Questions for the Record from Senator Mike Lee
"The American Airlines/US Airways Merger: Consolidation, Competition, and Consumers"
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Diana L. Moss (Director and Vice President, American Antitrust Institute)

1. In analyzing a proposed transaction's effect on consumer welfare, we sometimes look to see if the market includes a maverick—whether one or more companies serve to discipline the market by offering low prices or providing innovative services to consumers. Within the airline industry, low-cost carriers have often served the role of mavericks. For example, Southwest has traditionally been considered a maverick. But some contend that the airline industry is no longer served by any significant mavericks and that it is instead mostly characterized by large businesses with similar offerings.

    a. In your view, does USAirways function in some ways as a maverick?

Mavericks (i.e., firms that play a disruptive role in the market, to the benefit of consumers) typically exercise competitive pressure on rivals by pricing aggressively (or resisting efforts to coordinate), or offering a new technology or business model. Pricing data show that US Airways prices similarly to other legacy carriers. The AAI White Paper analyzes and concludes that American and US Airways tend to be the high-price carriers on top routes where the other competes and neither engages in aggressive discounting. On the basis of price comparisons, US Airways does not appear to play the role of maverick in the market.

    b. After this merger, will there be any remaining mavericks in the airline industry?

It is the AAI's view that after Southwest Airlines eliminated low cost carrier maverick AirTran in their recent merger, there are no other obvious mavericks remaining in the domestic airline industry.

Based on our discussion of this proposed merger at the hearing, are there factors beyond the usual route-to-route analysis that you believe are particularly important for DOJ to consider in its review of this transaction?

Yes. The AAI believes that a broader view is as important at the route-specific analysis typically performed by the DOJ, for a variety of reasons. First, the merger would combine the fourth (American) and fifth (US Airways) largest airlines nationally, making US Airways-American the largest U.S. carrier with a combined share of over 20 percent, followed by Southwest with 18 percent, United Continental with 17 percent, and Delta with 16 percent. The Big 4 would therefore control over 70 percent of the national market. The dwindling stock of LCCs after maverick AirTran was eliminated by Southwest consists of JetBlue, Frontier, and Spirit Airlines. With fewer competitors with national footprints, anticompetitive coordination is easier and more likely. Rivals would likely find it easier to signal each other and come to tacit agreement on key variables such as capacity cutbacks, which would keep fares

higher than under more competitive market conditions. Second, the merger would facilitate the metamorphosis of an industry in which hubs were designed to be open access facilities at which multiple, competing airlines provided service, to only a few mammoth, closed systems that are virtually impermeable to competition and provide a hostile environment in which LCCs and regional airlines have difficulty thriving and expanding.

Third, the network configuration of a merged US Airways-American has important implications for control over both connecting service and intra-regional service in the U.S. The networks of US Airways and American do not appear to be particularly complementary. There is relatively little "white space" in each network footprint that could be filled by the other carrier. Instead, combining the two networks could create regional and functional strongholds throughout the U.S. For example, the merged carrier would have a strong presence at a number of major airports on the eastern seaboard –Philadelphia (PHL), Reagan National (DCA), Charlotte (CLT), and Miami (MIA). The merging carriers would also have a presence at key Midwestern and western airports – Phoenix (PHX), Dallas Fort-Worth (DFW) and Chicago O'Hare (ORD) – that are important for providing connecting service to eastern and western destinations. Indeed, there is a resemblance to the United-US Airways merger of 2001, which was challenged by the DOJ on the basis of "solidifying control" over hubs.

Fourth, many mid-size communities have seen flight frequencies reduced, equipment downgraded or service lost altogether. Scores of airports are expected to lose scheduled service in the immediate years ahead as well as attendant local and regional economic benefits that flow from connectivity to the world's important business centers. Evidence from the Delta-Northwest and United-Continental mergers indicates that merged carriers have adjusted capacities on overlap routes where they are dominant to drive more traffic to large hubs, with the possible side effect of starving routes involving smaller cities. Similar fact patterns across these mergers and US Airways-American raises the possibility that smaller communities could be harmed by the proposed merger. Loss of consumer choice that forces consumers to use less convenient connecting service or travel longer distances to other airports represent legally cognizable adverse effects of a merger.

[Note: Many of the answers provided here are based on analysis contained in the AAI White Paper by Diana L. Moss and Kevin Mitchell, "The Proposed Merger of US Airways and American Airlines," (August 8, 2012), available http://www.antitrustinstitute.org/%7Eantitrust/sites/default/files/AAI_BTC_USAir-AA_White%20Paper_8-7.pdf]