THE AIRLINE MERGERS AND THEIR EFFECT ON AMERICAN CONSUMERS

HEARING

BEFORE THE

SUBCOMMITTEE ON
COMMERCE, TRADE AND CONSUMER PROTECTION

OF THE

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WEDNESDAY, MARCH 21, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON COMMERCE, TRADE,
AND CONSUMER PROTECTION,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2322, Rayburn House Office Building, Hon. Cliff Stearns (chairman) presiding.

Members present: Representatives Stearns, Upton, Deal, Whitfield, Cubin, Shimkus, Shadegg, Bryant, Buyer, Pitts, Bono, Walden, Terry, Bass, Tauzin (ex officio), Towns, DeGette, Capps, Doyle, John, Harman, Rush, and Dingell (ex officio).

Also present: Representatives Burr, Davis, and Luther.

Staff present: Kelly Zerzan, majority counsel; Yong Choe, legislative clerk; and Bruce M. Gwinn, minority counsel.

Mr. STEARNS. Good morning, everybody. The Subcommittee on Commerce, Trade, and Consumer Protection will convene. I will give my opening statement. The ranking member will. We will go to the congressional witnesses. And then we will come back before we start the second panel for the rest of the opening statements if you folks wouldn't mind.

So this is really our first hearing on this subcommittee that has focused on our consumer protection jurisdictions. While the term "consumer protection" can be construed quite broadly, the consumer interest in the airline industry is at an all-time high. Today we will be hearing and learning about the consolidation currently occurring in the airline industry as well as the impacts, good and bad, on the consumer.

Needless to say, about 100 years ago on the sandy dunes in Kitty Hawk, North Carolina, two bicycle makers made a long-held dream of flight come true. The American ingenuity that made the Wright Brothers believe they could build and fly planes manifests itself today in an American airline industry that daily flies millions of people millions of miles around the globe.

While the airlines provide an invaluable service to consumers, it also has been the target for a number of customer concerns. Television shows and newspaper articles have recounted some miserable stories relating to air service.

The Department of Transportation recently reported that in the year 2000 over one in 4 flights were delayed, canceled, or diverted, affecting 163 million passengers. Flight delays have increased 33 percent between 1995 and the year 2000. Those delays are continually getting longer. In 2000, the average delay is about 52 minutes. As a result, last year consumer complaints rose 14 percent.

Today, as we hold this hearing, there are a number of major U.S. carriers that perform the bulk of passenger air service in this country. Although there have been numerous hearings in both the House and the Senate on the mergers in the airline industry, this subcommittee has a unique perspective. We will not be examining the antitrust implications of the mergers or exploring the broader transportation issues these mergers raise. Rather, our Committee is focused on the effect these mergers will have on the American consumer.

It is our duty to conduct an inquiry into whether U.S. air passengers will be best served by consolidation in the airline industry and to reveal these facts to the American consumer. Our jurisdiction over consumer protection and tourism will be exercised in this subcommittee.

There is no question that U.S. air carriers are the envy of the world. Never before in human history has an individual been able to move such great distances at such little cost so quickly. Nevertheless, we are all familiar with the horror stories of delay, canceled flights, lost luggage, and planes helplessly stuck on tarmacs for hours at a time.

Whether American air carriers will continue to be the envy of the world or whether U.S. passengers will continue to have the greatest choice in light of the mergers between United Airlines and US Airways and American and Trans World Airlines is an issue properly before us for consideration.

These are larger mergers. Some of the largest this industry has ever seen, these are. There is no question that these transactions will have an effect on air travel, whether positive or negative. I know these mergers have stood much debate.

The rhetoric has heightened. But I plan for this subcommittee to cut through the headlines and get to the heart of the issue, namely: Will these mergers harm U.S. consumers? We are here to ask some tough questions, but, my colleagues, we are here also to learn.

Today we have two panels with some distinguished guests to educate us. Our first panel includes three Democrats and one Republican, proving that mergers can be bipartisan. I welcome my friend Congresswoman Sue Myrick, James Clyburn, Louise Slaughter, and Peter DeFazio to the Commerce Committee.

I always believe that the best way to learn is to assemble a panel representing a broad array of views on a subject. And our second panel does just that. We have with us some of the merging parties: US Airways, United, and American; some of the affected industry participants: AirTran Airlines and the American Association of Travel Agents; economists who examined the United-US Airways merger from the Economic Strategy Institute; and, finally, the Consumer Federation of America. I have no doubt this panel will allow us to fully and fairly air the issues at work in these mergers.

Although the Department of Justice is responsible for reviewing these mergers, the FTC under the jurisdiction of the Commerce Committee, the Committee on Commerce, clearly has a role in watching the growth and development of the airline industry into the future.

I thank our witnesses who are here today and look forward to hearing their testimony. And, with that, the ranking member, Mr. Towns.

Mr. TOWNS. Thank you very much, Mr. Chairman. I want to thank you again for holding this hearing and also to thank my colleagues for being the first panel, Congressman Clyburn and Slaughter and DeFazio and Congresswoman Myrick.

This is an important hearing, Mr. Chairman. The past few years we have heard a great deal about both potential and actual merger activity in the airline industry.

While at the same time delays and canceled flights have increased, luggage is lost more frequently, and customer complaints have increased, under these circumstances, I cannot help but wonder how the proposed airline mergers will impact the flying public.

In particular, I am concerned that the Northeast, where I am from, will suffer from a decrease in competition because two airlines will control over 60 percent of the airline routes. What will the impact be on shuttle service along the Northeast corridor between New York; Boston; and Washington, DC as part of this multilayered merger arrangement?

United Airlines will create a joint venture with American Airlines for the next 20 years while at the same time working with DC Air on their operation. Would this kind of cooperation between would-be competitors promote competition that will benefit consumers? What will the impact of these mergers be on upstate New York, where a lack of competition has historically resulted in high prices and low utilization?

Without a concerted effort from my colleague and good friend from upstate New York, hard worker in this Congress, Louise Slaughter, among others, to break down the barriers to competition, upstate New York will be without reasonably priced air service.

Again, I look forward to hearing from today's witnesses on the benefits the consumer will receive from these proposed mergers. Will there be opportunities for new low-fare carriers or will the two major airlines close the doors forever to low fares? Is there a need for congressional intervention to prevent a closed anti-consumer market? Will the presence of two substantially larger airlines result in increased costs and decreased service?

I am hopeful our witnesses will provide us with answers to these important questions. And I move forward, Mr. Chairman, with an open mind, but, remember, I am concerned about the consumers. I yield back.

Mr. STEARNS. I thank my colleague. As I mentioned earlier, we are going to let the members give their opening statements, and then we are going to move to the opening statements for the rest of the members of the panel.

Mr. BURR. Mr. Chairman?

Mr. STEARNS. Yes?

Mr. BURR. Mr. Chairman? Could I ask a unanimous request, please?

Mr. STEARNS. Yes, go ahead.

Mr. BURR. Mr. Chairman, I would ask unanimous consent as a member of the full committee but not of the subcommittee to be permitted by the subcommittee to participate.

Mr. STEARNS. Unanimous consent so granted, yes. So we will hear now. I think we will just start from left to right. We will probably remind you because the timer that is in front of you is not working at the moment. We are trying to check the electrical circuit.

Mr. BURR. That is good.

[Additional statements submitted for the record follow:]

PREPARED STATEMENT OF HON. BARBARA CUBIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WYOMING

Thank you, Mr. Chairman, for holding this timely hearing on the issue of Airline consolidation, and specifically, the tentative mergers between United and U.S. Airways, and American and Trans World Airlines. While this issue is relevant to the consumer protection of all American air travelers, I believe it is of specific concern to the quality of air service in rural states such as Wyoming.

When the airline industry was deregulated over 20 years ago, a commitment was made to provide and protect adequate air service for all Americans. —And I think most would have to agree that the majority of our nation's consumers probably benefitted from deregulation. Market realities have increased the number of flights and provided for competitive ticket pricing in our nations cities and urban communities.

Unfortunately, however, those same market realities have, over the past two decades, lured air service providers away from our nation's smaller and rural communities, leaving entire States, such as Wyoming, struggling to provide adequate air service to its citizens.

Frankly, even the air service we have in Wyoming too often falls far short of acceptable. My duties obviously require me to fly in and out of the state more often than most Wyomingites, and I have consistently had to deal with poor service, delayed or canceled flights, and high ticket prices from United Express.

In addition, the Natrona County International Airport located in my hometown of Casper, Wyoming, was informed this past fall that United Express was discontinuing several morning flights from Casper to our regional hub of Denver, Colorado. Keeping in mind that United represents one of two airlines flying in and out of Casper, these cancellations posed a serious threat to the livelihood of many small businesses in Casper and surrounding areas dependent on morning flights to Denver.

After several weeks of negotiations, including repeated communication from myself and our Senators, United eventually did agree to reinstate the discontinued flights, at least for now.

I brought up this closely avoided crisis for Wyoming air travelers only to show how the lack of competition in this industry has left our rural communities with few, if any, options. When a community has but one or two choices of air providers, and a flight is canceled, it often means an extra afternoon or even day of travel. I can't imagine how further consolidation of the airline industry will benefit my constituents.

I have not yet made a final decision to oppose the United-U.S. Airways and American-TWA mergers. However, I will say to proponents of these mergers testifying here today that the burden of proof lies with you. In order for me to support what I can currently only perceive as the first major step toward the massive consolidation of America's airline industry, you will have to prove to me, beyond a shadow of a doubt, that adequate measures are being taken to protect, and frankly, improve, air service in Wyoming and the rest of rural America.

Again, Mr. Chairman, thank you for holding this important hearing. I look forward to hearing what insight into this issue the witnesses have to offer, and I yield back the balance of my time.

PREPARED STATEMENT OF HON. STEVE BUYER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. Chairman, I would like to thank you for holding this hearing.

While the ramifications for these mergers will clearly have a big effect on the airline industry as a whole, I am truly interested in this issue because of the possible effects it will have on my constituents in the 5th District of Indiana, and the State of Indiana as a whole.

Specifically, I want to learn more about how these mergers could effect the density of air traffic at the Indianapolis Airport, and other Indiana regional airports like Lafayette and Fort Wayne, as well as the effect this could have on future employment.

Currently, Chicago serves as one of the major hubs for United.

Would this diminish the air traffic density at Indianapolis and limit air transportation choices for Hoosier consumers?

Will Indianapolis become a "feeder terminal" for Chicago?

Will the current services provided by US Air, to include direct flight service from Reagan National and Dulles, be replaced with proposed service by DC Air in smaller and less sophisticated aircraft?

In addition, air service from Lafayette to Chicago will cease to exists after April 1st.

In the past, this service was supplemented with funds from the Department of Transportation's Essential Air Service program.

While this program falls under the jurisdiction of the Transportation Committee, any impact the mergers have on this program will clearly have an effect on consumer choice.

Lastly, I also have concerns with regard to how employees will fare.

This is especially true since United contracted with the State of Indiana in 1990, to build a large maintenance hub at Indianapolis.

Both United and US Air have placed a moratorium on lay-offs for two-year period. But under what conditions?

For example, if employees are asked to relocate, and refuse to do so, are these grounds for dismissal?

Again Mr. Chairman, thank you for holding this hearing.

Since Indianapolis serves as kind of a gateway to the agricultural heartland, and air transportation to Indiana is already limited, I am keenly interested in this issue.

PREPARED STATEMENT OF HON. W.J. "BILLY" TAUZIN, CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE

Congress has been vigilant in recent years to deregulate many sectors of our economy that have previously been the subject of heavy government regulation. In fact, we no longer need to ask the question: "why deregulate?" The benefits of deregulation are crystal clear: remove barriers to competition, and industry will provide consumers with more choices and lower costs.

We have many examples where, when done properly, deregulation has proved this theory correct, and there is no better example than the airline industry. Once a regulated industry with government-mandated routes and a regulatory fixed rate of return, the move to open markets in 1978 has changed the industry. Airlines responded to the changes by reconfiguring their operations to the "hub-and-spoke" system, allowing airlines to serve far more consumers in a more cost efficient manner. Competition became intense as airlines began to compete on price, destination, and frequency of service.

Make no mistake about it: we have a better system now than we ever had under a government-dictated system. The U.S. air industry is pretty effective given its enormous size. In fact, the U.S. airline industry currently moves about 1.7 million passengers per day. As many of you probably know, as part of the Civil Reserve Air Fleet program, U.S. commercial carriers are subject to a military call up in times of emergency. During the Gulf War, over 70% of the troops and 20% of the materials were shipped on commercial aircraft as part of the Civil Reserve Air Fleet program. Later, when that program was reviewed, it was noted that the only endeavor more complex than the military at time of war is the daily schedule of the U.S. airline industry. The U.S. airline industry moves the equivalent of 100 military divisions 1,000 miles per day. That just goes to show you, the efficiencies produced by competition cannot be denied.

Which brings us to today's topic—how will mergers and further consolidation in the airline industry affect U.S. consumers? This is a good question given the recent state of affairs. American Airlines' proposed purchase of a bankrupt TWA has been approved. And the proposed United acquisition of US Airways is currently under review by the Department of Justice. Many experts believe these combinations will result in further consolidation. While the proposed combinations appear to save two troubled airlines, it is our job to determine if the welfare of the American consumer is synonymous with the welfare of the industry. In an industry where the economics dictate a "bigger is better" strategy for success, the acquisitions make perfect business sense. But our concern on this Committee is a narrow but important one: how will these mergers affect the consumer? Will the consumer continue to have competitive options? Will the consumer continue to have competitive pricing? Are consumers better off with the status quo, with a handful of regional airlines that are in their respective markets? Or, are consumers better served by a handful of national carriers that compete across the country? These are all questions we need to fully examine.

In answering these questions, we cannot ignore concerns over customer service. Our system seems to be on the brink of a breakdown. It clearly needs fixing. For example, between 1999 and 2000, the 10 major air carriers reported an increase of nearly 19% in departure and arrival delays and over 21% in cancellations. And unfortunately for some of the witnesses here today, you are sitting before some of the most frequent fliers in the country.

However, it is my sense that the problems the airlines are experiencing may be more a symptom of larger problems facing the industry, distinct from the issues raised by the mergers. The airlines cannot change the weather or clear the runways for additional takeoffs. The fact is that in the last decade, air travel has turned into a mass transit system. Demand exceeds capacity. The airlines are trying to meet consumer demand, but the country's infrastructure is woefully inadequate to accommodate all of the scheduled flights. Our airport facilities were simply not built for the industry we have today.

Congress clearly needs to start tackling these difficult issues, but it should not do so as an excuse to re-regulate the airline industry. Regulation didn't work then, and it won't work now. Strong, vibrant competition should be the answer to these problems.

The value of efficient transportation cannot be underestimated. It is important to U.S. businesses seeking to attract foreign business. It is also important to our travel and tourism industry that competes with other countries for global vacationers. As long as our air travel industry is an asset, we can expect to remain a leader in the world economy. This is an aspect that seems to be overlooked when these mergers are discussed, but one I believe is vitally important.

I commend Chairman Stearns for holding this hearing and fully exercising this Committees' consumer protection and tourism jurisdiction. Airline consolidation is an important subject—one consumers really care about. This Committee must be satisfied that these airline mergers do not make the situation worse. Competition works, and we must make sure it is allowed to work for the American consumer.

Thank you, Chairman Stearns, and I look forward to learning more about these mergers.

PREPARED STATEMENT OF HON. CHRIS JOHN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. Chairman, thank you for assembling today's panel regarding airline mergers. I think it is important for us to consider how these matters affect the American consumer.

First, let me stress that I do not believe our purpose here today is to publicly berate the U.S. airline industry. It should be noted that our airline industry is the safest in the world, and we should all be very proud of that. However, I do believe that we can capitalize on this forum today to reflect on the status of the industry and how it impacts—both positively and negatively—American consumers. To that end, I bring a unique perspective to this hearing today, because neither of the major cities in my district would serve as the poster child for airline deregulation and competitive markets.

According to the latest Census data, the City of Lake Charles, Louisiana, has a population of approximately 72,000. It is the Parish seat of Calcasieu Parish, which has a total population of approximately 181,000. The City of Lafayette has a population of 110,000. It is the Parish seat of Lafayette Parish and has a population of approximately 188,000. Both of these cities have regional airports which draw consumers from outside their Parish, neither are considered rural, but both are underserved and lack a competitive market.

As an example, just this week I met with port officials from the Port of Lake Charles. They flew up to Washington to attend their annual conference. Because only one carrier (Continental) serves the Lake Charles Regional Airport, prices for business fare tickets were approximately $1100 round-trip from Lake Charles to Washington. Since Lake Charles is only a 2 & ° hour drive to Houston, they looked into a round-trip between Houston and Washington—the result, $1800 round-trip.

They then looked east to Lafayette where, despite the fact that they were scheduled for the exact flight between Houston and Washington, their fare was $1000 less. As a result, they left Lake Charles at 4:30 a.m. to catch the 6:00 am flight out of Lafayette to Houston. This is just a recent example of what my constituents in the Lake Charles area regularly face as they attempt to schedule business travel.

In Lafayette, the situation is similar for the short leg between Lafayette and Houston. This route is often taken by people who work in the oil and gas industries. Due to the extraordinary costs of flying this route, many companies who left Lafayette to locate in Houston cited high fares between Lafayette and Houston as a primary factor in their decision to leave. This fact was recently brought to light by the business retention task force of the Lafayette Chamber of Commerce. Mr. Chairman, I would like to submit a copy of a local newspaper article and the minutes from that meeting which further describes the impact of high airfare on medium sized markets like Lafayette.

I cite these example not to suggest that the 1978 Act that deregulated the industry failed. Indeed, we have seen access to lower fares and information increase. However, I do cite them as representative of the concerns that I have heard from my constituents regarding further industry consolidation.

How will markets like Lake Charles and Lafayette be impacted by further consolidation in the airline industry? In particular, what will happen to the prices in these markets—especially the shorter routes to Houston, Dallas or Memphis? These are open ended questions and concerns that I express today in hopes that the panel here today can address.

Thank you, again, Mr. Chairman for holding this hearing. I look forward to the panels' testimony.

Mr. STEARNS. Okay. The gentleman from South Carolina, Mr. Clyburn.

STATEMENTS OF HON. JAMES E. CLYBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA, ON BEHALF OF CONGRESSIONAL BLACK CAUCUS; HON. LOUISE MCINTOSH SLAUGHTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK; HON. PETER A. DEFAZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON; AND HON. SUE WILKINS MYRICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. CLYBURN. Thank you very much, Mr. Chairman. Thank you and the members of the subcommittee for allowing me to testify here today.

Mr. Chairman, in addition to my representation of the South Carolina Cities of Columbia, Charleston, and Florence, I appear today on behalf of the Congressional Black Caucus, where I am the immediate past Chair and am currently the Chair of the Caucus' Policy and Leadership Institute. I will cover just a few points, such as customer service and competition, and hopefully leave some time for questions if there be any.

Mr. Chairman, today's airline industry is dramatically different than it was just a few years ago. For example, since 1978, the number of people flying has more than doubled from 275 million to 635 million. Aviation is no longer a luxury. It is a necessity leading some to claim that air travel is now mass transit in the sky.

Recently United Airlines and US Airways announced that would combine fleets and routes, resulting in the world's largest airline. In January, American Airlines announced that they would acquire TWA. And this past Friday, the Justice Department declined to challenge that acquisition. These two ventures are serving to remind us that bigger is not always better. And, of course, all of us agree to that.

In the case of United Airlines and US Airways, several important benefits accrue to the Nation. First, in an effort to resolve antitrust concerns in Washington, DC, the only market where there is overlap between the two airlines, a new airline, DC Air, will be created. Not only will DC Air will be a new entrant providing new competition to and from Reagan National Airport, it will be an important affirmative step toward minority ownership participation in the airline industry.

I understand that questions have been raised about the viability of DC Air. Mr. Chairman, I know Bob Johnson, and he is not in this business to fail. Although he has negotiated to sell 49 percent of DC Air to American Airlines, he will retain 51 percent ownership and will conduct himself as all majority partners do. American Airlines' participation in this venture will undergird Bob Johnson's business acumen and enviable record spawning new and related industries and creating meaningful jobs and opportunities for those who have traditionally been left outside of the business world's mainstream. Bob Johnson's record in these areas is clear and convincing.

Second, the merger gives those who fly United Airlines and US Airways access to additional markets in the United States and throughout the world. By combining networks, US Airways passengers will gain same-carrier service to 117 U.S. cities and 28 foreign destinations. Similarly, United passengers will gain same-carrier service to 80 United States cities and 13 international destinations.

A recent University of Illinois study noted that the merger would provide single-carrier service for 162 domestic city pairs in which one-carrier service is currently not available. At the same time, the carriers have committed to continue serving all markets they serve today. The ability to travel on one airline from start to finish, which will be available to this merger in 162 new cities, not only increases convenience but also decreases costs. The University of Illinois study also noted that consumers would save money because it costs less to complete a trip using a single airline than it does using multiple carriers.

Third, this agreement also promotes competition, In South Carolina, if a businessman or woman needed to go West, their options are really pretty limited. However, if US Airways is combined with the United Airlines network, South Carolinians will have a significant number of other options. The same goes for international destinations as well.

In Florida, the situation is very similar. New daily nonstop service will be added from West Palm Beach to Denver, a United hub, providing access to hundreds of destinations in the West and mountain regions. In addition, Tampa to Los Angeles and Tampa to San Francisco service will be initiated. Los Angeles and San Francisco give travelers on these routes access to Asia and the rest of the world, access that is limited for Floridians today. Approval of this venture would mean that travelers from Miami, Tampa, Orlando, and Jacksonville will be able to travel more easily to more U.S. and international destinations than ever before.

Today business is global, and it is the engine that brings prosperity to many local communities. In my home State of South Carolina, the York County Economic Development Board recently passed a resolution supporting this merger.

Finally, the American Airlines acquisition of TWA makes good sense. Given the unfortunate position TWA is in, I see this opportunity as preservation, rather than consolidation. I would much rather see America grow its network than see TWA and its routes disappear. I think the Justice Department agreed. And I believe all of us can see a similar fate for US Airways should this venture fail to secure approval. This merger is unprecedented in the guarantee it provides the 45,000 employees of US Airways. United has committed to provide jobs to all US Airways employees, thus avoiding painful layoffs, downsizing, and financial hardship, which employees of airlines that have experienced bankruptcy have endured.

Mr. Chairman, we can no longer limit our horizons. And I would be pleased to answer any questions should there be any.

[The prepared statement of Hon. James E. Clyburn follows:]

PREPARED STATEMENT OF HON. JAMES E. CLYBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Chairman Stearns, members of the Subcommittee: Thank you for allowing me the opportunity to share my thoughts on the important issues facing today's airline industry. I appear today as the immediate past Chair of the Congressional Black Caucus, and the current Chair of the Caucus' Policy & Leadership Institute. I will cover a few points, such as customer service and competition, and hopefully leave some time for questions from the subcommittee should there by any.

Mr. Chairman, today's airline industry is dramatically different than it was just a few years ago. For example, since 1978, the number of people flying has more than doubled from 275 million to 635 million. Aviation is no longer a luxury, it is a necessity leading some to claim that air travel today is really "mass transit in the sky."

Recently, United Airlines and US Airways announced they would combine fleets and routes resulting in the world's largest airline. In January, American Airlines announced they would acquire TWA, one of, if not the most recognizable acronym in the industry. And this past Friday, the Justice Department declined to challenge that acquisition. These two deals have led some to remind us that bigger is not necessarily better. And of course all of us agree with that. But in the case of the United Airlines/US Airways venture, several important benefits accrue to the nation.

First, in an effort to resolve antitrust concerns in Washington, DC, the only market where there is overlap between the two airlines—a new airline, DC Air—will be created. Not only will DC Air be a new entrant providing new competition to and from Reagan National Airport, it would be an important affirmative step toward minority ownership participation in the airline industry. I understand that questions have been raised about the viability of DC Air. Mr. Chairman, I know Bob Johnson, and he is not in this business to fail. Although he has negotiated to sell 49% of DC Air to American Airlines, he will retain 51% ownership and will conduct himself as all majority partners do. American Airlines' participation in this venture will undergird Bob Johnson's business acumen and enviable record of spawning new and related industries, and creating meaningful jobs and opportunities for those who have traditionally been left outside of the business world's mainstream. Bob Johnson's record in these areas is clear and convincing.

Second, the merger gives those who fly United Airlines or US Airways access to additional markets in the United States and throughout the world. By combining networks, US Airways passengers will gain same-carrier service to 117 US cities and 28 foreign destinations that currently require a change of carriers to reach. Similarly, United passengers will gain same-carrier service to 80 US cities and 13 international destinations. A recent University of Illinois study noted that the merger would provide single-carrier service for 162 domestic city pairs in which one-carrier service is currently not available. At the same time, the carriers have committed to continue serving all markets they serve today. The ability to travel on one airline, from start to finish, which will be available with this merger to 162 new city pairs, not only increases convenience, but also decreases costs. The University of Illinois study also noted that consumers would save money because it costs less to complete a trip using a single airline than it does using multiple carriers.

Third, this agreement also promotes competition. In South Carolina, if a businessman or woman needed to go West, their options are really pretty limited. However, if US Airways is combined with the United Airlines network, South Carolinians would have a significant number of other options. The same goes for international destinations as well.

In Florida, the situation is very similar. New daily non-stop service will be added from West Palm Beach to Denver, a United hub, providing access to hundreds of destinations in the west and mountain regions. In addition, Tampa to Los Angeles and Tampa to San Francisco service will be initiated. Los Angeles and San Francisco give travelers on these routes access to Asia and the rest of the world, access that is limited for Floridians today. Approval of this venture would mean that travelers from Miami, Tampa, Orlando, and Jacksonville will be able to travel more easily to more US and international destinations than ever before.

Today, business is global and it is the engine that brings prosperity to local communities. In my home state of South Carolina, the York County Economic Development Board recently passed a resolution supporting the merger noting, "... the proposed United Airlines-US Airways merger should improve access to global markets through additional direct international flights and provide not only greater potential for foreign investment but also tourism and convention related business." In 1988, the Atlanta Chamber of Commerce found that the availability of international service was the third most important factor in the location of new economy firms. This is exactly the reason the deal is good for South Carolina and my constituents.

Finally, the American Airlines acquisition of TWA makes good sense. Given the unfortunate position TWA is in, I see this opportunity as preservation rather than consolidation. I would much rather see American grow its network rather than see TWA, and its routes, disappear. I think the Justice Department agreed. And I believe all of us can see a similar fate for US Airways should this venture fail to secure approval. This merger is unprecedented in the guarantee it provides the 45,000 employees of US Airways. United has committed to provide jobs to all US Airways employees, thus avoiding painful layoffs, downsizing and financial hardship which employees of airlines that have experienced bankruptcy have endured.

Mr. Chairman, we can no longer afford to limit our horizons. The United Airlines /US Airways and the American/TWA ventures will move our aviation industry towards more successfully competing in the global market. Approval of this venture would be good for business, it would be good for competition and most importantly, it would be good for the consumer.

Thank you for the opportunity to testify today. I will be happy to answer any questions.

Mr. STEARNS. I thank my colleague.

The gentlewoman from New York, Ms. Slaughter, for an opening statement.

STATEMENT OF HON. LOUISE SLAUGHTER

Ms. SLAUGHTER. Thank you, Mr. Chairman. Good morning to you and to the members of the committee.

I am delighted to be here this morning. This is a critical issue at a critical time. And I thank you for engaging the committee on this matter.

The current wave of airline mergers is sounding alarm bells, and it should. The notion that consolidating the entire United States domestic aviation market into three meg carriers, the notion that that would be good for consumers is laughable on its face and has been ridiculed by virtually every independent analysis. These mergers will clearly erode what little competition remains in the aviation industry. With fewer airlines competing against each other, entire regions of the country can expect higher prices, fewer flights, and even worse service than they endured over the recent holiday season.

A GAO report that I along with my colleague James Oberstar of Minnesota requested made clear in December that the proposed US Airways-United merger would trigger further consolidations of the industry, thereby reducing the industry to as few as three major airlines. That prediction has come true faster than any of us imagined. Last week the Nation lost Trans World Airlines with its acquisition by American Airlines. And now press reports indicate that Delta, Continental, and Northwest are also exploring a strategic alliance.

But Congress is not powerless in the face of these mergers. This is a Committee with a rich history of flexing its muscle, and it is time to do just that. Congress must send an unambiguous signal to the administration that the mergers should not go forward without further study.

I have authored a bill called the Airline Merger Moratorium Act that I introduced with Peter DeFazio, which I urge you to take a look at. The bill is straightforward. It says no airline mergers for a year, period.

We need this moratorium to determine how detrimental the impact of these mergers will be on the flying public. And it will give newly appointed United States Transportation Secretary Norman Mineta and U.S. Attorney General John Ashcroft the necessary time to fully understand the problems, the opportunities, and the constraints faced by new carriers. And it will provide the Bush administration with sufficient time to establish a new merger policy. These are enormously complex mergers where the public interest must be a factor in determining whether to allow them to go forward.

And Congress needs answers to other questions. For example, what will the long-term impacts be on airline workers if the mergers are approved? I know that the TWA workers are supposed to be in good shape, and I wish them well in that endeavor.

What is the best use of publicly owned takeoff and landing time slots at Reagan National Airport? Might it not be better if United States government reasserted ownership of those slots and give them out or auction them off to other airlines as well or should we just hand them over to another airline? We really need the answer to that question because if anything has plagued us over the years, Mr. Chairman, it is the slot question.

What would be the impact of the airline labor strike if these mergers consolidate the industry into three major airlines or if finally we have one major airline and it goes on strike? A critical question that needs answering is: Is US Airways a failing airline? And if it is, why is United paying such a huge market premium to acquire it?

I would suggest that US Airways has a lot of life in it with some of the finest pilots and the most competent employees in the United States. In February 1998, US Airways posted annual earnings of $538 million. And despite recent losses, US Airways continues to increase capacity and remains dominant at its hubs in Charlotte, North Carolina; Philadelphia; and Pittsburgh and seems to be doing fine in Rochester, New York, where they carry most of the passengers. It is the No. 2 carrier at the Baltimore-Washington International Airport, where passenger totals increased by more than 7 percent last year. Maryland aviation officials report that US Airways gained passengers at an even faster pace than at the start of the year.

We really need to ask ourselves: Is this a failing airline? I would urge this Committee to view with caution an assessment that the US Airways is on the brink of collapse and can only be saved by a merger.

Mr. Chairman, I have not testified before your Committee on this issue, and I want to briefly explain my involvement. I represent Rochester, New York. We are typical of many mid-sized cities served by United and US Airways. For us, deregulation was a bust. Back in the 1980's, 13 air carriers served our region, affording customers choices and creating a competitive environment that produced reasonable fares. Now we have only a handful of airlines with US Airways the dominant carrier. According to the Department of Transportation, our air fares are the third highest in the country.

Now, one thing different about us is that we are a Fortune 500 community. And Rochester, New York exports more goods out of that one region than all but 9 states of the 50 United States. This is a community that has to travel and pays through the nose to do it.

Over the past few years, many firms or businesses have either moved out or chosen to expand into other regions of the country because of our exorbitant airfares and inconvenient flight schedules. And I think if any of you noticed the census numbers that have just recently come out, that upstate New York, has suffered.

This is not a position that we have expected to be in. We are, as I point out, the largest per capita exporting city in the country. And 1.2 million people flew out of our airport last year. The 28th District is the proud home of a number of 500 Fortune companies, such as Eastman Kodak, Xerox Corporation, Bausch and Lomb, Johnson and Johnson. Of equal importance are the hundreds of small and mid-sized high-technology firms that have been growing in our region over the past several years.

A bright spot and critical source of price competition is JetBlue Airlines, a low-cost airline we managed to attract to Rochester last year. But low-cost carriers like JetBlue, Southwest, and AirTran will surely find themselves at the mercy of these mega carriers should they take over the domestic aviation market.

Let me close by something I have stated before. Generations of American taxpayers have poured their tax dollars into building our Nation's aviation infrastructure. These same taxpayers will find themselves at the mercy of the marketing departments of mega carriers, who will decide with impunity which regions of the country live or die based on the access to air service.

And in response to my good colleague and fellow New Yorker Mr. Towns, if we could only imagine that we had one carrier that controlled the whole East Coast from Maine to Florida and it went on strike and you imagined the cities that you mentioned, the devastation, and the problems that we would have, I think it is worthy of great consideration.

I thank you for your time.

[The prepared statement of Hon. Louise Slaughter follows:]

PREPARED STATEMENT OF HON. LOUISE SLAUGHTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, thank you for this opportunity to be heard on this critical issue at this critical time. I want to praise you for engaging the Committee on this matter.

The current wave of airline mergers is sounding alarm bells—and it should. The notion that consolidating the entire US domestic aviation market into three megacarriers will be good for consumers is laughable on its face, and has been ridiculed by virtually every independent analysis. These mergers will clearly erode what little competition remains in the aviation industry. With fewer airlines competing against each other, entire regions of the country can expect higher prices, fewer flights, and even worse service than they endured over the recent holiday season.

A GAO report that I, along with my colleague James Oberstar (MN), requested made clear in December that the proposed US Airways/United merger would trigger further consolidation of the industry, thereby reducing the industry to as few as three major carriers. That prediction has come true faster than any of us imagined. Last week, the nation lost Trans World Airlines with its acquisition by American Airlines. Now press reports indicate that Delta Airlines, Continental Airlines and Northwest Airlines are also exploring a strategic alliance.

But Congress is not powerless in the face of these mergers. This is a Committee with a rich history of flexing its muscle, and its time to do just that. Congress must send an unambiguous signal to the Administration that these mergers should NOT go forward.

I have authored a bill called the Airline Merger Moratorium Act, HR 761, that I introduced with Peter DeFazio, which I urge you to take a look at. The bill is straightforward: NO AIRLINE MERGERS for a year. Period.

We need a moratorium to determine how detrimental the impact of these mergers will on the flying public. It will give newly appointed U.S. Transportation Secretary Norman Y. Mineta and U.S. Attorney General John Ashcroft the necessary time to fully understand the problems, opportunities and constraints faced by new carriers.

And it will provide the Bush administration with sufficient time to establish a new merger policy. These are enormously complex mergers where the public interest must be a factor in determining whether to allow them to go forward.

Also, Congress needs answers to other questions:

- What will be the long-term impacts on airline workers if these mergers are approved?
- What is the best use of publicly-owned takeoff and landing time slots at Reagan National Airport?
- What would be the impact of a airline labor strike if these mergers consolidate the airline industry into three major carriers?
- And a critical question that needs answering: Is US Airways really a failing airline? If so, why is United paying such a huge market premium to acquire it?

I would suggest that US Airways has lot of life in it, with some of the best employees in the industry. In February 1998, US Airways posted annual earnings of $538 million. And despite recent losses, US Airways continues to increase capacity and remains dominant at its hubs in Charlotte, N.C., Philadelphia and Pittsburgh. It is the No. 2 carrier at the Baltimore-Washington International Airport, where passenger totals increased by more than 7 percent last year. Maryland aviation officials report that US Airways gained passengers at an even faster pace at the start of this year.

I would urge this committee to view with caution an assessment that US Airways is on the brink of collapse, and can only be saved by a merger.

Mr. Chairman, I have never testified before your committee on this issue and want to briefly explain my involvement. I represent Rochester, New York. We are typical of many mid-sized cities served by United and U.S. Airways. For us, deregulation was a bust. Back in the 1980's, thirteen air carriers served our region, affording consumers choices and creating a competitive environment that produced reasonable fares. Now, we have only a handful of airlines, with US Airways the dominant carrier. According to the Department of Transportation, our air fares are the third highest in the country. Over the last few years, many firms and businesses have either moved out or chosen to expand into other regions of the country because of our exorbitant airfares and inconvenient flight schedules.

This is not a position Rochester thought it would ever find itself in. We are the largest per capita exporting city in the U.S. Last year, 1.2 million people flew out of our airport. The 28th District is the proud home of a number of Fortune 500 companies such as Eastman Kodak, Xerox Corp., Bausch & Lomb, and Johnson & Johnson. Of equal importance are the hundreds of small and mid-sized high technology firms that have been growing in our region over the past several years.

A bright spot, and critical source of price competition is JetBlue airlines, a low-cost airline we managed to attract to Rochester last year. But low cost carriers like JetBlue, Southwest, or AirTran will surely find themselves at the mercy of these mega-carriers should they take over the domestic aviation market.

Let me close by noting something I have stated before: generations of American taxpayers have poured their hard-earned tax dollars into building our nation's aviation infrastructure. These same taxpayers will find themselves at the mercy of the marketing departments of mega-carriers who will decide with impunity which regions of the country live or die, based on their access to air service.

I thank the Committee members for their time.

Mr. STEARNS. I thank you.

Mr. DeFazio?

STATEMENT OF HON. PETER A. DeFAZIO

Mr. DEFAZIO. Thank you, Mr. Chairman and members of the committee.

I am pleased to have the opportunity to be here today. I have served on the Aviation Subcommittee for 15 years and have visited this issue many times.

You will hear from the airlines today that with this merger, what they are offering is seamless service and this is what their customers demand: seamless service. You know, it is funny. The customers I run into or hear complaints from in my office or in meetings in my district are not concerned about seamless service. They are concerned about: No. 1, safety; No. 2, price; and, No. 3, service, but not seamless service. They just want to be treated well with basic rights as passengers in relationships with the airlines. Seamless service is just some bizarre thing that the PR people at the airlines came up with.

We have code shares. Code shares are allowed under law. United Airlines is involved in a code share with 13 airlines. You can fly from the most obscure city served by United Airlines in the United States of America to Uzbekistan and be in their system the whole time through the Star alliance. They don't need the seamless service. They don't need to merge. The merger will cause market concentration, which is going to be to the disadvantage of customers.

I give the example of my own home city, Eugene-Springfield. We are dominated by United Airlines. A round-trip ticket from Eugene to Washington, DC, government fare, runs about $1,000. If I am willing to drive 2 hours north to Portland, where there are airlines competing with United, the round-trip fare is less than $500, same airline distance, double the price. The only different factor is competition.

If you allow, if we allow, as Congress, this merger to go forward and competition no longer exists, you will find reduced competition in 290 of the top 5,000 markets, many represented by members of this panel and other Members of Congress. That will leave 43 markets with only one airline, one airline competing with itself in price and service. I don't think so.

Also, when you talk about service, you take and merge United and US Air. Well, there are already labor disputes. My flight was delayed 4 hours last Thursday night out of Dulles because the mechanics voted for the merger, but they don't have what they were promised in protecting their seniority, and the merger seems to be going forward. So they are starting a slowdown again.

You are going to have extraordinary labor problems with this merger between the pilots, the mechanics, and the other conflicting cultures. Their computer systems are not compatible. They say, "Oh, well. There will be 2 or 3 years of extraordinary disruptions for airline travelers, but then the benefits will outweigh those 2 or 3 years of additional disruptions that will come from this merger."

I don't think so because the benefits down the road are higher prices, less service, and a bigger airline. Already the motto of United, they have numerous mottos, but I have my own favorite, which is "We don't care. We don't have to." And you think a bigger airline with more market concentration, when you have no choice, is going to provide that sort of service. I don't think so.

So I would urge this Committee to look very critically at the claims that will be put before you today and question the assertions they make and really look. I think the Chairman defined it. What are the quantifiable benefits? Not all of this seamless service and these things. Tell us about the quantifiable benefits. And, in fact, maybe the merging partners would like to guarantee for 5 or 10 years that the fares in all of these cities will actually be lower because of this merger, maybe some quantifiable guarantees that they will put into their merger agreement as guarantees to the public and Members of Congress that there are benefits. I don't think if we asked for those steps that they would continue to advocate for the merger.

I thank the committee for its time. And I would ask that my complete and much more articulate statement written by my staff be put in the record.

[The prepared statement of Hon. Peter A. DeFazio follows:]

PREPARED STATEMENT OF HON. PETER DEFAZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Thank you Mr. Chairman and Mr. Ranking Member for holding this hearing. I appreciate the opportunity to testify on the timely issue of airline mergers. It is no secret that I think the recent rash of proposed mergers will have a negative effect on consumers. It will lead to market dominance by a few major players and less accountability to consumers.

The Department of Justice's recent approval of American's plan to buy TWA and the pending merger between United and U.S. Airways will shrink the domestic airline industry from six major players to two or three mega-carriers. It is estimated that American Airlines, after its purchase of TWA, will hold 23 percent of the airline market while the new United would comprise over 25 percent. Together these two airlines will make up half of the domestic airline industry and will dominate three other major carriers, Delta, Northwest and Continental, who together only account for about 35 percent of all domestic airline passengers. This kind of market dominance will mean less competition and higher fares for consumers. At a time when the airlines are under scrutiny for their lack of commitment to good customer service, it will also mean fewer options for consumers and less incentive for airlines to provide improved service. The only possible benefit of these mergers to consumers would be increased competition in markets where neither United or U.S. Airways was a major presence, additional nonstop flights and additional frequent flier miles for some customers. However, the high prices that will accompany the consolidation of airlines will hurt consumers much more than new benefits will help them.

Many consumers are already suffering at the hands of the airline industry's powerful market dominance. The deregulation of the airline industry may have decreased prices for some consumers in competitive markets, but fliers in cities with little competition continue to pay more than most. If we allow mergers that further limit competition to go forward, prices will rise in markets across the U.S. A December report by the General Accounting Office (GAO) found that the United merger could reduce competition in 290 of the top 5,000 markets. These markets served about 16 million passengers in 1999. Out of the 290 markets where competition will be reduced, GAO estimates that the merger will leave 43 markets with only one airline, effectively eliminating consumer choice for over 4 million people. The effects of decreased competition will be especially felt here in Washington, D.C., where the new United is expected to gain a market share of greater than 90 percent on flights from Washington to Boston, MA, and from Washington to Tampa, Florida.

If the proposed mergers we are discussing today go forward, United, American and their affiliates will dominate at eleven hub airports including, Chicago, Charlotte, Dallas, Denver, Miami, New York, Philadelphia, Pittsburgh, San Francisco, St. Louis and Washington-Dulles. United and American will also operate nearly 80 percent of all takeoff and landing slots at three of the nation's largest airports, including 93 percent at Chicago's O'Hare, 65 percent at New York's LaGuardia, and 65 percent at Washington's National Airport.

A December GAO report compared the proposed United merger with the failed attempt Northwest made in 1998 to acquire a majority of Continental's voting stock. The GAO found that the proposed United merger would have a much larger and more negative impact on competition in the airline industry than the Northwest-Continental stock acquisition. The United merger will reduce competition in more than four times as many markets as the Northwest-Continental proposal and will dominate more than twice the total number of markets, affecting 20 million more passengers.

According to a study released by the Department of Transportation (DOT) in January, fares are lower in markets where discount airlines or several major airlines compete. Consumers pay as much as 40 percent more in markets with little or no competition. I know something about how market dominance and a lack of competition can lead to poor service. Until very recently, the Eugene airport, near my home in Oregon, was only served by United Airlines with very limited service by Horizon. Since Horizon only offers flights on the West Coast, United was the only choice for passengers wishing to travel to the East.

In September of 1999, in a unique partnership, the business community of Eugene convinced America West to offer service to Phoenix by making a financial deposit towards the purchase of future flights on America West.

Service by America West is still somewhat limited, but the benefit to consumers from this additional competition can be clearly seen in the following example. A consumer who wants to fly from Eugene to Washington National Airport can now choose between American West and United. A typical flight on America West would have one lay over and, based on prices earlier this week, would cost about $420. A similar flight on United would include two stops and cost over $1,000. If the same customer were willing to drive two hours to Portland International Airport, United would offer a similar flight with only one stop for about $460.

The business community in Eugene has had to take an active role in increasing competition, but their efforts have had a positive affect. Recently, Horizon began offering a non-stop flight to Los Angeles because Eugene business leaders made a financial deposit toward future tickets on Horizon. United and America West do not offer direct flights from Eugene to Los Angeles and delays through San Francisco were a constant source of frustration to business travelers. As soon as Horizon began offering its lower priced, non-stop flights to Los Angeles, both United and America West adjusted their prices to match Horizon's.

Deregulation left many communities with only one or two airline options and customer complaints have risen because of oversold, overcrowded, late, delayed and canceled flights. According to statistics complied by the DOT, more than one in every four flights were delayed, canceled or diverted last year. Among the top carriers, United and U.S. Airways accounted for over 50 percent of the total number of chronically delayed flights. In December of 2000, 178,707 of 475,398 scheduled flights failed to arrive on time, the most late flights ever reported in a single month. The following month DOT received 30 percent more complaints from consumers about flight delays or cancellations than they had during the same month the previous year.

The failure of airlines to meet even the most basic commitments to customer service calls into question whether or not they should be focusing all their efforts on expanding their market share. It is time to put the brakes on merger mania. The airline industry should focus on improving customer service and increasing consumer choices, rather than rushing to gobble each other up.

Mr. STEARNS. By unanimous consent, so ordered. I thank my colleague.

The gentlewoman from South Carolina, Ms. Myrick.

Ms. MYRICK. From North Carolina.

Mr. STEARNS. North Carolina. I am sorry.

Ms. MYRICK. That is quite all right, but I know Mr.——

Mr. STEARNS. I have got it here. It says, "North Carolina."

Ms. MYRICK. We have one from each here.

Mr. STEARNS. I know. I know.

STATEMENT OF HON. SUE MYRICK

Ms. MYRICK. Thank you very much, Mr. Chairman and the members of the committee, for allowing me to be here today and discuss the proposed merger between US Air and United.

I believe that joining US Air with United is good for the consumers because it would preserve the broad array of services that US Airways has provided to North Carolina. And it would ensure that thousands of US Air employees in my state are going to have jobs at United.

The service US Airways offers out of the Carolinas is the envy of consumers in many regions across the Nation. In Charlotte alone, US Airways currently offers 554 daily departures to 110 destinations. This has opened the door for thousands of local and international businesses that require convenient and frequent air travel. As a result, Charlotte has grown into one of the Nation's; indeed, the world's, leading banking and financial centers. After combining US Airways and United, Charlotte and the Carolinas will be even more connected to the global economy at a time when aviation is crucial to our future economic development.

One needs only to compare the services offered out of Charlotte to a city of similar size to see what is at stake for families in Charlotte. Indianapolis, for example, a city larger than Charlotte, has only 178 daily departures because it lacks a hometown carrier that is willing to base its operations there. Sacramento, another city that is larger than Charlotte, has only 134 daily departures, a mere fraction of what Charlotte has been able to provide as a result of US Airways' commitment to the region. And I question whether the people of North Carolina would want to give up what is clearly one of the secrets to our great business and economic success.

The unfortunate fact of all of this is that if left on its own, US Airways would not be able to continue to provide this level of service to North Carolina consumers. After reporting a significant net loss of $269 million for 2000, the company just announced it expects first quarter earnings to be well below the current estimate of a loss of $1.12 per share. US Airways finds itself in this untenable position because, like TWA, which is now undergoing its third bankruptcy in 10 years, it is being squeezed between the low-cost, low-fare airlines and the full-scale, global network carriers. US Airways is struggling to cope with unworkable costs and a limited route network, putting it at a severe disadvantage against the competition.

It is a company built in the same mold as TWA and Eastern and Pan Am and Braniff. It is clear to me that absent this merger, US Airways is in dire financial straits. In addition to a loss of services, the Carolinas would face a major loss of jobs if the merger was not approved. At a time when our state is losing literally thousands of manufacturing jobs, we have lost 10,000 in one of my counties alone, and our country is experiencing an economic challenge, I don't think we can afford to see the 10,500 US Airways employees in North Carolina and 45,000 across the network lose their jobs. At this point, impediments to the approval process only delay the inevitable and inflict unnecessary pain.

