whale killing not based on true subsistence need. Cultural subsistence is a fraud. It is a slippery slope to disaster.

Cultural subsistence would have expanded whale hunting to any nation with an ocean coastline and any history of whale killing. The whaling interests in Norway and Japan, who still occasionally pirate whales on the high seas, were delighted with the U.S. position. They have orchestrated and financed an international cultural subsistence movement. America's historical role as a foe of renewed whaling around the world would have been drastically undercut.

The treaty signed by the Makah Tribe in 1855 only gives them the right to hunt whales in common with the citizens. This provision was to ensure equal rights, not special rights. Now, under the 9th Circuit Court ruling, the Makah Tribal Government will not be allowed to kill whales when it is illegal for anyone else in the United States to do so.

It is shameful that the Clinton-Gore administration supported a proposal that flies in the face of the values, interests and desires of the majority of United States citizens. It violates the law and the clearly stated U.S. policy in opposition to whaling.

I support those Makah tribal elders and others who oppose this hunt, and I am deeply appreciative of the court ruling and our success in stopping the renewal of the barbaric practice of whaling.

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ENSURING A COMPETITIVE AIRLINE INDUSTRY

The SPEAKER pro tempore (Mr. LATOURETTE). Under a previous order of the House, the gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Speaker, I am deeply troubled over the possibility of mergers of major domestic airlines. Many observers have predicted that if the proposed merger of United Airlines and US Airways is allowed to proceed, it will be followed by mergers of other major carriers, and soon we will have an industry dominated by three mega-carriers. This would be devastating to consumers.

The father of deregulation, Alfred Kahn, observed ''Because of the United-US Airways threatening to set off a series of imitative mergers that would substantially increase the concentration of the domestic industry, there is a possible jeopardy here to the many billions of dollars that consumers have been saving each year because of the competition set off by deregulation.''

I am strongly opposed to the United-US merger and other mergers that likely will follow. I have asked the Department of Justice and Transportation to use all available authority to stop the mergers under the antitrust laws, and many Members have indicated they share those concerns.

At hearings held in several House and Senate committees there was little support for the United-US merger. Members raised concerns about the impact of the merger on service to the areas they represent as well as to the Nation at large. As one Member in our hearing in our Committee on Transportation and Infrastructure observed, ''I don't think the merger is a win-win for the consumer. As a matter of fact, it might be a lose-lose look for the consumer.'' A number of Members expressed the sentiment that if Congress were to vote on the proposed United-US merger, it would fail.

I hope and expect that the Department of Justice will heed those strongly-held views. At the same time, however, I believe we have to begin thinking about steps we would take to protect consumers if competition in the industry is reduced to a point where it is no longer an affective check on monopolistic behavior. I must emphasize that this type of legislation is not my preference. I would greatly prefer an environment in which consumers are protected by adequate competition in a free market.

The legislation I am introducing will give the Department of Transportation extended authority to protect the American consumer should a series of mergers or acquisitions be approved, leaving our domestic market with three or fewer carriers, who would account for over 70 percent of scheduled revenue passenger miles. The authority that I would extend to the Department of Transportation in this legislation will include oversight of air carrier pricing, anti-competitive responses to new entrant competition, and other unfair competitive practices.

This is not reregulation. Airlines will remain free to set prices and enter or leave markets without prior government approval. But the bill will give DOT authority to intervene if the airlines take unfair advantage of the absence of sufficient competition.

I just want to cite the highlights of this legislation. The bill would take effect when, as a result of mergers between two or more of the top seven carriers, three or fewer carriers control more than 70 percent of domestic revenue passenger miles.

Monopolistic fares. The Secretary of Transportation is authorized to require reduction in fares that are unreasonably high. When the Secretary finds that a fare is unreasonably high, he may order that it be reduced and that the reduced fare be offered for a specified number of seats and that rebates be offered.

Preventing unfair practices against low-fare new entrants. If a dominant incumbent carrier responds to low-fare service by a new entrant, and matches that low fare, and offers two or more times the low-fare seats as the new entrant, the dominant carrier must continue to offer the fare for 2 years, for at least 80 percent of the highest level of low-fare seats it offered.

Increasing competition at hubs. If a dominant carrier at a hub airport takes advantage of its monopoly power by offering fares 5 percent or more above industry averages in more than 20 percent of hub markets, DOT may take steps to facilitate added competition at the hub.

