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STATUS OF LABOR ISSUES IN THE AVIATION INDUSTRY

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

APRIL 25, 2001

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ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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STATUS OF LABOR ISSUES IN THE AVIATION INDUSTRY

WEDNESDAY, APRIL 25, 2001

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:57 a.m. in room SR-253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. Our panel of witnesses: Mr. Frederick W. Smith, Chairman and CEO, Federal Express Corporation; Ms. Carol Hallett, President and CEO, the Air Transport Association; Mr. Sonny Hall, President of the Transport Workers Union; and Mr. R. Thomas Buffenbarger, President of the International Association of Machinists and Aerospace Workers.

I note in the back of the room there are some individuals wearing very attractive T-shirts, and if one of you would like to come up here to the witness table and make a remark we would be glad to hear from you, is your leader here. This is your chance. Hello, CHAOS. Do you have a leader?

[Laughter.]

The CHAIRMAN. Would you get a chair for the witness, please? Ma'am, are you the leader? Please come sit down.

Senator Cleland.

STATEMENT OF HON. MAX CLELAND, U.S. SENATOR FROM GEORGIA

Senator CLELAND. Mr. Chairman, thank you very much. I would like to recognize a fellow Vietnam veteran, Mr. Smith, and thank you for coming.

I just want to highlight the situation in regard to management and labor that occurred in my own home State with Delta Airlines, one of the great airlines, and working out of the busiest airport in the world. I just want to commend both the pilots and Delta, for the exemplary manner in which they conducted their business, and they did so without rancor and without burning bridges, and they pulled off an exceptional agreement, I think, that serves both interests well, and serves the interest of the country.

I just wanted to make that statement. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. We are all aware of the numerous problems facing the aviation industry: congestion, delays and modernization of air traffic control are all issues that seem to rise to the forefront to be addressed again and again. This Committee, the industry, the regulatory agencies and others have redoubled their efforts to address these serious problems.

Recently, however, a new problem has arisen, creating further havoc in our system. While labor negotiations in the airline industry have been ongoing for years, things have begun to worsen. The trend toward larger airlines has given unions greater leverage, which appears to have contributed to a mind-set that views any work stoppage as legitimate.

Normally, even acrimonious labor negotiations are a part of the negotiation process, but with both sides using what leverage is available to them to reach the best deal. However, times have changed. These acrimonious negotiations now adversely affect the American people.

Let me say from the outset, I have no problems with a right to strike. Strikes are a legal remedy available under applicable labor statutes. Recently, however, courts have found more and more that labor unions in the airline industry have engaged in concerted illegal job actions. These courts have issued temporary restraining orders and injunctions prohibiting such actions. In recent months, United, American, Northwest, and Delta have obtained court-ordered relief from these alleged illegal job actions. In American's case, the court fined American's pilots over $45 million for not adhering to the injunction. These actions have affected millions of consumers. Middle-America has been stranded time and again as a result of this illegal union activity.

According to published reports, last year United canceled over 23,000 flights as a result of its pilots' refusal to fly overtime, destroying carefully planned vacations and business trips.

Northwest and Delta canceled thousands of flights preemptively over the holiday season to combat alleged mechanic slowdowns and failure to fly overtime by pilots respectively. The pilot sick-out at American in 1999 left thousands of people stranded, some of which have banded together to sue the pilots for damages.

In this day and age, a job action at a major airline can have a catastrophic effect on the aviation system and the consumer. The rest of the system would have a difficult time absorbing the excess passengers, and the systems could come to a standstill.

While management and labor are affected by this, both parties have contingencies planned in the event of a job action. The consumer is the one most affected by this increase in labor actions. It's the family flying cross-country for their vacation, the daughter coming home from college, and the son going to visit a sick parent, who cannot reach their destinations because the unions have taken matters into their own hands.

In the case of pilots, these are people who, according to industry, on average make $140,000 a year working less than 80 hours a month. At the same time, according to the most recent data, in 1999 the average per capita income in the United States was $20,281.

The last two pilot contract negotiations, United and Delta, both of which had alleged job actions with far-reaching effects on the consumer, resulted in a pay scale where by the end of the contract the senior pilots will make over $280,000 in base scale, with the ability to make one-third more for voluntarily flying 24 more hours a month. Not only should the consumer not have to suffer the result of this avarice, but many analysts are concerned, with labor costs rising so high, airlines will not be able to survive economically, or will at least put themselves in a hole for years to come.

Labor costs for an airline are now projected to be over 33 percent of its fixed cost. Many people argue that management has a choice, but in reality, the choice is to give in to higher salary demands that a company may not be able to afford, or face a debilitating strike that may cripple an airline and force it out of business. I don't believe that anyone would argue this is a choice.

We have convened this hearing to look at these issues. Although this subject is one that can be very divisive, I received complaints from both sides of the aisle about the current situation. I welcome the witnesses today, and look forward to a lively and spirited debate.

We will begin with you, Mr. Smith. Welcome.

STATEMENT OF FREDERICK W. SMITH, CHAIRMAN AND CEO, FEDERAL EXPRESS CORPORATION

Mr. SMITH. Thank you, Senator McCain. As Chairman of FedEx Corporation, I am pleased to be here representing the 170,000 employees of our largest operating company, FedEx, which is the largest all-cargo air carrier in the world.

I would like to say for the record here that all these folks right back here, we have no flight attendants whatsoever, so I hope that any anger against the airline industry will not be focused toward me. Ms. Hallett will take those arrows.

I suppose, Senator, I should also point out for the record that I have now served as CEO of a major air carrier for over 25 years. I think I have a unique perspective in looking at this issue, and the facts of the matter are, the Railway Labor Act, which was designed to protect carriers, labor, and the public, is broken, and it is broken because of the historical dynamics of this industry.

Prior to deregulation in 1978, I think the industry was marked by regulation and technology. As each new generation of aircraft came into place, airline managements could give excellent improvements in wages and benefits, and the new airplanes would allow the production of capacity to not result in an increase in price, and if it did, it was passed along by the regulators, and the carriers had a mechanism to withstand excessive wage demands in the form of the mutual assistance pact which allowed the sharing of revenues by the other carriers with a struck carrier.

After deregulation, a transition period took place. A lot of the traditional carriers were unable to make that transition, went bankrupt, or were absorbed. Pan Am, National and Western are just three names that come to mind.

As we approached the 1990s, it seems to me we came into a period which is best marked by capacity constraints and concentration of the industry, so that today you have a labor system which

was designed for a world that no longer exists. It is extremely frustrating for the labor side, it is extremely frustrating for the management side. The negotiations often take place long after the contract is due for amendment, because there is not an incentive on either side to settle. An agreement then is often reached, subjected to the membership, which, in turn, rejects it, and then it goes back for negotiation again. That is what happened at Federal Express. We negotiated two contracts with our pilots union. Both of them were rejected by the membership, who really did not understand the give-and-take at the bargaining table, and our pilots were frustrated that they were frozen in place for 6 years because of this process.

Now what has begun to happen is that these frustrations have boiled over into the illegal work actions that you describe, which have resulted in injunctions in both the passenger industry and in the cargo industry, and the process leads to a confrontation which the carriers, increasingly concentrated in their hub airports, and extremely burdened with capital obligations, simply cannot withstand.

So today you have wage settlements which are being negotiated which are far, far beyond: (a) the rate of inflation; and (b) far beyond the ability of any productivity-enhancing efforts by the carriers to offset the increased costs. I will predict to you, based on my 25 years of experience, that in the next several quarters, with the slowing economy, you will see a significant increase in air fares for the unrestricted business flyer, at least, and/or a significant loss by our major air carriers, or a combination of both, because the pattern that has been set, first with United and now with Delta and the pilots and some of these other settlements, are beyond the point that people will be willing to pay those fares in many cases. It might be the solution to the air traffic control capacity problem, by the way.

The CHAIRMAN. And if this happens, you would see more mergers.

Mr. SMITH. That is why you are seeing the push for more mergers today, Mr. Chairman. The management of these carriers think that they have to get big or die. That is the only way that they basically have pricing freedom to offset these increases.

Now, I have always taken a great deal of pride in our company paying great wages and benefits. I think most of us in the air transportation business do, but I think the system has gotten out of balance today, and I believe that the Congress is going to have to step in and put together a mechanism at the tail end of these negotiations that results in a fair settlement, but one which is mindful of the public interest and the interest of the country in having a vibrant air transportation system.

So that would be my message for you today, and based on the historical view that we have, the system today is not viable any more. There is going to have to be some mechanism put in place. The PEB is not the solution. When the PEB comes on the horizon, it simply changes the negotiation strategy of both parties, but it does not get to the fundamental issue that the concentrated industry that exists today is unable to withstand the demands of these

very technically essential people to run the system, so Congress has got to take a look at it.

It is an enormous public policy issue. I would remind you that the Railway Labor Act was put in place because transportation is such an important part of the economic fabric of this country, and I do not think that it is working as it was intended, and the Congress needs to take a look at this and come up with a mechanism to stop a lot of the things that have evolved over the last couple of years.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF FREDERICK W. SMITH, CHAIRMAN AND CEO, FEDERAL EXPRESS CORPORATION

I am pleased and honored to have the opportunity to appear before you to address the labor relations problems that are confronting the airline industry today.

The special nature of the airline industry and its importance to the economy of this country caused Congress to protect the public from the devastating effects that labor disruptions can cause. One of the express purposes of the Railway Labor Act is "[t]o avoid any interruption to commerce or to the operation of any carrier engaged therein." Unfortunately, the system is not working as Congress intended.

Collective bargaining negotiations in the airline industry tend to be protracted and marked by frustration on both sides. Even where management and unions are able to reach tentative agreements, employees increasingly reject those proposed contracts, forcing the parties to return to the bargaining table. Employees who are not participating in the negotiations may not appreciate the give-and-take involved in the process. When the final product does not include everything they were after, they simply vote against it. At my own company, between 1993 and 1999, we had two tentative agreements with our pilots' unions fail before we were finally able to reach a satisfactory settlement on a 5-year deal. On both occasions, we had to start the bargaining process over again with a completely new union negotiations committee, and it was almost 6 years before we were able to get a contract in place. During that period, our pilots' pay and benefits were locked in place. Their frustration was perfectly understandable.

Within the past year-and-one-half, each of the largest passenger airlines has had to go to court to get injunctive relief against some form of unlawful union self-help. American Airlines, United Airlines, Delta Airlines and Northwest Airlines have been granted injunctions under the Railway Labor Act because of the illegal activities in which their employees have engaged to influence the outcome of negotiations. Air express companies such as Airborne Express and regional passenger airlines such as Conair have also been awarded injunctive relief requiring their pilots to halt unlawful work stoppages. At some carriers, negotiations have been opened far in advance of what was originally scheduled to try to curb employee frustration and to avoid disruptions to service that can accompany protracted negotiations. If anything, the experience from these early negotiations only seems worse. At least in some cases, if the parties are unable to reach an acceptable collective bargaining agreement by the time bargaining was originally scheduled to begin, a flashpoint is inserted into the process and service disruptions begin long before self-help by either side is legally permitted. No, the labor relations situation in the airline industry is not improving.

From labor's perspective, the bargaining process is often too protracted. Once a contract becomes amendable under the Railway Labor Act, the employees may have to wait for several years, until a new collective bargaining agreement is in place, before they can receive any pay raise or benefit enhancement. Interim pay adjustments are sometimes negotiated while bargaining over the complete contract continues, but even these adjustments can provide a disincentive to reaching a final agreement. Furthermore, when an airline is in financial distress and needs relief from contract terms negotiated in better economic times, it is advantageous for the unions to let the bargaining process drag on. In that situation, unions and their leaders attempt to prolong the negotiations process to allow their members to buy time—waiting to see if the fortunes of the airline improve, while at the same time holding on to the higher wages which would be reduced by making concessions that may be necessary for the carrier's economic health or even its survival.

For the unions, there is little to lose in trying to force management to accede to their bargaining demands. Quietly spreading the word among the troops to slowdown or to write up imaginary maintenance problems or to stop working overtime

is not uncommon. The most that a court is authorized to do to punish a union under the Railway Labor Act (at least as long as the union does not disobey a court order and, thus, end up in contempt as happened with the American Airlines pilots) is issue an injunction telling the union and its members to cease their illegal conduct. No monetary damages are available so the union is free to do as it pleases unless and until the airline can gather enough evidence to convince a Federal judge that an emergency exists and that the extraordinary remedy of an injunction is warranted. In the meantime, airlines are disrupted, passengers are stranded and delayed, and the provisions of the Railway Labor Act are ignored.

In today's airline business, most carriers are too strapped with capital obligations to be able to withstand an airline strike of any significant duration. Indeed, just trying to establish the evidence of workplace disruptions sufficient to pass legal muster and enlisting the judicial process for what little help the courts are allowed to provide while an illegal job action is underway can have devastating financial consequences. Airlines begin losing money as soon as the threat of disruptions is publicized. Passengers have already experienced for themselves the havoc that unhappy employees can wreak on flight schedules, and, with the first hint of labor problems at one airline, many passengers choose to make alternative travel arrangements. Those that don't often wish they had.

If the airline industry continues to consolidate, potential labor disruptions will provide even greater risk for the public. Labor disputes that larger airlines would create even greater threats to the country's economic well-being. Management at these airlines would face the dilemma of whether they should just give in to labor's demands or accept for themselves and the Nation the turmoil that accompanies a struggle with labor. Neither airline management nor labor should be able to make decisions that affect the ability of the entire country to function with no concern for the general public.

Airlines and their employees are entrusted with the nation's welfare. Irresponsible conduct by either labor or management can trigger enormous consequences for the traveling public, and the public must have a voice in how labor relations issues are resolved. The Railway Labor Act currently provides no such mechanism for the public welfare to be considered. The increased use of Presidential Emergency Boards under the RLA as has recently been recommended by some experts will not solve this problem. Such Boards simply try to find some middle ground in the parties' bargaining proposals and give something to both sides. Instead of trying to reach some common ground in negotiations, the parties adjust their bargaining strategies to fit the Emergency Board process so that each of them is able to live with the solution recommended by the Board. And, if either side can't accept the Board's recommendations, the dispute only gets worse.

I greatly appreciate your interest in this matter and hope that steps can be taken to solve these critical problems facing our country today.

Thank you.

The CHAIRMAN. Thank you, Mr. Smith.

Mr. Hall, welcome.

STATEMENT OF SONNY HALL, INTERNATIONAL PRESIDENT, TRANSPORT WORKERS UNION, AFL-CIO

Mr. HALL. Thank you, Mr. Chairman. My name is Sonny Hall. I am the International President of the Transport Workers Union, AFL-CIO, which represents 120,000 workers across America, including 57,000 airline workers and a number of the major air carriers, as well as several regional airlines.

I note that I speak also today, and we are in negotiations on behalf of some 31,000 workers at American and 6,000 at Southwest. I also serve as the President of the Transportation Trades Department, AFL-CIO, whose 33 member unions represent several million workers in aviation, rail transit, trucking, highway, longshore, and maritime and related industries.

At the outset, let me say on behalf of TWU's hardworking members, in our judgment, the decision by the President and some in Congress to involve themselves in the collective bargaining process has been harmful. In several instances, Washington politics has

made it that much more difficult for unions and airline companies to achieve what I am sure this Committee wants, voluntary collective bargaining agreements at the table without government involvement.

