



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on February 17, 1999

NOTICE OF ACTION TAKEN -- DOCKET OST-98-4833

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of Northwest Airlines, Inc., filed 12/1/98 for:

XX Exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between Newark, New Jersey, on the one hand, and Rio de Janeiro and Sao Paulo, Brazil; Bogota, Colombia; Quito and Guayaquil, Ecuador; Lima, Peru; and Caracas, Venezuela, on the other; and between Houston, on the one hand, and Bogota, Colombia; Quito and Guayaquil, Ecuador; Lima, Peru; and Caracas, Venezuela, on the other. Northwest intends to operate this service pursuant to a code-share arrangement with Continental Airlines.¹

American Airlines and United Air Lines filed answers in response to Northwest's application; Northwest filed a consolidated reply. American does not object to Northwest's request provided that American's applications to engage in code-share arrangements with Avianca, Aerpostal, and Lan Chile for services to Colombia, Venezuela, and Chile are also approved. United does not object to Northwest's request to code-share to Venezuela provided that the joint application of United and Mexicana for code-share services in the Miami-Caracas market is approved at the same time. United urges the Department to defer on Northwest's request with respect to code-share services to Bogota until bilateral agreements affecting entry have been resolved.

Applicant rep: Megan Rae Poldy (202) 842-3193 DOT Analyst: Sylvia Moore (202) 366-6519

DISPOSITION

XX **Granted, in part** (subject to conditions, see below)

XX **Balance deferred** (i.e., for Colombia and Venezuela authority)

The above action was effective when taken: February 17, 1999, through February 17, 2001

Action taken by: Paul L. Gretch, Director
Office of International Aviation

XX **The authority granted is consistent with the aviation agreements between the United States and Brazil, and the United States and Peru, and the overall state of aviation relations between the United States and Ecuador.**

(See Reverse Side)

¹ Northwest and Continental also plan to code share in the U.S.-Chile market on flights operated by Continental in the Newark-Santiago market. Northwest already holds certificate authority to operate service between points in the United States and points in Chile (Route 3-F) and, thus, did not require additional underlying authority for these services.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX Holder's certificate of public convenience and necessity**
XX Standard Exemptions Conditions (attached)

Conditions:

(1) The code-share operations conducted under this authority must comply with 14 CFR 399.88 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (i.e., the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.

(2) The authority granted here is specifically conditioned so that neither Northwest Airlines nor Continental Airlines shall give any force and effect to any contractual provisions between themselves that are contrary to these conditions.

(3) The authority granted is limited to operations provided on a code-share basis with Continental Airlines.

Remarks: Northwest's application with respect to its proposed Brazil, Peru, and Ecuador code-share operations was uncontested. We will handle the carrier's request with respect to authority to serve Colombia and Venezuela, to which comments were filed, separately.²

On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) grant of the exemption authority was consistent with the public interest; and (3) grant of the authority would not constitute a "major federal action" under the Energy, Policy and Conservation Act of 1975. To the extent not granted or deferred, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp*

² Since Northwest already holds authority to serve Chile and was not seeking such authority here, see note 1, *supra*, we did not reach issues relating to Chile in our consideration of Northwest's present exemption request.