

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

Joint Application of

**DELTA AIR LINES, INC. and
WESTJET**

**Under 49 U.S.C. §§ 41308 and 41309
for Approval of and Antitrust Immunity
for Alliance Agreements**

Docket DOT-OST-2018-0154

RESPONSE OF THE JOINT APPLICANTS

Communications with respect to this document should be sent to:

Andrew Kay
Director Legal
WestJet Airlines
22 Aerial Place N.E.
Calgary, Alberta T2E 3J1, Canada

Peter Carter
Executive Vice President
& Chief Legal Officer
DELTA AIR LINES, INC.
1030 Delta Boulevard
Atlanta, Georgia 30320

Robert E. Cohn
Patrick R. Rizzi
HOGAN LOVELLS US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
Tel. 202-637-4999/5659

J. Scott McClain
Associate General Counsel
Alexander Krulic
Associate General Counsel
Christopher Walker
Director – Regulatory & International Affairs
Steven J. Seiden
Director – Regulatory Affairs
DELTA AIR LINES, INC.
1212 New York Avenue, NW Suite 200
Washington, DC 20005
Tel. 202-216-0700

Counsel for Delta Air Lines, Inc. and
WestJet

February 13, 2020

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Delta Air Lines, Inc. (“Delta”) and WestJet (collectively, the “Joint Applicants”) respectfully file this response to the unauthorized “Surreponse” filed in this docket by the WestJet Master Executive Council (“WestJet MEC”) on February 7. The late Surreponse – the second unauthorized filing by ALPA since the December 23 close of authorized comment pursuant to the Department’s scheduling order – raises issues that are extraneous to the Department’s review of the Joint Application. The condition sought in the Surreponse should be rejected.¹

For the reasons previously presented, the Joint Applicants agree with the WestJet MEC that LGA slot divestitures in this case are neither “necessary [n]or appropriate, given the lack of nonstop overlap between WestJet and Delta.”² However, the Joint Applicants oppose the condition recommended by the WestJet MEC that the Department micro-manage future network planning decisions of the Joint Applicants by conditioning its approval of the JV upon the “continuation of WestJet mainline [LGA-YYZ] service, utilizing WestJet’s LaGuardia slots,” regardless of future market conditions or efficiencies that might

¹ To the extent necessary, the Joint Applicants seek leave to submit this response pursuant to Rule 6 of the Department’s Rules of Practice (14 C.F.R. § 302.6) to correct the record and permit a more accurate and informed basis for the Department’s decision.

² WestJet MEC Surreponse, at 3.

be achieved through alternative fleeting decisions and despite the fact that the JV as a whole will significantly increase the U.S.-transborder mainline flying for both WestJet and Delta pilots.³ The WestJet MEC is asking the Department to inject itself into a collective bargaining scope clause negotiation. This is not an appropriate forum for such debate. Granting the WestJet MEC's proposed condition would also interfere with the post-ATI closely integrated metal-neutral cooperation and network planning that will serve as the foundation of the joint venture. Such consequences would be contrary to the public interest. The Department should therefore deny the condition sought by the WestJet MEC.

For the foregoing reasons, the Joint Applicants urge the Department to disregard the WestJet MEC's unauthorized Surreponse and to proceed with issuing a Show Cause Order approving and granting ATI to their JV without imposing any of the extraordinary and unjustified conditions proposed by the WestJet MEC or any other objectors.

Respectfully submitted,



Robert E. Cohn
Patrick R. Rizzi
Hogan Lovells US LLP

Counsel for
Delta Air Lines, Inc. and WestJet



J. Scott McClain
Managing Director, Regulatory and
International & Associate General
Counsel

DELTA AIR LINES, INC.

³ *Id.*

CERTIFICATE OF SERVICE

A copy of the foregoing document has been served this 13th day of February 2020, upon the following persons via email:

Air Carrier	Name	Email Address
Alaska	David Heffernan	dheffernan@cozen.com
Allegiant	Aaron Goerlich	agoerlich@ggh-airlaw.com
American	Robert Wirick	robert.wirick@aa.com
Amerijet	Joan Canny	jcanny@amerijet.com
Atlas	Russ Pommer	rpommer@atlasair.com
Atlas	Naveen Rao	naveen.rao@atlasair.com
Federal Express	Anne Bechdolt	anne.bechdolt@fedex.com
Federal Express	Sandra Lunsford	sllunsford@fedex.com
Frontier	Howard Diamond	howard.diamond@flyfrontier.com
Hawaiian	Parker Erkmann	perkmann@cooley.com
JetBlue	Robert Land	robert.land@jetblue.com
JetBlue	Reese Davidson	reese.davidson@jetblue.com
JetBlue	Evelyn Sahr	esahr@eckertseamans.com
JetBlue	Drew Derco	dderco@eckertseamans.com
Kalitta Air	Mark Atwood	matwood@cozen.com
National Airlines	Malcolm Benge	mlbenge@zsrlaw.com
National Airlines	John Richardson	jrichardson@johnrichardson.com
Polar Air Cargo	Kevin Montgomery	kevin.montgomery@polaraircargo.com
Southwest	Bob Kneisley	bob.kneisley@wnco.com
Southwest	Leslie Abbott	leslie.abbott@wnco.com
Spirit Airlines	David Kirstein	dkirstein@yklaw.com
Spirit Airlines	Joanne Young	jyoung@yklaw.com
Sun Country	Brandon Carmack	brandon.carmack@suncountry.com
Sun Country	Victoria Palpant	victoria.palpant@suncountry.com
United	Dan Weiss	dan.weiss@united.com
United	Steve Morrissey	steve.morrissey@united.com
United	Amna Arshad	amna.arshad@freshfields.com
UPS	Dontai Smalls	dsmalls@ups.com
UPS	Anita Mosner	anita.mosner@hklaw.com
UPS	Jennifer Nowak	jennifer.nowak@hklaw.com
	Todd Homan	todd.homan@dot.gov
	Peter Irvine	peter.irvine@dot.gov
	Fahad Ahmad	fahad.ahmad@dot.gov
	Brian Hedberg	brian.hedberg@dot.gov
	Robert Finamore	robert.finamore@dot.gov
	Brett Kruger	brett.kruger@dot.gov
	Katherine Celeste	katherine.celeste@usdoj.gov
	John Duncan	john.s.duncan@faa.gov
	Info	info@airlineinfo.com