We understand that policy leaders and the traveling public become frustrated and voice concerns about the possibility of air service disruptions. While these concerns are understandable, any attempt by our government to interfere in private negotiations or to impose settlements on the parties will only serve to further destabilize labor-management relations and to make service disruptions more likely in the future.

It is no secret that the airline industry is at a crossroads as it struggles to meet soaring demand for air service, airline employees, like travelers, businesses, and Members of Congress share the same frustration with the capacity crisis strangling our airports and air space system, and unfortunately, this crisis is fueling anger and disgust over too many flight delays and cancellations, poor service to the many communities, angry customers, and unfortunately too much finger-pointing.

Speaking of finger-pointing, I found Ms. Hallett's comments about wages to be disturbing. If the carriers think to question of workers' rights to earn decent wages, maybe we should be looking into the excessive executive pay. The major CEOs of Ms. Hallett's members pocket millions annually, like the $40 million paid to the two top officers of US Airways. These are the same officers who this week warned of US Airways' financial demise without a merger.

By contrast, the working men and women we represent have not enjoyed pay increases equivalent to their increased productivity, much less the level of the enhancements enjoyed by corporate executives themselves.

Our members expect us to address this inequity at the bargaining table, and we fully intend to do so. We suspect the industry's focus on employee wages is nothing more than a hollow attempt to deflect attention away from the public's outcry about service and congressional calls for legislative remedies. We believe this Committee must delve into the issues of safety, passenger service, air traffic control modernization, and runway capacity, but we urge you to avoid focusing on what are private bargaining matters. Such involvement may poison the process, and disrupt the delicate balance needed to produce voluntary agreements.

Negotiations are difficult, but they work to produce voluntary agreements when the heavy hand of government stays out of the process. Despite our serious concerns with certain aspects of RLA procedures, this industry has a history of resolving its labor-management issues at the bargaining table.

Only three times in 33 years, has our government intervened and appointed a Presidential Emergency Board, better known as PEB, and 97 percent of airline management disputes are resolved without strikes or lockouts, 97 percent resolved without interference of the federal government.

This is not to say the process is perfect, far from that. Mediation is dragged out too long, often for years, and worst of all, the airlines have come to count on delay and then fight us over retro-

active pay, a real paycheck issue for our members. But in the end, there needs to be shared risks at the bargaining table if there is any hope that the parties will engage in good faith give-and-take and reach voluntary agreements. It is that simple. It is that fundamental.

I also state my grave concern with President Bush's recent statement that he intends to use his authority to stop all strikes. We were puzzled by the President's statements, because it's not clear whether he intends to intervene without regard to the fact, or to labor law processes that govern our decisions.

The President's decision to warn airline passengers about strikes was not only inappropriate, it poisoned several negotiations at major airlines that were in delicate stages, and still are. These actions are perceived, with justification by our members, as President Bush intervening in labor-management negotiations on the side of the airline corporations. That stance exposes the bias of the White House against the hardworking crafts we represent at carriers, such as American and Southwest, when negotiations are ongoing and at a critical stage.

We are not naive about the politics of the airline industry collective bargaining, but I urge this Committee and the entire Congress to use its power with care, and to urge the President to do so as well. Please consider the power of your words, and some I heard here this morning, and the actions as the various negotiations move forward through American, United, Southwest, and other air carriers. Even-handed application of the law combined with calm from our elected political leaders gives negotiations the best chance to reach voluntary agreements.

Unfortunately, when the bargaining process is contaminated by undue political interference, we fear the worst outcome. Both sides posture, and what should be candid problem-solving turns into a purely political process played out in the news media and in the political arena.

To sum it up, we do not and will not apologize for exercising our right under the law to seek new collective bargaining agreements that will ensure secure jobs and top wages and benefits for our members. Keep in mind that more often than not it is the conduct of employers and their paid lobbyists, such as their typical pursuit of government and congressional involvement, that injects destructive political forces into the collective bargaining process. If Congress wants to play any role in this process, a simple message must be sent to all parties, settle your disputes at the bargaining table and do not rely on politics and government intervention to replace serious collective bargaining.

[The prepared statement of Mr. Hall follows:]

PREPARED STATEMENT OF SONNY HALL, INTERNATIONAL PRESIDENT, TRANSPORT WORKERS UNION, AFL-CIO

My name is Sonny Hall and I am International President of the Transport Workers Union (TWU), AFL-CIO, which represents 120,000 workers across America including 57,000 airline workers at a number of the major air carriers as well as at several regional airlines. I also serve as president of the Transportation Trades Department, AFL-CIO (TTD), whose 33 member unions, including all the major aviation unions, represent several million workers in the aviation, rail, transit, trucking, highway, longshore, maritime and related industries. Attached is a list of TTD's affiliated unions.

The working men and women who we are privileged to represent form the backbone of America's freight and passenger transportation system. Without these highly skilled and dedicated employees our transportation network and, in fact, our economy, would not be the world's finest and would fall short in meeting the expectations of the American people, communities and businesses of all sizes.

Mr. Chairman, Ranking Member Senator Hollings and Members of this Committee, let me first say on behalf of TWU's hard working members that in our judgment the decision by the President and some in Congress to involve themselves in the collective bargaining process has not been helpful. In fact, in several instances Washington politics as usual has made it that much more difficult for unions and airline companies to achieve what I'm sure this Committee ultimately wants—voluntary collective bargaining agreements at the table without government intervention.

We understand that as the process of collective bargaining advances, policy leaders and the traveling public become frustrated and voice concerns about the possibility of air service disruptions. We at TWU negotiate to make agreements, not to prepare for strikes. The strike is a tool of last resort and we take our responsibilities at the bargaining table seriously because our duty is to advance the economic interests of our members through the processes dictated by the Railway Labor Act (RLA) which, if applied fairly, has proven successful in producing negotiated settlements. While the concerns of Congress and the public are understandable, any attempt by our government to interfere in private negotiations or to impose settlements on the parties, will only serve to further destabilize labor-management relations and to make service disruptions more likely in the future.

Let me place the subject of today's hearing in a proper context. The airline industry, for its part, is at a cross-roads, as it struggles to meet soaring demand in the passenger and cargo sectors. Airline employees, like travelers, businesses and Members of Congress, share the same frustrations—the nation's airports and airways system is in the midst of an unprecedented capacity crisis. And unfortunately this crisis is fueling anger and disgust over unacceptably high numbers of flight delays and cancellations, poor service to many communities, angry customers accompanied by often shocking instances of air rage, and, unfortunately, too much finger pointing.

We fear that high profile, politically volatile venues such as today's hearing only contribute to these problems and offer little in the way of solutions to the airline industry's real problems that we all agree must not be left unchecked.

If this Committee wants to play a leadership role—as it has—in addressing these chronic problems, then perhaps it should accelerate its effort in dealing with and looking into these facts:

- Passenger and freight air transportation volume is projected to continue soaring in the next two decades well beyond U.S. airport capacity;
- Far too many major airports are incapable of handling any more volume, resulting in historically poor operational performance by carriers that in turn is inspiring rage and dissatisfaction among passengers;
- Air traffic control modernization must be accelerated; and
- America has virtually stopped building new airport capacity and has allowed much needed runway expansion to come to a screeching halt due to excessive project delays.

We believe this Committee must delve into these issues and many others affecting the state of the airline industry. But spending the time and resources of this Committee on what Congress and Presidents from both parties have long recognized as private collective bargaining matters, is counterproductive and ultimately damaging to the delicate balance needed to produce voluntary agreements such as the most recent Delta-Air Line Pilots Association (ALPA) tentative deal as well as the settlements reached in 1999 between US Airways and the Association of Flight Attendants and Northwest and ALPA in 1998. While all three of these negotiations were difficult and often acrimonious, they all resulted in voluntary agreements without the heavy hand of government intervention.

Mr. Chairman, that is the way the process works. Despite our misgivings about certain aspects of RLA procedures, the law has worked for many decades in producing voluntary agreements and, in fact, only three times in 33 years has our government chosen to intervene and appoint a Presidential Emergency Board (PEB). Attached please find a chart illustrating the history of PEBs in the airline industry. Recent analyses show that 97 percent of airline labor-management disputes are resolved without strikes or lock-outs.

That is not to say that the process is perfect. Every union that negotiates under the RLA, with the assistance of the National Mediation Board (NMB), is frustrated with its operation. Agreements do not expire and instead become amendable 60 days

prior to their termination. Unfortunately, because drawn out mediation, often measured in years, has become an all too common component of the RLA, the termination date of contracts is almost meaningless. And worst of all, the airlines have come to count on tacking extra years into agreements and then fighting its unions over retroactivity.

Many mediations last so long that a particular group of workers may go through several economic cycles, and even significant changes in operation, in the course of a single negotiation. But in the end, there needs to be a credible possibility that both sides will be able to avail themselves of their self-help options if there is any hope that the parties will engage in good-faith give and take at the bargaining table and reach voluntary agreements. It is that simple and fundamental.

Indeed, the process is imperfect but I do not appear before this Committee asking for your assistance in dealing with these problems. In fact, if you draw anything from my testimony it is that we want Congress and the Administration to avoid injecting itself into the bargaining process and let this time honored, albeit imperfect, system run its course.

I must also state my grave concern with President Bush's recent statements that he intends to use his authority to "stop strikes" any time a union at a major carrier is released from mediation. We were puzzled by the President's statements because it is not clear whether he intends to intervene without regard to whether he is in receipt of the appropriate recommendation from the NMB or whether there is actually a national transportation emergency.

The fact that the President and his spokespersons have chosen to warn airline passengers about "strikes" is not only highly inappropriate, but came at a time when several negotiations at major airlines were reaching delicate stages. These actions are perceived—with justification—by our members as President Bush intervening in bargaining and labor-management relations on the side of airline companies. That stance was harmful and exposed the bias of President Bush and his Administration against the hard working crafts we represent at American Airlines and the other air carriers where sensitive negotiations are ongoing.

Our members also understand something else: for some politicians, government intervention is a proper tool—only when airline companies and their force of hired guns swarm on the West Wing and Congress to ask for it. But in the Eastern Air Lines tragedy more than a decade ago, one of the darkest chapters in the history of aviation, suddenly intervention was a bad idea despite the fact that Eastern boss Frank Lorenzo had steered the process on a blatantly orchestrated collision course that assured Eastern's destruction.

The unions, including TWU, chose as a last resort to ask former President Bush to empanel a PEB, thereby halting the strike and stopping Lorenzo's clear plan to destroy this airline and 45,000 jobs. Despite the fact that the Chairman of the NMB recommended a cooling off period and PEB, then President Bush refused to step in because he believed to do so would be unwarranted intervention in the bargaining process. It should come as no surprise that since that time in the very few times when PEBs were appointed during airline disputes, all were supported by airline management and opposed by unions.

I hope this Committee understands the damage this sort of uneven application of the process does to the confidence of working people in the government's role as a neutral facilitator of the collective bargaining process. To the extent this Committee feels it is necessary to involve itself in airline labor-management relations—which I strongly urge against—I hope you will consider a role that restores this confidence.

We are not naive about the politics of airline industry collective bargaining. We understand how the volatility of negotiations can translate into heightened public concerns about air service disruptions. We also understand that elected leaders must answer and respond to public outcry whatever form it takes.

But I urge this Committee and the entire Congress to use its powers with care and to urge the President to do so as well. For the President of the United States to urge unions and airlines to redouble their efforts at the bargaining table and settle their difference outside of the government is both an appropriate and responsible use of the enormous powers of the Oval Office.

Similarly, the decision by a Member of Congress to reason with labor and management and urge them to resolve their differences at the bargaining table without inconveniencing the public is also appropriate.

Unfortunately, some want to do much more. Our members are simply exercising their right to bargain collectively, just as airlines are exercising their right to protect their economic interests at the bargaining table. There is nothing new or unique about the current round of collective bargaining.

The fact is that we are again seeing voluntary agreements like the Delta-ALPA tentative deal despite the inappropriate interference of Washington in the bar-

gaining process. Please consider the power of your words and actions as the various negotiations move forward at American, United, Southwest and other air carriers.

Just one inflammatory comment about strikes and disruptions from powerful elected leaders can set back negotiations weeks, if not months. The bargaining process is very much dictated by leverage and the relative strength of two parties. An even handed application of the law, combined with calm from our elected leaders in the White House and Congress, gives negotiators the best chance to reach voluntary agreements.

Unfortunately, when the bargaining process is contaminated by undue political interference we fear the worst outcome—both sides posture at the bargaining table and permit a closed door process to play out in the news media, the West Wing and in the halls of Congress. This has never been a recipe for productive collective bargaining and, we fear, makes the threat of service disruptions, strikes and lockouts self-fulfilling.

To sum up, we do not and will not apologize for exercising our rights under the law to seek new collective bargaining agreements that ensure secure jobs and top wages and benefits for our members. Private airline businesses do so everyday as they use whatever tools they have at their disposal to achieve a desired outcome. And more often than not it is the conduct of employers and their paid lobbyists—such as their typical pursuit of government and congressional involvement—that poisons the process and injects divisive forces into collective bargaining.

TWU cannot dictate the actions of our elected leaders, nor can we control the conduct of airline management at the bargaining table. We can, however, advance the interests of our members and I assure this Committee that we intend to do just that on behalf of the tens of thousands of airline workers we are proud to represent.

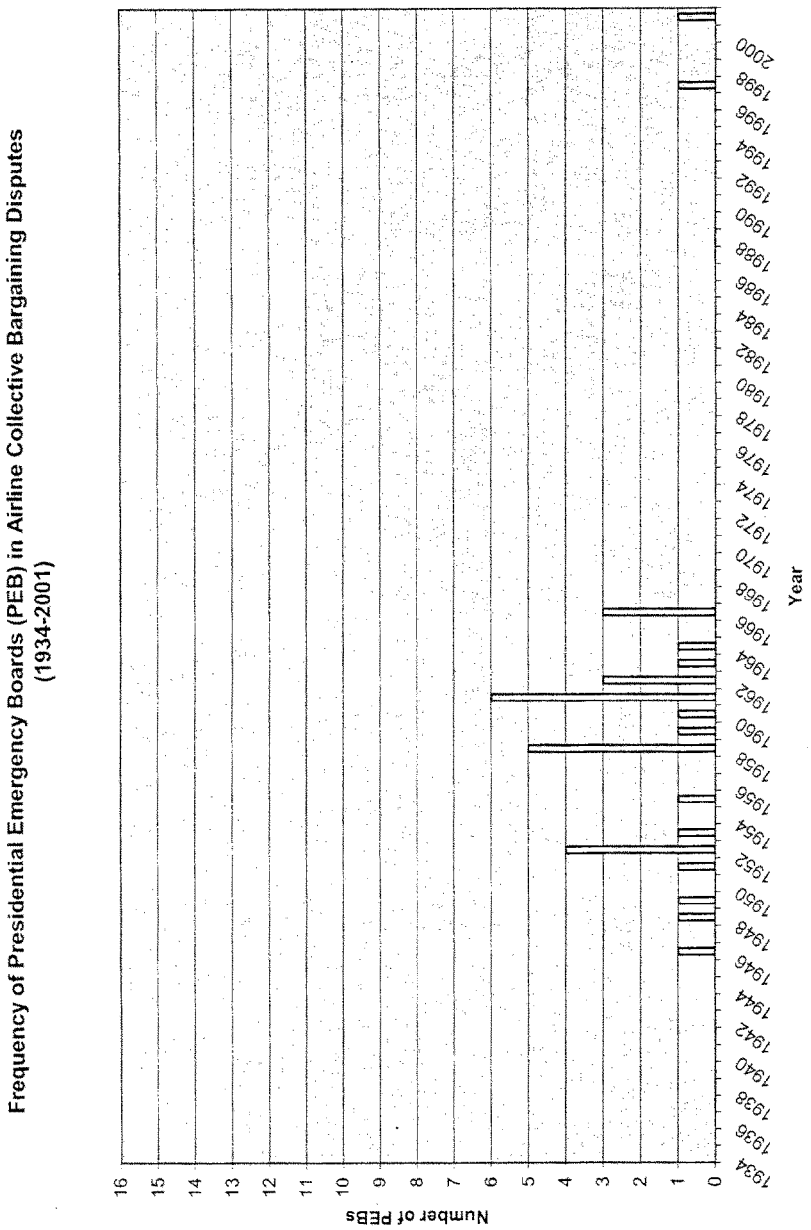
If Congress wants to play any role in this process, a simple message must be sent to all parties: settle your disputes at the negotiating table and don't rely on politics and government intervention to replace serious bargaining. It is only in this environment that airlines, employees and customers will be able to enjoy long-term stability and certainty in the safe delivery of aviation services.

