THE PROPOSED UNITED-CONTINENTAL MERGER: POTENTIAL EFFECTS FOR CONSUMERS AND INDUSTRY

(111–120)

HEARING

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

JUNE 16, 2010

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ADDITIONS TO THE RECORD

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June 15, 2010

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Aviation

FROM: Subcommittee on Aviation Majority Staff

SUBJECT: Hearing on "The Proposed United-Continental Merger: Potential Effects for Consumers and the Industry"

PURPOSE OF HEARING

The Subcommittee will meet on Wednesday, June 16, at 9:30 a.m., in room 2167 of the Rayburn House Office Building to receive testimony regarding the proposed merger of United Airlines and Continental Airlines and its potential effects for consumers and the industry.

BACKGROUND

United and Continental announced last month that they would merge to form the world's largest air carrier, further reordering the dynamic U.S. airline industry. Some analysts say the merger could increase the probability of more consolidation in the future, with American Airlines and US Airways regarded as potential participants, and with low-cost carriers having expressed interest in exploring potential transactions, as well.

The United-Continental merger is the second merger between so-called U.S. legacy carriers – mainline carriers that operate traditional hub-and-spoke route networks – to be announced after the industry-wide crisis that began on September 11, 2001. Legacy carriers have continuously struggled to regain profitability after a series of challenges that began with the 2001 terrorist attacks and culminated in skyrocketing oil prices and a global economic crisis. The challenging economic environment led to reorganizations in bankruptcy by Delta Air Lines, Northwest Airlines, United, and US Airways, and it led, as well, to the failures of smaller carriers such as ATA Airlines and Aloha Airlines. United operated in bankruptcy from 2002 until 2006; Continental did not seek bankruptcy protection during the post-2001 crisis.

The announcement of the merger at issue came slightly less than two years after Continental executives declined a prior United merger proposal, opting instead to cooperate on pricing and schedules with United and other Star Alliance carriers with Federally approved immunity from enforcement of antitrust law.

I. The Proposed Merger

United and Continental announced on May 3, 2010, that their boards of directors had reached agreement on a merger that would create the world's largest airline. The merger would be consummated by a stock-swap transaction the airlines value at approximately $8 billion. United shareholders would hold 55 percent of the equity in the combined entity; Continental shareholders would own 45 percent. Chicago-based United and Houston-based Continental operate largely complementary route networks, although their networks overlap on 15 routes among major U.S. cities. United president, chairman, and chief executive officer (CEO) Glenn Tilton would initially assume the chairmanship of the combined entity; Continental president, chairman, and CEO Jeff Smisek would become the new carrier's president and CEO.

The combined airline would retain the United name and Continental branding elements (including aircraft paint scheme) and would be headquartered in Chicago, although executives have publicly said they intend to maintain a management presence in Houston, Continental's base. Assuming no substantial network changes, the combined network would emanate from major U.S. hubs in Chicago, Cleveland, Denver, Houston, Los Angeles, Newark, San Francisco, and Washington, D.C., with smaller Pacific networks centered on Guam and Tokyo. According to projections, the merged carrier would surpass Delta Air Lines as the world's largest airline in terms of revenue and available seat miles (ASMs). United and Continental say Delta would continue to serve more destinations than any other U.S. carrier.

According to information published by the carriers, the proposed merger would result in new annual synergies totaling $1 billion to $1.2 billion, with net annual cost synergies expected to total between $200 million and $300 million and estimated revenue synergies to total between $800 and $900 million. The carriers say the combined company would generate annual revenue of approximately $29 billion. Combined, the two carriers employ approximately 89,000 people in the United States and abroad.

II. Federal Review

Under Federal law, the Department of Justice (DOJ) must thoroughly examine a proposal to combine two or more airlines to determine whether the proposal violates antitrust law. The Department of Transportation (DOT) must also approve the transfers of the combining carriers' operating authorities.

A. Department Of Justice Antitrust Review

Federal law generally forbids large business entities from combining in ways that substantially restrain or eliminate competition. The Clayton Antitrust Act prohibits any transaction "where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly."[1] The DOJ's Antitrust Division and the Federal Trade Commission enforce the Clayton Act and antitrust law, although the DOJ bears primary responsibility for reviewing proposed airline mergers.

To ensure DOJ officials have sufficient time in which to assess proposed transactions and to decide whether to challenge them, the Hart-Scott-Rodino Act (P.L. 94-435) requires the parties to certain high-value transactions – airline mergers included – to notify the DOJ of the pendency of those transactions and to observe a 30-day waiting period, which can be extended upon DOJ request, before proceeding with the transactions.[2] DOJ review typically consumes three to six months, at minimum; United and Continental legal counsel informed staff that the carriers hope DOJ review will conclude by the end of this year.

For purposes of application of antitrust law, airline mergers are horizontal mergers: combinations of competitors offering the same product in the same geographic markets. Horizontal mergers may result in, among other things: (1) an increase in the merged entity's market power, such that it would attain an undue level of control over pricing; and (2) informal collusion or predatory pricing practices among the few carriers remaining in a given market. In such a case, with relatively few companies in a given market, it becomes possible for firms to predict accurately how rivals will react to changes in price without any explicit agreements. Further, an increase in concentration may also enhance a company's ability to engage in predatory conduct toward competitors, producing new barriers to entry for new firms, leading ultimately to higher prices.

The DOJ applies its and the Federal Trade Commission's *Horizontal Merger Guidelines* to determine whether a merger will result in the creation or enhancement of any single carrier's market power in any relevant market.[3] Such a result obtains when a merger "significantly increases concentration and results in a concentrated market."[4] To ascertain whether the merged carrier's market power will blossom to improper levels, the DOJ conducts a five-part analysis prescribed under the Guidelines:

(1) The DOJ identifies markets affected by the merger, ascertains the merger's effect on the number of competitors in those markets, and assesses market concentration post-merger;

(2) The DOJ analyzes the likely competitive effects of any increase in concentration;

(3) The DOJ considers the likelihood of new entry that could mitigate potentially anticompetitive effects in affected markets;

(4) The DOJ assesses whether the merger may result in market efficiencies or any net increase in competition; and

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1 15 U.S.C. § 18 (2010).
2 *Id.* at § 18a. Staff was informed the 30-day waiting period for this transaction has been extended.
3 DOJ and U.S. Federal Trade Commission, *Horizontal Merger Guidelines* (April 8, 1997).
4 *Id.* at § 1.0.

(5) The DOJ evaluates whether one or more of the parties to the merger are likely to fail, causing the loss of assets from the system, unless the merger proceeds.[5]

Folded into the analysis is an evaluation of the potential future consequences of the proposed merger, including its "downstream" effects, such as the likelihood that the merger might lead to other mergers[6] or will change competitive dynamics in the industry.[7] The DOJ applies the Guidelines "reasonably and flexibly to the particular facts and circumstances of each proposed merger," because "it is not possible to remove the exercise of judgment from the evaluation."[8]

The DOJ's market-by-market analysis typically requires the DOJ to identify city pairs in which a merger may affect the level of competition. A reduction in competition would most commonly occur on routes operated by both carriers, so the extent of network overlap is a major element in, if not a focal point of, the analysis. Generally, when determining competitive effects in relevant markets, the DOJ accounts for the significance of airline-specific practices such as loyalty programs and online reservation systems with instantaneous fare information.

The DOJ may consult with the DOT during its investigation when the DOT's expertise in aviation policy would assist the DOJ in making factual determinations. DOT staff said the DOT supplies data and policy advice to the DOJ as appropriate. In some past merger cases, the DOT has privately shared views with DOJ on the possible competitive consequences of proposed mergers.

The DOJ's analysis may end with a conclusion that a merger does not jeopardize the level of competition in any relevant markets. In that case, the parties would be free to proceed with the transaction. On the other hand, the DOJ may conclude that the merger would create one or more anticompetitive concentrations of market share. In such a case, the DOJ may file suit in Federal court to block the merger, and the parties could agree to enter into a consent decree to dispose of the lawsuit, voluntarily agreeing to remedy competitive problems by divesting assets, or the case could proceed to final disposition by a judge, who could issue an injunction that either permits the merger to proceed with limitations or blocks the transaction altogether.

A DOJ decision to file a lawsuit to challenge a proposed airline merger would not be unprecedented. In 2001, the DOJ announced it would sue to block a proposed merger between United and US Airways; the carriers ultimately decided not to pursue that transaction.

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[5] *Id.* at §§ 1.0, 2.0, 3.0, 4, and 5.0.

[6] Asked about the role of the potential for future mergers in the DOJ's antitrust analysis, Assistant Attorney General James H. O'Connell, Jr., testified at the Aviation Subcommittee's 2008 hearing on the Delta-Northwest merger that "industry-wide implications can play a part in" the DOJ's market-power analysis. *Impact of Consolidation on the Aviation Industry, With a Focus on the Proposed Merger Between Delta Air Lines and Northwest Airlines,* U.S. House of Representatives, Committee on Transportation and Infrastructure, Subcommittee on Aviation, Transcript of Hearing (May 14, 2008), at 31.

[7] Mr. O'Connell further testified that the DOJ "look[s] at all aspects of competition . . . to determine what the current state of play is and, most importantly, to determine to what extent, if any, the transaction will alter that state of play, will change the competitive dynamic." *Id.* at 33.

[8] *Horizontal Merger Guidelines, supra* note 3, at § 0.

B. The Department Of Transportation's Limited Review

Each U.S. air carrier must possess a DOT certificate of public convenience and necessity in order to provide air transportation.[9] The DOT's role in government review of a proposed airline merger focuses on approval of the transfer of the predecessor carriers' statutorily required certificates to the merged entity. The DOT approves the transfer of such certificates – which include international route authorities – only if it concludes that doing so would be "consistent with the public interest."[10]

A certificate of public convenience requires a DOT finding that the applicant carrier is economically fit.[11] From an economic fitness perspective, both air carriers must provide DOT updated fitness information on the merged entity, and DOT would also have the authority to review any code-sharing arrangements or alliances involving the two carriers that would be affected by a merger.

III. Possible Effects on Domestic and International Competition

Any airline merger invariably affects consumers and communities, as a merger inherently reduces the number of competitors in the marketplace. According to data provided to staff from a variety of sources, including the carriers themselves, the proposed merger between United and Continental will affect competition in certain domestic and international city-pair markets. Reduction in competition inevitably leads to higher air fares. The recent public remarks of airline executives and industry analysts, furthermore, bespeak a strong industry expectation that further consolidation activity will follow.

A. Possible Effects on Domestic Competition

Concerns have been raised that a merger of United and Continental could result in substantial increases in air fares. The carriers could exert their market power to monopolistic effects at their hubs in some of the nation's important cities: Chicago, Cleveland, Denver, Houston, Los Angeles, New York, San Francisco, and Washington, D.C. The carriers state that they do not intend to close any of those hubs as a result of the merger. Accordingly, the combined carrier will be a generally bigger competitor at its hubs and will exert its power to discourage competitors from entering the market.

In 1993, the Government Accountability Office found that fares at concentrated hubs are higher than fares elsewhere.[12] Moreover, the Transportation Research Board noted in a 1999 report on competition in the airline industry that: "[h]igher average fares in concentrated hub markets compared with unconcentrated hub and nonhub markets have been observed in several studies" and that "the consistency with which hub markets appear among the highest fare markets is noteworthy and raises the possibility that hub carriers are exploiting market power in ways that would not be sustained if they were subject to more effective competition."[13] Proponents of the merger generally

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[9] *See* 49 U.S.C. §§ 41101, 41102 (2010).
[10] *Id.* at § 41105(a).
[11] *Id.* at § 41102(b).
[12] *See* Government Accountability Office, *Airfares at Concentrated Airports* (GAO/RCED-93-171).
[13] Transportation Research Board, *Entry and Competition in the U.S. Airline Industry: Issue and Opportunities* (1999), at 96.

point to low-cost carriers' ability – under the market structure that has existed until now – to exert price discipline on air fares in affected markets. Proponents say price discipline enforced by such carriers should minimize potential air fare increases in affected major markets. In this case, however, low-cost carriers are likely, at best, to exert price tension; industry experts say such carriers could increase their own fares if the combined United-Continental begins to exercise sufficient market power to sustain higher fares in affected markets. Moreover, low-cost carriers do not serve the majority of the small communities presently served by United, Continental, and other legacy carriers.

United's and Continental's domestic route networks overlap in certain major markets. Air fares will increase on nonstop flights among the major domestic markets where the route networks overlap and where the merger will necessarily reduce the number of competitors in those markets. The DOJ's most recent antitrust analysis, with the support of empirical data, economic studies, and precedent, generally assumed that air fares increase significantly in markets where the number of nonstop competitors decreases from two to one and that air fares increase to a lesser degree in markets where the number of nonstop competitors decreases from three to two.[14] The concentration of low-cost carriers and the extent of low-cost carriers' pricing power in affected markets may determine, to some degree, the effect on prices of such competitive reductions.

According to current and planned schedules, the United and Continental route networks overlap among 15 nonstop city-pairs markets as indicated in figure 1, below.

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[14] *See* Comments of DOJ on Order to Show Cause, *In re Joint Application of United Air Lines, Inc., et al.*, U.S. Dep't of Transp., Dkt. No. DOT-OST-2008-0234 (June 26, 2009), at 24-25, 25 n. 67 (citing, *inter alia*, Peters, "Evaluating the Performance of Merger Simulation: Evidence from the U.S. Airline Industry," 49 *Journal of Law and Economics* 627 (2006); Joskow, Werden & Johnson, "Entry, Exit and Performance in Airline Markets," 12 *International Journal of Industrial Organization* 457 (1994); Borenstein, "The Evolution of U.S. Airline Competition," 6 *Journal of Economic Perspectives* 45 (1992); Borenstein, "Hubs and High Fares: Airport Dominance and Market Power in the U.S. Airline Industry, " 20 *Rand Journal of Economics* 344 (1989); Brueckner, Dyer & Spiller, "Fare Determination in Hub and Spoke Networks," 23 *Rand Journal of Economics* 309 (1992); Morrison & Winston, "Enhancing Performance in the Deregulated Air Transportation System," 1989 *Brookings Papers: Microeconomics* 61 (1989) (hereinafter "DOJ Comments").

Figure 1. Network Overlap Between United and Continental.

NETWORK OVERLAP BETWEEN . . .	. . . AND . . .
Chicago	Cleveland Houston New York City
Cleveland	Denver
Houston	Denver Los Angeles San Francisco Washington, D.C.
New York City	Denver Los Angeles San Francisco Washington, D.C.
Los Angeles	Kahului, Hawaii Honolulu
Washington, D.C.	Cleveland

The merger will reduce, by one, the number of airlines competing for passengers in the city-pair markets listed in figure 1. In all but two city-pair markets, low-cost carriers presently compete with the two carriers.

However, a look at airport-pairs could raise concerns. Specifically, the merger will reduce the number of nonstop competitors from two to one among five airport-pairs:

- Cleveland (CLE) and Washington-Dulles (IAD);
- Denver (DEN) and Newark (EWR);
- EWR and IAD;
- EWR and San Francisco (SFO); and
- Houston-Intercontinental (IAH) and SFO.

Among four airport-pairs, according to data provided to staff, the number of competitors will be reduced from two to one when both nonstop and connecting service is considered:

- EWR and Omaha, Neb. (OMA);
- Steamboat Springs, Colo. (HDN), and IAH;
- IAH and Montrose, Colo. (MTJ); and
- IAH and OMA.

Several airports in the lists (EWR, IAD, IAH, and SFO) are located in metropolitan areas served by alternative airports where competitors, including low-cost carriers that help keep fares low, may offer nonstop or connecting service to affected cities. For that reason, the DOJ tends to focus on the city-pair analysis instead of the airport-pair analysis; the former accounts for the fact that travelers in large metropolitan areas such as Washington, D.C., Houston, New York City, and San Francisco do not necessarily utilize a single airport to the exclusion of others.

The carriers appear to expect, based on recent DOJ practice, that the DOJ will apply the city-pair analysis when assessing the merger's competitive effects and will consider the merger's effects on all airports together in metropolitan areas instead of individual airports. Aggregation in that manner would significantly reduce the number of overlapping city-pairs, although the carriers themselves acknowledge that they will attain a market share of more than 50 percent for nonstop and connecting service to and from two cities: Steamboat Springs and Montrose, Colorado.

The merger will increase the concentration of U.S. domestic market share, as well. According to the most recent data available from the DOT's Bureau of Transportation Statistics (BTS), as well as data provided by the carriers, United's and Continental's combined share of the domestic market would approach 20 percent, as depicted in figure 2, below. The combined carrier would possess the largest domestic market share of any U.S. carrier, and the domestic market would be dominated by the merged United, Delta, American, and Southwest, according to DOT data on airlines' shares of total revenue passenger miles.

Figure 2. Current Domestic Market Shares (percentage of total revenue passenger miles)[15]

CARRIER	DOMESTIC MARKET SHARE (percent)
American	13.8
Southwest	13.8
Delta	11.3
United	**10.5**
US Airways	8.0
Continental	**7.7**
Northwest	5.3
JetBlue	4.2
AirTran	3.4
Alaska	3.1
Other	18.9

According to data compiled by OAG Aviation Consulting Services, the merged carrier and its regional affiliates will operate 70 percent of seat departures from Cleveland, 87 percent from Houston-Intercontinental, 48 percent from Chicago-O'Hare, and 73 percent from Newark.

[15] BTS, *Airline Domestic Market Share, March 2009-February 2010*. Data for Delta and Northwest are reported separately because, during much of the reporting period, Delta and Northwest had not yet moved to a single operating certificate.

B. Possible Effects on International Competition

The proposed transaction also has an international dimension and will permit the combined carrier, in at least one international market, to attain a market share that the DOJ has previously characterized as anticompetitive.

In most transatlantic city-pair markets, United and Continental do not presently compete against one another, having received government approval in 2009 to cooperate with one another and with their Star Alliance partners on pricing and schedules in many worldwide markets.[16] The carriers' joint venture in transatlantic markets received, with DOT approval, immunity from enforcement of Federal antitrust law (with conditions).[17] United and Continental have sought the same immunity for a similar type of cooperation with their Japanese partner on transpacific flights.[18]

The DOJ objected to Continental's application for antitrust immunity for cooperation with United and Star Alliance carriers because, *inter alia,*

> [t]he . . . proposed elimination of competition between United and Continental for transpacific and Latin American service threatens competitive harm in markets where entry is limited by restrictive bilateral agreements. It will, for example, substantially lessen competition in city pairs between the U.S. and Beijing, where United and Continental provide substantial connecting service.[19]

The DOJ found that, between the United States and Beijing, China, Continental and United together account for 57 percent of capacity on offer between the United States and Beijing. Similarly, the DOJ found that the carriers jointly control 28 percent of the capacity on offer for flights between the United States and Hong Kong.[20]

The DOT, which has statutory responsibility for ruling on carriers' requests to proceed with immunized joint business ventures, accepted the DOJ's arguments in part and rejected them in part. The final order granting antitrust immunity to United and Continental carved out, from the immunity awarded, flights from the United States to Beijing, among other destinations.[21] Accordingly, the merger will vest, in the combined carrier, a sizeable market share in Beijing – one of the several markets in which United and Continental presently compete and do not enjoy antitrust immunity.

Concerns have been expressed that in transatlantic markets between the United States and Europe, where immunized alliances (SkyTeam, Star, and oneworld) already control a significant share of traffic, the consolidation of U.S. air carriers would further concentrate market share within

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[16] Final Order, *In re Joint Application of United Air Lines, Inc., et al.,* U.S. Dep't of Transp., Dkt. No. DOT-OST-2008-0234 (July 10, 2009) (hereinafter "DOT Final Order").
[17] *Id.*
[18] Joint Application of All Nippon Airways Co., Ltd., Continental Airlines, Inc., and United Air Lines, Inc., *In re Joint Application of All Nippon Airways Co., Ltd., et al.,* U.S. Dep't of Transp., Dkt. No. DOT-OST-2009-0350 (Dec. 23, 2009) (consolidated by order into Dkt. No. DOT-OST-2010-0059).
[19] DOJ Comments, *supra* note 14, at 2-3.
[20] *Id.* at 18-19.
[21] DOT Final Order, *supra* note 16, at 28, Appx. A.

these alliances, making it more difficult for new competitors to enter the market. Proponents of the merger claim United and Continental find it difficult to compete with well-capitalized foreign competitors and that antitrust-immunized alliances actually increase consumer choice. The merged carrier, together with its Star Alliance partners, will attain a substantial share of markets between the United States and international destinations and could, opponents say, engage in cartel pricing with the members of other airline alliances in international markets. At the least, the DOJ has expressed colorable concerns that, in certain international markets, collusion by United and Continental would be anticompetitive and result in air fare increases, as evidenced by the comments cited above.

C. Capacity Reductions

United and Continental executives maintain the merger will not, in and of itself, directly lead to significant reductions of capacity, although mergers tend to result in capacity reductions. The term "capacity" refers to the inventory of seats available to passengers. By adjusting capacity, airlines can move the supply of airline seats in relation to demand and can adjust air fares in accordance with the laws of supply and demand. Capacity is most routinely adjusted by disposing of certain aircraft and by reducing the inventory of seats and flights in certain markets. United and Continental executives say that, because the carriers' networks do not overlap significantly, the merger presents little opportunity to reduce capacity. The merger has been characterized as an end-to-end merger that will create cost synergies and new connecting opportunities for passengers.

Some industry analysts, however, hold a view that mergers make financial sense for carriers because they facilitate the elimination of capacity, constricting the supply of airline seats and increasing airfares. A J.P. Morgan report published on the eve of the merger announcement based its estimates as to cost and revenue synergies on an eight percent capacity reduction.[22] Barclays Capital has premised similar estimates on a nine percent capacity cut.[23] A UBS analyst has said a capacity reduction of 10 percent would be necessary to create the revenue synergies that United and Continental anticipate.[24] In such a scenario, the combined carrier would offer 10 percent fewer seats than United and Continental currently offer on a combined basis.

Although they are not necessarily reflective of competing airlines' strategic plans and outlooks, public comments by leaders of American Airlines and US Airways indicate United's and Continental's competitors anticipate benefits from the merger's potential effects on the industry: less competition, a reduction in industry fragmentation, and an adjustment of supply and demand,[25] which may result from capacity reductions.

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[22] J.P. Morgan, *Airlines: Pro Forma UAUA-CAL Model* (April 30, 2010), at 1.
[23] Lori Ranson, "United Forces the Merger Pace," *FlightGlobal* (May 20, 2010).
[24] Jeremy Lerner, "Airlines Try to Get Merger Off the Ground," *Financial Times* (May 28, 2010).
[25] *See, e.g.,* "Merger and union talks to help AMR cut costs: AMR CEO," Reuters (May 19, 2010) (quoting American CEO Gerard Arpey as saying, "A combined United/Continental would mean one fewer choice in the marketplace, and may result in a better balance between industry supply and demand, potentially resulting in a more rational competitive environment."); "US Air CEO Supports United/Continental Merger," Reuters (May 18, 2010) (quoting US Airways CEO Doug Parker as saying, in context of United-Continental merger, that consolidation "makes the industry more efficient. We end up with less fragmentation. It makes the industry stronger and therefore makes US Airways stand-alone stronger.").

D. Prospects for Further Industry Consolidation

The press has widely reported views from industry stakeholders and analysts who believe the merger is likely to lead to further consolidation as the merged United's competitors struggle to offset its sizeable market share and to compete with its globe-encircling network. In 2008, the Aviation Subcommittee held a hearing on the Delta-Northwest merger and received substantial testimony about the merger's potential effects for consumers and the industry. In particular, industry analysts and observers testified that the Delta-Northwest merger was likely to trigger further consolidation activity among U.S. carriers. The merger now at issue was widely predicted when Delta and Northwest merged.

Executives with US Airways have publicly said recently that they regard a merger as a likely strategic move in the future. US Airways president Scott Kirby, in fact, said on May 27 that, "[f]urther down the road, there's a high probability that US Airways will wind up merging with either United, Delta, or American."[26] Airline analyst Bob McAdoo recently concluded US Airways and American are increasingly likely to participate in consolidation activity as a result of market conditions created by the United-Continental merger.[27] Any further consolidation within the industry would, of course, be subject to competitive analysis, scrutiny, and approval by the DOJ's Antitrust Division.

Carriers appear to regard participation in an antitrust-immunized international joint venture as an unacceptable substitute for merging, as evidenced by the fact that the Delta-Northwest and United-Continental mergers have been proposed despite the carriers' participation in such joint ventures. United and Continental have said they cannot capture the same efficiencies and synergies in their existing immunized joint venture with Star Alliance carriers as would be available through a merger. Other U.S. carriers' participation, either now or in the future, in antitrust-immunized ventures is not likely, in staff's view, to deter those carriers from engaging in consolidation activity.

IV. The Merger's Social Dimension

Like any airline merger, the United-Continental merger will have a social dimension and will affect substantial numbers of the 89,000 employees of both carriers. United and Continental executives have said on numerous occasions that the merger will not result in significant involuntary reductions of frontline employees, although it is likely to result in some redundancies among central management employees. The executives have said they hope any reductions to frontline staffing can be effectuated through voluntary programs, retirement, and attrition.

In terms of major employee groups, both Continental and United pilots are represented by the Air Line Pilots Association (ALPA). ALPA represents more than 7,700 total pilots at United and more than 4,800 total pilots at Continental. The International Association of Machinists and Aerospace Workers (IAM) represents 9,500 Continental flight attendants and 16,000 ramp, service, stores, public contact, and food service workers, fleet technical instructors, maintenance instructors, and security guards. The Association of Flight Attendants (AFA) represents 17,000 flight attendants

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[26] Ted Reed, "US Airways: Merger Probability Is High," *The Street* (June 1, 2010).
[27] Linda Loyd, "Analyst: US Airways Is Attractive Merger Partner," *Philadelphia Inquirer* (May 26, 2010); Ted Reed, "American Needs US Air Merger: Analyst," *The Street* (May 26, 2010).

at United. The International Brotherhood of Teamsters represents 8,000 mechanics at United, 5,000 mechanics at Continental, and 8,000 fleet service workers at Continental.

The merger announcement comes at a strategically significant time for Continental and United pilots and flight attendants, all of whom are presently in contract negotiations with management. The United and Continental pilot groups, represented by ALPA, acknowledge the merger is expected to create value for stakeholders and said in a statement that they "fully expect to share in that value."[28] If the merger proceeds, the AFA and IAM would participate in a representational election among United and Continental flight attendants. Labor unions in general have said they will work to ensure the merger will benefit airline workers.

V. Prospects for Sustained Profitability

United and Continental expect the merger to generate substantial cost synergies: roughly $1 billion to $1.2 billion over the long term. According to materials provided by the carriers, those synergies will result from optimization of schedules, integration and rationalization of fleets and seat inventory, use of integrating pricing, elimination of administrative overhead redundancies at headquarters and airports systemwide, integrated computer systems, and optimal use of real estate and staffing, among other things. United and Continental pilot leaders informed staff that they view the Delta-Northwest merger as having created such synergies.

As a general matter, the airline industry has encountered challenges in recovering the cost of its capital, due in part to the highly technical and complex nature of airline operations, their exposure to numerous sources of risk around the world, and the volatile nature of oil prices. According to data released by the DOT's BTS, jet fuel prices have been exceptionally volatile over the last two years, although in April they receded to an average of $2.31 per gallon, down from an all-time high of $3.69 per gallon in July 2008. U.S. carriers in general say they are unable to compete with well capitalized foreign carriers – at least those foreign carriers with which they are not in immunized alliances – in the world market. Moreover, United and Continental argue that average one-way airfares, when adjusted for inflation, fell from $253 in 1990 to $142 in 2009.

Neither United nor Continental has regained sustained profitability, although United recorded an operating profit for the first quarter of 2010 – its first such profit since 2000. The carriers' most recent financial statements indicate net losses for the first quarter of this year and for full-year 2009, as depicted in figure 3 below.

[28] ALPA, Joint Statement of United and Continental Master Executive Councils (May 3, 2010).

Figure 3. Recent Financial Data, As Reported By United And Continental.

	1Q 2010 RESULTS	2009 FULL-YEAR RESULTS
UNITED[29]	Net loss of $92 million. Operating profit of $58 million.	Net loss of $1.1 billion.
CONTINENTAL[30]	Net loss of $136 million.	Net loss of $282 million.

Mergers, however, have not always succeeded in creating sustained value for shareholders, passengers, employees, and other airline stakeholders. No evidence exists that mergers have directly resulted in the failures of air carriers, but the history of consolidation in the U.S. airline industry likewise does not support the conclusion that mergers have been directly linked to sustained profitability. Despite mergers with Trans World Airlines (in 2001) and Reno Air (in 1999), American has not achieved consistent profitability since 2001. The 2005 merger of US Airways and America West has been beset by challenges over the integration of competing labor groups. On the other hand, some transactions among carriers have added value for stakeholders. The merger of Delta and Western Airlines in 1987 was an end-to-end combination that made new connections possible for travelers on the East and West coasts. United's purchase of the Pacific operations of Pan American World Airways (Pan Am), Delta's purchase of Pan Am's transatlantic routes and Northeast shuttle, and American's purchase of Eastern Air Lines' Caribbean and Latin American networks are examples of limited scenarios in which acquisitions have broadened the scope of U.S. carriers' networks and have potentially enhanced the level of choice for air travelers.

[29] UAL Corp., U.S. Secs. and Exchange Comm'n Form 8-K (April 27, 2010); UAL Corp., U.S. Secs. and Exchange Comm'n Form 8-K (Jan. 27, 2010).
[30] Continental Airlines, Inc., U.S. Secs. and Exchange Comm'n Form 8-K (April 22, 2010); Continental Airlines, Inc., U.S. Secs. and Exchange Comm'n Form 8-K (Jan. 18, 2010).

Witnesses

Member Panel

The Honorable Luis V. Gutierrez
Congressman
Illinois, District 4

The Honorable David M. Payne
Congressman
New Jersey, District 10

The Honorable Dennis J. Kucinich
Congressman
Ohio, District 10

Panel I

Mr. Glenn F. Tilton
Chairman, President and CEO
United Air Lines Corporation

Mr. Jeffery Smisek
Chairman, President and CEO
Continental Airlines, Inc.

Panel II

Captain Wendy Morse
Chairman
United Master Executive Council
Air Line Pilots Association

Captain Jay Pierce
Chairman
Continental Master Executive Council
Air Line Pilots Association

Ms. Patricia Friend
International President
Association of Flight Attendants-CWA

Mr. Robert Roach, Jr.
General Vice President of Transportation
International Association of Machinists and Aerospace Workers

Mr. Albert A. Foer
President
The American Antitrust Institute

Mr. Hubert Horan
Aviation Analyst and Consultant

Mr. William McGee
Consultant on Travel and Aviation Issues
Consumers Union

Mr. David Strine
Portfolio Manager
Impala Asset Management, LLC

THE PROPOSED UNITED–CONTINENTAL MERGER: POSSIBLE EFFECTS FOR CONSUMERS AND THE INDUSTRY

Wednesday, June 16, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AVIATION,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The Subcommittee met, pursuant to call, at 9:30 a.m., in room 2167, Rayburn House Office Building, Hon. Jerry F. Costello [Chairman of the Subcommittee] presiding.

Mr. COSTELLO. The Subcommittee will come to order. The Chair will ask that all Members, staff and everyone turn all electronic devices off or on vibrate.

The Subcommittee is meeting today to receive testimony regarding the proposed United-Continental merger and the possible effects for consumers and the industry. I intend to give a very brief opening statement and put the rest of my statement in the record. And then I will call on Mr. Petri for his opening statement. And then we will go immediately to our first panel, the Members panel.

I welcome everyone today to the Aviation Subcommittee hearing on the proposed merger between United Airlines and Continental Airlines and its potential effects for consumers and the industry. In particular, I want to welcome the families of Colgan Flight 3407 for being with us today and for their steadfast support to improve pilot training and safety in the industry.

Given that we have several panels today, I will be brief with my statement and ask Mr. Petri to do the same so that we can go to our first panel.

Last month, United and Continental announced they would merge to form an airline that by several measures will be the largest airline in the world. United and Continental claim the proposed merger will generate up to $1.2 billion in annual revenue and will create cost synergies for more effective aircraft utilization, a more comprehensive route network, and improved operation efficiencies.

In 2008 this Subcommittee also held a hearing on the merger of Delta Airlines and Northwest Airlines. At that time there was speculation that other carriers within the industry would merge to create a U.S. airline industry dominated by just a few mega-carriers.

Just 2 years later, as many predicted, we are meeting here again today to discuss another proposed combination that would surpass Delta as the world's largest. This merger would leave our U.S. Industry with only four legacy airlines. We all have a shared interest in maintaining a safe, reliable, competitive, and profitable air transportation system, and we must ask critical questions on the long-term implications of continued mergers for the future of the industry.

I am very concerned about how this merger, if approved, will affect ticket prices for passengers, how the merger will affect pilots, flight attendants, mechanics and employees of both airlines, how many employees will lose their jobs or receive reduced benefits and wages, and what will happen with existing union contracts.

Less competition generally leads to higher prices, fewer choices, and a loss of jobs. I sympathize with the thousands of airline employees who have suffered as a result of airline financial problems in the past. Many have seen their hard-earned pensions drop during airline bankruptcies, seniority rights disappear, labor disputes go unresolved, wages frozen or cut, d jobs lost to outsourcing and consolidation.

This merger should not take place at the expense of consumers or the workers who have already made tremendous sacrifices. Unfortunately, past mergers have not always demonstrated that consumers and employees will be better served by consolidation.

Therefore, what I want to learn from this hearing is, number one, how is this proposed merger different from past mergers? And number two, how will this merger really affect consumers and employees?

Currently, both the Department of Justice and the Department of Transportation are in the process of reviewing the merger. I understand that United and Continental are hopeful a decision will be made by the end of the year. Although we do not have a government panel testifying here today, I trust that the appropriate Federal agencies will make certain that this proposed merger receives a thorough review and will ensure that it is consistent with the requirements of the law.

Finally, I am interested in hearing from the analysts on our second panel regarding the pros and cons of this merger, the prospects for future mergers, and whether low-cost carriers will be able to effectively keep airfares down in markets affected by the merger.

Before I recognize Mr. Petri for his opening statement or remarks, I ask unanimous consent to allow 2 weeks for all Members to revise and extend their remarks and to permit the submission of additional statements and materials by Members and witnesses. Without objection, so ordered.

Additionally, at my request, the Department of Justice has prepared a letter explaining its antitrust review process in general. The letter does not deal with this specific merger, but it may be helpful to Members of the Subcommittee in understanding the process. In addition, we have received letters from organizations concerning this specific merger. And I will ask unanimous consent that these letters be placed into the record. Without objection, so ordered.

[The information follows:]

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Jerry F. Costello
Chairman
Subcommittee on Aviation
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Department of Justice appreciates having this opportunity to respond to the Subcommittee's June 7, 2010, request for information on the process by which the Antitrust Division reviews airline mergers. The Department cannot comment on the specifics of any transaction it is currently investigating, such as the proposed merger of United Air Lines and Continental Airlines. Set forth below, however, is a general description of the process used by the Division to evaluate mergers, including those in the airline industry.

Mergers can allow businesses to grow in ways that help consumers. They can combine complementary assets and enable firms to get new and better products to consumers more quickly and more cheaply. On the other hand, mergers can harm consumers by, for example, eliminating competition that would have resulted in lower prices or product innovation. Those potential consumer harms have been a central concern of the Justice Department since the Sherman Act's enactment.

The Justice Department reviews most mergers within the procedural framework of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. Under that statute, parties to proposed transactions over a certain size must provide to the Antitrust Division (the Division) information regarding their businesses before consummating their transaction. Although the review of the vast majority of transactions subject to this pre-merger filing requirement is accomplished within 30 days, some transactions require a closer look in order to be able to make an informed judgment about their likely competitive effects. In those instances, the Division issues what is called a second request, which is essentially a request for a more complete set of party documents and data. Until they comply with the second request and provide the Antitrust Division time to review their materials, parties are not allowed to consummate their proposed deal. Working together, the Antitrust Division's economists and lawyers examine the transaction's likely competitive effects based on the facts as they present themselves.

At the end of the Division's review, if they believe that the transaction is likely to violate the antitrust laws and they are unable to resolve their concerns through a negotiated result, the Department must file a lawsuit asking a court to enjoin the parties from completing their transaction. Courts adjudicate the Department's merger challenges under the Clayton Act, which prohibits transactions that may result in a substantial lessening of competition. After learning that the Department intends to file suit to block a deal, parties frequently will seek to negotiate a settlement that will remedy the competitive harms of the transaction while simultaneously allowing the procompetitive aspects of the merger to go forward. Indeed, it has been the case for many years that the majority of the transactions challenged by the Justice Department have resulted in negotiated settlements. The Department's ultimate goal in all cases, however, is preventing mergers from having adverse effects on consumers and competition.

The likelihood of a merger having adverse competitive effects depends on the specific market facts. Generally speaking, mergers may present two broad categories of competitive harm: (1) coordinated interaction and (2) unilateral effects. A merger may substantially lessen competition through coordinated interaction if it would allow competitors to coordinate their pricing or other competitive actions more successfully than they would be able to coordinate without the merger. A merger may substantially lessen competition through unilateral effects if the transaction would enable the merged firm to raise price or otherwise exercise market power even without engaging in coordination with its rivals.

In evaluating the likely competitive effects of a transaction, the Department considers a wide variety of evidence. The Antitrust Division can obtain evidence from the merging parties, their competitors, their customers, consumer groups, government agencies with experience in the relevant industry, and economic and industry experts. Moreover, the Division has developed its own expertise regarding certain industries that they have been required to investigate on multiple occasions. By carefully evaluating the evidence, the Department obtains an understanding of the markets affected by a proposed merger and how they will be impacted by the proposed transaction.

Mergers in the airline industry typically involve many different markets, and assessing competitive effects can require very fact-specific inquiries. For instance, a recurring issue in airline mergers is whether consumers view travel into different airports—for instance, Reagan National and Baltimore-Washington International—as close substitutes. Another recurring issue concerns the degree to which consumers prefer non-stop travel over connecting travel between two cities.

Thank you for your interest in the work of the Department of Justice. Please do not hesitate to contact this office if we may be of further assistance with regard to this or any other matter.

Sincerely,

Ronald Weich
Assistant Attorney General

cc: The Honorable Thomas E. Petri
Ranking Minority Member
Subcommittee on Aviation

AIT WORLDWIDE LOGISTICS

United Airline/Continental Merger

June 2, 2010

The Honorable Richard J. Durbin
309 Hart Senate Bldg.
Washington, DC 20510

Dear Senator Durbin:

I am writing to express AIT Worldwide Logistics enthusiastic support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. The merger could allow us to build on our current relationship and become a stronger partner with the combined airline. The combined airline's increased financial strength is particularly good news for our company and our 300+ employees in Itasca, Illinois.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. From a cargo perspective, the combined carriers would generate far-ranging logistics options with more than 150 wide body, containerized aircraft. From the standpoint of AIT Worldwide Logistics we see opportunities and efficiencies that would improve the way we do business globally with the merged airline.
This merger will take the partnership of United and Continental to the next level, and we want to be a part of their future success. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of AIT Worldwide Logistics support for the merger and hope you will support it, too.

Sincerely,

Herb Cohan
Senior Vice President

Supporting America's Gold Medal Dreams

AIT Worldwide Logistics, Inc. ■ P.O. Box 66730 ■ Chicago, IL 60666-0730
630-766-8300 ■ 800-669-4248 ■ www.aitworldwide.com

AERO MAINTENANCE GROUP

June 2, 2010

The Honorable Richard J. Durbin
309 Hart Senate Bldg.
Washington, DC 20510

Dear Senator Durbin:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. The merger could allow us to build on our current relationship and become a stronger partner with the combined airline. Given the upheaval in the airline industry of the past decade, this is particularly good news for our company and our 350 employees in Miami, FL, Atlanta, GA and Dallas, TX.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level, and we want to be a part of their future success.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of the Aero Maintenance Group support for the merger and hope you will support it, too.

Sincerely,

Peter Metzger
Executive Vice President

2200 NW 84th Avenue, Miami, FL 33122 TEL (305) 436-5464 FAX (305) 436-6064 www.aerotechnologies.net

City of Chicago
Richard M. Daley, Mayor

Chicago Department of Aviation

Rosemarie S. Andolino
Commissioner

Chicago O'Hare International Airport
P.O. Box 66142
Chicago, Illinois 60666
(773) 686-2200
(773) 686-3333 (TTY)

O'Hare Modernization Program
P.O. Box 66142
10510 W. Zemke Road
Chicago, IL 60666
(773) 462-7300
(773) 462-8552 (Fax)

Chicago Midway International Airport
5700 South Cicero Avenue
Chicago, Illinois 60638
(773) 838-0600
(773) 838-0795 (TTY)

www.flychicago.com
www.OhareModernization.org

May 28, 2010

The Honorable Richard J. Durbin
United States Senator
309 Hart Building
Washington, D.C. 20510

Dear Senator Durbin:

As Commissioner and on behalf of the Chicago Department of Aviation (CDA), I write to express my support for the proposed merger of United Airlines and Continental Airlines. It is my belief that the merger will create a more sustainable and financially sound airline.

A stronger more viable United Airlines is good for O'Hare International Airport and the City of Chicago. The combined carrier will become the world's largest airline, and as progress continues on the O'Hare Modernization Program, O'Hare will be ready to accommodate the additional capacity for potential growth. This will further strengthen O'Hare and Chicago's reputation as an important global center for aviation and business.

United and Continental are well-suited to combine. They have said that they will maintain service to all the communities they now serve, and possibly add domestic and international routes to their current 370 destinations around the world. The two airlines have complementary route networks, offering convenient access to Asia, Europe, Latin America, Africa and the Middle East. As a result, the merger will strengthen O'Hare's importance in the global aviation system providing even more connections from Chicago to cities around the world.

Thank you for your consideration and for all of your efforts to ensure Chicago's airports remain at the forefront of the global aviation system.

Sincerely,

Rosemarie S. Andolino
Commissioner

cc: Members of Illinois United States Congressional Delegation
Eric H. Holder, Jr., Attorney General, U.S. Department of Justice
Ray LaHood, Secretary, U.S. Department of Transportation
Valerie B. Jarrett, Senior Advisor, Executive Office of the President

CHICAGOLAND
CHAMBER OF COMMERCE

May 20, 2010

The Honorable Roland Burris
387 Russell Senate Building
Washington, DC 20510

Dear Senator Burris:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and workers in Chicagoland and our local economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses in Chicago, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, and that is exactly what we need in the Chicago area to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 employees of the combined airline. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our local economy.

United and Continental are well suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of the Chicagoland Chamber's support for the merger and hope you will support it, too.

Sincerely,

Jerry — Thank you

Gerald Roper
President and CEO
Chicago Chamber of Commerce

cc: The Hon. Melissa Bean
The Hon. Judy Biggert
The Hon. Danny Davis
The Hon. Bill Foster
The Hon. Luiz Gutierrez
The Hon. Deborah Halvorson

cc: The Hon. Jesse Jackson, Jr.
The Hon. Mark Kirk
The Hon. Daniel Lipinski
The Hon. Peter Roskam
The Hon. Bobby Rush
The Hon. Janice Schakowsky

200 E. Randolph Street, Suite 2200, Chicago, IL 60601 www.chicagolandchamber.org 312.494.6700 fax: 312.861.0660

Prospect Airport Services, Inc.

June 1, 2010

The Honorable Richard J. Durbin
309 Hart Senate Building
Washington, D.C. 20510

Dear Senator Durbin:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. The merger could allow us to build on our current relationship and become a stronger partner with the combined airline. Given the upheaval in the airline industry of the past decade, this is particularly good news for our company and our 880 employees in Chicago, IL.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level, and we want to be a part of their future success.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of Prospect Airport Services, Inc. support for the merger and hope you will support it, too.

Sincerely,

Vicki L. Strobel
President

OFFICE OF THE MAYOR

CITY OF CHICAGO

RICHARD M. DALEY
MAYOR

June 1, 2010

The Honorable Jerry F. Costello
United States House of Representatives
2408 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Costello:

As Mayor and on behalf of the citizens of Chicago, I write to express my support for the proposed merger of United Airlines and Continental Airlines. This merger will benefit the businesses and residents of Chicago and strengthen our local and state economies.

The merger will create a financially stronger, sustainable airline whose corporate and operational headquarters will remain in Chicago. This will further strengthen O'Hare International Airport and Chicago's reputation as an important global center for business, trade and tourism. Combined with our ongoing efforts to expand our city's air travel capacity under the O'Hare Modernization Program, we are well-positioned to maintain our leading position in international aviation and accommodate future growth.

Chicago has always been a center of transportation for the nation. Businesses and residents in our city can look forward to the new combined airline continuing to provide broad access and convenient service to destinations around the globe.

Thank you in advance for your consideration of this matter.

Sincerely,

Richard M Daley

Mayor

ILLINOIS CHAMBER
OF COMMERCE

CAPITAL CITY OFFICE
215 E. Adams St.
Springfield, IL 62701
MAIN 217.522.5512
FAX 217.522.5518
www.ilchamber.org

May 24, 2010

The Honorable Dick Durbin, Assistant Majority Leader
United States Senate
309 Hart Senate Office Building
Washington, DC 20510-1304

Dear Senator Durbin:

I am writing to express the Chamber's strong support for the proposed merger of United Airlines and Continental Airlines because it will benefit businesses and workers in Illinois and our local economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses in Illinois that means we can look forward to the combined airline providing access to 370 destinations around the glove.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 employees of the combined airline. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I hope you will join me in supporting this vital merger and will agree to communicate your support to Attorney General Holder and Transportation Secretary LaHood. Thank you for your consideration of this request.

Sincerely,

Douglas L. Whitley

Doug Whitley
President & CEO

Cc: Illinois Delegation

CONFIDENTIAL: DO NOT DISTRIBUTE

IMA Illinois Manufacturers' Association www.ima-net.org
1211 West 22nd Street • Suite 620 • Oak Brook, Illinois 60523 • 630-368-5300 • Fax: 630-218-7467
220 East Adams Street • Springfield, Illinois 62701 • 217-522-1240 • Fax: 217-522-2367
Email: ima@ima-net.org

May 19, 2010

The Honorable Richard J. Durbin
Assistant Majority Leader
309 Hart Senate Office Building
Washington, D.C. 20510-1304

Dear Senator Durbin:

On behalf of the Illinois Manufacturers' Association and our thousands of member companies across the state, I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit employers and their workers in Illinois while proving an economic stimulus for our local economy. Manufacturing in Illinois employs 570,000 workers directly and contributes the single largest share – 13 percent – of the state's Gross Domestic Product.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. Manufacturing companies and other businesses in Illinois who operate in a global economy will utilize the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business around the globe. This critical merger will make it easier for Illinois companies to conduct commerce which is exactly what we need in Illinois to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 employees of the combined airline. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our local economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance and this merger will take their partnership to the next level.

On behalf of the Illinois Manufacturers' Association, I ask for your support of this important merger benefitting the manufacturing sector in Illinois. It is vital that both Attorney General Holder and Transportation Secretary LaHood understand that the IMA and our membership strongly support this change.

Sincerely,

Gregory W. Baise
President & CEO

cc: Illinois Congressional Delegation

Serving Illinois manufacturers since 1893

JONES LANG
LASALLE.

200 East Randolph Drive Chicago Illinois 60601
tel +1 312 782 5800 fax +1 312 782 4339

June 4, 2010

The Honorable Richard J. Durbin
309 Hart Senate Building
Washington, DC 20510

Dear Senator Durbin:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. The merger could allow us to build on our current relationship and become a stronger partner with the combined airline. Given the upheaval in the airline industry of the past decade, this is particularly good news for our company and our 1,687 employees in Chicago, Illinois.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level, and we want to be a part of their future success.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of Jones Lang LaSalle's support for the merger and hope you will support it, too.

Sincerely,

Peter C. Roberts
Chief Executive Officer - Americas

CONFIDENTIAL: DO NOT DISTRIBUTE

May 28, 2010

The Honorable Roland Burris
387 Russell Senate Office Bldg.
Washington, DC 20510

Dear Senator Burris:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. The merger could allow us to build on our current relationship and become a stronger partner with the combined airline. Given the upheaval in the airline industry of the past decade, this is particularly good news for our company and our 250 employees in McCook, IL.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level, and we want to be a part of their future success.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of Michael Lewis Company's support for the merger and hope you will support it, too.

Sincerely,

Michael L. Simon
Chairman

Donald P. Welvaert
Mayor

619 – 16th Street
Moline, Illinois 61265

Phone:

(309) 524-2001

Email:

dwelvaert@moline.il.us

May 18, 2010

The Honorable Richard Durbin
525 South Eighth Street
Springfield Illinois 62703

Dear Senator Durbin:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and residents of Moline, Illinois, the employees of the combined airline and our local/state economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses and residents in Moline, Illinois, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, while tourists will find it more convenient to visit our city/state. This is exactly what we need to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 Illinois employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of my support for the merger and hope you will support it, too.

Sincerely,

Donald P. Welvaert, Mayor
City of Moline

CITY OF

PEORIA

OFFICE OF THE MAYOR
JIM ARDIS

May 28, 2010

The Honorable Richard J. Durbin
Assistant Majority Leader
309 Hart Senate Bldg.
Washington, DC 20510

Dear Senator Durbin:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines, because it will benefit the businesses and residents of Peoria, Illinois, the employees of the combined airline, and our local/state economy. The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. As for businesses and residents in Peoria, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers, and doing business, while tourists will find it more convenient to visit our city and state. This is exactly what we need to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 Illinois employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal, and they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it is important to our economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa, and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you please let Attorney General Holder and Transportation Secretary LaHood know of my support for the merger and hope you will support it, too. Thank you for your consideration.

Sincerely,

Jim Ardis
Mayor

JA/am/kc

Peoria City Hall
419 Fulton Street, Room 207, Peoria, IL 61602
Phone 309.494.8519 Fax 309.494.8559

Prospect Airport Services, Inc.

June 1, 2010

The Honorable Richard J. Durbin
309 Hart Senate Building
Washington, D.C. 20510

Dear Senator Durbin:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. The merger could allow us to build on our current relationship and become a stronger partner with the combined airline. Given the upheaval in the airline industry of the past decade, this is particularly good news for our company and our 880 employees in Chicago, IL.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level, and we want to be a part of their future success.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of Prospect Airport Services, Inc. support for the merger and hope you will support it, too.

Sincerely,

Vicki L. Strobel
President

METROPOLITAN AIRPORT AUTHORITY

OF ROCK ISLAND COUNTY, ILLINOIS

QUAD CITY INTERNATIONAL AIRPORT
P.O. BOX 9009
MOLINE, IL 61265-9009
309-764-9621 TEL
309-757-1515 FAX

May 25, 2010

The Honorable Richard J. Durbin
U. S. Senator
309 Hart Senate Bldg.
Washington, DC 20510

Dear Senator Durbin:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and residents of Moline, Illinois, the employees of the combined airline and our local/state economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses and residents in Moline, Illinois, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, while tourists will find it more convenient to visit our city/state. This is exactly what we need to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 Illinois employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of my support for the merger and hope you will support it, too.

Sincerely,

Bruce Carter

Bruce E. Carter, A.A.E.
Director of Aviation

pam

CITY OF
MOLINE
ILLINOIS

Donald P. Welvaert
Mayor

619 – 16th Street
Moline, Illinois 61265

Phone:

(309) 524-2001

Email:

dwelvaert@moline.il.us

May 18, 2010

The Honorable Richard Durbin
525 South Eighth Street
Springfield Illinois 62703

Dear Senator Durbin:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and residents of Moline, Illinois, the employees of the combined airline and our local/state economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses and residents in Moline, Illinois, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, while tourists will find it more convenient to visit our city/state. This is exactly what we need to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 Illinois employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of my support for the merger and hope you will support it, too.

Sincerely,

Donald P. Welvaert, Mayor
City of Moline

Illinois Quad City Chamber of Commerce

May 19, 2010

The Honorable Richard J. Durbin
309 Hart Senate Bldg
Washington, DC 20510

Dear Senator Durbin:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and workers in the Quad Cities and our local economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses in the Quad Cites region, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, and that is exactly what we need in the Quad Cities to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 Illinois employees of the combined airline. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our local economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of the Illinois Quad City Chamber of Commerce's support for the merger and hope you will support it, too.

Sincerely,

Rick Baker
President/CEO

622 19th Street ■ Moline, IL ■ Phone: (309) 757-5416 ■ Fax: (309) 757-5435 ■ www.quadcitychamber.com

Office of the Mayor
City of Springfield, Illinois

Timothy J. Davlin
Mayor

May 21, 2010

The Honorable Richard J. Durbin
309 Hart Senate Bldg.
Washington, DC 20510

RE: Proposed United Airlines and Continental Airlines Merger

Dear Senator Durbin:

I am writing to express my strong support of the proposed merger of United Airlines and Continental Airlines. Such a merger will benefit the businesses and residents of the City of Springfield, Illinois, the employees of the combined airline, and our local/state economy.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, while tourists will find it more convenient to visit our city/state. This is exactly what we need to keep our economy on the right path.

Moreover, the merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses and residents in Springfield, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 Illinois employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our economy.

300 Municipal Center East • Springfield, Illinois 62701 • (217) 789-2200 • Fax (217) 789-2109

Page 2
Senator Durbin

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of my support for the merger and hope you will support it, too.

Sincerely,

Timothy J. Davlin

Timothy J. Davlin
Mayor

300 Municipal Center East • Springfield, Illinois 62701 • (217) 789-2200 • Fax (217) 789-2109

The Chamber

The Greater Springfield Chamber of Commerce

Q5
QUANTUM GROWTH PARTNERSHIP 2007-2011

Transforming the economy of Sangamon County.

The Honorable Richard J. Durbin
Senate Majority Leader
309 Hart Senate Office Bldg
Washington, DC 20510

Dear Senator Durbin:

The Greater Springfield Chamber of Commerce supports the proposed merger of United Airlines and Continental Airlines. This merger will benefit our businesses, our workers and our local economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. This also means our businesses will have access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 Illinois employees of the combined airline. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our local economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

The Chamber asks for your support of this important initiative which will strengthen air service in our community.

Sincerely,

Gary Plummer
President & CEO

1011 South Second Street
Springfield, IL 62704
Ph: 217.525.1173
Fax: 217.525.8768
www.gscc.org

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, ILLINOIS 62706

Pat Quinn
GOVERNOR

May 21, 2010

The Honorable Richard J. Durbin
Assistant Majority Leader
309 Hart Senate Building
Washington, DC 20510

Dear Senator Durbin:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because it will benefit Illinois businesses, residents and visitors, the employees of the combined airline and our state's economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for Illinois businesses, residents and visitors, this means we can look forward to the combined airline providing access to and from 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business across our state and around the world, while tourists will find it more convenient to visit cities throughout Illinois. In 2008, domestic and international visitors spent almost $31 billion in Illinois, which supports more than 300,000 Illinois jobs. This is an enormous economic engine that will greatly benefit from this productive partnership.

The combined airline's increased financial strength will also provide enhanced job stability for the 13,600 Illinois employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal, and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level, while helping U.S. companies compete in this global economy.

I would very much appreciate it if you let Attorney General Holder and Transportation Secretary LaHood know of my support for the merger, and I hope you support it, too.

Sincerely,

Pat Quinn

Pat Quinn
Governor

cc: Attorney General Holder
Transportation Secretary LaHood
Senior Advisor Jarrett
Illinois Congressional Delegation

Mr. COSTELLO. The Chair now recognizes Mr. Petri for his opening statement.

Mr. PETRI. Mr. Chairman, thank you for holding this very important hearing. It is important that the Subcommittee use this hearing to fully explore the proposed United-Continental merger in order to gauge not just its potential effects on both companies, and their thousands of employees, but even, more importantly, on consumers.

Since 2001 the airline industry has lost over 150,000 jobs and seen over 35 bankruptcies. In today's economy airlines must significantly cut costs and increase operating efficiency or face closing their doors.

Over the past decade commercial aviation industry has faced a variety of challenges, including terrorist attacks, volatile fuel prices, and a massive decline in demand due to the global recession. Unprecedented events such as SARS, H1N1 and the volcanic ash plume also have added to the industry's woes.

In addition to these financial strains, U.S. carriers must also compete in the world marketplace against financially strong competitors; some, national champions. We cannot deny that the airline industry is a global industry. Decisions to merge over the last few years have in part been driven by the need to improve U.S. Carriers' ability to compete on a global basis.

Last month United Airlines and Continental Airlines announced their intention to merge. Global competition, the struggling economy, and a need to improve operating efficiency are cited as the main reasons for this. Since the proposed merger was announced, aviation experts, labor groups, consumer advocates and other interested parties have commented both for and against airline mergers in general and the United-Continental merger specifically.

The proposed merger's impact on consumers, competition in the marketplace, air service, airfares, and a combined 89,000 employees has been the subject of a great deal of speculation.

Today we have before us representatives of the interested groups to testify about airline consolidations, focusing on the United-Continental merger. We will also hear from the chief executive officers of both airlines. It is important that the Aviation Subcommittee hear from the interested parties to gain a better understanding of the proposed merger of United and Continental.

Procedurally, the merger cannot be completed, as our Chairman has just pointed out, without approval from the antitrust division of the Department of Justice. That review, currently underway for the proposed merger, is a grueling and thorough process that ensures that the proposal will not have negative consequences on competition.

In the interest of fairness, I urge the Department to continue their tradition of objectivity and impartiality as they conduct their antitrust analysis.

I look forward to hearing from all of our witnesses. And before I yield back the balance of my time, I would ask unanimous consent that letters of support from various Wisconsin interests be included in the hearing record.

Mr. COSTELLO. Without objection.

[The information follows:]

300 N. Broadway Suite 3A
P.O. Box 1660
Green Bay, WI 54305-1660
Phone 920•437•8704
Web www.titletown.org

GREEN BAY AREA
CHAMBER
OF COMMERCE

June 9, 2010

Senator Russell Feingold
United States Senate
C/O Suzanne Brault Pagel
Fox Valley Regional Coordinator
1640 Main St.
Green Bay WI 54302-2639

Dear Senator Feingold,

I am writing to offer the support of the Green Bay Area Chamber of Commerce for the proposed merger of United Airlines and Continental Airlines because it will benefit our local economy and the airline industry.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses in Green Bay, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, and that is exactly what we need in Green Bay to keep our economy on the right path.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of the Green Bay Area Chamber of Commerce's support for the merger and hope you will support it too.

Sincerely,

Paul F. Jadin
President

north of what you expect new north

The Manitowoc Company, Inc.

The Honorable Russ Feingold
506 Hart Senate Office Building
Washington, DC 20510-4904

Dear Senator Feingold:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because it will benefit The Manitowoc Company and our employees.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for The Manitowoc Company, this means we can rely on the combined airline to provide the foundation for opportunity that comes with access to 370 destinations around the globe.

United and Continental have very little overlap on routes and are well-suited to combine. By coming together, they will offer a seamless global network with eight hubs across the country and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. Corporate travelers will have an easier time making connections, reaching customers and doing business, which will benefit The Manitowoc Company and the business travel industry.

The combined airline will also be positioned to continue its investment in globally competitive products, upgrade technology, refurbish and replace older aircraft, and implement best-in-class practices of both airlines.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of The Manitowoc Company's support for the merger and hope you will support it, too.

Sincerely,

Thomas W. Holmes

Thomas W. Holmes
Director, Global Logistics and Indirect Commodities

Manitowoc 2400 South 44th Street PO Box 66 T: 920-684-4410

MMAC
Metropolitan Milwaukee
Association of Commerce

June 10, 2010

Senator Russell Feingold
506 Hart Senate Office Building, U.S. Senate
Washington, DC 20510

Dear Senator Feingold:

On behalf of the Metropolitan Milwaukee Association of Commerce (MMAC) I am writing to express our support and urge your support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. Here in Milwaukee we have recently seen the positive effects of increased market competition in the airline industry. At General Mitchell International Airport (GMIA) we have seen strong airlines result in the growth of route options and robust price competition for our members. The merger of Continental and United would continue that trend providing Milwaukee customers with projected access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, and that is exactly what we need in Milwaukee to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the Wisconsin employees of the combined airline. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our local economy.

The growth in the number and strength of air service providers operating out of Milwaukee has become a strong economic asset for the entire region. The merger of United and Continental will help build on that growth. We hope you will join us in supporting this merger and that you will vigorously express that support to Attorney General Holder and Transportation Secretary LaHood.

Thank you for your consideration of this important issue.

Sincerely,

Steve Baas
Government Affairs Director
MMAC

Office of the Mayor

WELCOME HOME TO WAUSAU

James E. Tipple

June 4, 2010

The Honorable Russell D. Feingold
506 Hart Senate Office Building
Washington, DC 20510

Dear Senator Feingold,

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and residents of Wausau, Wisconsin, the employees of the combined airline and our local/state economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses and residents in Wausau, Wisconsin, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, while tourists will find it more convenient to visit our city/state. This is exactly what we need to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the Wisconsin employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of my support for the merger and hope you will support it, too.

Sincerely,

James E. Tipple
Mayor, City of Wausau

CITY OF WAUSAU·CITY HALL·407 GRANT STREET·WAUSAU, WI 54403-4783·(715)261-6800·TDD (715)261-6770

Mr. COSTELLO. The Chair thanks the Ranking Member for his opening statement, and now recognizes our first panel, our colleagues: The Honorable Luis Gutierrez, who is a Member of Congress from the Fourth District of Illinois; Mr. Donald Payne, who is the Member of Congress representing the Tenth District of New Jersey; and Congressman Dennis Kucinich, who is on his way, who represents the Tenth District of Ohio.

Gentlemen, your full statements will appear in the record. The Chair now recognizes Congressman Gutierrez.

TESTIMONY OF THE HON. LUIS V. GUTIERREZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. GUTIERREZ. Thank you, Chairman Costello and Ranking Member Petri and the distinguished colleagues of the Committee. Thank you for inviting me to speak before the Committee on the proposed merger of United and Continental Airlines.

While this merger has generally been greeted with enthusiasm, I believe we should not overlook the potential serious impact it could have on consumers and the employees. For consumers, the issues of airline fees, which we all know cover just about everything except the air you breathe on board those airplanes, requires further scrutiny.

In 2009, United and Continental Airlines made $523 million in baggage fees alone. Recently, United announced that its passenger unit revenue was up almost 25 percent from a year ago and topped pre-recession levels. Given this good news for United, I believe it is a good time to review the fairness and the necessity of excessive fees.

The airline industry reported $1.2 billion in 1 year in extra fees last year. They are almost as out of whack as the credit card industry is. I also want to ensure that lower customers of frequent flyer programs have easy access to their rewards without being misled by the airlines. After receiving complaints from residents in my district, I began to look at the fine print on these highly promoted programs, which are a significant source of revenue for the airlines. Unfortunately, I find they lack reliability, honesty, and fairness. If you read the fine print you will find, as I did, airlines can deny a ticket, change the terms of the awards, charge a fee, and even eliminate the program at will. Congress must stand up for consumers and protect their interests in the frequent flyer mile program.

I am also deeply concerned with the impact this merger will have on United and Continental employees. To keep these airlines in business, workers have made serious concessions, and their requests deserve consideration.

Last week I met with United and Continental employees in Chicago, and I heard from Christie Shagel, a United Airlines flight attendant. She shared with me the following, and I quote, Today I am at work 33 percent more, but my savings account is depleted. I am forced to sell my town home, I can't afford a health-care deductible or meat at the grocery store. My family has suffered so United Airlines could succeed, and executives have awarded themselves with millions of dollars every year that we have struggled for, unquote.

