

service in, or enter, markets served by the alliance partners. That potential harm would result primarily from the combination of the three airlines' increased market presence and the consequent marketing advantages created by their dominance of many markets, rather than because the alliance will enable the partners to offer substantially better service. Historical evidence and analysis support the conclusion that an airline that has a large market share at a city typically has substantial competitive advantages over other airlines that the latter often cannot offset, even by offering lower fares and attractive service features. An airline's possession of a dominant market share in a city, accordingly, will give it some ability to charge supracompetitive fares and to reduce service. *See, e.g., U.S. Department of Transportation, Findings and Conclusions on the Economic, Policy, and Legal Issues, Enforcement Policy Regarding Unfair Exclusionary Conduct in the Air Transportation Industry* (January 17, 2001) at 22–26. This is particularly true at airline hubs, including the hubs operated by the three airlines. The three airlines' proposed alliance would enable them to extend these hub advantages to spoke cities, which could deter new entry and may cause existing competitors to end their services in some markets. The resulting reduction in competition may lead to higher fares and poorer service.

We recognize that the alliance proposed by Delta, Continental, and Northwest would not give any single airline a dominant market share and that the three airlines represent that they will continue to compete independently on fares, capacity, and scheduling. Nonetheless, we believe that at many cities the alliance's impact on the prospects of entry by competing airlines would be substantially equivalent to the impact that a single airline's dominance would have at that city. Indeed, the documents provided to us confirm that the three airlines seek through the alliance to increase their collective market share in ways that would undermine the competitive position of other airlines. They intend to offer joint corporate discount contracts, joint travel agency incentive programs, and, from the traveller's perspective, combine their frequent flyer programs. Their proposed code-sharing would also increase their dominance through the simple fact of multiplying the apparent number of flights offered by each of them. In these respects, the three airlines seek to secure the same competitive advantages of a dominant

market share that would accrue to them through a merger.

*Joint Marketing.* As noted, the three airlines plan to offer corporate customers joint contracts and to offer travel agencies joint incentive programs. In general, the airline that offers the broadest range of services will be the most attractive bidder for a corporation's business, and the airline that operates the most service at a city will offer the most attractive incentive program to travel agencies in that city. An airline that dominates a city typically structures its corporate contracts and travel agency incentive programs in ways that leverage its existing dominant market share to gain an even larger share of the business of the corporate accounts and the bookings of the travel agencies. *See e.g., General Accounting Office, "Airline Deregulation: Barriers to Entry Continue to Limit Competition in Several Key Domestic Markets"* (October 1996) at 15–19; U.S. Department of Transportation, Findings and Conclusions on the Economic, Policy, and Legal Issues, *Enforcement Policy Regarding Unfair Exclusionary Conduct in the Air Transportation Industry* (January 17, 2001) at 23–24. If the proposed alliance is implemented, these three airlines could do the same. The partners' joint marketing plans threaten competition in two respects. First, if they make joint offers, they are less likely to compete individually for corporate customers and travel agency patronage. Second, they could leverage their combined market share in ways that preclude any effective competition from unaffiliated airlines. For example, the Alliance Carriers could offer a corporate customer discounts on Northwest's transpacific services only if the customer booked most of its domestic travel on a particular domestic route on Delta rather than on a competing airline. The tying of the partners' services in this way could make it extremely difficult for other airlines, especially those that do not have a worldwide network like that operated by the proposed alliance, to compete.

*Airport Facilities.* The alliance partners have represented that they plan to consolidate their operations at airports when doing so would be feasible, a step which could free a number of gates for use by others. Opposing parties have expressed a concern that the Alliance Carriers would not make underutilized gates available to competitors and would instead "hoard" gates at airports where other facilities for new service are not obtainable. Airlines cannot enter new

markets or increase service in existing markets if they cannot obtain access to the necessary airport facilities. Facilities are presently unobtainable at a number of important airports, such as Boston. The alliance partners may have an incentive and the ability to "hoard" their existing facilities or terminate their competitors' use of subleased facilities at airports where gates are otherwise unobtainable to reduce competition. Such actions could worsen a situation that already exists, resulting ultimately in higher fares and less service for consumers.

*CRS Displays.* If the Alliance Carriers fully implemented their proposed code-sharing agreement, each of their flights could be listed three times in the displays offered to travel agents by most of the computer reservations systems ("CRSs"). Multiple listings of the same number of physical flights would move many of the services offered by other airlines to later CRS display screens, with the likely result that many travel agents would not find and book those services. The multiple listings of the same physical flights under the codes of all three partners could thus, by itself, have the effect of reducing the number of bookings obtained by competitors from travel agents using a CRS, without any actual improvement in capacity or reduction in price. In some markets, that phenomenon could undermine a competitor's ability to maintain any service at all. Similar concerns have caused us to consider, in a presently pending proceeding, amending our CRS rules to limit the number of times any flight can be displayed under different airline codes. 67 FR 69366, 69396–69397 (November 15, 2002). The European Union's CRS rules allow a single service to be displayed under no more than two codes, even if more than two airlines sell seats on the service under their codes. 67 FR 69397.

*Proposed Conditions.* Utilizing all of the information presently available to us, we have conducted an independent analysis of the proposed alliance under our unique statutory authority. As noted earlier, as a result of that analysis, we presently believe that unless the Alliance Carriers formally accept and agree to certain conditions, the proposed alliance poses a serious danger to competition. The conditions discussed herein would not affect the operation of the existing Northwest/Continental alliance. We have developed them, after careful and thorough consideration of all of the relevant issues, in an attempt to alleviate the competitive concerns raised by the Delta/Continental/Northwest alliance without the need for