TESTIMONY OF

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BEFORE

THE COMMITTEE ON THE JUDICIARY

"COMPETITION IN THE AIRLINE INDUSTRY"

U.S. HOUSE OF REPRESENTATIVES
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Thank you for holding this vital and timely hearing on the proposed merger of United and Continental Airlines. My name is Patricia Friend and I am the International President of the Association of Flight Attendants – CWA, AFL-CIO (AFA-CWA). AFA-CWA represents over 50,000 flight attendants at 22 U.S. airlines and is the largest flight attendant union in the world. We especially thank the Committee for inviting us to testify today and giving voice to the concerns of the working women and men of these two great airlines about what this merger could mean to them.

As a front line employee in the airline industry for over 40 years, I have had a unique perspective on the cyclical and dramatic changes that have reshaped the commercial aviation industry and impacted thousands of jobs. As the President of a union representing employees from legacy or network carriers such as United, US Airways and Northwest (Delta); low cost carriers such as Air Tran Airways and Spirit; charter carriers such as Miami Air, Ryan International and USA 3000; to large majors and regional carriers such as Hawaiian, Alaska, American Eagle, Mesa and Mesaba, I am here to testify today about an aviation industry that is transforming in ironic fashion from a post deregulation industry to a consolidated industry that will look like a pre-deregulation industry. Seismic changes brought on by airline deregulation in the late 1970's caused endless bankruptcies and the end to historic airlines such as Pan Am, Eastern, TWA, Northwest and soon Continental. Each bankruptcy spelled disaster for airline employees who were left behind in the so-called rush to a market based airline industry. Thirty-two years later after the 1978 Airline Deregulation Act, I testify today about an industry that is in a swift consolidation mode. In just five short years, we have now witnessed two

major mergers at US Airways and America West and at Delta and Northwest. The United and Continental merger, if approved, will mean that we have almost cut in half the number of major legacy network carriers. Credible news reports point to further consolidation on the horizon if the United-Continental merger is approved. Mr. Chairman, as I indicated, I began my flight attendant career 44 years ago and worked under a regulated industry that was stable and provided middle class jobs to thousands of workers.

When Congress voted in 1978 to deregulate the industry, the Association of Flight Attendants, and other unions, warned of the catastrophic results that would soon follow rapid and uncontrolled expansion of the airline industry. We knew that airlines would slash fares to remain competitive and that employees would be the one group who would subsidize the fare reductions through pay cuts, wage stagnation and furloughs.

Lately, I have listened intently to airline CEO's testify before this Congress about the drastic need to consolidate the industry in order to achieve a sustainable business model. After hundreds of airline bankruptcies, thousands of employee furloughs, devastating pay and benefit cuts, and 32 years of deregulation experience, it seems that airline management has figured it out, albeit in the worst fashion, that our nation needs a stabilized and rational aviation industry. The irony is that AFA-CWA - for decades - has been the leader in calling for a national and rational aviation policy that recognizes the vital role the aviation industry plays in our nation's economy and the middle class jobs.

Mr. Chairman, the nation's flight attendants and all aviation workers need a stable industry as well. My experience has taught me that airline management is transient in nature with airline management coming and going and exiting our industry with a bountiful payoff while airline workers, who have truly invested in our industry, are left with a declining standard of living. Unfortunately one thing has remained constant during my career - corporate greed. If anything in that category has changed, it's that the amounts that CEOs reward themselves every year grows more and more excessive while employees earn less.

The voices of the workers often take a back seat in these hearings and in public pronouncements about the benefits of airline mergers. I'm here today to give those of us most invested in this industry – the true stakeholders – a voice.

I have opened my testimony with this perspective because it is a story that must be told and it is entirely relevant to the discussion topic today.

As in the case of the mega merger between Delta and Northwest, this merger between United and Continental has drawn significant attention from the media, communities served by both carriers and once again, here on Capitol Hill. The attention focused on what will become the world's largest airline, for the time being, is appropriate . . . and as before necessary. Once again this merger has led to speculation about which airlines will merge next. The remaining airline CEOs continued to call for greater consolidation in light of the anticipated rises in the cost of fuel. We would like to point out that the merger

drumbeat started years earlier as airline executives sought greater profits following the epidemic of bankruptcies.

