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Committee on Homeland Security
Subcommittee on Border, Maritime, and Global Counterterrorism
“Implementing the 9/11 Act Mandates for Enhancing the Visa Waiver Program.”
July 16, 2008*

Opening Statement – as prepared

Welcome to today’s hearing entitled “Implementing the 9/11 Act Mandates for Enhancing the Visa Waiver Program.”

Our first panel today consists of State and Homeland Security officials familiar with the US-VISIT and visa waiver program.

I am anxious to hear their testimony in regards to the implementation of the 9/11 Commission Act with regards to the visa waiver program.

Our second panel includes members of airport and air transport associations that are affected by the implementation of the visa waiver program, and I am equally anxious to hear their testimony in regards to the changes to the visa waiver program and particularly the implementation of US-VISIT exit. .

The goal of this hearing will be to examine the US-VISIT exit proposal and the Electronic System for Travel Authorization implementation. We will also look at the demands both of these programs will place on the two departments implementing them and the affects on the airlines and ports of entry that will need to adhere to them.

Because of the possibility of potential terrorists entering the the United States through a visa waiver country, this committee has required several new security measures through the 9/11 Commission Act.

US-VISIT exit is an essential tool to identify visa overstays and ensure that visitors who enter the country actually leave, by obtaining their biographic and biometric data upon departure.

However, recent GAO reports have shown that the DHS US-VISIT pilot program, had a low compliance rate, was poorly planned, and had inadequate evaluations by senior officials.

Last April, DHS issued a Notice for Proposed Rulemaking that would require the airline industry to be in charge of collecting and maintaining traveler sensitive biometric information.

Chairman Thompson and I fully oppose this rulemaking as it not only imposes an additional burden on an already stressed industry, but it will also cost the industry over 12 billion dollars to implement the program and train their employees.

Last month Chairman Thompson and I submitted written comments addressing four key concerns about the proposed rulemaking:

1. Collecting biometric data on travelers leaving and entering this country is an inherently governmental responsibility. CBP collects the information for incoming travelers, so there is no reason to “hand off” this responsibility to the airline industry.
2. This proposed rule offers no training for the 80 to 138 airlines that will be affected by this rule, so penalizing these airlines for not adequately transmitting the biometric data would be inappropriate.
3. This proposed rule asks for airlines to collect and store fingerprints and digital images. DHS is asking the airline industry to store and transmit information that requires very high privacy safeguards.
4. DHS should consider a combination of alternatives that adequately meets every performance standard, such as the alternative proposed by Mr. Thompson and myself. This alternative would require DHS, through the use of a kiosk, to collect travelers’ biometrics at the TSA checkpoint and verify their departure with the airlines.

Although the US-VISIT exit notice of proposed rulemaking is a major concern, it is not the only concern of this subcommittee.

The implementation of the Electronic System for Travel Authorization must also be carried out carefully.

We must ensure that the program is introduced to the public through an intensive outreach campaign.

This should be done in conjunction with the development of contingency plans in case ESTA does not meet performance standards.

We must also ensure that the government does not duck its responsibilities in these programs by placing the burden on private citizens and industry.

I look forward to hearing from the witnesses today and will yield to the Ranking Member, Mr. Souder for his opening statement.

Thank you.