

United States Senate
WASHINGTON, DC 20510

May 20, 2020

Robin Hayes
CEO
JetBlue Airways Corporation
27-01 Queens Plaza North
Long Island City, New York 11101

Dear Mr. Hayes:

We are writing to express concern about your company's decision to cut the hours of your employees, which appears to be an effort to evade the requirements attached to the nearly \$1 billion in taxpayer-funded assistance JetBlue has received under the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act).¹ The CARES Act provided \$50 billion in taxpayer funds to assist passenger airlines,² and on April 14, 2020, JetBlue reached an agreement with the Treasury Department to receive over \$935 million³ in financial assistance under the CARES Act provisions for "Payroll Relief for Aviation Workers."⁴ The CARES Act is clear that, as a condition of receiving this assistance, your company must "refrain from conducting involuntary furloughs or reducing pay rates and benefits until September 30, 2020."⁵ Your decision to cut employee hours is inconsistent with congressional intent and is a blatant and potentially illegal effort to skirt your requirements to keep workers on payroll, and you should reverse this policy immediately.

JetBlue announced it planned to lower employee pay even before finalizing an agreement with the U.S. government for financial assistance under the CARES Act. In an April 3, 2020 memo to employees, JetBlue announced it had, "submitted our application for payroll support funds to the Treasury department," and further wrote, "total pay is likely to go down for both salary and hourly Crewmembers."⁶ In a subsequent memo to employees on April 14, 2020, JetBlue announced it had received \$935 million from the U.S. government, based on the company

¹ Business Insider, "American Airlines, United, and other carriers have agreed to bailout terms with the US Treasury that will avoid layoffs until October," David Slotnick, April 14, 2020, <https://www.businessinsider.com/american-airlines-delta-united-jetblue-reach-agreement-on-coronavirus-bailout-2020-4>.

² Public Law No: 116-136, Sections 4003 and 4112, available at: <https://www.congress.gov/bill/116th-congress/house-bill/748/>.

³ Business Insider, "American Airlines, United, and other carriers have agreed to bailout terms with the US Treasury that will avoid layoffs until October," David Slotnick, April 14, 2020, <https://www.businessinsider.com/american-airlines-delta-united-jetblue-reach-agreement-on-coronavirus-bailout-2020-4>.

⁴ Public Law No: 116-136, Section 4112, available at: <https://www.congress.gov/bill/116th-congress/house-bill/748/>.

⁵ *Id.*, Section 4114.

⁶ JetBlue, "JetBlue Provides Update Related the Coronavirus Aid, Relief and Economic Security (CARES) Act," press release, April 3, 2020, <http://mediaroom.jetblue.com/investor-relations/press-releases/2020/04-03-2020-212054920>.

payroll from Quarters 2-3 of 2019.⁷ In this memo JetBlue informed employees the company was subsequently “in a position to provide some level of pay for everyone using the payroll support funds.”⁸ This announcement was concerning, as maintaining employees’ full level of pay – not “some” of it - is a clear condition of receiving assistance under the CARES Act. Since receiving funding, JetBlue has cut the hours of mechanics, passenger service agents, and ramp workers.⁹

A spokesperson from your company has stated that these reductions in hours comply with the CARES Act.¹⁰ This view is impossible to reconcile with the clear intent of the law. Section 4114 of the CARES Act is intended to protect workers and maintain their pay and benefits. When it comes down to what’s in an employee’s paycheck, reducing hours and cutting pay have the same effect: less money for workers to take care of themselves and their families. Congress included this provision to prevent airline employees from suffering a reduction in pay or benefits after airline companies received billions of dollars in taxpayer bailouts - funding which was calculated based on your payroll. But a reduction in pay, via a forced reduction in hours, is exactly what you have imposed.

Your workers supported relief for airlines on the condition that their jobs, pay, and benefits would be protected. On April 23, the International Association of Machinists and Aerospace Workers wrote you a letter opposing your mandatory time off policy, and noting that, “The IAM, along with the all the other AFL-CIO affiliated transportation unions, and Delta JetBlue workers, fought for the federal stimulus to protect airline workers and save the airline industry from the ravages of the novel coronavirus pandemic,” but that your company is “using that good faith support of airline workers around the country and at every carrier to [undermine the interest of your own workforces].”¹¹

At least one airline receiving CARES Act assistance, United Airlines, has already reversed its decision to reduce the hours of all employees, and instead is allowing employees to volunteer to reduce their hours.¹² You should do the same. And you should not take one penny more of

⁷ JetBlue, “JetBlue Provides Update Related to the Coronavirus Aid, Relief and Economic Security (CARES) Act [April 14, 2020],” press release, April 14, 2020, <http://mediaroom.jetblue.com/investor-relations/press-releases/2020/04-14-2020-232947996>.

