

Written Testimony of

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Before the U.S. Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy, and Consumer Rights
For a Hearing on "Examining Competition in America's Skies"
September 30, 2025

My name is William J. McGee, and I am the Senior Fellow for Aviation and Travel at the American Economic Liberties Project (AELP), a nonprofit organization dedicated to addressing the problem of concentrated economic power across the economy to improve conditions for workers, honest businesses, and consumers. As such, we have made it a priority to draw attention to the consolidated airline industry. I have worked in this industry for 40 years, witnessing firsthand the harms this level of consolidation has caused. Starting in 1985, I spent seven years in airline flight operations management, and I'm licensed by the Federal Aviation Administration (FAA) as an Aircraft Dispatcher and served in the U.S. Air Force Auxiliary. I then became an aviation investigative journalist and author, writing extensively about the industry. For the last 25 years, I've been an airline passenger advocate, researching, writing, and testifying on consumer rights, competition, consolidation, and safety issues, and serving as the lone consumer advocate on U.S. Department of Transportation Secretary LaHood's Future of Aviation Advisory Committee.¹

The airline industry I began working in 40 years ago no longer exists, and by most measures passengers and entire communities nationwide are worse off. U.S. airlines are more concentrated than ever due to decades of lax antitrust enforcement leading to consolidation, and the failed experiment of airline deregulation. As a result, consumers have fewer choices for carriers, there is little competition on individual routes, and there is a historic drought of market entry by new airlines. Some major cities have seen dramatic reductions in air service, harming local and regional economies, while consumers have faced worsening service quality and callousness from airlines that no longer face real competition to retain their customers. From bad customer service to recent safety incidents, it is no secret that the experience for passengers is worse than it's ever been. And until Congress requires necessary public governance, these problems will persist. It is long past time for Congress to step in to fix flying and reinvigorate competition in the airline industry.

A TALE OF TWO INDUSTRIES

In recent decades, the U.S. airline industry has changed substantially. Since 1985, the number of domestic boardings has nearly tripled,² but the industry itself is dramatically more concentrated and far less competitive.³ This has created a harsher environment for passengers and workers, as well as communities, states, and even regions nationwide, with flight disruptions, cancelled routes, hub closures, and jobs lost.⁴ In the coming weeks, millions of Americans will begin planning their holiday travel, and many will dread booking flights. Simply put, we have a commercial aviation competition crisis in the nation that flew the first airplane and produced the first airline.

¹ "FAAC Final Report," U.S. Department of Transportation, May 17, 2022, <https://www.transportation.gov/highlights/future-aviation-advisory-committee/faac-final-report>.

² "U.S. Airline Traffic and Capacity," Airlines for America, March 18, 2025, <https://www.airlines.org/dataset/annual-results-u-s-airlines-2/>.

³ William J. McGee, "Refuting the Myths Defending the JetBlue-Spirit Merger," ProMarket, March 2, 2024, <https://www.promarket.org/2024/03/02/refuting-the-myths-defending-the-jetblue-spirit-merger/>.

⁴ *Id.*

Four decades ago, America had 12 major carriers and more than 50 smaller airlines;⁵ today there are only 11 scheduled passenger airlines,⁶ and we've never had such concentration at the top with only four major players.⁷ In reality, our country now has two airline industries. The first consists of the largest carriers represented by Airlines for America (A4A), including the Big Four oligopoly of American, Delta, Southwest, and United, who with their regional partners control 80% of the market.⁸ Such concentration is unprecedented.⁹

This plays out in hundreds of airports and on thousands of routes nationwide. The metrics the government has long used to measure antitrust and competition behavior in U.S. airline markets are outdated and ill-suited to commercial aviation. While airline executives claim their industry provides consumers with numerous choices of carriers, the reality is that consolidation of the air travel industry has reduced the competition that most benefits consumers—competition between carriers on a route-by-route basis. The harms of eliminating competition on routes impact communities both large and small, as consumers are denied true choices, lower fares, and more flight options in far too many cases.

