

POSTED: May 12, 1998

Order 98-5-17

2 p.m.



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 7th day of May 1998

SERVED: May 18, 1998

**1998 U.S.-JAPAN COMBINATION SERVICE
PROCEEDING**

Docket OST-98-3419

FINAL ORDER

Summary

By this order, we make final as discussed below our tentative findings and conclusions in Order 98-3-15 regarding the award of new authority to Japan. In addition, we award certain additional authority consistent with the policies that guided our tentative decision.

Background

On January 30, 1998, the United States and Japan agreed to authorize new combination air services in the U.S.-Japan market.¹ By Order 98-3-15, the Department issued a tentative decision, proposing to award various new combination service route rights available under the MOU. Specifically, we proposed to (a) allocate 64 of the available 90 weekly frequencies available under the January 30, 1998 U.S.-Japan Memorandum of Consultations to American Airlines, Inc., Continental Airlines, Inc., and Delta Air Lines, Inc., for the services that they

¹ Delegations of the United States and Japan signed a Memorandum of Consultations (MOC) that attached understandings regarding the elements to be included in a Memorandum of Understanding (MOU). The delegations also agreed that the provisions of those understandings would be in effect provisionally upon signing of the MOC, pending conclusion of an interim agreement. The MOU became effective by an exchange of notes dated April 20, 1998. We will refer to the aviation accord in this order as the MOU. See Order 98-3-15 for a full description of the new combination service route opportunities under the MOU.

proposed to operate in 1998;² (b) authorize Trans World Airlines, Inc. to serve the St. Louis-Tokyo (Narita) market under the first new entrant opportunity and allocate it seven weekly frequencies for this service; (c) authorize Hawaiian Airlines, Inc. to serve the Maui-Tokyo market under the second new entrant opportunity and allocate it seven weekly frequencies for this service; and (d) allocate the 28 weekly frequencies for U.S.-Japan code-share services by U.S. carriers equally to Trans World Airlines for its code-share services with Delta and to Continental for its code-share services with Northwest Airlines. Objections to our tentative decision were due March 26; answers to objections were due April 2, 1998.

Subsequent to issuance of our tentative decision, Continental Micronesia, American, and Delta filed revisions to their previously filed applications, proposing inauguration of additional services in 1998.³ Continental Micronesia advanced the startup date for five of its previously proposed daily Honolulu-Tokyo flights from January 2000 to December 15, 1998. American amended its application to request allocation of one additional frequency for San Jose-Tokyo so that it could increase its existing service in the market to a daily operation. American stated that it would add the additional flight within 60 days after authorization of the service. Delta amended its application to request certificate authority and allocation of six weekly frequencies for service in the Honolulu-Tokyo market, beginning December 15, 1998. Collectively, these additional carrier requests require allocation of 12 frequencies. There are 12 frequencies that remained unallocated as a result of our tentative decision.

Responsive Pleadings

Comments to the Department's tentative decision and/or the supplemental applications were filed by American, Continental/Continental Micronesia, Delta, Northwest, TWA, the Massachusetts Port Authority (Massport), the Dallas/Ft. Worth International Airport, the State of Hawaii, the City of San Jose and the San Jose International Airport (San Jose), and Isaac Davis Hall.⁴ Answers were filed by American, Delta, Continental/Continental Micronesia, Hawaiian, Northwest, TWA, the Port of Portland, Dallas/Ft. Worth, the City of Houston and the Greater Houston Partnership (Houston), the St. Louis Parties,⁵ the State of Hawaii, Newark and San Jose. Additional pleadings were filed by the Sierra Club, et.al., the State of Hawaii and Hawaiian.⁶

² We proposed to allocate American 28 weekly frequencies for services in the Chicago-Tokyo, Boston-Tokyo, New York-Tokyo, and Dallas/Ft. Worth-Osaka markets; Continental 14 weekly frequencies for services in the Newark-Tokyo and Houston-Tokyo markets; and Delta 22 weekly frequencies for services in the Atlanta-Tokyo, Portland-Osaka, Portland-Fukuoka, and Los Angeles-Tokyo markets.

³ By Notices dated March 23, 24, and 25, the Department required that answers to the amended applications be filed by March 26, the same date that comments to the show-cause order were due. The Notices were issued under assigned authority by the Director, Office of International Aviation. We confirm those actions here.

