BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.

Operating Limitations at Chicago O'Hare International Airport	)	Docket FAA-2004-16944

COMMENTS OF UNITED AIR LINES, INC.

Communications with respect to this document should be sent to:

JULIE OETTINGER
Director-Regulatory Affairs
UNITED AIR LINES, INC.
1025 Connecticut Avenue, N.W.
Suite 1210
Washington, D.C. 20036

BRUCE H. RABINOVITZ
DAVID HEFFERNAN
WILMER CUTLER PICKERING HALE AND DORR LLP
2445 M Street, N.W.
Washington, D.C. 20037-1420
(202) 663-6960 (Phone)
(202) 772-6960 (Fax)
bruce.rabinovitz@wilmerhale.com (e-mail)
david.heffernan@wilmerhale.com (e-mail)

Counsel for
UNITED AIR LINES, INC.

DATED: August 13, 2004

TABLE OF CONTENTS

PAGE

I. United Has More at Stake at ORD Than Any Other Carrier Because It Has Made a More Substantial Investment in Establishing ORD as the Primary Hub For Its Global Network 2

II. United Has Already Taken Steps to Reduce Delays at ORD, But Other Carriers, By Adding Flights in Response, Have Exacerbated the Problem 4

III. Any Scheme to Manage Delays by Mandatory Service Reductions Must Satisfy Three Guiding Principles: Proportionality, Nondiscrimination, and Flexibility 5

A. Proportionality of Impact Among Carriers 6

B. Nondiscrimination Among Carriers 7

1. The FAA's Decision Must Not Afford Any Carrier, Including New Entrants and Limited Incumbents, Favorable Treatment 7

2. The FAA's Decision Must Not Discriminate in Favor or Against Foreign Carriers 10

C. Flexibility 11

D. Recognition of Competitive Forces 12

IV. Key Elements of an Effective and Equitable Schedule Reduction Scheme 12

A. Operating Restrictions Should Not Apply Before 12:00 Noon or After 7:59 P.M 12

B. ORD Can Accommodate 92 Arrivals Per Hour During Peak Hours 13

C. 30-Minute Scheduling Intervals Would Enhance Carriers' Flexibility Without Increasing Delays 14

D. Any Schedule Reduction Requirement Should Be Of Strictly Limited Duration 14

V. Other Measures to Address Capacity Restrictions at ORD 15

VI. Conclusion 16

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United Air Lines, Inc. ("United") submits the following comments in response to the FAA's July 28, 2004 Notice in the above docket.[1/] United shares the FAA's concerns about operating delays at Chicago O'Hare International Airport ("ORD") during peak travel times; indeed, United, in an effort to ensure that its customers enjoy safe, reliable, on-time service, has been working with the FAA to manage the problem and has already taken significant steps to adjust its schedule in response to those concerns. To the extent it may serve the interests of its customers, United is willing to continue those efforts and submits these comments in that same cooperative spirit.[2/]

While United supports the FAA's efforts to address current delay problems at ORD, in the long term service reductions are not a viable solution. United fully supports

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[1/] 69 Fed. Reg. 46201 (Aug. 2, 2004).

[2/] These comments respond to the schedule reduction parameters the FAA outlined in the July 28 Notice and do not reflect the dialogue that has been on-going between United and the FAA looking to achieve voluntary changes in ORD operations to ameliorate the FAA's concerns about ORD flight delays. Notwithstanding United's strongly held belief that the schedule reduction targets outlined below would achieve a material improvement in the on-time performance rate of scheduled flights at ORD, United intends to continue discussing with the FAA possible voluntary changes in its flight schedules that would help form the basis for a temporary industry-wide agreement to bring peak-period flight schedules in line with operating limits necessary to achieve an acceptable level of on-time performance. Any proposal to extend such temporary limitations on a longer-term basis, however, would have to be subject to further discussions, including consideration of ways to increase capacity at ORD.

the ongoing effort to expand the airport's capacity through the O'Hare Modernization Plan and is participating in these discussions on the understanding that the FAA and other parties remain fully committed to moving forward with that plan, which will modernize and expand airside capacity at ORD to meet the increasing demand for air travel generally and the needs of United's customers in particular.