The second industry consists of budget carriers – Allegiant, Avelo, Breeze, Frontier, and Spirit. These carriers often serve secondary airports and offer lower fares while charging fees for things like seat choice, priority boarding, and carry-on bags.¹⁰ They have been criticized for uncomfortable seats, little legroom, and unreliable service.¹¹ However, on many routes, these entities provide the only meaningful competition with the Big Four airlines. A study from MIT's International Center for Air Transportation found that the entry of a low fare airline on a route causes fares to drop 21% on average.¹² As a result, even travelers who choose not to fly on these budget carriers still benefit from their existence. It's no surprise, therefore, that the legacy carriers dislike competition from budget airlines and in May, United's CEO publicly stated that

⁵ “The Annual Report of the U.S. Scheduled Airline Industry,” Air Transport 1905, June 1985, <https://airlines.org/wp-content/uploads/2014/08/1985.pdf>.

⁶ Airlines for America, “The State of U.S. Commercial Aviation,” July 5, 2025, p. 47, <https://www.airlines.org/wp-content/uploads/2023/05/A4A-State-of-US-Commercial-Aviation-1.pdf>, (listing Alaska/Hawaiian, Allegiant, American, Avelo, Breeze, Delta, Frontier, JetBlue, Southwest, Spirit, Sun Country, and United as U.S. passenger airlines. Sun Country operates primarily as a charter airline that offers some scheduled service.).

⁷ See *Supra* note 3.

⁸ Alana Semuels, “Airlines Are Terrible. Small Cities Are Still Paying Them Millions of Dollars to Stick Around,” Time, January 17, 2023, <https://time.com/6247052/airlines-deregulation-american-inequality/>.

⁹ William J. McGee, “Comments Concerning The U.S. Airline Industry Response To ‘Request For Information On Merger Enforcement,’” American Economic Liberties Project, April, 2022, <https://www.economicliberties.us/wp-content/uploads/2022/04/2022-04-20-AELP-DOJ-FTC-Airlines-McGee.pdf>.

¹⁰ Chris Lomas, “What’s the difference between a Low-Cost Carrier and an Ultra-Low-Cost Carrier?,” Flight Radar 24, September 30, 2024, <https://www.flightradar24.com/blog/aviation-explainer-series/lcc-vs-ulcc/>.

¹¹ Taylor Rains, “I used to fly ultra-low-cost airlines to save money. Their cheap tickets aren’t worth the headache anymore.,” Business Insider, June 13, 2024, <https://www.businessinsider.com/flying-ultra-low-cost-airlines-spirit-frontier-not-worth-it-2024-6/>.

¹² Alexander R. Bachwicha and Michael D. Wittman, “The Emergence and Effects of the Ultra-Low Cost Carrier (ULCC) Business Model in the U.S. Airline Industry,” Massachusetts Institute of Technology, October 17, 2016, <https://dspace.mit.edu/bitstream/handle/1721.1/104869/ulcc-paper-draft-revFINAL.pdf%3Bjsessionid=B077%205022ED165FAFDF3A9F0809460539>.

the budget airline business model of charging ancillary fees on top of low base fares: “It’s dead. Like, it’s a crappy model.”¹³

In order to quantify the effect of competition (or lack thereof) on air fares, AELP examined the Department of Transportation's quarterly airfare reports for the last year, and found the three remaining legacy hub-and-spoke carriers—American, Delta, and United—have virtually ceased to compete against each other on price.¹⁴ As an airline beat reporter in the 1990s, I recall bruising fare wars amongst the largest airlines, but now it's clear that only the smallest airlines provide any real pricing competitiveness. This isn't opinion; it's borne out in the DOT's reports. Since January 2024, when a low fare airline entered a new market, prices on those routes fell, and conversely prices rose when low fare airlines exited markets. To cite just two examples, after Breeze Airways launched nonstop service from Fort Myers to Syracuse in 2023, average fares fell a whopping 46.2%, or \$128 per one-way flight;¹⁵ from Fort Myers to Lansing, average fares fell \$144.¹⁶ Conversely, fares rose 61.3%, or \$116, after Spirit stopped flying between Newark and Kansas City in November 2024,¹⁷ leaving only United to fly that route.

