



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

Joint Application of

**Alitalia-Linee Aeree Italiane-S.p.A.,  
Czech Airlines, Delta Air Lines, Inc.,  
KLM Royal Dutch Airlines,  
Northwest Airlines, Inc, and  
Société Air France**

for Approval of and Antitrust Immunity for Alliance  
Agreements under 49 U.S.C. §§ 41308 and 41309

**Docket OST-2004-19214**

Joint Application of

**Delta Air Lines, Inc.,  
KLM Royal Dutch Airlines,  
Northwest Airlines, Inc., Society Air France,  
Alitalia-Linee Aeree Italiane-S.p.A., and  
Czech Airlines**

for Statements of Authorization under 14 C.F.R. Part  
212 (blanket codesharing)

**Docket OST-2004-19215**

**NOTICE PROVIDING ACCESS TO DOCUMENTS  
ORDER CONSOLIDATING PROCEEDINGS**

**Summary**

By this order, we consolidate into Docket OST-2004-19214 the joint application for blanket codesharing (Docket OST-2004-19215) filed by the Joint Applicants. We also suspend the answer date in Docket OST-2004-19215, pending our determination that the record is complete. By this notice, we grant immediate interim access to all documents filed in Docket OST-2004-19214 covered by the Rule 12 Motion to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance. When we have determined that the record of this case is complete, we will announce an appropriate procedural schedule. We shall serve this notice on all persons on the service list for this docket.

**Docket OST-2004-19214**

On September 24, 2004, Alitalia-Linee Aeree Italiane-S.p.A. ("Alitalia"), Czech Airlines ("CSA"), Delta Air Lines, Inc. ("Delta"), KLM Royal Dutch Airlines ("KLM"), Northwest

Airlines, Inc. (“Northwest”), and Société Air France (“Air France”), and their majority-owned corporate affiliates,<sup>1</sup> filed a joint application requesting approval of and antitrust immunity for (1) bilateral alliance cooperation agreements between KLM and Delta, and between Northwest and each of the Sky Team ATI Carriers; (2) a multilateral alliance coordination agreement among the Joint Applicants; and (3) existing<sup>2</sup> and future<sup>3</sup> agreements between and among the Joint Applicants concerning the activities contemplated by or in furtherance of the cooperation and coordination agreements, such as implementing agreements and other transactions undertaken by the Joint Applicants pursuant to the cooperation and coordination agreements (collectively, the “Alliance Agreements”).

To date, five of the six Joint Applicants filed individual Motions under 14 C.F.R. 302.12 (Rule 12) of our regulations seeking confidential treatment for supporting documents and information filed by them in Docket OST-2004-19214. Alitalia, Delta, KLM, and Northwest filed Motions on September 27, 2004.<sup>4</sup> Air France filed a Motion on September 28, 2004.<sup>5</sup>

In sum, five of the Joint Applicants (Alitalia, Delta, KLM, Northwest, and Air France) state that the material filed in Docket OST-2004-19214 under the Motion is proprietary, commercially sensitive, and confidential in nature which qualifies for being withheld from public disclosure. In their Motions, these five Joint Applicants specified the submitted materials that they state should receive confidential treatment.<sup>6</sup> KLM stated that its request for confidential treatment extended to various agreements (to which KLM is a party) that will be submitted by Air France and Northwest.<sup>7</sup> Each of these five Joint Applicants has asked that access to this material be limited to counsel and outside experts for interested parties.<sup>8</sup>

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<sup>1</sup> The Joint Applicants requested that any Order granting immunity make clear that the immunity extends to such corporate affiliates where a Joint Applicant holds 50% or more of the ownership interest. See Application at 2.

<sup>2</sup> Instant Coordination and Cooperation Agreements were submitted with the Application. See Appendix A. The Joint Applicants state that copies of all other existing agreements encompassed by this request for antitrust immunity have, or are being, filed with Department in conjunction with Dockets 48342, OST-01-10429, OST-02-11842, and/or the Northwest/Continental/Delta domestic codeshare alliance review.

<sup>3</sup> The Joint Applicants state that copies of any future agreements will be submitted to the Department for review and prior approval in accordance with the Department’s standard procedures.

<sup>4</sup> Answers to these Motions were due on October 6, 2004. The Motions were unopposed.

<sup>5</sup> Answers to the Motion were due on October 7, 2004. The Motion is unopposed.

<sup>6</sup> See: (1) Alitalia’s Motion at 2; (2) Delta’s Motion at “Confidential Production Index”; (3) KLM’s Motion at “Index of Documents Submitted to Department of Transportation”; (4) Northwest’s Motion at “Index of Confidential Documents”; and (5) Air France’s Motion at “Index of Confidential Documents.”

<sup>7</sup> See KLM’s Motion at 1.

