



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

Order 98-5-29

Issued by the Department of Transportation  
on the 21st day of May, 1998

SERVED: May 28, 1998

In the Matter of

**U.S.-France Combination Service Frequency Allocation**

**Docket OST-98-3872**

**ORDER TO SHOW CAUSE**

**Summary**

By this order, we propose to formalize allocation of the frequencies already held by U.S. carriers for U.S.-France combination services prior to the recent U.S.-France Memorandum of Consultations,<sup>1</sup> and to subject those frequencies to our standard dormancy conditions. We also put all U.S. carriers on notice that no additional frequencies can be operated in the U.S.-France market without a specific frequency allocation from the Department.

**Background**

Under the new U.S.-France Agreement, the base level of combination service frequencies for the airlines of each side is 148 round-trip frequencies, with additional round-trip frequencies available on an incremental basis.<sup>2</sup> Each party is entitled to allocate the frequencies among its airlines as it chooses. Prior to the Agreement, U.S. carriers already were operating the 148 base-level frequencies in the U.S.-French market, but these frequencies had not formally been allocated to the carriers and had not been subject to the Department's current dormancy policy regarding frequency allocation. Currently, the 148 weekly frequencies are held and operated by the following U.S. carriers: American 35;

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<sup>1</sup> On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also provided that each Party would permit operations consistent with the new Agreement on the basis of comity and reciprocity, pending finalization of the Agreement.

<sup>2</sup> This order deals only with the 148 base frequencies. The requests for the additional frequencies are being handled separately.

Continental 21; Delta 28; Northwest 7; Tower 8; Trans World Airlines 14; United 21; and USAirways 14.<sup>3</sup>

## Decision

We have tentatively decided to formalize the allocation of U.S.-carrier U.S.-France combination service frequencies. We propose to permit carriers currently operating services in the market to retain those frequencies. This approach will ensure that U.S. carrier operations do not exceed those provided for under the Agreement, will help carrier planning, and will facilitate an orderly regulatory approach to administration of the frequencies. The approach, furthermore, is fully consistent with our past practice (*see. e.g.*, Order 96-8-48) and consistent with the public interest.

Based on the existing operations, the U.S.-France combination frequencies would be allocated as follows: American 35; Continental 21; Delta 28; Northwest 7; Tower 8; Trans World Airlines 14; United 21; and USAirways 14.

We also have tentatively decided that the U.S.-France combination service frequency allocations should be subject to our standard 90-day dormancy condition, wherein frequencies will be deemed dormant if they are not operated for 90 days, except where service in the market is seasonal and the service provided is comparable to that provided in the previous year.<sup>4</sup> The opportunities for U.S. carriers to perform U.S.-France combination services are frequency limited, are very valuable, and have been obtained in exchange for valuable route rights for French carriers. We believe that the public interest warrants ensuring that these rights be readily available for carriers that are prepared to use them and that frequencies for such services should not be held indefinitely if they are not being used. Under the dormancy condition if flights allocated are not used for 90 days, the frequency allocations expire automatically, and the frequencies would revert back to the Department for reallocation so that they will be available for other carriers on an immediate basis should they seek to use them. Thus, carriers allocated flights will have a full opportunity to serve the market; the Department, in turn, retains the important ability to authorize new services quickly should those services not materialize or continue. The initial 90 days will run from the effective date of a final order in this proceeding with respect to the currently allocated frequencies.

We will require that any objections to our tentative decision be filed within 10 days of the date of service of this order, and that answers to any such objections be filed within 7 calendar days thereafter.<sup>5</sup>

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<sup>3</sup> The carriers' current frequency usage is shown in the attached chart. The Agreement provides that the carriers may change the markets that they serve.

<sup>4</sup> In all such instances of seasonal service, however, a carrier must notify the Department that its operations are of a seasonal nature.; otherwise, the dormancy condition will apply.

<sup>5</sup> The original filing of any comment, objection, or answer should be on 8½" x 11" white paper using dark ink and be unbound without tabs, which will expedite use of our docket imaging system.

ACCORDINGLY,

1. We direct all interested parties to show cause why we should not issue an order making the proposed allocations, as conditioned, final;
2. Any interested parties having objections to our tentative decision as set forth in this order should file their objections with the Department's Docket Section (in Docket OST-98-3872, 400 Seventh Street SW, Room PL-401, Washington DC 20590, no later than 10 days from the date of service of this order; answers thereto shall be filed no later than 7 calendar days thereafter;
3. If timely and properly supported objections are filed, we will accord further consideration to the matters or issues raised by the objections before we take further action;<sup>6</sup>
4. If no objections are filed, we will deem all further procedural steps to have been waived, and will finalize the actions proposed in this order; and
5. We will serve this order on American Airlines, Inc.; Continental Airlines, Inc.; Delta Air Lines, Inc.; Northwest Airlines, Inc.; Tower Air, Inc.; Trans World Airlines, Inc.; United Air Lines, Inc.; and USAirways, Inc.; and all other U.S. certificated air carriers; the Ambassador of the French Republic in Washington, DC; the United States Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration.

By:

CHARLES A. HUNNICUTT  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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

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<sup>6</sup> Since we have provided for objections to our tentative decision, we will not entertain petitions for reconsideration of this order.

**Current U.S.-Carrier Allocations for 148 Frequencies**

<b>Carrier</b>	<b>Market</b>	<b>Weekly Frequencies</b>
<b>American</b>	New York-Paris	7
	Chicago-Paris	7
	Miami-Paris	7
	Boston-Paris	7
	Dallas/Ft Worth-Paris	7
	Total:	35
<b>Continental</b>	New York-Paris	14
	Houston-Paris	7
	Total:	21
<b>Delta</b>	New York-Paris	7
	Cincinnati-Paris	7
	Atlanta-Paris	7
	New York-Nice	7
	Total:	28
<b>Northwest</b>	Detroit-Paris	Total: 7
<b>Tower</b>	New York-Paris	Total: 8
<b>Trans World Airlines</b>	New York-Paris	7
	St. Louis-Paris	7
	Total:	14
<b>United Air Lines</b>	Washington-Paris	7
	Chicago-Paris	7
	San Francisco-Paris	7
	Total:	21
<b>USAirways</b>	Philadelphia-Paris	Total: 14