I also heard from Richard Petrowski, a union shop foreman and a 40-year United Airlines employee. He shared with us, quote, In the past few years, as so many airlines have cut wages and benefits, they realized they could also save money by cutting maintenance jobs and contracting out critical aircraft maintenance to the lowest bidder. I am not talking about changing a light bulb in the laboratory, I am talking about critical maintenance, work that if not held to the highest standard puts you, your family and my fellow United employees at risk.

United Captain Herb Hunter told me, From an industry perspective, perhaps the greatest concern of this Nation's airline pilots is the continued outsourcing of pilots' jobs. Nearly half the passengers in the United States are now carried, most unknowingly, by subcontract airlines. The subcontractors are in a continual churn to sell their services to the major airlines at the lowest possible cost, violating, many times, safety guidelines.

I think United and Continental have said far too little about how this merger will actually affect their frontline employees. We do know, however—and this is something that causes me great consternation, Mr. Chairman, Members of the Committee—we do know, however, that the merger might affect a few employees like the chief marketing financial and operations officer for Continental Airlines. They stand to receive a severance package totaling $27 million if they choose not to move to Chicago and join the new United.

To put this in perspective, $27 million would be a 10 percent pay raise for each of United's flight attendants, and it would be well deserved.

Before Congress gives this merger a stamp of approval, I strongly believe that United and Continental need to bring their employees to the table and consider their request. In addition, these airlines need to make a commitment to reduce ancillary fees and better protect their loyal customers.

I thank you for allowing me to speak, and end by saying we can stand up for the consumers, we can stand up for the 40,000 employees at United and Continental. They deserve us to stand up for them today.

Thank you so much, Mr. Chairman.

Mr. COSTELLO. The Chair thanks my friend from Illinois for his thoughtful testimony.

The Chair now recognizes the gentleman from New Jersey, Mr. Payne.

TESTIMONY OF THE HON. DONALD M. PAYNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PAYNE. Thank you very much Mr. Chairman, Ranking Member Petri, distinguished Members of the Committee. Thank you for this opportunity for me to testify, and also it is great to be with my colleague here. Generally we are 100 percent on the same page. I think that this page might be a little tilted in the other direction at this time.

However, we are certainly here today to discuss the proposed merger of United and Continental Airlines. Continental Airlines is the largest employer in my city of Newark. I am here today to offer my support for this proposed merger. As a general policy, though, I am generally concerned about mergers because, in instances, it does mean significant reductions in jobs, stifling competition, and some of the other situations that we heard the previous speaker talk about. However, this airline merger is different, in my opinion.

These two airlines have very complementary routes with very little overlap. When there is very little overlap, there is no need for significant reduction of employees. This is a fact that Continental's CEO has confirmed to me and the other Members of the New Jersey delegation. I know that Continental has lost $1 billion since the 9/11 attack. And I know that the employees have lost jobs and have been forced to accept wage reductions and made other sacrifices during this time. This is not good for the many Continental employees who live in my district.

However, the airline industry has also struggled with the high price of oil and with the impact of the 2008 recession. I have met with Continental's CEO Jeff Smisek to discuss this merger. And it has been made clear to me and Members of the New Jersey delegation that without the merger, Continental cannot be assured of a long and prosperous future. They may be able to earn a modest profit for some years, but that is not a formula for long-term success if they are losing money in the other years. Continental seems determined to try to turn their fortunes around through this merger. I have talked to Jeff and we expect Continental to bring its more favorable labor-management relations culture to the new airline, as I have encouraged him to complete the necessary collective bargaining agreements early in the process. I trust that he will conduct those negotiations with all the unions with dignity and respect.

The unions will be critical to the long-term success of this merger. Employees' wages, retirement securities, and health benefits must be a top priority for the new combined carrier.

It is comforting to know that Continental has fully respected the decisions of their employees to organize. Although it was a hard fought battle, in February of 2010 Continental's ramp workers made history when ballots were counted and the results showed that an overwhelming majority of the workers voted to join the Teamsters Union. This was a strong testament to the fact that fleet service workers at Continental are working to help create an environment that will sustain positive relationships between Continental and its workers who choose to unionize.

I believe this merger is good for my city of Newark, and for New Jersey, because it will allow for growth of jobs and service. Continental's hub in Newark is a crown jewel. It is a premier domestic and international gateway to the New York and New Jersey region; the Nation's, of course, busiest financial hub.

The Newark International Airport has been one of the fastest growing airports during the past two decades, thanks to Continental. Without a doubt, the city of Newark and the State of New Jersey have benefited from the airline's presence. Over the years Continental has not only made significant investments in infrastructure at Newark International Airport, but the airline's leadership has successfully worked with local government to establish job creation programs and promote other important growth initiatives in the State.

Just this summer, there are nearly 75 young people benefiting from a summer internship program that allows them to learn valuable customer service skills as they spend each day working the crowds at the ticket counter.

I have a long history of supporting Continental because they have a long history of supporting Newark and New Jersey. Newark is on the verge of a renaissance, and Continental is really one of the reasons for that. They have opened new routes to South America, Europe, China and Japan. While I have served in Congress, the additional new routes have really enhanced the airport.

We have increased use of our airport by business to leisure passengers from around the country and around the world. And more importantly, we have increased jobs, jobs that come with good benefits from both part-time and full-time employees.

As a Member of Congress and as a Member of the House Foreign Relations Committee, I travel the world to carry out my responsibilities, I see the other global carriers that Continental must compete with. And as much as Continental has changed and grown in the last decade, they need to be bigger if they are going to compete with British airline Iberia and KLM, combined with Air France.

I realize that Chairman Oberstar and some of my colleagues may not agree about the benefits of this merger, but from my vantage point, given the current challenging economic landscape, the proposed merger between Continental and United is the best way to ensure sustainability for the airline industry for jobs in our region and to compete with the world carriers.

So with that, Mr. Chairman, I appreciate the opportunity to testify before this Subcommittee.

Mr. COSTELLO. The Chair thanks our colleague and friend from New Jersey.

The Chair now recognizes the gentleman from Ohio, Mr. Kucinich.

TESTIMONY OF THE HON. DENNIS J. KUCINICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. KUCINICH. Thank you very much, Chairman Costello and Members of the Subcommittee. Thanks for this invitation to testify on the proposed merger of United Airlines and Continental Airlines.

In hindsight it is easy to see that the merger is a culmination of Continental's efforts over the past 2 years to integrate its operation with United. But a year ago, Continental was insisting that it did not need to merge; rather, the company pursued antitrust immunity to join United and 20 other airlines in the far-reaching Star Marketing Alliance, and United and other airlines in the Atlantic, plus a joint venture for trans-Atlantic travel.

Over the strenuous objections of the Department of Justice which speared substantial consumer harm, Continental received antitrust immunity and now can engage in flight code sharing, coordinate reservations and frequent flyer plans, and under the joint venture can even share revenues. Now Continental and United are back, pursuing a merger they said last year was not necessary.

When last month the proposed merger was announced, and at the request of the mayor of Cleveland, I directed staff of the Domestic Policy Subcommittee of the House Oversight and Government Reform Committee, which I chair, to investigate its legal and policy implications. In addition to the significant antitrust concerns, which I will briefly outline here, we found the troubling possibility that Continental may not have been completely forthright with Congress and regulators with respect to its marketing alliance and joint venture last year or the proposed merger before us today.

Yesterday I sent a document request to Continental that is directly relevant to significant concerns produced by the inquiry, and discussed below, regarding the legality of the proposed merger under section 7 of the Clayton Act and the Horizontal Merger Guidelines, the merger's advisability as a matter of policy, and the veracity of Continental's and United's representations regarding the merger's purposes and likely effects.

When Continental pursued antitrust immunity for its marketing alliance and joint venture, key stakeholders concluded that the alliance was in lieu of a full-blown merger. Senator John Cornyn stated last month at a Senate Judiciary Subcommittee hearing that Continental officials informed him that the alliance and joint venture was an attractive alternative to Continental merging with United. Continental had explained to Senator Cornyn that a merger "wasn't in the best interest of shareholders, employees or the communities Continental serves"; antitrust immunity for the alliance and joint venture "would provide much of the benefit of a merger without the labor integration and financial risk"; and, "Houston and Cleveland would be some of the biggest losers in terms of jobs" in the event of a merger.

Senator Cornyn and others wrote the Department of Transportation supporting antitrust immunity on the grounds that it was preferable to a full-scale merger between Continental and United that could lead to flight reduction and job losses. Yet only one year later, after receiving government support for its entry into a marketing alliance, Continental is now pursuing a merger.

Is Continental's change in business strategy just a coincidence? I find that hard to believe. It is more likely that this was their plan all along. Their apparent willingness to make whatever representations necessary to garner support for its plan cast doubt on both Continental's stated motivations for the present merger and its intended postmerger conduct.

Continental and United have stated they have no present plans to close hubs or reduce services but, instead, plan to moderately decrease overhead costs and more substantially realize between $800 million and $900 million of revenue gains by more effectively routing network customers through hubs for more profitable business and international flights and more efficiently deploying New United's larger fleet. Not surprisingly, Continental does not list cutting flights or raising fares as a means to revenue growth.

Market observers, including some who support the merger, take a different view. First, they doubt the magnitude of the merger specific efficiencies. A substantial portion of the claimed network efficiency may have already been realized by Continental joining United in the Star ATI and the A++ joint venture. Moreover, analysts point out that the purported cost and revenue synergies of the past airline mergers have almost never materialized. And, despite the theoretical ability of low-cost and regional carriers to enter markets exited by merging airlines, service cuts and loss of hubs have been a common consequence. Most analysts flatly predict that my city, Cleveland, would lose its hub and the communities formerly served by hub will not be supplied either New United service out of surviving hubs or low-cost carriers entering the market.

Perhaps more troubling is the way industry analysts believe new United may increase its profitability by eliminating up to 10 percent of its post-merger capacity and in raising fares. According to many merger supporters, the industry's tens of billions of dollars of losses since deregulation are largely a product of destructive competition among airlines that has led to overcapacity and artificially low prices. The New United and the industry in general would profit from the decreased number of market participants in efforts to reduce capacity and raise fares.

While sustained profitability for our domestic airline industry is important, Mr. Chairman, I don't believe that destructive competition is the cause of the industry's ills, and fear that as a remedy consolidation may well be worse than the disease.

First, increased fares and declines in service are prototypical examples of the adverse competitive effects of exercise of market power. Revenue gains based on these practices are not merger-related efficiencies under the law.

Second, it is possible that if any efficiency gains do materialize, they will be realized through the Star Alliance and the A++ joint venture. DOJ should carefully analyze the efficiencies from the alliance and joint venture and whether its fears regarding the possible anticompetitive effect of those immunized arrangements have materialized before it even considers approval of a full-pledged merger.

In addition, there are a number of other possibilities for anticompetitive behavior that could be exacerbated by further industry consolidation, such as the merger of American Airlines and U.S. Airways that is predicted to occur if United and Continental merge. Others include increased market power negotiations with bulk-buying business clients, increased leverage to force concessions from vendors, travel agents, and even localities which may feel more pressure to provide publicly funded infrastructure and facilities.

Finally, the size of the new United could raise the prospect of systemic importance if not systemic risk to the economy. Even if the new United is not officially considered, quote, too-big-to-fail, unquote, it would certainly be big enough to exert increased power over regulators.

If the current financial crisis has taught us anything it is the difficulty in predicting ex ante the myriad ways in which immense and concentrated corporate entities can leverage their corporate power to the detriment of citizens.

Mr. Chairman, Assistant Attorney General Christine Varney has explained that the administration's pursuit of vigorous antitrust enforcement in this challenging era will involve the development of competition policy based not simply on the case before it, but on consideration of, "the overall state of competition in the industries which we are reviewing" including consideration of market trends and dynamics, and not lose sight of the broader impact of antitrust enforcement. It will be important, Mr. Chairman, for this Subcommittee to hold the administration to that promise. While traditional antitrust enforcement would examine the danger that the competition would immediately be reduced between city pairs that have been served by both incumbent airlines, such a limited analysis is not sufficient because it does not adequately capture trends and dynamics in the industry. DOJ should consider whether the new United will exercise market power to the detriment of consumers through the adoption of anticompetitive practices outlined here and elsewhere.

I really thank the Chair for his indulgence and Members of the Committee for the opportunity to testify, and thank you.

Mr. COSTELLO. The Chair and Members of the Subcommittee thank you for your testimony.

And, gentlemen, we thank all of you for taking time out of your busy schedule to offer testimony to the Subcommittee this morning.

We recognize that there are a number of other hearings going on with other Committees, and out of respect for your schedule and time commitment, we thank you and would ask that the next panel come forward to offer their testimony. Thank you again.

Mr. COSTELLO. The next panel will consist of both of the CEOs of United Airlines and Continental: Mr. Glenn F. Tilton, who is the Chairman, President and CEO of the United Airlines Corporation; and Mr. Jeffrey Smisek, who is the Chairman, President and CEO of Continental Airlines.

Gentlemen, we appreciate you coming before the Subcommittee today to offer your testimony. As you know, your entire statement will appear in the record. We would ask you to summarize your statement in approximately 5 minutes, and then we will give you an opportunity for myself and other Members of the Subcommittee to ask questions and to follow up.

TESTIMONY OF GLENN F. TILTON, CHAIRMAN, PRESIDENT AND CEO, UNITED AIRLINES CORPORATION; AND JEFFREY SMISEK, CHAIRMAN, PRESIDENT AND CEO, CONTINENTAL AIRLINES, INC.

Mr. COSTELLO. So with that, the Chair now recognizes Mr. Tilton.

Mr. TILTON. Good morning Chairman Costello, Ranking Member Petri and Members of the Committee. We appreciate the opportunity to offer our comments this morning.

Let me start by simply saying that the status quo for our industry is clearly unacceptable. It is extraordinary and insightful that this industry has lost some $60 billion and 150,000 jobs in the United States in the last ten years, delivering the worst financial performance of any major industry, along with 186 bankruptcies over the last 30 years. Both before and after deregulation, this industry has been systemically incapable of earning even a modest profit, let alone a reasonable return, on the large investment that we have made in aircraft, facilities, and technology.

It is ironic that this industry, unable to cover its cost of borrowing, is expected to be and indeed must be a key enabler of the country's economic recovery. As leaders, you all know the critical role our industry plays nationally in the communities that you individually represent, creating commerce, tourism, jobs and contributing to the overall economy. Regardless of one's personal perspective, we can likely all agree serial bankruptcies and the asset distribution of failed companies cannot be an acceptable industry strategy. We must create economic sustainability through the business cycles.

And to that end, our objective at United has been very consistent: to put our company on a path to sustained profitability. Without profitability we cannot provide a stable environment for the employees that Mr. Gutierrez mentioned. We cannot maintain service to communities, large or small, or invest in customer service, nor can we create value for our shareholders. To be profitable, we must successfully compete in the global market of today, a very different market than the market of ten years ago or, indeed, the market of 30 years ago.

Today, low-cost carriers are very well established across the United States. And Southwest Airlines will continue to be our country's largest domestic airline in terms of number of passengers carried after the United-Continental merger. Today, in the marketplace of today, international competitors have merged and powerful new entrants continue to gain ground across the globe. Today, the world's largest airlines, measured by revenue, are Lufthansa and Air France-KLM with more than half of the trans-Atlantic capacity and more than two-thirds of the trans-Pacific capacity provided by foreign carriers.

United and Continental have taken significant actions to improve our performance, competing across both international and domestic markets, and, at the same time, finding a way to connect small U.S. communities into our combined route network. In this dynamic, a highly competitive environment, these actions have not been enough.

Our proposed merger is a very logical and essential next step toward our objective of sustained profitability. Let me be very clear: Without this merger we would not have the $1 billion to $1.2 billion in synergies to improve products and to improve service for our customers, nor would we have the financial means to create better career opportunities for our employees. We would not be as successful a competitor as we need to be to enable economic development across the country.

Our merger enhances and strengthens service for those who rely on our network in nearly 148 small communities in metropolitan areas, providing business lifelines and collateral economic benefit to those communities that they otherwise would not have. Carriers compete vigorously on both price and service, and our merger will not in any way change that reality. There is significant low-cost carrier competition at every single one of our hubs, including the 15 nonstop routes on which we overlap.

Over the last decade ticket prices across the United States have declined by 30 percent, adjusted for inflation, with fares to small communities also declining. Our expected revenue synergies are derived from better service and expanded network; they are not based on fare increases. This represents excellent value in more destinations for consumers across the country. Consumers will benefit from intense price competition across the industry due to the prevalence today of low-cost carriers, other network carriers, and fair transparency.

The competitive landscape has changed, and to be a company that attracts and provides value for customers, shareholders, and employees, our two companies also have to change. We are creating the leading global airline with the platform for a healthy company, a profitable company that can compete in the realities of today's global marketplace, provide job opportunities and provide vital connectivity for the many customers and communities that together we serve.

Thank you very much, Mr. Chairman.

Mr. COSTELLO. The Chair thanks you, Mr. Tilton.

The Chair now recognizes Mr. Smisek.

Mr. SMISEK. Good morning. I want to thank the Chairman, the Ranking Member, and the Members of this Committee for the opportunity to be here today.

I want to make four basic points. This merger is good for employees, it is good for communities, it is good for consumers and it is good for competition.

Let me start with employees. The volatility and instability of the airline industry have had harsh effects on employment. Before 9/11, Continental had over 54,000 employees. Today, despite being the only network carrier to grown since 9/11, we have less than 41,000 employees and we have lost over $1 billion. Before 9/11, United had over 100,000 employees. Today it has about 46,000.

After we merge, our employees will be part of a larger, financially stronger, and more geographically diverse carrier. This carrier will be better able to compete in the global marketplace and better able to withstand the external shocks that hit our industry with disappointing regularity. Because of how little we overlap, the merger will have minimal effect on the jobs of our frontline employees.

We are committed to continuing our cooperative labor relations and integrating our workforces in a fair and equitable manner, negotiating contracts with our unions that are fair to the employees and fair to the company. United has two union board members, and those union board seats will continue after this merger.

The merger will also enable us to continue to provide service to small communities, many of which you represent. The turmoil in our industry has been devastating to many small- and medium-size communities. As you know, low-cost carriers have not and will not serve small communities, as such service is inconsistent with their point-to-point business model that relies largely on local traffic. As a result, over 200 small communities are served only by network carriers.

As a merged carrier, we plan to continue service to all the communities we serve, including 148 small communities. The merger will be good for consumers as well. The combined airline will offer consumers an unparalleled global, integrated network, and the industry's leading frequent flyer program. It will have the financial wherewithal to invest in technology, acquire new aircraft, and invest in its people and its product. We will have a young and fuel-efficient fleet, and our new aircraft orders will permit us to retire our older, less fuel-efficient aircraft.

Continental brings to the merger its working-together culture of dignity and respect and direct, open, and honest communication. This culture causes an environment where employees enjoy coming to work every day, and as a result, give great customer service. United brings to the merger talented employees who are delivering industry-leading on-time performance.

The merger will also enhance competition. Continental and United have highly complementary route networks. Our networks are so complementary that we have only minimal nonstop overlaps, each of which faces significant competition after the merger. Over 85 percent of our nonstop U.S. passengers have a direct low-cost carrier alternative. Moreover, low-cost carriers compete at all of our hubs and at airports adjacent to our hubs.

As a result of the robust competition in the U.S., airfares have declined by over 30 percent over the past decade on an inflation-adjusted basis.

We also face significant competition from foreign carriers which themselves have merged to create attractive global networks, including Air France-KLM, the Lufthansa group of companies, and British Airways Iberia. The merged Continental-United will enable us as a U.S. carrier to compete effectively against these large foreign carriers.

In sum, the merger will create a strong, financially viable airline that can offer good-paying careers and secure retirements to our coworkers; great customer service in an unparalleled network to consumers; and reliable service to communities. The merger will provide us with a platform for sustained profitability and position us to succeed in the highly competitive domestic and global aviation industry, better positioned than either of us could be alone or together in an alliance.

Thank you very much.

Mr. COSTELLO. The Chair thanks you.

And let me start with a few questions. In my opening statement, I expressed my concern, and you have heard from both the Members who testified here before us today, and I think every Member of this Subcommittee is concerned about the employees at both airlines, what happens to them.

We know what has happened in past mergers. And we have heard your testimony, Mr. Smisek, that there will be minimal effect on the employees. And Mr. Tilton, you state in your written testimony that you maintain that any necessary reductions in frontline employees will come from retirements, normal attrition, and voluntary programs.

Can you make a commitment to this Subcommittee that in fact the combined workforce, if the merger does go through, that there will not be layoffs, that people will not lose their jobs as a result of the merger?

Mr. TILTON. I can speak, certainly, to the effect of the merger despite all of the external shocks that this industry has experienced that has resulted in the numbers that Jeff shared with you, the decline in employment at his company and the decline in employment at our company. This merger will not have a negative effect on our level of frontline employment; in fact, it should give us the opportunity to grow frontline employment through the growth of the two companies themselves, absolutely.

Mr. COSTELLO. Mr. Smisek.

Mr. SMISEK. Glenn is correct. Now, I will say that because in any merger in headquarters jobs, overhead jobs, there is only one CEO, there is only one CFO, there is only one general counsel, et cetera. There will be reductions in headquarters jobs, as there would in any merger. But the vast majority of jobs at the combined airline are frontline jobs, and because we are so complementary we do not expect any significant effect on employment on frontline jobs.

Mr. COSTELLO. In the Delta-Northwest merger in 2008, when they announced the merger, they also indicated that the pilot union had reached an agreement with the union prior to announcing the proposed merger. Is there a reason why that this wasn't done in this proposed merger with the pilot unions of the respective airlines?

Mr. SMISEK. Sure. Let me speak to that if I could. This merger came together very quickly. We learned that United Airlines, through pressure, of course, was in negotiations to merge with another carrier, and United was the right strategic partner for Continental. So we needed to move swiftly, and we did so over about a 3-week period. That swiftness was such that the processes for reaching agreements during collective bargaining agreements with our pilots or other work groups could not move that swiftly.

We are in the process, and you will be hearing from our pilots on the next panel, we are in the process of working together with the pilots' union and hope to reach a joint collective bargaining agreement promptly. It is my strong desire to reach joint collective bargaining agreements as promptly as possible with all work groups.

Mr. COSTELLO. It is my understanding that both United and Continental units for the Airlines Pilots Association formed a special committee to discuss potential merger issues in 2008. And you just indicated basically that there wasn't enough time, that this came about quickly. If they formed a committee in 2008, and this proposed merger comes, the announcement, 2 years later, can you explain that?

Mr. TILTON. So, Mr. Chairman, it is probably fair to say that the attention of our pilot union, the same as Jeff's, was largely focused in the run-up to Jeff's reengagement with myself on another transaction. So during that period of time we didn't have any further conversations relative to a merger with Continental. And as Jeff appropriately says, we were having a discussion with another company. And our pilots' union had a very distinct point of view about the difficulties associated with that transaction potentially, and they were focused on, as we were, the issues associated with that transaction rather than this one. And that is just a reasonable thing to have had happen.

Now, let me be very clear. They also made it clear to me that they preferred this transaction rather than that one, but we weren't preparing for it, Mr. Chairman.

Mr. COSTELLO. Some United retirees and other stakeholders have made note of the fact that both of you have indicated that the merger would generate $1.2 billion in synergies. And since United shed its obligation for employee pensions during bankruptcy, they are wondering if, with this merger, if in fact it takes place, is there any hope that employee pensions might be restored with the merged carrier? And they want to know how they are affected.

Mr. TILTON. So, Mr. Chairman, you may recall that during the bankruptcy, the action taken relative to defined benefit plans was actually taken by the PPGC itself, and that was at their discretion. Along with the decision to guarantee at the PPGC guaranteed level, the defined benefit plans that the PPGC assumed responsibility for was a condition that a defined benefit plan at United per se not be restored. We replaced those pensions, those defined benefit plans, with defined contribution plans.

We find ourselves in a situation where the two companies have slightly different retirement plans. We will work very hard together to make sure that the retirement plans that we put together for all employees are the best that they can be.

Mr. COSTELLO. So the short answer to those who lost their pensions with the bankruptcy, how will they be affected?

Mr. TILTON. That will be unchanged. For the current retirees, there is no provision in the merger that will affect the retirement plans of current retirees.

Mr. COSTELLO. So they should not hold out hope that they in fact will see any of their——

Mr. TILTON. I don't see any reversal of the decision made by the PPGC, Mr. Chairman.

Mr. COSTELLO. The Chair now recognizes the Ranking Member, Mr. Petri.

Mr. PETRI. Thank you very much, Mr. Chairman. The Chairman of our Full Committee often eloquently says the number one job of our Committee is to ensure, first and foremost, that safety in the traveling public is observed. And we have, as the Chairman pointed out, some representatives here of the Colgan flight from Newark to Buffalo. Sixty billion dollars of losses since 2001 as an industry puts an awful lot of pressure on the whole system. We have been fortunate, we have the most remarkable safety record overall. And I know—or certainly hope you are committed to maintaining that. But it has to be hard and puts a lot of pressure on frontline employees and others, as we saw with the Colgan crew and the difficulties that they had to operate under as individuals flying long hours and so on to make their work schedules and all the rest.

And I just wonder if you could comment on any effect this would have or what—we have been having a lot of hearings, we are working on legislation to try to put standards in place. But of course, if the resources aren't there at the end of the day, it is very difficult to maintain standards. And I just wonder if you could talk about any implications this might have for safety or for the traveling public, or for the safety of employees as well.

Mr. SMISEK. Sure. Safety is always the number one priority of Continental Airlines, and will be the number one priority of the combined United.

I would also like to, in honor of the Colgan families who are here today, express my condolences for their loss. That was a tragic accident and it saddened all of us throughout the industry and at Continental.

This merger will not affect safety. Safety is important before the merger, safety will be important after the merger. Certainly, having a profitable carrier is something that one would rather have than a carrier that consistently makes losses and is eking out a hand-to-mouth existence. But no matter what level of profitability or loss, we are always focused on safety because that is the most important thing in the aviation business.

Mr. TILTON. So, Congressman, let me simply add—echo what Jeff said emphatically: Regardless of how few dollars there may be, dollar one always goes to safety. But that having been said, I think you make an excellent point. I don't think anybody in the room would conclude that an economically fragile and systemically unprofitable industry is a benefit to safety. That can't be good. There is no way that anybody can suggest that that is a good thing for safety and security.

So our view is that the more economically robust the new company can be, obviously the more resources we can dedicate to everything that is important to all of our constituents, including safety. We have a relationship with our regional carriers that is a partnership in safety. We share best practice, we conduct safety audits, we hold them to a high standard, and we value the fact that they appreciate that we have available to them at United a standard of safety that is of benefit to them as a learning. So we also are in a position to be able to do that. We will be able to do that more so as a new company.

Mr. PETRI. One other question, I wonder—or area, I wonder, if you could each expand on. You touched on it briefly. But this is a global industry now, particularly for the major carriers. And we face very robust international competition, many of it in some ways with the more favorable environment because of government support or whatever and less competitive domestic markets and all the rest than we face in the United States.

Could you discuss how we can prevent or how we can—what we can do to become—or how this merger will affect our international possibilities for competitiveness? I know we have links and alliances with international competitors, but we don't want those to end up being ultimately international takeovers. We would like to see American, robust, global competition.

Mr. TILTON. We couldn't agree with you more, Congressman. And as Jeff said in his testimony in his prepared remarks, the majority of our competition across the Atlantic and across the Pacific is now foreign carrier. And we face competitors who have usurped the traditional positions of the network carriers in this country to become the number one and number two carriers in global markets: Air France-KLM, Lufthansa, who have already gone through significant consolidation. And, of course, now we have the announced BA Iberia.

Our view is we have to have the same scope, scale, and economic robustness that they have to be able to offer a competitive response to the consolidation that has taken place across the Pacific, across the Atlantic, and in fact in Latin America as well. And we do think that this company will give us the opportunity to do that.

Mr. SMISEK. Congressman, that is correct. This is a global business, and we need a global scope and global scale in order to effectively compete. What we are finding is large carriers, especially large foreign carriers, offer a greater scope, a greater scale than we do. And they are picking off our passengers one by one, particularly picking off our business passengers.

And in Continental, we are principally a business-oriented airline. We carry all passengers, leisure passengers and business passengers, but where we make our money is business travelers. We orient our product towards that. We orient our service towards that. And these large foreign carriers are being very successful in taking our passengers. And by combining, we will be able to be in a position competitively to compete effectively with them and to continue to compete in the United States, of course, against the robust competition that we find ourselves with today.

Mr. COSTELLO. The Chair thanks the Ranking Member, and now recognizes the gentlelady from Texas, Ms. Johnson.

Ms. JOHNSON OF TEXAS. Thank you very much, Mr. Chairman. I have not taken a position on this merger, but I am very concerned about what most passengers are concerned about, and that is the employees.

In your joint testimony you state that customers must have access, will have access to 116 domestic destinations, and that small communities will continue to be served.

Ms. JOHNSON. And that sounds good, but my question is, who will be serving these communities? And do you intend to subcontract out domestic groups that serve our smaller communities.

And I would like to have both of you comment on that.

Mr. SMISEK. Let me address that, Congresswoman.

This merger will be very good for our employees. It will provide them with good jobs—careers, and not just jobs; and retirements, secure retirements, and not just hope. It will provide us with the synergies that will permit us to continue to invest in our employees. And I have made it very clear that the wealth creation of this merger, that I intend to share that with all work groups, whether they are unionized or not.

In terms of service to communities, we allocate the aircraft that we have at the mainline carrier, the larger jets, depending upon the demand of the routes. And for smaller markets, we often use regional affiliates that we contract with, because those routes cannot bear a large mainline aircraft, a 124-seat or a 160-seat aircraft, but rather a 50-seat aircraft or, in United's case, say, a 70-seat aircraft. And we will continue to do that.

But what matters the most is the air service, because those regional carriers have employees, as well. And they will benefit, our regional carrier affiliates will benefit, our own employees will benefit from this merger.

Mr. TILTON. So, Congresswoman, said in a similar way, the reason that the low-cost carriers do not serve those communities that you refer to and the 148 that we spoke to is because they don't have the flexibility of access to the aircraft that Jeff mentioned. So 737s won't be flying to Minot, North Dakota, to pick up passengers and connect them to Denver, but our 50-seat regional jets will. And that is how they will get to Denver and then get on to wherever they may be flying, domestically or internationally. And that is the way that the networks work.

So, for the most part, you know, the low-cost carriers will not offer service to those communities if we weren't in a position to economically do so.

Ms. JOHNSON. Thank you.

Mr. Tilton, I am much more familiar with Continental than I am the other airline, United. And you have built a reputation in the last 10 years of having a culture that is very supportive of passengers, and the employees seem to be quite pleased and happy.

When you combine the pilots and complete this merger, what will be your position on the pilots' authority? Will they come together prior? Or do you plan to——

Mr. TILTON. Congresswoman, I have only been in the industry for fewer than 8 years, so some of that relative to 10 years was probably—I was doing something else at the time.

But, as Jeff said a moment ago, our pilot leadership is going to be given the opportunity to speak to their views of this combination and the extent to which they perceive it to be of benefit to the pilot profession and the two combined pilot groups.

In answer to the questions that we had previously, although it has been a relatively short period of time, Congresswoman, they have had a good bit of opportunity to come together and to discuss their ambitions for the combining of their work groups. And I have to say on behalf of Jeff and myself, they have done a very good bit of work in a very short period of time. And I know they will share that with you when they come up here next.

So that is made easier by, Congresswoman, the fact that they are represented by the same union. Across the other spectrum of our work groups, the two companies have different unions representing work groups, such as the flight attendants and ground workers and mechanics.

So the first order of business there is going to be a determination, or at least an important order of business there is going to be a determination of which union ultimately is going to represent those professions in the new company. Because the workers are going to have to decide, they are going to have to choose between the different unions. So that is something that is going to have to be sorted out that, obviously, the pilot group is not going to have to attend to, because they are represented by ALPA, both.

Ms. JOHNSON. Thank you.

Now, I am basically a passenger, as you know, like the majority of American people in this business. And when I get on an airline, I want to be sure that the pilots are happy and healthy, that the attendants are happy and healthy, and that that plane has been serviced appropriately.

Where do you get those planes serviced and maintained?

Mr. SMISEK. Congresswoman, you and me both. We are most interested in safety and the professionalism of our crews.

Our aircraft are serviced by a combination of our own employees and outside contractors. We use GE, we use Rolls Royce, we use Goodrich, we use HAECO, we use AAR. We use a number of very professional companies.

We are very focused on not only maintenance for safety but maintenance for dispatch reliability, as well; making sure, when you get on that aircraft, that there isn't a problem, that it gets off on time, because we are a networked business and all those flights connect.

So you and I share the same desires. And, as a result, we are very focused on all the things that you have pointed out.

Mr. TILTON. Across the United States, Congresswoman, our line maintenance organization is represented by the International Brotherhood of Teamsters. We have a large maintenance base in San Francisco, a significant maintenance base in San Francisco, also represented by that labor union.

But, as Jeff said, we also have maintenance partners worldwide. And because, as Jeff has also said, we are a global carrier, we use the opportunity to have our maintenance performed all across the world.

Ms. JOHNSON. Is there code sharing across the world with the U.S.?

Mr. TILTON. Do we co-chair across the world?

Ms. JOHNSON. Code share.

Mr. TILTON. Yes, we do.

Ms. JOHNSON. Now, you also mentioned in your testimony that there would probably not be any changes, most especially in the front-line employees. What about the back-line?

Mr. SMISEK. Well, Congresswoman, what you refer to are the headquarters. In any merger, there are efficiencies as a result of job redundancies in headquarters jobs. And we will have the typical efficiencies in any merger when you have two headquarters, two people doing the same job. There will be reductions in jobs both in Houston and Chicago. And there will be jobs, as well, that will move from Houston to Chicago, and there will be jobs that remain in Houston.

But the vast majority of jobs will remain as they are today because we are such complementary carriers and we have so little overlap, that the front-line employees are largely unaffected.

And the number of headquarters employees who are affected, although we have not determined the precise number at this time because we are early in the process of integration planning, that will be a relatively small number as measured against the total number of employees that the combined carrier will have.

Ms. JOHNSON. Will you use retirement? Or how would you handle the people you have to cut?

Mr. SMISEK. We always prefer if we have employees who retire or through attrition or through voluntary programs. And, also, for employees whose jobs are affected, we will assist them in finding other jobs, hold job fairs, assist them in all ways we can for them to find other employment.

Ms. JOHNSON. Thank you.

Thank you very much, Mr. Chairman.

Mr. COSTELLO. The Chair thanks the gentlelady and now recognizes the gentleman from New Jersey, Mr. LoBiondo.

Mr. LOBIONDO. Thank you very much, Mr. Chairman, for holding this hearing.

And, Mr. Tilton and Mr. Smisek, thank you for being here, as well as the other panelists.

I want to say at the outset that I support this merger in the strongest of possible terms. I think that my colleagues, once they have the opportunity to review all the facts and the situation, will also agree with me.

The merger of these two carriers will create a much stronger, much more sustainable airline that will be better able to survive in a struggling economy and succeed in an increasingly competitive market. It will enable dramatically needed new investment and products and services, and result in much more efficient flight operations to more destinations—something that I don't think anyone can dispute and something that we all want to see.

And, finally, it will vastly improve passenger convenience. I share the concern of some of my colleagues about the impact of the mergers on the workforce. Mr. Tilton, Mr. Smisek, I think you have answered that adequately and put it very well. But with little overlap, there should only be a negligible impact on this, as you have said.

The merger will have a tremendous benefit in my State, and I think that is great. But, more importantly, I think it will have a tremendous benefit for aviation in the United States of America, which has been under assault, as we have heard the numbers of declining employees, since September 11th.

And what do we want to see? Do we want to see our airlines go under while British and Iberia and KLM and all the rest of them suck up our passengers and people that could possibly work for us? Do we want to see our employees go by the wayside so foreign airlines can hire more of their people? And I think that is exactly what we are facing if we don't understand the consequences of this.

So, while it will have a big impact on New Jersey, the bigger, more important, beneficial impact will be on the United States of America. It will open up many more destinations around the world and, I think, will allow for all kinds of economic growth and job opportunities.

I have 23 letters from New Jersey businesses and organizations in support of the merger. And, Mr. Chairman, I ask unanimous consent that these letters be made a part of the record.

Mr. COSTELLO. Without objection.

Mr. LOBIONDO. I thank you.

[The information follows:]

FRANK A. LoBIONDO
2ND DISTRICT, NEW JERSEY

REPLY TO:
☐ 2427 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3002
202-225-6572
FAX 202-225-3318

☐ 5914 MAIN STREET, SUITE 103
MAYS LANDING, NJ 08330-1746
609-625-5008
FAX 609-625-5071

1-800-471-4450

Congress of the United States
House of Representatives
Washington, DC 20515-3002

COMMITTEES:
TRANSPORTATION AND INFRASTRUCTURE
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RANKING MEMBER
COAST GUARD AND MARITIME TRANSPORTATION
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WATER RESOURCES AND ENVIRONMENT
ARMED SERVICES
SUBCOMMITTEES:
AIR AND LAND FORCES
READINESS
TERRORISM, UNCONVENTIONAL THREATS AND CAPABILITIES

June 16, 2010

The Honorable Jerry F. Costello
Chairman
Subcommittee on Aviation
2251 Rayburn House Office Building
Washington, DC 20515-0001

The Honorable Tom Petri
Ranking Member
Subcommittee on Aviation

Dear Chairman Costello and Ranking Member Petri:

Pursuant to the unanimous consent request I just propounded, I have attached letters from New Jersey businesses and organizations in support of the proposed merger between United Airlines and Continental Airlines for inclusion in the record of today's Subcommittee proceedings.

Thank you for your assistance in this matter.

Sincerely,

Frank A. LoBiondo
Member of Congress

FAL:js

Chamber of Commerce
Southern New Jersey
Where Business Grows

Debra P. DiLorenzo
President & CEO

June 15, 2010

Honorable Ray LaHood
Secretary of the Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary LaHood:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and workers in New Jersey and our local economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. For businesses in New Jersey, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with hubs in the four largest U.S. cities. Corporate travelers will have an easier time making connections, reaching customers and doing business, and that is exactly what we need in New Jersey to keep our economy on the right path.

With the combined airline's increased financial strength will also come enhanced career opportunities for the 13,900 New Jersey employees of the combined airline. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our local economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay. Thank you for your time.

Sincerely,

Debra P. DiLorenzo

Gateway
Regional
Chamber of
Commerce

May 26, 2010

Senator Frank Lautenberg
324 Hart Senate Building
Washington, DC 20510

Dear Senator Lautenberg:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit Gateway Regional Chamber of Commerce and our employees.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for Gateway Regional Chamber of Commerce, this means we can rely on the combined airline to provide the foundation for opportunity that comes with access to 370 destinations around the globe.

United and Continental have very little overlap on routes and are well-suited to combine. By coming together, they will offer a seamless global network with eight hubs across the country and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. Corporate travelers will have an easier time making connections, reaching customers and doing business, which will benefit Gateway Regional Chamber of Commerce and the business travel industry.

The combined airline will also be positioned to continue its investment in globally competitive products, upgrade technology, refurbish and replace older aircraft, and implement best-in-class practices of both airlines. It will also offer the industry's leading loyalty program, providing access to more benefits than any other program, with more ways to earn and redeem miles. As a member of the Star Alliance, the combined airline will provide loyalty program members with the opportunity to use miles for award travel with partner airlines to more than 1,000 destinations around the world.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of Gateway Regional Chamber of Commerce's support for the merger and hope you will support it, too.

Sincerely,

KConroy

Kate Conroy
Vice President

GATEWAY REGIONAL CHAMBER OF COMMERCE
135 Jefferson Avenue, Box 300, Elizabeth, New Jersey 07207
908-352-0900 • Fax 908-352-0865

Greater Elizabeth Chamber of Commerce

Tuesday, June 08, 2010

Honorable Ray LaHood
Secretary of the Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary LaHood:

I am writing on behalf of the Board and Membership of the **Greater Elizabeth Chamber of Commerce** to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and workers in New Jersey and our local economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses in New Jersey, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

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United and Continental are well suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Gordon F. Haas

Gordon F. Haas
President/CEO
Greater Elizabeth Chamber of Commerce

GREATER ELIZABETH CHAMBER OF COMMERCE

456 North Broad Street
Elizabeth, NJ 07208
Tel. 908 355-7600
Fax 908 436-2054
Email: gecc@juno.com
Web: elizabethchamber.com

GATEWAY
Group One

604-608 Market Street
Newark, NJ 07105
Phone: 973-465-8006
Fax: 973-465-9389
www.GatewayGroupOne.com

June 7, 2010

Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Attorney General Holder:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and workers in New Jersey and our local economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses in New Jersey, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

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I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Mr. Louis Dell Ermo
Chairman
Gateway Group One

nrbp
NEWARK
REGIONAL
BUSINESS
PARTNERSHIP

June 7, 2010

Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

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I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Chip Hallock
President & CEO

The National Newark Building • 744 Broad Street, 26th Floor • Newark, NJ 07102-3802
P 973-522-0099 • F 973-824-6587 • www.newarkrbp.org

Cogswell Realty Group LLC

June 7, 2010

Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Attorney General Holder:

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I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Paul S. Jaffee
Director of Leasing

744 BROAD STREET, NEWARK, NJ 07102-3802 ▪ TEL 973-643-6822 ▪ FAX 973-643-0744

TCGI
Technology Concepts Group, Intl.

June 7, 2010

Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

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Sincerely,

Avis Yates Rivers

Avis Yates Rivers
President & CEO

*67 Veronica Avenue, Suite 14, Somerset, NJ 08873 *** 732-659-6035 x11 *** 732-659-6036 fax*

www.technologyconcepts.com

Sovereign | Santander

June 7, 2010

Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

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I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Mary Brautigam

Mary Brautigam
Senior Vice President

MASSEY AGENCY
INSURANCE
Our Policy Is Your Protection

June 7, 2010

Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

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I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Emma A. Massey

Emma A. Massey
Vice President

GIBBONS

KEVIN J. MCKENNA
Director

Gibbons P.C.
One Gateway Center
Newark, New Jersey 07102-5310
Direct (973) 596-4729 Fax (973) 639-6279
kmckenna@gibbonslaw.com

June 9, 2010

Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Attorney General Holder:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and workers in New Jersey and our local economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses in New Jersey, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

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I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Very truly yours,

KEVIN J. MCKENNA
Director

KJM/kat

Enclosure

105 Lock Street - Suite 405
Newark, NJ 07103

June 7, 2010

Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Attorney General Holder:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and workers in New Jersey and our local economy.

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I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Marjorie Perry, President

105 Lock Street, Suite 405 Newark, New Jersey 07103 v. 973.242.7100 f. 973.242.1612 www.mzmcc.com

COUTO DEFRANCO, P.A.
CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS

June 7, 2010

Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

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Sincerely,

Nelson J. Couto, CPA
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973.325.3370 | Fax: 973.325.3371
300 Executive Drive - Suite 200 West Orange, New Jersey 07052
www.coutodefranco.com

New Jersey
ALLIANCE for ACTION INC.®

PHILIP K. BEACHEM
President

P.O. Box 6438 • Raritan Plaza II • Edison, New Jersey 08818-6438
(732) 225-1180 • FAX (732) 225-4694
www.allianceforaction.com

GERALD T. KEENAN
Executive Vice President

CLIFFORD HEATH
Senior Vice President

May 19, 2010

Honorable Donald M. Payne
United States House of Representatives
2310 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Payne:

I am writing to express the Alliance's support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and workers in Newark, New Jersey and the regional economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. For businesses in Newark, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with hubs in the four largest U.S. cities. Corporate travelers will have an easier time making connections, reaching customers and doing business, and that is exactly what we need in Newark to keep our economy on the right path.

With the combined airline's increased financial strength will also come enhanced career opportunities for the nearly 14,000 New Jersey employees of the combined airline. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our local economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Philip K Beachem

Philip K. Beachem
President

Cc: Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Honorable Ray LaHood
Secretary of the Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

New Jersey Business & Industry Association

NJBIA 100th ANNIVERSARY

Celebrating a Century of Service to NJ Business

Philip Kirschner
President

May 18, 2010

The Honorable Robert Menendez
United States Senator
528 Hart Senate Office Building
Washington, DC 20510

Dear Senator Menendez:

On behalf of the 22,000 member companies of the New Jersey Business & Industry Association, I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and workers in Newark, New Jersey and the regional economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. For businesses in Newark and the region, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with hubs in the four largest U.S. cities. Corporate travelers will have an easier time making connections, reaching customers and doing business, and that is exactly what we need in Newark to keep our economy on the right path.

With the combined airline's increased financial strength also come enhanced career opportunities for the nearly 14,000 New Jersey employees of the combined airlines. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it is important to our local economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Phil Kirschner

Philip Kirschner

Cc: The Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

The Honorable Ray LaHood
Secretary of the Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

NJCC
THE STATE CHAMBER

May 20, 2010

The Honorable Frank R. Lautenberg
United States Senator
324 Hart Senate Office Building
Washington, DC 20510

Dear Senator Lautenberg: Frank

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and workers in Newark, New Jersey and the regional economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. For businesses in Newark, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with hubs in the four largest U.S. cities. Corporate travelers will have an easier time making connections, reaching customers and doing business, and that is exactly what we need in Newark to keep our economy on the right path.

With the combined airline's increased financial strength will also come enhanced career opportunities for the nearly 14,000 New Jersey employees of the combined airline. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our local economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Joan

JOAN VERPLANCK
President

JV: 2733
cc: Honorable Eric H. Holder, Jr.
Honorable Ray LaHood

Automatic Data Processing, Inc.
One ADP Boulevard
Roseland, NJ 07068
973 974 5000 Phone

June 1, 2010

The Honorable Frank R. Lautenberg
United States Senate
324 Hart Senate Office Building
Washington, DC 20510-3003

Dear Senator Lautenberg:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit ADP and our employees.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for ADP, this means we can rely on the combined airline to provide the foundation for opportunity that comes with access to 370 destinations around the globe.

United and Continental have very little overlap on routes and are well-suited to combine. By coming together, they will offer a seamless global network with eight hubs across the country and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. Corporate travelers will have an easier time making connections, reaching customers and doing business, which will benefit ADP and the business travel industry.

The combined airline will also be positioned to continue its investment in globally competitive products, upgrade technology, refurbish and replace older aircraft, and implement best-in-class practices of both airlines. [It will also offer the industry's leading loyalty program, providing access to more benefits than any other program, with more ways to earn and redeem miles.] [As a member of the Star Alliance, the combined airline will provide loyalty program members with the opportunity to use miles for award travel with partner airlines to more than 1,000 destinations around the world.]

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of our support for the merger and hope you will support it, too.

Sincerely,

Deolinda da Costa

Deolinda da Costa
Vice President
Automatic Data Processing, Inc. (ADP)

TRAVEL GROUP
600 Palisade Ave., Englewood Cliffs, NJ 07632
Telephone: (201) 569-7711 • (800) 223-6908
Facsimile: (201) 569-0081
www.travel-group.net

AMERICAN EXPRESS ® Travel Services Representative

May 27, 2010
Senator Frank Lautenberg
324 Hart Senate Building
Washington, DC 20510

Dear Senator Lautenberg:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. The merger could allow us to build on our current relationship and become a stronger partner with the combined airline. Given the upheaval in the airline industry of the past decade, this is particularly good news for our company and our 5 employees in Englewood Cliffs, NJ.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level, and we want to be a part of their future success.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of Travel Group's support for the merger and hope you will support it, too.

Sincerely,

Natalya Hansen

Natalya Hansen

COVANTA
ENERGY
for a cleaner world

Covanta Energy Group, Inc.
40 Lane Rd
Fairfield, NJ 07004
Tel 973 882 9000

May 26, 2010

Senator Robert Menendez
528 Hart Senate Building
Washington, DC 20510

Dear Senator Menendez:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit Covanta Energy Corporation and our employees.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for Covanta, this means we can rely on the combined airline to provide the foundation for opportunity that comes with access to 370 destinations around the globe.

United and Continental have very little overlap on routes and are well-suited to combine. By coming together, they will offer a seamless global network with eight hubs across the country and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. Corporate travelers will have an easier time making connections, reaching customers and doing business, which will benefit Covanta and the business travel industry.

The combined airline will also be positioned to continue its investment in globally competitive products, upgrade technology, refurbish and replace older aircraft, and implement best-in-class practices of both airlines. It will also offer the industry's leading loyalty program, providing access to more benefits than any other program, with more ways to earn and redeem miles. As a member of the Star Alliance, the combined airline will provide loyalty program members with the opportunity to use miles for award travel with partner airlines to more than 1,000 destinations around the world.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of Covanta's support for the merger and hope you will support it, too.

Sincerely,

Anna Marie Brown

CYTEC

CYTEC INDUSTRIES INC.
Five Garret Mountain Plaza
Woodland Park, NJ 07424
973-357-3100

May 26, 2010

Senator Frank Lautenberg
324 Hart Senate Building
Washington, DC 20510

Dear Senator Lautenberg:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit Cytec Industries and our employees.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for Cytec Industries, this means we can rely on the combined airline to provide the foundation for opportunity that comes with access to 370 destinations around the globe.

United and Continental have very little overlap on routes and are well-suited to combine. By coming together, they will offer a seamless global network with eight hubs across the country and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. Corporate travelers will have an easier time making connections, reaching customers and doing business, which will benefit Cytec Industries and the business travel industry.

The combined airline will also be positioned to continue its investment in globally competitive products, upgrade technology, refurbish and replace older aircraft, and implement best-in-class practices of both airlines. It will also offer the industry's leading loyalty program, providing access to more benefits than any other program, with more ways to earn and redeem miles. As a member of the Star Alliance, the combined airline will provide loyalty program members with the opportunity to use miles for award travel with partner airlines to more than 1,000 destinations around the world.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of Cytec Industries' support for the merger and hope you will support it, too.

Sincerely,

Katina Britton
Manager, Global Travel Services

cc: Maureen.mclellan@coair.com

May 26, 2010
Senator Frank Lautenberg
324 Hart Senate Building
Washington, DC 20510

Dear Senator Lautenberg:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit Educational Testing Services and our employees.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for ETS, this means we can rely on the combined airline to provide the foundation for opportunity that comes with access to 370 destinations around the globe.

United and Continental have very little overlap on routes and are well-suited to combine. By coming together, they will offer a seamless global network with eight hubs across the country and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. Corporate travelers will have an easier time making connections, reaching customers and doing business, which will benefit ETS and the business travel industry.

The combined airline will also be positioned to continue its investment in globally competitive products, upgrade technology, refurbish and replace older aircraft, and implement best-in-class practices of both airlines. It will also offer the industry's leading loyalty program, providing access to more benefits than any other program, with more ways to earn and redeem miles. As a member of the Star Alliance, the combined airline will provide loyalty program members with the opportunity to use miles for award travel with partner airlines to more than 1,000 destinations around the world.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of ETS's support for the merger and hope you will support it, too.

Sincerely,
Christine Faulstich
Christine Faulstich

General Chemical

Purchasing Department

90 East Halsey Road
Parsippany, NJ 07054
Tel: [illegible]

May 26, 2010
Senator Frank Lautenberg
324 Hart Senate Building
Washington, DC 20510

Dear Senator Lautenberg:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit General Chemical and our employees.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for General Chemical, this means we can rely on the combined airline to provide the foundation for opportunity that comes with access to 370 destinations around the globe.

United and Continental have very little overlap on routes and are well-suited to combine. By coming together, they will offer a seamless global network with eight hubs across the country and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. Corporate travelers will have an easier time making connections, reaching customers and doing business, which will benefit General Chemical and the business travel industry.

The combined airline will also be positioned to continue its investment in globally competitive products, upgrade technology, refurbish and replace older aircraft, and implement best-in-class practices of both airlines. It will also offer the industry's leading loyalty program, providing access to more benefits than any other program, with more ways to earn and redeem miles. As a member of the Star Alliance, the combined airline will provide loyalty program members with the opportunity to use miles for award travel with partner airlines to more than 1,000 destinations around the world.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of General Chemical's support for the merger and hope you will support it, too.

Sincerely,

Teresa Sicsko

Teresa Sicsko

SunChemical®

Sun Chemical Corporation
35 Waterview Boulevard
Parsippany NJ 07054-1285 USA
Tel +1 973 404 6000
Fax +1 973 404 6001
www.sunchemical.com

June 1, 2010

Senator Robert Menendez
528 Hart Senate Building
Washington, DC 20510

Dear Senator Menendez:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit Sun Chemical Corporation and our employees.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for Sun Chemical, this means we can rely on the combined airline to provide the foundation for opportunity that comes with access to 370 destinations around the globe.

United and Continental have very little overlap on routes and are well-suited to combine. By coming together, they will offer a seamless global network with eight hubs across the country and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. Corporate travelers will have an easier time making connections, reaching customers and doing business, which will benefit Sun Chemical and the business travel industry.

The combined airline will also be positioned to continue its investment in globally competitive products, upgrade technology, refurbish and replace older aircraft, and implement best-in-class practices of both airlines. It will also offer the industry's leading loyalty program, providing access to more benefits than any other program, with more ways to earn and redeem miles. As a member of the Star Alliance, the combined airline will provide loyalty program members with the opportunity to use miles for award travel with partner airlines to more than 1,000 destinations around the world.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of Sun Chemical's support for the merger and hope you will support it, too.

Sincerely,

Norma Conkle

Norma Conkle
Fleet & Travel Administrator

Cc: Lucia Fernandez
Maureen McLellan

tlg travel management

135 Chestnut Ridge Road
Montvale, NJ 07645
800.222.0304

June 1, 2010
Senator Frank Lautenberg
324 Hart Senate Building
Washington, DC 20510

Dear Senator Lautenberg:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit TLG Travel, Inc. and our employees.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for TLG Travel, this means we can rely on the combined airline to provide the foundation for opportunity that comes with access to 370 destinations around the globe.

United and Continental have very little overlap on routes and are well-suited to combine. By coming together, they will offer a seamless global network with eight hubs across the country and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. Corporate travelers will have an easier time making connections, reaching customers and doing business, which will benefit TLG Travel and the business travel industry.

The combined airline will also be positioned to continue its investment in globally competitive products, upgrade technology, refurbish and replace older aircraft, and implement best-in-class practices of both airlines. It will also offer the industry's leading loyalty program, providing access to more benefits than any other program, with more ways to earn and redeem miles. As a member of the Star Alliance, the combined airline will provide loyalty program members with the opportunity to use miles for award travel with partner airlines to more than 1,000 destinations around the world.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of TLG's Travel support for the merger and hope you will support it, too.

Sincerely,

Michael Rappaport
CEO

Mr. LoBiondo. And, Mr. Smisek, you talked about this, as did Mr. Tilton, but I would like you to touch on it a little bit more, about the ability of Continental to, on its own, effectively compete against large, combined European carriers. And if this merger were not to take place, what are those implications for you?

Mr. Smisek. Congressman, we are very proud at Continental of the carrier that we have created. Our culture has permitted us to work together and provide great customer service and a great product for our customers.

However, we are simply too small to compete effectively on the global stage that we find ourselves. We are finding greater and greater difficulty attracting and retaining our business customers and our other customers. We are facing increasing competition, not only here in the United States but, as you mentioned, abroad, with powerful foreign competitors who are well-financed, sometimes subsidized by governments, and who are profitable and can invest in their products and services, outstripping our own.

It is very important for us to merge with United and put ourselves in a position jointly to be able to compete effectively on the global stage.

At Continental, although I am very proud of Continental, I think we have done a very good job, candidly, Congressman, we are eking out a hand-to-mouth existence. And that is not a future that I want for my employees, it is not a future that I want for my customers, it is not a future I want for the communities we serve, it is not a future I want for aviation in the United States.

Mr. LoBiondo. Thank you for that answer.

In closing, Mr. Chairman, I think it is right to be asking all the tough questions from the Committee Members, those who may be concerned. But I think if we have blinders on and are very shortsighted about the opportunity that we have here to create a stronger company, protecting jobs, protecting safety, keeping jobs here, that some future aviation Subcommittee is going to come back in the future and look at why United and Continental, if a merger were declined, had to witness some great demise. And I don't think that is an overstatement, based on what has happened in the aviation industry.

I thank you both for being here. And I urge my colleagues to look at the positive benefit that this is going to create.

Mr. Costello. The Chair thanks the gentleman and now recognizes the distinguished Chairman of full Transportation and Infrastructure Committee, Chairman Oberstar.

Mr. Oberstar. Thank you, Mr. Chairman, for a contrasting view to that of my dear friend from New Jersey.

The airways are the common heritage of all Americans. They are not the private estate of corporations engaged in airway service, in passenger service. The purpose of the deregulation act of 1978—and I was in this room, where it was voted on—was not to consolidate aviation but to expand competition, to take government out of the business of determining rates and market entry.

In the first 5 years after deregulation, there were 22 new entrants into airline competition. But by the end of 8 years, there were only five of those new entrants left. Ten years, 12 years later, there was only one. And it, too, has been absorbed by U.S. Airways.

What we saw just recently was a further step in that consolidation, when the previous Justice Department looked the other way, sort of brushed aside my objections that approval of Delta at Northwest would result in a cascade of mergers. That has happened. You have proposed one. You did not object to Delta-Northwest because you were waiting in line with your own hat in hand.

The third will be American Airlines and a domestic partner. And the result will be, with your international co-chairing partners, three global mega carriers that will dominate the world airways. There will be little choice for passengers, little choice for cities, little choice for competition.

You will concentrate on long-haul service, which you have already said and which I have pointed out in my letter to the Justice Department. I will quote from my letter, that, "The networks of United and Continental overlap on 13 routes between some of America's largest markets: the New York Metropolitan area; Washington, D.C.; San Francisco; Los Angeles; Denver; Houston; Chicago; and Cleveland, among others. Two carriers also compete in a number of international markets. That competition will be gone."

The Justice Department expressed its concerns over reduction in competition between United and Continental. Last year, you applied for antitrust immunity to collaborate on service and fares in a large number of international markets. The Justice Department's comments on the application concluded that, "Fares are likely to increase by roughly 15 percent on routes where the number of nonstop competitors decreases from two to one and roughly 6 percent on routes where the number of nonstop competitors decreases from three to two. Competition will be significantly diminished in limited-entry markets, such as China, where United and Continental today present the best, and in some cases the only, service alternatives. Domestic competition between United and Continental may also be affected."

The purpose of deregulation was not to assure that you have the gravitas in this or that market, but that there be competition. And, instead, what has happened is sheer avoidance, manic avoidance of competition. You have said it already in your testimony: There is too much capacity in this market.

You guys hate competition. You want to be the competitor who dominates the market, each one of you, not just you—Northwest, Delta, American, all the rest. I have seen it over all the years of deregulation.

This is a blow to small-market service. It is a blow to air travelers. It is going to result in increase in fares and costs. And the purpose of deregulation is not to line the pockets of the big carriers but to give Americans more choices, lower cost, more opportunities. And what we have seen with the consolidation in the airline business is less of everything: less competition, higher fares, less service, $4 billion paid in baggage fares last year, for goodness sake.

This is a terrible injustice to the purpose of the deregulation act, and I will continue to vigorously oppose it.

Thank you, Mr. Chairman.

Mr. COSTELLO. I thank the Chairman for his comments and remarks, and I think he made his position very clear.

The Chair now recognizes the gentleman from North Carolina, Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

And thank you, gentlemen, for being with us.

Let me generously lace my first question with local interests back home. I represent the area that includes the Piedmont Triad International Airport, both having service provided by Delta and Continental.

My question is, gentlemen, how will this merger affect airports that have seen a decrease in passenger service as a result of the current dismal economy? And, if approved, would this merger provide the opportunity for communities such as the one I represent to attract additional service?

Mr. TILTON. Congressman, as Jeff and I have both said, we serve 148 small communities, and those 148 small communities have already made their case for service. As the economy improves, both of us are always mindful of opportunities that new markets might provide. And here very recently, certainly speaking on behalf of United, we have commenced service to small communities that we had not previously served.

We are mindful, actually, of something quite different from what Mr. Oberstar mentioned a moment ago. Low-cost carriers are actually lowering their sites for new market entry to markets that previously may have been right on the margin of interest to them. So we are now finding ourselves in markets such as Greenville, South Carolina, which is not a trivial market but not a market that qualify as hub status. We are finding that those markets are now beginning to be competed vigorously, as well.

So, as the economy improves, I think markets such as that you represent——

Mr. COBLE. Greensboro, North Carolina.

Mr. TILTON. —Greensboro, North Carolina, are going to find themselves the object of service and opportunities from both of our companies, and certainly from the merged company.

Mr. COBLE. Good. I thank you for that.

Mr. TILTON. You bet.

Mr. COBLE. And you concur, I presume?

Mr. SMISEK. I do. We are always responsive to market demand, but, certainly, markets in all communities are better served by healthy carriers that have a future than carriers that are eking out hand-to-mouth existence.

Mr. COBLE. Thank you for that.

Gentlemen, has the development of the three international airline global alliances over the past 15 years had a positive or a negative impact on competition, pricing, and customer service?

And is it your opinion that—well, strike that. Let me ask you a different way. Are three alliances enough or sufficient to ensure future competition?

Mr. TILTON. As one of the founding members of the Star Alliance, I think that the alliances certainly serve the purpose of giving consumers the opportunity to fly across the globe with a multitude of different carriers who happen to belong to the same alliance, but able to do so seamlessly on the basis of the entry of one carrier's ticketing into that alliance.

So United can be your entry into the Star Alliance, and a businessperson can make a multi-segment journey across the world and travel on three of our partner carriers, return to their place of business. I think that has been great for business. I think it has been good for business productivity. I think it has been good for consumers.

Whether or not ultimately there are going to be three I think goes back to Jeff's point that it is a very, very dynamic market and we see things constantly changing.

One of the phenomena that we are seeing here recently, Congressman, is decisions made by companies such as Jeff's, by Continental, to actually accept an invitation from United to depart an alliance where Continental was perceived to be a small participant in that alliance and come to the Star Alliance. And 2 years ago, we made that invitation to Continental. Continental accepted the invitation, left SkyTeam and came to Star, to the benefit of Star.

But I think alliances are going to continue to be intrinsically competitive themselves, trying to bring the best carriers into the alliances.

Mr. COBLE. I thank you for that.

Mr. Smisek, you concur?

Mr. SMISEK. I do. Alliances have been very good. For my business, entry into Star has been good.

Recognize that those within the alliances, those are alliances of competitors. We compete with each other even though we are inside an alliance. The alliance assists us in offering destinations on a single ticket through carriage of baggage that we ourselves could not offer.

They can be highly beneficial. For example, we recently announced nonstop service from Houston to Auckland in New Zealand. We did that in a couple of contexts: one, Star Alliance, because their New Zealand is a member of the Star Alliance and we are going into a hub even though we compete with Air New Zealand; and, secondly, the traffic flows that we expect from our merger gave us the confidence to launch that nonstop route, which will be on a new 787 Boeing aircraft manufactured here in the United States.

Mr. COBLE. I thank you gentlemen.

Mr. Chairman, I was going ask about how it would affect the employees of each company, but I think that has been adequately addressed. And I yield back.

Thank you for being with us, gentlemen.

Mr. COSTELLO. The Chair thanks the gentleman and now recognizes the gentlelady from Hawaii, Mrs. Hirono.

Ms. HIRONO. Thank you, Mr. Chairman.

This Committee is particularly concerned about the impact of this merger on employees, on customers, and on competition. And on the issue of competition, of course it is the Department of Justice that has the major responsibility to determine in a very complicated antitrust analysis as to the impact of this on lowering of competition.

How long do you think the DOJ's review will be, regarding your proposed merger?

Mr. SMISEK. Congresswoman, we expect a very professional and very thorough review from the Department of Justice, as one would expect. They are a very professional organization. We are being responsive to all of their requests for information. And we would anticipate to be in a position to close this merger by year end.

