

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

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Application of	)	
	)	
AIR CHINA LIMITED	)	
d/b/a AIR CHINA	)	Docket DOT-OST-2013-0001
	)	
for renewal of exemption authority pursuant to	)	
49 U.S.C. § 40109	)	
_____	)	

**OBJECTION OF AMERICAN AIRLINES, INC.  
TO APPLICATION OF AIR CHINA LIMITED d/b/a AIR CHINA  
FOR RENEWAL OF EXEMPTION AUTHORITY**

Communications with respect to this document should be addressed to:

Howard Kass  
Vice President  
Regulatory Affairs

Paul T. Denis  
Steven G. Bradbury  
William B. Sohn

Robert A. Wirick  
Managing Director  
Regulatory and International Affairs

DECHERT LLP  
1900 K Street, NW  
Washington, D.C. 20006  
(202) 261-3300

AMERICAN AIRLINES, INC.  
1200 17th Street, NW  
Washington, D.C. 20036  
(202) 496-5643  
*howard.kass@aa.com*  
*robert.wirick@aa.com*

*paul.denis@dechert.com*  
*steven.bradbury@dechert.com*  
*william.sohn@dechert.com*

January 30, 2017

**BEFORE THE  
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American objects to the application of Air China for renewal of its exemption authority to operate scheduled service between Beijing, People’s Republic of China, and Houston, Texas.<sup>1</sup> American recognizes that Air China has timely filed for renewal of its authority and does not take issue with any aspect of Air China’s operation of this service; rather, American bases its objection on the failure of the Civil Aviation Administration of China (“CAAC”) to make commercially viable slots at Chinese airports available to American and other U.S. carriers on a reciprocal basis.

As American recently explained in a similar proceeding, U.S. carriers are often unable to obtain commercially viable slots at airports in mainland China that are necessary to operate U.S.-China services.<sup>2</sup> Chinese carriers, by contrast, hold large slot portfolios at Chinese airports that they use for their own U.S.-China services, and they face no comparable limitations at U.S. airports. This disparity provides Chinese carriers with a significant competitive advantage in

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<sup>1</sup> See Application of Air China Limited d/b/a Air China for Renewal of Exemption Authority (Jan. 13, 2017). Common names are used for all airlines.

<sup>2</sup> Answer of American Airlines, Inc. to Application of Hainan Airlines Co., Ltd., Docket DOT-OST-2007-0066 (Jan. 17, 2017).

servicing U.S.-China routes, and deprives the United States of the full level of U.S. carrier-operated services authorized by the U.S.-China Civil Air Transport Agreement, as amended (the “Civil Air Transport Agreement”).

The difficulties faced by U.S. carriers have only worsened since American described these difficulties to the Department in its filing on January 17, 2017.<sup>3</sup> On January 18, 2017, the CAAC rejected American’s request for slots at Beijing Capital International Airport (PEK) for nonstop service to Los Angeles (LAX). The CAAC did not, as it had done in the past, even offer American slots at commercially non-viable times, such as between midnight and sunrise when few passengers want to takeoff or land. Even though American was recently awarded the U.S.-China frequencies and necessary exemption authority from the Department to inaugurate Los Angeles-Beijing service,<sup>4</sup> American cannot serve this route without slots in Beijing. To date, the CAAC has refused to provide *any* slots to allow American to exercise its bilaterally conferred rights.

The CAAC’s decision to block American leaves Air China, which is a self-described “government controlled enterprise,”<sup>5</sup> as the only carrier that operates nonstop service between Los Angeles and Beijing. Air China serves this route three times per day, and all three daily flights depart and arrive in Beijing at times that are optimal for passengers.<sup>6</sup> Moreover, less than three months elapsed between Air China’s 2015 announcement that it would add a third flight on this route and the commencement of Air China’s expanded service, demonstrating the ease by which

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<sup>3</sup> *Id.*

<sup>4</sup> Final Order, 2016 Los Angeles-Beijing Frequency Allocation Proceeding, Docket DOT-OST-2016-0076 (Dec. 16, 2016).

