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JUSTICE NEWS

Attorney General Merrick B. Garland Delivers Remarks on the Justice Department's Suit to Block JetBlue's Proposed Acquisition of Spirit

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Remarks as Delivered

Before I begin today, I want to address the attack and the kidnapping of four Americans in Mexico on Friday.

I have been briefed by the FBI, which is working with Mexican authorities. And senior Department officials are working closely with our counterparts at the State Department. During this difficult time, I want to offer my deepest sympathies to the families of the Americans who were attacked and kidnapped.

Today, the Department of Justice filed a civil antitrust lawsuit in the U.S. District Court for the District of Massachusetts to stop the merger of JetBlue and Spirit airlines. We are joined in that lawsuit by the Commonwealth of Massachusetts, the State of New York, and the District of Columbia.

I am here with Associate Attorney General Vanita Gupta and Principal Deputy Assistant Attorney General Doha Mekki.

Our complaint alleges that JetBlue's proposed \$3.8 billion acquisition of Spirit violates Section 7 of the Clayton Act.

We allege that, if allowed to proceed, this merger will limit choices and drive up ticket prices for passengers across the country.

And we further allege that the impact of this merger will be particularly harmful for travelers who rely on what are known as ultra-low-cost carriers in order to fly. Those include working- and middle-class Americans who travel for personal as opposed to business reasons and who must pay their own way. By acquiring Spirit, JetBlue will eliminate the largest ultra-low-cost carrier in the United States.

Today, JetBlue and Spirit compete on hundreds of routes that serve tens of millions of air travelers every year.

Direct competition between the two airlines has intensified in the last five years as Spirit has expanded into markets where JetBlue already offered service.

On dozens of routes, serving tens of millions of passengers, JetBlue and Spirit have large combined market shares.

For example, on the Boston-Miami/Fort Lauderdale route, which serves about 1.5 million passengers annually, JetBlue and Spirit together currently account for nearly 50% of the market.

For service between Boston and San Juan, the two airlines account for nearly 90% of the passengers flying the route today.

And on some routes, JetBlue and Spirit are the only two carriers providing nonstop service, such as between Miami/Fort Lauderdale and Aguadilla, Puerto Rico.

Eliminating the competition between JetBlue and Spirit on these and other routes would eliminate Spirit's unique

and disruptive role in the industry and significantly harm consumers.

As noted in the complaint, Spirit's own internal documents estimate that when it starts flying a route, average fares fall by 17%. And an internal JetBlue document estimates that when Spirit stops flying a route, average fares go up by 30%.

As outlined in the complaint, if the acquisition is approved, JetBlue plans to abandon Spirit's business model, remove seats from Spirit's planes, and charge Spirit's customers higher prices.

Spirit executives have recognized the harmful effect the proposed merger would have on consumers.

After JetBlue offered to acquire Spirit, Spirit's Board of Directors warned its shareholders that JetBlue's plans to reconfigure Spirit's planes would "significantly diminish capacity" and "result in higher prices for consumers."

Accordingly, the Board of Directors further warned, "a court . . . will be very concerned that a JetBlue-Spirit combination will result in a higher-cost/higher fare airline that would eliminate a lower-cost/lower fare airline and remove about half of the [ultra-low-cost] capacity in the United States."

We agree.

This proposed merger occurs against the backdrop of an already concentrated airline industry.

Four airlines – American, Delta, United, and Southwest – control close to 80% of the market.

We allege that JetBlue's proposed takeover of Spirit will only exacerbate concentration and further stifle competition in the airline industry.

JetBlue's elimination of Spirit as an independent company increases the risk that the remaining airlines – including JetBlue – would coordinate to raise prices or reduce capacity on particular routes where Spirit currently operates.

In short, if not blocked, the merger of JetBlue and Spirit would result in higher fares and fewer choices for tens of millions of travelers across the country. The Justice Department is suing to prevent that from happening.

I want to thank the attorneys and staff of the Antitrust Division for their excellent work on this case.

And I want to reiterate that the Department continues to closely examine practices and review proposed mergers to ensure they are consistent with federal antitrust law.

Companies in every industry should understand by now that this Justice Department will not hesitate to enforce antitrust laws and protect American consumers.

I will now turn the podium over to Associate Attorney General Gupta.

Speaker:

Attorney General Merrick B. Garland

Topic(s):

Antitrust

Component(s):

Antitrust Division

Office of the Attorney General

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