BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Joint Application of:	)	
	)	
DELTA AIR LINES, INC.	)	
AEROVIAS DE MEXICO, S.A. DE C.V.	)	
IBERIA LÍNEAS AÉREAS DE ESPAÑA, S.A.	)	
	)	**DOT-OST-2015-0070**
	)	
	)	
Under 49 U.S.C. §§ 41308 and 41309 for approval of and antitrust immunity for alliance agreements	)	
	)	

COMMENTS OF THE DEPARTMENT OF JUSTICE

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Dated: August 8, 2025

Comments of the United States Department of Justice

The Department of Justice ("DOJ") submits this comment in support of the Department of Transportation's ("DOT") Supplemental Order to Show Cause ("Show Cause Order") in the matter of the Joint Application of Delta Air Lines, Inc. ("Delta") and Aerovías de México, S.A. de C.V. ("Aeromexico") for their Joint Cooperation Agreement and related international airline alliance agreements (collectively, the "Joint Venture" or "JCA").[1]

In exercising its statutory authority to grant or modify antitrust immunity for an international airline alliance,[2] DOT must provide notice to DOJ and an opportunity for DOJ to comment on whether a request, modification, or cancellation of antitrust immunity is warranted—"whether or not it was approved previously."[3] DOJ submits these comments in support of DOT's tentative decision to withdraw its approval and grant of antitrust immunity for the Delta/Aeromexico Joint Venture.

I. Executive Summary

"Federal antitrust law is a central safeguard for the Nation's free market structures." *North Carolina State Bd. Of Dental Examiners v. FTC*, 574 U.S. 494, 502 (2015). The

[1] U.S. Dep't of Transp., 2025-7-12 Supplemental Order to Show Cause, Docket DOT-OST-2015-0070 (July 21, 2025), https://www.regulations.gov/document/DOT-OST-2015-0070-0333, ("Supplemental Show Cause Order").
[2] *See* 49 U.S.C. § 41308(b) ("When the Secretary of Transportation decides it is required by the public interest, the Secretary, as part of an order under section 41309 or 42111 of this title, *may exempt* a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.") (emphasis added).
[3] 49 U.S.C. § 41309(c)(1) ("When an agreement, request, modification, or cancellation is filed, the Secretary of Transportation shall give the Attorney General and the Secretary of State written notice of, and an opportunity to submit written comments about, the filing. On the initiative of the Secretary of Transportation or on request of the Attorney General or Secretary of State, the Secretary of Transportation may conduct a hearing to decide whether an agreement, request, modification, or cancellation is consistent with this part whether or not it was approved previously.").

antitrust laws "are as important to the preservation of economic freedom and our free-enterprise system as the Bill of Rights is to the protection of our fundamental personal freedoms." *United States v. Topco Assocs., Inc.*, 405 U.S. 596, 610 (1972). Immunizing conduct from the antitrust laws therefore risks undermining our free market system and so must be done sparingly, carefully, and only in pursuit of legitimate—and actually realized—benefits.

Competition is particularly valuable in the airline industry. Airline competition benefits American consumers whether they are traveling for work or leisure within the United States or to a foreign destination. Competition drives lower prices, better quality, and more of the services consumers want. The benefits of competition specifically in air travel are reflected in the specific policies set forth by Congress in authorizing when DOT may grant antitrust immunity, including the need to "plac[e] *maximum reliance on competitive market forces* and on *actual and potential competition*."[4] Likewise, free market principles disfavoring immunities from the antitrust laws apply with at least equal force in the airline industry.[5] In line with these statutory mandates and the importance of robust enforcement of the U.S. antitrust laws, prior DOJ comments on DOT's international airline alliance immunity applications have underscored the importance of open market access for airlines wishing to serve a route for ensuring

[4] 49 U.S.C. § 40101(a)(6) (emphasis added) (identifying statutory policy criteria applicable to carrying out subpart ii, which includes Chapter 413 "foreign air transportation" (§§ 41301-41313)).
[5] *E.g., Republic Airlines v. C.A.B.*, 756 F.2d 1304, 1317 (8th Cir. 1985) ("[A]ntitrust immunity for airline agreements is intended to be the exception and not the rule."); *Cain v. Air Cargo, Inc.*, 599 F.2d 316, 320 (9th Cir. 1979) ("We have noted that immunity from the antitrust laws is not lightly inferred.").

