

“The U.S. Airways/American Airlines Merger”
Senate Antitrust Subcommittee Hearing
March 19, 2013

Ranking Member Statement:

The U.S. airline industry touches the lives of almost every American in some way. Airlines allow us to travel for business and leisure, to meet new people and reunite with loved ones. Air travel is also an important element of our national infrastructure and is critical to our economy. One in eight American jobs depends on travel and tourism, and analysts estimate that U.S. travel expenditures will total more than \$850 billion in 2013. For all of these reasons, Congress must take seriously any activity that will materially affect the airline industry.

Our country has benefitted greatly from the airline deregulation in 1978. Government control of this industry, like government management of any private enterprise, had unfortunate results. In the years since deregulation, airfares have dropped substantially and options for travelers have expanded. These benefits are the result of free-market competition and will continue so long as the industry remains robustly competitive.

Despite the positive benefits of deregulation, the story of our nation’s airlines in recent decades is not one of unbroken success. Uneven earnings, volatile fuel costs, and structural changes have led to a string of airline bankruptcies. As federal agencies have provided assistance and assumed responsibility for many pension plans as a result of these bankruptcies, the financial stability of the airline industry is of special concern.

To help cope with changing circumstances, airlines have turned to consolidation. In the last decade alone, we have witnessed no fewer than six significant airline mergers. Today we consider a seventh major merger, an \$11 billion transaction. The combined American and USAirways would employ nearly 120,000 people, have 2012 revenues of almost \$40 billion, and fly 950 jets to approximately 900 destinations. The merger would leave only four airlines with significant national networks, and those carriers would control over 80 percent of the domestic market. As a result, our Subcommittee, which is tasked with oversight of competition policy and consumer rights, must conduct a thorough examination of this transaction.

The Department of Justice will review the proposed merger under the Hart-Scott-Rodino Act, applying an analytical framework set forth in the *Horizontal Merger Guidelines* to assess the anticompetitive effects of reduced competition in relevant markets, identify any increased barriers to entry for future competitors, and consider efficiencies and benefits that may accompany the consolidation.

As I have noted in previous hearings, several principles guide my approach to antitrust. Most important, we must always remember the late Robert Bork’s great insight that the purpose of our antitrust laws is to maximize consumer welfare. We seek to protect competition, not

competitors. Government may sometimes have a proper role in ensuring that a company does not obtain undue market power. But it is improper for federal agencies to pick winners and losers in the marketplace. Absent evidence that a transaction will substantially reduce competition and thereby harm consumers, I believe government intervention is usually unwarranted.

Mergers are an essential element of our rapidly changing economy, often creating significant efficiencies and helping ensure that resources are put to their most productive use. I believe this merger holds the promise of cost savings through combining complementary assets, reducing duplicative operating expenses, and integrating computer systems and airline fleets. In a competitive market, consumers benefit from such efficiencies in the form of higher-quality services, like an expanded route network, at low prices. Likewise, some industry experts suggest that the domestic market will benefit if comprised of a few large, but economically stable and competitive airlines.

Others have expressed concern that a post-merger American, the largest domestic carrier, could exercise undue market power—leading to higher prices and reduced services to certain communities. They argue that past airline mergers have created capacity reductions and price increases on some routes from the combined airlines' hubs. Many of my constituents in Utah complain about the high fares and poor service they receive flying in and out of Salt Lake City. Critics fear that this merger will likewise allow American to raise prices on certain of its routes, and that increased barriers to entry will prevent other carriers from providing competitive discipline. As one example, they note that just a few miles down the road at Reagan National Airport, a combined American and USAirways would control nearly 70 percent of all passenger gate slots, making effective competition from rivals difficult.

These are important issues and I thank Chairwoman Klobuchar for holding this hearing. By carefully weighing the evidence and engaging in rigorous analysis, we can help ensure a competitive market that maximizes consumer welfare and allows our economy to thrive.

I look forward to hearing testimony from each of the witnesses and thank them for being here today.