May 23, 2018

The Honorable John Thune  
Chairman  
Senate Committee on Commerce, Science, and Transportation  
United States Senate  
Washington, DC 20510

The Honorable Bill Nelson  
Ranking Member  
Senate Committee on Commerce, Science, and Transportation  
United States Senate  
Washington, DC 20510

Dear Chairman Thune and Ranking Member Nelson:

We write to urge Congress to reject Section 2(h) of the “Air Ambulance Consumer Protection Act” (S. 2812). Section 2(h) of the legislation establishes a dangerous precedent for future legislation and would more immediately have far-reaching consequences for the delivery of life-saving air medical transportation.

By creating an exception to the preemption provision of the Airline Deregulation Act of 1978 (ADA), Section 2(h) will allow states to develop and implement a patchwork of separate regulatory regimes governing air medical services. This runs directly counter to the intent of Congress in enacting the federal preemption provision of the ADA. The House committee report for the legislation (H.Rept. 95-1211) declared that the “lack of specific provisions” on federal and state jurisdiction over aviation “has created uncertainties and conflicts”. To address this problem, Congress prohibited states from enacting any law or regulation “related to a price, route, or service of an air carrier….” Through the Act’s preemption provision, Congress established clear and unitary federal authority over the national airspace. Since then, court decisions and opinion letters issued by the Department of Transportation’s (DOT) Office of General Counsel have defined the contours of federal authority under the ADA. The preemption provision has provided legal certainty for air carriers and customers and a single set of rules for the inherently interstate activity of aviation.

Uniform federal authority is an essential predicate to maintaining safe and efficient transportation in the nation’s airspace. Any changes to this well-understood federal authority will open the door to conflicting state regulations. Furthermore, any exemption could create uncertainty regarding the well-developed legal precedents compiled through court decisions and DOT opinions.
Our organizations are also very concerned that once Congress adopts the first exemption from the preemption provision, the precedent will be established for future legislative carve-outs.

Therefore, we oppose Section 2(h) of S. 2812, as well as any legislation that would amend the ADA’s preemption provision, as well as any legislation that would limit its application, create exceptions to its coverage, or in any way alter its scope.

For nearly 40 years, the ADA has provided the foundation for seamless and safe transportation in the national airspace. Congress should not unravel this well-established federal authority over aviation.

Thank you for considering our views on this critical issue.

Sincerely,

Matthew S. Zuccaro  
President and CEO  
Helicopter Association International

Martin H. Hiller  
President  
National Air Transportation Association

Sally Veith  
Executive Director  
Air Medical Operators Association

Rick Sherlock  
President & CEO  
Association of Air Medical Services