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VIA REGULATIONS.GOV & EMAIL

February 26, 2020

Brett Kruger
Chief, U.S. Air Carrier Licensing & Special Authorities
Department of Transportation
1200 New Jersey Ave., SE
Washington, DC 20590

Re: U.S.-Havana Public Charter Allocation, Docket OST-2020-0011

Dear Mr. Kruger:

Swift Air, LLC (“Swift”) hereby requests leave to file this Sur-Reply to the Reply of Cuba Travel Services, Inc. (“CTS”).¹ In its Reply, CTS complained that Swift seeks “to gain an advantage over direct air carriers.”² Swift respectfully submits that this argument frames the issue before the Department incorrectly because it focuses on other charter carriers. An award of the preponderance of U.S.-Havana charter authorities to Swift is in the public interest because such an award will provide for consumer choice and combat the growing influence of American Airlines in the U.S.-Cuba market.

For years, Swift has served multiple charter operators offering service to Cuba. In doing so, Swift facilitates consumer choice in the ethnic Cuba market in competition with the “undisputed leader among all airlines”³ between South Florida and Havana – American Airlines. Indeed, Swift serves four different indirect air carrier customers that all sell tickets to qualified travelers to Cuba in competition with each other, American Airlines, and other scheduled carriers. Even if Swift is awarded all of the authority it has requested in this proceeding, the market between South Florida

¹ CTS Reply at 2-3. Pursuant to 14 CFR Part 302.6, Swift requests leave to file this otherwise unauthorized pleading. CTS’s Reply was submitted after Swift had filed its letter of February 20, 2020. Good cause exists for the submission of this Sur-Reply to contradict the assertion in the CTS Reply that an award to Swift will disadvantage other direct air carriers and provides additional factual information so the Department can consider a more complete record.

Swift would also like to update the Department that it has learned that Superior Travel LLC d/b/a Superior Air LLC will postpone any U.S-HAV charter operations until at least May 20, 2020.

² CTS Reply at 2-3.

³ <http://news.aa.com/news/news-details/2016/American-Airlines-Celebrates-25-Years-of-Service-to-Cuba/default.aspx>.

February 26, 2020
Page Two

and Havana will be only moderately concentrated under the tools and standards established in the Horizontal Merger Guidelines used by the U.S. Department of Justice.⁴

Market Concentration of South Florida-Havana

Direct/ Indirect Air Carrier	Departures*	Departure Share	HHI**
American	2,696	30.88%	953.7
Southwest	1011	11.58%	134.1
JetBlue	915	10.48%	109.9
Delta	674	7.72%	59.6
Xael (Swift operated)	1348	15.44%	238.4
Havana Air (Swift operated)	904	10.36%	107.2
Aerocuba (Swift operated)	654	7.49%	56.1
Cubazul (Swift operated)	528	6.05%	36.6
Total	8,730	100.00%	1695.6

Source: Cirium Schedules & Swift Air Proposed Flights March 2020-January 2021

* Assumes American obtains two additional MIA round trips that it has applied for because no other carrier has submitted an application.⁵

** The Antitrust Agencies use the Herfindahl-Hirsch Index (HHI) as a tool to measure market concentration. See Horizontal Merger Guidelines § 5.3 ("The HHI is calculated by summing the squares of the individual firms' market shares").

Swift's largest customer would have a departure share of only half the departure share of American, and passengers in South Florida would still have seven other different options when purchasing flights to Havana. Accordingly, an award to CTS or its unnamed direct air carrier is not necessary to maintain a competitive market. The competitive market will be maintained, and indeed, improved, if Swift receives all of the authority it has requested. And an award of the preponderance of the available charter flights to Swift carries the public interest benefit of supporting the operations of an air carrier that has dedicated 6 to 7 aircraft, including spare aircraft, to the route. This larger operation allows Swift to capture economies of scale and

⁴ See U.S. Dep't of Justice & Fed. Trade Comm'n, Horizontal Merger Guidelines (2010) §5.3, available at: <https://www.justice.gov/atr/horizontal-merger-guidelines-08192010#5c> (classifying markets with HHI values between 1500 and 2500 as "Moderately Concentrated Markets").

⁵ Application of American Airlines, Inc. for Allocation of Fourteen Weekly Combination Frequencies (Miami-Havana), Docket OST-2016-0021 (Jan. 28, 2020).

