

June 4, 2026

The Honorable Sean P. Duffy
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Omeed Assefi
Acting Assistant Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Bryan Bedford
Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

RE: Structural Competition Failures at Chicago O'Hare International Airport and the Threat of Further Airline Consolidation

Dear Officials:

The undersigned public interest organizations write to express our concerns about the structural competitive failures at Chicago O'Hare International Airport, the world's busiest airport by number of flights¹ — failures that are threatening to further destroy the only hub-on-hub competition at any major U.S. airport and which reflect broader problems with current frameworks for distributing airport gates and slots.

As such, we ask you to (1) investigate United Airlines' gate strategy at O'Hare for evidence of potentially unlawful anticompetitive conduct; (2) undertake a comprehensive review of the infrastructure allocation systems at O'Hare and other congested airports, followed up with specific steps and assessments as outlined below; and (3) subject any collaboration or merger between United Airlines and American Airlines, as well as any other proposed airline merger in an already overly concentrated industry, to rigorous antitrust scrutiny.

I. United's Business Practices at Chicago O'Hare International Airport

As context for United's strategy, most airports are a hub — or a primary transfer point for connecting flights to and from other destinations — for a single airline that dominates the departure and arrival gates. For instance, American Airlines operates almost 90 percent of flights at North Carolina's Charlotte Douglas International Airport and 84 percent of flights at Dallas Fort Worth International Airport, Delta Air Lines operates roughly 75 percent of flights at Hartsfield-Jackson Atlanta International Airport and at Detroit Metropolitan Wayne County

¹ Fed. Aviation Admin., Trump's Transportation Secretary Sean P. Duffy Takes Action to Prevent Endless Delays, Cancellations at Chicago O'Hare (Apr. 16, 2026), <https://www.faa.gov/newsroom/trumps-transportation-secretary-sean-p-duffy-takes-action-prevent-endless-delays>; Airports Council International, World's busiest airports revealed in latest global rankings (Apr. 14, 2026), <https://aci.aero/2026/04/14/worlds-busiest-airports-revealed-in-latest-global-rankings/>.

Airport, and United Airlines operates more than 70 percent of flights at Houston's George Bush Intercontinental Airport.²

At O'Hare specifically, United already controls nearly 50 percent of all flights — but in a rarity, American also maintains a robust presence there. In fact, O'Hare is the only major U.S. airport where two major legacy carriers (i.e., airlines that flew interstate service before the Airline Deregulation Act of 1978) operate competing hubs: United and American. This unusual dual hub structure at O'Hare intensifies competition between the airlines in ways that single-hub airports do not experience, which helps keep options more plentiful and fares lower for millions of travelers.³

United has openly signaled its intent to end that competition at O'Hare. As United's CEO Scott Kirby stated in 2017, "If people want to talk about our long-term plan for Chicago, it's to grow it incredibly, and I hope to someday take over those gates that currently have AA on them."⁴ In January 2026, he pledged to add "as many flights as are required" to stop American from gaining additional gates and reiterated that "We're drawing a line in the sand. We are not going to allow them [American Airlines] to win a single gate at our expense."⁵

² James Pearson, American Airlines Will Operate 88% Of Charlotte International Airport's March Flights, Simple Flying (Mar. 6, 2024), <https://simpleflying.com/american-airlines-88pc-charlotte-flight-analysis-march-2024/>.

