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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D. C.

DEPT. OF TRANSPORTATION
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Joint Application of :
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 UNITED AIR LINES, INC. :
 and :
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 AIR CANADA :
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 :
 under 49 USC 41308 and 41309 for :
 approval of and antitrust immunity :
 for an expanded alliance agreement :

OST-96-1434-28

OBJECTIONS OF AMERICAN AIRLINES, INC.
TO ORDER 97-6-30

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July 24, 1997

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TO ORDER 97-6-30

American Airlines, Inc. hereby objects to show-cause Order 97-6-30, June 26, 1997, by which the Department tentatively granted approval of and antitrust immunity for an alliance agreement between United Air Lines, Inc. and Air Canada. The Department should not proceed to a final order in this docket without imposing evidentiary requirements on United and Air Canada that are equivalent to what the Department has imposed on American and British Airways in OST-97-2058.

United and Air Canada submitted their application on June 4, 1996. Even though nearly 13 months had passed when the Department issued Order 97-6-30, the applicants were not required to update or supplement their application, other than to discuss in general terms the impact of the Star Alliance (p. 31).

American and British Airways submitted their application on January 10, 1997. Only four months later, the Department, sua sponte, issued Order 97-5-16, May 16, 1997, setting forth a 19-item demand for additional evidence, including, in item 1, the unprecedented requirement to "provide all documents addressing any and all subject areas identified in...the DOT evidence request that have been produced between that date and the date of your response to this request for information."

Order 97-5-16 also required, inter alia, that American provide copies of commercial agreements in final, or in draft if there is no final agreement, on partnerships with other airlines (item 5); that American and British Airways construct numerous supplemental and updated exhibits (passim); and that American provide some 15,000 simulated CRS screen display printouts in U.S.-Europe markets (item 19).

The Department has not required United and Air Canada to provide any such updated or supplemental evidence (apart from a generalized description of the Star Alliance), despite the fact that their application had been pending for well over one year when the tentative approval order was issued.

Even before Order 97-5-16 imposed unprecedented burdens on American and British Airways, their application had already been subjected to extraordinary demands for supporting information. The volume and scope of the materials they have

provided to the Department far exceed what other applicants in immunity proceedings have ever had to produce.

- o On November 26, 1996, prior to the submission of the joint application, the Department provided American and British Airways with a 31-item request for documents and evidence that went well beyond any other request that the Department has made in an immunity proceeding.

- o The joint application, as submitted in January, was accompanied by thousands of pages of documents produced by American and British Airways in response to the Department's November request. We believe that American and British Airways produced at least 10 times the amount of material that other applicants have submitted to the Department, even though the proposed American/British Airways arrangement is smaller in scope than other alliances the Department has immunized using highly expedited procedures.¹

¹By almost every measure, the United/Lufthansa/SAS alliance, covering 55,000 worldwide city-pairs, is larger than American/British Airways, with 36,000. United/Lufthansa/SAS has greater annual revenues, operates more jet equipment, flies more revenue passenger miles, and enplanes more passengers than American and British Airways combined. Moreover, AA/BA would have only a 42% share of slots at London Heathrow, far below the percentage of slots controlled by UA/LH/SK at Frankfurt (63%) and at Copenhagen (63%), and that controlled by NW/KL at Amsterdam (59%). Indeed, British Airways has the smallest share of all major European carriers of operations at their principal cities.

o By Order 97-3-42, March 27, 1997, the Department required the joint applicants to list and describe publicly each of the documents that they had filed under a claim for in camera treatment. In other proceedings, the Department has reviewed such documents on an ex parte basis, without requiring any such public listing and description by the applicants.

o As noted above, by Order 97-5-13, the Department made a 19-item request for additional information, including, in item 1, a requirement that the parties update their January document submission in its entirety. No applicants in other immunity proceedings -- including United/Air Canada -- have been subjected to such an order.

o Despite the effort that American and British Airways made in their January joint application to respond in full to the Department's November request, there is still no scheduling order for answers on the merits. In Northwest/KLM (Docket 48342), answers were required 21 days after the application was filed; in United/Lufthansa, 34 days; and in United/Air Canada, 61 days. As of today, the American/British Airways application has been pending for 195 days without answers on the merits.

