
UNITED AIRLINES-US AIRWAYS MERGER

HEARING
BEFORE THE
SUBCOMMITTEE ON ANTITRUST,
BUSINESS RIGHTS, AND COMPETITION
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
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MONDAY, JULY 24, 2000

U. S. SENATE,
SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS
AND COMPETITION,
COMMITTEE ON THE JUDICIARY,
Allentown, PA.

The subcommittee met, pursuant to notice, at 8 a.m., in the Glass Conference Room, Lehigh Valley International Airport, Allentown, PA, Hon. Arlen Specter presiding.

Also present: Representative Toomey.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator SPECTER. Good morning, ladies and gentlemen. We will begin this hearing of the Subcommittee on Antitrust of the Judiciary Committee on the proposed merger of US Airways and United Airlines. This is a matter of great importance to the United States and of special importance to Pennsylvania because of the concentration of US Airways activities in our State. Immediately after the proposed merger acquisition was announced, Senator Santorum and I wrote to United and US Airways, expressing a series of concerns.

On May 25, Senator Santorum and I met with the chief executive officers of the two companies. There was a hearing before the Antitrust Subcommittee in Washington on June 14. Then it was decided to have a series of hearings around Pennsylvania, with a hearing in Philadelphia on June 26, Pittsburgh on July 10 and here today in the Lehigh Valley, and we are considering additional hearings. A principal concern nationally involves the potential lessening of competition and the triggering off of other mergers with very substantial talk already underway about combinations of American Airlines with Northwest and a combination of Delta Air Lines and Continental.

A major concern is that we may be heading to an oligopoly of airlines in America, which would have the inevitable result of increasing fares for passengers. In Pennsylvania, US Airways is a very dominant factor, employing some 17,000 people, major hubs in Philadelphia and Pittsburgh, and the impact on the Lehigh Valley is very, very important. There is almost no competition on flights from the Lehigh Valley, with only Orlando and Washington, DC served by more than one airline.

This has led to the Lehigh Valley's ranking of 13th-most-expensive place to fly out of among the top 125 United States cities.

Philadelphia is almost in as bad a position at 17th, and Pittsburgh is in not too much better shape at 28th. The importance of the airport here—the Lehigh Valley airport tenants and visitors contribute more than \$300 million in economic benefits to the Valley annually. Every airplane that lands or takes off has a proportionate benefit of some \$2,000 of economic advantages. The airport's point of interest serves about 4,000 businesses a year and represents more than \$28 million in annual duties.

The airport, of course, is a very, very important source of attracting business and we have worked hard on the Appropriations Committee with a series of appropriations to improve the airport. It may be that the pendency of the merger will provide some leverage to provide some additional competition, with a spinoff of gates. We have already had some movement. Last week, the United announcement was made that there will be proceedings with the maintenance center in Pittsburgh for about \$160 million. That is short of what had been proposed for Pittsburgh, with some \$600 million.

There have been some comments about the reservation area, which are promising up to this point, and there has been some talk about no furloughs and price maintenance; and we are still looking to have all those commitments reduced to writing because, candidly, without having binding commitments, not a whole lot of credence can be placed in what is only conversation.

I am pleased to be joined by my distinguished colleague, Congressman Pat Toomey, today. Thank you for joining us, Pat, and I will turn to you for opening comments.

**STATEMENT OF HON. PAT TOOMEY, A U.S. REPRESENTATIVE
IN CONGRESS FROM THE STATE OF PENNSYLVANIA**

Representative TOOMEY. Thank you, Senator. Let me first thank you for conducting this series of hearings, as you have across the State. This is obviously an extremely important contemplated merger for Pennsylvania. I want to thank the panelists for being here and sharing their expertise with us today.

When one considers that approximately 58 percent of the passenger service from Lehigh Valley International Airport is carried by one of the two airlines that are contemplating this merger, clearly it is a very, very important question that we need to address from the point of view of the Lehigh Valley; and we need to think through whether this merger will, in fact, enhance service and competition and provide more options for the traveling public, or whether the effect would be to the contrary, to diminish those important goals.

So, I welcome the opportunity to be here and to hear from your testimony; and again I want to thank the Senator for conducting the hearing.

Senator SPECTER. Thank you very much, Congressman Toomey, and thank you for joining us. We turn now to our first panel and our first witness is a good friend of mine, Elmer Gates. He currently serves as chairman of the Lehigh Valley Economic Development Corporation, which is comprised of approximately 300 member companies in the Lehigh Valley; bachelor's degree in engineering from Clarkson College in New York; former general manager

of General Electric's Large Motor and Generator Department; and a former president, chairman and CEO of Fuller Company in Bethlehem. Thank you very much for joining us, Mr. Gates, and we look forward to your testimony.

PANEL CONSISTING OF ELMER GATES, CHAIRMAN, LEHIGH VALLEY ECONOMIC DEVELOPMENT CORPORATION; JIM DONAHUE, DEPUTY ATTORNEY GENERAL, COMMONWEALTH OF PENNSYLVANIA; AND GEORGE DOUGHTY, EXECUTIVE DIRECTOR, LEHIGH NORTHAMPTON AIRPORT AUTHORITY

STATEMENT OF ELMER GATES

Mr. GATES. Thank you Senator. I am here representing the Lehigh Valley Economic Development Corporation, of which I have the privilege of serving as chairman.

Senator SPECTER. Elmer, we are going to be setting the time limit at 5 minutes. If you exceed it a little bit, it is OK, but that will give us the maximum amount of time for Q and A, dialog.

Mr. GATES. That will not be a problem with me, Senator.

Senator SPECTER. Which part will not be a problem, the 5 minutes or the Q and A? [Laughter.]

Mr. GATES. The 5 minutes.

Senator SPECTER. OK.

Mr. GATES. I appreciate the opportunity to present our concerns to your distinguished committee. The Lehigh Valley, as I am sure both you and Congressman Toomey are aware, is leading the Commonwealth of Pennsylvania in new job creation, and this is based on the entrepreneurial, free-market and pro-business culture that exists in Pennsylvania under Governor Ridge's administration and the aggressive implementation of successful economic development activities in the Greater Lehigh Valley.

As an example, Lucent Technologies, as you are aware, is in the construction phase of a significant addition to its microelectronics facility that will generate 1,500 new high-tech jobs. Small businesses, especially e-commerce start-ups, are being created at a rapid pace here in the Lehigh Valley, and businesses are locating here from other States in the United States and other countries around the world, such as Israel, Germany and England.

More area businesses are creating high-paying jobs through increased exports, from candy makers to heavy machinery, to industrial valves and industrial gases. So, the concerns that we offer are from this perspective, of a viable, dynamic economic activity here, which we want to make sure nothing that is done in this merger and others constrains the momentum that we have built.

As you are aware and have already commented on, there is significant ticket price discrimination for travel in the United States based on the airport of origin. Fares for business travel from the Lehigh Valley International Airport to points west in the continental United States are significantly higher than flights originating from Philadelphia or Newark, forcing many business travelers to travel one-plus hours to one of these cities to depart.

With the cooperation of Lehigh Valley International Airport officials, our State and national elected officials and PennDOT, a number of actions have been taken to try to reduce this price discrimi-

nation, but with very little success. When lower-fare airlines have initiated service to and from Lehigh Valley International Airport, the major carriers immediately reduce fares to this lower level. When a low-cost carrier is forced to exit this market, prices rise again.

This proposed merger would reduce competition among airlines locally and the practice of price discrimination would continue unabated, with less incentive to the merged airline to reduce fares to destinations in the continental United States. We do not need the prospect of higher airfares. We need the prospect of lower airfares, to allow us to compete favorably with major-metropolitan-area airports and to allow us to invest the savings that we would achieve in new product development, productivity-enhancing equipment and so forth.

The elimination of one airline serving the Lehigh Valley leads us to the concern that the number of flights originating from the Lehigh Valley International Airport will be reduced, and a further concern that nonstop service to popular business destinations will also be reduced. With the increase in economic activity that I just explained, we need more flights, not less, and more nonstop flights to popular business locations, not less. A final concern, of course, is the impact this merger would have on the employees of both airlines.

Obviously, there will be a need for fewer customer-service agents, baggage-handling, maintenance, administrative and management personnel. These are our three concerns: Continued or greater price discrimination; the prospect of fewer flights and the possibility of the layoff of competent, dedicated, loyal employees. We are confident that you will address these issues in your deliberations on the proposed merger. We thank you very much for listening.

