Explaining Airline Competition Differences Between the EU and the U.S.
George M. Vergara Jr.

Abstract

The airline industry generates billions of euros and dollars of revenue each year for the European and American economies. Despite similar levels of economic development, modernization, and number of passengers taking to the skies each year, airline competition in the European Union (EU) and the United States (U.S.) varies significantly. This paper aims to further explain why airline competition varies so greatly in the U.S. compared to the EU despite their similarities in other aspects. While acknowledging that a multitude of factors have contributed to the variation, the present paper focuses on governmental structural differences between the EU and the U.S. Specifically, it highlights the causal role of historical developments in regulatory measures and lobbying. The research examines a wide variety of policy documents, court cases, and lobbying statistics to support this claim. It specifically explores DOJ antitrust investigations, the post-9/11 airline market, and lobbying procedures in the U.S. When assessing the EU market, various EEC regulations, the Single European Act, Commission initiatives, and the lobbying work of A4E are specific cases of analysis. The result shows that the different nature of European and American economic philosophy, combined with the different historical developments and influence of lobbying over policymaking, supports the claim put forth.

Written for Topics in Economic and Social Policy (Dr. Helen Callaghan) Presented at the James Madison University - Max Weber Programme Graduate Symposium, EUI, Fiesole, Italy, 12 April 2019.
Introduction

Air transport has radically evolved over the last forty years. According to a 2012 press release from the International Civil Aviation Organization (ICAO), the number of passenger trips in 1980 increased from around 4 billion to 19 billion in 2012. This is primarily due to lower fares and growing incomes around the world. Airlines have also expanded their destinations served, flying to more worldwide destinations than ever. In the European Union (EU) and the United States (U.S.), air transport has developed into an industry that plays an integral part in both respective economies, generating billions of dollars and euros worth of revenue each year. Although only around 0.5% of the volume world cargo shipments is carried by air, these shipments account for nearly 35% of the total value of world cargo shipments. The ICAO estimates that, by 2026, the aviation sector will contribute nearly 1 trillion dollars to the world GDP.

Despite similarities in technological and societal development, market capacity, and total number of passengers carried, domestic commercial airline competition is dramatically different in the EU compared the U.S. In fact, both blocs have taken two polar-opposite paths. Fare prices, the number of airlines in the market, consolidation laws, and product quality are only a few examples of the clear divergences between the two markets. Yet, airlines in both the EU and the U.S. generally use the same types of aircraft, have established alliances among themselves, have access to modern technology and services, and fly to destinations spanning all across their respective territories. This paper aims to understand why these divergences have developed and why the EU and U.S. do not have similar airline competition scenarios. In terms of specific divergences, I will focus heavily on the number of airlines present as well as airline consolidation laws. While fares and product quality appear to more directly affect passengers, the number of airlines present and airline consolidation drastically affect the current market and its future. Implications for either a monopoly-like scenario in the future, or future limitations on the market, would have a major impact on fares and quality product and thus be just as important, if not more, to the consumer.

Previous literature has suggested a multitude of contributing factors that have shaped the present scenario. Difference in EU/U.S. governmental structure, historical developments, geography, high-speed rail presence, market regulation, lobbying differences, and third party search engines are all major factors the various literatures have presented. Although U.S. and EU carriers both formerly relied on more remote airports further from big cities and popular destinations, the higher geographical density of cities and smaller, underused airports in the EU gave European airlines an advantage that American carriers did not have. The EU is not a federal body like the U.S., but still has several competencies over the industry while still sharing some with its member states. Governmental structure, specifically lobbying statistics and regulatory measures, have dramatically shaped the current picture. In terms of historical development, European carriers did not suffer the type of economic losses following 9/11 like those in the U.S. did, receiving nearly 15 billion dollars in government subsidies.
This paper will focus primarily on the role that governmental structural differences have played in the development of airline competition in the EU and the U.S. Historical developments, as with most politico-economic issues, are expected to intertwine with the governmental structural aspect of the research. Within the governmental differences, lobbying differences and market regulatory measures taken by the EU and the U.S. will be the specific focal points examined. The material presented will generally support the hypothesis, but I will acknowledge that there are still other factors that contribute to the current differences present between EU and U.S. airline competition.

The paper proceeds as follows: First, I will begin by examining the various divergences between the EU and U.S. airline competition markets in greater detail. I will define economic ‘competition’, airline competition, and then proceed to more deeply explain and define various divergences in airline competition. As previously mentioned, divergences include, but are not limited to fare prices, the number of airlines present in the market, airline consolidation laws and regulations, and product quality. In Section II, I will provide a literature review that identifies multiple possible causal variables for the current divergences between EU and U.S. airline competition. After analyzing the various causal factors, I will focus specifically on governmental structural differences, as well as the historical development of these governments and the political decisions they have made in this policy area. In Section III, I will further explain and justify my hypothesis, and provide a clear understanding as to why the research is presented in this manner. Framed in a qualitative small-n design, Section IV will present governmental policy documents, lobbying statistics, airline policy documents, bilateral and unilateral agreements, and other literature as data. The paper will conclude in Section V by summarizing the findings, again acknowledging that the material only supports the hypothesis, not excluding the influence other factors have on the situation.

