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May 14, 2008

**VIA HAND DELIVERY & U.S. MAIL**

Paul R. Brubaker  
Office of the Administrator  
Research & Innovative Technology  
Administration  
U.S. Department of Transportation  
1200 New Jersey Ave., S.E.  
Washington, D.C. 20590

Steven D. Dillingham, Ph.D.  
Office of the Director  
Bureau of Transportation Statistics  
Research & Innovative Technology  
Administration  
U.S. Department of Transportation  
1200 New Jersey Ave., S.E.  
Washington, D.C. 20590

Re: Dockets DOT-OST- 2005-23354, 2005-23355 and 2008-0107

Dear Administrator Brubaker and Director Dillingham:

The undersigned air carriers are writing to request that the Department immediately issue a decision in the referenced dockets. The practice of filing for confidentiality of traffic and financial data *de facto* grants confidential treatment to the data while a decision is pending. The Department addressed this very issue, substantively, in the Staff Action dated September 10, 2007 and Decision of the Reviewing Official dated December 5, 2007 in ExpressJet, Docket DOT-OST-2007-28396. In that decision, after a protracted exchange of pleadings and extended consideration by the Department, ExpressJet's request for confidential treatment of certain Form 41, T-100 data was denied. That decision correctly determined that if the regulations require the public filing of data by all air carriers, all air carriers should file the data publicly.

While there certainly are times when data must and should be held confidentially by the Department, where a clear decision has been made that is on point, carriers should not be allowed to game the system to their advantage and their competitors' disadvantage. There are presently pending before the Department three separate confidentiality requests in the referenced dockets where Shuttle America, Republic and Virgin America are all asking that certain of their Form 41 data not be disclosed. While these requests have been pending, some since 2005, all other carriers, including the undersigned, have been filing their data as required under Parts 217 and 241. It is fundamentally unfair for those who chose to game the system to keep their traffic and

financial data from competitors. The undersigned make their data available as required by Department regulations, thereby allowing their competitors, including Shuttle America, Republic and Virgin America, to see the information and use it for whatever purpose they may chose. The result is that our competitors see our data while we cannot view the same information for Shuttle America, Republic and Virgin America.

One option that must therefore be considered, if an immediate decision is not issued, is that the undersigned carriers may also file for confidentiality of this data. That result is not what is intended by the Department's regulations. These cases are ready for decision. We request that the Department immediately issue its decision.

A copy of this letter will be filed in each of the referenced dockets.

Sincerely yours,

*Julie Oettinger /JPE*  
Julie Oettinger  
United Airlines, Inc.

*Jonathan B. Hill /JPE*  
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JetBlue Airways Corporation

*Sascha Van der Bellen /JPE*  
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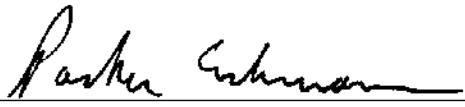
*Scott McClain /JPE*  
J. Scott McClain  
Delta Air Lines, Inc.

cc: Clay Moritz, Bureau of Transportation Statistics

**Certificate of Service**

I hereby certify that I have on this day, May 14, 2008, served the foregoing document by email on the following:

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J. Parker Erkmann