<sup>8</sup> See: (1) Alitalia’s Motion at 4; (2) Delta’s Motion at 5; (3) KLM’s Motion at 4; (4) Northwest’s Motion at 4; and (5) Air France’s Motion at 6.

In order to afford interested parties prompt access to the documents under conditions agreed to by the applicants and imposed by the Department under similar recent circumstances,<sup>9</sup> we will grant immediate interim access to all documents filed in Docket OST-2004-19214 covered by the Rule 12 Motions filed by the five Joint Applicants to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance. Moreover, consistent with earlier determinations, at the Dockets facility, parties will be permitted to make copies of the exhibits for use by persons who have filed confidentiality affidavits.<sup>10</sup> We also find it appropriate to grant interim access to any subsequent materials that may be filed in this case under a Rule 12 Motion to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance, unless the party filing the Motion objects.

We expect all affidavits to state, at a minimum, that (1) the affiant is counsel for an interested party or an outside independent expert providing services to such a party; (2) the affiant will use the information only for the purpose of participating in this proceeding; and (3) the affiant will disclose such information only to other persons who have filed a valid affidavit in the Docket OST-2004-19214. Affiants and interested parties must understand and agree that any pleading or other filing that includes or discusses information contained in the covered documents must itself be accompanied by a Rule 12 Motion requesting confidential treatment. Affidavits must be filed in Docket OST-2004-19214 with the Department of Transportation, Dockets, Room PL-401, 400 Seventh Street SW, Washington, DC, 20590.

Affiants having filed affidavits may examine the documents at the Department of Transportation at the Dockets location. Affiants must present a stamped copy of the affidavit filed with the Department of Transportation before examination of the documents. Immediately after the completion of any judicial review of our final decision in this docket or the expiration of the 60-day period within which a person may petition for judicial review, all persons who have filed confidentiality affidavits in this proceeding are hereby directed to file a further affidavit stating that all copies of the applicants' confidential materials have been destroyed or returned to the applicants.

Finally, when we have determined that the record of this case is complete, we will announce an appropriate procedural schedule.

### **Docket OST-2004-19215**

On September 24, 2004, Delta Air Lines, Inc. ("Delta"), KLM Royal Dutch Airlines ("KLM"), Northwest Airlines, Inc. ("Northwest"), Société Air France ("Air France"), Alitalia-Linee Aeree Italiane-S.p.A. ("Alitalia") and Czech Airlines ("CSA") filed a joint application requesting

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<sup>9</sup> See Notices in Dockets OST-2003-14202 dated January 21, 2003 and Docket OST-2002-12688 dated July 10, 2002.

<sup>10</sup> See Notice dated January 1, 2003, p. 1, Docket OST-2003-14202 (Asiana-United request for approval and antitrust immunity for Alliance Agreements) and See Notice dated March 21, 2002, p. 1, Docket OST-2002-11842 (Delta-KAL-Air France-Alitalia-CSA request for approval of and antitrust immunity for Alliance Agreements).

blanket statements of authorization to engage in the reciprocal codeshare activities described within the application.

**Consolidation of Dockets OST-2004-19214 and OST-2004-19215**

On September 30, 2004, American Airlines, Inc. (American) filed a motion requesting that the Joint Applicants' request for approval of and antitrust immunity for the Alliance Agreements (Docket OST-2004-19214) be consolidated with the Joint Applicants' request for statements of authorization under 14 CFR Part 212 (blanket codeshare) (Docket OST-2004-19215). American asserts that the Joint Applicants themselves<sup>11</sup> indicate that the applications for antitrust immunity and blanket codesharing are closely interrelated. Furthermore, American notes that the Department consolidated the separate requests for antitrust immunity and for codeshare authorizations filed by American and Lan Chile.<sup>12</sup> American also states that consolidation of these two dockets will enable interested parties, in responding to the codeshare application, to review and take into account the relevant confidential documents accompanying the antitrust immunity application.

On October 1, 2004, the Joint Applicants filed an answer to American's motion stating that the Joint Applicants do not oppose American's motion. We agree that, as stated by American, consolidation of these two dockets will allow interested parties and the Department to consider the possible interrelationships among various alliances as they relate to the issues in both dockets. By this order, we consolidate into Docket OST-2004-19214 the joint application for blanket codesharing (Docket OST-2004-19215) filed by the Joint Applicants. We also suspend the answer date in Docket OST-2004-19215, pending our determination that the record is complete.

By:

**KARAN K. BHATIA**  
Assistant Secretary for Aviation  
and International Affairs

Date:

(SEAL)

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<sup>11</sup> See American's motion at 2.

<sup>12</sup> See Order 98-2-21, dated February 20, 1998 (Dockets OST-97-3285 and OST-97-2982).

*An electronic version of this document is available on the World Wide Web at:  
<http://dms.dot.gov/search>*