

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

U.S. - U.K. ALLIANCE CASE

)
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) **Docket OST-2001-11029**
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)

**JOINT MOTION TO DISMISS UNITED/BMI APPLICATION
AND ANSWER TO AMERICAN/BRITISH AIRWAYS MOTION**

February 13, 2002

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Delta Air Lines, Inc., Northwest Airlines, Inc., and Continental Airlines, Inc. (collectively, the “Petitioners”) hereby file this motion requesting the dismissal of the United/bmi application. Additionally, the Petitioners answer in support of the American/British Airways motion to dismiss their application and to immediately suspend all further procedural dates in this proceeding.¹

¹ To the extent necessary, the Petitioners request leave to file this consolidated pleading addressing two closely interrelated matters concerning the disposition of the U.S.-U.K. Alliance Case.

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This morning, American and British Airways moved to dismiss their own application, acknowledging that “acceptable remedies and open skies now seem too remote to justify the continued time, effort, and expense of all parties involved.” The Petitioners concur in that assessment.

The Department should also act to dismiss the pending application of United and bmi. Without the impetus of the AA/BA alliance, it is clear that the Department’s “fundamental predicate” of U.S.-U.K. open skies will not be satisfied, and, accordingly, there will be no basis to move forward with the United/bmi application. The Department recognized this commonality when it correctly decided to consolidate the two cases. *See*, Order 2001-11-10. United itself acknowledged that, as a practical matter, “approval of and antitrust immunity for the proposed addition of bmi to United’s integrated European alliance will be accomplished by the Department’s approval of the application of American and BA . . .” Answer of United, Docket OST-01-1037 (Nov. 2, 2001).

United and bmi opposed the Petitioners’ prior motion to dismiss because “[American and British Airways] have not sought leave to withdraw their joint application for immunity. Nor has either indicated that it does not intend to file timely objections to the [Show Cause] Order.” United/bmi Answer (Feb. 5, 2002). However, today’s development leaves no doubt that American and British Airways have abandoned their intent to seek an antitrust immunized alliance and with it any prospect for the requisite open skies regime.

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In light of the impending February 15 date for Objections to the Show Cause Order, the Petitioners strongly support American and British Airways' request to suspend all further procedural dates. This will spare interested parties the time and expense of preparing further submissions to preserve rights in a proceeding that has now effectively been rendered moot.

WHEREFORE, the Petitioners urge the Department to dismiss all pending applications in the captioned proceeding and to immediately issue a notice suspending further procedural dates.

Respectfully submitted,

/s/

/s/

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Joint Motion and Answer has been served this 13th day of February 2002, upon each of the following persons in accordance with the Department's rules.

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