And, finally, the measures to encourage competition may include measures relating to the dominant carrier's gates, slots, or other airport facilities, to travel agent commissions, frequent flyer programs and corporate discount programs.

I hope we do not ever have to come to a point where this legislation must be enacted and must take effect. I hope that the Justice Department will disapprove the United-US merger and discourage all other mergers that are likely to follow this one. If not, and if the domestic airspace and the world airspace is reduced to three globe-straddling mega-carriers, then we will need this legislation in place to protect competition and protect consumers.

Mr. Speaker, I want to go into a little more detail about some of the problems my legislation seeks to address.

MONOPOLISTIC FARES

If the airline sector is reduced to three major carriers the remaining mega-carriers could substantially reduce competition and raise fares. The way airline competition works today, when established carriers control markets, the tendency is for the carriers to follow each other's fare changes so that the fares are identical, and the passenger choice is limited. These tendencies would be magnified if there were only a few major airlines. There would be enormous incentives for each carrier to avoid competing with the others at their strong hubs and routes. This strategy would likely lead to the greatest mutual profitability, while strong competition across the board could prove suicidal. As the DOT aptly stated, ''[e]conomic theory teaches that the competitive outcome of a duopoly is indeterminate: the result could be either intense rivalry or comfortable accommodation, if not collusion, between the duopolists.'' Collusion to fix prices is not new to the airline industry—in 1992 it was caught red-handed in an elaborate price-fixing scheme using computer reservations software.

The impact of mergers on fares goes beyond the effects of having only three major competitors. Each merger by itself eliminates competition between the parties to the merger; history shows that this reduction in competition will lead to higher fares. The General Accounting Office, in a 1988 report, found that after TWA bought Ozark, it raised roundtrip fares 13 to 18 percent on 67 routes serving St. Louis. An October 1989 report by the Economic Analysis Group, a DOJ research arm, noted that: ''The merger of Northwest and Republic appears to have caused a significant increase in fares [5.6 percent] and a significant reduction in overall service on city pairs out of Minneapolis-St. Paul.'' That happened despite the fact the number of cities served from Minneapolis-St. Paul increased after Northwest/Republic merger.

My bill will give DOT authority to intervene if carriers take advantage of the absence of competition by raising fares above competitive levels. The bill gives DOT authority to require

reductions in fares which it finds to be unreasonably high. The bill gives examples of situations in which a fare might be found to be unreasonably high: if the fare in a particular market is higher than the fare the carrier charges in other markets with similar characteristics, or if the fare in a market is increased beyond increases in costs. The bill provides that if DOT finds that a fare is excessively high it may order that the far be reduced, specify the number of seats at which the reduced fare must be offered, and order rebates.

UNFAIR COMPETITIVE PRACTICES AGAINST LOW FARE CARRIERS

A second problem that my bill deals with is unfair competitive practices against new entrants.

New entrants providing low fare service have been a critical element in airline competition under deregulation. In fact, history has shown that the public experiences real competition only when low far carriers like Southwest Airlines enters a market. DOT called it the ''Southwest effect.'' Studies have shown that when Southwest begins service to a new city, competitors tend to lower their fares and more people start flying. DOT studies show that average fares in markets served by low-fare carriers were $70–$90 lower than average fares in other markets. On the other hand, fares were higher in markets not served by a low-fare carrier, even when these markets had competition from several established carriers. New entrants with low fare service will be even more important in an industry dominated by three large carriers.

In recent years, low fare carriers have faced great difficulty in establishing their services. Last year on the House floor, I expressed my concern over unfair competitive practices that incumbent airlines have used when new entrant low fare carriers try to compete. In the typical scenario, the low fare carrier enters a market with a limited amount of low fare service. The incumbent carrier responds by matching the low fare and adding service so that the low fare will be available on many times the number of seats offered by the low fare carrier. This flooding of the market frequently drives the low fare carrier out, and permits the incumbent to raise its fare to the prior level.

The adverse effect of these practices on competition does not end with the particular challenger. Once it becomes known in the industry that an incumbent will respond aggressively to a challenge by a low fare carrier, other prospective competitors will also be deterred in the future. This is not a theoretical problem. DOT investigations and Congressional hearings have uncovered a number of instances in which major airlines have adopted money-losing strategies to drive out new entrants who have instituted low fare service at the major carrier's hub airports.