Thank you.

ATTACHMENT—TTD AFFILIATES

The following labor organizations are members of and represented by the TTD: Air Line Pilots Association; Amalgamated Transit Union; American Federation of State, County and Municipal Employees; American Federation of Teachers; Association of Flight Attendants; American Train Dispatchers Department; Brotherhood of Locomotive Engineers; Brotherhood of Maintenance of Way Employes; Brotherhood of Railroad Signalmen; Communications Workers of America; Hotel Employees and Restaurant Employees Union; International Association of Fire Fighters; International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; International Brotherhood of Teamsters; International Longshoremen's Association; International Longshoremen's and Warehousemen's Union; International Organization of Masters, Mates & Pilots, ILA; International Union of Operating Engineers; Marine Engineers Beneficial Association; National Air Traffic Controllers Association; National Association of Letter Carriers; National Federation of Public and Private Employees; Office and Professional Employees International Union; Professional Airways Systems Specialists; Retail, Wholesale and Department Store Union; Service Employees International Union; Sheet Metal Workers International Association; Transportation Communications International Union; Transport Workers Union of America; United Mine Workers of America; United Steelworkers of America.

ATTACHMENT


Frequency of Presidential Emergency Boards (PEB) in Airline Collective Bargaining Disputes
(1934-2001)
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The CHAIRMAN. Thank you, Mr. Hall.
Ms. Hallett.

STATEMENT OF CAROL B. HALLETT, PRESIDENT AND CEO, AIR TRANSPORT ASSOCIATION OF AMERICA

Ms. HALLETT. Good morning, Mr. Chairman, members of the Committee. I am Carol Hallett, President and CEO of the Air Transport Association, and on behalf of our members, as well as all aviation consumers, we appreciate your holding this important hearing this morning.

We at ATA are deviating from our normal practice of not commenting on industry-labor relations, as it is evident that the airline industry's labor and management negotiating process is not working. We have seen too many examples of aviation consumers being victimized by the process. In multiple instances, carriers have been compelled to bring legal actions against labor organizations to halt both intentional as well as illegal disruptions of service that have forced both delays as well as cancellations.

Let me be clear. Our members are acutely aware that they exist because of the hard work of their employees. These employees are the airlines' single greatest asset, and they deserve to be fully and fairly compensated. Determining the appropriate level of pay and benefits requires a balancing of industry economics, what consumers are willing to pay, what the investors are willing to invest, and what the employees produce.

This is not an easy process, but it is one that works when approached in good faith, and at the bargaining table. Let me give you a general overview of the economic and practical issues that we are talking about.

Labor costs in the airline industry by far are the single largest expense. They account for over 36 percent of total airline operating cost. This figure is roughly 3 times the size of the next largest expense, which is fuel. The jobs these labor costs represent are among the most highly compensated in the world. The average airline employee's wages and benefits topped $67,000 last year. Pilot wages and benefits exceed $169,000 on average for 48 hours of flying per month, and senior pilots make $250,000 or more.

Over the least 20 years, those wages and benefits, with rare exception, have continued to trend upward at a rate in excess of the rate of inflation. The aggregate number suggests that in the long run, airline employees have not suffered from temporary wage losses, give-backs, or other concessions that may have occurred during difficult economic times.

Why are airline wages so high? Well, at risk of oversimplification, there are two basic reasons. First, the industry has a highly professional, skilled workforce in which some 60 to 70 percent of employees of major airlines are represented by a labor organization and, incidentally, that oftentimes is what leads to pattern bargaining. Our 60 to 70 percent compares to the national average for all industries of roughly 8 percent that is unionized.

The second reason has to do with the fundamental structure of the industry. Airlines are retail service businesses that are highly cash-flow dependent with no ability to stockpile inventory. They

simply cannot afford to take an extended strike, and both labor and management know that and act accordingly.

A rough calculation will demonstrate this point. Together, the airlines currently have access to slightly over $10 billion in cash and cash equivalents. Every day, they incur fixed expenses on the order of $280 million for fleets, facilities, personnel and supplies. While wages certainly—and other portions of those expenses would be reduced somewhat in the event of a strike, the fact remains that a one-month strike would effectively put the industry into bankruptcy. Obviously, at the individual carrier levels, the effect of a strike will vary, but the devastating economic reality remains.

Further complicating this dynamic, as I mentioned, is the disturbing trend toward illegal work slowdowns that are aimed at pressuring management, but have the unfortunate effect of making the consumers the victim. The disproportionate impact that such activities can have on a particular geographic area create tremendously complex and economically catastrophic circumstances.

In concluding, Mr. Chairman, let me say what should be obvious, but too often goes unobserved. The ATA member airlines want a labor-management negotiating process that works fairly for employees, for managers, for investors and, most importantly, for the consumers. Our members are committed to getting the process fixed, and pledge to work with the Committee, the Congress, and the Administration and all interested parties to get the job done.

Mr. Chairman and members of the Committee, I appreciate the opportunity to be here. I will be looking forward to responding to your questions.

[The prepared statement of Ms. Hallett follows:]

PREPARED STATEMENT OF CAROL B. HALLETT, PRESIDENT AND CEO, AIR TRANSPORT ASSOCIATION OF AMERICA

Mr. Chairman, members of the Committee, I am Carol Hallett, President and Chief Executive Officer of the Air Transport Association of America, Inc. On behalf of our member airlines [1] and, indeed, I would venture to say on behalf of all aviation consumers, thank you for holding today's important hearing looking into the labor problems confronting the airline industry.

At the outset, I should note that, as a matter of general policy, ATA has traditionally not commented on labor relations in the industry. This is an area which we believe is best left to the unique circumstances of each airline and its labor organizations. These are matters of great sensitivity to our members, each of whom seeks strong, positive relationships with their various labor groups. The airlines well recognize that their employees are the backbone of the industry—as well as its public face to the consumer—and they know that the quality of these relationships are central to the success of their companies.

It has become evident in the past few years, however, that too often the labor and management negotiating process, under which the airlines operate, is under stress. We have seen far too many examples of process breakdown and of aviation consumers being made the victim of this negotiating process:

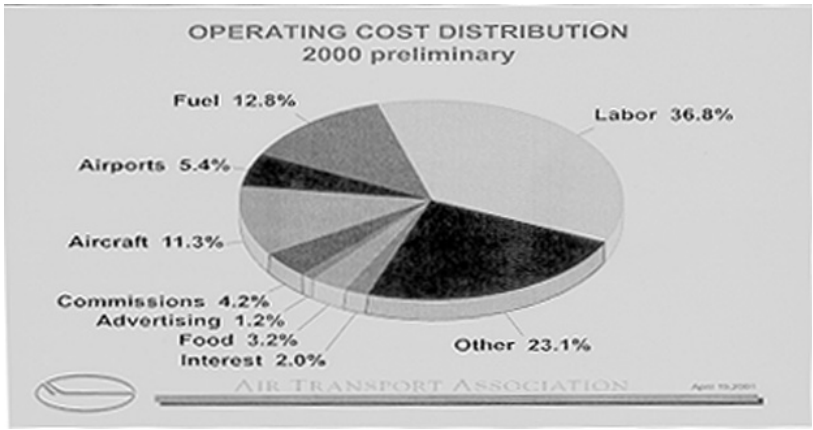
- In multiple instances, carriers have been compelled to bring legal actions against labor organizations to halt what courts have found to be intentional and illegal disruptions of service;
- Millions of passengers have experienced massive delays and cancellations of flights due to work slow downs, sick-outs and other workforce actions; and

[1] Airborne Express, Alaska Airlines, Inc., Aloha Airlines, Inc., America West Airlines, Inc., American Airlines, Inc., American Trans Air, Atlas Air, Inc., Continental Airlines, Inc., Delta Air Lines, Inc., DHL Airways, Inc., Emery Worldwide, Evergreen International Airlines, Inc., FedEx Corporation, Hawaiian Airlines, Inc., Midwest Express Airlines, Inc., Northwest Airlines, Inc., Polar Air Cargo, Southwest Airlines Co., Trans World Airlines, Inc., United Airlines, United Parcel Service Airlines, US Airways, Inc.

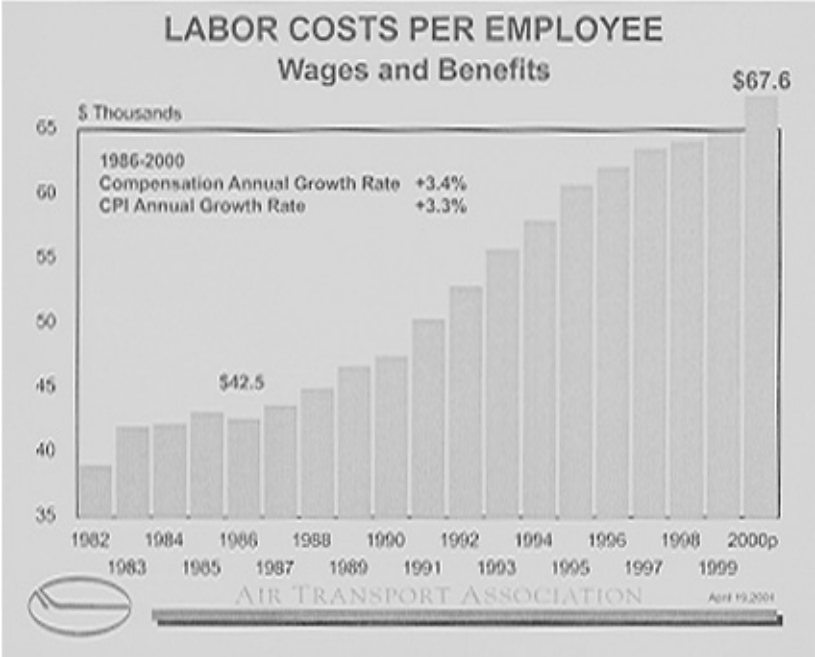
• Air cargo operations, critical to our "just in time delivery" based economy, have been threatened as well.

Because of the seriousness of these problems, and because our member airlines are desperately seeking appropriate, fair solutions, I have been asked by the Committee to deviate from our general policy of not commenting on labor relations issues, in order to provide you with a quick overview of the economic and practical issues with which we are dealing.

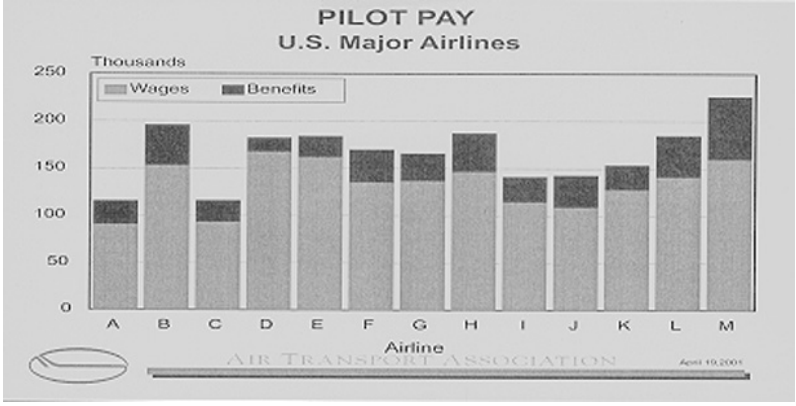
Labor costs in the airline industry, by far, comprise the single largest area of expense. These expenses account for over 36 percent of total airline operating costs. This figure is roughly three times the size of the next largest, discrete expense, which is fuel.



The jobs that these labor costs represent are among the most highly compensated in the nation. The *average* airline employee's wages and benefits topped $67,000 last year.



Over the last 20 years, those wages and benefits, with rare exception, have continued to trend consistently upward at a rate in excess of the rate of inflation. Average pilot wages and benefits for our members are estimated for 2000 to exceed $169,000.



The aggregate numbers suggest that, in the long run, airline employees have not suffered from temporary wage losses, give backs, or other concessions that may have occurred during difficult economic times.

Why are airline wages so high? At risk of oversimplification there are two basic reasons. First, the industry has a highly professional, skilled, and unionized workforce in which some 60 to 70 percent of employees of major airlines are represented by a labor organization. This compares to a national average for all industries of roughly 8 percent.

The second reason has to do with the fundamental structure of the industry. Airlines are retail service businesses that are highly cash-flow dependent, with no ability to stockpile inventory. That is a complicated way of saying that they simply cannot afford to take an extended strike—and both labor and management know that and act accordingly.

Let me give a rough calculation to demonstrate this point. Together, major and national carriers currently have access to slightly over $10 billion in cash and cash equivalents. They experience daily, largely fixed, expenses on the order of $280 million. While the wage portion of those expenses would be reduced somewhat in the event of a strike, the fact remains that a 1-month's strike would effectively put the industry into a negative cash position. Obviously, at the individual carrier level, the effect of a strike will vary but the devastating economic reality remains.

One important point, which is sometimes overlooked, is the long-term impact of a strike on a given carrier. The threat of a strike, and its actualization, typically result in a long-term loss of business by the carrier involved. Business customers, in particular, once moved to alternative carriers, can be very slow to return. In one recent situation, a fourteen-day strike was reflected in a continuing loss of business by that carrier almost 1 year later.

