

**BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

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Joint Application of )  
 )  
AMERICAN AIRLINES, INC.; )  
and THE TACA GROUP ) Docket OST-00-7088  
 )  
under 49 U.S.C. 41308 and 41309 for approval of )  
and antitrust immunity for agreement )  
\_\_\_\_\_ )

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AMERICAN AIRLINES, INC., et al., )  
and THE TACA GROUP RECIPROCAL ) Docket OST-96-1700  
CODESHARE SERVICE PROCEEDING )  
\_\_\_\_\_ )

**JOINT RESPONSE OF THE TACA GROUP  
AND AMERICAN AIRLINES, INC. TO  
ANSWER OF CONTINENTAL AIRLINES, INC.**

Communications with respect to this document should be addressed to:

For The TACA Group:

ROBERT D. PAPKIN  
JAMES V. DICK  
Squire, Sanders & Dempsey, LLP  
1201 Pennsylvania Avenue, NW  
Washington, D.C. 20004  
(202) 626-6600  
(202) 626-6780 (fax)

For American Airlines, Inc.:

HENRY C. JOYNER  
Senior Vice President – Planning  
American Airlines, Inc.  
P.O. Box 619616, MD 5621  
DFW Airport, Texas 75261

WILLIAM K. RIS, JR.  
Senior Vice President – Government Affairs  
American Airlines, Inc.  
1101 17<sup>th</sup> Street, NW, Suite 600  
Washington, D.C. 20036

ARNOLD J. GROSSMAN  
Vice President – International Affairs  
American Airlines, Inc.  
P.O. Box 619616, MD 5635  
DFW Airport, Texas 75261

J. OTTO GRUNOW  
Managing Director – International Affairs  
American Airlines, Inc.  
P.O. Box 619616, MD 5639  
DFW Airport, Texas 75261

CARL B. NELSON, JR.  
Associate General Counsel  
American Airlines, Inc.  
1101 17<sup>th</sup> Street, NW  
Suite 600  
Washington, D.C. 20036  
(202) 496-5647  
(202) 857-4246 (fax)

April 20, 2000

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**JOINT RESPONSE OF THE TACA GROUP  
AND AMERICAN AIRLINES, INC. TO  
ANSWER OF CONTINENTAL AIRLINES, INC.**

Predictably, Continental Airlines, Inc. (“Continental”) enthusiastically supports the Motion of Delta Air Lines, Inc. (“Delta”) to burden The TACA Group (“TACA”) and American Airlines, Inc. (“American”) with additional evidence requests in connection with the captioned joint applications. See Answer of Continental Airlines, Inc. to Motion (“Continental’s Answer”), filed April 12, 2000. Like Delta, Continental never misses an opportunity to frustrate and delay the implementation of a viable TACA/American alliance, even though their tactics inevitably prolong the day when consumers in U.S.-Central America markets will receive the full benefits of the Open Skies agreements signed in May of 1997.

To the extent that Continental's Answer is simply a "me, too" of Delta's request, TACA and American will rest upon their "Joint Answer of the TACA Group and American Airlines, Inc. to Motion of Delta Air Lines, Inc." ("TACA/American Joint Answer"), filed April 12, 2000. Regrettably, however, Continental's Answer goes beyond even what Delta would impose on TACA and American, and asks the Department to impose eight further requests for documents and information. This Joint Response will focus on the additional eight requests that Continental would have the Department propound.

Continental first asks that TACA and American explain the basis for their claim that the blocked-space condition in Order 98-5-26 is "entirely unworkable" in SABRE, and that they provide ridiculously detailed information and documents relating to that blocked-space condition and to blocked-space arrangements generally. Continental's Answer, at 3. As American previously stated, the blocked-space condition imposed in Order 98-5-26 has proven to be unworkable because of architectural limitations in the SABRE passenger processing system, and the prohibitive cost of removing those limitations to accommodate a blocked-space requirement for a handful of city-pairs. Indeed, American does not currently maintain a hard-block codeshare arrangement in any international market, and the overall industry trend clearly does not favor such arrangements. There is no reason other than harassment to require American and TACA to produce anything more on this subject.

