.

EXHIBIT 2

الإتحاد
ETIHAD
AIRWAYS
ABU DHABI

ETIHAD AIRWAYS PJSC

Separate financial statements
31 December 2014



CERTIFIED TRU
WON Wa Sun, Thomas FCPA FCPA (Aust.)
Certified Public Accountant
Practising Certificate No. P02236
Date 25 JUN 2015

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26/06/2015
F0020659

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Independent auditors' report
The Shareholder
Etihad Airways PJSC
Abu Dhabi
United Arab Emirates

Report on the separate financial statements

We have audited the accompanying separate financial statements of Etihad Airways PJSC ("the Company"), which comprise the separate statement of financial position as at 31 December 2014, the separate statements of profit or loss and comprehensive income, changes in equity and cash flows for the year then ended, and notes, comprising a summary of significant accounting policies and other explanatory information.

Management's responsibility for the separate financial statements

Management is responsible for the preparation and fair presentation of these separate financial statements in accordance with International Financial Reporting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' responsibility

Our responsibility is to express an opinion on these separate financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the separate financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the separate financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the separate financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the entity's preparation of the separate financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the separate financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

KPMG Lower Gulf Limited, registered in the UAE and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved

Opinion

In our opinion, the separate financial statements present fairly, in all material respects, the unconsolidated financial position of the Company as at 31 December 2014, and its unconsolidated financial performance and its unconsolidated cash flows for the year then ended in accordance with International Financial Reporting Standards.

Other matters

Without modifying our opinion, we draw attention to note 24 which describes the significant judgments applied by the Company with respect to the accounting treatment of certain significant transactions and balances.

KPMG



Vijendra Nath Malhotra

Registration No. 48B

24 MAY 2015

Etihad Airways PJSC (Company only)

Statement of profit or loss and other comprehensive income

for the year ended 31 December

	Note	2014 USD'million	2013 USD'million
Revenue	4	5,855	4,915
Other operating income (including net gain on disposal of a subsidiary (*) of USD 700 million in 2014 *(2013: Net gain on disposal of Etihad Guest of USD 724 million))*	5	1,690	1,093
Direct operating costs	6	(6,276)	(4,998)
Administrative and marketing expenses	7	(1,028)	(814)
Operating profit		241	196
Finance income	8	20	31
Finance expense	8	(202)	(167)
Foreign exchange gain/(loss)		14	(12)
Profit for the year		73	48

(*) Also refer to note 12.2 (b)

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Etihad Airways PJSC (Company only)

Statement of profit or loss and other comprehensive income (continued)

for the year ended 31 December

	Note	2014 USD'million	2013 USD'million
Other comprehensive income			
Items that will never be reclassified to profit or loss			
Remeasurement of defined benefit obligation	*20 (b)*	(25)	(10)
Items that are or may be reclassified to profit or loss			
Cash flow hedges - effective portion of changes in fair value	*16.4 (b)*	(1,327)	89
Cash flow hedges - reclassified to profit or loss		154	(14)
Cash flow hedges - effective portion of changes in fair value of forward exchange contract for the purchase of an equity-accounted investee	*16.4 (c)*	-	(38)
Available-for-sale financial assets - net change in fair value	*12.5 (a)*	65	(44)
Other comprehensive loss for the year		(1,133)	(17)
Total comprehensive (loss)/income for the year		(1,060)	31

The notes on pages 10 to 62 form an integral part of these Separate financial statements.

The independent auditors' report is set out on pages 1 and 2.

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Etihad Airways PJSC (Company only)

Statement of financial position

as at 31 December

	Note	2014 USD'million	2013 USD'million
Assets			
Non-current assets			
Property, plant and equipment	*10*	11,639	8,609
Intangible assets	*11*	352	322
Investments	*12*	2,699	1,162
Loans to related parties	*21 (c)*	74	104
Trade and other receivables	*14*	1,129	174
Derivative financial instruments		9	39
Total non-current assets		15,902	10,410
Current assets			
Inventories	*13*	73	43
Trade and other receivables	*14*	923	1,506
Amounts due from related parties	*21 (b)*	500	397
Loans to related parties	*21 (c)*	902	479
Derivative financial instruments		38	65
Amounts due from the Shareholder	*16.2*	323	-
Cash in hand and at banks	*15*	718	592
Total current assets		3,477	3,082
Total assets		19,379	13,492
Equity and liabilities			
Equity			
Share capital	*16.1*	6,512	6,427
Contributed capital	*16.2*	2,514	-
Accumulated losses		(3,765)	(3,804)
Fair value reserve	*16.4*	28	(46)
Hedging reserve	*16.4*	(1,152)	21
Hedging reserve for an equity-accounted investee	*16.4*	(38)	(38)
Loan from the Shareholder	*16.3*	5,173	4,630
Total equity		9,272	7,190

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Etihad Airways PJSC (Company only)

Statement of financial position (continued)

as at 31 December

	Note	2014 USD'million	2013 USD'million
Equity and liabilities (continued)			
Liabilities			
Non-current liabilities			
Finance lease liabilities	18	4,496	3,558
Payables and accruals	20	191	141
Long-term bank loans	19.2	1,533	-
Derivative financial instruments		452	31
Total non-current liabilities		6,672	3,730
Current liabilities			
Finance lease liabilities	18	560	393
Payables and accruals	20	1,381	841
Amounts due to related parties	21 (b)	13	42
Long-term bank loans	19.2	42	-
Short-term bank borrowings	19.1	-	673
Derivative financial instruments		747	52
Unearned revenue		692	571
Total current liabilities		3,435	2,572
Total liabilities		10,107	6,302
Total equity and liabilities		19,379	13,492

These Separate financial statements were approved and authorised for issue by the Board of Directors on 24 MAY 2015 and signed on their behalf by:

His Excellency Mohamed Mubarak Fadhel Al Mazrouei
Chairman of the Board of Directors

James Reginald Hogan
President and Chief Executive Officer

His Excellency Hamad Abdulla Al Shamsi
Board Member

James Denis Rigney
Chief Financial Officer

The notes on pages 10 to 62 form an integral part of these Separate financial statements.

The independent auditors' report is set out on pages 1 and 2.

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Etihad Airways PJSC (Company only)

Statement of changes in equity

for the year ended 31 December

USD'million

	Share capital	Contributed capital	Accumulated losses	Fair value reserve	Hedging reserve	Hedging reserve for an equity-accounted investee	Loan from the Shareholder	Total equity
At 1 January 2013	5,210	-	(3,842)	(2)	(54)	-	3,614	4,926
Total comprehensive income								
Profit for the year	-	-	48	-	-	-	-	48
Remeasurement of defined benefit obligation	-	-	(10)	-	-	-	-	(10)
Cash flow hedges - effective portion of changes in fair value	-	-	-	-	89	-	-	89
Cash flow hedges - reclassified to profit or loss	-	-	-	-	(14)	-	-	(14)
Cash flow hedges - effective portion of changes in fair value of forward exchange contract for the purchase of an equity- accounted investee	-	-	-	-	-	(38)	-	(38)
Available-for-sale financial assets - net change in fair value	-	-	-	(44)	-	-	-	(44)
Transactions with Owners'								
Share capital introduced	1,217	-	-	-	-	-	-	1,217
Drawdown during the year	-	-	-	-	-	-	1,016	1,016
At 31 December 2013	**6,427**	**-**	**(3,804)**	**(46)**	**21**	**(38)**	**4,630**	**7,190**
At 1 January 2014	6,427	-	(3,804)	(46)	21	(38)	4,630	7,190
Total comprehensive income								
Profit for the year	-	-	73	-	-	-	-	73
Remeasurement of defined benefit obligation	-	-	(25)	-	-	-	-	(25)
Cash flow hedges - effective portion of changes in fair value	-	-	-	-	(1,327)	-	-	(1,327)
Cash flow hedges - reclassified to profit or loss	-	-	-	-	154	-	-	154
Available-for-sale financial assets - net change in fair value	-	-	-	65	-	-	-	65
Transfer of fair value reserve to accumulated losses	-	-	(9)	9	-	-	-	-
Transactions with Owners'								
Share capital introduced	85	-	-	-	-	-	-	85
Contributed capital	-	2,514	-	-	-	-	-	2,514
Drawdown during the year	-	-	-	-	-	-	543	543
At 31 December 2014	6,512	2,514	(3,765)	28	(1,152)	(38)	5,173	9,272

The notes on pages 10 to 62 form an integral part of these Separate financial statements.

The independent auditors' report is set out on pages 1 and 2.

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Etihad Airways PJSC (Company only)

Statement of cash flows

for the year ended 31 December

	Note	2014 USD'million	2013 USD'million
Cash flows from operating activities			
Profit for the year		73	48
Adjustments for:			
Depreciation	10	436	452
Gain on disposal of a subsidiary		(700)	-
Gain on disposal of Etihad Guest		-	(724)
Amortisation of intangible assets	11	30	19
Gain on disposal of property, plant and equipment		(17)	(10)
Gain on sale of and leaseback transactions		(15)	(56)
Provision for trade and other receivables		2	6
Ineffective portion of cash flow hedges		-	(4)
Advertisement, marketing and promotion of suppliers products		(884)	(282)
Foreign exchange loss/(gain)		20	(11)
Finance expense	8	202	167
Finance income	8	(20)	(31)
		(873)	(426)
Change in inventories		(30)	(7)
Change in trade and other receivables		510	(111)
Change in amounts due from related parties		(103)	110
Change in payables and accruals		521	115
Change in amounts due to related parties		(29)	(9)
Change in unearned revenue		121	50
Net cash from/(used in) operating activities		117	(278)
Cash flows from investing activities			
Additions to property, plant and equipment	10	(2,025)	(2,079)
Proceeds from disposal of property, plant and equipment	10	172	1,032
Additions to intangible assets	11	(60)	(183)
Investment in associates		(421)	(419)
Investment in subsidiaries		(269)	-
Purchase of available-for-sale financial assets	12.5	(42)	(189)
Loans to related parties (net)	21(c)	(453)	(83)
Proceeds from term deposits over three months		-	25
Interest received		20	31
Net cash used in investing activities		(3,078)	(1,865)

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Statement of cash flows *(continued)*

for the year ended 31 December

	Note	2014 USD'million	2013 USD'million
Cash flows from financing activities			
Proceeds from issue of share capital	*16.1*	85	1,217
Proceeds from contributed capital		2,191	-
Proceeds from loan from the Shareholder	*16.3*	543	1,016
Repayment of finance lease liability	*18*	(434)	(352)
Proceeds from long-term bank loans	*19*	1,852	-
Repayment of long-term bank loans	*19*	(277)	-
(Repayments)/proceeds from short-term bank borrowings	*19*	(323)	128
Interest paid		(200)	(165)
Net cash from financing activities		3,437	1,844
Net increase / (decrease) in cash and cash equivalents		476	(299)
Cash and cash equivalents at 1 January		242	541
Cash and cash equivalents at 31 December	*15*	718	242

The notes on pages 10 to 62 form an integral part of these Separate financial statements.

The independent auditors' report is set out on pages 1 and 2.

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1. Legal status and principal activities

Etihad Airways PJSC ("the Company") is a public joint stock company incorporated in the Emirate of Abu Dhabi in accordance with Article 1 of Abu Dhabi Law No. 1 of 2003 dated 5 January 2003. The Company was registered in August 2003 and commenced commercial operations in November 2003. The Company is wholly owned by the Government of Abu Dhabi ("the Shareholder"). Pursuant to State Cabinet approval dated 29 March 2004, the Company is exempt from various provisions of the United Arab Emirates ("UAE") Federal Law No. 8 of 1984 (as amended). The principal activities of the Company are to provide commercial air transportation which includes passenger and cargo services on a scheduled and charter basis.

2. Basis of preparation

2.1 Separate financial statements

These financial statements are Separate financial statements and present the financial performance and the financial position of Etihad Airways PJSC ("the Company") only. These Separate financial statements have been prepared for the information of the Shareholder.

A list of investments in subsidiaries, joint ventures and associates has been included in note 12.1. The accounting policy for these investments has been included in note 3.1.1.

Management has reviewed the carrying value of its investments comprising the subsidiaries, joint ventures and associates and are of the opinion that the value in use of these investments is higher than the book value as of the reporting date and no impairment loss is required to be recognised in these Separate financial statements.

Consolidated financial statements presenting the consolidated financial performance and consolidated financial position of Etihad Airways PJSC Group, including the consolidation of subsidiaries and accounting for its associates and joint ventures in accordance with IFRS 10 *Consolidated Financial Statements* has also been prepared and approved by the Directors of the Company.

2.2 Statement of compliance

These financial statements comply with International Financial Reporting Standards ("IFRSs") in all aspects.

2.3 Basis of measurement

The financial statements have been prepared on the historical cost basis, except for:
(a) derivative financial instruments and available-for-sale financial assets which are measured at fair value; and
(b) defined benefit obligation which is measured at actuarial valuation.

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2. Basis of preparation (continued)

2.4 Going concern

These financial statements have been prepared on a going concern basis nothwithstanding the fact that the Company has accumulated losses of USD 3,765 million as at 31 December 2014. The Executive Council of the Emirate of Abu Dhabi approved in 2007 (pursuant to decision No. 17) and then in 2008 (decision No. 53) for the availability of committed funds to the Company comprising: USD 6,512 million of authorised share capital of which USD 6,512 million has been issued for cash to date (refer to note 16.1); and USD 5,213 million of Shareholder loans (in substance these are equity in nature) of which USD 5,173 million has been utilised and the remainder (USD 40 million) is available for the acquisition of aircraft (refer to note 16.3).

The Company prepares rolling cash flow forecasts for a five year term. Based on their review and approval of these forecasts, funding facilities available from various financial institutions and expected continued financial support from the Shareholder of the Company, the Directors confirm that the Company has access to sufficient cash facilities to meet its obligations for the foreseeable future and for a period of at least 12 months from the date of approval of these financial statements. Accordingly, the Separate financial statements have been prepared on the going concern basis.

2.5 Functional and presentation currency

The functional currency of the Company is United Arab Emirates Dirhams ("AED"). These financial statements are presented in United States Dollars ("USD") since all internal financial and management reporting are expressed in USD. All amounts presented in USD have been rounded to the nearest million, unless otherwise indicated.

3. Significant accounting policies

3.1 Significant accounting policies

The Company has consistently applied the accounting policies to all periods presented in these financial statements. Comparative amounts in the statement of profit and loss, other comprehensive income and statement of financial position have been reclassified to conform to the current year presentation.

3.1.1 Investments

The Company's investment in subsidiaries, joint ventures and associates have been measured at cost.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.1 Investments (continued)

(a) Business combinations of entities under common control

A business combination involving entities or businesses under common control is a business combination in which all of the combining entities or businesses are ultimately controlled by the same party or parties both before and after the business combination, and that control is not transitory. The Company accounts for such business combinations using the acquisition method.

(b) Subsidiaries

Subsidiaries are entities controlled by the Company. The Company controls an entity when it is exposed to, or has rights to, variable returns from its involvement with the entity and has the ability to affect those returns through its power over the entity.

(c) Associates

Associates are those entities in which the Company has significant influence, but not control or joint control, over financial and operating policies. In case of change in status of available-for-sale financial assets to investment in associates, the Company adopts the cost method and change in fair value previously recognised in fair value reserve is transferred to retained earnings.

(d) Joint arrangements

A joint venture is an arrangement in which the Company has joint control, whereby the Company has rights to the net assets of the arrangement. A joint operation is an arrangement in which the Company has joint control, whereby the Company has rights to assets and obligations for its liabilities.

3.1.2 Revenue

(a) Rendering of services

The Company recognises revenue as and when the services have been rendered.

With particular reference to passenger services and cargo services, revenue is recognised when the transportation service is provided (net of revenue on public service obligation destinations). Passenger tickets and cargo airway bills sold but unused as at the reporting date are classified in the statement of financial position as unearned revenue under current liabilities. Unused coupons are recognised as revenue using estimates based on the terms and conditions of the ticket and historic trends. Commission costs are recognised in the same period as the revenue to which they relate is recognised and are included in direct operating costs.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.2 Revenue (continued)

(b) Advertisement, marketing and promotion of supplier products

The Company frequently engages with suppliers to advertise, market and promote supplier products. The Company recognises revenue from advertisement, marketing and promotion of supplier products as and when the Company performs its contractual performance obligations specified in the arrangement.

If the consideration receivable for services rendered to suppliers is deferred beyond normal credit terms, the fair value of the consideration is determined by discounting all future receipts using an imputed rate of interest that discounts the nominal amount of the consideration to the current cash sales price of the services rendered. The difference between the fair value and the nominal amount of the consideration is recognised as interest income in accordance with accounting policy for finance income described in note 3.1.5 (a).

(c) Customer loyalty programme

The Company's customer loyalty programme entitles customers with miles which can be redeemed to purchase tickets or other products from the Company. The fair value of the consideration received or receivable in respect of the initial sale is allocated between the miles and the other components of the sale. The amount allocated to the miles is estimated by reference to the fair value of the right to purchase tickets or other products. The fair value of the miles is estimated by reference to the fair value of the awards for which they could be redeemed. The fair value of award credits takes into account the following:
- the amount of discounts or incentives that would otherwise be offered to customers who have not earned award credits from an initial sale; and
- the proportion of award credits that are not expected to be redeemed by customers.

The Company's customer loyalty program was spun off as discussed in note 12.4(b).

(d) Liquidated damages

Income from liquidated damages is recognised in the profit or loss when a contractual entitlement exists, amounts can be reliably measured and receipt is virtually certain. When such claims do not relate to a compensation for loss of income or towards incremental operating costs, the amounts are taken to the statement of financial position and recorded as a reduction in the cost of the related asset.

3.1.3 Taxation

Taxation is provided for as and when the liability arises except where the management is of the firm opinion that exemption from such taxation will ultimately be granted by virtue of a double taxation treaty with the countries concerned.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.4 Costs

(a) Direct operating costs and administration and marketing expenses

Costs include direct operating costs and administration and marketing expenses. Costs incurred are recognised in the period in which the services are received (net of reimbursement of expenses incurred on behalf of Abu Dhabi Government including public service obligation destinations).

Direct operating costs are recognised on an accrual basis in the period in which the services are received (net of discounts received). Discounts received are recognised in the period in which these are agreed with the suppliers and there exists a reasonable certainty for the collectability of the discounts.

(b) Aircraft maintenance expenses

The Company recognises aircraft maintenance expenses on an accrual basis based on contractual rates with third parties. The Company's claims for liquidated damages in respect of maintenance costs incurred in relation to a loss of income are recognised in the profit or loss when a contractual entitlement exists, the amount can be reliably measured and receipt is virtually certain. When the claims do not relate to a compensation for loss of income, the amounts are recognised in the statement of financial position as deferred credit and deferred over the maintenance period.

3.1.5 Finance income and expense

(a) Finance income

Finance income comprises interest income on term deposits, imputed interest income for revenue earned when payments for services provided is deferred beyond normal credit terms and dividend income. Interest income and imputed interest income is recognised in the profit or loss as it accrues using the effective interest method. Dividend income is recognised in the profit or loss on the date that the Company's right to receive payment is established.

(b) Finance expense

Finance expense comprises interest expense on finance lease liabilities, bank loans and borrowings and impairment losses recognised on financial assets. All borrowing costs, except to the extent that they are capitalised in accordance with paragraph below, are recognised in the profit or loss using the effective interest method.

Borrowing costs directly attributable to the acquisition, construction or production of qualifying assets are capitalised as part of the cost of that asset. The capitalisation of borrowing costs commences from the date of incurring of expenditure related to the asset and ceases when substantially all the activities necessary to prepare the qualifying asset for its intended use is complete. Where funds are borrowed specifically for the purpose of obtaining a qualifying asset, any investment income earned on temporary surplus funds is deducted from borrowing costs eligible for capitalisation. Borrowing costs relating to the period after acquisition are expensed in the period in which they are incurred.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.6 Foreign currency

(a) Foreign currency transactions and balances

Transactions in foreign currencies are translated to the functional currency of the Company at exchange rates at the date of the transaction. Monetary assets and liabilities denominated in foreign currencies at the reporting date are retranslated to the functional currency at the exchange rate at that date. The foreign currency gains or losses on monetary items are the differences between the amortised cost in the functional currency at the beginning of the year, adjusted for effective interest and payments during the period, and the amortised cost in foreign currency translated at the exchange rate at the end of the year. Foreign currency differences arising on the translation are recognised in the profit or loss.

Non-monetary assets and liabilities in foreign currencies that are measured in terms of historical cost are translated using the exchange rate at the date of the transaction. Non-monetary assets and liabilities that are measured at fair value in a foreign currency are retranslated to the functional currency at the exchange rate at the date that the fair value was determined.

(b) Foreign currency hedge for a future business combination

The Company enters into foreign exchange forward contracts with counterparties of credible reputation for a firm commitment to acquire a business in a business combination or a highly probable forecast business combination to hedge the foreign currency risk. A cash flow hedge of the foreign exchange risk of a firm commitment to acquire a business or a forecast business combination relates to the foreign currency equivalent of the consideration paid. For a cash flow hedge designation, the effective portion of the gain or loss arising from the hedging instrument is recognised in other comprehensive income. When the hedged business in a business combination is disposed off, the relevant amount in the hedging reserve is transferred to the profit or loss as part of the gain or loss on disposal.

3.1.7 Leases

(a) Determining whether an arrangement contains a lease

At inception of an arrangement, the Company determines whether the arrangement is or contains a lease. At inception or on reassessment of an arrangement that contains a lease, the Company separates payments and other considerations required by the arrangement into those for the lease and those for other elements on the basis of their relative fair values. If the Company concludes for a finance lease that it is impracticable to separate the payments reliably, then an asset and a liability are recognised at an amount equal to the fair value of the underlying asset; subsequently, the liability is reduced as payments are made and an imputed finance expense on the liability is recognised using the Company's incremental borrowing rate.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.7 Leases (continued)

(b) Leased assets

Assets held by the Company under leases that transfers to the Company substantially all of the risks and rewards of ownership are classified as finance leases. The leased assets are measured initially at an amount equal to the lower of the fair value and the present value of the minimum lease payments. Subsequent to the initial recognition, the assets are accounted for in accordance with the accounting policy applicable to that asset. Assets held under other leases are classified as operating leases and are not recognised in the statement of financial position.

(c) Lease payments

Payments made under operating leases are recognised in the profit or loss on a straight line basis over the term of the lease. Lease incentives received are recognised as an integral part of the total lease expense over the term of the lease.

Minimum lease payments made under finance leases are apportioned between the finance expense and the reduction of the outstanding liability. The finance expense is allocated to each period during the lease term so as to produce a constant periodic rate of interest on the remaining balance of the liability.

(d) Sale and leaseback transactions

Sale and finance leaseback transactions:

If the sale and leaseback transaction results in a finance lease, any excess of sales proceeds over the carrying amount is deferred and amortised over the lease term.

Sale and operating leaseback transactions:

If the sale and leaseback transaction results in an operating lease, any profit or loss is recognised immediately in the profit or loss to the extent of fair value of the asset. If the sale price is lower than the fair value, any profit or loss is recognised immediately except that if the loss is compensated for by future lease payments at below market price, it is deferred and amortised in proportion to the lease payments over the period for which the asset is expected to be used. If the sale price is above fair value, the excess over the fair value is deferred and amortised over the period for which the asset is expected to be used.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.8 Employee benefits

(a) Short-term employee benefits

Short-term employee benefits are expensed as the related service is provided. A liability is recognised for the amount expected to be paid if the Company has a present legal or constructive obligation to pay this amount as a result of past service provided by the employee and the obligation can be estimated reliably.

(b) Defined contribution plan

A defined contribution plan is a post employment benefit plan under which an entity pays fixed contributions into a separate entity and will have no legal or constructive obligation to pay further amounts. Obligation for contribution to defined contribution plan is recognised as salaries & benefits in the profit or loss as the related service is rendered by employees. The Company does not operate or own a defined contribution plan during the year or as at the reporting date.

Monthly pension contributions are made in respect of UAE National employees, who are covered by the Law No. 2 of 2000. The pension fund is administered by the Government of Abu Dhabi - Finance Department represented by the Abu Dhabi Retirement Pensions and Benefits Fund.

(c) Defined benefit plan

A defined benefit plan is a post employment benefit plan other than a defined contribution plan. The Company currently operates an unfunded scheme for defined benefits in accordance with the applicable provisions of the UAE Federal Labour Law and is based on periods of cumulative service and levels of employees' final basic salaries. The Company's net obligation in respect of defined benefit plan is calculated by estimating the amount of future benefit that employees have earned in return for their service in the current and prior periods discounted to determine its present value. Any unrecognised past service costs are deducted. The discount rate is the yield at the valuation date on US AA-rated corporate bonds, which in the absence of a market in corporate bonds within the UAE is the relevant proxy market as determined by the actuaries.

The calculation of defined benefit obligation is performed annually by a qualified actuary using the projected unit credit method. When benefits of the plan are improved, the portion of the increased benefit related to past service by employees is recognised in the profit or loss on a straight-line basis over the average period until the benefits become vested. To the extent that the benefits vest immediately, the expense is recognised immediately in the profit or loss. The Company recognises all actuarial gains and losses arising from defined benefit plan in the other comprehensive income and all expenses related to defined benefit plan within profit or loss.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.9 Inventories

Inventories are measured at the lower of cost and net realisable value. The cost of inventories is determined using the weighted average cost method and includes expenditure incurred in acquiring the inventories and bringing them to their existing location and condition. Allowance for obsolete and slow moving items is made to reduce the carrying value of these items to their net realisable value. Net realisable value is the estimated selling price less estimated selling expenses in the ordinary course of business.

3.1.10 Intangible assets

(a) Recognition and measurement

Intangible assets with finite useful lives

Intangible assets that are acquired by the Company and have finite useful lives are measured at cost less accumulated amortisation and accumulated impairment losses (refer accounting policy for impairment), if any. Intangible assets with finite useful lives mainly include software which are amortised on a straight-line basis in the profit or loss over their estimated useful life of 3 to 5 years from the date that they are available for use. Amortisation methods and useful lives are reviewed at each reporting date and adjusted if appropriate.

Intangible assets with infinite useful lives

Intangible assets that are acquired by the Company and have infinite useful lives are measured at cost less accumulated impairment losses, if any. Intangible assets with infinite useful lives mainly includes airport landing slots which are tested annually for impairment. Intangible assets with infinite useful lives are reviewed at each reporting date to determine whether events and circumstances continue to support the infinite useful life assessment for the asset.

(b) Subsequent measurement

Subsequent expenditure is capitalised only when it increases the future economic benefits embodied in the specific asset to which it relates. All other expenditure is recognised in the profit or loss as incurred.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.11 Property, plant and equipment

(a) Recognition and measurement

Items of property, plant and equipment are measured at cost less accumulated depreciation (refer note (e)) and accumulated impairment losses (refer accounting policy for impairment), if any. If significant parts of an item of property, plant and equipment have different useful lives, then they are accounted for as separate items (major components) of property, plant and equipment.

Cost includes expenditure that is directly attributable to the acquisition of the asset. Purchased software that is integral to the functionality of the related equipment is capitalised as part of that equipment. The cost of self constructed assets includes the cost of materials, direct labour, borrowing costs, any other costs directly attributable to bringing the assets to a working condition for their intended use and an estimate of the costs of dismantling and removing the items and restoring the site on which they are located when the Company has an obligation to remove the asset or restore the site.

Any gain or loss on disposal of an item of property, plant and equipment (calculated as the difference between the net proceeds from disposal and the carrying amount of the item) is recognised in the profit or loss.

(b) Subsequent expenditure

Subsequent expenditure is capitalised only when it is probable that the future economic benefits associated with the expenditure will flow to the Company. Major modifications and improvements to property, plant and equipment are capitalised and depreciated over the remaining useful life of the asset. Major overhaul expenditure is amortised over the period to the next major overhaul. Ongoing repairs and maintenance is expensed as incurred.

(c) Manufacturers' credits

The Company receives credits from manufacturers in connection with the acquisition of aircraft and engines. Depending on the nature of these credits, they are either recognised as a reduction to the cost of the related aircraft and engines or reduced from ongoing operating expenses. Where the aircraft are held under operating leases, the credits are deferred and deducted from the operating lease rentals on a straight-line basis over the period of the related lease.

(d) Capital projects

Capital projects are stated at cost less accumulated impairment losses (refer accounting policy for impairment), if any, until the assets are ready for its intended use. Once the asset is ready for use, the cost of such asset together with the cost directly attributable to bringing the asset ready for intended use (including borrowing costs) are transferred to the respective class of assets. No depreciation is charged on capital projects.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.11 Property, plant and equipment (continued)

(e) Depreciation

Items of property, plant and equipment are depreciated to their residual values on a straight-line basis in the profit or loss over the estimated useful lives of each component. Leased assets are depreciated over the shorter of the leased term and useful lives unless it is reasonably certain that the Company will obtain ownership by the end of the lease term. Items of property, plant and equipment are depreciated from the date that they are installed and are ready for use. The estimated useful lives for items of property plant and equipment in the current and comparative years are as follows:

Assets	Life in years	
	2014	2013
Aircraft	10 - 25	5 - 25
Components and parts	15 - 20	15 - 20
Buildings and leasehold improvements	5 - 20	5 - 20
Other property, plant and equipment	3 - 20	3 - 20

Depreciation methods, useful lives and residual values are reviewed at each reporting date and adjusted if appropriate. Also refer to note 10(e) for change in useful life of certain items of property, plant and equipment.

3.1.12 Provisions

A provision is recognised if, as a result of a past event, the Company has a present legal or constructive obligation that can be estimated reliably and it is probable that an outflow of economic benefits will be required to settle the obligation. Provisions are determined by discounting the expected future cash flows at a pre-tax rate that reflects current market assessments of the time value of money and the risks specific to the liability. The unwinding of the discount is recognised as finance expense.

A provision for onerous contract is measured at the present value of the lower of the expected cost of terminating the contract and the expected net cost of continuing with the contract. Before a provision is established, the Company recognises any impairment loss on the assets associated with that contract.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.13 Financial instruments

(a) Non-derivative financial instruments

The Company classifies non-derivative financial assets into the following categories: financial assets at fair value through profit or loss, held-to-maturity financial assets, loans and receivables and available-for-sale financial assets. The Company classifies non-derivative financial liabilities into the other financial liabilities category.

(i) Recognition and derecognition

The Company initially recognises loans and receivables on the date when they are originated. All other instuments are recognised initially on the trade date.

The Company derecognises a financial asset when the contractual rights to the cash flows from the asset expire, or it transfers the rights to receive the contractual cash flows in a transaction in which substantially all of the risks and rewards of ownership of the financial asset are transferred, or it neither transfers nor retains substantially all of the risks and rewards of the ownership nor does it retain control over the transferred asset. Any interest in such derecognised financial assets that is created or retained by the Company is recognised as a separate asset or liability.

The Company derecognises a financial liability when its contractual obligations are discharged or cancelled or expire.

Financial assets and financial liabilities are offset and the net amount is presented in the statement of financial position when, and only when, the Company has a legal right to offset the amounts and intends either to settle them on a net basis or to realise the asset and settle the liability simultaneously.

(ii) Non-derivative financial assets - measurement

Financial assets at fair value through profit or loss

A financial asset is classified as at fair value through profit or loss if it is classified as held-for-trading or is designated as such upon initial recognition. Directly attributable transaction costs are recognised in profit or loss as incurred. Financial assets at fair value through profit or loss are measured at fair value and changes therein, including any interest or dividend income, are recognised in the profit or loss.

Loans and receivables and Held-to-maturity assets

Loans and receivables and Held-to-maturity assets are initially recognised at fair value plus any directly attributable transaction costs. Subsequent to initial recognition, loans and receivables and held-to-maturity assets are measured at amortised cost using the effective interest method.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.13 Financial instruments (continued)

(a) Non-derivative financial instruments (continued)

(ii) Non-derivative financial assets - measurement (continued)

Available-for-sale financial assets

Available-for-sale financial assets are initially recognised at fair value plus directly attributable transaction costs. Subsequent to initial recognition, available-for-sale financial assets are measured at fair value and changes therein, other than impairment losses and foreign currency differences on debt instruments, are recognised in other comprehensive income and accumulated in fair value reserve. Fair value of equity securities is determined by reference to their quoted closing price at the reporting date. With respect to unquoted equity instruments, the fair value is determined using a valuation technique. When these assets are derecognised, the gain or loss accumulated in fair value reserve is reclassified to the profit or loss.

(iii) Non-derivative financial liabilities - measurement

Non-derivative financial liabilities are initially recognised at fair value less any directly attributable transaction costs. Subsequent to initial recognition, non-derivative financial liabilities are measured at amortised cost using the effective interest method.

(iv) Share capital - Ordinary shares

Incremental costs directly attributable to the issue of ordinary shares, net of any tax effects, are recognised as a deduction from equity.

(b) Derivative financial instruments

The Company holds derivative financial instruments to hedge its aviation fuel price, interest rate and foreign currency risk exposures. Equity derivatives are used to provide price protection in the event of a future purchase of shares. Embedded derivatives are separated from the host contract and accounted for separately if certain criteria are met.

On initial designation of the derivative as the hedging instrument, the Company formally documents the relationship between the hedging instrument and hedged item, including the risk management objectives and strategy in undertaking the hedge transaction and the hedged risk, together with the methods that will be used to assess the effectiveness of the hedging relationship. The Company makes an assessment, both at the inception of the hedge relationship as well as on an ongoing basis, of whether the hedging instruments are expected to be "highly effective" in offsetting the changes in the cash flows of the respective hedged items attributable to the hedged risk, and whether the actual results of each hedge are within a range of 80-125 percent. For a cash flow hedge of a forecast transaction, the transaction should be highly probable to occur and should present an exposure to variations in cash flows that could ultimately affect reported profit or loss.

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3. Significant accounting policies (continued)

3.1 **Significant accounting policies (continued)**

3.1.13 **Financial instruments (continued)**

(b) **Derivative financial instruments (continued)**

Derivatives are recognised initially at fair value and any attributable transaction costs are recognised in the profit or loss as they are incurred. Subsequent to initial recognition, derivatives are remeasured at fair value. Fair values are obtained from quoted market prices and discounted cash flow models as appropriate. All derivatives are carried as assets when fair value is positive and as liabilities when fair value is negative. Changes in fair value of derivatives that do not qualify for hedge accounting are recognised immediately in the profit or loss and other fair value changes are accounted for as below:

Cash flow hedges

When a derivative is designated as a cash flow hedging instrument in a hedge of the variability in cash flows attributable to a particular risk associated with a recognised asset or liability or a highly probable forecast transaction that could affect profit or loss, the effective portion of changes in the fair value of the derivative is recognised in other comprehensive income and accumulated in the hedging reserve in equity. Any ineffective portion of changes in the fair value of the derivative is recognised immediately in the profit or loss.

The amount accumulated in equity is retained in other comprehensive income and reclassified to profit or loss in the same period or periods during which the hedged item affects profit or loss.

If the hedging instrument no longer meets the criteria for hedge accounting, expires or is sold, terminated or exercised, or the designation is revoked, then hedge accounting is discontinued prospectively. If the forecast transaction is no longer expected to occur, then the balance in equity is reclassified to profit or loss.

3.1.14 Impairment

(a) Non-derivative financial assets

Financial assets not classified as at fair value through profit or loss

Financial assets not classified as at fair value through profit or loss, including investments in subsidiaries, joint ventures and associates, are assessed at each reporting date to determine whether there is objective evidence of impairment. Objective evidence that financial assets are impaired includes: (i) default or delinquency by a debtor; (ii) restructuring of an amount due to the Company on terms that the Company would not consider otherwise; (iii) indications that a debtor will enter bankruptcy; (iv) adverse changes in the payment status of the borrowers; (v) the disappearance of an active market for a security; or (vi) observable data indicating that there is a measurable decrease in expected cash flows of financial assets. For an investment in an equity security, objective evidence of impairment includes a significant or prolonged decline in its fair value below cost.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.14 Impairment (continued)

(a) Non-derivative financial assets (continued)

Financial assets not classified as at fair value through profit or loss (continued)

For investments in subsidiaries, joint ventures and associates, an impairment loss is measured by comparing the recoverable amount of the investment with its carrying amount. An impairment loss is recognised in the profit or loss and is reversed if there has been a favorable change in the estimates used to determine the recoverable amount.

Financial assets measured at amortised cost

The Company considers evidence of impairment for loans and receivables and held-to-maturity assets at both an individual asset and a collective level. All individually significant assets are assessed for impairment. Those found not to be impaired are then collectively assessed for any impairment that has been incurred but not yet individually identified. Assets that are not individually significant are collectively assessed for impairment. Collective assessment is carried out by grouping together assets with similar characteristics.

In assessing collective impairment, the Company uses historical information on the timing of recoveries and the amount of loss incurred and makes an adjustment if current economic and credit conditions are such that the actual losses are likely to be greater or lesser than suggested by historical information.

An impairment loss is calculated as the difference between an asset's carrying amount and the present value of the estimated future cash flows discounted at the asset's original effective interest rate. Losses are recognised in the profit or loss and reflected in an allowance account. When the Company considers that there are no realistic prospects of recovery of the asset, the relevant amounts are written off. If the amount of impairment loss subsequently decreases and the decrease can be related objectively to an event occurring after the impairment was recognised, than the previously recognised impairment loss is reversed through profit or loss.

Available-for-sale financial assets

Impairment losses on available-for-sale financial assets are recognised by reclassifying the losses accumulated in fair value reserve to the profit or loss. The amount reclassified is the difference between the acquisition cost (net of any principal repayment and amortisation) and the current fair value, less any impairment loss previously recognised in the profit or loss. If the fair value of an impaired available-for-sale equity security subsequently increases, the increase is recognised in other comprehensive income. If the fair value of an impaired available-for-sale debt security subsequently increases and the increase can be related objectively to an event occurring after the impairment loss was recognised, then the impairment loss is reversed through profit or loss; otherwise, it is reversed through other comprehensive income.

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3. Significant accounting policies (continued)

3.1 Significant accounting policies (continued)

3.1.14 Impairment (continued)

(b) Non-financial assets

At each reporting date, the Company reviews the carrying amounts of its non-financial assets (other than inventories) to determine whether there is any indication of impairment. If any such indication exists, then the asset's recoverable amount is estimated.

For impairment testing, assets are grouped together into the smallest group of assets that generate cash inflows from continuing use that are largely independent of the cash inflows of other assets or cash generating units.

The recoverable amount of an asset or cash generating units is the greater of its value in use and its fair value less costs to sell. Value in use is based on the estimated future cash flows discounted to their present value using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the asset or cash generating units.

An impairment loss is recognised if the carrying amount of an asset or cash generating unit exceeds its recoverable amount. Impairment losses are recognised in the profit or loss. They are allocated to reduce the carrying amounts of assets in the cash generating unit on a pro-rata basis.

An impairment loss is reversed only to the extent that the asset's carrying amount does not exceed the carrying amount that would have been determined (net of depreciation or amortisation) if no impairment loss had been recognised.

3.2 New standards and interpretations not yet adopted

A number of new standards, amendments to standards and interpretations are effective for annual periods beginning after 1 January 2014, and have not been applied in preparing these financial statements. The one which may be relevant to the Company is IFRS 9 Financial Instruments (2010), IFRS 9 Financial Instruments (2009), effective from 1 January 2018 and IFRS 15 - Revenue from Contracts with Customers, effective from 1 January 2017. Management is currently assessing the impact of these new standards on the financial statements of the Company.

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4. Revenue

	2014 USD'million	2013 USD'million
Passenger services	4,656	3,837
Cargo services	1,105	928
Destination and leisure	46	40
Other revenue	48	110
	5,855	4,915

5. Other operating income

	2014 USD'million	2013 USD'million
Gain on disposal of a subsidiary (refer to note 12.2 (b))	700	-
Gain on disposal of Etihad Guest (refer to note 12.4 (b))	-	724
Advertising, marketing and promotion of supplier products	884	282
Gain on sale and leaseback transactions	15	56
Gain on disposal of property, plant and equipment	17	10
Lease revenue	25	5
Dividend income	6	-
Other miscellaneous income	43	16
	1,690	1,093

6. Direct operating costs

	2014 USD'million	2013 USD'million
Aviation fuel (refer below)	2,687	2,217
Salaries and benefits (refer to note 9)	760	533
Depreciation (refer to note 10 (e))	385	396
Aircraft maintenance	525	336
Handling	345	266
In-flight	224	167
Overflying and navigation	268	213
Operating leases	371	278
Commission and incentives	268	211
Landing and parking charges	135	110
Reservation	114	90
Ground passenger	90	65
Crew layover	37	29
Destination and leisure	36	29
Passenger and aircraft insurance	9	9
Other direct operating costs	22	49
	6,276	4,998
Aviation fuel comprises:		
Aviation fuel	2,566	2,253
Loss/(gain) on fuel hedging (refer to note 16.4 (b))	121	(36)
	2,687	2,217

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	2014 USD'million	2013 USD'million
7. Administrative and marketing expenses		
Salaries and benefits (refer to note 9)	453	347
Advertisement and promotion	150	108
Communication	83	77
Rent and utilities	75	63
Legal and consultancy fees	64	43
Depreciation	34	37
General repairs and maintenance	17	13
Amortisation of intangible assets (refer to note 11)	30	19
Travelling	20	16
Training	13	19
Fines and penalties	22	15
Other administrative expenses	67	57
	1,028	814

	2014 USD'million	2013 USD'million
8. Finance income and finance expense		
Interest income	20	31
Finance income	20	31
Aircraft financing expense (see below)	(140)	(130)
Interest expense	(62)	(37)
Finance expense	(202)	(167)
Net finance expense	(182)	(136)
Aircraft financing expense comprises:		
Aircraft financing expense	(108)	(103)
Loss on interest rate hedging (refer to note 16.4(b))	(32)	(27)
	(140)	(130)

	2014 USD'million	2013 USD'million
9. Salaries and benefits		
Salaries and allowances	955	683
Other staff related costs	258	197
	1,213	880

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USD'million

10. Property, plant and equipment

	Aircraft (a)	Components and parts	Buildings and leasehold improvements	Other property, plant and equipment	Capital projects (b)	Total
Cost						
At 1 January 2013	6,242	64	135	185	2,115	8,741
Additions	787	114	30	29	1,953	2,913
Transfers	1,142	32	18	7	(1,199)	-
Disposals	(878)	(89)	(3)	(2)	-	(972)
At 31 December 2013	**7,293**	**121**	**180**	**219**	**2,869**	**10,682**
At 1 January 2014	7,293	121	180	219	2,869	10,682
Additions	476	113	29	147	2,841	3,606
Transfers	1,176	92	101	16	(1,385)	-
Disposals (c)	-	(144)	(1)	(7)	(25)	(177)
At 31 December 2014	**8,945**	**182**	**309**	**375**	**4,300**	**14,111**
Depreciation and impairment losses						
At 1 January 2013	1,401	46	73	107	-	1,627
Depreciation	396	8	26	22	-	452
On disposals	-	(1)	(3)	(2)	-	(6)
At 31 December 2013	**1,797**	**53**	**96**	**127**	**-**	2,073
At 1 January 2014	1,797	53	96	127	-	2,073
Depreciation (d)	381	15	11	29	-	436
Transfers	(29)	29	-	-	-	-
On disposals (c)	-	(33)	(1)	(3)	-	(37)
At 31 December 2014	**2,149**	**64**	**106**	**153**	-	2,472
Net book value						
At 31 December 2013	5,496	68	84	92	2,869	8,609
At 31 December 2014	**6,796**	**118**	**203**	**222**	**4,300**	11,639

(a) Aircraft obtained under finance leases

The Company leases a number of aircraft under finance lease agreements. Some leases provide the Company with the option to purchase aircraft at a beneficial price at the end of the lease term. At 31 December 2014, the net carrying amount of leased aircraft was USD 6,550 million *(2013: USD 5,311 million)*. During the year, the Company acquired leased aircraft amounting to USD 1,539 million *(2013: USD 834 million)*. Also refer to note 18.

(b) Capital projects

Capital projects include advances paid to aircraft manufacturers (pre-delivery payments) of USD 3,560 million *(2013: USD 2,075 million)* which include option fees of USD 7 million *(2013: USD 28 million)* paid against options granted by them for the purchase of aircraft.

(c) Disposals

The Company enters into transactions for sale and operating leaseback of certain items of property, plant and equipment. The sale price in the transaction is established at fair value by inviting bids from interested parties or independent valuations and accordingly profit on sale amounting to USD 15 million *(2013: USD 56 million)* is recognised within other operating income (refer to note 5).

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10. Property, plant and equipment (continued)

(d) Borrowing costs

No borrowing costs have been capitalised during the year.

(e) Change in accounting estimates

During 2014, the Company conducted a business review of the spend and the use of certain items of property, plant and equipment, which resulted in changes in the expected usage of these items of property, plant and equipment. These items, which management had previously intended to use for 5 years, are now expected to be used for 10 years from the date of purchase, resulting in an increase in useful life of the items of property, plant and equipment and consequent decrease in the residual value. The effect of these changes will decrease the actual depreciation expenses as below:

	USD'million		
	2014	2015	2016
Direct operating costs	104	95	59
Administrative and marketing expenses	11	6	3

(f) Assessment of the carrying value of aircraft

During 2006 management evaluated that the recoverable amount of certain aircraft fleet was lower than the carrying amount as at 31 December 2006. Accordingly, an impairment loss of USD 151 million was recognised in the profit or loss for the year ended 31 December 2006. There has been no impairment charge for the year *(2013: USD Nil)*.

In order to determine whether further impairments are required against aircraft, the Directors estimate the recoverable amount of the fleet, being the higher of assessed value in use and market value.

The value in use calculations are based on cash flow projections for a 20 year period based on a rolling five year plan approved by the Board of Directors which reflects increases in revenues due to revenue enhancement measures and monitoring of direct operating costs. The discount rate represents a pre-tax rate that reflects the Company's weighted average cost of capital adjusted for fleet-specific risks, being 7.57% *(2013: 6.53%)*.

Sensitivity analysis

The calculations of value in use for the aircraft fleet is sensitive to forecasted future revenues (particularly passenger yields), direct operating costs (particularly fuel prices) and the discount rate. The following trends would trigger an impairment individually and on a combined basis:

- revenue is on average 5% lower than projected
- direct operating costs are 5% higher than projected
- the discount rates increases by 2%

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USD'million

11. Intangible assets

	Software	Landing slots (a)	Intellectual property	Capital projects	Total
Cost					
At 1 January 2013	75	74	-	50	199
Additions	45	70	-	68	183
Transfers	74	-	-	(74)	-
At 31 December 2013	194	144	-	44	382
At 1 January 2014	194	144	-	44	382
Additions	10	-	-	50	60
Transfers	39	-	-	(39)	-
At 31 December 2014	243	144	-	55	442
Amortisation and impairment losses					
At 1 January 2013	41	-	-	-	41
Amortisation	19	-	-	-	19
At 31 December 2013	60	-	-	-	60
At 1 January 2014	60	-	-	-	60
Amortisation	30	-	-	-	30
At 31 December 2014	90	-	-	-	90
Net book value					
At 31 December 2013	134	144	-	44	322
At 31 December 2014	153	144	-	55	352

(a) Landing slots

During 2013, the Company had purchased landing slots from a related party for a consideration of USD 70 million. These landing slots have been leased back to the related party for a fixed monthly rent.

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12. Investments

12.1 Details of investments

	Note	2014 USD'million	2013 USD'million
Investment in subsidiaries	12.2	1,012	43
Investment in associates	12.3	1,264	504
Investment in joint arrangements	12.4	350	350
Available-for-sale financial assets	12.5	73	265
		2,699	1,162

List of the Company's investments in subsidiaries, joint ventures and associates are as follows:

	Country of incorporation	Principal activities	Controlling interest 2014	2013
Subsidiaries				
Airline Service Centre (Private) Limited ("ASC")	India	Call centre	100.00%	100.00%
Etihad EHL Leasing Limited ("EHL")	Cayman Islands	Leasing	100.00%	100.00%
Etihad Technical (Ireland) Limited ("ETI")	Ireland	Maintenance	100.00%	100.00%
Hala Travel Management L.L.C. ("HTM")	UAE	Distribution	80.00%	80.00%
Amadeus Gulf L.L.C. ("Amadeus")	UAE	Distribution	51.00%	51.00%
Armaguard Valuables Management L.L.C.	UAE	Cargo services	51.00%	51.00%
Etihad Airport Services L.L.C. ("EAS")	UAE	Investment in entities	100.00%	100.00%
Etihad Airport Services - Ground L.L.C.	UAE	Airport services	100.00%	100.00%
Etihad Airport Services - Catering L.L.C.	UAE	Airport services	100.00%	100.00%
Etihad Airport Services - Cargo L.L.C.	UAE	Airport services	100.00%	100.00%
Topbonus Limited ("Topbonus")	UK	Customer loyalty	78.76%	78.76%
Etihad Airways Engineering L.L.C. ("EYE")	UAE	Maintenance	100.00%	-
Global Business Solution Services L.L.C.	UAE	Shared services	100.00%	-
Etihad Flight College L.L.C.	UAE	Training services	100.00%	-
Etihad Investment Holding Company L.L.C. ("EIHC")	UAE	Investment in entities	100.00%	100.00%
Etihad Global Cargo Management Company L.L.C.	UAE	Management services	100.00%	-
Global Loyalty Company L.L.C.	UAE	Investment in entities	100.00%	100.00%
Jet Privilege (Private) Limited ("JPPL")	India	Customer loyalty	62.10%	-
Associates				
airberlin Plc	Germany	Airline services	29.21%	29.21%
Air Seychelles Limited	Seychelles	Airline services	40.00%	40.00%
Jet Airways (India) Limited	India	Airline services	24.00%	24.00%
Air Serbia Beograd	Serbia	Airline services	49.00%	-
Virgin Australia Holdings Limited	Australia	Airline services	22.90%	-
Alitalia Societa Aerea Italiana S.p.A.	Italy	Airline services	49.00%	-
Joint ventures				
Etihad Guest L.L.C.	UAE	Customer loyalty	50.00%	50.00%
Aldar Etihad Investment Properties L.L.C.	UAE	Property	50.00%	50.00%
Aldar Etihad Development L.L.C.	UAE	Property	50.00%	50.00%
Aldar Etihad First Investment Properties L.L.C.	UAE	Property	50.00%	50.00%

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12. Investments

12.2 Investment in subsidiaries

	Note	2014 USD'million	2013 USD'million
Etihad Airport Services L.L.C.	(a)	-	-
Etihad Investment Holding Company L.L.C	(b)	700	-
Jet Privilege (Private) Limited	(c)	150	-
Etihad Airways Engineering L.L.C.	(d)	119	-
Global Loyalty Company L.L.C.	(e)	-	-
Etihad EHL Leasing Limited		36	36
Airline Services Centre (Private) Limited		3	3
Hala Travel Management L.L.C		2	2
Amadeus Gulf L.L.C		1	1
Armaguard Valuables Management L.L.C		1	1
		1,012	43

(a) Etihad Airport Services L.L.C. ("EAS")

During 2012, the Company paid USD 40,839 to subscribe for a 100% equity interest in Etihad Airport Services L.L.C. ("EAS"), a company incorporated on 19 December 2012 to invest in other corporate entities on behalf of the Company.

(b) Etihad Investment Holding Company L.L.C. ("EIHC")

During 2013 the Company paid USD 40,839 to subscribe for a 100% equity interest in Etihad Investment Holding Company L.L.C. ("EIHC"), a company incorporated on 24 April 2013 to invest in other corporate entities on behalf of the Company.

During 2014 the Company transferred the distribution and management of its cargo business to a newly formed subsidiary, Etihad Global Cargo Management Company L.L.C. ("EGCMC"). This business was carried in the Company's financial records at zero book value at the time of the transfer. In conjunction with an independent valuation specialist, the Directors deemed this business to have a value of USD 700 million. Subsequent to this transfer, the Company sold EGCMC to another wholly owned subsidiary, Etihad Investment Holding Company L.L.C. ('EIHC'). EGCMC will provide various cargo related services to the Company and its equity partners in return for service fees.

These business combinations comprise businesses under common control. In accordance with the policy described in 3.1.1 (a) the Company accounts for such transactions using the acquisition method, which requires them to be recognised at their fair value. As a consequence, the Company recognised a gain of USD 700 million in these Separate financial statements upon the consummation of the above business combinations, with a corresponding increase in the investment in EIHC.

Furthermore, on 26 December 2014, EIHC paid EUR 387.5 million (USD 543 million) to subscribe to a 49% equity interest in Alitalia SAI - Alitalia Societa Aerea Italiana S.p.A.

(c) Jet Privilege (Private) Limited ("JPPL")

The Company paid USD 150 million to subscribe for a 50.1% direct equity interest (cumulative interest of the Company is 62.1%) in Jet Privilege (Private) Limited effective 21 March 2014. The principal activities of JPPL is to operate a customer loyalty programme in India.

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12. Investments (continued)

12.2 Investment in subsidiaries (continued)

(d) Etihad Airways Engineering L.L.C. ("EYE")

The Company paid USD 119 million to subscribe for a 100% equity interest in Etihad Airways Engineering L.L.C. ("EYE") effective 1 July 2014. The principal activities of EYE is to provide maintenance, repair and overhaul services to its cutomers.

(e) Global Loyalty Company L.L.C. ("GLC")

Subsequent to the reporting date, GLC has acquired a 75% direct equity interest in Alitalia Loyalty S.p.A. (cumulative interest of the Company is 87.25%) for a consideration of EUR 112.5 million (USD 137 million). Alitalia Loyalty S.p.A. operates a customer loyalty programme in Italy.

12.3 Investment in associates

	Note	2014 USD'million	2013 USD'million
airberlin Plc	(d)	554	155
Air Seychelles Limited	(e)	20	20
Jet Airways (India) Limited	(f)	329	329
Air Serbia Beograd	(g)	40	-
Virgin Australia Holdings Limited	(h)	321	-
		1,264	504

(a) Movement in investment in associates is as follows:

	Note	2014 USD'million	2013 USD'million
At 1 January		504	123
Investments during the year		421	381
Transfer from available-for-sale financial assets	12.5 (a)	299	-
Conversion of loan to a related party to investment	21 (c)	40	-
		1,264	504

(b) Assessment of investment in associates

Management has assessed whether the Company has 'control' or only exercises 'significant influence' over these entities. Based on an assessment of 'control' and 'significant influence', management has concluded that the Company only has 'significant influence' over these entities and, therefore, they are classified as 'Associates' as at the reporting date.

(c) Market value of associates listed on stock exchanges

The market value of the Company's investment in associates listed on stock exchanges is as follows:

	2014 USD'million	2013 USD'million
air berlin Plc (equity instruments)	48	78
air berlin Plc (bonds)	46	52
Jet Airways (India) Limited	168	129
Virgin Australia Holdings Limited	288	-
	550	259

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12. Investments (continued)

12.3 Investment in associates (continued)

(d) airberlin Plc

On 19 December 2011, the Company had entered into an investment agreement to increase its stake in airberlin Plc to 34,122,575 (29.21%) equity shares amounting to USD 94 million by subscribing to an additional 31,574,312 shares. As part of the investment agreement, the Company also committed to provide USD 255 million as debt finance in the form of term loans and pre-delivery payments. The investment was subject to a lock-in period of 2 years. Effective 24 January 2012, the Company had received the relevant federal, antitrust and regulatory clearances. Accordingly, the previously held equity interest in airberlin Plc was reclassified as an investment in an associate.

During 2013, the Company had subscribed to convertible bonds issued by airberlin Plc for USD 52 million which will be maturing on 6 March 2019. The shareholding of the Company on the maturity date is not expected to exceed the current shareholding of 29.21%.

During 2014, airberlin Plc has issued perpetual bonds with a face value of EUR 300 million (USD 399 million) which has been fully subscribed by the Company. The drawdown of the bond was divided in three tranches of EUR 100 million each which has been fully paid in 2014. The perpetual bonds have no maturity and carry interest of 8% per annum which can be deferred indefinitely by air berlin Plc. The perpetual bond bears a conversion right to convert the bonds into ordinary shares at a conversion price of EUR 1.79. The Company may be exposed to currency risk if airberlin Plc repays these perpetual bonds in future.

(e) Air Seychelles Limited

On 15 March 2012, the Company had entered into an investment agreement with the Government of Seychelles to acquire a 40% equity stake in Air Seychelles Limited, an airline incorporated under the laws of the Republic of Seychelles, for USD 20 million. The Company is also committed to inject USD 25 million by way of Shareholder's loan to support working capital requirements. This acquisition is part of the Company's expansion in the leisure markets of Indian Ocean and Africa and is consistent with the Company's approach to expansion, which relies on the strength of strategic partnerships across the globe.

(f) Jet Airways (India) Limited

On 24 April 2013, the Company had entered into an investment agreement with Jet Airways (India) Limited to acquire 27,263,372 shares representing a 24% equity stake in Jet Airways (India) Limited, an airline incorporated under the laws of India, for USD 329 million. The date of acquisition of 24% equity stake is 22 November 2013. To mitigate the foreign currency risk, the Company had entered into a forward contract which resulted in a net settlement of USD 38 million. The hedge was designated as a cash flow hedge and the net loss of USD 38 million was recognised in other comprehensive income. When the investment will be disposed off, the relevant amount in the hedging reserve will be transferred to the profit or loss as part of the gain or loss on disposal (also refer to note 16.4(c)).

12. Investments (continued)

12.3 Investment in associates (continued)

(g) Air Serbia Beograd

On 1 August 2013, the Company had entered into an investment agreement with Air Serbia Beograd to acquire a 49% equity stake in Air Serbia Beograd, for USD 40 million, subject to obtaining appropriate regulatory approvals. Air Serbia Beograd is an airline incorporated under the laws of Republic of Serbia. The Company received the regulatory approvals on 26 March 2014 and the convertible loan of USD 40 million was consequently converted into equity.

(h) Virgin Australia Holdings Limited

Equity stake as at 31 December 2013
The Company had acquired 19.9% equity interest in Virgin Australia Holdings Limited. Furthermore, the Company had also entered into a cash settled equity derivative representing an additional economic interest of 1.34% shares. The conversion of the derivative to shares was subject to applicable Australian regulatory approvals.

Transactions during 2014
During 2014, the Company received the applicable Australian regulatory approvals to increase its equity interest from 19.9% to 22.9%. Accordingly, the cash settled equity derivatives entered in 2013 of USD 16 million has been converted to shares and the previously held equity interest in Virgin Australia Holdings Limited is reclassified as an investment in an associate. The equity interest of Etihad in Virgin Australia Holdings Limited stands at 22.9% as at 31 December 2014.

Subsequent event
Effective 25 January 2015, the equity interest has been increased from 22.9% to 24.2%.

(i) Etihad Regional

On 17 November 2013, the Company had announced that it will be entering into an investment agreement with Darwin Airlines S.A. to acquire a 33.33% equity stake in Darwin Airlines S.A., for CHF 10 million. This acquisition is consistent with the Company's approach to expansion which relies on the strength of strategic partnerships across the globe.

On 2 April 2015, the Company has received the regulatory approval from the Federal Office of Civil Aviation, Switzerland. Darwin Airline S.A. will rebrand as Etihad Regional. The Company also provided a loan of USD 11 million which carried interest at agreed rates and is now expected to be converted into equity. Consequently, the investment will be considered as an associate with effect from 3 April 2015.

12. Investments (continued)

12.3 Investment in associates (continued)

(j) Assessment of the carrying value of investment in associates

Management has assessed the carrying value of investment in associates as at the reporting date. The recoverable amount has been computed based on the discounted future cash flows of the associates. Based on such assessment, the management is of the opinion that the recoverable amount is higher than the carrying value of investment in associates and no impairment loss is required to be recognised.

With respect to airberlin Plc and Jet Airways (India) Limited in particular, there are currently initiatives ongoing at these airlines which seek to redesign their respective business models to enable them to significantly improve their financial performance and position. These initiatives include, amongst other things, expansion of partnerships and alliances with other airlines and related businesses, realignment of route networks, increased efficiency through fleet harmonization and market and capacity adjustments.

The discounted future cash flows upon which management has based its conclusion that the value in use calculations of these investments is higher than their carrying value assume that these initiatives at these airlines are leading to significant improvement in its financial performance. The recoverability of the investments in airberlin Plc and Jet Airways (India) Limited are particularly sensitive to the success of these initiatives.

12.4 Investment in joint arrangements

	2014 USD'million	2013 USD'million
Etihad Guest L.L.C.	350	350
Aldar Etihad Investment Properties L.L.C.	-	-
Aldar Etihad Development L.L.C.	-	-
Aldar Etihad First Investment Properties L.L.C.	-	-
	350	350

(a) Assessment of investment in joint arrangements

Management has assessed whether the Company has either 'Rights to the net assets of the joint arrangement' or 'Rights to the assets and obligation for the liabilities of the joint arrangement'. Based on the above assessment, management is of the opinion that the Company has 'Rights to the net assets of the joint arrangement' with respect to Etihad Guest L.L.C. and Aldar Etihad Investment Properties L.L.C. and 'Rights to the assets and obligation for the liabilities of the joint arrangement' with respect to Aldar Etihad Development L.L.C. and Aldar Etihad First Investment Properties L.L.C. and therefore, the classification of the joint arrangements at the reporting date is appropriate.

(b) Etihad Guest L.L.C.

The Company had divested its interest in the 'Etihad Guest' business to Etihad Guest L.L.C. for USD 700 million resulting in a net gain of USD 724 million which was recognised in the profit or loss for the year ended 31 December 2013. Etihad Guest was a customer loyalty programme whereby customers were awarded miles entitling customers to the right to purchase tickets or other products from the Company. The Company has obtained 50% equity interest in Etihad Guest L.L.C., a joint venture between Etihad Airways PJSC and Global Loyalty Company L.L.C., for USD 350 million.

12. Investments (continued)

12.5 Available-for-sale financial assets

	2014 USD'million	2013 USD'million
Aer Lingus Group Plc	73	28
Virgin Australia Holdings Limited	-	237
	73	265

(a) Movement in available-for-sale financial assets

	2014 USD'million	2013 USD'million
At 1 January	265	120
Investment during the year	42	189
Change in fair value	65	(44)
Re-classified as investment in associates (refer to notes 12.3 (a) and (h))	(299)	-
At 31 December	73	265

13. Inventories

	2014 USD'million	2013 USD'million
In-flight consumables	18	10
Other consumables	55	33
	73	43

Inventories are stated net of allowance for obsolescence of USD 3 million *(2013: USD 3 million)*.

14. Trade and other receivables

	2014 USD'million	2013 USD'million
Trade receivables	377	328
Prepayments	130	85
Deposits	43	54
Advance to suppliers	24	33
Other receivables (*)	1,478	1,180
	2,052	1,680
Less: non-current receivables	(1,129)	(174)
	923	1,506

(*) Other receivables includes amounts due from suppliers on account of advertisement, marketing and promotion of supplier products.

Trade and other receivables are stated net of allowance for impairment of USD 19 million *(2013: USD 17 million)*. The Company's exposures to credit and currency risks and impairment losses related to trade and other receivables are disclosed in note 23.

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15. Cash in hand and at banks

	2014 USD'million	2013 USD'million
Term deposits	394	385
Cash at bank		
- in call accounts	77	65
- in current accounts	246	141
Cash in hand	1	1
Cash in hand and at banks	718	592
Bank overdrafts	-	(350)
Cash and cash equivalents for cash flow purposes	718	242

During 2013, the Company had utilised its available unsecured loans to partly finance the purchase of certain aircraft and pre-delivery payments made on the fleet order placed in November 2013, which were due for repayment in 2014. The Company has repaid these short-term borrowings in 2014. The Company's exposures to credit and interest rate risk are disclosed in note 23.

16. Capital and reserves

	Note	2014 USD'million	2013 USD'million
Share capital	*16.1*	6,512	6,427
Contributed capital	*16.2*	2,514	-
Loan from the Shareholder	*16.3*	5,173	4,630
Reserves	*16.4*	(1,162)	(63)
Accumulated losses		(3,765)	(3,804)
		9,272	7,190

16.1 Share capital

	2014 USD'million	2013 USD'million
Issued and fully paid:		
At 1 January	6,427	5,210
Issued and paid-up during the year	85	1,217
At 31 December	6,512	6,427

The authorised share capital of the Company was increased to AED 5,052 million (USD 1,375 million) vide decision No. (17) of 2007 of the President of the Executive Council dated 9 April 2007. A decision No. (53) of 2008 dated 2 September 2008 of the President of the Executive Council further increased the authorised share capital to AED 23,918 million (USD 6,512 million). During the year, 3.13 million *(2013: 44.71 million)* shares of AED 100 (USD 27.22) were issued and fully paid in cash.

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16. Capital and reserves (continued)

16.2 Contributed capital

During 2014, the Shareholder has contributed additional share capital of USD 2,514 million over and above the authorised share capital. An amendment to the Memorandum and Articles of Association to increase the Company's authorised share capital is in the process of being approved. Once the amendment to the Memorandum and Articles of Association of the Company is approved, equity shares would be issued to the Shareholder. This also includes an amount of USD 323 million which has been received subsequent to the reporting date and has been disclosed as "Amounts due from the Shareholder".

16.3 Loan from the Shareholder

	2014 USD'million	2013 USD'million
At 1 January	4,630	3,614
Drawdown during the year	543	1,016
At 31 December	5,173	4,630

The Company obtained subordinated loans from the Shareholder amounting to USD 3,012 million vide a decision No. (17) of 2007 of the President of the Executive Council dated 9 April 2007. A further decision No. (53) of 2008 of the President of the Executive Council dated 2 September 2008 increased these loans to USD 5,213 million. As at 31 December 2014, an amount of USD 5,173 million *(2013: USD 4,630 million)* has been drawn down and provided by the Shareholder. These loans are required to be utilised by the Company to finance the purchase of aircraft.

As per the arrangement, there is no contractual obligation to repay the loan in the foreseeable future. In addition, the arrangement specifies that, on dissolution of the Company, the rights, benefits and obligations in the residual net assets and liabilities attached to the loan shall rank pari passu with those attached to the share capital of the Company. Therefore, these loans are more akin to equity instruments than liabilities, and accordingly have been presented within equity.

16.4 Nature and purpose of reserves

	Note	2014 USD'million	2013 USD'million
Fair value reserve	*(a)*	28	(46)
Hedging reserve	*(b)*	(1,152)	21
Hedging reserve for an equity accounted investee	*(c)*	(38)	(38)
		(1,162)	(63)

(a) Fair value reserve

The fair value reserve comprises the cumulative net change in the fair value of available-for-sale financial assets until the assets are derecognised or impaired.

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16. Capital and reserves (continued)

16.4 Nature and purpose of reserves (continued)

(b) Hedging reserve

The hedging reserve comprises the effective portion of the cumulative net change in the fair value of hedging instruments used in cash flow hedges pending subsequent recognition in the profit or loss as the hedged cash flows affect the profit or loss. The movement in hedging reserve is as follows:

	2014	2013
	USD'million	USD'million
At 1 January	21	(54)
Effective portion of changes in fair value of cash flow hedges (*)	(1,327)	89
Net change in fair value of cash flow hedges transferred to aviation fuel (refer to note 6)	121	(36)
Net change in fair value of cash flow hedges transferred to aircraft financing expense (refer to note 8)	32	27
Net change in fair value of cash flow hedges transferred to foreign exchange loss	1	(5)
At 31 December	(1,152)	21

(*) Includes effective portion of changes in fair value of cash flow hedges pertaining to fuel hedge contracts with a negative fair value of USD 1,193 million *(2013: positive fair value of USD 66 million)*.

(c) Hedging reserve for an equity accounted investee

The hedging reserve for an equity accounted investee represents the effective portion of the cumulative net change in the fair value of a cash flow hedge of the foreign exchange risk of a firm commitment to acquire a business and relates to the foreign currency equivalent of the consideration paid. Also refer to note 12.3(f).

17. Taxation

The Company has secured tax exemptions by virtue of double taxation agreements and airline reciprocal arrangements in most of the jurisdictions in which it operates. In other jurisdictions, where the Company's operations are taxable, no tax liability has been recognised in the financial statements due to accumulated losses as at the reporting date.

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	2014 USD'million	2013 USD'million
18. Finance lease liabilities		
At 1 January	3,951	3,469
Proceeds during the year	1,539	834
Repayments during the year	(434)	(352)
At 31 December	5,056	3,951
Gross lease liabilities:		
Not later than one year	680	493
Later than one year but not later than five years	2,970	2,217
Later than five years	2,134	1,857
Gross lease liabilities	5,784	4,567
Future interest	(728)	(616)
Net lease liabilities	5,056	3,951
Net lease liabilities are payable as follows:		
Not later than one year (current)	560	393
Later than one year but not later than five years	2,539	1,877
Later than five years	1,957	1,681
More than one year (non-current)	4,496	3,558
Total net lease liabilities	5,056	3,951

The carrying amount of net lease liabilities approximate their fair value. Finance lease liabilities are secured in favour of lenders against aircraft (refer to note 10).

	2014 USD'million	2013 USD'million
19. Loans and borrowings		
19.1 Short-term bank borrowings		
Short-term loans	-	323
Bank overdrafts	-	350
	-	673

During 2014, the Company has revised the facility limit of the short-term loan obtained in the previous year from USD 184 million to USD 138 million from consortium of banks to finance the acquisition of Topbonus Limited by Etihad Airport Services L.L.C. The loan is unsecured, carries interest at agreed rates and is now repayable in 2016. Accordingly, this loan has been considered as a long-term bank loan.

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	2014 USD'million	2013 USD'million
19. Loans and borrowings (continued)		
19.2 Long-term bank loans		
(a) Movement in long-term bank loans		
At 1 January	-	-
Proceeds during the year	1,852	-
Repayments during the year	(277)	-
At 31 December	1,575	-
(b) Classification of long-term bank loans		
Current portion of long-term bank loans	42	-
Non-current portion of long-term bank loans	1,533	-
	1,575	-

(c) Nature and purpose of long-term bank loans

During 2014, the Company obtained long-term bank loans for financing its capital projects, contributions to investee companies and working capital requirements. These loans carry interest at commercial rates, are repayable over the tenure of 2 to 6 years. The long-term bank loans are unsecured in nature except for a long-term bank loan with an outstanding amount of USD 208 million which is secured by mortgage of certain aircraft.

	2014 USD'million	2013 USD'million
20. Payables and accruals		
Current portion		
Trade payables	68	73
Accruals and other payables	1,313	768
	1,381	841
Non- current portion		
Employee benefit obligations	191	141

(a) Passenger taxes

Accruals and other payables includes an amount of USD 59 million *(2013: USD 39 million)* for passenger taxes payable which relates to amounts payable to airport authorities of departing stations for passenger tickets sold / sold and flown.

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20. Payables and accruals (continued)

(b) Defined benefit obligation

The Company's obligation in respect of defined benefit is recognised in the statement of financial position at the present value of defined benefit at the end of the reporting period, together with adjustments of past service costs.

Additionally, employees of the Company are entitled to a repatriation allowance upon end of service when there is sufficient evidence of their intention to leave the UAE permanently. Although such allowance falls within the definition of other long-term employee benefits within IAS 19, it is accounted for together with defined benefit obligations as it is payable post employment. Following are the principal actuarial assumptions at the reporting date (expressed as weighted averages):

	2014	2013
Discount rate at 31 December	3.50%	4.25%
Future salary increases	3.04%	2.98%
Future repatriation allowance increases	0.00%	0.00%
Average retirement age	52	52
Mortality, disability and withdrawal rates	11.61%	11.76%

The movement in employee benefit obligations is as follows:

	2014 USD'million	2013 USD'million
Employee benefit obligations at 1 January	141	113
Current service costs (including interest costs)	32	26
Benefits paid	(7)	(8)
Loss on remeasurement	25	10
Employee benefit obligations at 31 December	191	141

The total amounts recognised in the profit or loss are as follows:

	2014 USD'million	2013 USD'million
Employee benefit obligations		
Current service costs	32	26
Defined contributions		
Contributions expensed	19	14
	51	40

The Company's exposures to currency and liquidity risk related to trade and other payables is disclosed in note 23.