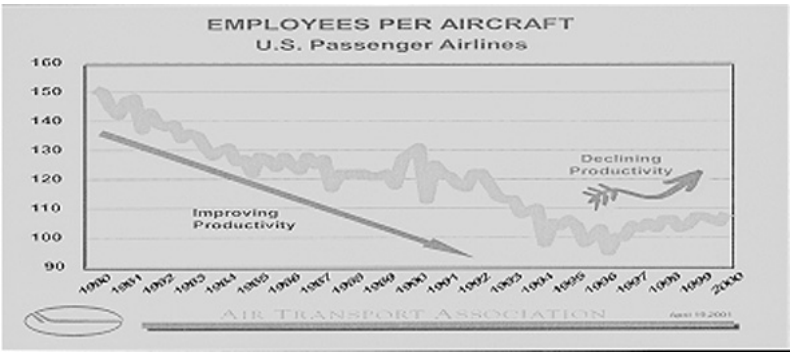
Further complicating this dynamic, as I mentioned at the outset, is the disturbing trend toward illegal work slowdowns aimed at pressuring management, which have the effect of making consumers victims in the process. These actions are, in many respects, more vexing than a strike itself because they create a level of service disruption intentionally designed to cause consumers to book reservations away from the affected carrier, without a direct or immediate means of resolution. They are a form of anti-consumer, guerrilla warfare against management, intended to win concessions outside of the proper bargaining process. Worse still, because proving that these illegal activities are occurring requires substantial documentation, it is a virtual certainty that major service disruptions and substantial economic losses will be experienced before any action can be taken to begin to deal with the situation.

Because of the disproportionate impact such activities can have on particular geographic areas, and the inability of other carriers to "back fill" service—due to the high level of demand they are all experiencing—we are confronted by a tremendously complex and potentially catastrophic set of circumstances.

To be candid, because labor issues are not in the normal course of things, the business of ATA, I have no concrete recommendations to present to the Committee

today. However, should the Committee want us to review any specific proposal, I would be pleased to take that matter to our Board for its review.

I will conclude by stating what I think is obvious but, too often, lost sight of: The ATA member airlines exist because of the hard work of their employees. Those employees are the airlines' single greatest asset, and they deserve to be fairly and fully compensated for the work they do. Determining the appropriate level of pay and benefits requires a balancing, as well, of industry economics—what consumers are willing to pay, investors are willing to invest, and employees produce.



This is not an easy process, but it is one that can and does work when approached in good faith at the bargaining table. The ATA member airlines are committed to making that process work.

The CHAIRMAN. Thank you very much.

Senator Lott.

STATEMENT OF HON. TRENT LOTT, U.S. SENATOR FROM MISSISSIPPI

Mr. Chairman, if I could speak before you go to the next witness, I am going to have to leave and go to the floor. I want to thank you for holding this hearing and the participation of Senators, and I thank the panel for being here, all of them. I wish I could stay and hear all the testimony.

I do have some questions, because I think this is an important area. Just one thing I want to remind everybody. Our constituents all fly, and it is one of the few areas where we actually endure the same indignities of our constituents, as passengers. I think together the Congress, the government, management, and labor, need to all be aware that when our constituents suffer, or when passengers suffer and are inconvenienced, then we all have a problem, and rather than trying to point fingers or try to assess blame, we need to try to find ways to make sure that service is provided in an appropriate way.

I do think as we assess what is going on in the industry, the need for more airport funds, more runways, obviously I am for that. I think clearly there are many things we can do to improve the situation. We cannot change the weather, but I do think labor problems are a part of this problem also, part of the cause of the delays and the inconveniences that we need to address, and I thank you for being willing to come here and testify on the labor side and on the management side.

I notice Mr. Smith is the only one from the management side that is here, other than Ms. Hallett, and I know there is a reason

for that, and I thank you for your courage and also the willingness of you all to be here.

Thanks for letting me go out of order, Mr. Chairman.

The CHAIRMAN. Well, I thank the Majority Leader and his involvement in this issue. As we have discussed, this could be a very difficult summer, and I think the American people and Mr. Hall and Mr. Buffenbarger and I will have a discussion about this.

Expect us to do whatever we can in a broad range of issues that affect the problems in the airline industry today, not just the labor issues, but air traffic control, and the lack of runways, the continued failure of new entrants into the business to succeed. So we will be, as a Committee, addressing this broad range of issues, and we appreciate the involvement of the Majority Leader, since we may at some point need to bring up legislation for consideration on the part of the Senate. I thank you.

Mr. Buffenbarger, welcome, sir.

STATEMENT OF R. THOMAS BUFFENBARGER, INTERNATIONAL PRESIDENT, INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

Mr. BUFFENBARGER. Thank you, Mr. Chairman. I am Tom Buffenbarger, International President of the International Association of Machinists and Aerospace Workers.

The IAM represents 730,000 members, 130,000 of whom are employed in the air transportation system. We provide first-class service not only in the United States, but also throughout the world. We are the largest union in air transportation in the world. As always, our number one priority is safety. All of our members in the air transport industry are subject to the Railway Labor Act, an Act that is misused and abused by the employer.

I am here to express to you today, Mr. Chairman, that we object to this Administration and to Congress interfering with our collective bargaining process. In the past, our members shouldered the risk and made sacrifices so that their carriers could compete. They saved their jobs, and they saved their carriers. That is as true for TWA and US Air as it is for United Airlines. At that time, there were no hearings and no congressional queries regarding our welfare or our job security.

There are many critics of the air transportation system in the United States. However, they all ignore facts. Airport construction and expansions are almost frozen today. Airports are operating at full capacity, and subject to weather delays that have a lingering ripple effect on travel. There are more business travelers and more families that choose air travel because of affordable fares. This has proven to be good for the American economy.

The IAM has always sought to have our carriers maintain a competitive edge. Successful carriers have grown and expanded. Successful carriers also buy Boeing airplanes our members manufacture.

Within the airline industry, the collective bargaining process is virtually ongoing and never-ending. The same carriers that asked us for help in the past manipulate the Railway Labor Act to their advantage and deny us our right to share in the profits of our work, our risk, and our sacrifices. The Railway Labor Act is man-

aged and enforced by the National Mediation Board. It delays negotiations. It strings them out for 2, 3, 4, and even 5 years.

When the carriers exhaust the time limits and procedures as set forth by the board, they then turn to the court system to seek injunctions against our members. Repeatedly, they have chosen to do whatever they can to avoid accountability at the bargaining table. They have found it more cost-effective to delay and prolong negotiations than to reach an agreement. The immediate and direct result is that the employees, our members, have no faith in a system that is broken.

However, I must stress that these same carriers broke the system by their own design. This is particularly true at United Airlines, where we are currently involved in negotiations. I am not going to comment on the instant issues at the negotiating table. In past years, United Airlines told us that if changes were not made in our agreements, then the airline would fold. We listened, and we acted responsibly. We saved the airline when we bought the company.

Today, this company has a sudden lapse in memory. We continue to demand that they meet with us and bargain in good faith, but they choose to avoid the bargaining table with the help of the National Mediation Board. Seven years ago, if we had acted the same way as they do now, United Airlines would not exist today.

Mr. Chairman, I can never forget our members and their families and the sacrifices they have made over the years. They gave up buying new homes, tuition for their children to go to a better school. They gave up having their medical insurance and pensions upgraded, and many other items that maintain a quality of life for working people that others take for granted.

My hope, Mr. Chairman, is that you and your colleagues on the Committee on Labor and Human Resources find a way to insert a drop-dead date into the Railway Labor Act, give both sides fair notice that negotiations will end, give both sides an incentive to reach a fair agreement.

It is interesting to note that I can sit down with the Chairman and leadership of the Boeing Corporation and negotiate a contract for 55,000 employees across the United States and do it in 6 weeks, and it takes 5 years to have a similar-sized airline meet us at the bargaining table. Something is wrong with this picture.

The CHAIRMAN. What is the difference?

Mr. BUFFENBARGER. The Railway Labor Act and the National Labor Relations Act. The National Labor Relations Act gives us a drop-dead date.

I cannot stress enough the fact that our members are not responsible for travel delays in the air transportation industry. Weather, capacity, equipment availability, and a safety record that is second to none in the world must be included in this discussion. I am prepared to discuss these matters, as well as proposed airline mergers and other problems within the industry today, and look forward to doing so, Senator.

Thank you very much.

[The prepared statement of Mr. Buffenbarger follows:]

PREPARED STATEMENT OF R. THOMAS BUFFENBARGER, INTERNATIONAL PRESIDENT, INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

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The IAM has always sought to have our carriers maintain a competitive edge. Successful carriers have grown and expanded. Successful carriers also buy Boeing airplanes that we manufacture. Within the airline industry, the collective bargaining process is virtually ongoing and never ending. The same carriers that asked us for help in the past manipulate the Railway Labor Act to their advantage and deny us our right to share in the profits of our work, risk, and sacrifice.

The Railway Act is managed and enforced by the National Mediation Board. It delays negotiations. It strings them out for 2, 3, 4 and even 5 years. When the carriers exhaust the time limits and procedures as set forth by the Board they then turn to the court system to seek injunctions against our members.

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The CHAIRMAN. Thank you very much, Mr. Buffenbarger.

We have a guest witness here. Ms. Farrow, would you identify yourself and your organization for the record?

STATEMENT OF LINDA FARROW, MASTER EXECUTIVE COUNCIL PRESIDENT, UNITED FLIGHT ATTENDANTS

Ms. FARROW. Good morning. My name is Linda Farrow. I am the Master Executive Council President for the United Flight Attendants. We are members of the Association of Flight Attendants.

The CHAIRMAN. Welcome before the Committee, Ms. Farrow.

Ms. FARROW. Thank you. I would like to thank you, Senator McCain and the panel, for giving me an opportunity to speak.

Those of us that you see around the room in the green shirts are United Airlines' flight attendants. We are here to observe the proceedings because we are extremely interested in the subject matter. The position of the association mirrors that which has already been presented by Mr. Hall, and I thank you for the opportunity to be here.

The CHAIRMAN. Would you like to make any additional comments?

Ms. FARROW. I would like to say that we at United Airlines, the flight attendants, will ensure everything we do will be within the law to resolve our disputes with United management.

The CHAIRMAN. Thank you, Ms. Farrow. I would like to express our appreciation to you and your fellow members coming here and exercising your Constitutional privilege, and some of you have an obligation to meet with your elected representatives to influence the legislative process, and we are pleased. We wish more Americans would be involved as you all are today.

We may have some questions for you, if you would be agreeable.

Mr. Smith, Mr. Hall makes a point about executive salaries. Mr. Hall alluded to a $40-million compensation package for executives of an airline that these same executives are claiming is going to fail. How do you respond to Mr. Hall's comment?

Mr. SMITH. Well, he certainly has a point, and any organization obviously, that the natural tendency is for the majority of folks who do not make the high executive salaries and so forth to feel that the sacrifices ought to be proportionate and shared.

However, I would point out two or three facts here. First of all, in the air transportation industry, not counting gains from stock and things of that nature, or these payments as a result of mergers, the executive compensation is significantly less than it is in almost every other major industry in the country, and I think the reason for that is the managements of the carriers and the board of directors of the carriers are quite mindful of the dynamics that he brings up.

Secondarily, the facts of the matter are that there are relatively few top executives at any of these carriers, and so whatever their compensation is, it is almost irrelevant to the cost structure, which is much more determined by the thousands of pilots and maintenance technicians and flight attendants and so forth, so it may be an irritant, it may be something people have a legitimate gripe about, but in terms of the overall price of the product, it is not very significant.

The CHAIRMAN. But you would agree, it is not exactly, perception-wise, beneficial.

Mr. SMITH. Yes, I agree with his point, and I think that boards of directors and managements of the carriers are generally very mindful of that.

The third thing about executive compensation, unlike other parts of the organization, I know *The Wall Street Journal* said pilots do not think this, but based on my experience on being on the boards of, I think, seven New York Stock Exchange companies, top executive talent is very, very hard to find, that is effective. Top executives are subject to dismissal, and the turnover of CEOs in corporate America is many, many times greater than the rate of terminations for pilots, mechanics, this, that and the other thing.

As part of that, also I would point out that executive compensation is much more variable. I am not saying this is a complaint, because I am well-compensated, but for instance, this year our revenues are down. My compensation will be down about 50 percent, because my incentive compensation is not there, so I understand the point. It is a good one, but it is really apples to oranges, and in terms of the cost structure of the carrier, it is not a significant issue.

The CHAIRMAN. Mr. Buffenbarger and you seem to be in agreement that the Railway Labor Act is no longer effective, or should not be operable in the view of Mr. Buffenbarger. He makes the point that without the Railway Labor Act, he could make a settlement with Boeing in 6 weeks, and take 5 years to reach an agreement with an airline. What is your response to Mr. Buffenbarger's comment, Mr. Smith?

Mr. SMITH. I am sorry, excuse me again?

The CHAIRMAN. You and Mr. Buffenbarger are in agreement that the Railway Labor Act is no longer effective, and I am correct from your statement, right, Mr. Buffenbarger?

Mr. BUFFENBARGER. Part of it is not effective, but proceed.

Mr. SMITH. I am sorry, go ahead, sir.

Mr. BUFFENBARGER. You are correct in my point.

The CHAIRMAN. So Mr. Buffenbarger's point is, the Railway Labor Act actually prevented, or hindered the ability to reach a settlement, is that true, Mr. Buffenbarger?

Mr. BUFFENBARGER. That is correct.

The CHAIRMAN. What is your view as to how the Railway Labor Act needs to be fixed? Mr. Buffenbarger, I would like to know how you think it needs to be fixed, or discarded.

Mr. SMITH. Well, the first thing, Mr. Chairman, both of my friends to the left here made the comment that the Congress and the Administration ought to stay out of labor-management negotiations. If I am sitting in their chair, I am sure I would say the same thing.

But the problem with that point of view is that the Congress decided 75 years ago, and then modified it during the 1930s, that these essential transportation systems were so vital to the public interest that Congress would involve itself in the process and, in fact, as you know, the end result of this process can be and has been on numerous occasions in the rail industry decided by the Congress. The Railway Labor Act provides for the Congress to force a settlement, so Congress and the Administration are involved in the process.

The issue becomes one of the lack of the public interest being represented at the bargaining table. The industry is highly competitive, so managements do, I think, tend to try to force settlements which are roughly in line with inflation and without getting them into a competitive jam vis-a-vis their competitors.

But as Ms. Hallett so correctly pointed out, at the end of the day, if there is a strike on the horizon, management will acquiesce to the demands because, even with these very high wage settlements, the costs to them prospectively are less than the costs of a strike, so the fundamental problem is the expectations of labor are very, very high, the management is trying to hold it back, and they do tend to rock along understanding that the government will become involved at either the Presidential or the congressional level.

It is that final process, in my opinion, which has to be fixed. There needs to be a mechanism at the point of impasse which settles the issue. Now, there are a number of ways to do that, but that is what I would urge the Congress to do, and that mechanism should also force the parties to bargain in good faith, and responsibly, and I do think there are mechanisms that can be put in place that can do just that, that are fair to the labor side, that are fair to the carriers and, most importantly, as I mentioned, that are fair to the public, whose presence is not at that bargaining table, and was supposed to be represented in the process that involves the Government.

The CHAIRMAN. Mr. Buffenbarger.

Mr. BUFFENBARGER. Senator, I would propose very quickly the fix is change the rules. It is not required to fix the Railway Labor Act by congressional or other action, simply a change in the rules that the NMB has bastardized over the years, that has built in this system of continuing delay, and it is simply to go back to what the Act was intended to do, to foster and promote relationship and negotiations, the ability to bargain between labor and management, to level the playing field, to keep us on the same plain.