There is an alternative to job losses, service reduction, and economic hardships because the merger with United provides a bright future for its employees, the communities it serves, and the economy of North Carolina. The terms of the proposed agreement guarantee not only the 10,500 US Airways jobs in North Carolina but also those of the entire company at a time when many companies are cutting back their workforces. Further, no communities will be cut from service, none of them. Indeed, with the United service complement, Charlotte and the entire Southeast will be even more connected to the global economy.

I believe it is time to act now to avoid the TWA scenario for US Airways. It is time for the Department of Justice to approve it so the new company and its employees can begin to build for the future.

I would ask the subcommittee to support his merger on behalf of all of us consumers in North America and across the world, actually. In a time of economic uncertainty, consumers want us to be working to preserve jobs and services at home, not supporting efforts and plans to gut them.

And I would like to submit my whole statement for the record, Mr. Chairman.

[The prepared statement of Hon. Sue Myrick follows:]

PREPARED STATEMENT OF HON. SUE MYRICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to discuss the proposed US Airways-United Airlines merger. Fundamentally, I believe joining United with US Airways is good for consumers because it would preserve the broad array of services US Airways has provided North Carolina and would ensure that the thousands of US Airways employees in my state will have jobs at United.

The service US Airways offers out of the Carolinas is the envy of consumers in many regions across the nation. In Charlotte alone, US Airways currently offers 554 daily departures to 110 destinations. This has opened the door for thousands of local and international businesses that require convenient and frequent air travel. As a result, Charlotte has grown into one of the nation's—indeed the world's—leading banking and financial centers. After combining US Airways and United, Charlotte and the Carolinas will be even more connected to the global economy at a time when aviation is crucial to our future economic development.

One needs only to compare the services offered out of Charlotte to a city of similar size to see what is at stake for families in the Carolinas. Indianapolis, for example, a city larger than Charlotte, has only 178 daily departures because it lacks a hometown carrier that is willing to base its operations there. Sacramento, another city larger than Charlotte, has only 134 daily departures, a mere fraction of what Charlotte has been able to provide as a result of US Airways' commitment to our region. I question whether the people of North Carolina would want to give up what is clearly one of the secrets to our state's economic success.

The unfortunate fact is that, if left on its own, US Airways would not be able to continue to provide this level of service to North Carolina consumers. After reporting a significant net loss of $269 million for 2000, the company just announced that it expects first quarter earnings to be well below the current estimate of a loss of $1.12 per share. US Airways finds itself in this untenable position because, like TWA, which is now undergoing its third bankruptcy in ten years, it is being squeezed between the low-cost, low-fare airlines and the full scale, global network carriers. US Airways is struggling to cope with unworkable costs and a limited route network, putting it at a severe disadvantage against the competition.

US Airways is a company built in the same mold as TWA, as well as Pan Am, Braniff and Eastern. It is clear to me that absent this merger, US Airways is in dire financial straits. In addition to a loss of services, the Carolinas would face a major loss of jobs if the merger was not approved. At a time when our state is losing manufacturing jobs and our country is experiencing an economic challenge, I don't think we can afford to see the 10,500 US Airways employees in North Carolina and 45,000 across their network lose their jobs. At this point, impediments to the approval process only delay the inevitable and inflict unnecessary pain.

But there is an alternative to job losses, service reduction and economic hardships. The merger of US Airways with United provides a bright future for its employees, the communities it serves and the economy of North Carolina. The terms of the proposed agreement guarantee not only the 10,500 US Airways jobs in North Carolina, but also those of the entire company, at a time when many companies are cutting back their workforces. Further, no communities will be cut from the service network. Indeed, with new United service, Charlotte and the entire Southeast will be even more connected to the global economy.

It's time to act now to avoid the "TWA scenario" for US Airways. It's time for the Department of Justice to approve the US Airways-United transaction so that the new company and its employees can begin to build for their future—and for ours. Delay only hurts.

For these reasons, I urge this Subcommittee to support this merger on behalf of consumers in North Carolina and across America. In this time of economic uncertainty, consumers want us to be working to preserve jobs and services at home—not supporting efforts and plans to gut them.

Mr. STEARNS. By unanimous consent, so ordered. Just to remind the members, what I thought we would do is we would ask the questions here to the members as a courtesy. And then after the first panel, we would have our opening statements. The ranking member and I have both given ours. If Mr. Dingell was here, I would offer him his opening statement. So we are going to open up for questions here for the members. And then we will have the opening statements right afterwards.

I think my question for you, Ms. Myrick from North Carolina, is: Have you got assurance from United? I understand it is 534 flights a day out of Charlotte. Have you got assurance from them that you are going to have that many flights every day and you feel confident with the merger that, in fact, the amount of service will remain the same or increase?

Ms. MYRICK. Yes. We have been told that, and I feel confident that they are telling us the truth.

Mr. STEARNS. Okay. Mr. DeFazio, you know, this whole merger with US Air and United has been looked at since last May. Now, if we had a moratorium, I think if you look at this merger and you look at the balance sheets of these, what benefit is this going to have if under the free market system you have this give and take and one airline feels that it would be better able to serve if they were absorbed? Because other than price controls or the government stepping in with some kind of Federal regulation, you are not allowing this system to operate.

So I guess the question is: Should we step in and prevent this and how long this moratorium in your mind should last? Perhaps this is both for you and Ms. Slaughter.

Mr. DEFAZIO. Well, first off, the current allegation that this is necessary for the financial health of US Air. I asked Mr. Wolf that question very directly about 4 months ago before the Aviation Committee, very directly. I said: Mr. Wolf, I think members of this

Committee would like to know. Is this essential for the continued operation of US Air and its financial health?

And Mr. Wolf said absolutely unequivocally not. We are healthy. We are growing. We are doing great. We are not merging because of that issue. That hasn't changed. The basics in the whole industry have changed. And everybody is showing losses right now. But unless Mr. Wolf was not telling the truth then, I would say that the basic assertion has not changed and it is not a good rationale for the merger.

Second, free markets assume a whole lot of things: ease of entry and exit, transparency in terms of consumers having all of the information they need to make informed choices, no market dominance by any one supplier of a product. Those are the assumptions of Adam Smith regarding free markets.

What we are doing here would mean that there would be obviously a lot less capability for entry given the size of a US Air-United merged airline. They would be able to engage in predatory pricing and squeeze out with impunity any future competition, as many of the major airlines do already with those upstarts that try and come into their markets and drive down prices and provide a service to consumers.

The fact that they would dominate so many airports in the East is against the precepts of free and fair markets. I would urge, I think, a delay, and I hope a delay that results in no merger going forward.

Mr. STEARNS. I understand that Senator Dorgan has drafted a bill for a 2-year moratorium. I don't know if you knew that.

Your conversation with Mr. Wolf you said was 2 years ago?

Mr. DEFAZIO. No, no. It was 4 months ago.

Mr. STEARNS. Four months ago.

Mr. DEFAZIO. Four months ago. And he was absolutely unequivocal. I don't believe the basics of the airline have changed since then. The basics of the entire industry have changed because of the changing U.S. economy, but I can't imagine that the basics of that one particular airline have changed that much in 4 months. I can provide that for the record.

Mr. STEARNS. We have the great opportunity to explore that.

Mr. Clyburn, the question—and I will get right to you—is: What does D.C. Air bring to the Washington region that was not already here with US Air?

Mr. CLYBURN. Well, it brings more competition. It could very well bring lower air travel, lower prices. Remember, you are not running around the airport. We are leaving Reagan National going other places as well. There are three cities in my congressional district serviced by US Airways: Florence, Columbia, and Charleston. And D.C. Air would be serving those cities.

And also I think that this is important. It may not be important to some people. It is very important to me. The fact that this merger creates D.C. Air, which is the first opportunity for a minority to gain ownership in this business, to me would demonstrate the way that we ought to be going. When we start talking about increasing competition, I think we also ought to be talking about creating opportunities for everybody.

Mr. STEARNS. Ms. Slaughter?

Ms. SLAUGHTER. Thank you, Mr. Chairman.

I would like to comment on the government's interest here. It has long been a tenet of the United States that the ability to move goods and people where they need to go in a timely fashion is a bedrock of the economy. And, indeed, the United States regulated airlines until fairly recently. I know that the President has already announced his intention to impose the executive branch in the event there is a strike in Northwest.

I would like to call your attention to at the time that Northwest Airlines was on strike, that there were entire states in the Northwestern part of the United States that were basically without service for a considerable period of time. So the government has always in the past stepped in when these kinds of things happen. And I think it is perfectly appropriate, if not our obligation, frankly, to look at what this means for the traveling public in the United States.

We are not talking reregulation here. We are simply saying, "Give us a year to look to see what this will mean to us." I don't want a repeat in the Northeast or down the Eastern seaboard of what happened when Northwest went out on strike. It is a very serious business when you are simply unable to move.

And also I am very much concerned. I think we are an example of what happens when you are pretty much at the mercy. We talk about competition. Let me make something clear about competition. In the airline industry, too, there is a pretty good price correlation, not particularly competition. In my district, for example, you can fly on two airlines, from Rochester to Chicago. But they will cost you within one penny of the same fare. I am not saying here that they all work that out, but the truth of the matter is that that it would cost exactly the same amount of money.

The best thing that we had going for us and the thing that I concern myself with are the new entrants into the airlines, the ones that are providing low-cost service. And they are really putting some pressure on to lower the fares.

One of my concerns about the American merger is that American is going into court in May against the Justice Department because they have been accused of engaging in predatory practices of running airlines out of business. We have had a lot of history of this. We could sit here and name 10 or 15 who used to be here and aren't any more.

It struck me as very odd that the Justice Department would want this merger to go on, at least until they adjudicated the case with American, unless they are telling us that they are not going to do anything about it. This case has been on the books for about a year now in this suit.

Those are things that I think the government is overlooking. We need to know the answers to that. I am personally very curious as to what will happen with American predatory practices. I am personally counting on the Justice Department to make sure that what happens with American gives some signal to other airlines of: Don't let this happen again.

So there is a great government interest here. I hope it works.

Mr. STEARNS. Okay. I thank my colleague.

Mr. Towns?

Mr. TOWNS. Thank you very much, Mr. Chairman. Let me thank all of my colleagues for their testimony.

Let me ask Mr. DeFazio a question. I know he has been involved in these issues for a long, long time, some 15 years. Are low-fare carriers the only force in today's airline market forcing major carriers to compete on price?

Mr. DEFAZIO. I am sorry?

Mr. TOWNS. Low-cost carriers.

Mr. DEFAZIO. Where there is head-to-head competition, absolutely, but there are many cases where there is no head-to-head competition, where there is no low-fare carrier available. There are significant allegations over a number of years and reports on Predatory Pricing Act. A very large airline can run at a loss for a considerable length of time, one or two or three or five or ten flight legs. And they have been known to suddenly match the price of a competing upstart until the upstart goes away and then raise the price again. We can provide documentation of those things.

Mr. TOWNS. Ms. Slaughter, do you want to add to that?

Ms. SLAUGHTER. That is the case with American now that they are being accused of running an airline out of business by doing that.

Mr. TOWNS. Now, JetBlue went into Rochester.

Ms. SLAUGHTER. Yes.

Mr. TOWNS. Did they have a problem going into the market in Rochester?

Ms. SLAUGHTER. They are doing extremely well, and everybody loves them. I was just reading this morning that by some group that evaluates airlines Midway Express is rated No. 1, JetBlue No. 2. For an airline that has only been in business a year, I think that is quite extraordinary.

We do worry about it, absolutely. We are concerned that if these mega mergers go through, that they will squeeze them out.

Mr. TOWNS. Mr. Chairman, thank you very much.

Mr. STEARNS. Yes. The Vice Chairman, Mr. Deal?

Mr. DEAL. Thank you. Thank you, Mr. Chairman. I want to thank my colleagues for being here today.

As you know, being from Georgia, which is the home for one of the other major airlines, Delta, I would like for I suppose Ms. Slaughter or Mr. DeFazio since they alluded to this to comment on the pressure that might be placed on the other remaining major airlines to themselves consider further mergers in order to compete with what may be now the other two mega airlines.

Ms. SLAUGHTER. We understand that there are strategic discussions going on now among Delta, Northwest, and Continental out of concern; I don't think that they are really keen on seeing these mergers go through but out of concern that if they go through, they are going to be left out.

Remember, I think that the United-US Air is going to be 60 percent of all of the traffic in the United States. Isn't that correct? I think that they will dominate that much of the market.

Mr. STEARNS. Staff tells me it is 50.

Ms. SLAUGHTER. Fifty?

Mr. STEARNS. Yes.

Ms. SLAUGHTER. Okay. So they are very much concerned. I know that they are in discussions, yes. And, you know, that might not be the end of it. Maybe after we only have three they decide only to have two: one east of the Mississippi, one west.

Mr. DEFAZIO. Mr. Deal, in fact, I have had more direct discussions with representatives of Delta, who have said to me that they would have to very seriously consider mergers if this merger goes forward just to defend against what they feel would be an extraordinary market dominance by this one gigantic new airline.

Mr. DEAL. Can any of you offer us any statistical data that indicates that previous mergers or experiences of consolidations of airlines have led to reduced fares?

Ms. SLAUGHTER. Reduced fares?

Mr. DEAL. Yes.

Ms. SLAUGHTER. I certainly wouldn't know of any. Our experience, as I mentioned in my testimony, was that not too long ago, just before deregulation, we had 13 carriers. Most of them completely disappeared. And I haven't seen an instance at all that fares have gone down. And, frankly, I don't believe that to be the case.

Mr. DEFAZIO. I would suggest you direct that question to the airline CEOs. You might also ask the question I did in reference to the Chairman's question about what a competitive industry this is.

I asked the assembled airline CEOs in a hearing last year before Aviation if they could name any other fiercely competitive industry, which they tell us this is, where everybody raises prices by the same amount on the same day or within 24 hours and if that is fierce competition.

I fear that when there are fewer airlines having to coordinate and communicate those things, that you will find that it will be even worse in terms of the increase.

Mr. DEAL. Just one final quick question. Based on my understanding of how far this has progressed, the bankruptcy approval of the bankruptcy court for the purchase of TWA, what is your understanding of what role, if any, Congress can play in whether this is finalized, blocked, or otherwise? Is it now just simply clearing the Federal agencies for their final approval, whether it be Justice or Department of Transportation? Their sign-offs, is that where we are is your understanding?

Ms. SLAUGHTER. I think we lost that one. I think there are just some legal maneuvers that are going to take place. One of the interesting biplates of that was when another offer was made for TWA. How much I regret the loss of TWA. It was a splendid airline with great history. American then doubled the price that they paid for it.

Given that I pointed out the fact that they are facing government action in May, I wonder what is the effect having to pay double for TWA and any possible fines or judgments against them by the Federal Government would mean on their survival.

Mr. DEFAZIO. I would have to check the specifics, but generally the certificate transfer has to be approved by the FAA and the Department of Transportation. I don't think the judge has the authority to do that.

There are a number of criteria that go to fitness and capability in the transfer of a certificate. And whether that would apply in this case and whether there could be further scrutiny, review, or even a slowdown or blockage by DOT, FAA, I am not certain. I think Congress certainly has some fairly extraordinary powers in this area, but I doubt that we are going to wade in.

I am afraid I would have to agree with Ms. Slaughter. We may well have lost that, and that may well start an inevitable cascade toward the three big airlines. And, of course, as Ranking Member Lipinski on Aviation likes to say, he welcomes the idea of three airlines because then it will become clear we have to reregulate.

Mr. DEAL. Thank you, Mr. Chairman.

Mr. STEARNS. The gentleman's time has expired.

The ranking member of the full Committee, Mr. Dingell.

Mr. DINGELL. Mr. Chairman, you are very gracious. Thank you. I have no comments at this time except to commend our panel. Thank you for holding this hearing. I will have an opening statement at a suitable time, and I thank you.

Mr. STEARNS. All right. Thank you.

Mr. Whitfield for questions?

Mr. WHITFIELD. No, Mr. Chairman, I don't have any questions.

Mr. STEARNS. Okay. Ms. DeGette?

Ms. DEGETTE. No questions.

Mr. STEARNS. No questions? Shimkus, Mr. Shimkus? Not here. Mr. Doyle?

Mr. DOYLE. No questions.

Mr. STEARNS. Okay. Mr. Buyer?

Mr. BUYER. I just have one question. Mr. Clyburn, you gave testimony on D.C. Air. My sense is that D.C. Air might provide smaller and less sophisticated aircraft than what we presently have underutilized with US Air. Do you have any comment or do you have any insight?

Mr. CLYBURN. I think I do. I have had discussions over the weekend with representatives from American Airlines. My understanding is that part of the 49 percent agreement with American Airlines is—I have been schooled on this, and I hope I got it right—lease agreements with American Airlines and flying those planes. They will be providing the rolling stock for D.C. Air as a part of that 49 percent. So it means that the same airplanes you travel with American now you will be traveling with D.C. Air.

Mr. BUYER. Ms. Slaughter, Mr. DeFazio, do you have any comment regarding Mr. Clyburn's?

Ms. SLAUGHTER. I have not had any discussions with anybody, but my understanding is that we would be served by smaller regional jets.

Mr. DEFAZIO. In the testimony before the Aviation Committee—and there have been changes of the involvement of American Airlines since that time—one of the concerns raised by members of the committee was if United Airlines has this agreement with D.C. Air, what is the real level of independence of D.C. Air, other than the titular 1 percent in terms of voting stock and equity interest in the airline? Since the pilots, the mechanics, the reservation system, the counters, everything would be initially staffed by United Airlines, wouldn't this really be United Airlines?

I am not certain how they have now integrated American. I guess you will have a choice of counters and more seamless service area. You can go to United, American, or D.C. Air and it is essentially the same airline providing the same fixed-price service, which I expect will be a lot higher.

Mr. BUYER. Mr. DeFazio, the question is about whether they would be smaller, less sophisticated aircraft.

Mr. DEFAZIO. As I said, we haven't held a hearing since then. Initially it was going to be United's fleet. So, the planes would be smaller if United diverts smaller, less sophisticated aircraft. They have some pretty crummy stuff, they serve my city now with a 1,000-mile flight on a BAE 146. I don't know if any of you have ever been on one. It is a plane designed to fly about 200 miles. They are really quite sweet. Maybe they will bring some of those back here because we sure want to get rid of them.

Mr. BUYER. I yield back the balance of my time.

Mr. STEARNS. The gentleman yields back the balance of his time.

Ms. Harman for questions?

Ms. HARMAN. I don't have any.

Mr. STEARNS. Ms. Cubin?

Ms. CUBIN. No questions.

Mr. STEARNS. Mr. Pitts?

Mr. PITTS. No questions.

Mr. STEARNS. No questions? Ms. Capps?

Ms. CAPPS. No questions.

Mr. STEARNS. Mr. Bryant?

Mr. BRYANT. No questions.

Mr. STEARNS. Mr. John?

Mr. JOHN. No questions.

Mr. STEARNS. Mr. Bass?

Mr. BASS. No questions.

Mr. STEARNS. Mr. Rush?

Mr. RUSH. Thank you, Mr. Chairman.

Mr. Chairman, I am somewhat intrigued by the possibilities that loom for D.C. Air. I would like to ask Mr. Clyburn: Will there be any disruptions or do you foresee any disruptions created by the merger of US Air and United? And if there are, then what effect would D.C. Air's entry into the market have on those disruptions?

Mr. CLYBURN. I don't see where the merger would be any disruptions. And I have had some extensive discussions with Bob Johnson on this merger and with representatives of American and US Airways on this. I am not here today having not had some background discussions with people on this subject. I do believe it enhances.

I think, if I may, Mr. Rush, I think part of what we see experiencing here, if you look at the, I think it was, GAO report in 1996, where the indication in that report said that the big losers in this, the air fare war, is people in the South and Appalachia.

And if you look at, I think, the results of the Census that we just saw, it is kind of significant that here we are trying to grow an airline, an airline service, in the regional country, where people are moving. If you look at the shift in the Nation's population, it is in the same region of the country where we now have a problem with air service. So we are trying to grow the service in the same area where the Nation's growth has taken place. I think it stands to reason that that ought to be part of what our discussion is here today.

I see no disruption. I see an enhancement of service. I see more competition. And I think I see a lowering of air fares.

Mr. RUSH. Do you feel that if, in fact, United and American had proprietary ownership over the equipment, the rolling stock, as it is, that that in some kind of way diminishes the responsibility and also the ownership and the possibilities for D.C. Air in its own ownership?

Mr. CLYBURN. Absolutely not. You know, who owns what in fee simple and who pays what amount for lease, it is all about business. You don't have to own the rolling stock in order to pay your fair share of use. I mean, if you can lease the equipment, you are, in fact, participating as business people do. I think that it is an insult to Mr. Johnson or to anybody else to think that you own 51 percent and that 51 percent makes you different from 51 percent ownership in some other company.

You are a majority, and you run it. I think that he has demonstrated that time and time again with the enterprise you currently started after working on this Hill as a staffer. He went out, took a risk, went into business, and has built. I think the sale I saw was somewhat in excess of $1 billion that he sold BET for.

So I think he has demonstrated that he knows how to play in the business world. And I think to look at his 51 percent ownership and treat it differently from any other 51 percent is an insult.

Mr. RUSH. Thank you, Mr. Chairman. I yield back.

Mr. STEARNS. The gentleman yields back.

Mr. Terry?

Mr. TERRY. No questions.

Mr. STEARNS. Mr. Luther?

Mr. LUTHER. No questions.

Mr. STEARNS. Mr. Upton is not here. Ms. Bono?

Ms. BONO. No questions.

Mr. STEARNS. No questions? Mr. Burr?

Mr. BURR. No questions.

Mr. STEARNS. No questions? Mr. Davis?

Mr. DAVIS. No questions.

Mr. STEARNS. With that, we thank our colleagues for staying and answering questions. And we appreciate your time.

We would have the second panel if you would come to the front desk. And at this point, we will go on with our opening statement with the members while you are coming forward. Mr. Dingell, would you like to have your opening statement at this time?

Mr. DINGELL. Mr. Chairman, I thank you.

Mr. Chairman, first of all, I commend you for holding this important, timely hearing on the impact of airline mergers on consumers. Last week the Justice Department approved the American Airlines' acquisition of Trans World Airlines. A decision on the United Airlines-US Airways-American deal could come in the near future.

We all need to understand that these mega mergers can inflict serious, difficult-to-remedy harm on consumers and upon the economy. Consumers will have fewer competitors to choose from. And the airline's already abysmal record on customer service will get worse.

I would note that the Department of Justice has already, however, taken actions to prevent acquisition of stock in Continental by Northwest. I hope that we will have a good explanation from the Department of Justice on why they are treating one merger one way and another merger quite differently.

The irony, Mr. Chairman, here is that in many ways airline deregulation has transformed the regulated monopolies of yesterday into unregulated monopolies of today. I would note that I did not support airline deregulation 23 years ago because I was concerned that consumers would be harmed. Unfortunately, my concerns have been realized and then some.

Studies have shown that airline competition has declined, and, as that has occurred, passenger service has suffered. Many thought we hit a new low in customer service when in January 1999 thousands of passengers sat on a runway at Detroit Metropolitan Airport for 8 hours, many without food, water, or working lavatories.

However, in its February 2001 report assessing airline customer service, the Department of Transportation found that, "Since the January 1999 incident, the state of aviation as measured by delays and cancellations has worsened." Last year the Department of Transportation received a record number of passenger complaints, 14 percent more than 1999. More than one-quarter of all flights were delayed, diverted, or canceled.

Mr. Chairman, airline passengers deserve better than this. Service will only improve when real competition is forced upon the airline industry.

The pending mergers have enormous consequences for airline competition. After merger, the new United and American will control 50 percent of the passenger market in the United States. Imagine that. And their impact is not going to stop there. Further, industry consolidation will occur. And, according to analysts, nearly 90 percent of the market in the United States will be controlled by 3 major airlines.

I would be interested to hear how these three new mega airlines will compete against each other when there is far tool little competition among six major airlines today. This is an important question because in theory large networks could provide certain benefits to consumers, but in practice real benefits do not materialize because of the abuse of market power at network hubs and because of the natural monopolistic instincts of airlines.

In fact, in January 2001, the United States Department of Transportation released a study which found that from a consumer perspective, the primary disadvantage of network hubs is the level of market power that the hub carrier is able to amass and the higher prices consumers pay as a result. Moreover, it found that at the so-called fortress hubs, 24.7 million passengers pay an average of 41 percent more than other passengers who fly in and out of non-hub markets, where low-fare carriers compete.

Let me give you an example of what I find particularly troublesome. My round-trip fare from Washington to Kalamazoo, Michigan requires me to fly to Detroit, to change planes, and to fly on to Kalamazoo. That flight is 65 percent cheaper than my fare from Washington to Detroit. I wonder if the airlines or anybody else has an explanation for that quaint phenomenon.

The round-trip government fare for me to fly between Washington National Airport and Detroit Metro Airport is $541.50. Yet, the round-trip government fare between Washington and Kalamazoo, which again requires me to change planes in Detroit, is only $190. Remarkable. I would note that it is cheaper for me to fly to Chicago than it is for me to fly to Detroit. One must ask why a flight of 800 miles is cheaper than a flight of 600 miles. Perhaps the airlines could explain that.

Why does it cost less to fly through Detroit to Kalamazoo than it costs to fly just to Detroit and, I note again, with a change of aircraft? Competition. Kalamazoo has competition. Detroit does not.

Mr. Chairman, I commend you for holding this hearing. I look forward to hearing the testimony of witnesses and their ideas on how to promote competition and customer service in the airline industry. It is desperately needed. Thank you.

[The prepared statement of Hon. John D. Dingell follows:]

PREPARED STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, thank you for holding this important and timely hearing on the impact of airline mergers on consumers. Just last week, the Justice Department approved the American Airlines' acquisition of Trans World Airlines. A decision on the United Airlines/US Airways/American deal could come in the near future. We all need to understand that these "mega" mergers can inflict serious, difficult-to-remedy, harm on consumers. Consumers will have fewer competitors to choose from, and the airlines' already abysmal record on customer service will get worse.

The irony is that, in many ways, airline deregulation has transformed the *regulated* monopolies of yesterday into the *unregulated* monopolies of today. I would note that I did not support airline deregulation 23 years ago because I was concerned that consumers would be harmed. Unfortunately, my concerns have been realized.

Studies have shown that airline competition has declined, and passenger service has suffered. Many thought we hit a low in customer service when, in January 1999, thousands of passengers sat on the runway at Detroit Metropolitan Airport for over eight hours, many without food, water, or working lavatories. However, in its February 2001 report assessing airline customer service, the Department of Transportation found that "since the January 1999 incident, the state of aviation as measured by delays and cancellations has worsened."

Last year, the Department of Transportation received a record number of passenger complaints—14 percent more than in 1999. More than one-quarter of all flights were delayed, diverted, or canceled. Mr. Chairman, airline passengers deserve better than this, but service will only improve when real competition takes hold in the airline industry.

The pending mergers have enormous consequences for airline competition. After merger, the new United and American will control 50 percent of the airline passenger market in the United States, and their impact will not stop there. Further industry consolidation will occur and, according to analysts, nearly 90 percent of the U.S. market could be controlled by three major airlines.

I would be interested to hear how three new "mega" airlines will compete against each other when there is far too little competition among six major airlines today. This is an important question because, in theory, large networks could provide certain benefits to consumers. But, in practice, real benefits do not materialize because of the abuse of market power at network hubs.

In fact, in January 2001, the U.S. Department of Transportation released a study which found that "from a consumer perspective, the primary disadvantage of network hubs is the level of market power that the hub carrier is capable of amassing and the higher prices consumers pay as a result." Moreover, it found that at so-called "fortress" hubs, 24.7 million passengers pay on average 41 percent more than other passengers who fly in hub markets where low-fare carriers compete.

Let me give you an example that I find particularly troublesome. My roundtrip fare from Washington to Kalamazoo, Michigan, which requires me to fly to Detroit, change planes and fly on to Kalamazoo, is 65 percent cheaper than my fare from Washington to Detroit. The round-trip government fare for me to fly between Washington National Airport and Detroit Metro Airport is $541.50. Yet, the round-trip government fare between Washington and Kalamazoo, Michigan, which again requires me to change planes in Detroit, is only $190.

Why does it cost less to fly through Detroit to Kalamazoo than it costs to fly just to Detroit? Competition! Kalamazoo has it; Detroit does not.

Mr. Chairman, I look forward to hearing the testimony of the witnesses and their ideas on how to promote competition and customer service in the airline industry.

Mr. STEARNS. I thank my colleague.

Mr. Deal, opening statement?

Mr. DEAL. I will submit it for the record.

Mr. STEARNS. Okay. Ms. DeGette, opening statement?

Ms. DEGETTE. Thank you, Mr. Chairman.

Before giving my statement, I would like to give a special recognition to a member of the mighty law school class of NYU 1982, Shelley Longmuir, who is testifying today, who is a law school classmate, not only of me but also of my husband. So if anybody wants to know the true story about me, they can ask Shelley after the hearing because we knew each other in our youth.

I would like to thank you for holding the hearings today. The issues surrounding airline transportation, specifically airline mergers, have received a lot of attention and, as we see today, engender a lot of controversy.

On the one hand, proponents of the mergers make the case that competition will increase and passengers will be provided more options at lower cost. Opponents make the case that fewer carriers will eliminate competition by leaving consumers with fewer options and an increased risk of delayed flights. And then, as Mr. Dingell mentioned, there is the mystery of disparate fares for different distances.

When I think about my district in the West—and Mr. Clyburn mentioned this briefly—I think that Western markets, a merger could, in fact, mean more access from East to West for some of these routes. This could benefit not just folks from the Southern United States but also folks from the West who are unable to easily and conveniently travel to many parts of the East Coast. Many folks trying to go from my district to Florida, for example, have to spend the night in Chicago on the way because they can't get there.

On the other hand, in the last year, the Nation has been inundated with news accounts of major airline flight delays and cancellations. For those of us like me and Mr. DeFazio, who fly to Denver a lot, we know that last June was the worst month for all types of delays since the early 1990's. All of this results in tremendous frustration and loss of productivity for American travelers.

The airlines are overbooked and have been overburdened as a result of an antiquated air traffic control system, which is also reaching its breaking point. Twenty years ago, when the airline industry was deregulated, the Nation's airlines carried 250 million passengers a year. This year 670 million passengers are projected to take to the skies.

While deregulation succeeded in making air travel more affordable and accessible for hundreds of millions of Americans, I am convinced and I think most of us are as well that the infrastructure and safety system to support this increase is simply not in place today.

I am a strong supporter of increased competition in the airline industries, and I believe that competition will benefit the consumer. I was pleased, for example, to work with Secretary Rodney Slater to enable Frontier Airlines to provide service to National Airport from Denver International Airport. I think that that service is providing passengers with more choices and lower fares and also giving some competition.

Also, as I noted, I am concerned about the dramatic increase of flight delays and declining customer service. Last year I asked former Secretary Slater to investigate the cause of the recent and rapid rise in flight delays and cancellations, particularly the dramatic increase in the West.

I look forward to the testimony here today because I think that both of these issues, on the one hand, increased accessibility for my constituents and others in the West to East Coast routes; on the other hand, the deteriorating condition of the airline industry in service today, kind of bump heads. I would be interested in hearing how the executives here and others will make those work in any kind of proposed merger.

With that, I will yield back the balance of my time.

Mr. STEARNS. Mr. Whitfield?

Mr. WHITFIELD. Mr. Chairman, like other members of this subcommittee, I have concerns about consolidations taking place in the airline industry, but I really am anxious to hear from the panel, and I yield back the balance of my time.

Mr. STEARNS. The gentleman yields back the balance of his time. Mr. Doyle?

Mr. DOYLE. Mr. Chairman, thank you for convening this hearing to discuss the effects of airline mergers on the American public. As the only Pennsylvania member on this subcommittee and as a representative for the hardworking people of Pittsburgh, I appreciate the opportunity to express my views on the proposed merger involving US Airways and United.

Indeed, the US Airways-United merger has a significant effect on American consumers, specifically impacting more than 17,000 Pennsylvania consumers that are employed with US Airways operations across my home state. The merger will affect nearly 10,000 union workers waiting to begin construction on a $130 million maintenance base at the Pittsburgh airport, setting the foundation for continued growth and expansion by United in the greater Pittsburgh region. It will also affect countless consumers and entrepreneurs hoping to capitalize on Pittsburgh's emerging high-technology economic growth by expanding nonstop transportation access to national and global markets.

It is no secret, Mr. Chairman, that US Airways is faltering. With a loss of $269 million last year and with first quarter earnings this year below expectations, the inevitable deterioration of US Airways will very likely result in layoffs, service reductions, and ultimately Pittsburgh and Philadelphia losing vital hub airports.

This merger is a lifeline for US Airways employees. United has promised that no community presently served by US Airways will be dropped from United's route network as a result of the merger.

Additionally, I am especially pleased with the creation of the Nation's first minority-owned airline, D.C. Air, and am proud that this new entrant will offer low-cost air service to Pittsburgh. This proposed merger means that many small to mid-sized communities in the Eastern United States can be assured that they will continue to have airline service, rather than face possible service reductions if a weak and deteriorating US Airways is forced to go it alone and other carriers are left to selectively pick up routes.

My colleagues on the subcommittee, like many of our constituents, we all at one time or another experience frustration with air travel. Let me stress I remain very concerned with the airline industry improving customer service and access to air travel options for all American consumers.

While I certainly do not advocate a blanket pro-merger approach, I do feel the government should closely examine potential mergers on a case-by-case basis, as opposed to restricting them altogether.

I was pleased and encouraged with the manner in which US Airways and United reached out to leaders in our communities soliciting input for the proposed merger and listening to our concerns.

Obviously United can and must improve customer service operations. And, to their credit, they are implementing measures to do just that. Both US Airways and United have committed to working within their system and working with regional leaders to address these deficiencies. You can be assured that we will closely monitor these actions My colleagues, during this hearing on the effects of airline mergers on consumers, I strongly urge you to consider just how vital the effect of preserving the opportunity for an airline to correct its own mistakes will have on American consumers, workers, and communities. The alternative of allowing a faltering airline to fail completely will have a far greater effect on consumer choice access and livelihoods.

In closing, Mr. Chairman, I leave you with the words of the former chairman of the House Transportation Committee and a fellow Pennsylvanian, Bud Shuster, "The choice is not between this merger and the status quo. Rather, the choice is between this merger and a weakened and perhaps failing hometown airline. Such a result would be bad for Pennsylvania and tragic for the employees of the airline, who would lose their livelihoods."

Mr. Chairman, thank you. And I look forward to the statements of the panel.

Mr. STEARNS. I thank the panel.

Mr. Buyer, opening statement?

Mr. BUYER. Mr. Chairman, I am anxious to hear from the panel. So my opening statement will be submitted for the record. I yield back the balance of my time.

Mr. STEARNS. Ms. Harman?

Ms. HARMAN. Thank you, Mr. Chairman. I appreciate the fact that we are holding this hearing early in the year. This is a critically important subject, I think, for all of us.

It is a tough issue. There are credible arguments on both sides. And, like campaign finance reform, each Member of Congress is an expert since almost all of us use airlines every single weekend.

I hail from California, where electricity deregulation is an abject failure and where the consolidation of the defense industry, which I strongly supported, has substantially reduced the size of the industrial base. So those are lessons that I have learned.

Let me point out further that my district, the 36th Congressional District of California, is the home of LAX, one of the world's largest airports, which was designed to handle 40 million air passengers per year. And already it is handling about 67 MAP.

LAX is proposing to grow further to 89 million air passengers per year, but the growth in the region is projected to be 150 million MAP. All of us are questioning where those people will go.

I think that the answer to a region like mine is to stimulate the development of a regional plan. That means that a large airport, hub airport, like LAX will grow somewhat, but also other airports will grow as well. There is no alternative for a busy and growing market like Southern California.

And so I approach this issue in terms of: How will mergers of major airlines affect the growth of regional airports? I think you can argue, on the one hand, that they will hurt growth of regional airports by stifling the development of alternative airlines. I think you could argue, on the other hand depending on how this plays out, that some new carriers, like D.C. Air, can stimulate the growth of regional airports.

So the questions I will bring to this as we develop this subject over the next months will be focused on this, Mr. Chairman. I think that the L.A. region is not dissimilar from other major regions in the country. And I hope that when this all nets out, we will have done something that will stimulate the regional development of airports, which I believe in the end will help consumers with access and will help generate lower prices.

I yield back the balance of my time.

Mr. STEARNS. I thank my colleague.

Mr. Pitts?

Mr. PITTS. Thank you, Mr. Chairman. As the other Pennsylvanian on the subcommittee, I thank you for holding the important hearing today.

I realize that mergers of this size result in a great deal of discussion about how they will affect available choices for the consumer and ticket prices and available service. As a new member of this Committee, I look forward to hearing and learning from our distinguished panel of witnesses on these topics.

I have come to believe that some of these transactions will give customers more choices, more destination options, and more convenience. I am most familiar with the United-US Airways merger since it has a direct impact on my State of Pennsylvania. The United-US Airways merger represents an opportunity for regional economic growth and will benefit travelers in the Commonwealth of Pennsylvania. I am hopeful that the merger will also benefit the Lancaster Airport in my district.

I will submit the balance of my statement for the record. And I look forward to hearing our distinguished witnesses.

[The prepared statement of Hon. Joe Pitts follows:]

PREPARED STATEMENT OF HON. JOSEPH R. PITTS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, thank you for holding this important hearing today. I realize that mergers of this size result in a great deal of discussion about how they will affect the available choices for the consumer, ticket prices, and level of service. As a new member of the Commerce Committee, I look forward to hearing and learning from our distinguished panel of witnesses on these topics.

I have come to believe that some of these transactions will give customers more choices, more destination options, and more convenience. I am most familiar with the United/ US Airways merger since it has a direct impact on my state of Pennsylvania. The United/US Airways merger represents an opportunity for regional economic growth, and will benefit travelers in the Commonwealth of Pennsylvania. I am hopeful that the merger will also benefit the Lancaster Airport in my district.

Mr. Chairman, without this merger, US Airways employees could face job losses and downsizing at a time when corporate layoffs and furloughs are on the rise in the United States. Moreover, communities throughout Pennsylvania could face reductions in service and service disruptions. I was pleased to learn that United has committed not to furlough any United or US Airways employee, which will preserve jobs in an uncertain economic climate. This merger presents a unique opportunity to protect the 45,000 jobs and service patterns and prevents US Airways from having to face painful layoffs, downsizing, and financial uncertainty.

United has also pledged to continue service to every community currently served by either United or US Airways following the merger. This means that United will serve each of the sixteen cities in Pennsylvania currently serviced by US Airways, including many small and medium sized communities.

This expanded network of United could allow many smaller cities to get better access to international destinations, strengthening their ability to compete for business, tourism, and investment. As you know, the GAO found that the United/US Airways merger could create an additional competitor in 65 of the top 5000 markets and could improve service and competition in another 265 relatively small markets after the merger creates new connections. The GAO also found that the American merger could increase competition in 150 markets. Additionally, the new DC Air would provide a new competitor for many cities based in the east.

Mr. Chairman, I want to see increased competition and improved access for travelers and communities in the Eastern United States and throughout the country. I am hopeful that these mergers will do just that. Again, thank you for holding this hearing, and I look forward to hearing the testimony from our witnesses today.

Mr. STEARNS. By unanimous consent, so ordered.

Ms. Capps?

Ms. CAPPS. Thank you, Mr. Chairman. I will be brief because I know we have several important witnesses and the subcommittee will benefit from hearing from them.

Today's hearing is on a very important topic. The airline industry is a vital part of our economy and can enable business and leisure travel to proceed with ease, convenience, and affordability. Our airlines are undergoing some of the most far-reaching changes since deregulation back in the 1970's.

The proposed United-US Airways merger coupled with American's takeover of TWA, as has been stated, would put 50 percent of the industry under these 2 new companies. And it seems likely to force a merger between some combination of Delta, Northwest, and Continental. That could mean that three-quarters of the airline industry would be controlled by just three airlines. I am concerned about what that means for competition and pricing.

GAO and DOT studies that show so many markets completely dominated by one airline are troubling. And the pricing differences between dominated hubs and those hubs with greater competition are rather alarming.

I am also concerned about what that means for predictability. The recent disruptions in service due to labor troubles would be magnified with just a few big airlines dominating the market. Crippling strikes will not benefit the flying public. And constant government action to defer or end strikes is not a good option either. Management and labor should work their issues out.

I am not someone who thinks that everything that big is bad. There are clearly advantages to operating national airline systems and taking advantage of economies of scale, but we have to make sure that the real beneficiaries of these changes are consumers.

If economies of scale lower costs, then ticket prices should go down. If large national networks are supposed to make flying more convenient, then customer service must improve. Customer satisfaction ratings of the airlines should reflect that.

Competition is the key to ensuring that customers get the best deals and the most choices. Our job is to ensure that competition remains the driving force in the airline marketplace.

During the last panel, I found it very intriguing to hear two case studies of two remarkable cities, each with their corresponding Member of Congress: one, Charlotte, North Carolina, a hub; and the other, Rochester, not apparently so well-served. The different experiences of these two regions illustrates the importance of the relationship between the airline industry and the local economy throughout the country.

So I hope that this hearing will illuminate these issues and look forward to hearing from our witnesses. Thank you.

Mr. STEARNS. Mr. Bass?

Mr. BASS. Thank you, Mr. Chairman.

I want to thank you for holding this very important and timely hearing. The issue of good air transportation, air travel is one that I dealt with in some detail as a former member of the Aviation Subcommittee of Transportation Committee. It is important that consumers as well as Members of Congress understand the implications that these mergers, both positively and negatively.

I will submit a longer statement for the record. I thank the Chairman.

Mr. STEARNS. Thank the gentleman.

Mr. Rush?

Mr. RUSH. Mr. Chairman, I want to thank you for holding this important hearing on the effect of airline mergers on the American consumers. This issue is particularly important to me because of the large presence United has in Chicago and the inevitable impact this acquisition of US Airways will have on my city and, indeed, my state, the State of Illinois.

As you know, United is a large employer in the State of Illinois. It is headquartered in Chicago and has a major hub at O'Hare. United employs 17,300 individuals who live and work in Chicago, 13,800 of which work at O'Hare Airport. Also, statewide United employs 22,000 people. Thus, the merger will affect the lives of many Illinoisans for employees and owners of United.

However, the employee-owners of United are not only the ones who will benefit from this merger. Currently United lacks extensively operations along the East Coast, as has been indicated by earlier testimony. The acquisition of US Airways will combine two complementary networks by joining US Airways north-south East Coast network with United's network. Thus, business travelers on the East Coast and in Chicago will be able to traverse between the two regions with greater ease and fewer disruptions.

Also, tourists traveling abroad will also benefit. Those traveling to Europe will have new access to international flights, such as nonstop flights to Rome and to Madrid. United's divestiture of most of US Airways' routes at Reagan National Airport to create a regional carrier known as D.C. Air is also a positive aspect of this acquisition.

D.C. Air, which will be owned by Black Entertainment Television founder, Robert Johnson, will be the first African American-owned airline in the industry and serve 43 cities with 222 daily flights in and out of Reagan National. For this, I want to congratulate Mr. Johnson and wish him success in his new endeavor.

While United's acquisition of US Airways and American's accession of TWA do have the potential of increasing airline efficiency, I would be remiss if I did not point out that thee are real reasons for concern. We need look no further than last summer's summer madness when flight delays industry-wide rose to a record 20 percent and more than 27 percent of all flights were delayed, canceled, or diverted.

I want to also praise United and American Airlines for their long, far-ranging, and recent efforts to increase consumer satisfaction. United has recently spent $15 million in new airport technology. American Airlines has instituted new customer service plan enhancements.

However, the delays and cancellations that American as well as Members of Congress face cannot be easily forgotten. We must determine how our airline mergers will decrease or exacerbate these problems. Specifically, I am interested in hearing from the witnesses how they intend to deal with labor issues in a way that will fairly address employee concerns while avoiding major disruptions in this service.

In my most recent flight in from Chicago, as I was emerging from the plane, one of the flight attendants asked me to really focus on the issue of employee concerns and labor issues as it relates to this merger.

I would also like to know how these mergers will impact airline rates and service. Will there continue to be enough competition to keep airline fares low and service high?

Mr. Chairman, I look forward to the answers to these questions, and I yield back the balance of my time.

Mr. STEARNS. Mr. Terry, you are recognized for 5 minutes.

Mr. TERRY. I yield back my time.

Mr. STEARNS. That is good.

Ms. Bono?

Ms. BONO. I yield.

Mr. STEARNS. Mr. Shadegg?

Mr. SHADEGG. I yield back.

Mr. STEARNS. Mr. Burr is not here. Mr. Davis?

Mr. DAVIS. Thank you, Mr. Chairman. I appreciate the opportunity to make the statement, Mr. Chairman. I am pleased to be back with my Commerce Committee colleagues today to talk about the pending merger between United and US Airways and the benefits that this merger will bring to consumers, both in northern Virginia and nationwide.

This merger will provide for greater competition, more convenient travel, and interested job security for tens of thousands of working people.

The simple and powerful fact is that US Airways is at a crossroads. Without this merger, its very survivability is at issue. If US Airways fails to survive, we will be faced with a significantly diminished competitive landscape up and down the entire Eastern Seaboard of the U.S.

I urge this Committee to take a close look at the facts. US Airways is a mid-sized carrier that is saddled with high costs and limited network. Its situation is eerily similar to that of TWA, now in its third bankruptcy. We have all read and heard about the need for American Airlines to rescue TWA, a company with a proud and memorable legacy in American aviation history whose time has passed.

In the highly dynamic, post-deregulation, competitive environment of the aviation industry, TWA is too small to compete against the big carriers and too expensive to compete against the low-cost carriers, although TWA has gone through the bankruptcy court not once but twice and now there for a third time it can escape its fundamental structural flaws.

Like TWA, US Air is too small to compete against the Uniteds, the Northwests, the Americans, and the Deltas of the world. And its costs are simply too high to cope with the competition provided by low-cost carriers within its own region of service, such as Southwest, JetBlue, and AirTran. US Air must merge or it will die.

It is the last of the mid-sized air carriers. Its fate will be the same as TWA as well as that of Eastern, Braniff, and Pan Am. These were great companies in their era, just like Mickey Mantle and Magic Johnson were great athletes in their era. But the major ends and the era in which a company like US Air can survive has come and gone.

The new era does not have to be a painful one for the US Airways family, however, and the communities it serves. As part of the proposed merger, United will save the jobs of 45,000 US Airways employees at a time when other major U.S. corporations are laying off hundreds of thousands of workers or closing their doors altogether.

The bottom line is that the United-US Airways arrangement is great news for northern Virginia as US Air employs over 2,300 people in northern Virginia alone. Also, as part of this merger, greater Washington area residents will see uninterrupted service and increased, rather than diminished, competition.

One of the keys to enhanced competition is the creation of the new D.C. Air, which will be based out of Reagan National and owned by one of the Washington area's top corporate citizens, Robert Johnson. By taking over most of US Airways' routes to 44 cities in and out of Reagan National, D.C. Air will shake up one of the areas most convenient airports.

The benefits to the merger are not limited to Reagan National. It will alter the competitive landscape in the greater Washington area. United Airlines will have a hub at Dulles. D.C. Air will have a strong presence at Reagan National. And Southwest Airlines operates aggressively out of BWI. All three airlines will be competing to provide service to millions of people who travel to the Nation's capital and surrounding areas each year.

In addition to the benefits of increased competition, the merger will make travel more convenient for consumers. Because US Air plans to merge with United, American Airlines proposes to save TWA, and an independent D.C. Air intends to partner with American, travelers will be able to reach more destinations on a single airline.

Direct travel is always more efficient in terms of connection times, baggage handling, and frequent flyer miles. It is also 55 percent cheaper than switching airlines. Again, the consumer benefits.

Mr. Chairman, I wholeheartedly believe that the merger between United and US Air will be good not just for my constituents but for air travelers across America. This transaction will protect and benefit consumers because it will spur, rather than stagnate, competition.

