

Unifor's Submission to Transport Canada's Public Interest Review of the Proposed Acquisition of Sunwing by WestJet

July 2022

About Unifor

Unifor is Canada's largest private sector union with 315,000 members in more than 20 distinct industries across the Country.

In the aviation sector, Unifor represents more than 16,000 members from coast to coast to coast including nearly 2,000 directly affected by the potential acquisition of Sunwing by WestJet. Affected members include:

- 450 Sunwing Pilots
- 800 WestJet customer service representatives and Vancouver and Calgary with more being added in Toronto soon
- 550 members who work for Swissport, a contracting company doing work for Sunwing in Vancouver and Toronto; and
- 41 members at ATS who perform work contracted by WestJet.

The union advocates for all working people and their rights, fights for equality and social justice in Canada and abroad, and strives to create progressive change for a better future.

Summary

Any public interest review must include the impact of a merger or acquisition on both the quantity and quality of jobs. Historically, Competition Bureau investigations and Transport Canada Public Interest reviews have not contemplated the effects of proposed mergers or acquisitions on jobs despite the fact that the Competition Act technically leaves room to contemplate these effects¹ and that creating and maintaining high quality employment opportunities in the Country's labour market is directly in the public interest.

Unifor is concerned that, despite the promises made to create jobs, this acquisition will actually lead to a decrease in the quality of employment sustained by the new entity and that the quantity of employment will actually decline, not increase.

As a result, Unifor recommends government strongly consider the following points and develop obligations WestJet is required to meet in order to mitigate the worst effects of mergers and acquisitions on workers. The acquisition should be blocked if these caveats cannot be mitigated:

1. Job creation: The Transport Canada consultation document identifies *Crew Optimization* as one of the potential impacts of the proposed acquisition. *Crew Optimization* is generally code for reducing the number of workers in the organization and/or contracting out. Fewer employed people or people employed in lower quality jobs is not an efficient outcome for the economy. It is imperative

¹ Shaban, R. & Qarri, A. (2021). Check and Balance: The case for improving Canada's Competition Act to protect workers

Transport Canada and the Competition Bureau investigate this outcome thoroughly before approving any acquisition.

2. Passenger experience: Passenger experience impacts could be positive or negative; the outcome depends largely on whether WestJet and ONEX continue down a path of contracting out, depressing working conditions and providing sub-optimal training in exchange for profit. Instead, the new entity should pivot to a strategy that invests in workers across the company in order to improve job quality and customer experience. If the organization does not pivot, even more travellers will be subject to poor customer service.
3. Collective Bargaining: Any integration of the two companies must include respect and acceptance of existing collective agreements. Current workers for each company have fought hard for the collective agreements they have. One unit, WestJet's customer service representatives are in bargaining right now for their first collective agreement. Using the moment of this acquisition as an opportunity to negate existing collective agreements or fire existing employees, will reduce employment quality in the company and in the sector.

Employment and Pricing Dynamics in the Air Transportation Industry

Deregulation of the air transportation industry over the last 25 years has had a detrimental impact on job quality. In fact, the quality of employment relative to other industries has gotten so bad that the industry is having trouble attracting the workers it needs to run all the functions required for a healthy and thriving industry.

Private equity firms such as ONEX Corporation are not likely to reverse this trend. If anything, the company will put further downward pressure on wages and working conditions in order to pad its profits and the pockets of private investors. If government has learned anything from the pandemic, it should be that padding profit at the expense of the workers only serves to increase income and wealth inequality, which is a drag on economic growth and prosperity².