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21. Related party transactions and balances

(a) Related party transactions

The Company, in the ordinary course of business, enters into transactions, with other business enterprises or individuals that fall within the definition of related parties contained in International Accounting Standard 24 (Revised). The Company has a related party relationship with the Government of Abu Dhabi, directors and executive officers (including business entities over which they can exercise significant influence or which can exercise significant influence over the Company).

IAS 24 Related Parties (revised) requires Government owned entities to disclose transactions with other state/government-owned entities. Most infrastructure related entities and financial institutions are owned by the Abu Dhabi Government and the Company enters into transactions with those entities in the ordinary course of business on an agreed rates.

The Company transacts with these entities in respect of direct operating costs (aviation fuel, in-flight catering, aircraft maintenance, handling, landing and parking (refer to note 6)), net finance cost (interest income and interest expenses (refer to note 8)), cash at banks (refer to note 15), finance lease liabilities (refer to note 18) and loans and borrowings (refer to note 19).

During the year, the Company procured the following services from government owned entities based on agreed rates:

	2014	2013
	USD'million	USD'million
Aviation fuel	1,287	1,158
Aircraft maintenance	213	112
Landing and parking	34	28
Handling	68	36
Catering	76	62
Aircraft operating leases	19	40
Sale of property, plant and equipment	-	20
Airport and lounge expenses	1	6

Apart from the above, none of the other transactions are individually or collectively significant.

Other significant transactions are as follows:

Loans to related parties (net)	**453**	83
Purchase of property, plant and equipment	-	110
Purchase of landing slots	-	70
Sale of customer loyalty program	-	700
Sale of a subsidiary	700	-
Sale of property, plant and equipment	21	-
Interest income	17	21
Lease revenue	39	25
Operating leases	62	32
Recharge of expenses	4	4
Rent	32	32

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21. Related party transactions and balances (continued)

(a) Related party transactions (continued)

Transactions with key management personnel

	2014 USD'million	2013 USD'million
Short-term employee benefits	12	6
End-of-service benefits	1	-
	13	6

(b) Related party balances

	2014 USD'million	2013 USD'million
(ii) Amounts due from related parties		
Etihad Guest L.L.C.	350	350
Air Seychelles Limited	35	17
airberlin Plc	24	6
Air Serbia Beograd	28	-
Jet Airways (India) Limited	6	-
Abu Dhabi Airports Company L.L.C	2	7
Etihad Airways Engineering L.L.C	-	1
Etihad Airport Services - Catering L.L.C.	2	6
Etihad Airport Services - Cargo L.L.C.	-	1
Etihad Airport Services - Ground L.L.C.	34	-
Airline Service Centre Private Limited	1	1
Aldar Etihad Development L.L.C.	1	-
Aldar Etihad Investment Properties L.L.C.	1	-
Armaguard Valuables Management L.L.C.	1	1
Global Loyalty Company L.L.C.	3	-
Hala Travel Management L.L.C.	12	7
	500	397

	2014 USD'million	2013 USD'million
(ii) Amounts due to related parties		
Abu Dhabi National Oil Company	-	42
Etihad Regional	10	-
Etihad EHL Leasing Limited	1	-
Etihad Airways Engineering L.L.C	2	-
	13	42

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21. Related party transactions and balances (continued)

(c) Loans to related parties

	2014 USD'million	2013 USD'million
Etihad Investment Holding Company L.L.C. (refer to note (i) below)	543	-
Aldar Etihad Investment Properties L.L.C. (refer to note (ii) below)	46	46
Aldar Etihad Development L.L.C. (refer to note (ii) below)	16	16
Aldar Etihad First Investment Properties L.L.C. (refer to note (ii) below)	8	8
Etihad Airport Services L.L.C. (refer to note (iii) below)	288	328
Etihad Regional (refer to notes 12.3(i) and (iv) below)	51	11
Air Seychelles Limited (refer to note (v) below)	16	-
Etihad Flight College L.L.C. (refer to note (vi) below)	8	-
airberlin Plc (refer to note (vii) below)	-	134
Air Serbia Beograd (refer to note 12.3(g))	-	40
	976	583
Less: non-current portion	(74)	(104)
	902	479

Movement in loans to related parties is as follows

	2014 USD'million	2013 USD'million
At 1 January	583	489
Advanced during the year	627	150
Repayments during the year	(174)	(67)
Transferred to investment in associates	(40)	-
Foreign exchange (loss)/gain	(20)	11
At 31 December	976	583

(i) Etihad Investment Holding Company L.L.C. ("EIHC")

During 2014, the Company has agreed to provide a facility of USD 560 million to EIHC. The loan is unsecured, interest-free and is repayable on demand.

On 26 December 2014, EIHC paid EUR 387.5 million (USD 543 million) to subscribe for a 49% equity interest in Alitalia SAI – Alitalia Societa Aerea Italiana S.p.A.

(ii) Loans to joint ventures

During previous years, the Company had provided a loan of USD 46 million to Aldar Etihad Investment Properties L.L.C., USD 16 milllion to Aldar Etihad Development L.L.C. and USD 8 million to Aldar Etihad First Investment Properties L.L.C. which carries interest at agreed rates and is repayable as per agreed repayment plan.

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21. Related party transactions and balances (continued)

(c) Loans to related parties (continued)

(iii) Etihad Airport Services L.L.C. ("EAS")

On 19 December 2012, EAS paid EUR 36.4 million (USD 47 million) to subscribe for a 70% equity interest in Topbonus Limited. Furthermore, EAS has also provided a loan of EUR 111 million (USD 138 million) *(2013: EUR 135 million (USD 176 million))* to Topbonus Limited to finance the purchase of the loyalty program from airberlin Plc.

During 2013, the Company also paid an amount of USD 77 million to EAS to finance the acquisition of certain subsidiaries from Abu Dhabi Airports Company PJSC, namely, Etihad Airport Services - Cargo L.L.C., Etihad Airport Services - Catering L.L.C. and Etihad Airport Services - Ground L.L.C. Further to the above, the Company also agreed to provide a short-term facility of USD 27 million to EAS to finance the operations of these subsidiaries as required by these subsidiaries, of which an amount of USD 27 million *(2013: USD 18 million)* has been drawn down by EAS as at 31 December 2014.

(iv) Etihad Regional

During 2014, the Company has provided long-term loans totalling USD 20 million which carry interest at agreed rates and are repayable at the end of 5 years. Furthermore, USD 20 million has been provided as a long-term loan which is repayable over a period of 3 years after a 4 year holiday period. This loan is interest-free for the first 3 years and carries interest thereafter.

(v) Air Seychelles Limited

During 2014, the Company has provided long-term loans totalling USD 16 million which carry interest at agreed rates and are repayable over a period of 12 years.

(vi) Etihad Flight College L.L.C.

During 2014, the Company has provided long-term loans totalling USD 8 million which are interest-free and are repayable on demand.

(vii) airberlin Plc

airberlin Plc and the Company had entered into an agreement for the Company to provide a loan facility of USD 255 million, which is available for drawdown subject to approval of the Board of Directors. As at the reporting date, the drawndown balance is USD Nil million *(2013: USD 134 million)*. The loan carries interest at agreed rates and is repayable as per the agreed repayment plan. An amount of USD Nil million *(2013: USD 30 million)* has been classified as current portion based on the repayment schedule.

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	2014 USD'million	2013 USD'million
22. Capital commitments and contingent liabilities		
Capital commitments		
Not later than one year	3,407	3,634
Later than one year but not later than five years	13,736	10,575
Later than five years	16,806	20,413
	33,949	34,622
Operating lease commitments		
Leases as lessee		
Not later than one year	513	425
Later than one year but not later than five years	1,498	1,362
Later than five years	2,062	1,947
	4,073	3,734
Operating lease commitments as lessee represent:		
Aircraft leases	2,338	2,450
Property leases	1,735	1,284
	4,073	3,734
Leases as lessor		
Not later than one year	5	5
Later than one year but not later than five years	7	12
	12	17
Sponsorship commitments		
Not later than one year	34	22
Later than one year but not later than five years	105	63
Later than five years	20	33
	159	118
Contingent liabilities		
Letters of guarantee	33	19
Letters of credit	532	254

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23. Financial instruments - Fair values and risk management

(a) Accounting classifications and fair values

The following table shows the carrying amounts and fair values of financial assets and financial liabilities, including their levels in the fair value heirarchy. The Company has not disclosed the fair values of financial assets and financial liabilities such as short-term trade receivables and paybles because their carrying amounts are a reasonable approximation of fair values.

		Carrying amount (USD'million)					Fair value (USD'million)			
	Note	Available-for-sale investments	Fair value - hedging instruments	Loans and receivables	Other financial liabilities	Total	Level 1	Level 2	Level 3	Total
31 December 2014										
Financial assets measured at fair value										
Equity securities	12.5	73	-	-	-	73	73	-	-	73
Derivative financial instruments		-	47	-	-	47	-	47	-	47
		73	47	-	-	120	73	47	-	120
Financial assets not measured at fair value										
Loans to related parties	21(c)	-	-	976	-	976	-	-	-	-
Trade and other receivables	14	-	-	1,898	-	1,898	-	-	-	-
Amounts due from related parties	21(b)	-	-	500	-	500	-	-	-	-
Amounts due from the Shareholder	16.2	-	-	323	-	323	-	-	-	-
Cash in hand and at banks	15	-	-	718	-	718	-	-	-	-
		-	-	4,415	-	4,415	-	-	-	-
Financial liabilities measured at fair value										
Derivative financial instruments		-	1,199	-	-	1,199	-	1,199	-	1,199
		-	1,199	-	-	1,199	-	1,199	-	1,199
Financial liabilities not measured at fair value										
Finance lease liabilities	18	-	-	-	5,056	5,056	-	-	-	-
Payables and accruals	20	-	-	-	1,572	1,572	-	-	-	-
Amounts due to related parties	21(b)	-	-	-	13	13	-	-	-	-
Long-term bank loans	19.2	-	-	-	1,575	1,575	-	-	-	-
		-	-	-	8,216	8,216	-	-	-	-

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23. Financial instruments - Fair values and risk management (continued)

(a) Accounting classifications and fair values (continued)

		Carrying amount (USD'million)					Fair value (USD'million)			
	Note	Available-for-sale investments	Fair value - hedging instruments	Loans and receivables	Other financial liabilities	Total	Level 1	Level 2	Level 3	Total
31 December 2013										
Financial assets measured at fair value										
Equity securities	12.5	265	-	-	-	265	265	-	-	**265**
Derivative financial instruments		-	104	-	-	104	-	104	-	**104**
		265	**104**	-	-	369	**265**	**104**	-	**369**
Financial assets not measured at fair value										
Loans to related parties	21(c)	-	-	583	-	583	-	-	-	-
Trade and other receivables	14	-	-	1,562	-	1,562	-	-	-	-
Amounts due from related parties	21(b)	-	-	397	-	397	-	-	-	-
Cash in hand and at banks	15	-	-	592	-	**592**	-	-	-	-
		-	-	**3,134**	-	**3,134**	-	-	-	-
Financial liabilities measured at fair value										
Derivative financial instruments		-	83	-	-	**83**	-	83	-	**83**
		-	**83**	-	-	**83**	-	**83**	-	**83**
Financial liabilities not measured at fair value										
Finance lease liabilities	18	-	-	-	3,951	**3,951**	-	-	-	-
Payables and accruals	20	-	-	-	982	**982**	-	-	-	-
Amounts due to related parties	21(b)	-	-	-	42	**42**	-	-	-	-
Short-term bank borrowings	19.1	-	-	-	673	**673**	-	-	-	-
		-	-	-	**5,648**	**5,648**	-	-	-	-

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23. Financial instruments - Fair values and risk management (continued)

(b) Measurement of fair values

Financial instruments measured at fair value

Equity securities

Fair value of equity securities is determined by reference to their quoted closing price at the reporting date. With respect to unquoted equity instruments, the fair value is determined using a valuation technique.

Derivative instruments

The fair value of forward exchange contracts is based on their quoted price, if available. If a quoted price is not available, then fair value is estimated by discounting the difference between the contractual forward price and the current forward price for the residual maturity of the contract using a risk-free interest rate (based on government bonds).

The fair value of interest rate swaps is based on broker quotes. Those quotes are tested for reasonableness by discounting the estimated future cash flows based on the terms and maturity of each contract and using market interest rates for a similar instrument at the measurement date. Fair values reflect the credit risk of the instrument and include adjustments to take account of the credit risk of the counterparty where appropriate.

Financial instruments not measured at fair value

Fair values of financial instruments are calculated using the present value of future cash flows (including principal and interest payments), discounted at the market rate of interest at the reporting date. For finance leases, the market rate of interest is determined by reference to similar lease agreements.

Fair value hierarchy

The different levels of valuation for financial instruments carried at fair value have been defined as follows:

Level 1: quoted prices (unadjusted) in active markets for identical assets or liabilities;
Level 2: inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly (i.e., as prices) or indirectly (i.e. derived from prices); and
Level 3: inputs for the asset or liability that are not based on observable market data (unobservable inputs).

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23. Financial instruments - Fair values and risk management (continued)

(c) Financial risk management

The Company has exposure to the following risks arising from financial instruments:

- Credit risk
- Liquidity risk
- Market risk

This note presents information about the Company's exposure to each of the above risks, the Company's objectives, policies and processes for measuring and managing risk, and the Company's management of capital.

(i) Risk management framework

The Board of Directors ("the Board") has an overall responsibility for the establishment, oversight and monitoring of the Company's risk management framework and is assisted by the senior management. The senior management is responsible for designing, developing and monitoring the Company's risk management policies, which are approved by the Board. The senior management reports regularly to the Board and its committees on its risk management activities.

The Company's risk management policies are established to identify and analyse the risks faced by the Company, to set appropriate risk limits and controls, and to monitor risks and adherence to limits. Risk management policies and systems are reviewed regularly to reflect changes in market conditions and the Company's activities. The Company, through its training and management standards and procedures, aims to develop a disciplined and constructive control environment in which all employees understand their roles and obligations.

The Treasury department is primarily responsible for specific areas, such as aviation fuel price risk, emissions price risk, interest rate risk, foreign exchange risk, credit risk, use of derivative and non-derivative financial instruments, and the investment of excess liquidity, based on guidelines provided by the Board.

(ii) Credit risk

Credit risk is the risk of financial loss to the Company if a customer or counterparty to a financial instrument fails to meet its contractual obligations and arises principally from the Company's trade and other receivables, loans to related parties, amounts due to related parties and cash at bank.

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23. Financial instruments - Fair values and risk management (continued)

(c) Financial risk management (continued)

(ii) Credit risk (continued)

Trade and other receivables

The Company's exposure to credit risk is influenced mainly by the individual characteristics of each customer. However, management also considers the demographics of the Company's customer base, including the default risk of the industry and countries in which customers operate, as these factors may have an influence on credit risk.

The Company has policies in place to ensure that sales of tickets and freight on credit are made to customers who are members of an industry accredited clearing house, which in turn have adequate securities in place. Adequate securities are taken for the appropriate level of commercial activity from customers who are not members of the clearing house. Sales to retail customers are made only on prepayment basis.

The Company establishes an allowance for impairment that represents its estimate of incurred losses in respect of trade and other receivables. The main components of this allowance are a specific loss component that relates to individually significant exposures, and a collective loss component established for groups of similar assets in respect of losses that have been incurred but not yet identified. The collective loss allowance is determined based on historical data of payment statistics for similar financial assets.

The carrying amount of financial assets represents the maximum credit exposure. The maximum exposure to credit risk at the reporting date was as follows:

	Note	2014 USD'million	2013 USD'million
Derivative financial instruments		47	104
Trade receivables	14	377	328
Other receivables and deposits	14	1,521	1,234
Amounts due from related parties	21 (b)	500	397
Amounts due from the Shareholder	16.2	323	-
Loans to related parties	21 (c)	976	583
Cash at banks	15	717	591
		4,461	3,237

The maximum exposure to credit risk for trade receivables at the reporting date by geographic region was as follows:

	2014 USD'million	2013 USD'million
Domestic (UAE)	209	163
Middle East and Africa	19	21
Asia Pacific	82	76
Europe and Americas	67	68
	377	328

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23. Financial instruments - Fair values and risk management (continued)

(c) Financial risk management (continued)

(ii) Credit risk (continued)

Impairment losses
The ageing of trade receivables at the reporting date was:

	USD'million 31 December 2014		USD'million 31 December 2013	
	Gross	Impairment	Gross	Impairment
Not past due	356	-	320	-
Past due 0-30 days	9	2	10	3
Past due 30-180 days	20	6	7	6
More than 180 days	11	11	8	8
	396	19	345	17

The movement in the allowance for impairment in respect of trade receivables during the year was as follows:

	2014 USD'million	2013 USD'million
At 1 January	17	11
Add: Impairment loss recognised	2	6
At 31 December	19	17

The allowance account in respect of trade receivables is used to account impairment losses unless the Company is satisfied that no recovery of the amount owing is possible; at that point the amounts considered irrecoverable is written off against the financial asset directly.

(iii) Liquidity risk

Liquidity risk is the risk that the Company will encounter difficulty in meeting the obligations associated with its financial liabilities that are settled by delivering cash or another financial asset. The Company's approach to managing liquidity is to ensure, as far as possible, that it will always have sufficient liquidity to meet its liabilities when due, under both normal and stressed conditions, without incurring unacceptable losses or risking damage to the Company's reputation.

The Treasury ensures that the Company has sufficient cash and funding through an adequate amount of credit facilities. Due to the dynamic nature of the underlying business, the Treasury aims to maintain flexibility in funding by keeping committed credit lines available. The Company has secured short-term bank facilities amounting to USD 487 million which are available for drawdown in 2015. Additionally, the Shareholder has also undertaken to provide funds in the form of equity participation and loans pursuant to the decision No. (53) of 2008 as approved by the Executive Council of the Emirate of Abu Dhabi (refer to notes 16.1 and 16.3).

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23. Financial instruments - Fair values and risk management (continued)

(c) Financial risk management (continued)

(iii) Liquidity risk

The following are the remaining contractual maturities of financial liabilities, including estimated interest payments and excluding the impact of netting agreements:

USD'million

	Carrying amount	Contractual cash flows	Less than one year	Between 2 - 5 years	More than 5 years
31 December 2014					
Non-derivative financial liabilities					
Finance lease liabilities	5,056	(5,784)	(680)	(2,970)	(2,134)
Payables and accruals	1,572	(1,572)	(1,381)	-	(191)
Amounts due to related parties	13	(13)	(13)	-	-
Long-term bank loans	1,575	(1,699)	(63)	(1,532)	(104)
Derivative financial liabilities					
Fuel derivatives	1,156	(1,163)	(723)	(440)	-
Interest rate swaps	43	(47)	(27)	(19)	(1)
Forward exchange contracts					
Outflow	6	6	6	-	-
Inflow	(5)	(5)	(5)	-	-
	9,416	(10,277)	(2,886)	(4,961)	(2,430)
31 December 2013					
Non-derivative financial liabilities					
Finance lease liabilities	3,951	(4,567)	(493)	(2,217)	(1,857)
Payables and accruals	982	(982)	(841)	-	(141)
Amounts due to related parties	42	(42)	(42)	-	-
Short-term bank borrowings	673	(676)	(676)	-	-
Derivative financial liabilities					
Fuel derivatives	4	(4)	(4)	-	-
Interest rate swaps	59	(63)	(33)	(33)	3
Forward exchange contracts					
Outflow	246	(246)	(194)	(52)	-
Inflow	(225)	225	177	48	-
	5,732	(6,355)	(2,106)	(2,254)	(1,995)

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23. Financial instruments - Fair values and risk management (continued)

(c) Financial risk management (continued)

(iii) Liquidity risk (continued)

The following table indicates the periods in which the cash flows associated with cash flow hedges are expected to occur and the fair value of the related hedging instruments:

USD'million

	Carrying amount	Contractual cash flows	Less than one year	Between 2 - 5 years	More than 5 years
31 December 2014					
Fuel derivatives					
Assets	-	-	-	-	-
Liabilities	**(1,156)**	**(1,163)**	**(723)**	(440)	-
Interest rate swaps					
Assets	-	-	-	-	-
Liabilities	(43)	(47)	(27)	(19)	(1)
Forward exchange contracts					
Assets	517	517	413	104	-
Liabilities	(470)	(470)	(376)	(94)	-
	(1,152)	(1,163)	(713)	(449)	(1)
31 December 2013					
Fuel derivatives					
Assets	88	88	51	37	-
Liabilities	(4)	(4)	(4)	-	-
Interest rate swaps					
Assets	-	-	-	-	-
Liabilities	(59)	(63)	(33)	(33)	3
Forward exchange contracts					
Assets	574	574	432	142	-
Liabilities	(578)	(578)	(436)	(142)	-
	21	17	10	4	3

(iv) Market risk

Market risk is the risk that changes in market prices, such as commodity prices, equity price risk, foreign exchange rates and interest rates will affect the Company's income or the value of its holdings of financial instruments. The objective of market risk management is to manage and control market risk exposures within acceptable parameters, while optimising the return.

The Company buys and sells derivatives, and also incurs financial liabilities, in order to manage market risks. All such transactions are carried out within the risk management policies as approved by the Board. Generally the Company seeks to apply hedge accounting in order to manage volatility in the profit or loss.

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23. Financial instruments - Fair values and risk management (continued)

(c) Financial risk management (continued)

(iv) Market risk (continued)

Commodity price risk

The Company's commodity price risk relates to the purchase price of aviation fuel. The Company's risk management policy is to hedge between 50% and 80% of anticipated exposure for the rolling 12 months. The Treasury is responsible for managing the commodity price exposure of the Company by using derivative contracts to maintain hedge levels within policy parameters laid down by the Board. As at the reporting date, the Company has hedged fuel volumes of 37 million barrels with a negative fair value of USD 1,156 million *(2013: fuel volumes of 25 million barrels with a positive fair value of USD 84 million)*.

Sensitivity analysis:

Increase/(decrease) in aviation fuel price by 1% would have decreased/(increased) profit or loss by USD 27 million *(2013: USD 22 million)*. The above sensitivity analysis considers the purchase price of aviation fuel price and the potential cash flows arising from fuel hedge contracts entered into by the Company. The analysis is performed on the same basis for 2013.

Equity price risk

Equity price risk arises from available-for-sale financial equity securities. All investment decisions relating to buying and selling of equity securities are approved by the Board.

Sensitivity analysis:

All of the Company's listed equity investments are listed on the Australian Securities Exchange or Irish Stock Exchange. Increase/(decrease) in equity prices by 5% would have increased/(decreased) other comprehensive income by USD 4 million *(2013: USD 13 million)*.

Currency risk

The Company operates internationally and is exposed to currency risk that are denominated in currencies other than the functional currency of the Company. The currencies in which these transactions are primarily denominated are Euro ("EUR"), Pound Sterling ("GBP") and Australian Dollar ("AUD"). In respect of the Company's transactions denominated in USD, the Company is currently not exposed to currency risk as United Arab Emirates Dirhams ("AED") is pegged to USD at a fixed exchange rate. Interest on borrowings is denominated in the currency of the borrowing. Generally, borrowings are denominated in currencies that match the cash flows generated by the underlying operations of the Company. This provides an economic hedge without derivatives being entered into and therefore hedge accounting is not applied in these circumstances. In respect of other monetary assets and liabilities denominated in foreign currencies, the Company's policy is to ensure that its net exposure is kept to an acceptable level by buying or selling foreign currencies at spot rates when necessary to address short-term imbalances.

The Treasury is responsible for managing the net foreign exchange exposures by using derivative contracts where deemed necessary. As at the reporting date, the Company has forward exchange contracts with a notional value of USD 528 million with a positive fair value of USD 47 million *(2013: forward exchange contracts with a notional value of USD 574 million with a negative fair value of USD 4 million)*.

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23. Financial instruments - Fair values and risk management (continued)

(c) Financial risk management (continued)

(iv) Market risk (continued)

Exposure to currency risk

The Company's exposure to foreign currency risk was as follows based on notional amounts:

	(USD'million) 31 December 2014			(USD'million) 31 December 2013		
	EUR	GBP	AUD	EUR	GBP	AUD
Trade receivables	50	25	14	48	27	15
Loan to related parties	184	-	-	222	-	-
Available-for-sale financial assets	73	-	-	28	-	237
Long-term bank loans	(523)	-	-	(151)	-	-
Trade payables	(14)	(5)	-	(7)	(2)	-
Gross statement of financial position exposure	(230)	20	14	140	25	252
Estimated forecast sales	883	484	619	734	329	492
Estimated forecast purchases	(387)	(135)	(131)	(303)	(82)	(100)
Gross exposure on forecasted transactions	496	349	488	431	247	392
Forward exchange contracts	(230)	(81)	(98)	(309)	(99)	(136)
Net exposure	36	288	404	262	173	508

The following significant exchange rates applied during the year:

	Average rate		Reporting date spot rate	
USD	2014	2013	2014	2013
EUR 1	1.30	1.34	1.25	1.36
GBP 1	1.60	1.63	1.56	1.64
AUD 1	0.88	0.97	0.85	0.91

Sensitivity analysis

A 5% strengthening/(weakening) of USD against EUR, GBP and AUD at 31 December would have increased/(decreased) profit or loss and equity by the amounts shown below. This analysis is based on foreign currency exchange rate variances that the Company considers to be reasonably possible at the reporting date. The analysis assumes that all other variables, in particular interest rates, remain constant and ignores any impact of forecasted sales and purchases and forward exchange contracts. The analysis is performed on the same basis for 2013.

	Strengthening		Weakening	
Effect (USD'million)	Profit or loss	Equity	Profit or loss	Equity
31 December 2014				
EUR	12	12	(12)	(12)
GBP	(1)	(1)	1	1
AUD	(1)	(1)	1	1
31 December 2013				
EUR	(7)	(7)	7	7
GBP	(1)	(1)	1	1
AUD	(13)	(13)	13	13

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23. Financial instruments - Fair values and risk management (continued)

(c) Financial risk management (continued)

(iv) Market risk (continued)

Interest rate risk

The Company's cash flow exposure to interest rate risk arises primarily from long-term borrowings (finance lease liabilities and bank loans and borrowings) at floating rates. The Company's long-term borrowings are primarily denominated in USD and EUR. Interest rate swaps are used to manage the interest rate profile of interest-bearing financial liabilities on a currency by currency basis to maintain an appropriate fixed rate and floating rate ratio. The Company's policy is to secure a significant proportion of its borrowings in fixed rate instruments in the short to medium term, allowing an increased proportion of floating interest exposure in the medium to long-term.

Furthermore, the Company also enters into interest rate swap contracts to mitigate its interest rate risk. As at the reporting date, the Company has outstanding interest rate swap contracts with a notional amount of USD 971 million with a negative fair value of USD 43 million *(2013: interest rate swap contracts with a notional amount of USD 1,266 million with a negative fair value of USD 59 million)*. At the reporting date, the interest rate profile of the Company's interest-bearing financial instruments was:

	2014 USD'million	2013 USD'million
Fixed rate instruments		
Financial assets	1,775	1,170
Financial liabilities	(1,705)	(1,887)
	70	(717)
Variable rate instruments		
Financial assets	138	183
Financial liabilities	(4,926)	(2,737)
	(4,788)	(2,554)

Fair value sensitivity analysis for fixed rate instruments

The Company does not account for any fixed rate financial instruments at fair value through profit or loss, and the Company does not designate derivatives (interest rate swaps) as hedging instruments under a fair value hedge accounting model. Therefore a change in interest rates at the reporting date would not affect profit or loss.

Cash flow sensitivity analysis for variable rate instruments

A change of 25 basis points in interest rates at the reporting date would have increased/(decreased) profit or loss and equity by the amounts shown below. This analysis assumes that all other variables, in particular foreign exchange currency rates, remain constant. The analysis was performed on the same basis for 2013.

	Profit / (loss)		Equity	
	0.25% increase	0.25% decrease	0.25% increase	0.25% decrease
31 December 2014				
Variable rate instruments	(9)	9	(9)	9
Interest rate swaps	2	(2)	2	(2)
Cash flow sensitivity (net)	(7)	7	(7)	7
31 December 2013				
Variable rate instruments	(5)	5	(5)	5
Interest rate swaps	2	(2)	2	(2)
Cash flow sensitivity (net)	(3)	3	(3)	3

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23. Financial instruments - Fair values and risk management (continued)

(d) Capital management

The Board's policy is to maintain a strong capital base designed to provide sufficient liquidity to the business, maximise shareholder value, maintain market confidence and sustain future growth of the business. The Company's main objectives when managing capital are:

- to ensure that the Company has access to capital to fund contractual obligations as they become due;
- to maintain flexibility to pursue strategic business opportunities and ensure adequate liquidity to withstand weakening economic conditions;
- to maintain an appropriate balance between debt financing vis-a-vis shareholder capital as measured by gearing ratio; and
- to maintain a capital structure that matches an investment grade credit rating to facilitate access to public and private debt and capital markets at competitive interest rates.

The Board regularly reviews the Company's capital structure and makes adjustments to reflect future capital commitments, business strategies and economic conditions. The Company is not subject to any externally imposed capital requirements. There were no changes in the Company's approach to capital management during the year.

	2014 USD'million	2013 USD'million
Finance lease liabilities	5,056	3,951
Interest bearing borrowings	1,575	673
Less: Cash and cash equivalents	(718)	(592)
Net debt	5,913	4,032
Total capital	14,199	11,057
Total capital and net debt	20,112	15,089
Gearing ratio	29.40%	26.72%

24. Significant judgements for certain transactions and balances

In preparing these financial statements, management has made significant judgements and estimates that affect the application of the Company's accounting policies. These judgements and estimates have a material impact on the reported financial results, assets and liabilities. Information about judgements made in applying accounting policies that have the most significant effect on the amounts recognised in the financial statements are as follows:

(a) Income from advertising, marketing and promotion of supplier products

The Company engages in a significant number of transactions with its key suppliers which involves the Company undertaking advertising and marketing activities to promote those entities' products for a consideration. Significant judgement is required to determine whether the income for these promotion services is inherently linked to the purchase of assets or services by the Company from those suppliers and when the Company was entitled to it. When such income is principally for the performance of promotion services and not directly linked to the purchase of the products from the suppliers, the related income is recognised in the profit or loss in the period in which such services are rendered. Consideration is offset against the related purchase of assets or deferred in the statement of financial postion when the promotion is linked to the purchase of assets or services. Also refer to notes 3.1.2(c) and 5.

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24. Significant judgements and estimates (continued)

(b) Impairment of investments in subsidiaries, joint ventures and associates

The Company reviews the carrying value of its investments in subsidiaries, joint ventures and associates to assess impairment, if there is an indication of impairment. In determining whether impairment losses should be recognised in the profit or loss, the Company makes judgements as to whether there is any observable data indicating that there is a measurable decrease in the estimated future cash flows. Accordingly, an allowance for impairment is made where there is an identified loss event or condition which, based on previous experience, is evidence of a reduction in the recoverability of the cash flows. Also refer to note 12.3 (j) which describes the basis of the recoverability of key investments.

(c) Impairment of property, plant and equipment

The Company reviews its property, plant and equipment for impairment, if there is an indication of impairment. In determining whether impairment losses should be recognised in the profit or loss, the Company makes judgements as to whether there is any observable data indicating that there is a reduction in the carrying value of property, plant and equipment. Accordingly, provision for impairment is made where there is an identified loss event or condition, which, based on previous experience, is evidence of a reduction in the carrying value of property, plant and equipment.

With particular reference to aircraft, factors which could trigger an impairment review include following:
(i) Significant decline in the market value beyond that which would be expected from the passage of time or normal use;
(ii) Significant changes in the technology and regulatory environments;
(iii) Evidence from internal reporting which indicates that the economic performance of the aircraft is, or will be, worse than expected;
(iv) increase in the weighted average cost of capital applicable to the Company;
(v) a deterioration in other economic and market factors which results in lower than forecast revenues or higher costs, including the fuel price. Also refer to note 10(f) which describes the basis of recoverability of the carrying value of aircraft assets and the related sensitivities.

25. Other judgements and estimates

The Company makes assumptions and estimates that affect the reported amounts of assets and liabilities within next financial year. Assumptions and estimations are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. The following are the critical accounting assumptions and estimates used by management in the preparation of these financial statements:

(a) Determination of fair values for sale and leaseback transactions

In order to determine the fair values of sale and leaseback transactions, management invites bids from willing buyers in an open market or an independent valuation. The bids are evaluated considering quantitative and qualitative factors including price offered by the willing buyers. Based on the above, the Tender Board then enters into agreement to sell with the best price available at the time of transaction.

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25. Other judgements and estimates (continued)

(b) Recognition of unused coupons

Management determines the expected period of utilisation of unused coupons based on historic trends in utilisation by passengers, which are based on travel patterns and behaviour. Subsequent changes in market dynamics could result in period of utilisation differing from initial estimates.

(c) Estimated useful lives and residual values of property, plant and equipment and intangible assets

Management assigns useful lives and residual values to property, plant and equipment and intangible assets based on the intended use of assets and the economic lives of those assets. Subsequent changes in circumstances such as technological advances or prospective utilisation of the assets concerned could result in the actual useful lives or residual values differing from initial estimates. Management has reviewed the useful lives and residual values of major items of property, plant and equipment and determined that certain adjustment are deemed necessary during 2014 (refer to note 10 (e)). These will be reviewed again in the next year.

(d) Impairment losses on trade and other receivables

The Company reviews its trade and other receivables to assess adequacy of provisions at least on an annual basis. The Company's credit risk is primarily attributable to its trade and other receivables and amounts due from related parties (including loans to related parties). In determining whether impairment losses should be recognised in the profit or loss, the Company makes judgements as to whether there is any observable data indicating that there is a measurable decrease in the estimated future cash flows. Accordingly, a provision is made where there is a potential loss event or condition which, based on previous experience, is evidence of a reduction in the recoverability of the cash flows.

(e) Carrying value of provision for defined benefit obligation

The calculation of defined benefit obligation is sensitive to the actuarial assumptions set out in note 20(b). Subsequent changes in circumstances such as living conditions in the region, labour laws and labour market dynamics may result in actual results differing from estimates. Estimates are revised on an annual basis by a qualified independent actuary.

(f) Determination of fair values of financial instruments

Where the fair values of financial instruments recognised in the statement of financial position cannot be derived from active markets, their fair value is determined using valuation techniques including the discounted cash flow model. The inputs to these models are taken from observable markets where possible, but where this is not feasible, a degree of judgement is required in establishing fair values. The judgements include consideration of inputs such as liquidity risk, credit risk and volatility. Changes in assumptions about these factors will not have significant impact on the recognised fair values of financial instruments.

(g) **Leases:** Classification of leases of assets as a finance lease or an operating lease.

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EXHIBIT 3

مرسوم رقم (٥٦) لسنة ٢٠٠٩
بضمان حكومة دولة قطر الالتزامات المالية الناشئة
عن اتفاقات قروض شراء الطائرات التي تبرمها الشركة القطرية لتأجير الطائرات

نحن تميم بن حمد آل ثاني نائب أمير دولة قطر ،

بعد الاطلاع على الدستور ،

وعلى القانون رقم (٢) لسنة ١٩٦٢ بتنظيم السياسة المالية العامة في قطر ، المعدل بالمرسوم بقانون رقم (١٩) لسنة ١٩٩٦ ،

وعلى اقتراح وزير الاقتصاد والمالية ،

وعلى مشروع المرسوم المقدم من مجلس الوزراء ،

رسمنا بما هو آت :

مادة(١)

تضمن حكومة دولة قطر الالتزامات المالية الناشئة عن اتفاقات قروض شراء الطائرات التي تبرمها الشركة القطرية لتأجير الطائرات ، وأي مبالغ تُدفع لهذا الغرض ، وذلك في حدود مبلغ (٧,٥٠٠,٠٠٠,٠٠٠) سبعة مليارات وخمسمائة مليون دولار أمريكي .

مادة(٢)

يُفوض وزير الاقتصاد والمالية ، أو من ينيبه ، في التوقيع على الوثائق والمستندات اللازمة لتقديم الضمان المشار إليه ، وفي تنفيذه .

مادة(٣)

على جميع الجهات المختصة ، كل فيما يخصه ، تنفيذ هذا المرسوم . ويُعمل به من تاريخ صدوره . وُينشر في الجريدة الرسمية .

تميم بن حمد آل ثاني
نائب أمير دولة قطر

صدر في الديوان الأميري بتاريخ : ٧ / ١ / ١٤٣١ هـ
الموافق : ٢٤ / ١٢ / ٢٠٠٩ م

Decree No. (56) of 2009 on the Qatari Government's Guarantee of the Financial Obligations Arising from the Loan Agreements Concluded by the Qatar Aviation Lease Company for the Purchase of Aircrafts 56/2009

Decree No. (*56*) of 2009

on the Qatari Government's Guarantee of the Financial Obligations Arising from the Loan Agreements Concluded by the Qatar Aviation Lease Company for the Purchase of Aircrafts

We, Tamim bin Hamad Al Thani, Deputy Emir of the State of Qatar,

Having perused the Constitution,

Law No. (2) of 1962 Regulating the General Financial Policy of Qatar, as amended by Decree-Law No. (19) of 1996,

The proposal of the Ministry of Economy and Finance, and

The Draft Decree submitted by the Council of Ministers,

Decreed as follows:

Article (1)

The Government of the State of Qatar shall guarantee the financial obligations arising from the loan agreements concluded by the Qatar Aviation Lease Company for the purchase of aircrafts, and any amounts paid for this purpose. The guaranteed amount, however, shall be within the limits of (USD 7,500,000,000) Seven Billion Five Hundred Million US Dollar.

Article (2)

The Minister of Economy and Finance or his deputy shall be authorized to sign documents necessary for the provision and implementation of the aforementioned guarantee.

Article (3)

All competent authorities, each within its jurisdiction, shall enforce this Decree, which shall come into force from the date of its issue. This Decree shall be published in the Official Gazette.

Tamim bin Hamad Al Thani

Deputy Emir of the State of Qatar

Issued in the Emiri Diwan on 1/7/1431H

Corresponding to: 12/24/2009 AD

EXHIBIT 4

UPCOMING EVENTS

AUG 17 Mon 2015 (http://qatarchamber.com/calendar/action~oneday/exact_date~17-8-2015/) 7:00 am Training courses organized by Gu... @ GCC Standardization Organization (http://qatarchamber.com/event/training-courses-organized-by-gulf-standards-authority?instance_id=4)

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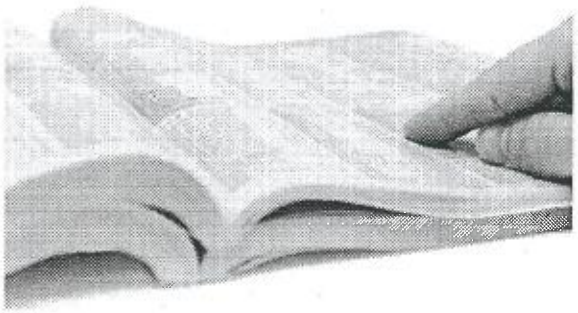
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Phone No	44620645
Fax No	44636659
Email	
Website	
Membership Date	6/9/2009
Membership Renew Date	7/9/2014
Membership Next Renew Date	6/8/2016
Company Type	MAIN
Contact Person (Arabic)	اكبر عباس سحدين الباكر
Contact Person (English)	AKBAR ABBAS S AL - BAKER
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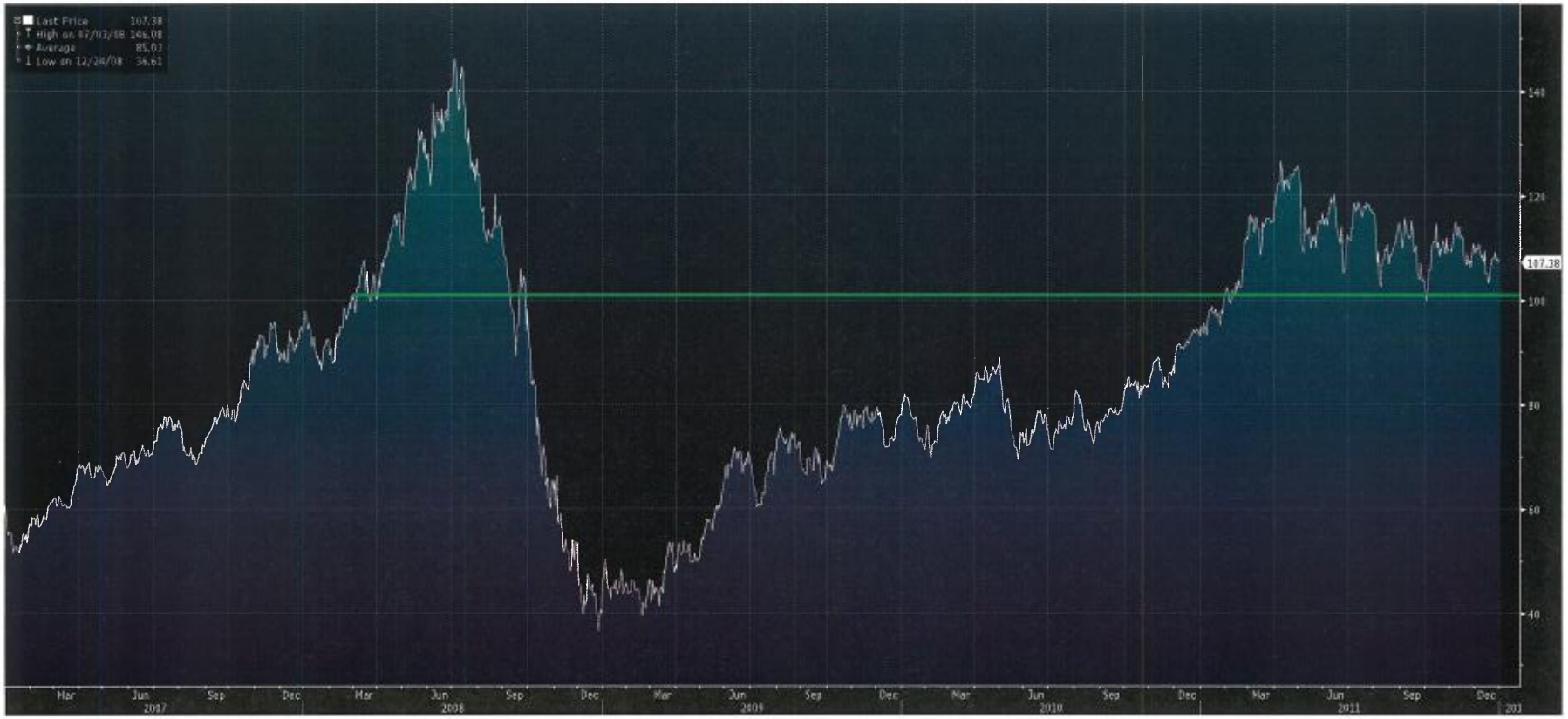
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EXHIBIT 6

RESPONSE TO EMIRATES REPORT ON GULF AIRPORT SUBSIDIES

Daniel M. Kasper[†]

August 24, 2015

[†] Daniel Kasper is a Senior Consultant for Compass Lexecon with over 30 years of consulting experience at Compass Lexecon, LECG, Coopers & Lybrand, L.L.P., and Harbridge House, Inc. His work has dealt extensively with issues involving economics, finance, competition and competition policy in the airline and aerospace industries. He also served for a total of ten years on the faculties of the Harvard Business School and the University of Southern California School of Business Administration. Between 1979 and 1983, he served at the United States Civil Aeronautics Board ("CAB"), first advising the Vice-Chair of the Board on all matters pending before the agency and then as the Director of International Aviation. In the latter capacity, he was the Board's primary advisor and chief line officer for all matters involving international aviation. In 1993, he was one of 15 members of the *National Commission to Ensure a Strong and Competitive Airline Industry*, a body created by Congress and appointed by the President and the Congressional leadership to evaluate and make recommendations on how to improve the performance of the U.S. airline and aerospace industries. In addition, he has served as a consultant to the U.S. Departments of Transportation, State and Defense on various aviation industry matters, and has also testified as an expert on airline and aviation industry matters before courts and federal administrative agencies, as well as legislative bodies and antitrust authorities both in the United States and abroad. He earned M.B.A. and J.D. degrees from the University of Chicago.

I. OVERVIEW OF MY RESPONSE

In my initial Report,[1] I found that the airport fees and charges paid by Gulf State carriers are not sufficient to cover the full costs – i.e., both the operating and capital costs – that were incurred to build and operate their respective hub airports. I further explained why (and how) this failure of Gulf State airports to cover their costs results in massive subsidies to Emirates and other Gulf State carriers.

On June 29, 2015, Emirates Airline ("Emirates") filed a report[2] responding to the reports filed by U.S. carriers regarding the impact of subsidies to the Gulf carriers. Part of the Emirates Report included claims disputing some of the findings contained in my report. Qatar Airways ("Qatar") and Etihad Airways ("Etihad") subsequently filed responses that also disputed portions of my report.[3] I have carefully examined all of these reports and, with one exception, find nothing in them that casts any doubt on my original findings or cause me to revise my findings and conclusions. That one exception arises from the fact that information contained in Emirates' response indicates I have underestimated the magnitude of its Terminal 3 subsidy. I have therefore revised my estimate to reflect that new information, as detailed in Section IV below.

I would note at the outset that the Emirates response is based on misunderstandings (or misrepresentations) of the Kasper Report and makes no serious attempt to dispute the basic tenets of my original report. Importantly, *Emirates acknowledges that the capital costs of the Dubai International airport (including Terminal 3) were paid for by the*

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[1] Daniel M. Kasper, "Gulf Airport Subsidies," January 25, 2015 (hereafter "Kasper Report").

[2] "Emirates' response to claims raised about state-owned airlines in Qatar and the United Arab Emirates," June 29, 2015 (hereafter "Emirates Report").

[3] Etihad Airways, "Etihad Airways Response To Claims Raised About State-Owned Airlines In Qatar And The United Arab Emirates," May 31, 2015; Qatar Airways, "Comments Of Qatar Airways Q.C.S.C.: Re: Information on Claims Raised about State-Owned Airlines in Qatar and the UAE," July 30, 2015. The Etihad and the Qatar responses to my Report are far narrower than – and largely duplicative of – those raised by Emirates. Hence, my response to Emirates applies as well to the responses of Etihad and Qatar, even if I do not separately cite them.

government of Dubai and that Emirates thus does not pay the full cost of the airport services it receives at Terminal 3 or, more broadly, at its Dubai hub (DXB).[4] By conceding that the fees its pays to DXB do not cover the full costs of Terminal 3 or the airport, Emirates effectively concedes the primary conclusion of my report – that it benefits from government subsidization of DXB and Terminal 3. Although Emirates does not deny that it obtains substantial benefits from the low airport fees made possible by the Government's willingness to cover the capital costs of DXB and Terminal 3, it argues – erroneously and unconvincingly – that these benefits do not constitute a subsidy. But for reasons explained below and in my original report, these benefits are in every sense a subsidy. Indeed, the Emirates Report bolsters the analysis contained in my report by highlighting where I was too conservative in estimating the magnitude of Emirates' subsidy.

Emirates explicitly concedes, and Qatar and Etihad do not take issue with, the fact that because of large capital costs and low landing fees, there is a substantial deficit between the costs of their respective hub airports and the revenues those airports generate. Likewise, while Emirates explicitly acknowledges – and the other carriers implicitly acknowledge – that these differences are absorbed by their respective governments,[5] they argue that there is no requirement that airports charge fees sufficient to cover their costs.[6] That is not the point. The issue raised by this case is whether these admitted subsidies give the Gulf carriers an unfair advantage against U.S. airlines (and other international carriers) in competing for traffic, particularly traffic moving between third

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[4] *See* Emirates Report, page 38.

[5] While Qatar and Etihad do not deny that the capital costs at their hub airports (DOH and AUH respectively) are paid for by the government, as pointed out in the Kasper Report (p. vii), since neither DOH nor AUH published detailed enough financial statements I was unable to calculate Qatar's and Etihad's terminal subsidies. Nonetheless, the fact that their landing fees are so similar to DXB's (*see* Kasper Report, p.14), and the lack of any attempt to deny the fact in the Qatar and Etihad reports, make clear that these airports also subsidize their capital costs.

[6] According to Emirates "It [the Open Skies agreement] does not set a floor on charges, or require airports to cover their costs." Emirates Report, p. iv-v. According to Qatar, "This language says nothing about requiring airport operators to cover their costs. It says only that airport user fees shall not exceed the cost of providing the services, and does not require airports to cover their costs." Qatar Report, p. 34.

countries and the United States, in violation of the Fair Competition provisions of their respective bilateral agreements with the United States. In my report I have shown that Emirates, Etihad and Qatar are the intended, and the predominant, beneficiaries of massive airport subsidies provided by the Gulf States. In addition, the report of Drs. Lee and Amel has demonstrated that government subsidies have enabled Emirates, Etihad, and Qatar to expand far faster than the underlying growth in traffic *to the detriment* of U.S. and other international airlines.[7] Thus, whether or not it might be acceptable for an airport to charge below its costs in other circumstances is irrelevant to the present case where the question is whether the effects of these acknowledged subsidies is sufficiently large as to violate the provisions of their Open Skies aviation agreements with the United States.

As discussed in Section III below, a critical flaw in Emirates' response to my report is that that I "created" the shortfall (covered by the subsidy) by applying an imputed interest charge on the capital cost of Terminal 3.[8] As shown below, this is simply wrong. The shortfall I identified was not "created" by me. On the contrary, it arose – as a matter of simple accounting – from DXB's failure to recover from Emirates the $7.8 billion in capital costs DXB incurred to build Terminal 3, a fact that Emirates has not disputed. Emirates has chosen to ignore the fact that it is standard procedure when calculating the economic benefit of a capital contribution – in this case from the Government of Dubai for the capital required to construct Terminal 3 – to include an interest charge representing the time value of money. But the interest charge did not create the deficit. Rather, the deficit was created by DXB's failure to recoup the $7.8 billion capital cost of Terminal 3 from Emirates.

Emirates also contends that the fact that the Government of Dubai pays the capital costs of Emirates' Terminal 3 is permissible under WTO principles because Terminal 3 is

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[7] Darin Lee and Eric Amel, "Supplemental Comments Regarding the Impact of Subsidized Gulf Carrier Competition on U.S. Carriers," August 24, 2015, Section 2.

[8] Emirates Report, p. 42.

part of a "complete airport" and should thus be considered "general infrastructure." [9] But unlike runways, taxiways, airport roadways and other common use facilities, Terminal 3 is not "general infrastructure." As discussed in my report and Section III below, Terminal 3 is a facility that was specifically built for Emirates to give it an advantage in competing against U.S. and other airlines for international connecting passengers, principally those traveling between third countries (in Asia, Africa and the Middle East) on the one hand, and Europe and North America on the other. In short, Terminal 3 is a physically separate "factory" that was purpose built (and subsidized) to help Emirates compete for international connecting traffic at the expense of U.S. (and other) airlines.

The Emirates Report further argues that I have ignored the importance of non-aeronautical fees, but, as I show in Section III below, they are wrong. Contrary to Emirates' assertion, I explicitly took account of non-aeronautical fees. In fact, as explained below, Emirates' response makes it clear that I actually understated the benefits Emirates derives from those fees. Specifically, Emirates' response makes it clear that the DXB sets non-aeronautical fees for the stated purpose of keeping aeronautical fees low. Since my subsidy calculation assumed that non-aeronautical users were receiving part of the savings from the Government of Dubai's absorption of costs at DXB,[10] it is clear that I understated the amount of the subsidy that accrued to Emirates.[11] When I adjust that assumption to reflect the new information provided by

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[9] Emirates Report, p. 38.

[10] Kasper Report p. 27.

[11] In addition, it is quite likely that the much of the 53% of DXB's revenues that the airport attributes to non-aeronautical users – and that help keep Emirates' fees low (*see* Dubai Airports Yearbook 2014, p.28) – are in fact payments from other state-owned firms such as Dnata and Dubai Duty Free. This is especially so given that Dubai Duty Free operates all retail outlets at Dubai airport (source: Courtney Trenwith, *Dubai Duty Free Seeks New $750m Loan*, Arabian Business, (Sept. 4, 2013 2:36 PM). It is my understanding that because these related party transactions are not reported as having been conducted (or reflecting terms) in arm's length transactions, the presumption is that they are not arm's length and may in fact be an additional way that the government provides subsides to Emirates. I do not have enough information to quantify this additional subsidy but note that it is a further reason that my estimates are conservative.

Emirates, the 11 year (2004-2014) subsidy to Emirates increases from just over $2.2 billion to $2.9 billion (as shown in Appendix A).

In my report I noted the fact that all three of the Gulf airports exclude connecting passengers from paying passenger fees is a subsidy to the Gulf carriers. The three Gulf carriers contend that this is not a subsidy because the airports treat all airlines the same with regards to passenger fees. As discussed in Section V below, the fact that all airlines are exempted from paying a fee for connecting passengers at the Gulf State airports is irrelevant in circumstances where, as here, the airports' capital costs are being absorbed by their governments rather than paid by airport users. In practice, the Gulf carriers are, by far, the largest beneficiaries of the policy to waive fees for connecting passengers. Emirates saves approximately $180 million annually, money that could have been used to reduce the Government's subsidy to DXB and Emirates. The cost savings from this fee waiver have enabled the Gulf carriers to expand more rapidly than would otherwise have been possible and has given them a significant cost advantage against U.S. (and other) international carriers in competing for passengers traveling between the United States and third countries.

Finally, Emirates argues that the massive airport subsidies it receives are permissible because, in its view, U.S. airports also pay some subsidies to airlines. This argument is absurd on several levels. First, as I show in Section VII, the vast majority of the funding that Emirates cites is not paid by federal, state or local governments. Rather, it is funded from charges levied on airlines and other airport users and is therefore not a subsidy. Second, even if it could be demonstrated that some small fraction of these payments constituted subsidies – which I do not concede – the purported benefits identified by Emirates are trivial compared to the magnitude of Emirates' subsidies. Third, unlike Dubai, large U.S. commercial airports are funded by revenues generated from airlines and other airport users. Fourth, even if some of the purported benefits were subsidies, they clearly do not unfairly benefit U.S. carriers in competing against

other international carriers[12] or distort competition in international aviation markets. Fifth, not only do the Gulf carriers ignore the fact that the United States' airports policy actively seeks to promote airline competition,[13] but they also ignore that the Airline Deregulation Act also preempts attempts by airports as well as state and local governments to regulate or control airline routes, rates or services. Finally, the fact that U.S. airports policy permits *temporary* (and small scale) incentives to encourage the provision of air services cannot logically be read to mean that any and all airport subsidies to airlines are permissible.

The balance of this report proceeds as follows. Section II briefly reviews why subsidies are so market distortive in the airline industry. Section III examines Emirates' defense of the Terminal 3 subsidy. Section IV examines Emirates' claims about non-aeronautical fees. Section V examines Emirates' claims on the connect passenger fee subsidy. Section VI examines Emirates' claims on cross subsidization. Section VII examines the claim that U.S. airports are also subsidized. Section VIII contains the conclusion. The appendices include updates of the total subsidy for Emirates for 2004 through 2014, as well as the 10-year passenger fee subsidy update for Qatar and Etihad.

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[12] On the contrary, a number of the airport programs cited by Emirates have been utilized by foreign airlines. For example Emirates received two years of free or reduced landing fees when starting service in Boston (source: Boston Business Journal, "Massport lands Boston-Dubai trips after offering $1.5 million in subsidies to Emirates," Sept. 19, 2013), and DFW waived landing fees for Emirates using the Airport Incentive Program when it started service there (source: Baker Ahles & Kaskovich, *DFW Chief Says International Growth is Where It's At*, The Star Telegram, (Oct. 29, 2014).

[13] See, for example, FAA/OST Task Force Study, "Airport Business Practices And Their Impact On Airline Competition," October, 1999, "Airport practices that have the effect of unreasonably denying or hindering access by air carriers in effect regulate their routes, contrary to the federal preemption authority over fares, routes, and Services," p. v.

II. WHY STATE SUPPORT MATTERS

As I pointed out in my report,[14] large commercial airports are generally subject to economic regulation, particularly regarding rates and charges, because of their monopolistic characteristics. While the nature of the regulations varies, large airports in the United States,[15] the EU, [16] and many other countries are generally expected to be self-financing, that is, to earn revenues from landing fees, passenger fees, facilities rentals, and other user charges that are sufficient to cover the airport's operating and capital costs. Likewise, airports cannot use state aid for the purpose of keeping fees low to unfairly compete against other airports. On the contrary, large airports are expected (or required) to set fees and charges that are neither discriminatory nor excessive and that are sufficient to recover the costs of building and operating the airport.

I also explained how government subsidies that allow an airport to set its fees and charges at levels below its costs can give an airline operating a hub at that airport a substantial cost advantage over competing airlines that do not operate at hubs at that airport.[17] In the present case, the Gulf States are subsidizing their large hub airports for the specific purpose of lowering the airport costs incurred by their SOE carriers, thereby giving those carriers a competitive advantage against U.S. (and other) carriers, particularly for traffic moving between countries in Asia, Africa and the Middle East on the one hand and North America and Europe on the other.

In addition to providing Gulf carriers with a current cost advantage, the large subsidies for airport infrastructure allow Emirates, Etihad and Qatar to place huge orders for large aircraft (especially Emirates' A380s for which DXB Concourse A is purpose

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[14] Kasper Report, p. 7.

[15] *See* U.S. Department of Transportation, Federal Aviation Administration, FAA Airport Compliance Manual, effective September 30, 2009, page. 17-1.

[16] *See* Official Journal of the European Union, Information and Notices, Volume 57, 4 April 2014.

[17] Kasper Report, p. 2.

built), knowing that the expensive infrastructure necessary to handle these aircraft will be available and that the Gulf carriers will not have to bear the full cost of the infrastructure built for their benefit.[18] Hence, the subsidies matter here primarily because they are specifically designed to help Gulf carriers compete against U.S. airlines for international passengers by lowering their airport costs relative both to U.S. (and other international) carriers and to the actual costs of the Gulf carriers' hub airports.

III. EMIRATES' TERMINAL 3 SUBSIDY

The primary airport subsidy to Emirates that I identified and analyzed in my initial Report involves DXB's Terminal 3,[19] which was built for Emirates' exclusive use at a cost of $7.8 billion and was paid for by the Government of Dubai rather than from fees paid by the users of DXB. The Emirates Report does not dispute my assertion that the cost of Terminal 3 was paid for by the Government. Indeed, the Emirates Report explicitly acknowledges that "The Dubai Government has provided all airport infrastructure, including Terminals 1, 2, and 3 and all supporting facilities and runways, by applying government resources from general funds (raised from non-aviation specific fees and other government revenue sources, or from funds raised by the government from international capital markets)."[20]

Nonetheless, Emirates argues that the Government of Dubai's actions do not constitute a subsidy because all carriers are treated equally at DXB. In particular, the Emirates Report states that "There is nothing unique about Terminal 3 that could not be said of all the airport facilities…. Since Terminals 1, 2, and 3 are components of an integrated

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[18] For example, Emirates' President Tim Clark recently stated that Emirates could "easily" double in size with enough airport capacity to support such an expansion (Mary Schlangenstein and Karl Lundgren, *Emirates President Says Airline Could Double in Size*, Bloomberg Businessweek, June 11, 2015). The Dubai Airports strategic plan also noted that "the world's most significant airline and airport expansion programme is currently taking place in Dubai… Dubai International must expand to accommodate fleet expansion..," Dubai Airports Strategic Plan 2020, p. 23.

[19] Including Concourse 2 and Concourse A. *See* Kasper Report, p.5.

[20] Emirates Report, p. 38.

airport operation, whatever benefit the government provides, it provides to all users of the airport's facilities."[21] Thus Emirates concludes, "[a]ny benefit provided by the manner in which the Government of Dubai provides airport infrastructure is shared among all users of the airport, including Delta, United, the Legacy Carriers' joint venture and alliance partners, and the approximately 100 other carriers operating at Dubai International."[22] But while it is true that many airlines serve DXB, that does not change the fact that the Government's policy of absorbing DXB's capital costs amounts to a massive cost-savings subsidy to Emirates. In contrast to the other airlines serving DXB, Emirates' operations there are specifically designed to carry passengers between third countries with only a connection in Dubai. Even though other passenger carriers serving DXB may pay lower fees than they would if the Government of Dubai had not absorbed the capital costs incurred to build DXB, it gives these carriers no competitive advantage relative to other carriers.

In contrast, the Government's policy of absorbing DXB's capital costs, and particularly the costs to build Terminal 3, provides a substantial competitive benefit to Emirates. Terminal 3 was purpose built for Emirates at a size and scale designed principally to give Emirates a competitive advantage over U.S. and other international carriers for connecting passengers.[23] As noted in my report, "The [Terminal 3] subsidies are particularly beneficial for Emirates in competing for connecting traffic against airlines that do not receive comparable subsidies at their hub airports."[24] In short, the Government of Dubai is providing a subsidy that gives Emirates a significant advantage in competing against U.S. international carriers for traffic moving between third countries and the United States.

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[21] *Id.*

[22] Emirates Report, p. 39.

[23] The fact that it was purpose built for Emirates makes it clear how to apportion the subsidy, but it is not required to show that the capital costs are a subsidy to Emirates. Even if other carriers made use of Terminal 3, that would not change the fact that its primary purpose is to advantage Emirates in competing for international passengers. In that situation, the calculations would simply have to take account of other airlines' usage of the terminal. But that is not the case with Terminal 3, in any event.

[24] Kasper Report, p. 21.

It is also important to note that my subsidy estimate is based only on the benefit to Emirates from the subsidies at Terminal 3. It does not include other substantial capital costs for the runways, taxiways, parking pads, and other infrastructure that the Dubai Government built in order to accommodate the large scale of Emirates' operations, including the large number of super-jumbo A-380 aircraft, and the high volume of connecting traffic required by the scale of Emirates' operations. Since these capital costs – like those for Terminal 3 – are not being recovered from Emirates (or other airport users), the actual amount of subsidy to Emirates is substantially greater than the subsidy for Terminal 3 alone.[25]

In addition, the Government of Dubai is currently developing an entirely new airport, Dubai World Airport (DWC), at an estimated cost of over $32 billion for the expansion[26] which, according to the Government, is necessary to meet the projected demand based largely on Emirates' expansion plans.[27] It is thus clear that the Dubai subsidies will increase considerably in the coming years.

Interest Rates

Emirates attempts to counter my subsidy analysis by claiming that "Compass Lexecon did not identify an alleged shortfall [in revenues relative to costs]; Mr. Kasper created it. He added a hypothetical interest cost to the airport's operating cost."[28] Emirates' assertion is simply wrong and seriously mischaracterizes my analysis.

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[25] Due to the lack of more detailed information with regard to DXB, I did not attempt to estimate the amount of these additional subsidies to Emirates.

[26] See Aya Batrawy, *Dubai's New Airport, Al Maktoum International, Opens With Hopes To Become The World's Busiest*, Huffington Post Travel, (Oct. 27, 2013).

[27] Because the benefits of DWC to Emirates' are largely in the future, I did not include an estimate of their value.

[28] Emirates Report, page 42.

Exhibit 1 below (Exhibit 11 in the Kasper Report) shows how I computed the annual value to Emirates resulting from the Government's absorption of the $7.8 billion capital expense incurred to build Terminal 3. In order to annualize the full cost of Terminal 3, it is necessary to calculate the annual payment (including both principal and interest) that would be required to amortize $7.8 billion over a twenty year period. This amount represents the annual amount users of the airport would have been required to pay for the use of Terminal 3 if the Government had not absorbed that cost. As I noted in my report, "the two key variables [in addition to the principal amount] required to calculate the annual payment are the interest rate that would be demanded by lenders and the term for the borrowing (i.e., the years required to pay the bond)."[29] The interest rate is the opportunity cost of capital, i.e., the return it could have earned in another investment.[30] And regardless of whether or not the government actually pays interest, the capital it invested has an opportunity cost. The Kasper Report used a rate of 6.45% based on existing debt issued by the Government of Dubai.[31] Amortizing the $7.8 billion in capital costs over 20 years[32] at a 6.45% interest rate results in an annual cost of $705 million. In short, the $705 million represents the annual cost of repaying the $7.8 billion capital cost amortized over a 20 year period. It is not simply (or primarily) an interest cost. Yet the Emirates Report simply ignores the failure of DXB to recoup the $7.8 billion in capital costs it incurred to construct Terminal 3. However, even a cursory reading of the Kasper Report would have made it clear to Emirates that the key factor in the shortfall between the cost of Terminal 3 and the fees paid by Emirates was not the interest rate but the initial capital expenditure.[33]

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[29] Kasper Report, p. 22.

[30] This is a basic principle of finance that is widely utilized in calculating the value of a capital investment. *See* Richard A. Brealey & Steward C. Myers, Principles of Corporate Finance, (Fourth Ed., McGraw Hill, 1991) p. 97.

[31] Kasper Report, p.22.

[32] Kasper Report, p. 22.

[33] The Kasper Report did a sensitivity analysis on the interest to show the impact of using a lower (5%) rate (Kasper Report, p. 36). However, there is no purpose of examining a 0% interest rate as that would assume that there is no opportunity cost for the capital.

EXHIBIT 1: EXHIBIT 13 FROM KASPER REPORT: CAPACITY GROWTH OF EMIRATES, QATAR, AND ETIHAD

Capital Cost (millions)	$7,800
Interest Rate	6.45%
Years Of Payment	20
Annual Payment (millions)	**$705**

Note: Assumes equal annual payment (including coupon and sinking fund payments).

Perhaps Emirates' confusion as to the "created" shortfall results from its failure to understand my analysis of the financial cash flows generated by DXB as reported by Department of Civil Aviation ("DCA"). [34] The purpose of that analysis was to allow for the possibility that DXB was using some of the modest "Excess Revenue" it reported from operations to pay down some of the capital costs of building Terminal 3. The excess revenue reported by DCA was shown in Exhibit 12 of the Kasper Report, and is reproduced in Exhibit 2 below.

Exhibit 2 shows that the DCA has somewhat greater operating revenues than operating expenses for each year from its airport operations. Although the so-called Excess Revenue appears to be a fairly typical reserve that airports can use in case of a shortfall in revenues, my analysis conservatively assumed that some of that surplus was to be used to pay down the Terminal 3 capital costs.

[34] See Kasper Report, p. 23, for discussion of the Department of Civil Aviation and the Dubai Civil Aviation Authority.

EXHIBIT 2: EXHIBIT 3 FROM KASPER REPORT: DCA REVENUES AND EXPENSES ($MILLIONS)

	Revenue	Expense	Excess Revenue
2004	$137	$95	$43
2006	$223	$159	$64
2006	$223	$159	$64
2007	$351	$207	$144
2008	$389	$315	$74
2009	$528	$450	$78
2010	$641	$506	$135
2011	$720	$589	$130
2012	$785	$656	$129
2013	$839	$677	$162
Average			**$102**

Sources: "Base Prospectus Dated 21 January 2013," pages 99 and 101; Base Prospectus Supplement Dated 27 September 2010 To The Base Prospectus Dated 28 October 2009, pages 45 and 46; "Government of Dubai Prospectus Dated 14 April 2008," pages 55 and 56.

Exhibit 3 below shows the impact of that assumption on the estimated Terminal 3 subsidy in 2013. Using a 20-year amortization period and an interest rate of 6.45%, the annual cost for Terminal 3 is $705 million. In my report, however, I assumed that $162 million (amounting to 75%) of DXB's Excess Revenue in 2013 was used to pay down the capital expenses incurred by the Government at Terminal 3. (The remaining 25% of surplus revenues was assumed to be used to pay the cost of other capital projects at the airport.) In other words, I assumed that $121 million was used to partially defray the $705 million annual debt service obligations for Terminal 3. The difference between the $705 million annual debt service and the $121 million available from the airport's revenue surplus is $584 million, which is the estimate of the total Terminal 3 subsidy (to both Emirates and non-aeronautical users of Terminal 3, as discussed below) that I used in my report. Thus, contrary to the Emirates Report, I did not

"create" a loss for DXB. Rather, I applied excess operating revenue from the airport to reduce the estimated subsidy.[35]

EXHIBIT 3: EXHIBIT 13 FROM KASPER CALCULATION OF 2013 EMIRATES SUBSIDY WITH 6.45% INTEREST AT 20 YEARS ($MILLIONS)

		Base (2013)
Terminal 3/Concourse A Annual Subsidy		
Cost of Terminal 3/Concourse A		$7,800
Years to Repay		20
Interest Rate		6.45%
Annual Capital Cost	[A]	$705
DCAA Surplus Cash	[B]	$162
Share of Surplus Revenue Used to Pay Terminal 3 Debt	[C]	75%
DCAA Surplus Cash Available to Pay Terminal 3 Debt	[D] = [B] x [C]	$121
Total Airport Subsidy	[E] = [A] - [D]	$584

Notes: Millions of dollars.

IV. NON-AERONAUTICAL FEES

Emirates' claims that DXB keeps its fees low as a result of "Dubai International's policy to maximize revenues from non-aeronautical users."[36] The Emirates Report further argues that the "DOT/FAA rates and charges policy allows U.S. airports to employ such an approach."[37] But the point I made in the Kasper Report was not that landing fees at DXB are too low in an absolute sense. Rather, that point was that the low landing fees *and* non-aeronautical fees combined were insufficient to cover the

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[35] I note that in its report, Emirates quotes DXB's statement that its objective is to "reduc[e] sole dependency on aeronautical revenue sources, or other funding... *while keeping aeronautical charges among the most competitive when compared to similar global hubs* (emphasis added by Emirates)." Emirates Report at pp.33-34. This suggests that DXB would not use its surplus revenues to pay down the capital cost of Terminal 3. Recalculating my subsidy estimate to take account of this would increase the amount of 2004-2014 Emirates Terminal 3 subsidy from the $2.79 billion shown in Appendix A to $3.4 billion and the total 11-year subsidy including the connect passenger fee subsidy to $3.6 billion (from $2.9 billion). This assumes non-aeronautical users receive no subsidy as discussed in Section IV.

[36] Emirates Report, p. 33.

[37] Emirates Report, p. 34.

full cost of that airport, a fact that Emirates has now acknowledged – and Etihad and Qatar did not deny. Hence, the fact that DXB (and the other Gulf hub airports) use non-aeronautical revenue to keep landing (aeronautical) fees lower than they would otherwise be is irrelevant to my central point – that the combination of aeronautical and non-aeronautical revenues at the Gulf carrier hub airports fail to cover those airports' costs and that the difference is covered by government subsidies .

Re-estimating the impact of non-aeronautical revenue

The Emirates Report also shows that I overestimated the amount of the subsidy going to non-aeronautical users of Terminal 3 and that, as a result, I substantially understated the magnitude of Emirates' Terminal 3 subsidy. Specifically, the Emirates Report contains a statement from the Dubai Airports' annual report explaining that the growth in non-aeronautical revenue reflects Dubai International's "corporate objective of reducing sole dependency on aeronautical revenue sources, or other funding... *while keeping aeronautical charges among the most competitive when compared to similar global hubs* [emphasis added by Emirates]."[38] In other words, DXB is charging all it can to non-aeronautical users in order to keep the aeronautical fees low.

In the Kasper Report, however, I assumed that half of the Terminal 3 subsidy went to reduce costs for non-aeronautical users of the terminal.[39] In light of Emirates' response, it is clear that this assumption should be adjusted to reflect the policy of minimizing the costs borne by aeronautical users. The impact of adjusting the share of subsidy to non-aeronautical users to reflect the airport's stated objective is illustrated by Exhibit 4 below. The first two columns of results are reproduced from the top portion of Exhibit 20 in the Kasper Report. This first column shows how I allocated the $584 million Terminal 3 subsidy (see Exhibit 3 above) between aeronautical and non-aeronautical users of Terminal 3 in my report. As shown in the penultimate line of

[38] Emirates Report, pp. 33-34, quoting Dubai Airports Yearbook, 2014, p 30.

[39] Kasper Report, p. 27.

