

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

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<b>Joint Application of</b>	:	
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<b>AMERICAN AIRLINES, INC.</b>	:	
<b>and</b>	:	<b>OST-99-6507</b>
<b>BRITISH AIRWAYS, PLC.</b>	:	
	:	
<b>under 14 CFR Part 212 for statements of</b>	:	
<b>authorization (reciprocal codesharing) and under:</b>	:	
<b>49 USC 40109 for related exemption authority</b>	:	
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**ANSWER AND MOTION OF LEGEND AIRLINES, INC.  
TO STAY JOINT APPLICATION OF  
AMERICAN AIRLINES, INC. AND BRITISH AIRWAYS, PLC.**

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Date: March 7, 2000

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**ANSWER AND MOTION OF LEGEND AIRLINES, INC.  
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AMERICAN AIRLINES, INC. AND BRITISH AIRWAYS, PLC.**

Legend Airlines, Inc. (Legend) respectfully requests that the Department stay the Joint Application of American Airlines, Inc. (American) and British Airways, PLC., in response to the continuing, multiple actions taken by American and its partners to block competition in the Dallas Fort Worth area including at Love Field, their submittal of false and misleading information, and their dominance of certain markets.

American has engaged and continues to engage in actions taken for the sole purpose of eliminating competition. Every time that the Department approves new or enhanced international agreements adding to American's partnerships/alliances, it: 1) allows American to add to its anti-competitive war chest; and 2) increases American's domination and control over its hub while further closing the door on competition.

If the Department does not suspend consideration of the American/British Airways application along with American's other international applications and approves yet another alliance/partnership for American, it should take appropriate steps to ensure

that: 1) American's crusade against new entry is halted; and 2) domestic competitors can compete in all American markets on a level playing field.

### **American Continues to Engage in Anti-Competitive Behavior**

The Department should carefully review actions and comments made by American and its partners over the past two and a half years. In addition, the Department should focus on actions that American is currently engaged in to eliminate competition. Now is not the time for the Department to give American (which controls approximately 75 percent of DFW markets) the ability to tap other resources to support its ongoing battle to destroy competition.

For nearly three years, American and its partners have been utilizing every available resource to oppose the statutory authority that allows Legend to operate at Love Field. During this period of time, while throwing up every possible roadblock to Legend, Ozark Air Lines and Continental Express, they have not challenged operations conducted by Southwest under the same authorities.<sup>1</sup> In other words, they believe they can decide which competitors are allowed to survive. If they decide that a carrier should not be allowed to compete, they will utilize all available resources to destroy that competitor.

On February 1, 2000, the Court of Appeals for the Fifth Circuit issued an opinion in *American Airlines v. Department of Transportation* (No. 99-60008), which affirmed the Department's Orders in the Love Field Interpretation Proceeding (OST-98-4363) finding that under federal law, Legend is authorized to conduct long-haul operations in aircraft reconfigured to seat no more than 56 passengers out of Love Field. Even after

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<sup>1</sup> Of course, these same parties attempted for over two decades to destroy Southwest.

the Fifth Circuit decision, American and its partners continue to ignore and challenge the Department's rulings, its authority and integrity at every turn. It is notable that American and Fort Worth have not yet withdrawn their state court case, *City of Fort Worth v. City of Dallas, et.al.*(Case No. 48-171109-97) against the City of Dallas and Legend. As a result, the Department is being forced to proceed with its case in the U.S. district court, *Continental Airlines, Inc. and Continental Express, Inc. v. City of Dallas*, (No. 398CV1187-R) to stay any actions attempting to block Legend from operating. As a result, Legend must continue to expend funds to defend its federal right to fly.

### **American's Actions Call Into Question Its Veracity**

While American continues its state court litigation to halt Love Field service, it is simultaneously planning a large presence at Love Field. Its planned Love Field operations are in direct contrast to its historical comments and current comments on the impact that new Love Field service would have on it and its DFW hub.<sup>2</sup>

In order to prevent Love Field operations by all carriers except Southwest, American and its partners have made statements in news articles, court filings and Departmental proceedings that new service at Love Field would damage American and destroy DFW hub. Some of the statements made include:

Siphoning local traffic from DFW to Love has slowed DFW's growth; expanding Love will slow it still further. I just don't understand why anyone in Dallas wants to see DFW become a second tier hub.

Opening Love Field will cause the DFW hub to shrink and reduce the travel options of everyone in the Metroplex.

