

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of :
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 :
 AMERICAN AIRLINES, INC. : Docket OST-98-3401
 :
 :
 under 49 USC 40109 for an exemption :
 to serve South Africa :
 :

REPLY OF
CONTINENTAL AIRLINES, INC.
AND MOTION FOR LEAVE TO FILE

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February 23, 2000

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Continental¹ agrees with United that American's application for renewal of its exemption authorizing New York/Miami-Johannesburg service with South African Airways and amendment of that exemption to authorize service between "points in the United States and points in South Africa, via London" for codeshare service with British Airways should be denied. All of American's proposals to codeshare with British Airways are so anticompetitive that they should be denied, particularly when, as United points out, the U.K. is continuing to refuse to allow significant new access to London Heathrow. Rather than allowing American to

transmute its dormant New York/Miami-Johannesburg authority into U.S.-London-South Africa authority to codeshare with British Airways, the Department should take long overdue action to grant Continental's request to codeshare with Alitalia between New York/Newark and Johannesburg via Milan.²

Continental states as follows in support of its position:

1. American seeks to get a leg up on U.S.-South Africa codesharing by claiming that it already holds U.S.-South Africa authority, despite the fact that its existing authority was awarded only for the purpose of codesharing with South African Airways and only at two specified U.S. gateways.³ As United has pointed out in its answer, and as Continental, Delta, Houston and United have demonstrated in opposing codesharing between American and British Airways,⁴ the dominance of American and British Airways at Heathrow and the U.K.'s refusal to

(...continued)

¹ Common names are used for airlines.

² Continental applied on December 1, 1999, in Docket OST-99-6587 for U.S.-South Africa exemption authority and the U.S.-South Africa third-country codeshare opportunity which became available on November 1.

³ Although American seeks to invoke Part 377, American's exemption authority is not being used for "an activity of a continuing nature" since American no longer codeshares with South African Airways or offers any other U.S.-South Africa service.

⁴ See Answers of Continental, Delta and the City of Houston and the Greater Houston Partnership, February 22, 2000, Answers of Continental, Delta and United, December 1, 1999, and Joint Reply of the City of Houston and the Greater Houston Partnership, December 10, 1999, in Docket OST-99-6507.

open up Heathrow to new competition preclude any authorization which would enhance the American/British Airways dominance further.

2. Like Continental, "United has opposed any code sharing by American and British Airways involving services to, from or via London Heathrow or London Gatwick until such time as sufficient access to those airports is granted to U.S. carriers."⁵ Expanded Heathrow access will be meaningful only if additional Heathrow flights can be operated by carriers not already operating at Heathrow. The Department should not consider American's exemption application or the British Airways/American codeshare proposal any further until such access has become available.

3. Rather than granting American's application, the Department should strongly prefer Continental's proposal for authority to offer third-country codesharing via Milan, an open-skies gateway,⁶ over the British Airways/American proposal to engage in third-country codesharing via London, a closed-skies gateway. The Department should not reward the U.K.'s obstinance in refusing to allow new U.S. carriers such as Continental the right to conduct operations at Heathrow by approving any British Airways/American proposal to use Heathrow routes for South Africa codeshare service. Secretary Slater has said the U.K. has "closed" U.S.-

⁵ See United's Answer at 1.

⁶ Like American's proposal, Delta's service with Air France via Paris does not utilize an open-skies gateway.

London routes to new competition,⁷ so Heathrow should be "closed" to third-country codesharing by British Airways and American until the U.K. opens Heathrow to operations by new U.S. carriers.

4. The Department should deny the American applications for U.S.-South Africa codeshare authority immediately so the substantial public benefits of the Continental codeshare proposal with Alitalia and the U.S.-Italy "open skies" agreement can be realized now. Since the Department has already reviewed and approved the codeshare arrangement between Continental and Alitalia, the Department should move quickly to approve their far superior U.S.-South Africa codeshare proposal.

5. Continental is the only applicant for U.S.-South Africa third-country codeshare authority that will offer the multiple public benefits of adding a new competitive network between the U.S. and South Africa, providing South Africa codeshare service via an open-skies gateway and introducing new intergateway hub competition in the largest U.S. metropolitan area for U.S.-South Africa traffic, New York/Newark.⁸ American has advanced a redundant proposal to serve South Africa via JFK, an airport which already has plenty of South Africa service, while the

⁷ See Statement of Rodney E. Slater, Secretary of Transportation, Before the Aviation Subcommittee of the House Transportation and Infrastructure Committee, February 15, 2000, at 9.

⁸ See Continental's application in Docket OST-99-6587 and Continental's answer in Docket OST-99-6595.

Continental service with Alitalia at Newark International Airport will provide the first online hub connections at New York/Newark for U.S.-South Africa service.

For the foregoing reasons, Continental joins United in urging the Department to deny American's application for renewal and amendment of its U.S.-South Africa exemption authority for codesharing with British Airways. Continental urges the Department to award the U.S.-South Africa third-country codeshare opportunity currently available to Continental for service with Alitalia via Milan promptly instead.⁹

Respectfully submitted,

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February 23, 2000

⁹ Continental requests leave under Rule 4(f) of the Department's Rules of Practice to file this otherwise unauthorized document. Continental's reply gives the Department a more accurate and complete record on which to decide American's application. No party will be prejudiced by acceptance of this reply.

CERTIFICATE OF SERVICE

I certify that I have this date served the foregoing document on counsel for American and all persons served with its application in accordance with the Department's Rules of Practice.

Thomas Newton Bolling

February 23, 2000
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