

or antitrust principles would be unfair methods of competition. See *United Air Lines v. CAB*, 766 F.2d 1101 (7th Cir. 1985). Our role under 49 U.S.C. 41720 is analogous to the review of major mergers and acquisitions conducted by the Justice Department and the Federal Trade Commission under the Hart-Scott-Rodino Act, 15 U.S.C. 18a, in that we consider whether we should institute a formal proceeding for determining whether an agreement would violate section 41712.

Although our review has been informal, due to the public interest in the matter, we gave interested persons an opportunity to submit comments on the Delta/Continental/Northwest agreements. To assist outside parties in preparing their comments, we required the three airlines to submit redacted copies of the agreements that could be reviewed by other parties. 67 FR 56340 (September 3, 2002). We took similar action during our review of the code-share and frequent flyer reciprocity agreements filed earlier by United and US Airways. 67 FR 50745 (August 5, 2002). In the course of our review of the Delta/Northwest/Continental agreements, we have thus far extended the waiting periods for a total of 60 days. 67 FR 59328 (September 20, 2002); 67 FR 64960 (October 22, 2002).

Several of the outside parties that wish to comment on the agreements among Delta, Continental, and Northwest have alleged that their lack of access to unredacted copies of the agreements has substantially handicapped their ability to comment on the agreements' potential competitive effects. See, e.g., Joint Motion of Air Tran *et al.* (October 15, 2002).

After considering these comments and the nature of the agreements at issue, we have determined that, as contemplated by rule 12, we should allow other parties to see unredacted copies of the agreements on a restricted basis and that doing so should facilitate our consideration of the issues presented by the agreements. For example, the incentives of Delta, Continental, and Northwest to compete with each other will depend in large part on the applicable financial terms when one airline sells seats under its code on a flight operated by one of the other two airlines. That kind of information has been redacted in the copies of the agreements submitted by Delta, Continental, and Northwest for public review, precluding outside parties from fully analyzing the likely competitive impact of the agreements.

As noted, Delta, Continental, and Northwest have requested confidential

treatment of the agreements under rule 12. The rule states that we can make confidential information available to other parties on a restricted basis notwithstanding a request for confidential treatment. Subparagraph (d)(3) of rule 12 thus provides, "During the pendency of such motion, the ruling official may, by notice or order, allow limited disclosure to parties' representatives, for purposes of participating in the proceeding, upon submission by them of affidavits swearing to protect the confidentiality of the documents at issue." Allowing outside parties to review unredacted copies of the Delta/Continental/Northwest agreements under our standard restrictions thus will be consistent with the rule.

Providing this kind of restricted access will also be consistent with our practice in docketed proceedings involving applications for approval and antitrust immunity for international alliance agreements. See, e.g., *Joint Application of American Airlines and British Airways*, Docket OST-2001-10387, notice of August 16, 2001. While we are not conducting a formal review of the Delta/Continental/Northwest agreements and have not established a docketed proceeding, we have determined that we should provide comparable access to the agreements in order to give parties an adequate opportunity to comment.

We will follow our established procedures for providing access on a restricted basis. Only counsel and outside experts may review the unredacted agreements, and they may do so only after submitting affidavits representing that they will maintain confidentiality. Each such affidavit must state, at a minimum, that (i) the affiant is counsel for an interested party or an outside expert providing services to such a party; (ii) the affiant will use the information only for the purpose of participating in the submission of comments on the agreements; (iii) the affiant will disclose such information only to other persons who have filed a valid affidavit respecting the confidentiality of the agreements; and (iv) the affiant will destroy or return all copies of the agreements when the Department has concluded its review. Affiants and interested parties must understand and agree that any filing that includes or discusses information obtained through the review of the unredacted agreements must itself be accompanied by a rule 12 motion requesting confidential treatment. Affidavits must be filed with the Department of Transportation, Room PL-401, 400 Seventh Street, SW.,

Washington, DC 20590, and must be served on Delta, Continental, and Northwest. Affiants who have filed affidavits may examine the documents at Room PL-401, if they present a stamped copy of the affidavit filed with the Department before examination of the documents.

We will allow persons submitting affidavits to copy the agreements, subject to their representation in the affidavits that they will destroy or return all such copies to Delta, Continental, or Northwest within one week after we have determined that we will or will not institute a formal investigation under 49 U.S.C. 41712 of the agreements. Cf. *Joint Application of American Airlines and British Airways*, Order 2001-9-12 (September 17, 2001) at 4.

We are not setting a deadline for submission of any supplemental comments based on the review of the unredacted agreements. However, any party that wishes to submit such comments should do so promptly, since the three airlines have asked us to decide expeditiously whether to allow them to implement the agreements. We will also be considering whether any additional extension of the waiting period for the code-share agreement would be appropriate.

This notice will be effective at 3 p.m. on November 12. We are serving Delta, Continental, and Northwest with a copy of this notice by FAX.

Issued in Washington, DC on November 8, 2002.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 02-29068 Filed 11-14-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending November 1, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST-2002-13694.