⁴ Mr. Hall represents a number of civic parties in Hawaii interested in the Department's decision regarding service to Maui.

⁵ The St. Louis Parties consist of the City of St. Louis and the St. Louis Airport Commission.

⁶ These pleadings were accompanied by motions for leave to file otherwise unauthorized documents. As discussed below, we have decided to address in a separate order the issues, including all related motions, concerning our

Comments to the Tentative Decision

With the exception of Continental/Continental Micronesia, there is unanimous support by the commenting parties to the Department's proposal to award frequencies to those carriers for services proposed in 1998. The commenting parties state that approval of those services will provide the maximum public benefits in terms of new services and competition in the U.S.-Japan market and will ensure prompt use of valuable rights under the MOU. They also urge prompt finalization of the Department's tentative decision so that carriers can make the necessary arrangements to commence services as planned.⁷

Continental and Continental Micronesia oppose the Department's tentative decision, reiterating their previous arguments that awards for services to begin in 1998 effectively denies applications by MOU carriers for services in later years without comparative consideration on an evidentiary record and that only a more comprehensive proceeding would enable the Department to decide how best to remedy the structural deficiencies in the market. They state, however, that if the Department nonetheless decides to finalize its decision, then, based on the same theory, the Department should award Continental Micronesia an additional five weekly frequencies to increase its Honolulu-Tokyo service which it plans to do beginning in December 1998. All of the other commenting parties argue that any of the beyond-1998 proposals are speculative and, thus, distinct from the 1998 proposals so as not to require comparative consideration with the 1998 proposals, and that Continental's *Ashbacker*⁸ arguments have already been fully addressed by the Department in its show-cause order.

While supporting the general premise of awarding frequencies for those services to be inaugurated in 1998, in response to our show-cause order, Delta now opposes any award of frequencies to Continental. Delta argues that based on Northwest's acquisition of 57.8% of the common stock voting power of Continental, together with veto rights and representation on Continental's Board of Directors, Northwest has the ability effectively to control Continental. As a result of this control, Delta maintains that the carriers would not compete with each other in the market and that in light of these circumstances and the fact that Northwest is an incumbent carrier in the market with unlimited U.S.-Japan rights, Continental should be deemed ineligible for the limited awards available to "non-incumbent" carriers. That position is shared by TWA with respect to award of the same country code-share frequencies. Continental and Northwest oppose the Delta and TWA arguments against awards to Continental and Continental Micronesia, rejecting their arguments that Northwest controls Continental and maintaining that Continental and Northwest will continue to operate as separate and independent airlines. Houston also objects to the Delta and TWA arguments against awards to Continental, stating that such a result would deprive Houston of long-sought service to Japan.

proposed award to Hawaiian. Accordingly, we will not include here a description of the pleadings with respect to the Hawaiian award.

⁷ Massport also submitted additional letters of support for American's Boston-Tokyo service.

⁸ Ashbacker Radio Corp. v. F.C.C. 326 U.S. 327, 333 1945.

Both U.S. carrier code-share partnerships--Northwest and Continental and TWA and Delta--oppose the Department's tentative decision to allocate the same country code-share frequencies equally between the two code-share partnerships. Northwest and Continental reiterate their arguments that allocation of all the frequencies to their partnership would best maximize competition in the U.S.-Japan market by enhancing their competitive position with the major U.S./Japanese carrier code-share partnerships, and that allocation of all the frequencies would maximize the competition resulting from the Northwest/Continental code-share services under the beyond-Japan code-share frequencies allocated to the partnership.

TWA and Delta also argue that allocation of all the available code-share frequencies to their partnership would best maximize competition in the U.S.-Japan market by affording two of the smallest "non-incumbent" carriers greater flexibility to expand services in the market. They contend that Northwest already operates the most U.S. frequencies in the market, more than four times as many as TWA and Delta collectively, and that allocation of all the frequencies for the TWA/Delta partnership not only would facilitate their ability to compete with incumbent carriers, such as Northwest, but also the U.S./Japanese carrier code-share partnerships.

Supplemental Proposals

A number of parties filed comments to the additional service proposals by Continental Micronesia, American, and Delta.

