



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 13, 2013
WWW.JUSTICE.GOV

AT
(202) 514-2007
TTY (866) 544-5309

JUSTICE DEPARTMENT FILES ANTITRUST LAWSUIT CHALLENGING PROPOSED MERGER BETWEEN US AIRWAYS AND AMERICAN AIRLINES

Merger Would Result in U.S. Consumers Paying Higher Airfares and Receiving Less Service; Lawsuit Seeks to Maintain Competition in the Airline Industry

WASHINGTON – The Department of Justice, six state attorneys general and the District of Columbia filed a civil antitrust lawsuit today challenging the proposed \$11 billion merger between US Airways Group Inc. and American Airlines’ parent corporation, AMR Corp. The department said that the merger, which would result in the creation of the world’s largest airline, would substantially lessen competition for commercial air travel in local markets throughout the United States and result in passengers paying higher airfares and receiving less service.

The Department of Justice’s Antitrust Division, along with the attorneys general, filed a lawsuit in the U.S. District Court for the District of Columbia, which seeks to prevent the companies from merging and to preserve the existing head-to-head competition between the firms that the transaction would eliminate. The participating attorneys general are: Texas, where American Airlines is headquartered; Arizona, where US Airways is headquartered; Florida; the District of Columbia; Pennsylvania; Tennessee; and Virginia.

“Airline travel is vital to millions of American consumers who fly regularly for either business or pleasure,” said Attorney General Eric Holder. “By challenging this merger, the Department of Justice is saying that the American people deserve better. This transaction would result in consumers paying the price – in higher airfares, higher fees and fewer choices. Today’s action proves our determination to fight for the best interests of consumers by ensuring robust competition in the marketplace.”

Last year, business and leisure airline travelers spent more than \$70 billion on airfare for travel throughout the United States. In recent years, major airlines have, in tandem, raised fares, imposed new and higher fees and reduced service, the department said.

“The department sued to block this merger because it would eliminate competition between US Airways and American and put consumers at risk of higher prices and reduced service,” said Bill Baer, Assistant Attorney General in charge of the Department of Justice’s Antitrust Division. “If this merger goes forward, even a small increase in the price of airline tickets, checked bags or flight change fees would result in hundreds of millions of dollars of

harm to American consumers. Both airlines have stated they can succeed on a standalone basis and consumers deserve the benefit of that continuing competitive dynamic.”

American and US Airways compete directly on more than a thousand routes where one or both offer connecting service, representing tens of billions of dollars in annual revenues. They engage in head-to-head competition with nonstop service on routes worth about \$2 billion in annual route-wide revenues. Eliminating this head-to-head competition would give the merged airline the incentive and ability to raise airfares, the department said in its complaint.

According to the department’s complaint, the vast majority of domestic airline routes are already highly concentrated. The merger would create the largest airline in the world and result in four airlines controlling more than 80 percent of the United States commercial air travel market.

The merger would also entrench the merged airline as the dominant carrier at Washington Reagan National Airport, with control of 69 percent of the take-off and landing slots. The merged airline would have a monopoly on 63 percent of the nonstop routes served out of Reagan National airport. As a result, Washington, D.C., area passengers would likely see higher prices and fewer choices if the merger is allowed, the department said in its complaint. Blocking the merger will preserve current competition and service, including flights that US Airways currently offers from Washington’s Reagan National Airport.

The complaint also describes how, in recent years, the major airlines have succeeded in raising prices, imposing new fees and reducing service. The complaint quotes several public statements by senior US Airways executives directly attributing this trend to a reduction in the number of competitors in the U.S. market:

- President Scott Kirby said, “Three successful fare increases – [we are] able to pass along to customers because of consolidation.”
- At an industry conference in 2012, Kirby said, “Consolidation has also...allowed the industry to do things like ancillary revenues.... That is a structural permanent change to the industry and one that’s impossible to overstate the benefit from it.”
- As US Airways CEO Parker stated in February 2013, combining US Airways and American would be “the last major piece needed to fully rationalize the industry.”
- A US Airways document said that capacity reductions have “enabled” fare increases.