Date Filed: October 28, 2002.

Parties: Members of the International Air Transport Association.

Subject:

PTC123 0202 dated September 16, 2002

Mail Vote 240—TC123 Mid Atlantic

Resolutions r1-r6
 PTC123 0211 dated October 11, 2002
 (Affirmative)
 PTC123 0203 dated September 16, 2002
 Mail Vote 241—TC123 South Atlantic Resolutions r7-r19
 PTC123 0212 dated October 11, 2002
 (Affirmative)
 Minutes—PTC123 0217 dated October 22, 2002
 Fares—PTC123 Fares 0073 dated October 11, 2002
 PTC123 Fares 0077 dated October 15, 2002 (Technical Correction)
 PTC123 Fares 0074 dated October 15, 2002
 Intended effective date: March 1, 2003
Docket Number: OST-2002-13709.
Date Filed: October 29, 2002.
Parties: Members of the International Air Transport Association.
Subject:
 CBPP/10/Meet/004/2002 dated October 1, 2002
 Finally Adopted Resolution 686 r1
 Minutes—CBPP/10/Meet/003/2002 dated September 25, 2002
 Intended effective date: December 1, 2002
Docket Number: OST-2002-13710.
Date Filed: October 29, 2002.
Parties: Members of the International Air Transport Association.
Subject:
 Mail Vote 245
 PTC23 ME-TC3 0153 dated October 4, 2002
 TC23/TC123 Middle East-South East Asia
 Special Passenger Amending Resolution 010d
 PTC23 ME-TC3 0158 dated October 29, 2002 (Affirmative)
 Intended effective date: November 15, 2002
Docket Number: OST-02-13711.
Date Filed: October 29, 2002.
Parties: Members of the International Air Transport Association.
Subject:
 PTC23 EUR-JK 0088 dated October 15, 2002
 Europe-Japan/Korea Resolutions r1-r28
 Minutes—PTC23 EUR-JK 0089 dated October 25, 2002
 Tables—PTC23 EUR-JK Fares 0041 dated October 15, 2002
 Intended effective date: April 1, 2003
Docket Number: OST-02-13722.
Date Filed: October 30, 2002.
Parties: Members of the International Air Transport Association.
Subject:
 PTC23 ME-TC3 0156 dated October 11, 2002

TC23/TC123 Middle East-TC3 (except South East Asia)
 Resolutions r1-r37
 Minutes—PTC23 ME-TC3 0157 dated October 15, 2002
 Tables—PTC23 ME-TC3 FARES 0063 dated October 18, 2002
 Intended effective date: April 1, 2003
Docket Number: OST-02-13726.
Date Filed: October 30, 2002.
Parties: Members of the International Air Transport Association.
Subject:
 PTC23 EUR-SWP 0070 dated October 29, 2002.
 Europe-South West Pacific Expedited Resolutions r1-r3
 Intended effective date: December 15, 2002

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 02-28969 Filed 11-14-02; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Spotsylvania County, VA

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement in cooperation with the Virginia Department of Transportation (VDOT) for the Spotsylvania Parkway Location Study in Spotsylvania County. **FOR FURTHER INFORMATION CONTACT:** John Simkins, Environmental Protection Specialist, Federal Highway Administration, Post Office Box 10249, Richmond, Virginia 23240-0249, Telephone 804-775-3342.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA), in cooperation with the Virginia Department of Transportation (VDOT), will prepare an environmental impact statement (EIS) for the Spotsylvania Parkway Location Study. The study area is located in northeastern Spotsylvania County, southwest of the City of Fredericksburg. The study window is roughly defined by the Ni River, State Route 3 to the north, and Interstate 95 to the east.

Recognizing that the National Environmental Policy Act (NEPA) process requires the consideration of a reasonable range of alternatives that will address the purpose and need, the EIS

will consider a range of alternatives for detailed study. These consist of a no-build alternative as well as alternatives consisting of transportation system management strategies, mass transit, improvements to existing facilities, and new alignment facilities. The alternatives will be developed, screened, and carried forward for detailed analysis in the draft EIS based on the ability to address the purpose and need.

The FHWA and VDOT are seeking input as part of the scoping process to assist in determining and clarifying issues relative to the project. Letters describing the proposed study and soliciting input have been sent to the appropriate Federal, State, and local agencies who have expressed an interest or are known to have an interest or legal role in the proposal. A Citizen Information Meeting was held in July 2002 to provide organizations, citizens, and interest groups an opportunity to provide input into the development of the EIS and identify issues that should be addressed. No formal scoping meeting is planned at this time.

A public hearing will be held upon completion of the draft EIS. Notices of the public hearing will be given through various forums providing the time and place of the hearing along with other relevant information. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are identified and taken into account, comments and input are invited from all interested parties. Comments and questions concerning the proposed action and draft EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed action.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: November 7, 2002.

John Simkins,

Environmental Protection Specialist.

[FR Doc. 02-28955 Filed 11-14-02; 8:45 am]

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