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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D. C.

Joint Application of AMERICAN AIRLINES, INC. and THE TACA GROUP for approval of and antitrust immunity for an alliance agreement under 49 USC 41308 and 41309	OST-00-7088 -27
AMERICAN AIRLINES, INC. et al. AND THE TACA GROUP RECIPROCAL CODESHARE SERVICES PROCEEDING	OST-96-1700 -171

JOINT REPLY OF AMERICAN AIRLINES, INC.
AND THE TACA GROUP

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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 USC 41308 and 41309	OST-00-7088
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JOINT REPLY OF AMERICAN AIRLINES, INC.
AND THE TACA GROUP

American Airlines, Inc. and its affiliates (TWA Airlines LLC,[1] American Eagle Airlines, Inc. and Executive Airlines, Inc. d/b/a American Eagle) and the TACA Group (Aviateca S.A., Lineas Aereas Costarricenses S.A., Nicaraguense de Aviacion S.A., TACA International Airlines S.A., and TACA de Honduras S.A.), pursuant to the Department's Notice of April 27, 2001, hereby jointly reply to the answers submitted on May 18, 2001 by Continental Airlines, Inc., Delta Air Lines, Inc., and the City of Houston.

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[1]TWA Airlines LLC is a wholly-owned subsidiary of American. See Order 2001-4-7, April 4, 2001, transferring authority. American requests that TWA Airlines LLC be included in the final immunity order as an affiliate, consistent with the Department's practice. See, e.g., American/Swissair/Sabena, Order 2000-5-13, May 11, 2000, p. 1 (granting immunity to the applicants, "including their affiliates").

The Department should promptly conclude this proceeding by granting antitrust immunity to American and the TACA Group. The Department should also renew, for an indefinite term, the codesharing authorizations granted by Order 98-5-26, May 20, 1998, but without the Miami blocked-space condition that was initially imposed.

As shown below, the arguments made by Continental, Delta, and the City of Houston are stale, and as incorrect now as when they were first put forward. Such arguments are premised on competitive conditions in 1997 and early 1998, and they ignore the dynamic and far-reaching changes that have occurred in U.S.-Central America markets since that time. Their arguments also ignore the adverse international aviation policy implications if the Department fails to grant immunity in this case, and the significant passenger benefits that granting immunity will bring.

It is hardly surprising that Continental and Delta oppose the American/TACA Group immunity application. They have been the principal beneficiaries of the 1997 open skies agreements between the United States and the TACA Group's Central American homelands, while the TACA Group carriers, lacking meaningful access to vital flow traffic, remain unable to compete effectively in U.S.-Central America markets. The status quo favors Continental and Delta, and they wish to keep it that way. The public interest, however, requires that American and the TACA Group receive immunity without delay.

I. CONTINENTAL, DELTA, AND THE CITY OF HOUSTON COMPLETELY IGNORE THE DRAMATIC CHANGES IN U.S.-CENTRAL AMERICA COMPETITION SINCE 1997-1998

In their answers, Continental, Delta, and the City of Houston each attempts to portray the U.S.-Central America market as non-competitive and dominated by American and the TACA Group. In fact, competition between the U.S. and Central America is thriving, due in large measure to the expansion of services by Continental and Delta made possible by the open skies agreements signed by the United States and each of the TACA carriers' homelands on May 8, 1997.

Nearly two years ago, the Department noted the success of open skies in Central America, and said that such success demonstrates "that U.S. airlines can compete effectively with the American/TACA Group alliance in these markets with the opportunities provided by those agreements." American/Lan Chile, Order 99-9-9, September 13, 1999, p. 13. "U.S. airlines," the Department found, "are taking advantage of the new opportunities made possible" by the open skies agreements with Central American nations, and "are providing the American/TACA Group with effective and extensive competition." Id., p. 12. Earlier this month, the Department granted antitrust immunity to Continental and Compania Panamena de Aviacion, S.A.

