

**HEARING OF THE HOUSE COMMITTEE ON THE
JUDICIARY, SUBCOMMITTEE ON REGULATORY
REFORM, COMMERCIAL AND ANTITRUST LAW ON
AMERICAN AIRLINES/U.S. AIRWAYS MERGER**

FEBRUARY 26, 2013

SPEAKERS:

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REP. DARRELL ISSA, R-CALIF.

REP. TOM MARINO, R-PA.

REP. GEORGE HOLDING, R-N.C.

REP. DOUG COLLINS, R-GA.

REP. KEITH ROTHFUS, R-PA.

REP. ROBERT W. GOODLATTE, R-VA. EX OFFICIO

REP. STEVE COHEN, D-TENN. RANKING MEMBER

REP. HANK JOHNSON, D-GA.

REP. SUZAN DELBENE, D-WASH.

REP. JOE GARCIA, D-FLA.

REP. HAKEEM JEFFRIES, D-N.Y.

REP. JOHN CONYERS JR., D-MICH. EX OFFICIO

WITNESSES:

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**GARY KENNEDY, SENIOR VICE PRESIDENT AND GENERAL COUNSEL,
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**KEVIN MITCHELL, CHAIRMAN OF THE BUSINESS TRAVEL COALITION,
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BACHUS: Good morning. The Judiciary Committee on Antitrust, Regulatory Reform, Administration Law, and Bankruptcy is in session. By way of introduction, this is the first hearing of the year for the subcommittee. Chairman Goodlatte has given me the great privilege of chairing this subcommittee. And under its antitrust jurisdiction, the Judiciary Committee has the duty to examine the competitive impacts of significant transitions on the marketplace. It is a responsibility that I take very seriously from the standpoint of consumer choice and the functioning of free markets.

Today's hearing is specifically to examine the proposed merger between American Airlines and US Airways. The resulting airline with a 24 percent market share would become the largest of what might be called the four legacy U.S. carriers.

The Department of Justice will conduct a detailed review of the proposed merger under the Hart-Scott-Rodino Act. There will be several other layers of scrutiny, both here and in the U.S. and in Europe. This hearing is intended to provide information to the public not to state a subcommittee policy position, although I think there obviously will be independent -- I mean, each member will have independent opinions and, obviously, are free to state those.

The airline industry has been in a state of near constant change and innovation since federal deregulation in 1978. We have a marketplace -- or we have a marketplace in which familiar names that most of us grow up with, like Pan Am, TWA, if you traveled overseas or in the South, Eastern Republic and Southern, no longer exists. They've either merged, bankrupted, or gone out of existence.

But we've also seen the emergence of new carriers with different business models, like Southwest and Virgin. The embracing of electronic technology has created online bookings and instant price comparison tools that have greatly benefited travelers by expanding choice. That is the competitive free enterprise system at work and is a

cornerstone of our economy.

However, there are questions that naturally arise during airline mergers and issues that have confronted some of the mergers. And today's hearings offers an appropriate forum to address those.

The issue that many consumers would be interested in knowing about, to the extent it can be answered, is the potential impact on their cost of flying. Service routes are also a concern, as are the levels of service that will be offered post-merger at the current hubs of American and US Airways. From a broad competitive perspective, there's the issue of airline market share at individual airports, the overall market share held by major carriers in the prospects, and implications of future consolidation.

Our goal today is to facilitate discussion. Just as consumers are served by clear and transparent pricing when they shop online for a plane ticket, so are they served by good information and by comparing different points of view. We welcome all our witnesses and look forward to your testimony.

I now recognize the ranking member for his opening statement.

CONYERS: Thank you.

BACHUS: Either -- either one.

COHEN: I yield to Mr. Conyers. I always yield to Mr. Conyers.

BACHUS: Thank you.

COHEN: Honored to serve with Mr. Conyers, and he is Mr. Rosa Parks.

BACHUS: I've served with him, too, and I would recognize him first.

CONYERS: Well, I thank you both for your generosity.

We come here today looking at a very important part of the economic system that has guided this country. And I've always worried during previous airline mergers -- and without prejudging the merits of the ones that brings us here today -- we should recall that both parties to this merger bear a high burden in demonstrating that further consolidation in the airline industry is warranted.

One of the arguments advanced in favor of some past mergers -- Delta, Northwest, United, Continental -- was the claim that there was too much capacity in the industry, which led to excessively low fares that prevented carriers, particularly so-called legacy carriers, with

their higher costs from earning a sufficient income. We ought to consider whether this is still the case.

While American is in bankruptcy -- pardon me -- it is poised to successfully reorganize with billions of dollars in cash and reduced costs as a result of reorganization. Moreover, US Airways posted record profits. These facts suggest that both airlines are, in fact, perfectly capable of surviving, even thriving, as standalone companies. Industry consolidation may benefit the airlines that remain by giving them power to raise fares and fees, but it comes with costs to the consumer. And as has been noted, it may result in higher fares, fewer consumer choices, particularly in hubs and city pairs where two carriers overlaps. And retrospective studies of the effects of Delta-Northwest, United-Continental mergers suggests that, in fact, fares did rise on some routes where the two merger partners used to compete. Given the size of the big three, legacy airlines that would remain after the merger, it's not entirely unreasonable to suggest that they would have even greater power to tacitly agree to raise prices, undermining price competition and harming consumers in the process.

Indeed, if American and US Airways were to merge, more than 70 percent -- and by some estimates, as high as 86 percent -- of the domestic airline industry would be controlled by just four airlines. I fear that the flying public will see relatively few benefits, while bearing much of the costs of this potential merger.

Another related issue is whether the low-cost carriers can continue to provide effective competitive pressure on what will be the big three legacy airlines, should this merger occur. One of the arguments I hear most often in prior airline consolidations was that the industry would remain very competitive after consolidation, because the competition against large carriers, which were able to offer lower fares because of their lower operating costs.

But of the LCCs, however, only Southwest is large enough to compete nationwide against the large legacy carriers. And there's reason to wonder whether Southwest will continue to play the traditional role of an LCC in competing on ticket prices, given that it is now part of the big airline club.

And, finally, we must consider what impact this will have on workers at that -- at the two carriers. In stark contrast to previous airline mergers, the unions representing American and US Airways, with the exception of the machinists, have come out in public support of this merger. And the machinists have said that they could support it, but only after US Airways renews its contract with their own members first. Indeed, America's unions have been instrumental in pushing for this merger.

And so I will submit the rest of my statement, Mr. Chairman, and thank you for your generosity.

BACHUS: Thank you.

The chairman of the full committee, Mr. Goodlatte?

GOODLATTE: Thank you, Mr. Chairman.

I want to thank you for holding this hearing and on an issue that's of great importance to me and to my constituents.

In a free market economy like ours, companies are generally free to organize themselves and their assets as they see fit, including by merger. There's nothing wrong per se with mergers, even if they form large companies.

The preservation of free and fair competition, however, is critical to a free market. Competition spurs innovation and ensures that the market allocates resources efficiently. It benefits consumers and fosters economic growth. Because a free market cannot flourish without competition, a merger that decreases competition can undermine a free market.

Thus, antitrust laws set important limits on companies' freedom to merge with one another. Specifically, Section 7 of the Clayton Act prohibits mergers that substantially lessen competition or tend to create a monopoly. This is meant to strike a balance between companies' freedom to organize their affairs, while preserving the competition that is essential to a healthy market.

Recently, two of the four legacy carriers in the U.S. airline industry -- American Airlines, which has been in Chapter 11 bankruptcy since late 2011, and US Airways -- announced plans to merge. The resulting entity would be called American Airlines, but would be led by US Air's

chief executive officer.

Pursuant to the Hart-Scott-Rodino Act, the Department of Justice must review this proposed merger to determine if it is anticompetitive. This is a highly technical inquiry, and the department should be guided purely by the facts and the law, not by politics or ideology.

The basic question the Department should seek to answer is how this merger's impacts on competition would affect consumer welfare.

Congress has an oversight responsibility to ensure that the Department of Justice conducts its merger reviews in a thorough, fair, and reasonably prompt fashion.

The department should ask whether the merger would enable American to raise ticket prices or raise other ancillary fees or reduce services on particular routes, especially routes currently served by both airlines. It should ask whether there is sufficient competition on these routes, such as from low-cost carriers, to keep a post-merger American Airlines in competitive check. It also should ask whether, post-merger, a new carrier would move into a route served by American and begin to compete.

To put it mildly, the airline industry has changed a great deal since it was deregulated in 1978. New airlines with new business models have sprung up to serve consumers. Other airlines have gone bankrupt. Some of the latter have returned from bankruptcy, others have merged, and others have failed altogether. In the last five years, the House Judiciary Committee has held hearings on two major airline mergers, Delta-Northwest in 2008 and United-Continental in 2010. Five major airlines -- United, Delta, American, US Air, and Southwest -- now control an estimated 80 percent of the domestic market. If this merger goes through, that number will decline to four. Should this be the last merger in the airline industry, so far and no farther? Would allowing this merger finally strike the right balance between competition and the cyclical bankruptcies that have occurred in the industry recently?

A major concern any time there is fluctuation in the airline industry is how smaller airports, which depend heavily on routes to and from larger hubs, would be affected. For travelers leaving from my district,

the airport in Charlotte, North Carolina, is a major hub destination, and US Air has invested heavily in Charlotte. Would American maintain or even expand this and other hubs, post-merger?

It is by no means clear that this merger would have all or any of the negative effects that an airline merger can produce. American and US Air maintain that their routes are mostly complementary, not overlapping, and that the merger will enhance competition by giving the current fourth- and fifth-largest airlines a stronger position from which to compete with the other three.

Congress has no formal role in the Department of Justice's merger review process. Congressional hearings, however, provide important public venues to ask, debate and identify possible answers to these questions, which are of great importance. Rather than rushing to judgment, my hope is that everyone involved will take care to evaluate the evidence and do what is best for competition and consumers.

I look forward to the testimony of the witnesses, debate among the members of the subcommittee, and, in the end, a wise decision by the Department of Justice that ensures a competitive future for the airline industry and protects the welfare of American travelers.

Thank you, Mr. Chairman.

BACHUS: Thank you.

This time, Mr. Cohen, the subcommittee chairman, is recognized.

COHEN: Thank you, Mr. Chairman.

This is the first hearing of the newly renamed Subcommittee on Regulatory Reform, Commercial and Antitrust Law. We used to call it CAL. I call it RRCAL.

I thank Chairman Bachus for choosing the topic of this merger between American and US Airways for our first hearing, and I want to say I look forward to what I hope and know will be a productive working relationship in the 113th Congress. The third Saturday in October is not the only time Alabama and Tennessee get together. As an initial matter, I note that unlike -- unlike with previous mergers, the unions representing workers at both these airlines have expressed strong support for the merger, and that's encouraging. Some news accounts suggest that the unions at American Airlines were

particularly instrumental in agreeing to this move.

Mr. Chairman, I'd ask unanimous consent that the final joint release dated February 14 between the different unions be entered into the record.

BACHUS: Without objection.

COHEN: I also ask unanimous consent that a letter from Laura Glading, president of the Association of Professional Flight Attendants, and a statement from Captain Kaufman, chairman of the Allied Pilots Association, expressing support for the merger both be entered into the record.

BACHUS: Without objection.

COHEN: Thank you, Mr. Chairman.

I understand why labor supports this proposed merger. Employees at both carriers are poised to get a better deal than they would otherwise, which is more than I can say, unfortunately, for the employees at the former Northwest Airlines, many of whom were my constituents in Memphis.

As we consider the merits of this merger, we ought to look back, though, with the similar effects of mergers that are similar in the recent past to see how it benefits consumers and what happens. And while I respect the views of labor in support of this merger and recognize that no two mergers of airlines or any other entities are necessarily alike, the merger of Northwest and Delta has indelibly shaped my image of airline mergers.

Prior to the merger, Northwest operated a significant hub in Memphis. And for this reason, and given Memphis' proximity to Delta's hub and headquarters in Atlanta, I expressed concern about the potential cost of the merger to consumers and employees in my home district.

In this very room in 2008, Richard Anderson, Delta's CEO, said about the future of the Memphis hub, "It will be additional. It will be more business for Memphis, not less." I expressed concern to him about reduced service or even outright elimination of the hub and asked him about continuation of the Memphis-Amsterdam international flight, of which we had great pride. At that hearing, Mr. Anderson in this room testified there would be no hub closures, and he said the merger

would maintain international flights to Amsterdam.

He went further to say we could expect more international flights from Memphis and suggested Memphis to Paris was going to happen. And he said there would be more flights, this will enhance the status of traffic and service at the Memphis International Airport. He said it would add, not delay -- not take away from Memphis International Airport.

He said he knew Memphis from when he was at Northwest, and he loved the ribs, he loved the city, he knew how great the airport was, how well managed it was, how the time on the tarmac and taking off was less, that they saved oil, and it was the best connections they could possibly have. Those facts were true. His response was not. I ask US Air and American to look at Mr. Anderson's statement and understand that Memphis International Airport is a place they should be. And when other airlines didn't come to Memphis, US Airways did. They added additional flights from Memphis to Washington at a better price, and I appreciate that. We like that competition, and US Airways did something other airlines didn't.

