

DOJ CLEARS DELTA/NORTHWEST

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Delta Air Lines and Northwest Airlines have completed their merger after the US Department of Justice's antitrust division granted its unconditional approval.

The DoJ announced yesterday that it would approve the deal, after a six-month investigation. "The division has determined that the proposed merger between Delta and Northwest is likely to produce substantial and credible efficiencies that will benefit US consumers and is not likely to substantially lessen competition," a DoJ statement said. "The two airlines currently compete with a number of other legacy and low-cost airlines in the provision of scheduled air passenger service on the vast majority of non-stop and connecting routes where they compete with each other."

The DoJ found that the merger, which creates the world's largest airline, is likely to result in cost savings on airport operations and information technology, and improve service by combining the complimentary aspects of the airlines' networks.

H Stephen Harris Jr, partner at Jones Day in Atlanta, says the DoJ should be congratulated for its recognition of the potential benefits of airline mergers and alliances. "The decision is particularly noteworthy in that it represents approval of a combination of major legacy carriers based largely on assessment of predicted pro-competitive benefits, instead of relying solely on consideration of individual city-pair overlaps," he says. "The merger of Delta and Northwest will compel other carriers to take actions to achieve the scale that they will now have."

Molly S Boast, partner at Debevoise & Plimpton LLP in New York, says the DoJ's decision is unsurprising. "Reading between the lines of the DoJ's press release, it does seem that some overlap areas existed but that either sufficient competition from other airlines exists in those areas, or the transaction's overall efficiencies persuaded the DoJ not to challenge the combination," she says.

Though it is possible that the industry will see more consolidation, it is unlikely to be between the larger carriers, she adds. "Obviously the current economy begs for it, but we are looking at a change in administration over the next few months and, possibly, a step up in merger enforcement that could lend increased uncertainty to planning further transactions."

The European Commission granted unconditional clearance to the merger in August. Both airlines already cooperate on transatlantic routes as part of their membership of the SkyTeam alliance.

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