³ The pro-consumer benefits of robust airline competition are among the most well-established findings in the airlines economics literature. See, e.g., Severin Borenstein, Hubs and High Fares: Dominance and Market Power in the U.S. Airline Industry, RAND Journal of Economics, Vol. 20, No. 3 (1989) ("an airline's share of passengers on a route and at the endpoint airports significantly influences its ability to mark up price above cost"), <https://www.jstor.org/stable/2555575>; U.S. Gov't Accountability Office, Airline Competition: Higher Fares and Reduced Competition at Concentrated Airports (July 11, 1990) ("fares, on the average, rose more at the concentrated airports than at the airports where there was more competition and were about 27 percent higher than at the airports with more competition. . . . Fares charged by the dominant carriers tended to rise as their airport market shares increased"), <https://www.gao.gov/products/rced-90-102>. For citations specific to O'Hare, see, e.g., Hal Singer, Dehubbing Competitors at the Airport, The Sling (May 18, 2026) (noting that the "dual-hub" competition at O'Hare is good for consumers and warning that travelers will face higher fares if United successfully "dehubs" American), <https://www.thesling.org/dehubbing-competitors-at-the-airport/>; Mario H. Lopez, Op-Ed: The FAA's O'Hare decision is a win for travelers – and for competition, The Black Chronicle (May 13, 2026) (citing former U.S. Secretary of Transportation Ray LaHood noting that O'Hare's dual-hub system "is a genuine asset for travelers" that "puts downward pressure on fares, incentivizes both airlines to improve operations, and gives passengers real alternatives when one carrier falls short"); Leigh Giangreco, The Battle of O'Hare, Chicago Magazine (Feb. 3, 2026) (quoting Chicago Department of Aviation Commissioner Michael McMurray commenting on the United versus American competition at O'Hare that "It's good for the airport, it's good for the traveling public. It leads to more routes. It leads to more competitive fares. It leads to more direct routes for the traveling public."), <https://www.chicagomag.com/chicago-magazine/march-2026/the-battle-of-ohare/>.

⁴ Brian Sumers, Chicago Is Becoming the Center of the Growing Conflict Between United and American, (Feb. 15, 2017), <https://skift.com/2017/02/15/chicago-is-becoming-the-center-of-the-growing-conflict-between-united-and-american/>.

⁵ Rajesh Kumar Singh, United draws 'line in the sand' in escalating Chicago O'Hare fight with American Airlines, Reuters (Jan. 21, 2026), <https://www.reuters.com/business/united-draws-line-sand-escalating-chicago-ohare-fight-with-american-airlines-2026-01-21/>.

United has backed these statements with action. It initially scheduled approximately 750 daily flights from O'Hare during this summer⁶ — a nearly 40% increase over United's average number of daily departures from O'Hare in 2025⁷ — in an effort to secure additional gate allocations at the expense of competitors. The Federal Aviation Administration (FAA) warned that the resulting combined summer schedule in Chicago would "stress the runway, terminal, and air traffic control systems."⁸ Furthermore, United actively capitalizes on the financial distress of competitors to consolidate physical infrastructure; when Spirit Airlines entered bankruptcy, United purchased two of its gates at O'Hare for \$30.2 million⁹ — despite Kirby's previous statements that acquiring Spirit's assets was "not in our wheelhouse."¹⁰ Those additions are on top of the four gates that United already took from American last October due to United's aggressive expansion at O'Hare, which translates to roughly 24 lost American flights per day.¹¹

The FAA's own proceedings further indicate that United views hub dominance as an existential priority for its business model. Transcripts of United's recent meetings with FAA officials show that United executives reacted in striking terms to the FAA's proposal to cap total daily operations at O'Hare — a cap ultimately set at 2,708, compared to the more than 3,080 flights collectively scheduled by airlines.¹² United's Senior Vice President Patrick Quayle told FAA officials that "you are wrecking the company with irreparable harm to this company, financial harm to the company, if this is implemented,"¹³ and characterized the reductions as "an existential crisis for United Airlines."¹⁴ And United's Deputy General Counsel Jim Conneely signaled the company was actively exploring litigation against the FAA.¹⁵

We take these executives' claims at their word: United is not dealing with a trivial scheduling adjustment. Their statements reveal a company for which dominance at a single hub has "existential" importance to the company's viability. And the market is already reflecting the consequences of United's strategy. Citing the severe challenges of operating at O'Hare,

⁶ United Airlines, United Expects Biggest Summer Yet at Chicago O'Hare, Growing to Record 750 Flights Per Day (Jan. 27, 2026), <https://www.united.com/en/us/newsroom/announcements/cision-125436>.