Exhibit 4, I assumed that only 50% of the subsidy was going to aeronautical users.[40] In other words, I assumed that the fees charged to both aeronautical and non-aeronautical users at DXB were being kept artificially low by the Terminal 3 subsidy. The second column of Exhibit 4 (which was also in the original exhibit) shows that increasing the share of the subsidy for aeronautical users to 75% increases the value of the subsidy to $438 million for one year. However, in light of DXB's announced strategy of using non-aeronautical revenue to keep aeronautical fees low, even assuming that 25% of the Terminal 3 subsidy benefits non-aeronautical users is likely too high. I have therefore added a third column of results to Exhibit 4 that shows the value of the Terminal 3 subsidy to Emirates on the assumption that aeronautical users received the entire subsidy. As shown on the bottom line of the Exhibit, this doubles the annual value of Emirates' subsidy from $292 million to $584 million. It also increases the 11 year Terminal 3 subsidy from $1.39 billion to $2.79 billion (and the total subsidy including the connect passenger fee subsidy from $2.3 billion to $2.9 billion) as shown in Appendix A.

[40]It is also interesting to note that the 50% estimate was based on the average percentage of revenues made up of non-aeronautical revenues at major airports worldwide (see Kasper Report, p. 10). In fact, Dubai airport now explicitly states that non-aeronautical revenues make up 53% of its total revenues (see Dubai Airports Yearbook 2014, p.28). That is, Dubai's airports non-aeronautical revenues are in line with other airports worldwide that have far higher landing fees.

EXHIBIT 4: IMPACT OF NON-AERONAUTICAL FEES ON THE TERMINAL 3 SUBSIDY

		Base (2013)	Alternate	Alternate B
Terminal 3/Concourse A Annual Subsidy				
Cost of Terminal 3/Concourse A		$7,800	$7,800	$7,800
Years to Repay		20	20	20
Interest Rate		6.45%	6.45%	6.45%
Annual Capital Cost	[A]	$705	$705	$705
DCAA Surplus Cash	[B]	$162	$162	$162
Share of Surplus Revenue Used to Pay Terminal 3 Debt	[C]	75%	75%	75%
DCAA Surplus Cash Available to Pay Terminal 3 Debt	[D] = [B] x [C]	$121	$121	$121
Total Airport Subsidy	[E] = [A] - [D]	$584	$584	$584
Share of Subsidy to Aeronautical Users	[F]	50%	75%	100%
Subsidy	[G] = [E] x [F]	$292	$438	$584

Notes: Millions of dollars.

V. PASSENGER FEE SUBSIDY

In my initial Report, I showed that the fact that the Gulf airports do not charge a connecting passenger fee acts as a subsidy to the Gulf carriers. The Gulf carriers take issue with a number of points related to this subsidy. But in each case, their responses ignore the fact that the failure to establish a connecting fee is part and parcel of a strategy designed to help give Gulf carriers a competitive advantage over U.S. and other international carriers for international passengers by, *inter alia*, holding the costs paid by the Gulf carriers well below the actual cost of the facilities being provided by the airports and used by the Gulf carriers.

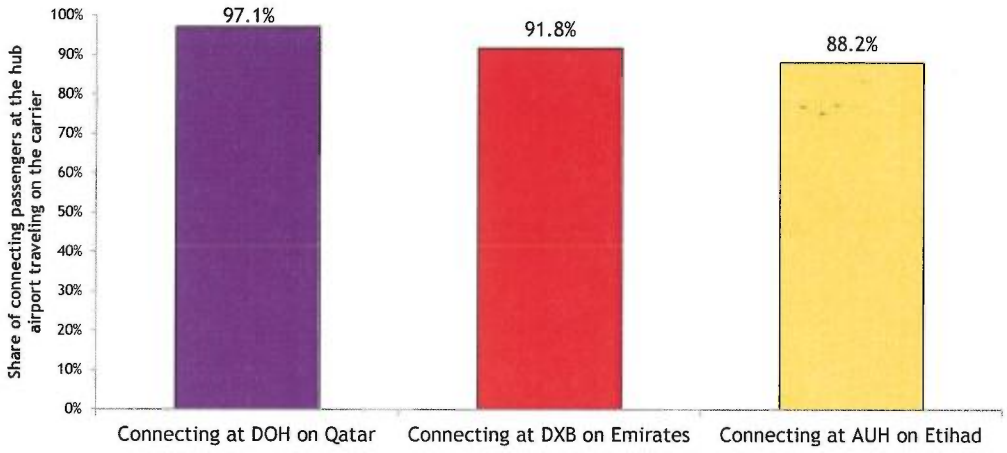
The Gulf carriers' primary defense is that at the Gulf airports all airlines' connect passengers are exempt from passenger fees. For example, Emirates states that at DXB, "All airlines are treated the same under the passenger fee policy: departing passengers on all airlines pay an identical passenger fee. Connecting passengers, regardless of airline, do not pay. The Legacy Carriers argue that this program is 'specific' to Emirates… [based on] the fact that a very large proportion of connecting passengers at Dubai International are Emirates passengers. This, of course, simply reflects the fact

that Emirates operates a hub at the airport, while other airlines do not."[41] But contrary to Emirates, my conclusion is based on much more than the fact that Emirates has its hub at DXB. Among other things, it is based on the following important facts: (1) that DXB does not cover its full costs from fees paid by airport's users; (2) that holding down Emirates' airport costs at DXB is part of Dubai's announced strategy to build up its aviation sector; (3) that a passenger fee on connecting passengers would significantly reduce the amount of subsidy required by DXB; and (4) that Emirates is the largest beneficiary by far of both DXB's on-going subsidies and DXB's failure to utilize a connecting passenger fee (rather than relying on funding from the Government of Dubai) to help defray DXB's full costs.

Further, while the Gulf airports charge the same rates for all airlines, the Gulf airlines are the primary beneficiary from the connecting passenger fee waivers since they carry most of the connecting passengers at the Gulf airports. Exhibit 5 shows that the vast majority of connecting passengers at each of the Gulf airports are transported by Gulf State carriers. The policy of not charging a fee for connecting passengers clearly illustrates how even policies that appear to be even-handed can, in practice, be used to confer advantages on Gulf State carriers. Nonetheless, whether or not the Gulf States' connecting fee policies are discriminatory is not the issue. The issue is that the exemption of connecting passengers from the fees results in a subsidy for the Gulf carriers that artificially lowers their costs and gives them an advantage over U.S. and third country airlines in competing for international passengers flying between other locations.

[41] Emirates Report, pp. 43-44. See also Qatar Report, p.33 and Etihad Report, p. 20.

EXHIBIT 5: SHARE OF CONNECTING PASSENGERS AT GULF AIRPORTS THAT CONNECT ON THE HUB CARRIERS



Source: MIDT 2014.
Notes: Share of each airports international connecting passengers on an itinerary where the Gulf carrier is the operating carrier with longest total distance flown.

The three Gulf carriers also seek to defend the Gulf airports' passenger fee systems on the grounds that some other airports also exempt transfer passengers from passenger fees. For example, the Emirates Report states that "Passengers transferring at airports in the United Kingdom, Hong Kong, and Taipei are exempted from airport or air passenger taxes."[42] Qatar makes a similar claim, stating "similar charging structures are widespread globally and applied at major hubs such as London's Heathrow Airport, Bangkok and Kuala Lumpur, "[43] while the Etihad report states that "This is very similar to the United Kingdom, which imposes an air passenger duty on departing passengers but exempts transiting passengers."[44]

[42] Emirates Report, p. 44.

[43] Qatar report, p. 33.

[44] Etihad Report, p. 20.

Contrary to these statements, the primary passenger charge at London Heathrow (LHR) is approximately $50 per connecting passenger.[45] The United Kingdom Air Passenger Duty that the carriers are referring to, on the other hand, is a general tax that is not used to pay for airport infrastructure[46] nor does it provide any competitive advantage to U.K. airlines. Rather, the tax disadvantages the British carriers by raising the cost travel to/from Britain thereby reducing the volume of traffic to/from the United Kingdom. Indeed, by taxing passengers by segment distance from the UK, the tax favors foreign carriers that connect passengers in other countries, including Emirates and Qatar.[47] Further, by exempting passengers connecting at airports in the United Kingdom, the British government acknowledged that the tax would adversely affect the competitive position of British carriers if it were applied to connecting passengers.

And unlike the Gulf state airports, none of the other airports they cite has been specifically built and heavily subsidized to enhance the competitive positon of its national airline(s) in competition against U.S. and other international airlines. As shown in Exhibit 6, the international carriers using these airports as hubs all connect a far smaller percentage of their international passengers than do the Gulf carriers at their hubs.[48]

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[45] See Kasper Report, Exhibit 2, source IATA Airport, ATC, and Fuel Charge Monitor: Passenger Fees, as of July 2014.

[46] See HM Treasury, "Reform of Air Passenger Duty," December 2011.

[47] See, for example, "Blame it on the Duty," The Economist, (Mar. 12, 2013 13:35 PM), "someone flying directly from London to Singapore on British Airways pays more duty than someone flying the same route with an intermediate stopover in, say, Doha or Dubai. That suits the likes of Doha-based Qatar Airways and Dubai-based Emirates, which have expanded services to secondary British cities like Birmingham, Glasgow and Manchester."

[48] The connecting percent of international passengers making connections for Qatar, Etihad, and Emirates differs from the percentages shown in Exhibit 8 of the Kasper Report due primarily to a processing error in the MIDT data that has been corrected.

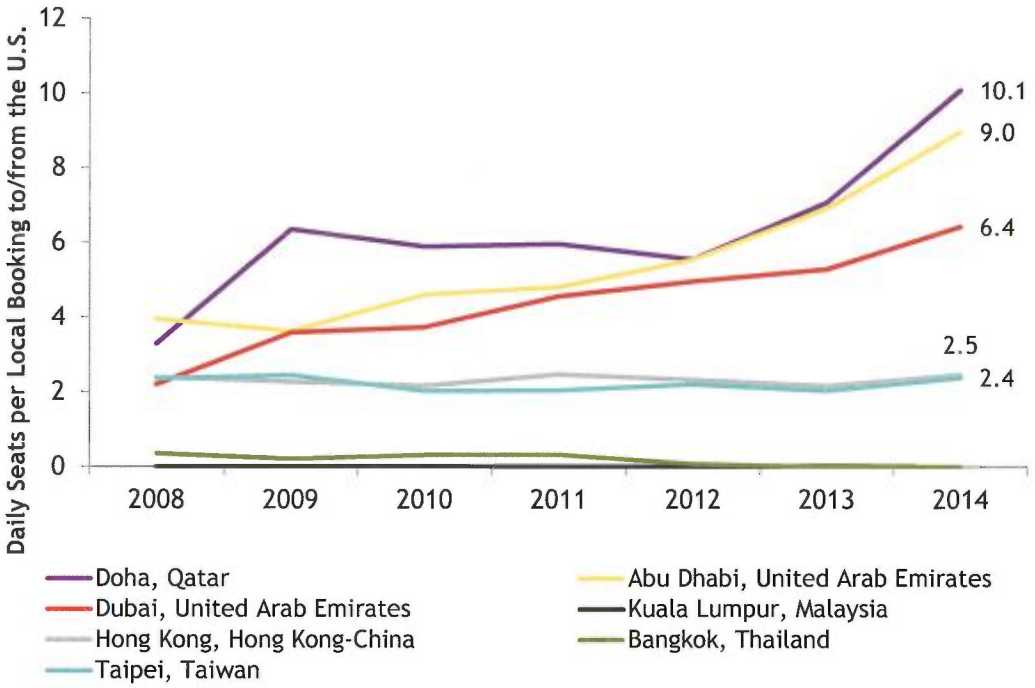
EXHIBIT 6: PASSENGER FEES AND CONNECTING PASSENGERS

Airport	Departing Local Passenger Fee (USD)	Connecting Passenger Fee (USD)	Connecting Fee as a Percentage of Departing Passenger Fee	Hub Carrier	Percent of International Passengers Making Connections
DOH: Doha, Qatar	$10.98	$0.00	0.0%	Qatar	73.6%
AUH: Abu Dhabi, United Arab Emirates	$20.42	$0.00	0.0%	Etihad	70.6%
DXB: Dubai, United Arab Emirates	$20.42	$0.00	0.0%	Emirates	57.9%
KUL: Kuala Lumpur, Malaysia	$16.98	$0.00	0.0%	Malaysian Airlines	38.2%
HKG: Hong Kong, Hong Kong-China	$2.97	$0.00	0.0%	Cathay Pacific	37.5%
BKK: Bangkok, Thailand	$19.99	$0.00	0.0%	Thai Airways	26.0%
TPE: Taipei, Taiwan	$16.00	$0.00	0.0%	China Airlines	14.2%
				Eva Airways	14.8%

Source: IATA Airport, ATC, and Fuel Charges Monitor: Passenger Fees, as of July 2014; MIDT 2014.
Notes: Excludes taxes and security fees. International airports passengers fees are the fees for "international" passengers when there is a distinction between domestic and international passengers.

The cited airports also differ completely from the Gulf airports in the extent of capacity their national carriers have added on routes to the United States for the purpose of capturing connecting passengers to/from the United States and third countries. Exhibit 7 illustrates these differences by showing the ratio of (a) seats between the United States and these airports to (b) "local" passengers traveling between the United and these airports as their final destinations (as opposed to passengers continuing/starting beyond/behind the Gulf airports). This shows approximately the share of seats used for local traffic. The more this ratio exceeds one, the more seats are being used to transports passengers to locations other than the hub. In 2014 the ratio of Gulf carriers' U.S. seats to their local traffic was between 6 and 10 (and growing rapidly). That is, they had 6 to 10 times more seats flying to the United States then they had local passengers. Thus, the vast majority of their seats to/from the United States were not for passengers traveling between each of the Gulf carriers' home countries and the United States. In contrast, the four other international airports cited in the Gulf carriers' reports had between zero (there is no nonstop service between either Kuala Lumpur or Bangkok and the United States) and 2.5 seats per local passenger in 2014, a ratio that has changed little since 2008.

EXHIBIT 7: SEATS PER LOCAL PASSENGER BOOKING ON FLIGHTS BETWEEN THE UNITED STATES AND THE INTERNATIONAL AIRPORTS



Sources: OAG, MIDT.
Notes: Seats on non-stop flights between the U.S. and the international airport. Bookings are for passengers on itineraries between the U.S and the international airport.

In short, the examples chosen by Emirates serve primarily to demonstrate (1) the abnormally high reliance of Gulf carriers on connecting traffic between the U.S. and third countries and (2) that the potential to distort competition – and, harm U.S. airlines – resulting from the exemption of connecting passenger fees, is far greater at the Gulf airports than at the other airports cited by the Gulf carriers.[49]

VI. OTHER CARRIERS AT DXB

Emirates further attempts to justify its airport subsidies by claiming that "It also is well established in the United States that it is not unfair to recoup the costs of a terminal

[49] As shown in Exhibit 2 in the Kasper Report, the Gulf airports are alone among the largest international connecting airports in not charging a connect passenger fee.

built primarily for one airline through charges that are collected from all airlines."[50] However, I did not claim that the costs of Terminal 3 were unfairly shifted onto other carriers. Rather, what I demonstrated is that airport users collectively had failed to cover the capital costs of DXB as a whole (and that Emirates had failed to cover the costs of Terminal 3) and that those costs were absorbed by the Government of Dubai. I further pointed out that the primary and overwhelming beneficiary of the Government's largess was Emirates.

Likewise, Emirates' claim that "Mr. Kasper, focused exclusively on Terminal 3 and Concourse A, [but was] silent concerning the same hypothetical interest costs incurred on Terminal 1 and the myriad other airport facilities that benefit all other airlines exercising landing rights at Dubai International"[51] is simply not true. Once again, Emirates ignores its failure to pay both the capital cost of its facilities at DXB and the interest cost (which reflects the opportunity cost of that capital). Moreover, although it is likely that other passenger airlines serving DXB are paying less than their full costs, unlike Emirates, these carries are not primarily using DXB to connect passengers in competition with other airlines. Hence, they do not gain a significant competitive advantage from Dubai's subsidies at DXB. The "focus" on Terminal 3 is because Terminal 3 was purpose built to give Emirates an advantage in competing against U.S. and other international airlines for connecting international passengers, and as such constitutes a market distorting subsidy.

VII. U.S. AIRPORT FUNDING

A major element of Emirates' argument in defense of Dubai's airport subsidies is that U.S. airports receive financing and that they offer airlines incentives to start new service, both of which, according the Emirates, could be considered subsidies. In general, these claims are either entirely wrong and/or involve amounts trivial in

[50] Emirates Report, p. 41.

[51] Emirates Report, p.43 n.87.

comparison to those received by Emirates and the other Gulf State carriers. Moreover, even if some of those amounts were considered subsidies (a point I do not concede), the Gulf carriers do not allege, much less demonstrate, that they create a competitive advantage for the U.S. carriers, or a disadvantage for the Gulf carriers, on international routes.[52]

The Emirates Report further claims that there is no real difference between airport-related programs in the United States – including airport incentive programs, FAA grants, municipal bond financing, and PFCs – and the policies being pursued by Dubai/DXB. But the programs are clearly distinguishable, which may explain why Emirates has made no serious effort either to demonstrate that the U.S. programs are subsidies or to show that they distort trade in international air services to the advantage of US airlines.

Under existing U.S. law and airports policy, the FAA seeks to promote airline competition at U.S. airports. In addition, it specifically requires U.S. airports "to be as self-sustaining as possible."[53] As explained below, the items identified by Emirates (e.g., FAA airport grants) are not subsidies at all, and in the limited circumstances where the FAA does allow airports to provide temporary incentives to airlines, they are for the purpose of promoting competition and/or adding service, typically to unserved markets. These incentives cannot be targeted to individual airlines[54] and do not, in fact, serve to give the hub carriers an advantage in competing against other international airlines, as illustrated by the fact that Gulf carriers themselves have received benefits

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[52] Even in the unlikely event that Emirates could demonstrate that some U.S. airport practices constitute trade distorting subsidies that harmed Emirates, it would not justify Dubai's massive subsidies to Emirates. On the contrary, the appropriate response would be for Emirates to ask the Government of Dubai to seek consultations with the United States on the subject of subsidies – just as the U.S. international airlines are doing in the current proceeding.

[53] Federal Aviation Administration, "FAA Airport Compliance Manual," Sept. 30, 2009, 5190.6B, -1 p. 17-1. I note that the Emirates report cites FAA regulations that require airports to charge fees to aeronautical users of U.S. airports that do "not exceed" costs (Emirates Report p. 30), but fail to note that the FAA also requires airports to be as "self-sustaining as possible."

[54] Federal Aviation Administration, "AIP Sponsor Guide-100," June 28, 2013, p. 100-8.

under some of these programs.[55] In addition, since these programs are typically funded from airport revenues (generated from airlines and other airport users) and not from general tax revenues, they are neither unfair nor do they constitute trade-distorting subsidies.

FAA Airport Grants

Emirates attempts to equate Dubai's subsidies with the FAA's grants for airport infrastructure. However, in stark contrast to governmental support to DXB, the FAA's airport grants are funded by taxes and fees imposed on airlines and other airport users,[56] not by general tax revenues (i.e., unlike in Dubai, the airlines and other airport users in the United States pay for the infrastructure they receive). In any case, FAA grants can be used only for common use infrastructure (runways, taxiways, etc.) and cannot be used for construction of airline terminals or other airline-specific improvements.[57] As noted above, I did not include the equivalent expenditures (for common use infrastructure) in my subsidy calculation for DXB, even though DXB, unlike the FAA, *does not* recover such expenditures from fees and taxes paid by airport users.

Airport Incentive Programs

Emirates also argues that the fact that "U.S. Government policy permits U.S. airports to temporarily waive landing fees and offer other fee discounts to airlines for new services"[58] somehow means that Dubai is free to subsidize Emirates in its competition with U.S. airlines. But Emirates' argument is fatally flawed.

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[55] *See* Footnote 67.

[56] *See* Federal Aviation Administration, "Overview: What is AIP?" p. 4.

[57] Airports Council International, "Airport Improvement Program (AIP)," http://www.aci-na.org/sites/default/files/aip_fact_sheet.pdf. *See* also Federal Aviation Administration, "Overview: What is AIP?"

[58] Emirates Report, pp. 30-31.

To begin with, these temporary incentives are permitted by the FAA not to help a single hubbing carrier increase its connecting traffic, but for the purpose of encouraging new air services, including new entrants, and service to unserved destinations.[59] In any event, the fact that U.S. policy permits airports to use *temporary* (and small scale) incentives cannot logically be read to mean that any and all airport subsidies to airlines are permissible. On the contrary, the fact that the F.A.A. found it necessary to issue regulations authorizing the use of limited, temporary incentives makes it clear (by logical implication) that other airport subsidies are impermissible. Indeed, the very FAA regulations permitting temporary incentives also explicitly state that airport revenue cannot be used to subsidize to airlines.[60]

Moreover, the rules authorizing such limited incentive programs are quite restrictive, including limited time duration (1-2 year maximum), and prohibition of incentives offered only to specific carriers.[61] And to the extent these incentive programs extend to international services, foreign carriers are allowed to participate in them, and a number of foreign carriers, including the Gulf carriers, have directly benefited from these programs.[62]

In short, the limited and modest incentives allowed under U.S. laws and regulations are neither designed to – nor in practice do they – unfairly aid U.S. carriers in competing against foreign airlines.

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[59] According to the FAA, new service is defined as "(a) service to an airport destination not currently served, (b) nonstop service where no nonstop service is currently offered, (c) new entrant carrier, and/or (d) increased frequency of flights to a specific destination." (In the last case, the incentive would be available only on the added flights). Source: Federal Aviation Administration, "Overview: What is AIP," p. 6.

[60] Federal Aviation Administration, "AIP Sponsor Guide," p. 18.

[61] See FAA, "Air Carrier Incentive Program Guidebook: A Reference for Airport Sponsors," September 2010, pp. 7-10.

[62] For example Emirates received two years of free or reduced landing fees when starting service in Boston (see Boston Business Journal, "Massport lands Boston-Dubai trips after offering $1.5 million in subsidies to Emirates," Sep, 19, 2013); and DFW waived landing fees for Emirates using the Airport Incentive Program discussed above. Source: Baker Ahles & Kaskovich, *supra* note 12.

Passenger Facility Charges

The Emirates Report also claims that the U.S. airlines could receive subsidies through passenger facility charges ("PFCs"). PFCs are the primary passenger fee at U.S. airports, and are collected from passengers by the airlines at the time of ticket purchase. By law, all passengers arriving at an airport in the United States pay the same PFC whether they are beginning or ending their trips at the airport (i.e. "local" passengers) or are making a connection at the airport.[63] Although PFCs are charges to the airlines based on the number of passengers on their aircraft, the Emirates Report erroneously claims that using the logic I apply to DXB, projects funded by PFCs at U.S. airports could be considered subsidies.[64] But this claim is completely false for one fundamental reason: Unlike the governmental subsidies provided to DXB, airport projects funded by PFCs are not funded or subsidized by general tax revenues. Rather, they are paid for by fees levied on airport users. Because PFCs are funded by the airport users and do not entail any financial contribution by federal, state or local governments, they cannot constitute a subsidy.

In addition, Emirates' argument has no basis in economics. Airlines pay airport fees based on the weight of the aircraft (the landing fees) and, essentially, on the weight of the passengers (passenger fees). Simply because the passenger fee is a separate line on a ticket, while the landing fee is not, cannot change the economic effects of these charges.[65] Both are fees that the airline must pay to use an airport.[66] Moreover, because of the price elasticity of demand for air travel, a charge that raises the price of

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[63] Connecting passengers are limited to paying PFCs at two connecting airports in each direction (for a round trip itinerary). Source: Order 5500.1, Passenger Facility Charge, Department of Transportation, Federal Aviation Administration, August 9, 2001.

[64] Emirates Report, p. 157.

[65] If it did, then all an airline would have to do to eliminate landing costs would be to list them as a separate line on a ticket, prorated for each passenger.

[66] As either type of landing fee goes up, the airline may try to push it through to the ticket price, in which case the ticket becomes more expensive and less passengers fly, or else they will not push it through and will make less money. But this "incidence" is not due to whether a separate line is put on the ticket.

an airline tickets simultaneously reduces the demand for airline travel as well as airline revenues. Thus, PFCs have the same economic effect as other charges imposed directly on airlines. In short, PFCs do not constitute a subsidy.

The Miami International Rates & Charges Case

Emirates also contends that the decision in a case involving Miami International Airport ("MIA") supports its position on subsidies by upholding MIA's rates even though they "included the cost of the then-new A/D Concourse, which was for the exclusive use of Miami's hub carrier, American Airlines."[67] But Emirates is once again wrong and has either failed to understand the issues involved or is deliberately seeking to obscure them.

As an initial matter, my report did not suggest that there is anything wrong with having terminals that are dedicated to the use of a single carrier. Nor did I suggest that it is necessarily illegal or improper for an airport to recover the cost of new exclusive use facilities from fees charged to all airlines serving the same airport, even though they do not use the terminal.[68]

Moreover, the MIA case involved allegations of cross subsidy among airlines rather than a government subsidy. More specifically, the MIA case involved a dispute as to whether the airport use agreements signed by carriers serving MIA allowed the airport to include the costs of improvements made at a terminal used exclusively by one airline in the rates paid by other airlines serving MIA or whether the airport was required to calculate charges separately for each terminal based only on that terminal's specific

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[67] Emirates Report, p. 41.

[68] On the contrary, I testified in the DOT case cited by Emirates as an expert witness in support of MIA's charging system. In my testimony in that proceeding, I explained that while such a charging system is unusual and could be problematic in other circumstances, all of the signatory airlines then serving MIA had agreed to such a charging system in their contracts with MIA. Declaration of Daniel M. Kasper, In Miami International Airport Rates Proceeding, Dkt. No. OST-96-1965, November 13, 1996, p.8.

costs. In its decision, the DOT concluded that because the contracts (i.e., the airport use agreements) signed by the objecting airlines with MIA specifically authorized the use of a common rate base, MIA's charging system was therefore permissible.

In any event, the MIA case is irrelevant to the issue of subsidies received by Emirates at DXB since I did not claim that other airlines serving DXB were cross-subsidizing the hub carrier (i.e., the objection raised by the airlines disputing MIA's airport charges). Rather, I pointed out that by absorbing the costs of Terminal 3 at DXB, the government of Dubai directly subsidizes Emirates in its competition with U.S. carriers.

State Grants to Airports

The Emirates Report also implies that certain state grants to airports could constitute subsidies.[69] But neither Emirates nor any other commenter has even attempted to demonstrate that such grants adversely affect foreign airlines or distort competition in international aviation markets. In short, no harm has even been alleged, much less proven. That is hardly surprising since U.S. government studies show that for the large U.S. airports, including those that have international air service, only a tiny fraction of their funding for capital projects comes from these grants. For instance, a recent GAO study found that less than 2% of funding for capital projects for medium and large U.S. airports came from state grants, while the vast majority came from airport bonds and other sources paid for by the revenues from the airports or airlines.[70] In short, these grants account for an insignificant fraction of airport cost and in no sense can they be used to justify Emirates' massive subsidies.

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[69] Emirates Report, p. 40.

[70] A 1998 GAO study ("Airport Financing, Finding Sources for Airport Development," March 1998) found that 2% of large and medium airports funding were from state grants. They did find that 10.6% were funded by Airport Improvement Program (AIP) grants, which while paid by the FAA are from funds in the Airport and Airway Trust Fund, which is funded by "taxes on domestic and international airline travel, domestic cargo transported by air, and noncommercial aviation fuel," p. 32. A 2007 GAO study ("Observations on Planned Airport Development Costs and Funding Levels and the Administration's Proposed Changes in the Airport Improvement Program," June 2007), found that 4% of all U.S. airports financing came from state grants, but that only 14% of the these grants went to large and medium hub airports (p. 27).

Hub Airports and Municipal Bond Financing

The Emirates report also claims equivalence between Dubai's subsidies and the financing of U.S. airports because U.S. airports often construct terminals "for exclusive or principal use by a hub airline" and that communities are "often involved in financing...." [71] This claim, too, is without merit.

Emirates gives four examples of U.S. hub airports built with "community" involvement. The first is Detroit airport's Terminal World, which was "built to house Northwest Airlines' Detroit hub, and is now the home of Delta's Detroit hub" and for which "$751 million of the $1.2 billion cost of the new terminal was covered by tax-exempt municipal bonds ... to be repaid by passenger facility charges (PFC)." [72] The second is Newark Airport's Global Gateway built to be used by Continental at a "total cost of $1.4 billion, $730 million was linked to tax-exempt bonds issued for Continental through the New Jersey Economic Development Authority, which Continental is paying over 30 years." [73] The third is the Maynard Jackson International Terminal at Delta's hub in Atlanta, which was "...built at a cost of $1.4 billion, $1 billion of which was funded through municipal bonds, with the rest funded by the airlines." [74] The fourth is Terminal D in Dallas/Fort Worth which currently houses American's (and other carriers') international arrivals and was "...built at a cost of $1.2 billion through Dallas/Fort Worth International Airport's discretionary funds."[75]

To begin with, the issue in dispute is not – as Emirates seems to imply – whether there is something wrong with hub airports expanding in response to the needs of their hub

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[71] Emirates Report, p. 40.

[72] Emirates Report p. 40.

[73] Emirates Report pp. 40-41.

[74] Emirates Report, p. 41.

[75] Emirates Report, p. 41.

tenants. This is something airports do, and I did not suggest otherwise.[76] Rather, the issue I raised is whether the airport projects in the Gulf States are financed in such a way that the state is effectively providing subsidies that give the carriers' hubbing at these airports a competitive advantage against other international carriers in the competition for international traffic. Unlike the situation with Gulf state airports, the answer to that question with respect to U.S. airport financing is a resounding "No."

All of the projects cited by Emirates were financed primarily by municipal bonds and/or directly by the airlines themselves. The municipal bonds used to finance airport improvements are paid back either directly by the affected airline(s) or by airports from revenues generated by fees and charges (including PFCs) imposed on airlines and other airport users. Since they are not paid by governments or general taxpayers, and in any event are a form of debt financing widely available in the United States across myriad sectors, they do not constitute a subsidy.

With regard to Emirates' allegations about tax treatment of municipal bond financing, it is important to note at the outset that there is a huge difference between lowering the interest rate on airport debt and having the government pay an airport's capital expenses outright, as in the case of Dubai's Terminal 3. Second, although Emirates argues that the municipal bond financing could be a subsidy because interest on municipal bonds is not subject to federal (and in some cases, state) income taxation,[77] municipal bond interest rates are reduced only relative to other businesses in the United States that cannot issue tax-free bonds. Hence, lowering the interest rate would only create an advantage vis-à-vis an airport whose bondholders have to pay taxes on the

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[76]On the other hand, these same airports also actively seek foreign airlines. For example, as discussed above, DFW waived landing fees for Emirates using the Airport Incentive Program discussed above. Source: Baker Ahles & Kaskovich, *supra* note 12.[77] "[M]any airport infrastructure projects are financed by municipal bonds, the interest of which is exempt from federal income tax. ... This could become a subsidy under the Legacy Carriers' construct." Emirates Report, p. 160.

[77] "[M]any airport infrastructure projects are financed by municipal bonds, the interest of which is exempt from federal income tax. ... This could become a subsidy under the Legacy Carriers' construct." Emirates Report, p. 160.

interest received. Since there are no personal income taxes in the Gulf States,[78] municipal bond financing by U.S. airports cannot possibly disadvantage Gulf State carriers. Indeed, since the interest rate I used in calculating Dubai's subsidies was taken from actual Dubai bonds,[79] I essentially assumed the same tax treatment for Dubai bonds as the U.S. airports receive. In short, there simply is no equivalency between the tax-free status of municipal bonds in the United States and the massive airport subsidies that Emirates has received.

VIII. CONCLUSION

In my initial Report, I found that all three Gulf carriers were receiving significant subsidies from their respective governments funneled through their hub airports in the form of artificially low airport fees and charges. Neither Etihad nor Qatar denied that their governments have paid the massive capital expenditures required to build their airports, and Emirates explicitly acknowledged this fact. Thus, my analysis showing that the Gulf airlines are paying far lower airports costs than they would have paid in the absence of the government subsidies stands unchallenged.

Because Gulf State governments pay for substantial portions of the costs of operating and constructing Gulf carriers' hub airports, the fees paid by these airlines are kept artificially low. And since the Gulf airlines primarily use their hub airports to carry connecting rather than local passengers, these artificially low airport fees give the Gulf carriers a significant cost advantage in competing against U.S. and other carriers for the

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[78] See http://www.dubai-online.com/jobs/taxes/, and http://www.expatfocus.com/expatriate-qatar-taxation.

[79] The interest rate of 6.45% was in fact based on a stipulated "profit rate" from a sukuk bond which does not pay an interest rates (Kasper Report, p.22). Since there is no tax on income in Dubai this should represent the equivalent to the rate on a tax free municipal bond in the United States. As I pointed out in my Report, the government of Dubai does also issue some non-sukuk bonds. I was able to get information on two which each had greater than 10 year maturities (DUGB 5.591 06/22/2021 Govt and DUGB 7.75 10/05/2020 Govt). For the period October 2010 (when the data begins) through December 2012, the average yield to maturities on these were 6.4% (Kasper Report, p.22).

patronage of those passengers. In short, the subsidies provided by Gulf State governments can and do significantly distort international airline competition.

Finally, the Gulf airlines' argument that their subsidies are somehow justified by various U.S. policies and practices is fundamentally flawed, since the U.S. programs they cite are generally not government funded, are small and limited in scope, and do not distort international competition.

Appendix A: Emirates Updated Airport Subsidy for 2004 through 2014

In Section III above, I updated the Emirates Terminal 3 subsidy to account for the likelihood that none of the subsidy went to non-aeronautical users of Terminal 3. Exhibit 4 above shows that the Terminal 3 subsidy increased to $584 million from the base case of $292 million in 2013. This appendix updates the estimated the subsidy for the full period from 2004 through 2014.[80]

Exhibit 8 shows the updated estimated airport subsidies for Emirates for 2004 through 2014. The exhibit has three parts: the first part shows the Terminal 3/Concourse A subsidy, the second part shows the connect passenger fee subsidy, and the third shows the total subsidy (accounting for the impact of adding passenger fees on the Terminal 3/Concourse A subsidy).

The top panel of Exhibit 8 shows the Terminal 3/Concourse A subsidy. Terminal 3 was opened in 2008 at a cost of $4.5 billion to build. Hence, the subsidy for Terminal 3 starts in 2008. Using the same assumptions as above (i.e. interest rate of 6.45% for 20 years) the annual debt payment (including principal repayment) for Terminal 3 debt would be $407 million starting in 2008. Concourse A opened in 2013 at a cost of $3.3 billion leading to an additional annual debt payment of $298 million starting in 2013. The calculation of each year's DCA Surplus Cash is from Exhibit 2 above. Assuming that *all* of the subsidy goes to aeronautical users of Terminal 3/Concourse A (rather than the 50% assumption in my original Report), the total Terminal 3/Concourse Annual Subsidy grows from $352 million in 2008 to $577 million in 2014 for a total of $2.79 billion over the 11 years (compared to $1.39 billion in the Kasper Report[81]).

The second panel of Exhibit 8 shows the gross Connect Passenger Fee subsidy. Based on the Gulf carriers' responses, there was no reason to change any of the assumptions

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[80] I was unable to obtain DCA surplus revenue information for 2014. Therefore, I have assumed that DCA's surplus revenue in 2014 increased from 2013, the same rate as departing seats increased (5.44%). Source: OAG.

[81] Kasper Report, Exhibit 22.

from my original Report. The passenger fee was 30 AED per passenger from 2004 through 2008, increasing to 75 AED in 2009. A 5 AED security fee has been in effect since 2009.[82] At the legally set exchange rate, this put the passenger fee at $8.17 through 2008 increasing to $21.78 in 2009. Assuming that the connect passenger fee would be set at 50% of the local passenger fee, gives a connect fee of $4.08 through 2008 increasing to $10.89 in 2009. Finally, multiplying the connect passenger fee by the estimated Emirates connecting passengers[83] gives gross passenger fee subsidy totaling $917 million.

The third panel of Exhibit 8 adjusts the passenger fee for the impact on the Terminal 3/Concourse A subsidy.[84] Since there was no Terminal 3/Concourse A subsidy from 2004-2007, the impact on that subsidy is zero for these years and the full net passenger subsidy and the gross passenger subsidy are the same. For the other years, because the increase in passenger fees can be used to pay the Terminal 3 debt, the net passenger fee subsidy is lower than the gross passenger fee subsidy. For the 2004-2014 period, the net passenger fee subsidy is $108 million.

Finally, the total subsidy is the sum of the Terminal 3/Concourse A subsidy and the net passenger fee subsidy. The total subsidy increases from $14 million in 2004 to $584 million in 2014, with a ten year total of $2.9 billion.[85]

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[82] I have not found documentation on the security fee prior to 2009 and so, to be conservative, have assumed that there was none before 2009.

[83] To estimate the number of connect passengers, the total MIDT connecting passengers are first found, and this is then scaled based on the total reported passengers in the Emirates and the Dubai Airport annual reports. Prior to 2008 I do not have MIDT data and so instead estimate connecting passengers using the ratio of connect passenger to total passengers reported in the annual reports in 2008 and apply that ratio to the reported total passengers in the Emirates annual reports for each year. The assumptions for the connect passenger subsidy are unchanged from my original report. The estimated number of connect passengers in the underlying MIDT data was reduced to correct for a processing error in the original data.

[84] *See* Kasper Report, Appendix A.

[85] As pointed out in my original Report, while the Terminal 3 subsidy starts with the opening of Terminal 3 in 2008, there is no reason to believe that Emirates was not receiving subsidies on their old terminal

EXHIBIT 8: UPDATED EMIRATES AIRPORT SUBSIDY, 2004-2014

		2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total (2004 - 2014)
[redacted]													
Total Cost of Terminal 3						$4,500	$4,500	$4,500	$4,500	$4,500	$4,500	$4,500	
Total Cost of Concourse A											$3,300	$3,300	
Cost of Terminal 3/Concourse A						$4,500	$4,500	$4,500	$4,500	$4,500	$7,800	$7,800	
Years to Repay		20	20	20	20	20	20	20	20	20	20	20	
Interest Rate		6.45%	6.45%	6.45%	6.45%	6.45%	6.45%	6.45%	6.45%	6.45%	6.45%	6.45%	
Annual Capital Cost Terminal 3		$0	$0	$0	$0	$407	$407	$407	$407	$407	$407	$407	
Annual Capital Cost Concourse A		$0	$0	$0	$0	$0	$0	$0	$0	$0	$298	$298	
Annual Capital Cost	[A]	$0	$0	$0	$0	$407	$407	$407	$407	$407	$705	$705	
DCAA Surplus Cash	[B]	$43	$122	$64	$144	$74	$78	$135	$130	$129	$162	$170	
Share of Surplus Revenue Used to Pay Terminal 3 Debt	[C]	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	
DCAA Surplus Cash Available to Pay Terminal 3 Debt	[D] = [B] x [C]	$32	$91	$48	$108	$55	$59	$101	$98	$97	$121	$128	
Total Airport Subsidy	[E] = [A] - [D]	$0	$0	$0	$0	$352	$348	$306	$309	$310	$584	$577	
Share of Subsidy to Aeronautical Users	[F]	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	
Emirates Terminal 3/Concourse A Annual Subsidy	[G] = [E] x [F]	$0	$0	$0	$0	$352	$348	$306	$309	$310	$584	$577	$2,785
Connect Passenger Fee Annual Subsidy (Connect Fee at 50% of Local Departing Fee)													
Local Passenger Fee (AED)		30	30	30	30	30	75	75	75	75	75	75	
Security Fee (AED)		0	0	0	0	0	5	5	5	5	5	5	
Total LocalPassenger Fee (AED)	[H]	30	30	30	30	30	80	80	80	80	80	80	
Exchange Rate	[I]	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	
Local Passenger Fee ($USD)	[J] = [H] x [I]	$8.17	$8.17	$8.17	$8.17	$8.17	$21.78	$21.78	$21.78	$21.78	$21.78	$21.78	
Ratio of Connect Passenger Fee to Local Passenger Fee	[K]	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	
Connect Passenger Fee ($USD)	[L] = [J] x [K]	$4.08	$4.08	$4.08	$4.08	$4.08	$10.89	$10.89	$10.89	$10.89	$10.89	$10.89	
Emirates Connect Passengers (millions)	[M]	3.50	4.05	4.90	5.93	6.35	8.58	10.21	11.20	13.25	15.01	16.70	
Emirates Gross Passenger Fee Subsidy (millions $USD)	[N] = ([L] x [M])	$14	$17	$20	$24	$26	$93	$111	$122	$144	$163	$182	$917
[redacted]													
Total Airport Connect Passengers (millions)	[O]	4.86	5.62	6.80	8.23	8.81	10.47	13.06	14.29	16.80	19.83	21.39	
Gross Passenger Fee Increase With Added Passenger Fee (millions $USD)	[P] = ([L] x [O])	$20	$23	$28	$34	$36	$114	$142	$156	$183	$216	$233	
Increase Used for Terminal 3 Debt ($millions)	[Q] = [C] x [P]	$15	$17	$21	$25	$27	$85	$107	$117	$137	$162	$175	
Amount Used To Pay Emirates Share of Terminal 3 Debt (millions $USD)	[R] = [F] x [Q]	$0	$0	$0	$0	$27	$85	$107	$117	$137	$162	$175	
Net Emirates Passenger Fee Subsidy (millions $USD)	[S] = [N] - [R]	$14	$17	$20	$24	-$1	$8	$5	$5	$7	$2	$7	$108
[redacted]													
Total Annual Subsidy (millions $USD)	[G] +[S]	$14	$17	$20	$24	$351	$356	$310	$314	$317	$585	$584	[redacted]

Sources: Emirates annual reports; DXB Press Releases; MIDT; IATA; OAG.
Notes: DCAA surplus cash for 2014 is an estimate based upon the 2013 DCAA surplus cash grown at the growth rate of seat departures at DXB. Annual connect passengers from MIDT for 2008-2014 scaled by total reported passengers in Emirates and DXB annual reports. For 2004-2007 annual connect passengers is estimated as the 2008 ratio of MIDT connecting passengers to total passengers in the 2008 carrier annual reports multiplied by the total passengers in Emirates' annual reports for the given year.

space as well. Therefore, the fact that no subsidy is shown prior to 2008 means that the 11-year estimate is conservative.

Appendix B: Etihad and Qatar Connect Passenger Fee Subsidy

As with DXB, Etihad's and Qatar's hub airports (AUH and DOH, respectively) do not have a connecting passenger fee despite having a local passenger fee. In Exhibit 24 of Appendix C of the Kasper Report, I estimated the connect passenger fee subsidy for Etihad and Qatar for the period 2004-2014. Although the assumptions for the connect passenger subsidy are unchanged from my original report, the estimated number of connect passengers in the underlying MIDT used in that study was re-stated to correct for a processing error, and this impacted the number of bookings on some of the itineraries. This appendix updates the passenger fee subsidy estimates for the two carriers with the updated data.

The updated connecting passenger fee subsidy estimates are shown in Exhibit 9. The change impacts the estimated number of connect passengers in each year. The total number of connecting passengers for the 2004-2014 period are now estimated to be 27.9 million and 58.1 million for Etihad and Qatar, respectively (versus 52.5 million and 90.2 million for the two carriers in the Kasper Report).

For Etihad, the local passenger fee was 30 AED per passenger from 2004 through 2008, increasing to 75 AED in 2009. A 5 AED security fee has been in effect since 2009.[86] At the legally set exchange rate, this puts the passenger fee at $8.17 (USD) through 2007 increasing to $21.78 in 2007. Assuming that the connect passenger fee would be set at 50% of the local passenger fee, gives a connect fee if $4.08 through 2008 increasing to $10.89 in 2009. Finally, multiplying by the estimated Etihad connecting passengers[87] gives a passenger fee subsidy growing from $0.5 million in 2004 to $62.9 million in 2014, for a total of $267 million (versus $501 million in the original report).

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[86] As with Emirates, I have not found documentation on the security fee prior to 2009 and so, to be conservative, have assumed that there was none before 2009.

[87] The methods of estimation are similar to that for Emirates discussed in footnote 83 above. Prior to 2008, I do not have MIDT data and so estimate connecting passengers based on the total passengers

Similarly, Qatar had a local passenger fee of 30 QAR from 2004 and 2005, increasing to 40 QAR in 2006. Using the same methodology as above, Exhibit 9 shows that the Qater connect passenger fee subsidy increased from $7.0 million in 2005 to $53.6 million in 2014 for an 11-year total of $314 million (versus $487 million in the original report).

EXHIBIT 9: UPDATED ETIHAD AND QATAR CONNECTING PASSENGER SUBSIDIES AT DOH AND AUH

Connect Passenger Fee Annual Subsidy (Connect Fee at 50% of Local Departing Fee)

		2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total (2004 - 2014)
Etihad Airways at AUH													
Local Passenger Fee (AED)		30	30	30	30	30	75	75	75	75	75	75	
Security Fee (AED)		0	0	0	0	0	5	5	5	5	5	5	
Total LocalPassenger Fee (AED)	[A]	30	30	30	30	30	80	80	80	80	80	80	
Exchange Rate	[B]	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	
Local Passenger Fee ($USD)	[C] = [A] x [B]	$8.17	$8.17	$8.17	$8.17	$8.17	$21.78	$21.78	$21.78	$21.78	$21.78	$21.78	
Ratio of Connect Passenger Fee to Local Passenger Fee	[D]	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	
Connect Passenger Fee ($USD)	[E] = [C] x [D]	$4.08	$4.08	$4.08	$4.08	$4.08	$10.89	$10.89	$10.89	$10.89	$10.89	$10.89	
Connect Passengers (millions)	[F]	0.1	0.4	1.0	1.7	2.2	2.4	2.7	3.1	3.9	4.6	5.8	
Etihad Airways at AUH Gross Passenger Fee Subsidy (millions $USD)	[G] = ([E] x [F])	$0.5	$1.5	$4.2	$6.9	$9.0	$26.2	$29.3	$33.9	$42.7	$49.7	$62.9	$267
Qatar Airways at DOH													
Local Passenger Fee (QAR)		30	30	40	40	40	40	40	40	40	40	40	
Security Fee (QAR)		0	0	0	0	0	0	0	0	0	0	0	
Total LocalPassenger Fee (QAR)	[A]	30	30	40	40	40	40	40	40	40	40	40	
Exchange Rate	[B]	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	
Local Passenger Fee ($USD)	[C] = [A] x [B]	$8.24	$8.24	$10.98	$10.98	$10.98	$10.98	$10.98	$10.98	$10.98	$10.98	$10.98	
Ratio of Connect Passenger Fee to Local Passenger Fee	[D]	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	
Connect Passenger Fee ($USD)	[E] = [C] x [D]	$4.12	$4.12	$5.49	$5.49	$5.49	$5.49	$5.49	$5.49	$5.49	$5.49	$5.49	
Connect Passengers (millions)	[F]	1.7	2.2	2.9	3.7	4.4	5.3	6.2	6.6	6.9	8.6	9.8	
Qatar Airways at DOH Gross Passenger Fee Subsidy (millions $USD)	[G] = ([E] x [F])	$7.0	$9.1	$16.2	$20.2	$24.3	$29.1	$34.0	$36.0	$37.6	$47.0	$53.6	$314

Sources: Qatar and Etihad annual reports; MIDT; IATA.; OAG.
Notes: Annual connect passengers from MIDT for 2008-2014 scaled by total reported passengers in carrier and airport annual reports. For 2004-2007 annual connect passengers are estimated as the 2008 ratio of MIDT connecting passengers to total passengers in the 2008 carrier annual reports multiplied by the total passengers in the carriers' annual reports for the given year.

reported in the annual reports and the ratio of connect passenger to total passengers reported in the annual reports for 2008.

EXHIBIT 7

Supplemental Comments Regarding the Impact of Subsidized Gulf Carrier Competition on U.S. Carriers

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August 24, 2015

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1) OVERVIEW & EXECUTIVE SUMMARY

On May 13, 2015, Compass Lexecon released a study assessing the impact of subsidized Gulf carrier presence on international passenger traffic to and from the United States.[3] That study supplemented an earlier study by Compass Lexecon examining the impact of subsidized Gulf carrier competition on both U.S.-international passenger traffic and the fares of U.S. carriers on international city-pairs.[4] Several interested parties—including Emirates Airline ("Emirates"), Qatar Airways ("Qatar"), Etihad Airways ("Etihad"), (collectively the "Gulf carriers") and the U.S. Travel Association ("USTA")—as well as economists on their behalf, have filed comments attempting to cast doubt on some of the core conclusions contained in our studies, as well as the key findings contained in the Partnership for Open & Fair Skies' January 28, 2015, Whitepaper.[5]

Although the submissions filed by the Gulf carriers and their economists are long on assertions purporting to undermine the analyses contained in our earlier studies, a close examination of their submissions yield three key observations:[6] (1) the Gulf carriers have simply ignored several of the most salient issues that were raised in our initial studies, particularly those related to the harm suffered by U.S. carriers as a result of their subsidized services to the United States; (2) where their submissions do attempt to address the analyses in our studies, the Gulf carriers' rebuttal is predicated on assumptions that are demonstrably incorrect, rely on suspect data, and/or contain fundamental flaws in economic logic; and (3) lacking any meaningful rebuttal of what our previous studies actually found, the Gulf carriers resort to refuting illogical straw man arguments that they falsely attribute to our studies. Simply put, the Gulf carrier submissions contain little—if any—meaningful analysis that can be used to provide additional insight into the key economic questions examined in our studies, much less any credible analysis to refute our key findings.

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[3] *See* "Assessing the Impact of Subsidized Gulf Carrier Expansion on U.S.-International Passenger Traffic", Darin Lee and Eric Amel, May 13, 2015 (hereafter "Traffic Study").

[4] *See* "Assessing the Impact of Subsidized Gulf Carrier Expansion on U.S.-International Airfares and Passenger Traffic", Darin Lee and Eric Amel, April 9, 2015 (hereafter "April 9 Impact Study"). Although our April 9 Impact Study was originally provided to the U.S. Government on a confidential basis, it was released publicly on June 2, 2015.

[5] *See* "Restoring Open Skies: The Need to Address Subsidized Competition From State-Owned Airlines in Qatar and the UAE," January 28, 2015 (hereafter "Partnership Whitepaper").

[6] A bullet-point summary of the Gulf carriers' rebuttal points to the key issues raised in our previous studies and our response to those points is contained in Appendix A.

Detailed responses to the Gulf carriers' submissions as they pertain to our studies are contained in Sections 2-4 below.[7] However, we first briefly summarize the Gulf carriers' attempts to rebut the key findings of our studies below, and why those attempts fail.

i. The Gulf carriers' submissions have done nothing to undermine our analysis demonstrating substantial and widespread harm to U.S. carriers from their subsidized U.S. expansion

Our previous studies demonstrated that Gulf carriers' subsidized capacity expansion to the United States has resulted in substantial and widespread harm to U.S. carriers. One component of our analysis of the harm suffered by U.S. carriers was a series of econometric analyses demonstrating that the presence of Gulf carriers suppresses both the average fares and the number of passengers for U.S. carriers across a broad range of U.S.-international city-pairs. None of the Gulf carriers' submissions even addressed our analysis showing that their presence suppresses the fares of U.S. carriers. But while each of the Gulf carriers' submissions (in addition to the USTA's) attempts to undermine our empirical analysis demonstrating that Gulf carriers' subsidized services have diverted passengers away from U.S. carriers, all of these attempts fall flat.

In our Traffic Study, we demonstrated that in the fourth quarter of 2014 alone, Gulf carriers were present on close to 9,000 U.S.-international city-pairs spanning much of Asia, Africa, the Middle East and Australasia.[8] Not only have the Gulf carriers ignored this critical fact, each of their submissions (plus the USTA's) goes one step further by making the remarkable claim that Gulf carriers and U.S. carriers barely compete with one another. For example Emirates asserts that "[t]here is little competition between the Gulf Carriers and the Legacy Carriers"[9] while Qatar argues that "[it] does not compete against US carriers."[10] A closer examination of the Gulf carriers' (and USTA's) submissions, however, reveal that the basis for these claims is a set of flawed assumptions regarding the nature of airline competition generally, or worse yet, a complete disregard for the basic facts. For example, Emirates' submission states that *"the Legacy Carriers*

[7] Because the purpose of this response report is to address the most salient issues related to our previous studies and the Gulf carriers' attempts to rebut our analyses pertaining to these issues, this response report does not address all of the statements contained in the Gulf carriers' submissions that we disagree with or believe to be factually incorrect.

[8] *See* Traffic Study, pages 18-19.

[9] *See* "Emirates' response to claims raised about state-owned airlines in Qatar and the United Arab Emirates", (hereafter "Emirates Response"), page 114.

[10] *See* Comments of Qatar Airways Q.C.S.C., July 30, 2015 (hereafter "Qatar Comments"), page 43.

serve only two U.S.-Indian Subcontinent city pairs with their own aircraft: Newark-Delhi and Newark-Mumbai."[11] Emirates is apparently unaware (or has chosen to ignore) the fact that United operates a hub at Newark with service to scores of destinations in addition to Delhi and Mumbai, thereby serving *hundreds* of U.S.-Indian Subcontinent city-pairs (not two) with their own aircraft. Overall, we demonstrate below that in 2014, U.S. and Gulf carriers overlapped on *over 9,000* U.S.-international city-pairs, up from fewer than 3,500 in 2008.

The Gulf carriers' and USTA's analysis of harm is also fundamentally flawed because it focuses almost exclusively on non-stop overlapping service between U.S. and Gulf carriers. For example, the Oxford Economics study commissioned by USTA (and endorsed by Qatar) claims that "[o]f critical importance then, is the degree to which the Big Three and Gulf carriers compete head-to-head on the same routes….In practice there are just two routes..."[12] and that "*just 0.7 per cent of inbound passengers on Big Three carriers had the option of a Gulf carrier to fly the same route in 2014."*[13] Given that the Gulf carriers' network model is predicated on flowing passengers over their hubs to other destinations (a fact that all three Gulf carriers reiterate in their submissions), the focus on non-stop competition to evaluate potential harm is simply illogical.

The Gulf carriers' dismissal of harm based on a fundamental disregard for how airline competition works is pervasive throughout their submissions. For example, Emirates has asserted that Gulf carriers' services to the United States could not have contributed to the termination of Delta's or American's services to India (and by implication, their inability to resume and grow these services) because "the supposed competition for the Legacy Carriers' discontinued *non-stop* flights consisted of the Gulf Carriers' *one-stop* flights."[14] In reaching this conclusion, however, Emirates ignores the fact that more than 60% of bookings between New York City and Delhi/Mumbai (city-pairs that are served non-stop by both United and Air India) use connecting service.

The Gulf carriers' attempt to evade a meaningful analysis of harm by disguising the facts and/or mischaracterizing the nature of airline competition does not end there. For example, Emirates has argued that "…the Legacy Carriers and their joint venture partners have enjoyed *growth*, not

[11] *See* Emirates Response, page 114.

[12] *See* "Gulf carrier traffic to the USA: An analysis of the competitive landscape and economic impact", Oxford economics, May 2015 (hereafter "Oxford USTA Study"), page 7.

[13] *See* Oxford USTA Study, page 8.

[14] *See* Emirates Response, page 118.

decline, in U.S.-Indian Subcontinent bookings…"[15] while Edgeworth has asserted that U.S. carriers and their immunized partners "actually served 18 percent (over 223,000) *more passengers* [between the United States and the Indian Subcontinent] in 2014 because of the growth in the overall volume of travel…"[16] But as discussed in greater detail in Section 2, the Gulf carriers' attempt to portray U.S. carriers' traffic in competing markets as growing—rather than shrinking—is dependent on the use of 2009 (the year IATA has described as "the worst year the industry has ever seen"[17]) as the base year for their comparisons. Similarly, even though Emirates claims that its' entry has "grown the pie… allowing Emirates to grow without significantly diverting passengers from the Legacy Carriers,"[18] we demonstrate that in the year following the entry by Emirates into a new U.S. gateway city (e.g., Seattle, Boston, Washington, Dallas), the number of bookings traveling on U.S. carriers and their JV partners between that city and the primary regions served by Emirates (e.g., the Indian Subcontinent, Africa, the Middle East and the ASEAN countries) falls, often dramatically.

In sum, while the Gulf carriers claim that "adverse effects are nowhere to be found,"[19] the primary reason why they have reached this conclusion is that they have systematically *assumed away* virtually all of the competition that exists between U.S. and Gulf carriers. While this approach provides the Gulf carriers with colorful soundbites to distract readers from noticing the lack of substance in their submissions, it does not (and cannot) alter the fact that Gulf carriers and U.S. carriers compete on thousands of city-pairs. Nor can it change the fact the Gulf carriers' submissions are devoid of any credible analysis refuting our empirical finding that their subsidized expansion has severely harmed U.S. carriers by suppressing their fares and diverting traffic flows that had previously flown on U.S. carriers.

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[15] *See* Emirates Response, page 114.

[16] *See* "Empirical Investigation and Analysis of Economic Issues Raised In "Restoring Open Skies: The Need To Address Subsidized Competition From State owned Airlines In Qatar And The U.A.E", Edgeworth Economics, May 21, 2015 (hereafter "Edgeworth Report"), page 2.

[17] *See* "2009: Worst Demand Decline in History – Encouraging-end Improvements", IATA Press Release No., January 27, 2010.

[18] Ibid.

[19] *See* Emirates Response, page 94. *See also* "Etihad Airways Response to Claims Raised About State-Owned Airlines in Qatar and the United Arab Emirates", May 31, 2015, (hereafter "Etihad Response"), page 5-6: "While the Big 3 Carriers have rolled out their 'parade of horribles,' they have failed to identify any tangible harm to themselves, or to consumer welfare."

ii. The Gulf carriers' submissions have failed to demonstrate that their services stimulate new traffic to/from the United States

Another key question addressed in our Traffic Study was whether Gulf carriers have stimulated additional traffic to/from the United States. This question is relevant not only to the issue of potential harm to U.S. carriers (i.e., if Gulf carriers have failed to meaningfully stimulate additional traffic above and beyond what traffic levels would have been based on underlying demand, it follows that their growth has come at the expense of U.S. and other carriers), but also in evaluating the Gulf carriers' economic impact claims. For example, if Gulf carriers have failed to meaningfully stimulate additional traffic, then the visitors to the United States on their flights are not "new" visitors that traveled to the United States *because of the Gulf carriers' services*, but rather, passengers that would have visited the United States (albeit on other carriers) in the absence of their services. Our Traffic Study addressed this important question by applying standard econometric techniques commonly used in the published economics literature studying airline competition and found that Gulf carrier presence has failed to meaningfully stimulate additional traffic to/from the United States.

As discussed in detail in Section 3 below, the Gulf carriers' rebuttal to our analysis demonstrating that they have failed to meaningfully stimulate additional traffic consists of two main arguments. First, two of the Gulf carriers—Etihad and Qatar—make no attempt to refute our finding that Gulf carriers have failed to meaningfully stimulate additional traffic. Instead, they rely on the Edgeworth Report that—by its own admission—was confused as to what the concept of demand stimulation in the context of our Traffic Study even meant.[20] As a result, Edgeworth assumed "it to mean *servicing a customer who would not otherwise be serviced by U.S. carriers*"[21] even though this (illogical) concept is nowhere to be found in our study. To make matters worse, the submissions of all three Gulf carriers adopt Edgeworth's blatant mischaracterization of our stimulation analysis by falsely asserting that our studies assume that U.S. carriers are "entitled" to carry a certain share of passengers travelling internationally to/from the United States. Putting aside this gross mischaracterization of our study, however, Edgeworth ultimately reaches a similar conclusion to the one found in our Traffic Study: Gulf carriers have been growing not because

[20] *See* Edgeworth Report, Par. 59: "…While the Compass Lexecon Report does not explain this concept [demand stimulation]…"

[21] Ibid.

they stimulate new traffic above and beyond what would have occurred absent their services, but rather, because they "…have been growing by serving the expanding overall volume of traffic between the U.S. and other countries."[22]

Emirates' attempt to refute our finding that the Gulf carriers have failed to meaningfully stimulate additional traffic, on the other hand, takes a different (albeit equally ineffective) tack. First, Emirates asserts that "[m]assive, worldwide econometric analysis is a poor tool to resolve questions of stimulation"[23] even though its CEO publicly endorsed a comparable econometric analysis as recently as March of this year to support the carrier's proposition that it stimulates demand.[24] Emirates then purports to demonstrate that its entry has resulted in "stunning" and "massive" demand stimulation by relying on what it refers to as a "simple" methodology that compares changes in traffic at four select U.S. airports prior to and after its entry. But as described in Section 3 below, these examples rely on highly suspect booking data from Emirates that purports to show far more traffic growth between 2009 and 2014 than the equivalent data from Qatar, Etihad, American, Delta or United shows.[25] When Emirates' "simple" stimulation exhibits

[22] *See* Edgeworth Report, page 13.

[23] *See* Emirates Response, page 103.

[24] *See* footnote 245 below.

[25] As discussed in greater detail in Section 3 below, each of the Gulf carriers' submissions (in addition to the analyses contained in the Partnership's current and previous submissions, including our reports) makes use of some form of aggregated historical booking data derived from a variety of third-party Global Distribution Systems ("GDSs") such as Amadeus, Sabre, Worldspan etc., often referred to as Marketing Information Data Tape ("MIDT") data. Although the MIDT data used by Emirates has not been made available to us, it purports to show 60% more growth in bookings between the United States and Indian Subcontinent from 2009-2014 than the average growth in bookings over the same time period based on data from Qatar, Etihad, Delta, American and United (*see* Exhibit 27 below).

The MIDT data used in our analysis has been provided by Delta Air Lines and reflects the carrier's ordinary course booking data from ten different GDS subscriptions (Abacus, Amadeus, Apollo, Axess, Galileo, Infini, Sabre, Worldspan, Topas and TravelSky). The booking data from each GDS has been aggregated by a third-party vendor according to Delta's standard business rules (i.e., trip-breaks for international itineraries are based on stops of 24 hours or greater). Delta's MIDT data includes all bookings made through the 10 GDSs listed above (e.g., all classes of service and segment status codes), net of cancellations and duplicate bookings. The ordinary course MIDT data used by Delta (and relied upon in this study) makes no additional modifications or scaling of the underlying booking data.

Although MIDT data can vary from one carrier to another because of differences in the GDSs contained in a carrier's MIDT subscription, based on the description provided in footnote 223 of its submission, Emirates subscribes to nine GDSs, *all of which are included in Delta's MIDT data* (the one GDS included in Delta's MIDT data that is not included in Emirates' MIDT data (Axess) is based in Japan). Thus, absent any additional modifications to the MIDT data that have not been disclosed in its comments, Emirates' MIDT should closely match Delta's MIDT data. However, as shown in Exhibit 27 below, the purported growth in bookings between 2008 and 2014 based on Emirates' MIDT data appears to be an outlier.

Finally, since our previous studies were completed, the underlying MIDT used in those studies was re-stated to correct for a processing error impacting the number of bookings on some of the itineraries. We have re-estimated the

are replicated using more representative data (i.e., data consistent with the growth rates found in all of the other carriers' analysis, including Qatar's), we find that the alleged amount of traffic growth in the year following Emirates' entry is a fiction. Moreover, we demonstrate why the traffic growth that has occurred can be explained by a host other factors, including changes in underlying demand, diversion from other nearby airports, and destination substitution.

Simply put, the Gulf carriers' submissions have failed to provide any credible analysis to undermine a core finding our Traffic Study, i.e., that Gulf carrier presence has failed to meaningfully stimulate additional traffic to/from the United States. Consequently, it follows that their subsidized expansion has come at the expense of other carriers, including U.S. carriers.[26]

iii. *The economic impact and employment claims put forth by the Gulf carriers and the USTA are grossly exaggerated*

Although it bears little relevance to the question of how Gulf carriers' subsidized expansion impacts U.S. carriers, the Gulf carriers' submissions include a variety of economic impact claims. Not surprisingly, these claims are grossly exaggerated, and in most instances, are dependent on the incorrect assumption that all of the foreign-originating passengers on Gulf carriers' flights to the United States would not have travelled but for their services. Because this assumption has been shown to be incorrect, the Gulf carriers' claims of billions of dollars of new foreign-visitor spending and related economic activity (creating tens of thousands of new U.S. jobs) amounts to little more than a shell-game. Simply put, because Gulf carriers divert—rather than stimulate—passenger traffic, the "visitors" onboard their flights to the United States do not reflect "new" visitors and therefore, the spending and economic activity that these visitors contribute is not *incremental* to the U.S. economy.

Similarly, the claim by Emirates that their aircraft orders from Boeing support hundreds of thousands of U.S. aerospace jobs suffers from a variety of critical flaws, including the use of "list prices" rather than actual prices and the fact that the alleged jobs are even not jobs *per se*, but "job-years". As described in Section 4 below, even assuming that all of Emirates' Boeing orders reflect

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regressions from our earlier studies using the re-stated data and they are presented in Appendices B-1-B-4. As shown in these appendices, while the estimated coefficients change slightly, the fundamental results are unchanged.

[26] It is important to emphasize that while lack of stimulation is a *sufficient* condition to establish that Gulf carriers' subsidized expansion has harmed U.S. and other carriers, it is not a *necessary* condition. Put differently, even if Gulf carriers did in fact stimulate demand, their subsidized expansion would nevertheless still harm U.S. carriers by suppressing their fares and, in all likelihood, reducing (on net) the number of passengers carried by U.S. carriers.

incremental aircraft orders (which is itself a dubious assumption), simple corrections to their analysis shows that they have overstated the estimated jobs figure by a factor of nearly 30.

The remainder of this response report is organized as follows. Section 2 responds to Gulf carriers' attempts to rebut our analysis of the harm suffered by U.S. carriers due to Gulf carriers' subsidized expansion to the United States. Section 3 responds to the Gulf carriers' attempts to rebut our analysis demonstrating that their presence has failed to meaningfully stimulate additional traffic. Section 4 provides an analysis of some of the economic impact claims contained in the Gulf carriers' and USTA's submissions. Section 5 provides concluding remarks.

2) THE GULF CARRIERS' SUBMISSIONS HAVE DONE NOTHING TO UNDERMINE OUR ANALYSIS DEMONSTRATING SUBSTANTIAL AND WIDESPREAD HARM TO U.S. CARRIERS FROM GULF CARRIERS' SUBSIDIZED U.S. EXPANSION

In our previous studies, we demonstrated that Gulf carriers' subsidized capacity expansion to the United States has resulted in substantial and widespread harm to U.S. carriers. The channels through which this harm has occurred are straightforward and easily demonstrated based on a variety of data. For example, we demonstrated that:

- At the end of 2014, Gulf carriers were present on nearly 9,000 U.S.-international city-pairs spanning much of Asia, Africa, the Middle East and Australasia.[27] In its responses to the U.S. Government's Technical and & Clarification Question, the Partnership demonstrated that these city-pairs accounted for a significant portion of U.S. carriers' international passengers and revenues;[28]
- Gulf carriers have been adding capacity to the United States at rates far in excess of what the rate of demand growth for air travel dictates;[29]
- Capacity expansion far in excess of what underlying demand can support has put substantial downward pressure on the fares of U.S. carriers on city-pairs with subsidized Gulf carrier competition. Our econometric analysis demonstrated that the presence of Gulf carriers lowers U.S. carriers' fares on connecting city-pairs

[27] *See* April 9 Impact Study, pp. 19-21.

[28] *See* Partnership Answers to U.S. Government Technical and Clarification Question #16.

[29] *See* April 9 Impact Study, pp. 4-9.

to/from one of their U.S. gateway cities by as much as 12.9% *on average.*[30] Moreover, our regression analysis suggests that subsidized Gulf carrier competition suppresses U.S. carriers' fares by more than ten times as much as the average non-Gulf competitor. On city-pairs now saturated with Gulf carrier capacity (such as those between the United States and the Indian Subcontinent or New York City-Milan), the downward pressure on U.S. carriers' airfares has been far greater.[31]

- The proliferation of subsidized capacity (and the concomitant downward pressure it puts on airfares) has forced U.S. carriers to discontinue (or not enter/expand service on) routes serving city-pairs with significant Gulf carrier presence. We also noted that this outcome had already occurred between the United States and India, where subsidized capacity expansion by Gulf carriers is a key reason why all but one U.S. carrier (i.e., United) no longer offers non-stop service between the United States and India. Moreover, we show that each displaced or forgone U.S. carrier daily frequency to India results in a net loss of over 1,500 U.S. airline and related jobs.

- The traffic gains by Gulf carriers have come largely *at the expense of other carriers*, including U.S. carriers.[32] Our Traffic Study provided detailed econometric evidence showing that the presence of each Gulf carrier with as little as a 3% booking share on a city-pair reduces the number U.S. carriers' passengers on that city-pair by approximately 8% on average (i.e., when all three Gulf carriers are present on a U.S. international city-pair, U.S. carrier passengers are—on average—

[30] In our April 9 Impact Study, we noted that the presence of each Gulf carrier on a city-pair to/from one of the Gulf carriers' 11 U.S. gateway cities lowered U.S. carriers' fares by 4.3% on average. Thus, on city-pairs where all three Gulf carriers are present, the magnitude of the fare suppression grows to 12.9%, on average. On city-pairs to/from other U.S. cities, our April 9 Impact Study showed that each Gulf carrier present lowered U.S. carrier fares by 1.0%, on average. Using the updated MIDT data and updating to include the fourth quarter of 2014 (*see* Exhibit 8 below), the presence of each Gulf carrier on a city-pair to/from one of the Gulf carriers' 11 U.S. gateway cities lowered U.S. carriers' fares by 4.8% on average (i.e., 14.5% when all three Gulf carriers are present). On city-pairs to/from other U.S. cities, each Gulf carrier present lowered U.S. carrier fares by 1.3% on average. (Using the updated MIDT data but the time period from our previous study, the presence of each Gulf carrier on a city-pair to/from one of the Gulf carriers' 11 U.S. gateway cities lowers U.S. carriers' fares by 4.4%, on average, while on city-pairs to/from other U.S. cities, each Gulf carrier present lowers U.S. carrier fares by 1.1% on average. *See* Appendix B-1).

[31] *See* April 9 Impact Study, Exhibits 3 and 7.

[32] *See* Traffic Study, pages 14-19.

> 24% lower than they would otherwise be, but for Gulf carrier presence).[33] The regression analysis also demonstrated that on city-pairs where each of the Gulf carriers has at least a 10% share involving a Gulf carrier U.S. gateway city, U.S. carrier passengers have been reduced by approximately 50%, on average.[34]

As noted above, the Gulf carriers' submissions have not even attempted to refute several of the key elements of harm described above. For example, none of the Gulf carriers has disputed our econometric evidence demonstrating that their subsidized presence has suppressed the fares of U.S. carriers, or the fact that Gulf carriers are present on thousands of U.S.-international city-pairs. Instead, the Gulf carriers (and the USTA) attempt to dismiss the overwhelming body of evidence documenting the substantial harm that U.S. carriers have already suffered by alleging that Gulf carriers and U.S. carriers don't compete. For example, Emirates asserts that "[t]here is little competition between the Gulf Carriers and the Legacy Carriers"[35], Qatar argues that "[it] does not compete against US carriers"[36] and Oxford Economics (on behalf of the U.S. Travel Association) claims that "there is a limited degree of overlap between the routes of these two groups of airlines…"[37] Similarly, Emirates has asserted that Gulf carriers' services to the United States could not have contributed to the termination of Delta's or American's services to India (and by implication, their inability to resume and grow these services) because "the supposed competition for the Legacy Carriers' discontinued *non-stop* flights consisted of the Gulf Carriers' *one-stop* flights."[38]

Moreover, in attempting to dismiss the substantial harm identified in our earlier studies, the Gulf carriers (and other commenters) make a variety of other claims that are factually incorrect, reflect a

[33] *See* Traffic Study, page 16. Using the updated MIDT data, the estimated coefficient measuring the impact on U.S. carriers' passengers from each Gulf carrier present with at least a 3% share of bookings (across all connecting city-pairs) increased from -8.1% to -8.7%. Thus, the impact when all three Gulf carriers are present (with at least a 3% share) would be approximately 26%, on average. *See* Appendix B-2, column (3).