<sup>5</sup> Air China Company Profile, [http://www.airchina.com.cn/www/en/html/index/about\\_us/company\\_profile/](http://www.airchina.com.cn/www/en/html/index/about_us/company_profile/) (last accessed Jan. 30, 2017).

<sup>6</sup> Air China’s three daily LAX-PEK flights arrive in Beijing at 5:20 AM, 11:30 AM, and 2:20 PM, and depart Beijing at 12:00 PM, 3:00 PM, and 9:00 PM (local time).

Chinese carriers can add U.S.-China services.<sup>7</sup> By denying American the same opportunity to introduce Los Angeles-Beijing service in a timely manner, the CAAC has acted to preserve Air China's nonstop monopoly on this route, to the detriment of the U.S. traveling public, U.S. carriers, and the U.S. Government.

The CAAC's denial of slots to American is the latest instance in a pattern of conduct that obstructs U.S. carriers from accessing Chinese airports on the same terms as their Chinese counterparts. This conduct includes:

- The CAAC's refusal in 2010 to grant American slots in Beijing except at 2:20 AM and 4:20 AM for its Chicago-Beijing service, which forced American to cancel its initial Chicago-Beijing flights and prevented American from launching daily service on this route until three months later than it had planned.<sup>8</sup>
- The CAAC's obstruction from 2014 until 2016 of United's efforts to obtain slots in Shanghai for its second daily San Francisco-Shanghai service, which prevented United from launching this service until almost two years after it was awarded frequencies by the Department.<sup>9</sup>
- The CAAC's refusal to award United slots in Shanghai for its third weekly Guam-Shanghai service, which continues to this day and which has already prevented United from launching this service on the date that it initially intended.<sup>10</sup>

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<sup>7</sup> Air China to Add Third Daily L.A.-Beijing Flights, Los Angeles Business Journal (Feb. 19, 2015), <http://labusinessjournal.com/news/2015/feb/19/air-china-add-third-daily-l-beijing-flight/>. Air China announced on February 19, 2015 that it would add a third LAX-PEK flight, and began flying its third LAX-PEK flight four times per week on May 2, 2015. Air China expanded this flight to daily service on July 1, 2015.

<sup>8</sup> See American Doesn't Like Slot Times, Postpones Chicago-Beijing Flights, Dallas News (Apr. 2010), [http://www.dallasnews.com/business/airlines/2010/04/26/american-doesnt-like-slot-time](http://www.dallasnews.com/business/airlines/2010/04/26/american-doesnt-like-slot-time;); American Airlines Launches Chicago-Beijing Service with Four Times a Week Flights, Business Traveler (May 11, 2010), <https://www.buinessstraveller.com/airlines/2010/05/11/aa-launches-chicago-beijingservice-with-four-times-a-week-flights/>.

<sup>9</sup> See Notice of Action Taken, DOT-OST-2014-0196 (Nov. 21, 2014) (awarding United seven weekly U.S.-China frequencies for service between San Francisco and Shanghai); United Plans 2nd Daily San Francisco – Shanghai Flight from Oct. 2016, Routes Online (July 23, 2016), available at <http://www.routesonline.com/news/38/airlineroute/268053/united-plans-2nd-daily-san-franciscoshanghai-flight-from-oct-2016/>.

<sup>10</sup> See Motion of United Airlines, Inc. for a Start-Up Extension, DOT-OST-2016-0134 (Dec. 2, 2016); Approval of the Motion of United Airlines for a Start-Up Extension, DOT-OST-2016-0134 (Dec. 15, 2016).

When the scarce and limited U.S.-China frequencies available to U.S. carriers go unused for prolonged periods while U.S. carriers try to negotiate with the CAAC for slots to which they are entitled, the public suffers and the integrity of the Civil Air Transport Agreement comes under question. By impeding the development of new U.S.-China services by U.S. carriers, the CAAC's actions reward Chinese carriers with a competitive advantage in U.S.-China service at the expense of the United States, which agreed to provide valuable bilateral benefits to Chinese carriers in return for these rights for U.S. carriers.

