



BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

-----  
U.S.-U.K. Alliance Case

:  
:  
:

Docket OST-2001-11029  
-----

REPLY OF  
THE CLEVELAND PARTIES

The answers recently submitted in the U.S.-U.K. Alliance Case clearly demonstrate that the proposed de facto merger between American Airlines, Inc. (“American”) and British Airways PLC (“British Airways”) is overwhelmingly anti-competitive. Approving and granting antitrust immunity to the American/British Airways alliance and the additional proposed antitrust alliance between United Airlines (“United”) and British Midland Airways Limited (“bmi”) together would foreclose trans-Atlantic competition and further entrench the four largest slot holders at London Heathrow. Stifling new U.S. air services at London Heathrow this way would harm consumers and cities such as Cleveland and would also dramatically slow Cleveland’s development as a major U.S. hub. If the Department nonetheless permits the four major U.S. and U.K. slot holders at London Heathrow to merge their functions, it is imperative that the Department reallocate slots sufficient to allow Continental to institute new Cleveland-London

Heathrow service.<sup>1</sup>

Simply put, combining the only two U.S. carriers currently holding slots at London Heathrow with the two largest U.K. slot holders at Heathrow is a “dangerous combination” (Answer of Delta at 4), massively increasing concentration at London Heathrow and preventing new entrants from obtaining the slots and facilities necessary to institute new, competitive U.S.-London service. Even taken alone, without United/bmi, a combined American/British Airways would control over 60% of the U.S.-Heathrow market in terms of frequency shares (Answer of Virgin Atlantic at 3) yet, taken together, American/British Airways and United/bmi would truly dominate London Heathrow with 84% of U.S.-London Heathrow frequencies and a frequency share of over 80% in 9 of 11 nonstop London Heathrow markets (Answer of Continental at 11). Together, the proposed American/British Airways and United/bmi duopoly would create a level of concentration at London airports greater than a merger between the four largest U.S. carriers or combining the top 11 European airlines. (Answer of Continental at 17)

The Cleveland Parties and other parties know from experience, however, that London airports are not open for new service, and it is astounding that the U.S. could consider pursuing a U.S.-U.K. “open skies” agreement while real access at London Heathrow and London Gatwick is not possible. As Continental has noted, since U.S. airlines can already provide unlimited service to every other point in the U.K, the only benefit of “open skies” between the U.S. and U.K.

---

<sup>1</sup> Continental is reinstating Cleveland-London Gatwick service on April 15, 2001, a month earlier than originally scheduled. See Press release of Continental dated December 18, 2001. Continental’s service between Cleveland and London Gatwick was suspended temporarily in response to the tragic events of September 11 and the subsequent decline in demand for international travel.

would be the opening of London Gatwick and Heathrow to real competition. (Answer of Continental at 24)

When Continental obtained authority two years ago for its Cleveland-Gatwick service, Continental encountered great difficulties obtaining viable slots to provide the service. (See Reply of the Cleveland Parties, November 9, 2001 in Dockets OST-01-10387 and 10388) Other commentors have documented that the situation at London Heathrow is even worse. When Virgin Atlantic Airways Limited (“Virgin”) decided to institute Chicago-London Heathrow service, it was unable to obtain new Heathrow slots despite “attempting to do so over a lengthy period.” (Answer of Virgin at 5) Nor was Virgin able to find slots for its proposed Toronto-London Heathrow service despite trying for several seasons. (Answer of Virgin at 5) During the last three years, Virgin has been frozen at 63 weekly London Heathrow roundtrips, United has added only one roundtrip and even American and British Airways have managed only to add three roundtrips between them. (Answer of Virgin Atlantic at 5) This lack of capacity at London Heathrow is expected to continue into the future. BAA plc itself has stated that it “expects only a few additional slots to be created at Heathrow” and that “the new slots are likely to be departure slots and are unlikely to have accompanying arrival slots which would be required to make new services viable.” (Answer of Northwest at 6)