COMPETITION ON LIFE SUPPORT

Despite public statements to the contrary, the Big Four carriers hate true competition. They thwart competition through myriad means, including vast networks of fortress hub airports, global alliances, devalued frequent flyer programs, branded credit cards, exclusive corporate and travel agency agreements, and even predatory pricing, as AELP detailed last year, showing that Southwest systematically and intentionally lost money in Hawaii to gain market power at the expense of its smaller rival, Hawaiian Airlines.¹⁸ Consider that either American, Delta, or United control 70% or more of all flights at nine hubs nationwide, including Newark,

¹³ William J. McGee, “The Big Three Airlines Are Misleading Travelers So They Can Rig the System,” Frommer's, June 10, 2025, <https://www.frommers.com/tips/airfare/how-the-big-three-airlines-mislead-travelers-and-rig-the-system-toward-higher-airfares/>.

¹⁴ “Domestic Airline Consumer Airfare Report,” U.S. Department of Transportation,” <https://www.transportation.gov/office-policy/aviation-policy/domestic-airline-consumer-airfare-report-pdf>.

¹⁵ “Domestic Airline Consumer Airfare Report,” U.S. Department of Transportation,” Table 4, p. 36, https://www.transportation.gov/sites/dot.gov/files/2024-07/Domestic%20Airline%20Fares%20Consumer%20Report%202024_Q1.pdf; Syracuse Airport, “Breeze Adding Nonstop Route to Fort Myers from Syracuse,” press release, July 18, 2023, <https://syrairport.org/2023/07/18/breeze-airways-announces-seasonal-nonstop-service-from-syracuse-to-fort-myers/>.

¹⁶ Mike Ellis, “Capital Region International Airport adds new airline, flights to Florida,” Lansing State Journal, March 26, 2024, <https://www.lansingstatejournal.com/story/news/local/2024/03/26/lansing-breeze-airways-orlando-ft-myers-flights/73096151007/>.

¹⁷ “Domestic Airline Consumer Airfare Report,” U.S. Department of Transportation,” Table 3, p. 34, https://www.transportation.gov/sites/dot.gov/files/2025-07/Domestic%20Airline%20Fares%20Consumer%20Report%202025_Q1.pdf; Emily DeLetter, “Southwest to exit 4 airports and limit hiring following profit loss, Boeing plane delays,” USA Today, April 26, 2024, <https://www.usatoday.com/story/travel/airline-news/2024/04/26/southwest-airlines-leaving-airports/73465807007/>; Flights from, Spirit Flights from Kansas City (MCI), <https://www.flightsfrom.com/MCI/NK>.

¹⁸ William J. McGee and Healine Olen, “Predatory Pricing In Airlines How Southwest Lowered Prices to Squeeze Out Competition in Hawaii,” American Economic Liberties Project, December, 2024, <https://www.economicliberties.us/wp-content/uploads/2024/12/20241209-AELP-predatory-pricing-airlines-v3.pdf>.

Minneapolis, Salt Lake City, and worst of all, Charlotte, where American dominates 88% of all departures.¹⁹

This lack of real competition has produced dysfunction and failure amidst financial volatility.²⁰ On its own terms, the Airline Deregulation Act of 1978 has failed. The first substantive section of the statute contains several unfulfilled promises, such as “placing maximum reliance on competition,” “avoidance of unreasonable concentration,” and “encouragement of entry...by new air carriers.”²¹ Instead, since 2007 only two new scheduled passenger airlines have launched (Avelo and Breeze in 2021); this is the longest such dry spell in the industry's entire history since 1914.²² Decades of mergers and deregulation have not helped the airline industry or the flying public. By any measure, airlines are struggling. Consumers are dissatisfied and bankruptcies have been commonplace since 1978. The three largest airlines, Delta, United, and American, have all filed for Chapter 11 bankruptcy.²³ Instead, airlines CEOs and investors have focused on mergers and stock buybacks at the expense of consumers, transportation workers, and regional economies.²⁴