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<sup>2</sup> It is interesting that American is prepared to enter a market that one of its occasional advisors, Darryl Jenkins, labeled as "one of the most dangerous markets in the world" (Dallas Morning News, February 27, 2000).

Dallas simply won't be able to compete with cities like Atlanta and Denver, which are supporting their major airports.

(Remarks by Robert Crandall, Chairman, American Airlines, Love Field Press Conference, December 2, 1997.)

\* \* \*

...the evidence submitted by DFW Airport and others shows that allowing unfettered operations at Love Field under the Shelby Amendment would contribute to the degradation of DFW's roles as the Dallas-Fort Worth area's dominant airport and threaten to fragment the hub operation at DFW.

...experts testified concerning the nature and extent of the irreparable injury to DFW Airport if Continental Airlines — and other airlines making a competitive response — began interstate flights from Love Field beyond the current restrictions of the Wright Amendment and without the constraints of the Bond Ordinance and the Use Agreement. The ramifications for DFW of such an increase, the evidence shows, is that DFW's growth would be sharply reduced and the DFW hub would be dramatically reduced in size and scope.

(Department Docket, OST-98-4363, *Love Field Interpretation Proceeding*, DFW Petition for Reconsideration, January 12, 1999)

\* \* \*

Because more than 90% of Dallasites and more than 50% of Metroplex residents live closer to Love Field than DFW, airlines will add service at Love and reduce it at DFW. With fewer local customers, in the long term DFW will not compete with hubs like O'Hare, Atlanta, and Denver. **DFW will become a second-tier hub.** [emphasis added]

(Dear Colleague Letter from American Chairman, Don Carty, July 6, 1998)

\* \* \*

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Even Continental's initially-planned three flights per day would decrease the load factor, decrease departures, and cause a reduction of flights to fewer cities from DFW, with a possible breakdown of its hub operation.

Long-haul flights at Love Field would "de-stabilize" the DFW hub thereby "fragmenting" it and placing it in "jeopardy." Once an airport loses local passengers, the airport lacks sufficient demand to sustain its hub operation and must inevitably downgrade service. The hub starts to "unravel itself;" the damage would be immediate and irreparable.

(DFW Brief, *American Airlines v. Department of Transportation*, No. 99-60008 (Fifth Circuit Court of Appeals) July 19, 1999)

While all evidence, including American's latest announcements, clearly shows that DFW would not fall apart if Love Field service is increased, American has not refuted its prior doomsday claims.<sup>3</sup> Time and time again, the Department dismissed the

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<sup>3</sup> On January 21, 2000, AMR issued its Fourth Quarter Financial Results, which included the following:

AMR's fourth quarter results brought the company's full-year 1999 net earnings to \$737 million, or \$4.68 per common share diluted, before special items. This compares with net earnings of \$1.3 billion, or \$7.52 per common share diluted, in 1998. Including special items, AMR's full-year 1999 earnings were \$985 million, or \$6.26 per common share diluted.

"We are quite excited about 2000," Carty said. "American Airlines added 45 new Boeing aircraft to its fleet last year and will take delivery on 41 more this year. American Eagle accepted 34 regional jets — including its first ERJ135 — in 1999 and will add another 29 RJs this year. Our American family grew by about 2,000 employees as we successfully integrated Reno Air, and American Eagle began integrating Business Express Airlines into its operation.

"While we continue to be concerned about the price of fuel, we are encouraged by the strength of the U.S. economy and more favorable recent trends in industry capacity," Carty said.

doomsday claims and ruled that new Love Field operations would have no impact on DFW.<sup>4</sup>

Although American has announced new Love Field service, it is not cutting **any** DFW service. On May 2, American announced it will initiate **four** roundtrips between Love Field and LAX and **five** roundtrips between Love Field and ORD, while leaving its current DFW-LAX and DFW-ORD schedules in place.

Despite the Fifth Circuit decision and repeated statements by the Department that the Shelby Amendment will lead to multiple public benefits without impacting DFW, the City of Fort Worth has filed yet another document with the Court of Appeals for the Second Judicial District of Texas, Fort Worth, that continues the fictitious argument that new Love Field service — operated consistent with federal law — will destroy DFW. In its latest filing, Fort Worth states:

Throughout the course of this litigation, Fort Worth’s opponents have questioned the need to protect DFW Airport from Love Field. As the Court is probably aware, in the short period of time since the Fifth Circuit ruled, the City of Dallas has been inundated with requests from airlines for gate space at Love Field. The diversion of air traffic from DFW Airport to Love Field has already begun, and it will continue to increase.