⁸ *Id.*

⁹ Forbes, “After Win At United, Labor Looks To Change Delta And JetBlue CARES Act Policies,” Ted Reed, May 8, 2020, <https://www.forbes.com/sites/tedreed/2020/05/08/after-win-at-united-labor-looks-to-change-delta-and-jetblue-cares-act-policies/#5e91668f21a7>; Information on ramp worker hour reductions based on conversations between the Office of Elizabeth Warren and the International Association of Machinists & Aerospace Workers, AFL-CIO, May 14, 2020.

¹⁰ Forbes, “After Win At United, Labor Looks To Change Delta And JetBlue CARES Act Policies,” Ted Reed, May 8, 2020, <https://www.forbes.com/sites/tedreed/2020/05/08/after-win-at-united-labor-looks-to-change-delta-and-jetblue-cares-act-policies/#5e91668f21a7>.

¹¹ Letter from IAMAW District Lodge 141 President, Directing General Chairman Michael G. Klemm and President, Directing General Chair David Supplee to Delta CEO Ed Bastian and JetBlue CEO Robin Hayes, April 2020, <https://www.goiam.org/wp-content/uploads/2020/04/Letter-CEOs-Hayes-and-Bastian.pdf>.

¹² CNBC, “United Airlines makes some worker schedule cuts voluntary after outcry, lawsuit from union, Leslie Josephs, May 6, 2020, <https://www.cnbc.com/2020/05/06/united-airlines-makes-some-worker-schedule-cuts-voluntary-after-outcry-lawsuit-from-union.html>.

bailout funds unless you are prepared to protect your workers' jobs, pay, and benefits, as intended by Congress in the CARES Act.

Your federal financial assistance is conditioned on keeping your promises to workers. We request that you provide answers to the following questions no later than June 3, 2020.

1. How many of your workers will be affected by the forced reduction in hours? What is the average weekly salary that they will lose?
2. How will you modify your labor policies so they are consistent with the intent of the CARES Act?
3. Did your company consult with any workers, or unions representing workers, while developing your policy to cut worker hours? If so, were your actions consistent with the recommendations they provided?
4. Moving forward, will your company consult with any workers, or unions representing workers, in developing any future labor policies to ensure that they are consistent with the intent of the CARES Act?
5. Did you consult with Secretary Mnuchin or other Treasury officials prior to cutting employee hours?
 - a. Did Treasury officials provide you with guidance that cutting worker hours would be allowable under the terms of the CARES Act? If so, who did you consult with at Treasury, and what guidance did you receive?

Sincerely,

Elizabeth Warren
United States Senator

Jack Reed
United States Senator

Edward J. Markey
United States Senator

Kirsten Gillibrand
United States Senator

Sheldon Whitehouse
United States Senator

Bernard Sanders
United States Senator

Robert Menendez
United States Senator

Jeffrey A. Merkley
United States Senator

Mazie K. Hirono
United States Senator

Sherrod Brown
United States Senator

Brian Schatz
United States Senator

Ron Wyden
United States Senator

Kamala D. Harris
United States Senator

United States Senate
WASHINGTON, DC 20510

May 20, 2020

Ed Bastian
CEO
Delta Air Lines, Inc.
P.O. Box 20706
Atlanta, GA 30320

Dear Mr. Bastian:

We are writing to express concern about your company's decision to cut the hours of your employees, which appears to be an effort to evade the requirements attached to the more than \$5 billion in taxpayer-funded assistance Delta has received under the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act).¹ The CARES Act provided \$50 billion in taxpayer funds to assist passenger airlines,² and on April 14, 2020, Delta reached an agreement with the Treasury Department to receive \$5.4 billion³ in financial assistance under the CARES Act provisions for "Payroll Relief for Aviation Workers."⁴ The CARES Act is clear that, as a condition of receiving this assistance, your company must "refrain from conducting involuntary furloughs or reducing pay rates and benefits until September 30, 2020."⁵ Your decision to cut employee hours is inconsistent with congressional intent and is a blatant and potentially illegal effort to skirt your requirements to keep workers on payroll, and you should reverse this policy immediately.

