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

DEPT. OF TRANSPORTATION  
DOCKETS  
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Joint Application of )  
 )  
 AMERICAN AIRLINES, INC. )  
 and )  
 BRITISH AIRWAYS PLC )  
 )  
 under 49 USC 41308 and 41309 for approval )  
 of and antitrust immunity for agreement )  
 )

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Docket OST-2001-10387-52

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Joint Application of )  
 )  
 AMERICAN AIRLINES, INC. )  
 and )  
 BRITISH AIRWAYS PLC )  
 )  
 under CFR Part 212 for statements of )  
 authorization (blanket codesharing) and )  
 under 49 USC 40109 for related exemption )  
 authority )  
 )

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Docket OST-2001-10388-42

**ANSWER OF DELTA AIR LINES, INC. TO  
MOTION OF NORTHWEST AIRLINES, INC.  
FOR EXTENSION OF PROCEDURAL DATES**

**September 10, 2001**

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**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.  
September 10, 2001**

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| Joint Application of                      | ) |                       |
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| AMERICAN AIRLINES, INC.                   | ) | Docket OST-2001-10387 |
| and                                       | ) |                       |
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| Joint Application of                     | ) |                       |
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**ANSWER OF DELTA AIR LINES, INC. TO  
MOTION OF NORTHWEST AIRLINES, INC.  
FOR EXTENSION OF PROCEDURAL DATES**

Delta agrees with Northwest that the unique circumstances of this case render the Department's standard 21 day answer period for consideration of antitrust immunity applications unrealistic and inadequate. As Delta has urged in connection with Continental's Motion to Dismiss, the Department should defer any consideration of the American/British Airways alliance until a firm understanding has been reached with the Government of the United Kingdom as

Answer of Delta Air Lines to  
Motion of Northwest Airlines to  
Extend Procedural Dates  
Page 2

to what the essential features of a U.S.-UK open skies agreement will be – including, in particular, what guarantees will be made to ensure that U.S. carriers can actually exercise “open skies” privileges at London’s Heathrow airport to discipline the combined strength of the two largest U.S.-Heathrow incumbents.

A paper Open Skies agreement without Heathrow access guarantees is a meaningless gesture, and would not provide an adequate public interest basis for approval of the alliance. In the absence of meaningful airport access guarantees, other U.S. carriers will not be able to mount a sufficient competitive challenge to discipline American and British Airways on their home turf at London Heathrow – the most tightly controlled and slot restricted airport in the Europe.

Neither the Department nor interested parties can possibly know the answers to these vital competitive access questions until after the nature and scope of a new U.S.-UK bilateral agreement has been developed. In the absence of critical information concerning Heathrow access, the establishment of a substantive answer date and further evaluation of the merits of the Joint Application is premature.

For these reasons, Delta urges the Department to defer the procedural schedule until after the U.S.-UK discussions have produced a clear and concrete understanding of an open skies agreement that will provide *de facto* access for

U.S. carriers seeking to provide competitive service on critical U.S.-London Heathrow routes.

The Joint Applicants assert that the U.S. and UK Governments are scheduled to meet on October 17-18 in London to engage in exploratory discussions. (AA/BA Sept. 7 Answer at 2). That meeting does not provide any basis for proceeding with this matter. The meeting is only a preliminary government to government discussion in order to determine whether there is any basis for later initiating open skies discussions. The planned October meeting is a far cry from a true meeting of the minds on open skies and Heathrow access that would form a concrete basis for a new bilateral agreement.

Starting the clock on answers and beginning to evaluate the Joint Application before reaching a firm understanding with the UK Government on open skies *and* meaningful Heathrow access only invites a repeat performance of the elaborate and fruitless exercise the last time the Department considered this highly controversial and competitively problematic alliance. The United States should await the outcome of substantive open skies negotiations to determine whether the UK Government is finally willing to abandon its decades-long policy of stonewalling liberalization and restricting Heathrow access.

Unlike other open skies countries, where “open skies” has resulted in effective open competitive access, the same cannot be said of the UK. In order

to achieve true liberalization with the UK, the United States must pry open the door to the tightly constrained U.S.-London Heathrow marketplace. The vastly more complex competitive issues raised by the combination of American and British Airways given the severe Heathrow access limitations – which are unprecedented in any pending or previously-approved alliance proceeding -- make it impossible to evaluate this case on the routine 21 day procedural track used for other alliances.

The Department has itself recognized that the American/British Airways alliance is “an exceptional case, posing a unique set of issues . . . [and] entail[ing] an enormous degree of regulatory complexity.” Order 97-9-4 at 16. The refiled American/British Airways alliance is no less exceptional nor any less complex than the last time it was considered by the Department.

A 21 day answer period – especially in the absence of any concrete understanding of what the essential facets of a U.S.-UK agreement might be – is inadequate and unworkable. Accordingly, Delta urges the Department to suspend the procedural schedule, pending a firm understanding with the UK Government on open skies and meaningful Heathrow access.

In the alternative, Delta supports Northwest’s request for a 120 day extension of the answer period to permit carriers to prepare studies and more fully evaluate the complex and highly troubling competitive consequences of

granting antitrust immunity to the two largest competitors at an essentially closed airport that is also the United States' single largest and most important international travel destination.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A. Van der Bellen".

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Answer of Delta Air Lines, Inc. to Motion of Continental Airlines, Inc. have been served this 10<sup>th</sup> day of September, 2001, upon each of the following persons:

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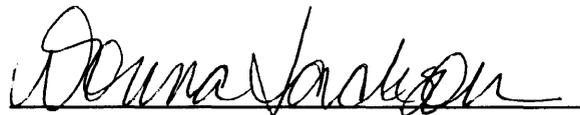
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