Continental next asks that TACA and American specify whether an antitrust-immunized alliance between them would be exclusive and, if so, how. The answer, as the applicants previously explained in the TACA/American Joint Answer, is that the alliance would not be exclusive. The precise manner in which it could be implemented with another U.S. carrier, however, is far too hypothetical and speculative a question to answer at this time.

Continental further asks that TACA and American produce any documents prepared by or for American that “discuss any potential change in the alliance between American and the TACA Group if the TACA Group were to codeshare with another U.S. airline.” Continental’s Answer at 4. There are no such documents.

Asserting that “the following information has been required by the Department in other antitrust immunity proceedings, and should be required here” – without giving any other reason why it “should be required here” – Continental next asks the Department to impose five further sets of requests on TACA and American. Continental’s Answer at 4.

- Continental wants American to produce any documents reflecting its consideration of whether to seek antitrust immunity for additional alliances on U.S.-Latin American routes.

This request would represent a counterproductive diversion from the Department’s appropriate inquiry. As Continental well knows, business plans and intentions often change dramatically between concept and execution, and they are often never implemented at all. If and when American seeks antitrust immunity for any additional alliances in Latin America, the Department can and will evaluate those applications in light of its alliance with TACA, among many other factors.

- Continental wants the Department to require American and TACA to produce revenue forecasts (and related material) for their codeshare operations with and without immunity.

As TACA and American stated in the TACA/American Joint Answer, they do not possess any such forecasts. Developing them now, moreover, would be an exceedingly burdensome, costly, and complicated endeavor. Continental is capable of generating such forecasts on its own if it genuinely believes they would be useful to the evaluation of the proposed transactions.

- Continental also seeks all documents prepared by or for American or TACA that address route development, internal expansion, service expansion, or marketing plans and strategy for providing air service between the U.S. and Central America and behind and beyond the U.S. and Central America.

These documents would provide Continental with perhaps the most competitively-sensitive information it could possibly obtain from TACA and American. Such information would have very substantial competitive value to Continental, but it has little or no relevance to the Department's evaluation of the proposed transactions.

- Continental would also have American and TACA produce any documents that address "any preference for Miami as a U.S. gateway for Central America traffic or the competitive obstacles faced by other U.S. gateways." Continental's Answer, at 5.

American's and TACA's subjective perspectives on the Miami gateway relative to other U.S. gateways are, again, fundamentally irrelevant. Objectively-measured passenger statistics and trends are what is significant, not the changeable and often biased opinions of particular carriers. Having once talked of Miami as a fortress hub, for example, Delta now claims that Atlanta is the fastest-growing gateway to Latin America, and predicts that Miami's significance as a Latin American gateway "will continue to shrink." *Aviation Daily*, "Latin America is Delta's Top Priority for Growth, Profits," April 12, 2000 (attached to the TACA/American Joint Answer).

- Finally, Continental wants TACA and American to produce all of their documents that discuss the availability of, or anticipated changes in, airport gates, facilities, and/or slots at any of the points served by TACA in Central America.

TACA represented in its earlier filings in Docket OST-96-1700 that air transportation to the Central American cities served by TACA is not constrained by any lack of available gates, facilities, or slots. This representation was true in 1997-98 and it remains true today. Even if there were any documents responsive to this request – which there are not – they would simply confirm TACA's earlier representation.

Continental's putative requests, in short, are as bogus as Delta's. The Department should flatly reject the concerted efforts of these carriers to block a meaningful alliance between TACA and American, and to gain unfair competitive advantages in U.S.-Central American markets.

Respectfully submitted,

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Robert D. Papkin  
James V. Dick  
Squire, Sanders & Dempsey, LLP  
1201 Pennsylvania Avenue, NW  
Washington, D.C. 20004  
(202) 626-6600  
(202) 626-6780 (fax)

Counsel for  
THE TACA GROUP

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Carl B. Nelson, Jr.  
Associate General Counsel  
AMERICAN AIRLINES, INC.  
1101 17<sup>th</sup> Street, NW  
Suite 600  
Washington, D.C. 20036  
(202) 496-5647  
(202) 857-4246 (fax)

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by first-class mail on all persons named on the attached service list.

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James V. Dick

April 20, 2000