“The merger of these two important competitors will just make things worse – exacerbating current airline industry trends toward reduced service, increasing fares and increasing passenger fees,” added Baer.

As the complaint describes, absent the merger, US Airways and American will continue to provide important competitive constraints on each other and on other airlines. Today, US Airways competes vigorously for price-conscious travelers by offering discounts of up to 40 percent for connecting flights on other airlines’ nonstop routes under its Advantage Fares program. The other legacy airlines – American, Delta and United – routinely match the nonstop fares where they offer connecting service in order to avoid inciting costly fare wars. The

Advantage Fares strategy has been successful for US Airways because its network is different from the networks of the larger carriers. If the proposed merger is completed, the combined airline's network will look more like the existing American, Delta and United networks, and as a result, the Advantage Fares program will likely be eliminated, resulting in higher prices and less services for consumers. An internal analysis at American in October 2012, concluded, "The [Advantage Fares] program would have to be eliminated in a merger with American, as American's large, nonstop markets would now be susceptible to reactionary pricing from Delta and United." And, another American executive said that same month, "The industry will force alignment to a single approach—one that aligns with the large legacy carriers as it is revenue maximizing." By ending the Advantage Fares program, the merger would eliminate lower fares for millions of consumers, the department said.

The complaint also alleges that the merger is likely to result in higher ancillary fees, such as fees charged for checked bags and flight changes. In recent years, the airlines have introduced fees for those services, which were previously included in the price of a ticket. These fees have become huge profit centers for the airlines. In 2012, domestic airlines generated more than \$6 billion in fees from checked bags and flight changes alone. The legacy carriers often match each other when one introduces or increases a fee, and if others do not match the initiating carrier tends to withdraw the change. By reducing the number of airlines, the merger will likely make it easier for the remaining carriers to coordinate fee increases, resulting in higher fees for consumers.

The department also said that the merger will make coordination easier among the legacy carriers. Although low-cost carriers such as Southwest and JetBlue offer consumers many benefits, they fly to fewer locations and are unlikely to be able to constrain the coordinated behavior among those carriers.

American Airlines is currently operating in bankruptcy. Absent the merger, American is likely to exit bankruptcy as a vigorous competitor, with strong incentives to grow to better compete with Delta and United, the department said. American recently made the largest aircraft order in industry history, and its post-bankruptcy standalone plan called for increasing both the number of flights and the number of destinations served by those flights at each of its hubs.

The department's complaint describes US Airways executives' fear of American's standalone growth plan as "industry destabilizing." The complaint states that US Airways worries that American's growth plan would cause "others" to react "with their own enhanced growth plans..." and that the resulting effect would increase competitive pressures throughout the industry. The department said the merger will allow US Airways' management to abandon these aggressive growth plans and continue the industry's current trend toward higher prices and less service.

The department's complaint states that executives of both airlines have repeatedly said that they do not need the merger to succeed. The complaint states that US Airways' CEO observed in December 2011, that "A[merican] is not going away, they will be stronger post-bankruptcy because they will have less debt and reduced labor costs." US Airways' executive vice president wrote in July 2012, that, "There is NO question about AMR's ability to survive on

a standalone basis.” And, as recently as January 2013, American’s management presented plans that would increase the destinations it serves in the United States and the frequency of its flights, and would position American to compete independently as a profitable airline with aggressive plans for growth.

AMR is a Delaware corporation with its principal place of business in Fort Worth, Texas. AMR is the parent company of American Airlines. Last year American flew more than 80 million passengers to more than 250 destinations worldwide and took in more than \$24 billion in revenue. In November 2011, American filed for bankruptcy reorganization.

US Airways is a Delaware corporation with its principal place of business in Tempe, Ariz. Last year US Airways flew more than 50 million passengers to more than 200 destinations worldwide and took in more than \$13 billion in revenue.

###

13-909