Problem Definition: The Divergences

Air travel today is completely different from the luxury that it was forty years ago. People, cargo, mail, services, and capital are flown across both blocs in ways that were not comprehensible when air travel was limited to select city pairings. However, despite economic similarities, airline competition in the EU and U.S. is hardly on the same level. There are a multitude of divergences between the EU and U.S. airline industries. In this section, I will first define competition and then ‘airline competition’- as this is the subject of the research. Then, I will more deeply discuss the following major divergences between the EU and U.S. when discussing airline competition: fare pricing, the number of airlines present, airline consolidation, and product quality.

Competition Definition & Fares

Boettke et al. (2014) define economic competition as the actions taken by different companies aiming to obtain part of a specific limited good by adjusting various parts of the marketing mix such as product, promotion, price, and place. When assessing competition, understanding the definition of a relevant market is imperative (Lijesen 2004). There is always a product dimension and a geographic dimension to a relevant market. However, in any transport sector, the product and geographic dimensions are intertwined, since the product is the transportation of a person, good, or service from one
point to another. Airlines compete primarily on the basis of supply and size of their respective networks. This includes, but is not limited to, route presence or control, fleet size, and alliances. While airlines are primarily focused on the supply aspect of the market and often insist that their specific size parameters be taken into account when defining competition in this relevant market, both the U.S. Department of Transportation and the European Commission believe that the demand side of the market plays a substantial role (European Commission 2010). European passengers have a greater luxury of airline choice than Americans do. This is primarily due to the successful integration of low cost carriers into the airline market. These carriers, such as Ryanair, do not offer the complementary amenities that many mainstream carriers do. In the U.S., low cost carriers do not have the widespread network as they do in Europe. As a result, mainstream carriers often are the only ones serving destinations across the country. This lack of route competition has given mainstream American carriers somewhat of an oligopoly over the market.

When competition is minimal and an oligopoly-like situation is present, the airlines dominating the market have greater control over price. As a result, in the U.S., mainstream carriers like American, Delta, and United have been challenging each other for the majority of market profits. Although low cost carrier Southwest Airlines handles a respectable portion of national traffic, their network and destinations served do not compare these mainstream ‘Big Three’ carriers. This is also the case with other American low cost carriers like JetBlue, Frontier, Spirit, Virgin America, and Allegiant. If an airline has a high amount of product supply, particularly its route presence, then it is more likely to control the shares of that product. For example, if Delta is the only airline flying from Atlanta to Pensacola, Florida, Delta will have much greater control over the price of that fare than if it were competing with four of the other carriers. In the EU, this type of phenomenon is much scarcer. According a 2017 article from The Economist, airfares are largely more expensive per seat mile in America than in Europe (The Economist 2017). In addition to the fares themselves, it is absolutely essential to remember that the final fare paid by the consumer includes taxes. The EU and the U.S. have different tax competencies and thus have different taxes included in their respective airfares. Given that EU member states still have the ability to tax, the taxes may vary by airline in the EU. In the U.S., national taxes applied to airfares vary widely. For example, taxes such as the 9/11 Tax and the Passengers Facilities Charge (PFC) are included in American airfares, but not European ones.

**Number of Carriers in the Market**

American and European airspaces are operating at nearly maximum capacity. Lufthansa, Air France, KLM, Alitalia, British Airways, and at least forty other EU-registered airlines are vying for supremacy in Europe. In the U.S., however, the situation is much different. At airports across the country, aircraft from the ‘Big Three’ often occupy the majority of gates. Although low cost carriers like Frontier, Southwest, JetBlue, or Spirit are also present, the big three dominate market competition. Although Southwest is included in this figure, the top four carriers in the U.S. accounted for nearly 80% of the market in 2016, compared to just 45% for the top four European carriers (The Economist 2017).

There is a vast amount of research already available on the aviation industry in both the EU and the U.S. specifically dedicated to the airline sector. However, much of
the research that is comparison based predates 9/11. Since then, further consolidation has taken place and carriers have exerted increasing pressure constraints on passengers. Delays, discomfort, extra charges, and even instances of violence are just a few examples of the problems American passengers have begun to face as a result of the lack of competition (The Economist 2017). While the continued fall in the price of jet fuel has triggered a fare war between European carriers, general fare prices in the U.S. have hardly budged since 2013 due to the small number of carriers in the market. This small number of American carriers was not always the scenario. Over the past thirty years, airline consolidation has narrowed the American market. In Europe, there are growing disputes as to whether or not consolidation could be a potential move for the future.

