

Airlines and Pricing Abuses

The American airline industry is a wonderful laboratory for students interested in regulation and competition. Until the late 1970s, airlines were regulated by the Civil Aeronautics Board. The Board directly regulated competition by setting minimum fares and controlling routes. But then the industry was deregulated by congress and airlines could make choices over fares and routes. Soon there was an influx of entry and competition. Prices (and wages) went down, and the industry adopted the hub-and-spoke route model that is still in use.

More recently, however, competition has again diminished—but for different reasons. The Department of Justice allowed a wave of mergers while the Department of Transportation has permitted code-sharing that often achieves the same goal as a merger, and at the same time failed to protect consumers' shopping environment from drip pricing, opaque prices, and high search costs. Combined with two drastic drops in demand (the financial crisis and covid-19), these have reduced competition in airlines through fewer competitors, capacity reductions and tacit collusion. Airlines have also been accused of predatory pricing to exclude low-cost carriers. The airline industry is a laboratory for studying antitrust; over the decades airlines have provided examples of many anticompetitive tactics prohibited by the antitrust laws.

Reading

You may wish to review the readings on predatory pricing from the monopolization module.

Required reading

James B. Stewart, Discipline for Airlines, Pain for Fliers, *The New York Times* (June 11, 2015)

United States v. AMR Corp., 335 F. 3d 1109 (10th Cir. 2003)

Complaint, *United States of America v. U.S. Airways Group, Inc. and AMR Corp.* (Aug. 13, 2013)

Severin Borenstein, Rapid Price Communication and Coordination: The Airline Tariff Publishing case (1994), in *The Antitrust Revolution: Economics, Competition, and Policy* 4 (2004)

Recommended reading

Spirit Airlines, Inc. v. Northwest Airlines, Inc., 431 F.3d 917 (6th Cir. 2005)

Background reading

Deregulation

Gale Moore, Thomas. "U.S. Airline Deregulation: Its Effects on Passengers, Capital, and Labor." *The Journal of Law and Economics*, vol. 29, no. 1, Apr., 1986, p. 1-29. HeinOnline.

Tacit collusion

Posner, Richard A. (1969). Oligopoly and the Antitrust Laws: A Suggested Approach. *Stanford Law Review*, 21(6), 1562-1606.

Mergers

Carlton, Dennis, Mark Israel, Ian MacSwain, and Eugene Orlov, “Are legacy airline mergers pro- or anti-competitive? Evidence from recent U.S. airline mergers,” *International Journal of Industrial Organization* 62 (2019): 58–95.

On predatory pricing:

Areeda, Philip E. and Donald F. Turner, “Predatory Pricing and Related Practices Under Section 2 of the Sherman Act,” *Harvard Law Review* 88 (February 1975): 697–733.

Bolton, Patric, Joseph F. Brodley and Michard Riordan, “Predatory Pricing: Strategic Theory and Legal Policy,” *Georgetown Law Journal* 88 (August 2000): 2239–2330.

Borenstein, Severin, “The Evolution of U.S. Airline Competition,” *Journal of Economic Perspectives* 6 (Spring 1992): 45–73.

Elzinga, Kenneth G. and David E. Mills, “Predatory Pricing and Strategic Theory,” *Georgetown Law Journal* 89 (August 2001): 2475–2494.