When Frontier Airlines thought about coming into Memphis, Northwest cut their prices. That eliminated the opportunity for Frontier to come in. Later, People Express expressed an interest in coming in to Memphis, and because Delta had such a dominant market share, People Express did not. The opportunity in Memphis is there. Before the merger, there were 240 flights a day out of Memphis International Airport. As of this December, there are 40 percent of that service or simply 96 flights, not 240. It would not surprise me to see further cuts. And on Saturdays, it looks like Dodge City.

So ribs are plentiful. There's opportunity for US Airways to come into Memphis and to fly these routes, US Airways-American, and to serve Memphis. Delta has used its base in Memphis to lower, not -- to keep carriers out and not have real competition. Memphis consumers pay higher prices than almost any airport in the country, and this has cost businesses to not choose Memphis as a place where they want to come, because they don't get the service.

Federal Express needs the service and supplies it. Federal Express

takes some of their product and puts it on the airlines, which can help your airlines serve Memphis. Call Fred Smith, Mr. Johnson. He'll tell you, "Come to Memphis." And so do I.

So there are plenty of reasons why when we look at this merger -- and I understand wonderful things about -- I've heard about Mr. Johnson and Mr. Kennedy, and we may need to look at differently, we've heard from Richard Anderson. We don't want a repeat performance.

But the basis upon which he made his untrue statements are still valid. Memphis International Airport's a fine airport, great service, great weather, great opportunities to save on fuel, and a great city to serve. I appreciate your being here. I appreciate Mr. Bachus scheduling this hearing. And I look forward to the testimony, and I look forward to US Airways and American serving Memphis, mid-America's great city, and Memphis International Airport, the great airport that it is. Thank you, Mr. Bachus, and I also give you a statement and ask unanimous consent to enter a statement from Mr. McGee and Mr. Slover (ph) of the Consumers Union expressing concern about this merger (inaudible)

BACHUS: Without objection.

COHEN: Thank you, sir, and I yield back the balance of my time, which doesn't exist, but that's traditional to yield it back.

BACHUS: I guess -- let the record show that Mr. Cohen does not want you to merge with Delta Airlines.

(LAUGHTER)

Our witness -- our first witness is -- well, without objection, other members' opening statements will be made a part of the record. And this time, I'll introduce the witnesses.

Gary Kennedy, representing US Air -- no, American. You're going to go first. Oh, that's right. OK. A senior vice president, general counsel, and chief compliance officer at American Airlines. Mr. Kennedy directs all of American's legal affairs worldwide. Mr. Kennedy also directs American's corporate compliance program and oversees corporate governance matters. Before joining American Airlines in 1984, he practiced law in Salt Lake City.

Mr. Kennedy is a magna cum laude graduate of the University of Utah,

where he was a member of Phi Beta Kappa. He received his JD from the University of Utah School of Law. And we look forward to your testimony, Mr. Kennedy.

As I've told you privately before the hearing started, I have seen tremendous improvement in US Airways' operations and the staff and the service. And it's been a real transformation, and I compliment on you and the management team at US Airways. Well, not actually.

You're at American, and I'm complimenting you. I should have been complimenting Mr. Johnson, right? But I apologize for that.

Now, I'll get to Mr. Johnson and compliment you for -- Mr. Johnson is the executive vice president of corporate and government affairs at US Airways, where he oversees corporate, legal and regulatory affairs. Prior to joining US Airways, in 2009, Mr. Johnson was a partner of Indigo Partners, LLC, a private equity firm specializing in acquisitions and strategic investments in the airline and aerospace industries. Mr. Johnson also served as executive vice president with America West Corporation prior to its merger with US Airways. He earned in MBA and JD from the University of California, Berkeley, and his BA in Economics from Cal State University in Sacramento.

Thank you, Mr. Johnson, for testifying. And I'll -- what I said to Mr. Kennedy about US Airways obviously applies to you, but it -- and I did tell both of you all, and I was thinking we were going to -- the testimony is going to be flipped, but it really is a well-managed airline, so -- and I don't -- I don't travel American, so I really don't -- I don't have that many occasions to travel on American, but it -- when I did, they were very professional.

Our third witness is Mr. Kevin Mitchell with the Business Travel Coalition. He's chairman and founder of the coalition, where he advocates for the corporate travel community in North America, Europe, and Asia. He has over 40 years' experience in restaurant, hospitality, sports management, business aviation, and business travel industries. Before joining -- or founding BTC, Mr. Mitchell served as vice president of Cigna Corporation, and he received his BA in international relations from St. Joseph's University in Philadelphia in 1980. We thank you for testifying.

Our fourth witness, Professor Sagers, Christopher L. Sagers, professor of law at Cleveland-Marshall College of Law in Cleveland, Ohio, where he specializes in administrative law, antitrust, law and economics, and business regulation. Before joining the academy, Professor Sagers was in private practice in Washington, D.C., at the law firm of Arnold and Porter and Shea and Gardner. He earned his JD cum laude from the University of Michigan School of Law and his Master's of Public Policy from the University of Michigan. We thank you for testifying, Professor Sagers.

Our last witness is Dr. Clifton -- it's Clifford, isn't it, Clifford Winston, PhD at the Brookings Institute. He's senior fellow in economic studies there. His research focuses on the analysis of industrial organization, regulation, and transportation. He was the co-editor of the annual microeconomic edition of Brookings' paper on economic activity and has authored numerous books and articles. Before coming to Brookings, Dr. Winston was an associate professor at MIT. Dr. Winston received his AB and PhD from the University of California, Berkeley, and his master's from the London School of Economics. Thank you for testifying.

Mr. Kennedy, you will go first with your opening statement. Each of the witnesses' written statements will be made -- entered into the record in its entirety. And I ask each witness to summarize his testimony in five minutes or less.

To help you stay within that time, there's a timing light on your table, and when the light switches from green to yellow, you'll have one minute to conclude your testimony. When the light turns red, it signals the witnesses five minutes have expired. But I'm actually more lenient than most people, so if you -- you need to go on another minute, that's fine with me and the members.

I now recognize Mr. Kennedy for five minutes.

KENNEDY: Chairman Bachus, Ranking Member Cohen, and members of the subcommittee, thank you for the opportunity to testify today. My name is Gary Kennedy, and I'm the senior vice president and general counsel and chief compliance officer for American Airlines. I've been intimately involved in both the Chapter 11 restructuring of our

company and the proposed merger between American and US Airways.

As the committee knows well, the airline industry has experienced severe economic turbulence over the past decade. The shockwaves from the events of 9/11 created enormous difficulty in the aviation industry, and all U.S. carriers grappled with ways to survive in the wake of the emotional and economic upheaval created by those terrible events.

In 2003, American Airlines was on the brink of filing for bankruptcy protection, but thanks to the willingness of our organized labor representatives to take the steps necessary at that time to reduce costs, we avoided a Chapter 11 filing. For the next eight years, we struggled to find a way to financial stability. Despite our best efforts, our losses continued to mount, reaching \$12 billion over the previous 10 years.

In November 2011, our board came to the painful conclusion that time had run out. The only viable path forward was to restructure our business under Chapter 11 of the bankruptcy code. There is no easy way to describe how difficult our bankruptcy reorganization has been for the company and our employees.

Beginning at the top of the organization, we reduced our senior management ranks by 35 percent. We then moved through the balance of the organization, making necessary changes, including the reduction of 15 percent of total management staff. Meanwhile, we began renegotiating certain of our secured obligations, our leases, and our contracts with vendors.

We also negotiated new long-term contracts with each of our organized labor groups. These new contracts include productivity improvements and changes to health and retirement benefits. At the same time, we increased pay for our employees and mitigated job losses by offering retirement incentives.

One of the most important objectives we achieved was to freeze, rather than terminate, our employee pension plans. As a result, we now expect to fulfill those obligations, rather than unload them on the PBGC, as other airlines have done.

Of course, all of what we have accomplished was done in the context of our Chapter 11 case and in consultation with the Official Unsecured Creditors Committee appointed by the United States trustee. By mid-summer last year, we had made sufficient progress that we decided, in conjunction with the Creditors Committee, to embark on a formal process to consider a merger with US Airways.

It was clear from the outset of our review that a merger with US Airways could create significant value for our stakeholders and bring substantial benefits to the traveling public. We have conservatively estimated that, by 2015, revenue and cost synergies will outweigh cost dissynergies by over \$1 billion. The combination will make our company a much stronger competitor against the other large airlines. We are under no illusions that mergers are easy or seamless. We have agreed from the outset to do everything in our power to learn both from the success and the mistakes of those who have gone before us. Many of the most important decisions have already been made. The combined company will use the great American Airlines brand. The company will remain headquartered in Dallas-Fort Worth area. And all hubs in both systems will continue to be hubs in the new American. Our CEO, Tom Horton, and US Airways' CEO, Doug Parker, will jointly lead both the transition team and the new American as it emerges from bankruptcy. Mr. Parker will be CEO of the new company, and Mr. Horton will be chairman of the board.

Now, I understand and recognize that many members of Congress are skeptical of promises made in these situations and are also concerned about industry concentration. As to the former, we do not intend to make commitments that we cannot keep. And as to the latter, it is clear that this merger does not create a high degree of concentration. Above all, however, I would urge you to consider the facts with which I began my testimony: Nothing has been more damaging for the airline industry, our employees, our customers, and our shareholders than the years of economic turmoil we have experienced. This transaction is unique in that it is endorsed by all of our labor unions and embraced by management and the boards of both companies. We know we have a solemn obligation to implement this transaction with great care and

thought, and we are eager to do so.

Thank you for the opportunity to testify today.

BACHUS: Mr. Johnson, you're...

S. JOHNSON: Thank you, Chairman Bachus and Ranking Member Cohen, Chairman Goodlatte and Ranking Member Conyers. And thanks to the entire committee for having us here today. It's an honor to testify before the subcommittee about the merger of US Airways and American Airlines.

The creation of the new American Airlines will be good for competition, good for consumers, and good for choice. Expanding our network for the benefit of our customers, our employees, our shareholders, and our communities is the motivation for bringing these companies together.

Integration of the complementary networks of American Airlines and US Airways will enhance competition in an already highly competitive marketplace. It will also deliver significant benefits to each of those constituencies.

Our customers and communities will benefit from more and better service. Our employees will receive improved pay, better benefits, and greatly enhanced job security.

And, Mr. Chairman, I'd like to acknowledge the fact that there's about 30 of Gary's and my colleagues here in the room with us today who came to join us for the hearing and thank them personally for joining us.

Our shareholders will benefit from improved financial stability and from \$1 billion of synergies created by the merger. And we are proud that the combination has won unprecedented support from our 100,000 employees, the financial markets, and the communities we serve.

The US Airways team has been a leader in delivering exceptional customer service, but we have long recognized that we could do more. Airline passengers have made it clear that what they want are broader networks capable of taking them wherever they want to travel, whenever they want to go. By combining the systems of American and US Airways, the new American Airlines will build the network our

passengers want, one that will compete vigorously with the networks of Delta and Northwest and with low-cost carriers like JetBlue and Southwest.

The passenger benefits of the new American Airlines stem from the complementary nature of our operation. By combining these operations, we add origins, destinations, and hubs to a network with very little route duplication. Indeed, out of the nearly 900 domestic routes we will serve, American Airlines and US Airways have only 12 nonstop overlaps.

Also, US Airways has historically provided extensive air service to small- and medium-sized communities, and this merger will allow us to extend that focus to the American Airlines system.

Combining these networks also will create new, exciting international opportunities. We will provide thousands of passengers better alternatives, with over 1,300 new routes worldwide. In addition, our customers will have the potential to access 130 -- sorry, have the access -- the potential to access over 130 cities around the globe served by American, but not yet served by US Airways, and 62 cities served by US Airways, but not yet served by American.

And by adding US Airways to the oneworld global alliance, we will increase competition on international routes by creating attractive opportunities for additional international service to oneworld customers and to US Airways hubs.

Domestic markets will become even more competitive. Although it will be the largest airline in the U.S., the new American Airlines will have less than 25 percent of domestic available seat miles and will compete against the nationwide networks of Delta, with 21 percent, and United and Southwest, each with 19 percent. The new American Airlines will also compete against Southwest's significantly lower cost structure and a host of smaller, but fast-growing lower cost airlines, including JetBlue, Spirit, Allegiant, and Virgin America.

Also important, as we increasingly think about competing in a global airline business, the combination of American and US Airways will create a third U.S. airline that can compete successfully with major international airlines in key markets around the world. The American

Airlines will be a financially stronger company. The US Airways business has been consistently profitable, and the successful restructuring of American will return that business to profitability. And as a result of the combination, we expect to generate over \$1 billion in net synergies as we increase revenues from new passengers, taking advantage of our broader network and improved service, and reduce costs from scale and the elimination of duplicative systems and management. That improved financial performance will provide American's bankruptcy creditors with enhanced opportunity for a full recovery, a result unheard of in airline bankruptcies, and it will create more financial stability in the extremely cyclical airline industry. That financial stability also will provide very significant benefits to our employees, including better and benefits, greatly improved job security, and better opportunities for advancement. Thus, it is not surprising that the merger has generated unprecedented support from employees of both companies, their labor unions, and from the communities in which they live.

Antitrust review of these issues is important, and we are already working with the Justice Department to demonstrate the competitive benefits of this merger. We appreciate the opportunity to address these issues with the subcommittee today and commit to working with you in your oversight capacity. We announced the merger only 12 days ago, so there are many issues yet to be resolved, but I will do my best to answer any questions you may have today.

Thank you very much.

BACHUS: Thank you.

Mr. Mitchell?

