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RUNAWAY SHOPS IN THE AIRLINE INDUSTRY

by Allen Cheadle

The threat of a runaway shop has become an increasingly common management bargaining tactic to gain concessions from unions. The development of more flexible technologies and the rise of the South and West as manufacturing centers have made the runaway shop a credible threat. In some indistries, however, the nature of the technology prevents the outright physical relocation of production. This article will look at one such industry, passenger airlines, and at the efforts by the industry to create artificial runaway shops through legal maneuvers. Particular emphasis will be placed on the use of holding companies to create non-union subsidiaries.

Background and Bankruptcy – The major airline companies have been forced to adopt cost cutting measures as a result of the entry of low cost non-union competitors since the deregulation of the industry in 1978. Because salaries and wages account for the largest part of operating expenses (roughly one third, followed closely by fuel costs) special emphasis has been placed on extracting concessions from the highly organized work force. The unions involved include: the Air Line Pilots Association, representing pilots as well as half of the organized flight attendants and clerical staff; the Machinists (IAM), representing the majority of airline mechanics; the Transport Workers Union and the Teamsters. Industry wage cutting efforts have been successful–during the past three years, pay caps and/or cuts have been approved by unions at virtually every major carrier.

For some airlines, however, these concessions were not enough, and more extreme wage cutting measures have been tried. The most highly publicized tactic is the use of Chapter 11 bankruptcy proceedings by Braniff and Continental to abrogate collective bargaining agreements. To file for Chapter 11, a firm must prove that its liabilities, which may be broadly defined to include anticipated future liabilities (such as union contracts), exceed its current assets. The firm then goes into receivership where credit obligations and contracts with suppliers are either renegotiated or terminated. In particular the newly reorganized firm may no longer be required to honor prior collective bargaining agreements, or even to recognize the existing unions at all.

In theory, bankruptcy is a painful process that is not undertaken except in cases of severe financial distress. In practice, "severe financial distress" can be interpreted very loosely by the courts, as was the case with Continental Airlines. Given the public and Congressional outcry over the Continental Airlines decision, the use of Chapter 11 as a union busting tactic may be short lived. Legislation is being discussed that would tighten the conditions under which a firm can declare bankruptcy. However, the cases of New York Air and Frontier Horizon illustrate a way of neutralizing union power which may be equally effective, without so flagrantly violating the spirit of the bankruptcy law.

A New Frontier? In 1980 Texas Air Corp., the holding company that owns Texas International Airlines (and now Continental), formed a subsidiary, New York Air, to operate in the Eastern corridor. In its application to the Civil Aeronautics Board (CAB), Texas Air stressed that New York Air was a distinct entity and hence not subject to the collective bargaining agreement covering Texas International employees. The CAB accepted the application and New York Air began operating as a low cost non-union carrier.

The Air Line Pilots Association (ALPA) filed suit in the New York courts challenging the formation of New York Air. The ALPA contract with Texas International contains a clause binding the agreement to any "successor organization." ALPA contended that since Texas Air Corp. was formed after Texas International, it is the successor organization and therefore obligated to honor the contract. Since New York Air is a wholly owned subsidiary of Texas Air, ALPA argued that the contract should apply to New York Air employees as well. The New York courts refused to hear the case, and ALPA appealed to the National Mediation Board, where a decision is still pending.

Soon after the New York court decision on the New York Air case, Denver-based Frontier Airlines set up a holding company, Frontier Holdings, closely modeled after Texas Air Corp. In August 1983, Frontier Holdings formed a subsidiary, Frontier Horizon, and applied to the CAB for permission to service several routes (Denver to San Francisco, Chicago, Washington D.C. and New York) not currently flown by Frontier Airlines. Frontier stressed repeatedly in its application that the case of Frontier Horizon "is precisely like the application of New York Air...and should be treated in the same way." One important difference however is that by sharing the Denver hub with Frontier Airlines, the way is paved for the gradual transfer of routes and employees from Frontier to Frontier Horizon. Glen Ryland, Chairman of Frontier, stated at the time that there "are no present plans" to that effect. However the two will cooperate on advertising promotion, pricing and scheduling, and since the routes feed into each other, union and non-union employees may end up working side by side.

Effects of the New Arrangements – Frontier Horizon hopes to cut costs per available seat mile from the nine cents at Frontier Airlines to six cents. To accomplish this the 200 employees hired initially by Frontier Horizon will make 30% less in wages and benefits than those at competing carriers. In addition, any pilots hired by Frontier Horizon will not be taken from the list of ALPA members recently laid off by Frontier Airlines. The long term consequences of the existence of Frontier Horizon are perhaps more significant. As Frontier Holdings expands, new routes will undoubtedly go to Frontier Horizon, that is unless Frontier Airline employees accept wage concessions large enough to bring their costs in line with those at Frontier Horizon. In this way Frontier Horizon is as threatening to the unions at Frontier Airlines as any runaway shop is to unions in a conventional manufacturing firm.

The impact on the public of the erosion of union power resulting from these new holding companies is less clear. One of the fears voiced over deregulation was that the safety record of the industry would worsen as increased competition forced cost-cutting in all areas, including maintenance and repair. Unions play an indirect role in insuring safety by backing up mechanics and others who refuse to approve planes as ready to fly, if they feel more thorough repair work is required. This support can be crucial when strong pressure is being applied by supervisors to certify the repair record in order to maintain flight schedules. The elimination of an institution that supports key workers in such a difficult situation may have an adverse effect on flight safety.

Future Prospects – The future impact on union power of these new holding company arrangements will depend on their treatment by the NLRB and the courts. If the courts rule that the holding companies are distinct entities, as they did by refusing to hear the New York Air case, more companies may choose this tactic. Pan Am recently set up a similar holding company, with the stated objective of diversifying into other industries. However, the examples of New York Air and Frontier Horizon may prove hard to resist, and what ALPA described as a "cancer on the industry" may continue to spread.

--Allen Cheadle