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DEPT. OF TRANSPORTATION  
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**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

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Joint Application of )  
 )  
**UNITED AIR LINES, INC.** )  
**and** )  
**AIR NEW ZEALAND LIMITED** )  
 )  
 under 49 U.S.C. §§ 41308 and 41309 )  
 for approval of and antitrust )  
 immunity for alliance agreements )

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Docket OST-99-6680 - 6

**CONTINGENT MOTION FOR LEAVE TO FILE AND REPLY OF  
AIR NEW ZEALAND LIMITED AND UNITED AIR LINES, INC.**

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DATED: February 17, 2000

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DEPARTMENT OF TRANSPORTATION  
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**DATED: February 17, 2000**

**CONTINGENT MOTION FOR LEAVE TO FILE AND REPLY OF  
AIR NEW ZEALAND LIMITED AND UNITED AIR LINES, INC.**

Pursuant to the Department’s January 12, 2000 Notice and Rule 4(f) of the Department’s Rules of Practice (14 C.F.R. Part 302), Air New Zealand Limited (“Air New Zealand”) and United Air Lines, Inc. (“United”) hereby reply to the Motion for Leave to File and Answer of Air Pacific Limited (“Air Pacific”) filed February 8, 2000.<sup>1</sup>

1. Air Pacific has advanced no public interest justification for denying the public the efficiencies and service benefits that would be derived from an immunized Air New Zealand/United alliance. Rather, Air Pacific “conditionally” opposes approval of a coordinated Air New Zealand/United alliance unless it can also obtain antitrust immunity for its own alliance operations. Notably, Air Pacific has not filed an application seeking immunity for its

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<sup>1</sup> Air Pacific filed its Motion and Answer six days after the deadline for answers in this proceeding. If the Department accepts Air Pacific’s untimely Answer, to the extent necessary, Air New Zealand and United request leave to file this Reply in order to address Air Pacific’s comments. This Reply is timely filed under Rule 4(f) and within the seven days permitted for the filing of a reply under the Department’s January 12, 2000 Notice.

American/Qantas relationships, although it is free to do so. Any such application would be analyzed on the same statutory public interest standards as the Air New Zealand/United application.

2. Contrary to Air Pacific's claim, competition between the United States and the Pacific Islands will not be reduced by a grant of immunity for the Air New Zealand/United alliance. United itself has never conducted operations that directly compete with either Air Pacific or Air New Zealand on such Pacific Island routes. Thus, Air Pacific's claim that the grant of immunity would lead to the alliance being "dominant" on these routes is wholly illusory. Indeed, the United/Air New Zealand code sharing is already in place in the Pacific Islands, competing with Air Pacific's substantial joint operations with American and Qantas. What Air Pacific apparently hopes to avoid is competing with the more efficient, coordinated service that Air New Zealand and United could produce under an immunized alliance. But these are precisely the type of service enhancements that generate the public benefits upon which grants of immunity are predicated. As the Department stated in its recent report on international alliances, immunized alliances operating in the transatlantic are "providing improved and more competitive services," "stimulating demand," and "leading to procompetitive changes in the industry structure? These are among the benefits that will be generated in the South Pacific from a grant of immunity to Air New Zealand/United.

3. In summary, Air Pacific cannot articulate any risk to the public or, indeed, any cogent threat to its own relationships with American and Qantas that could result from a grant of antitrust immunity to Air New Zealand/United. Air Pacific will continue to maintain its strong home base in the Pacific Islands and enjoy traffic feed from American Airlines and Qantas, the

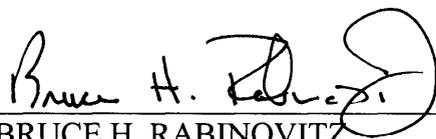
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<sup>2</sup> *International Aviation Developments: Global Deregulation Takes Off* (December 1999), at 2.

dominant carrier in the South Pacific region, to support its network. At the same time, Air New Zealand and United will be able to develop the efficiencies, superior service and enhanced network contemplated by their immunity application. These developments will surely benefit the traveling public and stimulate a greater level of service and competition in the South Pacific.

For the foregoing reasons, the Air New Zealand/United application for antitrust immunity should be promptly granted.

Respectfully submitted,



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Dated: February 17, 2000

**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served a copy of the foregoing Contingent Motion For Leave to File and Reply of Air New Zealand and United Air Lines, Inc. on all persons named on the attached Service List by causing a copy to be sent via facsimile or first-class mail, postage prepaid.

  
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Kimberly F. Lewis

**DATED: February 17, 2000**

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