MITCHELL: Thank you. Mr. Chairman and members of the committee, this morning I'm going to explain one threat to price transparency that would be enabled by this merger that has been agreed to by airlines, but have not yet caught the eye of the public. I'm also presenting this testimony this morning on behalf of the American Antitrust Institute. In 2008, I warned this and other committees in testimony of the dangers of the then-proposed Delta-Northwest merger and what those dangers would hold for consumers. And I remember well that

Northwest CEO Doug Steenland testified that committee members shouldn't be concerned, because the market disciplining effect of third-party distributors, such as Expedia, is so pervasive and so important that they create this transparency, he said, that will keep prices low. He used this transparency, in fact, to justify the merger. And he was right back then about the effects of transparency. Today, however, airlines -- including American and US Airways -- have agreed on a brazen new worldwide business model for how to price and sell tickets. It's designed to destroy price transparency, which is the very antidote to consolidation needed to ensure a healthy marketplace.

The model is called new distribution capability, or NDC. And the airlines trade group, IATA, is spearheading implementation. NDC is designed to terminate by agreement among competitors the current transparent model for the pricing of tickets, where fares are published and publicly available for comparison shopping and purchase by all consumers on a nondiscriminatory basis.

What problem are the airlines endeavoring to solve? IATA has decried publicly that commoditization of airline services caused by low-fare search capabilities of the very online travel agencies that Mr. Steenland lauded.

For example, Tony Tyler, director general of IATA, stated in a press interview, remarkably, and I quote, "We've done a great job of improving efficiency and bringing down costs, but we've handed the benefit straight to our customers. As soon as someone's got a cost advantage, instead of charging the same price and making a bit of profit, they use it to undercut their competitors and hand the value straight to passengers or cargo shippers, and you've got to ask why," says Tyler. "I think one of the reasons is the way we sell our product. It forces us to commoditize ourselves," end quote.

How does NDC work? A binding resolution codifies that airlines have agreed that they have the right to demand from consumers before they would be privileged to receive a fair quote personal information, including name, age, nationality, contact details, frequent flyer numbers of all carriers, whether the purpose of the trip is business or

leisure, prior shopping, purchase, and travel history, and, of all things, marital status.

Why is this program so toxic? Air fares would no longer be publicly filed and available on a nondiscriminatory basis for consumers to anonymously comparison shop and purchase through travel agencies. Instead, each price would be unique, depending on the profile of the consumer. This personal information can be used to extract higher prices from less price-sensitive travelers, such as business travelers. In contrast, today when a consumer wants to travel from A to B, she can go to a travel agency that has the fares and schedules. All options in the marketplace are returned, so she could easily compare prices without having to divulge personal information.

It is this very price visibility that has checked the power of airlines to raise fares, lest they lose out to competitors offering a better deal. Price transparency is even more important today, because when Steenland testified, there were six network carriers. Then there were five. Then there were four. Now we're heading to three.

By eliminating transparencies, airlines will have created, by concerted actions, a new system of completely opaque pricing and, with it, the ability to raise all fares across all systems. The nexus between NDC and this merger, this merger eliminates US Airways, a maverick on airline distribution issues. It will be far easier to coordinate expressly or tacitly among three network competitors and far easier to impose this model, especially given the clout that the new American would have, as the biggest carrier on the planet.

The lack of transparency created by NDC further cements the dominance of these mega-carriers. And once NDC is established here in the world's largest market, it's going to be lights out, game over for consumers.

Two remedies. DOT has the authority to approve NDC. Given its anticompetitive effects and unprecedented invasion of privacy, DOT should reject it without condition.

Number two, DOJ. They should serve IATA and its members who have been spearheading the NDC scheme with a CID to discover the purpose and objectives of NDC and the process by which horizontal

competitors reached a binding agreement on how they would price and sell tickets.

Thank you, Mr. Chairman, and I would just like to add that the American Antitrust Institute is looking at the competitive effects of NDC itself.

BACHUS: Thank you.

Professor Sagers?

SAGERS: Thank you very much. So my friend, Diana Moss of the American Antitrust Institute, told me that I should be getting hazard pay for being here today, and I -- I am here, I'm afraid, to suggest some reasons not to be so optimistic about this merger. And I'll notice that there are kind of a lot of captains' uniforms behind me, and I have to say, I'm a little afraid that when I leave here to go home to Cleveland today, I'm going to be on some sort of no-fly list, and I hope that's not true.

BACHUS: They're all very friendly. I can tell by the...

(CROSSTALK)

SAGERS: I'm sure they are. I'm not going to say what airline I'm on. I'll note -- I'll note, as well, that Dr. Winston, who I think is -- he's only coincidentally to my left, and he's also going to probably say a few things in disagreement with me. He's an eminent person. No person could study the antitrust treatment and competition in airline markets without studying his work, and yet he and I are going to disagree about a few things.

But the most encouraging thing I've heard today so far is Chairman Goodlatte's statement, which I was very pleased to here, describe antitrust law as non-ideological, and I couldn't agree more. It is non-ideological.

I don't have, you know, my own phalanx of supporters behind me -- and, indeed, I don't have any staff to come help support me in these sort of things, because I'm only here to speak in favor of a policy that is supposed to protect everybody, including us average folks, and so guys like me come and talk about it alone.

So here's my basic thought in the very brief time I have to describe this -- this complex deal. I think that in policy consideration of transactions

like these, complexity is the defendant's friend. Complexity is the merging party's friend. It isn't the friend, though, of most other people that are affected by the transaction. I want, therefore, to try to describe a few things that to me seem relatively simple.

First of all, there will be a lot of discussion and it's going to seem complex, because it seems to require a lot of understanding of complicated industry facts of benefits proposed by the merger, right? There's a lot of complexity surrounding the purported benefits.

I'm not even really going to talk about the benefits. I personally don't think they are worth dwelling on, at least not in this setting, because we all -- every single one of us -- has been to this rodeo before. We have seen many mergers in many industries, and we've seen many, many mergers in the airlines in the 35 years since deregulation, and they have always been said to propose these same benefits or benefits like them, and quite often they have been disappointing. My sense is that the promises are typically not kept, and they have led to sometimes very painful disappointments.

I'm going to talk instead about what I also think is relatively simple, and that is the competitive effects. There isn't time for me really to address it fully, but I will say this. In the written statements that I read last night -- and I read them all -- the most remarkable statement was that, in this merger, among the thousands and thousands of daily flights to cities all across the United States that are controlled by these two carriers, the only overlaps that matter in the whole combined network will be 12 overlaps, 12 flights.

We could delve into some complexities. I'd rather focus on what seems to me simple. We should ask ourselves, among those thousands and thousands of flights, are there really only 12 cities in which these two carriers provide competition with each other that will be lost through this merger? I don't think so.

For a brief introductory analysis to what are the more likely effects, you can look at the white paper produced by the American Antitrust Institute, which is attached to Mr. Mitchell's written statement.

The final thing I'll say -- and, unfortunately, I have a very brief remaining time to say it -- is that a dominating theme of all discussion

of airline mergers since deregulation has been the economic difficulties of the carriers. The claim is we have to merge, we have to consolidate to strengthen ourselves so that we can perform. Here are a few thoughts about that. First of all, the carriers really have never offered any very plausible explanation why merger. It has to be merger that's going to solve our economic problems. They can, and they often have suggested a lot of detailed arguments. But again, I think the response is a relatively simple one, and that is that, well, we've had a long time. We've had 35 years with dozens of mergers, every single one of which has been sold on the claim that synergies, cost savings, et cetera, are going to make us competitive. It hasn't worked. The airlines have remained -- the latest airlines, at least, have remained mostly economically in dire straits throughout that whole time.

With that, I'll end. Thank you.

BACHUS: Mr. Winston, or Dr. Winston?

WINSTON: Thank you.

I'm happy to be able to testify at this merger. I testified at the Delta-Northwest merger in 2008 in support of that merger, and I support this merger, but I have some new perspectives to bring. I'm not just going to read my old testimony.

And what I think I'll do in the short amount of time -- and given what we've heard -- is repackage my written presentation and my oral presentation, beginning with my conclusion. Mergers -- all mergers, not just airlines -- involve what are called the Williamson tradeoffs. That is, mergers trade off benefits from economies and expansion to get lower costs -- OK, that's the positive claim to them -- and then the anticompetitive concern that you're losing a competitor and that you'll raise prices.

So traditionally, when we think of these things, we start off with tradeoffs. And naturally, you know, you'll hear them, and you have heard them, as expected. What I think is interesting now about airlines -- and I didn't stress this enough before, but I think it's increasingly true now -- is we don't have to think of these anymore as tradeoffs. Now, admittedly, I'll be bringing in an additional policy perspective,

but I think that was appropriately done by Mr. Mitchell, raising just concerns about what's going on with how tickets were distributed. And that additional policy perspective is the growing reality of where this industry is going, and that's to globalization. This is a global airline industry, right? We have to see, where are we really going to be going?

And when I mean globalization, I mean full open skies, something we've been moving toward, and ultimately cabotage, which is allowing foreign carriers to serve in the U.S. And, you know, if you think that is a strange policy, consider the automobile industry and imagine what it would be like if we did not have Honda, Toyota, et cetera, building and assembling cars here, and one wonders what's wrong with a picture like that when that is the case in autos, but we don't allow British and Irish planes to fly in the U.S.

All right. Once you bring that perspective into mine, things change radically. You don't have tradeoffs. In other words, it's quite clear that what the airlines' job to be is efficient as possible, OK, and reduce costs, and what policymakers' job to do is to promote globalization and policy, promoting open skies, finish the job with that, and cabotage. What that will do is give you your influx of competitors, make sure that the efficiency improvements are largely transferred to consumers. And so the concerns about competition just go out the window, once you start thinking about that.

All right, but something else very important becomes clear, then. You get a deeper and, I think, more intuitive understanding of why carriers are merging. Think about what airlines really involve. It's a very risky investment, OK, in billions of dollars of seats that are in the sky, all right? And it's risky, because there are lots of shocks that I'll get to shortly, all right?

What you want to deal with risk, as we know, is to have a portfolio, and you can allocate those seats in response to shocks and risks. And in a globalized economy, then you can imagine what people will do. When things are tough in one place, they'll move their capacity to another place, right? Mergers enable you to do that.

So I would suggest that the main justification for mergers, which really

hasn't been emphasized enough, is really a way of dealing with risk, which is the inherent challenge in this industry. All right. So let me turn to that, why I think that.

This all comes out of deregulation. You know, recall some -- you can recall, but you've read -- that airlines operated under the load factor of 55 percent, so they have billions of dollars of capacity and they're only using half of it. So, you know, in retrospect, you could see just how crazy regulation was. What a waste, all right?

But at the same time, airlines were shielded from the fundamental challenge that is matching capacity with demand and these shocks. So you have to commit to capacity, you have to buy planes in advance, and you think you know what demand is, and then you've got to deal with fuel shocks, macroeconomic shocks, the Gulf War, September 11th, and to top it off, sequestration, right? That's really a very challenging thing to do.

So what do you want to do? You want to have the ability to diversify, right, and be able to allocate your seats appropriately. That's what mergers do, and that's why the airlines have been doing it for all these decades, I would contend.

Now, in the process of doing that, what do we see going on in the industry? What are the long-run trends? Well, real prices continue to go down. They continue to be below the SIFL, the standard industry fare level, under regulations, so the benefits of deregulation are preserved, and most importantly, load factors are going up. That's the key efficiency thing that we want to look at.

We're not operating at 55 percent. We're much closer to 80 percent or 90 percent. So I would suggest that, you know, these mergers are just part of a tool. They're not the only tool, but to deal in the long run with where this industry is going, and that's globalization.

Now, I believe in the end, you know, Congress is critical here in pushing for that, all right? And then we get a win-win, and then presumably then the airlines should go along with it. We're allowing you to be more efficient; you allow us to spur competition in this industry.

BACHUS: Thank you. We will now proceed under the five-minute rule

with questions, and I will begin by recognizing myself for five minutes. One thing, Mr. Mitchell, that you or Professor Sagers didn't address, you talked about some possible negative implications of this merger, but if it doesn't go through, I mean, there are some demonstratable negatives, very many. And I -- I just wonder if you considered that. For instance, the failure of American Airlines, other than being financially unstable.

MITCHELL: Well, American Airlines is exiting or will exit bankruptcy reorganization as a lower cost carrier with billions of dollars in cash and cash equivalents and new aircraft being -- are on order. And their CEO has said countless times that they will be profitable as a standalone carrier.

Likewise, US Airways is enjoying some of its most successful earnings in its history. So I just don't buy into the notion that these are failing firms. It certainly doesn't apply as a failing firm against the guidelines, the antitrust guidelines. They're fit and able to compete.

And to make the argument, as you hear now and then, that they need to be large enough to compete effectively with the new Delta or the Continental-United, well, they claim themselves they can compete against them. If you use the logic that you always have to get better to compete with the next biggest carrier, we're going to end up with two mega-carriers. I mean, the logic is flawed. And then, finally, there are many smaller independent carriers that just do quite fine mixing it up.

BACHUS: OK.

(UNKNOWN): I would like to very briefly add one thing, because I think this is like -- this seems like the biggest issue, right? I mean, if -- if we're going to have a huge business failure here, we have to do something.

My first point is I agree with Mr. Mitchell that it's unlikely. We don't see airline liquidations that often, despite the huge financial difficulty the industry has had in 35 years. Much more importantly, we all have had a very painful, unhappy experience during the past few years with the same basic problem, which is that we in the United States cannot - - we don't have stomach for business failure.