San Jose filed in support of American's proposal to expand its San Jose service; and Hawaii filed in support of the Continental Micronesia and Delta proposals for additional Honolulu-Tokyo service. American states that the same rationale that supported the Department's allocation of 64 frequencies supports allocation of the new proposals for the remaining 12 frequencies. Dallas/Ft. Worth similarly supports the additional proposals, provided that consideration of those proposals does not delay a final decision on the Department's tentative decision in Order 98-3-15. Should consideration of the proposals require reconsideration of the Department's tentative decision, then Dallas/Ft. Worth supports consideration of the supplemental proposals in a separate proceeding.

Continental and Continental Micronesia oppose allocation of frequencies to the American and Delta proposals. They argue that Continental Micronesia's proposal to advance the startup date of its previously proposed Honolulu-Tokyo frequencies is the only true supplemental application. They argue that American's San Jose and Delta's Honolulu proposals were not included in their original applications in this proceeding and, thus, constitute new requests, rather than supplemental proposals. In these circumstances, they argue that the Continental Micronesia application is the only subsequent request that should be granted and that the others should be given comparative consideration with the remaining proposals in the case, including Continental/Continental Micronesia's applications and Delta's outstanding requests. American and Delta oppose Continental/Continental Micronesia's arguments that their supplemental requests are not on equal footing with Continental Micronesia's, arguing that in all instances the affected carrier changed what it proposed in its initial filing.

Delta objects to allocation of frequencies to Continental Micronesia for Honolulu-Tokyo frequencies for the same reasons it opposes the award of any frequencies to Continental or Continental Micronesia in this proceeding--namely its alleged control by Northwest. As noted above, Northwest and Continental reject these arguments and maintain that their relationship should not disqualify Continental Micronesia for the award sought here.

Decision

We have decided to make final our tentative decisions to (a) allocate frequencies to those services proposed to be inaugurated in 1998; (b) authorize TWA to serve the St. Louis-Tokyo market and allocate to it seven weekly frequencies for this service; and (c) allocate 14 weekly frequencies each to the two U.S. carrier partnerships seeking to serve Japan under code-sharing arrangements. We have also decided to allocate additional frequencies to American (one weekly frequency), Continental Micronesia (five weekly frequencies) and Delta (six weekly frequencies) for services they propose to operate in 1998 in the U.S.-Japan market. We will issue a decision with respect to our proposed award to Hawaiian by separate order.⁹

Direct Service Frequencies

In our show-cause order, we recognized that the U.S.-Japan MOU offered significant new opportunities for increased service and competition in the U.S.-Japan market, and that the award of authority for services under this new agreement would produce enormous public benefits in terms of the range of price and service options available to travelers in the market, and would remedy many of the serious service and structural deficiencies that have adversely affected the market for a number of years. For these reasons, we tentatively found that immediate authorization of the proposals for 1998 services provides greater public interest benefits than those proposals that would begin in later years in terms of their ability to facilitate timely realization of new and improved service, competition, and the significantly enhanced economic benefits resulting from aviation liberalization--benefits that would be lost if we waited until the year 2000 to implement a substantial portion of route rights that are available now.

We believe that these factors support final action on our proposed frequency awards and support approval of the supplemental requests of American, Continental Micronesia, and Delta to offer more U.S.-Japan services quickly. With one exception, all of the commenting parties support this result and urge us to make the awards final as quickly as possible so that the carriers can make the necessary arrangements to implement the new services.

Continental and Continental Micronesia continue to argue that our proposed awards deny comparative consideration of its proposals to implement Japan services in the year 2000, particularly if the Department grants the supplemental requests filed by American and Delta as well as Continental Micronesia, since no frequencies would be available for award to other

⁹ The responsive pleadings to our tentative award to Hawaiian have raised environmental concerns that will require additional consideration. In these circumstances, we have decided to handle the Hawaiian award separately. We have determined, moreover, that it is not in the public interest to delay the other awards at issue in our tentative decision which are not affected by these same considerations.

services. We fully addressed these *Ashbacker* arguments in our show-cause order. We compared the relative merits of authorizing those services proposed for near-term implementation with reserving some of the route rights for delayed implementation. We found, among other things, that the immediate authorization of the 1998 proposals would provide far greater public benefits than the proposals that would begin in later years by providing consumers and communities with timely expanded service options and competition in the market. Continental has raised no new arguments that persuade us to modify this finding.