The Transportation Research Board (TRB), in its 1999 study Entry and Competition in the U.S. Airline Industry, examined 32 complaints of unfair competition on file with the DOT, concluding that ''it is apparent that some of the actions described are difficult to reconcile with fair and efficient competition.'' The TRB reported that one-half of the cases involved sharp price cutting and excessive increases in capacity. In fact, last year the DOJ filed suit against American Airlines to enforce the antitrust laws against alleged predatory practices by American Airlines to drive new entrants out of its Dallas/Ft. Worth hub.

If the industry is reduced to three mega-carriers, these carriers will have greater financial resources and general freedom from competition. This will enhance their ability to eliminate new entrants by unfair practices.

To deal with this problem, my bill adopts a concept suggested by Dr. Kahn and others to discourage unfair tactics against new entrants. In cases where a dominant carrier at a hub airport meets new low fare competition by reducing its fares and offering the new low fare on more than twice the number of seats as the new entrant carrier on that route, the bill requires the dominant carrier to continue to offer the new low fares for two years. During this two year period, the low fares must be made available on at least 80 percent of the highest number of seats per week for which that fare has been offered. This will ensure that a dominant carrier's efforts to defend its market, route or hub will be a truly competitive response, not one designed only to drive a new competitor out of business and then recoup reduced profits or losses by raising fares.

MONOPOLISTIC ABUSES AT HUB AIRPORTS

Another major problem that my bill addresses is monopolistic practices at hub airports dominated by a single airline. Several studies have shown that fares for hub airports are higher than fares in markets where there is more competition. The recent TRB study concluded that ''the consistency with which hub markets appear among the highest-free markets is noteworthy and raises the possibility that the hub carriers are exploiting market powers in ways that would not be sustained if they were subject to more competition.''

In an environment of less competition, the hub problem can be expected to grow worse. My bill addresses this problem in several ways. First, as I have previously discussed, the bill gives the Secretary authority to require that fares at hub airports be reduced if they are higher than fares elsewhere.

Secondly, the bill includes provisions to encourage more competition at hubs. The bill provides that, upon a finding that a dominant carrier is exploiting its position at a hub airport by offering unreasonably high fares in more than 20 percent of the hub's markets, the Secretary may require the dominant air carrier to make gates, slots, and other airport facilities reasonably available to other carriers. We have often heard of dominant air carriers that refuse to give to other carriers, especially new entrants, access to key airport facilities.

The ability to prevent other air carriers from competing effectively at hub airports will only be magnified if the industry is reduced to three major carriers.

My bill would also give the Secretary the authority to require that the air carrier exploiting a hub monopoly make adjustments in commissions paid to travel agents, in frequent flyer programs, and in corporate discount arrangements. Each of these marketing programs has served, in the past, to make it nearly impossible for new entrants to gain a foothold in a dominant hub market. The recent TRB report noted that use of these programs to drive out competition ''merits further investigation by DOT.''

UNREASONABLY HIGH FARES FOR BUSINESS PASSENGERS

A final problem the bill addresses is excessibly high fares for business travelers and others who cannot meet the conditions on discount tickets. In the last several years, airlines have been charging increasingly higher airfares to business travelers who do not qualify for discount tickets. The TRB noted that the: ''higher-fare travelers . . . are now paying 5 to 25 percent more. Also evident is that these travelers are paying fares much higher than the median, at least in comparison with earlier periods (1995 to 1992). For instance, travelers paying the highest fares in 1992 paid 2 to 2.1 times the median fare. In 1998, these travelers paid 2.7 to 2.9 times the median.'' If the aviation industry were to consolidate to just three globe-straddling mega-carriers, the business traveler is the one who would bear the brunt of the super-premium airfares that are sure to be charged in those monopoly power airport markets.

My bill would give the Secretary power to require reductions in fares that are unreasonably high, either in and of themselves, or by comparison to the lower fares offered other passengers.

Mr. Speaker, I believe that we are at a critical point for the future of a competitive airline industry. The inescapable lesson of 22 years of deregulation is that mergers and a reduction in competition often lead to higher fares for the American traveling public. We cannot stand idly by and allow the benefits of deregulation to be derailed by a wave of mergers. If these mergers are approved, we will need a new legislative framework to give the Secretary of Transportation appropriate authority to combat anti-competitive practices by the new line-up of powerhouse mega carriers, to preserve competition in the public interest, and ensure the widest range of travel options at the lowest possible prices for air travel.