By not being willing to tolerate it once in a while, we create a very

serious problem, which is that firms that know that they will be rescued fail to learn how to compete in difficult markets. OK? And in this case...

BACHUS: Let me say this. We have a bankruptcy law which allows you to go into bankruptcy, and then it allows the creditors and the company and the pension -- what? -- the PBGC -- to agree on the best route out of bankruptcy. And that -- that agreement's been made.

(UNKNOWN): We do have a bankruptcy law, but...

BACHUS: But what I'm saying -- what -- what these companies are doing is exactly what the law avails of any company and they've made a decision through the bankruptcy process that this is their best reorganization.

Now, you know, you could argue with that, but that's -- they have availed themselves of the legal process.

(UNKNOWN): I disagree, sir.

BACHUS: Well, I know you do, but one thing that -- that -- and I've read -- I've read your statement and what you said in the press. But airline failures, I mean, you've talked about they've escalated, but they've actually, as far as taking into account inflation, they're one of the best -- they're more competitive than they've ever been. I mean, the only...

(CROSSTALK)

BACHUS: ... the only reason they've been as cheap as they have is investors have pumped billions of dollars into failing airlines. What -- and I would say this, you -- you both mentioned that they maybe had a few more complementary routes -- or not complementary, but duplications. But actually, I can't recall a merger of airlines that had fewer duplications than this.

(UNKNOWN): I'll reply, if you'll allow me.

BACHUS: What?

(UNKNOWN): I will reply if you'll allow me.

BACHUS: All right.

(UNKNOWN): OK, first of all, they aren't just doing what bankruptcy law allows. They're emerging from bankruptcy with a merger, which is substantially anti-competitive. The subsidy that we gave to the banks

during the bailouts...

BACHUS: No, that is their bankruptcy plan. That -- that's legal.

(UNKNOWN): Yes, sir.

(CROSSTALK)

BACHUS: I mean, I took bankruptcy.

(UNKNOWN): That -- that may very well be. Most people who emerge from chapter seven don't do it through a horizontal merger.

(CROSSTALK)

BACHUS: Well, most of them don't do it, but what they do, that's an option.

(UNKNOWN): Yeah, unless it's...

(CROSSTALK)

BACHUS: And that's an option that the -- that the law gives them. And I -- I would just say this, I'm a railroad attorney. I remember Rock Island. And -- where the government continued to turn them down, saying it was anti-competitive, and you lost 10,000 miles of rail and stranded over 4,000 shippers because you didn't allow a viable merger. And I can tell you that -- that everything I've read, this is going to make a stronger airline.

And I -- and I'll say this, you could have stopped those mergers before Delta and Northwest. I'll agree with that. You could have stopped it before Continental and United. But you didn't, and you created other airlines with a distinct advantage if you don't let these two airlines merge.

And -- and the employees -- the employees are for this. You know, we've received all sorts of -- I've never seen more favorable support from employees, from unions, from -- and in a time of deficits, from the Pension Benefit Guaranty Corporation, which is no unimportant.

(UNKNOWN): Mr. Chairman, can I add on point?

BACHUS: Sure.

(UNKNOWN): From ABC News, you know, we talked about the 12 overlapping routes, but there are 100 cities that these two carriers currently compete on routes. That works out to 4,900 routes.

BACHUS: Well, let me say this. If -- if you call "competing," which I saw a list that if you fly from Birmingham to D.C. and you want to fly

through Dallas and take 12 hours, as opposed to two hours from Birmingham to D.C., you can call that that they share that route, but I don't -- I don't know of anyone that would take a 12-hour flight or an eight-hour flight when they could go nonstop.

(UNKNOWN): But the real point...

BACHUS: And that was on somebody's list.

(UNKNOWN): ... the real point is that the 12 overlapping routes -- overlapping routes in general are not as important as they were four, five years ago.

BACHUS: All right. Thank you.

Mr. Cohen?

COHEN: Have all of you all flown through Atlanta? You all have? Have any of you all flown through Memphis?

Mr. Mitchell, is it more convenient and nicer to be in the Memphis airport or the Atlanta airport?

(LAUGHTER)

MITCHELL: Every time I'm there, I feel like I'm living the dream.

(LAUGHTER)

COHEN: You got it, man. You've been there.

Anybody -- any of the rest of you been -- and think Atlanta's a better experience for your consumers than Memphis?

Mr. Johnson?

S. JOHNSON: Sir, I'm just not familiar with the Memphis airport. After your discussion about it...

COHEN: You and Mr. Anderson.

S. JOHNSON: ... I'm going to see the Memphis airport as soon as I can.

(LAUGHTER)

COHEN: Good. And you'll like it.

BACHUS: He likes the ribs, right?

(LAUGHTER)

(CROSSTALK)

S. JOHNSON: The Rendezvous, right?

COHEN: The Rendezvous and others, but, you know, there's -- Memphis airport is small. It's easy to get around. It smells good. You smell ribs everywhere.

(LAUGHTER)

Atlanta is just gigantic. And the only smell you get is maybe, you know, congestion and the (inaudible). Will USAirways-American -- it will be called "American," Mr. Johnson, is there a likelihood that you would look into Memphis? (inaudible) things like competition. Now, are you going to leave Memphis to just be the -- the stepchild of Delta? Or would you look into coming in there and providing competition, as USAirways has on the Memphis-Washington route?

S. JOHNSON: We -- I think both (inaudible) -- both airlines serve Memphis now. We serve Memphis through a variety of our hubs. As -- as you know from our testimony, our written testimony, the creation of the network that we -- that will come about by the new American Airlines will create opportunities to provide additional service to cities that we serve, to our hubs.

We're hopeful that Memphis will be among that, but at this point in time, we haven't had the opportunity to plan or talk about that, but certainly Memphis will be on our list.

COHEN: Mr. Mitchell, one of the things Mr. Anderson said or other said was that since the Memphis airport is so much better at the time airlines have to stay on the tarmac or just approach, that they save money on fuel. Is that an accurate -- is that accurate that that would be an attraction to an airline to come to Memphis because of fuel costs sitting on the runway?

MITCHELL: I think there's abundant evidence of that. All you have to do is look at the statements over time of Southwest Airline. They will, you know, stay away from any airport where expenses and charges are just a little bit too high for them. So it makes an impact on the decision-making at the airlines for sure.

COHEN: Dr. Winston, you supported the Delta-Northwest merger. When you did so, did you take into consideration the horrific conditions that would result in a city like Memphis because of this merger?

WINSTON: No, I did not. I had a broader perspective on the merger. I qualified the danger of prospective assessments of mergers because what we know is after the merger, there are so many changes in the

network, entry and exit, that may relate to the merger, but in this case, as we know, probably had nothing to do with the merger because April 2008 was when we had our hearing and the merger went forward, and then we had the great recession. How one could isolate what the merger did versus the great recession is very, very difficult. So I would...

(CROSSTALK)

COHEN: The great recession...

(CROSSTALK)

WINSTON: (inaudible) problems in Memphis would attribute to that.

COHEN: Shouldn't the great recession have made Memphis a better airport, as Mr. Mitchell says, because of the fact that you save money and you have less time you're burning fuel sitting there waiting to take off like you do in Atlanta? And the great recession should have made Memphis a more profitable airline for Delta. You don't agree with that?

WINSTON: I think that the problem with a place like Memphis, as with other what we call non -- not the largest hubs, is traffic. And again, if you're an airline, you want to fill your plane with people. You want to go where the people are.

COHEN: Destination and origination. But nevertheless, it's become airlines -- airports have become like Federal Express -- the airlines use people and Federal Express uses packages. And they're just places where you move people around, and Memphis is a good place.

Let me ask you this. Mr. Mitchell, Mr. Winston thinks -- Dr. Winston thinks it would be good to have international competition. Do you want to have Air Shanghai be our primary carrier?

MITCHELL: I personally don't fly them.

(LAUGHTER)

But, you know...

COHEN: Do you fly out of Memphis?

MITCHELL: ... the notion that you can -- you can justify a merger based upon some future change in the marketplace such as cabotage and open skies is really not responsible. It's not going to happen in our lifetime. None of the 30 pilots or however many pilots are behind me

want to wake up one morning working for -- to find themselves working for the Spanish government. It's too complicated and it certainly is no justification for a merger.

COHEN: Thank you, sir.

I was in Raleigh-Durham recently, and I had a flight on USAirways. And I had some time, and so I was able to look at the -- the scheduling chart and saw that American flew. And American had really great -- much better prices and much better deals on your -- on your frequent flyers going to Washington from Raleigh-Durham.

Is that one of the 12 routes that you're talking about? Or is that one of the some-100 routes that Mr. Mitchell mentions?

S. JOHNSON: That's one of the 12 routes.

COHEN: And what will happen there?

S. JOHNSON: I imagine we'll retain a high level of service between Raleigh-Durham and Washington, D.C.

COHEN: And will the price be USAirways prices or American Airlines prices?

S. JOHNSON: I don't know. We haven't talked about that at all. That's, you know, as I said, we've been -- we announced this merger 12 days ago and those are things that we'll work on over the coming year as we...

COHEN: How many -- are you all aware -- you know, it's not just Memphis. It was St. Louis with TWA. It was Cincinnati. It's been Pittsburgh -- lots of hub cities who used those -- put a lot of investment in their airports and it was a business that's important to their communities, suffered because of mergers.

Mr. Mitchell, do you see any of the hub cities that serve American or USAirways seeing a similar fate as Memphis, Pittsburgh, St. Louis, Cincinnati and maybe others have because of mergers?

MITCHELL: Well, it's possible and that's going to have to be a very fact-intensive analysis by DOJ. But certainly, Philadelphia could be impacted. Charlotte could be impacted. Phoenix could be impacted because of the geography of adjacent hubs.

COHEN: Thank you, Mr. Bachus. I appreciate my time.

Mr. Johnson, when you come to Memphis, let me know. We'll get

some ribs and we'll see Fred Smith (ph). Thank you.

S. JOHNSON: I look forward to it.

BACHUS: Mr. Farenthold?

FARENTHOLD: Thank you very much.

Mr. Chairman, when you started out, you mentioned some of the airlines that had gone away, you skipped Braneth (ph), the great Texas airline I grew up with.

And I -- I mentioned that because it really looks like the only thing consumers in the U.S. are looking at in an airline right now is price. You go back to the days when Braneth (ph) and Southwest were competing or Southwest and Muse Air, and you see some great competitions on something other than -- other than price. And really all you've got now playing in that is Virgin, who's trying to offer a little bit different experience.

But to me, it really is becoming commoditized. And I'm concerned as we get the number of carriers down, we -- you say there's 12 direct (inaudible) you're saying there's only about a 100 flights.

I'm from Corpus Christi, Texas. Fly anywhere from Corpus Christi, you got to change planes in Dallas or Houston. And I think there're a lot of folks who (inaudible) non-hub cities or not traveling to hub cities that are in the same boat. So how -- how many routes with one stop are y'all competing (inaudible)?

S. JOHNSON (?): I don't know the number. What I can tell you is any route (inaudible) has very significant competition because everybody serves the stop (OFF-MIKE).

FARENTHOLD: And -- and I do agree. I think -- U.S. Air typically has, I see, as lower fares when I'm booking. I don't have the luxury I used to have of being able to travel on Wednesdays. You know, I've got to fly on the busier days.

You -- you were talking about no -- about no hub closures. I just, looking at the map of the hubs, I'm gonna have to agree with Mr. Mitchell. Geography just doesn't seem to make sense. And AA has a history of closing hubs. I mean, you have Nashville and Raleigh-Durham. But you can go up into the East Coast (inaudible) Miami, Charlotte, Washington, Philadelphia and New York. That's a whole lot

of hubs in a close proximity.

How -- how much assurance can you give us you're not gonna shut one of those babies down?

(UNKNOWN): Congressman, a couple considerations. If you look at the geographical distribution of the hubs and you look also at the primary purpose of certain of those hubs, we have as we've stated publicly a high degree of confidence that hubs we have today will remain in place.

For example, New York, which is the largest market in the world, that serves primarily for American...

FARENTHOLD: I'm not -- I'm not worried about New York or L.A.

(CROSSTALK)

(UNKNOWN): ... just by way of example, that -- that New York serves as an international gateway. Miami serves as a gateway going south. And then when you look at Charlotte, which is a north-south hub, and you look at Dallas, which -- which is primarily Midwest and going east and west, and you look at those, we find them to be highly complementary to one another.

And so I think it is unlike what you've seen in, perhaps, other merger situations.

FARENTHOLD: You guys are familiar that on some of the blogs and the messages boards like FlyerTalk, you're getting 70 percent opposition to this merger from frequent flyers. You -- it seems like you've got the public against y'all (inaudible). How are y'all taking that?

(UNKNOWN): I haven't seen those numbers. And the feedback that we're getting from our customers, we're getting from the communities we serve is exactly the opposite. Everyone's (ph) very excited.

FARENTHOLD: Let me get back to the price competition. Maybe, Mr. Mitchell, you can help me out a little bit on this. I know you expressed a great deal of concern about sites requiring a great deal of personal information from you to determine what fares you're gonna get. And I think this is partially the airline industry's fault in that they've made this so difficult with all of the ancillary fees. I get two free bags on United. My wife gets one free bag on United. I'm a peasant on

Delta, so I don't get any free bags. Southwest gives everybody free bags.

