

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

In the matter of

THE WENDELL H. FORD AVIATION  
INVESTMENT AND REFORM ACT FOR  
THE 21<sup>st</sup> CENTURY

For exemptions from 14 C.F.R. Part 93, under  
49 U.S.C. § 41718(a) (beyond-perimeter slot  
exemptions for Reagan National Airport)

Docket OST-2000-7181

CONSOLIDATED ANSWER  
OF NATIONAL AIRLINES, INC.

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Dated: May 22, 2000

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National Airlines, Inc. ("National") hereby submits its response to the applications of the eight air carriers which are also vying for the twelve beyond-perimeter slot exemptions to be made available for service at Ronald Reagan Washington National Airport ("DCA") under section 231(e)(1) of the Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century ("AIR-21"). The superior merits of National's application are evident when compared to those of the competing applicants because National: (1) is a "new entrant air carrier" at DCA; (2) is a low-fare air carrier; (3) proposes new DCA services that will not erode travel options to communities served by small and medium hub airports within the 1,250-mile perimeter from DCA; and (4) will provide a badly needed increase in capacity and more convenient service

options for air transportation between DCA and Las Vegas' McCarran International Airport ("LAS"), which is the fastest growing domestic aviation market and hub outside the perimeter.

I. The Department Should Attach Great Decisional Weight to National's New Entrant Status

National is one of only three applicants that qualifies as a "new entrant" or "limited incumbent air carrier" because it has never held more than 20 slots and slot exemptions at DCA. See 49 U.S.C. § 41714(h)(3), (5). Neither American, Delta, Northwest, TWA, nor United qualify as "limited incumbents" because each holds more than 20 slots at DCA. 1/ Nor does America West qualify as a "limited incumbent" because the carrier and its code-share partner, Continental, together hold more than 20 slots at DCA. 2/

The Department should favor National, as a new entrant, over the incumbent major air carriers for several compelling reasons. First, the

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1/ FAA, Summary of Holdings by Carrier for Slots Held 5 or More Days (March 14, 2000).

2/ National has previously pointed out that section 231(a)(3) of AIR-21 requires that America West's slot holdings be aggregated with Continental's slot holdings to determine whether America West qualifies as a limited incumbent. See Motion for Leave to File and Reply of National Airlines, Inc., filed in Docket OST-2000-7180 on May 9, 2000 ("National Airlines O'Hare Reply"), at 5-11.

legislative history of AIR-21 makes it clear that the provisions of AIR-21, devoted to reducing slot restrictions at high density airports, were intended, in principal part, to create opportunities for new entrant carriers, like National, to introduce their low-fare service. <sup>3/</sup>

Second, awarding the limited DCA slot exemptions to a new entrant air carrier, like National, would be more in accord with the Department's post-deregulation economic policies than providing the major air carriers with even more slots than they already enjoy at DCA. Specifically, by granting DCA slot exemptions to National, the Department would honor the statutory directive that it consider it "in the public interest and consistent with public convenience and necessity" to:

1. Ensure "the availability of a variety of adequate, economic, efficient, and low-priced services;"
2. Place "maximum reliance on competitive market forces and on actual and potential competition;"
3. Avoid "unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would

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<sup>3/</sup> See, e.g., 145 Cong. Rec. S11853 (daily ed. Oct. 4, 1999) (Sen. Rockefeller stating that making slot exemptions available at Reagan National "is good . . . because that allows more entrants into National, and that is desirable"); 146 Cong. Rec. H1016-17 (daily ed. Mar. 15, 2000) (Rep. Lipinski noting that giving new entrants opportunities to serve high density airports will "increase competition and lower fares for all consumers").

tend to allow at least one air carrier . . . unreasonably to increase prices, reduce services, or exclude competition in air transportation;”

4. Encourage, develop, and maintain “an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices;” and
5. Encourage “entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.”

49 U.S.C. § 40101(a)(4), (6), (10), (12)(A), (13).

These policy objectives can be best achieved by granting beyond-perimeter slot exemptions to National, thus enabling National immediately to introduce new services and lower prices in competition with the major air carriers. In contrast, the award of slot exemptions to the incumbent carriers would serve only to further concentrate market power at the expense of new competitors.