Continental has also argued that our decision failed to recognize that carriers serving the market are also reducing certain services in the U.S.-Japan market, and also incorrectly credited award of the 1998 proposals for providing services at the carriers' hubs when a number of the services would not be operated at carrier hubs, such as Portland and Boston. Our decision, however, fully recognized that the new agreement with Japan would result in changing service patterns in the market, including several new services.¹⁰ It is in this context that the incumbents have already taken advantage of the opportunities provided in the MOU to adjust and augment their services in the U.S.-Japan market, as Continental described and, thus, we are not persuaded that these changing services patterns materially affect our decision here.

Moreover, we do not find that Continental/Continental Micronesia's criticisms of the "non-incumbent" carrier services tentatively authorized in Order 98-3-15 warrant reconsideration of our decision. One of our primary goals in this case is to maximize the benefits of expanded services provided by the MOU as quickly as possible. Our decision noted that the MOU carriers had proposed services in a substantial range of U.S.-Japan city-pair markets and that they would offer many of these services from their hubs.¹¹ As Continental and Continental Micronesia acknowledge, many of these services are provided from the carriers' well established domestic hubs. Others would provide service through smaller hubs, such as Portland, that serve to support the international services operated by the carriers at the gateway, or would provide communities with their first U.S.-flag service to Japan, such as Boston. All of these awards are consistent with our overall goal to expand the price and service options available to consumers.

With respect to the Delta and TWA arguments that Continental should not receive any awards here because of its relationship with Northwest, the Department is currently reviewing information relating to the Continental/Northwest arrangement. That review is in progress and the Department has not yet reached any final determination. Should a decision on that review have any effect on the awards in this proceeding, we will address it at that time. In the meantime, we are not persuaded to withhold award of authority to Continental and Continental Micronesia to serve the U.S.-Japan market.

¹⁰ Order 98-3-15 at 6 and 7.

¹¹ Order 98-3-15 at 7 and 8.

New Entry

Our tentative decision also recognized that the MOU provided valuable opportunities for new entry to the Japan market and the public interest considerations supporting use of these opportunities. No party has opposed our authorization of TWA for St. Louis-Tokyo service under one of the two new entrant opportunities, and we will make that authorization final and issue TWA a certificate for its St. Louis-Tokyo service.

Continental has objected, however, to the proposed award of seven weekly frequencies to TWA for this service, which TWA plans to begin in 1999, arguing that such allocation requires comparative consideration with other frequency requests for services in 1999 and 2000. Continental/Continental Micronesia states that when the Department considered a similar proposal by TWA in 1990, it concluded that service at St. Louis would provide minimal competitive benefits. TWA has reiterated its long-standing interest in serving the market and the benefits to the St. Louis and surrounding area of a direct service link to one of the leading Asian destinations. Similarly, St. Louis has filed in strong support of the proposed award.

In discussing the new entrant provisions of the agreement, we not only recognized the significant service and competitive benefits of the new entry, but also the need, given the common frequency pool, to ensure that frequencies were available now so that the new services could be implemented as proposed. In making this decision, we fully considered our combined goals to use the newly available frequencies to facilitate expanded services by existing “non-incumbent” carriers and to facilitate operations by new entrant carriers, thereby maximizing the service and route opportunities under the MOU and providing the public with the widest range of competitive service options. We concluded that realization of the new entry benefits of the agreement warranted use of some of the available frequencies to support those services and outweighed further allocation of the available frequencies for services by the existing “non-incumbent” carriers serving the market. Continental/Continental Micronesia’s renewed arguments do not persuade us otherwise. TWA has requested seven weekly frequencies for its nonstop St. Louis-Tokyo service. The ability to operate a daily service in the market is critical to its ability to compete with the other carriers, including Continental and Continental Micronesia, serving the U.S.-Japan market. Thus, the award here to TWA is critical to our being in a position to realize the goals we seek to achieve under the new agreement.¹²

Code-Share Frequencies

In proposing to award 14 weekly frequencies to each of the two applicant U.S. carrier code-share partnerships, we were guided by a number of considerations. We recognized the significant importance that the MOU code-share provisions provided for carriers to expand service and enter new markets. We also recognized the opportunity the MOU presented to promote competition among U.S. carriers, between U.S. and Japanese carriers, and among the other cooperative working arrangements between carriers serving Japan. We tentatively concluded that we would

¹² The 1990 decision cited by Continental/Continental Micronesia is inapposite given the entirely new bilateral regime now prevailing and the correspondingly new set of public interest factors now guiding our decision.

achieve the greatest public benefits if we facilitated operations by both code-share partnerships, thereby ensuring that a greater number of code-share partnerships could serve the market and more service and competitive benefits could result from those services.