That has failed because, as recently as the large airline settlement was concluded, it became public knowledge that the reason we were coming down to the wire in this large airlines case was because the companies told the NMB it is OK to release them for their 30-day countdown. That is not a level playing field when the company can dominate the process that is supposed to protect the sanctity of bargaining.

Now, I would propose the NMB simply impose a drop-dead date. We negotiate a contract, in my case with United or with US Air or Southwest, whoever, that we have an expiration date on that contract. We know, just like we do in the rest of the private sector, we had better have a new contract in place by that termination date, or we have to make our plans to withhold our labor, strike, if you will.

If everybody knows date-certain, we have got that drop-dead date, people tend to get more serious about the art of bargaining, and we come to a conclusion, usually, in my union's case, 99 percent of the time, on about 10,000 collective bargaining agreements, without a day lost of work stoppage. Why can we not do that under the Railway Labor Act?

The CHAIRMAN. Well, I would like to engage you in a little dialog here. My study of history shows the reason why the Railway Labor Act was enacted by Congress was because there were work stoppages which paralyzed the railways in America. Now, I will admit that Act is very old, but suppose we reach that drop-dead date, Mr. Buffenbarger, and your union is fully aware that you can shut down at least a significant part of airline travel in America. It seems to me that gives you enormous leverage—and I am not trying to say you should not have that leverage—but if you did away with the Railway Labor Act, you have this leverage of shutting down a significant part of air transportation in America, and suppose we do have that hundredth case. You talk about 99. Suppose we have the hundredth case. What is the mechanism then?

Mr. BUFFENBARGER. Well, you know, Senator, we can shut down the manufacture of all commercial aircraft in the United States.

The CHAIRMAN. And that has no short-term effect on the American flying public. It has a long-term effect, but not a short-term effect. These airlines can also buy airplanes from Airbus and others. Go ahead.

Mr. BUFFENBARGER. Of whom we also represent a significant number of that production capability. However, Senator what happens is, both sides—remember this, no labor union in America goes out to negotiate a strike. Idiots go out to negotiate a strike. We go out to negotiate a settlement.

The CHAIRMAN. Please interrupt me, if I can interrupt you. Is it not an idiot that shuts down an airline and calls in sick when they are not sick, and deprives people of their ability to go on their vacation that they had planned for a year? Is that not idiotic also?

Mr. BUFFENBARGER. My members do not engage in that type of——

The CHAIRMAN. But it has happened. It happened with American Airlines.

Mr. BUFFENBARGER. I would have to defer, Senator.

The CHAIRMAN. Would you view that as idiotic?

Mr. BUFFENBARGER. No. I don't know if the individual was sick. These are semantics.

The CHAIRMAN. Well, a federal judge found out they were not sick and fined them $45 million, so you have no response to that. Please continue, then.

Mr. BUFFENBARGER. I can only speak for my union, Senator. That is not my union that was involved, and I do not want to prejudice anything they have got going in their processes, but you know, I cannot understand what is wrong, why it works so well in the rest of America and not in this industry. I cannot understand it.

Remember, this is still a private industry. It is private sector. It is not public sector, and yes, we could shut down a company like UPS. We could shut down and affect delivery of—and it is the world's largest package delivery service. We do not do that. We try to negotiate a settlement, understanding where we are in the world. We have been very successful at doing that.

The problem is this, Senator. Nobody wants to make that final decision, offer that final package, come to final terms. We need something that gives us a decision day, and either the package is on the table and it is acceptable, and we will work under those

terms and conditions, or we do strike, making management realize they need to do better with that package. I do not think—I mean, I look at the last Presidential election. It took us weeks, almost months, to find out who the President of the United States was going to be. The American people did not like that very much.

Well, put yourself in the shoes of a mechanic on United Airlines that has waited for years now to get a contract, or recently at Northwest Airlines, 5 years to get the right to make a decision on the contract. That is not acceptable, either. The Railway Labor Act can work. Tweak it. Go back to the way it used to be managed—gentlemen, we are on the countdown. Get ready, get set, go. You have date-certain to reach agreement, or the public knows they are going to be inconvenienced. My bet is we will reach agreement.

The CHAIRMAN. Would you do me a favor and provide me in writing with your specific recommendations how to fix the Act?

Mr. BUFFENBARGER. Sure.

[Refer to reply in the Appendix.]

The CHAIRMAN. And you too, Mr. Smith.

Mr. SMITH. Sure.

Mr. HALL. I just want to make a quick comment on the whole scenario here, is that the conversations we are having now are much needed, but the timing of this hearing, I have to tell you frankly, is offensive to me. We are sitting at a very critical stage of collective bargaining at American Airlines. This is the wrong time for this kind of hearing. We could spend hours debating between each other.

I have heard from Mr. Smith and others that talk about how labor and management together overall should take a look with the political structure about what we can do to make a better system that is less crisis-oriented and more productive for both the employee and for the passenger, and that is a subject we should be talking about. But to be talking about these things takes away the focus that we need to do with collective bargaining.

I would just suggest, knowing how to bargain—and I am sure you do, too, in many other ways, as an American, that you have done some pretty good bargaining in many others areas.

The fact of the matter is, is that American Airlines now, who may have been this close to a decision, could see out of this kind of conversation that it is going on here now, you know, we can delay the system. We can delay the ability to say yes or no at the bargaining table because there will be other subjects talked about, and then maybe even other legislative remedies.

So I will just tell you my personal feeling, as a representative of the Transport Workers Union, that the hearing at this time is inappropriate. The subject is very appropriate, but it is very offensive to me.

The CHAIRMAN. Well, thank you. In light of your discontent with this hearing, we do especially appreciate your willingness to appear here today, Mr. Hall.

Could I ask Ms. Farrow a question, please, and Mr. Buffenbarger, I will let you speak. I have long overused my time, so I would like to have the others come, but Ms. Farrow, how long has your union been in negotiation with United Airlines?

Ms. FARROW. The current round of bargaining, we began that in October. This is outside of our Section 6 negotiations. It is special pay negotiations. We have been in it for a brief period of time.

The CHAIRMAN. And apparently, from the depth of your concern, you are some distance away from reaching an agreement.

Ms. FARROW. Yes, at this point we are.

The CHAIRMAN. What is the major——

Ms. FARROW. It hinges regarding the proposed merger and acquisition of US Airways and United. It is a contractual dispute as it relates to our job security, and United's statement that they are going to blatantly, unilaterally change our working conditions by operating US Airways as a separate entity.

The CHAIRMAN. And you are prepared to enter into a work stoppage at some point?

Ms. FARROW. We are prepared to do whatever is necessary, which would include CHAOS strikes. We did take a strike vote. Courts have ruled in our favor that it is a major dispute, at which point we will engage in CHAOS strikes.

The CHAIRMAN. Thank you.

Mr. Buffenbarger. You wanted to make an additional comment.

Mr. BUFFENBARGER. Yes, thank you, Senator. You may not be aware, but approximately in the timeframe of 18 months to 2 years ago now, at the request of this union—the IAM—working in consort with the pilots, the ALPA, with the TWU, approached the ATA, represented by Ms. Hallett, after discussions with the CEOs of most major airlines in the United States, when we were not under the duress we are today about the state of collective bargaining.

Without fail, on the major IAM-represented carriers, the CEOs were in total agreement we have got to do something to bring this process to a time line.

We used the ATA as a convening body to bring labor and management together at the highest levels to begin this process, so maybe this hearing—we would not be reading about it, hearing about it.

That meeting was convened for 30 seconds, then the ATA took everybody to the White House so they could witness a signing of voluntary passenger guideline rules—I think you remember that very well, Senator—and the ATA never reconvened that body. With such agreement that existed at that time with United, with Northwest, with Southwest, with US Air, with TWA, with foreign flag carriers that we deal with here in the United States, that was an opportunity for the parties to act responsibly and resolve this before it became a national issue.

I would suggest, Senator, that maybe trying to convene that type of a meeting again, under the jurisdiction of this Committee, even, might be an appropriate start to finding a solution to this without any deeper activity.

The CHAIRMAN. Well, I thank you, sir, and obviously all members of this Committee would be more than eager to be of whatever assistance we can be.

Ms. Hallett, would you care to respond? Before you do, I would like to say, you come to this Committee with no specific recommendation. I think you—and I am talking to you—ATA should

come to the Congress and the American people with some specific recommendations. Whether I happen to agree or disagree with the others, at least they are making some proposals. Please respond.

Ms. HALLETT. Mr. Chairman, first to respond to your question, and as I mentioned in my testimony, the issues of labor have not been a part of the ATA work that we have become involved in. These have been held separately.

The CHAIRMAN. Why not?

Ms. HALLETT. There is actually another organization, that is AIR CON (Airline Industrial Relations Conference). That is an organization that deals with all of the labor issues. As a result, it has remained outside of the Air Transport Association, and that, as a matter of fact, Mr. Rob De Lucia, who runs the organization on behalf of the airlines, is here today. Mr. De Lucia is in the front row here.

The CHAIRMAN. Perhaps he should have been the witness. Go ahead.

Ms. HALLETT. Mr. Chairman, let me also just respond more to set the record straight than anything else. The board of the ATA did, in fact, meet with three labor leaders together, Mr. Buffenbarger, Duane Woerth, and Patricia Friend. The purpose for the meeting was to discuss a number of issues. This was approximately 2 years ago, and at that time the major issue for discussion was the Department of Transportation pricing guidelines. As it happened, all three of the labor organizations, as well as the ATA members, were opposed to those particular guidelines.

The purpose of the meeting was to discuss that. That was long before the customer service issue came to the front row, but in the meantime, that meeting was then followed—Mr. Buffenbarger and I did have discussions about his proposal, and he did have an opportunity to present that idea to the board. That has not gone further, but I would also point out——

The CHAIRMAN. Do you want to give him a response?

Ms. HALLETT. I believe there were individual responses to him by several of our members, and when we went to the White House it was for the specific purpose of telling them our position on the DOT pricing guidelines. Interestingly enough, that presentation on behalf of our board and the other two unions was made by Duane Woerth, to indicate that we were all in agreement that they were poorly written and that we were opposed to them.

The CHAIRMAN. Well, let me strongly recommend that you seize the opportunity, any opportunity to sit down with labor. It is hard for me to imagine why the ATA would have nothing to do with labor issues, since those are the major issues that you confront. But I am not telling you how to structure, but whoever represents the airlines, I would strongly recommend that you sit down and at least have a continuing dialog with labor.

This is going to be a long, hot summer, Ms. Hallett, and any lines of communications that could be established, I would strongly encourage.

Ms. HALLETT. Before I turn it over to Mr. Smith, I might just point out that, as you know, trade associations work on the basis of agreeing on particular issues. If we disagree, we do not get into them. There is not agreement on this issue, and for that reason I

would not anticipate that that particular issue would be a matter that the board would vote on.

The CHAIRMAN. I believe it was Mr. Franklin that said you hang together, or hang separately.

Mr. SMITH. Senator, I just want to point out, it is very important when dealing with this issue to again focus on the history of the Railway Labor Act and these various phases in the industry.

Mr. Buffenbarger mentioned that there needs to be a termination point where everybody has got to cut off. I agree with that, by the way, and I think there may be some constructive dialog and I will commit to you that I will personally attempt to see if we cannot develop an industry-labor position that will solve some of these problems.

But it is important to remember that, during that transition period from the advent of deregulation in 1977 for cargo, in 1978 for passengers, up to more current times, there was a tremendous push on the part of a lot of airline managements to roll back wages. The most notorious, I guess you would call it, was the Eastern and Continental embroglio.

One of the features that is good for labor in the Railway Labor Act, which is not part of the National Labor Relations Act, is the fact that during the negotiating period of time, management does not have the ability to unilaterally impose its own rules and working conditions. So during that transition period, it was the labor side of the house that effectively utilized the delay and stringing out the National Mediation Board process, which had up until that time been pretty prompt. I mean, it was more of a drop-dead date. The carriers had the mutual assistance pact, which gave them more leverage in the negotiation.

So it is important to recognize that we have gone through these three separate periods, and now we are in a period of time where things are radically different. The number of carriers is smaller, the concentration in hubs, which have been developed since deregulation, is greater. The ability of the industry, because it has become more capital-intensive—I think Ms. Hallett can give you some statistics that will show that the fastest-rising cost in the last 15 years, other than labor costs, has been the price of the airplanes, which have also gone up far in advance of the rate of inflation, and so these areas have become more fixed-cost-leveraged, giving them less of an ability to deal with these issues.

It was part of that interregnum period of time that the NMB process became much more drawn-out. I support the idea that there needs to be a date, and then a mechanism to bring it to a fair conclusion, and I think there are mechanisms that can do that.

The CHAIRMAN. Thank you. I want to thank the witnesses.

Ms. Farrow, you are always welcome before this Committee. Thank you for your leadership in a very difficult situation.

Senator Rockefeller.

STATEMENT OF HON. JOHN D. ROCKEFELLER IV, U.S. SENATOR FROM WEST VIRGINIA

Senator ROCKEFELLER. Thank you, Mr. Chairman.

There is no question—and Mr. Hall, this is uncomfortable, and I think that the discomfort is, maybe, in your case, a fact. I think

overall, frankly, what the American people need, and what I think the Congress and the general perception of aviation, and the whole question of public interest and all the rest of it, needs a certain level of discomfort in all of this, because we need to know what is going on.

One of my constant—as the Chairman will agree, and I actually commend them for holding these hearings, even though they are outside of our jurisdiction. You are trying to get some stuff out, and I mean, it is the same problem we faced when we were trying to get people to understand that—it is a little hard to look at doubling of air traffic in the next 8 years, and a doubling of package traffic, and all kinds of traffic, inadequate gateways, new airports that are already too tiny.

The American people pay attention when there are delays during the summer, and you can read it on the front page of *USA Today*, and then they forget about it. We cannot, if only on the basis of the whole question of infrastructure, which, in fact, we did finally do something about, but much too late.

You talk about a drop-dead date. Your word, I think, Mr. Buffenbarger. I think one place where you get a drop-dead date is the amount of time we allow for people to try to stop the building of runways. I think 5 years ought to be enough. 13 years in Seattle, or whatever it is, 15 years, it is ridiculous. That hurts the union, that hurts management, that hurts the whole industry.

So from my point of view, at least, the crisis that we are sort of getting at here is one about trying to be as open as we all can with each other. All of us being uncomfortable, and yet somehow, because of the discomfort and the openness that results from that, coming to understand not only the Labor Relations Act better, or the Railway Labor Act better, but the whole situation.

I personally do not think this really is about labor-management disputes. It may be that this panel is, and this specific morning is, but I think the crisis is about capacity. I think we need the best out of management. I think we need the best out of labor, or else, I think, we are going to get buried in this country, absolutely buried in congestion, with the American people being so furious that it is not a question of us deciding whether or not we are going to represent their interests. I mean, they are going to come into our office by the thousands, furious. I am not talking to you, I am talking to the whole panel.

There are a couple of thoughts that I have. Number 1, I thought it was very important that Chairman McCain and Majority Leader Lott, I happen to agree fully with them that collective bargaining is not at issue here. It is simply a fact, and it is a right. Nobody is questioning that, and nobody should.