In support of their slot exemption applications, the incumbent major air carriers might argue that their new services would offer travelers more frequent connections at their beyond-perimeter hubs because they are, or will be, better established at those hubs than are the new entrants at theirs. However, as noted above, airline deregulation was designed to prevent undesirable market concentration and to promote both actual and potential competition by encouraging and enabling new carriers to enter stagnant

aviation markets, such as DCA-LAS. These objectives would be thwarted if the Department were to permit the major air carriers and their code-share partners to further consolidate their lock on slot access at DCA because their position as dominant incumbents affords more connections at other hubs.

II. National Will Offer Lower Fares in Beyond-Perimeter Markets

As indicated in National's application for beyond-perimeter slot exemptions, National will offer travelers at DCA low fares for travel to and from DCA. <sup>4/</sup> National's fares will be significantly less than those offered by the major air carriers that presently provide service between Washington, D.C. and Las Vegas. In fact, some of National's DCA-LAS fares will be even lower than the fares that Southwest currently offers between Baltimore-Washington International Airport ("BWI") and LAS.

The incumbent major air carriers, on the other hand, would not provide similar price competition if they were granted beyond-perimeter slot exemptions at DCA. While most of the applicants do not mention their intended ticket prices, no reason exists to link lower fares with such prospective operations.

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<sup>4/</sup> See Application of National Airlines, Inc., filed in Docket OST-2000-7181 on May 3, 2000 ("National Application"), at 11-13.

III. National's New Nonstop DCA-LAS Service Will Not Diminish Travel Options Between DCA and Communities Served by Small and Medium Hub Airports Within the Perimeter

As stated above, the incumbent carriers at DCA are unlikely to offer lower average fares if they are given beyond-perimeter slot exemptions at DCA. In the absence of lower average fares to stimulate incremental passenger demand, the incumbent carriers' new nonstop services would be frequented primarily by passengers diverted from existing flights that the incumbent carriers provide via their hubs within the perimeter and from long-haul services provided at Washington Dulles International Airport ("Dulles"). Such diversion will create economic pressure for the major air carriers to reduce their frequencies, aircraft capacity, or both between DCA and the within-perimeter hubs through which the passengers would otherwise have traveled.

As a consequence of such reductions in service, passengers traveling between DCA and a community served by a small or medium hub airport would be inconvenienced by the loss of flights between DCA and the incumbent carriers' within-perimeter hubs where the passengers could access flights to and from their home communities. Such a result would be inconsistent with the requirements of AIR-21, which provide that the Department must grant the beyond-perimeter slot exemptions to carriers that

will “not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter.” AIR-21 § 231(e)(1) (codified at 49 U.S.C. § 41718(a)(3)).

In contrast, since National has previously been unable to serve DCA, National’s new nonstop DCA-LAS service obviously will not involve the possibility that the carrier might cease or reduce existing flights between DCA and points within the perimeter. Moreover, because National will offer lower average fares for its new nonstop DCA-LAS service and for its connecting services via LAS, National estimates that it will attract a significant number of incremental travelers to those markets and, thus, will not merely draw passengers from existing flights between DCA and airports within the perimeter. <sup>5/</sup>

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<sup>5/</sup> National’s experience in the LAS-Miami market demonstrates how its competitively priced services stimulate the demand for air transportation. See National Application at 12-13 n.10. National projects that the mere availability of its new, more convenient services will also stimulate passenger demand for travel between DCA and LAS. One service factor that will particularly attract incremental passengers is the substantial time savings that National’s nonstop DCA-LAS service will provide over existing one-stop and connecting flights. National’s nonstop service will reduce the average westbound enroute time for passengers by 25.9% and the average eastbound enroute time by 26.3%. See id. at 3.

IV. National's New Nonstop Service Will Provide a Badly Needed Increase in Capacity Between DCA and LAS

The Department also should find that the public interest requires the grant of slot exemptions to National because National is proposing nonstop frequencies in a badly underserved market. As shown in National's application, service between Washington, D.C. and Las Vegas has not kept pace with the exceptional business and tourism growth taking place in Las Vegas. <sup>6/</sup> National's new nonstop operations in the DCA-LAS market will serve to correct the current imbalance between demand and supply and will confer significant benefits upon the traveling public in the form of low-cost, convenient flights.

V. The Department Should Favor National for DCA-LAS Service Over America West

For several compelling reasons, the Department should favor National over the competing application of America West for slot exemptions to provide new nonstop service between DCA and LAS.

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<sup>6/</sup> See National Application at 3-7 and accompanying Exhibit NA-3.