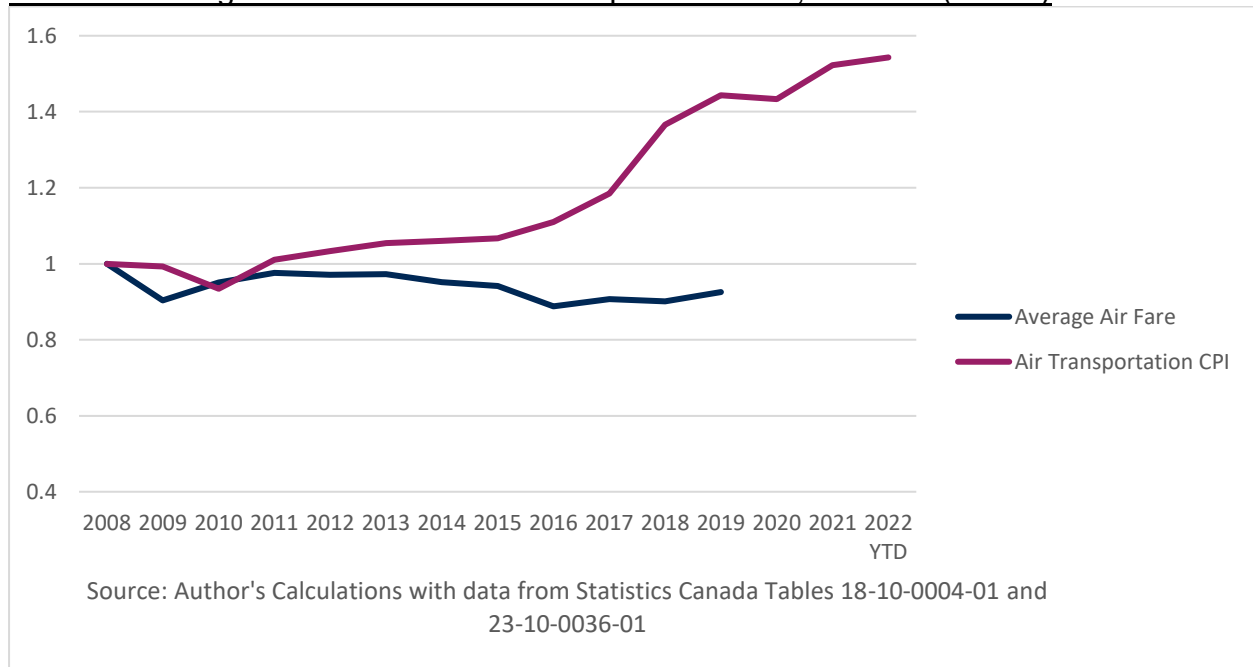
Notwithstanding the pandemic, demand for air travel has continuously increased since its inception. At the same time, prices have been under intense pressure. That combination, in turn, puts intense downward pressure on wages and working conditions. Under this system, shareholders have gained, passengers have seen some gains and some losses and workers have fallen behind.

Passengers have lost in recent years as corporations have relied on increased use of drip pricing, less legroom and diminishing investment in customer service to increase profit even further.

² Picket, K. & Wilkinson, R. (2009). *The Spirit Level: Why Equality is Better for Everyone*. The Equality Trust. Available from: [https://equalitytrust.org.uk/about-inequality/spirit-level#:~:text=The%20Spirit%20Level%3A%20Why%20Equality,and\)%20encouraging%20excessive%20consumption%22](https://equalitytrust.org.uk/about-inequality/spirit-level#:~:text=The%20Spirit%20Level%3A%20Why%20Equality,and)%20encouraging%20excessive%20consumption%22).

According to the Fare Basis Survey, the average price of airfare declined slightly between 2008 and 2019 (the survey was paused during the pandemic with no data available since Q2 2019) while the CPI for air transportation increase by 45% in the same time period. These two survey's clearly deliver different information on pricing patterns with the CPI aggregating additional details on spending patterns indicating that people are spending more on air travel as they travel further. There is no information on whether these prices include paying for extra baggage or other drip pricing techniques including charging for food and drinks or extra legroom. Though any experienced traveller will report increased hidden costs.