⁷ *Id.*

⁸ Marisa Garcia, FAA steps in to settle United–American turf war at Chicago O'Hare, Aerospace Global News (Mar. 5, 2026), <https://aerospaceglobalnews.com/news/faa-cap-flights-chicago-ohare-united-american-dispute/>.

⁹ Robert Silk, Spirit agrees to sell two Chicago O'Hare gates to United, Travel Weekly (Feb. 6, 2026), <https://www.travelweekly.com/Travel-News/Airline-News/Spirit-sells-two-OHare-gates-to-United>.

¹⁰ Doyinsola Oladipo, United Airlines rules out bid for Spirit Airlines' assets, Reuters (Sept. 16, 2025), <https://www.reuters.com/business/aerospace-defense/united-airlines-rules-out-bid-spirit-airlines-assets-2025-09-16/>.

¹¹ Hal Singer, Dehubbing Competitors at the Airport, The Sling (May 18, 2026), <https://www.thesling.org/dehubbing-competitors-at-the-airport/>.

¹² Allyson Versprille, FAA Orders O'Hare Flight Cuts Amid American, United Turf War, Bloomberg News (Apr. 16, 2026), <https://www.bloomberg.com/news/articles/2026-04-16/faa-orders-o-hare-flight-cuts-amid-american-united-turf-war>.

¹³ Fed. Aviation Admin., Transcript of Scheduling Reduction Meeting, Day 1, for Chicago O'Hare International Airport, at p. 59 (Mar. 19, 2026), https://downloads.regulations.gov/FAA-2004-16944-0165/attachment_2.pdf.

¹⁴ *Id.* at p. 18.

¹⁵ *Id.* at p. 141.

Southwest Airlines is discontinuing its service there effective June 4, 2026 — suggesting that United's overcapacity tactics may be successfully squeezing out viable competitors.¹⁶

II. A Broken Framework and a Carrier That Exploits It

Airports are strictly constrained by physical space and time allotted to landings, taxiing, and takeoffs, particularly gates where passengers deplane and board aircraft and airport slots which represent an airline's right to take off or land on a runway at a designated time. These infrastructure constraints help explain how United's tactics at O'Hare are driven in part by perverse incentives for dominant carriers to engage in tactics such as recklessly excessive capacity expansion.

At O'Hare, the gates are allocated through long-term leases with the City of Chicago that rely on "use-it-or-lose-it" formulas.¹⁷ That means airlines secure and retain physical gate infrastructure at O'Hare through flight volume rather than through open-market bidding or any mechanism tied to consumer demand, service quality, or competitive balance. It is a framework that rewards the airline that can schedule the most flights, whether or not those flights are economically justified, and gives dominant incumbents structural advantages. Thus, for a carrier like United, which already holds the largest gate portfolio at O'Hare at 99 out of 199 gates,¹⁸ the incentive is to overschedule — adding flights not because passenger demand warrants them, but because flight volume is what buys and preserves gate access.

The broader result is a self-reinforcing cycle: the dominant carrier adds capacity, which secures more gates, which enables still more capacity, which crowds out smaller competitors who cannot match that volume. United is illustrating these competition concerns in real time at O'Hare as the airline aggressively exploits current incentives to entrench its own position and force out competitors. And these practices come at the expense of competition and consumers, demonstrating why United's cumulative course of conduct should give you pause given your antitrust and consumer protection mandates.

This gate allocation framework does not operate in isolation. The FAA's governing system for runway access at congested airports presents parallel challenges. First, the FAA's system —

¹⁶ Southwest Airlines, Southwest Focuses on Serving Chicago and Washington D.C. via MDW and BWI/DCA; Discontinuing Service at ORD and IAD (Mar. 13, 2026), <https://www.swamedia.com/news-and-stories/update/southwest-focuses-on-serving-chicago-and-washington-d-c-via-mdw-and-bwi-dca-disc-MC3KWMYYUIMFAEDJXACDQXCUFWTU>.

