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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

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Joint Application of)
)
 UNITED AIR LINES, INC.)
 and)
 DEUTSCHE LUFTHANSA, A.G.)
 (LUFTHANSA GERMAN AIRLINES))
)
 under 49 U.S.C. §§ 41308 and 41309 for approval)
 of and antitrust immunity for an expanded)
 alliance agreement)
)

Docket OST-96-1116 - 13

ANSWER OF
~~DELTA AIR LINES, INC.~~

Communications with respect to this document should be addressed to:

John J. Varley
General Attorney
DELTA AIR LINES, INC.
Law Department #986
1030 Delta Boulevard
Atlanta, Georgia 30320
(404) 715-2782

Robert E. Cohn
SHAW, PITTMAN, POTTS
& TROWBRIDGE
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8060

and

Attorneys for
DELTA AIR LINES, INC.

D. Scott Yohe
Vice President - Government Affairs
DELTA AIR LINES, INC.
1629 K Street, N.W.
Washington, D.C. 20006
(202) 296-6464

April 3, 1996

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

Joint Application of)
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 UNITED AIR LINES, INC.)
 and)
 DEUTSCHE LUFTHANSA, A.G.) **Docket OST-96-1116**
 (LUFTHANSA GERMAN AIRLINES))
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)

**ANSWER OF
~~DELTA AIR LINES, INC.~~**

Delta Air Lines, Inc. ("Delta") hereby submits the following comments on the Joint Application filed by United Air Lines, Inc. ("United") and Deutsche Lufthansa, A.G. ("Lufthansa") for approval of and antitrust immunity for an "Alliance Expansion Agreement". United and Lufthansa requested that the antitrust immunity be made effective no later than April 7, 1996, and remain in effect for a period of no less than five years.

Delta expresses no position on whether the United-Lufthansa alliance agreement meets the Department's standards for approval and grant of antitrust immunity under 49 U.S.C. §§ 41308 and 41309. However, the United-Lufthansa request for approval by no later than April 7, 1996, raises an important issue of fairness with respect to the Department's consideration of the long-pending Joint Application of Delta, Swissair, Sabena and

Austrian Airlines for approval of and antitrust immunity for alliance agreements between and among Delta, Swissair, Sabena and Austrian (the “Delta Alliance”). The Delta Alliance Application was filed September 8, 1995, and the matter has been ripe for a decision by the Department since November 20, 1995, the date on which the last pleading in that docket was submitted. The record in the Delta Alliance case overwhelmingly demonstrates that approval of the proposed Delta Alliance would be procompetitive and pro-consumer. It would enable the Delta Alliance partners to establish a seamless transportation system of coordinated hub-and-spoke networks on both sides of the Atlantic and to enhance efficiencies, producing cost savings which can be passed on to consumers in the form of lower fares and improved service. Furthermore, the Delta Alliance is fully consistent with the U.S. Government’s international aviation policy statement and its prompt grant would further the advancement of the Department’s Open Skies Initiative in Europe and elsewhere around the world.

The Department should accord the highest priority to approving the Delta Alliance Application. Immediate approval of the Delta Alliance Application is necessary to fulfill three important objectives: (1) to meet with the Department’s express undertaking in the Delta Alliance case “to decide this matter fairly and expeditiously” (Order 95-9-27, at 4), (2) to demonstrate to those foreign governments that have embraced the Department’s Open Skies Initiative (including Germany, which has initialed an open skies agreement subject to approval of the United-Lufthansa application) that the Department is serious about allowing U.S. and foreign carriers to take full advantage of the open skies’ agreements, and (3) to eliminate the discriminatory double standard in U.S.-Europe aviation

markets, which places Delta and its European partners at a continuing competitive disadvantage against the antitrust-immunized Northwest-KIM alliance.

With respect to the first objective, the Department's Scheduling Order in the Delta Alliance case expressly undertook "to decide this matter fairly and expeditiously". Order 95-9-27, at 1 and 4. This undertaking responded to the explicit request of the Governments of Austria, Belgium and Switzerland for expedition similar to that accorded to the Northwest-KIM alliance. The Governments of Austria, Belgium and Switzerland have made it clear that "antitrust immunity is an essential complement to Open Skies in order to compete against other global alliances." See, Memoranda of Consultations between the Governments of the United States and Belgium, dated March 1, 1995 and between the Governments of the United States and Austria, dated March 8, 1995. Switzerland has also made this point clear in correspondence with the U.S. Government.