As pleased as the Cleveland Parties are that Continental is about to resume its Cleveland-London Gatwick service, Cleveland businesses and travelers must also have access to London Heathrow. As noted by numerous other commentors, Heathrow is the London airport of choice - service to Gatwick is no substitute. While only two U.S. carriers provide service at London Heathrow, Heathrow accounts for twice as many total U.S.-U.K. passengers and three times more premium passengers than London Gatwick (Answer of Delta at 21) and commands higher

## Reply of the Cleveland Parties

Page 4

yields than are achieved by London Gatwick flights (Answer of Northwest at 4). Access to London Heathrow provides extensive connections to the rest of Europe and beyond and as United and bmi have pointed out, London Heathrow “is the busiest and the most popular gateway point for transatlantic passengers.” (Answer of Continental at 9 quoting United/bmi Joint Application at 7) If, as British Airways contends, Gatwick were a true substitute for Heathrow, British Airways’ decision to concentrate its operations at Heathrow and reduce its presence at Gatwick would make no sense. (Answer of Northwest at 4 and Answer of Continental at 2)

Continental’s proposed Cleveland-London Heathrow service would provide a new mid-western hub to compete with the American/United duopoly at Chicago and local passengers from throughout northeast Ohio and passengers connecting through Continental’s Cleveland hub would benefit from Cleveland-London Heathrow service. Cleveland has strong economic and cultural ties with the U.K., and London is Cleveland’s top international origin and destination market. The Fortune 1,000 companies headquartered in Cleveland and other Cleveland businesses that export to the U.K. need Continental’s proposed Cleveland-London Heathrow service. After Canada, the U.K. is the largest destination for Cleveland exports and lack of suitable slots at London Heathrow should not continue to deprive Cleveland businesses and passengers of critical London Heathrow access. The Department of Justice has concluded that London Heathrow slots and facilities must be provided for service at additional U.S. gateways. (See Comments of the Department of Justice, filed December 17, 2001, at 5, 53)

If approved as proposed, the American/British Airways and United/bmi de facto mergers would be profoundly anti-competitive, would stifle airline competition between the United States and the U.K. and beyond and effectively foreclose new entry into London Heathrow. If the

Department is nevertheless compelled to approve the pending applications for antitrust immunity, it should do so only after it provides London Heathrow new entrants with sufficient commercially viable slots to bring meaningful access to this most important gateway to Europe and empower them to compete with the dominant American/British Airways and United/bmi alliances. Until the Department is able to provide such London Heathrow access, genuine U.S.-U.K. "open skies" will prove unobtainable and the applications of American/British Airways and United/bmi must be disapproved.

Respectfully submitted,

/s/ Michael R. White  
Mayor Michael R. White  
City of Cleveland

/s/ Dennis E. Eckert  
Dennis E. Eckert, President  
The Greater Cleveland Growth  
Association

December 21, 2001

CERTIFICATE OF SERVICE

I certify that I have this date served the foregoing document on all parties served with the United/bmi and American/British Airways applications in accordance with the Department's Rules of Practice.

/s/ Jayne Miller  
Jayne Miller

December 21, 2001

SERVICE LIST

Carl B. Nelson, Jr. (**AA**)  
Associate General Counsel  
American Airlines, Inc.  
1101 17<sup>th</sup> Street, N.W.  
Suite 600  
Washington, D.C. 20036

Mr. Brian T. Hunt (**ATA**)  
Vice President and General Counsel  
7337 West Washington Street  
Indianapolis, IN 46251

James W. Tello (**ATI**)  
P. O. Box 66824  
Washington Square Station  
Washington, D.C. 20035

Jeffrey A. Manley (**UAL**)  
Wilmer, Cutler & Pickering  
2445 M Street, N.W.  
Washington, DC 20037