¹⁷ Talia Soglin, United Airlines gets additional gates at O'Hare, while American loses a few: 'Competition keeps fares lower', Chicago Tribune (Oct. 1, 2025), <https://www.chicagotribune.com/2025/10/01/united-airlines-gets-additional-gates-at-ohare-while-american-loses-a-few-competition-keeps-fares-lower/>. See also, e.g., Fed. Aviation Admin., Transcript of Scheduling Reduction Meeting, Day 1, for Chicago O'Hare International Airport, at p. 11 (Mar. 19, 2026) (U.S. Dep't. of Transportation's Assistant Secretary stating that Chicago's O'Hare airport leasing policy "drives behavior that awards gates for scheduling flights the year prior"), https://downloads.regulations.gov/FAA-2004-16944-0165/attachment_2.pdf; *id.* at 52 (referring to the city of Chicago's O'Hare lease agreement with airlines, United executive Patrick Quayle stating "the whole lease agreement is written on gate utilization").

¹⁸ Hal Singer, Dehubbing Competitors at the Airport, The Sling (May 18, 2026), <https://www.thesling.org/dehubbing-competitors-at-the-airport/>.

which relies on direct "slot" controls¹⁹ at Level 3 airports and cooperative schedule facilitation at Level 2 airports like O'Hare²⁰ — is itself severely outdated. At Level 3 airports, legacy carriers hold disproportionate slot portfolios that reflect decades of grandfathered-in provisions and the accumulated effects of multiple mergers. At Level 2 airports such as O'Hare, the schedule approval process similarly rewards incumbents. At the same time, the precise competitive implications of these systems are needlessly difficult for competitors and the public to ascertain because how the FAA administers and publishes runway timings, approved schedules, and slot data is slow, limited, and opaque.

We believe this situation presents an important opportunity for policymaking and regulatory leaders to highlight and address the systemic failures that produced it. As such, we urge the FAA and the Department of Transportation to undertake a comprehensive review of the current systems for allocating airport infrastructure at O'Hare, as well as other congested airports, and take meaningful steps towards modernizing them, especially to improve transparency and data disclosure to market participants. The goal should be to reveal how the existing systems incentivize overcapacity, reward incumbency, and produce anti-competitive outcomes that harm travelers and threaten the viability of smaller carriers — and what can be done about it.

Specifically, these potential measures include:

- Require a competitive impact assessment of gate transfers or lease reassignments at O'Hare and other Level 2 airports, particularly when the acquiring carrier already holds a dominant share.
- Audit and publicly disclose O'Hare's compliance with the "grant assurances"²¹ mandated by receipt of funding from the FAA's Airport Improvement Program (AIP), particularly Assurance 22 (Economic Nondiscrimination) and Assurance 23 (Exclusive Rights) which

¹⁹ High Density Traffic Airports Rule, 33 Fed. Reg. 17896 (Dec. 3, 1968) (originally applying to five airports: O'Hare, JFK, LaGuardia, Reagan National, and Newark), https://archives.federalregister.gov/issue_slice/1968/12/3/17895-17899.pdf#page=2. See also William J. McGee and Ashley Nowicki, American Economic Liberties Project, Making Billionaires Pay Their Fair Share: How Private Jet Travel Congests America's Airports (Feb. 5, 2026), <https://www.economicliberties.us/our-work/making-billionaires-pay-their-fair-share-how-private-jet-travel-congests-americas-airports/>.

