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EXAMINING COMPETITION IN AMERICA'S SKIES

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BEFORE THE

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

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EXAMINING COMPETITION IN AMERICA'S SKIES

TUESDAY, SEPTEMBER 30, 2025

UNITED STATES SENATE,
SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY,
AND CONSUMER RIGHTS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:33 p.m., in Room 226, Dirksen Senate Office Building, Hon. Michael S. Lee, Chair of the Subcommittee, presiding.

Present: Senators Lee [presiding], Hawley, Britt, Moody, Booker, Klobuchar, and Blumenthal.

Also present: Senator Durbin.

OPENING STATEMENT OF HON. MICHAEL S. LEE, A U.S. SENATOR FROM THE STATE OF UTAH

Chair LEE. I will call the hearing to order. Thanks to all of you for being here. We look forward to today's conversation.

Every day in America, millions of passengers rely on airlines to get them safely, easily, and efficiently to life's most important moments—weddings, funerals, the birth of children and grandchildren, professional opportunities, job interviews, meeting with clients old or new, and even in some cases daily commutes. Air travel has become and genuinely is essential to our lives.

Since deregulation of the airline industry began in 1978 and increasingly in the years that followed from that, competition has driven affordability, innovation, and improved service in countless respects within the industry. For decades, rivalry among carriers allowed for consumer choice, and it kept fares within reach. Yet in recent years, there has been significant consolidation in the industry. This has reshaped in some ways the U.S. airline market, reducing the number of total competitors. Today, there are just four major carriers—American, Delta, United, and Southwest—that control over 80 percent of U.S. domestic air travel. And that is a change from not too many decades ago when there were more players than that, far less market concentration.

Legacy carriers have invested in creating a hub-and-spoke model. The model routes passengers through central airports more efficiently, and that has the effect of lowering maintenance costs, increasing connectivity, and otherwise increasing the beneficial network effects available to a larger airline.

The hub system has also created some dominant positions, particularly at a few key airports. In Atlanta, Dallas/Fort Worth, Charlotte, and Newark, for example a single airline controls between 70 and 80 percent of passenger traffic. In Salt Lake City, St. Louis, and Minneapolis, one carrier accounts for roughly 60 percent of passenger traffic. Even at airports with far less concentrated market shares, carriers often don't compete on the same routes, leaving travelers effectively with only one direct option for a specific destination. Some of this, of course, is going to happen in any system that involves as many cities, as many places where people might want to travel as others. Nonetheless, we see the trend as what it is, a trend that is perhaps resulting in less competition within the industry than we have seen at times in the past.

This concentration is, at least in part, the result of a wave of mergers—Delta-Northwest, then United-Continental, and Southwest-AirTran. The Obama administration initially challenged the American-U.S. Airways merger, but it reached a settlement, one that seemingly failed to address the broader nationwide concerns alleged in the complaint in that case.

Most recently, the Biden administration blocked the proposed JetBlue-Spirit merger, ostensibly to preserve Spirit as an ultra-low-cost competitor. In that case, the Department of Justice took an acrobatic distortion and contortion of the market and overlooked a lot of the real-world dynamics. The merger likely would have enhanced competition by creating a more financially stable airline with a larger network, one that could provide additional competition to the legacy carriers. This would have enabled more competition with these legacy carriers nationwide. And one thing we know about competition, it tends to bring down prices, and it tends to result in improvements to quality as different competitors try to compete for the money of the passengers they want to carry.

Yet after that merger was blocked, Spirit ended up filing for bankruptcy, as many predicted. This development raises key questions about enforcement and our antitrust framework such as how a market ought to be defined and whether the failing-firm defense captures real-world dynamics and incentives and how this ought to frame how we think about antitrust law and the manner in which it is enforced moving forward.

Low-cost carriers and ultra-low-cost carriers have been an important competitive constraint on pricing, of course. There is a lot that they add to the picture. When one of these airlines enters a market, average fares typically drop, at least for the affected routes, but those competitive forces are facing financial headwinds. Spirit is in bankruptcy. Southwest is abandoning, in some ways, the very business model that made Southwest the disruptor that it has been, eliminating free checked bags and charging for seat assignments, moving closer to the legacy carrier model. JetBlue's partnership with American and the proposed merger with Spirit were blocked. JetBlue is now seeking a collaboration with United in order to survive.

Broader economic conditions also present challenges. Aircraft supply shortages, engine repair delays, and rising labor costs all contribute in weighing on the overall competitive dynamic in the industry. Additionally, with fewer competitors than we've had in the past, the remaining airlines can coordinate on capacity more easily. This limits seat growth across the industry. Limited slots and limited gates also tend to reinforce those same constraints, so do shortages of air traffic controllers and an antiquated air traffic control system.

The U.S. Department of Transportation is modernizing our air traffic control system. They are streamlining FAA hiring and raising the pay that they offer to controllers. And I want to commend Secretary Duffy at the Department of Transportation for his leadership in addressing these challenges and working toward solutions to each of them. The reforms are essential, not just for safety and reliability, but also for creating the capacity that we need in order to allow for an increase in competition.

Today's hearing is one that I hope will be an important first step in examining competition issues as we face them in the airline industry. Americans deserve the benefits of competition, especially when they fly, in the form of lower fares, better service, and more choices.

Chairman LEE. And in advance, I want to thank each of our witnesses for coming today. I look forward to their insights.

Now we are going to turn to my friend and colleague, the Ranking Democrat on the Committee, Senator Cory Booker.

OPENING STATEMENT OF HON. CORY A. BOOKER, A U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator BOOKER. I am really grateful to the Chairman of this Committee for calling this. This is an actual area—in fact this whole Subcommittee is an area—there is a lot of bipartisan alignment and a lot of really growing concern as Americans are seeing prices on everything go up. This is not the relegation of any political party. These are trends in many ways that have been going on for too long.

About the airline industry, I have to say, I am a very impacted witness, as well as the Ranking Member, because at 6'3" and larger than most Americans, I find our airline seats really inadequate, feeling that pain that many Americans are feeling, in addition to a lot of the other challenges with air travel.

There are just things folks don't understand. They really can't, and it is understandable the confusion and the frustrations that American consumers are feeling when it comes to airlines. Most Americans don't understand why Google Flights will say that it is cheaper to fly for 10 hours with a stop instead of a 6-hour nonstop, or why it is cheaper to have a layover in Atlanta when you are flying from Philadelphia to Kansas City when no reasonable person can consider Atlanta on the way.

Nowadays airlines advertise so many different fares and classes, whether it is premium, economy, board first, priority, economic, basic, and they tack on so many fees for everything from taking a bag on board to sitting with your other family members. It is unbelievable. Those fees get labeled as either ancillary or junk fees, and we really believe, at least I believe, that this is a regulatory question and more.

And here is the thing. American passengers spend what seems like a third of their monthly mortgage to fly nowadays. Major airlines that have repeatedly benefited from Federal Government bailouts now pay less in taxes and pocket more from consumers because of these separate fees customers pay on add-ons that are not taxed like base airfare. Back when consumers paid in all in airfare, that tax revenue actually went toward improving airports and improving airport infrastructure. But the system as it was before is not what it is now. And these problems are hurting airline competition and really hurting consumers.

And there are more issues than just fees. But let's just say that when the former Secretary Buttigieg initiated rulemaking that would have required airlines to be more transparent about these extra fees, unfortunately, that has been rolled back now under the current administration, which is going to make a bad situation far worse.

But fees aren't the only thing. Price discrimination or price hikes due to the inflammation of AI-based surveillance pricing unfairly targets consumers and takes advantage of their circumstances, like flying solo or having must-go trips where a loved one is ill, or worse, where there is a funeral to attend. If AI-based surveillance pricing, for example, sees a consumer search for funeral home and palliative care while another search is last-minute couples getaway, the airline could show the grieving traveler higher prices based on their estimated willingness to pay.

And that is where we go to low-cost airlines. And it is important that we realize that low-cost airlines have a role to play in the industry because when low-cost carriers enter the market, we see fundamentally that competition flourishes and prices go down. I remember a moment of honesty with JetBlue when they warned that all that power in the hands of a very few deep-pocketed airlines has implications for consumers in the form of reduced options, high fares, and often poor service.

Now, that is really something that is getting worse. Anticompetitive practices seemingly have left Americans with less and less access to air travel. After both 9/11 and COVID–19 pandemics, Congress bailed out the airlines to avoid a collapse of our entire airline industry. Yet, since the pandemic, big airlines have dropped dozens of cities from services, places like Flint, Michigan, and Lincoln, Nebraska. Some cities like Dubuque, Iowa, and Toledo, Ohio, have lost all major carrier service. The capital city of Wyoming, Cheyenne, has lost service on and off over the last decade and has had to guarantee the revenue of a major airline merely to secure regularly scheduled service to a single hub all through taxpayer dollars. That is just not right.

We are going to hear from incredible experts today about rural and mid-sized cities routes and connectivity and how airport hubs don't work, but it is clear to me that taxpayers and Government have been invested in the success of airlines and airports in America, and we deserve better returns on that investment in the form of efficient, safe, meaningful air choices and competitive pricings.

The stakes are really high. Competition is critical for safety and for maintaining and supporting the essential workforce that ensures safety and maintenance. I believe that we have to do more. We must invest in our systems, including addressing our air traffic controller shortage and our infrastructure needs. And it seems like this industry needs capacity, more routes to smaller mid-sized cities and a bit of a buffer. This is something we should all be committed to. More staff, bigger seats, and extra aircrafts on standby should be part of this conversation.

To weather crisis and the natural boom-and-bust cycles in the market, as well as to prevent bankruptcies and unfair competition that lead to ultimately less meaningful choices for hot and higher airfares for American travelers, is truly at issue. A resilient airline industry is the most important goal here. To keep American carriers competitive around the world and to protect travelers from safety issues that D.C. locals have been tragically reminded this year could have serious consequences. We have work to do, and competition is at the center of it. And this Committee, I am grateful for. It is hopefully going to start finding some solutions.

The last thing I want to say is I want to add to these witnesses, it is a big deal when you come and testify before Congress, before the U.S. Senate. It is also a bit of a sacrifice leaving your jobs and your families often to come here. Many of you had to fly, and we know how burdensome that can be, so I want to thank everybody for being here.

Senator BOOKER. And I will try not to get very upset at Professor Sitaraman because he is an extraordinary guy—I have read his bio—but that hair is very obnoxious to me——

[Laughter.]

Senator BOOKER [continuing]. And the Chairman of this Committee, sir. I should hold him in contempt of Congress but——

Chair LEE. It almost feels like a war crime.

[Laughter.]

Senator BOOKER. Yes, sir. There was a day that we looked that good.

Chair LEE. It is a great point. We really do appreciate you coming here and knowing how busy you all are.

It is important to remember that while much of what we have said and what we may explore may sound like a complaint. There is not any one person or one business that has developed the status quo. This has been an iterative process made over multiple decades under multiple administrations and different antitrust regulators over many years. I think the question before us is what the State of competition is in the industry and what, if anything, do we need to know as a Subcommittee charged with periodically reviewing our antitrust and competition policy laws and also the enforcement of those through our oversight capacity, whether things are going in the right direction.

So with that, I will introduce our witnesses. We have got Gregory Anderson here as the president and CEO of Allegiant Airlines; Sharon Pinkerton, who is the senior vice president of legislative and regulatory policy at Airlines for America; Barry Biffle, who is the president and CEO of Frontier Airlines. We have Professor Ganesh Sitaraman here. He is a professor at Vanderbilt University School of Law. And last but not least, William McGee who is here as a senior fellow for aviation and travel at American Economic Liberties Project. Thanks to all of you for being here.

If you will each stand, I will swear you in, and then we will begin.

[Witnesses are sworn in.]

Chair LEE. Thank you. The record will reflect that they each answered in the affirmative.

All right. Let's begin with you, Mr. Anderson, and then we will move from your end of the table one by one down. So we will hear from Mr. Biffle, Mr. McGee, Ms. Pinkerton, and then we will finish with Mr. Sitaraman before opening it up for questions.

Go ahead, Mr. Anderson.

STATEMENT OF GREGORY ANDERSON, CHIEF EXECUTIVE OFFICER, ALLEGIANT, LAS VEGAS, NEVADA

Mr. ANDERSON. Chairman Lee, Ranking Member Booker, and Members of the Subcommittee, thank you for the opportunity to appear before you today. My name is Greg Anderson, and I serve as the CEO of Allegiant Travel Company.

At Allegiant we offer safe, reliable, convenient travel at unbeatable value. All of our flights are nonstop and focused on the leisure traveler. Without Allegiant, many people who live outside major cities wouldn't have access to affordable air travel. By offering unbundled pricing and low fares, we make it possible for a broader spectrum of Americans to travel to high-priority vacation destinations. Roughly 70 percent of the routes we serve have no other nonstop flight options. The convenience and value we provide adds competition to the market, expanding the range of options available to these small and medium-sized communities.

I am here to talk about potential ways to make air travel more accessible for everyone and to share my concern that, if trends continue, American travelers may have fewer options and face higher prices. We believe that there are a few key actions that can help strengthen the sector.

First, the advancement and modernization of air traffic control systems across all communities, big and small. Inefficiencies and delays within the air travel industry are often attributable to outdated technology and insufficient staffing. We are encouraged by the administration's plan to modernize ATC and Congress' support and funding.

Second, improving gate access for value airlines. The current gate allocation process tends to reinforce the existing advantages of legacy carriers. To address these discrepancies, we supported the bipartisan Airport Gate Competition Act introduced last Congress and would welcome such legislation.

Third, international market access through joint ventures. Large legacy carriers have been allowed to enter into broad alliances for decades. These ventures give them marketing power, scheduling power, and pricing power that small carriers cannot match. Allegiant sought to pursue a similar joint venture but tailored that to the value airline model. In 2021, in partnership with Viva Aerobus in Mexico, we filed for a first-of-its-kind value airline alliance. Together, we proposed 92 nonstop routes between the U.S. and Mexico. This alliance would introduce low-fare competition into the market. It could increase the total number of direct U.S.-to-Mexico routes by 50 percent and give nearly 5 million more Americans access to affordable international travel. However, this venture has yet to receive approval from the Department of Transportation despite these clear procompetitive benefits.

Last, I would like to discuss regulation of the industry. Let me be clear. Safety is and always must be the top priority. But rules that go beyond safety and into regulation of consumer choice will inevitably lead to pricing out the most the most fair-cost-conscious customers, customers that we are proud to serve. Full fare advertising rules intended to increase transparency actually conceal the impact the Government fees and taxes have on the consumer. Allegiant offers clear pricing, letting customers see and select only the options they want, prioritizing transparency and choice.

We also go beyond what regulation requires when it comes to standing behind our product. For example, Allegiant compensates passengers up to $300 in addition to a ticket refund if we cancel a flight within our control.

Air travel innovation is driven by competition. When value airlines like Allegiant enter new markets, the average fare dropped by 19 percent across all airlines. We believe that a healthy airline industry benefits everyone. Value airlines such as Allegiant make it possible for a family of four to take their dream vacation for hundreds of dollars less than they would otherwise pay.

Allegiant is proof that competition and deregulation works. I am proud of the 70 percent of customers who choose to fly with us again. We provide otherwise ignored communities with safe, reliable, and nonstop service at prices that are affordable for everyday Americans. In my visits to our bases and through conversations with customers, I can tell you that what we provide is necessary and important to the industry.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. Anderson appears as a submission for the record.]

Senator BOOKER. Mr. Chairman, can I just put into the record that Barry Biffle is an awesome name? Yes, yes.

[Laughter.]

Chair LEE. Does anyone object?

Senator BOOKER. No? Okay.

[Laughter.]

Chair LEE. Without objection, it will be duly noted in the record.

Senator BOOKER. Thank you very much.

Chair LEE. Go ahead, Mr. Biffle.

STATEMENT OF BARRY BIFFLE, CHIEF EXECUTIVE OFFICER, FRONTIER AIRLINES, DENVER, COLORADO

Mr. BIFFLE. Thank you. I don't have the hair he does, and it's too late in life, I guess, for that, but thank you.

So Chairman, Ranking Member, and Members of the Subcommittee, I thank you for the opportunity to appear before you today. Airline CEOs like myself usually get invited to Capitol Hill when something's gone wrong, a snowstorm, a canceled flight, or an angry customer on the evening news, so let me start by thanking you for inviting me under better circumstances.

Again, I'm Barry Biffle. I'm the CEO of Frontier Airlines. At Frontier we have a simple mission—make flying affordable, greener, and more accessible for the average traveler. We're a low-cost carrier, which means we don't rely on fancy lounges or first-class suites. What we offer is safe, reliable, and affordable way for Americans to travel.

Today, I want to speak very seriously about a few issues, and the first one I want to talk about is gate access and how that impacts competition. Air travel is not just about getting from point A to point B. It's about opportunity, the ability for a family in a small town to take their kids to Disney or for a student to jump on a trip home for the holidays. Competition makes all that possible.

History shows us that when low-cost carriers like Frontier enter market, fares go down, sometimes 20, 30, even 40 percent. Customers win. The legacy airlines, United, Delta, American, have grown traffic just 6 percent since 2000 while raising fares over 40 percent. By contrast, low-cost carriers have grown traffic by 152 percent with only a 10 percent increase in fares. That's competition at work.

So the question before us is not whether competition works. It's whether new competitors are allowed to compete at all, and that's what brings me back to gates. In our industry, the gate is the front door. You can have the planes, pilots, fuel, and crews, but if you don't have the gate, you don't get to play. Right now, too many of those gates are locked up by a handful of big airlines.

Across the country, we see fortress hubs, airports with a single airline controlling 60, 70, 80 percent of the gates. This kind of dominance doesn't give carriers pricing power. It gives them control of who gets in and out of the market. Here's the kicker. Many of these gates are not even fully used. Dominant carriers hold them. They sit on them and block competitors from coming in. Meanwhile, customers in these cities pay higher airfares and have fewer choices as a result.

To put in everyday terms, if McDonald's leased every street corner in a town, set up one restaurant and left the other corners empty, then told Burger King and Wendy's they weren't allowed to open shop, that's not a free market. That's protectionism with fries on the side, supersized, and that's what we have in the United States airline industry.

The results are predictable and harmful. Fortress hub cities, fares, and higher competition is limited. Travelers in Atlanta, Newark, Dallas, and other concentrated airports routinely pay more than their counterparts in competitive markets. So when gates are locked up, it isn't just a headache for the airlines like mine, it's a tax on the traveling public.

Moreover, the single largest disruption to our airline beyond weather and air traffic control is gate holds caused by obtaining gate—not getting gate access. Our daily flights per gate can be double that of most big airlines. However, the inefficiency of allocation of gates often results in our diminished on-time reliability and otherwise preventable cancellations.

The Subcommittee has an opportunity to fix this. I want to suggest a few practical steps. We need use-it-or-lose-it rules. Airlines should not be allowed to hold preferential gates indefinitely without using them. If you don't use the gate efficiently, you should be required to give it up to another carrier who can. It should be measured monthly and held to account.

Common-use requirements, when you build a new gate, at least a third of those gates should be available for common use. That means anyone can come in, not just the incumbent, and provide competition.

And we also need DOT enforcement authority. The DOT should be empowered to step in when dominant carriers hoard all the gates and block competition. They already play a role in slot allocation. They should do the same thing with gates. And again, it should be done monthly.

And there should be transparency in lease arrangements. Right now, gate leases can stretch decades, locking out new entrants. We should require clear reporting and accountability. These changes wouldn't cost taxpayers a dime, and they don't require subsidies or bailouts. They just open the door, literally, for competition.

I know some may say, well, fortress hubs bring benefits, more flights, destinations, but the evidence is the opposite. Once one airline dominates, there's nothing there. But look, I think there's more to this than just gate access. There's loyalty programs that are subsidizing their basic economy, which enables them to dump low prices out there. Even you had the CEO of United Airlines saying recently that he allows carriers like us to carry traffic. That's an interesting comment that we get what they allow us to carry, so they should look into that. And then same thing on re-accom agreements. We should look into those because those are also harmful.

I want to thank everybody for having us, and we look forward to discussing things we can do to help with competition.

[The prepared statement of Mr. Biffle appears as a submission for the record.]

Chair LEE. Thank you very much.

Mr. MCGEE.

STATEMENT OF WILLIAM J. MCGEE, SENIOR FELLOW FOR AVIATION AND TRAVEL, AMERICAN ECONOMIC LIBERTIES PROJECT, WASHINGTON, DC

Mr. MCGEE. Chair Lee, Ranking Member Booker, Ranking Member Durbin, and Members of the Subcommittee, thank you for hosting this hearing today. My name is William J. McGee, and I'm the senior fellow for aviation and travel at the American Economic Liberties Project, a nonprofit organization dedicated to addressing the problems of concentrated economic power.

Over the past 40 years, I've worked in airline flight operations as an FAA licensed aircraft dispatcher and then as an aviation journalist and author. Since 2000, I've been an airline passenger advocate.

The industry I entered 40 years ago no longer exists. It has been destroyed by deregulation and a lack of competition. When Congress passed the Airline Deregulation Act of 1978, it did so with the intention of "placing maximum reliance on competition," "avoidance of unreasonable concentration," and "encouragement of entry by new air carriers." By its own aims, deregulation has failed. U.S. carriers are more concentrated than ever due to decades of lax antitrust enforcement and the failed experiment of deregulation.

Consolidation is rampant. Competition has all but disappeared. What was once a vibrant industry is now led by an oligopoly of four airlines—American, Delta, Southwest, and United—controlling 80 percent of the market. They have immense pricing power, with a smattering of smaller low-fare airlines offering only limited alternatives.

Neither size carrier has a long-term sustainable business model. How do we know? Mergers and bankruptcies have both been commonplace since 1978. Numerous airlines have had to merge, go bankrupt, or get American taxpayer-funded bailouts to survive. Across nine hubs nationwide, the three biggest airlines control 70 percent or more of all flights, including in Newark, Minneapolis, and Salt Lake City. In Charlotte, American dominates 88 percent of departures. Since 2007, only two new entrants have emerged, marking the longest dry spell in history.

Despite claims from the industry that there's competition between carriers, the DOT's quarterly airfare reports suggest the three largest airlines—American, Delta, and United—have virtually ceased to compete against each other on price. The few remaining low-fare airlines—Allegiant, Avelo, Breeze, Frontier, and Spirit—are the only meaningful source of pricing discipline, keeping fares on average 21 percent lower on the routes where they compete.

The Big Four thwart competition through myriad means, including fortress hubs, global alliances, devalued frequent flyer programs, branded credit cards, predatory pricing, and more. Consumers and entire communities nationwide are worse off due to airline consolidation. Passengers are left with higher fares, fewer nonstop destinations, and fewer flights, and workers have fewer rights and have lost jobs. Airlines abuse their customers without consequence, whether it's inflicting physical violence on passengers after overbooking seats or charging them to sit next to toddlers. Major hubs were closed in cities as large as St. Louis and Raleigh-Durham. These closures hit smaller and rural communities particularly hard.

While committing these harms, airlines do whatever they can to avoid oversight and regulation. For example, they often ignore DOT tarmac limitations, which can leave passengers stranded for hours. Today, the largest airlines want even more deregulation at the expense of passengers. In May, Airlines for America, representing the largest carriers, filed a 93-page comment requesting that DOT weaken or eliminate most passenger protections, including fee transparency, cash refunds, flight disruption compensation, and family seating policies for kids under 13. Two days later, DOT issued a deregulatory agenda that looked copy-pasted from Airlines for America's wish list.

Given this regulatory peril, it's imperative Congress step in. This Subcommittee should consider the following proposals, which would directly address the concerns of passengers, workers, and local economies.

First, we applaud Senator Hawley for cosponsoring the Airport Gate Competition Act. This is commonsense legislation. It would promote competition by ensuring access to critical airport infrastructure for smaller airlines.

Second, Congress should eliminate Federal preemption, which has blocked State courts, legislatures, and Attorneys General from any airline oversight since 1978.

Third, large institutional investors often pursue stakes in all four of the Big Four carriers, reducing their incentives to compete. It's time to restrict common ownership in more than one domestic airline.

Fourth, Congress should require the FAA to prevent the majors from thwarting low-fare competition at congested airports. Takeoff and landing slots shouldn't be bought, sold, or traded by carriers.

In conclusion, the failures of deregulation and consolidation have made it clear that new and sensible approaches to regulation are long overdue to protect consumers, enhance competition, and ensure access for smaller airlines. Your constituents will tell you the truth. Flying today is a miserable experience. It wasn't always this way. It doesn't have to be this way.

We're at an inflection point. Congress needs to investigate the failures of deregulation and, just as it did 50 years ago, hear from the public, not just airline executives and their lobbyists.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. McGee appears as a submission for the record.]

Chair LEE. Thanks so much.

Ms. PINKERTON.

STATEMENT OF SHARON PINKERTON, SENIOR VICE PRESIDENT OF POLICY AND REGULATORY AFFAIRS, AIRLINES FOR AMERICA, WASHINGTON, DC

Ms. PINKERTON. Thank you so much for the invitation to testify today.

Today, more people are flying than ever, and for good reason. Fierce competition between airlines has brought us bargain airfares and a vast array of flight options, but it hasn't always been like this. Before the 1978 Deregulation Act, fewer than one in four Americans had been on a plane, and that's because the Government controlled prices, schedules, and routes. That Government one-size-fits-all approach resulted in flying being a luxury that only the wealthy could afford. In contrast today, 90 percent of the American public has flown. That is competition in action. Freeing the marketplace from Government command-and-control has literally democratized air travel in this country.

We can measure the State of competition in our industry using three metrics—price, diversity of options, and customer service. First, price. Affordable airfares are ubiquitous. Just yesterday, I got an email from one of our carriers offering a $39 fare. All airfares, including ancillaries, are at historic lows. That's the data. The price of an average domestic ticket back in 1977 was about $800. Today, it's 450 percent less.

Now, we all know in contrast what's been happening with the consumer price index. You mentioned it, Senator Booker. The consumer price index over the last year has been five—up 23 percent in all categories except one, airfare. It's gone down. In a world where inflation is hitting food, housing, medical expenses, and other essentials, the low cost of air travel is a noticeable and positive outlier. And frankly, much of that is due to the lower-cost carriers.

And that gets me to my second metric, the availability of diverse options. Over the last few decades, the lower-cost carriers have indeed been a major engine of growth in our industry. They have taken market share away from the global network carriers. And as a result today, the lower-cost carriers carry almost 50 percent of domestic traffic in this country.

It's important to know that the data show that the number of competitors per origin and destination city pair in this country has increased since deregulation, increased. Now, part of that is due to the fact that we've had new entrants join the fray. Breeze, Avelo joined in 2021. And in fact, Breeze just announced last week that they're going to be providing international service next year, which is an indication that just like the way the domestic market has transformed, the international market has been transformed through the pursuit of open-skies agreements that open up foreign markets.

The third market—the third metric is customer service. Our carriers have been investing record-breaking amounts in innovations in order to elevate the customer service that they provide. They're investing in tech and physical infrastructure. They're improving their IT systems, mobile apps, lounges, loyalty programs, bigger overhead bins, and faster Wi–Fi on planes, just to name a few things. And it's working. Again, back to the data, independent survey after survey shows that customer satisfaction is high. Not perfect, but good. Given the incredible logistical complexity of carrying 2.7 million people every day safely on 27,000 flights, we are proud of the fact that the vast majority of Americans continue to give high marks to airlines and their airline travel experience.

Given the robust State of competition, we do have a threat to competition. The biggest threat is our short staffing and our antiquated air traffic control system. You don't need to look any further than the tragedy at DCA, the outages in the northeast of the FAA equipment, and at DFW last week as evidence of the pitiful condition of our air traffic control system. That's why we are deeply appreciative that Congress has approved the $12.5 billion down payment on Secretary Duffy's air traffic control plan, but frankly it can't come soon enough. As you know, we are flying 10 percent fewer flights and have been for 2 years out of the major New York and New Jersey airports. Now, flying less is bad for big airlines, it's bad for small airplanes—airlines, but it's the worst for customers because it robs them of options.

So while the State of competition is strong, demand is also strong by the way. TSA has had 8 of their 10 busiest days this year. We do think Congress needs to take action. We urge you to support a new air traffic control system that would be safer, will allow for increased flying, and give customers even more choice. Thank you.

[The prepared statement of Ms. Pinkerton appears as a submission for the record.]

Chair LEE. Thank you.

Professor Sitaraman.

STATEMENT OF GANESH SITARAMAN, PROFESSOR OF LAW, VANDERBILT LAW SCHOOL, NASHVILLE, TENNESSEE

Professor SITARAMAN. Chairman Lee, Ranking Member Booker, and Members of the Subcommittee, thank you for the opportunity to testify on the State of competition in the airline industry. My name is Ganesh Sitaraman. I'm a professor at Vanderbilt University and the New York Alumni Chancellor's Chair in Law. I also direct the Vanderbilt Policy Accelerator. I'm the author of a textbook Networks, Platforms & Utilities, which covers the transportation sector, among others, and a popular book called "Why Flying is Miserable: And How to Fix It," which offers a history of airline regulation and deregulation. I've also coauthored some white papers on this topic as well.

My testimony today draws on this scholarship, and it represents my personal opinions, not the views of Vanderbilt University.

Air travel is one of humanity's extraordinary achievements, and it has become essential to modern life and commerce. The people who work in the industry from baggage handlers and customer service representatives to air traffic controllers, flight attendants, and pilots do us all a great service in making air travel possible. I believe it is essential that we have an air transportation system that is stable and resilient, that is competitive, that provides access across the country, and that treats passengers fairly. Regrettably, I do not think we are meeting that standard today.

First, stability and resilience. The airline industry suffers from cycles of boom and bust, with dozens of bankruptcies and repeated taxpayer bailouts.

Second, competition. The airline industry is less competitive and more consolidated than in the past. At some hub airports, a single carrier can now have 60 percent, 70 percent, 80 percent market share. More broadly, the four biggest airlines today have a larger market share than they did in 1977. This is an astonishing fact. We have less—we have more competition—sorry, less competition today than we did during regulation.

Third, geographic access. Smaller communities and mid-sized cities are losing service. Big carriers abandoned dozens of cities during and after COVID–19. Airports that once had multiple airlines and daily flights now struggle. Some places, like Cheyenne, Wyoming, have been forced to agree to subsidize highly profitable airlines to ensure they get even a minimum level of service.

And fourth and finally, there is the thing everyone knows, and that is that the passenger experience is often miserable. Seats are smaller, fees have proliferated, pricing is getting more complicated and less transparent, connections through giant hubs are stressful, and of course less competition and limited service make it all worse.

So my message to the Subcommittee is this. The airline industry is not resilient enough, it is not competitive enough, it is not serving the public or national interest well enough. Addressing the problems in this sector requires understanding how we got here, and in my written testimony, I described the history of this sector and some of the dynamics that create a tendency toward consolidation and concentration. The key lesson from this history is that without pro-competitive, pro-resilience, pro-growth, and pro-passenger rules, this industry will never meet the high standard our country needs for this critical infrastructure.

But I come with good news too, and that is that you have it in your power to fix flying. On stability and resilience, you could require airlines to develop resilience plans or rainy-day funds. On competition, you could expand access to gates and reduce hub concentration. On geographic access, you can drop a draft pick plan as the one I've proposed so bigger airlines will serve small cities at affordable prices. And you can improve the passenger experience by setting minimum seat sizes, making it cheaper for parents to fly with infants, preventing AI-enhanced personalized and dynamic pricing, and giving passengers the ability to sue airlines when they engage in abusive practices. In short, flying might be miserable today, but it doesn't have to stay that way.

Thank you for holding this important hearing, I welcome your questions, and I look forward to working with you to ensure the United States has an airline industry that meets our national needs and that is thriving, stable, and competitive.

[The prepared statement of Professor Sitaraman appears as a submission for the record.]

Chair LEE. Thank you very much.

Mr. Anderson, let's start with you. We are now going to go through 5-minute rounds alternating between Republicans and Democrats in order of seniority, subject to the early bird rule.

But Allegiant frequently operates in a way that connects smaller airports to, among other things, vacation destinations. I know a lot of your routes pretty well because you are courteous enough to fly out of Provo Airport, and that is where I live, and that is fantastic. And you happen to fly to a couple of cities where my adult children live, and so that is very helpful. But very often you are connecting these smaller airports to vacation destinations or places where they otherwise need to travel. What headwinds have you had as a smaller, kind of more low-cost carrier in trying to gain scale within that market?

Mr. ANDERSON. Senator Lee, thank you for the question. We're really proud of Allegiant, and the model that we've developed and invented over the years, as you mentioned, we provide small and medium-sized communities service. We serve more cities than nearly any other carrier in the United States, and that's at low fares and nonstop. That's the value that we provide. And we feel we have the opportunity to continue to grow our model and expand our service to other like communities.

And to specifically your question, some of the barriers that we have faced, I mean, when you think about just typical costs, and is—are we able to stimulate demand in a particular market? But outside of that, it's we're looking for ways to be more efficient, and we—we're really excited about some of the measures that we've seen from like the ATC modernization program. We think that will help for Allegiant to continue to expand its service. We also think the gate access bill is—items like that where we can go into these destination airports and have more of an opportunity to connect smaller and medium-sized communities into those larger airports.

Chair LEE. Right. And gate limitations often impose burdens for an up-and-coming, you know, a new market entrant.

By the way, on that topic, during the COVID pandemic, the U.S. Congress doled out I think it was about $54 billion to the industry as a whole. How did that impact market share or your ability to break into the market? Did that have an impact on your ability to gain market share, or did it diminish it? No effect?

Mr. ANDERSON. Thanks for the question, Senator. I would say—I was the CFO at Allegiant during the time of the pandemic, and it was a challenging time and very appreciative of the CARES Act funds that were provided to airlines during such time. Given Allegiant's unique model in the communities that we serve, actually during the pandemic there was a period of time where we were the fourth largest carrier in the United States. I want to say it was May 2020. But overall, we were able to navigate the pandemic I think relatively as well as anybody, and we appreciate the support that the Government and leadership that the Government played at that time.

Chair LEE. Mr. Biffle, some more questions. What headwinds have you faced at Frontier as you have tried to gain scale within the market?

Mr. BIFFLE. Yes, thanks. Thanks. Look, we've faced all types of issues with scale. I mean, obviously, the gates that I mentioned is a major factor. Also—and I mentioned to you re-accom. You know, prior to all the consolidation, it was common practice, as it is most parts of the world, until consolidation in the United States, where, you know, if I cancel a flight or someone else cancels a flight, we would take those customers at whatever they paid if there are seats left last minute so that people aren't convenienced. It was kind of—inconvenienced—so it helped. So that hurts experience.

But one of the big things on scale beyond the gates is actually just the loyalty programs. When you look at the subsidization that is going on of the big credit card companies to the big airlines, it's massive, and it exceeds, in almost every case of the big airlines, all their profits. And they're using those profits to actually subsidize basic economy. So you're taking credit card interchange and interest rates, subsidizing basic economy, allowing them to dump cheap prices and compete——

Chair LEE. For the loyalty programs and the credit card programs——

Mr. BIFFLE. Yes, I mean, if they didn't have this massive subsidy that they're getting from that, they wouldn't be able to flood the market and dump prices like that. I mean, it's—you're creating an economic situation that is completely driven by their size and scale. And once you get to a dominance—I mean, he mentioned, I guess it was Charlotte, 88 percent. You know, your problem is, if you're in Charlotte, you're kind of beholden to them. You have to play the game. But it's the biggest dupe on those people too. I mean, the odds of them getting upgraded, they're—I mean, when they look on their upgrade list, they're probably number 76 on the upgrade list. They're never going to get upgraded to first class. So a carrier like us, I mean, our elite customers, 80 percent get upgraded. Eighty percent get upgraded to our European business class upfront plus product. Compared to the big guys, I offer better value, but I just don't get the scale because they're able to subsidize it with these credit card programs.

Chair LEE. Right. And that is one of the inevitable realities of this industry or any other industry where there is a network effect. The bigger your network, the bigger the draw, the more capable you are of having a credit card program or a rewards program that allows you to do that.

Mr. BIFFLE. Yes, and so when you get into position, you control the gates, you control the re-accom, you control the ability to be able to be on time. I mean, you control the ecosystem with the loyalty. I mean, it's pretty rigged.

Chair LEE. Okay. I see my time has expired. I have got a lot more questions. We will hope to do multiple rounds today. We will turn next to Senator Booker.

Senator BOOKER. I am going to do the prudent thing and defer to the Ranking Member of this Committee, who has a lot of power and authority over me.

Senator DURBIN. Oh, the power of this Committee. Thank you very much, Cory. It is great to be with you all, and I was just sitting here jotting down. I have been in Congress for 43 years, 50 round trips a year, 2,000 flights, millions and millions of miles. Maybe this is my subspecialty that I have developed over the years.

But I do find a couple things interesting. First, I want to shout out to Northwest Orient Airlines, long gone, the only airline that publicly supported my effort to ban smoking on airplanes. Air Canada had already done it, but the majors would not. They were afraid to take the heat, and they were glad when it finally passed.

But the thing that I found interesting—Mr. Biffle just referred to it in his answer to Senator Lee's question—is one element that I would like to discuss for a moment. When they got us in our seats with all the safety warnings—and God bless the flight attendants, I love them all—and they got you buckled up, and things have quieted down in the cabin, what do you hear over the microphone? A pitch for a credit card. And then next thing you know, the flight attendants who are focused on safety are walking the aisles trying to pass out brochures. Why? You have said it. For many airlines, there is more money made on the rewards and loyalty program than on air operations. In fact, these planes are flying banks with Visa and Mastercards in them, and the airlines make their money off of the loyalty programs.

What percentage of airline travelers participate in a loyalty program? Any idea, Mr. Biffle?

Mr. BIFFLE. I don't know the national average, but I can tell you that, you know, dollars per passenger, I mean, we have a program ourselves, but it's a few dollars a passenger. The big airlines are $25 to $40 a passenger is generated from credit card revenue. It's massive.

Senator DURBIN. 82 percent?

Mr. BIFFLE. 82 percent—or——

Senator DURBIN. Airline passengers participate in a loyalty program?

Mr. BIFFLE. Oh sure, yep.

Senator DURBIN. What kind of law is there that regulates the frequent flyer programs so that the airlines can't just dump your miles that you have accumulated over years and years? It is a trick question. There is none.

Mr. BIFFLE. Yes.

Senator DURBIN. So I introduced a bill called the Protect Your Points Act, which just answers the basic questions. I am going out of my way to save up all these frequent flyer miles. Are they worth anything? Can they cancel them all tomorrow? Do they owe me anything? Do they have any value to them? For a lot of people, this is a big investment. They make a decision on when and whether they are going to travel based on whether they can use miles or win miles in the process. What does it do to your competition at Frontier?

Mr. BIFFLE. Well, so it helps us to a degree, but it harms us in that we just don't have the scale, right? So if I had access to the big airlines networks, the same credit card someone used would get them more places they could fly, as an example. We are doing things to innovate, like we're introducing a first-class seat so people can get upgrades and so forth, but again, I just don't have the scale, so I don't get that benefit.

Again, having—I made the comment a while ago, people will get much more value from my card, but I'm small, so it's hard to convince people and market it. Once you get into that behemoth status, it's hard to stop that kind of momentum.

Senator DURBIN. I have learned the hard way what it takes to get your name in lights at DCA, just to introduce a bill that addresses the interchange fee and the swipe fee on credit cards, and they will have a sign that says "Stop the Durbin-Marshall Amendment." Do you have any idea what the interchange fee is that you are collecting or paying?

Mr. BIFFLE. It depends upon the—you know, the network, but we pay as little as 200 basis points, as high as 300 depending upon who it is. American Express is one of the highest.

Senator DURBIN. Obviously, the major airlines look at my bill with Senator Marshall like the devil hates holy water, the idea that there would be some competition on the swipe fee or interchange fee, and that is to the benefit of consumers, ultimately, if we can do it.

I would like to ask you as well, when you look back over time, you have been involved with a number of airlines on the safety issue. Can you make any comment on the pilots and the availability of them and the shortages and pilots that we are running into with many airlines?

Mr. BIFFLE. Sure, So fortunately, the pilot shortage that we had a few years ago has now kind of dissipated. It could come back at some point. I think the main concern we should have with pilots is the availability of quality training and so forth, and there's a lot of data-driven things that we can do and simulations that can get them there, and I think we should spend time looking at, you know, the data we have, even once they're on the line, and—because you've got Folkwood Data as an example where you can monitor bad habits of some versus others. I mean, we can—in every one of these incidents—take the Colgan incident and many of the others. There were plenty of predictors. Had you been following those pilots before, you would have seen that there—these habits were there before. And so a simple 1,500 arbitrary rule is not how you get it. There are data-driven approaches that you could do to improve safety with pilots.

Senator DURBIN. Thank you. Thanks, Senator Booker.

Chair LEE. Senator Hawley will be up next, but since we have had a couple of question rounds in there where we have had some focus by the smaller companies, Ms. Pinkerton, if you wanted to respond to the smaller carriers before we turn to Senator Hawley, and I would be happy to let you fill in here. If not, we will catch you in subsequent rounds.

Ms. PINKERTON. I'm happy to address the gate access issue, for example, that that is certainly something—you know, A4A represents large carriers and some smaller ones, and we've heard from smaller carriers about gate access issues. I think, though, it's important to remember, No. 1, it's the law that airports must provide access to new entrants, and there are a number of mechanisms that enable that to happen. So if you're going to take a Federal grant, you have to provide access.

Many airports are required to file a competition plan where they have to spell out exactly how they are going to provide access. And then Mr. Biffle mentioned the lease agreements. Lease agreements are another tool that airports have to ensure that new entrants have access. In fact, there are already use requirements so that carriers cannot sit on gates that aren't utilized. If they do that, the airport is well within their rights to take that gate back.

I think what's important here is that the FAA should be providing oversight to airports to make sure that they're enforcing the law that exists, and then if the FAA isn't providing that oversight to airports, I would say Congress needs to provide some oversight to FAA.

Chair LEE. Okay. Senator Hawley.

Senator HAWLEY. Thank you very much, Mr. Chairman. Thanks to all the witnesses for being here.

Mr. Biffle, if I could just start with you. About 9 months ago, your chief commercial officer testified to me that Frontier pays its gate agents bounties to stop paying customers from carrying bags onto the plane. Is this still happening?

Mr. BIFFLE. Not at the rate it was. We changed our——

Senator HAWLEY. Well, wait, wait, wait. What does that mean? So are you still paying your gate agents to stop your customers from carrying bags on? You were paying them at least 10 bucks every time you would stop a paying customer from carrying on a bag, your gate agents to get paid for it. Is that still happening?

Mr. BIFFLE. We do offer incentives and commissions——

Senator HAWLEY. You do.

Mr. BIFFLE [continuing]. To stop people who didn't pay, not who paid, who didn't pay.

Senator HAWLEY. No, you are paying your gate agents, so it sounds like you are still doing it. You are still paying them money to harass customers from bringing bags onto the airline by saying it is too big or it doesn't fit in the little box or whatever the case may be. You are still doing it. That is your testimony today? Why?

Mr. BIFFLE. I don't know that I would describe it that way, but we do provide incentives.

Senator HAWLEY. Why would you pay your own employees to harass your customers? Why is this good business practice?