So, I mean, you've got to have some degree of information about the traveler.

Do you think there's a way we can create a system where anonymously or semi-anonymously you can actually compare what the bottom line price in between two airlines is gonna be?

MITCHELL: Well, first of all, with respect to fairs we have that system today. You can go to any online or brick-and-mortar travel agency and understand all the options in the marketplace. But when it comes to the ancillary fees like check bag -- baggage and seat assignments and so on, it's an absolute -- absolute mess.

For five years, the airlines' most important corporate customers have been demanding that these data on the check bags be put into one place for comparison shopping purposes...

FARENTHOLD: Let's let the airlines -- response real quick, and I want to save about 15 seconds for me. Do y'all have a solution to that?

(UNKNOWN): Well, let me just -- let me just say a couple things. First of all, American and U.S. Air, we are strongly in favor of full transparency for consumers. That's what we've been about...

(CROSSTALK)

FARENTHOLD: I'm sorry, I'm out of time. I do want to end (inaudible) I'm concerned about this merger on -- on a level, as a -- as a frequent flyer. But we've given the opportunity to compete to all the other airlines. It seems to me that (inaudible) merger that's gone through, it's only fair to offer you the opportunity, assuming you comply with the laws that are in place.

But I remain concerned -- it's very difficult for the new players to enter in competition (inaudible).

I yield back.

BACHUS: Thank you, Mr. Farenthold.

Those blogs think that -- 98 percent of the bloggers think that we're incompetent.

(LAUGHTER)

FARENTHOLD: Well, we (inaudible) could do a scientific poll and we

only get an 8 percent approval rating.

(LAUGHTER)

(CROSSTALK)

CONYERS: Chairman Bachus, I want to ask a question you started off with. Is this merger really necessary? I -- I think that there is a general thinking that -- that there is support for it. But I was -- I wanted to ask, what -- what if we really didn't have this merger going on.

Mr. Sager -- Sagers, what do you think would -- would happen?

SAGERS: Well, as I -- I said, we're not going to see a liquidation of American Airlines, I think in all likelihood. And I don't think we're going to see frequent liquidations of any carriers in the foreseeable future. We would preserve such competition as we have left for the near term. And I think that we would see, perhaps, an additional degree of market discipline for cost containment that we've forfeited, you know, our -- in our airline's competition clause.

CONYERS: Mr. Mitchell, do you have a -- a view on this? If this hearing was not held and we were to continue on with our business, what do you think would go in the -- in the -- in the industry?

MITCHELL: If -- if the merger were not to occur?

CONYERS: Yes.

MITCHELL: Well, I think, you know, we will have several network carriers competing aggressively against one another. I think both carriers will do just fine.

Let's be honest, this is really gonna really help creditors. It's a better deal for labor. But it's all about the revenue. And we're going to -- if this merger were approved, we're going to three network carriers. The ability to coordinate fare hikes will be unprecedented.

Last year, there were 15 proposed fare hikes. Eight were rejected by one or two carriers. The probability that they will be rejected in the future begins to go way down when you have the three carriers and coordinated effects (ph). We have to balance three network carriers, if it comes to it, with more transparency in order to preserve the marketplace and competition.

(CROSSTALK)

BACHUS: I was gonna suggest, Mr. Conyers, give you an extra minute

to let the two representatives of the airlines...

CONYERS: All right.

(CROSSTALK)

KENNEDY: Congressman, I -- I have been in the airline business for 29 years. Joined American in 1984. And in all those years, this is the most competitive business, I think, on the planet. It is ultracompetitive. And what's going to happen when -- when these airlines combine, that competition will remain.

We simply are trying to become a stronger, more vibrant competitor against those already in place. It's important not only for -- I think it's important for this industry, it's important when you look at the international alliances and the composition of both the Star (ph) and the Sky Team (ph) alliance.

And so this is going to give consumers more choices. It's going to allow us to better compete with the other airlines.

CONYERS: Well, there's nobody that doesn't think you're -- you're not coming out of bankruptcy.

S. JOHNSON: (OFF-MIKE)

CONYERS: Yes, please?

S. JOHNSON: It is in fact the case -- and I thank Mr. Mitchell for noticing how well U.S. Airways has been doing recently. I mean, it is in fact the case that American (OFF-MIKE) easily emerge on a standalone basis. That's not really the question. The question is, why -- the question is, why are we doing this and for whose benefit? Our customers have been telling us that they want a bigger network, they want a network competitive with United and Delta. They want more choices and more opportunities. They've been telling us that directly. And discouragingly, for Mr. Kennedy and I, they've been telling us indirectly by leaving American Airlines and leaving U.S. Airways to fly on Delta and United (inaudible). So we help our customers (OFF-MIKE).

Second, we help our employees. U.S. Airways is a smaller airline that has a smaller network (inaudible) disadvantage (inaudible) versus the other big airlines. As a result of that, to be successful, we have to pay our employees less and we have made a bargain with our employees

over time that we can give (ph) them good jobs and good benefits but they're gonna be less than those enjoyed by their counterparts at Delta and United.

By -- by merging and creating a network like Delta's and United's we can pay our employees more and -- and -- and we -- we need a path (inaudible).

In addition, when we talk to people in our principal cities, in these hubs that we've talked about so many times today, they don't talk to us about price issues or price concerns. They talk to us about finding ways (inaudible) more service, finding ways to grow the hub, finding ways to create more destinations (OFF-MIKE). All of that can be accomplished by this merger, Congressman, and that's what we're trying to do today.

CONYERS: Well, you're both doing OK now. You know, what I hear you're saying is that it -- it may get tougher later and we're going to take -- we want to be prepared and so we're going to merge now. And I'm not sure if that goes along with the American Antitrust Institute. Do -- do any of you know what the economic scholars are thinking in -- in terms of this kind of discussion, Mr. Sagers?

SAGERS: Yeah -- I mean, you know, there's a (inaudible) study of airline fare changes. And it's -- it's in some dispute, but there's substantial evidence that on specific city fares prices go up when concentration goes up. And we hear a lot...

(CROSSTALK)

SAGERS: ... average prices going down and that's very misleading.

BACHUS (?): Mr. Johnson, you respond and then we'll...

S. JOHNSON: (OFF-MIKE) I'll respond, but I want to make sure that (inaudible) Dr. Winston on opportunity to respond because he's the expert on airline pricing here today.

What I can tell you is that after this merger, this is going to be a very, very competitive industry. There will be four airlines with each having less than 25 percent market share, and each with nationwide networks that are very competitive.

There will be two airlines, Alaska and Jet Blue that provide significant competition in regions, Alaska in the west, Jet Blue in the east.

BACHUS: It'll be more competitive after this merger?

S. JOHNSON: I expect so.

BACHUS: And what would it be if there weren't a merger?

S. JOHNSON: The fact is the industry's very competitive now, Congressman, and it's going to be very competitive after this merger. After this merger, we will have Southwest continuing as the low cost, Jet Blue continuing as a (inaudible) with a significant cost to downage (ph), but three very fast growing low cost airlines: Spirit, Allegiant, Virgin America all providing competition regionally and, as they grow, extra-regionally.

BACHUS: Thank you. And I think that's what Mr. Winston's and -- and other's testimonies (inaudible).

All right, Mr. Holding.

HOLDING: Thank you.

I'll preface my remarks by saying that I'm a very happy frequent flyer of American Airlines. It -- it serves the routes that I travel in most, best. Another airline that was omitted in our discussion is Piedmont Airlines, which is a very fine North Carolina-based airline. It was airline of the year in 1984. And I spent many an enjoyable mile flown on Piedmont Airlines.

I fly out of Raleigh-Durham International, and it's a very important airline to my constituents. It's an economic booster for the research triangle park, it's very important to a lot of businesses there.

(UNKNOWN): (inaudible).

(LAUGHTER)

HOLDING: It's even finer than the Memphis airport I might add, the brand new -- newly built.

How -- how much is the overlap between American and U.S.-Air in the Raleigh-Durham market?

Mr. Kennedy?

KENNEDY: We -- the overlap I think is just on the Washington D.C. flight. American serves its hub from Raleigh-Durham, we serve our hubs from Raleigh-Durham. And so I think the overlap is just limited to that one flight.

HOLDING: Right, and I notice -- I -- that the prices on American and

U.S.-Air are virtually the same flying out of Raleigh-Durham to D.C. The -- how much overlap do you have in Charlotte?

KENNEDY: Virtually zero.

American serves Charlotte to its hubs and we have a very large connecting hub in Charlotte.

HOLDING: Right, and I believe U.S.-Air serves D.C. out of Charlotte, I think they're probably the carrier that has the most flights out of Charlotte to D.C.

What -- what would you anticipate that the price difference is between Raleigh to D.C. and Charlotte to D.C. is?

KENNEDY: I don't know, but it sounds like you might know.

(LAUGHTER)

HOLDING: It costs a lot more money to fly from Charlotte to Washington than it does from Raleigh to Washington. And that's concerning. It's very concerning. You're -- you're direct competitors in a route from Raleigh to Washington, whereas U.S.-Air doesn't have a direct competitor in Charlotte so it costs a lot more money. And that would -- you know, that would certainly impact the folks who live in my congressional district.

The -- do you think -- do you anticipate that the fares would go up significantly in the future in Raleigh to Washington when you are not -- no longer competing with one another?

KENNEDY: Congressman, as -- as we've said before, I mean, any (inaudible) or -- or that sort of (inaudible) strategy is something that's down the road for us. (inaudible) be discussing really with respect to fares and things like that probably not (inaudible).

HOLDING: So what -- what are the top three factors that you would have under consideration when you're making your pricing decisions down the future whether it's in this route or another route?

KENNEDY: Top three factors, demand, cost of dividing (inaudible), the (inaudible) the opportunities to provide a service over -- over a hub. (inaudible) we can -- as we (inaudible) attract more passengers than the original destination, it gives us an opportunity to then operate more efficiently (inaudible).

HOLDING: And the factor of whether or not you have a direct

competitor in that market is not in the top three factors?

KENNEDY: We -- we are in the -- the airline industry is a very competitive business and we compete -- and we compete in -- in virtually every market that we (inaudible).

HOLDING: The American Airlines operates a direct flight out of Raleigh-Durham to London-Heathrow that seems to be a popular flight. The -- do you know if that's a profitable flight or an unprofitable flight?

KENNEDY: Congressman, I'm not aware of whether it is or not profitable, but it is a service we've had for a number of years, and as you know with the combination we had with -- with British Airways in terms of our joint alliance, we have -- we offer tremendous amount (inaudible) service into Heathrow and elsewhere, and you know, I would hope that -- that service you're referencing continues. But I just don't know about its profitability.

HOLDING: The -- is there any consideration of expanding the international flights of the Raleigh-Durham airport that you know of?

KENNEDY: You know, one of the things about the industry is that we are always looking at where it is that we can stand our service, as I've mentioned earlier, you know, we have just -- we have an aircraft order for 500 new aircraft that we just did summer before last, and that's going to allow us to not only replace aging aircraft, but also to expand our service.

So, our route network people at the company spent a tremendous amount of time looking at opportunities. As to whether or not we can increase service, I don't know. I'm happy to get -- ask our folks (ph) to look into the particular question and get back to you, but if it -- if the demand is there, then we'd like to increase the service, and provided of course that we can, you know, landing rights on the other side of the -- of the equation.

HOLDING: Thank you.

And I would appreciate that follow up, not only on the international routes, but on the question of competition and the -- how that is -- will be in your analysis as far as the Raleigh-Durham Airport is considered.

Thank you, Chairman.

BACHUS: Thank you, Mr. Holding.

Mr. Johnson.

H. JOHNSON: Thank you, Mr. Chairman. Thank you for holding this hearing, and when I heard that my esteemed colleague Steve Cohen had said some -- some things about the Memphis Airport, and kind of compared it to the Atlanta Hartsfield-Jackson Airport, I had to make sure that I came and -- and I tell you, this is not to take anything away from the Memphis Airport, but -- and -- and Memphis may, in fact, have the best ribs and that kind of thing, but you'll never have an experience like you will when you go through Atlanta's Hartsfield-Jackson Airport.

(UNKNOWN): That's true.

(LAUGHTER)

H. JOHNSON: You an stop at -- I mean the hospitality, the real southern hospitality, the ambience, the warmth of the people there, and the food, I mean, everybody knows about the Pascal's Fried Chicken that you can get out there at the airport. Everybody knows about the good -- the peaches that come out of Georgia, and they go into that peach cobbler that is just -- melts right in your mouth. And you know, peanuts, pecans, Coca Cola, I mean it cannot compare. It's incomparable. So let's -- let's make sure that we can clear the air on that issue. I do love barbecue every once in a while, but I need some fried chicken every day.

(LAUGHTER)

Now, Mr. Steven Johnson. Thank you for testifying, thank you all for testifying today on this issue.

I'm interested in the effects of this merger on union and non- union employees. You've indicated in your submitted testimony that the combination of these airlines will generate substantial net synergies and establish the financial foundation for a more stable company and better opportunities for our 100,000 employees.

However, current and former employees may also be concerned about how the merger will affect benefits such as their healthcare benefits and pensions.

Mr. Johnson, how does the merger affect the benefits of current and

former employees?

S. JOHNSON: Congressman, first I want to comment on that -- that statement you made on Atlanta I think has a lot to do with why (inaudible) the most profitable and successful airlines in the United States today. That's one of the reasons why we need to create this new network (inaudible) things like that.

