

**STATEMENT OF ATTORNEY GENERAL LORI SWANSON
ON NORTHWEST-DELTA MERGER**

October 29, 2008

Under the federal Hart-Scott-Rodino antitrust law, the United States Department of Justice must review interstate mergers exceeding \$63 million. The Justice Department today announced that it will not attempt to block the merger of Northwest Airlines and Delta Airlines under the federal antitrust laws, which allow a merger to be blocked by a court only if its effect is “substantially to lessen competition.” It should be noted that, over the last several decades, the antitrust laws have been significantly weakened by the courts, which typically require proof of “head to head” competition between the merging parties in order for a merger to be blocked. At the Minneapolis-St. Paul Airport in 2008, Delta Airlines carried less than 1.25 percent of passengers, while Northwest carried nearly 80 percent of passengers. Vigorous competition is an important ingredient to our capitalistic system, and I am concerned that this merger will set off a new round of other mergers, with the industry becoming dominated by just a few national airlines, leaving fewer choices and higher prices for consumers. I will encourage the next president and Congress to make Teddy Roosevelt proud by restoring teeth to our federal antitrust laws.

I am deeply concerned about the impact of this merger on Minnesota, with Northwest Airlines being one of the state’s largest employers. Minnesota’s unemployment rate of 6.2 percent now exceeds the national average for one of the first times in recorded history, and our rate of personal income growth ranks 49 of 50 states. Our state has been hard-hit by the loss of other corporate headquarters and the worst economic times since the Great Depression.

Minnesota has given significant subsidies to Northwest Airlines over the years. In the 1990’s the State made a financial commitment of over \$800 million to the airline, and the Metropolitan Airports Commission (MAC) loaned it \$270 million. As part of these 1992 financing agreements, the airline provided certain covenants to the State and MAC which continued even after the loans were repaid to the State. In short, the covenants provide that Northwest must pre-pay approximately \$230,000,000 in debt owed to MAC if it moves its corporate headquarters or hub or reduces the number of Minnesota employees below 1992 levels.

Earlier this week I sent a letter to the Minnesota Department of Finance and MAC, both of which can enforce the headquarters, hub, and employment level covenants (*see text of letter below). From my perspective, the time has come for the airline to be held to its commitments to Minnesota.

-END OF STATEMENT-

***Text of Letter to Minnesota Department of Finance and MAC:**

October 27, 2008

The Honorable Jack Lanners
Chairman, Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, MN 55450

Mr. Jeff Hamiel
Executive Director, Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, MN 55450

The Honorable Thomas Hanson
Commissioner of Finance & Employee Relations
400 Centennial Building
658 Cedar Street
Saint Paul, MN 55155

Re: Northwest Airlines

Dear Gentlemen:

I have had a number of meetings with representatives of Northwest Airlines, with other state Attorneys General, with elected officials, and with organizations that represent customers, employees, and vendors of Northwest. After reviewing the facts and law on this matter, it is my opinion that your agencies have the ultimate authority to impact the proposed merger of Northwest with Delta Airlines.

I will preface my thoughts with a reminder of what occurred during the last financial crisis. In 1987 the Dart Group of Washington D.C. made a hostile tender offer for control of Dayton Hudson Company. The Minnesota Legislature convened and enacted a hostile takeover bill designed to slow down the acquisition. The effort proved to be of no avail, however, as Dart continued to acquire stock in the open market. The undoing of the transaction came when the stock market crashed in October of 1987. The market collapsed by more than 25 percent in one day, and soon thereafter Dart, with a considerably weakened balance sheet, abandoned its takeover bid.

It appears that the turmoil in the credit markets, combined with the covenants that Northwest made to the Metropolitan Airports Commission (MAC) and the Minnesota Department of Finance, may effect the Northwest/Delta merger.

As you know, Northwest provided several covenants to the State of Minnesota and MAC when it entered into an extraordinary loan agreement with the State and MAC

in the early 1990s. The covenants, which continued even after the loans were repaid to the State, essentially provide that Northwest must pre-pay approximately \$230,000,000 in debt if it moves its corporate headquarters, its hub, or reduces the number of Minnesota employees below 1992 levels. Northwest provided similar covenants to MAC in 2007 when it executed certain gate lease agreements and received favorable concession and revenue rebates.

The problem for every company in the world today is finding available credit. Despite its enormous revenue stream, Northwest is not exempt from this problem. In these tight credit markets, it would be challenging for any company to be able to finance a \$230,000,000 payment that returns no additional capital or income. It is even more difficult for a company that has been discharged from bankruptcy and is competing in the volatile transportation sector.

The representatives of Northwest confirm that they have met with both of your agencies regarding a proposal that the covenants be modified so that Northwest can repay its obligations over a longer period of time. It claims that it will or has offered certain concessions to your agencies in return for a renegotiation of the covenants. It wanted my support. When my office asked them what concessions they were offering, the response was very vague.

One matter that keeps being raised is the airline's promises to maintain a hub at the Minneapolis-St. Paul (MSP) Airport. According to outside analyses, however, Northwest's market dominance at the MSP airport results in a 25% premium being paid to Northwest by customers at the MSP airport. With this kind of subsidy, the hub is a very profitable asset to Northwest, which the airline would not have an incentive to give up.

I want you to know that at no time have I indicated that I believed the State should accept any modification or renegotiation of the covenants. The taxpayers of Minnesota made a great sacrifice to the airline in order that it survive its financial crisis in the early 1990's. This sacrifice was controversial at the time and was certainly not intended to benefit the good citizens of Atlanta, Georgia. I hope that your agencies have a similar opinion.

I suggest that your agencies retain a credit analyst to give you an opinion on the financial ability of Delta/Northwest to prepay the \$230,000,000 and to obtain credit in this economic market. I also suggest that MAC have its lawyers ready to enforce the covenants should Northwest breach its commitments.

If you have any questions, please do not hesitate to contact me or Solicitor General Alan Gilbert.

Sincerely,

LORI SWANSON, Attorney General