*(Legend Airlines, Inc., City of Dallas, Texas, Continental Airlines, Inc. and Continental Express, Inc. v. City of Fort Worth, Texas, and American Airlines, Inc.)*

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“In addition, the modernization of our fleet, our many service and product enhancements, and our success in e-commerce marketing during 1999 all position American well for the year 2000,” he added.

<sup>4</sup> These doomsday claims are even more outrageous considering that in December 1999, in trying to get approval for a \$2.5 billion expansion of DFW facilities, DFW claimed that “it does not believe the Love Field Interpretation Proceeding will have a material impact” on the airport. ( DFW Briefing Book presented to Dallas City Council).

Despite Fort Worth's latest baseless claims, the facts show the opposite has occurred. Other than Continental Express' regional jet service to Cleveland, American is the only carrier that has announced a proposed Love Field schedule.<sup>5</sup> In proposing to add flights at Love Field to Chicago and Los Angeles, American has not decreased any operations at DFW. At the same time, American and its alliance partners continue to add domestic and international routes at DFW and are seeking additional authority from the Department to continue to build traffic. Within the last few weeks, American Eagle has announced DFW regional jet service to Corpus Christi and regional jet service to several new DFW markets — Cedar Rapids, Milwaukee and Fort Wayne. In making its Corpus Christi announcement (on Feb. 21, 2000), American stated:

At Dallas/Fort Worth, American Airlines and American Eagle offer a combined schedule of more than 775 daily departures to 132 cities. American Airlines offers convenient connections to key U.S. business centers, as well as to the Southwestern United States, Canada, the Caribbean, Europe and Asia, including daily service to London, daily 777 service to Tokyo, **and new daily service to Zurich, beginning June 1.**

As noted above, American will add new DFW international service to Zurich and continues to seek other markets. In an August 1999 statement, DFW Executive Director Jeff Fegan announced plans to seek new international service to Buenos Aires. As part of its statement, DFW noted:

As one of the fastest growing gateways to Latin America, DFW will seek to develop new cargo service between DFW and Buenos Aires as soon as possible, according to Fegan...DFW is a major gateway to Latin American growing from nine destinations in 1995 to 17 nonstop destinations in 1999, an 88 percent increase.

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<sup>5</sup> Although Continental has announced regional jet service from Love Field to Cleveland, it has not announced any cutback in DFW service.

Other carriers have also announced new DFW service. Delta recently announced new DFW regional jet service to Savannah/Hilton Head and Amarillo. Sun Country Airlines recently announced new DFW international service to Cancun, Cozumel, and Puerto Vallarta.

Does this sound like an airport that is experiencing diversion of traffic? Are the proposed Love Field service by Continental (which has its own gates) and American what Fort Worth referred to when it stated, “the City of Dallas has been inundated with requests for gate space”?

Apparently, Fort Worth’s counsel must ignore statements made by DFW and American. As a member of AMR’s Board of Directors, Fort Worth’s counsel, Mr. Kelly, surely is advised of all actions taken by American at DFW.<sup>6</sup> Despite these repeated claims about the “eve of destruction,” neither he nor any other of the American parties has shown examples of this “diversion” of traffic. In fact, DFW is apparently at capacity.<sup>7</sup> In explaining why DFW has not been growing, DFW Deputy Executive Director Kevin Cox recently stated, "For the last three years, we've been pretty flat [in

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<sup>6</sup> It is interesting to note that while Fort Worth continues to press its case in state court, appeal the Fifth Circuit decision to the Supreme Court, and argue the destruction of DFW, it has not filed one challenge against American’s plans. At the same time, the Love Field Citizens Action Committee (which has received funding from American and has challenged Legend at every step of its authorization process) has remained silent about American’s plans at Love Field. Apparently, American’s noise and pollution are acceptable.