Mr. BIFFLE. Unbundling enables us to offer low fares, and the lower fares, many people could not afford to fly if they didn't have the lower fare option. But in order for the system to work, everyone has to be treated fairly, and when people then—a small percentage——

Senator HAWLEY. Wait a minute. Why are you paying your agents? This has got to be the only business in the world I have heard of that pays your people to harass your own customers. These are customers who have purchased a ticket. They have a carry-on bag, and you are paying your people at the gate to stop them and say your bag is not quite right. It doesn't fit in this.

We heard testimony. The Permanent Select Committee in this Senate has done a thorough investigation of this. We heard testimony from numerous of your customers saying they were wrongly stopped and harassed. There is no appeals process. There is nothing. You are making gobs of money on it. You generated $40 million in fees on this according to your own data. That is amazing. And you are still doing it. I mean, in what world is this defensible?

Mr. BIFFLE. It's fair.

Senator HAWLEY. It is fair to whom?

Mr. BIFFLE. Well, you continue to insinuate that they paid for their bag, and they did not pay for their bag.

Senator HAWLEY. They paid for a ticket that allows them——

Mr. BIFFLE. They paid——

Senator HAWLEY [continuing]. To have a carry-on bag, and you are paying your agents to harass them to stop them from carrying it on. You know, the only other airline I know of, Spirit, was doing this, and they stopped because they said it was a terrible experience for the customers. Your customers hate it. This is one of the reasons they hate to fly. I can't believe you are still doing it. How much money have you made on it this year so far?

Mr. BIFFLE. Considerably less, if you will let me speak. What we did is we introduced the New Frontier. We have very simple branded choices, complete transparency.

Senator HAWLEY. Wait a minute. Wait a minute. First of all, you are not a victim here, Mr. Biffle, okay? You are making billions of dollars, and you are treating your customers appallingly badly. And the fact that you are still paying your employees to harass your own customers, I think, frankly, is unconscionable. I said this 9 months ago. I thought for sure it would have stopped by now, but I can't believe you are still doing it. So I don't feel sorry for you one little bit. In fact, I think you should apologize right now to all of your customers for what you are doing to them. And I think you should turn around and give them back the money that you have taken by forcing them to surrender their bags and pay extra fees after they have already paid a price.

I mean, I don't get it. You know, you seem to be totally baffled by this. You think that this is just fine.

Mr. BIFFLE. I'm not baffled. I think it's—you're insinuating that they paid for a bag that they didn't pay for.

Senator HAWLEY. No, I am insinuating——

Mr. BIFFLE. It's——

Senator HAWLEY. I am not insinuating anything. I am accusing you, actually, of doing something that I think is wrong, of incentivizing your own employees to treat your customers badly. And the money you are making on it is astounding, just astounding, $40 million in fees. 62 percent of your revenues come from these ancillary fees, of which these additional baggage fees are part of it, and you just seem to see nothing wrong with this. I mean, do you not understand that this is why people hate to fly? They hate that they are treated terribly when they go to the airport by airlines, and you are paying your own people to do it. Do you want to say anything to your customers or to the flying public?

Mr. BIFFLE. I think we've made huge progress in this area this year. We have introduced—as I started to say, we've introduced an economy product. That product is for $20 to $30, gives you free change fees, free seat assignment, carry-on bag. The persons that you're discussing are the people who bought a basic product, not that product, and they didn't pay for it.

Senator HAWLEY. Will you commit to quit giving incentives to your employees to stop customers and take their bags away? Will you stop that? Your other airlines have done it, your competitor airlines, your peer airlines. Will you commit here today to stop paying your employees to harass customers?

Mr. BIFFLE. Can I ask a question?

Senator HAWLEY. I would like an answer to mine first.

Mr. BIFFLE. I—we will look at that, but I don't——

Senator HAWLEY. That doesn't sound like a yes or a no. Can you just say, yes, we will stop paying our gate agents to harass our own customers over their bags?

Mr. BIFFLE. We are not harassing customers.

Senator HAWLEY. Yes, you are. And I invite you to read the report by the Permanent Select Committee of this body that investigated this and took testimony from your customers. Indeed, we took testimony from your own executives on this. This is a reality. Or, alternatively, you could go out to DCA here and go and ask some of your customers how they feel about it. I know what they will tell you. They will tell you what they told us. They hate it. They feel badly treated. They feel like they are treated like cattle, and you are making tens of millions of dollars off of it, and I just think that is wrong. I just think it is ridiculous.

I have got a lot more questions for you, but I know other people want to ask questions.

Chair LEE. Thank you. Senator Booker.

Senator BOOKER. Professor Sitaraman, first of all, my tone will be different than Senator Hawley's but the same energy. I want to bring that to you for that hair, the same negative energy there, sir. I just want to stipulate that for the record. Okay? Are you ready for me?

Professor SITARAMAN. I'll trade you an inch of hair for an inch of height if we can make that deal.

Senator BOOKER. We might have a deal. We might have a deal, sir. Okay. I would like permission to treat the witness as hostile.

Sir, I am really concerned about Americans who don't have access to air travel because of where they live, and I want to know how can we ensure that millions of Americans who don't live around major cities can have access to reliable, efficient flights and that the airlines themselves stay afloat. Can you give me your perspective on that?

Professor SITARAMAN. Well, thanks, Senator. I agree this is a big problem, and I think the core thing to start by understanding is why this happens. Why are small cities, why are mid-sized cities losing air service? And I think there's really two reasons behind it. The first is that in some places it is uneconomical to serve. The volume of passengers is very small, and it's costly to fly. And in those places, it's not going to make sense for an airline to serve unless they get a subsidy, or unless there's a requirement, a kind of duty to serve like we have in other areas of law.

The second reason is because of consolidation. As a number of people have mentioned already up on this witness stand, and as has been mentioned by Senator Lee, this is an industry in which there are network effects, there's economies of scale, and there are barriers to entry. And those things create tendencies toward consolidation and concentration, and when you have that, there's an incentive for airlines to focus their operations in bigger and bigger cities. That's why we have the hubs that we have, and that often means de-hubbing certain places or reducing service to others. And I think this is a serious problem because we have an airline system that is essential infrastructure for our country. It provides——

Senator BOOKER. And you in your testimony go into that a lot, and you speak actually I think quite persuasively about the economic benefit to our country as a whole when you ease transportation. Roads, we don't not pave roads to areas. And you almost say that it should be almost like a utility and that kind of obligation. Is that correct?

Professor SITARAMAN. Yes, that's right. And if you think about it this way, would you ever start a Fortune 500 company in a city with no air service? You wouldn't do it. If you were an entrepreneur with a great idea, a kid growing up——

Senator BOOKER. But we have even seen VC dollars far more—if you have a direct from Silicon Valley, VC dollars more. That is how vital it is that people won't even necessarily even invest in businesses that don't have that. There is a correlation, I should say, maybe not a causation.

Professor SITARAMAN. And that's why this is basic infrastructure. And I think that what we want as a country is for people who grow up anywhere to have opportunities.

Senator BOOKER. But your solution to that is for Congress to act.

Professor SITARAMAN. Yes, I think that's right. So the current solution that we have right now I don't think is working, and that's the Essential Air Service program. It provides a subsidy to a number of very small cities. But these are very, very small cities, and they don't include a number of other places that have lost service in recent years.

I think one proposal that I've put forward, and these are ideas that I think should be debated, is what I call the NFL draft-pick model. And the idea is that the biggest airlines would be like the teams. There'd be a bunch of cities that would be like the players. And the airlines would have to pick cities that they want to serve, would go in order, until all the cities are covered. And they would have to have affordable access.

Senator BOOKER. Right, and I am just going to interrupt you because I want to get one more question before my time. But it is this concern I have about the hollowing out of certain communities because of consolidation. We have talked about in the agricultural sector we have seen entire businesses being killed in towns that are the connective tissue of our country. And I think this should be one of the things we should be looking at when these towns and communities lose air traffic, they lose economic investment, they lose opportunity, and many times they lose out on what adds—how should I say it? It adds vibrancy to a community.

I just want to shift, Mr. McGee, to you really quickly in the remaining time that I have. Can you speak to me about an idea that I really believe in, which is this idea of passengers have fundamental rights and what Congress could do to better protect passengers who still often report very bad experiences? I think that Senator Hawley was scratching at that as well—well, maybe not scratching, but pounding at that as well.

Mr. MCGEE. Yes, thank you, Senator. The fact is the United States lags much of the world in terms of passenger rights. This is the standard operating system in the European Union, United Kingdom, Canada, India, countries all over the world, that there are mandatory rights in terms of what you—how you will be compensated when there is a flight delay, a cancellation, mishandled baggage.

Here in the United States, we greatly allow airlines to police themselves. They write contracts of carriage written for and by themselves, and we adhere to them every time we swipe a credit card and buy a ticket. Now, the fact is that the irony is the largest U.S. airlines—Delta, American, United—if you're flying on them and you encounter a problem, a canceled flight or a delay on foreign soil, you will be treated much better than on American soil. So if you're on Delta and your flight is canceled——

Senator BOOKER. And I want to——

Mr. MCGEE [continuing]. You want to be in Brussels, not Atlanta.

Senator BOOKER. I want to just be respectful of Senator Moody, but I just want to say because there is so much bipartisan space and I am not trying to be partisan, but the Trump administration has rolled back some rules that would have given passengers transparency. Can you talk about the actual impact for American consumers of that?

Mr. MCGEE. It would be devastating. As I said, we already lag much of the world, but the few existing protections that we have, as I said, Airlines for America issued a 93-page suggestion to the DOT, and unfortunately, it seems like this DOT is adhering to it. It would be devastating. Right now, they're doing it in a request for further information. We and others will be weighing in. But we should all be on guard that if you think air travel is problematic now, it will be absolutely awful a year from now if the DOT rolls back the provisions that we already have.

Senator BOOKER. Thank you, sir.

Thank you, Mr. Chairman.

Chair LEE. Senator Moody.

[Off mic.]

Senator BOOKER. Microphone. And I am sure he spends more money on product than you do.

[Laughter.]

Senator MOODY. For sure. You can give me your tips later.

Thank you for being here today, very important hearing, very important hearing. One of the things that we struggle with, I think, specifically in the airline industry is the understanding—as I come at other industries—coming from as attorney general, one of our big challenges was we had consumer protection laws. Many of us had antitrust divisions. And when you are approaching mergers, acquisitions, you are always trying to make sure that there is meaningful, true competition, while at the same time making sure you are never, as a Government, selecting the winners in a market because that in of itself negates meaningful competition.

And I was very frustrated with a particular case in the sense that we have—for those that don't know—and the American people that may be watching, we have legacy airlines, we have low-cost airlines, and then we have ultra-low-cost airlines. And we have two of our ultra-low-cost airlines with us today. Is that how you would describe yourself? Is that your——

Mr. ANDERSON. Sorry, Senator, we like to refer to ourselves as value airlines, but——

Senator MOODY. Value airlines.

Mr. ANDERSON [continuing]. It is a common——

Senator MOODY. Okay.

Mr. ANDERSON [continuing]. Term that is used, ultra-low-cost carrier.

Senator MOODY. So my concern is, once you come into the market as a new player, and let's say you come in as a value airline or even a low-cost airline, do you think that you have to stay there for the duration of the existence of your company?

Mr. BIFFLE. Is that——

Senator MOODY. Just answer, either one of you.

Mr. BIFFLE. Well, it is not uncommon for airlines to evolve. Probably the best example today is Southwest, started out as low-cost, and they are now evolving to offering and suggesting that they may have either other legacy or big network attributes if that makes sense.

Senator MOODY. Yes, so I was very frustrated under the Biden administration when the Spirit and Jet Blue announced that merger, and by the next March, Florida came in and looked at that and said very clearly, we can make sure we have better capacity, better flights, ensure competition. We announced a settlement. This was only probably about 6 months after the announcement. And the next day, DOJ announced they were going to fight, and they were going to block that, the next day. It showed very differing philosophies on how to ensure competition and ensure that Government was not picking winners and losers, very different philosophies.

And the reason we worked so hard on that settlement and announced that settlement was because we knew that one of those players was in financial jeopardy, and this was going to be a way to make sure that consumers could still take advantage of that capacity. And it might even present more competition for legacy airlines. I mean, that would be new, right, and something we would all want to see. And within a year, because the DOJ under Biden fought that, that was blocked. And then, of course, what we expected, Spirit filed bankruptcy. I think now they are on their second bankruptcy. I think I would like to ask Ms. Pinkerton, how can we ensure that Government is not placing a finger on who wins and loses in competition among airlines?

Ms. PINKERTON. Well, without addressing—I can't address your specific situation that you're talking about there, but I believe that something that is definitely an issue for all airlines are certainly what we're calling cost convergence. So we're seeing increased airport costs, we're seeing increased labor costs because we're paying our employees more, and we're seeing increased regulatory costs. So I think it certainly wouldn't be tipping scales to say we shouldn't be imposing additional costs on the industry, and also what can we do for the entire industry?

As I have said in my testimony, I really think a broken air traffic control system and an air traffic controller shortage is the most significant threat to competition because we're flying 10 percent less today because we don't have adequate controllers and adequate infrastructure. So that's my—that's our policy suggestion.

Senator MOODY. If I had more time——

Chair LEE.

[Off mic.]

Senator MOODY. I do? Thank you. Since it is so specifically related to antitrust, can I ask our value-based airlines if in fact you were facing a situation where you were dealing with the financial health of your company, and the only way to continue to provide service and capacity was to evaluate merging, do you believe Government should work with the stakeholders in order to ensure that you can continue in existence, or do you think that they should block you out of some sort of——

Mr. BIFFLE. Well, I would say that——

Senator MOODY [continuing]. Protection of——

Mr. BIFFLE. Well, I think——

Senator MOODY. Maybe protection of legacy carriers.

Mr. BIFFLE. Let's go back to the Spirit—let's go back to the Spirit-JetBlue example. Having been around the industry for three decades, I was shocked. I mean, we created a system of the Big Four controlling over 80 percent of the market, and then two of the small players were trying to get together. I mean, I found it laughable that anyone would think that was something that should be stopped. In fact, I would argue that all of the other small carriers—and just stop and think about this. All of the non-Big Four altogether are not as big as one of the Big Four. You should give all of us antitrust immunity. Like your job should be to say, if I really want to fix these things, what should I go do? You should give us all antitrust immunity. You should give us not lip service about the gates.

I'll give you real examples about gates. I should tell you about some horror stories about things that have happened this summer in Atlanta. I take real exception to being—that the answers are that I should be fined or do things when the reality is the system's rigged against us. You fix the gates.

And I think you need to look for scale things that you could do on the mileage programs. Example being, you know, one of the things you could do is give value carriers like us, our mileage programs, access to the big airlines' networks at the cost that they charge themselves for miles. I mean, there's some real remedies that the Government should do to correct what we now all recognize has been bad for consumers, and that's allowing the Big Four to control the market.

Senator MOODY. We had a low-cost airline trying to merge with a value-cost airline so that one could stay in existence——

Mr. BIFFLE. Yep.

Senator MOODY [continuing]. And the Government said, nope, we are the Government, we are going to block that, and then one had to file bankruptcy. I just don't know that that has resonated with our policymakers or our lawmakers. Hopefully, this administration takes a new approach to ensuring true meaningful competition. That is my hope. I am seeing very good signs out of this new administration.

But I do think we need to not lose sight of the fact that exactly what I knew it was going to happen, happened. And we can't keep this up if, in fact, we are trying to keep costs low and travel possible for all Americans.

So thank you so much.

Senator BOOKER. See, you could have taken more time. The Chairman was distracted for a moment by his incredible staffer behind him.

Chair LEE. We were just commenting on how outstanding your questions were.

[Laughter.]

Chair LEE. All right. Ms. Pinkerton, let's go back to you for a minute. You noted that air traffic control systems cost the economy about $25 billion annually in delays. That is every single year. That is nothing to sneeze at. That is a significant thing. That is, I assume, taking into account the economic cost.

Ms. PINKERTON. Of time.

Chair LEE. People, yes, sitting where they would be moving. So what impact do you think the modernization of air traffic control might have on that problem and on the market as a whole?

Ms. PINKERTON. In fact, I heard Administrator Bedford at the U.S. Chamber a couple of weeks ago say that he thinks the economic benefit—I'm going to get his numbers wrong—but could be anywhere from almost $1 trillion over time because we're not—you're not just stopping the delays and cancelations, you're building the system and allowing for more growth. And as you know, we drive 5 percent of the GDP, et cetera. So it's—I'll get back to you on the exact—his exact numbers, but it is an enormous potential for economic benefit.

Chair LEE. Okay. Because otherwise, you are just talking about delays, just delays because of administrative limitations on our ability to direct air traffic, whereas if we modernized it, you would have fewer of those.

Ms. PINKERTON. Fewer of those and the ability to grow——

Chair LEE. Yes.

Ms. PINKERTON [continuing]. Instead of shrinking, which is what we're——

Chair LEE. Right.

Ms. PINKERTON [continuing]. Doing right now.

Chair LEE. Right. So right now, we are acting as if the pie were limited or even a shrinking pie.

Ms. PINKERTON. Correct.

Chair LEE. Yes. We have been forced into that. Okay. Thank you. That is very helpful.

Mr. Anderson, I want to go back to you for a second. In your opening testimony, you talked about some of the benefits of international joint ventures. Talk to us about that. And you know, do you see the Caribbean, Canada, or Europe as additional markets that could benefit from value, ultra low cost, whatever you want to call this niche of the market, joint ventures going on in that area?

Mr. ANDERSON. Senator, thank you for the question. We applied about 1,400 days ago for antitrust immunity with Viva Aerobus down in Mexico. And Mexico was the largest transporter international market. And what that was—what we were asking for is the ability to scale in size and compete with some of the larger carriers, the international carriers that—such as the legacy carriers that have these antitrust immunities. And so by——

Chair LEE. You mean the immunities in connection with the international co-chairs?

Mr. ANDERSON. Right, with partners. For example—well, there's several examples, I think dozens of them that exist today, international being a very important part of obviously the travel ecosystem. What we were looking to do was provide direct nonstop service from those communities that we serve that currently do not have it into some of those Mexican beaches such as Cancun, Cabo, or Puerto Vallarta and to do it at lower fares.

Chair LEE. What is the biggest impediment to that? Is it regulatory, or is it something in the market itself? In other words, is there a regulatory reason why it is harder for them to do it, or is it just less attractive for them to go to all the work to do it with a smaller carrier?

Mr. ANDERSON. I think for us, our view is partnering—entering in the international market such as Mexico for Allegiant, partnering with somebody like Viva, who has the know-how and experience in that market, we think will allow us to scale in size and be more successful when we go up against some of the larger legacy carriers in the similar markets.

Chair LEE. Is there also a part of the limitation that has to do with the airports that you fly? A lot of the airports that you service are not currently international airports. Does that contribute to the problem? In other words, do you have to have presence from, I guess it would be CBP, at that airport?

Mr. ANDERSON. Yes, not all of our airports, given some of the communities we serve, have FIS clearance, which would allow for clearing customs, but there is a significant number of our airports that do, that we could fly or add direct nonstop service into those Mexican beach destinations.

Chair LEE. Okay, but that will typically—in order for that to occur on the U.S. end, you would have to have the involvement of both CBP and DOT. Is that right? Do both entities have to approve designating something for international flights?

Mr. ANDERSON. My understanding—and I apologize if I'm incorrect on this, but we are just waiting—or it's for the DOT that would approve.

Chair LEE. DOT is the one——

Mr. ANDERSON. Yes.

Chairman LEE [continuing]. That approves it. Okay. Got one other question, and then we will turn to Senator Blumenthal.

Mr. Biffle, a moment ago you took me off guard when you said maybe we should have all airlines, regardless of size, legacy, value, ultra value, or whatever you call yourselves, should have full antitrust immunity. I did not expect that. That was not on my bingo card for today's hearing, particularly from a smaller carrier. Tell me why you say that and why you think that would enhance the state of competition in the industry.

Mr. BIFFLE. Well, I took this hearing very seriously. I was flying out last night, and I thought about how do you get it where the small carriers can compete with the Big Four? And I came up with a couple of solutions, and I think that's one that would be very powerful. I'm not saying antitrust with the Big Four. I'm saying everybody else should work together to provide a real forcing mechanism to provide competition to the Big Four, and that would be a great way to do it.

Chair LEE. But if nobody is subject to the antitrust laws at that point, the skeptic would say that is going to foster collusion.

Mr. BIFFLE. Well, help me out with it. I mean, so a quarter of the market is controlled by one. There's three other carriers that are around the 20 percent mark. You've already got 20 percent being controlled by one entity. What's your problem with the small guys controlling 20 percent?

Chair LEE. I mean, one could argue that, moving forward, what that would do with respect to future proposed mergers and acquisitions, I mean, particularly if you are talking about full antitrust immunity from the full panoply of antitrust laws. There is no reason why you wouldn't see even more consolidation than we have had up until this point.

Mr. BIFFLE. I don't know if you'd see more consolidation, but you'd see us work together better in airports, and you've got—let's take gates. You've got finite resources. If Greg and I were able to work together, our teams work together on coordinating schedules so that we better mash up our schedules so that we both run a better reliable operation in fill-in-the-blank city, the big airlines get to do that.

So I'm saying you've got a massive problem in this country where the Big Four scale is pushing down competition. If you want to give us a level playing field, give us a level playing field on the gates, give us a level playing field on competition, give us some kind of remedy to solve against the loyalty and the credit card. I mean, that was my other suggestion is give our credit card customers access to the big networks at the same cost that they booked for themselves in their accounting. So I'm just giving you real solutions. Look, I took it serious. You want more competition in the country, and I'm telling you these are things that are big issues.

And I would throw you one more that's very low cost, much cheaper than the modernization of ATC and not well understood. When you have—look, we're going to have weather, especially in Florida, right? And so there's limited corridors, and we can modernize, but I don't think a lot of people realize that general aviation can manipulate the ATC capacity. So a private jet can actually go in, and when we have a scheduled flight at, say, 11 a.m., I can't file a flight plan for a different time. I have to file the flight plan for my scheduled time, right?

So let's say Mr. Blumenthal has a private jet. He wants to fly at 11. Maybe he doesn't, but I'm just saying, say he did, you know, as an example. Well, what his pilots——

Senator BLUMENTHAL. From your lips to somebody's ear.

Mr. BIFFLE. Right. Maybe it's somebody else, but I'm just using it as an example. So his pilots know he wants to go at 11. They know there's a 3-hour ground delay program. Well, his pilots will just file for 8 a.m. He shows up at the 11, never knows the wiser, they go take off.

Meanwhile, I have to go through this airspace a couple times a day, and I blow up my crew, and then I have to cancel two flights with a couple hundred people on each. Four hundred people get inconvenienced so three people could take a private jet. And this is happening every day in every major storm event for the Northeast and Florida, and this is what contributes to thousands of customers being canceled. And this is why I take real exception to people saying, oh, I should compensate them. No, I think the Government should step in and look at all the places that I have to cancel a flight. Neither one of us ever want to cancel a flight. I don't want to harass customers. I don't want to cancel a flight, but I want to operate safely. There's never a time where I'm going to want to inconvenience someone. There's generally a reason, and I think what you should look into is why. Why would we have to cancel at a higher rate?

Take Atlanta. Let's talk about gates. So this summer, true story, I personally got involved. We had over 10 flights that had over 3-hour tarmac delays, over three, one 5 hours. I got on the phone personally with the airport control towers in the middle of this event because I was so upset about why can we have this delay. I'm on the phone with them. We had a medical emergency on a 5-hour delay, medical emergency. Someone would have a heart issue. We got cleared by the tower to go. Our plane starts moving toward the gate, and an Alaska plane pulled in front of us and parked at the gate.

We found out that Delta controls the ramp there, and they had cleared them. While we're trying to figure that out, Delta goes and takes another plane at another common-use gate. This was just happening, and no one else experienced this kind of event, but we had a couple thousand customers that experienced over 3 hours, all because we don't have the same gate access.

And while all this was going on—and I take real exception to your comment earlier about there's rules—Southwest Airlines has four flights per day, and during that event, during that event, Southwest gates were open. I had customers and employees taking pictures, so I've got people even including a medical emergency——

Chair LEE. Is there an area where they have exclusive ownership of the gate?

Mr. BIFFLE. They've got exclusive ownership of the gate, and their minimum use is only four flights a day in Atlanta. They can control a gate with four flights, and yet I'm using the equivalent of 10 to 12 flights. Anyway——

Chair LEE. Okay. I apologize to Senator Blumenthal. I didn't intend to eat up that much time. You are up to bat. Thank you. And I will give you all the time you want now, both because I feel bad, and I want to ride on your plane someday, so——

[Laughter.]

Senator BLUMENTHAL. You know, I always knew I disliked those private planes, and now I know why. And just anecdotally, I fly from Hartford to Washington, DC, pretty regularly, and I fly in the regular whatever it's called now, class, and every other flight someone will say to me, "I thought you guys had private planes." And I know that my colleagues from places a lot more difficult to get to than Connecticut wish they had private planes, but we experience the same kinds of travails that your customers do.

And plainly, we have a lot to learn about how we can improve this system because it sounds like we are, often to me, dealing with a system that is decades old, and we have failed to use the more modern technology on air traffic control, on the gate system, kind of an archaic rubber-bands-and-glue kind of system that we have right now.

But I want to focus on an area that Senator Hawley, I think, introduced, which seems really top of mind for a lot of flying customers. First of all, you know, for a long time, I have fought the consolidation of the airline industry, so I am with you on the level playing field. 80 percent of the market for air travel in the United States is controlled by four giant airlines, and the mergers over the last 20 years, and having produced this consolidation, mean fewer choices for many people, a worse travel experience, and more nickel-and-dime fees, one of them being this bounty system. I know Senator Hawley has asked you about it. Not sure that he had time to finish.

Last year, the Permanent Subcommittee on Investigations, which I Chaired, conducted a yearlong investigation of all of the airlines' approaches to these fees and charges, and we found that five airlines generated $12.4 billion, $12.4 billion in seat fee revenue alone between 2018 and 2023. Billions of dollars more are collected in the bag fees. The Subcommittee revealed for the first time, the extent that your airline and Spirit had a bag bounty scheme where those airlines, as you know, pay so-called bounty to their employees for collecting bag fees at the boarding gate.

So first, I would like to know—and I think you answered this—that the practice is continuing. What the justification would be, what explanation you would have, but also what can be done about those other fees, the charges for sitting together, family Members, the charges for the other kinds of services that are provided when the cost for them to the airline is way below what is charged, and therefore, it is used as a profit or revenue center.

I will begin with you and maybe others can answer.

Mr. BIFFLE. I'm sorry, so there's a lot there. What are the main questions?

Senator BLUMENTHAL. The main question is, why do you continue with a bounty fee?

Mr. BIFFLE. Well, so at Frontier, we want to enable the most people to fly. We have the lowest costs in the country. We actually generate the lowest amount of revenue per passenger, so we're giving more consumers the ability to fly than others.

Unbundling had proven to be very successful in enabling a lower entry price, and just like you sell a car, there's cars that—you can buy a Tercel that's stripped down, or you could buy a fully loaded Cadillac Escalade. And so it has been common practice in the world to offer a base model and bundle them back up.

And so what has happened is that if you have a system like this, if people cheat, it's no different than somebody shoplifting. I mean, if they go through, take a product, and the other person is charged for it, that's just not fair to consumers.

Senator BLUMENTHAL. But just to stop you there for a moment, I understand the business model, but it seems to me that if you were to raise your prices just ever so slightly, you could compensate for the fees that you charge on the bags, and most important, people would know before they got to the gate what the charges would be because right now, they arrive, and some agent at the gate figures they can be rewarded, so then someone is charged——

Mr. BIFFLE. Well, let me go back. So, look, I want to be the most friendly. We believe we've tried to be the most friendly, and I hope we could agree that that would be right. So before I answer the question about unintended consequences, so Southwest Airlines earlier this year announced they're going to start charging for bags, and we saw this as a major opportunity. We thought, my gosh, they've spent billions of dollars to build this brand, and, well, gosh, if it was so important, these are things people complain about, and so forth, let's do it.

So we announced that we would adopt free bags, right? And quite honestly, I was really hoping it would work for all these reasons. I wish they would. But you know what we found? It worked for a few days, and we got a lot of publicity, but ultimately, people didn't want to pay us more. There's what people say, and then there's what they actually do. And so I'd love to be as friendly as possible.

So what we've done—I don't want to pay anyone a bounty. And we've cut it way, way down because I've introduced an economy product for as little as $20. People are getting a bag, free change fees, and free seat assignments. And so with that low price, there's very little cheating going on. But the problem is, if you don't have some kind—I'd love to figure out a way to do it. The challenge is, is that everybody will flood them and not comply, and it's not fair to other people. It's just like insurance fraud. I mean, it's not a victimless crime.

So I'd love to figure out how to do it and have the best experience possible because I think we are on the side of the consumer. People can afford to fly by flying Frontier. So having said that, we haven't figured out a better solution just yet. And I even tried to raise the prices a little more, but it just hadn't worked.

Senator BLUMENTHAL. I don't want to dwell on you, but I understand your answer.

Let me ask Mr. McGee. My impression is the three largest airlines raise their bag fees pretty much in lockstep. Is that a sign of lack of meaningful competitive pressure to charge lower fees or other ancillary fees?

Mr. MCGEE. Thank you, Senator. And yes, I think the answer is absolutely. I mean, what we see with the big three in particular—American, Delta, and United—not just on fees, but even on fares, there's no need to signal pricing in this industry. Everybody sees them in ATPCO, in the reservation systems, et cetera. They see the prices. They don't have to have a clandestine meeting somewhere to talk about it, and there's no question that they're in lockstep.

That's not our opinion. That is stated every—4 times a year in the DOT's quarterly airfare reports. We were pouring over the last year's worth over the weekend, and you see that in—on routes in which the only competition is any combination of the big three, American and/or Delta and/or United, three, two, or one of them, you're paying the highest fares in the country, all across the country.

And, you know, I spoke about the effects of the low-fare carriers, but that doesn't mean there still isn't a lot of consumer anger and confusion over fees, and particularly the transparency of fees. And when you get to the gate, that's not the time you want to know that suddenly you can't, you know, bring your carry-on bag with you because that was the deal that you agreed to.

As I said before, these contracts of carriage, they are written by and for the airlines. We don't get to say, well, wait a minute, what about our rights? And so when you swipe the credit card, you're adhering to it.

Ms. PINKERTON. Senator——

Senator BLUMENTHAL. I was going to say, I'll give you a chance to answer.

Ms. PINKERTON. Thank you so much. From Airlines for America's perspective, none of our carriers charge a bounty, none of our carriers charge a fee for families sitting together, and none of our carriers are colluding on price. We are incredibly transparent. That is called competition. Absolutely, passengers today have more access to fares and the fee information than they've ever had before. It's ubiquitous. It's all over the internet. It's not collusion. It is transparency.

Senator BLUMENTHAL. Let me ask you, because we have had some evidence that AI is being used to target fees to individuals based on information as to their past travel and their ability to afford higher prices and their need to travel for certain reasons. Can you commit that none of the airlines that are Members of Airlines for America use AI in that way?

Ms. PINKERTON. In fact, to prepare for this hearing, I asked the carriers exactly that, and all of them—two A carriers said, no, they do not use personal information to do pricing.

Senator BLUMENTHAL. So if I wrote to them, and I intend to do it, you can guarantee that they would be willing to tell me that they never use personal information in artificial intelligence systems to change prices, vary them according to——

Ms. PINKERTON. To target a price toward you and using personal information to target a price toward a person, they do not.

Now, as I think Mr. Johnson from American told you, if you want a free bag, you need to put in the fact that you're a frequent flyer at American. So they do use that kind of information, but absolutely, they do not use personal information like have you—did you have a death in the family or anything like that with AI.

Senator BLUMENTHAL. Well, I don't mean only a death in the family. I mean, have you traveled first-class on an——

Ms. PINKERTON.

[Off mic.]

Senator BLUMENTHAL. Okay. Well, I don't want to prolong this questioning, but thanks, Mr. Chairman.

Chair LEE. Thank you.

Mr. MCGEE. Senator Britt.

Senator BRITT. Yes, Mr. McGee, you were shaking your head. Do you mind responding to that?

Mr. MCGEE. Yes, thanks very much, Senator. I think the devil is in the details and in the language, and we really need to clarify, once and for all, bring in all the airline CEOs and ask them, please define personal information. It may not say that Senator Britt or Senator Hawley, that we are targeting pricing on that, but what it will say is there are algorithms built into these systems that track how you shop, when you shop, why you shop, how often you book, how long you're on there. I think if we all knew——

Ms. PINKERTON. But that's——

Mr. MCGEE. Excuse me. I think if we all knew what the airlines knew about us, it would be—it would blow our mind. And I can tell you that Consumer Reports in 2001, almost 25 years ago, we first stumbled upon this odd thing where we were doing testing just to see which were the best websites, and we suddenly found, but wait a minute, in real time doing very precise testing with identical itineraries, we were getting different results on different browsers and different computers. That's 24 years ago. I can't imagine how much the technology has improved since then.

So we need to clarify, what is it about your shopping habits? They may not know personal information about you, per se, but we need to clarify that.

Senator BRITT. Thank you very much. Mrs. Pinkerton, I would like to just talk to you real quick. Alabama's four largest airports are predominantly served by carriers within your organization there. Look, we depend on that, the reliability, the accessibility to these various different markets, and determines whether or not I get home for my daughter's volleyball game on Thursday night, or I am back at home in time for parent dinner with my son and his team. And so, you know, that just scratches the surface. Every, you know, working parent or people that are traveling around have things that they are depending on.

I have a question for you in just the sustainability to those markets. You know, what are you looking for? And just very quickly, you know, what keeps those routes open and reliable?

Ms. PINKERTON. Yes, you—so you've identified small community and medium community service as being absolutely essential, and I will say that this network system that the carriers have developed, hub and spoke, is what enables them to efficiently, with fewer planes and fewer people, serve those markets. I talked earlier about the increasing costs, whether it be regulatory costs or labor costs or fuel costs are all increasing. So to the extent, you know, that we can help keep costs down will help continue to see airfares be at all-time lows. There are some structural issues like——

Senator BRITT. Okay.

Ms. PINKERTON [continuing]. Yep, sure.

Senator BRITT. And I am running out of time. So just quickly, what are those structural issues?

Ms. PINKERTON. Structural issues, no one's making a 50-seat plane anymore, and so——

Senator BRITT. Okay.

Ms. PINKERTON [continuing]. You're—you may see less frequencies in small communities, but you're seeing more seats because they're flying bigger planes. That's good. And certainly for small communities, the pilot supply and mechanic supply has been a problem.

Senator BRITT. Okay.

Ms. PINKERTON. What we've seen is the regionals increase wages for pilots, and that seems to be working.

Senator BRITT. And so I think about somewhere like Dothan that is the hub and spoke, and obviously services our military community, too, right there, and we obviously do not want to see that continue to grow.

You know, Mr. Anderson, when we are looking at that—and I know Allegiant is the only airline that actually services Gulf Shores International Airport, and I would like to do a little invitation here for everyone to come to Alabama's beautiful white sand beaches. I think you will be pleasantly surprised. We are talking about other destinations here. I think you could just come right down to Alabama's Gulf Shores. But that has proven to be wildly successful. When you look at that, I think you have seen over 40,000 travelers coming down back and forth to Alabama's beautiful beaches.

Talk to me—and I think you also service Huntsville as well—about how you added those routes to underserved or new markets. What were the challenges or the barriers that you face to expanding? And what is the decision point for continuing those?

Mr. ANDERSON. Thank you for the question, Senator. We—as we evaluate markets, we have hundreds of markets that we look at regularly. 90 percent of those currently do have—do not have nonstop service, so it fits our model beautifully. We focus 100 percent on the leisure customer, which is a price-sensitive customer, and the value we offer is low fares with convenience.

And when we've entered into the Gulf Shores and the Huntsville markets in Alabama, those fit our model beautifully, and they've been successful, and we're excited about what we're seeing. We have service from Kansas City into Gulf Shores and other communities throughout the Midwest. But when we see the ability to stimulate demand and keep costs low, that's good, and that allows us to continue to grow our unique model.

Senator BRITT. Mr. Biffle, I would like for you to answer that same question as well, but before I do that, Roll Tide. It was a big win on Saturday, good stuff.

Mr. BIFFLE. That was huge, right?

Senator BRITT. It really was. My favorite play was the Kadyn Proctor to the side, number 74, getting the ball. I don't know if you all watched this, but you should Google it right now.

Mr. BIFFLE. Oh, well, my favorite was the look on Kirby's face when he was walking off the field, but——

Senator BRITT. That was something too.

Mr. BIFFLE. Yes, that was good.

Senator BRITT. So tell me, how do you decide about new markets, and how do you expand those?

Mr. BIFFLE. So look, we—unlike Allegiant, we're more in—competitive. I forget, it's less than a few percent of our routes have no competition. So we tend to focus on giving consumers a choice in established markets. And so—and our smallest aircraft is 186 seats, so I have a difficult time, even though I'm extremely familiar with Alabama and all the markets there, even Gulf Shores. Some of them are smaller for us, and so it's more of a challenge for us to serve.

So we typically look at markets that we could fly at least twice a week, so the minimum market size, if we look at stimulation and so forth, we're going to be looking for a few hundred passengers that we think could go per week.

Senator BRITT. And what would create an incentive structure for you to come there? What do you look for in that market?

Mr. BIFFLE. So we're just looking, you know, is the demand there from A to B? We do do some limited connections in some of our bases, but we're typically looking at that local market, and so, you know, how many people want to go there?

The next thing is, what is the season? Is the season long? You know, for example, some of these small communities that have difficulty—I mean, I really feel for these. I'm from rural Texas, so I understand how a lot of this works too. And so I know that a lot of communities, they're very seasonal too. So small, seasonal, it makes it difficult. And so I have a—you know, I have a soft spot for these places, but the economic realities oftentimes are challenging for them.

This is where I do and would support some type of EIS, and possibly needs to be looked at for the size. I think the EIS needs to be moved up, I think. And also not just size, but just how hard is it to get there, right? So you've got places, let's take the Northwest United States. I mean, you get into the Dakotas and over. I mean, it can get really hard to get somewhere. I mean, not only do they not have service, it may be 500 miles——

Senator BRITT. Yes.

Mr. BIFFLE [continuing]. To drive to the next place that might have service, and it's not even great service there. So I do think there needs to be a more holistic approach there.

But yes, we look at the market size and the potential. Can it stimulate? And in general, we look at where—in many cases, where the legacies charge a lot of money. And we—we're attracted to that.

Senator BRITT. Thank you.

Chair LEE. Okay. I have another matter I have got to attend to, so I am going to hand the gavel off to Senator Hawley, as I recognize Senator Booker, who will be up next. It is unlikely that I will be able to return before you have adjourned. I will come back if you are still in session after then, but I will leave that in the hands of he who holds the gavel.

And Senator Klobuchar, you are recognized.

Mr. BIFFLE. Before you leave, Senator Lee, can I clarify something earlier?

Chair LEE. Sure.

Mr. BIFFLE. And just to make sure I understood you and you understood me. When I suggested that we should have antitrust for the carriers, I mean just the small carriers, not——

Chair LEE. Okay.

Mr. BIFFLE [continuing]. With the Big Four.

Chair LEE. Okay. Yes, that makes sense.

Mr. BIFFLE. I'm saying that——

Chair LEE. I was confused by that part.

Senator KLOBUCHAR. Yes, that would create——

Mr. BIFFLE. Yes, I'm just——

Senator KLOBUCHAR [continuing]. A lot of news.

Mr. BIFFLE. I'm saying the small carriers that represent the 20 percent——

Chair LEE. Got you.

Mr. BIFFLE [continuing]. Could work together to be a force to compete with the Big Four, not across them. They don't need any more help.

Chair LEE. Yes. Yes. I thought maybe you were setting yourself up for an acquisition or something.

Mr. BIFFLE. No, no, no, no. I apologize. Maybe I spoke too fast, but I just wanted to clarify. I was just saying, I think—I'm just, again, looking for practical solutions to fix the situation so——

Chair LEE. Okay. That makes sense. Thank you.

Senator KLOBUCHAR. Okay. Thank you. I want to thank Chairman Lee and Ranking Member Booker for this really important hearing. And I will say that with everything going on—that is a little bit of a euphemism—today, the fact that we have had so many Senators here and that they, as leaders, had so many Senators here show how important this is to people.

So our airport was once again named best in the country. Yes, you are welcome. But we hosted more than 340,000 planes carrying 37 million passengers last year at Minneapolis-St. Paul Airport and, of course, major hub. But it is also really important for us, being this hub, that we also have competitive carriers. We are the home of Sun Country, as you know, Mr. Biffle, and appreciate all of the competitive carriers we can get.

And one of the things that I have focused on with funding is to make sure we get gates in what we call our terminal 2, right, so that we have more infrastructure for competitive carriers, especially some of these big hub airports. Everyone is gravitating there, and it makes it more important than ever that we have competitive carriers. Could you talk about—I know you have been an advocate for this—but for just the infrastructure and the gates and how important that is in this marketplace of competition?

Mr. BIFFLE. Sure. I mean, look, I mentioned the beginning and we talked a little bit, the gates are the big thing. And it's not just having access, but having them at access at the same rules as the big guys. I mean, you know, we've had situations—I'll go back to Atlanta. You know, we've operated on 25, 30 different gates in a week. I mean, like, I could put my entire operation on seven gates. I mean, so—and that's across four different terminals. I mean, and you're putting our people and our employees, our customers, all having to move around like gypsies. And so it disrupts our operation. We don't provide as good on time. It ends up causing cancelations of flights, and people miss their flights because we have these constant gate changes.

And so, you know, the distinction of pref gates and having, you know, our fair share of pref gates and the ability to use them—I know in Las Vegas, we've had challenges—I know Allegiant has too—with, you know, common-use gates. But it's a major factor. And I think that it really needs to be looked into. It's just not a fair system. There are airlines hoarding gates. Over and over again, there's examples of gates given back to the airport, airlines like us trying to get them, and all of a sudden, the legacy carrier in fill-in-the-blank city all of a sudden just happens to get those gates. And nobody seems to care. And——

Senator KLOBUCHAR. Well, I think who cares is when you look at the numbers, right? When low-cost carriers serve a route, it is 20 percent lower.

Mr. BIFFLE. Well, I think it has to get to the level it's gotten for people—thank you for having this hearing—that we're finally going to get some attention drawn to this and getting some fair access to gates. It's a major issue, and it impacts us dramatically. I would say it was the No. 1—after weather and ATC, it was the No. 1 cause of cancelations for our airline this summer was gate access.

Senator KLOBUCHAR. Wow. Mr. McGee, do you want to add anything? By the way, congratulations on hiring Phil, our former staffer back there.

Mr. MCGEE. Yes, we're very lucky to get him. Thank you, Senator. Yes, as I said earlier in my opening remarks, we praise Senator Hawley for cosponsoring the Gate Competition Act. We think it's one of the single best pieces of airline competition legislation we've ever seen.

But I think, you know, we need to give some context, too, and that is that a lot of times when you walk into an airport in the United States, you'll see a big sign saying, welcome to our customers. Let's be clear, we are not—we the traveling public are not the airport's customers. Airlines are their customers. And so if you have a situation like you have in Charlotte where American Airlines controls 88 percent of all flight departures, it's hard to believe that the airport authorities are going to equally treat their customers when one of them is nine out of ten of all flights.