In these comments, United: i) briefly describes the critical importance of its ORD flight schedule to the company, ii) summarizes the concessions that it has already made to address schedule concerns at ORD, iii) identifies three core principles to which the FAA should adhere in devising and implementing any operational limitations at ORD, iv) addresses the key elements necessary to ensure that any temporary schedule reduction scheme achieves its objectives in the most effective and equitable manner, and v) identifies other measures that need to be taken, in the short run, to address capacity problems at ORD.

I. United Has More at Stake at ORD Than Any Other Carrier Because It Has Made a More Substantial Investment in Establishing ORD as the Primary Hub For Its Global Network.

It has taken United years and an investment of billions of dollars to develop its ORD hub as the backbone of its global network, both domestically and internationally. United's current schedules reflect the critical importance of the airport to its competitive position and overall economic performance. Consequently, operating changes at ORD have a greater impact on United than on any other carrier. If United were forced to further reduce service significantly at ORD, or to undertake significant additional rescheduling of flights from peak periods, the economic damage to United could be substantial—especially if such service changes were to have a disproportionate impact on

the company. Given the importance of ORD to United's network, United is committed to working with the FAA to find solutions to the temporary congestion problems from which the airport is suffering, even though United is concerned that any further service reductions or rescheduling by United could have a serious adverse impact on its customers and ability to compete effectively.

Demand for United's services at ORD remains strong: United is operating at the highest load factors in its history. Consequently, further substantial schedule changes, even if voluntary, would force United to turn away an increasing number of passengers—an opportunity cost that United can scarcely afford to incur. Substantial flight reductions might also undermine United's ability to maintain service to the many small and mid-size communities it serves from ORD, reducing these communities' access to United's global network and reducing the service options available to local air travelers. United (and United Express) currently operate a total of 218 daily nonstop frequencies between ORD and 50 U.S. airports categorized by the FAA as small and non-hub airports.[3/]

While ORD is United's primary hub and the key to the company's long-term economic well being, the same cannot be said of other carriers that, as discussed further in section II below, elected to add service at ORD after United announced schedule reductions and adjustments earlier this year. Not only did these competitors'

[3/] Some have suggested that even if limits are imposed on the number of flights operated at ORD during peak hours, the airport's overall capacity could be maintained if carriers were to operate larger aircraft. That approach, however, would jeopardize United's service between ORD and these smaller communities, most of which would be unable to support service with larger aircraft. Even for mid-size communities where overall demand might suggest an ability to support larger aircraft, such substitution would require a substantial reduction in daily frequencies and, consequently, the quality of the service available.

opportunism undermine United's efforts to reduce peak-period flight delays by adding flights at ORD, but some also added service at their principal domestic hubs in response to the increasing demand for air travel.[4] Faced with these moves by competitors, United's ability to reduce or modify its ORD services further without seriously undermining its competitive position is limited.

II. United Has Already Taken Steps to Reduce Delays at ORD, But Other Carriers, By Adding Flights in Response, Have Exacerbated the Problem.

United has already implemented a number of significant schedule changes during 2004 in an effort to reduce delays at ORD:

- In February, United depeaked its operations at ORD by shifting some flights from peak to off-peak operating hours and reducing the number of flights scheduled in any half-hour period. Consequently, the number of times during the day when the rate of scheduled arrivals exceeded the airport's operating capability was significantly reduced.

- In March, United agreed to reduce its planned peak period operations by an additional 5%.

- In June, United agreed to another 2.5% voluntary reduction in planned peak period operations.

- In total, the three schedule changes United made in February, March, and June resulted in the retiming of hundreds of daily flights, and the schedule reductions United made in March and June reduced the number of flights

[4] Because ORD is United's principal network hub, its flights to and from ORD carry both local passengers traveling between Chicago and the 124 cities United serves from ORD and connecting passengers traveling via ORD to and from the hundreds of domestic and international cities served by United's global network. Capacity constraints imposed on United at ORD therefore limit United's ability not only to accommodate an increasing demand for service in Chicago local markets, but also to compete for passengers traveling in connecting markets. Because the caps under consideration at ORD are not being considered at other domestic airports United's network competitors use as their principal domestic hubs, the imposition of such caps at ORD will have a disproportionate effect on United's competitive position: while United's ORD schedule will be frozen during peak periods, other industry participants will continue to be free to add service at their principal hubs in response to the increasing demand for air travel.

to be operated in peak travel periods by a total of 52 daily flights, a greater number of schedule reductions than any other carrier operating at ORD.

