

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of :
CONTINENTAL AIRLINES, INC. : Docket OST-00-7186
for a U.S.-Colombia frequency allocation :
(Houston-Cali) :

Application of :
DELTA AIR LINES, INC. : Docket OST-00-7104
for allocation of seven weekly frequencies :
(Atlanta, Georgia-Bogota, Colombia) :

CONSOLIDATED REPLY OF
CONTINENTAL AIRLINES, INC.

Communications with respect to this document should be sent to:

Rebecca G. Cox
Vice President, Government Affairs
CONTINENTAL AIRLINES, INC.
1350 I Street, N.W.
Washington, DC 20005

Hershel I. Kamen
Staff Vice President, International
& Regulatory Affairs
CONTINENTAL AIRLINES, INC.
P.O. Box 4607 – HQSGV
Houston, TX 77210-4607

R. Bruce Keiner, Jr.
Thomas Newton Bolling
CROWELL & MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004-2595
(202) 624-2500

Counsel for
Continental Airlines, Inc.

April 20, 2000

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The City of Houston and the Greater Houston Partnership have supported Continental's¹ Houston-Cali application and motion for consolidation, while Delta has opposed Continental's application and asked the Department to bypass the comparative selection proceeding required to decide between the Continental and Delta applications. Continental's proposal offers a new U.S.-Cali gateway to compete with American's U.S.-flag monopoly on Cali service, while Delta's proposal would merely duplicate U.S.-Bogota service already offered at four other U.S.

¹ Common names are used for airlines.

gateways. Thus, Continental's Houston-Cali application should be granted in the comparative selection proceeding required by Ashbacker principles and the Department's precedents.

Continental replies as follows to the Houston Parties and Delta answers:

1. As the Houston Parties point out, only Continental has proposed a new U.S. gateway for U.S.-Cali traffic to compete with American's service via Miami and introduce a new airline network on U.S.-Cali routes. Continental will institute competitive Cali service via its Houston hub to serve points throughout the United States and achieve nationwide public benefits. In contrast, Delta seeks U.S.-Colombia authority to add to the 64 weekly nonstop U.S.-Bogota flights that are already offered at four U.S. gateways.² The Houston Parties explain convincingly how Continental's Houston-Cali service will offer a "convenient and low-circuitry gateway" for Cali travelers. (Houston Parties' Consolidated Answer at 3) Moreover, Houston's substantial economic, trade and cultural ties with Colombia merit the Department's expansion of Continental's Houston-Colombia service, which is currently limited to a single point in Colombia. (See Houston Parties' Consolidated Answer at 5-6)

² Delta heralds its Atlanta hub as "the largest and most effective hub gateway in the United States" (Delta's Answer at 1), but Delta has not proposed to use Atlanta as its U.S. gateway for China service, its top-priority route case by far. The Department has already affirmed the fact that Continental's Houston hub is a highly effective and desirable hub for U.S.-Latin America service. (See, e.g., Notice of Action Taken, Docket OST-97-3110, October 21, 1999, and Order 93-7-36 at 10)

2. Delta argues that a comparative selection proceeding is not required, yet Delta itself has insisted upon comparative selection proceedings in similar cases.³ Delta urged the Department to institute the 1997 U.S.-Chile Combination Services Proceeding because a new agreement between the U.S. and Chile made seven additional weekly combination service frequencies available for award. Delta said its application deserved contemporaneous consideration with the other applications for the same frequencies by Continental and United, an incumbent on U.S.-Chile routes with fourteen frequencies, despite the fact that both Delta and United proposed only highly circuitous one-stop service. (See Delta's May 5, 1997 Consolidated Reply in Dockets OST-97-2373, OST-97-2371 and OST-97-2372) The Department agreed with Delta and instituted a comparative selection proceeding to