I mean, if somebody has 8 percent, somebody else has 60 percent, that is the process in this country. Some have more, some have less. It is a whole question of how well people organize, and all the rest of it. That is just a part of the process. So I do not think collective bargaining is at issue, and I do not think the labor-management disputes, in essence, are really at issue, although they appear to be.

I think we in the Congress have to be extremely careful not to blame either labor or management. But I think we do have a re-

sponsibility to represent—and I am not looking at you now, but everybody—the public interest. That is what we are here for. We are not elected by management. We are not elected by labor. Some of us are elected more by labor than by management and others the other way around, but the democratic theory, small d, is that we are here representing our people.

I represent a State that has very little air service, and lots of problems, and lots of things to worry about for the future. For example, I try to be even-handed about this, Carol Hallett, when you were talking about the increasing trend toward illegal job actions. I think you used the word—in my judgment, exaggerated when you said these actions have had catastrophic consequence and therefore what can we in Congress do to fix that. I think you missed the point on that.

If Ms. Farrow's union, which is now before the courts, if they decide that there is a major dispute—I think that is the word involved—then selective CHAOS actions will be, in fact, entirely legal. Now, they have not made that determination yet, but they may. So there is a role here for the courts, and it sounds a little bit like you are denying that, that Congress has to come and fix this. Partly, that is what courts are for, is to do that, and that is why people go to the courts. So I found your position a little bit—a little hard-line on that, and a little bit inaccurate on that.

I thought that Fred Smith was kind of on mark, generally. I mean, I liked what you said about executive compensation. I happen to agree with what the union people said about executive compensation being very high, but that becomes a very easy target, and very easy to blame. You know, that is the finger-pointing business, and you know, you see that.

I have been involved in all kinds of steel strikes, because I have been invited by both sides, by labor and management, because I am good at helping to settle those things. We have had a lot of them in the past, and I believe in settlement.

I believe in working things out. I participated in the creation of what at that time, up until United, was the largest formation of an ESOP in the history of the country, which was Weirton Steel. I, in fact, did probably more than anybody else to cause that to happen. But I just sort of dropped everything else I was doing as Governor to make that happen, so I do not know, I mean, I am not comfortable with finger-pointing.

The drop-dead thing, I understand that works. I remember when John Lindsay was elected Mayor of New York, he ran into a lot of problems with Michael Quill because he did not understand the way labor-management relations worked—in this case the transit workers—and the way it worked is there was kind of a drop-dead date. You know, everybody understood that, and people bargained, and then sometimes they went into hotel rooms and played a little pinochle, et cetera. But when the date came, usually things got settled. When John Lindsay did not understand that, the whole thing blew up, and it was very, very unfortunate.

On the other hand, I think labor, and I am sure labor does, but I think labor needs to understand, as does management, that the public interest is really the largest issue at stake here. Labor and management are going to work out their problems one way or the

other. It is going to happen through the courts. It is going to happen through collective bargaining, which is the right way to do it where that is involved. If it does not get worked out, the American public is going to suffer, and the American public is going to take whatever action they decide they want to take.

I do not know what that will be. It will certainly be anger. But to me, one of the things that all of us have to do—and we in Congress have not been responsive. We have not fulfilled our responsibility to the aviation business, or to the unions in terms of making possible the technology, the infrastructure, the funding, the amplitude of people for the FAA or elsewhere to make an aviation system that works properly, which puts tremendous stress on everybody.

There is no more competitive business in the world than airlines. They fight over every nickel, and sometimes they make money and sometimes they do not. I understand unions being nervous about mergers. In the case of United, I think the merger, in terms of my State of West Virginia, would be very helpful.

That is a parochial point of view, because propeller airplanes are not the way jobs come into a State. I went to West Virginia as a VISTA worker, and jobs are the most important agenda every day of my life in West Virginia. I think aviation has surpassed surface transportation, both rail and interstates, by far, in the importance of the economic development of regions of the country, and individual States. So I am very sensitive to that.

I just want to say, Mr. Chairman, that I think this is not, and should not be about finger-pointing. It should be about an understanding of the public interest, and understanding that we are actually bringing out here in some discomfort, but with a lot of honesty, some real problems.

The Railway Labor Act does, in fact, have a role for Government at the end. You may say you want to change that, however, and with due respect to my colleagues at the panel, you may want to rethink about opening up that Act in the current Administration. I would say that to you. I mean, that is just a little helpful thought I thought I might send in your direction.

[Laughter.]

Senator ROCKEFELLER. So just having expressed those thoughts, how do each of you respond to what I have said?

Mr. BUFFENBARGER. Senator, if I could, in the last Administration for 8 years we asked to take a look at the Railway Labor Act, and the drop-dead date, and our friends—and I am a registered Democrat, lifelong and loyal—did not help us. Maybe it is this Administration that will want to help us bring finality and conclusion to the process of collective bargaining.

I am not proposing opening up the Act. It does not require legislative action to do what we are asking for. It simply requires the board, as it proffers its own rules, to insert that in the rule and we can move this process forward, but we cannot get there with the board.

Now, I would like to also comment on airlines and ESOPs and where we are at in the state of bargaining in this industry. My union has, in varying degrees, ownership, well, now of two— until just a week or so ago—three airlines in this country, TWA, North-

west Airlines, and United. How did this union, how did the workers get into the position of actually being the owners of the enterprises they draw their paycheck from?

It is because the airlines, in a deregulated atmosphere, struggling for many years how to come to terms, what are the new rules going to look like, how are we going to play this game and compete, ran into trouble. They managed themselves into trouble because they did not ask us for any ideas or any help until it got very serious, and many of these airlines were on the verge of folding.

So in crisis bargaining, we ended up owning varying degrees of these airlines. In the case of United, with the pilots and the machinists, the stock ownership is now 58 percent, and we are relegated, as the owners of this airline—and I really object to those who want to determine that we are asking for excessive wages. What is wrong with that? We own it.

It is OK for the CEOs to demand excessive salaries, but there is something wrong with the employees getting to share a little bit of the wealth they helped create and, in fact, the CEO works for those employees. They are not just shareholders, they are stakeholders in that airline, and they do have a right, pilots and mechanics and customer service agents and flight attendants and everybody else that has a stake in that airline, has a right to have high expectations that they can share, get a little bit of the share of the wealth they helped create. If that is wrong, and if that is dangerous in this society we live in, boy, we have made a serious mistake somewhere.

Senator ROCKEFELLER. What about the public?

Mr. BUFFENBARGER. We are the public.

Senator ROCKEFELLER. I know that, but the non-you part of the public.

[Laughter.]

Senator ROCKEFELLER. I do not remember getting on an airline without paying for it. Where does the public interest fit in? You see, we are still on labor-management relations here, and I think what we are looking at is sort of public interest capacity, and we are not. I understand we need to get these things into the open, and it is uncomfortable, but I want to go to both of you, and also you, sir, but I just want to give you a chance. Where does the public interest fit into this, the larger—you know what I mean by public interest.

Mr. BUFFENBARGER. Sure, life on earth, especially in the United States. Listen, the members of my union do not want to engage in strikes. They do not want to go without a paycheck. Life is tough. It is expensive. They want to work. They want to be compensated fairly. They care about the flying public, because every day someone getting on an airplane helps make that paycheck possible.

The members I represent, and the members I represent in this entire group, are very intelligent people who happen to work where, or are associated with airlines. They understand the reality of that economic. Where does the public come in? The public should support us, much as we support the public, in our endeavors to be compensated, not unjustly, not exceedingly gratuitously, or whatever, but to be compensated fairly, to be respected at the work site, to have a little dignity, to be recognized, in many cases as the own-

ers of the enterprise, and we want a satisfied customer. We want that person happy to fly. We want that person to come back time after time after time to fly our airlines, and that their children will do the same thing.

What we need to do is have morale improved in the industry. We need to have a focus in the industry where delay is not the name of the game for the peons down here and executives can be compensated very well for poor performance.

The public interest is going to be to see that these airlines are successful, well-served, that the employees are treated fairly, and the flying public in turn will enjoy benefits of uninterrupted air travel when they need to go.

Senator ROCKEFELLER. And I love that last part. I think that the Chairman would agree with me on this—that the public does not, for the most part, follow closely or understand the state of negotiations, collective bargaining in whatever form, as between unions and airlines. They do not follow that.

What they follow is whether they get on a plane that has not arrived. The public interest is in that, in going from this place to that place at the lowest possible fare as quickly as they can do it. That is my definition of what the public interest is in all of this. It would be good if they understood all of the details of what is going on in bargaining, but they do not.

Mr. BUFFENBARGER. Then we should not have deregulated the airlines.

Senator ROCKEFELLER. I agree with that. I wish I had been in Congress.

Mr. HALL. If I can just respond to the original point that you started with, and it needs to be said. I talked to the Chairman about it earlier, about my frustration, my union's frustration about the timing of this hearing. There are so many things I have heard already that it is important to talk about, but it is not correct to say this is not about collective bargaining. We live in this world where the media will report back on what we have said here.

We have said earlier that even though they say they are not involved in labor issues, but they talk about how highly compensated workers are. They already take up a third, or two-thirds of what it costs for an airline to exist, costs that are involved in the collective bargaining. All of this is involved in collective bargaining. I just want to repeat, I hope whatever we are going to do the next step—and there needs to be a next step—that it is done in less of a public atmosphere, if you will, where it affects and it causes a negative impact on collective bargaining.

It is wrong to say what is happening in this hearing will not affect collective bargaining. It is wrong to say even talking about it in advance, way before there is a crisis—I mean, there is nobody in my union at American Airlines talking about a strike. None of us are doing that.

The Chairman talked earlier about irresponsibility. We represent people just recently who were accused—and my union was accused by American Airlines, where they said we were involved in disruption of the service. Well, the court said otherwise. The court said the union was not involved, that the union did absolutely every-

thing they could to avoid it, but you cannot add to our frustration, the workers' frustration.

I mean, you need to help us. You need to work with us. We have a lot of frustrated workers out there for a lot of good reasons. My brother in IAM talked about people who paid a price to make a better airline for this country, and now we are looking for a piece of the pie that they have been left behind on.

I think it is absolutely ridiculous, what they pay AC mechanics in this country, licensed mechanics. They are nowhere close to being compensated for what they should be, and so we need to talk about that in collective bargaining. But you cannot hold us responsible, Senator, and say well, we have irresponsibility. Some workers out there may be frustrated and may do something they should not do, even though the union tells them not to do it, and at the same time, you add to frustrating them.

You talk about how much money they are making already, maybe suggest—have management talking about maybe we ought to do away with some of the laws that we should be talking about. We need to talk about—my brother talked about the issue of maybe changing some of the rules. Yes, but let us do that outside of the collective bargaining area.

I mean, the President talks about setting up PEBs. That is not helpful to the situation. The fact that we talked about, between railroads and airlines—and you know that as well as anybody. Nobody is more involved in the railroads—both on the carrier side and the people who need the service.

So all I am saying is, you need to help us—as you are asking us to be more responsible, I would suggest you have to give that some thought, too. We need to hold down our own members to make sure they are not frustrated and make sure that they can listen to their union, to make sure they can resolve it. I see modes here that could help, from the President and otherwise, saying do not worry about it, Big Brother will take care of it, if you do not resolve it, I will resolve it. That is frustrating to the system.

The CHAIRMAN. Senator Rockefeller, I have to assert my privilege as the Chairman, since Mr. Hall for the second time has directed his comments about how a hearing such as this could harm collectively bargaining. Mr. Hall, I respectfully disagree.

I respectfully assert my responsibilities as a Senator from the State of Arizona representing all of my citizens, and as Chairman of this Committee it is absolutely my obligation to see what, if anything, is necessary to be done to prevent what is a serious problem confronting the American people. That is a broad variety of issues, as I discussed with the Majority Leader earlier.

Lack of runways, modernization of the air traffic control system, and labor issues are a part, and a significant part of the challenges we face in providing Americans the ability to move from one place to another at a reasonable price and with some reasonable assurance of doing so. So I respectfully disagree with the comments that you made for the second time. I let it pass the first time, but the second time.

As far as your view, Senator Rockefeller about whether it is appropriate or not, I would be glad to show you the charter of this Committee, which clearly includes aviation, so we have perhaps a

disagreement in opinion, although our facts are that this Committee has oversight over aviation issues.

Now, Mr. Hall, I respect your view, but no way can I accept an allegation that somehow we are interfering with the collective bargaining process, when this Nation is facing, in the view of any outside expert, in the opinion of any outside expert, there are looming, serious challenges facing the aviation industry in America, and this is one of them. I thank you for your opinion, but I soundly and respectfully reject it.

Senator Burns.

Senator ROCKEFELLER. Mr. Chairman, I wanted to give Mr. Smith and Ms. Hallett a chance to respond to my question.

The CHAIRMAN. I am sorry.

Ms. HALLETT. As long as I have the microphone in front of me, Senator, I wanted to comment briefly about your statement that I agree with, and that is that all passengers should be able to anticipate uninterrupted travel, and that is something that has not been happening. I would go back to last summer as an example. When United Airlines was forced to cancel 9,400 flights because of illegal job actions that impacted 1 million passengers, 1 million passengers had to find alternative ways of travel because of the cancellation of flights.

Senator ROCKEFELLER. That was not the point I put to you. I put to you that we have to change the Labor Relations Act, we have to fix it. I was suggesting in the case of Ms. Farrow that the court decides a certain thing, that she has a right to do that, so why are you suggesting courts do not have a role?

Ms. HALLETT. I bring this up as a point, because this Committee has dealt so regularly with this very serious concern. I wanted to again go back to the term "catastrophic circumstances," because there was a very specific reason, again, for using that, not only because of job actions. The courts have ruled more often than not that those job actions have, indeed, been illegal and at the same time that, too, is what is impacting the travel of millions of passengers who in turn, then, of course, are not only then very unhappy, and this Committee hears about it, but we see this pattern continuing.

Whether or not it has anything to do with the changes in the law, certainly we do have the opportunity to go to court, and fortunately we do. But I wanted to make sure that the Committee was aware of some of the job actions that continue to take place and have a very adverse impact on the consumer, the traveling public.

Senator ROCKEFELLER. Mr. Smith.

Mr. SMITH. Well, Senator, you asked the question, where is the public interest in this, as I understood it. I mean, how does that get handled. I think it is important, again, to recognize that is why the Railway Labor Act exists, and why the National Mediation Board has powers that the National Labor Relations Board does not have, and why management and labor do not have some of the freedom under the Railway Labor Act that they have under the National Labor Relations Act.

The NMB has the power to freeze things in place and, as I mentioned before, during the transition period of deregulation that was supported in large measure often by organized labor, because man-

agement does not have the right at the end of the contract to impose its best and final offer without the approval of the NMB. On the other side of the coin, the labor organization does not have the right to strike or withhold its services during that period of time. That is how the public interest was supposed to be woven into it. The NMB is charged with balancing all three of those interests.

The National Labor Relations Board is charged with only balancing labor and management interests. As this process has drawn out, understandably the labor unions get frustrated, and so the response to that on occasion has been the withholding of services illegally.

