



American-U.S. Airways Merger Denial Not Justified

August 14th, 2013

Two American companies have reached a voluntary and peaceful agreement to merge their assets and operations. But the government has blocked the deal, an action that it has no business taking.

Washington, of course, absolves itself of gross overreach by claiming the proposed merger between American Airlines and U.S. Airways runs afoul of antitrust law. Bill Baer, assistant attorney general for the Justice Department's antitrust division, says it's all about protecting fliers from higher prices.

"Consumers," he said, "will get the shaft."

Baer did admit that "shareholders might benefit, creditors might benefit from consolidation."

But he is willing to stiff those groups for the benefit of consumers. Does that sound like the equal treatment under the law that's guaranteed by the Constitution?

American and U.S. Airways are probably also wondering about that equal treatment under the law, since Washington has recently allowed three other major mergers — Delta-Northwest, United-Continental, Southwest-AirTran — to slide through. They would be justified in asking why there's a government bias against them.

Fifteen years ago, economics professor William Shughart wrote that "Antitrust is thought by some to be the bulwark of free enterprise," then explained that "antitrust has a dark side."

"Antitrust authorities all too often succeed, not in keeping prices from rising, but in keeping them from falling," he wrote in a Cato Institute study.

Nor are consumers the lone victims of antitrust law.

The list of companies that were so ruthlessly hounded by antitrust guerrillas that their businesses suffered is a long one. Notable among the victims are Microsoft and IBM, which are not just evil conglomerates but innovators who create jobs.

The impulse behind antitrust law was to punish companies for being too successful, too big, and to halt the accumulation of wealth. It's a reality its supporters and enforcers should be ashamed of.

As economist Richard M. Salsman has noted, Sen. John Sherman, the patriarch of U.S. antitrust law, "and his congressional cohorts — no less than their modern versions today — mimicked the Marxists when they insisted profits and wealth should not accumulate."

So don't buy the line that blocking this merger is "for the consumers." It isn't. It's all about government exceeding its moral and constitutional bounds to further a political agenda.