I believe, for these reasons, this transaction deserves your strong support.

Mr. STEARNS. I thank my colleague. As my colleagues know, we have had the second bell. So we probably have less than 8 minutes to get to vote.

I say to the distinguished members of the second panel we are going to break now to go vote. We have a series of four votes. I think what we would like to do is break also for lunch at the same time to get a flavor a little bit of how the members feel. So I think we will reconvene at 12:30.

[Whereupon, at 11:34 a.m., the subcommittee recessed, to reconvene at 12:30 p.m. the same day.]

Mr. STEARNS. The Subcommittee on Commerce, Trade, and Consumer Protection will come to order. And we have I believe two additional opening statements. Mr. Burr?

Mr. BURR. Thank you, Mr. Chairman. My apologies to the witnesses that I had to leave for a while.

Mr. Chairman, yesterday when I arrived in Washington, I flew here. I flew from Winston-Salem, North Carolina. Two of my staff members live 23 miles away from the capital on the Maryland side. Their commute to work yesterday was longer than my flight from my home to my office. They are not calling for the Federal Government to take over the route between here and their home in Maryland because they understand that weather, certain conditions out of their control may make a trip easier or worse in a given day. I think it is unfortunate that the airlines as a whole have faced many of those days lately and that this Committee as well as others have concentrated on the consumer protection aspect.

We are here, really, today to talk about a potential merger or mergers because I think it is plural. I think this will set some stage for the future.

I appreciate the comments of my colleagues who are willing to come in and testify on both sides. If you didn't have people who were for and against, then this body wouldn't be reflective of the people that they represent. But the reality is that what I learned from what they said was that Congress has a real specific decision to make.

Are we going to reregulate this industry or are we going to let market forces drive it? If California had deregulated their electricity, we wouldn't be spending half of the time that we are not in this hearing thing to figure out how to make sure that the lights turn on in California today. But the fact is they didn't deregulate.

We made a decision to deregulate the airline industry to allow competition to drive the future, to allow competition to drive the rates. For any person that believes that bigger means that you create an unlevel playing field, I am not sure that they understand how the U.S. economy works. Anybody that believes that you can have larger airlines in this country and it doesn't create additional competition hasn't visited a Wal-Mart store that drove down the price of every other competitor.

We are not here to propose that we outlaw Wal-Marts or that we outlaw the new mega retail stores. Even though it is much more difficult to get through the checkout line, we know that there is a value to it. The unfortunate thing about this decision is that the value of more competition, lower fares, more routes covered because the network is better can't be realized on the front end or promised on the front end.

Mr. Chairman, I would ask that all members of this Committee and of this Congress realize that anything that we say and potentially anything that Congress does as justice makes a decision as to whether this is a good marriage, this or future marriages within the airline industry, will have a great effect on capital in this country, the capital of the individual who owns the stock, the capital of the banks that loan the money, the capital that is needed for the fleet replacement by every airline in the industry.

If we even hint that the Federal Government is going to step in and start setting prices or controlling routes or owning gates and serving as the cop on the beat for an industry that we have already said we want competition to flourish, we want economic conditions to determine the decisions that are made, that the first thing that will dry up is the capital. We will have an industry that won't have the ability to upgrade their fleet, to meet the noise reductions that we will be targeted with in other committees in this Congress. The European routes will be cutoff because we will have antiquated aircraft that can't meet their noise requirements. That is something that we face today.

There is more at play here than just: Can I go to my local airport, and can I access the same number of flights? My hope and my belief is that they will have a greater choice, regardless of markets, but I realize that this merger must go through before those consumers can realize that benefit.

I again thank the chairman and the subcommittee for allowing me as a full committee member to participate. And I yield back.

Mr. STEARNS. Mr. John, opening statement?

Mr. JOHN. Yes. Thank you, Chairman Stearns. Before I give my opening comments, I would like to ask unanimous consent that all members of the committee get an opportunity to put their opening statements and requests in the record.

Mr. STEARNS. So granted.

Mr. JOHN. Thank you for holding this hearing, Mr. Chairman. I think this is a very important and very timely hearing. I want to be clear from the onset that I am not here today and I don't think this Committee is here today to berate the U.S. airlines and the industry because, frankly, it is a very strong industry, it is a very safe industry that we should be very proud of. I believe that that should be where this Committee goes with this hearing and investigating what is going to happen.

I want to bring a little different perspective, maybe not unique. You will hear it from individual Members of Congress that represent smaller airports, a little different angle in a lot of ways because neither of the major cities in my airlines will be the poster child for deregulation in really competitive markets. And let me give you just one quick example that happened just this week.

The Port of Lake Charles, obviously the ports around the country were here for the associations. Well, the Port of Lake Charles also was up here visiting their Members of Congress. Of course, Lake Charles and the Calcasieu Parish is a parish of about 180,000 residents. The other big municipality in my district is Lafayette. Lafayette Parish is about 188,000. So these are, at least in my case, pretty big cities. But they both have not a rural airport but a regional airport both in them.

I believe that they are both under-served and also not very competitive. The reason I say that is a real-life example that happened this week. Port of Lake Charles wanted to come up here to fly from Lake Charles to Washington, DC. There is only one carrier in Lake Charles. The other ones have pulled out. The one carrier wanted—let me make sure I am correct on these numbers—$1,100 from Lake Charles to Washington and back.

Lake Charles being only about 2½ hours from Houston as a drive, they said: Well, let us call and see what it would be from a price standpoint from Houston to DC, same connection, same flight. It was $1,800.

So they had to look elsewhere to try to put themselves in a position to really afford a business ticket to come up here. What they wound up doing is driving east for 2½ hours to Lafayette to catch a flight to come up here. It still cost them over $1,000.

In Lafayette, it is a little different situation. There is some competition. There are about four airlines that are there today. But, frankly, what has happened is Lafayette being what I believe is the heartbreak of the offshore and gas industry, they have a natural link with Houston in their business interests, oil and gas being one.

What has happened over time is that the price to fly from Lafayette to Houston has gone absolutely through the roof. It has actually been cited as one of the reasons why south Louisiana in the oil and gas industry has lost jobs to Houston that there hasn't been enough competition or the prices are too high, which means to me that the competition hasn't been quite there in Lafayette. So I think that you will see that over and over.

What does that have to do with what we are doing today? I am not suggesting that the 1978 act to deregulate the industry has failed. I really am not suggesting that. What I am suggesting is I am trying to paint a broader picture about this merger with United and US Air and how it will impact not only Lafayette and Lake Charles because that is parochial and because it is where I am from.

It is some of the other smaller regional airports that provide service to our constituents, our customers. And I am anxious to hear from you about what your plans are in a lot of ways and how it will benefit in a lot of ways those two concerns that I have.

So thank you very much, Mr. Chairman, for having this. I look forward to hearing the testimony about this merger in particular, but really how it has an impact more on the consumers' ability to provide air traffic because I think we are not going backwards in this industry.

America is not going backwards. We are going to go forward. There will be more and more people flying as we move into the next 2 to 3 to 5 to 10 years. And so it is a problem that we have to address. So thank you very much.

Mr. STEARNS. I thank my colleague. We welcome Panel Number 2. Thank you again for staying with us through lunch. We apologize for the sort of cramped conditions here. We want to welcome Mr. Stephen Wolf, who is Chairman of the US Airways Group, Incorporated; Mr. Joe Leonard, Chairman and Chief Executive Officer of AirTran Airways; Mr. Will Ris, Senior VP for Government Operations, American Airlines; Mr. Shelley Longmuir, Senior Vice President, International Regulatory and Government Affairs, United Airlines; Mr. Mark Cooper, Director of Research, Consumer Federation of America; Mr. Bill Swelbar, Fellow, Economic Strategy Institute; and Mr. Paul Ruden, Senior Vice President for Legal and Industry Affairs, American Society of Travel Agents.

Ladies and gentlemen, we welcome you. And, of course, your entire statement will be a part of the record. And I would say that what we say and do today will probably be read by many others, even though perhaps members are not all here. They will be drifting in and out. But what you are going to say is probably going to be read by many others. And so we appreciate your helping us. Thank you.

Mr. Wolf, we will start with you.

STATEMENTS OF STEPHEN M. WOLF, CHAIRMAN, US AIRWAYS GROUP, INC.; JOSEPH LEONARD, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, AirTRAN AIRWAYS, INC.; WILL RIS, SENIOR VICE PRESIDENT, GOVERNMENT AFFAIRS, AMERICAN AIRLINES; SHELLEY A. LONGMUIR, SENIOR VICE PRESIDENT, INTERNATIONAL REGULATORY AND GOVERNMENT AFFAIRS, UNITED AIRLINES; MARK N. COOPER, DIRECTOR OF RESEARCH, CONSUMER FEDERATION OF AMERICA; WILLIAM SWELBAR, FELLOW, ECONOMIC STRATEGY INSTITUTE; AND PAUL M. RUDEN, SENIOR VICE PRESIDENT LEGAL & INDUSTRY AFFAIRS, AMERICAN SOCIETY OF TRAVEL AGENTS, INC.

Mr. WOLF. Mr. Chairman and members of the committee, on behalf of all of us at US Airways, I appreciate the opportunity to address the beneficial effect our merger with United Airlines will have on consumers.

If you will allow me, it seems the principal question before the committee is: Why did US Airways agree to be acquired by United Airlines? And what is the impact on consumers? The answer is the US Airways has little choice. And, importantly, as a result of the merger, it brings about an enormous increase in competition and, thus, the associated consumer benefits, provides a job guarantee to

45,000 employees, and a guarantee of service to a large number of small and medium-sized cities.

When deregulation came into being in 1978, there were six mid-sized mature-cost carriers. Three of them are gone. Two of them have gone through multiple bankruptcies. And there is US Airways. Braniff, Eastern, and Pan Am are gone. Continental and TWA have gone through multiple bankruptcies. And that leaves us out of that original group of six.

The simple reality is that in order to compete successfully in commercial aviation in the United States, a carrier must be on one of two platforms. You must be either a low-cost, low-fare carrier a la Southwest, American West, AirTran, JetBlue, and others or a network carrier. US Airways is neither. And the basic fundamental problem cannot be cured by the company itself. US Airways does not have the financial resource to become a network carrier and cannot reposition itself as a low-cost carrier, regardless of bankruptcy or multiple bankruptcies.

While US Airways has worked diligently over the past 5 years to strengthen itself, the competition during that same timeframe has intensified significantly. Allow me to show you four charts that highlight the heightened competitive environment where the company operates within the intra-East market.

What you are looking at is our route structure in the continental United States. If you look at the two vertical yellow lines, you can see that our operating authority for the most part, if not close to exclusively, is in the intra-East market, north-south, on the Eastern part of the United States.

Let me add by saying that on the following slide, we are only going to look at that Eastern piece of geography. This is the route structure of Southwest Airlines 5 years ago, when I joined the company. A very insignificant route structure in the East, most Eastern part, is Baltimore. And if you would change the chart, please, Gary?

This is Southwest route structure today. I don't have a thing in the world negative to say about Southwest. Quite frankly, it is a superb low-cost, low-fare carrier. But, indeed, it is precisely that. It is on the low-cost, low-fare carrier platform. We are not that, and we are facing enormous competition from Southwest as they come into market. So we have served for decades.

When Southwest comes into a market that US Airways serves, US Airways has a choice of doing one of two things. We can match the fare and lose money with our cost structure or we can leave the market. If you will change the slide?

While Southwest has grown enormously as a low-cost, low-fare carrier, this slide shows what Delta's growth has been in the intra-East market during the past 5 years. This is not Delta's route structure intra-East at all. These are the net new jet routes that Delta has added in the past 5 years.

With these charts in mind, I would like to comment on intra-East competition post the merger, which goes up enormously. Today intra-East Delta has approximately a one-third share of the capacity in the intra-East market. US Airways has approximately a one-third share of capacity in the intra-East market. The next largest carrier is Continental in the intra-East market but down rather significantly, followed by United at 3 percent and American Airlines at 7.5 percent.

Should the merger go forward, Delta will continue with its approximately 32 percent share of capacity intra-East and our approximately 32 percent share will be disbursed to United-American Airlines. United will go from about a 3 percent share of capacity to approximately 25-ish percent share of capacity. And American will go from a 7.5 percent share of capacity to approximately a 15 or 16 percent share of capacity. Southwest stays the same, growing significantly under all of us with a low cost structure, as does AirTran, JetBlue, et cetera.

What I suggest to you is that the competition that exists today on large carriers in the East is Delta and US Airways, Delta with its profoundly strong balance sheet and US Airways with its profoundly weak balance sheet. And the change would be Delta would be competing with two vigorous network carriers: American Airlines and United Airlines intra-East. And competition therein would go up significantly.

US Airways must become part of a network carrier. And it is precisely what happens at our merger with United. Importantly, United has agreed to two fundamental principles and conditions which are exceedingly important. One, United has agreed to an ironclad job guarantee for our 45,000 employees. Let me put it there for just a second. That is quite unusual. One of the ways in which a corporation in the United States justifies an acquisition is through efficiency. Efficiency means it takes people off the payroll post the merger.

The largest merger going on in the country today is G.E. acquiring Honeywell. Honeywell has 120,000. G.E. has announced they are going to lay off 50,000 people, 42 percent of the Honeywell workforce. United is providing an ironclad job guarantee to our 45,000 employees.

Two, United has committed to continue to serve the large number of small and mid-sized communities in our system. In closing, I would like to put up a last chart.

In the process of United and US Airways merging, this merger creates D.C. Air, a new entrant carrier serving 43 small to mid-sized communities from National Airport headquartered here in Washington, DC, owned and operated in a minority sense by Bob Johnson.

Mr. Chairman and members, thank you.

[The prepared statement of Stephen M. Wolf follows:]

PREPARED STATEMENT OF STEPHEN M. WOLF, CHAIRMAN, US AIRWAYS GROUP, INC.

Mr. Chairman, Ranking Member Towns, and Members of the Subcommittee, on behalf of all of us at US Airways, I appreciate the opportunity to address what effect our merger with United will have on consumers.

Fundamentally, as I have said in the opportunities I have had to testify since this deal was announced, the merger with United is a viable alternative to the difficult economic realities facing US Airways and the consumers we serve. As an amalgamation of pre-deregulation mid-sized regional carriers, US Airways is facing a perilous future. It is neither a low-cost, low-fare airline, nor a full scale, global network carrier. All other mid-sized, mature cost carriers have either disappeared completely or have gone through multiple bankruptcies. There are only two platforms for competitive success in commercial aviation and US Airways does not fit either. All of us are fully aware of what has happened to Braniff, Eastern, Pan Am, and now

TWA which is facing the bankruptcy court—not for the first time, not for the second time—but for the *third* time.

At US Airways, our situation is quite stark—and quite simple. The status quo is not an option for US Airways, our employees, and the communities we serve. In sharp contrast, the merger with United Airlines guarantees a secure future for US Airways' employees, preserves service to cities that US Airways serves, and enhances competition.

US Airways in its current form is a combination of several small, pre-deregulation regional carriers such as Allegheny, Mohawk, and Piedmont. As a result, the airline has a route network that, like its regional airline predecessors, is largely confined to short-haul routes in the Eastern United States. Indeed, US Airways has the shortest average stage length of any major carrier. Combined with a route structure that is essentially confined to the East Coast corridor, this severely limits US Airways' ability to mass enough presence in other areas to support any material expansion of its system.

As a consolidation of pre-deregulation carriers, US Airways also pays labor rates that are comparable or higher than those of American, Delta, Northwest, and United. The difference between US Airways and these other carriers, however, is that the other carriers have vastly larger route systems which permit them to spread their costs over a great number of more efficient, long-haul segments that are relatively less costly to operate.

Caught in the vice between its short-haul, high costs route system and its mature labor structure, US Airways is far and away the highest unit cost domestic airline. For the year 1999, US Airways' average system cost per seat mile, the measure most commonly used to determine costs, was 14 cents. By comparison, the average system costs during the same period was approximately 9.5 cents per seat mile for the major carriers and 7.5 cents for low-cost competitors such as Southwest. In sum, when compared to Southwest, a carrier that is aggressively expanding throughout US Airways' East Coast operating territory, US Airways has costs that are nearly twice as high.

When I joined what was then USAir a little over four years ago, I recognized the historical reality that placed US Airways in such an "in-between" position—one that could not be sustained over the long run. US Airways was neither a "national" carrier with an extensive nationwide network, nor a "regional" carrier with low costs and point-to-point routes. Accordingly, with the support of our employees, we committed to a strategic plan to restore financial stability to the company and establish the carrier's competitiveness, despite our high costs and incomplete route structure. To this end, we have made enormous progress. We have made significant and sustained improvements in our operational performance, established harmonious labor agreements, begun fleet modernization, and expanded our international service.

However, the fundamental problems that constrain US Airways—high costs, short segments, and a limited network—remain in the face of increasingly intense competition. Unfortunately, US Airways does not have the financial reserves or the cost structure to support significant internal expansion. Because of our reliance on short-haul service, we have inherent difficulties earning unit revenues at the levels necessary to cover our high costs.

Meanwhile, competition from well-financed, well-managed low-cost carriers such as Southwest, JetBlue, AirTran and others has been increasing dramatically on US Airways' most heavily traveled and most profitable routes. In 1995, for example, low-cost carriers had 618 departures per day in the eastern United States, US Airways' major service area. By 2000, that number had almost doubled to 1,098. The low-cost carrier share of capacity in the region has grown 158 percent. These carriers now offer more than one out of every four domestic seats up for sale in that region. At the same time, major carriers' share of capacity actually fell one percent.

In the last year alone, Southwest, AirTran and Delta Express, as well as new entrants such as JetBlue and Spirit, have added 181 daily departures out of East Coast airports—a 25.5 percent increase over 1999. Since January 1, 1996, Southwest has increased its intra-East route system in terms of daily departures by 238% (157 to 531) and in terms of aircraft by 326% (19 to 81).

Facing ever more low-fare competition on its key eastern routes, with costs well above the industry average and no realistic way to alter that condition, US Airways is increasingly limited in its ability to support its route network and maintain profitability. Accordingly, as a stand-alone carrier, US Airways, which has sustained significant net losses over the past decade, will have no choice but to continuously downsize, cutting jobs and service in the process.

As Chairman of US Airways, I have worked hard to make serving our customers my top priority, yet, we face this reality for the entire US Airways family—we cannot continue to provide the broad array of services we currently offer or employ the

45,000 people who work for us without this merger. Since the merger is the only viable option for preserving the services and jobs we offer, I hope you will join me in concluding that this deal is in the consumers' best interest.

To evaluate this transaction on consumers, I believe we must first consider the services US Airways provides and would continue to provide to consumers as a result of the merger. US Airways has invested heavily in infrastructure, aircraft and personnel and we have spent many years building a network of services around the country. The result is convenient access from these cities to hundreds of destinations across the country and throughout the world. This has been not only a foundation of economic growth over the years, but a lifeline to consumers and businesses that require frequent and wide-ranging air service. If this lifeline is cut short, scores of communities could be left without service.

One of the key ways the merger will preserve the service US Airways customers have enjoyed is through the creation of a new airline, DC Air, which will be based out of Reagan National and owned by one of the Washington area's top corporate citizens, Robert Johnson. Mr. Johnson has made a commitment that DC Air will take over most of US Airways' flights in and out of Reagan National to 44 cities, preserving service to scores of small and medium-sized communities across America.

DC Air will also preserve competition by challenging existing airlines at one of Washington's most convenient airports, thus bringing down the cost of air travel for consumers. Mr. Johnson has already committed to operating his airline as a highly competitive carrier, one that will clearly alter the competitive landscape in the greater Washington, D.C. area. United Airlines will have a hub at Dulles International Airport, DC Air will have a strong presence at Ronald Reagan National Airport, and Southwest Airlines will have a strong presence at Baltimore-Washington International Airport. All three airlines will be competing to provide service to the millions of people who travel to the nation's capital and surrounding areas each year. In the absence of these mergers, the Washington area faces the prospect of one primary carrier, the loss of jobs and the loss of thousands of daily flights.

The entire US Airways family will also benefit from the job security this merger offers. With major companies announcing lay-offs on a daily basis, such as Daimler Chrysler, Lucent, AOL-Time Warner, Cisco, Intel, WorldCom and GE, and others like Bradlees, Montgomery Ward and TWA declaring bankruptcy, the job security this merger offers is especially important in this period of economic instability. It is critically important that our 45,000 US Airways employees are able to keep their jobs as part of this transaction—while so many other jobs in this economy are at risk.

The merger of US Airways with United provides a bright future for our employees, the communities we serve, and competition within the industry. I wholeheartedly believe that the merger will have tremendous benefits for consumers—both in terms of protecting services to small and mid-sized communities and saving thousands of high skilled, high paying jobs. In the interest of preserving these consumer benefits, I urge you to support this merger.

Mr. STEARNS. Thank you.

Mr. Leonard, your opening statement?

STATEMENT OF JOSEPH LEONARD

Mr. LEONARD. Thank you, Mr. Chairman and distinguished members of the subcommittee.

Again I want to thank you for the opportunity to testify here with you today. I especially thank you for putting the spotlight on the issue of the most often but overlooked debate on the pending airline mergers, and that is the true impact of the mergers on the consumers.

Ironically, a number of major airlines have pointed to AirTran in congressional testimony as evidence of the healthy state of airline competition today. They cite us as one of the competitive checks and balances that would ensure competition in the most post-merger world. I say "ironically" because some of those same major airlines have blocked us from expanding our low-cost service to markets and in some cases have tried to drive us out of business.

Let me get straight to the point. The consumers get lower fares and better service in markets where there is real competition. And in today's marketplace, real competition is not defined by the major carriers' much touted seamless service but by fair competition from low-fare carriers that force the traditional old-line airlines to offer real choices to the consumers.

AirTran is one of those few airlines that, in fact, disciplines the marketplace. When AirTran enters a market, average fares generally decline by 50 percent. And passenger demand grows approximately 125 percent and in some cases much more than that.

According to the statistics of the Department of Transportation, AirTran's presence in Atlanta brings public savings of $700 million in reduced air fares last year alone. We did this with service to major urban areas and to small and medium-sized cities.

Our entry into the Bloomington-Normal market cut the prevailing fares an average of 41 percent and stimulated a 930 percent increase in passenger demand. In Akron-Canton, fares went down 44 percent and passenger demand went up an astounding 1,471 percent.

These real-time consumer benefits were accomplished in markets that were basically abandoned by the traditional old-line carriers. AirTran did this by flying 140 daily departures from a hub that is dominated by another major carrier: Delta. Hub service is a critical element of providing the consumer benefits in aviation today. On the whole, the majors do not compete with each other in their hubs.

A recent DOT study showed that passengers flying from a hub without a low-fare competitor like us pays an average of 41 percent more for tickets. You don't need to be an economist or an analyst to know how much worse that fact is going to become if the mergers go through as proposed and become a reality.

When the dust settles, two carriers would dominate airport air sets in the Eastern part of the United States, allowing them to block new entrants in competition from the most important airports in the most popular cities in the county. United and American with their partner D.C. Air will pull 80 percent of the slots at all of the four slot-controlled airports: O'Hare, Kennedy, LaGuardia, and Reagan National, 80 percent of the slots.

If this series of mergers goes forward, there will be no basis for stopping Delta from acquiring Northwest and Continental. They have no choice. That would leave 75 percent of the passenger seats in the Nation's hand of 3 airlines. Two or 3 years from now let us not be holding hearings to investigate why air fares are so high and service is so bad, it will be too late to do anything about it at that point.

With the recent decision of the Justice Department to permit TWA's and American's acquisition, these statistics are not theories. They are short steps away from reality. Administrative action by the Department of Justice and the Department of Transportation could seal the fate of these deals.

Mr. Chairman, I don't blame the major airlines for seeking consolidation. That is their job. The airline business is tough, and it is complicated. Small advantages or disadvantages can bring monumental benefits or losses to the airlines. Big airlines are especially concerned about being confronted by another airline that is even bigger than they are. There is no law or regulation that can be enacted short of airline reregulation that would change the airline fact of life.

If the current mergers are somehow turned down, they will come back in some other form sooner or later. So I think the task at hand for Congress and the executive branch is to figure out how to balance the needs of the airlines to achieve economies of scale with the need to keep honest competition. You balance that scale by using the merger proposals as an opportunity to increase competition, rather than decrease it.

If United or American wants to charge $1,000 a ticket, they can do that, but I should be allowed to enter those same markets so I can charge $150 a ticket. Quite simply, I cannot compete in markets I cannot enter. This is what most of the merger activity is all about: sealing off precious slots from competitors and taking up gates and other assets wherever possible.

AirTran through two enforcement complaints that were filed has asked the Department of Transportation to use its existing authority to level the playing field and to free up the benefit for the consumer, some of these slots and gates that stand at the heart of the assets of the American and United deals.

I should emphasize that this allocation of slots must be significant. There should be enough slots at Reagan National to allow a new entrant to build a network with sufficient economic power to compete in a variety of markets with the major carriers.

If AirTran were allowed to purchase the slots from D.C. Air, for instance, although we are not saying they have to come from D.C. Air, we would save consumers in this marketplace $600 million a year based on our Atlanta model. This isn't pie in the sky estimates based on Department of Transportation and GAO estimates.

Mr. Chairman, as I said at the beginning of my statement, the consumer issue here is not complicated. Genuine competition translates into lower fares and better service. It is, therefore, no accident that these mergers involve the airports that have the highest barriers to entry to new competition. Approval of the merger will build those barriers so high that they will be virtually insurmountable by carriers like us. If the gates and slots are not made available to new entrants as part of this merger equation, it could well lead to the death knell of airline competition in this part of the country.

And the other side of the question is equally true. If low-fare competitors are allowed to enter these markets as part of the mergers, it will result in a renaissance of consumer savings in towns and cities throughout the Eastern Seaboard.

Mr. Chairman, thank you very much.

[The prepared statement of Joseph Leonard follows:]

PREPARED STATEMENT OF JOSEPH LEONARD, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, AIRTRAN AIRWAYS, INC.

Mr. Chairman, Mr. Towns, and distinguished Subcommittee Members, I thank you for the opportunity to testify this morning. I especially thank you for putting the spotlight on the issue that has most often been overlooked in the debate over the pending airline mergers—the true impact of the mergers on the consumer.

For those of you who are not familiar with AirTran Airways, we are the largest new entrant carrier formed since 1990. We operate 55 jet aircraft from 22 gates at our hub in Atlanta, serving more than 50 communities with some 314 daily departures. We fly as far west as Dallas-Fort Worth, as far north as Minneapolis-St. Paul and Boston, and as far south as Miami. We served more than 7.5 million passengers last year, and we have had eight consecutive quarters of profitability.

Ironically, a number of major airlines have pointed to AirTran in Congressional testimony as evidence of the healthy state of airline competition today. They cite us as one of the competitive checks-and-balances that would ensure competition in a post-merger world. I say "ironically" because some of those same major carriers have blocked us from expanding our low-fare service to other markets and have tried to put us out of business.

Let me give you some additional background. I have been involved in the airline and aviation business for more than 30 years, and I am a true believer in deregulation and the marketplace. Unfortunately, we do not have the open markets and level playing field envisioned by the authors of deregulation.

I have never seen a time at which the near and long term interests of the consumer is more threatened than today. We see forming now a Perfect Storm of corporate actions and government inactions that could leave business and leisure air travelers adrift in a sea of anti-competitive practices for years to come.

Let me get straight to the point. Consumers get lower fares and better service in markets where there is real competition. That is the free enterprise system at work

I have attached some charts to my statement that show the impact of AirTran on fares in various markets. When AirTran enters a market, average fares generally decline by as much as 50 percent, and passenger demand grows by 125 percent or more. According to the statistics of the Department of Transportation, AirTran's presence in Atlanta saved the traveling public $700 million in reduced fares last year alone.

In 1997, DOT granted AirTran exemption slots to fly from Atlanta to New York LaGuardia. The resulting competition from New York and our connecting cities—which was strongly opposed by a major carrier—saved consumers more than $175 million last year.

We also have enjoyed major success in linking our network to small and medium-sized cities. For example, our entry into the Bloomington market cut prevailing fares by an average of 41 percent and stimulated a 930 percent increase in passenger demand. In Akron-Canton, fares went down 44 percent, and passenger demand went up by an astounding 1,471 percent. As you can imagine, this brings great new opportunities for tourism and business development. As your colleagues from Upstate New York have testified in numerous forums, adequate and fairly priced airfares are a key to economic growth.

Almost alone among the handful of low-fare carriers that survive today, we do this the hard way—by flying 140 daily departures from a hub that is dominated by a major carrier. Hub service is a critical element of providing consumer benefits in aviation today because, on the whole, the major carriers do not compete against each other in their hubs. A recent DOT study shows that passengers flying from a hub without low-fare competition pay an average of 41 percent more for their tickets.

Southwest Airlines, which is the largest and most successful low fare carrier, is often cited as providing strong competition to the major carriers. However, Southwest has built its success upon 30 years of growth aimed at smaller, non-hub airports. For example, if you want to fly out of Washington to New York on Southwest, you drive to Baltimore instead of Reagan National, and you land as Islip instead of LaGuardia. The major carriers' high fares in parallel markets are not affected by Southwest. Southwest is a good competitor, but they avoid most business markets and hubs.

Low fare carriers have been struggling against closed markets and an un-level playing field for a number of years, and as a result our numbers are dwindling. But just when I thought things could get no worse, we now have the merger proposals that would amount to the most significant transfer of assets and consolidation in the history of commercial aviation.

When the dust settles, two carriers will dominate airport assets in the Eastern United States, allowing them to block new entrants and competition from the most important airports in the most populous areas of the country. United and American with its partner DC Air would hold nearly 80 percent of the slots at the four slot controlled airports—O'Hare, Kennedy, LaGuardia and Reagan National.

If these series of mergers go forward, there will be no basis for stopping Delta from acquiring Northwest and/or Continental. That would leave 75 percent of the passenger seats in the nation in the hands of three airlines.

With the recent decision of the Justice Department to permit the American-TWA acquisition, these statistics are not theories—they are short steps away from reality.

Administrative actions by the Departments of Justice and Transportation could seal the fate of these deals.

The merger carriers cite their belief that these vast monopoly networks will give them the "seamless" service and improved frequent traveler programs that their customers want. This has been the cornerstone of the current marketing alliances between United and Delta, American and US Airways, and Continental-Northwest. To the extent that there are any consumer benefits, it would seem that they already exist as a result of the many alliance partnerships in place today.

What is clear is that according to a recent GAO report, the mergers will reduce competition in 290 city-pair markets, while only 65 markets will gain significant new service. According to the GAO, only 2.9 million passengers may gain some theoretical benefit in getting new service, while nearly six times as many—about 16 million passengers, will have fewer choices in air carriers. The new United would by itself dominate 1,156 markets affecting 61.1 million passengers.

Mr. Chairman, I do not blame the major carriers for seeking consolidation. The airline business is a tough, complicated enterprise, and small advantages or disadvantages can bring about monumental benefits or losses. Big airlines are especially concerned about being confronted with another airline even bigger than they. There is no law or regulation that can be enacted that would change this airline fact of life. If the current mergers are somehow turned down, they will come back in another form sooner rather than later.

So I think the task at hand for the Congress and the Executive Branch is to figure out how to balance the needs of the airlines to achieve economies of scale, with the need to keep them honest. You balance that scale by using the merger proposals as an opportunity to increase competition rather than decrease it. If United or American wants to charge $1,000 a ticket, they can do that, but I should be allowed to enter those same markets and charge $150.

Quite simply, I cannot compete in a market that I cannot enter. That is what most of the merger activity is all about—sealing off precious slots from competitors, and tying up gates and other assets wherever possible.

But slots and gates are not a birthright. Contrary to what the airlines would have you believe, there is no question that slots are public property. DOT regulations state clearly that slots "do not represent property rights but represent an operating privilege subject to absolute FAA control" and which "may be withdrawn at any time."

Gates are equally as important, and must be made part of a pro-competition policy. Our initial entry into Philadelphia and Newark was blocked by carriers who sought to seal us out by denying us gates. At Newark, we literally had an employee stake out a concourse to monitor gate usage to prove that gates being claimed as tied up were in fact unused. Our operations in Philadelphia remain constrained due to inadequate gate access.

AirTran's proposal to resolve this problem has been to submit to the DOT a complaint which calls for strict conditions to be tied to the merger agreements. The conditions would include a requirement that United and American divest themselves of a meaningful number of slots as a condition for approval of the agreements. DOT would in turn institute a proceeding, with the participation of the impacted communities, on how the slots are to be distributed to new entrant and low fare carriers.

This would not be a "free" allocation of slots. Carriers receiving slot awards would be required to pay United and American the same value that they assigned the slots in their merger and acquisition agreements.

I should emphasize that this allocation of slots must be significant in number. There should be enough slots into Reagan National to allow a new entrant build a network with sufficient economic power to compete in a variety of markets with the major carriers. If AirTran, for example, were allowed to purchase all of the slots that were proposed for DC Air, we would save the traveling public more than $600 million per year. That is not a pie-in-the-sky estimate; it is based on the same computations used by DOT and GAO to determine our fare impact in our existing markets.

Mr. Chairman, as I said at the beginning of my statement, the consumer issue here is not complicated: genuine competition translates into lower fares and better service. It is therefore no accident that these mergers involve the airports that have the highest barriers to entry for new competition. Approval of the mergers will build those barriers so high that they will be virtually insurmountable.

If gates and slots are not made available to new entrants as part of this merger equation, it could well be the death knell of airline competition in this part of the country. And the other side of the equation is equally true—if low fare competitors are allowed to enter these markets as part of the mergers, it will result in a renaissance for consumer savings in towns and cities throughout the East Coast.

I appreciate the Subcommittee's interest in this matter, and I urge you to take action without delay.

Fare comparisons of AirTran Airways and Major Airlines

Routes are of like mileage and traffic mix

	AirTran Airways Atlanta to Washington-Dulles 533 miles	Delta Atlanta to Washington-National 547 miles	Major Airline % Higher
Walkup	$217	$609	181%
Leisure	$86	$104	21%

	AirTran Airways Atlanta to Chicago-Midway 590 miles	American, Delta, United Atlanta to Chicago-O'Hare 606 miles	Major Airline % Higher
Walkup	$207	$721	248%
Leisure	$96	$96	0%

	AirTran Airways Toledo to Washington, DC 382 miles	Northwest, United Detroit to Washington, DC 383 miles	Major Airline % Higher
Walkup	$234	$481	106%
Leisure	$104	$141	36%

	AirTran Airways Washington, DC to New Orleans 954 miles	United, US Airways Washington, DC to New Orleans 954 miles	Major Airline % Higher
Walkup	$264	$603	128%
Leisure	$105	$105	0%

NOTES:All fares listed as each way. Walkup fare is defined as the lowest fare available for one-way travel not requiring an advance purchase. Leisure fare is defined as lowest non-sale fare available

Mr. STEARNS. Thank you.
Mr. Ris?

STATEMENT OF WILL RIS

Mr. RIS. Thank you, Mr. Chairman, Mr. Towns, members of the committee. I appreciate the opportunity to testify on behalf of American Airlines.

If I can, Mr. Chairman, I would like to begin, first of all, by just addressing a couple of issues that were raised earlier in the hearing because I think they are very interesting issues and particularly for this Committee, which sees a lot of different industries. The airline industry is probably not as familiar to you as a lot of other industries.

Most of the industries, to the best of my knowledge, that you see in this Committee are industries that make very healthy profits. At least a lot of them do. This is not such an industry. Over the course of our history in the airline industry, we are about at break-even.

Up until a couple of years ago, we had negative profits from the history when the Wright Brothers first flew to this point in time. And we are now in a process of carrier by carrier announcing its first quarter results, and each one is coming in with substantial losses for the first quarter.

I say that because there has been a lot of conversation about air fares and excessive air fares and so on and so forth. From an industry point of view, from a shareholder's point of view, from an employee point of view, from the point of view of vendors from whom we buy equipment, the problem in this industry is not that on average our fares are too high because, in fact, on average we are getting less money in the door than we are paying in terms of costs to provide the service.

There are certainly issues of disparity between the low fares and the high fares. But this is not an industry, unlike a lot of others that you have seen, that has excessive profits. And that is a very important point as we look at what is on the table because consolidation is only part of a much more complex puzzle.

I think a couple of the comments from some of the members, particularly Mr. Burr and Ms. DeGette, were very instructive because they dealt with the complexities of an inadequate infrastructure, of the complexities of complicated labor relations, of high capital costs, high labor costs, of soaring fuel prices, which obviously this Committee knows a lot about. And it makes it very difficult to operate in this particular environment.

Nevertheless, the subject of the hearing today is consolidation. I will talk about that, but I think it is important to put consolidation in the context that it is only one part of a very complex puzzle.

Now, American Airlines is involved in two transactions. One, as has been mentioned many times today, is our acquisition of the assets of TWA in bankruptcy. I emphasize that because this is not a merger or an acquisition.

TWA would not be in business today if we had not stepped up to the plate, provided $200 million in debt financing, allowed them to continue to operate. This is not an issue of: Is it good or bad to have American acquire TWA? TWA would not be in business today. We would have one less airline under any circumstances.

The second transaction we have is our role in the United-US Airways merger and the creation of a new entrant, namely D.C. Air. You are quite right to be concerned about consolidation and its impact on consumers. And, in fact, so are we.

But, again, the real question is not whether these transactions are good or bad in the abstract. The only really relevant question is: Are they good or bad with respect to what would happen if they don't get enacted?

I think that is immensely important. And obviously Mr. Wolf testified directly to that about the United-US Airways transaction. Let me just repeat that with respect to TWA, I don't think anybody or very few people would agree that allowing them to liquidate and go out of business was a better alternative to American acquiring them. And we were heartened when last week the bankruptcy court approved the acquisition by America and the Justice Department gave us a green light to go forward. Turning down that field would have put 20,000 people out of work and would have eliminated the highly competitive St. Louis hub.

Now, obviously the United-US Airways transaction is more complex. And I would strongly argue that American's participation in this transaction is actually the remedy that makes the transaction pro-competitive.

First I want to address some comments that were made earlier and have been made in other forums that somehow our agreement with United and US Airways must be part of some kind of a conspiracy between us to divide up the Northeast market and then declare a truce on competition.

To us, that is a laughable proposition. It is laughable because if there were a conspiracy, then the Justice Department would have to be part of the conspiracy because the fact is if it wasn't for the express concerns during the process here of reviewing this by the Justice Department, we wouldn't have had the opportunity to come in, as other airlines also did, and negotiate with United for additional divestiture, which makes this deal competitive.

Second, I am fairly sure that at the outset of this transaction—and Shelley Longmuir could probably testify to this—that it was not United's intention to make American Airlines a stronger player in the Northeast. I don't think that was their goal as this transaction got underway.

To put this in perspective, as Mr. Wolf pointed out some I think very compelling statistics, American today is a relatively small player in the Northeast corridor. We are by almost any measure one of the weakest carriers in the Northeast corridor. After all, our closest hub is 600 miles away in Chicago. We don't participate in the shuttle markets. And for us, the Washington airports are simply spokes served from our hubs. Our biggest presence is at Reagan National Airport, where we only have 13 percent of the traffic. We have far less than that at both Dulles and BWI.

In contrast, as Mr. Wolf pointed out, using the strength of their shuttles and the high frequencies in all of the airports at the corridor, the dominant north-south carriers in the East Coast are Delta and US Airways.

So let us make it clear. In the Northeast corridor, American doesn't have the resources to, quote, "divide the market" because to date we have little to divide. For us, this is really an opportunity to enter into markets where we haven't been able to enter or expand into an area of the country where others are very firmly entrenched.

Now, some, like Mr. Leonard, have argued that US Airways slots and gates should be divested to new entrant, low-cost carriers, but that, in fact, is exactly what is happening with the creation of D.C. Air and the divestiture of US Air resources to D.C. Air.

Over the past several weeks and months, we at American have gotten to know Bob Johnson, who is the principal owner of D.C. Air, very well. And I can tell you he is for real. D.C. Air will be an independent organization and will be a very vigorous competitor in the Northeast United States.

Let me just conclude real quickly. I apologize for that. If I can—and I can do this in questions—one of the points that was made, Mr. Chairman, is this constant point about how many carriers there will be in the country at the end of this. From a passenger point of view, it doesn't matter how many carriers there are in the country. It matters how many carriers are in the market that that person wants to serve.

In the Northeast, as Mr. Wolf pointed out, we are going to go from two dominant carriers to at least three, maybe four, if the transaction is done. I think that is the most important consumer point.

Thank you.
[The prepared statement of Will Ris follows:]

PREPARED STATEMENT OF WILL RIS, SENIOR VICE PRESIDENT, GOVERNMENT AFFAIRS, AMERICAN AIRLINES

Good morning. Thank you for the opportunity to appear before this Subcommittee to discuss the impact of consolidation in the airline industry upon consumers. As much as we would like to provide you with a clear-cut answer to the question raised by the title of this hearing, it is difficult to do so. Proposals for consolidation in the airline industry are only one part of a complex puzzle that impacts consumers. Increasing demand for air services, inadequate infrastructure, challenging labor relations, increasing environmental restrictions, soaring fuel prices, and historically low profitability are all parts of the equation as well.

Customer Service

Let me begin by saying that apart from safety, there is no higher priority at American than improving our customer service. We are well aware of the frustrations felt by airline passengers trying to struggle with an increasingly congested system. Last week, the Federal Aviation Administration forecast a continued growth in the record numbers of airline passengers during the next few years. To deal with this projected surge in traffic, we are spending hundreds of millions of dollars on new technology, equipment, training, and facilities to make life easier for our customers. I have attached an appendix to this testimony that outlines the multitude of steps that we are taking at American to improve customer service.

One of our most important, and most costly improvements has been to remove rows of seats on all of our planes to provide more legroom for our each of our coach passengers. The cost of doing this, and installing a whole new generation of more comfortable seats, has been over $400 million. The next important set of improvements will be at airports where customers will be able to check in with much greater ease at the curb, or at self-service kiosks, or with roving agents, or by the internet. Another challenging task is to improve our ability to communicate with our customers about delays and changes in schedules. This is much more difficult than it appears on the surface, but we realize that most passengers just want to know what is going on when delays occur. We are already seeing marked improvement in this area, but we know we have more to do. In short, we are highly focused on making the flying experience better than it is today.

Industry Consolidation

At the same time we are doing these things, the shape of the industry is shifting both in the U.S. and on a global basis. Among other things, airlines are increasingly becoming network businesses. Not only is this a natural evolution, but the trend has been accelerated over the past several years by the U.S. Government, which has encouraged and facilitated global airline alliances. These global alliances have, in turn, contributed to the movement toward more domestic consolidation.

American is currently involved in two separate and unrelated consolidation transactions. The first is our acquisition of the assets of TWA which otherwise would be liquidated in bankruptcy. The second is our role in the proposed United-US Airways merger, which is to provide remedies to concerns about the scope of that transaction as originally proposed. I will address each one separately, because they are very different.

American/TWA Transaction

First, let me address TWA—a storied but beleaguered airline that after 12 consecutive years of heavy losses and three bankruptcies has, in spite of valiant efforts by Bill Compton and his team, simply run out of money, time, and options. Carl Icahn had stripped this company over a period of years, selling assets, such as the prized route rights to London's Heathrow Airport, just to pay the bills. Going into this winter, typically the leanest months in the airline business, with the price of fuel soaring, TWA had nothing left to sell or mortgage that wasn't already encumbered. It also had a debt of $100 million coming due on January 15. Unable to secure or justify additional financing from traditional sources and with no one willing to purchase the airline, TWA in early January faced the very real likelihood that it would have to shut down and liquidate.

From time to time, American had looked at TWA as a possible merger candidate. Indeed, its centrally located St. Louis hub provides a nice complement to our operations at capacity-constrained Chicago O'Hare. In addition, TWA's current management team had—in the face of some formidable obstacles—done a very good job of improving the airline's operations, and in particular, of modernizing its fleet. Unfortunately, very high ownership costs on TWA's new fleet, and an unusual arrangement that allows an entity owned by Carl Icahn to sell TWA's ticket inventory at a substantial discount, made a potential American/TWA merger a non-starter.

TWA's bankruptcy filing and looming collapse, however, presented a far different set of circumstances. We stepped in to provide—when no one else would—the cash TWA had to have to keep operating. We are not proposing to acquire or merge with TWA. Rather, we are acquiring substantially all of TWA's assets, we will hire virtually all of TWA's employees, and we will continue a hub operation in St. Louis.

Our bid for TWA's assets has been accepted by the TWA Board and approved by the Bankruptcy Court in Delaware. On March 16, the Department of Justice announced that it would not challenge the acquisition. Therefore, our remaining regulatory hurdle is getting final authority from the Department of Transportation for the transfer of route certificates and the approval of our transition plan for integrating TWA's employees and equipment into our company.

I feel very comfortable in stating that for many people living in St. Louis, Kansas City, and New York, there is no more consumer-friendly act than saving the jobs of more than 20,000 employees in those communities. We are very pleased to have them join the American Airlines family. We are keenly aware of TWA's illustrious history, and know that were it not for the hard work and great performance of the people throughout TWA, they would not be the perfect fit for American that we believe they are.

United-USAirways Merger

Members of this Committee and numerous industry observers have expressed strong concerns about the potential impact of a United-US Airways merger. We shared that concern when it was first announced. Last fall, our CEO, Don Carty, testified to Congress that the proposed United transaction had caused us to look long and hard at defensive responses.

That examination resulted in our January announcement of an agreement that directly addresses many of our concerns about the size and scope of the United-US Airways merger, while positioning American as a much more vigorous competitor in the Northeast.

In an increasingly globalized business such as ours, competition will suffer if one network is allowed to dwarf all other networks. From a customer perspective, the benefits of broader networks are clear. Our customers—both leisure and business travelers—increasingly expect their airline of choice to be able to take them everywhere they want to go. Accordingly, if one airline is able to grow its route network significantly larger than its competitors, that airline would have a competitive advantage.

The original United-US Airways proposal presented just such a scenario. Had its initial proposal been approved, United would have become 50 percent bigger than its nearest competitor, namely us. As you might imagine, for a company like ours that is determined to create a domestic and international network that is second to none, this got our attention. For air travelers, the unbalanced landscape caused by the lack of one or more competing networks of similar size and breadth would have surely led to an eventual reduction in overall competition.

The ultimate size of United's route network was not the only cause for concern. As we all know, high market concentration on routes to and from the Nation's Capital led United and US Airways to propose creating a new entrant at Ronald Reagan Washington National Airport, DC Air. As we thought about this, on the one hand we had great admiration for both carriers for being able to persuade such an accomplished businessman as Robert Johnson to get mixed up in our industry—where margins are thin and headaches are plenty. On the other hand, however, the proposed relationship envisioned between United and DC Air caused most everyone, both inside government and out, to be somewhat skeptical. Simply put, it was hard to see any real competitive benefit coming from the transaction given that DC Air's aircraft, flight crews, operational support, and management staff were mostly being supplied by either United or US Airways.

The potential effect on competition in the Northeast and on routes between United's hubs and US Airways' hubs was also problematic. American has a relatively small share of the key business routes between Boston, New York, and Washington. Our fear was that the proposed merger would entrench United, complete with its new, vastly larger transcontinental network, in an effective duopoloy with Delta in these shuttle markets, an outcome that rightly alarmed outside observers as well.

In the closing months of last year, it became apparent that the original United-US Airways proposal would not stand. This prompted American—and a number of other competitors—to enter into discussions with the merger parties regarding proposals for asset sales.