February 26, 2020
Page Three

supports the flow of aircraft on a predictable pattern.⁶ That pattern will allow Swift to offer services throughout the day and schedule aircraft maintenance with minimal service disruptions.

These scaled operations facilitate competition with a carrier with “unrivaled experience”⁷ serving the Cuban market and which was “poised to remain the leading airline between the United States and Cuba”⁸ – American Airlines. Since the reintroduction of scheduled service to Cuba in 2016, American has made no secret about its intention grow “commercial and cultural ties between the U.S. and Cuba.”⁹ American has furthered that ambition by continuing to consolidate Cuban flight opportunities at its Miami hub. Recently, American applied for two additional daily frequencies that were returned by JetBlue: “Allocation of the frequencies requested in this application and American’s proposed enhanced service will maximize public benefits by growing capacity at the gateway with the greatest demand for U.S.-Havana travel while enhancing connectivity using American’s leading network at MIA.”¹⁰

Swift respectfully submits that the award of the authority it has requested is necessary to provide a check to American’s consolidation of U.S.-Cuba operations. Parcelling out charter opportunities to multiple direct air carriers and implementing an unpredictable charter allocation process will prevent consistent and efficient operations, which runs counter to the Department’s goal of “provid[ing] a substantial measure of assurance that the service needs of the U.S.-Havana public charter market would be met and that these limited charter rights would be used effectively.”¹¹ Public charter operations will not be as competitive against the scheduled carriers. This result would be contrary to the goals expressed in Secretary of State Pompeo’s letter to Secretary Chao to pressure the Cuban government while facilitating family visitation.¹² Swift’s service, which will continue to be sold to the public by multiple charter operators, will primarily serve this ethnic market traveling to Cuba for family visits rather than commingling such traffic with connecting passengers from across the country and around the world for other purposes. In addition, the Swift-operated services will go head-to-head with American’s MIA operation, which is located in the county that American itself described as “the single strongest source of passenger

⁶ Other respondents in this docket noted that a unique feature of the Cuba public charter market is that it is marked by regular, reliable scheduled service. See, e.g., Objection of Cuba Charter Services, LLC d/b/a/ Aerocuba at 4; World Atlantic Comments at 2-3.

⁷ Consolidated Answer, Testimony, and Rebuttal Exhibits of American Airlines in Support of American Airlines U.S.-Cuba Scheduled Service at 11, Docket DOT-OST-2016-0021 (March 14, 2016).

⁸ <http://news.aa.com/news/news-details/2016/American-Airlines-Poised-to-Remain-the-Leading-US-Airline-to-Cuba-With-Award-of-Authority-to-Operate-Scheduled-Service-to-Havana/default.aspx>.

⁹ American Airlines Submits Application to US Department of Transportation to Operate Scheduled Service to Cuba (March 2, 2016), <http://news.aa.com/news/news-details/2016/American-Airlines-Submits-Application-to-US-Department-of-Transportation-to-Operate-Scheduled-Service-to-Cuba/default.aspx>.

¹⁰ Application of American Airlines, Inc. for Allocation of Fourteen Weekly Combination Frequencies (Miami-Havana), DOT-OST-2016-0021 (Jan. 28, 2020).

¹¹ Order to Show Cause 2020-1-16 at 3.

¹² See Order 2020-1-16 (Jan. 29, 2020), Appendix.

Cooley

February 26, 2020
Page Four

demand for O&D service between the U.S. and Cuba for the foreseeable future.”¹³ JetBlue and Southwest serve Havana from FLL in nearby Broward County.

Swift respectfully requests that the Department award Swift the authority requested in its notice and such other relief as the Department finds is in the public interest.

Respectfully submitted,



Parker Erkmann
Counsel for Swift Air, LLC

¹³ Applications, Testimony, and Direct Exhibits of American Airlines in Support of American Airlines U.S.-Cuba Scheduled Service, DOT-OST-2016-0021 (March 2, 2016), at AA Testimony T-1 (testimony of Doug Parker).

CERTIFICATE OF SERVICE

I hereby certify that a copy of this correspondence of Swift Air, LLC was served this 26th day of February, 2020 via email transmission on the following:

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/s/ Julia Brinton
Julia Brinton