

For improving air travel, WestJet's Sunwing acquisition is a step forward

This piece was published in the Globe and Mail on March 15, 2023



OPINION

Joshua Krane

Partner, Competition, Antitrust & Foreign Investment

Joshua Krane is a partner at McMillan LLP and led the team that represented Sunwing during the merger approval.

After more than a year-long wait, the federal government, last week, approved the [proposed merger between WestJet and Sunwing](#). The welcome news marks a stepforward for an industry that has faced a spate of challenges as a result of the pandemic – and still has a ways to go until it is sailing through clear skies.

The proposed merger marks an important free-market moment for the airline industry: An airline with capacity for growth absorbs a smaller, struggling player, which will be good news in the long run for the industry and create more connectivity for travellers.

Canadians have voiced their discontent about air travel. The problems started last summer, when airlines struggled to reboot as travel levels began to pick up again. [Then storms pummelled our largest airports over Christmas](#) and the busiest travel

season in years, causing miserable flight delays for thousands of Canadians. Airline and airport executives were rapped on the proverbial knuckles by members of Parliament, and the industry apologized for the upset and delays.

Consumers and politicians alike continue to demand a permanent fix: a guarantee that travellers won't be stranded at home or abroad and that service levels will be maintained at airports across the country – yes, even in smaller markets.

Some agree the fix is more competition, while others have suggested larger penalties for airlines under the Air Passenger Protection Regulations. Neither the carrot nor the stick is the clear answer.

The Competition Bureau believes that having more competitors is better for the industry. But the reality of operating some of the most complex machines on Earth, over a vast territory, in a cold and ever-changing climate, makes scale and efficiency equally important considerations as well.

The lack of scale was a big reason why Canada's airlines faced such difficulty at Christmas time, and why we have seen a realignment of routings since the emergence of the pandemic. Airlines simply cannot base an aircraft at an airport and suddenly open up flights to the world. The planes need to be crewed, fuelled and stocked.

Flight times and ground support need to be co-ordinated with departures and arrivals at airports. It's harder and more expensive to do that without scale.

It's also why allowing foreign competition isn't the best fix for the system. The densest and most well-travelled routes would attract the most investment, leaving Canadians in smaller centres without additional choices.

So simply increasing the number of airlines isn't an answer. Nor is strengthening the Air Passenger Protection Regulations despite the recent public and government attention. The idea we should just "make the airlines pay for their delays" is good politics. It's not good policy. Ultimately, travellers would pay the price through higher fares to cover the costs of regulatory compliance or cancelled service. The costs of compensation can, at least for smaller airlines, be higher than the fares they charge.

The approved WestJet-Sunwing merger will create one, larger airline better equipped to address the complex challenges facing the industry – and in turn provide consumers with choices when booking flights, whether for business or leisure travel to sun-soaked destinations. The scale created by the merger will allow the new, larger WestJet to compete more directly not just with Air Canada but also with foreign players in Canada.

As part of [WestJet](#), Sunwing passengers will have a better in-flight experience. There will be more planes available to get passengers to their destinations and open up new destinations to Canadians living in smaller communities, especially in Western Canada. The merger will also allow WestJet to more efficiently co-ordinate staffing, gates, take-off and landing spots, and gauges.

It doesn't solve everything, of course. A great part of the problem for air travel in Canada is the lack of funding for airport infrastructure, and only government can solve that.

But cabinet's decision to approve the merger is a good first step. Despite recent turbulence in the return to prepandemic travel levels, it is an exciting time for the industry. Canadians are looking to get back to the skies and see the world again. And airlines, big and small, want to get them there – they just need government to create the right conditions for their success.

The approved merger last week is a signal we are nearing that destination, where carriers can grow as the free market demands, but with the balanced regulation required of such a complex and essential industry.



Contact

Joshua Krane, Partner Competition, Antitrust & Foreign Investment

Toronto
416.865.7299
joshua.krane@mcmillan.ca
[Read Full Bio >](#)

