



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

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**U.S. - U.K. ALLIANCE CASE**

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**DOCKET OST-2001-11029**

**ANSWER OF BRITISH AIRWAYS PLC IN OPPOSITION TO EMERGENCY JOINT  
MOTION FOR THE PRODUCTION OF DOCUMENTS**

The opponents' so-called "emergency" motion is yet another blatant attempt to delay the final resolution of this matter, jeopardize achievement of a U.S.-U.K. open skies agreement, and forestall the day when they will face an effective new alliance competitor. There is, of course, no "emergency" other than the DOT's scheduling Order, which contemplates an end this week to opponent's never-ending attempts to delay resolution of this matter. Indeed, opponent's continually have sought to delay the Department's consideration of the parties' application, underscoring that no matter what relief might be given them, they will be back for

more.<sup>1</sup> The instant motion openly demonstrates that its primary purpose is to create yet further delay. Such abuse of process should not be further countenanced.

The British Airways report sought by the opponents on the basis of a press account of British Airways' evaluating strategic alternatives is not "highly relevant" to these proceedings, as opponents assert. (Motion at 2). The Department has acknowledged that "the commercial aviation industry has always been fluid, complex and unpredictable." (Order 2001-10-13 at 2). British Airways, like every other airline, continually reviews all strategic options available to it, including options that must be considered in the event its application for antitrust immunity is not granted on reasonable terms. The press account cited by the opponents notes that British Airways is far from reaching any final decision. Thus it is not particularly surprising that one of the numerous options reviewed would be reducing short-haul operations. As to switching service from Gatwick to Heathrow, British Airways publicly announced months ago that, given the inefficiency inherent in maintaining split hub operations in London, it would adopt this strategy. British Airways has produced extensive documentation during the course of this proceeding addressing this very topic. (*See, e.g.*, BA 0003497-3529; BA 000674-698; BA 0000713-719).

Finally, in suggesting that "interested parties should have the opportunity to file supplemental comments after they have had the opportunity to review and analyze" the British

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<sup>1</sup> Continental alone has made seven previous requests; in motions dated August 30, November 8, and November 19, answers dated September 10 and 17 and November 2, and a petition dated September 27.

Airways report (Motion at 2), the opponents betray their true intentions in bringing this latest motion; their efforts at delay should not be rewarded. The motion should be denied.

Respectfully submitted,

A handwritten signature in black ink, reading "Paul C. Jasinski / DH4". The signature is written in a cursive style and is positioned above the typed names.

PAUL C. JASINSKI  
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Senior Counsel, Americas  
British Airways Plc

December 17, 2001

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing answer by first-class mail, postage pre-paid, on all persons named on the attached service list.

  
Don H. Hainbach

December 17, 2001

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