**Consolidation and Market Liberalization**

Following the deregulation and liberalization of the airline market in the U.S. in the 1970s, the entire structure of the market was altered. Once occupied by dozens of airlines, the airline market in the U.S. today has become an unofficial oligopoly. Mergers of mainstream carriers and complex forms of collaboration began to emerge, which effectively has led to the consolidation present today. The consolidation process appeared to be gradual at first, but once airlines began to see the economic benefits of the concept, they capitalized on the fact that there were no governmental limitations to control the outcome. Examples include American Airlines acquiring TWA and Delta absorbing PanAm. Smaller, regional airlines began to merge as well. As airlines consolidated, so did the supply they provided and the space they occupied. Following the merger of U.S. Airways and American Airlines in 2013, American accounted for nearly 80% of the traffic flowing in and out of Philadelphia International Airport (The Economist 2017). In the EU, consolidation laws are much stricter. The closest that European carriers have ever come to a merger in recent years is their growing participation in global airline alliances. These regulations come primarily as a result of the Commission wishing to promote competition across the entire European community and keep monopolistic activity to a minimum.

Some airlines still remain independent, such as Republic Airways or Piedmont Airlines, but operate in close partnerships with the Big Three. Additionally, their aircraft are always painted in Big Three liveries and their tickets are always sold via big three websites. This practice is called vertical consolidation and is much less prevalent in Europe. Another interesting divergence in independence can be seen in airline ownership. In the EU, there is no limit on ownership between European countries. In fact, the EU allows airlines with foreign ownership of up to a stake of 49% to operate anywhere within its borders. In the U.S., foreign ownership is allowed a maximum of 25% of the holdings. This is primarily why American carriers operating from foreign investment, most notably Virgin America, have struggled to establish a market presence. Foreign airlines not based in the U.S. are completely prohibited from operating domestic flights (Noack 2017).

**Product Quality**

Regarding product quality, anecdotal evidence suggests that passengers are receiving different results from European carriers than American ones. As an American always flying in economy class, I expect the bare minimum from mainstream carriers. There is nothing special about my inflight experience, nor do I expect to receive compensation of any kind for inconveniences that may occur during my travels. In fact,
American media outlets have recently criticized mainstream carriers. As I have previously mentioned, these mistreatments are rarely corrected due to the quasi-oligopoly the Big Three have in the market. However, in Europe, these unfriendly actions towards the passenger could have fatal fiscal results for the company. When carriers begin to cut services and offer a more mediocre product, consumers flee and money is lost.

I remember the first time I flew Lufthansa. Although it was an international flight from the U.S., Lufthansa flight attendants treated me better than those from an American carrier ever have. I was utterly confused when the flight attendant tried offering me a warm towel while I was seated in lowly Row 56 of the A340-600 aircraft, the second to last row of the plane. Even on other intra-EU flights, Lufthansa offers complimentary alcohol and sandwiches—things for which an economy passenger on a domestic American flight would have to pay out of pocket. Lufthansa is not the only mainstream EU carrier to offer these complimentary amenities. I have had similar experiences with Alitalia and Air France. While low-cost EU carriers explicitly advertise their optional amenities like beverages or checked baggage, other EU mainstream carriers have no choice but to provide a quality standard because their competition levels are so much higher than in the U.S. where the standards are minimal. If airlines like Lufthansa were not competing with carriers like Ryanair, Easyjet, Aer Lingus, or British Airways to fly from Germany to Ireland, the company would probably not provide such a high quality product without additional fees.

Quality is an important variable when discussing airline competition. It is multidimensional and subjective, often depending on consumer preferences and the amenities offered by the carrier. According to the Organization for Economic Cooperation and Development (OECD),

“Airline marketing strategies are increasingly considering quality as an important variable that may affect consumer choice: while LCCs have put a considerable focus on offering lower prices, FSCs are trying to attract consumers by providing better schedules, higher on-time performance, departure and arrival from/to easier-to-access airports, greater baggage allowance, free drinks and snacks, and the like. In addition global branded alliances have also developed marketing strategies along quality arguments, such as a wider network, better connectivity and seamless interlining experience.” (OECD 2014).

The variation in quality between EU and U.S. carriers is striking. The correlation between quality and competition present in both markets clearly indicates that this divergence is present. As these divergences have been explained, I will now examine the previous literature providing potential explanations for the difference between EU and U.S. airline competition.

**Literature Review**

Given the global nature of the airline industry and the massive amounts of revenue it provides, the literature provides a multitude of causal factors for the divergences I have previously discussed. In this section, the literature review will cover only two of these factors: geographical differences, which include subtopics such as high
speed rail and alternative airports, and governmental structural differences. The section on governmental structural differences will focus primarily on lobbying statistics and regulatory behaviors.

Geographical differences and other modes of transport are two causes for airline competition differentials that recent literature has suggested. The United States spans across six time zones - if Hawaii is included. To fly from Honolulu to New York takes as much time as a flight from New York to Rome would. Pietro Crocioni claims that longer flight distances in the U.S. shelter American carriers from competition from other transportation industries (Crocioni 2000). His argument that there is no substitutability for other means of transportation, largely due to the fact that the American rail system is undeveloped is valid. However, in higher populated areas, especially in the Northeastern part of the U.S., high speed and regional rail links are well developed. Airfares are cheaper when flying between city pairs like New York and Washington, where passengers can choose other means of transportation, than Denver and Kansas City. In the EU, the presence of well-connected railroads creates a different scenario for European airlines. Alblate et al. (2014) somewhat affirms this notion, arguing that high speed rail competition air travel in Europe is largely dependent on route distance. Martin Thelle (2018) explains that not only the availability of high-speed rail, but also its feasibility for the passenger, may be adding to the competitive constraints European carriers are facing. Using the example of Eurostar increasing its presence along the London-Paris-Brussels triangle, he continues by arguing that passengers who have an effective rail-link connection from their hometowns to these major city stations would be more likely to choose rail over air travel (Thelle 2018). Crocioni (2000), however, is critical of this specific Paris-Brussels example Thelle provides, arguing that, “…the Commission has never included trains in the relevant market even for a short-haul route such as Paris-Brussels”. As for Thelle’s argument, it is sound since most airports are located outside of major cities rather than in the center.