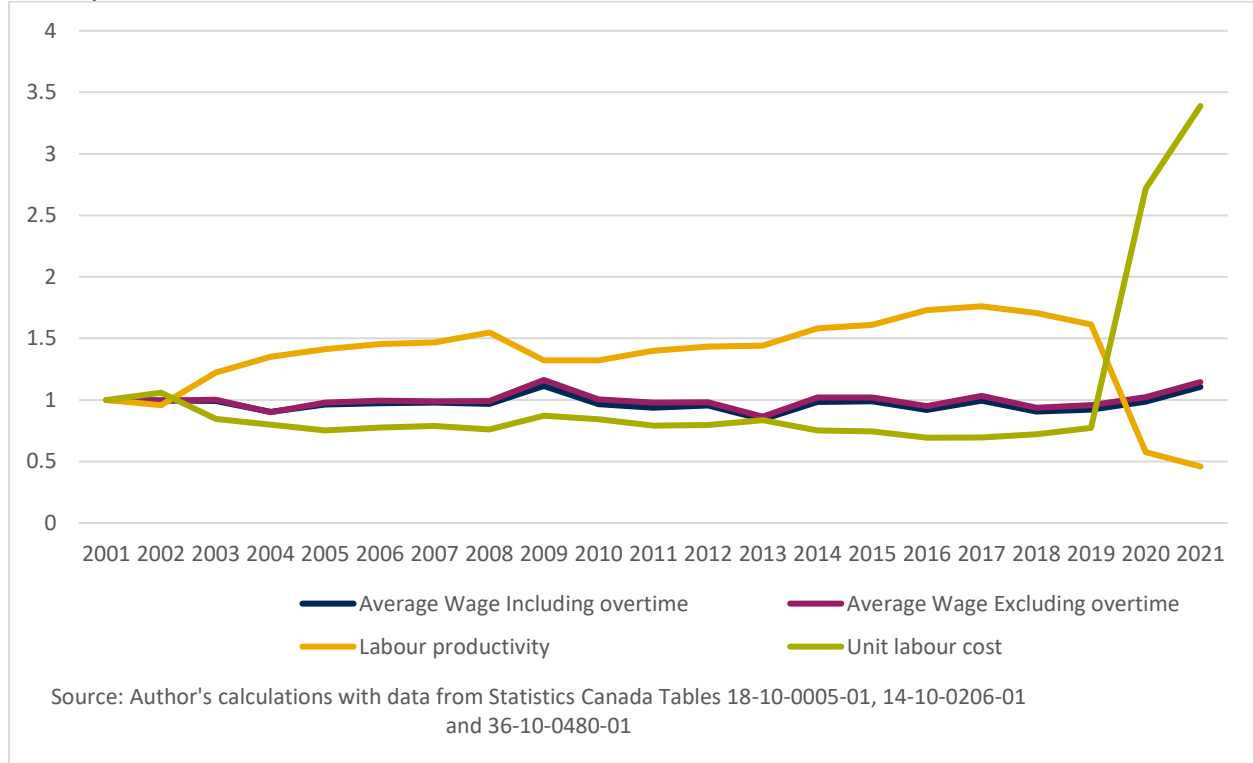
Table 1: Average Airfare and the Air Transportation CPI, 2008-22 (March)



Workers have lost in this competitive environment. Between 2001 and 2019, labour productivity increased by more than 60% but real wages during the same time period were stagnant. The pandemic years have distorted the data for 2020 and 2021 when demand for travel plummeted and travel restrictions were put in place. During this time, many airlines remained operational, operating fewer flights with substantially fewer passengers. The result was sky rocketing labour unit costs and plummeting labour productivity (as outlined in Table 2 below) not because workers productivity was lost but because there were fewer customers and aircraft to process.

A return to pre-pandemic trends are expected to be revealed once the data is available for 2022. Beyond 2022, the implementation of new technology and a continuation of the low cost, contracting out model are expected to reveal an even wider gap between wage gains and productivity gains unless government steps in to improve working conditions in the sector.

Table 2: Average real wage, labour productivity and unit labour costs in the Air Transportation sector: 2001-21



Collective Bargaining

The March 2, 2022 press release announcing the intended acquisition indicates that “WestJet Group and Sunwing intend to build on their collective history of constructive labour relations and will respect all arrangements with union and employee associations, including those in place and those currently under negotiation.”