In early January, we agreed to acquire certain key strategic assets from US Airways and to acquire a substantial financial stake in DC Air—both contingent upon the reconstituted United-US Airways merger receiving regulatory approval. In a nutshell, we would acquire from US Airways 14 gates, 36 slots, 66 owned aircraft and an additional 20 leased aircraft, as well as the gates and slots necessary for us to operate half of the US Airways Shuttle. In addition, to introduce immediate new competition on United-US Airways hub-to-hub routes, we agreed to guarantee that the following routes would be served by at least two roundtrips a day for the next 10 years: Philadelphia-Los Angeles, Philadelphia-San Jose, Philadelphia-Denver, Charlotte-Chicago, and Washington-Pittsburgh.

As for DC Air, we agreed to take a 49 percent stake in the carrier and enter an exclusive marketing arrangement with it in which DC Air will participate in American's frequent flyer program. We will also provide DC Air with 11 100-seat Fokker 100 aircraft in an arrangement by which American Airlines personnel will be flying and maintaining AA aircraft marketed as DC Air service. American will also have the right of first refusal on the acquisition of the remaining 51 percent of DC Air.

Taken together, we believe these transactions relieve the competitive imbalance in the Northeast. They will also increase competition by making DC Air a real competitor with significant independent backing while affording us, for the first time, a significant presence in Washington and the Northeast. American, for example, now accounts for roughly 13 percent of passenger boardings at Reagan National, and far less than that at Washington Dulles and BWI. As in the Washington area, our expanded presence throughout the upper East Coast will ensure that there are at least three major competitors of comparable size on the Shuttle routes and at least two competitors on the hub-to-hub routes. Moreover, passengers travelling along the East Coast will also benefit by our establishing another source of connecting service to compete with the service offered by United, Delta, Continental, and other East Coast competitors.

Obviously, we have given the Justice Department and Congress a lot to digest. American looks forward to working with both Justice and this Committee as you attempt to determine whether what we have put on the table sufficiently remedies the United-US Airways merger and, ultimately benefits the flying public.

Regardless of Justice's disposition of the transactions before it, we at American have gotten to know Robert Johnson over these past few months and are most impressed. He is a take-charge executive who knows how to provide consumers a service, and quite frankly, how to make money. Let there be no mistake, Robert Johnson and his team will run DC Air. He will be the majority owner and he will make the decisions. He has already begun recruiting a seasoned management team. If the transaction is approved, American will be his marketing partner, and we will work closely together to add value to our respective networks. DC Air will be a valuable addition to our industry and bring to it the first minority-owned airline in more than 30 years. It has taken our industry far too long to reach this milestone and we at American are proud to be affiliated with it.

As for the impact of American's entry into this equation, Jim Wilding, the president of the Metropolitan Washington Airports Authority, was recently quoted as being highly enthusiastic about the vigorous competition that American's affiliation with DC Air will bring to the Washington market in comparison with the original proposal. In Mr. Wilding's words: "If American and United are anything, they're competitors. They're like the cobra and the mongoose wherever they go."

Impact on Consumers

I would respectfully suggest that the question which the Committee should ask is not whether these specific transactions are good for consumers in the abstract. The relevant question is whether these transactions are better for consumers than the alternative of not doing them. In making that judgment, there is often a good deal of focus on how many airlines there will beat the conclusion of the transaction. But there are two problems with such analysis. First, as in the case of TWA, in the absence of the transaction, the carrier would disappear from the industry anyway. Second, for a consumer wanting to travel to a certain destination, the only meaningful question is how many carriers are there in that particular market. Having 10 carriers will not benefit consumers if each only operates in its own territory and offers no competition with the others. In contrast, having three or four carriers that compete in all markets would be much better. The best example of this is in the package express market, where there are only two major competitors—Federal Express and UPS—but they provide robust competition and consumer benefits because they compete vigorously in all of each other's markets. As networks get bigger, they compete with each other in more and more markets. And that is not bad for consumers.

In the case of TWA, I don't think anyone believes that allowing TWA to liquidate would be better for consumers than American's asset acquisition. We will maintain employment for 20,000 people, and competitive service for millions of passengers.

In the case of United and US Airways, we are certainly convinced that the participation of American in that transaction mitigates the major concerns that we have shared with others about its size and scope. United would not be allowed to get so much larger than any other airline that we would all be dwarfed. There would be three vigorous competitors in the Northeast where today there are just two. And it would lead to the creation of a new airline in the Northeast United States—DC Air. As to the question of whether the entire transaction is better than the alternative of leaving US Airways as a stand-alone company, no one can make that case better than US Airways itself.

That concludes my statement. I am ready to respond to any questions that you or the Members of this Committee may have. And if there are any I can't answer, I will provide a written response to you for the record.

American Airlines

Customer Service Plan Enhancements

American Airlines, striving to deliver the best product possible to its passengers, developed the following initiatives in the customer service arena to help the airline fulfill its commitments under the Customer Service Plan. To reinforce its commitment, American Airlines has included the provisions of the Customer Service Plan in its Conditions of Carriage.

INDEX

Keeping the Customer Informed

- Developed policies and procedures to keep customers advised of delays
- Developed a new Gate Information Display System
- Provides major delay information on the AA.COM website
- Reference card provided on flights to address customer concerns
- Developed voice recognition technology in Reservations for gate & flight inquiries
- Shop By Price Reservations booking tool ties lowest fare to itinerary
- Increased training for reservations and airport agents
- Introduced automation to help keep the "Guaranteed Fare" commitment
- Introduced wireless Flight Status Notification through the AA.com website

Keeping the Customer Satisfied

- Created Local Contingency Plans at all airports to minimize inconvenience during delays
- Devised a phone card program for passengers inconvenienced by delays
- Developed a "We CAAre Kit" that recognizes customers' needs in delays
- Implemented a new comprehensive refund tracking system
- Added an E-Mail component to the Customer Relations department
- Added resources to Customer Relations

Keeping the Customer Moving

- Streamlining airport process and implementing state of the art technology
- Installed more than 2,500 document readers at 135 airports
- Deployed "OneStop" curbside mobile check-in stations at 65 airports
- Will roll out "OneStop" self-service devices at 30 airports in 2001
- Implemented a "roving agent" concept using hand-held devices for check-in
- Added "operational coordinators" empowered to resolve complaints on front line
- Added management volunteers at Dallas/Fort Worth during high volume days

Keeping the Customers With Their Bags

- Placed additional emphasis on baggage performance
- Developing programming to print flight departure time on bag tags
- Expediting delivery of delayed bags
- Implementing wireless scanning technology to enhance bag tracking

Keeping the Customer on Schedule

- Modified the Dallas/Fort Worth and Chicago hubs flight schedules

Keeping the Customer Well

- All American Airlines aircraft carry defibrillators and enhanced medical kits

- Purchased 75 percent more oxygen cylinders to meet customer needs
- Introduced the "SkyCAAre Program" for passengers needing a nurse

Keeping the Customer Comfortable

- Reconfigured entire fleet to provide more legroom throughout coach cabin
- Invested $400 million in new seats with improved head and back support
- Installing larger overhead bins on MD80, Boeing 757 and Fokker 100 fleets
- Spent $1 billion-plus to expand terminals at MIA, JFK, LAX and BOS
- Built new American Eagle terminal at Dallas/Fort Worth International Airport
- American Eagle converting fleet to Regional Jets

KEEPING THE CUSTOMER INFORMED

- Policies and procedures are in place for keeping our customers advised of delays in a timely and accurate manner. Airport agents, mechanics, pilots and flight attendants all share the same commitment, as outlined in our Customer Service Plan. Agents can now reference messages that detail the day's weather, giving our frontline employees an additional tool for communicating delay and potential delay information to our customers.
- To provide more flight information to customers at gate locations, a new Gate Information Display System (GIDS) was developed and is already deployed at Chicago O'Hare, Phoenix, Philadelphia and Columbus, Ohio. This product provides a whole array of flight details, including specific flight messages, destination arrival time and weather conditions, aircraft type and meal service on 36 inch monitors. Additional airports are planned to receive this enhanced gate display functionality.
- The AA.COM website is American's new vehicle for communicating airport delays to our customers. Consumer alerts are posted on the website during periods of significant operational delays. Cancelled flights are also posted on the website home page during significant weather disruptions.
- A small reference card was developed by in-flight services that provides the customer with American's Customer Relations and toll-free Reservations numbers. The card, contained in on-board service kits, provides crewmembers with a proactive means for addressing customer service concerns in-flight.
- In reservations, a voice recognition technology is being used to handle telephone inquiries regarding gate assignments and flight status. This technology provides passengers with a new option for obtaining information and frees up agents to handle calls needing special attention more quickly.
- A "Shop by Price" reservation booking tool allows reservation agents to automatically match an itinerary to the lowest fare available. Work is progressing to include a "lower fares may be available on the Internet" message when customers make their initial phone contact with reservations.
- There are 187,626 hours of training planned for reservation agents in 2001, of which 43% is devoted to Customer Service or the Customer Service Plan.
- Programming was introduced in American's reservations area that will automatically assign a "next day cancellation" timeframe on reservations requiring advance purchase. This enhancement will provide a more failsafe means of ensuring customer reservations are held for 24 hours, meeting the "Guaranteed Fare" commitment of the Customer Service Plan.
- Customers can now register for flight status notification via the website, AA.com. This product allows customers to sign up online and receive customized notification of flight status to their wireless or wired devices. Once signed up, the notification system subsequently notifies customers of the requested American and American Eagle flight departure or arrival status, including gate information. They are also alerted to known delays, cancellations or diversions. Customers can choose to receive a voice message to their phone, or a text message to a cell phone, alphanumeric pager, personal digital assistant (PDA) or regular e-mail account.

KEEPING THE CUSTOMER SATISFIED

- All field locations have created a local airport contingency plan that details airline and airport communication processes for minimizing customer inconvenience when extraordinary delays occur. The plan provides details regarding overnight accommodations, alternate transportation and airline and airport communication processes for handling customer needs during these delays.
- A phone card program has been implemented that allows airport employees to provide a calling card to customers who are inconvenienced or delayed.

- A “We CAAre Kit” has been developed that proactively recognizes customer needs during a long delay. The kit contains a phone card, customer comment card, an apology from the employees of American and American Eagle, a travel certificate good for “dollars” off on future travel and a headset/drink coupon for inflight use.
- A new comprehensive refund accounting tracking system was implemented in March 2000 that assigns a batch number, tracking number and date the ticket was keyed into the system for refund. Customer Service Plan timeframe-for-refund can be determined more easily, allowing American to provide a better refund service to our customers.
- The e-mail medium was added to the Customer Relations area in June 2000, providing customers an additional communication vehicle for providing us with comments on their travel experience.
- Customer Relations has added resources that are dedicated to phone and e-mail correspondence to meet customer expectations. In addition, operational debrief meetings are held more frequently to address timeliness goals.

KEEPING THE CUSTOMER MOVING

- American has undertaken broad strategic initiatives aimed at streamlining our airport process and implementing state of the art technology to enhance the overall airport experience.
- Over 2,586 document readers have been installed at 135 airports allowing agents to scan passport information into the system in one quick swipe, which allows customers to clear Customs in an expedited manner.
- American has deployed “OneStop” Curbside mobile check-in stations at 65 airport locations that allow customers to check baggage and obtain boarding passes in one step with skycap personnel. Passengers can then bypass the ticket counter and proceed directly to the gate.
- “OneStop” Self-Service devices are currently being rolled out to 30 airports. The self-service device enables our electronic ticketed customers to check-in, obtain a seat assignment and boarding pass, answer security questions and check bags at ticket counter locations.
- American is rolling out a “Roving Agent” wireless product at airport locations that will allow agents to use a handheld device to issue boarding passes without customers having to stand in line.
- An operations coordinator position has been created at American’s large city “hub” locations to focus strictly on customer service issues and handle customers traveling with special needs. More than 180 coordinators are empowered to resolve complaints on the front line.
- A “Customer Assistance” program is in place that utilizes headquarter management volunteers to assist DFW agents during heavy passenger volume days or during off-scheduled operations. The volunteers will assist in the boarding process; queuing lines, handling unaccompanied minors and performing other airport required tasks. This allows our agents to devote more of their focus on the customer and customer transactions when additional attention is required.

KEEPING THE CUSTOMERS WITH THEIR BAGS

- Additional emphasis has been put on baggage performance with the introduction of the “Every Bag Counts” program. In addition, use of a single, systemwide baggage delivery company will be introduced in 2001 that will provide a consistent baggage delivery product when bags are misplaced.
- Programming is complete that will print the flight departure time on the bag tag, regardless of carrier, providing valuable departure information to ramp personnel to enhance the possibility that a bag is loaded.
- American is in the process of transitioning to a single domestic nationwide baggage delivery company, utilizing a web based tracking system, that will provide expedited delivery of delayed bags.
- Wireless scanning technology will provide an enhanced ability to track bags and reunite them with the owner in an expedited manner.

KEEPING THE CUSTOMER ON SCHEDULE

- American has modified its Dallas/Ft Worth and Chicago O’Hare flight schedules to provide more connecting time between flights. This initiative will provide greater opportunity to achieve on time departures and give our customers additional time to connect.

KEEPING THE CUSTOMER WELL

- American was an industry leader by equipping all aircraft with defibrillators. State-of-the-art medical kits are also standard equipment on all our aircraft.
- American purchased 75% more oxygen units to meet the increasing needs of our customers requiring oxygen. We have significantly enhanced our ability to meet almost 100% of our oxygen requirements due to the purchase of these units.
- American has introduced the "SKYCAARE" program to provide skilled medical companions for travelers who need limited medical attention or care during their flight. These companions are registered nurses.

KEEPING THE CUSTOMER COMFORTABLE

- Our entire fleet of aircraft is being reconfigured to provide our customers with more legroom in coach. Our entire domestic fleet has already been reconfigured, with our international fleet reconfiguration currently underway. As of March 19, 2001, 93% of American's total fleet has been reconfigured.
- American has invested more the $400 million on new first class and coach seats on most of our fleet that offer more comfort through adjustable headrests and improved back and lumbar support.
- American has begun an $80 million project to increase overhead storage capability on nearly 500 of our narrow body jets. More overall storage space will achieve a better boarding process and make it easier to stow and remove bags from overhead bins. The first aircraft with the new larger bins entered service on January 18, 2001.
- $1 billion airport expansions are underway at Miami and New York Kennedy, and expansions of more than $250 million each are taking place at Los Angeles and Boston to ease in-airport congestion and improve facilities for our passengers.
- American Eagle has opened a new 30,000-square-foot terminal at DFW International Airport that will enable American Eagle to offer covered boarding on more flights to more cities as it continues to add regional jet service to and from DFW. Many of American Eagle's turboprops will also park at the satellite terminal, which means customers flying on those aircraft will also enjoy covered boarding at DFW.
- Regional Jets are operating more flights operated by American Eagle. These aircraft provide an enhanced degree of comfort and speed and are preferred by customers over propeller driven aircraft. Additional routes are being added to the American Eagle network as more "RJs" are added to the fleet. American Eagles entire operation at Chicago O'Hare is operated by Regional Jets.

Mr. STEARNS. Thank you.

Ms. Longmuir?

STATEMENT OF SHELLEY A. LONGMUIR

Ms. LONGMUIR. Chairman Stearns, Ranking Member Towns, and members of the subcommittee, thank you for letting me appear before you today to discuss the United Airlines-US Airways merger and the consumer benefits we believe this transaction will bring.

The combination of United and US Airways will create the first truly national network air carrier. It will include: first, improving the travel experience for consumers; second, improving global connectivity for American consumers and businesses in your communities; and, third, as Will Ris has just mentioned and Mr. Wolf has alluded to as well, strengthen competition amongst the remaining carriers.

First, Mr. Chairman, with respect to our consumers, United has rededicated itself to improving customer service. And we believe we are making good progress as the latest DOT consumer rankings would bear out.

The combination of United and US Airways will make the travel experience for passengers more convenient in several important ways: fewer tickets for a journey, fewer check-ins, easier baggage transfers, faster accumulation of those precious frequent flyer miles, and the addition of 89 new nonstop flights, hence more access. Passengers will no longer have to switch to an entirely different airline on more than 500 planned new airport-to-airport routes not currently available to either US Airways or United Airlines passengers.

I would like to give you an example of our enduring commitment to customer service since I know this is truly a focus of this subcommittee. Earlier this month United Airlines announced a $150 million investment in new innovations that will make air travel easier and more convenient for our passengers. These investments are going to include self-service check-in kiosks, high-tech flight information displays at airports around the country, and a new customer advocate center.

United is truly sensitive to the inconvenience and disservice we have put our passengers through and, hence, the name, the focus, and the rededication by United. The purpose of this center is to resolve problems for passengers even before they arrive at the airport when we know of canceled flights, weather, or mechanical affecting their journey.

We are serious about our commitment to customers. We have taken the extra step of incorporating our latest customer service commitment into our contract of carriage, the document that defines United's legal obligations to its customers. In short, let me assure you that our commitment to improving customer service did not begin nor will it end with our acquisition of US Airways.

Today US Airways is hamstrung by the industry's highest unit cost coupled with limited access to cities across the United States. Its passengers also have limited options for international travel. With United, US Airways passengers will gain same carrier service to 117 U.S. cities, 28 international destinations, all of which were not currently in the network before this merger, as well as the addition of 500 new international destinations through United's global network of the Star Alliance.

Finally, we believe that the United and US Airways combination will create new hubs to compete with existing hubs of competitors, such as United now being able to compete against Delta in Atlanta by having a very strong presence in Charlotte, thanks to the US Airways acquisition. United will also be able to compete out of Philadelphia against Continental and Newark.

It will also raise the competitive bar in the East. Today there are three successful network carriers that Will has just described: US Airways, Delta, and Continental. United Airlines currently carries 1.7 percent of the total traffic up and down the East Coast.

As a result of the pending airline transaction, including American Airlines' rescue of TWA, there will be four network competitors in the region: United, American, Delta, and Continental. This scenario does not even include the ever-growing presence of Southwest Airlines in the East, whose departures have grown 50 percent annually over the last 5 years.

The United-US Airways combination will inject new competitive service in 32 markets on the East Coast alone. And it will introduce a viable new entrant carrier: D.C. Air. Our Chairman and CEO, Jim Goodwin, said it best, "We will be making it simpler to move people and products around the world." We are pleased that the proposed merger has received bipartisan support in Congress and in communities across the country. We agreed with the New York Times when it editorialized earlier this year that our merger and the related transactions involving American Airlines are in the public interest. We at United are absolutely convinced that this combination will bring about the consumer benefits our passengers expect and deserve.

Thank you for the opportunity to testify before you today.

[The prepared statement of Shelley A. Longmuir follows:]

PREPARED STATEMENT OF SHELLEY A. LONGMUIR, SENIOR VICE PRESIDENT, INTERNATIONAL, REGULATORY AND GOVERNMENTAL AFFAIRS, UNITED AIRLINES

Chairman Stearns, Ranking Member Towns and members of this subcommittee, thank you for letting me appear before you today to discuss United Airlines' proposed acquisition of US Airways—and the consumer benefits we believe this transaction will bring.

The combination of United and US Airways will create the first truly national network that will:

- One, improve the travel experience of our customers;
- Two, improve global connectivity for American consumers; and
- Three, strengthen competition between air carriers.

First Mr. Chairman, with respect to our customers, United has rededicated itself to improving customer service—and we believe we are making good progress—as the latest DOT consumer rankings will bear out.

The combination of United and US Airways will make the travel experience for air travelers more convenient in several important ways: fewer tickets, fewer check-ins, fewer baggage transfers; faster accumulation of frequent flyer miles; and, with the addition of 89 new nonstop flights, more access. Passengers will no longer have to switch airlines on more than 500 planned new airport-to-airport routes not currently available to either US Airways or United Airlines passengers.

I'd like to give you an example of our enduring commitment to customer service. Earlier this month, we announced a $150 million investment in innovations that will make air travel easier and more convenient. These investments include self-service check-in kiosks; high-tech flight information displays; and a new Customer Advocate Center dedicated to resolving problems before our customers ever arrive at the airport.

We're serious about our commitment to customers. We've taken the extra step of incorporating our latest customer service commitment into our Contract of Carriage—the document that defines United's legal obligations to its customers.

In short, let me assure you that our commitment to improving customer service did not begin, nor will it end, with our acquisition of US Airways.

Mr. Chairman, we also believe our acquisition of US Airways will be an important part of the economic push toward globalization. A new report by Pulitzer Prize winning author Dr. Daniel Yergin and Richard Vietor, of the Harvard Business School, states that the international airline industry is both a leading driver of globalization and a laggard, trailing other industries in adopting such globalization-driven strategies as expanded scale, deregulation, and network structure.

Dr. Yergin and Professor Vietor affirm that airlines that build the most effective network will most likely be successful in lowering costs and delivering the type of service that the broader process of trade and economic integration will require.

Simply put, network air service gives cities—small and large—the access they need to thrive in the global marketplace. The United-US Airways merger will deliver not only national, but global seamless access.

Today, US Airways is hamstrung by the industry's highest unit cost coupled with limited access to cities across the United States. Its passengers also have limited options for international travel. With United, US Airways passengers will gain same-carrier service to 117 U.S. cities and 28 international destinations they didn't have before, as well as access to more than 500 international destinations through the Star Alliance.

Finally, we believe that the United/US Airways combination will create strong new hubs to compete with existing hubs, such as United in Charlotte versus Delta in Atlanta and United in Philadelphia versus Continental in Newark.

It will also raise the competitive bar in the East. Today, there are three successful network carriers in the East: US Airways, Delta and Continental. United carries only two percent of the traffic up and down the East Coast.

As a result of the pending airline transactions, including American Airlines' rescue of TWA, there will be *four* network competitors in the region: United, American, Delta and Continental. This scenario does not include the ever-growing presence of Southwest Airlines in the East, whose departures have grown 50% annually over the last five years.

The United-US Airways combination will inject new competitive service in 32 markets on the East Coast alone. And it will introduce a viable, new-entrant carrier—DC Air—that will provide customers access to American's global network.

Mr. Chairman, our combination with US Airways will give passengers more choices and more convenience in their air travel; it will increase global connectivity for U.S. trade and commerce; and it will strengthen airline competition, especially on the East Coast.

Our Chairman and CEO Jim Goodwin said it best: "We'll make it simpler to move people and products around the world."

We are pleased that our proposed merger has received bipartisan support in Congress and in communities across the country. We agreed with *The New York Times* when it editorialized that our merger and the related transactions involving American Airlines are in the "public interest." We at United are absolutely convinced that this combination will bring about the consumer benefits we all want.

Thank you for the opportunity to testify on this important matter. I would be glad to answer any questions you may have.

Mr. STEARNS. Thank you.

Mr. Cooper?

Mr. COOPER. Thank you, Mr. Chairman. I have a rather different view.

Mr. STEARNS. Okay.

STATEMENT OF MARK N. COOPER

Mr. COOPER. The deregulated airline industry has come of age. As you heard, it is 21 years since it was deregulated. And it must be held accountable for its anti-competitive structure and conduct. With miserable service, rising prices, two mergers pending between major airlines, a third merger being talked about, it is also time for Congress to confront the reality that this industry is not now and will never be organized on a vigorously competitive basis.

The airline industry is in the process of organizing itself into a private cartel, a cartel that is dominated by two or three large national carriers who control the vast majority of traffic through fortress hubs in monopoly regions in national networks. And they are also prepared to now jointly manage some other routes and airlines to cement that control.

As travelers fall victim, become captives of these entities, they suffer what we understand all people suffer from unregulated abuse of market power: higher prices and lower quality. At the heart of this market power are the fortress hubs and predatory anti-competitive practices that have been used to prevent entry at those hubs.

As these networks become larger and larger, it is more and more difficult for new entrants to attract traffic or to gain access to the key choke points in these national networks. It should come as no surprise that in the two decades since the airline industry was deregulated, dozens of studies have shown that real competition is what gets you low prices.

The entry and exit of competitors lowers prices between 20 and 50 percent. And the Department of Transportation has done a good job in the last 3 years of demonstrating that with good, rigorous analysis.

As we create these national networks, the barriers to entry will grow. And consumers will lose choices. For very one online air route that we gain, consumers will lose three head-to-head competitors in airports. We lose competition, and prices go up. Studies that show you increases in travel ignore the price effects of concentration.

For every one additional online customer, we will probably lose between 5 and 10 customers who are driven off the airlines by increases in prices. The net public accounting here is negative. It is not in the public interest.

The merging parties have offered a series of excuses and Band-Aids and essentially joint operating arrangements to try and cover over these fundamental problems. Corporate bankruptcy is not a reason to allow the public to be abused by market power.

I have heard the story of TWA. We opposed a restructure of TWA through a leasing arrangement that sucked the blood out of that airline. We opposed the Piedmont-Allegheny merger, which raised prices, we were told, a few weeks ago by 23 percent. These concentrations, these deals, which destroyed these airlines, were not in the public interest. And we stand on an opposition to these events.

Carve-outs and its swaps of routes and promises for a couple of years on pricing will not do the public any good because the harm to the competitive structure of the industry is permanent. If this industry requires a form of organization in which you have three dominant carriers in order to preserve the financial integrity of the members of the industry, then that is all the more reason for policymakers to take a hard look at how to rebuild a competitive structure in this industry.

The starting point must be at the fortress hubs, which are the building blocks of monopoly power. Access to these hubs must be ensured for new entrants. Predatory practices that drive competitors out of these markets must be banned vigorously. Consumer protection rights must be enforced, not by promises, because the only form of consumer protection that we want is competition or regulation.

Now, we do not want to go back to price and quantity regulation, but we also refuse to become the captives of unregulated monopolies, who are disciplined neither by market forces nor by effective regulation. These unregulated monopolies are the antithesis of the market forces we hear about so frequently in this country and in this Congress. If we can't have vigorous head-to-head competition, then we have to have the Congress enter to provide consumers some forms of protection because the competitive marketplace is clearly failing to provide that today.

Thank you.

[The prepared statement of Mark N. Cooper follows:]

PREPARED STATEMENT OF MARK N. COOPER, DIRECTOR OF RESEARCH, CONSUMER FEDERATION OF AMERICA

Mr .Chairman and Members of the Committee, I am Dr. Mark N. Cooper, Director of Research for the Consumer Federation of America (CFA). CFA is the nation's largest consumer advocacy group, a non-profit association of some 260 pro-consumer groups, with a combined membership of 50 million, founded in 1968 to advance the consumer interest through advocacy and education. I appreciate the opportunity to appear before you today to offer our view of pending airline mergers

A couple of years ago I published a paper entitled *Freeing Public Policy From The Deregulation Debate: The Airline Industry Comes Of Age (And Should Be Held Accountable For Its Anticompetitive Behavior)*.[1] Since then this industry has experienced a dramatic decline in the quality of service, a dramatic increase in prices, and now stands on the verge of a merger wave that will make matters worse. Not only is it time for the industry to bear responsibility for its own actions, it is time for policymakers to confront the reality that this industry is not and will not be organized on a vigorously competitive basis.

With two mergers pending between major airlines and a third being widely talked about, there can be no more uncertainty about the structure of the industry. The airline industry is in the process of organizing itself into a private cartel. Two or three dominant firms will control the vast majority of traffic through monopoly airports in fortress regions embedded in national networks that rarely compete with one another. A few end points will have vigorous competition, but the vast majority of passengers will be trapped on routes with far too few alternatives to create an effectively competitive market.

As travelers fall more and more under the control of one airline, the ability of new entrants to crack markets is reduced. It becomes harder and harder to attract passengers to flight segments and the necessary scale of entry gets larger and larger. The inconvenience and, in many cases, the impossibility of inter-airline travel, give the originating airline enhanced market power over the traveler and makes it more and more difficult for smaller airlines to compete for the traffic. As travelers are locked-in to the national networks with fewer and fewer choices, they suffer the typical effects of the abuse of market power, higher prices and lower quality.

THE CREATION OF A PRIVATE CARTEL

At the heart of the market power wielded by the major airlines is a system of fortress hubs and the anticompetitive, predatory practices that major airlines use to prevent new entrants from serving the fortress hubs. Advocates of deregulation failed to anticipate the development of this form of industrial organization.[2] While they may have recognized the possibility that competition would not develop on lightly traveled routes or at small airports,[3] the notion that single airlines would come to dominate and control huge airports was unthinkable twenty years ago.

Hubs create economies of scale and operating efficiencies as well as marketing advantages that make it extremely difficult for competitors to enter. The concentration of traffic at hubs allows incumbents to achieve lower costs.[4] The concentration of traffic and prominent position in the hub enables the incumbent to achieve both a greater reputation and to offer a broader range of options at the hub.[5] Advertising and promotion are facilitated.[6] Scheduling and baggage handling are better coordinated.[7]

Unfortunately, these "positive" economic advantages of hub and spoke networks never get passed through to consumers. They have been immediately leveraged with anti-competitive actions to increase and exploit market power by incumbents dominating hubs.

Incumbent airlines create barriers to entry by locking in customers and disadvantaging competitors. Traffic is diverted to the dominant incumbent at dominated hubs through a number of marketing mechanisms that extends market power over travelers including frequent flier programs,[8] deals with travel agents to divert

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[1] American Bar Association, *The Air and Space Lawyer,* January 1999.

[2] Rakowski and Bejou (1992), Oum Zhang and Zhang (1995).

[3] The unique problems of small airports and low density routes were recognized in the legislation ending the existence of the CAB—see Meyer and Oster (1984) and Malloy (1985).

[4] Johnson (1985), McShane and Windle (1989), Oum and Trethaway (1990), Berry (1990), Morrison and Winston (1990), Oum (1991), Berry (1992), Boucher and Spiller (1994), Joskow, et al (1994).

[5] Levin (1987), Bornstein (1989, 1992), Zhang (1996).

[6] Evans and Kessides (1993).

[7] Oum and Taylor (1995).

[8] Levine (1987), Oum (1987), Borenstein (1989), Layer (1989), GAO (1996).

traffic,[9] manipulation of computerized reservation systems,[10] and code sharing.[11] The ability of competitors to enter hubs is undermined in a number of ways. Access to facilities is impeded through a number of mechanisms that preclude or raise the cost of entry,[12] including denial of gate space,[13] extraction of excess profits on facilities,[14] and efforts to prevent entrants from attracting adequate passengers to establish a presence.[15] When entrants do show up, the dominant airlines have engaged in blatantly predatory pricing to drive them out of the market.[16]

The monopolized hubs are building blocks of potential national market power through concentration of the industry. The geographic extension that United and American are seeking (soon to be followed by some combination of Delta, Northwest and Continental) and the denser network that the mergers would create make it less and less likely that competitors will be able to attack these markets. As all such airline networks do, these mergers would lock travelers in by concentrating their flow through fortress hubs, coordinating scheduling at those hubs, and binding them with frequent flier and other promotional programs. These mergers are likely to promote a movement from fortress hubs to fortress regions.

A HIGHLY CONCENTRATED INDUSTRY

Industry structure has become sufficiently concentrated to raise a fundamental question about whether market forces are sufficient to prevent the abuse of market power. Both at individual hubs and in the industry as a whole, markets have become or are becoming highly concentrated. Attorney's General from 25 states filed comments in support of the Department of Transportation's anti-predation rule which identified 15 airports at which the dominant firm had a market share in excess of 70 percent. This is the standard generally applied to indicate monopoly status. Another half dozen airports have a dominant carrier (50 to 70 percent market share) close to the monopoly (see Exhibit 1).

This is not a small airport problem. Seven of the ten busiest airports in the country are on the list. One-half of all passenger enplanements take place at the twenty airports on the list. These fortress hubs are the cornerstone of a nationwide problem. The local monopolies are reinforced by an industry structure in which there is simply inadequate competition to discipline the abuse of market power. There are too few competitors in the industry as a whole and in most markets on a route-by-route basis.

Let us step back a moment on consider what constitutes "too few" competitors. Identification of exactly where a small number of firms can exercise market power is not a precise science, but it is widely recognized that when the number of significant firms falls into the single digits public policy concerns are triggered.[17] In fact, I like to use what I call the "Ed Meese tests of market power." You will recall that based on the extensive theoretical and empirical record of decades of analysis, Ronald Reagan's Department of Justice headed by Ed Meese issued the *Merger Guidelines* in 1984.

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[9] Levine (1987), Borenstein (1989, 1991, 1992), Morrison and Winston (1995).

[10] Oster and Pickerell (1986), Borenstein (1989), Layer (1989), Brenner (1989), Evans and Kessides (1993).

[11] Oum (1995) identifies three positive advantages created by code sharing—increased frequency of flights, concentration of traffic, marketing of single line travel—and one negative—CRS placement advantages due to frequency and single line service.

[12] Berry (1987), Levine (1987), Borenstein (1989), Butler and Houston (1989), Reiss and Spilber (1989), Oum, Zhang and Zhang (1995), and Hendricks (1995).

[13] Levine (1987), Borenstein (1989), Kahn (1993), GAO (1996).

[14] GAO (1996).

[15] Credible entry requires the entrant to move sufficiently up the S-curve to have a viable economic base (Russon (1992), Vakil and Russon (1995). GAO notes that entrant require at least six slots at prime times to establish a credible presence.

[16] "Comment of the Attorneys General of the States of Arkansas, Connecticut, Florida, Iowa, Kansas, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming," U.S. Department of Transportation, 1998, Docket No. OST 98-3713 (hereafter, Attorneys General.

[17] Friedman, 1983, pp. 8-9,

Where is the line to be drawn between oligopoly and competition? At what number do we draw the line between few and many? In principle, competition applies when the number of competing firms is infinite; at the same time, the textbooks usually say that a market is competitive if the cross effects between firms are negligible. Up to six firms one has oligopoly, and with fifty firms or more of roughly equal size one has competition; however, for sizes in between it may be difficult to say. The answer is not a matter of principle but rather an empirical matter.

The Reagan Administration DOJ established a fundamental threshold to separate an unconcentrated market from a moderately concentrated market at the level of a Hirschman-Herfindahl Index (HHI) of 1000. This level of concentration would be achieved in a market of 10 equal size competitors. In this market, the 4-Firm concentration ratio would be 40 percent. The DOJ established a second threshold at an HHI of 1800. Above this level, the market is considered highly concentrated. This is roughly equal to a market with fewer than six equal sized competitors. A market with six, equal-sized firms would have a HHI of 1667. In a market with six, equal-sized firms, the 4-Firm concentration would be 67 percent.

The reason the six and ten firm thresholds are important is that they constitute well-documented and understood levels of oligopoly. In a tight oligopoly with a small a number of firms controlling such a large market share, it is much easier to avoid competing with each other and harm the public through price increases or quality deterioration.

Shepherd describes this threshold as follows: [18]

> Tight Oligopoly: The leading four firms combined have 60-100 percent of the market; collusion among them is relatively easy.
>
> Loose Oligopoly: The leading four firms, combined, have 40 percent or less of the market; collusion among them to fix prices is virtually impossible.

By these definitions, airline markets are generally highly concentrated. Most routes have fewer than four carriers. National averages typically find HHIs in the range of 4000 on a city-pair basis.[19] One recent study found that, measured at airports, the HHI was just under 3300—the equivalent of three airlines per airport), but measured by city pairs the HHI was over 5000—the equivalent of two per route.[20] Given such a high level of concentration, we should not be surprised to find that anti-competitive behavior and changes in market structure have a significant impact on fares. Exercising market power is easy in such highly concentrated markets.

While market power is best analyzed on a market-by-market basis, since it is the monopoly at the point-of-sale that triggers the abuse, national markets are not irrelevant. As the industry becomes more and more concentrated, the pool of potential major entrants shrinks. The ability of the large dominant firms to avoid one another in the market and engage in conscious parallelism or strategic gaming increases.

Before the pending merger wave, the industry had become moderately concentrated, with an HHI of approximately 1400. The two pending mergers (United/US Airways and American/TWA) would push it above 1800. A Delta/Northwest or Delta/Continental merger, which is anticipated as a defensive response, would drive it well above 2200. Each of the pending consolidations would violate the *Merger Guidelines* on a national scale, as well as in individual markets. Taken together, they drive the industry structure well above the highly concentrated level.

On a market-by-market basis the mergers violate the Department of Justice Merger Guidelines in more than half-a-dozen major airports including Philadelphia, Dulles, National, Baltimore, Boston, La Guardia, San Francisco, Orlando, Miami and St. Louis. There are numerous other smaller airports and routes from smaller airports that would also be affected. Whether they are hubs or not, the loss of head-to-head competition imposes a burden on consumers by reducing choices and ultimately increasing prices. Subsequent mergers among major carriers would affect many more specific airports.

CONSUMER HARM OF ANTICOMPETITIVE PRACTICES IN THE AIRLINE INDUSTRY

The lack of competition in the industry costs consumers dearly. Consumers do not see economic savings from hub operations. Instead, they endure higher prices and poor quality associated with the abuse of market power. The dominant incumbents can raise price, without risking entry [21] and rely on excessive market segmentation to restrict price competition.[22] The strategy involves finding mechanisms to sort customers into categories with different price sensitivities and then offering higher

[18] Shepherd, 1985, p. 4, see also Bates, B. J. 1993, p. 6.

[19] See for example, Dressner, Lin and Windle (1996). City-pair markets generally include all flights between to points including direct and connecting (single airline) flights.

[20] Hayes and Ross.

[21] The fact that higher prices persist at hubs is evidence of the ability to sustain prices. Direct tests of the entry decision also support this notion (see, for example, Joskow et al (1994).

[22] Borenstein (1989) notes that by segmenting markets incumbents can diminish the impact of competition at hub airports. Evans and Kessides (1993), Oum and Zhang (1993), and Mallaiebiau and Hansen (1995) observe a generally low elasticity of demand across all markets.

prices in the less price sensitive category.[23] Prices [24] and profits at hubs are higher. [25] Since they do not face effective competition, they do not feel compelled to improve quality.

This finding cannot be overemphasized, especially in light of recent efforts by airlines to demonstrate that, in theory, [26] larger networks provide consumer benefits. In practice, as the Department of Justice and a great deal of empirical analysis demonstrates, the theoretical benefits never materialize in reality because the major airlines abuse their market power. Cost savings are not passed through to consumers. When competitors enter concentrated hubs, prices go down and frequency goes up—both in the number of departures and in the number of seats available. This gain occurs not only because the new entrant provides new seats at lower prices, but also because incumbents do too.

The empirical evidence that the creation of fortress hubs raises price is overwhelmingly clear. It should come as no surprise to you that dozens of studies show that competition among numerous airlines leads to lower prices and higher output. This is true no matter how competition is measured. The effect is observable at the micro level in the form of the entry of individual airlines into specific markets and at the macro level in the form of generalized concentration ratios.[27] Econometric studies of market structure have consistently shown that concentration on routes, at airports, and in the industry at large are associated with higher fares (see Exhibit 2).

Flowing from this evidence, we find support for a number of traditional observations about public policy. Actual competition is vastly more important than the threat of competition.[28] Barriers to entry play a critical role in determining the level and nature of competition.[29] Analysis of specific events—entry, exit and mergers—confirms these findings. Mergers tend to reduce competition, increase prices and lower output.[30]

Estimates of the general impact of competition on price are on a similar order of magnitude. Several GAO and DOT studies have found that prices are 20-50 percent lower in competitive markets. Similarly, estimates of the elimination or addition of one competitor bolster these findings. The impact of a low cost competitor is particularly pronounced. When specific low cost carriers are identified, like People's or Southwest, fares often are 35 to 40 percent lower than in markets without such aggressive new entrants. Thus, having one additional competitor impacts prices by 20 to 50 percent.

The econometric and anecdotal evidence is supported by a general trend in prices (see Exhibit 3). Airfares, as measured by the consumer price index have increased dramatically, particularly when key components of airline costs are taken into ac-

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[23] DOT, 2001, notes that while some price discrimination is to be expected, it appears to be excessive in concentrated airline markets.

[24] Bailey and Wilkins (1988), Huston and Butler (1988), Borenstein (1989), Evans and Kessides (1993), Joskow, et al. (1994), GAO (1996), DOT (1996).

[25] Toh and Higgins (1985), McShane and Windle (1989).

[26] DOT, 2001, identifies. A study by ESI.KPMG, *The Advent of National Aviation Networks* (October 2000), sought to justify the consolidation into three national networks on the basis of an analysis that is so fundamentally flawed it lacked any identified authors. The analysis ignores all price effects due to the loss of competitors. It uses an econometric estimate of gains from online traffic that assumes the price of a ticket has no effect on air travel. It excludes all large hubs all airports served by Southwest all Essential Air Service airports, all airport served within 50 miles of a hub and all airports in leisure markets to derive a coefficient for network effects that is not statistically significant by traditional standards (i.e. it fails the 95 percent confidence interval). It applies this statistic to all airports to derive its estimate of positive benefits.

[27] A broad range of studies includes the Herfindahl index as a measure of concentration. These invariably find that higher levels of concentration are associated with higher prices, all other thing equal—see, for example, Morrison and Winston (1986), Borenstein (1989), Dressner and Trethaway (1992), Dressner and Windle (1996).

[28] Graham, Kaplan and Sibley (1983), Call and Keeler (1985), Morrison and Winston (1986), Moore (1986), Strassman (1990), Petraf (1994), Petraf and Reed (1994), provide evidence on actual competition. Tests of potential competition have generally shown much smaller effects. The evidence suggests that one competitor in the hand is worth between three and six in the bush. The empirical evidence from the airline industry must be considered a thorough repudiation of contestability theory. On this point see Borenstein (1989), Butler and Houston (1989), Hurdle (1989), Abbott and Thompson (1991).

[29] The clearest examples of the importance of barriers to entry are the consistent finding that physical limitations on slots and gates result in less competition and higher prices. Virtually every econometric analysis includes a slot variable which supports this conclusion —see, for example, Morrison and Winston (1986, 1990), Hurdle (1989), Whinston and Collins (1992), Windle and Dressner, 1995, and Dressner, Lin and Windle (1996). Analysis of legal barriers reaches similar results—see Dressner and Trethaway (1992), Burton (1996).

[30] Borenstein (1990), Werden et al. (1991), and Morrison and Winston (1995).

count. Since the mid-1980s, fuel prices have dropped by almost 50 percent. The cost of capital (measured by AAA corporate bonds) has declined by 20 percent. These are two of the three largest costs for airlines. Yet, airfares have mounted steadily.

Examples of clearly abusive pricing are also too frequent and too blatant to ignore. The state Attorney's General give three types of examples where fares differ by $700 or more: one airport originates flights to destination airports with dramatically different levels of competition; nearby airports with dramatically different levels of competition originate flights to the same destination; prices charged before and after a competitor is driven from the market.[31] The Department of Transportation has recently identified 19 routes on which new entrants were successful in establishing a presence in short haul hub markets in the past three years.[32] The resulting price reductions were in the range of 33 and 55 percent, with increases in passengers of between 61 and 86 percent.

PROPOSED FIXES ARE INADEQUATE

Recognizing the severe problems that these mergers create, the merging parties have offered a series of excuses and largely meaningless Band-Aids to try to patch over the fundamental problem. First, they claim these mergers must be allowed to go through to save airlines that cannot survive. Corporate bankruptcy is not a reason to allow the public to be abused by the undisciplined exercise of market power. If the industry requires a form of organization which does not allow meaningful competition to achieve financial integrity, then that is all the more reason for policymakers to step in and protect the public from abuse. Moreover, I must note that CFA opposed the corporate shenanigans that allowed TWA to be bled to death and the Piedmont merger from which US Airways never recovered.

Second, the private fixes offered totally inadequate. Carve outs and exchanges of assets do nothing to restore meaningful competition. Promises not to raise ticket prices for two years will be useless, since the airline can easily increase its yield by reducing the number of discounted seats available and what happens after two years. With a private cartel running the industry, the damage to competition will be permanent, not temporary.

The bottom line is clear. With two decades of econometric evidence about competitive problems at the levels of structure, conduct and performance reinforced by detailed analysis of recent events, we can only hope that the public policy debate will not revert to the irrelevant question of whether deregulation served the consumer interest. The trigger for public policy concern is, as it has always should have been, whether anticompetitive practices are hurting consumers. By every measure, the airlines are failing that test at present. Allowing a merger wave to further concentrate the industry would further diminish the already feeble competitive forces in the industry and harm the traveling public.

If this is the form organization that the industry will take, Congress needs to begin to assert greater authority over the industry. The starting point should be at the fortress hubs that are the building blocks of the anticompetitive structure. Access to these hubs must be assured for entrants. The predatory practices that have been used to drive new entrants out of markets must be eliminated. Consumer rights must be protected. We do not seek to have the government get back in the business of price and quantity regulation, we prefer vigorous competition. Unfortunately, the industry cannot produce a consumer-friendly, competitive marketplace, so Congress must step in to ensure competitive access to fortress hubs, outlaw predatory practices and provide consumers direct protection from poor quality service.

EXHIBIT 1
DOMINANT AIRLINES PROPOSING GREATER CONCENTRATION WITH FORTRESS HUBS THAT EXCEED MONOPOLY STANDARD

AIRPORT	AIRLINE	DOMINANT FIRM MARKET SHARE
MONOPLY (70+ PERCENT)		
ATLANTA	DELTA	80%
CHARLOTTE	US AIRWAYS/UNITED	91%
CINCINNATI	DELTA	90%

[31] Attorneys General.
[32] U.S. Department of Transportation (2001).

EXHIBIT 1—Continued

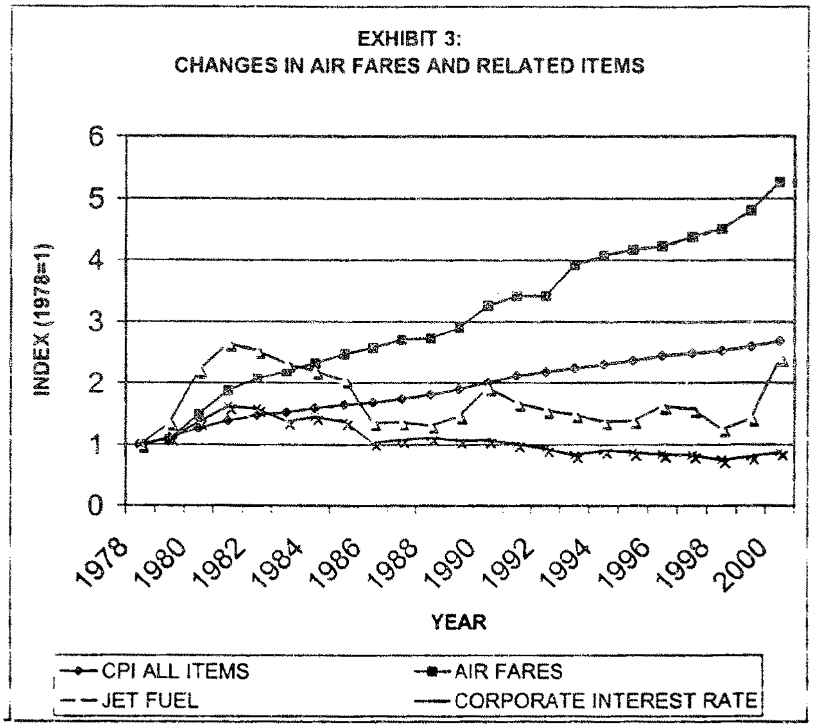
DOMINANT AIRLINES PROPOSING GREATER CONCENTRATION WITH FORTRESS HUBS THAT EXCEED MONOPOLY STANDARD

AIRPORT	AIRLINE	DOMINANT FIRM MARKET SHARE
DALLAS/FT. W	AMERICAN	71%
DENVER	UNITED/US AIRWAYS	73%
DETROIT	NORTHWEST	78%
HOUSTON INTL	CONTINENTAL	83%
MEMPHIS	NORTHWEST	75%
MINNEAPOLIS	NORTHWEST	80%
PHILADELPHIA	US AIRWAYS/UNITED	73%
PITTSBURGH	US AIRWAYS/UNITED	89%
SALT LAKE	DELTA	72%
ST. LOUIS	TWA/AMERICAN	76%
WASH. DULLES	UNITED/US AIRWAYS	74%
DOMINANT FIRMS (50-70 PERCENT)		
CHICAGO	UNITED/US AIR	50%
CLEVELAND	CONTINENTAL	50%
MIAMI	AMERICAN/TWA	56%
NEWARK	CONTINENTAL	61%
OAKLAND	SOUTHWEST	68%
SAN FRANCISCO	UNITED/US AIRWAYS	53

EXHIBIT 2

THE IMPACT OF ANTI-COMPETITIVE MARKET STRUCTURE ON FARES

STUDY	PRACTICE	PERCENT INCREASE IN PRICE
GENERAL MEASURES OF COMPETITION		
Dressner and Trethaway	Competition	35
GAO (1993)	Hub Concentration	33
GAO (1996)	Hub Concentration	31
DOT (1996)	Hub Concentration, 1989	19
	Hub Concentration, 1994	19.7
	Hub Concentration, 1995	22.1
CHANGE IN NUMBER OF COMPETITORS		
Strassman	Add one (2.7 to 3.7)	44
Hurdle (et al.)	Loss of one	20
Windle and Dressner	Add one (2-3)	17
Oum, Zhang and Zhang	Add one (1-2)	17
Borenstein (1989)	Add one (1-2)	8
DOT (2001)	Low cost competitor in Hub	41
	Short Haul Hub	54
ENTRY AND EXIT		
Dressner and Windle	Low cost (Southwest)	35
Whinston and Collins	Low cost (Peoples)	34
DOT (1996)	Low Cost (all Hubs)	35
	Low Cost (Concentrated Hub)	40
DOT (2001)	Low Cost (Hubs)	42
Joskow et al.	Any	10
GENERAL INDUSTRY PRACTICES		
Morrison and Winston	Hubbing	5.4
(1995)	Frequent Flier	7.9
	CRS Manipulation	9.4
	(Subtotal)	22.7
	Fare restrictions	23.8
	Total	46.5
Stavins (1996)	Fare restrictions	20-40



SOURCE: Bureau of Labor Statistics, *Consumer Price Index, Consumer Price Index*, CPI, Air Fares, Jet Fuel; *Economic Report of the President*, January 2001, Corporate AAA Bond Rates; Department of Commerce, *Statistical Abstract of the United States*, Airline Cost Indices, various issues.