And so this really speaks to the larger systemic problems that we've had with deregulation. We have a commercial aviation system that has the best of both worlds. When times are good, they make money and they keep it and they use it for stock buybacks and they use it for executive compensation. And then when times are bad, they come right here, and they ask all of us taxpayers to bail them out. And so we need to have a bigger discussion. We're talking about a lot of really important issues today, but we need to have a bigger discussion about the systemic problems with deregulation and ways of fixing aviation once and for all.

Senator KLOBUCHAR. Just one, I know Senator Booker asked some good questions about that passenger bill of rights and how we got that passed a while ago out of the Commerce Committee and, you know, that was a while ago. And so that's why I think you see us working on some of these other issues like families sitting together. Could you comment on that one?

Mr. MCGEE. Absolutely. And we are very grateful to you for all your work in this area. The bottom line is that it seems we can never gain any traction. Every time we make any sort of progress on passenger rights in this country, after I already noted we lag much of the world, immediately airline lobbyists are trying to roll it back, to weaken it, or just eliminate it. And we saw it with the Airlines for America 93-page comments that they filed a few weeks ago. And we're very, very worried about the current DOT rolling back all of that hard work that has taken, in some cases, not years, but decades.

Look, as soon as we got fee transparency become a regulation, Airlines for America and other big carriers immediately sued the DOT. Really think about that a moment. They're suing the DOT, spending God knows how many millions of dollars on that. To do what? To prevent all of us from knowing the full price of a product before we swipe our credit card and buy it. There's something wrong with the inherent system here.

Senator KLOBUCHAR. Thank you very much.

Mr. MCGEE. Thank you.

Senator HAWLEY [presiding]. Senator Booker.

Senator BOOKER. Great. Three quick questions. Mr. Anderson, just really quickly, we talked a little bit earlier—you did—about the joint venture with Viva Aerobus, a Mexican-based low-cost carrier. The proposed deal which was reviewed this past April has faced opposition from labor unions, including the Teamsters, which represent 1,400 Allegiant pilots through Teamsters Local 2118. They are concerned, understandably, that this partnership could lead to U.S. jobs being outsourced to Mexican crews that are undercutting their wages.

And so, Mr. Anderson, is Allegiant still pursuing this deal? And if so, can you provide us any assurances that American jobs will be secured? And then do you really commit here that American pilots will not face job losses if the deal is successful?

Mr. ANDERSON. Thank you, Senator Booker, for the very important question. We are continuing to pursue this deal. We believe that through this joint venture, we will grow jobs, including pilot jobs Allegiant for American pilots, and we will commit to that within our application. I believe that is laid out as well.

Senator BOOKER. I appreciate it. I am hoping we can have more of a dialog on this as this goes forward. Is that Okay?

Mr. ANDERSON. We would welcome that.

Senator BOOKER. Thank you very much.

Mr. McGee, my penultimate question goes to you. Could you just be a little bit more specific—because I actually think we can get bipartisan support on this—about what the Trump administration is doing when it comes to rolling back these efforts of the previous administration and what the specific impact it will have on Americans from all across our country?

Mr. MCGEE. Absolutely. Thank you, Senator. I'm happy to do that. The bottom line is we don't yet know because the Trump administration is asking for public comments, et cetera, as part of the rulemaking process. But just the mere fact that these would even be put on the chopping block is extremely disturbing.

As you know, we had a very successful FAA reauthorization last year. It was bipartisan support. It was both houses. It was both parties. And we got protections that we had never seen before, including for the first time automatic cash refunds. And yet on the DOT list are things like fee transparency, on compensation, on all kinds of things. And so we don't yet know, but it is not a good sign that they're even asked to consider this. It's part of their larger deregulatory effort.

And it's just heartbreaking to think what travel will be like. We are talking about not being able to know the full price of your fare. We are talking about not being compensated when there are disruptive flight delays and lengthy flight delays and flight cancellations. As I keep saying, the contracts are written by and for the airlines. When do we get our say? If we don't have Federal protection, and particularly with Federal preemption that does not allow the States to get involved, who's going to protect the consumers? If we have a DOT Secretary who is indifferent to the concerns of passengers, you're pretty much out of luck other than with Congress.

Ms. PINKERTON. Senator, if I can just interject, I want to say for the record, Airlines for America supports every provision in the FAA reauthorization bill, whether it was family seating, whether it was reimbursement, automatic refunds. We are in support of those provisions.

Mr. MCGEE. But Senator, at the same time, they are saying that Secretary Buttigieg overstepped and expanded on some of these ideas. As one example, the language in FAA reauthorization was flight cancelations. He expanded it to lengthy flight delays. So we are in the same spirit of what Congress asked for.

Senator BOOKER. Okay. I just really want to end with you, Professor. Things have gotten a little hairy between us. But I want you to hit us with some bald-faced facts before we go. Could you do me a favor? Like you have written so extensively. This is such an area of research expertise for you. If you were advising this Committee—and you have some great ideas, I just don't know to the realm of what they are possible. But you can see that this is a Committee that has a lot of bipartisan feelings about our airlines. If you wanted to give us as a takeaway some specific achievable advice perhaps in this Congress of what this Committee can do together around these issues of airline concentration, what would you say?

Professor SITARAMAN. Well, thank you, Senator. Let me pick a few very specific topics for you. One is, I think, gate competition and hub concentration. I think we've heard a lot about that today, and there's room for action on that. And I think Senator Hawley and Senator Warren's bill on this would go a great deal in that direction.

Second, on the passenger side, the one that you opened with, which I think seat sizes are a thing that people find extremely frustrating all around the country, and I think setting a minimum floor could be a helpful step forward for passengers.

And then third, on stability and resilience, I think everyone is frustrated when you have an industry that does extremely well in the good years and then comes running to Congress for taxpayer bailouts and support when times get tough. And so I think requiring airlines to think about planning and being prepared for the crises that are likely to come is something that would be a reasonable thing to do.

Senator BOOKER. And the one thing I often hear in my conversations with some of the airlines is that on the global scale, they are competing against State-sponsored airlines. Do you have any thoughts about that competition that we have globally now as the world becomes a smaller place?

Professor SITARAMAN. Well, thanks, Senator. I think there's two parts to it. You know, one is sometimes you hear from people that the way to increase competition is to open up for foreign carriers to operate within points in the United States, and I think that's potentially a mistake because they are State-sponsored and might be able to predatory-price airlines here.

I think the second thing is we need to think about the competition side as well. And, you know, a number of people have touched on this as well, but I think there are real questions around partnerships and loyalty programs there, too, that could have an effect on competition.

Senator BOOKER. Yes, I really appreciate your work. I appreciate all the witnesses. And to our stand-in Chairman, I thank you very much for the latitude.

Senator HAWLEY. Absolutely. Thank you.

Let me just ask a question about the FAA reauthorization or tied to it. And thank you for mentioning it a couple of times now, Mr. McGee, and particularly the automatic refunds portion. That was my amendment with Senator Warren.

Mr. MCGEE. We're well aware of it, Senator, and we appreciate it.

Senator HAWLEY. I am glad that we were able to get it passed. Something else that the FAA did on a bipartisan basis, that reauthorization bill, was direct or authorize the Department of Transportation to issue rules making sure that families can sit with their children. And I can say, as a father of three young children, you know, this is something that is very important to families. Now, a lot of times passengers feel like they should be paid to sit next to my children, and maybe there is something to that.

But I just want to ask, Mr. Anderson, DOT maintains a list of airlines that are currently complying with this and allow families to sit with their children next to them. The children are ticketed passengers, I just want to clarify, this isn't free tickets. But they allow the children to sit next to the parents at no additional seat charge. Now, according to the dashboard the DOT has, your airline is not one of them, meaning, there is Allegiant right there with a big red X, meaning that you are charging families additional money over and above the child's ticket in order to sit next to a parent. I am hoping maybe you will tell me this is wrong. Is this accurate?

Mr. ANDERSON. Senator Hawley, as a father of four young children, it is a very important issue to me as well. We in practice nearly always accommodate our families. Our gate agents are trained and empowered to make sure it happens. And over the past few years, I think there has only been a handful of times in which we haven't been able to accommodate families to sit together.

Senator HAWLEY. But am I hearing you to say that—that doesn't sound like a yes. Am I hearing you to say that your policy is not to provide seating for families, that they may have to pay a fee depending on the circumstances? Is that right? Is that why you have an X? Or is this wrong? I would love to hear you say that this is just incorrect. Like all of these other airlines that have green checks, we do not charge additional fees for children who have already paid. They already have a ticket. They are ticketed. But your airline apparently is charging additional fees. I just want to know, are you still doing that? It sounds to me like you are, but please tell me that I am wrong.

[Poster is displayed.]

Mr. ANDERSON. You're not wrong. And the fact that we do have a red X on the DOT tracker there, but——

Senator HAWLEY. Why do you do that? Can you change that? I mean, can you tell us today that you are going to do what your other peer airlines do and you are going to quit charging families extra to sit next to their parents? I mean, we are talking about kids who are 13 years of age and younger. This isn't like the 18-year-old who probably doesn't want to sit next to his parents anyway. I mean, these are a little—it is like my 4-year-old little girl. I mean, I would kind of like to have her next to me and not—I have already paid for her, and not have to pay again. So I guess I don't understand. I know it is money, but, you know, I mean, don't you think that keeping families together is, you know, kind of important? The kids have already paid.

Mr. ANDERSON. Very important. And——

Senator HAWLEY. Okay, good. Will you commit then to ending this policy of charging additional fees?

Mr. ANDERSON. Senator, in practice, we accommodate our families to sit together without paying additional fees. Our gate agents are trained and empowered to make sure that happens.

Senator HAWLEY. Well, you do it when you can, but your policy is you can charge them if it comes down to it. So will you just say here today, we are going to stop doing that. We are not going to charge additional fees for families with young kids. This is it. This could be a big moment. This could be news.

Mr. ANDERSON. Yes, we will—there were some technology issues that we're working through. We transformed our system, but we will look into this and explore the red X.

Senator HAWLEY. Okay. Well, it would—maybe what we need to do is we just need to make it law. I mean, maybe Congress is just going to have to outright mandate it. You know, we hear all the time, and you guys come up here and you say, don't regulate us, don't tell us what to do. Well, I mean, there is a reason that sometimes we have to, and this is the reason.

Let me ask you about something else. Can I just say for the record, I think it is ridiculous that anybody is charging families who already paid for tickets with small children, charging them extra in order to have the kids next to them making profit off of it. I mean, I just think that is kind of predatory. I think it is really predatory, actually.

But let me ask you this. Dynamic seat pricing, which I think both Frontier and Allegiant engage in, tell me if I am wrong, but this is where you may charge me one fee and Katie Britt a different fee and Cory Booker yet a third fee for the same seat on the airline. It just depends. It is dynamic. There is no set fee. You are shaking your head no, Mr. Biffle. So you don't do dynamic seat pricing?

Mr. BIFFLE. So let's clarify dynamic seat pricing.

Senator HAWLEY. Price changes. It is not set.

Mr. BIFFLE. Yes, but it's set by route, not by individual customer.

Senator HAWLEY. Okay. So you don't collect personal information before people can see a price?

Mr. BIFFLE. No, we don't—we don't use personal information——

Senator HAWLEY. You collect it, though.

Mr. BIFFLE. We collect it, but we don't charge you differently.

Senator HAWLEY. Well, how do I know that? You collect ZIP Code, you use browser cookies, location information, search history. You collect date of birth. You collect gobs of stuff. I got to enter all of that before I can see a seat price. And my seat price may well be different than what Cory gets, depending on what he enters.

Mr. BIFFLE. Well, I will tell you we've been changing that. I have to have your date of birth to buy the ticket. That is actually clunky. Back to technology things, we're changing that so you won't have to do hardly anything. I want you to be able to search and click quickly. So——

Senator HAWLEY. But why are you collecting all of this personal information? What guarantee do I have that you are not using this to set my price? I have no idea how you are setting the price.

Mr. BIFFLE. I just guarantee you we're not.

Senator HAWLEY. Well——

Mr. BIFFLE. But——

Senator HAWLEY. Right, just like you guarantee me your agents won't harass me, but you are paying them to do it. So, I mean, don't you think that you owe us some evidence? I mean, you are forcing your customers to enter all of this stuff before they can even see a price.

Mr. BIFFLE. I will say it again. We are in the process of eliminating that. It's actually——

Senator HAWLEY. Meaning I won't have to enter in this personal information to see a price? You are just going to use——

Mr. BIFFLE. Correct.

Senator HAWLEY [continuing]. A set price? Do you use AI in your dynamic to see pricing at all?

Mr. BIFFLE. No.

Senator HAWLEY. Any advanced algorithms? Do you, Mr. Anderson?

Mr. ANDERSON. No, not from——

Senator HAWLEY. Will you both agree not to do so going forward?

Mr. BIFFLE. Okay. I don't know that I can agree to not use AI. We use AI in all types of things. We will never use——

Senator HAWLEY. That is what worries me.

Mr. BIFFLE [continuing]. AI to use personal information. So the insinuation that we're using your ZIP Code, your gender, or any of those things too actually change the prices I find appalling personally. I know there's another travel business—not an airline—that I changed my credit card, and when they figured out that I was using my business credit card, the price changed. I was appalled. I was appalled.

Senator HAWLEY. That is dynamic pricing.

Mr. BIFFLE. Well, yes—well, that's—well, dynamic—when you said dynamic, we—what we mean by that is actually a 1-hour flight versus a 5-hour flight might have a different price, just like the fare might be different.

Senator HAWLEY. No, it means that the consumer has no idea—I have no idea what the price is going to be for a given seat on a given flight until I give you all of my personal information. It also means I have no idea if my price will be the same as Katie's price or the same as Cory's price.

Mr. BIFFLE. As I said, we are eliminating all of that information from being gathered.

Senator HAWLEY. Okay, good.

Mr. BIFFLE. We will still have to get your date of birth before you buy because we're required for security reasons, but, but we're going to stop collecting it up front.

Senator HAWLEY. Mr. Anderson, what about you? Will you commit to not using personal information of any kind of set prices?

Mr. ANDERSON. Yes, we have no intention of using personal information to set prices.

Senator HAWLEY. Do you collect personal information before you allow customers to see a price?

Mr. ANDERSON. We do before the seat selection, but that's to accommodate SSRs and who is able to sit in exit row seats.

Senator HAWLEY. Mr. McGee, do you want to speak to this? You have mentioned this earlier. I mean, the consumer here, we are told, you know, trust us, trust us. But then the consumer is also told, but give us all of your stuff. Give us all your information. We will put it all in here. I can't go so much as check to see what is available, the flight home to Springfield, Missouri, unless I enter all of this junk. And I have no idea what is being done with it.

Mr. MCGEE. Yes, Senator. Thank you very much. I was recently on the privacy statement of one of the big three carriers, and it was this long if you printed it out. And it basically said that they were going to—that as soon as you go on their site for the very first time, they're going to monitor what you do, how long you're there, how long you stay on each page, presumably also the sites that you were on before and after it. Again, as I said, I think it would blow our minds to know exactly what they're collecting. That's before we get into the definition that most people would accept as personal information. That's why I was warning that I think we need to be much clearer about the language here.

I would argue that that is private information. If I'm a shopper that goes on and is more impulsive and maybe books a flight after 5 minutes of shopping, why should I be at a disadvantage than someone that goes on 3 days in a row and spends an hour? That is the definition of surveillance pricing, personalized pricing, customized pricing, more synonyms than we can even count on this, but it is unfair. It is un-American.

Senator HAWLEY. And it is going to get much worse with AI.

Ms. Pinkerton, let me just finish with you. I think it is Delta said that they are using AI now to set prices, these customized prices. Isn't this a terrible idea?

Ms. PINKERTON. Well, they've also made it——

Senator HAWLEY. I think—yes, there you go.

Ms. PINKERTON. Thank you. They've also made it very clear—I know their general counsel and executive vice president wrote a letter to Congress clarifying that they do not use personal information.

Senator HAWLEY. How are we to know that? I mean, the whole value of AI is to ingest massive amounts of personal information in order to extract as much profit as you can from every person. Why else would they use AI?

Ms. PINKERTON. Well, again, I think it's probably worth a deeper conversation about our definitions of personal.

Senator HAWLEY. Maybe we should just ban it. How about that? Should we just ban the use of AI in setting——

Ms. PINKERTON. AI has so many potential benefits in terms of——

Senator HAWLEY. And abuses.

Ms. PINKERTON [continuing]. Providing—yes, absolutely. And that's why we're committed to not using it——

Senator HAWLEY. Well, let's just make it easy. Would your organization support a ban on using AI to set individualized seat prices?

Ms. PINKERTON. No, no.

Senator HAWLEY. Why not?

Ms. PINKERTON. I think AI can be used in many, many different ways to come up with——

Senator HAWLEY. Name me one that isn't about making a profit for the airline at the expense of the customer. Why else would you need AI to do it, to charge these differential prices?

Ms. PINKERTON. It only an efficiency tool. I mean, we do——

Senator HAWLEY. Efficiency means money. It means profit for the airline.

Ms. PINKERTON. Which, by the way, we're not very good at.

Senator HAWLEY. Oh, I disagree. I think your customers would disagree.

Ms. PINKERTON. Yes, no, our profit margins are miserably low. We never even are an average profit margin——

Senator HAWLEY. Okay.

Ms. PINKERTON [continuing]. So——

Senator HAWLEY. Okay. All right. I find that very hard to believe——

Ms. PINKERTON. It's true.

Senator HAWLEY [continuing]. Or stomach. Well, I tell you what is true is that the flying experience for most Americans is terrible. It is atrocious. If you look at the surveys, customer satisfaction surveys, airlines are always like at the bottom. People hate it. They hate to fly. They have to fly, but they hate to fly, and they hate it because of the policies we have been talking about today. You charge them for your kids. You make them enter all of this personal information. You pay your own employees to harass them. And now you are going to use AI to extract every last penny from them. It is terrible.

Ms. PINKERTON. I would love to show you the JD Power and the American Consumer surveys——

Senator HAWLEY. Listen, I have seen the data and, you know, not only that, I have talked to people all over my State who fly, and I have flown all the time with my small children. It is horrible. It is horrible. And it needs to be better. And I think based on what we have heard today, Congress has got a lot of work to do to make it better.

All right. With that, I don't need to read a script, anything magic here to close this hearing? The record will be open? Okay. Questions for the record are due a week from now. I thank all of the witnesses for being here. All of you have traveled. We are delighted that you have been here. Thanks to our audience for being so polite.

And this hearing is adjourned.

[Whereupon, at 4:48 p.m., the hearing was adjourned.]

Hearing Before the U.S. Senate Judiciary Subcommittee on Antitrust, Competition Policy, and Consumer Rights

Testimony of Greg Anderson,
CEO, Allegiant Travel Company

September 29, 2025

Chairman Lee, Ranking Member Booker, and Members of the Subcommittee:

Thank you for the opportunity to appear before you today. My name is Greg Anderson, and I serve as the Chief Executive Officer of Allegiant Travel Company. For more than 25 years, our airline has been connecting underserved American communities with affordable access to the leisure destinations they value most.

I. Allegiant's Vision and Business Model

At Allegiant, our vision is to be the leading airline in the communities we serve, offering safe, reliable, convenient travel at unbeatable value. Allegiant differs from other airlines in several ways; notably, all our flights are nonstop and scheduled service is all domestic, with our entire focus on the leisure traveler.

To be more specific, Allegiant provides affordable and convenient air travel for residents of small and medium sized communities. With 125 aircraft serving 122 communities across 577 routes—70% of which we offer the only nonstop service—our customers repeatedly choose to fly with us because of the unbeatable value we provide. This makes Allegiant a vital part of the U.S. airline industry.

As noted, for most of the 120 different communities we serve, we are the only nonstop option for high-priority vacation destinations. To name just a few, we offer nonstop service between Gulf Shores, Alabama and Kansas City, Missouri; between Atlantic City, New Jersey and Orlando, Florida; and between St. Cloud, Minnesota and Punta Gorda, Florida. The convenience and value we provide adds competition into the market, expanding the range of options available to undeserved markets.

To put it simply, we offer our leisure customers the significant advantage of affordable nonstop travel, allowing them to bypass higher airfares and the added inconvenience often associated with connecting flights.

II. <u>Competition in the Airline Market</u>

I am here today to talk about potential ways to make air travel more accessible for everyone. Over the past five years, the airline industry has been in a state of transition. As a result of inflation and the evolving state of the consumer, costs have outpaced revenues industry-wide.

Due to their size, scale, international access, and loyalty programs, the largest carriers have been better positioned to absorb these shifts. Some value carriers, like Allegiant, have been able to adjust with the market, mostly because we operate a unique model—offering nonstop flights at low fares and to our customers in small and underserved communities—that is unparalleled in the industry.

However, if current trends continue, Americans may have fewer options and face higher prices, possibly making air travel unaffordable for many.

We believe there are a few key actions that can restore and help strengthen the sector.

A. Air Traffic Control Modernization

The advancement and modernization of Air Traffic Control ("ATC") systems are of the utmost importance. Inefficiencies and delays within the air travel industry are often attributable to outdated ATC technology and insufficient staffing.

We are encouraged by the Administration's plans to modernize ATC along with Congress' support in funding. Upgrading technology, infrastructure, and staffing will greatly help existing issues. It is critical that improvements benefit the entire system—not just major cities in the northeast, but across regions such as Florida, the LA Basin, Las Vegas, and smaller, underserved communities like those Allegiant flies to and from.

B. Improve Gate Access

Second, improving gate access for value airlines is an important factor in enhancing market competition.

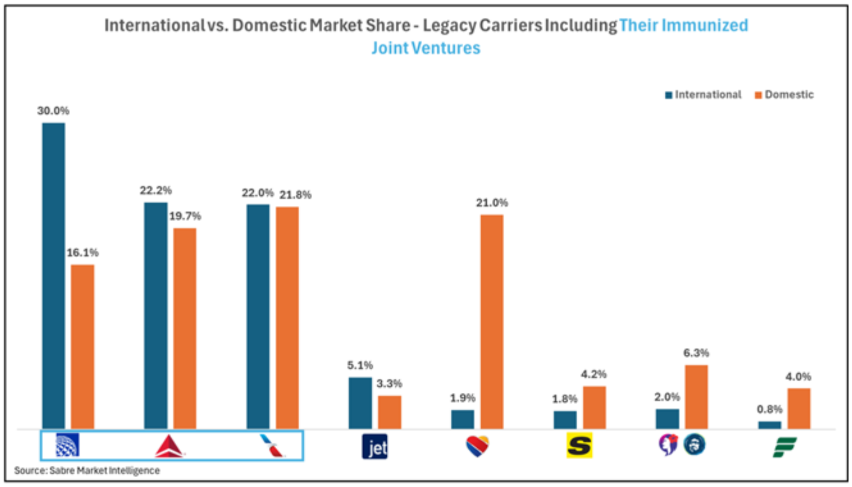
The current gate allocation process tends to reinforce the existing advantages of legacy carriers. Value airlines face limited opportunities to obtain gates or slots at larger airports, even when those spaces are not fully utilized.

To begin addressing these discrepancies, we support the refiling of Senator Hawley and Warren's bipartisan *Airport Gate Competition Act* introduced last year and would welcome such legislation. Such legislation would empower the Department of Transportation ("DOT") to require that any application for a federally funded terminal project at large hub airports must designate no less than 33% of gates and other spaces as common use.

If passed, such a bill would improve the competitive landscape as a whole and alleviate some of our concerns regarding gate access while still preserving the ability of legacy carriers to operate in ways that make sense for their business.

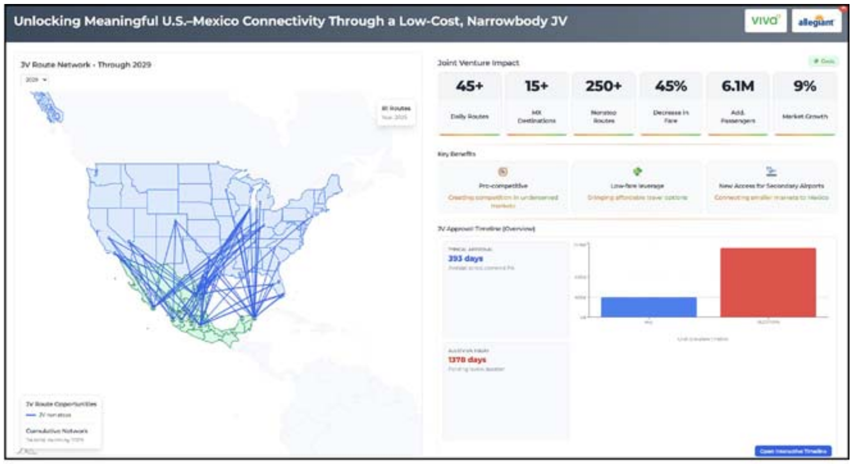
C. International Market Access

Third, international market access through immunized joint ventures. Large legacy carriers have participated in broad international alliances for decades. These ventures provide them with enhanced marketing, scheduling, and revenue opportunities compared to those carriers without a joint venture. The international market is dominated by the legacy carriers, whose joint ventures and alliances provide them with a competitive advantage.



Allegiant seeks to pursue a similar joint venture—but tailored to the value airline model. In partnership with Viva in Mexico, we filed for a first-of-its-kind value airline alliance. Together, we proposed to open 92 new nonstop routes between the U.S. and Mexico, particularly from underserved cities like Appleton, Wisconsin, South Bend, Indiana, Grand Rapids, Michigan, Cincinnati, Ohio, and Stockton, California.

This alliance would give nearly 5 million more Americans access to affordable international travel. It would increase the total number of direct U.S.-Mexico routes by 50%. And it would introduce the kind of low-fare competition desperately needed in that market.



D. Smart Regulation

Fourth, regulation. Let me be clear: safety is and always must be the top priority. Safety is in the DNA of this industry and America's airspace is the safest in the world. And we believe that the government plays an important role in ensuring airline safety. However, rules that go beyond safety and into regulation of consumer choice, such as those that mandate the convergence of product offerings across the industry, will inevitably lead to pricing out the most fare conscious consumers who we are proud to serve.

Full fare advertising rules, intended to increase transparency, actually conceal the impact that government fees and taxes have on the customer. Allegiant offers clear pricing, letting customers see and select only the options they want. About 25% of our customers choose just the base fare, while others can add services like bags and seat assignments, all with upfront charges. Our approach prioritizes transparency and choice.

We also go beyond what regulation requires when it comes to standing behind our product. By way of example, Allegiant compensates passengers up to $300 in addition to a ticket refund if we cancel a flight within our control.

Regulations are essential for airline safety, including well-trained pilots. The 2024 FAA Reauthorization Act has the ability to help improve our pilot training standards through the Enhanced Qualification Program ("EQP"). Effective implementation of EQP is important for training future pilots. Simulators and advanced technology can improve skills by replicating weather conditions and emergency scenarios in complex commercial aircraft and environments.

This approach has the ability to make pilot training more accessible and more affordable in the United States.

Air travel innovation is driven by competition, not regulation. Value airlines like Allegiant bring more choices and lower fares. When value airlines enter new markets, average fares can be reduced by up to 19%.

III. What Can Congress Do

So what can be done? Let me suggest several steps that would restore real competition:

1. **Support the Modernization of Air Traffic Control.** Promote investment of resources and implementation of next generation air traffic control infrastructure and staffing across the entire system to help airports reduce delays and inefficiencies.

2. **Improve Gate Access.** Pass the Airport Gate Competition Act or similar legislation and empower the DOT to require that any application for a terminal project at large hub airports must designate no less than 33% of gates and other spaces as common use.

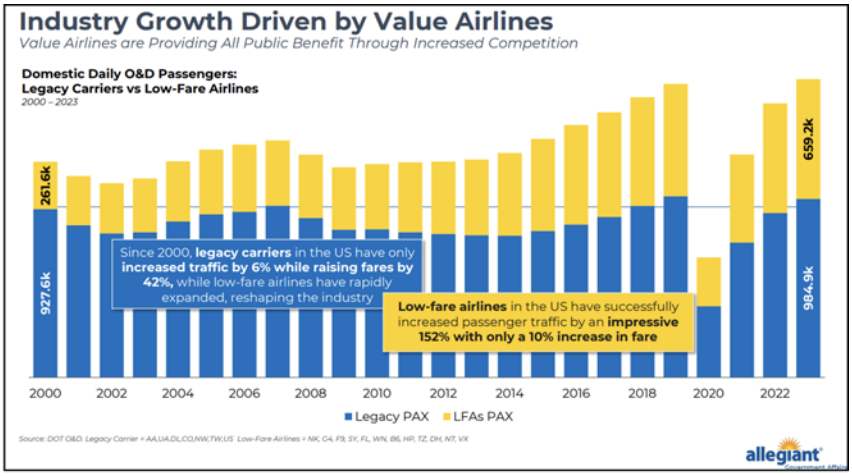
3. **Allow value airline alliances.** Recognize that pro-competitive alliances can allow value airlines to achieve scale and increase options for consumers, including those in underserved communities.

4. **Focus regulation on safety, not competition barriers.** Ensure that the FAA's implementation of the EQP makes a career as a pilot more accessible to Americans, rollback the full fare advertising rule to enhance transparency, and avoid overly prescriptive regulation that reduces choice and value for consumers.

IV. Closing

In closing, we believe that a healthy airline industry benefits everyone. Value airlines such as Allegiant make it possible for a family of four to take a vacation for hundreds of dollars less than they would otherwise pay.

Since 2000, U.S. legacy carriers have increased traffic by just 6% while fares rose over 40%. In contrast, value airlines grew passenger traffic by more than 150% with only a 10% increase, driving most of the domestic air travel growth.



Allegiant is proof that competition and deregulation works. We invented a business that didn't exist by creating markets in communities that others have largely ignored with safe, reliable, and nonstop service at unbeatable value.

For decades, air travel has become steadily more affordable, opening opportunities for millions of families to travel. Allegiant is proud of our role in that.

Thank you. I look forward to your questions.

Draft Opening Statement

Barry Biffle, Chief Executive Officer, Frontier Airlines
Before the U.S. Senate Subcommittee on Competition Policy
Hearing on Airline Competition

Chairman, Ranking Member, and Members of the Subcommittee:

Thank you for the opportunity to appear before you today. Airline CEOs usually get invited to Capitol Hill when something has gone wrong — a snowstorm, a canceled flight, or an angry customer on the evening news. So let me start by thanking you for inviting me under better circumstances.

My name is Barry Biffle, and I am the CEO of Frontier Airlines. At Frontier, we have a simple mission: make flying affordable, greener, and more accessible for the average traveler. We're a low-cost carrier, which means we don't rely on fancy lounges or first-class suites. What we offer is a safe, reliable, and affordable way for Americans to travel.

Today, I want to speak very seriously about an issue that strikes at the heart of competition in our industry: **gate access**.

Why Competition Matters

Air travel is not just about getting from Point A to Point B. It's about opportunity – the ability for a family in a small town to take their kids to Disney World, or for a student to afford a trip home for the holidays. Competition makes that possible.

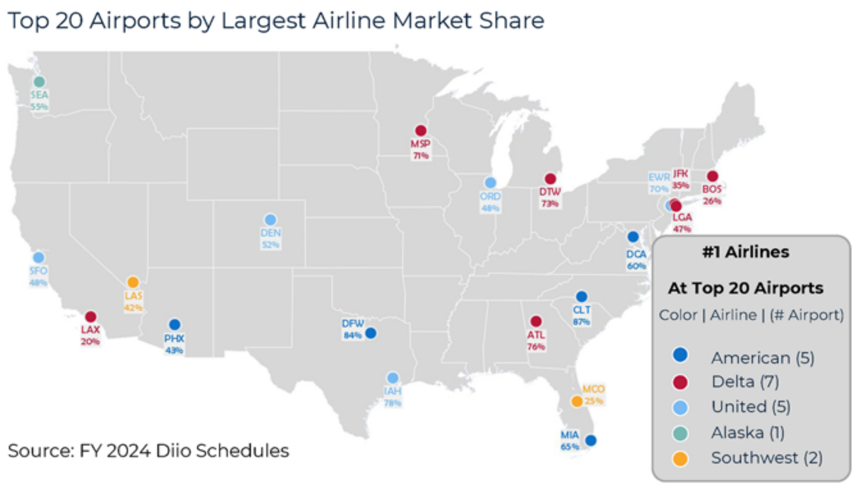
History shows us that when low-cost carriers like Frontier enter a market, fares go down – sometimes by 20, 30, even 40 percent. Customers win. The legacy airlines (United, Delta, American) have grown traffic by just 6 percent since 2000, while raising fares by over 40 percent. By contrast, low-cost carriers have grown traffic by 152 percent with only a 10 percent increase in fares. That is real competition at work.

So the question before us is not whether competition works. It's whether new competitors are allowed to compete at all. And that brings me back to gates.

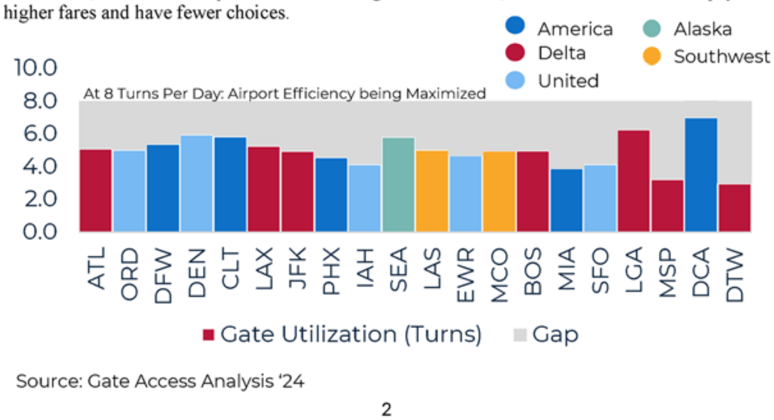
The Gate Problem

In our industry, the gate is the front door. You can have the planes, pilots, fuel and crews — but if you don't have a gate, you don't get to play. Right now, too many of those gates are locked up by a handful of big airlines.

Across the country, we see **fortress hubs**: airports where a single airline controls 60, 70, sometimes even 80 percent of the gates. That kind of dominance doesn't just give those carriers pricing power — it gives them control over who else gets to enter the market.



And here's the kicker: many of those gates are not even fully used. Dominant carriers hold them, sit on them, and block competitors from coming in. Meanwhile, customers in those cities pay higher fares and have fewer choices.



To put it in everyday terms: imagine if McDonald's leased every street corner in town, set up one restaurant, left the other corners empty, and then told Burger King or Wendy's they weren't allowed to open up shop. That's not a free market. That's protectionism with fries on the side.

Consequences for Consumers

The results are predictable – and harmful. In fortress hub cities, fares are higher and competition is limited. Travelers in Atlanta, Newark, Dallas, and other concentrated airports routinely pay more than their counterparts in more competitive markets. So, when gates are locked up, it isn't just a headache for airlines like mine. It's a tax on the traveling public. Moreover, the single largest disruption to our airline beyond weather and Air Traffic Control events is gate holds caused by delays in obtaining gate access. Our daily flights per gate can be double those of the big airlines. However, the inefficient allocation of gates often results in our diminished on-time reliability and otherwise preventable cancellations.

What Congress Can Do

This Subcommittee has an opportunity to fix this. I want to suggest a few practical steps:

1. **"Use it or lose it" rules.** Airlines should not be allowed to hold preferential gates indefinitely without using them. If you don't use the gate efficiently, you should be required to give it up to another carrier who can.
2. **Common-use requirements.** When airports expand or renovate terminals, at least one-third of the new gates should be designated as common-use. That means any airline can operate there, not just the biggest incumbent.
3. **DOT enforcement authority.** The Department of Transportation should be empowered to step in when dominant carriers hoard gates and block competition. DOT already plays a role in slot allocation — it should have the same authority with gates.
4. **Transparency in lease arrangements.** Right now, gate leases can stretch decades, locking out new entrants. We should require clear reporting and accountability so the public knows whether airports are being managed for competition or for incumbents.

These changes would not cost taxpayers a dime. They don't require subsidies or bailouts. They simply open the door — literally — for competition.

Addressing Criticisms

I know some may say, "Well, fortress hubs also bring benefits — more flights, more destinations." But the evidence demonstrates the opposite. When one carrier dominates, you get fewer choices, not more. You get higher fares, not lower. And you get a system that serves the incumbent, not the customer.

Others may say, "Changing gate policies will be disruptive." I would remind you that this is the very disruption our economy needs. Every time a Value Airline enters a new market, the incumbent responds — not with fewer flights, but with lower fares. That is competition doing exactly what it is supposed to do.

Broader Competitive Barriers

While gate access is the single biggest barrier, it is not the only one. I want to briefly touch on a few others:

- **Slots.** At congested airports, takeoff and landing slots are as precious as gates. Too often, they are controlled by legacy carriers, with DOT's tacit support, in ways that stifle new entrants. The DOT recently awarded slots at Reagan National to only legacy carriers, which forced us to sue the DOT in federal court based on their gross misreading of the relevant statutes and regulations.
- **Loyalty programs.** Frequent flyer miles and co-branded credit cards give large carriers a built-in advantage that smaller carriers cannot replicate. These programs tie up consumers in ways that reduce true competition. More specifically, legacy carriers leverage credit card loyalty programs to subsidize their Basic Economy fares and enable predatory pricing against the Value Airlines. This dynamic is reflected in United CEO Scott Kirby's recent comments referring to airlines like Frontier and Spirit as spill carriers that only carry the traffic he allows them to carry. This subcommittee should encourage the DOJ and DOT to investigate this clear example of anti-competitive behavior.
- **Regulation.** Rules like the 1,500-hour pilot requirement — which the rest of the world does not follow — artificially constrain supply and disproportionately hurt smaller airlines. Safety should always come first, but regulation should not be used to freeze out competition.
- **Re-accommodation Agreements.** All of the network carriers had interline re-accommodation agreements with Frontier, to allow Frontier to re-book its passengers if an unforeseen cancellation occurred. By the end of 2015, the network carriers terminated those agreements with Frontier and other low-fare airlines, while keeping them in place amongst themselves. We complained at the time to DOT. The Obama administration, which had failed to block American/US Airways merger, also rejected our complaint. It is time for a fresh look at the network carrier's exclusionary practice as to re-accommodation.

Closing

Let me close where I began. At Frontier, we don't need special treatment. We don't need subsidies or bailouts. All we need is an opportunity to compete.

Give us a gate, and we will bring fares down. Give us a slot, and we will create new routes. Give us a fair shot, and we will deliver competition and choice to the American traveler.

The big airlines have had decades to consolidate, merge, and dominate. It is time to level the playing field.

I'll leave you with this: airlines like Frontier are proof that competition works. But competition can only work if the rules allow us to get in the game. Right now, too many gates are locked, and too many doors are closed. It's time to break through.

Thank you for your time. I look forward to your questions.

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AMERICAN ECONOMIC LIBERTIES PROJECT

Written Testimony of

William J. McGee
Senior Fellow for Aviation and Travel
American Economic Liberties Project

Before the U.S. Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy, and Consumer Rights
For a Hearing on "Examining Competition in America's Skies"
September 30, 2025

My name is William J. McGee, and I am the Senior Fellow for Aviation and Travel at the American Economic Liberties Project (AELP), a nonprofit organization dedicated to addressing the problem of concentrated economic power across the economy to improve conditions for workers, honest businesses, and consumers. As such, we have made it a priority to draw attention to the consolidated airline industry. I have worked in this industry for 40 years, witnessing firsthand the harms this level of consolidation has caused. Starting in 1985, I spent seven years in airline flight operations management, and I'm licensed by the Federal Aviation Administration (FAA) as an Aircraft Dispatcher and served in the U.S. Air Force Auxiliary. I then became an aviation investigative journalist and author, writing extensively about the industry. For the last 25 years, I've been an airline passenger advocate, researching, writing, and testifying on consumer rights, competition, consolidation, and safety issues, and serving as the lone consumer advocate on U.S. Department of Transportation Secretary LaHood's Future of Aviation Advisory Committee.[1]

The airline industry I began working in 40 years ago no longer exists, and by most measures passengers and entire communities nationwide are worse off. U.S. airlines are more concentrated than ever due to decades of lax antitrust enforcement leading to consolidation, and the failed experiment of airline deregulation. As a result, consumers have fewer choices for carriers, there is little competition on individual routes, and there is a historic drought of market entry by new airlines. Some major cities have seen dramatic reductions in air service, harming local and regional economies, while consumers have faced worsening service quality and callousness from airlines that no longer face real competition to retain their customers. From bad customer service to recent safety incidents, it is no secret that the experience for passengers is worse than it's ever been. And until Congress requires necessary public governance, these problems will persist. It is long past time for Congress to step in to fix flying and reinvigorate competition in the airline industry.

A TALE OF TWO INDUSTRIES

In recent decades, the U.S. airline industry has changed substantially. Since 1985, the number of domestic boardings has nearly tripled,[2] but the industry itself is dramatically more concentrated and far less competitive.[3] This has created a harsher environment for passengers and workers, as well as communities, states, and even regions nationwide, with flight disruptions, cancelled routes, hub closures, and jobs lost.[4] In the coming weeks, millions of Americans will begin planning their holiday travel, and many will dread booking flights. Simply put, we have a commercial aviation competition crisis in the nation that flew the first airplane and produced the first airline.

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[1] "FAAC Final Report," U.S. Department of Transportation, May 17, 2022, https://www.transportation.gov/highlights/future-aviation-advisory-committee/faac-final-report.
[2] "U.S. Airline Traffic and Capacity," Airlines for America, March 18, 2025, https://www.airlines.org/dataset/annual-results-u-s-airlines-2/.
[3] William J. McGee, "Refuting the Myths Defending the JetBlue-Spirit Merger," ProMarket, March 2, 2024, https://www.promarket.org/2024/03/02/refuting-the-myths-defending-the-jetblue-spirit-merger/.
[4] *Id.*

Four decades ago, America had 12 major carriers and more than 50 smaller airlines;[5] today there are only 11 scheduled passenger airlines,[6] and we've never had such concentration at the top with only four major players.[7] In reality, our country now has two airline industries. The first consists of the largest carriers represented by Airlines for America (A4A), including the Big Four oligopoly of American, Delta, Southwest, and United, who with their regional partners control 80% of the market.[8] Such concentration is unprecedented.[9]

This plays out in hundreds of airports and on thousands of routes nationwide. The metrics the government has long used to measure antitrust and competition behavior in U.S. airline markets are outdated and ill-suited to commercial aviation. While airline executives claim their industry provides consumers with numerous choices of carriers, the reality is that consolidation of the air travel industry has reduced the competition that most benefits consumers–competition between carriers on a route-by-route basis. The harms of eliminating competition on routes impact communities both large and small, as consumers are denied true choices, lower fares, and more flight options in far too many cases.

The second industry consists of budget carriers – Allegiant, Avelo, Breeze, Frontier, and Spirit. These carriers often serve secondary airports and offer lower fares while charging fees for things like seat choice, priority boarding, and carry-on bags.[10] They have been criticized for uncomfortable seats, little legroom, and unreliable service.[11] However, on many routes, these entities provide the only meaningful competition with the Big Four airlines. A study from MIT's International Center for Air Transportation found that the entry of a low fare airline on a route causes fares to drop 21% on average.[12] As a result, even travelers who choose not to fly on these budget carriers still benefit from their existence. It's no surprise, therefore, that the legacy carriers dislike competition from budget airlines and in May, United's CEO publicly stated that

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[5] "The Annual Report of the U.S. Scheduled Airline Industry," Air Transport 1905, June 1985, https://airlines.org/wp-content/uploads/2014/08/1985.pdf.