In addition to the impact that the presence of quick and accessible rail links have, the higher density of airports in the EU than in the U.S. also plays a major role in the difference between European and American domestic airline competition. Thelle (2018) continues his passenger choice argument by explaining that the presence of alternative airports, “certainly indicates the potential for competition”. Presenting the fact that almost two thirds of European citizens live within a two hours driving distance of at least two commercial airports, Thelle emphasizes that European passengers generally have more airport choices available. According to a 2011 study conducted by the UK Civil Aviation Authority, it confirms that passengers seriously consider Heathrow, Gatwick, and Stanstead as competitive alternatives to each other (CAA 2011). While airport competition is a study on its own, the passenger choice of airport clearly should affect airline competition. Not all routes are the same from alternative airports, nor do the same airlines serve the same airports. What Thelle and the CAA fail to address is the possibility of feasibility for passengers to utilize other modes of transportation to get to the airport. These include internal airport rail stations and bus links from the airport to the city center or another rail station.

The governmental difference between the EU and the U.S. is another factor that, according to the literature, has heavily affected airline competition. In a 1985 speech, Commission President Jacques Delors referred to the then-EU as an ‘Unidentified
Political Object’. Since then, this term has been coined as a go-to description of the EU as a political entity. Founded as an economic community in the 1950s, the political spillover in the EU has dramatically increased since its inception (Malamud 2001). However, the EU still faces a multitude of political limitations due to the heterogeneity among member states that still wish to retain sovereignty (Campos 2018). The airline sector expands across a variety of economic arenas, but also across those of national security and foreign policy, for example. In the U.S., the federal government structure gives Washington full control over the airline sector. It can pass any regulatory measures or legislation it chooses. Given that the EU has competencies to control only certain dimensions of the airline sector, and member states control the others, European carriers are often stuck between Brussels and member state governments when attempting to establish new airline policies. Until the variation in competencies over the airline sector in Europe is clearly established, the airline market will continue to remain regulated differently than in the U.S.

Scholars have argued that another major cause of the divergences mentioned in the previous section is the difference specifically in regulatory practices and competencies between the EU and U.S. The aviation sector has continued to maintain its high profile status as a public policy interest over the last forty years for both the EU and U.S. government. The structural differences between these political entities, such as general competencies, lobbying practices, and market regulation, have taken the two airline markets down different paths, respectively. While the U.S. deregulated its market in the 1970s, Scharpenseel (2001) explains that EU member states have taken a longer amount of time to move towards market liberalization on the community-wide basis that the EU always strives to achieve. Gudmundsson (1997) puts forth similar claim that aligns with that of Scharpenseel, but also points out that deregulation and liberalization may contribute to future management strategies for companies. In the case of airlines, these strategic management factors could possibly affect future competition for that company: what kind of product the airline will provide, what routes it decides to fly, or how to respond to relevant changes other companies make. Crocioni (2000) argues, as the other authors have, that the EU is currently on the path to deregulation and liberalization by taking a step-by-step, gradual approach that will span several years. This step-by-step approach appears to align with general EU spillover. As spillover increases, EU competencies over the sector are likely to increase as well. However, Crocioni (2000) also is keen to note that the EU deregulation process did not even begin until ten years after the U.S. began.

What has effectively occurred over the previous forty years is a switch in regulatory practices between Europe and the U.S. In the 1970s, the U.S. market was more competitive than in Europe. Today, the scenario is the opposite. Crocioni (2000) notes that only until recently, the European airline market was tightly regulated by bilateral agreements between EU member states. Flag carriers of EU member states, like Alitalia in Italy, Air France in France, and Lufthansa in Germany, almost always controlled a monopoly in their respective domestic markets. Cornelia Woll (2008) elaborates on this further, stressing that these national flag carriers often either operated under total control of the member state government, partial control, or had strong relations. As the airline market in Europe evolved, the Commission decided that it should ultimately have exclusive competence over external aviation and that bilateral agreements made by
member states with third countries should be covered under EU legislation (Woll 2008). This led to the limbo many flag carriers began to face, caught between the Commission and their respective member state governments when seeking to advance their interests.

