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Date: **Monday, May 23, 2005**

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Re: **U.S. Comments on DG-Comp IATA Discussion Paper**

Total number of pages including this cover 5 page(s)

Mr. Hubert Beuve Mery,

Please let me know via e-mail (IngleeTM@state.gov) if you have received this fax.

Thank you. Have a wonderful weekend.

Tiffanie Inglee

UNITED STATES COMMENTS ON DG-COMP IATA DISCUSSION PAPER
May 23, 2005

1. Thank you for the opportunity to comment on DG-Competition's March 2005 discussion paper "Concerning the revision and possible prorogation of Commission Regulation 1617/93 on the application of Article 81(3) to certain categories of agreements and concerted practices concerning consultations on passenger tariffs on scheduled air services and slot allocation at airports." We are addressing only the issue of passenger tariff coordination, focusing primarily on the third-country aspects.

Significance of Interlining

2. We note first that there are no IATA tariff coordination activities in effect for the Continental United States, U.S.-Canada, or U.S.-Mexico markets. Despite this, substantial numbers of passengers travel on a connecting basis in these markets. Based on a review of O&D Survey data submitted to the U.S. DOT by U.S. carriers,[1] we estimate that 65 percent of U.S. domestic one-way journeys, 37 percent of U.S.-Canada one-way journeys, and 45 percent of U.S.-Mexico one-way journeys were on direct tickets.[2] The remaining tickets in each case involved some form of on-line or interline connection. Because the development of hubs is very advanced in these markets, most of the connecting passengers flew either on-line or via carriers with an alliance or code-share relationship. Non-alliance interlines as a proportion of total one-way itineraries in those three markets were 0.4 percent, 2.2 percent and 2.4 percent, respectively.[3] Although these figures are relatively small as a proportion of total trips, they are not insignificant in absolute terms, amounting to over 195,000 one-way itineraries for the U.S. domestic and transborder markets in the 10 percent sample. Thus almost 2 million one-way non-alliance interline trips occurred in the absence of IATA tariff coordination.[4]

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[1] DOT requires qualifying U.S. carriers to report ticket data which approximates a ten percent sample. For U.S. domestic markets, qualifying carriers account for the vast majority of total traffic. In international markets, the picture is less complete because foreign carriers are not required to report sample data. However, an itinerary involving one or more foreign carriers is represented in the sample to the extent that the itinerary also includes participation by a qualifying U.S. carrier. Typically this occurs where a passenger flew the transatlantic sector on a qualifying U.S. carrier in one direction and on a foreign carrier in the other, where a passenger flew the transatlantic sector on a qualifying U.S. carrier and connected to a foreign carrier at the foreign gateway, or where the passenger flew the transatlantic sector on a foreign carrier and connected to a qualifying U.S. carrier at the U.S. gateway.

[2] Estimate based on the proportion of one-way journeys that involved a single coupon, for the 12 months ended September 30, 2004.

[3] A non-alliance interline trip was defined as a one-way trip where there was a change of operating carrier, and the participating carriers were not all members of the same global marketing alliance or strategic code-sharing partnership. Connections between U.S. mainline carriers and their regional/franchise partners were considered to be "online."

[4] By comparison, U.S.-EU non-alliance interline traffic involving U.S. carriers represented approximately 1.3 million one-way trips, based on the 10 percent sample.

3. Assuming for the sake of argument that IATA tariff coordination may facilitate IATA interlining in those intra-EU markets where such interlining is necessary, prevalent or important,[5] the discussion paper concludes, at paragraph 15, "that only a very small proportion of the traveling public [in intra-EU markets] may actually require IATA Interlinable tickets to reach their final destination." In reaching this conclusion, the paper uses data on the percentage of tickets that were issued for direct flights as a proxy, reasoning that 85 percent of all intra-EU tickets were for direct flights, requiring no interlining; and that a significant proportion of the remaining 15 percent (which represents tickets for connecting service) likely involved on-line connections or connections between carriers that are parties to some form of bilateral cooperation agreement (bilateral interline, "standalone" code-share agreement or full-fledged alliance).