(COPA), Order 2001-5-1, May 3, 2001.[2] In doing so, the Department again found that "the U.S.-Central America market is competitive." Id., p. 8.

The Department further found in the Continental/COPA immunity order that, because of the open skies agreement between the United States and Panama, "any U.S. airline may serve Panama from any point in the United States, [and] the record in this case does not show any significant operational barriers to entry in the U.S.-Panama market (i.e., access to slots or airport facilities) or marketing barriers that would prevent entry." Id. Similarly, the U.S.-Central America markets served by American and the TACA Group are fully open to entry, and Continental and Delta have not alleged any operational barriers to entry for the reason that there are none.

Continental's and Delta's answers fail to address, or even acknowledge, the sweeping competitive changes in U.S.-Central America markets that have occurred since 1997, when open skies took effect. COPA, which was a member of the TACA Group until 1998, now has an immunized alliance with Continental. Over the past few years, frequency and passenger bookings

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[2]Surprisingly, Continental's answer fails to mention its immunized alliance with COPA, and even goes so far as to assert that "nothing has happened" (p. 6) since the Department of Justice submitted comments on the American/TACA Group codeshare (OST-96-1700) in January 1998, more than three years ago. Such a statement by Continental is patently untrue.

shares for American and the TACA Group between the U.S. and Central America have declined relative to other U.S. carriers such as Continental and Delta (Exhibit JA-4), a fact well recognized by the Department.

In show-cause Order 97-12-35, December 31, 1997, in the American/TACA Group codeshare proceeding, the Department stated that American and the TACA Group "have about a 67 percent share of passengers transported in the U.S.-Central America market" (p. 25 n. 53). In Order 2001-5-1, May 3, 2001, approving the Continental/COPA immunity arrangement, the Department noted that the same carriers, less COPA, "had a nonstop passenger market share of about 29.4 percent" in the same market (pp. 7-8).

More specifically, between the U.S. and Belize, the American/TACA Group combined frequency share fell by 13.5 percentage points, while their combined passenger bookings share decreased by 13.9 percentage points, during the 1997 to 1999 period. Between the U.S. and Guatemala, the American/TACA Group combined frequency share fell 19.3 percentage points, and the passenger bookings share fell 8.2 percentage points, over the same period.

Similarly, in the U.S.-Honduras market, the American/TACA Group market share decline in frequencies was 7.5 percentage points, and in passenger bookings, 6.3 percentage points.

In the U.S.-Nicaragua market, the declines in frequency and passenger bookings share were 9.0 and 1.9 percentage points, respectively. In the remaining two markets, U.S.-Costa Rica and U.S.-El Salvador, the American/TACA Group share of frequencies remained approximately the same, but the passenger bookings share declined by 6.6 and 6.7 percentage points, respectively, during the 1997 to 1999 period.

Since 1997, the principal competitors of American and the TACA Group have made significant inroads into these markets, capturing both frequency and passenger bookings market share. Continental's frequency share, for example, increased between the U.S. and Belize (13.5 percentage points), Costa Rica (7.9), Guatemala (4.7), Honduras (7.2), and Nicaragua (8.7). Continental's market share gains in passenger bookings were equally impressive in the 1997 to 1999 time period, with gains of 15 percentage points to Belize, 7.8 to Costa Rica, 4.5 to Guatemala, 6.0 to Honduras, and 4.3 to Nicaragua. In the remaining market, U.S. to El Salvador, Continental's frequency share declined slightly, but its market share of passenger bookings increased. See Exhibit JA-4. Just this month (May 2001), Continental has added new nonstop service from Newark to El Salvador, and new one-stop service from Newark to San Pedro Sula (via Guatemala City).

Similarly, Delta and United have made significant gains in many of their U.S.-Central America markets. For example, from 1998 to 1999, Delta's frequencies to Central America from its Atlanta hub increased by 62.3 percent, and its passenger bookings share nearly doubled. See Exhibit JA-4.

