

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

**1999 U.S.-ARGENTINA
COMBINATION SERVICE CASE**

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) **Docket OST-99-6210**
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**COMMENTS OF
DELTA AIR LINES, INC.**

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December 26, 2000

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Delta is extremely pleased the Department has selected Delta to receive one of the two available service opportunities to Argentina, and that the Department recognized the importance of selecting Delta for the *first* service opportunity on April 1, 2001, so that travelers and shippers in broad regions of the United States can enjoy new service and competitive options as quickly as possible.

The Department has demonstrated its strong commitment to ensuring that these valuable frequencies are fully utilized by issuing its tentative decision less than a month after the Government of Argentina agreed to authorize the two tranches of frequencies. Delta urges the Department to finalize the tentative awards as quickly as possible, so that Delta can proceed with implementation plans for its new Atlanta-Buenos Aires service.

The Show Cause Order (Order 2000-12-13) took into account all of the important public interest factors bearing on the U.S.-Argentina marketplace, and

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the Department correctly determined that the selection of Delta for the first available opportunity would provide the greatest public benefits: first, Delta will be a strong new entrant competitor to Argentina; second, Delta will provide Atlanta with its first daily nonstop Argentina service; and third, Delta will be instituting service from the largest and most successful U.S. airline hub, with the unique capability to challenge the U.S.-Argentina incumbents in cities across the entire United States.

The Show Cause Order notes that there has been no increase in the number of U.S.-flag competitors to Argentina in over 50 years, and, accordingly, the Department placed a high premium on maximizing new entry. Order 2000-12-13 at 8. Only by selecting two new entrant carriers could the Department achieve this important public interest objective.

As between the two new entrant competitors, the Show Cause Order correctly found that “Delta would provide the first U.S. flag service at the Atlanta gateway, and that its daily service would offer competition to the thrice weekly foreign carrier services operated by an Argentine carrier.” *Id.* By contrast, Continental’s New York/Newark passengers “have more convenient Argentina service options available to them than do passengers in the Atlanta area, since American, United, and Aerolineas Argentinas provide daily service from JFK.” *Id.*

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The Show Cause Order also notes that important U.S.-South American market structure benefits would be achieved through the new entry provided by the tentative decision. In that regard, the selection of Delta to provide Atlanta-Buenos Aires service will enhance the level and effectiveness of U.S.-flag competition to South America to a greater degree than any other applicant.

As stated in the Show Cause Order, Argentina is one of the largest and most important U.S.-South America markets. Although Delta has been a highly successful competitor in Latin America, Delta has not been able to fully challenge the incumbents due to a lack of limited entry authority in key South American destinations, including Argentina. The addition of Argentina service provides a critical missing link in Delta's Latin America strategy. Atlanta-Buenos Aires service will mark the fifteenth new nonstop Latin American route Delta has implemented from Atlanta since 1997. In short, Delta is prepared to offer highly effective competition with the incumbents in Argentina and throughout South America.

Although Delta fully concurs with the Show Cause Order's findings with respect to the primary awards, Delta disagrees with the Department's tentative decision regarding backup authority. The Department should follow the precedent it established in the recent *Brazil* and *China* decisions, and refrain from selecting a backup carrier here, so that it may reach the best new public interest

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determination, should an unanticipated default occur. *See*, Order 2000-12-2 at 7; Order 2000-11-24 at 18.

Delta has a strong interest in additional Argentina service. However, Delta exercised restraint in not submitting an excessive request for all 14 frequencies available in this proceeding. In order to reach the best public interest maximizing decision, Delta should be permitted the opportunity to compete for additional Argentina authority, should it become available.

United is already a certificated U.S.-Argentina carrier,¹ and Continental stands to receive an Argentina certificate pursuant to the Show Cause Order. Thus, the backup award in this case amounts to nothing more than an additional frequency allocation to a certificated U.S.-Argentina carrier. In denying Delta's request for a backup frequency award in *the 1999 U.S.-Brazil Combination Service Case*, the Department said:

It has not been our general policy to grant backup awards in frequency allocation cases. This stems from the fact that such awards are routinely subject to dormancy conditions under which the frequencies automatically revert to the Department if they are not

¹ Indeed, the Department has ruled that United enjoys the ability under its current certificate to shift existing Argentina frequencies from one U.S. gateway to another. *See* Order 98-9-3 (Authorizing United to move Miami-Argentina frequencies to Chicago, pursuant to United's route integration authority).

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used, enabling the Department to take prompt action to reallocate the flights. Order 2000-12-2 at 7.

Accordingly, Delta urges the Department to follow the precedent it established in the Brazil and China proceedings. The Department should refrain from making a backup frequency award and instead rely on “the dormancy/automatic reversion provisions of the awards [which] provide sufficient ability to reassess the public interest should [a carrier] not use its award and the frequencies need to be reallocated.” *Id.*

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WHEREFORE, Delta urges the Department to immediately make final the tentative findings of the Show Cause Order with respect to the primary award recipients, and to modify its backup award in accordance with the above comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Comments of Delta Air Lines were served this 26th day of December, 2000 upon all of the persons listed on the attached Service List.

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