If the mergers proceed without the competitive protections I am proposing, then the ultimate irony of deregulation will be that we will have traded government control in the public interest, for private monopoly control in the interests of the industry.

Mr. Speaker, I submit for the RECORD herewith a section-by-section summary of my legislation:

AIRLINE COMPETITION PRESERVATION ACT—SECTION-BY-SECTION SUMMARY

SECTION 1—SHORT TITLE

This section provides that the Act may be cited as the ''Airline Competition Preservation Act of 2000.''

SECTION 2—OVERSIGHT OF AIR CARRIER PRICING

Subsection (a)(1) provides that the Act takes effect immediately upon a determination by the Secretary of the Department of Transportation that, as a result of consolidation or mergers between two or more of the top 7 air carriers, three or fewer of those air carriers control more than 70 percent of scheduled revenue passenger miles in interstate air transportation.

Subsection (a)(2) states that the Secretary shall, in determining the number of scheduled revenue passenger miles under subsection (a)(1), use data from the latest year for which complete data is filed. In addition, subsection (a)(3) provides that the Secretary in making the concentration determination in (a)(1) should attribute to the remaining airline those routes acquired from the air carrier with which it has merged or consolidated.

Subsections (b)(1) and (b)(2) give the Secretary the authority to investigate whether an air carrier is charging a fare or an average fare on a route that is unreasonably high. The factors in making this determination include whether the fare or average fare

in question: is higher than fares charged in similar markets; has been increased in excess of cost increases; and strikes a reasonable relationship between fares charged to passengers who are price sensitive and those charged to passengers who are time sensitive.

Under subsection (b)(3), if a fare is found to be unreasonably high, the Secretary may order, after providing the air carrier with an opportunity for a hearing, that it be reduced, that the reduced fare be offered for a specified number of seats and that rebates be offered.

Subsection (c) provides that if a dominant air carrier, on any route in interstate transportation to or from a hub airport, responds to low fare service by a new entrant by matching the low fare, and offering two or more times the low fare seats as the new entrant, the dominant carrier must continue to offer the low fare for two years, for at least 80 percent of the highest level of low fare seats it offered.

Subsection (d)(1) authorizes the Secretary to investigate whether a dominant carrier at a hub airport is charging higher than average fares at that airport. Subsection (d)(2) provides that the Secretary may determine that higher than average fares are being charged where an air carrier is offering fares that are 5 percent or more above industry average fares, in more than 20 percent of its routes that begin or end in its hub market. If higher than average fares are being charged, the DOT may, after providing the air carrier with an opportunity for a hearing, take steps to facilitate added competition at the hub, including measures to relating to the dominant carrier's gate, slots, and other airport facilities, travel agent commissions, frequent flyer programs and corporate discount programs.

Subsection (e) defines the terms ''dominant air carrier,'' ''hub airport,'' ''interstate air transportation,'' and ''new entrant air carrier.'' ''Dominant air carrier'' is defined, with respect to a hub airport, as an air carrier that accounts for more than 50 percent of the total annual boardings at the airport in the preceding 2-year period or a shorter period as specified by the Secretary. A ''hub airport'' means an airport that each year has at least .25 percent of the total annual boardings in the United States. ''Interstate air transportation'' is defined as including intrastate air transportation. A ''new entrant air carrier,'' with respect to a hub airport, is defined as an air carrier that accounts for less than 5 percent in the preceding 2-year period or a shorter period as specified by the Secretary.

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SEND EDMOND POPE HOME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. PETERSON) is recognized for 5 minutes.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I rise today with a heavy heart. On my left is a picture of Edmond and Cheri Pope, a lovely couple from State College, Pennsylvania. On March 14, Edmond left for Russia on a routine trip, a business trip. It would have been his 27th trip there. He was someone very involved in working with the Russians on business development, helping them market their declassified technology, someone who was very fond of the Russians and liked to help them economically in deals that were beneficial to both our countries.

For 115 days Edmond Pope, from April 3 on, has been in a Russian prison. For 115 days Mrs. Pope has not had a husband, except for 2 hours that she spent with him several weeks ago. His children have had no father for 115 days. His aging parents do not understand why for 115 days they have not been able to talk to their son.