As EU competencies have expanded, many carriers in Europe are searching for new ways to make sure their specific interests are addressed. However, this can be difficult for national flag carriers. Woll (2008) precisely explains that the economic interests of the Commission are those that benefit all of Europe. Scharpenseel agrees, highlighting the community-wide basis the EU has taken, which I have highlighted two paragraphs above. Flag carriers could no longer turn to their member state governments for the amenities and leniencies they wished for. This leads to another major discrepancy between the EU and the U.S.: advocacy. In the U.S., advocacy is more commonly known as lobbying. Frank Baumgartner, an American political scientist whose research is primarily lobbying-based, is one of the few who have addressed the differences in lobbying practice between Brussels and Washington. He stresses the complexities the multi-level governmental structure of the EU present to lobbying groups in Europe. Choosing a venue and how to create a strategy that appeases each relevant EU institution is incredibly difficult. Additionally, institutions, like the Parliament or Council of Ministers may not always generally share the same viewpoint on a specific policy issue. However, European lobbyists, or advocates as they prefer, are still nonetheless partaking in usual lobbying activities, such as luncheons with politicians or staffers (Baumgartner 2007).

In the U.S., lobbying is a trademark of American politics. In a study Baumgartner conducted in 2002, almost every lobbyist in that study could identify a governmental ally sharing a similar viewpoint on various issues and was actively pursuing to have other members of the legislature adopt measures that reflected those views (Baumgartner and Mahoney 2002). While the person-to-person aspect of EU lobbying is much more complex than in the U.S., it is possible that the same idea could be applied to member states as lobbyists to the EU. Schneider et al. (2007) emphasize the vital role that EU member states play as actors in EU advocacy. Woll may be suggesting that mainstream flag carriers could possibly utilize their respective member states as mediators between themselves and the EU. In the past, flag carriers always, “…accompanied their countries’ negotiators in bilateral negotiations and assisted on all aviation policy matters” (Woll 2008). However, as more carriers have entered the domestic market, the loyalty of governments to flag carriers has subsided.

Theory, Hypothesis, & Research Design

Before continuing, it is imperative to remember that there are a variety of factors that contribute to the shaping of the current airline competition differences present today. However, after assessing the divergences and their relationships with broader politico-economic phenomena, it can be inferred that the two factors discussed in the literature review have heavily shaped the current scenario. The number of carriers present in both the EU and U.S. largely came due to the result of consolidation laws implemented by the EU and U.S. government respectively. This indirectly has caused airlines to adjust their product quality and fare prices based on the number of competing airlines they face. Additionally, lobbying plays a major role in the policymaking process. The differences of
lobbying practices between the EU and U.S. have contributed to the various competition divergences. These divergences are the dependent variables of this research.

The complex effects governmental functions have on the actions airlines take in response to these functions demonstrate a causal relationship with the varying airline competition between the EU and U.S. This research will thus follow a causal model design, focusing specifically on the governmental differences outlined in the literature. Further, the literature supports a historical development of the airline sector over the last forty years. This includes the immediate deregulation of the industry in the U.S. during the 1970s and the gradual deregulation that has been slowly unfolding in Europe. The geographic factors also present valid arguments to support a causal relationship. However, due to the constraints of this paper, I will not address them in the research design. Focusing on governmental differences, I aim to demonstrate that this hypothesis is supported while simultaneously not denying that other factors have an effect on airline competition differences as well. Differences in regulatory competencies and lobbying practices will serve as the independent variables. The data comprises various relevant policy documents, court cases, and lobbying statistics from the EU and U.S.

H1: Differences in governmental competencies and structure between the EU and the U.S. affect the divergence in airline competition in both respective territories.

H0: There is no relationship between governmental structure and competencies in the EU and U.S. with the divergences in airline competition.

**Regulatory Competencies**

In the U.S., the airline industry one of the most regulated de-regulated sectors of the economy. The American government, however, is always hearing the concerns and desires of American carriers. Whether through direct governmental contacts, in house lobbyists, or external lobbying groups such as the Air Transport Association, there is always an airline presence in Washington. Following 9/11, the government provided nearly $15 billion in subsidies to the airlines to ensure future protection and make up for lost profit as a result of the attacks. Airline interests thus immediately skyrocketed to the forefront of agendas of American policymakers to ensure that another attack like 9/11 never happened again. All American carriers though are cautious when they are trying to promote future airline policy. Although the Big Three generally seek to limit competition in the market, they are fully supportive of any governmental decision that benefits all stakeholders in regards to commercial issues.

American airline regulation dates back to 1938 with the establishment of the Civil Aeronautics Board (CAB). CAB controlled entry and exit to the market, fare prices, airline subsidies, and mergers in the domestic market (Woll 2008). While the Federal Aviation Administration (FAA) was created afterwards for safety regulation, the CAB remained as the economic regulatory entity. Given that CAB had total regulatory control over the industry, general competition policies, such as anti-trust laws, did not apply to airlines. In 1978, the Airline Deregulation Act officially deregulated the industry and all previous CAB policies were effectively phased out by 1984. As a result, the airline industry was radically reorganized and airlines began to consolidate at a rapid rate (Ben-
Without any consolidation regulations, famous carriers like TWA, Pan American, Eastern, and Midway were all absorbed. By the early 1990s, the Big Three began to emerge as leaders in the industry after seizing the assets from their newly acquired counterparts. The deregulation had effectively also allowed airlines to transition from scattered operations to regional bottlenecks. By allowing airlines to form these complex and strategic hub-based network systems, the emerging companies began to exhibit monopolistic-like features. This effectively confirms the argument I have made on the basis of the work by Gudmundsson in the literature review. By deregulating the industry, the government had effectively given airlines the ability to form strategic management strategies that, in this American example, reduced the competition the airline faced.

