

AA Exhibit 0800

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:	Chapter 11 Case No.
	:	
AMR CORPORATION, <i>et al.</i> ,	:	11-15463 (SHL)
	:	
Debtors.	:	(Jointly Administered)
	:	
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SECOND UPDATED DECLARATION OF JERROLD A. GLASS
IN SUPPORT OF MOTION TO REJECT COLLECTIVE BARGAINING
AGREEMENTS PURSUANT TO 11 U.S.C. § 1113(c)

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No.	Exhibit Description
801	United Top of Scale Pay Pre- and Post- Bankruptcy
802	Regional Jet Allowances Under Pilot Collective Bargaining Agreements
803	Delta Investor Day 2011
804	Delta: Keep Climbing, February 2, 2012
805	Pilot Maximum Annual Vacation Accrual
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810	Pilot International Duty Limits
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I, JERROLD A. GLASS, subject to the penalties provided by law for perjury, do hereby declare the following to be true and correct on the basis of my personal knowledge and upon information from documents I have reviewed, including those in my custody and control.

I. IDENTIFICATION OF DECLARANT

A. Employment History

1. Current Employment

1. **F&H Solutions Group.** I am currently employed as President of F&H Solutions Group, a human resources and labor relations consulting firm with offices in four locations. F&H Solutions Group was formed in May 2006 as the successor to my previous consulting firm, J. Glass & Associates, which was formed in 1989. I was employed by J. Glass and Associates from 1989 until I joined US Airways in April, 2002; I rejoined J. Glass & Associates upon my departure from US Airways in October 2005. J. Glass & Associates specialized in representing transportation sector companies, including airlines and railroads, in labor and employee relations matters. J. Glass and Associates also conducted ad hoc surveys for individual airline and railroad companies and provided clients with other analyses related to labor and employee relations. J. Glass & Associates also provided expert witness testimony in labor arbitrations and litigation.

2. There are currently 16 full-time professional consultants employed at F&H Solutions Group. The initial client base of F&H Solutions Group were air carriers carried over from J. Glass and Associates; F&H Solutions continues to do considerable work for air carriers, but the client base has also grown to include non-airline clients as well. The work at F&H Solutions Group also includes recruiting, human resource assessments, diversity and inclusion training, compensation analysis, and FMLA administration. The firm is also

responsible for producing pay, work rule and benefit comparisons on behalf of various trade associations. These include:

- Regional Airline Association—the surveys cover pay, work rules and benefits for pilots, flight attendants, ground employees, and management personnel;
- Airline Human Resource Association—the survey covers ground employees of foreign airlines working in the United States; and
- Labor Relations Association of Passenger Railroads—the surveys cover shopcraft employees, trainmen and engineers, maintenance-of-way employees, agents and clerks, and supervisors.

2. Prior Employment

3. **US Airways, Inc.** I was employed by US Airways, Inc. as Senior Vice President of Employee Relations from April 2002 to April 2004, at which time I was promoted to Executive Vice President and Chief Human Resources Officer. I remained in that position at US Airways, Inc. until September 30, 2005, when US Airways merged with America West Airlines and relocated its headquarters from Arlington, Virginia to Tempe, Arizona. I was at US Airways throughout the time of their first (2002-03) and second (2004-05) bankruptcy proceedings. I was responsible for all aspects of human resources and labor relations, including all collective bargaining, human resources policy assessment and implementation, benefit administration, benefit strategy and design, recruiting, compensation, corporate learning and development, and labor relations.

4. **J. Glass & Associates.** I started and served as President of J. Glass & Associates in September 1989 as a consulting firm targeted toward airline clients seeking outside support for their labor relations team for special projects or assistance in collective bargaining, with particular focus on contract negotiations (chief negotiator), costing (valuation) of company and union proposals, and contract analysis and research on any of the various subjects usually found in airline labor contracts. I remained at the firm until my departure for US Airways in

April 2002. During my thirteen years of consulting work, I developed a practice strong enough to survive and prosper despite my hiatus from 2002 to 2005. Three associates continued to provide assistance to clients during my years at US Airways. At J. Glass & Associates, I provided consulting services to nearly 50 different airlines, including majors, nationals, cargo, foreign flag and regional airlines.

5. **Airline Industrial Relations Conference.** From 1980 to 1989, I served in several capacities with the Airline Industrial Relations Conference (“**AIRCon**”), a membership organization of U.S. air carriers. AIRCon was created to serve as the information exchange and labor policy organization of U.S. scheduled air carriers. At AIRCon, I started employment as Director of Labor Relations Research, later being promoted to Vice President and Secretary-Treasurer. My responsibilities at AIRCon included analysis of all collective bargaining agreements in the airline industry, including newly ratified agreements and preparation and updating of reports on the contract terms in effect at the various airlines, which included all pay, work rule and benefits information contained in an airlines’ collective bargaining agreements. AIRCon’s members were especially interested in such comparative information when their own agreements were coming up for negotiations. The knowledge and experience I gained at AIRCon formed the basis of my subsequent work as a consultant on airline labor relations issues.

B. Experience in Airline Labor Relations and Collective Bargaining

6. **Airline Collective Bargaining Experience.** I have negotiated in excess of 100 airline collective bargaining agreements. I have served as chief negotiator and/or advisor to the following airlines with regard to the employee groups indicated:

- ACJet (Pilots and Flight Attendants);
- Allegheny Airlines (Mechanic & Related);

- Air Wisconsin (Pilots, Flight Attendants, Mechanic and Related, Fleet and Passenger Service, Dispatchers);
- America West Airlines (Pilots, Flight Attendants, Mechanic & Related);
- ATA Airlines (Pilots);
- Atlantic Coast Airlines (Pilots, Flight Attendants, and Mechanic & Related);
- Atlas Airlines (Pilots);
- Capital Cargo Airlines (Pilots);
- Colgan Airlines (Pilots, Flight Attendants);
- DHL Airlines (Pilots);
- Frontier Airlines (Pilots);
- Hawaiian Airlines (Pilots, Flight Attendants, Mechanic and Related, Fleet and Passenger Service, Dispatchers);
- Independence Air (Pilots, Flight Attendants);
- Mesaba Airlines (Flight Attendants, Mechanic & Related, Dispatchers);
- Midwest Airlines (Pilots, Flight Attendants);
- Offshore Logistics (Pilots);
- Pinnacle Airlines (Pilots, Dispatchers);
- PSA Airlines (Pilots);
- Sun Country Airlines (Pilots, Flight Attendants);
- Tower Air (Pilots, Flight Attendants); and
- US Airways (Pilots, Flight Attendants, Mechanic and Related, Fleet Service, Passenger Service, Dispatchers, Maintenance Training Specialists, Flight Simulator Engineers, Flight Crew Training Instructors).

7. In addition, I have represented at the collective bargaining table four foreign flag airlines operating in the United States—Bahamasair, British Airways, Mexicana Airlines, and Virgin Atlantic (all with regard to customer service agents).

8. **Other Collective Bargaining Experience.** In addition, I have also negotiated contracts in other industries including the passenger railroad and manufacturing sectors. I have represented the Northern Indiana Commuter Transportation District (NICTD) in negotiations and advised Amtrak, Long Island Railroad (LIRR), Metro North Railroad, Massachusetts Bay Commuter Railroad (MBCR), New Jersey Transit (NJT), NICTD, Port Authority Trans Hudson Line (PATH), Southeastern Pennsylvania Transportation Authority (SEPTA) in various labor matters. Also, I represented the National Elevator Bargaining Association (NEBA) in two rounds of multiemployer national bargaining and one round of local bargaining. NEBA represents the largest elevator construction companies in the United States. Furthermore, I have been retained by many other major, national, cargo, regional and foreign flag airlines to assist in analyzing air carrier pay, work rules and benefits. A list of all airline and related clients is listed in Attachment I.

9. **Costing and Valuation of Proposals; Research and Analysis.** One type of assignment in our consulting work is to assist airline clients in determining the estimated costs (or savings) likely to arise as a result of various proposed contract terms. While wage rates can be relatively easy to quantify, intimate knowledge of airline industry work rules and practices is essential to proper evaluation of contract terms. Airline work rules are notoriously complex and interrelated, requiring a broad working knowledge of the industry in order to properly evaluate. Many airlines have sufficient staff and resources for this task, but sometimes need outside help, e.g., when multiple contracts are in negotiation at the same time. Smaller and regional carriers generally have fewer internal resources and frequently need outside support and advice on costing/valuation, comparative contract provisions and analysis of contract issues when negotiating collective bargaining agreements.

10. **Experience in Airline Bankruptcy Cases.** I have also been involved in several airline bankruptcies. In 1993, I served as chief negotiator and labor advisor to Hawaiian Airlines when the airline sought bankruptcy protection. Also, I served as a labor advisor and chief negotiator for Frontier Airlines and Independence Air after those airlines filed for bankruptcy protection. I was employed at US Airways as the Senior Vice President of Employee Relations when the company sought bankruptcy protection in August 2002. I was still with US Airways as the Executive Vice President and Chief Human Resources Officer when the airline filed for bankruptcy protection for a second time in September 2004.

11. **Other Airline-Related Work.** I have also advised airlines on bargaining strategies and been retained by investment firms to advise them on the labor aspects of airline mergers/acquisitions, consolidations, asset sales and the impact of labor settlements on the air carrier's overall cost structure.

C. Other Experience and Educational Background

12. Prior to joining AIRCon, I was the assistant to the director of economic studies at the American Association of University Professors, a trade association and union of college professors, where I analyzed salary and benefit data from more than 2,600 colleges and universities for inclusion in an annual report on the economic status of college professors. I received a bachelor's degree in political science from Boston University in 1976 and a master's degree in public administration from The George Washington University in 1978. In addition to the experience outlined in this Declaration, I have served as a speaker on numerous panels throughout the years, all on the subject of labor and employee relations matters in the airline industry. I am frequently asked to provide analysis to the media and have been quoted, or appeared on television and radio on numerous occasions to discuss airline and other industry labor relations matters.

D. Prior Testimony

13. I testified on two separate occasions in Bankruptcy Court in the Eastern District of Virginia on behalf of US Airways during the course of their two bankruptcy proceedings. The subject of my testimony included labor costs and projections, management compensation, retention and staffing issues. During my work as a consultant, I have testified at least 50 times on behalf of air carriers in labor arbitration proceedings on a variety of airline contract interpretation issues, including wage, work rule and benefit comparisons, negotiations history, and seniority. In addition, I have testified in a number of interest arbitration proceedings involving pay rates of pilots, flight attendants and mechanics. I have been retained as an expert to advise law firms and their clients on airline matters. Examples include calculations involving prevailing wage rate issues (Service Contract Act), seniority issues (Bertulli v. IACP and Continental Airlines), and 3-pilot vs. 2-pilot issues (Tice v. American). I have also testified as an expert witness in the following matters: Pinoli v. Westermeyer (citation not available) and Crocker v. Piedmont Aviation, 741 F. Supp. 241 (D.D.C. 1989). I appeared as an expert witness to opine on comparative pay, work rules and benefits in the regional airline industry in the United States Bankruptcy Court for the Southern District of New York In re: Delta Air Lines, et al, Debtors (Chapter 11 Case No. 05-17923 (ASH)).

II. ASSIGNMENT: COMPARE AMERICAN'S CURRENT AND PROPOSED LABOR CONTRACT TERMS ACROSS MAJOR U.S. AIRLINES

14. It is standard practice for carriers and unions in the airline industry to compare pay, work rules and benefits for the same group of employees¹ to a peer set when negotiating

¹ In Railway Labor Act parlance, each major work group, such as pilots or flight attendants, is a separate "craft or class." The scope of each craft or class, and the election of union representatives, are determined by the National Mediation Board pursuant to the provisions of

changes to their collective bargaining agreements. This practice is known as “pattern bargaining.” For each section of the agreement, unions generally seek to match or exceed the best (from an employee standpoint) terms in place at comparable carriers; carriers usually seek to control costs and/or to increase productivity within boundaries set by the pattern of their particular peer set. The peer set is usually determined by certain characteristics such as markets served, competition on domestic and international routes and/or hubs, comparable company size, number of employees, business model, code sharing, and overall financial situation. For American, the primary comparator group is obvious: it consists of what are commonly called the “major” or “network” carriers, i.e. Continental,² Delta,³ United, and US Airways⁴ (collectively, “the Comparator Group”).⁵ I will refer to many airlines’ Collective

Section 2, Ninth of the RLA. 45 U.S.C. § 152, Ninth. (2006 & amended by P.L. 112-95, Feb. 14 2012). Each craft or class is nationwide in geographic scope.

² Continental and United are in the late stages of integration following a successful merger. Continental is technically no longer a separate air carrier, however, its former flight attendants continue to work at the merged airline under the terms and conditions of the collective bargaining agreement they negotiated prior to the merger; I therefore have included them in my analysis as if they were a separate entity.

³ Northwest Airlines would also have been included in this group of major network carriers prior to its 2008 merger into Delta.

⁴ The current US Airways is the product of the 2005 merger of the former America West Airlines, which was based in Phoenix with the former US Airways, which was based in Arlington, Virginia. Labor issues involving their two pilot groups have caused a delay in integrating its pilot collective bargaining agreement and workforce. As a result, US Airways today operates with two separate contracts for its pilots, which are called US Airways-East (the pre-merger US Airways) and US Airways-West (the pre-merger America West.) The flight attendants have also been operating under separate contracts, but a tentative agreement was reached in January 2012. This tentative agreement failed ratification on March 30, 2012.

⁵ Alaska Airlines might also be included by some analysts in the major network comparator group. Alaska, however, is somewhat unique: it is a much smaller carrier which has historically operated primarily in the Northwestern U.S. and operates only one aircraft type. I have therefore not included them.

Bargaining Agreements (“CBA”) in this declaration. I have not included them as exhibits, but they are available upon request.

15. I have been asked to briefly describe the history of major U.S. air carriers’ collective bargaining during bankruptcy. My testimony on this subject is in Section IV below. I have also been asked to compare the current terms of the labor contracts in place at American Airlines, Inc. (“American” or “the Company”) that are implicated by its Section 1113 proposals with the comparable provisions in the labor contracts of the Comparator Group. In addition, I have been asked to perform the same comparisons using the labor contract changes American has proposed to its unions in its Section 1113 proposals. I report on these analyses in separate sections below for each of the four major contract groups.

- Section V. for Pilots
- Section VI. for Flight Attendants
- Section VII. for Mechanic & Related Employees
- Section VIII. for Fleet Service Employees

III. SUMMARY OF CONCLUSIONS: AMERICAN’S LABOR CONTRACTS ON THE WHOLE HAVE AMONG THE HIGHEST COSTS AND LOWEST PRODUCTIVITY AS COMPARED TO MAJOR NETWORK CARRIERS

16. Based on my analysis of the contract provisions, my experience as a negotiator of more than 100 airline contracts, and as a former senior executive at a network carrier, my overall conclusions for each work group and various contract provisions are set forth below.

A. Pilots

1. Scope Clause Issues

17. **Current Contract Terms.** My analysis of major scope provisions, including important issues such as code sharing and regional flying, shows that American’s CBA with the Allied Pilots Association (“APA”) has the least favorable provisions in the industry among

the Comparator Group. American's inability to have competitive code sharing and regional flying provisions has put American at material disadvantage to its competitors in its ability to generate needed revenue.

18. **Section 1113 Proposal.** American's Section 1113 proposal on code sharing and regional flying will allow American to be competitive with the Comparator Group, and in some cases, give American an advantage over its competition. These changes are needed as American has had to work from a position of weakness in these critical areas for many years. If American cannot secure these changes, it will be difficult for American to generate the revenue it needs to successfully compete.

2. Work Rules

19. **Current Contract Terms.** On important work rule issues, American's pilots are not competitive with the Comparator Group. As explained in greater detail in Section V, the work rule provisions of American's pilot agreement limit pilot productivity by a series of provisions, including but not limited to duty, credit and minimum day rigs, allowable monthly maximum flying, flexibility in allowing additional flying by pilots, how long a pilot can be on duty. American is also not competitive with the Comparator Group in contract terms regarding pilots' ability to take time off—e.g., vacation accruals, and usage rates of sick leave that are the highest in the industry which cannot be sufficiently monitored and managed under the labor contract. The cumulative effect of all of these provisions makes American's pilots the least productive among the Comparator Group and causes American to operate with many more pilots than its competitors would need to fly comparable routes and aircraft.

20. **Section 1113 Proposal.** American's Section 1113 proposal will place pilot productivity at American on generally equal terms with the Comparator Group. The

Company's proposal should improve American's pilot productivity and help American narrow the productivity gap between it and the Comparator Group.

B. Flight Attendants (APFA)

1. Compensation

21. **Current Contract Terms.** American has two provisions in its CBA with Association of Professional Flight Attendants ("APFA") that are nonexistent at the Comparator Group. Specifically, both incentive pay (paying flight attendants 115 percent of their base pay over 70 monthly pay hours, including 5 hours of *guaranteed* incentive pay for reserves) and domestic coach galley pay are provisions unique to American and not contained in any other Comparator Group collective bargaining agreement.

22. **Section 1113 Proposal.** American's Section 1113 proposals would eliminate incentive pay and domestic coach galley pay and would give American the same provisions as the other Comparator Group airlines. Rather than having a cost disadvantage on these provisions, American will have a generally comparable pay system in place as the Comparator Group.

2. Work Rules

23. **Current Contract Terms.** American's flight attendants are not competitive with the Comparator Group on certain important work rule issues. As explained in more detail in Section VI, my analysis of these specific work rules found that American's are on the whole less favorable than those at the Comparator Group. Specifically, the following provisions constrain flight attendant productivity as compared to the other major network carriers: duty, credit and minimum day rigs; allowable monthly maximum flying; and how long a flight attendant can be on duty. In addition, flight attendants have the ability to take additional vacation by bidding trips that touch the beginning or end of their bid vacation period, which

further erode productivity. In sum, many of American's current flight attendant work rules result in higher costs and require American to keep more flight attendants on the active payroll to cover its operational needs.

24. **Section 1113 Proposal.** Considered overall, American's Section 1113 proposal will put American on generally equal terms with the Comparator Group. American's proposal should improve American's flight attendant productivity and close the gap between it and the Comparator Group. While American's Section 1113 proposal provides for some terms that will be more favorable than at the Comparator Group, there are also proposals that will remain more favorable to the Comparator Group. For example, the profit sharing proposal offered by American exceeds the profit sharing plan in place at US Airways, including what was negotiated in their failed tentative agreement. In addition, future increases for American's flight attendants will total 7.5 percent over six years under a consensual agreement, while under the failed US Airways tentative agreement, future increases would have totaled 4.0 percent. On balance, for a carrier that has lost as much money as American has over a prolonged period of time, the Section 1113 proposals to APFA are similar to the level of improvement sought and achieved at US Airways and United during their restructurings.

C. **Mechanics & Related**

1. **Scope and Work Rules**

25. As described more fully in Section VII, there has been a major change in how airlines utilize employees in the mechanic and related craft or class.

26. **Current Contract Terms: Outsourcing.** American's current contract severely limits outsourcing. All of the Comparator Group airlines now outsource from 20 percent to more than 50 percent of their "heavy" maintenance work (see Section VII for an explanation of heavy maintenance). American outsources none of its heavy maintenance work.

27. **Reductions in Force/Furloughs.** American's current contract provisions restrict its ability to furlough excess employees in the system and limits American's ability to displace employees from one location to another. American's contract also requires staffing of many stations and maintenance locations with its own employees. None of the Comparator Group airlines has such uncompetitive and costly staffing and furlough protection provisions.

28. **Vacations.** American's current contract contains vacation accrual provisions that are not competitive with the Comparator Group. Adding to the problem, American's contract contains provisions that allow the borrowing of vacation days from the following year (Personal Vacation Days) and the purchase of additional vacation days (Flex Vacation Days). Comparable provisions simply do not exist in the Comparator Group.

29. **Section 1113 Proposal.** American's Section 1113 proposals will allow the Company to become competitive in areas where the Comparator Group has had a significant competitive advantage for years. American's proposals will make them competitive with some provisions in the Comparator Group, but not with others (e.g., heavy maintenance). In areas associated with time off (vacations) and right-sizing the airline (displacements and reduction in force procedures), American proposes changes which will make them competitive with the Comparator Group. The changes noted in this section on mechanic and related employees were accomplished by the Comparator Group during their various restructurings.

D. Fleet Service Employees

1. Scope and Work Rules

30. As described more fully in Section VIII, there has been a dramatic increase in the use of outside vendors to perform work previously performed by fleet service employees—especially at non-hub locations.

31. **Current Contract Terms: Outsourcing.** American's current contract limits fleet service outsourcing. All of the Comparator Group airlines now outsource some portion of their fleet service work. Most of the Comparator Group airlines have outsourced all of their cabin aircraft cleaning. American outsources only its overnight aircraft cabin cleaning. All of the Comparator Group airlines outsource the fueling of their airplanes and have done that for many years. Yet American remains contractually required to fuel its own airplanes at eleven of its stations.

32. **Reductions in Force/Furloughs.** American's contract restricts the ability to furlough excess employees in the system and limits American's ability to displace employees from one location to another. American's contract also requires minimum staffing levels at many of their stations. Not one of the Comparator Group airlines has such uncompetitive and costly staffing and furlough protection provisions.

33. **Vacations.** American's current contract contains vacation accrual provisions that are not competitive with all the Comparator Group. American's agreement has provisions that allow the borrowing of vacation days from the following year (Personal Vacation Days) and the purchase of additional vacation days (Flex Vacation Days) that simply do not exist in the Comparator Group.

34. **Section 1113 Proposal.** American's Section 1113 proposals allow the Company to close the gap in areas where the Comparator Group has had a competitive advantage for years. In other areas associated with time off (vacations) and right sizing the airline (displacements and reduction in force procedures), American proposes changes that will make them competitive with the Comparator Group. All of the changes noted in this section on fleet

service employees were accomplished by the Comparator Group during their various restructurings.

E. Employee Benefits

35. **Current Contract Terms: Medical Benefit Plans.** It is well documented that rising health care costs are a critical problem for employers in the United States. The airline industry is not immune from this problem, and the Comparator Group have all attempted to address this problem during their restructurings. Because plan design features are somewhat interdependent, it is difficult to assess whether discrete plan design features are more or less favorable to American. In my opinion, however, when comparing American's current active medical plan provisions with the Comparator Group, the number of medical plan options, its plan design (as a whole), and employee contributions are not competitive with the Comparator Group. American's employees currently contribute an average of 16 percent towards their healthcare coverage. This is a smaller percentage than most of the Comparator Group airlines (and for some groups, such as flight attendants, the employee share is much less).

36. **Future Retiree Medical Benefits.** American's current contract provisions regarding medical plans for employees who retire in the future are unique among the Comparator Group. No other airline provides medical benefits for future retirees at such a low level of employee cost sharing.

37. **Retirement Income Plans.** As for retirement plans, all the Comparator Group airlines, with the exception of Continental's non-pilot employees have either terminated or frozen their defined benefit plans and enhanced their defined contribution plans. American is the only other airline among the network carriers that still maintains defined benefit plans for its employees.

38. **Section 1113 Proposal.** American's Section 1113 proposals covering active medical plans, retiree medical plans for future retirees, and retirement plans will put American on a par with the Comparator Group.

IV. EVERY OTHER MAJOR CARRIER IN BANKRUPTCY HAS REQUIRED MULTIPLE ROUNDS OF LABOR COST REDUCTIONS

A. Major Airline Bankruptcies Over The Past Decade

39. The Airline Deregulation Act of 1978 was expected to, and did, introduce intense competition to the U.S. airline industry. The first phase of deregulation, from 1978 through September 11, 2001, led to dramatic changes in the industry. Many carriers who could not compete effectively simply failed—including those who were not creative enough, or persuasive enough, to lower their labor costs by consensual agreements with the historically strong airline labor unions. Over the past decade, however, even those carriers who successfully navigated the first phase of deregulation have been challenged more harshly than ever before, both by increased competition and by external events which were beyond the expectation of anyone as the decade began—most especially the events of September 11, 2001 and their dramatic consequences for the aviation industry, but also including multiple recessions, wars, epidemics, tsunamis and earthquakes, all combined with unprecedented increases and volatility in the price of fuel.

40. Since 2002, US Airways, United, Delta, and Northwest have all gone through bankruptcy to restructure their costs, including especially their labor costs.⁶ As the Executive

⁶ Continental Airlines survived phase one of deregulation only because it successfully navigated through two bankruptcy proceedings, the first from 1983-85, and the second from 1990-1992. The major airline unions at Continental launched strikes in opposition to the carrier's implementation of new wages and work rules upon filing for Chapter 11. See *In re Continental Airlines Corp.*, 38 B.R. 67 (Bankr. S.D. Tex. 1984). Continental survived the bitter strikes with markedly lower labor costs and a largely non-union workforce.

Vice President and Chief Human Resources Officer at US Airways, I had firsthand experience with the Chapter 11 bankruptcy process as my former employer went through two judicial restructurings. In addition, I have been involved with the bankruptcy proceedings of Hawaiian Airlines in 1993, Independence Air in 2005, and Frontier Airlines in 2008. I served as chief negotiator for all three of those carriers during their bankruptcy proceedings. In addition, I have advised several other airlines as they restructured their labor costs. As a result, I have become very familiar with the dynamics of collective bargaining during bankruptcy and how organized labor reacts to airline proposals for labor cost reductions.

41. What I learned at US Airways and observed by watching the restructurings at Delta, Northwest and United Airlines is that airline unions consistently argue that the carrier has asked for too much, that the labor cost reductions proposed by the carrier are not truly “necessary” for a successful reorganization. Eager for consensual agreements rather than confrontation, carriers have often settled—at least initially—for less than what was truly needed, only to be forced by economic realities to return in relatively short order to the bargaining table for greater labor cost reductions. I set forth below a review of the Delta, Northwest, United and US Airways labor negotiations before and during their Chapter 11 restructurings. This review illustrates the point that airline unions have consistently sought, and carriers often agreed to, labor cost reductions less than what was truly needed.

42. The evidence is clear that when other airlines negotiated and settled with labor just prior to or during bankruptcy, pay rates, work rules, and benefits were not “in the middle of the pack” but rather towards or at the bottom of a peer set. To illustrate this point, I took the pre-crisis pay rates of each airline that restructured and compared them to the rates after their restructuring. In each case, the airline went from near the top to at or close to the bottom of a

peer set. For example, United was the second highest paying carrier for large narrow body aircraft (B757 or B737 depending on the airline) in a peer set of seven airlines (Alaska, American, Delta, Continental, Northwest, United, and US Airways). After its restructurings, United dropped to the sixth highest paying airline out of seven. That same type of pattern is true for flight attendants, fleet service and mechanics.⁷

Captain - Largest Narrowbody TOS Hourly Pay

	Equipment	Prior To UA Rsx	1st UA Rsx (Interim Pay Cut) 1/1/2003	2nd UA Rsx 5/1/2003	3rd UA Rsx 1/1/2005
United	B757	242.55	172.21	169.79	149.75
Alaska*	B737	181.95	181.95	189.23	196.80
American	B757	195.64	195.64	149.68	163.76
Continental	B757	178.66	178.66	178.66	178.66
Delta	B757	244.97	244.97	256.00	180.57
Northwest	B757	208.49	208.49	208.49	186.97
US Airways	B757	185.98	171.10	164.17	144.02
United Rank in Peer Group		2	6	5	6

***Notes**

Alaska operates only B737 narrowbody aircraft.

AA Ex. 801 (Source: F&H Solutions Group, LLC; Airline Collective Bargaining Agreements for Alaska, American, Continental, Delta, Northwest, United, US Airways; AIRCon data for non-union pay rates)

⁷ See AA Ex. 828 regarding Delta, AA Ex. 829 regarding Northwest, and AA Ex. 830 regarding US Airways (sources: Airline Collective Bargaining Agreements for Alaska, American, Continental, Delta, Northwest, United, US Airways; AIRCon data for non-union pay rates).