Senator SPECTER. Thank you very much, Mr. Gates. Thank you for concluding before the red light went on. That is a relative rarity at our hearings. We now turn to James Donahue, Esquire, Chief Deputy Attorney General of the Antitrust Division for the Commonwealth of Pennsylvania. Mr. Donahue received his bachelor's degree in journalism and government from Lehigh University in Bethlehem, and a J.D. from Duquesne University School of Law in Pittsburgh. He has worked for the Office of Attorney General since 1985. Attorney General Mike Fisher joined us at our hearings in both Philadelphia and Pittsburgh, and provided very important testimony. I know the Attorney General's Office has been working very hard on this matter; and Mr. Fisher wanted to be here today, but could not because of scheduling conflicts. We are pleased to have you here, Mr. Donahue, and we look forward to your testimony.

STATEMENT OF JIM DONAHUE

Mr. DONAHUE. Thank you, Senator Specter, and good morning, Congressman Toomey. Thank you for the opportunity to address you today about the acquisition of US Airways by United Airlines. Attorney General Fisher has asked me to pass on that the recent commitments by United with regard to building a maintenance base in Pittsburgh is a positive step, but that step does not change the fundamental focus of our review, which is whether this merger

will reduce competition. At the outset, let me state that we are in the middle of a merger investigation that we are conducting jointly with the U.S. Department of Justice and 25 other States.

Under the Department of Justice's Federal-State merger protocol, which governs multistate merger investigations, we are required to keep all the information we receive from the parties confidential, and we must keep that information confidential unless we file a lawsuit. Even then, we may only use the information we have obtained in the law-enforcement proceeding. Therefore, I cannot comment or share information that we have obtained so far in our investigation.

I also want to add that, when I am making comments today, I am not speaking for the U.S. Department of Justice or the other States. I thought I would start today with an anecdote. Given our early start today, the fact that we are meeting here at the airport, and our knowledge that United, Northwest, and Delta all have nonstop service between Harrisburg and Allentown, we thought we might fly up this morning. We also expected such a flight to be inexpensive. After all, the reason that Delta, Northwest and United have nonstop service between Harrisburg and Allentown is that they cannot fill an airplane from either city to their hubs. The fare actually is \$475 for a round-trip between these two cities for a 22-minute flight. US Airways, which offers connecting service from Philadelphia, is even more expensive. So we drove.

Merger reviews are very intensive projects. We often have to cram 3 years' worth of work into 3 months. Typically, we want to get the views of all those involved in a particular industry. It is not uncommon for us to have interviewed hundreds of people after the conclusion of a merger review, and the people that we would talk to would be competitors, suppliers and customers.

While I cannot discuss what we have learned so far, I can report that we are well into the evaluation process. In addition to the interview process, merger reviews also involve learning the industry ten-times better than the industry participants know it themselves. We have begun that process, as well. We are learning that the airline business is highly complex. Even something as simple as changing the type of aircraft which flies a particular route can have a variety of impacts on the rest of the airline system.

Now, every industry has its unique features, and this tends to lead parties in merger cases to say to us: Well, you do not really understand our business. You cannot apply the usual tests of market share or the usual types of antitrust analysis to get an accurate picture of competition. Our experience is that competition matters, and the only thing which guarantees consumers the best service at the best price is a vigorously-competitive market.

This merger has received a lot of attention in the media. Much of that attention is focused on service between the hubs of the respective airlines, Philadelphia/Pittsburgh and Chicago, for example, and the impact on large cities like New York, Boston and Washington DC. The Attorney General wants you to know that we will be looking very carefully at the impact on small cities like Allentown, Bethlehem and Easton. To us, the impact on consumers traveling from Philadelphia to San Francisco is as important as the impact on consumers flying from Allentown to Kansas City.

We will invest the resources needed to analyze all the various markets that are impacted by this merger. After all, the antitrust laws prohibit mergers,

Where, in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition may be to substantially lessen competition or tend to create a monopoly.

Thank you for the opportunity to address you this morning.

Senator SPECTER. Thank you very much, Mr. Donahue. We now turn to Mr. George Doughty, who has served as Executive Director of the Lehigh-Northampton Airport Authority since 1992; bachelor's degree in engineering from West Virginia University and graduate study in public administration at the University of West Virginia; business administration graduate study, Cleveland State and John Carroll University. Previously, Mr. Doughty was Director of Aviation for the city and county of Denver, at Stapleton International Airport; past-chairman of the Airports Counsel International North America; former member of the Board of Directors of the American Association of Airport Executives. Thank you for being with us today and we look forward to your testimony.

STATEMENT OF GEORGE DOUGHTY

Mr. DOUGHTY. Thank you very much, Senator, Congressman. First of all, I want to thank you both for your continued support of Lehigh Valley International Airport and your role in the improvements that we have made here. We also want to thank you for your interest in this very important subject. You have received copies of my written testimony, which I appreciate being made part of the record, but to give a general summary of that testimony and point out to you some of the key issues that the Lehigh Northampton Airport Authority is concerned about with regard to this merger.

Our perspective must be from the standpoint of the consumer. That is who we represent. That is who pays the bills at the facility. It is from that perspective that these comments are made. Congress has heard from a number of people over the last several weeks who have expressed serious concerns about this merger and also concerns about the downstream effects of subsequent mergers, which, Senator, you alluded to in your opening remarks.

The merger would, for this airport, result in a 58-percent concentration of service; 58 percent of our passengers would be served by one airline. We think actually the reverse benefits us. When there are more airlines and more choices, prices are generally lower and options are greater for travel. While this merger is not, in itself maybe, a very serious concern, certainly, as you mentioned, the downstream effects are. In fact, should there become a series of mergers that would result in three major carriers serving about 80-to-90 percent of the U.S. market, there would end up being approximately 90 monopoly markets; and some of these would be fairly large markets, such as Philadelphia/Denver or Pittsburgh/Denver.

We believe, as has been recommended by others, that there needs to be a moratorium on mergers for some period of time. It may be years, rather than months, particularly a moratorium that would involve the major carriers. We think Congress needs time to

review various issues in the airline business, which have been raised over the past five years, that we believe are anticompetitive. When Congress enacted the Deregulation Act several years ago, we went from a totally-regulated marketplace to essentially a free-for-all, and there has been almost zero enforcement of any antitrust laws with regard to the airline industry since that time.

We think practices such as frequent-flier programs, override commissions, predation, in general, majority-in-interest clauses at airports, long-term leases at airports and slot allocations and slot ownership by carriers, and many others ought to be examined by Congress over a period of time. During that period of time, a stand-still situation should occur with regard to mergers by major carriers. I would be happy to answer any questions that you may have, Mr. Chairman.

[The prepared statement of Mr. Doughty follows:]

PREPARED STATEMENT OF GEORGE F. DOUGHTY

Mr. Chairman and members of the subcommittee, my name is George F. Doughty and I am the Executive Director of the Lehigh-Northampton Airport Authority. I appreciate the opportunity to testify about this important matter.

Over the past several weeks Congress has heard testimony from economists, airline executives, consumer advocates, and others expressing their serious concerns about the dangers of this merger and subsequent similar mergers. I do not wish to cover the same ground but rather make just a few additional points.

Airports serve many constituencies, but the air travelers and shippers are always our primary client. It is from that perspective that these comments are provided.

This community has a significant interest in this matter. Of the top 125 U.S. airports, Lehigh Valley International Airport ranks number 13 in average fares paid in 1999 according to U.S. DOT data. Our air service remains seriously inadequate despite some gradual improvement over the past decade. Our fares remain nearly double those of comparable northeastern cities like Providence, Manchester, Hartford, and Islip. Our citizens spend millions of dollars more each year for air travel than they otherwise would simply because Southwest Airlines has not yet chosen to serve our airport.

Right now US Airways and its regional affiliate serve 40% of our passengers and United and its affiliate serve 18%. The combined carrier would have 58% of the total market. We are happy they are here providing important service to the community, but with this additional concentration, logic would bring anyone to conclude that fares would go up and service options down. Our community simply cannot afford to be punished further.

Those of us who supported the deregulation of the airlines did not anticipate the events and actions that have created the existing environment. This already overly concentrated marketplace results in extreme pricing with short-haul fares as high as \$2.00/mile. Monopoly nonstop routes are the rule rather than the exception even in large city pairs like Philadelphia-Pittsburgh, Houston-Newark, Cincinnati-Atlanta, and Washington-Denver. Large fortress hubs allow airlines to control specific markets while creating inefficiencies, inconvenience, congestion and delay.