My colleagues, Edmond Pope was placed in prison unfairly. He is not a spy. He was charged with espionage. That is not true. And what is disturbing is for the first 11 weeks his wife and family had no chance to communicate with him; did not receive one note from him, one phone call from him, or able to get a note or a phone call or letter to him. That is 77 days he was absolutely separated from his family. They had no idea of his health, no idea if he had a lawyer; a good lawyer.

On June 19, Mrs. Pope, Cheri, and two of my staff, were leaving for Russia to attempt to visit him. That afternoon Cheri's mother passed away unexpectedly in San Diego, California. Mrs. Pope had to make the decision whether she went to bury her mother or she went to Russia to encourage her husband. She made the decision to go to Russia, and so she went. And several days later she had the chance to spend a few moments with him.

On Tuesday, June 20, they met for the first time in 3 months, just a few feet from a watchful prosecutor in Lefortovo prison. Edmond and Cheri Pope hugged and belatedly wished each other a happy 30th anniversary. Then Cheri Pope said, ''The first thing he said to me was, 'Cheri, I didn't do anything wrong. I didn't.' And I said to him, I never thought for a minute you did.''

In an emotional interview on Tuesday after that reunion, Cheri Pope said her husband, whom the Russians had accused of spying, was strikingly thin. He had a rash; he had lost a lot of weight; he had a pallor about him and some skin problems. She said, ''Even though he didn't look well, he still looked handsome to me.''

While they were there, Cheri and my staff were able to obtain a good lawyer for him. He did not have a good lawyer, and they had no way of knowing that. And since that time we have been working hard to obtain his release.

On June 26, we wrote President Putin a letter, and I will share with my colleagues some of the things we shared with him. ''Mr. Putin, if you value our friendship, send Edmond Pope home. President Putin, if you value the growing business relationships beneficial to both of our countries, send Edmond Pope home.'' It said, ''President Putin, if you value the many ways we aid you financially, send Edmond Pope home.

''Edmond Pope is a man who was there on sound financial business reasons. He is not a spy. He needs to be home with his family and with his grieving wife. He needs to be home to visit his father, who is seriously ill. He needs to be home to have his own health monitored, and he needs to be home so that our relationship between the Russian Federation and America can grow and not be destroyed.''

We have not heard from that letter, though we thought we would. Today, I wrote another letter to President Putin and it has been faxed to him. One hundred fifteen days have passed. This case has no merit. His new lawyer tells us he has shredded the evidence completely. On August 5, in just a few days, his son, Dusty Pope, plans to marry a young lady named Justin. It is only fitting that Edmond Pope be home to stand with his son and his future daughter-in-law and wish them into the world of matrimony.

I hope and believe that it is important that we get this issue resolved and that we get him home, because it is vital that we build a relationship between these two countries. I have a resolution that urges the President, with 109 signatures, and I could get many more, to discontinue our assistance to the Russian Federation, to approve no more loans to the Russian Federation, or no more technical assistance. I do not want to do that. I believe the future of Russia depends much on a friendship with this country. But it is time to send Edmond Pope home so that our relationship can grow to the benefit of both our countries. I ask President Putin to help us accomplish this today.

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CALLING ON RUSSIAN GOVERNMENT AND PRESIDENT PUTIN TO FREE EDMOND POPE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WALDEN) is recognized for 5 minutes.

Mr. WALDEN of Oregon. Mr. Speaker, I rise this evening to reinforce the comments of my colleague, the distinguished gentleman from Pennsylvania (Mr. PETERSON), and to call on the Russian government and President Putin to free Mr. Ed Pope. We have heard he is an American businessman that they have held without trial for months, and I rise to assure Mr. And Mrs. Pope's family that the gentleman from Pennsylvania (Mr. PETERSON) and I are doing everything we can to secure his release.

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Mr. Speaker, the Russian government's continued incarceration of Mr. Pope, an American citizen, is nothing short of outrageous. Not only was his arrest and subsequent imprisonment contrary to international law, but the treatment he has received while in custody has been appalling.

Until recently, I am told, he has been denied communications with his wife. We heard they went for 70-plus days without being able to exchange letters or any communication. He has been denied access to sufficient food and medical treatment by American standards and certainly every other basic right we associate with justice systems of civilized nations.