F/A - Domestic TOS Hourly Pay

	Prior To UA Rsx	1st UA Rsx (Interim Pay Cut) 12/31/2002	2nd UA Rsx 5/1/2003	3rd UA Rsx 1/7/2005
United	45.02	41.35	40.97	37.08
Alaska*	47.95	47.95	47.95	47.95
American	49.12	49.12	42.70	43.34
Continental	46.87	46.87	46.87	48.15
Delta*	43.78	43.78	43.78	44.60
Northwest	46.51	46.51	46.51	49.10
US Airways East*	40.24	40.24	38.23	32.43
United Rank in Peer Group	5	6	6	6

***Notes**

Alaska - Trip rates have been converted to hourly rates on the basis of 1 trip = 52.66 minutes.

Delta - Maximum longevity premium included above: 4/1/04 - \$0.80/hr (\$60/mo), 1/1/05 - \$0.72/hr (\$54/mo).

US Airways East - 4/1/03 - \$38.23/hr rate reflects temporary 5% pay deferral for Iraq war.

AA Ex. 801 (Source: F&H Solutions Group, LLC, Airline Collective Bargaining Agreements for Alaska, American, Continental, Delta, Northwest, United, US Airways; AIRCon data for non-union pay rates)

A&P Mechanic - TOS Hourly Pay Including Maximum License Premium

	Prior To UA Rsx	1st UA Rsx (Interim Pay Cut) 1/10/2003	2nd UA Rsx 5/1/2003	3rd UA Rsx 2/1/2005
United*	33.54	29.52	29.22	26.74
Alaska*	27.87	27.87	27.87	27.87
American*	34.52	34.52	30.25	30.63
Continental*	32.80	32.80	32.80	32.80
Delta*	33.47	33.47	33.47	30.13
Northwest*	33.39	33.39	33.39	35.44
US Airways East*	27.21	27.21	26.00	24.77
United Rank in Peer Group	2	5	5	6

***Notes**

United - Maximum longevity premium included above: \$0.30/hr 3/14/02, 1/10/03 and 5/1/03; \$0.27/hr 2/1/05.

Alaska - Maximum longevity premium included above: \$0.25/hr.

American - Maximum longevity premium included above: 3/1/02 - \$0.30/hr.

Continental - Maximum longevity premium included above: \$1.00/hr.

Delta - Maximum longevity premium included above: 3/16/02 - \$0.45/hr, 1/1/05 - \$0.41/hr.

Northwest - Maximum longevity premium included above: 5/11/02 and 5/11/04 - \$0.25/hr.

US Airways East - Maximum longevity premium included above: 7/1/02 and 4/1/03 - \$0.15/hr;

\$26.00/hr rate on 5/1/03 reflects temporary 5% pay deferral for Iraq war.

AA Ex. 801 (Source: F&H Solutions Group, LLC, Airline Collective Bargaining Agreements for Alaska, American, Continental, Delta, Northwest, United, US Airways; AIRCon data for non-union pay rates)

Fleet Service - TOS Hourly Pay

	Prior To UA Rsx	1st UA Rsx (Interim Pay Cut) 1/10/2003	2nd UA Rsx 5/1/2003	3rd UA Rsx 1/6/2005
United*	23.69	20.27	20.65	18.55
Alaska*	19.70	20.80	20.80	20.80
American*	23.01	23.01	23.69	20.24
Continental	20.65	20.65	20.65	21.50
Delta*	21.77	21.77	21.77	19.58
Northwest*	20.35	20.35	20.35	20.35
US Airways East*	19.64	19.64	18.67	15.55
United Rank in Peer Group	1	6	4	6

***Notes**

United - Maximum longevity premium included above: \$0.30/hr 5/14/02, \$0.15/hr 1/10/03, \$0.30/hr 5/1/03; \$0.27/hr 1/6/05.

Alaska - Maximum longevity premium included above: \$0.20/hr.

American - Maximum longevity premium included above: \$0.30/hr.

Delta - Maximum longevity premium included above: 4/1/00 - \$0.35/hr, 1/1/05 - \$0.31/hr.

Northwest - Maximum longevity premium included above: \$0.15/hr.

US Airways East - Maximum longevity premium included above: \$0.15/hr.

\$18.67/hr rate on 5/1/03 reflects temporary 5% pay deferral for Iraq war.

AA Ex. 801 (Source: F&H Solutions Group, LLC, Airline Collective Bargaining Agreements for Alaska, American, Continental, Delta, Northwest, United, US Airways; AIRCon data for non-union pay rates).

Equally painful changes were made in work rules and benefits, so the pattern requiring the airline to move aggressively to restructure labor costs has been consistent throughout the industry.

1. U.S Airways: Four Rounds of Concessions Over Two Bankruptcies

43. **First Bankruptcy (2002-2004).** The first of the legacy carriers to file for bankruptcy in the past decade was US Airways. Prior to filing in August, 2002, the company had asked its labor unions for \$850 million in concessions through a combination of wage,

benefit and work rule modifications including: (1) rollback of wages to 1998 levels; (2) reduction in pension plan benefits; (3) redesign of health and welfare benefit plans to provide, among other things, a single national medical insurance program for all employees; and (4) modifications in work rules to increase productivity.

- **First Round of Concessions.** US Airways reached agreements with two of its three major unions prior to bankruptcy, accepting cost reductions which totaled 85 percent of the Company's "ask." The company reached agreement on similar terms with the third union shortly after filing for bankruptcy. The pilots' agreement loosened scope clause restrictions, permitting the company's code sharing partners to fly up to 315 medium (45-50 seat) or large (51-70 seat) regional jets (RJ).
- **Second Round of Concessions.** Ongoing operating losses quickly made it apparent, however, that these settlements did not provide the company with the necessary cost levels. Nor had the labor settlements addressed the huge liabilities arising from US Airways' Defined Benefit plan. As a result, in December 2002, US Airways went back to the bargaining table and reached agreements with each of the three unions for the additional 15 percent in savings the company had sought, but not achieved, from its original proposals during the Summer 2002. This second round of voluntary restructuring agreements with all of its unions netted another \$200 million in labor cost savings, largely from changes in work rules and health benefits—although pilots took an additional 8 percent pay reduction on top of the previous cut of 26 to 37.4 percent.
- **Third Round of Concessions.** The December, 2002 concessions did not resolve the future of US Airways' Defined Benefit pension plans. The company soon realized it could not survive without terminating its DB plans. In March 2003, the company reached an agreement with ALPA to terminate its DB plan. The DB plans covering other work groups remained in effect.

44. So in the span of less than 10 months, the company had negotiated 3 concessionary agreements with ALPA, and 2 with each of its other unions. Subsequently, a letter of agreement between the two bankruptcies permitted the 76-seat RJ to begin operating at the code sharing partners operating as US Airways Express.

45. **Second Bankruptcy (2004-2005).** About 18 months after emerging from its first Chapter 11 proceeding US Airways filed for a second time. In this case, U.S. Airways announced that it needed \$900 million per year in labor cost reductions in addition to those

obtained during its first bankruptcy case. In this case, US Airways sought and obtained court approval under Section 1113(e) for a 4-month, 21 percent reduction in pay and related savings. Many months later, between September 2004 and January 2005, U.S. Airways' unions agreed to new contracts, called "Transformation Agreements," which provided for slightly lower pay reductions in exchange for more productivity through work rule changes. Among other things, these agreements:

- Removed many restrictions on outsourcing, which resulted in the elimination of approximately one-third of the mechanics (almost 1,000 positions), fifteen percent of the stock clerks (61 positions), nearly all utility workers (975 jobs), and 700 Fleet Service positions when ground handling was outsourced at 21 stations.
- Provided for termination of all the rest of the employee's remaining DB pension plans.
- Further loosened restrictions in the pilots' scope clause, permitting 60 Regional Jets to be flown with between 90 and 97 seats. Today, US Airways can operate more than 295 regional aircraft with more than 50 seats.

46. In sum, the restructuring of U.S. Airways was an incredibly painful process, but for the 25,000 employees who retained their jobs in the hopes that the airline would once again be profitable, it proved to be the right decision. In September 2005, US Airways and America West Airlines merged. Today, the combined airline is profitable and projects a secure future.

2. United Airlines: Three Years in Bankruptcy With Two Rounds of 1113 Motions

47. United Airlines entered Chapter 11 in December, 2002, and, quickly obtained interim relief pursuant to Section 1113(e).⁸ Subsequently, in March 2003, United filed its §

⁸ United's pilots and flight attendants agreed to interim wage reductions (pilots: 29 %; flight attendants: 9 %), Memorandum in Support of the Debtors' Motion for Interim Relief from their Collective Bargaining Agreements with the IAM Pursuant to Section 1113(e) at 6, In re UAL Corp., No. 02-B-48191 (N.D. Ill. Jan. 8, 2003), and the Court granted interim relief as to IAM-represented agents, mechanics and fleet service employees (13 percent). Order Authorizing Interim Relief from the Debtors' Collective Bargaining Agreements with the IAM Pursuant to 11

1113 motion, seeking total labor cost reductions per year of \$2.56 billion, including \$1.1 billion in annual savings just from the pilots.⁹

48. **First Round of Concessions: Spring, 2003.** In March and April 2003, the first round of permanent restructuring agreements was reached with all union groups, yielding \$2.2 billion in annual cost reductions.¹⁰ These agreements continued the deep pay cuts of the interim agreements,¹¹ but also contained fundamental changes in work rules to achieve savings through greater productivity and efficiency. United's pilots agreed to reduce or eliminate many of the restrictions in their Scope Clause, including the total ban on flying 70-seat RJs.¹²

U.S.C. § 1113(e) at 2 ¶ 5(b), In re UAL Corp., No. 02-B-48191 (N.D. *Ill.* Jan. 10, 2003). The pay cuts saved enough money to help meet immediate requirements of debtor-in-possession financing and provide breathing room for negotiations of permanent restructuring agreements. Memorandum in Support of Debtors' Motion to Reject their Collective Bargaining Agreements Pursuant to Section 1113(c) at 11, In re UAL Corp., No. 02-B-48191 (N.D. *Ill.* Mar. 17, 2003). In exchange, United agreed to defer filing its 1113 Motion to Reject for an additional ten weeks. Memorandum in Support of the Debtors' Motion for Interim Relief from their Collective Bargaining Agreements with the IAM Pursuant to Section 1113(e) at 10, Ex. B at 3-4 ¶ 9, Ex. B at 5 ¶ 13, In re UAL Corp., No. 02-B-48191 (N.D. *Ill.* Jan. 8, 2003).

⁹ Memorandum in Support of Debtors' Motion to Reject their Collective Bargaining Agreements Pursuant to Section 1113(c) at 2, In re UAL Corp., No. 02-B-48191 (N.D. *Ill.* Mar. 18, 2003); Proposed Changes to Airline Pilots Association (ALPA) Agreement for Pilots at 1, In re UAL Corp., No. 02-B-48191 (N.D. *Ill.* Mar. 17, 2003).

¹⁰ Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion at 2-3 ¶¶ 5-8, 6 ¶ 14, In re UAL Corp., No. 02-B-48191 (N.D. *Ill.* Apr. 30, 2003).

¹¹ Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion at 8 ¶ 19, 11 ¶ 26, 14 ¶ 32, 17 ¶ 44, 18 ¶ 47, In re UAL Corp., No. 02-B-48191 (N.D. *Ill.* Apr. 30, 2003).

¹² Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association,

As a result, today United can operate an unlimited number of regional aircraft of up to 70 seats.

In addition, United's pilots and flight attendants agreed to substantial productivity

improvements:

- decrease the amount of credit for hours not actually flown¹³
- increase the scheduled maximum¹⁴
- decrease the monthly guarantee¹⁵
- eliminate or reduce a variety of pay premiums¹⁶

Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion at 10 ¶ 24, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 30, 2003).

¹³ Proposed Changes to Air Line Pilots Association (ALPA) Agreement for Pilots at 12-13, In re UAL Corp., No. 02-B-48191 (N.D. Il. Mar. 17, 2003); Proposed Changes to Association of Flight Attendants (AFA) Agreement for Flight Attendants at 24, In re UAL Corp., No. 02-B-48191 (N.D. Il. Mar. 17, 2003); Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion Ex. B at 9, Ex. C at 16, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 30, 2003).

¹⁴ Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion at 9 ¶ 21, 12 ¶ 28, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 30, 2003).

¹⁵ Proposed Changes to Air Line Pilots Association (ALPA) Agreement for Pilots at 47-48, In re UAL Corp., No. 02-B-48191 (N.D. Il. Mar. 17, 2003); Proposed Changes to Association of Flight Attendants (AFA) Agreement for Flight Attendants at 20, In re UAL Corp., No. 02-B-48191 (N.D. Il. Mar. 17, 2003); Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion at Ex. B at 14, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 30, 2003).

- change the vacation scheduling system so that employees were paid only for the days they were on vacation and could no longer stretch out their vacation to get paid for all trips missed due to the vacation¹⁷
- replace 5 separate health plans with one redesigned plan, with higher employee contributions¹⁸

49. For ground employees, the IAM agreed to greater flexibility to use part-time fleet service workers,¹⁹ permitted the disposition of the company's Oakland and Indianapolis

¹⁶ Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion Ex. B at 6, Ex. C at 5, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 30, 2003).

¹⁷ See Proposed Changes to Air Line Pilots Association (ALPA) Agreement for Pilots at 18-19, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. Mar. 17, 2003); Proposed Changes to Association of Flight Attendants (AFA) Agreement for Flight Attendants at 38-39, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. Mar. 17, 2003); Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion Ex. B at 3, Ex. C at 17, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 30, 2003).

¹⁸ Proposed Uniform Employee Benefits Plan at 6, In re UAL Corp., No. 02-B-48191 (N.D. Il. Mar. 17, 2003); Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion at 9 ¶ 20, 11 ¶ 27, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 30, 2003).

¹⁹ Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion at 14-15 ¶ 35, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 30, 2003); Restructuring Agreement Amendment 2003-2009 For The Ramp and Stores Between United Air Lines, Inc. and District Lodge 141 International Association of Machinists And Aerospace Workers at 9 Art. VI.B (May 1, 2003).

maintenance facilities,²⁰ resulting in the furlough of approximately 1,200 mechanics from the closure of the Indianapolis facility alone.²¹ In addition, the IAM agreed to allow contracting out of certain heavy maintenance visits, and to eliminate a restriction on the outsourcing of work that would result in the furlough of any IAM employee.²²

50. **Second Round of Concessions: November, 2004.** Approximately 18 months after achieving its first round of labor cost reductions, and during the same bankruptcy proceeding, in November 2004, United filed § 1113 motions for the second time, stating it needed for an additional \$725 per year in labor cost savings.²³ Pilot pay rates were cut by an additional 11.8 percent, but the bulk of the savings were achieved from benefit changes and

²⁰ Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion at 15 ¶ 36, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 30, 2003); UAL/IAMAW District 141M Restructuring Agreement Amendment 2003—2009 Mechanics, Fleet Technical Instructors, and Maintenance Instructors at 7-8 Art. II-D (July 11, 2003).

²¹ Louis Uchitelle, "*Retraining Laid-Off Workers, but for What?*" NEW YORK TIMES ONLINE (Mar. 26, 2006) *available at* http://www.nytimes.com/2006/03/26/business/yourmoney/26lou.html?_r=1&pagewanted=print; Bloomberg BNA Daily Labor Report, "Furlough Benefits Granted to Mechanics At Indianapolis Site Under United Settlement", 65 DLR A-10 (Apr. 4, 2003).

²² Debtors' Agreed-To Motion to Approve the Modifications to their Collective Bargaining Agreements Pursuant to the Restructuring Agreements with the Air Line Pilots Association, Association of Flight Attendants, International Association of Machinists and Aerospace Workers, Professional Airline Flight Controllers Association, and the Transport Workers Union and to Withdraw their Section 1113(c) Motion at 15 ¶ 36, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 30, 2003); UAL/IAMAW District 141M Restructuring Agreement Amendment 2003—2009 Mechanics, Fleet Technical Instructors, and Maintenance Instructors at 7-8 Art. II-D (July 11, 2003).

²³ Debtors' Motion for Authority to Reject Their Collective Bargaining Agreements Pursuant to Section 1113(c) at 3 ¶ 4, In re UAL Corp., No. 02-B-48191 (N.D. Il. Nov. 24, 2004).

work rule changes.²⁴ In addition to the \$725 million of direct labor cost reductions realized from changes to the labor contracts, the PBGC reached a settlement with United, agreeing to the involuntary termination of all of United's DB pension plans.²⁵

3. Delta Airlines: Two Rounds of Concessions—Once Before Bankruptcy and Again During Bankruptcy

51. **Pre-Bankruptcy Concessions.**²⁶ Beginning in early 2003, Delta asked its pilot union for an immediate \$600 million pay cut, pension changes and other concessions, all in the total amount of \$1 billion.²⁷ These negotiations extended until Delta was on the brink of a

²⁴ See Debtors' Emergency Motion to Approve Agreements Modifying their Collective Bargaining Agreements with (A) The Air Line Pilots Association; (B) The Association of Flight Attendants; and (C) The Aircraft Mechanics Fraternal Association at 5 ¶ 10, In re UAL Corp., No. 02-B-48191 (N.D. Il. Jan. 19, 2005); Memorandum in Support of the Debtors' Emergency Motion for Interim Relief from their Collective Bargaining Agreement with AMFA Pursuant to Section 1113(e) at 4, 13, In re UAL Corp., No. 02-B-48191 (N.D. Il. Jan. 31, 2005).

²⁵ Debtors' Emergency Motion to Approve Agreement with PBGC at 1 ¶ 1, In re UAL Corp., No. 02-B-48191 (N.D. Il. Apr. 26, 2005).

²⁶ With the exception of pilots and dispatchers, Delta's employees are largely nonunion. Declaration of Geraldine P. Carolan in Support of Motion to Reject ALPA Collective Bargaining Agreement at 4-5 ¶ 7, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. Nov. 1, 2005). As a result, Delta was able to effectuate much of its labor cost restructuring unilaterally. See Memorandum in Support of Motion to Reject ALPA Collective Bargaining Agreement at 1-2, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. Nov. 1, 2005). Delta also outsources much of its ground handling and maintenance work to its affiliate DAL Global Services and to independent companies. See Marilyn Adams, *Delta to outsource more jet maintenance*, USA TODAY, March 29, 2005, available at http://www.usatoday.com/money/biztravel/2005-03-29-delta-cuts_x.htm; see also Press Release, Airport Terminal Services, ATS Announces Delta Contract Award in RSW (Aug. 1, 2005), available at http://www.atsstl.com/news_item.asp?newsID=27. Thus, Delta was able to accomplish pre-bankruptcy many of the cost reductions that other airlines had to achieve in the 1113 process with their fleet service and mechanics unions.

²⁷ Declaration of Geraldine P. Carolan in Support of Motion to Reject ALPA Collective Bargaining Agreement at 18-19 ¶¶ 26-27, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. Nov. 1, 2005).

bankruptcy filing in October, 2004.²⁸ At that point, Delta's pilots, represented by ALPA, agreed to a restructuring plan that saved Delta \$1 billion per year that included a 32.5 percent pay cut and numerous changes in pilot work rules, resulting in greater efficiencies in staffing and scheduling.²⁹

52. Further Concessions During Bankruptcy. Less than one year later, Delta's pilot and other labor cost reductions proved insufficient, and on September 14, 2005, Delta filed for bankruptcy protection.³⁰ Upon filing, Delta announced that it planned to lay off between 7,000 to 9,000 of its 52,000 employees in bankruptcy.³¹ In November 2005, Delta filed an § 1113 motion to reject the pilot and dispatcher collective bargaining agreements.³² Delta proposed additional pilot labor cost reductions of \$325 million per year.³³ In April 2006, Delta and ALPA³⁴ reached an agreement that saved Delta an additional \$280 million per year,³⁵ including:

²⁸ Declaration of Geraldine P. Carolan in Support of Motion to Reject ALPA Collective Bargaining Agreement at 19 ¶ 28, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. Nov. 1, 2005).

²⁹ Declaration of Geraldine P. Carolan in Support of Motion to Reject ALPA Collective Bargaining Agreement at 19-20 ¶¶ 28-29, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. Nov. 1, 2005).

³⁰ Voluntary Petition for Bankruptcy, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. Sep. 14, 2005).

³¹ Second Declaration of Edward H. Bastian in Support of Motion to Reject ALPA Collective Bargaining Agreement at 15 ¶ 30, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. Nov. 1, 2005).

³² Motion to Reject ALPA Collective Bargaining Agreement, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. Nov. 1, 2005).

³³ Motion to Reject ALPA Collective Bargaining Agreement at 2 ¶ 6, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. Nov. 1, 2005).

³⁴ In 2005, Delta's flight superintendents (dispatchers), represented by the Professional Airline Flight Control Association (PAFCA), agreed to concessions and a freeze of its DB plan. See

- an additional 14 percent pay cut³⁶
- agreement that the pilots would not oppose termination of their Defined Benefit plan.³⁷
- changes to the pilot scope clause to permit Delta to greatly increase its regional jet connections, up to 200 70-seat and 76-seat jets.³⁸

4. Northwest Airlines: Two Rounds of Labor Cost Reduction Agreements—Once Pre-Bankruptcy and Once During Bankruptcy

53. Pre-Bankruptcy Labor Cost Reductions. Northwest sought consensual labor cost reductions from each of its unions in 2003 and 2004.³⁹ Northwest achieved the first step of its labor cost restructuring in December, 2004 when ALPA agreed to a consensual cost reductions of \$265 million per year, primarily from a 15 percent pay cut.⁴⁰ The parties called this agreement a “Bridge Agreement” because of their understanding that further labor cost

Delta’s Reply in Support of Motion to Reject ALPA Collective Bargaining Agreement at 5, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. Nov. 14, 2005).

³⁵ Debtors’ Motion Pursuant to Section 363 of the Bankruptcy Code for Authority to Enter into Amendments to Pilot Working Agreement with Air Line Pilots Association, International at 5 ¶ 11, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. May 9, 2006).

³⁶ Debtors’ Motion Pursuant to Section 363 of the Bankruptcy Code for Authority to Enter into Amendments to Pilot Working Agreement with Air Line Pilots Association, International at 5 ¶ 12, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. May 9, 2006).

³⁷ Debtors’ Motion Pursuant to Section 363 of the Bankruptcy Code for Authority to Enter into Amendments to Pilot Working Agreement with Air Line Pilots Association, International at 6 ¶ 14, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. May 9, 2006).

³⁸ Debtors’ Motion Pursuant to Section 363 of the Bankruptcy Code for Authority to Enter into Amendments to Pilot Working Agreement with Air Line Pilots Association, International at 6 ¶ 13, In re Delta Air Lines, Inc., No. 05-17923 (PCB) (S.D.N.Y. May 9, 2006).

³⁹ Declaration of Douglas M. Steenland at 4-5 ¶ 8, In re Northwest Airlines Corp., No. 05-17930-
alg (S.D.N.Y. Sep. 14, 2005).

⁴⁰ Declaration of Douglas M. Steenland at 17 ¶ 28, In re Northwest Airlines Corp., No. 05-17930-
alg (S.D.N.Y. Sep. 14, 2005); Declaration of Daniel M. Kasper in Support of Northwest’s Application to Reject Collective Bargaining Agreements Pursuant to Section 11 U.S.C. § 1113(c) and Northwest’s Application to Modify Retiree Benefits Pursuant to Section 11 U.S.C. § 1114(f) and (g) at 7, In re Northwest Airlines Corp., No. 05-17930-
alg (S.D.N.Y. Dec. 20, 2005).

reductions might be necessary once Northwest's other unions agreed to reductions.⁴¹

Subsequently, in August, 2005, Northwest's AMFA-represented mechanics launched an unsuccessful strike.⁴² In response, Northwest implemented labor cost savings of \$203 million a year, largely from contracting out the vast majority of its line and base maintenance.⁴³ As a result, Northwest's mechanics workforce decreased from 4,400 in August 2005 to 880 in December 2005.⁴⁴

54. **Further Labor Cost Reductions During Bankruptcy.** Northwest filed for bankruptcy on September 14, 2005 (the same day that Delta filed).⁴⁵ In its filing, Northwest said it required labor cost reductions of \$1.4 billion per year, including the \$265 million in pilot concessions achieved in 2004.⁴⁶ Northwest filed a Motion under Section 1113 to reject all of its labor contracts on October 12, 2005.⁴⁷ Prior to a ruling on the motion:

- In March 2006, ALPA reached agreement for a second permanent restructuring agreement which provided \$358 million annual in cost savings and removed restrictions that had banned (with limited exceptions) regional jets with over 55

⁴¹ Declaration of Douglas M. Steenland at 17 ¶ 28, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. Sep. 14, 2005).

⁴² Declaration of Douglas M. Steenland at 5 ¶ 8, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. Sep. 14, 2005).

⁴³ Northwest's Application to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113(c) at 27 fnt 29, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. Oct. 12, 2005).

⁴⁴ See John Schmeltzer, *Deal set to end Northwest strike*, CHICAGO TRIBUNE, Oct. 10, 2006 available at http://articles.chicagotribune.com/2006-10-10/business/0610100275_1_aircraft-mechanics-fraternal-association-mechanics-at-united-airlines-layoff-status.

⁴⁵ Voluntary Petition for Bankruptcy, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. Sep. 14, 2005).

⁴⁶ Northwest's Application to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113(c) at 50-51, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. Oct. 12, 2005).

⁴⁷ Northwest's Application to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113(c), In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. Oct. 12, 2005).

seats, and had capped the number of 50-seat RJs at 104.⁴⁸ These changes were in **addition** to (a) the \$265 million per year achieved in a pre-petition agreement and (b) agreement to freeze the pilots' Defined Benefit pension plan.⁴⁹

- In March 2006, IAM-represented agents and clerical workers approved a long-term restructuring agreement;⁵⁰ in June 2006, ramp workers approved a long-term restructuring agreement.⁵¹ In total these IAM restructuring agreements saved a combined total of \$191M per year.⁵²
- Flight attendants rejected two tentative agreements which would have saved the company an additional \$195M per year.⁵³ The Bankruptcy Court then granted Northwest's Motion to Reject the flight attendant agreement and Northwest implemented cost savings of \$195 million per year.⁵⁴ Nearly a year later, flight

⁴⁸ Debtors' Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and for Relief Under Section 1113(c) of the Bankruptcy Code and Approval of Agreements with the Airline Pilots Association, International ("ALPA") at 8-9 ¶ 20, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. May 31, 2006).

⁴⁹ Debtors' Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and for Relief Under Section 1113(c) of the Bankruptcy Code and Approval of Agreements with the Airline Pilots Association, International ("ALPA") at 6 ¶ 13, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. May 31, 2006).

⁵⁰ Debtors' Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and for Relief under Section 1113(c) of the Bankruptcy Code and Approval of Agreements with the International Association of Machinists and Aerospace Workers, District 143 ("IAM") at 6 ¶ 13, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. June 2, 2006).

⁵¹ Debtors' Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and for Relief under Section 1113(c) of the Bankruptcy Code and Approval of Agreements with the International Association of Machinists and Aerospace Workers, District 143 ("IAM") at 6 ¶ 15, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. May 31, 2006).

⁵² The Labor Relations Advisor, "Northwest and IAM Ramp Workers Reach Agreement" (March 2006), available at http://www.fhsolutionsgroup.com/files/LABOR_REL_JUNE06.pdf.

⁵³ Debtors' Memorandum of Points and Authorities in Opposition to the Association of Flight Attendants-CWA's Motion for Relief from the Judgment and Order Authorizing Debtors to Reject their Collective Bargaining Agreement covering Flight Attendants at 7-8, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. March 2, 2007).