Even in markets served by more than one major carrier no price or service competition exists. Fewer airlines clearly will make it easier to cooperate rather than compete. This environment not only results in monopoly routes and monopoly pricing but also fails to force efficiency.

It is our view, however, that the airlines are not to blame for this situation. Government has failed to define the rules of the game. We went from total economic regulation to a free-for-all environment where no act, regardless of how anticompetitive it may be, is punished. Frequent flyer programs, airport majority-in-interest clauses, travel agent override commissions are all anti-competitive tactics used by major carriers to control market shares. Yet neither Congress nor any administration has seen fit to control or eliminate them.

The speed limit on the Ohio Turnpike is 65 miles/hr. If I knew that the limit would not be enforced, I can assure you I would drive well over 100 miles/hr. to cut my travel time in half and so would most everyone else. It is simply human nature.

When deregulation became a reality Allegheny Airlines and Piedmont Airlines were well positioned, efficient regional carriers that could have evolved into the

Southwest Airlines of the Northeast and Southeast respectively. Each operated basically two aircraft types and provided reliable short-haul point-to-point service. They could have become high frequency, low-fare efficient airlines with a single aircraft type. That kind of evolution, in fact, was what the advocates of deregulation envisioned.

Instead, a series of questionable management decisions and labor inflexibility led these carriers to attempt to emulate Pan Am and TWA rather than Southwest. Most significant, the government failed to question the logic of the merger of these companies that created the US Airways of today. US Airways now has the distinction of being the country's most inefficient airline with seat mile cost double that of Southwest.

As of April 2000, it operated a fleet of 404 aircraft that includes nine basic types, making pilot training and maintenance very expensive nightmares. (The merged UA-US would operate 13 aircraft types.) It has had more than ten years to rationalize its fleet but has failed to do so.

Inefficiencies such as these are costing consumers severely. A recent analysis by Morten Beyer & Agnew reveals the following: Southwest and US Airways' domestic systems are exactly the same size. In 1999 Southwest flew 36,768 million RPM's and US Airways' domestic system flew 36,187 million—a difference of one and a half percent. US Airways had 69.1 percent load factor, and Southwest 69 percent. Revenue hours were 980,053 for Southwest and 999,344 for US Airways—a difference of less than two percent.

Southwest carried more passengers and had more departures than US Airways by about 20 percent due to its charter haul, but seats per aircraft mile were virtually the same at 134.2 for Southwest and 130.4 for US Airways. Two peas in a pod? Not on your life! Southwest's total operating costs were \$3.954 million compared to \$7.717 million for US Airways! Ninety-five percent more at US Airways to carry fewer passengers, make less departures, and fly virtually the same number of RPM's! And Southwest made an operating profit of \$773.6 million compared to \$248 million at US Airways.

Most industry observers agree that US Airways has failed to become an everything to everyone major carrier and its survival long-term is not assured. There are, however, clear indications that it could still become a very vital airline on its own. Unfortunately, there are not adequate incentives for management and labor to cooperate to achieve that end.

If US Airways management and labor were forced to face a reality that they must succeed or fail on their own, something nearly every other business must do, it would be reasonable to expect that labor and management would work aggressively to build a successful company. They might even be inclined to try to produce a better product at a lower cost, a rare goal in the airline business today.

It is generally agreed that this merger would lead to subsequent merger proposals that if approved would leave three mega-airlines controlling 80%–90% of the U.S. domestic air travel marketplace. Some see no problem with this citing other industries that have similar concentration. Unfortunately, airline service is much different than for example, the automotive industry.

There are three large "domestic" auto producers in the U.S. They compete aggressively with each other because all of their products are available to every consumer throughout the country. In addition several "foreign" producers also offer very good competing products. Further, Federal law generally limits auto producers' ability to price their products differently in different parts of the country. In addition there are numerous opportunities for consumers to purchase used vehicles. Indeed the automotive industry is an almost "perfect" market.

Airline service is much different; not every airline offers service in every city. Most routes today are monopoly routes. With three carriers operating their own fortress hub network, some very large city pair markets would be monopolies where the carriers could charge anything they wanted and be immune from competitive challenge.

For example, if the "big seven" combine to three carriers such as UA-US; DL-CO-TW; AA-NW; thirty major monopoly routes would be created. (Chicago-Charlotte, Chicago-Washington, Pittsburgh-Charlotte, Pittsburgh-Philadelphia, Pittsburgh-Denver, Pittsburgh-Washington, Charlotte-Philadelphia, Charlotte-Denver, Charlotte-Washington, Philadelphia-Denver, Philadelphia-Washington, Denver-Washington, St. Louis-Atlanta, St. Louis-Cincinnati, St. Louis-Newark, Salt Lake-Atlanta, Salt Lake-Cincinnati, Salt Lake-Newark, Atlanta-Cincinnati, Atlanta-Newark, Atlanta-Cleveland, Atlanta-Houston, Cincinnati-Newark, Cincinnati-Cleveland, Cincinnati-Houston, Newark-Cleveland, Newark-Houston, Dallas/Ft. Worth-Detroit, Dallas/Ft. Worth-Minneapolis, Detroit-Minneapolis).

Even today the “big seven” are very careful not to go after each other’s hub-to-hub traffic by providing low-fare connecting options. This would certainly continue and these monopolies would go unchallenged. Not only will prices rise in this new monopoly system but passengers in non-hub cities such as the Lehigh Valley could expect to see increased pricing as they travel on connecting routes via the monopoly segments.

We believe Congress needs to take action now to prevent this merger and subsequent similar mergers. We agree with the recommendations of others that a moratorium is needed to allow you to carefully examine the constraint to airline competition and to develop remedies.

We believe all aspects of this issue need to be explored, not only consolidation but also barriers to entry and anti-competitive practices, some of which I previously noted.

The Lehigh Valley and the Pennsylvania air travel community is suffering and not receiving the full benefits that an unregulated open marketplace should provide. We urge your assistance in addressing this most important matter.

Senator SPECTER. Thank you very much, Mr. Doughty.

Mr. Gates, let us begin the rounds of questions with you. We will do these in five-minute periods, just as was the testimony. You have commented that the Lehigh Valley is the fastest-growing area in Pennsylvania, for additional jobs and economic expansion. Certainly, I have observed on my many trips to the Valley the expansion and the tremendous growth as a very desirable area to live, and the attraction that the Valley has had for new businesses.

To what extent do you personally believe that the airport is a significant point of attraction for bringing in corporations and corporate executives and business and economic expansion?

Mr. GATES. I know we have two types of clients that we serve—the economic development corporation, I am talking about, serves the existing businesses, and we go out to attract new businesses to come here. The airport is critically important. Some of the businesses that are located here are located here because the airport was here. So, the airport is not only important to businesses that are considering us versus other locations, the airport is very important to the businesses already located here.

Always—as companies start up or locate here—always there is the concern for the ability to get air travel. The airport is extremely critical. It is a very important step, a very important part, of making the Lehigh Valley an attractive place to live and work and to run a business. So, it is critically important.

Senator SPECTER. Mr. Doughty, you have been rather direct in your testimony that there ought to be a moratorium on mergers, at least for major air carriers. That is a pretty flat statement of opposition to the kind of a merger we have here, with the Nation’s number one carrier and the Nation’s number six carrier. Tell me your reasons for feeling that there ought to be—expand on your reasoning for feeling there ought to be a moratorium which would impact or reject this proposed merger.

Mr. DOUGHTY. Mr. Chairman, first of all, it may be that after a period of moratorium and after the Congress has the opportunity to study that, that it would not be a permanent restriction on mergers, and maybe there would be some market-share limit to what carriers could be able to obtain through merger. But the problem is that, if you look at other major businesses in the United States and you look, as I used the example in my written testimony of the automotive industry, every type of automobile is available to people here within a 10-minute drive, every one manufactured in

the United States and a number of foreign products. But I have only one way to get nonstop from here to Pittsburgh and I have only one way to get nonstop from here to Chicago.

The problem with the airline industry is these locational monopolies are automatically created even when there are a number of carriers, and the locational monopolies become even greater when there are only a few carriers. So, the fewer carriers, the fewer competitive opportunities there are.

