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Any long description of the product subject to an exclusion request must include only publicly available information, in text form (no tables or graphs), with all units of measurement converted to metric equivalents. The description must be sufficient to differentiate the product from other products, and to allow for enforcement of the exclusion, if granted, by the U.S. Customs Service.

We strongly discourage the submission of business proprietary information. Any questionnaire response that contains business proprietary information must be accompanied by two paper copies of a public summary that do not contain business proprietary information and four paper copies that do contain business proprietary information.

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Robert B. Zoellick,

United States Trade Representative.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Review Under 49 U.S.C. 41720 of Delta/Northwest/Continental Agreements

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Extension of waiting period.

SUMMARY: Delta Air Lines, Northwest Airlines, and Continental Airlines have submitted code-sharing and frequent-flyer program reciprocity agreements to the Department for review under 49 U.S.C. 41720. That statute requires such agreements between major U.S. passenger airlines to be submitted to the Department at least thirty days before the agreements' proposed effective date and authorizes the Department to extend the waiting period for these agreements at the end of the thirty-day period. The Department has determined to extend the waiting period for the Delta/Northwest/Continental code-share agreements for an additional thirty days, from November 21 to December 21, 2002.

Any supplemental comments must be submitted by December 4, 2002.

ADDRESSES: Comments must be filed with Randall Bennett, Director, Office of Aviation Analysis, Room 6401, U.S. Department of Transportation, 400 7th St. SW., Washington, DC 20590. Late filed comments will be considered to the extent possible. To facilitate consideration of comments, each commenter should file three copies of its comments.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366-4731.

SUPPLEMENTARY INFORMATION: Delta, Northwest, and Continental submitted code-sharing and frequent-flyer program reciprocity agreements to us for review under 49 U.S.C. 41720 on August 23. That statute requires such agreements between major U.S. airlines to be submitted to us more than thirty days before their planned implementation, and it authorizes us to extend the waiting period by up to 150 days for code-sharing agreements and by up to sixty days for other types of agreements. We have already extended the waiting period for these agreements twice by thirty days. 67 FR 59328 (September 20, 2002); 67 FR 64960 (October 22, 2002). We have determined to extend the waiting period for the code-share agreement for an additional thirty days to give us time to consider the supplemental comments being submitted by other parties interested in the agreement. While we cannot extend the waiting period for the frequent flyer reciprocity agreement again, we are continuing to examine the competitive issues raised by the frequent flyer reciprocity agreement, and we request

that parties address those issues in their comments as well.

We have been informally reviewing the agreements submitted by Delta, Continental, and Northwest and discussing the competitive issues with the Justice Department. Our review of the agreements is focusing on whether they may reduce competition. To bar the parties from implementing the agreements, we would need to determine that they were unlawful under 49 U.S.C. 41712 as an unfair method of competition, that is, that the agreements violate the antitrust laws or antitrust principles. *See United Air Lines v. CAB*, 766 F.2d 1101 (7th Cir. 1985). Our review 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, since we are considering whether we should institute a formal proceeding for determining whether an agreement would violate section 41712.

To assist us in our review, we have given interested parties the opportunity to submit comments on the agreements, initially on the basis of redacted copies of the agreements and more recently on the basis of unredacted copies, subject to restrictions designed to ensure that the confidential business information in the agreements does not become public. We made the unredacted copies of the agreements available to the parties on November 12 after giving Delta, Continental, and Northwest some advance notice of our decision to make the copies available. 67 FR 69297 (November 15, 2002).

Any supplemental comments must be submitted no later than December 4. That deadline will give the parties adequate time to submit any additional analysis based on their review of the unredacted material. We will then consider all of the comments and the information provided by Delta, Continental, and Northwest and further consult with the Justice Department. We hope to make a final decision by December 21 on whether more formal action should be taken on the agreements.

Issued in Washington, DC on November 15, 2002.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

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