⁵⁴ See Debtors' Memorandum of Points and Authorities in Opposition to the Association of Flight Attendants-CWA's Motion for Relief from the Judgment and Order Authorizing Debtors to Reject their Collective Bargaining Agreement covering Flight Attendants at 7-8, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. March 2, 2007). Northwest's proposals

attendants finally approved a permanent restructuring agreement saving the company \$195M per year.⁵⁵

In sum, during bankruptcy, pilot pay was cut by an *additional* 28 percent, flight attendants pay by 21 percent and, for these groups, Northwest also achieved numerous work rule changes to secure greater productivity, including increasing the maximum number of hours, and reduced pay for “soft time.” At the same time, the IAM-represented office, clerical, fleet and passenger service employees contributed with pay cuts of 11.5 percent and agreed to enhanced productivity, including increased use of part-time and subcontracting.⁵⁶ To deal with unfunded pension liabilities of approximately \$3.8 billion (\$3 billion due between 2005 and 2007), Northwest froze its Defined Benefit Pension Plans.⁵⁷ It effected savings in medical benefits, e.g.,

on early out program, profit sharing and the bankruptcy claim allotted to flight attendants were not implemented until a consensual agreement was finally reached and ratified.

⁵⁵ Debtors’ Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and Agreements with the Association of Flight Attendants-CWA (“AFA”) at 8 ¶ 24, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. May 14, 2007); *see also* Sharon L. Levine & S. Jason Teele, “Decisions under § 1113 in the Northwest Airlines Bankruptcy Case May Have Lasting Consequences” *available at* www.abiworld.org/committees/newsletters/pensionsbenefits/vol2num3/Decisions.html; Bloomberg BNA Daily Labor Report, “AFA Members Ratify Agreement, Becoming Last Union to Agree to Cost Cuts”, 104 DLR A-1 (May 31, 2007).

⁵⁶ Debtors’ Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and for Relief under Section 1113(c) of the Bankruptcy Code and Approval of Agreements with the International Association of Machinists and Aerospace Workers, District 143 (“IAM”) at 7 ¶ 17, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. June 2, 2006).

⁵⁷ *See, e.g.*, Debtors’ Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and for Relief Under Section 1113(c) of the Bankruptcy Code and Approval of Agreements with the Airline Pilots Association, International (“ALPA”) at 6 ¶ 13, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. May 31, 2006); Debtors’ Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and for Relief under Section 1113(c) of the Bankruptcy Code and Approval of Agreements with the International Association of Machinists and Aerospace Workers, District 143 (“IAM”) Ex. 1 at 7 ¶ 19, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. June 2, 2006); Debtors’ Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and for Relief under Section 1113(c) of the Bankruptcy Code and Approval of Agreements with

a 25% sharing of cost by active employees, 50% for retired employees under 65, and eliminated retiree medical benefits for retirees over 65.⁵⁸

5. Continental Air Lines: Even More Concessions Years After Two Bankruptcies

55. Continental filed bankruptcy twice, the first time in 1983 and the second in 1990. During its first bankruptcy, Continental rejected all of its labor contracts and dramatically reduced its labor costs. Many years later, Continental was the last of the six major legacy airlines to pursue labor concessions from its unions in the post-9/11 financial crisis. In March 2003, Continental announced that it was seeking \$500 million per year in labor cost reductions to avoid a third bankruptcy,⁵⁹ \$331 million from union-represented employees.⁶⁰ In March 2005, ALPA-represented pilots agreed to contribute \$213 million per year,⁶¹ through an 8.9 percent pay cut⁶² and work rule changes to allow the carrier more flexibility in scheduling, such

the International Association of Machinists and Aerospace Workers, District 143 (“IAM”) Ex. 2 at 6 ¶ 18, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. June 2, 2006); Northwest’s Application to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113(c) at 46, In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. Oct. 12, 2005).

⁵⁸ See, e.g., Debtors’ Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and Agreements with the Association of Flight Attendants-CWA (“AFA”) Ex. A at 29.3 § A(1)(c), 29.9 § B(2)(d), In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. May 14, 2007).

⁵⁹ Continental Airlines New Release, Continental Airlines Cuts Senior Management 25 Percent, Cuts 1,200 Other Jobs, Targets \$500 Million Additional Cost Savings” (March 19, 2003), available at <http://phx.corporate-ir.net/phoenix.zhtml?c=85779&p=irol-newsArticle&ID=553417>; Bloomberg BNA Daily Labor Report, “Continental Announces Tentative Deals On Concessions With Four Unions”, 39 DLR A-7 (March 1, 2005).

⁶⁰ Bloomberg BNA Daily Labor Report, “Continental Announces Tentative Deals On Concessions With Four Unions”, 39 DLR A-7 (March 1, 2005).

⁶¹ Bloomberg BNA Daily Labor Report, “Pilots, Mechanics Ratify Concessions Pact With Continental; Flight Attendants Vote ‘No’”, 62 DLR AA-1 (April 1, 2005).

⁶² Pilots Bullet Point Summary of 2005 Contract § 3.

as a preferential bidding system.⁶³ The pilots' defined benefit pension plan was frozen, and replaced by a defined contribution plan.⁶⁴ Mechanics agreed to a 4 percent pay cut and caps on benefits.⁶⁵ Flight attendants represented by IAM voted down a tentative agreement in March, 2005, but reached a new agreement in December 2005 which provided for a four year pay freeze, and saved Continental \$72 million per year, largely through cuts in benefits and changes in work rules.⁶⁶ The IAM agreed that Continental would contribute to the IAM Multi-employer Plan in place of a frozen Continental DB Plan.⁶⁷

V. AMERICAN'S PILOT CONTRACT PROVIDES HIGHER COSTS, LOWER PRODUCTIVITY, AND MORE RESTRICTIONS ON MANAGEMENT THAN ANY OTHER MAJOR AIRLINE

56. I have analyzed and compared significant provisions (scope, pay, major work rules, and benefits) of American's Section 1113 proposal to the comparable provisions in the pilot labor contracts of the Comparator Group. In each of these areas, American is not competitive with the Comparator Group. American has the most restrictive scope clause among the Comparator Group due to its limited ability to generate revenues through code sharing and regional flying. American's pilot pay rates are among the highest in the market and its pay system is outdated. Finally, American's major work rules do not allow its pilots to be as productive as pilots in the Comparator Group.

⁶³ Pilots Bullet Point Summary of 2005 Contract § 25.

⁶⁴ Pilots Bullet Point Summary of 2005 Contract § 28.

⁶⁵ Agreement Between Continental Airlines, Inc. and the Airline Technicians and Related Employees in the Service of Continental Airlines, Inc. as Represented by the International Brotherhood of Teamsters 2005-2008 at 24, 32 (Tentative Agreement Feb. 28, 2005).

⁶⁶ Bloomberg BNA Daily Labor Report, "Flight Attendants at Continental Airlines Ratify Four-Year Contract Freezing Base Pay", 22 DLR A-15 (Feb. 2, 2006).

⁶⁷ Tentative Agreement: Changes to Current Contract between the IAM and Continental Airlines with Regards to the Continental Flight Attendants at 193-94 (Dec. 15, 2003).

A. American's Pilot Scope Clause is The Most Restrictive In The Industry

57. The "Scope" clause of a collective bargaining agreement defines the scope of the agreement, i.e. the work that is reserved to employees covered by the agreement. In the airline industry, however, pilot scope clauses have expanded over the years to contain many provisions in addition to scope of work. Current pilot scope clauses at American and the Comparator Group include lengthy provisions addressing subcontracting, permissible types of flying agreements with other carriers, including code sharing with other domestic and foreign airlines, regional flying, management rights, successorship, merger/consolidation/sale protections, parent company binding clause, change in control, no furlough protection, bankruptcy protection and, no strike/no lockout. American's scope clause is far more restrictive than those in place at other carriers, most centrally with respect to two issues of critical importance in today's airline marketplace: (1) code-sharing with domestic partners and (2) the use of regional jet aircraft by regional carriers under contract to the mainline carrier.

1. Code Sharing With Domestic Partners

58. Code sharing is a practice that allows two carriers to cross-utilize their two-letter airline codes on one or more flights. Each carrier can then "sell" the flight as its own in the computer reservations systems of the airline industry, while only one of the carriers actually operates the flight. Code sharing has become both common and essential in today's airline industry as a way in which an airline can increase, albeit through working with another airline, the scale and reach of its network, extending its presence into markets where it does not physically operate. Such expanded scale enhances the convenience to the passenger, permitting him/her to do "one-stop shopping," which increases the likelihood that the passenger will travel the entire itinerary on the two code-sharing carriers, rather than pursue other options. With code sharing, airlines can retain passenger loyalty and generate revenues

without taking the financial risk of opening new stations or operating aircraft on routes where the carrier could not generate sufficient traffic on a stand-alone basis to justify operating those routes, or where slot and/or facility constraints make such stand-alone operations impossible. For American, a great example of essential code-sharing is at JFK airport in New York City, which is slot-restricted, meaning that American is effectively unable to expand its own operations. Being able to have a significant code sharing arrangement at JFK would help generate additional revenue on American's international flights because of the benefit accrued from having additional domestic feed traffic provided by the code-share partners.

59. **Current American Contract Terms.** American's pilot agreement prohibits American from placing its code on any other domestic, non-regional airline without initially negotiating the terms of the code share with APA. [AA Ex. 901at [§ 1.H] As a result, before it can enter into any code sharing agreement, American must approach APA to negotiate an exception each and every time American concludes that its business interests would be well served by such a code-share. If APA does not agree to the proposed code sharing, American must ultimately resort to interest arbitration to determine the terms a particular code-share will be permitted. In my experience, however, such an option to negotiate ad hoc exceptions is debilitating to the carrier, because the union is in a position to hold any proposed exception hostage to a steep price in other terms of the contract. Likewise, potential code sharing partners are reluctant to negotiate with American, knowing that any agreement the companies might reach would be resisted by the pilots. This results in a great deal of uncertainty from the

perspective of both American and any potential code share partner as they explore the possibilities of entering into a code share agreement.⁶⁸

60. These restrictions inhibit American from seizing the types of opportunities that would add valuable new revenue sources, and potentially increasing flying for the benefit the American pilots. As other airlines have learned, code sharing provides the only real solution to an airline's limited financial resources in building its network. No airline can make the investments necessary to have its own aircraft in every market it needs to service. Instead, it must carefully weigh where to make its investment in its network so that it can see the greatest financial return. Where scope restrictions prevent code sharing, market opportunities are lost to larger and/or more nimble competitors.

61. Comparator Group Provisions on Code Sharing With Domestic Partners.

There is no doubt that American's code sharing with domestic partners provision is the most restrictive among the Comparator Group. This restriction places American at a competitive disadvantage with the Comparator Group due to its inability to generate the hundreds of millions of dollars (and in some cases billions of dollars) in additional revenues.

⁶⁸ This problem is illustrated by American's negotiation of an interline and marketing agreement with JetBlue, which provided for the possibility of a future codesharing agreement between the two airlines. APA filed a grievance seeking an arbitrator's decision constraining the codesharing terms that could be negotiated between the airlines or set by a future arbitrator.

62. Continental⁶⁹ and United⁷⁰ each have provisions permitting domestic code sharing, subject to specific limitations, thus enabling these carriers to reach code sharing arrangements without worrying about whether their pilot union will permit such an agreement. The Continental and United contracts spell out the parameters for any new code sharing agreements with a domestic partner, meaning that any of those limitations, if any, are known while the airlines are negotiating the terms of those agreements. This greatly reduces the uncertainty facing the carrier and its potential code share partners as they attempt to reach agreement. The existing limitations in the United and Continental agreements do not prohibit codesharing in the way American's agreement does. United Airlines has an extensive code sharing agreement with US Airways, which serves many different markets. Now that United and Continental have merged, those airlines also have code sharing agreements.

63. Delta's pilot contract contains specific parameters regarding its code sharing agreements with Continental, Alaska, and Hawaiian Airlines. [Sections 1.N, 1.O, 1.Q] Prior to the United merger, Delta had code sharing agreements with Continental. Delta also had a code sharing agreement with Northwest Airlines prior to its acquisition of Northwest. Delta still has an extensive code sharing agreement with Alaska Airlines, which enables Delta to penetrate markets in the northwest U.S. served by Seattle-based Alaska.

⁶⁹ Continental is permitted to “[e]nter into and maintain Code-Share Agreements...with Domestic Air Carriers” subject to specific limitations spelled out in its pilot CBA. [§ 1.5]

⁷⁰ United Airlines is only required to “**meet and confer with the Association regarding the appropriateness of any labor terms relative to ... any proposed code share agreement.**” [§ 1C.2] After such conference United may negotiate with its prospective code share partner “**any labor protections that [the airline] deems appropriate ... consistent with its business judgment.**” [§ 1.C.2]

64. Currently, US Airways is operating under two pilot contracts (called “East” for old US Airways and “West” for the former America West Airlines). US Airways East⁷¹ is permitted under its pilot contract to engage in code sharing with domestic partners, subject to certain specific limitations which are spelled out in the CBA, similar to the Continental and United contracts, as specified above. US Airways West, on the other hand, has no CBA restrictions at all regarding code sharing.

65. The uniquely restrictive nature of American’s pilot agreement provisions on code sharing with domestic partners is illustrated by a provision that permits code sharing with Hawaiian Airlines on flights within the Hawaiian Islands. [AA Ex. 901 at § 1.F]. At American, this Hawaiian code share is conditioned on American maintaining the same number of daily flights throughout the year between the contiguous 48 states and Hawaii as it operated in December 1996. If American fails to operate the precise number of flights it operated in December 1996, it must cease codesharing with Hawaiian. However, Hawaiian also has code sharing arrangements with Delta, United, and US Airways on inter-island flights, but none of them are conditioned on the amount of flying the mainline carrier performs between the mainline U.S. and Hawaii. Thus, American faces greater restrictions than its competitors, and is unable to create its schedule solely in response to market demands, which creates inefficiencies and lost opportunities for increased revenue.

66. **American’s Section 1113 Proposals.** American proposes that it have the ability to “enter into enter into and maintain codeshare agreements with Domestic Air Carriers.” In

⁷¹ US Airways East *“may place the US Airways designator code on the flights of other...Domestic Air Carriers...as described below.”* The CBA goes on to list the specific provision and exclusions under which US Airways may place its code. [§ 1.B.6, as amended by 2002 Restructuring Agreement, Attachment C]

addition, American proposes that it have the ability to “...in its discretion, enter and/or continue regional, domestic, or international codesharing in any market.”

67. These changes would allow American to enter into codesharing agreements consistent with the Comparator Group. As discussed above, Continental, United and US Airways East may enter into codesharing agreements subject to the specific limitations and restrictions already agreed to with its unions and spelled out in their contracts. Delta has provisions in its contract with specific limitations and restrictions regarding its codesharing agreements with Continental, Alaska, and Hawaiian Airlines. US Airways West has no restrictions at all regarding entering into codeshare agreements with domestic partners.

68. American also proposes to eliminate the requirement with respect to its codeshare agreement with Hawaiian Airlines that requires it to maintain the same number of frequencies between the U.S. mainland and Hawaii as it did in 1996. As discussed above, no other Comparator Group airline is similarly restricted.

2. Regional Flying

69. Regional airlines have been providing “feed” (passenger traffic) to mainline airlines for many decades. The main objective of regional airline flying is to connect passengers from smaller airports to larger airports that serve as connecting hubs for the mainline carriers. The industry pattern that has emerged entails a regional airline contracting with a major (“mainline”) carrier to operate a certain amount of passenger capacity on routes and schedules determined and marketed by the mainline carrier, with the mainline partner paying the regional airline at specified rates for all of the capacity provided pursuant to their agreement. This arrangement is called a Capacity Purchase Agreement. Under such arrangements, the mainline carrier sets the fares, keeps all of the revenue, and traditionally has borne the market risk of attracting sufficient passengers to operate profitably. The regional

airline operates the flights using the code, livery and trademarks of the mainline carrier. The mainline carrier, of course, is motivated by the additional revenue to be earned by carrying most of the regional passengers beyond the initial destination to more distant points served by the mainline carrier.

70. Beginning in the 1990s, aircraft manufacturers such as Bombardier and Embraer began manufacturing regional aircraft with turbojet engines to replace the propeller aircraft that had dominated the regional industry prior to that date. These regional jet aircraft (commonly referred to as “RJs”) became very popular as thousands of these jets came into service at regional airlines. Early models included 35 and 44 seats, but the most common and most popular were the 50 seat models. All major U.S. airlines entered code sharing arrangements with regional airline partners. These “systems within a system” were called American Eagle, Continental Express, Delta Connection, United Express, and US Airways Express. The passenger feed traffic, and revenues generated by regional airline partners became very important to the mainline carriers. As the airline industry evolved and restructured during the past decade,⁷² Bombardier and Embraer developed larger and more fuel efficient regional aircraft to replace the 50-seat RJs.

71. **Current American Contract Terms.** Under Sections 1.B.4, 1.D, and Letter SS of the American-APA collective bargaining agreement [AA Ex. 901], American is limited in

⁷² At one time, nearly all of the Comparator Group airlines owned the regional airlines providing service to their hubs, but the mainline carriers discovered that they could monetize this asset by selling off their regional airline and entering into partnerships with independently owned regional airlines. It became less expensive for the mainline carriers to operate their regional feed this way because independent carriers tended to have lower costs and in many cases, the capital investment in regional aircraft was borne by the regional airline partner.

the number and size of regional jets which can be operated by its regional airline partners, and limited in the routes those regional carriers can fly.

72. **Limits on Size and Number of Regional Jets (“RJs”).** American has the ability to fly many regional aircraft of 50 or fewer seats,⁷³ but is limited in the number of large RJs it can fly (those with more than 50 seats) to the 47 CRJ-700 aircraft flown by American Eagle, which are configured to 63 or 65 seats, including a First Class cabin (and which can include up to 70 seats in a single-class configuration). American’s pilot contract limits the Company to these specific 47 RJs with more than 50 seats. Further, because the contract specifically identifies the 47 RJs, American is not permitted by the agreement to replace the RJs specifically identified.⁷⁴ Meanwhile, in the intervening period between when American negotiated the size limit on regional aircraft, its competitors were dramatically increasing the size and number of large RJs operated on their behalf and eliminating many of their 50-seat RJ aircraft.

73. These restrictions significantly inhibit American’s ability to generate revenue. The small regional aircraft are extremely inefficient and more expensive to operate, and no aircraft manufacturer is currently making them, so American would have trouble buying them even if they could be operated efficiently. In addition, the trend in the industry has been to

⁷³ Section 1.D.5 of American’s pilot contract states that American can put its two-letter code on a number of 50-seat aircraft equal to 110 percent of American’s mainline narrowbody fleet (the current limit is 537 based on American’s mainline narrowbody fleet count of 488 as of December 31, 2011). However, as explained in more detail in Section VII of this declaration, American’s TWU agreements contain a provision (commonly referred to as the “ASM cap”) that can potentially limit American to fewer than the number of 50-seat RJs allowed in Section 1.D.5 of the pilot agreement.

⁷⁴ The language of Letter SS of American’s agreement with APA provides a limit of 50 aircraft with more than 50 seats, subject to reduction for each cancellation, transfer, or expiration of orders and/or options on CRJ-700 aircraft. This formula has resulted in today’s cap of 47 larger RJs.

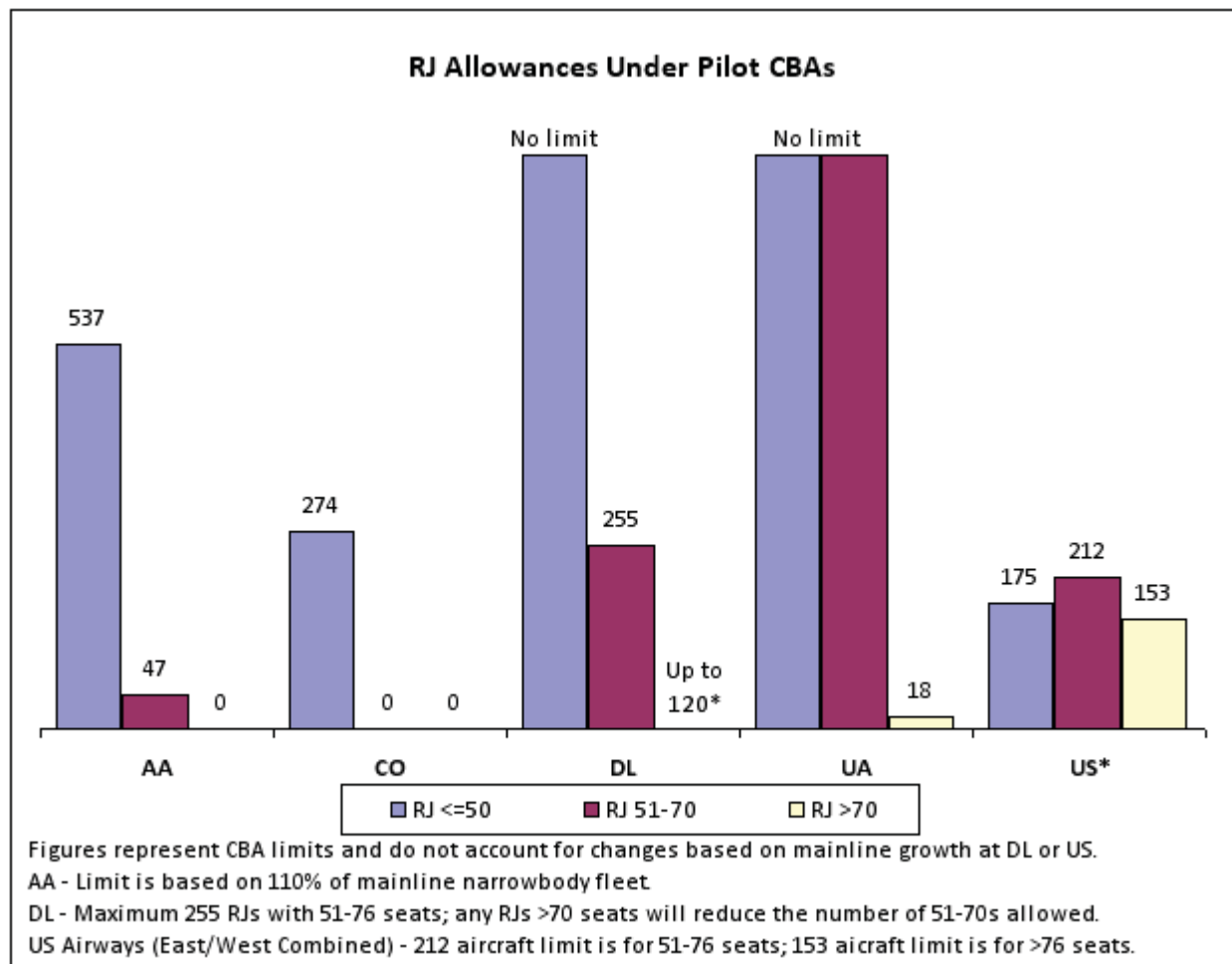
cater to the high value/high frequency customer by offering first class service; a 50 seat jet is too small to configure with two classes. American's competitors, which can operate the larger jets in far more significant numbers, are thus at a significant advantage when competing for these passengers.

74. Limits On Routes Flown By RJs. American's pilot agreement also places unique restrictions on the types and number of routes that may be flown by RJs. Section 1.D.3.c of the APA agreement provides that American may not place its code on a regional carrier in any market where American could itself earn an "adequate" rate of return, which is precisely defined, even if it could earn far more money by deploying its own resources elsewhere. In addition, § 1.D.5.g, § 1.D.5.h, and Letter VV state that regional carriers that are majority owned by American (i.e. American Eagle) are limited in the number of nonstop flights between ten specific hub and key airports to 1.25 percent of American's total scheduled block hours, and 85 percent of those carriers' RJ departures must be into or out of those same ten airports. These restrictions further limit American's ability to deploy its resources in response to market-driven business reasons.

75. Further Limits on Non-Owned Regional Carriers. Section 1.D.5.g, § 1.D.5.h, and Letter VV also provide that regional carriers that are *not* majority owned by American may not operate *any* nonstop RJ flights between the same ten hub and key airports mentioned in Paragraph 74 above, but must operate *all* of their flights for American either into or out of those ten airports.

76. Comparator Group Provisions: Comparators Can Fly Far More Large RJs. Over the last decade, United, Delta, Northwest and US Airways have all negotiated provisions with their pilot unions to allow code sharing to be expanded to regional aircraft larger than 50

seats. [AA Ex. 802 (reproduced below)] This has turned out to be increasingly important as the operating cost of smaller regional jets has become prohibitively expensive due to the price of fuel, and passenger preference for the larger, newer generation RJs with 70 to 90 seats in the cabin. While American is limited to 50-seat jets for its regional feed (aside from the limited exception discussed above regarding the 47 specific CRJ-700 RJs at American Eagle), its major competitors are eliminating many of their 50-seat regional aircraft, adding larger RJs into their networks, and are poised to add still more⁷⁵.



⁷⁵ Delta recently announced that it intends to save up to \$200M by retiring a number of older and smaller aircraft, especially 50-seat regional jets. [See AA Ex. 803 and AA Ex. 804] Delta has not announced if it plans to replace these smaller regional jets with larger ones.

77. For example, Delta can operate 255 regional aircraft with more than 50 seats [§ 1.B.40.c], United can operate an *unlimited* number of regional aircraft of up to 70 seats [§ 1.K.10 and § 1.K.22], and US Airways (East and West combined) can operate up to 365 regional aircraft with more than 50 seats [§ 1.D.2.b, modified by the 2005 Transition Agreement between US Airways East and West; Letter of Agreement 91, modified by Letter of Agreement 93 and the 2005 Transition Agreement between US Airways East and West]. Also note that the Comparator Group RJ limits (see AA Ex. 802 above) do not reflect provisions in Comparator agreements that allow the airline to increase further the number of large RJs they can add to their operation if the mainline fleet increases in size as well. For example, the number of allowable RJs over 70 seats at Delta may increase with an increase in Delta's mainline fleet. [§ 1.B.40.d]. Similarly, US Airways' contracts allow for an increase in the number permitted RJs that is tied to growth in its mainline fleet. [§ 1.D.2.b, modified by the 2005 Transition Agreement between US Airways East and West; Letter of Agreement 91, modified by Letter of Agreement 93 and the 2005 Transition Agreement between US Airways East and West].

78. As noted elsewhere in this section, the industry shift to 70 to 90 seat aircraft and away from 50 seat aircraft makes American's current regional flying restrictions even more unpalatable to the Company.

79. In sum, except for Continental Airlines (now merged with United), each of the other major carriers in the Comparator Group (Delta, United, US Airways East (old US Airways), and US Airways West (old America West Airlines) all have significant advantages over American in terms of the number and size of regional aircraft permitted, and total available seat miles (ASMs) allowed to be flown by regional airlines.

80. **American's Section 1113 Proposals: Size and Number of RJs.** American proposes to revise its definition of regional jets to allow it to operate aircraft (turbojet or turboprop) of up to 88 seats and 114,500 pounds. American also proposes implementing two limits for its RJs rather than one general limit. This proposal would allow the Company to operate a number of RJs with 50 or fewer seats equal to 110 percent of the number of narrowbody aircraft. A second limit would allow the Company to operate the greater of 255 RJs with between 51 and 88 seats or 50% of the total number of mainline aircraft.

81. Increasing the number of allowable regional aircraft over 50 seats from the current limit of 47 to 255 (or 50 percent of mainline fleet), puts American in line with the Comparator Group airlines' contract limitations, as illustrated in AA Ex. 802 above. AA Ex. 802 shows that Delta's contract allows up to 255 RJs over 50 seats, United's contract allows an unlimited number of aircraft between 51-70 seats and up to 18 RJs over 70 seats, and US Airways' contracts (East and West combined) allow up to 365 RJs over 50 seats. Again, as stated above, these Comparator Group restrictions do not include increases in allowable RJs at Delta and US Airways as a result in increases in those carriers' mainline fleets.

