

August 13, 2010

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable John L. Mica
Ranking Member
Committee on Transportation and Infrastructure
2163 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Oberstar and Ranking Member Mica:

On behalf of the National Business Aviation Association, I am writing to express our opposition to a proposal that would impose nighttime curfews at Bob Hope Burbank Airport (BUR) and Van Nuys Airport (VNY). In a recent letter to the Committee, Representatives Brad Sherman, Howard Berman and Adam Schiff requested that language be inserted in the pending FAA reauthorization bill which would authorize the municipal proprietors of BUR and VNY to impose a ban on aircraft operations between the hours of 10pm and 7am. NBAA and our member companies are committed to working with communities through local fly friendly programs, aircraft upgrades to stage 4 technology and using aircraft specific departure and arrival profiles; however, the proposed nighttime curfews would circumvent the requirements of the Airport Noise and Capacity Act of 1990 (ANCA), impacting the national aviation system and damaging local businesses.

The National Business Aviation Association (NBAA) represents the interests of more than 8,000 companies that operate general aviation aircraft as an aid in the conduct of their business or that are otherwise involved in business aviation. NBAA and our members strongly oppose the BUR - VNY proposal and believe that this proposal would establish exactly the type of "patchwork quilt" of local restrictions that ANCA was designed to prevent – local bans on aircraft operations that undercut the utility of the national air transportation system as a whole.

As you know, ANCA was enacted in 1990 in response to a growing number of noise-based operating restrictions imposed on aircraft by localities. In developing ANCA, Congress carefully structured a compromise that addressed air carrier, general aviation, airport, and community interests. The current BUR-VNY proposal suggests that these airports should be allowed to circumvent ANCA and that the proposed curfews be "grandfathered." However, only those restrictions which were already in effect, or restrictions which had been proposed but not adopted before its enactment were grandfathered under the original statute.

The BUR-VNY proposal would upset the public interest embodied in ANCA for two decades.

- In the case of BUR, FAA already has concluded that a mandatory nighttime curfew would be unreasonable. Last year, the airport proprietor – the Burbank-Glendale-Pasadena Airport Authority – submitted an application pursuant to Part 161 requesting approval of such a ban, this despite the fact that there are limited but vitally important operations between those hours, and that noise mitigation could much more easily – and inexpensively – be achieved by measures less extreme than an absolute curfew, such as a continuation of an already successful soundproofing program. FAA, quite correctly, found that BUR’s application was not reasonable and did not meet the standards of ANCA.
- In the case of VNY, the proposal is just as unreasonable. Earlier this year, the City of Los Angeles – the airport proprietor – invoked the grandfathering provision of ANCA by resurrecting an unrelated phase-out of certain older aircraft that had been proposed but not adopted before ANCA entered into effect. Thus, VNY already has in place noise-based restrictions that go well beyond those permitted at most U.S. airports. No effort has been made to demonstrate that the newly proposed total ban on nighttime operations could be justified. Indeed, although the City of Los Angeles publicly announced plans to conduct a Part 161 study for VNY, no such study has been completed, much less submitted for FAA review.

The BUR-VNY proposal would be a dangerous step down the path of returning to the highly unsatisfactory situation that existed before passage of ANCA. The restrictions sought at BUR already have been determined to be unnecessary by the agency with jurisdiction over Part 161; and the restrictions sought at VNY have not been subject to expert scrutiny at all. The requested action would set a precedent that would encourage other localities to seek Congressional intervention to override FAA decisions – or to avoid the agency review process altogether. The result would be a patchwork quilt of local regulations that work against the maintenance of a needed national air transportation system, exactly the concerns that led to the passage of ANCA two decades ago.

Finally, attached to this letter please find the comments which NBAA submitted to FAA in connection with its review of BUR’s Part 161 application. As explained therein, a nighttime curfew not only would be unnecessary, but it also would be counter-productive. For example, data submitted by BUR demonstrate that such a ban would be harmful to the environment, because of the increased fuel and other costs that would be expended in relocating existing aircraft operations to other Los Angeles area airports.

If you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Bolen', with a long horizontal stroke extending to the right.

Ed Bolen
President and CEO