The obstacles created by the CAAC to U.S. carriers' obtaining slots in China violates the intent of the Civil Air Transport Agreement, which obligates both countries to "take all appropriate action to ensure that there exist fair and equal rights for the designated airlines of both Parties to operate the agreed services on the specified routes so as to achieve equality of opportunity, reasonable balance and mutual benefit."<sup>11</sup> Until U.S. carriers are able to obtain slots in China for U.S.-China services with the same ease as Chinese carriers, there will never be an "equality of opportunity" between the carriers of both countries. And instead of "reasonable balance," Air China and other Chinese airlines will continue to dominate or monopolize the largest U.S.-China nonstop routes, such as Los Angeles-Beijing. Through its absolute control over slots in China, the CAAC holds a veto over the Civil Air Transport Agreement that offered passengers the promise of additional service and new competition on important but inadequately served U.S.-China routes. This vitiates the intent of that agreement, and purposely provides Chinese carriers a substantial advantage in serving U.S.-China routes.

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<sup>11</sup> U.S.-China Civil Air Transport Agreement (Sept. 17, 1980), *available at* <https://www.state.gov/documents/organization/122714.pdf>.

Because the CAAC's refusal to provide slots to American and other U.S. carriers on a reciprocal basis cripples the ability of U.S. carriers to provide service to China and harms the interests of the United States and the traveling public, American objects to the application of Air China for the renewal of its authority, and will continue to object to applications for exemption authority filed by other Chinese carriers until the CAAC provides commercially viable slots to American.

Respectfully submitted,



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Howard Kass  
Vice President  
Regulatory Affairs

Robert A. Wirick  
Managing Director  
Regulatory and International Affairs

AMERICAN AIRLINES, INC.  
1200 17th Street, NW  
Washington, D.C. 20036  
(202) 496-5643  
*howard.kass@aa.com*  
*robert.wirick@aa.com*

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Paul T. Denis  
Steven G. Bradbury  
William B. Sohn

DECHERT LLP  
1900 K Street, NW  
Washington, D.C. 20006  
(202) 261-3300  
*paul.denis@dechert.com*  
*steven.bradbury@dechert.com*  
*william.sohn@dechert.com*

## CERTIFICATE OF SERVICE

I certify that on January 30, 2017, I served a copy of the foregoing Objection of American Airlines, Inc. by email upon the addressees listed below:

george.tompkinsjr@wilsonelser.com (Counsel for Air China)  
john.s.duncan@faa.gov (Federal Aviation Administration)  
harold.e.kernahan@faa.gov (Federal Aviation Administration)  
robert.finamore@dot.gov (Department of Transportation)  
mario.diaz@houstontx.gov (City of Houston)  
ian.wadsworth@houstontx.gov (City of Houston)  
sahara.lee@houstontx.gov (City of Houston)  
rharvey@houston.org (Greater Houston Partnership)  
ghp@houston.org (Greater Houston Partnership)  
rbrinder@zsrlaw.com (Counsel for City of Houston and Greater Houston Partnership)  
jasilversmith@zsrlaw.com (Counsel for City of Houston and Greater Houston Partnership)  
sascha.vanderbellen@delta.com (Delta)  
sametta.c.barnett@delta.com (Delta)  
perkmann@cooley.com (Counsel for Hawaiian)  
dan.weiss@united.com (United)  
steve.morrissey@united.com (United)  
gmurphy@crowell.com (Counsel for United)  
cefelts@fedex.com (Federal Express)  
nssparks@fedex.com (Federal Express)  
gbleopard@fedex.com (Federal Express)  
matwood@cozen.com (Counsel for Kalitta Air)  
kevin.montgomery@polaraircargo.com (Polar Air Cargo)  
jennifer.nowak@hkllaw.com (Counsel for United Parcel Service)  
info@airlineinfo.org (Airline Info)



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William B. Sohn