Ms. HIRONO. Considering that this is going to be one of the largest aviation mergers ever and the fact that when Continental came in and requested an antitrust exemption and apparently the Department of Justice had some concerns about that, do you have any concerns about their approving this kind of a large merger?

Mr. SMISEK. Well, Congresswoman, I can't speak to the Department of Justice's thought processes with regard to our application for antitrust immunity for the Atlantic Plus-Plus joint venture, which is, I believe, what you are referring to.

But I will recognize that joint ventures deliver some degree of revenue benefits, some degree of cost savings, but not the efficiencies of a merger. And, therefore, from the Department of Justice's perspective, I would imagine that the concern there had to do with the difference between a joint venture and a merger, where you can obtain significant efficiencies and consumer benefits from a merger that are not obtainable from a joint venture.

Ms. HIRONO. Well, that leads me to my next question, which is that, when Continental came in for their antitrust exemption, the testimony was that antitrust immunity would provide much of the benefit of a merger without the labor integration and financial risk. So that was your testimony only a year ago. By "your," I mean your company.

So what changed, that suddenly you are saying, well, all of these risks aren't there?

Mr. SMISEK. No, ma'am. The risks are there, Congresswoman. The risks are there, without question. The risks are there in any merger.

The joint venture and our entry into Star Alliance has been very good for Continental and has provided additional revenue. It has been necessary but not sufficient. We have continued to lose money and we have continued to be in a position of being concerned about our future.

The merger will add significant revenue benefits, principally from our ability to improve the business mix onboard our aircraft. There is nothing in the merger synergies that is conditioned on fare increases, but rather improving the business mix, creating a network that is more attractive to business travelers and improving the mix of business travelers onboard our aircraft, and also optimizing our two fleets across the 10 hubs that we will have.

So the merger is additive to a joint venture. We were hoping that Star Alliance would be sufficient to return us to profitability. It clearly is not. Last year, we lost $282 million, after having lost money the year before that. And since 9/11, we have lost a billion dollars. That is not a future I want for my coworkers.

Ms. HIRONO. Well, I appreciate the fact that both of you have testified on the benefits of this kind of a merger. And before I continue, I would like to ask the Chair's permission to submit for the record four letters from Hawaii supporting this merger, including one from the Governor of the State of Hawaii.

Mr. COSTELLO. Without objection.
[The information follows:]

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

May 21, 2010

The Honorable Daniel Akaka
United States Senate
141 Hart Senate Office Building
Washington, DC 20510

Dear Senator Akaka:

On behalf of the people of Hawai'i, I write in support of the proposed merger of United Airlines and Continental Airlines.

Airlines and a stable airline industry are very important to our island economy and the quality of life for Hawai'i's residents. Both United and Continental provide domestic and international service to our islands. The merger would continue to provide our State with access to a global network through eight hubs across the U.S., allowing the opportunity for improved connections and increased options for both business and leisure travelers. The financial strength resulting from the unification of both companies should also provide enhanced job stability for the employees of the combined airline in its Hawai'i operation.

I will be informing House Speaker Pelosi, Senate Majority Leader Reid, Attorney General Holder, Transportation Secretary LaHood and the White House of my support for the merger, a change that I believe will be in the best interest of the people of Hawai'i.

Sincerely,

LINDA LINGLE

The Chamber of Commerce of Hawaii
Since 1850

May 19, 2010

Honorable Daniel Inouye
United States Senate
722 Hart Senate Office Building
Washington, DC 20510

Dear Senator Inouye:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. United and Continental have very little overlap on routes. By coming together, they will offer a global network and travelers will have an easier time making connections, reaching customers and doing business.

The combined airline's increased financial strength will also provide enhanced job stability for the employees in Hawaii. The companies believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our local economy.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of The Chamber of Commerce of Hawaii's support for the merger and hope you will support it, too.

Sincerely,

Jim Tollefson
President & CEO

1132 Bishop Street, Suite 402 • Honolulu, Hawaii 96813 • Phone: (808) 545-4300 • Facsimile: (808) 545-4369

LINDA LINGLE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

Hawai'i Tourism Authority

Hawai'i Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815
Website: www.hawaiitourismauthority.org

Telephone: (808) 973-2255
Fax: (808) 973-2253

May 25, 2010

The Honorable Daniel K. Akaka
United States Senate
141 Hart Senate Office Bldg.
Washington, D.C. 20510-1103

Dear Senator Akaka:

On behalf of the Hawai'i Tourism Authority (HTA), we urge you to support the proposed merger of United Airlines and Continental Airlines, two of the largest air carriers serving the state of Hawai'i.

As the most isolated population center in the world, Hawai'i residents rely on air access to and from our state. Air travel is also the primary component of our tourism economy, which accounts for nearly 17 percent of Hawai'i's economy and more than 151,000 jobs. To date, more than 2.2 million visitors arrived by air in 2010, a 3.6 percent increase over the same period last year.

For many decades, both United and Continental have supported Hawai'i's visitor industry which depends on the health and stability of the airline industry. We believe the merger will create a stronger and more sustainable airline that will be able to remain competitive in the global market. Upon review, we are hopeful that there will be limited impact on flights to Hawai'i due to minimal route overlap between the two carriers.

Air access is Hawai'i's tourism lifeline and remains a top priority for HTA. Anytime an airline can strengthen its business model, in the long term, Hawai'i will benefit. At HTA, we are committed to maintaining and growing air access to the state, a key component of our Tourism Strategic Plan.

Thank you for your continued support of Hawai'i's visitor industry. We humbly ask that you support the merger of United and Continental and encourage Attorney General Eric Holder and Transportation Secretary Ray LaHood to do the same.

Best Regards,

Mike McCartney
President & CEO
Hawai'i Tourism Authority

HAWAI'I
Visitors & Convention Bureau

June 2, 2010

The Honorable Daniel Inouye
United States Senate
722 Hart Senate Office Building
Washington, DC 20510

RE: Proposed Merger of United and Continental Airlines

Dear Senator Inouye:

The Hawaii Visitors and Convention Bureau is pleased to add its support to the proposed merger of United and Continental Airlines.

Both airlines have a long history of serving the vital air links between Hawaii and its national and international visitor source markets, upon which we are wholly dependent for the well-being of our economy.

There is very little overlap between the two carriers in serving our State: United provides about 28 percent of domestic air seats to Hawaii and Continental about 7 percent. Accordingly, we do not anticipate any lessening of service from the two airlines once they have merged. Rather, we expect that the combined airline will create a more robust platform for sustainable profits that will translate into dependable long-term scheduled service to the Hawaiian Islands. Both airlines enjoy productive alliances with our local Hawaii-based carrier, Hawaiian Airlines, which we trust will be carried forward.

As we understand it, the new combined carrier will fly to 370 destinations in 59 countries around the globe. This should make it all the more easy for leisure and business travelers to reach Hawaii and will no doubt contribute to our economy.

We respectfully request that you forward our support of the merger to members of the aviation subcommittee of the House Transportation Committee and Justice and Transportation department officials.

Aloha,

John Monahan
President and CEO

Waikiki Business Plaza • 2270 Kalākaua Ave., Suite 801 • Honolulu, Hawai'i USA 96815
Telephone: (808) 923-1811 • Facsimile: (808) 924-0290 • E-mail: info@hvcb.org • www.gohawaii.com

Ms. HIRONO. I personally have not made a decision regarding this merger. I do expect that the Department of Justice will be very, very vigilant in its antitrust analysis.

I am reading the testimony of the American Antitrust Institute, and they pose a very interesting possibility. And that is that this Committee should hold some hearings, retrospective hearings, on the Delta-Northwest merger. Because when that merger was brought to this Committee, there were various kinds of positive impacts, and we are not sure—I am not sure whether these impacts have been realized.

So their suggestion is that we have such hearings and then, perhaps, to hold off on going forward with this merger or supporting this merger until we can find out what the Delta-Northwest merger resulted in.

Do you have any comments about that kind of a suggestion?

Mr. TILTON. You know, I do, Congresswoman. I think every transaction that you are asked to consider is considered in the context of a particular time and place and in a particular economic reality of the moment.

If you think about the concern, the appropriate concern of all the Members who have asked us about the effect here of a proposal that Jeff and I make that will bring some measure of economic stability to the new company, as the new company has to confront the extraordinary—the extraordinary—economic shocks that this industry has had to confront, either post-deregulation or post-9/11, making a commitment in the context of an environment that is certain to change within 30 days of your making any such commitment is a challenging proposition.

What Jeff and I are saying is that this combination will be positive for consumers. It will be positive for communities. It will be positive for employees. It will be positive for shareholders.

What Jeff and I cannot tell you is what the next unexpected event might be and what the next economic shock might be and how our companies or the new company will respond to that. And making no representations here, either Jeff or myself or our colleagues at Delta, you would have to go over and say, what else changed from the point that they were before you?

Ms. HIRONO. Mr. Chairman, I know my time is up, but as to that, yes, we realize that circumstances change, and that is why your coming and reassuring us that everything will be positive—I mean, circumstances can change. And I think that is where our concerns rise. Thank you.

Mr. TILTON. And my point is, we will be better able to meet those circumstances with this combination than we otherwise would.

Mr. COSTELLO. The Chair thanks the gentlelady and now recognizes the gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Well, thank you, Mr. Chairman, and thank you for calling this hearing on this very important matter.

I am sorry that I didn't get to hear your earlier testimony. I was in another Committee. But I think almost everyone agrees that the country would be better off with more airlines instead of fewer and more competition instead of less. On the other hand, if the refusal to grant this merger is going to result in one or both of these airlines going out of business, then that would certainly not be a good thing either.

But I have these concerns. We have two briefing papers. One from the majority says, "Concerns have been raised that a merger of United and Continental could result in substantial increases in fares." And the minority briefing says, "The Department of Justice's most recent antitrust analysis, with the support of empirical data, economic studies, and precedent, generally assumed that air fares increased by approximately 15 percent in markets where the number of nonstop competitors decreases from two to one."

Knoxville, where I am from, is fortunate to have probably more airlines than any city anywhere close to our size, larger or smaller. Though we don't have any low-cost carriers, so-called low-cost carriers, so we get some extremely high prices, particularly on the flights from Knoxville to Washington.

And I remember a few years ago, when I Chaired this Subcommittee, we had a hearing in Wichita, and the staff told me later that it cost $1,000 for me to fly round-trip from Knoxville to Wichita coach. And that same weekend in The Washington Post they had had an advertisement advertising a round-trip ticket to Madrid, Spain, and two nights in a hotel for $389.

And so, you know, people have a hard time understanding how all these fares come about. And I was just wonder, maybe you have already given some assurances about these fares, but I would like to hear what you have to say about the lack of competition in some of these smaller or medium-size cities.

But, also, several years ago, I was told that each one-penny increase in jet fuel or aviation fuel costs the aviation industry as a whole $200 million. Now, many people feel that there is going to be such restrictions put on the offshore oil production that the price of fuel is going to go way up. And I am wondering, have you all given that any consideration? And what effect would a doubling of jet fuel or aviation fuel have on your companies?

Mr. TILTON. It is a rather multi-part question, I guess.

Mr. DUNCAN. Yes, sir.

Mr. TILTON. I will take the back end.

A dramatic escalation in the price of fuel would likely eliminate the prospect of economic recovery for the industry this year, which, as advertised now, and we agree, as the incipient economic recovery in our markets, we are seeing the return of business travelers.

But were that to happen, it would have such a collateral effect on overall GDP that, in all probability, it will put the cork in the bottle of economic recovery in business travel, and we could be back into one of the challenges that I mentioned to your colleague a moment ago that we systemically face that only stronger economic enterprises can actually survive.

So that would be a very bad thing, irrespective of my hedge book and my colleagues' hedge book, where we have tried to lock in a price that even by historic standards is a high price. I mean, if our average hedge price is a $70 barrel of crude oil, that is not an inexpensive consideration for that most important cost input.

You know, one way of thinking about that is, those bags that we heard so much reference to here a little while ago weighing, let's say for discussion's sake, 50 pounds apiece, they consume a tremendous amount of jet fuel. And the idea that they should be transported for free when they are transporting that amount of jet fuel is debatable.

Mr. SMISEK. We spend more on fuel at Continental than we do for our employees worldwide, our airplanes worldwide, our facilities worldwide. So a doubling of jet fuel would obviously be devastating to Continental and to the entire industry.

As to pricing, first, let me be clear that this merger is not predicated on fare increases. The synergies are not predicated on fare increases. The merger is not predicated on capacity reductions. This is a brutally competitive industry, particularly in the United States, where low-cost carriers have essentially 40 percent of the market and continue to grow. Air fares have dropped 30 percent over the past decade on an inflation-adjusted basis. We have lost, over at Continental, over a billion dollars since 9/11.

So, certainly, we are currently charging amounts that are clearly below our costs. We need to change the business mix at Continental, bring more business travelers into our system, who do pay a higher price because they consume inventory that we hold open until the very last moment, and we run the risk of that inventory spoiling—that is, the aircraft taking off without someone in that seat.

And that is an expensive risk for us to take, and, therefore, the business traveler who books at the last minute and wants to be able to change at the last minute and take a later flight or an earlier flight pays for that privilege, compared to the leisure travelers who book far earlier than that and pay a much lower fare. Because we, as a company, are taking a much less business risk with respect to those people than we are with holding the seats out until the last.

But I can assure you, this is a very competitive business. We do not have a single market in the United States where we overlap. And we only overlap on 15. There is not a single market where the number of competitors is reduced to just one. So that is not going to occur in this merger.

Mr. DUNCAN. All right. Well, thank you very much. There is not an easy business out there, but I think your business has to be one of the most difficult in the world, with so much that is beyond your control—the natural resource problem, the weather problem, and so forth. But thank you very much.

Mr. LIPINSKI. [Presiding.] Thank you, Mr. Duncan.

The Chair will now recognize himself for 5 minutes.

As Chicagoland's only Member of this Committee, a top priority of mine is working to enhance and improve the region's transportation network. And since Chicago is the transportation hub for the Nation, what is good for Chicago in many ways is good for the Nation. So I believe that this merger, if implemented correctly, will benefit the Chicago region.

In addition, it has the potential to be good for O'Hare Airport and the O'Hare Modernization Program, which is definitely, without question, good for our Nation's air traffic.

However, there are a number of critical issues that need to be examined as this process moves forward. For instance, we clearly need to consider the merger's impact on consumers, including how the proposal would impact pricing and service. Chairman Oberstar carefully went through these issues, and I am sure that we will hear more about that. And we have spoken a little bit—you have provided in your testimony some answers on that.

We also need to look at the impact the merger would have on jobs, especially with respect to job loss and to benefits. And, finally, we also need to make sure, I believe, that there is a commitment by the new United, the merged airline, to projects that increase system capacity, especially the O'Hare Modernization Program.

So I want to start on that last point. Right now, OMP, O'Hare Modernization Program, most critically would provide parallel runways and will reduce delays by 75 percent at O'Hare. Two runways have already been completed. One runway project is currently being worked on. And there are three more runway projects remaining to be done.

So I want to ask Mr. Tilton, are you committed, if this merger goes through with this new airline, or are you committed in general, to moving this critical program forward, specifically with respect to the three remaining runway projects at O'Hare?

Mr. TILTON. Congressman, as you know, we have been supporters from the beginning of the modernization and the expansion of O'Hare. We are supportive of the runway development, the two that have been developed and the additional runway capacity.

It goes significantly to something that Jeff mentioned in his remarks, that we are indeed and have been for quite some time the number-one on-time carrier, network carrier in the United States. Much of that has been enabled, Congressman, by the modernization and the development of those new runways at O'Hare.

Before we get to, perhaps, the follow-on question, there are issues associated with the modernization of O'Hare that go to facilities that we think are perhaps no longer necessary. And those are terminal facilities and the expansion of terminal facilities in the current economy. But as you also know, we are at the table negotiating those issues with Mayor Daley and with Ms. Andolino. And I think that those discussions are going to be constructive and good for Chicago and good for O'Hare.

Mr. LIPINSKI. Well, you mentioned the terminal project, but are you——

Mr. TILTON. Yes.

Mr. LIPINSKI. —committed to the three runway projects when United——

Mr. TILTON. Yes. United, given the current economic circumstances we face, thinks those runways are justified.

Mr. LIPINSKI. The other question that I wanted to get to is the impact on employees. Because, certainly, you understand the concern with the uncertainty that employees face at United and Continental. We have seen other mergers, and sometimes the impact on the employees certainly has not been what was expected; it has been detrimental to the employees. United's bankruptcy, the employees certainly paid a high price in that for allowing United to continue to operate.

I want to focus specifically here on pensions, because I understand—and this has been touched on a little bit already—that the defined benefit plans no longer could exist at United Airlines after the bankruptcy. Now, some Continental employees do have defined benefit plans. There are going to be problems with putting all of the employees together in a merged airline.

Will it be possible for the Continental employees to keep their defined benefit plans, or is this forbidden by the bankruptcy settlement?

Mr. SMISEK. Congressman, let me speak to that.

Yes, Continental's defined benefit plans will continue after the merger. And we have received confirmation from the Pension Benefit Guaranty Corporation to that effect.

As we go forward, as we negotiate joint collective bargaining agreements with each of our collectively bargained units, we will obviously be discussing a broad range of wage and benefit items, including the form of their pensions and amounts of pensions. Those defined benefit plans could change. For example, our own pilots union, in negotiations, determined to freeze their plan and go to a defined contribution plan, which we have been funding since that was negotiated.

Last year, we at Continental lost $282 million, but nonetheless we put $283 million into our employees' retirement plans.

Mr. LIPINSKI. Does this mean, then, that there is a possibility that United—if the merger goes through, former United and former Continental employees now in the merged airline will have different pension plans? I just want a better understanding of what this will mean.

Mr. TILTON. Well, it does, Congressman.

If you think about it—we were saying earlier on, for example, our IAM-represented employees have a multi-employer plan that it is supported by the IAM. It was a product of the negotiations during the bankruptcy. The IAM represents employees at both companies.

How the employees choose to be represented, just using their multi-employer plan as an example, in a course of their representation choices will determine whether or not more or fewer employees are given the opportunity to be beneficiaries of that plan. But that is a function of, at the end of the day, which union represents which employees at the end of the decisions made by the employees on that matter.

So there are significant differences across the two employee groups. And the process, that will be made transparent to employees when they make it their selections.

Mr. LIPINSKI. Well, I certainly believe, as we move forward with this in consideration of the merger, that this is going to be a critical piece of it. The more things, if possible, that can be worked out with the employees, the better off we will be and I think the, certainly, greater likelihood of this merger moving forward. But I think that is something that we have to continue to keep our eye on.

With that, the Chair will now recognize—the gentleman from Arkansas is not there. We will go back over to the Democratic side here. The Chair will recognize the Chair of the Surface Transportation Subcommittee, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Gentlemen, I will read you two quick statements, and then you tell me how this merger I think is in reaction to this, but how it is going to solve this problem.

Alfred Kahn: "I must concede the industry has demonstrated more severe and chronic susceptibility to destructive competition than I, along with other enthusiastic proponents of deregulation, was prepared to concede or predict."

And then former American Airlines CEO Robert Crandall: "Market-based approaches alone have not and will not produce the aviation system our country needs and that some form of government intervention is required."

I think your merger reflects that. Is this going to solve the problem once and for all of this cutthroat, deregulated, race-to-the-bottom industry?

Mr. SMISEK. Congressman, I am not sure it will solve all the ills of the aviation industry. I don't hold it to such a high standard.

What we are trying to do is to create an entity that can be profitable, that can withstand the external shocks, that can offer a future and some stability to our employees, that can reverse the trend of the employment loss that this industry has suffered, particularly since 9/11.

Mr. DEFAZIO. OK. Well, that is good.

Quick, Mr. Tilton, because I have several other questions.

Mr. TILTON. Congressman, I don't think that the merger is going to be able to resolve many of the structural issues that lead to the cutthroat competition that you mention, such as the absence of apparent barrier to entry that allows a significant number of new entrants to come into the business and fail repeatedly but, in the process of so doing, destroy tremendous value. And they destroy value collaterally—employee value, shareholder value, and even, for that matter, community value, because they come and they go.

Mr. DEFAZIO. OK. So there might be something in the statement by Bob Crandall, some form of government intervention might be required.

And I guess that gets to my second point—I am sorry to interrupt, but I have very little time—Mr. Smisek, you said safety would not be affected. And, actually, I didn't take that as positively as you might think, because I would hope it would be.

And I would reference both the chairs of your Master Executive Council, when they are talking about, "Passengers do not want air travel that is provided by the lowest bidder. They want and deserve safe and reliable transportation provided by the network carrier of their choice." That was Captain Jay Pierce. And then, "When a passenger buys a ticket from United Airlines, they deserve to have United pilots at the controls. This merger presents the opportunity to put an end to management's preoccupation with outsourcing." That was Captain Wendy Morse.

Will this merger lead to any reduction in outsourcing or any improvement in who you contract with?

Mr. TILTON. Congressman, we don't really perceive at United that the regional carriers that are our partners and are really the entry level into the industry for coworkers of our employees as being outsourcing. You know, United is not going to fly an A319 or a 320 to Minot, North Dakota, to collect those passengers——

Mr. DeFazio. Right. But we are paying someone $18,000, $20,000 a year with a low number of hours to be the pilot. I mean, we tried to deal with that through government intervention in the FAA bill and in the safety bill.

Mr. Tilton. Right. Right. All I am saying——

Mr. DeFazio. You are being pulled down by people who are—you may well require a higher standard, but you have to compete with these——

Mr. Tilton. Well, and, as I said, Congressman—I know you are in a hurry—as I said, we spend a lot of time talking to our regional partners about the very things that you just mentioned a moment ago, and that is taking our safety practices, sharing them with them, and expecting them to abide by them.

Mr. DeFazio. OK.

Mr. Smisek, would we see, perhaps, we wouldn't go to the lowest bidder for outsourcing in the future and require a higher standard, or are we going to have to wait until we pass legislation to require more hours, more experience, et cetera?

Mr. Smisek. We support all improvements in safety in this business. Safety is incredibly important, as you know. However, the combined carrier will not be flying mainline aircraft into small cities——

Mr. DeFazio. No, I understand.

Mr. Smisek. —because demand won't be there. So that service will always be provided by third parties.

Mr. DeFazio. Well, you could operate a subsidiary that provided that service, or you can contract—there are different levels of contracting.

Mr. Smisek. Sure, sure. I appreciate that. But our practice at Continental and our practice at United and our practice as a combined carrier would be to use third parties to do that. But we are very committed to safety for ourselves, for our regional carriers. And we, like United, share best practices with them.

Mr. DeFazio. OK. Well, I am out of time, Mr. Chairman, but I just want to say I think there are a lot of people out there trying to run airlines well and safely and with respect for their employees, but what we have seen is this pattern of destructive competition. And it may be a transient entrant who, you know, goes away, or it may be other people who persevere longer but they drag down the standards.

And I think the industry should wholly support setting a much higher floor that everybody has to meet, and then there is no competitive disadvantage among any of the industry for any level of service out there. And I hope you would both support that.

Thank you, Mr. Chairman.

Mr. Lipinski. Thank you, Mr. DeFazio.

Congressman Boswell has been called away, but he asked me to express his serious concerns that contractual arrangements with pilots, flight attendants, and other labor groups be worked out in fairness and completely fulfilled.

At this point, the Chair will recognize the gentleman from Ohio, Mr. Boccieri.

Mr. Boccieri. Thank you, Mr. Chairman.

Thank you both, gentlemen, for your testimony today.

While I may not be as long in tooth as some of the Members here in the Committee who have experienced deregulation and such, I know that, from my experience in the State legislature and past airline mergers that have affected Ohio, to put it mildly, it has not gone well. Dayton, Columbus, Wilmington, Cincinnati have all experienced significant service and job loss, and a movement, if not complete outsourcing, of these jobs.

And I remain concerned, while I have not taken a position on this, I remain concerned that this business model that is now being proposed would put added strain on the hub in Cleveland, especially after so many taxpayer dollars have been funded to expand the facility, as well as corporate investment. But I remain concerned about that.

I want to just hone in on one thing. I am really concerned, and I have not been convinced by the testimony thus far, that by reducing the number of competitors—both of you are competitors currently—that we are going to increase competition. And we may be setting up a scenario of too big to fail.

Can you give a brief comment to that?

Mr. SMISEK. Certainly, Congressman.

I think what we are creating is a carrier not too big to fail but big enough to succeed. We compete on a global scale. We compete with large foreign airlines. We compete with large domestic airlines, for example like Delta or American. And we are putting ourselves in a position through this merger to be able to successfully compete.

I do not believe that competition is reduced by this merger because this is a brutally competitive industry as it is. It is today. It will be after this merger. There are essentially no barriers to entry; there are high barriers to exit. This industry does not earn anything on its invested capital. We have lost billions of dollars.

Mr. BOCCIERI. Sure. Can you name one legacy carrier outside of bankruptcy that have merged where they have actually produced lower costs, lower operating costs, and have not had a significant reduction.

Mr. SMISEK. Well, let me speak to what Delta Airlines—and we will leave the capacity reduction aside for the moment, because that, I believe, was caused by the global recession, not by the merger. But you will need to speak directly to Delta executives about that.

But they have been on the public record saying that they believe that the synergies from their merger will be approximately double what they anticipated. And that gives me great hope at Continental. I am not saying we will be able to deliver that in this merger, but so far what they are claiming publicly is their merger has been very successful, both in cost efficiencies and in revenue generation.

Mr. BOCCIERI. Hubert Horan provided testimony here, and I just want to read to you because I think it is pretty prescient. He said, "United's own public statements acknowledge that the merger will not reduce costs to disadvantaged versus low-cost carriers or more efficient legacy competitors, and that the industry does have financial problems, but those problems will not be solved by suspending antitrust laws so business strategies that have moved into obsolescence can exercise artificial market power."

Again, he is suggesting that the costs are not going to be reduced and that this is going to put an added strain on you to cut corners down the line. How do you respond to that?

Mr. TILTON. By its very nature, Congressman, it is sort of a contradictory statement. We have already established that there are going to be the elimination of overhead redundancies that are clearly going to reduce cost. So, on the one hand, we have a question as to, are you going to be sympathetic to the concerns of employees whose jobs are going to be eliminated because there is only going to be one headquarters? On the other hand, we have a statement that says that is going to be insufficient in the context of cost reduction.

Whether or not the network hub-and-spoke model is obsolete and redundant is yet to be established. And creating a company that is going to have the hub structure that we have and the ability to optimize the hub structure that we are going to create from Newark to Washington to Cleveland to Houston to Chicago to Denver to San Francisco and to Los Angeles, to connect small communities into those hubs, is really the premise upon which we think we are going to succeed.

Mr. BOCCIERI. Sure.

Mr. TILTON. But if somebody thinks that the business model has failed, it actually doesn't go to the point of the proposition of the merger.

Mr. BOCCIERI. Well, the big money is where the international carriers are shuttling folks back from vacations over in Europe.

Mr. TILTON. Right.

Mr. BOCCIERI. But, more specifically to your point, Mr. Tilton, we talked about outsourcing jobs, and safety is a big issue for me, after having lived through testimony from the Colgan crash here, where the pilot, under the NTSB after-actions report, showed that they weren't even trained in their own safety equipment that that airplane was required to have for saving the day.

And right now we have 1,400 pilots furloughed by United, but you are flying routes from Washington, D.C., to Spain with foreign pilots. Can you guarantee me that those pilots are trained, educated, and have the same experience level, as well as the other air crew members that are aboard that aircraft, that our own domestic air carriers have?

Mr. TILTON. That relationship with Aer Lingus is analogous to our offering our code on Aer Lingus as a code share partner, if one thinks about it, and telling a passenger, "You can book on United, but you will fly on Aer Lingus," or, "You can book on United, sir, but you will fly on Lufthansa," or, "You can book on United, but you will fly on US Air." And that is a function of the reciprocal agreements that this industry has. It is a part of the joint venture that we have across the Atlantic with four participants in it: Air Canada, Lufthansa, Continental, and United. We share that.

I take for a given that my Aer Lingus partner is as committed to safety as I am. And with Aer Lingus being the operator of that flight and United being the marketer, it is a relationship that is symbiotic between the two of us, and I ensure that they are.

Mr. BOCCIERI. Well, I am glad you share that, but I don't know if I share that, and I don't know if many other pilots who——

Mr. TILTON. Well, but think of the interrelationships that we have across the business, where all of that code is shared.

Mr. BOCCIERI. I am OK with that, but, you know, if you asked your customers if they would prefer an American pilot versus an international pilot flying them from the United States over to Europe—because when you fly back from Europe, those are mainly American pilots, correct?

Mr. TILTON. No, sir. If they are flying on Lufthansa, they are German pilots. If they are flying on BA, they are British pilots. If they are flying on ANA, they are Japanese pilots.

Mr. BOCCIERI. Are Aer Lingus pilots United pilots?

Mr. TILTON. No, they are Aer Lingus pilots.

Mr. BOCCIERI. OK. That is my point.

Thank you, sir.

Mr. LIPINSKI. Thank you, Mr. Boccieri.

The Chair now recognizes the gentleman from California Mr. Garamendi.

Mr. GARAMENDI. Thank you for the testimony today. And also let me congratulate you on a new way to describe job loss as synergies. Very unique. Your PR folks should be congratulated.

I do have some questions that are specific to safety. The San Francisco maintenance facility was discussed earlier today. It is my understanding that you are, in fact, at United moving jobs away from that maintenance facility to China, Singapore and the Philippines; is that correct?

Mr. TILTON. So as I said in my response to a prior question, we have long had——

Mr. GARAMENDI. No, no. Get directly to answer this. Are you moving jobs out of San Francisco to foreign countries for maintenance purposes?

Mr. TILTON. We have overseas maintenance facilities that do maintenance work for the company and have for quite some time.

Mr. GARAMENDI. You did not answer my question. Please do so.

Mr. TILTON. There are no plans to move any further jobs out of San Francisco, if that is your question.

Mr. GARAMENDI. My question is very simple. Are you moving jobs out of San Francisco to foreign facilities, yes or no; and if so, how many?

Mr. TILTON. No, we are not moving jobs out of San Francisco today to foreign facilities.

Mr. GARAMENDI. Did you do so yesterday?

Mr. TILTON. Yes.

Mr. GARAMENDI. How many?

Mr. TILTON. We have a maintenance facility in Beijing that is the maintenance facility for our 777 facility—for our 777 fleet, and it is a joint venture between Lufthansa and Air China.

Mr. GARAMENDI. Does the FAA regularly inspect that facility?

Mr. TILTON. That is FAA's responsibility without a doubt.

Mr. GARAMENDI. That is not the answer to my—that is not the question I asked.

Mr. TILTON. Well, that is a question better posed to the FAA.

Mr. GARAMENDI. It is posed to you because it is your responsibility.

Mr. TILTON. Well, my view is the FAA fulfills its obligation and its responsibility with respect to such facilities, yes.

Mr. GARAMENDI. Then you must be aware of earlier testimony before this Subcommittee that the FAA doesn't regularly inspect to the same degree that——

Mr. TILTON. No, I am not aware of that testimony.

Mr. GARAMENDI. We will get the testimony for you.

Mr. TILTON. I would appreciate that.

Mr. GARAMENDI. With regard to the question of continued outsourcing, the question about pilots was asked. I want to follow up on that question. Are foreign pilots in the left and right seats of the United airline jets?

Mr. TILTON. Are foreign pilots——

Mr. GARAMENDI. Aer Lingus or any other foreign pilot?

Mr. TILTON. On our airplanes?

Mr. GARAMENDI. Yes.

Mr. TILTON. No.

Mr. GARAMENDI. Thank you.

One final question. Could you describe the personal benefits that the two of you will receive as a result of this merger, specifically golden parachutes and the like?

Mr. TILTON. So I think I know I have made the decision already, I don't know that Jeff has, that anything that I might receive is going to be converted into shares of the new company and deferred until such time as I eventually retire from my board seat.

Mr. GARAMENDI. And the estimated value of that?

Mr. TILTON. It will largely depend on how successful the new company is and indeed whether the new company is formed, Congressman.

Mr. GARAMENDI. I would like have specific information on that, and I would not like to have to receive that from the SEC filings. So if you could deliver it personally.

Mr. TILTON. I will do so. I have already filed it, as a matter of fact.

Mr. GARAMENDI. Thank you. And you will be able to deliver it to me. Thank you.

Mr. SMISEK. Congressman, my compensation is set by my human resources committee, which consist of independent directors. My arrangements regarding becoming CEO of United have not yet been negotiated. That is a process that is going to go through both Continental's human resources committee and the compensation committee of United Airlines. The amount of compensation that I will receive thus has not been determined.

Mr. GARAMENDI. What is your present compensation?

Mr. SMISEK. I receive no salary whatsoever, sir. I have waived that until Continental is profitable. I am also not eligible for a bonus as a result of my waiver of my salary.

Mr. GARAMENDI. And stock options?

Mr. SMISEK. I have no stock options, sir.

Mr. GARAMENDI. And you are receiving any benefits?

Mr. SMISEK. I am participating in long-term performance programs, the pay-out of which is dependent on the amount of profit sharing that we share with our employees, as well as the stock price.

Mr. GARAMENDI. I thank you.

Thank you very much, Mr. Chairman.

Mr. COSTELLO. [Presiding.] The Chair thanks the gentleman and would ask any Members present if they have additional questions. I understand that Mr. Boccieri does.

Mr. BOCCIERI. Thank you, Mr. Chairman.

One follow-up question that came to my mind. My synapses aren't working as quickly as they used to at 41. But you had suggested that Aer Lingus pilots are trained as well as domestic aircraft commanders, pilots and captains on board our aircraft. How can you make that assumption when your own regional carriers aren't training to the same level as legacy carriers? We found this in constant NTSB reports. We found this over and over and over again. Explain to me how you draw that connection when your own regional carriers cannot commit to the same level of experience level that you have been training your pilots.

Mr. TILTON. So back to the relationship between the network carriers and our regional partners, as I have said, and Jeff has echoed, our safety management organization works together with our regional partner management organization to ensure that the safety processes that we hold to best practice at United share it with the regional carriers. We audit them; we audit them together with the FAA. We share information with the FAA relative to our work with the regional carriers. We are mindful of the risks associated with new anything, new employees of any type, so we are mindful of that, we understand that. But as Jeff has said a moment ago, they are necessary, they are important.

So just bear with me for a second. With respect to our relationship with all of our foreign partners, you have to think about it, all of them, All Nippon, Air China, Singapore Air, Lufthansa, all of British Midland, Austrian Air, all the carriers with whom we share code across the entire Star Alliance, we, either from an IATA perspective, the global international association carriers, all of the safety authorities that exist in all of those countries, we have to set a safety standard for the entire industry worldwide regardless of the nationality of pilots. That is the essence of the alliance structure. And we will fly a passenger across four or five of those carriers. And we know we are making an implied commitment to the training of all of those carriers, which is why, Congressman, to get into the Star Alliance or to get into a code-sharing agreement, you have to be approved across a spectrum of safety considerations before you are approved.

Mr. BOCCIERI. Mr. Tilton, the after-actions report from the NTSB for the Colgan crash showed that the regional air carrier in part of their syllabus did not teach the pilots how to recover from a full stall. They taught only stall recognition through a stick shaker, not a stick pusher. What happens if the aircraft goes into a full stall recovery and what were the pilot's reaction, that was not part of the training syllabus. When asked they said it wasn't part of the FAA's requirement. So what we have seen—Colgan has said this wasn't part of the FAA requirement, so what we have seen is now where airlines had reached for the stars in terms of their training, they are now reaching for the minimums in some of these regional carriers.

And I have grown very concerned about this over my term on this Committee. But I want you to say to this Committee and for the record that you know that those aircraft that are flying out of Washington, D.C., while we have 1,400 grounded pilots in your airline, if they are trained, and you know for certain that they are trained to recover from a full stall.

Mr. TILTON. So all of our foreign carriers, all of the foreign carriers with whom we do business, are trained to a level that is satisfactory to both the FAA, to ourselves, to ourselves, and to their respective safety jurisdictions in their countries.

Mr. BOCCIERI. Mr. Smisek, was Colgan Air training to your satisfaction?

Mr. SMISEK. No, it was not.

Mr. BOCCIERI. And why did you keep them as one of your carriers?

Mr. SMISEK. We were not aware of that training deficiency. That is the responsibility of the Federal Aviation Administration. We expect all of our regional carriers——

Mr. BOCCIERI. That is your responsibility. That is your responsibility.

Mr. SMISEK. Let me tell you that we are very concerned with safety. We did not train those pilots, we did not maintain those aircraft, we did not operate the aircraft. We expect them to be safe, we expect the Federal Aviation Administration to do its job, we expect that you do your job——

Mr. BOCCIERI. Well, we expect you to do your job too, sir.

Mr. SMISEK. And I expect me to do my job.

Mr. BOCCIERI. You need to make sure that your domestic carriers in these international agreements that you are going to be making, outsourcing jobs and outsourcing training and doing all the other stuff that is going to move this type of level of expertise off our coast, needs to be maintained. I can't sit here and guarantee as a representative of the people from Ohio who fly on your airline and fly on other airlines to be certain that this level of training is going to be maintained if we are going to be getting into these big agreements, too big to fail, with other international carriers.

Mr. SMISEK. We are very focused on safety. The training of pilots across the globe is a responsibility too great for Continental Airlines. We do not have the resources. Each jurisdiction has its Federal regulators; each jurisdiction has its regulation over safety. We participate and share our best practices.

But if you take a look at Star Alliance, Star Alliance has rigorous requirements for joining and rigorous requirements for safety. And I am confident in the safety of all the Star Alliance carriers.

What you point to was a problem. There is no question about it. And everyone in the aviation business, and I personally and everyone at Continental, regrets that training failure at Colgan. That has been identified and will be, I am confident, corrected. And we need to make sure we all share your concern with safety. Safety is the most important thing that we have. But we can't possibly be responsible with the limited resources we have for the safety of every carrier in the globe and every carrier that is out there. We can be responsible for our own safety. We can certainly share our best practices, and we do so. And we support all improvements in pilot training, and we support regulatory reform within the Federal Aviation Administration if that is what is required for oversight for U.S. carriers.

Mr. BOCCIERI. We are going to get to that reauthorization bill. We are going to make sure that it is mandatory that pilots know how to recover from a full stall.

Mr. SMISEK. And I would support that.

Mr. BOCCIERI. Thank you.

Mr. COSTELLO. That Chair thanks the gentleman. And I was going to make that very point that is the reason why we passed legislation through both the Committee and out of the House, that when we come out of conference, we are going to have a reauthorization bill that has the Airline Safety and Pilot Training Improvement Act, which will in course raise the standards for pilots at the regional carriers as well. We recognize that the both United and Continental and some of the other major carriers do not hire at the lower standard even though they can, but many of the regionals do. And that is what we found with Colgan, and that is what we have found with other regional carriers.

And I would just interject as well and agree with the gentleman that while it is the FAA's responsibility, it is also your responsibility as CEOs of airlines that contract with regional carriers to make certain—not just rely on the FAA, but to make certain that these regional carriers are hiring pilots that have training in excess of the minimum requirements as opposed to the minimum even after we increase the minimum requirements in the conference report.

With that, the gentleman from California Mr. Garamendi is recognized.

Mr. GARAMENDI. Mr. Chairman, thank you. And thank you for bringing up that last point. You gave me an opportunity to cool down a little bit.

I heard the most astounding testimony I have heard in my 34 years, that the chief executive officer of an airline that contracts for services to provide services to that airline, in this case Continental—and I did not hear this from United, and pleased I didn't hear it—that it is not your responsibility to ascertain the safety of the pilots with which you contract.

Mr. SMISEK. Sir, I did not say that.

Mr. GARAMENDI. I am delighted to hear you did not say that. Could you specifically tell me what your responsibility is with regard to the qualifications of those pilots with whom you contract on your flights?

Mr. SMISEK. We do expect, we do require all of our regional carriers to be safe carriers. Colgan in this instance had a training failure. It resulted in a terrible accident, which we regret tremendously.

We are as focused on safety as you are, sir. We expect safety, we require safety. You have to understand, however, that there are limitations on the resources. Since all airlines contract with large numbers of other airlines, for example in code shares, we do rely on the requirements and the safety audits of IATA, on the Federal

Aviation Administration, we have our on-line safety audits, safety audits that Star Alliance conducts with respect to its other carriers as well.

Mr. GARAMENDI. I am particularly concerned about the domestic situation because that is where the accident occurred, that is where the training was inadequate. I would like to have you specifically in writing present to me and to the Committee exactly what you and United do to ascertain the quality and the safety record and training record of those pilots with whom you contract in your hub-and-spoke situation.

Mr. SMISEK. Sure, we will do so.

Mr. TILTON. And we will be delighted to do that. We will go beyond that. We will actually give the Congressman a report on the nature of our best practice transfer; on the nature of the relationship between the two safety organizations, the regional carrier safety organization and ours; the extent to which we have on occasion found them wanting, and suggested that until something was addressed, we would be suspending any contractual services of a particular sort with them. So we will be glad to do that.

Mr. GARAMENDI. And I would hope that would also include the specific actions that your airlines take to verify individual pilots.

Mr. SMISEK. We will do so.

Mr. TILTON. We will be glad to do that.

[The information follows:]

Question from the Honorable John Garamendi
"The Proposed United-Continental Merger: Possible Effects for Consumers and the Industry"
Hearing held on June 16, 2010
Subcommittee on Aviation
U.S. House of Representatives
Response by Jeffery Smisek
Continental Airlines

Question asked by Congressman Garamendi:

I am particularly concerned about the domestic situation because that is where the accident occurred, that is where the training was inadequate. I would like to have you specifically in writing present to me and to the committee exactly what you and United do to ascertain the quality and the safety record and training record of those pilots with whom you contract in your hub-and-spoke situation.

And I would hope that would also include the specific actions that your airlines take to verify individual pilots.

CONTINENTAL RESPONSE:

Thank you for providing Continental Airlines, Inc. ("Continental") the opportunity to follow up and further expand on Continental's strong commitment to safety. Our highest priority is to provide a safe and secure product for all our customers and our employees. All employees at Continental, from senior management to front-line employees, are dedicated to safety, a dedication that is shared by United Airlines. In addition to our robust internal safety culture, of which I am very proud, we remain equally committed to working with all members of the aviation community to share best practices and support initiatives that will help improve the safety of air transportation. It is important to me and to all of us at Continental that members of this Committee and the public in general understand and appreciate our position on this very critical issue.

At the June 16, 2010 hearing on the United-Continental merger, you raised questions relating to safety in the context of domestic or regional code-sharing arrangements, and this letter and attachment will serve as Continental's response. As you know, the concern you raise has been the subject of other hearings outside the context of the United-Continental merger. I welcome the opportunity to provide you and this Committee with the attached response (Attachment A) by Captain Don Gunther, which incorporates and adds to information he previously provided to Congress in his capacity as Staff Vice President of Safety at Continental as part of a safety hearing held in July 2009. This attachment details the relationship between Continental and regional carriers with whom it has code-sharing arrangements. Captain Gunther has been employed by Continental since October 1977 and has served our organization in various capacities, including as Captain (on B727, B737, B757, B767 & B777 aircraft); Manager, Flight Engineer Training; Manager, Human Factors; Director, Human Factors and Safety and; currently Staff Vice President, Safety.

I trust my comments, along with the information supplied by Captain Gunther in Attachment A, will address the issues raised at the United- Continental hearing with regard to Continental's commitment to safety, particularly in the context of the domestic regional code-share operations.

ATTACHMENT A – SUPPLEMENTAL INFORMATION FROM CAPTAIN DON GUNTHER, STAFF VP, SAFETY, CONTINENTAL AIRLINES

Safety is Continental's number one priority.

Aviation safety is a shared endeavor that involves all stakeholders in the industry, including aircraft operators, manufacturers, airports, service providers and the Federal Aviation Administration (FAA). Continental is committed to the role that it plays and remains committed to working with all members of the aviation community to continuously improve the safety of our air transportation system. As Mr. Smisek mentioned at the June 16, 2010 hearing, safety is, and will always be, the airline's number one priority.

As I have stated before, the commercial aviation industry operates under a regulatory framework which recognizes the FAA as the entity ultimately responsible for regulating and overseeing air carrier compliance with safety regulations. In fact, Congress has created a strong statuotry mandate to the FAA to ensure all air carriers are safe for passengers to fly. In addition, each carrier is responsible for operating its flights safely, is required to uphold its regulatory obligations under its operating certificate issued by the FAA, and is directly accountable to the FAA through inspections and, if necessary, legal enforcement action to ensure safety issues are resolved properly. All carriers—mainline and regional alike—must respect the importance of compliance with safety regulations in their own right. Notwithstanding individual responsibilities, carriers should and do work together to promote and enhance, those standards of safety that have been developed within the industry.

There are many ways in which Continental supports this important initiative of airlines working together to address safety issues. For example, Continental participates in committees and task forces, such as the Aviation Safety Information and Analysis Sharing (ASIAS) program and the Commercial Aviation Safety Team (CAST). Continental also participates in safety forums and meetings where best practices and other aspects of the FAA voluntary safety programs (ASAP, FOQA, LOSA, and AQP) are shared and discussed. Both mainline and regional carriers routinely attend and participate in these programs with the common goal of promoting safety.

Continental's own commitment to safety is carried through to its relationships with regional carriers. Prior to entering into a business arrangement with a regional carrier, Continental always reviews the carrier's status with the FAA and determines whether it has a current operating certificate. Continental recognizes the FAA's leadership as the body responsible for determining a carrier's fitness to fly safely, authorizing the carrier's operation, and promoting and enforcing safety standards. In addition, Continental's contracts with regional carriers specifically require them to comply with federal safety standards and regulations. Continental also engages in a number of other safety-specific actions before entering into commercial relationships to code-share with a regional carrier, and it continues to assess those carriers after entering into an agreement.

For example, with respect to domestic code-share operations, Continental has developed and follows a "Domestic Commuter Code-Share Safety Review Program." The purpose of the program is to validate the safety and compliance status of each domestic regional carrier with which it has a code-share arrangement. The objective of the program is to ensure, through a systematic program of evaluation, that processes exist for complying with the FAA's regulatory framework and that the code-share carrier is actually complying with its own compliance standards.

Continental obtains and reviews safety audits performed by highly qualified independent entities. These include:

- The International Air Transport Association's (IATA) Operational Safety Audit ("IOSA").
- The DOD survey, which is an audit performed by the military under the Secretary of Defense to ensure safety compliance of airlines that transport military personnel.

Pursuant to its Domestic Commuter Code-Share Safety Review Program, Continental conducts bi-annual reviews that include:

- Discussions with the code-share partners to review safety, operations and maintenance concerns;
- Noting major changes to the air carrier's fleet, organization or safety program; and
- Reviewing any threats and safety issues of the code-share carrier that may be derived from publications and other means.

Furthermore, Continental conducts biennial reviews that include:

- Obtaining and reviewing current IOSA Audit Reports;
- Obtaining and reviewing current DOD Air Carrier Survey results; and
- Conducting an on-site visit at the code-share partner's facilities.

Continental also communicates about code-share operations with those regional carriers which operate under its code to discuss various industry developments and safety issues. If

Continental determines at any time that a carrier is having safety issues, it promptly addresses those issues with the carrier.

Additionally, Continental conducts Regional Partner Safety Summits twice a year. During the Summits, safety and operational issues affecting our airlines are discussed. These Regional Partner Safety Summits afford Continental and the regional carriers with which we contract the opportunity for open dialogue concerning industry trends, best practices, voluntary programs, and strategies for managing and enhancing operational safety. A collaborative agenda and allowing ample time for open discussion have resulted in lively contributions and positive responses from the session participants.[1]

The FAA holds each carrier—whether mainline or regional—responsible for ensuring proper qualifications and training for its own flight crews. It would be inconsistent with the regulatory structure that Congress established for ensuring aviation safety for any airline to require certain elements to be included in the FAA-approved training program of another airline, which is separately certificated by the FAA. It is recognized throughout the industry that, coupled with appropriate oversight by the FAA, the carrier that operates the aircraft must

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[1] [1] Continental offers one example of the shared benefits that can flow from such collaboration. At a recent summit, Continental shared and discussed information about our Line Operations Safety Audits (LOSA) program (LOSA is a program for the management of human error in aviation operations). Following the summit, Continental provided two trained observers to work with a regional carrier that was is in the process of initiating such a program. This allowed that regional carrier to leverage Continental's LOSA experience in conducting its own operational safety audit.

develop and implement an appropriate crew qualification criteria and training for a specific aircraft.

Continental reserves the right to choose the carriers with whom it maintains a business relationship. Continental will not maintain a business relationship with any carrier that does not meet FAA standards. Nor will it maintain a relationship with any carrier that does not share in its commitment to a robust safety culture. Safety is Continental's highest priority in all aspects of its business, including the decision to enter into a code-share arrangement with another carrier.

Mr. GARAMENDI. Thank you.

Mr. COSTELLO. The Chair thanks the gentleman from California and now recognizes the gentleman from Michigan Dr. Ehlers.

Mr. EHLERS. Thank you, Mr. Chairman. And before I ask questions, I will just comment on the Colgan situation.

I read the transcript, and I think beyond the training issue was the issue of the lack of competence of the individuals. It made me shudder to read the cockpit transcript and observed the conversation back and forth. They were totally preoccupied with personal issues and not with flying the plane. And so I think it is not just a matter of training, it is a matter of hiring responsible individuals. And I think anyone who reads that transcript would realize that was a good share of the problem.

I just want to comment. We have had some other airlines coming together, and I understand all the advantages of airlines combining and working together and the many different ways they do that. But I am afraid what I have seen is that there is something lost every time we get some airlines going together.

A very recent case, I won't give specific names, but one airline that I thought was operating very, very well, and I got to tell you, everyone in the Congress is an expert on flying in the airlines because we do it every week ad infinitum. There is an airline that I thought was really operating very well was combined with a very large airline which had not operated as well, and now the combination of the two is not operating very well in a number of cases, so I won't get into specifics.

I really caution you, make sure that you are improving service for the public. And I know it is easy for you to say, yes, yes, yes, of course, that is our business, that is what we should do. That is not what happens in too many cases. And I want to warn you about that. And I hope you will give assurances that you will conduct frequent surveys of your frequent flyers and of the general public as well to evaluate how well you are doing in that of combining the two, because I am just astounded that the number of what I call poor judgments being made by executives who didn't even bother to understand the culture of the company they were absorbing and have lost some very good people, but above all have lost a lot of good spirit, and the public is the worse for it.

I am not convinced that all this combining of airlines is really that advantageous. It may reduce cost of the passengers very slightly, it may result in you making more money, which is your goal of course, but I am not sure the overall picture is really all that great. And I just wanted to caution you on that from my perspective, but also give you an opportunity to rebut what I have just said.

Mr. TILTON. Well, what you just said may well present a competitive opportunity for Jeff and myself.

Mr. EHLERS. It may well be. I know that Continental has had a very good history in the last decade of being extremely well run under the CEO that really renovated it. And I fly all the airlines. Unfortunately, being in Grand Rapids, Michigan, we have just about every airline under the sun flying in and out of there, so we have a large choice, and we exercise that choice depending on the service we get.

Do you have anything to say, Mr. Smisek.

Mr. SMISEK. Sure, Congressman. You are right, we are well known for our customer service. I have been in Continental since the turnaround 15 years ago and have been part of all the decision-making at Continental during that 15-year period. We are very attuned to customers. We have corporate advisory boards, we bring in frequent flyers, we participate in a flyer talk forum. We are very attuned to our customers, and that is how we get the reputation for customer service.

But largely, Congressman, our reputation for customer service is built around the culture of Continental Airlines. We work together very well. We may have disagreements. Working together does not necessarily mean saying yes; what it means is listening respectfully to someone's position, treating each other and our customers with dignity and respect. And as a result—and being honest and open and direct. And as a result we do give very good customer service.

And I anticipate the combined carrier, that with our combined cultures—United has very, very good people. They are delivering tremendous operational performance today. They have a fine product, they have great facilities, they have very good people. We will combine that into a culture of dignity and respect, which they have today, which we can bring together, and we can have a carrier that will have wonderful customer service.

The reason I am so confident that we can deliver on the synergies is I am confident in the team that I will build, I am confident in the culture that we will have, and I am confident in the customer service that we will focus on.

Mr. EHLERS. Well, if you are so great, why are you even doing this?

Mr. SMISEK. Because alone we are too small. We compete on a global stage, and we are too small. We are a global carrier, but a small one, and we need to be big enough to succeed against our large foreign and large domestic competitors.

Mr. COSTELLO. The Chair thanks the gentleman from Michigan.

Mr. EHLERS. Well, Mr. Chairman, I just want to offer my services to you at some point to go in the planes and just ask people about what they think.

Mr. SMISEK. That would be great.

Mr. EHLERS. I did this last week.

Mr. TILTON. I will take you up on that.

Mr. EHLERS. I didn't initiate it, but someone else in the airplane did sitting in the front row of first. And, of course, all the people in first were frequent flyers who said, this airline used to be good, what happened to it?

Mr. TILTON. We appreciate both the competitive opportunity that you have advised us of, and we certainly appreciate the offer of your services.

Mr. EHLERS. OK. But at any rate, this one individual said it, and the next person said, yeah, I agree with that, and pretty soon the entire first class section was saying it has really gotten lousy.

Mr. SMISEK. We have a great competitive opportunity. I appreciate the heads up.

Mr. EHLERS. That company has something to worry about.

Thank you. I yield back.

Mr. COSTELLO. The Chair thanks the gentleman from Michigan.

And, gentlemen, thank you for your testimony today before the Subcommittee. And with that we will dismiss this panel and ask the next panel to come forward. Thank you.

Mr. COSTELLO. I will begin to do the introductions for this panel. Captain Wendy Morse is the chairman of the United Master Executive Council, Air Line Pilots Association. Captain Jay Pierce is the chairman of the Continental Master Executive Council, Air Line Pilots Association. Ms. Patricia Friend, the international president for the Association of Flight Attendants, CWA. Mr. Robert Roach, Jr., general vice president of the Transportation International Association of Machinists and Aerospace Workers. Mr. Albert Foer is the president of the American Antitrust Institute. Mr. Hubert Horan, who is the aviation analyst and consultant. Mr. William McGee, consultant on travel and aviation issues, Consumers Union. And Mr. David Strine, who is the portfolio manager, Impala Asset Management, LLC.

Ladies and gentlemen, as you know, we will put your entire statement in the record. We would ask that you summarize your testimony in a 5-minute period. And that will allow both myself, Mr. Petri and other Members to ask questions.

With that, the Chair will recognize now Captain Wendy Morse. Captain Morse.

TESTIMONY OF CAPTAIN WENDY MORSE, CHAIRMAN, UNITED MASTER EXECUTIVE COUNCIL, AIR LINE PILOTS ASSOCIATION; CAPTAIN JAY PIERCE, CHAIRMAN, CONTINENTAL MASTER EXECUTIVE COUNCIL, AIR LINE PILOTS ASSOCIATION; PATRICIA FRIEND, INTERNATIONAL PRESIDENT, ASSOCIATION OF FLIGHT ATTENDANTS–CWA; ROBERT ROACH, JR., GENERAL VICE PRESIDENT OF TRANSPORTATION, INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS; ALBERT A. FOER, PRESIDENT, THE AMERICAN ANTITRUST INSTITUTE; HUBERT HORAN, AVIATION ANALYST AND CONSULTANT; WILLIAM McGEE, CONSULTANT ON TRAVEL AND AVIATION ISSUES, CONSUMERS UNION; AND DAVID STRINE, PORTFOLIO MANAGER, IMPALA ASSET MANAGEMENT, LLC

Ms. MORSE. Good morning, Chairman Costello and other Members of the Subcommittee. I am Captain Wendy Morse, chairman of the United Master Executive Council of the Air Line Pilots International. We have more than 7,700 active and laid-off pilots at United Airlines, and I appreciate the opportunity to speak before the Subcommittee regarding the United-Continental merger as proposed.

Over the past decade the airline industry has experienced the worst economic storm in the history of commercial aviation. An unprecedented series of financial shots have taken their toll on airline service and on employees. Bankruptcies, employee layoffs, contractual concessions and outsourcing have all been well chronicled. The proposed merger between United and Continental represents not only an opportunity for both airlines, but a possible sea change in the economic direction and customer satisfaction for the airline industry. How this merger is handled will determine whether it has changed for the better.

This choice could not be clearer, and a recent history of airline mergers provides a vivid picture of which path to choose. We are not traveling down uncharted territory. The obvious path to success, should it be selected, has already been established. The advantage of the knowledge of what has worked and what hasn't worked must be recognized.

The Delta-Northwest merger in which the company worked out a mutually satisfactory contract with the pilots has been a resounding success. It has exceeded initial estimates for financial synergies, leading to a more viable company that provides greater service for the flying public and provides greater employment certainty for its employees. The America West-U.S. Airways merger in which management failed to negotiate contract terms in advance is still run as two separate companies. Mired in lawsuits, America West-U.S. Airways has failed to realize the advertised synergies, even though the merger took place more than 5 years ago, and continues to have its share of unresolved labor issues, which benefits neither the company nor the consumer.

One axiom in the service industry stands as a beacon of truth: Take care of your employees, and ultimately they will take care of the customers, and the business will take of itself. It is imperative that the combined United-Continental establish a management team not only capable of running the airline well, but also that cultivates a culture where the combined entity provides the revenue and capital generation for a great product.

In order for this merger to be successful, there must be a joint collective bargaining agreement with assurances for wages, working conditions and job protections that are commensurate with the professionalism that our pilots exhibit each and every day. Thanks to the professionalism, commitment and financial sacrifice of pilots and other employees, our airline has weathered numerous challenges and now flourishes, but there are still challenges ahead.

One of the biggest for the pilots of United and Continental, and indeed for the airline piloting profession, is the industry's continued drive to outsource as much flying as possible to an ever-shifting collection of the low-cost subcontractors. Last year United Airlines laid over 1,437 highly experienced pilots, their jobs outsourced to these low-cost subcontractors. The average United Airlines passenger now has a 50/50 chance that their flight is being operated by United Airlines. This philosophy, which puts profits ahead of safety and the traveling public, must come to an end.

While United Airlines has been on the Hill saying all the right things, seeking approval, I speak for the United pilots when I tell you that our contribution must be recognized in order for this merger to be successful and the synergies to be realized. We ask that as you consider the benefits this transaction will have for the industry and for consumers, you also measure whether managerial actions are consistent with their words.

United and Continental managements now stand at the threshold of what could be a great airline, one that sees sustainable profits and will also provide unmatched service to our customers. A combined United-Continental could establish a new paradigm in commercial aviation, one where management and labor work together to establish a solid, profitable airline, where employees are properly compensated and where job security is not a constant concern.

As key stakeholders, the United pilots stand ready to embark on this new business opportunity. Our favorable participation will lead to a stable, sustainable airline. This in turn will produce an unprecedented level of success for United stakeholders and an exemplary level of service for the flying public. I thank you.

Mr. COSTELLO. The Chair thanks you, Captain, and now recognizes Captain Pierce.

Mr. PIERCE. Good morning, Mr. Chairman, Ranking Member Petri and Members of the Committee. I am Captain Jay Pierce, chairman of the Continental Airlines Master Council of the Air Line Pilots Association International. Thank you for the opportunity to speak regarding the proposed Continental-United merger. I am particularly thankful that you have taken the time to consider the effect this proposed merger may have on labor.

I began my aviation career in the United States Army in the late 1970's and have been a professional airline pilot for over 25 years. I am in my second term serving in the Continental Pilot Group as its chairman. And as a Continental pilot I can assure you that I have been trained to recover from a full stall.

I tend to think in terms of opportunities, risks and rewards. I believe that this merger will be an exercise in all three. The questions that have to be answered are, will the opportunities produce success; who will assume the risks; and finally, who will reap the rewards?

To some, the initial value created by participating in the merger will allow for claims of success. However, if creating a story for Wall Street simply through participation is the goal, that bar is set very low. None of us should accept the philosophy of mediocrity as the standard for success. If done correctly this merger can strengthen our airlines and help resurrect a failing industry. This is the opportunity.

Our merger partner United's financial performance has been in critical condition, and although ours is better, has been in—could be considered somewhat anemic. Over the last decade network carriers have reported over $60 billion in net losses. Since deregulation there have been over 180 airline bankruptcies. Historical greats, such as Pan American, CWA and Eastern, have become extinct. Thousands of employees have lost their jobs, shareholder value has been erased, and communities have suffered. The industry is broken and is badly in need of an overhaul.

Continuing down the well-traveled path of economic irrationality does not bode well for the traveling public, shareholders, or for the long-term interest of airline employees. It is incumbent on us to find rational solutions. I believe that a properly executed merger can be a better solution for the industry than consolidation by failure.

Going third in this round of airline consolidation provides us an opportunity to examine what has worked and what has failed. It is clear to see that the difference between marginal success and real success can be tied directly to labor, and more specifically pilot labor. In a merger it is not the executives, the bankers or the lawyers who assume the risk; it is the employees, and it is labor. If we must carry the risk, we must share in the rewards.

I cannot guarantee that this merger will be successful, but I can with all certainty predict its downfall if our pilots do not support the path our managements have chosen. The merger is expected to produce over $1 billion in airline synergies. If the merger is successful, that success will be determined by the strength of the new entity, the value added to shareholders, and, even more importantly, by the pride of the airlines' labor force. This pride can only be regained by first returning to labor what has been lost through years of concessions. As irrational as it is to continue to foster a failing industry, it is equally irrational to use the benefits derived from a merger to simply enrich those who put the deal together or to continue to throw good money after bad with ill-conceived business plans that reward only those at the top.

It is also important that this merger provide benefits for passengers. We should use this opportunity to reexamine subcontracting and outsourcing. When a passenger books a trip with Continental from Houston to Newark and then beyond, they have an expectation that the entity they purchased the ticket from is responsible for their travel experience. Network carriers should be operational airlines, not merely ticket agents.

Our passengers have a right to receive one level of service and one level of safety from the beginning of their journey to their final destination. To achieve that single platform experience, flights must be operated under the operational control of the network carrier and therefore be crewed by pilots working under contract with that airline. As Continental employees we bring an award-winning culture of customer service to an industry marked with sharp declines in customer satisfaction. We bring strong job protections that limit the outsourcing of flying to its lowest bidder. If done in the right fashion, this merger can bring the best of Continental to the United name.

In closing, I would like to remind you that Continental Pilot Group did not search out or solicit this merger. We are, however, cognizant of the fact that if done correctly, this could be an opportunity to create a great airline, one enriched by Continental's culture, with a route structure capable of transporting customers to almost anywhere in the world and a pilot group unmatched in professionalism and experience. Thank you for your time, and I look forward to your questions.

Mr. COSTELLO. The Chair thanks you, Captain Pierce, and now recognizes Ms. Friend.

Ms. FRIEND. Thank you, Chairman Costello, Ranking Member Petri and the Members of this Committee, for giving AFA–CWA, the world's largest flight attendant union, the opportunity to testify on this proposed merger of United and Continental Airlines.

The voices of the workers often take a back seat in these hearings and in the public pronouncements about the benefits of airline mergers. I am here today to give those workers a voice. As a United flight attendant for 43 years and the president of AFA–CWA for 15 years, I have had a unique perspective on the dramatic changes that have reshaped the commercial aviation industry and eliminated thousands of jobs.

Lately I have listened to airline CEOs testify before this Congress about the need to consolidate the industry in order to achieve a sustainable business model. After hundreds of airline bankruptcies, thousands of employee furloughs, devastating pay and benefit cuts, destruction of pensions and 32 years of deregulation, it seems that airline management has figured it out, albeit in the worst fashion, that our Nation needs a stabilized and a rational aviation industry.

Mr. Chairman, the Nation's flight attendants and all aviation workers also need a stable industry. The consumers are rightfully concerned that airline mergers will lead to higher fares and reduced service. We agree. But we also recognize the reality that airline fares must increase in order to stabilize this industry, provide a robust air transportation system, and provide more stable employment for thousands of aviation workers.

