

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c.C-34, as amended;

IN THE MATTER OF the proposed transborder joint venture between Air Canada and United Continental Holdings, Inc.;

AND IN THE MATTER OF the "Marketing Cooperation Agreement" between Air Canada and United Air Lines, Inc.;

AND IN THE MATTER OF the "Alliance Expansion Agreement" between Air Canada and United Air Lines, Inc.;

AND IN THE MATTER OF the "Air Canada/Continental Alliance Agreement" between Air Canada and Continental Airlines Inc.;

AND IN THE MATTER OF an Application by the Commissioner of Competition for one or more Orders pursuant to sections 90.1 and 92 of the *Competition Act*.

BETWEEN:

COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE FILED / PRODUIT August 24, 2011 Jos LaRose for / pour REGISTRAR / REGISTRAIRE	
OTTAWA, ONT	# 20

THE COMMISSIONER OF COMPETITION

Applicant

-AND-

**AIR CANADA, UNITED CONTINENTAL HOLDINGS, INC., UNITED AIR LINES, INC.,
and CONTINENTAL AIRLINES INC.**

Respondents

AFFIDAVIT OF HUGH DUNLEAVY

I, Hugh Dunleavy, of Calgary, Alberta, businessman, make oath and say as follows:

I. INTRODUCTION

1. I am the Executive Vice President, Strategy and Planning of WestJet (an Alberta Partnership) (**WestJet**). I am responsible for Airline Route Planning, Aircraft Scheduling, Pricing, Revenue Management, Airline Partnerships, Government and Regulatory Affairs and Operations Research functions.

2. My curriculum vitae is attached hereto as Exhibit A.
3. I have read and carefully considered the Notice of Application of the Commissioner in this proceeding (the **Commissioner's Application**), and the Response of Air Canada filed August 15, 2011 (the **AC Response**) and the Response of United Continental Holdings, Inc., United Airlines, Inc. and Continental Airlines, Inc.), also filed August 15, 2011 (the **United/Continental Response**).
4. I have knowledge of the matters deposed to and am authorized to swear this Affidavit.
5. Capitalized words used in this Affidavit that have not been defined have the meaning ascribed to them in the Commissioner's Application.

II. BACKGROUND

A. About WestJet

6. WestJet was founded in 1996 by a team of Calgary entrepreneurs as a western Canadian carrier with three aircraft flying to five cities. Today, WestJet is a high value, low-fare airline offering scheduled service to 71 destinations in Canada, the United States, Mexico and the Caribbean, with its fleet of 91 Boeing Next Generation 737-series aircraft.
7. WestJet is Air Canada's most successful Canadian competitor and its entry and growth, both in the domestic air passenger services sector, as well as the transborder air passenger services sector, has resulted in more travel options and overall lower fares for Canadian consumers.
8. WestJet is Air Canada's principal Canadian competitor for domestic and transborder air passenger services. For the year ending December 31, 2010, WestJet's estimates that its share of domestic air passenger services, calculated on a total seats/week basis, was 29.7%, and its share of transborder air passenger services for passengers departing from Canadian cities, calculated on a total seats/week basis, was 10.1%.
9. Historically, WestJet has been predominantly a leisure airline and has selected transborder and international markets where there is a significant volume of leisure customers.

In recent years, however, WestJet has made the strategic decision to adjust its focus to provide a competitive product and service offering to the business traveler segment. Business travellers are generally less price sensitive than leisure travellers; however, certain non-price elements of competition take on greater importance, including business appropriate network and schedules (frequency) and flight times (slot times), pricing flexibility, direct, non-stop flights, and attractive loyalty (frequent flyer) programs.

10. As part of its focus, WestJet has invested heavily in more aircraft and new technologies, has developed a new loyalty program, has entered into interline and codeshare arrangements (discussed below) with other airlines, and has implemented frequency and schedule changes on several of its domestic, transborder and international routes to make them more attractive to business travellers.

B. WestJet's Transborder Air Passenger Services

11. WestJet commenced providing transborder air passenger services in the fall of 2004 with a mix of scheduled and seasonal transborder air passenger services to and from 6 destinations in the United States. Today, WestJet provides non-stop, scheduled and seasonal transborder air passenger services to and from 18 destinations in the United States.

12. In addition to providing transborder air passenger services directly to its passengers, WestJet has entered into interline agreements with two U.S. carriers (American Airlines and Delta Airlines). These agreements allow guests to travel across the networks of more than one airline with a single reservation, and may permit the airline operating the first leg of the flight to issue all required boarding passes and check baggage to the passenger's final destination.

13. While interline agreements facilitate travel for passengers who require flights with more than one airline to reach their final destination, this type of arrangement does not permit the airlines to share competitively sensitive information, coordinate flight offerings, coordinate on pricing, inventory and yield management, coordinate on route planning, sales, marketing or scheduling across networks or to share net revenues and/or costs on the particular routes that are the subject of these arrangements.

14. In order to more effectively enter into and expand its transborder air passenger services offerings, WestJet has recently negotiated a phased codeshare agreement with a U.S. carrier (American Airlines) and is in negotiations for a similar agreement with another U.S. carrier (Delta Airlines).