Senator SPECTER. Are you prepared to say, in categorical terms, Mr. Doughty, that you are opposed to this merger?

Mr. DOUGHTY. Yes, I am, sir.

Senator SPECTER. Well, that is more direct than I have been. I have expressed my skepticism and my concerns in a series of questions, but coming from you, with your background, that is an important statement.

Mr. Donahue, how many airlines did you say service Harrisburg to Allentown?

Mr. DONAHUE. Three, nonstop.

Senator SPECTER. Well, I would pursue that further, but my red light is on. I want to turn now to my distinguished colleague.

Mr. TOOMEY. Thank you, Senator. If I could start with Mr. Gates; you mentioned that one of your concerns is the price discrimination that we have, particularly here in the Lehigh Valley. When one considers, obviously, the wonderful quality-of-life improvements we have—that I think we have—versus people that live in the big cities, we probably expect that there would be some degree of higher cost to fly out of the Lehigh Valley than out of a Philadelphia or New York airport.

Is it your sense that, for the business traveler, the typical trip, that the Lehigh Valley price discrimination is worse than it would be in a typical medium-sized market?

Mr. GATES. Yes; I think that Mr. Doughty, in his written testimony, has provided the specifics on the fares. But there is no question—and I am speaking from a business point of view, it is easy to combine tourist rates or economy rates and business rates, and that paints one picture. But, from a business point of view, there is no question, A, that it is a significantly higher cost to fly out of here; and, B, when there have been attempts led by the airport, and your office has been involved and our State senators and the Department of Transportation, to find solutions to that problem, they have been really hard to come by, including when the new airlines have offered service here, low-cost airlines, all the majors go down to meet that price. After some period of time, the low-cost carrier is forced to exit. Guess what happens? Prices go back up.

So, yes, the price discrimination is greater than you would expect if you are willing to pay a premium for the quality of life. But, you and I being free-market guys, there is no reason why you cannot have the quality of life and the low fares. I mean, one view is that you ought to pay more for the quality of life here. The other view says that, in a free market, you could have the quality of life and low-cost, accessible air transportation.

Mr. TOOMEY. Thank you.

Mr. Doughty, you mentioned in your testimony that, if the merger were to go ahead, then 58 percent of the passenger service from

Lehigh Valley International would be carried by one carrier. Is that kind of concentration atypical? Is that a greater concentration than markets of this size typically have?

Mr. DOUGHTY. Well, in the current situation, it is difficult to say. An airport our size, which is a million total passengers, which is relatively small, termed a small-hub airport, may have that level of concentration. But I think in the majority of cases, and certainly airports slightly larger than are not hubs, will have a much more diverse situation. We now have, the largest carrier I believe, is 34 percent, which is US Airways, and that includes their express carrier. Then there are actually 11 total carriers, including express carriers, at the airport right now.

So, we certainly want to encourage that and include more competition by adding more carriers. So, I would say it is probably more concentrated than typically for airports this size. However, if the merger goes through, there will probably be other airports in the country who will end up in the same situation, who now have US Airways and United service.

Mr. TOOMEY. Thank you.

Mr. Donahue, I wanted to follow up on a point that you made in your testimony, which is that, as I understand it, the Clayton Act refers to a substantial lessening level of competition as the criteria that you will be evaluating. Could you discuss how you evaluate that in light of the fact that the airlines will tell us that in some markets, there will be greater competition, while in others, there will be lesser. How do you balance that and evaluate and decide what is substantial?

Mr. DONAHUE. There is always that attempt at horse trading in these merger cases where the—well, look at the benefits that this is going to bring to Cleveland, to this other market—so Allentown is a little disadvantaged. We have heard that again and again in a lot of different merger cases. We have done a number of cases in the waste industry that have directly impacted the Lehigh Valley here, where, in the negotiations, that very argument was made; that, well, you are overlooking the benefits in this other part of the country.

I do not think that is an appropriate standard. I think that the citizens of a community are all equally entitled to competitive markets, so you really cannot trade off a benefit in another community to the detriment in a place like Allentown or some other smaller community. So, we have to look at the individual markets and weigh, in the individual markets, the costs and benefits of the merger.

Mr. TOOMEY. Thank you.

Senator SPECTER. Thank you very much, Congressman Toomey.

Mr. Donahue, picking up where we left off, what are the fares charged by the three airlines on service from Harrisburg to Allentown?

Mr. DONAHUE. It is \$475 on a fly-up-today and go-back-today.

Senator SPECTER. Are they all the same?

Mr. DONAHUE. Yes, they are all the same.

Senator SPECTER. Is there any suggestion on that of coordination or, perhaps a less complimentary term, collusion?

Mr. DONAHUE. Price equality is—can be an indicator of collusion. It could also be an indicator of the fact that you may have a commodity product and, when you have a commodity product, the prices tend to be the same.

Senator SPECTER. What was that last thing you said about a commodity product—that I did not understand? How could the identical price mean anything other than, at least, if not collusion, conscious parallelism?

Mr. DONAHUE. Well, if you were to go, say, to the New York Commodities Exchange and buy a barrel of oil today, no matter which supplier you bought it from, you would pay the same price, because it is a basic commodity.

Senator SPECTER. You could hardly say that a flight from Harrisburg to Allentown is a basic commodity.

Mr. DONAHUE. In the sense that a seat on a plane going the 100 miles between here and Harrisburg is the same on one airline or another.

Senator SPECTER. How well do they do at that price for that distance?

Mr. DONAHUE. How well do they do?

Senator SPECTER. How many people occupy their seats, if you know?

Mr. DONAHUE. I would suspect that—

Senator SPECTER. I do not want to know what you suspect. I want to know if you know.

Mr. DONAHUE. I don't know.

Senator SPECTER. OK; we will check that out. It is a pretty important point.

Mr. Gates, you comment about the lower airlines being driven out of business once the lower-cost airlines come in. Are there some specific illustrations of that that you have in mind, perhaps with reference to the Lehigh Valley Airport?

Mr. GATES. Yes; I think Mr. Doughty has included that—haven't you, George?

Mr. DOUGHTY. I included the list that I provided to the Senator, the listing of average prices for 1999 at airports throughout the country. You alluded to that. We were ranked 13th. Where we see the biggest problem is in the business fares and westbound. The problem is fares change. During this hearing, fares will change 100 times. So, it is difficult to nail that down.

Senator SPECTER. There is litigation now undertaken by the Department of Justice against American for flights from Wichita into Texas, where a low-cost carrier came in. I just wondered, Mr. Doughty, if you have any specific illustrations of that from the Lehigh Valley.

Mr. DOUGHTY. Yes, we had Midway Airlines enter the market a few years ago to Chicago. Fares went from, at the time, about \$300 each way to under \$100 each way. United matched it. As far as we know, everybody was full on United, or all the United flights were full because everyone was very familiar with United. People were unfamiliar with Midway. Midway did OK, but not great.

There were some corporate decisions by Midway which caused them to leave Chicago in that particular case. But essentially what happens is that the major carrier will match and—

Senator SPECTER. And Midway was driven out of business?

Mr. DOUGHTY. Well, that was not the reason why they left the marketplace, because they relocated their hub to another city and it made it impractical. However, had their loads not improved fairly significantly, they would have left the market anyway, yes.

Senator SPECTER. In your testimony, Mr. Doughty, you make a comment. You compare Southwest and US Airways, and you note the enormous difference in operating costs, notwithstanding very substantial other similarities, and you make the comment about, "It's survival long-term is not assured."

The one factor in this picture that would lead me personally to not oppose the merger would be if there is a real risk that US Airways would not survive. That would obviously be a major calamity to Pennsylvania, with 17,000 employees. How do you assess that? You comment in guarded and carefully articulated terms, "Its survival long-term is not assured."

What is the risk of US Airways not surviving, so that we ought to be looking to the, in effect, bailout by this kind of an acquisition?

Mr. DOUGHTY. Senator, I am certainly not an airline analyst, and my opinion is reflective of what I have read that analysts have produced with regard to US Airways; but you have to take a look at the fact that they are the highest-cost carrier in the United States. They are double the cost per seat mile, almost, of the low-cost producer, which is Southwest Airlines.

That, obviously, over time, is a serious problem. Unfortunately, when these situations come about—and for awhile there was the doctrine of failing carriers, which is now a much more difficult test—but in the early days of deregulation, if you looked like you were not going to survive, all you had to do was say: We are going to fail, so therefore we have got to merge with this other airline.

