U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

SEP 2 0 2011

Carl B. Nelson
Associate General Counsel
American Airlines, Inc.
1101 17th Street NW Suite 600
Washington, DC 20036

Dear Mr. Nelson:

By letter dated July 22, 2011, you requested clarification of the Order Limiting Operations at New York LaGuardia Airport, 71 FR 77854 (Dec. 27, 2006), as amended by 76 FR 18616 (Apr. 4, 2011) (LGA Order). Specifically, you inquired whether Operating Authorizations (OAs or slots) that had been allocated to American Eagle Airlines, Inc. (American Eagle), which is a wholly-owned subsidiary of AMR Corporation (AMR), could be recorded as being allocated to American Airlines, Inc. (American), which also is a wholly-owned subsidiary of AMR. Assuming an affirmative FAA response, American requests that 86 LaGuardia Airport (LGA) slots currently allocated to American Eagle be recorded as allocated to American effective October 30, 2011.

Under the High Density Rule (HDR), 14 C.F.R. part 93, subparts K and S, which prior to 2007 regulated slots at LGA, American and American Eagle had been separately allocated slots based on which entity operated them. Those rules permitted permanent and temporary slot transfers between the carriers as operational needs changed. *See* 14 CFR § 93.221 (which continues to apply only to slots at Ronald Reagan Washington National Airport). The FAA issued the LGA Order as a short-term measure limiting LGA operations until the FAA could replace the HDR, which expired on January 1, 2007, with a long-term congestion management rule. 71 Fed. Reg. 77854, 77854-55 (Dec. 27, 2006). The LGA Order assigned OAs to carriers based on the slots or slot exemptions held by the carrier to facilitate a smooth transition from the HDR to the Order. *Id.* at 77856. The LGA Order prohibited transfers of slots that would extend beyond its effective date because the FAA recognized the Order was not a long-term solution and wanted to maintain the status quo to protect various aspects of a then-proposed rule. *See id.* at 77857.

The LGA Order appears to have prohibited permanent transfers of slots between commonly-owned and -controlled carriers. This situation is unique compared with the Orders Limiting

Operations at John F. Kennedy International Airport and Newark Liberty International Airport, which did not transition from the HDR. 73 FR 3510 (Jan. 18, 2008), as amended by 76 FR 18620 (Apr. 4, 2011) (JFK Order); 73 FR 29550 (May 21, 2008), as amended by 76 FR 18616 (Apr. 4, 2011) (EWR Order). Those Orders allocated OAs to the carrier under whose designator code an operation was scheduled. Par. (1)(a) at 73 FR 3510, 3516; Par. (1)(a) at 73 FR 29550, 29554. The effect of that allocation was that all JFK and EWR slots were allocated to American even when American Eagle operated the flights. That allocation method recognized that slots should be allocated to the carrier that exercises control over the scheduling and marketing of the flight.

Regardless of the LGA Order's apparent prohibition of slot transfers, the FAA has a long-standing interpretation that the slot holdings of two merging carriers become the slot holdings of the surviving carrier without engaging in a slot transfer. The FAA views changes to slot holdings resulting from a business reorganization to be the equivalent of a ministerial amendment to the slot holdings records. Similarly, the FAA would view a change to the holder status of a slot allocated to a regional codeshare partner as a ministerial action because the slot ultimately is under the control of the mainline carrier. Accordingly, the FAA agrees that slots currently allocated to American Eagle should be allocated to American, and that a slot transfer is not necessary to amend the slot holdings records.

The FAA will amend, with an effective date of October 30, 2011, the slot holder to American for the slots identified on the enclosed listing. These slots would then be recorded as operated by American unless a slot is subject to a temporary slot transfer to another carrier, and that transaction has been approved by the FAA.[1] Any of these slots currently recorded as operated by another carrier resulting from a temporary slot transfer would revert to operated by American when those transfers expire. American could use slot transfer procedures under the LGA Order to temporarily transfer the operating status to American Eagle or other carriers. The Slot Administration Office will separately confirm when the slot records have been amended.

This response was prepared by Robert Hawks, an Attorney in the Regulations Division of the Office of Chief Counsel. We hope this response has been helpful to you. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200

[1] FAA records currently show these slots are not subject to any temporary transfers on or after October 30, 2011.