[34] *See* Traffic Study, page 17. Using the updated MIDT data, the estimated coefficient measuring the impact on U.S. carriers' passengers of each Gulf carrier present with at least a 10% share of bookings on city-pairs to/from one of the 11 U.S. gateway cities increased from -16.9% to -17.6%. *See* Appendix B-3, column (1).

[35] *See* Emirates Response, page 114.

[36] See Qatar Comments, page 43.

[37] *See* Oxford USTA Study, page 6.

[38] *See* Emirates Response, page 118.

gross mischaracterization of airline competition, and/or ignore well-known facts about airline economics. These claims include (but are not limited to):[39]

- The assertion by the Gulf carriers that their torrid rate of capacity growth is justified because they serve regions of the world where traffic growth exceeds global GDP growth;
- The assertions by Emirates that its entry "has not resulted in a significant loss of business"[40] for U.S. carriers and that its "entry has grown the pie… allowing Emirates to grow without significantly diverting passengers from the Legacy Carriers"[41];
- The assertion by all three Gulf carriers that U.S. carriers and their JV partners have experienced *growth* in traffic between the United States and the Indian Subcontinent,[42] an assertion entirely dependent on their use of 2009 (the "worst year the industry has ever seen" according to IATA[43]) as the base year for comparison;
- The assertion by Emirates that U.S. carriers "have never [made] a major investment of their own capacity" [44] to serve the Indian Subcontinent, instead "rel[ying] on their joint venture partners" who have also "not ma[de] a serious effort to expand with the growth of the market"[45], or the assertion by Qatar that "[t]he reality is that US carriers have long ignored the India/ISC market"[46];

[39] As noted above, while this report addresses the most egregiously incorrect claims made by the Gulf carriers in their submissions, it is does not address all of the statements or claims that we disagree with or that are factually incorrect.

[40] *See* Emirates Response, page 103.

[41] Ibid.

[42] *See*, for example, Edgeworth Report, page 40: "as traffic between the U.S. and key regions where Etihad operates has grown over time, the numbers of passengers served by U.S. carriers (and their immunized partners) have also grown"; Emirates Response, page 113: "the Legacy Carriers and their joint venture partners have enjoyed growth, not decline, in U.S.-Indian Subcontinent bookings…" and Qatar Comments, page 41 (referencing the Edgeworth Report): "there is clear and compelling evidence that the US-India traffic carried by US carriers and their European counterparts has increased in absolute terms…"

[43] *See* "2009: Worst Demand Decline in History – Encouraging-end Improvements", IATA Press Release No., January 27, 2010.

[44] *See* Emirates Response, page 112.

[45] Ibid, page 113.

[46] *See* Qatar Comments, page 40.

- The assertion by Emirates that "adverse effects [on U.S. carriers' transatlantic routes] are nowhere to be found"[47] or by Qatar that U.S. carriers "have failed to show any harm from services operated by Qatar Airways, let alone harm caused by any of the purported subsidies;[48]

- A variety of incorrect assertions regarding our econometric analysis of harm, including the false claim that our analysis is based on U.S. carriers' "share" of passengers[49] or that because our data set includes city-pairs to/from Europe where the Gulf carriers do not materially compete, the observed traffic losses "could not have [been] caused" by the Gulf carriers;[50]

- The assertion by Edgeworth Economics that our analysis was predicated on an "uncritical acceptance of the 'evidence'"[51] related to the Gulf carriers' subsidies and that we have failed to demonstrate that the documented traffic losses were the result of these subsidies; and

- The assertion by all three Gulf carriers that because some portion of their passengers make connections to flights behind their U.S. gateways, their subsidized service provides "revenue benefits" for Delta, American and United.[52]

In the remainder of this section, we show why each of these assertions is false and why Emirates' and Qatar's assertion that U.S. and Gulf carriers don't compete is simply untrue.

[47] *See* Emirates Response, page 94.

[48] *See* Qatar Comments, page 39.

[49] *See* Emirates Response, page 138:

[50] *See* Edgeworth Report, Page 38.

[51] *See* Edgeworth Report, page 31.

[52] *See* Emirates Response, page 176:"Emirates has carried over 1.35 million feeder passengers to U.S. and European gateways who have then travelled onwards to U.S. destinations using other carriers, resulting in a revenue benefit of $145.5 million to the Legacy Carriers and their joint venture partners", Etihad Response, page 14: "…Etihad is actually feeding passengers onto US domestic carriers, including Delta, United and American. In 2014, Etihad delivered 182,000 connecting passengers onto U.S. airlines and this is forecast to grow to approximately 300,000 in 2015" and Qatar Comments, page 53: "Qatar Airways has a broad codeshare arrangement with American Airlines, and transfers its traffic arriving at US gateways to onward services operated by American. Although the amount of interline revenue that changes hands may vary from year to year, the total value of the traffic transferred by Qatar Airways has been in the neighborhood of $60 million per year."

a) The Assertion That U.S. and Gulf Carriers do not Compete is Fatally Flawed

i. Emirates' assertion that "There is little competition between the Gulf Carriers and the Legacy Carriers" illustrates the carrier's blatant disregard for the truth

As noted above, our previous studies demonstrated that in the fourth quarter of 2014 alone, Gulf carriers were present on close to 9,000 U.S.-international city-pairs spanning across much of Asia, Africa, the Middle East and Australasia.[53] Not only has Emirates chosen to ignore this fact, its submission perplexingly claims that U.S. carriers *"compete with Emirates only on a few routes"*[54] and that "*there is relatively little competition in the Indian Subcontinent between the Legacy Carriers and Emirates and the other Gulf Carriers*."[55] In support of these claims, Emirates purports to compare the city-pairs between the United States and the Indian Subcontinent served by U.S. carriers and Emirates "with their own aircraft".[56] Exhibit 1 below replicates Figure III-20 from the Emirates Response which—according to Emirates—shows that *"the Legacy Carriers serve only two U.S.-Indian Subcontinent city pairs with their own aircraft: Newark-Delhi and Newark- Mumbai.*"[57]

[53] *See* April 9 Impact Study, pages 19-21. *See also* Traffic Study, pages 19-20. Based on the updated MIDT data, the number of U.S.-international city-pairs in the 4th quarter of 2014 with Gulf carrier presence (based on at least a 3% share of bookings) changes from 8,870 to 8,736.

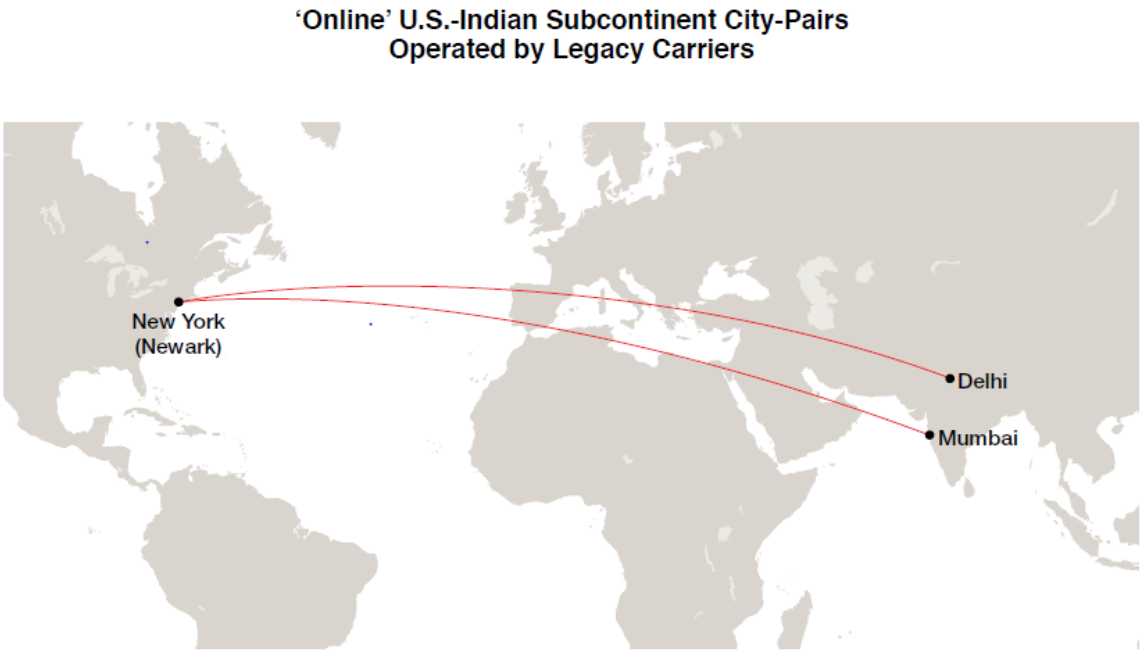
[54] *See* Emirates Response, page 87.

[55] *See* Emirates Response, page 113.

[56] *See* Emirates Response, page 114.

[57] *See* Emirates Response, page 114.

EXHIBIT 1: FIGURE III-20 FROM EMIRATES RESPONSE



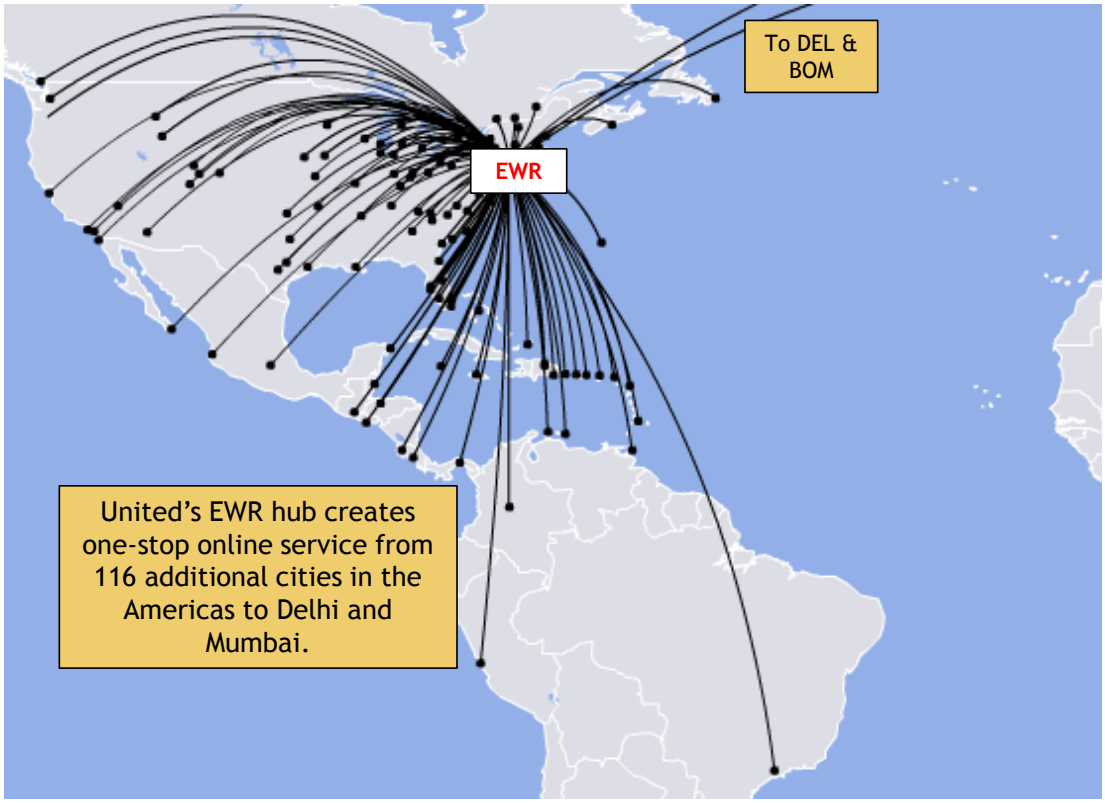
Source: Emirates Response, Figure III-20 (page 114).

Although New York (Newark)-Delhi and New York (Newark)-Mumbai are the only two remaining *non-stop routes* between the United States and the Indian Subcontinent flown by U.S. carriers, Emirates' apparently believes that the only destinations United serves from EWR "with their own aircraft" are Delhi and Mumbai. But as shown in Exhibit 2, United offers non-stop service from Newark to 121 airports (serving 116 unique cities) within the Americas in addition to serving Delhi and Mumbai (plus a host of other international destinations), thereby creating *approximately 232* additional one-stop online city-pairs between the Americas and the Indian Subcontinent, of which 158 city-pairs are to/from the United States (i.e., 80 *times the number asserted by Emirates*).[58] Moreover, U.S. carriers and their JV partners together offer one-stop service on 276 city-pairs between the United States and the Indian Subcontinent and service with two or fewer stops on over 1,800 U.S.-Indian Subcontinent city-pairs.[59]

[58] The analysis in our original studies, as well as this response, groups airports in the same metropolitan area when constructing city-pairs. From EWR, United serves nine airports within multi-airport U.S. city groupings: i.e., Cincinnati (CVG, DAY); Cleveland (CAK, CLE); Miami (FLL, MIA); Washington (BWI, DCA, IAD).

[59] Source: OAG. Note that most of the city-pairs that require two-stops on U.S. carriers and their JV partners would also require two-stops via the Gulf carriers as they involve a behind U.S. gateway connection to smaller U.S. cities such as Raleigh-Durham, North Carolina or Columbus, Ohio.

EXHIBIT 2: U.S.-INDIAN SUBCONTINENT CITY-PAIRS SERVED ONE-STOP BY UNITED "WITH THEIR OWN AIRCRAFT"*



Source: OAG.
Notes: Shows all destinations in the Americas served in 2015 by United Airlines from EWR. Map shows 121 airports accounting for 116 cities (5 U.S. airports are within multi-airport cities).
*United includes United Express.

Emirates' gross mischaracterization of the degree of competitive overlap between U.S. and Gulf carriers does not end there. For example, Emirates also disregards the competitive overlap between U.S. and Gulf carriers on city-pairs that involve two-stop itineraries (some of which may involve connections with non-JV partner carriers such as Air India) because it claims that *"two-stop interline connections to those cities are not an attractive service to passengers"*.[60] This statement is puzzling in light of Emirates' assertion that "[p]assengers arriving to the United States on Emirates flights travel on to over 200 airports in small and medium-sized communities in the United States,"[61] many of whom make interline/codeshare connections with JetBlue and Alaska Airlines.[62] Importantly, *all of the passengers connecting between a JetBlue/Alaska flight and an*

[60] *See* Emirates Response, page 115.

[61] *See* Emirates Response, page 175.

[62] *See* Emirates Response, footnote 318: "JetBlue CEO Robin Hayes credited partnerships with airlines like Emirates with increasing JetBlue traffic flow, creating jobs, and enabling launch of new JetBlue routes." *See also* "Interview:

Emirates' flight would be required to make <u>two stops</u> in order to reach destinations beyond Dubai (e.g., the Indian Subcontinent, Africa, etc.), i.e., itineraries that Emirates now claims are "*not an attractive service to passengers*."[63] Overall, for the year ending Q2-2014, approximately 12% of Emirates' passengers, 26% of Etihad's passengers and 29% of Qatar Airways passengers traveling to/from the United States make connections behind their U.S. gateways, thereby using itineraries that have two or more stops.[64] Emirates' rationale for disregarding competition between U.S. and Gulf carriers on these two-stop city-pairs in reaching its conclusion that "*[t]here is little competition between the Gulf Carriers and the Legacy Carriers*"[65] is yet another example of the carrier's willingness to mischaracterize the nature of airline competition in order to assume away any competitive harm to U.S. carriers.

Simply put, because Emirates has simply ignored virtually all of the competitive overlap between the Gulf and U.S. carriers, it should come as no surprise that Emirates has reached the erroneous conclusion that "adverse effects are nowhere to be found."[66]

Sales VP Matthias Schmid On Creating Space For Emirates In U.S. Corporate Biz", Business TravelNews, June 11, 2015: "We've tried to work closely with JetBlue, Alaska and Virgin. We fly three times a day between Dubai and JFK, and the second daily flight to Boston was to strengthen our relationship with JetBlue. We have a reciprocal codesharing agreement with JetBlue, so the JetBlue flights are also operating with an Emirates code and all the U.S.-to-Dubai flights will carry a JetBlue code. JetBlue started last year Detroit to Boston, which was absolutely aligned with our arrival and departure times coming to Boston, and we're working with them on further optimization. I also mentioned the second daily flight to Seattle, which was to strengthen our relationship with Alaska because we get significant feed via Alaska out of Canada and certain U.S. routes."

[63] Thus, even though JetBlue's CEO has asserted that "[e]ach of these new international flights… strengthens JetBlue's ability to launch new competitive domestic routes such as Boston- Detroit based on the large flow of arriving international connecting customers", according to Emirates, passengers connecting from JetBlue's flight between Detroit and Boston to Emirates' Boston-Dubai flight en route to a destination to the Indian Subcontinent would "*not [be] an attractive service to passengers."* Likewise, according to Emirates, all of the passengers connecting from an Alaska Airlines flight to Emirates Seattle-Dubai or Los Angeles-Dubai flights and traveling beyond Dubai would also be using a two-stop interline itinerary that it believes are "*not an attractive service to passengers",* notwithstanding the fact that Alaska Airlines CEO has stated that these connections allow "Alaska to offer our customers in key markets on the West Coast a virtual global network with greater value to consumers than our relatively small size would otherwise allow." *See* Letter from Bradley D. Tilden to Secretaries Kerry and Foxx, February 27, 2015 and Letter From Robin Hayes, President and CEO, JetBlue Airways to Secretary Kerry, Secretary Foxx and Secretary Pritzker, April 29, 2015.

[64] *See* Partnership answers to U.S. Government Technical & Clarification Question #22, page 63. The exceptions are passengers whose journey begin or end at the Gulf carriers hubs.

[65] *See* Emirates Response, page 114. Importantly, even though U.S. and Gulf carriers may not provide service on each leg of an itinerary using their own aircraft (e.g., JetBlue may carry an Emirates passenger originating in Delhi from JFK to Buffalo, New York), this does not imply—as Emirates appears to believe—that U.S. and Gulf carriers don't compete on that city-pair. *See*, for example, Exhibit 24 below.

[66] *See* Emirates Response, page 94.

ii. Qatar's and Oxford Economics' analysis of the competitive overlap between U.S. and Gulf carriers is similarly flawed

Emirates is not alone in concluding that there is little competitive overlap between U.S. and Gulf carriers by ignoring some or all of the connecting city-pairs where the two sets of carriers compete. For example, Qatar's comments assert that "Given the tenor of the claims of the Big Three, one might imagine that Qatar Airways is their head-to-head competitor in dozens of nonstop markets. The reality is far different... no US airline competes with Qatar Airways in any nonstop market."[67] Likewise, in a report commissioned by the U.S. Travel Association (and endorsed by Qatar[68]), Oxford Economics concluded that "there is little evidence to suggest that the Big Three US and the Gulf carriers are competitors to any significant degree."[69] Like Emirates, however, the Oxford Study's conclusion is based almost entirely on a comparison of *non-stop* overlapping routes between the two sets of carriers. For example, the Oxford study asserts that "[o]f critical importance then, is the degree to which the Big Three and Gulf carriers compete head-to-head on the same routes… In practice there are just two routes – Milan (MXP) to New York (JFK), and Dubai (DXB) to Washington (IAD) – where the Big Three compete directly with the Gulf carriers."[70] The Oxford study likewise asserts that their "*just 0.7 per cent of inbound passengers on Big Three carriers had the option of a Gulf carrier to fly the same route in 2014."*[71]

The Oxford Study's focus on non-stop routes ignores two critical facts about airline competition in general, and Gulf carrier competition in particular:[72] (a) the overwhelming majority of Gulf carrier passengers are not traveling to/from their hub cities (e.g., Dubai, Doha and Abu Dhabi), but rather,

[67] *See* Qatar Comments, page 43.

[68] *See* Qatar Comments, page 44: "Given the US carriers' lack of competitive exposure to Qatar Airways, their claims of threatened harm fall flat. Indeed, Oxford Economics has analyzed the itineraries of inbound passengers on the Big Three in 2014, and has concluded that just 0.7% of these passengers also had an alternative on a Gulf carrier, a fact which demonstrates the almost complete complementarity of US and Gulf carrier networks."

[69] *See* Oxford USTA Study, page 13.

[70] *See* Oxford USTA Study, page 7.

[71] *See* Oxford USTA Study, page 8.

[72] Emirates Response (at page 140) also commits the same fundamental flaw: "The fundamental assumption of the White Paper jobs analysis is that Emirates (and other Gulf Carrier) flights have displaced flights by the Legacy Carriers. The Legacy Carriers offer no evidence to substantiate this, and it is not true. *The Legacy Carriers offer very few flights that compete on routes flown by Emirates*, and have not provided any credible evidence that any of those flights have been displaced." (emphasis added)

transiting through the Gulf carriers' hubs en route to their final destination;[73] and (b) competition in the airline industry is measured at the origin-destination city-pair level (*e.g.*, New York-Delhi), not at the non-stop route level (*e.g.*, New York-Doha, *en route to Delhi*).[74] By the Oxford Study's flawed logic, the Gulf carriers do not compete with the U.S. carriers for traffic between the United States and the Indian Subcontinent, since the two sets of carriers do not offer "head-to-head" service on any non-stop routes to/from that region. Likewise, by the same flawed logic, Emirates and Qatar do not compete with each other at all, because they overlap on no non-stop routes. Both of these conclusions are plainly wrong.[75] Consequently, the conclusion in the Oxford study that "the extra Gulf carrier capacity appears to be serving new passengers, with pre-existing passengers using the Big Three in similar numbers to the situation prior to the arrival of the Gulf carriers"[76] is predicated on an absurd analysis that ignores the fact that almost all of the Gulf carriers' traffic to/from the United States flows connects to points beyond/behind their Gulf hubs.

Although the Oxford study's conclusion "that the two networks [U.S. and Gulf carriers'] do not overlap to a substantial degree" is premised almost entirely on an examination of non-stop overlap routes between the U.S. and Gulf carriers, it includes a cursory analysis of the origin and destination traffic.[77] Based on their analysis, they conclude that *"the ultimate global origins and destinations served by these two groups are strikingly different. Despite both having huge global reach, there is very little overlap in the regional origin or destination of those who fly into the United States on their respective planes."*[78] This statement is also false. In 2014, approximately [ ] of U.S. carriers' transatlantic/transpacific revenue was generated in city-pairs where U.S.

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[73] Indeed, this well-known fact was highlighted in Emirates' Response at page 132: "the vast majority of the 11,000 seats are not occupied by travelers whose destinations are the Middle East hubs. They are occupied by travelers who will pass through the hubs en route to Africa, the Indian Subcontinent, Southeast Asia, and other destinations."

[74] This fundamental fact (which has been ignored by Oxford and Qatar) is even a point made in the Edgeworth Report (at pages 4-5) on behalf of Etihad: "The appropriate level of analysis when examining competitive alternatives for passenger air travel is between origin and destination combinations and not between a particular carrier's hub (i.e., Abu Dhabi) and a destination."

[75] Indeed, as noted on page 11 of Qatar's Comments "While Qatar Airways, Emirates and Etihad come from the same region, it is essential to bear in mind that the carriers are of different sizes and maturity, and have very different histories and competitive strategies. *The carriers compete vigorously with each other for regional and international traffic.*" (emphasis added)

[76] *See* Oxford USTA Study, page 11.

[77] Ibid, page 2.

[78] Ibid, page 11.

and Gulf carriers overlapped, up from [ ] in 2008.[79] Moreover, in light of Gulf carriers' aggressive expansion plans[80] (including Emirates' intention to expand its fifth freedom services between Europe/Asia and the United States[81]), the degree of overlap will continue to increase significantly if the Gulf carriers' subsidized expansion is left unchecked.

Finally, it is noteworthy that while Emirates and Qatar claim, on the one hand, that they "do not compete against U.S. carriers"[82] they assert—on the other hand— that they "offer an alternative to [the service of the U.S. carriers and their JV partners]"[83] or that "business travelers and visitors who are informed about the choices available" prefer Emirates over the U.S. carriers because it offers "better, modern, wide-body aircraft and world-class service."[84] But by correctly noting that passengers can and do *choose* between their services and those of the U.S. carriers, they are confirming the obvious: that Gulf and U.S. carriers do in fact compete. Indeed, it is telling that while Emirates and Qatar have adopted a strategy of attempting to rebut the overwhelming evidence of harm established in our initial submissions by alleging that "[t]here is little competition between the Gulf Carriers and the Legacy Carriers"[85] or that they "[do] not compete against US carriers"[86], Etihad openly acknowledges that the Gulf carriers' have been "taking passengers away from" U.S. and other carriers.[87]

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[79] These figures are based on city-pairs where at least one U.S. carrier and at least one Gulf carrier had at least 3% (or greater) share of bookings. Source: U.S. DOT DB1B and MIDT.

[80] *See, e.g.,* "Emirates Airline President Plans to Rebut Subsidy Allegations," Dow Jones Newswire, March 17, 2015, noting that Tim Clark, the CEO of Emirates, stated that Emirates plans to increase the number of airports served in the United States from nine to 20; "Emirates Air Planning Expansion of U.S. Rivals' Home Turf", *Bloomberg* (September 22, 2014), noting that "Emirates Airline, the largest international carrier, is planning an expansion that would make the U.S. market one of its three largest sources of revenue" and quoting Emirates CEO Tim Clark ("[the U.S.] is hugely important"); "Airline Eyes More US Destinations," *Gulf Times* (Apr. 13, 2013), quoting Qatar Airways CEO Akbar Al Baker ("The United States remains a focal point for the airline") and "Etihad Eyes US Expansion," *Emirates24/7.com* (Nov. 14, 2012), quoting Etihad CEO James Hogan ("...we are also keen to expand further in the US and are examining a number of other destinations, particularly on the West Coast").

[81] *See*, for example, "Ten European cities ask Emirates to fly trans-Atlantic", Gulf News, June 9, 2015. *See also* Bloomberg (June 4, 2013) (quoting Emirates' CEO Tim Clark as stating that Asia-U.S. routes are "[t]he last piece of the jigsaw in the trans-Pacific" and that "[w]here we will go, when we will do it, and with what, is under plan at the moment").

[82] *See* Qatar Comments, page 43.

[83] *See* Qatar Comments, page 1.

[84] *See* Emirates Response, page 188.

[85] *See* Emirates Response, page 114.

[86] *See* Qatar Comments, page 43.

[87] *See* Edgeworth Report, page 26.

iii. *U.S. and Gulf carriers compete on thousands of international city-pairs accounting for a substantial portion of U.S. carriers' international revenue*

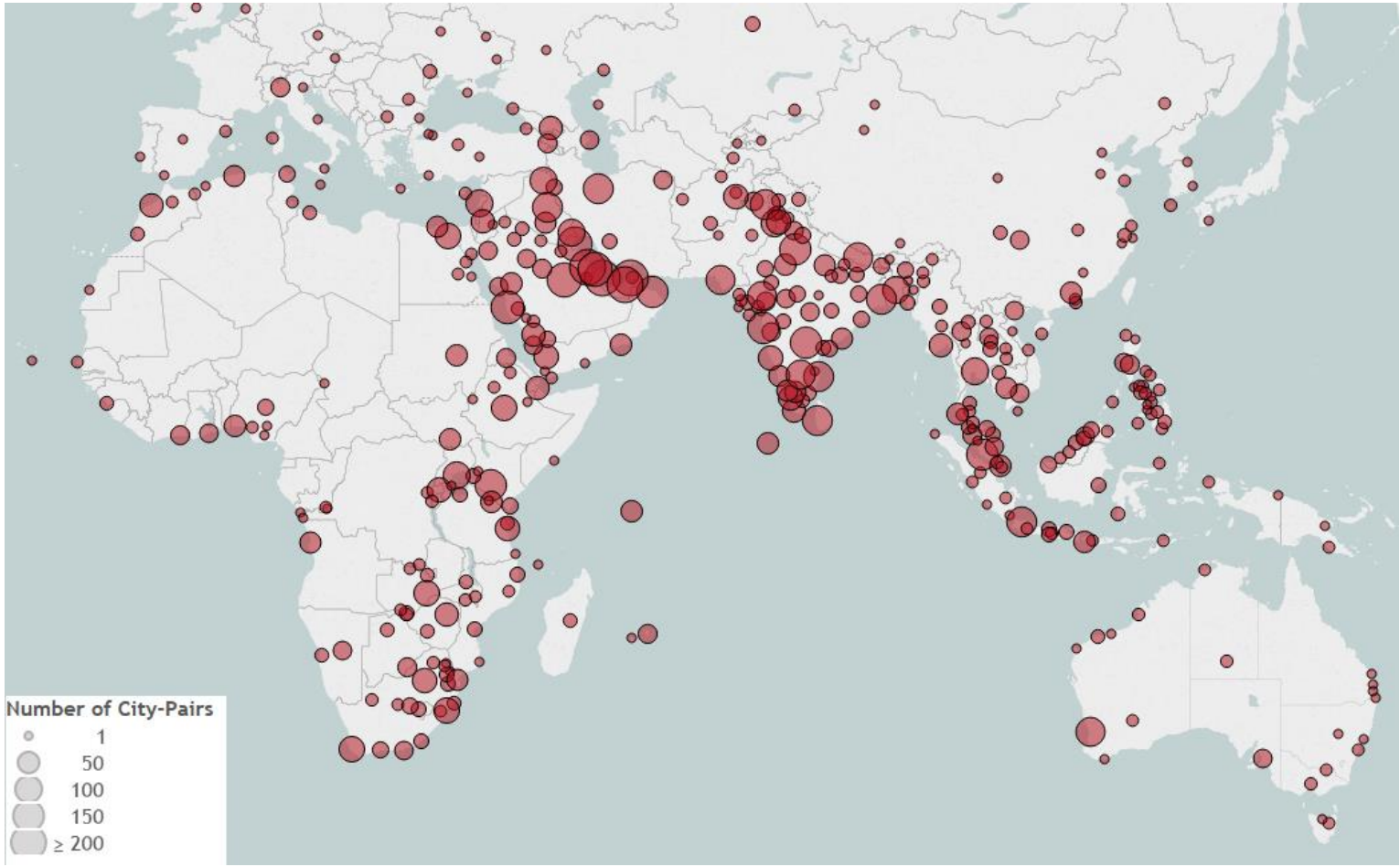
As described above, Emirates, Qatar and Oxford support their claim that Gulf carriers' expansion to the United States has not harmed U.S. carriers by purporting to show that there is little competitive overlap between the route networks of the two sets of carriers. But an examination of their claims reveal that Emirates, Qatar and Oxford have reached this conclusion by choosing to disregard the bulk of city-pairs where U.S. and Gulf carriers actually compete.

An analysis utilizing MIDT data shows that U.S. and Gulf carriers provided overlapping service on more than 9,000 international city-pairs to/from the United States in 2014, up from fewer than 3,500 in 2008.[88] These city-pairs accounted for nearly [ ] of U.S. carriers' transatlantic/transpacific revenue in 2014.[89] Moreover, as shown below, the international city-pairs where U.S. and Gulf carriers currently compete for traffic are not limited to a narrow set of destinations in the Middle East or the Indian Subcontinent, but rather, they span multiple continents.

[88] As with our earlier studies, when using MIDT data, a connecting itinerary that includes multiple carriers was assigned to the carrier that operated the largest proportion of total distance flown.

[89] Source: Analysis of U.S. DOT DB1B and MIDT data.

EXHIBIT 3: NUMBER OF U.S.-INTERNATIONAL CITY-PAIRS (BY FOREIGN DESTINATION) WITH OVERLAPPING U.S. AND GULF CARRIER COMPETITION (2014)



Source: MIDT, 2014.
Notes: Map shows all city-pairs aggregated by foreign endpoint for which at least one Gulf carrier and at least one U.S. carrier has at least a 3% share of bookings in 2014. A booking is a U.S. or Gulf carrier booking if a U.S. or Gulf carrier is the dominant operating carrier (i.e., the carrier flying the longest total distance), respectively. U.S. carriers include: American, Delta, US Airways, and United.

In sum, the assertion by Emirates and Qatar that U.S. carriers could not be have been harmed by Gulf carrier's U.S. expansion because "[t]here is little competition between the Gulf Carriers and the Legacy Carriers"[90] is based on flawed analyses that disregard (unintentionally or otherwise) the fact that U.S. and Gulf carriers compete on thousands of connecting city-pairs. Likewise, the claim by Oxford Economics that "Gulf carrier capacity appears to be serving new passengers, with pre-existing passengers using the Big Three"[91] because "there is a limited degree of overlap between the routes of these two groups of airlines…"[92] is also demonstrably incorrect.

b) <u>The Attempts by the Gulf Carriers to Deny the Fact That They Have Been Adding Capacity to the United States at Rates Well in Excess of Underlying Demand Growth Are Contradicted by Their Own Data</u>

A key observation of the Partnership' Whitepaper was that because subsidized Gulf carriers have been—and are continuing to—grow their capacity at rates that substantially exceed global GDP growth (a core determinant of demand growth for airline services), an inevitable result is that the Gulf carriers' traffic gains have come (and will continue to come) at the expense of other carriers.[93] This observation is particularly relevant for the United States, where the Gulf carriers have been adding capacity at a compound rate of 25.2% over the past five years.[94]

The Gulf carriers have criticized this analysis because they claim that it ignores the fact that Gulf carriers target traffic in parts of the world experiencing higher than average rates of economic growth. For example, the Edgeworth Report asserts that the Whitepaper's analysis is "fatally flawed"[95] because "a substantial portion of Etihad's U.S. traffic currently goes to (or from) the ISC and Southeast Asia"[96] and that "it is the expected growth demand of these regions—as opposed to worldwide demand—that is relevant for such an analysis."[97] Likewise, Emirates' submission

[90] *See* Emirates Response, page 114.

[91] *See* Oxford USTA Study, page 11.

[92] *See* Oxford USTA Study, page 6.

[93] *See* Partnership Whitepaper, page 41.

[94] Source: OAG for the years 2011-2015.

[95] *See* Edgeworth Report, page 28.

[96] Ibid.

[97] Ibid. The Edgeworth Report also attempts to justify Gulf carriers' aggressive capacity growth by suggesting it was responding to "pent-up demand." *See* Edgeworth Report, page 30. As discussed below, this claim is also demonstrably incorrect.

asserts that the Whitepaper's comparison "ignores that traffic growth in the markets served by Emirates and the other Gulf Carriers exceeds global GDP growth."[98] Similarly, Qatar has argued that "the global figure being advanced by the Big Three is entirely misleading, as it ignores the fact that Qatar Airways is based in a part of the world that is home to 60% of the world's population and has a rapidly emerging middle class, and where air service has grown significantly."[99]

The proposition that Gulf carriers' rate of capacity growth can be de-coupled from the rates of global GDP growth because the bulk of Gulf carriers' traffic is traveling to/from regions of the world with above average rates of economic growth does not withstand scrutiny. Indeed, the data contained within the exhibits of the Gulf carriers' own submissions confirm that their capacity growth to the United States has far exceeded the rate of demand growth between the United States and the regions they serve. And as discussed below, this has not only suppressed the fares of U.S. carriers on overlapping city-pairs, but has resulted in the diversion of passengers from U.S. carriers who—in light of these suppressed fare levels—had been forced to discontinue (or not enter/expand service on) a variety or non-stop routes, including those to/from India.

i. The Gulf carriers ignore the fact that more than half of their U.S. bookings are either to/from relatively slower growing, developed economies

As noted in our Traffic Study, GDP growth is a substantial driver of airline demand.[100] Likewise, it is well-understood that GDP growth rates vary substantially across countries and that GDP growth in developing or "emerging" economies (e.g., India, ASEAN countries, etc.) is faster than in developed economies such as the United States or Europe. Thus, it is not unreasonable to expect that traffic within or between emerging economies will grow at rates that substantially exceed the overall rate of global GDP growth over an extended period of time.

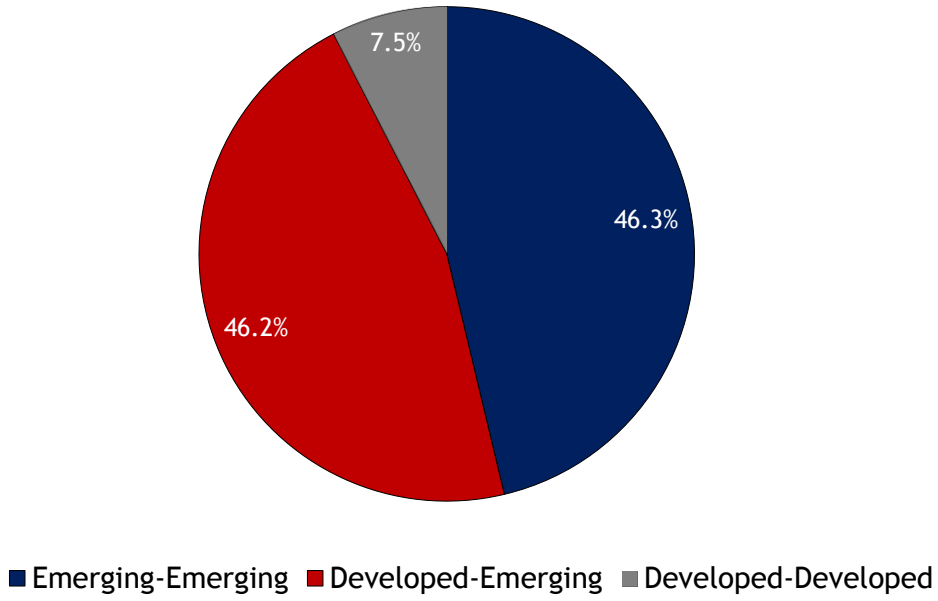
What the Gulf carriers' claims fail to take account of, however, is the fact that almost half of Gulf carriers' worldwide bookings reflect travel between emerging economies *and developed economies*. Moreover, as shown in Exhibit 4, approximately 7.5% of Gulf carriers' bookings in 2014 traveled *between two developed economies* (e.g., between the United States or Europe and Australia).

[98] *See* Emirates Response, page 135.

[99] *See* Qatar Comments, page 41.

[100] *See* Traffic Study, footnote 27.

EXHIBIT 4: DISTRIBUTION OF GULF CARRIER BOOKINGS, 2014



Source: MIDT.
Notes: "Developed" countries defined as United States, Canada, Australia, New Zealand, South Korea, Japan and all countries in Europe.

Importantly, in the case of Gulf carriers' services to the United States, virtually *all of their bookings* reflect passengers for whom at least one endpoint of their journey is in a developed country (i.e., with relatively slower growth).[101] Moreover, because much of the traffic growth between the United States and the emerging economies served by the Gulf carriers consists of tourist traffic originating in the United States, this traffic—in particular—would be expected to grow at a rate determined by the GDP growth rate in the United States, not the rate of growth in the emerging countries. Simply put, the Gulf carriers' claim that their global route networks are "located among the world's fastest growing economies"[102] does not—by itself—justify capacity growth to the United States at rates that are several times that of global GDP growth.

ii. *Data from the Etihad's submission show that Gulf carriers' rate of capacity growth to/from the United States far exceeds the rate of traffic growth to/from their core markets*

[101] The only exceptions would be for the relatively small number of passengers connecting from behind/beyond a Gulf carriers' U.S. gateway to points in developing countries, such as in Latin America.

[102] *See* Emirates Response, page 5.

The Edgeworth Report attempts to justify the projected growth rate of the Gulf carriers' global capacity of 11% over the next several years (as shown in the Partnership's Whitepaper) by claiming that the "implied growth in demand for air travel" for Emerging and Developing Asia should average around 13% over this period (i.e., twice the rate of GDP growth in those regions and approximately *four times* the estimated rate of global GDP growth).[103]

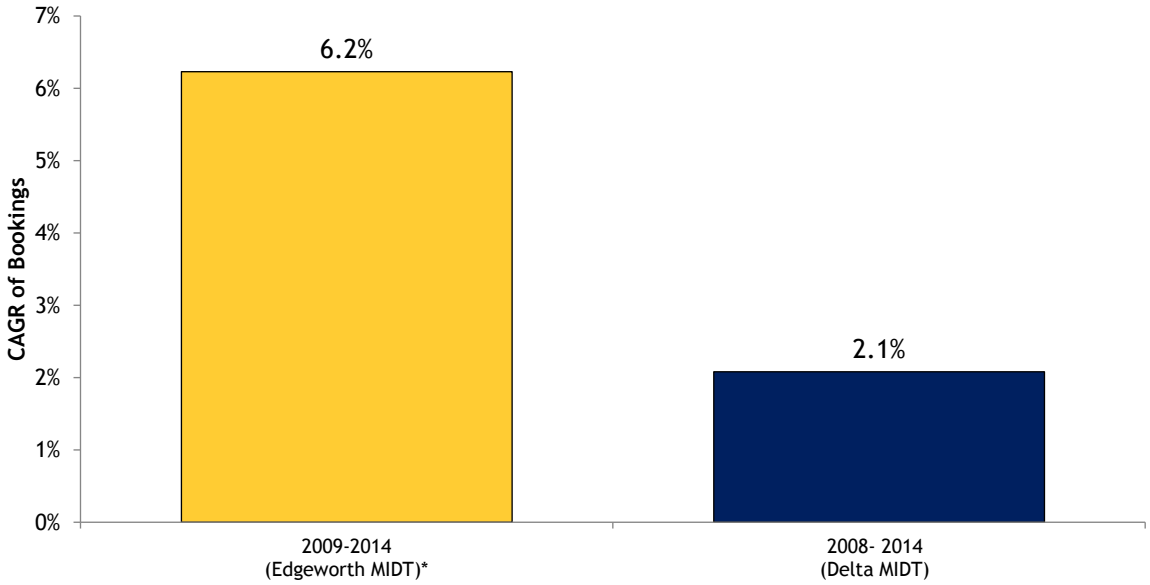
Edgeworth presumes that Gulf carriers can grow at multiples of global GDP growth without diverting passengers from other carriers because their networks are located central to regions with faster growing economies. However, the data contained in Edgeworth's own exhibits demonstrate why this presumption is wrong, particularly as it applies to their rate of growth to the United States. According to the Edgeworth Report, bookings between the United States and the Indian Subcontinent grew at a compound annual growth rate ("CAGR") of 6.2% between the year ending February 2010 and the year ending February 2015.[104] As shown in Exhibit 5, based on Delta's MIDT data, when measured from 2008-2014 (i.e., from pre-recession levels), the CAGR falls to only 2.1%.[105] Simply put, Edgeworth's own data purportedly showing a 6.2% CAGR for bookings between the United States and the Indian Subcontinent from 2009-2014 confirms that its "Implied Growth Rate" of 13% is simply not a relevant comparison to benchmark Gulf carrier's capacity growth rates to the United States.

[103] *See* Edgeworth Report, pages 29-30. Although the Edgeworth Report asserts that it is not expressing "a definitive view on the 'correct' level of expansion", it then goes on to enumerate several hypotheses as to why the actual rate of capacity expansion could be justified, including "pent-up demand" and the "geographic centrality" of Etihad's hub.

[104] *See* Edgeworth Report, Exhibit 3, noting that the "Total Change in Bookings" for Economy Class passengers from the year ending February 2010 to the year ending February 2015 was 33%. Combined with the 65% change in "Premium Class" bookings over the same period (*see* Edgeworth Report Exhibit 4), this results in change in bookings for all classes of 35.3% (based on the levels of bookings shown in Edgeworth Report Exhibit 2 and Figure A-18), resulting in a CAGR of 6.2%. Edgeworth does not report which GDSs are included in Etihad's MIDT data or if the carrier modifies the underlying booking data in any way.

[105] Using a *post-recession* year (i.e., 2010) rather than a pre-recession year (i.e., 2008) as the base year increases the CAGR to 2014 from 2.1% to 3.5%.

EXHIBIT 5: COMPOUND ANNUAL GROWTH RATE OF BOOKINGS BETWEEN THE UNITED STATES AND THE INDIAN SUBCONTINENT

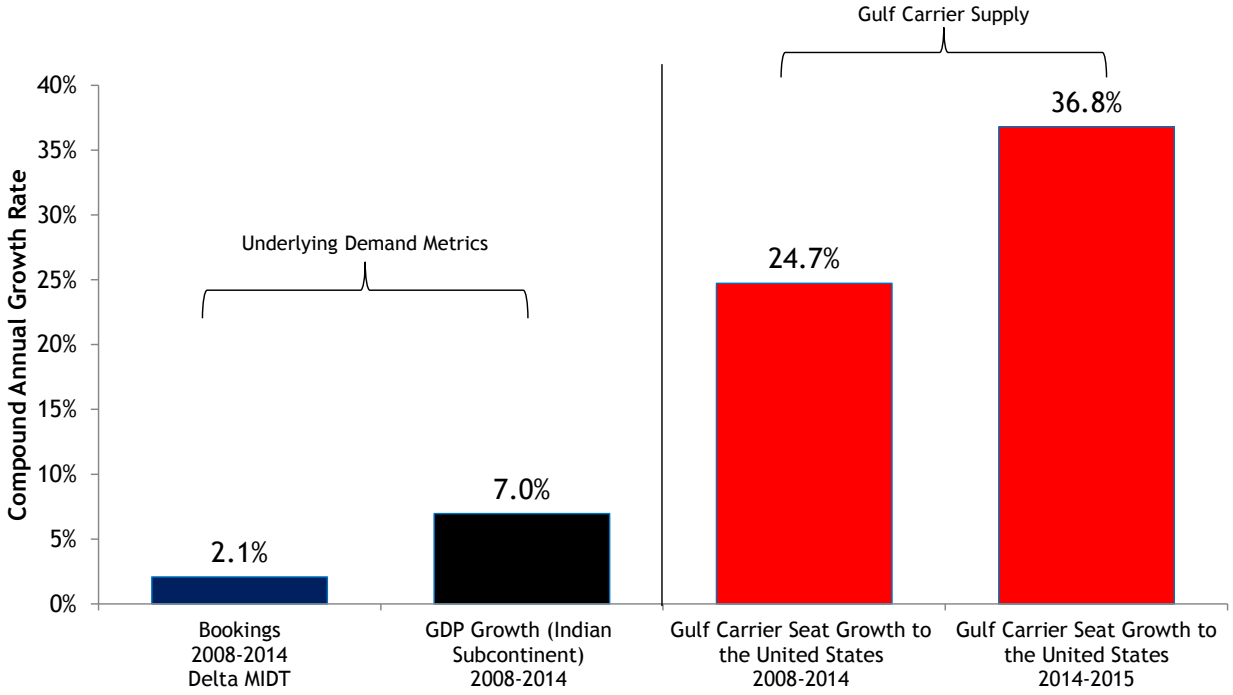


Sources: Delta MIDT; Edgeworth Economics Report, Exhibits 2, 3, 4, and A18.
Notes: Edgeworth based on reported 33% growth in economy class bookings and 65% growth in premium bookings between the periods March 2009-February 2010 and March 2014-February 2015. Delta MIDT Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka.
*Edgeworth MIDT Indian Subcontinent includes India, Pakistan, Bangladesh, and Sri Lanka.

Indeed, as shown in Exhibit 6, the CAGR of subsidized Gulf carriers' seat growth between the United States and their hubs in Dubai, Abu Dhabi and Doha from 2008 to 2014 of 24.7% was three and a half times the average GDP growth rate of 7.0% in their largest market (the Indian Subcontinent) and *more than ten times the rate of bookings growth* between the United States and the Indian Subcontinent over the same period (2.1%).[106]

[106] Nor can traffic growth between the United States and other regions that are served by the Gulf carriers explain the massive increase in their U.S. capacity growth between 2008 and 2014. For example, the CAGR of bookings from 2008 to 2014 between the United States and the Indian Subcontinent, the Middle East, Africa and the ASEAN countries was only 1.9%. Using 2010 as the base year, the rate of traffic growth between the United States and these regions was only 2.8%. Source: MIDT.

EXHIBIT 6: COMPOUND ANNUAL GROWTH RATE OF GULF CARRIER SEAT GROWTH BETWEEN THE UNITED STATES AND GULF HUBS AND BOOKING GROWTH BETWEEN THE UNITED STATES AND THE INDIAN SUBCONTINENT



Sources: MIDT; OAG; World Bank.
Notes: Seats from the United States to the carriers home countries. Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka.

Moreover, there is no indication that the massive imbalance between Gulf carriers' subsidized capacity growth to the United States relative to underlying demand growth between the United States and the regions they serve is likely to change anytime in the near future. For example, even though Edgeworth's own Exhibits purport to show that demand between the United States and the Indian Subcontinent has been growing at mid-single digit rates since 2009 (*see* Exhibit 5 above), Exhibit 6 shows that the Gulf carriers are *accelerating their capacity growth* to the United States in 2015 even further (to over 36%).

Gulf carrier growth rates to the United States in excess of 35% in the face of single-digit growth rates of demand demonstrate that the Edgeworth Report's claim that Gulf carriers are simply responding to "pent-up demand" for travel to "underserved" regions of the world is baseless.[107] Simply put, because the Gulf carriers have failed to meaningfully stimulate new traffic (as discussed in detail in Section 3 below), as a matter of basic arithmetic, the only way the Gulf

[107] *See* Edgeworth Report, page 7.

carriers can continue to expand to the United States at their current rates of capacity growth is if they continue to divert substantial volumes of traffic from other carriers.

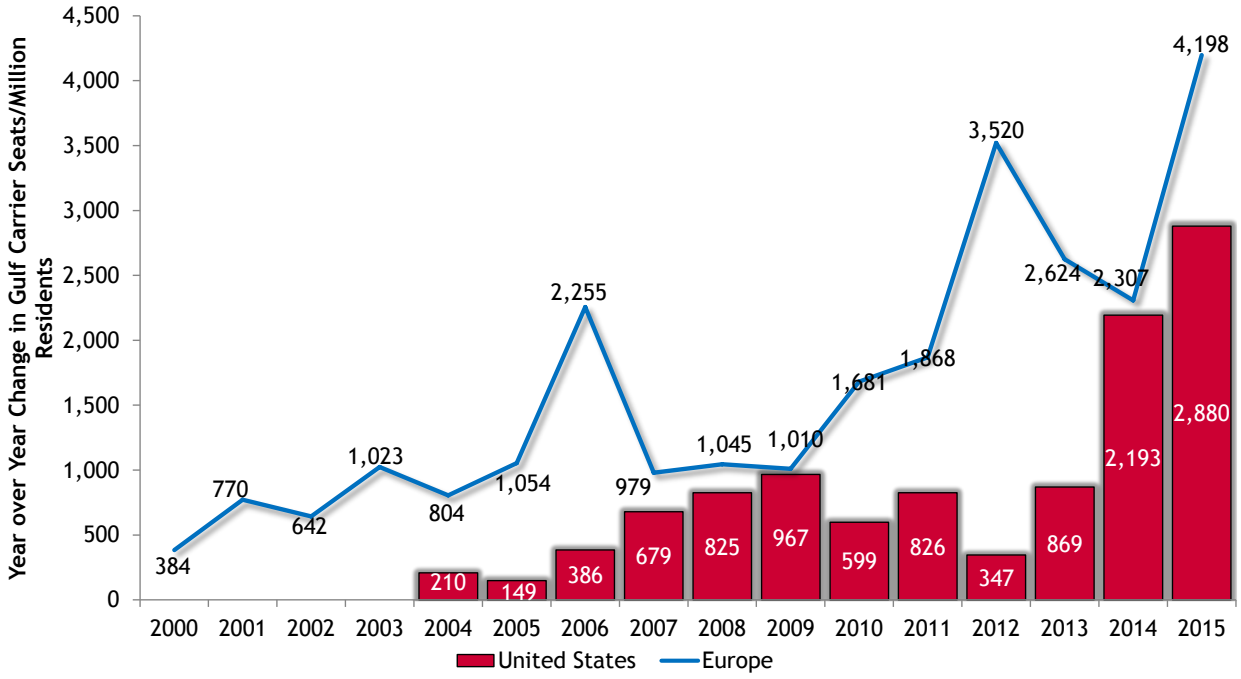
Moreover, it is noteworthy that the recent surge in Gulf carrier capacity growth to the United States parallels a similar surge in capacity growth to Europe that began in the years following the 2008-2009 financial crisis and recession. That surge (which came on the heels of several years of steady—albeit slower—capacity growth to Europe) resulted in the termination of numerous routes by Europe carriers to regions now saturated with Gulf carrier capacity, as well as thousands of job losses at those carriers.[108] Moreover, there is every reason to believe that the recent surge in Gulf carrier capacity to the United States will continue. For example, Qatar Airways has already announced plans to increase its capacity by the end 2016 by approximately 50% over 2015 levels[109] and Emirates has stated that it plans to make the United States one of the carrier's three largest sources of revenue by *doubling* its U.S. destinations from 10 to 20.[110]

[108] *See*, for example, Letter to Mr. Ted Dean, Mr. Thomas Engle and Mr. Brandon Belford, from Thomas Kropp, Senior Vice President, Head of Group International Relations and Government Affairs, Lufthansa Group, June 11, 2015 noting that Lufthansa had stopped service from Frankfurt to Calcutta, Hyderabad, Manila, Karachi, Lahore, Sydney, Ho Chi Minh-City, Abu Dhabi, Sanaa, Tashkent, Katmandu, Denpasar/Bali, Pusan, Male/Maldives, Mahe/Seychellen and Colombo. The letter also notes that Austrian has given up serving 17 destinations in Southeast Asia and three in Africa. *See also* Air France KLM Press Release, January 22, 2015 and "Air France Plans to cut 2,800 More Jobs" (noting that it would cut an additional 800 employees above and beyond the 7,900 positions the carrier has already eliminated as part of its 2012-2014 restructuring plan); *The New York Times*, September 18, 2013, noting that "*Rapidly expanding carriers in Asia and the Gulf region are squeezing full-service carriers like Air France, Lufthansa and British Airways on long-distance routes*"; "Departing Lufthansa chief warns of threat posed by Gulf airlines," *Financial Times*, March 25, 2014: "Conscious of the challenge from Gulf carriers to Lufthansa's business and the gradual erosion of the group's margins, [Lufthansa] launched a €1.5bn cost-savings drive in 2012. It encompassed some 3,500 job cuts, transferring non-hub services to Lufthansa's low-cost subsidiary Germanwings, restructuring Austrian Airlines and closing some locations"; and "Lufthansa Group Adjusts Earnings Forecast: Lufthansa Group" (June 11th, 2014) quoting Lufthansa's CEO: "The revenue risks mentioned when we presented the quarterly figures in early May have unfortunately materialized… *Strong capacity growth by state-owned Gulf carriers was a major concern*…" (emphasis added)

[109] *See* "Qatar Airways Set to Expand its USA Network with the Addition of Three New Routes", Qatar Airways Press Release, May 4, 2015, announcing that it would add new daily non-stop service between its Doha hub and Los Angeles (effective January 1, 2016), Boston (effective March 16, 2016) and Atlanta (effective July 1, 2016), as well as an additional daily frequency to New York City (effective March 1, 2016).

[110] *See, e.g.* "Emirates Airline President Plans to Rebut Subsidy Allegations," Dow Jones Newswire, March 17, 2015 and "Emirates Air Planning Expansion of U.S. Rivals' Home Turf", *Bloomberg* (September 22, 2014), noting that "Emirates Airline, the largest international carrier, is planning an expansion that would make the U.S. market one of its three largest sources of revenue" and quoting Emirates CEO Tim Clark ("[the U.S.] is hugely important").

EXHIBIT 7: YEAR-OVER-YEAR CHANGE IN ANNUAL GULF CARRIER SEATS PER MILLION RESIDENTS



Source: OAG; World Bank Economic Indicators.
Notes: 2015 population data is estimated based on 2014 figures adjusted by the year-over-year population growth by country from 2013-2014.

iii. Edgeworth's claim that Etihad's "High" load factors are an indication that the carrier's capacity is serving "pent-up" demand is also incorrect

The Edgeworth Report attempts to justify Etihad's capacity additions to the United States by suggesting that the carrier's rapid increase in capacity is merely aimed at serving "pent-up demand" between the United States and the Indian Subcontinent.[111] As evidence that Etihad's services are allegedly meeting "pent-up demand", the Edgeworth Report observes that even though "Etihad increased the annualized number of total seats flown between U.S. and Abu Dhabi from 192,000 in 2009 to 845,000 in 2014, the load factor actually *increased*…"[112] But what the Edgeworth Report shows is that over the past three years (i.e., between the year ending October 2012 and the year ending October 2014), as Etihad increased its available seats to the United States

[111] *See* Edgeworth Report, page 30: "potential pent-up demand and the "geographic centrality" of Etihad's hub illustrate the types of factors ignored by the simplistic comparison of capacity growth and global GDP growth presented in the Open Skies Report."

[112] *See* Edgeworth Report, page 26.

by over 73.2% (from approximately 490,000 to approximately 850,000), the carriers' load factor actually *declined by eight percentage points.*[113]

c) The Gulf Carriers' Submissions Have Failed to Rebut Our Analysis Demonstrating That Their Subsidized Capacity Expansion Suppresses the Fares of U.S. Carriers

Notably absent from any of the Gulf carriers' analyses of harm to the U.S. carriers is any rebuttal to the fare analysis contained in our April 9 Impact Study showing how subsidized Gulf carrier presence had driven down the fares of U.S. carriers across a broad range of city-pairs where Gulf carriers and U.S. carriers compete.[114] This analysis showed (among other things) that: (a) the presence of each Gulf carrier on connecting city-pairs to/from one of their U.S. gateway cities lowers the fares of U.S. carriers by 4.3% on average (i.e., on city-pairs where all three Gulf carriers are present, U.S. carriers' fares are nearly 13% lower, on average);[115] (b) since 2004 (i.e., the year Emirates began serving the United States), the gap between U.S. carriers' inflation adjusted yields between the United States and India and other transatlantic/transpacific destinations had widened by nearly 25%;[116] (c) since Emirates launched its fifth freedom flight between New York City and Milan, U.S. carriers' local fares between those two cities dropped precipitously;[117] and (d) following the entry by Emirates, average non-stop yields to Milan fell to the lowest of all cities in continental Europe served from New York City by a U.S. carrier.[118]

Although an expected result of adding capacity far in excess of underlying demand growth is precisely the type of downward pressure on fares we documented in our earlier studies, the Gulf carrier submissions have chosen to disregard the fundamentals of supply and demand in evaluating the potential harm they have caused to U.S. carriers. Instead, Emirates asserts that "[t]o the extent that adverse competitive effects would be seen on the Legacy Carriers' operations, those effects should be most visible on transatlantic routes"[119] but that "adverse effects are nowhere to be

[113] *See* Edgeworth Report, Exhibit 14. Moreover, an examination of the most recent load factor data available for the Gulf carriers suggests that their surge in capacity over the past year has been putting downward pressure on their load factors, suggesting that there is little if any "pent-up demand" for their services. For example, as the Gulf carriers increased capacity in the second half of 2014 by 51% over the second half of 2013, load factors on their flights between the United States and their hubs in Dubai, Abu Dhabi and Doha dropped by 6.7 points, on average. Furthermore, load factors on some Gulf routes have been chronically low, suggesting little demand for their service, much less any potential "pent-up" demand. For example, since entering Miami in June 2014, Qatar's load factor had averaged 41.0% (through January 2015). Source: U.S. DOT T-100 Database.

found."[120] Likewise, Qatar asserts that the U.S. carriers "have failed to show any harm from services operated by Qatar Airways."[121]

As discussed below, we have updated each of the analyses related to the harm suffered by U.S. carriers due to Gulf carrier-induced lower fares using the most recent data and these analyses continue to confirm that the presence of Gulf carriers has harmed U.S. carriers by lowering their fares in the city-pairs where U.S. and Gulf carriers compete.

i. None of the Gulf carriers has contested our regression analysis demonstrating that Gulf carrier presence on a city-pair lowers the fares of U.S. carriers

Exhibit 8 updates the regression analysis of U.S. carrier average airfares using data through the fourth quarter of 2014 and demonstrates that presence of each Gulf carrier lowers U.S. carrier fares by 4.8% on city-pairs to/from Gulf carrier gateway cities, on average, and by 1.3% on city-pairs involving other U.S. cities, on average.[122] Thus, on city-pairs from the Gulf carriers' U.S. gateway cities where all three Gulf carriers are present, U.S. carriers' fares are lower by 14.5%, on average. Notably, Exhibit 8 also shows that the impact on U.S. carriers' fares from each Gulf carrier present is far greater than that of the average other *non-Gulf* competitor (i.e., the magnitude of the estimated coefficient on *Number of Gulf Carriers Present* is more than ten times that of the estimate coefficient on *Number of Non-Gulf Carriers Present*). Thus, while the expected result of competition is downward pressure on fares, our regression analysis suggests that subsidized Gulf carrier competition suppresses U.S. carriers' fares by *more than ten times as much* as the average non-Gulf competitor.

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[114] As shown in Exhibit 3 above, U.S. carriers and Gulf carriers overlap on approximately 9,000 city-pairs accounting for approximately 10% of U.S. carriers' transatlantic/transpacific revenue.

[115] *See* April 9 Impact Study, Exhibit 18. *See also* footnote 30 above.

[116] *See* April 9 Impact Study, Exhibit 3.

[117] *See* April 9 Impact Study, Exhibit 7.

[118] *See* April 9 Impact Study, Exhibit 8.

[119] *See* Emirates Response, page 94.

[120] Ibid.

[121] *See* Qatar Comments, page 39.

[122] Exhibit 8 also uses the updated Delta MIDT data.

EXHIBIT 8: UPDATE OF REGRESSIONS FOR U.S. CARRIER INTERNATIONAL AIRFARES FROM APRIL 9 IMPACT STUDY

	(1) Gulf Carrier U.S. Gateways	(2) Behind Gulf Carrier U.S. Gateways
Number of Gulf Carriers Present	-0.0482**	-0.0131**
	(0.00227)	(0.00156)
Number of Non-Gulf Carriers Present	-0.00418**	0.00121**
	(0.000747)	(0.000461)
ONLINE	-0.0669**	-0.0356**
	(0.00262)	(0.00168)
ALLIANCE	0.0346**	0.0138**
	(0.00280)	(0.00192)
ATI	-0.0836**	-0.0635**
	(0.00253)	(0.00163)
COUPONS	-0.0594**	-0.0391**
	(0.00133)	(0.000967)
US Point of Sale	0.0959**	0.0299**
	(0.00117)	(0.000723)
INCOME	5.07e-06**	5.06e-06**
	(7.53e-07)	(4.96e-07)
POP	-1.29e-08**	-2.97e-08**
	(8.37e-10)	(1.07e-09)
Constant	6.703**	6.724**
	(0.0374)	(0.0225)
Observations	915,067	2,300,722
R-squared	0.265	0.243

* p<0.05, ** p<0.01
Sources: U.S. DOT DB1B; MIDT; World Bank; BEA.
Notes: Dependent variable is the natural logarithm of the passenger-weighted average fare on the itinerary across all fare classes. Robust standard errors in parenthesis. Regression covers the period 2008-2014 (quarterly) and reflects all round-trip passengers. Includes Carrier, City-Pair, Year, and Quarter Fixed Effects (not shown). Includes passengers on mainland U.S.-international city-pairs, except itineraries to/from North America and South America. Excludes itineraries on city-pairs where any carrier offered non-stop service in that quarter. Population and Income are annual. 2014 population and income based on 2013 grown at the cumulative average growth rate from 2008-2013. Gulf Carrier U.S. Gateways includes: New York City, Chicago, Houston, Los Angeles, Washington D.C., Seattle, Dallas/Fort Worth, San Francisco, Boston, Philadelphia, and Miami. Includes itineraries where the longest segment was operated or marketed by a U.S. carrier (e.g., American, Continental, Delta, Northwest, US Airways, United), or one of their JV Partners.

ii. Non-econometric analysis demonstrates that subsidized Gulf carrier competition lowers the fares of U.S. carriers

The unusually large suppressive impact on U.S. carriers' fares shown in Exhibit 8 from subsidized Gulf carrier competition (relative to non-Gulf competition) can also be seen by directly examining U.S. carriers' fares in international markets where Gulf carriers have grown the most.[123] For example, Exhibit 9 shows that while real (i.e., inflation-adjusted) U.S. carrier yields between the United States and transatlantic/transpacific destinations excluding those in the Indian Subcontinent

[123] We recognize that changes in economic or demographic factors, as well as the level of non-Gulf competition can also influence U.S. airfares. Such factors are typically best controlled for in an econometric model like the type we estimated in Exhibit 8. However, in light of Emirates' misplaced concerns regarding the use of "[m]assive, worldwide econometric analysis" to resolve the question of stimulation (*see* Emirates Response, page 103), it is also insightful to show the negative relationship between increased Gulf carrier presence and U.S. carrier fares using non-econometric based analysis.

have increased modestly since 2003 (largely tracking the price of jet fuel), real U.S. carrier yields between the United States and the Indian Subcontinent began to fall in 2006 as Gulf carriers began their U.S. expansion. By 2008, the gap between the change in U.S. carriers' average fares to the Indian Subcontinent (relative to 2003) versus other transatlantic/transpacific destinations had widened to approximately 26 percentage points, a gap that has persisted to the present day.[124]

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Moreover, disaggregating U.S. carriers' average yields for "other transatlantic/transpacific" destinations in Exhibit 10 reveals a similar trend: in regions where the Gulf carriers have been substantially growing their share of bookings to/from the United States, the fares of U.S. carriers have fallen sharply relative to their 2003 levels, while to other regions without Gulf carrier competition (i.e., "Other Transatlantic/Transpacific") which face robust competition from a host of

[124] Importantly, over this period of time, there has been intense competition between U.S. and foreign carriers in other transatlantic/transpacific city-pairs, including growth by several entrants new to the U.S. market. However, unlike service between the United States and the Indian Subcontinent, the bulk of the foreign carrier service has *not* been provided by subsidized Gulf carriers.

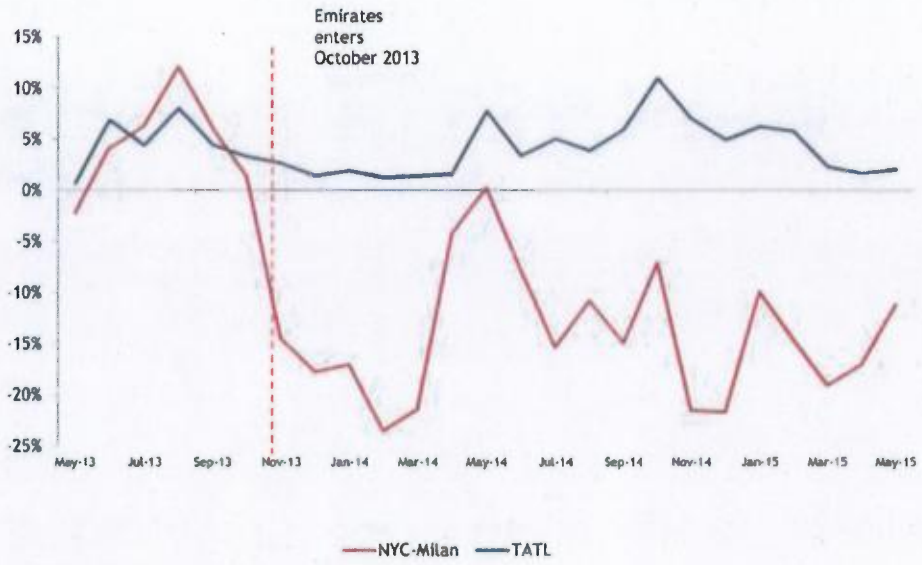
other competitors (e.g., Chinese, other Asian and European carriers) U.S. carriers' real yields have largely followed changes in jet fuel prices.[125]

EXHIBIT 10: CHANGE IN AVERAGE REAL YIELD (VERSUS 2003) FOR U.S. CARRIERS BY REGION VS. REAL JET FUEL PRICES

Likewise, Exhibit 11 updates our analysis comparing the change in U.S. carriers' average local fares for passengers traveling between New York City and Milan and other transatlantic routes, which continues to show that average fares for U.S. carriers between New York City and Milan have underperformed U.S. carriers' transatlantic fares as a whole by a wide margin following the entry by Emirates in October 2013.

[125] Between 2008 and 2014, Gulf carriers' share of bookings between the United States and each region changed as follows: Indian Subcontinent (12.2% to 40.0%); Africa (2.9% to 8.5%); Middle East (10.4% to 24.2%), ASEAN (0.2% to 4.6%) and Other Transatlantic/Transpacific (0.1% to 0.3%). Notes: Middle East excludes Israel. Source: MIDT.

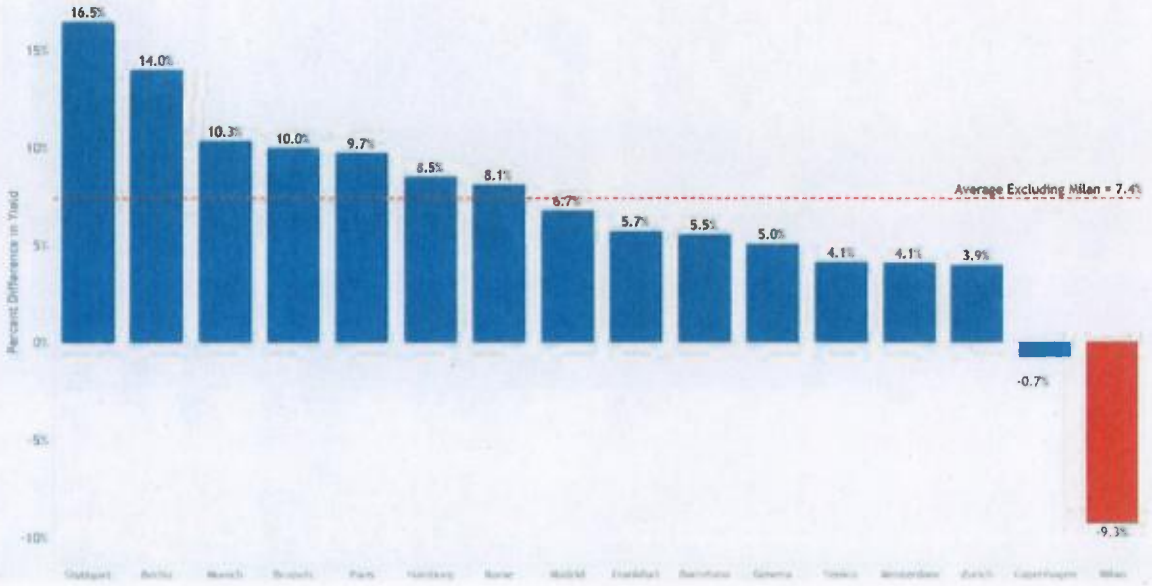
EXHIBIT 11: CHANGE IN AVERAGE LOCAL FARES, NEW YORK CITY-MILAN VS. OTHER TRANSATLANTIC, VERSUS SAME MONTH IN YEAR PRIOR TO EMIRATES' ENTRY*



Sources: Delta Air Lines, American Airlines, United Airlines, A4A.
Notes: Data for Transatlantic from A4A.
*Compares fares in post-entry period versus same month in year prior to Emirates' entry (i.e., October 2012-September 2013).

Another way to demonstrate the negative impact that Emirates' entry had on U.S. carriers' fares between New York City and Milan is to compare the change in U.S. carriers' average non-stop yields between New York City to Milan to other cities in continental Europe served non-stop by U.S. carriers from New York City. As shown in Exhibit 12 below, in the year following entry by Emirates, U.S. carriers' average non-stop fares between New York City and Milan fell by [ ], compared to an average increase in non-stop fares to destinations in continental Europe of [ ].

EXHIBIT 12: % CHANGE IN NON-STOP U.S. CARRIER YIELDS BETWEEN NEW YORK CITY AND CITIES IN CONTINENTAL EUROPE SERVED BY U.S. CARRIERS, (YE Q3-2014 VS. YE Q3-2013*)



Accordingly, it should come as no surprise that U.S. carriers' average non-stop yields from New York City to Milan are the lowest of any city in Continental Europe by a wide margin.