So, what you ended up doing was merging inefficient operations into sort of more efficient operations. I just think that US Airways has the potential to survive, and I think we need to give them some tough love and say: You've got to survive on your own; management has got to get together with labor and you have got to reduce your costs and improve your efficiency and make the airline work better.

Short answer.

Senator SPECTER. Congressman Toomey.

Representative TOOMEY. I would like to follow up with Mr. Doughty. You mention in your testimony that, of the top 125 U.S. airports, Lehigh Valley International ranks number 13 in average fares. I assume you mean 13th-highest.

Mr. DOUGHTY. Yes. It is not a list you want to be high on.

Representative TOOMEY. Exactly. I am just wondering if you could share with us, to what do you attribute the fact that we have such high fares, relative to comparable airports, in fact?

Mr. DOUGHTY. Well, I asked United Airlines why the fares were as high as they were one time, and United's response was: We can get them.

It basically is that the corporations in the Lehigh Valley need the service, and most of that problem is in the business fare area. The leisure fares are very, very close. There is really not much dif-

ference in leisure fares, unless you are at Southwest airport, then your fares are very low for everything.

Representative TOOMEY. So, that ranking, does it include business fare and leisure fare—

Mr. DOUGHTY. It includes both, yes, but business fares are where the problem is. Because it is a hassle for the business traveler to go to Newark, work, although some do and some companies force their employees to go to Newark if the fare is lower or go down to Philadelphia if they can catch a lower fair—some even force them to go to other airports, even as far as Baltimore, to get a low fare, if they are going to the west coast or something.

But the fact of the matter is they are able to do that, they are able to get the fares, because businesses, in some cases, will pay it for the conveniences of this airport.

Representative TOOMEY. But any idea why businesses in the Lehigh Valley would be willing to pay that more so than businesses in, say, the greater Providence area or Hartford?

Mr. DOUGHTY. Well, if you take Providence, for example, you have Southwest Airlines in the marketplace, and that is a very good disciplining activity with regard to the fares in that community. If you look at the list and you mark airports that are Southwest-served, except for the Hawaii airports, the last page is almost all Southwest airports. The next-to-the-last page is about half Southwest airports. On the front, I do not think there are any. So, it is clearly competition that makes that work.

Representative TOOMEY. We have heard about how the big airlines can effectively force the smaller carriers out of the market by lowering the prices for as long as it takes to take the market share from them. Are there any other major obstacles that prevent or impede a small, lower-cost carrier from coming in and competing and providing lower costs and better services here?

Mr. DOUGHTY. Well, here, no, because we do not have exclusionary leases. We have resolution and we have preferential uses of the gates at the airport, and we can assign any airline to any gate, and we have plenty of capacity. But there are airports where long-term leases are in effect, and airlines control the physical facilities, and it is sometimes difficult for a new entrant carrier to enter that airport without leasing from the other carrier that is already there at a premium price.

The other issue is slot controls. Slots were literally given to the major carriers a few years ago at Washington, LaGuardia, Chicago and Kennedy Airports. That is being relaxed, to some extent, with the new law. But, in the case of Washington National, those are treated as property rights essentially by the major carriers, and they really belong to the Government, and the Government should reallocate those. That is part of the debate, I think, that should take place on these competitive issues over time, and there should be some reallocation mechanism so that every carrier has access to Washington National, not just those who have been there for 20 years.

Representative TOOMEY. A quick follow-up; if the allotment of slots were done in the fashion that you would find better, would that have a significant improvement for the Lehigh Valley?

Mr. DOUGHTY. That probably would end up hurting us under the current circumstance. We have two trips into National right now. They are commuter slots, and they are obviously premium-priced. I would think that the demand for National will always keep prices there higher than, say, Baltimore or Dulles. But, in the interest of fairness, other carriers ought to have an opportunity to get some of those slots.

Representative TOOMEY. Thank you.

Senator SPECTER. Thank you very much, Congressman Toomey. Well, thank you very much, Mr. Gates, Mr. Doughty, Mr. Donahue. If you gentlemen would stay with us for the next panel, we would appreciate it, because something may arise where we may want to come back to you and ask a question.

We now turn to Ms. Shelley Longmuir and Mr. Larry Nagin. Ms. Longmuir is senior vice president of International, Regulatory and Governmental Affairs for United. She graduated magna cum laude, earning a double degree in semantics and English Shakespeare from Brown University and has a law degree from New York University School of Law. Prior to joining United, she held senior positions in the Bush administration in the Department of Transportation. Welcome, Ms. Longmuir. We had heard that your CEO was going to appear here today. What happened?

Ms. LONGMUIR. I am to send you his personal regrets, Senator. As you know, we have had some discussions with our pilots, and we had a breakthrough at the negotiating table last week, and Mr. Goodwin is in Chicago today.

Senator SPECTER. We had looked forward to having Mr. Goodwin at least at one of our three State hearings. Perhaps we will schedule a fourth to give him one more chance. Thank you for joining us and the floor is yours.

PANEL CONSISTING OF SHELLEY LONGMUIR, SENIOR VICE PRESIDENT, INTERNATIONAL, REGULATORY AND GOVERNMENTAL AFFAIRS, UNITED AIRLINES; AND LARRY NAGIN, EXECUTIVE VICE PRESIDENT, CORPORATE AFFAIRS AND GENERAL COUNSEL, US AIRWAYS

STATEMENT OF SHELLEY LONGMUIR

Ms. LONGMUIR. Thank you, sir. Senator Specter, Congressman Toomey, on behalf of United Airlines' 30 employees in the Lehigh Valley and more than 100,000 employees worldwide, I appreciate the opportunity to be here today to discuss our merger with US Airways. I want also to thank you for the close attention you paid to the merger since we announced it two months ago. We are especially pleased that many Pennsylvanians have expressed their support for our merger, and we hope that as others learn more about the benefits of this transaction, they, too, will support it.

United began flying to Allentown in 1935, just eight years after the Federal Government began renting 50 acres as an emergency field for airmail pilots. In fact, the first airport United began serving anywhere in Pennsylvania was the Allentown-Bethlehem-Easton Airport, now the Lehigh Valley International. We are very proud of our long association and pleased that United will, once our

merger is completed, play an even more important role of serving the air travel needs of our consumers here.

We are especially proud of our employees for the positive impact they make in the local community. For many years now, United Airlines employees have flown fantasy flights at Christmas time for terminally-ill children and their families. Our employees also sponsor an annual Thanksgiving essay contest, and through their community action team, United employees volunteer their time with groups such as Dream Come True, the Camelot House for Children, and Life Path.

Senator Specter and Congressman Toomey, any discussion of the benefits of our merger for communities must address an issue of great importance to you and the people who live here: Its impact on air service in midsize cities. At the heart of the merger is our goal to build a truly national airline network that will carry passengers as conveniently and efficiently as possible. Small and midsize communities are as important a part of United and US Airways network as any international destination. The same will be true for United after the merger.

We understand how critical access to the national air transportation system is for these cities. By connecting the Lehigh Valley to a larger national and international network, the United-US Airways combination will help attract new business investment and drive economic growth. Today, United and United Express have a total of 10 daily departures from Lehigh Valley. That includes four nonstop jet flights a day to Chicago and another six flights a day on our express carrier to Washington-Dulles, with connections to destinations around the world.

Following the merger, United and United Express will provide 22 daily departures from Lehigh Valley, all nonstops to cities such as Philadelphia, Pittsburgh and Boston, in addition to the service we already offer to Washington and Chicago. As you know, as part of the transaction, United has pledged that there will be no furloughs of any US Airways employees for 2 years following the close of the merger. Beyond this promise, which is a part of our merger agreement with US Airways, we have made a firm commitment with no strings or time limits attached not to furlough any US Airways employee. We are also confident that our business will grow and create more opportunities and more jobs in the future.

Just last week, United made another promise to Pennsylvania. Our Chairman, Jim Goodwin, announced plans to spend \$160 million to expand maintenance operations in Pittsburgh by building two new hangars and refurbishing four existing US Airways maintenance hangars once the merger is completed. Of course, United's commitment to Pennsylvania goes well beyond that promise. We are committed to providing high-quality air service to the consumers who use the Lehigh Valley International Airport, and the 12 other airports in cities large and small that United will serve in Pennsylvania.