This relative strengthening of other U.S. carriers against American and the TACA Group will continue to flourish after the immunized American/TACA Group alliance is fully operational. Strong competition by Continental (which now has antitrust immunity with COPA), Delta, United, and a number of foreign carriers means that consumers will continue to have a wide array of choice and competitive price options for travel to Central America on competing routings via Atlanta, Houston, Newark, Los Angeles, and other gateways.

II. THE AMERICAN/TACA GROUP PRESENCE AT MIAMI PROVIDES NO BASIS FOR DENYING IMMUNITY OR CARVING OUT MIAMI-CENTRAL AMERICA ROUTES

In their answers, Continental and Delta generally allege -- without providing any evidence -- that the relative position of American and the TACA Group at the Miami gateway requires that the Department either deny outright the application for antitrust immunity, or impose a draconian carve-out remedy that would prevent the applicants from cooperating on Miami-Central America services. Once again, Continental and Delta have chosen to ignore the facts.

The American/TACA Group alliance has five overlapping nonstop city-pairs, three less than it had when the initial application for codeshare authority was filed in 1996 -- Miami to Guatemala City, Managua, San Jose, San Pedro Sula, and San Salvador. Pricing and capacity on these routes is currently disciplined by several factors, and will continue to be disciplined after American and the TACA Group receive immunity.

Under the U.S.-Central America open skies agreements, each of these markets is subject to nonstop entry at any time by any interested U.S. carrier. Ample operational facilities are available at Miami and at each of the five Central America points named above, and there are no slot constraints or other barriers to entry in any of these nonstop city-pairs. Unlike the international routes at issue in most other immunity applications, there is no need for specialized long-range aircraft for entry. The geographical distance between the United States and these five Central America cities is shorter than on many domestic routes.

Three European Fifth Freedom carriers -- Iberia, LTU, and Martinair -- are currently competing very successfully in local Miami-Central America markets. These three carriers now control a market share of approximately 20 percent in some of those markets. In 2000, Iberia's Miami-Central America frequencies increased by more than one-third, and its total bookings in Miami-Central America markets increased by more than one-quarter.[3] If European carriers with no U.S. hubs and few U.S. facilities can successfully expand their presence in these Miami markets, U.S. carriers should be able to do so as well. Certainly the deliberate business decisions of Continental and Delta not to challenge American's Miami hub directly, but to develop and expand traffic to Central America over their own U.S. hubs, should not be a basis for shackling the American/TACA Group's alliance at Miami.

In any event, Continental itself claimed in the Continental/COPA immunity proceeding that immunity will enable it to compete effectively on Miami-Central America routes. In approving that immunity application, the Department stated that "[a]t Miami, Continental argues that it will gain more effective access to COPA's Latin America gateway and allow it to compete head-to-head against American's Latin America hub operations. [Continental and COPA] state their proposed closer cooperation will enable them to increase their service in the Miami-Central America market and at their other U.S. gateways." Order 2001-5-1, May 3, 2001, p. 3. Having received the immuni-

[3] Specifically, Iberia operated a total of 1,485 nonstop frequencies from Miami to Guatemala City, Managua, San Pedro Sula, and San Jose in 2000, a 35.2 percent increase over 1999. Iberia accounted for 117,688 total passenger bookings in these same four markets in 2000, a 27.6 percent increase over 1999.

ty it requested for its alliance with COPA, Continental cannot continue to contend that it is frozen out of Miami.

Further, a substantial portion of the passengers traveling on Miami-Central America flights are flow passengers who originate or terminate in at least one city other than an end point in the relevant nonstop city-pair. Local on-board Miami-Central America traffic for American, for example, comprises approximately one-third on average of total bookings. The balance of American's on-board bookings, approximately two-thirds on average, consists of flow passengers, who have a wide choice of competing carriers and U.S. gateways in reaching their final destination. See Exhibit JA-6A.

