U.S. Department of Justice

Antitrust Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 13 1993

Donald I. Baker, Esquire
1450 G Street, N.W.
5th Floor
Washington, D.C. 20005

Dear Mr. Baker:

This letter responds to your request for a business review letter, pursuant to 28 C.F.R. § 50.6, stating the Antitrust Division's current enforcement intentions regarding the proposed operation of the AirPlus program in the United States. AirPlus is a credit card issued by airlines that may be used to purchase air transportation, hotel, car rental, and other travel-related services. AirPlus wishes to expand from its present European base to a worldwide scope, with a regional organization to cover North and South America. AirPlus plans to offer its merchant program broadly in the United States and to allow United States air carriers to become card-issuing members of AirPlus. Based upon the information that you have submitted, and our own investigation, the Department of Justice has no current intention to challenge the implementation of the AirPlus credit card program.

According to your representations, AirPlus was formed in 1986 by a number of European airlines in order to provide a business-oriented travel expense charge card. It is operated by AirPlus Company, Ltd., a British corporation based in London, the stock of which is currently owned by nine participating airlines: Aer Lingus, Alitalia, Austrian Airlines, British Airways, Finnair, Iberia, Lufthansa, Sabena, and Swissair. Any airline licensed to provide air passenger transportation may join, either by buying stock or by obtaining a nonexclusive license and paying a service fee.

AirPlus has a license from the Universal Air Travel Plan ("UATP"). UATP issues the Air Travel Card which is used exclusively for purchases of airline transportation. The AirPlus card is printed with the AirPlus name, the issuing

airline's name, and the Air Travel Card name and logo. Approximately 30 foreign and domestic air carriers issue the Air Travel Card, which is accepted by 200 air carriers. Airlines that become members of AirPlus are required to become contractors for UATP. While at present the UATP license only allows solicitation of subscribers outside of North America, it permits the AirPlus cards to be issued worldwide. Further, the license provides that if AirPlus attracts United States air carriers, and those carriers issue cards to European subscribers, then foreign air carriers may solicit United States subscribers.

Under the AirPlus program, airlines issue AirPlus cards to subscribers, both individuals and business firms. Presently, there are 60,000 subscribers. AirPlus Company recruits merchants that will accept the cards for payment of services, negotiates the discount fee with the merchants and operates the exchange which pays the merchants and collects from the airlines. Each AirPlus member pays an annual fee for each subscriber and for each card issued. Each member also pays AirPlus a service fee based on the value of all goods purchased with its AirPlus cards.

AirPlus is nonexclusive: participating airlines and merchants may issue their own proprietary credit cards and may accept any other credit cards, and subscribers may hold AirPlus cards from more than one airline, as well as any other credit cards. Airline participants agree only that they will devote no less effort to promoting AirPlus to subscribers than they do to their own cards. Each airline sets the terms of its agreements with its subscribers, and is responsible for collecting from them amounts charged on the cards.

In evaluating the likely competitive effect of the AirPlus program, we have considered whether its operation is likely either to result in the exercise of market power or to facilitate collusion in credit card markets or in airline transportation markets. We have concluded that the risk of either of these results is insufficient to justify blocking the program at this time. The existence of a number of credit cards that can be used for travel-related services, such as VISA, Mastercard, and American Express, makes it unlikely that consumers will face anticompetitive price increases in any credit card market as a result of the introduction of the AirPlus card. Similarly, the established presence of broad-based and proprietary credit cards, makes it unlikely that AirPlus could exercise market power over any of the merchants accepting the AirPlus card. Moreover, as proposed, the AirPlus program does not appear likely to facilitate collusion among card issuers.

It is also unlikely that the AirPlus program would affect competition in air transportation markets. To the extent any individual airline has market power in any air transportation markets, vertical integration of any airline into the credit card market is unlikely to increase or enhance the exercise of that market power. Moreover, any collective refusal by airlines participating in AirPlus to accept other credit cards for purchases of airline tickets would be subject to the antitrust laws. Thus, airlines should not be able to jointly exercise market power in air transportation markets through the AirPlus program.

The AirPlus program does not appear likely to facilitate collusion among airlines. The only information concerning airline sales that will be exchanged through the program will be billing information. Airline ticket prices are publicly available, so the release of this information will not likely be competitively harmful. Nor will this information enable a competitor to have sensitive information about the volume of sales. Airlines make sales in a number of ways, only one of which will be by the AirPlus card.

Accordingly, based upon the information submitted to us, the Department of Justice has no current intention to challenge the above-described activities of the AirPlus program. However, the Department reserves the right to bring an enforcement action in the future with regard to any aspect of the program or its activities that may be found to be anticompetitive in purpose or effect.

This statement is made in accordance with the Department's business review procedure, 28 C.F.R. § 50.6. Pursuant to that regulation, your business review request and this letter will be made publicly available immediately. Your supporting data will be made publicly available within thirty days, unless you request that any part of the material be withheld in accordance with Paragraph 10(c) of the business review procedure.

Sincerely,

John W. Clark

John W. Clark
Acting Assistant Attorney General