[6] Airlines for America, "The State of U.S. Commercial Aviation," July 5, 2025, p. 47, https://www.airlines.org/wp-content/uploads/2023/05/A4A-State-of-US-Commercial-Aviation-1.pdf, (listing Alaska/Hawaiian, Allegiant, American, Avelo, Breeze, Delta, Frontier, JetBlue, Southwest, Spirit, Sun Country, and United as U.S. passenger airlines. Sun Country operates primarily as a charter airline that offers some scheduled service.).

[7] *See Supra* note 3.

[8] Alana Semuels, "Airlines Are Terrible. Small Cities Are Still Paying Them Millions of Dollars to Stick Around," Time, January 17, 2023, https://time.com/6247052/airlines-deregulation-american-inequality/.

[9] William J. McGee, "Comments Concerning The U.S. Airline Industry Response To 'Request For Information On Merger Enforcement," American Economic Liberties Project, April, 2022, https://www.economicliberties.us/wp-content/uploads/2022/04/2022-04-20-AELP-DOJ-FTC-Airlines-McGee.pdf.

[10] Chris Lomas, "What's the difference between a Low-Cost Carrier and an Ultra-Low-Cost Carrier?," Flight Radar 24, September 30, 2024, https://www.flightradar24.com/blog/aviation-explainer-series/lcc-vs-ulcc/.

[11] Taylor Rains, "I used to fly ultra-low-cost airlines to save money. Their cheap tickets aren't worth the headache anymore.," Business Insider, June 13, 2024, https://www.businessinsider.com/flying-ultra-low-cost-airlines-spirit-frontier-not-worth-it-2024-6/.

[12] Alexander R. Bachwicha and Michael D. Wittman, "The Emergence and Effects of the Ultra-Low Cost Carrier (ULCC) Business Model in the U.S. Airline Industry," Massachusetts Institute of Technology, October 17, 2016, https://dspace.mit.edu/bitstream/handle/1721.1/104869/ulcc-paper-draft-revFINAL.pdf%3Bjsessionid=B077%205022ED165FAFDF3A9F0809460539.

the budget airline business model of charging ancillary fees on top of low base fares: "It's dead. Like, it's a crappy model."[13]

In order to quantify the effect of competition (or lack thereof) on air fares, AELP examined the Department of Transportation's quarterly airfare reports for the last year, and found the three remaining legacy hub-and-spoke carriers–American, Delta, and United–have virtually ceased to compete against each other on price.[14] As an airline beat reporter in the 1990s, I recall bruising fare wars amongst the largest airlines, but now it's clear that only the smallest airlines provide any real pricing competitiveness. This isn't opinion; it's borne out in the DOT's reports. Since January 2024, when a low fare airline entered a new market, prices on those routes fell, and conversely prices rose when low fare airlines exited markets. To cite just two examples, after Breeze Airways launched nonstop service from Fort Myers to Syracuse in 2023, average fares fell a whopping 46.2%, or $128 per one-way flight;[15] from Fort Myers to Lansing, average fares fell $144.[16] Conversely, fares rose 61.3%, or $116, after Spirit stopped flying between Newark and Kansas City in November 2024,[17] leaving only United to fly that route.

COMPETITION ON LIFE SUPPORT

Despite public statements to the contrary, the Big Four carriers hate true competition. They thwart competition through myriad means, including vast networks of fortress hub airports, global alliances, devalued frequent flyer programs, branded credit cards, exclusive corporate and travel agency agreements, and even predatory pricing, as AELP detailed last year, showing that Southwest systematically and intentionally lost money in Hawaii to gain market power at the expense of its smaller rival, Hawaiian Airlines.[18] Consider that either American, Delta, or United control 70% or more of all flights at nine hubs nationwide, including Newark,

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[13] William J. McGee, "The Big Three Airlines Are Misleading Travelers So They Can Rig the System," Frommer's, June 10, 2025, https://www.frommers.com/tips/airfare/how-the-big-three-airlines-mislead-travelers-and-rig-the-system-toward-higher-airfares/.

[14] "Domestic Airline Consumer Airfare Report," U.S. Department of Transportation," https://www.transportation.gov/office-policy/aviation-policy/domestic-airline-consumer-airfare-report-pdf.

[15] "Domestic Airline Consumer Airfare Report," U.S. Department of Transportation," Table 4, p. 36, https://www.transportation.gov/sites/dot.gov/files/2024-07/Domestic%20Airline%20Fares%20Consumer%20Report%202024_Q1.pdf; Syracuse Airport, "Breeze Adding Nonstop Route to Fort Myers from Syracuse," press release, July 18, 2023, https://syrairport.org/2023/07/18/breeze-airways-announces-seasonal-nonstop-service-from-syracuse-to-fort-myers/.

[16] Mike Ellis, "Capital Region International Airport adds new airline, flights to Florida," Lansing State Journal, March 26, 2024, https://www.lansingstatejournal.com/story/news/local/2024/03/26/lansing-breeze-airways-orlando-ft-myers-flights/73096151007/.

[17] "Domestic Airline Consumer Airfare Report," U.S. Department of Transportation," Table 3, p. 34, https://www.transportation.gov/sites/dot.gov/files/2025-07/Domestic%20Airline%20Fares%20Consumer%20Report%202025_Q1.pdf; Emily DeLetter, "Southwest to exit 4 airports and limit hiring following profit loss, Boeing plane delays," USA Today, April 26, 2024, https://www.usatoday.com/story/travel/airline-news/2024/04/26/southwest-airlines-leaving-airports/73465807007/; Flights from, Spirit Flights from Kansas City (MCI), https://www.flightsfrom.com/MCI/NK.

[18] William J. McGee and Healine Olen, "Predatory Pricing In Airlines How Southwest Lowered Prices to Squeeze Out Competition in Hawaii," American Economic Liberties Project, December, 2024, https://www.economicliberties.us/wp-content/uploads/2024/12/20241209-AELP-predatory-pricing-airlines-v3.pdf.

Minneapolis, Salt Lake City, and worst of all, Charlotte, where American dominates 88% of all departures.[19]

This lack of real competition has produced dysfunction and failure amidst financial volatility.[20] On its own terms, the Airline Deregulation Act of 1978 has failed. The first substantive section of the statute contains several unfulfilled promises, such as "placing maximum reliance on competition," "avoidance of unreasonable concentration," and "encouragement of entry...by new air carriers."[21] Instead, since 2007 only two new scheduled passenger airlines have launched (Avelo and Breeze in 2021); this is the longest such dry spell in the industry's entire history since 1914.[22] Decades of mergers and deregulation have not helped the airline industry or the flying public. By any measure, airlines are struggling. Consumers are dissatisfied and bankruptcies have been commonplace since 1978. The three largest airlines, Delta, United, and American, have all filed for Chapter 11 bankruptcy.[23] Instead, airlines CEOs and investors have focused on mergers and stock buybacks at the expense of consumers, transportation workers, and regional economies.[24]

The lack of real competition is allowing airlines to reduce their service in major U.S. cities, decimating local economies. Consolidation spurred the largest airlines to close hubs in cities as large as St. Louis, Cincinnati, Cleveland, Raleigh-Durham, and Pittsburgh.[25] In the case of St. Louis, American's daily flights plunged from 200 to just 36.[26] And regional inequality hits particularly hard in smaller and rural communities, which are commonly underserved, with higher fares, fewer nonstop destinations, and less frequent flights.[27] Thankfully, AELP and others have worked with the Government Accountability Office (GAO) on a pending investigation into quantifying such harms for local economies nationwide in terms of lost income, lost jobs, etc.

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[19] James Pearson, "American Airlines Will Operate 88% Of Charlotte International Airport's March Flights," Simple Flying, March 7, 2024, https://simpleflying.com/american-airlines-88pc-charlotte-flight-analysis-march-2024/.
[20] Rajesh Kumar Singh and Shivansh Tiwary, "US airlines slash earnings forecasts as economic concerns grow," Reuters, March 11, 2025, https://www.reuters.com/business/aerospace-defense/us-airline-stocks-tumble-deltas-forecast-cut-spooks-investors-2025-03-11/.
[21] S.2493, Section 102(a)(4), (7)(A), (10), Airline Deregulation Act of 1978, 95th Congress (1977-1978), October 24, 1978. https://www.congress.gov/bill/95th-congress/senate-bill/2493.
[22] Julie Weed, "Despite It All, Two New U.S. Airlines Prepare to Fly," New York Times, March 16, 2021, https://www.nytimes.com/2021/03/16/travel/airlines-breeze-avelo-usa.html.
[23] Henry Epp, "A brief history of airline bankruptcies," Market Place, November 21, 2024, https://www.marketplace.org/story/2024/11/21/a-brief-history-of-airline-bankruptcies.
[24] David Shepardson, "U.S. airlines reject lawmakers' request to refrain from share buybacks," Reuters, October 4, 2022, https://www.reuters.com/world/us/us-airlines-reject-lawmakers-request-refrain-share-buybacks-2022-10-04/.
[25] *See Supra* note 9 at 5.
[26] Justin Hayward, "Throwback: When American Airlines Had A Hub At St Louis Lambert International Airport," Simple Flying, November 18, 2024, https://simpleflying.com/american-airlines-st-louis-hub-history/.
[27] "Changes in Airline Service Differ Significantly for Smaller Communities, but Limited Data on Ancillary Fees Hinders Further Analysis," U.S. Department of Transportation Office of Inspector General, May 27, 2020, https://www.oig.dot.gov/sites/default/files/Airline%20Service%20to%20Small%20Communities%20Final%20Report_0.pdf.

Over the past 40 years, the biggest change affecting the airline industry has been rampant consolidation. For context, A4A reported that in the 60 years from 1930 to 1990 there were 28 mergers & acquisitions among US airlines, but in the next 30 years through 2020–just half that span–there were 29.[28]

Fifteen years ago, I and others testified before this Subcommittee and elsewhere, warning that the largest carriers in the rapidly shrinking airline industry were becoming too big to fail, particularly as the then six major carriers (American, Continental, Delta, Northwest, United, and USAirways) quickly consolidated into the three remaining legacy carriers with the mergers of Delta-Northwest, United-Continental, and American-US Airways.[29] The $63 billion government bailout of the industry during the COVID-19 pandemic indeed confirmed that major carriers are too big to fail.[30] What many didn't foresee was that the largest carriers are now also too big to care. This was made clear when Senator Ed Markey detailed how airlines sat on more than $10 billion in unpaid refunds during Covid, even as those same taxpayers were bailing them out.[31]

This is not hyperbole. The headlines generated by major carriers in recent years have made millions of Americans ask a simple question: "What happened to the airlines?" The widespread flight disruptions, operational meltdowns, IT outages, and customer service erosion are due directly to deregulation and consolidation, and the resultant lack of competition.[32]

LACK OF COMPETITION LEADS TO WORSE CUSTOMER SERVICE

In May 2017, I testified in the House of Representatives as the only consumer advocate alongside five airline executives after Dr. David Dao was beaten bloody and dragged off a flight he had paid for, all because United Airlines decided it wanted his seat.[33] This horrific incident--which left Dr. Dao with a concussion--sparked widespread media attention and national outrage, punctuated by that 4.5-hour hearing in which Members from both parties demanded change from

[28] Rahul Mukherjee, Erin Davis, and Jacob Knutson, "How the 'big five' airlines came to dominate the skies," Axios, December 8, 2023, https://www.axios.com/2023/12/08/airline-mergers-us-airline-industry.
[29] "The United/Continental Airlines Merger: How Will Consumers Fare?," U.S. Senate Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, May 27, 2010, https://www.judiciary.senate.gov/committee-activity/hearings/the-united/continental-airlines-merger-how-will-consumers-fare.
[30] "$63 billion to keep aviation workers employed. Here are the numbers," Pandemic Oversight, March 17, 2022, https://www.pandemicoversight.gov/data-interactive-tools/data-stories/63-billion-keep-aviation-workers-employed-here-are-numbers.
[31] U.S. Senator Ed Markey, "Amid Sky-High Rate of Flight Cancellations, Senator Markey Leads Bicameral Colleagues in Introducing Cash Refunds for Flight Cancellations Act to Protect Air Travelers' Rights," August 1, 2022, https://www.markey.senate.gov/news/press-releases/amid-sky-high-rate-of-flight-cancellations-senator-markey-leads-bicameral-colleagues-in-introducing-cash-refunds-for-flight-cancellations-act-to-protect-air-travelers-rights.
[32] William J. McGee, "It's Time to Finally Fix Air Travel," New York Times, January 13, 2023, https://www.nytimes.com/2023/01/13/opinion/faa-air-travel-regulation-outage.html.
[33] "Oversight of U.S. Airline Customer Service," U.S. House of Representatives, Committee on Transportation and Infrastructure, April 28, 2017, https://www.govinfo.gov/content/pkg/CHRG-115hhrg25311/pdf/CHRG-115hhrg25311.pdf.

the industry. But later that summer United's earnings were posted.[34] The result? Despite a very public example of the airline's disregard for the basic humanity of its customers, United actually *increased* its quarterly earnings 39% in the immediate wake of viciously beating one of those customers. Clearly, the lesson of Dr. Dao for the major carriers is that a stranglehold on competition means they can publicly humiliate and abuse their customers without hurting their bottom line.[35]

Carriers have also subjected passengers to other indignities. For example, In July, passengers on a United Airlines flight from Newark to Detroit were trapped on the tarmac for approximately eight hours before their flight was cancelled.[36] This was not an isolated incident. In 2023, the DOT fined American Airlines $4.1 million for unlawfully stranding passengers on tarmacs for lengthy periods. DOT explained that "[a]n extensive investigation by the Department's Office of Aviation Consumer Protection (OACP) found that between 2018 and 2021, American allowed 43 domestic flights to remain on the tarmac for lengthy periods without providing passengers an opportunity to deplane in violation of the Department's tarmac delay rule."[37]

A 2024 Senate Homeland Security and Government Affairs Committee's Permanent Subcommittee on Investigations found the biggest airlines charge passengers billions in hidden and junk fees for services that were once basic amenities under a competitive airline industry.[38] Airlines increasingly introduced seating policies that force parents to pay extra to sit next to their small children.[39] I detailed this problem in 2019 for *USA Today*,[40] after Consumer Reports filed a FOIA request that revealed hundreds of DOT complaints about this issue[41]. Travel writer Jennifer Keller described her experience when an airline seated her three year-old daughter in a

[34] Matthew Daly, "United Airlines CEO Oscar Munoz tells U.S. Congress the David Dao incident was 'a mistake of epic proportions,'" Associated Press via Global News, May 2, 2017, https://globalnews.ca/news/3419874/united-airlines-oscar-munoz-u-s-congress/.

[35] Micah Maidenberg, "United Airlines Profit Rises Despite Boycott Threats Over Passenger Treatment," New York Times, July 18, 2017, https://www.nytimes.com/2017/07/18/business/united-airlines-profit-earnings.html.

[36] Carli Petrus, "Passengers stranded on United flight tarmac in Newark for 8 hours with limited food, water," WXYZ Detroit, July 16, 2025, https://www.wxyz.com/news/passengers-stranded-on-united-flight-tarmac-in-newark-for-8-hours-with-limited-food-water.

[37] "DOT Fines American Airlines $4.1 Million for Unlawfully Keeping Thousands of Passengers on the Tarmac for Hours," U.S. Department of Transportation, August 28, 2023, https://www.transportation.gov/briefing-room/dot-fines-american-airlines-41-million-unlawfully-keeping-thousands-passengers-tarmac.

[38] U.S. Senator Richard Blumenthal, "The Sky's the Limit: The Rise of Junk Fees in American Travel," U.S. Senate Permanent Subcommittee on Investigations, November 26, 2024, https://www.hsgac.senate.gov/wp-content/uploads/2024.11.25-Majority-Staff-Report-The-Skys-the-Limit-The-Rise-of-Junk-Fees-in-American-Travel-1.pdf.

[39] Rachel Chang, "It Could Soon Be Illegal for Airlines to Charge Families to Sit Together," Conde Nast Traveler, Aug. 1, 2024, https://www.cntraveler.com/story/new-airline-family-seating-policies.

[40] William J. McGee, "Airlines tell parents to pay up or risk sitting rows away from their kids. That's wrong.," USA Today, Nov. 19, 2019, https://www.usatoday.com/story/opinion/voices/2019/11/20/airlines-seat-reservations-families-children-separate-column/4196405002/.

[41] "FOIA Request to United States House of Representative's Committee on Transportation and Infrastructure on Family Seating," Consumer Reports, September 23, 2019, https://advocacy.consumerreports.org/wp-content/uploads/2019/09/Family-seating-FOIA-CR-letter-to-House-TI-9-23-19-FINAL-4.pdf.

separate row and told her the only solution was for her to convince another passenger to switch seats.[42]

DOMINANCE LEADS TO REGULATORY CAPTURE

Such unfettered domination has empowered the largest airlines to seek to eliminate the consumer protections that do exist. Last month I wrote how A4A filed 93 pages of egregious recommendations, urging the DOT to weaken or eliminate virtually every existing passenger rights protection.[43] Among A4A's proposals are efforts to overhaul or abolish critical rules concerning transparency of fees, cash refunds, compensation for flight disruptions, and policies on ensuring children under 13 to sit with their families.[44] What's worse is that two days later the DOT issued a deregulatory agenda that looked "copy-pasted" from A4A's own wish list.[45] Furthermore, in recent weeks there has been extensive media coverage of efforts by U.S. airlines to use AI to expand their long-standing practices of using passengers' private data to "customize" individual pricing.[46] The airline industry is trending in the wrong direction – more consolidation; little competition from new entrants; fewer consumer protections; and more predatory business practices by the largest, dominant carriers.

LEGISLATIVE RECOMMENDATIONS

The way to fix the consolidation problem in the air travel market is *not* more consolidation, it is more and better competition. This Subcommittee should consider the following proposals, which are imminently feasible and would produce immediate and positive results.

• **ADOPT SENSIBLE REGULATION**. As AELP and Vanderbilt Policy Accelerator noted in our joint white paper "How to Fix Flying" last year, the failures of deregulation and consolidation have made it clear that new and sensible approaches to regulation are long overdue to protect consumers, enhance competition, provide fair and transparent pricing, and ensure access for new and smaller airlines.[47]

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[42] Jennifer Keller, "An airline seated my 3-year-old away from me in the plane. The Department of Transportation knows it's an all-too-common problem," Nov. 21, 2022, https://www.businessinsider.com/airline-sat-mom-and-3-year-old-apart-on-plane-2022-11.

[43] William J. McGee, "U.S. Airlines Try to Abandon Passenger Rights and Performance Reports—to Secretly Police Themselves," Frommer's, September 2, 2025, https://www.frommers.com/tips/miscellaneous/u-s-airlines-try-to-abandon-passenger-rights-and-performance-reports-and-secretly-police-themselves/.

[44] Airlines for America, "Comment from Airlines for America," Comment on Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs, U.S. Department of Transportation, DOT-OST-2025-0026, May 4, 2024, https://www.regulations.gov/comment/DOT-OST-2025-0026-0845.

[45] U.S. Department of Transportation, "Agency Rule List - Spring 2025," Office of Information and Regulatory Affairs, Accessed September 18, 2025, https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=2100&csrf_token=74AD24CACD853F19D32F994C6E1F03CBD21633EEF17FBE7864ECE8BEE8D8AA4E91CB6F87DD1820233BD479D8830C4B2EC9AF.

[46] Zach Wichter, "Airlines say AI won't set fares by passenger. Experts aren't so sure," USA Today, August 20, 2025, https://www.usatoday.com/story/travel/columnist/2025/08/20/airline-pricing-ai-cruising-altitude/85608941007/.

[47] William J. McGee and Ganesh Sitaraman, "How to Fix Flying: A New Approach to Regulating the Airline Industry," American Economic Liberties Project, January 26, 2024, https://www.economicliberties.us/our-work/how-to-fix-flying/.

• **ENSURE AIRPORT ACCESS**. As smaller carriers can confirm--and I know from my own years working for smaller carriers at busy airports--low fare airlines are blocked by the majors in acquiring critical airport facilities, such as gates, check-in, and baggage space. That's why we applaud Senator Hawley for co-sponsoring the Airport Gate Competition Act, which would mandate that airports establish minimum access to facilities, and we request other Members to join in support.[48]

• **EMPOWER STATES TO PROTECT CONSUMERS**. Since 1978, American citizens have fewer rights when dealing with airlines than they do with virtually any other consumer industry. The federal preemption clause in the Airline Deregulation Act has ensured that for 47 years state courts, legislatures, and attorneys general have no oversight of airlines, leaving the DOT Secretary as the sole arbiter for passengers, with no checks and balances.[49] AELP has written model legislation to rescind this preemption, or at the very least restore a private right of action for consumers.[50] We urge this Subcommittee to consider this.

• **LIMIT COMMON OWNERSHIP**. One of the key reasons it's become nearly impossible for entrepreneurs to launch new airlines in recent decades is common ownership among institutional investors.[51] Large institutional investors often pursue stakes in not one, but all four of the Big Four carriers, which in itself speaks to the lack of competition among them, since antitrust experts have found the U.S. airline industry is ten times more concentrated than the level that "is presumed likely to enhance market power."[52] AELP's model legislation would restrict investors from owning more than 1% of any domestic carrier if they also own more than 1% of one or more other domestic carriers.[53]

• **REINSTATE INTERLINING**. When I worked in the airlines, the policy of interlining held over from the regulated era continued to work effectively through the 1990s. It allowed passengers with delayed or canceled flights to receive reciprocity by flying on another carrier's flight on that route without additional cost. Eventually, the major airlines used it as yet another weapon against smaller rivals, but mandating reciprocity would ensure more passengers were protected and eradicate price gouging.[54]

• **REFORM AIRPORT SLOTS**. In 1968, the FAA began monitoring seven congested airports

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[48] S.4269, Airport Gate Competition Act, 118th Congress (2023-2024), https://www.congress.gov/bill/118th-congress/senate-bill/4269/text.
[49] *See Supra* note 21.
[50] William J. McGee and Lee Hepner, "How to Address the Air Travel Crisis: Eliminating the Airlines' Legal Liability Shield," American Economic Liberties Project, September 2022, https://www.economicliberties.us/our-work/end-federal-preemption/.
[51] José Azar, Martin C. Schmalz, and Isabel Tecu, "Anticompetitive Effects of Common Ownership," Journal of Finance, May 10, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2427345.
[52] *Id.*
[53] *See Supra* note 50 at 4-9.
[54] William J. McGee and Ganesh Sitaraman, "How to Fix Flying: A New Approach to Regulating the Airline Industry," American Economic Liberties Project and Vanderbilt Policy Accelerator, Janaury 2024, https://www.economicliberties.us/wp-content/uploads/2024/01/20240124-AELP-airlines-v5.pdf.

nationwide, and currently takeoff and landing slots are controlled by the FAA at four of those airports--New York's LaGuardia and JFK, Newark, and Washington/DCA.[55] This system, which predates deregulation, gives preference to the legacy carriers that were grandfathered such rights. Today, major airlines share or trade such access amongst themselves--despite "use it or lose it" rules on slots[56]--as competitive weapons to thwart access by new and low fare airlines, as we recently saw with United and JetBlue in Newark and New York/JFK.[57] However, AELP stands with other advocates in asserting that such slots should not be bought, sold, traded, or given away by airlines, since U.S. Code clearly states the federal government has "exclusive sovereignty of the nation's airspace," and therefore access via airports to such space.[58] [59]

CONCLUSION

As explained above, over the last four decades the airline industry has dramatically changed for the worse, harming passengers, workers, and entire regions of the United States. Until Congress addresses these problems, they will get worse. It is long past time for Congress to step in to fix flying and reinvigorate competition in the airline industry, and AELP looks forward to assisting this Subcommittee in that effort.

[55] Theresa L. Kraus and Wayne D. Hubbard, "From Flow Control to Air Traffic Flow Management," Federal Aviation Administration, Accessed September 28, 2025, https://www.faa.gov/media/77471; "Slot Administration," Federal Aviation Administration, March 27, 2023, https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/perf_analysis/slot_administration.

[56] Sean Dudahy and Ethan Klapper, "What are airport slots, and how do they affect your flights?," The Points Guy, September 9. 2024, https://thepointsguy.com/airline/slots/.

[57] Leslie Josephs, "United Airlines plans to return to JFK — again — in new partnership with JetBlue," CNBC, May 29, 2025, https://www.cnbc.com/2025/05/29/united-airlines-jetblue-airways-partnership-return-jfk.html.

[58] Charlie Leocha, "Why the FAA should not allow big carriers to hoard airport slots," Travelers United, May 3, 2024, https://www.travelersunited.org/dont-allow-big-carriers-to-hoard-airport-slots/#:~:text=Airport%20slots%20are%20valuable%20PUBLIC,airports%20more%20balanced%20and%20competitive.

[59] 49 U.S.C. § 40103.

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A4A Testimony Highlights

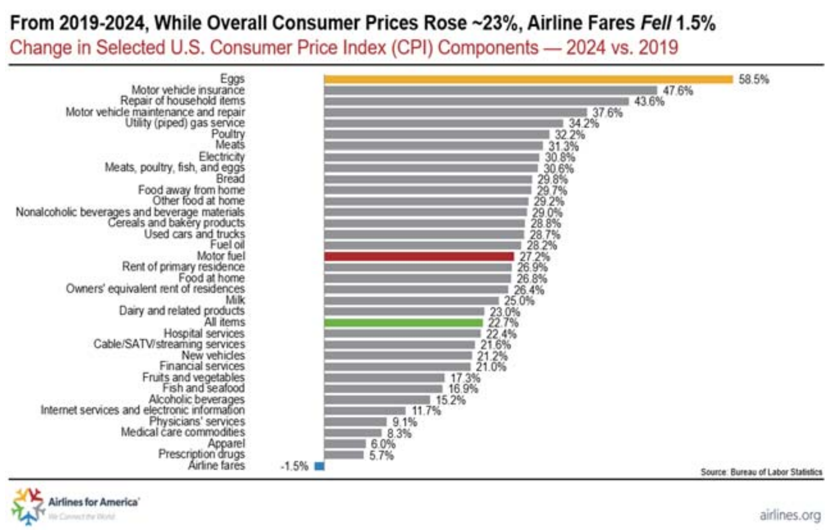
Today consumers are benefitting from fierce competition between airlines through lower fares, more choice and innovation.

Commercial aviation drives 5% of U.S. GDP and helps support more than 10 million U.S. jobs. We operate the safest mode of transportation with an average of 27,000 flights, carrying 2.7 million passengers and 61,000 tons of cargo every day.

- The bipartisan Airline Deregulation Act democratized air travel.
- Deregulation spawned a diversity of business models that provide consumers choice.
  - Today, nearly 90% of Americans have flown commercially in their lifetime.
  - Since airline industry deregulation in 1978, domestic fares have dropped nearly 50 percent (adjusted for inflation, including fees).
  - Passengers have more choices than ever (more airline business models, fare types, loyalty programs).
  - Low-cost carriers have gained market share demonstrating robust competition.
- Given unprecedented affordability, especially relative to so many other consumer goods and services, it is simply no wonder that more people are flying than every before.

- Data from the Bureau of Labor Statistics shows that from 2019 to 2024, overall consumer prices, as measured by the U.S. **Consumer Price Index, rose 23%; in striking contrast, the CPI's airline fares component fell 1.5%.**

- **The biggest threat to a healthy, competitive airline industry is an outdated ATC system. We commend Secretary Duffy and Congress for the $12.5 billion downpayment for a brand-new air traffic control system and urge a coordinated approach to ensure FAA delivers safety and efficiency benefits from that investment to the traveling and shipping public.**



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EXAMINING COMPETITION IN AMERICA'S SKIES
STATEMENT OF SHARON PINKERTON, SENIOR VICE PRESIDENT, LEGISLATIVE AND REGULATORY POLICY, AIRLINES FOR AMERICA
BEFORE THE
U.S. SENATE COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

September 30, 2025

Good afternoon, Chairman Lee, Ranking Member Booker and members of the Subcommittee. My name is Sharon Pinkerton, and I am the Senior Vice President of Legislative and Regulatory Policy at Airlines for America (A4A). Thank you for inviting me here today, and on behalf of all our A4A members, we appreciate the opportunity to participate in the Subcommittee's examination of the fiercely competitive U.S. aviation industry that the traveling and shipping public enjoy today.

Commercial aviation drives 5% of U.S. GDP and helps support more than 10 million U.S. jobs. We operate the safest mode of transportation with an average of 27,000 flights, carrying 2.7 million passengers and 61,000 tons of cargo every day across the globe.

The Bipartisan Airline Deregulation Act Democratized Air Travel.

The Airline Deregulation Act of 1978 (ADA), championed by consumer advocates and economists, spawned a flurry of new entry and diversification of business models that forced airlines to compete not only on product but also on price. Prior to its enactment, U.S. regulators, via the Civil Aeronautics Board (CAB), were the primary barrier to entry. Markets were simply not contestable, because even in the face of high prices and market inefficiencies, an incumbent serving a route knew that a competitor could not enter that route overnight. Rather, that aspiring competitor needed approval from the CAB to do so. This was good for aviation attorneys working on route cases, but not for consumers who could not afford to fly.

As observed by former Senate aide and Supreme Court Justice Stephen Breyer regarding hearings on the ADA held in 1976:

> *The Civil Aeronautics Board had forbidden price competition. The result was service competition instead: empty seats, steak sandwiches, Aloha bars near the galley, and sky-high prices. A business traveler may be pleased to find an empty seat for his briefcase, an FTC official said at the time, but probably doesn't realize he is paying full fare for the briefcase… The hearings' objective was to determine if creating more competition—in fares and routes—would improve things. The answer seemed to be yes. In California and Texas, where fares were unregulated, they were much lower. The San Francisco-Los Angeles fare was about half that on the comparable, regulated Boston-Washington route. And an intra-Texas airline boasted that the farmers who used to drive across the state could fly for even less money—and it would carry any chicken coops for free… When an East Boston constituent asked Kennedy, "Senator, why are you holding hearings about airlines? I've never been able to fly," Kennedy replied: "That's why I'm holding the hearings." The hearings brought together a Democratic senator and a Republican President in Gerald Ford. They created alliances among consumer groups, pro-competition business groups, economists, and regulatory reformers.*

In August 2024, USA Today columnist Zach Wichter wrote:

> *"Sure, flying used to be more luxurious, but that made it largely unaffordable. "Up until 1978, interstate and international airline routes and prices were controlled by the federal government via the Civil Aeronautics Board (CAB). Flights remained expensive even as technology made planes faster and more*

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efficient. 'It was becoming increasingly obvious that the regulatory agency, the CAB, was falling behind in the regulation. It would take years to approve new routes and fare structures,' [Smithsonian curator of air transportation Bob] van der Linden said. Overall, flying today is a much better deal in terms of dollars and cents than at almost any other time in history…. 'Today you could, if you do some good shopping, you could fly transcontinental, say New York to San Francisco, for $300,' van der Linden said, noting that in actual dollar terms, it's the same price as in 1930. 'The price hasn't changed, but the value of the dollar has, dramatically. In 1930, $300 could buy you an automobile.'"

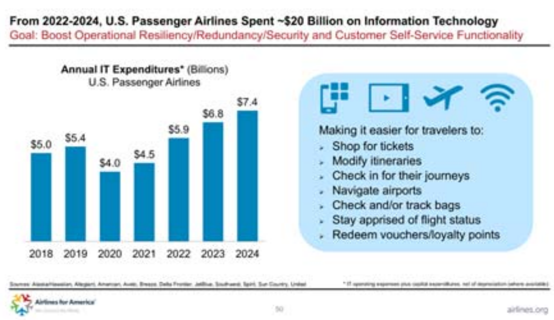
Deregulation spawned a diversity of business models that provide consumers choice.

Fast forward to today, and travelers flying within the United States or abroad are blessed with a diverse set of business models spanning full-service global network carriers (e.g., American, Delta, United), low-cost network carriers (e.g., Alaska/Hawaiian), low-cost carriers (e.g., Breeze, JetBlue, Southwest) and ultra-low-cost carriers (e.g., Allegiant, Avelo, Frontier, Spirit, Sun Country). These business models differ primarily by 1) network scope and product and 2) operational complexity. In general, as network scope (i.e., breadth of destinations served, fleet diversity required to serve those destinations) and product differentiation grow—along with the benefits that consumers derive from those attributes—so too do the complexity and associated costs of providing air service.

Airlines are Driving Innovation Through Technology Investments, Increasing Customer Satisfaction.

Airlines compete fiercely for customers not only through pricing, but also through differing cabin offerings, routes, airport amenities (including lounges), mobile apps, distribution channels, loyalty programs and in-flight services. This would not be possible if the government still controlled fares and service or if decision-making powers were not in the hands of customers, as they are now.

Airlines know that customers value convenience and believe that technology can improve every stage of the travel process from planning, booking and payment all the way through the end of the journey. In addition, carriers also know that at the airport, customers want to reach their boarding gate quickly with minimum friction. That is why most carrier branded credit cards offer to pay for enrolling in TSA PreCheck and/or Global Entry and many carriers have invested in biometrics for bag drop and the boarding process. And carriers are responsibly utilizing Artificial Intelligence (AI) to buttress safety and efficiency to improve the customer experience.



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Carriers have also invested in product distribution so that more customers can easily view and choose from among all the travel options that meet their financial and service needs. Carriers have every incentive to be transparent, and the choices they make about who distributes their product through contractual relationships is critical to protecting consumers and ensuring the product is advertised in a way that meets the carriers' standards.

Preoccupation with nationwide market share is the single largest source of confusion and misunderstanding of airline competition.

Before elaborating further on the different business models, it is important to recognize that it is well understood that competition is best measured on an origin-and-destination ("O&D") basis between metropolitan areas (i.e., "city pairs"). A useful threshold—long recognized by the U.S. Government Accountability Office (GAO) (see GAO-08-845, GAO-10-778T, GAO-08-845, GAO-14-515) and Department of Transportation (DOT) (see DOT-OST-2015-0070 Order 2016-11-2)—for defining a competitor on a city pair is one that carries at least 5% of O&D passengers. When aggregating at the national level, it is appropriate to consider the passenger-weighted average number of competitors between city pairs, as this most accurately captures the level of competition experienced by the typical passenger.

- As Dorothy Robyn (special assistant to the president for economic policy, 1993-2001) stated in her December 15, 2023, piece entitled "US Airline Consolidation Has Not Harmed Competition or Consumers": "The fact that the 'Big Four' carriers have a 75-percent market share nationwide says little about the state of competition in the airline industry because airlines compete on individual routes. (The preoccupation with nationwide market share is the single biggest source of confusion and misunderstanding of airline competition.) Thus, to understand the effect of recent mergers, one has to look at data at the individual route level—or what the Department of Transportation (DOT) refers to as city-pair markets."

- Similarly, in testimony before the Senate Commerce Committee on March 23, 2023, Jeffrey Shane (Under Secretary for Policy at the Department of Transportation, 2003-2008) posited: "What do the numbers actually tell us? You don't make competition policy based simply on the number of airlines in the market, or on the aggregate market share enjoyed by the 'big three' or 'big four'; instead, you carefully examine the quality of the choices available to actual passengers in actual city pairs and you look objectively at actual pricing trends."

Note that in the case of mobile wireless services, just three providers—Verizon, T-Mobile and AT&T—account for 92% of U.S. postpaid phone/voice subscribers. But the nationwide share is dramatically less relevant than whether consumers can choose from any of these three providers, or from Comcast, Charter or others, no matter where they live or work.

Since 2000, lower cost carriers have been an engine of growth in the industry and taken a significant share of passengers away from the global network carriers (GNCs).

In 2000, GNCs carried 73% of O&D passengers. By 2024, that share had fallen to 52%, meaning that lower-cost carriers now carry nearly half of all domestic passengers. Moreover, the share of domestic U.S. passengers with access to lower-cost carriers has soared from 62% in 2000 to 90% in 2024. In fact, more than 50% of domestic O&D passengers now have access to ultra-low-cost carriers (ULCCs), up from 26% just a decade ago, and have benefited from the arrival of two lower-cost startups—Avelo Airlines and Breeze Airways—in spring 2021. As lower-cost carriers grew rapidly, the consolidation of complementary GNC airline networks facilitated their ability to offer competitive connecting service on more O&D city pairs, expand nonstop service into new markets and restore growth. The combination of these developments resulted in more competition and choice than ever for flyers, with the average number of competitors on domestic city pairs rising from 3.33 in 2000 to 3.39 in 2010 and to 3.49 in 2024.

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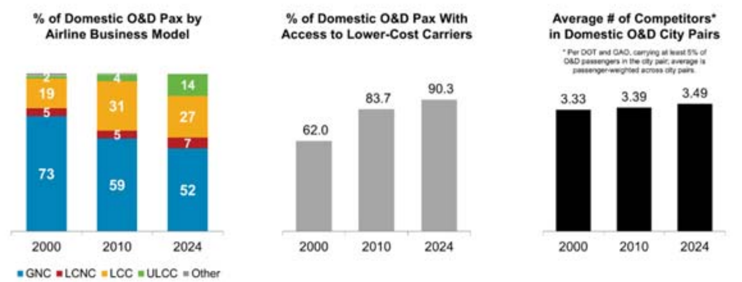
From 2000-2024, the Number of Competitors per Domestic Air Trip *Rose* From 3.33 to 3.49

Global Network Carrier Share of Domestic Passengers Fell From 73% in 2000 to 52% in 2024



Source: DOT Data Bank 1B and Econic Partners. Global network carriers (GNCs) include AA/DL/UA and predecessor airlines (e.g., US Airways, America West, TWA, Northwest, Continental) and defunct legacy network carriers (e.g., Eastern, Braniff). Low-cost carriers includes Southwest, JetBlue, Breeze, Reno Air, Midway, Pro Air, Kiwi International, AirTran, Accessair, Independence, Eastwind, National, ValuJet, ATA, Skybus, People Express, Vanguard, Virgin America, Western Pacific, Air South, and Morris Air). Lower cost network carriers include Alaska, Hawaiian and Aloha. Ultra low-cost carriers (ULCCs) include Allegiant, Frontier, Spirit, Sun Country, and Avelo.

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While the statistics above speak to the average passenger, it is also worth noting that in 2024, 51% of U.S. domestic passengers traveled in city pairs with at least four effective competitors, 27% in markets with three competitors and 16% in markets with two competitors. Thus, only 5% of U.S. domestic market passengers were left with just one carrier.

U.S. passengers have also benefited from a proliferation of nonstop service in more markets over time, which improves passenger service quality by reducing transit time as well as the uncertainty associated with flight connections. Notably, in 2023 about 57% of U.S. domestic passengers traveled in markets with at least three nonstop competitors, compared with 41% of the market in 2004. In 2023, only about 13% of the U.S. passengers traveled in markets without a nonstop service option, compared with 21% of the U.S. passenger market in 2004. Net new nonstop domestic service (i.e., new routes minus discontinued routes) by major carriers began on 459 nonstop O&D airport pairs between 2004 and 2024. The following table contains examples of domestic and international market nonstop service introductions between 2004 and 2024, including explanatory factors:

New Route in 2024 vs. 2004	Nonstop Daily Seats Each Way	Explanatory Factors
AA CLT-JFK	1,237	AA/US → connecting CLT hub with JFK TATL hub/gateway
B6/DL/WN BNA-BOS	1,032	Growth of B6 and DL BOS hubs, WN BNA hub
AA AUS-CLT	892	Growth of US/AA CLT hub and AUS market
AS/DL AUS-SEA	833	Growth of AS and DL SEA hubs, AUS market
B6/UA FLL-SFO	669	Growth of B6 FLL hub, UA SFO hub
F9/UA/WN DEN-GRR	618	Growth of F9, UA, WN DEN hubs
UA SFO-SIN (Intl)	258	Growth of UA SFO hub, new technology (B787)

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DL ICN-MSP (Intl)	153	DL/KE JV alliance
AA BCN-MIA (Intl)	121	AA/IB JV alliance
UA MUC-SFO (Intl)	136	UA/LH JV alliance

Measuring market share at the city level (over all domestic destinations) is another competition metric to consider, since passengers in a metropolitan area or community may take multiple trips (over a period of months or years) to different destinations. To that end, the following table indicates total LCC shares of U.S. domestic O&D passengers at the three U.S. GNC's hubs in 2010 and 2024. LCC collective shares are significant (exceeding 30%) at every hub by 2024 except Charlotte (19%) and Detroit (28%). With this strong collective share, LCCs exert a substantial competitive influence on GNC fares and capacity.

AA Hub City	DL Hub City	UA Hub City
CHI: 32%→38%	ATL: 24%→33%	CHI: 32%→39%
CLT: 8%→19%	BOS: 40%→44%	DEN: 51%→51%
DAL: 27%→40%	DTW: 22%→28%	HOU: 35%→44%
LAX: 48%→52%	LAX: 48%→51%	LAX: 48%→51%
MIA: 42%→48%		
NYC: 27%→30%	MSP: 20%→32%	NYC: 27%→30%
PHL: 25%→33%		
PHX: 50%→56%	NYC: 27%→30%	SFO: 50%→48%
WAS: 39%→43%	SEA: 63%→65%	WAS: 39%→43%
	SLC: 31%→32%	

Did Deregulation Leave Customers Without Any Protections?

Policymakers explicitly and broadly ensured that DOT maintained its ability to protect consumers from unfair and deceptive practices. Recently, however, some academics and Members of Congress have made proposals that attack the spirit of deregulation by re-regulating airlines and attempting to make them a homogenized set of public utilities. A number of states have also attempted to re-regulate the airlines. A key principle underlying the ADA is that airlines are businesses and should be treated as such. Congress and the Administration intended for government to step aside and let competition and innovation flourish—and it most certainly has. Accordingly, the ADA prohibits any regulation of airline rates, routes, or services which are the key areas of fierce competition for airlines today.

As noted, DOT has broad authority to intervene to prevent unfair and deceptive practices and unfair methods of competition and enforce Congress's requirement for adequate interstate air transportation. In November 2020, the Trump Administration finalized a rule to codify the meaning of "unfair and deceptive practices." Under this rule, a practice is defined as unfair, "if it causes or is likely to cause substantial injury, which is not reasonably avoidable, and the harm is not outweighed by benefits to consumers or competition." A practice is defined as deceptive to consumers "if it is likely to mislead a consumer, acting reasonably under the circumstances, with respect to a material matter."

Air Cargo Deregulation Led to Expanded Service, Lower Shipping Costs and Product Innovation

In the 20 years preceding the deregulation of Air Cargo in 1977, the CAB refused to certify the entry of any new cargo carriers or the expansion of existing ones into new routes and limited the size of aircraft used to transport goods. Under this regime carriers such as FedEx, which was classified as an express (rather than cargo) service, could only use small planes even when larger ones were the more efficient choice. Soon after deregulation, express air services spread across the country, allowing rapid increases in the amount and variety of products shipped.