Consumers are rightfully frightened that another airline merger in particular, and anticipated consolidation of the industry as a whole, will lead to much higher fares and reduced service. We recognize the reality that airline fares must increase in order to stabilize this industry and provide more stable employment for thousands of aviation workers. In order for this industry to survive and stabilize, airlines must be able to charge a realistic fare. Airfares in the U.S. have fallen from a 1978 average of 10.08 cents per mile to 4.2 cents per mile in 2006, adjusted for inflation.[1]

To strike this balance between a stable industry and reliable air service, we assert today that the increase in consolidation activity requires appropriate regulatory oversight to protect the interests of employees and passengers. Federal regulators need to consider the impact that mega mergers have on the consumers and communities. We hope that this Committee and other Congressional Committees will exercise vigorous oversight responsibilities as well.

It is unfortunate that while some protections are in place today for consumers and communities, there are virtually no protections for airline workers in this merger. There has been little attention paid to the extreme upheaval that mergers create for the thousands of airline employees who find themselves unemployed or whose lives are disrupted.

[1] James Larder and Robert Kuttner "Fling Blind: Airline Deregulation Reconsidered"; Dēmos 2009

This loss of protections has been yet another result of the market driven industry. There were many important protections in place for airline workers prior to the Airline Deregulation Act of 1978; the Allegheny-Mohawk Labor Protective Provisions (commonly know as the LPPs) were made a condition of government approval of virtually every airline merger. The LPPs contained extensive and specific protections – like displacement and relocation allowances, wage protections, transfer and seniority protections, layoff protection, and others – as part of a standardized set of provisions designed to shield workers from an unfair share of the burden resulting from corporate mergers.

But since deregulation there are no real protections from our federal government to cushion airline workers involved in mergers. After Deregulation, airline management successfully lobbied for an end to the LPPs, arguing that those matters are "better left to the collective bargaining process". And while union contracts did provide a level of protection for employees covered by collective bargaining agreements, a series of industry bankruptcy filings have severely reduced negotiated protections in today's contracts and there remains little to no protection for non-union airline employees.

Additionally the very employers, who argued to leave these merger protections to the bargaining process, now spent millions of dollars on union busting – through bankruptcy or other venues - trying to strip the provisions in place for decades. And today, as those same employers hold press conferences to trumpet the fact that the merger impact on

employees will be minimal, they often refuse to provide information about the impact on the workers in writing.

Of all the well-developed pre-deregulation rules of the Allegheny-Mohawk Labor Protective Provisions, only one exists today – a provision establishing basic seniority protections in the event of a merger. And that provision was only resurrected a couple years ago with the advocacy of AFA-CWA and the strong support of Representative Russ Carnahan, Senator Claire McCaskill and the 110th Congress.

After deregulation, Congress was concerned that the massive post deregulation restructuring of the airline industry would displace large numbers of employees and therefore added the Airline Employee Protection Program (EPP) to the Airline Deregulation Act of 1978 in order to assist laid-off employees. Unfortunately the almost 40,000 employees who lost their jobs in the wake of Deregulation never received the benefits Congress promised since funding was never authorized for the benefits, turning the whole program into a cruel joke for airline employees in desperate need of a life line.

Congress has recognized the need to assist airline employees facing the traumatic effects of industry consolidation in the past; we need a federal effort in what is shaping up to be another significant era of airline consolidation. As Congress looks into the impact of mergers on employees, it should look at the failed EEP as a framework to provide meaningful protections to workers in the future.

Unfortunately, there seems to be more concern for the consumer and even the airports, building and route structures of these two airlines then there is for the concern of the workers. As we have testified in the past, we are not proposing to re-regulate the industry today; but we do think that – at a minimum – something needs to be done to shield workers from the harshest effects of this merger and future mergers.

It seems reasonable to assume that within any airline merger there will be consolidation; blending corporate offices, the elimination of competing of hubs and overlapping routes networks may potentially lead to crew base closures. It seems that for airline workers consolidation likely translates to unemployment for far too many.