15. Codeshare agreements allow two or more airlines to sell space on the same flight as if it were their flight. The airline selling seats is referred to as the marketing carrier and the airline providing the aircraft, crew and ground-handling support is referred to as the operating carrier. The result is a single operating flight bearing the two-character airline codes of each airline that is a party to the codeshare arrangement.

16. While codesharing allows airlines to offer their guests a range of travel options that extend beyond their own network, this type of arrangement does not permit the airlines to share competitively sensitive information, coordinate flight offerings, coordinate on pricing, inventory and yield management, coordinate on route planning, sales, marketing or scheduling across networks or to share net revenues and/or costs on the particular routes that are the subject of these arrangements.

17. WestJet does not have any form of anti-trust immunized agreement with any other airline for its transborder operations.

C. WestJet Served Transborder Overlap Routes

18. Of the 19 Transborder Overlap Routes identified by the Commissioner in Table 1 of the Commissioner's Application, WestJet provides non-stop, direct transborder air passenger services on 3 of these routes (the **WestJet Served Transborder Overlap Routes**):

- (a) Calgary - San Francisco;
- (b) Vancouver - Los Angeles; and
- (c) Vancouver - San Francisco.

D. WestJet Considered Transborder Overlap Routes

19. Of the 19 Transborder Overlap Routes identified by the Commissioner in Table 1 of the Commissioner's Application, WestJet has considered but, for one or more of the reasons outlined in paragraph 27, decided against entry on 13 of these routes (the **WestJet Considered Transborder Overlap Routes**):

- (a) Vancouver - New York;
- (b) Calgary - Chicago;
- (c) Calgary- Houston;
- (d) Toronto - Chicago;
- (e) Toronto - Cleveland;
- (f) Toronto - Denver;
- (g) Toronto - Houston;
- (h) Toronto - New York;
- (i) Toronto - San Francisco;
- (j) Toronto - Washington, D.C.;
- (k) Ottawa - Washington, D.C.;
- (l) Montreal - Chicago; and
- (m) Montreal - Washington, D.C.

III. TEST FOR INTERVENTION

20. I am advised by WestJet's counsel that the test for leave to intervene in this proceeding is as follows:

- (a) the person seeking leave to intervene must be directly affected and will suffer competitive consequences if the relief sought is not granted;
- (b) the matter alleged to affect the person seeking leave to intervene must be within the scope of the Tribunal's consideration or must be a matter sufficiently relevant to the Tribunal's mandate;
- (c) the representations made by a person seeking leave to intervene must be relevant to an issue specifically raised by the Commissioner; and
- (d) the person seeking leave to intervene must bring to the Tribunal a unique or distinct perspective that will assist the Tribunal in deciding the issues before it.

21. I believe that WestJet meets the test for leave to intervene in this proceeding and I address each element of the test in my Affidavit below.

IV. DISCUSSION OF ELEMENTS OF THE TEST FOR INTERVENTION

A. WestJet is Directly Affected by the Commissioner's Application and will Suffer Competitive Consequences if the Relief Sought is not Granted

22. WestJet is directly affected by the matters identified in the Commissioner's Application and will suffer competitive consequences if the relief sought is not granted.

23. The Commissioner's Application refers to rival air carriers and competitors of Air Canada, United and Continental. Specific references to WestJet are made by Air Canada in the AC Response and are adopted by United and Continental in the United/Continental Response.¹

24. As noted in paragraphs 7 and 8 above, WestJet is Air Canada's principal Canadian competitor for domestic and transborder air passenger services. WestJet is a rival competitor on the WestJet Served Transborder Overlap Routes and a potential competitor on the WestJet

¹ See paragraph 18 of the AC Response (adopted at paragraph 8 in the United/Continental Response); paragraphs 29 and 31 of the AC Response (adopted at paragraph 15 of the United/Continental Response); paragraphs 67, 68, 69, 70, 71 and 72 (adopted at paragraph 20 of the United/Continental Response); and paragraphs 101, 110 and 112 (adopted at paragraph 38 of the United/Continental Response).

Considered Transborder Overlap Routes. As such, WestJet is directly affected by the outcome of this proceeding.

25. As a result of the Alliance Agreements, WestJet has been constrained in its ability to provide effective competition to Air Canada, United and Continental on the WestJet Served Transborder Overlap Routes and has, to date, been unable to compete at all with Air Canada, United and Continental on the WestJet Considered *Transborder* Overlap Routes.

26. If the Proposed Merger is implemented, WestJet's ability to continue to provide effective competition for the provision of transborder air passenger services on the WestJet Served Transborder Overlap Routes will be significantly and materially constrained and its ability to provide any competition at all on the WestJet Considered Transborder Overlap Routes is likely to be virtually foreclosed.

