

**Judiciary Full Committee Hearing
Competition in the Air Carrier Industry
Tuesday, September 9, 2008
Testimony Congresswoman Betty Sutton**

Thank you Mr. Chairman for holding this important hearing on an issue that is so crucial to working families in my home state of Ohio.

As an Ohioan, I sincerely appreciate your efforts to closely examine this agreement between DHL and UPS and I hope that your efforts here today will bring to light the very possible negative implications of this proposed agreement.

This hearing is an important step in protecting American consumers and fighting for American jobs and I commend your leadership in both.

This business contract affects not only the 8,000 jobs that are at risk in Ohio, but every American who sends or receives packages.

And that is why today I would like to talk about the U.S. domestic air carrier market.

Currently, the air carrier market is dominated by three express carriers: FedEx, DHL and UPS.

Any person in this country can use one of these providers to have packages shipped throughout the country for timely, door to door delivery.

However, there are recent developments that affect these top competitors in the air carrier market.

In May, Deutsche Post World Net, the parent company of DHL, announced that it was restructuring all of its North American operations.

As part of this restructuring, DHL announced that it would enter into a long-term contract with UPS, in which UPS would provide air carrier services for DHL within North America.

This means that if a DHL customer sent a package that required air transportation, UPS would sort and deliver the package instead of DHL.

In a sense, DHL is outsourcing its air carrier operations to UPS.

The contract between DHL and UPS is not a formal merger.

However, given the close relationship between the two industries it is a de facto merger.

If UPS executes all of DHL's air carrier operations, it will require the sharing of sensitive information such as tracking numbers, customer information, and pricing.

I believe it is safe to say that the sharing of this sensitive information puts the companies at risk of remaining independent competitors.

When a business agreement results in shared information that decreases competition, this raises serious concerns under Section 1 of the Sherman Act.

Besides these very legitimate concerns, this business agreement would substantially diminish the competitive nature of the air carrier industry.

If UPS and DHL are allowed to enter in this contract, then the domestic air carrier industry would only be comprised of FedEx and UPS.

According to a report from the Air Cargo Management Group, without DHL as an independent competitor, UPS and FedEx would make up 96 percent of the domestic air delivery market.

This raises a series of concerns.

First, with only two large competitors in the industry, it will make it difficult for smaller businesses to enter into the market.

Second, there is less incentive to compete on price, which could negatively affect consumers.

And lastly, since this agreement would substantially lessen competition, it raises a potential violation of Section 7 of the Clayton Act.

The bottom line, Mr. Chairman, is that this agreement between DHL and UPS raises serious questions under Anti-Trust law and deserves careful examination.

What is perhaps the most concerning aspect of this issue beyond the potential violation of Anti-Trust

law, is the incredibly harmful effect this agreement will have on Ohio workers and families.

There are 8,000 Ohio workers at risk of losing their jobs.

This means more families without health insurance, more families struggling to put food on the table and more families struggling to keep a roof over their heads.

Mr. Chairman, Ohio's working families are already suffering from the impact of harmful trade and economic policies that have caused much damage, and that this Congress is working hard to reverse.

According to the Ohio Department of Jobs and Family Services, in the month of July, the number of workers unemployed in Ohio was 430,000.

Last year alone, Ohio lost nearly 100,000 jobs contributing to an unemployment rate of 7.2 percent.

Now, we face a flawed business agreement that is threatening more Ohio jobs, and I will continue to fight, along with my colleagues, to make sure our working families have a voice in this matter.

And what is perhaps even more alarming, is that the potential job loss reaches far beyond Ohio.

Deutsche Post World Net's new North American business plan also includes closing 34 percent of its U.S. operations.

Mr. Chairman and fellow members of the Committee, I ask that you examine this issue with the utmost concern and scrutiny.

Not only because of its Anti-Trust implications, but because of the negative impact this agreement could have on our economy and our working families.

With a 6.1 percent unemployment rate nationally, I do not think that any of our districts can afford to lose more jobs, especially from a faulty business agreement.

Thank you, Mr. Chairman and I yield back.