- To further ease congestion, United also accepted limits on the number of flights it would schedule during certain critical periods, which resulted in a reduction in planned arrivals by more than 15% between 12:00 noon and 12:59 p.m., by more than 18% between 1:45 p.m. and 2:14 p.m. and by almost 20% between 6:00 p.m. and 6:59 p.m.

United undertook these voluntary schedule adjustments even though the increased number of delays at ORD starting in November 2003 was precipitated by other carriers that reallocated capacity and increased service at ORD after the airport had reached its operating capacity.[5/] In considering the FAA's request for further voluntary reductions in service, it is important to note at the outset that the continuing delay problems at ORD are directly attributable to the fact that, after United depeaked its schedule in February, and United (and American) implemented substantial schedule changes in March and June, other carriers instituted new service at ORD, looking to gain a competitive advantage from United's (and American's) actions. Such gamesmanship by other carriers directly undermined the intended beneficial impact of the sacrifices United (and American) made.

III. Any Scheme to Manage Delays By Mandatory Service Reductions Must Satisfy Three Guiding Principles: Proportionality, Nondiscrimination, and Flexibility.

Any program developed by the FAA in this proceeding to reduce ORD flight delays must satisfy three core principles: Proportionality, nondiscrimination, and flexibility. In addition, any longer-term program to relieve ORD congestion pending full implementation of the Modernization Plan must reflect the competitive landscape created by market forces prior to regulatory intervention.

[5/] Between October 2003 and December 2003, other carriers added 128 daily operations at ORD.

A. Proportionality of Impact Among Carriers.

Simply put, the proportionality principle is one of fundamental fairness: the FAA must ensure that the impact of any schedule reduction scheme or cap on the number of flight arrivals during peak hours impacts carriers in a proportionate manner. For example, if United is to be required to reduce its flight schedule to help bring industry arrivals at ORD below an FAA-prescribed cap, other carriers should be required to reduce their ORD schedules proportionately, such that competition between carriers during any given period would remain the same as before. A cap or other schedule reduction mechanism cannot be allowed to alter the relative competitive position of carriers operating at ORD. United operates more flights at ORD than any other carrier because it has invested more resources and has more extensive property interests -- in terms of gates, terminal and other facilities, and its flight schedule -- at the airport than any other carrier. If a cap or other schedule reduction mechanism would constrain United's ability to utilize fully all of those assets for a limited time, then other carriers should be subject to a similar constraint in proportion to the scope of their operations and property interests at ORD. In other words, if hourly or half-hourly caps are to be imposed on arrivals at ORD during peak operating periods, each carrier operating at ORD during such periods must have its operations capped in proportion to the number of flights it operates during the capped hourly or half-hourly periods. Any other outcome would be fundamentally unfair and, as explained below, contrary to law.

B. Nondiscrimination Among Carriers.

1. The FAA's Decision Must Not Afford Any Carrier, Including New Entrants and Limited Incumbents, Favorable Treatment.

This proceeding is focused on achieving voluntary reductions in peak period flight schedules at ORD to improve the airport's on-time performance—an exercise with respect to which Congress has given the FAA specific, narrowly-defined statutory authority. Absent agreement, the FAA's authority to impose schedule reductions on the industry is limited and does not contemplate intruding upon market forces any more than is absolutely necessary to achieve the specific goal of delay reduction. The FAA has no authority to manage or manipulate market forces to favor any competitor over another (and, indeed, should have no interest in doing so). That would be fundamentally incompatible with the FAA's (and DOT's) role in the post-deregulation era. Nonetheless, some carriers may regard this proceeding as an opportunity to seek the FAA's assistance in gaining a competitive advantage. Any such effort would be illegitimate and should neither be tolerated by the FAA in this proceeding nor rewarded by preservation in any extension of the regulatory limitations that may be imposed as a result of this proceeding.