As a result of the rapid consolidation in the early 1990s, the government began to increase its watchfulness again over the industry. Monitoring any anti-trust violations, the government switched the anti-trust authority from the Department of Transportation to the Department of Justice (Ben-Yosef 2005). The DOJ thus began to implement horizontal merger guidelines, rather than vertical merger guidelines as carriers had been doing. Vertical mergers are still present today as well. In vertical mergers, a major airline often partners with a smaller, regional airline. Both operate different aircraft and fly different routes. However, they have a vested interest with each other and will jointly sell tickets, operate the same check in counters, and share the same gates at airports. Today, the effects of vertical consolidation can be seen at the regional level. For example, Republic Airways or Mesa Airlines are independent companies operating small, regional jets like the CRJ-700. Yet, their aircraft are often painted in one of the Big Three liveries and their tickets are often sold as Big Three tickets. Returning to the case of the DOJ, in the 1990s, this was a cause for concern. If smaller airlines were selling their share of gates to larger ones, one airline would dominate the traffic flow at that airport. In one instance, the DOJ struck down a proposed sale of sixty-seven gate slots at Ronald Reagan National Airport in Washington, D.C. to United Airlines. If the transaction had been completed, United would have owned a majority of gates at both major Washington airports, since Dulles airport was already a major hub. The DOJ claimed that the transaction would have violated Section 1 of the Sherman Antitrust Act, which makes the restraint of trade and commerce by lessening competition illegal (Sherman Antitrust Act 1897). In 1999, the DOJ launched its first official antitrust cases against one of the major carriers since the industry was deregulated in the 1970s. In US v American Airlines (1999), the judge, however, ultimately dismissed the case. The DOJ attempted to argue that American purposely undercut its fares in order to drive out three competitors and charged the airline with predatory pricing and monopolizing (US v American Airlines 1999). Although this landmark case was a victory for the airlines, the DOJ still held a watchful eye.

Despite the concerns of the DOJ, the rapid consolidation continued due to the industry crisis of the 1990s. At the time, the Gulf War had crippled carriers and was a major factor that led to the fall of airlines like TWA, PanAm, and Eastern. In the late 1990s, the final wave of rapid consolidation began with the emergence of airline alliances. These alliances generally consisted of one American carrier, one European carrier, and one Far East carrier. While these alliances were not mergers, the new partnership between airlines allowed codeshare operations to begin. The major alliances
that formed during this period, and still remain today, were Skyteam, Star Alliance, and Oneworld. Surprisingly, the DOJ was generally supportive of the proposed idea of alliances, citing that they would be simply complimentary and not be officially consolidating with each other. However, despite the separation between member airlines, the alliance would still dominate specific route pairings. For example, British Airways and American gave Oneworld near total control over the New York JFK-London Heathrow route. Despite the continuation of consolidation under the watchful eye of the DOJ, the industry would once again undergo a massive re-structuring in the new millennium.

Following September 11, 2001, the major carriers were facing unprecedented economic losses following their rapid consolidation in the 1980s and 1990s. Yield management could no longer support the high costs of maintaining highly advanced hub-based networks (Ben-Yosef 2005). However, the American government rallied behind the airlines to keep them from failing. U.S. airlines received nearly $15 billion in government subsidies and also received a second bailout package in 2003 (Woll 2008). The airline industry was now at the forefront of the agendas of American policymakers. The U.S. government immediately began to reform numerous aspects of the industry. All international flights in and out of the U.S. were grounded for three days following 9/11. In the months that followed, the U.S. Patriot Act increased government surveillance capabilities; the Transportation Safety Administration (TSA) was established, American carriers had to implement new FAA regulations on cockpit safety, and airlines were required to report advanced passenger information to the TSA for all flights entering and departing the U.S. (IATA 2010).

Despite the subsidies received, American airlines still struggled. By 2011, the industry had lost $55 billion and cut nearly 160,000 since 2001 (Goldschein 2011). They also began to cut the number of seats on routes and some began to stop flying certain routes altogether (Goldschein 2011). As these cuts increased, it opened the door for the most recent consolidation wave of the American airline industry. The major carriers were poised to officially merge one more time and form super carriers. United and Continental merged, Delta acquired Northwest, and American merged with U.S. Airways. On the periphery, even low cost giants Southwest and AirTran made a deal. All of AirTran’s Boeing 737 aircraft went to Southwest, while Delta acquired all of their Boeing 717s. Since the mega mergers were completed, the American airline industry continues to remain a battleground among the Big Three. While the American government has always tried to keep an antitrust economy, the historical developments of the past forty years, combined with the various regulations and court cases, have nonetheless helped shape the current airline competition scenario in the U.S. today.