The American/TACA Group alliance will face strong competition for the patronage of these flow passengers, who may choose to travel on Continental over Houston or Newark; on Delta over Atlanta; or on United over Los Angeles. Additional competition is available from the Continental/Northwest and Continental/COPA codesharing arrangements, and from an array of Fifth Freedom carriers.

Delta is extremely intent on expanding its network into Central and South America from its Atlanta hub. As stated by Delta's Chairman and CEO, Leo F. Mullin, Delta can successfully compete in the U.S.-Central America market for two reasons. First, Atlanta is a leading hub for serving points within the U.S. Second, a high percentage of passengers currently connecting over Miami can connect over Atlanta on Delta. See Comments of Leo F. Mullin to the Western Hemisphere Transportation Ministerial, New Orleans, Louisiana, December 15, 1998.

Delta's hub at Atlanta is one of the largest in the world. From Atlanta, Delta offers daily nonstop departures to 94 U.S. cities, or 68 more domestic nonstop destinations than American offers from its hub at Miami. In April 1998, Delta launched new service to San Jose, Panama City, Guatemala City, and San Salvador (Exhibit JA-4). In his December 1998 remarks, Mr. Mullin stated that Delta believes it is "on target," even though other carriers, including Continental, launched new competitive service as well.

Continental now offers daily or twice daily nonstop service between its Houston hub and every major city in Central America. Indeed, Continental is now much more of a presence in the Houston-El Salvador market than the TACA Group carriers. Continental also offers daily service from its Newark hub to San Jose and Panama City, and weekly service from Newark to El Salvador and from Newark to Guatemala City, continuing to San Pedro Sula. These services, and those of Continental's immunized alliance partner COPA, compete directly with those of American and the TACA Group for flow passengers. COPA competes very vigorously for U.S. to Central America traffic via its hub in Panama City and via the Continental/COPA codeshare route from that hub to Miami. Since 1997, both Continental and Delta have grown both in frequencies and bookings shares relative to American and the TACA Group. See Exhibit JA-4.

Finally, since the American/TACA Group alliance first arose in 1996, dramatic changes have occurred in the way businesses obtain airline service. Corporate discount customers do not simply purchase tickets for individual trips, but rather purchase on a volume basis across an airline's entire network. By doing so, these business passengers have chosen to identify themselves to carriers and thereby exploit the negotiating leverage they have to direct large volumes of travel across multiple routes.

Volume-discount customers force carriers to compete on a network basis by offering a large share of their steady, premium-heavy bookings over a bundle of routes. To obtain substantial network-wide price concessions, volume-discount customers aggregate their buying power by offering a large share of their bookings across all the routes they use. In this competitive environment, a reduction in the number of carriers on just a few routes is unlikely to harm business travelers covered by volume-discount programs. The threat of withdrawing a large portion of such business constrains carriers from exercising any market power that might be alleged on a particular route.

In these circumstances, the Department should reject the rhetorical and conclusory arguments of Continental and Delta -- unsupported by evidence in the record -- that anti-trust immunity should be denied because of the American/TACA Group presence at the Miami gateway.[4]

IV. INTERNATIONAL AVIATION POLICY MANDATES GRANTING IMMUNITY TO AMERICAN AND THE TACA GROUP

The past several years have witnessed a remarkable expansion of airline service to and from the United States as a result of open skies agreements. The Department has described open skies as "a critical element of our international aviation policy.... Open skies agreements assure the most liberal operating environment for air services." American/Lan Chile, show-cause Order 99-4-17, April 22, 1999, p. 19.

