IN UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, c/o Department of Justice Antitrust Division Washington, D.C. 20530 Plaintiff, v. AERO LIMITED PARTNERSHIP, c/o Trans World Airlines, Inc. 100 South Bedford Road Mt. Kisco, New York 10549 Defendant.	Civil Action No.: 91-1315 Filed: May 30, 1991 Judge Oberdorfer

COMPLAINT FOR CIVIL PENALTY FOR VIOLATION OF PREMERGER
REPORTING REQUIREMENTS OF THE HART-SCOTT-RODINO ACT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain monetary relief in the form of a civil penalty against the defendant named herein, and alleges as follows:

I.

JURISDICTION AND VENUE

1. This Complaint is filed and this action is instituted under Section 7A of the Clayton Act, 15 U.S.C. § 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of

1976 ("Hart-Scott-Rodino Act"), to recover a civil penalty for violation of that Act.

2. This Court has jurisdiction over the defendant and over the subject matter of this action pursuant to 15 U.S.C. § 18a(g), and 28 U.S.C. §§ 1331, 1337, 1345, and 1355.

3. Venue in this District is proper by virtue of defendant's consent, in the Stipulation relating hereto, to the maintenance of this action and the entry of Final Judgment in this District.

II.

THE DEFENDANT

4. Aero Limited Partnership ("Aero") is made a defendant herein. Aero is a partnership that owns the majority interest in Trans World Airlines ("TWA"), a passenger airline serving locations in the United States and throughout the world. Aero's address is 100 South Bedford Road, Mt. Kisco, New York.

III.

USAIR GROUP, INC.

5. USAir Group, Inc. ("USAir") is a passenger airline serving locations in the United States and in Europe. It is incorporated in the State of Delaware and its principal offices are located at 2345 Crystal Drive, Arlington, Virginia 22202.

IV.

VIOLATION ALLEGED

6. The Hart-Scott-Rodino Act prohibits certain acquisitions of voting securities or assets until a notification has been filed with the Department of Justice and the Federal Trade Commission and a waiting period has expired.

7. At all times pertinent to this proceeding, Aero held fifty percent or more of the voting securities of TWA. Under the regulations promulgated under the Hart-Scott-Rodino Act that were applicable at the time of the violation, Aero was the ultimate parent entity of TWA, as defined in 16 C.F.R. §§ 801.1(a) and 801.1(b).

8. USAir and TWA, at all times pertinent to this proceeding, were engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12.

9. USAir and TWA, at all times pertinent to this proceeding, had sales or assets at or above the thresholds established by subsection (a) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a(a). USAir had assets in excess of $10 million and TWA had assets in excess of $100 million.

10. During a period beginning on July 7, 1986, TWA acquired voting securities of USAir.

11. On August 13, 1986, TWA acquired additional voting securities of USAir. As a result of that acquisition, TWA held

an aggregate total amount of voting securities of USAir in excess of $15 million.

12. Thereafter, beginning on August 14, 1986, and through March 6, 1987, TWA made additional purchases of USAir voting securities.

13. On March 25, 1987, TWA sold four million shares of its USAir voting securities and thereafter held an aggregate amount of USAir voting securities of less than $15 million.

14. The transaction described in paragraph 11 and the transactions described in paragraph 12 were subject to the notification and waiting period requirements of the Hart-Scott-Rodino Act and the regulations promulgated thereunder, 16 C.F.R. § 800 et seq. The Hart-Scott-Rodino Act and regulations promulgated thereunder required Aero, as the ultimate parent entity of TWA, to file a notification and observe a waiting period before TWA acquired an aggregate total amount of voting securities of USAir in excess of $15 million.

15. Defendant Aero did not comply with the notification and waiting period requirements of the Hart-Scott-Rodino Act before the acquisitions described in paragraphs 11 and 12 above were made.

16. Section (c) of the Hart-Scott-Rodino Act exempts certain classes of acquisitions from the reporting and waiting requirements of the Act. One class of exempted acquisitions consists of acquisitions of voting securities made solely for the purpose of investment, if the securities acquired or held

do not exceed 10 percent of the outstanding securities of the issuer.

17. The acquisitions described in paragraphs 11 and 12 above were not made solely for the purpose of investment within the meaning of the Hart-Scott-Rodino Act, and therefore did not qualify for the exemption from the reporting and waiting period requirements provided by Section (c) of the Act, 15 U.S.C. § 18a(c), and by the rules promulgated thereunder, 16 C.F.R. § 800 et seq.

18. Defendant Aero was continuously in violation of the Hart-Scott-Rodino Act during the period from August 13, 1986, through March 24, 1987, a total of 224 days.

19. Section (g)(1) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a (g)(1), provides that any person, or any officer, director, or partner thereof, who fails to comply with the Act shall be liable to the United States for a civil penalty of not more than $10,000 for each day during which such person is in violation of the Act.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that defendant's purchases of USAir voting securities during the period from August 13, 1986 through March 6, 1987 were made in violation of

the Hart-Scott-Rodino Act, 15 U.S.C. § 18a, and that defendant was in violation of that Act each day of the period from August 13, 1986, through March 24, 1987;

2. That defendant be ordered to pay to the United States an appropriate civil penalty as provided by Section (g)(1) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a(g)(1);

3. That the plaintiff have such other and further relief as the Court may deem just and proper; and

4. That the Court award plaintiff its costs of this suit.

Respectfully submitted,

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