<sup>7</sup>An article in the Feb. 24, 2000 Fort Worth Star Telegram, on DFW expansion noted:

Now D/FW officials have removed the budgeted \$347 million west-side runway proposal from their funding plan for more than \$2 billion in airport improvements. They haven’t canceled plans for that runway, but they have set them aside to be dealt with later. Maybe years later. ‘We need it,’ D/FW Deputy Executive Director Kevin Cox says of the runway. But right now, he acknowledges, the bigger problem is that an airline that wanted to bring more planes into D/FW would be hard pressed to find gates at which to park them. So, for now and for at least a few years to come, there’s not much sense in spending money to build a new runway.

passenger growth] because **we've had no gate capacity.**<sup>8</sup> He added, "We want to increase international traffic, but there's no place to put it." (Fort Worth Star Telegram, March 6, 2000.) Despite these statements by those operating at DFW and the actions of American, Fort Worth apparently hopes that some court will accept its latest mythical defense of overturning federal law and will block Love Field service to "save" DFW. Moreover, if Mr. Cox's statements are accurate, how could American seek new international routes? Would new international flights not use gates? It is time for the Department to demand that American and its partners reject these false statements and to acknowledge fact and law.

### **American Is Spending Tens of Millions of Dollars to Destroy Competition**

Having failed to destroy Legend through the Texas court system and with its surrogates by prolonging the certification process and adding to Legend's costs, American has now decided that it will spend tens of millions of dollars to drive Legend out of its announced markets by expanding its schedules in Legend's markets, adding flights at Love Field, and reconfiguring its aircraft only to compete with Legend. Unable to destroy Legend through litigation, American turned to Bob Crandall's back-up threat — flood Love Field with traffic.<sup>9</sup> In the affidavit of Henry Joyner, American's Senior Vice-President, Planning, submitted to the Fifth Circuit Court of Appeals as part of American's "Motion For Stay of Department of Transportation Declaratory Order," it

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<sup>8</sup> It is interesting that the American parties have suggested over the past few years that Legend should operate at DFW. Apparently, Legend would not have been able to secure gates.

<sup>9</sup> "If Love Field opens, we will go to Love Field," American Chairman Robert Crandall said in November 1997. Crandall retired in 1998, but under successor Donald Carty, "we haven't changed our position," spokesman Tim Doke said last night.

(Fort Worth Star Telegram, February 2, 2000)

was made clear that American would duplicate the service of any carrier (other than Southwest) daring to offer competition to American. Mr. Joyner stated, "American is planning on providing service that is comparable to the service announced by Legend Airlines. American intends to compete from Love Field with Legend Airlines on some or all of its announced routes, and will also provide service that is competitive with service provided by any other airlines from Love Field to destinations outside of Texas and its contiguous states." This amounts to a declaration of war and announces to the world that American will initiate a campaign against all new entrants daring to compete in American's markets. (Of course, it continues not to challenge Southwest.)

Within two hours of the Fifth Circuit decision, American announced plans to reconfigure Fokker 100 jets and MD-80 jets with 56 seats. As reported by the February 2 Dallas Morning News, "American's plan is to create a special fleet of jets that will be used at Love Field only." Therefore, American will spend tens of millions of dollars to reconfigure each of the aircraft it will utilize at Love Field (this is in addition to the tens of millions of dollars it has and will incur at Love Field for facilities, personnel, and marketing programs) to drive new entrants out of Love Field. American has already named a Vice President to run its "Love Field" operations, although the Fort Worth Star Telegram noted that American only has a Vice President at "its three largest hubs."

It is inconceivable that American could recoup its Love Field total costs. If there is any doubt that American would take any and all steps, including losing money, to force competitors out of its markets, one only need review comments made by Bob Crandall, speaking at a November 1997 National Press Club luncheon. Big carriers need to earn

sizable profits at a select number of airports to maintain overall profitability, Crandall said. He added:

Without a few highly profitable hubs, large carriers would lose money. Major carriers also have trouble competing against the low pay levels of new carriers. Losing a small percentage of the people on each plane to a startup will take away the profit of any airline. We want to keep all of those passengers. Any airline that sustains losses for the purpose of damaging competitors is not going to stay around very long. That is not to say an airline won't cut fares and lose money for a while to defend market share at an airport where it cannot afford to lose. When somebody challenges us in a market where we must prevail, we will compete. If that competition costs us money, we are prepared to do it.

(“American CEO Accuses DOT, Congress of Re-Regulating Airlines,” Airline Financial News, November 17, 1997)

American has never utilized aircraft with one level of service and never shifted operations to Love Field to combat Southwest. When Midwest Express (another carrier with an upscale interior and special flight amenities) entered the DFW market, American did not reconfigure aircraft to match Midwest Express' cabin configuration.<sup>10</sup>

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<sup>10</sup> American now has an extensive codeshare agreement with Midwest Express at DFW. Midwest Express has previously been driven out of markets by anti-competitive behavior. According to the March 5, 2000 Dallas Morning News,

But at least one time Midwest Express ventured into hostile territory — taking on Northwest between its Detroit hub and Rockford, Ill., in the late 1980s — it was forced to pull out after a few years of losses.