The lack of real competition is allowing airlines to reduce their service in major U.S. cities, decimating local economies. Consolidation spurred the largest airlines to close hubs in cities as large as St. Louis, Cincinnati, Cleveland, Raleigh-Durham, and Pittsburgh.²⁵ In the case of St. Louis, American's daily flights plunged from 200 to just 36.²⁶ And regional inequality hits particularly hard in smaller and rural communities, which are commonly underserved, with higher fares, fewer nonstop destinations, and less frequent flights.²⁷ Thankfully, AELP and others have worked with the Government Accountability Office (GAO) on a pending investigation into quantifying such harms for local economies nationwide in terms of lost income, lost jobs, etc.

¹⁹ James Pearson, “American Airlines Will Operate 88% Of Charlotte International Airport's March Flights,” Simple Flying, March 7, 2024, <https://simpleflying.com/american-airlines-88pc-charlotte-flight-analysis-march-2024/>.

²⁰ Rajesh Kumar Singh and Shivansh Tiwary, “US airlines slash earnings forecasts as economic concerns grow,” Reuters, March 11, 2025, <https://www.reuters.com/business/aerospace-defense/us-airline-stocks-tumble-deltas-forecast-cut-spooks-investors-2025-03-11/>.

²¹ S.2493, Section 102(a)(4), (7)(A), (10), Airline Deregulation Act of 1978, 95th Congress (1977-1978), October 24, 1978. <https://www.congress.gov/bill/95th-congress/senate-bill/2493>.

²² Julie Weed, “Despite It All, Two New U.S. Airlines Prepare to Fly,” New York Times, March 16, 2021, <https://www.nytimes.com/2021/03/16/travel/airlines-breeze-avelo-usa.html>.

²³ Henry Epp, “A brief history of airline bankruptcies,” Market Place, November 21, 2024, <https://www.marketplace.org/story/2024/11/21/a-brief-history-of-airline-bankruptcies>.

²⁴ David Shepardson, “U.S. airlines reject lawmakers' request to refrain from share buybacks,” Reuters, October 4, 2022, <https://www.reuters.com/world/us/us-airlines-reject-lawmakers-request-refrain-share-buybacks-2022-10-04/>.

²⁵ See *Supra* note 9 at 5.

²⁶ Justin Hayward, “Throwback: When American Airlines Had A Hub At St Louis Lambert International Airport,” Simple Flying, November 18, 2024, <https://simpleflying.com/american-airlines-st-louis-hub-history/>.

²⁷ “Changes in Airline Service Differ Significantly for Smaller Communities, but Limited Data on Ancillary Fees Hinders Further Analysis,” U.S. Department of Transportation Office of Inspector General, May 27, 2020, https://www.oig.dot.gov/sites/default/files/Airline%20Service%20to%20Small%20Communities%20Final%20Report_0.pdf.

Over the past 40 years, the biggest change affecting the airline industry has been rampant consolidation. For context, A4A reported that in the 60 years from 1930 to 1990 there were 28 mergers & acquisitions among US airlines, but in the next 30 years through 2020—just half that span—there were 29.²⁸

Fifteen years ago, I and others testified before this Subcommittee and elsewhere, warning that the largest carriers in the rapidly shrinking airline industry were becoming too big to fail, particularly as the then six major carriers (American, Continental, Delta, Northwest, United, and USAirways) quickly consolidated into the three remaining legacy carriers with the mergers of Delta-Northwest, United-Continental, and American-US Airways.²⁹ The \$63 billion government bailout of the industry during the COVID-19 pandemic indeed confirmed that major carriers are too big to fail.³⁰ What many didn't foresee was that the largest carriers are now also too big to care. This was made clear when Senator Ed Markey detailed how airlines sat on more than \$10 billion in unpaid refunds during Covid, even as those same taxpayers were bailing them out.³¹