I think our employees here have demonstrated their real commitment to this community in many other significant ways. I would be happy to answer any of the questions that you may have.

Senator SPECTER. Thank you very much, Ms. Longmuir.

We now turn to Mr. Larry Nagin, executive vice president, Corporate Affairs and General Counsel of US Airways since February 1996; bachelor's degree from the University of Southern California, law degree from the University of California, Hastings College of Law; also a past executive vice president of Corporate Affairs and general counsel for United Airlines.

Thank you for joining us, Mr. Nagin, and we look forward to your testimony.

STATEMENT OF LARRY NAGIN

Mr. NAGIN. Thank you, Senator and Congressman. It is good to be with you this morning, and on behalf of the 50 employees of US Airways here at Lehigh Valley who are all guaranteed a job with United, we are delighted to be here. In looking back on these three field hearings that you have held, Senator, at first blush, someone might say, "Oh, my God, you are going back again."

In retrospect, looking at these hearings, they have had real value because you have held hearings in Philadelphia, Pittsburgh and now in the Lehigh Valley. I consider the Lehigh Valley to be a proxy, if you will, for the 13 other small cities that we serve in the Commonwealth of Pennsylvania.

Senator SPECTER. Are you looking forward to hearings in each of those 13 cities?

Mr. NAGIN. If it works for you, Senator, we will be there. We are delighted to be there. I think it works for the people of the Commonwealth.

Senator SPECTER. Between now and then, I will certainly be there. We may invite you to come along. [Laughter.]

Mr. NAGIN. I think there have been real benefits, because it has raised important issues. We have been able to hear firsthand from community leaders, as we have here today, about their concerns.

Senator SPECTER. I bumped into Steve Wolf, your president. He was standing on the street corner outside of the Russell building—you will get a little extra time, Mr. Nagin—and he and Ron Reeves—I have got a corroborating witness here. Ron, where are you? Are you going to corroborate this?

Mr. REEVES. Yes.

Senator SPECTER. Before you hear it? [Laughter.]

Mr. NAGIN. That's why Mr. Reeves is sitting in the audience. He corroborates before he hears it, Senator.

Senator SPECTER. They were standing on the street corner, looking very forlorn, about 6:15. I was on my way to, if you will pardon the expression, somebody else's fundraiser—not that it was somebody else's, just that it was a fundraiser—and I stopped the car and said, "Can I give you a ride?" We will come to Mr. Wolf's termination pay—and he apparently did not have a ride, and after awhile, a limousine arrived, and the front-end was at one street and I think the rear-end was at the street behind it. I am just kidding about that. It was just a regular limousine.

He commented that our hearings have done some good. I have not been able to figure out exactly why, but perhaps we can come back to that.

Go ahead, Mr. Nagin.

Mr. NAGIN. Well, Senator, there was a contemporaneous utterance after you stopped by the corner, because Mr. Wolf called me immediately on his cell phone to say, "You will never believe who I just ran into on the street corner," and his recollection matches yours, so it must be accurate.

Senator SPECTER. Spontaneous declaration.

Mr. NAGIN. That is right.

Senator SPECTER. Admissible. Meets the hearsay rule.

Mr. NAGIN. Yes. I am going back to my public defender days, and I recognize you were a prosecutor.

Senator SPECTER. I was a public defender before I was a prosecutor.

Mr. NAGIN. Well, I never saw the light. I stayed as a public defender. [Laughter.]

Senator SPECTER. I am still a public defender.

Mr. NAGIN. Being a public defender for the county of Los Angeles, though, did not prepare me for these hearings. What has prepared me for these hearings, Senator, is a realization of what is going on in our industry. I think a previous witness here commented about how complex this industry is, and indeed it is complex.

Senator SPECTER. Let's start Mr. Nagin's time again, if you would, please.

Mr. NAGIN. The Senator made some very serious comments that we take very seriously in terms of the future of our company. We have been serving this State for over 50 years. It is a wonderful State and it has been very supportive of our company through some very difficult times and some very tragic times. We recognize that and we appreciate it, and it is off of that base that we are considering where do we go from here.

Mr. Doughty, the very able airport manager here at Lehigh Valley, has a wonderful facility here that everyone should be very proud of. But there are available gates here.

Senator SPECTER. Have your views to his ability diminished any since he flatly opposes the merger?

Mr. NAGIN. Oh, I have been used to Mr. Doughty's opinions over the years at various places where he has managed, in Denver and various places, and we have not disagreed on many things; but he is entitled to his opinion. I am not sure it is the opinion of the airport authority, but it is certainly his opinion. But, having said that, we are not Southwest Airways.

Southwest ordered a record-breaking new order for Boeing 737's in excess of 200 planes, and their chairman announced that he is going to place them all on the east coast. We know who that is coming at. That is coming at us.

We are the last of the mid-size carriers left. We are not a failing company. We are not one foot away from the bankruptcy court; but we are an endangered species, if you will. We are the only one left, and it is from that position that we contemplate this merger with United Airlines. It works for Pennsylvania. Indeed, are there problems on pricing nationwide? There are problems on pricing nationwide.

It is a very expensive commodity. If you go up to purchase a ticket to travel that day or in the next couple of days, it is expensive.

But our statistics show that over two-thirds of the passengers traveling within the Commonwealth of Pennsylvania to any point on our system are traveling on a discounted ticket. Now, that must mean that we are providing something at a cost that is competitive for the traveling public.

It is the business traveler who is paying a higher amount because he or she wants to have that commodity available at a moment's notice. One thing that is lost in all of the dialog is that that business traveler has the ability to get a full refund on that ticket. You are paying for it, but you have the ability to get a refund. You have the ability, Congressmen, to change your travel plans on a moment's notice and use that ticket for another flight.

There are all sorts of benefits you get from that. But is it expensive? You bet it is expensive. That is the cost that we have to allocate to it, to reserve that seat for the last-minute traveler. US Airways is approaching this merger because we want to approach it from a position of whatever relative strength we have today. It is an extremely competitive business. We do not have the size or mass to spread our cost. Mr. Doughty made reference to our costs. Indeed, they are the highest in the industry. We are not proud of that.

Consolidation will or will not happen for various reasons. Here in the Lehigh Valley, I have been told considerable consolidation has occurred here. In fact, this airport is called the Lehigh Valley to represent that consolidation. The same thing is happening in our business. We have to be competitive, and by joining United, there are vast and pervasive benefits for the traveling public.

Thank you, Senator.

Senator SPECTER. Thank you very much, Mr. Nagin.

Ms. Longmuir, since we heard your testimony in Pittsburgh on July 10th, the New York Times had a major investigative report Sunday, July 16, and found that United was—well, to put it bluntly, about the worst in every category; led all the airlines in cancellations; led the airlines in delays; failure to have on-time arrivals; of the five most delayed regularly-scheduled flights, United took first place in four of them; worst baggage-handling. Would it not be a fair requirement for the Antitrust Division or for Congress or for America to say that United ought to get its own house in order with some basic efficiencies, before you look to acquire a major airline like US Airways?

Ms. LONGMUIR. Senator, no one is more distressed by the incredible inconvenience and discomfort that our passengers are experiencing right now.

Senator SPECTER. Oh, I do not agree with you at all. The passengers are a lot more distressed, if you read the stories about what happens to your passengers. I am not going to sit here and listen to you tell me no one is more distressed than United. The passengers are put at risk all over the country and, too often, Arlen Specter is one of them. How about getting it corrected before you come in and ask to acquire a major airline?

Ms. LONGMUIR. Senator, those passengers pay this employee-owner's salary. We understand, in this highly-competitive industry, particularly throughout the U.S. network, there are many other places passengers could go. We have to get our house in order and,

in fact, we are trying desperately with, unfortunately, the confluence of several dramatic events coinciding at one time.

Senator SPECTER. Ms. Longmuir, where else can they go?

Ms. LONGMUIR. Our pilots' contract is open, sir. Our machinists' contract is open. We have an air-traffic-control system that is absolutely in utter disarray.

Senator SPECTER. All the airlines face the same control system that United does.

Ms. LONGMUIR. Absolutely, sir, and all of them are having tremendous difficulties with additional costs layered on in addition to that.

Senator SPECTER. But United is the worst.

Ms. LONGMUIR. I think, sir, looking at what happened to American Airlines 1½ years ago, when their pilots' contract was open, you see, unfortunately, a sad occurrence that is echoed at this point in time for us. I think Mr. Goodwin's absence today and presence in Chicago with the master executive council of the pilots is a demonstration of how hard we are trying to work to correct that.