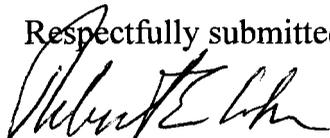
As to the second objective, wholly apart from the U.S. Government's commitment to processing the Delta Alliance Application "fairly and expeditiously", prompt approval is necessary to achieve the Department's marketplace objectives of its Open Skies Initiative. Failure to grant promptly antitrust immunity to the Delta Alliance would violate the spirit and intent of the Open Skies Agreements with Switzerland, Austria and Belgium, and sends a negative signal to other foreign trading partners (including Germany) concerning the Department's real commitment to fulfilling the full potential of its Open Skies Initiative. In granting Northwest-KIM antitrust immunity, the Department expressly encouraged other countries to embrace the Open Skies Initiative and to offer "comparable opportunities" to other U.S. carrier alliances. Order 92-11-27, at 12 and 14. The

Governments of Austria, Belgium and Switzerland responded to that encouragement by entering into Open Skies Agreements to enable their carriers to enjoy the same opportunities made available to KLM.

As to the third objective, it is critically important for the Department to eliminate the current dual-class system under which one immunized alliance (Northwest-KLM) is free to engage in joint planning, joint marketing, joint advertising, joint coordination of capacity and inventory, etc., without the risk of being subject to lawsuits for alleged anti-trust violations, whereas alliances without immunity are effectively prohibited from engaging in these types of coordinated activities.

In conclusion, while Delta takes no position on the merits of the United-Lufthansa application, the public interest requires the Department immediately to grant approval of and immunity for the Delta Alliance.

Respectfully submitted,



Robert-E. Cohn

SHAW, PITTMAN, POTTS & TROWBRIDGE

2300 N Street, N.W.

Washington, D.C. 20037

(202) 663-8060

Attorneys for

DELTA AIR LINES, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer of Delta Air Lines, Inc. was served this 3rd day of April, 1996, on all persons on the attached service list.

Lesly Belloff

Lesly Belloff

SERVICE LIST

Roger W. Fones
Chief, Transportation, Energy
& Agriculture Section
Antitrust Division
U.S. Department of Justice
325 Fifth Street, N.W., Suite 500
Washington, D.C. 20530

Joel Stephen Burton
Ginsburg, Feldman & Bress
1250 Connecticut Avenue, N.W.
Suite 800
Washington, D.C. 20036

Carl B. Nelson, Jr.
Associate General Counsel
American Airlines, Inc.
1101 17th Street, N.W., Ste 600
Washington, D.C. 20036

Nathaniel P. Breed, Jr.
Shaw, Pittman, Potts &
Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037

Frank Costello
Cathleen P. Peterson
Richard D. Mathias
Zuckert, Scoutt & Rasenberger
888 17th Street, N.W., Ste. 600
Washington, D.C. 20006

Richard Taylor
Steptoe & Johnson
1330 Connecticut Ave., N.W.
Washington, D.C. 20036- 1795

James S. Campbell
Karan K. Bhatia
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037

R. Bruce Keiner
Crowell & Moring
1001 Pennsylvania Ave., N.W.
10th Floor North
Washington, D.C. 20004

Richard J. Fahy, Jr.
Consulting Attorney
Trans World Airlines
808 17th Street, N.W., Suite 520
Washington, D.C. 20006

Elliott M. Seiden
Megan Rae Poldy
Northwest Airlines
901 15th Street, N.W., Suite 500
Washington, D.C. 20005

Stephen L. Gelband
Hewes, Morella, Gelband
& Lamberton, P.C.
1000 Potomac Street, N. W.
Suite 300
Washington, D.C. 20007

Vance Fort
World Airways, Inc.
13873 Park Center Road
Suite 490
Herndon, VA 2207 1

James R. Weiss
Preston, Gates, Ellis
& Rouvelas
1735 New York Avenue, N.W.
Suite 500
Washington, D.C. 20590

David Vaughan
Kelley, Drye & Warren
1200 19th Street, N.W
Washington, D.C. 20036

Frank J. Cotter, Esq.
USAir, Inc.
Crystal Park Four
2345 Crystal Drive
Arlington, VA 22227

Michael Goldman
Bagileo, Silverberg and Goldman
1101 30th Street, N.W.
Suite 120
Washington, D.C. 20007

Department of Defense
U.S. TRANSCOM/TCJ5
Mobility Analysis Division
Attention: Colonel Danish
508 Scott Drive, Building 1900
Scott AFB, IL 62225-5357