4. The paper later reports that the proportion of EU-third country tickets that are for direct flights is approximately 56 percent (paragraphs 21 and 150). It infers from this that the proportion of travelers who travel via non-alliance interline services may be substantially greater for EU-third country markets than for intra-EU markets. That inference may not be correct with respect to EU-U.S. services. A more direct measure of interline tickets, using the O&D survey data described above for the 12 months ended September 30, 2004, shows that non-alliance interline tickets comprise only 6.8 percent of the total of reported EU-U.S. one-way trips.[6]

5. The proportions of interline itineraries ranged from 1.9 percent to 57.9 percent for each of 24 EU member states, as detailed below:

[5] Discussion paper, paragraphs 14-17. In that context, we interpret "IATA interlining" to mean travel using the types of connections for which IATA tariff coordination is said to be necessary – interline journeys using carriers that do not have interline or other cooperative agreements with one another on a bilateral basis.

[6] The data included all EU member states except Cyprus, where no coupons were reported.

Country	Interline proportion of total itineraries	Member state's share of reported traffic[7]
Belgium	1.9 %	3.17%
United Kingdom	3.3	33.35
Netherlands	3.4	5.60
France	3.8	12.36
Germany	6.4	16.91
Italy	10.3	10.48
Spain	12.2	5.34
Ireland	13.3	3.59
Latvia	13.8	0.06
Sweden	14.3	1.53
Finland	15.1	0.56
Austria	15.1	1.16
Greece	15.2	1.30
Portugal	15.5	0.84
Poland	20.5	0.71
Denmark	21.7	1.42
Czech Republic	21.9	0.67
Slovak Republic	31.3	0.03
Luxembourg	33.6	0.10
Hungary	33.8	0.64
Malta	35.7	0.03
Estonia	51.0	0.02
Slovenia	56.0	0.05
Lithuania	57.9	0.08

In markets that U.S. carriers did not serve with their own equipment,[8] the inclusion of comparable foreign-carrier data, by taking account of their extensive online services, would lower interlines as a proportion of total traffic. On the other hand, including passengers who made a non-alliance connection from one foreign carrier to another would have the opposite effect.

<u>The intra-EU market compared to third-country markets</u>

6. In Section 7.1, the paper asks the question "Are there objective differences between intra EU routes and routes to third countries?" In Section 7.1.1, "Operational differences," the paper states, at 150, that "…the density of air transport services as may be measured in terms of the availability of direct flights may likely be substantially lower on routes to third countries than within the EU." In fact, U.S.-EU routes are well-served

[7] As a proportion of total U.S.-EU itineraries in the referenced O&D data.
[8] Austria, Czech Republic, Denmark, Estonia, Finland, Hungary, Latvia, Lithuania, Luxembourg, Malta, Poland, Slovenia, Slovak Republic and Sweden.

by a multiplicity of direct, online services, and alliances offer services with many of the characteristics of online service beyond hubs on both sides of the Atlantic. According to O&D survey data reported to DOT for the 12 months ended September 30, 2004, there were over 14,000 U.S.-EU city-pair markets served either by a single carrier, by members of the same global alliance, and/or carriers in a strategic code-share partnership.

7. In Section 7.1.2, "Regulatory differences," at 154, the paper states that in contrast to the open market-access and pricing regime within the Community, "air services to third countries remain governed by a myriad of bilateral air services agreements, which often restrict market access and/or the pricing policy of carriers…Market access on these routes is often regulated, which may prevent supply from adapting to demand. Short term price variations may also be impeded." At 155, the paper goes on to state that "…the regulatory restrictions stemming from bilateral air services agreements may impede the conclusion of bilateral cooperation agreements *[e.g. code-sharing]* between airlines, the very type of which has been found to result in alternatives to the IATA system for passengers to interline."

8. The description in Section 7.1 does not accurately reflect the character of most U.S.-EU member state air services agreements and markets. The United States has open-skies agreements with 15 of the 25 member states which provide the carriers of each party open market access, capacity and pricing, and comprehensive code-sharing opportunities as well as other provisions designed to foster competition. Of the remaining 10 U.S.-EU member state markets, five are governed by bilateral air services agreements with a range of restrictions, and five are governed by comity and reciprocity. While the *de jure* limitations on market access and capacity have varying *de facto* effects, carriers are generally free to set prices based on management discretion, independent of the IATA mechanism.