²⁰ O'Hare is no longer under the original 1968 High Density Rule's slot controls. Instead, the FAA currently designates O'Hare as a Level 2 Airport, which means the FAA monitors and works cooperatively with carriers to avoid overscheduling but does not formally assign and control slots as with Level 3 Airports. There are currently three Level 3 airports in the U.S.: John F. Kennedy International Airport (JFK), LaGuardia Airport (LGA), and Ronald Reagan Washington National Airport (DCA). See, e.g., Fed. Aviation Admin., Slot Administration - U.S. Level 2 Airports (Nov. 27, 2024), https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/perf_analysis/slot_administration/slot_administration_schedule_facilitation/level-2-airports; Fed. Aviation Admin., Slot Administration - U.S. Level 3 Airports (Jan. 9, 2023), https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/perf_analysis/slot_administration/slot_administration_schedule_facilitation/level-3-airports.

²¹ Fed. Aviation Admin., Grant Assurances (Obligations) (Apr. 28, 2025), https://www.faa.gov/airports/aip/grant_assurances.

require the airport to provide reasonable, non-exclusionary access to all carriers, and the extent to which United's conduct may be hindering O'Hare's compliance.

- Vastly improve public transparency into the FAA's airport slot and scheduling data systems, particularly to require real-time or near-real-time publication of slot holdings, slot trades, gate lease terms, and scheduling data at Level 2 (e.g., O'Hare) and Level 3 airports (e.g., DCA). (At present, the FAA publishes limited slot data in poorly formatted PDF publications only twice a year.²²) These data transparency improvements are critical for informing the policy debate on how access to our country's airport infrastructure and to the U.S. airspace itself should be overhauled.²³

Meanwhile, we urge the Department of Justice and the Department of Transportation to continue monitoring United's business conduct at O'Hare. While the structural failures of the infrastructure allocation systems bear significant responsibility for today's competitive dynamics, the question of whether United's cumulative course of conduct — potentially in combination with any evidence that has not yet come to light — crosses the line from aggressive but lawful conduct into unlawful anticompetitive behavior should raise strong concerns for antitrust regulators.

III. The Proposed Merger Between United Airlines and American Airlines

United Airlines CEO Scott Kirby recently acknowledged that United's proposed acquisition of American Airlines is off the table for now, after being rebuffed by American Airlines and President Trump.²⁴ However, the structural threat to the aviation market remains severe. United remains dominant at O'Hare and continues pursuing a strategy aimed at displacing American's hub there, while American continues to lag on profitability.²⁵ Because these underlying market

²² See, e.g., Fed. Aviation Admin., System Capacity and Evaluation, Holder and Operator Reports (last updated Jan. 21, 2026),

https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/perf_analysis/slot_administration/data. Also see New York Attorney General James' letter to U.S. Secretary of Transportation Pete Buttigieg on Sept. 21, 2021 for a discussion of these transparency issues, available at https://ag.ny.gov/sites/default/files/9.21.2021_letter_of_ny_ag_james_to_secretary_buttigieg_administrator_dickson.pdf.

²³ See, e.g., William J. McGee & Ganesh Sitaraman, American Economic Liberties Project, How to Fix Flying: A New Approach to Regulating the Airline Industry (Jan. 26, 2024), <https://www.economicliberties.us/our-work/how-to-fix-flying/>; William J. McGee, American Economic Liberties Project, Written Testimony Before the U.S. Senate Committee on the Judiciary Subcommittee on Antitrust, Competition Policy, and Consumer Rights For a Hearing on "Examining Competition in America's Skies" (Sept. 30, 2025), "AELP stands with other advocates in asserting that such slots should not be bought, sold, traded, or given away by airlines"), <https://www.judiciary.senate.gov/imo/media/doc/a5baedff-b8d1-271b-902e-844a8b350dab/2025-09-30%20PM%20-%20Testimony%20-%20McGee.pdf>.

²⁴ Leslie Josephs, United Airlines CEO confirms he approached American Airlines about merger, CNBC (Apr. 27, 2026), <https://www.cnbc.com/2026/04/27/united-airlines-merger-with-american-airlines-ceo-airline-confirms.html>.