EXHIBIT 13: NON-STOP U.S. CARRIER YIELDS BETWEEN NEW YORK CITY AND CITIES IN CONTINENTAL EUROPE SERVED BY U.S. CARRIERS

iii. The analysis of published fare trends contained in the Edgeworth Report is irrelevant for assessing the question of how subsidized Gulf carrier capacity has harmed U.S. carriers by suppressing their fares

Although the Edgeworth Report contains a discussion of fare trends on certain routes[126], it has little relevance to the question of whether Gulf carriers' subsidized expansion has harmed U.S. carriers. This is because the Edgeworth Report's entire fare analysis relies exclusively on *published* rather than actual transacted fares. A carrier's published fares provide little information about how much the carrier's passengers actually paid, because carriers publish scores of individual fares for any given city-pair, which depend on a myriad of factors, including (among other things) minimum stay requirements, advance purchase requirements and ticket flexibility. The fares that passengers actually pay then depend on whether there are seats available in the particular fare "bucket" at the time of purchase, and these buckets open and close almost continuously based on the number of unsold seats available relative to when the flight in question

[126] *See* Edgeworth Report, pages 16-21.

is scheduled to depart. Simply put, Edgeworth's published fare analysis provides little—if any—useful information regarding the actual average fares of any of the carriers in question.

Moreover, other aspects of the Edgeworth fare analysis are equally flawed. For example, the inference in the Edgeworth Report that antitrust immunity has enabled U.S. carriers and their immunized partners to charge supra-competitive fares between the United States and Europe[127] ignores the fact that the economic literature has long found that immunity leads to *lower fares* because they enable carriers to reduce "double marginalization."[128] Likewise, the Edgeworth Report's fare "benchmarking" analysis[129] is severely compromised because it compares Etihad's "revenue per kilometer" on city-pairs to/from the Indian Subcontinent (e.g., New York-Delhi) against the "revenue per kilometer" of U.S. carriers and their immunized partners on city-pairs between the United States and Europe (e.g., New York-London, New York-Paris, etc.). Even if the "revenue per kilometer" measure shown in the Edgeworth Report represented actual revenue (which it does not), a comparison of "revenue per kilometer" across city-pairs that are entirely unrelated in terms of underlying demand conditions (e.g., passenger mix, etc.) or distance[130] is of little relevance for understanding how Gulf carriers' subsidized expansion has impacted U.S. carriers.

d) The Fact That There is Only One Remaining U.S. Carrier Offering Non-Stop Service to India is a Primary Example of the Harm Caused By Gulf Carriers' Subsidized Expansion

[127] *See* Edgeworth Report, page 2: "…fares published by Immunized Carriers on transatlantic routes—where coordination between U.S. and foreign carriers is allowed by way of antitrust immunity conferred by the U.S. government—indicates that Immunized Carriers' RPK is substantially higher."

[128] *See*, for example, Jan Brueckner, "International airfares in the age of alliances: The Effects of Codesharing and Antitrust Immunity", *Review of Economics & Statistics*, vol. 85, pp. 105-118, 2003, at page 105: "*...the presence of antitrust immunity reduces the fare by 13%– 21%"* and W. Tom Whalen, "A panel data analysis of code-sharing, antitrust immunity, and open skies treaties in international aviation markets", *Review of Industrial Organization,* Vol. 30, pp. 39-61 (2007) age page 40: *"Alliances that are granted antitrust immunity are associated with fares that are 13 to 20% lower than traditional interline fares…".*

[129] *See* Edgeworth Report, pages 22: "Notably, immunized Alliance Members' RPK on transatlantic routes where coordination between U.S. and foreign carriers is allowed by way of antitrust immunity conferred by the U.S. government were 69 to 120 percent higher than Etihad's median RPKs on routes between the U.S. and ISC."

[130] It is well understood that the costs (and hence price) per mile for air transportation is negatively correlated with distance. *See*, Stephen Holloway, Straight and Level :Practical Airline Economics. 2008, Ashgate, page 156: "*the monetary amount paid per mile for a short journey will tend to be higher than the amount per mile for a significantly longer trip. The reason for this is that operating costs-unit costs or cost per ASM (CASM)-decline as stage-lengths increase."*

In our April 9 Impact Study, we discussed how the glut of subsidized Gulf carrier capacity to the United States had all but foreclosed U.S. carriers from expanding (or in the case of American and Delta, restoring) their non-stop service to India. In their submissions, the Gulf carriers have attempted to rebut this clear example of harm to the U.S. carriers. For the reasons described below, however, their arguments do not withstand scrutiny.

i. The inference by Emirates that its connecting services could not suppress U.S. carriers' ability to sustain non-stop service to India is not credible

As discussed in Section 2(a) above, Emirates assumes away the possibility that their services could harm U.S. carriers by ignoring virtually all of the connecting city-pairs where the U.S. and Gulf carriers' services overlap. Thus, it should come as no surprise that Emirates has also claimed that the loss in bookings by U.S. carriers to/from the Indian Subcontinent that occurred as Gulf carriers were rapidly expanding their subsidized capacity to the United States could not have contributed to Delta's and American's discontinuation of non-stop services to/from India.[131]

According to Emirates, the proposition that Gulf carriers' services to the United States could have been a contributing factor to these terminated services "is particularly odd in light of the fact that the supposed competition for the Legacy Carriers' discontinued *non-stop* flights consisted of the Gulf Carriers' *one-stop* flights."[132] Qatar's comments take the same position, arguing that the U.S. carriers "have contended that Sixth Freedom services operated by Gulf carriers between the United States and India might somehow preclude their own introduction of nonstop service in the market. These claims ring hollow. It is well documented that consumers prefer non-stop services over one-stop and multi-stop alternatives, and generally will make their buying decisions based on schedule."[133]

Emirates' and Qatar's contention that because Gulf carrier passengers traveling between their U.S. gateway cities and the Indian Subcontinent utilize one-stop itineraries, they could not have contributed to the termination of a U.S. carrier's *non-stop* flights to India (and by implication, their inability to resume and grow these services) is simply not credible. To begin with, even for passengers traveling between New York City and Mumbai and Delhi (the two city-pairs between

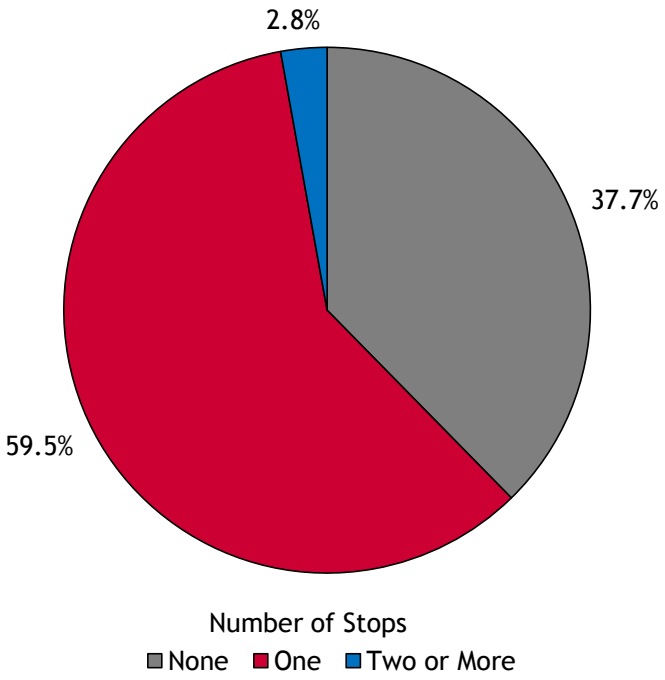
[131] *See* Emirates Response, pages 117-118.

[132] *See* Emirates Response, page 118.

[133] *See* Qatar Comments, footnote 157.

the United States and the Indian Subcontinent that currently have *non-stop* service on a U.S. carrier (i.e., United) in addition to Air India), more than 60% of bookings utilize connecting itineraries (as shown in Exhibit 14 below).[134] This clearly demonstrates that Gulf carriers' one-stop service is not only competitive with non-stop service, but has also served to crowd out the non-stop services of other U.S. carriers that have either cancelled or forgone non-stop service between New York City (as well as other U.S. cities) and the Indian Subcontinent.

EXHIBIT 14: DISTRIBUTION OF BOOKINGS BETWEEN NEW YORK CITY AND MUMBAI/DELHI BY NUMBER OF STOPS (2014)



Source: MIDT, 2014.
Notes: Includes all bookings to/from DEL or BOM to/from JFK, EWR or LGA.

More generally, however, as Emirates and Qatar are no doubt aware,[135] each of the three U.S. carriers operates a hub-and-spoke network that aggregates traffic flows from a myriad of cities behind their hubs,[136] and connects those passengers to their final destination.[137] As a result, U.S.

[134] Source: MIDT 2014.

[135] As shown in Exhibit 1 above, because Emirates apparently believes that there are only two U.S.-Indian Subcontinent city-pairs served by United, it may be unaware that United operates a hub with non-stop service to approximately 80 U.S. cities from EWR.

[136] Of all carriers, Emirates should understand the importance of connecting passengers to the viability of a non-stop service in long-haul city-pairs as it purportedly "pioneered an innovative aviation model: long-haul to long-haul

carriers' non-stop flights to India compete directly with Gulf carriers' flights to/from the Gulf, as the bulk of passengers on both carriers' flights are flying on connecting itineraries.[138] Indeed, in 2014, only about five percent of bookings between the United States and the Indian Subcontinent flew non-stop.[139] Simply put, because the viability of long-haul international flights depends on both local *and connecting passengers*, the assertion by Emirates and Qatar that the viability of U.S. carriers' non-stop flights to India could not have been adversely impacted by Gulf carriers' subsidized flights because "the supposed competition for the Legacy Carriers' discontinued non-stop flights consisted of the Gulf Carriers' one-stop flights"[140] or that "consumers prefer non-stop services over one-stop and multi-stop alternatives"[141] ignores not only the data but also the fundamental fact that hub-and-spoke airlines compete with one another across thousands of unique city-pairs even if there are few if any non-stop overlapping routes.

ii. *The assertion by the Gulf carriers that U.S. carriers did not make a serious effort to serve the Indian Subcontinent is contradicted by the data*

In addition to incorrectly claiming that its connecting services could not have undermined the viability of U.S. carriers' flights to India, Emirates further asserts that "Legacy Carriers and their European joint venture partners have not made the investment needed to participate in that Growth."[142] In a similar vein, Qatar's comments assert that "US carriers have long ignored the India/ISC market"[143] while the Edgeworth Report infers that a reason why U.S. carriers and their

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service that reduces costs and travel times and provides unrivaled global connectivity for international travelers, particularly in the heavily populated but underserved countries in the Indian Subcontinent and Africa." *See* Emirates Response, page i.

[137] In some cases, reaching one's final destination may involve a second connection at a partner carrier's hubs in Europe or Asia.

[138] *See* Emirates Response, page 132: "...the vast majority of the 11,000 seats are not occupied by travelers whose destinations are the Middle East hubs. They are occupied by travelers who will pass through the hubs en route to Africa, the Indian Subcontinent, Southeast Asia, and other destinations." Likewise, approximately [ ] of passengers on U.S. carriers' long-haul international flights connect to/from another flight behind the U.S. gateway. Source: Analysis of DB1B data. *See also* Edgeworth Report, Exhibit 1.

[139] Source: MIDT.

[140] *See* Emirates Response, page 118.

[141] See Qatar Comments, footnote 157.

[142] *See* Emirates Response, page 112.

[143] *See* Qatar Comments, page 40.

JV partners have not participated in the growth in demand to the Indian Subcontinent is because they have "underserved" this region.[144]

The contention that U.S. carriers (or their European JV partners) have ignored or are somehow uninterested in expanding their own services to a destination as large and with as much growth potential as the Indian Subcontinent is simply illogical and is not borne by the evidence. To the contrary, the U.S. carriers had identified India as a growth market,[145] and between 2005 and 2008, Delta, American and Continental (now part of United) each launched non-stop service between the United States and India.[146] Overall, between 2003 and 2008, U.S. carriers increased their number of daily seats to India by 250%, from 1,080 to 2,651, as shown in Exhibit 15.[147] And over that same period, U.S. carriers' European partners were also expanding their service to the Indian Subcontinent to serve the growing demand to that region. Between 2003 and 2008, for example, Lufthansa increased its daily seat capacity to/from the Indian Subcontinent by more than 50% (from approximately 2,100 to 3,200), while Air France-KLM more than doubled its seat capacity from approximately 650 to 1,500.[148]

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[144] *See* Edgeworth Report, page 7. *See also* Etihad Response, page 9: "...they [the U.S. carriers] have chosen not to serve these important regions themselves and yet seek to block others from doing so."

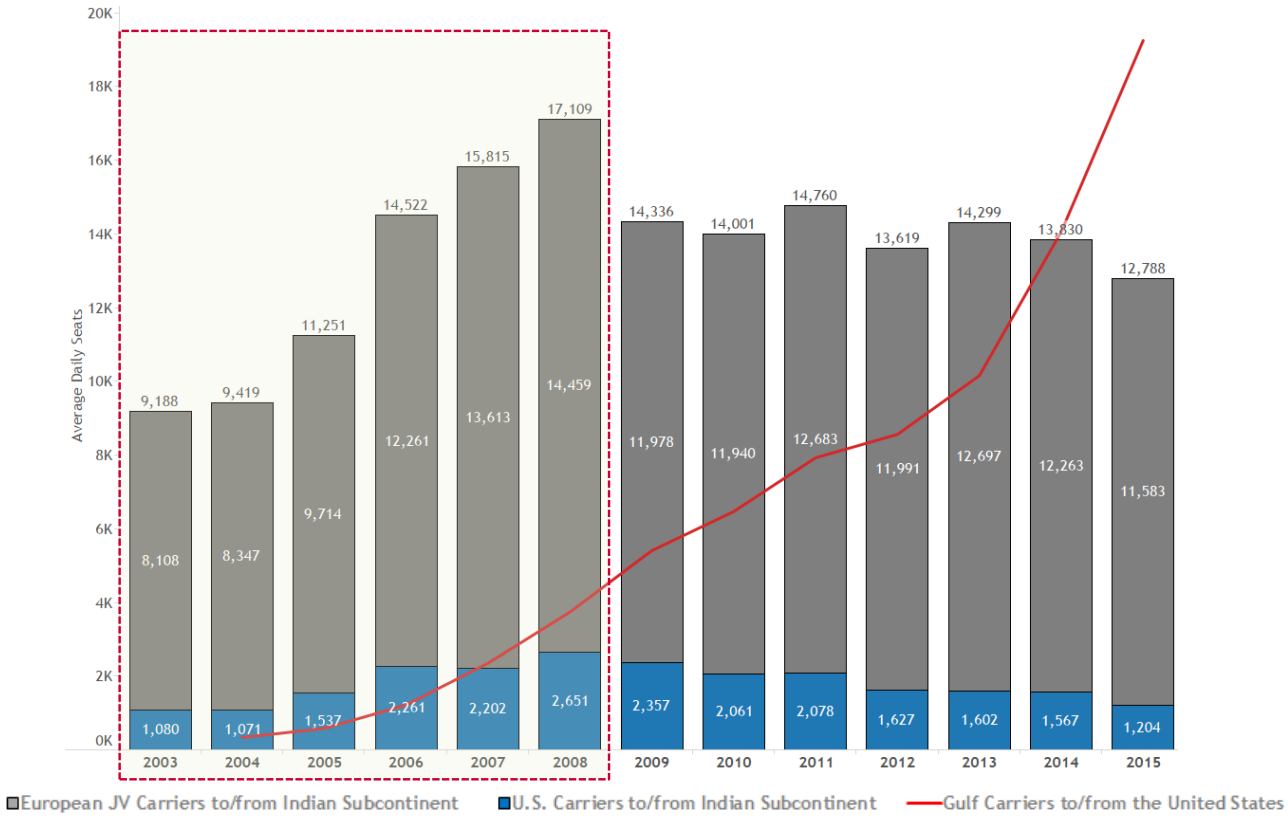
[145] *See* Business Confidential appendices to Partnership Answers to U.S. Government Technical & Clarification Questions on the Gulf Subsidies Report.

[146] American launched a daily roundtrip between Chicago O'Hare and New Delhi in November 2005, Delta launched a daily roundtrip between both New York Kennedy and Mumbai in November 2006 (which was switched to Atlanta-Mumbai in November 2008) and Continental launched a daily roundtrip between Newark and New Delhi in November 2005, followed by a daily roundtrip between Newark and Mumbai in October 2007. Source: OAG.

[147] As a result, between 2003 and 2008, the number of passengers that traveled between the United States and the Indian Subcontinent exclusively on U.S. carriers increased *nearly [ ] fold* (from [ ]/day to [ ]/day), and the number of passengers traveling on U.S. carriers on the international gateway segment and then connecting to their final destination in the Indian Subcontinent more than doubled from [ ]/day to [ ]/day. Source: U.S. DOT DB1B.

[148] Source: OAG.

EXHIBIT 15: U.S. AND JV PARTNER CARRIER AVERAGE DAILY SEATS TO/FROM THE INDIAN SUBCONTINENT VS. GULF CARRIER AVERAGE DAILY SEATS TO/FROM THE UNITED STATES



Source: OAG.
Notes: Gulf carrier seats include flights between the United States and DXB, AUH, and DOH. European JV partners include Air France/KLM, Alitalia, Virgin Atlantic, British Airways/Iberia, Lufthansa, Swiss, Brussels and Austrian. The Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka.

With the drop in global demand following the onset of the global financial crisis and recession in 2009, however, both U.S. and JV carriers suspended their growth to the Indian Subcontinent. But, notwithstanding the severe recession, the Gulf carriers accelerated their capacity growth to the Indian Subcontinent. Due to the rapid increase of subsidized Gulf carrier capacity since 2008, neither the U.S. carriers nor their European JV partners have been able to restore their capacity to the Indian Subcontinent back to pre-recession levels (much less expand their service to take advantage of the growing demand for travel to/from this region). Exhibit 15 also shows that by 2014, Gulf carriers' capacity to/from the United States (much of which is aimed at serving traffic flows to/from the Indian Subcontinent[149]) exceeded the total number of seats to the Indian

[149] *See* for example Emirates Response, page vii, "Emirates has grown in large part by focusing on markets like the Indian Subcontinent…"

Subcontinent by U.S. and European carriers *combined.* Indeed, in 2015, U.S. carriers' European JV partners offer 20% fewer daily seats to the Indian Subcontinent than they did in 2008. Moreover, as noted above, as a result of the growth in subsidized Gulf carrier capacity, carriers such as Lufthansa and Austrian have terminated service to a wide range of destinations in the Indian Subcontinent, Asia and Africa.[150]

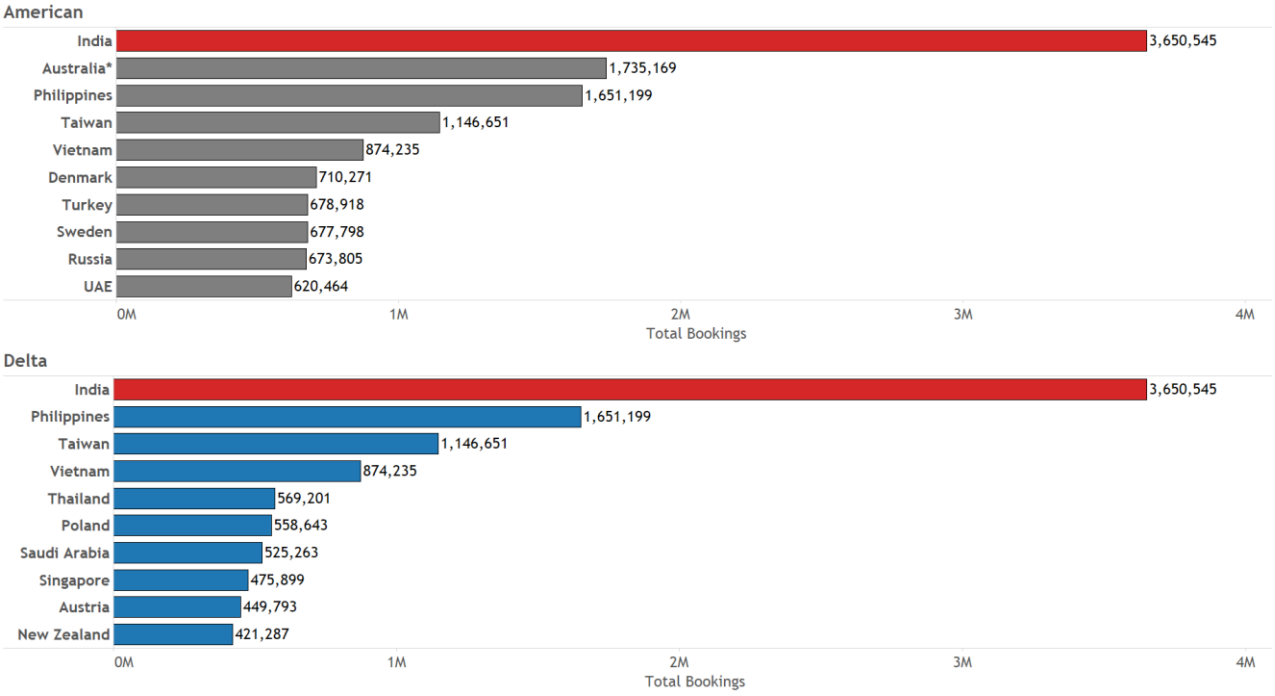
Thus, contrary to Emirates' assertion that the U.S. carriers and their JV partners "have not made the investment needed to participate in that growth [to the Indian Subcontinent]" or Qatar's claim that "US carriers have long ignored the India/ISC market",[151] the facts show that both the U.S. carriers and the European JV partners had been growing their capacity to the Indian Subcontinent rapidly until 2008, only to be stymied by the massive growth in subsidized Gulf carrier capacity to the United States that has driven the fares to the region down to levels that have all but precluded U.S./JV partner carriers from being able to restore (much less grow) their capacity to this growing region. Indeed, as shown in Exhibit 16, India is the largest market (by wide margin) that is not served non-stop from the United States by either Delta or American.[152]

[150] See footnote 108 above.

[151] *See* Qatar Comments, page 40.

[152] India is the second most populous country in the world. Source: World Bank (http://data.worldbank.org/indicator/SP.POP.TOTL?order=wbapi_data_value_2014+wbapi_data_value+wbapi_data_value-last&sort=desc).

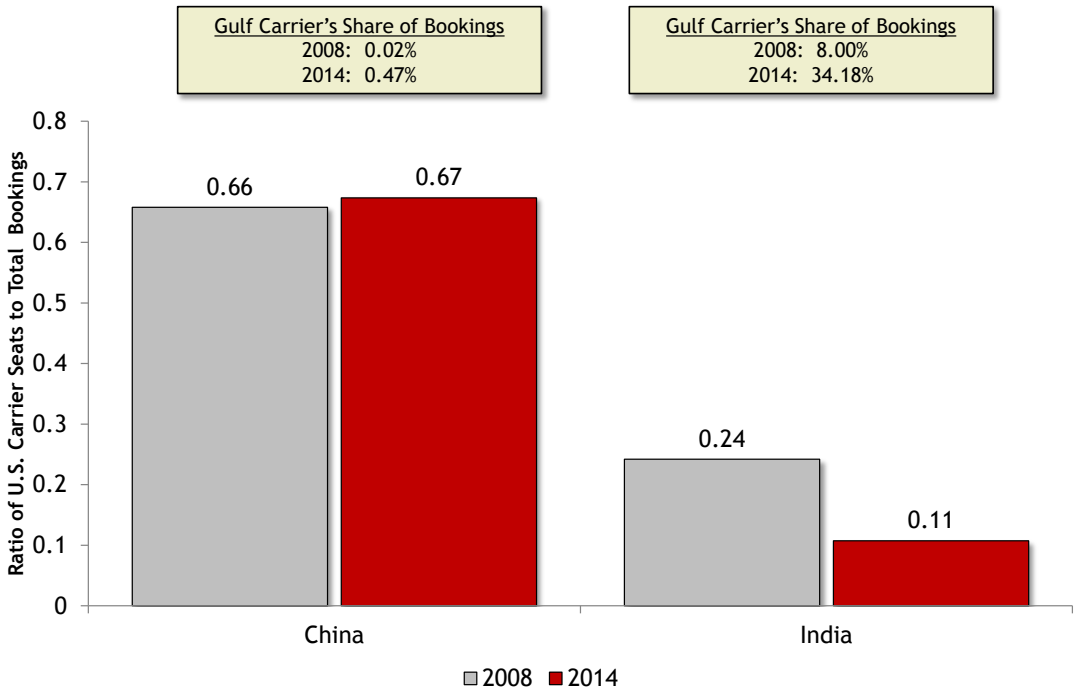
EXHIBIT 16: LARGEST COUNTRIES NOT SERVED BY AMERICAN AND DELTA NON-STOP FROM THE UNITED STATES (BY 2014 BOOKINGS TO/FROM THE UNITED STATES)



Sources: MIDT; OAG (July 2015-December 2015).
*As of December 2015 American will serve Australia (*see* http://hub.aa.com/en/nr/american-airlines-and-qantas-airways-to-add-new-flights-between-the-united-states-and-australia-6-9-2015)

The fact that the dramatic expansion of subsidized Gulf carrier capacity to the United States has all but foreclosed U.S. carriers from serving India on a non-stop basis is also readily apparent from a comparison of the ratio of U.S. carrier seats per total number of bookings (i.e., across all carriers) to India and to China (the only other country in the world with more than one billion inhabitants). As shown in Exhibit 17, in 2014 U.S. carriers offered *less than one sixth* the number of seats per total bookings to India as they offered to China. Moreover, Exhibit 17 also shows that as Gulf carriers increased their share of bookings between the United States and India from 8.0% in 2008 to 34.2% in 2014, U.S. carriers' ratio of seats per total bookings to India fell by more than one half. U.S. carriers face vigorous competition from several growing Chinese carriers, yet over the same time period, U.S. carriers' ratio of non-stop seats to China relative to total bookings has remained constant.

EXHIBIT 17: U.S. CARRIER SEATS PER TOTAL MARKET BOOKINGS, INDIA VS. CHINA, 2008 VS. 2014



Sources: MIDT, OAG.
Notes: U.S. Carrier Seats includes all non-stop seats from the lower 48 U.S. states to China and India on United, American and Delta. Total bookings include bookings on carriers between the lower 48 U.S states and China/India on all carriers.

iii. *Each displaced non-stop daily frequency between the United States and India results in a net loss in over 1,500 U.S. airline and related jobs*

The Partnership's Whitepaper noted that each daily widebody frequency lost or forgone due to subsidized Gulf carrier competition resulted in a net loss (on average) of over 800 U.S. airline and related jobs.[153] Because this figure was based on an "average" U.S. carrier long-haul international route, it conservatively assumed that the displaced or forgone U.S. carrier frequency utilized 1.34 widebody aircraft (i.e., the weighted average of number of aircraft used across all of the U.S. carriers' current flights to Europe, Africa, Asia, the Middle East and Australasia).[154] However, since all daily non-stop flights between the United States and India require two widebody aircraft

[153] *See* Partnership Whitepaper, page 51. A detailed description of the methodology used to calculate this job loss estimate was included in the Partnership Answers to U.S. Government Technical and Clarification Questions, (Response to Question #21).

[154] *See* Partnership Answers to U.S. Government Technical and Clarification Questions, Response to Question #21, Exhibit 20. In constructing the weighted average of 1.34 aircraft per roundtrip frequency, routes to Asia, Australasia, the Middle East and Africa use two aircraft, while routes to Europe require one aircraft.

(not the 1.34 conservatively assumed in the Partnership's previous submissions), the number of forgone jobs for each displaced daily frequency *to India* specifically is far greater the 848 shown in the Partnership's earlier submissions.[155] As shown in Exhibit 18, based on two aircraft (and correcting for a calculation error in the original table), the net loss of U.S. airline and related jobs from each displaced or forgone non-stop daily frequency to India is 1,537.[156]

[155] The difference in the number of jobs in the Partnership Answers to U.S. Government Technical and Clarification Questions (Response to Question #21) increased to 848 (versus the 821 figure in the Partnership's Whitepaper) because it the former calculation made use of more recent U.S. DOT Form 41 data that was not available at the time the Whitepaper was released.

[156] In the Partnership Answers to U.S. Government Technical and Clarification Questions (Response to Question #21) and the Whitepaper, the calculation of jobs (for both Delta and the Gulf carriers) inadvertently excluded the "induced jobs" related to the "indirect jobs." Correcting for that oversight, the net loss of U.S. airline and related jobs from displacing a U.S. carrier with a Gulf carrier on a route—based on the assumption of 1.34 aircraft per daily roundtrip frequency—increases from 848 to 1,039 lost jobs. The 1,537 job difference based on 2.0 aircraft per daily roundtrip frequency includes the induced jobs related to the indirect jobs.

As noted in footnote 187 of the Partnership Answers to U.S. Government Technical and Clarifications (Response to Question #21), "Induced" jobs are those that are supported in the U.S. economy by the spending of direct and indirect workers. "Indirect" jobs are defined as the U.S.-based *non-airline* jobs that are part of an airline's supply chain and are needed to support their operations (*e.g.*, information technology, human resources, accounting, legal, etc.). "Direct" jobs are the U.S. airline industry jobs that directly support the long-haul international service in question and consist of the jobs at the carrier (or equivalent third party vendors) operating the long haul flight in addition to U.S. airline jobs related to providing the capacity to support the behind/beyond U.S. gateway feed traffic attributable to the long-haul international flight.

EXHIBIT 18: UPDATED SUMMARY OF THE DIFFERENCE IN U.S. AIRLINE INDUSTRY (AND RELATED) EMPLOYMENT FROM EACH U.S. CARRIER WIDEBODY DAILY ROUNDTRIP FREQUENCY BETWEEN THE UNITED STATES AND INDIA (VS. GULF CARRIER DAILY FREQUENCY)

	U.S. Jobs Per Widebody Frequency Between The United States and India vs. Gulf Carrier Frequency to the United States	
	Delta*	**Gulf Carriers**
Direct Airline Jobs		
Pilots	64	0
Flight Attendants	164	0
Reservations	30	8
Tech Ops	46	1
Airport Customer Service & Cargo Scale	32	18
Management & Other	64	7
Total Direct Jobs/Frequency excluding domestic feed jobs	**400**	**34**
Additional U.S Domestic "Feeder" Airline Jobs	62	19
Total Direct Jobs/Frequency	**462**	**53**
Indirect Jobs Multiplier:1.64	758	86
Induced Jobs Multiplier:0.42	512.7	58.2
Grand Total (Direct + Indirect + Induced)	**1,734**	**197**

*Assumes 2 widebody aircraft per round-trip daily frequency (Boeing 777s staffed at Delta staffing ratios). Sources: The Impact of Emirates Airline on the German Economy, Final Report, May 2012; The Economic Impact of Emirates Airline Flights on Greater Vienna/Austria; "Economic Benefits from Air Transportation in the US," Oxford Economics, 2011.

iv. The assertions by the Gulf carriers that U.S. carriers' bookings to the Indian Subcontinent have been expanding depends critically on their dubious use of 2009 as the base year

The Gulf carriers acknowledge that much of the capacity they offer between the United States and their hubs in Dubai, Abu Dhabi and Doha is devoted to carrying passengers between the United States and the Indian Subcontinent.[157] Nevertheless, the submissions of all three Gulf carriers assert that far from being harmed by their rapid capacity growth targeting these markets, U.S.

[157] *See*, for example, Edgeworth Report, page 38: "As we have shown in Exhibit 13, approximately 80 percent of Etihad's traffic either terminates in Abu Dhabi or goes to the ISC" and Emirates' Response at page vii, noting that "…Emirates has grown in large part by focusing on markets like the Indian Subcontinent…"

carriers have actually been *growing* their bookings to/from this region. For example, Emirates' asserts that the "Legacy Carriers' allegation that they have lost Indian Subcontinent bookings to the Gulf Carriers is simply not true"[158] and that "…the Legacy Carriers and their joint venture partners have enjoyed *growth*, not decline, in U.S.-Indian Subcontinent bookings…"[159] Likewise, the Edgeworth Report (commissioned by Etihad and endorsed by Qatar[160]) asserts that U.S. carriers and their immunized partners "actually served 18 percent (over 223,000) *more passengers* in 2014 [than 2009] because of the growth in the overall volume of travel…"[161] between the United States and the Indian Subcontinent.[162]

These assertions by the Gulf, however, depend critically on their use of 2009 as the base year upon which to measure growth. The use of 2009 as a base year is dubious at best—a fact that even the Edgeworth Report appears to acknowledge when it observed that "overall demand for air travel declined between 2008 and 2009 as a result of the economic downturn generally referred to as the "Great Recession."[163] Indeed, IATA referred to the downturn of 2009 as "the deepest [cyclical downturn] experienced by the commercial airline industry since the 1930s"[164] and also noted that "[i]n terms of demand, 2009 goes into the history books as the worst year the industry has ever seen."[165] Similarly, IATA's 2010 Annual Report found that:

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[158] *See* Emirates Response, page 117.

[159] *See* Emirates Response, page 114.

[160] *See* Qatar Comments, page 41 (referencing the Edgeworth Report): "there is clear and compelling evidence that the US-India traffic carried by US carriers and their European counterparts has increased in absolute terms…"

[161] *See* Edgeworth Report, page 2.

[162] *See also* Etihad's submission page 6, asserting that the U.S. carriers' "only specific claim is that from 2008 to 2014, they have allegedly collectively lost five percentage points of their Indian Subcontinent market share. However, what they neglected to mention is that during the same period their passenger numbers to the Indian Subcontinent actually grew by 18%." Note that while the inference in Etihad' submission is that the U.S. carriers have attempted to disguise the facts regarding the harm they have suffered on city-pairs between the United States and Indian Subcontinent by "neglecting to mention" that their bookings had increased, it is Etihad that has made the misleading statement by suggesting that it was making an apples to apples (i.e., 2008 to 2014) comparison of U.S. carriers' bookings to/from the Indian Subcontinent when in fact, Edgeworth's analysis of U.S. carriers' bookings is actually based on a comparison of 2009 to 2014.

[163] *See* Edgeworth Report, footnote 14. *See also* Emirates Response, page 118, noting that "July 2009 was near the lowest point of the global financial crisis."

[164] *See* IATA Annual Report, 2010, page 10.

[165] *See* "2009: Worst Demand Decline in History – Encouraging-end Improvements", IATA Press Release No., January 27, 2010.

> *"Early 2009 marked the low point for international air travel markets. From the early-2008 peak to the early- 2009 trough, premium travel fell 25%. Economy travel fell 9%, the decline softened by a shift to cheaper seats. From mid-2009, air travel markets began to turn upward, boosted by the massive fiscal and monetary stimulus measures taken by governments."*[166]

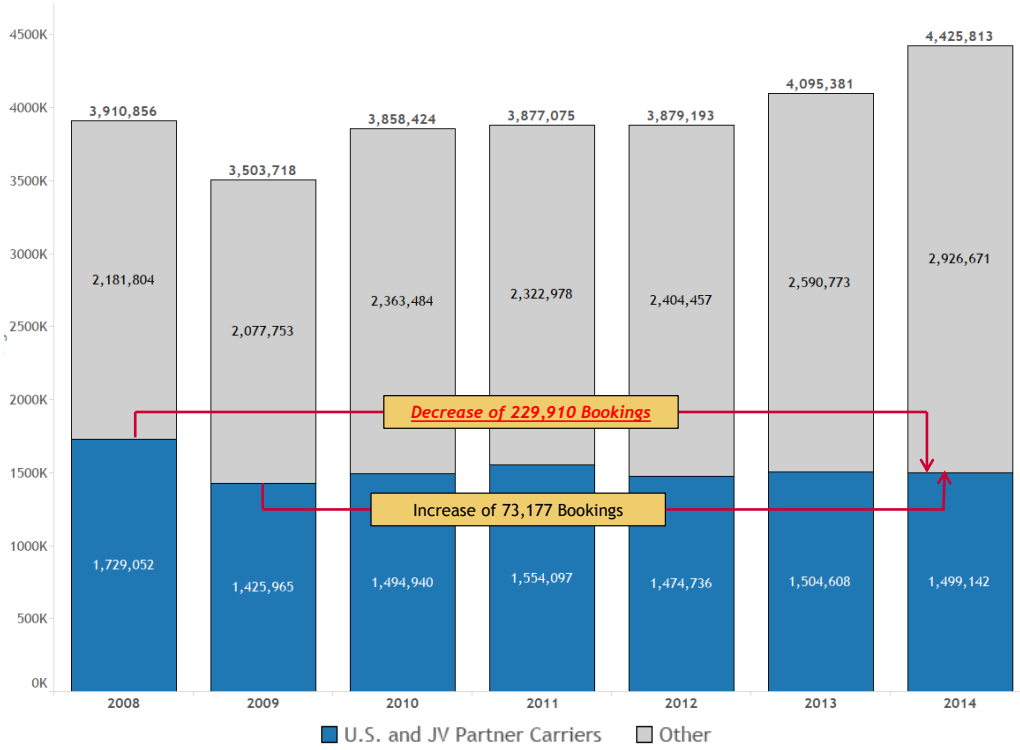
The Edgeworth Report attempts to justify its use of 2009 as their starting year by arguing that it wants to "distinguish the effects of the recession from those of the changing competitive landscape in the airline industry."[167] However, by using 2009 as the starting point, Edgeworth achieves the opposite effect: by using the bottom of the recession (2009) as the starting point, Edgeworth's analysis dramatically inflates the growth in bookings for the U.S. carriers and their JV partners. Thus, as shown in Exhibit 19, even though U.S. carriers and their JV partners saw their overall number of bookings between the United States and the Indian Subcontinent *fall* by nearly 230,000 between 2008 and 2014, by choosing to compare 2014 bookings to what IATA characterized as "the worst year the industry has ever seen", the Edgeworth Report would have one believe that U.S. carriers and their JV partners have experienced an increase in annual bookings, when in fact, they have experienced a substantial loss in bookings since 2008—the last year before the recession. Not only is a comparison of U.S. carrier and JV partner bookings versus 2009 highly misleading, the increase in their bookings purported by Edgeworth since 2009 (i.e., 223,737 in Economy Class bookings) is exaggerated by over 200%, as shown in Exhibit 19.[168]

[166] *See* IATA Annual Report, 2010, page 10.

[167] *See* Edgeworth Report, footnote 14.

[168] According to Exhibits 6 and 7 of the Edgeworth Report, between 2009 and 2014, U.S. carriers and their "immunized" partners experienced an increase in Economy Class and Premium Class bookings of 223,737 and 33,805, respectively, for a total increase of 257,542 bookings. Based on Delta's MIDT data, the increase in bookings from 2009 to 2014 was 73,177 (not 257,542).

EXHIBIT 19: BOOKINGS BETWEEN THE UNITED STATES AND THE INDIAN SUBCONTINENT

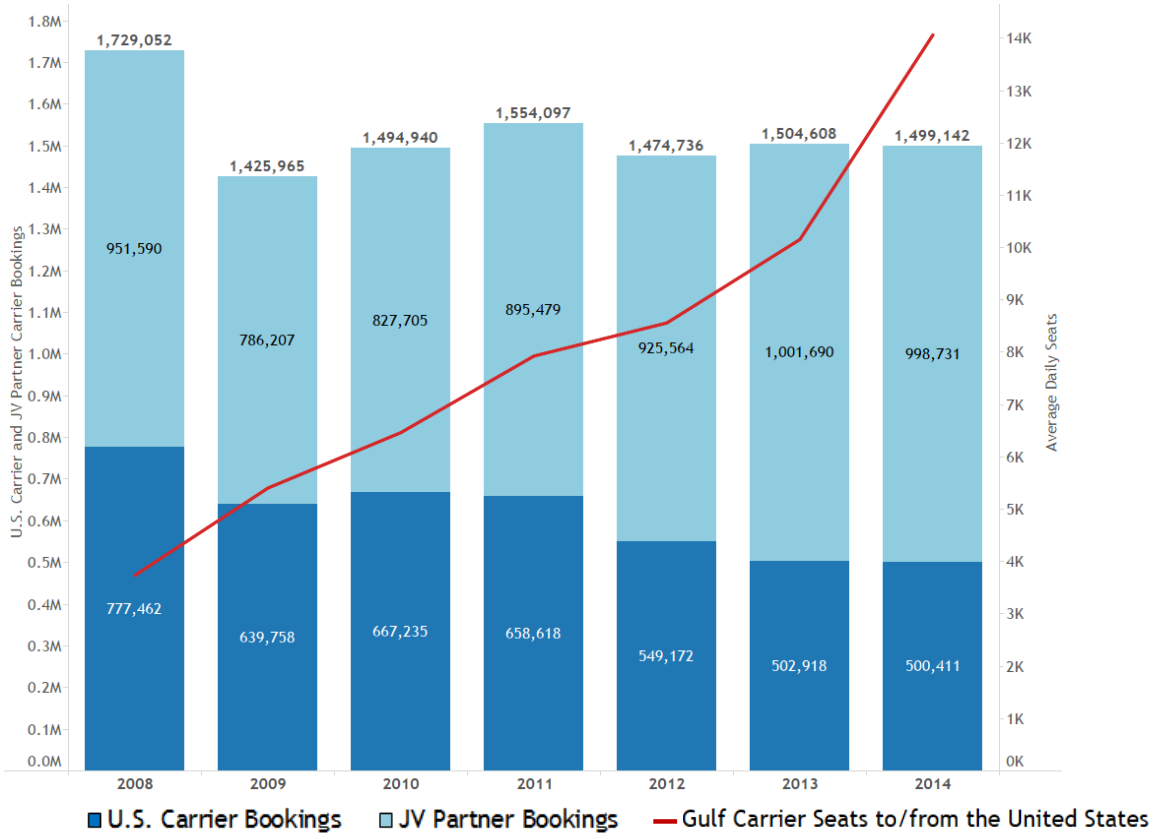


Source: Delta MIDT.
Notes: JV partners include: Delta (Air France/KLM, V-Australia, Alitalia, Virgin Atlantic), American (British Airways/Iberia, Qantas, JAL), United (Lufthansa, Swiss, Brussels, Austrian, Air Canada, ANA). Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka.

Moreover, as shown in Exhibit 20, even since 2009, the number of U.S. carrier bookings to/from the Indian Subcontinent have fallen sharply. In fact, Exhibit 20 shows that the steady decline in the number (not simply share) of U.S. carrier bookings to/from the Indian Subcontinent since 2008 coincides with the sharp increase in subsidized Gulf carrier seats to the United States targeting these traffic flows. Thus, while U.S. carriers had begun a multi-year effort to expand their non-stop services to India to provide passengers in more U.S. cities with non-stop or one-stop service to an important and growing region (*see* Exhibit 15 above), the glut of subsidized Gulf carrier capacity has forced U.S. carriers to rely more heavily on their JV partners to provide access to/from the Indian Subcontinent. Not only does this entail an additional stop for passengers,[169] it results in fewer jobs for U.S. airline employees.

[169] For example, passengers that used to be able to fly non-stop on Delta from Atlanta to Mumbai are now required to make a connection (in Paris, for example) and passengers that used to be able to fly one-stop from Baton Rouge, Louisiana to Mumbai via Atlanta are now required to make two-stops (e.g., Baton Route-Atlanta-Paris-Mumbai).

EXHIBIT 20: U.S. AND JV PARTNER CARRIER BOOKINGS BETWEEN THE UNITED STATES AND THE INDIAN SUBCONTINENT VS. GULF CARRIER SEATS TO/FROM THE UNITED STATES



Source: Delta MIDT. OAG.
Notes: JV partners include: Delta (Air France/KLM, V-Australia, Alitalia, Virgin Atlantic), American (British Airways/Iberia, Qantas, JAL), United (Lufthansa, Swiss, Brussels, Austrian, Air Canada, ANA). Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka. Gulf carrier seats include flights between the United States and DXB, AUH and DOH.

Simply put, the Gulf carriers' assertion that U.S. carriers have not been harmed because their traffic to/from the Indian Subcontinent has been growing (as opposed to declining) is factually incorrect.

v. The assertion by Emirates that U.S. carriers' transatlantic operations have been growing is false

Finally, Emirates has also attempted to support its assertion that "adverse effects are nowhere to be found [on Legacy Carriers' transatlantic routes]"[170] by claiming that "[t]he Legacy Carriers' transatlantic operations are growing traffic"[171] and that "Legacy Carriers that year [2004] began to grow capacity on international routes, a strong trend only briefly interrupted by the 2008–09

[170] *See* Emirates Response, page 94.

[171] *See* Emirates Response, page 92.

financial crisis."[172] These assertions are also false. As shown in Exhibit 21, U.S. legacy carrier transatlantic capacity has remained essentially flat since 2007, and is 6.5% (i.e., approximately 6,000 daily seats) *lower* in 2015 than it was in 2010. On the other hand, between 2010 and 2015, the number of Gulf carrier seats to/from the United States increased by approximately 14,000. In light of the fact that Gulf carriers have failed to meaningfully stimulate new traffic,[173] this provides further evidence that Gulf carriers' traffic gains have come at the expense of U.S. carriers, which have been forced to *reduce* transatlantic capacity (a portion of which is used by passengers to connect to flights on U.S. carriers' European partners to destinations in Asia, Africa and the Middle East[174]) in response to the glut of subsidized Gulf carrier capacity being added into these markets.[175]

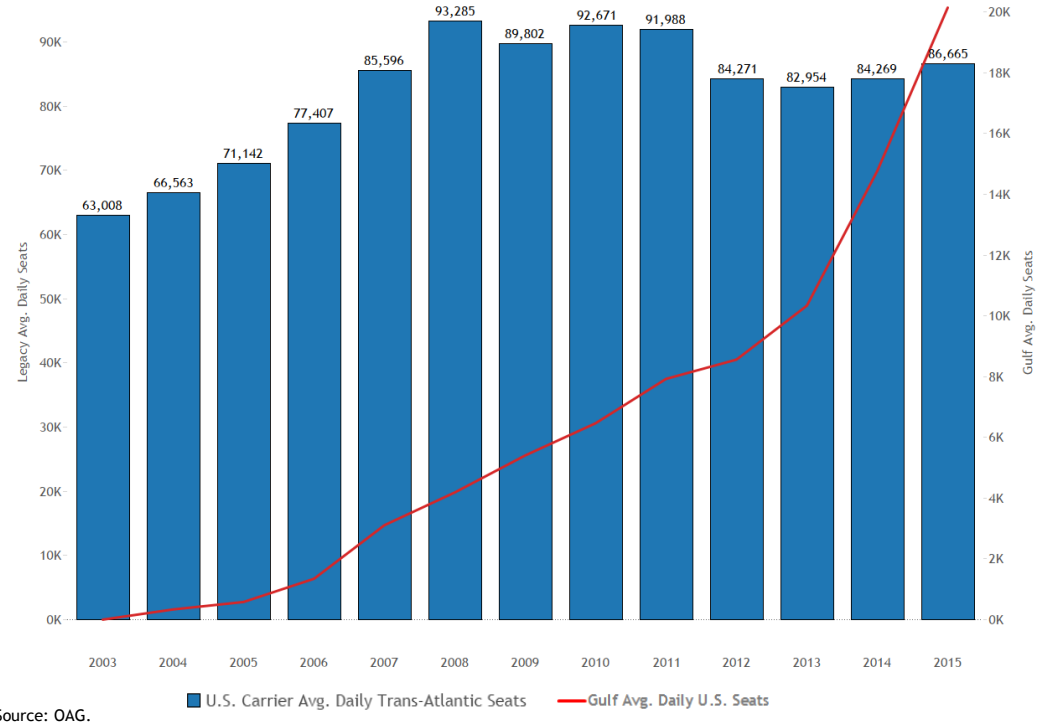
[172] Ibid.

[173] *See* Section 3 below.

[174] *See* footnote 108 above.

[175] Moreover, Emirates' assertion that the U.S. domestic market is somehow a "protected" market for legacy carriers because cabotage is not permitted is at odds with the fact that the U.S. domestic aviation market is one of the most competitive airline markets in the world. American, Delta and United have seen their number (and share) of passengers drop significantly over the past two decades, which is far from what one would expect to see in a "protected" market. For example, the share of domestic O&D passengers traveling on American, Delta and United has fallen from 77.5% in 1998 to 55.9% in 2014. Source: U.S. DOT DB1B.

EXHIBIT 21: U.S. LEGACY CARRIER TRANSATLANTIC SEATS VS. GULF CARRIER SEATS TO/FROM THE UNITED STATES



Source: OAG.
Notes: Legacy carriers include American (including US Airways), Delta (including Northwest), and United (including Continental). Trans-Atlantic includes Europe, Africa, Middle East, and India. Gulf seats include flights between the U.S. and DXB, DOH, and AUH.

e) The Assertion by the Gulf Carriers That Their U.S. Expansion has not Resulted in a Loss of Passengers for the U.S. Carriers is Demonstrably Incorrect

The Gulf carriers' submissions contend that U.S. carriers have not been harmed by Gulf carriers' expansion because the number of passengers carried by U.S. airlines has not declined on the city-pairs where they compete. For example, Emirates asserts that there has been a "lack of harm to the Legacy Carriers… because Emirates' entry has not resulted in a significant loss of business,"[176] and that it has expanded its services to the United States "without significantly diverting passengers from the Legacy Carriers."[177] Moreover, Emirates asserts that "in each instance [where Emirates enters a U.S. city]…a clear pattern is seen… U.S. carriers have maintained stable or

[176] *See*, Emirates Response, page 103.

[177] *See*, Emirates Response, page 103.

growing bookings".[178] In this subsection, we address these and the other claims made in the Gulf carriers' submissions.

i. The claim that U.S. carriers have "maintained stable or growing bookings" after Emirates enters a new U.S. city is untrue

Emirates' submission asserts that in the markets it has entered, "Legacy Carriers suffer no loss at all— they are actually growing their business".[179] Emirates even goes as far as to claim that "[f]ar from harming the Legacy Carriers, in a large number of cases Emirates has helped stimulate these emerging markets *to the benefit of the Legacy Carriers..."*[180] Both of these statements are untrue. Not only have Gulf carriers failed to meaningfully stimulate new traffic (as shown in Section 3 below), but the data clearly show that entry by Emirates at a new U.S. gateway is followed by a *decline* in U.S. carrier bookings to the regions served by Emirates and the other Gulf carriers.

Exhibit 22 shows that in the year following Emirates' entry in Boston, Dallas-Fort Worth, Seattle and Washington, D.C., U.S. carrier bookings declined between each of those cities and destinations in the Middle East, Indian Subcontinent, Africa and the ASEAN countries,[181]often by a large margin.[182] Likewise, the number of bookings on U.S. carriers' JV partners from these four cities also fell in the year following entry by Emirates.

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[178] *See* Emirates Response, page 110. Similar claims have been made by Etihad and Qatar. *See*, for example, Etihad Response, page 6: "Their only specific claim is that from 2008 to 2014, they have allegedly collectively lost five percentage points of their Indian Subcontinent market share. However, what they neglected to mention is that during the same period their passenger numbers to the Indian Subcontinent actually grew by 18%" and Qatar Comments page 7: "while the Big Three's market share [between the United States and Indian Subcontinent] may have declined, the number of passengers they carry has increased in absolute terms." As we already demonstrated in Section 2 (d) above, however, these claims are wrong.

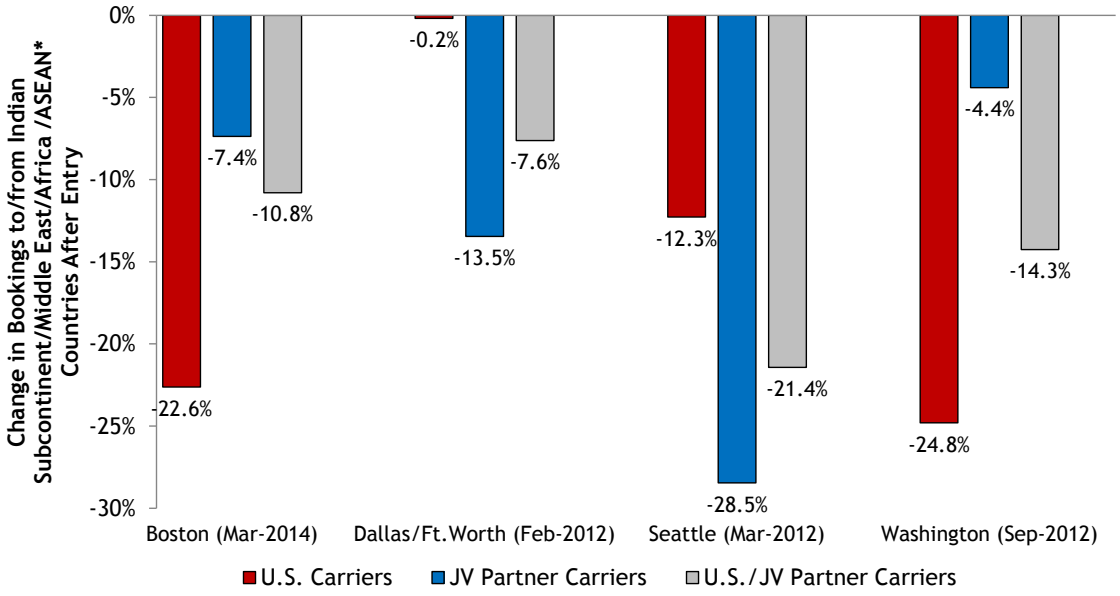
[179] *See* Emirates Response, page 111.

[180] Ibid (emphasis added).

[181] Consistent with the Emirates' analysis of "stimulation", we restrict the analysis of booking changes to/from the ASEAN countries to Boston and Washington. *See* Emirates Response, footnote 222.

[182] The four U.S. cities shown in Exhibit 22 are the cities that Emirates elected to showcase in its submission as examples of where their entry stimulated new traffic in the year following their entry. As discussed in Section 3 below, these claims were incorrect. However, U.S. carriers' traffic declines in the 12 months after Emirates entry were not limited to these four Emirates gateway cities. For example, in the 12 months after Emirates' entry, the number of bookings on U.S. carriers to the Middle East, the Indian Subcontinent, Africa and the ASEAN countries has gone down across each of the other cities entered by Emirates since 2008, i.e.,: San Francisco (entry December 2008) down 19.5%, Los Angeles (entry Oct. 2008) down 22.8%, Chicago (entry April 2013) down 5.6%. Sources: OAG, MIDT. Because our MIDT data starts in January 2008, the period for comparison for San Francisco Jan. 2008-Nov. 2008 and Jan, 2009-Nov. 2009, while Los Angeles compares Jan. 2008-Sep. 2008 to Jan, 2009-Sep. 2009. *See also* footnote 280 below.

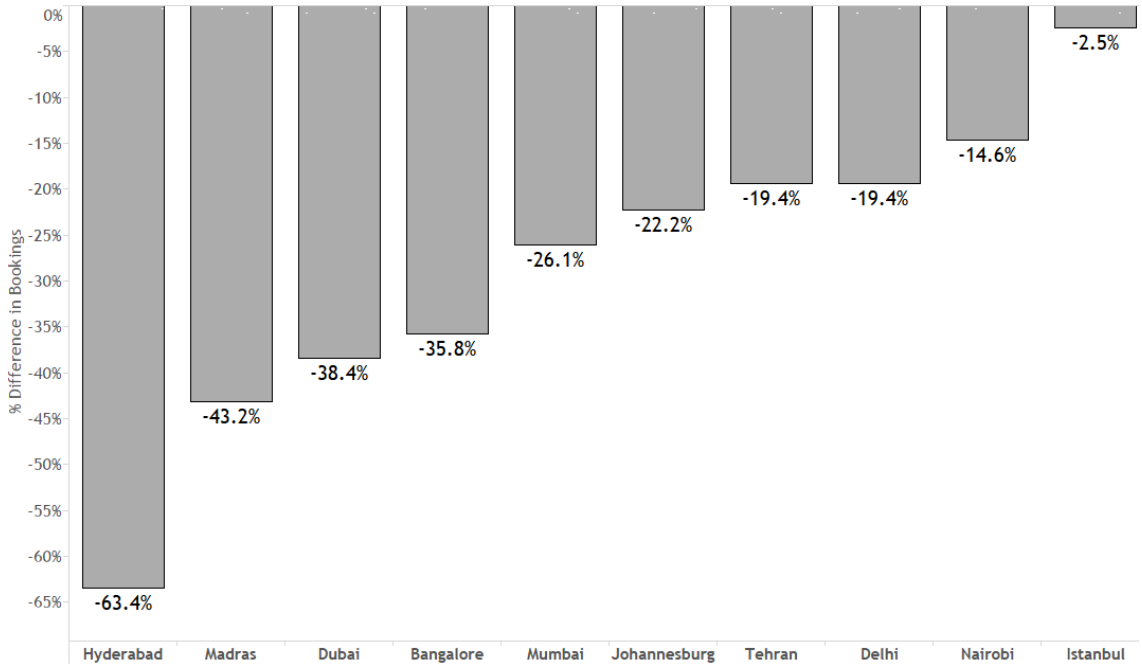
EXHIBIT 22: CHANGE IN U.S. AND JV CARRIER BOOKINGS TO/FROM THE MIDDLE EAST, THE INDIAN SUBCONTINENT, AFRICA AND ASEAN* COUNTRIES IN YEAR FOLLOWING EMIRATES ENTRY



* Dallas/Ft. Worth and Seattle exclude ASEAN countries.
Sources: Delta Air Lines MIDT.
Notes: Dates for each city reflects month of Emirates entry. Change in bookings between Emirates U.S. gateway city and destinations in the Indian Subcontinent, Middle East, Africa and ASEAN countries. Percentage growth for the one year period post entry (including the month of entry) vs. the full year period before entry (up to and including the month prior to entry). Dallas/Ft. Worth includes DFW and DAL. Washington includes IAD, DCA, and BWI. Middle East excludes Israel. Indian Subcontinent includes India, Pakistan, Bangladesh, Nepal, Maldives, and Sri Lanka. ASEAN countries include Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

In some of the largest city-pairs served by Emirates from their U.S. gateway cities, the decline in U.S. and JV carrier bookings from those cities following Emirates' entry has been dramatic. For example, as shown in Exhibit 23, in the year following the launch of Emirates' initial daily non-stop frequency between Dubai and Seattle, U.S. and JV carrier bookings between Seattle-Hyderabad and Seattle-Madras fell 63.4% and 43.2%, respectively.

EXHIBIT 23: CHANGE IN U.S. AND JV CARRIER BOOKINGS IN YEAR FOLLOWING EMIRATES ENTRY BETWEEN SEATTLE AND TOP 10 DESTINATIONS (BY BOOKINGS) IN THE MIDDLE EAST, INDIAN SUBCONTINENT AND AFRICA



Sources: Delta Air Lines MIDT.
Notes: Change in U.S. and JV carrier bookings between Seattle and destinations shown for the year ending February 2013 vs. year ending February 2012. Emirates commenced non-stop service to Seattle in March 2012.

Emirates' submission also expends considerable effort attempting to undermine the observation in the Partnership's Whitepaper that U.S. carriers have suffered share loss across a broad set of markets at the expense of Gulf carriers' subsidized capacity growth. While U.S. carriers' share loss to Gulf carriers has been substantial and is a clear indication of harm,[183] Exhibit 22 and Exhibit 23 show that the actual level of U.S. carriers' bookings between the United States and the regions now saturated with Gulf carrier capacity have also gone down, a finding that was established rigorously by our regression analysis demonstrating the diversion of U.S. carrier passengers due to Gulf carrier presence.

ii. Emirates' and Etihad's criticisms of our econometric analysis showing that Gulf carrier presence diverts passengers from U.S. carriers are unconvincing

[183] While it is true that share loss can be a natural result of entry and competition, it is important to emphasize that in the context of establishing harm from *subsidized competition*, share losses that would otherwise not have occurred but for the subsidized competition is nonetheless a clear indication of harm, even if the total number of bookings on U.S. carriers' remained flat or increased due to growth in the overall size of the market. This is because in the absence of Gulf carriers' subsidized services (i.e., the "but for" world) other carriers (including U.S. carriers) would have enjoyed a greater proportion of the growing market size. Nevertheless, as shown in Exhibit 22 above, the actual number of bookings on U.S. carriers declined following the entry by Emirates in each city examined.

As noted above, our Traffic Study included a series of regressions demonstrating the harm to U.S. carriers due to the diversion of passengers from U.S. to Gulf carriers on city-pairs where the two sets of carriers compete. In particular, our econometric evidence demonstrated that the presence of each Gulf carrier with as little as a 3% booking share on a city-pair reduces the number U.S. carriers' passengers on that city-pair by approximately 8% on average (i.e., when all three Gulf carriers are present on a U.S. international city-pair, U.S. carrier passengers are—on average—24% lower than they would otherwise have been in their absence).[184] The regression analysis also demonstrated that on city-pairs to/from U.S. cities served by all three Gulf carriers where each of the Gulf carriers has at least a 10% share, U.S. carrier passengers have been reduced by 50%, on average.[185]

Emirates and Edgeworth have raised a number of technical criticisms related to our econometric analysis of traffic diversion.[186] These criticisms can be grouped into the following categories:[187] (1) the misconception that our econometric analysis was based on passenger or booking "shares" rather than actual levels of passengers; (2) the claim that our method of identifying Gulf presence does not accurately capture their competitive presence; (3) the assertion that the geographic scope of our econometric analysis is too broad; (4) the fact that we aggregate the passengers or bookings of the harmed carriers into a single group; (5) the fact that we focused on the traffic losses to U.S. carriers resulting from only the Gulf carriers; and (6) the fact that our analysis finds that there has been harm on city-pairs involving a behind-U.S. gateway connection. As described in detail below, these criticisms are either factually incorrect or irrelevant to the questions at hand. Nevertheless, after discussing why our econometric modelling choices were appropriate, we demonstrate that the key findings of our regression analysis are robust to these purported flaws.

1) The suggestion by Emirates that our econometric analysis is based on changes in shares is false

[184] *See* Traffic Study, page 16. *See also* footnote 33 above.

[185] *See* Traffic Study, page 17. *See also* footnote 34 above.

[186] Qatar's submission did not address any of our econometric analysis.

[187] Several of these criticisms (i.e., the assertion that the geographic scope of our econometric analysis is too broad or the claim that our method of identifying Gulf presence does not accurately capture their competitive presence) apply equally to our econometric analysis of traffic stimulation and traffic diversion. Although we have already described why these criticisms were irrelevant or incorrect, for completeness, we address them below in the context of our traffic diversion regressions.

In concluding that "[t]he Compass Lexecon regression analysis does not demonstrate adverse effects",[188] Emirates starts by suggesting that "the model builds in the assumption that incumbent carriers will share proportionately in traffic growth."[189] Nothing could be further from the truth. To the contrary, our Traffic Study clearly states that the dependent variable (i.e., the variable being explained) is the ***actual number of passengers*** carried by each carrier, *not their share*.[190] Because our traffic regressions are estimated using the natural log of the ***level*** of passengers or bookings (rather than shares, as alleged by Emirates), the interpretation of the estimated coefficient on *Number of Gulf Carriers Present* is the percentage decline in the number of U.S. carrier passengers, not—as Emirates apparently believes—U.S. carriers' *share* of passengers. There is no basis whatsoever for Emirates' claim that our econometric analysis "builds in the assumption that incumbent carriers will share proportionately in traffic growth."[191]

2) Edgeworth's claim that our method for identifying Gulf carrier presence suffers from flaws is irrelevant

The Edgeworth Report criticizes our method of identifying Gulf carriers' "presence" on a city-pair (as proxied by at least a three percent or ten percent booking share), suggesting that it is "arbitrary"[192] and arguing that it "makes it appear that carriers 'enter' and 'exit' a particular route when they in fact do not."[193] In fact, in examining city-pair or airport-pair markets where some or all of the service is provided via connecting service, the use of "share-based" presence variables is commonly applied in both published economic literature[194] and in studies of airline competition

[188] *See* Emirates Response, page 137.

[189] *See* Emirates Response, page 138.

[190] *See, e.g.*, Traffic Study, page 13 ("For each of the regressions described below, the dependent variable is the natural logarithm of the ***number of passengers*** (or bookings, when MIDT data is used) during the quarter") and page 14 ("In order to assess the impact that subsidized Gulf carrier presence has had on the traffic levels of U.S. and other non-Gulf carriers, we first estimate the regression model using the ***traffic levels*** of various subsets of non-Gulf carriers as the dependent variable"). (emphasis added)

[191] *See* Emirates Response, page 138.

[192] *See* Edgeworth Report, Par. 69.

[193] *See* Edgeworth Report, Par. 69.

[194] *See*, for example, "Alliances, Codesharing, Antitrust, Immunity, And International Airfares: Do Previous Patterns Persist?", Jan K. Brueckner, Darin Lee and Ethan Singer, *Journal of Competition Law & Economics*, 7(3), (2011), pp. 573–602, at page 583: "The measure is a count of competing online carriers or carrier pairs, which is subject to a market-share threshold. To be included under the most stringent threshold, an online carrier or a carrier pair must carry at least 10 percent of the traffic in the city-pair market. Another count variable based on a lower 3-percent share threshold is also created." *See also* "Airline competition and domestic US airfares: A comprehensive reappraisal", Jan K. Brueckner, Darin Lee, Ethan Singer, *Economics of Transportation*, Vol. 2 (2013), pp 1-17 at page 3: "To be

conducted by U.S. Government agencies.[195] Furthermore, our Traffic Study presented results using multiple measures of presence (i.e., 3% and 10%) to demonstrate that the results were robust to different specifications. Nevertheless, as shown in Exhibit 25 below, modifying the *Number of Gulf Carriers Present* variable to account for Edgeworth's concern does not alter the fundamental result that Gulf carrier presence reduces the number of bookings on U.S. carriers.

3) Edgeworth's assertion that our econometric analysis of harm is somehow flawed because our dataset includes city-pairs not served by Etihad is simply incorrect

The Edgeworth Report states that because our econometric model "includes a substantial number of routes (most notably, between the U.S. and Europe) where Etihad does not materially compete for U.S. traffic", Etihad's presence "could not have caused the [traffic diversion] effects"[196] we have identified. This assertion is simply false. In a panel regression utilizing city-pair fixed-effects (like the ones we have estimated) the identification of the key independent variable of interest used to assess whether Gulf carrier presence has diverted passengers from U.S. and other carriers (i.e., *Number of Gulf Carriers Present*) is based primarily on city-pairs where one or more Gulf carriers are present.[197] Nevertheless, as shown in Exhibit 25 below, even if one were to estimate our model excluding city-pairs between the United States and Europe, the result is effectively the same.

4) Grouping harmed carriers and using a single average effect is an appropriate way to assess the aggregate impact of subsidized capacity expansion on U.S. carriers

Another technical criticism raised by the Edgeworth Report is that because we "[t]reat all U.S. carriers (and in some variations, the U.S. carriers and their immunized partners) as though they are

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counted, a carrier's connecting service must represent at least 10% of the origin and destination (''O&D'') traffic in the airport-pair market."

[195] *See*, for example, "Issues Raised by the Proposed Merger of United and Continental Airlines", United States Government Accountability Office, Statement for the Record by Susan Fleming, Director, Physical Infrastructure Issues Testimony Before the Committee on Commerce, Science and Transportation, U.S. Senate, at footnote 23: "We defined an effective competitor as having at least 5 percent of total airport-pair traffic." Even the highly suspect regression analysis performed by Campbell Hill shown on page 51 of Exhibit 1 to the Emirates submission makes use of a share based (1%) measure to count the number of competitors.

[196] *See* Edgeworth Report, Page 38.

[197] Emirates Response (at page 139) makes a similar claim, suggesting that our analysis is flawed because "[it] calculates one set of global coefficients that are supposed to be equally applicable to traffic from the United States to the Indian Subcontinent, where the Gulf Carriers are a major presence, and to traffic from the United States to Europe, where they are very small indeed." For the same reasons, this criticism is also irrelevant.

a single entity"[198], our models cannot discern competition between U.S. carriers. Because the question of interest is how subsidized Gulf carrier presence has impacted the traffic levels of the large U.S. network carriers *as a whole*, this criticism is irrelevant. Similarly, Emirates' criticism that our analysis "lumps together U.S. and other carriers into one group, thus ignoring competitive relationships among them that may be far more important than the role played by the Gulf Carriers"[199] ignores the fact that our analysis demonstrated that the traffic diversion resulting from Gulf carriers' subsidized capacity expansion to the United States is widespread, adversely affecting not only U.S. carriers, but also U.S. carriers and their JV partners, as well as other non-Gulf foreign carriers.[200]

Likewise, the Edgeworth Report suggests that because our models present "a single average effect" of Gulf carrier presence across all city-pairs where such presence exists, the results should somehow be discounted.[201] This criticism too, is both wrong and irrelevant. The use of explanatory variables that measure the average effect of a particular measure of interest is commonplace in empirical economics, including a broad range of peer-reviewed, published academic papers examining various aspects of airline economics.[202] More importantly, however, the fact that the estimated coefficient for *Number of Gulf Carriers Present* represents the average effect across the thousands of city-pairs where at least one Gulf carrier was present does nothing to alter the fact that subsidized Gulf carrier presence lowers the number of passengers on U.S. carriers.

5) The criticism that we ignored the competitive effects of other carriers is also irrelevant

[198] *See* Edgeworth Report, page 38.

[199] *See* Emirates Response, page 138.

[200] It is important to note that Emirates' assertion that our analysis "lumps together U.S. and other carriers into one group" is also incorrect. Our traffic paper estimates separate regressions for U.S. carriers, U.S. carriers and their JV partners, and other non-Gulf foreign carriers (excluding U.S. carriers' JV partners). In each instance, the presence of Gulf carriers reduces the number of passengers (or bookings) for each subset of passengers.

[201] *See* Edgeworth Report, page 38.

[202] *See*, for example, "Product Unbundling in the Travel Industry: The Economics of Airline Bag Fees", Jan K. Brueckner, Darin Lee, Pierre Picard and Ethan Singer, *Journal of Economics Strategy & Managements*, Volume 24, Number 3, (2015), pp. 457-484 (showing the average decline in base fares following the adoption of first bag fees), and "International Airfares In The Age Of Alliances: The Effects Of Codesharing And Antitrust Immunity", Jan K. Brueckner, *The Review of Economics and Statistics*, 85(1), pp. 105-108 (showing the average impact of immunized alliances on airfares).

Emirates' submission asserts that our econometric analysis of harm was somehow incomplete because it "fails to distinguish effects of Gulf Carrier competition from that of other carriers".[203] Similarly, the Edgeworth Report asserts that "Air India and Turkish Airlines, among others, compete substantially for U.S.-India traffic" and thus "to the extent non-Gulf-based carriers compete on the same routes, the effect of those competitors would be ascribed to Etihad and the other Gulf carriers."[204] This criticism is also irrelevant. As shown in Exhibit 25 below, when additional independent variables are added to control for the number of Non-Gulf carriers (or Air India and Turkish Airlines specifically), it does not alter the fundamental conclusion that the presence of each Gulf carrier reduces the number of U.S. carrier passengers by approximately more than 8%, on average.

6) The fact that our analysis shows that Gulf carrier presence lowers U.S. carriers' traffic on city-pairs behind to/from destinations behind the Gulf carriers' U.S. gateways indicates the far-reaching impact of the Gulf Carriers' subsidies

Finally, Emirates asserts that our econometric analysis of traffic diversion is "a crudely wrought analysis"[205] because it finds that Gulf carrier presence lowers U.S. carriers' passengers on city-pairs to/from Gulf carriers' U.S. gateways by approximately the same percentage as on city-pairs involving U.S. cities behind a Gulf carrier gateway city. For example, Emirates states that "[i]t is simply not credible that Gulf Carriers have the same alleged competitive impact on traffic from Mumbai to Kansas City, which a passenger can reach only by connecting on a U.S. flag carrier, as on traffic from Mumbai to Boston, where Gulf Carriers fly directly."[206]

Emirates' assertion that Gulf carriers' competitive presence should only be felt on city-pairs to/from their U.S. gateway cities is puzzling, particularly in light of the fact that all three Gulf carriers have been highly vocal regarding the fact that many of their passengers connect *behind their U.S. gateways* onto the flights of U.S. carriers.[207] Emirates, for example, frequently promotes

[203] *See* Emirates Response, page 138.

