

September 26, 2023

Robin Hayes  
Chief Executive Officer  
JetBlue Airways Corporation  
27-01 Queens Plaza North  
Long Island City, NY 11101

Dear Mr. Hayes:

I write regarding new information that has been revealed in a lawsuit seeking to stop the proposed \$3.8 billion JetBlue-Spirit deal.<sup>1</sup> These materials came to light under unusual circumstances: they were revealed via “improper redaction formatting by plaintiffs’ counsel.”<sup>2</sup> I am cautious about the conclusions that can be drawn from these documents: as you noted, “[t]he redacted material ‘was content written and produced by [the plaintiffs] in their own court filing, not redactions to JetBlue internal documents. These redactions were in text where [plaintiffs’ attorneys] had outlined, in their own words, their argument to the court, and essentially represents the plaintiff’s ‘spin’ on confidential evidence they have reviewed.’”<sup>3</sup> I do not want to jump to any conclusions about these materials, but I am extremely concerned about reports of their content.

According to the reports, the documents revealed “internal company estimates that fares on Spirit planes could go up by as much as 40%,” following the merger, and that “the impact of the deal will go beyond just passengers on Spirit planes.”<sup>4</sup> JetBlue allegedly “acknowledge[d] that Spirit’s exit from a route results in market-wide price increases of all other airlines serving that route by 30%.”<sup>5</sup>

If reports about the information in these redacted documents are correct, they reveal that you have misled the public about the impacts of your merger – and they reveal that the merger will result in higher costs and reduced service for airline passengers. For these reasons, the Department of Transportation (DOT) and antitrust regulators must oppose the deal. The

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<sup>1</sup> Quartz, “The Biden administration pulled the emergency brake on JetBlue’s \$3.8 billion takeover of Spirit airlines,” Diego Lasarte, March 7, 2023, <https://qz.com/jetblue-spirit-airline-deal-antitrust-lawsuit-1850196352/>; Law 360, “Botched Redactions Show JetBlue Plans to Hike Spirit Fares,” Bryan Koenig, August 23, 2023, <https://www.law360.com/articles/1714211/botched-redactions-show-jetblue-plans-to-hike-spirit-fares>.

<sup>2</sup> Law 360, “Botched Redactions Show JetBlue Plans to Hike Spirit Fares,” Bryan Koenig, August 23, 2023, <https://www.law360.com/articles/1714211/botched-redactions-show-jetblue-plans-to-hike-spirit-fares>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

possibility that you have provided a publicly misleading description of the impacts of the merger – which follows reports that you attempted to rig the DOT’s evaluation of the deal<sup>6</sup> – requires an explanation.

In particular, the information about the potential price hikes appears to contradict numerous comments you and other key officials have made in an effort to assure the public that airfare prices would fall as a result of the proposed merger. In February, you and Spirit CEO Ted Christie argued the deal would result in lower prices and, according to Mr. Christie, “hundreds of millions of dollars will be saved.”<sup>7</sup> On March 7, 2023, *CBS Mornings* news anchor Tony Dokoupil asked if the public “should root for this merger because prices will go down on tickets” to which you responded “oh absolutely.” You further claimed a larger JetBlue would mean “you are going to save the dollars.”<sup>8</sup> And you have also stated that the JetBlue-Spirit deal is about “making JetBlue a more national, low-fare challenger to the big four airlines.”<sup>9</sup> The allegations of planned post-merger price hikes contradict your previous statements, and regulators and the public are owed an explanation.

I therefore ask that you provide written answers to the following questions by October 10, 2023:

1. Has your company provided regulators at the Federal Trade Commission, DOJ, and DOT with the full set of documents from the *Gabriel Garavania et al. v. JetBlue Airways Corp. et al.*, case?
2. In response to the allegations about potential price hikes, JetBlue has claimed the information “did not reflect facts set out in JetBlue documents.” What specific set of facts was laid out in the documents?
  - a. Specifically, did the documents include “internal company estimates that fares on Spirit planes could go up by as much as 40%”?
  - b. Did the documents “[acknowledge] that Spirit’s exit from a route results in market-wide price increases of all other airlines serving that route by 30%”?
3. What are JetBlue’s internal estimates of fare changes following an acquisition of Spirit Airlines? What changes have you planned regarding flight routes and availability, seating, and fares following a successful acquisition of Spirit Airlines?

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<sup>6</sup> Bloomberg, “JetBlue Workers Surprised Merger Comments Made Public,” Emily Birnbaum and Leah Nylen, May 9, 2023, <https://www.bloomberg.com/news/articles/2023-05-09/jetblue-workers-deny-making-comments-attributed-to-them-backing-spirit-merger>.

<sup>7</sup> Politico, “JetBlue, Spirit push low fare merger narrative to skeptical DOJ,” Josh Sisco and Alex Daugherty, February 24, 2023, <https://www.politico.com/news/2023/02/24/jetblue-spirit-fare-merger-doj-00084253>.

<sup>8</sup> CBS News, “JetBlue CEO Robin Hayes talks potential merger with Spirit Airlines and new direct flights,” March 7, 2023, <https://www.cbsnews.com/video/jetblue-ceo-robin-hayes-talks-potential-merger-with-spirit-airlines-and-new-direct-flights/>.

<sup>9</sup> Travel Pulse, “JetBlue CEO Talks Spirit Merger, Summer Travel and More,” Rich Thomaselli, June 7, 2023, <https://www.travelpulse.com/news/airlines-airports/jetblue-ceo-talks-spirit-merger-summer-travel-and-more>.

4. To the extent that any of JetBlue's estimates indicate fare increases or reduction of routes or available seats, why did you publicly indicate that the transaction would result in price reductions and "sav[ing] the dollars"?<sup>10</sup>

CC: Ted Christie, Chief Executive Officer, Spirit Airlines

Sincerely,



Elizabeth Warren  
United States Senator

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<sup>10</sup> CBS News, "JetBlue CEO Robin Hayes talks potential merger with Spirit Airlines and new direct flights," March 7, 2023, <https://www.cbsnews.com/video/jetblue-ceo-robin-hayes-talks-potential-merger-with-spirit-airlines-and-new-direct-flights/>.