27. Effective and competitive entry and expansion by WestJet on a particular route is a function of WestJet's ability to operate that route on a viable scale. For entry and/or expansion into a new or existing market to be viable for WestJet, WestJet must be able to operate on a sufficient scale to ensure the route is profitable. When considering entry or expansion into a market, WestJet considers a number of factors, including:

- (a) the ability to attract a sufficient number of behind market passengers (that is, those flying into a hub airport) and beyond market passengers (that is, those flying out of a hub airport);
- (b) the ability to attract a mix of different types of revenue generating passengers (leisure vs. business), which is a function of the nature of consumer demand for each market. By way of example:
 - (i) sun destination markets appeal to leisure travelers who, in WestJet's experience, tend to be more price sensitive and are willing to accept some schedule and routing inconvenience (time of day, 1-stop versus non-stop) provided it is offset by a meaningful price discount;

- (ii) in predominantly business markets, it is WestJet's experience that consumers tend to be more time sensitive rather than price sensitive and the quality of the service offering (time of day travel options, direct non-stop service, ability to travel out and return on the same day) become increasingly important characteristics that differentiate between competing airlines;
- (c) the frequency of flights required to satisfy the requirements of passengers, with leisure passengers requiring less frequency and business passengers requiring greater frequency; and
- (d) the scheduling of flights to provide passengers with suitable and appropriate routings and flight times to meet their leisure or business travel needs.

28. If viable service is likely to be impeded by barriers to entry and expansion, WestJet may decide not to enter that market, WestJet may decide to enter that market on a seasonal basis only, or WestJet may choose not to expand its existing service in that market.

29. The barriers to entry and expansion that exist in the Transborder Overlap Routes are significant and include barriers resulting from the interaction of two principal sources, namely:

- (a) structural barriers to entry and expansion (the **Structural Barriers**), specifically:
 - (i) the network hub system referred to in the Commissioner's Application; and
 - (ii) the fact that certain airports on the Transborder Overlap Routes have insufficient capacity to allow for sufficient access to take-off and landing slots, and/or may have other constraints based on the capacity of their existing facilities that increase barriers to effective entry or expansion; and
 - (iii) the fact that pre-clearance facilities in Canada and post-clearance facilities in the United States are significant and real constraints that

increase barriers to effective entry or expansion of services;
and

(b) contractual and behavioural barriers to entry and expansion (the **Contractual Barriers**):

(i) resulting from the ability of the Respondents to coordinate on key aspects of competition under the Alliance Agreements, including the ability to:

- a. share competitively sensitive information;
- b. coordinate flight offerings, coordinate on price, inventory and yield management, route planning, sales, marketing and scheduling across networks;
- c. provide reciprocal access to each of their respective frequent flyer programs; and
- d. enter into joint marketing arrangements, particularly in support of corporate and business travel; and

(ii) that are likely to result from the ability of the Respondents to operate virtually as a single entity following implementation of the Proposed Merger, including by sharing net revenues and/or costs on Transborder Overlap Routes, free from any incentive to compete with one another.

30. I understand from my own experience that the types of arrangements contemplated by the Alliance Agreements significantly reduce, but do not entirely eliminate, competition between the parties to those arrangements. That is, each airline continues to have an economic motive to compete on some level on one or more aspects of competition. For example, they may want to retain their relationship with their best frequent flyers or their best corporate customers. There is still an economic incentive for each airline to maintain an individual operating presence on markets that are considered key to them.

31. Unlike the Alliance Agreements, which maintain some incentive to compete, the Proposed Merger, including the sharing of all revenues and/or costs on an aggregate basis, will remove virtually all incentives for the parties to compete. In domestic U.S. markets, which in WestJet's view behave very similar to transborder markets, no U.S. airline is allowed to coordinate its capacity, schedule or pricing.

32. When airlines are free to combine their individual data on traffic flows, combine their traffic pattern data on corporate accounts, compare traffic volume data on operated flights, compare yield data on operated flights, and compare corporate market share requirements, discount levels with their individual corporate customers, assess the strength of each of their respective frequent flyer, loyalty and incentive programs, they are able to leverage that knowledge to create Contractual Barriers and enhance Structure Barriers, including by:

- (a) implementing marketing and sales strategies to promote increased loyalty from frequent traveller guests (particularly business travellers), resulting in ever higher switching costs for participating passengers;
- (b) determining which flights to consolidate to reduce over-all capacity and redeploy aircraft to other markets (both domestic, transborder and international);
- (c) maximizing (rather than optimizing) the utilization of airport and air traffic facilities by selecting the aircraft size that maximizes revenue from the route and minimizes the ability of competing carriers, such as WestJet, from accessing those facilities;
- (d) setting prices in response to a new entry;
- (e) increasing schedule coverage throughout the day; and
- (f) applying shared corporate travel, discount parameters to establish new corporate contracts and utilizing pricing and market power in those markets where they are dominant.

33. As long as there are some incentives between the parties to compete, the extent to which the parties engage in the types of activities described in paragraph 32 is extensive, but

not complete. When, however, parties to a proposed arrangement are able to engage in the types of activities described in paragraph 32 free from any incentive to behave for their own economic or other competitive benefit, the extent to which the parties will engage in the types of activities described in paragraph 32 is complete. Their ability to significantly enhance and entrench their market dominance through the creation of Contractual Barriers, including the enhancement of Structural Barriers, is increased by virtue of the fact that they are economically and operationally aligned to act as a single, dominant competitor.