B. American's Pilot Wage Rates Are Among The Most Costly In The Industry

82. While American is not proposing to reduce pilot base wage rates, it is important to note that American's pilots have had the benefit of pay rates at or near the top of the industry while their counterparts at other carriers took very significant pay reductions, as well as other changes to their compensation, over the past decade. American now seeks to obtain some of those other structural compensation changes with its pilots (e.g. work rule and benefit contributions), while also providing out-year pay rate increases of 1.5 percent per year as part of a consensual agreement. American's attempt to maintain pilot's base wage rates at or near

current levels can only be successful if it achieves the kinds of changes to work rules and benefits that it is seeking.

1. Banding or Grouping of Aircraft for Pay Purposes.

83. **Current American Contract Terms.** Section 3.A.1 of American's pilot contract sets different hourly pay rates for each of nineteen (19) different types of aircraft. Some of those aircraft are very comparable in size, speed, weight and mission and the listed differences in compensation can be quite small.

84. Combining the aircraft into groups, or "bands," will minimize incremental pay increases as pilots bid for positions on larger aircraft. This will account for appreciable savings, especially as American retires its MD-80 aircraft and replaces them with B737 airplanes that, under the current agreement, are paid at a higher rate. Under a pay banding pay system where the B737 and MD-80 are in the same pay band, there would be no raise in pay.

85. **Comparator Group Provisions.** All of the Comparator Group airlines have some form of pay groupings. Continental has three pay groupings, one for widebody aircraft, one for large narrowbody aircraft, and another for small narrowbody aircraft⁷⁶. United also has three pay groupings, one for A320/A319/B737-300, one for B757/B767, and another for B747-400/B777.⁷⁷ US Airways East has four pay groupings, one for ERJ190, one for A319/A320/A321/B737, one for B757/B767, and another for A330.⁷⁸ US Airways West has one set of rates covering the B737, A320 family, and B757.⁷⁹ Even Delta, which has thirteen

⁷⁶ See § 3.F.

⁷⁷ See § 3.B.

⁷⁸ See § 3.A, as modified by the 2002 Restructuring Agreement; § 3.J; Transition Agreement, VIII.A.1 and Attachment D.

⁷⁹ See § 3.B and § 3.C.

pay scales, has six sets of rates that cover multiple types of aircraft.⁸⁰ Only American has no pay groupings at all.

86. **American's Section 1113 Proposals.** American's proposal to collapse the individual pay rates for each equipment type into six pay bands based on aircraft size and function will still result in American having more pay rate groupings than all Comparator Group airlines save Delta. As noted above, the proposed pay banding will result in material savings as American retires its MD-80 aircraft and pilots move to the B737 in the same pay band.

2. Night Flying Pay.

87. **Current American Contract Terms.** Section 3.A.5 of the APA agreement [AA Ex. 901] requires that American pay a night flying premium of \$5.00 per hour for flying between 2300 and 0559 local time.

88. **Comparator Group Provisions.** American is the only Comparator Group airline which continues to pay a premium for night flying. This is an example of a contractual pay provision that has all but disappeared from the airline industry.

89. **American's Section 1113 Proposals.** American proposes to eliminate night pay, putting it on equal footing with the Comparator Group airlines.

C. American's Pilot Work Rules Are Among The Most Costly And Least Productive In The Industry

90. The key constraints on pilot productivity, and thus the source of many of their costs among major U.S. airlines, are found in work rules. Work rules determine how many hours a pilot can be scheduled to work, which, in turn, determines the number of pilots needed

⁸⁰ See § 3.B.

to staff a particular flight schedule. Airlines generally seek work rules that maximize a pilot's time in the cockpit flying the aircraft (called "block hours or hard time"). Airlines also generally seek to minimize the time it pays a pilot while he or she is not in the cockpit (called "credit time or soft time"). Provisions that increase soft time and lower productivity can be found in rules covering scheduling rest at domicile and away from domicile,⁸¹ crew rest aloft in flights of extended duration, maximum time on duty, maximum monthly pay caps, and credit for time away from base, minimum days pay, and time on duty, sick leave, vacation, training, and deadheading (time spent traveling to or from an assignment). Much of America's competitive disadvantage rests in the area of work rules. By making changes to its work rules, American can reduce its costs and increase productivity.

1. Vacation Accrual

91. **Current American Contract Terms.** American's pilots have a maximum vacation accrual of 42 days per year.⁸²

92. **Comparator Group Provisions.** American's 42 day maximum vacation accrual is among the highest of the Comparator Group airlines. [AA Ex. 805 (reproduced below)] Only Continental⁸³ and United⁸⁴, at 44 days, have a maximum vacation accrual higher than American. Delta (35 days⁸⁵), US Airways East (21 days⁸⁶) and US Airways West (31 days⁸⁷) all are below American.

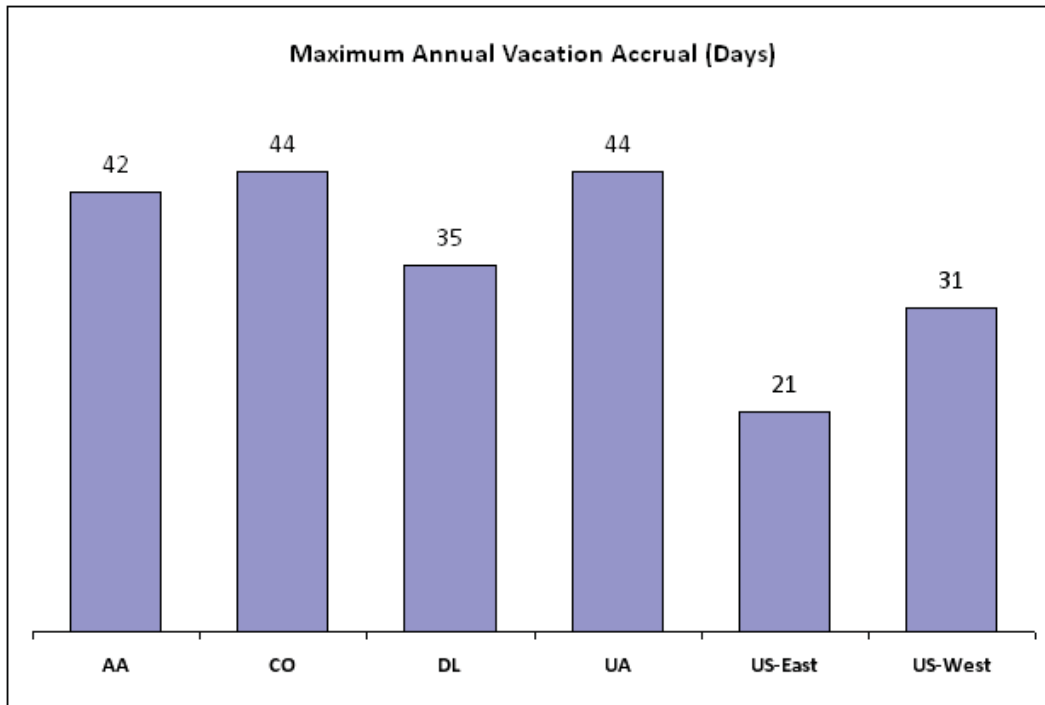
⁸¹ Commercial airline pilots in the U.S. are subject to flight and duty time limitations imposed by the Federal Aviation Regulations. See 14 C.F.R. § 91 et seq. Any restrictions imposed by the collective bargaining agreement are in addition to those imposed by the FARs.

⁸² See AA Ex. 901 at § 9.B.1.

⁸³ See § 7.1.D.

⁸⁴ See § 11.B.1.

⁸⁵ See § 7.B.1.



93. **American’s Section 1113 Proposal.** American proposes to limit the maximum annual vacation accrual to 35 days, putting it right in the middle of the Comparator Group.

2. Sick Leave Accrual

94. **Current American Contract Terms.** American’s pilots accrue 5 hours of sick leave per month. [AA Ex. 901 at § 10.A]. In addition, pilots negotiated a provision known as “rapid reaccrual,” where an employee has the ability to reaccrue spent sick leave, under certain circumstances, at a faster rate than it normally accrues. American’s provision provides for the reaccrual of lost sick leave at 7.5 hours per month when the pilot meets two conditions. First, his sick leave bank must be at least 50 percent of the level it would have been if he had never taken sick leave. Second, he must be out sick or injured for 30 or more consecutive days. The 7.5 hour rapid reaccrual kicks in upon his return from that extended leave and returns to the

⁸⁶ See § 7.B, Amended by Letter of Agreement 93.

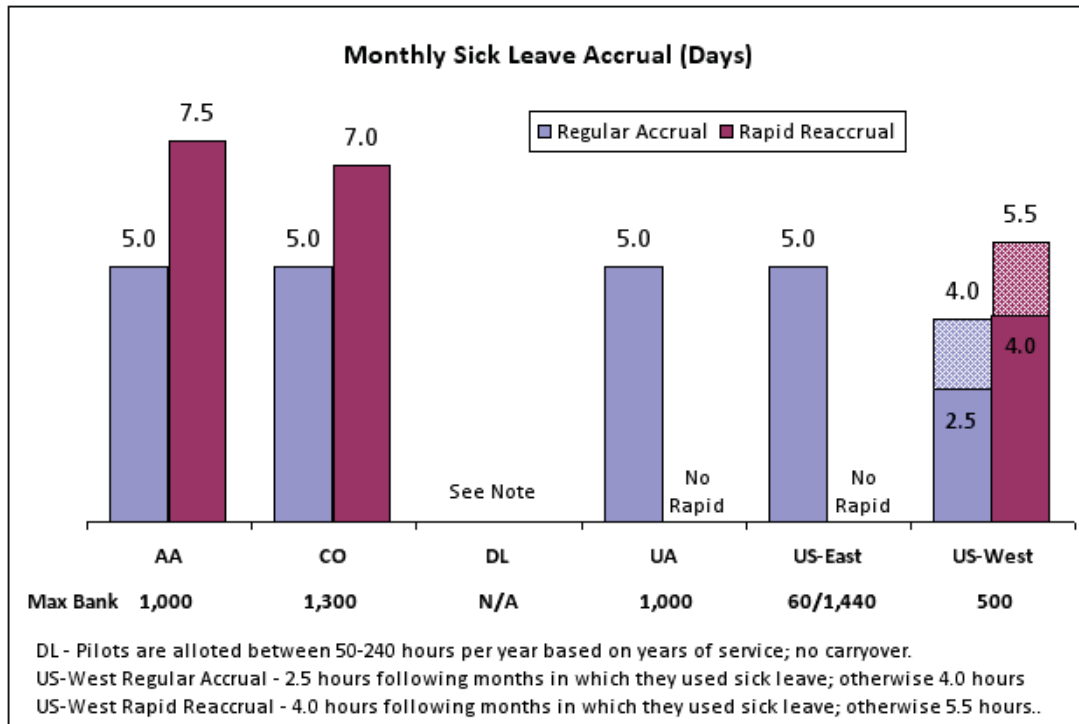
⁸⁷ See § 7.A.1.

normal 5 hour per month accrual when his sick bank is restored to the level it was prior to the extended leave. [AA Ex. 901 at § 10.C]. Lastly, a pilot who has been out sick for 3 or more consecutive months shall have his sick accrual retroactively credited for sick leave charges over 46 hours in a month. [AA Ex. 901 at § 10.E.3]. This essentially caps sick leave charges at 46 hours per month in these cases.

95. **Comparator Group Provisions.** American's regular sick leave accrual rates are comparable to those of the Comparator Group. However, when you take into account American's higher rapid reaccrual provision, this system is not competitive with the Comparator Group. [AA Ex. 806 (reproduced below)]⁸⁸ In addition, no other Comparator Group airline has a sick leave "restoration" provision similar to American's noted above, where sick leave charges are capped at 46 hours per month in certain situations. Unfortunately, this all adds up to American having the highest sick leave usage among the Comparator Group airlines.⁸⁹

⁸⁸ American sick leave at AA Ex. 901 at § 10.A-C; § 10.E.3.; Continental sick leave at § 14.2.; Delta sick leave at § 14.D.; United sick leave at § 13.A.; US Airways East sick leave at § 14.B., amended by Letter of Agreement 93; US Airways West sick leave at § 14.A.

⁸⁹ AA Ex. 1302.



96. **American’s Section 1113 Proposals.** American proposes to maintain the 5 hour per month regular sick leave accrual. This will keep American consistent with the Comparator Group. However, American is also proposing to eliminate the rapid reaccrual provision, which will bring it into line with United and US Airways East, which each eliminated rapid reaccrual in their restructuring negotiations. Lastly, American proposes to eliminate the 46 hour retroactive sick charge cap for 3-month absences, which no Comparator Group airline has.

3. Minimum Rest

97. **Current American Terms.** Domestically, American [AA Ex. 901 at § 15.C.3] currently must schedule pilots for a minimum of 12 hours rest at their “domicile” or home base. On layovers, it must schedule a minimum of 10 hours of rest⁹⁰ but that figure increases to 11 hours if the pilot had preceding flight time of 9 or more hours (“**duty aloft**,” see Duty

⁹⁰ Section 15.C.3 allows American to schedule up to 18 monthly rest periods to 9.5 hours when duty aloft is less than 8 hours.

Aloft section, below). Rest may be reduced to 8 or 9 hours provided the next rest period following such “reduced rest” is 10 hours, 11 hours, or 12 hours, depending on the number of duty hours aloft in the preceding duty period. For international operations, American [AA Ex. 901 at § Supplement I.7.D] must schedule pilots with between 12 and 16 hours of rest in domicile, and between 10 and 16 hours rest on layover, depending on the time spent in “duty aloft” in the preceding rest period.

98. **Comparator Group Provisions.** Domestically, American’s domicile rest provisions are more restrictive in terms of productivity than the other Comparator Group airlines besides United and, only in certain instances, Delta. For rest on layovers, American’s provisions are less competitive than all of the Comparator Group airlines. [AA Ex. 807 (reproduced below)]For international operations, American’s rest provisions are more restrictive than Continental and US Airways East. [AA Ex. 808 (reproduced below)]⁹¹. The result, especially in its international operation, is that American’s pilots are credited with more time away from base due to uncompetitive rest rules, resulting in lower productivity.

⁹¹ American minimum rest at AA Ex. 901 at § 15.C.3, Supplement I.7.D; Continental minimum rest at § 12.3, Letter of Agreement 34; Delta minimum rest at § 12.A, 12.G; United minimum rest at § 5.G.1, § 22.E; US Airways East minimum rest at § 12.I, § 18.I, as amended by Letter of Agreement 93; US Airways West minimum rest at § 12.F.

PILOT MINIMUM REST - DOMESTIC

	AA	CO	DL	UA	US-E	US-W
Domicile	12:00 scheduled	<u>Scheduled</u> 9:00 <u>Actual</u> Scheduled rest may be reduced at pilot's option	9:00	12:45 scheduled 10:45 actual <u>Before duty with flight into Special Qualification Airport</u> 13:45 scheduled 11:45 actual <u>In and out of different co-domiciles</u> 13:45 scheduled	9:00 scheduled 8:00 actual per pilot waiver subject to FAA flight time limitations.	Lineholder - 10:00 actual Reserve - 11:00 actual
Layover	<u>Scheduled</u> <8:00 aloft 10:00 rest =>8:00<9:00 10:00 rest =>9:00 11:00 rest <u>Actual</u> - 8:00 rest + the following compensatory rest w/in 24:00 - <8:00 aloft 10:00 rest =>8:00<9:00 11:00 rest =>9:00 12:00 rest	9:15 block-to-block 9:45 block-to-block at co-terminals	<u><=20:00 scheduled duty before and after rest</u> 9:00 scheduled 8:15 actual <u>>20:00 scheduled duty before and after rest</u> 10:00 scheduled 9:00 actual	<u>Hotel w/in 0:15 drive</u> 9:30 scheduled 9:15 actual <u>Hotel >0:15 drive</u> 8:45 scheduled 10:45 actual	8:30 scheduled <u>Combined duty before and after rest > 22:00</u> 9:45 scheduled 8:30 actual	9:30 scheduled

PILOT MINIMUM REST - INTERNATIONAL

	AA	CO	DL	UA	US-E	US-W
Domicile	<u>Duty aloft < 5:30</u> 12:00 <u>Duty aloft >= 5:30</u> 16:00 scheduled 12:00 actual <u>Duty aloft >= 8:00 or before flight > 8:00</u> 12:00	<u>Scheduled</u> 9:00 <u>Actual</u> Rest may be reduced to FARs at pilot's option	<u>Duty of only domestic or intra-theatre flying</u> Same as domestic <u>After trans-oceanic duty</u> 13:00 actual	<u>After Atlantic Crossing</u> 24:00 scheduled, 22:00 actual (21:00 actual with pilot concurrence). 36:00 scheduled after pairing >2 duty periods. <u>After Pacific Crossing</u> 48:00 scheduled, extended to 72:00 scheduled after pairing >6 duty periods.	<u>Non Trans Ocean</u> Same as domestic <u>Trans Ocean</u> 14:00 scheduled Actual - Pilot may waive to FARs	Same as domestic
Layover	<u>Duty aloft < 5:30</u> 10:00 <u>Duty aloft >= 5:30</u> 16:00 scheduled 12:00 actual <u>Duty aloft >= 8:00 or before flight > 8:00</u> 12:00	9:15 block-to-block 9:45 block-to-block at co-terminals	<u>After trans-oceanic duty scheduled<=13:00</u> 13:00 scheduled, 11:00 actual <u>After trans-oceanic duty scheduled>13:00</u> 18:00 scheduled, 14:00 actual <u>Preceding trans-oceanic duty</u> 13:00 scheduled, 11:00 actual.	<u><8:00 flight time</u> - same as domestic <u>8:00-12:00 flight time</u> 18:00 scheduled 16:00 actual <u>>12:00 flight time</u> 20:00 scheduled 18:00 actual	<u>Non Trans Ocean</u> Same as domestic <u>Trans Ocean</u> 14:00 scheduled Actual - Pilot may waive to FARs	Same as domestic

99. **American's Section 1113 Proposals.** American proposes to implement its "on duty," duty aloft, and rest restrictions as specified in the Federal Aviation Regulations and as may be amended set to go into effect in 2014.

4. Maximum Time On Duty

100. **Current American Terms.** Section 15.C.1 and Supplement I.7.C of American's contract establishes its maximum domestic scheduled on duty provisions at between 10 hours and 12.5 hours depending on report time. This is the maximum time a pilot can be scheduled for duty.⁹² Actual domestic limits are between 12 and 14 hours. For international operations, the scheduled limit is 12.5 hours for a basic crew (i.e., with no additional crewmembers aboard to "augment" the basic crew) and the actual limit is 14 hours, again with a non-augmented, basic crew.

101. **Comparator Group Provisions.** American's time on duty provisions are among the most restrictive of the Comparator Group airlines. As shown in AA Ex. 809A and Ex. 810 (reproduced below⁹³), all of the Comparator Group airlines have maximum domestic scheduled duty limits of up to 13 hours (Delta, United, US Airways West), 13.5 hours (Continental), or 14 hours (US Airways East), compared to American's top limit of 12.5 hours. The limits placed on American with respect to *actual* time spent on duty for domestic flights (which can exceed the *scheduled* time for a wide variety of operational reasons like weather conditions or mechanical problems) place it at an even greater: 14 hours at American versus 14.5 hours at US Airways West, 15 hours at Delta and US Airways East, and 16.0 hours at Continental. United is the same as American at 14 hours. American's competitive disadvantage for international operations is not as pronounced as it is for domestic, but at 12:30 scheduled and

⁹² Duty time includes not only actual flight time, but also other time, including from the time the pilot first signs in for duty to 15 minutes (30 minutes for international flying) after s/he completes flying.

⁹³ American duty limits at AA Ex. 901 at § 15.C.1., Supplement I.7.C.; Continental duty limits at § 12.2; Delta duty limits at § 12.A., § 12.D.; United duty limits at § 5.G., § 5.H., Letter of Agreement 91-2.3; US Airways East duty limits at § 12.H., § 18.H., Letter of Agreement 93; US Airways West duty limits at § 12.D

14:00 actual with a basic crew, American is still uncompetitive with Continental, Delta, and US Airways East.

PILOT DOMESTIC DUTY LIMITS

	AA	CO	DL	UA	US-E	US-W
Scheduled	<u>Report</u> 0600-1759 12:30 1800-2059 11:00 2100-0559 10:00	<u>Report</u> 0600-1659 13:30 1700-2159 12:00 2200-0459 10:30 0500-0559 12:00	<u>Report</u> 0700-1259 13:00 1300-2059 13:00 to 9:00 2100-2359 9:00 0000-0059 9:00 to 8:30 0100-0259 8:30 0300-0359 8:30 to 9:00 0400-0459 9:00 to 12:00 0500-0659 12:00 to 13:00	<u>Report</u> 0600-2359 13:00 1330-2359 13:00 to 9:30 2400-0414 9:30 0415-0559 9:30 to 13:00	14:00	<u>Report</u> 0231-0400 10:00 0401-0500 10:30 0501-0600 12:00 0601-1300 13:00 1301-1400 12:30 1401-1500 12:00 1501-1600 11:30 1601-1700 11:00 1701-1900 10:30 1901-2200 10:00 2201-0230 9:30
Actual	<u>Departure</u> 0600-1759 14:00 1800-2059 13:00 2100-0559 12:00	<u>Report</u> 0600-1659 16:00 1700-2159 13:30 2200-0459 12:00 0500-0559 13:30	Scheduled duty limit + 2:00	Lesser of 14:00 or scheduled duty limit + 1:30	15:00	<u>Report</u> 0231-0400 11:00 0401-0500 12:00 0501-0600 13:00 0601-1300 14:30 1301-1600 14:00 1601-1700 13:30 1701-1900 13:00 1901-2200 12:30 2201-0230 10:30

PILOT INTERNATIONAL DUTY LIMITS

	AA	CO	DL	UA	US-E	US-W
Scheduled	<u>Crew</u> Basic 12:30 Basic + 1 14:00 Basic + 2 16:00	<u>Crew</u> Basic + 1 16:00 Basic + 2 18:00	<u>Intra-Theater</u> Same as domestic <u>Trans Oceanic</u> 2-Pilot Aircraft: 13:00 to 16:00 3-Pilot Aircraft: 13:00 to 15:00	<u>2-Pilot Aircraft</u> <u>Pacific</u> +1 crew, 1 segment 13:30 +2 crew, 1 segment 17:30 +2 crew, 2 segments 15:30 <u>Atlantic</u> +1 crew, 1 segment 13:30 +2 crew, 2 segments 15:00	<u>Trans Oceanic</u> <u>Crew</u> Basic 14:00 Basic + 1 16:00 Basic + 2 16:00 <u>Non Trans Oceanic</u> Same as domestic	Same as domestic
Actual	<u>Crew</u> Basic 14:00 Basic + 1 15:00 Basic + 2 18:00	<u>Crew</u> Basic 17:30 Basic + 1 17:30 Basic + 2 19:30	Scheduled duty limit + 2:00	Scheduled duty limit + 2:00	<u>Trans Oceanic</u> <u>Crew</u> Basic 16:00 Augmented 18:00 Double Aug 18:00	Same as domestic

102. This results in American's pilots having less time available to fly or be on duty ready to accept an assignment from the Company than pilots at the other Comparator Group airlines. In short, it results in American's inability to schedule its pilots as productively as its competitors. The fewer hours that pilots are available to be on duty results in American having to employ more pilots to staff the airline.

103. **American's Section 1113 Proposals.** American proposes to implement “on duty,” duty aloft, and rest restrictions as specified in the Federal Aviation Regulations and as may be amended to go into effect in 2014.

5. Maximum Duty Aloft

104. **Current American Contract Terms.** American may not schedule its pilots for duty aloft in excess of 8 hours in any single duty period. [AA Ex. 901 at § 15.A.8]. In addition, if a pilot is scheduled for more than 9 hours duty aloft in any 24-hour period, that pilot must receive a rest period that is greater than the normal rest period (11 hours rest versus the regular layover rest of 10 hours—or 9 hours in limited circumstances). [*Id.* at § 15.C.3].

105. **Comparator Group Provisions.** Among the Comparator Group, only United has contractual duty aloft limits at all, and they are similar to American's: Maximum 8 hours scheduled duty aloft in any duty period, and additional rest if pilot exceeds 8 hours aloft in 24 hours. [§ 5.B.7; § 5.B.8]. The other Comparator Group airlines do not have *any* domestic daily duty aloft limits. They follow the current FAA regulation, which is a maximum of 8 hours for a 2-pilot operation; 12 hours for a 3-pilot operation.

106. **American's Section 1113 Proposals.** American proposes to implement “on duty,” duty aloft, and rest restrictions as specified in the Federal Aviation Regulations and as may be amended to go into effect in 2014. This would align American with all Comparator Group airlines except for United, as discussed above.

6. Rigs

107. Rigs (Ratios to Guarantee) are complex provisions in pilot contracts⁹⁴ that provide minimum pay and credit towards the various flight and duty limitations, vacation, sick and

⁹⁴ Flight attendant contracts generally have similar provisions.

other accruals (collectively called “pay and credit” in the industry) according to various formulas. Examples of credit time include vacation, sick leave, training and rigs. There are generally three types of rigs in pilot contracts. In each instance, a pilot receives the greater of the pay and credit for the scheduled time of the trip, the time actually flown per day or per trip, or the specific rig formula.

- Time away from base (called “TAFB” or “trip rig”). For example, a “1 for 4” TAFB rig means that for every 4 minutes away from base, a pilot must receive at least 1 minute of pay and credit. In a 24-hour period, that translates to a minimum of 6 hours of pay and credit.
- Time on duty (“duty rig”). Similarly, a duty rig of “1 for 2” means that for every 2 minutes on duty, a flight or cabin crew member receives 1 minute of duty credit.
- Minimum duty period credit (“MDPC”). Most airlines pay an average of 5 hours (or more) a day over the course of a trip pairing (meaning multiple day trips).

108. For example, if a pilot had a schedule resulting in 5 block hours of flying within a 14-hour duty period day, he or she would be credited not with 5 hours for the time spent flying, but with 7 hours of pay. This is because the 1 for 2 duty rig (1 for 2 applied to 14 duty hours results in 7 hours of credit) was the greater of scheduled block hours, actual block hours, the trip rig, the duty rig, and the minimum duty period credit. The end result is the pilot is credited with 5 hours of block time *plus* 2 hours of soft time, for a total of 7 hours.

109. **Current American Contract Terms.** American’s CBA provides for a duty rig of 1 for 2; a trip rig of 1 for 3.5; and a MDPC of 3 hours per day minimum *and* 5 hours on average [AA Ex. 901 at 15.E., 15.F., and 15.G.].

110. **Comparator Group Provisions.** Among the Comparator Group, Continental has no duty rig and only provides a trip rig for pairings that contain a rest period of more than 29 hours. In addition, Continental’s MDPC is far lower than American’s, at 2.4 hours. [Section 4] The other Comparator Group airlines have similar rigs to American with the exception of

US Airways East's duty rig, which is less expensive than American's, and United and US Airways West's more expensive trip rigs. [AA Ex. 811 (reproduced below)]⁹⁵

PILOT RIGS

	AA	CO	DL	UA	US-E	US-W
Duty	1 for 2	None	0600-2200 1 for 2 2200-0600 1 for 1.75	0600-2200 1 for 2 2200-0600 1 for 1.75	0600-2159 1 for 2.25 2200-0600 1 for 2	1 for 2
Trip	1 for 3.5	1 for 4*	1 for 3.5	1 for 4	1 for 3.5	1 for 3.75
Minimum Day	5:00 avg 3:00 min	2:24	5:15 avg	5:00 avg	5:00 avg	5:15 single and avg

CO - Trip rig only applies to pairings scheduled with rest period >29 hours.

111. **American's Section 1113 Proposals.** American proposes to match Continental's provisions for duty rig and trip rig, and to eliminate the MDPC rig. This change will decrease the amount of soft time American has to pay to its pilots and will improve pilot productivity and leave American's provision consistent with what is in place at Continental.