To strike this balance between a stable industry and reliable air service, we assert today that the increase in consolidation activity requires appropriate regulatory oversight to protect the interest of employees and consumers. But while some protections are in place today for consumers and communities, since deregulation there are virtually no protections for airline workers. Of all the well-developed, prederegulation rules of the Allegheny-Mohawk Labor Protective Provisions, only one exists today, a provision that establishes basic seniority protections in the event of a merger.

After deregulation the Congress was concerned that massive postderegulation restructuring of the airline industry would displace large numbers of employees. So in order to assist laid-off employees, they added the Airline Employee Protection Program to the Deregulation Act of 1978. Unfortunately, the almost 40,000 employees who lost their jobs in the immediate wake of deregulation never received the benefits that Congress promised since funding was never authorized for the benefits.

As Congress looks into the impact of mergers on employees, it should definitely look at the failed EEP as a framework to provide meaningful protections to workers in the future.

As we have testified in the past, we are not proposing to reregulate the industry, but we do think that at a minimum something needs to be done to shield workers from the harshest effects of this merger and all future mergers.

So what can the workers at United and Continental expect as they combine their workforce and route structure? While management has provided information that is otherwise publicly available, management has not been forthcoming about critical and future business plans. I call on this Committee to compel United and Continental management to provide the information on their plans for current United and Continental employee-based and hub operations.

In addition to the proposed merger, United is the architect of a new global alliance revenue-sharing scheme. They have contracted with Aer Lingus to operate an international route for them using Aer Lingus aircraft, but employing flight attendants from a third-party operator. We call on this Congress to stop this type of so-called joint venture scheme by enacting H.R. 4788. We call on you to not let United and Continental management use this merger as a vehicle to outsource more good middle-class jobs.

We also ask this Committee to consider the impact this merger may have on the contract negotiations under way between the Association of Flight Attendants, CWA and United Airlines. For almost 6 years the flight attendants at United have been working under a collective bargaining agreement that was negotiated while the company was in bankruptcy. They sacrificed nearly $2.7 billion in salary and benefit concessions in addition to the loss of their pension. We are asking your help to ensure that the current contract negotiations are satisfactorily resolved before this merger is finalized.

We will not allow the negotiation process at United to be delayed as a result of this merger. The employees at United Airlines make deep sacrifices to keep the company flying, and it is time for the workers to share in those rewards. While much will be made over the coming months about the impact of this merger on consumers and communities, I urge you to remember the hundreds of thousands of airline employees across this country. Keep us in mind as you review this merger and the impact that it will have on our lives and our families. We are the ones who have the most to lose, and we have the least protection.

I thank you for your time, and I look forward to your questions.

Mr. COSTELLO. The Chair thanks you, Ms. Friend, and now recognizes Mr. Roach.

Mr. ROACH. Thank you, Chairman Costello, and Ranking Member Petri, and Members of the Committee, for the opportunity to speak to you today. My name is Robert Roach, Jr. I am the general vice president of the International Association of Machinists and Aerospace Workers, the largest airline union in North America. The Machinists Union represents over 27,000 employees that could be adversely affected by this merger at Continental Airlines; the flight attendants, Air Micronesia, a subsidiary of Continental; the flight attendants, Express Jet, a regional partner of United and Continental; and fleet and passenger service, as well as other classifications at United Airlines.

We echo Chairman Oberstar's statement when he wrote to the Department of Justice, this merger will move the country far down the path of an airline system dominated by three megacarriers. If United and Continental merge, another domino in a chain of merges will fall, and there will also be additional consolidations to help them survive. Already the president of U.S. Airways of the regional—of a low-cost carrier has announced that if this merger goes through, that his airline will soon follow suit.

We cannot look at the United-Continental transaction in isolation. The airline industry has been in turmoil since the passage of airline deregulation in 1978. The Machinists Union argued against deregulation. Our predictions have come true. Deregulation in this industry and others has had disastrous effects. In 2007, the financial and housing meltdown was a result of unregulated corporate greed in the banking and mortgage industries. Looking daily at the news reports about the catastrophe in Louisiana and the Gulf Coast, with oil spilling out, ruining the lives of people down there, we can tell that deregulated industries only operate in their own best interest and not the interest of the consumers or their employees.

The airline industry needs to be stabilized because it drives $1.4 trillion in economic activity and contributes $692 billion per year to the gross national product. It is too vital an industry to leave to its own destructive devices.

It is clear that the airline industry has failed to deliver on the promises of a stable, profitable industry, and staying the course will only continue the industry's downward spiral. Albert Einstein, the great scientist, said, "Insanity is to continue to do the same thing over and over again and expect a different result."

Can we allow the airlines to continue to consolidate and merge and continue to lose money, lose employees, destroy cities and States with their supposed service without some sort of regulation to protect those interests? Even Alfred Kahn, the major architect of deregulation, said, "I must concede that the industry has demonstrated a more severe and chronic susceptibility to destructive competition than I, along with other enthusiastic proponents of deregulation, was prepared to conceive."

The industry is crying out for limited reregulation. Does anyone really believe that having only a few major airlines in operation, each with immense market control and offering consumers fewer choices, will benefit the country? If one of these megacarriers should fail, how will that impact the country?

The Machinists Union has serious concerns not only about the viability of a combined carrier, United-Continental, but the industry in general. Although we have met both airlines jointly and separately since the airline merger was announced, IAM members still have many questions unanswered and concerns that need to be addressed.

We estimate that United, the merger—the merger of United with Continental carrier would start out with $13.8 billion in debt. What is the business plan to deal with that debt structure? Will the merged carrier have any choice but to eliminate hubs in order to avoid competing with itself? Closing hubs initiates a cascade of job loss that begins with airline employees and continues throughout the communities to the firms that provide services to the airline. Will the merging of these two carriers and wholesale reshaping of the industry destroy competition and harm consumers?

As details about the combined carrier business plan emerge, it must be closely scrutinized to determine if the merge will result in a successful airline or not. We ask Congress to help determine if this transaction will be good for employees. The carriers admitted that homogenizing pensions is a complex issue, and although they have given it much thought, they do not know how it will be resolved.

The Machinists Union will not allow a member's retirement security to become a casualty of this merger. United Airlines has passed billions in pension liabilities to the American taxpayer already. The Machinists Union is currently in contract negotiations. For all eight classifications we have members of the two carriers. It is premature for anyone to talk about combining the carriers' employees, and each airline must recognize a responsibility to continue bargaining in good faith.

I would like to say that all the past mergers—U.S. Airways and America West, which is now being said we are going to another carrier, has operated as a separate carrier for 5 years. Although your announcements that Delta is working fine, Delta is working as a separate carrier in many of its classifications.

And let me just say very quickly in closing that I am a product of one of these mergers. I was at TWA. My seniority was changed from 1975 to 2001. And we heard the same predictions, the same predictions that we hear from all CSOs and CEOs, that these airlines were not going to lay anybody off, that we were going to continue to service. St. Louis is a ghost town. The people in Kansas City have lost their jobs. As Mr. Tilton testified, planes are going over to China to be maintained.

It is time to put a stop to this. Enough is enough. We need to reregulate the airline and put a halt to this airline merger until we have a stable airline industry.

Thank you, Mr. Chairman. I look forward to your questions.

Mr. LIPINSKI. [Presiding.] Thank you, Mr. Roach.

The Chair now recognizes Mr. Foer.

Mr. FOER. Thank you, Mr. Chairman, Members.

Since most of my analysis today closely resembles my testimony before this Committee 2 years ago, my first recommendation, as foreshadowed by the gentlewoman from Hawaii, is that Congress ought to hold retrospective hearings on the Delta-Northwest merger. Has it accomplished its stated objectives? Were the projected efficiencies obtained? Has competition been adequately protected? Is the American consumer better off or worse off? I don't have the answers, but there is no question that the answers would be invaluable in our efforts to predict what the implications of the United-Continental marriage are going to be. Indeed, it might make sense to actually delay the consummation of this merger until a fully credible study of the prior merger can be taken into account.

The essential points of my written statement are the following. One, this is an industry in which there are substantial network effects, but the incremental costs of expanding an already large network may offset the network benefits.

Two, the industry is already concentrated on a national basis, but this generalization underestimates the market power that is present at most hubs and on most routes.

Three, a merger of this magnitude will in all probability lead to at least one more merger of similar size, and that will leave the U.S. domestically with three national network carriers, plus Southwest, and a fringe of other low-cost carriers.

And four, this merger will itself likely lead to rationalizing capacity by closing or scaling back hubs, probably in the Midwest, which will harm a significant number of consumers.

Now, these considerations require us to ask whether the four, or more likely three, national networks that will emerge from this process will be sufficient to provide a satisfactory range of choice and service and sufficient competition to keep prices close to cost. Standard antitrust analysis focuses on horizontal overlaps between airport pairs and, in certain markets, between city pairs. If an origin and destination route is served by only a few airlines, and the merger will leave the particular market more highly concentrated, then the DOJ will likely and properly require a divestiture or some other arrangement with respect to that route as a condition of approving the transaction. This is necessary, but it is not sufficient, especially if we look at competition among the systems and not merely within specific route pairs.

Much has been made over the role of low-cost carriers in preserving competition. Southwest clearly influences prices wherever it competes, and there may be an effect even when Southwest is perceived as a potential competitor. But Southwest and the other low-cost carriers have found their success by competing indirectly rather than directly with the networks. They are called low-cost carriers in large part because they do not bear the cost of large networks. They do not offer the same type of one-stop shopping, frequent flyer benefits or airport amenities as network carriers. So decisions about the future of domestic air transportation should not rest on the concept that Southwest will always play its current role. Its strategies could change, its management could make mistakes. It could choose to relax under the price umbrella of a tight oligopoly of network carriers.

The ultimate question is whether the public will be satisfied with three domestic and three global air transportation systems. There is little, if any, empirical knowledge that says how many systems are needed to provide a workable degree of intersystem competition. There is substantial data, both empirical and theoretical, that suggests that competitive problems increase as the market becomes highly concentrated. There is substantial experience with domestic air mergers that suggest how difficult they are to execute successfully, how few efficiencies have resulted from big carrier mergers, and how minimal entry has been at the network level.

To the extent there is doubt about the United-Continental merger, it should be resolved as essentially a public policy question: Are we willing to interfere with private business decisions in order to preserve the few competing systems at the possible expense of whatever efficiencies might realistically be lost?

We suggest that the magnitude and certainty—and I am just about finished—of these proclaimed efficiencies should be analyzed with great skepticism, and must be laid against inefficiencies due to other diseconomies of scale and scope, the cost of consummating the merger, and the reduction of competition arising from the merger. From a public perspective there should be no reason to rush to a decision on whether to allow United and Continental to merge, and it would make particularly good sense to examine the effects of the most recent similar merger, Delta and Northwest, before opting for further consolidation.

Thank you very much.

Mr. LIPINSKI. Thank you, Mr. Foer.

Mr. Horan.

Mr. HORAN. Mr. Chairman, the United-Continental merger and the ongoing airline consolidation process creates four major problems for consumer and industry efficiency. I believe all four problems have a common cause the Committee needs to address going forward.

Problem number one, as documented in Exhibit 1 of my testimony, is the overwhelming evidence that anticompetitive market power created by North Atlantic consolidation has already created consumer welfare losses in excess of $5 billion a year. These consumer welfare losses will be much worse in a few years after the implementation of United-Continental and American-British Airways.

Problem number two is that United-Continental is part of a well-planned, three-phase process to consolidate the entire legacy network business so that a permanent cartel of three too-big-to-fail collusive alliances control 80 percent of the overall U.S. aviation market, including 100 percent of the transatlantic and transpacific. In the North Atlantic phase 1, the DOT handed exclusive control of all intercontinental traffic to and from the United States to three companies. In phase 2 those three companies used that artificial market power to force the other three domestic legacy airlines out of business. Phase 3 began last year with the Japan ATI cases that are designed to create the same type of multibillion-dollar consumer welfare loss as we have already seen on the North Atlantic. Continental-United is an integral part of all three phases and can't be evaluated as an isolated event.

Problem three is the domestic market power threat. United-Continental will not cause immediate price increases in the local Chicago-Houston market, but broad categories of U.S. consumers are at risk. Legacy network carriers cannot survive without a strong, secure source of the international traffic that is the heart of their business model. When DOT gave three legacy companies exclusive control over all of this traffic, the DOT issued a de facto death warrant for legacy companies 4, 5 and 6. The Delta-Northwest merger eliminated number 4; the current merger eliminates number 5 and is designed to cripple or kill U.S. Airways, number 6, who has no hope of independent survival even though it is the most efficient of all the legacy carriers.

The destruction of competitors in forced mergers where companies can be acquired for pennies on the dollar are market power abuses every bit as serious as the cartel pricing you see in international markets.

Consumers also face the threat of oligopoly service reduction in hundreds of smaller cities once this control of the legacy 80 percent of the market shrinks from six to three carriers, a threat that will not be addressed or mitigated by low-cost carrier expansion.

Problem number four is that these mergers cannot be justified on efficiency synergy grounds, the heart of the CEO's arguments earlier, and are strictly motivated by the potential for increased anticompetitive market power. No previous merger between large airlines has ever produced a material reduction in unit operating cost, no previous merger between large airlines has ever produced large enough synergies to justify the enormous implementation costs of these mergers, and the vast majority of airline mergers since deregulation have been dismal financial failures. There is no evidence that the PR claims about the Delta-Northwest merger producing multibillion-dollar synergies are true.

The single root cause of these four consumer inefficiency problems is the DOT's willful refusal to obey or enforce longstanding antitrust law. Antitrust law is not a barrier to any airline consolidation that can demonstrate public benefits, be they efficiency gain, service expansion, or lower prices, and that does not create or enhance artificial market power. But the evidence in this and in every previous case has been either nonexistent or fraudulent.

The DOT refused to conduct the legally required Clayton Act market power test in any previous case. The DOT has not only willfully ignored the evidence of growing anticompetitive pricing that I have documented in my testimony, but they failed to collect any evidence on pricing or entry barriers whatsoever. The DOT simply made the false assertion the North Atlantic is a fully contestable market, even though there hadn't been new entry in 23 years.

Every DOT ATI decision is based on completely fraudulent public benefits evidence, directly violating the horizontal merger guidelines requirements for verifiable, case-specific evidence that is neither vague nor speculative. The public benefits in each case rely on the completely false DOT claim that eliminating competition actually reduces prices in certain markets and does so automatically regardless of market or competitive conditions. And the DOT has used this "prices fall whenever we reduce a competition" rule to nullify the legal requirement for verifiable, case-specific evidence of public benefits in all future cases.

The Committee and Congress must address this core problem that is DOT nullification of evidence-based antitrust enforcement means that airline competition is no longer being determined by consumers and investors in the marketplace in accordance with the Airline Deregulation Act, it is being determined by government bureaucrats working at the behest of politically powerful incumbent companies. The Committee cannot allow this merger review to proceed without full assurance there will be rigorous, independent scrutiny of the core synergy and market power claims, and, more importantly, the review cannot proceed until the DOT's nullification of evidence-based antitrust enforcement has been clearly rejected, and the irreconcilable split that exists today between the DOT and DOJ approaches to antitrust has been resolved.

Mr. HORAN. And my last point, the Committee must intervene in the current U.S.-Japan ATI case, where the DOT has clearly signaled they have no intention of enforcing the law, plans to rubberstamp a massive reduction in trans-Pacific competition that is going to weaken U.S. competitiveness and basically use multibillion-dollar consumer price increases in order to protect inefficient foreign carriers such as Japan Airlines.

Thank you, Mr. Chairman.

Mr. LIPINSKI. Thank you, Mr. Horan.

The Chair will now recognize Mr. McGee.

Mr. MCGEE. Thank you, Mr. Chairman and Members of the Committee. Good afternoon. My name is William J. McGee, and I appear before you today as a consultant on travel and aviation issues for Consumers Union, the nonprofit publisher of Consumer Reports. I thank you for the opportunity to express our deep concerns about the proposed merger between United Airlines and Continental Airlines.

Just as we have seen with banking and other businesses, we are now seeing the airline industry evolving into an oligopoly, and some carriers are rapidly approaching the too-big-to-fail threshold. In this environment, those who previously decried any form of assistance to financially struggling carriers would reverse that argument, claiming a mega-carrier, such as United-Continental, will be too big to fail. And they would be right; a shutdown would have immediate and adverse effects throughout the country.

When the U.S. Airline industry received a $5 billion bailout in 2001, it was argued that airlines were essential to America's economy, infrastructure, security, and defense. Consumers Union agrees. Yet what we have been witnessing is an incredibly shrinking airline industry. With this merger, in less than 20 years we will have seen the demise of seven major brands in the United States: Pan Am, Midway, Eastern, TWA, America West, Northwest, and now Continental.

While others can speak to the adverse effects on labor, the travel and tourism industries, and a host of suppliers, I will focus my comments on the potentially adverse effects upon passengers.

In February 2001, the General Accounting Office reported on airline consolidation and identified several potential threats to consumers. We can't predict with absolute certainty how the United-Continental merger ultimately would affect consumers, but we can examine the recent historical record to see how passengers were affected by American's acquisition of TWA's assets in 2001, US Airways' reverse merger with America West in 2005, and Delta's acquisition of Northwest in 2008.

Unfortunately, the record for consumers is not good. In addition to the too-big-to-fail argument, we have identified other key problems that emerged. More details are available in my written testimony.

One, less choice and fewer flights: Historically, we have not seen a merger among major carriers that has not led to reductions in service. United-Continental states it will maintain 10 hubs, eight of them in the continental United States. What we do know is that other mergers between major airlines eventually led to hub closures and flight reductions, despite promises to the contrary.

Consider that TWA's former hub in St. Louis saw a reduction in total passenger traffic from 23 million in 2002 to 12 million in 2009. America West's former hub in Las Vegas has shrunk as well. And although the full effects of Delta-Northwest have yet to be seen, Delta's hub in Cincinnati is already experiencing cutbacks.

Meanwhile, consumers on many routes are losing the opportunity that some airline executives suggest to "vote with their feet," where there is no effective competition.

Two, loss of service: It seems apparent the United-Continental merger would mean some cities, particularly smaller cities, would lose nonstop air service, if not all air service. The more mega mergers that are approved, the higher the probability that additional cities will lose service.

Three, higher fares: A July 2008 report from the GAO concluded that mergers and acquisitions can be used to generate greater revenues through fare increases. Some analysts argue low-cost carriers will fill the void, but, one, there is no guarantee they will do so, and, two, even when a low-cost carrier enters a former hub, prices fall only on selected routes, not on all routes.

Four, reductions in service: Airline mergers tend to be contentious, and this case involves two mature companies. United was founded in 1926, Continental in 1934. So, therefore, a clash of corporate cultures is virtually guaranteed, particularly after layoffs.

These sterile corporate terms—downsizing, right-sizing, outsourcing, off-shoring, furloughing—really mean two workforces will experience more trauma and jockeying for position on blended seniority lists. Inevitably, this will lead to employee morale issues and slowdowns due to melding of policies, procedures, and technologies.

Five, fewer start-ups: Greater concentration of market share has a negative effect, according to a 2001 DOT report. It noted instances in which incumbent airlines drove new entrants out by cutting fares and flooding the market with capacity, only to later increase fares and reduce service.

Six, less resistance: Since deregulation in 1978, we have repeatedly seen how one major carrier will initiate a fare increase and then watch if rivals will match. If enough key players resist, then the fare hike will be withdrawn. This same principle has applied to introducing airline fees and even to service initiatives. In a smaller industry, the likelihood of a rival carrier resisting a new fee or airfare increase will dissipate.

Seven, widespread disruptions: With greater concentration, the United States faces a much greater threat of travel disruptions. Imagine the nationwide effects of a labor action or FAA grounding at a combined United-Continental, which analysts estimate would control nearly a fifth of all domestic airline seats. Even a 24-hour loss of service would have severe consequences.

Eight, raising the stakes: Since the approval of the Delta-Northwest merger, some proponents of the United-Continental merger argue that "fair is fair." That is why executives from American Airlines may soon appear before this very Committee seeking a merger with U.S. Airways, which, of course, just merged with America West in 2007. Ironically, this sudden leapfrogging in the airline ranks has not been due to genuine growth, expanding service, and creating jobs, but to reductions in service.

It seems only fair to ask what the end game is here. At what point will this merger mania subside? Today we are told the domestic airline industry can only support only three large network airlines. How long before we are told that number has been reduced to two or one? Before further consolidation is approved, Consumers Union feels there should be more discussion about the airline industry's ultimate goals and how those goals affect U.S. consumers.

Thank you. And I look forward to your questions.

Mr. LIPINSKI. Thank you, Mr. McGee.

Mr. Strine?

Mr. STRINE. Thank you, Mr. Chairman and Members of the Committee.

Like you, investors in the capital markets have heard different arguments about why or why not mergers should take place in the U.S. airline industry. The balance of these arguments and the resulting policy impact how the market prices risk and sets the cost of capital for the airline industry.

To help you with your analysis, I will provide you with a perspective from the financial markets. So long as the airlines source their funding from the debt and equity capital markets, the boards of directors and management teams have fiduciary duties to their shareholders and creditors. In keeping with that duty, it is incumbent upon them to manage risk and work to enhance returns on invested capital.

While managing costs and delivering products that customers value are important, making strategic structural decisions that permit their companies to adapt to changing market conditions are also critical. The airline industry is in dire need of lowering its financial risk and its cost of capital, and consolidation is one part of the solution.

By several objective measures, the performance of the industry, including Continental and United, has been abysmal. The regularity of loss and failure goes unrivaled in corporate America. For example, looking at the performance over the past decade, we can see that the industry has reported an aggregate loss of about $68 billion, there have been 58 bankruptcies, about 130,000 jobs lost, and defined benefit pension plans were offloaded to the Pension Benefit Guaranty Corporation. In addition, the average age of the fleet increased to about 11 years.

To cap it all off, the value of the XAL, which is the New York Stock Exchange airline index, has dropped by about 77 percent since 2000. Taken as a whole, the body of evidence supports the need for profound change. The leadership at United and Continental are trying to address this need.

The poor financial performance of the industry through a full business cycle can be attributed to its high fixed-cost structure, overleveraged balance sheets, low barriers to entry, higher barriers to exit, fragmentation, and fierce competition from low-cost carriers and recently consolidated, well-funded international carriers in Europe, the Middle East, Asia, and Latin America. These factors contribute to the higher cost of capital, which limits growth.

Over the past year, airline asset-backed debt has frequently garnered yields over 10 percent. In one debt transaction, United paid 17 percent. Further, in the autumn of 2009, every major network carrier except Delta issued equity at steep discounts in transactions that were highly dilutive to shareholders, which also raises the cost of capital. To this day, the weighted average cost of capital remains well into the double digits because of the significantly overleveraged balance sheets.

Over the long term, value can only be created when the return on capital exceeds its cost. This is a fundamental financial goal the airline industry has never been able to achieve through a full cycle.

Now, consolidation is certainly not a cure-all, but it is self-help. While the United-Continental merger is far to small to significantly change the competitive dynamics of the industry, given that the two carriers combined only produce about 18 percent of the available seat miles and they have de minimis route overlap, their focus on improving efficiency and creating synergy is a step in the right direction toward financial stability.

Although labor costs are likely to rise, as they typically do in mergers and after reductions and bankruptcy, the scale of the combined entity should enhance purchasing power with suppliers and the global network should be more attractive to high-yielding corporate customers.

In addition, although United-Continental may gain additional corporate customers, which should improve their yield mix, it would be wrong to conclude that the merger would stop the domestic yield deterioration, which has been going on for the last 30 years due to the continued growth of low-cost-carrier market share. Over the last 10 years, network-carrier market share has dropped by 33 percent.

In conclusion, as you weigh policy objectives for the airlines, you may want to consider the benefits from having airlines in a better position to generate a return on invest capital in excess of their cost of capital through a full business cycle.

The balance of positions which seek to socialize aspects of the airline industry without social funding versus those that promote growth in the free market will contribute to how the market prices airline capital risk and measures the required rate of return to justify growth.

The ability to generate more consistent returns on equity and free cash flow is the path to repairing balance sheets and longer-term financial stability. Only then will there be a solid foundation for increased capital expenditures, rising wages, and increased service.

Thank you.

Mr. LIPINSKI. Thank you, Mr. Strine.

I would like to thank the witnesses for their testimony.

We will now move on to Members' questions. And I will begin with the distinguished gentleman from Minnesota, the Chairman of the Full Committee, Mr. Oberstar.

Mr. OBERSTAR. Thank you, Mr. Chairman.

And I want to join his compliments to the panel for their splendid testimony.

Vice President Roach, your very personal witness to your own experience, I remember it so well, of TWA. You are right, it did hollow out. St. Louis, it did empty out—Kansas City. The result of the acquisition meant the sale of their nonstop service between St. Louis and London Heathrow, which Mr. Icahn sold to American Airlines for $400 million. It should never, never have acquired value in a marketplace. These are rights given in the public interest for the public convenience and necessity, not for the personal enrichment of the carrier.

And American made that money back in about a year. But St. Louis lost its connection to the world beyond, and an awful lot of people lost their jobs in the process. And, ultimately, TWA, one of the great proud carriers of years and decades past, was absorbed by American and now has to beg O'Hare for service to the whole country. That is the encapsulated summary of mergers and bigness.

Yeah, "too big to fail." United-Continental, as one of our witnesses just said, would control a fifth of the domestic market share, 115 billion of available seat miles. That is enormous capacity control.

I asked several years ago, and I think Mr. Foer may recall this: Why would anyone, would any carrier spend $150 million on a 747 when, for $50 million, you can buy a whole fleet? Do you remember what I had referenced to, Mr. Foer? Checchi and Wilson acquiring Northwest. For $50 million, they bought a whole fleet of 747s. And it took an airline that had $2 billion in equity and $1 billion in debt and turned it just the exact 180 degrees, $2 billion in debt and less than $1 billion in equity, and put it on a path towards the brink of bankruptcy.

Now, this bigness and this merger mania, they spent 6 months looking for other carriers to acquire until they realized they needed to manage an airline. And all of you who have been captains, flight attendants, the maintenance personnel, all have seen this happen in the industry. Bigness leads to neglect and to difficult labor relations and to lower-quality service.

Now, Mr. Foer, your testimony said, I predicted, along with many others, that a merger for Delta-Northwest would lead to a merger between United and Continental. I put it just the opposite of your testimony, your exact words, but that is what you meant. And that is what has happened.

Now, isn't it likely that the next shoe will drop if this one is approved—that is, American, US Airways, BA, Iberia, and Czech Airways, and JAL—and then have you three global mega carriers, right?

Mr. FOER. Right. Basically, right now, on the international scene, we have three airlines operating under a variety of brand names. And I have been told by somebody in a position to know that, in those alliances, once there is antitrust exemption, the multiple companies can operate as if they are a single company.

And so, why not face the reality? The reality is we are down to three international, global companies, supposedly competing against each other, but, you know, to the extent possible, they avoid head-to-head competition, just as domestically.

Mr. OBERSTAR. They are just carving up the international pie, really, is what they are doing.

Mr. FOER. Right.

Mr. OBERSTAR. And with antitrust immunity, which they are all desperately seeking, which I opposed for United, and which they will want now with—and you have cited the U.S.-Japan case. ANA wants antitrust immunity for their alliance with United. Well, there is no competition in an antitrust-immuned alliance. And you will see fares goes up, service go down, more traffic concentrated on the most profitable routes, and the medium- to small-size hubs, the non-hubs in the United States get further downsized. That is really what happens.

You said, hold retrospective hearings on Delta-Northwest. I will tell you what it has led to: baggage fees, $3.8 billion in baggage fees by the carriers, half of which are attributable to the Delta operation. You know, the next step is they are going to figure out how to charge us for printing out our boarding passes at home, how to charge us for our own paper that we use.

They are very good at this. They have little people who work day and night, they are little gnomes, in their economics and finance departments. And they work night and day, figuring out how to squeeze more money out of this turnip they have in their hand. And I am determined that won't happen.

Stable, profitable does not mean ever bigger and fewer. Who was it that said that airlines are looking for stability and profitability? That doesn't mean that there should be fewer of them.

They are always talking about rationalizing capacity. Mr. Horan, was that you who used that term? Rationalizing capacity, consolidating, too much capacity in the market. That wasn't the purpose of deregulation. We didn't say that they were going to take the government out of deciding market entry and pricing so that the airlines could consolidate and have more power. We wanted more competition in that marketplace, right?

Mr. Roach, didn't your members, and, Ms. Friend, didn't your members have more options, more choices in the previous era? Have the machinists union and the AFA ever had to face each other in a consolidation in an election?

Mr. ROACH. Not yet.

Mr. OBERSTAR. Not yet. Well, if I have my way, you are never going to do it. I am doing my darnedest to make sure that that outcome doesn't happen.

In a hearing in this room in 1990—and I was Chair of that Aviation Subcommittee, and Mr. Petri, Bill Clinger was the ranking Republican on the Committee at the time. And I asked Secretary Sam Skinner, the Secretary of Transportation—this hearing was on airline finances and mergers and acquisitions. And I said, how many carriers really constitute competition in the marketplace? And the Secretary said, "Well, I think two." Really? Then he stopped, "Well, maybe three," he said. That is where we are headed, and that is not good.

What I hear from the Uniteds and the Continentals and American and the rest of them is, "There is plenty of competition. Just look at what Southwest does to the marketplace. They drive the prices down. And legion are my constituents lining up to use Southwest Airlines frequent flyer miles to fly to London and Paris." They don't fly there. They are not in the world competition. You are all right.

Thank you.

Mr. LIPINSKI. Thank you, Mr. Chairman.

The Chair will now recognize Mr. Petri.

Mr. PETRI. Well, thank you.

Thank you all for your testimony. It is very helpful.

I guess I have a couple of questions. One for Mr. Strine: You talked about—and I have heard about low barriers to entry in the aviation industry because you can just lease a plane and have access to an airport and get in business. But what are the high barriers to exit that you refer to?

Mr. STRINE. That references basically to the bankruptcy laws. Through the Chapter 11 process, we see companies who have pursued a path which was basically a failing business model survive. And, you know, I think today you have heard a lot about destructive competition. That law, in itself, is something that keeps a company alive and keeps capacity in a market that was failing capacity. So that is the high barrier to exit.

Mr. PETRI. And, second, you analyze the industry and its competitiveness and so on for a living. When you stand back and look at it, here is a very, very, very profitable industry for a lot of—not for the airlines, but for the auto rental companies, for the fixed-base operated airports, for the hotel business, for all kinds of people who have figured out how to make money from people traveling. But the airlines don't. And probably the people leasing the planes to them are making a lot of money.

But, for some reason, this center of loss seems to be among the—if the $68 billion figure is at all accurate, it is on the ones who are generating profit for everyone else on a systemic basis.

What is different about that segment of the overall aviation transportation business that causes it to lose when everyone else is doing pretty well, or at least seems to be doing a lot better?

Mr. STRINE. Well, there are several factors that contribute to the poor financial performance. One is that the industry has a very high fixed-cost structure. So, as we inevitably move through economic cycles, they cannot cover their costs with the revenue they can generate, given the amount of supply and demand in the market. It is as simple as that.

You know, if you look at the capital expenditures that are required and the debt that is baked into these companies, they have overleveraged themselves. And the interest expense that they pay on the assets, the aircraft or the aircraft rental fees that they pay, contribute to the high fixed-cost structure.

So, to finance a business which is highly asset-intensive is expensive. And when you have a structure that doesn't generate enough revenue to cover the cost, the cost of capital, meaning the interest expense, goes up, which is the irony of all this.

I think everybody wants to see a stronger industry; it is how you get there. One of the drivers will be the cost of capital. The more financially stable the industry is, the lower the cost of capital will be, which will then provide a lower hurdle for growth.

Mr. PETRI. Now, one last thing. You would assume, if there had been a huge consolidation in industry and just a few big global players, that they would have more pricing power, and ticket prices would go up and they would make money. But what seems to be happening is that prices have been steady or even declining, and it is an increasingly better buy for the traveling public.

So what is wrong, from the point of view of these people trying to create monopolies? Or will there be a pot of gold at the end, from their point of view? Will they eventually extract monopoly profits?

Mr. STRINE. To apply that specifically to this merger, I think that the aim, if you listen to what the companies are arguing, is that they think they will get a better share of the corporate traveler, which is a higher-yielding customer, which will improve their mix and improve their yield.

But I think when you look at the competitive structure, it is really, from a financial standpoint, it is important to look at it holistically and globally. I mean, certainly domestically, there is low-cost competition, there are companies that come and go. Internationally, we have seen consolidation in Europe. There has been a lot of consolidation, now Air France-KLM. British Airways and Iberia are merging. Deutsche Lufthansa has purchased both Swiss and Austrian over the past 2 years.

In Latin America, there is only one airline, outside of Brazil, that basically controls the whole region; that is LAN in Chile. And in Asia—in China, there are only three major carriers in China. You have Air China in Beijing, China Southern in Guangzhou, and China Eastern in Shanghai. And they have been consolidating.

So part of the analysis has to be, the companies here are going to be competing for international travelers against those foreign entities. And I think that is something that we shouldn't ignore.

Mr. PETRI. Thank you.

Mr. LIPINSKI. Thank you, Mr. Petri.

The Chair will now recognize himself.

During the testimony of Mr. Tilton and Mr. Smisek, I had raised the issue of what is going to happen with the employees. And judging by the prior experience with airline mergers and what has happened to employees—and Mr. Roach raised the experience that he has been through—I understand that there is a lot of uncertainty about the future of a merged airline, what is going to happen to the employees.

And I had also raised the point that I think that, if there were, as this moves forward, this consideration of the merger moves forward, if there are agreements that can be worked out with the unions, it certainly would make this a much smoother path to the merger being approved.

So I wanted to know, thus far—I wanted to ask Captain Morse, Captain Pierce, Ms. Friend, and Mr. Roach, have you been at the table thus far, as the merger has been discussed? What have you learned, if you have? If you have or if you hadn't, what are the answers that you are waiting for?

So I just wanted to throw that general question out there, and we will start with Captain Morse and go down the line. I just want to know what has happened so far and what do you want to see happen.

Ms. MORSE. I would begin by saying we have started the process. We have negotiated an expense reimbursement provision that isn't quite enough but it is a step in the right direction. We don't think the employees should have to pay for the expenses of the merger. It is the CEOs that decided they wanted to merge, not the pilots, not the employees. So that was a step in the right direction, but just a very small step.

We see indications that the managements are interested in doing the right things, but until we actually see what they propose at the negotiating table, we are working on a transition agreement. That transition agreement would be more of a standstill type of agreement.

As we process down that path, our next step would be a joint collective bargaining agreement. And whether we will get to that quickly or not will be really the indication of how well this merger will go. If we do not get to it quickly and, to quote Captain Pierce, if management doesn't learn the word "yes" and learn it relatively quickly, then the merger will be unsuccessful.

So, as we proceed down the path, we see great opportunity here to lead, but we can't lead by ourselves. We must lead with the managements of the company to make it a successful merger. We see the right steps, but time will tell whether those steps are really taken.

Mr. PIERCE. And I would agree with Captain Morse that the steps——

Mr. LIPINSKI. Would you pull the microphone closer?

Mr. PIERCE. Yes, sir.

I would agree with Captain Morse that, so far, since May 3rd, when the announcement was made, we have seen steps by management that would lead to cautious optimism, in terms of information sharing, in terms of working toward a transition agreement.

I will say that the two pilot groups, United MEC and the Continental MEC, are working very well together. We have, I would say, outstepped our management counterparts, in terms of doing our due diligence and creating an environment for success.

It has to be a sequential order. There has to be a certain order of things to occur that we have agreed upon. We are going to negotiate this transition agreement, and once that is complete, we will move to the joint collective bargaining agreement. And once that is complete, we will move to finalization of the seniority list integration.

Each of those steps will be tests for our management groups to ensure that they are participating, good-natured, in good faith. And if they don't participate in good faith, then things won't progress. And as things don't progress, then they don't hit their synergies, they don't meet their obligations, they don't meet their commitments. It is very much in the hands of labor and our management counterparts, working together, if this is going to succeed.

Mr. LIPINSKI. Thank you.

Ms. Friend?

Ms. FRIEND. Well, I am afraid we have no optimism at all. We have been at the bargaining table with this management team on an open and amendable agreement that was reached in bankruptcy for well over a year now. We have made no progress. The company has not moved on their opening concessionary proposals.

Since they have announced the merger, they have been unwilling to discuss with us the expense reimbursement for what it will cost the employees to participate in putting this merger together. They have been unwilling to talk to us about what we refer to as a "fence agreement," which allows for separate operations while we work through these issues.

In fact, they have been unwilling to talk to us at all about the merger, other than to provide us with information that is publicly available that we could simply read in the newspaper.

So, a very difficult labor-management relationship has not improved, nor have the executives of United Airlines given us any indication that they would like to improve it. So, any synergies that they hope to get from a combined flight attendant workforce are very, very far on the horizon and will not happen unless there is a change in attitude.

Mr. LIPINSKI. Thank you, Ms. Friend.

And, Mr. Roach, I know you were shaking your head immediately when I started asking questions. So I am afraid you are going to have a similar response here to Ms. Friend.

Mr. ROACH. Yeah, we have the unique—the machinists union has the unique—we have bargaining relationships on both carriers. And we have met separately and with both management teams. We have asked a lot of questions, and they don't have any answers. They have been willing to meet, and they continue to say they will give us the answers.

Our concerns are obviously about pensions. We worked very hard during the bankruptcy to maintain pensions, during the bankruptcy, and getting the IAM National Pension Plan. We worked very hard on Continental to maintain a single-employer plan. And there is a lot of work. We have met with the PBGC, and they have expressed that there is a lot of work in trying to go through that process. And they haven't started, and they said they have thought about it but they don't have any answers.

We are concerned about the regional partner, ExpressJet, we represent. They operate on United and Continental. What happens to them? What happens to the subsidiary of Air Micronesia?

We are concerned about the overall business plan, that this is not too big to succeed and that we create this monster airline with two different, separate cultures that cannot be put together.

Again, Northwest-Delta are not together. There are big problems over there. And their morale is down, and the employees are not happy. And there has been no integration. Although it is portrayed in the public as it is, that is not the case.

And so we want to see the business plan. We want to see that this carrier can survive. We have asked for the information. They said it is forthcoming, and we look forward to it. But beyond the collective bargaining agreement, we want to make sure the carrier can survive and be successful. Having a good contract and no job means nothing.

And so, if they build this carrier and the carrier fails because they are unable to pull it together, I guess there is an old cliche, "When the camel dies, we all walk." And we don't intend to walk. We want to see the thing survive. So, we need information.

Mr. LIPINSKI. Thank you.

And I can't emphasize enough how important it is that these issues are worked out.

With that, I will yield back, and I will now recognize the gentleman from Ohio, Mr. Boccieri.

Mr. BOCCIERI. Thank you, Mr. Chairman.

I just have a quick question for the two gentlemen who seem to be on opposing sides with respect to their testimony. Mr. Strine and Mr. Horan, just if you could balance this out with your comments.

Mr. Strine, in your conclusion, you said that, "The ability to generate more consistent returns on equity and increase free cash flow is a path to repairing balance sheets and longer-term financial stability."

However, Mr. Horan, from his testimony, has a very different picture or world view, suggesting that any merger between network airlines will produce modest connecting revenue gains, but without major growth of their hubs, significant sustainable revenue synergies are impossible.”

Can you guys balance those two comments out, please?

Mr. Strine?

Mr. STRINE. Well, I think when you look at returns of a company, you have to start with revenue, and you need to think about what drives revenue. And what drives revenue is supply and demand and price.

And what is clear to us all is that the revenue has not been sufficient to cover the costs, the operating costs of the business and the interest expense of the business. So there have been losses, and the retained earnings have been negative. So the companies, to keep going, have borrowed more and more money over the years.

And, as those balance sheets become more laden with debt and overleveraged, the cost of borrowing and the cost of equity rises. And that constrains growth. So the hurdle rate for growth becomes higher, so growth becomes more difficult.

Mr. BOCCIERI. Sir, I don’t want to get into a theoretical debate, but please explain to me how reducing the number of competitors actually increases competition.

Mr. STRINE. I am not arguing that, that it does.

Mr. BOCCIERI. OK.

Mr. Horan?

Mr. HORAN. I think you have summarized my argument quite well. The core claim that these companies are making is that this is good for the public, this is good for consumers, this is good for the long-term health of the industry, because it will create measurable economic benefits in terms of network synergies or cost reductions.

I believe both of those claims are fundamentally false. I believe, if you look at historical record, there is no evidence of anyone else having found this. I believe, if you look at the historical record of how networks work, you can create network synergies in a case where you build up a large hub—when TWA and Ozark merged in 1983, there were huge network synergies. You can create network synergies in an environment where the merged carrier suddenly creates a new ability to expand, grow into new markets, things like that.

I used to run these networks; I know where to look. And what I am saying is, there is no evidence in this case or from any public statement that they are going to do any of those things that would enhance what are legitimate network synergies.

And the cost side, the cost of putting these companies of this size and these levels of complexity together runs into the billions. We have already heard plenty of testimony on the collective bargaining issues that need to be resolved. Those are expensive. And, equally important, the integration of the maintenance systems, core to all the safety concerns raised by many people today; the integration of the reservation and other financial infrastructure.

All of those costs are 100 percent certain. They occur right away. Do you save because you don’t need two general counsels? Yes, but that is pretty trivial, and it is down the line.

Mr. BOCCIERI. Do you think——

Mr. HORAN. So I am just saying, if do you a simple cash flow—you know, United claimed, after 3 weeks of negotiation, their PR staff said, "We will get cost reductions equal to 0.6 percent of our combined operating costs." And I am just saying that any person with common sense would look at that and say, that is what the PR guys are saying before the collective bargaining process has started and before you have done the hard, messy work of integrating maintenance systems and reservation systems. Chances are the cost synergies will be a big negative number.

Mr. BOCCIERI. Do you think that previous mergers with the unintended consequences of these unforeseen costs that have been added have led to, sort of, farming out of some of these routes and some of the domestic routes to the low-cost carriers?

Mr. HORAN. Well, people were discussing American-TWA, which was justified on the exact same kinds of synergies we are talking about today. There were no new hubs created. There was no expansion that was going to happen. It was just that somehow one plus one was going to equal three. And no one in the government scrutinized that.

And, again, that is my message for the Committee. You pointed out the, sort of, difference in the arguments in what I am saying versus what the CEO is saying. The issue for the Committee is, you have to have absolute confidence that the DOJ is going to run through those very critical synergy efficiency claims.

And, by golly, if they are proven to be true and Mr. Tilton and Mr. Smisek have found opportunities that every past airline manager failed to find, and that Continental management, who had been saying, you know, "We don't want to do a merger because it is too risky for our shareholders, and that is not really where the benefits are, and it would be a bad thing," he has found things that his previous management couldn't find—God bless him, if the synergies are honestly there, they are verifiable, they ought to be able to proceed. Because then what Mr. Strine is saying is those are legitimate things, that would improve efficiency, that is self-help.

But if those efficiencies aren't there, it begs the basic question, well, what about all these anticompetitive problems? Isn't that what you are really going after, and isn't all the synergy stuff just a smokescreen?

Mr. STRINE. Can we take a simple example to maybe elaborate on this?

Let's say you were running an airline and you were going to purchase 50 aircraft from Boeing. And then you were a much larger airline, and you were then going to purchase 100 aircraft from Boeing. Do you think you would get a lower price if you were purchasing 100? Do you think you would get a better deal on your service, your maintenance, et cetera? The scale, in terms of their purchasing power with suppliers, should have some benefits.

Mr. BOCCIERI. Too big to fail, right.

Mr. HORAN. Could I just quickly reply to that, sir?

The idea that an airline the size of United Airlines isn't big enough to compete and it needs to be bigger to be efficient is one the more ludicrous claims that anyone has made in this industry in the last half-century.

And the example I keep going to is that Mr. Tilton and Mr. Smisek ought to fly to Moscow and sit down with the Russians, and tell them what a terrible mistake they made when they broke up Aeroflot. It had such scale economies, it not only did all the commercial aviation, it did the military and the crop dusting. But they broke it up with this silly notion that, while you wouldn't have the scale economies on ordering pencils and legal pads, benefits from competition and spurring innovation would greatly offset the reduced scale with many smaller companies.

And, again, it comes back to a factual point. If the scale economies, which is the synergy claim that Mr. Smisek and Mr. Tilton are making, are really there, which no one else has found, great. If they are not—but this is a factual question that objective people can sort through fairly easily.

Mr. STRINE. The fact is, United already did go bankrupt, and they are still here.

Mr. HORAN. Yeah. Right. Look at the financial performance of U.S. airlines in the last 15, 20 years. There is almost a perfect negative correlation: Smaller airlines have earned the kind of return for their shareholders that Mr. Strine is taking about, and the big, entrenched ones do not.

Mr. BOCCIERI. Well, I appreciate that. And I know that did receive some government taxpayer dollars right after September 11th.

Captain Pierce, I just want to comment. I know you talked about that your training would have prevented—or would have prepared you to recover from a full stall. And I concur that the legacy carriers have done a great job with training and the expertise that they have added.

I want to see that same level of commitment now with the regional airlines. Not all, you know, have been deficient like Colgan have. But we certainly want to see that higher standard be maintained. And we are going to require the FAA, but we want to make sure that the companies do so, as well, because they are ultimately in charge of the training requirements.

Mr. COSTELLO. [Presiding.] The Chair thanks the gentleman and now recognizes the gentleman from California, Mr. Garamendi.

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

Chairman Oberstar has gone on and on about efficiencies at Northwest and Delta. I have my own story, Chairman. Due to the lateness of our session and the cancellation of the United flight out of National, I had to jump on a Northwest-Delta flight via Minneapolis on a through-flight presumably to Sacramento. It was about $990, as I recall, for that one-way ticket.

When I got to your part of the world, Mr. Chairman Oberstar, I got off the plane and found out that it stopped, I wasn't going to go any further, and I was dumped in Minneapolis-St. Paul for the night. All well and good, they handed me a ticket for the next flight out the next morning. I went to pick up my ticket, I went to get on the flight, and I wasn't booked, much to my surprise and angst.

Eventually, I was able to get on the very last seat, which I suspect may have been a pilot seat that somehow would cause a delay somewhere else. Anyway, the way in which the system worked was a telephone call—the computers didn't work at all, which should have been obvious since I didn't have a seat. But the only way they did it was by telephone to somebody that they found in, I guess, Atlanta. So much for the efficiency issue of mergers.

But that is just a personal problem. My real concern is one of safety all the way around. I was astounded by the information given by the two CEOs about who is going to make sure that the maintenance in China, Singapore, and the Philippines was of quality, as though they had no responsibility themselves for that; it was, in fact, an FAA responsibility. No, that is not the case.

Similarly, with regard to the quality of the pilots and other personnel on those regional airlines that contract, in this case, with United or with Continental, it is the responsibility of the management of both United and Continental today, to say nothing going forward, it is their responsibility to provide assurances that the highest quality maintenance, wherever it may be, San Francisco or Shanghai or wherever, is done.

Those are my comments. And I will do everything I can to hold the management responsible for the quality of the pilots as well as the quality of the maintenance facilities.

Finally, with regard to the issue going forward of the financials on the merger and whether, in fact, the Justice Department is looking at it, Mr. Chairman, I might recommend, based upon what we just heard, the testimony, that we invite the Justice Department to come and testify as to what they have found with regard to the issue of synergies of all kinds. And if they are not even looking at them, we might want to beat them over the head and ask them to look at those, and, in fact, are there real synergies or is it just one way to put smoke up in the air.

I don't have any further questions. If any of the participants would like to jump in with my remaining 1 minute and 35 seconds, do so.

Ms. MORSE. I think we both would.

With regard to the outsourcing of flying that you both spoke so eloquently about earlier, we have a very good mentoring program that has worked for certainly more than the 25 years, probably since our inception in 1926. And that mentoring program is where a senior captain mentored the more junior first officer.

Today, we have a different scenario, where we have 1,437 people on the street, highly experienced pilots that are not working, when instead we have less experienced pilots. You can't train for that. We have a mentoring program, and we should have a flow down and a flow up.

As the CEOs indicated, we don't have those airplanes to put on those routes. Well, last I checked, they have yokes and ailerons and rudders. And there is no reason why we can't fly those airplanes. We are very capable of flying those airplanes. And to say that that is the solution to the problem, is "we don't have that size aircraft," is ludicrous.

The people that mentored us were the people whose very pensions were taken away. And we are going to have to solve for both the outsourcing problem and the disparity in the pensions as we move forward.

Mr. PIERCE. And I would add on top of Captain Morse that, you know, the FARs, the Federal Aviation Regulations, for training standards and for flight time and duty regulations basically set a baseline of acceptability. For years and years and years, ALPA contracts have increased those levels of safety, those levels of training. And what we saw through the concessionary period that began post-9/11 is that those were areas that got degraded in our contracts.

Now, as we rebuild those contracts, we are going to have to pay more attention to reparations, the training standards and through flight time and duty time. And I hope we have your support, as well, in pushing through the training standards language that ALPA supports as well as the flight time and duty time regulations that have been stalled for so long and, you know, were born by Captain Babbitt over a year ago and do not seem to be making much progress.

Mr. GARAMENDI. Mr. Chairman, just a very brief comment.

We had two CEOs here. I have been sitting on a dais like this for some 35 years, and I can really recognize BS and being shined on. And I know that I was shined on, if not inundated with BS.

There is a very, very serious problem here, in my view, about safety. And when they tell me that it is the FAA's responsibility, and when they claim, and then backed away from it, that it is not their responsibility to the quality of the people they contract with—that is, the airlines and the people that are then hired by those regional carriers—I know that something is seriously wrong.

And I, for one, have been too long at this game, not in this particular chair but in chairs in California, to listen to that kind of thing and find it acceptable. And they have said they are going to respond to me. They had better.

Thank you, Mr. Chairman.

Mr. COSTELLO. The Chair thanks the gentleman.

And let me mention to the gentleman that we invited the Justice Department to send representatives over to testify today. It is their standard practice when they are reviewing a case that they decline to testify. They have sent a letter to us just explaining the procedure that they will follow in reviewing the proposed merger.

And I will tell the gentleman that we will take your comments from the record and write a letter to the Justice Department, telling them that we specifically want them to concentrate on the synergies that are claimed by the CEOs on this proposed merger.

Mr. GARAMENDI. Thank you, Mr. Chairman.

Mr. COSTELLO. The Chair would ask Members if they have any other questions, comments.

And, if not, the Chair would recognize the Chairman of the Full Committee, Chairman Oberstar, for closing comments.

Mr. OBERSTAR. Thank you, Mr. Chairman.

This has been a most enlightening and valuable hearing, especially this panel, with some very specific issues involved raised by mergers. And, of course, rather standard testimony we expected, I almost could have written it, with the two CEOs.

But before I make a closing observation, Mr. Foer and Mr. Horan—Mr. Foer, you said, "Standard antitrust analysis focuses on horizontal overlaps. It is necessary but should not be considered sufficient."

Mr. Horan, you observed, "The Committee needs to address the root cause of these problems: DOT's nullification of longstanding antitrust law and evidentiary requirements."

Both comments go to the heart of the issue that we are dealing with here and in the Delta-Northwest merger, acquisition, however you want to phrase it.

What are your suggestions for—just want your verbal response and then put something in writing as you think about it. How can we restructure the DOT role in the antitrust proceedings to give it more weight, give it more force in the calculations done on these antitrust proceedings?

Because the antitrust law is limited, as you say, horizontal overlaps. I had to ask the Justice Department in the Delta-Northwest situation whether they would consider the domino effect, the downstream effect of a Delta-Northwest merger on other possible mergers, and it was like pulling teeth, but eventually they said, yes, we would give that consideration. They didn't say it would be a factor, didn't say it would be a decisive factor.

But the antitrust role is very—it is like a straightjacket. It is very limited. The DOT has wider latitude in these matters, but they, nonetheless, have gone on to approve antitrust immunity, along with Justice, for international alliances.

So what are your thoughts about how we can rephrase that authority? What provisions could we include in future legislation?

Mr. FOER. Mr. Chairman, I don't think the answer is with giving DOT a larger role. DOT had the role all by itself after deregulation, and it blew it. And Congress said, OK, let's let the antitrust division handle these matters. DOT provides information that is very important.

It is not that the law, the antitrust law, is necessarily that narrow. It has been interpreted in a very narrow way for 30 years.

The Justice Department and the FTC have put forward for public comment revised horizontal merger guidelines. And in that, they recognize the role of incipiency, for instance. Section 7 of the Clayton Act is an incipiency statute. It is supposed to stop mergers before they become dangerously anticompetitive. And that is a trend, it is a prediction.

I don't think that that has been the way either of the agencies have been interpreting the law sufficiently in the past, but the law is there. And pressure from Congress to utilize the law to its fullest is what is needed.

And I think that the agencies are capable of looking at not only the merger before it, but recognizing salami tactics and recognizing that companies interact on a strategic basis, and when one goes forward and changes the structure of the industry, the others have to respond. I think that that can be taken into account by antitrust, but it hasn't been.

Mr. OBERSTAR. And it should be.

Mr. Horan, do you think there is not much more we could do with DOT?

Mr. HORAN. I agree that the law as written is not the problem. There are no obstacles in the law to considering the actual economics of the applicant's proposed a merger, but they refuse to do that.

The problem is that deregulation of the airline industry, Mr. Chairman, you understand this as well as anyone, was designed specifically on the concept that all other laws that apply to all other deregulated industries designed to create a level playing field and protect consumer interests—such as antitrust laws, consumer protection laws, and labor laws—were always intended to apply to the deregulated airline industry.

The problem is that the Department of Transportation has been gutting the antitrust laws in response to the lobbying efforts of companies like United, Delta, and Continental. Those companies would like to distort competition to hurt the US Airways, hurt the Northwests, hurt the Southwests, hurt the JetBlues. And the Department of Transportation is a willing participant.

And I am saying, consumers are already paying $5 billion a year in higher fares solely attributable to artificial pricing power, and the Department of Transportation's major objective right now is to make sure those same kind of anticompetitive pricing impacts hurl into the Pacific. They are doing everything possible to stop scrutiny of those cases. They do not want evidence presented.

I have had applications to examine the core claim of these Japan cases—the network synergies. I used to run a hub, the biggest hub in Tokyo, at Northwest. I was the person who developed antitrust immunity networks. I can evaluate this claim. If I am not the best-qualified person on the planet to look at it, I am in the top five.

The Department of Transportation said, "No, absolutely not. We cannot have anyone evaluate trans-Pacific network synergies. We are creating a new rule that says only lawyers can do it. Mr. Horan, you may not evaluate this claim." So I am saying they are going to any length to say, "No, we don't want any scrutiny of these clients."

And so, just go back and allow verifiable scrutiny in accordance with the Horizontal Merger Guidelines, and I think you have solved two-thirds of the problem right there. Unfortunately for DOT, you would also bring the airline consolidation movement to a grinding, screeching halt. Because without the suspension of those antitrust laws, none of this would have happened.

Mr. OBERSTAR. Well, you are quite right. From down there somewhere in the podium where I sat in 1978 and rubbed my worry beads about this deregulation, now, what is going to be the outcome here, we anticipated that the Carter Justice Department would ride herd on any mergers that might result. We didn't count on Carter losing the election, Reagan winning, and the Reagan Justice Department never meeting a merger it didn't like.

But the argument made today and 2 years ago by Delta-Northwest was, "We need to be big, we need to really be big in the marketplace." And I think you have said, the notion that United is not big enough to compete in the domestic and international market is, I will concur, ludicrous.

But the language of the applicable provision of the antitrust code is, "Any activity affecting commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition or tend to create a monopoly." There is a large, how shall I say, judgmental opportunity in those words that has not been used in so many years by the Justice Department as to be flaccid.

And it needs to be—the people who are administering this law need to be strengthened and need a backbone and need to be encouraged.

And that is why I am looking for something that we can—our Committee doesn't have jurisdiction over the judiciary, but we do have over DOT. And I am looking for some way that we can strengthen the hand of DOT in this process.

Look, what it has led to, the bigness, bigness has led to $2.7 billion in baggage fee collections for 2009. That is 10 carriers. Of those 10 carriers, Delta and Northwest combine for one-third of the total, $766 million in baggage fee collections.

That is what big business has given you: more market power in the domestic marketplace, more suppression of passengers and travelers and communities. It hasn't given you more choices. Maybe it will give you a few more choices on United or Delta, but not more choices for all travelers and consumers. It has led to job loss, it has led to a shift of employment from one city to another and downsizing and—well, I am now being repetitive.

So I just want to say this is a terrible, awful, no-good thing, and the Justice Department ought to turn it down. And I will continue to do everything in my power to make that happen, because I think this is the very antithesis of deregulation and will lead to—the moment this thing is approved, I will draft and introduce legislation to reestablish market regulation by the government of airlines.

Mr. COSTELLO. The Chair thanks the gentleman.

And I was going to——

Mr. OBERSTAR. Maybe you shouldn't. It is just going to give you more headaches.

Mr. COSTELLO. I was going to mention that maybe what deregulation has led to because of the Justice Department is possibly reregulation. And we have discussed that on more than one occasion. And it may be something that we will have to move forward on, depending on what the Justice Department does.

Ladies and gentlemen, thank you. We appreciate you offering your testimony today. I think Chairman Oberstar and others have summarized the issues. You heard in my opening statement, you heard from many of the Members deep concerns concerning safety, concerning the workforce, a number of other issues. And we will urge the Justice Department to specifically look at those issues in reviewing this proposed merger.

Again, we appreciate your testimony.

And the Subcommittee stands adjourned. Thank you.

[Whereupon, at 1:38 p.m., the Subcommittee was adjourned.]

OPENING STATEMENT OF
THE HONORABLE RUSS CARNAHAN (MO-03)
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEE ON AVIATION

Hearing on
The Proposed United-Continental Merger: Potential Effects for Consumers and the Industry

Wednesday, June 16, 2010

Chairman Costello and Ranking Member Petri, thank you for holding this hearing on the proposed merger of United Airlines and Continental Airlines and its impacts on consumers and the industry.

The United-Continental merger is the second between U.S. legacy carriers to be announced since the crisis faced by the industry starting with their struggle to regain profitability in the aftermath of the 2001 terrorist attacks, increasing oil prices, and a global economic crisis.

While I recognize the challenging environment being faced by legacy carriers I do have hesitation about the impact this merger may have on the employees of United Airlines and Continental Airlines as well as the communities these airlines serve. If this merger is approved, the combined airline will exceed Delta in size, thus making it the world's largest airline as defined by revenue and available seat miles.

One concern I do have about the proposed merger of United Airlines and Continental Airlines is the potential for it to lead to higher air fares in certain pair-city markets where there will be a reduction in competition as a result. Post merger they would be the world's largest airline and with this power they will be a far greater competitor at their hubs, which could have the effect of discouraging their competitors from entering the market thus leading to higher fare.

Additionally, I have concerns about the effect of the merger on the employees of United Airlines and Continental Airlines. Although, both airlines have stated the merger will not result in a significant reduction of employees and that any reductions can be done through voluntary programs, retirement, and attrition if recent mergers are any evidence of what can be expected that is not it. In my home state of Missouri, as a result of the 2001 American Airlines merger with TWA thousands of Missourians lost their jobs when TWA's Missouri headquarters were closed, the hub at Lambert-St. Louis International Airport was eliminated, and the Kansas City maintenance facility was closed.

Finally, I am interested to hear from both United Airlines and Continental Airlines what steps they plan to take with regard to workforce integration to ensure employees maintain their seniority. When American Airlines and TWA merged, TWA employees lost decades of seniority because they were unfairly integrated into the American Airlines workforce. The unfortunately consequence was that many of these employees were the first to be laid off and placed an a recall list later although they had many more years of actual seniority.

In closing, I want to thank our witnesses for joining us today and I look forward to their testimony.

OPENING STATEMENT OF REP. STEVE COHEN

The Subcommittee on Aviation

"The Proposed United-Continental Merger: Potential Effects for Consumers and the Industry"

June 16, 2010

I am pleased to be here today to receive testimony from distinguished members of Congress, the Chairmen of United and Continental Airlines, and experts representing all aspects of the aviation industry.

As the Congressman of Memphis, Tennessee, I have the great privilege of representing the Memphis International Airport. Memphis International Airport is not only the headquarters of FedEx Express but is also a Delta/Northwest hub that provides world-class passenger service to more than seven million passengers a year. As you all know, nearly two years ago Northwest Airlines, which had one of their three major hubs in Memphis, merged with Delta Airlines to form the premier global airline. So far this merger has been beneficial to the city of Memphis as well as Delta and Northwest. That being said, one of the few downsides of this merger is that Memphians experience substantially higher air fares compared to other major markets because of the monopoly that exists. This reality is consistent with numerous studies that have found that fairs at concentrated hubs are higher than fares elsewhere.

As members of the Transportation and Infrastructure Committee, it is our duty to assist and support the aviation industry which is so vital to the American economy. But we are also responsible for monitoring and regulating the aviation industry to ensure that it is providing safe, adequate, and affordable service to the American people. I look forward to hearing from our witnesses today their thoughts on this important issue.

STATEMENT OF
THE HONORABLE JERRY F. COSTELLO
SUBCOMMITTEE ON AVIATION
HEARING ON
THE PROPOSED UNITED-CONTINENTAL MERGER: POTENTIAL EFFECTS FOR CONSUMERS AND THE INDUSTRY
JUNE 16, 2010

- I welcome everyone to the Aviation Subcommittee's hearing on the proposed merger between United Air Lines and Continental Airlines and its potential effects for consumers and the industry. In particular, I want to recognize and thank the Families of Colgan Flight 3407 for being with us today and for their steadfast support to improve pilot training and safety in the industry.

- Given that we have several panels, I intend to make a brief opening statement; then recognize Mr. Petri for his opening statement and then proceed to the member panel.

- Last month, United and Continental announced they would merge to form an airline that, by several measures, will be the world's largest airline. United and Continental claim the proposed merger will generate up to $1.2 billion in annual revenue and will create cost synergies from more effective aircraft utilization, a more comprehensive route network, and improved operational efficiency.

- In 2008, this Subcommittee also held a hearing on the merger of Delta Air Lines and Northwest Airlines. At that time, there was speculation that other carriers within the industry would merge, to create a U.S. airline industry dominated by just a few mega-carriers.

- Just two years later, as many predicted, we are meeting again to discuss another proposed combination that would surpass Delta as the world's largest airline. This merger would leave our U.S. industry with only four legacy network airlines. We all have a shared interest in maintaining a safe, reliable, competitive, and profitable air transportation system, and we must ask critical questions on the long-term implications of continued mergers for the future of the industry.

- I am very concerned how this merger, if approved, will affect ticket prices for passengers; how the merger would affect the pilots, flight attendants, mechanics, and employees of both airlines; how many employees will lose their jobs or see reduced wages and benefits; and what will happen with existing union contracts. Less competition generally leads to higher prices, fewer choices, and a loss of jobs. I sympathize with the thousands of airline employees who have suffered as a result of airlines' financial problems in the past. Many have seen their hard-earned pensions dropped during airline bankruptcies, seniority rights disappear, labor disputes go unresolved, wages frozen or cut, and jobs lost to outsourcing and consolidation.

- The merger should not take place at the expense of consumers or the workers who have already made tremendous sacrifices. Unfortunately, past mergers have not always demonstrated that consumers, employees, and local economies will be better served by consolidation.

- Therefore, what I want to learn from this hearing is: (1) How is this proposed merger different from past mergers? and (2) How will this merger really affect consumers and employees?

- Currently, both the Department of Justice (DOJ) and the Department of Transportation (DOT) are in the process of reviewing the merger.

