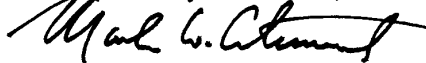


the Department authorized discussions concerning scheduling adjustments to relieve congestion at O'Hare. It stated "The product of the discussions will not be a private agreement among the carriers but an FAA decision exercising its statutory authority to regulate use of the nation's airspace. Since any restrictions imposed on the carriers' operations will result from FAA action, the carriers' participation in the discussions cannot create a risk of antitrust liability."

The purpose of the proposed discussion is essentially the same: not a private agreement, but a joint proposal to assist the Department in exercising its statutory authority to allocate the frequencies at issue. The Department may decide to allocate the frequencies in accordance with the proposal, or it may decide that the matter should be fully litigated. In any event, the action is the government's, and there should not be any risk of liability.

Nonetheless, to ensure full disclosure and transparency, Kalitta Air urges the Department to act promptly to authorize the intervention of the Assistant General Counsel for Aviation Enforcement and Proceedings in the proposed discussions amongst the applicant carriers.

Respectfully submitted,



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