



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

Issued by the Department of Transportation
on the 4th day of November, 1998

SERVED: November 4, 1998

**Allocation of Chicago-London Combination
Service Frequencies**

Docket OST-98-4341

FINAL ORDER

Summary

By this order we make final our tentative decision in Order 98-10-23 and allocate 32 round-trip frequencies to American Airlines and 97 round-trip frequencies to United Air Lines for service in the Chicago-London market starting from the 1998/99 winter traffic season.

Background

Under the U.S.-U.K. Air Services Agreement, for the current winter traffic season (November 1, 1998 - March 31, 1999), American is entitled to operate 390 round-trip frequencies in the Chicago-London market, and United is entitled to operate 324 round-trip frequencies. Pursuant to the consultation provision of Annex 2 of the U.S.-U.K. agreement, the United States secured a total of 129 additional round-trip winter season frequencies for use by American and United in the Chicago-London market. By Order 98-10-23, we tentatively allocated 32 of the 129 frequencies to American and 97 frequencies to United, thereby enabling both carriers to operate virtually the same number of flights during the winter season period. We required that objections to our tentative allocation be filed by October 26 and that answers be filed by October 28.

Responses to Order 98-10-23

American filed objections to our tentative decision. United filed an answer to American's objections. American requests that the Department revise the tentative decision in Order 98-10-23 to divide the 129 available frequencies evenly between the two applicants, as suggested in

American's initial application. In support of its position, American presents the same line of argument put forward in its previous pleadings.

Specifically, American maintains that, even if the 129 winter season frequencies were divided equally between the two carriers, United would have a significant capacity advantage due to its proposal to use larger aircraft than American;¹ that the Department's tentative allocation (32 to American and 97 to United) would, thus, shift the capacity advantage even further in favor of United than would be the case under American's initial proposal; and that the public would be better served under its proposal because American's advantage in frequencies would be balanced by United's advantage in capacity.²

United argues that American offers no basis for the Department to change its tentative decision. It states that American's arguments have already been put forward in its previous pleadings and fully considered by the Department in its tentative decision. It further states that American's proposal, if accepted by the Department, would create an anomalous policy under which an applicant using smaller aircraft, and thereby providing less capacity in the market, was actually rewarded with a greater frequency allocation; and that under the terms of the Department's tentative allocation, American would have the opportunity to match United's capacity (as Annex 2 does not limit choice of aircraft) and thus counteract any disadvantage suffered by American as a result of United's proposal to use larger equipment. Finally, United states that the Department's tentative decision is consistent with Department precedents that favor achieving competitive parity, and American provides no basis to depart from those precedents in this case.

Decision

We have decided to make final our tentative decision to allocate 32 of the 129 available winter season round-trip frequencies to American and 97 to United for use in the Chicago-London market. When combined with American's minimum entitlement of 390 and United's minimum entitlement of 324, each carrier will hold nearly the same total number of frequencies -- American will have 422 and United will have 421.

In our show-cause order, we recognized the strong desire of both applicants to operate three daily flights during the upcoming winter season, and that our tentative decision would enable both carriers to operate that level of service during a significant portion of that season. We also noted that such an allocation would increase the service options available to consumers, and the opportunities for more effective competition in the Chicago-London market.

American has provided no information or argument that persuades us to reach a different result.

¹ United has proposed to use B777 and B767-300 aircraft with a seating capacity of 292 and 206, respectively; American has proposed to use MD-11, B767-200, and B767-300 aircraft with a seating capacity of 238, 165, and 207, respectively.

² American's proposal for an even split of the 129 available frequencies (64 to American and 65 to United) would result in a frequency advantage for American (454 frequencies for American and 389 for United) due to the difference in the two carriers' minimum entitlement frequency levels (390 for American and 324 for United).

Rather, American has essentially reiterated its earlier arguments that its proposal to allocate the available frequencies evenly between the carriers offers greater public benefits. While we recognized in our tentative decision that American's proposal (as well as that originally put forward by United) offered certain advantages, we also recognized that both proposals focused to a large extent on the capacity that would be offered. However, as we tentatively concluded then, and as we reaffirm now, we believe that the public will be best served here by having available a competitive choice based on frequency of service, rather than on the number of seats, particularly as American remains free to use larger aircraft if it so chooses. Accordingly, we have determined that our proposed allocation provides the most significant public benefits in the circumstances of this case. Therefore, we will make final the tentative allocation of the 129 available frequencies set forth in Order 98-10-23.

ACCORDINGLY,

1. We make final our tentative decision in Order 98-10-23 and allocate 32 round-trip frequencies to American Airlines, Inc., and 97 round-trip frequencies to United Air Lines, Inc., for winter season services in the Chicago-London market starting from the 1998/99 winter season (November 1, 1998 - March 31, 1999);
2. We may amend, modify, or revoke this order at our discretion without hearing; and
3. We will serve a copy of this order on American Airlines, Inc., United Air Lines, Inc., the U.S. Department of State (Office of Aviation Negotiations), the Ambassador of the United Kingdom of Great Britain and Northern Ireland in Washington, D.C., and the Federal Aviation Administration.

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 at
<http://dms.dot.gov/general/orders/aviation>*