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UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

OST-96-1411-13
OST-96-1646-2

OST-96-1411-13

SERVED: August 28, 1996

**Joint Applications of UNITED AIR LINES, INC.,
SCANDINAVIAN AIRLINES SYSTEM and DEUTSCHE LUFTHANSA, A.G.
for approval of and antitrust immunity for an
Alliance Expansion Agreement (OST-96-1411) and
a Coordination Agreement (OST-96-1646) - 2
under 49 U.S.C. §§ 41308 and 41309; and a
Motion to Consolidate these pending cases**

NOTICE

Background

On May 28, 1996, United Air Lines, Inc. ("United") and Scandinavian Airlines System ("SAS"), and their respective subsidiaries, filed a joint application for approval of and antitrust immunity for an Alliance Expansion Agreement (OST-96-1411).¹ They asked that the Department grant the request for a five-year term. The application was filed under 49 U.S.C. §§ 41308 and 41309.²

¹ The term "Alliance Expansion Agreement" as used herein means (1) the agreement made and entered into by the Joint Applicants on June 28, 1996; (2) the Cooperation Agreement and the Code-Share Agreement both concluded between the Joint Applicants dated as of September 1, 1995 (the "1995 Agreement"), which remain in full force and effect, and which are incorporated by reference into the Alliance Expansion Agreement (see Articles 2.1 and 2.4 of the Alliance Expansion Agreement); (3) any Implementing Agreements that the Joint Applicants conclude pursuant to the Alliance Expansion Agreement (see Articles 2.4 and 5.2 of the Alliance Expansion Agreement); and (4) any subsequent agreement(s) or transaction(s) by the Joint Applicants pursuant to the foregoing agreements.

² By Order 96-7-25, issued July 18, 1996, the Department established procedural dates for this case, and, regarding certain additional data and documents filed separately by the joint applicants on July 1, 1996, limited access to these materials to counsel and outside experts, and required that persons seeking to review these materials to file appropriate affidavits, pending our ruling on the United/SAS motions for confidential treatment. On August 8, 1996, comments were filed by American Airlines, Inc. and the International Air Transport Association.

Application

On August 14, 1996, in Docket OST-96-1646, United, SAS, and Deutsche Lufthansa, A.G. ("Lufthansa") filed an application for approval and antitrust immunity for a "Coordination Agreement" among the three airlines, and a motion to consolidate for decision (1) this instant request and (2) the May 28, 1996, application filed by United/SAS (OST-96-1411). The two requests are unopposed.

The joint applicants note that the Department recently approved and granted immunity from the U.S. antitrust laws to United and Lufthansa and their subsidiaries to enable them to enhance cooperation and integrate their services (see Docket OST-96-1116, Orders 96-5-12 and 96-5-27). The joint applicants state that the application filed by United/SAS in Docket OST-96-1411 seeks similar immunity for United/SAS. Further, the applicants state that while these alliances permit bilateral activities among the three carriers, none contemplates joint activity among the three airlines to resolve common problems collectively. They further state that United/SAS/Lufthansa seek the same ability to coordinate their activities as that recently granted by the Department to the Delta/Swissair/ Sabena/Austrian cooperative alliance. Order 96-6-33.

The joint applicants state that they will continue to rely on the bilateral alliances between United/Lufthansa and United/SAS and the antitrust immunity granted and requested in Dockets OST-96-1116 and OST-96-1411, respectively, principally to govern bilateral intercarrier coordination. They maintain that the Coordination Agreement does not seek to amend either the United/Lufthansa or the United/SAS alliance agreements, but rather the Coordination Agreement seeks to provide for three-way coordination among United/Lufthansa/SAS similar to the coordination provided to Delta and its alliance partners by the Department in Orders 96-5-26 and 96-6-33.

They assert that under the Coordination Agreement, they would continue to be independent companies, but could discuss and plan coordinated service over their route networks with a view to offering the public broader and more efficient travel options, permitting the three airlines to better serve the public and to compete effectively with other international carriers and carrier alliances.

Finally, the joint applicants maintain that consolidation of these two cases is merited by (1) Departmental precedent in the Delta/Austrian/Sabena/Swissair alliance proceeding (OST-95-618), and (2) the interest of the Department and all parties in administrative efficiency. We agree.

ACCORDINGLY:

1. We grant the joint applicants' motion to consolidate Dockets OST-96-1411 and OST-96-1646 for decision;

2. We direct interested parties to file answers to the consolidated applications no later than September 4, 1996, and replies shall be filed no later than September 13, 1996, consistent with the joint applicants' request;

3. Consistent with our determinations in Orders 96-7-25 (ordering paragraph 2) and 96-5-27 (ordering paragraphs 6 and 7), interested parties may review the confidential materials described by those Orders in the Docket Section at the U.S. Department of Transportation, Room PL 401, 400 Seventh Street, SW, Washington, D.C., *provided* that such parties submit in advance an affidavit stating that he or she will preserve the confidentiality of the information and will only use it to participate in this proceeding. Further, each affidavit must specifically indicate that the person(s) are counsel or outside expert(s) for a party or prospective party in this case;³ and

4. We shall serve this notice on the parties served with the application.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

Dated: August 28, 1996

*An electronic version of this document will be made available on the World Wide Web at:
<http://www.dot.gov/dotinfo/general/orders/aviation.html>*

³ Any pleading or other filing that includes or discusses information contained in the confidential documents must be accompanied by a Rule 39 motion requesting confidential treatment. All filings should be on 8½" x 11" white paper using dark ink (not green).