

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Joint Application of)
)
AIR CANADA)
THE AUSTRIAN GROUP)
BRITISH MIDLAND AIRWAYS LIMITED)
DEUTSCHE LUFTHANSA AG)
POLSKIE LINIE LOTNICZE LOT S.A.) Dockets OST-05-22922
SCANDINAVIAN AIRLINES SYSTEM) OST-96-1434
SWISS INTERNATIONAL AIR LINES LTD.)
TAP AIR PORTUGAL)
and)
UNITED AIR LINES, INC.)
)
under 49 U.S.C. §§ 41308 and 41309 for approval of)
and antitrust immunity for Alliance Expansion)
Agreements and an Amended Coordination Agreement)

DECLARATION OF DANIEL M. KASPER & DARIN N. LEE

I. ASSIGNMENT

1. We have been retained by Air Canada, The Austrian Group (“Austrian”), British Midland Airways Limited (“BMI”), Deutsche Lufthansa AG (“Lufthansa”), Polskie Linie Lotnicze Lot S.A. (“LOT”), Scandinavian Airlines System (“SAS”), Swiss International Air Lines Ltd. (“Swiss”), Tap Air Portugal (“TAP”) and United Air Lines, Inc. (“United”), which we will collectively refer to as “the Joint Applicants” in this matter, and asked to evaluate—based on our knowledge, experience and understanding of the airline industry, airline economics, and competition—the economic claims, analyses and conclusions contained in pleadings submitted in this proceeding by and on behalf of American Airlines.¹ Likewise, we were asked to independently evaluate the competitive implications of extending antitrust immunity (“ATI”) to the existing immunized alliance agreements among United, SAS, Lufthansa, BMI and Austrian to four additional Star Alliance members: Air Canada, LOT, Swiss and TAP, in addition to the expansion of existing United/Air Canada immunity.
2. We submit this declaration in conjunction with the Reply submitted by the Joint Applicants in their *Joint Consolidated Reply*. It contains a statement of our opinions as well as the bases for those opinions, and is supported by the work that we have performed or supervised to date. In addition to

¹ We refer specifically to the *[Public] Answer of American Airlines, Inc.*, OST-2005-22922, August 9, 2006 and the expert report submitted by James Reitzes and Dorothy Robyn of The Brattle Group as Exhibit 1 to that Answer (“Brattle Report”).

analyzing data contained in the submissions of the Joint Applicants and American's Answer, we also considered and relied upon the following in forming the opinions set forth in this Declaration: (i) Our personal experiences, familiarity with, and historical work in the airline industry, (ii) a review of additional documents and data provided by the alliance companies, including filings made by various parties in this proceeding, (iii) a review of relevant articles and publicly available information sources, and (iv) a review of publicly available data including data reported by the Official Airline Guide ("OAG") as well as data reported by U.S. certified air carriers to the U.S. Department of Transportation ("DOT"). Our consideration of the issues involved in this matter is ongoing. Accordingly, our opinions are subject to revision based on the work we may complete in the future and further documents, testimony, and other materials we may review.

II. THE BRATTLE GROUP'S ANALYSIS CONTINUES TO IGNORE IMPORTANT INDUSTRY AND ECONOMIC FACTORS THAT SEVERELY UNDERMINE ITS RELIABILITY

3. The Brattle Group's report in this proceeding is, for the most part, a rehash of an earlier report submitted on behalf of American Airlines in opposition to SkyTeam's application for expanded antitrust immunity last year.²

² See the Report of James D. Reitzes, Dorothy Robyn and Kevin Neels (The Brattle Group), Docket No. OST-2004-19214, June 24, 2005. The Brattle Group also submitted a Reply (July 15, 2005) and Surreply (September 9, 2005) in the same proceedings.

Consequently, Brattle's current report suffers from virtually all of the same methodological and conceptual shortcomings as their earlier reports. In our Declaration and subsequent Rebuttal filing in the SkyTeam matter³, we enumerated a number of significant flaws in Brattle's analysis (which are repeated in their current report). For example:

- Brattle relied on "average fares" but ignored the effects of changes in passenger mix on reported average fares. In particular, Brattle failed to recognize that since 1999, the percentage of passengers purchasing premium (i.e., First, Business and Unrestricted Coach Class) fares at each of the primary open skies hubs (Paris, Amsterdam and Frankfurt) has increased, while the percentage of passengers purchasing premium fares declined sharply at London Heathrow ("LHR").⁴ As a result, Brattle erroneously attributed an apparent increase in average fares at open skies gateways relative to Heathrow to a reduction in competition rather than to changes in traffic mix, higher product quality, or increased demand.⁵

³ See *Declaration of Daniel M. Kasper and Darin Lee*, Docket No. OST-2004-19214, July 6, 2005 and *Surrebuttal of Daniel M. Kasper and Darin Lee*, Docket No. OST-2004-19214, August 30, 2005.