[204] *See* Edgeworth Report, page 38.

[205] *See* Emirates Response, page 139.

[206] Ibid.

[207] *See*, for example, Emirates Response at page 175: "Increased travel stimulated by the efficiency of the Emirates model is also a boon to the U.S. airline industry. Passengers arriving to the United States on Emirates flights travel on to over 200 airports in small and medium-sized communities in the United States…" *See also* Etihad Response, page 14: "…Etihad is actually feeding passengers onto US domestic carriers, including Delta, United and American. In 2014, Etihad delivered 182,000 connecting passengers onto U.S. airlines and this is forecast to grow to approximately

the fact that its partnership with JetBlue and Alaska allow the carriers to create convenient connections for Emirates' passengers traveling to dozens of smaller U.S. cities not served by Emirates.[208] As shown in Exhibit 24 below, these partnerships (as well as the codeshare agreements between American and both Etihad and Qatar) have enabled Gulf carriers to capture substantial shares of bookings between the Indian Subcontinent and their U.S. gateway cities, but also from other U.S. cities they do not serve themselves.[209] Thus, in 2014, the Gulf carriers' 35.6% share of bookings between Raleigh-Durham (a city that no Gulf carrier served in 2014) and the Indian Subcontinent was approximately the same as their 35.1% share of bookings between Chicago (a city served by all three Gulf carriers in 2014) and the Indian Subcontinent.[210]

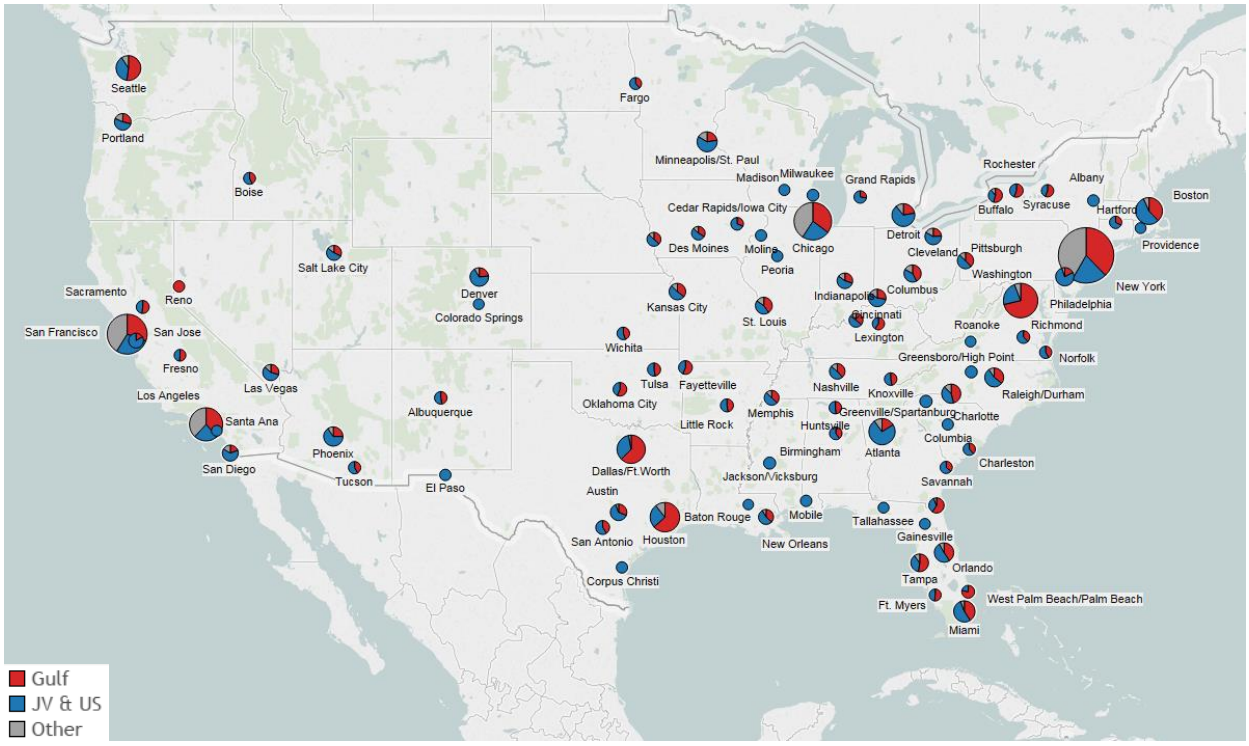
300,000 in 2015" and Qatar Comments, page 58: "far from causing harm, services by carriers such as Qatar Airways provide a valuable source of interline feed traffic and benefit US carriers."

[208] *See* "Interview: Sales VP Matthias Schmid On Creating Space For Emirates In U.S. Corporate Biz", Business Travel News, June 11, 2015: "We've tried to work closely with JetBlue, Alaska and Virgin. We fly three times a day between Dubai and JFK, and the second daily flight to Boston was to strengthen our relationship with JetBlue. We have a reciprocal codesharing agreement with JetBlue, so the JetBlue flights are also operating with an Emirates code and all the U.S.-to-Dubai flights will carry a JetBlue code. JetBlue started last year Detroit to Boston, which was absolutely aligned with our arrival and departure times coming to Boston, and we're working with them on further optimization. I also mentioned the second daily flight to Seattle, which was to strengthen our relationship with Alaska because we get significant feed via Alaska out of Canada and certain U.S. routes."

[209] As with all of our analyses, the bookings in Exhibit 24 are assigned to the carrier that operates the greatest proportion of an itinerary's total distance. Indeed, in the particular city-pair identified by Emirates in their submission (Kansas City-Mumbai), Gulf carriers grew their share of bookings from 1.8% in 2008 to 14.5% in 2014 even though total bookings fell slightly.

[210] Source: MIDT. Gulf carriers' share of bookings between the Indian Subcontinent and other cities they do not serve directly are even higher, including Tampa (52.3%), Jacksonville (59.0%), Buffalo (54.3%) and Columbus (42.1%).

EXHIBIT 24: SHARE OF BOOKINGS BETWEEN U.S. CITIES AND THE INDIAN SUBCONTINENT, 2014



Source: MIDT 2014.
Notes: Map shows cities for which there was at least one average daily booking each way between city and the Indian Subcontinent. Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka.

7) Our core finding that the presence of Gulf carriers reduces the number of passengers on U.S. carriers is robust to the criticisms raised by the Gulf carriers

Although none of the criticisms of our econometric analysis demonstrating the traffic losses for U.S. carriers due to subsidized Gulf carrier competition are valid, we have nevertheless demonstrated that even after taking these concerns into account, the estimated coefficient on the *Number of Gulf Carriers Present* remains largely unchanged.

Exhibit 25 below provides additional robustness testing for some of the key regressions from Exhibit 7 in our initial Traffic Study responding to Edgeworth's and Emirates' concerns. Columns 1-6 show the results for U.S. carrier passengers and columns 7-12 show the results for U.S. and JV carrier bookings. For each subset of regressions, we start by showing the result from Exhibit 7 of our initial study (referred to herein as the "base models"). For example, column (1) in Exhibit 25 replicates column (3) from Exhibit 7 of our initial study (i.e., U.S. carrier passengers for all city-

pairs) and column (7) in Exhibit 25 replicates column (6) from Exhibit 7 of our initial study (i.e., U.S. and JV carrier bookings for all city-pairs).[211]

To test the validity of the Edgeworth Report's assertion that our method of constructing the Gulf carrier presence variable is influencing our results by "mak[ing] it appear that carriers 'enter' and 'exit' a particular route when they in fact do not"[212], Columns (2) and (8) in Exhibit 25 replicate the base models, but modifies the *Number of Gulf Carriers Present* variable so that once each Gulf carrier's respective presence variable indicates it is present on a particular city-pair (i.e., once they reach a 3% share), they remain present for the duration of the sample. As shown in Columns (2) and (8) in Exhibit 25, the estimated coefficient on the modified variable of interest (*Number of Gulf Carriers Ever Present*) also remains largely unchanged from our initial analysis, thus showing that Edgeworth's criticisms are unwarranted. Because *Number of Gulf Carriers Ever Present* would indicate that the Gulf carriers were present on a city-pair even if they discontinued serving the foreign endpoint, Columns (3) and (9) in Exhibit 25 repeat the regressions from Columns (2) and (8) but exclude city-pairs to/from foreign destinations where one or more of the Gulf carriers suspended or terminated service over the sample period.[213] As shown in Exhibit 25, the estimated coefficient on *Number of Gulf Carriers Ever Present* in columns (3) and (9) is similar to the estimated coefficient on *Number of Gulf Carriers Present* in the base models, confirming the substantial diversion of U.S. carriers' passengers on city-pairs with Gulf carrier presence.

To test Emirates' assertion that we have not accounted for competition by other carriers, columns (4) and (10) modify the regressions in columns (3) and (9) by including *Number of Other (Non-Gulf) Competitors*, a count of the number of other (non-Gulf) competitors with at least a 3% share of bookings in the city-pair in the given quarter.[214] Likewise, to test whether the Edgeworth

[211] Recall that in our initial Traffic Study, we measure the effect of Gulf carrier presence on city-pairs where the U.S. endpoint was a city served by one of the Gulf carriers ("Gulf carrier U.S. gateways"), city-pairs to/from other U.S. cities ("Behind Gulf Carrier U.S. Gateways") as well as the combined set of gateway and behind gateway city-pairs ("All Cities"). For the purpose of our additional robustness testing described above, we focus on the "All Cities" sample.

[212] *See* Edgeworth Report, page 39.

[213] Many of these foreign endpoints were in war zones or other areas with geo-political conflicts, such as destinations in Syria, Libya or Morocco.

[214] In constructing *Number of Other (Non-Gulf) Competitors*, we exclude any carrier (or their immunized partners) that is included in the dependent variable.

Report's assertion that "Air India and Turkish Airlines, among others, compete substantially for U.S.-India traffic" and thus "to the extent non-Gulf-based carriers compete on the same routes, the effect of those competitors would be ascribed to Etihad and the other Gulf carriers"[215] has any merit, Columns (5) and (11) in Exhibit 25 replicate the regressions in Columns (3) and (9) but also add dummy variables for the presence of Air India and Turkish Airlines. In both models, the estimated coefficient on the key variable of interest (*Number of Gulf Carriers Present*) remains largely unchanged, showing once again that Edgeworth's criticisms are unwarranted.

Finally, to test whether the inclusion of city-pairs between the United States and Europe is influencing our key findings, Columns (6) and (12) in Exhibit 25 replicate the models in Columns (5) and (11) but exclude city-pairs to/from Europe. In both models, the estimated coefficient on the key variable of interest (*Number of Gulf Carriers Present*) remains largely the same, confirming that the Edgeworth Report's assertion that the inclusion of city-pairs to/from Europe "could not have caused the effects the Compass Lexecon Report purports to find"[216] is unwarranted.

[215] *See* Edgeworth Report, page 38.

[216] *See* Edgeworth Report, page 38.

EXHIBIT 25*:* FURTHER ROBUSTNESS TESTING OF REGRESSION ANALYSIS OF U.S. – INTERNATIONAL TRAFFIC FOR U.S. AND JV PARTNER CARRIERS

	US Carrier Passengers (DB1B) All Cities						US + JV Carrier Bookings (MIDT) All Cities					
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
	Original Regression	Gulf Ever a Competitor	Gulf Ever a Competitor (Excluding Dropped Routes)	Gulf Ever a Competitor (Excluding Dropped Routes)	Gulf Ever a Competitor (Excluding Dropped Routes)	Excluding Europe (Excluding Dropped Routes)	Original Regression	Gulf Ever a Competitor	Gulf Ever a Competitor (Excluding Dropped Routes)	Gulf Ever a Competitor (Excluding Dropped Routes)	Gulf Ever a Competitor (Excluding Dropped Routes)	Excluding Europe (Excluding Dropped Routes)
Number of Gulf Carriers Present	-0.0873**						-0.102**					
	(0.00871)						(0.00580)					
Number of Gulf Carriers Ever Present		-0.0938**	-0.0933**	-0.101**	-0.0913**	-0.0992**		-0.0861**	-0.0856**	-0.0947**	-0.0834**	-0.0750**
		(0.00676)	(0.00681)	(0.00683)	(0.00693)	(0.00661)		(0.00536)	(0.00540)	(0.00548)	(0.00551)	(0.00548)
Number of Other (Non-Gulf) Competitors				-0.0526**						-0.0693**		
				(0.00379)						(0.00490)		
Air India Presence					0.0174	0.0257					-0.00351	-0.00755
					(0.0322)	(0.0180)					(0.0322)	(0.0114)
Turkish Airlines Presence					-0.0601**	-0.0878**					-0.0675**	-0.0708**
					(0.0189)	(0.0139)					(0.0127)	(0.0118)
ln(Population)	1.748**	1.982**	1.937**	1.981**	1.969**	2.510**	1.731**	1.902**	1.891**	1.863**	1.937**	1.510**
	(0.134)	(0.137)	(0.137)	(0.136)	(0.139)	(0.188)	(0.118)	(0.121)	(0.122)	(0.121)	(0.123)	(0.147)
ln(Income per Capita)	1.378**	1.447**	1.444**	1.600**	1.440**	1.962**	0.793**	0.842**	0.828**	0.830**	0.823**	1.489**
	(0.0762)	(0.0767)	(0.0769)	(0.0775)	(0.0770)	(0.110)	(0.0690)	(0.0702)	(0.0708)	(0.0694)	(0.0711)	(0.0940)
D(Quarter 2)	0.387**	0.388**	0.389**	0.394**	0.389**	0.217**	0.287**	0.288**	0.289**	0.294**	0.289**	0.116**
	(0.00497)	(0.00496)	(0.00498)	(0.00503)	(0.00498)	(0.00683)	(0.00459)	(0.00460)	(0.00463)	(0.00479)	(0.00462)	(0.00612)
D(Quarter 3)	0.403**	0.404**	0.406**	0.408**	0.406**	0.181**	0.379**	0.380**	0.381**	0.388**	0.381**	0.201**
	(0.00537)	(0.00536)	(0.00538)	(0.00534)	(0.00538)	(0.00737)	(0.00524)	(0.00525)	(0.00528)	(0.00538)	(0.00528)	(0.00612)
D(Quarter 4)	0.177**	0.178**	0.179**	0.175**	0.179**	0.127**	0.113**	0.113**	0.114**	0.116**	0.115**	0.0308**
	(0.00593)	(0.00592)	(0.00595)	(0.00590)	(0.00594)	(0.00700)	(0.00539)	(0.00540)	(0.00544)	(0.00552)	(0.00540)	(0.00611)
D(2008)	0.184**	0.193**	0.187**	0.233**	0.185**	0.284**	0.149**	0.156**	0.153**	0.143**	0.152**	0.228**
	(0.0122)	(0.0123)	(0.0124)	(0.0124)	(0.0122)	(0.0272)	(0.0111)	(0.0111)	(0.0112)	(0.0113)	(0.0107)	(0.0212)
D(2009)	0.161**	0.173**	0.171**	0.220**	0.169**	0.247**	0.0509**	0.0592**	0.0578**	0.0428**	0.0559**	0.127**
	(0.0127)	(0.0128)	(0.0128)	(0.0131)	(0.0128)	(0.0270)	(0.0117)	(0.0118)	(0.0119)	(0.0120)	(0.0118)	(0.0207)
D(2010)	0.162**	0.171**	0.170**	0.201**	0.168**	0.260**	0.0862**	0.0932**	0.0920**	0.0793**	0.0900**	0.155**
	(0.0110)	(0.0111)	(0.0111)	(0.0114)	(0.0111)	(0.0216)	(0.00989)	(0.00997)	(0.0100)	(0.0101)	(0.0100)	(0.0166)
D(2011)	0.0965**	0.102**	0.102**	0.110**	0.101**	0.144**	0.0428**	0.0475**	0.0475**	0.0361**	0.0460**	0.0686**
	(0.00893)	(0.00896)	(0.00900)	(0.00918)	(0.00897)	(0.0167)	(0.00810)	(0.00813)	(0.00818)	(0.00825)	(0.00816)	(0.0130)
D(2012)	0.0490**	0.0524**	0.0521**	0.0575**	0.0514**	0.106**	-0.00628	-0.00343	-0.00346	-0.0109	-0.00426	0.0175
	(0.00764)	(0.00765)	(0.00768)	(0.00786)	(0.00767)	(0.0131)	(0.00706)	(0.00707)	(0.00711)	(0.00721)	(0.00711)	(0.0101)
D(2013)	0.0216**	0.0239**	0.0235**	0.0292**	0.0233**	0.0472**	-0.0202**	-0.0178*	-0.0179*	-0.0215**	-0.0181**	-0.0152
	(0.00741)	(0.00741)	(0.00744)	(0.00758)	(0.00742)	(0.0113)	(0.00692)	(0.00692)	(0.00697)	(0.00695)	(0.00696)	(0.00899)
Constant	-41.90**	-47.37**	-46.40**	-48.89**	-47.02**	-63.41**	-35.27**	-39.29**	-38.90**	-38.31**	-39.79**	-38.09**
	(2.864)	(2.943)	(2.956)	(2.942)	(2.994)	(4.477)	(2.500)	(2.609)	(2.624)	(2.605)	(2.641)	(3.465)
Observations	554,690	554,690	546,818	546,818	546,818	250,592	1,493,711	1,493,711	1,473,566	1,473,566	1,473,566	769,787
R-squared	0.976	0.976	0.976	0.976	0.976	0.974	0.988	0.988	0.988	0.988	0.988	0.984

* p<0.05, ** p<0.01

Sources: U.S. DOT DB1B; MIDT; World Bank; BEA.

Notes: Robust standard errors in parenthesis. Passenger Weighted. A Gulf carrier is present on a city-pair in a quarter if its share of MIDT bookings on a city-pair is at least 3%. A booking belongs to the carrier operating the longest total distance. A passenger is a U.S. carrier passenger if the operating carrier (on the "overseas" segment for DB1B or on the longest total distance flown for MIDT) of an itinerary was one of the U.S. carriers (e.g., American, Continental, Delta, Northwest, US Airways, United). Regression covers the period 2008/Q1-2014/Q3. Population and Income are annual. 2014 population and income based on 2013 grown at the cumulative average growth rate from 2008-2013. "Gulf Carriers Ever Present" is modified from the "gulf Carriers Present" variable in such a way that once each Gulf carrier's respective presence variable indicates it is present on a particular city-pair (i.e., once they reach a 3%share), they remain present for the duration of the sample. Includes city-pair fixed effects (not shown). Includes passengers on mainland U.S-international city-pairs , except itineraries to/from North America and South America, and itineraries starting or ending in Milan. "Dropped Routes" drops all city-pairs to international cities where one of the Gulf carriers had service as of 2008 and has dropped service at some point since. Dropped routes include: Libya (TIP) and Syria (DAM), Nagoya (NGO), Alexandria (HBE), Colombo, Sri Lanka (CMB), Casablanca (CMN), Nagpur, India (NAG), and Cebu, Philippines (CEB).

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iii. *The assertion by the Gulf carriers that because some portion of their passengers make connections to flights behind their U.S. gateways, their subsidized service provides "revenue benefits" for Delta, American and United misses the point*

Because some of their passengers make codeshare or interline connections at their U.S. gateway airports to flights operated by American, United or Delta, the Gulf carriers assert that U.S. carriers are enjoying "revenue benefits" from the Gulf carriers' services to the United States.[217] Nothing could be further from the truth. The fact that U.S. carriers maintain a variety of interline/codeshare relationships with the Gulf carriers does *not*—in any way—demonstrate that U.S. carriers have not been harmed as a result of Gulf carriers' subsidized expansion to the United States. Indeed, the fact that U.S. carriers have been all but foreclosed from serving many of the city-pairs that have been flooded with Gulf carrier capacity over the past several years has left them with little choice but to try to mitigate some small portion of the harm by generating incremental revenue in these city-pairs by providing the behind U.S. gateway domestic segments.

f) Contrary to Assertions in the Edgeworth Report, There is a Clear Causal Link Between the Gulf Carriers' Subsidies and the Harm to U.S. Carriers

The Edgeworth Report attempts to cast doubt on the findings of our Traffic Study by suggesting that: (a) our analysis was predicated on an "uncritical acceptance of the 'evidence'"[218] related to the Gulf carriers' subsidies; and (b) by asserting that we have failed to demonstrate that the documented traffic losses were the result of these subsidies. Both of these statements are incorrect.

[217] *See* Emirates Response, page 176:"Emirates has carried over 1.35 million feeder passengers to U.S. and European gateways who have then travelled onwards to U.S. destinations using other carriers, resulting in a revenue benefit of $145.5 million to the Legacy Carriers and their joint venture partners", Qatar Comments, page 53: "Despite the claims of economic harm advanced by the Big Three, the fact is that Qatar Airways contributes revenue to US carriers. For example, Qatar Airways has a broad codeshare arrangement with American Airlines, and transfers its traffic arriving at US gateways to onward services operated by American. Although the amount of interline revenue that changes hands may vary from year to year, the total value of the traffic transferred by Qatar Airways has been in the neighborhood of $60 million per year. Of course, this feed traffic enhances, not reduces, the viability of American's domestic services" and Etihad Response, page 14: "…Etihad is actually feeding passengers onto US domestic carriers, including Delta, United and American. In 2014, Etihad delivered 182,000 connecting passengers onto U.S. airlines and this is forecast to grow to approximately 300,000 in 2015."

[218] *See* Edgeworth Report, page 31.

First, the purpose of our Traffic Study was not to evaluate the strength of the evidence related to Gulf carriers' subsidies put forth by the parties in their Whitepapers,[219] but to assess the impact of the Gulf carriers' growth on the U.S. airlines. Nevertheless, in preparing our initial studies, we reviewed many of the relevant source documents, including the audited financials of Qatar and Etihad that were previously unavailable (at least within the United States), and these documents *confirmed the subsidies*. Specifically, these financials clearly demonstrate that neither Etihad nor Qatar would be classified by their auditors as "going concerns" in the absence of the substantial subsidies that have been provided to these two airlines in particular.[220] Thus, the adverse effects (i.e., losses in traffic) that U.S. carriers are already suffering across thousands of city-pairs due to the presence of Gulf carriers can be directly attributed to the subsidies, as but for the subsidies these airlines would not be commercially viable and likely would not exist.[221]

Further, the future expansion of these carriers is also *dependent on their continuing subsidies*. As noted in our Traffic Study, on May 4, 2015, Qatar announced that it would add new daily non-stop service between its Doha hub and Los Angeles (effective January 1, 2016), Boston (effective March 16, 2016) and Atlanta (effective July 1, 2016), as well as an additional daily frequency to New York City (effective March 1, 2016).[222] Less than two weeks after that announcement, *The Wall Street Journal* reported that Qatar Airways' CEO admitted that "Because it is such a capital intensive industry… without very strong financial background,

[219] *See* Partnership White Paper and Charles Anderson, "Evidence of Actionable Government Subsidies Received by Etihad Airways, Qatar Airways, and Emirates Airline", CapTrade Whitepaper, January 25, 2015.

[220] *See, e.g.,* Etihad 2013 Financial Statements at page 4 (Etihad's Statement of Financial Position shows it has $13.7 billion in total assets, as compared to over $17 billion in subsidies since 2004) and Qatar 2014 Financial Statements at 5 (Qatar's Consolidated Statement of Financial Position shows that Qatar has QR 48.5 billion ($13.3 billion) in total assets, as compared to over $16 billion in subsidies since 2004). *See also* Anderson Report, "Qatar's audited financial statements suggest that, but for the explicit sovereign guarantee, Qatar Airways would not continue to exist as a 'going concern'" (p.1) and "Qatar's audited financial statements suggest that, but for the explicit sovereign guarantee, Qatar Airways would not continue to exist as a "going concern." (p. 44)."

[221] The subsidies also enable key aspects of Emirates' business strategy, such as its massive capacity expansion, which would not be possible "but for" the subsidized expansion of Dubai's airport infrastructure (much of which is purpose-built for Emirates, including its dedicated A380 concourse) that is enabling the airline's continued rapid growth. *See, e.g.,* Rory Jones, "Emirates Airlines' Boss Bemoans Dubai Bottleneck", *The Wall Street Journal* (Jun. 2, 2014) (reporting that Emirates' President Tim Clark said he was worried about the airline's ability to continue growing at the pace they would like and that "the airport is running out of space"); Rory Jones, *Dubai to Invest $32 Billion in Airport to Meet Emirates Airline Growth*, The Wall Street Journal (Sept. 8, 2014) (noting that Clark had "previously warned that an infrastructure bottleneck at the current airport Dubai International would impede his airline's ambitions").

[222] *See* "Qatar Airways Set to Expand its USA Network with the Addition of Three New Routes", Qatar Airways Press Release, May 4, 2015. http://www.qatarairways.com/global/en/press-release.page?pr_id=pressrelease_usa.

especially from the government" an airline wouldn't be able to expand in today's environment.[223] Similarly, in an interview published earlier this year, Qatar's CEO stated that the Qatar Airways Board of Directors has decided to put off privatizing the airline for at least another decade because "private investors really don't have the stomach to invest to the extent that Qatar Airways will require for its expansion."[224]

3) THE GULF CARRIERS HAVE FAILED TO DEMONSTRATE THAT THEIR SERVICES STIMULATE *NEW* TRAFFIC TO/FROM THE UNITED STATES

A central and frequently repeated claim by the Gulf carriers is that they provides large benefits to the United States—without harming U.S. carriers—because their services largely stimulate new demand.[225] Indeed, Etihad's General Counsel recently stated that most of the passengers on its flights would not have travelled to the United States but for its service.[226] Similarly, the "economic impact" section of Emirates' submission *assumed* that 100% of the foreign originating passengers on its flights to the United States (i.e., visitors) are passengers that would not have travelled in the absence of Emirates' service.[227] Because a substantial component of the Gulf carriers' claims in this proceeding (e.g., lack of harm to U.S. carriers, increased visitor

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[223] *See* "Qatar Airways CEO defends state support", *The Wall Street Journal*, May 14, 2015.

[224] *See* David George, *Qatar Airways Ramps Up Global Expansion*, Bloomberg Businessweek Middle East (Mar. 2, 2015), http://businessweekme.com/Bloomberg/newsmid/190/newsid/413#cnttop.

[225] *See*, for example, Emirates Response at page 7 ("Emirates' operating efficiencies and superior service have substantially stimulated traffic in these previously neglected markets"); page 84 ("the facts demonstrate that the entry of Emirates into U.S. markets has stimulated additional traffic"); page 87 ("the data demonstrate that where Emirates has entered U.S. markets, overall demand for air travel in those markets has increased, reducing or eliminating the effects on other carriers' traffic"); and page 103 ("Emirates' entry has grown the pie: enhanced levels of service have attracted new travelers to routes, allowing Emirates to grow without significantly diverting passengers from the Legacy Carriers").

[226] *See*, for example, CAPA Americas summit debate in US and Gulf carriers, 28-Apr-2015, (video available at http://centreforaviation.com/analysis/capa-americas-aviation-summit-las-vegas-a-high-level-gulf-us-airline-debate---video-221863), with Jim Callaghan of Etihad starting at 12:25 (authors' transcription): *"My flight from Abu Dhabi to Los Angeles on Etihad Airways, 777 Boeing aircraft, made in the USA, capacity of 225 people, load 215 – 95% load factor. We had passengers from 18 destinations who joined the flight in Abu Dhabi and flew 16 hours to get to Los Angeles, actually it was less than 16 hours, we had a good tail wind. But these are folks who otherwise would not have been able to get to the U.S. There were two of those destinations that were actually served by U.S. carriers – two out of 18. Now, either those folks wouldn't have been able to travel to the U.S. or they would have to take two or three stops before getting here. Pretty sure most of them wouldn't have come here."*

[227] *See*, Emirates Response, page 177, asserting that "… Emirates' current level of non-stop service to the Middle East creates $4.7 billion in annual economic benefit (output) in the U.S. economy." However, as described in greater detail in Section 4 below, an examination of the calculations underlying this claim is the assumption that 100% of the U.S. visitors on Emirates' flights would not have come to the United States but for Emirates' service. *See* Emirates Response, page 178 (Figure V-5, note 1): "Includes the impact of *all onboard passengers* (includes passengers connecting within the U.S. to/from all Emirates Dubai flights.") (emphasis added).

spending, etc.) hinge on their claim of significant demand stimulation, testing the veracity of this claim is critical to understanding the impact of Gulf carriers' subsidized expansion not only on U.S. carriers, but also on the U.S. economy.

In our previous Traffic Study, we applied standard econometric modelling techniques to rigorously demonstrate that Gulf carrier presence has failed to meaningfully stimulate additional traffic to/from the United States.[228] Although the submissions of the Gulf carriers (and USTA) go to great lengths to try to undermine this key finding, a close examination of their submissions reveals that they are devoid of any credible analysis refuting our empirical finding that Gulf carriers' presence has failed to meaningfully stimulate additional traffic to/from the United States. Moreover, as described below, there does not even appear to be agreement between the submissions of Gulf carriers as to whether their services do in fact stimulate new traffic.

a) In Their Submissions, Neither Etihad Nor Qatar Even Contend That the Carriers' Services Stimulate *New* Demand

As noted above, Etihad's General Counsel recently asserted that most of the passengers on its flights "would not have come" to the United States but for Etihad's service.[229] It is revealing, therefore, that Etihad's submission in this docket—including the study prepared by Edgeworth Economics on its behalf—does not even attempt to refute our finding that the Gulf carriers have failed to stimulate additional traffic to/from the United States. To the contrary, Edgeworth's primary criticism of our conclusion regarding Gulf carriers' lack of demand stimulation is that our finding is *"…predicated on the notion that in order to compete, new entrants must 'stimulate demand' by serving only customers not already served by an incumbent U.S. carrier"*[230] or that "*Etihad is responsible for 'stimulating demand' between the U.S. and the rest of the world on routes where it does not compete."*[231] Similarly, Qatar Airways' comments are also devoid of

[228] *See* Traffic Study, Sections 2 and 3.

[229] *See* footnote 226 above.

[230] *See* Edgeworth Report, page 2.

[231] *See* Edgeworth Report, par. 72. The Edgeworth Report also asserts that "the Compass Lexecon Report provides no explanation as to why Etihad is responsible for 'stimulating demand' *between the U.S. and the rest of the world* on routes where it does not compete." The reason why no explanation was provided is straightforward: our analysis makes no such claim, and Edgeworth's attempt to suggest that we did is entirely unwarranted.

any analysis related to the question of stimulation, choosing instead to simply repeat the conclusion of the Edgeworth study.[232]

The Edgeworth Report's characterization of our stimulation analysis, however, is simply wrong. As a preliminary matter, it is important to point out that Edgeworth Economics was apparently confused as to what the concept of demand stimulation means in the context of our study.[233] As a result, Edgeworth ***assumed*** "it to mean *servicing a customer who would not otherwise be serviced by U.S. carriers*"[234] even though this (illogical) concept is nowhere to be found in our study. Since we provided a clear explanation of the concept of demand stimulation on page 3 of our study,[235] Edgeworth's adoption of an alternative (and nonsensical) definition is wholly unwarranted. Moreover, the submissions of Etihad and Qatar adopt the same mischaracterization of our finding related to demand stimulation.[236] It is telling that neither the Edgeworth Report nor Etihad's and Qatar's comments cite even a single passage from our Traffic Study to support those characterizations. They simply ignored what we said and concocted an economically nonsensical and self-serving definition of demand stimulation as a straw man they could attack.

Simply put, our empirical analysis of the Gulf carriers' traffic stimulation claims addresses a straightforward question: *is Gulf carrier presence on a city-pair to/from the United States associated with higher levels of traffic after controlling for changes in factors that impact underlying demand (e.g., population and per capita income growth)?* If an empirical analysis of this question were to find a positive and statistically significant relationship between Gulf carrier presence and the level of passenger traffic, then it would be reasonable to conclude that some

[232] *See* Qatar Comments, footnote 138: "This is the entire thrust of the Compass Lexecon Study, which tries to 'prove' that Gulf carriers have not stimulated the markets they serve, and that they have instead "stolen" traffic from US carriers. There is no requirement anywhere that a new entrant in a market accommodate only new (or stimulated) demand."

[233] *See* Edgeworth Report, Par. 59: "…While the Compass Lexecon Report does not explain this concept [demand stimulation]…"

[234] Ibid.

[235] *See* Traffic Study, page 3: "…that Gulf carrier presence has failed to meaningfully stimulate additional traffic *(i.e., on average, the presence of Gulf carriers on a city-pair to/from the United States does not have a statistically significant impact on traffic levels on the city-pair after controlling for other factors that affect passenger demand such as per capita income and population).*" (emphasis added)

[236] *See*, for example, Qatar Comments, footnote 138: "This is the entire thrust of the Compass Lexecon Study, which tries to "prove" that Gulf carriers have not stimulated the markets they serve, and that they have instead "stolen" traffic from US carriers. There is no requirement anywhere that a new entrant in a market accommodate only new (or stimulated) demand."

portion of Gulf carriers' passengers are newly stimulated passengers that would not otherwise have travelled *on any carrier* but for Gulf carriers' services.[237] If, on the other hand, an empirical analysis finds no positive and statistically significant relationship between Gulf carrier presence and the level of passenger traffic, it follows that Gulf carriers' subsidized traffic gains have come largely (or entirely) at the expense of other carriers. The latter result is precisely what the econometric analysis in our Traffic Study established, and none of the Gulf carriers has provided any effective rebuttal of this key result.

It is important to emphasize that contrary to what the Gulf carriers allege in their submissions, we *do not* interpret this empirical result (i.e., the lack of a positive and statistically significant relationship between the passenger traffic and Gulf carrier presence across city-pairs) to mean that U.S. carriers are in any way *entitled* to carry a specific share or level of traffic between the United States and international destinations.[238] Instead, as we made clear in our initial Traffic Study, the empirical result simply implies that the increase in traffic between the United States and the destinations served by the Gulf carriers is attributable to factors related to the underlying demand for air transportation in those city-pairs (e.g., population and economic growth at the endpoints), *and is not a result of the capacity additions to these regions by the Gulf carriers*.[239] Paradoxically, this is precisely the same conclusion reached by the Edgeworth Report, when it found that Gulf carriers "…have been growing by serving the expanding overall volume of traffic between the U.S. and other countries."[240] Thus, putting aside Edgeworth's attempt to cast

[237] Note that even if one finds some degree of stimulation on city-pairs with Gulf carrier presence, this does not imply that Gulf carriers have stimulated *overall* traffic growth to/from the United States, as some or all of the "stimulated traffic" on that city-pair could simply reflect substitution of destinations by travelers (e.g., taking a vacation to Dubai *instead of* a vacation to London). *See* Section 3.d.iv below.

[238] For example, in a blatant attempt to claim (incorrectly) that our study has adopted such a position, the Edgeworth Report asserts that "The Compass Lexecon Report fails to point to any economic or legal doctrine which indicates that an incumbent is *entitled* to the customers it serves and the only way for new entrants to compete 'fairly' is to sell their products to customers *who would not otherwise purchase from the incumbent"* (Edgeworth Report, par. 60, emphasis in original). The Emirates Response makes a similar unjustified claim at page 102 of its comments: "The Legacy Carriers' argument is premised on the disturbing assumption that existing carriers are entitled to their existing traffic as well as a share of market growth: in other words, to be insulated from competition." Likewise, Qatar's Comments (at page 44) make a parallel claim: "Qatar Airways takes exception to any assertion that it 'steals' traffic from US carriers. As a practical matter, carriers do not own or have any entitlement to 'their' passengers, who are free to choose their service on the basis of price and convenience."

[239] In an attempt to muddy the waters even further, the Edgeworth Report attempts to recast the issue of the Gulf carriers' subsidies and the Open Skies agreement as an alleged antitrust violation, even though no such claim has been made. *See*, for example, Edgeworth Report, Par. 61 ("Importantly, U.S. competition laws are concerned with protection of competition, not individual competitors.")

[240] *See* Edgeworth Report, page 13.

doubt on our finding that Gulf carriers have failed to meaningfully stimulate additional traffic by grossly mischaracterizing our analysis, Etihad's own economists have made no attempt to establish that the carrier's services do in fact stimulate *new* traffic.[241] Instead, the Edgeworth Report correctly finds that Gulf carriers have grown by simply capturing an increasing proportion of the traffic that would have otherwise flown (albeit on other carriers).

Simply put, it is telling that the only economic submission offered by any of the Gulf carriers addressing the issue of stimulation (the Edgeworth Report) does not endorse the claim by Etihad's General Counsel that most of its passengers would not have flown to the United States but for that carriers' services, nor does it endorse the repeated claims by Emirates that its services have "attracted new travelers to routes, allowing Emirates to grow without significantly diverting passengers from the Legacy Carriers".[242] Indeed, the primary conclusion reached in the Edgeworth Report regarding the Gulf carriers' subsidized services is that they "have been growing by serving the expanding overall volume of traffic between the U.S. and other countries"[243], a conclusion that is fully consistent with our empirical finding that Gulf carriers have failed to meaningfully stimulate additional traffic to the United States above and beyond what underlying demand would have otherwise dictated.

b) <u>Emirates' *Current* View That Econometric Analysis is a "Poor Tool" to Assess Market Stimulation is a Reversal from its Position Just a Few Months Ago</u>

Emirates' critique of our econometric analysis establishing that Gulf carriers have failed to meaningfully stimulate additional traffic consists largely of a single objection, which is that "[m]assive, worldwide econometric analysis is a poor tool to resolve questions of stimulation."[244] This criticism is not only unsupported, but also directly contradicted by the fact that Emirates' CEO Tim Clark publicly endorsed and actively promoted a recent econometric study by

[241] The Edgeworth Report (at page 30) also hypothesizes that Etihad and the other Gulf carriers' rapid capacity expansion to the Indian Subcontinent may have been in response to "pent-up demand" for air services in that region. The Edgeworth Report makes no attempt to test this hypothesis, but even if that hypothesis were true, it would not explain the Gulf carriers' dramatic capacity expansion *to the United States*.

[242] *See* Emirates Response, page 103.

[243] *See* Edgeworth Report, page 13.

[244] *See* Emirates Response, page 103.

Professor Martin Dresner and others as recently as March of this year in *support* of its position that the Gulf carriers stimulate demand.[245]

Indeed, the Dresner et al. study Mr. Clark was content to endorse just four months ago uses nearly the same "massive, worldwide" geographic scope that we used in our study (i.e., an econometric analysis of data covering traffic between the United States and destinations in Asia, Africa, the Middle East, Europe and Australia) and nearly the same time frame of analysis (i.e., 2008-2013).[246] Notably, our Traffic Study explained in detail why the Dresner et al. paper showed *the opposite* of what Mr. Clark believed it showed regarding the impact of Gulf carriers on traffic.[247] One can only conclude that Emirates' cursory dismissal of econometric analysis as a tool to resolve the question of stimulation only four months after its CEO actively endorsed the same analytical methodology simply confirms our econometric analysis of the empirical data and that the carrier's current claims regarding stimulation are without merit.

c) <u>The Gulf Carriers' Few Technical Criticisms of our Econometric Analysis Regarding Lack of Stimulation are Incorrect and/or Irrelevant</u>

None of the Gulf carriers (nor their economists) has proffered an econometric analysis to support the claim that their services have stimulated new demand. However, the submission of

[245] *See* "American Consumers and Regional State Economies the Ultimate Victims of US Carriers' Protectionist Campaign, Cautions Emirates Airline's President", Emirates Press Release, March 18, 2015, discussing an econometric study by Martin Dresner, Cuneyt Eroglu, Christian Hofer, Frio Mendez and Kerry Tan, "The Impact of Gulf Carrier Competition on U.S. Airlines" forthcoming: *Transportation Research Part A: Policy and Practice*, (hereafter "Dresner et al."). "…an independent paper published by US economists and academics examined the impact of gulf carrier competition on US carriers' passenger numbers and fares in international route markets and found that 'gulf carrier entry stimulated accelerated market growth' on US-Middle East traffic volumes…". As noted on page 10 of the Dresner et al. study: "We obtained the international DB1B data for the period from the first quarter of 2008 to the second quarter of 2013 and then aggregated these data to identify average air fares and total passenger volumes transported by a given U.S. carrier offering scheduled international services between a given U.S. airport and a given international airport (or vice versa) in a given quarter. Route markets in which Gulf carriers potentially compete are of particular interest here. Hence, observations pertaining to U.S. carriers' direct services between the U.S. and destinations in North America, Central America, the Caribbean, and South America were excluded from further consideration since Gulf carriers do not operate or sell tickets from the U.S. to these markets."

[246] Because our study is even more recent than that of Dresner et. al, the period of our analysis includes data from one additional year, i.e., 2014.

[247] *See* Traffic Study, page 26: "Thus, the fact that Dresner et al. document a large increase in passengers traveling between the United States and the Middle East provides no evidence to support the assertion that 'Emirates, Qatar, and Etihad have succeeded in the U.S. market, not because they are 'stealing' traffic from U.S. airlines, but because they opened new markets to places like India, Africa, and the Middle East that U.S. airlines largely ignored.' In fact, the Dresner et al. study reaches the exact opposite conclusion: '...the growth in the U.S.-Middle East market may come at the expense of traffic losses in (broadly) adjacent international route markets.'" Notably, Emirates' recently submitted comments in this docket did *not* cite the Dresner et. al study.

Edgeworth Economics offers a few technical criticisms of our econometric analysis, all of which are either demonstrably incorrect or irrelevant.[248]

For example, as noted in Section 2 above, Edgeworth criticizes our method of identifying Gulf carriers' "presence" on a city-pair (as proxied by at least a three percent or a ten percent booking share), suggesting that it is "arbitrary"[249] because it "makes it appear that carriers 'enter' and 'exit' a particular route when they in fact do not."[250] As we already discussed, the use of share-based presence variables when studying connecting markets is commonly used in both the academic literature and by U.S. government analysis of the airline industry.[251] The Edgeworth Report also asserts that because our econometric model estimates "an average effect across *all routes*, including many between U.S. and Europe (as well as other continents) where Etihad *does not compete for traffic*…it is unable to determine whether, in fact, Etihad (and other Gulf-based carriers) have 'stimulated' demand on relevant routes."[252] This assertion is simply wrong. In a panel regression utilizing city-pair fixed-effects (like the ones we have estimated) the identification of the key independent variable of interest, which is used to assess whether Gulf carriers stimulate additional traffic after controlling for other factors (i.e., *Number of Gulf Carriers Present*), is determined primarily by city-pairs where one or more Gulf carriers are present.[253]

Although Edgeworth's concerns are not particularly germane to the questions at hand, we have nonetheless re-estimated the main stimulation regressions from our Traffic Study taking account of their concerns and, as shown below, the estimated coefficient on the variable of interest (*Number of Gulf Carriers Present*) is largely unchanged under the different specifications.

[248] Although the Emirates Response includes a handful of technical criticisms of our econometric analysis of traffic diversion (which are discussed in Section 2.e.ii above) their comments do not include any criticisms of our econometric analysis of traffic stimulation, other than asserting that "[m]assive, worldwide econometric analysis is a poor tool to resolve questions of stimulation." As discussed above, however, this assertion directly contradicts Tim Clark's recent statement endorsing an econometric study that he incorrectly believed showed that Gulf carriers stimulated traffic.

[249] *See* Edgeworth Report, Par 69.

[250] *See* Edgeworth Report, Par. 69.

[251] *See* footnotes 194 and 195 above.

[252] *See* Edgeworth Report, Par. 72.

[253] Other independent variables in the model, such as those measuring the effect of population growth or per capita income, are identified using all of the city-pairs in the data-set and the inclusion of city-pairs where the Gulf carriers do not currently compete allows for a broader cross section of city-pairs to estimate those variables.

Exhibit 26 below provides additional robustness testing for the key stimulation regressions from Exhibit 9 in our initial Traffic Study. Column 1 of Exhibit 26 replicates the regression in column 3 (all city-pairs) from Exhibit 9 of our Traffic Study, which for our present purposes is considered to be the base case.

Columns (2) - (4) in Exhibit 26 provide robustness testing of the base case by adding or modifying certain variables in the base case to address particular concerns raised by the Edgeworth Report. To test the veracity of Edgeworth's assertion that our method of constructing the Gulf carrier presence variable is influencing our results by "mak[ing] it appear that carriers 'enter' and 'exit' a particular route when they in fact do not"[254], Column (2) in Exhibit 26 replicates the base model by modifying the *Number of Gulf Carriers Present* variable so that once each Gulf carrier's respective presence variable indicates it is present on a particular city-pair (i.e., once the carrier reaches at least a 3% share), the carrier remains present for the duration of the sample. As shown in Column (2), the estimated coefficient on the modified variable of interest (*Number of Gulf Carriers Ever Present*) continues to show no stimulation, demonstrating that Edgeworth's criticism is unwarranted. Likewise, because *Number of Gulf Carriers Ever Present* would indicate that Gulf carriers were present on a city-pair even if they discontinued service to the foreign endpoint, Column (3) of Exhibit 26 re-estimates the regression from Column (2) excluding city-pairs to/from foreign destinations where one or more of the Gulf carriers suspended or terminated service over the sample period.[255] As shown in Exhibit 26, the estimated coefficient on *Number of Gulf Carriers Ever Present* in column (3) continues to show no stimulation.

Finally, to test whether the inclusion of city-pairs between the United States and Europe is influencing our key findings, Column (4) of Exhibit 26 modifies column (3) by excluding city-pairs to/from Europe. The estimated coefficient on the key variable of interest (*Number of Gulf Carriers Ever Present*) also continues to show no stimulation, confirming that Gulf carriers have failed to meaningfully stimulate additional traffic on U.S.-international city-pairs and demonstrating that the Edgeworth Report's suggestion that the regression is somehow flawed because it "measures an average effect across all routes, including many between U.S. and

[254] *See* Edgeworth Report, page 39.

[255] *See* footnote 213 above.

Europe (as well as other continents) where Etihad does not compete for traffic"[256] is simply wrong.

EXHIBIT 26: FURTHER ROBUSTNESS TESTING OF REGRESSION ANALYSIS OF U.S. – INTERNATIONAL BOOKINGS FOR ALL CARRIERS

	All Bookings (MIDT) All Cities			
	(1)	(2)	(3)	(4)
	Original Regression	Gulf Ever a Competitor	Gulf Ever a Competitor (Excluding Dropped Routes)	Excluding Europe (Excluding Dropped Routes)
Number of Gulf Carriers Present	0.00267			
	(0.00532)			
Number of Gulf Carriers Ever Present		-0.0116*	-0.0118*	-0.000664
		(0.00553)	(0.00558)	(0.00526)
ln(Population)	1.730**	1.797**	1.791**	1.986**
	(0.108)	(0.112)	(0.113)	(0.130)
ln(Income per Capita)	1.163**	1.189**	1.180**	1.807**
	(0.0581)	(0.0586)	(0.0592)	(0.0753)
D(Quarter 2)	0.250**	0.250**	0.251**	0.107**
	(0.00420)	(0.00420)	(0.00424)	(0.00516)
D(Quarter 3)	0.350**	0.350**	0.351**	0.187**
	(0.00470)	(0.00470)	(0.00474)	(0.00575)
D(Quarter 4)	0.0907**	0.0912**	0.0919**	0.0200**
	(0.00471)	(0.00472)	(0.00476)	(0.00518)
D(2008)	0.136**	0.139**	0.137**	0.264**
	(0.0100)	(0.0100)	(0.0101)	(0.0176)
D(2009)	0.0414**	0.0448**	0.0440**	0.165**
	(0.0107)	(0.0108)	(0.0108)	(0.0176)
D(2010)	0.0759**	0.0786**	0.0777**	0.183**
	(0.00885)	(0.00889)	(0.00896)	(0.0142)
D(2011)	0.0216**	0.0231**	0.0229**	0.0815**
	(0.00726)	(0.00727)	(0.00732)	(0.0110)
D(2012)	-0.0177**	-0.0172**	-0.0172**	0.0270**
	(0.00631)	(0.00630)	(0.00635)	(0.00894)
D(2013)	-0.0274**	-0.0272**	-0.0273**	-0.00970
	(0.00600)	(0.00600)	(0.00605)	(0.00785)
Constant	-38.78**	-40.42**	-40.20**	-50.41**
	(2.332)	(2.456)	(2.474)	(3.050)
Observations	1,714,120	1,714,120	1,690,329	954,115
R-squared	0.989	0.989	0.989	0.990

* p<0.05, ** p<0.01
Sources: U.S. DOT DB1B; MIDT; World Bank; BEA.
Notes: Robust standard errors in parenthesis. Regressions are passenger weighted. A Gulf carrier is present on a city-pair in a quarter if its share of MIDT bookings on a city-pair is at least 3%. A booking belongs to the carrier operating the longest total distance. A carrier is present on a city-pair in a quarter if its share of MIDT bookings on a city-pair is at least 3%. A passenger is a U.S. carrier passenger if the operating carrier of an itinerary was one of the U.S. carriers (e.g., American, Continental, Delta, Northwest, US Airways, United). "Gulf Carriers Ever Present" is modified from the "gulf Carriers Present" variable in such a way that once each Gulf carrier's respective presence variable indicates it is present on a particular city-pair (i.e., once they reach a 3% share), they remain present for the duration of the sample. Regression covers the period 2008/Q1-2014/Q3 (T100 regressions through 2014Q2). 2014 population and income based on 2013 grown at the cumulative average growth rate from 2008-2013. Includes city-pair fixed effects (not shown). Includes passengers on mainland U.S-international city-pairs , except itineraries to/from North America and South America, and itineraries starting or ending in Milan. "Dropped Routes" drops all city-pairs to international cities where one of the Gulf carriers had service as of 2008 and has dropped service at some point since. Dropped routes include: Libya (TIP) and Syria (DAM), Nagoya (NGO), Alexandria (HBE), Colombo, Sri Lanka (CMB), Casablanca (CMN), Nagpur, India (NAG), Cebu, Philippines (CEB).

In sum, while the submissions of Emirates and Etihad raised a number of technical criticisms of our econometric analysis demonstrating that Gulf carriers have failed to meaningfully stimulate

[256] *See* Edgeworth Report, page 40.

new traffic to/from the United States, these criticisms are without merit and/or irrelevant.[257] Moreover, a simple corollary of the fact that Gulf carriers have dramatically been expanding their share of international traffic to/from the United States without meaningfully stimulating new traffic is that their share gains have come at the expense of other carriers. Because this self-evident finding severely undermines the Gulf carriers' narrative that its services have "grown the pie" without harming U.S. carriers, the Gulf carriers have grossly mischaracterize this empirical finding by alleging that we (and the U.S. carriers) have assumed that U.S. carriers are *entitled* to a specific share of passengers traveling to/from the United States.[258] As discussed above, however, these assertions are baseless and appear to be no more than an attempt by the Gulf carriers to misdirect the focus of attention away from the core issue in question, which is whether there is empirical evidence demonstrating that subsidized Gulf carrier expansion has harmed U.S. carriers. As we demonstrated in Section 2 above, the answer to that question is unambiguously yes.

d) Emirates' Exhibits Purporting to Show "Stunning" and "Massive" Demand Stimulation Following Its Entry Show Nothing of the Sort

Unlike the submissions of Etihad or Qatar, Emirates' submission asserts that their services stimulate substantial traffic above and beyond what otherwise would have occurred but for its services.[259] In an attempt to cast doubt on our econometric analysis showing that Gulf carriers' presence has failed to meaningfully stimulate additional traffic, Emirates presents a series of charts based on what it calls a "simple" methodology. These exhibits, contained on pages 105-109 of its comments, purport to compare MIDT booking levels in the year before and after Emirates' entry at four of its U.S. gateway airports (Boston, Dallas-Fort Worth, Seattle and Washington-Dulles) to Dubai and the destinations it serves *through Dubai*[260] to three regions of

[257] Qatar's Comments did not address our regression analysis.

[258] *See*, for example, Emirates Response, page 102: "The Legacy Carriers' argument is premised on the disturbing assumption that existing carriers are entitled to their existing traffic as well as a share of market growth: in other words, to be insulated from competition", Edgeworth Report page 35: "The Compass Lexecon Report fails to point to any economic or legal doctrine which indicates that an incumbent is entitled to the customers it serves and the only way for new entrants to compete 'fairly' is to sell their products to customers who would not otherwise purchase from the incumbent" and Qatar Comments, page 44: "Qatar Airways takes exception to any assertion that it 'steals' traffic from US carriers. As a practical matter, carriers do not own or have any entitlement to 'their' passengers, who are free to choose their service on the basis of price and convenience."

[259] *See* footnote 225 above.

[260] The Emirates Response does not state if "through Dubai" only includes destinations in each region served by Emirates, or if it includes city-pairs served "through Dubai" via an interline connection at Dubai on another carrier.

the world: the Indian Subcontinent[261], Africa and the ASEAN countries.[262] Based on this "simple" analysis, Emirates concludes that "for every route, from every city, bookings increased after Emirates' entry"[263] and that "[i]n virtually all cases the increases are of such magnitude as to demonstrate significant stimulation of demand, and in many cases the increases are stunning."[264] However, the conclusion by Emirates that the level of traffic growth following its entry reflects a "stunning" or "massive" amount of demand stimulation is based on what appears to be highly suspect data. Moreover, for a variety of additional reasons, the inference by Emirates that most or all of the changes in traffic between an airport it enters and other destinations it serves are attributable to its entry does not withstand scrutiny.

i. The MIDT data used by Emirates is highly suspect

As an initial matter, Emirates' claims of "massive" and "stunning" stimulation rely on what appears to be a highly suspect version of the MIDT booking data.[265] To illustrate this point, we replicated Figure III-23 from Emirates' submission (showing total bookings between the United States and the Indian Subcontinent between 2009 and 2014) using the MIDT databases from Delta, United, and American. As shown in Exhibit 27 below, while Emirates' MIDT data purports to show a 46% increase in U.S.-Indian Subcontinent bookings between 2009 and 2014,[266] booking data from Delta, United and American—in addition to the growth rates reported in the submissions of Qatar and Etihad—reveal that the booking growth has been far less than Emirates' claims.[267] Overall, Exhibit 27 shows that the growth in U.S.-Indian Subcontinent bookings between 2009 and 2014 put forth by Emirates' is over 60% higher than

[261] The Indian Subcontinent is defined as India, Pakistan, Bangladesh, Nepal, the Maldives and Sri Lanka.

[262] The ASEAN countries are defined as Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

[263] *See* Emirates Response, page 104.

[264] *See* Emirates Response, page 109.

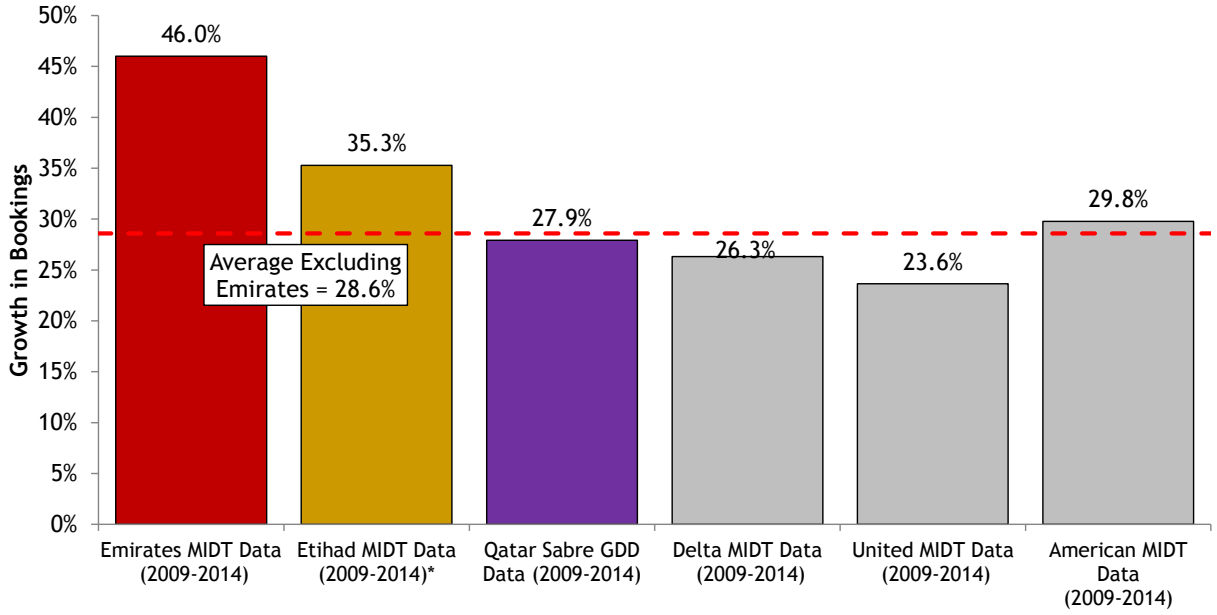
[265] *See* footnote 25 above.

[266] *See* Emirates Response, Figure III-23.

[267] The difference in the booking growth figures between the three U.S. carriers reflects slight differences in the GDSs/distributors subscribed to by each individual carrier. Delta's MIDT subscription includes 10 GDSs (Abacus, Apollo, Axess, Galileo, Infini, Sabre, Worldspan, Topas, TravelSky and Amadeus). United's MIDT subscription includes 12 GDSs/distributors (Sabre, Worldspan, Galileo, Abacus, Navitaire, Farelogix, G2 Switchworks, ITA software, Axess, Infini, Travelsky, and Topas). American's MIDT data includes 10 GDSs/distributors (Sabre, Amadeus, Galileo, Worldspan, Apollo, Travel Sky, Abacus, Infini, Farelogix and Axess).

the average of the growth rates based on data from the other two Gulf carriers and all three U.S. carriers.[268]

EXHIBIT 27: COMPARISON OF GROWTH IN BOOKINGS BETWEEN THE UNITED STATES AND THE INDIAN SUBCONTINENT, 2009-2014



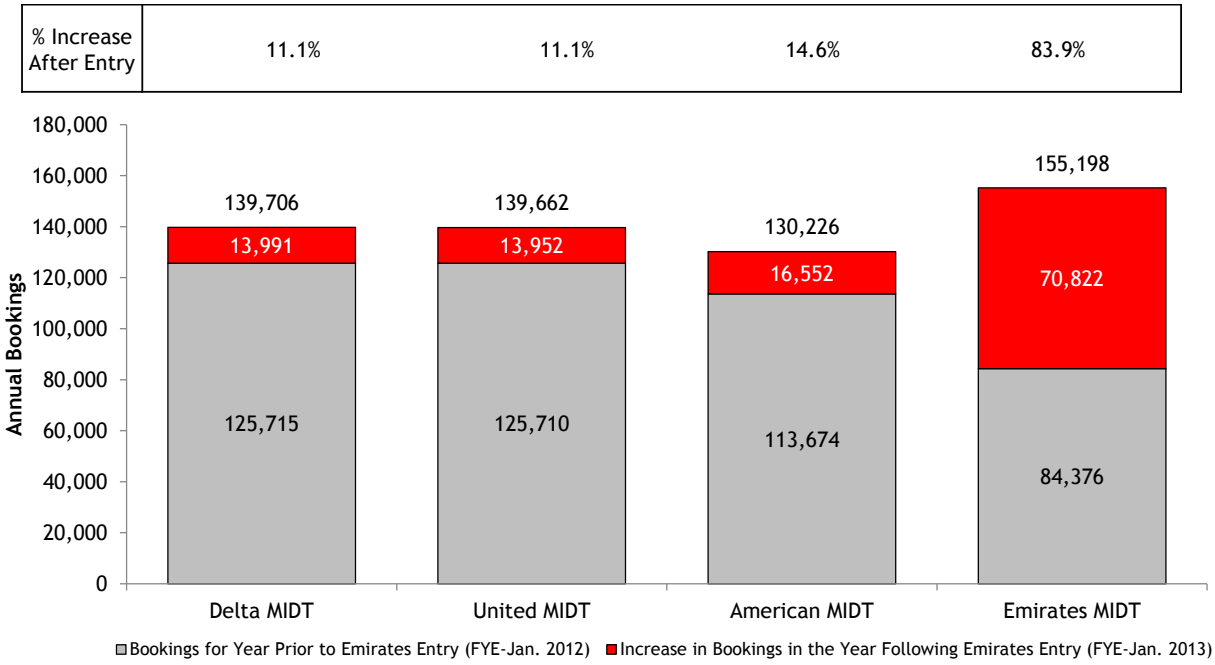
Sources: Delta Air Lines; United Airlines; American Airlines; Emirates Submission, page 117. Edgeworth Economics Report, Exhibits 3 and A18. Qatar Response, page 10 and xii.
Notes: In the case of Emirates, Delta, United, and American the Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka. For Etihad and Qatar the Indian Subcontinent includes India, Pakistan, Bangladesh, and Sri Lanka.
*Edgeworth data is for the year ending February 2015 vs. the year ending February 2010.

The impact of Emirates' suspect booking data is magnified when applied to shorter time frames and traffic between the Indian Subcontinent and specific U.S. airports. For example, as shown below, based on MIDT data from each of the three U.S. network carriers, bookings between Dallas Fort-Worth airport ("DFW") and the Indian Subcontinent between the year ending January 2013 (i.e., the year after Emirates entry) and the year ending January 2012 (i.e., the year prior to Emirates entry) increased in the range of 11.1% to 14.6%, with the variation due to slight differences in the sets of GDSs contained in respective MIDT subscriptions across the three

[268] Emirates used the same definition of the Indian Subcontinent as our study (i.e., India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka) while Etihad/Edgeworth and Qatar exclude Nepal and Maldives from their definition of the region. *See* Edgeworth Report page 9, Qatar Comments page 10 and Emirates Response page 117. Qatar's booking data is based on Sabre Airline Solutions Global Demand Data ("GDD") which "is developed by blending and cross-referencing all available industry data for historical airline traffic and fares, and uses more than 50 input sources." *See* http://www.sabreairlinesolutions.com/home/software_solutions/revenue_analysis/ and Qatar Comments, page xii.

carriers. Emirates' MIDT data, on the other hand, shows an increase of *84%*. However, because the Emirates' MIDT data apparently comes from nearly the same set of GDSs[269] as those contained in Delta's MIDT data (Delta's MIDT data contains one additional Japanese GDS, Axess), one should expect that Emirates' MIDT data would show approximately the same number of bookings as Delta's MIDT data.[270]

EXHIBIT 28: COMPARISON OF GROWTH IN MIDT BOOKINGS BETWEEN DFW AND THE INDIAN SUBCONTINENT, FYE-JANUARY 2012 VS. FYE-JANUARY 2013



Sources: Delta Air Lines; United Airlines; American Airlines; Emirates Submission, page 106.
Notes: Growth in bookings between U.S. city and cities in the Indian Sub-Continent served by Emirates. Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka. Percentage growth reflects change in bookings from YE Jan. 2012 (pre-entry) vs YE Jan. 2013 (post-entry).

Emirates' use of highly suspect booking data results in greatly exaggerated claims of booking growth. For example, Exhibit 29, Exhibit 30 and Exhibit 31 below show the results of replicating Emirates' "stimulation" figures on pages 104-108 of its submission using Delta's MIDT data (which, as described above, contains all of the same GDSs as Emirates' MIDT data).

[269] According to footnote 223 of the Emirates Response, their MIDT data subscriptions include nine GDSs (Abacus, Amadeus, Apollo, Galileo, Infini, Sabre, Topas, Travelsky, and Worldspan), all which are included in Delta's MIDT data.

[270] Nor can Emirates' method for identifying the origin and destination of a booking explain the enormous difference in growth rates to the Indian Subcontinent vis-à-vis Delta's MIDT data. To show this, we assumed (hypothetically) that 100% of Emirates' bookings in 2014 between the United States and Dubai in Delta's MIDT data represented bookings to the Indian Subcontinent (vs. 0% in 2009). Even under these assumptions, the overall growth rate in U.S.-Indian Subcontinent bookings between the 2009 and 2014 based on this modified version of Delta's MIDT data increases to only 33.9% (from 26.3%).

For each comparison, we examine the same pre- and post-entry periods used by Emirates, and where applicable, include airports in the same U.S. metropolitan area (i.e., IAD/DCA/BWI for Washington, D.C., and DFW/DAL for Dallas Fort-Worth).[271] Likewise, following Emirates' description of its "simple" methodology, we restrict the set of non-U.S. endpoints to those cities served by Emirates from Dubai.[272]

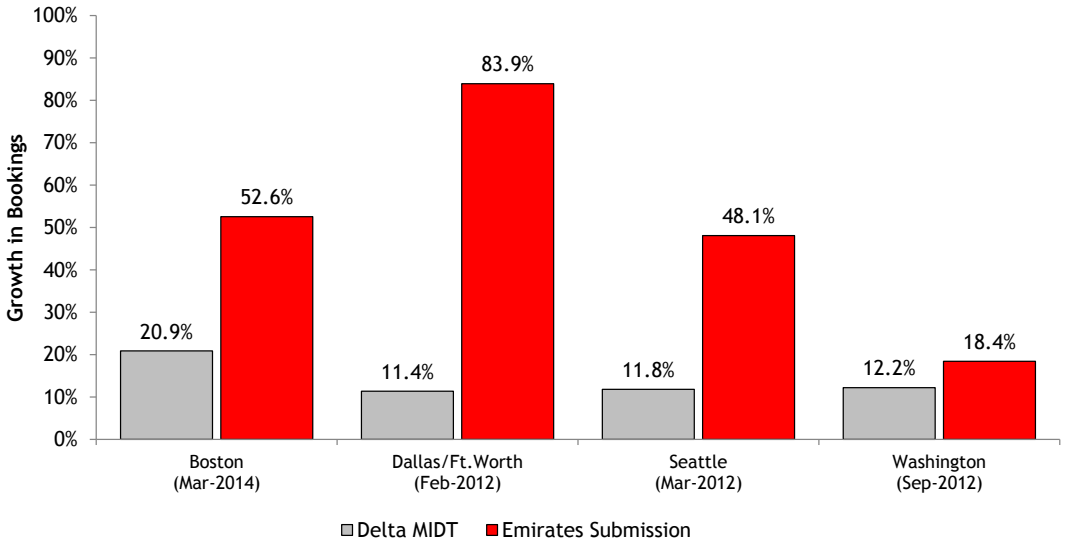
Exhibit 29 replicates the pre- and post- booking change analysis for each of the four cities examined in Emirates' submission to/from the Indian Subcontinent. It shows that Emirates' claims of "stunning" and "massive" traffic growth between some of its recently entered gateway cities and the Indian Subcontinent are grossly exaggerated.[273]

[271] Emirates description of its "simple" methodology is vague in regards to whether or not it is limiting its analysis to airports or cities. For example, in describing its analysis at page 104, Emirates states that "Both sides of the comparison include bookings on all airlines flying between the ***originating city and the destination city***, regardless of routing." However, Emirates later states on the same page that "the calculation considers only the O&D traffic for the ***U.S. airports*** served by Emirates (gateway airports)." (emphasis added)

[272] *See* Emirates Response, pages 103-104: "The methodology is simple: passenger bookings are examined twelve months prior to Emirates' launch into a new U.S. city, and are examined for all of the routes: from the U.S. city to Dubai as a final destination; from the U.S. city through Dubai to the Indian Subcontinent; from the U.S. city through Dubai to ASEAN countries; and from the U.S. city through Dubai to Africa." *See also* footnote 260.

[273] The slight difference in the Delta growth rates for Dallas/Ft. Worth-Indian Subcontinent between Exhibit 28 and Exhibit 29 is due to the fact that Exhibit 29, Exhibit 30 and Exhibit 31 attempt to replicate as closely as possible the Emirates "simple" methodology by limiting the set of foreign endpoints to those served by Emirates. Exhibit 28 does not place this additional restriction on the data.

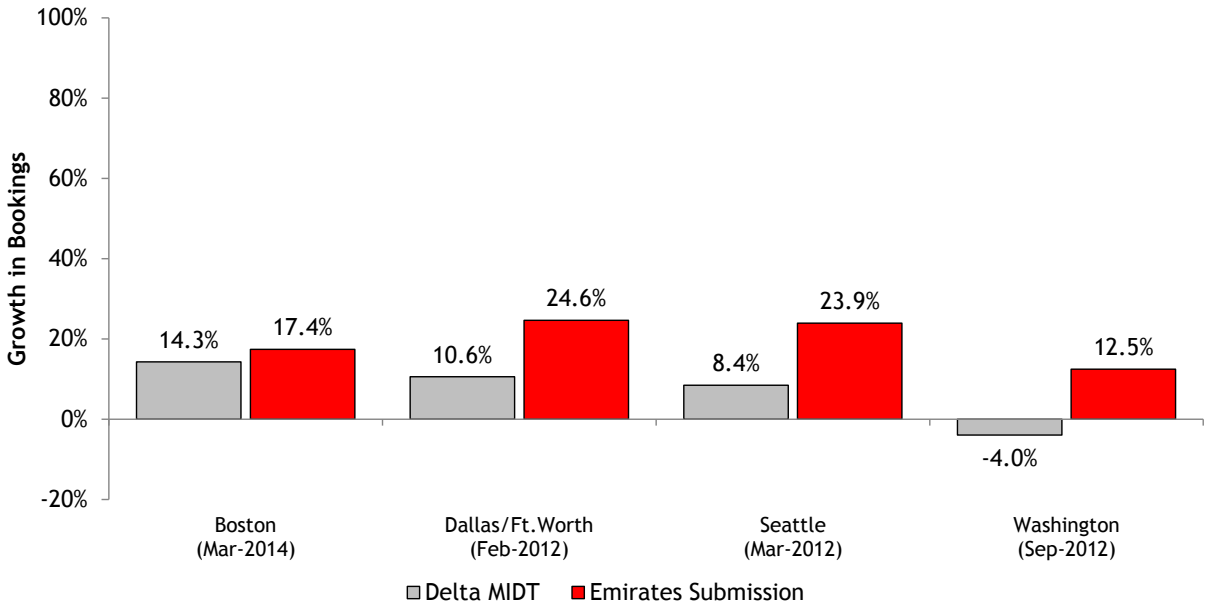
EXHIBIT 29: COMPARISON OF CHANGE IN BOOKINGS BETWEEN SELECT EMIRATES U.S. GATEWAY CITIES AND THE INDIAN SUBCONTINENT (12 MONTHS PRIOR TO ENTRY VS. 12 MONTHS POST-ENTRY)



Sources: Delta Air Lines; Emirates Submission, page 105-108; OAG.
Notes: Date shows month of entry by Emirates. Growth in bookings between U.S. city and cities in the Indian Subcontinent served by Emirates in the year following entry. Cities in the Indian Subcontinent include those served by Emirates in year following entry. Dallas/Ft. Worth includes DFW and DAL. Washington includes IAD, DCA, and BWI. Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka. Percentage growth for the one year period post entry (including the month of entry) over the full year period before entry (up to and including the month prior to entry).

Likewise, the change in bookings between the same four U.S. cities and points in Africa in the year before and after Emirates' entry based on Delta's MIDT data are also well below what Emirates' would have one believe, as shown in Exhibit 30.

