

THE OFFICIAL JOHN F. BROWN COMPANY
 **RENTAL CAR PRACTICE NEWSLETTER**

Issue 2, Volume 2

2 JUNE 2003

Reissued on 6 June 2003 with a Correction

Note to our readers: We are reissuing this newsletter with a correction. When we distributed this issue of the newsletter several days ago, in our "Dear RAC Consultant" section, we mistakenly reported that at BWI the concession agreements require the industry to form a consortium for the operation and maintenance of the QTA, including the fuel operation. That is not correct. There is no common QTA planned at the BWI consolidated rental car facility. Each rental car firm will either develop its own QTA or enter into an agreement to use that of another firm. There will be a consortium that is responsible for the operation and maintenance of the common areas of the rental car facility, as well as for the operation of the common busing system.

It is our pledge to you to make every effort to provide current and accurate information, and we apologize for this error. We are reissuing this newsletter with the correction.



ANC RENTAL POSTS 2002 NET LOSS OF \$534 M

(Summarized from Dow Jones Newswires 05-22-03)

On Thursday, May 23, 2003, ANC Rental Corp, parent company of National and Alamo, posted a net loss of \$534 million on income of \$2.4 billion in its annual report for 2002. ANC reported a net loss of \$606.7 million on income of \$2.9 billion in 2001. The company reported its earning for the year ended December 31, 2002 in a 10-K filing submitted to the SEC.

According to the filing, ANC expected to see net losses of \$92.7 million of the first quarter of 2003. ANC said a weak domestic economy, the lingering effect of 9/11, and the company's bankruptcy filing continue to have an impact on business.



LAX TO REQUIRE OFF-AIRPORT CAR RENTAL OPERATORS TO DOUBLE-BUS

(Summarized from Auto Rental News 05-20-03)

A new off-airport rental car agreement is set to go into effect on July 1 at LAX which will dramatically change the way off-airport operators conduct their busing operations. Beginning on that date, off-airport operators will no longer be able to take their buses into the central terminal area and pick passengers up at the curb. Instead, the airport will shuttle the off-airport customers to a remote lot (Lot C) where the operators will pick up and drop off their passengers. Only the ten on-airport operators (Hertz, Avis, Budget, National, Alamo, Advantage, Enterprise, Dollar, Thrifty, and Fox/Payless) will be allowed to pick up and drop off customers at the curbs in the central terminal area.

According to airport personnel, the change is part of a multi-phased program to bolster airport security by lessening congestion around the terminal areas, thereby allowing law enforcement personnel quicker access to address emergencies or threats.

The new off-airport agreement also eliminates the exemption for each off-airport operator's first \$1 million in revenues. All gross revenues from airport business will be subject to the 8% commission fee.

The new on-airport agreement, which raised the percentage fee from 9% to 10%, went out for bid last October and went into effect in February. The new on-airport agreement limits the number of times company buses can circle the terminal area.



DEAR RAC CONSULTANT, WHAT I'VE BEEN WONDERING IS...

We need to develop new car rental fuel and wash facilities at our airport, and we need to move to some kind of common operation to save valuable space. However, the RAC representatives are telling us they oppose anything that might expose them to joint and several liabilities. How are other airports dealing with this issue?

RAC Obligations for Shared Facilities

With the relatively recent development of consolidated car rental facilities, it is easy to forget that there are many situations, short of a complete consolidated facility, where the airport is or would be best served by the rental car companies sharing the use of an on-airport resource, facility, or possibly a common transportation system. Often it is simply a QTA (quick turnaround facility) where rental car companies fuel and wash cars. In these facilities, the rental car companies might share everything, using the fuel islands and car washes in common, or each company might have its own fuel island(s) and car wash(es) and simply share a common fuel tank, or each company might have its own tank and share just a fill pad.

The possibilities for joint use (facilities used by a subset of the on-airport operators, meaning two or more but not necessarily all) or common use (facilities available for use by all on-airport operators) facilities, large or small, are many, and vary with each airport.

As more joint use and common use car rental facilities are developed at airports seeking optimal use of limited resources such as land and available curbside, the issues of insuring that the financial, operating, and maintenance liabilities rest with the car rental operators of those facilities have moved the industry, generally kicking and screaming, into the types of joint and common use agreements and consortiums that have so often been used by the airline industry. This is a developing area in the car rental industry, and requires serious pressure by airports to overcome the industry's historic aversion to anything they see as sharing liability with their competitors.

However, the realities of the new generation of joint and common use facilities, particularly fuel facilities where the risk and liability is relatively high, require that the industry embrace, however reluctantly, new approaches to solving these issues. Formation of an industry consortium, or the execution by the rental car companies of participation agreements dictating their obligations and liabilities for a given facility, are methods now being used by airports.

In the formation of an industry consortium, the car rental operators form a legal entity that then enters into an agreement, often with a third party, for the operation and maintenance of the subject facility. In participation agreements, no separate consortium or entity is formed, but each company signs as a participant to the agreement outlining their joint and several obligations for the maintenance and operation of the subject facility. In either event, the rental car companies become jointly and severally

liable for the obligations outlined in the agreement, and the airport is arguably spared the headache of attempting to assign and enforce individual obligations for joint or common use facilities.

One of the first common use fuel consortiums was formed at MSP, where the operators share a garage QTA with a common fuel system. At BWI the concession agreements require the industry to form a consortium as well. There is no common QTA planned at the BWI consolidated rental car facility. Each rental car firm will either develop its own QTA or enter into an agreement to use that of another firm. There will be a consortium that is responsible for the operation and maintenance of the common areas of the rental car facility, as well as for the operation of the common busing system. At MDW, the concession agreements require the industry to form a consortium for the operation and maintenance of the QTA, including the fuel operation. The approach of requiring a common use agreement is being used at Oakland and San Jose, where the car rental companies are required under their concession agreements to enter into an industry agreement for maintenance of the consolidated facility, not including a fuel operation.

Whether a consortium is formed or an industry agreement is used, each of these airports require, as part of their concession obligations, participation in and compliance with the terms of these consortiums and agreements by each car rental concessionaire, with cross default provisions tied to the concession agreements.

As more of these agreements are developed, and as the rental car industry and the airports gain experience in both crafting and enforcing these agreements, best practices will emerge, making it much easier to go forward into new, increasingly efficient common use facilities.



JOHN F. BROWN COMPANY RENTAL CAR PRACTICE AREA

Jim Branda, prior to joining John F. Brown Company four years ago, was Vice President of Airport Affairs at Budget Rent A Car Corporation, where he spent 14 years, and Karen George, prior to joining John F. Brown Company two years ago, was Vice President of Properties and Chief Airports Counsel of National Car Rental, where she spent 12 years.

Jim Branda
Ph: (630) 548-3940
Email: jbranda@johnfbrown.com

Karen George
Ph: (612) 385-4642
Email: kgeorge@johnfbrown.com

Another member of the John F. Brown Company with rental car expertise is:

Susan Warner Dooley
Ph. (614) 476-5541
Email: sdooley@johnfbrown.com