When Delta merged with Northwest in 2008 the CEOs of both corporations testified before this committee that disruptions to communities, consumers and employees would be minimal. Yet a mere two years later flight operations at Cincinnati, a former Delta hub, has been reduced from 600 flights in 2005 to between 160-170 flights now, cutting more than 840 jobs.[2] Not only has the number of flights been cut, there has also been a reduction in seat capacity. Routes once flown by aircraft with 150 seats – or more - are now being reduced to aircraft with 50 seats. Since the FAA mandates that there must be at least one flight attendant for each 50 passengers seats using smaller aircraft translates to a loss of two flight attendant jobs.

[2] Dan Monk and Lucy May, "Delta to cut 840 jobs at Cincinnati airport, reduce flights", Dayton Business Journal, March 16, 2010.

We can also look to the America West and US Airways merger to learn lessons from past mistakes. The synergies promised by this merger and consolidation have not occurred as promised or anticipated. Nearly 5 years after the America West/US Airways merger the two sides are still operating as separate entities. The "new" US Airways has closed four crew domiciles and displaced several hundred flight attendants, and workers at both carriers fly under separate contracts. America West flight attendants have not received a wage increase in over seven years and US Airways flight attendants are working under a concessionary agreement from previous bankruptcies. What has failed these employees is the lack of regulatory oversight in negotiating a combined contract.

So what can the workers at United and Continental expect as they combine their workforce and route structure? While management has provided information that is otherwise publicly available, management has not been forthcoming about critical and future business plans. Accordingly, we are seeking additional detailed information from management about the impact this merger will have on our members and our Collective Bargaining Agreement at United.

As witnessed in previous mergers, base or domicile closures can be extremely traumatic to employees and their families. Even though airlines may offer assistance, the stress of being displaced and forced to move to another location can be devastating. These are workers with families and homes and who are part of communities. I call on this committee to compel United and Continental management to provide more information on their plans for current United and Continental base or domicile operations.

United and Continental are partners in Star Alliance, a global network of airlines. The Star Alliance, and other alliances, is using revenue sharing agreements, code share agreements and joint venture schemes to increase their global presence. Traditionally, global alliances incorporated an incentive for each airline to provide flying using one or the other's aircraft and ground equipment and employees. As the operator of a route, the airline collects the majority of passenger and freight revenue. In this scenario, employees benefited from the arrangement. However, a new type of joint venture goes far beyond the typical code share agreements that are prevalent today. These new joint ventures threaten the long-term job security of flight attendants.

United is the architect of a new global alliance revenue sharing scheme. They have contracted with Aer Lingus to operate a route between Dulles International Airport in the Washington, DC area and Madrid, Spain using Aer Lingus aircraft but employing flight attendants from a third party operator. This has displaced United flight attendants from operating this route and United is threatening to expand this type of joint venture to other markets.

We call on this Congress to stop this type of so-called joint venture operations by passing H.R. 4788. Do not let United and Continental management use this merger as a vehicle to outsource more middle class jobs.

While we are on the subject of globalized networks and alliances, its time to have a discussion on recent international treaties and negotiations between our country and the European Union and China. These treaties may have far reaching implications in the United-Continental merger, as both carriers provide significant service to Atlantic and Pacific markets.

In the spring of this year, the U.S. and the European Union (EU) concluded talks on stage two of the U.S.-EU Open Skies Agreement (Open Skies). As this committee is aware, the U.S. and EU reached a comprehensive Open Skies Agreement in 2007 and the parties agreed to further talks, called stage two. The premise of Open Skies was to liberalize flying between any city in the U.S. and any city in the EU, including the United Kingdom. Notably, stage two of the Open Skies negotiations resulted in landmark labor protection language in that treaty that should provide workers some protections in a more liberalized environment.

However, AFA-CWA remains concerned and vigilant that the U.S.-EU Open Skies treaty must not provide the framework for the outsourcing of U.S. aviation jobs. We were encouraged that our U.S. negotiators and this Congress reaffirmed existing U.S. aviation law on foreign ownership and control. Those laws must remain in place and protected by Congress and the Administration.