As discussed above, it is imperative that the FAA ensure that any schedule reductions impact carriers on a proportionate basis. That principle should apply equally

to carriers operating at ORD.[6] If United is to be required to reduce the number of flights that it operates during peak hours, other carriers cannot be permitted to substitute new flights in United's place. Recent experience has demonstrated that United (and American) have already taken specific steps to reduce their schedules, but that other carriers, far from exercising any such discipline, have actually been allowed to exploit United's (and American's) service reductions for competitive purposes, thereby undermining the goal of delay reduction. The lesson of that experience is clear: the FAA must ensure that any schedule reduction scheme that it may adopt will not enable any carrier to gain a competitive advantage from the process. In particular, it would be fundamentally unfair and contrary to applicable law for the FAA to impose any arrangement that would afford any so-called new entrant or limited incumbent a competitive advantage.[7]

United, through its huge investment over decades in its hub at ORD, has acquired property rights in various assets at the airport, including its flight schedule, which essentially is a proprietary tool for utilizing other assets in which United has a property

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[6] Even though United believes the proportionality principle is fundamental to ensuring that any cap imposed on operations at ORD is fair and equitable, United would not oppose a voluntary capacity reduction program which excluded carriers that were operating only a *de minimis* number of arrivals during the period covered by the caps, providing those carriers were subject to the same prospective limitations on service expansion as other carriers serving ORD. United, however, makes no commitment here as to the position it may take regarding any longer-term program that may be developed to address congestion at ORD.

[7] It should be self-evident that if the FAA imposes a limit on the number of flights that may be operated at ORD, thereby requiring carriers to reschedule or suspend certain flights, then other carriers that do not currently operate at the airport during the restricted period must not be allowed to introduce new service during that period. Even assuming *arguendo* that it may be consistent with the FAA's statutory authority to restrict incumbent carriers from exercising certain of their operating rights in order to reduce delays, the FAA has no authority to manage competition by conferring on any other carrier (directly or indirectly) any right or opportunity to introduce service during restricted hours. Such an outcome would undermine the FAA's delay-reduction objective and, as explained in footnote 9 below, could violate incumbent carriers' property rights.

interest (*e.g.*, aircraft, gates, terminal and other facilities). Even assuming the statute authorizes the FAA to order nondiscriminatory, proportional schedule reductions at ORD that limit carriers' ability to exercise their property rights under specific circumstances, that authority cannot be used (directly or indirectly) to handicap competition among carriers. Moreover, if the FAA were to issue an order that resulted in the taking of any carrier's property[8/] and its reallocation, directly or indirectly, to another carrier, such action could be considered by the courts to be an unconstitutional "taking" of a property right.[9/]

[8/] The Supreme Court has held that intangible property constitutes a form of "private property" that is entitled to protection under the Fifth Amendment's Takings Clause (see footnote 9 below). Ruckelshaus v. Monsanto, 467 U.S. 986, 1003-04 (1984) ("[t]hat intangible property rights . . . are deserving of the protection of the Taking Clause has long been implicit in the thinking of this Court"); see also id., quoting United States v. Gen. Motors Corp., 323 U.S. 373, 377-78 (1945) (the term "property," as used in the Takings Clause, denotes not only tangible, physical property, but also intangible property, including "the group of rights inhering in the citizen's relation to . . . physical [property], as the right to possess, use and dispose of [physical property]"). A carrier's flight schedule falls within this definition of intangible property in that it is an intangible, proprietary reflection of a carrier's right to use other, tangible property, such as aircraft, gates, terminal and other facilities, in order to provide air transportation services, as held out and advertised in its flight schedule.

[9/] As stated above, incumbent carriers have legitimate property interests in their assets at ORD, including their flight schedules and the right to continue operating them. The Fifth Amendment prohibits the government from "taking" private property unless it is for "public use" and "just compensation" is provided. The U.S. Supreme Court has adopted a three-part "justice and fairness" test for determining the constitutionality of regulatory takings. The test focuses on: (1) the economic impact of the regulatory action, (2) its "interference with reasonable investment-backed expectations," and (3) "the character of the government action." Eastern Enterprises v. Apfel, 524 U.S. 498, 523-24 (1998) (O'Connor, J., plurality opinion), citing Connolly v. Pension Benefit Guar. Corp., 475 U.S. 211, 224-25 (1986). If the FAA were to issue an order prohibiting an incumbent carrier from continuing to operate an established schedule and, in conjunction therewith, either directly or indirectly, conferred on a competitor the right to operate in its place, that order could be found to violate the Fifth Amendment as inconsistent with this three-part test. Unquestionably, the economic impact on any incumbent, but particularly United, of an order requiring it to pare back its schedule during peak hours while affording a competitor the opportunity to operate in United's place would be highly adverse to United and would interfere with United's reasonable commercial expectations backed by the investment of billions of dollars at ORD. Moreover, the "character" of such regulatory action, depriving United of the right to operate flights that are an established part of its existing ORD schedule and enabling other carriers to add service in United's place, thereby handicapping competition among carriers without statutory authority to do so, would lend further support to the argument that the FAA's action would fail the three-part test and violate the Takings Clause. Cf. County of Wayne v. Hathcock, (Mich. Sup. Ct. Docket Nos. 124070-78), decision filed July 30, 2004 (interpreting the Takings Clause of the Michigan Constitution, which contains the same "public use" language as the Fifth