In response to our tentative decision, each partnership reiterates arguments that greater benefits would result if all of the frequencies were allocated to one partnership. Continental/Northwest stress the benefits of their close relationship in terms of seamless service quality and the need for the full level of available frequencies to compete with U.S. and Japanese carrier code shares and to maximize use of the beyond-Japan code-share frequencies the partnership has already been granted. TWA and Delta stress that they are both smaller “non-incumbent” carriers and that allocation of all the frequencies to their partnership would enhance their competitive posture vis-à-vis incumbent carriers and U.S./Japanese carrier code-share alliances.

The comments reaffirm our view that the public interest is best served by ensuring that both partnerships can serve the market. Throughout this proceeding, and, indeed, in a variety of other regulatory actions following conclusion of the January 30 MOC, our primary objective has been to maximize the services available to the public under the new U.S.-Japan service opportunities. To this end, we have moved to enable incumbent carriers to take advantage of their expanded rights, and we have likewise acted to ensure that existing “non-incumbent” carriers and new entrants can pursue their service aspirations for Japan. In short, we have worked to make available to the public a wide range of service options in reflection of the expansive new bilateral regime. The carriers’ comments attesting to the varied service and competitive benefits each would offer, involving different U.S.-Japan city-pair markets and a diverse choice of carrier options convince us, even more now than before that the public will achieve greater overall service and competitive benefits if we allocate frequencies to both partnerships, rather than if we allocate all of the frequencies to just one.¹³ Therefore, we will make final our decision to allocate the 28 same-country code-share frequencies available equally between the two partnerships.¹⁴

Terms, Conditions, and Limitations

Consistent with our policy with respect to limited-entry routes, we will issue the certificate authority awarded in this case in the form of five-year, temporary, experimental certificates of public convenience and necessity under 49 U.S.C. section 41102(c).¹⁵

¹³ On February 24, 1998, Northwest filed a motion for immediate decision to allocate all 28 of the U.S.-Japan code-share frequencies to Northwest and Continental. That motion was opposed by Delta, TWA, and the St. Louis parties and tentatively denied by the Department in Order 98-3-15. Based on our final decision here, we will deny the motion.

¹⁴ Delta and TWA raised the issue of Northwest’s relationship with Continental as a basis to deny a code-share frequency allocation to Continental and Northwest. We addressed the matter of the Northwest/Continental relationship, *supra*, and those same comments would apply equally here.

¹⁵ As discussed in our show-cause order, we will also grant Continental’s application for certificate authority for the beyond-Japan frequencies awarded Continental and Northwest by Order 98-3-15. Order 98-3-15 at 11.

In addition, the frequency allocations granted will be effective indefinitely, subject to the continued effectiveness of the holder's underlying economic authority as well as to our standard condition that we may amend, modify or revoke the allocation at any time and without hearing, at our discretion.

Finally, consistent with our standard practice, the frequencies allocated in this proceeding will be subject to our standard 90-day dormancy condition, wherein the frequencies would be deemed dormant if they are not operated for 90 days except where service in the market is seasonal. Where seasonal services are at issue, however, a carrier must notify the Department that its operations are of a seasonal nature; otherwise, the dormancy condition would apply. Under the dormancy condition, if flights allocated are not used for 90 days, the frequency allocation would expire automatically, and the frequencies revert to the Department for reallocation.¹⁶

All of these conditions were proposed in our show-cause order and unopposed by any party.

ACCORDINGLY,

1. We allocate 76 of the 90 available U.S.-Japan frequencies as follows:

American Airlines:	7 weekly frequencies for Chicago-Tokyo 7 weekly frequencies for New York (JFK)-Tokyo 7 weekly frequencies for Boston-Tokyo 7 weekly frequencies for Dallas/Ft. Worth-Osaka 1 weekly frequency for San Jose-Tokyo
Delta Air Lines:	7 weekly frequencies for Atlanta-Tokyo 7 weekly frequencies for Portland-Osaka 7 weekly frequencies for Portland-Fukuoka 1 weekly frequency for Los Angeles-Tokyo 6 weekly frequencies for Honolulu-Tokyo
Continental Airlines/ Continental Micronesia:	7 weekly frequencies for Newark-Tokyo (Continental) 7 weekly frequencies for Houston-Tokyo (Continental) 5 weekly frequencies for Honolulu-Tokyo (Continental Micronesia)

2. We issue in the form attached certificates of public convenience and necessity to the carriers listed for the services described in ordering paragraph 1, above (except for Los Angeles-Tokyo for Delta, San Jose-Tokyo for American, and Honolulu-Tokyo for Continental Micronesia);¹⁷

¹⁶ Consistent with our standard practice, the 90-day dormancy period would begin on the carrier's proposed startup date for service in each market.