Last week, U.S. and China negotiators began talks for a U.S.-China Open Skies-type treaty as well. The talks concluded on June 10, 2010 at the U.S. State Department in

Washington. While no agreement was reached, talks will continue and AFA-CWA's concerns about protecting existing U.S. aviation laws and preventing the outsourcing of good paying middle class aviation jobs remains front and center. I call on this committee to remain vigilant as well.

We view these treaties today in much the same way we viewed the deregulation of our industry in 1978. International flying provides thousands of good paying jobs for U.S. aviation workers and we must not allow management to use these foreign treaties as a mechanism to outsource jobs.

We also ask this Committee to consider the impact this merger may have on the contract negotiations underway between the Association of Flight Attendants - CWA and United management.

For almost six years the Flight Attendants at United have been working under a collective bargaining agreement negotiated while the company was in bankruptcy. The flight attendants at United sacrificed nearly $2.7 billion in salary and benefit concessions, and that doesn't take into consideration effects of the termination their defined benefit pension plan that was turned over to the PBGC during United's bankruptcy.

Under the terms of the current agreement, United Flight Attendants have received four meager pay increases. The last raise, a modest 1%, was awarded on December 31,

2008. Meanwhile, United's CEO, Glenn Tilton, received compensation that increased from $1.7 million to $3.9 million.

We are here today to ask this committee to help to ensure that the current contract negotiations, governed by Section 6 of the Railway Labor Act are completed in some manner before this merger is finalized.

Already there have been discussions that the current contract negotiations be set aside, since ultimately a new contract will need to be negotiated for the combined work group. Unfortunately we have had a front row seat and have witnessed what can happen when Section 6 negotiations are set aside in a merger. When US Airways and America West merged in September 2005, the America West flight attendants were two years into their Section 6 negotiations. Section 6 is a section of the Railway Labor Act (RLA) and it means that a current airline contract becomes amendable and negotiations begin to reach a new agreement. The current contract remains in place until a new contract is agreed to by the parties and members vote to ratify or approve that agreement. The RLA provides a mediation process to guide negotiations. The America West flight attendant contract talks were under the guidance of a federal mediator prior to the merger. When the merger was announced, the America West negotiators were requested by the National Mediation Board to set aside those negotiations and to focus on negotiating a combined contract with US Airways. Negotiations to combine contracts between unionized work groups are not governed by the RLA or the National Mediation Board.

After five years of negotiations, a combined contract between America West and US Airways has not been achieved. As I mentioned earlier, America West flight attendants have not received a wage increase in seven years and US Airways flight attendants work under a concessionary agreement that cut their wages and benefits.

We cannot allow the negotiation process at United to get delayed as a result of this merger. The employees at United made deep sacrifices to keep the company flying. It's time for the workers to share in the rewards. We must have resolution to the United contract negotiations that is satisfactory to the workers there.

Labor relations at United have been combative. Management insists that flight attendants must accept additional concessions to their current contract. This is entirely unacceptable to the United flight attendants. If the focus of this hearing is on the possible effects for consumers - you only have to observe how United is treating its workers to understand how the passengers at the "new" United will fare; when you treat workers as commodities can you really expect a corporation to treat their passengers (and customers) as anything other than a commodity?

When this merger of two airlines with very different styles of labor relations is approved, there will be representational elections between the various work groups at these two companies including the flight attendants. United flight attendants are represented by AFA-CWA and Continental flight attendants are represented by the International Association of Machinists and Aerospace Workers (IAM). These elections will be

conducted under the procedures defined by the National Mediation Board. However, without an open dialog with management, contract negotiations that are satisfactorily completed and support from labor groups, the integration of these two airlines will not go as smoothly as promised by management.

While much will be made over the coming months about the impact of this merger on consumers and communities, I urge you to remember the hundreds of thousands of airline employees across this country. Keep us in mind as you review this merger and the impact that it will have on our lives and our families. We are the ones who have the most to lose; and we have the least protection.