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3:00 p.m.



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

Issued by the Department of Transportation
on the 13th day of July, 1999

Served: July 15, 1999

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Agreement adopted by the Tariff           :
Coordinating Conferences of the           :      Docket OST-99-5801
International Air Transport Association    :      R-1 and R-2
relating to passenger fares              :
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ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code and Part 303 of the Department's regulations. The agreement was adopted by mail vote for effectiveness on July 1, 1999.^{1/}

The agreement introduces companion fares on intermediate class service for travel from Japan to Guam and Saipan in order to stimulate traffic. The fares carry a 2/14 day minimum/maximum stay requirement; have 7-day deadlines for reservations and ticketing; allow stopovers; require that both passengers travel together; and are subject to penalties for cancellation.

We will approve the agreement. Based on the information submitted and other relevant material, we conclude that the agreement will not result in fares that are unlawful or injurious to competition in the markets at issue.

In particular, our approval of the proposed promotional fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in pricing these types of fares which are generally sensitive to market demand and other

^{1/} IATA memorandum PTC3 0340 (Mail Vote 008), filed with the Department on June 4, 1999.

competitive pressures that obviate the need for regulatory intervention in most circumstances.

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find the following resolutions, which have direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided that approval is subject, where applicable, to conditions previously imposed:

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-99-5801</u>	<u>No</u>		
R-1	001a	TC3 Special Effectiveness Resolution (Tie-in) between Japan, Korea and South East Asia	3
R-2	090ww	TC3 Intermediate Class Fares from Japan to Guam, Saipan	3

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of antitrust immunity is mandatory under the Code.

Order 85-5-32 contemplates that the products of the fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-99-5801 as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-99-5801, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.30, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy and International Affairs gives notice that he will review this order on his own motion. Such actions are subject to judicial review under 49 USC 46110.

By:

Paul L. Gretch
Director, Office of International Aviation

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