competition and have urged requiring open access to markets as a condition precedent to any grant of antitrust immunity by DOT.[6] DOT has consistently endorsed this approach.[7]

Open market access makes it possible that other airlines will replace the competition that is eliminated between immunized joint venture partners. The likelihood of entry mitigating anticompetitive harm is a standard consideration in DOJ's enforcement of the U.S. antitrust laws in domestic airline mergers and alliances. In accordance with these policies, DOT conditioned its initial approval of Delta's and Aeromexico's request to immunize their Joint Venture from antitrust enforcement on the creation of a liberalized bilateral air service agreement between the

[6] *See, e.g.,* U.S. Dep't of Just., Comments on the Show Cause Order, Docket DOT-OST-2008-0234, at 1 (June 26, 2009) (Star Alliance), https://www.justice.gov/sites/default/files/atr/legacy/2009/06/30/247556.pdf ("For many past applications, the principal public interest benefit furthered by DOT's grant of immunity has been the negotiation of open skies agreements with the home country of the U.S. carriers' alliance partners."); U.S. Dep't of Just, Public Comments, Docket DOT-OST-2008-0252 (Dec. 21, 2009) (OneWorld Alliance), https://www.justice.gov/sites/default/files/atr/legacy/2009/12/30/253575.pdf; U.S. Dep't of Just., Public Comments, Docket DOT-OST-2004-19214 (Aug. 19, 2005) (Delta and KLM et al.), DOT-OST-2004-19214-0164_attachment_1.pdf; U.S. Dep't of Just., Public Comments, Docket DOT-OST-2001-11029 (Dec. 17, 2001) (American Airlines and British Airways), https://www.regulations.gov/document/DOT-OST-2001-11029-0029; U.S. Dep't of Just., Comments on Order to Show Cause, Docket DOT-OST-1995-618 (May 28, 1996) (Delta and Swissair et al.) (DOT-OST-1995-618-0039_attachment_1.pdf).

[7] See, e.g., U.S. Dep't of Transp., 96-11-1 Order Granting Approval and Antitrust Immunity for Certain Alliance Agreements, Docket DOT-OST-1996-1411, at 3 (Nov. 1, 1996), https://www.regulations.gov/document/DOT-OST-1996-1411-0015 ("The predicate for our approval and grant of antitrust immunity … is the existence of the expansive new aviation agreements between the United States and Denmark, Norway, and Sweden."); U.S. Dep't of Transp., 2000-4-22 Order to Show Cause, Docket DOT-OST-1999-6528, at 2 (Apr. 21, 2000), https://www.regulations.gov/document/DOT-OST-1999-6528-0011; U.S. Dep't of Transp., 2001-3-4 Order to Show Cause, Docket DOT-OST-1999-6680, at 2 (Mar. 2, 2001), https://www.regulations.gov/document/DOT-OST-1999-6680-0007; U.S. Dep't of Transp., 2002-6-18 Order Granting Approval and Antitrust Immunity for Alliance Agreements, Docket DOT-OST-2002-11842, at 1 (June 27, 2002), https://www.regulations.gov/document/DOT-OST-2002-11842-0008-0002; U.S. Dep't of Transp., 2005-1-23 Order Granting Approval and Antitrust Immunity for a Commercial Cooperation Agreement, Docket DOT-OST-2004-18613, at 1 (Jan. 27, 2005), https://www.regulations.gov/document/DOT-OST-2004-18613-0005; U.S. Dep't of Transp., 2008-4-17 Show Cause Order, Docket DOT-OST-2007-28644, at 2 (Apr. 9, 2008), https://www.regulations.gov/document/DOT-OST-2007-28644-0174; U.S. Dep't of Transp., 2009-4-5 Show Cause Order, DOT-OST-2008-0234, at 2 (Apr. 7, 2009), https://www.regulations.gov/document/DOT-OST-2008-0234-0193; U.S. Dep't of Transp., 2019-05-23 Order to Show Cause, Docket DOT-OST-2018-0030, at 4 (June 3 , 2019), https://www.regulations.gov/document/DOT-OST-2018-0030-0138.

