

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

v.

US AIRWAYS GROUP, INC. and AMR
CORPORATION,

Defendants,

Case No. 1:13-cv-01236-CKK

NOTICE OF LODGING OF JOINT PROPOSED TRIAL PROCEDURES ORDER

Plaintiffs and Defendants respectfully submit the attached Joint Proposed Order (Exhibit 1) covering procedures for trial of this case. The parties conferred at length about this Order, and have reached agreement on most of the terms. There are two remaining disputes, for which the proposed order includes alternative provisions. The Parties will submit a Word version of the proposed order by email. The remaining disputes are noted below and accompanied by separate statements from Plaintiffs and Defendants supporting their respective positions.

The attached proposed order does not address procedures governing confidential information. The parties are continuing to meet and confer regarding the confidentiality procedures and will endeavor to submit a proposal to the Court next week.

1. Number of Exhibits (Sections 6(a) and (b)):

Plaintiffs' Position:

Plaintiffs do not believe it is appropriate at this time to set an arbitrary limit on the number of exhibits. Discovery is ongoing and expert reports have yet to be exchanged. While Plaintiffs have no interest in designating more exhibits than necessary, they believe it is

premature to limit the number of exhibits. If a limit must be established, Plaintiffs recommend an 800-exhibit limit, which is, of course, subject to later reconsideration.

Defendants' Position:

Defendants propose that each side be limited to no more than 400 exhibits. This number is sufficient to ensure each side can fully present its case without unduly burdening the Court. This number will also reduce unnecessary disputes over evidentiary objections to and the confidentiality of listed trial exhibits. In light of the fixed time window for trial, reasonable exhibit limitations will facilitate a more efficient and focused proceeding, and 400 exhibits per side will be more than sufficient.

2. Time Limits (Section 10(b)):

Plaintiffs' Position:

The Court has provided sufficient time between November 25 and December 17 for the parties to present their cases. Further time limits are unnecessary until, at the earliest, the parties have exchanged final witness lists and clarified what issues remain in dispute for trial. For example, it is unclear how much testimony, if any, will be necessary on whether city pairs are relevant markets for assessing the likely effects of this merger. It also remains unclear which corporate customers, if any, Defendants intend to depose or call live at trial.

Defendants' Position:

The parties have agreed that each side shall be entitled to an equal amount of time for witness examination. Defendants propose that each side receive 30 hours of witness examination time. This would allow for five six-hour days of examination per side, permitting examination to be completed within the parties' previous estimate as to trial duration. Plaintiffs' non-proposal with respect to examination time unfairly disadvantages the Airlines. Both sides should know

before the start of trial exactly how much time they will have to present their cases. Establishing time limits now will ensure each side can plan appropriately for trial and coordinate the schedules of their witnesses.

Dated: October 17, 2013

Respectfully submitted,

/s/

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