¹⁷ American already holds the necessary certificate authority to serve the San Jose-Tokyo market, Delta already holds the necessary certificate authority to serve the Los Angeles-Tokyo market, and Continental Micronesia holds the necessary certificate authority to serve the Honolulu-Tokyo market.

3. Subject to the provisions of this order, the frequencies allocated in ordering paragraph 1, above, are effective immediately and will remain in effect, provided that the carriers continue to hold the underlying authority to serve the authorized markets;
4. We issue in the form attached a certificate of public convenience and necessity to Trans World Airlines, Inc. for services in the St. Louis-Tokyo market and allocate TWA 7 weekly frequencies for services in this market;
5. Subject to the provisions of this order, the frequencies allocated to TWA, above, are effective immediately and will remain in effect, provided that TWA continues to hold the underlying authority for the authorized services;
6. We allocate the 28 weekly U.S.-Japan code-share frequencies as follows:

Continental/Northwest:	14 weekly frequencies for services in the Detroit-Osaka, Detroit-Tokyo, San Francisco-Tokyo, and Los Angeles-Osaka markets
TWA/Delta:	14 weekly frequencies for services in the Portland-Osaka, Portland-Nagoya, Portland-Fukuoka, and Los Angeles-Tokyo markets,
- and issue, in the form attached, certificates of public convenience and necessity to operate these services;
7. The code-share frequencies allocated above are effective immediately and will remain in effect, provided that the carriers continue to hold the underlying authority for the authorized services;
8. The frequencies allocated by this order are subject to the condition that if the frequencies are not used for a period of 90 days they will revert automatically to the Department for reallocation, and the further condition that we may amend, modify or revoke the allocation at any time and without hearing at our discretion;
9. We grant the February 20, 1998, Motion of the Dallas/Ft. Worth Airport for Immediate Decision in this docket;
10. We deny the February 24, 1998, Motion of Northwest Airlines, Inc., to the extent that it requests allocation of all 28 of the available frequencies for code-share services by U.S. airlines;
11. To the extent not granted or being handled by separate order, we deny all other requests in this proceeding;

12. Unless disapproved by the President of the United States under 49 U.S.C. 41307, this order and the attached certificates shall become effective upon the 61st day after its submission for section 41307 review, or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department's order under that section, whichever occurs earlier;¹⁸ and

13. We will serve this order on all parties to this proceeding; the Ambassador of Japan in Washington, DC; and the U.S. Department of State (Office of Aviation Negotiations).

By:

PATRICK V. MURPHY
Deputy Assistant Secretary for
Aviation and International Affairs

(SEAL)

*An electronic version of this order is available on the World Wide Web
<http://dms.dot.gov/general/orders/aviation.html>.*

¹⁸ This order was submitted for section 41307 review on May 7, 1998. On May 12, 1998, we received notification that the President's designee, under Executive Order 12597 and implementing regulations, did not intend to disapprove the Department's order.



**Experimental Certificate
of Public Convenience and Necessity**

For Route 752

This Certifies That

American Airlines, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 98-5-17
On May 7, 1998
Effective on May 12, 1998**

**Patrick V. Murphy
Deputy Assistant Secretary for
Aviation and International Affairs**

Terms, Conditions and Limitations

American Airlines, Inc. for **Route 752**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

1. Between the coterminal points Chicago, Illinois; New York, New York; and Boston, Massachusetts and the terminal point Tokyo, Japan;
2. Between the terminal point Dallas/Ft. Worth, Texas, and the terminal point Osaka, Japan.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

- (5) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (8) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (9) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (10) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in the holder's authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

This certificate shall become effective May 12, 1998. It shall expire five years thereafter, unless the Department earlier suspends, modifies, or deletes the authority.

*This certificate is issued to reflect the award of new authority between Chicago, New York, and Boston, on the one hand, and Tokyo, on the other, and between Dallas/Ft. Worth and Osaka, for a period of five years.