United States and Mexico. As conceptualized and conditioned, this agreement would facilitate free and open competition on routes between the two countries, including through reforms to slot allocation at Benito Juárez International Airport ("MEX").[8] DOT also required that the Applicants re-apply for a renewed grant of antitrust immunity for the Joint Venture after five years.[9]

Because competitive open market access is critical to mitigate the potential loss in competition that may result from a grant of antitrust immunity to an international airline alliance,[10] DOJ supports DOT's tentative decision not to renew antitrust immunity for the JCA. The record evidence suggests that restrictive and potentially discriminatory practices by the Government of Mexico ("GOM") have limited entry and expansion by certain carriers at MEX and thereby undermined competitive conditions in Mexico, thwarting open market access on routes between Mexico and the United States.

II. Statutory Framework

Under the applicable statute, DOT must disapprove a proposed agreement if it "substantially reduces or eliminates competition" *unless* DOT finds that the agreement "is

[8] U.S. Dep't of Just., 2016-11-2 Order to Show Cause, Docket DOT-OST-2015-0070 (Nov. 4, 2016), https://www.regulations.gov/document/DOT-OST-2015-0070-0074, ("2016 Show Cause Order").

[9] *Id*; DOT's decision to automatically sunset its initial grant of antitrust immunity is consistent with general principles of statutory construction that exemptions and immunities are disfavored. See *Cost Mgm't Svc's, Inc. v. Washington Natural Gas Co.*, 99 F.3d 937, 948 (9th Cir. 1996) ("[E]xemptions from the antitrust laws are strictly construed and strongly disfavored") (quoting *Square D Co. v. Niagara Frontier Tariff Bureau, Inc.*, 476 U.S. 409, 421 (1986)); *Republic Airlines v. C.A.B.*, 756 F.2d 1304, 1317 (8th Cir. 1985) ("[A]ntitrust immunity for airline agreements is intended to be the exception and not the rule."); *Cain v. Air Cargo, Inc.*, 599 F.2d 316, 320 (9th Cir. 1979) ("We have noted that immunity from the antitrust laws is not lightly inferred.").

[10] *Cf.* U.S. Dep't of Transp., 2024-1-17 Order to Show Cause, Docket DOT-OST-2015-0070, at 4 (Jan. 26, 2024), https://www.regulations.gov/document/DOT-OST-2015-0070-0245, ("The Department's longstanding policy is that an air transport agreement that contains the [open market access] elements defined in Order 92-8-13 between the home countries of the Joint Applicants is the fundamental prerequisite needed to allow for consideration of an immunized alliance. The *existence of these elements in an agreement is critical to address potentially harmful impacts of antitrust immunity*." (emphasis added)).

necessary to meet a serious transportation need or to achieve important public benefits" *and* that any such need or benefit cannot be met through "reasonably available alternatives that are materially less anticompetitive."[11] If DOJ approves an anticompetitive agreement on those grounds, it must exempt it from U.S. antitrust laws.[12]

If DOT finds that an agreement does not reduce or eliminate competition and is consistent with the public interest, DOT must approve it, but exemption from the antitrust laws is authorized only if it is *required* by the public interest;[13] even then, immunity is authorized only "to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order."[14]

Congress provided express public interest criteria that DOT must consider when determining whether to grant antitrust immunity for an international airline alliance.[15] In doing so, Congress counseled "*placing maximum reliance on competitive market forces and on actual and potential competition*."[16] Moreover, in exercising its broader authority to administer international air transportation, Congress provided that DOT "shall develop a negotiating policy emphasizing the greatest degree of competition compatible with a well-functioning international air transportation system,"[17] including, among other things: i.) non-

[11] 49 U.S.C. § 41309(b)(1)(A)-(B) (emphasis added).
[12] 49 U.S.C. § 41308 (c).
[13] *See* 49 U.S.C. § 41309(b).
[14] 49 U.S.C. § 41308(b).
[15] *See* Supplemental Show Cause Order, *supra* note 1, at 12-13.
[16] 49 U.S.C. § 40101(a)(6) (emphasis added).
[17] 49 U.S.C. § 40101(e).

discriminatory treatment of U.S. airlines; ii.) maximal market access to facilitate dynamic responses to consumer demand; iii.) elimination of operational and marketing restrictions.[18]

These public interest criteria are all consistent with the fundamental competition policy principle that open market access can alleviate the potential anticompetitive effects of antitrust immunity, particularly where access to limited competitively significant inputs such as airport slots (and related regulatory requirements) constrains the ability of competitive rivals to discipline the exercise of market power that may result from an immunized international airline alliance.[19]