Across the Atlantic, Europe has taken a relatively different course of action in the airline regulation arena. The first major change in the European airline market came in the 1970s when the European Court of Justice (ECJ) overturned a French court case, *Nouvelles Frontières*, which forbade any change to the fixed fares at the time (Woll 2008). Under the guidance of the International Civil Aviation Organization (ICAO), European fares were generally sold at a fixed price. When agencies and airlines began to sell cheaper tickets to increase competition, the French court ruled against them. This ECJ intervention was the first example of EU action in the European airline market. This ineffectively set a tumultuous battle into motion for the next fifty years.
Taking note of the recent developments of the airline industry in the U.S., the European Commission began to also explore the possibility of applying common market principles to inter-EU aviation (Wöll 2010). According to the European Parliament, European air transport has historically developed under the control of national member state governments (European Parliament 2019). As I have previously mentioned in a separate section, this strong relationship different carriers had with their respective national governments meant that they often controlled a monopolistic domestic market. With minimum competition, flagship carriers were not thrilled when the Commission began to initially liberalize the market (Woll 2008). In 1987, despite some minor resistance from four member states, the Commission was able to push an EU-wide air transport package using a carrot and stick approach.

The 1987 package was the first instance in which the EU effectively began to relax its regulations governing fares and airline capacities. This liberalization and initial deregulation came in part also due to the passage of the Single European Act in 1986, which aimed to establish a single market in Europe (European Parliament 2019). In 1992, the Parliament and the Council approved a third stage of market liberalization. Council Regulations (EEC) Nos. 2407/92, 2408/92 and 2409/92 effectively removed any commercial restrictions that still remained on carriers operating in the EU. As a result, the European Single Aviation market was set up and then was extended via the European Common Aviation Area Agreement (European Parliament 2019). This third package in 1997 also substituted national airlines into new ‘community airlines’ (Mawson 1997). This opened up traffic rights to these community carriers and also eliminated national restrictions on fares certain routes. Despite the increased competencies of the EU over the airline market, member states still retained their power to establish bilateral air service agreements with countries outside of the EU (Woll 2008). Still, the casual deregulation of the market has led to differences in fares, capacity, route access, and even licensing of airlines (Crocioni 1997).

The Single Aviation Market has set the precedent for the current EU airline competition picture today. The EU has been a strong supporter of increased competition and, as a result, laid out several guidelines that required a level playing field in the Single Aviation Market. According to the Parliament, legislation on State aid and competition is applied to the airline sector in order to ensure that a level playing field is visible (EP Transport). The block of a proposed Aer Lingus-Ryanair merger came as a direct result of these additional supervisions, which also aims to prevent airlines from building monopolistic presences at airports (The Economist 2017). The Commission has also been insistent on ensuring that all EU and non-EU carriers have the same opportunities to access services such as gate slots at airports and ground handling services. Regulation (EEC) No 95/93 explicitly states that airport slots be distributed fairly and in a non-discriminatory way (EEC No 95/93). As the industry evolves, however, so must the regulatory measures the Commission puts forth. Nearly twenty years after the third package was implemented, the majority of intra-EU routes are still only served by one or two carriers (European Parliament 2019). Overseeing the operation of certain carriers registered in multiple member states, such as Ryanair, is also a complication the Commission must take into account (European Parliament 2019).
Lobbying

Echoing Cornelia Woll once again, the European Commission is only interested in advancing policy issues that are broadly European issues. Given that the Commission is the European institution in which EU policy proposals begin, any company or stakeholder will have a vested interest in ensuring that the Commission drafts a policy proposal that advances their viewpoints and desires. Additionally, once a policy proposal exits the Commission, the Council and the Parliament must jointly approve it. The complex nature of the EU policymaking process makes advocacy incredibly difficult. Continuing from the institutional structural complexities of the EU, many EU politicians are not directly elected. Members of the European Parliament are the only elected officials directly involved in the EU policymaking process. For European lobbyists, their strategies must be well thought, their viewpoints and goals must be willing to compromise, and they should try to find as many allies as possible when presenting an issue to the institutional arena.

In airline lobbying specifically, progress has been made in reference to the points I have just mentioned. Instead of approaching the institutions alone, five of the largest EU carriers - Lufthansa, IAG Group (British Airways and Iberia), Air France-KLM, EasyJet, and Ryanair - all came together in 2016 and formed the first major airline lobbying group in Europe: Airlines for Europe (A4E). Since its foundation, A4E has expanded and now includes fourteen members. For the first time, European airlines appear to be successfully straying from relying on their member state governments for support. Last month, A4E released its largest advocacy strategy yet to the EU, pleading the Commission to make aviation an essential political priority in Europe (Noëth 2019). While these calls came at an internal summit, the organization is headquartered in Brussels and interacts with EU institutions on a regular basis.

In the U.S., the lobbying world is entirely different. As industries such as big pharma and auto dominate lobbying headlines, it still does not change the fact that lobbying goes much further in American politics than in the EU. In Washington, airlines have fully taken advantage of the benefits lobbying can provide in the policymaking process. In 2018, nearly $28 million was spent on airline lobbying (Opensecrets 2019). The airline industry also had 206 reported lobbyists register (Opensecrets 2019). However, in the U.S., there is a fine line between reported lobbyists and advocates. While lobbyists are generally required to register in the U.S., many forms of lobbying, such as private events, are not under lobbying protection (Baumgartner).

