

BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D. C.

DEPARTMENT OF TRANSPORTATION  
98 MAR 27 AM 11:24  
DOCKET SECTION

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Joint Application of

AMERICAN AIRLINES, INC.  
and  
LINEA AEREA NACIONAL CHILE,  
S.A. (LAN CHILE)

under 49 USC 41308 and 41309 for  
approval of and antitrust immunity  
for alliance agreement  
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OST-97-3285-26

MOTION OF AMERICAN AIRLINES, INC. TO STRIKE  
REPLY OF AEROVIAS DE MEXICO, S.A. de C.V.

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MOTION OF AMERICAN AIRLINES, INC. TO STRIKE  
REPLY OF AEROVIAS DE MEXICO, S.A. de C.V.

American Airlines, Inc. hereby moves to strike the so-called reply submitted in this docket by Aerovias de Mexico, S.A. de C.V. ("Aeromexico") on March 24, 1998.<sup>1</sup> Aeromexico's document is not a legitimate reply at all, but is instead a late-filed objection to the American/Lan Chile application, and displays an extraordinary contempt for the orderly conduct of proceedings before the Department, and for the Department's procedural orders.

By Order 98-2-21, February 20, 1998, the Department required objections on March 13, 1998, and replies on March 24, 1998. Timely objections were filed by three parties -- Conti-

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<sup>1</sup>Aeromexico did not have the courtesy to serve American by hand. Its pleading arrived by mail on the afternoon of March 26, 1998.

mental Airlines, Inc., Delta Air Lines, Inc., and United Air Lines. On March 24, 1998, American and Lan Chile filed a joint reply. The matter is now ripe for a decision by the Department, and American and Lan Chile urge that a favorable show-cause order be issued on an expedited basis.

Aeromexico's pleading, which exceeds 50 pages, purports to be a reply to the objections submitted by Continental, Delta, and United (p. 2). That is a sham. The document is in reality an untimely objection in brazen disregard of the Department's scheduling order. The Department cannot allow parties to flout its procedural orders as Aeromexico has done here.

Moreover, Aeromexico is a codeshare ally of Delta, while Aeromexico's commonly-controlled sister company, Mexicana, is a codeshare ally of United. Indeed, Mexicana and United are themselves seeking approval to codeshare beyond Mexico to points throughout Central and South America, including Chile (OST-98-3322, January 12, 1998). Nowhere in its 50 plus page paper does Aeromexico even acknowledge its ties to Delta and (through Mexicana) United. We cannot help but speculate that Aeromexico is being used as a proxy to cause delay in processing the American/Lan Chile application by submitting an out-of-time objection.

In any event, it is clear that Aeromexico, a carrier of Mexico, has no legitimate standing to appear before the Department to object to an arrangement between carriers of the United States and Chile. If the Department were to entertain Aeromexico's bizarre reply, there would be no end to the mischievous pleadings that third-country carriers -- at the urging of their U.S. carrier confederates -- would submit in proceedings where they have no standing to object, but are merely being used to derail the orderly administration of the Department's docket.

Accordingly, the Department should strike Aeromexico's reply, and in doing so should make clear that sham tactics, such as pretending that a late-filed objection is a timely reply, will not be countenanced.

Respectfully submitted,

A handwritten signature in black ink that reads "Carl B. Nelson, Jr." The signature is written in a cursive, flowing style with a large, prominent initial "C".

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

March 27, 1998

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by fax on Aeromexico, Continental, Delta, United, and Lan Chile, and by first-class mail on all other persons named on the service list in this proceeding.

  
CARL B. NELSON, JR.

March 27, 1998