III. Procedural Background

A. The Initial Application

The Applicants jointly applied for DOT approval of and antitrust immunity for a comprehensive alliance agreement on March 31, 2015.[20] On November 4, 2016, DOT issued a Show Cause Order announcing its intention to conditionally approve the proposed alliance with certain modifications, including slot divestitures and standard data reporting requirements, to ensure open market access.[21] The Show Cause Order also stipulated that the immunity would last only five years because "it is unclear if the Department's proposed divestitures will be sufficient

[18] *See Id* at (4), (5), (9).
[19] *See* Warren L. Dean & Jeffrey N. Shane, *Alliances, Immunity, and the Future of Aviation*, 22 THE AIR AND SPACE LAW. NO. 4, 18 (2010) ("The congressional decision to maintain the CAB's antitrust exemption authority for agreements relating to international aviation, and to keep it at DOT, was predicated on a recognition that competition in international aviation is closely related to, and often a product of, bilateral negotiating process. If the U.S. government was to attempt through diplomacy to move its aviation trading partners coherently toward a more market-based and pro-competitive regime, it was essential that the antitrust exemption authority be vested in the agency primarily responsible for the development of U.S. international aviation policy.").
[20] Joint Application of Delta Airlines, Inc. and Aerovías de México for Approval of and Antitrust Immunity for Alliance Agreements, Docket DOT-OST-2015-0070 (Apr. 31, 2015), https://www.regulations.gov/document/DOT-OST-2015-0070-0005.
[21] 2016 Show Cause Order, *supra* note 8, at 20-33.

at the end of that term."[22] DOT further noted that "[i]f sufficient competitive reforms to the slot administration regime at MEX have not been implemented" by the end of the five-year period, "the Department would have to carefully consider whether it could approve a new application[.]"[23]

DOJ concurred with DOT's Show Cause Order and shared its views with DOT that the Antitrust Division's review of the record had found that the proposed Joint Venture would likely result in competitive harm given that entry at MEX was highly unlikely. DOJ urged DOT to stand by the conditions in the proposed Order, including open airport access at MEX and the requirement that the applicants re-apply for immunity if they wished to continue to benefit from antitrust immunity beyond five years.[24] On December 14, 2016, DOT approved the alliance agreements and granted antitrust immunity as set forth in Show Cause Order 2016-11-2.[25]

B. Application for Renewal of Antitrust Immunity

On March 29, 2022, the Applicants jointly sought reauthorization of the JCA and a renewal of DOT's grant of antitrust immunity.[26] On January 26, 2024, DOT announced its determination that recent events "have in effect removed the necessary precondition for the consideration of an [antitrust immunity] application or continuation of an existing immunized joint venture: the *de*

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[22] *Id* at 27.
[23] *Id.*
[24] Sunsetting the initial grant of antitrust immunity was supported by the competition policy considerations underlying DOT's discretionary authority to grant an exemption from the antitrust laws based on the public interest. Competitive conditions are dynamic, particularly in international air transportation, and continued evaluation of relevant competitive conditions supports narrow construction of applicable exemption to the antitrust laws.
[25] U.S. Dep't of Just., 2016-12-13 Final Order, Docket DOT-OST-2015-0070 (Dec. 14, 2016), https://www.regulations.gov/document/DOT-OST-2015-0070-0096.
[26] Joint Application of Delta and Aeromexico for Renewed Approval of and Grant of Antitrust Immunity for Alliance Agreements, Docket DOT-OST-2015-0070 (Mar. 29, 2022), https://www.regulations.gov/document/DOT-OST-2015-0070-0236.

facto or *de jure* implementation of a fully liberalized air transport agreement consistent with Order 92-8-13."[27] DOT reiterated that it premised its 2016 grant of immunity on improvements to "the predictability and transparency of [the] slot allocation process" at MEX, along with the provision of "substantial additional capacity" that would alleviate the Joint Venture's potential for competitive harm.[28]

In its review of the Applicants' renewed request for antitrust immunity, DOT found that "the capacity at MEX has been reduced over the last three IATA traffic seasons, to the detriment of both current air carriers and potential new entrants."[29] The result is "no possibility of new entry at MEX for the foreseeable future."[30] Accordingly, DOT determined that "the condition precedent necessary for consideration and continuation of antitrust immunity, [. . .] is no longer present." DOT thus found that the anticipated open market access reforms supporting the initial time-limited grant of antitrust immunity have not occurred.[31]