In short, if the FAA decides to require a schedule reduction at ORD, it cannot thereafter allow new entrants or an arbitrarily-defined class of limited incumbents to add service at the airport while such schedule reductions are in force consistent with its statutory authority and the limitations of the Fifth Amendment. The FAA's intent clearly is to act expeditiously to address existing delay problems at ORD. The effectiveness of such action, however, (indeed, the FAA's ability successfully to implement such action) would be jeopardized if the FAA were to exceed its statutory authority by adopting a discriminatory scheme—particularly one that would involve the actual or effective taking of the property of any carrier for reallocation to another carrier.

2. The FAA's Decision Must Not Discriminate in Favor or Against Foreign Carriers.

If the FAA decides to impose a flight schedule-reduction scheme, the scheme must not discriminate in favor of foreign carriers that operate at ORD at the expense of U.S. carriers. The United States has an obligation under bilateral and multilateral air transport service agreements not to discriminate against foreign carriers in terms of

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Amendment) (the meaning of "public use" is limited and does not include the reallocation of property from one private party to another simply because the latter's use of the property might be deemed to be more economically efficient or beneficial to the public). In any event, federal agencies are not empowered to take private property in a manner Congress has not authorized (see Nat'l Wildlife Fed'n v. ICC, 850 F.2d 694, 698 (D.C. Cir. 1988)), and, as stated above in text, the FAA has no statutory authority to limit operations at an airport by one carrier in order to permit another carrier to serve the airport. Even assuming *arguendo* that the FAA's statutory authority to manage the efficient use of navigable air space (49 U.S.C. § 40103) includes the authority to order a carrier to reduce its schedule at a particular airport to reduce flight delays, nowhere in the Transportation Code has Congress authorized the FAA to order one carrier to reduce service so that another might expand operations. That, however, would be the practical effect of an order reducing incumbent carriers' peak-period operations at ORD to fit below an FAA-imposed cap, but excluding from the cap new entrants or an arbitrarily-defined class of limited incumbents. In short, if incumbents' operations must be reduced to fit current schedules below an FAA-prescribed cap on arrivals, the FAA, in order to avoid the risk of an unconstitutional taking of property or of exceeding the scope of its relevant statutory authority, must impose a simple cap that applies uniformly to all carriers operating, or intending to operate, at the airport during peak periods.

access to U.S. airports such as ORD,[10] but neither those agreements nor any other law requires the FAA to afford foreign carriers preferential treatment relative to U.S. carriers. Moreover, there is no policy justification for favoring foreign carriers over U.S. carriers. Accordingly, the FAA must structure schedule restrictions at ORD to avoid any discrimination between U.S. and foreign carriers.

The best way to satisfy this nondiscrimination requirement would be for the FAA to exempt all international service from any schedule-reduction requirements, regardless of whether such service is operated by U.S. or foreign-flag carriers.[11] If, however, the FAA decides to make international services subject to a cap along with domestic services, then foreign carriers as well as U.S. carriers should be prohibited from increasing their frequency of service during restricted hours.[12] In establishing a baseline of existing international services permitted within the cap, the FAA should include not only U.S. and foreign-flag carriers' current international service schedules, but also any international services that carriers plan to introduce at ORD during the forthcoming IATA winter 2004/2005 season.

C. Flexibility.

If the FAA requires carriers to reduce their schedules or imposes a cap on the number of arrivals during peak hours, it should not otherwise restrict carriers' ability to

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[10] See, e.g., Model Open Skies Agreement Text, art. 11, updated Apr. 13, 2004, available at <http://www.state.gov/e/eb/rls/othr/19514pf.htm>.