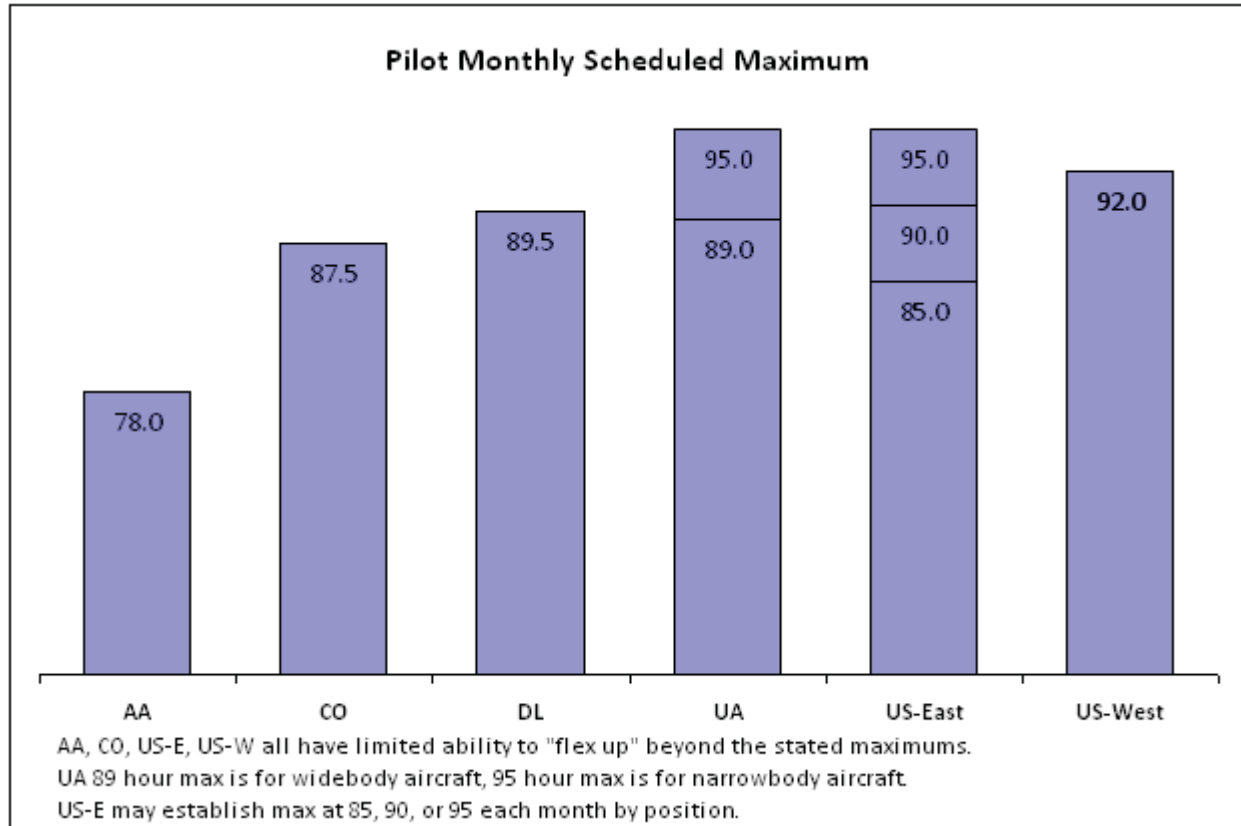
7. Monthly Scheduling Maximum

112. **Current American Contract Terms.** Section 15.A.1 of American's pilot agreement limits the number of hours a pilot can be scheduled to 78 hour each month for lineholders (those who bid for and are awarded a collection of specific trips) and 85 hours for reserves (who bid for days on which they must make themselves available to be assigned to any flight for which they are qualified, and not on specific trips). On top of that, Supplement M and Supplement I of American's pilot agreement permit American to increase the 78 hour lineholder maximum to a maximum of 80 hours a limited number of times per year. Pilots who exceed 78 hours on a scheduled basis are paid at premium rates (125% or 150% depending domestic or international and number of hours above 78; domestic pilots are only paid this premium if no pilots are on furlough). In addition, the pilot contract does not allow

⁹⁵ American rigs at AA Ex. 901 at § 15.E., § 15.F., § 15.G; Continental rigs at § 4; Delta rigs at § 12.H., § 12.J., § 12.K., § 12.L.; United rigs at § 5.G.3.; US Airways East rigs at § 12.J., amended by Letter of Agreement 84 Attachment A; US Airways West rigs at § 4.B., § 4.C.

pilots to voluntarily add more than 5 hours to their schedule each month, even if the pilot wants the additional pay or the airline needs the pilot to fly.

113. **Comparator Group Provisions.** American's pilot contract has the lowest monthly hour maximum among all the Comparator Group airlines by a fairly wide margin. See AA Ex. 812 (reproduced below) for summary of pilot scheduling maximum limits.⁹⁶



114. Such a limit requires that American employ more pilots than would be necessary to operate the same schedule if a higher cap were in effect, because many pilots would willingly fly more hours to increase their incomes.

⁹⁶ American monthly limits at AA Ex. 901 at § 15.A., Supplement M, Supplement I; Continental monthly limits at § 25.4.A; Delta monthly limits at § 22.C, § 23.A.22, § 23.A.2; United monthly limits at § 5.B.1., § 5.B.2., Letter of Agreement 91-02; US Airways East monthly limits at § 12.A., Letter of Agreement 93; US Airways West monthly limits at § 25.G., § 12.A.

115. The low monthly scheduling cap is a critical factor in American's low pilot productivity. American provides among the highest number of days off for vacation, has the highest sick leave accrual (especially when rapid reaccrual and sick leave "restoration" is factored in), and high training pay, with each item being credited towards the monthly pay cap. These add up to a significant impact on productivity.

116. **American's Section 1113 Proposals.** American proposes to change the monthly scheduling cap from 78 hours to a monthly average of between 70 and 87 hours by bid status. The 87 hour maximum would still leave American at the bottom of the Comparator Group.

8. Preferential Bidding System (PBS)

117. PBS is a crew bidding and scheduling system that allows pilots⁹⁷ to bid for monthly schedules by listing in advance their "preferences" for their trips or schedules. The system then honors those preferences in seniority order. For example, a pilot may express a preference for trips that start on Monday mornings, trips that go to Los Angeles, or a maximum number of days off, or a maximum per diem. The types of choices that can be made are wide ranging.

118. Airlines like PBS because such a system enables the carrier to avoid creating conflicts in a schedule, e.g. by first blocking out a previously planned vacation or training event, and by avoiding month-end transition conflicts with the pilot's schedule for the next month. Airlines generate schedules of trips (or trip pairings), and place a series of those trips together to build a monthly schedule (a line of time) for pilots to fly. This results in pilots bidding for lines of time that can overlap at the end of one month and/or at the beginning of the

⁹⁷ Airlines generally use similar scheduling systems for both pilots and flight attendants. American has also proposed PBS to its flight attendants.

next month. With PBS, a pilot logs his or her preferences for trips, but the PBS computer does not allow a pilot to state a preference for any trip that could overlap or conflict with another trip, a scheduled vacation, or any other planned absence. This is far more efficient than the current scheduling system. Currently, when a trip at the end of the month conflicts with a trip at the start of the next month, the pilot must drop one of the trips but is paid for it, which usually results in pilots being available for fewer hours each month. PBS is an important tool in improving productivity.

119. **Current American Contract Terms.** American is not currently permitted to use PBS.

120. **Comparator Group Provision.** Among the Comparator Group, Continental, Delta, United and US Airways-West already utilize PBS for pilots. US Airways-East, which does not utilize PBS, is the only outlier among the Comparators, although they have a provision in their contract that provides the framework for implementing PBS [Letter of Agreement 84, Attachment A].

121. **American's Section 1113 Proposal.** American proposes to implement PBS similar to the majority of the Comparator Group (with US Airways East being the only exception) and to delete or revise all provisions in the agreement that are inconsistent with PBS.

9. Calculation of Credit Hours

122. **Current American Contract Terms.** American's pilot contract provides that pilot credit hours for pay purposes are calculated on a leg-by-leg basis [AA Ex. 901 § 3.D.1.a]: For each leg (i.e. one take off and one landing in a series of take offs and landings), the scheduled hours of that leg are compared to the number of hours that the leg actually takes, and the pilot is credited with the greater of those two amounts.

123. Calculating credit hours on a leg-by-leg basis is more costly than calculating hours on a sequence-by-sequence, duty period or trip pairing (i.e., a series of legs either in one duty period or a series of duty periods) basis. When hours are calculated on a sequence-by-sequence basis, the excess actual hours in any one leg of a multi-leg sequence (i.e., the amount in which actual hours exceed scheduled hours for that leg) can be offset by legs where the actual hours come in below scheduled hours.

124. **Comparator Group Provisions.** United⁹⁸ calculates flight credit hours on a sequence-by-sequence basis. Continental⁹⁹, Delta¹⁰⁰, US Airways East¹⁰¹, and US Airways West¹⁰² calculate credit hours on a leg-by-leg basis.

125. **American's Section 1113 Proposal.** American proposes to calculate credit hours on a sequence-by-sequence basis, which would match it with United.

D. Conclusion: American's Pilots Have A Non-Competitive Contract

126. Based on my review of the Comparator Group airlines, American has the most restrictive scope clause with regard to code sharing with domestic partners and regional flying, an outdated pay system, unproductive work rules, and disproportionately generous sick leave and vacation accrual. On virtually all of the key provisions in the pilot collective bargaining agreement, American's contract terms are inconsistent with, and more restrictive or expensive (or both) than the Comparator Group. In my opinion, in order for American to be competitive, there is a need for pay groupings, a need for the implementation of PBS, and a need for

⁹⁸ § 5.G.3.e.

⁹⁹ § 3.6.A.

¹⁰⁰ § 3.A.6.b.

¹⁰¹ § 3.B.3.

¹⁰² §4.B.1.

modifying the Company's key work rules. These changes will make American competitive with the Comparator Group in critical revenue generation and productivity areas.

VI. AMERICAN'S FLIGHT ATTENDANT CONTRACT IS AMONG THE MOST GENEROUS WITHIN THE COMPARATOR GROUP

127. I have also analyzed and compared American's Section 1113 proposal to the Association of Professional Flight Attendants ("APFA") (including the pay, benefits and major work rules) with comparable provisions in the flight attendant labor contracts at the Comparator Group. In these important areas, American is generally not competitive with the Comparator Group. As described below, American's pay rates are above the average of the Comparator Group, even after the recent agreement with United and the tentative agreement reached at US Airways. Likewise, American flight attendants pay a lower percentage of their health insurance costs than most of their peers at the other carriers (and far less than is typical at virtually all private employers in the United States today). Finally, certain of American's work rules constrain the productivity of its flight attendants as compared to their peers at the Comparator Group airlines.

A. American's Flight Attendant Pay Is Generally Higher Than the Comparator Group and Its Pay System Is Outdated and Not Competitive With the Comparator Group

1. Base Pay Rates.

128. **Current American Contract Terms.** American's base domestic flight attendant pay rates range from \$20.24 per hour for a first year flight attendant to \$46.00 per hour in a flight attendant's 15th year of service (commonly referred to as "Top of Scale" or "TOS"). [AA Ex. 1001 at § 3.A].

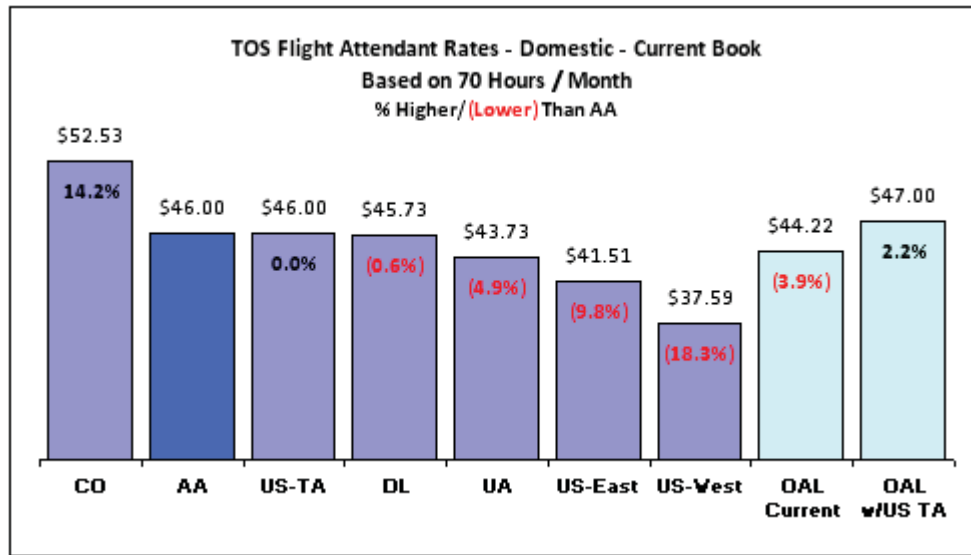
129. **Comparator Group Provisions.** American's proposals to its employee groups have sought to protect, to the extent possible, the take home pay of its employees. However, in

analyzing pay at the Comparator Group, American's flight attendants, even after the restructuring is completed, will still have pay rates that are at or above the pay rates of the majority of the Comparator Group. This is true even taking into account an agreement between United and its flight attendant union that ratified in late February 2012 and the failed tentative agreement between US Airways and its flight attendants.

130. The domestic base pay rates for the Comparator group, including the newly ratified United contract, are 3.0 to 7.0 percent lower, on average, than those of American. At the top of the scale, the average of the Comparator Group is 3.9 percent lower than American. Continental is the only Comparator Group airline whose top of scale pay rate is higher than American.

131. US Airways also reached a tentative agreement with their flight attendant union recently which was not ratified. This combined agreement would have covered flight attendants at US Airways East as well as US Airways West. Under the failed tentative agreement, the domestic base pay rates for the Comparator group will range from 4.1 percent higher to 0.2 percent lower, on average. At the top of the scale the Comparator Group would be 2.2 percent higher than American. [AA Ex. 813A (reproduced below)]¹⁰³

¹⁰³ Domestic base wage sources: Continental at § 4.A; Delta at "Delta Flight Attendant Pay Scales" (July 1, 2012); United at § 5.A.1; US Airways East at § 3.A; US Airways West at § 3.A; US Airways Failed Tentative at § 3.A.



132. **American's Section 1113(c) Proposal.** As mentioned above, despite the fact that American's flight attendant wages are, on the whole, higher than all Comparator Group airlines besides Continental (and US Airways in their failed tentative agreement), American is not proposing a wage cut.¹⁰⁴ In fact, upon reaching a consensual agreement, American proposes five annual 1.5 percent increases beginning one year after the date of signing of the new agreement.¹⁰⁵

2. International Pay Rates.

133. **Current American Contract Terms.** American has a separate pay scale for international operations, ranging from \$22.13 per hour in the first year to \$49.14 per hour at the

¹⁰⁴ American's decision not to propose a reduction in base wage rates sets it apart from all of the other major airline bankruptcies of which I am aware. Rather, in each of those other bankruptcies, the flight attendants suffered a material reduction in their wages, as well as to their work rules and benefits.

¹⁰⁵ At the end of the proposed 6-year term American's flight attendant pay rates would remain ahead of both United as well as the failed US Airways tentative agreement.

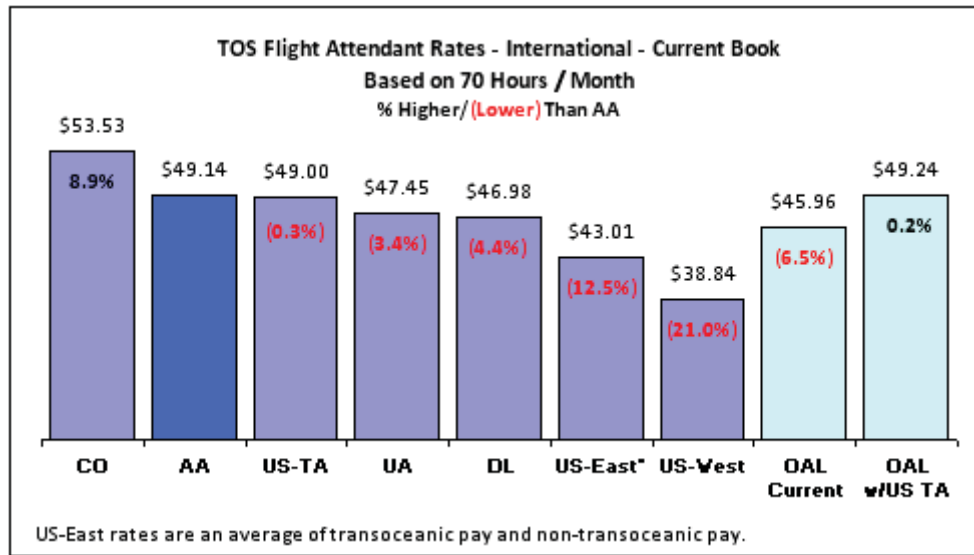
top of the scale. [AA Ex. 1001 at § Appendix I.3.A] These rates range from \$1.23 per hour to \$3.67 per hour higher than domestic rates, with an unadjusted average of \$2.54 per hour.

134. **Comparator Group Provisions.** Among the Comparator Group, only United has a separately negotiated pay scale for international operations. United's international rates range from \$0.59 per hour to \$3.98 per hour above its domestic rates. Continental (\$1.00 per hour over domestic rates), Delta (\$1.25 per hour over domestic rates), US Airways East (\$3.00 per hour over domestic rates for transoceanic flying only), and US Airways West (\$1.25 per hour over domestic rates) all pay a set premium dollar amount for international flying. Under its failed tentative agreement, US Airways would have paid \$3.00 per hour for all international flying.

135. International base pay rates for the Comparator group, including the newly ratified United contract, are 4.4 to 10.7 percent lower, on average, than those of American. At the top of the scale, the Comparator Group is 6.5 percent lower than American. As with domestic rates, Continental is the only Comparator Group airline whose top of scale pay rate is higher than American.

136. Factoring in the failed tentative agreement at US Airways, international base pay rates for the Comparator group will range from 5.3 percent higher to 3.5 percent lower, on average. At the top of the scale the Comparator Group would be 0.2 percent higher than American. [AA Ex. 814 (reproduced below)]¹⁰⁶

¹⁰⁶ International base wage sources: Continental § 4.C; Delta at § 2.S; United at § 5.A.2; US Airways East at § 3.I; US Airways West at § 3.G; Failed US Airways Tentative at § 3.G.



137. **American's Section 1113(c) Proposals.** American's proposal to put into place an international override of between \$1 and \$3 per hour, depending on seniority, is consistent with the Comparator Group and will save the Company money as it hires more flight attendants in the future. American's proposal provides that no current flight attendant will be negatively impacted by the elimination of a separate international pay scale and the implementation of an international override.

3. Incentive Pay.

138. **Current American Contract Terms.** American's pay system provides that when a flight attendant's pay hours exceed 70 in a month, a flight attendant begins to earn an incentive rate of 115 percent of their base hourly rate. [AA Ex. 1001 at § 3.B, Appendix I.3.B] This is a pay system that has been eliminated from virtually all flight attendant contracts for many years and can be exceedingly costly to an airline.

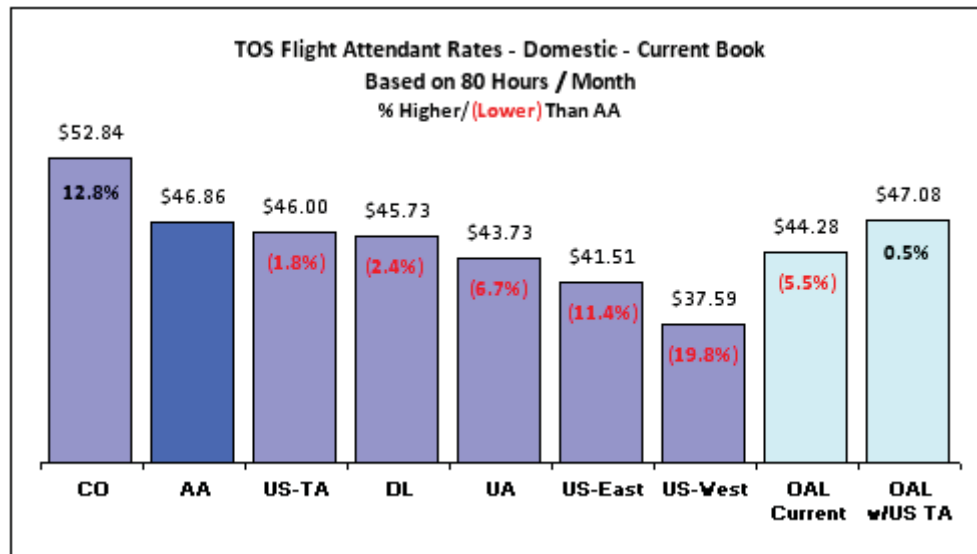
139. **Comparator Group Provisions.** Thirty years ago, the pay system in place at a number of airlines provided for incentive pay when hours exceeded a certain level in a given month. However, airlines realized that paying a flight attendant at a rate higher than their base pay rate for a relatively low number of monthly pay hours did not make economic sense. Most

airlines have negotiated away this provision, and today, American and Continental are the only Comparator Group airlines to provide an incentive pay rate when a flight attendant exceeds a monthly hour threshold albeit the incentive pay provisions at the two airlines are very different. While American's line holding flight attendants receive incentive pay when they exceed 70 hours in a month American also pays reserve flight attendants five (5) guaranteed hours at a 15% premium of their hourly rate on top of their 70 hour guarantee per month at straight time hourly rates. Continental's incentive premium of \$5.00 per hour begins at 225 hours per calendar quarter (or an average of 75 hours per month)¹⁰⁷. [§ 4.B] This means that, unlike at American, a flight attendant at Continental must be productive over a prolonged period of time, thereby rewarding these highly productive flight attendants.

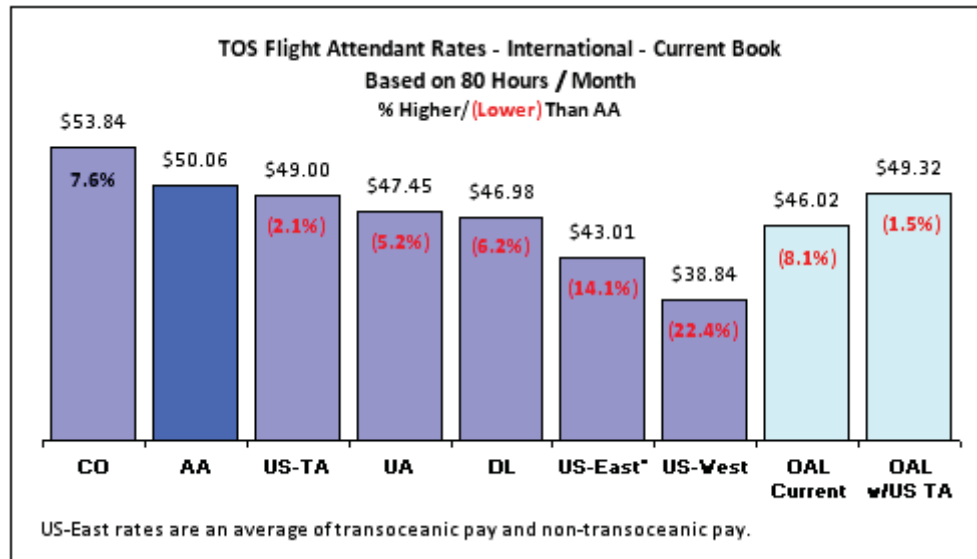
140. The effect of American's incentive rate can be illustrated by calculating an hourly rate for a flight attendant who flies, say, 80 hours in a month instead of 70 or fewer hours. At this level, American and Continental are the only legacy carriers whose flight attendants would receive incentive pay. At 80 hours per month, domestic pay rates for the Comparator group are 4.5 to 8.6 percent lower, on average, than those of American (versus 3.0 to 7.0 percent at 70 hours). At the top of the scale, the Comparator Group is 5.5 percent lower than American (versus 3.9 percent at 70 hours). At that same 80 hour level, international pay rates for the Comparator group are 6.0 to 12.2 percent lower, on average, than those of American (versus 4.4 to 10.7 percent at 70 hours). At the top of the scale, the Comparator Group is 8.1 percent lower than American (versus 6.5 percent at 70 hours).

¹⁰⁷ American proposes to change its reserve system; moving to a process very similar to that used at Delta.

141. Factoring in the failed tentative agreement at US Airways, at 80 hours per month domestic pay rates for the Comparator group will be 2.4 percent higher to 1.7 percent lower, on average, than those of American (versus 4.1 percent higher to 0.2 percent lower at 70 hours). At the top of the scale, the Comparator Group will be 0.4 percent higher than American (versus 2.2 percent at 70 hours). At that same 80 hour level with the US Airways failed tentative agreement factored in, international pay rates for the Comparator group will be 3.6 percent higher to 5.0 percent lower, on average, than those of American (versus 5.3 percent higher to 3.5 percent at 70 hours). At the top of the scale, the Comparator Group will be 1.5 percent lower than American (versus 0.2 percent higher at 70 hours). [Domestic rates at 80 hours per month shown in AA Ex. 815A (reproduced below); International rates at 80 hours per month shown in AA Ex. 816A (reproduced below)].¹⁰⁸



¹⁰⁸ If American is unsuccessful in eliminating the 15 percent premium pay over 70 hours, it will not be able to benefit from its proposed monthly schedule maximum because flight attendants will not have their own incentives to earn more money by flying more hours.



142. **American's Section 113(c) Proposal.** American is proposing to eliminate incentive pay, putting it in line with the Comparator Group.

4. Domestic Coach Galley Premium on Wide Body and B-757 Aircraft.

143. **Current American Terms.** American pays a premium of \$0.63 per hour to flight attendants working the coach galley position on wide body and B-757 aircraft on domestic flights. [AA Ex. 1001 at § 3.S].

144. **Comparator Group Provisions.** I am not aware of any airline in the Comparator Group that provides hot coach food service that would require a galley position. As a result, no Comparator Group airline pays such a premium for domestic coach operations.

145. **American's Section 113(c) Proposals.** American proposes to eliminate the domestic coach galley premium to put it in line with the Comparator Group.

B. American's Flight Attendant Work Rules Are Among The Most Costly And Least Productive In The Industry

146. As similarly noted in the analysis on pilot work rules, a number of important American flight attendant work rules are highly restrictive and result in low productivity from

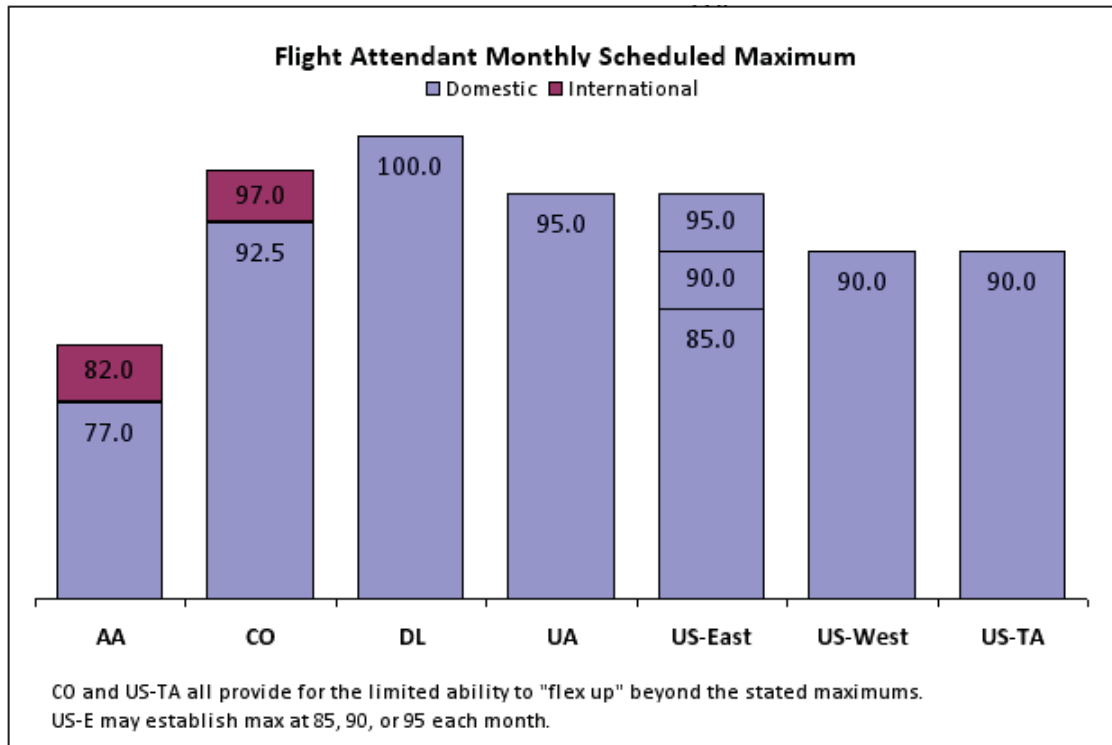
its flight attendant work force. Many of these restrictive work rules limit the ability of American to schedule its flight attendants effectively and thus require the Company to employ more flight attendants than would otherwise be necessary. Other work rules require American to pay flight attendants for hours when they are not on the aircraft. The most high impact work rules are discussed below.

