



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

Issued by the Department of Transportation on December 7, 1999

NOTICE OF ACTION TAKEN -- DOCKETS OST-99-6170, OST-99-6496,  
OST-99-6527, and OST-99-6557.

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).

Applications of	<u>Delta Air Lines, Inc.</u>	filed	<u>8/25/99</u>	Docket	<b>OST-99-6170</b>
	<u>Northwest Airlines, Inc.</u>	filed	<u>11/12/99</u>	Docket	<b>OST-99-6496</b>
	<u>American Airlines, Inc.</u>	filed	<u>11/19/99</u>	Docket	<b>OST-99-6527</b>
	<u>United Air Lines, Inc.</u>	filed	<u>11/24/99</u>	Docket	<b>OST-99-6557</b>

**XX** Exemptions under 49 U.S.C. §40109 to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between any point or points in the United States via intermediate points to a point or points in Italy and beyond. Delta, American, and United have also requested the authority to integrate their exemptions here with all other services authorized by existing certificates and exemptions granted by the Department, to the extent permitted by international agreements.**

United filed an answer to Delta's application; Delta and United filed answers to Northwest's application; Delta filed an answer to United's application; and Delta filed a reply to United's answer.<sup>1</sup> Generally, none of the carrier parties opposes any other carrier's request, provided that its own application is also granted. With respect to Northwest's application, United urges the Department to condition the authority granted to Northwest/KLM/Alitalia so that they cannot offer monopoly online code-share service to Milan's Linate Airport that other U.S. carriers are precluded from offering because their European partners are barred from serving that airport.<sup>2</sup>

Applicant reps: Robert E. Cohn for Delta (202) 663-8060;  
Megan Rae Rosia for Northwest (202) 842-3193;  
Carl B. Nelson, Jr. for American (202) 496-5647; and  
Jeffrey A. Manley for United (202) 879-5161.

DOT Analyst: Michael D. Bodman (202) 366-9667

**DISPOSITION**

**XX** Granted, subject to conditions (see Remarks and Conditions below).

<sup>1</sup>The International Association of Machinists and Aerospace Workers (IAM) filed an answer to Northwest's application, which it subsequently withdrew.

<sup>2</sup>United's answer was filed as a joint response to Northwest's exemption application here, a similar exemption application by Alitalia, the flag carrier of Italy (Docket OST-99-6500), and the joint application of Northwest, KLM, and Alitalia to engage in reciprocal code-share services (Docket OST-99-6501).

The above action was effective when taken: December 7, 1999, through December 7, 2001, or until 90 days after final action by the Department on corresponding certificate authority.<sup>3</sup>

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

**XX The authority granted is consistent with the aviation agreement between the United States and Italy signed in Chicago on December 6, 1999.**

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 Exemption Conditions (attached)**

---

**Remarks:** The United States and Italy signed the U.S.-Italy open-skies agreement in Chicago on December 6, 1999. Thus, the broad air service rights requested here are now available to U.S. carriers. Against this background, we are granting broad exemption authority to each of the applicant carriers.

We acted on United's application before expiration of the 15-day answer period with the consent of all parties served.

American, Delta, and United each requested route integration authority, which we have granted. We have decided also to grant such authority to Northwest, thereby ensuring that all carriers hold comparable authorizations and maximum flexibility in exercising the newly awarded authority.

We note that Northwest also requested authority to provide services behind the United States. The authority to conduct operations from points behind the United States is inherent in the authority that we award U.S. carriers to perform foreign air transportation, and therefore, the grant of this portion of Northwest's application was unnecessary (*See e.g.* Notice of Action Taken dated March 30, 1998, as confirmed by Order 98-6-2 in Docket OST-98-3317).

With respect to United's concerns regarding access to Milan's Linate Airport, we note that those concerns are more appropriately addressed in the context of the pending Northwest/KLM/Alitalia code-share application (Docket OST-99-6501), and we note that United has, in fact, raised its concerns in that docket. That application will be handled in a separate Department action.

**Conditions:** The authority granted to serve intermediate and beyond points in conjunction with Italy service is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority, by virtue of either the present action or other action of the Department, and is subject to all conditions attached to that authority.

The route integration authority granted is subject to the condition that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies the Department of the holder's intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in the holder's authority by virtue of the route integration authority granted here, but not being used, the holding of such authority by route integration

---

<sup>3</sup>We note that Delta, American, and United have filed U.S.-Italy certificate applications in Dockets OST-99-6246, OST-99-6085, and OST-99-6208, respectively.

will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

---

On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the applicants 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 exemptions was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted or dismissed, we denied all requests in the referenced Dockets. 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 order is available on the World Wide Web at  
[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)*

**U.S. CARRIER**  
**Standard Exemption Conditions**

In the conduct of operations authorized by the attached notice, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations, including all FAA requirements concerning security; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.