

April 16, 2020

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Mr. Robert Finamore  
Chief, Foreign Air Carrier Licensing Division  
U.S. Department of Transportation  
1200 New Jersey Ave., SE  
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**Re: Application of Caribbean Airlines Limited;  
Docket DOT-OST-2006-26586**

Dear Mr. Finamore:

I write on behalf of San Juan, Puerto Rico-based Seaborne Virgin Islands, Inc. d/b/a Seaborne Airlines, Inc. ("Seaborne"), which holds certificate authority as last re-issued pursuant to Order 2018-5-18 (served May 15, 2018). As you are aware, on April 8, 2020, Caribbean Airlines Limited, a foreign air carrier of the Republic of Trinidad and Tobago ("CAL"), applied in the above-captioned docket for (i) reinstatement of its expired exemption authority to provide, inter alia, scheduled foreign air transportation of persons, property and mail between Trinidad and Tobago via various third country intermediate points to various points in the United States and beyond,<sup>1</sup> and (ii) an expansion of that authority to encompass scheduled service between Trinidad and Tobago via the intermediate points of Dominica and Tortola, British Virgin Islands, to San Juan, Puerto Rico.

Without passing on the availability, under the applicable bilateral air transport agreement, of the expanded traffic rights requested by CAL, Seaborne is compelled to correct a misstatement in CAL's application to ensure the Department has a thorough and accurate administrative record upon which to make its determination. More specifically, CAL claims that "no U.S. carriers service either Dominica or Tortola on their own aircraft for any route."<sup>2</sup>

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<sup>1</sup> CAL's invocation of Part 377 of the Department's Special Regulations to automatically continue in effect its expired exemption authority under 5 U.S.C. § 558(c) is procedurally deficient. CAL Application at 3. Pursuant to 14 C.F.R. § 377.10(c)(3), in order for foreign air carriers to avail themselves of such automatic continuation pending a final Department determination on the application, the request must be filed before the expiration of the corresponding exemption.

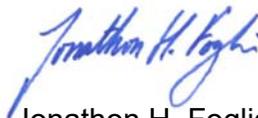
<sup>2</sup> CAL Application at 7. It appears that CAL may be under the mistaken belief that Seaborne is a foreign air carrier. Id. at 7-8 (grouping Seaborne with foreign air carriers Leeward Island Air Transport and Windward Islands Airways).

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That claim is simply untrue, as Seaborne provides scheduled service between San Juan and each of Dominica and Tortola.

To the extent additional claims in CAL's application regarding the "compelling need" for its services and "much-needed capacity"<sup>3</sup> at Dominica and Tortola are similarly predicated on the representation in its application that no U.S. air carriers operate scheduled service at those points, such claims are equally incorrect. In fact, Seaborne's normalized monthly schedule<sup>4</sup> as reflected in the March 2020 edition of the OAG and covering August 2020 flying (when CAL proposes to begin operating under the expanded exemption authority it seeks) indicates that Seaborne had scheduled seven (7) weekly flights between San Juan and Dominica and 28 weekly flights between San Juan and Tortola, considerably more than the three (3) weekly flights proposed by CAL.<sup>5</sup>

Respectfully submitted,



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cc: All parties served with CAL's Application

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<sup>3</sup> CAL Application at 6 and 7.

<sup>4</sup> Filed before the COVID-19 pandemic. Additionally, Seaborne's parent company, Silver Airways LLC, also a certificated U.S. air carrier, recently obtained exemption authority permitting it to conduct large aircraft operations between the U.S. and each of Dominica and Tortola. See Notice of Action Taken in Docket DOT-OST-2020-0027 (issued Mar. 18, 2020).

<sup>5</sup> Even if the above CAL "compelling need" and "much-needed capacity" claims in support of its expanded August 2020 flying were not based on CAL's mistaken belief that no U.S. air carriers operate their own aircraft at Dominica or Tortola, the claims still are dubious in light of the ongoing COVID-19 pandemic and uncertainty as to when traffic levels will begin to significantly rebound. As has been widely reported, IATA now is forecasting a 48% decline in passenger traffic for all of 2020 (to include the months of January and February, before the global onset of the pandemic), up from the 38% decline that IATA had forecasted before CAL filed its application. See "Global airlines' estimated coronavirus losses rise to \$314 billion: IATA," Reuters (April 14, 2020), available at <https://www.reuters.com/article/us-health-coronavirus-iata/global-airlines-estimated-coronavirus-losses-rise-to-314-billion-iata-idUSKCN21W1LN>. It is highly unlikely that traffic levels for travel to, from and within the Caribbean will fare much better in 2020.