Thank you very much (inaudible).

H. JOHNSON: Thank you.

S. JOHNSON: But could I ask Mr. Kennedy to answer this question? He's very deeply involved in (inaudible)...

H. JOHNSON: Sure.

S. JOHNSON: (inaudible).

H. JOHNSON: Sure, Mr. Kennedy.

KENNEDY: That was very well done Mr. Johnson.

Well, first of all with regard to current and former employees, as to retiree we are still working through our bankruptcy and determining what will happen with retiree benefits. I will say that as we have with current employees where we have changed the medical insurance benefits upon retirement, we're seeking to do the same with regard to retiree employees.

With regard to pensions, as you know, we were successful in freezing our pension plans rather than terminating them. And that is a -- that is -- that is terrific for all employees because we will pay all the -- the benefits under our pension plans to our employees. We're not sending those obligations to the PVGC for payment. I know that's been done in the past. But we worked hard to go ahead and freeze those plans rather than terminate. And that's -- that's a success coming out of this bankruptcy.

H. JOHNSON: Thank you.

Do you see any changes to the basic benefits occurring in years to come?

KENNEDY: I -- I don't know what will happen in future years, but I will tell you that particularly with the -- both our union employees and our non-union employees, when -- when we structured our new contracts with our organized labor groups, we did so in a way that would

provide to the company productivity improvements, but would also provide for pay increases for our employees. And we now have new six year contracts. Now we do have work to do on -- with -- with this merger, in terms of getting, you know, one contract among all the labor groups, but we've made substantial progress in -- in getting that finished and ready to go.

So I believe that while some of the change we made with regard to productivity improvements are difficult, that employees will benefit, not only from that -- from the pay increases we have in place, but as we build the airline of the future.

H. JOHNSON: Thank you, Mr. Kennedy.

I yield back.

(CROSSTALK)

BACHUS: Mr. Rothfus?

ROTHFUS: Thank you, Mr. Chairman.

And thank you, panel, for being (inaudible) this great discussion. I live about five miles from the Greater Pittsburgh Airport. When Pittsburgh lost its hub status about 10 years ago, we dropped from over 500 flights to fewer than 50, and we lost thousands of jobs in the process, and a world-class airport remains underutilized. It's created an inconvenience for the traveling public, and also for our business community, to have a -- not as many flights as we -- as we used to.

Currently, we have about 41 US Air flights and 15 American Airlines flights out of Greater Pitt. Can either Mr. Kennedy or Johnson give us any kind of assurance that the number of lights will not be reduced out of Greater Pitt?

S. JOHNSON: Congressman, I -- I mean, that -- those are flights that we operate to our respective hubs. They work really well for both of us. I would anticipate that the merger isn't going to change air service to Pittsburgh either -- materially in any way.

I -- I will say that the people at Pittsburgh will have some advantages associated with those flights being combined on one carrier. They'll be able to fly online to more places. They'll be able to accumulate their frequent flier miles on one airline instead of two. The travel will be

more convenient.

But I don't expect it to -- I don't anticipate that it will change the air service to Pittsburgh at all.

ROTHFUS: Has there -- has there been discussion about, post- merger, changing hubs at all, moving hubs, consolidating hubs?

S. JOHNSON: I think just the opposite. We anticipate that -- we're very happy with the hubs that we have. And, as Mr. Kennedy said, they're geographically diverse, they're functionally diverse. They all work for the separate airlines, so we anticipate they'll be very successful after the merger.

We don't anticipate adding any hubs.

ROTHFUS: Well, I'd like to talk a little bit about some of the hubs you have, particularly those in the New York area, you know, JFK and, you know, LaGuardia, and then down to Philadelphia. And there seems to be -- you always hear about (inaudible) you know, overcrowding, delays.

Leisure & Travel magazine, for example, asked travelers to rank the worst airports in the country, and the top three are LaGuardia, Philadelphia and JFK.

And here we have an utterly underutilized airport out in western Pennsylvania that -- that I think could as a hub. And I'll just ask the -- the parties to consider that as you -- you do your planning.

Moreover, you know, we have a recent drilling arrangement out there at Greater Pittsburgh Airport that's gonna be a benefit or it may be a benefit to airlines to consider that. So, again, I'd ask you to consider that.

Both of you testified a little bit about some of the small and middle-sized communities, and I have some of those in my district.

And I'm just wondering if either of you might opine on expansion to some of the underserved communities that might result from this merger.

S. JOHNSON: If I could, Congressman, again, we haven't done any of that planning yet, and we won't be able to do any of that planning until we close the merger.

But whereas one of the great opportunities of this merger is the

complementary nature of the networks.

I mentioned in my opening remarks that there are some 130 cities that American Airlines serves that US Airways doesn't serve, 62 cities that US Airways serves that American Airlines doesn't serve.

When we make decisions about serving any market, particular small and medium-sized markets, there's an economic calculus that we undertake. And that economic calculus involves determining what the revenue potential is and then subtracting, if you will, the projected costs.

And when we at US Airways look at new service, one of the big costs are developing infrastructure, recruiting and training employees, and creating marketing presence in a community.

In Pennsylvania, where there are a number of communities that US Airways serves and American Airlines doesn't serve, that infrastructure exists. We have really quality employees there already, and there's a great marketing presence, as you know.

Those are great opportunities for expanding service from the American Airlines hub.

ROTHFUS: Yeah, we'd be look, you know, for opportunities to expand to even additional communities, such as Johnstown, Pennsylvania. You know, related facilities that US Air currently has at Pittsburgh include an operations center that employs about 1,800 people. Now, old American or American has an operations center in Dallas.

What's the consideration for the operations centers for the respective airlines, and what can we expect to happen to the operations center at Greater Pitts?

S. JOHNSON (?): Well, that's something we would have to discuss. We, obviously, will operate separate airlines until we close the merger. But then we'll continue to operate separate airlines for, I would think 15 to 18 months. That will -- that will continue to require two operation centers.

During that period of time, we'll talk and plan and see what works in terms of ultimately combining those operation centers or, you know, finding an alternative way to manage them.

ROTHFUS: Is it -- I guess you're considering that -- then a consolidation

of the two at some point in the future.

S. JOHNSON: I think in general airlines have -- you know, operate from a central operating system -- or, sorry, central operating center. And I would expect that at some point in time, once we completely merge the airlines and their operations, that we would as well.

ROTHFUS: We also have a maintenance center at Greater Pitt. Any consideration on that with US Air?

S. JOHNSON: We have about 1,000 maintenance employees -- employees engaged in heavy maintenance in Pittsburgh. That is a -- it's a very senior workforce, so it's reducing a little bit because of retirement of -- of our great employees. So we expect that to be about 975 employees at the end of the year.

But we -- it's a central part of our maintenance operation. We expect it to be not affected in any significant way by the merger.

But, again, you know, there's -- as we plan and we look out into the future, it's a little hard to say at this point.

ROTHFUS: Again, I'd ask you to consider taking a look at Greater Pitt in the post...

(CROSSTALK)

S. JOHNSON: I -- obviously, we're very close with your colleagues in the delegation and the governor, and even our friends in Philadelphia have asked that we do that. And I promised in the next couple of weeks to go to Pittsburgh myself and talk to the city and civic leaders there about these issues.

ROTHFUS: Thank you.

I had a question for Dr. Winston. You know, fascinating discussion.

(CROSSTALK)

ROTHFUS: Thank you, Mr. Chairman.

BACHUS: Ms. Delbene?

DELBENE: Thank you, Mr. Chairman.

Mr. Johnson, you brought up earlier the demand from your customers to have a larger network so that you would be able to serve more of their needs and to be more competitive with some of the larger carriers.

Where do you see the balance between having that larger network

internally versus having partnerships to meet those demands?

S. JOHNSON: Well, I think we'd always prefer to do it internally, if we could. Partnerships serve a purpose that accomplishes something like a network, but -- but an imperfect replication of a network.

And you usually undertake that when there's some reason that you can't create the network you want. usually national ownership rules of airlines and things like that, bilateral agreements between countries for international flying. Those are the kind of thing that lead to partnerships and business arrangements because you can't under the law achieve the network you want.

DELBENE: And when you look -- and Mr. Kennedy, as well -- when you look at after the merger, do you intend to maintain the partnerships that you have today?

And I guess I'll preface -- I'll preface that with I'm from the other side of the country, from Washington state, and Alaska, for example, is a big carrier in our neck of the woods. And so the partnerships are very important.

KENNEDY: (OFF-MIKE)

Excuse me. Alaska Air has been a very important partner of ours. And so while, again, as Mr. Johnson said, we haven't made the determinations of what the network will look like afterwards, but that partnership has been very important to us. And it's a great airline. And so, you know, I would hope that that partnership would continue.

DELBENE: And I think Mr. Mitchell brought up the NDC earlier, and I wanted to give a chance to either of you, Mr. Johnson, or you, Mr. Kennedy, to give your viewpoint on price transparency and NDC and how you feel that would be impacted after the merger, or just your view on NDC in general.

KENNEDY (?): Well, two things. One is -- and perhaps I'd said this earlier, and I apologize if I did, but we are strongly in favor of price transparency to consumers. It's very important. It always has been. And needs to continue.

I think where we disagree is talking about whether or not there ought to be a regulation or legislation that mandates how you need to provide that information. We don't think that's appropriate.

We think, particularly with the advent of technological changes, that there's different ways to get information to consumers than what might be suggested otherwise.

I'm not particularly familiar with the IATA proposed regulation or measure that's referenced here. We'll be happy to look at it, and provide additional information, but I'm just not familiar with it.

DELBENE: OK.

And your concerns, Mr. Mitchell, about NDC aren't necessarily specific to the merger. You have concerns generally, is that correct?

MITCHELL: They are -- they are specific to the merger, because the merger will allow an acceleration of -- of this NDC in the marketplace. US Airways has long been a maverick in distribution issues. For example, in 2001 and '02, when the airlines withheld web fares from travel agencies and corporate travel departments, they only provided them to Orbitz, US Airways broke rank and began to provide the fares to the marketplace. Likewise in 2006.

So the big American swallowing up the maverick US Airways is only going to allow this to go forward more quickly. And once embedded in the largest marketplace in the -- in the world, it's gonna -- it's gonna cascade across all the other markets.

The problem is no publicly available fares and schedules will be available anymore. It kills transparency.

I'll get a deal that's crafted just for me, and I'll have nowhere to go to compare it publicly, to see if I really got a good deal at all.

DELBENE: And, Dr. Winston, since you're the pricing expert -- I think someone said that earlier -- what do you think in terms of prices and competitiveness and the ability for consumers to have transparency? What do you think the impact of the merger or NDC is on that?

WINSTON: Well, keep in mind, there's something very special about this industry. A small percent of the people do a huge amount of the flying, you know. Something on the order of 5 percent or 6 percent of the travelers do like 40 percent of the flying.

It is absolutely ludicrous to think that an airline will think, hey, a really good strategy for us is to not have transparent prices for people who fly all the time, who probably have these things memorized. And all of

a sudden, one day, they don't know what they are.

I mean, talk about a way of alienating customers. I mean, I -- I can imagine many strategies that are concocted all the time, I don't know where they come from, but this is just not how you make money in -- in -- in a regular real businesses. So I'm certainly supportive of concerns about transparency but I think you know, the nature of travel is that this would just be crazy to do and I -- almost an embarrassment, really for anybody of an airline proposed to do this? I would hope they would feel embarrassed for doing it.

DELBENE: Thank you.

Thank you Mr. Chair.

BACHUS: Thank you.

Mr. -- Mr. Marino?

MARINO: Thank you chairman.

Good afternoon gentlemen.

Let me begin by saying I support the merger but because the employees want it and because of the gentleman sitting behind you in uniform took the time to be here, so I thank you for doing that as well. I do have some concerns and my previous life as a prosecutor, so I -- I ask short questions, I expect a yes or no answer and if you have to follow it up, make it very brief.

What's going to happen to consumer rates?

What is going to happen to consumer rates? Are they going to go up?

(UNKNOWN): No.

MARINO: Are they going to go down?

(UNKNOWN): I don't know.

As we said, Dr. Winston is -- is the man who can best describe that. But the studies show that -- that notwithstanding the earlier mergers that we've talked about today, price -- price -- there haven't been price increases of the sort that -- that Mr. Mitchell and professor Sagers suggest might happen here. So I don't expect prices to go up across the board.

MARINO: All right.

I did some private practice in my time and did mergers and acquisitions and whatever we call them, mergers, acquisition,

takeovers, you know, that's not important to me at this point. But in my experience, I'm I'm told that they will reduce costs and then several months later when I ask what the prices are, they said the prices don't go down but that answer is well we kept them the same and prevented them from going up and then several months later, the prices went up.

So what's going to happen in -- in the first six months -- in -- in the first year and the first three years about pricing?

(UNKNOWN): (inaudible) just say a couple of things.

One is we don't know what will happen. You know, we -- we at the airline industry is, as I've mentioned, it's highly competitive business and with very thin margins. And that's going to exist after the merger as it is today. And that has an effect on -- on -- on pricing and what those levels are.

And so I -- I don't what will happen with pricing, we'll simply be competing on price and schedule in the future as we do today.

(UNKNOWN): Congressman, I could just add that it will be a very competitive business, in many ways more competitive as we create an alternative for consumers to the very large number that works at Delta and United. There'll be four big airlines, each with less than 25 percent market share, each with a national network to serve customers all competing with each other.

