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March 28, 2006

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of ex parte meeting in ET Docket No. 05-247, Petition for Declaratory Ruling of Continental Airlines.

Dear Ms. Dortch:

On March 28, 2006, representatives of the Airports Council International – North America ("ACI-NA") met with Lauren Van Wazer of the Office of Engineering and Technology in connection with the matter identified above. The ACI-NA representatives were Patricia Hahn, Senor Vice President and General Counsel of ACI-NA, John Payne, Chief Information Officer of San Francisco International Airport, and Matthew C. Ames of Miller & Van Eaton, PLLC.

During the meeting, the participants discussed the unique nature of the airport environment, the need for airport managers to have flexibility in dealing with local circumstances, and related issues.

A copy of the presentation distributed at the meeting, which contains the issues discussed, is attached.

Very truly yours,

MILLER & VAN EATON, P.L.L.C.

By Matthew C. Ames

cc: Lauren Van Wazer

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OET SHOULD ALLOW AIRPORTS TO USE REASONABLE MEANS TO RESOLVE DISPUTES OVER THE USE OF WI-FI FACILITIES

- The ***Airports Council International – North America*** ("ACI-NA") represents the local, regional and state governing bodies that own and operate the principal airports served by scheduled air carriers in the United States. The U.S. airport members of ACI-NA enplane more than 98 percent of the total domestic, and virtually all international, scheduled airline passenger and cargo traffic in the United States.

- ***ACI supports Massport because the safe and efficient operation of airports across the country requires local control over airport property.*** Massport has concluded that its local circumstances demand that Continental Airlines not operate its own Wi-Fi facility. Like nearly all of ACI-NA's members, Massport is a publicly-owned, non-profit entity that serves the needs of the public. Massport has concluded that it is in the public interest for it to maintain control over its physical environment by installing and operating a single communications infrastructure, just as Massport maintains control over all other aspects of the physical environment at Logan Airport. This conclusion merits the respect and deference of the FCC.

- ***Airports are unique and highly complex entities***. A local airport authority does not simply provide a place for the public to board aircraft: it oversees an entire microeconomy consisting of airlines, ground services operations, retail concessions, car rental firms, communications providers, and individual travelers, among others. The airport authority must construct, maintain, and periodically expand or reconfigure the physical infrastructure of the airport, while responding to the economic development needs of the local government and the local business community. The sheer number of entities operating in a relatively confined space raises unique management challenges. The airport must balance and mediate among all of these interests; indeed, individual participants in this microeconomy typically turn to the airport to resolve disputes. Examples include:

    - Conflicts between airlines over the use of shared facilities;
    - Conflicts between concessionaires over the effects of one vendor's business (music, food odors, etc.) on another's;
    - Location and maintenance of radio antennas for airline operational use; and
    - Location and maintenance of cellular antennas for carrier use on airport premises.

- ***The communications infrastructure on an airport must meet the needs of all the airport's users.*** Airports typically operate internal networks to support their own operations. Some airports provide services to tenants through shared tenant services arrangements or by other means. Often, tenants pay for service directly from the ILEC or another provider. Thus, there may be a number of different sets of infrastructure on the premises. This alone imposes a significant facilities management burden on the airport, and disputes among wireline providers or between tenants and providers are often

referred to airport management. Installation of a single common system improves efficiency in a number of ways. Examples include:

- Orlando airport's single, common Wi-Fi infrastructure is being used by United, Continental and others for baggage handling and curb-side check-in; and
- San Francisco's single, common Wi-Fi infrastructure is being used by United for baggage check-in, by the Transportation Security Administration ("TSA") for the US Visit application, and will be used by Airbus's A-380 and Boeing's Dreamliner (787) for aircraft-to-ramp communications.

- ***Airports must be allowed to respond to local conditions in the communications field.*** Not only must airports take steps to manage public property efficiently and effectively, but they must be able to respond to problems created by their various tenants and users. For example, all airports have an interest in ensuring that all of their users have access to Wi-Fi service everywhere on their premises. But allowing tenants to install facilities willy-nilly could result in large unserved areas within an airport: financial or technical considerations may make it impractical to extend new services throughout the airport if prime real estate is taken by first movers. Airlines and other tenants have little incentive to respect the rights or needs of other users. Consequently, different airports are trying different approaches to resolving these potential conflicts.

- ***Airlines and other tenants are deploying mission-critical applications using Wi-Fi, regardless of FCC policy; airports have no choice but to deal with resulting problems.*** The versatility and low cost of Wi-Fi technology is driving its rapid introduction for a wide variety of applications. The FCC cannot effectively mandate that users avoid using unlicensed frequencies for mission-critical applications. At the same time, allowing a few favored tenants to install Wi-Fi facilities without oversight will only limit the usefulness of the technology. In particular, the limited number of channels available for 802.11b applications poses severe limitations in the crowded airport environment. For example, at one large West Coast airport, a major airline sought to introduce a Wi-Fi based baggage-handling application to comply with TSA security requirements. The security of this system would have been compromised by interference from the airport's public Wi-Fi network; the only way to resolve the problem was through a single architecture. Other examples include:

  - Use of Wi-Fi for TSA's US Visit kiosks at San Francisco International Airport; and
  - Anticipated use of secured Wi-Fi for transmission of video images identifying check-point breaches to first responders (to avoid clearing a terminal of passengers in the event of a security breach).

- ***Airports must provide for the safety and security of the public.*** Not only do most airports employ their own police and fire services, but they must meet the needs of the airlines, the FAA, the TSA, and other law enforcement agencies. These users are now turning to Wi-Fi-based applications to help perform critical functions. Airports anticipate that their Wi-Fi infrastructures will be used for life/safety applications and have designed

them to be fault-tolerant and secure and continue to invest in and manage them as a 24 x 7 resource.

- ***Allowing an airport to take steps to ensure effective and ubiquitous wireless service on airport property, while balancing the airport's other obligations, is entirely in the public interest.***

- ***OET has discretion to carve out an airport exception, and there is no compelling FCC policy that would preclude such an exception.*** Airports are unique environments, with unique concerns. OET can preserve flexibility for both airports and for Commission policy by creating a narrowly-tailored exception for Massport and other airports.

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