



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

Issued by the Department of Transportation on October 25, 1999
NOTICE OF ACTION TAKEN -- DOCKET OST-99-6295

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).

Applicant: **Linea Aerea Nacional-Chile Sociedad Anonima, Lan Chile, S.A.** Date Filed: October 1, 1999

Relief requested: Exemption from 49 U.S.C. § 41301 to engage in scheduled foreign air transportation of persons, property and mail between a point or points in Chile, on the one hand, and Seattle, Washington, and Portland, Oregon, on the other; and (2) serve Portland and Seattle as coterminal points with its existing authority at Los Angeles. Lan Chile proposes to conduct this service under a code-share arrangement with Alaska Airlines, Inc.¹

If renewal, date and citation of last action: New authority

Applicant representative: Juan Carlos Mencia (305) 671-5008

Responsive pleadings: Continental filed a consolidated answer to United Air Lines' petition for reconsideration in the American Airlines/Lan Chile alliance case in Docket OST-97-3285 and the Alaska/Lan Chile request at issue here.² Continental states that it supports United Air Lines' petition for reconsideration of Order 99-9-9 (granting the American/Lan Chile alliance antitrust immunity) and urges us to defer action on the Lan Chile/Alaska request until such time as we approve its pending request with Lineas Aereas Chilenas, S.A. (Avant Airlines), a new foreign carrier of Chile, to conduct reciprocal code share operations in the U.S.-Chile market.³ Continental states that approval of the Lan Chile/Alaska code share would further exacerbate the American/Lan Chile dominance by extending Lan Chile's reach in the U.S. market. Continental argues that approval of requests such as its pending code share with Avant, would serve as competition to the American/Lan Chile alliance. Continental states that a minimum, we "should approve Continental's application to display Avant's code on flights operated by Continental immediately..." Alaska and Lan Chile filed a consolidated reply, arguing that the parties have requested no basis to withhold award of the requested authority.

DISPOSITION

Action: Approved

Action date: October 25, 1999

We have decided to approve the instant application. The services proposed are fully consistent with our bilateral aviation agreement with Chile and will provide new service options to the public. With respect to Continental's concerns, we are concurrently approving the Continental/Avant application for flights operated by Continental. See Notice of Action Taken, dated October 25, 1999, Docket OST-99-6194 and Order 99-10-20 (Order on Reconsideration, Docket OST-97-3285).

Effective dates of authority granted: October 25, 1999-October 25, 2001

Basis for approval (bilateral agreement/reciprocity): Air Transport Agreement between the United States and Chile, signed October 21, 1999.

¹ See related request of Alaska Airlines in Docket OST-99-6296 for a statement of authorization under 14 CFR Part 212 to display Lan Chile's designator code ("LA") on flights operated by Alaska Airlines between Los Angeles, California, and Portland and Seattle.

² On October 6, 1999, Lan Chile and Alaska Airlines filed a motion requesting that we accelerate the due date for answers because of Y2K schedule filing deadlines for new code share services. On October 8, 1999, Alaska and Lan Chile responded to Continental's opposition to the shortened answer period. Continental Airlines opposed the motion, and confirmed its opposition in writing. On October 8, 1999, Alaska and Lan Chile responded to Continental's opposition to the shortened answer period and asked that we require Continental to file its answer no later than October 13 (the due date for answers was October 18). As all responsive pleadings have been filed, and in light of our action here granting Lan Chile's application, we dismissed as moot the carriers' motion to accelerate the procedural dates.

³ See Docket OST-99-6194.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated:

X Lan Chile's foreign air carrier permit (Order 87-8-55) and the conditions set forth in the related statement of authorization granted Alaska Airlines on October 25, 1999, in Docket OST-99-6296.

Special conditions/Partial grant/Denial basis/Remarks: The exemption authority granted is limited to services conducted on a code-share basis only on flights operated by Alaska Airlines.

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

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) the applicant was qualified to perform the proposed operations; (2) immediate action was required and was consistent with Department policy; (3) grant of the authority was consistent with the public interest; and (4) 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/deferred/dismissed, 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.

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http://dms.dot.gov/reports/reports_aviation.asp*