TESTIMONY OF

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BEFORE

THE TASKFORCE ON COMPETITION POLICY AND ANTITRUST LAWS OF THE JUDICIARY COMMITTEE

"COMPETITION IN THE AIRLINE INDUSTRY"

U.S. HOUSE OF REPRESENTATIVES

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Thank you, Chairman Conyers for holding this vital and timely hearing on the proposed merger of Northwest and Delta Airlines. My name is Veda Shook and I am the International Vice President of the Association of Flight Attendants – CWA, AFL-CIO. AFA-CWA represents over 55,000 flight attendants at 20 U.S airlines and is the largest union in the world representing flight attendants. We especially want to 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. Flight attendants and other employees have kept these airlines flying during the good times . . . and through some very *difficult* times. We appreciate having a seat at this table to testify on behalf of the tens of thousands of airline employees across this county who have collectively sacrificed billions of dollars in pay and benefit cuts over the last several years, and to share our views and our concerns about what this merger could mean to them.

This merger between Northwest and Delta has drawn significant attention from the media, communities served by both carriers and here on Capitol Hill. The attention being paid to what will create the largest airline in the world is appropriate . . . and *necessary*. Already this announced merger has led to credible speculation about what airlines will be next to merge. Airline CEOs continue to call for greater consolidation in light of the exploding cost of fuel, although the merger drumbeat started much earlier as airline executives sought greater profits following the recent epidemic of bankruptcies.

Consumers are frightened that this airline merger in particular, and further consolidation of the industry in general, will lead to much higher fares and reduced service. Hundreds

of communities are rightfully concerned that this merger and others could lead to the loss of valuable air service as the evolving mega-carriers shed routes in hopes of consolidating their profits.

The increase in consolidation activity requires appropriate oversight to protect the interests of employees and passengers. Federal regulators will look carefully at the impact this merger and others will have on the consumers and communities. We hope that this Committee and other Congressional Committees will exercise – beginning with this hearing – vigorous oversight responsibilities as well.

While some protections are in place 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.

This has not always been the plight of airline workers. 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 no real protections from our federal government exist today to cushion airline workers involved in mergers. After Deregulation employers successfully lobbied for an end to the LPPs because, as they argued at the time, these matters are 'better left to the collective bargaining process.' Union contracts provide a level of protection for those employees covered by the agreement, but there is little to no protection for non-union airline employees.

Those same employers who wanted to leave these protections to the bargaining process now spend millions of dollars on union busting, trying to prevent their employees from attaining the right to bargain, or to strip that right from those who have had it for decades. And today, many of those same employers who hold press conferences to trumpet the fact that their mergers will not cause any layoffs often refuse to agree in writing to such guarantees when they come to the bargaining table.

Of all the well-developed rules referred to prior to Deregulation as the Allegheny-Mohawk Labor Protective Provisions, only one exits today – the provision establishing basic seniority protections in the event of a merger. And, that provision was only recently resurrected and included in last December's Omnibus Appropriations bill after the advocacy of AFA-CWA and the strong support of Representative Russ Carnahan, Senator Claire McCaskill and this Congress.

Earlier attempts by Congress to provide protections for airline employees during mergers provides us with an instructive history in the current context. We continue to feel the effects of the Airline Deregulation Act; the proposed Delta - Northwest merger is just the latest manifestation of the impact of Deregulation. But an attempt by Congress to cushion the clearly anticipated effects of the start of Deregulation proved to be a complete failure.

Congress included the Airline Employee Protection Program (EPP) in the Deregulation Act to assist adversely affected employees. At least 40,000 employees lost their jobs in the wake of Deregulation. The EPP was supposed to provide for both monthly compensation and first-hire rights at other airlines. However, displaced employees never received the benefits Congress promised and 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. So while Congress has recognized the need to assist airline employees facing the traumatic effects of industry consolidation in the past, a fully-funded federal effort is desperately needed now in what is shaping up to be another significant era of airline consolidation.

As we look for solutions to cushion the enormous negative impact this latest merger will have on workers at Northwest and Delta, perhaps it's time to revisit the concept of employee protection from the Deregulation Act. No, we are not proposing to re-regulate the industry today; that's a worthy discussion for a different hearing that we welcome and we would encourage Congress to hold. But we do think that – at a minimum – something

needs to be done to shield workers from the harshest effects of this merger and any future mergers.