⁴ See *Surrebuttal of Daniel M. Kasper and Darin Lee, Exhibit 4*, Docket No. OST-2004-19214. Consequently, we demonstrated that by failing to disaggregate their data by fare class, Brattle's conclusion that average non-stop fares to and from LHR had declined by 7.1% between 1999 and 2004 was highly misleading since it overlooked the fact that same data, disaggregated by fare class, demonstrated that fares for First, Business and Unrestricted Coach passengers had actually increased by 14.2% while fares for restricted Coach class passengers also increased by 7.7% over the same period. See *Surrebuttal of Daniel M. Kasper and Darin Lee, Exhibit 6*, Docket No. OST-2004-19214.

⁵ Using MIDT data, Exhibit 5 of our *Surrebuttal* also demonstrated that American and United had been losing First and Business class booking share for London Heathrow passengers to British Airways and Virgin, carriers whose data is largely excluded from the DOT's survey data. Somewhat surprisingly, Brattle's only response to these criticisms was that "Business passengers do not ask to pay higher fares; they are forced to pay them because of restrictive rules and capacity limitations that airlines impose on discount fares," (see *Brattle Reply*, page 6), a response that apparently concedes the basic point that the

- Because Brattle failed to account for under-reported data by non-U.S. carriers in the DOT's international origin and destination ("O&D") survey data, its estimates of European gateway fare levels are erroneous. But when adjustments were made to account for such systematic underreporting, we showed that absolute fare levels to and from London's Heathrow and Gatwick airports were substantially higher than fares at any of the primary open skies hubs, thus contradicting Brattle's results.⁶
- Similarly, when comparing changes in output between open skies and non-open skies countries, Brattle failed to take account of the bankruptcies and subsequent downsizings and liquidations of Swissair and Sabena. As we demonstrated, however, when these cessations in service are accounted for, it is clear that open skies countries had performed better than non-open skies countries on virtually every measure of "output", including ASMs, passengers and seats.⁷
- Brattle also continues to misconstrue both the cause and the significance of the decline in American's interline connections. According to Brattle, the decline in American's interline connections at Paris's Charles de Gaulle Airport ("CDG") and Frankfurt ("FRA"), for example, has been the result of anti-competitive access discrimination. But as we established in the SkyTeam proceeding, American's connecting traffic to

calculations Brattle has undertaken are based on data that is incomplete and may not, therefore, represent an accurate comparison.

⁶ See *Surrebuttal of Daniel M. Kasper and Darin Lee, Exhibit 3*, Docket No. OST-2004-19214.

⁷ See *Surrebuttal of Daniel M. Kasper and Darin Lee, Exhibit 10*, Docket No. OST-2004-19214.

points previously served via CDG increased substantially following the allegedly anti-competitive acts. Thus, we demonstrated that the shift in traffic cited by Brattle was far more likely the result of an effort by American to move its connecting passengers away from interline connections on Air France to online connections with its own alliance partners.⁸ In addition, Brattle continues to ignore the fact that the shift from interline to online connections was not only a fully anticipated consequence of alliance formation but is also the source of important consumer benefits generated by alliances.⁹

- Finally, Brattle’s contention that a significant share of beyond gateway passengers are somehow “captive” to a particular hub (e.g., CDG or Frankfurt) is also fatally flawed. To begin with, Brattle failed to provide any empirical support for its contention that there exists any significant volume of “captive” traffic. In addition, the “captive” passenger argument itself makes little sense in light of the numerous connecting choices available to passengers traveling to the overwhelming majority of behind gateway destinations.¹⁰

⁸ Indeed, we demonstrated that the increase in American’s alliance connections overshadowed the decline in its interline connections with Air France by a factor of seven. See *Surrebuttal of Daniel M. Kasper and Darin Lee, Exhibit 13*. Docket No. OST-2004-19214.

⁹ See, for example, “International Airfares in the Age Alliances: The Effects of Codesharing and Antitrust Immunity”, by Jan Brueckner, *Review of Economics and Statistics*, 85, pp. 105-118, 203. See also *Order to Show Cause, International Air Transport Association Tariff Conference Proceeding*, Docket OST-2006-25307, U.S. DOT, July 5, 2006.

¹⁰ Moreover, we have demonstrated that American’s total connecting traffic to such supposedly “captive” points as Lyon, Nice, Toulouse and Marseilles had actually *increased* substantially following the allegedly anti-competitive conduct by Air France. See *Surrebuttal of Daniel M. Kasper and Darin Lee, Exhibit 12*. Docket No. OST-2004-19214.

4. Although Brattle has failed to rebut any of these criticism of its earlier analyses, its current filing replicates these same flaws. Thus, for the reasons described in detail in our earlier reports, Brattle’s analyses and conclusions do not provide a reliable basis for the action they urge the Department to take.

