

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
DOCKETS

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Joint Application of)
American Airlines, Inc.)
And)
Linea Area Nacional Chile, S.A.)
(Lan Chile))
under 49 U.S.C. Sections 41308 and)
41309 for approval of and antitrust)
immunity for alliance agreement)

Docket OST-97-3285 - 55

ORIGINAL

COMMENTS OF THE
INTERNATIONAL AIR TRANSPORT ASSOCIATION
And Motion for Leave to File Late

Communications with respect to
this document should be sent to:

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May 21, 1999

**Comments of the International Air Transport Association
And
Motion for Leave to File Late**

The International Air Transport Association (IATA) hereby moves to file its Comments in this American-Lan Chile Alliance docket one day out of time. IATA wishes to state clearly its position on the so-called 'IATA condition' that the Department has proposed to attach to its (tentative) approval of this alliance application. Order 99-4-17, at 22. As can be seen from the short Comment below, IATA does not wish to relitigate here the condition that has been attached in several earlier approvals of alliances involving different carriers. The grant of this motion to file out of time will not adversely affect the rights of the applicants or their opponents and should not delay the Department's review of the application. IATA takes no position on the merits of the application submitted by American and Lan Chile. IATA's Comments can be accepted without prejudice to the interests of any other party. For the foregoing reasons, IATA requests that the Department accept its late filing.

IATA's position can be stated quite briefly. IATA continues to object to the imposition of the condition, now routinely applied to airline alliances that the Department immunizes, which, for example, makes the antitrust immunity for the alliance contingent upon the "withdrawal by the applicants from IATA Tariff Coordination activities affecting through prices between the United States and

Scandinavia and between the United States and any other country that has designated a carrier whose alliance with a U.S. carrier has been or is subsequently given immunity by us." Order 96-11-1, at p. 19. See also, Order 96-6-33, at 17-21; and Order 96-5-27, at 9-13.

IATA is convinced that the decision to disable the Tariff Conference participation of alliance partners rests on a miscalculation of the benefits that flow from broad Conference participation, but it does not wish to reopen the consideration of the merits of the 'IATA condition' in this docket at this time. The reasonableness of the Condition can and should be examined again, but that evaluation has nothing to do with the particular elements of this Alliance between American and Lan Chile.

This Alliance Order, if made final, does illustrate the broad geographic sweep of the condition, since it will disable the participation of all other carriers in immunized alliances (heretofore including only European Country carriers) from IATA Tariff Conferences considering fares and rates in the US-Chile market. IATA will also ask the Department to re-examine the geographic scope of its condition, but not here. This same geographic scope of the condition has been applied in every immunized alliance, and it should be re-examined in a format that can consider the scope of the condition in all the Alliances at once.

IATA will formally request a re-examination of the 'IATA Condition' after it has consulted with its member airlines that are subject to it. IATA trusts that the Department will consider a new request to re-examine this condition

when it is presented and will not regard IATA's decision not to contest the application of the condition in this docket as acquiescence to it.

Respectfully submitted,

A handwritten signature in black ink, reading "David M. O'Connor". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

David M. O'Connor
Director, External Relations, U.S.
International Air Transport Association

Certificate of Service

I certify that I have served a copy of the foregoing
Comment and Motion for Leave to File on Counsel for the
Joint Applicants by Telefax on this 21st day of May 1999.



David M. O'Connor