34. Specifically, the ability of Air Canada, United and Continental to leverage shared information and to coordinate on pricing and other activities to a significant extent under the Alliance Agreements, and completely and wholly following implementation of the Proposed Merger, has served, will continue to serve and will further serve, to strengthen the Structural Barriers that enhance and entrench the market dominance of Air Canada, United and Continental, with the effect that competitors and potential competitors, such as WestJet will be unable to gain access to sufficient volumes of passenger traffic or to obtain sufficient and timely access to the necessary airport infrastructure and services, in order to provide effective competition.

35. WestJet is of the view that if the relief sought by the Commissioner is not granted, WestJet's ability to enter and/or expand its transborder air passenger services on the Transborder Overlap Routes will continue to be significantly prevented or lessened. Specifically, as a result of the interaction of the Structural Barriers and the Contractual Barriers:

- (a) WestJet will be unable to gain access to sufficient volumes of passenger traffic (including behind market passengers and beyond market passengers) because:
 - (i) one or both ends of these Transborder Overlap Routes involve a hub airport operated by Air Canada (in Canada) and United or Continental (in the United States);
 - (ii) with respect to business customers, many of these customers are employed by corporations that have made corporate travel arrangements with the Respondents, either individually or jointly, and the corporations will lose significant benefits (including benefits relating to their domestic

travel requirements) resulting from these arrangements if they redirect a meaningful portion of their business to a competing carrier; and

- (iii) business customers will lose the very significant benefits they obtain from participating in the reciprocating frequent flyer and incentive programs operated by Air Canada, United and Continental; and
- (b) WestJet will be unable to obtain sufficient and timely access to the airport infrastructure and services necessary to provide sufficiently frequent and appropriately scheduled flying times as the requisite level of the airports at one or both ends of these Transborder Overlap Routes are not available at viable times or at all:
- (i) lack of available landing slots at hub airports (the majority of which are held by one or more of Air Canada, United and Continental);
 - (ii) lack of available terminal gates;
 - (iii) lack of check-in counter positions; and
 - (iv) inability to obtain customs and immigration clearance, including by reasons of lack of access to staff that are able to provide customs and immigration clearance.

36. WestJet is further of the view that if the relief sought by the Commissioner is not granted, particularly as it relates to the Proposed Merger and pursuant to which the Respondents will be able to act as a single entity on all relevant aspects of competition, WestJet will face additional competitive impacts on other domestic, transborder and international routes on which it competes with Air Canada (domestically) or with one or more of Air Canada, United and Continental (on transborder and other international routes) (collectively, **Other Competing Routes**) arising as a result of:

- (a) the ability of passengers to use points they have earned for travelling with the Respondents on the Transborder Overlap Routes for travel on domestic, other transborder and international routes;

- (b) the corporate marketing and travel arrangements that provide large corporations with incentives and pricing discounts for travel with the Respondents on their domestic and other international routes if they direct a significant portion of their transborder air travel to the Respondents; and
- (c) the ability of the Respondents to redeploy aircraft onto other domestic, transborder or international routes that are no longer required to provide transborder services on any of the Transborder Overlap Routes as a result of the consolidation of flights on these routes by Air Canada, United and Continental,

(collectively, the **Competitive Impacts on Other Competing Routes**).

B. The Matters that Affect WestJet are Within the Scope of the Tribunal's Consideration of this Matter and are Relevant to the Tribunal's Mandate to Hear and Determine the Issues

37. The matters that affect WestJet are within the scope of the Tribunal's consideration of this matter and are relevant to the Tribunal's mandate to hear and determine the issues.

38. The matters that affect WestJet relate to:

- (a) the nature of the competitive landscape in transborder markets;
- (b) the Structural Barriers;
- (c) the Contractual Barriers;
- (d) the relationship between the Structural Barriers and the Contractual Barriers and how these impact competition in the airline industry generally and WestJet in particular;
- (e) the competitive impacts of the Alliance Agreements and the likely competitive impact of the Proposed Merger on the WestJet Served Transborder Overlap Routes and the WestJet Considered Transborder Overlap Routes; and

- (f) the competitive impacts on Other Competing Routes that affect or are likely to affect WestJet.

39. These matters are within the scope of the Tribunal's consideration of this matter and are relevant to the Tribunal's mandate to hear and determine the issues.

C. WestJet's Proposed Topics are Relevant to the Issues Raised by the Commissioner's Application

40. WestJet's proposed topics are relevant to the issues raised by the Commissioner's Application.

41. WestJet's proposed topics (the **WestJet Proposed Topics**) address the matters that affect WestJet in this proceeding and include:

- (a) the Structural Barriers and their impact on WestJet's ability to provide viable transborder air passenger services on the Transborder Overlap Routes;
- (b) the Contractual Barriers and their impact on WestJet's ability to provide viable transborder air passenger services on the Transborder Overlap Routes;
- (c) the relationship between the Structural Barriers and the Contractual Barriers and how these impact competition in the airline industry generally and WestJet in particular;
- (d) the competitive impacts of the Alliance Agreements and the likely competitive impacts of the Proposed Merger on WestJet's expansion plans involving the WestJet Served Transborder Overlap Routes;
- (e) the competitive impacts of the Alliance Agreements and the likely competitive impacts of the Proposed Merger on WestJet's entry and expansion plans involving the WestJet Considered Transborder Overlap Routes;
- (f) the competitive impacts on WestJet's ability to offer viable non-stop transborder air passenger services on the Transborder Routes;