Brattle’s Analysis Fails To Demonstrate Antitrust Causality In Any Meaningful Way

5. Even if one were to ignore the numerous shortcomings in Brattle’s analysis and methodology, neither its current nor former reports provide any evidence to demonstrate that extending ATI to the Joint Applicants would harm consumers. Likewise, Brattle fails to provide any analysis that disputes or rebuts the substantial gains to consumers resulting from extending ATI to LOT, Swiss, TAP and Air Canada identified by the Joint Applicants.
6. Notwithstanding the serious flaws in its analyses, Brattle argues that those analyses should make the Department “wary” of further consolidation of international networks, and that regulators should “increase the number of competing global alliances.”¹¹ Yet Brattle fails to explain how denying antitrust immunity to LOT-United, Swiss-United or TAP-United would either reduce or increase the number of global alliances. Indeed, Brattle fails even to identify a single relevant market in which a grant of ATI would

¹¹ See *Brattle Report*, p. 9.

lessen competition. Thus, in addition to being seriously flawed, Brattle's analysis is irrelevant with respect to the pending applications.

7. Antitrust analysis focuses on the likely effects of a particular act or practice on price and output in a relevant market. In analyzing competitive issues in the airline industry, the Antitrust Division of the Department of Justice ("DOJ") and the Department have generally treated "city-pairs" as the relevant markets for passenger air transportation. Hence, Chicago-Zurich and Omaha-Krakow constitute two distinct relevant markets. Yet Brattle does not discuss service in these or any other city-pairs affected by the pending applications.

8. Instead of analyzing competitive effects in a relevant market, Brattle looks at changes in fares and output using broad brush categories of routings (such as "gateway-to-gateway" and "behind gateway-to-beyond gateway") for particular European hubs. In short, Brattle's analysis simply assumes that an increase in average fares at one airport (e.g., FRA) compared to another airport (e.g., LHR) is the result of a reduction in competition in one or more relevant markets. But as we have demonstrated, such relative changes in average fares can also result from changes in traffic mix as well as changes in demand (discussed in paragraphs 10-11 below). Moreover, aggregating

individual markets as Brattle has done precludes meaningful conclusions as to competitive effects in economically meaningful relevant markets.¹²

III. CONTRARY TO BRATTLE, THE LARGEST OPEN SKIES COUNTRY-PAIR (U.S.-GERMANY) HAS OUTPERFORMED THE LARGEST NON-OPEN SKIES COUNTRY-PAIR (U.S.-U.K.)

9. Brattle’s repeated efforts to bolster American’s case by “updating” the Department’s earlier studies comparing fare and output trends in open skies versus non-open skies countries are misleading and irrelevant. To begin with, when the Department conducted its studies, neither France nor Italy (the third and fifth largest U.S.-European aviation country-pairs, respectively) had yet signed open skies agreements.¹³ Today, there are only four U.S.-EU country-pairs that are not “open skies”: the United Kingdom, Spain, Ireland and Greece. Given the substantial differences (e.g., in terms of size, business/leisure mix or demand elasticity, etc.) between U.S.-Germany, on the one hand and U.S.-Spain, U.S.-Ireland or U.S.-Greece, on the other, and absent any attempt by Brattle to justify the relevance or

¹² Brattle’s confusion about competition is further illustrated in its advice to the Department about making it “easier for individual alliances to interconnect.” *Brattle Report*, p. 9. When discussing interconnections, Brattle asserts that “at Paris, Air France effectively raised interlining costs for American and other non-Skyteam carriers, making it impossible for them to offer discounted through-fares at a profit.” *Brattle Report*, p. 6. Although Brattle does not enunciate the regulatory steps it advocates to carry out its prescription to make it “easier for individual alliances to interconnect,” the only realistic alternative would be to impose mandatory interlining and to regulate prorates. In short, Brattle appears to be advocating the regulation of both connections and prorates. Not only is such regulatory intervention unwarranted, but it would also undercut the consumer benefits generated by airline networks and awards of antitrust immunity—which even Brattle admits, have been substantial—and would stand 25 years of U.S. international aviation policy on its head.

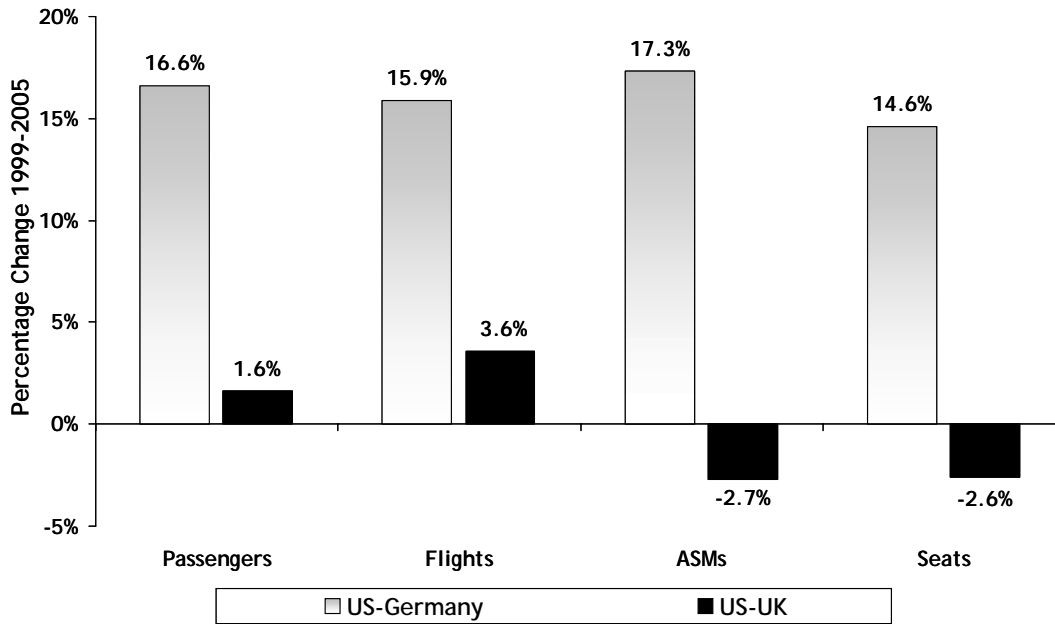
¹³ Although the U.S.-Italy open skies agreement was finalized in December 1999, the Department’s two international aviation studies—published in December 1999 and October 2000—did not take into account the effect of open skies between the U.S. and Italy (i.e., they relied on pre-open skies data). The U.S.-France open skies agreement was finalized on January 22, 2002.