This is not hyperbole. The headlines generated by major carriers in recent years have made millions of Americans ask a simple question: "What happened to the airlines?" The widespread flight disruptions, operational meltdowns, IT outages, and customer service erosion are due directly to deregulation and consolidation, and the resultant lack of competition.³²

LACK OF COMPETITION LEADS TO WORSE CUSTOMER SERVICE

In May 2017, I testified in the House of Representatives as the only consumer advocate alongside five airline executives after Dr. David Dao was beaten bloody and dragged off a flight he had paid for, all because United Airlines decided it wanted his seat.³³ This horrific incident--which left Dr. Dao with a concussion--sparked widespread media attention and national outrage, punctuated by that 4.5-hour hearing in which Members from both parties demanded change from

²⁸ Rahul Mukherjee, Erin Davis, and Jacob Knutson, "How the 'big five' airlines came to dominate the skies," Axios, December 8, 2023, <https://www.axios.com/2023/12/08/airline-mergers-us-airline-industry>.

²⁹ "The United/Continental Airlines Merger: How Will Consumers Fare?," U.S. Senate Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, May 27, 2010, <https://www.judiciary.senate.gov/committee-activity/hearings/the-united/continental-airlines-merger-how-will-consumers-fare>.

³⁰ "\$63 billion to keep aviation workers employed. Here are the numbers," Pandemic Oversight, March 17, 2022, <https://www.pandemicoversight.gov/data-interactive-tools/data-stories/63-billion-keep-aviation-workers-employed-here-are-numbers>.

³¹ U.S. Senator Ed Markey, "Amid Sky-High Rate of Flight Cancellations, Senator Markey Leads Bicameral Colleagues in Introducing Cash Refunds for Flight Cancellations Act to Protect Air Travelers' Rights," August 1, 2022, <https://www.markey.senate.gov/news/press-releases/amid-sky-high-rate-of-flight-cancellations-senator-markey-leads-bicameral-colleagues-in-introducing-cash-refunds-for-flight-cancellations-act-to-protect-air-travelers-rights>.

³² William J. McGee, "It's Time to Finally Fix Air Travel," New York Times, January 13, 2023, <https://www.nytimes.com/2023/01/13/opinion/faa-air-travel-regulation-outage.html>.

³³ "Oversight of U.S. Airline Customer Service," U.S. House of Representatives, Committee on Transportation and Infrastructure, April 28, 2017, <https://www.govinfo.gov/content/pkg/CHRG-115hhrg25311/pdf/CHRG-115hhrg25311.pdf>.

the industry. But later that summer United's earnings were posted.³⁴ The result? Despite a very public example of the airline's disregard for the basic humanity of its customers, United actually *increased* its quarterly earnings 39% in the immediate wake of viciously beating one of those customers. Clearly, the lesson of Dr. Dao for the major carriers is that a stranglehold on competition means they can publicly humiliate and abuse their customers without hurting their bottom line.³⁵

Carriers have also subjected passengers to other indignities. For example, In July, passengers on a United Airlines flight from Newark to Detroit were trapped on the tarmac for approximately eight hours before their flight was cancelled.³⁶ This was not an isolated incident. In 2023, the DOT fined American Airlines \$4.1 million for unlawfully stranding passengers on tarmacs for lengthy periods. DOT explained that “[a]n extensive investigation by the Department’s Office of Aviation Consumer Protection (OACP) found that between 2018 and 2021, American allowed 43 domestic flights to remain on the tarmac for lengthy periods without providing passengers an opportunity to deplane in violation of the Department’s tarmac delay rule.”³⁷