1. Monthly Maximum Hours Limit

147. **Current American Contract Terms.** Section 7.A and Appendix I.7.A of American's flight attendant contract limits American's ability to schedule flight attendants to 77 hours per month for Domestic flying, and 82 hours per month for International flying.

148. **Comparator Group Provisions.** American's monthly maximum scheduling limit is uncompetitive as it is by far the lowest of the Comparator Group. [AA Ex. 817 (reproduced below)]¹⁰⁹.

¹⁰⁹ American monthly limits at AA Ex. 1001 at § 7.A., Appendix I.7.A; Continental monthly limits at § 5.A.1, Letter of Agreement 2; Delta monthly limits are FARs; United monthly limits at § 7.A; US Airways East monthly limits at § 9.B.1; US Airways West monthly limits at § 5.A.1; Failed US Airways TA monthly limits at § 10.D.13.d.



149. As discussed in Section V of this Declaration with respect to pilots, such a low scheduling limit requires American to hire more flight attendants than would be necessary to operate the same flying schedule if a higher schedule maximum were in place. This is a critical factor in American's low flight attendant productivity.

150. **American's Section 1113(c) Proposals.** American has proposed a monthly scheduling maximum of 100 hours, which would generally result in average lines between 80 and 90 hours. This would be at the high end of the Comparator Group, but it is certainly in line with how the Comparator Group airlines build their monthly lines. This single contractual provision is one of the major reasons why American's flight attendants are unproductive as compared to the rest of the Comparator Group.

2. Rigs (Ratios in Guarantees)

151. Rigs (Ratios in Guarantee) are complex provisions in flight attendant contracts¹¹⁰ that provide minimum pay and credit according to various formulas. There are generally three types of rigs in flight attendant contracts. In each instance, a flight attendant receives the greater of the pay and credit for the scheduled time of the trip, the time actually flown per day or per trip, or the specific rig formula.

152. Examples of the three main types of rigs are as follows:

- Time away from base (called “TAFB” or “trip rig”). For example, a “1 for 4” TAFB rig means that for every 4 minutes away from base, a flight attendant must receive at least 1 minute of pay and credit. In a 24-hour period, that translates to a minimum of 6 hours of pay and credit.
- Time on duty (“**duty rig**”). Similarly, a duty rig of “1 for 2” means that for every 2 minutes on duty, a flight attendant receives 1 minute of duty credit.
- Minimum duty period credit (“**MDPC**”). Most airlines pay an average of around 5 hours (or more) a day over the course of a trip pairing (meaning multiple day trips).

153. **Current American Terms.** American’s CBA provides for the following rigs:

- Trip rig of 1 for 3.5. [AA Ex. 1001 at § 8.F]
- Duty rig of 1 for 2. [AA Ex. 1001 at § 8.E]
- MDPC of 3 hours per day minimum **and** 5 hours on average [AA Ex. 1001 at § 8.A].

154. **Comparator Group Provisions.** American is alone among the Comparator Group in having **both** minimum and average duty period credit rigs. American is virtually alone among the Comparator Group in having a minimum day rig. US Airways West’s similar rig **only** applies to single day pairings. American’s average duty rig of five hours is at or near the top of the Comparator Group. Continental has only one trip rig of 1 for 4 paid only for

¹¹⁰ Pilot contracts generally have similar provisions.

trips with a layover rest period of 29 or more hours. Being required to have both a minimum day rig and an average duty period rig in a collective bargaining agreement adversely impacts American by forcing the airline to pay more “soft time” than other network carriers. Modifying its rigs will enable American to more effectively compete with the Comparator Group and improve the productivity of its flight attendants. [AA Ex. 818 (reproduced below)]¹¹¹.

FLIGHT ATTENDANT RIGS

	AA	CO	DL	UA	US-E	US-W	US-TA
Duty	1 for 2	None	1 for 2	1 for 2	0600-2159 1 for 2.25 2200-0600 1 for 2	1 for 2	1 for 2
Trip	1 for 3.5	1 for 4*	1 for 3.5	1 for 3.5	1 for 3.5	1 for 4	1 for 3.25
Minimum Day	5:00 avg 3:00 min	2:24	4:45 avg	5:00 avg	5:00 avg	4:00 for single day pairings only	5:15 avg

CO - Trip rig only applies to pairings scheduled with rest period >29 hours.

155. American’s Section 1113(c) Proposals. American proposes to lower its average duty period credit from 5:00 to 4:30 and its minimum duty period credit from 3:00 to 2:00. This would put American at the low end in terms of average MDPC but American would remain the only carrier with a minimum MDPC.

3. Maximum On Duty Time

156. All airlines have limits regarding how many hours a flight attendant can remain on duty on a daily basis (called Maximum On Duty). The length of time being on duty is dependant on when a flight attendant is scheduled to begin his or her work day.

157. Current American Terms. American’s scheduled and actual on duty maximums vary depending on a flight attendant’s originating departure time. At their highest they are 13 and 15 hours, respectively [AA Ex. 1001 at § 7.K].

¹¹¹ American rigs at AA Ex. 1001 at § 8.E., § 8.F., § 8.A; Continental rigs at § 4.O; Delta rigs at § 2.I., § 2.J., § 2.K; United rigs at § 8.A, § 8.B; US Airways East rigs at § 10.J, § 10.K; US Airways West rigs at § 3.B; Failed US Airways TA rigs at § 11.D.

158. **Comparator Group Provisions.** This is yet another area where American is not competitive with the Comparator Group, especially in the domestic market during the all important hours between 0500 and 1900 when the majority of flights are scheduled. American's duty limits are both a full hour below those at Delta¹¹² and Continental¹¹³ (which each have 14 and 16 hour maximums regardless of departure times), and a full hour below US Airways East for scheduled hour limits (14:00¹¹⁴). American is in line with United's¹¹⁵ and US Airways West's¹¹⁶ limits of 13:00 and 14:30 for daytime hours. Had the US Airways tentative agreement been ratified, American's scheduled duty maximum would have exceeded that of US Airways in most departure time slots¹¹⁷.

159. **American's Section 1113(c) Proposals.** Whether it is scheduled or actual on duty maximums, American needs to increase its ability to keep flight attendants on duty to remain competitive with the Comparator group, and its proposed change to limits of 14 scheduled and 16 actual on-duty hours for departures between 0600 and 2059, and 12 scheduled and 14 actual on duty hours between 2100 and 0559 would put them on par with two of their most prominent competitors.¹¹⁸

¹¹² § 1.P.

¹¹³ § 5.B.7.

¹¹⁴ § 10.D.

¹¹⁵ § 7.I.4.

¹¹⁶ § 5.F.

¹¹⁷ §§ 11.E, 11.F.

¹¹⁸ United and US Airways East operate under systems in which the scheduled and actual on-duty maximums are tied to departure time; in most cases, United's limits are 13 and 14.5 hours, and US Airways' are 14 and 15 hours.

4. Duty Aloft

160. **Current American Contract Terms.** American's "duty aloft" provision limits domestic flight attendants to 8:59 of in-flight duty per duty period. [AA Ex. 1001 at § 7.J].

161. **Comparator Group Provisions.** American's duty aloft limit is nearly unique in the Comparator Group. Only US Airways East has a similar provision (8 hours aloft in 24 hours by way of its "me too" provision with pilots, which ties it to pilot FARs).¹¹⁹ However, under its failed tentative agreement, all US Airways flight attendants would have been able to exceed 8 block hours each day on duty provided those trips were limited to 3 segments per day and if the company augmented the cabin crew, the 3 segment limitation would not have applied¹²⁰. Delta, Continental, and US Airways West have no duty aloft provision at all. United is restricted to scheduling its flight attendants to 8:30 duty aloft, but flight attendants may waive this provision. In addition, United may exceed the limit but must then provide additional rest after that duty period.¹²¹ As a consequence of this contractual limitation, American's ability to fully utilize its flight attendants to the extent of the Comparator Group is circumscribed.

162. **American's Section 1113(c) Proposal.** American proposes to eliminate the duty aloft limitation, putting it in line with the Comparator Group. Having the ability to exceed 8:59 duty aloft in a duty period will enable American to increase the productivity of its flight attendants, reduce its hotel and per diem costs (fewer layovers) and possibly result in fewer days of work for some line flight attendants.

¹¹⁹ § 10.L.

¹²⁰ § 11.E.3.

¹²¹ § 7.D.

5. Preferential Bidding System (PBS)

163. As discussed in the pilot section, above, a Preferential Bidding System (PBS) is an important tool that airlines use to create schedules that are as efficient as possible by preventing the scheduling of conflicting trips, training, vacation or known absences, which result in trips being “dropped” into open time, to be flown by a reserve flight attendant, which in turn, increases flight attendant staffing requirements. PBS can be advantageous to flight attendants as well, as it allows them to request (“**preference**”) trips that meet criteria that the flight attendants themselves choose.

164. **Current American Contract Terms.** American currently does not utilize or have provisions in its contract for PBS.

165. **Comparator Group Provisions.** On the flight attendant side, Delta utilizes PBS [§ 4.H], and the flight attendants at United [Letter of Agreement, CBA at 323] and US Airways East [US Airways East Letter of Agreement 30] have successfully negotiated for the right to implement such a system. In addition, the failed US Airways combined tentative agreement provides for implementation of PBS within 24 months [§ 10.D]. Only American, Continental and US Airways West have no provisions related to implementing PBS.

166. **American’s Section 1113(c) Proposal.** American proposes to implement PBS and to revise or eliminate all provisions in the current agreement that are inconsistent with PBS. Preferential bidding systems have become “state of the art” in pilot and flight attendant scheduling, permitting a carrier to obtain greater productivity, eliminating the exploitation of “bidding in to conflicts,” and at the same time permitting flight attendants, subject to their seniority, to build schedules that meet their individual preferences.

6. Combined Domestic and International Operations

167. **Current American Contract Terms.** American currently does not mix domestic and international trip sequences in its bid lines and designates its reserve flight attendants as exclusively either domestic or international [AA Ex. 1001 at Appendix I.10.A.3].

168. **Comparator Group Provisions.** American segregates its domestic and international flight attendant operations to a far greater degree than the Comparator Group. United is the only Comparator Group airline that also segregates in its domestic and international flight operations. However, United's contract contains provisions that allow for limited mixing of international and domestic trips within lines.¹²² Continental does not distinguish between domestic and international in its line building provisions or in its reserve assignments¹²³. Delta¹²⁴, US Airways East¹²⁵, US Airways West¹²⁶, and the failed US Airways combined tentative agreement¹²⁷ all have at least some lines that mix domestic and international trips.

169. Likewise, American is the only member of the Comparator Group besides United¹²⁸ that designates its reserve flight attendants as exclusively either domestic reserves or international reserves. Continental¹²⁹, Delta¹³⁰, US Airways East¹³¹, US Airways West¹³², and

¹²² § 12.A, § 12.J.

¹²³ § 5.

¹²⁴ § 1.M; § 4.J.

¹²⁵ § 12.C.

¹²⁶ § 34.D.

¹²⁷ § 14.H.

¹²⁸ § 12.U.

¹²⁹ § 5.

¹³⁰ § 5.

the failed US Airways combined tentative agreement¹³³ make no distinction between domestic and international reserves.

170. **American's Section 1113(c) Proposal.** Although American has to carry some surplus flight attendants to be able to staff for times of peak demand, the provision of the agreement requiring reserve flight attendants to be designated as either domestic or international is inefficient and costly. Not being able to shift otherwise idle flight attendants from domestic operations to cover shortages in the international operation, or vice-versa is no longer a luxury that any airline can afford. The fact that American's competitors can do so creates a competitive disadvantage and American's proposal to eliminate this provision is in line with the Comparator Group.

7. Vacation Pay

171. **Current American Contract Terms.** American pays its line holding flight attendants vacation pay called "trips missed" [AA Ex. 1001 at § 6.H.1].

172. **Comparator Group Provisions.** Though American's annual vacation accrual is below the average of the Comparator Group, its "trips missed" method of paying flight attendants for those vacation days is very costly and well above what the Comparator Group pays its flight attendants. Paying a flight attendant for trips missed is not only very expensive (based on the current minimum day provisions discussed above, a missed trip would be an average minimum of 5 hours per day), it also means any scheduled trip which "touches" or conflicts with a vacation day, even if the trip is outside of the vacation period, must be dropped

¹³¹ § 11.

¹³² § 9.

¹³³ § 14.

from the flight attendant's schedule and instead flown by a reserve flight attendant, thereby creating an additional headcount and productivity hit.

173. All of the other Comparator Group airlines pay a daily rate for vacation, ranging from 2:30 per day to 4:30 per day¹³⁴. In addition, all of the other carriers have modified their contracts to eliminate the "trips touching" rules which flight attendants have taken advantage of in the past to turn, for example, a two week vacation into a full month of pay with no flying.

174. **American's Section 1113(c) Proposal.** American's proposal to pay a daily rate of 3:00 is reasonable and well within the range being paid by airlines in the Comparator Group.

8. Sick Leave

175. Sick leave accrual, sick leave pay, and the manner in which a company can require its employees to provide proof of illness (to effectively manage sick absences) all work together to determine how effective a sick leave program is in providing benefits to employees who cannot work due to legitimate illness as well as how costly a program is to the company.

176. **Current American Contract Terms.** Flight attendants at American currently accrue 3 hours of sick leave per month. American is not proposing any changes to sick leave accrual. American currently pays line holding flight attendants trips missed for sick days and reserves 4:10 per day or 3:56 per day depending on whether the bid period is a 31-day bid period or a 30-day bid period, respectively [AA Ex. 1001 at § 26.C]. Currently, American only requires substantiation of illness when it suspects abuse or when an absence exceeds 30 days. AA Ex. 1040.

¹³⁴ Continental pays 3:15 [§ 8.C]; Delta pays 2:45 [§ 2.2.Z.10]; United pays 2:45 [§ 18.K]; US Airways East pays 3:30 or 4:00 depending on number of days taken [§ 7.B]; US Airways West pays between 2:30 and 4:30 depending on years of service [§ 13.A]; US Airways failed combined TA pays 3:30 or 4:00 depending on number of days taken [§ 8.B].

177. **Comparator Group Provisions.** All of the Comparator Group airlines pay trips missed to line holders who take sick leave. The only difference is US Airways East's current contract, where flight attendants earn 100 percent pay and credit for only the first sick occurrence of each year, up to 4 consecutive days for that occurrence. After that initial occurrence, flight attendants receive 100 percent credit, but only 70 percent pay for the remaining sick occurrences for that year [§ 8.A, § 8.F]. The failed US Airways tentative agreement provides for 100% of pay and credit for all sick occurrences.

178. Reserve sick leave is paid on a daily basis at all Comparator Group airlines, similar to American. Continental and United pay a comparable daily rate to American – 4:00 per day at Continental¹³⁵ and 4:20 or 4:07 per day at United¹³⁶, based on a 31- or 30-day bid period, respectively, versus American's 4:10 / 3:56 per day – while Delta pays 6:00 per day¹³⁷. The daily rates at US Airways West (3:53¹³⁸) and under the failed US Airways tentative agreement (3:56 / 3:45¹³⁹) are lower than American's. Likewise, US Airways East's current contract provides for a lower daily rate (3:30) and, as with lineholder sick pay, provides for 100 percent credit but only 70 percent pay for all sick leave other than the first occurrence per year up to 4 consecutive days¹⁴⁰. Again, the failed US Airways tentative agreement provides for full pay for sick leave.

¹³⁵ § 9.F.

¹³⁶ § 19.A.

¹³⁷ § 2.Z.11.

¹³⁸ § 15.C.

¹³⁹ § 9.D.

¹⁴⁰ § 8.A, § 8.F.

179. Regarding airlines' ability to require proof of illness, US Airways West has language similar to American where it "may *request a doctor's note to verify an illness or injury.*"¹⁴¹ United's contract is silent on proof of illness, except as it pertains to a return to work release¹⁴². Delta's flight attendant handbook is also silent on proof of illness. However, Continental and US Airways East – as well as the failed US Airways combined tentative agreement – provide for strong language regarding when flight attendants are required to provide proof of illness to the company. Continental's contract requires written verification of illness for the fourth and subsequent sick incidents in any 12 month period, in addition to *all* sick incidents between July 1 and July 7, *any* incident that touches Thanksgiving, *all* incidents between December 20 and January 4, and any time "*circumstances suggest that abuse or misuse of sick leave has occurred*"¹⁴³ US Airways East requires proof of illness for any sick occurrence in excess of 4 occurrences in any 12 month period, and "*when a supervisor can demonstrate he/she has reasonable cause to believe that an individual flight attendant's use of sick leave may have been for other than legitimate reasons.*"¹⁴⁴ The language in the US Airways failed tentative agreement is essentially the same as the US Airways East contract, requiring proof for any occurrence in excess of 4 per 365 days and any time the Company can demonstrate it has reasonable cause to suspect abuse.¹⁴⁵

180. **American's Section 1113(c) Proposal.** American proposes no change to sick leave accrual or to the rate it pays flight attendants for sick leave (trips missed for lineholders

¹⁴¹ § 15.E.

¹⁴² § 19.B.3.

¹⁴³ § 9.H.

¹⁴⁴ § 8.H.

¹⁴⁵ § 9.E.

and 4:10 or 3:56 per day for reserves), except for R-Day sick leave which will be paid at the greater of the R-Day block value or trips missed. However, American does propose to revamp the number of sick occurrences that are paid at 100 percent and the way in which it manages sick leave absences. Under the proposal, flight attendants would be handled differently depending upon whether their absence is 7 or fewer days in duration (called “**Incidental Sick Leave**”) or greater than 7 days (“**Managed Care Sick Leave**”).

181. Under Incidental Sick Leave, a flight attendant taking sick leave of 7 or fewer days will be paid 100 percent for the first 2 occurrences per year or 24 hours of trips missed, whichever occurs first. For any additional sick time taken during the year, sick leave will be paid at 60 percent, provided the flight attendant provides proof of the illness.

182. All sick occurrences of more than 7 days will be handled under the Managed Care Sick Leave program. For each such occurrence, days 1 through 7 are paid as Incidental Sick Leave. Beginning on day 8 of each occurrence, the flight attendant will be paid at 100 percent provided he or she substantiates the illness and complies with the managed care program.

183. Taken together, these proposed changes will allow American to better control sick leave and will bring it in line with Continental and US Airways in terms of managing sick leave absences by requiring proof of illness under specific circumstances.

C. American’s Flight Attendants Have An Uncompetitive Contract

184. My review of the Comparator Group airlines and the proposals made by American demonstrates that the Company is operating under an outdated pay system, is subject to a number of important work rules that constrain its ability to increase flight attendant productivity, and has vacation pay rules that are more generous than the Comparator Group and which can negatively impact flight attendant productivity. On many of the key scheduling provisions, American’s contract terms are inferior to the Comparator Group airlines. In my

opinion, there is a significant need for a restructuring of the pay system, a need for the implementation of PBS and a modification of certain key scheduling work rules that can improve productivity and efficiency.

VII. AMERICAN'S TWU PROVISIONS (MECHANIC & RELATED AND FLEET SERVICE) ARE AMONG THE MOST RESTRICTIVE WITHIN THE COMPARATOR GROUP

A. American's Mechanic and Related Scope Clause and Furlough Restrictions Are Not Competitive With the Comparator Group or Other Airlines

185. The airline industry has seen sweeping changes in the mechanic and related ("M&R") work group since the restructuring of the Comparator Group airlines began in 2002. Tens of thousands of jobs have been eliminated as airlines have been able to secure the same services at a much lower cost and with greater efficiency. As I will describe in this section, every airline in the Comparator Group outsources much, if not all, of their heavy maintenance work to third party vendors.

186. "Heavy" maintenance is performed on aircraft as they age, and involves inspecting the airplane's major systems for wear, rebuilding the engines, and refurbishing and updated the equipment onboard. Heavy maintenance (also known as "heavy checks" or "C" and "D" checks) are usually identified by a letter, such as a "C" or "D" check. "C" checks are fairly extensive maintenance checks that require the inspection of just about the entire aircraft. Heavy checks also require the work to be done at a maintenance base or facility. It cannot be done effectively outside an enclosed maintenance facility. Although the specifics vary by aircraft type and series, any heavy check requires an aircraft to be placed out of service for at least one to two weeks and sometimes for a month or longer.

187. The "D" check is the most comprehensive maintenance check done on an airplane. The check is so extensive that a single "D" check generally can take more than a

month to complete, and depending on the aircraft, can require scores of maintenance personnel to work on them.

188. Companies that specialize in heavy maintenance checks are called Maintenance and Repair Organizations (“**MROs**”). MROs are very efficient in conducting heavy maintenance checks, and nearly all of the Comparator Group and other airlines have turned heavy check work over to the MROs. It is extremely difficult for any airline to compete with an MRO because these companies can schedule workers more efficiently, keep the maintenance bases open seven days a week with few if any restrictions, and hire workers at lower costs than the airlines. It is critically important that the maintenance work be done as quickly and safely as possible because any time an aircraft is out of service, it costs the airline revenue.

189. Airline vendors also perform other maintenance-related work in a much more cost effective manner than the carriers themselves. There are a number of well known vendors that perform services such as lavatory cleaning, fueling, aircraft cleaning and facility maintenance. An example of the difference in costs can be illustrated with the aircraft cabin cleaning function. At US Airways, where cabin cleaning falls under the M&R agreement, union-represented cleaners (called utility men) were paid nearly \$19.00 per hour at the top of scale. The airline received bids from outside vendors which averaged between \$7 and \$9 per hour. It is not possible to effectively compete when you have to pay wages more than double the market.

190. Another area that has changed over the years is furlough protection. All of the Comparator Group airlines have been able to right size their work force to match the operations

of their restructured airline. If American does not have the ability to modify its resources as needed at the reorganized airline, it will be unable to compete effectively.

191. **Current American Contract Terms.** American's Maintenance and Related contract greatly restricts the outsourcing of work. [AA Ex. 1103 at Art. 1e]. The M&R contract permits American to, "*contract out work not exceeding the scope of its present contracting out practices*" [Id]. This phrase effectively requires American to keep in house work it has been performing for more than 50 years [Declaration of Burdette Paragraph 25].

192. **Comparator Group Provisions.** Continental may continue to contract out work that it customarily has contracted out. [Art. 1.B.4.a]. In practice, Continental outsources about 50 percent of its heavy maintenance¹⁴⁶ work and has outsourced engine and component work since its multiple bankruptcies in the 1980s and 1990s.

193. As a nonunion airline, Delta has no outsourcing restrictions. Delta has been outsourcing the heavy maintenance of most of its fleet for a number of years and has the discretion to outsource any or all of its component shops, plant maintenance or any other mechanic and related work.

194. United Airlines outsources 100 percent of its fueling¹⁴⁷ and cleaning¹⁴⁸. United is also permitted to outsource up to 20 percent of its maintenance work in addition to certain heavy maintenance including all of its "D" checks. [Art 1.B.12 (Current CBA); Art. II.D.4 (2005-2009 CBA)].

¹⁴⁶ Declaration of Daniel M. Kasper, Exhibit 72.

¹⁴⁷ Art. 1.B.4.a (2011 CBA), which allows contracting out of work that was previously contract out, and Art. II.D.2 (2005-2009 CBA) which allowed United the unrestricted right to contract out fueling.

¹⁴⁸ Letter of Agreement 15 (Current CBA); Art. II.D.3 (2005-2009 CBA)

195. US Airways also negotiated the ability to outsource a great deal of its maintenance work during its restructuring. US Airways outsources 50 percent of its base maintenance work, including all of its B757, B767 and A330 maintenance work. [Art. 2.B, Letter of Clarification of Art. 2.B, as amended by 2008 Transition Agreement] It can outsource a maximum of 50 percent of its required B737 “Q” checks. [Art. 2.B, Letter of Clarification of Art. 2.B] US Airways also outsources all of its cabin cleaning work. [Art. 2.B, as amended by 2008 Transition Agreement] In locations other than its hubs and Las Vegas, ground equipment maintenance may be outsourced. [Art. 2.B, as amended by 2008 Transition Agreement] However, even in its hubs and Las Vegas, the scope of work does not include major overhaul or repair of engines/transmissions or painting of the equipment or any other work for which the US Airways lacks the equipment, skills or facilities. [Art. 2.B, as amended by 2008 Transition Agreement]

196. US Airways is required to have utility employees in base maintenance locations. All other utility work and all associated duties may be performed by vendors or other US Airways employees. [Art. 4.H].

197. US Airways has plant maintenance employees in four locations (Charlotte, Philadelphia, Pittsburgh and Phoenix). Plant Maintenance at other locations may be performed by vendors, at the company’s discretion. [Art. 2.B, as amended by 2008 Transition Agreement] Finally, at US Airways’ component shops, the overwhelming majority of the work may be outsourced. [Art. 2.B., Attachment H, as amended by 2008 Transition Agreement]

198. **American’s Section 1113(c) Proposal.** American has proposed a 40 percent outsourcing cap on aircraft-related maintenance, putting it much closer to the Comparator

Group. American has also proposed to outsource certain work of plant maintenance M&R employees. The ability to contract out this work will enable American to be competitive with the Comparator Group.

B. American's Work Rules Are Inconsistent with the Comparator Group and Are Among the Least Productive Work Rules in the Industry

1. Staffing Requirements

199. One way airlines can be efficient and productive is to make sure management has the ability to align staffing properly to flight activity, have employees fill vacant positions as quickly as possible, and remove employees from the payroll when conditions warrant. Not being able to have control over one's staffing, the ability to fill vacancies, and reduce headcount quickly and appropriately is very costly, ineffective, and unproductive.

200. **Current American Contract Terms.** American is the only airline among the Comparator Group that has staffing requirements built into its M&R contract. No other Comparator Group contract requires that staffing be based on a minimum number of annual scheduled departures. While it may make business sense to staff the major hubs with your own mechanics, that is not always the case at non-hub locations. However, the provisions in the TWU contract do not give American the discretion to make those kinds of business decisions with regards to Title II (Plant Maintenance).