A. America West and Its Code-Share Partner Together Hold Numerous Slots at DCA

An award of additional slots at DCA to America West would result in a greater concentration of market power in the carrier and its code-share partner, Continental, enabling them to exert a more dominant position at DCA and across their combined route structure. As indicated in the following chart, America West and its domestic code-share partner, with 49 air carrier slots at DCA between them, are currently the fifth largest holder of such slots at DCA. Granting the ten slot exemptions requested by America West would increase the code-share partnership's already substantial slot holdings at DCA by a sizeable 20.4%.

<b>Top Seven Holders of Domestic Air Carrier Slots at DCA</b>		
<b>Rank</b>	<b>Carriers</b>	<b>Number of DCA Carrier Slots Held</b>
1	US Airways/USAir Shuttle	219
2	Delta	93
3	American	72
4	Northwest	69
5	America West/Continental	49
6	United	36
7	TWA	32

Source: FAA, Summary of Holdings by Carrier for Slots Held 5 or More Days (March 14, 2000).

By granting slot exemptions for DCA-LAS service to National, the Department, consistent with the post-deregulation policies discussed above, would not contribute to undue industry concentration, but would encourage

market entry by a new air carrier to ensure a more effective and competitive airline industry.

B. National Will Offer Significantly Lower Fares for Travelers

An award to National of slots to provide the new nonstop DCA-LAS service would enable National to offer the traveling public lower fares than America West. For example, as shown in Exhibit NA-7 hereto, National's proposed 14-day advance purchase, round-trip fare for nonstop DCA-LAS service (\$308) would be 62.0% lower than America West's current comparable fare for BWI-LAS service (\$811). Likewise, National's unrestricted, one-way coach class fare for DCA-LAS service (\$454) would be 54.0% less than America West's current BWI-LAS fare (\$987), and National's unrestricted, one-way first class fare (\$679) would be 45.1% less than America West's current fare (\$1,237).

While America West boasts that it offers lower fares because it has a cost structure that puts it on par with Southwest, 7/ it is actually charging passengers round-trip fares for BWI-LAS service that are identical to United's

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7/ See Application of America West Airlines for an Exemption, filed in Docket OST-2000-7181 on May 5, 2000 ("America West Application"), at 5 (stating that the carrier "maintain[s] a cost structure similar to carriers such as Southwest and pass[es] these cost savings on to consumers").

fares for service between its Dulles hub and Las Vegas. 8/ In addition, while America West states that it will offer passengers low fares for night flights in the access-restricted DCA-LAS market, 9/ the price it charges for its current night flights in the slot-restricted Chicago O'Hare International Airport ("ORD")-LAS market point to a contrary practice. America West's night flight fare in the ORD-LAS market is actually \$20 (or 4.8%) higher than the comparable fare charged by American and United, the two dominant carriers at O'Hare. 10/

These facts make it absolutely clear that National is prepared to offer lower fares for its DCA-LAS service than America West, and support an award of slot exemptions to National for nonstop DCA-LAS service.

VI. Conclusion

National's proposed nonstop DCA-LAS service satisfies all of the criteria established by AIR-21 for the award of beyond-perimeter slot exemptions at

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8/ Compare Exhibit NA-7 hereto with National Application Exhibit NA-6.

9/ America West Application at 12 ("Night flight fares are very low, offering substantial savings to passengers.").

10/ See National Airlines O'Hare Reply at 13 and accompanying Exhibit NA-4.

DCA, and affords the Department the opportunity to advance the purposes of AIR-21 and of airline deregulation by enabling a new entrant air carrier to develop its domestic network. By granting National's application, the Department will also: (1) counter undue concentration of market power in the incumbent major air carriers; (2) promote low-fare competition in several important aviation markets; (3) help to ensure that service options available to travelers to communities inside the perimeter do not decrease, and (4) address a significant need for additional capacity between DCA and LAS.

WHEREFORE, National Airlines, Inc. requests that the Department grant it six beyond-perimeter slot exemptions for the operation of three daily nonstop roundtrips between DCA and LAS.

Respectfully Submitted,

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Dated: May 22, 2000

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing  
“Consolidated Answer of National Airlines, Inc.” on all persons named on the  
attached Service List by causing a copy to be sent by first class mail, postage  
prepaid.

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Ronald P. Brower

Dated: May 22, 2000

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