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SERVED: April 7, 2000



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

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**Joint Application of American Airlines, Inc. and the TACA Group  
for Approval of and Antitrust Immunity for  
an Alliance Agreement under 49 U.S.C. §§ 41308 and 41309  
Docket OST-2000-7088 - 7  
and  
American Airlines, Inc., *et al*, and the TACA Group  
Reciprocal Code-Share Service Proceeding  
Docket OST-1996-1700 - /5/**

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**NOTICE**

On March 17, 2000, American Airlines, Inc. ("American"), and its regional affiliates and the TACA Group airlines ("TACA") filed an application for approval of and antitrust immunity for an Alliance Agreement dated September 27, 1996. Each applicant also submitted additional documents and information in connection with the application and filed a joint motion under 14 C . F . R. 302.12 (Rule 12) of our regulations requesting confidential treatment for this material. They assert that the documents are proprietary, commercially sensitive, and confidential in nature which qualifies for being withheld from public disclosure. The joint applicants ask that access to this material be limited to counsel and outside experts for interested parties. The motions were unopposed. <sup>1</sup>

On the same date, American and the TACA Group (Docket OST-1996-1700) filed a joint application for renewal and amendment of their code-share authority and other related exemption authority. <sup>2</sup>

As an initial matter, in order to provide interested parties access to the material filed in the non-public record of Docket OST-2000-7088, under conditions agreed to by the joint

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<sup>1</sup> We will rule on the merits of these Motions by subsequent order.

<sup>2</sup> See Order 98-5-26, issued May 20, 1998. The joint applicants invoked the automatic extension provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), as implemented by 14 C.F.R. Part 377.

The record indicates that American and the TACA Group agreed to allow Continental Airlines, Inc. to file answers to these requests on April 7, when answers are due to the antitrust immunity application. See letter dated March 27, 2000, in each of these dockets.

applicants and imposed by the Department under similar recent **circumstances**,<sup>3</sup> we will grant immediate interim access to all documents covered by the Rule 12 Motion to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance. Moreover, we find it appropriate to grant interim access to any subsequent materials that may be filed in this case under a Rule 12 Motion to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance, unless the party filing the motion objects.

We expect all affidavits to state, at a minimum, that **(1) the affiant** is counsel for an interested party or an outside independent expert providing services to such a party; **(2) the affiant** will use the information only for the purpose of participating in this proceeding; and **(3) the affiant** will disclose such information only to other persons who have filed a valid affidavit in Docket **OST-2000-7088**. **Affiants** and interested parties must understand and agree that any pleading or other filing that includes or discusses information contained in the covered documents must itself be accompanied by a Rule 12 motion requesting confidential treatment. Affidavits must be filed in Docket **OST-2000-7088** with the Department of Transportation, Dockets, Room PL-401, 400 Seventh Street, S. W., Washington, D.C., 20590.

**Affiants** having filed affidavits may examine the documents at the Department of Transportation at the Dockets location. **Affiants** must present a stamped copy of the affidavit filed with the Department of Transportation before examination of the documents.

On April 3, 2000, Delta Air Lines, Inc. (“Delta”) filed a motion asking the Department to require the joint applicants to produce additional documents and information that Delta argues are “vital” to the Department’s ability to make an informed decision, and for interested parties to comment, on these two cases.<sup>4</sup> Delta also asks the Department to clarify that confidential documents produced by the joint applicants in either proceeding may be used in reference to the other proceeding; that the Department should suspend the answer date for comment on the antitrust immunity request until interested parties have had the opportunity to review the requested additional information; and that interested parties should also have the opportunity to file new or supplemental answers to the code-share renewal application, once the requested additional information has been provided by the joint applicants. To allow the Department sufficient time to consider the merits of Delta’s motion and any answers that may be filed in support or opposition to this motion, we find it appropriate to suspend the procedural schedules in Dockets **OST-2000-7088** and **OST-1996-1700**. We will rule on Delta’s motion by separate Department action.

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<sup>3</sup> See Notices in Dockets **OST-1999-6528** dated January 7, 2000, and **OST-1999-5674** dated July 19, 1999.

<sup>4</sup> Answers to Delta’s motion are due by April 12, 2000.

Finally, when we have determined that the records of these cases are complete, we will announce an appropriate procedural schedule for the processing of these two cases.

We shall serve this notice on all persons on the service list in both dockets.

By:

**A. BRADLEY MIMS**  
Deputy Assistant Secretary for Aviation  
and International Affairs

Date: April 7, 2000

(SEAL)

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