Mr. STEARNS. Mr. Swelbar?

Mr. SWELBAR. Thank you.

STATEMENT OF WILLIAM SWELBAR

Mr. SWELBAR. Good afternoon, Chairman Stearns, Congressman Towns, and other members of the subcommittee. My name is William Swelbar, and I am appearing today in my capacity as an Adjunct Fellow of the Economic Strategy Institute.

I served as coauthor of a recent study on airline consolidation produced by ESI. It is this exhaustive analysis that I will speak to this afternoon.

The one constant in this industry, as in virtually every other industry, is change. The structure of today's airline networks has been reshaped by deregulation of this industry. The fact is that the status quo in the airline industry is simply not sustainable.

For example, TWA, despite its storied history, was a shadow of its former self. It has lost money since 1988. The carrier ultimately declared bankruptcy for the third time since 1990, where American Airlines purchased its assets. After amassing an additional $150 million in losses through the first 9 months of 2000, TWA's chances of remaining independent were somewhere between slim and none.

US Airways is in better financial shape, but, as we saw, its regional network is far from being a strong competitor to the major network airlines. Many analysts have expressed doubts about US Airways' ability to remain independent. And the carrier was a takeover target well before its proposed deal with United.

Who is driving change in this industry? Mostly it is customers and businesses that increasingly need access to all regions of the global economy, which, in turn, is pulling the airline industry into consolidation. The driving force behind these consumer benefits is the network effect that results from the aggregation of independent airline networks.

Prior to deregulation of the U.S. industry in 1978, commercial aviation was governed by a patchwork of national regulatory systems. Throughout the first 15 years following deregulation, the industry underwent a sometimes painful rationalization process. But as painful as that transition may have been, the industry was now clearly being driven by economics and market forces.

Whereas, today's surviving carriers have undergone significant levels of growth over the past 20 years, the industry still has some remaining levels of regional inefficiencies. Indeed, the current aviation system does not reflect a truly national competitive market. The existing system features a fragmented network in which airlines have disparate regional dominance.

In the ESI study, we assessed the effects of consolidation among six of the ten largest carriers on competition, traffic levels, network access, and service availability in the US Air transport market. The study examined those effects among 322 U.S. markets. In the process, we analyzed over 12 million city pair combinations. The study excluded the significant competitive benefit impacts brought by low-fare, niche-oriented carriers, such as AirTran, Jet Blue, Frontier, Spirit, Sun Country, and American Trans Air.

Our study found that net city pair competition increased in 74 percent of those 322 markets, stayed the same in 13 percent, and decreased in 13 percent. Because new online city pair service offerings will be created as a result of consolidation, we found that consumers will actually have at least one additional carrier to choose from on 17 percent more city pairs. That net result is an increase in competition and more choices for consumers.

We conclude that consolidation of the U.S. domestic industry would set in motion a virtuous cycle that would benefit both consumers and merge carriers. Passengers in the newly created online city pairs would be able to avoid the high cost and hassles associated with interline ticketing, baggage handling, or having to use alternative modes of transportation. Frequent flyer miles would become more versatile and easy to earn. And connecting times will ultimately be optimized. The inevitable result will be more convenience in choices for consumers.

Our study also confirmed what others have suggested about fares. Consumers forced to use interline travel pay significantly higher fares than passengers connected to a network offering online service between a desired origin and destination. On average, passengers forced to use interline service to destinations more than 500 miles away paid 55 percent more than passengers flying within a network that offers online service between the desired points.

In conclusion, I believe that airline industry consolidation is the natural progression of a process initiated by deregulation of the industry. Consolidation will result in national networks with greater competition from coast to coast. Our study concludes that this next phase in the evolution of deregulation will likely intensify competition, increase traffic, expand access, and broaden commercial opportunity.

I thank you for the opportunity to present my views and request that my testimony and a copy of the study entitled "Consolidation: Connectivity, Competition, and Communities, the Advent of National Aviation Networks" be entered into the record.

[The prepared statement of William Swelbar follows:]

PREPARED STATEMENT OF WILLIAM SWELBAR, MANAGING DIRECTOR, ECLAT CONSULTING AND ADJUNCT FELLOW, ECONOMIC STRATEGY INSTITUTE

Good Morning Chairman Stearns, Congressman Towns, and other Members of the Subcommittee. My name is William Swelbar. I am a Managing Director of ECLAT Consulting, a firm that specializes in assessing economic and financial issues and their impact on the commercial air transportation industry. I am also appearing today in my capacity as an Adjunct Fellow of the Economic Strategy Institute.

Prior to ECLAT, I was a partner at GKMG Consulting Services, Inc. and served as a co-author, with the Economic Strategy Institute, of a study entitled "*Consolidation, Connectivity, Competition and Communities: The Advent of National Aviation Networks.*" It is this exhaustive analysis that I will speak to this morning.

Whether we like it or not, change is inevitable in the airline industry just as it is in virtually every other industry competing in the global marketplace. The structure of today's airline networks has undergone a radical metamorphosis following the deregulation of the industry. Much of the change has been dictated by changes in government views with regard to an ever-changing marketplace, whether it is in the domestic or international arena.

Who is driving this change? It is certainly not a particular airline or the airline industry for that matter. Customers and businesses that increasingly need access to all regions of the U.S. as well as all regions of the world are pulling the airline industry into consolidation. The driving force behind these consumer benefits is the *network effect* that results from the aggregation of independent networks.

Current consolidation proposals can be viewed as the natural continuation of a process initiated in 1978, when the U.S. government deregulated the airline industry. To suggest that a consolidated airline industry would be less competitive fails to heed the lessons of history.

Prior to 1978, commercial aviation was governed by a patchwork of national regulatory systems. The major carriers quickly learned that there were severe cost disadvantages to operating an array of uncoordinated point-to-point flights among a large number of cities. The carriers responded with an important marketing and logistical innovation: the hub-and-spoke system. It is around this system that today's domestic and international networks are built.

Throughout the first 15 years following deregulation, the industry underwent a sometimes-painful rationalization process. In this new environment, some carriers thrived, many failed, and some new ones emerged, while still others were absorbed. In this environment some hubs thrived, some failed, and some new ones emerged. And painful as the transition may have been, the industry was now clearly being driven by economics and market forces—exactly as deregulation proponents had suggested.

Whereas today's surviving carriers and hubs have undergone significant levels of growth over the past 20 years, the industry still has some remaining regional inefficiencies. Geographic fragmentation has continued to limit access for and among a number of communities. If the goal is to fly only within a specific region, the current system typically serves the passenger well—unless you are one of the 125 markets that only have access to one network carrier and one hub.

The regional fragmentation of hubs and international service offerings is among the remaining legacies of economic regulation and has, in my view, generally negative consequences.

As a result of deregulation, however, U.S. consumers enjoy more frequent service between more domestic and international locations at substantially reduced prices. Deregulation of the domestic marketplace has also fostered greater competitiveness in international markets. In fact, the general model for this final phase of U.S. domestic consolidation can be observed by reviewing the positive experience consumers have realized following the formation of international alliances.

In a December 1999 study titled *International Aviation Developments: Global Deregulation Takes Off,* the U.S. Department of Transportation concluded that:

> *Multinational alliances are playing a key role in the evolving aviation economic and competitive environment. They are providing improved, more competitive service in literally thousands of markets*
>
> *Multinational alliances have fueled enormous increases in connecting traffic, both in markets that have historically suffered from poor quality interline service and virtually no competitive benefits, but also by providing service alternatives in markets that already have the benefit of seamless service by other individual airlines*

In the ESI/GKMG study, we assessed the effects of consolidation among six of the 10 largest carriers on competition, traffic levels, network access, and service availability in the U.S. air transport market. The study examined those effects among 322 U.S. markets that are not major connecting hubs or are currently served by Southwest Airlines. In addition the study excluded the significant competitive impacts brought within geographic regions by low fare, niche-oriented carriers such as Airtran, JetBlue, Frontier, Spirit, Sun Country, and American Trans Air.

The underlying analysis behind the ESI/GKMG study focused on the creation of new online points and their potential impact on traffic generation and competitiveness among existing and newly created city pairs. Analysis of the U.S. domestic market mirrored the analysis conducted by DOT in its assessment of the consumer benefits from the formation of international alliances: that a strong correlation exists between the number of online city pairs and traffic generation and produce findings similar to those found by DOT with regard to the international marketplace.

Consolidation of the U.S. domestic industry would set off the creation of new online city pairs that would set in motion a virtuous cycle that would benefit both consumers and merged carriers. Passengers in the newly created online city pairs would be able to avoid the high costs and hassles associated with interline ticketing and baggage handling or the use of alternative modes of transportation. Frequent flyer miles would become more versatile and easy to earn, and connecting times would be optimized. The inevitable result would be greater levels of traffic and increased revenue for the carrier, and more convenience and online choices for consumers.

Our study found also confirmed what others have suggested about fares: consumers forced to use interline travel pay significantly higher fares than passengers connected to a network offering online service between the desired origin and destination. We found 2,200 city pairs with interline traffic in 1999. On average, passengers forced to use interline service (because of existing regional fragmentation found in the system) to destinations more than 500 miles away paid 55 percent more than passengers flying on a network that offers online service between the desired points.

While interline fare reduction is one benefit, the most significant benefits of consolidation come from increased access to networks and increased online competition. Many government officials and certain industry watchers have instilled fear into the marketplace regarding the impact of current and prospective industry consolidation. Fears of higher prices, reduced service, more monopoly routes, and labor strife are not well founded. Their analysis of the industry today parallels the analysis appropriate in a regulated period.

Our study finds that consolidation will result in greater levels of traffic by linking cities previously unconnected, not unlike the empirical evidence the DOT has cited in its own studies analyzing the consumer benefits enjoyed following its decisions to permit alliance formation. Further we found that the benefits will accrue to the small and medium sized cities in the U.S., those cities that have often been the orphans of deregulation.

Another element of fear being injected into the debate is that as we go conceivably from 6 network carriers to 3 that city pair competition will decrease. In our study we examined 322 airport markets in the U.S. and over 12 million city pair combinations. We found that net city pair competition increased in 74 percent of those 322 markets, stayed the same in 13 percent, and decreased in 13 percent. Because new online city pair service offerings will be created as a result of consolidation we found that consumers will actually have at least one additional carrier to choose from on 17 percent more city pairs. That net result is an increase in competition and more choices for consumers.

Along the eastern seaboard of the U.S. we have some significant levels of concentration, yet many of those consumers have access only to hubs with a regional bias. Therefore the true demand for air transportation in many of those cities cannot be realized. In a post-consolidation environment we found that the most significant improvement in access to the nation's air transportation system will accrue to those consumers located in the New England, Middle Atlantic and South Atlantic regions of the U.S.

The linkage between economic development and air transportation has been widely documented. Access to the U.S. and global air transportation network fosters increased travel, tourism, investment, employment, and stimulates economic activity. Unfortunately, not all cities in the U.S. have enjoyed the fruits of deregulation. Today's network development has mostly benefited large cities. But the air service needs of many communities are not being met by the existing geographically fragmented system, which in turn limits their opportunities to attract business and investment.

Anticipated airline industry consolidation is the natural progression of a process initiated by the deregulation of the U.S. airline industry in 1978. The results of our study conclude that this next phase in the evolution of deregulation will likely intensify competition, increase traffic, expand access, and broaden commercial opportunity—all goals which the deregulators had in mind.

I thank you for the opportunity to present my views, and request that my testimony and a copy of the study entitled "*Consolidation, Connectivity, Competition and Communities: The Advent of National Aviation Networks*" be entered into the record.

Mr. STEARNS. By unanimous consent, so ordered.

Mr. Ruden, please?

STATEMENT OF PAUL M. RUDEN

Mr. RUDEN. Thank you very much, Mr. Chairman.

The travel agents of the United States really appreciate the opportunity to sit at this table and share some of their views about what is going on in the marketplace today.

It is very interesting listening to the stories that you are being told here that suggest that it is better for airlines in a competitive marketplace to buy their way into new markets than fight their way in, which is the concept that underlay the Airline Deregulation Act and which underlies competition in every place where it actually exists.

You have heard a lot about the interline bogeyman, that passengers are undergoing terrible stress and costs while transferring themselves and their bags between carriers. I would suggest to you, with respect, that you inquire into the percentage of the business that is actually doing that, actually experiencing inter-carrier transactions and transfers today, and see whether that argument really holds much water.

It seems to us, Mr. Chairman, that if we accept the United-US Air merger, then we have to ask the question: What is the basis for saying "no" to the defensive mergers, which most observers have predicted must follow? The defense then will not be that we need more seamless service or more through service. The argument probably will then be: Well, our network is smaller than your network. And so now you have to let us get a bigger network to match the large network that you allowed United and US Air to create.

Are we not then locked into accepting the downward spiraling logic of the more single carrier service argument until we reach the ultimate height or depth of that argument and are left with one carrier when everyone has single-carrier service? That airline, of course, would be a monopoly. And we would have to regulate it or, ironically, you would have to break it up. No one seems to think a monopoly or regulation is a good idea for consumers or for the country.

So presumably we should do everything in our power to prevent that condition from arising. The question then seems to be: How close to the edge of the monopoly cliff can we get before we fall over? From the consumer point of view, we are already there. If this were a movie, the consumer would now be hanging by one hand from a small tree growing hopefully but desperately from the side of the precipice.

The consumer impact aspects of mergers do not, after all, come in a vacuum. The air transportation system is critically restrained by facilities shortages in airport structure and air traffic management. In part, though I assure you not wholly, because of these constraints, consumer dissatisfaction with the performance of the airline industry is at an all-time high.

The airline's response to these complaints has been grudging at best, characterized by last-minute promises to do better if only Congress will not intervene on behalf of the public. The airlines label these commitments "voluntary," but, in truth, they are driven by their fear of being compelled into a true obligation to consumers for dealing with the consequences of problems that, in fairness, are not entirely their responsibility. These capacity restraints, in any event, are not going to go away any time soon. The problem is too huge and too ubiquitous to admit of a near-term solution, even if and probably we began construction this afternoon.

In the face of this capacity problem, the airlines are simultaneously seeking to gain final control of the process by which the distribution of the air product is accomplished.

The 5 largest carriers, representing about 75 percent of domestic air travel production, have entered a joint Web site venture called ORBITZ, capitalized according to undenied reports in the range of $100 million and probably more to gain exclusive access to the lowest air fares and over time in our view to eliminate third party participation in internet-based air travel distribution. These actions arise in an industry that is uniquely immunized from state laws governing the treatment of consumers and others in commercial relationships due to distorted court interpretations with the Airline Deregulation Act's preemption clause.

On every front, then, the issue is one of choice. The vitality of the process that assures us of competitively determined prices and services requires consumers to have multiple choices. It is the presence of choice that creates uncertainty for sellers. And it presses costs and prices down and creates the incentive for achieving new efficiencies and assures consumers are treated as the most important part of the equation.

The continued concentration of the airline industry in the face of a critically restrained infrastructure plainly threatens to reduce or eliminate choice and to do so poignantly.

From the standpoint of consumers, this industry is becoming a black hole sucking the competitive juices out of the industry that make choice effective and possible. The result is, as it always is, poor service and higher prices.

I would commend, in closing, to your attention, Mr. Chairman and Committee members, the testimony of Professor Levine before the Senate Judiciary Committee on February 7 of this year for a very thorough, interesting, and detailed explanation of why the points I have made are true.

Thank you.

[The prepared statement of Paul M. Ruden follows:]

PREPARED STATEMENT OF PAUL M. RUDEN, SR. VICE PRESIDENT LEGAL & INDUSTRY AFFAIRS, AMERICAN SOCIETY OF TRAVEL AGENTS, INC.

I am Paul M. Ruden, Senior Vice President for Legal & Industry Affairs on the staff of the American Society of Travel Agents. ASTA represents more than 8,000 travel agency business firms. ASTA appreciates this opportunity to address the Congress on important issues of consumer welfare in the airline industry.

As Alfred Kahn, the acknowledged "father" of airline deregulation, has observed, deregulation can continue "only in the presence of effective competition as the protector of consumers." Both economic theory and practice within the air transportation industry support the conclusion that the availability of comparative information about air transportation services is beneficial to vigorous competition among the airlines and necessary to the maintenance of affordable fares and responsive services throughout the country. Since 1978, the stated policy of the United States, as manifested in the Federal Aviation Act of 1958, amended by the Airline Deregulation Act of 1978, has been to promote aggressively conditions of competition between and among the airlines.

With the U.S. Department of Justice's approval of American Airlines acquisition of Trans World Airlines' assets, and the proposed merger of United Airlines and U.S. Airways, the Nation will be left with no more than three or four giant airlines. The result is an unregulated shared monopoly in which consumers face increasing prices, fewer choices and further deterioration in already unacceptable service.

Because of the overwhelming market power of the surviving mega carriers in individual markets, it is unlikely that adequate competition can ever be restored by non-regulatory, market-based processes unless components within the air transportation system can be made to serve as a counterweight. But concurrently with the consolidation of the production side of air transportation, the airlines have taken parallel actions that threaten continued public access to independent sources of information and advice such as travel agents.

Rather than rehash the contested arguments about the details of relative costs, overlapping routes, hub consolidations, differential wage rates and such, there two elements of the question as to which no one has come up with convincing contrary views: the impact of concentration on the pricing process and on service disruptions due to labor disputes.

The first element is the question how one or more mergers among the giant lines would impact the system by which those lines raise and lower prices. Specifically, that means how concentration would affect the pricing dynamic in a commodity market, which is the way today's airline market behaves.

A price increase happens when one giant airline decides it wants or must have more revenue and that demand will sustain it. Immediately, the other giant lines study the increase and determine if they would also like to see higher prices. One by one, those that agree announce their own hikes—sometimes following the originator, sometimes with adjustments. As in the old saying, one airline runs the fare hike up the flagpole, and others start saluting it.

The critical point here is that it takes only one of the major carriers to reverse the hike. In effect, each of those carriers has veto power over price hikes in the entire national airline marketplace. If any one of the carriers does not salute, the hike is quickly run back down the flagpole and returned to the closet.

Clearly, the fewer the number of major carriers, the less chance that any given price hikes will be vetoed. And, in a worst-case scenario, a concentration down to only three super-giants would make it far easier for any one of them to make each price hike stick.

The fare-cutting process works the same way. It takes only one of the majors to kick off a nationwide fare war. And, as you know, that is when many ordinary consumers buy their tickets. When it comes to starting a fare war, six or more chances for a price cut are far better than five, four, or three.

Labor issues, too, militate against further airline concentration. With the largest United States airlines owning no more than about 17 percent of the domestic market, the nation's economy might be able to survive the complete shutdown of any one major carrier. But only barely; the last American shutdown showed us how much disruption resulted from a loss of just 11 percent of the domestic lift, as measured in passengers.

If you liked that strike, you will no doubt appreciate a shutdown of a merged United-US Airways system. Such a dispute would involve more than twice the American share. Even worse, of course, would be a merged American and Delta, with a staggering 28 percent share of total passengers.

Consumers made it through the American stoppage because the other five giant carriers, plus the regional carriers, managed to absorb most of American's travelers, over an extended period. But could fewer other airlines absorb twice as many displaced passengers without fare more serious disruption? Or, in the worst case, could just two remaining super-gain lines absorb 28 percent of the passengers? We at ASTA do not think so. Instead, the effect of a super-giant strike would be devastating to the economy, and certainly to the travel plans of millions of consumers. As with pricing, for labor reasons alone, consumers cannot risk more market concentration.

Let us not forget the largely negative effects of an earlier wave of consolidation—how such user-friendly airlines as Air California, PSA, Piedmont, and Republic disappeared in the black hole of mergers. Consumers from Charlotte or Detroit would readily agree that service had declined since the mergers took place.

"It needs more study" is the classic way of evading a tough-minded decision on air consolidation. Or, in Carleton Green's construct, it's a way of handling a tough question by "dissolving in a weak solution." ASTA submits that no more studies are needed on airline mergers. A weak solution is out of the question. This is one of those cases that should be decided by basic principles and common sense.

And those basic principles come in with a clear message: No more major airline concentration by merger. No more buying out competitors rather than competing with them. Mergers and acquisitions among any of the six major carriers should be completely off the table. If any one of the carriers is desperate to increase its market share anywhere in the United States, let the carrier do it the old-fashion way: earn it, with better service and lower fares.

Air transportation in the United States is currently in crisis. You know this yourselves from your constituent mail. As Congressman Dingell has very wisely concluded in H.R. 907, the Airline Competition and Passenger Rights Act of 2001, it has become very difficult to separate competition from customer service issues.

Classically, in the absence of competition one can expect not only higher prices but also decreasing and inferior service.

ASTA's position is that a reduction in the number of major carriers is in itself unhealthy. Beyond this ASTA believes that no mergers should be permitted until outstanding customer service issues are resolved in accordance with Congressman Dingell's bill, among others, and then only in the presence of the safeguards Congressman Dingell has set forth. These include correction of the ambiguous preemption language in the Airline Deregulation Act, which has baffled the courts in 20 years. Due to a Circuit split, citizens in the Third and Ninth Circuit have a far greater chance for a day in court on service issues than the rest of us. That is an intolerable situation and one that Congress must fix this year.

Next, the public is entitled to some relief from irrational and oppressive fares that make it cheaper to fly coast-to-coast than to an intermediate destination. If a passenger holding a coast-to-coast ticket wants to deplane at an intermediate stop the freedom interests of American citizens should permit him/her to do it. If the airlines create pricing rules that entice the public to game the system, they should not be allowed to blame the public or travel agents for taking the bait. As with any other commodity, when you buy an airline ticket you ought to be free to us all or any portion of it.

Travel agents serve a vital role by enabling the public to leverage whatever competition remains in the system. The carriers should not be permitted to drive agents out of business. 1The public should have equal access to all fares regardless of the means of communication with which to make their booking. The lowest airline fares should not be the exclusive domain of those who can afford a computer and to have the sophistication and interest to use it.

Mr. Dingell's bill holds the solution to both competition and customer service issues and deserves broad and enthusiastic support.

Mr. STEARNS. I thank our witnesses. Now I will start with the questioning. Mr. Wolf, you sort of indicated that your airline is in dire financial straits or is in a position where it would be advantageous to be consolidated into United. Obviously the high equipment cost and high labor cost are part of the problem.

But when United buys you, won't they just inherit? Because you have said United seems to agree that all 45,000 of your employees——

Mr. WOLF. Yes.

Mr. STEARNS. [continuing] will not lose your job. Yet, we have heard that G.E. when it goes into buy Honeywell is going to lay off 42 percent or something like that. So how is United going to be able to buy your airline that has this high labor cost and also the high equipment cost and not lay off 45,000? Where are they going to get the advantage? And then I would ask you the same question.

Mr. WOLF. Yes, it is more than an appropriate question and one of the conditions that we discussed with United, which I knew they would have great difficulty accepting.

The truth of the matter is they do not need our 45,000 employees. They need a sizable percent of them but not 45,000. United is prepared to bear the burden of carrying excess people for some period of time as they attrite, one, and as the combined company grows. And that will work well for United in the long term, but in the short term, indeed, they are going to carry expenses that they had no justification for carrying. They are prepared to do that.

Mr. STEARNS. Ms. Longmuir, how long are you prepared? You are Senior Vice President, Government Operations. You are not the CEO. I tried to get the CEO here.

Ms. LONGMUIR. I am sorry. He has a board meeting today. Otherwise he would have been here.

Mr. STEARNS. Well, I got the CEO of American to call me back, but I never got your CEO to call and I called twice. So it seems as a courtesy, he should at least call me back. And I couldn't get anybody in second command.

And so when I ask this question to you: Can you make a commitment these 45,000 employees are going to remain part of the organization forever?

Ms. LONGMUIR. Absolutely, Mr. Chairman.

Mr. STEARNS. Forever?

Ms. LONGMUIR. And our Chairman, Mr. Goodwin, has said that explicitly on the record when he has testified before. And, to supplement what Mr. Wolf has said, there is a shortage within our industry right now of skilled mechanics and skilled pilots. So to be able to tap into the valuable resource of trained and skilled professionals at US Airways is a tremendous bonus for United Airlines.

In addition, the underlying thesis of this merger is not one of cost-cutting and slashing in order to get the benefits of the combination of the two, but, rather, it is recognizing the power of the two put together and the growth that we fully anticipate we will be able to engender and take the benefit of, growing the domestic network to help us grow and make even more fertile our international network.

Mr. STEARNS. Okay. I would like staff just to give Mr. Cooper the—I have a graph here—Air Transportation Association, in which they show the cost per passenger mile has increased dramatically since 1978 to the year 2000. Yet, the revenues per passenger mile has gone down. And so if I could have the staff just give that to Mr. Cooper? In fact, let me just give that one. I have got some notes on this one.

This graph would indicate these are why the airlines are merging because the costs are going up, the revenue is going down. They have no alternative but to survive. So you are sort of indicating we should have a moratorium, but without heavy government regulation in the competition, I don't know what else we could do so that US Air would have a chance, all their employees, to survive. So I am a little unclear how we could go if you were in charge.

Mr. COOPER. Well, let me give you three responses. First of all—and we do recognize—you have heard from the airlines today a form of the argument from the old days that was called destructive competition. If you go back to when we began regulating this industry, there was a question about whether or not you could survive with atomistic competition because of a variety of cost characteristics.

You have now been told that this industry is going to sort itself into two things: the national networks, which are going to be no more than three; and maybe some new entrants. That is what they are talking about.

If you will accept three airlines that are going to dominate the national networks and account for 70-80 percent of the traffic as the economic reality in which in most cases consumers have less than two choices—I don't live on the East Coast. I live in a specific place. And for the average consumer, you have fewer than two choices. That is not a competitive market.

I invite you if you accept their premise that there is not going to be a lot of competition, you have to look at other ways to protect the public, first answer.

Second answer, I have provided a graph with a series of costs and revenue items that I have taken directly from the Bureau of Labor Statistics so that I don't fuss with these things. These are average air fares. These are CPI. These are fuel prices. These are corporate interest rates. And they don't show you anything vaguely looking like the picture over here.

So I will be glad to take a look at and see what their sources are—and I guess these are their private sources—and my sources, which are publicly available sources. They show you a rather different picture.

And I will be glad to respond to that question in writing when I understand. I know I showed you where I got my numbers.

Mr. STEARNS. Yes.

Mr. COOPER. We will have to see where they got their numbers.

Mr. STEARNS. I just want to show you what we are up against with that graph.

Now we are going to have two rounds of questions. So my 5 minutes have been up, and we will go to Mr. Towns.

Mr. TOWNS. Thank you very much, Mr. Chairman.

Is it Dr. Cooper?

Mr. COOPER. Yes, sir.

Mr. TOWNS. Thank you.

Dr. Cooper, experience has shown that when concentration in an industry reaches a certain level, firms start to recognize their interdependence and, thus, engage in less competitive behavior. How do we prevent the merged airlines from competing less vigorously?

Mr. COOPER. Well, I think the proposal that you have before the Congress, one that recently passed out of subcommittee on the Senate side, it takes the industry structure that you have described today. That is, if you are going to let these mergers go through and put us in the situation of having a small number of dominant national carriers, the key to competition against network industries is to ensure entry at hubs by smaller airlines.

That is the proposal you have heard and have before the Congress. That is, whenever a hub becomes concentrated, excessively concentrated—and we can discuss the percentage level: Mr. Dingell's bill talks about 40 percent; on the Senate side, it was 50 percent—once one airline has half the traffic at an airport, the other slots should be allocated to new entrants.

These new entrants can't get into Boston, we heard the other day. They can't get into Charlotte. And if they can't get into those places, the people who live there are captives. It is not the East Coast. I fly from Boston to someplace. I fly from Charlotte to someplace.

So if you identify a level of concentration at individual fortress hubs, beyond which you are not allowed to go, you can have the competitive effects of the small route-by-route entrants and, in theory, the online benefits of the other 50 percent. The airports you heard about today, Pittsburgh and Charlotte and Atlanta, these are fortress hubs, well above the 50 percent threshold.

So this Congress should take the act of not reregulating, not picking routes, but creating access to competition by establishing a level of concentration at individual fortress hubs, beyond which the industry will not be allowed to go. And then AirTran and JetBlue and other new entrants will have a chance to compete at those fortress levels.

Mr. TOWNS. Thank you.

Let me raise a question in terms of generally when you have a merger, you are talking about eliminating people, you know, people lose their jobs. Now, we have heard other says: Well, when we merge, everybody is going to keep their jobs. And then they come in maybe 6 months, a year later and they are cutting jobs. Now, are you prepared?

I mean, I guess it is fair, Ms. Longmuir, to ask you this question, not being the CEO. The point is: Are you prepared to go on record in terms of with documentation saying that this is going to happen? We have heard this before, and I can go down the list in terms of companies that have said that and then come back a few months later and say: Uh-oh. We miscalculated. This is what we are going to do. Then, of course, by that time, there is not a lot that we can do here.

I guess I will start with you knowing that you are not the CEO but you went to New York Law School. So you are prepared to handle it.

Ms. LONGMUIR. Great schools in New York.

Well, it is very easy, sir, for me to make that commitment before this Committee since my boss, the Chairman, already has elsewhere in public forums as well as across the Hill.

I understand your anxiety. I guess I would attempt to also reassure you about the importance of that commitment internally within our company since we are unique, being a majority-owned employee-owned company. And I think that the commitment was entered into upon a great deal of reflection and internal discussion as well as the recognition of: What was the real driver for this merger? Was it going to be one for cost-cutting, downsizing, and getting efficiencies that way or was it really going to be to overall increasing the domestic network to feed and help grow our international network?

It is the latter. Given the shortage within the industry now of skilled workers, we see it, frankly, as a boon.

Mr. TOWNS. All right.

Mr. WOLF. Congressman Towns, could I just add that along with Ms. Longmuir's comments, this agreement of no layoffs is contractually binding upon United. It is part of our merger agreement. It is a contract which they have signed. It applies to the first 2 years.

As soon as that was discussed openly, Jim Goodwin said: Well, I know, but by the end of 2 years, we will sort through the issues. Our growth plan will be in effect. The attritions and retirements will be coming about, if you will. There won't be a need, we don't think, much after 2 years. In any event, to set everybody's mind at ease, I will extend it for infinity. It is an absolute binding job guarantee made by the chairman of the board of the company, and we certainly believe that.

Mr. TOWNS. Mr. Chairman, my time has expired. I do have some other questions.

Mr. STEARNS. Okay. We will be doing a second round.

Mr. TOWNS. Okay. Thank you.

Mr. STEARNS. Next is Mr. Deal.

Mr. DEAL. Thank you, Mr. Chairman.

Mr. Chairman, I must admit I have heard testimony here today that not only is contradictory from the table but is in my opinion contrary to common sense. So I would like somebody to explain to me from a common sense level how this works.

Let me tell you some of the statements that don't seem to ring true. On the one hand, we hear Mr. Wolf saying that the only way that you can stay in business is either be a low-cost carrier or have a network that you have to depend on.

So along comes United. And, by his admission, he says, Mr. Wolf says, his airline, US Airways, pays labor rates that are comparable or higher than those of American, Delta, Northwest, and United and then United is going to absorb all 45,000 of those workers, who he admits you don't need. That doesn't quite run along the lines of making things work.

Ms. Longmuir, how do you reconcile that? Was this just the price you had to pay of taking 45,000 workers, all of whom you didn't need, that are paid labor wages that are above the average in the industry? Was that just the price you had to pay to make the merger happen?

Ms. LONGMUIR. Well, I guess I will be bold enough to disagree with Mr. Wolf on a point, which is I never said and I don't believe United has ever said that we don't need these employees.

Mr. WOLF. He did.

Ms. LONGMUIR. I am with United. And I am saying on behalf of our chairman and our company that we do need them based on the internal projections for growth for our company that we believe we will be able to stimulate and enjoy as a result of this merger.

I think with respect to your cost comment, the average stage length of a United city pair segment of a trip—and I am not familiar what the precise average is, but I believe it is under 700 miles. Please correct me if I am wrong. It is quite short, as compared to what the average stage length of a trip is on United Airlines, meaning that we have a much longer haul distance over which to amortize a higher unit cost.

So if Mr. Wolf's average seat mile is 14 cents per mile and United's average seat mile cost is 9.5, perhaps 10 cents per mile, that, in part, is a reflection of the ability that we have nonstop service from Chicago to Beijing versus perhaps nonstop service from DCA to upstate New York.

Mr. DEAL. That may be true on operating costs, but when you are playing wages that are above, it doesn't matter whether you are on a short haul or a long haul. If you are paying an hourly wage rate that is above the industry's average, you still are having to absorb that.

Let me then move to the other——

Ms. LONGMUIR. Sir, may I respond?

Mr. DEAL. Sure.

Ms. LONGMUIR. Respectfully, I think that the average ticket price that US Airways can charge as a reflection of that stage length is vastly different than the ticket price that United may be able to charge based on its stage length so that you do have cross-amortization.

Mr. DEAL. Well, does that mean the ticket goes up or down, price?

Ms. LONGMUIR. It means, sir, that there are some small communities that we will be serving that, frankly, will be subsidized by some longer-haul markets.

Mr. DEAL. Does that mean the ticket price goes up or down, what you just said?

Ms. LONGMUIR. It doesn't mean that the ticket price goes up, sir.

Mr. DEAL. It does not mean it goes up?

Ms. LONGMUIR. Correct.

Mr. DEAL. Okay. So, then, one of the other arguments is that the reason that US Airways can't remain profitable and stay in business is because of the short-haul arrangements. You don't have the network of the long hauls.

Are you just shifting that, then, to American since they are agreeing to buy 20 percent of your current operations, including 50 percent of your shuttle between Washington, New York, and Boston? Are you just shuttling that unprofitable part up to——

Mr. WOLF. I think he is really talking about US Airways' existing operation, of which American would be buying approximately——

Mr. DEAL. That is the unprofitable part?

Mr. WOLF. No. The system in its entirety is obviously unprofitable because the company loses money. But, if I could, back to the 45,000 employees for a second, there is really no dissention between what Ms. Longmuir is saying and what I am saying.

On day one after the merger, in Atlanta, as an example, United has a station manager and we have a station manager. We don't need two station managers in that city the following day.

United certainly will need the vast bulk of our 45,000 employees because they are deployed operating our aircraft and our fleet and our service levels. But, indeed, there will be some limited number of surplus people up front, which United will absorb until they retire over time.

In terms of what American's acquisition is, I think American is a fairly astute airline; quite, as a matter of fact. They are buying effectively about 20 percent of US Airways' assets. That comes about as a result of a concern the Justice Department had. It certainly was United's idea initially, but it addresses certain Justice concerns. And that is why that transaction is part of the overall transaction between ourselves and United Airlines.

Mr. DEAL. Thank you.

Mr. STEARNS. Mr. Doyle?

Mr. DOYLE. Thank you, Mr. Chairman.

Ms. Longmuir, could you please? We understand US Airways' hub at the Pittsburgh International Airport, those of us from Western Pennsylvania realize, how critical that is to the economy of Western Pennsylvania. Could you please explain United's no-furlough policy for all employees and whether United anticipates that by strengthening the hub, you will create more jobs or stimulate greater economic activity in that region?

Ms. LONGMUIR. Sir, with respect to Pennsylvania, we have looked at what we consider to be some of the many jewels within the US Airways network. Certainly both the system in Philadelphia as well as in Pittsburgh offer a very strategic location for building our East Coast network. We also have been in discussions with maintenance operations that are there as well as looking also at the tremendous growth that the Philadelphia Airport has in place.

With respect to Pittsburgh, in particular, we see that as an area where we will have a net add of aircraft to our overall fleet. We obviously currently can't continue to maintain and service that fleet with our extant maintenance facilities. So on an internal service perspective, we certainly see a growth, a tremendous growth opportunity and a growth need for us, United, to service our internal fleet.

With respect to trying to grow the hub at Pittsburgh, that, again, is something that is very much in our plans because we are certainly not spending several billions of dollars to have hubs static. The true value of them is to grow and enable us to be more competitive and to raise our market share from something greater than 1.7 percent, as it currently is now.

Mr. DOYLE. Thank you.

Just for the record, too, I would like to give you the opportunity to reiterate United's commitment to building the multimillion-dollar maintenance facility in Pittsburgh Airport.

Ms. LONGMUIR. I think we are in the final stages of discussions on the precipice of a formal announcement. So perhaps at one point in the future, I can come back and testify before you again. I will leave that to my chairman to state more explicitly. I won't take that.

Mr. DOYLE. Thank you.

Mr. Wolf, air service is critical to our economic well-being. We need more air service, not less. If this merger doesn't go through and US Airways starts to shrink and downsize, what would the effect on consumers and businesses be that have come to rely on US Airways for service?

Mr. WOLF. Well, I guess, Congressman Doyle, I would say it is the obvious. Today US Airways loses money on over 50 percent of the routes that we fly. And logic would say: Well, for crying out loud, why don't you take some of those routes down?

The reason we don't do that is because we are trying to become a network carrier. And sizing ourselves down is in the absolute wrong direction to go. But, indeed, if we are not able to go forward with this merger and we have to stare at the stark reality of what do we do on an ongoing basis, we are going to have to continue. We are going to have to size the airline down.

Mr. DOYLE. And I don't know if you were given the opportunity to respond to Mr. DeFazio's earlier comments that 4 months ago you guys were rolling in cash and now you are on the verge of bankruptcy. If you haven't had a chance, I would like to give you that.

Mr. WOLF. Congressman, I am really not quite sure where to go with that. I sat there and listened to it, as you did: Four months ago, I testified before a committee on which Mr. DeFazio sits. Nine months ago, not 4 months ago. I don't recall that sort of interchange with Mr. DeFazio at all, but let me assure you I never said that nor anything like that.

My position with US Airways has been the same since the day I joined the company, at which time I told the board of directors there were pressing issues at the outset coming off of multiple years of multibillion-dollar losses and no strategic sense of direction, at the time on the verge of bankruptcy, a balance sheet that had been destroyed. I thought those things were sort of manageable in the short term.

The problem for US Airways is that it is a mid-sized mature-cost carrier. It is the last of only six. And it must find a way to become substantially larger in order to compete long term.

Mr. DOYLE. Thank you, Mr. Chairman. I yield back.

Mr. STEARNS. I thank the gentleman.

Mr. Whitfield?

Mr. WHITFIELD. Thank you, Mr. Chairman.

Mr. Wolf, you had just mentioned that 50 percent of the routes of US Air are not profitable. The routes that D.C. Air will be taking over, are those profitable or unprofitable?

Mr. WOLF. I can't say. I would say an average of our routes there are relatively profitable, but, indeed, they will be quite profitable with D.C. Air. D.C. Air will have a substantial lower-cost structure than US Airways has.

Mr. WHITFIELD. Now, D.C. Air, will it be unionized or nonunion?

Mr. WOLF. Well, in many ways, D.C. Air has not yet been created. D.C. Air, once the transaction is approved, Bob Johnson has to go out and hire employees and hire pilots and hire mechanics and lease aircraft, et cetera. Those employees will certainly not be in a union at the outset because there is no union for them to be in. So they will not be organized.

Mr. WHITFIELD. Mr. Ris, you are with American Airlines. And you are going to own, what, 49 percent of it. A lot of the employees of D.C. Air will be furnished by American. Is that correct?

Mr. RIS. What we will be doing, we will be providing services to them through contracts. The actual employees, the employees that they hire, permanent employees, will be new to D.C. Air.

Mr. WHITFIELD. But you will be providing some through contract?

Mr. RIS. We will be providing some through contract. For example, the so-called big jet flying that they will do will be done on a so-called wet-lease basis, in which our employees and our airplanes will be used flying their colors, yes.

Mr. WHITFIELD. American Airlines, is it unionized?

Mr. RIS. Yes, sir.

Mr. WHITFIELD. So at least those costs if they are contracting to use your employees will probably be higher than maybe those that they hire permanently on——

Mr. RIS. That is possible. And, of course, it is always possible for them subsequently because that is a lease arrangement to acquire their own aircraft, their own employees at lower rates. Yes, sir.

Mr. WHITFIELD. Ms. Longmuir, what has to happen for you to obtain approval for this acquisition and/or merger?

Ms. LONGMUIR. It is currently under review at the Department of Justice, Congressman.

Mr. WHITFIELD. Okay. And when do you anticipate a final answer?

Ms. LONGMUIR. I believe we had a second request for documents with respect to the component involving American Airlines and United Airlines as recently as about 10 days ago. So we are in the process of collecting those documents, turning them over to Justice. And they will be reviewing them and generating additional questions at that point. So I can't give you a——

Mr. WHITFIELD. But once they make a decision, if they approve it, then that is all of the approval that you need to move forward?

Ms. LONGMUIR. Yes. I believe there also is an additional approval at the Department of Transportation to allow the certificate to transfer from US Airways to United for purposes of the international routes that they fly.

Mr. WHITFIELD. Okay. Now, Mr. Leonard, I think in your testimony, you talked about that you felt like that one of the conditions of this merger should be that United and American should divest themselves of a number of slots at I suppose Ronald Reagan Airport or other airports.

Mr. LEONARD. Yes, sir.

Mr. WHITFIELD. Has that condition been applied?

Mr. LEONARD. No, it hasn't. We have filed complaints at both DOT and DOJ asking them to exercise their current authority to force that to happen. It has happened before. In 1983, the FAA withdrew slots and reallocated them when they thought there was a maldistribution of slots. So we are not asking for anything unprecedented here.

Our position is that these slots were awarded under an entirely different perspective as far as the relative concentration of the airlines. And we believe it is national policy. There ought to always be a reallocation of slots whenever there is a merger of any size.

We have also contacted US Air, United, and D.C. Air in regard to cooperating with them to make that operation work smoothly with them. They decided to go with American, rather than with us.

But there are lots of slots. When you add TWA, American, US Air, and United, there are plenty of slots to carve out a meaningful number for us or people like us. Obviously we would prefer it be us, but there are other carriers like us that could benefit the consumer if they had a meaningful number.

Mr. WHITFIELD. Are you optimistic that that condition might be required?

Mr. LEONARD. I don't know. I mean, I guess we are the craziest ones to come up here and shoot for it. We accomplished a lot at AirTran that people said we would never accomplish. And we think while the battle is uphill, we are certainly going to continue to fight the fight until people tell us to go away.

Mr. WHITFIELD. Mr. Chairman, I see, my time has expired.

Mr. STEARNS. Mr. Rush?

Mr. RUSH. I want to ask you a couple of questions here. I understand that air service is an important economic driver in local economy. And I was wondering if you would agree that the merger by expanding your network will make United an even stronger economic catalyst in the Chicago area.

Ms. LONGMUIR. Absolutely, Congressman Rush. I mean, we see the benefits not only to United, our shareholders, our passengers are really telling us what they need. And they are telling us where they need to have better access to. But given O'Hare's strategic location, we certainly feel that there will be an even more powerful contribution to the local and regional economy by having increased connectivity from Chicago for the Chicago businesses.

Mr. RUSH. Okay. What services do you provide to customers, the communities your hubs are located in, and other airlines which might explain some of the differences in fares between United and other low-fare airlines?

Ms. LONGMUIR. I think the route difference, no pun intended, is actually the fact that there is a network versus perhaps a point-to-point service where we really are connecting to a hub-and-spoke system establishing the network thereby that will lead to global connectivity. We have the internal support structure for frequent flyer miles, all of the other amenities that go along with at least a larger network carrier like United Airlines.

Mr. RUSH. As you are well-aware, there are issues around O'Hare in terms of the density issue, the volume of air traffic in the Chicago area. The merger, what effect do you think that it would have on the question of density around O'Hare, volume? Would we need to increase runway capacity at O'Hare? And in your answer you could without putting yourself out too far, would you relate your attitudes about the proposed third airport, both in Peatone and also in Gary, whether or not this would have any impact on that, this merger?

Ms. LONGMUIR. I think with respect to your first question about demand in capacity at O'Hare, there clearly is an ever-present demand for more services at O'Hare. United feels very strongly about being committed to O'Hare and would like to see O'Hare grow.

I believe our Chairman signed a letter very recently on behalf of the Civic Committee indicating that the business community wishes a third runway at O'Hare. And that is certainly from the perspective of building from a point of where you have your resources located and concentrated. That would be the most helpful at O'Hare.

With respect to the creation of a third airport, regardless of the location, we also have been on record that we do not intend to fly to another airport, whether it is Peatone or Gary, for purposes of a hub-and-spoke structure, as you well know. That makes it too difficult for us to have split operations. But we have also been on record to say that if others wish to build it, they certainly may, but Mr. Goodwin, our Chairman, really doesn't want our passengers' dollars or the fares affiliated with those, to be siphoned off to construct an additional airport when there is such a crying need for improvements at O'Hare.

Mr. RUSH. My last question is: Right now United is an employee-owned company. If the merger were to go through, what would happen to the employees from US Air? Would they have the same categories or same proprietary responsibilities and powers that employees at United currently have?

Ms. LONGMUIR. Well, with respect to the governance of the company in the sense of a chairman of a board, a board of directors, that governance remains in place. With respect to new employees becoming employee owners, the term for actual wage concessions, where we all suffered a pay freeze—and those dollars were taken and invested in ESOP shares and put into an individual account for each employee, that period has ended, but the structure it was for 5 years, 9 months if I am correct, and I will check and correct the record with a submission to you if I am not—that term for the addition of new employee ownership has ended. But with the number of shares that are currently out to all of the current employees of United, we do not anticipate any diminishment of the majority ownership by the employees. I think it is for something like 16 to 17 years if you look at the normal rate of attrition.

Mr. RUSH. Thank you.

Mr. STEARNS. The gentleman's time has expired. Mr. Buyer is recognized for 5 minutes.

Mr. BUYER. Thank you, Mr. Chairman.