Edward P. Faberman (**ACA**)  
Ungarreti & Harris  
1500 K Street, N.W.  
Suite 250  
Washington, DC 20005

Don H. Hainbach (**British Airways**)  
Boros & Garofalo, P.C.  
1201 Connecticut Avenue, N.W.  
Suite 700  
Washington, DC 20036-2605

John L. Richardson, Esq. (**Amerijet**)  
Crispin & Brenner, P.L.L.C.  
1156 15th Street, N.W.  
Suite 1105  
Washington, DC 20005

Marshall S. Sinick (**Florida West**)  
Squire, Sanders & Dempsey L.L.P.  
1201 Pennsylvania Avenue, N.W.  
Suite 500  
Washington, DC 20004

Joanne W. Young (**America West**)  
Baker & Hostetler LLP  
1050 Connecticut Avenue, N.W.  
Suite 1100  
Washington, DC 20036

Robert D. Papkin (**BMI**)  
Squire, Sanders & Dempsey, LLP  
1201 Pennsylvania Avenue, N.W.  
Suite 500  
Washington, DC 20004

Nathaniel P. Breed (**FedEx**)  
Shaw Pittman  
2300 N Street, N.W.  
Washington, DC 20037

Rebecca L. Taylor (**City of Houston**)  
Leftwich & Douglas  
1401 New York Avenue, N.W.  
Washington, D.C. 20005-3922

Rachel B. Trinder (**City of Houston**)  
Zuckert, Scutt & Rasenberger, L.L.P.  
888 17<sup>th</sup> Street, N.W.  
Suite 600  
Washington, DC 20006

Russell Pommer (**Atlas Air**)  
Verner, Liipfert, Bernhard,  
McPherson and Hand, Chartered  
901 - 15<sup>th</sup> Street, N.W.  
Suite 700  
Washington, DC 20005-2301

Robert E. Cohn, Esq. (**Delta**)  
Shaw Pittman  
2300 N Street, N.W.  
5th Floor  
Washington, DC 20037

Richard P. Taylor (**St. Louis Parties**)  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036

Michael F. Goldman (**Air France**)  
Silverberg, Goldman & Bikoff, L.L.P.  
1101 30th Street, N.W.  
Washington, DC 20007

Jonathan Blank (**State of MD**)  
1735 New York Avenue, N.W.  
Suite 500  
Washington, D.C. 20006-4759

Kevin Borland (**Polar Air**)  
Polar Air Cargo, Inc.  
100 Oceangate, 15<sup>th</sup> Floor  
Long Beach, CA 90802

Megan Rae Rosia (**Northwest**)  
Managing Director, Government  
Affairs, and Associate General  
Counsel  
Northwest Airlines, Inc.  
901 Fifteenth Street, N.W.  
Suite 310  
Washington, DC 20005

Donald T. Bliss (**US Airways**)  
O'Melveny & Myers LLP  
555 13<sup>th</sup> Street, N.W.  
Suite 500 West  
Washington, D.C. 20004-1109

David L. Vaughan (**UPS**)  
Kelley Drye & Warren LLP  
1200 19<sup>th</sup> Street, N.W.  
Suite 500  
Washington, DC 20036

Edgar N. James (**APA**)  
Marie Chopra  
James & Hoffman, P.C.  
1146 19<sup>th</sup> Street, N.W., Suite 600  
Washington, D.C. 20036

Ronald P. Brower, Esq. (**Virgin**)  
Hogan & Hartson, L.L.P.  
555 Thirteenth Street, N.W.  
Washington, DC 20004-1109

U.S. TRANSCOM/TCJ5-AA  
Attention: Air Mobility Analysis  
508 Scott Drive  
Scott AFB, IL 62225-5357

Stephen H. Lachter (**DHL**)  
1150 Connecticut Avenue, N.W.  
Suite 900  
Washington, D.C. 20036

