

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

**U.S.-CHILE
COMBINATION SERVICE OPPORTUNITIES**

Applications of

**DELTA AIR LINES, INC.
CONTINENTAL AIRLINES INC.
UNITED AIR LINES, INC.**

**Dockets OST-97-2372
OST-97-2373
OST-97-2371**

**for certificate authority and/or frequency
allocations (U.S.-Chile)**

CONSOLIDATED REPLY OF DELTA AIR LINES, INC.

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May 5, 1997

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Delta Air Lines, Inc. ("Delta") hereby files this Consolidated Reply to the Answers filed by Continental Airlines Inc. ("Continental") and United Air Lines, Inc. ("United").

1. Three carriers -- Delta, United and Continental -- have filed competing applications for the seven (7) weekly frequencies available to U.S. airlines for additional U.S.-Chile combination services beginning December 15, 1997.

2. The applications for U.S.-Chile service exceed the number of opportunities available under the bilateral agreement. Because there are three

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applications for the same U.S.-Chile opportunities, the applications are mutually-exclusive and the Department is required to consolidate the applications into a carrier-selection proceeding for contemporaneous consideration under the “Ashbacker” Doctrine. Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1945). Delta will reserve further comments on the relative merits of the other carriers’ proposals until institution of a carrier-selection proceeding, at which time Delta will demonstrate that grant of Delta’s application will offer superior public service and competitive benefits.

3. Continental’s suggestion that Delta’s Application should be dismissed for allegedly failing to submit a definitive service proposal is absurd. Dismissal of Delta’s Application would be unlawful. Delta’s Application scrupulously complied with the Department’s April 8, 1997 Notice. That Notice required the Applicants “to specify at a minimum the markets to be served, the number of frequencies requested, the aircraft to be used, the proposed start-up date, . . .” Delta complied with each of these requirements. Delta stated the markets it plans to serve -- Cincinnati-Atlanta-Santiago. (Indeed, Continental’s Answer admitted that “Delta has indicated it will serve the Cincinnati-Atlanta-

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Santiago markets . . .”) In addition, Delta’s Application specified the number of frequencies it requests (seven), the aircraft to be used (B-767-300ER), and the proposed start-up date (December 15, 1997 or ninety (90) days after receipt of governmental authorizations, whichever is later). The Department’s notice did not require the Applicants to submit definitive service proposals. Thus, there is no lawful basis to dismiss Delta’s Application. Delta will submit a definitive service proposal in its direct exhibits upon the institution of a carrier-selection case consistent with long-standing route-case practice. Continental’s request at this early juncture of the proceeding is merely a waste of time and Department resources and should be rejected.¹

¹ Delta notes that Continental’s application did not include critical details about its proposal in that Continental failed to specify how it would obtain the aircraft it intends to utilize for its U.S.-Chile service, i.e. whether the aircraft is currently in its fleet and from which markets will it be transferred, or, if the aircraft is not in its fleet, definitive evidence that the aircraft is under contract.

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4. In conclusion, Delta urges the Department promptly to institute a carrier selection case to consider the allocation of the 7 weekly frequencies available under the U.S.-Chile bilateral agreement and to consolidate therein for comparative consideration the applications of Delta, United, and Continental.

Respectfully submitted,



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