²⁵ Natalia Shelley, Delta vs United vs American: The Shocking Truth Behind Airline Profits, Aviation A2Z (May 10, 2026) (reporting that for 2025, Delta Air Lines reported \$5.0 billion in net income, United Airlines at \$3.4 billion, and American Airlines at just \$111 million), <https://aviationa2z.com/index.php/2026/05/10/delta-vs-united-vs-american-truth-behind-airline-profits/>; Association of Professional Flight Attendants, While Competitors Surge Ahead, American Falls Further Behind (Jan. 27, 2026) (referring to American Airlines, "our airline continues to lag its competitors by a significant margin"), <https://www.apfa.org/2026/01/27/1-27-26-while-competitors-surge-ahead-american-falls-further-behind/>.

dynamics remain unresolved, conditions remain ripe for United to resurrect its acquisition attempts.

If United and American were to merge into a single company, the resulting behemoth would control approximately 40 percent of domestic capacity in a market where the top four airlines already control 80 percent,²⁶ more than 2,800 aircraft,²⁷ and dominant positions at major airports across the country, including O'Hare. (Indeed, the anticompetitive effects of such a merger are so blatant that regulators should be especially vigilant about United possibly feigning public interest in acquiring American in order to position its next merger proposal as more reasonable.) At O'Hare specifically, the merger would accomplish through acquisition what United has been unable to achieve unilaterally: the permanent elimination of the only hub-on-hub competition at any major U.S. airport. And right now, this competition is a core structural constraint that restrains United's self-interest from producing even worse outcomes.

At other airports beyond Chicago, United's business practices at O'Hare offer us a crucial window into how a post-merger mega-carrier would likely exercise market power at hubs where it faces diminished competition. By dominating the physical chokepoints of American air travel, legacy carriers physically lock out discount competitors and insulate themselves from price-lowering pressure. This leaves consumers with no choice but to accept whatever base fares, fees, and terms of travel the dominant airline dictates.

For these reasons, we are concerned that a merger between United and American would transform a competitive struggle into an unchecked monopoly at the expense of consumers and compromise the future of air travel in the U.S. Any such proposed merger that comes before your respective agencies for review and approval should thus be subjected to rigorous antitrust review, informed by United's conduct at O'Hare.

IV. Conclusion

For the foregoing reasons, we urge your respective agencies to take the following actions:

- Monitor United Airlines' cumulative course of conduct at O'Hare for evidence of potential violations of Section 2 of the Sherman Act (15 U.S.C. § 2), 49 U.S.C. § 41712, and any other federal law you deem relevant, as well as evaluate the impact of United Airlines' O'Hare strategy on low-cost and ultra-low-cost carriers, whose ability to compete at the airport has been increasingly diminished;

²⁶ Leslie Josephs, What a United-American merger would mean, from antitrust hurdles to airfare, CNBC (Apr. 14, 2026), <https://www.cnbc.com/2026/04/14/united-airlines-american-airlines-merger-report.html>.

²⁷ Sri Taylor, United CEO pitched Trump on possible tie-up with rival American, Chicago Tribune (Apr. 14, 2026), <https://www.chicagotribune.com/2026/04/14/united-ceo-pitched-trump-on-possible-tie-up-with-rival-american/>.

- Initiate a comprehensive review of the current frameworks for allocating gates and slots at O'Hare and other congested airports, then take concrete measures towards the aim of illuminating key data sources, compliance with existing legal obligations, anticompetitive incentives, outcomes, and potential solutions; and
- Subject any proposed airline merger to rigorous scrutiny under your respective legal authorities — including any merger or joint venture between United and American.

The evidence from O'Hare warns us about the ongoing harms of broken systems for allocating airport infrastructure, as well as the potential consequences when a dominant carrier aggressively exploits those broken systems' perverse incentives. With the competitive infrastructure of the air travel market at stake, your respective agencies should not wait for a merger between United Airlines and American Airlines to materialize before taking action.

Sincerely,

American Economic Liberties Project
Consumer Action
Consumer Federation of America
Demand Progress Education Fund
Open Markets Institute