- I understand that United and Continental are hopeful a decision will be made before the end of the year. Although we do not have a government panel testifying today, I trust that the appropriate Federal agencies will subject the proposed merger to thorough review and will ensure it is consistent with the requirements of the law.

- Finally, I am interested in hearing from the analysts on our second panel regarding the pros and cons of this merger, the prospects for future mergers, and whether low-cost carriers will be able to effectively keep air fares down in markets affected by the merger.

- Before I recognize Mr. Petri for his opening statement, I ask unanimous consent to allow 2 weeks for all Members to revise and extend their remarks and to permit the submission of additional statements and materials by Members and witnesses.

- Additionally, on my request, the Department of Justice has prepared a letter explaining its antitrust review process in general. The letter does not deal with this merger specifically, but it may be helpful to Members of the Subcommittee in understanding the review process. I would therefore ask unanimous consent to have the letter placed into the record. Without objection, so ordered.

SENIOR DEMOCRATIC WHIP

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DALLAS, TX 75201
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REP.E.B.JOHNSON@MAIL.HOUSE.GOV

STATEMENT OF CONGRESSWOMAN
EDDIE BERNICE JOHNSON
Subcommittee on Aviation
Hearing on the Proposed United-Continental Merger:
Possible Effects for Consumers and the Industry
June 16, 2010

Chairman Costello, thank you for holding this hearing today on an issue which has the potential to affect not only our nation's aviation industry, but also our economy, and consumer choice.

While I would like to believe the rosy scenario envisioned by both Continental and United as a result of their merger, I think we owe it to the future of our aviation industry, the traveling public, and the employees of both carriers, to take the time to ask a few questions.

I would like to be confident that this merger is truly in the best interest of our nation – and that hubs, service, competition, and the jobs of hardworking men and women who have devoted their entire lives to these carriers are not negatively impacted.

Mr. Chairman, I do have confidence that our current Administration will not be a mere rubber stamp for this proposed merger, as was the case during the Bush Administration.

I believe the current Administration will look at the critical labor and consumer issues that need to be addressed before proceeding with approval of this merger.

I want to thank our witnesses who are here with us today.

I look forward to receiving an honest accounting from their perspective of what this proposed merger will mean for the hardworking men and women of the respective carriers, and for the travelers who rely on the service provided by our aviation industry.

Thank you, Mr. Chairman.

Harry E. Mitchell

Statement of Rep. Harry Mitchell
House Committee on Transportation and Infrastructure
Subcommittee on Aviation
6/16/10

--Thank you Mr. Chairman.

--The proposed United-Continental merger would create the world's largest airline.

--Already the two employ approximately 89,000 people combined, both in the United States and around the world.

--According to the airlines, a combined carrier would generate $29 billion in annual revenue.

--But as we contemplate a further consolidation in the airline industry, I think we need to ask: is this good for passengers?

--Airline passengers have had a rough go of it lately. They're facing surcharges for baggage and other things that used to be free.

--Will these mergers result in more convenience and lower fares?

--I look forward to hearing from our witnesses on these and other issues.

--At this time, I yield back.

James L. Oberstar

STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
SUBCOMMITTEE ON AVIATION
HEARING ON
THE PROPOSED UNITED-CONTINENTAL MERGER: POTENTIAL EFFECTS FOR CONSUMERS AND THE INDUSTRY
JUNE 16, 2010

I thank Chairman Costello and Ranking Member Petri for holding this hearing. We will hear testimony today on an airline merger of great significance to the traveling public: a combination of two large airlines that will create a mega-carrier, the world's largest by several measures. I welcome our witnesses, who include the chief executives of United and Continental, labor group leaders, and industry and legal experts. I look forward to hearing their testimony and to exploring the merger's effects for those who pay for, and depend on, airline service.

At the Aviation Subcommittee's 2008 hearing on the merger of Delta Air Lines and Northwest Airlines, I ended my opening statement with an oft-quoted admonition from the poet George Santayana, who said, "Those who cannot remember the past are condemned to repeat it." It is only fitting that we begin this hearing with the same admonition, because we are again in this room to receive evidence on a merger that will likely reduce competition, reduce choice, and increase air fares. Moreover, it will place the future welfare of our delicate airline industry – a necessary and indispensable industry – in the hands of three mega-carriers. United and Continental are repeating a strategic move that many airlines before them have made but that has brought sustained success to none.

When Delta Air Lines and Northwest Airlines merged in 2008, I cautioned that their merger would lead to further mergers and set in motion a chain of events that would leave the domestic and international markets dominated by three mega-carriers. Mega-carriers build concentrations of market share and levy air fare increases with impunity. We are approaching a point where they may become too big to fail. Mega-carriers do not serve the public interest.

The larger an airline becomes, the greater its ability to wield its market share to the detriment of passengers. United and Continental combined would hold approximately 20 percent of the U.S. domestic market share. That share would be more than the share of any other carrier, by most measures. The way airline competition works today, when established carriers control markets, those carriers follow their competitors' fare changes so that the fares are identical and passenger choice is limited. This phenomenon is worse in a market dominated by only a few major airlines with incentives not to compete. As the Department of Transportation (DOT) aptly stated, "[e]conomic theory teaches that the competitive outcome of a duopoly is indeterminate: the result could be either intense rivalry or comfortable accommodation, if not collusion, between the duopolists." Airline deregulation was never intended to pit strong competition against an airline's best interests.

When I voted for airline deregulation in 1978, I did not vote for an industry of mega-carriers. I voted for vibrant competition among airlines, competition that would encourage innovation in schedules, pricing, and services. I voted for the promise of an industry in which carriers would have every incentive to create value through intense competition. There are only a few of us left who voted in this Committee room on deregulation in 1978. When I cast my vote, I expected the antitrust laws to be vigorously enforced, as did others.

This merger's consequences for consumers and employees are practically certain. It will reduce consumer choice and increase air fares – significantly, in some cases – among major U.S. and world markets, from Washington, D.C., to Beijing. With abundant support, the Department of Justice (DOJ) has found that air fares are likely to increase significantly when the number of competitors in any given market is reduced from three to two or from two to one.

The United-Continental merger will erode competition in international markets, as well, including one market in which the DOJ previously found that United and Continental, if combined, would attain an anticompetitive market share. United and Continental already enjoy an extraordinary privilege: immunity from enforcement of clearly established Federal antitrust law. Under cover of that immunity, United, Continental, and their foreign Star Alliance partners collude on pricing and schedules in ways that, without immunity, would amount to violations of antitrust law. After this merger, the combined airline and its Star Alliance partners would be able to divide up transatlantic traffic with their SkyTeam and Oneworld alliance counterparts. A real danger exists that mega-carriers enjoying such antitrust privileges will engage in cartel pricing; consumers traveling across the North Atlantic will be at their mercy.

To those who say low-cost carriers provide a buffer, I say, show me how to fly Southwest to London, or JetBlue to Duluth, or AirTran to Lubbock. Our network legacy carriers fill a niche unfilled by low-cost carriers. In many of the markets that matter, low-cost carriers will not offset the fare increases that will result from this merger.

This merger will have consequences for employees, as well. United and Continental employ roughly 89,000 people in hubs and at small airports across the country. We must ensure that this merger does not come at the expense of those employees or jeopardize any jobs during these delicate economic times.

I look forward to hearing from the chief executives of United and Continental. I am skeptical that the business decision they have announced will be good for consumers, but I hope they will be able to demonstrate to the contrary. I look forward, too, to hearing from our labor group leaders and airline industry experts on their outlook for the future of the industry. I see that we have an antitrust expert, Mr. Albert Foer, who will be testifying, and I am eager to hear his thoughts on how the arguments in favor of this merger stack up against our antitrust laws.

Mergers may or may not create value for airlines and their shareholders. The storied history of airline mergers tends to suggest they do not. But whatever the motivation of this merger, we must keep a laser focus on its effects for consumers and employees. The American traveling public deserves nothing less than a vibrant, competitive, profitable, and safe air transportation system. We must work to ensure that the industry delivers what the public demands and requires. We must not repeat the mistakes of the past by ignoring this merger's potential effects for consumers, employees, and the industry as a whole.

Tom Petri

STATEMENT OF
REP. THOMAS E. PETRI, Ranking Member
SUBCOMMITTEE ON AVIATION
HEARING ON

"The Proposed United-Continental Merger: Possible Effects for Consumers and Industry"

June 16, 2010, 9:30 AM

I want to thank the Chairman for holding this very important hearing today.

It is essential that the Subcommittee use this hearing to fully explore the proposed United-Continental merger in order to gauge not just its potential effects on both companies and their thousands of employees but, more importantly, on consumers.

Since 2001, the airline industry has lost over 150,000 jobs and seen over 35 bankruptcies. In today's economy, airlines must significantly cut costs and increase operational efficiency, or face closing their doors.

Over the past decade the commercial aviation industry has faced a variety of challenges, including terrorist attacks, volatile fuel prices, and a massive decline in demand due to the global recession. Unprecedented events such as SARS, H1N1, and the volcanic ash plume also added to the industry's woes.

In addition to these financial strains, U.S. carriers must also compete in the world marketplace against financially strong competitors. We cannot deny that the airline industry is a global industry. Decisions to merge over the last few years have, in part, been driven by the need to improve U.S. carriers' ability to compete world-wide.

Last month, United Airlines and Continental Airlines announced their intention to merge. Global competition, the struggling economy, and a need to improve operating efficiency are cited as the main reasons for the merger.

Since the proposed merger was announced, aviation experts, labor groups, consumer advocates, and other interested parties have commented both for and against airline mergers in general and the United/Continental merger specifically.

The proposed merger's impact on consumers, competition in the marketplace, air service, air fares, and a combined 89,000 employees has been the subject of a great deal of speculation.

Today, we have before us representatives of the interested groups to testify about airline consolidations, focusing on the United/Continental merger.

We also will hear from the Chief Executive Officers of both airlines. It is important that the Aviation Subcommittee hear from the interested parties to gain a better understanding of the proposed merger of United and Continental Airlines.

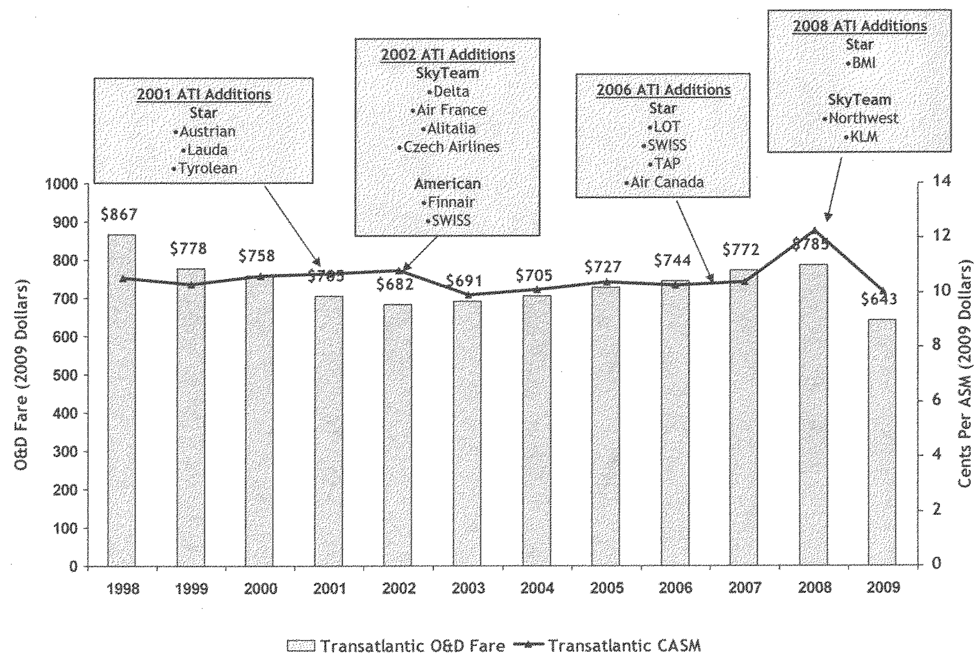
Procedurally, the merger cannot be completed without approval from the Antitrust Division of the Department of Justice. That review, currently underway for the proposed merger, is a grueling and thorough process that ensures the proposal will not have negative consequences on competition.
In the interest of fairness, I urge the Department to continue their tradition of objectivity and impartiality as they conduct their antitrust analysis.

I look forward to hearing from all of our witnesses.

Before I yield back the balance of my time, I ask unanimous consent that letters of support from various Wisconsin interests be included in the hearing record.

LECG

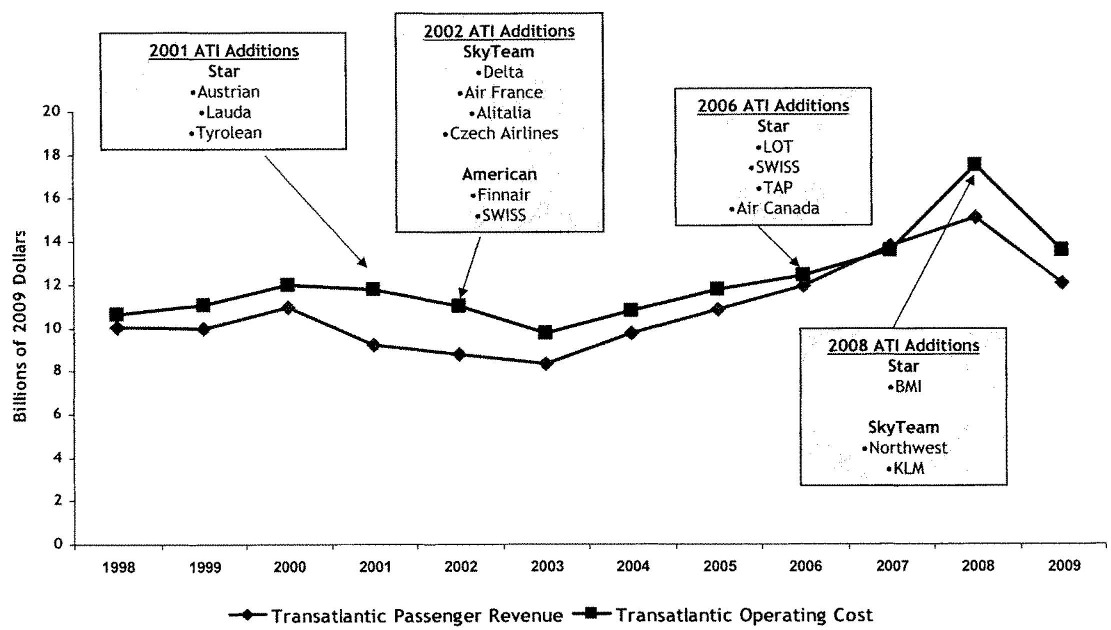
Inflation Adjusted Transatlantic O&D Fares and CASM of U.S. Carriers



Source: U.S. DOT Form 41, O&D Survey, T1. CPI from BLS.
Note: 2009 Dollars. Boxes show carriers added to ATIs. CASM is operating cost excluding transport related cost per ASM. Transatlantic routes include routes from the U.S. to Europe, Africa, Middle East, and the Indian Subcontinent.

LECG

Inflation Adjusted Transatlantic Passenger Revenues vs. Costs of U.S. Carriers



Source: U.S. DOT Form 41. CPI from BLS.
Note: 2009 Dollars. Passenger carriers. Boxes show carriers added to ATIs. Passenger revenue includes baggage fees.

HOWARD COBLE
SIXTH DISTRICT
NORTH CAROLINA

2468 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3306
PHONE: (202) 225-3065
FAX: (202) 225-8611
e-mail: howard.coble@mail.house.gov
www.coble.house.gov

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Congress of the United States
House of Representatives
Washington, DC 20515-3306

June 22, 2010

The Honorable Jerry Costello
Chairman
Subcommittee on Aviation
2251 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Costello:

Recently, the Subcommittee on Aviation held a hearing entitled "The Proposed United-Continental Merger: Possible Effects for Consumers and the Industry." Enclosed, please find a flash drive with letters from stakeholders that I ask be included in the hearing record as a supplement to the oral testimony.

Thank you in advance for your consideration of this request. If our office may be of further assistance, please do not hesitate to contact us.

Sincerely,

Howard

HOWARD COBLE
Member of Congress

HC:ah

SUITE 101
222 SUNSET AVENUE
ASHEBORO, NC 27203-5658
PHONE: (336) 626-3060
FAX: (336) 629-7819

124 WEST ELM STREET
POST OFFICE BOX 812
GRAHAM, NC 27253-0812
PHONE: (336) 229-0159
FAX: (336) 228-7974

805 SOUTH SALISBURY AVENUE
POST OFFICE BOX 807
GRANITE QUARRY, NC 28072-0807
PHONE: (704) 209-0426
FAX: (704) 209-0428

SUITE B
2102 NORTH ELM STREET
GREENSBORO, NC 27408-5100
PHONE: (336) 333-5005
FAX: (336) 333-5048

1634 NORTH MAIN STREET
SUITE 101
HIGH POINT, NC 27262-2644
PHONE: (336) 886-5106
FAX: (336) 886-8740

UA State & Local Outreach

Letters of Support

State	City	Stakeholder	Title	Organization	Date Received	Letters sent to
California						
	California State	Arnold Schwarzenegger	Governor	State of California	26-May	California Delegation, cc's to Holder, LaHood, Jarrett
	California State	Allan Zaremberg	President & CEO	California Chamber of Commerce	24-May	Feinstein (only copy they sent us) but also sent to Boxer, Pelosi, & CA Delegation
	Inyokern	Scott A. Seymour	General Manager	Inyokern Airport	1-Jun	Feinstein, Boxer, McCarthy
	Los Angeles	Mary Leslie	President	Los Angeles Business Council	7-Jun	Feinstein, Boxer, Holder, LaHood, Jarrett, Pelosi
	Los Angeles	Gary Toebben	President & CEO	Los Angeles Chamber of Commerce	19-May	Boxer, Feinstein, Pelosi, & LA Congressional Delegation
	Los Angeles	Eric Garcetti	President	Los Angeles City Council	8-Jun	Boxer, Feinstein, Pelosi & LA Congressional Delegation w/ cc's to Holder, LaHood & Jarrett
	Los Angeles	Gina Marie Lindsey	Executive Director	Los Angeles World Airports	14-Jun	Boxer, Feinstein, Pelosi
	Monterey	Thomas E. Greer	General Manager	Monterey Peninsula Airport District	3-Jun	Boxer, Feinstein, Farr
	Palm Springs	Thomas Nolan	Executive Director	Palm Springs International Airport	15-Jun	Boxer, Feinstein, Pelosi, Bono Mack
	Sacramento	G. Hardy Acree	Director of Airports	Sacramento County Airport Systems	8-Jun	Boxer, Feinstein, Pelosi, Lungren, Matsui, McClintock, Herger, Thompson, Garamendi
	San Francisco	Jim Wunderman	President & CEO	Bay Area Council	20-May	Feinstein (only copy they sent us) but also sent to Boxer, Pelosi, & Speier
	San Francisco	Ginny Fang	Director	ChinaSF	10-Jun	Boxer, Feinstein, Pelosi, & Speier
	San Francisco	David Chiu	President	San Francisco Board of Supervisors	28-Jun	Boxer, Feinstein, Pelosi, Speier, Holder, LaHood, Jarrett
	San Francisco	Bevan Dufty	Member	San Francisco Board of Supervisors	25-Jun	Feinstein (only copy), Boxer, Pelosi and cc's to Holder, LaHood, & Jarrett
	San Francisco	Dennis Conaghan	Executive Director	San Francisco Center for Economic Development	15-Jun	Boxer, Feinstein, Pelosi & Speier
	San Francisco	Steven Falk	President & CEO	San Francisco Chamber of Commerce	24-May	Boxer, Feinstein, Pelosi, & Speier

	San Francisco	Joe D'Alessandro	President & CEO	San Francisco Convention & Vistors Bureau	27-May	Boxer (only copy sent) but also sent to Feinstein, Pelosi, & Speier
	San Jose	William F. Sherry	Director of Aviation	Norman Y. Mineta San Jose International Airport	10-Jun	Pelosi, Honda, Lofgren & Eshoo (only copies) but also sent to Boxer, Feinstein
	Santa Barbara	Helene Schneider	Mayor	City of Santa Barbara	3-Jun	Boxer, Feinstein, Pelosi
Colorado						
	Colorado State	Bill Ritter, Jr.	Governor	State of Colorado	24-May	Holder, LaHood, Jarrett, Udall, Bennet, & CO Delegation
	Colorado State	Brandon C. Shaffer	President of the Senate	State of Colorado - State Senate	28-May	Udall, Bennet, DeGette
	Aspen	George Newman	Chair,	Board of County Commissioners (Pitkin County, CO)	10-Jun	CO Congressional Delegation
	Colorado Springs	Mark Earle	Director of Aviation	Colorado Springs Airport	14-Jun	Udall, Bennet, Lamborn
	Denver	John Hickenlooper	Mayor	City of Denver	1-Jun	Udall, Bennet, DeGette
	Denver	Perry Pearce	Chairman	Colorado Competitive Council (C3)	24-May	Udall, Bennet
	Denver	Don Kortz	Co-Chairman	Colorado Concern	25-May	Udall, Bennet, DeGette
	Denver	Kim Day	Manager of Aviation	Denver International Airport	1-Jun	Udall, Bennet, DeGette
	Denver	Kelly J. Brough	President & CEO	Denver Metro Chamber of Commerce	26-May	Udall, Bennet, DeGette
	Denver	Michael J. Caflisch	Chair	Metro Denver Aviation Coalition	27-May	Udall, Bennet, DeGette
	Denver	Tom Clark	Executive Vice President	Metro Denver Economic Development Corporation	1-Jun	Udall, Bennet, DeGette
	Denver	Richard W. Scharf	President & CEO	Visit Denver, The Convention & Vistors Bureau	24-May	Udall, Bennet, DeGette
	Durango	Ron Dent	Director of Aviation	Durango La Plata County Airport (DRO)	4-Jun	Udall, Bennet, Salazar
	Hayden	D. E. Ruppel	Airport Manager	Yampa Valley Regional Airport (Steamboat Springs, Hayden, Craig)	10-Jun	Udall, Bennet, Salazar
Hawaii						
	Hawaii State	Linda Lingle	Governor	State of Hawaii	26-May	Akaka, Inouye, Hirono, Reid, Pelosi, Holder, LaHood, Jarrett
	Hawaii State	Jim Tollefson	President & CEO	The Chamber of Commerce of Hawaii	20-May	Hirono, Pelosi, Akaka, Inouye

	Hawaii State	Mike McCartney	President & CEO	Hawai'l Tourism Authority	26-May	Akaka, Inouye, Hirono, Pelosi, Djou
	Hawaii State	John Monahan	President & CEO	Hawaii Vistors & Convention Bureau	3-Jun	Inouye, Akaka, Hirono, & Pelosi
Illinois						
	Chicago	Richard Daley	Mayor	City of Chicago	1-Jun	Durbin, Burris, Jarrett, Holder, LaHood, and the entire IL Delegation
	Chicago	Rosemarie Andolino	Commissioner	Chicago Dept. of Aviation	1-Jun	Durbin, Burris and cc's to Holder, LaHood, Jarrett and IL Delegation
	Chicago	Jerry Roper	President & CEO	Chicagoland Chamber of Commerce	20-May	Durbin, Burris, and cc to IL Delegation
	Chicago	Gregory Baise	President & CEO	Illinois Manufacturers'' Association	19-May	Durbin, Burris, cc's to IL Delegation
	Illinois State	Pat Quinn	Governor	State of Illinois	22-May	Durbin, Burris, cc's to Holder, LaHood, Jarrett, IL Congressional Delegation
	Illinois State	Doug Whitley	President & CEO	Illinois Chamber of Commerce	25-May	Durbin, Burris, and cc to IL Delegation
	Moline	Don Welvaert	Mayor	City of Moline	18-May	Durbin, Burris, Hare
	Moline	Bruce Carter	Director of Aviation	Quad City International Airport	25-May	Durbin, Burris, Hare
	Moline	Rick Baker	President & CEO	Quad City Chamber of Commerce	19-May	Durbin, Burris, Hare
	Peoria	Jim Ardis	Mayor	City of Peoria	9-Jun	Durbin, Burris, Schock
	Springfield	Timothy Davlin	Mayor	City of Springfield	24-May	Durbin, Burris, Hare, Shimkus, Schock
	Springfield	Gary Plummer	President & CEO	The Greater Springfield Chamber of Commerce	10-Jun	Durbin, Burris, Hare, Shimkus, Schock
Kentucky						
	Lexington	Eric Frankl	Executive Director	Blue Grass Airport	24-Jun	McConnell, Bunning, Chandler
Michigan						
	Detroit	Dave Bing	Mayor	City of Detroit	17-Jun	Levin, Stabenow, Kilpatrick, & Conyers (Conyers r'cd 6/22). CC's to Holder, LaHood, Jarrett
	Lansing	Robert F. Selig	Executive Director	Capital Region Airport Authority	7-Jun	Levin, Stabenow, Rogers
	Lansing	Virg Bernero	Mayor	City of Lansing	28-Jun	Levin, Stabenow, Schauer, Rogers

	Traverse City	Douglas Luciani	President & CEO	Traverse City Area Chamber of Commerce	24-Jun	Levin, Stabenow, Camp
Missouri						
	Kansas City	Mark VanLoh	Director of Aviation	Kansas City International Airport	21-Jun	Bond, McCaskill, Graves, Cleaver
	St. Louis	Rhonda Hamm-Niebruegge	Director of Airports	Lambert-St. Louis International Airport (also includes City of St. Louis as supportive)	29-Jun	Bond, McCaskill, Clay, Akin, Carnahan
North Carolina						
	Greensboro	Edward Johnson	Executive Director	Piedmont Triad International Airport, Greensboro	21-Jun	Burr, Hagan, Coble, Miller & Watt
North Dakota						
	Fargo	Shawn Dobberstein	Executive Director	Municipal Airport Authority, City of Fargo	14-Jun	Dorgan, Conrad, Pomeroy
	Minot	Curt Zimbelman	Mayor	City of Minot	11-Jun	Dorgan, Conrad, Pomeroy
	Minot	Andrew Solsvig	Airport Director	Minot Interational Airport	11-Jun	Dorgan, Conrad, Pomeroy
Oregon						
	Coos Bay (North Bend, SW Oregon)	Lucinda DiNovo	President	Bay Area Chamber of Commerce	18-Jun	Wyden, Merkley, DeFazio
	Eugene	Timothy Doll	Airport Director	Eugene Airport	10-Jun	Wyden, Merkley, DeFazio
	Klamath Falls	Charles Massie	Executive Director	Klamath County Chamber of Commerce	25-Jun	Wyden, Merkley, Walden
	Medford	Gary Wheeler	Mayor	City of Medford	15-Jun	Wyden, Merkley, Walden
	Medford	Bruce Hoevet & Brad S. Hicks	Chairman of the Board, President & CEO	The Chamber of Medford/Jackson County	9-Jun	Merkley, Wyden, Walden
	North Bend	Theresa M. Cook	Executive Director	Southwest Oregon Regional Airport	8-Jun	Wyden, Merkley, DeFazio
	Redmond	Carolyn Novick	Airport Manager	Redmond Airport - Robert's Field	15-Jun	Wyden, Merkley, Walden (Walden added on 6/17)
	Redmond	Eric Sandle	Executive Director	Redmond Chamber of Commerce & CVB	15-Jun	Wyden, Merkley, Walden
Pennsylvania						
	Harrisburg	Timothy J. Edwards	Executive Director	Harrisburg International Airport	24-Jun	Casey, Specter, Holden

Virginia						
	Fairfax County	Jim Corcoran	President & CEO	Fairfax County Chamber of Commerce (Vienna, VA)	28-Jun	Webb, Warner
	Loudoun County	Anthony J. Howard	President & CEO	Loudoun County Chamber of Commerce	24-May	Webb, Warner
	Shenandoah Valley	Greg Campbell	Airport Director	Shenandoah Valley Regional Airport	24-May	Webb, Warner, Goodlatte
Washington						
	Seattle	Phil Bussey	President & CEO	Greater Seattle Chamber of Commerce	8-Jun	Murray (only copy to UA) but also to Cantwell and the entire WA Congressional delegation
	Spokane	Mary Verner	Mayor	City of Spokane	15-Jun	Cantwell, Murray, McMorris Rodgers
	Spokane	Richard Hadley	President & CEO	Greater Spokane Incorporated	14-Jun	Cantwell, Murray, McMorris Rodgers
	Spokane	Neal Sealock	Director	Spokane International Airport	17-Jun	Cantwell, Murray, McMorris Rodgers
	Tri-Cities	Steve Young, Matt Watkins, John Fox	Mayors	Tri-Cities of Kennewick, Pasco, Richland	21-Jun	Cantwell, Murray, Hastings
West Virginia						
	West Virginia State	Joe Manchin III	Governor	State of West Virginia	3-Jun	Byrd, Rockefeller, Mollohan, Rahall, & Capito with cc's to Holder, LaHood, & Jarrett
	Beckley	Ellen M. Taylor	President & CEO	Beckley-Raleigh County Chamber of Commerce	15-Jun	Byrd, Rockefeller, Rahall
	Beckley	Emmett S. Pugh III	Mayor	City of Beckley	16-Jun	Byrd, Rockefeller, Rahall
	Beckley	Tom Cochran	Airport Manager	Raleigh County Memorial Airport (BKW) Beckley, WV	15-Jun	Byrd, Rockefeller, Rahall
Wisconsin						
	Appleton	Martin P. Lenss	Airport Director	Outagamie County Regional Airport (ATW) Appleton Wisconsin	15-Jun	Feingold, Kohl, Kagen
	Eau Claire	Charity Speich	Airport Manager	Chippewa Valley Regional Airport (Eau Claire)	18-Jun	Feingold, Kohl, Kind, Obey
	Eau Claire	John Dickey	Chairman of the Board	Eau Claire Chamber of Commerce	17-Jun	Feingold, Kohl, Kind
	Green Bay	Paul F. Jadin	President	Green Bay Area Chamber of Commerce	8-Jun	Feingold, Kohl, Kagen

	Milwaukee	Steve Baas	Director, Government Affairs	Metropolitan Milwaukee Association of Commerce	10-Jun	Feingold (only copy) but also sent to Kohl, and Milwaukee congressional delegation
	Wausau	James E. Tipple	Mayor	City of Wausau	4-Jun	Feingold, Kohl, Obey

PEMCO
WORLD AIR SERVICES

June 20, 2010

The Honorable Jeff Sessions
United States Senate
326 Russell Senate Office Building
Washington, D.C. 20510-0104

Dear Senator Sessions:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. The merger could allow us to build on our current relationship and become a stronger partner with the combined airline. Given the upheaval in the airline industry of the past decade, this is particularly good news for our company and our thousand employees in Tampa, Florida, Dothan, Alabama and Cincinnati, Ohio/Northern Kentucky.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level, and we want to be a part of their future success.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of PEMCO's support for the merger and hope you will support it, too.

Sincerely,
Pemco World Air Services

Kevin Casey
President

100 Pemco Drive • Dothan, Alabama 36303 • Phone (334) 983-7000 • Fax (334) 983-7022

Chippewa Valley
REGIONAL AIRPORT

June 18, 2010

The Honorable Russell D. Feingold
506 Hart Senate Office Building
Washington, DC 20510
Fax: 202-224-2725

Dear Senator Feingold:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because of the benefits for the customers who use the Chippewa Valley Regional Airport in Eau Claire.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation environment.

In the last ten years, airlines have cut back on service, which has harmed the operations of airports large and small. The combined company will have the network breadth and financial strength to turn the tide. United and Continental will maintain service to all the communities they now serve with the possibility of adding domestic and international routes to their current 370 destinations around the world. This is good news for the Chippewa Valley Regional Airport and everyone who flies from here.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of our support for the merger and hope you will support it, too.

Sincerely,

Charity Speich

Charity Speich, C.M.
Airport Manager

3800 Starr Avenue . Eau Claire, WI 54703 . 715-839-6241 . cvra@clearwire.net
www.chippewavalleyairport.com

SAN FRANCISCO
CHAMBER OF COMMERCE

Steven B. Falk
President & CEO

May 21, 2010

Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Senator Feinstein,

I am writing to express my enthusiastic support for the proposed merger of United and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses in San Francisco, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, and that is exactly what we need in San Francisco to keep our economy on the right path.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of our support for the merger and hope you will support it as well.

Sincerely,

Steven B. Falk

235 Montgomery St., 12th Flr., San Francisco, CA 94104 • tel 415 392 4520 / fax 415 392 0485

Metro **Denver**
AVIATION COALITION

May 27, 2010

The Honorable Michael Bennet
United States Senate
702 Hart Senate Office Building
Washington DC, 20510

Dear Senator Bennet:

On behalf of the Metro Denver Aviation Coalition (MDAC), I am writing to express support for the proposed merger of United Airlines and Continental Airlines.

MDAC is a membership committee of the Metro Denver Economic Development Corporation dedicated to the continued growth of Metro Denver's aviation industry, and the success of Denver International Airport (DIA) and the region's general aviation and reliever airports. Its membership encompasses a broad spectrum of business leaders from both private and public sector who provide advocacy and support for aviation job growth planning, infrastructure development, and route expansion and retention.

We believe that a successful merger of United and Continental Airlines will result in a financially stronger and sustainable airline that will contribute to the continued growth and success of DIA. The new airline's increased financial strength will positively impact the job stability of nearly 5,000 employees, and we are also encouraged by the new company's intent to offer performance-based incentive compensation programs.

In this challenging economic environment, airline stability and access to key routes are increasingly important for business. The combined airline's access to 370 domestic and international destinations will play a key role in helping Colorado businesses stay competitive in today's global marketplace. Both companies have also worked together as Star Alliance members, and this merger will take that partnership to the next level.

We ask that you convey the Metro Denver Aviation Coalition's support for the merger to Attorney General Holder and Transportation Secretary LaHood, and hope that you will also support it.

Sincerely,

Michael J. Caflisch
Chair, Metro Denver Aviation Coalition

1445 Market Street • Denver • CO. 80202
Tel: (303) 620 8083

Metro **Denver**
Economic Development Corporation

May 27, 2010

The Honorable Diana DeGette
United States House of Representatives
2335 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative DeGette:

On behalf of the Metro Denver Economic Development Corporation, I am writing to express support for the proposed merger of United Airlines and Continental Airlines.

The Metro Denver EDC's strategy in crafting the region's economic development efforts focuses on the types of industries to target for growth and retention. The aviation industry is one of our seven major industry clusters in the nine-county Metro Denver and Northern Colorado region key to our economic base.

The nine-county region ranked 10th out of the 50 largest metro areas for aviation employment concentration in 2009. With direct employment of about 15,690 aviation employees, the region ranked 11th out of the 50 largest metro areas in absolute employment. United and Continental Airlines employ approximately 4,600 people in Colorado,

We believe that a successful merger of United and Continental Airlines will result in a financially stronger and sustainable airline that will contribute to the continued growth and success of DIA.

The combined airline's access to 370 domestic and international destinations will play a key role in helping Colorado businesses stay competitive in today's global marketplace. Both companies have also worked together as Star Alliance members, and this merger will take that partnership to the next level.

We ask that you convey the Metro Denver Economic Development Corporation's support for the merger to Attorney General Holder and Transportation Secretary LaHood, and hope that you will also support it.

Sincerely,

Tom Clark

Tom Clark
Executive Vice President, Metro Denver EDC

1445 Market Street • Denver • CO. 80202
Tel: (303) 620 8083

CITY OF ORLANDO

OFFICE OF
BUDDY DYER
MAYOR

June 11, 2010

Honorable Bill Nelson
United States Senator
716 Hart Senate Office Building
Washington, DC 20510

Honorable George LeMieux
United States Senator
356 Russell Senate Office Building
Washington, DC 20510

Dear Senators Nelson and LeMieux:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and residents of Orlando, the employees of the combined airline, and our local economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses and residents in Orlando, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, while tourists will find it more convenient to visit our city. This is exactly what we need to keep our economy on the right path.

With the combined airline's increased financial strength will also provide enhanced job stability for the 1,600 Florida employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our businesses are able to realize the benefits of the merger without delay.

Sincerely,

Buddy Dyer

Buddy Dyer
Mayor

CITY HALL • 400 SOUTH ORANGE AVENUE • P.O. BOX 4990 • ORLANDO, FLORIDA 32802-4990
PHONE (407) 246-2221 • FAX (407) 246-2842 • http://www.cityoforlando.net

BAY AREA COUNCIL

May 20, 2010

Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Senator Feinstein:

I am writing to express Bay Area Council support for the proposed merger of United Airlines and Continental Airlines. As you know, airline services are a key driver and enabler of the Bay Area's innovative, world-leading businesses, providing vital connections to other powerhouse regions and innovation centers in the United States and abroad. The Bay Area's economy and workers will benefit from the merger of United and Continental, thanks to a stronger airline that can expand travel options to and from the Bay Area.

United and Continental are well-suited to combine, having very little overlap on existing routes and many synergies to offer to airline customers. With the most complementary route networks of any domestically owned airlines, the combined carrier will offer convenient access across the nation and to Asia, Europe, Latin America, Africa and the Middle East. Business travelers will have an easier time reaching customers and conducting business with far flung partners. At the same time, the tourism economy of the Bay Area will benefit from easier domestic and international travel connections.

United and Continental have already been working together as members of the Star Alliance. A full merger of United and Continental will expand this existing partnership and will create a financially stronger airline that can survive and prosper in an increasingly competitive domestic and international aviation industry.

The combined airline's increased financial strength will also provide enhanced job stability for the 14,000 California employees of the combined airline. The companies have said they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen the two airlines through recent challenges shows good faith, and it's important to the California and Bay Area economy.

As you discuss this proposed merger with Attorney General Holder and Transportation Secretary LaHood, please feel free to let them know that the Bay Area Council supports the merger. I hope that you will give this merger your enthusiastic support as well.

Best,

Jim Wunderman

Jim Wunderman
President and CEO

BRANDON C. SHAFFER
SENATE DISTRICT 17
brandon@brandonshaffer.com

STATE CAPITOL BUILDING, ROOM 257
200 E. COLFAX AVENUE
DENVER, COLORADO 80203
(303) 866-5291

SENATE
STATE OF COLORADO
DENVER

PRESIDENT OF THE SENATE

May 25, 2010

The Honorable Mark Udall
United States Senate
317 Hart Office Building
Washington, D.C. 20510

We are writing to express our support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and residents of our state, the employees of the combined airline and our Colorado economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. For businesses and residents in the Denver metro area, this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, while tourists will find it more convenient to visit our city/state. This is exactly what we need to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the nearly 5000 Colorado employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

We ask that you let Attorney General Holder and Transportation Secretary LaHood know of our support for the merger and hope you will support it, too.

Sincerely,

Brandon C. Shaffer	Michael Johnston
President	Senator

John W. Hickenlooper
MAYOR

City and County of Denver
OFFICE OF THE MAYOR
CITY AND COUNTY BUILDING
DENVER, COLORADO • 80202-5390
TELEPHONE: 720-865-9000 • FAX: 720-865-9040
TTY / TTD: 720-865-9010

May 24, 2010

The Honorable Diana DeGette
United States House of Representatives
2335 Rayburn House Office Building
Washington, DC 20515

Dear Representative DeGette:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and residents of our state, the employees of the combined airline and our Colorado economy.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for businesses and residents in Denver this means we can look forward to the combined airline providing access to 370 destinations around the globe.

United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country. Corporate travelers will have an easier time making connections, reaching customers and doing business, while tourists will find it more convenient to visit our city/state. This is exactly what we need to keep our economy on the right path.

The combined airline's increased financial strength will also provide enhanced job stability for the nearly 5000 Colorado employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of my support for the merger and hope you will support it, too.

Sincerely,

John W. Hickenlooper
Mayor

PEMCO
WORLD AIR SERVICES

June 20, 2010

The Honorable Bobby Bright
United States House of Representatives
1205 Longworth House Office Building
Washington, D.C. 20515-0102

Dear Representative Bright:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. The merger could allow us to build on our current relationship and become a stronger partner with the combined airline. Given the upheaval in the airline industry of the past decade, this is particularly good news for our company and our thousand employees in Tampa, Florida, Dothan, Alabama and Cincinnati, Ohio/Northern Kentucky.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level, and we want to be a part of their future success.

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of PEMCO's support for the merger and hope you will support it, too.

Sincerely,
Pemco World Air Services

Kevin Casey
President

City of Chicago
Richard M. Daley, Mayor

Chicago Department of Aviation

Rosemarie S. Andolino
Commissioner

Chicago O'Hare International Airport
P.O. Box 66142
Chicago, Illinois 60666
(773) 686-2200
(773) 686-8333 (TTY)

O'Hare Modernization Program
P.O. Box 66142
10510 W. Zemke Road
Chicago, IL 60666
(773) 462-7300
(773) 462-8552 (Fax)

Chicago Midway International Airport
5700 South Cicero Avenue
Chicago, Illinois 60638
(773) 838-0600
(773) 838-0795 (TTY)

www.flychicago.com
www.OhareModernization.org

May 28, 2010

The Honorable Roland Burris
United States Senator
387 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Burris:

As Commissioner and on behalf of the Chicago Department of Aviation (CDA), I write to express my support for the proposed merger of United Airlines and Continental Airlines. It is my belief that the merger will create a more sustainable and financially sound airline.

A stronger more viable United Airlines is good for O'Hare International Airport and the City of Chicago. The combined carrier will become the world's largest airline, and as progress continues on the O'Hare Modernization Program, O'Hare will be ready to accommodate the additional capacity for potential growth. This will further strengthen O'Hare and Chicago's reputation as an important global center for aviation and business.

United and Continental are well-suited to combine. They have said that they will maintain service to all the communities they now serve, and possibly add domestic and international routes to their current 370 destinations around the world. The two airlines have complementary route networks, offering convenient access to Asia, Europe, Latin America, Africa and the Middle East. As a result, the merger will strengthen O'Hare's importance in the global aviation system providing even more connections from Chicago to cities around the world.

Thank you for your consideration and for all of your efforts to ensure Chicago's airports remain at the forefront of the global aviation system.

Sincerely,

Rosemarie S. Andolino
Commissioner

cc: Members of Illinois' U.S. Congressional Delegation
Eric H. Holder, Jr., Attorney General, U.S. Department of Justice
Ray LaHood, Secretary, U.S. Department of Transportation
Valerie B. Jarrett, Senior Advisor, Executive Office of the President

State of West Virginia
Joe Manchin III
Governor

Office of the Governor
State Capitol
1900 Kanawha Boulevard, East
Charleston, WV 25305

Telephone: (304) 558-2000
Toll Free: 1-888-438-2731
FAX: (304) 342-7025
www.wvgov.org

June 4, 2010

The Honorable Robert C. Byrd
United States Senate
311 Hart Senate Office Building
Washington, DC 20510

The Honorable John D. Rockefeller IV
United States Senate
531 Hart Senate Office Building
Washington, DC 20510

Dear Senator Byrd and Senator Rockefeller:

I am writing to express my support for the proposed merger of United Airlines and Continental Airlines because it will benefit the businesses and residents of West Virginia, the employees of the combined airline and our state economy.

We can look forward to the combined airline serving six airports across the Mountain State, providing access to 222 domestic and 148 international destinations around the globe. United and Continental have very little overlap on routes. By coming together, they will offer a seamless global network with eight hubs across the country, and will have the industry's leading frequent flyer program. Corporate travelers will have an easier time making connections, reaching customers and doing business in our state, while tourists will find it more convenient to visit our state. This is exactly what we need to keep our economy on the right path.

The combined airline's increased financial strength and sustainability will also provide enhanced job stability for the West Virginia employees of the combined airline. The companies have said that they believe the impact of the merger on frontline employees will be minimal and that they will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it's important to our economy.

OFFICE OF THE GOVERNOR

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

With warmest regards,

Joe Manchin III
Governor

cc: Attorney General Eric Holder
Transportation Secretary Ray LaHood
Senior Advisor Valerie Jarrett

CAPITAL REGION AIRPORT AUTHORITY

June 7, 2010

The Honorable Mike Rogers
133 Cannon House Office Building
Washington, DC 20515

Re: Support for the United / Continental Merger

Dear Congressman Rogers:

Mid-Michigan has enjoyed the services of United Airlines through Chicago for many years. Further, the Airport Authority continues to encourage United to provide non-stop service from Lansing, MI (Michigan's capital city) to Washington D.C., the region's highest demand business destination.

Additionally, the Airport Authority has actively solicited the introduction of Continental Airlines services from Lansing to Continental hub airports at Cleveland, OH and Newark, NJ. Airport Authority market analysis has demonstrated sufficient demand for these services, yet Continental has reported that they do not have the aircraft available to meet this regional community need.

Accordingly, the Capital Region Airport Authority requests that the federal government do everything possible to enable the continued, and expanded, operation of United Airlines and Continental Airlines out of the Capital Region International Airport. This includes supporting the proposed merger between United and Continental.

The Airport Authority's support for the United / Continental merger is based upon the commitment from United Airlines that it will maintain service to all the communities they now serve with the possibility of adding domestic and international routes to their current 370 destinations around the world. This means that Mid-Michigan will at least continue to receive the same level of service (4-5 daily flights) that has been experienced in the past. While we trust in this United commitment, it is important to note that air service to / from Lansing, MI has not benefited from airline mergers in the past. In the most recent experience, the region experienced a significant decline in air service prior to and after the Delta / Northwest merger. This air service reduction has seriously impacted the Airport and the Mid-Michigan travel economy.

United reports that the merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation environment. United recognizes that, in the last ten years, airlines have cut back on service nationally, which has harmed the operations of airports large and small. Yet, United and Continental report that it is their intent that the combined company will have the network breadth and financial strength to turn the tide by increasing regional community access to the national air transportation system. This is certainly good news for the Capital Region International Airport and everyone who flies from Mid-Michigan.

In conclusion, the Capital Region Airport Authority, and Mid-Michigan travelers, hope that a "new" United's improved financial condition will equate to expanded United flights to hub destinations noted above that will in turn fill the air travel void created by the downsizing of other airline mergers.

Sincerely,

Robert F. Selig, AAE
Executive Director

DENVER METRO CHAMBER OF COMMERCE

May 24, 2010

The Honorable Mark Udall
United States Senate
317 Hart Office Building
Washington, D.C. 20510

Dear Senator Udall:

I am writing to express the Denver Metro Chamber of Commerce's support for the proposed merger of United Airlines and Continental Airlines.

This new company will benefit Colorado by creating a financially stronger, sustainable airline. As Denver International Airport (DIA) continues to grow, stability in the aviation industry will be key to DIA's future success. For businesses in Colorado, that stability means we can look forward to the combined airline providing access to 370 destinations around the globe and better business access for Colorado companies.

The combined airline's increased financial strength will also provide enhanced job stability for nearly 5,000 employees. We continue to have confidence that the impact of the merger on frontline employees will be minimal and that the new company will offer performance-based incentive compensation programs. This kind of commitment to the employees who have seen them through recent challenges shows good faith, and it is important to our local economy.

United and Continental are well-suited to combine. They have the most complementary route networks of any U.S. carriers and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. The two companies have also worked together as members of the Star Alliance. This merger will take their partnership to the next level.

I ask that you let Attorney General Holder and Transportation Secretary LaHood know of the Denver Metro Chamber's support for the merger and hope you will also support it.

Best regards,

Kelly Jean Brough

Kelly J. Brough
President & CEO

Denver
1445 Market Street, Denver, CO 80202 · 303-534-8500 · fax 303-534-3200 · www.denverchamber.org

Automatic Data Processing, Inc.
One ADP Boulevard
Roseland, NJ 07068
973 974 5000 Phone

June 1, 2010

The Honorable Robert Menendez
United States Senate
528 Hart Senate Office Building
Washington, DC 20510-3002

Dear Senator Menendez:

I am writing to express my enthusiastic support for the proposed merger of United Airlines and Continental Airlines because it will benefit ADP and our employees.

The merger of United and Continental will create a financially stronger, sustainable airline that will be better able to succeed in an increasingly competitive domestic and international aviation industry. And for ADP, this means we can rely on the combined airline to provide the foundation for opportunity that comes with access to 370 destinations around the globe.

United and Continental have very little overlap on routes and are well-suited to combine. By coming together, they will offer a seamless global network with eight hubs across the country and will offer convenient access to Asia, Europe, Latin America, Africa and the Middle East. Corporate travelers will have an easier time making connections, reaching customers and doing business, which will benefit ADP and the business travel industry.

The combined airline will also be positioned to continue its investment in globally competitive products, upgrade technology, refurbish and replace older aircraft, and implement best-in-class practices of both airlines. [It will also offer the industry's leading loyalty program, providing access to more benefits than any other program, with more ways to earn and redeem miles.] [As a member of the Star Alliance, the combined airline will provide loyalty program members with the opportunity to use miles for award travel with partner airlines to more than 1,000 destinations around the world.]

I urge you to support a fair, expeditious and ultimately favorable regulatory review so that our business is able to realize the benefits of the merger without delay. I ask that you let Attorney General Holder and Transportation Secretary LaHood know of our support for the merger and hope you will support it, too.

Sincerely,

Deolinda da Costa

Deolinda da Costa
Vice President
Automatic Data Processing, Inc (ADP)

The American Antitrust Institute

TESTIMONY OF THE AMERICAN ANTITRUST INSTITUTE BEFORE THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON AVIATION, ON THE PROPOSED UNITED-CONTINENTAL MERGER: POSSIBLE EFFECTS FOR CONSUMERS AND INDUSTRY

ALBERT A. FOER
AMERICAN ANTITRUST INSTITUTE
JUNE 16, 2010

Introduction

I am Albert A. Foer, President of the American Antitrust Institute. The AAI is a 12-year-old independent non- profit education, research, and advocacy organization. We operate as a network of more than 100 antitrust experts, including men and women trained and experienced in law, economics, and business. The AAI believes that the vigorous enforcement of the antitrust laws is the best way to protect consumers, innovation, and the economy as a whole from anticompetitive corporate behavior, and in this way ensure that competition will be both aggressive and fair. For further background, visit www.antitrustinstitute.org. We are currently working on a white paper on the proposed United-Continental merger that we will make available to the Committee when it is completed. Testimony on the United-Continental merger was presented on May 27 to the Senate Judiciary Committee on behalf of the AAI by Professor Darren Bush of the University of Houston Law Center.[1]

I previously testified before this Committee in 2008, to discuss the merger between Delta and Northwest.[2] I confess to having succumbed to the temptation to submit nearly the identical

[1] http://www.antitrustinstitute.org/archives/files/Bush%20Testimony%205-27_052720101125.pdf (May 27, 2010).
[2] http://www.antitrustinstitute.org/archives/files/TESTIMONY%20Delta-NW%20AAI%20%205-14-08_051420080959.pdf (May 14, 2008). We also issued a more extensive White Paper, http://www.antitrustinstitute.org/Archives/deltaNWpaper.ashx.

2919 ELLICOTT ST, NW • WASHINGTON, DC 20008
PHONE: 202-276-6002 • FAX: 202-966-8711 • bfoer@antitrustinstitute.org
www.antitrustinstitute.org

testimonial statement, substituting the names United and Continental for Delta and Northwest. In that earlier testimony, I predicted, along with many others, that a merger between United and Continental would follow if Delta-Northwest was permitted. Today I'll predict that there will be one more major consolidation, perhaps between American and US Airways, if the current merger is permitted. The American consumer will then be left with three national network carriers plus Southwest, and a few small low cost point-to-point carriers.

Since most of my analysis today closely resembles my analysis in 2008, my first recommendation to the Subcommittee is to hold retrospective hearings on the Delta-Northwest merger. Has it accomplished its stated objectives? Is the American consumer better off? Has competition been adequately protected? Were projected efficiencies obtained? I do not have answers to these questions to offer at the moment, and I do not know if enough time has gone by for enough integration of the two airlines to have been achieved so that a convincing evaluation currently can be made; but there is no question the answers would be invaluable in our efforts to predict the implications of a United-Continental marriage. Indeed, it might make sense to delay the consummation of this merger until a credible study of the prior merger can be taken into account. This is too important a decision to be rushed. Indeed, as a matter of policy, all questionable mergers that are permitted should be conditioned on making follow-up evaluatory data available.

1. Getting the Perspective Right

It is critical to place this merger into context. I will be using the terms "network" and "system" more or less interchangeably. The essential points are that: (1) this is an industry in which there are substantial network effects, but the incremental costs of expanding an already large network may offset the network benefits; (2) the industry is already concentrated on a national basis, but this generalization underestimates the market power that is present at most hubs and on most routes; (3) a merger of this magnitude will in all probability lead to at least one more merger of similar size; and (4) this merger will itself likely lead to rationalizing capacity by closing or scaling back hubs, probably in the Midwest, which will harm a significant number of consumers. These considerations require us to ask not only the standard question of whether this merger should be allowed to go through after requiring the divestiture of identifiable overlapping city pairs in a few concentrated routes, but also the more fundamental question of whether the four or possibly three national networks that will emerge from this process will be sufficient to provide a satisfactory range of choice and service and sufficient competition to keep prices close to costs.

The airlines predictably assert that the merger brings efficiency benefits from economies of scale and scope, but these—to the extent they are likely to be realized-- must be weighed against inefficiencies due to other diseconomies of scale and scope and the reduction in competition between systems arising from the merger. For consumers not to be harmed, the benefits of the merger must outweigh the costs *and* at least some of these net benefits must be passed on to consumers in the form of lower prices and improved service.

2. The Limits of Standard Antitrust Analysis

Standard antitrust analysis focuses on horizontal overlaps between airport pairs and (in certain markets) between city pairs. If an origin and destination route is served by only a few airlines and the merger will leave the particular market more highly concentrated, the DOJ will likely—and properly—require a divestiture or some other arrangement with respect to that route, as a condition of approving the transaction. Because this is standard operating procedure, I will not address it further, except to note that this conventional approach tends to downplay the important role of potential competition in airline markets. Airlines not presently serving a route but which can fairly readily enter, serve to constrain pricing, and mergers that eliminate such a constraint may be anticompetitive just like mergers between airlines that currently do serve the market.

Standard overlap analysis is necessary but it should not be considered sufficient, because it captures only one part of the competition picture. In many markets, additional capacity can enter or depart a given city pair route with ease, which suggests that substantial competition occurs at the network level. Additional observations about competition at the network level will be provided later in this statement.

In contemplating an airline merger, the observer's lens needs to be adjusted in order to look not only at the trees but also at the forest. A more complete analysis must answer these questions: how many airline networks or systems are enough to guarantee the kind of pricing, service, convenience and innovation that the American public desires from its air transportation industry? How many are enough to provide the current competition or potential entry on specific routes that can serve as a constraint on higher prices by other systems?

3. Three Business Models

The airline industry in the U.S. consists of carriers following three principal business models: network, point-to-point, and hybrid. There are currently five major network carriers (American, Continental, Delta, United, and US Airways). Other carriers, including those that are categorized as "low cost carriers" and "connectors" either operate point-to-point or, as is the case of Southwest, have begun to move to a kind of hybrid of point-to-point and hub-oriented service.

It is possible, I suppose, that one day Southwest will become a national network carrier, but that remains to be seen. As things stand today, with United and Continental saying they will not close any hubs and Delta not having closed any hubs, it seems unlikely that Southwest would evolve into an additional network system within the coming few years. There are disadvantages as well as advantages to a network strategy, which will be discussed below.

The non-network carriers do play a role as competitors to the networks. In terms of capacity as measured by available seat miles, United-Continental will have over 200 million; Delta about 200 million; American about 150 million; Southwest about 100 million; and US Airways about 70 million. Airtran and Alaska will each have about 23 million.[3]

Southwest clearly influences prices wherever it competes, and there may be an effect even when Southwest is perceived as a potential competitor. But Southwest and the other low cost carriers have found their success by competing indirectly rather than directly with the networks. They are called low cost carriers in large part because they do not bear the costs of large networks. They do not offer the same type of one-stop shopping, frequent flyer benefits, or airport amenities as network carriers.

Decisions about the future of domestic air transportation should not rest on the concept that Southwest will always be around to provide price competition. Its strategy could change. Its management could make mistakes. It could choose to relax under the price umbrella of a tight oligopoly of network carriers. Public policy in the air transport sector should not rest on the

[3] GAO, Airline Mergers, Testimony before the U.S. Senate Committee on Commerce, Science, and Transportation, May 27, 2010, at 13.

shoulders of a single, albeit very successful maverick.

4. The Importance of Systems from a Network Perspective

There is some question as to whether the DOJ considers networks relevant from the demand side. Airline passengers benefit through network effects. When an airline adds service between its hub and a new location to accommodate passengers at that location, it also creates new service offerings between that location and other locations that can be reached through its hub. Code-sharing arrangements between airlines and other alliance functions can also facilitate network effects to the extent they promote coordination of schedules, route expansion, and the appearance of increased flight frequency.

From the perspective of the individual non-business air traveler, whether or not a carrier is part of a network may or may not be important, depending on what service is available from the origin to the ultimate destination. The benefit of a larger network is that it enables a consumer at any given city to reach more cities on the same airline, although most if not all of the additional choices involve changing planes. (The enhanced ability of a consumer to fly non-stop rather than via multiple legs would be an important consumer benefit. A one-stop journey generally adds at least an hour to a trip and increases the risk not only of delay but of danger in that most accidents occur on takeoff or landing.) If the traveler has frequent flyer miles, he or she may be biased to stay within a particular system, and indeed this may be a factor that makes new entry more difficult and which grows in value with the scope of the network.

From the perspective of businesses that negotiate the purchase of large amounts of travel service requiring specific scheduling, there is an advantage in that a single negotiation can cover a larger fraction of potential destinations and origins of flights.

If two airlines merge, both business and non-business customers receive a convenience benefit only if the average number of hops to reach all destinations goes down. For this to be a non-trivial effect, there must be significant cities that are not served by one of these carriers. Otherwise, one can get to any other city in one or two hops on either carrier.

Although networks may bring important consumer benefits as they grow, the incremental network benefits may decline as carriers get larger. Expanding a network by merger may add city-pair routes to those offered by the merged entity, but it is unlikely to create an in-system benefit to any given consumer if both carriers serve all major airports through each hub. Because low cost carriers compete only on certain non-stop routes, they provide at best only a limited discipline on a system-wide basis.

Network or system competition therefore should be taken into account in antitrust analysis from both the demand and supply side.

5. The Value of Considering Systems Competition

Each network can also be thought of as a "system," and we can say that for many purposes and for many travelers today, a particular travel experience can usually be accommodated by only one or two systems. Price competition on overlapping point-to-point routes is not the only dimension of rivalry under a systems view of airline competition. Travelers also look to the ease of connections, arrival and departure times, airport amenities, seamless baggage transfers, frequent flyer programs, etc. in making their airline choices. But airlines tend to think of their seats as a commodity, such that the systems carriers usually do not want to fly head-to- head against each other in circumstances where price would be the only differentiating factor-- which results in relatively few choices of airline for most non-stop flights.

One of the unique aspects of the proposed United-Continental merger is that both airlines are already part of the Star Alliance and to some extent already cooperate. A merger, of course, is broader in scope and has more thorough sharing than an alliance, whereas independent airlines can pull out of an alliance or switch alliances, and thus resume a more competitive role. A horizontal merger is forever.

6. The Role of Entry

What barriers constrain entry in the form of route expansion? With a number of important exceptions, mostly in congested airports serving hub functions, gates are not constrained. Importantly, dominant airlines have succeeded in deterring entry at their hubs through predatory strategies (such as temporary lower pricing perhaps combined with more flights and more promotional advertising) which neither antitrust nor regulation has been able to stop. To a large degree, it is a matter of strategic decision for the larger airlines whether they want to compete on certain routes. Why cannot United and Continental independently expand routes to gain greater network effects? Why is it more costly for United to add service rather than to buy the service from Continental, which is the practical effect of this merger? Overarching may be the efficiency question of why the most successful airlines are smaller, if network effects are supposed to be the dominant factor in airline success?

Whether non-system airlines such as Southwest, Airtran, Jet Blue and Frontier will become more like the system airlines is not clear and their potential entry as systems should therefore not be counted on in our current analysis of the industry. If two or more mergers of systems carriers occurs, Southwest and other non-system carriers may have the opportunity to pick up additional routes and perhaps even hubs, if hubs are abandoned or associated assets must be divested as a condition to merger clearance– possibilities that should not be taken for granted. Moreover, the non-network carriers might benefit from a raised price umbrella if a less competitive network strategic segment is able to raise its prices. Keep in mind that a low cost carrier that competes directly against a network carrier may not be in position to expand its output (i.e., carry more passengers), even though a price increase by the network carrier might encourage some passengers to switch carriers. If carrying more passengers is not feasible, the low cost carrier might as well raise its own prices.

Entry is particularly difficult in several well-known congested airports. Government policies could make entry for low cost carriers easier, which would improve the competitive situation in those airports. But such other factors as corporate contracts between businesses and network airlines, frequent flyer lock-in, and the difficulty of obtaining financial capital, availability of planes, and the FAA requirements for operating cash on hand are among the reasons why the public cannot count on low cost carriers to discipline post-merger price increases in the absence of vigorous competition between the systems airlines.

7. Using Caution in Considering the Parties' Efficiency Claims

If there is one thing that we have learned from the long history of antitrust, it is that efficiencies are easy to assert, difficult to achieve, and rarely of the magnitude that the parties project.

As in the Delta-Northwest merger, the principal efficiency claims being put forward in justification of this merger are economies of scale and scope on the supply side and rationalization of the use of planes to "right-fit" them to their routes.

The network airlines initially obtained large supply-side cost economies through the hub and spoke system resulting from increased traffic density, particularly as they induced increased passenger volumes on hub-to-hub flight segments. However, it appears that a system which relies too heavily on hubs is expensive to operate compared to a point- to-point system, and that there may be limits to the efficiency gains achievable through networks. For example, bigger networks create peak-load problems at an airport. The basic idea of a network is that all planes arrive at an airport at about the same time, the through-passengers then reassemble on different planes, and the planes depart at about the same time. This increases the disparity during the day in the number of arrivals and departures, and so creates problems for efficient staffing of gate, ticket, and maintenance personnel. By contrast, back-and-forth non-stops and multistep puddle jumps do not create as much of a peak-load problem.

The structure of the networks means that if weather or a mechanical problem causes a delay in the arrival of a plane at a hub, the problem quickly metastasizes throughout the system, as each delay causes a multitude of other delays. As networks grow, therefore, minor inconveniences become major national inconveniences, if not emergencies.

It is an empirical, not theoretical, issue to identify the point at which an airline begins to experience diseconomies of scale and scope. For mergers among big carriers, no one has found a significant net benefit. As such, many of the efficiency claims by the parties should be viewed with some skepticism and with a healthy concern about the potential fragility of a small number of very large systems.

For example, United and Continental say they anticipate large savings because they operate different types of aircraft and, if merged, the new company can "right-size" by flying more small or large planes on short or long routes. A proper analysis will ask the following questions and answer them with the help of experts not employed by the companies: (1) To what extent can these changes be made internally over time? (2) Why can't these friendly, Star Alliance airlines simply swap some assets to accomplish these changes? Wouldn't this be in each airline's interests? (3) Given that many planes are leased, why is a merger the only way to right-fit planes to their routes? In any event, the projected savings from this type of efficiency need to be scrutinized route-by-route and system-wide.

8. Strategies and Counter-Strategies

United and Continental justify their merger in terms of the desirability of increased scope – which they refer to as "presence" – and scale. They argue that the savings they can attain will help them survive the current fuel crisis and economic downturn. Implicitly, the economies of scope and scale cannot be maximized until a company is as large as the combined United and Continental. Of course, low profitability has been a chronic complaint of the large airlines regardless of merger activity, which has been plentiful over the years since deregulation.