**Experimental Certificate
of Public Convenience and Necessity**

For Route 753

This Certifies That

Continental Airlines, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 98-5-17
On May 7, 1998
Effective on May 12, 1998**

**Patrick V. Murphy
Deputy Assistant Secretary for
Aviation and International Affairs**

Terms, Conditions and Limitations

Continental Airlines, Inc. for **Route 753**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

1. Between the coterminal points Houston, Texas and Newark, New Jersey and the terminal point Tokyo, Japan.
2. Between the terminal point Detroit, Michigan and the coterminal points Tokyo and Osaka, Japan.
3. Between the terminal point San Francisco, California and the terminal point Tokyo, Japan.
4. Between the terminal point Los Angeles, California and the terminal point Osaka, Japan.
5. Between points in the United States via Tokyo to Seoul, Korea; Singapore, and Bangkok, Thailand.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The Japan services authorized on segments 2, 3, and 4 on this certificate are limited to services operated under a code-share arrangement on flights operated by Northwest Airlines, Inc.
- (4) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.

- (5) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.
- (6) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA) to the extent required.
- (7) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (8) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (9) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (10) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (11) The services authorized on segment 5 may be operated on a blind-sector basis only between Tokyo and the named beyond points, and the further condition that they may only be operated under a code-share arrangement with Northwest Airlines, Inc. on flights operated by Northwest.
- (12) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in the holder's authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for the holder in a competitive

carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

This certificate shall become effective May 12, 1998. It shall expire five years thereafter, unless the Department earlier suspends, modifies, or deletes the authority.

*This certificate is issued to reflect the award of new authority between Houston and Newark, on the one hand, and Tokyo, Japan, on the other, for a period of five years; and authority, for a period of five years, to serve the Detroit-Tokyo/Osaka, San Francisco-Tokyo, and Los Angeles-Osaka markets under a code-share only basis with Northwest Airlines.



**Experimental Certificate
of Public Convenience and Necessity**

For Route 754

This Certifies That

Delta Air Lines, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 98-5-17
On May 7, 1998
Effective on May 12, 1998**

**Patrick V. Murphy
Deputy Assistant Secretary for
Aviation and International Affairs**

Terms, Conditions and Limitations

Delta Air Lines, Inc. for **Route 754**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

1. Between the terminal point Atlanta, Georgia and the terminal point Tokyo, Japan;
2. Between the terminal point Portland, Oregon and the coterminal points Osaka and Fukuoka, Japan.
3. Between the terminal point Honolulu, Hawaii and the terminal point Tokyo, Japan.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

- (5) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (8) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (9) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (10) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in the holder's authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

This certificate shall become effective May 12, 1998. It shall expire five years thereafter, unless the Department earlier suspends, modifies, or deletes the authority.

*This certificate is issued to reflect the award of new authority between Atlanta and Honolulu, on the one hand, and Tokyo, on the other, and between Portland and Osaka and Fukuoka for a period of five years.



**Experimental Certificate
of Public Convenience and Necessity**

For Route 755

This Certifies That

Trans World Airlines, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 98-5-17
On May 7, 1998
Effective on May 12, 1998**

**Patrick V. Murphy
Deputy Assistant Secretary for
Aviation and International Affairs**

Terms, Conditions and Limitations

Trans World Airlines, Inc. for **Route 755**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

1. Between the terminal point St. Louis, Missouri and the terminal point Tokyo, Japan.
2. Between the terminal point Portland, Oregon and coterminal points Osaka, Nagoya, and Fukuoka, Japan.
3. Between the terminal point Los Angeles, California and the terminal point Tokyo, Japan.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The Japan services authorized on segments 2 and 3 on this certificate are limited to services operated under a code-share arrangement on flights operated by Delta Air Lines, Inc.
- (4) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (5) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

- (6) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA) to the extent required.
- (7) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (8) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (9) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (10) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (11) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in the holder's authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

This certificate shall become effective May 12, 1998. It shall expire five years thereafter, unless the Department earlier suspends, modifies, or deletes the authority.

*This certificate is issued to reflect the award of new authority between St. Louis and Tokyo for a period of five years, and between Portland and Osaka, Nagoya, and Fukuoka, and between Los Angeles and Tokyo for a period of five years operated on a code-share only basis on flights operated by Delta Air Lines.