Senator SPECTER. Mr. Nagin, in Pittsburgh, I raised the question with you about the extraordinary compensation with which the chairman, Stephen Wolf, will receive, and the Chief Executive Officer, I guess Gangwal, will receive. Mr. Wolf is getting some \$11.6 million and Mr. Gangwal getting \$12,800,000. I raised the issue with you at that time about the propriety of that compensation on termination, but companies can pay whatever they like.

A more fundamental issue is the reliability of their testimony when they have so much at stake. There is an inherent conflict of interest when somebody stands to gain \$12 million if the transaction goes through and to lose that \$12 million if the transaction does not go through. You testified at that time that it may well be unfair, and you listed a whole litany of other kinds of people who are in compensation; and since your testimony, I have had quite a few comments about the seriousness of that kind of a conflict situation, more fundamental than the unfairness issue.

Would you care to respond to that?

Mr. NAGIN. Well, certainly, the unfairness issue or the fairness is one that we will not retread that territory, Senator. With respect to the conflict of interest, I think, if you go to the Securities and Exchange Commission, and, indeed, any panel from the Senate or House that has looked at any business transaction, every of them will have senior executives being bought out of a contract or having their employment terminated as a result of an acquisition.

I daresay every one of them have this issue, and what every one of them have is the requirement that chief executive officers and chairmen of companies have to act in a fashion that is consistent with their fiduciary duty. There are checks and balances throughout our system that provide for that. Senator, I think your voicing this in Pittsburgh and again here today underscores the fact that there is some concern out there with respect to that issue.

But whether it be Mr. Wolf, Mr. Gangwal or anybody—any others throughout our employee system who have contracts that provide protection for change-in-control, in American business, that is the way you provide for good management. You give people protection, should they be out of a job. Unlike union members, who are

all guaranteed a job and have a seniority number, executives in companies do not have seniority numbers.

So, they do not have that job protection; and, indeed, I would think the plaintiffs bar, if they were as aggressive as they are, and shareholder lawsuits abound, none of those issues have been raised, nor should they be. This is fully disclosed, consistent with our board of directors' fiduciary duty. Our shareholders have approved them. It has been full disclosure from day one, and these are not contracts that were put in place because United came knocking at the door. These were contracts that were put in place when Mr. Wolf was hired in 1996, as well as Mr. Gangwal.

Senator SPECTER. Well, my red light is on, so I will not pursue it beyond to say that you may need incentives to join the company. I do not know that you need incentives when you leave the company. Just because everybody else does it, does not tell me a whole lot. You talk about these class-actions and plaintiffs lawsuits, I have a concern about the settlement of those cases where again there is extraordinary compensation to the plaintiffs' lawyers, which raises question in my mind.

We just had a big merger in Philadelphia involving First Union, and the compensation of the departing executives was very much on my mind, and I commented about that. I see a lot of people on the street in Philadelphia who tell me I was right. But it is a little after the fact. I do not want that to happen when I visit the Lehigh Valley in a few years.

Mr. NAGIN. I respect and appreciate that, Senator.

Senator SPECTER. Congressman Toomey.

Representative TOOMEY. Ms. Longmuir, my main concern in this merger is, of course, how it will affect the Lehigh Valley, and specifically our air travelers, in terms of air fares, the number of flights, the number of destinations and the quality of their service. If we could zero in for a moment on the number-of-flights issue, I wanted to review what you said earlier, to see if I understand it correctly. Did I understand you to say that there are currently 10 flights a day between the two airlines being flown out of Lehigh Valley International today?

Ms. LONGMUIR. No, there are 10 flights that United and United Express currently offer today.

Representative TOOMEY. OK; how many does US Airways offer?

Ms. LONGMUIR. Then, in addition, there are another 16, I believe, that US Airways flies.

Representative TOOMEY. So, there are a total of 26, and that would be reduced to 22 flights?

Ms. LONGMUIR. Correct.

Representative TOOMEY. What kind of assurance do we have that the 22 flights would last? For how long would it be likely?

Ms. LONGMUIR. Before I get to answering that specifically, if I could respond to the differential in the number there. There are two flights that D.C. Air will be flying back and forth to National Airport, which addresses that—the differential in the number there. So, for purposes of a consistency in number, to reassure you with respect to the representation of the current number of flights. With respect to your immediate question of a guarantee of United's

current service patterns, we fully believe, sir, that we will continue to grow the operation of US Airways network.

We will have two hubs within Pennsylvania now, Pittsburgh and Philadelphia. That creates synergies for us, of growth, not of cost-cutting. The benefits of this merger are not of the ilk of decreasing numbers and getting efficiencies through reductions, but rather growing the network and growing the service, as we have done historically in the past with other domestic expansions in United's system.

So, the benefits to United of taking on this additional debt and making this expensive acquisition are to stimulate more traffic, and, through enhanced revenue, continue to grow the system.

Representative TOOMEY. Let me see if I understand what you said earlier. There are currently 26 flights offered by the two airlines. Am I correct in understanding that two of those flights will now be carried by a third carrier?

Ms. LONGMUIR. Correct.

Representative TOOMEY. There would be 22 flights carried. So, there would be a net loss of two flights.

Ms. LONGMUIR. Let me make certain I have my numbers correct, sir; 22 flights by United will continue to be carried; one additional flight by D.C. Air, which will be the spinoff, the round-trip to Washington, DC. So, there are essentially three flights that are changing their service patterns. United will offer a nonstop to—excuse me. There will be one nonstop to Orlando, one nonstop to Charlotte, and one to DCA on D.C. Airways.

Representative TOOMEY. So, for a net loss of three flights per day or two?

Ms. LONGMUIR. Well, they are changing from a nonstop to a one-stop. I can get you specifics on that, sir.

Representative TOOMEY. Yes, I would appreciate that.

Ms. LONGMUIR. Absolutely.

Representative TOOMEY. Mr. Nagin, my question for you, my first question, is simple. Why is US Airways' cost structure so high?

Mr. NAGIN. We are an amalgam, Congressman, of many airlines: Allegheny; Mohawk; Empire; Piedmont; PSA—to name a few, if you will. These are companies that were local-service carriers who, whenever they had a new labor agreement, they were able to go under regulation to the Civil Aeronautics Board and get an increase in fares. So, it was in lock-step with whatever the labor contracts were. As the companies came together eventually under the banner of then—USAir, quite frankly, Congressman, the contracts were cherry-picked and the best were put in there and layered and layered and layered.

Representative TOOMEY. So, are you saying you have the highest labor cost structure in the industry?

Mr. NAGIN. Highest labor cost structure, compounded by the fact that we do not have a broad network, and that is what the United transaction allows us to have, a broad network over which to spread our costs. Rather, we are a short-haul, almost a local-service carrier, serving 16 cities in the Commonwealth. As a result, our costs are spread over a much narrower base, which makes for higher unit costs, giving us the highest costs in the industry.

Representative TOOMEY. Thank you.

Senator SPECTER. Ms. LONGMUIR, the announcement was made last week about a maintenance facility for \$160 million in Pittsburgh. US Airways had projected a maintenance facility for \$600 million. Will the \$160 million commitment be expanded ultimately to the \$600 million initial projection?

Ms. LONGMUIR. Senator SPECTER, there was—a similar question was asked at the press conference, and the clarification was given by Mr. Wolf, which I would defer to Larry to explain. I think that was in looking at additional phases of potential maintenance development. But if I could clarify the underlying premise of your question, my understanding is—

Senator SPECTER. My question is very flat. Are you prepared to commit to go to \$600 million or not? I have only got five minutes.

Ms. LONGMUIR. On phase one, sir, we are matching, if not exceeding, US Airways' commitment. At this point, sir, we are committed to \$160 million for phase one of a maintenance development program in Pittsburgh.

Senator SPECTER. Well, I will take that to be no as to a commitment on the \$600 million. Let me move to the next question, Ms. Longmuir. When you talk about no furloughs, you have 30 United employees here and 50 US Airways. When there is attrition as to some of those, will those spots be kept open for new employment?

Ms. LONGMUIR. They will, within the context of the United Airlines network, sir. As we have discussed, Mr. Goodwin, as well as I, have had the pleasure in previous meetings, we will not commit to an aggregate number of jobs remaining within Pennsylvania. But we are optimistic about the growth potentials of this network, of being able to meet and exceed that.

