



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

Issued by the Department of Transportation
on the 30th day of July, 1999

Served: July 30, 1999

Joint Application of

AMERICAN AIRLINES, INC.
and
BRITISH AIRWAYS PLC

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

Docket OST 97-2058

Applications of

AMERICAN AIRLINES, INC.
and
BRITISH AIRWAYS PLC

for exemptions, certificate authority, undocketed foreign
air carrier permit authority, and statements of
authorization

Dockets OST 97-2054
2055
2056
2057

ORDER TERMINATING PROCEEDINGS

By this order the Department terminates the proceedings in Dockets OST-97-2054 through 2058.

On January 10, 1997, American Airlines ("American") and British Airways ("BA") filed in Docket OST-97-2058 an application for approval of, and antitrust immunity for, an "alliance agreement" (referred to also as "the Alliance") under 49 U.S.C. §§ 41308 and 41309.¹

¹ The application defines the "alliance agreement" to include the June 11, 1996, agreement to develop and carry out the alliance, any implementing agreements concluded pursuant to that agreement, and any subsequent agreements or transactions by the Joint Applicants pursuant to such agreements. In broad

Concurrently, American and BA filed applications in Dockets OST-97-2054, 2055, 2056, and 2057 for exemption and certificate/permit authority, to operate between the United States and the United Kingdom and beyond to numerous third countries, as well as an undocketed joint application for statements of authorization to code share between those points.

In Order 97-3-34, we announced our intention to begin processing the Alliance application and related authority requests, finding it in the public interest to do so concurrently with the ongoing bilateral Open-Skies negotiations with the United Kingdom. The order emphasized that our commencement of procedures did not constitute a change in our policy of requiring an Open-Skies agreement as an essential predicate to any decision approving and granting antitrust immunity to an alliance application. We agreed with the presumption of the Joint Applicants that the record analysis of the potential impact of the Alliance must assume the existence, *de jure* and *de facto*, of an Open Skies agreement meeting U.S. objectives. Moreover, in that order and on subsequent occasions, the Department made clear that *de facto* Open Skies in the case of the United Kingdom must include adequate provision for new and expanded U.S. carrier service through London airports, particularly Heathrow, and that the ability of U.S. carriers to provide such service notwithstanding the constraints at Heathrow would be a critical consideration in our evaluation of the proposed Alliance.

Throughout the course of these proceedings we have maintained that the public interest requires an Open-Skies agreement with the United Kingdom meeting the criteria described above. We now understand that the United Kingdom has not made sufficient progress internally in resolving the issue of London airport access to permit the continuation of productive negotiation of such an Open-Skies agreement. In these circumstances it is clear that the fundamental predicate for processing the captioned applications no longer exists. Against this background, we are dismissing the applications and terminating the proceedings in the referenced dockets.

ACCORDINGLY,

1. We dismiss the applications and other requests for authority in Dockets OST 97-2054 through 2058 without prejudice, and terminate all proceedings in those Dockets; and

terms, the alliance contemplates (1) coordination, through a joint venture or otherwise, of all passenger and cargo services that the two carriers operate between the U.S. and the European region and beyond, with profit sharing on North Atlantic alliance services, (2) code-sharing across each party's global networks where permitted by governmental authorities, and (3) worldwide reciprocity for mileage credit accrual and travel award redemption between frequent flyer programs of the Joint Applicants. The alliance does not involve any exchange of equity or other forms of cross-ownership. Application, at 1-4.

2. We will serve a copy of this order on all parties on the service list in Dockets OST-97-2054 through 2058, upon the U.S. Departments of State, Justice and Commerce, and upon the Ambassador of the United Kingdom in Washington, D.C.

By:

A. BRADLEY MIMS
Acting Assistant Secretary for
Aviation and International Affairs

(SEAL)

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