Two airlines that -- that have a very big risk competitors on a regional basis. Congressman Bennet, Alaska Airlines and Jet Blue and -- and -- and three fast growing low cost areas that compete with us at various points around -- around the United States. It's a very competitive industry and that competition isn't going to decrease as a result of the merger.

MARINO: I think I know the answer to this is going to be, but I, with all due respect I have to answer it -- I have to ask it.

I'm assuming that there's been no backroom deals that someone in the near future's going to get whacked whether it's employees or the pension or the -- or the pilots?

(UNKNOWN): There have been none.

MARINO: That's correct, all right.

I live in the 10th congressional district of Pennsylvania, north east, north central Pennsylvania. How am I doing on time, sir?

A small airport in Montoursville, I have to drive Montoursville to get to that, but then to get to D.C., I have to take a plane from Williamsport to Philadelphia to D.C. It takes over six hours when it's on time. I drive because it's four -- four and a half hours that is less expensive.

Is anything going to improve for the smaller areas in which I live where the county -- my county, (inaudible) is about 130,000 people. The people have to travel into that county from surrounding counties to catch a plane.

(UNKNOWN): Well, I can't speak to your specific...

MARINO: Could you put it writing for me and get it to me and get it to me at some point?

(UNKNOWN): Be happy to.

MARINO: OK. And my favorite pet peeve and I'm going to raise this. We all fly, but there are certain reasons why we have to change a flight and no matter who it is. What airlines -- if I'm changing a flight four or five days in advance or find out at the last minute that something's happened that I want to change that flight, the price goes up substantially.

By the same token, when I call -- just happened to be six days ahead of time instead of seven days ahead of time, the price doubles even though there are empty seats.

Can you explain to me why? And I know one answer is going to say, well everyone that waits until the last moment, but you've got to come up with a better answer than that, please.

(UNKNOWN): I -- I -- I understand that sometimes consumers find that frustrating but we offer a variety of products. We -- we can -- we'll sell you a ticket that's fully refundable and we sell you tickets that are nonrefundable. And in general, if we sell a ticket that's not refundable and then someone has to change it or seek a refund, what we do is we charge them what they would have paid for a nonrefundable ticket, in general -- I'm sorry for a fully refundable ticket in general -- that's -- that's how that works.

MARINO: Does anyone wish to respond to any of my questions? I -- I

know I focused on that but quickly please? I think I'm running out of time or have run out of time?

BACHUS: Yes, you're out...

MARINO: I've run out of time. Would you -- would you like to put in writing and get it to me gentleman, please?

Thank you.

BACHUS: Thank you.

Mr. Garcia?

GARCIA: Thank you, Mr. Chairman.

I -- I want to turn your attention from the delights of Memphis or the incredible Southern hospitality to the -- the most southern air point in -- in our country which is the Miami International Airport.

As you and Mr. Kennedy know, we have a huge debt service at that airport and part of it was making sure we had one of the best terminals for American Airlines.

Are you -- do you feel that we're going to cut any flights there or -- or are we going to increase traffic there and thereby help out our airport?

(UNKNOWN): I -- I don't know specifically what will go -- what we'll do in the future at Miami but I...

GARCIA: Mr. Kennedy, I need you to be a little more specific because this is not -- this is Memphis and this is not a small regional airport, but this is the crown jewel to some degree of international flying to Latin America which I assume is one the reasons that -- that this becomes an interesting target.

So -- I -- I -- I want a specific answer because in my community, we are leveraged as you well know to the hilt because of this airport. So -- and I am -- I'm committed to this process going forward but I want to understand what impact it's going to have on my community.

(UNKNOWN): Congressman, I'm happy to -- to be specific as I can.

GARCIA: OK.

(UNKNOWN): American Airlines is committed to Miami and we have been for many, many years. It is, as you know, a tremendous gateway, not only in -- there's a terrific (inaudible) traffic right in Miami, but also going south into Latin America and it something that we -- that is a

prize part of our operation.

And so while I cannot specifically say what will happen in the future, I can tell you that over the -- if you look at the history of the last five, even ten years, we have grown our operation significantly and we were a major proponent of the development of that airport.

And I specifically -- in my previous job at American, I mean our real estate and construction business so I know exactly what you're talking about in terms of the debt load at Miami, but I also understand that that airport now is a first class airport, the new train, the new terminals are absolutely -- are absolutely fantastic and we remain enormously committed...

GARCIA: It doesn't smell like ribs, though. I like the (inaudible) service.

(UNKNOWN): No it doesn't but it is a terrific airport and we appreciate everything we -- everything we do in Miami is -- is wonderful.

GARCIA: All right.

I -- I -- we -- we had Secretary Napolitano down last week and I appreciated the -- the -- the American Airline representative there to help us clearly they're the biggest carrier at the airport, therefore, it's important -- their participation.

One of the -- one of the problems as you well know, is that we have a huge number of passengers that miss connecting flights. We're obviously very worried about the sequestration, the impact that's going to have. Almost 40 plus 1000 people miss connecting flights on a monthly basis because our -- our -- the -- the border and customs agents -- we just don't have enough of them.

As you well know, we built one of the largest reception centers in the country. We can only -- we can't fully staff it during peak times because there are not enough workers.

So one of the things that we proposed with the secretary, and she seemed very willing to listen to, is the ability of us picking up some of the cost of providing government workers, possible overtimes, training people, even paying for having a -- what do you call it -- global pass entry system.

Is this something that the -- that the combined airlines could look at doing, simply doing to increase your efficiency and -- and -- and help

us with that cost as we go forward?

(UNKNOWN): Throughput at the airport is -- is very important and those lost connections just end up costing not only the customer, but costs us, and we're with you there.

I think we have to balance whatever those costs might be to -- to pay for a portion of those costs against the lost revenue, if you will and the inefficiency of having those lost connections. And we'd be more than happy to work with you to see if that makes -- if that's something we should do.

GARCIA: If you could get back to me on that, I -- I -- because it's certainly something that I know you -- it would probably be a lot cheaper to pay a little bit of overtime and not have -- not have, you know, 100 passengers or 50 passengers miss a flight every few hours because of -- I'm sure my -- my colleagues on the other side would call it government inefficiency, I just call it maximum capacity.

And so we've got to make it more efficient to do this, but having you help us with that, I think is key to continuing our growth. I think we had a growth of 17 percent last year, so we're very proud of that and - - and we're proud we don't smell like ribs either. So, it's Cuban coffee, (inaudible) Cuban coffee that wafts around in our airport.

I just want -- one final question, in terms of -- of -- as you look at sizing, right, clearly you want to be more competitive, clearly you want to offer more. Our airport is one of those throughput places.

Do you think our -- our -- our -- we're going to get more folks in south Florida working for you or do you think we're going to reduce workforce?

(UNKNOWN): Well I...

GARCIA: Because we've been increasing, right? And so I just want to...

(UNKNOWN): I -- I can say just to echo Mr. Kennedy's comments that people at U.S. Airways are very excited about Miami and -- and very excited about adding that to the U.S. Airways network.

And in fact -- in fact there some 35 cities just in the East Coast alone where U.S. Airways -- that U.S. Airways has service that aren't served from Miami, all of those are opportunities to look at.

(UNKNOWN): It's almost living in the United States, it's so nice there.

(UNKNOWN): I spend a lot of time in Miami, sir. I -- I agree that it's a great place.

So I -- you know I think you should optimistic about Miami's future. It is a critical part of the operation that Latin America and South America in particular is going to be one of the fastest growing parts of -- of the -- of the global economy. And the -- the new American Airlines is very well placed to take advantage of that and there is no better place than Miami as a jumping off (inaudible) that. So I -- I'd be optimistic about the future.

BACHUS: Thank you.

Mr. Jeffries?

JEFFRIES: Thank you, Mr. Chairman.

The -- the American Airline industry is certainly extremely critical to our economy, to our commerce, to (inaudible) keep families together, our social network, educational infrastructure. By any measure, the airline industry is critical. An important part of who we are. And I think all of us, and certainly the American public want to see the industry succeed, be successful, be able to offer competitive rates and transport people to their desired destinations.

But the experience that I think the industry has had over the last 35 years, paints a very different story. A very troubling story. Just when you consider the raw numbers. I gather there have been 160 bankruptcies since 1978, US Air has experienced two in the last decade. American Airlines is coming out of bankruptcy. Part of the response seems to have been the mergers. We're now looking at our third significant merger in the last five years. I think there's bankruptcy fatigue and we may be soon experiencing merger fatigue.

But I'd be interested in getting either of the two airlines representatives' perspective on why over the last 35 years, has the industry struggled to such a degree? And what competence can you convey to us that this merger is part of the solution as opposed to simply another band aid on what has been a persistent wound that we've seen over the last 35 years?

KENNEDY: You're correct, you're correct in your assessment of the industry. It is one that has been fraught with difficulties. It is a volatile

industry. It is one however that is also so vitally, as you point out, so vitally important.

And you know, we have, there are a number of measures that effect the industry, whether it's high fuel prices, whether it is problems overseas with different, you know, stability of governments. Even problems, sort of disease and such, affect our industry and the demand for air travel. And so that's not going to go away.

But what it does need, I think for not only our companies, but also for this country, is we need to have a strong airline industry. Not only to be able to service our own country but also compete against the other major international airlines. And so to answer your question, I believe that this merger, while not solving those external factors that so much affect our industry, but having a healthy carrier and a healthy industry, this will help us be stronger and be able to compete and to be able to withstand some of those external shocks that affect us, that our outside of our control.

S. JOHNSON: It, it, I mean it really has been a very fascinating 35 years and particularly the last 10 have been very difficult as we, you know, lurched from crisis to crisis. But the airline industry is, I think, finally becoming more stable. And as Mr. Kennedy points out, that's a really good thing.

We have finally gotten ourselves, I think, to a point where we have the ability to, you know, to earn a fair return on our investment. To invest in new routes and improve service, to provide good pay and job security for our employees. I mean we, over the course of the last decade, I think we destroyed 160,000 jobs or something like that, in our industry. We finally, and during that decade we closed something like a dozen hubs. I think they've all been mentioned here today.

But we've finally gotten ourselves to a point where we can continue to pay, sorry, pay our employees, create good job security, create advancement opportunities for them, allow them to be more comfortable having a career in the airline industry.

And we've gotten ourselves to the point, as an industry, where we can make commitments to hubs like we have made today, and feel comfortable that we're going to be able to provide that service and

continue to grow it.

But most importantly, what this has allowed the airlines to do is become more competitive. To be more stable and therefore to be more competitive, provide more choice to customers, provide more products to customers, provide more innovation to customers, both in the United States and around the world.

JEFFRIES: Everyone has mentioned these external shocks to the system. Whether that's fluctuating oil prices and war, terrorist attacks. I think even sequestration was mentioned by Dr. Winston. You said what was important for the industry is to have the capacity to match, I guess, the capability to match capacity with demand. And you indicated that in your view, mergers would better enable these two companies, and I gather anyone in the industry, to do that in a more effective and efficient way.

Your theory seems to be based on the notion that the bigger the company, the better it's able to deal with matching capacity with demand. Now that seems to be a too big to fail theory. And we've had some experience in that regard in other areas. But I want to give you an opportunity to one, to indicate why you think mergers will put these companies in a better position. And also if you could reference some of the other tools that are available that you indicated in your testimony to enable companies, perhaps aside from a merger, to match capacity and demand.

WINSTON: Are you asking me?

JEFFRIES: Yes.

WINSTON: All right the key thing in matching capacity with demand is an optimal network. All right? Now what you have to understand is that, for 40 years, airlines did not have an optimal network. As a matter of fact, they had a suboptimal network. That is they were regulated from 1938 to '78, okay? And they were not allowed to enter new routes they wanted to do, it was difficult to even exit routes. So they started off way behind in a very bad network all right? So it's not an accident that Southwest has had advantages because they were not a legacy carrier. They were interstate and didn't, and were able to develop their network from scratch so to speak. Or you know

in a better position, than under deregulation, the other carriers. All right so really what we are observing, believe it or not, is still the development of an optimal network okay? Subject to a lot of shocks. It doesn't necessarily mean that bigger is better. But given where you were it often is, to the extent that you can balance traffic in particular areas, coordinate the traffic better and move your fleet around as appropriate in response to changes in macroeconomic conditions. Now of course, the best tool is also going to be pricing all right? You want to fill up your plane, you lower your prices. You obviously have high demand, you're not going to have to do that. So in combination with pricing, improved service, all things that will help generate demand at the same time that you have the freedom and flexibility to have a network with a fleet that is aligned with that network that gets you optimization in terms of your operations and what your carrier is capable of doing.

To the extent that the merger is a tool in creating that optimal network, that is, you have some of your network developed but it would be a lot better if you could have another part of it included with your network, balancing traffic flows, coordinating operations, so on and so forth. That's where the mergers can help.

But let me stress that this is something that takes a long time to achieve properly. The carriers just don't come together and that's it. They start then pruning the network. Now if you want to see a very clear example of this, look at the railroad industry. That whole industry has completely transformed to be state-of-the-art of the world. Where it was close to liquidation because it was deregulated and did a lot of restructuring through mergers. And that's an extreme case, but in it's own way the airlines are trying to do a similar thing. And mergers are ritual. Not the only tool, they don't always work brilliantly, but that's really what they're about.

JEFFRIES: Thank you.