The very same motivations were cited by Delta and Northwest. Northwest actually predicted that their merger would likely lead to at least one additional systems merger in the near term. They reasoned that the other systems carriers will see that the new largest carrier has unit cost advantages deriving from the economies and will have no choice but to quickly emulate the size of Delta via the only possible method, which is merger. Presumably the remaining four network airlines would also have to find a way to bulk up. Thus, we concluded, if Delta and Northwest were right, the merger wave that their merger kicked off would not stop there. If United-Continental goes through, American and US Airways will have to find dancing partners, perhaps with each other, and we will be down to three national networks.

On the other hand, if Delta and Northwest were wrong about the efficiencies, then there was no justification for distorting the equilibrium of six systems and there is no justification for going down to three. We see no reason to believe that the benefits of merger are due to efficiencies rather than expanding market power and we are therefore quite skeptical about the current proposal.

Giving additional market power to the airlines that survive the mergers will not reduce the price of fuel. That is out of the airlines' control and will have to be passed on to consumers. This will predictably result in fewer people flying. The question is whether the inevitable downsizing needs to be handled through shrinkage of the industry by mergers or through individual operational decisions by the incumbent airlines. It is our commitment to competition in the airline industry, as opposed to regulation, that is fundamentally at stake here. Downturns are cyclical and the country will be better off in the next growth period if there are more rather than fewer systems in competition with one another.

We are at a critical moment in the structural history of the US air transportation industry. While there are a few instances in which an antitrust agency has looked at two proposed mergers in the same industry simultaneously, the usual approach is to say that the agency can only consider that which is immediately before it. Taking this narrow view would be a disservice to the public, which is already concerned about the increasing unreliability and discomfort associated with air travel. While we have no inside knowledge that a follow-on merger by American and/or US Airways or perhaps by others is in the works, it will be extremely difficult to argue against the next one if Delta and United will have both been allowed to have their mergers. We urge that the antitrust analysis take the broad view of the industry's future. The strategic plans and counter- plans of all large carriers must be examined and analyzed before any antitrust decision is rendered.

CONCLUSION

The ultimate question is whether the public will be satisfied with three domestic and three global air transportation systems. There is little if any empirical knowledge that says how many systems are needed to provide a workable degree of intersystem competition. There is substantial data, both empirical and theoretical, that suggests that competitive problems increase as a market becomes highly concentrated. There is substantial experience with domestic air mergers that suggests how difficult they are to execute successfully; how few efficiencies have resulted from big carrier mergers; and how minimal entry has been at the network level. To the extent there is doubt about the United-Continental merger, it should be resolved as essentially a public policy question as to whether we are willing to interfere with business decisions in order to preserve the few competing systems, at the possible expense of whatever efficiencies might realistically be lost. We suggest that the magnitude and certainty of these proclaimed efficiencies should be analyzed with great skepticism and must be weighed against inefficiencies due to other diseconomies of scale and scope, the cost of consummating the merger, and the reduction in competition arising from the merger. From a public perspective there should be no reason to rush a decision on whether the allow United and Continental to merge and it would make particularly good sense to examine the effects of the most recent similar merger, Delta and Northwest, before opting for further consolidation.

TESTIMONY OF

PATRICIA FRIEND
INTERNATIONAL PRESIDENT
ASSOCIATION OF FLIGHT ATTENDANTS –
CWA, AFL-CIO

BEFORE

THE COMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE'S SUBCOMMITTEE ON
AVIATION

"IMPACT OF CONSOLIDATION ON THE
AVIATION INDUSTRY, WITH A FOCUS ON
THE PROPOSED MERGER BETWEEN UNITED
AIRLINES AND CONTINENTAL ARILINES"

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC

JUNE 16, 2010

Association of Flight Attendants – CWA, AFL-CIO
501 Third St. NW
Washington, DC 20016
202-434-1300

Thank you for holding this vital and timely hearing on the proposed merger of United and Continental Airlines. My name is Patricia Friend and I am the International President of the Association of Flight Attendants – CWA, AFL-CIO (AFA-CWA). AFA-CWA represents over 50,000 flight attendants at 22 U.S. airlines and is the largest flight attendant union in the world. We especially thank the Committee for inviting us to testify today and giving voice to the concerns of the working women and men of these two great airlines about what this merger could mean to them.

As a front line employee in the airline industry for over 40 years, I have had a unique perspective on the cyclical and dramatic changes that have reshaped the commercial aviation industry and impacted thousands of jobs. As the President of a union representing employees from legacy or network carriers such as United, US Airways and Northwest (Delta); low cost carriers such as Air Tran Airways and Spirit; charter carriers such as Miami Air, Ryan International and USA 3000; to large majors and regional carriers such as Hawaiian, Alaska, American Eagle, Mesa and Mesaba, I am here to testify today about an aviation industry that is transforming in ironic fashion from a post deregulation industry to a consolidated industry that will look like a pre-deregulation industry. Seismic changes brought on by airline deregulation in the late 1970's caused endless bankruptcies and the end to historic airlines such as Pan Am, Eastern, TWA, Northwest and soon Continental. Each bankruptcy spelled disaster for airline employees who were left behind in the so-called rush to a market based airline industry. Thirty-two years later after the 1978 Airline Deregulation Act, I testify today about an industry that is in a swift consolidation mode. In just five short years, we have now witnessed two major mergers at US Airways and America West and at Delta and Northwest. The United and Continental merger, if approved, will mean that we have almost cut in half the number of major legacy network carriers. Credible news reports point to further consolidation on the horizon if the United-Continental merger is approved. Mr. Chairman, as I indicated, I began my flight attendant career 44 years ago and worked under a regulated industry that was stable and provided middle class jobs to thousands of workers.

When Congress voted in 1978 to deregulate the industry, the Association of Flight Attendants, and other unions, warned of the catastrophic results that would soon follow rapid and uncontrolled expansion of the airline industry. We knew that airlines would slash fares to remain competitive and that employees would be the one group who would subsidize the fare reductions through pay cuts, wage stagnation and furloughs.

Lately, I have listened intently to airline CEO's testify before this Congress about the drastic need to consolidate the industry in order to achieve a sustainable business model. After hundreds of airline bankruptcies, thousands of employee furloughs, devastating pay and benefit cuts, and 32 years of deregulation experience, it seems that airline management has figured it out, albeit in the worst fashion, that our nation needs a stabilized and rational aviation industry. The irony is that AFA-CWA - for decades - has been the leader in calling for a national and rational aviation policy that recognizes the vital role the aviation industry plays in our nation's economy and the middle class jobs.

Mr. Chairman, the nation's flight attendants and all aviation workers need a stable industry as well. My experience has taught me that airline management is transient in nature with airline management coming and going and exiting our industry with a bountiful payoff while airline workers, who have truly invested in our industry, are left with a declining standard of living. Unfortunately one thing has remained constant during my career - corporate greed. If anything in that category has changed, it's that the amounts that CEOs reward themselves every year grows more and more excessive while employees earn less.

The voices of the workers often take a back seat in these hearings and in public pronouncements about the benefits of airline mergers. I'm here today to give those of us most invested in this industry – the true stakeholders – a voice.

I have opened my testimony with this perspective because it is a story that must be told and it is entirely relevant to the discussion topic today.

As in the case of the mega merger between Delta and Northwest, this merger between United and Continental has drawn significant attention from the media, communities served by both carriers and once again, here on Capitol Hill. The attention focused on what will become the world's largest airline, for the time being, is appropriate . . . and as before necessary. Once again this merger has led to speculation about which airlines will merge next. The remaining airline CEOs continued to call for greater consolidation in light of the anticipated rises in the cost of fuel. We would like to point out that the merger drumbeat started years earlier as airline executives sought greater profits following the epidemic of bankruptcies.

Consumers are rightfully frightened that another airline merger in particular, and anticipated consolidation of the industry as a whole, will lead to much higher fares and reduced service. We recognize the reality that airline fares must increase in order to stabilize this industry and provide more stable employment for thousands of aviation workers. In order for this industry to survive and stabilize, airlines must be able to charge a realistic fare. Airfares in the U.S. have fallen from a 1978 average of 10.08 cents per mile to 4.2 cents per mile in 2006, adjusted for inflation.[1]

To strike this balance between a stable industry and reliable air service, we assert today that the increase in consolidation activity requires appropriate regulatory oversight to protect the interests of employees and passengers. Federal regulators need to consider the impact that mega mergers have on the consumers and communities. We hope that this Committee and other Congressional Committees will exercise vigorous oversight responsibilities as well.

It is unfortunate that while some protections are in place today for consumers and communities, there are virtually no protections for airline workers in this merger. There has been little attention paid to the extreme upheaval that mergers create for the thousands of airline employees who find themselves unemployed or whose lives are disrupted.

[1] James Larder and Robert Kuttner "Fling Blind: Airline Deregulation Reconsidered"; Dēmos 2009

This loss of protections has been yet another result of the market driven industry. There were many important protections in place for airline workers prior to the Airline Deregulation Act of 1978; the Allegheny-Mohawk Labor Protective Provisions (commonly know as the LPPs) were made a condition of government approval of virtually every airline merger. The LPPs contained extensive and specific protections – like displacement and relocation allowances, wage protections, transfer and seniority protections, layoff protection, and others – as part of a standardized set of provisions designed to shield workers from an unfair share of the burden resulting from corporate mergers.

But since deregulation there are no real protections from our federal government to cushion airline workers involved in mergers. After Deregulation, airline management successfully lobbied for an end to the LPPs, arguing that those matters are "better left to the collective bargaining process". And while union contracts did provide a level of protection for employees covered by collective bargaining agreements, a series of industry bankruptcy filings have severely reduced negotiated protections in today's contracts and there remains little to no protection for non-union airline employees.

Additionally the very employers, who argued to leave these merger protections to the bargaining process, now spent millions of dollars on union busting – through bankruptcy or other venues - trying to strip the provisions in place for decades. And today, as those same employers hold press conferences to trumpet the fact that the merger impact on employees will be minimal, they often refuse to provide information about the impact on the workers in writing.

Of all the well-developed pre-deregulation rules of the Allegheny-Mohawk Labor Protective Provisions, only one exists today – a provision establishing basic seniority protections in the event of a merger. And that provision was only resurrected a couple years ago with the advocacy of AFA-CWA and the strong support of Representative Russ Carnahan, Senator Claire McCaskill and the 110th Congress.

After deregulation, Congress was concerned that the massive post deregulation restructuring of the airline industry would displace large numbers of employees and therefore added the Airline Employee Protection Program (EPP) to the Airline Deregulation Act of 1978 in order to assist laid-off employees. Unfortunately the almost 40,000 employees who lost their jobs in the wake of Deregulation never received the benefits Congress promised since funding was never authorized for the benefits, turning the whole program into a cruel joke for airline employees in desperate need of a life line.

Congress has recognized the need to assist airline employees facing the traumatic effects of industry consolidation in the past; we need a federal effort in what is shaping up to be another significant era of airline consolidation. As Congress looks into the impact of mergers on employees, it should look at the failed EEP as a framework to provide meaningful protections to workers in the future.

Unfortunately, there seems to be more concern for the consumer and even the airports, building and route structures of these two airlines then there is for the concern of the workers. As we have testified in the past, we are not proposing to re-regulate the industry today; but we do think that – at a minimum – something needs to be done to shield workers from the harshest effects of this merger and future mergers.

It seems reasonable to assume that within any airline merger there will be consolidation; blending corporate offices, the elimination of competing of hubs and overlapping routes networks may potentially lead to crew base closures. It seems that for airline workers consolidation likely translates to unemployment for far too many.

When Delta merged with Northwest in 2008 the CEOs of both corporations testified before this committee that disruptions to communities, consumers and employees would be minimal. Yet a mere two years later flight operations at Cincinnati, a former Delta hub, has been reduced from 600 flights in 2005 to between 160-170 flights now, cutting more than 840 jobs.[2] Not only has the number of flights been cut, there has also been a reduction in seat capacity. Routes once flown by aircraft with 150 seats – or more - are now being reduced to aircraft with 50 seats. Since the FAA mandates that there must be at least one flight attendant for each 50 passengers seats using smaller aircraft translates to a loss of two flight attendant jobs.

[2] Dan Monk and Lucy May, "Delta to cut 840 jobs at Cincinnati airport, reduce flights", Dayton Business Journal, March 16, 2010.

We can also look to the America West and US Airways merger to learn lessons from past mistakes. The synergies promised by this merger and consolidation have not occurred as promised or anticipated. Nearly 5 years after the America West/US Airways merger the two sides are still operating as separate entities. The "new" US Airways has closed four crew domiciles and displaced several hundred flight attendants, and workers at both carriers fly under separate contracts. America West flight attendants have not received a wage increase in over seven years and US Airways flight attendants are working under a concessionary agreement from previous bankruptcies. What has failed these employees is the lack of regulatory oversight in negotiating a combined contract.

So what can the workers at United and Continental expect as they combine their workforce and route structure? While management has provided information that is otherwise publicly available, management has not been forthcoming about critical and future business plans. Accordingly, we are seeking additional detailed information from management about the impact this merger will have on our members and our Collective Bargaining Agreement at United.

As witnessed in previous mergers, base or domicile closures can be extremely traumatic to employees and their families. Even though airlines may offer assistance, the stress of being displaced and forced to move to another location can be devastating. These are workers with families and homes and who are part of communities. I call on this committee to compel United and Continental management to provide more information on their plans for current United and Continental base or domicile operations.

United and Continental are partners in Star Alliance, a global network of airlines. The Star Alliance, and other alliances, is using revenue sharing agreements, code share agreements and joint venture schemes to increase their global presence. Traditionally, global alliances incorporated an incentive for each airline to provide flying using one or the other's aircraft and ground equipment and employees. As the operator of a route, the airline collects the majority of passenger and freight revenue. In this scenario, employees benefited from the arrangement. However, a new type of joint venture goes far beyond the typical code share agreements that are prevalent today. These new joint ventures threaten the long-term job security of flight attendants.

United is the architect of a new global alliance revenue sharing scheme. They have contracted with Aer Lingus to operate a route between Dulles International Airport in the Washington, DC area and Madrid, Spain using Aer Lingus aircraft but employing flight attendants from a third party operator. This has displaced United flight attendants from operating this route and United is threatening to expand this type of joint venture to other markets.

We call on this Congress to stop this type of so-called joint venture operations by passing H.R. 4788. Do not let United and Continental management use this merger as a vehicle to outsource more middle class jobs.

While we are on the subject of globalized networks and alliances, its time to have a discussion on recent international treaties and negotiations between our country and the European Union and China. These treaties may have far reaching implications in the United-Continental merger, as both carriers provide significant service to Atlantic and Pacific markets.

In the spring of this year, the U.S. and the European Union (EU) concluded talks on stage two of the U.S.-EU Open Skies Agreement (Open Skies). As this committee is aware, the U.S. and EU reached a comprehensive Open Skies Agreement in 2007 and the parties agreed to further talks, called stage two. The premise of Open Skies was to liberalize flying between any city in the U.S. and any city in the EU, including the United Kingdom. Notably, stage two of the Open Skies negotiations resulted in landmark labor protection language in that treaty that should provide workers some protections in a more liberalized environment.

However, AFA-CWA remains concerned and vigilant that the U.S.-EU Open Skies treaty must not provide the framework for the outsourcing of U.S. aviation jobs. We were encouraged that our U.S. negotiators and this Congress reaffirmed existing U.S. aviation law on foreign ownership and control. Those laws must remain in place and protected by Congress and the Administration.

Last week, U.S. and China negotiators began talks for a U.S.-China Open Skies-type treaty as well. The talks concluded on June 10, 2010 at the U.S. State Department in

Washington. While no agreement was reached, talks will continue and AFA-CWA's concerns about protecting existing U.S. aviation laws and preventing the outsourcing of good paying middle class aviation jobs remains front and center. I call on this committee to remain vigilant as well.

We view these treaties today in much the same way we viewed the deregulation of our industry in 1978. International flying provides thousands of good paying jobs for U.S. aviation workers and we must not allow management to use these foreign treaties as a mechanism to outsource jobs.

We also ask this Committee to consider the impact this merger may have on the contract negotiations underway between the Association of Flight Attendants - CWA and United management.

For almost six years the Flight Attendants at United have been working under a collective bargaining agreement negotiated while the company was in bankruptcy. The flight attendants at United sacrificed nearly $2.7 billion in salary and benefit concessions, and that doesn't take into consideration effects of the termination their defined benefit pension plan that was turned over to the PBGC during United's bankruptcy.

Under the terms of the current agreement, United Flight Attendants have received four meager pay increases. The last raise, a modest 1%, was awarded on December 31,

2008. Meanwhile, United's CEO, Glenn Tilton, received compensation that increased from $1.7 million to $3.9 million.

We are here today to ask this committee to help to ensure that the current contract negotiations, governed by Section 6 of the Railway Labor Act are completed in some manner before this merger is finalized.

Already there have been discussions that the current contract negotiations be set aside, since ultimately a new contract will need to be negotiated for the combined work group. Unfortunately we have had a front row seat and have witnessed what can happen when Section 6 negotiations are set aside in a merger. When US Airways and America West merged in September 2005, the America West flight attendants were two years into their Section 6 negotiations. Section 6 is a section of the Railway Labor Act (RLA) and it means that a current airline contract becomes amendable and negotiations begin to reach a new agreement. The current contract remains in place until a new contract is agreed to by the parties and members vote to ratify or approve that agreement. The RLA provides a mediation process to guide negotiations. The America West flight attendant contract talks were under the guidance of a federal mediator prior to the merger. When the merger was announced, the America West negotiators were requested by the National Mediation Board to set aside those negotiations and to focus on negotiating a combined contract with US Airways. Negotiations to combine contracts between unionized work groups are not governed by the RLA or the National Mediation Board.

After five years of negotiations, a combined contract between America West and US Airways has not been achieved. As I mentioned earlier, America West flight attendants have not received a wage increase in seven years and US Airways flight attendants work under a concessionary agreement that cut their wages and benefits.

We cannot allow the negotiation process at United to get delayed as a result of this merger. The employees at United made deep sacrifices to keep the company flying. It's time for the workers to share in the rewards. We must have resolution to the United contract negotiations that is satisfactory to the workers there.

Labor relations at United have been combative. Management insists that flight attendants must accept additional concessions to their current contract. This is entirely unacceptable to the United flight attendants. If the focus of this hearing is on the possible effects for consumers - you only have to observe how United is treating its workers to understand how the passengers at the "new" United will fare; when you treat workers as commodities can you really expect a corporation to treat their passengers (and customers) as anything other than a commodity?

When this merger of two airlines with very different styles of labor relations is approved, there will be representational elections between the various work groups at these two companies including the flight attendants. United flight attendants are represented by AFA-CWA and Continental flight attendants are represented by the International Association of Machinists and Aerospace Workers (IAM). These elections will be conducted under the procedures defined by the National Mediation Board. However, without an open dialog with management, contract negotiations that are satisfactorily completed and support from labor groups, the integration of these two airlines will not go as smoothly as promised by management.

While much will be made over the coming months about the impact of this merger on consumers and communities, I urge you to remember the hundreds of thousands of airline employees across this country. Keep us in mind as you review this merger and the impact that it will have on our lives and our families. We are the ones who have the most to lose; and we have the least protection.

Written Testimony of Congressman Luis V. Gutierrez
(Illinois, District 4)

Subcommittee on Aviation
HEARING on

"The Proposed United-Continental Merger:
Possible Effects for Consumers and Industry"

Wednesday, June 16, 2010

9:30 a.m. 2167 Rayburn House Office Building

Chairman Costello, Ranking Member Petri and distinguished colleagues of this Committee, thank you for inviting me to speak before the Committee on the proposed merger of United and Continental airlines.

While this merger has generally been greeted with enthusiasm, I believe we should not overlook the potential serious impact it could have on consumers and employees.

For consumers, the issue of airline fees-- which we all know cover just about everything except the air you breathe onboard--requires further scrutiny.

In 2009, United and Continental made $523 million in baggage fees *alone*. Recently, United announced that its passenger-unit revenue was up almost 25 percent from a year ago and topped pre-recession levels. Given this good news for United, I believe it's a good time to review the fairness and necessity of these excessive fees.

I also want to ensure that loyal customers of frequent flyer programs have easy access to their awards without being misled. After receiving complaints from residents in my district, I began to look at the fine print on these highly-promoted programs-- which are a significant source of revenue for the airlines. Unfortunately, I found they lack reliability, honesty and fairness.

If you read the fine print, you will find as I did: airlines can deny a ticket, change the terms of the awards, charge a fee or even eliminate the program -- at will. Congress must stand up for consumers and protect their interests in frequent flier programs.

I am also deeply concerned with the impact this merger will have on United and Continental employees. To keep these airlines in business, workers have made serious concessions and their requests deserve consideration.

STATEMENT OF HUBERT HORAN

THE ANTI-COMPETITIVE IMPACTS OF A UNITED-CONTINENTAL MERGER AND THE CONSOLIDATION OF 80% OF THE US AVIATION MARKET INTO JUST THREE COMPETITORS

HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
AVIATION SUBCOMMITTEE HEARINGS 16 JUNE 2010

Executive Summary—United/Continental and Industry Consolidation Create Four Major Problems

1. Multi-billion dollar consumer welfare losses due to anti-competitive pricing in international markets that will steadily increase in the coming years
2. Extreme levels of consolidation where a cartel of three Collusive Alliances will permanently control 80% of the entire US aviation market and 100% of trans-Atlantic and trans-Pacific markets
3. Seriously new distortions to domestic competition, including risks of major oligopoly service cuts in thousands of smaller cities where Low Cost Carriers (LCCs) do not compete. Just as the KLM-Air France merger destroyed Northwest Airlines as an independent competitor and destroyed almost all of its corporate value, this merger is designed to cripple or destroy USAirways' ability to survive as an independent competitor. This reduced competition will not be addressed by new LCC expansion or by future competitive entry. It is highly unlikely that consolidation will produce stable competition; given the weaknesses of American and USAirways it is much more likely competition will be imbalanced in favor of just two competitors (United and Delta)
4. This merger cannot be justified by synergy or efficiency gains, and can only be explained by United's pursuit of increased anti-competitive market power. The merger does not do anything to solve the industry's many problems, and the distortions created by this merger will actually make those problems worse.

Executive Summary—The Committee Needs to Address the Root Cause of These Problems, The DOT's Nullification of Longstanding Antitrust Law and Evidentiary Requirements

None of the extreme concentration and consumer welfare losses would have occurred without the DOT's willful refusal to enforce longstanding antitrust law, including its failure to conduct required market power tests and its use of fraudulent evidence of public benefits. The Committee and Congress must ensure that the United/Continental review and all future airline antitrust cases are based on verifiable, factual, case-specific evidentiary standards consistent with the Horizontal Merger Guidelines and reject the DOT's use of non-factual, non-evidentiary "rules" to eliminate the need to evaluate the actual market power and public benefits impacts of consolidation. The Committee and Congress must ensure that the United/Continental review and all future airline antitrust cases include the rigorous, independent review of synergy, efficiency and public benefits claims that are required under the law, but have been missing in every prior airline consolidation case.

Hubert Horan has been in aviation for over 25 years, and his consulting practice is based in Phoenix. The testimony presented here is based on his personal experience with over a dozen major airline mergers, alliances and restructurings. He was responsible for the original development of the Northwest-KLM alliance network, which served as the template for all subsequent immunized airline alliances. He also managed Northwest's Tokyo-based trans-Pacific network, developed and implemented the business and fleet plan America West used to successfully emerge from bankruptcy in the mid 90s, held strategic planning and network management positions at Swissair and Sabena, and worked on the bankruptcy reorganization plans for Hawaiian and United.

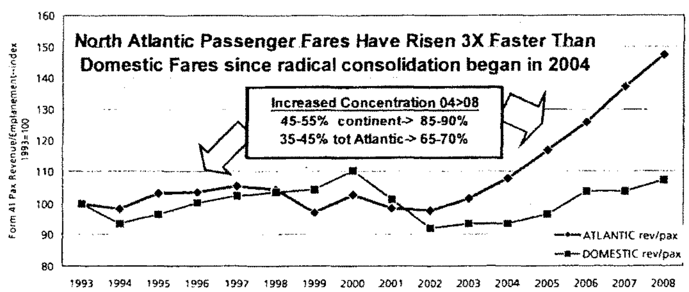
As with his 2008 Congressional testimony on the Delta/Northwest merger, this testimony is based on his concern that extreme airline consolidation will undermine the benefits of liberal, market-based competition and will damage long-term industry efficiency. He has no financial relationship with any of the current merger or antitrust immunity applications. He has published extensively on airline competition and consolidation issues, the restructuring of Legacy airlines in both America and Europe, and the negotiations leading to the recent US-EU Open Skies treaty. A full publication list and professional biography is available at his website, horanaviation.com. He is a graduate of Wesleyan University and the Yale University School of Management and is based in Phoenix, Arizona.

Mr. Chairman, the United/Continental merger and the ongoing airline consolidation process creates four major problems for consumers and industry efficiency. I would like to open with a brief overview of these four problems, (which are fully documented in my written testimony). The heart of my testimony is that all four problems have a common and very simple cause, and I believe a very simple solution.

Problem #1. Consumer Welfare Losses From Anti-Competitive Pricing Power Already $5+ Billion and Rising

- Problem #1 is that the anti-competitive market power created by trans-Atlantic consolidation has already created consumer welfare losses in excess of $5 billion per year. These consumer welfare losses will be much worse in a few years—the historical evidence doesn't reflect the recent consolidation due to ATI grants for United/Continental and American/British Airways/Iberia. The evidence is overwhelming and shows that the growth of anti-competitive pricing on the North Atlantic exactly tracks the movement to extremely high levels of North Atlantic concentration that started in 2004, with the KLM-Air France merger, continued with the three major ATI cases creating the current situation where meaningful competition has been eliminated in favor of a permanent Cartel of three Collusive Alliances. What has developed on the North Atlantic is the exact type of artificial pricing power that is specifically forbidden by the antitrust laws--extreme concentration levels, in completely non-contestable markets. There hasn't been successful new entry on the North Atlantic in 23 years, so there is no possibility that future competition could ever discipline the growing anti-competitive behavior that has been documented
  - ☐ For decades, pricing trends in the domestic and trans-Atlantic markets tracked closely, because the factors driving market demand and airline efficiency in both markets were virtually identical. But as exhibit 1 below clearly shows, artificial trans-Atlantic pricing power emerged after 2004, and ever since Atlantic prices have been rising three times faster than domestic fares.

exhibit 1



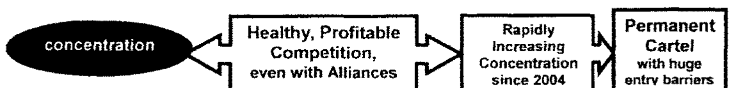
post 2004 Atlantic market power defied normal laws of supply and demand
Domestic fares up due to capacity constaint (seats + 1% fares +15%)
North Atlantic fares up +46% even though seats up +45%

  - ☐ The pricing gap in exhibit 1 actually understates the market power problem; the trans-Atlantic carriers have developed sufficient pricing power to raise fares despite huge capacity increases that would depress yields in any competitive market. Despite robust (dot-com era) demand conditions, North Atlantic prices fell after 1998 in response to 10% capacity growth because carriers had no artificial pricing power. In the domestic market carriers, recent unit revenue growth was made possible by strong capacity discipline--fares increased 15% in four years because capacity only grew 1%. But North Atlantic carriers have been able to raise prices 46% in the same period, despite 45% increases in seat capacity.[1]

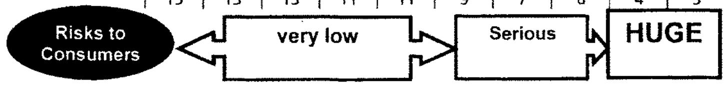
- Exhibit 1 reflects actual 2008 North Atlantic fares $10-12 billion higher than they would have been if fares had continued to track domestic fare trends, as they always had when both markets were fully competitive. A detailed analysis (such as the Clayton Act market power test required in cases such as these) would need to adjust this raw comparison upward for the additional market power demonstrated by the industry's ability to significantly increase prices in the face of rapid capacity growth, and downward to recognize that less capacity would be provided in a lower revenue environment. $5-8 billion is a (conservative) estimate of the true consumer welfare loss due to anti-competitive pricing after these adjustments. That analysis would likely find that the greatest 2008 consumer welfare losses were in Continental European markets where concentration levels and entry barriers are highest.

- Exhibit 2 documents the movement from modest North Atlantic concentration prior to 2004, to the imminent situation where a permanent Cartel of three Collusive Alliances controls the entire market. The KLM-Air France merger (announced in 2003 and finalized in 2004) eliminated the strongest price competitor in European longhaul markets, immediately pushed top 3 concentration levels in the US-Continental Europe markets from 60-65% to 85%+ and ensured that it would be a permanent Air France/Lufthansa-controlled duopoly. The US-UK market and the overall North Atlantic market will reach similar concentration levels once the recent United/Continental and British Airways/American antitrust immunity grants have been implemented.[2].

exhibit 2



1993	1995	1997	1999	2001	2003	2005	2007	2009	2011
Top 3 Concentration of US-Continental Europe market (40 million annual pax)									
41%	47%	55%	56%	61%	67%	**85%**	**88%**	**98%**	**98%**
Top 3 Concentration of total North Atlantic market (55 million annual pax)									
42%	42%	45%	47%	47%	54%	68%	66%	**92%**	**98%**
number of total North Atlantic competitors with minimum departure share of 2%									
15	13	13	11	11	9	7	6	4	3



[1] Data in the graph is US carriers' entity totals from DOT Form 41; passenger revenue data is from schedule P12, segment passengers from schedule T100. The aggregate US carrier Atlantic unit revenue data shown in the graph should very closely track aggregate market levels since US flag carriers serve the identical markets with comparable schedules and capacity. Capacity growth rates are total (US and non-US) carriers entity seat capacity from DOT Form 41 schedule T100. See Congressional testimony of Hubert Horan, "The Anti-Competitive Risks of a Delta-Northwest Merger and the Extreme Consolidation of Intercontinental Airlines", House Committee on Transportation and Infrastructure, 14 May 2008, and testimony in the "Oneworld" (British Airways-American Airlines) ATI case at docket DOT-OST-2008-0252-3394 p.2-3

[2] The three Collusive Alliances are controlled by Air France/Delta ("Skyteam"), Lufthansa/United ("Star") and British Airways/American ("oneworld"). Alliance members with ATI are free to collude on all pricing, capacity and product decisions. Concentration levels based on seat share using DOT Form 41 Schedule T100 data; 2009 shares assumes the approval of the current application (which was originally scheduled to be concluded during 2009); 2011 shares assumes other small network airlines based in "Open Skies" countries cannot survive as wholly independent competitors and are absorbed into the three large collusive groups. Although it has not been granted immunity, there is no evidence that USAirways competes aggressively on price with its Star Alliance partners, and the table explicitly assumed that with a 4% capacity share it would have neither the motivation nor ability to provide such competition, and would eventually be granted full immunity or merge with another immunized carrier

- The antitrust issue here is not Collusive Alliances, per se, but the market power needed to sustain anti-competitive behavior. ATI grants since 2004 have helped create this market power although Collusive Alliances produced strong consumer benefits when they were first introduced in the mid 90s. The original Alliances created tangible, readily-measurable pricing and service advantages across a large range of markets, and consumers received maximum benefit because they were introduced in a highly robust competitive environment. These incremental gains were fully exhausted by the late 90s as the inferior interline connecting service that had been supplanted by the new alliance connections had been driven out of the market, and large increases in nonstop and online one-stop service supplanted much of the value created by the initial alliance connections. There are no legitimate independent studies showing any material consumer benefits created by Collusive Alliances in the last decade[3]

- Anti-competitive pricing supported by the combination of extreme concentration, cartel conditions and high entry barriers is the only possible explanation of the pricing shifts shown in exhibit 1. Neither fuel or GDP shifts nor any other economic factor except artificial market power could possibly explain multi-billion dollar shifts in the economics of one market since 2004, but not the other. Factors such as fuel, exchange rates, and GDP shifts can explain the smaller variances observed before 2004 (and small portions of subsequent variations), but not the huge, steady post-2004 shift.

- The critical issues are not the precise estimate of consumer welfare losses in past years, but that the DOT enthusiastically supported the increase in trans-Atlantic concentration from 40% levels to 90% levels while ignoring powerful evidence of multi-billion dollar reductions in consumer welfare, and the risk that the current phase of industry consolidation, including this merger and the Japan ATI cases are likely to proceed without a rigorous analysis of market power issues.

<u>Problem #2. United/Continental is Part of a Well-Planned, Ongoing Process to Consolidate Virtually All Legacy Network Airlines Into Just Three Competitors That Will Control 80% of US Airline Traffic</u>

- Problem #2 is that United/Continental is part of a well-planned, coordinated, ongoing process to consolidate the Legacy Network sector so that three competitors control roughly 80% of the US aviation market. Phase 1 of this process was the North Atlantic consolidation between 2004 and 2010 that created the growing anti-competitive pricing power and artificially handed exclusive control of all Intercontinental traffic to three companies. In Phase 2 those three companies use that power to artificially force the other three Legacy airlines out of business. Phase 3 began last year with the Japan ATI cases that are designed to eliminate competition and give the three Collusive Alliances control of the trans-Pacific market, and create the same type of multi-billion dollar consumer pricing impacts already seen on the North Atlantic. United/Continental is key to all three phases of radical industry consolidation, and cannot evaluated as an isolated event. The central antitrust issues is not what will happen to prices the day after this merger closes, but whether the process whereby a Cartel of three "too-big-to-fail" competitors end up with control 80% of the overall US aviation market and nearly 100% of the trans-Atlantic and trans-Pacific markets is justified by efficiency gains that clearly offset any competitive detriments.

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[3] The original mid-90s North Atlantic Collusive Alliances (KLM-Northwest in 1992, Swissair/Delta in 1995 and United/Lufthansa in 1997) not only provided offering superior schedules and a wider range of discount fares in thousands of small connecting markets, but traffic growth stimulated by these lower fares led to capacity growth and further consumer benefits. For a more detailed discussion of Collusive Alliance economics see Comments of Hubert Horan in the "Oneworld" case, 31 January 2010, DOT Docket OST-2008-0252-3389, pp.7-9, based on my experience developing the original Northwest/KLM alliance network (that has served as the template for all subsequent North Atlantic alliances), and my subsequent work on Swissair-Sabena-Delta alliance. The DOT documented the schedule and price benefits of the original 90s alliances in studies conducted in 1999/2000, although they overstated the benefits attributable to antitrust immunity by including some of the consumer pricing gains stimulated by non-alliance capacity growth. See US Department of Transportation, Office of the Secretary (1999) "International Aviation Developments: Global Deregulation Takes Off" and (2000) "Transatlantic Deregulation: The Alliance Network Effect." But neither DOT nor any other public agency has conducted similar analysis of the consumer and competitive impacts of immunized airline alliances since 2000.

- Each phase was driven by a small set of directly linked transactions, each making the same basic economic claims. The sequence and timing of applications was fully coordinated by Air France and Lufthansa on the European side and by Delta and United on the US side. Phase 1 consolidation was driven by the 2004 Air France-KLM merger and the coordinated antitrust immunity (ATI) petitions that increased concentration above 90%. Phase 2 consolidation, shrinking six domestic Legacy carriers to three, is being driven by the Delta/Northwest merger, the inevitable follow-on United/Continental application, and whatever deal USAirways is forced to make. The phase 3 process began last year with the coordinated ATI petitions that will reduce US-Japan competition by 50%.

Top 3 Concentration rises from 47% to 95+%
13 large competitors (02) consolidated into just 3

Destroy value of most efficient Legacies (NWA,USAirways)
Enhance, entrench power of least efficient legacies (Delta, United)

(2008) 26 independent competitors, low concentration
(future) 3 Alliances control entire market

Exhibit 3

- The Domestic and Pacific consolidation that will occur in phases 2 and 3 would not have been possible without the market power created by the phase 1 Atlantic consolidation. Phase 1 not only created a growing multi-billion dollar pool of supra-competitive profits, but it created artificial market power based on the three alliances' control of all longhaul connecting traffic to/from the North America and Europe. This control of these huge traffic flows allows the three alliances can block or distort competition since no other longhaul Network airline can provide meaningful service to North America or Europe unless they agree to whatever terms the three alliances might choose to set.[4]

- The industry consolidation that occurred after 2004 versus is fundamentally different from the consolidation that occurred prior to 2004. Pre-2004 consolidation was entirely market driven, post 2004 consolidation was strictly the result of large incumbent carriers petitioning DOT and other government agencies for reduced competition, and the willingness of DOT and those government agencies to engineer changes to industry structure that free-market competition would have never created[5]. Most pre-2004 consolidation was due to smaller carriers with uncompetitive networks shrinking operations or exiting markets, allowing more efficient carriers with stronger networks to grow more rapidly. Mergers were very rare, but none had any expectation of producing high market concentration or pricing power. In contrast, none of the post-2004 consolidation had anything to do with competitive "market forces" (highly efficient carriers displacing the capacity of

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[4] Carriers from Brazil or China or India or other countries can serve the US and Europe with direct nonstop flights, but this limits them to a small number of very large gateway markets (New York, Los Angeles, London). Traditionally, these carriers could serve interior markets via interline connecting agreements with local network carriers, and healthy competition among US and EU network carriers ensured reasonable access to these connecting opportunities. But the Cartelization of US/EU network carriers creates new market power so that the three alliances can simply refuse to interchange connecting passengers (in the hope of driving the foreign carrier out of the market completely) or by imposing punitive terms for alliance membership or interline agreements.

[5] The one post-2004 exception involving US airlines was the 2005 USAirways-America West combination, which occurred as part of the court-supervised chapter 11 reorganizations of both carriers. It not only met the longstanding "failing company" antitrust test, but the chapter 11 context allowed the merger plan to incorporate a much greater magnitude of efficiency improvements that would be possible with United/Continental or any other non-chapter 11 merger. While employees and other creditors suffered painful losses, it is likely that both airlines would have liquidated without a merger, and thus significant employment, service and competition was preserved.

carriers with higher costs and poorer service). Post-2004 North Atlantic consolidation reflects a totally artificial, governmentally driven process whereby DOT and the EU drove massive changes to industry structure designed to massively reduce competition on behalf of the interests of a small handful of politically powerful companies.

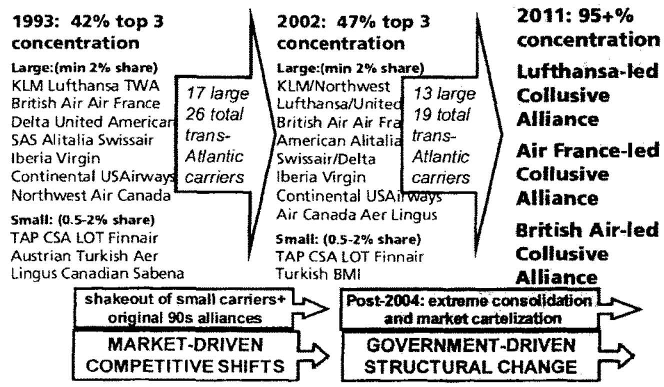
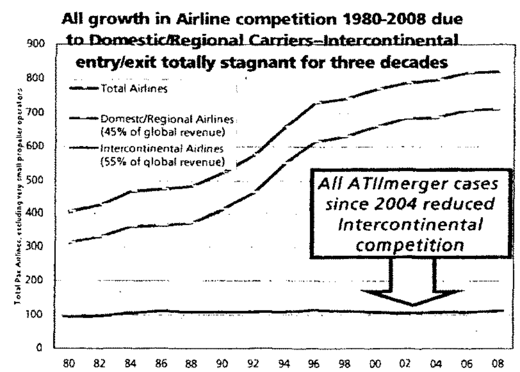


exhibit 4

- The consolidation process started and is largely focused on Intercontinental markets because those markets have always been highly competitively deficient, and because market power is easily created through the combination of high entry barriers and government market interference. Exhibit 5 demonstrates that Intercontinental competition has been completely stagnant for three decades, and contrasts the highly non-contestable intercontinental (longhaul) sector with the highly dynamic domestic/regional (short/medium-haul) sector[6].

exhibit 5

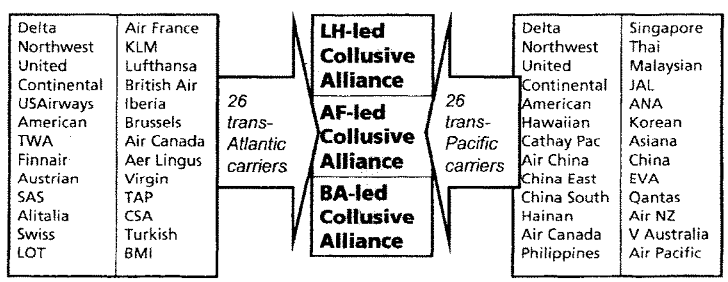


[6] See "If Consolidation occurs, it would reverse decades of airline history", Airlines International, January 2009. The graph includes all airlines operating regularly scheduled passenger services with aircraft of 30 seats or more, and all airlines that operated more than 15 aircraft of 30 seats or less. Airlines included as domestic/regional carriers operate exclusively on short/medium haul routes, while any airline operating longhaul aircraft on routes 3000 miles or longer are considered intercontinental carriers even if they also operate in short/medium haul markets. The graph does not reflect any of the reduced competition in intercontinental markets due to recent alliance antitrust immunity grants.

- ☐ The number of passenger airlines has more than doubled in this period, but 100% of this industry expansion occurred in the domestic/regional sector, while there has not been any competitive growth in the intercontinental sector for the past three decades. Over 800 airlines fight over the 45% of global aviation revenue earned in domestic/regional markets while huge entry barriers have limited share the 55% of global aviation revenue earned in intercontinental markets to a stagnant group of roughly 100 companies.
- ☐ Consolidation advocates falsely claim that recent consolidation is a rational response to the chronic losses caused by "too many airlines", and the ease by which new entrants can create excess capacity, when in fact consolidation is only occurring among the intercontinental carriers, who always enjoyed huge entry barriers, the strongest demand growth, and the least excess capacity.

■ The greatest threat to consumer welfare going forward is the program to cartelize trans-Pacific airline service that began with the recently opened US-Japan Alliance ATI case, and is designed to create the same anti-competitive pricing power illustrated in exhibit 1. Pacific market power will be even easier to develop than it was on the Atlantic because of much greater governmental interference, and much higher competitive barriers (such as Japanese airport slot limitations). Most Pacific carriers (including Singapore, Thai, Cathay Pacific, Qantas and JAL) had long resisted North Atlantic-style alliance network integration because they felt that the added costs and strategic risks greatly outweighed the limited connecting revenue benefits. But due to the artificial market power created by the alliances control of all North American and European longhaul connecting traffic, these carriers will soon face the choice of accepting full integration on whatever terms the alliances might offer, or being almost entirely shut out of access to both the huge United States and European Union markets. Cartelization of the US-Japan market already has the enthusiastic support of both governments; it serves the DOT's desire to limit international markets to just two or three competitors, and the Japanese Ministry of Transport sees the pricing power that reduced trans-Pacific competition would create as critical to the bankruptcy restructuring of Japan Air Lines. Once all of the US and Asian carriers that had served the Pacific via the Tokyo and Seoul hubs have full collusive immunity, and competition between the Tokyo and Seoul hubs has been neutralized, then other carriers serving smaller or less-developed markets will be forced to join the Collusive Alliances as well.

exhibit 5



<u>Problem #3. Domestic Consumers Are Threatened by Weakened, Distorted Competition that Low Cost Carriers Will Not Address; United/Continental Directly Threatens the Independent Survival of USAirways</u>

■ Problem #3 is the domestic market power threat. The United/Continental merger will not cause immediate price increases in the Chicago-Houston market, and the antitrust issues are different from those already documented in international markets, but broad categories of US consumers are at risk. Until recently there had been six (or more) competitive Legacy Network Carriers[7], each with

[7] The national Legacy network carriers are American, United, Delta, Continental, Northwest and USAirways and their regional airline partners; the three national LCCs are Southwest, Airtran and Jetblue. The two largest of the carriers that do

strong international operations; in fact Legacy Network carriers cannot survive without a strong, secure source of international traffic. The domestic market power problem was created when the DOT's ATI decisions granted the three Collusive Alliances exclusive control over the lucrative intercontinental traffic that is the heart of Legacy Network business model. When the DOT gave three Legacy companies exclusive control over this international traffic, they issued a de facto death warrant for Legacy companies #4, 5 and 6. The Delta/Northwest merger eliminated competitor #4, the current merger will eliminate competitor #5, and is designed to cripple or kill USAirways, carrier #6. The artificial competitive distortions that will cause harm in the marketplace fall into four major categories

1. Distortions already caused by the artificial destruction of corporate value of Northwest, and the threat to the corporate value of USAirways created by this merger. Although USAirways is the most efficient Legacy carrier, it has no hope of independent survival, solely due to DOT actions designed to help Delta and United. The destruction of competitors and forced mergers where companies can be acquired for pennies on the dollar are market power abuses every bit as serious as cartel pricing behavior.
2. Distortions caused by consolidation of the 82% of the domestic market currently served by Legacy Network Carriers from six to three carriers, that will primarily occur in the form of oligopoly service reductions in smaller cities, and will not be addressed or mitigated by Low Cost Airline (LCC) expansion
3. Further risks that the consequent impacts of this merger on USAirways and American don't just shrink the Legacy sector from six to three, but produce a highly imbalanced situation with only two-and-a-half, and eventually only two companies controlling the Legacy 80% of the overall market
4. Distortions in the large city markets where direct Legacy-LCC competition remains, where the Legacy carriers will be able to cross-subsidize competition against the much more efficient LCCs using supra-competitive gains from international markets

- Domestic consumers and investors have already suffered as a result of reduced competition due to this artificial alliance market power. Regulatory approval of the Air France-KLM merger destroyed Northwest Airlines' corporate viability, even though Northwest was one of the lowest cost Legacy carriers and operated highly competitive hubs in Minneapolis and Detroit. That merger meant the end of its alliance with KLM, which rendered Northwest's highly profitable North Atlantic operations unsustainable, effectively destroying Northwest's going-concern value. Those regulatory actions also gave Delta (Air France's exclusive US alliance partner) market power over Northwest's future access to North Atlantic, market power that it exercised by dictating punitive terms for Northwest's subsequent merger into Delta, where Northwest's shareholders were paid nothing for all of Northwest's physical, network and brand assets[8]. Northwest was a much more efficient airline than Delta, but Delta survived while Northwest's corporate value was totally destroyed because Delta had artificial market power thanks to its control of the Air France alliance "franchise position", and because DOT had ignored these competitive risks when it approved the Skyteam ATI deals that had created this market power.

- United/Continental similarly threatens the viability of USAirways, the most efficient of the six Legacy carriers. USAirways' survival depends the large North Atlantic revenue base that depends on connections with Star Alliance's European members. Despite public claims that status quo

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not operate national networks (Alaska/Horizon and Hawaiian) also follow the "Legacy Network" business model. Any competitive analysis must consider the Legacy regional carriers (such as ASA, American Eagle and Air Wisconsin) as integral parts of the "mainline" Legacy carriers, and none of these regional airline companies could survive independently of the Legacy companies. Intercontinental traffic is critical to legacy carriers as this is the one market where they have significant competitive advantage and LCCs like Southwest and Airtran cannot compete. Legacy Network carriers also serve the vast majority of cross-border North American traffic (Canada/Mexico/Caribbean) as their hub networks and marketing infrastructure gives them advantages that the LCCs have been unable to match. No Legacy Network airline could survive as a predominately domestic carrier as they could not compete with the large cost advantage of the LCCs or the revenue advantage Legacy carriers with large international networks would have

[8] The Delta-Northwest merger was structured as a stock swap; Northwest shareholders got Delta stock equivalent in value to the Northwest's cash and liquid assets, thus Delta paid nothing for Northwest's routes, brand equity, hub networks, computer systems or other non-liquid assets.

arrangements are secure, United/Continental has every motivation to cripple or destroy USAirways' current Star Alliance position, because any trans-Atlantic traffic USAirways carries over Philadelphia directly reduces United/Continental revenue over Newark and Washington,[9] and reduces the network synergies used to justify the UA/CO combination. Since USAirways does not have a secure international traffic base, and no longer provides unique value to the Star Alliance network, it has no hope of independent survival[10]. USAirways entered merger negotiations with United because it fully recognized its vulnerability; United exercised its alliance market power by pitting USAirways and Continental in a bidding war against each other, and getting Continental to agree to a merger that it had said for many years that it didn't want.

- ☐ USAirways' corporate value has thus been seriously compromised (if not destroyed) by DOT's actions giving United control over the Star Alliance US traffic base. The inevitable loss of USAirways' Star Alliance traffic does not mean that it would immediately collapse and shut down, but that (like Northwest) its corporate value would be now limited to whatever United, American or Delta are willing to offer, which might be extremely limited given USAirways weak bargaining position and the problematic nature of all three options. The trans-Atlantic network advantages of an American/USAirways merger would not be large enough to offset major integration obstacles and American's much weaker cost structure. Merger with United or Delta would likely require liquidation of significant USAirways capacity given the larger network redundancy. USAirways is only at risk because DOT ignored the risk that the Star ATI deals they approved could be used to destroy viable competitors. Under healthy competitive market conditions, there was no possibility that Delta and United could have driven more efficient carriers such as Northwest and USAirways out of business, or forced them to accept highly unfavorable merger terms.
- ☐ A full merger of USAirways with United/Continental would allow all current Star Alliance links to remain in place, but would be one of the most anti-competitive scenarios imaginable. It would give United an overwhelming advantage in the North Atlantic market since it would control of the three strongest North Atlantic hubs in the Eastern US (Newark, Philadelphia and Washington Dulles). Over half of all trans-Atlantic traffic originates in this region[11] and neither of the other two alliances have profitable, competitive hubs anywhere north of Atlanta (Delta) or east of Detroit and Chicago (Delta and American). This would also allow United to control the combined Washington National/Dulles markets.

■ Legacy Network Airlines currently provide 82% of all capacity in the US aviation market; the forced consolidation of domestic Legacy carriers due to the DOT's ATI decisions simply means that three companies will control this 82% of the US aviation market instead of six carriers. This reduced competition will not mitigated by Low Cost Carrier expansion. Some modest LCC growth is possible—from today's 18% market share to perhaps 20-21% but growth to 25% or more would require more dramatic industry shifts than have ever occurred before. More importantly for consumers, these small shifts would have almost no impact on price competition, as LCC expansion would only occur in the high volume markets where LCCs already compete. Legacy competitive behavior will always be limited in these markets that LCCs can readily contest. The risks to consumers are in the 50-60% of the domestic market where LCCs do not meaningfully compete, and will never meaningfully compete—most shorthaul transborder markets, most markets at slot constrained airports and Legacy hub cities (LaGuardia, Newark, Dallas-Ft. Worth, Philadelphia, Minneapolis-St. Paul, etc.) and thousands of smaller volume/smaller city markets. The question is

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[9] Lufthansa brought USAirways into the Star Alliance and acquired an equity position in JetBlue during United's bankruptcy, as insurance against the possibility of a major United downsizing, and to add incremental Eastern US feed that United could not provide. The United risk no longer exists, and Continental renders the USAirways/Jetblue feed role completely redundant. Jetblue has already shifted North Atlantic alliance cooperation from Lufthansa to American.

[10] News that USAirways' role in Star Alliance was being minimized or terminated would undoubtedly cause a major collapse in its stock price. A weakened USAirways would quickly become unsustainable because they would rapidly face a larger unit revenue gap (less international and corporate traffic) and a shrinking cost advantage (due to scale effects). The status quo is also untenable because USAirways is the only Star trans-Atlantic partner without ATI. USAirways currently earns lower unit revenues than other Legacy carriers (due to less international and very high yield domestic business traffic) but remains competitive because they also have lower unit costs than other Legacy carriers.

[11] In a recent note Bob McAdoo of Avondale Partners noted that "over half the U.S. traffic to Europe is still originating in the eastern 1/3 of the U.S., in an area generally north of the Carolinas and east of Michigan".

whether United and Continental are merging in the expectation that the elimination of Northwest, USAirways and other competitors will create increased domestic market power over the next 3-5 years in the 50-60% of the domestic market where LCCs do not compete, just as it took 3-5 years from the beginning of radical North Atlantic consolidation for multi-billion dollar consumer welfare losses to develop.

- Appendix A describes the current and historical Legacy/LCC breakdown of the US aviation market. Share shift from Legacy to LCCs has slowed to almost zero since 2007, as the cost advantage that fueled price competition in the past has diminished significantly. Rapid LCC growth has only occurred during periods of major bankruptcy-driven capacity retrenchment, or when Legacy carriers have abandoned hubs in major markets (Baltimore, Nashville, Milwaukee) well suited to the LCC business model. Neither situation is likely to occur in the near future, and all of the three large LCCs have adopted very slow/zero growth strategies.

- The greatest risk to consumers from reduced domestic competition is the likelihood of oligopoly service reductions in the thousands of smaller cities where LCCs will never have a significant presence. Some service reductions would occur in these markets even under highly competitive conditions, since not all of today's capacity can be financially justified. The danger is supra-competitive service cuts in these markets, as the three carrier Cartel terminates all air service at many cities and attempts to drive fares and yields as high as possible in the remaining regional cities. This oligopoly behavior would place huge burdens on these communities, and the local businesses that depend on airline service[12].

- Consolidation will also weaken the direct Legacy-LCC competition that remains, although LCC price competition will never be completely neutralized. At Atlanta, Delta can use supra-competitive international revenues to cross-subsidize competition against Airtran, which is a much more efficient provider of domestic service. The Legacy carriers could subsidize below market corporate travel programs to capture traffic that LCCs and other smaller carriers could serve more efficiently, and then raise prices once those smaller carriers are forced to reduce service.

- These domestic competitive problems will become even worse if USAirways and American are unable to merge and successfully compete with United and Delta, although it is difficult to imagine a successful merger given American's current cost competitiveness problems. Under any other scenario competition between the surviving Legacy carriers would be imbalanced and unstable, so only two (or two-and-a-half) carriers were competing for the Legacy 80% of the US market. Since Delta and United would enjoy both size/scope advantages and much greater supra-competitive international profits, they would be able to steadily weaken American's ability to compete.

<u>Problem #4. Mergers such as UA/CO and DL/NW Cannot Be Justified on Efficiency/Synergy Grounds and are Strictly Motivated by the Potential for Increased Anti-Competitive Market Power</u>

- Problem #4 is that Mergers such as UA/CO and DL/NW cannot be justified on efficiency/synergy grounds and are strictly motivated by the potential for increased anti-competitive market power. No previous merger between large airlines (outside of bankruptcy) has ever produced a material reduction in unit operating costs and no previous merger between large airlines has ever produced large enough overall synergies to justify the enormous acquisition and implementation risks, and the vast majority of US airline mergers since deregulation have been dismal financial failures. There is no evidence that the Delta/Northwest merger produced the multi-billion dollar efficiency benefits claimed at the time. There is no broad-based merger movement in aviation because these synergies do not exist, and megamergers make no sense unless they can establish anti-competitive market

[12] This concern about future Legacy oligopoly behavior in these smaller cities was echoed by former American Airlines CEO Robert Crandall: "It is beyond me why a network carrier that does not need feed for an international network would operate service to smaller destinations that will not support fares high enough to make the feeder flights profitable in their own right. Across time, if consolidation continues, the network guys will simply withdraw from more small cities. Then where will we be? Consolidation will doubtless go on, but I am dead sure we will be sorry in the long run" See National Journal Transportation Expert Blogs "Should United and Continental Be Allowed to Merge?", May. 17, 2010

power. Absent compelling evidence that United/Continental will generate massive efficiencies that no prior merger has been able to achieve, the only rational explanations for the merger are the pursuit of anti-competitive pricing power in international markets, the expectation that they could cripple or kill USAirways and establish oligopoly power in large portions of the domestic market.

- All of these past mergers are listed in Appendix B; the rare successful mergers were either involved bankruptcy financial restructuring (such as America West-USAirways), hub consolidation immediately following deregulation (such as TWA-Ozark and Northwest-Republic), fixing network inefficiencies that had been mandated by the CAB, or involved the acquisition of very small, easy to integrate carriers (Southwest-Muse, Southwest-Morris).
- If this merger could be justified by efficiencies absent market power, it would have been pursued years ago when the cost and network synergies would have been even greater; Continental refused merger overtures for many years because the conditions for anti-competitive market power were not ripe, but is pursuing this merger today, because conditions supporting artificial market power are now secure.

■ The claim that the UA/CO merger is needed to "solve the industry's financial problems" is false and completely inappropriate in any antitrust context. United and Continental are not proposing this merger out of an altruistic desire to help improve the profitability of other airlines. The industry does have financial problems, but those problems will not be solved by suspending the antitrust laws so that mediocre airlines clinging to obsolete business strategies can exercise artificial market power at the expense of consumers and more efficiently run airlines. This merger is designed to artificially transfer wealth from the more efficient to the less efficient, and that will actually make the industry's long-term problems even worse.

■ This merger will not produce any material reductions in unit costs, and United's own public statements acknowledge that the merger will not reduce its cost disadvantage versus LCCs or the more efficient Legacy competitors. Mergers between airlines as large as United and Continental cannot exploit scale economies as these carriers already have extremely low overhead rates due their already huge scale and years of draconian cost cutting. Any merger between network airlines will produce modest connecting revenue gains, but without major growth or hub development, significant, sustainable revenue synergies are impossible. Most importantly, potential long-range synergies will be dwarfed by the up-front, multi-billion negative cash flow impacts of combining the two companies maintenance programs, IT systems, and other work processes.

- United' immediate press release claims were that the UA/CO merger would achieve net savings equal to only sixth-tenths of one percent of current operating expenses; actual savings would most likely be negative since the multi-billion dollar costs of systems/airport/fleet/employee integration would be huge, absolutely certain, and would be incurred immediately following merger approval, while most offsetting synergies would be far less certain, and would only be realized well into the future. United's PR cost synergy claims were not based on detailed operational analysis and could have easily been inflated by savings that could have been achieved without merging
- The same press release predicted annual revenue increases of $800 million (2.5% of current revenue levels) indefinitely into the future even though the merger will not lead to capacity growth and any revenue from new routes is merely replacing revenue from cancelled routes. The claimed increases are merely zero-sum shifts from other airlines that do nothing to improve overall industry efficiency, and these gains will not be maintained indefinitely since competitors will rapidly respond to new network challenges. United/Continental's revenue synergy claims were publicly question by Don Carty, who as CEO of American Airlines was responsible for the unsuccessful American-TWA merger in 2001. "Revenue is a zero sum game. You can't count on revenue synergies because implicitly you are taking revenues from someone and they will have a strategy to take them back."[13]
- The efficiency/synergy claims made in support of the Delta/Northwest merger were never independently scrutinized by any objective outsiders, and Delta's financial performance in the two years since the merger does not support the claim of huge merger efficiencies

[13]See Jeremy Lemer, "Airlines try to get merger off the ground" Financial Times. 28 May 2010.

- As with every other carrier, a sizeable portion of both United and Continental's fleet and network is fundamentally unprofitable, part of what is commonly referred to as the industry's "excess capacity" problem. The merger will not make these unprofitable assets profitable, since it will not materially reduce unit operating costs. Contrary to claims made by many financial analysts, the merger will not improve profitability by eliminating these unprofitable assets. Such capacity cuts could improve unit revenues by strengthening supply/demand relationships that depress industry-wide yields, but United and Continental management have explicitly ruled out such merger-driven capacity cuts.

The Root Cause of All of the Growing Consumer Welfare Losses is the DOT's Willful Refusal to Enforce Longstanding Antitrust Law and its Nullification of Verifiable, Factual Evidentiary Standards

- Full enforcement of the antitrust laws is not only central to liberal, free-market airline competition but the Airline Deregulation Act specifically intended that airlines have the same exposure to antitrust laws as every other unregulated industry[14]. But free market competition would not have created the billions in anti-competitive consumer welfare losses documented here if the antitrust laws had been enforced. Free market competition would not have created the market power to wipe out competition and destroy the corporate value of Northwest and USAirways if the antitrust laws were being enforced. Free markets with antitrust enforcement would not have produced the sudden post-2004 shift from robust trans-Atlantic competition with 47% concentration to a permanent Collusive Alliance Cartel with over 90% concentration, and would not have created the current process to eliminate trans-Pacific competition and to give three (or fewer) companies control of 80% of the entire US aviation market. The single root cause of these anti-free market changes is the DOT's willful refusal to obey or enforce longstanding antitrust law. Antitrust law is not a barrier to any airline consolidation proposals that can demonstrate public benefits (such as efficiency gains, service expansion or lower prices) and that do not create or enhance artificial market power. The industry consolidation since 2004 completely fails to meet these consumer welfare/industry efficiency based standards. The DOT's failure to obey the antitrust laws means airline competition is no longer being determined by consumers and investors in the marketplace in accordance with the Airline Deregulation Act, it is being determined by bureaucrats in the Department of Transportation at the behest of politically powerful incumbent companies.

- The DOT refused to conduct the legally required Clayton Act market power test in any ATI case. The DOT has not only willfully ignored the evidence of the growing anti-competitive pricing problem documented here, but they failed to collect any evidence whatsoever pertaining to pricing, entry barriers or market contestability[15]. The DOT simply made the false assertion that the North Atlantic was a fully contestable market, even though there has not been successful new entry in 23 years.

- Every DOT ATI decision is based on completely fraudulent public benefits evidence, directly violating the Horizontal Merger Guidelines requirement that applicants must demonstrate public benefits on the basis of verifiable, case-specific evidence that is neither vague or speculative. The public benefits findings in each case rely on the completely false claim that eliminating competition via ATI automatically reduces prices 15-25% in certain markets regardless of market or competitive conditions[16]. The DOT has actually established this "prices always fall when competition is reduced"

[14] "In enacting the Airline Deregulation Act, Congress directed that control of the air transportation system be returned to the marketplace. We have consistently held that a part of the return to market control is exposure of participants to the antitrust laws, as that exposure exists in unregulated industries" Competitive Marketing of Air Transportation, Order 82-5-106, 99 CAB 1, 131

[15] With the narrow exception of entry barriers on four Heathrow nonstop routes in the Oneworld case, an issue that is irrelevant to the market power issues discussed here.

[16] This claim, known as "double marginalization" is entirely based on a paper by a United Airlines consultant, based on market data that is over ten years old. There is nothing in the paper (or any other analysis) supporting the public benefits findings DOT actually made in any ATI case. The applicants in the Oneworld case claimed that ATI would generate $137 million in annual public benefits; $92 million of their claim is solely based on the DOT's "rule" that reductions in competition via ATI automatically reduce fares in any and all cases, regardless of market and competitive conditions. For a

claim as an established rule, so that future ATI applicants do not have to provide any objective evidence showing that its customers will actually receive price cuts. In the BA-AA case DOT rejected the evidence of rapidly increasing prices in alliance markets shown in exhibit 1 solely on the grounds that its since its rule "proves" that alliance immunity always reduces prices it is not required to consider pricing evidence that contradicts its rule. The applications in the Japan ATI case present no evidence about public benefits in the US-Japan market whatsoever, but merely assert that their applications must be approved because of the DOT rule that prices fall whenever competition is reduced.

- The DOT also violated the Horizontal Merger Guidelines by using non-public benefits to satisfy public benefits requirements, in particular, claims of benefits that the applicants or some of its customers might enjoy, without any evidence that consumers in general, or the industry in general will be any better off.

- All previous cases ignored consequential downstream events and the overall consolidation process, in order to misrepresent the actual market power issues. Earlier cases only considered market shares the day after implementation and ignored the near-certainty that consolidation would spur further consolidation, even ignoring cases that had already been filed, or the industry-wide public statements about the need for further consolidation. Even though every case made directly comparable economic claims, DOT evaluated later cases without making any effort to see whether the claims from earlier cases had actually been realized. At no point in any ATI case did DOT ever consider the market concentration impacts of the overall consolidation process, such as those shown in exhibit 2.

