



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

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

SERVED: October 21, 1998

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

Docket OST-98-4341

ORDER TO SHOW CAUSE

Summary

By this order we tentatively allocate 32 round-trip frequencies to American Airlines and 97 round-trip frequencies to United Air Lines for service in the Chicago-London market for the 1998/99 winter season.

In view of the need for a timely decision to permit the most effective use of our bilateral opportunities, we will afford interested parties three (3) business days to file objections to our tentative findings and conclusions and two (2) business days for any answers.

Background

Under the U.S.-U.K. Air Services Agreement, for the forthcoming 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. Since United and American filed schedules that exceeded the number of flights available, we determined, by Notice dated August 19, 1998, that it was necessary to allocate the 129 available frequencies between the carriers. To develop a complete record for this allocation, we required that the carriers file additional information by August 26, 1998, and that answers be filed by August 31, 1998.

Applications/Responsive Pleadings

American requests 64 of the 129 round-trip frequencies available for allocation. American states that it would use the additional frequencies together with its minimum entitlement frequencies to operate a triple daily round-trip flight during the entire 1998/99 winter season using MD-11 and B767-200/300 aircraft.¹ American states that the remaining 65 additional frequencies could be available to United to expand its services in the market, and that such an allocation would represent an equitable distribution of the available flights.

United requests all 129 round-trip frequencies. United's minimum entitlement of 324, combined with its request for an additional 129, would yield a total of 453 round-trip frequencies. If its request is granted, United states that it would operate a triple daily round-trip flight during the entire 1998/99 winter season using B777 and B767-300 aircraft.²

Each carrier filed an answer to the other's application. United and American each filed a reply.³ United argues that its proposal with larger aircraft would offer more public benefits than American's proposal and, thus, that it should be awarded all 129 available frequencies. In addition, United states that American has access to Chicago-London services through its alliance partner, British Airways, and that since the alliance operates nearly five daily frequencies, United must be able to operate at least three daily flights in order to remain competitive in the market. United further argues that on a year-round basis, American operates more Chicago-London services than United (even if United were granted all 129 available frequencies) and that American's proposal would maintain an imbalance not only in winter season frequencies but on a year-round basis as well.

American states that, even under its proposal for an equitable split of the available frequencies, United would have a significant capacity advantage due to United's use of larger B777 aircraft. Thus, under its proposal, American maintains that the public would be well served through a competitive mix of more frequent service provided by American, and more capacity provided by United. American rejects United's arguments regarding American's relationship with British Airways, stating that it is not in an alliance with British Airways. American and British Airways have merely proposed an alliance. American further states that United's year-round arguments have no relevance in a proceeding that deals with winter season services only.

¹ Seating capacity for MD-11, B767-200, and B767-300 would be 238, 165, and 207, respectively.

² Seating capacity for B777 and B767-300 would be 292 and 206, respectively.

³ United's and American's replies were accompanied by motions for leave to file an otherwise unauthorized document. While American objected to United's motion, in the interests of a complete record we will grant the motions of both carriers.

Tentative Decision

We have tentatively decided to allocate 32 of the 129 available winter season round-trip frequencies to American and 97 to United. When combined with American's minimum entitlement of 390 and United's minimum entitlement of 324, each carrier would thus hold nearly the same total number of round-trip frequencies -- American would have 422 and United would have 421, respectively.

The additional winter-season frequencies available starting with the 1998/99 winter season provide a valuable opportunity to increase service in the Chicago-London market. We have tentatively decided to use that opportunity to enable American and United to operate comparable levels of frequencies during the winter season.

We believe that this approach provides significant public benefits. Both applicants have indicated a strong desire to operate three daily flights during the upcoming winter season. Our proposal enables both carriers to operate that level of service during a significant portion of the winter season. It also improves the ability of both airlines to tailor services to changing levels of demand. Moreover, this approach increases the service options available to consumers, and the opportunities for more effective competition in the market.

We have carefully considered other options for allocating the frequencies in question, including those proposed by the applicants. We believe that our proposal provides the most significant public benefits in the circumstances presented, and achieves a better result than those suggested that would have produced a decision based essentially on issues of capacity. We tentatively believe that the public would be best served here by being offered a competitive choice based on frequency of service, rather than on the number of seats.

We are not persuaded by United's arguments that American's proposed alliance with British Airways should affect the results of this case. American's relationship with British Airways is the subject of an application currently pending before the Department and the issues in that case have not been resolved. We are also unpersuaded that the year-round frequency levels of the carriers warrant allocation of all of the winter season frequencies to United. Frequencies for London services are determined on a seasonal basis and the winter season frequencies are thus more appropriately considered on their own merits.

We intend to complete this case as soon as possible and prior to the November 1 start of the 1998/99 winter season. Therefore, we will require that objections to our tentative decision here be filed no later than three (3) business days from the issue date of this order, and that answers to such objections be filed no more than two (2) business days thereafter. Given the expedited procedural schedule for this matter, we will authorize service of documents by facsimile and by electronic mail. Parties that are interested in such service, however, should state if they want service by email or fax and should provide interested parties with their FAX numbers and/or email addresses.

ACCORDINGLY,

1. We tentatively 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 grant the motions of American Airlines, Inc. and United Air Lines, Inc. for leave to file an otherwise unauthorized document;
3. We require that interested parties objecting to our tentative allocations in this order file such objections with the Department, Dockets, Docket OST-98-4341, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, and serve on all parties to this proceeding within three (3) business days of the issue date of this order, and that any replies to such objections be filed no later than two (2) business days thereafter;
4. If timely and properly filed objections are filed, we will give full consideration to such pleadings before making a final allocation decision; if no objections are filed, we will deem all further procedural steps waived and will proceed immediately to a final decision making final the tentative allocations set forth in this order; and
5. 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) and the Ambassador of the United Kingdom of Great Britain and Northern Ireland in Washington, D.C.

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://www.dot.gov/general/orders/aviation>.*