A 2024 Senate Homeland Security and Government Affairs Committee’s Permanent Subcommittee on Investigations found the biggest airlines charge passengers billions in hidden and junk fees for services that were once basic amenities under a competitive airline industry.³⁸ Airlines increasingly introduced seating policies that force parents to pay extra to sit next to their small children.³⁹ I detailed this problem in 2019 for *USA Today*,⁴⁰ after Consumer Reports filed a FOIA request that revealed hundreds of DOT complaints about this issue⁴¹. Travel writer Jennifer Keller described her experience when an airline seated her three year-old daughter in a

³⁴ Matthew Daly, “United Airlines CEO Oscar Munoz tells U.S. Congress the David Dao incident was ‘a mistake of epic proportions,’” Associated Press via Global News, May 2, 2017, <https://globalnews.ca/news/3419874/united-airlines-oscar-munoz-u-s-congress/>.

³⁵ Micah Maidenber, “United Airlines Profit Rises Despite Boycott Threats Over Passenger Treatment,” New York Times, July 18, 2017, <https://www.nytimes.com/2017/07/18/business/united-airlines-profit-earnings.html>.

³⁶ Carli Petrus, “Passengers stranded on United flight tarmac in Newark for 8 hours with limited food, water,” WXYZ Detroit, July 16, 2025, <https://www.wxyz.com/news/passengers-stranded-on-united-flight-tarmac-in-newark-for-8-hours-with-limited-food-water>.

³⁷ “DOT Fines American Airlines \$4.1 Million for Unlawfully Keeping Thousands of Passengers on the Tarmac for Hours,” U.S. Department of Transportation, August 28, 2023, <https://www.transportation.gov/briefing-room/dot-fines-american-airlines-41-million-unlawfully-keeping-thousands-passengers-tarmac>.

³⁸ U.S. Senator Richard Blumenthal, “The Sky’s the Limit: The Rise of Junk Fees in American Travel,” U.S. Senate Permanent Subcommittee on Investigations, November 26, 2024, <https://www.hsgac.senate.gov/wp-content/uploads/2024/11/25-Majority-Staff-Report-The-Skys-the-Limit-The-Rise-of-Junk-Fees-in-American-Travel-1.pdf>.

³⁹ Rachel Chang, “It Could Soon Be Illegal for Airlines to Charge Families to Sit Together,” Conde Nast Traveler, Aug. 1, 2024, <https://www.cntraveler.com/story/new-airline-family-seating-policies>.

⁴⁰ William J. McGee, “Airlines tell parents to pay up or risk sitting rows away from their kids. That's wrong.,” USA Today, Nov. 19, 2019, <https://www.usatoday.com/story/opinion/voices/2019/11/20/airlines-seat-reservations-families-children-separate-column/4196405002/>.

⁴¹ “FOIA Request to United States House of Representative’s Committee on Transportation and Infrastructure on Family Seating,” Consumer Reports, September 23, 2019, <https://advocacy.consumerreports.org/wp-content/uploads/2019/09/Family-seating-FOIA-CR-letter-to-House-TI-9-23-19-FINAL-4.pdf>.

separate row and told her the only solution was for her to convince another passenger to switch seats.⁴²

DOMINANCE LEADS TO REGULATORY CAPTURE

Such unfettered domination has empowered the largest airlines to seek to eliminate the consumer protections that do exist. Last month I wrote how A4A filed 93 pages of egregious recommendations, urging the DOT to weaken or eliminate virtually every existing passenger rights protection.⁴³ Among A4A's proposals are efforts to overhaul or abolish critical rules concerning transparency of fees, cash refunds, compensation for flight disruptions, and policies on ensuring children under 13 to sit with their families.⁴⁴ What's worse is that two days later the DOT issued a deregulatory agenda that looked "copy-pasted" from A4A's own wish list.⁴⁵ Furthermore, in recent weeks there has been extensive media coverage of efforts by U.S. airlines to use AI to expand their long-standing practices of using passengers' private data to "customize" individual pricing.⁴⁶ The airline industry is trending in the wrong direction – more consolidation; little competition from new entrants; fewer consumer protections; and more predatory business practices by the largest, dominant carriers.