There are currently at least five collective agreements in existence or under negotiation between the two organizations. Those agreements cover thousands of staff who are working hard to win and implement better working conditions in an otherwise often dismal employment environment.

Continuing the current collective bargaining trajectory for all WestJet, Encore, Sunwing and Swoop bargaining unit is imperative. These bargaining units must be guaranteed continuity throughout the life of the new entity not only until the collective agreement expires.

Furthermore, employment for all units must be maintained. There is fear that WestJet could abuse this moment and use it as an opportunity to fire large groups of workers based on the quality of their collective agreements.

Crew Optimization and Operating Efficiencies Code for Less Employment

WestJet's March 2, 2022 press release announcing the acquisition of Sunwing Airlines and Sunwing Vacations explicitly states the acquisition will "create jobs." However, in the consultation documents, the parties reference *crew optimization* and *improved efficiencies in operating costs* as potential impacts. These references are concerning as optimization is often used as code for cutting jobs or contracting them out, downgrading the quality of work that is available at the company and lowering the service standard. Mergers and acquisitions rarely create new jobs. Part of the reason for any proposed merger or acquisition is the potential for increased profit through efficiency gains including crew optimization. Unfortunately, the Competition Bureau has rarely, if ever, investigated the impact of mergers and acquisitions on jobs despite there being no law preventing the Bureau from doing so. Presumably, the lack of investigation is the result of insufficient capacity rather than there being no reason to investigate.

One of the main drivers for approving mergers or acquisitions that would otherwise be rejected in Canada is the efficiencies defence. This defence allows corporate actors to tally up the savings (aka profit) that will result from the merger. As long as those savings are larger than the detriment to the Canadian public, a merger will be allowed to go through. This may be efficient for the new entity, but it is not efficient for the Canadian economy.

Any Public Interest review must include an assessment of the quantity and quality of jobs created or sustained by the acquisition. Since the sale to ONEX Corporation, WestJet has contracted out the customer service work at all but four major bases. The result is poor customer service, not because the customer service workers are incapable, but because the company does not budget appropriate resources.

Unifor's new members working in customer service at WestJet speak of multiple horror stories about the lack of staff, and the lack of trained staff. For example, all wheelchair handling has been contracted out and passengers have been left for lengthy periods of time waiting to be taken to their families. Ramp handling has been completely contracted out leading many aircraft to sit on the tarmac for significant extra time just to be brought into the terminals. The wait for luggage is frequently at least an hour and at times as long as 3 hours. Allowing this pattern of employment to continue will exacerbate the problems currently experienced in the sector.

Unifor's Position on the Proposed Acquisition

Unifor supports a competitive, dynamic and innovative air transportation industry. These outcomes must include fair and decent wages, safe working conditions, employment stability and retirement security for workers.

It is not possible to create a positive public experience when employers pay poorly, provide precarious employment, cannot secure committed staff and do not employ enough workers to meet the demands of the business.

The acquisition could be a strategic fit for the public interest if ONEX and WestJet are required to create quality jobs so that workers and communities have more stability and have access to the resources necessary to provide the high quality customer service experience travellers require.

Unifor is concerned that the terms “crew optimization” and “operating efficiencies” are code for downsizing and contracting out. If this is the case, the acquisition would result in fewer workers and less or lower quality customer service for the industry. This is an outcome that must be avoided.

Existing collective agreements must be respected and maintained rather than voided or abandoned once the current agreements expire.

Furthermore, Unifor believes that the increased profit resulting from employing fewer people is not necessarily a net benefit to an economy. These additional profits resulting from unemployment should not be considered a benefit in any merger or acquisition and are not in the public interest. Canada’s current competition policy does allow for use of the “efficiencies defence” but many, including Unifor, recommend that this be changed. In the current post-travel restrictions environment, the air transportation industry is clearly struggling to attract the number of workers necessary to perform the work of the industry in a manner that ensures efficient travel. The public interest review must consider the post-acquisition entity’s plans to improve employment quality that enables the delivery of high quality customer service.

Transport Canada must take the above recommendations and considerations into account as it investigates whether the acquisition is indeed in the public interest.

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