- (g) the competitive impacts on Other Competing Routes that affect or are likely to affect WestJet;
- (h) the impact on WestJet if the relief sought by the Commissioner is not granted;
- (i) the significant adverse effects on Canadian consumers if WestJet is unable to provide effective, viable transborder air passenger services in competition with Air Canada, United and Continental;
- (j) the nature of the competitive landscape in transborder markets; and
- (k) the statements made and conclusions drawn by Air Canada concerning WestJet specifically and non-legacy carriers (to the extent they apply to WestJet), generally in the AC Response and adopted by United and Continental in the United/Continental Response.²

42. WestJet believes that the WestJet Proposed Topics are relevant to the issues raised by the Commissioner's Application, including, but not limited to, the following issues raised in the Commissioner's Application:

- (a) the AC/United Alliance Agreements and the AC/CO Alliance Agreement will continue to substantially prevent or lessen competition by reason of the ability of the Respondents to integrate their businesses and act as a single competitor;³
- (b) if the Proposed Merger is completed, the Respondents will make decisions on all aspects of competitive behaviour on Transborder Routes and with respect to passengers connecting to and from Transborder Routes in a manner that is indistinguishable in all respects from common ownership;⁴

² See footnote 1, see also the following Paragraphs of the AC Response: 3(d), 17 (adopted at Paragraph 8 of the United/Continental Response), 45 (adopted at Paragraph 16 of the United/Continental Response), 64 (adopted at Paragraph 20 of the United/Continental Response), 92 (adopted at Paragraph 37 of the United/Continental Response), 105, 106, 109, 111 and 115 (each adopted at Paragraph 38 of the United/Continental Response).

³ Commissioner's Application, Paragraphs 26; 30.

⁴ Commissioner's Application, Paragraph 37.

- (c) the Proposed Merger among competitors to comprehensively integrate their respective transborder operations will further enhance the Respondents' ability to exercise market power, leading to a likely substantial prevention or lessening of competition on Transborder Overlap Routes;⁵
- (d) when Transborder Routes are served by fewer competitors, consumers face materially higher prices than when Transborder Routes are served by a greater number of competitors;⁶
- (e) On the 19 Transborder Overlap Routes on which the Respondents currently overlap (set out in Table 1 of the Commissioner's Application), the AC/United Alliance Agreements and the AC/Continental Alliance Agreement provide the Respondents with the ability to coordinate their flight offerings to a degree that would result in a likely substantial lessening of competition;⁷
- (f) the Respondents face competitors who are significantly constrained by barriers to entry or expansion;⁸
- (g) entry or expansion by rival air carriers is unlikely to occur on Transborder Overlap Routes owing to significant barriers to entry or expansion⁹; and
- (h) timely and viable entry by any potential entrant sufficient to constrain the Respondents from exercising market power is unlikely to occur on the 19 Transborder Overlap Routes.¹⁰

D. WestJet has a Unique or Distinct Perspective to Address these Topics and its Participation will assist the Tribunal

43. WestJet has a unique or distinct perspective to address these topics and its participation will assist the Tribunal.

⁵ Commissioner's Application, Paragraphs 39; 60.

⁶ Commissioner's Application, Paragraphs 44.

⁷ Commissioner's Application, Paragraphs 48; 51.

⁸ Commissioner's Application, Paragraphs 53; 55; 59.

⁹ Commissioner's Application, Paragraphs 50; 54; 61.

¹⁰ Commissioner's Application, Paragraph 56.

44. WestJet has a unique or distinct perspective to address the WestJet Proposed Topics:

- (a) WestJet is Air Canada's principal Canadian competitor for domestic and transborder air passenger services;
- (b) there is no other Canadian airline that competes against Air Canada, United and Continental for the provision of transborder air passenger services on the same scope and scale as WestJet;
- (c) there is no other Canadian airline that competes against Air Canada on the same scope and scale as WestJet, whether domestically, nationally or internationally;
- (d) there is no other Canadian airline carrier that has the financial strength, business plan and desire to compete against Air Canada for the provision of transborder air passenger services involving all regions of the United States;
- (e) there is no other Canadian airline that has the level of experience that WestJet has involving considerations relevant to the entry and/or expansion of transborder air passenger services;
- (f) there is no other Canadian airline, that I am aware of, that has entered into wide-ranging interline and codeshare relationships with major U.S. airlines for transborder operations;
- (g) WestJet does not have any form of anti-trust immunized agreement with any other airline for its transborder operations; and
- (h) WestJet is the subject of a number of specific references in the AC Response, and adopted by United and Continental in the United/Continental Response.

