

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Joint Application of :
 :
CONTINENTAL AIRLINES, INC. :
and : Docket OST-00-8577
COMPAÑÍA PANAMEÑA DE AVIACIÓN, S.A. :
 :
under 49 U.S.C. §§ 41308 and 41309 for approval :
of, and antitrust immunity for, an alliance agreement :

JOINT REPLY OF CONTINENTAL AIRLINES, INC.
AND COMPAÑÍA PANAMEÑA DE AVIACIÓN, S.A.

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March 13, 2001

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No one has opposed the Continental/COPA¹ application or suggested the application is not ripe for immediate approval. American and the TACA Group say their application should be processed “on the same timetable” as the Continental/COPA application (American/TACA answer at 5), but their application has been delayed by controversial issues and the applicants’ own delay in submitting information. The Continental/COPA application is already farther down the track, and delays affecting American and the TACA Group should not delay approval for Continental and COPA.

¹ Common names are used for airlines.

March 13, 2000

Continental and COPA reply as follows to the American/TACA Group answer:

1. Continental and COPA submitted the documents normally required by the Department on December 23, 2000, and the Department concluded on February 6, 2001, that the Continental/COPA submissions were virtually complete. Continental and COPA completed their submissions three days later by providing a complete copy of their Alliance Agreement, which had been provided in redacted form almost three years previously.² In sharp contrast, the Department requested additional documents from American and the TACA Group on July 7, 2000, but they did not comply until February 28, 2001, the eve of the date answers to the Continental/COPA application were due, in an apparent attempt to delay action on the Continental/COPA application. The tardy submission of voluminous documents by American and the TACA Group will of necessity delay action on their application,³ but it should not delay action on the Continental/COPA application, for which documents were submitted on a timely basis. The Department has not even established procedural dates for further consideration of the American/TACA Group

² See Order 2001-1-5 at 1. The Continental/COPA Alliance Agreement had been submitted to the Department and provided to interested parties with redactions on June 12, 1998.

³ On February 28, 2001, American and the TACA Group submitted 1,477 pages of confidential documents not previously submitted to the Department. (See the Index to the American/TACA Group motion for confidential treatment, February 28, 2001, Dockets OST-00-7088 and OST-96-1700) This new material must be considered in the context of the confidential documents already submitted, which will add to the Department's burden.

application. As American and the TACA Group concede, the Continental/COPA procedural schedule has been completed.⁴ Moreover, the American/TACA Group request for antitrust immunity, removal of the Miami-Central America blocked-space condition on their current codeshare arrangement and new blanket codeshare authority raises controversial issues already addressed by other parties who will require time to consider the documents only recently submitted by American and the TACA Group.

2. Under these divergent circumstances, the Department should proceed immediately to approve the Continental/COPA application for antitrust immunity since the application is complete, non-controversial and unopposed. The Department should consider the American/TACA Group on its own separate track and its own merits. Continental and COPA require antitrust immunity for their end-to-end alliance to compete effectively with American and the TACA Group today, whether the antitrust immunity American and the TACA Group seek is granted or not.

For the foregoing reasons, Continental and COPA urge the Department to approve their alliance agreement on an expedited basis and without regard to the

⁴ See American/TACA Group answer at 5.

American/TACA application under 49 U.S.C. § 41309, and to grant antitrust immunity for the Continental/COPA alliance agreement pursuant to 49 U.S.C. § 41308.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that I have this date served the foregoing document on counsel for American and the TACA Group and the persons served with the American/TACA answer in accordance with the Department's Rules of Practice.

/s/ Thomas Newton Bolling

Thomas Newton Bolling

March 13, 2001

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