“It is not easy to go up against an American or a Northwest,” said Midwest Express spokeswoman Lisa Bailey. “They have many more resources that we do. They could beat us on price. Our costs are so much higher that we couldn't be profitable” at those levels.

Today, Midwest Express avoids flying to Northwest hub airports in Detroit, Minneapolis and Memphis, Tenn., from Milwaukee.

Clearly the message is: If you want to serve American's hub, you'd better “join” with them. As that same March 5 Dallas Morning News noted:

Finally, a third part of the answer can be found in the cutthroat nature of airline competition. Legend might be the least of American's problems at Love. Major competitors view Love as a way to snag market share without having to compete against

Although American serves the DFW-LAX market with approximately 20 roundtrips per day, it has announced LAX as the first market it would serve from Love Field after Legend announced it would serve LAX.

Therefore, in response to Legend's five roundtrips to Los Angeles, American will have a total of 22 flights per day,<sup>11</sup> and it will increase its Chicago roundtrips to 33. American will have approximately 3,000 seats in the Dallas-Los Angeles market (in addition to its flights to other LA area airports) while Legend will have a little over 300. Although American already has over a 10 to 1 advantage in seats, it is adding flights at Love Field. It is clear that American is willing to spend as much as possible to overwhelm the market and prevent Legend from gaining any market share.<sup>12</sup>

The Department has stated that it will enforce its Orders allowing Legend to fly. As part of that enforcement and carrying out its fundamental policy to promote competition, the Department needs to take action against those parties engaging in egregious anti-competitive behavior. Staying this and other proceedings of American's is more than appropriate at this time. It is time that American is told that the Department

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American at D/FW. And if American gives in at Love, it risks emboldening those competitors.

"Airlines historically have been very skittish about market share in general," said Darryl Jenkins, director of the Aviation Institute at George Washington University in Washington. "They're all worried that if they give up one passenger here, and one passenger there, everybody else in the business will see that as weakness and come in and raid them."

<sup>11</sup> In addition, both United and Delta have three roundtrips in the DFW-LAX market.

<sup>12</sup> New entry is the backbone of the Airline Deregulation Act. In order for deregulation to work, it is essential that the Department of Transportation adhere to the principles behind deregulation which call for "the encouragement of entry into air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry." (The Airline Deregulation Act of 1978, P.L. 95-504, 92 Stat. 1705, Sec. 102(a)(10)).

will not provide it with additional resources to enable it to grow and prosper, when at the same time it continues to be engaged in conduct to destroy competition.

**When Approving New International Authorities, the Department Should Take the Necessary Steps to Provide for New Domestic Competition along with New International Competition.**

In addressing the impact of an American/British Airways alliance on competition in Heathrow and to beyond markets, the Department has reviewed the need to ensure that Heathrow slots are made available to American's competitors. Among the comments submitted on this issue were the following:

The Department should refuse to enhance the dominance of American and British Airways at Heathrow by granting the Joint Applicants extensive beyond Heathrow codesharing rights. Enabling American and British Airways to engage in codesharing and cooperative market efforts without a liberalized U.S.-U.K. bilateral will stifle U.S.-U.K. competition, particularly for U.S.-London services. Allowing the two dominant Heathrow carriers to form a codeshare alliance will only facilitate the ability of British Airways and American to use the entry-restricted Heathrow hub to increase their market share.

Delta Air Lines (OST-99-6507-28)  
Joint Application of American Airlines  
and British Airways (codesharing)  
February 22, 2000

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So long as the British remain adamant in their pursuit of anticompetitive, mercantilist advantage for BA on Heathrow/Gatwick-U.S. routes, the Department simply cannot make the public interest findings the statute and its own regulations require to grant American's an BA's joint application in full.

All of the available evidence in this docket confirms beyond any dispute that so long as new entry at Heathrow and Gatwick continues to be subject to an absolute government barrier to entry, granting American and BA authority to codeshare on U.S.- Heathrow/Gatwick services would reduce, rather than promote, competition, and would not be consistent with the public interest.