201. Under the TWU contract, TWU-represented M&R employees are required to staff Title II (Plant Maintenance) employees at stations with 1,460 or more annual departures. [AA Ex. 1103 at Art. 1.d] That translates into four daily departures. At new stations, TWU-represented M&R employees must staff Title II (Facility/Automotive) mechanics at stations with 3,650 annual departures or 10 flights per day. [Id] However, the Comparator Group, including American, generally does not add new stations very often. In fact, it has been more

common to see the Comparator Group and American either reduce or even eliminate mainline flight activity at certain stations. The TWU contracts even require that if a current station falls below 4 or 7 daily flights, American still is required to staff with TWU-represented M&R employees until employees with job security (called “station protection”) have left the station either through retirement or other reasons. [AA Ex. 1103 at Art. 42]. This means American must staff stations with TWU-represented employees rather than outsourcing those positions, which drives costs higher.

202. **Comparator Group Provisions.** Continental, United Airlines and US Airways do not have any minimum station staffing requirements under their M&R contracts. Delta is nonunion, so it does not have any contractual staffing requirements.

203. **American’s Section 1113 Proposal.** American is proposing to require staffing at stations with 7,300 or more annual departures, or 20 per day, for Title II (Plant Maintenance) employees. This would still leave American with more restrictive language than the Comparator Group airlines.

2. Vacation

204. **Current American Terms.** American’s current vacation accrual ranges from 5 days for employees with less than five years of service up to 30 days for employees with thirty or more years of service. [AA Ex. 1103 at Art. 8.a] American also allows its M&R employees to borrow an additional 5 days of vacation from a subsequent year’s vacation accrual (called “Personal Vacation Days”). [AA Ex. 1103 at Art. 8.k] Finally, American allows M&R employees to purchase additional vacation days from the Company (called “Flex Vacation Days”), but has a liberal provision regarding when these flex vacation days may be taken, which makes it difficult for American to cover these additional vacation days. [AA Ex. 1103 at Attachment 8.3].

205. **Comparator Group Provisions.** Continental's vacation accrual is slightly more generous than American's at most steps of years of service, including a top accrual of 35 days versus American's 30 days. [Art. 9.A.3]. However, when you add in the flex vacation days and personal vacation days, American's vacation provisions are more generous than Continental's. Continental employees can utilize their accrued vacation in daily increments (called "Day-at-a-Time," or "DAT" vacation), [Art. 9.c] but, an employee cannot borrow from next year's vacation accrual for DAT vacation as American's M&R employees can. Continental does not have flex vacation days that would allow them to purchase additional vacation days.

206. Delta's vacation accrual¹⁴⁹ is far less generous than American's. Any employee hired after April 1, 1988 accrues between 10 and 20 days of vacation. Any employee hired prior to April 1, 1988 accrues between 10 and 25 days of vacation, versus American's top accrual of 30 days. When you add the flex vacation days and personal vacation days, American's provisions are significantly more generous than Delta's.

207. United's vacation accrual is slightly more generous than American's. United employees accrue 10 days of vacation after one year of service. [Art. 9.A.3] After 29 years of service, an employee accrues 35 days of vacation. [Id]. However, when you add American's personal vacation days and flex vacation days, American's provisions are more generous than United's.

¹⁴⁹ Delta's Mechanic & Related vacation provisions are based on my understanding of those provisions; however, I have not been able to verify the information either through Delta or any other publicly available source. In any event, Delta employees' terms and conditions of employment are not subject to a collective bargaining agreement and are thus susceptible to change at any time.

208. United employees can utilize their accrued vacation in daily increments; however, an employee cannot borrow from next year's vacation accrual for such DAT vacations. [Art. 9.C] United does not have flex vacation day provisions that would allow them to purchase additional vacation days.

209. US Airways' vacation accrual provision is less generous than American's. After one year of service, US Airways employees accrue 2 weeks of vacation (this is more generous than American), however, after 25 years of service, an employee accrues 25 days of vacation versus American's top accrual of 30 days. [Arts. 11.A and 11.B]. When you add American's personal vacation days and flex vacation days, American's provisions are more generous than US Airways'. US Airways employees are not allowed to borrow against next year's accrual for DAT vacation nor does US Airways have flex vacation days.

210. **American's Section 1113 Proposal.** American is proposing three changes to the vacation provisions of the TWU agreement: (1) reduce the maximum number of days an employee can accrue from 30 days to 25 days; (2) eliminate the additional personal vacation days (known as DAT at the Comparator Group), and (3) change the bidding process for flex vacation days so that the Company can better staff the airline by being able to predict when the flex vacation days will be taken. All of these changes taken together will bring American in line with the practices at the Comparator Group airlines.

3. Restrictions on Refusing a Transfer

211. **Current American Contract Terms.** Nothing in American's Mechanic and Related Agreement prevents an employee from refusing a transfer after he has accepted it.

212. **Comparator Group Provisions.** At Continental, absent "*extenuating circumstances*," an M&R employee who is notified of a bid award must either report to the

awarded position or be subject to a 2-year freeze from bidding unless bidding to a higher-paying position or affected by a reduction in force. [Art.5.D.1a]

213. I do not have access to the information regarding how Delta fills its positions, however, it is once again worth noting that with nonunion mechanic and related employees, Delta has the discretion to change its processes and requirements whenever it sees fit.

214. United's M&R contract does not have language regarding an employee's requirement to either accept an award or, once accepted, his inability to refuse the award or transfer.

215. At US Airways, once an M&R employee is awarded a bid, he must accept it.
[Art. 9.A]

216. **American's Section 1113(c).** American wants to eliminate the lost productivity and cost associated with an employee accepting a transfer, then refusing the new position. Therefore, the Company is proposing that once an employee accepts a transfer, it cannot be refused by the employee or rescinded by the Company, putting it in line with Continental and US Airways.

4. No Furlough Protection

217. **Current American Contract Terms.** American's contract requires the airline to guarantee employment for any aircraft mechanic hired as of September 24, 1998, and any plant maintenance mechanic hired as of March 1, 2001. [AA Ex. 1103 at Art. 42 a]. There is even a contractual provision requiring American to guarantee employment at its maintenance bases and certain line stations if employed as of February 11, 1983. [AA Ex. 1103 at Art. 42b].

218. **Comparator Group Provision.** At Continental, when the company has a marketing agreement in place (meaning code sharing, marketing, interline, joint venture, etc), it cannot reduce its scheduled flying hours, reduce its mechanic and related positions or reduce

the number of aircraft in its fleet. [Art. 1.C]. However, reductions can be made based on economic or other reasons not related to the marketing agreement. [Id.]. In addition, there is no station or base protection at Continental for any mechanic and related employee, meaning any employee can be displaced from one location to another.

219. Delta Air Lines' M&R employees do not have any furlough protection.

220. United has the identical provision with regard to marketing agreements as Continental. [Art. 1.C] However, United also has a furlough protection letter of agreement that protects any employee on the seniority list as of the date of the new agreement (December 2011) from furlough. [Letter of Agreement 24] But most importantly, the United M&R contract does not provide any station protection, meaning employees can be displaced from one location to another location.

221. US Airways agreed not to furlough "to the street" any base mechanic who is active on the effective date of the 2008 Transition Agreement, provided the mechanic has utilized their seniority to the fullest extent possible under the displacement provisions of the contract. [2008 Restructuring Agreement]. US Airways also agreed to a minimum headcount of 675 active base lead mechanics, mechanics, inspectors, lead utility and utility employees. [Id.].

222. **American's Section 1113(c) Proposal.** American is proposing to eliminate the prohibition of layoffs for "protected employees."

5. Available Seat Miles ("ASM") Cap

223. **Current American Contract Terms.** American's contract contains a provision, originally agreed to in 1995, which limits the size of regional airline operations feeding American's mainline flights. [AA Ex. 1103 at Attachment 1.5]. Specifically, the number of ASMs that may be scheduled by all of American's regional partners – excluding ASMs

scheduled on new service on routes which American has not serviced since March 1, 1993 – is limited to 6 percent of American’s system capacity (mainline and regional combined). The effect of this provision is to put further limits on the size of American’s regional network beyond those already contained in the pilot scope clause as that clause pertains to the number of allowable regional aircraft in its system (see Section V).

224. **Comparator Group Provision.** No airline in the Comparator Group has a restriction similar to American’s.

225. **American’s Section 1113(c) Proposal.** American is proposing to eliminate the ASM cap provision, putting it on par with the Comparator Group.

C. **AMERICAN’S FLEET SERVICE PROVISIONS ARE AMONG THE MOST ONEROUS WITHIN THE COMPARATOR GROUP**

1. **Outsourcing**

226. Management in the airline industry has learned is that it does not make economic sense to utilize your own staff during periods of time during the day when there is little to no flight activity and/or when the same functions can be done less expensively by vendors. Many of the Comparator Group airlines contract out fleet service work to a third party and are not restricted by artificially negotiated numbers that make no economic sense.

227. **Current American Contract Terms.** American is required to have its Fleet Service employees perform work that they have “*the normal time and skills to perform.*” [AA Ex. 1104 at Art. 1.d]. In addition, American’s Fleet Service contract permits American to, “*contract out work not exceeding the scope of its present contracting out practices*” [Id]. As with the Mechanic and Related contract, this provision effectively requires American to keep in house work where Fleet Service employees perform the work today and it has been performing for more than 50 years. A perfect example of the limitations hampering American

is its inability to outsource fueling work at eleven stations. No Comparator Group airline performs its own fueling. In fact, fueling has been outsourced at virtually every U.S. airline for more than 20 years.

228. **Comparator Group Provisions.** Continental Airlines has the right to outsource fleet service work customarily contracted out and to transfer or contract out other work within the scope of their contract. [Art. 1.D]. However, until December 31, 2011, the company agreed not to contract out work that was presently being performed by fleet service employees if would otherwise result in the furlough of employees on the seniority list as of January 1, 2011. [Letter of Agreement 1].

229. As a nonunion group, Delta does not have any restrictions on the furloughing of fleet service employees or the outsourcing of such work.

230. United Airlines cannot outsource fleet service work at 29 named stations in its system. [Art. II.D; Letter 03-01]. However, United can outsource this work or, alternatively, use its passenger service agents¹⁵⁰ at smaller stations. [Id]. United may outsource non-“running” mail, freight work (not performed on the ramp), and cargo reservations. [Id]. All fueling is contracted out. [See *supra* paragraph 194]. The company also has the unrestricted right to outsource all cabin service work at 10 named stations. [Letter 05-08].

231. US Airways fleet service work at stations with fewer than 140 weekly mainline jet departures that are or were established after April 5, 1999, may be outsourced without restriction. If those stations were established on or before April 5, 1999, fleet service work

¹⁵⁰ United’s passenger service agents are a separate craft of employee who are, like its Fleet Service employees, represented by the IAM. The language in the Fleet Service contract allowing passenger service agents to perform Fleet Service work has been in place since passenger service employees at United were nonunion and remains today.

may still be outsourced as long as it does not result in the furlough of a full-time covered employee who was on the seniority list on April 5, 1999. At stations that drop to an average annualized level of 56 or fewer weekly mainline departures, fleet service work can be outsourced without restriction except for 18 named stations where the average must be less than 28 weekly mainline departures to be outsourced. Cabin service, bag transfer drivers, bag room work, bag expeditors and lavatory servicing can also be outsourced. At the company's discretion, it can have fleet employees perform the work and in a few select locations the company does have its own employees perform the work because it can be done cost effectively. Cargo warehouse/freight and mail can be outsourced at all locations. Cargo warehouse/freight can be outsourced at all locations except Phoenix, Las Vegas and Los Angeles. All fueling is contracted out. All day line cabin cleaning is contracted out (done mostly by employees who were covered by the mechanic and related agreement). [All outsourcing per Art. 3.B, 2007 Transition Agreement]. In addition, as mentioned in Paragraph 195, above, US Airways also outsources 100 percent of its cabin cleaning work (which falls under its M&R agreement).

232. American's Section 1113(c) Proposals. American is proposing to have increased flexibility in outsourcing fleet service work. Specifically, the Company wants to outsource bus driving, cargo, American Eagle bag transfers, bag expeditors, fueling functions and dayline cabin cleaning services. Similar work is (or can be) outsourced by the Comparator airlines.

2. Station Staffing

233. Current American Contract Terms. American is required to use TWU-represented Fleet Service employees at stations with 2,555 or more annual departures for fleet service employees (7 flights per day) and 1,460 annual departures for ground service

employees (4 flights per day). At new stations, TWU-represented employees must be used at stations with 5,475 or more annual departures for fleet service employees (15 flights per day) and 3,650 or more annual departures for ground service employees (10 flights per day). Even when the annual departures fall below 2,555 and 1,460 for fleet service and ground service employees, respectively, TWU-represented Fleet Service employees still have to staff the stations until employees who have guaranteed station protection have left the station through retirement or other reason. [All staffing per AA Ex. 1104 at Art. 1.c].

234. **Comparator Group Provisions.** Continental does not have any station staffing requirements.

235. As a nonunion group, Delta does not have any station staffing requirements.

236. As mentioned in the Outsourcing section above, United's contract requires that 29 named domestic stations in source ramp service work, as described in the IAM Ramp and Stores Agreement. However, the provisions of the Agreement do not apply to ramp service work at stations where that work is performed by United's passenger service agents. [Art. II.C].

237. As mentioned above in the Outsourcing section, US Airways stations that have 140 or more mainline jet departures weekly must be staffed with employees covered by the CBA except where such work has been contracted out as of the date of the CBA and except for certain job functions related to handling of meals and beverages, cargo office and warehouse, mail sorting, and cleaning of the aircraft on turns. In addition, traditional fleet service work at 18 named stations must be staffed with covered employees unless mainline weekly jet departures are reduced below 28 weekly departures on an annualized basis. [Art. 3.B].

238. **American's Section 1113 (c) Proposals.** American is seeking to raise the threshold for mandatory staffing of TWU-represented Fleet Service employees to 7,300 or more annual departures (20 daily flights). This would allow American to outsource fleet service work when it is more economical to do so.

3. Part Time Employees

239. **Current American Contract Terms.** American is limited to the number of part-time Fleet Service employees it maintained at stations as of March 2001 staffing levels. In addition, American cannot add one part time Fleet Service employee above the March 2001 staffing levels until the full time staffing levels are at the March 2001 staffing levels and then to add a part time employee it must add a full-time employee on a one-for-one basis. However, airline operations and the industry have changed dramatically since 2001, and the need for flexibility in operations is greater than ever before. [AA Ex. 1104 at Art. 43, Attachment 43.5].

240. **Comparator Group Provisions.** Continental does not have any contractual restrictions on the hiring of part-time fleet service employees.

241. Delta, as a nonunion group, also does not have any restrictions on part-time hiring.

242. United has some limitations on the number of part-time employees it may utilize at its stations. At four of its largest stations (Chicago, Denver, Los Angeles and San Francisco), it may utilize 30 percent of its fleet service work force as part-time. At Washington Dulles, it may utilize 45 percent of its fleet service work force as part-time. At other large stations, the limit is 40 percent. And at some smaller stations, there is no limit at all. At United's smallest stations, the company can cross-utilize public contact employees

(passenger service) and fleet service for up to 25 percent of their aggregate hours. [Letters of Agreement 75-4R, 03-06R].

243. At US Airways, it may utilize up to 40 percent of its fleet service employees as part-time employees calculated on a system wide basis. [Art. 26].

244. **American's Section 1113 (c) Proposals.** American's proposal seeks to eliminate the restrictions on the number of part-time employees it may use. This would put American well in line with the Comparator Group.

4. Restrictions on Furlough and Recall Rights

245. **Current American Contract Terms.** American is restricted not only from furloughing Fleet Service employees hired as of September 24, 1998, but any Fleet Service employee who was on the active payroll as of March 11, 1983, and who was actively employed as of September 1, 1985 have certain protections from even being displaced from their base or station. [AA Ex. 1104 at Art. 42]. No other airline has a provision similar to American's.

246. American Fleet Service employees also have recall rights from furlough for 10 years, or in some cases indefinite recall if they remain on payroll. [AA Ex. 1104 at Art. 16].

247. **Comparator Group Provisions.** At Continental, there is no furlough protection unless the company contracts out fleet service work that would result in a furlough of Continental employees. This provision was in place until December 31, 2011. [Letter of Agreement 1]. There is no station protection. Continental employees have recall rights for the lesser of 6 years or the employee's length of service with the airline. [Art. 5.E, Art. 7.O].

248. Since Delta is nonunion, there is no furlough protection or station protection. Employees have recall rights for 5 years, except for employees with less than one year of service¹⁵¹.

249. At United, fleet service employees on the seniority list as of January 26, 1994, have furlough protection provided the employee utilizes his/her seniority to the fullest extent in the event of filling a vacancy or being bumped from a position. [Letter 94-5R]. There is no station protection. United fleet service employees have indefinite recall rights. [Art. X.F].

250. At US Airways, fleet service employees at Class II stations (stations with more than 69 scheduled weekly departures and fewer than 140 weekly departures) cannot be furloughed to the street as a direct result of contracting out. However, they can be displaced to other stations [Art. 3.B]. US Airways fleet service employees have recall rights for 4 years. [Art. 9.C].

251. **American's Section 1113 (c) Proposals.** American's proposal seeks to eliminate no furlough protection, including the base protection afforded certain employees. In addition, American is proposal to reduce recall rights from 10 years to 5 years.

5. Vacation

252. **American's Current Contract Terms.** American's Fleet Service employees accrue 5 days of vacation for employees with less than 5 years of service up to a maximum of 30 days after 30 or more years of service. [AA Ex. 1104 at Art. 8.A]. In addition, employees can take an additional 5 days each year from a subsequent year's vacation accrual by utilizing a

¹⁵¹ Delta's fleet service recall provisions are based on my understanding of those provisions; however, I have not been able to verify the information either through Delta or any other publicly available source. In any event, Delta employees' terms and conditions of employment are not subject to a collective bargaining agreement and are thus susceptible to change at any time.

provision called “Personal Vacation Days.” [AA Ex. 1104 at Art. 8.k]. Finally, as with its mechanics, American allows employees to purchase additional vacation days from the Company (called “Flex Vacation Days”), but has a liberal provision regarding when these flex vacation days may be taken, which results in problems for American covering these additional vacation days. [AA Ex. 1104 at Attachment 8.2].

253. **Comparator Group Provisions.** Continental’s vacation accrual is slightly less generous than American’s in most of the years of service. [Art. 13.A.2] However, when you add in the flex vacation days and personal vacation days, American’s vacation provisions are more generous than Continental’s. Continental fleet service employees can utilize their accrued vacation in daily increments (called “Day-at-a-Time [DAT] Vacation) with limits set on how many days can be taken as DAT based on total number of vacation weeks accrued by the employee. [Art. 13.D]. Continental fleet service employees cannot borrow from the following year’s vacation to use as DAT vacation as American employees can, but they can defer 5 holidays in exchange for the equivalent hours being bid or designated as DAT vacation in the following year. [Art. 13.A.7]. Continental does not have flex vacation days that would allow them to purchase additional vacation days.

254. Delta’s vacation accrual¹⁵² is far less generous than American’s. Any employee hired after April 1, 1988 accrues between 10 and 20 days of vacation. Any employee hired prior to April 1, 1988 accrues between 10 and 25 days of vacation, in contrast to American’s

¹⁵² Delta’s fleet service vacation provisions are based on my understanding of those provisions; however, I have not been able to verify the information either through Delta or any other publicly available source. In any event, Delta employees’ terms and conditions of employment are not subject to a collective bargaining agreement and are thus susceptible to change at any time.

top vacation accrual of 30 days. When you add the flex vacation days and personal vacation days, American's provisions are significantly more generous than Delta's.

255. United's vacation accrual is slightly more generous than American's. Fleet service employees accrue 10 days of vacation after one year of service. After 29 years of service, an employee accrues 30 days of vacation, which is the same as American's maximum accrual. [Art. XIII.B]. Similar to Continental, above, United employees can utilize their accrued vacation in daily increments as DAT vacation with limits set on how many days can be taken as DAT based on total number of vacation weeks accrued by the employee, however they are not permitted to borrow from the next year's vacation accrual for use in the current year. [Art. XIII.Ff]. When you add American's personal vacation days and flex vacation days, American's provisions are more generous than United's. United does not have flex vacation days.

256. US Airways' vacation accrual provision is less generous than American's. After one year of service, US Airways fleet service employees accrue 2 weeks of vacation (this is more generous than American) up to 4 weeks of vacation after 14 years. [Art. 15.B]. While US Airways employees may use current year vacation accrual as DAT vacation, they cannot borrow against subsequent years. [Art. 15.G, Art. 15.N]. When you add American's flex vacation days, American's provisions are even more generous than US Airways.

257. **American's Section 1113(c) Proposals.** American is proposing two changes in the vacation section: (1) reduce the maximum number of days an employee can accrue from 30 days to 25 days; and (2) eliminate the additional personal vacation days (known as DAT at the Comparator Group). These changes would bring American in line with Comparator Group.

6. Management Control Over Qualifications and Assignment of Work

258. **Current American Contract Terms.** American has provisions in both its Mechanic and Related (“**M&R**”) and Fleet Service Agreements that prohibit the airline from making changes to the Qualifications Administration Manual (“**QAM**”). Currently, if American wants to make changes to the QAM (e.g., updating qualifications test to reflect current equipment and technology), it is prohibited from doing so without getting agreement from the union. If the parties cannot agree on the changes, the dispute must be taken to arbitration for resolution. [AA Ex. 1103 at Art. 11.f (M&R); AA Ex. 1104 at Art. 11.j (Fleet)]. Further, when qualifying tests are used to determine competency for promotion or transfer, any revisions to these tests, or any new tests, will be subject to discussion with the union. If agreement cannot be reached, the tests may be used but the union may grieve the issue. [AA Ex. 1103 at Art. 11.e (M&R); AA Ex. 1104 at Art. 11.i (Fleet)].

259. American does not have the ability to have a trial period when a crew chief or lead moves from their current position to a new position, such as might occur if the Company outsources a significant number of jobs resulting in a sharp reduction in crew chief/lead positions.

260. **Comparator Group Provisions.** Continental does not have any contractual provisions requiring union consent for changes to qualification tests in either its M&R or fleet service agreement. Under the M&R agreement, however, the company and union do have to reach mutual agreement for the work, job requirements, and/or job descriptions. [Art. 3.A (M&R)]. The fleet agreement only requires that Continental give the union reasonable notice of any additions, deletions or modifications to job duties and responsibilities. [Art. 3]

261. Continental’s fleet service agreement has a 60-day trial period whenever an employee is awarded a new position. [Art. 7.H (Fleet)].

262. Delta does not have a union, so no consent is needed for changing qualification tests. In addition, Delta can have a trial period for any new position that an employee moves to.

263. United has not had to seek mutual consent to develop and administer any trade tests under its prior M&R agreements. Under its new M&R contract, trade tests will be developed by the company as tests for competency and will be reviewed with the union prior to implementation; however, union approval is not required. [Art. 2.B (M&R)]. Such tests are included as a part of the qualification requirements for classifications in the contract, but are not always required depending on other experience or qualifications. [Art. 3.E.4 (M&R)]. In terms of job requirements, the M&R agreement requires mutual agreement with the union for the work, job requirements and job descriptions of classifications and bid areas. [3.A (M&R)]. The company does not need union consent to make changes to the job descriptions or requirements under its fleet service agreement, nor does the contract address trade tests or other job criteria with regards to the company needing to secure union approval.

264. Fleet service employees at United whose bid for a job is accepted must hold the job for up to 90 days on a trial basis. Failure to demonstrate ability to perform the work during the trial period will result in a return to previous position. [Art. XI.G (fleet)].

265. US Airways only has to seek mutual agreement with the union on qualification testing for mechanics in the welding and machine shop. [Art. 9.I (M&R)]. There is no such provision in the fleet service agreement.

266. The US Airways fleet service agreement requires that successful bidders to lead agent hold the job on a trial basis for up to 120 days in order to demonstrate their ability to

perform the work required. Successful bidders to tower lead are subject to a trial period of up to 270 days. [Art. 8.B.2 (fleet)].

267. **American's Section 1113(c) Proposals.** American is proposing to lift the restriction that prohibits the company from making changes to the QAM and would provide American the discretion to make modifications to the QAM. In addition, American is proposing implementing a trial period for Crew Chiefs who move to new functional positions.

7. Available Seat Miles ("ASM") Cap

268. **Current American Contract Terms.** As stated in the M&R section, above, American's contract contains a provision which limits the size of regional airline operations feeding American's mainline flights. [AA Ex. 1103 at Attachment 1.5]. The effect of this provision is to put further limits on the size of American's regional network beyond those already contained in the pilot scope clause as that clause pertains to the number of allowable regional aircraft in its system (see Section V).

269. **Comparator Group Provision.** No airline in the Comparator Group has a restriction similar to American's.

270. **American's Section 1113(c) Proposal.** American is proposing to eliminate the ASM cap provision, putting it on par with the Comparator Group.

VIII. AMERICAN'S EMPLOYEE BENEFITS ARE THE MOST GENEROUS IN THE AIRLINE INDUSTRY

271. A traditional defined benefit ("DB") plan provides a fixed benefit upon retirement that is determined by a formula rather than investment returns. Many DB plans pay their benefits as annuities. Therefore, retirees do not bear the risk if there are low investment returns on contributions. Employers also have to calculate contributions based on a number of factors, including the age of the workforce, anticipated interest rates, and expected investment returns.

As a result, because of the risk associated with low returns and the cost to an employer in having to make a higher level of contributions for older workers than for younger workers, many companies, including those in the Comparator Group have switched from defined benefit to defined contribution plans.

272. In addition, the cost of a DB plan is extremely difficult to calculate, and requires an actuary or actuarial firm to assist with the calculation. However, even with the best actuarial firm, the cost of a DB benefit plan will always be an estimate based on certain economic and financial assumptions. These assumptions can include 1) the average retirement age and lifespan of a particular work group, 2) financial returns earned by the DB plan's investments, and 3) any additional changes necessitated by law. The result for the company is that while the benefit is relatively secure, the contribution is uncertain even when estimated by a professional, which makes it nearly impossible for companies to control this cost.

273. It is well documented that during the airline industry's restructuring period between 2002 and 2006, DB plans were either frozen or terminated at the Comparator Group airlines. As you can see from AA Ex. 819 below, between 2003 and 2006, Delta, United, Northwest, and US Airways East all either terminated or froze their DB Plans. In addition, Continental froze its pilot DB plan. US Airways West never had a DB plan for its employees¹⁵³. [AA Ex. 819]. Thus, most of the Comparator Group has no cost attributable to new defined benefit accruals.

¹⁵³ None of the Low-Cost Carriers currently offer DB plans for their employees.

