

# United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

June 8, 2009

The Honorable Eric Holder  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

The Honorable Ray LaHood  
Secretary  
United States Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

Dear Attorney General Holder and Secretary LaHood:

On December 19, 2008, we sent the attached letter to your predecessors with our deep concerns regarding the Department of Transportation (“DOT”) granting new applications for antitrust immunity to airline alliances. It remains our view the DOT should only grant antitrust immunity to airline alliances sparingly and only upon a determination that the immunity sought will not harm competition. Since our letter of last December, it has come to our attention the DOT appears to be poised to grant antitrust immunity to the application of United, Continental and Lufthansa prior to receipt of the Department of Justice’s (“DOJ”) views of the application and its likely impact on airline competition. The antitrust immunity application of American Airlines and British Airways is also under consideration by DOT.

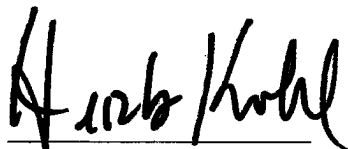
In our letter we urged the DOT to give substantial deference to the Justice Department’s recommendations about the competitive effects of these transactions. In addition, we recommended DOT to be cognizant of the joint study, currently being undertaken by the United States and the European Commission, on transatlantic aviation markets and competition. This study has not yet been completed.

Therefore, we respectfully request DOT not take final action on any antitrust immunity application, especially the United, Continental, and Lufthansa application, until the Justice Department has had a full opportunity to submit formal comments as to the competitive effects of a specific proposal. We also entreat the DOT to adopt any proposed conditions recommended by the DOJ which are intended to serve the interests of competition. It is our firm belief DOT should not act on these alliance applications until all interested government agencies, and in

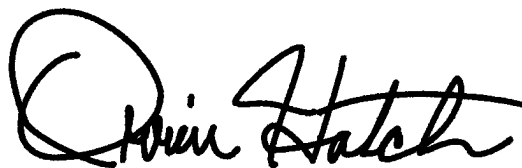
particular the DOJ, has had an opportunity to assess the impact those grants might have on American consumers and the American economy.

Thank you for your attention to these matters.

Sincerely,



Herb Kohl  
Chairman  
Subcommittee on Antitrust,  
Competition Policy and Consumer Rights



Orrin Hatch  
Ranking Republican Member  
Subcommittee on Antitrust,  
Competition Policy and Consumer Rights



Patrick Leahy  
Chairman  
Committee on the Judiciary