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Under CAB regulation, if a parcel needed extremely rapid transport, it could be shipped "belly hold" over routes for which an airline had passenger authority, thus limiting overnighting to point-to-point routes available under passenger air flight regulations. The 1977 deregulation of air cargo allowed carriers such as FedEx to use larger aircraft for overnight shipping over any route, with prices determined by the market, making it possible for a lobsterman in Maine to ship crates of fresh lobster from Bangor to Bismarck or nearly anywhere else. Free from operational restrictions imposed by the CAB and the Interstate Commerce Commission (ICC), shippers increased reliability and provided a multitude of delivery speed, time, and method combinations. Nearly simultaneous deregulation of trucking and railroads allowed parcel carriers to become multimodal and offer intermodal services.

Initially, the revolution of air cargo services unleashed by deregulation led to expansion of lean manufacturing and lean retailing processes, which rely heavily on just-in-time delivery services offered by carriers such as UPS and FedEx. Stocking every possible personal computer (PC) configuration, for example, would require maintaining massive, costly inventories. Instead, many PC makers wait until a customer's order is received and then install the needed components, shipping the finished product to the customer rapidly via delivery systems made possible by a parcel carrier utilizing combinations of air and surface transportation. Another economic development made possible by deregulation of air cargo was rapid repairs. For example, in 2000 SonicAir built a logistics center at the end of the runaway at UPS's Louisville hub that made it possible for customers of tech companies with which SonicAir had a contract to ship their printers and scanners for repairs. These repairs were then completed overnight at the airport and returned in working order to the customer in the morning, reducing parts inventory for the manufacturer and improving customer service.

In recent decades, we have seen the proliferation of cargo-deregulation-enabled e-commerce, as typified by online retail giant Amazon.com and online auction house eBay.com, along with countless individual retailers and middlemen. The interaction between online retailers and air cargo deregulation is important: the rise of parcel shippers able to support the complex supply chains makes possible the rapid 1-2-day shipping of goods and tracking of shipments characteristic of modern e-commerce. When ordering online, consumers can often choose between slower shipping times or 24-48-hour shipping options—a choice not widely available before deregulation. For instance, the 1975 Sears Catalog (the pre-Internet equivalent of Amazon) lists only surface transport rates; 1-2-day shipping was not an option. Although it is impossible to guess what would have happened had air cargo not been deregulated, it is difficult to imagine e-retailing being anywhere near as successful in a world without parcel shippers such as FedEx and UPS.

In short, deregulation of air cargo was a key element in the emergence of modern, secure supply chain management and allowed wider access to goods supplied by domestic and international sources. It also facilitated American trade to foreign markets. Efficiencies in widespread use of hub-and-spoke models for air cargo, by reducing total costs, enable more American products to reach foreign markets.

Competition Has Spurred Diverse Business Models and Greater Consumer Choice

The growth in the competitiveness of the airline industry since the ADA speaks for itself. Post-deregulation, the U.S. has experienced a plethora of differing business models from global network carriers and lower cost network carriers to low-cost carriers and even ultra-low-cost carriers. The invention of the hub-and-spoke system is what allowed some carriers to serve more communities with about the same number of planes. Other carriers have pursued a point-to-point approach. And in a post-pandemic world, demand is still evolving. One ULCC recently decided to offer first class. The government should not micromanage or otherwise interfere with the competitive marketplace; rather it should allow the marketplace to respond to evolving consumer preferences.

As shown below, lower-cost carriers serve more U.S. airports than ever. Among these are two new airlines that entered the market in spring 2021. Unlike some failed entrants of the past, these airlines were well capitalized and founded by seasoned executives with well thought-out business plans. Breeze Airways is focused on linking secondary markets with new A220 aircraft using a point-to-point model. Avelo Airlines operates 737s from bases across the country, catering to business and leisure customers on shorter routes.

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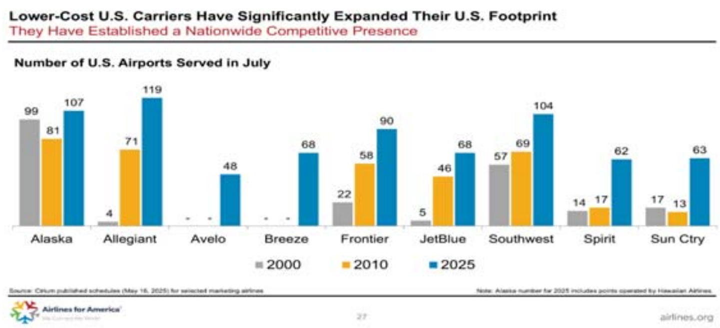

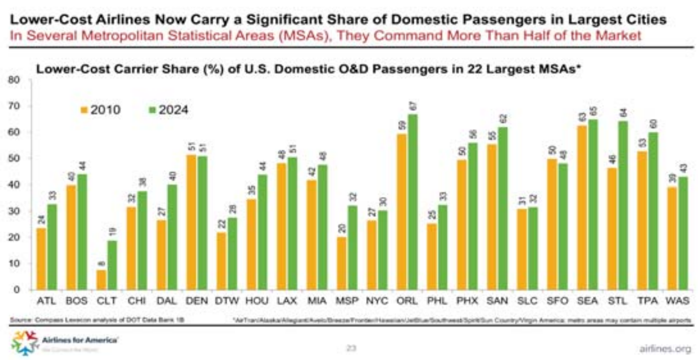

International Aviation Deregulation Has Also Yielded Consumer and Economic Benefits

The success of domestic airline deregulation is precisely what led industry and the U.S. government to pursue deregulation of international markets through its "Open Skies" template for bilateral air services agreements. As former President Bill Clinton said in an October 1995 speech to the White House Conference on Travel and Tourism "The second thing we've worked to do is to sign open-skies agreements with more countries to facilitate air travel here. Earlier this year I signed an open-skies agreement with Canada, deregulating the world's largest aviation market: more flights, lower fares. Last month we concluded an open-skies pact with nine European countries. We've expanded air service around the world to Great Britain, Brazil, Ukraine, the Philippines." He added, ""We've worked hard to give you a healthy airline industry. They were in deep trouble when I came into office. Every airline in America but one was losing money. Three were in bankruptcy. From 1988 to 1992, the industry lost $12 billion, more money lost in 4 years than it had made in its entire history. I appointed a special commission headed by the former Governor of Virginia, Gerry Baliles, to revive the industry.

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Secretary Pena has now carried out the vast majority of its recommendations. Today the airlines are healthy, the fares are down, the passengers are up, and they are turning a profit. We are moving in the right direction."

Indeed, beyond Open Skies, airlines have pursued different types of international cooperative agreements to provide even more robust travel choices for their passengers, and numerous studies, including by DOT, outline the benefits from integrating complementary networks. In 1998, DOJ's antitrust division chief Joel Klein remarked, "[B]y linking largely end-to-end route networks, international code-share agreements can inject additional competition into city-pair markets currently served by competitors' on-line connecting flights. If neither of the code-share partners currently serves that city-pair, the new combined code-share service might be an effective competitive alternative to other carriers' existing on-line services, and constrain prices in that market… Potential public interest benefits occur when an airline extends the reach of its route network by code-sharing on flights operated by an airline that operates a route network in another geographic region -- i.e., an end-to-end network combination."

Today, U.S. airlines employ more than one million people across the globe and offer passenger service to and from 80 countries and cargo service to and from more than 220 countries. Dedicated freighter service is complemented by plentiful belly cargo capacity offered by passenger carriers, keeping rates lower for shippers. Thanks to deregulation of most international markets, route entry is unlimited, and U.S. airlines compete vigorously with foreign-flag carriers. This vigorous competition among airlines has in turn fueled demand for the most cost-efficient, range-capable, customer-friendly (and often cargo-capable) aircraft to connect not only the largest hubs but also secondary U.S. and foreign markets with nonstop service.

DOJ-Approved Airline Consolidation Has Strengthened Competition and Benefited Consumers, Employees and Communities

DOJ-approved mergers recognized that complementary route networks and other assets can strengthen competition, at times by ensuring that carriers avoided further financial turmoil. If not for these mergers and the associated financial stability they fostered in the marketplace, it is likely that consolidation would have transpired through additional bankruptcies, which would have been a far more disruptive means of reorganization for employees, airports and others. The likely result would have been less choice than what travelers enjoy today. And as 2021 proved, new entry has continued.

For the mergers cited in the following table, DOJ observed that they combined complementary networks, allowing the resultant entities to create truly ubiquitous service both domestically and globally, offering service from "anywhere to everywhere."

Airlines/Date	POTUS	Excerpt from DOJ Statement
America West/US 23-Jun-2005	Bush	"The [Antitrust] Division has found that integration of airlines with complementary, end-to-end networks, like those of the merging firms, can achieve efficiencies that benefit consumers. The consolidation of America West and US Airways…will enable the merged airline to offer U.S. consumers more and better service to more destinations throughout the country."
Delta/Northwest 29-Oct-2008	Bush	"[T]he proposed merger…is likely to produce substantial and credible efficiencies that will benefit U.S. consumers and is not likely to substantially lessen competition… In addition, the merger likely will result in efficiencies such as cost savings in airport operations, information technology, supply chain economics, and fleet optimization that will benefit consumers. Consumers are also likely to benefit from improved service made possible by combining under single ownership the complementary aspects of the airlines' networks."

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UAL/Continental 27-Aug-2010	Obama	"The proposed merger would combine the airlines' largely complementary networks… The transfer of slots and other assets at Newark to Southwest…resolves the department's principal competition concerns and will likely significantly benefit consumers..."
Southwest/AirTran 26-Apr-2011	Obama	"The merged firm will be able to offer new service on routes that neither serves today, including new connecting service through Atlanta… [T]he division did not challenge the acquisition after considering the consumer benefits from the new service..."
American/US 12-Nov-2013	Obama	"This agreement has the potential to shift the landscape of the airline industry. By guaranteeing a bigger foothold for low-cost carriers at key U.S. airports, this settlement ensures airline passengers will see more competition on nonstop and connecting routes throughout the country… This is vital to millions of consumers who will benefit from both more competitive prices and enhanced travel options."
ALK/Virgin America 6-Dec-2016	Obama	"[B]ecause the codeshare between Alaska and American may benefit consumers in some circumstances by enabling Alaska and American to offer their customers service that neither airline would provide on its own, the proposed Final Judgment does not categorically prohibit all codesharing. Instead, the proposed Final Judgment focuses on reducing codesharing where it is likely to blunt Alaska's incentives to compete with American after the merger."

Today -- Consumers Have More Choices for both Domestic and International Travel Than Ever Before

Choices have broadly expanded for consumers during the period since consolidation began (and new entry continued), the airlines created significant new service products, including basic economy and premium economy while upgrading business class. And despite the pandemic setback, airline capacity has increased. Further, the fact (outside the COVID-19 pandemic) that the airlines are not routinely facing a risk of bankruptcy has given the confidence and financial wherewithal to invest in the long term (especially new planes, ground equipment, airport amenities, mobile apps). In fact, the past 13 years (Nov. 2011-Nov. 2024) represent the longest stretch in memory without a GNC or LCC bankruptcy filing, albeit the recent Spirit Airlines filings. As evidenced by the American Customer Satisfaction Index (ACSI) and other independently conducted surveys, airline industry customer satisfaction ratings are at record levels. Unbundling has given consumers a greater choice, including very-low-fare basic economy. And including ancillary fees, real fares have continued to decline, due in large part to the low barriers to market and route entry.

The increasing role of ancillary pricing has benefited consumers by allowing carriers 1) to offer lower prices to price-sensitive passengers and 2) to tailor products to consumer demand. Contrary to common misperception, however, it was not brought about by consolidation. Unbundling is a global phenomenon that commenced in earnest in 2008 amid the Great Recession. It was pioneered by lower-cost carriers such as People Express in the 1980s and Ryanair, Easyjet, Frontier, Spirit, WestJet and others. For example, Canada has seen little recent consolidation, but ancillaries are just as critical to service offerings by network carriers and LCCs relative to their U.S. counterparts.

With respect to service offerings, the mergers created network connectivity benefits, such as unique-to-unique itineraries and increased schedule options throughout the day in city pairs already served by both merging carriers.

- Unique-to-unique example: In the AA/US merger only US (of the two airlines) served Roanoke (ROA) pre-merger and only AA (of the two) served Tokyo Narita (NRT). Post-merger American could (and did) offer online service between Roanoke and Tokyo Narita, an airline/market choice not previously available to travelers.
- Increased schedule options example: In the UA/CO merger, pre-merger each carrier offered limited one-stop connectivity between Pittsburgh and El Paso: United offered connections via DEN and Continental connections

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via IAH (July 2009 OAG). Post-merger United offered connecting options via both hubs and ultimately added nonstop service to its ORD hub, resulting in UA PIT-ELP connectivity via three hubs (July 2024 OAG).

Mergers also enabled the following:

- New network growth opportunities. For example, the DL/NW merger brought significant DL expansion into Northwest/KLM's hub at AMS and NW expansion into Delta/Air France's CDG hub. The merger also enabled the creation of DL's SEA hub (NW's focus on Asia combined with DL's western U.S. relevance) and LGA hub (DL/NW slot portfolios in DCA/LGA allowed slot trade to facilitate LGA expansion).
- Geographic scope expansion. More consumer options/diversification of route portfolio contributes to financial stability (e.g., Asia strength (NW focus) may offset EU weakness (DL focus); southern U.S. strength (DL focus) may offset central U.S. weakness (NW focus).
- Economies of scale. Merging carriers achieved scale economies that would not have been possible otherwise. Examples include:
  - Utilization efficiency, where mergers resulted in improved station staff/gate/real estate efficiency at spoke airports. For example, before the AA/US merger, AA offered 11.6 flights/day and US offered 4.0 flights/day at Little Rock AR. Because the four US flights were spread across the day, they likely required two sets of full-time staff and resulted in empty check-in space between the four flight departure windows. Today, AA offers 15.9 flights/day at LIT with about 15% more seats than the pre-merger AA/US total. Post-merger, AA introduced nonstop service from LIT to Miami and New York LGA, both of which were less likely to have occurred if not for the merger. Similarly, in Grand Junction CO, pre-merger AA offered 2.4 flights/day and US 3.0 flights/day, each likely inefficient. Today, AA operates 5.6 flights/day at GJT with 40% more seats.
  - Fleet complementarity gave the merged airline the ability to match aircraft types with selected routes in an economically optimal manner. For example, pre-merger Delta 777s permitted the combined Delta to serve DTW-PEK and DTW-PVG nonstop, whereas pre-merger Northwest operated 747-400s that were too big for these markets at the time and Northwest's smaller A330-200/300s lacked the necessary range.
  - Reduction of duplicative management/overhead functions and corporate real estate.

The Footprint of Small Community Services Changes Based on Demand and Other Factors, But the Number of Communities Served Has Not Changed Significantly

Scheduled commercial air service to small and rural airports has not been impacted by consolidation per se, but rather by the economics of flying. Skilled workers, particularly regional airline pilots, have seen direct compensation increase at historic rates to maximize the retention of a workforce necessary to fulfill contractual obligations to a mainline carrier. Airlines' ability to optimize service to small airports has also been limited by scope clauses contained in mainline pilot contract collective bargaining agreements. These clauses typically limit the number of small regional jets (RJs) that can be deployed by regional-airline partners as well as the size and number of large (typically exceeding 65 seats) RJs that they can operate using the mainline carrier's marketing code. As such, rising operating costs and skilled workforce shortages have resulted in frequencies being reduced, and in some cases a competing service might vacate one small and rural market to maintain service at another similar market. But the paramount issue for the small community is whether it maintains service to a major carrier's hub.

The amount of flying by turboprops and small RJs has been declining at all U.S. airports, irrespective of their exposure to merger activity, due to long-acting circumstances that have accelerated in recent years affecting small-aircraft economics and putting intense pressure on airlines to increase gauge. Those factors include the following: higher-than-built-for labor and fuel costs; small aircraft platforms aging out without a viable, new-production alterative; a licensed mechanic scarcity; declines in small and rural community population and economic activity in selected markets, rendering it difficult to serve them profitably and therefore to invest in updated fleets of small aircraft; and the increased prevalence of lower-cost

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carriers at alternative (often larger) airports within a reasonable driving distance of the smaller airport (with attractive price points and departure timings to high-demand destinations).

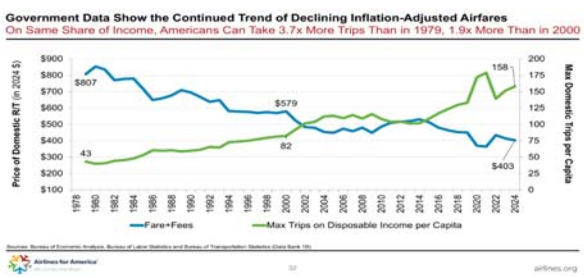
The number of small communities receiving service has not significantly changed since the mergers, and the biggest impacts have been losses of Essential Air Service (EAS) service due to pilot issues and 50 seat costs. On the contrary, shortages have worked to create a zero-sum game for many operators. The EAS service that had been under contract required a continuation of the flying when other more profitable opportunities might have been available at non-EAS-designated airports.

The changing economics of 50-seat (or smaller) aircraft have led to some frequency reductions to/from major hubs as fleet upgauging occurred, but these passengers are still connected to the full network. Preceding the COVID-19 pandemic, the economics of schedule density (i.e., daily frequencies to a connecting hub) was the more important determinant of passengers choosing to use the local airport versus seeking service from an alternative airport. Today, seats (rather than frequencies) are proving to be more important to a local airport retaining traffic. The new economics of using larger aircraft, despite fewer frequencies, is proving to be successful in retaining connectivity.

While some small airports (not necessarily small communities, since many airports can reside within driving distance of a community) have lost some air service, most remain connected to a major hub, and few lost a competitor that merged. Most network carrier hubs survived consolidation. The few that did not (MEM/CVG/CLE) constituted a small share of the total service loss to smaller airports. Several of the hubs that were "de-hubbed" by a network carrier have attracted other carriers and added service focused on the local market, with destinations sought by the greater metropolitan and outlying populations. One prominent example is the transformation of Pittsburgh International Airport, with increased nonstops to large PIT local O&D destinations such as Atlanta, Boston, Chicago, Dallas, Denver, Fort Lauderdale, Las Vegas, New York and Tampa. In fact, 42 of the top-50 O&D airport pairs to/from PIT are linked via nonstop service. These flights enhance the economic stimulation benefits of the airport to the local community, compared to hub connecting traffic that rarely spends money outside the airport. A portion of the nonstop service from cities that were "de-hubbed" after mergers has been backfilled by lower-cost carriers, allowing traffic levels to remain stable or grow notwithstanding the overall reduction in flights.

Airfares (including ancillaries) are at historic lows in real terms, a welcome relief at a time of runaway inflation for basic goods and services.

Because deregulation enabled airlines to compete aggressively on pricing instead of having the government dictate the price, inflation-adjusted **airfares (including ancillaries) are at an all-time low (**excluding the pandemic-stricken years 2020-2021).



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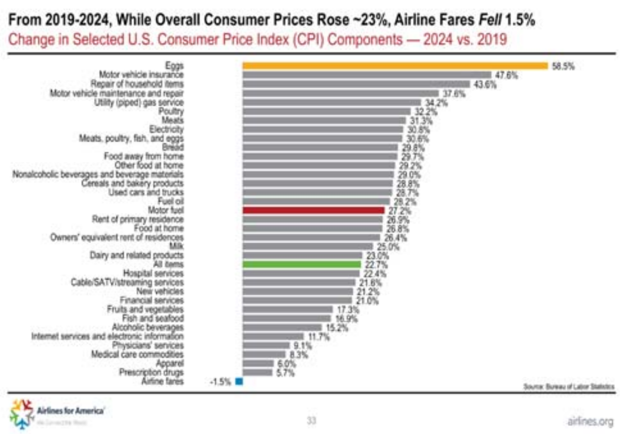
The never-ending competition and pressure to provide low-fare options—even amid rising costs and reinvestment—keep downward pressure on airline profit margins even in the best of times.

Data from the Bureau of Labor Statistics shows that from 2019 to 2024, overall consumer prices, as measured by the U.S. **Consumer Price Index, rose 23%; in striking contrast, the CPI's airline fares component fell 1.5%.**



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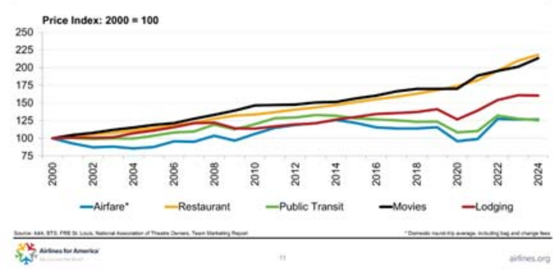
Since 2000, the Average Price to Purchase Food, Take Public Transit, Stay at a Hotel or Go to the Movies Has Significantly Outpaced the Price of Taking a Trip by Air



Given unprecedented affordability, especially relative to so many other consumer goods and services, it is simply no wonder that more people are flying than every before.

In addition to declines in average fares, the most price-sensitive customers have enjoyed real declines in the low-end fares, as measured by changes in the 10th percentile fare in popular markets. For example, the chart below illustrates that the 10th percentile O&D fare from New York (EWR/JFK/LGA) to San Francisco (OAK/SFO) fell (in constant 2023 dollars) from $200 in 2005 to $166 in 2010 to $138 in 2023.

Many City Pairs (ex. NYC-SFO) Have Enjoyed Inflation-Adjusted Declines in Not Only the Average Fare but Also the Lower-End Fares Prized by the Most Price-Sensitive Customers

More customers are flying than ever before and customer satisfaction is at all-time highs

Thanks to the broad decline in the price of air travel stemming from deregulation decades ago, as well as the competitive forces and service innovation it unleashed, it is no surprise that a greater share of Americans are taking to the skies than

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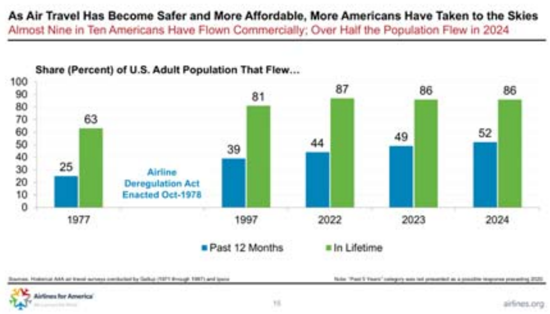
ever before, with more than half of all adults reported taking at least one airline trip in 2024, double the fraction that flew in 1977.



With most airlines now on firmer financial footing, they have invested extensively in products and people, including record capital expenditures in aircraft, ground equipment, facilities and technology, which would be even larger if not for significant delays in the delivery of new aircraft and engines.

Thanks to these ongoing investments, newfound financial stability and customer-service innovations, a January 2025 survey conducted by Ipsos (and commissioned by A4A) found that 69% of American adult flyers reported being "very" or "somewhat" satisfied with their overall all-travel experience in 2024. Only 2% reported being "very dissatisfied."

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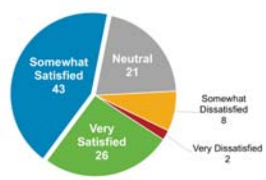
69% of Flyers Reported Being Satisfied With Their Overall Air-Travel Experience in 2024
21% Were Neutral; Only 2% Reported Being "Very Dissatisfied"

*Thinking about your **overall experience** with air travel, how **satisfied or dissatisfied** are you?*



Source: A4A Air Travel Survey conducted by Ipsos (January 2025)

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Meanwhile, independent surveys show that airline customer satisfaction has risen steadily since 2008. One notable study is the American Customer Satisfaction Index (ASCI), whose airline satisfaction study reflects interviews with 16,771 customers, chosen at random and contacted via email over the course of 12 months. From 2003 to 2008, the ASCI score for airlines fell from 67 (out of 100) to 62. From that point forward, however, airlines made steady gains, rising to 72 (for the first time since inception in 1994) in 2016 and 74 in 2025, just below the national average for all industries. Notably, airlines scored 80 or higher on five of the 21 benchmarks (captured in the following chart) and 75 to 79 on 10 others. As noted in its 2024 press release, "Carriers have bounced back strongly, showing that innovations and service improvements implemented during the last two years have resonated with customers."

ACSI Airline Customer Satisfaction Index Now at 74, Up From 62 in 2008 and 69 in 2015
Airlines Scored 80+ on Five of the 21 Benchmarks and 75-79 on 10 Others

Satisfaction Benchmark	2019	2024	2025
Mobile app quality	82	84	82
Mobile app reliability	82	84	81
Website satisfaction	80	83	81
Ease of making a reservation	81	84	80
Ease of check-in process	82	83	80
Cabin and lavatory cleanliness	78	82	79
Courtesy/helpfulness: flight crew	80	82	78
Baggage handling	79	81	77
Boarding experience	79	81	77
Courtesy/helpfulness: gate staff	80	81	77
Range of flight schedules	77	80	77
Timeliness of arrival	80	81	77
Call center satisfaction	78	81	78
Loyalty program	75	80	76
Availability of overhead storage	73	79	75
Quality: purchased food/beverage	73	78	74
Quality: in-flight entertainment	71	78	74
Quality: free food/beverage	73	76	73
Seat comfort	69	76	72
Usefulness of flight information	NM	NM	71
Quality: in-flight Wi-Fi	NM	NM	66

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In Multiple Respects, Airline Employees Have Reaped the Benefits of Deregulation.

The number and compensation of employees and their compensation have increased dramatically post-deregulation. According to data from the Bureau of Transportation Statistics, U.S. passenger airlines now employ the most workers since 2001, while average wages and benefits rose 91% from 2010 to 2024, more than double the increase in the U.S. Consumer Price Index. Combined, these two factors have resulted in wages and benefits rising from 26% of operating revenues in 2005 to 33% in 2024, meaning an additional $8 billion annually for employees.

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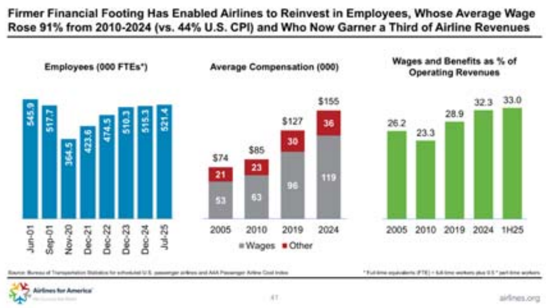
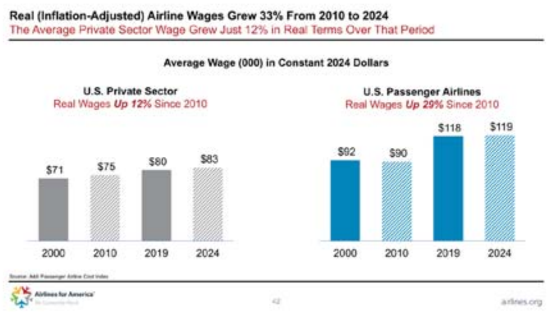


In real terms, the average airline wage rose 29% from 2010 to 2024, more than twice as fast as the average U.S. private sector wage, which rose 12% during the period.



The greater financial stability achieved through consolidation has translated to employment stability. Remarkably, the industry did not see a single large-airline bankruptcy filing during the 13-year stretch from November 2011 (American Airlines) to November 2024 (Spirit Airlines). This more than triples the previous post-deregulation record of fewer than four years between bankruptcies of a large U.S. mainline carrier (which includes carriers operating at least 20 mainline passenger aircraft in scheduled transportation). It should be noted that if not for the CARES Act grants and other financial relief afforded the airlines in 2020-2021, there likely would have been bankruptcies during the pandemic. However, previous bankruptcies (except for the tragic events following 9/11) were due to economic and industry forces, and post-consolidation these forces have not led to any bankruptcies.

Airlines have also used revenues to invest in training and to give their employees the tools and technology needed to help them accomplish their jobs more safely and efficiently. This is a virtuous circle: Financially stable airlines can ensure well compensated and trained employees who provide better customer service, driving customer satisfaction higher. Airlines'

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increasing ability to hire, train and retain high-quality talent and reinvest in their product is translating directly into palpable benefits for customers.

Airline Loyalty Programs are Very Popular with Consumers

In an industry where airlines compete fiercely for customers, frequent flyer programs are yet another dimension of service that carriers focus on to attract customers and reward them for their loyalty. For customers, this translates to more benefits, more ways to earn and redeem awards, and more choice for consumers. In 2023, 39 new million frequent flyer accounts were created, bringing the total to nearly 520 million frequent flyer accounts across all U.S. passenger airlines. The global number of airline frequent flyer accounts is estimated at 1.9 billion, demonstrating the overall popularity of these programs.[1] It's no surprise that even critics, including government policymakers, concede the importance and value of airline frequent reward benefits. Key features of airline loyalty programs include:

- They are free and easy to join. Airline reward miles generally never expire, or like many other reward programs requires only minimal activity.
- It is easy to accumulate miles to earn points. Customers can earn points by flying, using an airline-branded credit card or purchasing goods or services from a broad network of non-airline partners like hotels, rental cars and ride service companies, restaurants, and vendors.
- The more points accumulated, the more rewards earned such as free checked baggage, lounge access, early boarding, flight upgrades, fee waivers, complimentary food and beverage, expediated security access, dedicated customer service assistance and more.
- There are numerous ways customers can use and redeem awards. For example, they can choose from free flights, premium seating, airport benefits (e.g., club access, TSA PreCheck membership), vacation packages, hotels, rental cars, merchandise, experiences and events (spas, tours, culinary experience, theatre tickets, concerts, sporting events, etc.), magazine and newspaper subscriptions, gift cards and much more. Additionally, members can buy, transfer or pool miles, and donate miles to a charitable cause.
- Customers can use reward miles or a combination of miles and cash when booking or redeeming flights or services if they prefer to do so.
- Award levels are dynamic and displayed clearly to allow customers to make the most informed decision.

Credit Card Partnerships Enable Customers to Earn Rewards and Benefits Faster

Airline credit cards, while not the only way to earn miles, are the most popular way to do so. At the end of 2023, there were over 31 million U.S. airline credit cardholders. Nearly one of every four U.S. households had an airline credit card that generated 57 percent of all frequent flyer miles issued for the year. According to a December 2023 poll by A4A[2], 81 percent of people agreed that being able to earn bonus reward points for travel using their credit card was very important to them. 73 percent of people said they actively track the points earned on their travel reward credit or charge cards, and 77 percent said they redeem their points within one year of accruing them.

[1] IdeaWorksCompany 2024 Big Book of Airline Data (https://ideaworkscomp any.com/reports/)
[2] https://www.airlines.org/news-update/new-polling-shows-consumers-highly-value-airline-credit-card-points/

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Consumers have choices across credit card companies and airlines to suit their needs. These include entry-level cards with no or low annual fees for the most price-sensitive consumers. Those cards still feature mileage bonuses toward free travel awards. At the premium end of the spectrum, airlines/banks offer higher-fee cards that generate more benefits and bonus mileage. Partnerships also continue to grow. For example, American Airlines and Citi just announced an agreement to extend and expand their co-branded card partnership that is expected to produce expanded loyalty and rewards offerings for members.

With nearly 16 million domestic visitor trips awarded through airline credit card usage in 2023 alone, supporting approximately $25 billion in economic activity, these partnerships are great news for customers and the economy.

Customer Satisfaction with Airline Loyalty Programs Reached Record High in 2024

In its most recent annual survey, published in April 2024, ACSI reported a score of 80 out of 100 for the "loyalty program" category, a five-percentage point increase since 2019 and a record high score. Airline loyalty programs also ranked highest among the five travel industries – airlines, lodging, car rentals, rideshare and online travel agencies.

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Airlines are rightfully proud of their reward programs and actively advertise and promote their use. Websites are robust and transparent, providing clear information that explains program benefits, value, and other terms and conditions which are easy to find, understand and use. Loyalty programs also continue to evolve to reflect consumer demand. For example, Alaska Airlines has announced changes in 2025 that will add new milestones and perks to provide more benefits with less distance between award levels. As airlines vigorously compete for customers, they have nothing to hide but everything to gain – customer loyalty. By providing consumers with valuable benefits and free rewards, airlines retain and grow their customer base which is good for business.

In conclusion, when airlines are profitable, they can reinvest in products, services and people. As noted by Forrest Morgeson, Dir. of Research Emeritus, (April 23, 2024), "Carriers have bounced back strongly, showing that innovations and service improvements implemented during the last two years have resonated with customers."

Federal Protections Ensure Airport Access

The United States is comprised of a complex system of varied sized airports that serve as economic generators for both rural and urban communities across the nation, each with its own diverse transportation needs. This broad network includes more than three thousand (3,000) commercial service, general aviation and reliever airports allowing air carriers and business aviation operators with differing business models and purposes to serve markets of all sizes. Airport access has been particularly beneficial for low-cost and ultra-low-cost carriers, whose market share has grown the fastest since 2010 by focusing on large and medium hub airports to expand their footprints. In fact, today, consumers enjoy more airline competitors per domestic trip, greater access to lower-cost carriers, more nonstop domestic service and more seats than ever - all at inflation-adjusted airfares (including fees) that are approximately half of what they were at the outset of deregulation. It is no wonder that nearly 1.9 billion passengers arrived at and departed from U.S. airports in 2023 setting a record.

Since deregulation, airport policy has evolved into a strong array of federal laws and grant assurances to ensure airport access and promote competition. This is particularly true at large and medium hub airports which handled 88 percent of all commercial service passengers in 2024. By law, large and medium hub airports, where one or two air carriers control more than 50 percent of passenger boardings, are subject to competition plan requirements to receive Airport Improvement Program (AIP) grants or collect a Passenger Facility Charge (PFC). Notably, this competition plan requirement was recently extended through fiscal year 2028 in the FAA Reauthorization Act of 2024, ensuring it remains in place for the foreseeable future. Competition plan requirements are codified in Grant Assurance 39 (Competitive

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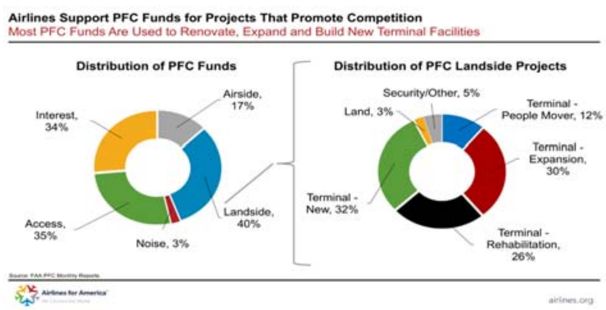
Access) and a correlating provision is included in the PFC regulations. With all large and medium hub airports receiving federal grants and collecting a PFC, this requirement has broad applicability.

Competition plans are also robust. For example, if an airport is unable to accommodate one or more requests by an air carrier for access to gates or other facilities to provide or expand service, they must transmit a report to the DOT Secretary that describes the requests, provides an explanation as to why the requests could not be accommodated, and provides a time frame within which, if any, the airport will be able to accommodate the requests. The contents of the report must include information on gate availability and related facilities, leasing and subleasing arrangements, gate-use requirements, gate-assignment policy, financial constraints, airport controls over air and ground side capacity, and whether the airport intends to build or acquire gates that would be used as common facilities.

In addition, all airport sponsors that receive federal grants must comply with thirty-nine (39) different grant assurances. For example, Grant Assurance 22 (Economic Nondiscrimination) requires airport sponsors to make the airport available for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities. This includes rates, fees and charges to air carriers using the airport, and the right to perform any services on its own aircraft with its own employees (such as maintenance, repair and fueling). The DOT Policy Regarding Airport Rates and Charges is also based on core principles that prohibit unjust discrimination, require fair and reasonable rates and charges and airports be as financially self-sustaining as possible. In addition, airports sponsors are generally not permitted to grant exclusive rights to provide airport services pursuant to Grant Assurance 23 (Exclusive Rights), and any project financed with a PFC may not be subject to an exclusive long-term lease or use agreement. This is especially important since most PFC revenues are used to fund terminal projects that promote competition.



Takeoff and landing restrictions are extremely limited in the United States and administered by FAA through a formalized process pursuant to their statutory authority. Unlike Asia and Europe where significant slot constraints exist, FAA has designated only three U.S. airports as slot controlled – John F. Kennedy International Airport (JFK), LaGuardia Airport (LGA) and Reagan National Airport (DCA). The FAA has granted a limited slot waiver for those airports through October 25, 2025, due to a severe shortage of air traffic controllers in the New York Metropolitan area.

Airport Lease Agreements Provide Flexibility to Accommodate Carriers

Beyond federal protections, airports and airlines routinely negotiate lease agreements that define rights, responsibilities and business terms to fund the operating and capital costs of the airport. Lease terms have evolved from 30-year lease terms with exclusive gates and airline approval rights to shorter durations (typically 5-10 years), providing airports with more flexibility to manage their assets. Lease agreements also include various provisions to address access, such as gate

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accommodation, gate utilization, gate recapture, and gate reallocation provisions, as well as most favored nations provisions to ensure carriers are treated equally. Gates are also generally leased on either a preferential or common use basis, which allows other carriers to use a leased gate when not in use or to use a gate on a per turn basis. These arrangements allow airlines with limited activity to operate without absorbing the full rental cost of a gate. Airports and airlines are in the best position to determine the mix of gates that make sense at that airport based on its operational and financial needs and unique facility. Proposals by some policymakers to take a one-size fits all approach to airports and require minimum levels of common use gates is arbitrary and could hamper airport financial self-sustainability and airline service.

Airport Development is Booming

Airports and airlines have a long history of working together on infrastructure development. Statements that airlines block projects that promote competition are simply untrue. Rather, lease agreements tend to include pre-approved capital projects with associated funding. Even in those rare cases with affirmative airline approval rights, like Chicago O'Hare International Airport, the airlines have supported extensive development including the O'Hare Modernization Program and the new O'Hare multi-billion-dollar capital improvement program. In the past decade, over $148 billion of investment has occurred at the nation's airports with spending accelerated in the last five years largely aimed at terminal projects to build, expand, and/or modernize terminal facilities. These include, for example, Newark Liberty International Airport's new Terminal A, LaGuardia Airport's new Terminal B, Salt Lake City International Airport's new terminal, multi-terminal developments at Los Angeles International Airport and John F. Kennedy International Airport, San Francisco International Airport's new Terminal 1, Reagan National Airport's new North Concourse, and Denver International Airport's multi-concourse gate expansion program. Large and medium hub airports have already issued over $17 billion of airport revenue bonds in 2025 with $25 billion estimated by year end. Numerous airports are amid development with new or expanded terminals, for example, in Atlanta, Austin, Charlotte, Pittsburgh, San Diego, Sarasota and Spokane. Others announced plans to embark on massive capital plans, such as $9 billion capital programs at Dallas-Fort Worth International Airport and Reagan National/Dulles International Airports.

Airport Funding is at Historic Levels

Airport funding is now at historic levels. After infusing airports with $20 billion of COVID relief grants, Congress provided another $20 billion of Bipartisan Infrastructure Law (BIL) grants for airport infrastructure. To date, FAA has made available nearly $13 billion of airport infrastructure and terminal development grants across the nation. In addition, the 2024 FAA Reauthorization Act increased the AIP authorized funding level from $3.35 billion to $4.0 billion annually. PFC revenues reached a record $3.8 billion in 2024 and are estimated to reach $4.0 billion in 2026. At the same time, airport operating revenues exceeded $28 billion in 2023, and unrestricted cash soared to $28 billion (over 550 days of liquidity), both record levels. Along with investment grade ratings and ease of access to capital markets at preferred interest rates, U.S. airports and airlines are well positioned to fund and deliver infrastructure improvements across the nation.

Consumers are reaping the benefits of competition as airport development booms to meet record demand and modernize the travel experience.

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There Are Critical Actions Congress and DOT Should Take to Encourage More Robust Competition

The Controller Staffing Crisis Diminishes Competition and Consumers Are Harmed When Carriers Must Fly 10% Fewer Flights in the New York Metropolitan Area

One of the biggest detriments to competition and growth in the airline industry has been air traffic controller staffing shortage. Since October 2023, airlines are flying 10% fewer flights from the New York Metropolitan area. The system is shrinking and when the system shrinks, competition and smaller airlines suffer the most. To be clear, the slot waiver is critical to maintaining operational reliability at New York metropolitan airports for the direct benefit to consumers. But the other side of that coin is that staffing is a constraint on competition and capacity, reducing supply which hurts consumers.

As recently as November 2024, the Department of Transportation, Inspector General (DOT IG) put out it's DOT Top Management Challenges report. That report states –

- "…FAA has not ensured adequate controller staffing at its most critical facilities. For example, we (IG) found that 20 of 26 critical facilities were staffed below the Agency's threshold of 85 percent."

- "FAA's implementation of pauses in air traffic controller training during the COVID-19 pandemic contributed to controller staffing challenges by resulting in an increase in certification times for controllers. FAA needs improved resiliency in staffing and contingency planning for disruptions, and our audit work shows that FAA's lack of a plan to address these staffing challenges limits the capacity of the NAS."

Our Antiquated ATC System Significantly Limits Capacity and Competition

The U.S. air traffic control system is very safe, but it is not known as the "gold standard," for efficiency around the world. Unnecessary travel delays cost the U.S. economy/passengers approximately $25 billion annually. These delays are the direct result of system-wide air traffic control (ATC) inefficiencies resulting from the use of outdated, WWII-era radar technology. Our controllers are still using paper strips to control traffic instead of electronic strips. And some computer system updates are done with floppy disks! It shouldn't be a surprise that flights between Washington, D.C. and New York used to take 55 minutes, but to account for air traffic delays and inefficiencies, these flights are now scheduled to take 80

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minutes or longer. As a vital part of U.S. economic infrastructure, our airspace and the technology that supports it is the equivalent of driving a horse and buggy on a gravel road. **This lack of efficiency and the resulting reduced capacity directly and negatively impacts carriers' ability to grow and compete** and robs consumers and the economy of growth, jobs and related benefits.

Conclusion

We are thankful for the opportunity to testify, and we believe the facts and data clearly show that passengers greatly benefit from vigorous airline competition, which creates greater choice and service options. Congress recognized the benefits to consumers when they acted on a bipartisan, bicameral basis to deregulate the airline industry in 1978. The federal government already has broad authority to prevent unfair, deceptive, predatory or anticompetitive practices and routinely uses it. With those protections in place, we should be placing a maximum reliance on competitive market forces to maintain an air transportation system that relies on healthy competition to provide efficiency, innovation and low prices, and to determine the variety, quality, and price of air transportation services. Deregulation has clearly been a success for consumers and policymakers should not succumb to efforts to micromanage this fiercely competitive market.

Instead, we believe policymakers should acutely focus on challenges directly within the federal purview with a focused intent on addressing the air traffic controller shortage and modernizing our air traffic system, both of which will have tangible and material benefits to every single consumer in the flying and shipping public.

A4A is not alone with these recommendations, as we are part of a broad aviation community coalition established earlier this year, "The Modern Skies Coalition". The coalition wholeheartedly endorses Secretary of Transportation Duffy's plans to "supercharge" air traffic controller hiring at the Federal Aviation Administration (FAA) and modernize the air traffic control system. The Coalition strongly supported Congress's $12.5 billion downpayment toward air traffic control modernization and we continue to advocate in support of Secretary Duffy's acknowledgment that additional funding of at least $19 billion will be needed to completely build a new air traffic control system.