EXHIBIT 30: COMPARISON OF CHANGE IN BOOKINGS BETWEEN SELECT EMIRATES GATEWAY CITIES AND AFRICA (12 MONTHS PRIOR TO ENTRY VS. 12 MONTHS POST-ENTRY)

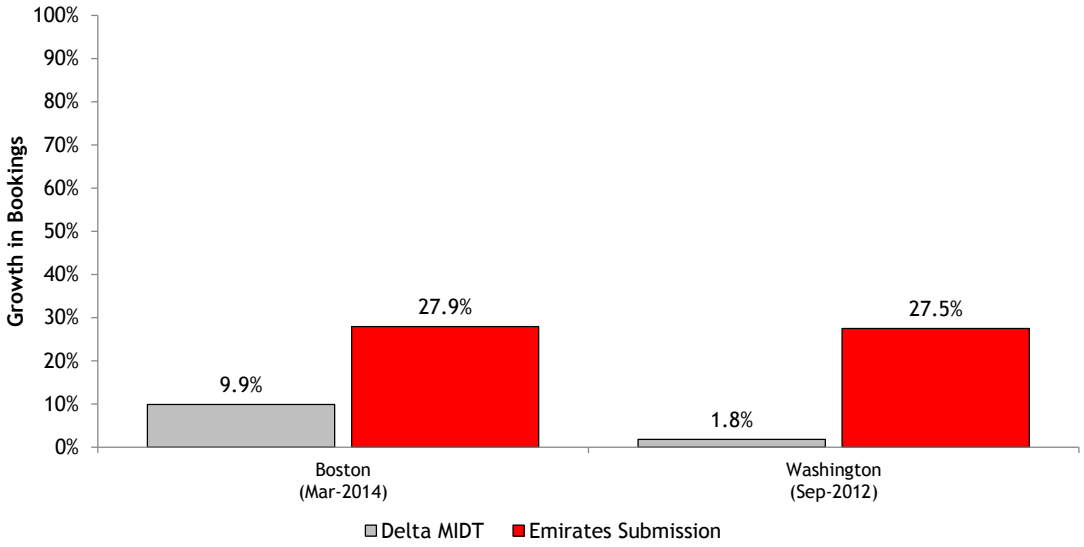


Sources: Delta Air Lines; Emirates Submission 105-108; OAG.
Notes: Date shows month of entry by Emirates. Growth in bookings between U.S. city and cities in Africa served by Emirates in the year following entry. Cities in Africa include those served by Emirates in the year following entry. Dallas/Ft. Worth includes DFW and DAL. Washington includes IAD, DCA, and BWI. Percentage growth for the one year period post entry (including the month of entry) over the full year period before entry (up to and including the month prior to entry).

Finally, as shown in Exhibit 31, the change in bookings between Boston and Washington[274] and destinations served by Emirates in the ASEAN countries in the year before and after Emirates entry based on Delta's MIDT data are only a fraction of what Emirates claims.

[274] Emirates excludes Dallas and Seattle from its analysis of ASEAN booking growth because "Dubai is not well located to handle traffic from the western United States to ASEAN countries". *See* Emirates Response, footnote 222.

EXHIBIT 31: COMPARISON OF CHANGE IN BOOKINGS BETWEEN BOSTON AND WASHINGTON, D.C. AND DESTINATIONS SERVED BY EMIRATES IN ASEAN COUNTRIES (12 MONTHS PRIOR TO ENTRY VS. 12 MONTHS POST-ENTRY)



Sources: Delta Air Lines; Emirates Submission, pages 105-108; OAG.
Notes: Date shows month of entry. Growth in bookings between U.S. city and cities in ASEAN countries . Cities in ASEAN countries include those served by Emirates in year following entry. Washington includes IAD, DCA, and BWI. Percentage growth for the one year period post entry (including the month of entry) over the full year period before entry (up to and including the month prior to entry). ASEAN countries include Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

Simply put, the "massive" and "stunning" traffic stimulation between its U.S. gateway cities and the main sources of Emirates traffic to/from the United States is driven almost exclusively by highly suspect MIDT booking data. Moreover, to the extent that more reliable MIDT data shows some increase in traffic between the U.S. cities entered by Emirates and the regions they serve, for the reasons discussed below, virtually all of the observed increase in traffic can be explained by a host of other factors, including changes in underlying demand, diversion from other airports, and destination substitution.

ii. The inference by Emirates that most or all of the incremental traffic from the year prior to entry to the year after entry is attributable to its service is also a gross exaggeration

In addition to relying on highly suspect MIDT data that dramatically inflates the magnitude of bookings growth in the year following its entry into select U.S. airports, the inference by Emirates that the increase in bookings following its entry on a route is attributable to the carrier's new service is, at best, highly misleading.[275] To begin with, Emirates' "simple" methodology

[275] *See*, for example, Emirates Response, page 109: "The evidence is clear: Emirates' entry into U.S. markets has been followed by a growth in bookings in every instance. In virtually all cases the increases are of such magnitude

disregards the economic factors that influence underlying demand for airline services. As a result, Emirates simply *assumes* that most or all of the observed bookings growth from each of the four cities shown in its submission would not have occurred but for its entry. This assumption is entirely unjustified. The demand for airline services across any set of city-pairs—including those that Emirates has chosen to analyze on pages 104-109 of its submission—depends on local economic conditions at both endpoints (i.e., the U.S. cities Emirates entered and the non-U.S. regions of the world served by Emirates) as well as the health of the global economy in general. It is well understood that as economic activity improves (or worsens), the demand for travel responds accordingly. The economies in the regions that account for much of Emirates' U.S. passenger traffic (i.e., the Indian Subcontinent) have been growing at approximately 6% annually since 2012.[276] Likewise, as noted above, three of the four cities that Emirates' submission focuses on (Washington D.C., Dallas-Fort Worth and Seattle) were entered by the carrier in early 2012, a banner year for the economy in all three cities. Indeed, each of the three cities was ranked within the top 15 of the 200 large cities ranked by the Milken Institute's list of 2012 Best-Performing Cities. Likewise, each of these cities also showed a substantial improvement in ranking versus 2011.[277] Similarly, Emirates' entry in Boston in March 2014 coincided with a sharp improvement in Massachusetts's economy, which "grew at a 4.7 percent annual rate in the last three months of the year [2014], after expanding at a 6 percent rate in the previous three months, and 5.2 percent in the second quarter of 2014."[278] This followed relatively weak economic performance in the Boston metropolitan area (the state's economic engine) in 2013.[279]

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as to demonstrate significant stimulation of demand, and in many cases the increases are stunning. When it enters a market, Emirates offers passengers single-stop, single airline service with well timed connections that rarely existed before. The convenience of this service attracts new passengers."

[276] World Development Indicators, The World Bank. *See also* Edgeworth Report exhibit 1, which also shows around a 6% growth rate for the Indian Subcontinent.

[277] According to the 2012 study, Washington-Arlington-Alexandria ranked 5th (up from 17th in 2011), Fort-Worth-Arlington Texas ranked 10th (up from 24th in 2011), Dallas ranked 14th (up from 20th in 2011) and Seattle ranked 13th (up from 27th in 2011). *See* Best-Performing Cities 2012: Where America's Jobs Are Created and Sustained, The Milken Institute, Ross C. DeVol, Armen Bedroussian, and Yu Liu, January 2013, page 25.

[278] *See* "Mass. Economy outpaced nation in 2014", *The Boston Globe*, January 30, 2015.

[279] *See* "Boston Area's Economic Growth Slowed Last Year", WBUR News, September 16, 2014, noting that: "Economic growth in the Boston metro area, a broadly defined region that stretches south of the city and north into New Hampshire, slowed last year when compared with 2012 figures."

In short, because Emirates' "simple" methodology for assessing stimulation disregards all of the underlying economic and demographic factors that contribute to the demand for air travel, it incorrectly assumes that the booking increases in the year following its entry reflect "stimulation" or "new passengers", when in fact, the bulk of those passengers would have travelled irrespective of Emirates' new service. Indeed, just as it would be misleading to claim that the *decline* in bookings between San Francisco/Los Angeles and the Indian Subcontinent in year following Emirates' entry (i.e., 2009) in those two cities was *attributable to its new services,*[280] it is also misleading to claim—as Emirates does—that the increase in bookings in the year following the launch of its services to Dallas, Seattle, Washington D.C. and Boston is attributable to the carrier's new service to those cities.

iii. *Emirates' stimulation analysis also ignores the fact that its services divert traffic from other airports within the catchment area of the U.S. airports it serves*

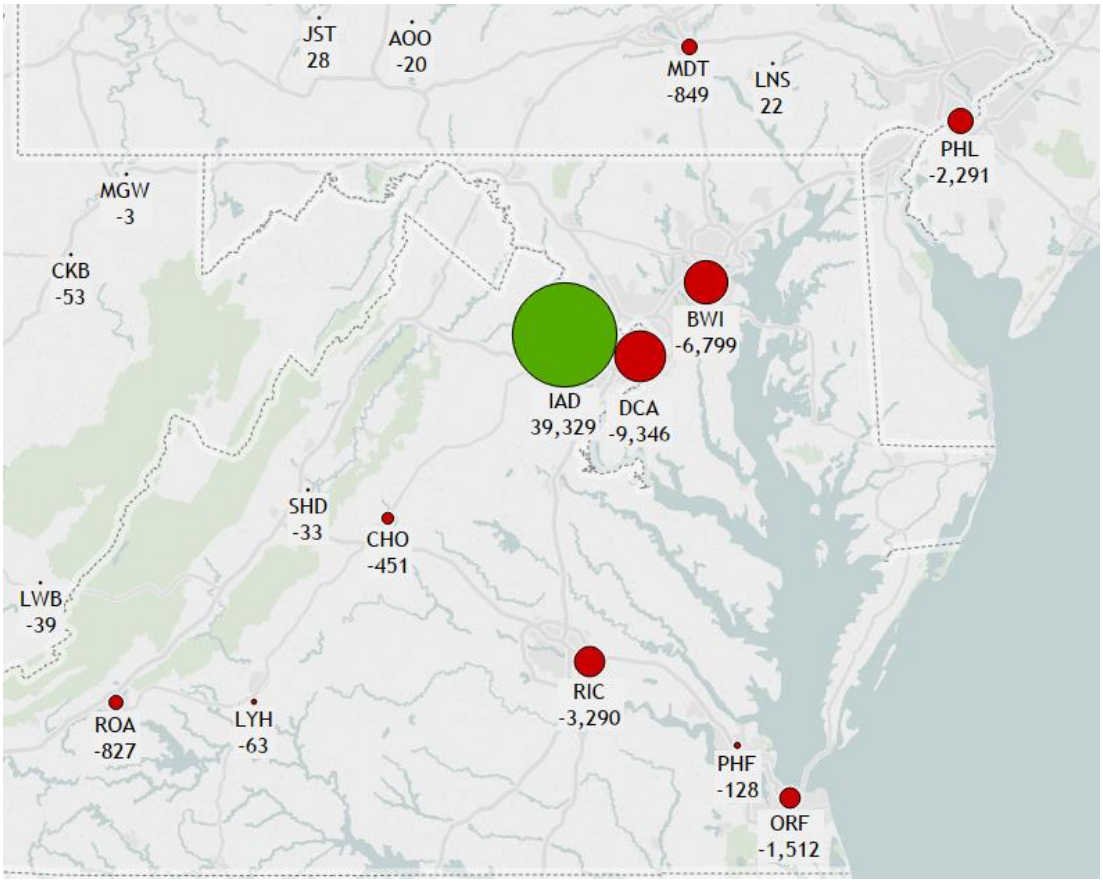
In addition to ignoring the changes in underlying demand that would have driven traffic growth between Dallas/Boston/Seattle/Washington D.C. and the regions served by Emirates even if Emirates had not instituted service, Emirates' analysis ignores the widely-recognized fact that airports draw traffic from a broad geographic "catchment area" that extends well beyond the metropolitan area they serve, particularly for passengers taking long-haul international journeys.[281] By comparing the pre- and post-entry traffic changes *only at the U.S. airports or cities it has entered,* Emirates' "simple" stimulation analysis fails to take account of the fact that its services divert traffic from other nearby airports within the catchment area of the airports it enters. As a result, Emirates' simple methodology considerably overstates the impact of its entry on overall traffic. One clear example of this is Emirates' recent entry at Washington-Dulles airport. As shown in Exhibit 32 below, in the year following Emirates' entry at that airport,

[280] Emirates entered Los Angeles and San Francisco in November 2008 and December 2008, respectively. Between the first 11 months of 2008 and 2009, bookings between San Francisco and the Indian Subcontinent declined by 15.3% and bookings between Los Angeles and the Indian Subcontinent fell by 15.4%. Source: MIDT.

[281] *See* Peter Belobaba, Amedeo Odoni and Cynthia Barnhart, *The Global Airline Industry*, 2009, Wiley, page 53: *"An airport's catchment area can extend for hundreds of kilometers and can vary with the destination and trip purpose of the traveler… a vacation traveler flying a much longer distance and staying at the destination for several weeks is more likely to be willing to travel much further to an originating airport, perhaps to take advantage of lower fares.*" *See also* "Catchment Area Analysis," 2011, U.K Civil Aviation Authority Working Paper, page 22: *"passengers taking long haul flights have the longest surface travel time, which is likely to create more catchment area overlaps, particularly for leisure passengers"* and page 50: "*Since longer surface travel times would constitute a smaller proportion of overall travel time for long haul journeys, passengers on these flights could then be willing to travel further to their departure airport than those on international short haul and domestic flights."*

much of the booking increase between Washington-Dulles ("IAD") and Dubai plus other destinations served by Emirates in the Indian Subcontinent, Africa and the ASEAN countries was largely offset by traffic declines from surrounding airports to/from and the same destinations.[282]

EXHIBIT 32: CHANGE IN BOOKINGS BETWEEN AIRPORTS WITHIN IAD'S CATCHMENT AREA AND DUBAI, THE INDIAN SUBCONTINENT, AFRICA AND THE ASEAN COUNTRIES, YE FEBRUARY 2012 VS. YE FEBRUARY 2013



Source: Delta MIDT.
Notes: Emirates began serving IAD September 2012. Map shows the difference in bookings from YE August 2013 vs. YE August, 2012 . Shows bookings to/from cities served by Emirates to destinations in the Indian Subcontinent, ASEAN countries, Africa and Dubai. Indian Subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka. ASEAN countries include Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

[282] As shown in Exhibit 32, much of the traffic diversion from airports within the catchment area of the U.S. gateway airports entered by the Gulf carriers is from airports that serve small and medium-sized communities. As Gulf carriers' subsidized services at larger hub airports siphon away traffic from surrounding airports (by virtue of passengers choosing to drive to the hub airport, for example), the economic viability of U.S. network carriers' service to/from small communities is threatened.

Simply put, while the traffic growth at the airports entered by Emirates may reflect "new" local traffic *for that airport*, much of the incremental traffic (which Emirates claims to be "new travelers into the marketplace"[283]) merely reflects a re-allocation of existing traffic between U.S. airports and the destinations served by Emirates.[284] In short, Emirates' failure to take into account the catchment area of large hub airports is yet another reason why its "simple" stimulation analysis is unreliable.

iv. *Emirates' stimulation analysis also ignores the well-known fact that travelers substitute between destinations*

Emirates "simple" stimulation analysis is also gravely flawed because it ignores the fact that a significant portion of travel for both leisure and business travelers reflects varying degrees of substitution among competing destinations. For example, even if Emirates' new service to Boston resulted in some passengers traveling between Boston and Dubai that would not have otherwise traveled on that city-pair, the aggregate number of passengers traveling internationally to/from Boston has not necessarily increased because consumers may have simply substituted Dubai for another destination. It is well understood that many consumers choose between alternative tourist destinations based on a host of factors including (among other things) the price of airfare, their interest in local attractions, weather, perceived safety, and the relative strength of the U.S. dollar vis-à-vis the local currency.[285] Thus, it should come as no surprise that in response to new non-stop service between Boston (or another U.S. city entered by Emirates) and Dubai, some travelers who had previously not considered Dubai as a potential tourist destination chose to visit Dubai for the first time. Because of the long-haul nature of the journey from the

[283] *See* Emirates Response, page 103.

[284] The diversion of traffic from other airports within the catchment area of the airport entered by Emirates is not unique to Washington-Dulles (IAD). For example, in the year following Emirates' entry at Seattle-Tacoma International (SEA), bookings between Portland, Oregon and Dubai plus destinations served by Emirates in the Indian Subcontinent and Africa fell by over 1,100 (approximately 3%). Likewise, bookings from Vancouver, British Columbia to the same destinations also fell.

[285] *See*, for example, Haiyan Song and Stephen F. Witt, Tourism Demand Modelling and Forecasting: Modern Econometric Approaches, 2000, Routledge, pp. 2: "The conditions that relate to the quantity of tourism demanded include tourism prices for the destinations (tourists' living costs in the destination and travel costs to the destination), the availability of and tourism prices for competing (substitute) destinations, potential consumers' incomes, advertising expenditure, tastes of consumers in the origin (generating) countries, and other social, cultural, geographic and political factors."

United States to Dubai, however, for most tourists, their trip was almost certainly in lieu of a trip to an alternative destination.[286]

Similarly, it is well understood that Dubai, Abu Dhabi and Doha have been successful in marketing themselves as destinations for hosting global conferences and meetings (due in large part to the fact that their subsidized national carriers offer non-stop air service to so many large metropolitan destinations worldwide). For example, according to the International Congress and Convention Association, the number of global meetings/conventions that were hosted in Dubai rose from only 8 in 2003 to 56 in 2014.[287] Because these global meetings/conventions would have occurred elsewhere had they not been held in Dubai, even if Dubai has been the beneficiary of increased global visitors from these conferences and global meetings (traffic that Emirates considers to be new demand "stimulation"), this traffic comes at the expense of other global destinations that lost out on hosting the conference or global meetings now being held in Dubai.[288] In assuming that all changes in traffic represent "new travelers into the marketplace",[289] Emirates ignores the fact that much of the traffic it now carries to Dubai (and other destinations) comes at the expense of forgone trips to other destinations.[290]

v. *In the long run, Emirates and the other gulf carriers have failed to meaningfully stimulate new demand*

[286] Indeed, to the extent that U.S. residents view international tourism to be a substitute for domestic tourism, any potential "stimulation" of international travel on Gulf carriers by U.S. residents because of their subsidized expansion to the United States is likely to *reduce* domestic leisure travel and hence, U.S. economic activity (all other things equal).

[287] "ICCA Statistics Report," *International Congress and Convention Association*, 2001-2010 & 2014, www.iccaworld.com. Likewise, the number of global meetings/conventions held in Abu Dhabi increased from only one in 2003 to 22 in 2014. Doha experienced the same increase in global meetings/conventions (i.e., one to 22) between 2003 and 2014.

[288] *See*, for example, "Nu Skin's huge corporate party rolls up in Dubai", CNN.com, September 14, 2014: "Nu Skin China, the Chinese arm of a U.S.-based marketing skin care marketing company is flying in 16,000 of its employees from China, Hong Kong, Taiwan and Macau to the UAE for a corporate trip… Dubai bid for the jaunt in October 2012, competing against other cities including Seoul, Macau and Singapore, to play host."

[289] It is important to emphasize that we are not in any way suggesting that other countries should not be allowed to compete for such global conventions/meetings. We are merely pointing out the simple fact that the passengers to/from these conventions/meetings does not constitute "new" overall traffic, but rather, a re-allocation of traffic from one city to another based on where those conventions/meetings are held.

[290] By way of example, the Gulf carriers will undoubtedly experience a surge in traffic to the Gulf region from the United States (as well as other countries around the world) when Qatar hosts the FIFA World Cup in 2022. However, it would be illogical to assume that this traffic represents "new" passengers stimulated by Gulf carriers' services, since the trips these passengers will take will be in lieu of the trips they would have taken to the countries that had been vying for (but were not awarded) the 2022 World Cup.

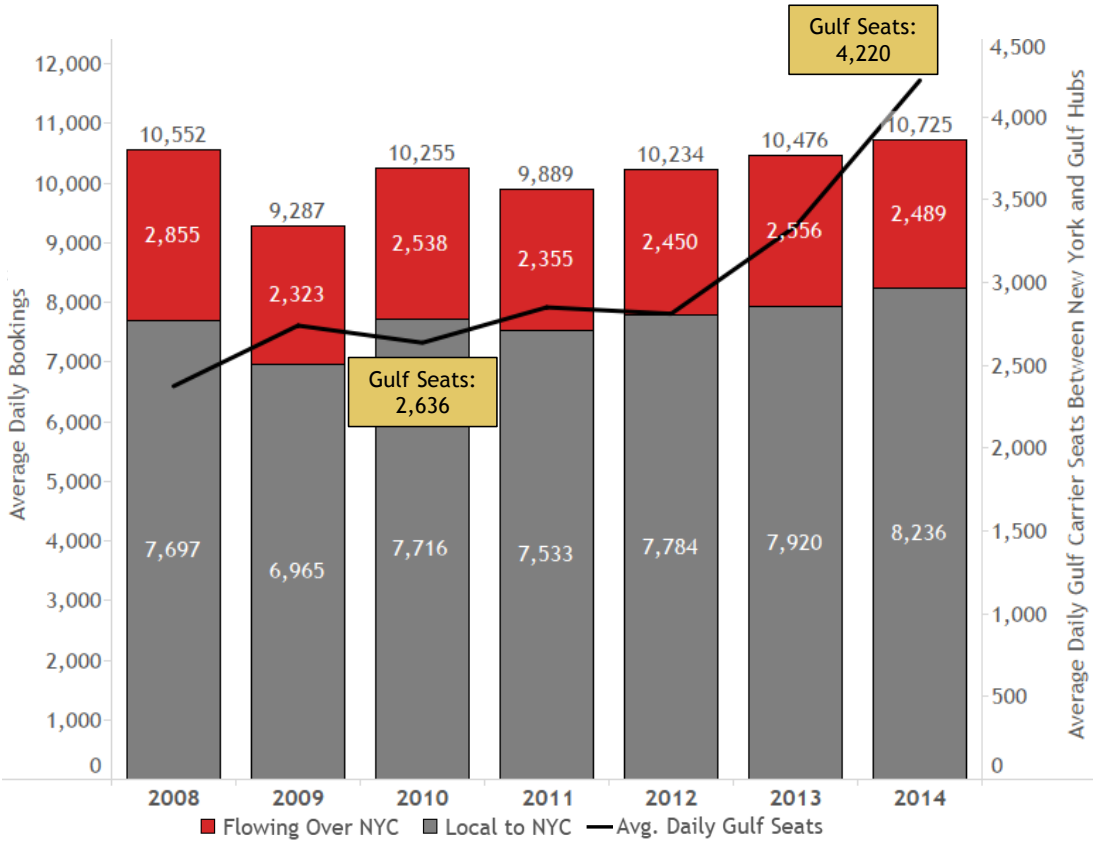
For the reasons described above, Emirates' claims of traffic stimulation following the launch of its service to certain U.S. airports cannot be taken at face value. Not only is the MIDT data relied upon by Emirates highly suspect, its "simple" methodology of comparing pre- and post-entry booking changes ignores a host of factors unrelated to its entry that explain much of the traffic growth in the studied markets, including—but not limited to—the economic factors that drive underlying demand. Moreover, to the extent that there has been some incremental traffic growth following Emirates' entry above and beyond what one would expect to occur due to economic factors, much of this traffic is likely to represent the diversion of passengers from other airports within the catchment areas of Emirates' U.S. gateway airports or destination substitution by travelers.

Finally, contrary to the assertions by Emirates, *short run* changes in traffic following Gulf carrier entry are not nearly as meaningful to assess the question of demand stimulation as longer run analyses (such as the econometric analysis contained in our Traffic Study covering 2008-2014) that better reflect steady state changes, such as competitive responses by other carriers (e.g., changes in capacity by non-Gulf carriers in response to subsidized capacity additions by Gulf carriers) or transitory fluctuations in traffic due to post-entry promotional pricing and/or transitory destination substitution by travelers.

Indeed, an examination of the experience from New York City provides a straightforward way to assess whether subsidized Gulf carrier capacity expansion to a U.S. city stimulates new passengers *over the long run*. All three Gulf carriers entered New York City prior to 2008[291] and, as shown in Exhibit 33, have collectively increased capacity (through a combination of additional frequencies and up-gauging of aircraft) to/from New York City from approximately 2,600 daily seats in 2010 to 4,200 daily seats in 2014, an increase of 60%. Over the same period, however, the number of local bookings between New York City and Africa, the Middle East, the Indian Subcontinent and the ASEAN countries has increased by only about 500/day (i.e., 6.7% in total, or about 1.6% per year). In light of the fact that GDP growth to the regions served by Gulf carriers has been expanding at rates far in excess of 1.6% per year, this provides further evidence that Gulf carriers' subsidized capacity growth at New York City has done little—if anything—to stimulate additional traffic since 2008.

[291] Emirates, Etihad and Qatar launched service to New York City in 2004, 2006 and 2007, respectively.

EXHIBIT 33: AVERAGE DAILY BOOKINGS (ALL CARRIERS) BETWEEN NYC AND INDIAN SUBCONTINENT, AFRICA, ASEAN COUNTRIES, AND MIDDLE EAST VS. AVG. DAILY GULF CARRIER SEATS FROM NYC TO GULF HUBS



Sources: Delta MIDT. OAG.
Notes: Average daily Gulf carrier seats includes flights between NYC and DXB, AUH and, DOH. Includes bookings between the United States and the Middle East (excluding Israel), the Indian subcontinent, the ASEAN countries, and Africa. New York City includes JFK, EWR and LGA. The Indian subcontinent includes India, Pakistan, Nepal, Bangladesh, Maldives, and Sri Lanka. The ASEAN countries include Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

Simply stated, the fact that Gulf carriers added nearly 1,600 daily seats between New York City and their hubs in Dubai, Abu Dhabi and Doha between 2010 and 2014[292] without any meaningful stimulation in bookings can mean only one thing: *that their traffic gains to/from the New York City area have come at the expense of U.S. and other carriers*. And as Gulf carriers further

[292] In 2015, Gulf carriers increased their number of seats between New York City and their hubs in Dubai, Doha, and Abu Dhabi an additional 24.3% over 2014 levels (to 5,245/day), including the addition of a third daily non-stop A-380 flight by Emirates starting March 8, 2015.

expand their capacity to both new and existing U.S. gateways without meaningfully stimulating new demand,[293] they will divert even more passengers from U.S. and other carriers.

4) THE ECONOMIC IMPACT AND EMPLOYMENT CLAIMS PUT FORTH BY THE GULF CARRIERS AND THE USTA ARE GROSSLY EXAGGERATED

Referencing findings from a variety of commissioned studies, the submissions of the Gulf carriers (in addition to the USTA) make several claims regarding the purported economic impact of their subsidized services to the United States. As discussed below, because the studies relied upon by the Gulf carriers and the USTA are predicated on assumptions that are demonstrably wrong—most notably, the assumption that they stimulate new passengers *that otherwise would not have travelled*—the economic impact claims made by the Gulf carriers are illusory.

a) The Tourism-Related Claims Made by the Gulf Carriers and the USTA Incorrectly Assume That Every Foreign Originating Passenger on Gulf Carriers' Flights to the United States Represents a "New" Visitor

A common claim made by the Gulf carriers is that their services to the United States create billions of dollars of tourism-related spending which, in turn, supports tens of thousands of U.S. jobs. For example, an Oxford Economics study commissioned by Etihad claims that "[i]n 2015 the economic footprint of Etihad's visitor arrivals will be an estimated US $1.6 billion contribution to the GDP of the USA, and some 19,400 jobs across the country."[294] Likewise, Qatar asserts that in 2014, the carriers brought over 243,000 visitors to the United States, whose spending "sustain[ed] 27,000 jobs" and contributed $900 million to the U.S. Economy.[295] Not to be outdone, Emirates' submission asserts that "a traditional air service economic impact analysis… shows that Emirates' current level of non-stop service to the Middle East creates $4.7 billion in annual economic benefit (output) in the U.S. economy"[296] supporting "40,000 jobs".[297]

[293] As noted in our earlier Traffic Study, Emirates will add its 10th U.S. destination (Orlando) effective September 1, 2015, recently doubled its daily frequencies between Dubai and Seattle, and will add an additional daily frequency to Boston effective October 1, 2015. Likewise, Qatar has announced that it would add new daily non-stop service between its Doha hub and Los Angeles (effective January 1, 2016), Boston (effective March 16, 2016) and Atlanta (effective July 1, 2016), as well as an additional daily frequency to New York City (effective March 1, 2016).

[294] *See* Oxford Economics, *The Impact of Etihad Airways on the US Economy*, May 2015, page 23 ("Oxford Etihad Study").

[295] *See* Qatar Comments, page 56.

[296] *See* Emirates Response, page 177.

[297] Ibid, page 178.

Moreover, in a separate study commissioned by the USTA, Oxford Economics claims that "in 2014, the tourist spending of visitors arriving at the top 11 cities having traveled on a Gulf carriers [sic] for all or part of their journey, supported almost 50,000 jobs."[298]

i. A closer examination of the tourism-related benefits asserted in the Emirates submission demonstrates why they cannot be taken at face value.

As noted above, Emirates' submission asserts that its "current level of non-stop service to the Middle East creates $4.7 billion in annual economic benefit (output) in the U.S. economy."[299] According to Emirates, this claim is based on "a traditional air service economic impact analysis"[300], the results of which are summarized in Figure V-5 of its submission. As described in Exhibit 6 of Emirates' submission,[301] the methodology used to calculate Emirates' purported economic benefits to the United States is based on the amount of visitor spending that Emirates assumes is attributable to its services, which filters through the economy. Based on the "traditional" analysis used by Emirates, this spending by visitors circulates throughout the economy, and in turn, this visitor-induced economic activity is the basis for the nearly 40,000 U.S. jobs that Emirates claims are attributable to its services.[302]

Thus, the economic impact that is purportedly "created" (according to Emirates) by its U.S. flights (i.e., $4.7 billion output and 39,751 U.S. jobs) is a function of two key inputs: (1) the average direct spending per overseas visitor to the United States; and (2) an estimate of the number of visitors to the United States that can be attributed to Emirates U.S. flights. The Campbell Hill analysis that each international visitor spends an average of $3,670 during their stay in the United States (an estimate derived using data from the U.S. Department of Commerce's ITA Office of Travel and Tourism that takes into account the origin of visitors on Emirates' flights).[303] But in estimating the number of "visitors" to the United States attributable

[298] *See* Oxford USTA Study, page 18.

[299] *See* Emirates Response, page 177.

[300] Ibid.

[301] *See* "Analysis of the Legacy Carriers' Job Loss Estimate Due to Emirates' Service", Campbell-Hill Aviation Group, LLC, Exhibit 6 to Emirates' submission. ("Campbell Hill Economic Jobs Study").

[302] The total economic activity and jobs are calculated using an input-output model (IMPLAN in this instance) that makes use of a variety of so-called economic "multipliers". *See* Campbell Hill Jobs Study, page 11.

[303] *See* Campbell Hill Economic Impact Study, page 10: "These visitors spend an average of $3,670 per trip while in the U.S., for which jobs in industries such as hotel/lodging, restaurants, entertainment, retail, and ground transportation are dependent."

to Emirates' service, the Campbell Hill analysis uses *all foreign originating passengers onboard Emirates' flights.*[304] Simply put, the assertion by Emirates that its "current level of non-stop service to the Middle East *creates* $4.7 billion in annual economic benefit (output) in the U.S. economy"[305] is predicated on the assumption that 100% of the foreign-originating passengers onboard its U.S. flights would not have visited the United States but for Emirates' service. As demonstrated in Section 3 above, however, this assumption is demonstrably wrong, because the Gulf carriers have neither provided credible evidence to support this assumption, nor have they done anything to undermine our econometric analysis demonstrating that their services have failed to meaningfully stimulate additional traffic to the United States. Moreover, as noted above, even Etihad's own economists have also failed to endorse the position that Gulf carriers have stimulated traffic above and beyond the levels that would have flown absent the Gulf carriers' service based on underlying demand.[306]

ii. The tourism-related claims made by Qatar and the Oxford Economic studies commissioned by Etihad and USTA commit the same critical flaw

Campbell-Hill is not alone in devising a grossly exaggerated claim of tourism-related expenditures (and hence tourism-related jobs) by assuming that 100% of Gulf carriers' foreign-originating passengers on their U.S. flights represent "new" visitors stimulated to travel to the United States because of their services. For example, in asserting that its services to the United States generated $900 million in visitor spending in 2014 (supporting 27,000 U.S. jobs),[307] Qatar points out that "almost half of passengers on Qatar Airways flights to [the] USA are overseas

[304] *See* Emirates Response, Figure V-5, note 1: "[i]ncludes the impact of all onboard passengers (includes passengers connecting within the U.S. to/from all Emirates Dubai flights." *See also* Campbell Hill Jobs Study, page 10.

[305] *See* Emirates Response, page 177. (emphasis added)

[306] Moreover, it is commonly understood that Emirates entices passengers that previously flew on U.S. and other carriers to switch to their services by offering them complimentary perks that privately-owned U.S. carriers could not offer while still covering their costs. *See*, for example, http://www.emirates.com/us/english/plan_book/essential_information/dubai-connect/dubai-connect.aspx, ("As a special courtesy to our passengers, in certain cases where an itinerary calls for a longer stopover in Dubai, Emirates will provide accommodation, meals, ground transportation, and visa costs.") *See also* "Persian Gulf Airlines Are Winning Fans in the U.S.", *The Wall Street Journal*, March 17, 2015: "Sheila Hodge, an American who lives outside Bangkok with her husband, who works in the oil industry, flies home with her family to Texas twice a year. They normally fly business class and recently abandoned United Continental Holdings Inc. for Emirates…On her first Emirates flight, Ms. Hodge says, she had a 10-hour layover in Dubai. To her surprise, the airline, without charge, sent a car for her when she landed, drove her to a nice hotel, gave her two meal vouchers, then picked her up again before her connecting flight. A representative walked her from the curb to her gate."

[307] *See* Qatar Comments, page 56.

visitors"[308], implying that it too has assumed that all (or virtually all) of its foreign originating passengers represent "new' visitors to the United States.

Likewise, both of the studies conducted by Oxford Economics rely on the same critically flawed assumption. For example, while the Oxford Study commissioned by Etihad claiming $1.3 billion in "Etihad-facilitated visitor spending in the USA"[309] is based on "Oxford Economics' sophisticated tourism spending forecast"[310], the estimates are effectively the product of two numbers: (1) the average spending per visitor (i.e., $4,900)[311] and (2) the number of "US foreign arrivals carried on Etihad"[312], which Oxford estimates will be 260,000 in 2015.[313] Like the Campbell-Hill study relied upon by Emirates, the Oxford study assumes 100% of the onboard, foreign-originating passengers that do not connect to flights outside of the United States on Etihad's U.S. bound flights would not have visited the United States but for Etihad's flights.[314] This is not an assumption based in reality or an analysis of the data. Moreover, it is not even an assumption that Edgeworth Economics (Etihad's other economists) have endorsed.[315] Notably,

[308] Ibid.

[309] *See* Oxford Etihad Study, page 23.

[310] Ibid, page 22.

[311] Ibid.

[312] Ibid, page 47. *See also* Oxford Etihad Study page 48: "The essence of the approach was to use the OAG data to establish the true origins and destinations of passengers flying on each Etihad route. This allowed the identification of those Etihad passengers who are travelling to the USA and their true origins. US resident travellers on these routes, who by definition do not contribute to tourism impacts, were then identified using information on the point of sale for the booking."

[313] Ibid, page 5: "In 2015 Etihad flights will carry 260,000 international visitors bound for the USA." Oxford excludes foreign arrivals on Etihad's flight to the United States that make a connection at the U.S. gateway airport to a destination outside of the United States.

[314] A similar assumption is made in the Oxford USTA Study, although the economic impact calculated in that study is limited to those "visitors" destined to one of the Gulf carriers' 11 U.S. gateway cities. *See* Oxford Etihad Study, page 17: "Our analysis shows that of 2.2 million inbound passengers to the USA on Gulf carriers in 2014, some 1.2 million were foreign travelers, around 50,000 of whom connected onto an immediate subsequent international flight out of the USA." *See also* Oxford USTA Study, page 33: "In order to undertake the tourism impact analysis, we began by interrogating the OAG database to understand the true origin of inbound passengers on Gulf flights in 2014. This was determined by the passengers' origin of ticket purchase. Passengers' final destinations in the USA were identified by examining whether they took any onward flights from the initial US arrival airport. Where a subsequent domestic flight was taken, those passengers were allocated as visitors to the ultimate destination rather than the entry airport. All inbound OAG---based estimates were then scaled to be consistent with Department of Transportation data for 2014."

[315] Even though the tourism-related benefits in the Oxford Etihad study are calculated assuming that 100% of the foreign originating visitors would not have come to the United States but for Etihad's service, there is reason to believe that even Oxford Economics recognizes that this is not a reasonable assumption. *See*, for example, page 26:

even the USTA (which commissioned one of the two Oxford studies) has apparently concluded that this assumption is not credible, having concluded that Gulf carriers bring an average of only 384 visitors/day to the United States (i.e., only about 4.2% of Gulf carriers' total average daily seats to the United States in 2014).[316] Even more recently, the Presidents and CEOs of Atlas Air, FedEx, JetBlue and Hawaiian Airlines also pointed out that in 2014, the Gulf carriers only brought 140,000 international visitors to the United States (i.e., the same number determined by USTA, or an average of only 384/day).[317] The logical inference of the analysis by these carriers (and the USTA) is that the overwhelming majority of foreign originating passengers on Gulf carriers' flights to the United States are *not* "new" visitors, but rather, visitors that would have come to the United States using other carriers (including U.S. carriers) but for Gulf carriers' services.

In summary, an analysis of the tourism-related economic impact claims conducted on behalf of the Gulf carriers reveals that they share the same fundamental flaw; i.e., the fact that the purported economic benefits are predicated on the assumption that *all of the foreign-originating passengers on the Gulf carriers' flights to the United States would not have flown but for the Gulf carriers' services.* Because the tourism-related economic benefits contained in the Gulf carriers' submissions rely on an assumption that has been demonstrated to be wrong, the Gulf carriers' economic benefit analyses related to increased tourism should be disregarded.[318]

"With Etihad serving ultimate destinations and origins primarily in the Middle East and the Indian Subcontinent, these represent new customers for the US aviation industry, *who may not have arrived* in the country but for the global network Etihad provides." (emphasis added).

[316] *See* Letter to Secretaries Foxx, Kerry and Pritzker, U.S. Travel Association, June 11, 2015: "In 2014, the Gulf carriers brought 140,000 international visitors to the United States." 140,000 annual visitors divided by 365 days equals an average of 384/day.

[317] *See* Letter to Secretaries Kerry, Foxx and Prtizker from William Flynn, David Bronczek, Robin Hayes and Mark Dunkerley, August 3, 2015.

[318] For largely the same reason—i.e., the fact that they rely on the incorrect and unproven assumption that Gulf carriers' services meaningfully stimulate new demand—the other claims of economic impact contained in the Oxford Etihad and Campbell Hill studies are similarly flawed. For example, Etihad's claim that its global operations support 7,900 U.S. jobs ignores the fact that because its services displace the flights of other carriers, these jobs are not incremental to the U.S. economy, but merely reflect jobs that would have been supported by other carriers. Moreover, to the extent that Etihad has displaced international services that would have been operated by U.S. carriers (i.e., non-stop service to India and/or additional frequencies to Europe), each displaced frequency has resulted in a net loss of over 800 U.S. jobs. Likewise, the entire jobs analysis contained in the Campbell Hill study is predicated on the assumption that Emirates' services to the United States have not come at the expense of U.S. (or other) carriers, when in fact, the U.S. carriers have documented several international routes they had planned to serve, but were forced to postpone (indefinitely) because of the glut of subsidized capacity to/from the same regions.

b) Emirates Has Also Vastly Overstated the Number of Jobs Supported by its Recent Order for Boeing 777-X Aircraft

In addition to falsely asserting that its services to the United States "create" tens of thousands of U.S. tourism-related jobs, Emirates has also claimed that its recent order "of the new B777X would alone account for *over* 400,000 new American jobs."[319] Like its tourism-related economic impact claims, an examination of this claim reveals that it too has been grossly exaggerated.

To begin with, according to Boeing, the finalized agreement for the 150 firm orders of 777-X aircraft by Emirates is valued at $56 billion at list prices.[320] Moreover, it is well understood that large airline customers typically receive substantial discounts off "list price" when purchasing new aircraft. Although the specific discount a customer receives on a particular order is not publicly disclosed, they are generally understood to be in the range of 50% off of list prices, particularly for large customers.[321] Notwithstanding this fact, in calculating the purported number of jobs associated with its Boeing 777-X order, Emirates' assumes that it paid list price for these aircraft, effectively inflating Emirates' jobs claim by approximately 100%.[322]

Moreover, by claiming that its 777-X order will "account for *over* 400,000 new American jobs,"[323] Emirates is also assuming that all 150 aircraft in question will be produced and delivered *in a single year*, even though, these aircraft are currently scheduled to be delivered over the span of 11 years.[324] Simply put, the purported "new American jobs" that Emirates

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[319] *See* Emirates Response, page 177.

[320] *See* "Boeing, Emirates Finalize Order for 150 777X", Boeing Press Release, June 9, 2014: "Boeing (NYSE: BA) and Emirates Airline have finalized an order for 150 777Xs, valued at $56 billion at list prices." The average list price of $373 million per aircraft is consistent with the 2014 list prices on Boeing's website (http://www.boeing.com/company/about-bca/#/prices), which, according to Boeing "reflect an average price reflecting a range of available options and configurations for each model" and includes the engines. *See,* for example, Boeing 777 Factsheet June 2014 which reflects the nearly the same list prices mentioned and includes the engine specification in the factsheet.

[321] *See* "The Secret Price of a Jet Airliner," *The Wall Street Journal*, July 9, 2012 (estimating a 50% discount on Boeing 777-300ERs) and "American EETC Filing Reveals, 777, A319, A321 Market Values," *Aviation Daily*, September 5, 2014 (reporting that the appraised value of a new 777-300ER is approximately $168 million compared to the list price of $330 million).

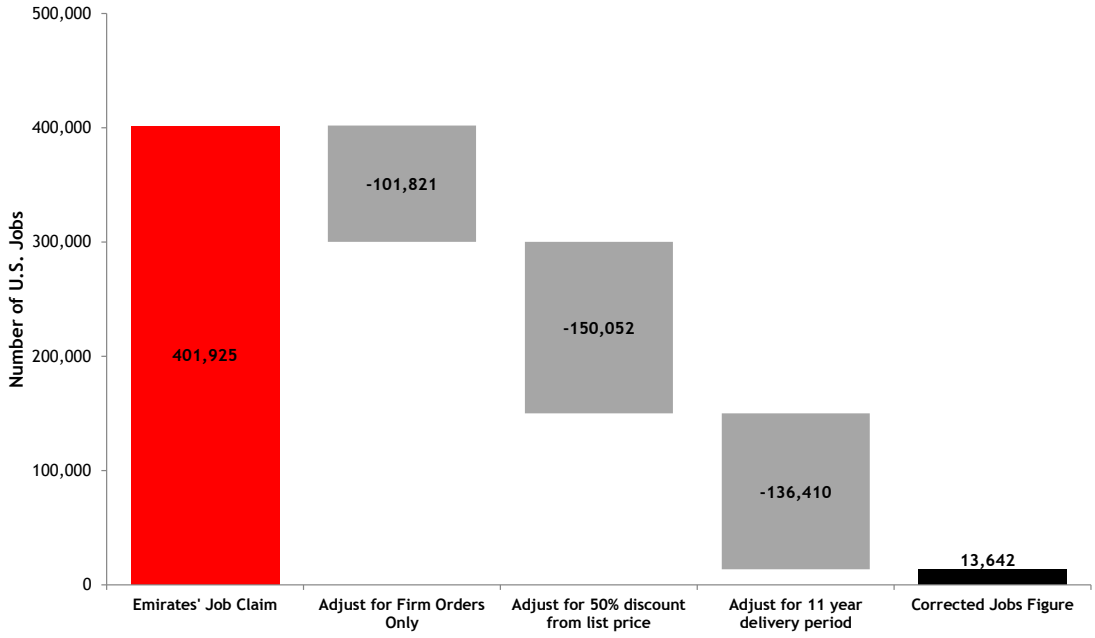
[322] *See* "Boeing, Emirates Finalize Order for 150 777X", Boeing Press Release, June 9, 2014: "Boeing (NYSE: BA) and Emirates Airline have finalized an order for 150 777Xs, valued at $56 billion *at list prices*." (emphasis added). See also "GE's Record Jet Engine Agreements at Dubai Air Show", GE Aviation Press release, November 17, 2013: "Emirates has committed to acquiring 300 GE9X engines for its new 777X fleet. The agreement for the GE9X engines is worth more than $11 billion (USD) *list price*." (emphasis added)

[323] *See* Emirates Response, page 177.

[324] Emirates' 777-X orders are currently scheduled to be delivered between 2020 and 2030. Source: Ascend.

claims will be created because of its 777-X order are not even jobs *per se*, but job-years.[325] Exhibit 34 corrects the inflated jobs claim by Emirates by: (1) limiting the analysis to firm orders only (i.e., reducing the value of the order at list prices from $75 billion to $56 billion); (2) assuming that Emirates received a 50% discount off list prices and, (3) correcting for the fact that the aircraft in question will be delivered over an 11 year period. As shown below, with these three corrections, the number of U.S. jobs that are *potentially* supported by Emirates' order falls by over 96%, from over 400,000 to only 13,642.[326]

EXHIBIT 34: EMIRATES' JOB CLAIMS ASSOCIATED WITH ITS 777-X ORDER IS OVERSTATED NEARLY 30-FOLD



Sources: "Boeing, Emirates Finalize Order for 150 777X", Boeing Press Release, June 9, 2014; Ascend; "Emirates' $76 Billion Boeing Aircraft Order a Boost to U.S. Aviation Industry ," Emirates Airlines; "The Secret Price of a Jet Airliner," *The Wall Street Journal*, July 9, 2012; "American EETC Filing Reveals, 777, A319, A321 Market Values," *Aviation Daily*, September 5, 2014.

[325] The fact that the production of large aircraft orders are spread over many years (and thus, do not support the number of U.S. jobs in the manner calculated by Emirates) was recognized by the U.S.-U.A.E Business Council. *See* "U.S.-U.A.E. Commercial Aviation: Taking Flight, the World's Fastest Growing Bilateral Aviation Relationship", 2013, U.S.-U.A.E Business Council, page 6: "The U.S. Department of Commerce estimates that each one billion dollars in aerospace exports sustains 6,700 jobs, which means that the current U.A.E. order book ($37 billion) will *over time* support more than 200,000 U.S. jobs…" (emphasis added)

[326] Moreover, even the "corrected" job figure from Exhibit 34 overstates the actual number of "net" jobs that are supported by Emirates' order because Emirates' (and the other Gulf carriers') aircraft orders have "crowded out" widebody orders by other carriers that have placed fewer orders than they would have placed but for Gulf carriers' subsidized services.

5) CONCLUSIONS

In our previous studies, we presented rigorous empirical evidence of the substantial and widespread harm suffered by U.S. carriers as a result of the Gulf carriers' subsidized expansion to the United States. Confronted with this evidence, one would have expected the Gulf carriers' rebuttal submissions to contain a meaningful critique of our analyses demonstrating the extent of competitive overlap (e.g., approximately 9,000 city-pairs), the magnitude of the fare suppression (e.g., approximately 13%, on average, on connecting routes served by all three Gulf carriers), or the loss of passengers suffered by U.S. carriers at the expense of Gulf carriers' subsidy-fueled capacity expansion to the United States (e.g., approximately 24%, on average, when all three Gulf carriers were present on a city-pair).[327] Instead, however, the Gulf carriers have chosen to ignore most of the key evidence of harm established in our previous studies.

Moreover, where the Gulf carriers' submissions do attempt to address the analyses in our studies, their rebuttal is predicated on assumptions that are simply wrong (e.g., *"the Legacy Carriers serve only two U.S.-Indian Subcontinent city pairs with their own aircraft*"[328]), mischaracterize the nature of airline competition (e.g., *"Qatar Airways does not compete against US carriers"*[329]) or rely on suspect data. Furthermore, lacking any meaningful rebuttal of what our previous studies actually found, the Gulf carriers' submissions also resort to refuting illogical straw man arguments related to demand stimulation that they falsely attribute to our studies.

In sum, given that the Gulf carriers' submissions have systematically ignored virtually all of the competition that exists between U.S. and Gulf carriers, it should come as no surprise that they have reached the conclusion that "adverse effects are nowhere to be found."[330] While this approach provides the Gulf carriers with colorful soundbites to distract readers from noticing the lack of substance in their submissions, it does not (and cannot) alter the fact that Gulf carriers and U.S. carriers compete on thousands of city-pairs. Nor can it refute our empirical finding that

[327] Price suppression and passenger diversion findings based on Gulf carrier presence measured using the 3% threshold.

[328] *See* Emirates Response, page 114.

[329] *See* Qatar Comments, page 43.

[330] *See* Emirates Response, page 94.

their subsidized expansion has severely harmed U.S. carriers by suppressing their fares and diverting traffic flows that had previously flown on U.S. carriers.

APPENDIX A: SUMMARY OF MAIN POINTS

Initial Harm Analysis	Gulf Carrier Rebuttal			Response
	Emirates	**Etihad**	**Qatar**	
Gulf carriers have caused substantial and widespread harm to U.S. carriers	"…adverse effects are nowhere to be found" (*See* Emirates Response, page 94).	"While the Big 3 carriers have rolled out their 'parade of horribles,' they have failed to identify *any* tangible harm to themselves, or to consumer welfare" (*See* Etihad Response, pages 5-6).	"The Big Three have failed to show **any** harm from services operated by Qatar Airways…" (*See* Qatar Comments, page 39).	Gulf carrier submissions systematically assume away virtually all of the competition that exists between U.S. and Gulf carriers (*See* Response, Section 2).
Gulf carriers overlap with U.S. carriers on approximately 9,000 city-pairs spanning destinations throughout Asia, the Middle East, Africa, and Australasia	U.S. carriers "compete with Emirates only on a few routes" (*See* Emirates Response, page 87). "…the Legacy Carriers serve only two U.S.-Indian Subcontinent city pairs with their own aircraft" (*See* Emirates Response, page 114).	Unrebutted in submission	"Qatar Airways does not compete against US carriers" (*See* Qatar Comments, page 43). "Qatar Airways does not compete against any US carrier on any nonstop route" (*See* Qatar Comments, page 2).	As even Edgeworth Economics correctly observes, competition occurs at the city-pair level, not on the non-stop overlapping routes. (*See* Edgeworth Report, pages 4-5: "The appropriate level of analysis when examining competitive alternatives for passenger air travel is between origin and destination combinations and not between a particular carrier's hub (i.e., Abu Dhabi) and a destination"). United serves 232 city pairs in addition to the two claimed by Emirates (*See* Response Exhibit 2); combined with their JV partners, U.S. carriers offer service on over 1,800 city-pairs between the United States and the Indian Subcontinent (*See* Response footnote 59).
Gulf carriers have expanded their capacity far in excess of underlying demand growth	Gulf carriers serve regions of the world with relatively faster GDP growth (*See e.g.,* Emirates Response, page 135; Qatar Comments, page 41; Edgeworth Report, page 28).			More than half of Gulf carrier bookings are for travel to/from a developed economy with relatively slower GDP growth (*See* Response Exhibit 4).

Initial Harm Analysis (continued)	Gulf Carrier Rebuttal			Response
	Emirates	Etihad	Qatar	
Gulf carriers have expanded their capacity far in excess of underlying demand growth		Implied rate of demand growth for emerging and developing Asia should average around 13% (*See* Edgeworth Report, page 29-30). Edgeworth speculates that Etihad is meeting "pent-up demand" to the Indian Subcontinent by observing that as the carrier "… increased the annualized number of total seats flown between U.S. and Abu Dhabi from 192,000 in 2009 to 845,000 in 2014, the load factor actually *increased*…" (*See* Edgeworth Report, page 26).		Edgeworth's own exhibits indicate that demand growth between the United States and Indian Subcontinent has averaged 6.2% since 2009 (*See* Response Exhibit 5). Between 2008 and 2014, Gulf carrier capacity to the U.S. grew at more than ten times the rate of overall booking growth (*See* Response Exhibit 6). Between year ending October 2012 and year ending October 2014, as Etihad increased its available seats to the U.S. by over 73%, the carrier's load factor actually declined by eight percentage points (*See* Edgeworth Report, Exhibit 14).
Regression and non-regression analyses demonstrate that Gulf carrier presence suppresses U.S. carriers' fares	Unrebutted in submission.	Unrebutted in submission.	Unrebutted in submission.	Gulf carriers have ignored these key aspect of harm (*See* Response, Section 2c).
Estimated fare suppression from Gulf carriers is more than 10 times as large as non-Gulf competitors	Unrebutted in submission.	Unrebutted in submission.	Unrebutted in submission.	
Glut of subsidized capacity has prevented U.S. carriers from restoring/expanding service to India	"…the Legacy carriers have declined to commit capacity to this expanding market…" (*See* Emirates Response, page 116).	"Instead, they have chosen not to serve these important regions themselves and yet seek to block others from doing so" (*See* Etihad Response, page 9).	"US carriers for years have largely ignored the US-ISC market…" (*See* Qatar Comments, page 40).	Between 2003 and 2008, U.S. carriers and their JV partners had been rapidly expanding their service to India to capitalize on the growing market (*See* Response Exhibit 15). India is—by a wide margin—the largest market not served non-stop by American and Delta (*See* Response Exhibit 16).

Initial Harm Analysis (continued)	Gulf Carrier Rebuttal			Response
	Emirates	Etihad	Qatar	
Glut of subsidized capacity has prevented U.S. carriers from restoring/expanding service to India	"…the supposed competition for the Legacy Carriers' discontinued *non-stop* flights [to India] consisted of the Gulf Carriers' *one-stop* flights" (*See* Emirates Response, page 118).		"The Big Three have contended that Sixth Freedom services operated by Gulf carriers between the United States and India might somehow preclude their own introduction of nonstop service in the market. These claims ring hollow… consumers prefer non-stop services over one-stop and multi-stop alternatives" (*See* Qatar Comments, footnote 157).	Approximately 95% percent of bookings between the United States and Indian Subcontinent were connecting itineraries (*See* Response Section 2 (d) i.). More than 60% of the bookings between New York City and Mumbai/Delhi—the only two U.S.-India city-pairs that still have non-stop service on a U.S. carrier—use connecting services (particularly those on the Gulf carriers) (*See* Response Exhibit 14).
Gulf carrier share gains have come at the expense of U.S. and other carriers (e.g. to/from the Indian Subcontinent)	"…the Legacy Carriers and their joint venture partners have enjoyed *growth,* not decline, in U.S.-Indian Subcontinent bookings" (*See* Emirates Response, page 114).	"U.S. carriers still served *more passengers* because the overall volume of travel expanded" (*See* Edgeworth Report, page 33).	"…while the Big Three's market share may have declined, the number of passengers they carry has increased in absolute terms" (*See* Qatar Comments, page 7).	Gulf carrier claims are dependent on the use of 2009 (the year IATA described as "the worst year the industry has ever seen") as the starting year; since 2008, the U.S./JV bookings to the Indian Subcontinent have declined (*See* Response Exhibit 17). Even since 2009, U.S. carrier bookings between the United States and Indian Subcontinent have substantially declined (*See* Response Exhibit 18).
The Gulf carriers divert passenger flows that previously flew on U.S. carriers and their JV partners.	"… Emirates' entry has grown the pie…allowing Emirates to grow without significantly diverting passengers from the Legacy Carriers" (*See* Emirates Response, page 103).	Acknowledges that: "'taking passengers away from other countries' carriers' is consistent with precisely the kind of competitive process that benefits consumers" (*See* Edgeworth Report, page 26).	"Qatar Airways does not compete against US carriers" (*See* Qatar Comments, page 43). "Aside from the fact that it has no nonstop route overlaps with any US carrier, Qatar Airways also notes that it has almost no one-stop overlap with US carriers either" (*See* Qatar Comments, page 43).	In the year following Emirates' entry in cities such as Boston, Dallas, Seattle and Washington, D.C., U.S. carriers and their JV partner carriers experienced sharp declines in bookings to the destinations served by Gulf carriers (*See* Response Exhibits 20 and 21).
Regression analyses show that Gulf carrier presence lowers the number of passengers on U.S. carriers	"There is reason to believe, for example, that the model builds in the assumption that incumbent carriers will share proportionately in traffic growth" (*See* Emirates Response, page 138).	Models are "fundamentally flawed" (*See* Edgeworth Report, page 2).	Unrebutted in submission.	Contrary to Emirates' conjecture, our regression models use the *number* of passengers, not shares. Technical criticisms of our diversion regression models are without merit (*See* Response Section 2 (e) ii.). Core findings are robust to all of Edgeworth's alleged technical criticisms (*See* Response Exhibit 23).

Initial Claims (Stimulation)	Gulf Carrier Rebuttal			Response
	Emirates	Etihad	Qatar	
Gulf carriers have failed to meaningfully stimulate traffic to/from the United States		Findings are "predicated on the notion that new entrants must 'stimulate demand' by serving only customers not already served by an incumbent U.S. carrier" (*See* Edgeworth Report, page 2).	"There is no requirement anywhere that a new entrant in a market accommodate only new (or stimulated) demand" (*See* Qatar Comments, footnote 138).	Neither Etihad nor Qatar dispute our finding that Gulf carriers have failed to meaningfully stimulate new demand. Edgeworth falsely asserts that our study "does not explain this concept [of demand stimulation]" and therefore assumed "it to mean servicing a customer who would not otherwise be serviced by U.S. carriers" even though this (illogical) concept is nowhere to be found in our study (*See* Response Section 3(a)).
	"The Legacy Carriers' argument is premised on the disturbing assumption that existing carriers are entitled to their existing traffic as well as a share of market growth: in other words, to be insulated from competition" (*See* Emirates Response, page 102).	"The Compass Lexecon Report fails to point to any economic or legal doctrine which indicates that an incumbent is *entitled* to the customers it serves and the only way for new entrants to compete 'fairly' is to sell their products to customers *who would not otherwise purchase from the incumbent*" (*See* Edgeworth Report, par. 60).	"Qatar Airways takes exception to any assertion that it 'steals' traffic from US carriers. As a practical matter, carriers do not own or have any entitlement to 'their' passengers, who are free to choose their service on the basis of price and convenience" (*See* Qatar Comments, page 43).	No such claim to "entitlement" can be found in our studies. The Gulf carriers' claims amount to nothing other than a straw man.
	"Massive, worldwide econometric analysis is a poor tool to resolve questions of stimulation" (*See* Emirates Response, page 103).			Emirates' CEO publicly endorsed other econometric analyses using the same "massive, worldwide" scope to support its claim that it stimulates demand as recently as March, 2015 (*See* Response Section 3(b)).
		"…the Compass Lexecon Report provides no explanation as to why Etihad is responsible for 'stimulating demand' between the U.S. and the rest of the world on routes where it does not compete" (*See* Edgeworth Report, page 72).		No explanation was provided because our studies have made no such claim.
		Models are "fundamentally flawed" (*See* Edgeworth Report, page 2).		Technical criticisms of our stimulation regression models are without merit (*See* Response Section 3 (c)). Core findings are robust to all of Edgeworth's alleged technical criticisms (*See* Response Exhibit 24).

Initial Claims (Stimulation)	Gulf Carrier Rebuttal			Response
	Emirates	Etihad	Qatar	
Gulf carriers have failed to meaningfully stimulate traffic to/from the United States	"Massive, worldwide econometric analysis is a poor tool to resolve questions of stimulation. Because Emirates serves only a small number of U.S. markets, the data can be examined directly" (*See* Emirates Response, pages 103-109).			Emirates' MIDT data is highly suspect and shows 60% more growth than the average of comparable MIDT data from Etihad, Qatar, American, Delta, and United (*See* Response Exhibit 25). Recreating Emirates' "stimulation" exhibits with Delta's MIDT data shows substantially less traffic growth (*See* Response Exhibits 26 - 29). By ignoring other factors such as underlying economic growth, diversion from nearby airports and destination substitution, Emirates' "simple" methodology falsely attributes all traffic growth to its entry (*See* Response Sections 3(d)(ii) – 3(d)(v)).
Economic Impact	**Gulf Carrier Rebuttal**			**Response**
	Emirates	**Etihad**	**Qatar**	
Gulf carriers' subsidized expansion threatens U.S. jobs	"…current level of non-stop service to the Middle East creates $4.7 billion in annual economic benefit (output) in the U.S. economy" and supports "40,000 jobs" (*See* Emirates Response, pages 177-178).	"In 2015 the economic footprint of Etihad's visitor arrivals will be an estimated US $1.6 billion contribution to the GDP of the USA, and some 19,400 jobs across the country" *(See* Oxford Etihad study, page 23).	"Qatar Airways estimates that its services help to sustain more than 27,000 jobs, and that the visitors it carries contribute $900 million to the US economy" (*See* Qatar Comments, page 56).	The entirety of these employment claims are predicated on the incorrect assumption that 100% of foreign-originating passengers onboard their flights to the United States <u>*would not have visited*</u> but for their services. (*See e.g.,* Emirates Response, page 178 figure V-5, note 1).
	"Emirates' order from Boeing of the new B777X would alone account for over 400,000 new American jobs" (*See* Emirates Response, page 177).			By relying on list (rather than actual) prices, assuming all aircraft would be delivered in one year, and including options rather than firm orders, Emirates overstates its job claim by a factor of 30 (*See* Response Exhibit 32). Emirates has failed to demonstrate that their aircraft orders represent additional "net" aircraft orders for Boeing; because Emirates' and the other Gulf carriers divert (rather than stimulate) traffic, their aircraft orders come at the expense of other carriers' orders (*See* Response Section 4(b)).

APPENDIX B- 1: UPDATE TO EXHIBIT 18 OF APRIL 9 IMPACT STUDY USING UPDATED MIDT DATA

	(1) Gulf Carrier U.S. Gateways	(2) Gateways
Number of Gulf Carriers Present	-0.0441**	-0.0112**
	(0.00242)	(0.00164)
Number of Non-Gulf Carriers Present	-0.00397**	0.00126**
	(0.000760)	(0.000469)
ONLINE	-0.0697**	-0.0359**
	(0.00267)	(0.00171)
ALLIANCE	0.0346**	0.0141**
	(0.00284)	(0.00195)
ATI	-0.0860**	-0.0646**
	(0.00255)	(0.00165)
COUPONS	-0.0603**	-0.0394**
	(0.00136)	(0.000986)
US Point of Sale	0.0940**	0.0270**
	(0.00119)	(0.000738)
INCOME	5.88e-06**	5.57e-06**
	(7.72e-07)	(5.09e-07)
POP	-1.19e-08**	-2.74e-08**
	(8.58e-10)	(1.11e-09)
Constant	6.650**	6.677**
	(0.0384)	(0.0233)
Observations	883,978	2,220,180
R-squared	0.267	0.246

* p<0.05, ** p<0.01
Sources: U.S. DOT DB1B; MIDT; World Bank; BEA.
Notes: Robust standard errors in parenthesis. Regression covers the period 2008-2014 Q3 (quarterly) and reflects all round-trip passengers. Includes Carrier, City-Pair, Year, and Quarter Fixed Effects (not shown). Includes passengers on mainland U.S-international city-pairs , except itineraries to/from North America and South America. Excludes itineraries on city-pairs where any carrier offered non-stop service in that quarter. A carrier is present on a city-pair in a quarter if its share of MIDT bookings on a city-pair is at least 3%. A booking belongs to the carrier operating the longest total distance. Population and Income are annual. 2014 population and income based on 2013 grown at the cumulative average growth rate from 2008-2013. Gulf Carrier U.S. Gateways includes itineraries to/from: New York City (EWR, JFK, LGA), Chicago (ORD, MDW), Houston (IAH, HOU), Los Angeles (LAX, LGB, BUR), Washington D.C. (IAD, DCA, BWI), Seattle (SEA), Dallas/Fort Worth (DFW, DAL), San Francisco (SFO, OAK), Boston (BOS), Philadelphia (PHL), and Miami (MIA,FLL). Includes flights where the longest segment was operated or marketed by a U.S. carrier (e.g., American, Continental, Delta, Northwest, US Airways, United), or one of their JV Partners.

APPENDIX B- 2 : UPDATE TO EXHIBIT 19 OF APRIL 9 IMPACT STUDY (EXHIBIT 7 OF MAY 13 TRAFFIC STUDY) USING UPDATED MIDT DATA

	US Carrier Passengers (DB1B)			US + JV Carrier Bookings (MIDT)			Other Non-Gulf Foreign Carriers (MIDT)		
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Gulf Carrier U.S. Gateways	Behind Gulf Carrier U.S. Gateways	All Cities	Gulf Carrier U.S. Gateways	Behind Gulf Carrier U.S. Gateways	All Cities	Gulf Carrier U.S. Gateways	Behind Gulf Carrier U.S. Gateways	All Cities
Number of Gulf Carriers Present	-0.0861**	-0.0866**	-0.0873**	-0.108**	-0.0867**	-0.102**	-0.122**	-0.0395**	-0.108**
	(0.0146)	(0.00588)	(0.00871)	(0.00874)	(0.00435)	(0.00580)	(0.0149)	(0.00859)	(0.0124)
ln(Population)	1.694**	1.622**	1.748**	1.387**	1.884**	1.731**	-1.883**	2.359**	-1.403**
	(0.262)	(0.107)	(0.134)	(0.183)	(0.103)	(0.118)	(0.446)	(0.284)	(0.370)
ln(Income per Capita)	1.819**	0.814**	1.378**	1.102**	0.315**	0.793**	1.195**	0.823**	1.184**
	(0.123)	(0.0569)	(0.0762)	(0.101)	(0.0606)	(0.0690)	(0.127)	(0.132)	(0.115)
D(Quarter 2)	0.364**	0.413**	0.387**	0.281**	0.299**	0.287**	0.154**	0.126**	0.150**
	(0.00803)	(0.00450)	(0.00497)	(0.00655)	(0.00464)	(0.00459)	(0.00975)	(0.00922)	(0.00848)
D(Quarter 3)	0.430**	0.368**	0.403**	0.405**	0.330**	0.379**	0.300**	0.166**	0.281**
	(0.00884)	(0.00445)	(0.00537)	(0.00755)	(0.00534)	(0.00524)	(0.0111)	(0.00967)	(0.00971)
D(Quarter 4)	0.196**	0.152**	0.177**	0.129**	0.0814**	0.113**	0.0434**	-0.0485**	0.0296**
	(0.00943)	(0.00498)	(0.00593)	(0.00755)	(0.00523)	(0.00539)	(0.0102)	(0.00978)	(0.00893)
D(2008)	0.206**	0.149**	0.184**	0.165**	0.106**	0.149**	-0.0724*	0.292**	-0.0287
	(0.0209)	(0.0101)	(0.0122)	(0.0159)	(0.0104)	(0.0111)	(0.0342)	(0.0329)	(0.0304)
D(2009)	0.203**	0.105**	0.161**	0.0899**	-0.0264*	0.0509**	-0.174**	0.0746*	-0.145**
	(0.0212)	(0.0102)	(0.0127)	(0.0167)	(0.0108)	(0.0117)	(0.0331)	(0.0320)	(0.0294)
D(2010)	0.213**	0.0956**	0.162**	0.123**	0.0138	0.0862**	-0.115**	0.142**	-0.0840**
	(0.0183)	(0.00860)	(0.0110)	(0.0140)	(0.00939)	(0.00989)	(0.0273)	(0.0263)	(0.0243)
D(2011)	0.138**	0.0427**	0.0965**	0.0712**	-0.0144	0.0428**	-0.158**	0.0811**	-0.129**
	(0.0149)	(0.00714)	(0.00893)	(0.0114)	(0.00816)	(0.00810)	(0.0212)	(0.0205)	(0.0188)
D(2012)	0.0767**	0.0130*	0.0490**	0.0162	-0.0527**	-0.00628	-0.122**	0.0363*	-0.104**
	(0.0126)	(0.00635)	(0.00764)	(0.00996)	(0.00743)	(0.00706)	(0.0173)	(0.0161)	(0.0153)
D(2013)	0.0324**	0.00824	0.0216**	-0.00985	-0.0402**	-0.0202**	-0.0889**	0.0309*	-0.0746**
	(0.0121)	(0.00645)	(0.00741)	(0.00950)	(0.00866)	(0.00692)	(0.0150)	(0.0137)	(0.0132)
Constant	-45.43**	-33.54**	-41.90**	-31.26**	-33.49**	-35.27**	37.21**	-48.96**	26.31**
	(5.550)	(2.183)	(2.864)	(3.890)	(2.026)	(2.500)	(9.615)	(5.987)	(7.950)
Observations	87,021	467,669	554,690	195,711	1,298,000	1,493,711	152,440	573,513	725,953
R-squared	0.968	0.964	0.976	0.985	0.982	0.988	0.971	0.954	0.978

* p<0.05, ** p<0.01

Sources: U.S. DOT DB1B; MIDT; World Bank; BEA.

Notes: Robust standard errors in parenthesis. Passenger Weighted. A Gulf carrier is present on a city-pair in a quarter if its share of MIDT bookings on a city-pair is at least 3. A booking belongs to the carrier operating the longest total distance. A passenger is a U.S. carrier passenger if the operating carrier (on the "overseas" segment for DB1B or on the longest total distance flown for MIDT) of an itinerary was one of the U.S. carriers (e.g., American, Continental, Delta, Northwest, US Airways, United). Regression covers the period 2008/Q1-2014/Q3. Population and Income are annual. 2014 population and income based on 2013 grown at the cumulative average growth rate from 2008-2013. Includes market fixed effects (not shown). Includes passengers on mainland U.S-international city-pairs , except itineraries to/from North America and South America, and itineraries starting or ending in Milan. Gulf Carrier U.S. Gateways includes itineraries to/from: New York City (EWR, JFK, LGA), Chicago (ORD, MDW), Houston (IAH, HOU), Los Angeles (LAX, LGB, BUR), Washington D.C. (IAD, DCA, BWI), Seattle (SEA), Dallas/Fort Worth (DFW, DAL), San Francisco (SFO, OAK), Boston (BOS), Philadelphia (PHL), and Miami (MIA,FLL).

