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Foreign Air Carrier New Entry in the U.S. in 2021: a Terrible Year for Aviation or an Opportunity? (February 2022)

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Now entering its third year, the ongoing Coronavirus pandemic continues to negatively impact commercial aviation. For example, IATA recently reported that international passenger demand in 2021 was 75.5% below 2019 levels.[1] The pandemic has, of course, also resulted in widespread shrinking of global route networks, airline bankruptcies, restructurings, and even cessations of operations, with some carriers simply unable to continue operations.

By all appearances, this seems like a challenging time for foreign carriers to begin service to the U.S. Yet, an informal analysis shows the opposite to be true: in 2021, 50 foreign air carriers[2] sought authority from the Department of Transportation to operate to the U.S. for the first time.[3] By way of comparison, there were only 17 such applications in 2020. To put this in broader perspective, there were 23 applications in 2019; ten years ago (in 2011) there were 26, and twenty years ago (in 2001) there were 35.

It is not entirely clear what explains the sudden surge. Entry from EU carriers was significantly simplified following a January 2009 exchange of letters between the U.S. and the EU adopting reciprocal recognition of regulatory determinations with regard to airline fitness and citizenship. Under these procedures, EU carriers may file much-abbreviated applications for DOT economic authority (the requirements

The firm's practice encompasses virtually every aspect of aviation law, including advising domestic and foreign airlines on compliance with the DOT's regulations and policies concerning nondiscrimination in air travel. For further information regarding the matters discussed in this article, please contact any of the following attorneys:

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for FAA-issued operations specifications under Part 129 remains the same.) The surge in applications may be attributable to a combination of factors such as entry planned before the pandemic, but delayed due to developments, as well as new opportunities perceived due to industry changes during the pandemic, such as cessations of operations and a reduction in service by large carriers. Significantly, 20 of the applicants proposed to operate charter-only service using small aircraft. This may indicate that there are expanding opportunities in the business/private jet market. Seventeen applicants applied for authority to operate scheduled and charter service using large aircraft. Several of those applicants are subsidiaries of larger air carrier groups, spun off as part of restructurings after the pandemic. Regardless of the reasons, the increased number of applicants is a strong indicator that the U.S. market presents meaningful opportunities for a broad range of commercial operations.

For more information about foreign air carrier operations to the U.S. please contact the authors.

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[1] *See* "Passenger Demand Recovery Continued in 2021 but Omicron Having Impact" https://www.iata.org/en/pressroom/2022-releases/2022-01-25-02/.

[2] This figure includes *all* foreign air carriers, operating everything from cross-border charter service with small aircraft to major commercial airlines operating large aircraft in scheduled service.

[3] This figure includes all forms of authority and operations: passenger, cargo, or combination; carriers seeking charter or scheduled authority, or both, as well as carriers planning to initiate service on a codeshare or wet-lease only basis; and includes carriers operating equipment from business jets to large aircraft.