Written Testimony of Ganesh Sitaraman
New York Alumni Chancellor's Chair in Law & Professor of Law
Director of the Vanderbilt Policy Accelerator for Political Economy and Regulation
Vanderbilt University

Before the U.S. Senate Judiciary Committee Subcommittee on Antitrust, Competition Policy and Consumer Rights

Hearing on "Examining Competition in America's Skies"
September 30, 2025

Chairman Lee, Ranking Member Booker, and Members of the Subcommittee:

Thank you for the opportunity to testify on the state of competition in the airline industry.

My name is Ganesh Sitaraman, and I am a professor of law at Vanderbilt University, where I hold the New York Alumni Chancellor's Chair in Law and am the director of the Vanderbilt Policy Accelerator for Political Economy and Regulation. I am co-author of a textbook, *Networks, Platforms, and Utilities: Law and Policy*,[1] which includes chapters on the transportation sector, and the author of a general audience book, *Why Flying is Miserable: And How to Fix It*,[2] which offers a history of airline regulation and deregulation. I have also co-authored two white papers on air transportation policy.[3] My testimony today draws on this scholarship, and it represents my personal opinions, not the views of Vanderbilt University.

Air travel is one of humanity's extraordinary achievements, and it has become essential to modern life, commerce, and national security. The people who work in the industry—from baggage handlers and customer service representatives to air traffic controllers, flight attendants, and pilots—do us all a great service in making air travel possible. I believe it is essential that we have an air transportation system that is resilient and competitive, and that serves the public interest as successfully as possible. Regrettably, I do not think we are meeting that standard.

My message to the Subcommittee is this: the airline industry is not resilient enough. It is not competitive enough. And it is not serving the public or national interest well enough. We have cycles of boom and bust, repeated bankruptcies and bailouts, reduced competition and rising concentration, too few daily domestic flights, and a steadily worsening experience for passengers—particularly in rural areas and small and midsize cities, where service has eroded and in some cases been eliminated.

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[1] MORGAN RICKS, GANESH SITARAMAN, SHELLEY WELTON & LEV MENAND, NETWORKS, PLATFORMS, AND UTILITIES: LAW AND POLICY (2022).
[2] GANESH SITARAMAN, WHY FLYING IS MISERABLE: AND HOW TO FIX IT (2023).
[3] William J. McGee & Ganesh Sitaraman, *How to Fix Flying: A New Approach to Regulating the Airline Industry*, Am. Econ. Liberty Project & Vand. Pol'y Accelerator (Jan. 2024); Ganesh Sitaraman & Anirudh Jonnavithula, *Policy Blueprint: Improving the Airline Passenger Experience*, Vand. Pol'y Accelerator (Nov. 2024).

But the good news is that Congress can fix flying. There are policies that could enhance competition, stabilize the industry and make it more resilient, expand access to smaller communities, and improve the passenger experience. Addressing the problems in the sector will require understanding how we got here and thinking creatively about the solutions.

In this testimony, I first describe the history of airline regulation and deregulation and outline some of the challenges facing the sector today. The key lesson from this history is that without pro-competitive, pro-resilience, pro-growth, and pro-passenger rules, this industry will never meet the high standard for critical infrastructure that our country needs.

I end by offering some ideas for how policymakers can address these problems. As with all policy choices, there are benefits, costs, and tradeoffs to all of these ideas. But given the vital importance of this industry to our society, economy, and national security, I believe Congress should consider significant policy reforms, and I thank this Subcommittee for leading that conversation. We need fresh, new ideas, so we can ultimately achieve an airline industry that is thriving, stable, and competitive, and that meets our needs as a nation.

I. Airlines and the American Tradition of Regulated Capitalism

From the earliest days of flight, the federal government played a critical role in supporting and shaping the airline industry. The first period of U.S. airline policy, from the Wright Brothers flight at Kitty Hawk in 1903 until the end of the 1920s, was defined by public financial support in the form of airmail subsidies and contracts with the Post Office. The second period runs from the 1930s to the Airline Deregulation Act of 1978. During the Great Depression, the airline industry was in a difficult situation, losing money and needing to consolidate to survive. President Hoover's administration sought to end the crisis in the industry by gathering the industry to consolidate routes and airlines, so that the industry as a whole would have less wasted capital and more stability. Early in the Franklin Roosevelt administration, congressional Democrats attacked these "spoils conferences" as corrupt. Their initial legislative response led to the 1934 "airmail fiasco" in which the Army Air Corps temporarily took over mail operations, with disastrous results. Congress and the Roosevelt administration – urged by the airline industry – once again needed to act.

After years of turmoil, the ultimate legislation, the Civil Aeronautics Act of 1938, did not embrace either endless public subsidies or destructive competition. Instead, it adopted a system of regulated capitalism that Edward Gorrell, head of the main industry-group, the Air Transport Association, called "the traditional American way."

The American tradition of regulated capitalism, drawn from the English common law and developed over centuries across sectors including transportation, communications, energy, and banking, recognized that some industries had infrastructural features, network effects, or tendencies toward monopoly and oligopoly that meant instability, abuses of power, and destructive competition. In these sectors—what my coauthors and I call networks, platforms, and utilities—the law imposed public obligations to ensure fair and reliable access to the basic infrastructure of commerce: neutrality rules, duties to serve, just and reasonable rates, structural separations to prevent conflicts of interest and accumulations of power, and when necessary, restricted entry to prevent destructive competition or facilitate geographic networks.

In the Civil Aeronautics Act of 1938, Congress adopted this approach. The Act created the Civil Aeronautics Authority (later the Civil Aeronautics Board, or CAB) and charged it with regulating rates, routes, and entry into the industry. Coming out of the crisis of the 1930s, the CAB needed to stabilize the industry, ensure reliable nationwide service (including to smaller communities), prevent destructive competition, and promote the public interest. The understanding then was that without regulation, the industry would suffer from bankruptcies and consolidation, eventually leading to oligopoly or monopoly. With regulation, the CAB would be able to preserve and maintain a good measure of competition, in spite of the industry's inherent tendencies toward consolidation.

To greatly simplify the law and history over the next forty years, the regulated system worked through a set of mutually reinforcing structural features:

- Entry and Route Allocation: Carriers needed a certificate to operate and were allocated routes so that airlines served a mix of high-traffic, profitable city-pairs and less-profitable smaller markets. This ensured access to the whole country, including smaller markets.

- Rate Regulation: Fares were ultimately set at cost plus a reasonable return on investment, with a target load factor. This framework enabled capital investment while protecting passengers from monopoly pricing and price discrimination. By the later part of the era, an "equal fares for equal miles" approach meant prices depended on distance traveled. This further ensured affordable access to smaller markets. The CAB also authorized discounts once the industry was stable enough, in order to lower prices and spur demand.

- Neutrality Rules and Structural Separations: Airlines had duties to serve "without undue or unreasonable preference or advantage" and faced prohibitions on leveraging their power into other parts of the aviation industry. This prevented conflicts of interest, favoritism, and accumulations of power.

Over the next forty years, by and large, this system worked pretty well. The industry stabilized after the second World War. The CAB reduced the concentration of the big four airlines, from carrying 81.9 percent of passenger traffic in 1939 to only 58.6 percent in 1972.[4] Meanwhile, the number of flights and passengers flying increased steadily. Prices decreased steadily. And new technologies like jets and then wide-bodied jets were introduced into the market.

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[4] WILLIAM K. JONES, CASES AND MATERIALS ON REGULATED INDUSTRIES 1091 (2d ed., 1976).

II. DEREGULATION AND ITS IMMEDIATE RESULTS

By the late 1960s and early 1970s, the airlines were once again in a period of crisis, now largely stemming from three factors. First, passenger growth started to slow around 1970. Second, airlines had bought new fleets of wide-bodied jets, which increased costs—and when coupled with slower growth, meant emptier planes. Jet fuel prices also increased significantly in the early 1970s. Under the standard approach to rate regulation, prices were a function of costs – so higher costs meant regulators needed to authorize higher prices. The airlines asked the Nixon administration's CAB to do so, and it undertook an industrywide fare investigation to reset prices. To address the problem of excess capacity, the head of the CAB also ordered a near-complete moratorium on new routes and allowed for reductions of the number of flights on some routes.

Around the same time, intellectuals and activists on the right and left started pushing to eliminate the CAB entirely. Some economists and legal scholars argued that the industry was structurally competitive rather than having a tendency toward oligopoly or monopoly. They, and consumer advocates like Ralph Nader, also argued that regulators were captured by industry. Congress engaged in investigations into the airline industry, led by Senator Ted Kennedy and his then-counsel Stephen Breyer. Ultimately, President Jimmy Carter signed the Airline Deregulation Act in 1978.

The proponents of airline deregulation believed that if airlines could charge whatever they wanted and fly wherever they wanted, prices would go down, there would be more flights, and there would not be any significant downsides. They based this assessment on a number of assumptions and predictions.

- Entry and Competition: Open entry would yield vigorous competition. The Kennedy subcommittee investigation even cited one prediction that the industry could support "as many as 200 efficient airline companies."
- Prices: Fares would fall across the board as competition disciplined incumbents. There would be less frills and lower prices, which consumers preferred.
- Small Communities and Cross-Subsidies: Geographic access would be unaffected, because cross-subsidies did not exist "to any significant extent"; market forces were sufficient to sustain service to smaller markets.
- Market Structure: The theory of contestable markets meant new competitors could easily enter and threaten incumbents. Proponents did not believe economies of scale and barriers to entry were significant, and they did not think predatory pricing or destructive competition would be likely or lead to consolidation.

Indeed, when the Air Transport Association, the trade association of the airlines at the time, said that deregulation would lead to consolidation and abandoning routes, the Kennedy Subcommittee report said that would not happen in the "real world." The subcommittee predicted instead a "highly competitive world with flexible prices, where planes could not fly 86.7 percent full on average and carriers could not earn $2 billion in profit per year."

Some disagreed with this assessment. Frank Lorenzo, head of a small airline called Texas International, thought the result of deregulation would be "a couple of large airlines." Senator Barry Goldwater predicted that in the short term, there would indeed be more flights and lower prices, but in the longer term, there would be bankruptcies and mergers, with an eventual increase in concentration and fares.

At the end of the 1980s, a decade after deregulation, one of the most prominent advocates of deregulation, former CAB chair Alfred Kahn, admitted there had been some "surprises" in the time since deregulation: "1) the turbulence and painfulness of the process; 2) the reconcentration of the industry; 3) the intensification of price discrimination and monopolistic exploitation; and 4) the deterioration in quality of airline service."[5]

- Competition and Entry: After an initial burst of new upstart airlines entering the market, over the course of the decade, there were waves of bankruptcies and mergers. By 1985, the ten big airlines' market share had dropped from 87% to 75%, but by the end of the decade, the nine biggest airlines had a 92% market share—higher than before deregulation. Kahn put it this way: "[O]ne of the most pleasant surprises . . . was the large-scale entry of new, highly competitive carriers, so probably the most unpleasant one has been the reversal of that trend—the departure of almost all of them, the reconcentration of the industry both nationally and at the major hubs, the diminishing disciplinary effectiveness of potential entry by totally new firms, and the increased likelihood, in consequence, of monopolistic exploitation."

- Economies of Scale and Network Effects: The dynamics of the 1980s proved decisively that network effects and economies of scale are features of this sector. Hub-and-spoke systems emerged and proliferated because they maximize network value—a single connection into a hub opens access to every destination served by that hub. Hubs also enable powerful competitive advantages: greater frequency, larger route networks, lower costs, and the value of loyalty programs. Kahn conceded that he and others "were misled by the apparent lack of evidence of economies of scale," and that they did not foresee the "thoroughgoing movement to hub-and-spoke operations." The result, however, was increased concentration at major airports. According to one analysis, in 1977 many major airports had dominant carriers with 20-40 percent market share; but by 1987, those numbers had jumped to 60-80 percent.[6]

- Prices: On average, inflation-adjusted yields (revenue per passenger mile) declined at about the same rate after deregulation as they had before. But critically, fare declines were uneven: dense, competitive routes saw dramatic reductions, but

[5] Alfred E. Khan, *Surprises of Airline Deregulation*, 78 AM. ECON. REV. 316 (1988).
[6] Andrew R. Goetz & Paul Stephen Dempsey, *Airline Deregulation Ten Years After: Something Foul in the Air*, 54 J. AIR L. & COM. 927, 941 (1989). For example, according to Goetz & Dempsey's data, Detroit's top airline in 1977 had a 21 percent share, which increased to nearly 65 percent a decade later. Memphis went from 40 percent to nearly 87 percent.

thinner, less competitive routes saw little change or even increases. Kahn himself admitted that prices were not uniformly lower, saying it was "unquestionable" they had "actually increased" in some cases, and observing that he "should have recognized . . . the naturally monopolistic or oligopolistic character of most airline markets."

- Predation and Destructive Competition: Rather than being rare, predatory pricing and "sandwiching" were highly effective strategies. Incumbents matched or undercut upstarts' fares, added new flights to squeeze small entrants, and used loyalty programs and customer reservations services (CRS) to steer traffic away from competitors.

- Geographic Access: Some supporters of deregulation regretted their votes because of the impact airline deregulation had on access to air services in their states. Tennessee Senator Jim Sasser thought, as early as 1985, that deregulation was no longer seen favorably "in Congress as House members and Senators see air service into their [s]tates declining precipitously." Senator Robert Byrd of West Virginia went further and apologized publicly for his vote. He said that he "regret[ted] that he voted for airline deregulation. It has penalized States like West Virginia, where many of the airlines pulled out quickly . . . and prices zoomed into the stratosphere . . . . So we have poorer air service and much more costly air service. . . . I admit my error; I confess my unwisdom, and I am truly sorry for having voted for deregulation."

All policy choices have tradeoffs, and there were certainly tradeoffs with airline deregulation. But critically the case for deregulation was based on assumptions and predictions that were not born out – and that left even the most sophisticated experts who had advocated for deregulation admitting they were mistaken in how they understood and analyzed the industry.

III. THE LONGER-TERM STORY

Deregulation took place nearly fifty years ago, but it has shaped the dynamics of the industry along multiple dimensions since that time. In this part, I highlight a few of the ways in which deregulation transformed the industry.

Stability and the "Too Important to Fail" Problem

Airlines are an essential service for a modern economy. We rely on them for commerce, social and family life, tourism, and other activities. A stable airline industry is thus critically important. But since deregulation, the industry has become increasingly unstable. Rather than having consistently profitable, stable airlines, there are cycles of booms and busts. In some years, airlines make huge profits. But there have also been waves of bankruptcies and bailouts. With the first Gulf War, the former industry titan Pan-Am went bankrupt. After September 11, Congress passed a bailout package for the airlines. In the wake of the Great Recession, American Airlines filed for bankruptcy. And, most recently, in the midst of

COVID-19, Congress passed a public support program for the airlines. When times are good, private shareholders capture the benefits. But when times are bad, there are either disruptive bankruptcies or taxpayers have to step in to save the industry. A better system would be one in which taxpayer support is not needed for airlines to operate stably and profitably, while providing this essential public service.

Consolidation, Fortress Hubs, and Common Ownership

Since the 1990s, we have continued to see consolidation in the industry. Mergers have transformed the market from one with many players – recall Pan Am, TWA, Northwest, AirTran – to one with four major carriers. Indeed, the four biggest airlines today have a larger market share than they did during regulation. Looking at revenue passenger miles, for example, in 1977 the four biggest carriers had 51 percent market share.[7] By 2024-2025, the four biggest carriers had a 68 percent market share.[8] Notably, as the market has become increasingly concentrated, the number of domestic flights has declined, even though the population of the country has grown significantly. In December 2003, the airlines flew 807,000 domestic flights. Last Christmas season, the airlines flew only 692,000 flights in December.[9] Of course, less supply means fewer options and higher prices.

At the airport level, hub concentration has become an increasing reality, with some "fortress hubs" having extraordinary levels of single-carrier dominance. For example, Delta has 74 percent in Atlanta; American has 67 percent in Charlotte; United has 59 percent in Newark.[10] Fortress hubs have at least two downstream effects. First, analysts have long understood that fares to and from hubs are higher than on competitive routes.[11] Second, hubs create fragility: a weather event, IT outage, or cyberattack at a single fortress hub could impact the entire network, canceling or delaying thousands of flights. We have all experienced this: high winds in Dallas or a winter storm in Atlanta cause delays and cancellations that cascade throughout the country.

Finally, some have argued that common ownership has compounded anticompetitive dynamics in the industry.[12] Today, a handful of institutional investors own significant

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[7] Author's calculations drawing on data from Air Transport Ass'n, Air Transport 1978, available at https://airlines.org/wp-content/uploads/2014/08/1978.pdf.
[8] Data is from Bureau of Transportation Statistics, TranStats, available at https://www.transtats.bts.gov/(data is for July 2024-June 2025).
[9] Data is from Bureau of Transportation Statistics, TranStats, Traffic Data, https://www.transtats.bts.gov/traffic/.
[10] Bureau of Transportation Statistics, TransStates, Airport Data, available at https://www.transtats.bts.gov/airports.asp (data is for July 2024-June 2025). Other analysts report even higher levels of concentration. *See, e.g.*, James Pearson, *Revealed: The USA's Fortress Hubs in December*, SIMPLY FLYING, Nov. 21, 2024, https://simpleflying.com/usa-fortress-hubs-december/.
[11] *See, e.g.*, Severin Borenstein, *Hubs and High Fares: Dominance and Market Power in the U.S. Airline Industry*, 20 RAND J. ECON. 344 (1989); Gunnar Olson, *Flights Expensive from Your Airport? How to Break Free as a 'Hub Captive,'* THRIFTY TRAVELER (Feb. 5, 2025), available at https://thriftytraveler.com/guides/travel/hub-captives/.
[12] Einer Elhauge, *Horizontal Shareholding*, 129 HARV. L. REV. 1267 (2016).

shares in multiple rival airlines simultaneously. Research shows that horizontal shareholding raises prices, and some legal scholars have argued that this practice is already illegal under the antitrust laws.[13]

The Passenger Experience

The passenger experience has degraded along multiple dimensions—from confusing fare structures to uncomfortable seats to changing loyalty programs. Since the 1980s, airfares have become more complex. Airlines have multiple fare classes and they have instituted systems of dynamic pricing so that tickets cost different prices at different times. At least one airline has said it will use artificial intelligence (AI) to enhance its system of dynamic pricing,[14] and companies that help airlines with these services recognize their work would create far more dynamic prices—and would mean higher prices.[15] Airlines have also increasingly unbundled fares to separate baggage, seat selection, and other things from airfare. For many airlines, you now have to pay extra for a basic economy seat assignment. Booking websites have gotten increasingly complicated and difficult to navigate as unbundling becomes more common.

On the comfort side, to take just one example, seat sizes have shrunk over the years. Since the 1980s, economy class legroom in the big four airlines have fallen about 2-5 inches and seat widths have dropped about 2 inches.[16] This is perhaps the most obvious way in which flying has become increasingly miserable.

Loyalty programs, which expanded in the 1980s as a way for big airlines to entice passengers away from using smaller competitors, have evolved into co-branded credit card ecosystems. These systems have opaque exchange rates, and the airlines can change the terms of the deal anytime they want—including to reduce program benefits. Airlines also charge to use or transfer points, with the fees sometimes exceeding the value of the points themselves.[17]

Airlines and the Geography of Economic Growth

Smaller cities can often face higher fares, less frequent service, and a greater likelihood of losing nonstop links altogether. In recent years, major carriers have dropped dozens of

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[13] *Id.*

[14] Kelly McCarthy, *How Delta is Using AI for Ticket Pricing and What it Means for Air Travel*, ABC NEWS (Aug. 5, 2025), https://abcnews.go.com/GMA/Travel/delta-ai-ticket-pricing-means-air-travel/story?id=124343088. For Delta's explanation, see Delta Responds to Misinformation around AI Pricing (Aug. 7, 2025), https://news.delta.com/delta-responds-misinformation-around-ai-pricing.

[15] Max Chafkin, *AI Flight Pricing Can Push Travelers to the Limit of Their Ability to Pay*, BLOOMBERG (Aug. 4, 2025), https://www.bloomberg.com/news/articles/2025-08-04/how-ai-can-raise-airline-ticket-prices; Fetcherr, Dynamic Pricing in Airlines: How AI is Revolutionizing Airline Revenue Management (Dec. 5, 2024), https://www.fetcherr.io/blog/dynamic-pricing-in-aviation.

[16] Mack Deguerin, *Why are Airline Seats so Small: It all Started in 1978*, POP. SCI. (May 1, 2025), https://www.popsci.com/science/why-are-airline-seats-so-small/.

[17] Ganesh Sitaraman & William J. McGee, *The Bad News about your Airline Points*, CNN (May 10, 2024), https://www.cnn.com/2024/05/03/opinions/airline-points-rewards-programs-sitaraman-mcgee.

cities from service—and not just small towns. During the pandemic, America, Delta, and United dropped dozens of cities from service. Some cities, like New Haven, Connecticut and Toledo, Ohio have lost all daily flight services from a major carrier. To get even some service, Cheyenne, Wyoming guarantees a minimum revenue for an airline. The Essential Air Service program does not work for these cities. It is a narrow program focused on the smallest markets, and in any case, its funding is perennially threatened.

To be sure, some cities losing big carrier service might be an opportunity for smaller carriers. But the dynamics of the industry mean that there are downsides for passengers in these communities: big carriers have huge networks, so you can travel from a smaller city to a larger one and get a flight to wherever you need to go. For smaller carriers, access to these small markets does not necessarily mean they can fly passengers to where they need to go: hub concentration and limits on gate access mean major airports are not necessarily accessible at scale to small carriers. And, of course, if the connection from a smaller city to a larger one is on a small carrier without a big network, passengers might have to purchase two separate tickets, which is inconvenient and can cause issues ranging from baggage transfers to delays and cancellations.

More broadly, the loss of service is a real downside for these communities. Tourism, family visits, and commerce all depend on transportation. Organizations want to host national conventions in cities with frequent, reliable, affordable air service. Loss of service can thus harm economic growth. To put a fine point on it: Imagine being an entrepreneur with an idea for the next great Fortune 500 company: would you start your business in a city without frequent air service?

IV. Ideas for Fixing Flying

The United States does not need to have an airline industry that suffers from all of these problems. These problems are a function of legal and policy choices—and Congress has the power to change laws and policies to address them. In this section, I focus on some ideas for how to fix flying. These ideas all have benefits and drawbacks, like any policy idea does. But unless fresh, new ideas are on the table for discussion and debate, progress on improving air travel will remain elusive.

No More Flyover Country

Congress should act to address the problem of access to air travel in many smaller and mid-sized cities. Doing so is critical to improving economic growth and opportunity because air travel is an essential part of our transportation infrastructure. One big challenge is that routes to smaller cities can be uneconomical because the volume of passengers is insufficient to support the cost of the flights. Direct subsidies have not worked to solve this problem. A structural solution is needed.

- The "Draft Pick" System: One way to address this problem is to adopt a "draft pick" system, in which smaller and mid-sized cities with no or limited air service are akin to the players and the four biggest airlines in the country are akin to the teams. The airlines would each get a pick order, and have to pick a city from the list until all cities have at least one airline. The airline would have a duty to serve that city with a minimum amount of service. To prevent monopoly pricing, the price on these routes would be no more than an affordable, preset price based on mileage traveled. This would also encourage airlines to pick cities near hubs, adding convenience for passengers. New competitors, of course, would also be free to fly to these cities if they desired, to expand access and enhance competition. But the key feature is that it would guarantee some service between these smaller and mid-sized cities and major hubs. Notably, depending on the design of this program, Congress could consider eliminating the Essential Air Service program, thereby saving taxpayer funds.

Increasing Resilience

For air travel to be resilient, airlines need to be able to withstand shocks better. This includes macro-level demand shocks, as happened with the Gulf War, September 11, and COVID-19, and micro-level shocks, such as extreme weather at a single airport.

- Resilience Plans and Rainy Day Funds: Airlines need to prepare for macro-level shocks because they are, unfortunately, inevitable. Airlines should be required to develop resilience plans that describe what they would do in the event of a crisis. For example, if there is a pandemic, war, cyberattack, failure of IT systems, terrorist attack, recession, or serious weather event, how will they respond? What plans do they have in place to keep employees and training pipelines? How would they maintain schedules? Funding is also necessary in a crisis, as the history of bailouts and public support shows. To prevent future taxpayer bailouts, airlines could be required either to create their own rainy day funds, or to pay into a joint rainy day fund. The fund would be the first financial resource for airlines in a major crisis, so they do not need to immediately ask for taxpayer support. These policies could apply to the biggest airlines to mitigate the fact that they are "too important to fail."

- Caps on Major Hub Concentration: Micro-level resilience—either due to weather or other events—is often tied to a problem at a single large airport hub or set of large airports in a region. Hub concentration can make these problems worse. If there are high winds in Dallas, or if there's a snowstorm in Atlanta or Chicago, delays and cancellations can affect thousands of flights, and not just flights to or from those destinations. Reducing hub concentration, coupled with resilience planning, will help address this problem while enhancing competition (discussed below). One way to do so would be to simply place a cap on the market share one airline can have at airports of a given, large size. A cap—for example, 30 percent—would mean that airlines would have to deconcentrate from fortress hubs. But it would also likely mean that other cities would have growth in airports, helping their economies and increasing the strength of other nodes in the network. This would, in turn, improve resilience.

Enhancing Competition

Consolidation and concentration in the airline industry is already at astonishing levels historically. There are multiple ways that Congress could enhance competition in the airline industry.

- Caps on Major Hub Concentration: As mentioned above, a cap on market share at large airports would deconcentrate the airline industry significantly. If Delta, for example, only had 30 percent of the market in Atlanta, other airlines would make up the other 70 percent. This could include major carriers like United, American, and Southwest, or value airlines and smaller carriers. More competition would help Atlantans have more choices. Notably, it is not clear what effect this would have on employment. The airlines expanding their Atlanta operations would need more staff, so it is possible total employment might stay the same or even increase. The same story could replicate around the country, creating far more competition at and between hubs.

- Gate Access: Critical to competition is access to gates and other basic airport infrastructure (such as check-in desks and baggage services). Data from the National Air Carriers Association shows that gate usage declined from before to after COVID-19 and that gates are underutilized at some major airports.[18] This suggests that large carriers might be leaving gates unused. One answer is to ensure that gates get used more efficiently. Senators Hawley and Warren have proposed one solution, the Airport Gate Competition Act, which would help address this problem by capping gates that are exclusive to one airline and ensuring a minimum percentage of common use gates that multiple airlines could use.

- Address Horizontal Shareholding: Antitrust scholar Einer Elhauge has argued that horizontal shareholding violates the antitrust laws. Congress could push the Department of Justice to take action on horizontal shareholding in this sector or simply enact a bright-line ban on horizontal shareholding in the airline industry.[19]

Improving the Passenger Experience

Flying is miserable, and it's getting worse. There are many things Congress could do to improve the passenger experience.

- Seat Sizes: Congress should set minimum seat sizes, or direct the FAA to do so, taking into account comfort of passengers.

- Safe Travel with Infants: Parents flying with infants are forced to make a difficult choice—fly with an infant on their lap, which is free but not recommended because

[18] Reauthorization 2023 ULCC Priorities, Nat'l Air Carrier Ass'n. 13 (2023), https://www.wefly4you.com/Reauthorization2023ForWeb.pdf.
[19] Elhauge, *supra* note 12.

it is unsafe in the event of turbulence, and paying for an additional seat for their child to sit in a car seat, which is safe but may not be affordable for many families. Parents should not have to choose between costs and safety for their new babies. To address this issue, parents should simply be able to purchase an adjacent economy airline seat for an infant using a carseat for a nominal fee, such as $50. This would be similar to the many other areas of the economy in which children get significant discounts. The fixed price discount fare would only apply to infants in carseats, not to kids large enough to sit on their own.

- Ban Personalized and Dynamic Pricing: Airlines have long used dynamic pricing to charge different prices to similar people. Most obviously, they regularly charge different prices based on when exactly you buy your plane tickets. The expanded use of advanced algorithms and AI, coupled with vast data collection and group and individual profiling, means that airlines are now moving toward a system of dynamic pricing that could be supercharged to raise prices on passengers. They could potentially even personalize prices to charge up to what data suggests the specific person would be willing to pay. We are dangerously close to a world in which airlines, knowing you travel to one city every year for Christmas, start specifically charging you higher rates for that specific flight knowing you will need to pay it. At a minimum, Congress should get ahead of this problem and ban personalized pricing. Congress could go even further and end dynamic pricing by simplifying pricing by fare class. Both of these proposals would enhance competition by making it easier for passengers to comparison shop.

- End Abusive Loyalty Program Policies: Congress should address unfair, deceptive, and abusive practices in loyalty programs. This could include banning retroactive devaluations and decreases in benefits, especially when linked to a credit card; requiring transparent exchange rates between points and dollars; banning added fees for transferring or using points; and mandating that points and dollars can be used interchangeably without blackout periods or limits.

- Expand Passengers' and States' Ability to Sue Airlines: The Airline Deregulation Act of 1978 preempted states' ability to "enact or enforce" any laws or regulations related to a "price, route, or service," and the Supreme Court has interpreted this provision extremely broadly.[20] Congress could put an end to preemption and expand states' and passengers' ability to hold airlines liable.[21]

There are, of course, many policies Congress could adopt, and in other work, I have discussed these proposals in more detail and offered other ideas that I believe are also

[20] *See* Northwest v. Ginsburg, 572 U.S. 273 (2014).
[21] For a discussion of these issues and a proposal, see William J. McGee & Lee Hepner, *How to Address the Air Travel Crisis: Eliminating the Airlines Legal Liability Shield*, Am. Econ. Liberties Project (Sept. 2022), https://www.economicliberties.us/wp-content/uploads/2022/09/2022-9-07-AirTravelCrisis_Quick-Take-FINAL.pdf.

worthy of serious public debate. But these ideas provide an excellent start for making flying more resilient, more competitive, and less miserable.

VI. Conclusion

We do not have to accept miserably crammed seats, limited flight choices, or communities losing their last daily service. None of this is inevitable. The problems in air travel are the result of policy choices—and in particular, the choice to deregulate the industry based on a faulty understanding of the dynamics of the sector. That choice has led to serious problems—oligopoly, service deterioration, and geographic inequality—and so far, the response has been to stick with the same failed policy approach.

It is time to change course. We can choose to make the airline industry more resilient. We can choose to make it more competitive. We can choose to ensure access to communities all across the country and to improve economic growth and opportunity. And we can choose to make flying less miserable for passengers.

Response of Allegiant Travel Co.
to Questions for the Record from Senator Cory Booker
before the U.S. Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy, and Consumer Rights
Hearing on "Examining Competition in America's Skies"
September 30, 2025
Dirksen Senate Office Building, Room 226

Question 1:

In 2021, Allegiant proposed a joint venture with Viva Aerobus, a Mexico-based low-cost carrier.1 This proposed deal, which was revived this past April, has faced opposition from labor unions, including Teamsters which represent 1,400 Allegiant pilots through Teamsters Local 2118. They are concerned this partnership could lead to U.S. jobs being outsourced to Mexican crews.

a. During your testimony, you claimed airline pilots will not lose their jobs. How will Allegiant ensure this remains true?

b. How do you balance economic efficiency with the need for providing long-term, reliable employment?

Response:

a. We greatly value our pilots at Allegiant. Allegiant currently does not fly any scheduled international service and has no plans to do so outside of this alliance given the substantial barriers to entry we face. All alliance services offered would be additive to the flying we do today or plan to do in the future. Longstanding cabotage restrictions also ensure that domestic point to point flying cannot be conducted by foreign carriers. These factors alone mean that it is mathematically impossible for the Joint Venture to lead to job loss at the hands of Viva pilots, and we continue to forecast that our rate of block hour growth for our pilots if the Joint Venture were to be approved would exceed the rate of growth without the Joint Venture. We have provided extensive information and data supporting this in our docketed proceeding (DOT-OST-2021-0152) and remain ready and willing to engage any interested parties regarding this matter. This is a revolutionary opportunity to introduce much-needed competition in the transborder market and provides significant financial and professional benefits for our pilots.

b. We view these priorities as going hand in hand at Allegiant. Allegiant's business model is built around long-term sustainability, serving markets that can support reliable, consistent leisure travel rather than chasing short-term efficiencies. By maintaining low costs and focusing on point-to-point flying between smaller communities and vacation destinations, we've been able to grow steadily and add good-paying U.S. aviation jobs while remaining profitable through multiple industry cycles. Allegiant also proactively recongized the change in the labor market and increased pilot wages to match industry standards outside of the normal negotiations process in the form of an accrual payable upon contract ratification.

Question 2:

Prior to federal deregulation there were dozens of US airlines. Now we have just a handful. This has reduced competition and consequently, increased prices. Allegiant Airlines and Frontier stand out as two of the few low-cost carriers.

a. Too often there are communities in our country that do not have access to reliable, affordable airline options because of where they are located geographically. How do low-cost carriers help correct this and is there more that they could do to expand access?

b. In your experience, have major carriers tried to compete in these smaller markets when carriers like Allegiant fly those routes?

c. Has Allegiant ever discontinued service on a route after a major airline began operating the same route and lowered prices?

Response:

a. Rural communities that have been overlooked by larger carriers are exactly who Allegiant exists to serve. We are proud that 75% of our routes have no other nonstop service, and in some markets that we serve we are the only commercial carrier present. Value Airlines like Allegiant have been instrumental in restoring air service to smaller and mid-sized communities that otherwise might not have viable commercial connections. Our model of less than daily service to America's premier leisure destinations allows us to enter markets with the right frequency of service offering affordable fares without relying on expensive hub operations and timely connections.

As a result, many communities that had lost scheduled air service after deregulation now enjoy reliable, affordable travel options because of Allegiant's entry. We are always evaluating opportunities to further expand access, though success depends in part on adequate infrastructure, reasonable costs, and regulatory efficiency. Less than daily service like that of Allegiant is truly the most sustainable future of rural air service that relies on organic market dynamics and local partnerships as opposed to government subsidy. There is certainly room in the domestic market for us to grow our service, and we look forward to continuing to engage with government stakeholders to ensure that the regulatory environment allows for this growth.

b. In our experience, larger legacy carriers rarely enter smaller markets that Allegiant serves nonstop because the demand profile does not fit their hub-and-spoke economics. Allegiant's low-cost structure allows us to sustain affordable service even in competitive environments. On the 25% of routes that Allegiant does have competitive overlap on, we see drastic fare reductions from our competitors on the days that we compete, which further illustrates the benefit of Value Airlines being present in the market.

c. Allegiant evaluates all routes based on sustainable demand, operational efficiency, and long-term profitability. While we constantly adjust our network to reflect these factors, it is uncommon for us to discontinue service solely because another carrier has entered a route. Typically, our decisions are driven by seasonal demand and local market conditions, not short-term fare competition. While our focus on smaller markets and minimal competitive overlap make these scenarios rare, it is important to note that legacy carriers cannot compete with our service on cost-basis, and in many cases choose to subsidize their operations with other revenue streams such as credit card and loyalty revenue to remain competitive or undercut our fares. This practice is most prevalent in markets where legacy carriers maintain fortress hubs, like Charlotte Douglas International Airport (CLT) where a single carrier was responsible for 87% of enplanements in 2024. When Value Airlines are ultimately pushed out of these markets as a result of distorted competition from legacy carriers, fares rise and consumers are hurt.

Question 3:

During your testimony, you mentioned low demand, high cost, and ATC inefficiency are barriers to market entry for connecting smaller airports to vacation destinations.

a. Do you believe these barriers are natural features of the industry, or are they caused by the anticompetitive actions of legacy carriers?

b. How does Allegiant decide whether to continue or cut back service between smaller airports and vacation destinations?

c. If you leave a region or route and later seek to re-enter, do you face resistance from larger legacy carriers?

Response:

a. In terms of anticompetitive actions specifically, artificial airport gate access issues at the hand of legacy carriers pose significant challenges for new entrants. Allegiant supports policies that promote fair access to airport infrastructure like the Airport Gate Competition Act.

The other barriers identified, which include a dislocation of passengers from lower income buckets due to inflation eroding their disposable income, high operating costs post pandemic, and ATC inefficiencies, are primarily structural characteristics of the aviation system rather than the result of deliberate anticompetitive conduct. While overburdensome regulatory actions raise costs for all carriers, the impact is outsized on our smaller operation and less than daily service model. Additionally, aging ATC infrastructure is a more prevalent issue in Florida, Las Vegas, and the small markets that we serve, many of which heavily rely on FAA owned and maintained automated systems that have been plagued with issues and long repair times in recent years. In some markets, the lack of reliability of these systems has caused major diversions that compromise our ability to meet the needs of the communities we are committed to serving, particularly taxpayers who for years have seen their dollars go towards bolstering the operations of only a few major airports while their community is left behind. This is why we continue to urge the DOT, FAA, and Congressional stakeholders to ensure that the much-needed modernization of the air traffic control system seeks to improve efficiency and reliability in all markets, not just the largest few.

b. We make service decisions based on a data-driven analysis of route performance, demand trends, barriers to entry from competition, and local airport partnerships. When a route consistently demonstrates sustainable demand and operational reliability, we maintain or expand it. Since we are largely averse to revenue guarantees or other government subsidies, it is not a practice of ours to enter and exit markets frequently. We much prefer to build lasting and sustainable relationships with the markets we enter so we can best serve the passengers that come to rely on our service. If costs rise or demand falls below thresholds for economic viability, we may reduce frequency or temporarily suspend service. For example, we recently ceased base operations at Los Angeles International Airport (LAX) when a variety of factors at the airport led to a per passenger airport-imposed fee structure of over $50. For an airline with an average fare of $78, this was an unsustainable environment for us to continue service. This said, we often revisit markets if conditions improve and hope to do so here as well if the opportunity arises.

allegiant

c. In the smaller markets we serve, we generally face the same competitive dynamics as any other carrier unless there are burdensome gate access rules in place that are not conducive to our differentiated business model. While larger airlines may have established a presence during our absence, in most smaller markets the legacy service is limited to funneling passengers to large hubs at high fares, whereas our unique nonstop model and lower cost structure allow us to compete effectively on leisure travel itineraries.

When we seek to enter or re-enter larger markets, airport real estate and gate access issues continue to be the largest barriers we face. Whether it be a lack of common use facilities, relegating our operations to far corners of the airport, or imposing minimum use requirements and other artificial barriers that are not conducive to our unique business model, legacy carriers have become skilled in blocking competition and further entrenching their positions at fortress hub markets that we wish to serve. This does a disservice to all passengers, as the lack of meaningful competition leads to bloated fares and fewer market offerings in the name of record-setting profits for our legacy competitors.

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October 23, 2025

Maddie Lubeck
Operations Clerk
U.S. Senate Committee on the Judiciary
Washington, DC

Re: U.S. Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights "Examining Competition in America's Skies" - Responses to Submitted Questions

Thank you for the opportunity to share Frontier's perspective on ensuring fair competition and affordable airfare for all Americans. Below are our responses to questions from Senator Cory A. Booker, submitted to Frontier on October 7, 2025:

1. During your testimony to the subcommittee, you suggested that smaller airliners should be exempt from antitrust scrutiny to "level the playing field" with the larger airlines. You contend that this would enable smaller airlines to compete in larger, contested markets.
   a. Could immunity from antitrust laws for small carriers lead those carriers to engage in anticompetitive practices, such as price coordination or the sharing of sensitive information?

      While any exemption from antitrust scrutiny requires thoughtful oversight, smaller carriers lack the market share, route concentration, and pricing power to materially influence fares in the same way as the Big 4 carriers. Limited relief from antitrust constraints for small carriers would allow greater collaboration and efficiency, helping to level the playing field against the dominant networks that already control over 80% of domestic capacity and effectively coordinate through joint ventures and alliances.

   b. Please describe why the government should allow mergers and acquisitions without any government scrutiny?

      We believe mergers or joint ventures exclusively among non-Big 4 carriers should receive streamlined or expedited approval given the massive imbalance in the U.S. aviation market. The Big 4 carriers command over

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80% of domestic share, limiting competition and consumer choice. Allowing smaller carriers to consolidate or partner freely would create viable competitors with sufficient scale to offer more routes, better connectivity, and lower fares, ultimately benefiting consumers through stronger competition with the Big 4.

2. The passenger experience on airlines has declined over the decades and has become a major concern within the industry. Seat sizes have decreased and ancillary fees for commodities such as baggage or on-flight entertainment have increased. During your testimony, you discussed unbundling Frontier's economy-class tickets so that fares no longer include carry-on baggage and instead created a "New Frontier" economy class that does include carry-on baggage.

    a. Why did Frontier choose to unbundle economy class tickets? Can you provide information on how unbundling has led to decreases in average fares and savings per passenger?

    Frontier's unbundling strategy is centered on consumer choice, transparency, and affordability. We believe customers should have full control over how they spend their travel dollars. Our Basic Fare is designed not only for travelers who prefer the lowest possible price, but also for those who want to customize their trip, choosing exactly which options they want to purchase, rather than paying for features they don't need.

    In addition to Basic, we offer a range of bundled options - Economy, Premium, and Business Bundles - each combining popular ancillaries such as bags, seat selection, priority boarding, and flexibility benefits. These bundles are clearly presented on our home page and throughout the booking process, making it simple for customers to compare options and select what best fits their needs and budget. Importantly, our bundles are aligned with, or more comprehensive than, what other U.S. carriers offer, ensuring travelers receive excellent value and flexibility regardless of how they choose to fly.

    Frontier remains committed to providing the lowest price to its customers, no matter which options they choose when they fly. The New Frontier Economy and other bundle options simply make those decisions clearer and easier from the first step in the booking process.

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b. Has customer satisfaction increased as a result of unbundling and associated fees? What other data or metrics can you provide to demonstrate the benefits of unbundling?

Unbundling has been a cornerstone of our business model for over a decade, empowering customers with greater choice and control over how they spend their travel dollars. Rather than a one-size-fits-all approach, we offer a customizable experience that allows travelers to pay only for the services they value most.

Over the past year, we've taken significant steps to enhance transparency and ease of use through the launch of the New Frontier. This initiative simplifies the booking process and clearly presents prices for options like bags, seat selection, and flexibility all with a single click. These updates have improved clarity, reduced customer confusion, and reinforced the core benefits of unbundling: affordability, transparency, and control. As a result, we have seen a significant reduction in customer complaints, an improved Net Promoter Score (NPS), and dramatic growth in our loyalty programs.

3. During your testimony, you mentioned low demand, high cost, and ATC inefficiency are barriers to market entry for connecting smaller airports to vacation destinations.

a. Do you believe these barriers are natural features of the industry, or are they caused by the anticompetitive actions of legacy carriers?

While factors such as demand density, airport infrastructure, and operating costs are natural industry constraints, anticompetitive practices by large legacy carriers often amplify these barriers. The Big 4 carriers dominate slot-controlled and congested airports, where they frequently secure and retain takeoff and landing slots, even when not flying them as actively as smaller carriers would. This practice limits access of low-cost and ultra-low-cost carriers that could otherwise stimulate competition and lower fares for consumers.

In addition, legacy carriers often leverage their size and long-standing relationships to obtain preferential gate access and favorable scheduling, further restricting entry opportunities. These structural advantages make it

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extremely difficult for smaller airlines to compete on equal footing, even when there is clear consumer demand for additional service and lower fares.

b. How does Frontier decide whether to continue or cut back service between smaller airports and vacation destinations?