APPENDIX B- 3: UPDATE TO PAGE 17 OF MAY 13, 2015 TRAFFIC STUDY USING UPDATED MIDT DATA

	US Carrier Passengers (DB1B)			US + JV Carrier Bookings (MIDT)			Other Non-Gulf Foreign Carriers (MIDT)		
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Gulf Carrier U.S. Gateways	Behind Gulf Carrier U.S. Gateways	All Cities	Gulf Carrier U.S. Gateways	Behind Gulf Carrier U.S. Gateways	All Cities	Gulf Carrier U.S. Gateways	Behind Gulf Carrier U.S. Gateways	All Cities
Number of Gulf Carriers Present (10%)	-0.176**	-0.123**	-0.153**	-0.195**	-0.172**	-0.187**	-0.232**	-0.136**	-0.216**
	(0.0143)	(0.00752)	(0.00921)	(0.0112)	(0.00531)	(0.00784)	(0.0149)	(0.00781)	(0.0125)
ln(Population)	1.655**	1.560**	1.693**	1.339**	1.855**	1.693**	-1.985**	2.383**	-1.471**
	(0.257)	(0.106)	(0.133)	(0.181)	(0.102)	(0.117)	(0.435)	(0.283)	(0.363)
ln(Income per Capita)	1.835**	0.777**	1.369**	1.136**	0.297**	0.804**	1.253**	0.893**	1.238**
	(0.123)	(0.0569)	(0.0760)	(0.101)	(0.0605)	(0.0686)	(0.127)	(0.130)	(0.115)
D(Quarter 2)	0.364**	0.413**	0.387**	0.281**	0.299**	0.287**	0.154**	0.125**	0.150**
	(0.00802)	(0.00450)	(0.00497)	(0.00654)	(0.00464)	(0.00458)	(0.00973)	(0.00922)	(0.00847)
D(Quarter 3)	0.430**	0.368**	0.403**	0.404**	0.330**	0.379**	0.299**	0.165**	0.280**
	(0.00883)	(0.00445)	(0.00537)	(0.00754)	(0.00534)	(0.00523)	(0.0111)	(0.00966)	(0.00969)
D(Quarter 4)	0.195**	0.152**	0.176**	0.128**	0.0812**	0.112**	0.0406**	-0.0479**	0.0276**
	(0.00942)	(0.00498)	(0.00592)	(0.00754)	(0.00523)	(0.00539)	(0.0102)	(0.00977)	(0.00891)
D(2008)	0.206**	0.147**	0.183**	0.166**	0.105**	0.149**	-0.0693*	0.296**	-0.0255
	(0.0209)	(0.0101)	(0.0122)	(0.0159)	(0.0104)	(0.0111)	(0.0341)	(0.0330)	(0.0303)
D(2009)	0.204**	0.101**	0.160**	0.0923**	-0.0286**	0.0514**	-0.169**	0.0798*	-0.140**
	(0.0212)	(0.0102)	(0.0127)	(0.0167)	(0.0108)	(0.0117)	(0.0330)	(0.0320)	(0.0293)
D(2010)	0.214**	0.0926**	0.161**	0.125**	0.0123	0.0872**	-0.108**	0.147**	-0.0781**
	(0.0183)	(0.00860)	(0.0110)	(0.0140)	(0.00939)	(0.00986)	(0.0272)	(0.0263)	(0.0242)
D(2011)	0.138**	0.0412**	0.0960**	0.0729**	-0.0152	0.0434**	-0.152**	0.0852**	-0.123**
	(0.0149)	(0.00714)	(0.00892)	(0.0114)	(0.00816)	(0.00809)	(0.0211)	(0.0205)	(0.0188)
D(2012)	0.0774**	0.0123	0.0491**	0.0178	-0.0529**	-0.00536	-0.120**	0.0399*	-0.101**
	(0.0126)	(0.00635)	(0.00763)	(0.00996)	(0.00744)	(0.00706)	(0.0172)	(0.0161)	(0.0153)
D(2013)	0.0328**	0.00852	0.0220**	-0.00853	-0.0399**	-0.0192**	-0.0876**	0.0309*	-0.0735**
	(0.0121)	(0.00646)	(0.00741)	(0.00950)	(0.00867)	(0.00692)	(0.0149)	(0.0137)	(0.0131)
Constant	-44.79**	-31.94**	-40.69**	-30.62**	-32.72**	-34.62**	38.78**	-50.10**	27.19**
	(5.441)	(2.166)	(2.830)	(3.826)	(2.001)	(2.474)	(9.379)	(5.969)	(7.793)
Observations	87,021	467,669	554,690	195,711	1,298,000	1,493,711	152,440	573,513	725,953
R-squared	0.968	0.964	0.976	0.985	0.982	0.988	0.971	0.954	0.978

* p<0.05, ** p<0.01

Sources: U.S. DOT DB1B; MIDT; World Bank; BEA.

Notes: Robust standard errors in parenthesis. Passenger Weighted. A Gulf carrier is present on a city-pair in a quarter if its share of MIDT bookings on a city-pair is at least 10%. A booking belongs to the carrier operating the longest total distance. A passenger is a U.S. carrier passenger if the operating carrier (on the "overseas" segment for DB1B or on the longest total distance flown for MIDT) of an itinerary was one of the U.S. carriers (e.g., American, Continental, Delta, Northwest, US Airways, United). Regression covers the period 2008/Q1-2014/Q3 and reflects all round-trip passengers. Population and Income are annual. 2014 population and income based on 2013 grown at the cumulative average growth rate from 2008-2013. Includes market fixed effects (not shown). Includes passengers on mainland U.S-international city-pairs , except itineraries to/from North America and South America, and itineraries starting or ending in Milan. Gulf Carrier U.S. Gateways includes itineraries to/from: New York City (EWR, JFK, LGA), Chicago (ORD, MDW), Houston (IAH, HOU), Los Angeles (LAX, LGB, BUR), Washington D.C. (IAD, DCA, BWI), Seattle (SEA), Dallas/Fort Worth (DFW, DAL), San Francisco (SFO, OAK), Boston (BOS), Philadelphia (PHL), and Miami (MIA,FLL).

APPENDIX B- 4: UPDATE TO EXHIBIT 20 OF APRIL 9, 2015 IMPACT STUDY (REPEATED AS EXHIBIT 9 OF MAY 13, 2015 TRAFFIC STUDY) USING UPDATED MIDT DATA

	All Bookings (MIDT)			All Passengers (T100)		
	(1)	(2)	(3)	(4)	(5)	(6)
	Gulf Carrier U.S. Gateways	Behind Gulf Carrier U.S. Gateways	All Cities	Gulf Carrier U.S. Gateways	Behind Gulf Carrier U.S. Gateways	All Cities
Number of Gulf Carriers Present	-0.00699	0.0316**	0.00267	0.00389	0.0275**	0.00997*
	(0.00734)	(0.00343)	(0.00532)	(0.00660)	(0.00339)	(0.00472)
ln(Income per Capita)	1.405**	0.474**	1.163**	1.923**	0.955**	1.642**
	(0.0740)	(0.0543)	(0.0581)	(0.0754)	(0.0601)	(0.0575)
ln(Population)	1.564**	1.930**	1.730**	2.172**	2.044**	2.199**
	(0.156)	(0.0872)	(0.108)	(0.153)	(0.0864)	(0.105)
D(Quarter 2)	0.239**	0.273**	0.250**	0.242**	0.275**	0.252**
	(0.00560)	(0.00420)	(0.00420)	(0.00599)	(0.00435)	(0.00448)
D(Quarter 3)	0.367**	0.306**	0.350**	0.376**	0.314**	0.358**
	(0.00627)	(0.00482)	(0.00470)	(0.00697)	(0.00477)	(0.00514)
D(Quarter 4)	0.102**	0.0632**	0.0907**	0.135**	0.0915**	0.122**
	(0.00622)	(0.00468)	(0.00471)	(0.00687)	(0.00500)	(0.00519)
D(2008)	0.139**	0.124**	0.136**	0.124**	0.0692**	0.109**
	(0.0136)	(0.00984)	(0.0100)	(0.0155)	(0.0114)	(0.0115)
D(2009)	0.0619**	-0.0162	0.0414**	0.129**	0.0106	0.0943**
	(0.0144)	(0.0104)	(0.0107)	(0.0155)	(0.0119)	(0.0117)
D(2010)	0.0917**	0.0310**	0.0759**	0.0962**	-0.000648	0.0679**
	(0.0118)	(0.00901)	(0.00885)	(0.0132)	(0.0104)	(0.01000)
D(2011)	0.0299**	-0.00222	0.0216**	0.0515**	-0.0111	0.0332**
	(0.00966)	(0.00774)	(0.00726)	(0.0109)	(0.00903)	(0.00835)
D(2012)	-0.0103	-0.0390**	-0.0177**	0.0140	-0.0236**	0.00322
	(0.00832)	(0.00690)	(0.00631)	(0.00986)	(0.00831)	(0.00758)
D(2013)	-0.0263**	-0.0303**	-0.0274**	0.00509	-0.00919	0.000673
	(0.00775)	(0.00771)	(0.00600)	(0.00906)	(0.00833)	(0.00707)
Constant	-37.66**	-35.99**	-38.78**	-55.37**	-42.68**	-52.96**
	(3.405)	(1.745)	(2.332)	(3.307)	(1.761)	(2.276)
Observations	229,130	1,484,990	1,714,120	218,651	1,417,502	1,636,153
R-squared	0.987	0.982	0.989	0.987	0.982	0.989

* p<0.05, ** p<0.01

Sources: U.S. DOT DB1B; MIDT; World Bank; BEA.

Notes: Robust standard errors in parenthesis. Regressions are passenger weighted. A Gulf carrier is present on a city-pair in a quarter if its share of MIDT bookings on a city-pair is at least 3%. A booking belongs to the carrier operating the longest total distance. All Passenger (T100) is the total US DOT T100 long haul international passengers for each carriers, allocated to city-pairs based on MIDT proportions to each citypair. A passenger is a U.S. carrier passenger if the operating carrier (on the "overseas" segment for DB1B or on the longest total distance flown for MIDT) of an itinerary was one of the U.S. carriers (e.g., American, Continental, Delta, Northwest, US Airways, United). Regression covers the period 2008/Q1-2014/Q3 (T100 regressions through 2014Q2). Population and Income are annual. 2014 population and income based on 2013 grown at the cumulative average growth rate from 2008-2013. Includes market fixed effects (not shown). Includes passengers on mainland U.S-international city-pairs , except itineraries to/from North America and South America, and itineraries starting or ending in Milan. Gulf Carrier U.S. Gateways includes itineraries to/from: New York City (EWR, JFK, LGA), Chicago (ORD, MDW), Houston (IAH, HOU), Los Angeles (LAX, LGB, BUR), Washington D.C. (IAD, DCA, BWI), Seattle (SEA), Dallas/Fort Worth (DFW, DAL), San Francisco (SFO, OAK), Boston (BOS), Philadelphia (PHL), and Miami (MIA,FLL).

EXHIBIT 8

AFFIDAVIT OF DANIEL M. KASPER

August 24, 2015

I. IDENTIFICATION & ASSIGNMENT

1. My name is Daniel M. Kasper and I am a Senior Consultant for Compass Lexecon. I have extensive experience with the airline industry and its economics, including over 30 years of consulting experience in the airline and aerospace industries. In addition, I served as a senior executive at the United States Civil Aeronautics Board ("CAB" or "Board") between 1979 and 1983, for most of that time as Director of the Bureau of International Aviation. I have also served on the faculties of the Harvard Business School and the University of Southern California School of Business Administration where I focused on the economics and regulation of airlines and other industries. In 1993 I was appointed as one of 15 voting members of the National Commission to Ensure a Strong and Competitive Airline Industry, a body created by Congress to evaluate and make recommendations on how to improve the performance of the U.S. airline and aerospace industries. I have also served as a consultant to the U.S. Departments of Transportation, State and Defense on various aviation industry matters, including bilateral disputes over airport rates and charges. In addition, I have testified on numerous occasions as an expert on airline and aviation industry matters before courts and federal administrative agencies, as well as legislative bodies and antitrust authorities both in the United States and abroad. I hold two degrees from the University of Chicago, a Master in Business Administration and a Juris Doctorate, as well as a Bachelor of Arts degree from the University of Kansas. My curriculum vitae is attached as Appendix A.

2. I have extensive experience with international aviation agreements and U.S. international policy. As Director of International Aviation at the CAB, I was responsible for the development and exercise of the Board's wide-ranging regulatory authority over international aviation matters. I was also responsible for developing the Board's recommendations with regard to U.S. negotiating positions, strategies and tactics. In addition to my involvement in the development

the U.S. "Open Skies" policy, I was actively involved in negotiating of numerous bilateral (and multilateral) agreements. I have also written a book and several scholarly articles on international aviation and aviation negotiations.

3. During my tenure at the CAB, the Board led the U.S. Government efforts to develop and implement a new, liberalized aviation policy that became known as the "Open Skies" policy. I was closely and directly involved with those efforts, including the development of a model "Open Skies" bilateral agreement. The policy and the model bilateral were designed to open international aviation markets, which were then highly restricted, to expanded competition from both new entrants and established airlines. The way we sought to accomplish that goal was by negotiating new bilateral air service agreements that substantially reduced the restrictions contained in then-existing air service agreements that had precluded free and fair airline competition in international aviation markets.

4. I have been retained by Wilmer Hale and asked to respond to certain claims made by Emirates Airlines – and echoed by some other commenters – with regard to the proper interpretation of certain provisions dealing principally with the fair and equal opportunity to compete, pricing and consultations.

II. BACKGROUND ON THE HANDLING OF SUBSIDIES UNDER U.S. AIR SERVICE AGREEMENTS

5. In its Response dated June 29, 2015, Emirates claims: (a) that the "fair and equal opportunity" provisions contained in Article 11 of the U.S.-UAE Open Skies Agreement do not apply to subsidies (p. vi., p. 74); (b) that "Article 10 is the only law applicable to user charges" (p. 28); and (c) that Article 12 (Pricing) "represents the exclusive remedy for subsidy concerns" (p. vi).

6. Not only are these assertions wrong as a matter of law, as explained in comments filed by the Partnership for Open and Fair Skies,[1] but they are also directly contrary to – and completely inconsistent with – the views of U.S. aviation policy makers and negotiators (myself included) dating back to the beginning of U.S. efforts to open U.S. international aviation markets to expanded competition by negotiating new bilateral (and subsequently, multilateral) agreements that became known as "Open Skies" agreements.

7. At the time the C.A.B. first began its push (in the late 1970's) to open U.S. international airline markets to expanded competition, we were well aware that most airlines outside of the United States were either state-owned or state-supported and that many were subsidized either directly or indirectly by their national governments. We were also well aware that such subsidies could disadvantage U.S. airlines by tilting the playing field to advantage the subsidized carriers[2] and thereby distorting competition.

8. In addition, U.S. aviation policy makers were acutely aware that the shift from the then-prevailing (Bermuda I) bilaterals to Open Skies agreements would result in the elimination of bilateral provisions governing fares, routes and entry (designations) that had theretofore allowed the U.S. Government to effectively limit the harm to U.S. airlines by subsidized foreign competitors. And we also knew from experience that there were many possible ways – both direct and indirect – that governments might seek to subsidize (and otherwise unfairly advantage) their national carrier(s).[3]

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[1] See: Section III, Comments of the Partnership for Open and Fair Skies On the Responses of Qatar Airways, Etihad Airways, and Emirates Airlines, August 24, 2015.

[2] As one U.S. airline executive colorfully put it, competing with a [specific] state-owned airline is "like asking U.S. carriers to 'engage in a bleeding contest with a blood bank.'" From Daniel M. Kasper, *Deregulation and Globalization: Liberlizing Interantional Trade in Air Services*, Ballinger Publishing Company, 1988, pp. 70 - 71.

[3] Nor was the threat posed by subsidies lost on subsequent U.S. aviation policy makers. See, for example, *Statement of United States International Air Transportation Policy*, Fed. Register Notice 95-10584, pp. 21843 - 21844: "Some national governments continue to give their national airlines financial aid. Some also distort the marketplace by permitting their national airlines to maintain ground-handling and other

9. In light of political opposition to our efforts to liberalize competition in international aviation markets, we recognized that if the Open Skies initiative were to move forward, it was essential that the U.S. Government maintain the ability to respond effectively in cases where other governments sought to use subsidies to distort competition and unfairly disadvantage U.S. airlines. In short, it was clear that our ability to pursue the Open Skies aviation policy depended – for both policy and political reasons – on maintaining the right under our aviation agreements to protect against subsidies and other market distorting activities by foreign governments.

10. The use of government subsidies to finance below cost pricing by state-owned carriers was the most salient concern at that time, and it was specifically mentioned in the pricing article of U.S. air service agreements. However, we were also well-aware, from first-hand experience, that subsidies could adversely and unfairly impact U.S. airlines in other ways than by directly supporting below-cost pricing.[4] Hence, it was clear to us that any new aviation agreements would have to retain the U.S. Government's ability to respond to subsidies in myriad of possible guises. In this regard, the "fair and equal opportunity to compete" article contained in the new bilateral agreements was critical. Such provisions had been included in U.S. air service agreements dating back to the 1940's, and these provisions had proven to be a flexible and effective vehicle for responding to the wide range of ways – both anticipated and unanticipated – that governments might use to unfairly advantage their carriers.

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monopolies, by denying airlines access to necessary airport facilities, or by allowing user fees that equalize cost differentials between carriers."

[4] For example, the United States challenged British subsidies that allowed British Airways to operate the Concorde on routes where British Airways competed with U.S. airlines, notwithstanding the fact that prices for the Concorde service typically exceeded those on the sub-sonic aircraft used by U.S. airlines. Likewise, the U.S. challenged fuel price subsidies by several governments which allowed foreign carriers to add or maintain capacity in competition with U.S. airlines that they would have been unable to do "but for" the subsidies. See *Complaint of Pan American World Airways, Inc. Against the Government of the United Kingdom and British Airways and In re Miami-London Concorde Fare of British Airways, Order Consolidating Complaints and Instituting Investigation*, Order 84-6-70, June 22, 1984 (DOT Dockets 41909 and 41956), Appendix A. See also, Fn. 3, *supra*.

11. Rather than seeking to specify in advance every possible means by which governments might attempt to unfairly advantage their own airlines at the expense of U.S. carriers, we therefore continued the longstanding U.S. practice of relying on the "fair and equal opportunity clause," which utilized a more flexible, "common law" approach based on the specific facts of each case.

12. The wisdom of the U.S. Government's reliance on this flexible approach is illustrated in the present case. At the time the United States first initiated the "Open Skies" strategy, it is fair to say that we did not anticipate that the type of fully integrated national strategy now employed by the Gulf States to benefit their airlines at the expense of U.S. (and other) international airlines could or would be successfully implemented.[5] Like previous U.S. aviation policy makers and negotiators, however, we did not rely on our ability to predict – and specify in advance – all the ways governments might seek to unfairly benefit their carriers. Rather, we relied on availability of the fair and equal opportunity article as the primary vehicle to protect against market distortions resulting from foreign government subsidies.

III. Conclusion

13. Since the dawn of modern international aviation, the United States has relied on the fair and equal opportunity to compete provisions contained in every U.S. air service agreement as protection against the harmful, market distorting effects of foreign government policies designed to advantage their national airlines at the expense of

[5] See, *Statement of United States International Air Transportation Policy*, Fed. Register Notice 95-10584, at 21844: "These actions [that] distort competition...will be unsuccessful in providing long term protection ... because no individual government can control all facets of its airlines' marketplace." In light of the generally poor performance of state-owned airlines at the outset of the "Open Skies" initiative as well as the failure of most governmental attempts to create "national champions" in other sectors, our main concern regarding subsidies was that foreign governments would use subsidies as a shield to protect their inefficient carriers from US carrier competition in 3rd and 4th freedom markets rather than as a sword to attack and dominate not only 3rd/4th but also 5th/6th freedom markets.

U.S. carriers. And contrary to Emirates' position, U.S. concerns about subsidies and other market distorting activities by foreign governments did not end with the advent of "Open Skies." Rather, ensuring "that competition is fair and the playing field is level by eliminating marketplace distortions, such as government subsidies..." was specifically cited as an objective of U.S. "Open Skies" aviation policy.[6] This history, plus the patently obvious regulatory, negotiating and political concerns that arose from the elimination of bilateral provisions that had limited the potential of subsidies to distort competition and harm U.S. carriers under pre-Open Skies bilaterals, makes abundantly clear the total implausibility of Emirates' claim that the fair and equal opportunity to compete article was not intended to apply to state subsidies.

[6] See, *Statement of United States International Air Transportation Policy*, Fed. Register Notice 95-10584, p. 21844.

Appendix A: Curriculum Vitae of Daniel M. Kasper

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PROFESSIONAL EXPERIENCE:

Compass Lexecon, Boston, MA
Senior Consultant, March 2011-Present
Mr. Kasper's practice focuses on economic, financial, labor, regulatory and competition policy issues in the transportation industries. Mr. Kasper's consulting clients have included most major U.S. airlines, several foreign airlines, the Air Transport Association, the American Association of Railroads, among others. In addition to consulting, Mr. Kasper is an experienced expert witness who has testified in numerous matters in the U.S. and Canada. His expert testimony includes matters before legislative bodies (U.S. and Canada), U.S. Executive Agencies (U.S. Department of Transportation, U.S. Department of Labor, National Mediation Board), Presidential Emergency Boards, arbitration panels, and courts in the United States and Canada on a range of transportation industry economic issues.

PREVIOUS PROFESSIONAL EXPERIENCE:

November 1997-February 2011: *Managing Director & Head of the Transportation Practice*, Cambridge, MA Office, LECG (formerly, The Law & Economics Consulting Group)

Mr. Kasper was the founding director of LECG's Cambridge office and head of the firm's transportation practice. LECG was a leading provider of expertise to domestic and international clients in complex matters involving economics, finance and accounting.

1993-1997: *Partner and Chairman, Transportation Industry Program*, COOPERS & LYBRAND CONSULTING

Mr. Kasper joined Coopers & Lybrand in 1993 (when C&L acquired Harbridge House, Inc.). He headed C&L's Transportation Industry Program and directed a number of engagements involving domestic and international transportation clients in both the private and public sectors including major airlines, railroads

(AMTRAK, the MBTA), airports, and turnpike authorities in Massachusetts and New Jersey. He also led a Congressionally-mandated review of the Federal Aviation Administration's performance and financial requirements.

1993: *Member, National Commission to Ensure a Strong and Competitive Airline Industry*

In 1993, Mr. Kasper was appointed as one of fifteen voting members of the U.S. National Airline Commission, which was created by an act of Congress to assess the causes and potential cures for the economic troubles then plaguing the U.S. airline industry. After conducting extensive public hearings and analyses, the Commission submitted its Report and recommendations to the President and Congress in September of 1993. These recommendations included a number of proposed changes in Federal regulatory policy.

1983-1993: *Vice President and Corporate Director,* HABRIDGE HOUSE, Inc.

Mr. Kasper managed the firm's transportation practice and was responsible for a wide array of projects involving domestic and international transportation issues affecting every mode of transportation. His clients included the U.S. Secretary of Transportation (assistance in preparing the National Transportation Policy Statement including analyses of issues affecting all transport modes) and the Office of the Secretary of Defense (analysis of the Civil Reserve Air Fleet Program).

1979-1983: UNITED STATES CIVIL AERONAUTICS BOARD

Director of International Aviation: Mr. Kasper served as Director of International Aviation, the Board's primary advisor and chief line officer for all matters involving international aviation. Mr. Kasper frequently represented the Board at sub-Cabinet meetings and on inter-agency working groups responsible for developing trade sanctions and other responses to international aviation disputes.

1976-1981: *Faculty,* HARVARD BUSINESS SCHOOL

While on the faculty of the Harvard Business School, Mr. Kasper focused on the impact of alternative forms of government regulation on the management and performance of business organizations and on the study of national economic policies and strategies. Mr. Kasper authored a number of case studies and articles on various aspects of the transportation and telecommunication industries.

While at Harvard, Mr. Kasper was also a member and active participant in the Harvard Regulatory Reform Project conducted under the auspices of the Kennedy School of Government. He also consulted with firms in the telecommunications

and computer industries to help them anticipate and prepare for the impact of telecommunications deregulation on their businesses.

1971-1976: *Faculty*, UNIV. OF SOUTHERN CALIFORNIA SCHOOL OF BUSINESS ADMINISTRATION

While at USC, Mr. Kasper developed, administered and taught courses dealing with the control of business activities by means of direct government regulation, the enforcement of private contracts, and through the use of tort law. His research focused on the regulation of transportation, telecommunications industries and workplace safety. He also served as a member of the Faculty Senate.

EDUCATION:

Bachelor of Arts, Political Science, University of Kansas

Master in Business Administration, University of Chicago

Juris Doctorate, University of Chicago

TESTIMONY SINCE SEPTEMBER 2006

US Airways, Inc., v. Sabre Holdings Corporation; Sabre Inc.; and Sabre Travel International, Limited.

Expert Report regarding the evolution of Global Distribution Systems. The United States District Court for the District of New York, Civil Action No. 1:11-cv-02725-MGC.

United States of America, *et al.* v. US Airways Group, Inc., *et al.*

Expert Report regarding proposed merger of American Airlines and US Airways. The United States District Court for the District of Columbia, Civil Action No. 13-1236, 2013.

In re: Pinnacle Airlines Corp., *et al.*, Debtors.

Expert Declaration, deposition and trial testimony regarding airline industry economics, finance and competition. The United States Bankruptcy Court for the Southern District of New York, Chapter 11, Case No. 12-11343 (REG), 2012.

In re: AMR, Corporation, *et al.*, Debtors.

Expert Declaration, deposition and trial testimony in regarding airline industry economics, finance and competition. The United States Bankruptcy Court for the Southern District of New York, Chapter 11, Case No. 11-15463 (SHL), 2012.

Air Transport Association of America, Inc. v. Export-Import Bank of the United States

Expert Declaration and Supplemental Declaration regarding impact of subsidized financing for foreign carriers on U.S. airline competitiveness and employment. United States District Court For the District of Columbia, Civil Action No. 11-cv-2024, November-December 2011.

Horizon Airlines vs. International Brotherhood of Teamsters, Local 1224

Expert testimony before Ira F. Jaffe, Independent Arbitrator, In the Matter of the Interest Arbitration Between International Brotherhood of Teamsters, Local 1224 and Horizon Air Industries, Inc. Seattle WA, September 2011.

United Technologies vs. Rolls Royce

Expert Report in the Matter of Certain Turbomachinery Blades, Engines and Components Thereof, United States International Trade Commission Investigation No. 337-TA-751, June 24, 2011.

Atlas Air Inc. and Polar Air Cargo, Inc. vs. International Brotherhood of Teamsters, Airline Division

Expert testimony before Richard Kasher, Independent Arbitrator, In the Matter of the Interest Arbitration Between Atlas Air Inc. and Polar Air Cargo, Inc. and the International Brotherhood of Teamsters, Airline Division. Washington, D.C., December 2010.

Delta/AirTran Baggage Fee Antitrust Litigation

Class Certification Expert reports and deposition testimony in Delta/AirTran Baggage Fee Antitrust Litigation, Civil Action File Number 1:09, md-2089-TCB, United States District Court, Northern District of Georgia, Atlanta Division, 2010-2011.

Allied Pilots Association vs. American Airlines, Inc.

Expert analysis and arbitration testimony regarding economics of international codesharing and alliances. Grievance No.P-47-08. Hill Presidential: Joint Business Agreement, June 2009.

Northwest Airlines, Inc., vs. Association of Flight Attendants, CWA.

Expert analysis and arbitration testimony regarding the value of certain scope clause changes to the Northwest-Air Line Pilots Association (ALPA) collective bargaining agreement, April 2009.

Midwest Airlines, Inc. vs. Air Line Pilots Association and Association of Flight Attendants, CWA.

Expert analysis and arbitration testimony regarding use of regional codeshare partners in U.S. airline industry, November 2008 and December 2009.

United Air Lines, Inc. vs. Lisa Stout, individually and the marital community comprised of Lisa and Ray C. Stout

Expert report and deposition testimony regarding potential economic damages resulting from termination of employment. United States District Court, Western District of Washington at Seattle, Civil Action No.CV07-3682-JCC. March 2009.

United Air Lines, Inc vs. Air Line Pilots Association

Expert report (with Darin N. Lee) and testimony regarding impact of pilot job actions. United States District Court, Northern District of Illinois, Eastern Division, September 2008.

Innovative Solutions and Support, Inc. vs. J2, Joseph Caesar, James Zachary, Zachary Technologies, Inc and Kollsman, Inc.

Expert report and testimony regarding damages arising from alleged misappropriation of intellectual property contained in aircraft components. United States District Court, Western District of Tennessee Western Division, Case No: 05-2665-MIP. July 2007.

Alaska Airlines, Inc., et al v. Los Angeles World Airports, et al

Expert analysis of economic claims arising in a dispute over rates and charges imposed or airport tenants by Los Angeles World Airports. U.S. DOT, Docket-OST-2007-27331, February 16, 2007.

City of Baton Rouge et al vs. American Home Assurance Company And J. Calderera & Company, Inc.

Expert analysis of claim for damages arising from delays in completion of an airport terminal project. January 2007. District19th Judicial District Court, Number 493,788 Div: "D" State of Louisiana, January 2007.

Comments on Proposed Operating Limits at New York LaGuardia Airport

Written comments on proposed operating limits at LGA. FAA Docket No. 2006-25709, December 2006 and June 2008 (with Darin N. Lee).

Comments on Notice of Proposed Rulemaking Congestion Management for John F. Kennedy International Airport And Newark Liberty International Airport

Written comments (with Darin N. Lee) on proposed changes in operating limits and slot allocations at JFK and EWR Docket No. FAA-2008-0517, July 2008.

In Re Delta Air Lines, Inc. et al., Bankruptcy Litigation

Expert analysis and trial testimony regarding airline industry economics, finance and competition. The United States Bankruptcy Court for the Southern District of New York, Chapter 11 Case No. 05-17923 (PCB), 2005-2006.

In Re Northwest Airlines, et al., Bankruptcy Litigation

Expert analysis and trial testimony regarding airline industry economics, finance and competition. The United States Bankruptcy Court for the Southern District of New York, Chapter 11 Case No. 05-17930 (ALG), 2005-2006.

BOOKS

1) *Deregulation and Globalization: Liberalizing International Trade in Air Services*, Ballinger Publishers, Cambridge, MA, 1988.

2) *The U.S. Regional Airline Industry to 1996: Markets, Competition, and the Demand for Aircraft*, The Economist Publications, London & New York, 1987.

EXHIBIT 9

Partnership for Open & Fair Skies Supporters

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

The following individuals and organizations support our request for the U.S. Government to initiate consultations with the governments of Qatar and the UAE under the Open Skies agreements in order to address the $42 billion in subsidies and other unfair benefits that those governments have provided to their state-owned airlines. Highlights include:

- **22 U.S. Senators**
- **268 U.S. Representatives,** including **19 members of the U.S. House Judiciary Committee**
- The **U.S. Conference of Mayors (USCM), representing 1,400 mayors**
- **Airline workers** from across the country – including seven major labor organizations and local labor groups from major aviation hubs in New York, Chicago, Dallas-Fort Worth and Miami
- **Over 30 local and regional airports**
- **Groups representing the economic interests of thousands of American businesses**, including the National Gay & Lesbian Chamber of Commerce, the Latino Coalition, the U.S. Hispanic Chamber of Commerce and over 70 local Chambers of Commerce

Partnership for Open & Fair Skies Supporters

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

U.S. Senators

- Senator Tammy Baldwin (D-WI)
- Senator Michael Bennet (D-CO)
- Senator Cory Booker (D-NJ)
- Senator Sherrod Brown (D-OH)
- Senator Ben Cardin (D-MD)
- Senator Richard Durbin (D-IL)
- Senator Al Franken (D-MN)
- Senator Orrin Hatch (R-UT)
- Senator Martin Heinrich (D-NM)
- Senator John Hoeven (R-ND)
- Senator James Inhofe (R-OK)
- Senator Johnny Isakson (R-GA)
- Senator Mark Kirk (R-IL)
- Senator Amy Klobuchar (D-MN)
- Senator Mike Lee (R-UT)
- Senator Ed Markey (D-MA)
- Senator Claire McCaskill (D-MO)
- Senator David Perdue (R-GA)
- Senator Gary Peters (D-MI)
- Senator Rob Portman (R-OH)
- Senator Debbie Stabenow (D-MI)
- Senator Elizabeth Warren (D-MA)

U.S. Representatives

- Representative Alma Adams (NC-D)
- Representative Pete Aguilar (CA-D)
- Representative Rick Allen (GA-R)
- Representative Brian Babin (TX-R)
- Representative Lou Barletta (PA-R)
- Representative Xavier Becerra (CA-D)
- Representative Dan Benishek (MI-R)
- Representative Ami Bera (CA-D)
- Representative Donald Beyer Jr. (VA-D)
- Representative Gus Bilirakis (FL-R)
- Representative Mike Bishop (MI-R)
- Representative Sanford Bishop Jr. (GA-D)
- Representative Rob Bishop (UT-R)
- Representative Madeleine Bordallo (GU-D)
- Representative Mike Bost (IL-R)
- Representative Charles Boustany Jr. (LA-R)
- Representative Brendan Boyle (PA-D)
- Representative Jim Bridenstine (OK-R)
- Representative Mo Brooks (AL-R)
- Representative Susan Brooks (IN-R)
- Representative Corrine Brown (FL-D)
- Representative Julia Brownley (CA-D)
- Representative Michael Burgess (TX-R)
- Representative Cheri Bustos (IL-D)
- Representative Bradley Byrne (AL-R)
- Representative Lois Capps (CA-D)
- Representative Michael Capuano (MA-D)
- Representative Tony Cárdenas (CA-D)
- Representative André Carson (IN-D)
- Representative Earl "Buddy" Carter (GA-R)
- Representative John Carter (TX-R)
- Representative Matt Cartwright (PA-D)
- Representative Kathy Castor (FL-D)
- Representative Steve Chabot (OH-R)
- Representative Judy Chu (CA-R)
- Representative David Cicilline (RI-D)
- Representative Katherine Clark (MA-D)
- Representative Mike Coffman (CO-R)
- Representative Chris Collins (NY-R)
- Representative Doug Collins (GA-R)
- Representative Barbara Comstock (VA-R)
- Representative Gerald Connolly (VA-D)
- Representative John Conyers Jr. (MI-D)
- Representative Paul Cook (CA-R)
- Representative Jim Costa (CA-D)
- Representative Ryan Costello (PA-R)
- Representative Joe Courtney (CT-D)
- Representative Kevin Cramer (ND-R)
- Representative Joseph Crowley (NY-D)
- Representative John Culberson (TX-R)
- Representative Elijah Cummings (MD-D)
- Representative Carlos Curbelo (FL-R)
- Representative Danny Davis (IL-D)
- Representative Rodney Davis (IL-R)
- Representative Diana DeGette (CO-D)
- Representative Rosa DeLauro (CT-D)
- Representative Suzan DelBene (WA-D)
- Representative Jeff Denham (CA-R)
- Representative Charles Dent (PA-R)
- Representative Mark DeSaulnier (CA-D)
- Representative Scott DesJarlais (TN-R)
- Representative Debbie Dingell (MI-R)
- Representative Lloyd Doggett (TX-D)
- Representative Robert Dold (IL-R)
- Representative Michael Doyle (PA-D)
- Representative Tammy Duckworth (IL-D)
- Representative Donna Edwards (MD-D)
- Representative Keith Ellison (MN-D)
- Representative Renee Ellmers (NC-R)
- Representative Tom Emmer (MN-R)
- Representative Elizabeth Esty (CT-R)
- Representative Blake Farenthold (TX-R)
- Representative Sam Farr (CA-D)
- Representative Chaka Fattah (PA-D)
- Representative Michael Fitzpatrick (PA-R)
- Representative John Fleming (LA-R)
- Representative Bill Foster (IL-D)
- Representative Virginia Foxx (NC-R)
- Representative Lois Frankel (FL-D)
- Representative Trent Franks (AZ-R)
- Representative Rodney Frelinghuysen (NJ-R)
- Representative Tulsi Gabbard (HI-D)
- Representative Ruben Gallego (AZ-D)
- Representative John Garamendi (CA-D)
- Representative Scott Garrett (NJ-R)
- Representative Bob Gibbs (OH-R)
- Representative Christopher Gibson (NY-R)
- Representative Louie Gohmert (TX-R)
- Representative Bob Goodlatte (VA-R)
- Representative Paul Gosar (AZ-R)
- Representative Kay Granger (TX-R)
- Representative Sam Graves (MO-R)
- Representative Tom Graves (GA-R)
- Representative Alan Grayson (FL-D)
- Representative Gene Green (TX-D)
- Representative Raúl Grijalva (AZ-D)
- Representative Glenn Grothman (WI-R)
- Representative Brett Guthrie (KY-R)

U.S Representatives

- Representative Luis Gutiérrez (IL-D)
- Representative Janice Hahn (CA-D)
- Representative Richard Hanna (NY-R)
- Representative Alcee Hastings (FL-D)
- Representative Jeb Hensarling (TX-R)
- Representative Jaime Herrera Beutler (WA-R)
- Representative Jody Hice (GA-R)
- Representative Brian Higgins (NY-D)
- Representative French Hill (AR-R)
- Representative James Himes (CT-D)
- Representative Rubén Hinojosa (TX-D)
- Representative George Holding (NC-R)
- Representative Michael Honda (CA-D)
- Representative Richard Hudson (NC-R)
- Representative Jared Huffman (CA-D)
- Representative Bill Huizenga (MI-R)
- Representative Randy Hultgren (IL-R)
- Representative Duncan Hunter (CA-R)
- Representative Steve Israel (NY-D)
- Representative Sheila Jackson Lee (TX-D)
- Representative Hakeem Jeffries (NY-D)
- Representative Evan Jenkins (WV-R)
- Representative Bill Johnson (OH-R)
- Representative Eddie Bernice Johnson (TX-D)
- Representative Sam Johnson (TX-R)
- Representative Hank Johnson (GA-D)
- Representative David Jolly (FL-R)
- Representative Walter Jones (NC-R)
- Representative David Joyce (OH-R)
- Representative Marcy Kaptur (OH-D)
- Representative John Katko (NY-R)
- Representative William Keating (MA-D)
- Representative Robin Kelly (IL-D)
- Representative Daniel Kildee (MI-D)
- Representative Derek Kilmer (WA-D)
- Representative Adam Kinzinger (IL-R)
- Representative Ann Kirkpatrick (AZ-D)
- Representative John Kline (MN-R)
- Representative Ann Kuster (NH-D)
- Representative Doug LaMalfa (CA-R)
- Representative Leonard Lance (NJ-R)
- Representative James Langevin (RI-D)
- Representative Rick Larsen (WA-D)
- Representative John Larson (CT-D)
- Representative Brenda Lawrence (MI-D)
- Representative Sander Levin (MI-D)
- Representative John Lewis (GA-D)
- Representative Ted Lieu (CA-D)
- Representative Daniel Lipinski (IL-R)
- Representative David Loebsack (IA-D)
- Representative Barry Loudermilk (GA-R)
- Representative Alan Lowenthal (CA-D)
- Representative Frank Lucas (OK-R)
- Representative Ben Ray Luján (NM-D)
- Representative Michelle Lujan Grisham (NM-D)
- Representative Stephen Lynch (MA-D)
- Representative Thomas MacArthur (NJ-R)
- Representative Carolyn Maloney (NY-D)
- Representative Sean Patrick Maloney (NY-D)
- Representative Kenny Marchant (TX-R)
- Representative Tom Marino (PA-R)
- Representative Doris Matsui (CA-D)
- Representative Betty McCollum (MN-D)
- Representative Jim McDermott (WA-D)
- Representative James McGovern (MA-D)
- Representative Patrick McHenry (NC-R)
- Representative David McKinley (WV-R)
- Representative Martha McSally (AZ-R)
- Representative Mark Meadows (NC-R)
- Representative Patrick Meehan (PA-R)
- Representative Grace Meng (NY-D)
- Representative Candice Miller (MI-R)
- Representative John Moolenaar (MI-R)
- Representative Seth Moulton (MA-D)
- Representative Patrick Murphy (FL-D)
- Representative Tim Murphy (PA-R)
- Representative Jerrold Nadler (NY-D)
- Representative Grace Napolitano (CA-D)
- Representative Kristi Noem (SD-R)
- Representative Richard Nolan (MN-D)
- Representative Donald Norcross (NJ-D)
- Representative Eleanor Holmes Norton (DC-D)
- Representative Richard Nugent (FL-R)
- Representative Pete Olson (TX-R)
- Representative Frank Pallone Jr. (NJ-D)
- Representative Bill Pascrell Jr. (NJ-D)
- Representative Erik Paulsen (MN-R)
- Representative Donald Payne Jr. (NJ-D)
- Representative Stevan Pearce (NM-R)
- Representative Ed Perlmutter (CO-D)
- Representative Scott Perry (PA-R)
- Representative Scott Peters (CA-D)
- Representative Collin Peterson (MN-D)
- Representative Pedro Pierluisi (PR-D)
- Representative Chellie Pingree (ME-D)
- Representative Robert Pittenger (NC-R)
- Representative Mark Pocan (WI-D)
- Representative Ted Poe (TX-R)
- Representative Bruce Poliquin (ME-R)
- Representative Jared Polis (CO-D)
- Representative Tom Price (GA-R)
- Representative Mike Quigley (IL-D)
- Representative John Ratcliffe (TX-R)
- Representative Tom Reed (NY-R)
- Representative James Renacci (OH-R)
- Representative Kathleen Rice (NY-D)
- Representative Cedric Richmond (LA-D)
- Representative Mike Rogers (AL-R)
- Representative Thomas Rooney (FL-R)
- Representative Peter Roskam (IL-R)
- Representative Ileana Ros-Lehtinen (FL-R)
- Representative Dennis Ross (FL-R)
- Representative David Rouzer (NC-R)
- Representative Lucille Roybal-Allard (CA-D)
- Representative Raul Ruiz (CA-D)
- Representative Bobby Rush (IL-D)
- Representative Tim Ryan (OH-D)
- Representative Matt Salmon (AZ-R)
- Representative Loretta Sanchez (CA-D)
- Representative Linda Sánchez (CA-D)
- Representative Janice Schakowsky (IL-D)
- Representative Adam Schiff (CA-D)
- Representative Austin Scott (GA-R)
- Representative David Scott (GA-D)
- Representative Bobby Scott (VA-D)
- Representative Jim Sensenbrenner (WI-R)
- Representative José Serrano (NY-D)
- Representative Pete Sessions (TX-R)
- Representative Brad Sherman (CA-D)
- Representative John Shimkus (IL-R)
- Representative Kyrsten Sinema (AZ-D)
- Representative Albio Sires (NJ-D)
- Representative Adam Smith (WA-D)
- Representative Christopher Smith (NJ-R)
- Representative Lamar Smith (TX-R)
- Representative Jackie Speier (CA-D)
- Representative Chris Stewart (UT-R)
- Representative Steve Stivers (OH-R)
- Representative Eric Swalwell (CA-D)
- Representative Mark Takai (HI-D)

U.S. Representatives

- Representative Mark Takano (CA-D)
- Representative Mike Thompson (CA-D)
- Representative Mac Thornberry (TX-R)
- Representative Paul Tonko (NY-D)
- Representative Norma Torres (CA-D)
- Representative David Trott (MI-R)
- Representative Fred Upton (MI-R)
- Representative David Valadao (CA-R)
- Representative Chris Van Hollen (MD-D)
- Representative Juan Vargas (CA-D)
- Representative Marc Veasey (TX-D)
- Representative Filemon Vela (TX-D)
- Representative Peter Visclosky (IN-D)
- Representative Tim Walberg (MI-R)
- Representative Greg Walden (OR-R)
- Representative Timothy Walz (MN-D)
- Representative Debbie Wasserman Schultz (FL-D)
- Representative Maxine Waters (CA-D)
- Representative Bonnie Watson Coleman (NJ-D)
- Representative Peter Welch (VT-D)
- Representative Brad Wenstrup (OH-R)
- Representative Bruce Westerman (AR-R)
- Representative Lynn Westmoreland (GA-R)
- Representative Frederica Wilson (FL-D)
- Representative Steve Womack (AR-R)
- Representative Rob Woodall (GA-R)
- Representative Kevin Yoder (KS-R)
- Representative Ted Yoho (FL-R)
- Representative Don Young (AK-R)
- Representative Ryan Zinke (MT-R)

Partnership for Open & Fair Skies Supporters

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

Mayors

- Abilene Mayor Norm Archibald (TX)
- Atlanta Mayor Kasim Reed (GA)
- Augusta Mayor Hardie Davis (GA)
- Brainerd Mayor James Wallin (MN)
- Brooklyn Center Mayor Tim Wilson (MN)
- Brownsville Mayor Tony Martinez (TX)
- Burnsville Mayor Elizabeth Kautz (MN)
- Charleston Mayor Joseph Riley (SC)
- Charlotte Mayor Dan Clodfelter (NC)
- Chicago Mayor Rahm Emanuel (IL)
- Columbia Mayor Robert McDavid (MO)
- Columbia Mayor Stephen Benjamin (SC)
- Concord Mayor Scott Padgett (NC)
- Concord Mayor Timothy Grayson (CA)
- Conference of Western Wayne Mayors (MI)
- Corpus Christi Mayor Nelda Martinez (TX)
- Covington Mayor Sherry Carran (KY)
- Dearborn Heights Mayor Daniel Paletko (MI)
- Decatur Mayor Mike McElroy (IL)
- Detroit Mayor Mike Duggan (MI)
- Downriver Conference of Mayors (MI)
- Dubuque Mayor Roy Buol (IA)
- Duluth Mayor Don Ness (MN)
- Eden Prairie Mayor Nancy Tyra-Lukens (MN)
- Elizabeth Mayor J. Christian Bollwage (NJ)
- Fairburn Mayor Mario Avery (GA)
- Fargo Mayor Tim Mahoney (ND)
- Fort Worth Mayor Betsy Price (TX)
- Gloucester Township Mayor Dave Mayer (NJ)
- Godfrey Mayor Michael McCormick (IL)
- Grand Forks Mayor Michael Brown (ND)
- Hallandale Beach Mayor Joy Cooper (FL)
- Houston Mayor Annise Parker (TX)
- Humble Mayor Merle Aaron (TX)
- International Falls Mayor Bob Anderson (MN)
- Irving Mayor Beth Van Duyne (TX)
- Johns Creek Mayor Michael Bodker (GA)
- Killeen Mayor Scott Cosper (TX)
- Knoxville Mayor Madeline Rogero (TN)
- Laguna Vista Mayor Susie Houston (TX)
- Lansing Mayor Virg Bernero (MI)
- Laredo Mayor Pete Saenz (TX)
- Las Cruces Mayor Kenneth Miyagishima (NM)
- Little Rock Mayor Mark Stodola (AR)
- Louisville Mayor Greg Fischer (KY)
- Mesa Mayor John Giles (AZ)
- Miami-Dade County Mayor Carlos Gimenez (FL)
- Midland Mayor Jerry Morales (TX)
- Minneapolis Mayor Betsy Hodges (MN)
- Monroe Mayor Jamie Mayo (LA)
- Newark Mayor Ras Baraka (NJ)
- Newport News Mayor McKinley Price (VA)
- North Wilkesboro Mayor Robert Johnson (NC)
- Ocala Mayor Kent Guinn (FL)
- Orland Park Mayor Daniel McLaughlin (IL)
- Palm Bay Mayor William Capote (FL)
- Pembroke Pines Mayor Frank Ortis (FL)
- Plainfield Mayor Adrian Mapp (NJ)
- Pontiac Mayor Deirdre Waterman (MI)
- Port Isabel Mayor Joe Vega (TX)
- Romulus Mayor LeRoy Burcroff (MI)
- Salt Lake City Mayor Ralph Becker (UT)
- Schaumburg Mayor Al Larson (IL)
- St. Petersburg Mayor Rick Kriseman (FL)
- Sterling Heights Mayor Pro Tem Doug Skrzyniarz (MI)
- South Padre Island Mayor Barry Patel (TX)
- Tallahassee Mayor Andrew Gillum (FL)
- Tamarac Mayor Harry Dressler (FL)
- Taylor Mayor Rick Sollars (MI)
- Taylorville Mayor Greg Brotherton (IL)
- Trenton Mayor Eric Jackson (NJ)
- Trenton Mayor Kyle Stack (MI)
- Tyler Mayor Martin Heines (TX)
- Waco Mayor Malcolm Duncan, Jr. (TX)
- Warren Mayor Doug Franklin (OH)
- Westlake Mayor Dennis Clough (OH)
- West Palm Beach Mayor Jeri Muoio (FL)
- West Hollywood Mayor Lindsey Horvath (CA)
- Wichita Falls Mayor Glenn Barham (TX)
- Winston Salem Mayor Allen Joines (NC)

Partnership for Open & Fair Skies Supporters

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

Other Elected Officials

- Andy LaBarre, Washtenaw County Board of Commissioners (MI)
- Assembly California Legislature (CA)
- Atlanta City Councilman Andre Dickens (GA)
- Atlanta City Councilman Kwanza Hall (GA)
- Atlanta City Councilwoman Keisha Lance Bottoms (GA)
- Bellevue City Councilmember Conrad Lee (WA)
- Boone County Judge Gary Moore (KY)
- California Speaker Pro Tempore Kevin Mullin
- Cameron County Judge Pete Sepulveda (TX)
- City of Miami Commission (FL)
- Clayton County Board of Commissioners Chair Jeffrey Turner (GA)
- Covington County Judge Kris Knochelmann (KY)
- Dakota County Commissioner Chris Gerlach (MN)
- Dallas County Judge Clay Jenkins (TX)
- Deer Party City Councilman Charles Tassell (OH)
- Denton County Judge Mary Horn (TX)
- Former Congressman Nick Lampson (TX)
- Georgia House Majority Caucus Chairman Matt Hatchett
- Georgia House Majority Leader Jon Burns (GA)
- Georgia House Majority Whip Matt Ramsey (GA)
- Georgia House Minority Leader Stacy Abrams (GA)
- Georgia House Speaker David Ralston (GA)
- Georgia Lt. Governor Casey Cagle (GA)
- Green Township Trustee Tony Rosiello (OH)
- Gregg County Judge Bill Stoudt (TX)
- Harris County Judge Ed Emmett (TX)
- Joint Letter, Michigan Senate and House Leadership
- Joint Letter, Utah Senate and House Leadership
- King County Executive Dow Constantine (WA)
- Laredo City Manager Jesus Olivares (TX)
- Macomb County Board of Commissioners (MI)
- Mecklenberg County Commissioner Pat Cotham (NC)
- Michigan Governor Jennifer Granholm (MI)
- Michigan House of Representatives (MI)
- Michigan State Legislative Leadership Joint Letter (MI)
- Minnesota Governor Mark Dayton
- Minnesota State House Minority Leader Paul Thissen (MN)
- Minnesota State Speaker of the House Kurt Daudt (MN)
- North College Hill City Councilman Ron Mosby
- Oklahoma Governor Mary Fallin
- Port of Seattle Commissioner Tom Albro (WA)
- Raleigh City Councilwoman Mary-Ann Baldwin (NC)
- Retired State Rep. Mary Brandenburg (FL)
- Robert Nix, Northville Township Supervisor (MI)
- Romulus City Council (MI)
- St. Bernard City Councilman Don Tobertge (OH)
- State Rep. Abel Herrero (TX)
- State Rep. Adam Koenig (KY)
- State Rep. Addia Wuchner (KY)
- State Rep. Armando Martinez (TX)
- State Rep. Bobby Guerra (TX)
- State Rep. Cecil Bell (TX)
- State Rep. Chris Turner (TX)
- State Rep. Debbie Riddle (TX)
- State Rep. Drew Christensen (MN)
- State Rep. Dwayne Bohac (TX)
- State Rep. Gene Wu (TX)
- State Rep. J.M. Lozano (TX)
- State Rep. Jonathan Dever (OH)
- State Rep. Jon Hoadley (MI)
- State Rep. Matt Manweller (WA)
- State Rep. Rafael Anchia (TX)
- State Rep. Ramon Romero (TX)
- State Rep. Sal Santoro (KY)
- State Rep. Shevrin Jones (FL)
- State Rep. Terry Canales (TX)
- State Rep. Yvonne Davis (TX)
- State Sen. Ben Allen (CA)
- State Sen. Brandon Beach (GA)
- State Sen. Jerry Hill (CA)
- State Sen. Joe Bowen (KY)
- State Sen. John Pederson (MN)
- State Sen. President Pro Tempore Kevin de Leon (CA)
- State Sen. Thomas Bakk (MN)
- State Sen. Tick Segerblom (NV)
- State Sen. Tim Sheldon (WA)
- State Sen. Wil Schroder (KY)
- Symmes Board of Trustees Jodie Leis (OH)
- Tarrant County Judge Glen Whitley (TX)
- Texas Comptroller of Public Accounts Glenn Hegar
- Tom Weidman, Sycamore Township Trustee (OH)
- Tyler City Manager Ed Broussard (TX)
- U.S. Rep. Henry Cuellar (TX)
- Utah Governor Gary Herbert
- Washtenaw County Board of Commissioners (MI)
- Wayne County Commission (MI)
- Wayne County Executive Warren Evans (MI)
- West Palm Beach City Commissioner Sylvia Moffett (FL)

Partnership for Open & Fair Skies Supporters

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

Airports

- Alexandria International Airport Director Jon Grafton (LA)
- Baton Rouge Metropolitan Airport Director Anthony Marino (LA)
- Birmingham-Shuttlesworth International Airport President and CEO Alfonso Denson (AL)
- Casper-Natrona County International Airport (WY)
- Cincinnati Northern Kentucky International Airport (OH)
- Columbia Metropolitan Airport Director Dan Mann (SC)
- Corpus Christi Airport Director (TX)
- Delta County Airport Director Kelly Smith (MI)
- Detroit Metro Airport (MI)
- Easterwood Airport (TX)
- Fargo Airport Director Shawn Dobberstein (ND)
- Friedman Memorial Airport (ID)
- Glacier Park International Airport Director Cindi Martin (MT)
- Guam International Airport Executive Manager Charles H. Ada II
- Killeen Aviation Director Matthew Van Valkenburgh (TX)
- Lafayette Regional Airport Director Steven L. Picou (LA)
- Lake Charles Regional Airport Director Heath Allen (LA)
- Lansing Capital Regional International Airport (MI)
- Laredo International Airport Director Jose Flores (TX)
- Mammoth Yosemite Airport (CA)
- Mid-Atlantic Aviation Coalition (NJ)
- Minneapolis-St. Paul International Airport Executive Director/CEO Jeffrey Hamiel (MN)
- Monroe Regional Airport Director Ron Phillips (LA)
- Monterey Regional Airport (CA)
- Nathan Smith, Member, Kenton County CVG Board; Partner, SSK Communications (OH)
- New Orleans International Airport Director of Aviation Iftikhar Ahmad (LA)
- Richmond International Airport (VA)
- Rogue Valley International-Medford Airport (OR)
- I (GA)
- Sioux Falls Regional Airport Executive Director Dan Letellier (SD)
- Springfield Airport Director Mark Hanna (IL)
- Tyler Airport Manager Davis Dickson (TX)
- Valdosta-Lowndes County Airport (GA)
- Wausau Central Wisconsin Airport
- Yellowstone Regional Airport (WY)

Partnership for Open & Fair Skies Supporters

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

Business Groups

- Abilene Chamber of Commerce (TX)
- African American Chamber of Commerce of New Jersey
- Arlington Chamber of Commerce (TX)
- Bay Area Houston Economic Partnership (TX)
- Beacon Council (FL)
- Brent Cooper, KY Businessman
- Brooklyn Chamber of Commerce (NY)
- Brownsville Chamber of Commerce (TX)
- Burnsville Chamber of Commerce (MN)
- Cal Asian Chamber of Commerce (CA)
- California Black Chamber of Commerce (CA)
- California Chamber of Commerce
- Chamber of Commerce of the Palm Beaches (FL)
- Charlotte Chamber of Commerce (NC)
- Columbia Chamber of Commerce (MO)
- Commerce and Industry Association of New Jersey
- Dallas Asian American Chamber of Commerce (TX)
- Dayton Chamber of Commerce (OH)
- Detroit Regional Chamber (MI)
- East Dallas Chamber of Commerce (TX)
- Fargo Chamber of Commerce (ND)
- Fayetteville Chamber of Commerce (NC)
- Fort Worth Chamber of Commerce (TX)
- Galveston Chamber of Commerce (TX)
- Gateway Regional Chamber of Commerce (NJ)
- Georgia Chamber of Commerce
- Georgia Metro Chamber of Commerce
- Greater Elizabeth Chamber of Commerce (NJ)
- Greater Houston Partnership (TX)
- Greater Miami Chamber of Commerce (FL)
- Harlingen Area Chamber of Commerce (TX)
- Hayward Chamber of Commerce (CA)
- Hibbing Chamber of Commerce (MN)
- Houston Northwest Chamber of Commerce (TX)
- Illinois Manufacturers' Association
- Illinois Chamber of Commerce
- International Falls Area Chamber of Commerce (MN)
- Irving Chamber of Commerce (TX)
- Kentucky Chamber of Commerce
- Lake Superior Community Partnership (MI)
- Lansing Regional Chamber of Commerce (MI)
- La Porte-Bayshore Chamber of Commerce (TX)
- LAX Coastal Chamber of Commerce (CA)
- Los Angeles Chamber of Commerce (CA)
- Los Angeles County Business Federation (CA)
- Los Angeles Latino Chamber of Commerce (CA)
- Lubbock Chamber of Commerce (TX)
- Manhattan Chamber of Commerce (NY)
- Metro Atlanta Chamber of Commerce (GA)
- Michigan Chamber of Commerce
- Midway Chamber of Commerce (MN)
- Minneapolis Chamber of Commerce (MN)
- Minnesota Business Partnership
- Minnesota Chamber of Commerce
- National Asian/Pacific Islander Chamber of Commerce & Entrepreneurship
- National Gay & Lesbian Chamber of Commerce
- National Minority Supplier Development Council
- New Jersey Business and Industry Association
- New Jersey State Chamber of Commerce
- Newark Regional Business Partnership (NJ)
- North Houston Association (TX)
- North Texas Commission
- North Texas GLBT Chamber of Commerce
- Northern Kentucky Chamber Chairman-elect David Heidrich (KY)
- Ohio Chamber of Commerce
- Pasco Chamber of Commerce (WA)
- Port Isabel Chamber of Commerce (TX)
- Queens Chamber of Commerce (NY)
- Rio Grande Valley Partnership (TX)
- Rochester Business Alliance (NY)
- Salt Lake City Chamber of Commerce (UT)
- Savannah Chamber of Commerce (GA)
- South Asian Chamber of Commerce (TX)
- South Padre Island Chamber of Commerce (TX)
- South Padre Island Economic Development Corporation (TX)
- Texas Association of Business
- Traverse City Chamber of Commerce (MI)
- Tyler Chamber of Commerce (TX)
- US Hispanic Chamber of Commerce
- US Mexico Woodlands Chamber of Commerce (TX)
- Western Economic Council (OH)
- Wilmington Chamber of Commerce (NC)
- Women's Business Development Center
- World Trade Center Utah

Partnership for O Partnership for Open & Fair Skies Supporters

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

Labor Groups, Community Organizations and Visitors Bureaus

Labor Organizations

- AFT Michigan President David Hecker (MI)
- American Federation of Teachers, Michigan
- Air Line Pilots Association, International
- Alameda Labor Council, AFL-CIO (CA)
- Association of Flight Attendants—CWA, AFL-CIO
- Association of Professional Flight Attendants
- Chicago Federation of Labor (IL)
- Communications Workers of America
- Communications Workers of America, District 1 (NY)
- Communications Workers of America, Unified Council of Michigan
- International Association of Machinists, District Lodge 751 (WA)
- International Association of Machinists, Lodge 368 (FL)
- International Brotherhood of Teamsters, Airline Division
- LiUNA! Local 872 (NV)
- Napa and Solano Counties Central Labor Council (CA)
- North Bay Labor Council (CA)
- Quad City Federation of Labor AFL-CIO (IL)
- Sacramento Central Labor Council (CA)
- San Francisco Labor Council (CA)
- San Mateo County Central Labor Council (CA)
- South Bay AFL-CIO Labor Council (CA)
- Southwest Airlines Pilots' Association
- International Brotherhood of Teamsters Joint Council 42 (CA)
- International Brotherhood of Teamsters Local 210 Joint Council No. 16 (NY)

Community Organizations

- ALIGN (NY)
- Association for a Better New York
- Citizen Action (NY)
- Downriver Community Conference Board of Directors Resolution (MI)
- Make the Road NY
- New Jersey Alliance for Action
- New Jersey SEED
- NY Communities for Change
- Ohio Veterans United
- Working Families Party (NY)

Convention and Visitors Bureaus

- Atlanta Convention and Visitors Bureau (GA)
- Detroit Metro Convention and Visitors Bureau (MI)
- Fort Worth Convention and Visitors Bureau (TX)
- Georgia Association of Convention and Visitors Bureaus
- Greater Lansing Michigan Convention and Visitors Bureau
- Irving Convention and Visitors Bureau (TX)
- Mid Michigan Business Travel Coalition

Additional Supporters

- George Brunemann, Cincinnati Tea Party (OH)
- Frederick Hoffman (MI)
- Amy Ayoub (NV)
- Amy Chelini, Esq. (NV)
- Pitaro and Fumo, CHTD Attorneys at Law (NV)
- The Urban Law Firm (NV)

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A LEVEL PLAYING FIELD FOR ALL

Since the Departments of State, Transportation and Commerce invited public comment on the question of Gulf carrier subsidies, they have received over 3,000 comments from individuals and organizations voicing their support for the Partnership and have called on the U.S. government to level the playing field for U.S. carriers. Overall, nearly 75 percent of all comments received shared this view.

These include government officials at all levels – city, county, state and national – prominent economists, aviation industry leaders, business groups, and U.S. airline employees.

For example:

More than **260 Members of Congress** wrote to Secretaries Kerry and Foxx urging them to request consultations with the governments of Qatar and the UAE to address the billions of dollars in unfair subsidies.

> *We are concerned that Qatar and the UAE are using these subsidies and other unfair practices to distort the market in favor of their state-owned airlines, contrary to U.S. Open Skies policy. These actions artificially boost these state-owned carriers and undermine the principles of open competition essential to the airline industry. According to available research, each daily international roundtrip frequency lost/forgone by U.S. airlines because of subsidized Gulf carrier competition results in a net loss of over 800 U.S. jobs.*

21 U.S. Senators echoed that concern, urging Secretaries Kerry and Foxx to hold the UAE and Qatar accountable for their unfair business practices.

> *Open Skies is an important part of U.S. transportation policy for all air carriers – passenger and cargo alike. Both Democratic and Republican Administrations have pursued and expanded Open Skies at a global level providing U.S. consumers, carriers, and airports with more choice and access to new international destinations. To that end, it is important to ensure that Open Skies agreements protect and enhance fair and open competition. In fact as a matter of policy, the U.S. government should proactively be working to ensure that where government owned or sponsored entities are operating in the competitive market place, that they act in such a way as to not distort competition.*

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More than **75 Mayors** from U.S. cities of all sizes recognized that the subsidized Gulf carriers represented a direct threat to their cities' economic health.

Mayor Rahm Emanuel, Chicago, IL:

> *In the past, I welcomed the expansion of Qatar and Emirates to Chicago's O'Hare International Airport and while I continue to encourage international airlines to bring their flights and passengers to our city, I have serious concerns about the unfair government subsidies and benefits the Middle East carriers have received and the impact on the U.S. airlines. Importantly, that funding also puts them in violation of the Open Skies policies that require open and fair competition.*

Mayor Scott Padgett, Concord, NC:

> *As you know 11 million Americans rely on a healthy, competitive airline industry for their livelihood – many of them in North Carolina – the birthplace of aviation. That is why I am alarmed to hear recently that the governments of Qatar and the United Arab Emirates were providing unfair subsidies to their state-owned airlines, jeopardizing the American airline industry and jobs here at home.*

Mayor Mike Duggan, Detroit, MI:

> *In Detroit Metropolitan Wayne County Airport, there are more than 7,500 Delta jobs and 10,000 jobs including Delta carrier connections throughout the state. In Detroit alone there are 550 Delta jobs. Delta's hub has been a force for job creation and economic growth in the region. We should do our part to uphold the open and free market principles that have guided the growth of DTW and the US airline industry.*

Mayor Annise Parker, Houston, TX:

> *However, it has been brought to my attention that a small group of state-owned airlines in the Arabian Gulf are alleged to be receiving substantial subsidies from their governments and are therefore violating the longtime Open Skies policy designed to foster healthy competition. I respectfully request the federal government investigate these allegations, and, if proven to be true, take appropriate action by opening a dialogue with the governments of Qatar and the United Arab Emirates to address such subsidies.*

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Mayor Betsy Hodges, Minneapolis, MN:

> *As home to one of busiest airports in the country, Minneapolis has benefited greatly from the environment of healthy competition between airlines established by the many Open Skies agreements between the United States and foreign governments. However, this extremely beneficial policy and the thousands of businesses, communities and families that depend on aviation in my city and elsewhere throughout the country are under serious threat by the market distorting actions of the governments and Qatar, the United Arab Emirates (UAE) and their state-owned airlines.*

The mayors' concerns over the economic impact of subsidized Gulf carriers are shared by more **70 local, state, and national Chambers of Commerce as well and other business organizations** who submitted comments calling on the Administration to act to preserve American jobs and a truly competitive market.

Justin Nelson, co-founder and President of the National Gay & Lesbian Chamber of Commerce:

> *The members of the LGBT business community that we represent support fair competition in the marketplace, as well as the fair treatment of individuals in the workplace. It's time for the U.S. government to stand up for the American aviation industry and address the Gulf carrier subsidies that are creating an unequal playing field – and propping up airlines that have discriminatory employment practices that are damaging to the LGBT community.*

Javier Palomarez, President and CEO of the U.S. Hispanic Chamber of Commerce:

> *The immediate threat of these unfair business practices has displaced U.S. airline market share and shifted American jobs overseas. Our association stands with American Airlines, along with United Airlines, Delta Air Lines and more than a half-dozen airline industry labor unions, in urging the U.S. government to open consultations with Qatar and the United Arab Emirates to address these ongoing concerns. The consequences of failing to address the unfair competition by the government-subsidized Gulf airlines are simply too steep to ignore.*

Lane Beattie, President & CEO, Salt Lake City Chamber of Commerce:

> *If this issue is not addressed, Delta's hub in Salt Lake City, and other airline hubs across the country could be significantly impacted in two ways. First, U.S. carriers may be forced to reduce or terminate their own services on international routes, or forego entry on routes they would otherwise have entered. Second, the loss of international routes will reduce passenger flow on domestic routes that are highly dependent on passengers flowing onto long haul international routes. Since their inception in 1992, the Open Skies agreements have brought significant benefits to Salt Lake City, American travelers and the U.S. economy by establishing a level playing field and clear guidelines for international air travel.*

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Michele Siekerka, President & CEO, New Jersey Business and Industry Association:

The competitive atmosphere created by Open Skies improved service, lowered fares and increased air travel and commerce throughout the country. Over the past decade, Qatar Airways, Etihad Airways and Emirates Airline have received at least $42 billion in government subsidies, interest-free "loans, free land, and other unfair benefits in direct violation of U.S. Open Skies policy. I am reaching out to ask that the U.S. government open consultations with Qatar and the United Arab Emirates (UAE) in order to address the massive, market-distorting subsidies that those nations provide their state-owned airlines.

Bill Thornton, President & CEO, Fort Worth Chamber of Commerce:

To be clear, we firmly support Open Skies and recognize the considerable benefits that the policy has brought to American travelers and the U.S. economy. We are not seeking to end the agreements with Qatar and the UAE, nor are we raising concerns with regard to any of the more than one hundred other Open Skies agreements. We are simply requesting consultations, which are provided for within the Open Skies agreements themselves.

Charlie Weaver, Executive Director, Minnesota Business Partnership:

Minnesota businesses and residents depend on a robust U.S. airline industry and the unfair practices of the Qatar and UAE governments have jeopardized that balance. Over the past decade, Gulf carriers have received over 42 billion dollars in subsidies and interest-free loans from their respective governments. According to a recent USA Today editorial, "The three Persian Gulf airlines are buying jets and adding routes at an awe-inspiring pace." They are doing this by breaking the rules and we cannot allow this to continue.

Chris Clark, President & CEO, Georgia Chamber of Commerce:

Our focus is to enhance Georgia's competitiveness by encouraging innovation and maintaining a positive business climate for all our members. The massive subsidies and other unfair benefits being provided by the governments of Qatar and the United Arab Emirates (UAE) fly in the face of our values. Delta Air Lines is the largest private employer in Georgia, and the Georgia Chamber of Commerce stands with Delta and other members of the Partnership for Open and Fair Skies on this issue.

U.S. airports are likewise concerned that subsidized Gulf carriers leads to service cuts at both regional and international airports, which, in turn, results in "substantial job losses" not just at the airports but in hospitality and many other sectors. Accordingly, more than **30 local and regional airports** called on the U.S. government to open consultations under the two operative Open Skies agreements. to address $42 billion in subsidies and other unfair benefits that the Gulf nations have provided to their state-owned airlines.

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Dan Mann, Executive Director of Columbia Metropolitan Airport (Columbia, SC):

> *If allowed to continue, this will lead to service cuts to both regional and international airports, as many domestic routes serve as feeders for larger, more profitable flights to international destinations, ultimately resulting in substantial job losses throughout the country in a variety of different sectors.*

Robert Selig, President and CEO of the Capital Region Airport Authority (Lansing, MI):

> *I can see first-hand the effects that an unfair playing field has on the U.S. carriers. The employees that depend on a healthy airline industry are not limited to airline workers; rental car employees, hotel, taxi and restaurant employees also depend on the influx of passengers through our region.*

Shawn Dobberstein, Executive Director, Fargo's Hector International Airport (ND):

> *If we stand by and allow this unfair competition to continue, the service to small and mid-sized communities that we depend on will suffer as our domestic airlines are forced to curtail flights.*

The most direct impact, of course, is on the jobs of the flight attendants, pilots, and many others who face an "immediate harm" from the Gulf subsidies and have asked the request consultations under the operative Open Skies agreements.

Laura Glading, President of the Association of Professional Flight Attendants:

> *The carriers in question have flooded six of American's major international hubs with undue capacity, putting thousands of jobs across our system in jeopardy. Their entry into these markets has not created any meaningful passenger demand. Instead, these routes and frequencies simply displace traffic. The Gulf carriers' strategy is simple: siphon off as much business as possible with subsidized fares and postpone profitability until after the American carriers are forced to scale down their networks. With an essentially endless supply of government support, the Gulf carriers can afford to undermine U.S. airlines and their workers for a very long time.*

Captain Tim Canoll, President of the Air Line Pilots Association, International:

> *Open Skies policy demands a level playing field for U.S. airlines to have a fair and equal opportunity to compete. The massive subsidies that the Gulf carriers receive run directly counter to that goal.*

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Captain Keith Wilson, President of the Allied Pilots Association:

> *The U.S. government must stand up for the domestic aviation industry and the hundreds of thousands of workers who depend on it. Defending the Open Skies trade agreement means defending the industry, its employees and the U.S. economy from the immediate harm caused by massive, market-distorting subsidies. We're asking the U.S. government to seek consultations with Qatar and the UAE under the Open Skies agreements to address this issue, a process contemplated by both Qatar and the UAE in their respective agreements.*

Sara Nelson, President of the Association of Flight Attendants-CWA, AFL-CIO:

> *The American people understand fairness; it is a core value of our nation. For the livelihood of our small and mid-sized communities across America - and the airports that serve them - we need to ensure that our skies remain open and fair.*

Aviation industry expert William Swelbar has confirmed that the harm to American communities is real and likely to continue if nothing is done to enforce existing agreements governing international routes.

> *With each new U.S. gateway that the subsidized Gulf carriers enter, there will be more and more smaller communities that will see their traffic numbers dwindle and their domestic services threatened as international passengers drive directly to these gateways to access subsidized Gulf carrier flights.*

And **thousands of individuals who are personally impacted by Gulf subsidies** submitted their comments because they share these concerns.

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Jason McKown, First Officer, Delta Air Lines:

Please open consultations with the nations of Qatar and the UAE to address $42 billion worth of subsidies that have been funneled to their state-owned airlines. I've spent the better part of my life pursuing a career with Delta Air Lines and we provide the best services we can without exclusive government subsidy. I've watched industries move overseas and watched the cruise ship industry completely leave American soil. Help us now to keep the skies fair.

Mark Hanna, Executive Director, Abraham Lincoln Capital Airport:

As a supporter of Open Skies agreements, we recognize the benefits they bring to countless airports, businesses and individuals around the country. It is known that there is a mechanism built into the Open Skies agreements that allows the United States to challenge the Gulf airlines about the subsidies they receive from their governments. Please work with the proper authorities within the Administration to open consultations with these governments to discuss this issue. It is the U.S. government's responsibility to open consultations on this issues so that the flow of subsidized airline seating capacity into the U.S. market can be addresses.

Captain Jeffrey Moore, Delta Airlines:

I am deeply concerned about the $42 billion government subsidies that Qatar and the U.A.E. have provided to their state airlines. In order to protect the well-being of U. S. airlines and the hundreds of thousands jobs that they create, I very strongly encourage you to open direct talks with Qatar and the U.A.E. to address these issues as they affect fair and open skies. Time is of an essence.

James P. Galloway III, Executive Director, Valdosta-Lowndes County Airport Authority:

Due to these huge subsidies, the three Gulf carriers have grown at astonishing rates, rapidly expanding their fleets and routes, untethered to commercial realities (such as profits and a living wage). Eventually, the U.S. airlines will be pushed off of international routes, losing market share to these government-owned Gulf airlines, resulting in American job losses and service cuts. Our regional airports will certainly feel the effects that this un-level playing field will have on the airlines industry.

Louie Jaskulka, Pilot, United Airlines:

Our Open Skies agreements are based on free and open markets. All parties involved agree to unfettered access to their airports and to allow the market, rather than governments, to determine costs, routes, and the many other factors involved in moving passengers and cargo internationally.