[11] By exempting all international service from the cap -- whether operated by U.S. or foreign-flag incumbents or by U.S. or foreign-flag new entrants -- the FAA also would avoid the problem of an unconstitutional taking of property.

[12] The imposition of such a restriction on foreign-flag carriers' operations at ORD would not be unprecedented internationally; in fact, it is not unusual for U.S. carriers to be unable to gain access to foreign airports where capacity is limited.

change or modify their schedules on condition that such changes would not result in a breach of any FAA-imposed cap. Such flexibility necessarily would include the right of carriers to negotiate arrangements between and among themselves in an effort to improve the competitiveness and efficiency of their services, including the right to trade operating opportunities during a restricted period. The FAA's focus in imposing and enforcing a cap should be to limit the total number of arrivals during peak periods, but it should have no other interest in how carriers schedule their flights and compete with each other.

D. Recognition of Competitive Forces

Whether in the context of a short or longer-term plan to address ORD congestion, the core principles discussed above must be respected. In addition, any longer-term program to relieve congestion pending full implementation of the Modernization Plan must reflect the competitive landscape that market forces created prior to regulatory intervention. Although United may be willing to accept a capacity regime in the short run that does not require an equal sacrifice by all market participants in order to achieve an immediate improvement in ORD's operating performance as a form of essentially "emergency-style" relief to improve the services available to its customers, any regulatory action that would cap operations over a longer period must strive to reflect more closely market conditions that would prevail in a free-market environment.

IV. Key Elements of an Effective and Equitable Schedule Reduction Scheme.

A. Operating Restrictions Should Not Apply Before 12:00 Noon or After 7:59 P.M.

United does not support imposing a cap on operations before 12:00 noon or after 7:59 p.m. Prior to 12:00 noon, the airport has produced acceptable performance. For the

most recent 12 months, the Arrival 14 performance for the industry at ORD during these hours has averaged 85%. As for operations after 8:00 p.m., flight delays generally are self-correcting as the number of operations scheduled thereafter declines rapidly, allowing the airport to recover without artificial operating restrictions.

Once caps are imposed, the FAA must ensure that no carrier is allowed to schedule any additional flight during peak hours that would result in total flight operations exceeding an applicable cap. Moreover, if the total number of flights during a given restricted period were to fall below the applicable cap (*e.g.*, because a carrier currently operating at ORD during peak hours reschedules, reduces or discontinues service at ORD or if new capacity becomes available due to operational changes), then first priority for purposes of scheduling additional flights within the cap or utilizing newly-available capacity should be given to carriers that reduced their flight schedules in order to enable successful implementation of the cap in the first place. If those carriers elect not to exercise that prerogative, then the available capacity should be allocated to other carriers on a nondiscriminatory basis.

B. ORD Can Accommodate 92 Arrivals Per Hour During Peak Hours.

In considering what additional changes might be appropriate, United believes the FAA's stated target of 86 operations per hour is too low. The FAA's July 28 Notice indicates this target is based on the number of flights scheduled over 145 weekdays between November 3, 2003 and May 15, 2004. United, however, believes this is too short a time frame on which to benchmark the airport. Had the FAA reviewed historical operating data for a longer period, it would have concluded that higher acceptance rates are achievable. For the period July 2001 through July 2004, the airport had an average

acceptance rate of 92 arrivals per hour.[13] This would be a more appropriate and realistic target for the FAA to achieve for the term of this agreement.[14]

C. 30-Minute Scheduling Intervals Would Enhance Carriers' Flexibility Without Increasing Delays.

United believes the apparent plan to develop maximum arrival rates based on 15-minute intervals is too restrictive. More than 30-years' experience under the High-Density Rule ("HDR") indicates that it is not necessary to restrict carriers' scheduling flexibility so narrowly in order to achieve acceptable operating performance.[15] United knows of no reason why the 30-minute scheduling intervals used in the past at ORD and other HDR airports would not be successful if now used at ORD.