LEGISLATIVE RECOMMENDATIONS

The way to fix the consolidation problem in the air travel market is *not* more consolidation, it is more and better competition. This Subcommittee should consider the following proposals, which are imminently feasible and would produce immediate and positive results.

- **ADOPT SENSIBLE REGULATION.** As AELP and Vanderbilt Policy Accelerator noted in our joint white paper "How to Fix Flying" last year, the failures of deregulation and consolidation have made it clear that new and sensible approaches to regulation are long overdue to protect consumers, enhance competition, provide fair and transparent pricing, and ensure access for new and smaller airlines.⁴⁷

⁴² Jennifer Keller, "An airline seated my 3-year-old away from me in the plane. The Department of Transportation knows it's an all-too-common problem," Nov. 21, 2022, <https://www.businessinsider.com/airline-sat-mom-and-3-year-old-apart-on-plane-2022-11>.

⁴³ William J. McGee, "U.S. Airlines Try to Abandon Passenger Rights and Performance Reports—to Secretly Police Themselves," Frommer's, September 2, 2025, <https://www.frommers.com/tips/miscellaneous/u-s-airlines-try-to-abandon-passenger-rights-and-performance-reports-and-secretly-police-themselves/>.

⁴⁴ Airlines for America, "Comment from Airlines for America," Comment on Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs, U.S. Department of Transportation, DOT-OST-2025-0026, May 4, 2024, <https://www.regulations.gov/comment/DOT-OST-2025-0026-0845>.

⁴⁵ U.S. Department of Transportation, "Agency Rule List - Spring 2025," Office of Information and Regulatory Affairs, Accessed September 18, 2025, https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPub=true&agencyCode=&showStage=active&agencyCd=2100&csrf_token=74AD24CADC853F19D32F994C6E1F03CBD21633EEF17FBE7864ECE8BEE8D8AA4E91CB6F87DD1820233BD479D8830C4B2EC9AF.

⁴⁶ Zach Wichter, "Airlines say AI won't set fares by passenger. Experts aren't so sure," USA Today, August 20, 2025, <https://www.usatoday.com/story/travel/columnist/2025/08/20/airline-pricing-ai-cruising-altitude/85608941007/>.

⁴⁷ William J. McGee and Ganesh Sitaraman, "How to Fix Flying: A New Approach to Regulating the Airline Industry," American Economic Liberties Project, January 26, 2024, <https://www.economicliberties.us/our-work/how-to-fix-flying/>.

• **ENSURE AIRPORT ACCESS.** As smaller carriers can confirm--and I know from my own years working for smaller carriers at busy airports--low fare airlines are blocked by the majors in acquiring critical airport facilities, such as gates, check-in, and baggage space. That's why we applaud Senator Hawley for co-sponsoring the Airport Gate Competition Act, which would mandate that airports establish minimum access to facilities, and we request other Members to join in support.⁴⁸

• **EMPOWER STATES TO PROTECT CONSUMERS.** Since 1978, American citizens have fewer rights when dealing with airlines than they do with virtually any other consumer industry. The federal preemption clause in the Airline Deregulation Act has ensured that for 47 years state courts, legislatures, and attorneys general have no oversight of airlines, leaving the DOT Secretary as the sole arbiter for passengers, with no checks and balances.⁴⁹ AELP has written model legislation to rescind this preemption, or at the very least restore a private right of action for consumers.⁵⁰ We urge this Subcommittee to consider this.