45. WestJet's participation in this proceeding will assist the Tribunal in deciding the issues before it. In particular, by addressing the WestJet Proposed Topics, WestJet will assist the Tribunal to determine whether and/or the extent to which:

- (a) the Alliance Agreements have and are likely to continue to, prevent or lessen competition substantially on the Transborder Overlap Routes, the Other

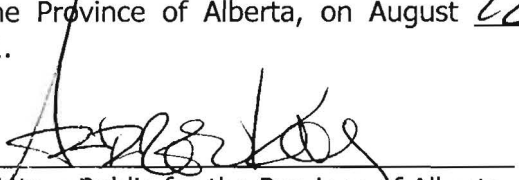
Competing Routes and potentially on other routes, for the purposes of the order requested by the Commissioner under section 90.1 of the Act; and

- (b) the Proposed Merger is likely to prevent or lessen competition substantially on the Transborder Overlap Routes, the Other Competing Routes and potentially on other routes, for the purposes of the order requested by the Commissioner under section 92 of the Act.

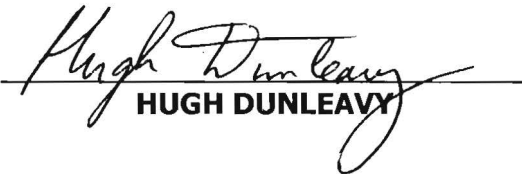
V. CONCLUSIONS

46. For the reasons outlined above, I believe that WestJet meets the test for leave to intervene in this proceeding.

SWORN BEFORE ME at the City of Calgary,
in the Province of Alberta, on August 22,
2011.




Notary Public for the Province of Alberta
ANDREW G. KAY
BARRISTER & SOLICITOR



HUGH DUNLEAVY

The document that is being electronically submitted to the Tribunal is an electronic version of a paper document that has been signed by the affiant. The signed document in paper copy is available and will be produced if requested by the Tribunal.

THIS IS EXHIBIT " A "
referred to in the Affidavit of
Hugh Dunleavy
Sworn before me this 22
day of August, 2011


A Commissioner for Oaths Notary Public
In and for the Province of Alberta

ANDREW G. KAY
BARRISTER & SOLICITOR

Dr. Hugh Dunleavy
85 Springborough Blvd. SW
Calgary, Alberta T3H 5T3
Canada
Email: hdunleavy@westjet.com

Home: (403) 240 2857
Office: (403) 444 2675
Cell : (403) 560 7567

PROFESSIONAL SUMMARY

A decisive, analytical and goal oriented executive with twenty-five years of airline industry experience in N. America, Europe, Middle-East and Asia. An extremely organized individual with a track record of excellence, innovation and industry recognition. Excellent leadership and interpersonal skills, with the ability to handle multiple simultaneous projects, motivate and guide staff to achieve goals. Appointed an honorary member of the Airline Group International Federation of Operations Research Societies (AGIFORS) in recognition of the contribution to airline revenue management.

Areas of Expertise

Executive Management
Sales & Marketing
Information Technology
Management Consulting

Revenue/Yield Management
Business Process Re-engineering
Operations Research

Network and Scheduling
Decision Support Systems
Strategy & Planning

Hugh is a frequent speaker at international airline conferences and a publisher of papers on airline issues including pricing, revenue management and information technology. Hugh has also been a guest speaker at the International Airline Management Institute (IAMTI) and a Board member of the Revenue Optimization Council. Hugh has held the position of Professor of Operations Management at Concordia University and north American editor for the Journal of pricing and revenue management. In addition, Hugh has held senior management positions at WestJet Airlines, Lufthansa Systems, Star Alliance, Air Canada and PROS Revenue Management.

PROFESSIONAL EXPERIENCE

WestJet

Executive Vic-President Strategy & Planning

Oct 2009 – present

In October 2009, I was asked to take on the Strategy & planning role for WestJet which involved assuming responsibility for Network Planning, Scheduling, Pricing and Revenue Management, Airline Partnerships, Strategic Planning, Information Technology, Operations Research and Regulatory & Government Affairs. Focus is on setting the vision and direction for the airline for the next 5 to 10 years and ensuring the optimal deployment of the fleet, managing the revenue to continue the profitable growth of the airline.

WestJet

Executive Vice President – Commercial Distribution

Sept 2006 – Oct 2009

Promoted to EVP in September 2006 with responsibility for all Sales, Web, Call-Centre, WestJet Vacations, Airline Partnerships, Business Solutions and Information Technology. In this role, Hugh has responsibility for delivering on all sales objectives, utilization the distribution channels to maximize sales and minimize the cost of sale, driving the introduction of new business solutions and serve as the CIO of the organization.

WestJet

Vice President – Revenue

Jan 2005 to Sept 2006

I joined Westjet Airlines in January 2005 to restructure the Network Planning, Scheduling, Revenue Management and Pricing departments and to ready the airline for an increasingly complex business model necessary for the airline to improve its ability to compete at a global level. In 2005 I was responsible for growing the airline revenue from C\$1.0 billion to C\$1.4 billion.. Although WestJet has been in operation for almost 10 years and has always demonstrated strong year over year growth, the fastest growth ever recorded for the company was in 2005. This profitable growth target will increase to \$1.8 billion in 2006.