D. Any Schedule Reduction Requirement Should Be Of Strictly Limited Duration.

If the FAA decides to impose a cap or other schedule reduction requirement, it should do so for a strictly limited period of time. Any such measure should be nothing more than a short-term response to current circumstances, not a prelude to a long-term restriction on flights at ORD. The FAA, by making clear that its final order will be effective only for the short term, will increase the incentive of carriers to cooperate with the process. Moreover, any attempt to extend such a restriction beyond the short term might undermine efforts to develop long-term solutions to capacity problems at ORD. At

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[13] This figure is based on the posted arrival rate at ORD between July 2001 and July 2004.

[14] Even though, as noted in the text, United is firmly persuaded that flight delays at ORD would be brought within acceptable levels if operations were capped at 92 arrivals per hour, it has, as the FAA knows, been prepared to accept a slightly lower target if an acceptable overall reduction program could, thereby, be achieved voluntarily.

[15] As a practical matter, it is highly questionable whether a scheme based on 15-minute scheduling intervals could be administered effectively and, consequently, whether it would deliver concomitant improvements in on-time performance.

best, the type of schedule restrictions contemplated in this proceeding would do no more than treat the symptoms, but achieving a cure will require implementation of measures to facilitate long-term increases in capacity, as opposed to reliance on government-mandated reductions in the number of flights that carriers may schedule in response to the demands and preferences of the traveling public.

V. Other Measures to Address Capacity Restrictions at ORD.

In the longer term, service reductions are not a viable solution to airport capacity problems. ORD is a vital link in the nation's air transport system. The public interest will neither be served by limiting service at ORD, nor by restricting carriers' ability to add to or revise their ORD schedules to respond to changes in the public's demand for service. United fully supports the ongoing effort to increase capacity through the O'Hare Modernization Plan as the best way to modernize and expand airside capacity at ORD as quickly as possible. United also strongly favors expediting the timetable for implementing the ORD runway expansion program to the maximum extent feasible.

In the short run, meanwhile, the FAA should act to increase capacity by expediting implementation of fully Intersecting Runway Operations at ORD. The first phase of implementation has proven to be successful and United is looking forward to the next phase. This would increase the airport's ability to accommodate a higher number of arrivals per hour without increasing delays or compromising safety. Other steps the FAA should take immediately to improve operating performance at ORD include:

(1) utilizing existing and creating additional RNAV approach and departure procedures;

(2) introducing idle descent procedures whenever conditions permit;

(3) excluding ORD departures from "miles-in-trail" procedures and adding appropriate traffic initiatives to reduce taxi-out delays;

(4) implementing the Chicago-area airspace changes identified in the RTCA FAA/Industry Midwest Airspace Working group (including airspace changes in the Cleveland Center area to achieve more efficient ORD arrival flows);

(5) adding a minimum of 2 new Eastbound departure routes, which should effectively double the number of available routes;

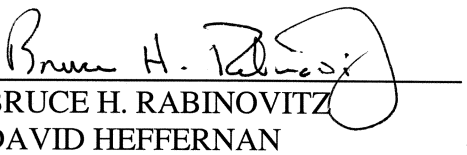
(6) increasing the number of Southbound departure tracks from three to five and modifying departure procedures to improve traffic flow; and

(7) installing, no later than 2005, Multilateration (ASDE-X) radar to cover the entire airfield, including movement and non-movement areas.

VI. Conclusion

United shares the FAA's concerns about delays at ORD and has taken significant voluntary steps to adjust its schedule to address those concerns in order to help ensure that its customers receive safe, reliable, on-time service. United is willing to continue to work with the FAA to achieve a balance between scheduled operations and runway capacity that would reduce peak period delays to more acceptable levels. However, fundamental fairness requires that the FAA ensure that carriers bear a proportionate share of the schedule reduction burden. To date, United's disproportionate sacrifice in terms of already-implemented schedule reductions has been exploited by other carriers that have added flights, thereby negating the positive effect of United's efforts and exacerbating delays at ORD. Nonetheless, United continues to be willing to play its part in achieving a solution on condition that the FAA requires other carriers to do the same and any schedule-reduction scheme is narrowly tailored, nondiscriminatory, and proportionate in its impact on carriers.

Respectfully submitted,



BRUCE H. RABINOVITZ
DAVID HEFFERNAN
WILMER CUTLER PICKERING HALE
AND DORR LLP
2445 M Street, N.W.
Washington, D.C. 20037-1420
(202) 663-6960

Counsel for
UNITED AIR LINES, INC.

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