Now, I do not know the details of the issues, but I can tell you that six courts have found that there were unlawful self-help activities going on at American, at United, at Delta, at Northwest, at Airborne Express, and CON AIR. When you are released into self-help, both sides then can respond to the situation. Management might decide, for instance, to shrink its operation so it does not need as many employees to work.

But, it is this frustrating interregnum period of time has created an awful lot of these issues we are talking about today. The process of escalating up through the NMB process to a PEB and then finally, if necessary, to the Congress, is too long. It does not work, and the expectations are not realistic.

That is why there has to be some modification to that mechanism after the contract is expired that brings it to conclusion. That is where I think you have an agreement of opinion up here. It is what that mechanism should be that will obviously be the source of a lot of debate.

Senator ROCKEFELLER. Thank you, sir.

Ms. Farrow, did you have any comment? Otherwise, I am complete, Mr. Chairman.

Ms. FARROW. All I was going to say is basically to reiterate some of the other things we have heard. It appears to me in the last 7 years management has been relying more on the fact that they can stall the process until government intervenes, as in individuals have to go to the mediation board, and then the process winds up being extended.

So there really needs to be an attitude change on, actually, both sides to try to reach agreement before a third party is brought in, and it would perhaps prevent some of the concerns of the organizations being able to exercise their right to self-help and prevent having to go to court, if the attitudes were changed prior to getting to the mediation level.

Senator ROCKEFELLER. Thank you all. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Rockefeller.

STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Senator BURNS. I just have a couple of questions, and I want to clarify. Mr. Buffenbarger, I was a member of your union at one time. When I started out, I came out of the United States Marine Corps, went to work for the airlines in Kansas City, started out with TWA and ended up with Ozark—Krazo spelled backwards—back in those days.

Is there a time—and I will tell you what sort of got our notice up here as far as the Northwest situation, as it existed with their mechanics and their ground personnel. When they were up here trying to persuade us, the Congress and also the Administration, not to intervene, they had just turned down a 26-percent increase in salaries and benefits. To most Americans, that really sounded like a lot. I cannot judge that, whether it was a lot, because I do not know from where you start and where you want to end, and I know that is not your union.

With that, I got to thinking—and then the argument that Mr. Smith brings up today, and also that Mr. Hall brings up today—is there still a need for a Railway Labor Act? There is.

Mr. BUFFENBARGER. Definitely.

Senator BURNS. Do you want to respond to that?

Mr. BUFFENBARGER. Yes. First of all, Senator, with respect to the mechanics at Northwest Airlines, they were in negotiations for a total of 5 years to get that percentage increase that they got, whatever it turns out to be.

Senator BURNS. The public only hears 26 percent.

Mr. BUFFENBARGER. The fact is, to the people involved—and it was still a private industry matter, but 5 years, if the public knew that too, they might think—that may just temper their thinking a little bit.

Likewise, the company had promised back pay for all those years they went without the collective bargaining agreement. That rolls into that figure as well, and so the devils are in the details, in this case, and that applies to a lot of us.

But as far as the Railway Labor Act is concerned, yes, we still need a Railway Labor Act. One, the railroad magnates, the barons in this country, will never permit Congress to do anything to change the Act unless there is a real catastrophe that affects them. Even in the railroads, which we have a very large presence in, having been founded as a railroad union 113 years ago, it takes us 4 years and 5 years to get to an agreement on the main carriers that are left.

The Railway Labor Act serves the purpose. The rules under which we bargain evolved over time, governed by the National Mediation Board. It is simply finding a way to instruct that board to put some time-lines, some guidance, something that is not going to go on forever, so that the employees understand there is finality in the process, that management understands there is finality to the process, and the finality is a choice.

It is a decision, the ability—all we are asking for is the right to make a decision on our conditions, and that is to accept the terms and conditions of an agreement, as we do in the processes in this country, and the members understand that process. It is a very democratic process when you vote for your conditions, or you say it is not good enough and we have to strike.

If we know there is finality to it, the public is prepared, whether they are shippers or passengers—and let me tell you, all the airlines are not for their negotiations at one time. It is not like the whole country gets shut down, and we have witnessed this.

Senator BURNS. It is when you live in Montana.

Mr. BUFFENBARGER. I will give you that, Senator.

[Laughter.]

Mr. BUFFENBARGER. Even when we had the Northwest strike, other carriers managed to fill, not 100 percent, but a lot of the gap that that left in the system, and that ability is there. Listen, the airlines, too, engage in practices that the mutual alliance they have to support one another in the event of a strike, to help move passengers, to provide funds to the struck carrier, there is a lot of things that have not come out on the table yet, probably not properly before this Committee. It is just incidental to the way we do business, but the fact of the matter is, the Railway Labor Act is a good law. The people who crafted it did a good job. They were wise in their time.

It has been allowed to evolve the wrong way. When we deregulated the industry in 1978, which this union vigorously opposed, what we did not do, and what was suggested then, we have to modernize the laws that govern us. Well, we deregulated the industry and did nothing with the laws that govern us, and now we are paying the price.

This was predicted, line item by line item, by one of my predecessors, William Wipisinger, 23 years ago. Every single bit of that testimony offered here in our Nation's Capitol has come to pass. We are in a state that requires some action. I think we can do it among ourselves and working within the system that exists now.

Senator BURNS. Did you want to comment on that, Mr. Smith, or either one of you?

Mr. SMITH. Well, first of all, Senator, I would say to you, I remember Mr. Wipisinger very fondly. We had a number of spirited debates in that era. I testified with him on a couple of occasions.

I would just like to say for the record, we supported deregulation, and I would submit to you, at least as it applies to our industry, it has been of enormous public benefit. I am sorry Senator Rockefeller has gone, because he would like to turn back the clock. I do not think that is a good thing.

In the Railway Labor Act, specifically, again, it was put in place by the Congress to represent the public interest, whether it was in Montana, or Atlanta, or in our industry. Our company, and our good friends at UPS, and to a lesser degree Airborne Express, carry every day the most critical cargo in the commerce of the country.

If one of those three carriers, particularly UPS or FedEx, were set down on the express side—and I would point out to you, when UPS had their strike, it was their ground operation that was struck, and not the Air Express operation, which continued to operate, the hospitals in this country could not operate, the airplanes could not fly—there are so many critical things going through these systems. The same is true on the passenger side of the house.

When things are important, people fly, maybe they take an automobile or drive on a vacation, so that is why the Railway Labor Act was put into place. At the time, it applied only to railroads and express companies. Air carriers were added to it in the 1930s. So it is a good law. It is just that final mechanism that brings it to a conclusion is out of date, given the realities of the deregulated, concentrated industry.

Senator BURNS. Well, I will just make a statement here, because I am very much concerned, because not only are we situated at the

end of the line, as far as Montana is concerned, and when we see these bigger contracts, we know that the Delta thing is going to cost us more money to get to Montana.

I will tell you what you can do, you can fly round-trip to London three times for what it costs to fly one-time round-trip to the State of Montana. I do not understand that, but nonetheless, that is the way it is. But we are also captive shippers from the railroad side, so we get beat up on pretty good. So we will try to work our way through this thing, and I appreciate your opinions on this.

I am not supportive of CHAOS. I just think that is a terrible way to do business. But on the other hand, it is a free country, and I just think that is a bad way to make your point. I know you are going to make me pretty cranky if you haul off and cancel a flight an hour before I go. This little red-headed farmer is going to get pretty cranky over that. But nonetheless, we have to face reality also, and I am aware of that.

Ms. HALLETT. Senator Burns, just a comment. First, with respect to deregulation, and as a reminder, while this may not be always the case as you go home to Montana, the price of airline tickets, based on inflation, since deregulation has gone down 38 percent. Prior to the most recent pilots' agreement with Delta—and that, of course, has not been ratified yet—wages have gone up 130 percent, so there is a real benefit in terms of prices of tickets going down. That is not going to remain the same, I can guarantee you, as these labor contracts do continue to escalate.

But I would also just make the comment with respect to the mutual assistance pact Mr. Buffenbarger commented on, because while I believe that was ended when deregulation went into effect, it is no longer the case today, although maybe it is something we should look at again.

Mr. HALL. I just wanted to quickly mention, of course, we all know that this session has nothing to do with collective bargaining, although this sounds an awful lot to me like it is about collective bargaining.

The CHAIRMAN. Mr. Hall, it has everything to do with labor issues. I think we have pretty well explored this issue, this aspect of it.

Mr. HALL. Let me just respond, then, for a moment. With respect, I would like to just give a quick response to that. In terms of the Railway Labor Act, I could not agree more with my brother, and even on the side of management, talking about it needs to be looked at. I would just suggest again that to do it in a snapshot could be more negative than it is positive, but I agree that some changes have to be made. I agree with my brother, it is not necessarily in the law, it is how the law is administered.

Senator BURNS. Well, Mr. Hall, I would be interested in taking a look at your recommendations, from all of you, on how that should be and could be fixed to the benefit of both labor and management and keep a vital industry viable and operating.

Mr. SMITH. And the public, Senator.

Senator BURNS. Yes. I look at it from the consumer's standpoint, because I am one of those. Sometimes I think us farmers and ranchers ought to have had the same kind of a deal, but we do not.

Mr. HALL. Just let me respond, Senator, please.

Mr. Chairman, I hope you do not think anything I have said is in any way disrespect to your responsibilities. We both have responsibilities. I am doing my best to deal with it, but I certainly do not mean any disrespect.

The CHAIRMAN. Of course not, Mr. Hall. I thank you for that, Mr. Hall, and I try to encourage at these hearings this free and open dialog as much as possible so everyone feels when they leave the hearing that their views and opinions have been well-ventilated, because that is the purpose of these. That is one of the reasons why we always have people that may have different viewpoints on the same panel. I appreciate it and respect your leadership. You are one of the most important organizations in America.

I just wanted to repeat our obligation that I feel that we have on this very important issue. I hope that the predictions of the experts are wrong, that this summer everything is fine, that we have everybody able to board an airline or get to their destination, but I think the odds are significantly against that, not because of the labor issue so much, but because of the other issues which we have addressed in other hearings before this Committee.

Would any of the other witnesses like to make a final comment before we close the hearing?

Mr. Buffenbarger.

Mr. BUFFENBARGER. We will be glad, Senator, to offer in writing to your office and to the members of the Committee some ideas and thoughts on correcting the inequities and the obstacles that prevent a more responsible way to get to a collective bargaining agreement and, Senator, I thank you for conducting the hearing and inviting us to participate.

The CHAIRMAN. Thank you.

Mr. Hall.

Mr. HALL. I would just comment to say that I understand the fears you have of what could be for the future this summer. We assure you we are going to reach an amicable agreement with American Airlines, and your fears will not be realized.

The CHAIRMAN. Thank you, Mr. Hall. I feel a lot better.

Mr. Smith.

Mr. SMITH. Well, Senator, I would just like to reiterate, I think the Railway Labor Act has served this country well for many years. I think that there are some mechanisms that can be put in place that are fair to the public, labor, and the carriers themselves, and we will work hard on that, and I appreciate the opportunity to appear before the Committee.

The CHAIRMAN. Thank you, sir.

Ms. Hallett.

Ms. HALLETT. Mr. Chairman, as I stated in my opening comments, we felt this was an extremely important hearing. It is very timely, and especially on behalf of consumers of America, who utilize the airlines, we see this as a valuable opportunity in which to bring a dialog out in front of, not only you and the members of the Committee, but also the public that is, indeed, concerned. I thank you very much.

The CHAIRMAN. Thank you.

Ms. Farrow.

Ms. FARROW. I would like to once again thank you for allowing me to participate, and we will do our best to try to work with our management so that you are not inconvenienced, but if they are unwilling to cooperate, it may happen.

The CHAIRMAN. I thank you, Ms. Farrow, and I hope the next time I am on United, which I am very frequently, your appearance will earn me an extra bag of peanuts.

[Laughter.]

The CHAIRMAN. This hearing is adjourned.

[Whereupon, at 11:50 a.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. JOHN F. KERRY,
U.S. SENATOR FROM MASSACHUSETTS

I'd like to thank all of our panel for being here this morning. This hearing occurs at a sensitive moment in the aviation industry. Passenger and freight transportation is projected to grow dramatically over the next decade. The airlines are, albeit slowly and sporadically, improving customer service. And an unusual number of labor contracts have become amendable this year. It is important for the airline industry to recognize the importance of maintaining a workforce with high morale so that it can effectively manage increased passenger loads and improve service. Morale is improved by making employees feel appreciated. And making employees feel appreciated means paying them appropriate wages and providing important benefits.

We must proceed with some caution today. I know that some employees and their airlines have come to tentative renegotiations agreements. But I think every one of us in this room would do well to remember that these agreements have not yet been ratified by the full unions, and also to remember that there are still two major airlines that could face labor-management problems this summer.

It is my hope that we can go through this discussion this morning in a manner that doesn't unduly influence any union member or company executive and cause them to back away from their tentative agreements. I don't think it's appropriate for the Congress to throw itself into the collective bargaining process at this moment, and I hope that we can steer clear of doing that this morning.

As we discuss this sensitive issue today, we need to remember that the right to bargain collectively is one that organized labor earned over a long period of struggle. Today, it is one of the most fundamental rights of workers in this country. The collective bargaining process is sometimes confrontational, but it ultimately gets results for working people. That's not anything we can jeopardize, and with many airlines and unions currently working through the collective bargaining process, it's also not anything we in Washington should disrupt with inflamed rhetoric.

I hope we also remember this morning that the people who make the airplanes run have unique technical and safety skills. However, they are far from highly compensated. We need to keep in the back of our minds that a senior level mechanic at Northwest only makes an average of about $55,000 per year. The average flight attendant—industry wide—makes about $33,000 per year. Yes, pilots, who are regularly entrusted with the lives of hundreds of people at 30,000 feet, make more. But the bottom line is that these folks have the same interests as the passengers at heart: They simply want the airplane to reach its destination as safely and quickly as possible.

Thank you, Mr. Chairman.

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS,
June 12, 2001

Hon. JOHN MCCAIN,

Dear Senator McCain: On April 25, 2001, you convened a full committee hearing on the status of labor issues in the aviation industry. Representatives of both airline management and employees presented testimony and, while there was consensus about the existence of serious problems in the airline industry, there were strong differences of opinion as to the causes of those problems. You invited me and other witnesses to submit proposals for changes we believe would improve the mediated bargaining process and lead to less protracted negotiations. On behalf of the International Association of Machinists and Aerospace Workers. AFL-CIO's (IAM), I am pleased to respond to this request for the 130,000 air transport workers that the IAM represents.

Let me start by stating that the IAM categorically rejects the notion, espoused by some at the hearing, that the current problems in the airline industry are the

result of too much union leverage, lawlessness, and greed. Rather, we think that there are three distinct problems contributing to the current level of passenger and employee dissatisfaction—none of which fairly can be blamed on the vast majority of airline workers. Specifically, these problems are: (1) the lack of airport infrastructure and air traffic control modernization: (2) the industry's failure to provide the majority of airline workers wage increases commensurate with their previous sacrifices, while at the same time providing huge compensation packages to its top managers: and (3) the fact that contract expiration dates have become meaningless because of the "almost interminable process" of negotiation and mediation established by the RLA.[1] Since the airport infrastructure problem has been well documented by other experts in the field, I will focus my remarks on the compensation and Railway Labor Act problems.