Senator SPECTER. I understand your optimism. I understand your hope. I take that to be another no. With respect to the question of transfers, if you do not furlough, but you are going to transfer somebody from Allentown to San Diego, that does not mean a whole lot for job retention. I asked you this question in Pittsburgh and you said it was your hope not to transfer people. Can you give me any further assurance that a job will not be lost on a transfer, which makes it impossible for the person to maintain his job by moving far away?

Ms. LONGMUIR. No, sir, other than to repeat the fact that from a purely commercial perspective, it makes no sense for a company to go through the high cost of transferring an employee, because that causes great dislocation and the goal is rather to keep a productive and satisfied workforce by having minimal incursions on their private lives.

Senator SPECTER. Well, Ms. Longmuir, I understand that sort of a rationale or rationalization as to what you may hope to do. What I am looking for are really commitments that employees can rely upon, and keeping rates the same, which we have not gotten into here and we ought to do in some detail, as to maintaining the rates for a 2-year period.

Let me again express to you my question as to whether United is prepared to put all of these statements into writing? If there is no writing at the end of the rainbow here, I am not going to agree to it—not that my agreement is any more weighty than Mr. Doughty's agreement. But I do not consider hopes or projections or

business needs, and I respect United's right to do whatever it chooses. It is a free enterprise system, competition. You can do what you choose, and we all have that option, and the Antitrust Subcommittee has that option, in terms of what we do with the Antitrust Division of the Department of Justice. But is United prepared to put in writing its commitments?

Ms. LONGMUIR. Sir, with respect to the fare-cap issue, which we have discussed in the past, as we had shared with you, if the Department of Justice demands that, we will enter into attempts to satisfy that. You have been a very vocal and aggressive representative for the Commonwealth of Pennsylvania on that issue. Mr. Goodwin, in his latest correspondence with you, did make that commitment to you in his letter.

With respect to the job allocation number, again, sir, we have to really ultimately respond to the realities of the marketplace, despite our best intentions, and we feel that we have taken a fairly unprecedented step in the context of a merger of committing to no furloughs for two years, which Mr. Goodwin extended to an unlimited basis.

Senator SPECTER. Well, I take that to be no writing, except as to fares, subject to the demand by the Department of Justice.

Congressman.

Representative TOOMEY. Thank you.

One of the things that Mr. Goodwin testified to, according to the script that I have here, is that the merger would result in a significant increase in convenience for air-travel customers. I guess my question for you is what kind of conveniences, what kind of new, improved services could Lehigh Valley travelers expect? For instance, are there going to be any new nonstop destinations? Will there be significantly greater access to other flights, single-stop flights? Could you share with me your thoughts on that?

Ms. LONGMUIR. Thank you, Congressman. I think, through some increased flying opportunities that we are putting in place both in Pittsburgh and in Philadelphia, and the enhanced connectivity between the Lehigh Valley International Airport to those hubs, as well as up to our Dulles hub, we will have in place a one-stop to Portland, Oregon, to San Jose and to Orange County, CA, out of Philadelphia, I believe it is, as well as also the ability now to connect to our international network through Dulles and also through the existing hubs in O'Hare.

Representative TOOMEY. Any new nonstops from Lehigh Valley?

Ms. LONGMUIR. No. No, sir.

Representative TOOMEY. One of the things that you know we are very concerned about is the effect that, apparently, less competition could have on air fares. What kind of assurances do we have that the air-fare structure would not get worse in the Lehigh Valley as a result of the merger?

Ms. LONGMUIR. Well, sir, we believe that, as a result of having the ability to have greater connectivity to the existing flights that we will be maintaining to the Lehigh Valley post-merger, we will be able to offer some of the very large businesses that exist in this community, like Air Products and Chemicals, Binney, Rodale Press, the ability to distribute their products domestically and internationally through better connections to our international hubs.

We also think that right now, where there may be an interline arrangement between United and US Airways, with it as one company, the ability to have one check-in and have seamless travel will improve the flying experience for a significant number of business and leisure travelers here.

Representative TOOMEY. That speaks to the question of convenience, but what about air fares?

Ms. LONGMUIR. Well, with air fares, sir, I think the cost structure of US Airways is different than the cost structure of United. I need to be careful about not making representations going forward on that. But we are looking at the fare structure very closely, of how we would be able to spread the higher unit cost that US Airways has over our much larger network, and we are optimistic—I know, Senator SPECTER, that does not give you much comfort. But I hope that the reputation of United in the other small communities and other small cities which we serve will provide some comfort in going forward in this scrutiny and analysis that you are performing.

Representative TOOMEY. Thank you.

Mr. Nagin, briefly, if I could, you mentioned that Southwest has bought a significant increase in its fleet; it is targeting the Eastern Seaboard. Southwest is one of the lowest-cost carriers in the industry and you are one of the highest-cost carriers. How can you survive that competition if they do come in here, assuming this merger does not go ahead?

Mr. NAGIN. That is probably the most difficult question that could be asked at any hearing, and it has been asked before, and I am not suggesting there is an easy answer. There is not an easy answer. We are going to stay focused and do what we should be doing, managing our airline. But the reality is here that we really should get this transaction completed for that very reason.

Baltimore is a great story. US Airways was number one at Baltimore. Southwest came in, a terrific airline, very well-managed, terrific business plan, great operational integrity, and they handed us our lunch. We were gradually pushed out and decreased our presence at Baltimore very significantly. We are seeing that erosion occur wherever they come in, not because they are evil, not because they engage in predation. They are not evil and they do not use predatory tactics. They are just very, very efficient.

We do not have one of the highest costs in the industry. We have the highest cost in the industry. So, we want to do this transaction so the communities here in Pennsylvania—not to be a sob-sister or to wear it on our sleeve—so there is a continuation of service with a strong and well-managed company like United, whose record should be looked at, not for the last two months of their operations, but for their total history of superb service.

They are going through an iteration now that every carrier in the United States has gone through, and everyone comes out of it, and they will come out of it with flying colors. It is an excellent airline with good people managing it who are true to their word, and I think this community will be well-served as a result of that merger, sir.

Representative TOOMEY. Thank you.

Senator SPECTER. Thank you very much, Congressman Toomey.

Thank you very much, Ms. Longmuir and Mr. Nagin. We thank all of the witnesses. The issue of this acquisition and merger, from a national point of view, turns on whether competition will be lessened, which is the concern of the antitrust laws. As a Senator representing Pennsylvania, I am obviously concerned about Pennsylvania's interest very decisively. As the United States Senator and a member of the Antitrust Subcommittee, I am concerned about what happens to the Nation as a whole.

We have had a series of hearings around the State and we will consider more. Senator Santorum wanted to be here today. He was in Pittsburgh. He has been very active in this entire matter. The purposes of the hearing around the State—we have heard Ms. Longmuir and Mr. Nagin for the third time. When she says I may not get much consolation from her optimism, she overstates it. I do not get any consolation from her optimism.

In a sense, we may be shadowboxing now, because the final push is going to come down the line. I am going to seek hearings in Washington from the Antitrust Division of the Department of Justice and Mr. Joel Klein, whom I have already discussed this matter with, to get some perspective of this merger in the context of a national picture. But as it relates to Pennsylvania, I am not only not satisfied, I am dissatisfied with the repetitive answers of non-commitment which I am hearing.

A nonfurlough policy does not mean much if there is going to be an extensive transfer policy, and a non-furlough practice does not cover the issue as to job opportunities which are present now and, under the current system, if there are furloughs, there are job openings for new people.

When you talk about having something in writing, it is not meaningful to me unless it is in writing. There are a whole series of matters like the maintenance center and the reservation center which are weighty, although I concede they are parochial. A note the Express Times had in an editorial on July 24, "Consolidating United and US Airways Not the Best Ticket for the Lehigh Valley." Part of what we are doing here, to repeat, is to stimulate interest and a dialogue within the State, because these matters which happen in far-away Washington, within the beltway, sometimes do not reach home.

Congressman Toomey and I are here, and Senator Santorum and I were in Pittsburgh, and we do them around the State, and then there is a focus—and we want to promote that focus, to see to it that the national interests are protected and Pennsylvania's interests are protected. So, stay tuned.

Thank you all very much.

[Whereupon, at 9:27 a.m., the subcommittee was adjourned.]