Executives at the airlines have, to date, promised that there will be no layoffs, but they refuse to put that commitment in writing. We all know that the minute the ink is dry on the merger agreement, executives will be looking for cost saving 'synergies' that will make the new airline ever more profitable. Many of the synergies that the executives will likely turn to first are precisely the steps that will harm the interests of the workers, such as furloughs, base closures, fleet reductions and, perhaps worst of all, outsourcing.

Workers cannot, and should not, be left to fend for themselves in this situation; we did not bring these problems on ourselves. The federal government set this chain of events in motion with the passage of the Deregulation Act and its subsequent neglect in forming a rational aviation policy for our country. The airlines themselves have compounded the problems for workers with an almost endless string of cutbacks, bankruptcies, mergers and layoffs. Government and the airlines, then, bear the responsibility. And, either the federal government or the airlines must pay to offset what is otherwise the unfair burden placed on the workers resulting from Deregulation and its current aftermath.

The Deregulation Act provided monthly compensation and first-hire rights to protect displaced airline workers. Those same protections are needed and appropriate today on the eve of the Delta - Northwest merger and potential mergers to come. Congress could adopt and fund those protections, or it could require the employer, as a condition of

approval of this merger, to fund those protections. We must stop shifting these costs on employees who are least able to shoulder that burden.

This merger also seriously jeopardizes the collective bargaining rights of all the Northwest employees who have fought for and won the legal right to have union representation. Virtually all employees at Northwest have chosen to join a union. Delta, on the other hand, has only one major workgroup that is unionized – its pilots. I am proud to say today that the approximately 13,500 Delta flight attendants are now the closest to securing their future by forming a union through AFA-CWA as they are currently engaged in a representation election.

Delta flight attendants have been working diligently to secure a better future through joining AFA-CWA and eventually securing a legally binding contract. Their hard work paid off when they filed cards from over 50% of all the Delta flight attendants requesting an election to join AFA-CWA. In fact, yesterday, the National Mediation Board (NMB) mailed voting instructions to Delta flight attendants and the voting will end on May 28th. We remain confident that this brave, strong and proud group of Delta flight attendants will come together – despite the efforts of the company's anti-union consultants – and choose union representation and a strong voice to protect themselves and the future of their profession.

In the context of this merger, the company's anti-union tactics take on added urgency; the merger should not be permitted to become a vehicle for union busting. Airline

executives have realized the opportunity that this merger presents: not just a chance to prevent thousands of non-union employees from gaining a union, but also a chance to eliminate the unions that already provide protection for their members at Northwest.

While Delta flight attendants vote on whether to join the union, the Northwest flight attendants face a very real threat to their collective bargaining rights. Northwest flight attendants joined AFA-CWA 20 months ago, but have been union members for 60 years. Their proud tradition of union representation is threatened by management's use of this merger process to attempt to eliminate the Northwest flight attendants collective bargaining agreement which, in turn, poses a real threat to the job security for thousands of flight attendants.

In fact, we view the current representation election among the Delta flight attendants as not just an opportunity for them to gain a voice on the job and a seat at the table, but as the "first line of defense" to protect the over 60 years of collective bargaining rights for the Northwest flight attendants. This is due to the unique way that representation elections are governed by the National Mediation Board. Although the Railway Labor Act (RLA) makes no mention of such an extraordinary requirement, the NMB rules state that in order for a representation election to be considered valid, 50%+1 of all eligible voters must turn out to vote in the election. If 95% of flight attendants who cast a vote want to join AFA-CWA but only 49.9% of all the eligible flight attendants cast a vote, then the election is invalid.

In effect, a person who chooses not to cast a vote in an NMB election is counted as a "no" vote, encouraging management to focus their efforts on voter suppression in every election. I ask the members of the Committee to consider if they, or most of their colleagues, would be sitting here today if our Congressional elections were governed under the same onerous rules, where turnout is more important than the votes cast.

Based on the number of Delta flight attendants who have signed AFA authorization cards, and the number of Northwest flight attendants who are already union members, AFA has the support of a solid majority of the combined workforce. Since at least 1926, national labor policy as defined by this Congress has been to encourage unionization of workers. Congress could further that goal, and prevent airline mergers from becoming an occasion for union busting, simply by defining victory under the RLA organizing rules as a *majority of the votes cast*.

