

Served: January 22, 1998



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 22nd day of January, 1998

Joint Application of

AMERICAN AIRLINES, INC.

and

**LINEA AEREA NACIONAL CHILE,
S.A. (LAN CHILE)**

under 49 U.S.C. Sections 41308 and 41309 for
approval of and antitrust immunity for alliance
agreement

Docket OST-97-3285

ORDER

On December 23, 1997, American Airlines, Inc. ("American") and Linea Aerea Nacional Chile, S.A. ("Lan Chile"), together "the Joint Applicants", filed an application for approval of and antitrust immunity for an alliance agreement under §§ 41308 and 41309 of Title 49 of the United States Code. The Joint Applicants also filed a motion under 14 C.F.R. 302.39 for confidential treatment of documents submitted in support of that application.

Previously, we granted interested parties immediate access to the confidential materials in this docket covered by the Rule 39 motion, subject to conditions (*see* Notice issued January 9, 1997). At that time, we stated that we had not yet determined that the evidentiary record of this case was complete. We also stated that further procedural measures, including deadlines for answers or other filings, would be established later.

The staff has now finished its preliminary review of the application, including documents for which the Joint Applicants have sought confidential treatment under Rule 39, and finds that the request is deficient in certain respects. Therefore, we direct the Joint Applicants to revise and amend their application, as prescribed below.

Joint Supplemental Response

1. Each of the Applicants failed to provide an index for its confidentially-filed materials, as required by 14 C.F.R. 302.39 (e)(2)(i). In order to facilitate review of these materials by any interested party, American and Lan Chile should each submit a subject-index. The subject-index should at least contain the following elements: (a) based on section 5 of the application (pp 44-64), list each of the additional information requirement items (by number and description) that the

confidential materials are responsive to; and (b) associate each additional information requirement item with an appropriate Bates number or range that is responsive to it.

While we have specified two descriptive elements to be employed in developing an index, our interest in this matter is to facilitate prompt and full review of these materials by interested parties.

For this reason, if the Joint Applicants can craft a more “user-friendly” index, we fully encourage and endorse the applicants’ efforts. The above two categories, however, must be included.

2. The Joint Applicants have submitted several redacted documents.¹ In order that we may determine the relevance of these documents to our public interest assessment of this proposed alliance, we direct the Joint Applicants to submit complete copies of all redacted documents to Regis P. Milan ((202) 366-2349, Room 6401I) for review.

American Supplemental Response

3. Explain why certain confidentially filed pages are blank: for example, AA0000375-377.
4. Certain confidentially filed pages are illegible: for example, AA0000380-403, 420, and 424.

Lan Chile Supplemental Response

5. Lan Chile’s confidential submission states that English translations accompany all Spanish-language documents. We direct Lan Chile to provide English language translations for various confidentially-filed material: for example, (a) Exhibit JA-3, and (b) the various numeric charts/tables (titles and headings).

6. Lan Chile states that it has modeled its evidence request submissions consistent with Docket OST-97-2058. In that case, the Department required the foreign applicant to file O&D traffic data for its top 100 markets that involve a U.S. passenger origin, destination, or connecting point for a two-year period. Explain why Lan Chile has limited its O&D data submission to the top 25 markets that involve a U.S. passenger origin, destination, or connecting point for one year (1996).

Accordingly:

1. We direct American Airlines, Inc. and Linea Aerea Nacional Chile, S.A. to provide the supplemental information/explanations described in this order; and
2. We will serve this order on all interested parties.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

¹ For example, (1) American’s Interline Reduced Rate Agreement, (2) the Joint Applicants’ Special Prorate Agreement, (3) AAdvantage Participating Carrier Agreement, (4) LanPass Participating Carrier Agreement, and (5) the CodeShare Agreement, dated September 5, 1997.