The Department has recognized that the progress of its open skies policy and the development of a series of competing international alliance networks are inextricably linked. Thus, in effect, the cultivation of such alliances has

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[4]The additional issue raised by Delta concerning American's possible acquisition of a minority interest in the TACA Group is a red herring. Such a transaction has not happened, and may never happen. In any event, minority equity interests among carriers of different nationalities are commonplace, as evidenced, for example, by Continental's substantial equity interest in COPA.

become a U.S. aviation policy objective. The Department has found that "one of the major public benefits resulting from our success in signing open skies aviation agreements around the globe is the creation of new competitive airline alliances that we are now seeing to provide global aviation services. Markets in Asia, Europe, and North America are now an integral part of existing competing airline networks." Order 99-4-17, pp. 20-21. The Department stated that "competition between and among these global alliances is likely to play a critically important role in ensuring that consumers...have multiple competing options to travel where they wish as inexpensively and conveniently as possible." Id.

In Order 2001-5-1, granting antitrust immunity to Continental and COPA, the Department stated that "[o]ur evaluation indicates that open skies initiatives encourage more competitive service, since market forces determine the price and quality of airline service, not restrictive government regulation" (p. 1). The Department further found that granting antitrust immunity to Continental and COPA "will advance important public benefits, and is consistent with our policy of facilitating competition among emerging multinational airline networks. We fully recognize the trend toward expanding international airline networks as a response to the underlying network economics of the airline industry." Id., p. 5.

Failure to bestow a similar grant of immunity on the proposed American/TACA Group alliance would have significant negative consequences, not only in terms of relations between the United States and the nations of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, but of U.S. international aviation policy in Latin America and elsewhere. The Department has recognized the inevitable intersection between an open skies agreement with another country and granting antitrust immunity to a U.S. carrier forming an alliance with a carrier of that country. In approving and immunizing the Northwest/KLM alliance in 1993, for example, the Department stated that "denial of antitrust immunity would contravene the spirit of the accord and be counterproductive to the United States' relations with the Netherlands" (Order 93-1-11, January 8, 1993, p. 12).

Today, the substance of the U.S. open skies policy as well as the spirit of the U.S.-Central America open skies agreements provide equally compelling support for the Department's prompt approval of and grant of antitrust immunity to the American/TACA Group alliance. To be attractive to other countries, open skies agreements must be mutually beneficial, not only on paper, but in practice. To date, however, the open skies agreements between the U.S. and the TACA Group carriers' homelands have proven to be a one-way street.

Under open skies, Continental and Delta -- and all other U.S. carriers -- have been free to enter new U.S.-Central America markets, to expand in existing markets, and to price their Central America services without regulatory intervention. These U.S. carriers draw upon their extensive U.S. and global networks to provide critical flow traffic through their U.S. gateways and to support their Central America operations. But the TACA Group carriers, lacking an immunized alliance of the type sought here, remain unable to access meaningfully beyond-U.S. gateway traffic, or to tap the resources of a global network to support regional operations.

The TACA Group must have a strategic partnership with a U.S. carrier if it is to survive as a long-term competitive force in the U.S.-Central America marketplace, and American is the only such carrier to have proposed a true partnership. Contrary to Delta's suggestion (p. 7), the TACA Group has thoroughly explored the possibility of allying with another U.S. carrier. It has held discussions with Continental during the past three years, and with Delta this year. The TACA Group's alleged "failure" to enter into an alliance with either of them is explained very simply: to date, neither Continental nor Delta has agreed to terms that are as equitable as the terms offered by American.[5]

The American/TACA Group alliance is fully consistent with U.S. international aviation policy, which has encouraged global arrangements between U.S. and foreign carriers in order to benefit consumers and enhance competition. See Statement of United States International Air Transportation Policy, 60 Fed. Reg. 21841, May 3, 1995. There is no basis for any further delay in granting this immunity application. Indeed, since the American/TACA Group immunity application was submitted on March 17, 2000, the Department has granted immunity to six international partnerships, including Continental/COPA.[6]

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[5]Delta blatantly misconstrues the Department's 1997 show-cause order tentatively approving the American/TACA Group codeshare when it claims that TACA's "failure" to enter into a competitive codeshare with another U.S. airline "would be considered a negative factor" in deciding whether to renew it (p. 7). In fact, the Department stated that it would consider "the competitive structure of the market at that time, and ...whether the TACA Group's failure to engage in codeshare relationships with additional U.S. carriers has contributed to a market structure that does not continue to support the approval of a codeshare arrangement [with American]." Order 97-12-35, p. 29. As noted earlier, the Department has just concluded (once again) that the U.S.-Central America market is a competitive one today. Order 2001-5-1, p. 8.