The Department has placed paralyzing burdens on the processing of the American/British Airways application. Yet in Order 97-6-30, the Department has tentatively approved the

United/Air Canada application without evidentiary requirements that are even remotely akin to what the Department has imposed on American and British Airways.

United and Air Canada should be ordered to submit the same type of information and evidence that American and British Airways have been required to file in OST-97-2058, including the submission of all relevant internal documents that have come into existence from June 4, 1996 to date; copies of agreements (in final or draft form) with other airlines; supplemental and updated exhibits; and simulated CRS screen display printouts in U.S.-Canada markets that are equivalent to what American has been ordered to produce in U.S.-Europe markets. Fair and even-handed administration of the Department's docket requires no less.

Finally, we note that United is continuing to pursue a blatant double standard when it comes to its own alliances, such as that proposed with Air Canada, and alliances proposed by its competitors.

o United has complained that the proposed American/British Airways alliance is too large. Yet United/Air Canada represents the combination of the largest U.S. carrier and the largest Canadian carrier, and will account for more transborder passengers than any other airline or airline alliance. And

United's Star Alliance would be by far the largest combination of airlines in the world.

- o United and Air Canada hold a higher percentage of slots at Chicago O'Hare (United alone has 46%) than American/British Airways will collectively hold at London/Heathrow (41%). And at O'Hare, unlike Heathrow, no new slots are being created.

- o While American and British Airways operate six overlap routes between the U.S. and the U.K., United and Air Canada operate five overlap routes between the U.S. and Canada. American and British Airways provide the only nonstop U.S.-U.K. service on one overlap route (Dallas/Ft. Worth-London), while United and Air Canada operate the only nonstop U.S.-Canada service on two of their overlap routes (San Francisco-Vancouver and San Francisco-Calgary). Indeed, the fact that the number of "monopoly" routes for the United/Air Canada alliance has increased from one to two in the 13 months since their application was submitted should surely require them to update their application -- just as American and British Airways have been ordered to do in OST-97-2058.

- o United and other opponents of the American/British Airways alliance have contended that in the long-haul U.S.-U.K. market, indirect service is not a substitute for nonstop service. Yet United has claimed exactly the opposite

in the much shorter haul U.S.-Canada routes. See Order 97-6-30, p. 9 ("with respect to the other nonstop markets where the Joint Applicants compete, they claimed there is sufficient competing one-stop and connecting service to discipline the Joint Applicants' fares on these routes").

o United and Air Canada are seeking antitrust immunity to act "essentially as if they were a single firm," with route and schedule coordination; integration of marketing, advertising, and distribution service; co-branding and joint product development; pricing, inventory, and yield management coordination; revenue sharing; joint purchasing and procurement; coordination of ground and inflight services; integration of belly cargo services; integration of information services; coordination of frequent flyer programs; harmonization of financial reporting; development of common product standards, service levels, and inflight amenities; and sharing of facilities and services at common airports (Order 97-6-30, p. 5). American and British Airways are seeking to do exactly the same -- nothing more and nothing less -- and yet United has attacked the AA/BA proposal at every turn.

o In this proceeding, United and Air Canada have stated that, through their alliance agreement, "they intend to broaden and deepen their cooperation in order to improve the efficiency of their coordinated services, expand the benefits

available to the traveling and shipping public, and enhance their ability to compete in the global marketplace" (Order 97-6-30, p. 6). American and British Airways intend to do the same.

o United and Air Canada "intend to develop an integrated global route network based on a multi-hub system, in order to achieve economies of scope and scale similar to those of domestic hub networks, and to pass those economies on to consumers in the form of lower fares and improved service" (Order 97-6-30, p. 6). American and British Airways intend to the same.

The Department should not approve the United/Air Canada application, while continuing to delay action on the American/British Airways proposal pending in OST-97-2058. And as shown above, the Department should require United and Air Canada to update and supplement their application before proceeding further.

Respectfully submitted,



CARL B. NELSON, JR.
Associate General Counsel
American Airlines, Inc.

July 24, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by fax on United Air Lines, Inc. and Air Canada, and by first-class mail on all persons named on the service list attached to the United/Air Canada joint response of July 8, 1997.


CARL B. NELSON, JR.

July 24, 1997