- DOT's ATI decisions are based on the wholly unsubstantiated assertion that airline consumers are fully protected as long as there are two or three competitors. The major airlines believe this is now an established DOT "rule;"one of the US-Japan ATI petitioners explicitly states "The Department has found that as long as two or more nonstop competitors will remain in a city-pair following a grant of ATI, there is no risk of a substantial reduction in competition"[17]. This claim is not based on any objective analysis of actual airline competition and falsely assumes that the Legacy business model, based on the economics of a complex network of low volume connecting routes across hubs, has the same competitive characteristics of isolated large volume point-to-point nonstop markets.

- The DOT's nullification of factual evidence-based antitrust enforcement has created an irreconcilable split between the DOT and DOJ. Both agencies play a role in airline antitrust enforcement, but their basic approach to antitrust jurisprudence are nearly 180 degrees apart, and are not amenable to compromise. This conflict surfaced publicly during the United/Continental ATI case last year when the DOJ filed detailed comments demonstrating that the DOT had not only failed to meet the Horizontal Merger Guidelines requirement for verifiable, case-specific evidence, but the DOT had done nothing more than "copy/paste" the applicant's unsubstantiated public benefits claims. The DOT's Final Order completely rejected all of the DOJ's evidentiary objections out of hand, and affirmed DOT's nullification of antitrust standards based on verifiable factual evidence. The DOJ position was based on the view that the law required a neutral judge to weigh case-specific evidence against the consumer welfare and industry efficiency standards of antitrust law, and that antitrust regulators do not have the legal authority to use merger cases as the basis for reengineering overall industry structure. The DOT argued that DOJ was interfering with their prerogative to base antitrust decisions on their desire to reengineering airline competition in favor of 2-3 politically powerful companies.[18] These are basic black-and-white questions that the Committee and Congress must resolve before the antitrust review of this merger can proceed.

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more detailed discussion of the DOT's fraudulent regulatory use of the "double marginalization" claim see Oneworld ATI testimony at docket DOT-OST-2008-0252-3389 pp.3-19.

[17] Joint Response of American Airlines and Japan Air Lines to Order 2010-4-9, DOT-OST-2010-0059-020, p. 4, citing the DOT's Skyteam ATI final decision.

[18] See Comments of the Department of Justice on the Show Cause Order (Public Version), 26 June 2009, Docket DOT-OST-2008-0234-0239 and the DOT Final Order Docket DOT-OST-2008-0234-0253, 10 July 2009. For an overview of the ensuing interagency dispute see Stephen Labaton, "Antitrust Chief Hits Resistance in Crackdown", *New York Times*, July 26, 2009. For a detailed explanation of the DOT's "policy advocate" approach see Dean, Warren. L. and Shane, Jeffrey N.

- The DOT has clearly signaled that they have no intention of enforcing the law in the upcoming US-Japan ATI case, and plans to rubber-stamp the two alliances' request to massively reduce trans-Pacific competition. North Atlantic carriers have had some form of ATI since 1992; the recent North Atlantic consolidation cases have been active since 2004, and the BA-AA case has been pending for 20 months. Yet the DOT agreed to complete its review of the two new Japan ATI cases by September, even though these markets are subject to huge governmental interference and have much greater competitive deficiencies than any transatlantic market, DOT has never conducted a major transpacific competitive analysis, and the cases will be subject to huge uncertainty due to Japan Air Lines' bankruptcy reorganization and political instability within Japan. One must assume that DOT has no intention of conducting legitimate market power or public benefits analysis, since it would be impossible to conduct any analysis using evidence that met Clayton Act and Horizontal Merger Guidelines standards within this unrealistic deadline.
    - The Japanese bilateral treaty and the Japan ATI cases are explicitly designed to weaken US carrier competitive positions and force consumers to pay high prices in order to protect the incumbent Japanese carriers, two of the highest cost carriers in the world. Under healthy competitive conditions US carriers (who are much more efficient) would have a much larger share of the US-Japan market and Japan Air Lines would most likely be forced to liquidate.
    - The DOT sees "antitrust enforcement" as an inseparable part of its "bilateral treaty negotiation" role; thus having negotiated a new Japanese bilateral treaty that promised the Japanese a massive reduction in market competition needed to protect Japan Air Lines from market forces, it plans to violate all existing antitrust requirements and rubber-stamp the Japan ATI applications as part of the process of "honoring" its treaty commitment. But the DOT's "bilateral treaty negotiation" role is primarily responsive to the narrow interests of the big incumbent carriers and protectionist foreign governments, just as it was in the days of Pan Am and BOAC. By making antitrust enforcement a secondary adjunct of treaty negotiation, the DOT is explicitly making consumer welfare and overall industry efficiency a secondary adjunct to the short-term interests of a small number of private companies.

- While it has had only a limited role in the consolidation that has occurred to date, and certainly has a stronger appreciation of the consumer welfare/industry efficiency objectives of antitrust law, the DOJ's past track record does not inspire confidence that its upcoming United/Continental review will fully address these competitive issues.
    - While the DOJ correctly objected to the DOT's willful refusal to decide the United/Continental ATI case in accordance with the law, it has taken no substantive actions since then to deal with the DOT's adamant rejection of Horizontal Merger Guidelines based evidentiary standards
    - The DOJ's Delta/Northwest merger review was not based on a serious review or understanding of the industry and market economics critical to the case. DOJ failed to meaningfully scrutinize the synergy/efficiency claims, failed to evaluate any of the market power issues that had destroyed Northwest's corporate value, failed to consider the merger in the context of the ongoing industry consolidation process, failed to consider likely follow-on impacts (such as this case), and its focus on competition in large nonstop O&Ds was not appropriate for hub-based economics of the Legacy Network business model.

<u>Congress Cannot Allow United/Continental, Japan ATI and Industry Consolidation To Proceed Without Clearly Rejecting the DOT's Nullification of Longstanding Antitrust Law and Evidentiary Requirements</u>

- The Committee and Congress must ensure that the United/Continental review and all future airline antitrust cases are based on verifiable, factual, case-specific evidentiary standards consistent with

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(2010), "Alliances, Immunity and the Future of Aviation", *Air and Space Lawyer*, v22 n4 p.1. Although Dean and Shane are highly supportive of the DOT's "policy based" airline antitrust jurisprudence, their paper offers no post-1999 evidence that the public or the industry have benefited from this approach. The DOT "policies" that Dean and Shane support are not based on any published analysis, and are not explained in any publicly disclosed policy papers.

the Horizontal Merger Guidelines and reject the DOT's use of non-factual, non-evidentiary "rules" to eliminate the need to evaluate the actual market power and public benefits impacts of consolidation. The Committee and Congress must ensure that all future merger and ATI cases are based on the actual market power and public benefits impacts of individual transactions based on US law, and that applications are not evaluated in terms of agreements negotiated with foreign governments, or DOT desires to reengineer a different industry structure than free market competition would produce. The Committee and Congress must either align DOT and DOJ antitrust jurisprudence under a consistent approach using verifiable case-specific evidence or reallocate airline antitrust review responsibilities between the agencies.

- The Committee must ensure that the United/Continental review considers all consequent downstream impacts, based on all of the factors shaping the economics of industry competition. These should include risks to USAirways international revenue base, corporate value and independent survival; the possibility of a consequent USAirways/American merger giving three companies control of 80% of the US aviation market; mergers between a highly weakened/downsized USAirways and either United or Delta (producing much more imbalanced competition between the three surviving Legacy carriers); the risks of oligopoly service cuts in smaller cities where LCCs do not compete, and whether Legacy consolidation would undermine price competition with LCCs, or stimulate increased competition from LCCs

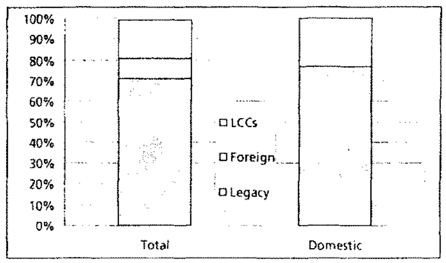
- The Committee must ensure that the United/Continental review includes a rigorous independent review of all efficiency/synergy claims, based on evidence of the actual efficiency/synergy gains achieved by Delta/Northwest and other prior mergers. The Committee must ensure that the United/Continental market power review is based on the actual economics of the internationally focused Legacy Network business model, and considers the market power impacts of the three alliances control of North American and European longhaul connecting traffic.

- The Committee and Congress must ensure that the DOT does not rubber-stamp the Japan ATI applications based on fraudulent, non-evidentiary claims of network synergies and price reductions, must ensure that the DOT is not limited by an September deadline and takes whatever time is required to conduct a review consistent with Horizontal Merger Guideline standards, and must ensure that its decisions do not reduce consumer welfare or reduce the competitiveness of US carriers in order to subsidize or protect Japan Air Lines.

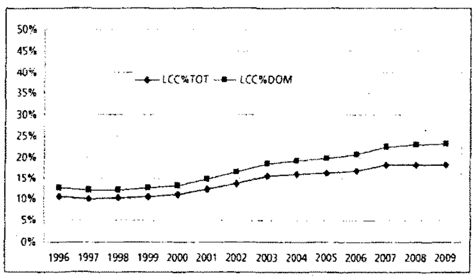
- The Committee and Congress must ensure that DOT initiates rigorous economic analysis of the actual consumer and industry efficiency impacts of the North Atlantic consolidation that has occurred since it last analyzed the impact of immunized alliances in 1999/2000.

Appendix A—Consolidation would give three companies control over 80% of the US aviation market: Low Cost Carriers are unlikely to ever serve more than 20% of the total market (or 30% of the purely domestic market) and they will never compete in Regional or Intercontinental markets

- Legacy Network Airlines currently provide 82% of all capacity (ASMs) in the US aviation market and 77% of all capacity in purely domestic markets. Low Cost Airlines currently provide 18% of total capacity and 23% of domestic capacity. The LCC share of industry capacity increased modestly until 2007 but has been flat in the last three years.[19]
  - ☐ 77% of industry ASMs serve domestic markets; 23% serve international markets; 55% of the capacity in international markets is operated by US flag carriers, 45% by foreign carriers



exhibits 6,7



- Legacy Network carriers will continue to control 75% or more of the US aviation market for the foreseeable future; further increases in LCC share are possible, but are likely to be modest
  - ☐ Legacy carriers will continue to completely dominate Intercontinental markets (where they have insurmountable competitive advantage) and have an overwhelmingly strong share of shorthaul international markets (Canada, Mexico, Caribbean)
  - ☐ Legacy carriers will continue to dominate domestic markets served by the highly efficient megahubs (Chicago, Atlanta, Dallas-Ft. Worth, Newark, etc), and will completely control low volume domestic O&D markets served via regional aircraft, where LCCs are uncompetitive
  - ☐ Larger share shifts from Legacy to LCC carriers are not impossible, but would require the types of major Legacy capacity cuts that occurred after multiple bankruptcies in the 2002-05 period

- Airline consolidation would give three competitors control over the vast majority of this huge market; meaningful price competition would be limited to high volume O&Ds where LCCs have already established a strong market presence. There is no possibility that LCC competition would discipline anti-competitive behavior in international markets, regional airline markets or most megahub markets.

[19] DOT Form 41 Schedule T-1 and T100 data. 2009 data is year ending November.

Appendix B--No Large US Airline Merger Has Ever Been Economically Justified by Cost Efficiencies or Network Synergies and Almost All Mergers Since Deregulation Have Been Dismal Financial Failures

There were 18 mergers of major airlines in the years between deregulation and the 2008 Delta/Northwest merger. In almost every case, airline mergers failed to generate positive returns for shareholders, which is to say profit improvements (above and beyond what the carriers would have earned absent the merger) that fully justified the financial costs and implementation risks. Mergers that cannot earn positive returns for shareholders cannot possibly justify the risks (from reduced competition) imposed on consumers.

All ten of the "Synergy/Scope" mergers that had been justified on the basis of scale economies and revenue synergies from combining existing networks, were complete economic failures. In many cases the acquired network was quickly liquidated and/or the merged carrier went bankrupt.

Mergers such as Delta/Northwest and United/Continental have none of the characteristics of the four successful cases. The recent USAirways/America West merger justified its costs and risks because it occurred as part of a Chapter 11 bankruptcy restructuring, which allowed asset shifts that are impossible in non-bankruptcy cases. The 1994 Morris merger allowed Southwest to acquire a very small set of aircraft and routes that were very easily integrated into Southwest's network and operation. And two mergers in the mid 80s, TWA-Ozark and Northwest-Republic, led to the integration of operations at large hubs (Detroit, Minneapolis and St. Louis) that had been artificially segregated by CAB route regulations.

Exhibit 9

Large Airline Mergers	Category	**Were merger acquisition and implementation costs fully justified by improved profitability?**
80: Pan Am/National	Post Deregulation	**FAILURE**—NA network largely liquidated
82: Texas Intl/Continental	Post Deregulation	**FAILURE**—carrier quickly went bankrupt
85: Southwest/Muse	Small Acquisition	**FAILURE** —MC assets quickly liquidated
85: People Exp/Frontier	Synergy/Scope	**FAILURE**— carrier quickly went bankrupt
86: TWA/Ozark	Post Deregulation	Profitable—Restructured STL into a competitive hub
86: Northwest/Republic	Post Deregulation	Profitable—Restructured DTW/MSP into competitive hubs
86: American/Aircal	Synergy/Scope	**FAILURE**—OC network totally liquidated
87: Continental/PE/NY/FL	Synergy/Scope	**FAILURE**—carrier soon bankrupt, FL/NY networks liquidated
87: Delta/Western	Synergy/Scope	**FAILURE**—WA network largely liquidated
87: Continental/Eastern	Synergy/Scope	**FAILURE**—CO soon bankrupt, EA network liquidated
88: USAir/PSA	Synergy/Scope	**FAILURE**—PS network largely liquidated
88: USAir/Piedmont	Synergy/Scope	**FAILURE**—US soon bankrupt, PI partially liquidated
94: Southwest/Morris	Small Acquisition	Profitable—easy fit with SWA network/operations
99: American/Reno	Synergy/Scope	**FAILURE**—QQ network largely liquidated
00: American/TWA	Synergy/Scope	**FAILURE**—TW network largely liquidated
00: United/USAir (plan)	Synergy/Scope	**FAILURE**—both carriers went quickly bankrupt
05: America West/USAir	Chapter 11 reorg	Profitable—helped avert liquidation, but profits still weak
07: Northwest/Midwest	Small Acquisition	**FAILURE**—YX soon bankrupt, NW had massively overpaid

Note: 2000 United/USAir merger reached regulatory review process but was never implemented
All Canadian airline mergers during this time frame were also failures

TESTIMONY OF

REPRESENTATIVE DENNIS J. KUCINICH

Before

House Committee on Transportation and Infrastructure, Subcommittee on Aviation

Hearing on

The Proposed United-Continental Merger: Possible Effects for Consumers and the Industry

2167 Rayburn House Office Building

June 16, 2010

Good morning Chairman Costello and Members of the Subcommittee. Thank you for the invitation to testify on the proposed merger of United Airlines and Continental Airlines.

The proposed merger is a matter of immense importance to both my constituents in Cleveland and to the nation as a whole. The post-merger United Airlines (the "New United"), with projected revenues approaching $30 billion, would be the world's largest airline measured in terms of carrying capacity and volume of passenger traffic. In hindsight, it is easy to see that the merger is a culmination of Continental's efforts over the past two years to integrate its operations with those of United. But a year ago, Continental was insisting that it did not need to merge. Rather, the company pursued antitrust immunity to join United in a marketing alliance and a joint venture. Over the strenuous objections of the Department of Justice ("DOJ"), Continental received antitrust immunity.

Now they are back, pursuing the merger they said last year was not necessary. When, last month, the merger was announced, and at the request of the Mayor of Cleveland, I directed staff of the Domestic Policy Subcommittee of the House Oversight and Government Reform Committee, which I chair, to investigate the legal and policy implications of the proposed merger. In addition to the significant antitrust concerns that I will discuss below, we have found the troubling possibility that Continental may not have been completely forthright with Congress and regulators with respect to its marketing alliance and joint venture last year or the proposed merger before us today. Adequate enforcement of the nation's antitrust laws depends, in part, on the veracity of Continental's representations. Our preliminary findings were sufficiently concerning to warrant an expansion of our probe. Yesterday, I sent a document request to Continental. The request is directly relevant to significant concerns produced by the inquiry (and discussed below) regarding the legality of the proposed merger under section 7 of the Clayton

Act and the Horizontal Merger Guidelines (the "Guidelines"),[1] the merger's advisability as a matter of policy, and the veracity of Continental's and United's representations regarding the merger's purposes and likely effects.

Continental's Representations to Government Officials

For instance, when Continental pursued antitrust immunity for its marketing alliance, key stakeholders concluded that the alliance was in lieu of a full-blown merger. Senator John Cornyn stated that Continental officials seeking his support for its antitrust immunity application informed him that immunity for the alliance and joint venture was an attractive alternative to Continental merging with United. Continental further explained to Senator Cornyn that a merger "wasn't in the best interest of its shareholders, employees or the communities [Continental] serves," antitrust immunity for the alliance and joint venture "would provide much of the benefit of a merger without the labor integration and financial risks," and "Houston and Cleveland would be some of the biggest losers in terms of jobs" in the event of a merger.[2] Following these representations, Senator Cornyn joined members of the Texas Congressional delegation in a letter to DOT Secretary Ray LaHood supporting antitrust immunity for Continental as a mechanism for Continental and United "to achieve additional network reach *without moving forward with a full-scale merger*."[3] Similarly, Cleveland's Mayor, Frank G. Jackson, wrote

[1] The Guidelines mandate a five-part inquiry: First, the Agency assesses whether the merger would significantly increase concentration and result in a concentrated market, properly defined and measured. Second, the Agency assesses whether the merger, in light of market concentration and other factors that characterize the market, raises concern about potential adverse competitive effects. Third, the Agency assesses whether entry would be timely, likely, and sufficient either to deter or to counteract the competitive effects of concern. Fourth, the Agency assesses any efficiency gains that reasonably cannot be achieved by the parties through other means. Finally the Agency assesses whether, but for the merger, either party to the transaction would be likely to fail, causing its assets to exit the market. *See* Department of Justice and the Federal Trade Commission, *Horizontal Merger Guidelines* (April 8, 1997) (online at www.justice.gov/atr/public/guidelines/hmg.htm). DOJ and the Federal Trade Commission have recently proposed substantially revised Horizontal Merger Guidelines. *See Department of Justice and Federal Trade Commission*, [Proposed] Horizontal Merger Guidelines for Public Comment (April 20, 2010). The comment period on the proposed guidelines is closed. To the extent that the revised guidelines will be applicable to the proposed merger (or to the extent that they are relevant by signifying current DOJ merger policy), experts suggest that they will likely provide DOJ an additional amount of discretion in its merger analysis.

[2] *See* Senate Judiciary Committee, Subcommittee on Antitrust, Competition Policy and Consumer Rights, *Hearing on The United/Continental Airlines Merger: How Will Consumers Fare?* 111th Cong. (May 27, 2010) (online at judiciary.senate.gov/hearings/hearing.cfm?id=4607).

[3] Letter from Senator Kay Bailey Hutchinson, Senator John Cornyn, et al. to Raymond H. LaHood, Secretary, DOT (Jan. 23, 2009) (online at

DOT supporting antitrust immunity as a way to "ensure the long term viability of [Continental's] Cleveland Hub,"[4] and Ohio Senators George V. Voinovich and Sherrod Brown wrote DOT supporting antitrust immunity to "help *both* airlines maintain their financial viability while operating as *independent competitors*."[5]

Yet only one year later, Continental is in fact pursuing a merger. Continental's pitch of the alliance and joint venture as an advantageous alternative to the merger when possibly gearing up the proposal for the same merger that was finalized only a year later calls into question its credibility. Perhaps more importantly, these earlier representations contradict current representations of Continental (and United) on issues central to the merger's legality under the Clayton Act and the Guidelines, including the general issue of whether the merger would be in the interest of its shareholders, employees, and communities; and subsidiary issues regarding the extent of the financial risk of the merger, the likelihood and magnitude of jobs losses in Houston and Cleveland, and whether there are any additional benefits of merger over efficiencies already or expected to be realized through entry into the Star ATI Alliance and the launch of the Atlantic Plus Plus ("A++") joint venture with United.

More generally, Continental's apparent willingness to make whatever representations are necessary to elected officials and regulators to garner support for its plans casts doubt on both Continental's stated motivations for the present merger and its intended post-merger conduct. Continental and United have stated that they have no present plans to close hubs in a New United and refuse to offer any predictions whether Cleveland would lose its status. They have also stated that the purpose and likely effects of the merger is not to restrict services or consolidate hubs but to moderately decrease overhead costs and more substantially realize between $800 and $900 million of revenue gains by more effectively routing network customers through hubs for more profitable business and international flights, from increasing market share, and from more efficiently deploying New United's larger fleeting, matching plane capacity with passenger load.[6] Not surprisingly, Continental does not list cutting flights or raising fares as a means to revenue growth.

However, many of the numerous market observers contacted by my Subcommittee's staff – including some who support the merger – take a different view. First, they doubt the

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www.regulations.gov/search/Regs/home.html#docketDetail?R=DOT-OST-2008-0234) (emphasis added).

[4] Letter from Frank G. Jackson, Mayor of Cleveland, to Raymond H. LaHood, Secretary, DOT (April 2, 2009) (online at www.regulations.gov/search/Regs/home.html#docketDetail?R=DOT-OST-2008-0234).

[5] Letter from Senator George V. Voinovich and Senator Sherrod Brown to Raymond H. LaHood, Secretary, DOT (Jan. 30, 2009) (online at www.regulations.gov/search/Regs/home.html#docketDetail?R=DOT-OST-2008-0234) (emphasis added).

[6] *See, e.g.*, United Airlines, *Investor Presentation: Let's Fly Together*, at 18-19 (May 3, 2010) (online at www.unitedcontinentalmerger.com/sites/default/files/pdfs/FINAL+Investor+Presentation%5B1%5D.pdf).

magnitude of the merger-specific efficiencies, including United and Continental's projection of revenue gains realized by rationalizing the use of a combined fleet or by more efficient use of their networks. A substantial portion of the claimed network efficiency gains may already have been realized by Continental joining United in the Star ATI Alliance and the A++ joint venture. Moreover, analysts and scholars have pointed to the extensive and rocky track record of past airline mergers: the purported cost and revenue synergies of past airline mergers have almost never materialized; and, despite the theoretical ability of low-cost and regional carriers to enter markets exited by merging airlines, service cuts and loss of hubs have been a common consequence. Many analysts flatly predict that Cleveland will lose its hub and service to communities formerly served by the hub will not be supplied either New United service out of surviving hubs or low-cost carriers entering the market.[7]

Does the Proposed Merger Pose Antitrust Concerns?

Perhaps more troubling, is the mechanism by which industry analysts believe New United can increase its profitability. They believe that New United can eliminate up to ten percent of their post-merger capacity and increase its and the industry's profitability by subsequently raising fares. According to many merger supporters, the industry's tens of billions of dollars of losses since deregulation are largely a product of destructive competition among airlines that has led to overcapacity and artificially low prices.[8] Those who approve the merger

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[7] *See* Testimony of Professor Darren Bush, University of Houston Law School, and Mr. William J. McGee, Consumers Union, *Hearing on The United/Continental Airlines Merger: How Will Consumers Fare?* 111th Cong. (May 27, 2010) (online at judiciary.senate.gov/hearings/hearing.cfm?id=4607) (fiercely criticizing the proposed merger and discussing historical evidence of severe service reductions not sufficiently mitigated by the entry of low-cost carriers into de-hubbed or more greatly concentrated markets, including the elimination of 840 jobs and 123 flights from the Delta's hub in Cincinnati after the 2008 Delta-Northwest merger).

[8] *See, e.g.*, Paul Mifsud, Carlos Bonilla, and Vaughn Cordle, United + Continental: A Big Win for All Stakeholders - US/AA Next? (May 3, 2010) (online at seekingalpha.com/instablog/398764-vaughn-cordle/66397-united-continental-a-big-win-for-all-stakeholders-industry). According to this view, the structure of the industry since deregulation in 1978, especially the legacy carriers, is not one of perfect competition, but destructive competition, and it is marked by an industry that is characterized by a relatively high percentage of fixed costs as percentage of total costs and persistent problems of excess capacity. In response to this, legacy carriers must try to extract profits with inelastic travelers, such as business travelers, or inelastic markets (hubs) and are forced to engage in practices such as market predation to prevent barriers to entry. While there are efficiency gains for economies of scope, scale, and network benefits, all these are not sufficient to be profitable in an industry subject to these fundamental deficiencies, episodic and cyclical disruptions in demand, and oil price spikes.

applaud the fact that the New United and the industry in general would profit from the decreased number of market participants in efforts to reduce capacity and raise fares.[9]

While the arguments that destructive competition and overcapacity are the root of the industry's losses and consolidation is the appropriate mechanism for industry's sustainable profitability is advanced by merger supporters, I find its premise unpersuasive and its proposed remedy deeply troubling in its implications for law and policy. There are other explanations accounting for losses in the industry, which do not involve some inherent competitive structures of the industry, but instead are the product of specific poor choices involving the capital structure and management by the legacy carriers, including an overreliance on leveraged buy-outs, poor decisions not to hedge fuel prices, and improvident entry into plane lease agreements.[10]

Moreover, the implications of the overcapacity narrative are of great concern to me and I would hope to DOJ. First, increased fares and declines in service are prototypical examples of the adverse competitive effects of the exercise of market power contemplated under step two of the Guidelines. Second, with respect to efficiency gains, the Guidelines require DOJ to assess "any efficiency gains that reasonably cannot be achieved by the parties through other means." It is quite possible that any efficiency gains that are trumpeted as a result of the merger, to the extent that they are cognizable and not vague and speculative, may have already been or will soon be realized through the Star ATI Alliance and A++ joint venture. Finally, cognizable efficiency gains "are merger-specific efficiencies that have been verified and do not arise from anticompetitive reductions in output or service."[11] Revenue gains realized by exercising market power to cut service and increase fares should not count.

In addition, there are a number of other possibilities for anticompetitive behavior that could be exacerbated by further industry consolidation[12] – all of which should be cognizable under antitrust law.[13] I will mention a few here.

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[9] Sustained profitability for our domestic airline industry is certainly a legitimate concern. United has recently reorganized in a Chapter 11 bankruptcy, which resulted in huge concessions by labor and losses to shareholders and creditors. And while Continental has avoided this fate, the losses sustained by the legacy carriers have been staggering, the bankruptcies frequent, and the federal government has stepped in on more than one occasion to insure the industry's solvency. While it may be in the national interest to preserve the legacy carriers – for the consumers who benefit from the extensive regional services offered by the hub-and-spoke system and the jobs that these airlines provide, further consolidation is an unlikely mechanism to ensure the long-term viability of the industry, and consolidation's potential harms are multifold and substantial.

[10] *See* Paul S. Dempsey, *The Financial Performance of the Airline Industry Post-Deregulation*, 45 HOUS. L. REV. 421 (2008).

[11] *See* Department of Justice, J. Bruce McDonald, Deputy Assistant Attorney General, Antitrust Division, *Antitrust for Airlines* (Nov. 3, 2005) (online at www.justice.gov/atr/public/speeches/217987.htm).

[12] Most analysts regard a subsequent merger between American Airlines and US Airways as inevitable if the United-Continental merger is approved. The formation of the New United

In a meeting with my Subcommittee staff, Continental representatives cited as a key advantage of the merger the New United's increased ability to negotiate on better terms with large corporations for packages of business fares because of it could provide "one-stop shopping" for business and especially international business travel. While Continental stressed that the expanded network services of the New United would be attractive for these corporate customers, it is also likely that a consolidated company would be in a stronger position to negotiate these agreements on more favorable terms (and prices) given the reduction of competition.

Similarly, the reduction of market participants will likely provide the New United greater leverage to force concessions out of a whole host of vendors and customers up and down its supply chain. This could lead to the exercise of vertical abuse of market power at the expense of a wide variety of actors, including travel agents, vendors, and even localities, which may increasingly be pressured to supply better publicly funded infrastructure and facilities for the airlines.

Finally, the size and importance of a New United could raise the prospect of systemic importance (if not systemic risk) to the economy. Even if the New United is not officially considered "too big to fail," it will certainly be big enough to exert increased power over regulators. If the current financial crisis has taught us anything, it is the difficulty in predicting *ex ante* the myriad ways in which immense and concentrated corporate entities can leverage their corporate power to the detriment of citizens.

Will the Department of Justice Vigorously Enforce the Law?

Assistant Attorney General Christine A. Varney, the DOJ's antitrust chief, has explained that the Administration's pursuit of "vigorous antitrust enforcement in this challenging era" will involve the development of competition policy more broadly based not simply on the case before it but a consideration of "the overall state of competition in the industries in which we are reviewing potentially anticompetitive conduct or mergers, or providing guidance to regulatory agencies charged with industry oversight. We thus must consider market trends and dynamics, and not lose sight of the broader impacts of antitrust enforcement." I am concerned that the proposed Continental-United merger may by itself and as part of the latest phase of airline consolidations that has notably included the 2008 merger between Delta Airlines and Northwest Airlines result in a highly concentrated domestic airline industry to increasingly be in the position to exercise market power at the expense of the consumer.

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would place additional pressure on the DOJ to approve subsequent mergers even if it they raise antitrust concerns.

[13] The testimony of the only two non-airline witnesses at the recent Senate subcommittee hearing is instructive in the types of market power and consumer harm that potentially could be expected subsequent to the proposed merger. *See* Testimony of Professor Darren Bush, University of Houston Law School, and Mr. William J. McGee, Consumers Union, *Hearing on The United/Continental Airlines Merger: How Will Consumers Fare?* 111th Cong. (May 27, 2010)

Traditionally, a major focus of the DOJ in assessing the antitrust implication of airline mergers has been the danger that competition would be immediately be reduced between city pairs that have been served by both incumbent airlines. There has been speculation and commentary that because the amount of city pairs so affected in the proposed merger is relatively modest and, in fact, less than those in the Delta-Northwest merger, the prospects for DOJ approval of the merger were favorable. While not discounting the importance here of an analysis of reduced competition in certain routes – especially hub-to-hub routes where competition would likely be reduced – antitrust precedent, the statements of Assistant AG Varney to not lose sight of overall "market trends and dynamics," and the interest of consumers all support a more robust antitrust inquiry here than an exclusive focus on the immediate effect on competition in overlapping city pairs.

The trends and dynamics that most worry me are the following: the prospect that the New United will exercise market power to the detriment of consumers through the adoption of anticompetitive measures, including service cuts to certain regional locations and price increases that will subsequently be adopted industry-wide because of reduced industry competition and capacity. Furthermore, fare increases and service cuts and associated job reductions threaten to disproportionately harm Cleveland and surrounding communities now served by Continental's Cleveland hub irrespective of whether Cleveland loses its hub status.

In 2009, the DOT, over DOJ's strong objection, granted Continental's application for antitrust immunity to join United and 20 other airlines in the Star ATI Alliance, a marketing alliance allowing for code sharing, coordinated processes for reservations and baggage transfer, through-ticketing, frequent flyer reciprocity and lounge sharing; and to launch A++, an integrated joint venture among Continental, United, Air Canada, and Lufthansa, permitting participants to jointly manage capacity, scheduling, pricing, revenue management, sales, marketing, and to share revenue on certain transatlantic routes. Today, there is just as much reason for DOJ to oppose this proposed merger.

I urge this Subcommittee, other Congressional committees (two of which are holding hearings on the proposed merger this week), and members to make sure that DOT and DOJ take the concerns discussed in my testimony and by other witnesses here seriously. It is crucial that agencies avoid applying statutes and regulations designed to protect consumers in an overly formalist way characteristic of the previous Administration deference to corporate prerogatives.[14]

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[14] There are encouraging signs that DOJ is committed to a robust Clayton Act analysis. In June 2009, when DOJ advised against a preliminary grant of antitrust immunity by the DOT to Continental, DOJ opposed urged the adoption of significant measures that would mitigate the danger of what it believed was the possibility of collusion by United and Continental on international flights and reduced competition and the possibility of "substantial consumer harm." DOJ's analysis, which was conducted under the same Guidelines applicable to the proposed merger, was instructive on a number of grounds. First, as is proper in antitrust analysis, DOJ did not defer to Continental's mere assertion of the need for and efficiency gains gleaned from its bid to enter the alliances. Instead, it critically examined these assertions and found that Continental had not made the case, and, importantly did not agree that Continental had established that it

Thank you.

would sufficiently realize efficiency gains through antitrust immunity. Second, DOJ objected to Continental's application in part because of its possible spillover effects on competition on domestic routes. Given that the ramifications of the extensive coordinated activities involved in the Star ATI Alliance and A++ joint venture are only now beginning to be felt, I urge DOJ to analyze carefully whether some its fears regarding the possible anticompetitive effects of United and Continental's joint participation in the alliance and joint venture have been realized before approving a full-fledged merger.

Consumers Union®
NONPROFIT
PUBLISHER OF
CONSUMER REPORTS

TESTIMONY OF

WILLIAM J. McGEE
CONSUMERS UNION

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON AVIATION

ON

"THE PROPOSED UNITED-CONTINENTAL MERGER:
POSSIBLE EFFECTS FOR CONSUMERS AND THE INDUSTRY"

16 JUNE 2010

Consumers Union
Headquarters Office
101 Truman Avenue
Yonkers, New York 10703-1057
(914) 378-2029
(914) 378-2992 (fax)

Washington Office
1101 17th street N.W. # 500
Washington, DC 20036
(202) 462-6262
(202) 265-9548 (fax)

West Coast Office
1535 Mission Street
San Francisco, CA 94103-2512
(415) 461-6747
(415) 431-0906 (Fax)

South West Office
506 W. 14th, Suite A
Austin, TX 78701-1723
(512) 477-4431
(512) 477-8934 (fax)

Thank you Chairman Costello and Members of the Committee:

Good morning. My name is William J. McGee. I appear before you today as a consultant on travel and aviation issues for Consumers Union[1], the nonprofit publisher of *Consumer Reports*®. I thank you for the opportunity to express our deep concerns about the proposed merger between United Airlines and Continental Airlines.

When Congress passed the Air Transportation Safety and System Stabilization Act just 11 days after the 9/11 attacks and the U.S. airline industry received a $5 billion bailout, it was argued that the nation's airlines were essential to America's economy, infrastructure, security, and defense. Consumers Union agrees with these assertions, and that is why we're so concerned that a mega-merger between United and Continental will be detrimental to airline passengers.

What we've been witnessing in recent years is an incredibly shrinking airline industry. With the approval of this merger, in less than 20 years we will have seen the demise of seven major airline brands in the United States: Pan Am, Midway, Eastern, TWA, America West, Northwest, and now Continental.

As I pointed out last month in testimony before the Senate, such a merger undoubtedly will have an adverse effect on labor, since thousands of jobs will be at risk. It also will dampen the travel and tourism industries in certain destinations and threaten a host of airline suppliers, ranging from aircraft manufacturers to travel agencies. In fact, some airports, cities, and even entire regions would stand to lose service and jobs. This seems particularly true for Houston, Continental's headquarters, after the new airline consolidates at United's headquarters in Chicago. While others can speak to the consequences the proposed merger will have on communities and jobs, I will focus my comments on passengers, because passengers will suffer adverse effects as well.

In February 2001, the U.S. General Accounting Office (GAO) reported on airline consolidation and identified several potential threats to consumers, including:

- a decrease in vigorous competition in certain markets;
- a greater threat of travel disruptions due to labor or financial crises;
- a loss of service in certain communities;
- additional barriers for new-entrant airlines.

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[1] Consumers Union of United States, Inc., publisher of *Consumer Reports*®, is a nonprofit membership organization chartered in 1936 to provide consumers with information, education, and counsel about goods, services, health and personal finance. Consumers Union's publications and services have a combined paid circulation of approximately 8.3 million. These publications regularly carry articles on Consumers Union's own product testing; on health, product safety, and marketplace economics; and on legislative, judicial, and regulatory actions that affect consumer welfare. Consumers Union's income is solely derived from the sale of Consumer Reports®, its other publications and services, fees, noncommercial contributions and grants. Consumers Union's publications and services carry no outside advertising and receive no commercial support.

In short, this means that consumers in these cities now have fewer choices, fewer flights, and fewer nonstop flights. Separately American and TWA could support hubs in Chicago, Dallas, and St. Louis, but after acquiring TWA American could only support hubs in two of those three cities. It's fair to ask if United-Continental will be able to support eight domestic hubs should their merger be approved. In addition, as the industry consolidates, consumers on many routes are losing the opportunity to "vote with their feet." The pressure to satisfy customers at the point of sale and during air travel is diminished when there is no effective competition for the consumer's business.

2. **LOSS OF SERVICE.** It seems apparent that a United-Continental merger would mean some cities—particularly smaller cities—would lose nonstop air service, if not all air service. A total of 12 cities recently lost nonstop service to St. Louis in the wake of the American-TWA merger, and a total of 10 cities have lost nonstop service to Las Vegas since the US Airways-America West merger. The more mega-mergers that are approved, the higher the probability that additional cities will lose service.

3. **HIGHER FARES.** A July 2008 report from the GAO concluded: "Mergers and acquisitions can also be used to generate greater revenues through increased market share and fares on some routes." Proponents of the United-Continental merger have noted that airfares have fallen nationwide in recent years, but this is an ironic observation since fares have fallen *despite* legacy airlines such as United and Continental, not *because* of them. Without this new generation of Low Cost Carriers, legacy airlines undoubtedly would be charging more on routes populated by these low-fare airlines, particularly in vacation markets such as Florida.

As the GAO noted, airfares rise after former rivals stop competing and merge into a single airline. In the case of United-Continental, overlaying their route maps indicates where such fare increases are likely to occur. *The Wall Street Journal* recently reported an airline analyst from J.P. Morgan identified 13 nonstop routes served by both United and Continental, and further noted that seven of these routes have no other competitors, which is even a higher concentration than occurred with Delta-Northwest. Further, this analyst indicated "only" four cities would experience price increases after a United-Continental merger. However, these are four very large cities: Washington, D.C.; New Orleans; Seattle; and San Diego. This means that millions of air travelers will experience fare hikes due to less competition.

What we saw in St. Louis was rather clear. A few years after American's acquisition of TWA, fares rose on three of the six routes dominated by those carriers pre-merger. The only reason fares also did not rise on the other three routes was because Low Cost Carriers such as Southwest had entered the market. This raises a key issue, since some analysts argue that a major airline abandoning a former hub will not harm consumers in the long run, because Low Cost Carriers will fill the void. The problem with this theory is that 1) there is no guarantee that Low Cost Carriers, with their more limited resources, will do so; and 2) even when a Low Cost Carrier enters a former hub, prices fall only on selected routes, not on *all* routes. In fact, spikes in ticket prices are particularly common on routes connecting the former rivals' hubs, such as American's hub in Dallas and TWA's hub in St. Louis. In late 2004, the St. Louis-Dallas route airfare increase will be much less likely. Conversely, there will be less chance of a single carrier successfully introducing consumer-friendly initiatives. In recent years, for example, we've seen major domestic airlines attempt to differentiate their products, such as American offering more legroom, Continental offering economy class meal service, and Southwest resisting baggage fees. Eventually both American and Continental gave in to competitive pressures, while the jury remains out on Southwest's ability to resist the fee movement. Obviously, greater concentration among the majors will mean even greater resistance to initiatives that help consumers.

7. **THE THREAT OF WIDESPREAD DISRUPTIONS**. With greater concentration of market share among just a handful of mega-carriers, the United States faces a much greater threat of travel disruptions. Imagine the nationwide effects of a labor slowdown or strike at a combined United-Continental, which analysts estimate would control nearly a fifth of all domestic airline seats. And while we certainly hope it never came to pass, imagine the effects if the Federal Aviation Administration were forced to ground this mega-airline's fleet due to maintenance or operations irregularities. Even a 24-hour disruption in service would have severe consequences for the nation.

8. **THE "TOO BIG TO FAIL" ARGUMENT**. Just as we have seen with banks, with financial services companies, and with automobile manufacturers, we are now seeing the domestic airline industry evolving into an oligopoly of 800-pound gorillas. Few industries are as financially cyclical as the airline business—the investor Warren Buffet famously declared the airline industry from the time of Wilbur and Orville Wright has made zero money, net. Five major U.S. carriers filed for Chapter 11 bankruptcy reorganization at least once during the last decade. In the past, Wall Street investors and executives at competing airlines have decried any form of assistance to financially struggling carriers, asserting the government should let the marketplace decide which airlines survive and which airlines fail. In the future, these same parties will reverse that argument, claiming that a mega-carrier such as United-Continental will be too big to fail. And they will be right: The overnight shutdown of such a large percentage of the nation's commercial airlift would have immediate and adverse effects on America's economy, infrastructure, and even security. Therefore the wise move is to prevent the further concentration of the nation's airline industry—before it's too late.

9. **RAISING THE STAKES**. Because of the Delta-Northwest merger, which was approved in the final days of the Bush Administration, some proponents of the United-Continental merger are arguing that fair is fair, and the Department of Justice and the Department of Transportation should allow United and Continental to join forces as well. If this were to happen, there is little doubt that within a short time executives from American Airlines will appear before Congress, seeking your blessing to merge with US Airways, which of course just merged with America West in 2007. This underscores there are many ways to measure the size of an airline, but regardless of the method employed, it's clear that over the last decade the issue of which airline is the largest U.S. carrier has been in constant flux. Delta's recent merger with Northwest made it the number one carrier, only to be eclipsed by United-Continental, which in turn would be eclipsed by American-US Airways. And this sudden leapfrogging in the ranks has not been due to genuine growth—to expanding service into new cities, hiring more

STATEMENT OF

CAPTAIN WENDY MORSE

CHAIRMAN

UNITED MASTER EXECUTIVE COUNCIL

AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

BEFORE THE

SUBCOMMITTEE ON AVIATION

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

UNITED STATES HOUSE OF REPRESENTATIVES

WASHINGTON, DC

June 16, 2010

Proposed United-Continental Merger:
Possible Effects for Consumers and Industry

Air Line Pilots Association, International
1625 Massachusetts Avenue, NW
Washington, DC 20036
(202) 797-4033

merger, in which management failed to negotiate contract terms in advance, is still run as two separate companies. Mired in lawsuits, America West/US Airways has failed to realize the advertised synergies, even though the merger took place more than five years ago and continues to have its share of unresolved labor issues which benefits neither the company nor the consumer.

Today, we find ourselves at a crossroad. Through the extended Chapter 11 bankruptcy process, United Airlines management stripped significant scope protections thereby allowing them to outsource flying, and eliminate jobs as they deemed fit. The process allowed United Airlines to outsource approximately 50 percent of its domestic flying to low cost, subcontracted, often unknown carriers. This has resulted in savings through costs being cut in the area of wages, benefits, and work rules. These are causative factors that ultimately impact safety.

Currently, we have 1437 pilots on furlough while United Airlines continues to outsource to low-cost, subcontracted carriers, and foreign airlines. Today we have a foreign airline, Aer Lingus, using foreign crews that are based right here in Washington D.C., flying a route to Spain with United marketing and sales enabling this joint venture. Revenue earned by United Airlines should be generated by United Airlines pilots. This continued outsourcing has cost United pilot jobs. We concur with the bipartisan view that American jobs are of the utmost importance to the sustained recovery of our economy. The United pilots believe that if this merger is to be successful, United pilot jobs are of paramount importance; and therefore, strong scope protections are essential.

Now is the time to ensure that corporate America lives up to its responsibilities to its employees, customers and stakeholders. We would stand in opposition to this merger if it is to be used as a tool to continue the outsourcing of American jobs on a grander scale, and we are hopeful that will not be the case. Outsourcing has become the ultimate bait and switch where the passengers are often unaware of which airline is actually providing the service. When a passenger buys a ticket from United Airlines, they deserve to have United pilots at the controls. This merger presents the opportunity to put an end to management's preoccupation with outsourcing.

One axiom in this service industry stands as a beacon of truth: Take care of your employees. Ultimately, they will take care of the customers and the business will take care of itself. It is imperative that the combined United/Continental Airlines establish a management team not only capable of running the airline well, but one that also cultivates a culture where this combined entity provides the revenue and capital generation for a great product. In order for this merger to be successful, there must be a joint collective bargaining agreement with assurances for wages, working conditions and job protections that are commensurate with the professionalism that our pilots exhibit each and every day.

Thanks to the professionalism, commitment and financial sacrifice of the pilots and other employees, our airline has weathered numerous challenges, and now flourishes. Without the pilots' and other employees' sacrifices, the proposed United/Continental merger would be not be possible. Our pilots have made the sacrifices. It is now time we shared in the rewards.

Testimony for Congressman Donald M. Payne
Committee on Transportation and Infrastructure - Subcommittee on Aviation
The Proposed United-Continental Merger: Possible Effects for Consumers and the Industry
2167 Rayburn House Office Building, Washington, DC
Wednesday, June 16, 2010 – 9:30am

Chairman Costello, Ranking Member Petri, members of the Committee, thank you for the opportunity to testify today.

We are here to discuss the proposed merger of United Airlines and Continental Airlines – the largest employer in the City of Newark. I am here today to offer support for this proposed merger.

As a general policy, I am always concerned that mergers mean significant reductions in jobs. But this airline merger is different. These two airlines have very complimentary route systems with very little overlap. When there is very little overlap, there is no need for significant reduction of employees. This is a fact that the Continental CEO has confirmed to me.

I know Continental has lost $1 billion since the 9/11 attacks and I know that employees have lost their jobs and been forced to accept wage reductions and make other sacrifices. This is not good for the many Continental employees who live in my district.

The airline industry has also struggled with the high price of oil and with the impact of the 2008 recession. I have met with Continental's CEO – Jeff Smisek -- to discuss this merger and he has been quite clear to me and to the other Members of the NJ Delegation that without this merger, Continental cannot be assured of a long and prosperous future. They may be able to earn a modest profit in some years but that is not a formula for long term success if they are losing money the other years.

Continental seems determined to try to turn their fortunes around through this merger. I have told Jeff that I expect Continental to bring its more favorable labor-management relations culture to the new airline. And I have also encouraged him to complete the necessary collective bargaining agreements early in the process. I trust that he will conduct those negotiations with all the unions with dignity and respect. The unions will be critical to the long term success of this merger. Employees' wages, retirement security and health benefits must be **a top priority** for Jeff and for the new combined carrier.

This merger is good for my home city of Newark and for New Jersey because it will allow for growth of jobs and service. Continental's hub at Newark is a crown jewel; it is a premier domestic and international gateway to the New Jersey/New York City region (the nation's business and financial capital). Without a doubt, the City of Newark and the State of New Jersey have benefitted from the airline's presence.

Over the years, Continental Airlines has not only made significant investments in infrastructure at Newark Liberty International Airport, but the airline's leadership has successfully worked with local governments to establish job creation programs and promote other important growth initiatives in the state. Just this summer there are nearly 75 young people benefitting from a summer internship that allows them to learn valuable customer service skills as they spend each day working the crowds at the ticket counter.

I have a long history of supporting Continental because they have a long history of supporting Newark and New Jersey. They have opened new routes to South America, Europe, China and Japan while I have served in Congress and with the addition of each new route; we have increased use of our airport by business and leisure passengers from around the country and around the world. And more importantly, we have increased jobs – jobs that come with good benefits for both part-time and full-time employees.

As a Member of Congress and a member of the House Foreign Relations Committee, I travel the world to carry out my responsibilities. I see the other global carriers that Continental must compete with. And as much as Continental has changed and grown in the last decade, they need to be bigger if they are going to compete against BA/Iberia and KLM/Air France.

I realize that Chairman Oberstar and some of my colleagues may not agree about the benefits of this merger. But from my vantage point, given the current challenging economic landscape, the proposed merger between Continental and United is the best way to ensure sustainability for the airline, jobs for Newark and the surrounding metropolitan region and also enhance growth opportunities for Newark and New Jersey.

I appreciate the opportunity to share my view today.

STATEMENT OF

CAPTAIN JAY PIERCE

CHAIRMAN

CONTINENTAL MASTER EXECUTIVE COUNCIL

AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

BEFORE THE

SUBCOMMITTEE ON AVIATION

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template for success is available for all to see – working alongside their pilots benefitted all players within Delta/Northwest merger. Going third in this round of airline consolidation - provides us the unique opportunity to examine what has worked and what has failed. While no two transactions are identical, our goal should be to improve the model - to exceed past successes and to mitigate the areas that proved to be problematic. To accept marginal success or in other words, partial failure, should be unacceptable to our executives and will be unacceptable to our pilots.

The merger of Continental and United has the potential to provide many opportunities. If done correctly, this merger can help resurrect an industry that is clearly failing. Over the last decade, network carriers have reported over 70 billion dollars in net losses. Since deregulation there have been over 180 airline bankruptcies. Historical greats such as Pan American, TWA and Eastern have become extinct. The industry is broken and badly in need of an overhaul. The fact is that as legacy carriers struggle to maintain market share, and seat capacity continues to exceed levels necessary for a reasonable rate of return on shareholder or stakeholder investment. In this environment, there has been little or no capacity discipline, which in turn results in yields that in any other industry would be considered abysmal. Yet in our business, modeling that produces yields of 2 to 3 percent is lauded as success. As a result, when looking at airline financial reports I am often drawn to the conclusion that the left side of the Balance Sheet has nothing right and the right side has nothing left. Continuing down the well traveled path of economic irrationality does not bode well for the traveling public, shareholders, or for the long term interests of airline employees. It is incumbent on us to find rational solutions. A properly executed merger can be a much better solution for the industry than consolidation by failure.

The merger of Continental and United is expected to produce approximately 1.2 billion dollars in annual cost and revenue synergies. I believe these estimates are obtainable for the new United. I am not worried about IF the synergies will be achieved; I am worried about how they will be used. As irrational as it is to continue to foster a failing industry with continued over capacity, it is equally irrational to use the benefits derived from a merger to simply enrich those who put the deal together or to continue to throw good money after bad with ill conceived business plans that reward only those at the top of the food chain. In the long run, success will be determined by the strength of the new entity, the value added to its shareholders and even more importantly, by the pride of the airline's labor force. This pride can only be regained by first ensuring that reparations are made to labor for their years of sacrifice. Having for years watched revenue flow in every direction except toward labor, and having experienced cost reductions that threatened our families' futures, we have become skeptical. Trickledown economics has left us empty handed. For this reason, our support, and therefore the ultimate success of the merger, is contingent on immediate and contractual assurances of wage rates, retirement, work rules, and job protections that are commensurate with our education, experience, and responsibilities. We deserve it, our passengers deserve it and our families deserve it. Let me be very clear – in order for this merger to be a true success, a commitment must be made to our pilots that they will share in the rewards. We have most assuredly had our share of risks.

Testimony of
Robert Roach, Jr.
General Vice President

Before the
House Committee on Transportation and Infrastructure's
Subcommittee on Aviation

"The Proposed United-Continental Merger: Possible Effects for Consumers and Industry"

June 16, 2010

The International Association of Machinists and Aerospace Workers
9000 Machinists Place
Upper Marlboro, MD 20772
301-967-4500

Testimony of General Vice President Robert Roach, Jr.
International Association of Machinists and Aerospace Workers
Before the House Committee on Transportation and Infrastructure's
Subcommittee on Aviation

"The Proposed United-Continental Merger:
Possible Effects for Consumers and Industry"
June 16, 2010

Thank you, Chairman Oberstar, Subcommittee Chairman Costello, Ranking Member Mica and members of this Committee for the opportunity to speak to you today. My name is Robert Roach, Jr., General Vice President of the International Association of Machinists and Aerospace Workers (IAM), the largest airline union in North America. The Machinists Union represents United Airlines and/or Continental Airlines workers in the flight attendant; ramp; customer service; reservation agent; fleet technical instructor; maintenance instructor; security guard; and food service employee classifications, plus customer service agents at United's frequent-flier subsidiary, Mileage Plus, Inc. The IAM also represents flight attendants at Continental's wholly-owned subsidiary Continental Micronesia and flight attendants at Continental and United regional partner ExpressJet Airlines. In total, the IAM represents more than 26,000 workers who will be affected by this proposed merger. Our bargaining relationship with each airline spans many decades.

Perpetual Crisis

The airline industry has been in continuous turmoil since the passage of deregulation in 1978. Merger proponents complain about overcapacity as a major reason for industry consolidation, but mergers will not address overcapacity. Braniff, Eastern, Pan Am, TWA, Northwest Airlines, People Express, Aloha Airlines and others have all disappeared from the industry landscape, but the problem of overcapacity remains.

We cannot look at the United-Continental transaction in isolation. As the Delta-Northwest merger moves toward its completion, the United-Continental merger takes center stage. Waiting in the wings is a possible third merger, perhaps between US Airways and American Airlines, each a product of recent consolidation with America West and TWA, respectively. We agree with Chairman Oberstar when he wrote the Department of Justice stating, "This merger will move the country far down the path of an airline system dominated by three mega-carriers…If United and Continental merge, another domino in a chain of mergers will fall, and there will be strong pressure for further consolidation[1]." Does anyone really believe that having only a few major airlines in operation, each with immense market control and offering consumers fewer choices, will benefit the country? If one of these mega-carriers should fail, how would that impact the country?

The Machinists Union has serious concerns not only about the viability of a combined United/Continental carrier, but also for the long-term sustainability of each carrier independently. In fact, our concern is for the entire industry, and we do not believe mergers alone provide the answers. Congress has spent a considerable amount of time

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[1] Chairman James Oberstar's letter to the Department of Justice, May 5, 2010

debating the issue of entities that are too big to be allowed to fail. Our concern is we are creating airlines that are too big to succeed.

I am not advocating that we maintain the status quo in the airline industry. When there are problems, we must seek solutions. But perhaps we should take a step back and not rush to judgment or consolidation. It is time we seek a new vision for the future of air transportation in the United States.

It was clear to the Machinists Union in 1993 that deregulation had failed. The Clinton administration recognized the problems facing the air transportation industry and empanelled the National Commission to Ensure a Strong Competitive Airline Industry. One of my predecessors, IAM General Vice President John Peterpaul, served on the Commission. The Commissioners were charged with investigating and devising recommendations that would resolve the crisis in the industry and return it to financial health and stability.

The Committee essentially recommended no substantial regulatory changes and believed that market forces would stabilize the industry. The IAM's representative on the Commission was the only dissenter, arguing that deregulation destabilized the industry and government intervention was necessary.

This country needs the major airlines, or so-called legacy carriers. While low-cost carriers fill an important niche, the air transportation system would collapse without traditional hub-and-spoke carriers. If you want to fly to Europe, Asia, South America or the Middle East you will be flying one of the legacy carriers, or another nation's airline. As John Peterpaul said, "Hubs serve as collection and distribution centers for air traffic, making it possible to serve many more communities than would be feasible with simple linear, point-to point service."[2] It is a mistake to think that as legacy airlines merge and hubs are eliminated that start-ups or low-cost carriers are capable of filling the void.

The Machinists Union's assertion that deregulation had failed to deliver on its promises was ignored in 1993 in favor of supporting airline industry executives who advocated staying the course. Congress now has another chance to make effective changes to this industry.

United and US Airways' pension terminations alone have cost the Pension Benefit Guaranty Board (PBGC) $10 billion and beneficiaries $5 billion[3]. Inflation-adjusted salaries for airline employees have grown less than 5% since 1979[3]. There have been 162 airline bankruptcy filings since 1978[4], with bankruptcies accelerating in the last decade, including the liquidations of Aloha Airlines, ATA and Midway Airlines. Since 1978, 150 low-cost carriers began operations, with less than a dozen still providing service today.[4] More than 100 communities have lost <u>all</u> commercial air service in the

[2] *Dissenting Opinion*, by Commissioner John Peterpaul to the Report of the National Commission to Ensure a Strong Competitive Airline Industry, August 19, 1993

[3] *Airline Deregulation*, United States Government Accountability Office Report GAO-06-630, June 2006

[4] *Flying Blind*, Dēmos, 2009

last 10 years.[4] The industry has lost more than $60 billion in the last decade, and 163,000 industry jobs have disappeared since 2001. [5]

The so-called low-cost airlines are not immune to the industry's problems and are also looking for additional consolidation to help them survive. For example, US Airways, which became a low-cost carrier after two bankruptcies and a merger with America West Airlines, is now aggressively seeking a merger partner. "Further down the road there's a high probability that US Airways will wind up merging with either United, Delta or American," said US Airways President Scott Kirby.[6]

Even Alfred Kahn, the major architect of deregulation, has said, "I must concede that the industry has demonstrated a more severe and chronic susceptibility to destructive competition than I, along with the other enthusiastic proponents of deregulation, was prepared to concede or predict." [7]

This industry is crying out for limited re-regulation.

Deregulation in this industry – and others –has had disastrous effects. Left completely to their own devices, corporations put their profits first without regard to the impact it has on the nation.

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[5] Testimony by ATA President and CEO Jim May Before House Appropriations Subcommittee on Transportation, Housing, Urban Development and Related Agencies on Aviation Stakeholder Priorities for Maintaining a Safe and Viable Aviation System, March 18, 2010

[6] *US Airways: Merger Probability Is High*, by Ted Reed, TheStreet.com, June 1, 2010 http://www.thestreet.com/story/10771279/1/us-airways-merger-probability-is-high.html

[7] *Change, Challenge, and Competition: A Review of the Airline Commission Report"*, by Alfred E. Kahn, 1993

The 2007 financial and housing meltdown was a result of unregulated corporate greed in the banking and mortgage industries. Instead of only traditional banks offering mortgages, non-banks were allowed to enter the mortgage market. Predatory lenders aggressively targeted unqualified borrowers. Investment banks sold mortgage packages to Wall Street – all largely unregulated. When the mortgages defaulted – because many should never have been made in the first place – Wall Street collapsed, and took the rest of the economy with it.

One only has to look at the news this evening to see the toxic results of energy industry deregulation suffocating our Gulf shores. Local fishing and tourism industries are being destroyed, not to mention the cataclysmic environmental impact. Oversight and enforcement of BP's operations were woefully inadequate, in spite of a decade of documented safety violations at BP locations across the United States. [8]

Some industries are too critical to the United States to be allowed to regulate themselves. The airline industry needs to be stabilized because it drives $1.4 trillion in economic activity and contributes $692 billion per year to the Gross Domestic Product (GDP).[9] It is too vital to the nation's commerce to be ignored, taken for granted or left to its own destructive ways.

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[8] *Reports at BP Over Years Find History of Problems*, By Abrahm Lustgarten and Ryan Knutson. Washington Post, June 8, 2010

[9] *The World Airline Report*, Air Transport World, June 1, 2009 http://atwonline.com/eco-aviation/article/world-airline-report-0309

Today, Congress is considering increased oversight of both the financial and oil industries to provide more regulation. Such action is necessary and long overdue, but it took catastrophes to prompt action. There have been three decades worth of evidence that airline deregulation has failed. At what point do we take another look at this beleaguered airline industry? We need to be forward-thinking before we are asked to bailout the airline industry – again.

It is clear that airline deregulation has failed to deliver on its promises of a stable and profitable industry, and staying the course will continue the industry's downward spiral. Airline bankruptcies will continue, more proud airlines will disappear, employees will continue to suffer and passengers will receive less service. Albert Einstein said, "Insanity is doing the same thing over and over again and expecting a different result." We can close our eyes and believe that repeating the same mistake for thirty years will eventually bring different results, or we can effect real change and have an efficient and competitive air transportation industry.

I do not propose a complete return to the days of the Civil Aeronautics Board and complete re-regulation, but some additional form of government involvement is necessary.

Although I do not agree with everything former American Airlines CEO Robert Crandall says about the airline industry, I share his opinion that, "market–based approaches alone have not and will not produce the aviation system our country needs" and that "some form of government intervention is required."[10]

The IAM believes fares need to be regulated. We must have fare minimums, because if an airline is allowed to charge less for a ticket than it costs to provide the service, we will have more airline bankruptcies and further consolidation until we have only a single airline left in the United States.

Airline business plans today focus on lowering standards, eliminating services and reducing ticket prices to the bone to put competitors out of business, making a profitable industry impossible. The GAO estimates that median ticket prices have dropped nearly 40% since 1980, although the costs of aircraft, airport leases and fuel have increased dramatically.[11] Employees have been subsidizing the low ticket prices. No business can survive if they sell their product for less than what it costs to deliver their goods.

The long-term cost of under pricing tickets is too extreme. Pan Am, TWA, Eastern, Northwest and Aloha Airlines all survived for more than half a century, but could not endure the insanity of cutting prices to eliminate the competition.

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[10] *Charge More, Merge Less, Fly Better*, by Robert Crandall, The New York Times OP-ED, April 21, 2008

[11] *Airline Deregulation*, United States Government Accountability Office Report GAO-06-630, June 2006

Merger Scrutiny

Although we have met with United and Continental both separately and jointly, information has been slow in coming. The Machinists Union and our 26,000 members at the two airlines do not have enough details about the merger's impact on employees to determine if this merger would be in their best interests. The carriers admit that many of our most important issues, such as pensions, workforce integration, union representation, prevailing wages and working conditions will largely remain unresolved until after the Department of Justice rules on the merger. To the carriers' credit, they have agreed to a communication system through which we can obtain the information to address employee concerns, but that does not answer our questions today.

United Airlines has $8.5 billion in long-term debt[12], and Continental has $5.3 billion in long-term debt[13] – and they are considered healthy by industry standards. The merged entity would start out $13.8 billion in debt. What is their business plan to deal with the debt structure?

Merging airlines is much more difficult than just painting planes and combining websites. American Airlines' 2001 acquisition of TWA's assets resulted in tremendous job loss, employee integration problems and the closing of a hub in St. Louis, Missouri. The America West-US Airways merger cost the city of Pittsburgh, Pennsylvania its hub, and employee integration problems for some classifications persist five years after the

[12]Continental Airlines 10-K filing with the Securities and Exchange Commission, filed 2/17/10.
[13] United Airlines 10-K filing with the Securities and Exchange Commission, filed 2/26/2010.

merger. The 2008 Delta-Northwest merger is still far from being completed and managements' promises to preserve all front-line jobs in the merger were quickly broken.

With tens of thousands of employees from two different corporate cultures involved, jobs are inevitably lost in mergers and integrating employees groups is never as smooth as management claims. As with any service industry, employees upset with management provide an inferior product. How employees are treated in this merger will ultimately determine its fate. Southwest Airlines founder Herb Kelleher has said, "Happy and pleased employees take care of the customers. And happy customers take care of shareholders by coming back.[14]" An airline merger that does not take employees into consideration has the potential to take two viable carriers and create a combined airline destined to fail.

Airline Alliances

Several years ago, the IAM raised concerns with respect to airline alliances. In our opinion, these alliances served as a potential mechanism for allowing airlines a path around antitrust laws. Unfortunately, our concerns have been substantiated. In some cases, they have served as the foundation for airlines to consolidate their operations. Time and time again, consolidations are announced only after both airlines have operated in the same airline alliance structure.

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[14] *From the Corner Office - Herb Kelleher*, by Mary Vinnedge. Retrieved from success.com on May 26, 2010, http://www.successmagazine.com/From-the-Corner-Office-Herb-Kelleher/PARAMS/article/390/channel/19

Continental and United Airlines represent the latest consolidation of airlines in the same alliance. Continental's membership in the Star Alliance essentially started a merger on the installment plan. Given the prevalence of alliances here at home, what will alliances ultimately mean for the traveling public, particularly if they lead to further consolidation and route frequencies are cut, if not altogether abandoned?

The implications for worldwide air travel are even more profound, particularly for U.S. consumers. Given the rapid acceleration of outsourcing of most job classifications, will alliances result in the outsourcing of most domestic work on carriers to workers at airlines in other countries? We have already seen thousands of U.S. aviation jobs shifted to countries like China, Singapore, and the Philippines as U.S. air carriers outsource call centers and maintenance work. Given the lack of proper oversight by the FAA, as well as inadequate quality control mechanisms, this development should raise alarms for any policymaker that sees domestic job security and consumer interests a priority.