BACHUS: Thank you. We're going to go on a second round, just Mr. Cohen and I. So we've got about 10 minutes left. But anybody in the audience that needs to take a break now, you could go ahead. Mr. Winston, you're absolutely right. The regulations almost put the

railroads out of business. And deregulation saved them and we're seeing continuous innovation in the rail industry. And it was capital starved and was not able to generate enough profit to maintain its infrastructure.

So that brings me really to my first question, to Mr. Johnson or Mr. Kennedy, you're going to realize changes in efficiency and operating structure of how many? A billion and a half? A billion? Billion and a half? Is that what the number?

S. JOHNSON: We've announced net synergies of more than a billion dollars. Those synergies on a gross basis, if you will, are larger than that. But the creation of approximately \$1.5 billion in synergies or \$1.4 billion in synergies has allowed us to make the arrangements with our employees that we've talked about here today. We've invested about \$450 million a year in our employee wages and benefits and retirement.

BACHUS: So of that, \$1.5 billion, almost \$500 million will be in improved compensation for employees?

S. JOHNSON: \$450.

BACHUS: Somewhere in that neighborhood. And what, how will that other billion, how will it be used and how will that benefit the traveling public?

S. JOHNSON: I think in many ways. First it will create a more financially sound and stable company. We talked in response to Congressman Jeffries questions about the shocks and the difficulties that the airline industry faced over the last decade. First and foremost we'll be able to better withstand shocks and better able to deal with the uncertainties and the cyclicity of the airline industry.

The second thing is it will allow us to invest in our airline. We've already talked about the investment that we're making in our employees and their wellbeing. It'll, as Mr. Kennedy can talk about in more detail, it allows us to buy new airplanes, to provide new products to customers, and importantly, to have the financial wherewithal to experiment and try different models and add destinations to our system. Knowing that if they don't work, we have the financial wherewithal to deal with that.

So it allows us to take more risk and through that provide benefits to our customers.

BACHUS: I have noticed that the airlines that generate enough profits to buy new airplanes, more fuel efficient airplanes, more modern airplanes, do tend to either capture market share or they have, if you have to compete with them you're at a disadvantage. So I would think that you would modernizing your fleet as you say, is a part of the plan?

S. JOHNSON: At U.S. Airways we've been modernizing our fleet for the last six or seven years. And that's certainly the experience we've had Mr. Chairman.

KENNEDY: And I would just add that customers really are asking for, demanding a new modern fleet. Not only for the comfort but for the products and services that we offer. And that's all very capital intensive. And inordinately expensive. And so we need that, we need those funds to be able to continue to invest in this business along the way.

BACHUS: And American hasn't been able to make those investments. At least it's become more difficult.

KENNEDY: Indeed, the last 10 years have been very difficult for us. And we've really struggled financially. We finally made the announcement of the aircraft orders two summers ago, a year and a half ago. And that's what necessary because we have quite an aging fleet at American. And not a fuel efficient fleet. And given the price of oil, that's going to help substantially as well. But nevertheless it is a very significant financial commitment.

BACHUS: All right let me ask either one of you, you know, American is part of the One World System and you have some anti-trust immunities. US Air is a part of the Star Alliance and you do not. Would a combination benefit in that regard?

S. JOHNSON: Well the combination yes, I think it will benefit travelers very extensively. We are a member of the Star Alliance. But we're in some respects, sort of second class member of the Star Alliance. We're not involved in the anti-trust immune joint venture. There's another Star Alliance partner, United Airlines, which is very much bigger than

us. By moving to the One World Alliance, first and foremost we'd take the smallest alliance and make it roughly the same size as the other two.

We'd create opportunities for the One World Partners to serve the east coast of the United States in ways that they haven't been able to before. They've certainly had access to American's hub at JFK and their hub at Miami, but those, as we said are kind of special purpose hubs that serve a unique clientele. We have more typical air distribution airline hubs, in Philadelphia, in Charlotte, that will benefit One World considerably.

So we think it's great. Mr. Kennedy? He knows more, a lot more about the anti-trust immunity and that part of the business.

KENNEDY: As you may know, it took us about 13 years to get our deal finished and get the anti-trust immunity. Which is a good thing. We

were much more, we were behind the curve compare to the other-
BACHUS: And I think it's absolutely essential that you have that to be able to compete. That's a given to me. I think it would be a disadvantage for US Air not to have it now. This would be an advantage that would level the playing field for you.

KENNEDY: Yes we would agree with that.

BACHUS: My last question, I heard y'all say that American flies to 130 cities that US Air doesn't fly. I think that was the number was it?

KENNEDY: Correct.

BACHUS: And then US Air flies to 62 cities that American doesn't serve.

KENNEDY: That's correct.

BACHUS: So I would think obviously that you're talking about 192 cities that would be, anyone who is a customer of either American or US Air would pick up an opportunity to fly on one airline to 192 cities. Which would be a tremendous benefit.

KENNEDY: As we, as we look at the opportunities to develop the network after the merger, Mr. Chairman, those 102, 162 cities, sorry, 192 cities, are you know the leading candidates for added service.

BACHUS: And again I want to close where I tried to start. When I complimented Mr. Kennedy, US Air has shown I think a lot of innovation here at Reagan. I've noticed you're using two gates and

you've added probably 30 destinations, 30 or 40 new destinations. You know all over the east. And you, I think you've shown a lot of imagination in how you did that.

And as I said, I don't fly American that often. But you know if I'm going to go to Dallas, I'm not going to go to Charlotte first. I'm going to fly American. And so I don't see how that's competition. I mean if I go to Dallas, I'm going on American from Birmingham. If I go to DC, I'm not going to go through Dallas. But the service, the reliability, on US Air, the customer service, is excellent. On the airplane, the on-time performance.

And all the airlines. I heard something about baggage, but my gosh, we've gone to two bags out of 1,000 are late. And that, that, it used to be 5 and 10, so it's incredible success there. You know there was a time when it didn't always, there was a real chance that you didn't get your bag. And for the airlines, they've made tremendous advances. And I will say this, all the information says that airline tickets have not kept pace with inflation. I mean it's one of the best deals going forward. I think it's six times less of an increase than oil prices. Which is hard to believe when that's one of your main expenses. I don't know how you do that other than investors losing \$30 billion helped.

Mr. Cohen?

COHEN: Thank you Mr. Bachus. Mr. Mitchell, Professor Sager, I just wonder. You know we hear the testimony that there are 192 or whatever that are served by American and US Air exclusively. And that you know, 132 were American, they don't compete, et cetera. And we heard the same thing with Delta Northwest. Well Delta Northwest will be complimentary because we don't serve too many routes together. Does this kind of sound like some companies might have got together and cut up the country and determined, you know, the statement that none of them have over 25 percent and there are four of them. And they're close to 25 percent and you multiply by four and that's 100. Doesn't that sound like somebody's cutting up the pie.

SAGERS: Very briefly, there's no reason to suggest that they did this on purpose. That they got together and agreed to do this. This sort of lack of head-to-head competition, I mean, can be explained to some

degree, by the lack of a significant number of competitors. It was not a liberal firebrand who first came up with the idea that oligopolies don't compete with each other. It was George Stigler of the University of Chicago.

When there are a small number of competitors, it is easier for them to sort of implicitly agree not to compete vigorously head-to-head. So I don't know that that's exactly why the networks have developed as there are. And there are regulatory issues that have also contributed, but I think it's perfectly reasonable to suspect that that is a contributor to the current lack of overlap. Even if there is one, I don't think there is that big a lack of overlap frankly. And it's reasonable to expect that it will get worse when there are four big ones instead of five.

COHEN: Mr. Mitchell, do you agree or disagree?

MITCHELL: With his statement?

COHEN: Well the idea, do you have an opinion on whether or not there was some type of a Pillsbury Bakeoff?

MITCHELL: You know the way the hub system in this country developed over time, is long and storied. But as soon as it reached a certain point, there were market divisions going on. Where you stay out of my hub and I'll stay out of your hub. I mean this is as old as deregulation and before.

That is why it is so critically important that if we do go to three systems, three network systems, that we have all the consumer protections in place, we have all the transparency in place, because this NDC that I described earlier, is the structure around which and through which the markets can be clearly, clearly divided. And that's going to be a problem, far worse than a fair increase.

COHEN: What you described really scares me and it sounds like Big Brother in a major way. Do you have, and I understand you've talked to some of the, to maybe my staff here on Judiciary Committee about this? Is there legislation that you have suggested or proposed or would propose to counter this?

MITCHELL: Well there's one piece of legislation that I think is, would be a very important consumer protection. And that would be, we have this thing called Federal Preemption where all of the consumer

protections are consolidated at the DOT. The states have absolutely no authority here and consumers have no rights at the state level.

Now if you put in legislation that allows every single state to have its own consumer protection rules you'll have a big, expensive patchwork. However, like the energy industry, there's an opportunity to create one set of consumer protections that are enforceable at the state level. That would keep the airlines honest. And as we go down to three network carriers, there is more opportunity to be dismissive of customers and we see it every day.

COHEN: We look forward to working with you on that. What do you see as the impact of the prior mergers, particularly Delta Northwest but also United Continental overall on airfare, service quality and consumer choice? Has it been beneficial or not beneficial?

MITCHELL: I think that we've had the Great Recession so it's very difficult to understand exactly what went on with pricing. However, I believe that if you look at the promises, all the expectations, all of the projections and studies and analyses before this merger is approved, there should be a forensic analysis of the outcomes of those two mergers. That's very, very important.

COHEN: Dr. Winston, you used the Great Recession as a reason why Delta would have cut the Memphis hub down to 40 percent, even though Mr. Anderson said it wouldn't. Atlanta didn't suffer. Why did Atlanta escape the Great Recession? They escaped Sherman, why did they escape the Great Recession?

WINSTON: Obvious reason-

COHEN: They didn't escape Sherman, excuse me, huh.

WINSTON: Traffic. There's still a lot of traffic there.

COHEN: Because they routed it from Memphis to Atlanta. That was simple enough. That wasn't the Great Recession, that was Anderson's decision.

WINSTON: The country didn't stop flying during the Great Recession. The country still flew and it was still flying as it normally does in the big hub areas. I mean that's something that's sort of overlooked in this. Is that, again, most of the travel, you know, like 75 percent of it, it's in large hub routes. New York L.A. Chicago San Francisco. DC

New York. You know, you go through those and you've got most of the travel, unfortunately, in this country. Where you've got a lot of competitors and that's where the airlines want to be.

I mean unfortunately, or fortunately, there are other places to go. But it's a much, much smaller part of the system and it's very vulnerable to changes in what's going on in the macro economy and so on and so forth. But Atlanta's in on the "good side" of things. Memphis unfortunately, it isn't.

COHEN: But it wasn't because of the Great Recession. It was because they chose to divert the traffic. All of my colleagues who flew through Memphis, preferred flying through Memphis. From Louisiana, Arkansas, Mississippi. Now they have to, because they cut out the regional routes. They really eliminated Pinnacle Airlines from coming into Memphis.

WINSTON: All else constant, I agree with you. Unfortunately all else isn't constant. The airlines kind of have to sort of route their planes where they are going to be able to maximize traffic.

COHEN: Do you agree that a forker's hub, the old legacy airlines created forker's hubs and that forker's hubs can keep other carriers out of those markets through pricing strategies?

WINSTON: What keeps airlines out of other hubs or airports is airport policy. Exclusive use gates. You want to improve competition in this industry, start looking at airports. It's not the airlines, it's the airports. All right? The estimates on the increases in fares due to exclusive use gates are in the billions of dollars all right? So for the next hearing, can I suggest we explore airport privatization and allow airports to compete and it could change an awful lot of what's going on in this industry.

COHEN: Well eventually you'll want to China to own all of our airports. We're not selling. But the fact is, let me ask this final question, Mr. Kennedy you plan to keep Mr. Johnson at American Airlines, or your family does. Is that correct? He's going to continue to work for the merged airline?

KENNEDY: I don't know. Do you want to work for the new airline?

S. JOHNSON: I absolutely do.

COHEN: Good because I don't want to waste ribs on him if he's not going to stay with the airline. And you come too. And Elvis isn't leaving Memphis so there will be plenty of people still wanting to come there. Thank you.

S. JOHNSON: I look forward to that sir.

BACHUS: The CEOs started together at American Airlines.

(COHEN): They did?

S. JOHNSON: They did, yes.

BACHUS: I would say this closes the hearing. But for the record, Southwest hasn't gone out of business. So there are four, there will be four networks at least. I'm thinking maybe they wish they'd gone out of business. We appreciate your testimony and I will say for one that this, as I said, before, this is one of the most persuasive arguments from everything I've read for the merger.

And as with any merger there's a chance that there will be some, you know, price increases. But I will guarantee you there were going to be price increases in either respect because they can't keep flying for what they're doing now.

But thank you for your testimony. I think your next hearing will be in the Senate on the 19th. And hopefully this will prepare you for that. Particularly if there's a Senator from Memphis or Pittsburgh waiting on you over there.

(LAUGHTER)

BACHUS: Thank you very much for your testimony.

(UNKNOWN): Thank you.

(UNKNOWN): Thank you.

(UNKNOWN): Thank you sir.

BACHUS: Without objection, all members shall have five legislative days to submit to the Chair additional written questions for the witness which we'll forward and ask the witnesses to promptly as they can answer, to be made a part of the record. Without objections all members will have five legislative days to submit any additional materials for inclusion in the record.

With that again, I thank the witnesses. This hearing is adjourned.

END