Frontier's network planning decisions are driven by route performance, demand trends, and profitability. We continuously evaluate load factors, fare levels, and cost inputs to ensure each route supports affordable fares and sustainable operations. If a market cannot sustain low fares and sufficient load factors, we may temporarily exit the route but remain open to returning if conditions improve.

c. If you leave a region or route and later seek to re-enter, do you face resistance from larger legacy carriers?

Yes - especially when a legacy carrier has developed a fortress hub or focus city in a region, re-entry becomes significantly more difficult. Gate and slot access, marketing dominance, and coordinated frequent-flyer incentives often create structural barriers that make it challenging for smaller competitors to regain a foothold, even when consumer demand supports additional competition.

On behalf of our more than 12,000 Frontier team members, we thank you for your questions and your commitment to ensuring fair competition in the United States. Millions of Americans depend on us for affordable access to air travel and we remain committed to delivering them safely to their destinations.

Sincerely,

Barry Biffle
Chief Executive Officer

U.S. Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy, and Consumer Rights
"Examining Competition in America's Skies"
Questions for the Record for William J. McGee
Submitted October 7, 2025

QUESTIONS FROM SENATOR CORY A. BOOKER

1. After the *Airline Deregulation Act of 1978* was passed, the Department of Transportation established the Essential Air Service (EAS) to subsidize flights to rural communities. Unfortunately, EAS has faced challenges as flights often operate below capacity and are not profitable for the airlines. As you and Professor Sitaraman pointed out in your report *How to Fix Flying: A New Approach to Regulating the Airline Industry*, "This means one of two things: either higher prices for people who live in smaller markets (which also dissuades travel and economic growth) or less frequent service," which creates a vicious cycle as "[h]igher prices dissuade travelers, which pushes airlines to offer less frequent service."[1]

    a. How can the EAS program be improved to ensure rural Americans have access, or has it failed to fulfill its mission and should be discontinued altogether?

    ANSWER:

    Congress created the EAS program to guarantee that small communities maintain a minimum level of air service. This was due to valid concerns that deregulation would entice airlines to serve larger, more lucrative cities and abandon smaller communities.[2] By providing subsidies, Congress ensures reliable access, thereby helping local economies and ensuring all Americans have access to the national aviation grid.

    Currently, EAS serves 177 communities nationwide, 65 in Alaska.[3] When Covid-19 hit in 2020, the U.S. Department of Transportation (DOT) allowed airlines to reduce EAS service.[4] In 2020, the first year of the pandemic, U.S. airline traffic fell by 557 million passengers, a 60% decrease from the previous year.[5] What's more, major carriers continued cutting service to smaller markets even after the

[1] William J. McGee and Ganesh Sitaraman, *How to Fix Flying: A New Approach to Regulating the Airline Industry*, American Economic Liberties Project (Jan. 2024), https://www.economicliberties.us/wp-content/uploads/2024/01/20240124-AELP-airlines-v5.pdf.
[2] Rachel Y. Tang, "Essential Air Service (EAS)," U.S. Congressional Research Service, December 19, 2018, https://www.congress.gov/crs-product/R44176.
[3] U.S. Department of Transportation, "Essential Air Service," https://www.transportation.gov/policy/aviation-policy/small-community-rural-air-service/essential-air-service.
[4] U.S. Department of Transportation, "U.S. Department of Transportation Issues Notice Regarding Essential Air Service Program, Given the Impact of COVID-19," April 29, 2020, https://www.transportation.gov/briefing-room/us-department-transportation-issues-notice-regarding-essential-air-service-program.
[5] Bureau of Transportation Statistics, "Full Year 2020 and December 2020 U.S. Airline Traffic Data," March 11, 2021, https://www.bts.gov/newsroom/full-year-2020-and-december-2020-us-airline-traffic-data.

industry stabilized.[6]

EAS needs to be revamped. Currently, the program only covers small towns, but it doesn't cover small cities, a development that clearly was not foreseen in 1978. Due to the dramatic industry consolidation that I addressed in my testimony, dozens of airline mergers have caused the remaining legacy airlines to close hubs in cities as large as St. Louis, Cincinnati, Cleveland, and Pittsburgh (see below). As we also noted, cities as large as Cheyenne, Wyoming are not served by EAS.[7]

To improve EAS, Congress should ensure that ALL American air travelers have geographic access, similar to the Interstate Highway System and U.S. Postal Service models. We recommend Congress can do this by either of two models:

- A "Draft Pick System," whereby Congress would direct the largest airlines to choose smaller communities to serve at regulated, affordable rates. In effect, this would expand upon the regulated EAS model already in place for the last 47 years.
- A "Regional Conference System," whereby Congress would designate a major carrier in each region of the country to serve smaller markets. This would allow network airlines to expand upon their existing hub-and-spoke models.

We provide greater detail on both models in "How to Fix Flying."[8]

b. Should EAS or a similar initiative focus on connecting rural airports to major hubs or would instead direct point-to-point flights better serve rural communities?

ANSWER:

There is more than one model that could effectively expand or replace EAS. Such decisions have much to do with geography. Some smaller and rural airports are ideal satellites for major carrier hubs and could be properly served as spoke routes to these hubs. Other airports may require point-to-point routes, based on passenger traffic demands and flight distances. AELP suggests such considerations be taken on a case-by-case basis, rather than on a "one-size-fits-all" basis.

[6] Michelle Gao, "'We're a long way from anywhere else': Small U.S. cities hit with airline service cuts in pandemic," CNBC, October 23, 2020, https://www.cnbc.com/2020/10/23/coronavirus-travel-airlines-cut-service-to-small-airports.html.
[7] Written Testimony of William J. McGee Before the U.S. Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights, "Examining Competition in America's Skies," September 30, 2025, https://www.judiciary.senate.gov/imo/media/doc/a5baedff-b8d1-271b-902e-844a8b350dab/2025-09-30%20PM%20-%20Testimony%20-%20McGee.pdf.
[8] William J. McGee and Ganesh Sitaraman, *How to Fix Flying: A New Approach to Regulating the Airline Industry*, American Economic Liberties Project (Jan. 2024), https://www.economicliberties.us/wp-content/uploads/2024/01/20240124-AELP-airlines-v5.pdf, p. 10-11.

c. Do flight subsidies interfere with natural market forces and discourage competition in the industry?

ANSWER:

No, flight subsidies do not disrupt market forces or discourage competition, especially in smaller and rural communities. EAS or other subsidies would not be needed if airlines were eager to serve such communities, a fact that many Members of Congress from less populated regions accurately predicted in 1978, including Sen. Howard Cannon (D-NV) and Sen. Robert Byrd (D-WV).[9]

However, EAS subsidies should be reexamined since two key issues have emerged: 1) as noted above, larger carriers have publicly lobbied against serving EAS routes so that they can use their aircraft and crew assets in more lucrative markets and 2) smaller, low fare carriers could potentially provide more service to smaller and rural markets. That said, airline subsidies are necessary to ensure the benefits of commercial aviation are available to Americans nationwide, including in smaller and rural communities that are not as attractive to airlines focused primarily on shareholder value rather than providing comprehensive service.

2. In your written testimony you contend that the lack of competition in the airline industry harms not just rural communities but major cities as well. You write "Consolidation spurred the majors to close hubs in cities as large as St. Louis, Cincinnati, Cleveland, and Pittsburgh. [That] in the case of St. Louis, American's daily flights plunged from an average of 200 to just 36" in 2009.

   a. Why do you believe consolidation has had this effect? Are there other factors that could have contributed to airport closures, including low demand or increased costs?

   ANSWER:

   This question gets to the heart of the twin failures of deregulation and consolidation within the U.S. airline industry for nearly five decades. Effective transportation systems--like all utilities--are designed to provide ubiquitous service to all communities, coupled with aggregated pricing so that all users share in the costs. As we noted in "How to Fix Flying," the deregulated free market system has incentivized airline executives to focus exclusively on monetizing a smaller number of "fortress hubs," and the locations of these hubs have been chosen to maximize profits rather than being designed for passenger convenience or even population distribution. As stated in my testimony for this hearing, the

[9] James S. Meyer, "Section 419 of the Airline Deregulation Act: What Has Been the Effect on Air Service to Small Communities," Journal of Air Law and Commerce, 1981, Volume 47, Issue 1, Article 6, https://scholar.smu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2331&context=jalc.

largest airlines have not only gotten too big to fail, but also too big to care.[10]

American shut down the former TWA hub in St. Louis because American already maintained fortress hubs in Chicago and Dallas, making St. Louis obsolete once American acquired TWA.[11] Similar reasons were given for other post-merger hub closures; after merging with Continental, United closed Continental's hub in Cleveland because it was superfluous due to United's own hubs in Washington and Chicago.[12] And Delta downgraded its Cincinnati hub after it acquired Northwest and its Detroit hub.[13] In the case of Pittsburgh, US Airways struggled financially after the 9/11 attacks, which contributed to de-hubbing PIT.[14]

The deregulated hub-and-spoke networks have not only left behind millions of Americans in smaller and rural communities, but millions more in some of the nation's largest metropolitan areas. Sensible airline networks meet demand, as the Civil Aeronautics Board did during the 40 years it regulated the airlines. It would have been unimaginable that such large cities would see service downgrades prior to 1978, so that not only air travelers but even local corporations are denied adequate nonstop routes and daily flight frequencies. This is why AELP was so supportive of *Sec. 514 of the FAA Reauthorization Act of 2024*, which calls on the Government Accountability Office to study the effects of consolidation on airline competition.[15]

3. Would breaking up larger carriers help to restore lost service, or are new, smaller carriers entering the market the only viable solution? Or do we need both?

ANSWER:

We do need both solutions. As detailed in my testimony, the only real competition and pricing discipline in the domestic airline industry today comes from the low fare airlines.

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[10] William J. McGee and Ganesh Sitaraman, *How to Fix Flying: A New Approach to Regulating the Airline Industry*, American Economic Liberties Project (Jan. 2024), https://www.economicliberties.us/wp-content/uploads/2024/01/20240124-AELP-airlines-v5.pdf; William J. McGee on behalf of the American Economic Liberties Project, Response to Request for Information on Merger Enforcement, Before the Department of Justice and the Federal Trade Commission, Docket ID FTC-2022-0003, April 2022, https://www.economicliberties.us/wp-content/uploads/2022/04/2022-04-20-AELP-DOJ-FTC-Airlines-McGee.pdf.
[11] Justin Hayward, “Throwback: When American Airlines Had A Hub At St Louis Lambert International Airport,” Simple Flying, November 18, 2024, https://simpleflying.com/american-airlines-st-louis-hub-history/.
[12] Leila Atassi, “What will become of Concourse D after United Airlines cut regional flights at Cleveland Hopkins International Airport?,” Cleveland.com, February 5, 2014, https://www.cleveland.com/cityhall/2014/02/what_will_become_of_concourse.html.
[13] James Pilcher, “Why CVG lost half of all flights,” Cincinatti.com, May 24, 2010, https://web.archive.org/web/20150629022844/http://archive.cincinnati.com/article/20100524/EDIT03/5230393/Why-CVG-lost-half-all-flights.
[14] Mark Belko, “The Long Decline: Pittsburg International Airport Still Trying to Rebound From the Effects of 9/11,” Aviation Pros, August 30, 2021, https://www.aviationpros.com/airport-business/airport-infrastructure-operations/news/21236220/the-long-decline-pittsburgh-international-airport-still-trying-to-rebound-from-the-effects-of-9-11.
[15] FAA Reauthorization Act of 2024, Section-by-Section Summary, https://transportation.house.gov/uploadedfiles/faa_reauth_act_section_by_section.pdf.

The MIT study I cited in my testimony found that the entry of a low cost carrier (i.e., JetBlue, Southwest) on a route reduced fares on average by 8%, while the entry of an ultra-low cost carrier (i.e., Allegiant, Frontier, Spirit, etc.) reduced fares by 21%.[16]

However, the challenges for new-entrant carriers are underscored by noting that since 2007, the United States has seen only two new start-up scheduled passenger airlines: Avelo and Breeze in 2021.[17] We believe this is due in large measure to the harms of common ownership of airline stock by institutional investors who abhor true competition since low fare airlines offer lower fares and force the major carriers to compete.[18] This is why AELP wrote model legislation that we urge the Senate Judiciary Committee to consider, since it would restrict investors from owning more than 1% of any domestic carrier if they also own more than 1% of one or more other domestic carriers.[19]

We also believe the time has come for Congress to examine breaking up the "Big Four" largest carriers--American, Delta, Southwest, and United--that together control an unprecedented 80% of the domestic airline market.[20] This increase in market share was not won by offering better service, but instead was the result of dozens of mergers over the decades,[21] culminating in the rapid consolidation of the Big Six network carriers combining into the Big Three: Delta-Northwest in 2008, United-Continental in 2010, and American-US Airways in 2013.[22] As noted, the Airline Deregulation Act of 1978 is rife with broken promises. For example, its opening statement assured Americans that deregulation would usher in "placing maximum reliance on competition," "avoidance of unreasonable concentration," and "encouragement of entry...by new air carriers."[23] None of this has happened, and as a result, the oligopoly of the Big Four has harmed

[16] Written Testimony of William J. McGee Before the U.S. Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights, "Examining Competition in America's Skies," September 30, 2025, https://www.judiciary.senate.gov/imo/media/doc/a5baedff-b8d1-271b-902e-844a8b350dab/2025-09-30%20PM%20-%20Testimony%20-%20McGee.pdf; Alexander R. Bachwich and Michael D. Wittman, "The Emergence and Effects of the Ultra-Low Cost Carrier (ULCC) Business Model in the U.S. Airline Industry," Massachusetts Institute of Technology, International Center for Air Transportation, October 17, 2016, https://dspace.mit.edu/bitstream/handle/1721.1/104869/ulcc-paper-draft-revFINAL.pdf%3Bjsessionid=B077%205022ED165FAFDF3A9F0809460539.

[17] Julie Weed, "Despite it All, Two New U.S. Airlines Prepare to Fly," The New York Times, March 16, 2021, https://www.nytimes.com/2021/03/16/travel/airlines-breeze-avelo-usa.html.

[18] Jose Azar et al., "Anticompetitive Effects of Common Ownership," Journal of Finance, May 13, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2427345.

[19] American Economic Liberties Project, "How to Address the Air Travel Crisis: Eliminating the Airlines' Legal Liability Shield," September 20, 2022, https://www.economicliberties.us/our-work/end-federal-preemption/.

[20] William J. McGee on behalf of the American Economic Liberties Project, Response to Request for Information on Merger Enforcement, Before the Department of Justice and the Federal Trade Commission, Docket ID FTC-2022-0003, April 2022, https://www.economicliberties.us/wp-content/uploads/2022/04/2022-04-20-AELP-DOJ-FTC-Airlines-McGee.pdf.

[21] Rahul Mukherjee, Erin Davis, and Jacob Knutson, "How the "big five" airlines came to dominate the skies," Axios, December 8, 2023, https://www.axios.com/2023/12/08/airline-mergers-us-airline-industry.

[22] Bureau of Transportation Statistics, "Full Year 2020 and December 2020 U.S. Airline Traffic Data," March 11, 2021, https://www.bts.gov/newsroom/full-year-2020-and-december-2020-us-airline-traffic-data.

[23] Airline Deregulation Act of 1978, 95th Congress, S.2493, https://www.congress.gov/bill/95th-congress/senate-bill/2493.

consumers, workers, and entire cities and even regions of the country. Monopoly power has corrupted an industry that is vital to the nation's economy and security, and Americans' ability to travel freely. Breaking up the Big Four would at last fulfill the 47-year-old promises of robust competition and new entry within the airline industry.

AI and surveillance pricing has become a concern in airline ticket purchasing. During your testimony to the subcommittee, you mentioned that a test conducted twenty-four years ago demonstrated that major airlines were collecting shopping data from consumers online to learn about their purchasing preferences and habits.

a. Could you provide further information on the test conducted and the types of data it found the airlines were collecting over two decades ago?

ANSWER:

During the 22 years from 2000 to 2022 when I worked and consulted for Consumer Reports (formerly Consumers Union), I repeatedly found compelling evidence of what came to be known as "dynamic pricing" within the airline and travel sector. Research in this area was quite nascent, and undoubtedly what we discovered was technologically crude as dynamic pricing geared toward demographics (i.e., Mac users vs. PC users, urban residents vs. rural residents, etc.) devolved into personalized "surveillance pricing" geared toward individuals.

As Editor of Consumer Reports Travel Letter from 2000 to 2003, we accidentally stumbled upon this phenomenon while conducting extensive comparison testing of travel and airline websites, when we saw different airfares for identical itineraries in real time on different devices. We continued to see this from 2003 to 2006 when I conducted extensive travel site testing for Consumer Reports WebWatch. Some of our findings:

- In a 2004 report, we provided details on numerous cases of fares being unavailable or switching, and quoted responses from Orbitz, Expedia, and Travelocity.[24]
- We bundled numerous online discrepancies into a 2005 report that detailed travel sites offering invalid fares and a phenomenon we termed "fare-jumping," whereby rates jumped in real time mid-booking.[25]
- We summarized all these findings in a lengthy press release warning consumers about dynamic pricing in 2007, detailing discrepancies found with airfares and hotel prices on Expedia and Travelocity, and chronicled side-by-side testing conducted in 2006 using different browsers, both

[24] William J. McGee, "Global Concerns: An In-Depth Examination of U.S. Travel Web Sites Selling International Airline Tickets," Consumer Reports, September 22, 2004, https://advocacy.consumerreports.org/wp-content/uploads/2013/05/global-concerns.pdf.
[25] William J. McGee, "Major Travel Sites Face Credibility Crunch: An Examination of Booking First-Class Tickets Online," Consumer Reports, March 1, 2005, https://advocacy.consumerreports.org/wp-content/uploads/2013/05/first-class.pdf.

scrubbed and unscrubbed.[26] The price differentials in real time amounted to hundreds of dollars in some cases, and we quoted an Expedia spokeswoman who stated: "This is probably a system hiccup or something."

- Subsequently, I oversaw and wrote about an extensive month-long research project in 2016 for Consumer Reports Magazine.[27] During 372 searches, we found different airfares on different browsers in 42 cases, or 11% of the time; 25 resulted in higher fares (up to $121) and 17 resulted in lower fares (down to $84) on the scrubbed browsers. A Kayak spokesman told us that was impossible. This is why recent media reports indicating dynamic pricing has existed for years raise unanswered questions about exactly what practices the airline industry has pioneered—and when.[28]

b. In your opinion, is it likely that the airlines were adjusting their prices based on consumer data?

ANSWER:

While researchers can offer informed opinions, only the airlines themselves know exactly how they employ the user data they collect. However, it is quite likely that they use such data to adjust airfares. My earlier research at Consumer Reports strongly indicated such practices were in place years before the technology evolved to make such data gathering easier, quicker, and more comprehensive. There also is compelling evidence of tailored pricing in the comments from organizations, such as Fetcherr,[29] and the long-time efforts to hone "New Distribution Capability" by the International Air Transport Association, a global trade organization touting "personalized offers."[30]

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[26] Chuck Bell, "Pay Your Money, or You're Taking a Chance," Consumer Reports, press release, July 6, 2007, https://advocacy.consumerreports.org/press_release/pay-your-money-or-youre-taking-a-chance/.

[27] William J. McGee, "How to Get the Lowest Airfares," Consumer Reports, August 25, 2016, https://www.consumerreports.org/airline-travel/how-to-get-the-lowest-airfares/.

[28] Robert Silk, "Airlines inching closer to dynamic pricing," Travel Weekly, February 20, 2018, https://www.travelweekly.com/Travel-News/Airline-News/Airlines-inching-closer-to-dynamic-pricing.

[29] Fetcherr, "Dynamic Pricing in Aviation: How AI is Revolutionizing Airline Revenue Management: Real-Time Optimization: Future Outlook: Why Dynamic Pricing Will Never Be the Same," December 5, 2024, https://www.fetcherr.io/blog/dynamic-pricing-in-aviation.

[30] IATA, "Distribution with Offers and Orders (NDC) Factsheet," May 2025, https://www.iata.org/en/iata-repository/pressroom/fact-sheets/fact-sheet-ndc/.

c. It seems likely that airlines are collecting even more data from consumers today, whether through AI or other data-scraping technologies. What potential harms could this pose to consumers, and what steps can Congress take to address these concerns?

ANSWER:

The airlines collecting and exploiting consumer data poses serious harms to consumers, workers, and the public. Using this data to set prices not only makes it difficult for consumers to make informed choices, but also results in higher prices.

In addition, such practices also threaten consumers' privacy, as companies collect and acquire as much personal information as they can. This includes "past purchase behavior,"[31] precise location, financial data, or browsing history.[32] Therefore, as I stated during my oral testimony at this hearing, it is imperative that Congress convene a hearing with U.S. airline executives and determine exactly what they are doing in collecting consumer information; how they are implementing such collection (e.g., via third parties, social media sites, etc.); what they use this data for; and how long such practices have been in place.[33] As I also stated during my oral testimony, it's critical that Congress establish precisely and clearly what is meant when airlines and airline trade organizations refer to the "personal information" they collect. The standard definition of gathering information concerning gender, age, race, etc. clearly does not go nearly far enough in a digital age in which corporations are intrusively tracking customers' every move and even shoppers activities across the internet. AELP believes individual browsing and shopping habits are in fact "personal information" and should not be used to penalize consumers via higher fares and fewer choices. This is why airline privacy policies often raise more questions than they answer.

For example, the Delta Air Lines Privacy Policy posted on its website states the company will use "information related to your preferences and personal and professional interests," including internet activity, to "tailor our products and services for you."[34] Until Congress swears in airline executives under oath, the

[31] Fetcherr, "Dynamic Pricing in Aviation: How AI is Revolutionizing Airline Revenue Management: Real-Time Optimization: Future Outlook: Why Dynamic Pricing Will Never Be the Same," December 5, 2024, https://www.fetcherr.io/blog/dynamic-pricing-in-aviation.

[32] FTC, "FTC Surveillance Pricing Study Indicates Wide Range of Personal Data Used to Set Individualized Consumer Prices," press release, January 17, 2025, https://www.ftc.gov/news-events/news/press-releases/2025/01/ftc-surveillance-pricing-study-indicates-wide-range-personal-data-used-set-individualized-consumer; FTC, "Surveillance Pricing 6(b) Study: Research Summaries; A Staff Perspective: Types of Data," p. 8, January 2025, https://www.ftc.gov/system/files/ftc_gov/pdf/p246202_surveillancepricing6bstudy_researchsummaries_redacted.pdf.

[33] U.S. Senate, Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights, "Examining Competition in America's Skies," September 30, https://www.judiciary.senate.gov/committee-activity/hearings/examining-competition-in-americas-skies.

[34] Delta Airlines, Inc., "Privacy Policy," Effective September 2025, https://www.delta.com/us/en/legal/privacy-and-security.

American public will continue to have no clear sense on what these companies are doing with consumers' privacy data.

4. Would greater regulation of the airline industry risk driving more carriers out of the market?

ANSWER:

No. Additional regulation of the airline industry would not drive existing carriers out of the market. In fact, it would create market opportunities that better enable entrepreneurs to enter the airline market with new and low-fare service. Greater regulation, such as reducing hub concentration, limiting slot sub-leasing, and facilitating gate access will improve market access and allow smaller carriers to better compete, expand routes, and bring down airfares.[35]

It's worth noting that data archived by Airlines for America (A4A) demonstrate the stability of the U.S. airline industry during the regulated era through 1978. This stability benefited all stakeholders--passengers, workers, airports, cities and communities, and investors. A4A detailed there were 15 airline mergers and acquisitions in the 49 years between 1929 and 1978; subsequently, there have been 44 mergers and acquisitions since 1978.[36] In addition, A4A stated: "Pre-1978, bankruptcies were extremely rare in the unduly regulated environment." And since then? There have been more than 210 bankruptcy filings, bringing undue pain via stranded passengers, laid-off workers, and unpaid creditors.[37] Airline regulation would bring stability to a critical industry that has been unstable for far too long.

[35] William J. McGee and Ganesh Sitaraman, *How to Fix Flying: A New Approach to Regulating the Airline Industry*, American Economic Liberties Project (Jan. 2024), https://www.economicliberties.us/wp-content/uploads/2024/01/20240124-AELP-airlines-v5.pdf. P. 5-10.
[36] Airlines for America, "U.S. Airlines Mergers and Acquisitions," April 12, 2022, https://pdflink.to/d2b7af81/.
[37] Airlines for America, "U.S. Airline Bankruptcies," August 24, 2022, https://pdflink.to/e377c03f/.

U.S. Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy, and Consumer Rights
"Examining Competition in America's Skies"
Questions for the Record for Sharon Pinkerton
Submitted October 7, 2025

QUESTIONS FROM SENATOR CORY A. BOOKER

1. You discussed the impact the air traffic control system has on customers. When air traffic controllers are understaffed or lack sufficient resources, the result is often flight delays, cancellations, and frustration among flyers.

   In New Jersey this year, telecommunications failures snarled operations at Newark Airport and air traffic controller shortages led to long term flight reductions to ensure safety. I have called for more than $2 billion to address the urgent infrastructure needs of Newark and the surrounding region.

   a. The Republican reconciliation bill provided funds woefully inadequate for addressing the nation's broken air traffic control system. Can you speak to the scope of investment needed to modernize our air traffic control system, and what the consequences will be for Americans travelers if these upgrades are delayed any longer?

      A4A response:

      Investment. Earlier this year, a broad spectrum of the aviation community established the Modern Skies Coalition to wholeheartedly endorse Secretary of Transportation Duffy's plans to "supercharge" air traffic controller hiring at the Federal Aviation Administration (FAA) and the Brand New Air Traffic Control System (BNATCS) plan to modernize the air traffic control (ATC) system.

      We also strongly supported Congress's $12.5 billion in the One Big Beautiful Bill Act that was a much-needed down payment toward ATC modernization, and we continue to advocate in support of Secretary Duffy's acknowledgment that additional funding of at least $19 billion will be needed to completely build a new ATC system.

      Scope. Effective implementation needs to be comprehensive and address all the complex integrated programs and systems covering air traffic staffing, air traffic infrastructure, telecommunications, radio communications, surveillance systems, automation programs, FAA facilities, amongst others.

      Consequences. The circumstances you reference at Newark Airport and issues like the NOTAM system failure in January 2023 that caused the first nationwide ground stop since 9/11 are just two examples of the tremendous impact these system failures can have on the traveling public. Many of the FAA's systems, facilities, and equipment are decades old, antiquated, or obsolete and have outlived their useful service lives.

The time and need for investment is now. In DOT's own words from the BNATCS documents, "The Federal Aviation Administration (FAA) faces a rapidly growing, complex and demanding aviation sector, with commercial air travel returning to pre-COVID levels and new entrants, including drones, advanced air mobility, and commercial space, increasing. As the National Airspace System (NAS) users increase, the FAA's air traffic system is based on outdated technologies that are unable to meet the demands. These outdated systems are showing their age – which leads to delays and inefficiencies. The lack of funding for major investments in key air traffic infrastructure, such as radars, telecommunications, and facilities, is now putting the aviation sector at risk. To be clear, the NAS is safe. However, maintaining that safety will come at the expense of efficiencies as the FAA will be forced to throttle down air traffic as outdated systems suffer from outages."

Recommendation. If Congress is interested in making improvements to every single aviation consumer experience, there are no two more critical actions than addressing the air traffic controller staffing shortage and fully investing in the oversight, investment and implementation of a modernized ATC system.

2. Hub dominance at airports creates high barriers of entry for smaller airlines trying to enter the market, reducing competition and allowing major airlines to charge higher fares and ancillary fees for lower-quality service. In your testimony, you rejected this argument, claiming that customer satisfaction is high and ancillary prices are at an all-time low. Yet, several customer surveys have shown that satisfaction is low from flight delays and cancellations.

    a. How do you respond to critics who believe industry consolidation has negatively impacted consumer experience? Please provide any data or information about customer satisfaction with the airline industry.

    A4A response:

    At the most basic level, evidence that industry consolidation has not negatively impacted the customer experience can in large part be measured in three primary factors: competition, affordability and accessibility.

    - **Competition.** Airline deregulation unleashed industry competition that endures today. Today's airline industry offers consumers more choices among and between carriers competing with different business models than ever before. Also, as noted in more detail below, it is important to recognize that it is well understood that competition is best measured on an origin-and-destination ("O&D") basis between metropolitan areas (i.e., "city pairs").

- Lower cost carriers have entered hundreds of new routes and now carry nearly half of all domestic passengers; nearly nine of ten domestic passengers have lower cost carrier options for their travel.
    - Analysis of Bureau of Transportation Statistics data shows that, from 2000-2024, the number of competitors per domestic trip rose from 3.33 to 3.49. In 2024 alone, the 500 busiest city pairs in the U.S., which account for 60 percent of passengers, averaged an even higher 3.8 competitors per domestic trip.
- Lower cost carriers (including new entrants) have grown several times faster than the U.S. global network carriers and have hundreds of additional aircraft on order to support future growth.
    - In particular, at Newark (EWR), in 2015, ultra-low cost carriers (ULCC) did not serve this market. Today, ULCCs account for 8 percent of total domestic flights and 11 percent of total domestic seats. New Jersey residents and visitors benefit from low-fare competition provided by five ULCC carriers at EWR: Allegiant, Breeze, Frontier, Spirit and Sun Country. Competition is thriving without government intervention.

- **Affordability.** Airfares (including ancillaries) are at historic lows in real terms, a welcome relief at a time of runaway inflation for basic goods and services. Because deregulation enabled airlines to compete aggressively on routes and pricing instead of having the government dictate which airlines could service which routes at what price, inflation-adjusted airfares (including ancillaries) are at an all-time low (excluding the pandemic-stricken years 2020-2021). Using EWR as an example --
    - According to the Bureau of Transportation Statistics, the average domestic "all-in" one-way airfare in 2024 (including ancillary fees) at EWR was $222, near an all-time low on an inflation-adjusted basis.
    - At EWR, the 2024 average "all-in" domestic airfare declined 15 percent and 30 percent from 2014 and 2019 levels respectively, rates that exceeded the national average (11 percent – 2024 v 2019 and 24 percent – 2024 v 2014).

- **Accessibility.** Air travel is more available to the general public than ever with nearly 90 percent of Americans having flown in their lifetime. Pre-deregulation and pre-consolidation, that statistic was 63 percent. Air travel is no longer a luxury only afforded by the affluent. For EWR specifically:

Newark Air Service: Domestic and International

4th Quarter	2015	2025	% Chg
Scheduled Departures	48,521	48,759	0.5%
Scheduled Departure Seats	5,677,758	7,530,919	32.6%
Average Aircraft Size	117	154	32.0%
# of Unique Destinations	167	175	4.8%
# of Unique Carriers	28	37	32.1%

Source: Innovata, 10/7/2025

It is also important to note that all the affordability and omnipresence of scheduled air service have been achieved while having become the safest mode of transportation in the world despite operating in an understaffed and aging ATC system.

Regarding customer satisfaction, A4A would refer you to three nationwide, professionally conducted surveys:

- **The American Customer Satisfaction Index (ACSI®),** the only national cross-industry measure of customer satisfaction, measures the satisfaction of U.S. household consumers with the quality of products and services offered by firms with significant share in U.S. markets. The ACSI Travel Study 2025 is based on 16,771 completed surveys. Customers were chosen at random and contacted via email between April 2024 and March 2025. As part of that index, airlines are now at an average score of 74, which is up from 62 in 2008 and 69 in 2015. In addition, airlines scored over 80 plus points in five of the 221 benchmarks of the index and 75 to 79 points in 10 others. These scores are consistent with those of all other U.S. industries.

- **J.D. Power North America Airline Satisfaction Study**. This North America Airline Satisfaction Study measures passenger satisfaction with airline carriers in North America based on performance in seven core dimensions: airline staff; digital tools; ease of travel; level of trust; on-board experience; pre/post-flight experience; and value for price paid. The 2025 study is based on responses from 10,224 passengers. Passengers needed to have flown on a major North America airline within the past month of completing a survey. The study was fielded from March 2024 through March 2025. In that study, airline customer satisfaction rose six points in 2025.

- **A4A Survey of Air Travelers in America (Conducted by Ipsos)**. "Air Travelers in America" is A4A's annual survey, conducted by Ipsos, collecting vital statistics about air travel. The most recent such poll, conducted January 7-22, 2025, screened a national sample of 3,667 American adults (age 18 or older) to identify those who have "ever flown on an airplane" via the probability-based Ipsos KnowledgePanel®. Of these, 3,230 respondents qualified for and completed the survey. Ipsos found that 69% of flyers reported being "very satisfied" or "somewhat satisfied" with their overall air-travel experience in 2024. While 21% of respondents said they were "neutral," only 8% said they were "somewhat dissatisfied" and just 2% said they were "very dissatisfied." For more information, see https://www.airlines.org/dataset/air-travelers-in-america-annual-survey/.

Also, attached is a slide deck providing additional and supplemental information on the contours of affordability, accessibility, competition and customer satisfaction in our industry.

b. How would market regulations such as hub dominance caps or hub reallocations affect major airlines? Do you believe that more airlines would exit the market?

<u>A4A response:</u>

A4A cannot predict the business decisions of any given air carrier at an airport or in any given market.

Facts and data, rather than hyperbole and individual anecdotes, show that by almost any measure deregulation of the airline industry has been one of the most successful public policies of the last five decades.

Today, travelers flying within the United States or abroad benefit from a diverse set of business models spanning full-service global network carriers (e.g., American, Delta, United), low-cost network carriers (e.g., Alaska/Hawaiian), low-cost carriers (e.g., Breeze, JetBlue, Southwest) and ultra-low-cost carriers (e.g., Allegiant, Avelo, Frontier, Spirit, Sun Country). These business models differ primarily by 1) network scope and product and 2) operational complexity. In general, as network scope (i.e., breadth of destinations served, fleet diversity required to serve those destinations) and product differentiation grow—along with the benefits that consumers derive from those attributes—so too do the complexity and associated costs of providing air service.

Proposals for the federal government to arbitrarily micromanage a highly competitive market are anathema to the intent and success of deregulation.

There is a maxim in the aviation industry that generally states, "If you've seen one airport, you've seen one airport". Every airport is a complex set of unique circumstances, history and characteristics, rather than a set of standardized facilities.

Any proposals to mandate market regulation are ignoring the data that clearly shows –

- Today, non-legacy lower cost carriers carry nearly half of all domestic passengers and are a travel option for nearly everyone. (90%)
- It is even more evident at the Top 25 largest airports, which all have service offerings from ultra-low cost carriers. (100%)
- Federal protections are already in place, as FAA grant assurances require airports to provide access in order to receive federal grants, and larger airports are also subject to competition plan requirements.

Additionally, it is important to recognize that it is well understood that competition is best measured on an origin-and-destination ("O&D") basis between metropolitan areas (i.e., "city pairs"). A useful threshold—long recognized by the U.S. Government Accountability Office (GAO) (see GAO-08-845, GAO-10-778T, GAO-08-845, GAO-14-515) and Department of Transportation (DOT) (see DOT-OST-2015-0070 Order 2016-11-2)—for defining a competitor on a city pair is one that carries at least 5% of O&D passengers. When aggregating at the national level, it is appropriate to consider the passenger-weighted average number of competitors between city pairs, as this most accurately captures the level of competition experienced by the typical passenger.

Mandating blanket market regulations on gate and market access will only distort and undermine what is already a competitive market by arbitrarily allocating space, not competition on specific O&D markets.

Through the myriad of airport differences and airline business models the competitive market that exists benefits consumers and should not be arbitrarily distorted by blanket re-regulatory policies.

Instead, A4A would recommend Congress acutely focus on the critical actions of addressing the air traffic controller staffing shortage and fully investing in the oversight, investment and implementation of a modernized ATC system, neither of which come with the unintended consequences and detrimental impacts of federal market manipulation.

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Slide Deck to Accompany A4A Questions for the Record

October 21, 2025

Competitive Analysis: Perspective
Fred Cromer, Spirit Airlines

"**The airline industry is highly competitive**. The principal competitive factors in the airline industry include fare pricing, total price, flight schedules, aircraft type, passenger amenities, number of routes and frequency served from a city, customer service, safety record and reputation, code-sharing relationships, loyalty programs, and redemption opportunities."

Fred Cromer, Executive VP and CFO of Spirit Aviation Holdings, Inc. (Aug. 31, 2025)

Source: Declaration of Fred Cromer in Support of the Chapter 11 Proceedings and First Day Pleadings" (Aug. 31, 2025)

Competitive Analysis: Perspective
Warren Buffett, Berkshire Hathaway

"**It's a fiercely competitive industry. The question is if it's a suicidally competitive industry.** It has been operating at 80 percent or better of capacity for some time… It is no cinch that the industry will have more pricing sensibility in the next 10 years, but the conditions have improved for that."

Warren Buffett, Chairman and CEO of Berkshire Hathaway (May 7, 2017)

Source: Reuters, "Highlights: Berkshire's Warren Buffett comments on healthcare, trade, buybacks" (May 7, 2017)

Competitive Analysis: Perspective

Dorothy Robyn (Clinton Administration) and Jeffrey Shane (Bush Administration[s])

"The fact that the 'Big Four' carriers have a 75-percent market share nationwide says little about the state of competition in the airline industry because airlines compete on individual routes. (The preoccupation with nationwide market share is the single biggest source of confusion and misunderstanding of airline competition.) Thus, **to understand the effect of recent mergers, one has to look at data at the individual route level**—or what the Department of Transportation (DOT) refers to as city-pair markets."

Dorothy Robyn, special assistant to the president for economic policy, 1993-2001

"What do the numbers actually tell us? **You don't make competition policy based simply on the number of airlines in the market**, or on the aggregate market share enjoyed by the 'big three' or 'big four'; instead, **you carefully examine the quality of the choices available to actual passengers in actual city pairs** and you look objectively at actual pricing trends."

Jeffrey Shane, Under Secretary for Policy at the Department of Transportation, 2003-2008

Sources: "US Airline Consolidation Has Not Harmed Competition or Consumers," Information Technology and Innovation Foundation (December 15, 2023) and testimony of Jeffrey N. Shane, Committee on Commerce, Science, and Transportation United State Senate, Hearing on Enhancing Consumer Protections and Connectivity in Air Transportation (March 23, 2023)

"Economists, especially those who have long been immersed in debates about the deregulation of trucks, intercity buses and railroads, as well as airlines, are inclined to go back to the numbers... Indeed, flying is no longer a luxury. **It's cheap enough to allow most Americans to fly** — by 2020, 87 percent of the U.S. population had taken a commercial airline trip. And low fares have **cost us nothing in terms of safety**: no major airline has been involved in an accident in the United States since 2009."

"Suppose regulators appeased those who claim that flying costs too much by putting a cap on air fares. The airline industry has periods of fat profits, but **those profits are notoriously fickle**. And **if they're expected to stay in business in down times, airlines can't be expected to sacrifice revenue generated when demand is high** without trying to make it up elsewhere."

"The media and politicians take an active interest in the airline industry because they are frequent fliers and have the points to prove it. They see the government involved in ensuring safety, providing infrastructure and raising antitrust concerns, and then leap to the conclusion that government also should be involved in fares and amenities (which excite them most) when those are **best left to markets**."

Clifford Winston, "Economists Are Still Right About Airline Deregulation!", Milken Institute Review (Jan. 18, 2023)

Source: https://www.milkenreview.org/articles/economists-are-still-right-about-airline-deregulation (Clifford Winston, Jan. 18, 2023)

Competitive Analysis: Perspective
Captain Duane Woerth, U.S. Pilot and Labor Leader

"[I] strongly believe **the United States airline industry is vigorously competitive and vastly more transparent** as to pricing and services offered than the overwhelming majority of industries in this free market economy. **To believe otherwise requires one to ignore the 'forest for the trees' of compelling evidence**… [I] along with numerous other seasoned professionals **sense an overreaching attempt via one or more NPRMs to significantly reregulate this industry under the false flag of consumer protection.** We do not need to replace the long ago vanquished all powerful Civil Aeronautics Board of the pre-1978 era. May it rest in peace…. Keep deregulation working."

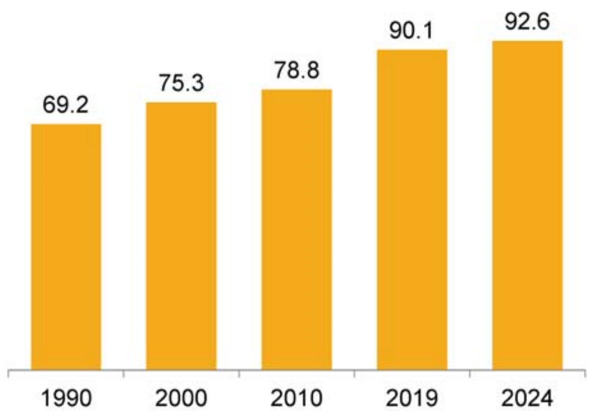
Captain Duane Woerth, former president of ALPA and U.S. Ambassador to ICAO (Dec. 5, 2024)

Source: Duane Woerth, Comment ATR-2024-0001-0041 ((Dec. 5, 2024) on DOJ-DOT RFI on Airline Competition 2024_10_24 15-20

Nonstop Domestic Service Is More Prevalent Than Ever Before

Share of Busiest Markets With a Nonstop Service Option Rose From ~69% in 1990 to ~93% in 2024

Share (%) of Top 2000 Domestic O&D Airport Pairs With Nonstop Service*



Passengers per Day Each Way (PDEW) in #1 and #2000 Domestic O&D Airport Pairs*

Year	Market #1	PDEW	Market #2000	PDEW
1990	HNL-OGG	3,266	MEM-MKE	32
2000	HNL-OGG	3,261	HOU-IND	51
2010	JFK-LAX	3,239	ALB-DFW	54
2019	JFK-LAX	4,292	CLT-PWM	70
2024	JFK-LAX	3,342	ATW-LAS	76

Source: Compass Lexecon analysis of DOT O&D, OAG and T-100 and Form 298C

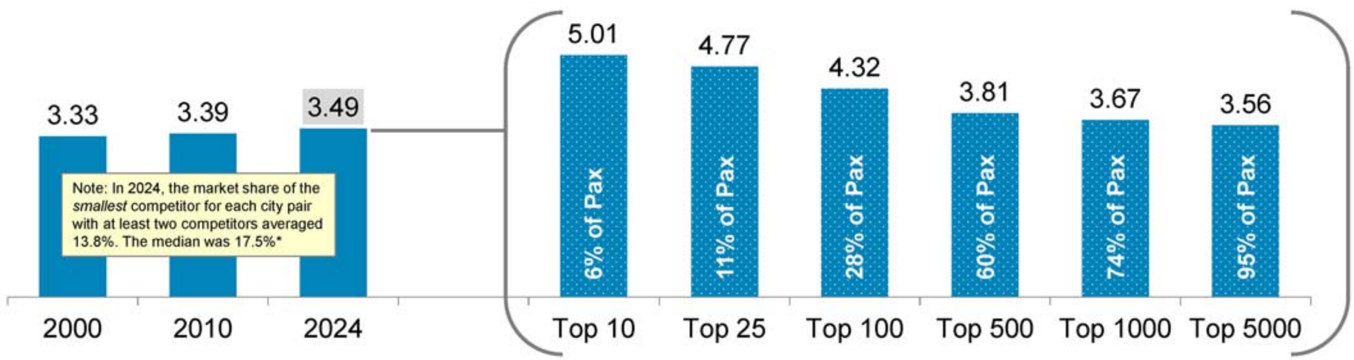
* Top 2000 accounted for 80% of domestic O&D passengers in 2019; nonstop = as at least 40 round-trip flights in any quarter

From 2000-2024, the Number of Competitors per Domestic Trip *Rose* From 3.33 to 3.49

In 2024, the 500 Busiest City Pairs—Accounting for 60% of Passengers—Averaged 3.8 Competitors

Made possible by 1) lack of entry barriers allowing rapid nationwide expansion of lower-cost carriers and 2) mergers of complementary networks enabling large network carriers to offer competitive connecting service on more city pairs *and* new nonstop service into markets they previously did not serve.