Other responsibilities included the Steering Committee for the new airline reservation system, establishing a strategic planning group and implementation of key performance metrics across the airline. In addition I also undertook responsibility for the Measurement Solutions Group and enhanced their skills by expanding the Operations Research capabilities of this group.

Vice President – Commercial, Lufthansa Systems Jan 2003 to Dec 2004

Joined Lufthansa Systems – Americas in January 2003 to establish a sales, marketing and systems support organization for the Americas. Responsibility was in the commercial services covering Reservation Hosting, MIDT, network planning, scheduling, revenue management, pricing, business process outsourcing. Geographical responsibility was all of the Americas.

Professor – Operations Management Concordia University Academic Year 2002

Responsible for teaching the Operations Management course at the John Molson School of Business, Concordia University. This is an MBA program for students interested in the Aviation industry. Course topics included, operations research, business process engineering, quality assurance, optimization, forecasting, linear programming, economics, scheduling, ERP, operations research, operations management and project management.

Sr. Director Air Canada – Marketing Mar 2001 to 2003

Assigned to Air Canada from the Star Alliance in March 2001 to address the severe revenue impact of the downturn in the business traffic segment due to the deterioration in the World economy. Established a Revenue Management task force to identify the root cause of the revenue leakage problem, identify the best course of corrective action and to implement those actions as fast as possible. Areas of responsibility included the introduction of new technologies to optimize the allocation of fleet resources, new algorithms for leg class seat allocations, review of Pricing actions and the assignment of fares to booking classes. A major education program was initiated to retrain staff, provide mentoring where necessary and to establish a certification program for all Revenue Controllers. The important role of management in setting consistent goals and the associated performance metrics to ensure that the revenue managers were all working consistently towards the same goal was a key component of the remedial processes implemented at the airline. Implemented a number of significant programs within Marketing that produced cost savings of more than CDN\$ 30 million and incremental revenue of more than CDN \$50 million.

Star Alliance - Director Global Networks Nov 99 to 2001

Seconded by Air Canada to the Star Alliance to assist in the establishment of the Information Technology group and with specific responsibility for the Global Network business area. Global Network responsibility included Network Planning, Scheduling, Revenue Management & Pricing, Revenue Accounting and Regulatory Affairs. On establishing this group I was also requested to establish and manage the Star IT Strategy and the Star Market Presence business areas.

Air Canada, Director Operations Research & Business Innovations 1998 to 1999

Director of the Operations Research and Business Innovations at Air Canada. This assignment expanded my areas of responsibility to encompass all branches of the airline for which I had assigned either Operations Research or Business Process resources. This responsibility was in addition to my continued responsibility as Director of Business Solutions. Most recent additional responsibility is head of the Star Alliance Research group for revenue management. This work was undertaken as an independent consultant to Air Canada.

Air Canada, Director Business Solutions 1996 to Nov 1999

This was a consulting assignment, reporting to both the Vice President of Information Technology and the Vice President of Marketing. Responsible for establishing the future strategic direction of Marketing, with particular emphasis on the vision of a network based customer-focused airline. Responsible for the Operations Research and Business Process re-engineering groups of the airline. This involved the design and implementation of complex, but integrated business solutions, that encompass decision support systems, staff, policies, processes, procedures and organization, to maximize the revenue generation capabilities of the airline. This work involves considerable long-term visioning and coordination activities,

not only within the different business units of the airline, but also with external vendors to ensure that they deliver the appropriate system capabilities to match the strategy of Air Canada.

PROS Strategic Solutions, Inc.

1992 to 1996

Sr. Vice President Research & Design

Responsible for establishing an advanced research program for the company. Participated in research on core business concepts, business assumptions and processes associated with next generation revenue management products for the Airline, Pipeline and Energy industries. Specific areas of work included the overall responsibility for the design and architecture of the suite of PROS decision support systems. In addition I served as the internal and external expert to PROS Business Consultants and System Developers. I was responsible for providing leadership in the design and specification of the majority of modules integrated into the PROS suite of products. Consultant to the various airlines using the PROS products. Expanded scope of PROS activities into Energy, Cargo and Flight Schedules/Operations. Wrote research papers for presentation at airline and academic conferences. Participated in Sales and Marketing activities undertaken by PROS to promote their vision of the future airline industry and the benefits of the PROS suite of products.

Lufthansa German Airlines

1990 until 1992

Manager Revenue Management Systems

Established the Revenue Management Systems department at Lufthansa. Recruited and organised the training of the staff for the various work areas necessary to support the end users, Route Revenue Controller and the Group Revenue Controller functions. Implemented the PROS III revenue management system. Designed and specified changes to the PROS system to meet Lufthansa business requirements. Implemented the PROS Group revenue management system. Designed and specified the changes to the system to integrate the product into the Lufthansa environment. Expanded the scope and capabilities of the Group system over the original PROS version. Responsible for the mainframe based Information Management System. Designed core components and features of the system. Specified the various interfaces to the revenue management system to populate the database with information and made this information available world wide, to all Lufthansa offices.