C. Objection of the JCA Partners to Initial Show Cause Order

In response to DOT's January 2024 Show Cause Order, the JCA Applicants argued *inter alia* that DOT failed to apply the relevant statutory standards (49 U.S.C. §§ 41308 – 41309) and imposed an "extra-statutory" "Open Skies predicate for approval of an international alliance agreement and a grant of ATI" in violation of the Administrative Procedures Act ("APA").[32]

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[27] U.S. Dep't of Just., 2024-01-17 Order to Show Cause, Docket DOT-OST-2015-0070-0245, at 1 (Jan. 26, 2024), https://www.regulations.gov/document/DOT-OST-2015-0070-0245.
[28] *Id* at 2.
[29] *Id* at 4.
[30] *Id.*
[31] *Id* at 4-5.
[32] Delta Airlines, Inc. & Aerovías de México, S.A. de C.V., Objection of the JCA Partners to Show Cause Order 2024-01-17, Docket DOT-OST-2015-0070, at 5, 10 (Feb. 23, 2024), DOT-OST-2015-0070-0258_attachment_1.pdf.

"Open Skies" in this case refers to the U.S.-Mexico Air Transportation Agreement, which provided the potential for expanded competitive access to the Mexican air transportation marketplace, and which served as a justification for the initial grant of antitrust immunity.[33] Moreover, the Applicants contended "a Show Cause Order and any final order of the Department dismissing the application and rejecting ATI must explain why predicating ATI on an Open Skies agreement between the relevant countries is justified by, and furthers the underlying purposes of, Sections 41308 and 41309 and how the [Government of Mexico's]'s alleged failure to comply with its Open Skies obligations impairs those provisions' objectives."[34]

D. DOT's Supplemental Show Cause Order

On July 19, 2025, DOT issued a Supplemental Order to Show Cause.[35] Among other things, DOT provided additional information and reasoning in support of its tentative decision not to renew antitrust immunity for the JCA. On the "Open Skies predicate" objection raised by the Applicants, DOT argued that the "Department's approach is firmly grounded in statute and U.S. competition law."[36] DOT articulated specific competitive dynamics in international air transportation that support the significance of open market access as embodied in Open Skies agreements:

> "[DOT's] starting point for reviewing a joint venture [between international airlines] is ensuring that it will operate within a pro-competitive regulatory framework where market forces, not government intervention, determine market outcomes. In many industries, one might take for granted that firms can enter a market and compete vigorously without

[33] *See* 2016 Show Cause Order, *supra* note 8, at 1, 7.
[34] Delta & Aerovías de México, *supra* note 32, at 11.
[35] Supplemental Show Cause Order, *supra* note 1.
[36] *Id* at 16.

> interference from the government. Not so in the global airline industry. While commercial aviation in the United States since its deregulation in 1978 is subject to market forces based on U.S. law, when it comes to flights beyond U.S. borders, the markets and ability to access them are subject to the terms of an air services agreement negotiated between the United States and a foreign government."[37]

DOT further clarified that validation of whether such open market access "exist[s] in principle and is adhered to in practice" enables DOT to determine whether "a minimally procompetitive environment exists to adequately discipline the type of integrated commercial activities that the Joint Applicants propose, which includes joint pricing, capacity planning, and revenue sharing like a merged firm."[38]

IV. Open Market Access is Integral to Competition and the Public Interest Justifications Supporting DOT's Ability to Grant Antitrust Immunity to International Airline Alliances

In reviewing airline joint ventures and mergers that threaten to reduce competition, DOJ assesses the likelihood that entry or expansion by rivals will mitigate anticompetitive harm caused by a transaction. As part of this analysis, DOJ considers all barriers to entry and expansion,[39] including limited access to airport infrastructure required to offer service at an airport, such as gates, and other regulatory constraints, such as limited access to slots or other operating authorizations required to offer service in a market.[40] The availability of assets or permissions required to offer service at an airport plays a vital role in determining the degree of actual and

[37] *Id.*
[38] *Id* at 17.
[39] U.S. Dep't of Just. & Fed. Trade Comm'n, 2023 Merger Guidelines § 3.2, https://www.justice.gov/atr/merger-guidelines.
[40] *See United States v. Am. Airlines Grp.*, 675 F. Supp. 3d 65, 78 (D. Mass 2023) ("An airline's ability to operate at a particular airport depends on a number of factors…. One is access to gates at which passengers can board and disembark flights. The number of gates allocated to a carrier dictates the number of flights it can operate at the airport.").

