Insight

Evaluating Assistance to the Airlines: The Air Transportation Safety and System Stabilization Act

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Executive Summary

- After 9/11 the federal government provided nearly $7 billion in grants and loan-guarantee disbursements to airlines.
- Passenger airlines ferry as much as a quarter of the nation's air cargo, and in response to severe current and future losses due to the coronavirus, the nation's airlines have requested assistance approaching $100 billion in grants, loan guarantees, and foregone tax payments.
- During this public health emergency, the federal government has an interest in preserving the nation's freight infrastructure, which relies heavily on passenger airlines, and Congress's response after 9/11 provides a useful model for how.

Introduction

Policymakers currently are triaging the policy response to the coronavirus pandemic, and assistance to affected industries may be next in line for congressional attention. While this crisis should not be an opportunity to shower favored constituencies with taxpayer funds, there is a rationale for taxpayer assistance to ensure continuation of certain critical services. While individual travel should be and will be severely curtailed, the United States will need to ensure robust air freight infrastructure is preserved.

After the terrorist attacks of 9/11, the United States embarked on a global counter-terrorism mission, reorganized domestic security agencies, and then confronted a mild recession. But among the most immediate actions taken in the wake of the attacks was the enactment of the Air Transportation Safety and System Stabilization Act (ATSSSA), which provided financial assistance to U.S. airlines. The architecture of the Act is instructive, in part, for how the federal government may intervene to provide assistance to a key element of the nation's infrastructure. Providing taxpayer assistance to private entities is a fraught business, but one that crisis may require.

A Brief History of the ATSSSA

On September 22nd, President Bush signed H.R. 2926 (ATSSSA) into law to provide federal assistance to U.S. airline carriers in the wake of the 2001 terrorist attacks. Broadly, the ATSSSA included four major components: direct financial assistance to airlines, assistance to airlines in war and terrorist insurance, tax provisions, and compensation to victims of the hijackings. The direct financial assistance provision took two forms: $5 billion in direct grants for compensation for federal actions and subsequent losses, and up to $10 billion credit assistance in the form of loan guarantees. Congress established the Air Transportation Stability Board (ATSB) to oversee administration of the loan program. The ATSSSA also provided assistance to airlines in the form of subsidized insurance coverage in the wake of substantial disruption to markets for air-carrier war and terrorism insurance. Indeed, the federal government subsequently established the Terrorism Risk Insurance Program to address some of these market disruptions. The ATSSSA also provided tax assistance to the airlines, allowing carriers to delay an estimated $1.4 billion in remittances of certain tax payments for 180 days. Last, the Act established the Victims Compensation Fund, a federal vehicle for providing compensation to victims of the 9/11 attack outside of a mass tort.

Financial Assistance and the Air Transportation Stability Board

The elements of the ATSSSA most directly relevant to the current challenge confronting airlines are the direct grants, the loan-guarantee program, and the tax provisions. In total, the Congressional Budget Office estimated these provisions would cost a combined $7 billion: $5 billion for the grant program, $2 billion cost to the taxpayer for the up to $10 billion in credit, and no net revenue cost from the delayed tax payments.[1]

Administratively, the grant program was straightforward: Airlines were compensated up to a total of $5 billion, with grants apportioned to airlines based on passenger capacity and cargo carriage.

Administration of the credit program was more restrictive and fell to the ATSB. The ATSB was composed of the Secretary of the Treasury, the Secretary of Transportation, the Chairman of the Federal Reserve, and the Comptroller of the Currency in a nonvoting capacity. The ATSB was empowered to evaluate applications by airlines and provide up to $10 billion in direct loans or loan guarantees. Of note, the ATSSSA included provisions that required that the federal government be compensated for the risk of the credit assistance, in the form of warrants, options, or other financial instruments. The ATSSSA also imposed fees, compensation restrictions, and other reporting requirements on borrowers. Ultimately, the airlines only received $1.626 billion in credit assistance, substantially less than was initially expected. Owing to fees, improved credit conditions, and other factors, the subsidy cost of this credit assistance was ultimately negative, which is to say that the taxpayer made money.

In the years following 9/11, observers criticized the ATSB because it did not stave off the bankruptcies of United and US Airways, among other criticisms. Preventing the bankruptcy of individual companies, however, was not the appropriate role of the board. Rather, the goal was to stabilize a key component of the national infrastructure and provide key oversight over the disposition of taxpayer funds.

Current Developments

On Monday, U.S. airlines released a memo recommending Congress provide assistance of a similar structure to the ATSSSA. The airlines are requesting $25 billion in grants for passenger airlines and $5 billion for cargo carriers. The airlines are also requesting $29 billion in loan assistance, with $25 billion apportioned to passenger air carriers and $4 billion for air cargo carriers. Last, the airlines are requesting a *rebate* on excise taxes the carriers will have paid into the Airport and Airway Trust Fund over the first quarter of this year. The carriers are further requesting a temporary repeal of all excise taxes imposed on carriers – including those on tickets, cargo, and fuel – until 2022. Total tax collections under the Airport and Airway Trust Fund are projected to total $36.5 billion over the period 2021-2022.

The industry's request does not appear to support a re-establishment of the ATSB.

The Rationale for Federal Intervention

On September 11th, the federal government essentially grounded all commercial air travel until September 13th, after which air flights slowly began to resume. The airline industry overall, however, faced substantial financial challenges after the attacks. Today, there is a public health imperative to substantially limit personal interaction and travel. Escalating government responses will likely further circumscribe air travel. Yet even during the current public-health crisis, airlines serve a vital function beyond providing travel: They are key elements of the nation's air-freight system. According to the Department of Homeland Security, nearly half of the goods in the hold of a passenger aircraft are cargo, and passenger airlines handle about a quarter of all domestic air cargo. With fewer passengers, airlines will have more capacity for commercial air freight service but will nevertheless face substantial losses in the coming weeks and months.

Conclusion

The United States is facing a public health crisis that demands an unprecedented public health response. This response will severely constrain travel while requiring a robust air freight infrastructure. Providing taxpayer assistance to private industries is anathema to a well-functioning market economy – even during a recession. But the United States is not simply facing a downturn in the business cycle. That will happen, too. Instead, the United States must take emergency measures to preserve critical infrastructure, and the 2001 ATSSSA model is a valuable case study for policymakers as they consider further measures to address the coronavirus crisis.

[1] Note that the costs of credit programs are estimated on a present value basis. See here for more on how the cost credit programs are evaluated