I have some questions for Mr. Wolf and Ms. Longmuir. Back in 1990, there was an agreement with United, to build a maintenance hub at the Indianapolis Airport. The State of Indiana put in $171 million, the city of Indianapolis $111 million, Hendricks County $8 million. United then invested around $800 million in that facility. So, Mr. Wolf and Ms. Longmuir, what impact is the merger going to have upon that maintenance hub? Hold that.

The other question I will have is to both of you also, and Mr. Leonard if you have a comment. In Congress, we struggle with these issues of deregulating industries. And whether it is building or improving or providing maintenance upon networks, we say it is deregulation, but we are still involved in your business.

This isn't like wanting to create something anew and say, "Well, do it, and we will just make sure that it is fair, open, and competitive." This is a lot different because we want to make sure the people in other areas get serviced. It is like when Congress had to get involved when they created the utilities. They left the rural areas, and they had to create INCs to make sure that they were taken care of.

So Congress provides subsidies called the essential air service. What impact is this merger going to have upon us, Congress, in our subsidies into a lot of these? I mean, I have got the whole list here of all of these different states and localities. What impact do you think the merger is going to have upon that?

Last, Mr. Leonard, my question to you Mr. Whitfield touched on a little bit—and it is sort of my concern—is: Low-cost carriers, if you are going to permit a national network with three dominant players and you only have so many gates and so many slots, how are you able to provide competition? How do you gain that access if we are going to say, "Well, let us let three dominant players have their way?" Those are my three questions.

Mr. WOLF. I will go first if I could because I was privy to the negotiation of the Indianapolis maintenance facility. At the time I was employed by United Airlines. It has proved to be an absolute marvelous facility. And in the economic stimulus that Indianapolis and the State of Indiana anticipated it would be, United has built a glorious facility there and continues to expand its maintenance activities there.

There will be no change in that whatsoever. It is a commitment on the part of United. United will honor that commitment. I think what you might have heard, Congressman Buyer, is a moment ago there was reference to a discussion that is going on between United and the city of Pittsburgh and the State of Pennsylvania about expanding existing US Airways facilities in Pittsburgh, where we have a large maintenance facility, but that activity held out no effect whatsoever on Indianapolis.

In terms of deregulation, this is going to have no impact whatsoever on deregulation. Congress did deregulate the industry, deregulated fares, deregulated routes, deregulated the industry, and fights very aggressively in an open market environment today going forward, the two things you wanted me to comment on, I believe.

Ms. LONGMUIR. I would only second what Mr. Wolf said about Indianapolis. Again, the net increase of new aircraft coming into our fleet is going to far outstrip our maintenance capabilities.

I don't think the company could be more pleased with the construction of a facility than we are at Indianapolis. And also Indiana has been very helpful and supportive of a corporate citizen. That is really quite delightful for a corporation to experience. So we feel quite a strong commitment to Indianapolis.

With respect to your question on subsidies——

Mr. BUYER. Does that mean you anticipate increased workload at the Indianapolis hub because of the merger?

Ms. LONGMUIR. I think that it will be a planful increase, but I think that we anticipate growth.

With respect to the essential air service and the subsidies to small and medium-sized cities, United Airlines currently is the largest provider of service to EAS communities. We, again, have, frankly, a history and a commitment of longstanding to consistent service to small communities. And that will not change. We have been on record in several public forums, the Chairman has, reinforcing that point.

Mr. BUYER. You just pulled out of Lafayette, Indiana. So I am a little scarred. Can you answer my question, please?

Ms. LONGMUIR. I will be happy to get you details on that, sir, and visit you personally on that.

Mr. BUYER. Thank you.

Mr. LEONARD. Congressman, first of all, I would say that it would be virtually impossible for AirTran to start today and to build an airline as large as we are today, virtually impossible. We are a direct result of Eastern Airlines' failure in Atlanta and, therefore, were able to obtain 22 gates in Atlanta. Without that, we would not have been able to get going.

Southwest was protected by the Wright Amendment for many, many years so that it could get a foothold. Jet Blue was given 75 slots at JFK by the government to get it started. So in today's environment, without some government assistance or some government protection, to give us the ability to compete, it is almost impossible.

I have personally spent 2 years trying to get a gate at Philadelphia. We have finally been granted two gates. We are going to get two temporary gates starting in June, but it has been over 2 years.

Since I joined the company over 2 years ago, we have tried to get gates at Newark. We do not have a gate. We get a piece of a gate from time to time. There are plenty of gates available at Newark. There was a study done by the airport authority that said there was equivalent of about nine gates equivalent available at the airport. Yet, new entrants cannot get it because the airlines that have those gates are hoarding them.

Our position is these gates were paid for by taxpayers' money or through PFC charges and that the government has a role here if it wants to stimulate competition. And that is to force people to free up some of these public-owned assets so that people like us at least have a chance to compete.

We are not asking for subsidies. We are not asking for protection. Just let us in so we can compete. And we have proven that our model works and we can go in markets and compete effectively if we can get in them.

Mr. BUYER. Thank you.

Mr. STEARNS. Thank you. Ms. Cubin?

Ms. CUBIN. Thank you, Mr. Chairman. I hardly know where to start I have so many things I want to say and so many questions.

Our society has determined that there are some services that every single American citizen is entitled to for not only their benefit but for the benefit of the country and the society as a whole. That is telephone, electricity, other utilities. And I think air service is part of that in this environment in this economy today.

I represent the whole State of Wyoming, about 100,000 square miles. I have no choice who I fly with. I have to fly with United Airlines. United Airlines on a daily basis to the whole state—well, no. United Express because United Airlines doesn't fly into Wyoming. They contract with other companies under United Express.

Forty-five United Express flights go into Wyoming a day from United and 16 from Delta. And that serves only the extreme western part of the state. There are a couple of flights out of Casper. But if I fly Delta from Washington, it takes me an extra 2 or 3 hours. So I have no choice. I have to fly with United, and most of the people in Wyoming have to fly with United.

Let me start with this. I don't know how United Airlines can be considering merging with US Airways when in my opinion they don't provide adequate service to the passengers that they now have. I think good business would be to provide better service to your customers, instead, of the situation that it is now.

I don't know how many of you have flown in Denver. Frankly, I wish Mr. Goodwin would have to fly with me for just 1 month. In Denver, United Airlines owns the gates down there that United Express flies out of. I call it the cattle chute. I don't know if you know what a cattle chute is or not, but if you are going to load cattle to take them to market to be slaughtered, there is a narrow area with a gate there and fence down both sides. These cattle are just herded down in there, and they are prodded and they are poked. And they get on the trucks, and they get on the trains to go to the slaughter or if you are going to take them to the feed lot, you just herd them in there. I call the United Express area at Denver a cattle chute because that is how customers are treated there.

There were no chairs in that entire area for many years. There was no heat. There was no air conditioning. There is no drinking fountain. Now I think they have about three seats per gate. But what they do is they herd the people down to the cattle chute, hold the people in the cattle chute until it is time for them to get on the plane and then suffer the things that they have to suffer there.

I could go on and on and on about the kind of service that people who fly into Wyoming get. And it is terrible. I know what you are thinking because I have had it said to me by every single United employee I have ever dealt with: Well, that is not our fault. It is United Express.

Well, I am going to tell you that I have talked with United Express carriers, current and past carriers. They tell me that the deals that they have to make with United Airlines to not lose their business, to be able to keep the planes that they have and not lose the investment in the planes that they have, those contracts they make with United are such that they either can't make a return on their investment or they have to severely cut, severely inconvenience services to their customers because they don't get enough money out of the cost sharing with United.

Recently flying home, flying back to Washington from Wyoming, we were trying to get to Denver. We had to stop in Hayden, Colorado due to the weather. The weather broke. Five planeloads of people were loaded onto buses to take a 3½ hour drive to Denver. Now, I want to tell you people in Wyoming pay their money to United Airlines, and they don't give a flip whether United Express is responsible for this or not. They pay United. We have got a deal with you. We don't have a deal with United Express. Five busloads of people are busloaded to Denver, Colorado, 3½ hour drive, while the planes—I was on one—were leaving with empty seats. That is the kind of service that we get.

I hope there is another round because I had to vent about those things. I think the fact that Mr. Goodwin refused to call the Chairman back is indicative of the attitude that I see with United Airlines. I fly with them more than three times a month, and that is the kind of service that we get if you are from a rural area.

I guess I have one question for you, Ms. Longmuir. Is United Airlines committed to serving rural areas like Wyoming, Montana, South Dakota, North Dakota? Is there a commitment by United Airlines?

Ms. LONGMUIR. Yes, there certainly is, Congresswoman. I know I personally have visited with you in the past about times when United Express has disserviced you. And we certainly do take responsibility for that. I would be more than willing to come and talk to you again as well as with U.S. Express representatives.

Ms. CUBIN. No. It is not me. It is all of those people that fly. It is not fair to make up with me.

Ms. LONGMUIR. Congresswoman, we are trying to win back every single customer that we lost this summer through an extraordinary problem at our own company coupled with some really tough issues dealing with bad weather and a crumbling infrastructure. We are——

Ms. CUBIN. Would you tell Mr. Goodwin that his example of refusing to call the Chairman back certainly isn't a good indication of how United Airlines intends to work with us and to provide better service?

Ms. LONGMUIR. Congresswoman, I don't want to make this awkward, but, if I may, I feel duty-bound to defend our chairman. When our staff here in Washington contacted the Chairman's office and said that I would be available, Mr. Goodwin had a board meeting today. We were told by the Chairman's staff that there was no need to have Mr. Goodwin to call the Chairman at this point. And that is why the call was not placed.

Mr. STEARNS. Okay. I knew there was a question mark at the end of that comment somewhere there.

Mr. Terry, do you have a question?

Mr. TERRY. Well, I want my opportunity to kind of vent, too, against United.

Ms. CUBIN. You have got to live it.

Mr. TERRY. So maybe it is appropriate Mr. Goodwin didn't come today.

Ms. LONGMUIR. I am going to put in for combat pay today, then.

Mr. TERRY. Yes, but a lot of it is brought on by yourself, not you individually or personally but United.

Ms. LONGMUIR. Well, I am an employee owner of the company. So I take responsibility.

Mr. TERRY. Which really confuses me why. I ride a lot of different airlines. I live in Omaha, Nebraska. And you are more than welcome into Omaha, Nebraska. I am going to get to that in just a second.

You know, whether I have been in Denver, Chicago, or especially here at Reagan National, the rudest airline employees I have ever run into or had to deal with were United. And that is with almost unanimity. That just confuses me since it is an employee-owned airline the arrogance of treating customers so badly.

That is one of the problems that I have with this merger. I flat out won't fly United because of the low quality of service and respect that they give to their customers. I wouldn't wish flying on United on my enemies. I feel sorry for my colleagues that are trapped with one airline, like United, like Barbara Cubin with United, that they just don't have the choices. Fortunately in Omaha, we do have choices and options. And I exercise that. It is just unfortunate whenever we have bad experiences, you guys try and personalize this like it is just us.

Ms. LONGMUIR. No.

Mr. TERRY. I take offense to that. Well, you just did that to Barbara, but that is what you also did to me. And so I have problems with you guys. In a time when we are dealing with customer service—I am going to eventually get to a question on that—when United has proven themselves to be such a poor provider of quality service, why would we want to extend that? It is a cancer we would like to eradicate, not expand.

In Omaha, Nebraska—and that is why I mentioned, Mr. Leonard, you are welcome there anytime. I don't think you guys are there yet, but on behalf of Eppley Airfield, let me say you guys are welcome any time.

Mr. LEONARD. Thank you, Congressman.

Mr. TERRY. When I was on the Omaha City Council, about 1992, we flirted with the concept of being a mini hub. And I don't even remember who it was back then, Continental maybe. That seems to come to mind.

We made a decision, the airport authority with the backing of then the city council and the mayor, to not be a mini hub, that we wanted as many airlines as possible into that facility knowing that when the Southwest or Midwest Express or whatever were in there to compete, that we would have good air fare.

And so my philosophy here is to have the fullest, fairest, unabridged, gloves-off competition that we can have in the airline industry. And then maybe United will provide better quality service to their customers with better rates.

In one experience that we had in Omaha, Nebraska with lack of competition—and, Mr. Cooper, I am going to hurry up and get to you—was when United was our only carrier for a while to Denver. For some reason, the 2 or 3 other airlines moved out of Omaha. And an air fare to Denver shot up 3, 4, 5-fold. It went from like $100 to $1,000. Now since Frontier came back, I think we have a little bit more competition. It has backed down.

So I am trying to figure out with all of these great numbers, Mr. Wolf, I have got to tell you I appreciate your being here because you are being asked tough questions. It is a tough issue. And you are handling them well. So I respect and appreciate that you are here. But a lot of the numbers are put up to show that there is great competition. But then you bring us a statistic that kind of hits home with me.

There are a lot of statistics when you look at the United States map, but individually in individual cities, there is not. Would you expand on how we sitting up here as laymen could determine if there is true competition?

Mr. COOPER. I actually use—and I outlined it in my testimony. I call it the Ed Meese test. I actually ran into Ed Meese and described it to him. You remember Ed Meese was the predominant consumer protector in the Ronald Reagan administration.

And he wrote the merger guidelines. They published the merger guidelines that still govern our antitrust policy. And there were two thresholds in those merger guidelines. Even Ed Meese understood on the basis of theory and decades of empirical evidence that you needed ten or more equal size competitors to have an unconcentrated market, ten or more.

And there was a second threshold at the level of six. If you had fewer than six equal size competitors, the market was considered highly concentrated because then it becomes a tight oligopoly. And so expanse has taught us that if you get markets with fewer than six competitors, you start to get market power problems.

This is an airline industry that has gone down to three national competitors. This is an airline industry on average that the customer has no more than two. And, of course, when you are a monopoly and captive, you get treated very badly.

Since I have now discovered that United visits every member of the committee, I will personally visit every member of the committee and discuss this issue with you.

Ms. LONGMUIR. No. You shouldn't do that because you are personalizing it.

Mr. COOPER. You will get a visit from a consumer advocate to explain exactly this problem, but they have now told you they can't have six. They have told you this industry will not support six national competitors. You are lucky if you get three.

So how do you get out of that problem? You use the new entrant problem; the network, that is. It would be wonderful if every route segment in this country had a competitor like AirTran. Open those 50 routes that are not profitable for US Air. The AirTrans. You know what? They will become profitable, and they will be much more heavily traveled because the price will go down.

The Department of Transportation has analyzed that. And so what we are saying to you, we have always been pro-competitive. We are not regulatory. We want open access. So we are telling you to figure out a way to crack those fortress hubs. And you will get the competition, and you won't see the predatory practices of $1,000 down to $100 and back up to $1,000 if you make those people reallocate those slots for new entrants and they told you that is the only way this Congress can deliver competition to the American public is to begin to crack open those fortress hubs.

Mr. STEARNS. I thank my colleague.

I think we will start the second round. I will start. Mr. Wolf, when US Air acquired Piedmont, you were at the helm then?

Mr. WOLF. No, I was not.

Mr. STEARNS. Oh, you were not? Okay. But you probably know all of the details of the goods and bads about it, I guess.

Mr. WOLF. I am really not sure that I do, but I will attempt. It was some number of years before I went to US Airways, but I will attempt to answer, sir.

Mr. STEARNS. Okay. I am trying to come up with an analogy of when US Air acquired Piedmont and then United is acquiring US Air, are there lessons to be learned from that acquisition that United should be aware of?

Because when you folks did that, I think you let off employees from Piedmont. I mean, it wasn't the statement that they were going to keep all 45,000 like United is doing.

Is it possible that United is going to be in the same spot you are in after they acquire you after you acquired Piedmont? I am trying to see if there is any kind of——

Mr. WOLF. If you will allow me to try to respond to the sense of the question?

Mr. STEARNS. Sure, yes.

Mr. WOLF. I don't really know if then Allegheny in acquiring Piedmont, if there were any layoffs at the time or not. I am not sure.

Mr. STEARNS. Yes.

Mr. WOLF. But, relative to that point, whether there were or there were not, there will not be in this case because we have an ironclad job guarantee from the part of United. In terms of what are the lessons to be learned, I am really not quite sure.

I look at the current situation. A lesson to be learned from the current situation is that it is my firm belief that there are only two economic platforms in which one can successfully compete in the United States commercial aviation. And we are not on either and don't have the financial ability to get to either. So United acquiring us, from my perspective, three things happen.

It is a job guarantee to our employees which they do not otherwise have going forward in this economic environment; an absolute firm commitment with communities we serve. And I believe the synergy that will come about from all of that will be rather significant growth because United will truly have a product offering that is absolutely superb.

Mr. STEARNS. Okay. Mr. Swelbar, staff was saying that you had mentioned something about an s-curve. Does that ring a bell? Can you explain it for our members, how an s-curve impacts consumer in these transactions? Is there a simple language for us?

Mr. SWELBAR. I will do my best. The s-curve is a concept that as you add capacity in a market, there is a commensurate increase in traffic. And so the idea is you add capacity, you add seats, you add departures in a market. There is some increase in traffic that follows the addition of capacity up to some point, when the market is fully served. And then there would be the flattening of the curve.

Mr. STEARNS. And the s comes back in?

Mr. SWELBAR. That is correct.

Mr. STEARNS. Do you know what that point is?

Mr. SWELBAR. It is different. It is different for every market. So there is no standard measure that is used every day that there is a rule of thumb, no.

Mr. STEARNS. So in this airline industry, you are saying that you are endorsing this merger and you are saying that by the two of them coming together and providing a stronger financial bond, people will have greater choices, you are saying, for the consumer?

Mr. SWELBAR. Greater choice and more network points available. And, if you really look at small and medium-sized communities out there that only have access to one hub or two hubs that are geographically fragmented, that community is not going to be able to realize its true traffic potential.

By having access to the maximum number of nodes, if you will, that is what it is that helps to ensure success. It is not that we won't lose service in some communities, but the maximum number of nodes does help to ensure that there would be service tomorrow. It is a better bet.

Mr. STEARNS. Okay. Dr. Cooper, you have heard Mr. Leonard talk about these low-fare carriers and the success they have had. And now you have Southwest, AirTran, JetBlue. Does that alleviate your concern at all, the fact that these low-fare carriers are being successful and making inroads? Do you think Mr. Leonard is being pretty optimistic here and aggressive in saying that he is going to continue on? Doesn't that sort of make your argument that there is going to be less competition detract from your argument?

Mr. COOPER. Well, he also made the point that in each one of those cases, certainly in the more recent ones, the only reason those people get into the market is because they crack open slots. And they crack open slots by government action. If you can't get the slots, then you can't compete.

I have sat on now panels with JetBlue and Spirit and a number of other folks. And they identified all of these East Coast airports. And, you know, Boston, JetBlue was saying: If we could go to Boston, we could accomplish some north-south effects, but we can't get a slot at Boston. We can't get a slot at Newark. We can't get a slot at St. Louis. We can't get a slot at O'Hare.

So the simple fact of the matter is that the airports were primarily built with public funds. They are, in fact, a very public resource. And they are being used. They are being used to prevent competition.

Let me make a point about the s-curve.

Mr. STEARNS. Yes.

Mr. COOPER. The analysis does not take into account price. And you have heard the remarkable increases in traffic that occur when you get low price. You know, sure, some person will have a little better trip someplace and they will go, but you reduce the price on the order of magnitude of these new entrants and you get increases in traffic that swamp these network effects, just dwarf them. Price is a very important factor.

So my answer to you is absolutely, we need to find an economic model that makes sure that every route segment out of one of those fortress hubs has a chance of being competed for. And that is why I think the direction Congress has begun to go with Mr. Dingell's bill here and the Hollings-McCain bill on the Senate side finding a number that lets the network carriers have significant traffic flow, the 50 percent number, and takes the rest of it and begins to open those up so that on attractive routes—and if you drop the price into Wyoming, suddenly you will find a lot more people will fly because you will have competition for those routes.

Mr. STEARNS. Let me let Mr. Leonard answer that, too.

Mr. LEONARD. I would just like to add one additional comment. We have always talked about Southwest over and over and over here today. The fact of the matter is Southwest doesn't participate in most of the airports we have been talking about. They don't fly to Boston. They don't fly to Washington National. They don't fly to LaGuardia. They don't fly to JFK. So if you have to fly out of those airports, there is no Southwest effect.

They are very successful. They are the fastest low-fare carrier. But in these big business markets that we are talking about, Pittsburgh——

Mr. STEARNS. So you agree with him?

Mr. LEONARD. Absolutely.

Mr. STEARNS. Okay.

Mr. WOLF. Mr. Chairman, I mean, I have to respond to this. We have a total in the United States of America of four slot-controlled airports. And Congress has already passed a law that eliminates slots in three of them over the next few years: O'Hare, Kennedy, and LaGuardia. We are down to one slot-controlled airport. Is that stifling competition?

Two, US Air was criticized because there were no gates in Charlotte and Pittsburgh, where we have hubs. We have a hub in three cities: Charlotte, Pittsburgh, and Philadelphia. In Charlotte and Pittsburgh, there are surplus gates available today. And in Philadelphia, there will be 38 new gates coming online this year and 12 new gates coming online next year.

Thank you, sir.

Mr. STEARNS. My time has expired. Mr. Towns?

Mr. TOWNS. Thank you very much, Mr. Chairman.

We keep hearing the word "competition," "competition." Mr. Ris, let me ask you. On the key hub-to-hub routes, American proposed to offer only token service on important hub-to-hub routes in competition with United. It appears somewhat illusory when you look at the fact that from Chicago to Charlotte, American will offer 3 flights compared to United's 12 flights; from Philadelphia to Denver, American only 2 flights, United 8; from Philadelphia to Los Angeles, American only 2 flights, United 10; from Philadelphia to San Francisco, American 2 flights and United 9.

Moreover, isn't it correct that American has a right to abandon a service if another carrier offers service, even if the new service is to an alternative airport? For instance, let us look at Charlotte, say from Charlotte to Chicago O'Hare, then Charlotte to Midway. It would seem to me that this looks a little peculiar.

Mr. RIS. I understand what you are saying. In fact, what this is, it is a remedy. It is a remedy to a fact that results from the merger of United and US Airways in that the markets you just described are the markets in which United and US Airways actually would compete against each other today and in which competition would move from two airlines down to one.

So in terms of talking to, as we understand it, as the parties originally proposed this, as they talk to the Justice Department, this is an area that caused a lot of concern. How are we going to protect consumers in markets in which you go from two carriers to one? The remedy proposed in the transaction when American stepped into the case, it would have been I think the same, regardless of which airline decided ultimately to do the deal, was that we agreed for a long period of time to provide service in this market unless somebody else came in so that the principle was that at the end of the day, if you had two carriers competing in a market today, you will also have two carriers competing in the market tomorrow.

Now, from our point of view, I mean, that is part of the costs of doing the business. And we took a look of that and the economic impact of that and factored that into the price of doing the deal. That is driven by the regulatory authorities as part of their traditional antitrust review.

If that is sufficient from a Justice Department point of view, that is great. If it isn't, then we have got to figure out some other remedy.

Mr. TOWNS. Yes, Mr. Cooper?

Mr. COOPER. Well, it is really interesting. Let me use the example of Charlotte. What he has described to you is getting back to a level of competition that is grossly inadequate to start with, exactly why this Congress needs to take an action.

Let us take Charlotte. It is a 90 percent airport. We were going to go to a 90 percent airport or some big number like that. Let me go back to my Ed Meese test. A 90 percent airport gives you an HHI index, a concentration index, of 8,100. So this is not a competitive situation. The 6 or fewer is 1,800. So it is already 3, 4, 5 times as concentrated as a moderate level of competition.

And so what we got into the situation here is the Department of Justice looking at situations and saying: Don't let it get worse? And what we are here today telling you is it is time to make it better, to give us more competition, rather than just stop it from getting any worse because it has been getting worse and worse and worse for a number of years.

Mr. TOWNS. Let me say very quickly before my time runs out that some people are saying that it is cherry-picking in the poor South. Actually, people in the Western part of New York State are very angry about the sort of lack of service. And they feel that, as a result of what is happening now, that is not going to improve at all; it is going to get worse. The prices are going to be even higher.

Now, what do I say to people in the Western part of the State of New York? Help me.

Mr. WOLF. If you will allow me, Congressman Towns? I would say upstate New York has received more low-fare competition in the last 2 years than any other part of the country.

Mr. TOWNS. You heard Congresswoman Slaughter this morning, didn't you?

Mr. WOLF. Yes, I did.

Mr. TOWNS. Okay.

Mr. RIS. With all respect, I think they should talk to Mrs. Cubin. I mean, the fact is I think you would probably love to have the level of service that they have in Rochester. I mean, the fact is every major airline serves Rochester from its hubs east of the Mississippi.

Now, we understand the concern about prices and so on. We are not saying that it is nirvana or whatever, but there are a lot of places in the country I think that would love to have Western New York service.

Mr. TOWNS. Thank you.

Mr. STEARNS. Mr. Deal?

Mr. DEAL. Mr. Chairman, before I get to my questions, I would just like to thank the panel members all for being here. It is very obvious to all of you, I am sure, that, even though we are somewhat provencal in our concerns and our criticism, that we all do have a common interest. And part of that common interest I am sure all of you share.

One of it is: Is the best service available to our constituency, which represents the people of this country? And the second is, of course, to be sure that whatever occurs in these mergers, that the cost of that service does not escalate to a point that it becomes unaffordable.

One of the things that has come out of this, though, does concern me. And I am going to get to that in just a minute. But I can't help but have a flashback to my childhood in listening to your testimony.

I am reminded of the day I went to the clothing store with my father, who was going to buy a suit. The salesman was very interested in making sure that he had the sale. And so he was convincing my father to buy it because he was telling him that he was selling the suit below his cost.

My father was a man of few words. He listened to that argument for several minutes. Finally, he said: Well, how do you stay in business if you are selling this suit to me below cost?

The man's answer was one word, "Volume."

I don't want to fall into that trap. I don't want us to take the argument that just because we are consolidating and the volume gets bigger, that we are solving the problems.

One of the things that concerns me is this issue. Quite frankly, it sounds like a tieing agreement when we start to talk about the D.C. Air. It has been acknowledged that that is supposed to be a low-cost platform, as I understand it. I wasn't quite sure whether or not that was a suggestion that came out of DOJ as a condition for approving the merger, that there had to be a low-cost provider of services, and if that is the case, whether it was their idea or the two airlines' ideas that this was an alternative way of providing low-cost service.

I think we have to get back to the question that Mr. Leonard asked. And, by the way, from a provencal point of view, we are pleased to have you in Atlanta.

Mr. LEONARD. Thank you.

Mr. DEAL. And that is that if his statistic that 41 percent price reduction in those hub markets that have a low-cost competitor is true and, as Dr. Cooper says, entry at hubs by small airlines is essential, then are we simply throwing D.C. Air into this mix as an inducement to Department of Justice to approve the merger by saying we are offering you a low-cost provider and then with your tieing agreements virtually controlling that low-cost provider in the process? Am I analyzing this incorrectly?

Mr. COOPER. I sure would have loved to have had those slots made available to any comer, rather than create a semi-dependent competitor? I understand that we hope that it will be a competitor, but one way to do it would be to say we were the best and then let the AirTrans and the JetBlues of the world grab up the slots and gates and facilities and bring their airlines in. Then we would have known we would have had low-cost carriers coming in, not trying to create one, because we knew they weren't going to get the concentration at Reagan past the Justice Department.

Mr. DEAL. That is obviously what Mr. Leonard was advocating. Did anybody advocate on behalf of any group in the presentation to DOJ?

Mr. WOLF. Congressman Deal?

Mr. DEAL. Yes?

Mr. WOLF. One of the attributes that Bob Johnson agreed to in the creation of D.C. Air, which was fundamentally of exceptional importance, was he has agreed to continue to serve all of the small and medium-sized communities that US Airways serves today out of National Airport. Indeed, you could take those slots and strip the service away from all of those small communities and fly onto larger population centers and generate more revenue doing so.

Mr. DEAL. Why was not that option offered to an existing small platform provider?

Mr. WOLF. We had a number of discussions. I will let Mr. Leonard comment in a minute. We had a number of discussions. No one committed to serve those small communities. They wanted to use those slots to larger population centers, where there indeed is substantially more revenue.

Bob Johnson is going to be saddled with three aircraft types: turboprops, regional jets, and large jet aircraft. All of the other interested parties wanted to serve the large population centers with large jet aircraft, where you can generate even lower costs, unit costs, and generate more revenue.

Mr. DEAL. Mr. Leonard?

Mr. LEONARD. Yes. Stephen's information is wrong, we believe. If we could get the 220 slots, with or without Mr. Johnson—and we had extensive conversations with Mr. Johnson to team up with him, which we believe at the end the consumer would benefit greatly from and he would actually make more money than his current dealt; I guess that is our view of the world—we have committed that we would fly every city in that network for as long as Bob Johnson would be willing to commit to do it. We would team up with him or with a commuter airline. We would run the jets. Seven seventeens are much, much cheaper to operate than regional jets.

I don't buy the notion, I never have—I have testified to that—that D.C. Air will be a low-cost airline. That is a myth. It will not be a low-cost airline. It is starting out with American's costs. They are providing the vast majority of the services. And they are going to downsize the airplanes from big jets to regional jets. And you cannot operate a regional jet as cheap as you can operate a mainline jet on its cost-per-seat-mile basis. It is physically impossible to do.

Mr. COOPER. Mr. Deal, a more fundamental point. If we are going to architect route by route, then you are the folks who should be doing it, not these guys. This is a public policy implication here.

They are exactly carving up and managing this network. That is a public function. That really should be done by public officials.

Mr. STEARNS. The gentleman's time has expired. Mr. Doyle is recognized.

Mr. DOYLE. Thank you, Mr. Chairman.

Well, I don't have any venting to do, although a guy on the elevator when I came up here asked me why you canceled that Buffalo flight Thursday night. I told him I would ask you, Steve.

Let me ask this: We are all concerned about competition. Someone really did ask me that question. I won't tell you who the member was, but he was from Buffalo.

We are concerned about competition at Pittsburgh and at all of these hubs. I just wonder: Would you agree with me that the new airport funding that has been made possible in Air 21 is going to help increase competition by providing funding for capacity-enhancing projects, such as building new gates, in these airports?

Mr. WOLF. The answer is absolutely yes, but, in all fairness, it is certainly going to be some number of years. The surplus in the aviation trust fund has been used by both administrations for a number of years, not to spend because they couldn't, but used to balance the budget. The truth of the matter is the infrastructure industry is years and years behind the power curve from getting back to where it should be.

Mr. DOYLE. You know, I fly out of Reagan on US Airways—if you live in Pittsburgh, that is the airplane of choice—a lot. And I see these e-ticket check-in kiosks there. I have heard very, very positive comments about this.

I am just wondering as you put this merger together if United is going to try to incorporate some of these consumer-friendly ideas into your plan like we see at Reagan with US Airways.

Ms. LONGMUIR. Yes, Congressman Doyle. We already have a number of those already deployed. I think we have 80 already in our system at 3 test airports right now. I think it is Chicago; an airport in California, which I don't recall at the moment; and then a small airport in Colorado.

What we keep hearing from our customers is that they want to have control of the process, whether it is control of the information, whether it is control about when they board, when they sign on. And this is our attempt to try and, frankly, have them have control about seat selection and to giving them the benefit of the technology so that they can sign in on the way to the gate and really cut down on line weight. So we have already planned with our integration project for a rapid deployment of that technology as well as others to the now current US Airways network.

Mr. DOYLE. Thank you. Thank you, Mr. Chairman. I yield back.

Mr. STEARNS. Mr. Whitfield?

Mr. WHITFIELD. Thank you, Mr. Chairman.

Mr. Wolf, you had mentioned earlier that in Philadelphia, there would be 38 new gates this year and 12 next year. How is it decided which airline can obtain one of those gates?

Mr. WOLF. Well, the 38 that are coming on line this year is a new stand-alone terminal. It is an express terminal, although the depositions in gates will take large jet aircraft also. Whoever wants to sign up a leasehold for those gates, we are going to take a large number of them so we will have gates to board our express operation today. But there will be a large number of gates that are left over for other carriers. If they want to sign a lease to use the gates, they are free to do that.

The other one is the 12 gates that come on line next year, which are in the new international arrivals building for international departures and arrivals.

Mr. WHITFIELD. And what is the custom on the length of these leases to obtain a gate?

Mr. WOLF. It does vary by airport. In the case of Philadelphia, I am not sure if they are leases at all or it is preferential use with the city. That is, whoever wants to use the gate and has activity can use the gate or the next gate or the next gate down, if you will.

Mr. WHITFIELD. I am assuming you would negotiate and work out a price.

Mr. WOLF. Oh, yes. You pay rent, and you pay landing fees.

Mr. WHITFIELD. Okay. Now, I am also assuming just from the discussion that the Department of Justice did not require that D.C. Air specifically be set up to provide competition. Mr. Deal touched on this. I am assuming that Air Trans could have provided the competition as well. I was just curious.

From what Mr. Leonard said, you did enter into negotiations with either American or U.S. Air or United or D.C. Air, but those negotiations just fell apart. Is that right, Mr. Leonard?

Mr. LEONARD. That is correct.

Mr. WOLF. Well, I am sort of familiar with the D.C. Air side of it. There were negotiations between D.C. Air and AirTran. They weren't fruitful for a reason that I would think that Mr. Leonard would think is unfortunate. And they wound up going on and negotiating with American Airlines, who is going to buy 49 percent of it and provide stronger network support and make D.C. Air an even more vigorous competitor going north-south in the Eastern part of the United States.

I would add, Congressman Whitfield, that in the process of the conversation today, there is starting to be a little slur about D.C. Air. There should be no slur whatsoever about D.C. Air. This is a new entrant carrier being headquartered in Washington, DC who is going to serve 43 communities outside of this metropolitan area owned and operated by in my opinion a superb business individual.

Mr. WHITFIELD. And I am sure you are correct on that. I don't think that any of us have slurred D.C. Air at all. I think we are just trying to get the facts of it.

Mr. WOLF. I certainly didn't mean you.

Mr. WHITFIELD. Okay. Mr. Cooper?

Mr. WOLF. I am talking about this body here, sir.

Mr. WHITFIELD. Mr. Cooper, let me ask you. Do you feel like that the way slots are handled and gates are handled in the airline industry today is appropriate or do you think that there needs to be reform in that area or what?

Mr. COOPER. Yes. We think that we need to open the fortress hubs. We need to open them and in a way that there is sufficient capacity so that entrants can compete for routes going in and out of those hubs. We think that the Congress has begun to hit upon the approach, which is not to get back into prescribing routes and prices but to providing open access, competitive access.

Consumer Federation has supported competition throughout these industries. And so the key input that is missing for competition in the dominated airports is access to gates and facilities, not slots, gates and facilities. So we need to find a way to begin to open those airports up at 40 percent or 50 percent. Once they become that concentrated, once you have more than half, half the enplanements, you have to let competition.

Mr. WHITFIELD. Do the Dingell bill and McCain bill address those issues?

Mr. TOWNS. They go straight at this question of opening up those fortress hubs. Absolutely.

Mr. WHITFIELD. Thank you, Mr. Chairman.

Mr. STEARNS. Mr. Rush?

Mr. RUSH. Thank you, Mr. Chairman.

Ms. Longmuir, let me ask you. We have heard a lot of horror stories, frankly, about the level of customer satisfaction, customer service for some abounds throughout the system. United has been the focus this afternoon in terms of the customer satisfaction and customer service.

Let me ask you: How will this merger increase customer satisfaction?

Ms. LONGMUIR. Well, I must say thank you for the question. I clearly sense the great frustration of the members on this Committee. I certainly meant no disrespect in urging my personal addressing of your scenario. It, frankly, is no different treatment than what we are giving to, unfortunately, the many passengers that travel on United. We lift 225,000 passengers a day, a small city. Frankly, we are trying to address on a case-by-case basis with our passengers and to win them back.

Nothing breaks the heart more of the employees at United when we don't do what we say we are going to do. We are not happy when we inconvenience a passenger. We don't always act as we should. That is sad, and that is unacceptable. That is precisely why in a time when we are facing a down turn, have high labor costs, are renegotiating labor costs, we have committed as of 2 weeks ago $150 million in order to try and upgrade customer service and to give customers more of what they want.

We have started several months ago with an integration team. Currently at United, there are over 700 employees on a full-time basis working on: What will day one look like after this merger goes through? And it will be very different than perhaps what the public expectation might be in the sense that it will not be a dramatic change. It will be very measured and small.

Day one United Airways employees will still go to work at the same place. US Airways passengers, now United passengers, will still go to the same gates, to the same aircraft. There will be no visual difference in how the airline looks.

Why? Because we wanted to make each step in a careful and planful way because in the surveys that we have done trying to be extremely methodological about this, looking at other industries that have merged that have not had a successful customer experience, we want to know what went wrong.

Our customers' greatest fears are: Don't lose me in the system. So that is driving everything that we are doing now in trying to structure day one, week one, month one, year one because it will take that long in order to accomplish a total integration.

Mr. RUSH. Thank you very much.

Mr. Ruden, have you heard of the ORBITZ system?

Mr. RUDEN. Yes, indeed.

Mr. RUSH. Okay. What is the ORBITZ system? Can you explain it briefly?

Mr. RUDEN. The ORBITZ system is a Web site operated by a joint venture that is owned by the five largest domestic U.S. airlines, who have, in turn, contracted out participation in the project to another approximately 30 to 35 airlines.

The concept underlying it is to jointly create a Web site at which they say all airline services will be available for sale and also other travel products and services with the special feature that because of some software that they claim has special characteristics, they will be able to offer low fares that no one else has at this site.

The project is also characterized by most favored nation agreements among the participants such that if an airline puts a low fare up on its own Web site, it must share that fare with ORBITZ but does not have to share it with anyone else. That is the essence of what the ORBITZ project is.

Mr. RUSH. What type of effect would that have on travel agents and agencies?

Mr. RUDEN. Well, I think any marketplace arrangement jointly arrived at that deprives those people who currently sell most of the air travel in this country and who do so in conditions of real and genuine, thorough going competition, any system which jointly deprives them of access to some portion of the product that the public wants is going to be economically destructive to them.

It is also, more importantly, from a public policy point of view going to be destructive of consumer interests because not every consumer wants to deal with an airline-owned Web site to buy their air transportation. Those people, in all likelihood, it appears, will be deprived if ORBITZ is allowed to proceed, deprived of access to the lowest fares. We think that is bad for the public, inappropriate, and probably unlawful.

Mr. STEARNS. The gentleman's time has——

Mr. COOPER. I would say that we have serious concerns about this sort of arrangement, which really does deny access to a critical input to potential competitors.

Mr. STEARNS. Mr. Buyer?

Mr. BUYER. Thanks. I would note that, Mr. Ris, you are about the quietest one on this panel.

In your testimony, you explain that global alliances contributed the movement toward domestics consolidation. So I would like for you to explain that.

I also would like to know whether you or Ms. Longmuir can explain for us the clause in the memorandum of understanding between American and United which states that if American grows to be 7.5 percent larger than United, United may then terminate the shuttle venture it has with American. Why was that provision necessary? What purpose does it serve?

I am also very curious, Ms. Longmuir. Why was American chosen to buy the 20 percent of US Air assets and have other joint ownership of the shuttle? And were other alternatives or alternative airlines considered for the purchase?

Mr. Wolf, I am also curious as to why American was chosen to be the one who received the 49 percent of the D.C. Air. Why wasn't that opened up to other low-cost airlines? So that is my curiosity at the moment.

Mr. Ris?

Mr. RIS. Sure. Thank you very much.

This is on your first question with respect to the global network implications. Several years ago, in order to facilitate the successful negotiations of open skies agreements with various different countries around the world, which was a laudable and desirable objective of the U.S. Government, the U.S. Government decided to try to induce other countries into signing these deals on the basis of allowing the immunized agreement between a foreign carrier, first one being KLM, and the U.S. carrier, the first one being Northwest—Northwest-KLM was the first—in order to allow the entry into the United States of the foreign carrier in sufficient levels in order to induce the country to have an open skies agreement with the United States.

At the time American was very opposed to this concept because it entails obviously co-chairing and behavior that otherwise wouldn't be acceptable under antitrust laws. We fought it for a long time. We fought it, and we lost.

It became a pattern of bargaining internationally with the U.S. Government. And, as a result, it resulted in the formation of global networks, one of which is the Star Alliance, one of which we now are part of which is called One World. And Delta has its alliance and Northwest-KLM have their alliance.

Mr. Wolf alluded to the fact that if you are today because of the global nature of our business not part of one of those alliances, you are at a significant disadvantage. In fact, that is where US Airways is today.

So that is what I was saying in terms of sort of affirmative U.S. policy, saying that network size is positive, has positive benefits, to the point of which we are going to immunize you from the antitrust laws.

With respect to the second question, which is what we call the so-called claw-back provision in the agreement between United and American, as you might expect, this is not something that American sought. American would prefer not to have such a provision, but in the give and take of negotiations, it was important to us if we were going to have a role in this deal to have at least a piece of the shuttle. The shuttle is really a very prime piece of property here that US Airways has, and it is a very important component of getting a market presence in the Northeast.

This was one of the conditions that United insisted upon and we agreed to as a condition of doing this. We felt like there wasn't much danger. We didn't have any particular desire to go out and acquire another company that would add 7 percent to our rpm. So we decided to go ahead and do it, but it was just a negotiated deal.

Ms. LONGMUIR. With respect to your third question, why was American chosen, were there any other carriers that were approached, I was not part of that process at United. I think Mr. Wolf may have known more about that.

My understanding is that we spoke to a number of different carriers, at least one other very large network carrier as well. There was an active negotiation.

Mr. BUYER. Thank you.

Mr. WOLF. On that point, Congressman Buyer, it came about as a result of a Justice Department review. They thought, the Justice Department thought, that D.C. Air had a viable businessman; would be a profitable company; and Bob Johnson would be a fine, superb owner. But there were two things he didn't like about it.

Initially D.C. Air would be leasing some aircraft from United. And the Justice Department thought there should be 100 percent sever in any relationship with United. And, two, although D.C. Air would be viable and profitable, it could be even more so and more competitive if it had some sort of a network carrier association strength, whatever, behind it.

Although D.C. Air talked to a number of airlines in the country and ultimately decided to sell 49 percent of it to American Airlines, which severs any United relationship completely, they will lease some aircraft from American, at least initially. And, two, they will have the strength of American's frequent flyer program and network behind them.

So, although D.C. Air will be flying effectively the same routes, they will have a strong network carrier supporting them. And they will be even a more vigorous competitor going north-south in the East.

Mr. BUYER. Thank you.

Mr. STEARNS. Ms. Cubin?

Ms. CUBIN. Thank you, Mr. Chairman. I just have a couple of questions.

This is for Ms. Longmuir: Of the $150 million that the company is investing for customer service improvements, how much toward regional air carriers in rural areas will you be spending?

Ms. LONGMUIR. Well, actually, this is not part of the $150 million, your reference to the cattle chute. We are actually in the process of doing a new terminal for regional express carriers at DIA with a completion deadline of 2003.

What is clear is that in the interim, what we are doing isn't satisfactory, but that is something that we have allocated from our airport affairs budget, if you will, better facilities for serving the regional express carriers.

Ms. CUBIN. That will greatly be appreciated. Another question that I would like to ask you and Mr. Ris: I keep hearing how these two mergers will raise the bar of competition in the East or relieve the competitive imbalance in the Northeast. That is good, but I wonder if there are any guarantees that you can make regarding the competitive imbalance existing in the West?

Ms. LONGMUIR. Well, with respect to service from the Western part of the country to the East, right now, United, we really can't offer you any kind of penetration or presence into the East Coast. So what we are hoping as a result of this merger is it will then give you opportunities to go perhaps to Boston, but you will have a variety of different hubs over which you can choose, O'Hare, perhaps Pittsburgh, perhaps Philadelphia, maybe even Charlotte.

But all of those go to the point of having competition, not only between the different hubs to get you to your ultimate destination, but then that also allows you as the passenger to fare shop and compete that ticket on other carriers, who can also connect you from perhaps an interior point. But within the United system, there will be a variety of different hubs over which you could flow to get to your endpoint on the East Coast.

Ms. CUBIN. And certainly we realize in Wyoming that the population in space is such that we aren't ever in my lifetime going to have direct flights and really don't expect them. So I appreciate the improvements that would be made.

Mr. Ris?

Mr. RIS. Yes, a couple of thoughts. One, I think with respect to American's role in the United-US Airways merger, to be candid, there is probably not a lot of impact in the Western United States that can be directly seen.

Ms. CUBIN. Right.

Mr. RIS. In terms of our acquisition of the assets of TWA and operating a hub out of St. Louis, there probably are because TWA and its express carriers serve a lot of the smaller communities, albeit it is a little bit of a stretch to Wyoming.

One of the things that I think you raised—and it is really interesting in the context of this Committee and something that we have really been thinking a lot about—is whether Congress and the administration and the industry, the consumer groups, and everybody should be reevaluating this essential air service concept.

I mean, this is a concept that is as old as deregulation. It was 1978. And it is funded at 1978 levels. And it has got a concept, the very concept itself, essential air transportation, is something that is somewhat debatable because we understand that air transportation is about largely economic development. And we have this total chicken and egg syndrome, where communities come and say: If you will serve our community, we will be able to grow business, and you will thrive.

But we come in and say: If you have business, we will serve your community. It is this back and forth kind of a thing.

Now, this is a Committee that deals with telecommunications. And there is a concept in telecommunications, as I understand it, universal service. I am not advocating that necessarily, but I think it is time to have an explicit debate about where we are in this because there are parts of the country, as you point out, that are probably not going to get service, nonstop service, to New York or Chicago or something that may very well as a matter of national policy—maybe we should be looking at a system in which we have a more robust way of, for lack of a better word, subsidizing or incentivizing or providing service that is even above, essential, but comes into the sort of necessary service in order to attract economic development.

I think we are thinking about different ways of approaching this. And we would like to share ideas on that as we move forward because I think you have hit on a very, very interesting potential public policy issue.

Ms. CUBIN. Thank you.

Mr. STEARNS. I thank my colleague.

Mr. Rush, you said you wanted an additional 30 seconds?

Mr. RUSH. Yes. Mr. Chairman, thanks so much.

I would like to ask Mr. Wolf. Mr. Wolf, how long have you been in the airline industry?

Mr. WOLF. My entire adult life.

Mr. RUSH. Your entire adult life. Have you ever witnessed, have you ever seen an opportunity for a minority to become an owner of a major airline in your past experiences? How often do these types of opportunities——

Mr. WOLF. Well, there was one 25-30 years ago in Atlanta I think that involved 2 or 3 aircraft. It struggled and did not succeed.

Congressman Rush, I personally brought this opportunity to Mr. Johnson. He serves on our board of directors. I am enormously impressed with Mr. Johnson.

I must add that part of it deals with my own upbringing. I grew up in East Oakland, California, very significant minority population. I thought this was a tremendous opportunity for Bob and for Bob to be a role model in an industry in which there are no African Americans of any stature at all because they don't seem to be anywhere in the industry, quite frankly.

Mr. RUSH. So this opportunity to diversify the ownership is an opportunity that doesn't come about quite often.

Let me ask this one question, one final question, here. Is there anything extraordinary or out of the ordinary or is there anything unconventional about this type of deal that was put together with D.C. Air in terms of corporate mergers, in terms of business, how business operates within——

Mr. WOLF. Good question. There is one absolutely extraordinary difference in the creation of D.C. Air as a new startup airline in the country. And the most recent would be JetBlue. It started, I believe, with two airplanes and served two cities. The creation of D.C. Air involves 44 cities, National Airport in Washington, DC and 43 others, that come online effectively almost overnight.

Because that is the case and because Mr. Johnson today does not know whether he is going to own D.C. Air or not because he doesn't know whether the Justice Department and the Attorneys General are going to approval the transaction, I mean, he can't prudently go out and start buying airplanes and hiring pilots.

He will find out if this is going to be approved and, indeed, worked out with the Justice Department. And 90 to 120 days later, this airline has got to convert from existing services that United will have to perpetuate, our services, until he can take over.