reliability of such comparisons, its open skies to non-open skies comparisons are little more than an exercise comparing apples to oranges.

10. To the extent that valid comparisons can be made, however, it would be far more reasonable to compare trends between the U.S. and the largest open skies and non-open skies countries: Germany and the United Kingdom.¹⁴ Because of the limitations in the Department's international O&D survey data described in detail in our SkyTeam reports (and summarized in paragraph 3 above), the most reliable comparison of relative performance for these two country-pairs is to examine what has happened to various measures of output. Unlike fare data, output data—including passengers, ASMs, seats, and flights—are reliably reported for both U.S. and foreign airlines. And as Exhibit 1 clearly demonstrates, output between the U.S. and Germany grew substantially more than did output in between the U.S. and U.K. for the period of 1999-2005 (the same period Brattle analyzes). Indeed, output actually declined between the U.S. and U.K. by 2.7% during this period in terms of ASMs (the most commonly used measure of output), while output between the U.S. and Germany increased by more than 17%.

¹⁴ In 2005, the UK accounted for approximately 85% of all U.S.-EU non-open skies capacity. Germany accounted for approximately one-third of all U.S.-EU open skies capacity, but exceeded the second largest country-pair (U.S.-France) by more than 50%. Source: U.S. DOT T100 Database.

**EXHIBIT 1: PERCENT GROWTH OF PASSENGERS, FLIGHTS, ASMS AND SEATS:
US-GERMANY VS US-UK, 1999 v. 2005**



Sources: U.S. DOT T100 Database.

11. The fact that output between U.S. and Germany grew substantially faster than output between the U.S. and U.K. is fatal to Brattle’s position because the premise that output growth in open skies countries was less than in non-open skies countries is a critical element of Brattle’s entire argument. As the Brattle filing itself concludes:

“Last year, we ruled out a number of “benign” explanations for these findings. Specifically, we found little evidence that immunized alliances had increased their product quality, or improved their passenger mix, relative to non-alliance carriers between 1999 and 2004. Nor was there evidence that fare increases in Open Skies markets reflected greater demand. One relevant statistic was growth in “output”... Higher output growth in Open Skies markets could have lent support to the “quality” hypothesis, because an increase in quality is equivalent to a quality-adjusted decline in fares, and a decline in price should stimulate demand. Higher output growth might also have been an indication that the fare increases were demand-driven.”¹⁵

¹⁵ Source: *Brattle Report*, page 4.

But it is now unmistakably clear—contrary to Brattle’s assumption—that there has been substantially greater growth in output (demand) between the United States and Germany (open skies) than between the United States and the United Kingdom (non-open skies). Moreover, it is also clear—as Brattle has acknowledged—that higher output growth in open skies markets supports the conclusion that “*immunized alliances had increased their product quality, or improved their passenger mix ...between 1999 and 2004.*”¹⁶ Finally, Brattle has also conceded that “*Higher output growth might also have been an indication that the fare increases were demand-driven.*”¹⁷ Thus, even if Brattle’s analysis of average fares had been correct, it would not sustain Brattle’s conclusion that an increase in fares between the United States and Germany indicated any reduction in competition.

IV. CONTRARY TO BRATTLE, THERE IS UNLIKELY TO BE ANY COMPETITIVE HARM FROM GRANTING GLOBAL ANTITRUST IMMUNITY TO UNITED/AIR CANADA

12. Finally, Brattle’s analysis of the potential loss of competition from expanded ATI for United and Air Canada is both built exclusively on unsubstantiated speculation and grossly exaggerated. To begin with, the *potential* competitive harm conjectured by Brattle to result from expanded ATI for United and Air Canada hinges entirely on Air Canada’s ability and desire to secure the fifth freedom rights that would allow it to serve local passengers

¹⁶ Source: *Brattle Report*, page 4.