Average Number of Competitors* in Domestic U.S. Markets (O&D City Pairs)



Source: Compass Lexecon analysis of DOT O&D Survey data (DB1B)

* Per DOT and GAO, carrying at least 5% of O&D passengers in the city pair; average number of competitors is passenger-weighted across city pairs.

Competition in Sample City Pairs: Airline Share of O&D Passengers in 2024 vs. 2007

More Diversity of Business Models and Change in Distribution of Market Share*

LA (BUR/LAX/LGB)-Seattle (PAE/SEA)

	2007		2024
Alaska	67.4	Alaska	57.6
JetBlue	15.1	Delta	29.7
Southwest	7.2		
American	5.6		

Boston-Cleveland (CAK/CLE)

	2007		2024
Continental	62.6	JetBlue	48.5
AirTran	30.2	Delta	40.0
		American	5.1

Rochester, NY-South Florida (FLL/MIA)

	2007		2024
AirTran	33.9	American	24.9
US Airways	22.8	Spirit	24.2
Delta	18.5	Southwest	21.9
JetBlue	14.7	Delta	18.4
		United	5.6
		JetBlue	5.1

Chicago (MDW/ORD)-Sacramento

	2007		2024
United	44.8	United	47.9
Southwest	41.9	Southwest	35.7
US Airways	5.1	American	9.0

Memphis-Orlando (MCO/SFB)

	2007		2024
Northwest	60.1	Southwest	38.6
AirTran	21.6	Spirit	30.2
Frontier	9.8	Delta	10.5
Delta	5.7	Allegiant	9.5
		American	7.9

Austin-Raleigh/Durham

	2007		2024
American	62.1	Delta	38.4
Southwest	19.0	Southwest	37.9
Delta	7.4	American	21.0
Continental	5.8		

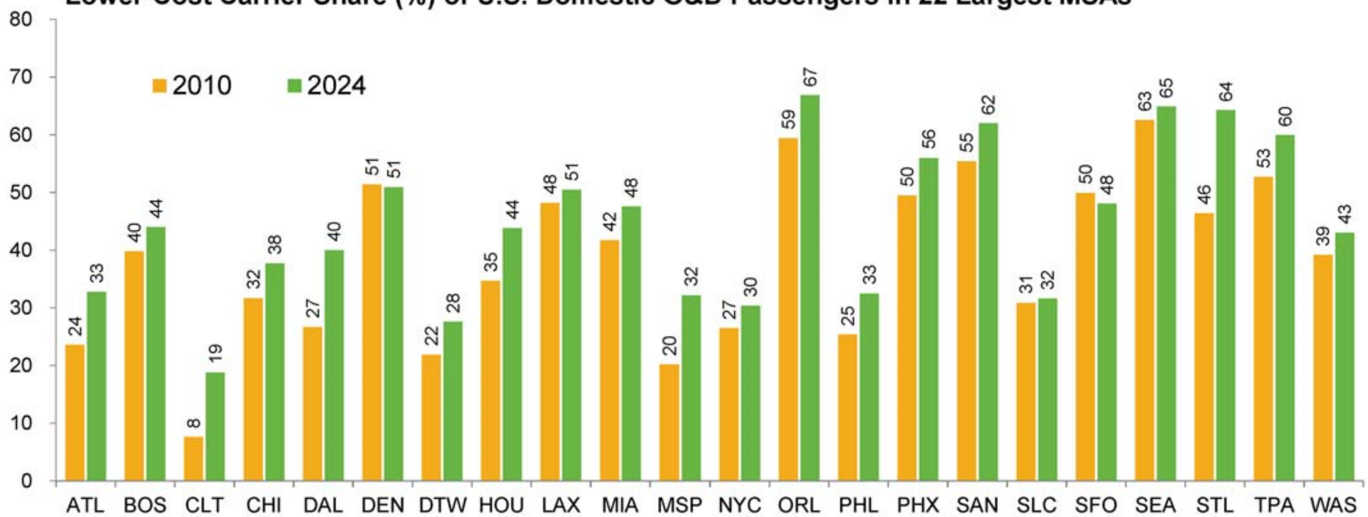
Source: DOT Data Bank 1B (nondirectional data) via Cirium

* Showing only those airlines with at least 5% of O&D share in each year

Lower-Cost Airlines Now Carry a Significant Share of Domestic Passengers in Largest Cities

In Several Metropolitan Statistical Areas (MSAs), They Command More Than Half of the Market

Lower-Cost Carrier Share (%) of U.S. Domestic O&D Passengers in 22 Largest MSAs*



Source: Compass Lexecon analysis of DOT Data Bank 1B

*AirTran/Alaska/Allegiant/Avelo/Breeze/Frontier/Hawaiian/JetBlue/Southwest/Spirit/Sun Country/Virgin America; metro areas may contain multiple airports

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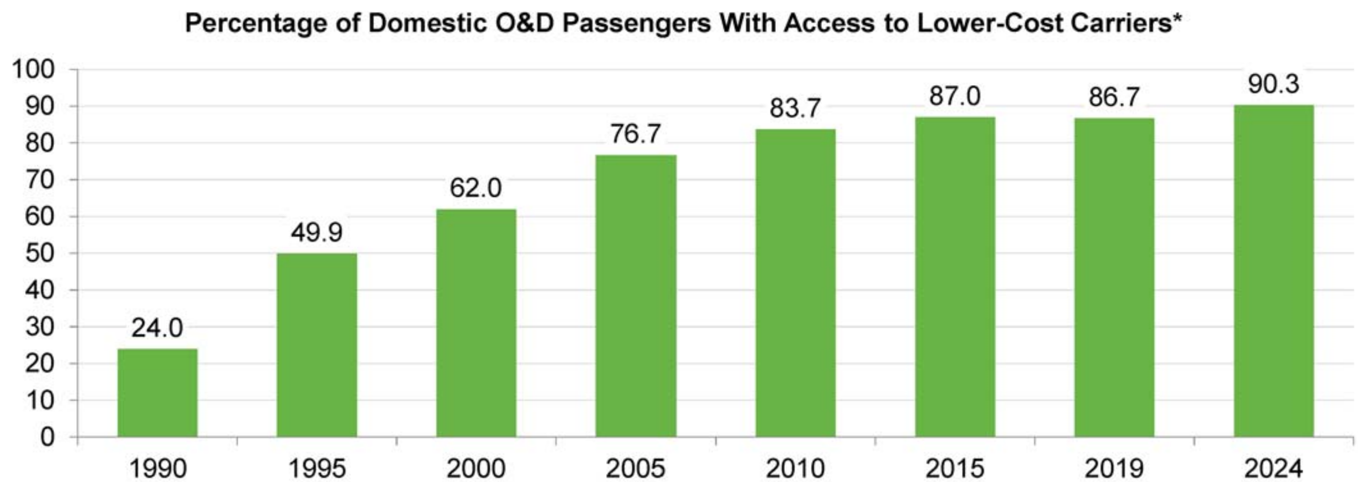
Domestic U.S. Passengers Have Greater Access to Lower-Cost Carriers Than Ever Before

Up From 24% in 1990 to 91% in 2023



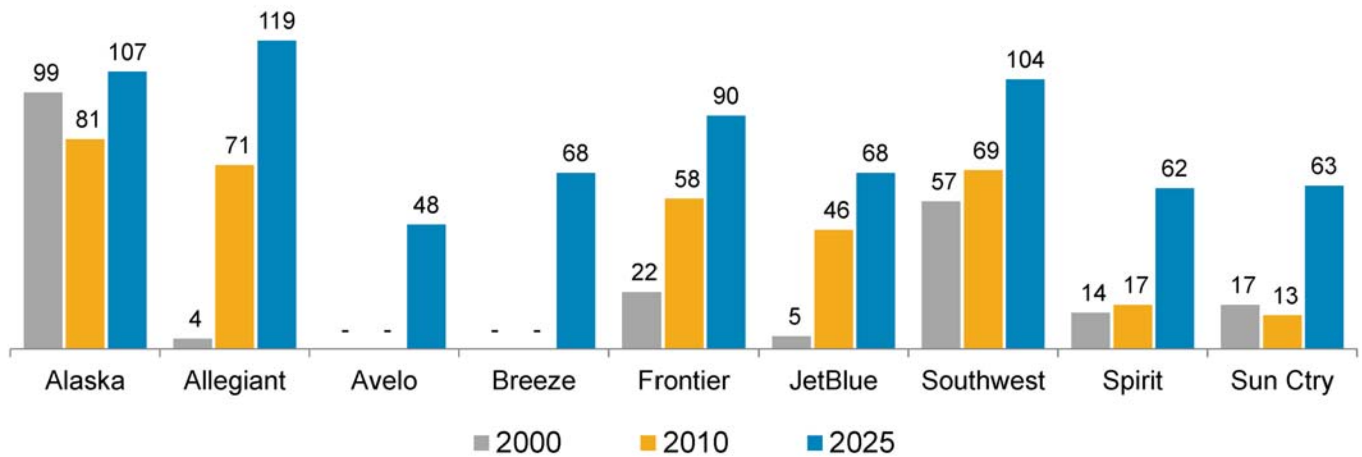
* Share of passengers traveling on city pairs where at least one lower cost carrier has a 5% share of O&D passengers. Lower cost carriers include Southwest, AirTran, JetBlue, Frontier, Allegiant, Spirit, Sun Country, Alaska, Virgin America, Independence Air, National, Morris Air, Accessair, Pro Air, Reno Air, Valujet, ATA, Eastwind, Vanguard, Skybus, Western Pacific, Air South, Kiwi, Midway Airlines and Hawaiian. Includes merged carriers.

Source: Compass Lexecon analysis of DOT Data Bank 1B (O&D Survey data)

Lower-Cost U.S. Carriers Have Significantly Expanded Their U.S. Footprint

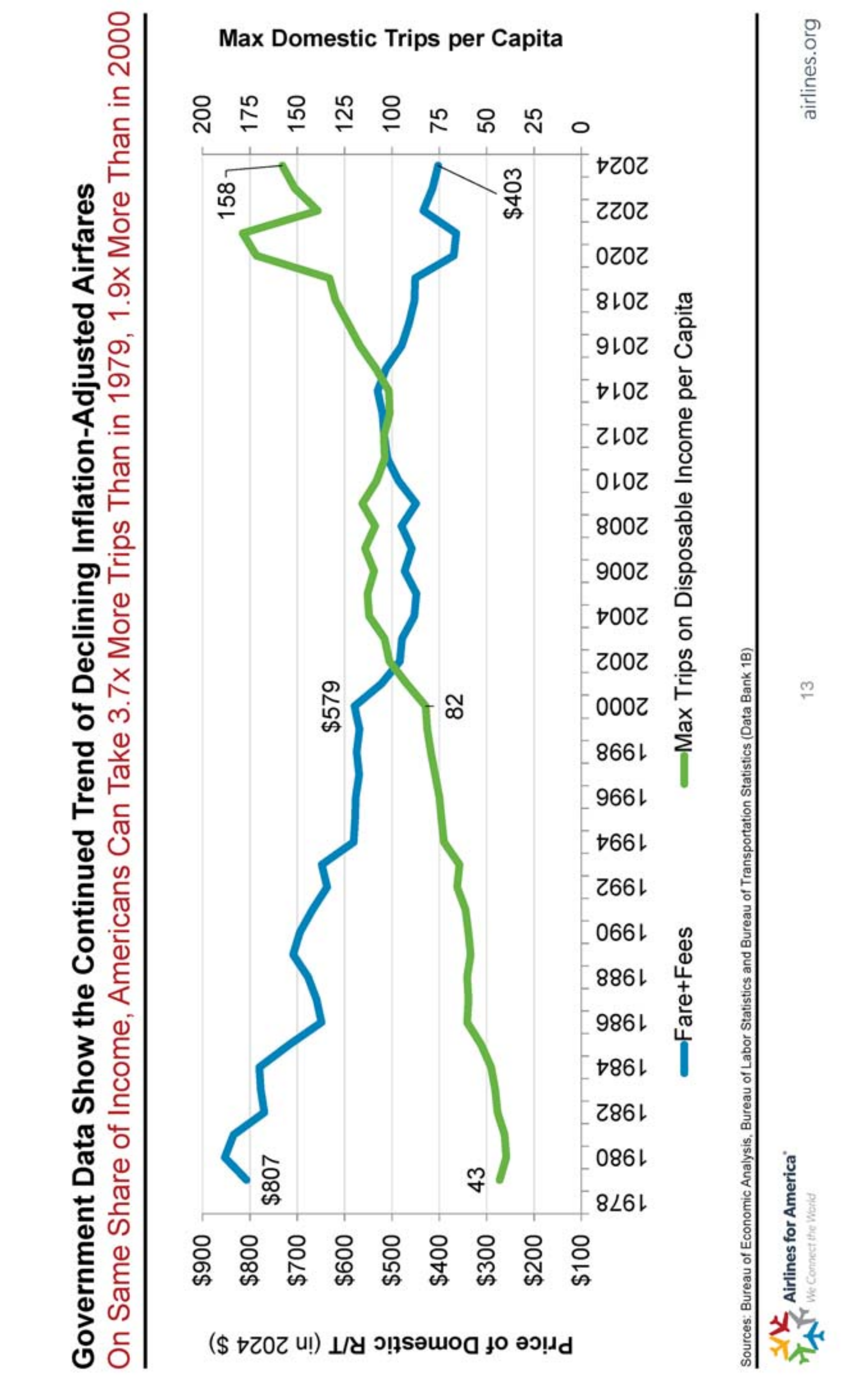
They Have Established a Nationwide Competitive Presence

Number of U.S. Airports Served in July



Source: Cirium published schedules (May 16, 2025) for selected marketing airlines

Note: Alaska number for 2025 includes points operated by Hawaiian Airlines.


Government Data Show the Continued Trend of Declining Inflation-Adjusted Airfares
On Same Share of Income, Americans Can Take 3.7x More Trips Than in 1979, 1.9x More Than in 2000
Price of Domestic R/T (in 2024 $)
Max Domestic Trips per Capita
$807
$579
$403
43
82
158
Fare+Fees
Max Trips on Disposable Income per Capita
Sources: Bureau of Economic Analysis, Bureau of Labor Statistics and Bureau of Transportation Statistics (Data Bank 1B)
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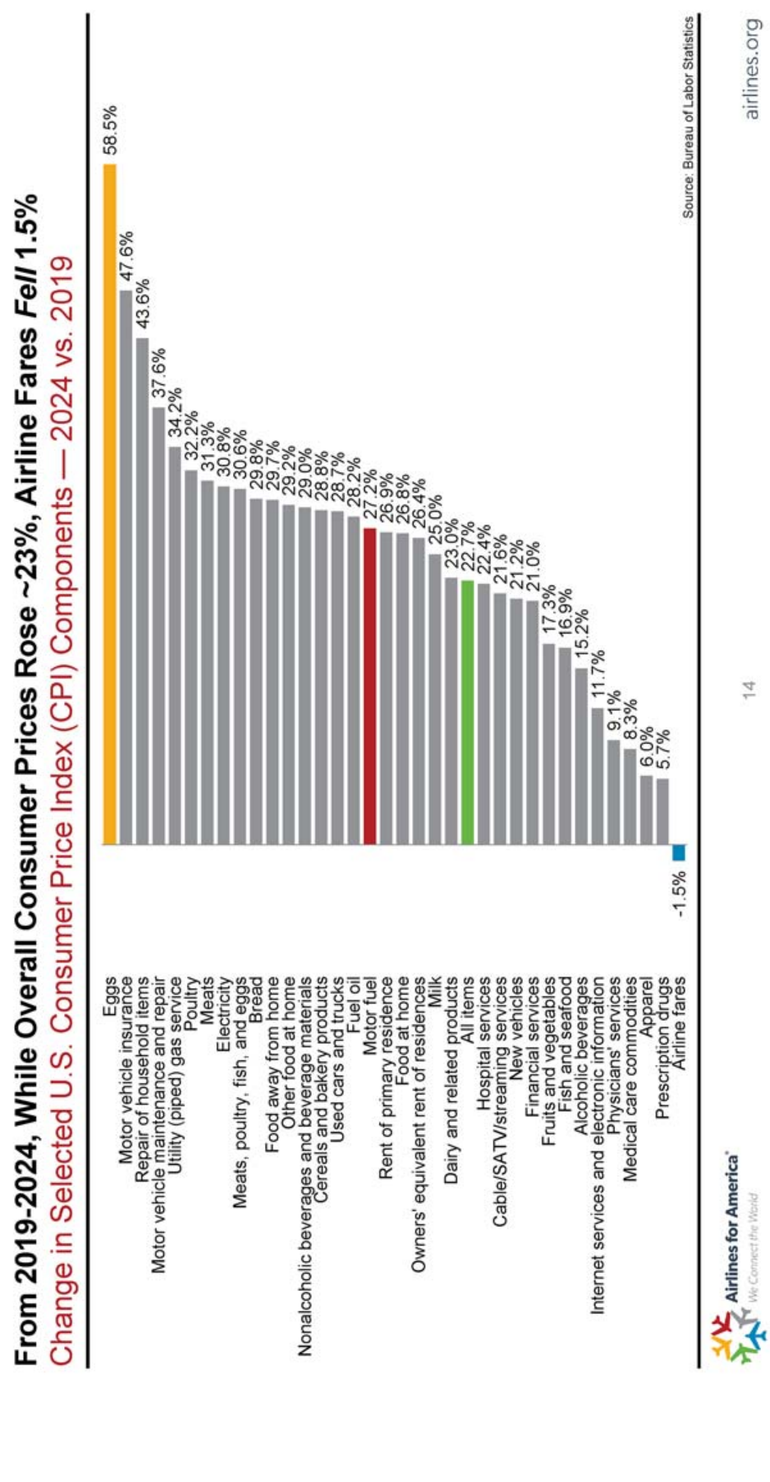
From 2019-2024, While Overall Consumer Prices Rose ~23%, Airline Fares *Fell* 1.5%
Change in Selected U.S. Consumer Price Index (CPI) Components — 2024 vs. 2019
Eggs 58.5%
Motor vehicle insurance 47.6%
Repair of household items 43.6%
Motor vehicle maintenance and repair 37.6%
Utility (piped) gas service 34.2%
Poultry 32.2%
Meats 31.3%
Electricity 30.8%
Meats, poultry, fish, and eggs 30.6%
Bread 29.8%
Food away from home 29.7%
Other food at home 29.2%
Nonalcoholic beverages and beverage materials 29.0%
Cereals and bakery products 28.8%
Used cars and trucks 28.7%
Fuel oil 28.2%
Motor fuel 27.2%
Rent of primary residence 26.9%
Food at home 26.8%
Owners' equivalent rent of residences 26.4%
Milk 25.0%
Dairy and related products 23.0%
All items 22.7%
Hospital services 22.4%
Cable/SATV/streaming services 21.6%
New vehicles 21.2%
Financial services 21.0%
Fruits and vegetables 17.3%
Fish and seafood 16.9%
Alcoholic beverages 15.2%
Internet services and electronic information 11.7%
Physicians' services 9.1%
Medical care commodities 8.3%
Apparel 6.0%
Prescription drugs 5.7%
Airline fares -1.5%
Source: Bureau of Labor Statistics
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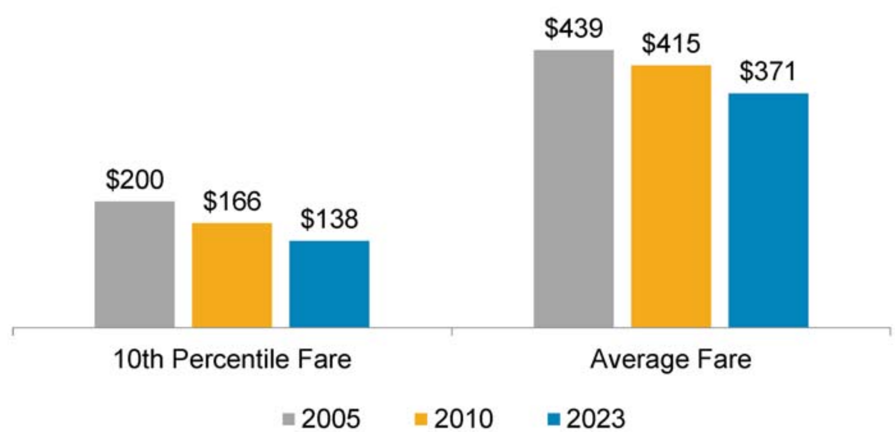
Many City Pairs (ex. NYC-SFO) Have Enjoyed Inflation-Adjusted Declines in Not Only the Average Fare but Also the Lower-End Fares Prized by the Most Price-Sensitive Customers

Average Airfare (in Constant 2023 $) Between New York and San Francisco*



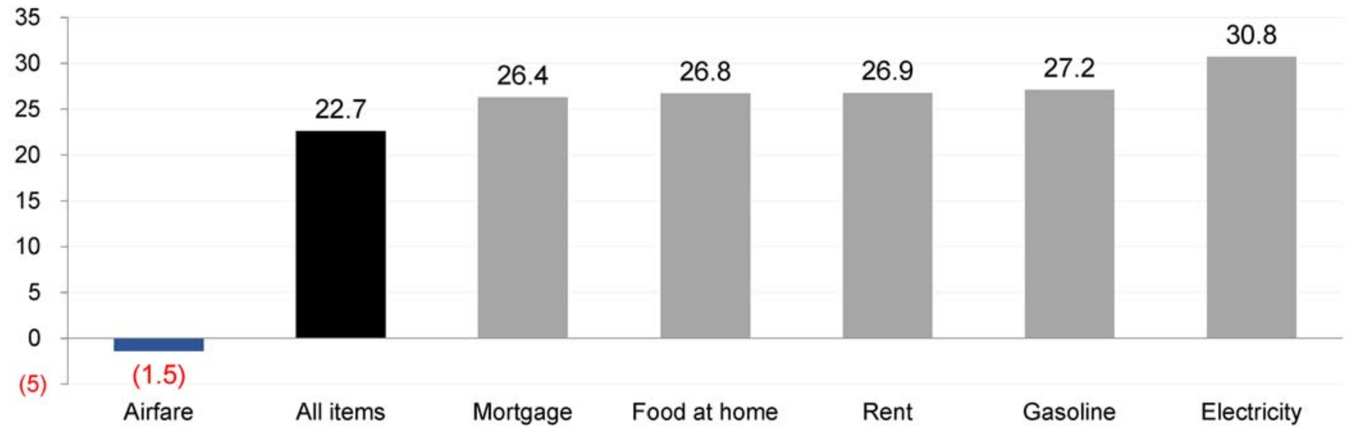
Source: Compass Lexecon analysis of DOT Data Bank 1B

* NYC = EWR/JFK/LGA; SFO = OAK/SFO

Consumers Have Faced Substantially Higher Prices for Food/Fuel/Housing But Not for Airfares

CPI for Airline Fares *Fell* 1.5% from 2019-2024

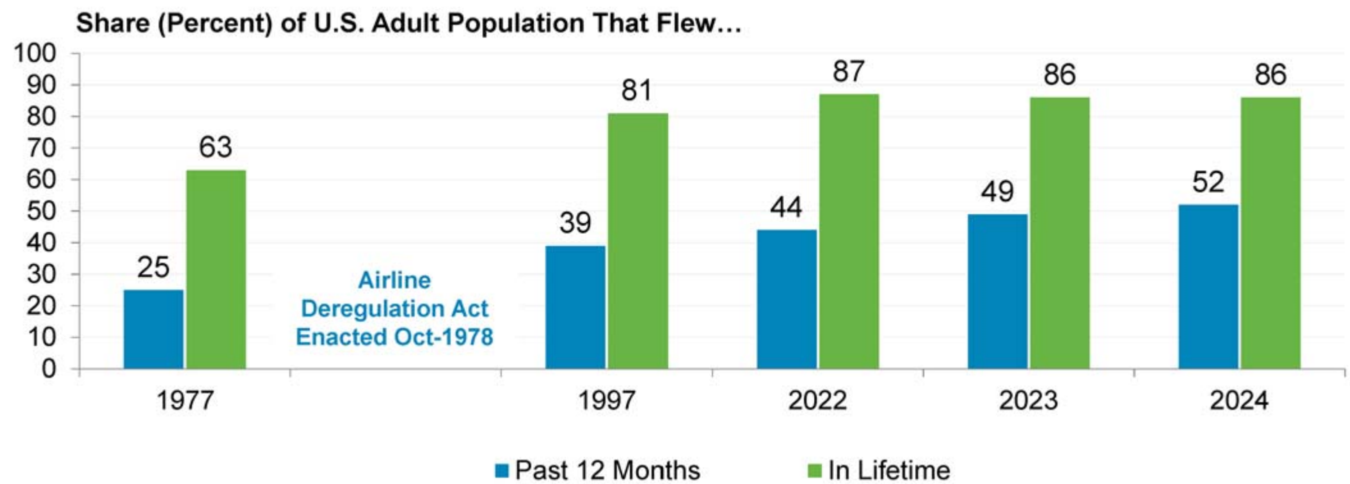
% Change in Consumer Price Index (CPI) for Selected Items: 2019-2024



Source: Bureau of Labor Statistics

As Air Travel Has Become Safer and More Affordable, More Americans Have Taken to the Skies

Almost Nine in Ten Americans Have Flown Commercially; Over Half the Population Flew in 2024



Sources: Historical A4A air travel surveys conducted by Gallup (1971 through 1997) and Ipsos

Note: "Past 5 Years" category was not presented as a possible response preceding 2020.

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Over the Past Five Years, a Large Share of Flyers Experienced a Lower-Cost Airline

16% of Americans Flew a Foreign-Flag Carrier on at Least One Personal Trip

*In the past five years, when traveling **for personal reasons**, which of the following **types of airlines*** *did you fly?*

Airline Group	%
American, Delta, United	72
Alaska, Hawaiian, JetBlue, Southwest	45
Allegiant, Avelo, Breeze, Frontier, Spirit, Sun Country	23
Cape Air, Silver Airways, other U.S. airline	2
Non-U.S. airline (e.g., Air Canada, Aeromexico, British Airways, JAL, QANTAS)	16

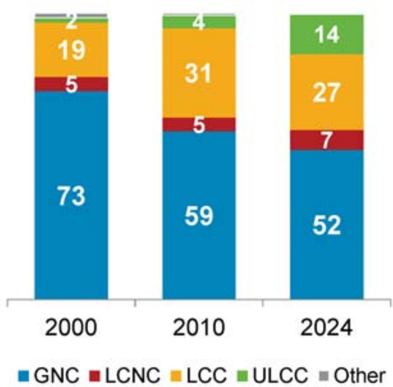
* Check all that apply

Source: A4A Air Travel Survey conducted by Ipsos (January 2025)

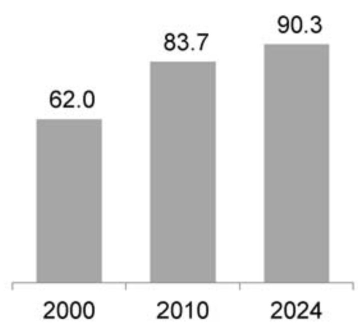
From 2000-2024, the Number of Competitors per Domestic Air Trip *Rose* From 3.33 to 3.49

Global Network Carrier Share of Domestic Passengers Fell From 73% in 2000 to 52% in 2024

% of Domestic O&D Pax by Airline Business Model

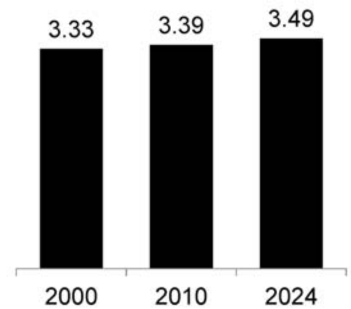


% of Domestic O&D Pax With Access to Lower-Cost Carriers



Average # of Competitors* in Domestic O&D City Pairs

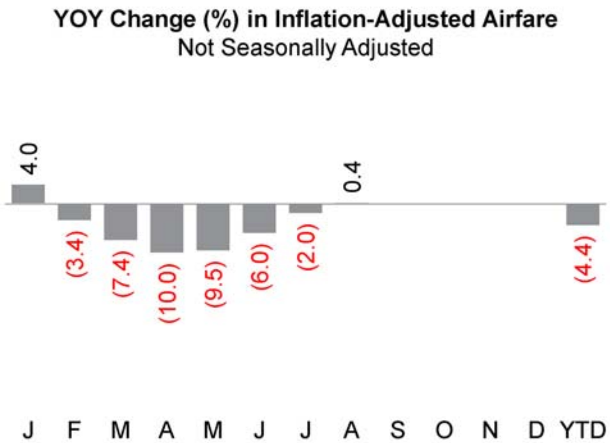
* Per DOT and GAO, carrying at least 5% of O&D passengers in the city pair; average is passenger-weighted across city pairs.



Source: DOT Data Bank 1B and Econic Partners. Global network carriers (GNCs) include AA/DL/UA and predecessor airlines (e.g., US Airways, America West, TWA, Northwest, Continental) and defunct legacy network carriers (e.g., Eastern, Braniff). Low-cost carriers includes Southwest, JetBlue, Breeze, Reno Air, Midway, Pro Air, Kiwi International, AirTran, Accessair, Independence, Eastwind, National, ValuJet, ATA, Skybus, People Express, Vanguard, Virgin America, Western Pacific, Air South, and Morris Air). Lower cost network carriers include Alaska, Hawaiian and Aloha. Ultra low-cost carriers (ULCCs) include Allegiant, Frontier, Spirit, Sun Country, and Avelo.

Collectively, Airlines Confronted Real Fare Declines Year Over Year From February-July

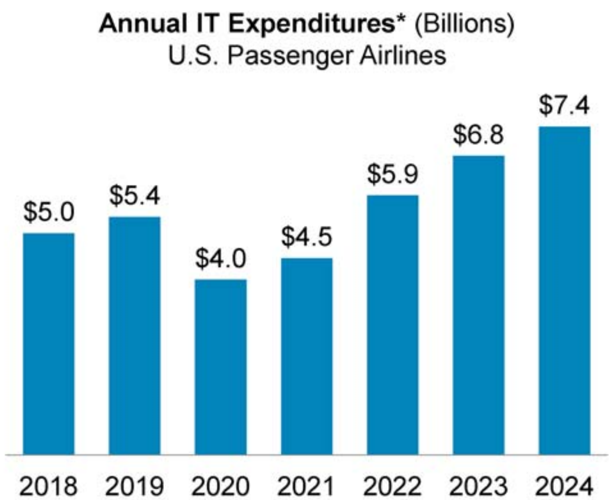
Adjusted for Inflation, August Airfare CPI Rose 0.4% Year Over Year



Source: Bureau of Labor Statistics (CPI Series CUUR0000SETG01)

From 2022-2024, U.S. Passenger Airlines Spent ~$20 Billion on Information Technology

Goal: Boost Operational Resiliency/Redundancy/Security and Customer Self-Service Functionality



Making it easier for travelers to:

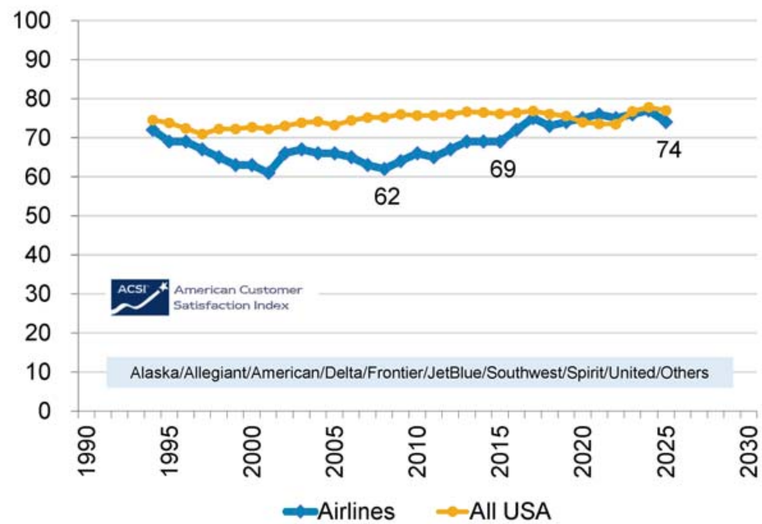
- Shop for tickets
- Modify itineraries
- Check in for their journeys
- Navigate airports
- Check and/or track bags
- Stay apprised of flight status
- Redeem vouchers/loyalty points

Sources: Alaska/Hawaiian, Allegiant, American, Avelo, Breeze, Delta Frontier, JetBlue, Southwest, Spirit, Sun Country, United

* IT operating expenses plus capital expenditures, net of depreciation (where available)

ACSI Airline Customer Satisfaction Index Now at 74, Up From 62 in 2008 and 69 in 2015

Airlines Scored 80+ on Five of the 21 Benchmarks and 75-79 on 10 Others



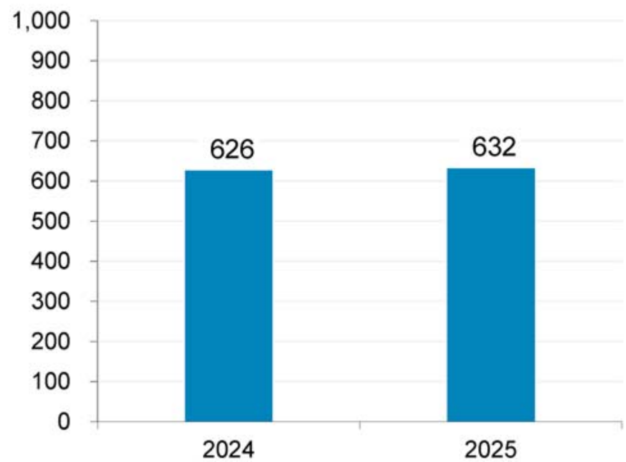
Satisfaction Benchmark	2019	2024	2025
Mobile app quality	82	84	82
Mobile app reliability	82	84	81
Website satisfaction	80	83	81
Ease of making a reservation	81	84	80
Ease of check-in process	82	83	80
Cabin and lavatory cleanliness	78	82	79
Courtesy/helpfulness: flight crew	80	82	78
Baggage handling	79	81	77
Boarding experience	79	81	77
Courtesy/helpfulness: gate staff	80	81	77
Range of flight schedules	77	80	77
Timeliness of arrival	80	81	77
Call center satisfaction	78	81	76
Loyalty program	75	80	76
Availability of overhead storage	73	79	75
Quality: purchased food/beverage	73	78	74
Quality: in-flight entertainment	71	78	74
Quality: free food/beverage	73	76	73
Seat comfort	69	76	73
Usefulness of flight information	NM	NM	71
Quality: in-flight Wi-Fi	NM	NM	66

Source: The American Customer Satisfaction Index (ACSI®), the only national cross-industry measure of customer satisfaction, measures the satisfaction of U.S. household consumers with the quality of products and services offered by firms with significant share in U.S. markets. The ACSI Travel Study 2025 is based on 16,771 completed surveys. Customers were chosen at random and contacted via email between April 2024 and March 2025.

J.D. Power: North America Airline Customer Satisfaction Rose Six Points in 2025

Note: Study Methodology Changed in 2024

“Airline Passenger Satisfaction Improves Slightly as Industry Confronts Economic Headwinds, J.D. Power Finds”



The North America Airline Satisfaction Study measures passenger satisfaction with airline carriers in North America based on performance in **seven core dimensions**: airline staff; digital tools; ease of travel; level of trust; on-board experience; pre/post-flight experience; and value for price paid.

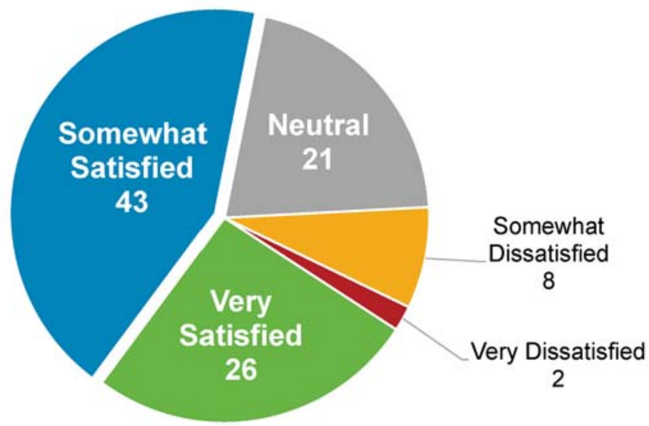
The 2025 study is based on responses from 10,224 passengers. Passengers needed to have flown on a major North America airline within the past month of completing a survey. **The study was fielded from March 2024 through March 2025**.

Note: The 2025 study reflected responses from 10,224 passengers who flew on a major North America airline within the past month of completing a survey. The study was fielded from March 2024 through March 2025.
Source: J.D. Power North America Airline Satisfaction Study℠

69% of Flyers Reported Being Satisfied With Their Overall Air-Travel Experience in 2024

21% Were Neutral; Only 2% Reported Being "Very Dissatisfied"

Thinking about your ***overall experience*** *with air travel, how* ***satisfied or dissatisfied*** *are you?*



Source: A4A Air Travel Survey conducted by Ipsos (January 2025)

Airlines for America®

We Connect the World

U.S. Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy, and Consumer Rights
"Examining Competition in America's Skies"
Questions for the Record for Ganesh Sitaraman
Submitted October 7, 2025

QUESTIONS FROM SENATOR CORY A. BOOKER

1. Since passage of the *Airline Deregulation Act of 1978* and the elimination of the Civil Aeronautics Board's route oversight, Americans living outside of major cities often have to travel hours to the closest major airport or must make one or two connections to reach their final destination.

   a. Can you explain how limited airline access not only harms passengers, but also constrains business opportunities and economic growth in these communities without such access?

      Air service is critically important for communities. As an important part of modern transportation infrastructure, air service connects communities to the country and to the world. Losing all, or even substantial, air service, can therefore have serious consequences. Cities that lose some or all air service might be less attractive for businesses, conferences and conventions, or tourists – all of which drive not only direct economic growth, but also indirect growth via secondary and tertiary commercial activity and jobs.

   b. How can we ensure that the millions of Americans who do not live in or around major cities have access to reliable, efficient flights, and that airlines stay afloat?

      There are many possibilities for how to expand access to air service. The closest to the status quo would be to significantly expand the Essential Air Service (EAS) to go beyond covering very small towns to including a much wider set of larger communities. Two other approaches, which I have proposed, include what I call the "regional conference" and "draft pick" systems. The regional conference system would see a single, regulated airline with a mandate to serve in each region of the country, connecting smaller places to hubs. The draft pick system would impose a duty to serve on the biggest airlines, such that they could pick cities from a list of those with need, and then they would have to serve those cities. Other policies, such as deconcentrating fortress hubs and expanding access to airport facilities, could indirectly help address this issue as these policies would likely push airlines to expand service in markets smaller than their current hubs. Each of these policies have different benefits and tradeoffs, of course.

2. After the *Airline Deregulation Act of 1978* was passed, the Department of Transportation established the Essential Air Service (EAS) to subsidize flights to rural communities.

   Unfortunately, EAS has largely been unsuccessful because these flights do not operate at capacity to be profitable for airlines. As you and Mr. McGee pointed out in your report *How to Fix Flying: A New Approach to Regulating the Airline Industry*, EAS and deregulation have failed to fulfill their mission of lowering consumer prices and have instead resulted in price gouging and heavy industry consolidation.[1] You have proposed a "public option for air travel" as one of the long-term solutions.

   a. How would this public option work in practice? Would this exist through government-operated flights or a subsidy model like the EAS program?

      There are different ways a public option could work, and much would depend on the design and execution. One possibility is that a public airline could exist to serve rural communities and smaller cities. This public airline would likely need to be heavily subsidized to ensure flights are affordable and operate regularly. Another approach would be for a public airline to operate nationally, including between major airports. This approach might be harder to implement. When this approach was tried in Australia, it involved aligning a variety of policies (prices, routes etc.) with private airlines, so that neither public nor private had an unfair advantage.

   b. How would a public option coexist with private airlines? Would it resemble models like Amtrack or the USPS?

      A public option could be designed in multiple ways. One possibility is for it to be truly an option – it would fly either only to smaller communities or nationally, but co-exist with private airlines with no restrictions on entry along the routes it flies. However, this approach will be fiscally difficult for a public option airline. Private airlines will likely fly on profitable routes and not serve unprofitable ones. That would leave the public option airline with the highest cost routes, which would likely mean requiring significant subsidies in order to achieve affordable access. Another possibility is for the public option to be the only, exclusive option; that is, for there to be entry restriction. This would address the "cream skimming" problem just mentioned, in which private airlines only serve the profitable routes.

[1] William McGee and Ganesh Sitaraman, *How to Fix Flying: A New Approach to Regulating the Airline Industry*, American Economic Liberties Project (Jan. 2024), https://www.economicliberties.us/wp-content/uploads/2024/01/20240124-AELP-airlines-v5.pdf.

In the markets where it operated, the public option would not really be an option, but the only airline; but other airlines would exist and operate on other routes.

3. In your book *Why Flying is Miserable and How to Fix It*, you also write that the major airlines have become "too important to fail" because of their systemic significance and the fact that their workforce cannot be replaced overnight.[2]
   a. What reforms could eliminate or reduce the "too big to fail" risk without undermining the goals of connectivity and employment?

      One thing Congress could do is require airlines to produce resilience plans – written documents in which they describe how they would address a variety of crises, from a cyberattack to another war or pandemic. Putting together these plans would, hopefully, help the airlines figure out how to navigate such challenges in advance. Second, Congress could require airlines to create or fund individual or a collective rainy day funds. In some years, airlines do very well, but then when times get tough, they need bailouts or they go bankrupt. Having rainy day funds could help airlines withstand such crises. Finally, deconcentrating hubs would be another approach to improving resilience: this would address the too-big-to-fail concerns at a specific airport, by deconcentrating the network and making individual nodes less critical.

4. In your book *Why Flying is Miserable: And How to Fix It,* you propose a "draft pick" system to address the issue of smaller and mid-sized cities losing service from airlines. This proposal details a draft order of the airlines in which they take turns "drafting" cities from the list, which would continue until all eligible cities have been selected.
   a. Price gouging has become a prominent issue in the airline industry, especially on routes that airlines deem as less profitable. How would this proposed "draft pick" system prevent this price gouging?

      The draft pick system would avoid price gouging by requiring the airlines to serve eligible cities according to regulated rates. This is necessary because the airline might be the only one on such a route, and monopoly power would give it the ability to charge excessive prices.

   b. How would this system maintain competition in the airline industry?

[2] Ganesh Sitaraman, WHY FLYING IS MISERABLE: AND HOW TO FIX IT (2023).

Smaller airlines would still be free to fly to the draft pick cities if they wanted to. The duty to serve would ensure a minimum reasonable amount of service at an affordable price.