Airline Defined Benefit Plans							
Airline	AA	CO	DL	UA	US-East	US-West	NW
Pilots	Yes	Frozen 2005	Terminated 2006	Terminated 2005	Terminated 2003	No plan	Frozen 2006
Flight Attendants	Yes	Yes	Frozen 2003	Terminated 2005	Terminated 2005	No plan	Frozen 2006
Mechanic & Related	Yes	Yes	Frozen 2003	Terminated 2005	Terminated 2005	No plan	Frozen 2006
Fleet Service	Yes	Yes	Frozen 2003	Terminated 2005	Terminated 2005	No plan	Frozen 2006
CSAs	Yes	Yes	Frozen 2003	Terminated 2005	Terminated 2005	No plan	Frozen 2006
Dispatch	Yes	Yes	Frozen 2003	Terminated 2005	Terminated 2005	No plan	Frozen 2006

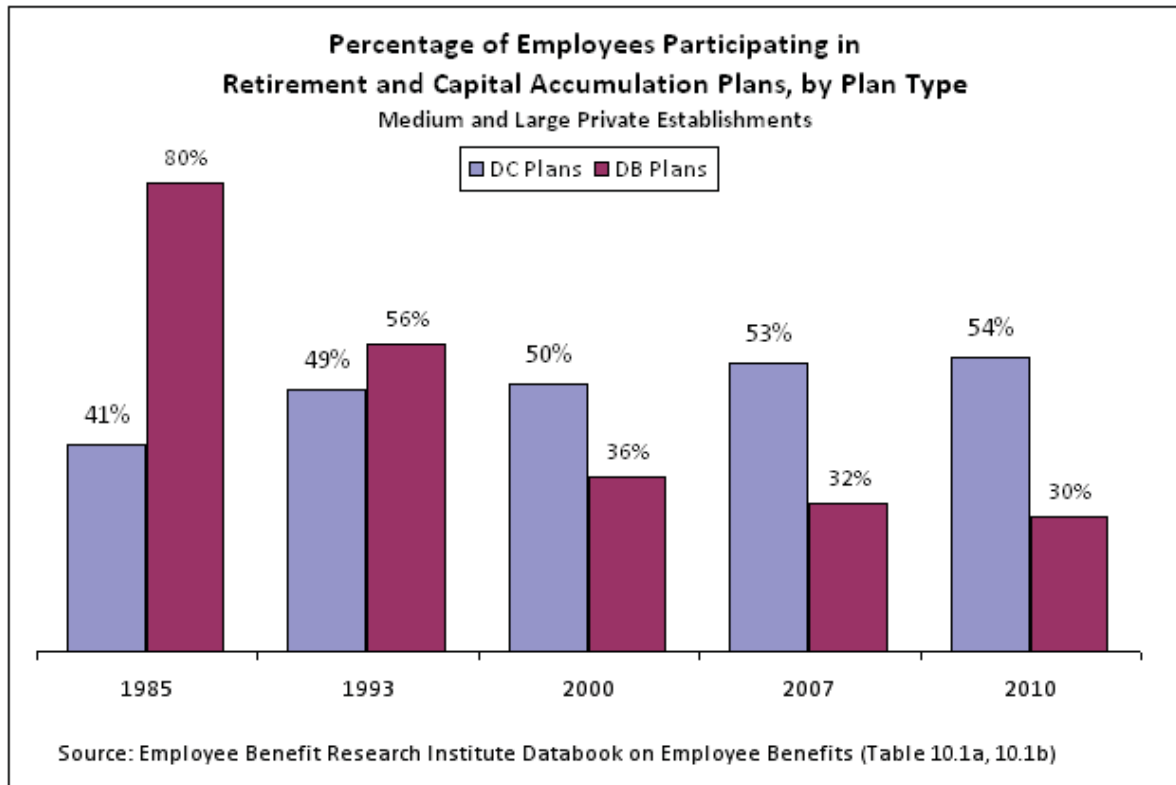
Source: CO: Pilots - 2005 CBA § 28.2.E; DL: Pilots - LOA 46 Attachment 26-1 (DB Freeze); 2006 CBA § 26.O and LOA 9 (DB Termination); UA: Debtors' Emergency Motion to Approve Agreement with PBGC at ¶ 1, In re UAL Corp., No. 02-B-48191 (N.D. Ill. Apr. 26, 2005); US-East: Pilots - LOA 85; F/As - Current CBA § 22.G; M&R - 2005 Transformation Plan; Fleet: 2005 Transformation Plan; Northwest: Debtors' Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and for Relief Under Section 1113(c) of the Bankruptcy Code and Approval of Agreements with the Airline Pilots Association, International ("ALPA"), In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. May 31, 2006); Debtors' Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 for Approval of Compromise and for Relief under Section 1113(c) of the Bankruptcy Code and Approval of Agreements with the International Association of Machinists and Aerospace Workers, District 143 ("IAM"), In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. June 2, 2006); Northwest's Application to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113(c), In re Northwest Airlines Corp., No. 05-17930-alg (S.D.N.Y. Oct. 12, 2005).

274. In the case of Delta, its pilot DB plan was frozen in 2005, and then terminated in 2006. Delta's non-pilot DB plans were frozen in 2003 and replaced by cash-balance plans that were themselves frozen in 2005. Continental's DB plan covering non-pilots is far less expensive for the employer than American's because Continental's DB plan is a relatively new plan – established in 1998 – its flight attendant workforce is much younger than American's, and the plan's formula for calculating benefits does not provide nearly the benefit to flight attendants as American's plan.

275. Freezing a defined benefit plan will help to reduce, but it does not necessarily eliminate the company's long-term cost and the volatility of a plan sponsor's financial obligations.

276. In place of DB plans, the Comparator Group has negotiated defined contribution/401(k) plans (“DC/401(k)”). DC/401(k) plan contributions are paid into an individual account for each member. The contributions are invested, for example in the stock market, and the returns on the investment (which may be positive or negative) are credited to the individual’s account. On retirement, the member's account is used to provide retirement benefits, sometimes through the purchase of an annuity which then provides a regular income or through a lump sum payment to the participant.

277. These changes to the DB plans were necessitated by current and future liabilities at the Comparator Group. The number of defined benefit plans in the U.S. has been steadily declining, as more and more employers view pension contributions as a large expense avoidable by disbanding DB plans and putting DC/401(k) plans in their place. Defined contribution plans have become widespread in recent years, and are now the dominant form of retirement plan in the private sector. [AA Ex. 820 (reproduced below)]

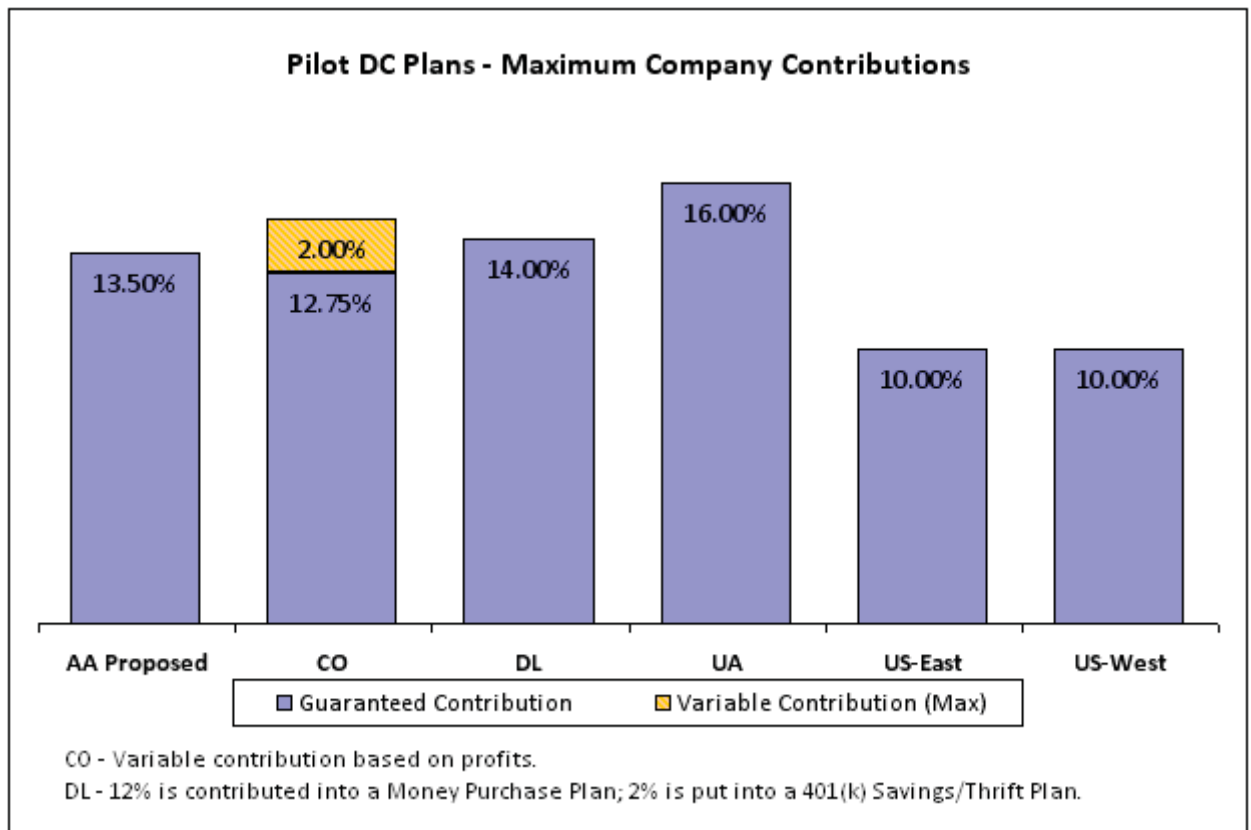


278. Each Comparator Group airline has followed this trend and negotiated DC/401(k) plans. US Airways mechanic and related employees and fleet service employees participate in the IAM National Pension Plan, which is really a DB plan, but from the company's perspective it is viewed as a DC plan because contribution rates are a flat dollars/cents per hour negotiated by the parties. This eliminates the uncertainty for the Company of not knowing how much money must be contributed each year as in a DB plan.

279. American is proposing a SuperSaver 401(k) plan with an automatic 13.5 percent contribution for pilots and a maximum match of 5.5 percent for non-pilots. According to a recent survey conducted by the Plan Sponsor Council of America, the average Company

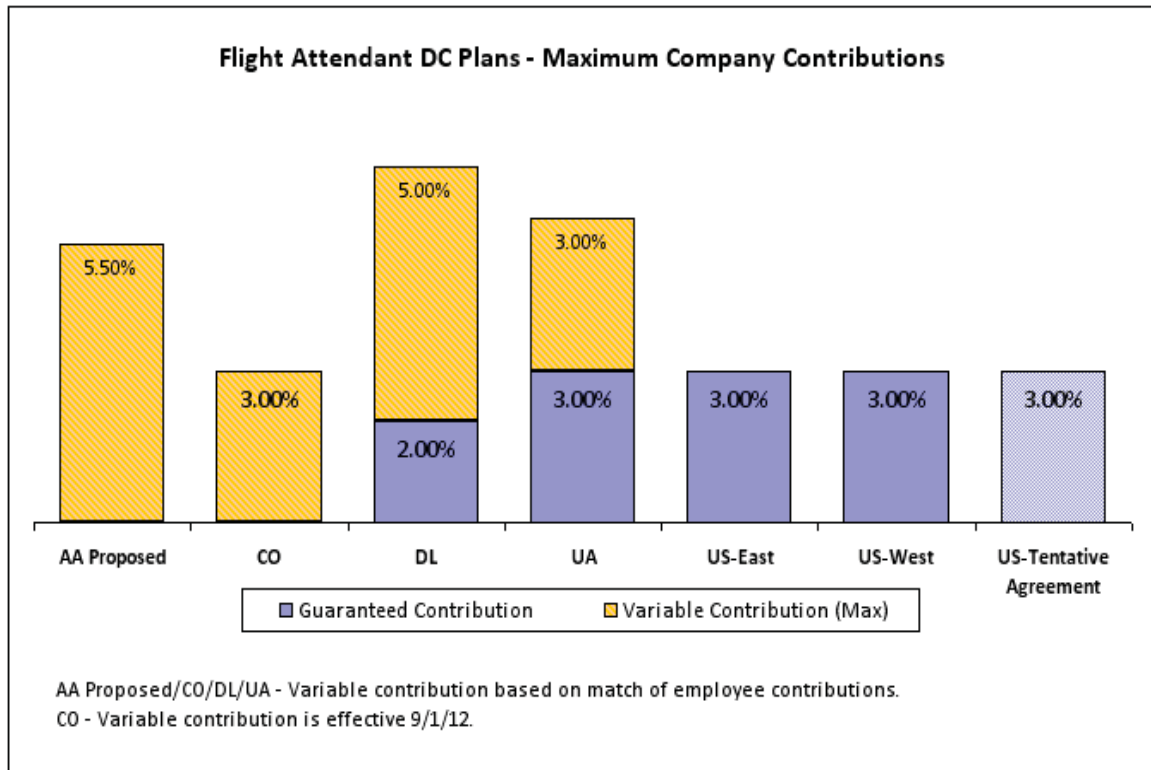
contribution to 401(k) plans in the 2010 plan year was 2.3 percent.¹⁵⁴ American's proposed contributions would place it at or near the top of the Comparator Group for all work groups.

[Ex. 821 through 824 (reproduced below)].

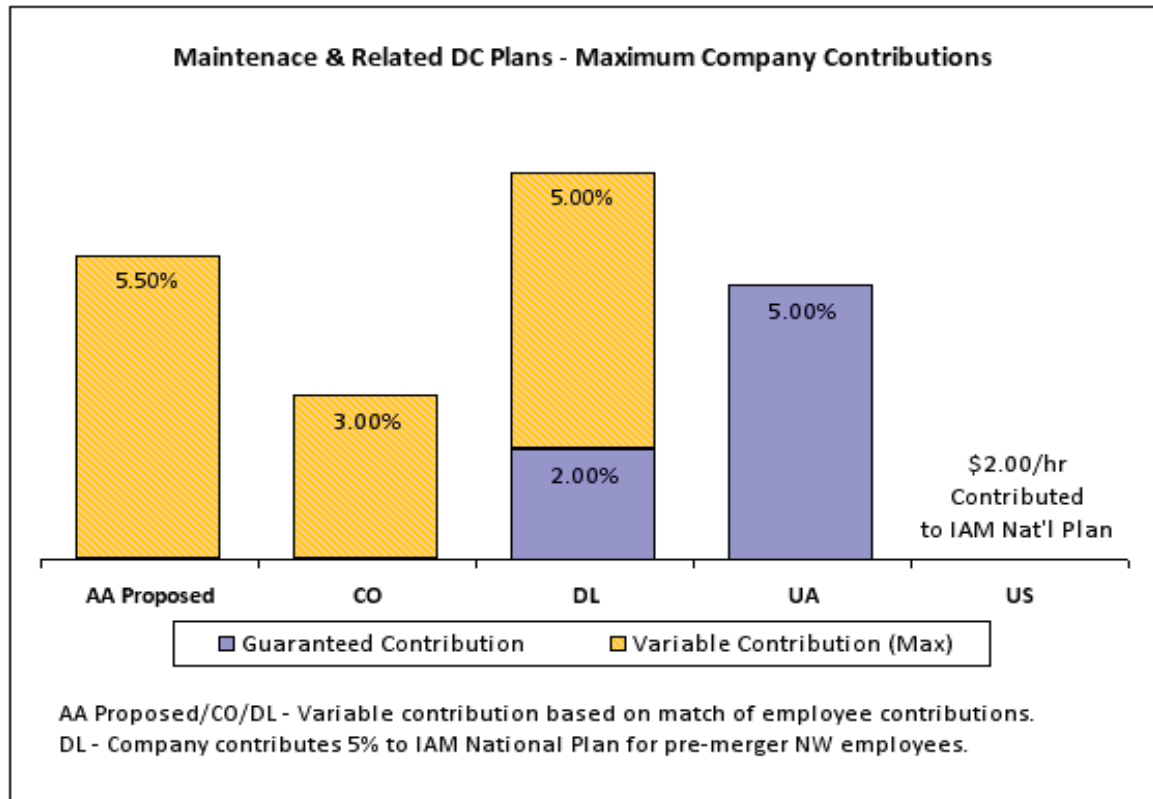


Source: CO at § 28, Part 3 and Part 4; DL at § 26.N; UA at Letter 05-02; US-East at 2008 Transition Agreement § VIII.D; US-West at 2008 Transition Agreement § VIII.D

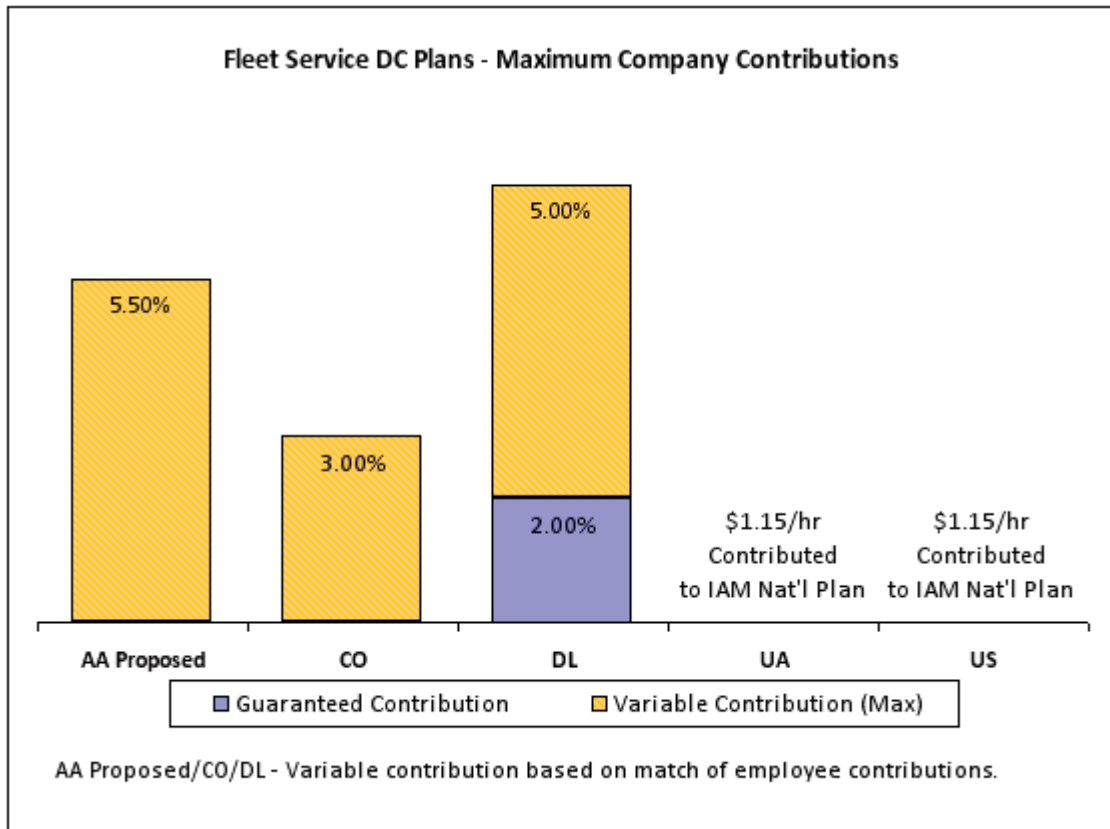
¹⁵⁴ Plan Sponsor Council of America, *54th Annual Survey of Profit Sharing and 401(k) Plans*.



Source: CO at § 24.D; Delta Press Release (March 20, 2007); UA at § 34.B.5.a (2012); US-East at § 22.G; US-West at § 32.F; Failed US-Tentative Agreement at § 26.F



Source: CO at LOA 1; Delta Press Release (March 20, 2007); UA at Letter 02-1M; US at 2008 Transition Agreement, Attachment A.22



Source: CO at LOA 3; Delta Press Release (March 20, 2007); UA at Letter 05-01; US at Art. 23

2. Active Medical Plan

280. Rising health care costs have been a dominant news story for many years as the cost of covering employees on an annual basis has been increasing at a rate that far exceeds that of the annual increase in the cost of living. Employers in the airline industry have not been immune to this trend. According to a recent survey by the Kaiser Family Foundation¹⁵⁵, for the U.S. industry, employee contributions now represent 27 percent of the total cost of medical insurance. This has increased from 25 percent in 2001. Yet, American currently requires its employees to pay far lower a percent of the total cost. In 2010, American's employees contributed, on average, approximately 15 percent towards their healthcare coverage.

¹⁵⁵ Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2001-2011.

281. American's Section 1113 proposal is an attempt to put into place a plan design and employee contributions that better reflects what both the Comparator Group and other U.S. companies are doing. American's 1113 proposal of a 21 percent employee contribution for the Standard and Core options is still well below the national average, as stated above, and is consistent with what the Comparator Group has in place. [AA Ex. 825A (reproduced below)].

Employee Share of Medical Premium, 2012						
	AA Proposed	CO	DL	UA	US-East	US- West
Pilots	21.0%	25.9%	28.4%	20.0%	26.6%	13.3%
F/A	21.0%	25.9%	25.9%	20.0%	19.4%	13.3%
M & R	21.0%	25.9%	25.9%	20.0%	19.4%	19.4%
Fleet Svc	21.0%	25.9%	25.9%	20.0%	19.4%	19.4%

Source: Airline benefit guides and rate sheets.

OAL calculations depict the average of single/family coverage for PPO options.

AA - Proposed employee share for the Standard and Core options.

CO - 2011 data; average of 3 deductible options.

DL - Excludes PPO options available only to former IAM- and AFA-represented employees.

UA - Cost sharing per collective bargaining agreements.

US-East - Cost sharing is for the PPO 100% Plan.

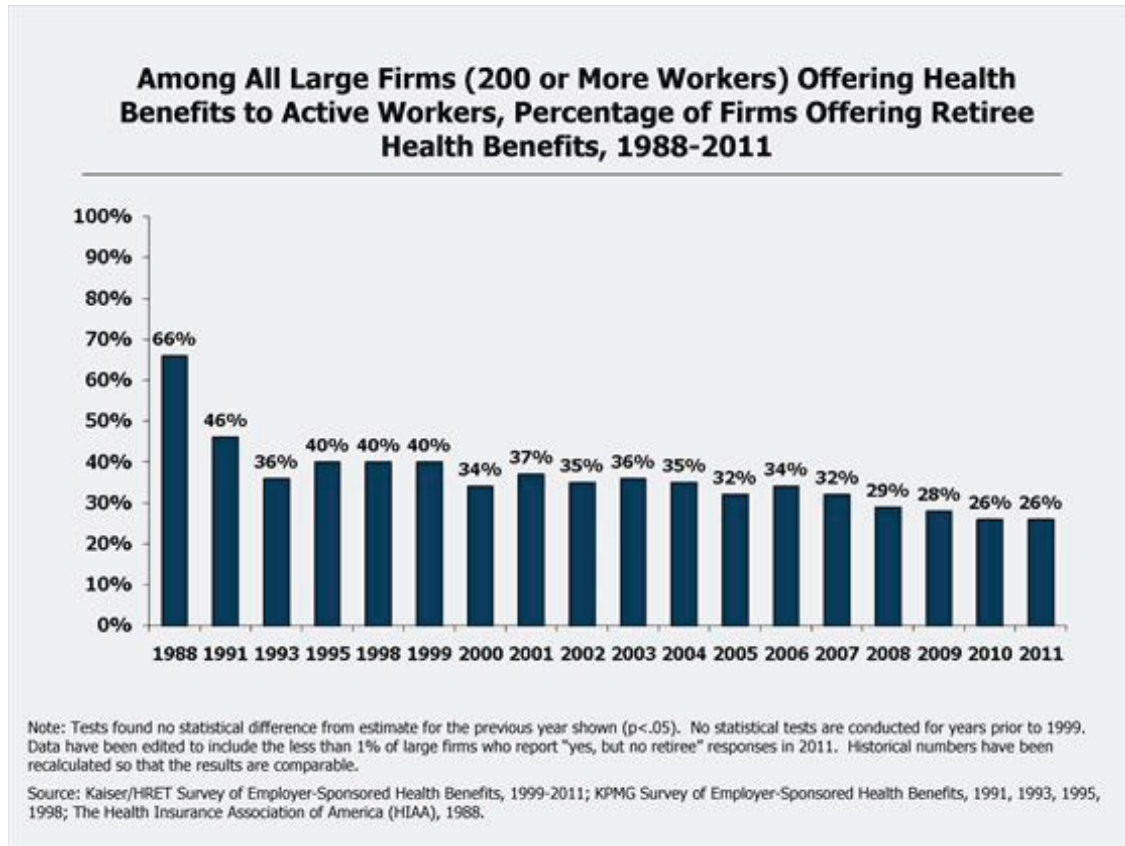
US-West - Cost sharing is for the Platinum Plan.

282. Another aspect of American's proposal that will be more consistent with the Comparator Group is its proposal to reduce the number of medical plans it offers employees. I can speak with firsthand knowledge on this issue because when I was hired by US Airways in 2002, the Company had 18 different medical plans which we successfully reduced to one national PPO plan with 3 options.

3. Future Retiree Medical Benefits

283. Another area where escalating costs have outstripped the ability of most U.S. companies to provide coverage is in retiree medical. According to a 2011 survey by the Kaiser Family Foundation, of all large (200+ workers) U.S. companies that offered health insurance to

active employees, only 26 percent provided retiree medical for their former employees. [AA Ex. 826 (reproduced below)]. This represents a significant downward trend, as shown in the table below.



284. All of the Comparator Group airlines eliminated or significantly modified their retiree medical plans such that American's retiree medical plan is not competitive with the Comparator Group. American's Section 1113 proposal aims to better align the Company with the Comparator Group airlines. [AA Ex. 827 (reproduced below)].

Airline Retiree Medical Programs

	Eligibility Age/YOS	2012 Cost/Month Under 65 Coverage Retiree Only	Age 65+ Coverage
American (proposed)	50/10 Pilots 55/10 Non-pilots	100% of cost Standard Plan: \$462 Value Plus Plan: \$668	Access to fully-insured Medigap policies 100% of cost
Continental	55/10 Pilots 60/10 Non-pilots	Pilots - Premiums vary based on years of service, age at retirement and trade of accrued sick leave 100% of cost for typical PPO option: \$492 - \$606* Non-pilots – 100% of cost for typical PPO options: \$612 - \$669* Some groups may trade accrued sick leave *2011 cost	No plan
Delta	Varies by employee group	Pilots - 51% of cost Non-pilots – 100% of cost PPOs: \$351 - \$676 \$768 (Pilot-only option)	Pilots – 100% of cost Non-pilots – No plan
United	55/10	Non-pilots - YOS <20 \$465 (80% of cost ; 20% UA subsidy) YOS 20 – 24 \$349 (60% of cost ; 40% UA subsidy) YOS 25+ \$233 (40% of cost ; 60% UA subsidy) Pilots - cost is slightly lower	\$172 - \$182 Includes UA subsidy of \$90/mo
US Airways (E)	50/5 Pilots 55/5 Fleet service, F/As, Agents 55/0 Mechanics	100% of cost \$399 - \$820	No plan

Sources: 2011 and 2012 airline benefits enrollment guides, AIRConference benefits handbooks, collective bargaining agreements

4. Profit Sharing Plans Provide The Ability For Upside

285. Variable compensation such as profit sharing is a great tool for an industry that is as cyclical in nature as the airline industry. During the restructuring period in the past decade, the Comparator Group airlines have negotiated profit sharing plans resulting in payouts for employees. Each of the Comparator Group airlines – with the sole exception being Delta in 2006 – has paid out profit sharing to its employees in 2006, 2007, and 2010. It is a fair and equitable way to share the upside with employees who have sacrificed compensation and benefits.

While American put into place a profit sharing plan after its restructuring in 2003, the plan has not paid out any money. This is due, in part, to the fact that its earlier labor restructuring was not as comprehensive as those of the Comparator Group and thus did not lead

to the profits that the other airlines have been able to enjoy. In addition, the threshold for triggering profit sharing is significantly higher than the Comparator Group. As I mentioned elsewhere in this declaration, airlines had to learn the hard way by negotiating labor cost savings that were truly necessary for profitability. During the US Airways restructurings, I was repeatedly ask by union negotiators, “What happens if the airline produces more in profits than is shown in its business plan?’ My response was always the same – “That’s a good problem to have as employees will share in the upside through profit sharing.” The risk to the airline and its employees is not that the airline will achieve too much in labor cost savings, but rather it will not achieve enough in labor cost savings.

I declare under penalty of perjury that the foregoing is true and correct on the basis of my personal knowledge and upon information from documents I have reviewed, including those in my custody and control.

Executed this 14th day of April, 2012.

/s/ Jerrold A. Glass

JERROLD A. GLASS

President

F&H Solutions Group

Attachment I

ABX

Air Pacific

AirTran

Air Wisconsin

American Airlines

Alaska

Allegiant

All Nippon Airways

Arik Air

ASTAR Air Cargo

Atlas Air

Bahamasair

bmi

Comair

Compass Airlines

Colgan

Continental

ExpressJet

FedEx

Flexjet

Frontier

Hawaiian

Horizon

Attachment I

JetBlue

Piedmont

Pinnacle

Republic Airlines

Ryan Air

Qatar Airways

Saudi Arabian Airlines

Southwest Airlines

United Airlines

US Airways