It is an extraordinary undertaking, never before happened in the history of the industry.

Mr. RUSH. Thank you. I will yield back.

Mr. RIS. May I say that is precisely why he needs a partner like American or AirTran or somebody who is in the business who can do it. And let me just add we at American are immensely proud to be affiliated and associated with Bob Johnson. He is a class act. And it is a source of great pride to us.

Mr. RUSH. Thank you.

Ms. CUBIN. Mr. Chairman?

Mr. STEARNS. Yes?

Ms. CUBIN. Just a brief remark.

Mr. STEARNS. Sure.

Ms. CUBIN. I am unfortunate in that I don't know Mr. Johnson. I don't believe that I have ever met him. But I would certainly hope that if someone decided they weren't in support of the merger, that it would in no way be interpreted as not wanting to diversify ownership to minorities.

I am a member of a minority in several ways. So I certainly hope that it wouldn't be construed to be that.

Mr. STEARNS. Duly recognized. Let me conclude the hearing by just saying, quite frankly, all of us up here are public servants. We are here for our constituents. I counted up just under 30 members came in and out of this hearing. It has been a long hearing for you. But, frankly, when you go back to your office tomorrow and you folks are making a lot more money than we are, you are doing a public service yourself, maybe perhaps not you, you are doing a public service yourself in being here.

And so I hope that you participated and realize how important it is to have your participation. We thank you sincerely, and the subcommittee is adjourned.

[Whereupon, at 3:10 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows:]

PREPARED STATEMENT OF HON. GREGORY W. MEEKS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Chairman Stearns, Ranking Member Towns, and other distinguished Members of the committee, thank you for the opportunity to submit my testimony. I seek to go on the record because of the tremendous impact aviation has on my district's current and future economic welfare, as well as the significant role aviation has on our country's economic and national security infrastructure.

For the record, I understand and share some of the concerns expressed regarding consolidation in the airline industry. Since I was elected to Congress three years ago, I have fought vigorously for service to smaller communities and increased competition. Despite much opposition from local elected officials in New York City as well as civic organizations in my district, I successfully brokered a compromise in the historic AIR-21 legislation that increased service opportunities to upstate New York and other under-served destinations around the country from both New York City airports.

Furthermore, I worked tirelessly with former Secretary of Transportation Rodney Slater and Senator Schumer to get Jet Blue the regulatory approval to operate out of John F. Kennedy International Airport, which lies in the center of my congressional district.

My record on aviation issues has been well-balanced against the interests of consumers, employees, airlines, labor, communities that neighbor airports and environmentalists.

However, the announced agreements between United Airlines and US Airways as well as American Airlines successful acquisition of TWA's assets have my strong support because I believe that both deals will increase domestic competition, continue air service to communities that now have service, and protect the jobs and retiree health and pension benefits of thousands of current and former employees. I judge each deal on a case-by-case basis weighing the merits and public interest benefits. That is why I am very pleased that the bankruptcy court, as well as the U.S. Justice Department approved the American-TWA transaction. This was the right course of action, saving thousands of jobs and preserving the economic interests of the communities TWA serves. It is my hope that the Members of this committee, as well as the Justice Department will come to the same conclusion with the United-US Airways proposal and quickly approve this deal. US Airways is a financially-distressed airline and immediately needs the financial and operational help United Airlines will provide.

In the United-US Airways proposal, consumers, employees, creditors and other stakeholders will benefit from not having a financially-distressed airline go out of business like their former counterparts Pan Am, Eastern, and Braniff.

It is important for you to recognize the economic impact of having an airline go out of business. My district still suffers from the devastating economic losses of Eastern Airlines and Pan American World Airways. In both cases, the court allowed the airlines' assets to be liquidated to the highest bidder. It resulted in the two airlines' competitors acquiring Eastern and Pan Am's most prized routes. However, it also resulted in thousands of permanent displaced workers, who, in many cases, were employed by one of the carriers for more than 30 years. This action by the bankruptcy court left those American workers without a job and no benefits after a lifetime of service and dedication to Eastern or Pan Am.

Despite the claims by opponents that are being made against the announced merger agreement, if you look back closely to the Eastern and Pan Am case, you will see a contradiction to the argument being made against the United-US Airways deal. Eastern and Pan Am's competitors achieved greater market concentration with their newly acquired assets from two liquidated defunct-airlines. Mr. Chairman, how did this increase competition? It did not. As I stated earlier, it only resulted in the employees and retirees of Eastern and Pan Am being hurt the most. We must not repeat that mistake again!

Let me be very clear, the proposed agreement between United-US Airways is in the public interest. As a recent New York Times editorial said: "Travelers in the Northeast will probably see more competition as a result of this agreement." I agree. For example, these deals will bring a strong third competitor in the lucrative Boston-NewYork-DC shuttle market. Meanwhile, the nationwide competitive impact will be enhanced greatly. For example, United's Charlotte hub will compete more vigorously with Delta's Atlanta hub, United's Philadelphia hub will compete more vigorously with Continental's Newark hub, and American's St. Louis hub will compete more vigorously with Northwest's Minneapolis hub. The Northeast market which is currently dominated by Delta, Continental and US Airways will receive new competition from United and American Airlines as well as the new-entrant carrier—DC Air—created only if the United-US Air deal is approved.

Meanwhile, the DC Air/American deal will also ensure strong competition between United and DC Air in the Washington, DC region. DC Air's agreement with American Airlines also ensures the initial success of DC Air as an independent entity with a lower cost structure which can be translated into lower fares for the consumers which will be served on the 45 routes by DC Air.

The DC Air/American Airlines partnership enables DC Air to move from a virtual airlines which it must remain until the United/US Airways merger is approved, to a fully operational airline serving some 45 communities from Washington National Airport overnight. It ensures that the commitment which DC Air has made to uninterrupted service to these communities will be kept.

On a personal note, I am honored to support this endeavor by Bob Johnson. Bob has made significant contributions to the African-American community and our country. I enthusiastically welcome his entry into the aviation industry for three reasons: First, as a businessman, Bob has successfully demonstrated time-and-again, that he can efficiently and effectively manage an organization from the ground-up.

Secondly, Bob Johnson is a man of the highest character and integrity. He would be a welcome addition to an industry that once-upon-a-time, not too long ago, was represented by two individuals whom I believe have the lowest of character and no integrity. Two individuals who intentionally bankrupted successful companies for their own personal gain. And finally, this transaction represents the first minority-ownership of an airline in 30 years.

Let me also add my remarks regarding some of the proposed ideas regarding these transactions. Some interest groups, certain airline executives, as well as some of my colleagues have suggested that if the United-US Airways deal is approved it should be so only if "slots" are taken away from United/US Airways/American or DC Air at Washington's Reagan National, JFK or LaGuardia Airports. This is bad public policy and something I strongly oppose. I have said on many occasions that the redistribution of slots is fundamentally unfair. Slots were imposed on the airlines by Congress in the late 60s. Since today's largest slot holders are airlines that invested heavily at the slot-controlled airports or acquired their slots through mergers or acquisitions, it will be inequitable for Congress, the Justice or Transportation

Departments to redistribute slots to new entrants or smaller carriers under the false premise that this action will promote competition. What happens to airlines like Delta who is currently investing $1.6 billion at JFK; or American who is currently investing $1.4 billion at JFK; or United who is currently investing more than $700 million at JFK? These airlines are assuming large amounts of risk with no guarantee that they will receive a return on their investment. Is it fair that we take some of their most valuable assets and redistribute them to some of their competitors? Meanwhile, for example, what will happen if slots are given to smaller carriers like an Air Tran at National and LaGuardia airports and Air Tran goes out of business?

In a market-driven economy, the airlines that own the slots should have the right to sell, lease, or use them however they feel it best fits in their business plan. If a new entrant or small carrier wants take-off and landing rights at a particular slot-controlled airport, they should pay the current market-price if the slot owner is willing to sell. That is how a deregulated environment is designed to work—not through artificial advantages imposed by policymakers or regulators reacting to pressure from certain special interest groups.

In conclusion, thanks again for the opportunity to submit my written testimony. I hope that this distinguished committee sees the many public interest benefits of the United-US Airways, the recently approved American-TWA, as well as the DC Air transactions. Fostering an environment that allows low-cost carriers such as Southwest, Jet Blue, DC Air and others to grow alongside the global network, full-service major airlines is the best means to encourage competition and affordable air travel.

SCOTT McINNIS
3D DISTRICT, COLORADO

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COMMITTEE ON RESOURCES

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March 20, 2001

The Honorable Cliff Stearns, Chairman
The Honorable Ed Towns, Ranking Member
Subcommittee on Commerce, Trade and Consumer Protection
United States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Stearns and Ranking Member Towns:

Thank you for the opportunity to submit, for the record, the following letter and attached report on airline competition. I sent the letter and attached report to the Department of Justice, last week, to draw attention to what I see is an enormous impact on the nation's and Colorado's consumers that several hub airlines, especially United Airlines, have made as they gain market share and establish impenetrable hubs.

The letter and report speak for themselves, so I won't restate the contents here. Rather, I invite you to read the material and make your own judgment. I am pleased the Committee on Energy and Commerce has taken this opportunity to hold a hearing on March 21, 2001 on airline mergers and the impact on consumers. The materials I am submitting present a well-documented case that United Airlines' market dominance, particularly at Denver International Airport, has only hurt the service provided to consumers' and their pocket book. I believe that only vigorous competition in the air travel market will ensure consumers have a full menu of options and receive the best service for the best price. It is because of the detrimental impact on consumers and the economy of Colorado that I chose to oppose the United Airlines and U.S. Airways merger, as well as call for the Department of Justice to look into United Airlines' control of the air travel market at Denver International Airport.

Thank you again for this chance to offer my comments for the record.

Sincerely,

Scott McInnis
Member of Congress

Attachments: as stated.

SCOTT McINNIS
3D DISTRICT, COLORADO

COMMITTEE ON WAYS AND MEANS

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March 14, 2001

Mr. John Nannes
Acting Assistant Attorney General
Antitrust Division
U.S. Department of Justice
Washington, DC

Dear Acting Assistant Attorney General Nannes,

Thank you for your attention to this correspondence concerning the rapidly declining state of competition in the airline industry. I am writing for a number of reasons: (1) to express my dissatisfaction with the widespread shortage of meaningful competition in the airline industry; (2) to signal my deep-seated opposition to the proposed merger between United Airlines (United) and U.S. Airways (US Airways), based on the chilling effects it would have on competition in an industry where consumer choice is already conspicuously limited; (3) recognizing that the Department of Justice (DOJ) may in fact approve the United-US Airways deal and other pending mega mergers in the industry – in spite of all compelling evidence weighing against these transactions – I will recommend specific "conduct remedies" that DOJ should insist upon as a precondition of approving any major acquisition; and (4) to request that DOJ conduct an immediate antitrust inquiry at DIA probing the legality of United's monopoly market power and its anti-competitive behavior.

COMPETITION IN THE AIRLINE INDUSTRY

From the vantage of consumers, the state of competition in the airline industry is at an all-time low. For proof, you don't need to look any further than the condition of airline travel last summer and early fall, a travel season considered by many to be the worst in recent memory. The vast majority of passengers who traveled during this period encountered outrageously long ticket lines, protracted flight delays, chronic cancellations, and lost or misplaced baggage. Airline travel across the nation was an unmitigated disaster. I could literally fill your office with letters I've received from constituents who missed a brother's wedding, or a grandparent's funeral, or families who spent their vacation at Denver International or Chicago O'Hare instead of Disneyland.

Frustratingly, this dramatic decline in quality of service coincided with an increase in the price of airline fares. While some view this inverse relationship as economically counter intuitive, it's not. In fact, the trend is not at all uncommon in sectors where market share is overwhelmingly controlled by one or a few vastly powerful market players. This seemingly incongruous relationship, where price is on the upswing as service diminishes, is the result of a monopoly. In my opinion, that's exactly what we have in the airline industry – regional monopolies that exert undue control over air travel in America.

In the last 20 years, the airline industry has become entrenched in the hub-and-spoke network, a system that the major carriers have perniciously, if adroitly, used to broaden and solidify their market base by warding off competition. Paul Stephen Dempsey, a leading expert in Transportation Law who heads up the University of Denver's Transportation Law Program, describes the origins of the hub-and-spoke system, and the competitive advantages that major carriers derive from it, like this:

> Since deregulation, all major airlines but one (i.e. Southwest) have gravitated to the hub-and-spoke means of distribution. Though hubbing increases costs by lowering aircraft, gate and labor utilization and increasing fuel consumption, airlines have been attracted by their revenue enhancement potential. According to Lehman Brothers, 'Airlines that control a greater percentage of their hubs' gates obtain significant benefits in terms of scheduling and flexibility and insulation from new competition.' Adding a spoke to an existing hub geometrically increases the number of city-pair markets an airline can sell, and adds incremental connecting passengers to other spokes at the hub, thereby improving load factors. Hub dominance also enables the dominant airline to increase the number of city-pair monopolies that radiate from the hub, allowing monopoly fares to be imposed on origin-and-destination passengers.[1]

The acute ability of the major carriers to manipulate this hub-and-spoke framework has transformed the once competitive airline industry into one that is concentrated in the inordinately powerful hands of companies like United, American, Delta and Northwest. According to the Herfindahl-Hirschman Index (HHI), the widely accepted measure of market concentration employed by DOJ when considering antitrust actions, 32 of America's 50 largest airports are deemed "highly concentrated." By "concentrated" it is meant that there are a relatively small number of competing entities in a given market, leaving one immensely powerful player to dominate market activity. According to this yardstick, markets in which the HHI is in excess of 1800 points are considered to

[1] Paul Stephen Dempsey: Airport Monopolization & Megacarrier Predation: Barriers to Entry and Impediments to Competition (June, 2000).

be highly concentrated.[2] Here's how some of America's most traveled airports measured up: Dallas Love Field -- 8,985; Charlotte – 8,124; Pittsburgh – 7,464; Denver -- 4,671; Philadelphia – 4,574; Washington Dulles – 3,683; San Francisco – 3,487; Chicago O'Hare – 3,469. These airports range anywhere from 2 to 5 times the level deemed highly concentrated by the DOJ.[3] These numbers illustrate both the raw strength of major carriers and the lack of meaningful competition in our nation's major airports.

The numbers are even starker when you consider the market share that airlines control between some of America's largest city-pairs. For example, United controls 77.63% of flights between Denver International Airport (DIA) and Chicago O'Hare Airport -- both United hubs – while American controls 80.87% of travel between Boston and its hub in Miami.[4] Worse still, US Airways is responsible for 99.7% of the flights between Pittsburgh and Los Angeles.[5] Viewed more broadly, American Airlines controls 70% of all passengers who travel nonstop in city-pairs based out of Dallas Fort Worth, an American hub.[6] Similarly, Delta Airlines, the nation's third largest carrier, controls 79.3% of flights between cities served out of its Atlanta hub. Needless to say, passengers flying in this market environment don't have the luxury of choosing another airline, even when service is unreliable or fares reach unreasonable levels. In situations like these, which are the rule and not merely exceptions to it, travelers are at the whim of the major airlines' bottom line interests.

Not surprisingly, the raw monopoly power of the major airlines has had a textbook effect on the price of air fares and on the quality of service rendered. According to Mr. Dempsey, "Every independent study of pricing (that is, every study not underwritten by the major airlines) of pricing at concentrated airports reveals a significant monopoly premium being charged consumers – a 27% premium according to GAO or a 19% premium according to the Department of Transportation."[7] At the same time, flight delays and cancellations continue to surge at inexcusably high levels. According to the Department of Transportation's December 2000 figures, nearly 40 percent of flights executed by United and American, the nation's two largest carriers, did not arrive on time. Worse, 1 in 10 American flights and 1 in 14 United flights were cancelled during that same period.[8] Last year, amid the travel chaos of summer and fall, United cancelled an astonishing 700 flights nationwide in the period of one weekend,

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[2] U.S. Department of Justice and the Federal Trade Commission: Merger Guidelines § 1.51.
[3] CIBC World Markets: Airline Competition at the 50 Largest U.S. Airports – Impact of Proposed Mergers
[4] AviationDataBanks.com
[5] General Accounting Office
[6] U.S. v. AMR Corporation (Civil Action No.: 99-1180-JTM): Complaint (May 13, 1999).
[7] Paul Stephen Dempsey: Airport Monopolization & Megacarrier Predation: Barriers to Entry and Impediments to Competition (June, 2000).
[8] U.S. Department of Transportation: Air Travel Consumer Report (February 2001).

including 180 out of DIA.[9] These numbers are directly attributable to the out-and-out lack of competition in this sector.

I want to briefly explore one important corollary to the competition issue. As you know, four of the industry's most widely used carriers are currently entangled in high-stakes labor negotiations, each of which run the risk of deteriorating into massive strikes in the immediate future. Just this month, President Bush took the unusual step of ordering Northwest Airline's mechanics to keep working during a 60 day cooling-off period in negotiations with management, just as Northwest's 8,000 mechanics readied themselves for a strike. The President's affirmative leadership in preventing an immediate walkout deserves real credit, but there is no guarantee that the mechanics won't move forward with their strike plans when the 60-day period expires. Similarly, United is at an impasse with its mechanics, who are carefully monitoring progress in Northwest's contract negotiations as they plan their own course of action. If Northwest's mechanics ultimately strike, United's mechanics could well follow suit. Negotiations between Delta Airlines and its pilots reached critical mass recently when the union voted to authorize a strike if a settlement with management is not reached soon. And American Airlines is at loggerheads with its flight attendants, with labor threatening to strike if progress does not materialize soon.

Labor-management conflict is an unavoidable part of any business, but the problem in the airline industry is seriously complicated by the lack of real competition. If consumer's had a choice in airline providers between city-pairs, the implications of a mid-summer strike by four of the major airlines would be less ominous. As it is, with airline competition virtually non-existent in most places, travelers stand to suffer another season of delays, cancellations and inconveniences unless all of these labor disputes are promptly settled, a proposition that seems unlikely. The problem here is obvious: by excluding viable competition in most major airports, the airline industry leaves itself – and consumers – gravely vulnerable to the normal give-and-take of the business world, including labor-management disputes.

Of course, an airline controlling massive sums of market share, in and of itself, does not constitute a monopoly. It's the major airlines' predatory means of protecting that vast market share that raises serious legal questions.

While all of the major airlines have implemented exclusionary schemes in one form or another to preserve their market standing, none have done so more methodically nor brazenly nor effectively than United. Nowhere has this been clearer than in the State of Colorado.

[9] Susan Carey: "United Grapples with Summer of Widespread Discontent," Wall Street Journal (August 8, 2000)

At DIA, United has effectively strangled out competition from carriers that, in a fair and open competitive environment, would otherwise prove viable. In response to competitive threats at DIA over the years, United has implemented an array of predatory techniques that have effectively removed meaningful competition from the hub. In so doing, United has built itself a Denver-based monopoly.

The carriers most widely-used and effective anti-competitive practices, generally used against low cost jet carriers that enter DIA and other United hubs, are the following: (1) add sheer capacity and flight frequency to deny competitors realistic or achievable break-even load factors; (2) drop prices to below cost levels, a viable ploy because the carrier cross-subsidizes any short-term losses with the robust earnings achieved at other hub monopolies; (3) refuse competitors nondiscriminatory access to its network, thus allowing the carrier to monopolize the connecting passenger market flowing into its hubs; (4) bias its computer reservations system against more convenient competitive offerings; (5) paying travel agents commission overrides to steer business to United and away from competitors; and (6) enter into "exclusive dealing" arrangements with corporate purchasers.[10] A seventh technique, typically employed before the previous six, is that United enters into sweet-heart agreements with affected airport authorities that give the carrier broad influence over key operational decisions at its hubs.

Armed with these techniques, United has, for all intents and purposes, snuffed-out competitive threats from carriers that lack the market strength and resources to resist United's heavy-hand. As of the end of 1999, United controlled 68.8% of air travel out of DIA, giving it near complete control of air travel in and through the Rocky Mountain West.[11] With it, has come unbridled monopoly power and the ability to raise prices and erode service in any manner it sees fit.

As Adam Smith noted long ago, a "monopoly is a great enemy to good management."[12] Airline travelers who have been forced to endure United's monopoly at DIA would no doubt agree with Smith's assessment.

THE UNITED – US AIRWAYS MERGER

Given the fundamentally dismal state of competitive choice in the airline industry today, it would be unwise, imprudent and contrary to the best of interests of airline travelers in America for DOJ to approve the proposed mega merger between United and US Airways, the world's first and sixth largest airlines respectively. The newly formed carrier (new United) would control nine hubs, controlling over 50% of market share in seven. Nationally, the proposed merger

[10] Paul Stephen Dempsey: Unfriendly Skies Over Colorado: United Airlines' Fortress Hub Monopoly at Denver
[11] CIBC World Markets: Airline Competition at the 50 Largest U.S. Airports – Impact of Proposed Mergers
[12] Adam Smith, Book 1, Chapter 11, Wealth of Nations

would increase industry concentration by an alarming 26%. Already beset by a competitive vacuum, the last thing this industry needs is to strengthen the standing of any member of America's airline oligopoly, including United.

Specifically, I oppose the merger for three reasons.

First, the United-US Airways merger would broaden United's market strength at DIA, which in turn would have a direct negative effect on competition between specific city-pairs controlled by new United out of DIA. For example, new United would account for 97% of flights between Denver and Philadelphia, as opposed to 64% currently.[13] Likewise, United would gain control of 98.3% of the Denver to Pittsburgh city-pair, and 99.4% of the Denver to Charlotte market. Taken together with the fact that United would continue to execute 77.63% of flights between Denver and Chicago, 86.5% of flights between Denver and L.A. X, 89.2% of flights between Denver and San Francisco, and 85.4% of flights between Denver and Seattle, it becomes clear that this merger would consolidate too much market power in one airline carrier, especially one that has been justifiably described as a "wealth maximizing monopolist."[14] Further underscoring that point, recent HHI estimates show that market share consolidation for new United at DIA would increase 4.6% over its present level if the US Airways acquisition moves forward.[15] While this number pales in comparison to the increase that other airports would experience under the merger -- for instance, Washington Dulles' relative consolidation with new United would increase an astounding 51.5%-- this amplification of market consolidation at DIA would nonetheless perpetuate United's monopoly power in the West.

Let me be clear: any transaction that strengthens United's monopoly force at DIA, no matter how big or small, would be harmful to the interests of travelers. The government's actions should be focused on loosening United's monopoly, not enhancing it.

Second, from a macro-economic perspective, the merger also raises a number of elemental concerns. As I noted earlier, United has proven prolific in cross-subsidizing losses incurred while engaging in anti-competitive practices, notably increasing frequency of flights between city-pairs and artificially underselling the competition at a price below cost. Because of its aggregate profits, United can afford to take a financial hit in the short-term toward the end of crowding out competition in specific city-pairs. In fact, from United's monopolistic perspective, it's a sound and perfectly rational investment. Once these predatory schemes work their will and competition in a city-pair is expunged, United knows it can quickly exceed its losses by raising fares to a level above of what a normal competitive market would bear. According to Mr. Dempsey, "United and its code-

[13] Source Data from General Accounting Office
[14] Paul Stephen Dempsey: Unfriendly Skies Over Colorado: United Airlines' Fortress Hub Monopoly at Denver
[15] CIBC World Markets: Airline Competition at the 50 Largest U.S. Airports – Impact of Proposed Mergers

sharing 'United Express' affiliates . . . have been extremely successful in recovering short term losses (incurred by under-selling competition) by raising fares sharply in markets which competitors have exited."[16]

With this understanding, it would be a fundamental error for the DOJ to consider the merits of this merger solely on a city-to-city basis. By strengthening its overall market presence, which in turn promises to bolster the carrier's bottom-line earnings, United will have an enhanced ability to stymie competition in every airport it serves by under-cutting and under-selling the competition. Because new United would doubtlessly encounter increased profits, the carrier could afford to under-cut and under-sell competition more often and in more places than in the present.

One other critical macro-economic consideration -- my third reason for opposing United's acquisition of US Airways – is the unsettling flurry of mega mergers that the United-US Airways deal has and likely will continue to trigger. In a recent report evaluating the merits of the merger, the General Accounting Office encapsulated the problem like this:

> . . . New United would so alter the existing balance in the domestic market that, for the other major U.S. airlines to compete successfully, they would have little or no choice but to consolidate as well . . . According to an analysis performed for one of the airlines, new United would have 97% more daily departures than its closest competitor, Delta (8,401 compared with 4,260). An analysis for another airline using available seat miles showed that the new United would be almost 50 percent larger than its closest competitor (American). Consequently, the officials said that unless their airlines also merged, they would be unable to compete with the new United.[17]

This warning of a chain reaction turned out to be more than idle speculation on the part of GAO. Earlier this year, in the wake of the United-US Airways announcement, American Airlines, the nation's second largest carrier behind United, announced its plan to acquire the nation's eighth largest airline, Trans World Airline. To help smooth the way for the United merger now pending before DOJ, and in turn bolster its own strength in a number of city-to-city markets, American has agreed to acquire 20 percent of US Airways, including select planes, gates and landing slots. "American would take a major stake in US Airways' shuttle service serving New York, Washington and Boston in addition to a nearly 50 percent stake in start-up airline DC Air. By sharing the US Airways Shuttle with United and buying a large stake in DC Air, American will be helping

[16] Testimony of Paul Stephen Dempsey, House Committee on the Judiciary (November 5, 1997)
[17] General Accounting Office: Aviation Competition -- Issues Related to the Proposed United-US Airways Merger (11).

United make the case to regulators that United's purchase of US Airways will not destroy competition in the Washington market."[18]

As an important aside I wonder, does it strike DOJ as curious that America's two largest carriers -- companies that are purportedly competitors -- are now working arm-in-arm with another to gain government approval of their respective acquisitions? It shouldn't. American is anxious for the United merger to move forward because it creates the illusion that an enlarged American is needed to compete with new United. But since the airlines' infrequently compete with one another in specific city-to-city markets, almost never competitively engaging one another in their respective hubs, DOJ should reject this transparent assertion out of hand. American's acquisition of TWA in no way mitigates the negative consequences that the proposed United merger would bring into being. Simply put, a stronger American together with a stronger United still spells big trouble for the air traveling public.

Further compounding the situation, if government regulators approve the now excessively entangled United and American acquisitions, Delta, the nation's third largest carrier, will have little choice but to make a bid for either Northwest or Continental, the country's fifth and sixth largest carriers respectively. "Other airlines will be forced to combine, be carved up, or be put out of business by the onslaught brought on by the United and American cartel," according to Continental Chairman and CEO Gordon Bethune.[19] If Delta were to acquire either Continental or Northwest, the top three carriers would control nearly 85 out of every 100 U.S. airline seats. Currently, the top three carriers control 56% of U.S. traffic.[20]

If these and other as yet unborn mergers are allowed to move forward, the nation's airline landscape will be almost entirely dominated by three or four regional cartels, and the only thing more uncommon than consumer choice will be an inexpensive airline ticket.

This looming wholesale consolidation in the airline industry, set into motion by the United-US Airways merger, is categorically not in the best interest of consumers. It is a nightmare scenario for the American airline traveler that DOJ should kill in its tracks, consistent with its duties under federal antitrust law. For these reasons, again, I urge the DOJ to block implementation of the United-US Airways merger, and all subsequent and inter-related mergers that would unduly alter the competitive landscape in the airline industry.

(Note: The empirical case against the United-US Airways merger is explored in greater depth in the report)

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[18] Greg Griffin: "American Airlines' deal to buy Trans World Airlines and some US Airways assets may include a perk for Denver travelers." The Denver Post (January 9, 2001).
[19] Daily Reports for Executives: "United, American Deal Called Major Threat to Success of U.S. Airline Deregulation." Nancy Ognanovich (February 8, 2001).
[20] Time, "Slicing Up the Sky." John Greenwald: February 20, 2001

PROPOSED REMEDIES

Having signaled my strong opposition to further consolidation in the airline industry, let me say this: if DOJ moves in the direction of approving the merger, it should impose strict sanctions on the arrangement, in the form of conduct remedies, to ensure basic standards of fairness and competition on markets otherwise susceptible to United's anti-competitive disposition. If left to its own devices, United has proven time and time over that it will use its overwhelming marketplace muscle to smother competition. If it is to approve the merger, then, DOJ would serve the interests of the American traveler best by mandating as a precondition of approval that United desist in using various predatory techniques that have and will continue to stifle meaningful competition so long as they are used.

The following conduct remedies provides a baseline set of criteria that would, if implemented, reduce barriers to entry for would-be competitors in the airline industry. I know that DOJ is considering other forms of relief – including additional conduct remedies and forced divestitures -- and I strongly encourage you to explore all of these to the extent they lessen United's market strength and promote competition in this sector.

Code-Sharing and Baggage Agreements.

United has effectively monopolized connecting traffic at DIA and other hubs by refusing competitors access to its code-sharing and baggage network. DOJ could diminish United's monopoly strength by compelling United and its so-called "alliance" partners to open up their code sharing and baggage networks as a condition of the merger's approval.

In brief, code sharing is a commercial agreement between two or more carriers that allows an airline to put its two-letter identification code on the flights of another airline as they appear in the computerized reservations systems (CRS), the network of airline reservation computers used by travel agents to book flights.[21] Code sharing arrangements generally include joint baggage agreements, through which the cooperating airlines agree to process one another's baggage on connecting flights.

Code sharing and baggage agreements establish de-facto alliances between the carriers, coalition's typically consisting of smaller commuter carriers teaming up with a larger carrier like United. Generally, the major carriers enter into code sharing and joint baggage agreements with smaller commuter carriers that service outer-lying rural areas as a means of controlling the connecting flight markets into its hubs from more remote locations. At the end of 2000, United had code sharing and baggage agreements with Air Wisconsin, Atlantic Coast

[21] U.S. Airways (www.US Airwaysways.com)

Airlines, Great Lakes Aviation, Gulfstream International, and Sky West Airlines. United's alliance partners typically operate under the alias "United Express."

Since deregulation, United has aggressively maneuvered to establish exclusive alliances with smaller airline companies around the nation, building a vast feeder network that has given United near total dominance of connecting traffic through its hubs. United has systematically denied competitors access to these agreements.

The anti-competitive implications associated with United's refusal to enter into code sharing and baggage agreements with competing airlines are numerous, but I will focus on two. First, the CRS has a built in bias against connections which do not share a designator. Remember, under their code sharing alliance, United and United Express share a two letter designator. The practical effect of the bias is that United Express flights connecting with United flights receive a significantly higher priority in the CRS than, say, a United Express flight connecting with Frontier. When booking flights, then, travel agents view the United Express–United connection as the best connecting alternative and usually book tickets accordingly. Even though United and United Express are two distinct companies – to the same degree that Frontier and United Express are independent corporate entities – they are treated as the same by the CRS because of their code-sharing agreement. "Without a code sharing agreement, the United-Frontier connection is shown as what it truly is – an interline connection between United and Frontier. Unfortunately, the CRS system of which United is principal owner saddles the displays of all interline connecting flights with the equivalent of an artificial and astounding 24 hours, which is added to the true elapsed time of the flight."[22] This capricious quirk in the reservation system takes a tremendous toll on non-alliance carriers, like Frontier, seeking to viably compete at the hub of a major airline.

Second, by barring their United Express alliance partners from entering into joint baggage agreements with other carriers, United has established an enormous competitive barrier that, too often, potential competitors cannot exceed.

Think of it from the perspective of the passenger. Let's assume a passenger is flying from Grand Junction, Colorado to Washington, DC via Denver. The passenger will fly to Denver on United's code sharing partner United Express, the only carrier from Grand Junction to DIA. From Denver, the passenger can choose to connect to Washington on either United or Start-Up X, assuming they know about the CRS bias against Start-Up X. If the passenger chooses to fly Start-Up X, he will be forced to pick-up his baggage at DIA and re-check it at Start-Up X's counter, again, because United will not allow United Express to process Start-Up X's baggage under the terms of their exclusive code

[22] Paul Stephen Dempsey: Unfriendly Skies Over Colorado: United Airlines' Fortress Hub Monopoly at Denver (page 14).

sharing agreement. At DIA, as with many other airports, this is no small challenge because the baggage check and concourses are in completely different structures. If, on the other hand, the passenger chooses to fly United, the passenger can simply deplane at DIA and re-board on the Denver-Washington flight, thanks to the reciprocal baggage agreement that allows United Express to directly transfer the passenger's baggage on the connecting United flight.

In this environment, it seems highly improbable that a consumer would ever choose Start-Up X over United when connecting through Denver. Even if Start-Up X's fares are less costly than United, it is unlikely that the passenger would opt-against United when connecting under these all too common conditions.

It is plainly evident that United's exclusive code sharing alliances are a principal obstacle to real competition at major airports like DIA. It is equally clear that United denies non-discriminatory access to its code sharing network for the express purpose of choking-off the competition of carriers like Frontier. If these barriers were stripped away by DOJ as a precondition of approving the United-US Airways merger, start-up carriers could more viably compete with United in the connecting traffic market.

Forcing United to open up its code sharing system is not without precedent in other industries. In the 1980's, DOJ forced AT&T to divest itself into seven regional holding companies, and one long distance carrier. This, after AT&T lost a multi-million dollar lawsuit to based on its refusal to allow MCI nondiscriminatory access to its network.[23]

The comparison is a sound one. Like AT&T, United is denying all existing and potential competitors access to its network – in United's case, access to its code sharing network. And like AT&T, United will continue to enjoy broad predatory power until the DOJ puts the clamp on the company's anti-competitive practices. The time has come for DOJ to do exactly that.

I urge DOJ to do everything in its power to forcibly open United's code sharing and baggage network. Moreover, DOJ should insist that United and the other major carriers retool CRS so that a computer quirk doesn't undermine meaningful competition.

Gate Availability

According to the Competition Plan for Denver International Airport, submitted September 6, 2000, DIA has thirteen common-use gates available for airline use (page 16). However, eight are designated as international use gates on Concourse A, and four are designated as domestic located on Concourse C.

[23] Ibid., page 13

That leaves only one gate designated domestic use on Concourse A, which is where United Airlines' competitor Frontier Airlines is based. This leaves very little room for Frontier or other carriers to grow without significant costs of construction. While there currently is gate availability at DIA, no one competitor should effectively prevent expansion of other competitors from expanding into the nearby gates, by leasing all gates available for expansion in a concourse and forcing a huge capital cost on competitors wishing to expand.

I urge DOJ to ensure that gates remain available to all competitors at DIA and other airports, and that no airline takes actions that have the effect of preventing reasonable expansion and competition by other airlines.

ANTITRUST REVIEW OF UNITED AT DIA

It is an indisputable fact that United controls a regional monopoly at DIA. As I have demonstrated in the preceding pages, meaningful competition is virtually non-existent out of Denver according to every measure. The logical consequence of this competitive deficit is that travelers at DIA have been forced to pay among the highest fares in the country while enduring glaringly inadequate air service.

As a conservative, I generally don't advocate government intervention in the private market. But where a monopoly unduly dominates business activity in a given sector, and where consumer injury is manifest, government has a fundamental obligation to intervene. Monopolies cannot be left unchecked in a marketplace where consumers are powerless to respond.

Our nation's antitrust laws contemplate exactly the anti-competitive situation that plagues the airline industry. These laws grant broad authority to the government to seek redress on behalf of consumers, whether it's in the courts or through negotiated settlement. The time has come for DOJ to use these laws to break United's monopoly stronghold at DIA by restoring an atmosphere where other carriers can viably compete.

Currently, DOJ is pursuing an antitrust action against American at Dallas-Fort Worth National Airport (DFW), a situation with striking similarities to United at Denver. Like United at DIA, American controls overwhelming market clout at DFW, leaving little or no choice for consumers flying to city pairs that emanate from the American hub. And like United at DIA, American has successfully exercised a number of anti-competitive techniques for the express purpose of stifling consumer choice at DFW. The case against American at DFW is the case against United at DIA. *(Note: The American-DFW action is more thoroughly explored in the subsequent report.)* Accordingly, I urge DOJ to immediately begin an antitrust review of United at DIA.

An appropriate starting point for your anti-trust review is United's contract with the City of Denver, DIA's airport authority. The contract has been instrumental in the carriers until now successful efforts to monopolize airline travel out of DIA.

When Denver negotiated the terms of the agreement, it gave United sweeping control over the airport's operations, on issues ranging from the essential to the mundane. A former airport employee recently told me that United's authority extends so far that the carrier actually has veto power over any signage changes in the airport's parking lot. United's influence also extends to more critical airport operations, including baggage handling and gate allocation. The closer you look, the clearer it becomes that DIA is United's airport more than it is the State of Colorado's.

To a substantial degree, the blame for this onerous contract rests with the City of Denver. The reality is that the City of Denver allowed itself to be strong-armed by United. But while the City of Denver should be held responsible for the contract's considerable inadequacies, airline travelers in Colorado and throughout the West should not suffer because of the City's fecklessness at the bargaining table. Accordingly, the contract -- like United's general market activities at DIA -- merits careful review.

Thank you in advance for your consideration of these important points. I hope that DOJ will aggressively move to restore competition in the airline industry.

Sincerely,

Scott McInnis
Member of Congress

cc: Secretary Norman Mineta, U.S. Department of Transportation
Attorney General Kenneth Salazar, State of Colorado
Mayor Wellington Webb, City of Denver
James Goodwin, Chairman and CEO, UAL Corporation

Introduction

Adam Smith, the father of economics, stated that "[b]y a perpetual monopoly, all the other subjects of the state are taxed very absurdly in two different ways; first, by the high price of goods, which, in the case of free trade, they could buy much cheaper; and, secondly, by their total exclusion from a branch of business, which it might be both convenient and profitable for many of them to carry on."[1] That point remains true over two hundred years later. It is precisely for those two reasons, the costs to the flying public, and the elimination of competition, that the United States Department of Justice and Department of Transportation should reject the United Airlines/U.S. Airways merger; or in the less satisfactory alternative, require that United Airlines take steps to enhance competition as a precondition of approving any merger.

This report will illustrate the position that United Airlines currently holds at Denver International Airport (DIA) and how the position occupied by United Airlines leads to potential and actual monopoly issues for Colorado and the West, as well as the impact on consumers, and other local businesses such as the tourist industry and airline competitors. This report makes the case that United Airlines has in the past behaved in an anticompetitive manner, behavior enabled by its monopoly position. The report serves as a basis for rejecting the impending merger by United Airlines and U.S. Airways, as well as the recommendation, in the alternative, for conditioning any approval of the proposed merger on changes made to enhance competition.

In a free market, government intervention should not be the first response to problems. However, two reasons suggest this is a different case. First, government had a role in creating this problem by entering the market as a participant, because the City of Denver is the landlord at DIA, running it and running its predecessor Stapleton Airport. In 1994, when Continental Airlines made the decision not to maintain a hub in Denver, the City of Denver was forced to ensure it continued to have an anchor for DIA, putting United Airlines in a position of significant power in the bargaining and setting up a situation where United Airlines has virtual control over DIA. Because government is a participant in the market and continues to have a role in this situation by virtue of it entering the marketplace, government has a greater role ensuring the market operates well. Second, government has historically set the ground rules for the market, and when those rules are subverted, government has ensured market correction. That intervention is typical in cases where a monopoly exists. As a result of government entering this marketplace, and its duty to maintain a level playing field, government action to correct the problem is appropriate here.

[1] Smith, Adam; An Inquiry Into the Nature and Causes of the Wealth of Nations; The Modern Library, New York, NY; p. 712.

Background

National Background[2]

United Airlines operates nearly 2,300 flights per day to 134 destinations in 27 countries—including 91 cities in 49 states—with a fleet of about 600 jet aircraft. Within the United States, United provides service between other cities and its hubs in Chicago, Denver, Los Angeles, San Francisco, and Washington, D.C., using its aircraft and those of its independently owned regional affiliates, which operate under the name of United Express. As of March 31, 2000, United Express served another 133 cities in the country, producing a combined domestic network of 224 cities.

In 1999, US Airways flew to 236 cities in 38 states in the continental United States, along with nearly 30 other cities in 12 countries, territories, and commonwealths, using its own fleet of over 400 aircraft and those of its regional affiliates, which operate as US Airways Express. US Airways' system is heavily concentrated in the eastern United States, with hubs located in Charlotte, Philadelphia, and Pittsburgh. US Airways also has sizable operations at Baltimore-Washington International Airport and at Reagan National, where it operates an East Coast shuttle service to Boston's Logan International Airport and New York's LaGuardia Airport.

On May 24, 2000, United and US Airways agreed to merge their operations. Under the terms of their proposed merger, United would acquire US Airways in a transaction valued at $11.6 billion. Specifically, United would pay $60 for each share of common US Airways stock for a total of $4.3 billion and would assume $1.5 billion in US Airways net debt and $5.8 billion in aircraft operating leases. According to information from United, the combined company would have approximately 145,000 employees. It would operate eight hubs in six states and serve a total of 380 airports throughout the country, reaching communities in every state.

The consummation of the proposed merger is subject to various conditions set forth in the agreement and approvals by various regulatory bodies. US Airways stockholders approved the merger on October 12, 2000. Both the U.S. Departments of Justice and Transportation have responsibilities for reviewing airline mergers and acquisitions. The Department of Justice has the authority to review mergers or stock acquisitions before they take place to determine whether they violate antitrust laws. Under the Hart-Scott-Rodino Act, an acquisition of voting securities above a set monetary amount must be reported to the Department of Justice for prior review. The Department of Justice has the authority to institute judicial proceedings under the Clayton Act if it determines that a merger or acquisition may substantially lessen competition in a relevant market or if it tends to create a monopoly. If the Department of Justice believes any agreement is anticompetitive in whole or in part, it may seek to block the agreement in federal court.

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[2] This entire description drawn from: U.S. General Accounting Office, Aviation Competition, Issues Relating to the Proposed United Airlines-US Airways Merger; GAO-01-212, December 2000; p. 6-8.

Legal Test For Airline Monopoly

The United States, in its case brought against American Airlines for illegally monopolizing and attempting to illegally monopolize many routes to and from Dallas-Fort Worth, the U.S. Department of Justice applies Section Two of the Sherman Act, which makes it unlawful for a firm to "monopolize, or attempt to monopolize. . . any part of the trade or commerce among the several States. . . ."[3] The Sherman Act was enacted to prevent "restraints to free competition in business and commercial transactions which tend to restrict production, raise prices or otherwise control the market to the detriment of purchasers or consumers of goods and services."[4] The elements of a Section Two monopolization claim are: (1) the possession of monopoly power in a relevant market; and (2) the willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident. The elements of a Section Two attempted monopolization claim are: (1) definition of the relevant market; (2) a dangerous probability of success in monopolizing that market; (3) the specific intent to monopolize; and (4) conduct in furtherance of that attempt.[5] Under both monopolization and attempted monopolization, the United States must prove that (1) a relevant market or markets exist; and (2) that an airline had market power or monopoly power in the relevant market or markets.[6]

In the brief filed by the Department of Justice, the United States argued American Airlines "[i]n carrying out the DFW LCC Strategy, American disregarded its usual measures of performance, *i.e.*, revenue and profitability, focusing instead on whether its actions were decreasing the LCC's market share and load factor."[7] The Justice Department goes on to adopt airline passenger service in city pair and nonstop airline passenger service as the relevant markets for that particular case.

City Pairs and Nonstop Flights -- The Justice Department goes on to describe why city-pairs and city-pair nonstop air travel are the appropriate and relevant markets for a monopoly case under the Sherman Act:

> "Passengers traveling on a particular city-pair route do not view service in other city pairs as a reasonable substitute: A person who wants to travel from Wichita to Dallas is unlikely to substitute a trip from Wichita to Kansas City because the price of the Dallas ticket has increased a small

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[3] Memorandum for the United States, filed in the case United States of America v. AMR Corp., American Airlines, Inc., and AMR Eagle Holding Corp.; Civil Action No. 99-1180-JTM; citing 15 U.S.C. § 2; p. 1.
[4] Apex Hosiery Co. v. Leader, 310 U.S. 469, 493 (1940).
[5] Memorandum for the United States, filed in the case U.S. v. AMR Corp.; citing Full Draw Prods. v. Easton Sports, Inc., 182 F.3d 745, 756 (10th Cir. 1999); p. 2.
[6] Memorandum for the United States, filed in the case U.S. v. AMR Corp.; pp. 6-7. "A monopolization claim requires proof of monopoly power whereas the dangerous probability element of an attempted monopolization claim is "usually demonstrated through the market power" of the defendant. Bright v. Moss Ambulance Serv., 824 F.2d 819, 823 (10th Cir. 1987). "Market and monopoly power only differ in degree – monopoly power is commonly thought of as 'substantial' market power" and the same evidence relates to each. Reazin v. Blue Cross & Blue Shield, 899 F.2d 951, 967 (10th Cir.), *cert. denied*, 497 U.S. 1005 (1990). "
[7] A load factor is a measure of the percent of capacity sold and used on a particular flight. Memorandum for the United States, filed in the case U.S. v. AMR Corp.; p. 4.

> amount. Moreover, except for short journeys, few travelers regard other modes of transportation (*e.g.*, bus, train, or automobile) as a reasonable substitute for airline transportation. **Thus, airline passenger service in a city pair constitutes a relevant market**. Airlines may offer city-pair service on a "nonstop" basis or on a "connecting" or "one-stop" basis. Connecting or one-stop service requires a passenger to make one or more stops *en route*, usually to change planes along the way, and is generally less expensive than nonstop service. For many passengers, connecting or one-stop service is not a good substitute for nonstop service because connecting or one-stop service typically takes significantly longer than nonstop service and the risk of missed connections or lost luggage is greater; time-sensitive passengers, such as business travelers, are unlikely to substitute connecting or one-stop service for nonstop service in response to a small fare increase for nonstop service. **Consequently, nonstop airline passenger service in a city pair is also a relevant market**."[8] (emphasis added)

Ability To Control Prices and Exclude Competition in Relevant Market – The Justice Department then looks to whether the airline has the ability to control prices and exclude competition in the relevant markets, which would be the city pairs and non stop city pairs.[9]

Hub Premium – The first indicator of direct evidence of an airline's ability to control prices and exclude competition, used by the Justice Department in its brief against American Airlines, is the existence of a hub premium.[10]

Market Share – The Department of Justice cites market share as strong evidence of an airline monopoly power over city-pairs at an airport, in its argument that price control and predatory practices excluding competition in city-pairs and nonstop city-pairs (specifically noting that percentages ranging from 47% to 62%, with evidence of market characteristics and evidence of a defendant's power over price and competition, has been sufficient to support a jury's finding of monopolization).[11] Related to market share, the Justice Department also uses a measurement entitled the Herfindahl-Hirschmann index (HHI) to measure the relative concentration of the industry.[12] Based on a market share of the largest airline in a market, the index classifies industries with an HHI below 1,000 as "Unconcentrated"; industries with an HHI of 1,001 to 1,800 as " Moderately Concentrated"; and industries with an HHI above 1,801 as "Highly Concentrated".