[6]See Continental/Copa, Order 2001-5-1, May 3, 2001; United/Air New Zealand, Order 2001-4-2, April 3, 2001; United/Austrian/Lauda/Lufthansa/SAS, Order 2001-1-19, January 26, 2001; SAS/IcelandAir, Order 2000-10-13, October 13, 2000; Northwest/Malaysia Airlines, Order 2000-10-12, October 13, 2000; American/Swissair/Sabena, Order 2000-5-13, May 11, 2000.

The Department should welcome the opportunity now presented by American and the TACA Group to end any perceived discrimination against the TACA Group's homelands in the application of U.S. international aviation policy. To fulfill the obligations of the United States under its open skies agreements with the nations of Central America, American and the TACA Group should be granted antitrust immunity on an expedited basis.

IV. IMMUNITY WILL BENEFIT CONSUMERS AND COMMUNITIES IN THE UNITED STATES AND LATIN AMERICA

The American/TACA Group alliance will significantly improve consumer convenience and choice, produce operating efficiencies and cost savings that will create greater value for passengers and shippers, increase competition in thousands of city-pair markets, and generate economic benefits for communities across the worldwide networks of the applicant carriers. In their joint application for antitrust immunity, American and the TACA Group demonstrated that integration of their networks will create nearly 9,000 new on-line markets. Id., March 17, 2000 (Exhibit JA-7).

The TACA Group serves a number of U.S. gateways on a nonstop basis to Central America, including, in the western and central regions, Los Angeles, San Francisco, Houston, and New Orleans. Each of these gateways provides connecting opportunities for interior U.S. cities served by American.

Passengers between Central America and the western and central United States will enjoy more convenient, less circuitous service via the TACA Group's gateways than is available via American's Miami hub.

Furthermore, the TACA Group now flies directly from its hubs at San Salvador and San Jose to Ecuador, Peru, and points beyond in South America. Other nonstop South American destinations will likely be added if this immunity application is granted, thereby enabling the TACA Group to compete meaningfully for U.S.-Central America flow traffic, particularly from the western and central regions of the United States.

In light of this actual and contemplated expansion southward, the U.S. Justice Department's January 1998 assertion that the American/TACA Group alliance offers few on-line connection benefits for passengers -- an assertion from three and a half years ago repeated by Continental and Delta -- is even further off the mark now than it was in 1998. The TACA Group has demonstrated its commitment to an expansion program that will benefit U.S. and South American passengers transiting Central America, but the continuation of this program cannot be assured without immunity. Only with immunity for its alliance with American can the TACA Group tap the U.S. flow traffic that it needs to develop its Central America hubs, and thereby generate significant new consumer travel options to Latin America.

The American/TACA Group alliance will produce numerous other benefits that can be fully realized only if it is granted immunity. The coordination of American and TACA Group schedules, for example, will clearly benefit travelers by reducing connection times, but cannot be accomplished on a large scale in the absence of immunity. An immunized American/TACA Group alliance can also generate lower fare opportunities for passengers as a result of coordination of the yield management process, which will enhance the carriers' ability to predict customer demand. In the absence of immunity, however, American and the TACA Group would be unable to coordinate yield management. The alliance, if immunized, will also produce a range of cost synergies and efficiencies that will result in more efficient, cost-effective operations, potentially lower fares, and improved service. The primary cost benefits will result from coordination of sales and airport operations, joint promotions and marketing, and joint purchasing -- a degree of cooperation which would be impossible absent immunity.