The U.S. airline industry has come a long way since the early 1990s when recession and subsequent slow economic growth devastated the bottom lines of most carriers. The major carriers, as a group, have been steadily profitable on an operating basis every year since 1993. On a net basis, the industry has shown profits every year since 1995 and remains profitable despite the recent economic slowdown. See Attached Figure 1.

While a healthier economy during this period was one factor which promoted a better revenue environment, the successful rebound of the airline industry would not have been possible without the substantial sacrifices made by airline employees in the way of deferred wage increases, changes in work rules, or even outright wage and benefit concessions. The financial sacrifices made by airline employees in the early 1990s had an immediate effect of lowering labor costs, but it was the commitment and hard work of workers in the industry that contributed to the impressive, sustained rates of productivity growth in the industry, which made the current success of the industry possible. Attached Figure 2 shows the trend in labor productivity in the U.S. airline industry, over the period 1991 through 1999. This series, an index of enplaned passengers per employee, constructed using data published by the Air Transport Association, shows a steady increase in productivity from 1991 through 1997, followed by a leveling off later in the decade as capacity constraints began to be reached. Overall, throughout the period, airline employee productivity grew at an average rate of 3.7 percent per year, using this measure.

These advances in productivity contributed to an enhanced cost structure for U.S. carriers, which, in the context of the positive revenue environment of the mid- to late l990s, presented carriers with the ideal conditions for profitability. But despite these formidable increases in airline employees' productivity, which contributed to cumulative industry profits of over $21 billion from 1995 to 2000, employee compensation grew only modestly over the course of the late 1990s. As shown in Figure 3, average wages in the U.S. airline industry adjusted for inflation fell steadily from 1992 through 1996. It was only after 1996 that average wages began to grow faster than inflation. However, by the end of the decade, the average airline employee was no better off in real terms than she or he was at the start. In 1991, the average wage in the industry was $42,087 (in 1999 dollar terms) by 1999, it stood at $42,379: a real pay increase of just under $300 a year or $5.77 per week.

Airline executives, by contrast, enjoyed a substantial growth in compensation over this period. To illustrate, annual compensation for the CEOs of the top five U.S. majors grew at an average rate of 20 percent during the late 1990s, jumping from just under $7.5 million in 1996 to $13 million in 1999. Figure 4. (Note that these figures only take into account cash compensation and benefits: they do not include stock-based compensation, such as stock grants or stock options.)

The present level of labor dissatisfaction can be directly tied to the practice of carriers of providing huge compensation packages to their top managers, while refusing to provide the majority of airline workers wage increases commensurate with their previous sacrifices. To those who would claim that airline employees are "lawless" or "greedy," we would offer the following comparison: at United Airlines, a top rate mechanic's weekly pay increased by $80 between 1997 and 2000. During the same period, the CEOs' weekly pay increased by $23,000! Now in 2001, all airline employees want is simply to engage in the process of collective bargaining to negotiate for appropriate and fair rewards for their contributions to their carriers financial successes.

The third, and perhaps most critical problem contributing to the current difficulties in the air transportation industry is the "almost interminable process" established for negotiations by the Railway Labor Act of 1926. The mandatory procedures for negotiating new or successor labor agreements consist of conferences, mediation,

[1] *Detroit & Toledo Shore Line Railroad* v. *United Transportation Union*, 396 U.S. 142, 149 (1969).

non-mandatory' arbitration, and intervention by Presidential Emergency Boards.[2] This multilevel process was designed to avoid interruptions to commerce, admittedly one important goal of the Act, but one that has been used by the NMB and the current Administration—to nullify the other equally legitimate purposes of the RLA. In the IAM's view, these statutory delays no longer serve their perceived salutary purposes, they are not necessarily consistent with the original intent of the drafters of the Act, and they overlook an equally important and fundamental right established by the law—the right of employees to exercise self-help in support of their legitimate bargaining objectives.

Specifically, once Section 6 notices are served, conferences concluded, and mediation commenced, the National Mediation Board (NMB) controls the manner in which mediation is conducted and, most critically, the duration of mediation. This process can and most commonly does go on for years and is not, we submit, what the drafters intended. It is only when the NMB decides that mediation has failed that the parties can be released and a 30-day cooling off period can begin. But even then, Section 10 of the RLA provides one final step within the complete control of the NMB. If the NMB concludes that a dispute "threaten[s] substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service," the NMB must notify the President, who may create an Emergency Board to investigate and report on the dispute.

Indeed, Donald R. Richberg, one of the attorneys involved in drafting the RLA for the railway labor organizations said that the representatives of both labor and management had conferred for the purpose of "creating by agreement a machinery for the peaceful and prompt adjustment of both major and minor disagreements. . ." (Emphasis supplied.)[3] The NMB clearly has ignored this goal of "prompt adjustment" and yet has been granted virtually unreviewable authority to structure mediation as it sees fit, including the timing and format of meetings, the duration of mediation, the timing of a release, and any preconditions imposed on release.[4] In the few cases in which the NMB's authority to hold parties in mediation has been challenged, the courts have held that they have no authority to review the NMB's decision to keep a dispute in mediation.[5]

In addition to completely ignoring the critical need to resolve bargaining disputes promptly, the NMB and the courts also have overlooked another essential element of the labor relations framework established by the RLA—the right of employees to organize and effectively bargain collectively for the purpose of improving their working conditions. This is a right that is meaningless unless employees have the right to exercise self-help. The Act provides that once the parties have exhausted the major dispute resolution machinery, a union can utilize the "full range of peaceful economic power [it] can muster, so long as its use conflicts with no other obligation imposed by Federal law."[6] Indeed, the Supreme Court has said that "we should hesitate to imply limitation on all but those forms of self-help that strike a fundamental blow to union or employer activity and the collective bargaining process itself."[7]

But the simple fact is that airline employees increasingly are denied their right to self-help either because the NMB refuses to release them from mediation or the NMB recommends and the President appoints a Presidential Emergency Board (PEB) to resolve the dispute. This, we submit, is fundamentally inconsistent with a statutory scheme that does not compel either party to submit a dispute to arbitration and permits both parties to resort to self-help as a means of resolving collective bargaining disputes. The appointment and threatened appointment of PEBs is also fundamentally inconsistent with the practice in the airline industry where prior to the recent Northwest Airline PEB appointed by President Bush, only one PEB had been established in the past 35 years.

What is the solution? Meaningful contract expiration dates and a "drop dead" date by which the parties will know they must reach agreement or be prepared to exercise their economic strength. A procedure that moves quickly to resolution might include some of the following features:

- Within 90-days of a contract's amendable date. the parties *must* engage in face-to-face bargaining;

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[2] Sections 2, Second; 5, First; 6; 7; 10.

[3] *Railroad Labor Disputes: Hearings on H.R. 7180 Before the House Comm. On Interstate and Foreign Commerce* , 69th Cong., 1st Sess. 198 (1926) (statement of D.R. Richberg).

[4] *Machinists*v. *NMB* , 930 F.2d 45,48 (CA DC), *cert. denied*, 112 S. Ct. 173 (1991).

[5] *See, e.g., Teamsters Local 808* v. *NMB*, 888 F.2d 1428 (CA DC 1989); *Machinists* v. *NMB*, 930 F.2d 45, *supra*.

[6] *Railroad Trainmen* v. *Jacksonville Terminal Co.*, 394 U.S. 369 (1969).

[7] *Trans World Airlines* v. *Flight Attendants (IFFA)*, 489 U.S. 426,442 (1989).

• If the parties do not reach an agreement by the contract's amendable date, the NMB's procedures *must* be invoked;

• If the NMB's procedures do not produce an agreement within 90 days, a 30-day cooling off period immediately *must* begin running:

• At the conclusion of the 30-day cooling off period, the parties *must* be free to exercise self-help.

While there is room for discussion about the particulars of this proposal, it has the advantage of reducing the process to a 6-month time period from start to finish. This type of procedure would have enormous advantages and would serve the interests of the public, the industry, and the air transport workforce. Specifically, it would serve the interest of the traveling public by eliminating the uncertainty surrounding the timing of a potential strike; it would serve the interests of both labor and management by focusing the parties on reasonable proposals and eliminating the gamesmanship that the current interminable system encourages; and it would serve the interest of employees by giving them the bargaining leverage that is implicit in the statutory scheme.

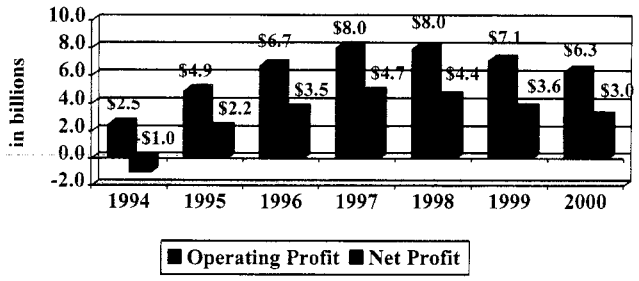
In sum, the IAM submits that any honest and meaningful effort to eliminate the current problems in the airline industry must refrain from scapegoating employees, must address the inequities in employee wages, and must impose a strictly limited timeframe for contract negotiations. We look forward to discussing our views with you at your convenience.

Sincerely yours,

R. THOMAS BUFFENBARGER,
International President.

FIGURE 1.

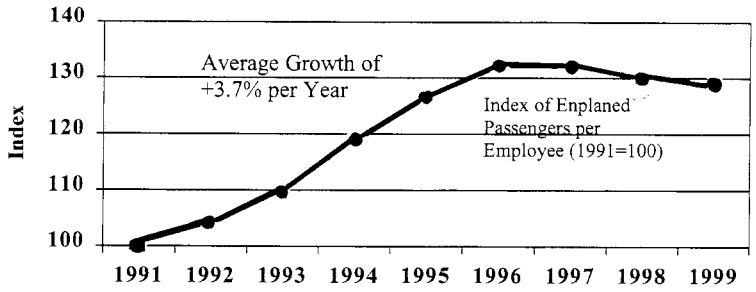
Despite Economic Slowdown, Profits Remain Healthy for U.S. Carriers as a Group



Includes Alaska Air, AMR, Continental, Delta, Northwest, Southwest, UAL and USAirways.

FIGURE 2.

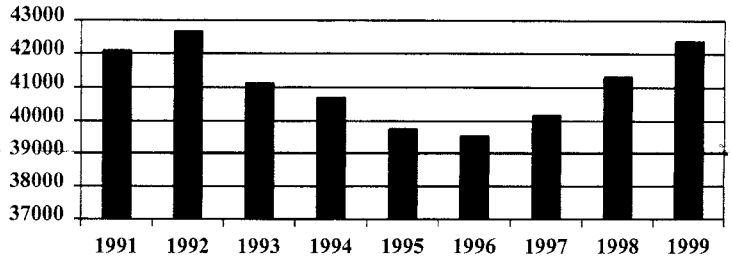
Growth in Labor Productivity Has Been Strong



Data source: Index of Enplaned Passengers per Employee – Strategic Resources Calculation based on data from the Air Transportation Association

FIGURE 3.

Average Wages in Airline Industry Fell in Early 1990s, Have Recovered since 1996

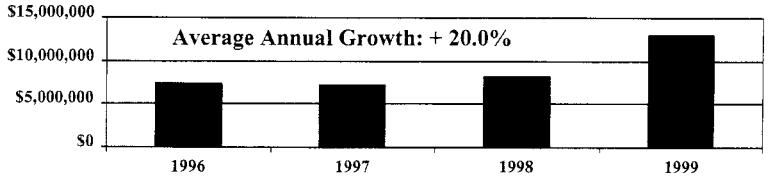


Source: "Wage and Salary Accruals per Full-Time Equivalent Employee, Survey of Current Business, U.S. Department of Commerce

FIGURE 4.

Airline CEO Pay Takes Off

Total Annual CEO Compensation Combined for Top Five U.S. Majors



Note: Does not include stock-based compensation such as grants or options

Source: Annual proxy statements filed with SEC by UAL Corporation, AMR Corporation, Delta Air Lines, Northwest Airlines, and Continental Airlines, various years.

PREPARED STATEMENT OF CAPTAIN DAVID WEBB,
PRESIDENT OF THE FEDEX PILOTS ASSOCIATION

Mr. Chairman and members of the Committee, thank you for the opportunity to submit written testimony. I am Captain David Webb, President of the FedEx Pilots Association (FPA), which represents the 3,800 pilots who fly for Federal Express Corporation.

Our members are concerned that government intervention in the collective bargaining process could have negative repercussions, not only at FedEx, but also throughout the aviation industry. Therefore, I urge the Congress to resist any further Federal intrusions into collective bargaining negotiations as dictated by the Railway Labor Act.

Due to the time-sensitive nature of FedEx's business operations, our pilots fly grueling schedules. In fact, we fly one of the most demanding route structures in the world. We consistently have workdays extending well beyond 14 hours and usually are away from home some 14 to 17 days a month.

U.S. cargo jets carry about 8 million pounds of hazardous cargo each day, and these jets take off and land at airports in high-population areas and in proximity with flights packed with passengers. Since we are certified as a supplemental carrier, our pilots are not protected to the same degree as domestic or flag carriers by federally mandated rest requirements. Fatigue is a constant concern.

Because we do not enjoy the same protections under the Federal Aviation Regulations as commercial passenger pilots, supplemental pilots must rely more heavily on the collective bargaining process to achieve the safety rules and working conditions that help ensure the public's safety.

At FedEx—and this is surely the case with every airline—labor and management have similar goals. While we have our disagreements, we both want to see the Company succeed. After all, we can't prosper unless FedEx prospers. At times, these differences of opinion are not about compensation but are over work rules. Through the collective bargaining process, we attempt to reach an agreement that is satisfactory for all concerned.

It is of paramount importance that the Congress and the Administration allow the integrity of the collective bargaining process to remain intact. Airline management is unlikely to negotiate in good faith if they know entering the process that labor will be unable to seek self-help.

Many labor disputes in our industry are settled during the 30-day cooling off periods imposed under the Railway Labor Act. But when a Presidential Emergency Board is established, the 30-day cooling off period is negated, preventing a satisfactory solution to the dispute before labor reaches the self-help period. In several Supreme Court decisions, the Court has refused to limit the range of action in self-help on the basis that to do so would undercut a statutory role of the self-help period.

Historically, the Executive Branch has been reluctant to intervene in airline labor disputes by establishing Presidential Emergency Boards. In fact, 97 percent of the disputes over the past 50 years have been settled without strikes. We hope that the Congress and the Administration take this amazing percentage into consideration and recognize that the RLA system works.

No one in the aviation industry wants strikes. Not management. Not labor. We will do everything within our power to reach a satisfactory result so that service is not disrupted.

To ensure the integrity of the process, however, employees must be allowed to bargain in good faith and use all the avenues legally available to negotiate on an equal footing with management. The collective bargaining process is one the most fundamental rights employees have in our democracy.

The day of the company store and company housing are long gone, Mr. Chairman, and we can all be thankful for that. America believes in a level playing field, and, for that to work, it must be level for both management and labor. The integrity and structure of the collective bargaining process must remain intact. Why fix something that is not broken?

Thank you for your consideration.

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