¹⁷ Source: *Brattle Report*, page 4.

between the U.S. and a third country. Despite the fact that even Brattle admits that "...the Government of Canada will need to secure the necessary route authority from the destination country" and that "[t]he prospects for getting that authority will vary from country to country, depending on a host of factors,"¹⁸ its Consumer Cost Savings summarized in Tables 1-4 simply assume that Canada will be able to secure all of these rights.

13. Moreover, Brattle conveniently ignores the fact that Air Canada already provides non-stop service to many of these foreign destinations and consequently, provides no explanation as to why Air Canada would want to cannibalize its existing services. For example, Brattle fails to mention that Air Canada already provides non-stop service from both of its international gateway cities (Vancouver and Toronto) to five Asian destinations (Tokyo, Beijing, Shanghai, Hong Kong and Seoul), which collectively account for roughly 82% of the total passenger volumes represented in its estimates of "Consumer Cost Savings." Since adding a U.S. stop to either of these flights would significantly degrade Air Canada's local and connecting yields, Brattle's assumption that Air Canada would want to do this is counter-intuitive and wholly improbable.¹⁹

¹⁸ Source: *Brattle Report*, footnote 8.

¹⁹ Not only would Air Canada's non-stop passengers in Vancouver and Toronto be forced to fly one-stop via a circuitous U.S. point, all of Air Canada's behind gateway passengers currently receiving one-stop service would be forced to make two-stops.

14. In addition to Brattle's improbable and speculative assumptions regarding both Air Canada's ability to secure the required traffic rights and its desire to offer such services, Brattle's analysis further assumes that such new, fifth freedom services by Air Canada would result in a 5%-10% price reduction for all passengers traveling between the U.S. and each of these destinations. But in order for Brattle's price reduction assumption to hold, trans-Pacific markets would have to be characterized by no more than three competitors.²⁰ As we demonstrate in Exhibit 2, however, the trans-Pacific is far more competitive than Brattle's analysis assumes. Indeed, there are no fewer than nine carriers with at least 5% of trans-Pacific capacity.²¹ Likewise, no fewer than thirteen carriers offer at least five Transpacific roundtrip flights per day.²²

²⁰ Academic research has demonstrated that the expected effect on prices of adding a fifth competitor to market is marginal at best. See, for example, "Economies of traffic density in the deregulated airline industry", by Jan Brueckner and Pablo Spiller, *Journal of Law & Economics*, volume 37, pages 379-415, 1994.

²¹ Source: OAG for July 2006.

²² Source: OAG for July 2006. Moreover, most large U.S.-Asia city pair markets are served by multiple carriers. For example, there are seven non-stop competitors between Los Angeles and Tokyo. Likewise, three carriers offer non-stop San Francisco-Hong Kong service and six other carriers offer one-stop service.

EXHIBIT 2: TRANS-PACIFIC CAPACITY BY CARRIER

Carrier	July 2006 ASMs	July 2006 ASM Share
UNITED AIRLINES	2,225,433,406	14.7%
JAPAN AIRLINES INTERNATIONAL	1,652,661,192	10.9%
KOREAN AIR	1,534,347,122	10.2%
NORTHWEST AIRLINES	1,191,077,457	7.9%
CATHAY PACIFIC AIRWAYS	1,103,835,795	7.3%
AIR CANADA	961,681,132	6.4%
CHINA AIRLINES	848,436,350	5.6%
AMERICAN AIRLINES	844,456,616	5.6%
SINGAPORE AIRLINES	756,149,248	5.0%
EVA AIRWAYS	746,967,980	4.9%
CONTINENTAL AIRLINES	606,277,692	4.0%
ALL NIPPON AIRWAYS	555,891,404	3.7%
AIR CHINA	502,098,244	3.3%
ASIANA AIRLINES	442,119,710	2.9%
PHILIPPINE AIRLINES	274,367,766	1.8%
CHINA EASTERN AIRLINES	228,593,504	1.5%
CHINA SOUTHERN AIRLINES	170,762,880	1.1%
DELTA AIR LINES	139,301,600	0.9%
MALAYSIA AIRLINES	125,727,108	0.8%
THAI AIRWAYS INTERNATIONAL	125,472,065	0.8%
PAKISTAN INTERNATIONAL AIRLINES	60,152,576	0.4%
Total	15,095,810,847	

Source: OAG July 2006 from Database Products

Notes: Trans-Pacific operations are defined as operations to/from U.S. (excluding Hawaii) and Canada to countries in the Far East.

- Moreover, even in the unlikely event that Brattle's unfounded assumptions regarding market entry by Air Canada were valid, Brattle exaggerates its cost savings estimates by basing them on total onboard passenger volumes from the Department's T-100 database. This implicitly assumes that Air Canada's hypothetical fifth freedom services (e.g., Los Angeles to Tokyo) would result in substantial price reductions for passengers *from every behind-gateway point in the United States, even those that could not connect to Air Canada's Los Angeles service.* This is clearly an unrealistic

assumption, and one that is also inconsistent with well-established methods for estimating the traffic likely to be generated by new air services.