Paul M. Ruden (**ASTA**)  
Senior Vice President  
Legal & Industry Affairs  
American Society of Travel Agents, Inc.  
110 King Street  
Alexandria, VA 22314

Deputy Director, AFS-2  
Flight Standards Service  
Federal Aviation Administration  
800 Independence Avenue, S.W.  
Washington, D.C. 20591

Nancy S. Sparks (**FedEx**)  
Senior Attorney  
Legal and Regulatory Affairs  
Federal Express Corporation  
3620 Hacks Cross Road  
Building B, 3<sup>rd</sup> Floor  
Memphis, TN 38125

Sheila C. Cheston (**Lufthansa**)  
Wilmer, Cutler & Pickering  
2445 M Street, N.W.  
Washington, D.C. 20037-1420

R. Bruce Keiner, Jr. (**Continental**)  
Crowell & Moring LLP  
1001 Pennsylvania Avenue, N.W.  
10<sup>th</sup> Floor  
Washington, D.C. 20004

Roger W. Fones (**DOJ**)  
Chief, Transportation, Energy  
& Agriculture Section,  
Antitrust Division  
Department of Justice  
325 7<sup>th</sup> Street, N.W., Suite 500  
Washington, D.C. 20530

Hugh M. Ford (**Virgin**)  
General Manager, Legal  
Virgin Atlantic Airways Limited  
The Office, Manor Royal  
Crawley, West Sussex RH10 2NU  
United Kingdom

Larry D. Cox, A.A.E. (**MSCAA**)  
President & CEO  
Memphis-Shelby County Airport Auth.  
2491 Winchester Road  
Suite 113  
Memphis, TN 38116

Jon F. Ash  
Managing Director  
Global Aviation Associates, Ltd  
1800 K Street, N.W., Suite 1104  
Washington, D.C. 20006

Simon Knight  
First Secretary (Transport)  
British Embassy  
3100 Massachusetts Avenue, N.W.  
Washington, D.C. 20008

David S. Stempler (**ATA**)  
President  
Air Travelers Association  
5335 Wisconsin Avenue, N.W.  
Washington, DC 20015-2034

Office of Aviation Negotiations  
Department of State  
2201 C Street, N.W.  
Room 5531  
Washington, DC 20520

First Secretary (Transport)  
British Embassy  
3100 Massachusetts Avenue, N.W.  
Washington, DC 20008

Honorable Sharpe James  
Mayor  
City of Newark  
920 Broad Street, Room 200  
Newark, NJ 07102

Joan Verplanck  
President  
New Jersey State Chamber of Commerce  
216 West State Street  
Trenton, NJ 08608

Joseph Gonzalez, Jr.  
President  
New Jersey Business and Industry Assoc.  
PO Box 230  
Trenton, NJ 08602-0230

Philip Beachem, President  
New Jersey Alliance for Action  
Fieldcrest Avenue, PO Box 6438  
Raritan Plaza II, Raritan Center  
Edison, NJ 08818-6438

Chip Hallock  
President  
Regional Business Partnership  
744 Broad Street, 26 Fl.  
Newark, NJ 07102

James Fry  
Corporate Counsel  
World Airways, Inc.  
HLH Building  
101 World Drive  
Peachtree City, GA 30269

John Byerly  
Deputy Assistant Secretary  
For Transportation Affairs  
State Department  
2201 C Street, N.W.  
Room 5830  
Washington, DC 20520

Kevin Borland  
Director of Government Affairs  
Polar Air Cargo, Inc.  
100 Oceangate, 15<sup>th</sup> Floor  
Long Beach, CA 90802

Nicholas S. Penn  
Leftwich & Douglas, P.L.L.C.  
1401 New York Avenue, N.W.  
Suite 600  
Washington, D.C. 20005

Pierre Murphy  
Law Offices of Pierre Murphy  
1201 Connecticut Avenue, N.W.  
Suite 550  
Washington, DC 20036  
(for Fine and Arrow)