Delta was reportedly the first airline to cut hours for employees after receiving financial assistance from the CARES Act, and has "cut ground crew hours by as much as 40% without consulting with workers."⁶ According to the Association of Flight Attendants-CWA, AFL-CIO:

Delta Air Lines Flight Attendants have asked their management to commit to a minimum number of monthly hours equivalent to the amount delineated in the Flight Attendant contract of Delta's closest industry comparator, but to date Delta

¹ Business Insider, "American Airlines, United, and other carriers have agreed to bailout terms with the US Treasury that will avoid layoffs until October," David Slotnick, April 14, 2020, <https://www.businessinsider.com/american-airlines-delta-united-jetblue-reach-agreement-on-coronavirus-bailout-2020-4>.

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⁴ Public Law No: 116-136, Section 4112, available at: <https://www.congress.gov/bill/116th-congress/house-bill/748/>.

⁵ *Id.*, Section 4114.

⁶ Forbes, "After Win at United, Labor Looks to Change Delta and JetBlue CARES Act Policies," Ted Reed, May 8, 2020, <https://www.forbes.com/sites/tedreed/2020/05/08/after-win-at-united-labor-looks-to-change-delta-and-jetblue-cares-act-policies/#3264cc5121a7>.

management has refused to do so, making clear its plans to slash Flight Attendant hours and benefits below established industry minimum standards as well.⁷

A spokesperson from your company has stated that these reductions in hours comply with the CARES Act.⁸ This view is impossible to reconcile with the clear intent of the law. Section 4114 of the CARES Act is intended to protect workers and maintain their pay and benefits. When it comes down to what's in an employee's paycheck, reducing hours and cutting pay have the same effect: less money for workers to take care of themselves and their families. Congress included this provision to prevent airline employees from suffering a reduction in pay or benefits after airline companies received billions of dollars in taxpayer bailouts - funding which was calculated based on your payroll. But a reduction in pay, via a forced reduction in hours, is exactly what you have imposed.

Your workers supported relief for airlines on the condition that their jobs, pay, and benefits would be protected. On April 23, the International Association of Machinists and Aerospace Workers wrote you a letter opposing your mandatory time off policy, and noting that, "The IAM, along with the all the other AFL-CIO affiliated transportation unions, and Delta JetBlue workers, fought for the federal stimulus to protect airline workers and save the airline industry from the ravages of the novel coronavirus pandemic," but that your company is "using that good faith support of airline workers around the country and at every carrier to [undermine the interest of your own workforces]."⁹

At least one airline receiving CARES Act assistance, United Airlines, has already reversed its decision to reduce the hours of all employees, and instead is allowing employees to volunteer to reduce their hours.¹⁰ You should do the same, and not take one penny more of bailout funds unless you are prepared to protect your workers' jobs, pay, and benefits, as intended by Congress in the CARES Act.

Your federal financial assistance is conditioned on keeping your promises to workers. We request that you provide answers to the following questions no later than June 3, 2020.

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⁷ Letter from Association of Flight Attendants-CWA, AFL-CIO International President Sara Nelson to Senators Roger Wicker and Maria Cantwell, May 6, 2020, https://www.afacwa.org/afa_letter_commerce_may622020_hours_caresact.

⁸ Forbes, "After Win At United, Labor Looks To Change Delta And JetBlue CARES Act Policies," Ted Reed, May 8, 2020, <https://www.forbes.com/sites/tedreed/2020/05/08/after-win-at-united-labor-looks-to-change-delta-and-jetblue-cares-act-policies/#5e91668f21a7>.

⁹ Letter from IAMAW District Lodge 141 President, Directing General Chairman Michael G. Klemm and President, Directing General Chair David Supplee to Delta CEO Ed Bastian and JetBlue CEO Robin Hayes, April 2020, <https://www.goiam.org/wp-content/uploads/2020/04/Letter-CEOs-Hayes-and-Bastian.pdf>.

¹⁰ CNBC, "United Airlines makes some worker schedule cuts voluntary after outcry, lawsuit from union," Leslie Josephs, May 6, 2020, <https://www.cnbc.com/2020/05/06/united-airlines-makes-some-worker-schedule-cuts-voluntary-after-outcry-lawsuit-from-union.html>.

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Sincerely,

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Robert Menendez
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Jeffrey A. Merkley
United States Senator

Mazie Hirono
United States Senator

Sherrod Brown
United States Senator

Brian Schatz
United States Senator

Ron Wyden
United States Senator

Kamala D. Harris
United States Senator