Lufthansa German Airlines, External Consultant

1988 until 1990

Established the project team responsible for implementing the PROS III revenue management system into the Lufthansa environment. Designed and specified the interfaces to PROS III from the Schedules, Revenue Accounting, Reservations and Departure Control systems. Participated with Canadian Airlines International and PROS to design and develop the next generation Revenue Management System known as PROS IV. Liaised with other Project managers within the Lufthansa Systems Development Division to ensure that all of the project activities were coordinated and running on schedule. Major participant in the specification of the enhancements and modification to the Lufthansa Reservation system to support revenue management requirements.

Saudi Arabian Airlines, Planning & Research Division

1980 to 1987

Responsible for establishing a strong and effective Operations Research group within the Planning & Research Division of the airline. Designed and developed the first suite of forecasting models used by Saudia. Developed a prototyping methodology for the design and development of Management Information Systems. This work was published in an AGIFORS Symposium. Designed and development of a series of Financial Models, Route Profitability Models and Schedule Profitability models for various departments within Saudia. Presentation of strategic and tactical planning courses to Saudia executives. Internal Consultant to the Vice President of the Materials Management Division on the use and calibration of the computerized materials management and inventory control systems. Design and development of computer models to investigate and resolve the operation of the Material Management inventory system.

Stephen Howe Consultants

1978 to 1980

Business Consultant - Military Operations Research

Undertook operations research studies for the United Kingdom Ministry of Defense and the United States Department of Defense. Developed simulation models for vertical take off aircraft and the effective use of

ski-jump launch systems. Developed computer simulation models to investigate advanced combat aircraft performance as a function of aerodynamic characteristics. Undertook a variety of military studies on the impact of emerging and new technologies on future conflict scenarios. Designed deployment strategies for ballistic weapon delivery systems in European theater conflict scenarios. Undertook basic research on directed energy weapon systems and their deployment in major conflict scenarios.

United Kingdom - Ministry of Defense

1977 to 1978

Higher Scientific Officer – Operations Research

Investigation of various weapon systems in maritime conflict scenarios. Developed computer simulation models of the effectiveness of next generation weapon systems for anti-submarine warfare roles in defense of naval task forces. Design and development of an advanced threat simulation models for submarine attacks on a defended task force. Specification of the operational requirements of the Next Generation Large Naval Helicopter for the Royal Navy. Participation in the scientific analysis of military exercises with various units of the British Armed Forces.

Academic Qualifications:

Doctor of Philosophy - Theoretical Physics

Thesis - Electronic Transport Properties of Disordered Systems
University of Sheffield, United Kingdom.

Bachelor of Science Special Honors- Physics

University of Sheffield, United Kingdom.

Airline Industry Publications

Future of Airline Revenue Management – A New Perspective	2008
Journal of Revenue and Pricing Management	
Future of Airline Revenue Management	2005
Journal of Revenue and Pricing Management	
Industry Trends in the Airline Industry	2003
Lufthansa Systems ProfitLine User Conference – Berlin	
Future Airline Tactics in Controlling Distribution	2003
Unisys Industry Conference - Nice	
Methodology for Alliance Based Revenue Management	2001
IATA Revenue Management Conference - Toronto	
Handbook of Airline Economics (First edition)	ISBN 0-07-607087-5
Airline Passenger Overbooking	
Aviation Week Group, McGraw Hill Company	
The Role of Fares in Revenue Management	1996
(AGIFORS Yield management Study Group Zurich 1996)	
Origin-Destination Seat Inventory Control	1995
(International Airline Conference - Jeddah 1995)	
A Probabilistic Approach to Airline Overbooking	1994
(Sixth IATA - Yield Management Conference Barcelona 1994)	
Migration from Leg to Network Based Revenue Management	1994
(Multi Industry Conference on Revenue Management - Wake Forest Univ. 1994)	
Migration Towards Seamless Availability and the Dynamic Evaluation of Individual and Group Booking Requests	1994
(Aviation, Transport and Travel Information Systems, Paris ATTIS 1994)	
Managing the Group Passenger Business	1991
(Fourth IATA - Yield management Conference Miami 1991)	
Development of a Group Traffic - Forecasting and Optimization System at Lufthansa German Airlines	1991
(AGIFORS - Yield management Study Group Miami 1991)	
The Future of End User Computing	1984

(AGIFORS - Computer Science Study Group - London 1984)

A Prototyping Methodology - Developing an Information Management System

1982

(AGIFORS Symposium - Athens 1982)

Note: In addition to the papers published at international conferences, a larger number of papers have been written, but because of the proprietary nature of the information, have only been published internally at the sponsoring company.

Theoretical Physics Publications:

Ph.D. Thesis - Electronic Transport Properties of Liquid Metals

1978

Optical Properties of liquid metals

1979

(Jones and Dunleavy, Journal of Physics F, Metal Physics 1979)

Electromigration in Liquid Metal Binary Alloys

1979

(Jones and Dunleavy, Journal of Physics F, Metal Physics 9, 8, 1979)

Multiple Scattering Calculations of the Resistivity of Liquid Metals

1977

(Jones and Dunleavy, Journal of Physics F, Metal Physics 8, 7, 1977)