V. THE MIAMI BLOCKED-SPACE CONDITION IS UNNECESSARY

Continental and Delta also urge the Department to retain the blocked-space condition on Miami-Central America city-pairs that was imposed by ordering paragraph (5)(c) of Order 98-5-26. The Department should reject such arguments, and delete the blocked-space condition upon renewal of the

American/TACA Group codesharing authorizations under 14 CFR Part 212. This is the only codeshare proceeding in which the Department has ever imposed such a condition, and its continuation in the face of flourishing competition in U.S.-Central America markets has no justification whatever.

This condition -- which American and the TACA Group strongly opposed in their objections of January 28, 1998 to show-cause Order 97-12-35 -- was unnecessary and counterproductive in 1998, and is even more so in 2001. As shown in Sections I and II above, competition in U.S.-Central America markets generally, and in Miami-Central America markets specifically, has increased sharply since 1998. European carriers have gained substantial market shares on Miami-Central America routes, and Continental, through its immunized alliance with COPA, can now compete "head-to-head against American's Latin American hub operations." Order 2001-5-1, May 3, 2001, p. 3. The relative significance of Miami as a U.S.-Central America hub has also declined. Far more U.S.-Central America traffic flows through Atlanta, Houston, Newark, and Los Angeles now than in 1998.

The blocked-space condition has unfairly handicapped the TACA Group in its efforts to compete against far larger U.S. carriers. As American and the TACA Group demonstrated in their joint application for renewal and amendment of their codeshare authority (OST-96-1700), this condition has proven to be unworkable in practice due to architectural limitations in the SABRE passenger processing system, and the prohibitive cost of removing those limitations to accommodate a blocked-space requirement for a handful of city-pairs. As a result, the American/TACA Group codesharing program has been limited to behind and beyond points and to non-Miami gateway route segments, with no codesharing at all on the Miami-Central America city-pairs that comprise a vital element of the TACA Group's route system to the United States.

In practical effect, the condition has served to deny to the TACA Group a portion of the codesharing opportunities guaranteed under Article 8, paragraph 7 of each of the open skies agreements between the United States and the five Central American nations that comprise the TACA Group's homelands. Under paragraph 7 ("Operational Opportunities"), cooperative arrangements "such as blocked-space, codesharing or leasing arrangements" are specifically authorized "on the agreed routes." There is simply no requirement that designated carriers, such as American and the TACA Group, must negotiate and implement one type of cooperative arrangement instead of another. In these circumstances, the Department should remove the condition imposed by paragraph (5)(c) of Order 98-5-26, consistent with U.S. bilateral obligations to the nations of

Central America, in order to authorize codesharing arrangements between designated carriers on all agreed routes.

Whatever may have been the competitive market structure in 1997 that gave rise to the perceived need for such a condition, that structure has changed dramatically and permanently as new U.S. carrier service and competition have blossomed in the U.S.-Central America market. The diminishing significance of Miami as a gateway to Central America, the increasing significance of Houston, Atlanta, Newark, Los Angeles, and other cities as alternative gateways, the expansion possibilities available to the immunized Continental/COPA alliance at Miami, and the TACA Group's need to realize fully the promise of open skies, all support the elimination of a condition whose justification -- if any -- has been surpassed by the operation of market forces. It is time for the TACA Group to share in the benefits of open skies that so far have been available only to U.S. carriers.

CONCLUSION

For the foregoing reasons, American and the TACA Group urge the Department to approve their alliance arrangements under 49 USC 41309, to grant antitrust immunity under 49 USC 41308, and to renew and amend their codesharing authorizations under 14 CFR Part 212, and to do so on an expedited basis.

Respectfully submitted,

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May 30, 2001

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by first-class mail on all persons named on the attached service list.

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May 30, 2001

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