In the U.S., connections are imperative to successful lobbying. Baumgartner and other lobbying experts have developed a new lobbying theory that changes the entire picture: the revolving door. In revolving door lobbying, the lobbyist is generally someone who either once served as a politician, a staffer, or some other insider position in the government. Of the 206 airline lobbyists registered for 2018, a staggering 177 of them were labeled as revolving door lobbyists (Opensecrets 2019).

As I have mentioned previously in this paper, the airline industry is one of the most deregulated industries in the U.S. Airlines are fully aware of this, but have continued to operate under the antitrust watch of the Department of Justice. However, it
appears that airlines have used lobbying as an integral tool in their efforts to obtain what they desire. They require government approval for mergers and in each case of the final super-mergers, both airlines spent upwards of ten million dollars alone in lobbying efforts to ensure the merger succeeded (Opensecrets 2019). Additionally, the lack of action from Congress in spite of recent passenger mistreatments by the airlines has indicated that Washington is being too lenient with the industry. In fact, a Politico investigation in 2015 confirmed that House Transportation Committee Chairman, Bill Shuster R-PA, was in a relationship with one of the top lobbyists from Airlines For America, which represents a majority of American carriers (Bresnehan 2015).

**Conclusion**

The paper has provided sufficient evidence supporting that governmental differences between the EU and the U.S. do have an impact on the shape of airline competition in both respective territories. However, there are still other factors, such as geography and other means of transportation, that have an impact on airline competition as well. This paper also did not discuss the potential that the government will support any American economic interest if it is beneficial to American industry. As a result, Americans generally only expand their markets if they are the primary beneficiaries. In Europe, specific member state interests are valued less highly by the Commission than are those of the community as a whole. When airlines in Europe bring their concerns to the EU, which has dramatically increased its political power over the airline industry, the policy outcomes presented by the airline or the lobbying organization must be something beneficial for all competitors in the market or the European community in its entirety. In the U.S., revolving door lobbying appears to have a major effect on how an industry is shaped and regulated. However, despite the amount or type of lobbying an industry conducts, the American sentiment of economic regulation will always be antitrust-based.

Despite the fact that the industry was deregulated in the 1970s, there has still been an oversight that appears to be idly standing by today. As airlines evolved through various waves of consolidation, the antitrust division of the DOJ always kept a watchful eye to ensure that monopolistic behavior was kept to a minimum. DOJ pressure was increasing throughout the 1990s, but following 9/11, governmental behavior changed. As the industry lost billions, the government provided bailout packages on two occasions and implemented new national security measures. In a way, the airline industry was now effectively under the protection of the government rather than in the crosshairs of the DOJ. As the industry became more comfortable with the government, airlines began to increase lobbying efforts in Washington. By the time of the final major mergers between 2008 and 2011, the amount being spent on lobbying was the highest ever at almost $30 million a year.

In the EU, the complex institutional nature of its governmental structure presents a difficult task for lobbyists. Like the American economic course of action, the Commission is only supportive of internal measures that support European growth as a whole. Gone are the days of industries attempting to lobby their respective member states. As the airline industry fell under the interests of the Commission with the Single European Act, the industry became more regulated. The result has been an EU promotion
of airline competition, higher standards of airline accountability, and airline difficulties. Although European carriers have alliances, EU laws have prevented them from merging or consolidating in ways that American carriers have. Despite these continued constraints on consolidation, there is a possibility that the Commission would offer a proposal in the future that would loosen them.

In terms of lobbying efforts, EU carriers have adjusted well to the transition from a long historical relationship with their member state governments. It is important to recall that before the EU took over several airline market competencies from member states, most flagship carriers had a monopoly over the market in their respective member states. This could also contribute to the research— if I were to argue that the more a national government controlled airline competition, the more likely it would be for a monopoly to form. Although it is not a monopoly in the U.S., due to American obsession with antitrust laws, the national control over the industry nonetheless correlates with the lower amounts of competition. The same applies in other countries such as Mexico with Aeromexico, Australia with Qantas, and Canada with Air Canada. In Europe, however, by establishing interest groups like A4E, EU carriers have successfully managed to represent themselves collectively at the supranational level. They are aware that the market has changed and are committed to whatever measures are necessary to protect their individual and collective interests.

For now, EU carriers continue to engage in their fare wars with each other. As the market continues to become more competitive, it does not appear that the industry will become any more accommodating. In the U.S., the Big Three, plus Southwest, continue to silently run their oligopoly without due punishment. The differences in regulatory measures and lobbying practices between the U.S. and the EU have shaped the diverging airline competition picture today. As EU carriers move forward with the goal of greater consolidation, it will be interesting to see if the industry in Europe develops further down an American-like path or if the Commission continues to keep competition at maximum levels.

References


a4e/urges-eu-to-make-aviation-a-future-political-priority-improvements-in-europes-air-traffic-management/


https://www.opensecrets.org/lobby/induscode.php?id=T1100&year=2018


