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Order 2000-1-23

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

Issued by the Department of Transportation
on the 27th day of January, 2000

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|---|---|--------------------------|
| ----- | | Served: February 1, 2000 |
| Agreements adopted by the Tariff | : | |
| Coordinating Conferences of the | : | Docket OST-99-6134 - 2 |
| International Air Transport Association | : | Docket OST-99-6142 - 3 |
| relating to passenger fare matters | : | R-1 through R-6 |
| ----- | | |

ORDER

Various members of the International Air Transport Association (IATA) have filed two agreements with the Department under section 41309 of Title 49 of the United States Code (the Code), and Part 303 of the Department's regulations. The agreements were adopted at a meeting of the IATA Composite Passenger Tariff Coordinating Conference held in Montreal during July 19-23, 1999.^{1/}

The agreement in Docket OST-99-6142 proposes a variety of amendments, most of which are technical, editorial or clarifying in nature, to existing resolutions applicable on a worldwide basis. These include resolutions that establish a glossary of terms used in connection with IATA's Tariff Coordinating Conferences; govern the application of stopovers and the counting of transfers; and set forth standard conditions for special (discount) fares.

In addition, the agreement in Docket OST-99-6142 introduces new resolutions that establish standard conditions for normal (first, intermediate [business] and economy) fares in line with the approach already approved and in place for discount fares.

Finally, the agreement in Docket OST-99-6134 sets forth additional criteria to be followed in selecting fares to be used in performing checks for higher intermediate points (HIP's) in normal fare constructions. These changes establish a rule, along the lines of the approach already in place for day-of-week fares, to determine the seasonal definition that would apply for fares used to perform certain HIP checks, and add flight application as an additional factor that must be considered when fares that are only available on certain flights are used.

^{1/} IATA memorandum PTC COMP 0494, Docket OST-99-6134; and IATA memorandum PTC COMP 0495, Docket OST-99-6142. IATA filed technical corrections to Docket OST-99-6142 in memorandum PTC COMP 0513 on September 27, 1999.

We have decided to approve the agreements, subject to all conditions that we have imposed previously, including the one recently imposed in Order 99-07-08, (July 14, 1999) which ensures that agents and carriers retain maximum flexibility in constructing fares so that they may compete effectively and obtain the best deal for their customers. Based on our review of the information submitted and other relevant material, we conclude that the approved agreements, as conditioned, will not result in fares or charges that are unlawful or injurious to competition in the markets at issue.

Acting under Title 49 of the United States Code (the Code), and particularly sections 40101, 40103, 41300 and 41309:

1. We do not find the following resolutions, which are incorporated in the agreements in Dockets OST-99-6134 and OST-99-6142 as indicated and which have either direct or indirect 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 No</u> | <u>Title</u> | <u>Application</u> |
|---------------|--------------------|---|-----------------------------|
| OST-99-6134 | 024j | Special Construction Rules (Expedited) | 1;2;3;1/2; 2/3;3/1;1/2/3 |

| <u>Docket</u> | <u>IATA No</u> | <u>Title</u> | <u>Application</u> |
|--------------------|--------------------|--|-----------------------------|
| <u>OST-99-6142</u> | | | |
| R-1 | 012 | Glossary of Terms (Expedited) | 1;2;3;1/2; 2/3;3/1;1/2/3 |
| R-2 | 040 | Stopovers (Expedited) | 1;2;3;1/2; 2/3;3/1;1/2/3 |
| R-3 | 040b | Counting of Transfers (Expedited) | 1;2;3;1/2; 2/3;3/1;1/2/3 |
| R-4 | 100 | Standard Condition Resolution for Special Fares (Expedited) | 1;2;3;1/2; 2/3;3/1;1/2/3 |
| R-5 | 101 | Standard Condition Resolution for Normal Fares (Expedited) | 1;2;3;1/2; 2/3;3/1;1/2/3 |
| R-6 | 101a | Special Amending Resolution for Normal Fares (Expedited) | 1;2;3;1/2; 2/3;3/1;1/2/3 |

2. These agreements are a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy and comity 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 Title 49 of the United States Code.

Order 85-5-32 contemplates that the products of 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 agreements in Dockets OST-99-6134 and OST-99-6142 as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in Dockets OST-99-6134 and OST-99-6142, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed.

By:

A. BRADLEY MIMS
Deputy Assistant Secretary for Aviation
and International Affairs

(Seal)

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