

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

January 25, 2007

The Honorable Alberto R. Gonzales
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear General Gonzales:

We write to express our concern about the prospects of increasing consolidation of the airline industry, and specifically the proposed merger of US Airways and Delta Air Lines. Although this matter will not be the subject of a formal review by the Department of Justice until a pre-merger notification is filed pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, in the event that the transaction moves forward we urge you to ensure that any subsequent formal investigation carefully and thoroughly considers the substantial competitive impact of this merger.

In the past, the Department has expressed concern about or opposed airline mergers that have involved substantial route overlaps. For example, our understanding is that this was a principal concern regarding the proposed merger of United Airlines and US Airways. From what we are able to glean from publicly-available information, there appears to be even more overlap between the US Airways and Delta route networks. These two airlines are strong domestic competitors in the East and Mountain West. Their merger would appear to result in a significant increase in concentration - especially on routes serving smaller communities - and could adversely affect Delta's hubs, as well as lead to a reduction in capacity and higher overall fares.

Given the number of other potential mergers that have been discussed in the press - as well as the pending offer for Delta - we anticipate that airline consolidation will be a topic that will receive significant attention and active oversight from the Subcommittee on Antitrust, Competition Policy and Consumer Rights.

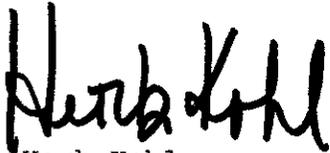
We anticipate that the Department will conduct an extensive analysis of any proposed transactions in this area among the market leaders. We are also mindful that it would be premature for the Department to comment on this specific transaction, which has not been agreed to by both parties or been the subject of a Hart-Scott-Rodino filing. Thus, we wish to emphasize that the intent of this letter is not to express a firm position on a potential transaction. However, irrespective of whether the offer by US Airways results in a proposed merger that is formally reviewed by the Department, we do feel it appropriate to underscore our firm expectation that the Department will investigate this or any other merger among airlines of all sizes

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with all due care and vigor and that the Department will be appropriately mindful of the importance of such a review in creating business expectations and in setting a precedent with respect to the review of subsequent mergers in the airline industry.

Sincerely,



Herb Kohl
Chairman
Subcommittee on Antitrust,
Competition Policy and Consumer Rights



Orrin G. Hatch
Ranking Republican Member

OGH:djj

cc:

Thomas O. Barnett
Assistant Attorney General for Antitrust