Entry Barriers – The Justice Department looks to entry barriers for evidence of an airline's ability to control prices and exclude competition. Entry barriers can include

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[8] Memorandum for the United States, filed in the case U.S. v. AMR Corp.; p. 8.
[9] Memorandum for the United States, filed in the case U.S. v. AMR Corp; p. 9.
[10] Memorandum for the United States, filed in the case U.S. v. AMR Corp; p. 9.
[11] Memorandum for the United States, citing Reazin v. Blue Cross & Blue Shield, 899 F.2d 951, 967 (10th Cir.), *cert. denied*, 497 U.S. 1005 (1990)
[12] Julius Maldutis, Sal Colak and James Ladis; Airline Competition at the 50 Largest U.S. Airports – Impact of Proposed Mergers; CIBC World Markets, Inc., New York, NY; June 23, 2000.

structural conditions and entrenched buyer preferences.[13] Entry barriers can also include contractual arrangements between the leasing authority and the airline, such as majority-in-interest clauses which require a majority of airlines agree to changes. The Department of Justice cites many of the benefits that American has as a hub airline at Dallas-Ft. Worth "[i]f a firm – like American at DFW – has high shares in markets that have entry barriers, then the prospect of entry is not likely to restrain the firm from charging prices that reflect its dominant position in the markets. Any airline that challenged American at DFW would have to overcome substantial entry barriers."[14]

The Justice Department notes, in its legal complaint against American Airlines, that "[t]he effect of these entry barriers is exacerbated by the ability of a hub carrier to reduce its fares or increase its seating capacity and frequency of service virtually overnight, responding to expected entry before such entry can be successfully implemented."[15]

Example of Evidence Cited by Department of Justice

Finally, when the Justice Department argued in its complaint that American Airline's dominated Dallas-Ft. Worth Airport, it noted American Airlines carried 70% of the nonstop city-pair traffic to and from DFW, and 58% of the city pairs. [16] It went on to note that the nearest competitor to American Airlines had only 16% of the traffic at Dallas-Ft. Worth Airport, and that "no major airlines are positioned to challenge American's dominant market position in DFW city pairs."[17]

Conclusions

The measures and tests that were used by the United States Department of Justice for American Airlines at the Dallas-Ft. Worth Airport can be applied to United Airlines at Denver International Airport. This report will present statistics and publicly available evidence that parallels the similar evidence that led the Department of Justice to allege that American Airlines had violated the Sherman Act by monopolizing the market in the Dallas-Ft. Worth Airport.

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[13] Memorandum for the United States, filed in the case U.S. v. AMR Corp; p. 11; citing Reazin, 899 F.2d at 968.
[14] Memorandum for the United States, filed in the case U.S. v. AMR Corp; p. 10.
[15] Complaint filed by the United States of America in the case United States of America v. AMR Corp., American Airlines, Inc., and AMR Eagle Holding Corp.; Civil Action No. 99-1180-JTM; (Dist. of Kan); May 13, 1999; paragraph 17.
[16] May 13, 1999 complaint for the United States, in the case U.S. v. AMR; at paragraph 20.
[17] May 13, 1999 complaint for the United States, in the case U.S. v. AMR; at paragraphs 20 and 22.

Denver and Colorado Background

United Airlines has steadily increased its market share at Denver (Stapleton International Airport and, now, Denver International Airport), when combined with its regional affiliate United Express, since 1994, the year before DIA opened until 1999. The graphs on the opposite page indicate the growth in market share, and also indicate that the largest competitors' market share has declined so that not one has more than 6% as compared with Continental Airlines' 17% in 1994.[18]

While United Airlines and its affiliates have increased their market share in the last six years, there is every indication that they will continue to maintain a high market share. According to data prepared for the City of Denver, in 1999, United and United Express accounted for 72.6% of the 23.5 million enplaned passengers. In connection with last year's bond offering by Denver to support DIA, Leigh Fisher Associates, an airline consultant, prepared a report analyzing DIA and many financial and market aspects of its operation. As part of that, forecasts were made to better provide prospective bond buyers with information upon which to base their decisions.

As part of that financial and market information, John F. Brown & Company, Inc. forecast that United and United Express will have a **73.2%** market share in 2005.[19] United Airlines is not contracting, and the professionals believe that United Airlines and United Express will actually increase market share in the future.

Tourism's Importance to Colorado

The Colorado economy is very dependent on tourism, which is one reason that a monopoly control of the regional airport leads to the possibility that, like the summer of 2000, disruptions in the service of a dominant carrier such as United Airlines can disrupt lives and business over all of Colorado and indeed the region. **Tourism in Colorado is the state's second largest industry**, in terms of dollars, following manufacturing.[20] Citing the Denver Metro Convention and Visitors Bureau, the top out-of-state urban areas from which tourists traveled to DIA were Albuquerque, Los Angeles, Dallas/Ft. Worth, Salt lake City, Chicago, Phoenix, Minneapolis/St. Paul, Philadelphia, and San Francisco, many through DIA.[21] In fact, **of the $7.2 billion tourism brings to Colorado's economy, $4.9 billion or 69% of that goes to areas of Colorado outside of Denver metro region**, an enormous impact on the transportation, accommodation, food, retail and recreation sectors of the economy.[22]

If airline service is more expensive and less competitive than otherwise it would be because of the monopoly domination of an airline, and all the service and cost issues that domination can bring, then Colorado tourism and the region's economy will inevitably suffer.

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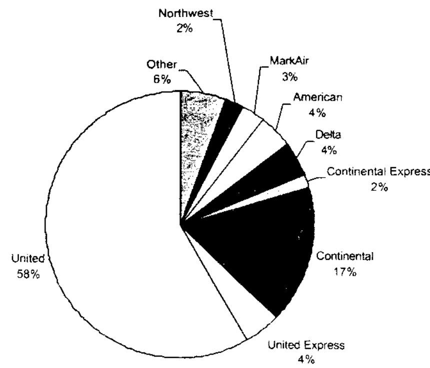
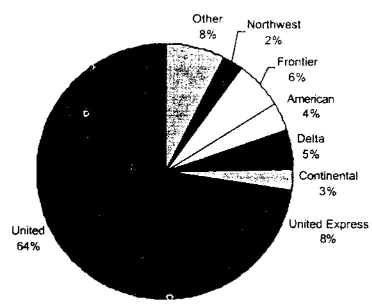
[18] City and County of Denver, Airport System Revenue Refunding Bonds, Series 2000A, August 1, 2000, Figure 3, p. A-31.
[19] Ibid., p. A-52.
[20] Ibid., p. A-37.
[21] Ibid., p. A-37.
[22] Drawn from strategic research on the Colorado travel and tourism industry for 1999 performed by Longwoods International, available at: "http://www.state.co.us/gov_dir/oed/tourism/Longwdlndex.htm".

Historical Enplaned Passenger Market Shares (1994)



Historical Enplaned Passenger Market Shares (1999)

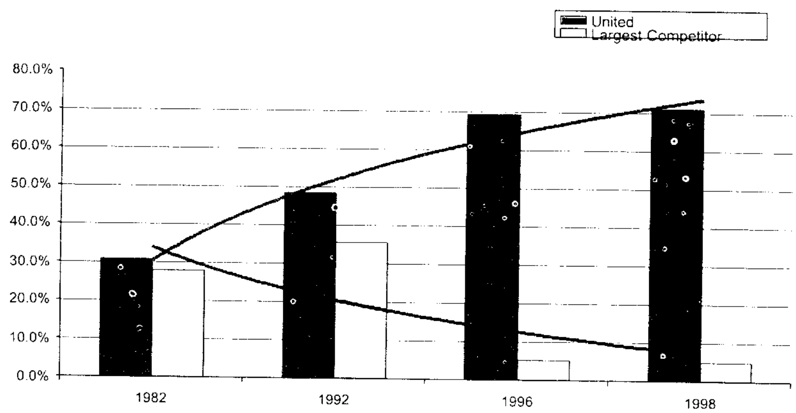


The U.S. Department of Justice Department uses a measurement entitled the Herfindahl-Hirschmann index (HHI) to measure the relative concentration of the industry.[23] The index classifies industries as follows:

HHI Below 1,000	Unconcentrated
HHI 1,001 – 1,800	Moderately Concentrated
HHI Above 1,801	Highly Concentrated

Dr. Julius Maldutis performed a study of the concentration of the airline industry at the 50 largest airports, calculating the HHI for each airport. Professor Paul Dempsey of the University of Denver School of Law compiled the market share and HHI index for Stapleton and Denver International Airport, which is detailed in the graph below with Maldutis data.[24] Data based on Maldutis' studies indicates that United's market share is even greater than that indicated by the Denver bond offering. The market share for United Airlines alone indicates the airline's growth to become the dominant and controlling airline at DIA over the last twenty-four years. United has moved from a 31% market share to over double that figure.

Market Share in Denver



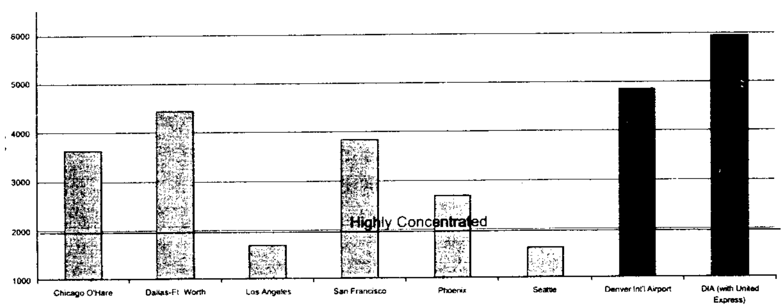
[23] Julius Maldutis, Sai Colak and James Ladis, Airline Competition at the 50 Largest U.S. Airports – Impact of Proposed Mergers; CIBC World Markets, Inc., New York, NY; June 23, 2000.
[24] Paul Stephen Dempsey, Airport Monopolization and Megacarrier Predation: Barriers to Entry and Impediments to Competition, Testimony before the U.S. House of Representatives Committee on Transportation and Infrastructure, Aviation Subcommittee Hearings; June 15, 2000; pp. 5-7. 1982 data approximated based on 1982 average daily flights for United & Frontier.

Professor Dempsey of the University of Denver School of Law, and Director of the Transportation Law Program at D.U., as well as Director of the National Center for Intermodal Transportation and Vice-Chairman of Frontier Airlines,[25] argues that the HHI for DIA is even more indicative of the market power held by United Airlines at Denver.

Professor Dempsey argues that Maldutis' data actually understates the market concentration at these airports because it fails to aggregate the code-share partners together.[26] In Denver's case, this would mean including Mesa and Air Wisconsin, which together make up United Express, into United Airline's HHI, because United Airlines effectively controls that market as well.

When combined with United Express, in 1996 United Airlines in Denver has an astounding HHI of 5,693.[27] That is over 300% the amount that would indicate a "highly concentrated" industry, according to the HHI index. Professor Dempsey labels this one of the highest concentrations in the country.[28] When you consider what the impact in 1999 would be, including U.S. Airways in the HHI index with United Airlines, you reach an HHI index of 4,868 without United Express, and 5,944 if United Express is included.[29] By comparison, here are the HHI indexes for the top six airports from and to DIA:

Airport HHI Comparison



[25] Frontier Airlines, Inc. has not taken an official position either in favor of, or in opposition to, the proposed merger of United Airlines and U.S. Airways. The opinions Professor Dempsey has expressed about the merger are his own.
[26] Paul Stephen Dempsey, Airport Monopolization and Megacarrier Predation: Barriers to Entry and Impediments to Competition; Testimony before the U.S. House of Representatives Committee on Transportation and Infrastructure, Aviation Subcommittee Hearings; June 15, 2000; p. 7.
[27] *Ibid.*; p. 7.
[28] *Ibid.*; p. 7.
[29] Derived from data produced by: Julius Maldutis, Sal Colak and James Ladis; Airline Competition at the 50 Largest U.S. Airports – Impact of Proposed Mergers; CIBC World Markets, Inc., New York, NY; June 23, 2000; p.19.

National Impact on Airline Concentration of Merger

Julius Maldutis calculated the HHI index, assuming a merger of United Airlines and U.S. Airways, effective in 1999 (the last year for which data were available). The impact on the industry is significant, based on market share, the **proposed merger would increase the industry concentration by 26% for 1999** based on HHI (increasing the industry-wide HHI of 1,028 to 1,295).[30] The graphs on the opposite page clearly indicate that increase, and the rather dramatic effect the merger would have on airline industry concentration nationwide.

The overall HHI would increase to a higher concentration that any in recent airline history, following deregulation.

While the direct impact on DIA would not be large, because of the low overall market share that US Airways has in Denver, the impact would be felt in at least three ways.[31] First, in markets where United and US Airways compete directly for flights, there will be a much more direct effect. Some of these impacts are analyzed later in this report. Second, the reduction in competition nationally will allow United to consolidate its monopoly in Denver and reduce competition system-wide, hurting consumers coming to Denver from elsewhere and Colorado consumers who travel to other areas of the country. One cannot argue, in a legitimate way, that Colorado will be an island as the rest of the national market becomes less competitive. Any decrease in competition will also lessen competition in Colorado. Third, the increased market share of United Airlines will drive other competitors to seek mergers out of a need to ensure continued viability and survival, leading to an overall reduction in competition in the air travel market.

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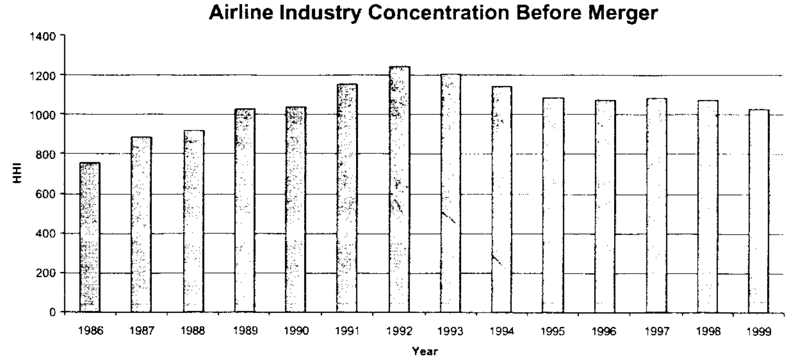
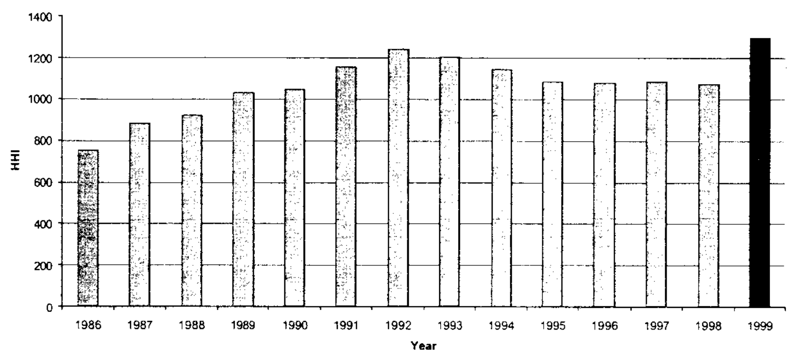
[30] Julius Maldutis, Sal Colak and James Ladis; Airline Competition at the 50 Largest U.S. Airports – Impact of Proposed Mergers; CIBC World Markets, Inc. , New York, NY; June 23, 2000, p. 5.

[31] US Airways has consistently maintained approximately a 1.5% market share in Denver over the last several years. *See*, Maldutis, Airline Competition at the 50 Largest U.S. Airports – Impact of Proposed Mergers; at p. 19.

Airline Industry Concentration Before Merger



Airline Industry Concentration After Merger

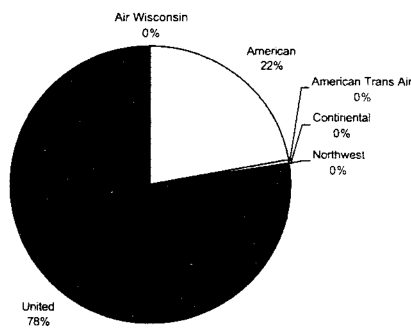


Individual Markets

Another useful mechanism for analyzing the monopoly control over the market by United Airlines at DIA is to analyze the market share controlled by United Airlines for direct flights, between cities. As illustrated above in the discussion of the Department of Justice's case against American Airlines, and according to the United States General Accounting Office, the Department of Justice, when analyzing a merger, defines both the product or service and the geographic market in which merging parties compete.[32] In the airline industry, the relevant market to analyze has been defined as scheduled airline service between two points, often defined as a city pair. The GAO noted that the Department of Justice give particular importance to nonstop service between cities because business travelers are less likely to consider connecting service as a reasonable alternative.[33] The Department of Justice looks to non-stop city pairs to determine the impact of a merger, and looking to such non-stop city pairs can provide a useful indicator for monopoly power of an airline in a market.

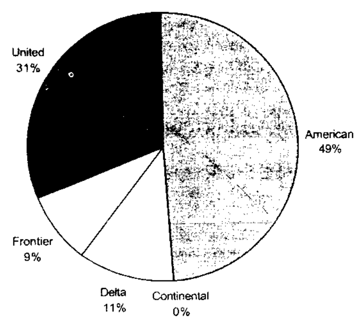
The graphs below illustrate the domination that United Airlines has in the non-stop city pair market, **dominating five of the top six markets from Denver**.

1. Market Share from Denver to Chicago-O'Hare

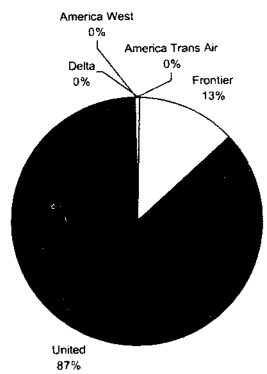


[32] Memorandum for the United States, filed in the case U.S. v. AMR Corp.; p. 8; and U.S. General Accounting Office, Aviation Competition, Issues Relating to the Proposed United Airlines-US Airways Merger; GAO-01-212, December 2000; footnote 8.
[33] Ibid.; footnote 8.

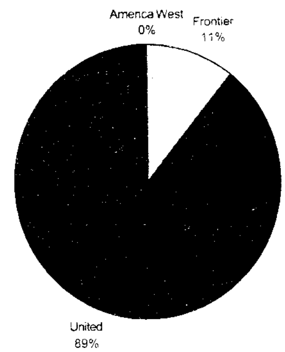
2. Market Share from Denver to Dallas-Ft. Worth



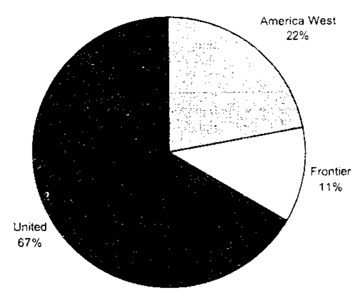
3. Market Share from Denver to Los Angeles



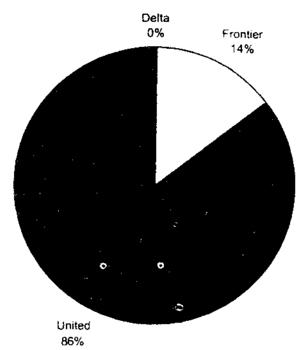
4. Market Share from Denver to San Francisco



5. Market Share from Denver to Phoenix



6. Market Share from Denver to Seattle



The above graphs indicate that United Airlines dominates the six largest non-stop city pairs to and from Denver, especially important to the Department of Justice in its analysis of market dominance and monopoly power.[34]

Other data also supports the intuitive conclusion that United Airlines' dominates the air market for Denver, Colorado and the region, including the connecting air travel market which is critical to its position as a hub. For the year ending June 30, 1999, **United Airlines' Denver hub is already the nation's fifth largest in terms of annual connecting passengers**, according to Salomon Smith Barney.[35]

The report prepared for the City of Denver's 2000 bond offering also indicated that about 45% of the 19 million passengers at DIA were connecting passengers, connecting from one flight to another. Of those passengers, many traveling to and from western Colorado and throughout the region, **United Airlines accounted for an astonishing 83% of all connecting passengers at Denver in 1999.**[36]

[34] Source: U.S. General Accounting Office data drawn from U.S. Dept. of Transportation data.
[35] City and County of Denver, Airport System Revenue Refunding Bonds, Series 2000A, August 1, 2000, Figure 3, p. A-39.
[36] *Ibid.*, at p. A-39.

Regional City-Pair Market Domination

The above graphs illustrate United Airlines' domination of the largest markets to and from DIA. This domination is further supported when investigating the regional impact, especially as that impacts the west. The New York Times recently published an article which highlighted the regional impact of the air travel problems out of Denver.[37]

The regional dominance of United Airlines is evident based on the following statistics.

United Airlines has at least 50% of the market share for its non-stop and direct routes in:

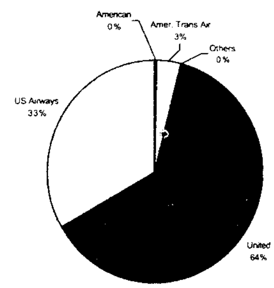
- **All of its 20 western destinations**
- **7 of its 14 southern destinations**
- **All of its southwestern destinations**
- **7 of its 13 midwestern destinations**
- **7 of its 10 eastern destinations**
- **All of its 7 northwestern destinations**[38]

[37] New York Times, "Airline Woes Mount in Rural West," February 11, 2001.
[38] Data based on Fourth Quarter, 1999 analysis of Origin-Destination data for DIA provided by United States General Accounting Office.

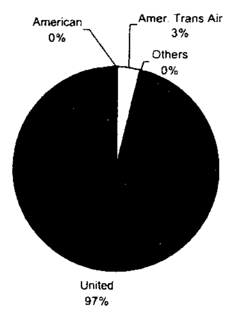
Merger Impact on Non-Stop City Pairs

The proposed merger will directly impact several non-stop city pair markets as well, transforming some competitive routes into monopoly routes. Several other routes are currently controlled and dominated by U.S. Airways, which would become dominated by United Airlines following a merger. On those routes, once U.S. Airways merges with United Airlines, any competition will effectively cease, and United Airlines will expand its control over additional non-stop city pair markets. The graphs below illustrate the impact on the Denver-Philadelphia market:

Denver-Philadelphia (Before Merger)



Denver-Philadelphia (After Merger)



United Airlines already maintains an enormous amount of control over the non-stop city pair market to and from DIA. The analysis of the largest 70 markets to and from Denver indicates that United Airlines maintains the following levels of monopoly market dominance:

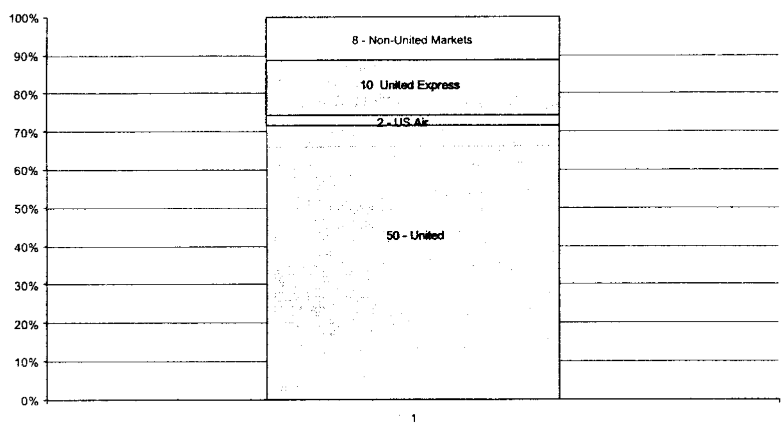
The graph below indicates the number of airports at which United holds a certain percentage of all flights leaving DIA. Also cited is Air Wisconsin, an entity of United Express, and USAir because of a possible merger between the two. The total is the number of airports and the correlating percentage for all three companies combined.

Company	Over 42.5%	Over 50%	Over 75%	Over 98%	100%
United Airlines (alone)	50	48	40	20	5
Total After Merger	62	60	55	39	20

Total includes United Airlines, United Express (Air Wisconsin) and U.S. Airways

Data drawn from the top 70 Denver International Airport Destinations.[39] Of the 70 destinations, 60 are currently at or above the 42.5 percent benchmark, which corresponds to the level of the HHI index of 1800 that indicated a market is "highly concentrated," which would increase to 62 following a United Airlines and U.S. Airways merger. As the graph below indicates, United Airlines, following a merger, would have a highly concentrated market in 62 of 70 of the largest destinations:

United Airlines Dominance Over the Top 70 Markets



[39] Source: U.S. General Accounting Office data drawn from U.S. Dept. of Transportation data.

Impact of United Airlines' Monopoly Market Control on Colorado

This report has presented evidence of United Airline's current monopoly power at DIA as a result of its significant market concentration, as well as evidence of how a merger with U.S. Airways will not only worsen DIA market conditions, but dramatically worsen the overall concentration of the airline industry as a whole, and that evidence completely ignores likely competitor responses seeking additional mergers and further consolidation of the industry.

This section explores some of the results that occur when an airline market, here DIA and the Colorado air travel market, is effectively controlled by one airline. That impact is important given the enormous economic effect that DIA and regional air travel can have on Colorado.

Price Impact

Professor Dempsey cites a U.S. General Accounting Office study of 15 concentrated airports (defined as an airport having more than 60% of enplanements handled by a single airline – a group into which DIA would fall based on 1999 data) to determine the impact of the effect of market concentration or monopoly on pricing. The study compared pricing at the 15 concentrated hub airports and 38 relatively unconcentrated airports. The U.S. GAO found that **prices were 27% higher in the concentrated hubs**.[40] Moreover, prices per mile (a useful tool for the purposes of comparison) charged by dominant airlines at concentrated hubs were 38% higher than those charged at unconcentrated airports.[41]

Professor Dempsey, in testimony to the House Transportation Committee, also cited a U.S. Department of Transportation study of the impact of concentration on airline pricing, and concluded as follows:

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[40] Paul Stephen Dempsey, Airport Monopolization and Megacarrier Predation: Barriers to Entry and Impediments to Competition; Testimony before the U.S. House of Representatives Committee on Transportation and Infrastructure, Aviation Subcommittee Hearings; June 15, 2000; p. 8, citing U.S. General Accounting Office, Airline Competition 2, 3 (1989); updated and expanded in 1990.

According to Professor Dempsey "[t]he higher fares at concentrated airports do not reflect a premium for non-stop service, since the average number of coupons per traveler at concentrated airports was virtually identical to that at the comparison, unconcentrated airports (2.26 vs. 2.28 coupons). And the difference persisted when average trip length was controlled for, by excluding from the comparison group of airports those where average trip length was significantly longer than for concentrated airports. Thus neither a higher proportion of non-stops nor a higher proportion of short haul (and thus more costly) flights can explain the fare premium at concentrated airports. The study also found that the increase in fares was generally greater at concentrated airports, and that the increase in fares was especially dramatic when a carrier established dominance during the period. Finally, the study found that in 13 of the 14 concentrated airports, the dominant carrier had higher fares, in some cases very much higher than other carriers at the same airport." Paul Stephen Dempsey, Flying Blind: The Failure Of Airline Deregulation 18-19 (1990).

[41] *Ibid.* at p. 8, citing U.S. General Accounting Office, Airline Competition 3 (1990).

> "The average fare per mile at the eight most concentrated hubs is higher than the national average. Adjusting for the average trip distance and the size of the market served at the eight most concentrated hubs, fares were on average 18.7% higher than similar markets for other airports. This finding supports the conclusion that high hub concentration leads to high fares for passengers traveling to and from such cities. Fares are highest for travel between large cities within 1,000 miles of the hub." [42]

Dempsey's data is corroborated by a recent Department of Transportation publication which found that "[i]n dominated hubs as a whole, 24.7 million passengers **pay an average 41% more** that do their counterparts flying in hub markets with low fare competition."[43]

The price impact of a monopoly hub carrier is even worse on passengers in short haul hub markets, like those to the west slope of Colorado from DIA. The Department of Transportation found that **passengers in short haul markets ended up paying 54% more** on average than passengers in comparable markets with a low-fare competitor.[44]

Denver Statistics on Price Differential

The Department of Transportation found that in 1999, air travel passengers at DIA, on average, paid **28% more for long-haul markets and 37% more for short-haul markets** than comparable hub markets with a low fare competitor.[45]

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[42] U.S. Dep't of Transportation, Secretary's Task Force On Competition In The U.S. Domestic Airline Industry, Executive Summary 8 (1990).
[43] U.S. Dep't of Transportation, "Dominated Hub Fares," January 2001, p. 1.
[44] U.S. Dep't of Transportation, "Dominated Hub Fares," January 2001, p. 2.
[45] U.S. Dep't of Transportation, "Dominated Hub Fares," January 2001, p. 10 (table).

Gate and Baggage System Competition

As a result of United Airlines' size and market share at DIA, it has a very large footprint on the use and leasing of gates. United Airlines has also used its power as the majority gate holder to force certain agreements regarding which airlines share costs of useless baggage systems.[46] These issues are related. On February 28, 2000, the lease with Continental Airlines for ten gates on Concourse A was due to expire. In December of 1999, the City of Denver received a majority-in-interest approval to make changes on the rates for Concourse A, which can be read to mean United Airlines approval since it is the majority airline at DIA.[47]

As of September of 2000, there were thirteen common-use gates available for airline use at DIA.[48] However, eight are designated as international use gates on Concourse A, and four are designated as domestic located on Concourse C. That leaves only one gate designated domestic use on Concourse A, which is where United Airlines' largest competitor at DIA Frontier Airlines is based, leaving very little room to grow without significant costs of construction.[49]

As a result of the renegotiation, and further leasing on Concourse A to United Airlines, which now has leases on ten gates on Concourse A along with every gate on Concourse B, there is only one gate available for domestic use on Concourse A for expansion by DIA's second largest airline, Frontier Airlines.[50] This situation raises at least initial questions as to whether United Airlines, working with the Denver airport authority, has sought to prevent competitors from expanding by leasing and controlling the likely gates into which competitors would naturally expand.

Contractual Agreements with Leasing Authority

Another means by which an airline can exert power in the market place as a monopoly is in the leasing and other financial arrangements surrounding an airport. Originally, the decision to build DIA was predicated on the studies which forecast three airlines operating hubs at DIA, United, Continental and the original Frontier.[51] By March of 1994, when Continental announced that it was dismantling its hub operations at DIA, it was down to just one airline that would maintain a hub at DIA, United Airlines.[52] As such, the City of Denver was put in the poor bargaining position that it had to maintain a hubbing airline. George Doughty, who served as the Denver airport director under Mayor Frederico Pena

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[46] City and County of Denver, Airport System Revenue Refunding Bonds, Series 2000A, August 1, 2000, p. 42.
[47] Ibid., p. 42.
[48] Competition Plan for Denver International Airport, submitted September 6, 2000, p. 16.
[49] It is believed that to expand Concourse A gates, a postal facility would need to be relocated, at a significant cost to whichever airline seeks that additional gate.
[50] Competition Plan for Denver International Airport, submitted September 6, 2000, Exhibit 1.
[51] Paul Stephen Dempsey, Andrew Goetz and Joseph Szyliowicz, Denver International Airport – Lessons Learned, McGraw Hill, 1997, p. 33.
[52] Ibid., p. 20.

and continued early into Mayor Webb's administration, stated:

> "United had no incentive to move in 1994. They had just increased their operations at Denver in order to capture an even greater market share that would eventually force Continental to dismantle its hub. It was to their advantage not to move until that was assured ...
>
> Mayor Webb was simply outmaneuvered by United... He was not in a position to make a decision counter to their wishes. Therefore, the project was forced to absorb a $15 million a month delay cost until United said it was okay to move."[53]

Included within the contract that United Airlines has with the City of Denver are two provisions, that when combined with the fact that United Airlines is by far the largest lessee, indicate the bargaining power United Airlines has, and gives the airline significant discretion over certain activities at DIA. First, the lease includes a majority-in-interest clause for changes in the rates charged, based on the number of airlines and the amount of rates, fees and charges paid by an airline.[54] This majority-in-interest clause can have the effect of insuring that United Airlines, which certainly pays a majority of the rentals, rates and fees, will have a virtual veto over any changes that could advantage its competitors.

Another clause provides direct evidence of United Airline's ability to dominate the bargaining with the Denver airport authority; it is a clause that allows United Airlines to terminate its use and lease agreement if the cost per enplaned passenger ever exceeded $20, using 1990 base dollars.[55] While this limit has never been triggered, the existence of the clause which is not in other agreements between the City of Denver and other lessee airlines at DIA suggests that United has used its market position to ensure it has preferential contract agreements. Without other monopoly activity, such bargaining is to be expected in a free market. Coupled with the other monopoly behavior and impacts cited in this report, it provides another example of United Airline's monopoly behavior. In this case, the City of Denver is at least partially to blame as well.

Finally, in 1999, with United Airline's agreement, amendments were made to the way that costs for both Concourse A and Concourse C were calculated.[56] Based on descriptions of the changes in the 2000 bond offering, much of the cost of the inoperable baggage system was written off, which presumably lowers the rates charged in Concourse A.[57] These changes were followed by an amended use and lease agreement that was tendered to United and was pending as of

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[53] George Doughty, Testimony before the House Transportation Subcommittee on Aviation, May 11, 1995; as cited by Dempsey, Denver International Airport -- Lessons Learned, p. 405.
[54] Use and Lease Agreement, between United and the City of Denver, Amendatory Agreement, dated October 20, 1992, Section 6.01.
[55] Use and Lease Agreement, Amendatory Agreement, dated October 20, 1992, Section 6.05.
[56] City and County of Denver, Airport System Revenue Refunding Bonds, Series 2000A, August 1, 2000, p. 47.
[57] Ibid., p. 47.

August 2000 when the City of Denver published its bond offering. As part of that agreement with United Airlines, United leased eight new gates on Concourse A. The timing of this agreement to write off the costs of the baggage system when you consider the new United Airlines agreement to lease gates on Concourse A raises concerns that Denver acquiesced to another self-serving agreement for United Airlines.

United Airlines has ensured it will maintain a competitive edge by negotiating with the Denver airport authority to prevent competitors from gaining an advantage in per passenger costs, and has ensured that its largest current competitor cannot expand significantly in Concourse A without building additional gates.

Direct Evidence of Price and Seat Availability Impact at DIA

Professor Dempsey, in his testimony to Congress on the proposed merger of United Airlines and U.S. Airways, provided direct evidence that United Airlines had engaged in behavior that could be described as monopolistic and anticompetitive, dropping its price dramatically as well as increasing availability of seats to drive low fare competition out of individual markets.

The following is drawn from Professor Dempsey's testimony to Congress:

"In 1993, MarkAir filed a complaint with the U.S. Department of Transportation alleging that Alaska Airlines was engaging in below-cost pricing in several Alaska and Pacific Northwest Markets served by MarkAir in order to force it to exit those markets.[58]

In August, 1993, MarkAir announced its intention to abandon Alaska and establish a hub at Denver. In March 1994, it was revealed MarkAir intended to move its corporate headquarters to Denver. In April 1994, it successfully emerged from Chapter 11 bankruptcy. Keep these dates in mind as you look through the accompanying charts, for they offer profound insights as to the motivation of United Airlines to sharply attack MarkAir with predatory pricing in the third quarter of 1994, which resulted in MarkAir's return to bankruptcy, and liquidation.

Denver-Seattle: United vs. MarkAir

In the Denver-Seattle market, United ignored MarkAir's presence in the market until it announced it was shifting its base of operations from Seattle/Anchorage, to Denver. In the first quarter of 1993, United offered average fares of $203, some *93% higher* than MarkAir's $104. In August 1993, MarkAir announced it intended to shift its hub to Denver. After that, United dropped its fares to levels lower than those prevailing before or since in this decade. Note how United targeted MarkAir in the second quarter of 1994, as it was seeking to emerge from bankruptcy, *dropping fares 42%* (from $203 in the first quarter of 1993 to $118 in the second quarter of 1994). After MarkAir was driven out of business, United was able to enjoy recoupment of its short-term losses by raising prices 67% (to $197 in the first quarter of 1996). Frontier Airlines entered the market on May 1, 1996, and United again began to lower fares sharply, pricing below Frontier in the third quarter of 1997."[59]

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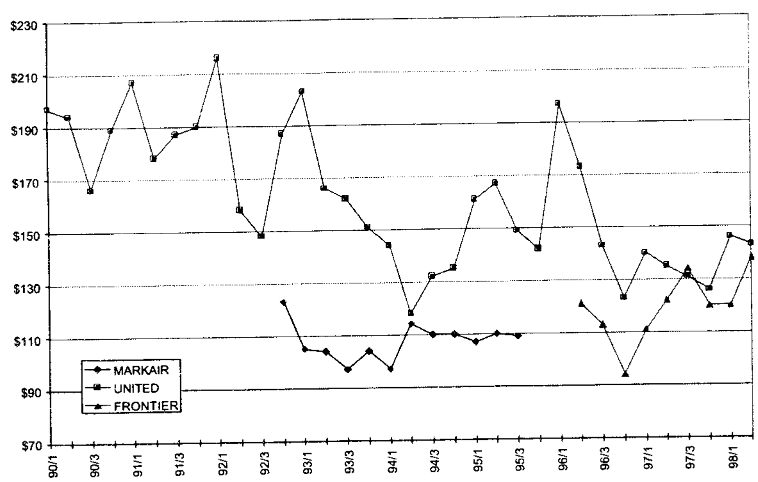
[58] Transportation Research Board, Entry and Competition in the U.S. Airline Industry: Issues and Opportunities. C-6 (1999).

[59] Paul Stephen Dempsey, Airport Monopolization and Megacarrier Predation: Barriers to Entry and Impediments to Competition; Testimony before the U.S. House of Representatives Committee on Transportation and Infrastructure, Aviation Subcommittee Hearings; June 15, 2000; pp. 33-35.

The graph below illustrates graphically how United Airlines' fares drop immediately upon MarkAir's entry, rise once again when Mark Air is bankrupt, and then drop again following the entry of Frontier Airlines.[60]

DENVER - SEATTLE AVERAGE FARES

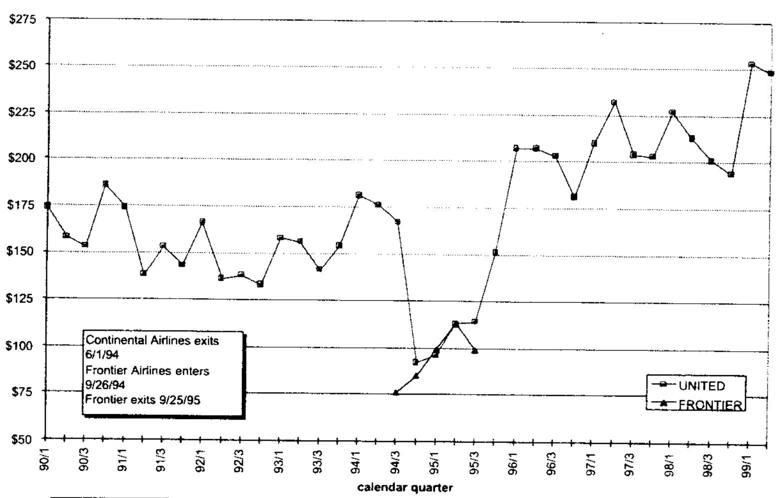


[60] Paul Stephen Dempsey, Airport Monopolization and Megacarrier Predation: Barriers to Entry and Impediments to Competition; Testimony before the U.S. House of Representatives Committee on Transportation and Infrastructure, Aviation Subcommittee Hearings; June 15, 2000; pp. 35.

"***Denver to Billings*** – Frontier Airlines entered the Denver-Billings market on September 26, 1994. At the time, United's average fare was $167. United responded to Frontier's entry by *slashing its average fares 45%*. By Frontier's first full quarter in the market, United was charging prices only 8% higher than Frontier's. By Frontier's second full quarter in the market, United was pricing its product *3% below* Frontier's. After Frontier was forced to withdraw from the market one year after it entered, on September 25, 1995, United enjoyed significant recoupment of its short-term losses, raising average fares 150%, to levels never before seen in the Denver-Billings market."[61]

The graph below illustrates the price behavior engaged in by United Airlines upon entry of a low fare competitor in a dominated city-pair market.[62] It is generally accepted in the airline industry that a low fare airline will have a lower average seat cost per mile than a major airline, so if United Airlines matches low fare competitors' fares operating at or near cost, United Airlines is actually pricing those fares below its costs, since its faces a higher cost structure.[63]

DENVER-BILLINGS AVERAGE FARES



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[61] Paul Stephen Dempsey, Airport Monopolization and Megacarrier Predation: Barriers to Entry and Impediments to Competition; Testimony before the U.S. House of Representatives Committee on Transportation and Infrastructure, Aviation Subcommittee Hearings; June 15, 2000; pp. 42-43.

[62] Ibid., at p.42.

[63] Robert Roach & Assoc., Scorecard: Airline Industry Cost Management 2Q 1995 12 (3rd Ed. 1996), as cited by Dempsey, Transportation Comm. Testimony at pp. 12-15. United Airlines had an ASM cost of 8.5 cents compared to 6.5 cents for Western Pacific (RMN, Apr. 23, 1996, at 9B).

Other Monopoly Impacts on Consumers, Including Regional Air Service

Often, large dominant carriers with a hub system set up regional code share arrangements with another airline, or a subsidiary airline. In the case of United Airlines at DIA, Air Wisconsin and Great Lakes Aviation through a contractual relationship have joined in a regional air alliance that effectively excludes other airline competition in the region because of the exclusive nature of these relationships.

Some experts have analyzed the situation co ng it to telephone deregulation. Under telephone deregulation, a cons can get long distance service delivered by any number of providers, and without significant impediments placed on that delivery by the local telephone provider. The government has not provided any similar guarantee in regional air markets following airline deregulation, effectively ensuring that connecting market traffic from or to a region around any hub will likely be dominated by the hub airline, because only the hub airline will have the traffic to allow economic delivery of passenger traffic to regional air pass

Great Lakes Aviation recently announced that it will end its exclusive marketing arrangement with United Airlines in May of this year, and work with other airlines as well to provide air service to the 58 cities in 14 states.[64] That is a powerful step toward improving consumer access to air travel in the Rocky Mountain region, but Great Lakes Aviation only accounts for about 724,000 passengers or 2% of the traffic through DIA, as the smaller partner in the United Express system in the Rocky Mountain region.[65] Therefore, the lack of access by competitors to code sharing arrangements with United Airlines larger regional partner, Air Wisconsin, still prevents most Rocky Mountain region consumers from having effective choice and competition in their air travel market.

Another way that a hub monopoly airline can prevent competitors from serving a region and thereby impact consumers is to refuse to enter into a baggage handling agreement with any competitor. At DIA, with its design of three concourses far removed from the ticketing desks and baggage checks, the inability to easily check baggage through to another airline means that to transfer airlines poses a very significant impediment to air travel, especially with regard to regional airlines. For example, if a passenger flies into DIA on American Airlines and wants to transfer to United Express, absent a baggage handling agreement, that passenger would have to take the subway at DIA from the Concourse C to the baggage claim in the main concourse, pick up their bags, check the bags in with United Express, and then take the subway out to the concourse for the United Express flight. This process could easily take well over an hour, possibly longer. The obvious trouble that such a process entails acts as a major barrier to any competitor airline without a baggage agreement serving air passengers in

[64] New York Times, "Airline Woes Mount in Rural West," February 11, 2001.
[65] Denver Post, "DIA Passenger Traffic Up 3% in 2000," January 31, 2001, percentage growth figure corrected on February 2, 2001.

the Rocky Mountain region without establishing a regional airline partner – a significant undertaking.

Finally, Professor Dempsey points out that hub airlines can "bias computer reservations systems against connections which fail to share a designator code," effectively placing another significant impediment to competition in the hub market dominated by a monopoly airline.[66]

Another way that a hub competitor can achieve monopoly power is through use of its frequent flyer miles. While consumers seek these miles, and as such it enhances a hub airline in that hub, these airlines also offer the miles to hundreds of other businesses as a marketing tool. For example, credit cards, bank products, rental cars, vacation packages, hotels, and even flowers can include frequent flyer miles as a marketing promotion. Alone, the failure to offer these to competitors might not be indicative of a monopoly practice, but when combined with other hub operations including reservation systems and offering these frequent flyer miles to any other business, the fact that United Airlines will prevents only competitors from buying United Airlines' frequent flyer miles serves as an additional direct example of monopoly power in a dominated hub.

Dominant hub monopolies can ensure, through exclusive contracts, the ability to "bias computer reservations systems against connections which fail to share a designator code," refusing to enter into code sharing and baggage handling contracts with other airlines. Such actions effectively means that a dominant hub carrier can prevent any competitor from gaining any significant market share without huge investments of capital and energy. This technological and hidden barrier to competitive ticketing based on such normal measures as price and convenience can effectively ensure that a monopoly hub airline can continue to receive monopoly returns, evidenced by the so-called "hub premium."

This hub premium, as well as the overall domination of the city-pair market is recognized as a result of monopoly hub power by the Department of Justice in its complaint against American Airlines, stating "[b]ecause of this market power, a hub carrier is often able to charge higher fares on its hub routes than it could charge on routes where it faces meaningful competition. These higher fares are commonly referred to as a 'hub premium.'"

[66] Paul Stephen Dempsey, Airport Monopolization and Megacarrier Predation: Barriers to Entry and Impediments to Competition; Testimony before the U.S. House of Representatives Committee on Transportation and Infrastructure, Aviation Subcommittee Hearings; June 15, 2000; p. 11.

Conclusion

This report has provided ample evidence that:

a) There is a specific set of tests and legal thresholds for airline monopoly;
b) United Airlines, based on widely available statistics, holds a position at DIA that raises legitimate questions whether there could be a monopoly violation of the Sherman Act; and
c) Actions by United Airlines at DIA, enabled in part by the airport authority, have been consistent with monopoly behavior preserving its hub premium by pricing its competition out of business.

The Department of Justice has taken similar evidence and concluded that American Airlines has violated the Sherman Act at Dallas-Fort Worth, and is pursuing an action in court against American Airlines as a result. United Airlines utter dominance in Denver led the Western Governor's Association to pass a resolution requesting the Department of Justice and the Federal trade Commission extend their deadlines for review of the proposed merger by United Airlines and U.S. Airways; and to include the impact on small community service from these hubs in their analysis of the proposed merger.[67]

The above evidence is ample to raise legitimate doubt as to whether the United States Department of Justice should approve the proposed merger, based on the responsibility the federal government holds under the Sherman Antitrust Act. Moreover, should the United States Department of Justice decide to approve the proposed merger of United Airlines and U.S. Airways, it should seek to ameliorate the negative impact on competition in the air market served by Denver International Airlines by imposing conditions upon the merger approval that improve competition at DIA and in the region.

While the airline merger antitrust attorneys and professionals in the Department of Transportation and the Department of Justice are the professionals most knowledgeable about the mergers' negative competitive impacts and possible ways to address that impact, a few suggestions include:

1. Requiring United Airlines allow all its United Express partners (Great Lakes Airlines has already taken steps toward this) to establish code and baggage sharing arrangements with other airlines, to ensure that other airlines maintain the ability to compete regionally and ensure that Colorado and the western region have access to competitive airline service.

2. Ensuring that meaningful opportunity exists for competitors of United Airlines to offer reservations and expand into additional gates and space at DIA; and that no one competitor (such as United Airlines) acts to bias

[67] Western Governors' Association, Policy Resolution 00-035, December 1, 2000.

computer reservation systems, or control gates or space so as to effectively force competitors to overcome significant barriers or unreasonable costs in order to operate or expand service at DIA.[68]

3. Alternatively, begin an independent inquiry into the monopoly power of United Airlines at DIA to determine whether, like American Airlines at Dallas-Ft. Worth, United Airlines meets the threshold for Sherman Act violations because of its monopoly behavior.

Of course, the United States Department of Justice has the knowledge and expertise to design and implement appropriate competitive conditions at DIA to help ensure that the already poor competitive situation is not worsened as a result of the system-wide impact of the proposed United Airlines and U.S. Airways merger.

In conclusion, this report has presented ample evidence that United Airlines does indeed hold a market dominating position at DIA, which appears to meet the tests used by the Department of Justice for an airline monopoly. This report includes evidence that United Airlines has in the past behaved in an anticompetitive manner, behavior enabled by its monopoly position. The report amply serves as a basis for rejecting the impending merger by United Airlines and U.S. Airways, as well as the recommendation, in the alternative, for conditioning any approval of the proposed merger on changes made to enhance competition.

[68] According to the Competition Plan for Denver International Airport, submitted September 6, 2000, DIA has thirteen common-use gates available for airline use (page 16). However, eight are designated as international use gates on Concourse A, and four are designated as domestic located on Concourse C. That leaves only one gate designated domestic use on Concourse A, which is where United Airlines' competitor Frontier Airlines is based, leaving very little room to grow without significant costs of construction.