It is our hope, and the hope of thousands of Delta flight attendants, that they will overcome these difficult election procedures and decide next month to join AFA-CWA. They will then have the right to bargain for improved work rules through a legally binding contract and the historic collective bargaining rights of the Northwest flight attendants will have been protected in the newly merged Delta Airlines. Delta and Northwest flight attendants, working under the umbrella of AFA-CWA's constitution and bylaws, can move forward on integrating their two groups and negotiating for an improved contract for what will be the largest flight attendant workgroup in the United States. This does not require new legislation; all we ask is that the Committee urge these

employers to remain neutral so, as originally envisioned by Congress when it adopted the Railway Labor Act, the employees can decide the issue of union representation for themselves, without coercion, interference or influence by the employer.

Bargaining rights are paramount if the flight attendants are to have an opportunity to negotiate over the impact this merger will have on their work lives. Our primary concern is that Delta executives will use the merger to eliminate the rights of employees to have a seat at the table when the airline is fully merged with Northwest. One need look no further than Delta's past actions in organizing campaigns. In the last flight attendant election, Delta engaged in numerous activities to suppress the number of flight attendants casting ballots and to spread mis-information. When AFA-CWA appealed to the NMB to hold a "re-run" election due to the overwhelming interference of Delta management in the election process, the NMB swept aside overwhelming evidence of interference and Board precedents. The current chairman of the NMB stated in his dissent that "[t]he majority's decision now creates a gray area of legally allowable conduct: that which is "troubling," but does not constitute interference. I am at a loss to understand this reasoning that rationalizes an attempt by management to silence the voices of their employees"

Delta executives have not been shy about their efforts to prevent the employees from forming unions. In fact, in a meeting with AFA-CWA Northwest leadership, Northwest management stated flatly that there would not be a seat at the table for the flight attendants in the merger discussions. He went on to state that the current Delta was a non-

union company and that the “New Delta” had every intention of remaining a non-union company; Delta planned to defeat the union and prevent the flight attendants from having, or keeping, the bargaining rights that are essential in the face of this merger. Delta has already demonstrated that they will again continue to spread disinformation and make every effort to prevent Delta flight attendants from casting ballots in the upcoming election. Is this what we’ve come to in this country? They’ve even gone so far as to state that they supported and were instrumental in having the seniority integration protections passed by Congress in the Omnibus Appropriations late last year, even though they spent months opposing inclusion of the language. I would ask this Committee: what is wrong with our system when the majority of these flight attendants want union representation and yet face such great barriers to achieve that goal?

Using this merger as an opportunity to destroy unions provides these airlines, and all who would follow, with an opportunity to drive down wages, work rules and benefits for all airline employees. It can create a domino effect that will force even unionized carriers to match those drastic cuts in order to compete. They will set industry standards back to levels we have not seen in decades. If Delta is a non-union carrier, as well as the largest carrier, they will be poised to set in motion an unprecedented remaking of the entire airline industry that will destroy airline jobs as a stable and secure middle class career once and for all.

Flight attendants face one other devastating threat in this merger, one that no other work group is likely to encounter. This merger may resurrect efforts by Northwest executives

to outsource our best jobs to flight attendants based outside the U.S. Such outsourcing of flight attendant jobs on international routes to foreign nationals will resurface and become a standard industry practice. When Northwest first proposed doing just this during bankruptcy, a bipartisan group of House and Senate members rose up to decry such a move as jeopardizing aviation safety and especially security. With a union fighting to protect the Northwest flight attendants jobs, and support from members of Congress, Northwest management backed off such a proposal and thousands of good paying jobs remained for Northwest flight attendants. Only if the union retains its bargaining rights following the merger will the flight attendants have the legal standing to continue the fight against such outrageous ideas as outsourcing flight attendant jobs; such an idea is just the tip of the iceberg. Many of the current Delta executives were involved in earlier outsourcing attempts when they were at Northwest Airlines.

I urge the members of this Committee to send a strong and clear signal to Northwest, and especially to Delta executives, that they must not use this merger as a means to destroy the collective bargaining rights of the employees. I would urge this Committee to use its good offices to monitor Delta management as this representation election progresses over the next five weeks so that they do not engage in election activities similar to those of five years ago – actions that violated the spirit of the Railway Labor Act, even if the NMB ruled they did not violate the letter of the law. And finally, I hope that you will use your influence to persuade Delta management to remain neutral in this representation election. If they are successful in their goal to keep the “new Delta” non-union, we could

see this merger as the beginning of the end for the airline industry as a source of decent and respectable jobs.

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. Most importantly, don't let them destroy the one thing we have protecting us – our unions.