• **LIMIT COMMON OWNERSHIP.** One of the key reasons it's become nearly impossible for entrepreneurs to launch new airlines in recent decades is common ownership among institutional investors.⁵¹ Large institutional investors often pursue stakes in not one, but all four of the Big Four carriers, which in itself speaks to the lack of competition among them, since antitrust experts have found the U.S. airline industry is ten times more concentrated than the level that "is presumed likely to enhance market power."⁵² AELP's model legislation would restrict investors from owning more than 1% of any domestic carrier if they also own more than 1% of one or more other domestic carriers.⁵³

• **REINSTATE INTERLINING.** When I worked in the airlines, the policy of interlining held over from the regulated era continued to work effectively through the 1990s. It allowed passengers with delayed or canceled flights to receive reciprocity by flying on another carrier's flight on that route without additional cost. Eventually, the major airlines used it as yet another weapon against smaller rivals, but mandating reciprocity would ensure more passengers were protected and eradicate price gouging.⁵⁴

• **REFORM AIRPORT SLOTS.** In 1968, the FAA began monitoring seven congested airports

⁴⁸ S.4269, Airport Gate Competition Act, 118th Congress (2023-2024), <https://www.congress.gov/bill/118th-congress/senate-bill/4269/text>.

⁴⁹ See *Supra* note 21.

⁵⁰ William J. McGee and Lee Hepner, "How to Address the Air Travel Crisis: Eliminating the Airlines' Legal Liability Shield," American Economic Liberties Project, September 2022, <https://www.economicliberties.us/our-work/end-federal-preemption/>.

⁵¹ José Azar, Martin C. Schmalz, and Isabel Tecu, "Anticompetitive Effects of Common Ownership," *Journal of Finance*, May 10, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2427345.

⁵² *Id.*

⁵³ See *Supra* note 50 at 4-9.

⁵⁴ William J. McGee and Ganesh Sitaraman, "How to Fix Flying: A New Approach to Regulating the Airline Industry," American Economic Liberties Project and Vanderbilt Policy Accelerator, January 2024, <https://www.economicliberties.us/wp-content/uploads/2024/01/20240124-AELP-airlines-v5.pdf>.

nationwide, and currently takeoff and landing slots are controlled by the FAA at four of those airports--New York's LaGuardia and JFK, Newark, and Washington/DCA.⁵⁵ This system, which predates deregulation, gives preference to the legacy carriers that were grandfathered such rights. Today, major airlines share or trade such access amongst themselves--despite “use it or lose it” rules on slots⁵⁶--as competitive weapons to thwart access by new and low fare airlines, as we recently saw with United and JetBlue in Newark and New York/JFK.⁵⁷ However, AELP stands with other advocates in asserting that such slots should not be bought, sold, traded, or given away by airlines, since U.S. Code clearly states the federal government has "exclusive sovereignty of the nation's airspace," and therefore access via airports to such space.^{58 59}

CONCLUSION

As explained above, over the last four decades the airline industry has dramatically changed for the worse, harming passengers, workers, and entire regions of the United States. Until Congress addresses these problems, they will get worse. It is long past time for Congress to step in to fix flying and reinvigorate competition in the airline industry, and AELP looks forward to assisting this Subcommittee in that effort.

⁵⁵ Theresa L. Kraus and Wayne D. Hubbard, “From Flow Control to Air Traffic Flow Management,” Federal Aviation Administration, Accessed September 28, 2025, <https://www.faa.gov/media/77471>; “Slot Administration,” Federal Aviation Administration, March 27, 2023, https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/perf_analysis/slot_administration.

⁵⁶ Sean Dudahy and Ethan Klapper, “What are airport slots, and how do they affect your flights?,” The Points Guy, September 9, 2024, <https://thepointsguy.com/airline/slots/>.

⁵⁷ Leslie Josephs, “United Airlines plans to return to JFK — again — in new partnership with JetBlue,” CNBC, May 29, 2025, <https://www.cnbc.com/2025/05/29/united-airlines-jetblue-airways-partnership-return-jfk.html>.

⁵⁸ Charlie Leocha, “Why the FAA should not allow big carriers to hoard airport slots,” Travelers United, May 3, 2024, <https://www.travelersunited.org/dont-allow-big-carriers-to-hoard-airport-slots/#:~:text=Airport%20slots%20are%20valuable%20PUBLIC,airports%20more%20balanced%20and%20competitive>.

⁵⁹ 49 U.S.C. § 40103.