Consumer Impact

The combined United/Continental airline would have nine U.S. hubs, more than any other airline. The combined airline will have hubs at Dulles Airport in Virginia and Newark, New Jersey – 215 miles apart. Its hubs in Cleveland and Chicago would be just 307 miles from each other. Will the merged carrier have any choice but to eliminate hubs in order to avoid competing with itself? Closing hubs initiates a cascade of job loss that begins with airline employees and continues throughout the community to firms that provide services to the airline.

Airline mergers result in service frequency being reduced and competition being eliminated – both are bad for consumers. We have to ask ourselves if the merging of these carriers and wholesale reshaping of the industry will destroy competition and harm consumers on routes throughout the United States.

As details about the combined carriers' business plan emerge, it must be closely scrutinized to determine if a merger will result in a successful entity or not. We ask Congress to help us determine if this transaction will be good for employees and consumers.

Pensions

The Machinists Union is concerned that employees could lose defined benefit pension plans as a result of the merger. Continental ramp service, stock clerks and public contact employees all participate in a Continental company-sponsored single-employer defined benefit pension plan, while their IAM-represented counterparts at United participate in the multi-employer IAM National Pension Plan (NPP). Continental's IAM-represented flight attendants also participate in one of Continental's defined benefit pension plans and have negotiated the IAM NPP as a contingency plan. United flight attendants do not currently have a defined benefit pension plan, and the Pension Benefit Guaranty Corporation (PBGC) has prohibited United from sponsoring a single-employer pension plan.

The IAM believes that all employees deserve defined benefit pension plans. The carriers acknowledged that harmonizing pensions would be a complex issue, and although they have given it much thought, they did not know how it would be resolved.

In spite of United abandoning its pension obligations in bankruptcy, the IAM fought hard and ensured our members would have a replacement defined benefit plan. Just as we did in United's bankruptcy, the IAM will not allow our members' retirement security to become a causality of this merger.

Collective Bargaining

The Machinists Union is currently in contract negotiations for all eight classifications where we have members at the two carriers - seven at United plus Continental flight attendants. United negotiations have been ongoing for more than a year, and bargaining with Continental began late in 2009.

Regulatory and shareholder approval are far from certain at this point, and the Machinists Union is committed to negotiating new agreements to cover our members at each airline. It is premature for anyone to talk about combining the carriers' employees, and each airline must recognize their responsibility to continue bargaining in good faith.

Seniority

Seniority integration is always a major concern in mergers. Although airlines often promise fair and equitable integration of seniority, fair and equitable is a very subjective term and should not be left up to the carriers to decide. Some past mergers have resulted in employees losing decades of seniority – I am one of them. My seniority date was changed from 1975 to 2001 after American Airlines purchased TWA's assets in bankruptcy.

Continental Airlines is the product of many past mergers in the wake of deregulation, and in some cases seniority was integrated unilaterally by the then Frank Lorenzo-led carrier. The Machinists will ensure seniority is protected in this merger, but again, this is an issue to be addressed after representation issues are resolved. At the IAM's insistence, both airlines have agreed not to engage in workgroup integration discussions until representation issues are resolved.

History of Sacrifice

United Airlines employees have suffered greatly through the carrier's bankruptcy, the longest and most expensive airline bankruptcy in history.

Immediately after its Chapter 11 filing, United Airlines asked a bankruptcy judge to impose 14% "emergency" pay cuts on IAM members. More long-term cuts in pay and benefits cost IAM members $460 million a year (or $2.644 billion over the life of the agreement). United then took steps to cut health benefits for existing retirees and filed a motion in court to ask a judge to impose further cuts if agreements could not be reached with the retirees' representatives

In the summer of 2004 United ceased funding its pension plans, the first in a series of steps which ultimately led to the termination of its company-sponsored pension plans.

In January 2005, United once again sought and received "emergency" pay cuts from the bankruptcy court - this time it was 11%. Six months later IAM members gave up another $176 million a year to save United. Savings attributable to the termination of IAM member's pensions saved United an additional $217 million a year.

In total, IAM members were forced to sacrifice more than $4.6 billion for United Airlines. United employees have been subsidizing the airline since 2003, and each day without a new contract that sacrifice continues.

Continental Airlines' employees also sacrificed more the $500 million a year to keep their airline out of bankruptcy during their last round of collective bargaining.

So, employees have the right to question the motives behind this merger and fear they would be forced to subsidize it.

Conclusion

The business plan for the proposed airline must receive close scrutiny. The IAM is concerned that the new entity may be too big to succeed without some form of industry re-regulation, and failure of such a large entity could be disastrous to employees, the industry and the general economy.

As this merger proposal moves forward, the Machinists Union asks regulators to take the merger's impact on employees into consideration. A combined carrier must offer employees more stability and opportunity than are available at the two independent airlines. The merger cannot be at the expense of workers who have already sacrificed to keep their airlines aloft. United and Continental employees did not accept job cuts and wages and benefit changes when their employers restructured just to lose out again in a merger.

The Machinists Union believes that airline mergers should have conditions, including requirements that protect employees, consumers and taxpayers – all of whom have been hurt by this unregulated industry. Employees must have their jobs, wages, benefits and pensions protected. If the architects of a merger can guarantee themselves bonuses and lucrative severance packages, then they can do the same for front-line employees. All cities that the airlines currently serve, not just profitable ones, must continue to be served. Pension obligations should be upheld in mergers, and consolidation should not be a vehicle for airlines to dump their pensions on the PBGC.

United and Continental would not be seeking to merge today if employees had not stepped up to save them in the past. United and Continental need to demonstrate how the proposed merger would benefit employees, consumers, and the cities and states the airlines currently serve.

Thank you again for the opportunity to speak with you today. The Machinists Union recognizes it is in the nation's interest to have a safe, reliable, competitive and profitable air transportation industry. We are committed to working with Congress, the Departments of Justice and Transportation, and the air carriers to achieve that goal.

I look forward to your questions.

JOINT STATEMENT OF GLENN F. TILTON, CHAIRMAN, PRESIDENT AND CEO, UAL CORP. AND JEFFERY SMISEK, CHAIRMAN, PRESIDENT AND CEO, CONTINENTAL AIRLINES, INC.

BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE

SUBCOMMITTEE ON AVIATION

"THE PROPOSED UNITED-CONTINENTAL MERGER:

POSSIBLE EFFECTS FOR CONSUMERS AND THE INDUSTRY"

JUNE 16, 2010

UAL CORP.
1025 CONNECTICUT AVE., NW
WASHINGTON, DC 20036
(202) 296-2337

CONTINENTAL AIRLINES, INC.
1350 I ST., NW
WASHINGTON, DC 20005
(202) 289-6060

Good morning Chairman Costello, Ranking Member Petri, and members of the subcommittee.

Thank you for the opportunity to discuss the benefits and answer any questions related to the planned merger of equals between Continental Airlines and United Airlines that we announced on May 3. As we said at the time, this transaction will enable us to provide enhanced long-term career prospects for our more than 87,000 employees and superior service to our customers, especially those in small communities throughout the United States. Our combined company will be well-positioned to succeed in an increasingly competitive global and domestic aviation industry – better positioned than either airline would be standing alone or as alliance partners.

This merger will provide consumers access to 350 destinations in 59 countries around the world. We will offer a comprehensive network in the United States, and we will have strategically located international gateways to Asia, Europe, Latin America, the Middle East and Canada from well-placed domestic hubs throughout the country. We will have 10 hubs, eight in the continental U.S. (Chicago, Cleveland, Denver, Houston, Los Angeles, New York/Newark, San Francisco and Washington Dulles) and two others in Guam and in Tokyo. We will continue to provide service to all of the communities that our companies serve today.

This merger comes at a critical juncture for the U.S. aviation industry, which has confronted extremely difficult business challenges for the last decade. During this time, our industry has lost over 150,000 jobs, and there have been nearly 40 bankruptcies since 2001. U.S. airlines have lost a total of $60 billion since 2001.

While the economy and our industry are beginning to slowly recover from the worldwide recession, we continue to be subject to the volatility of fuel prices and an intensely competitive environment in all of our markets.

As individual companies, we have taken significant steps to respond to these challenges. United went through a bankruptcy restructuring and both airlines have become more efficient and reduced our cost structures. But to survive, we have also been forced to reduce the number of aircraft we fly, the number of destinations we serve and the number of people we employ.

At the same time, we have made significant operational improvements. United now ranks as the leading U.S. global airline in on-time performance as measured by the Department of Transportation, and Continental is regularly recognized in independent surveys for the high quality of its customer service. Through our joint venture and alliance relationships, we have provided enhanced benefits to our customers and achieved substantial synergies.

While we are proud of these recent improvements at our companies, we believe it is clearly in the best interests of our customers, employees, shareholders and the communities we serve to bring our two airlines together in a merger. This merger will provide a platform to build a more financially stable airline that can invest in our product and our people to succeed in a highly competitive environment and be better able to withstand future economic downturns and challenges. The fact is that sustained profitability is the only way to improve service and reward employees over the long term.

The Merger Will Benefit Customers

By bringing together two of the most complementary route networks of any U.S. carriers, the merger of Continental and United will give travelers expanded access to an unparalleled global network. It combines United's Midwest, West Coast and Pacific routes with Continental's service in New York/New Jersey, the East Coast, the South, Latin America and across the Atlantic.

Customers will have access to 116 new domestic destinations; 40 will be new to United customers, and 76 will be new to Continental customers. The merger will create more than 1,000 new domestic connecting city pairs served by the combined carrier, providing additional convenience to customers.

Our fully optimized fleets and routes will provide greater flexibility, options, connectivity and convenience for customers. This improved connectivity and direct service options, as well as improved service, are expected to enable the combined airline to generate $800-$900 million in annual revenue synergies – and these synergies are not dependent on fare increases.

Importantly, the combined airline will be better able to enhance the travel experience for our customers through investments in technology, the acquisition of new planes and the implementation of the best practices of both airlines. The new airline will be more cost effective; we expect to realize cost-savings synergies of $200-$300 million per year, mostly through reductions in overhead such as rationalizing our two information technology platforms, combining facilities and corporate functions such as finance, marketing, sales and advertising.

We will have one of the youngest and most fuel-efficient fleets among the major U.S. network carriers, as well as the flexibility to manage our fleet more effectively. With one of the best new aircraft order books in the industry, we will also be able to retire older, less efficient aircraft. This will result not only in greater efficiency but less environmental impact from our fleet.

Once the merger is complete, customers will also participate in the industry's leading frequent flyer program, which will give millions of members more opportunities to earn and redeem miles than ever before. Through Star Alliance, the leading global alliance network, our customers will also continue to benefit from service to more than 1,000 destinations worldwide.

The Merger Provides Job Stability for Employees

The past decade has been a tumultuous time for our employees. They have faced ongoing uncertainty as the industry has been forced to shed tens of thousands of jobs. In fact, in January 2009, the full time equivalent employees for the U.S. airline industry numbered 390,700 – that figure is 151,000 – or more than 25 percent – less than the all time high airline employment figure of 542,300. Employees have been forced to weather the volatility of oil prices and the challenges of terrorist attacks, increased security, a massive recession and unforeseen events such as SARS, H1N1 and volcanic ash. Through all of this, they have continued to perform at their best, providing our customers with clean, safe and reliable air travel.

We're proud of the work that our employees do every day. The merger will offer our employees improved long-term career opportunities and enhanced job stability by being part of a larger, financially stronger and more geographically diverse carrier that is better able to compete successfully in the global marketplace and withstand the volatility of our industry.

We will continue to serve all of the communities that we serve today and we expect that any necessary reductions in front line employees will come from retirements, normal attrition and voluntary programs. Our plan is to integrate our workforces in a fair and equitable way. Our focus will be on creating cooperative labor relations, including negotiating contracts with our collective bargaining units that are fair to the company and fair to our employees. United has two members of its collective bargaining units on its Board of Directors, and the seats allocated to the collective bargaining units will continue to be part of the Board of the combined company.

The merged company's headquarters will be in Chicago. In Houston, we will continue to have a significant presence and will remain one of Houston's largest private employers. Houston will be our largest hub and will continue be a premier gateway to Latin America for more travelers than ever before. Some corporate positions will remain in Houston and our CEO will have an office there as well as in Chicago. Over time, as our business grows as a result of the merger, we expect to see a net gain in jobs in Houston.

We expect to adopt the best aspects of each company's culture and practices. People at both companies have come to know, admire and learn from their counterparts in many functions due to our joint venture and Star Alliance relationships, and we are confident that we can integrate our organizations fairly, effectively, and efficiently.

Service to Small Communities Will Be Enhanced

As network carriers, we have a long history of serving small- and medium-sized communities. United is proud to fly passengers from places like Portland, Maine to Honolulu or Charleston, South Carolina to Chicago, while Continental's service to and from Houston has been instrumental to the growth of the 20 Texas communities served.

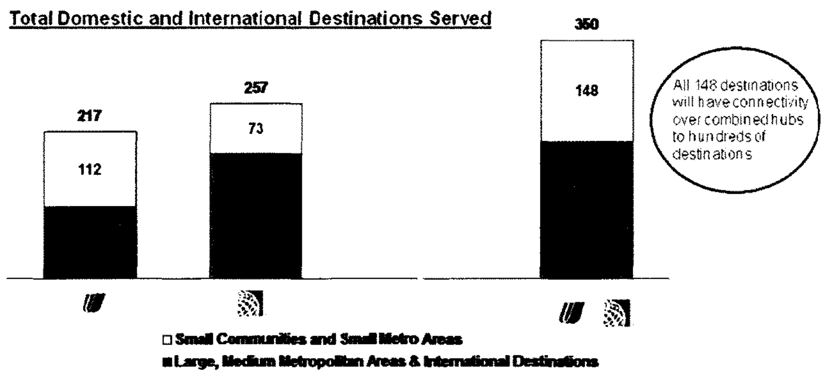
Air travel opens up the world and provides business and leisure opportunities to all Americans, no matter where they live. Airlines are often the lifeblood of small communities, not only because of the economic benefits they provide, but due to their civic and charitable contributions and the volunteer activities of their employees. Both of our companies are committed community partners with robust corporate contributions and responsibility programs and we strongly support our employees' volunteer activities.

The turmoil in our industry has been devastating to many small- and medium-sized communities. Since 2000, more than 100 small communities have lost all network carrier service. Approximately 50 more have seen their service levels cut, losing at least half of their seats.

Low cost carriers have not filled this void because service to these communities is typically inconsistent with their business model. They are more-often dependent on point-to-point, high-density routes and often have one-size aircraft, which makes it difficult for them to serve these small communities. As a result, approximately 200 of these small communities and metropolitan areas, many of which have fewer than 500 passengers traveling to or from their airports daily, are served only by network carriers.

When we announced our merger, we committed to continuing to provide service to all of the communities our airlines currently serve, including 148 small communities and metropolitan areas **(CHART ONE).** This service enables residents of small communities to connect through our eight mainland domestic hubs and travel on to hundreds of destinations on thousands of routes worldwide. The combined airline will offer these travelers access to 350 destinations in 59 countries.

CHART ONE
THE MERGER MAKES A MORE EFFICIENT CARRIER, BETTER ABLE TO SERVE SMALL COMMUNITIES



Source: OAG FY 2010.
Notes: Consolidated operations. Domestic destinations with at least one route served 20 times by either United or Continental during at least one month in 2010. International destinations with at least one route served 12 times by either United or Continental during at least one month in 2010. Bristol, UK is excluded for Continental as it will be cancelled in November. Moses Lake, WA and Oxnard, CA are excluded for United as they will be cancelled in June. Airports in the following major metropolitan areas are grouped: New York (JFK, LGA, EWR), Washington (DCA, IAD, BWI), San Francisco (SFO, OAK), Chicago (ORD, MDW), Houston (IAH, HOU), Dallas (DFW, DAL), Los Angeles (LAX, BUR, LGB) Cleveland (CLE, CAK), Tampa (TPA, PIE), Cincinnati (CVG, DAY), and Miami (MIA, FLL). In addition, the following small community airports are also not counted as separate destinations because they are adjacent to a larger airport - Bedford, MA; Carlsbad, CA; Houston/Ellington Field, TX; Mesa, AZ; Seattle/Boeing Field, WA; Wilmington, DE. Airports in major international cities are grouped.

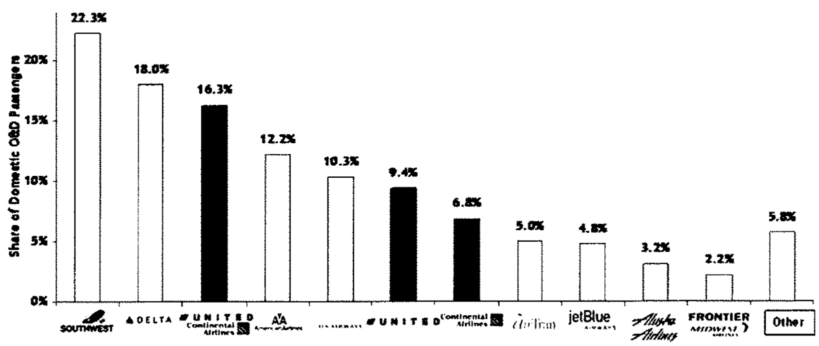
Following the merger, 93 of the 116 destinations that would be new to either Continental or United passengers would be small communities. As a result, a businessperson will be able to fly from Tyler, Texas to Sydney, Australia on a single airline.

The Merger Will Enhance Competition

The potential impact of this merger must be viewed in light of the fundamental changes that have occurred in our industry since 2000. The increased competition from low cost carriers (LCCs) has been dramatic as they have experienced tremendous growth over the past decade. They operate profitably at lower unit revenues than traditional network airlines, generally due to significant cost advantages related to less costly point-to-point business model. Consequently, their presence limits the ability of their competitors to increase fares.

Industry-wide, LCCs now compete for 80% of all domestic travelers. In fact, Southwest has grown to become the largest domestic airline in the U.S., in terms of passengers and will continue in that position after our merger **(CHART TWO).** Over 85% of passengers traveling non-stop on either Continental or United have an LCC alternative. LCCs compete on domestic city-pairs accounting for 77% of United and Continental's combined passengers, and 46 of each of Continental and United's top 50 routes, have LCC competition.

CHART TWO
U.S. DOMESTIC PASSENGER SHARE: MERGED AIRLINE WILL BE ONLY THIRD LARGEST WITH 16%



Source: U.S. DOT O&D Survey YE 2009 Q3.
Note: Frontier includes Midwest. Share of domestic O&D passengers. Largest Other carriers include Hawaiian (1.6%), Allegiant (1.2%), Spirit (1.1%), Virgin America (0.9%), and Sun Country (0.3%).

There once was an assumption that LCCs would have difficulty competing at the hubs of network carriers. This assumption has long since been disproven. LCCs directly compete at all of our hub airports and have very large presences at airports adjacent to our hubs, such as Hobby in Houston, Akron near Cleveland, BWI near Washington and Midway in Chicago. LCCs have market shares in our hub cities ranging from 28% in Cleveland to 50% in Denver and San Francisco.

LCCs are increasingly being used by business travelers and are targeting those travelers by providing amenities such as preferred seating and boarding access. They are also providing service from the United States to international destinations, including Mexico, the Caribbean, Latin America and Canada.

In addition to the growth of LCCs, competition from international carriers has increased. Mergers between Air France and KLM; Lufthansa, SWISS, bmi, Brussels Airlines and Austrian; British Airways and Iberia; and Cathay Pacific and Hong Kong Dragon Airlines have given these preeminent global carriers international networks and global reach that overshadow those of U.S. network carriers. In 2000, the top two airlines in terms of worldwide revenue, American Airlines and United, were both U.S.-based. Today, the top two are Lufthansa and Air France/KLM **(CHART THREE)**. In fact, more than half of all transatlantic capacity and more than two-thirds of all transpacific capacity is provided by foreign carriers. The merged carrier will be able to compete far more effectively with foreign carriers and to maintain competitive domestic service to cities large and small in the U.S.

CHART THREE
U.S. NETWORK CARRIERS HAVE LOST THEIR #1 AND #2 WORLDWIDE REVENUE RANKINGS

Top 10 Carriers Ranked by Revenue

CY2000			CY2009		
Rank	Airline	Operating Revenue ($B)	Rank	Airline	Operating Revenue ($B)
1	American	$19.7	1	Lufthansa	$31.0
2	United	$19.4	2	Air France-KLM	$29.2
3	Delta	$16.7	3	Delta/NW	$28.1
4	JAL	$15.4	4	American	$19.9
5	Lufthansa	$14.0	5	JAL	$16.4
6	British Airways	$13.7	6	United	$16.3
7	ANA	$11.5	7	ANA	$12.9
8	Northwest	$11.4	8	British Airways	$12.6
9	Air France	$11.1	9	Continental	$12.6
10	Continental	$9.9	10	Emirates*	$11.2

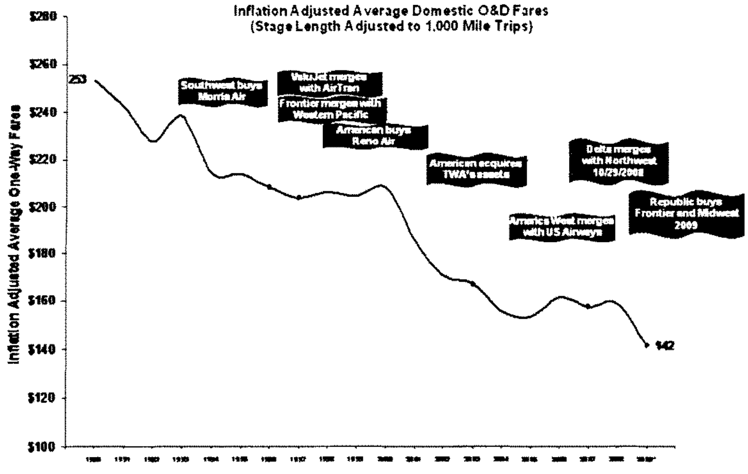
* Emirates 2009 is full year ending June 2009.
Source: For 2000 – Airline Business September 2001. For 2009: Domestic Carriers Company 10-Ks, Foreign Carriers Press releases and Annual Reports.
Notes: 2009 foreign carriers' operating revenues are calculated using the following exchange rates for 2009: 1USD=0.719055EUR; 1USD=0.641035GBP; 1USD=93.59617JPY; 1USD=3.67291AED.

Additionally, well-funded newcomers (such as Emirates and Jet Airways) are making inroads into U.S. international routes from emerging economies in the Middle East and South Asia. This trend will continue, and is a credit to the success of the Open Skies policy as these agreements expose U.S. carriers to more competition than ever before.

Price competition in our industry has also increased due to the ready availability and transparency of fare information to consumers through online sites such as Expedia and Orbitz. Consumers have become more savvy and sophisticated as they search for the fare that meets their needs. "[R]aising airfares isn't like raising the price of milk...the internet can hunt the cheapest fare worldwide in seconds. If one carrier has some empty seats to fill, it will have to cut the price because getting something for that seat is better than flying it empty" (Scott McCartney, "As Airlines Cut Back, Who Gets Grounded", *Wall Street Journal*, 6/5/08). Online sites have expanded their business models and now offer targeted services to corporations and business travelers.

In short, the changing dynamics of the airline industry have resulted in robust competition that maintains significant downward pressure on fares. As a result, airfare prices have declined by more than 30 percent over the last decade on an inflation adjusted basis **(CHART FOUR)**.

CHART FOUR
DESPITE NUMEROUS MERGERS, AVERAGE PRICE* CONTINUES TO DECLINE



Sources: US DOT O&D Survey. CPI from U.S. Bureau of Labor Statistics.
Notes: 2009 Dollars. 2009 FYE Q3.
*Average price per passenger based on average price per mile then adjusted to 1,000 mile trips.

Especially given this landscape and the relative ease with which LCCs can enter into competition with network carriers and other LCCs, this merger will not result in a reduction in competition. There are only 15 overlapping non-stop domestic routes among the hundreds that we fly (and no overlapping international routes). The combined carrier's ability to raise prices on any individual overlapping route is constrained because each has current non-stop competitors. Moreover, extensive competitive connecting service further constrains pricing.

On each of these 15 non-stop overlapping routes, after the merger, travelers would be served by at least one other carrier, but more often two, three, four or five. All but two of the overlapping routes are served by an LCC and six are served by two LCCs **(CHART FIVE)**.

CHART FIVE
NON-STOP OVERLAPS

	City-Pair	Non-Stop Competitors	Current LCC Non-Stop Competitors	UA/CO O&D Passenger Share (%)	LCC O&D Passenger Share (%)
	Hubs				
1	Washington - Houston	3	Southwest	62.6%	27.0%
2	Los Angeles - Houston*	3	Southwest	54.6%	35.8%
3	Houston - San Francisco	3	Southwest	57.5%	35.4%
4	Denver - Cleveland	3	Frontier	46.0%	48.7%
5	Chicago - Houston	4	Southwest	53.4%	33.3%
6	Denver - Houston	4	Southwest and Frontier	60.4%	38.3%
7	Chicago - Cleveland	4	Southwest	40.8%	47.6%
8	Washington - Cleveland	4	Southwest	40.4%	53.0%
9	Denver - New York	5	Frontier and jetBlue	62.7%	26.1%
10	Los Angeles - New York	6	jetBlue and Virgin America	24.3%	36.0%
11	Chicago - New York	6	Southwest and jetBlue	42.0%	9.1%**
12	New York - San Francisco	6	jetBlue and Virgin America	37.2%	32.5%
13	Washington - New York	7	Southwest and jetBlue	18.6%	10.2%
	Non-Hub-to-Hub				
14	Los Angeles - Kahului	4	—	52.0%	—
15	Los Angeles - Honolulu	5	—	29.6%	—

*Reflects recently announced new service by United from LAX-IAH starting Aug 24.

** Does not fully reflect Southwest LGA-MDW service that began June 29, 2009. LCC share for Q3-Q4 2009 is 13.3%.

Source: OAG May 2010; U.S. DOT O&D Survey YE 2009 Q3.

Notes: Consolidated operations. Competitors with at least 5 roundtrips per week. Delta includes Northwest. Frontier includes Midwest. Airports in the following metropolitan areas are grouped: Chicago (ORD, MDW), Cincinnati (CVG, DAY), Cleveland (CLE, CAK), Dallas (DFW, DAL), Houston (HOU, IAH), Los Angeles (LAX, BUR, LGB), Miami (MIA, FLL), New York (LGA, JFK, EWR), San Francisco (SFO, OAK), Washington DC (DCA, IAD, BWI), and Tampa (TPA, PIE).

The Merger is a Natural Extension of Our Current Relationship

About two years ago, our companies began an extensive alliance relationship. We are both members of Star Alliance, the leading global alliance network. Domestically, we have a codeshare arrangement, frequent flyer reciprocity and shared lounge access.

We have antitrust immunity for international coordination including our A++ transatlantic joint venture that also includes Air Canada and Lufthansa. We have an immunity application pending with ANA that includes a transpacific joint venture, in connection with the Open Skies agreement initialed and soon to be implemented with Japan.

While these agreements have generated significant synergies and customer benefits, they do not provide the cost savings and employee and customer benefits of a merger. For example, following a merger, we can fully optimize our schedules and integrate our fleets. Our combined mainline fleet of more than 700 aircraft of a broad range of sizes and mission capabilities will enable the most efficient utilization of seat capacity. We will be able to reassign aircraft across the network to better meet demand on different routes, yielding a net increase in annual passengers and improving the business mix of those passengers through the appeal of our broad combined network.

The merger will also enhance our frequent flyer programs. Currently, it is sometimes difficult to obtain reciprocal benefits, elite recognition and awards. A combined program would offer more benefit to customers as they accrue and redeem awards across our combined network on a seamless frequent flyer program.

Our alliance relationship has given each airline the opportunity to know and partially integrate the systems, practices and procedures of the other. As a result, it gives us great confidence that we can successfully integrate our two companies once the merger closes.

Conclusion

Each of our companies has a long and proud history of independence. Continental and United are among the pioneers in the aviation industry and, in fact, have the same founder, Walter T. Varney.

Although our companies have been performing better since the economic recovery began, we analyzed the competitive environment and reflected on the volatility that has plagued our industry. As we looked ahead, we each strongly believed that our combined future was brighter than our standalone future, that this is the right time for a merger, and that we have found the right merger partner.

As we have talked to our customers, our employees and our shareholders, we have felt a great sense of excitement about this merger. By bringing the best of both organizations together, we believe we can not only create a world-class airline with enduring strengths, but also serve our customers and communities better than ever, provide security and stability for our employees and benefit shareholders with a strong financial foundation.

We look forward to continuing to outline the benefits of this merger in Washington, D.C., and throughout the country and the rest of the world. But more importantly, we look forward to our people working together to create the world's leading airline.

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STATEMENT OF DAVID R. STRINE
BEFORE THE
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEE ON AVIATION

"CONSOLIDATION IN THE AVIATION INDUSTRY, WITH A FOCUS ON THE PROPOSED MERGER BETWEEN UNITED AIRLINES AND CONTINENTAL AIRLINES – A PERSPECTIVE FROM WITHIN THE FINANCIAL MARKETS"

JUNE 16, 2010

Mr. Chairman and members of the Subcommittee, thank you for the invitation to discuss consolidation in the airline industry, with a focus on the proposed United Airlines and Continental Airlines merger. Like you, investors in the capital markets have heard many different arguments about why or why not mergers should take place in the US airline industry. The balance of these arguments and the resulting policy impact how the market prices risk and sets the cost of capital for the Airline industry. To help you with your analysis, I will provide a perspective from within the financial markets.

Fiduciary Duty and Risk

So long as the airlines source their funding from the debt and equity capital markets, the Boards of Directors and management teams have fiduciary duties to their shareholders and creditors. In keeping with that duty, it is incumbent upon company leaders to manage risk and work to enhance returns on invested capital. While managing costs and delivering a product customers value are important, making strategic structural decisions that permit their companies to adapt to changing market conditions are also critical. The airline industry is in dire need of lowering its financial risk and cost of capital. Consolidation is one part of the solution.

Performance – The Industry Consumes Capital and Destroys Value

By several objective measures, the performance of the industry -- including Continental and United -- has been abysmal. The regularity of loss and failure goes unrivaled in corporate America. For example, looking at performance over the past decade, we can see that the industry reported an aggregate loss of $68 billion, there have been 58 bankruptcies, 128,000 jobs (25%) were lost, defined benefit pension plans at several of the nation's largest carriers were off-loaded to the Pension Benefit Guarantee Corporation, and the average age of the US fleet has increased to nearly 11 years. (See tables below.) To cap it off, the value of the XAL (the NYSE Airline Index), has dropped by 77% since 2000. Taken as whole, this body of evidence supports the need for profound change. The leadership at United and Continental are clearly trying to address this need.

Weak Industry Structure and The Cost of Capital

The poor financial performance of the industry through full business cycles can be attributed to its high fixed cost structure, overleveraged balance sheets, low barriers to entry, high barriers to exit, fragmentation, and fierce competition from low-cost domestic carriers and recently-consolidated, well-funded international carriers in Europe, The Middle East, Asia and Latin America. These factors contribute to the high cost of capital, which limits growth. Over the past year, airline asset backed debt has frequently garnered yields over 10%. In one debt transaction, United paid 17%. Further, in the autumn of 2009 every major network carrier except Delta issued equity at steep discounts in transactions that were highly dilutive to shareholders (this raises the cost of equity capital). To this day, the weighted average cost of capital remains well into the double digits because of the significantly overleveraged balance sheets. (See table.) Over the long term, value can only be created when the return on capital exceeds its cost. This is a fundamental financial goal the airline industry has never been able to achieve through a full cycle.

United-Continental -- Too Small to change the Competitive Landscape

Consolidation is not a cure all, but it is self help. While the United-Continental merger is far too small to significantly change the competitive dynamics of the US airline industry given that the two carriers only produce about 18% of the industry's domestic available seat miles and have de minimis route overlap (they do not share any hubs), their focus on improving efficiency and creating synergies is a step in the right direction in the climb toward financial stability. Although labor costs are likely to rise for United-Continental (as they typically do in airline mergers and after reductions after bankruptcy), the scale of the combined entity should enhance purchasing power with suppliers and the global network should be more attractive to high yielding corporate customers. Although United-Continental may gain additional corporate customers which should improve their yield mix, it would be wrong to conclude that the merger will stop domestic yield deterioration due to the continued growth of low cost carrier market share. Any longer term pull back in domestic capacity will be quickly back filled with low-cost capacity. Over the last ten years, network carrier market share has dropped by 33%. (See table below).

Conclusion:

As you weigh policy objectives for the airlines, you may want to consider the benefits from having airlines in a better position to generate a return on invested capital in excess of their cost of capital through a full business cycle. The balance between positions which seek to socialize aspects of the airline industry versus those that promote growth in the free market will contribute to how the market prices airline capital risk and measures the required rate of return to justify growth. The ability to generate more consistent returns on equity and increase free cash flow is the path to repairing balance sheets and longer term financial stability. Only then will there be a solid foundation for increased capital expenditures, rising wages, and increased service.

I look forward to helping you with any questions that you may have.

Respectfully submitted,
David Strine

Airlines That Have Declared Bankruptcy or Ceased Operations Since 2000

Airline Name	Filed	Airline Name	Filed	Airline Name	Filed
Tower Air	2/29/2000	Hawaiian	3/21/2003	Gemini Air Cargo	3/15/2006
Kitty Hawk Aircargo	5/1/2000	Great Plains Airlines	1/23/2004	Traveland	3/1/2007
Pro Air	9/19/2000	Atlas Air/Polar Air Cargo	1/30/2004	Kitty Hawk Aircargo	10/15/2007
Fine Air Services	9/27/2000	Piedmont	9/12/2004	MAXjet Airways	12/24/2007
Legend Airlines	12/3/2000	PSA	9/12/2004	Big Sky	1/7/2008
Reeve Aleutian Airways	12/5/2000	US Airways	9/12/2004	Skyway	1/16/2008
National Airlines	12/6/2000	American Trans Air	10/26/2004	Aloha Airlines	3/31/2008
Allegiant Air	12/13/2000	Pan American Airways/Boston-Maine	11/1/2004	Champion	3/31/2008
Trans World Express	1/10/2001	Southeast Airlines	12/1/2004	American Trans Air	4/2/2008
TWA	1/10/2001	Aloha Airlines	12/31/2004	Skybus Airlines	4/7/2008
Midway	8/14/2001	Westward Airways	7/1/2005	Frontier Airlines	4/11/2008
Midway Commuter	8/14/2001	Delta Air Lines	9/27/2005	Eos Airlines	4/26/2008
Emery Worldwide	12/5/2001	Comair	9/27/2005	Gemini Air Cargo	6/18/2008
Sun Country	1/2/2002	Northwest Airlines	9/27/2005	Air Midwest (Mesa Air Group)	6/30/2008
CCAir	7/1/2002	TransMeridian Airlines	9/29/2005	Vintage Props & Jets	7/18/2008
Vanguard Airlines	7/30/2002	Mesaba	10/13/2005	Zoom Airlines	9/3/2008
Piedmont	8/11/2002	FLYi Independence Air	11/7/2005	Sun Country	10/6/2008
PSA	8/11/2002	Era Aviation	12/28/2005	Primaris Airlines	10/15/2008
US Airways	8/11/2002	Florida Coast Airlines	2/21/2006	Mesa Air Group	1/5/2010
United Airlines	12/9/2002				

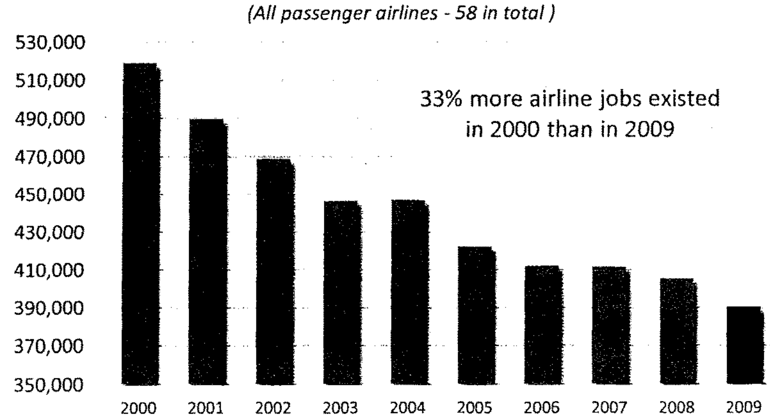
Shaded carriers filed twice during 2000-2010

Source: Air Transport Association, DOT and ALPA E&FA

Source: Airline Forecasts

128,500 FTE Airline Jobs lost over the last 10 years

(All passenger airlines - 58 in total)



Source: DOT & AirineForecasts

2009 Market Share - ASMs and RPMs

	Domestic-only in %	ASMs	RPMs
1	United+Continental	17.7	18.4
2	Delta+Northwest	16.1	16.8
3	Southwest	14.6	13.7
4	American	13.9	14.1
5	US Airways	7.9	8.1
6	JetBlue	4.3	4.2
7	AirTran	3.4	3.4
8	Alaska	3.2	3.1
9	Frontier	1.5	1.5
10	Hawaiian	1.3	1.4
11	Virgin America	1.0	1.0
12	Spirit	0.9	0.9
13	Allegiant	0.7	0.8
	Top 13 airlines	86.5	87.4
	Regionals & Others	13.5	12.6

AirlineForecasts

2009 Market Share - ASMs and RPMs

	Systemwide in %	ASMs	RPMs
1	United+Continental	22.9	23.4
2	Delta+Northwest	20.7	21.3
3	American	16.0	16.1
4	Southwest	10.4	9.8
5	US Airways	7.5	7.6
6	JetBlue	3.4	3.4
7	AirTran	2.5	2.4
8	Alaska	2.4	2.4
9	Frontier	1.1	1.1
10	Hawaiian	1.0	1.1
11	Spirit	0.8	0.8
12	Virgin America	0.7	0.7
13	Allegiant	0.5	0.6
	Top 13 airlines	90.0	90.7
	Others/Regionals	10.0	9.3

AirlineForecasts

Source: Airline Forecasts

Market Share in Available Seat Miles (ASMs)
Percentage of total domestic-only ASMs

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	% chg
Network Airlines	81%	80%	78%	75%	69%	66%	64%	61%	58%	57%	56%	-33%
Southwest	8%	8%	10%	10%	11%	11%	11%	13%	13%	14%	15%	88%
Other	11%	12%	13%	14%	20%	23%	25%	26%	28%	29%	30%	173%

DOT & AirlineForecasts

Capital Sturcture Deficit

		Market Equity	Book Equity	Intangible assets	Tangible Equity	Total Assets	Tangible Book equity to Assets
1	Allegiant	1,016	292		292	500	58%
2	Southwest	9,574	5,220		5,537	14,530	38%
3	Jeblue	1,667	1,510		1,534	6,513	24%
4	AirTran	705	487		487	2,286	21%
5	Alaska	1,583	774		885	5,016	18%
6	Continental	2,836	497	774	(277)	13,318	-2%
7	US Airways	1,100	(447)	616	(1,063)	7,808	-14%
8	American	2,311	(3,892)	981	(4,873)	25,525	-19%
9	Delta	9,759	72	9,794	(9,722)	44,339	-22%
10	United	3,265	(2,887)	2,863	(5,750)	19,952	-29%
	Top 10	**33,816**	**1,625**	**15,028**	**(12,950)**	**139,786**	-9%
	UAL/CAL	6,101	(2,390)	3,637	(6,027)	33,270	-18%

AirlineForecasts

Passenger Airlines: Revenue and Earnings

In 2009$	Passenger Revenue ($millions)	Operating revenue ($millions)	Operating profits ($millions)	margins (%)	Net Income ($millions)	margins (%)
1977	57,510	68,744	3,094	4.5%	2,367	3.4%
1978	61,807	73,154	4,341	5.9%	3,869	5.3%
1979	67,255	78,455	594	0.8%	948	1.2%
1980	72,522	83,536	(498)	-0.6%	126	0.2%
1981	71,522	81,702	(1,011)	-1.2%	(579)	-0.7%
1982	67,197	76,834	(1,558)	-2.0%	(1,853)	-2.4%
1983	69,879	79,308	646	0.8%	(250)	-0.3%
1984	75,408	85,750	4,107	4.8%	1,488	1.7%
1985	77,191	87,982	2,658	3.0%	1,780	2.0%
1986	76,544	87,551	1,903	2.2%	(121)	-0.1%
1987	84,584	96,567	3,513	3.6%	328	0.3%
1988	91,126	103,221	5,121	5.0%	2,393	2.3%
1989	92,973	105,307	2,169	2.1%	(143)	-0.1%
1990	95,739	108,634	(4,004)	-3.7%	(6,755)	-6.2%
1991	89,965	102,577	(3,581)	-3.5%	(3,214)	-3.1%
1992	91,507	103,792	(4,265)	-4.1%	(7,133)	-6.9%
1993	95,020	108,110	1,271	1.2%	121	0.1%
1994	94,394	108,047	2,832	2.6%	(976)	-0.9%
1995	97,449	111,337	7,198	6.5%	2,791	2.5%
1996	102,472	115,854	7,287	6.3%	3,279	2.8%
1997	105,856	120,427	9,875	8.2%	6,313	5.2%
1998	106,113	121,013	10,506	8.7%	5,779	4.8%
1999	108,132	123,576	8,886	7.2%	5,999	4.9%
2000	116,091	130,956	7,108	5.4%	2,796	2.1%
2001	97,521	111,293	(12,529)	-11.3%	(9,690)	-8.7%
2002	87,092	100,200	(11,344)	-11.3%	(13,974)	-13.9%
2003	89,777	108,152	(3,532)	-3.3%	(2,429)	-2.2%
2004	96,747	120,956	(3,799)	-3.1%	(11,379)	-9.4%
2005	102,182	130,369	(2,145)	-1.6%	(31,406)	-24.1%
2006	107,660	138,902	5,351	3.9%	17,575	12.7%
2007	110,650	142,326	6,911	4.9%	6,519	4.6%
2008	110,641	145,162	(5,424)	-3.7%	(23,887)	-16.5%
2009	91,259	123,224	992	0.8%	(2,830)	-2.3%
78-09	**2,904,276**	**3,414,270**	**39,581**	**1.2%**	**(54,517)**	**-1.6%**

AirineForecasts

Passenger Airlines: Revenue and Earnings

	2009$	Passenger Revenue ($millions)	Operating revenue ($millions)	Operating profits ($millions)	margins (%)	Net Income ($millions)	margins (%)
10-yrs	80-89	778,947	887,757	17,052	1.9%	3,168	0.4%
10-yrs	90-99	986,648	1,123,366	36,005	3.2%	6,204	0.6%
10-yrs	00-09	1,009,620	1,251,539	(18,411)	-1.5%	(68,706)	-5.5%
30-yrs	80-09	2,775,215	3,262,662	34,646	1.1%	(59,334)	-1.8%
31-yrs	**79-09**	**2,842,470**	**3,341,116**	**35,240**	1.1%	**(58,386)**	-1.7%

AirlineForecasts

Written Testimony
of
Capt. David Bourne
Director
Airline Division
International Brotherhood of Teamsters

House Committee on Transportation and Infrastructure
Subcommittee on Aviation

Hearing on

"The Proposed United-Continental Merger:
Possible Effects for Consumers and Industry"

June 16, 2010

Chairman Oberstar, Subcommittee Chairman Costello, Ranking Member Mica and members of the Committee:

I am honored to answer your invitation to submit written testimony to your Committee about the proposed merger between United Airlines and Continental Airlines.

I am testifying on behalf of the Airline Division of the International Brotherhood of Teamsters, which represents 1.4 million members in the United States, Canada and Puerto Rico. The Airline Division includes 64,000 members, including 8,000 mechanics and related crafts employed by United, 5,000 mechanics and related crafts at Continental and 8,000 fleet service employees at Continental. We also represent mechanics, customer service and fleet service employees at Continental's wholly owned subsidiary Continental Micronesia, and mechanics at ExpressJet Airlines, regional partner to Continental and United.

We are currently involved in contract negotiations with both carriers for all three of the crafts and classes that we represent: mechanics and related at United, and mechanics and related and fleet service employees at Continental. We are working hard and productively with both carriers to restore and maintain job security for our members, while ensuring good and safe service for the American traveling public.

We recognize that many experts and pundits have offered their opinions on the legal, economic and consumer issues involved in the proposed merger, which would create the world's largest air carrier. We are carefully analyzing information as it emerges to determine a merger's impact on employees. We are especially concerned about pensions, wages, working conditions, union representation, workforce integration and, most importantly, long-term job security.

We understand that the merger is expected to save the carriers money. Such savings could be crucial to restoring sustained profitability to the two airlines. On the other hand, there are many examples of airline mergers that have failed to improve carriers' financial performance.

Until we have more information about the proposed transaction, we will remain neutral about it. But our neutrality is only limited to the transaction itself.

Job security continues to be rare in the airline industry, once a strong and proud component of our nation's economic engine. Since the Sept. 11, 2001, terrorist attacks, more than 150,000 airline workers have lost their jobs. Our members are now barraged with WARN Act and COBRA notices as managements seek to put American workers on the street, compromising the safety of the traveling public and flight crews by cutting costs to bolster their bottom line.

Management of the two airlines has said that a merger will not threaten our members' jobs. However, the two airlines' networks overlap on 15 routes in the United States. We have serious concerns that expected cost savings will result from a rationalization of those routes – and that our members would lose their jobs.

We anticipate that this merger will have the downstream effect of influencing more carriers to merge, further exacerbating the jobs crisis within the industry. This would be a tragic outcome, as airline employees have already made so many sacrifices to keep their airlines flying.

We are also concerned that the carriers will realize cost savings by accelerating the outsourcing of aircraft maintenance offshore. The continued consolidation of the airline industry should raise serious questions about why U.S.-certificated airlines are sending aircraft to overseas repair stations for critical safety checks. Such maintenance should be performed by highly experienced, fully qualified employees who work for the airline in the United States.

Our members' tools lie rusting and formerly state-of-the-art maintenance facilities sit dormant as their jobs continue to be outsourced to companies that are not required to maintain the same standards as U.S. airlines. Tragically, we are not talking about the distant past; we are talking about something occurring today.

As U.S. carriers merge, grow larger and enter into alliances with foreign airlines, it is crucial that regulatory oversight of their maintenance practices be significantly strengthened. Single standards for safety and security must be enforced no matter where work is performed. Alarmingly, overseas facilities are not held to the same strict Federal Aviation Administration standards for maintenance compliance or Transportation Security Administration standards for employee security, background and drug screening. Proper, manufacturer-required specific tooling may not be available in overseas repair stations. Language barriers may create situations where understanding of the work to be accomplished may not be fully understood. In one case, an airplane was sent to India for repair of a stress fracture of an aircraft component – and the repair was based on a digital photograph sent to the repair shop. Sadly, these practices are becoming the norm rather than the exception.

There are other job security issues we believe must also be considered by the committees. Like most airline employees, our United Airlines' members' pensions were terminated through bankruptcy and replaced with 401(k) plans. While these plans were touted as adequate replacements for the lost defined benefit plans, their value has since been destroyed as a result of the nation's economic meltdown. Our members feel that these plans are nothing but a cruel Wall Street hoax, a hopelessly inadequate substitute for real retirement security. At the same time, employers at many carriers are demanding all rank-and-file pay more for health insurance while receiving less health care.

In the workplace, we have long witnessed our members' attempts to introduce innovative and cost-saving work processes, only to be rebuffed by risk-averse managers intent on shifting work to cost centers or companies other than their own More and more work is sent to offshore locations with substandard oversight.

These anxieties and frustrations of our airline members are not unique. They are industrywide, shared by all crafts and classes regardless of their representative status and affiliation.

It is a bitter irony that even worker-friendly experts and advocates who extol the consumer benefits of airline deregulation fail to recognize the industry's employees have disproportionately suffered its negative social and economic consequences. The burdens shouldered by airline employees must be lessened. The harsh and unhealthy reality that airline workers face every day must change if the industry is to stabilize. We believe that Congress should not abandon its responsibility for strong oversight of this industry, which is so crucial to America's economic prosperity. We applaud the Committee for scrutinizing the implications of the proposed merger between these carriers, two of the nation's largest.

Though we are currently neutral about the transaction, we have been encouraged that United and Continental both seem willing and capable of fostering change for the better. If the proposed marriage of United-Continental helps foster this much-needed change, then we expect history will favor the merger.

Financial transactions and regulatory oversight alone won't solve the airline industry's problems. My hope is that negotiations will enable us to restore our members' lost jobs and pensions, retool the facilities, and restore the confidence, pride and loyalty to these carriers and the industry. Should that happen, then both labor and management will have helped create a new legacy of industry stability, cooperation and, ultimately, success. In the process, the travelling public will benefit from the bargain.

Thank you again for allowing us the opportunity to comment on this important matter.

WRITTEN TESTIMONY

OF

DAVID CUSH

PRESIDENT & CEO, VIRGIN AMERICA INC.

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

U.S. HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

PROPOSED UNITED-CONTINENTAL MERGER:

POSSIBLE EFFECTS FOR CONSUMERS AND INDUSTRY

JUNE 16, 2010

Thank you Chairman Costello, Ranking Member Petri, and other distinguished Members of the Subcommittee for the opportunity to present this written testimony. My name is David Cush and I am the President and CEO of Virgin America Inc., a new, California-based low-fare airline which began operations in August 2007. Currently, Virgin America serves San Francisco (SFO), Los Angeles (LAX), New York (JFK), Washington D.C. (IAD), Seattle (SEA), Las Vegas (LAS), San Diego (SAN), Boston (BOS) and Fort Lauderdale (FLL). On June 23, 2010, we will inaugurate service to Toronto Canada (YYZ) and, in the fourth quarter of 2010, Orlando (MCO).

Virgin America employs more than 1,500 full-time aviation professionals throughout the United States, and presently operates a fuel efficient fleet of 28 Airbus A320 family aircraft, with plans to operate a fleet of up to 44 aircraft by next year. In less than four years since its launch, Virgin America has captured a host of travel industry best-in-class awards, including "Best Domestic Airline" by Condé Nast Traveler for two consecutive years and "Best Domestic Airline" in Travel + Leisure World's Best Awards for two consecutive years.

The proposed merger between United and Continental would create the world's largest airline by most measures. This combination presents several important public policy issues including, most particularly, its effect on competition. How consumers ultimately fare after such a merger will largely depend on the ability of those airlines remaining in the marketplace to compete effectively with the merged entity. Among the issues that will determine whether other airlines will be able to provide an effective competitive alternative are access to (1) those airports where the combined entity will have a significant presence and (2) corporate travelers who the merged airline, with significantly increased capacity and an enhanced route network, will pursue more aggressively through corporate discount agreements.

Airport Access

Turning initially to airport access, market entry by low-fare airlines is an essential component for airline competition and the key to sustained growth in the industry. Beginning with the Department of Transportation's (DOT) groundbreaking 1993 report on the "Southwest Effect,"[1] several studies have documented the power of low-fare airlines to stimulate aggressive price competition and dramatically increase total passenger enplanements after entering a market. Moreover, low-fare airlines have a proven track record of creating jobs while their legacy network peers have shed positions. According to the latest DOT data, the number of full-time employees at low-fare airlines grew by more than 14% between 2006 and 2010, while the number of full-time employees at network legacy airlines shrank by more than 4%.[2]

Nevertheless, the competitive benefits of low-fare market entry are limited at a number of airports because of slot controls and difficulties securing gates. Although lack of access to airport terminal facilities may prove difficult, it can usually be overcome. The inability to secure scarce slots and gates, on the other hand, acts as an absolute barrier to entry that prevents low-fare airlines from providing more choices and lower prices to consumers. This is especially the

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1 U.S. Department of Transportation, *The Airline Deregulation Evolution Continues: The Southwest Effect* (1993), available at http://ostpxweb.dot.gov/aviation/domesticaffairs.htm.

2 U.S. Department of Transportation, Bureau of Transportation Statistics, *March 2010 Passenger Airline Employment Down 3.8 Percent from March 2009* (May 18, 2010), available at http://www.bts.gov/press_releases/2010/bts024_10/pdf/bts024_10.pdf.

case at several New York area airports and, in Virgin America's own experience, Chicago's O'Hare International Airport.

By way of background, the Federal Aviation Administration (FAA) has long utilized a system of slots to manage congestion and delays at airports where demand at peak travel times significantly exceeds airport capacity. However, as set forth in the High Density Rule (the mechanism by which the FAA historically allocated and administered slots), it was well settled that "slots do not represent a property right but represent an operating privilege subject to absolute FAA control . . ." 14 C.F.R. § 93.223(a).

The High Density Rule used to be in effect but was eventually rescinded at each of the three major New York area airports – JFK, Newark and LaGuardia. Between 2006 and 2008 however, following overscheduling by airlines and extensive delays, the DOT/FAA issued a number of orders re-imposing a system of caps and slots at each of these airports, limiting the number of hourly operations and preventing airlines from adding new flights during peak periods. These controls continue in place today, even though they were imposed as a short-term solution to mitigate delays and congestion, with the initial allocation of slots based on historic operations at each airport. Consequently, the incumbent airlines at these airports have had their large slot bases "grandfathered," while new entrants and limited incumbents are now limited to whatever relatively low capacity levels they were providing during the base period used for the initial allocation of slots. Market shares at New York area airports are, therefore, concentrated among only a handful of airlines.

For example, at Newark, one airline – Continental – accounts for more than 70% of all passenger enplanements and controls most of the terminal space and gates at that airport.[3] Similarly, at JFK, three airlines – Delta, JetBlue, and American – account for nearly 66% of all passenger enplanements;[4] and at nearby LaGuardia, three airlines – Delta, American, and US Airways – control about 70% of all passenger enplanements.[5] This concentration of a few airlines dominating the US's largest airline market is a direct result of the system of slot controls.

Even before the DOT/FAA imposed the current system of slot controls at New York area airports, one airline, JetBlue, received – at no cost – 75 slot exemptions for use at JFK during the controlled period (3 p.m. – 8 p.m.) when the High Density Rule was in effect at that airport. It was only after receiving these slot exemptions in 1999 that JetBlue was able to very quickly build up its JFK operations. Although the High Density Rule was eventually terminated at JFK, the slots that were "grandfathered" to JetBlue at JFK in 2008 included JetBlue's historic operation of these 75 slot exemptions. More recently, JetBlue reached a deal to trade 12 slots to American in return for slots at Washington's Reagan National – effectively monetizing the windfall that JetBlue was awarded in 1999 and controlling its competition at JFK. In a similar fashion, Continental last year acquired all 10 of AirTran's slots at Newark (where Continental was and continues to be the dominant airline) in return for four slots at LaGuardia and six slots at Reagan National. As with the example of JetBlue at JFK, the Newark slots that AirTran traded

3 Port Authority of New York & New Jersey, *Newark March 2010 Traffic Report,* available at http://www.panynj.gov/airports/general-information.html.

4 Port Authority of New York & New Jersey, *JFK March 2010 Traffic Report*, available at http://www.panynj.gov/airports/general-information.html.

5 Port Authority of New York & New Jersey, *LaGuardia March 2010 Traffic Report*, available at http://www.panynj.gov/airports/general-information.html.

to Continental did not have any value to the participants until the Federal Government recently created them. However, given that slots are a scarce commodity allocated free-of-charge by the Federal Government, an airline that did not incur any costs when it initially received the underlying slots in the first instance, such as JetBlue at JFK and AirTran at Newark, should not now be permitted to trade the slots in order to receive a financial benefit, i.e. "free" access to airports such as Reagan National, which continues to be subject to the High Density Rule and where access is generally only available through purchases made under the Buy/Sell rule[6] or Congressionally created exemptions from slot controls.

Meanwhile, at Chicago's O'Hare International Airport, only two airlines – American and United – now account for nearly 80% of passenger enplanements.[7] Although slot controls at that airport were lifted in 2008 following the opening of a new runway, new entrants have effectively been shut out of the airport because of the shortage of gates. This barrier has been exacerbated by the unwillingness of American and United to relinquish gates to competitors. Indeed, Virgin America's long-standing interest in starting service at Chicago's O'Hare International Airport has been repeatedly blocked by our inability to obtain access to gates at the airport. By holding long term leases to valuable gates, the incumbents have reduced the supply of O'Hare gates, and are thereby able to pick and choose their competition.

Unfortunately, given existing slot controls in the New York area, Virgin America has not been able to grow its New York service above the level provided when the airline launched

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6 The Buy/Sell Rule is codified at 14 C.F.R. § 91.221.

7 U.S. Department of Transportation, Bureau of Transportation Statistics, *Airport Snapshots, February 2010*, available at http://www.transtats.bts.gov/airports.asp.

operations there in 2007. Similarly, Virgin America has effectively been shut out of Chicago's O'Hare International Airport for the reasons discussed above.

Airport access is further hampered by scheduling practices by large incumbents. As the FAA Administrator, J. Randolph Babbitt, recently noted,[8] the Federal Government has been forced to resort to the use of "blunt tools" such as operational caps, restrictions, and rules to counter delays caused by aggressive industry overscheduling, whereby airlines compress an unrealistically large number of flights into a relatively short time window. In particular, Administrator Babbitt identified Atlanta, Chicago, and San Francisco as cities where airline scheduling behavior has increased delays. The large incumbent airlines that individually operate hundreds of daily flights at these airports should, quite properly, be required to adjust their schedules before the situation becomes so dire that the Federal Government is left with no other choice than to impose operational limitations. Indeed, this was precisely the behavior that prompted the DOT/FAA to reintroduce caps and slots at the New York area airports between 2006 and 2008 – a capacity management system which grandfathered the majority of slots to large incumbents that were already entrenched at those airports while simultaneously erecting an insurmountable barrier of entry to new service by low-fare airlines – all to the detriment of consumers.

Where Virgin America has launched service, the consumer benefits have been measurable and dramatic. For example, JFK—San Francisco, JFK—LAX, and Washington Dulles—San Francisco average fares have all fallen by nearly one-third since Virgin America

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8 Remarks of J. Randolph Babbitt, "NextGen is Happening," Aviation Week and Space Technology NextGen Forum (May 20, 2010).

entered those markets. Moreover, LAX-Boston fares have dropped 29% since Virgin America entered the market. Similarly, Washington Dulles—LAX and San Francisco—Boston average fares have both fallen 23% since Virgin America began competing in those markets. [9]

As the Congress considers U.S. airline consolidation and the overall state of competition in the industry, great care must be taken to ensure that low-fare carriers are provided meaningful opportunities to compete with entrenched legacy airlines at capacity-controlled airports. Moreover, the Federal Government, acting through the Transportation and Justice Departments, needs to continue to keep pressure on the airports to assure that new entrants and smaller incumbents can provide competition to the well-entrenched incumbents which, in a very real sense, can effectively restrict access to these airports through their control of gates.

At bottom, the Federal Government not only has the authority, but the responsibility, to take steps to enhance the level of competition at airports subject to operating limitations or gate shortages. Many studies have been completed since the 1980s detailing the serious competitive problems that exist at slot-controlled airports in the United States. The findings of these studies are still true today, in particular the fact that the secondary market at slot-controlled airport is so limited that it has not resulted in any significant market entry by new entrants or expansion by limited incumbents. Indeed, as the Government Accountability Office, the investigative arm of the Congress, warned as far back as 1996, "[C]ontrol of slots by a few airlines greatly deters entry at key airports in . . . New York and Washington."[10] Policies that cultivate and enhance

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[9] U.S. Origin and Destination Survey via APGDat, www.apgdat.com

[10] GAO, *Airline Deregulation: Barriers to Entry Continue in Several Key Domestic Markets*, GAO/RCED 97-4 (Oct. 1996).

low-fare competition are necessary to ensure that the objectives of the Airline Deregulation Act of 1978 are realized, particularly as the industry becomes increasingly consolidated. That statute requires, among other things, that the Federal Government consider, as being in the public interest, policies that place maximum reliance on airline competition as well as provide opportunities for new entrant airlines.

Given the increased market consolidation that will result from the proposed merger, the Federal Government must begin to address the serious access problems at the New York area airports and Chicago's O'Hare International Airport. The Federal Government must now begin to develop, through a carefully constructed rulemaking, a new pro-competitive allocation system that will be used going forward at these and other airports where demand for access significantly exceeds capacity. The current stop-gap measures employed thus far – the short-term administrative allocation of slots based on historic airport operations – have not fostered new competition. To the contrary, such measures have conferred a tremendous advantage upon entrenched incumbents at the affected airports. These entrenched incumbents are inclined to hoard their slot holdings rather than see such slots relinquished to competitors, thereby allowing them to control service and fares.

The reality is that all of the ideas and issues concerning the allocation of slots at capacity-controlled airports have been on the table for the better part of 25 years. During this time, industry consolidation has increased and serious access problems have persisted at capacity-controlled airports. As a consequence, the Federal Government must develop a market-based solution to determine the most efficient allocation of slots to airlines that are eager to launch or expand service at capacity-controlled airports. Indeed, a variety of mechanisms are available to the Federal Government, including auctions and peak period pricing to more appropriately align demand with capacity. If indeed auctions are utilized, all slots at the affected airport should be available for bid, not just a small fraction, to avoid conferring an unfair competitive advantage on entrenched incumbent airlines at the airports. On the other hand, a mere extension of the orders limiting operations at the New York area airports and reliance on the status quo at O'Hare International Airport without any mechanisms to ensure meaningful access for new entrants and limited incumbents is contrary to the pro-competitive objectives of the Airline Deregulation Act and will be harmful to consumers in the long run. In any event, the Federal Government must resolve the issue of new entrant and limited incumbent access at capacity-controlled airports through the development and implementation of a market-based solution before approving any further slot swaps or industry consolidation.

Corporate Discount Agreements

Another area of competitive concern that may arise from increased consolidation is the enhanced ability of the merged airline to use the terms and conditions of corporate discount agreements to increase market share vis-à-vis its competitors, particularly new entrants that have not yet been able to develop similarly extensive route networks.

By way of background, a corporate discount agreement is an arrangement by which an airline grants discounts to businesses with significant amounts of travel in markets served by that airline. In return for the discounts, the agreements require the businesses to meet predetermined monthly goals for travel on that airline. The amount of the discount and the required travel levels reflect the relative leverage of the airline and the business in these markets, and provide the airline with an opportunity to pursue competitive goals in the markets covered by the agreement.

These agreements may permit the merged airline to increase market power and increase market share by means of such agreements in at least three ways. First, an airline could use a dominant position in a domestic market as leverage to increase market share in other more competitive domestic markets at the expense of other competitors who lack the airline's market power in the market dominated. Second, a similar situation could arise when an airline dominates an international market that is important to corporate customers, and uses that leverage to increase market share in other more competitive domestic markets against competitors that don't enjoy domination of such an international market. In each of these two instances, consolidation exacerbates the competitive situation by significantly increasing the opportunities in which the merged airline can increase market share by means of the leverage provided by these agreements.

In a third instance, an airline may structure an agreement such that the level of discount increases as the company's use of the airline on a particular route increase. In these situations, the competitive impact is most significant on routes where the services provided by the merging airlines overlap or where access in a particular market is restricted.

In short, these corporate discount agreements are very powerful in the hands of a legacy airline with an extensive route network. Their power is significantly enhanced as legacy airlines merge with one another and operate more capacity on any given route leaving fewer airlines to compete across large networks. As a result, the merged legacy airlines will increase their market power to capture greater market shares at the expense of new entrants with much smaller networks. To the extent that the merged airline can, by use of these agreements, increase market share significantly in one or more markets at the expense of other airlines, consumers can be harmed if the loss of market shares by these other airlines compromises the ability of competitors to effectively compete against the merged airline.

Virgin America appreciates the opportunity to provide this testimony and would be pleased to respond to any questions the Subcommittee may have concerning these matters.