potential competition — two criteria that Congress proscribed in its policies for DOT's evaluation of the public interest in granting antitrust immunity to international airlines alliances.[41]

The fact that an entry barrier is created by government regulation does not make it any less relevant. Consideration of similar issues in other industries — such as the effects of patents, professional licensing requirements, and regulatory approvals required to sell pharmaceuticals or pesticides — is commonplace in antitrust competitive effects analysis. The competition concern with market access is particularly acute in the international air transportation context in which a foreign national regulatory authority with control over critical airport infrastructure may have an incentive to preference foreign national carriers (or an alliance that includes such a carrier) over American air carriers that are not part of immunized alliance. DOT's record makes that concern clear.

DOT found that new competitive entry at the leading international gateway in Mexico, Benito Juárez International Airport (MEX), is effectively closed, and that the GOM "could act in a similarly arbitrary manner at other congested gateways, given Mexico's lack of a coherent and transparent slot allocation regime that is applied consistently at the national level.[42] Moreover, GOM's confiscation of slots from foreign and domestic carriers without adhering to international standards raised "fundamental concerns as to [GOM's] commitment to historical rights and principles of fairness and new entry that are critical at congested gateways."[43]

[41] 41 U.S.C. § 40101(a)(6) ("[P]lacing maximum reliance on competitive market forces and on actual and potential competition").
[42] Supplemental Show Cause Order, *supra* note 1, at 19-20.
[43] *Id* at 20.

DOT further considered the impact of GOM's slot allocation practices on actual and potential competition, noting that the absence of a reasonable slot allocation mechanism created a "closed" competitive environment in which the largest national carrier and its immunized alliance partner could leverage a large common pool of existing slot holdings, "magnify[ying] the competitive concerns" of antitrust immunity.[44] In effect, DOT found that not only did the slot regulations at Benito Juárez International Airport (MEX) foreclose potential entry or repositioning that could discipline an immunized alliance. But also that the existing share of slots held by Aeromexico at MEX exacerbated the risks that antitrust immunity could enable anticompetitive retrenchment instead of output expansion or service quality improvements consistent with the public interest. DOT's quantitative analysis of network expansion by the JCA partners following the initial grant of antitrust immunity corroborated this competition concern.[45]

Moreover, DOT conducted a counterfactual competitive evaluation consistent with the analytical framework that the DOJ uses to assess the likelihood of competitive effects under U.S. antitrust laws.[46] In sum, DOT considered standard evidence of competitive constraints to actual and potential competition in the markets that would be affected by the proposed immunized alliance.

Thus, far from reflecting an extra-statutory condition, DOT's consideration of an effective

[44] *Id*.
[45] *See Id* at 37 ("[DOT] preliminary quantitative analysis shows that following implementation of the JV, flights to Aeromexico's largest hub carry significantly more local passengers as opposed to beyond MEX passenger than before implementation of the JV.").
[46] *Id* at 20 ("The Department cannot simply count the number of new services by the joint venture from MEX. It must also take in to account the counterfactual (i.e., what Delta and Aeromexico could have done otherwise) and the overall impact on the market given limitations placed on their competitors.").

"Open Skies" agreement regulatory framework as part of its evaluation of antitrust immunity is consistent with the robust competitive effects analysis required under DOT's operative statute. The record in this matter makes clear that consideration of the regulatory impact on market competition was integral to DOT's well-reasoned decision not to renew antitrust immunity for the Delta-Aeromexico Joint Venture based on the facts presented in this case.

V. Conclusion

DOJ supports DOT's tentative decision to withdraw its approval and grant of antitrust immunity for the Delta/Aeromexico Joint Venture. DOT conducted an analytically rigorous evaluation of the competitive effects of the Joint Venture consistent with its statutory authority and its public interest mandate to consider competitive market forces and the impact of actual and potential competition.

Respectfully submitted,

/s/ Abigail Slater

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United States Department of Justice

Dated: August 8, 2025

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I hereby certify that a copy of the foregoing COMMENTS OF THE DEPARTMENT OF JUSTICE has been served this day by e-mail upon each of the following addresses:

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