

ANTITRUST IMMUNITY APPLICATIONS GO THROUGH A LENGTHY REVIEW PROCESS BY THE U.S. DEPARTMENT OF TRANSPORTATION (DOT)

Some Applications Are Uncontested And Win A Quick Approval While Others Are Contested And The Process Isn't Completed For Years.

- The process is initiated by an application to DOT for antitrust immunity.
- Within a week or so, DOT issues an order granting access to confidential documents by attorneys and outside experts for interested parties who submit affidavits that they will not publicly disclose confidential material.
- DOT then reviews the application and, in most cases, issues a further order requiring additional information (evidence request).
- The timing of such the evidence request varies from case to case—
 - In the SkyTeam II trans-Atlantic docket, the application was filed in June 2007 and the evidence request was issued in September
 - In the **oneworld** trans-Atlantic docket, the application was filed in August 2008 and the evidence request was issued in December
- After the applicants respond to the evidence request, DOT will in due course deem the application to be complete, and establish a procedural schedule for answers and replies, which are filed by various parties to the process—
 - In SkyTeam II trans-Atlantic, the application was deemed complete in October 2007 (4 months after filing)
 - In **oneworld** trans-Atlantic, the application was deemed complete in April 2009 (8 months after filing)
- The order deeming the application complete triggers a six-month statutory deadline for DOT to issue a show cause (or tentative) order, however, DOT has failed to meet the statutory deadline in some cases—
 - For example, in **oneworld**, the statutory deadline was October 31, 2009, but the application is still pending
- The answer period is usually about 21 days, and the reply period about 10 days after answers.

- The next step is a final order, which can be commented on by interested parties. Usually DOT allows 14 days for objections, and 7 days answers to objections.
- The final order can be challenged in the U.S. Court of Appeals.