United Air Lines (OST-99-6507-32)  
Joint Application of American Airlines  
and British Airways (codesharing)  
February 22, 2000

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. . . British Airways and American are the overwhelmingly dominant airlines on U.S.-Heathrow (and other U.S.-U.K. routes, with approximately 59% of the seats between the U.S. and Heathrow, by far the most important airport for business travelers, British Airways and American would be virtually invincible to competitive pressures by other airlines, such as Continental, seeking to compete for U.S.-U.K. traffic if the Department were to allow British Airways and American to codeshare on nine U.S.-U.K. traffic if the department were to allow British Airways and American to codeshare on nine U.S.-U.K. gateway-to-gateway sectors and 75 beyond gateway sectors.

. . . the Department should not even consider the possibility of granting codeshare authority for British Airways and American to enhance their already harmful dominance of U.S.-London and U.S.-U.K. routes.

Continental Airlines (OST-99-6507-29)  
Joint Application of American Airlines  
and British Airways (codesharing)  
February 22, 2000

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. . . although Detroit and Minneapolis/St. Paul have been named Heathrow gateways for over 20 years and Northwest stands ready and willing to provide these communities with nonstop Heathrow service, Northwest is unable to launch Detroit-Heathrow and Minneapolis/St. Paul-Heathrow nonstop service due to the Heathrow carrier designation restrictions contained in Bermuda II. The Department should refuse to even consider the codeshare requests of British Midland and United until such time as the U.S.-U.K. have reached a new bilateral aviation agreement that satisfies fully the Heathrow requirements of communities such as Detroit and Minneapolis, and carriers such as Northwest.

Northwest Airlines (OST-00-6842-10)  
Joint Application of United Air Lines  
and British Midland Airways  
(codesharing), February 17, 2000

Just as the nation's largest carriers insist that they be given the opportunity to compete before American is given any additional control over the UK markets, that same principle should apply to domestic markets. Every time another codeshare/marketing alliance/partnership is approved by the Department, it provides a hub carrier, such as American, with a tighter stranglehold over its markets. If new entrants are to be allowed to compete in those markets, they have to be given some opportunities to compete in all domestic markets. To accomplish that, the Department needs to provide Legend with slots – that it controls – to compete in the domestic “deregulated” market. Certainly, the Department needs to create “Open Skies” in the United States, not just in international markets.

American has over 1,000 slots at O'Hare<sup>13</sup>; therefore, it can adjust schedules at will. Since O'Hare is a high density airport with no slots available, Legend is blocked from entering that market. More importantly, two of the primary business airports for Dallas area business travelers — LaGuardia and Washington National — are also closed to Legend because of federal regulation. Therefore, American can take steps to block Legend from entering some markets while Legend can't enter others.<sup>14</sup>

The Department of Justice, in its filing with DOT on the American/British Airways proposed alliance (Docket OST-97-2058-222, May 21, 1998), highlights the anti-competitive nature of slot control. In those comments, the Department stated:

Moreover, where service in a market is constrained by slot availability, a hub carrier with access to a large pool of slots has even greater ability to respond to entry in this way because the entrant will be unable to add capacity on its own.

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<sup>13</sup> American has over 1360 slots. Its foreign partners have more slots than all new entrants.

<sup>14</sup> While legislation may eventually open slots, the number and timing of slot availability is uncertain.

American's president has referred to such strategic responses as "predatory scheduling." The net result of "predatory scheduling" is to discourage new entry in the first place, or to render it unprofitable where it occurs. (Testimony of Donald J. Carty, p. 40, *AMR Corporation and American Airlines, Inc. v. UAL Corporation et al*, USDC for the SDNY, 91 Civ 7773-781 F. Supp. 292)

This is exactly what American has done in Chicago and is likely to do in Washington.

For these reasons, Legend respectfully requests that the Department suspend consideration of the American/British Airways (and all codesharing/marketing requests) proposal.

That stay should remain in effect until:

1. American ceases the anti-competitive behavior it has engaged in to block Legend from operating; and
2. The Department withdraws eight of American's slots at LaGuardia, eight at National Airport, and twelve at O'Hare, and reallocates them to Legend.

The Department should not help one carrier increase its dominance of international and domestic markets and give it additional resources to keep business away from competitors without providing for the future of competition. Now is the time for the Department to address both international and domestic markets. Questions concerning the future of competition cannot be put off to another day.

Respectfully submitted,

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Date: March 7, 2000

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Answer and Motion of Legend Airlines, Inc., to Stay Joint Application of American Airlines, Inc. and British Airways, PLC, was served on March 7, 2000 by postage-paid first-class mail to each of the persons named on the attached service list.

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Nancy R. Thompson