V. CONCLUSIONS

16. In summary, the analyses contained in Brattle's report suffer from a number of methodological and conceptual flaws that severely undermine their reliability. To begin with, Brattle provides no evidence to demonstrate that extending ATI to the Joint Applicants would harm consumers. Nor does Brattle identify any economically relevant market in which competition has been reduced.
17. Brattle's analysis also ignores or mischaracterizes several important elements of international airline network competition including the fact that an increase in online—along with a decrease in interline—connections not only generates substantial consumer benefits, but was also a fully anticipated consequence of airline alliances.
18. In addition, Brattle has made no attempt to correct for well-known shortcomings in the U.S. DOT's international O&D survey data. As a result, Brattle's average fare comparisons are both incorrect and misleading.
19. Moreover, Brattle's own report acknowledges that more rapid output growth supports the conclusion that increased demand and higher product quality

rather than a decline in competition can explain why fares have increased between the U.S. and open skies countries. And as we have now demonstrated using data that are both more complete and more reliable than the DOT's O&D survey data relied upon by Brattle, output growth between the U.S. and Germany (the largest open skies EU country), has far exceeded growth in output between the U.S. and the U.K. (the largest non-open skies EU country).

20. Finally, Brattle's conclusions regarding the potential loss of competition from expanded ATI for United and Air Canada are grossly exaggerated and based on assumptions that are both unsubstantiated and unwarranted.

VI. QUALIFICATIONS

21. Daniel M. Kasper is a Managing Director of LECG, LLC (formerly, The Law & Economics Consulting Group) and head of the firm's transportation practice. LECG provides expert analysis and management consulting in economics, accounting, and finance. Mr. Kasper's business address is 350 Massachusetts Avenue, Suite 300, Cambridge, Massachusetts 02319. Mr. Kasper has over 25 years of experience at LECG, Coopers & Lybrand, L.L.P., Harbridge House, Inc., and the U.S. Civil Aeronautics Board ("CAB") dealing with issues involving competition, competition policy, economics, finance and intergovernmental negotiations involving the airline industry.

22. Mr. Kasper has also served on the faculties of the Harvard Business School and the University of Southern California School of Business Administration for a total of ten years. In 1993, Mr. Kasper was one of 15 appointed members of the U.S. National Airline Commission, a body created by Congress to evaluate and make recommendations on how to improve the performance of the U.S. airline and aerospace industries. In addition, Mr. Kasper has served as a consultant to the U.S. Departments of Transportation, State and Defense, on various airline industry matters and has also testified as an expert on airline and aviation industry matters before courts and federal administrative agencies, as well as legislative bodies and antitrust authorities both in the United States and abroad.
23. From 1980-1983, Mr. Kasper served as Director of International Aviation at the United States Civil Aeronautics Board where his responsibilities included, *inter alia*, the formulation and implementation of the Board's antitrust and other economic regulatory powers. In addition, Mr. Kasper was responsible for helping to formulate U.S. negotiating strategies and objectives for international aviation negotiations and then to implement them through negotiations with other governments. Mr. Kasper has authored two books—one on international aviation and another on regional airlines—as well as numerous articles, case studies, and research papers on various aspects of air transportation and government policy. Mr. Kasper

earned his M.B.A. and J.D. degrees from the University of Chicago. A copy of Mr. Kasper's curriculum vitae is provided as Appendix A.

24. Darin Lee is a Principal in the Cambridge, MA office of LECG, LLC and specializes in airline economics, game theory and industrial organization. Over the past eight years, Dr. Lee has provided consulting services to numerous domestic and international airlines (both passenger and cargo) as well as industry trade associations and has filed testimony before the U.S. Department of Transportation and in U.S. District Court on matters related to the airline industry. Before joining LECG in 1998, Dr. Lee received his Ph.D. in Economics at Brown University. Dr. Lee also holds an M.A. in Economics from Queen's University in Kingston, Ontario and a B.A. in Economics from the University of Victoria, Canada.

25. Dr. Lee has published numerous articles in scholarly journals on various aspects of airline economics in journals, including the competitive effects of alliances, in journal such as the *Journal of Law & Economics*, the *Southern Economic Journal* and the *Journal of Air Transport Management*. Dr. Lee is also editor of the *Advances in Airline Economics* book series, published by Elsevier. Dr. Lee has presented his research at numerous conferences and venues, including the Federal Reserve Bank of Chicago, the annual meetings of the American Economics Association and the International

Industrial Organization Conference. A copy of Dr. Lee's curriculum vitae is provided as Appendix B.

APPENDIX A: CURRICULUM VITAE OF DANIEL M. KASPER

DANIEL M. KASPER
LECG, LLC
350 Massachusetts Avenue
Suite 300
Cambridge, MA 02139

EDUCATION

BA, Political Science, UNIVERSITY OF KANSAS
Masters in Business Administration, UNIVERSITY OF CHICAGO
Juris Doctorate, UNIVERSITY OF CHICAGO

PRESENT POSITION

LECG November 1997-present
Managing Director, Cambridge, MA Office

At LECG, Mr. Kasper has focused his practice on the transportation industry. He has provided consulting services as well as expert economic analysis and testimony for a variety of clients in both the private and public sectors in the aviation, rail, trucking and maritime industries.

