

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

<b>Application of</b>	)	
	)	
<b>AER LINGUS LIMITED</b>	)	
	)	<b>Docket OST-2000-6726</b>
<b>for extra-bilateral authority under the</b>	)	
<b>Department's "Cities Program"</b>	)	
<b>(Dublin/Shannon-Baltimore)</b>	)	

<b>Application of</b>	)	
	)	
<b>AER LINGUS LIMITED</b>	)	
	)	
<b>for a Statement of Authorization under 14</b>	)	<b>Docket OST-2000-6728</b>
<b>C.F.R. Part 212 for codeshare services with</b>	)	
<b>American Airlines, Inc. (Boston, Chicago,</b>	)	
<b>Los Angeles, New York-Shannon/Dublin)</b>	)	

<b>Application of</b>	)	
	)	
<b>AMERICAN AIRLINES, INC.</b>	)	
	)	<b>Docket OST-2000-6725</b>
<b>under 49 U.S. C. § 40109 for an exemption</b>	)	
<b>(New York-Shannon/Dublin; codesharing</b>	)	
<b>with Aer Lingus)</b>	)	

**MOTION FOR LEAVE TO FILE AND  
SURREPLY OF DELTA AIR LINES, INC.**

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**March 30, 2000**

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**MOTION FOR LEAVE TO FILE AND  
SURREPLY OF DELTA AIR LINES, INC.**

Delta Air Lines, Inc. hereby moves for leave to file this brief Surreply to Aer Lingus Limited ("Aer Lingus"). Delta's Surreply will contribute to a more accurate and complete record for decision, will not prejudice any party, and should be heard.

Aer Lingus' reply consists almost solely of arguing that the position expressed in Delta's January 13, 2000 Answer is "inconsistent with" the arguments made by Delta over four years ago in obtaining initial approval for the Delta/Aer Lingus codeshare, and in subsequent renewal applications. However, Aer Lingus essentially ignores the harmful public interest consequences of the continuance of the Shannon stop requirement. Aer Lingus also ignores the fact that before, during and after Delta's codeshare relationship with Aer Lingus, Delta has vigorously opposed the Shannon stop requirement, and has consistently advocated removal of that restriction.

In determining whether to grant the instant applications, the Department must decide whether it is willing to simply accept the restrictive Shannon stop requirement, which is one of the most antiquated and harmful bilateral restrictions remaining in Europe today, or whether it is appropriate to seek relaxation of the Shannon stop requirement in exchange for approving Aer Lingus' and American's admittedly extrabilateral requests.

The Department has previously extended extrabilateral codeshare authority to carriers on a trial basis in order to coax restrictive foreign governments into more liberal aviation arrangements. However, when such governments have shown no movement in the direction of liberalization, as is the case with Ireland,

the Department has declined to extend further authority. See, e.g. Order 96-11-15 at 4.<sup>1</sup>

Aer Lingus attempts to paint Delta's objections and strong aversion to the Shannon stop as hypocritical. This is untrue. In fact, during Delta's four year relationship with Aer Lingus, Delta worked extremely hard to try and persuade the Government of Ireland to lift these restrictions for all carriers. Regrettably, Delta's efforts were rebuffed. Delta wishes to reiterate that its only objective is to obtain relief from the onerous and anticompetitive impact of the Shannon stop requirement. But for this unnecessary and harmful restriction, Delta would have no objection to Aer Lingus codesharing with American or any other carrier.

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<sup>1</sup> In performing our public interest analysis, we cannot ignore that in the two years since our initial approval, the Italian side has shown no movement in the direction of liberalization, and this despite an accumulation of U.S. carrier aspirations to expand existing services or to introduce new services in the U.S.-Italy market. It is against this unchanging pattern of restrictive Italian behavior that we must weigh the public benefits represented by the requested amendment . . . we conclude that . . . the application does not favor approval. Id. (emphasis added).

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Motion For Leave To File and Surreply Of Delta Air Lines, Inc., were served this 30th day of March, 2000, upon all of the persons listed on this Service List via first-class mail.

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