³ Although Delta claims the Department's selection of Continental for Cleveland-London service based on a show-cause order without further evidentiary proceedings supports its request for similar procedures here, the two cases are very different. When the Department decided to restore Continental's Cleveland-London authority, the facts of the case there were far simpler: both carriers were proposing service at the same foreign point, only one carrier was proposing service at a major hub with no existing nonstop London service and one of the carriers dominated the U.S.-London routes. Thus, the Department concluded there were "no unresolved issues of relevant fact that would benefit from further evidentiary procedures." (Order 98-7-25 at 5, made final by Order 98-10-19) In this case, each carrier has selected a different foreign point for service, both carriers are proposing service at major hubs, neither hub has service to the foreign point sought, the carrier which dominates U.S.-Colombia routes is not an applicant and the relative merits of selecting a new gateway for the first competitive U.S.-flag Cali service or a fifth gateway for well-served U.S.-Bogota passengers require the submission of evidence for the Department to reach a valid decision.

decide which application offered the greatest public benefits.⁴ Delta now opposes a comparative selection proceeding under circumstances similar to cases in which Delta has asserted that full comparative consideration is mandatory.⁵ The Department must not bypass a comparative selection proceeding since Continental is prepared to show why its Houston-Cali proposal will offer far greater public benefits than Delta's duplicative proposal.

3. A full comparative selection proceeding will enable Continental to show why the Department should award the seven new Colombia frequencies available to Continental to introduce a new Cali gateway to bring competition to U.S.-Cali routes and eliminate American's U.S.-flag monopoly on Cali service. Continental's Colombia operations are limited to Bogota and pale in comparison with American's dominant U.S.-Colombia operations serving not only Bogota but also Barranquilla and Cali. Delta will not have entered any new Latin American

⁴ Order 97-6-4 at 1-3.

⁵ See, e.g., Delta's November 13, 1997 Motion to Consolidate at 4 in Dockets OST-97-2125 and OST-97-3073 ("Any additional frequencies . . . should be consolidated for contemporaneous consideration in a carrier selection proceeding . . . Delta is legally entitled to a comparative evaluation of its Atlanta-Lima application with the proposals of American to operate additional frequencies between the United States and Peru." (emphasis added)) and Delta's June 2, 1998 Contingent Motion to Consolidate in Dockets OST-98-3764, OST-98-3814 and OST-98-3218 at 2 ("In the event the Department determines that there are allocable frequencies available for U.S. carrier services to Argentina, Delta moves the Department to consolidate the above-captioned applications and to establish a carrier selection proceeding to determine the award of U.S.-Argentina frequencies. The requests of Delta, Continental and United are mutually exclusive and must receive contemporaneous consideration under the Ashbacker doctrine." (emphasis added)).

routes between July 1998 and November 2000, after waiting over a year from the effective date of the U.S.-Chile open-skies agreement to begin service between the U.S. and Chile. Continental, not Delta, is better poised to compete with American on U.S.-Colombia routes and break American's stranglehold on U.S.-Colombia traffic and its monopoly on U.S.-flag service at Cali. Continental's evidence in a comparative selection proceeding will show that the best use for the seven additional frequencies available is bolstering Continental's ability to compete on U.S.-Colombia routes and build a comprehensive U.S.-Colombia service pattern, not giving Delta duplicative access to Bogota.

For the foregoing reasons, Continental asks the Department to institute a comparative selection proceeding to decide between the Continental and Delta

applications and to award the seven frequencies available to Continental to begin daily nonstop flights between Houston and Cali.

Respectfully submitted,

CROWELL & MORING LLP

R. Bruce Keiner, Jr.
rbkeiner@cromor.com

Thomas Newton Bolling
tbolling@cromor.com

Counsel for
Continental Airlines, Inc.

CERTIFICATE OF SERVICE

I certify that I have this date served the foregoing document on counsel for the Houston Parties and Delta and all persons served with the Houston Parties and Delta answers in accordance with the Department's Rules of Practice.

Thomas Newton Bolling

April 20, 2000
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