PREVIOUS EXPERIENCE

COOPERS & LYBRAND, Consulting 1993-1997
Partner and Chairman Transportation Industry Program

Mr. Kasper headed C&L's Transportation Industry Program where he directed a number of engagements involving domestic and international transportation clients in both the private and public sectors. He also appeared frequently as an expert witness before Federal courts, regulatory agencies, and the Congress of the United States.

UNITED STATES NATIONAL AIRLINE COMMISSION, 1993
Member

In 1993, Mr. Kasper was appointed and served as one of fifteen voting members of the US National Airline Commission, a body established by Congress to examine and make suggestions for strengthening the U.S. airline and aerospace industries. The Commission submitted its Report and recommendations to the President and Congress in September of 1993.

HARBRIDGE HOUSE, INC. 1983-1993
Vice President, Director and Head of the Transportation Practice

Mr. Kasper managed the firm's transportation practice and was responsible for a wide array of projects involving domestic and international transportation issues. He also served as an expert witness in numerous proceedings before Federal and state courts, regulatory agencies and legislative bodies.

UNITED STATES CIVIL AERONAUTICS BOARD, 1979-1983

Director of International Aviation

From January 1980 through September 1983, Mr. Kasper served as Director of International Aviation, the Board's primary advisor and chief line officer for all matters involving international aviation. During his tenure as Director, Mr. Kasper was instrumental in developing and implementing a pro-competitive U.S. international aviation policy.

Executive Assistant to Civil Aeronautics Board Member

From July through December of 1979, Mr. Kasper served as chief staff advisor to Board Member and Vice-Chairperson Elizabeth E. Bailey. In that capacity, he was responsible for reviewing all matters pending before the Board and advising Ms. Bailey on proper disposition of those matters. Matters dealt with by the Board during that period included a number of proposed airline mergers, the allocation of takeoff and landing slots, potential barriers to entry posed by control of gates at congested airport facilities, retail marketing of air transportation, pricing policy, and a request for antitrust immunity by the International Air Transport Association.

HARVARD UNIVERSITY, BUSINESS SCHOOL, 1976-1981

Faculty

At Harvard Business School, Mr. Kasper specialized in two principal areas: the impact of alternative forms of government regulation on the management and performance of business organizations and on the study of national economic policies and strategies. Mr. Kasper authored a number of case studies on various aspects of the transportation and telecommunication industries.

While at Harvard, Mr. Kasper was a member and active participant in the Harvard Regulatory Reform Project conducted under the auspices of the Kennedy School of Government. He also consulted with firms in the telecommunications and computer industries to help them anticipate and prepare for the impact of telecommunications deregulation on their businesses.

UNIVERSITY OF SOUTHERN CALIFORNIA, 1971-1976

Faculty

While at USC, Mr. Kasper developed, administered and taught courses dealing with the control of business activities by means of direct government regulation, the enforcement of private contracts, and through the use of tort law. His research focused on the regulation of transportation, telecommunications industries and workplace safety. He also served as a member of the Faculty Senate.

BOOKS

- 1) *Deregulation and Globalization: Liberalizing International Trade in Air Services*, Ballinger Publishers, Cambridge, MA, 1988.
- 2) *The US Regional Airline Industry to 1996: Markets, Competition, and the Demand for Aircraft*, The Economist Publications, London & New York, 1987.

PROFESSIONAL AFFILIATIONS

Member of the Illinois Bar

Member of the California Bar

Member, American Bar Association

June 2005

APPENDIX B: CURRICULUM VITAE OF DARIN N. LEE

DARIN N. LEE
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EDUCATION

Ph.D., Economics, BROWN UNIVERSITY, Providence, RI, 1998
Specialized Fields: Game Theory, Microeconomic Theory, Industrial
Organization & Bargaining Theory
A.M., Economics, BROWN UNIVERSITY, Providence, RI, 1995
M.A., Economics, QUEEN'S UNIVERSITY, Kingston, Canada, 1993
B.Sc. (Honors), UNIVERSITY OF VICTORIA, B.C., Canada, 1991

PRESENT POSITION

LECG, LLC, Cambridge, MA, July 2005 – Present
Principal, Auction and Transportation Groups

LECG, LLC, Cambridge, MA, January 2002 – June 2005
Senior Managing Economist, Auction and Transportation Groups

LECG, LLC, Cambridge, MA, January 2001- December 2001
Managing Economist, Auction and Transportation Groups

LECG, LLC, Cambridge, MA and Emeryville, CA 1998 - 2000
Senior Economist, Auction and Transportation Groups

PUBLICATIONS IN REFEREED JOURNALS

- 1) “Domestic Codesharing, Alliances and Airfares in the U.S. Airline Industry”, with Harumi Ito, forthcoming in *The Journal of Law & Economics*, May 2007.
- 2) “The Impact of Passenger Mix on Reported Hub Premiums in the U.S. Airline Industry,” with María José Luengo Prado. *Southern Economics Journal*, Vol. 72, No. 2, pp. 372–394, 2005.

