

**OPENING STATEMENT OF  
THE HONORABLE JAMES L. OBERSTAR  
TRANSPORTATION AND INFRASTRUCTURE COMMITTEE  
THE EFFECTS OF THE PROPOSED ARRANGEMENT BETWEEN DHL AND UPS ON  
COMPETITION, CUSTOMER SERVICE AND EMPLOYMENT**

**SEPTEMBER 16, 2008**

I want to welcome everyone to this Full Committee hearing on the *Effects of the Proposed Arrangement between DHL and UPS on Competition, Customer Service, and Employment.*

On May 28, 2008, DHL Express and UPS announced that they intend to enter into an agreement for UPS to provide airlift transportation services for DHL's domestic express and international package volume in the U.S., and between the U.S., Mexico, and Canada. DHL and the UPS are competitors in providing air express service, in which packages are generally picked up by trucks, moved by air, and then delivered to the ultimate destination by truck.

For the past few years, DHL has contracted with other air carriers (ABX and ASTAR) to provide the airlift portion of its service. DHL states that this agreement is the only way that it can continue to maintain its presence in the U.S. market in view of the \$ 3 billion in operating losses it has experienced since 2003. Concerns have been raised about the anticompetitive impact that this deal may have in the air express market. Moreover, the City of Wilmington, Ohio, where DHL's hub is located, stands to lose thousands of jobs and revenue if this deal is consummated.

To date, no agreement has been reached between DHL and UPS, and may not for another few weeks according to recent reports.

Although DHL is not the largest express carrier, it is an important competitor. In 2007, the revenue of the U.S. domestic air cargo and express market combined was \$32.8 billion. Of that, Federal Express (FedEx) claimed 43 percent (\$14.02 billion) of the market, UPS 32 percent (\$10.60 billion), DHL 8.5 percent (\$2.8 billion), and the U.S. Postal Service (USPS) 2.9 percent (\$950 million).

The express market has not been growing in recent years. In terms of domestic air express volume in 2007, FedEx claimed 33 percent, UPS 26 percent, USPS 23 percent and DHL 12 percent of the market. The daily package volume in the U.S. domestic express market is now at 6.644 million shipments per day, which is down about 1.8 percent from last year, and about 5 percent below its peak in 2000. The decline in air express package demand is attributable to the downturn in the economy, internet use to transmit documents, and jet fuel price increases.

If a DHL-UPS agreement is consummated, it would potentially devastate the city of Wilmington and have significant economic effects on the entire state of Ohio. The Wilmington Air Park is the largest employer in southwest Ohio. Approximately 9,000 jobs are expected to be lost in Ohio alone (1,200 DHL employees, 725

employees of ASTAR, and 7,000 ABX employees); in Wilmington, one out of three households has an ABX employee. I want to welcome the testimony of Lt. Governor Fisher and Mayor Raizk on the economic impact of the proposed agreement on the State of Ohio.

Competition in the express delivery market may also suffer if this deal is consummated. Opponents of the proposed agreement have alleged that it potentially could violate antitrust statutes, which prohibit agreements that restrain competition. Because this is not a merger or acquisition, it is not subject to the Hart-Scott-Rodino Act, and thus the parties are not required to file the agreement for pre-implementation review under the antitrust statutes. However, this does not prevent the Department of Justice (DOJ) from reviewing the agreement to determine if there are any anticompetitive effects.

Opponents of the deal state that allowing DHL to outsource its airlift to UPS, one of its main competitors, would essentially leave DHL “captive” to UPS in terms of capacity, price, and customer service. Airlift services comprise about 60 percent of the cost of shipping a package overnight. Therefore, because a significant percentage of DHL’s costs will be controlled by UPS, DHL could lose the ability to competitively price its services to compete with both UPS and FedEx (this is called “price squeezing”), thereby forcing DHL to sell its services at a higher price, or, undercut

prices and lose money. Either way, DHL could go out of business, leaving the market a duopoly. In addition, UPS will control the capacity on its planes; if DHL is not guaranteed space, its ability to ensure on-time arrivals could be hampered.

If the express industry is reduced to two major carriers, competition could be substantially reduced and prices could increase. When established carriers control markets, the tendency is for the carriers to follow each other's price changes so that prices are identical, and customer choice is limited. If DHL is effectively “neutered” in the marketplace, there would be incentives for UPS and FedEx to refrain from competing with each other, thereby increasing the price overall for express delivery packages.

Concerns have also been expressed that UPS may have access to DHL’s proprietary customer data because the packages that would be sorted at UPS’ facility would contain either barcodes or labels that include information such as package contents, volume, name and address, and price. UPS would then have information necessary to not only undercut DHL on price, but also to persuade DHL customers to switch express delivery providers.

These pricing and capacity issues raise the question of whether DHL can remain a viable competitor in the express industry.

I look forward to the views of all of the witnesses today on how we can preserve competition in the express delivery industry, as well as the jobs that are sure to be lost if this deal is consummated.