- 3) “Comparing the Impact of the September 11 Terrorist Attacks on International Airline Demand,” with Harumi Ito. *International Journal of the Economics of Business*, Volume 12, No. 2, pages 225-249, 2005.
- 4) “Domestic Codesharing Practices in the U.S. Airline Industry”, with Harumi Ito, *Journal of Air Transport Management*, Vol. 11, No. 2, pages 89-97, 2005.
- 5) “Assessing the Impact of the September 11th Terrorist Attacks on U.S. Airline Demand,” with Harumi Ito. *Journal of Economics and Business*, Volume 57 (1), pp. 75-95, 2005.
- 6) Entry Patterns in the Southwest Airlines Route System,” with Charles Boguslaski and Harumi Ito. *Review of Industrial Organization*, Volume 25 (3), pp. 317-350, 2004.
- 7) “Are Passengers Willing to Pay More for Additional Legroom?” with María José Luengo Prado. *Journal of Air Transport Management*, Volume 10, No. 6, pp. 377-383, 2004.
- 8) “Lessons from the Nigerian GSM Auction,” *Telecommunications Policy*, Volume 27, pp. 407-416, 2003.
- 9) “An Assessment of Some Recent Criticisms of the U.S. Airline Industry’,” *Review of Network Economics*, Vol. 2(1), pp. 1-9, March 2003.
- 10) “Concentration and Price Trends in the U.S. Domestic Airline Industry,” *Journal of Air Transport Management*, Volume 9, No. 2, pp. 91 –101, 2003.
- 11) “The Core for Economies with Asymmetric Information: An Axiomatic Approach,” with Oscar Volij, *Journal of Mathematical Economics*, Vol. 38, 1, pp.43-63, 2002.
- 12) “A Note on Individualistic Foundations of the Core in Economies with Asymmetric Information,” *Economics Letters*, Volume 61, pp. 203-208, 1998.

BOOKS, BOOK CHAPTERS AND WORK IN PROGRESS

- 1) [*Advances in Airline Economics*](#), Editor. (collection of original research on airline and aviation economics). Amsterdam: Elsevier, 2006.
- 2) “The Impact of Domestic Codesharing on Market Airfares: Evidence from the U.S.”, with Harumi Ito, in *Advances in Airline Economics, Volume 1*, Darin Lee, Editor, pages 141-162. Amsterdam: Elsevier, 2006.
- 3) “Market Density and Low Cost Carrier Entries in the U.S. Airline Industry: Implications for Future Growth,” with Harumi Ito, forthcoming in *Low Cost Carriers – A Global Experience*. Bangalore, IBS Press, 2006.
- 4) “Retracting a Gift: How Does Employee Effort Respond to Wage Reductions”, with Nicholas Rupp, Unpublished Manuscript, January 2006.
- 5) “Incumbent Responses to Lower Cost Entry: Evidence from the U.S. Airline Industry,” with Harumi Ito, Unpublished Manuscript, November 2003.

UNIVERSITY TEACHING EXPERIENCE

UNIVERSITY OF COLORADO-DENVER, Department of Economics, 1994 and 1995,
Visiting Lecturer

Courses in Graduate Microeconomics and Mathematical Economics.

BROWN UNIVERSITY, Department of Economics, Fall 1993 - Spring 1997
Teaching Assistant

Courses in Microeconomics, Bargaining Theory, Game Theory, Industrial
Organization and Macroeconomics

CONFERENCE AND OTHER INVITED PRESENTATIONS

- International Industrial Organization Conference, Atlanta, April 2005.
- American Economic Association Winter Meetings, Philadelphia, January 2005.
- International Industrial Organization Conference, Chicago, April 2004.
- Southern Economics Association Annual Conference, San Antonio, November 2003.
- Federal Reserve Bank of Chicago, June 2003.
- International Industrial Organization Conference, Boston, April 2003.
- Stony Brook International Game Theory Conference, July 1997

OTHER SERVICE

Conference Service:

- Session Chair, International Industrial Organization Conference, Atlanta, April 2005.
- Session Organizer and Chair, American Economic Association Meetings, Philadelphia, January 2005.
- Session Organizer and Chair, International Industrial Organization Conference, Chicago, April 2004
- Discussant, International Industrial Organization Conference, Boston, April 2004
- Discussant, Southern Economics Association Conference, San Antonio, November 2003
- Discussant, International Industrial Organization Conference, Boston, April 2003

Journal Referee For:

Journal of Industrial Economics, Review of Industrial Organization, Journal of Urban Economics, Journal of Transport Economics and Policy, Telecommunications Policy, Journal of Air Transport Management

PROFESSIONAL AFFILIATIONS

American Economic Association
International Industrial Organization Society