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

**Order 2000-8-17**

Served: August 18, 2000

Issued by the Department of Transportation  
on the 18<sup>th</sup> day August, 2000

Served: August 18, 2000

**U.S.- TURKEY THIRD-COUNTRY  
CODE-SHARE OPPORTUNITIES**

**Docket OST-2000-7148 - 18**

**FINAL ORDER**

**SUMMARY**

By this order, we make final our tentative decision in Order 2000-7-25 to select Delta Air Lines, Inc., Northwest Airlines, Inc., and United Air Lines, Inc., to serve Istanbul, Turkey, under code-share arrangements with their respective third-country code-share partners, and to award each carrier seven weekly frequencies to perform its service.

**BACKGROUND**

On May 3, 2000, the United States and Turkey signed an open-skies agreement which comes into full effect after a three-year transition period. Among other things, the new agreement permits U.S. carriers to provide third-country code-share combination services over a three-year transition period. Effective immediately through March 31, 2001, up to three U.S. airlines may serve Turkey via intermediate points under code-share arrangements with third-country airlines and collectively may operate up to 21 weekly frequencies.<sup>1</sup>

Four U.S. carriers applied for the available opportunities: Northwest with KLM, United with Lufthansa, Delta with Air France, and American with Swissair. By Order 2000-7-25, we

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<sup>1</sup> The rights are provided for in a March 22, 2000 U.S.-Turkey Memorandum of Consultations (MOC) that set forth the text of an *ad referendum* open-skies agreement. The MOC expresses the intent of their respective aviation authorities to permit operations consistent with the terms of the agreement on the basis of comity and reciprocity from the date of signature of the agreement, pending its entry into force by an exchange of notes upon completion of constitutional requirements.

tentatively selected Northwest, United and Delta to serve Istanbul under third-country code-share arrangements with their respective partners. We also tentatively decided to allocate the 21 weekly frequencies available equally among the carriers, thereby providing the public with a daily service over three different European gateways.

The Department also contemporaneously granted the uncontested application of American to serve the U.S.-Turkey market under a bilateral code-share arrangement with THY, a Turkish airline.<sup>2</sup>

## **RESPONSIVE PLEADINGS**

Only American filed a comment to the Department's show-cause order. American states that it does not object to the Department's tentative decision, provided that the Department also grants American's request for third-country code-share authority in the U.S.-South Africa market with British Airways via London.<sup>3</sup>

In this regard, American states that in its show-cause order, the Department found that American's authorized code-share operations with THY would largely duplicate its proposed third-country code-share service in the U.S.-Turkey market and that this factor detracted from American's selection for third-country code-share service in this proceeding for U.S.-Turkey third-country code-share rights. American contends that these same factors apply to Delta's code-share services in the U.S.-South Africa market where Delta conducts duplicative services under bilateral and third-country code-share authority, and warrant action by the Department to reallocate Delta's South Africa third-country code-share authorization to another carrier.

Delta and United filed answers to American's comment. These carriers generally state that American did not challenge the tentative findings of the show-cause order but instead, American wants the Department to apply its rationale in this case to an unrelated matter pending in another case. In addition, United states that the Department should finalize its decision as soon as possible since American is now already in a position to enjoy the benefits of its code share with THY whereas the other U.S. carrier code-share applicants must await completion of this proceeding.

## **DECISION**

No party has challenged our tentative findings and conclusions in Order 2000-7-25. Therefore, we have decided to make final our tentative decision to select Delta, Northwest and United to serve the U.S.-Turkey market under their respective third-country code-share arrangements and to allocate each carrier seven weekly frequencies to perform this service.

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<sup>2</sup> American had applied to serve Turkey under a bilateral code-share arrangement with THY (Docket OST 2000-7151) and under a third-country code-share arrangement with Swissair in this docket.

<sup>3</sup> American application filed December 3, 1999 in Docket OST-99-6595. That application is pending. American concurrently filed a motion for immediate action on its South Africa application in that docket.

American urges us to make a decision to authorize American's U.S.-South African third-country code-share services based on our decision in this case. As we stated in our tentative decision, we believe the public interest is best served by deciding each code-share case based on the particular circumstances presented. We followed that approach here. The issues raised by American are properly considered in the context of our consideration of the issues affecting U.S.-South Africa code-share services and provide no basis to withhold final approval of the services at issue here.

### **ECONOMIC AUTHORITY**

As discussed in our show-cause order, Delta, Northwest, and United already hold the necessary underlying authority to conduct their proposed services and, thus, additional underlying authority for these carriers is not necessary. With respect to statements of authorization for the proposed code-share services, Delta, Northwest, and United have blanket statements of authorization for their code-share services with Air France, KLM and Lufthansa, respectively, and have filed the required notices for expansion of their services and, thus, no additional authority is needed.<sup>4</sup>

### **ACCORDINGLY,**

1. We make final our tentative findings and conclusion in Order 2000-7-25;
2. We select Northwest Airlines, Inc., United Air Lines, Inc., and Delta Air Lines, Inc., to provide scheduled foreign air transportation of persons, property, and mail in the U.S.-Turkey market under their code-share arrangements with Air France (via Paris), KLM Royal Dutch Airlines (via Amsterdam), and Lufthansa German Airlines (via Frankfurt), respectively;
3. We allocate seven weekly frequencies each to Northwest Airlines, Inc., United Air Lines, Inc., and Delta Air Lines, Inc., for its U.S.-Turkey third-country code-share services, subject to the following conditions:
  - (a) The frequencies will remain in effect only as long as each carrier continues to hold the necessary underlying authority to serve the U.S.-Turkey market and a third-country code-share authorization for these services, and
  - (b) The frequency allocation will expire and the frequencies will revert automatically to the Department if they are not used for a period of 90 days;<sup>5</sup>
4. We may amend, modify, or revoke the authority granted by this order at any time at our discretion without hearing;
5. To the extent not granted, we deny all requests in the captioned docket; and

<sup>4</sup> The blanket statements of authorization require the carriers to provide at least 30 days notice to the Department of their intent to provide code-share services in limited-entry markets. Delta and United provided such notice in their applications in this docket. Northwest expressed its intention to provide the required notice in Docket OST-99-6501 and, on August 2, it filed the required notice for its service.

<sup>5</sup> As all the carriers stated that they were prepared to begin their code-share services immediately, the 90-day dormancy period will begin on the date of service of this order.

6. We will serve this order on American Airlines, Inc.; Delta Air Lines, Inc.; Northwest Airlines, Inc.; United Air Lines, Inc.; the Ambassador of Turkey in Washington, D.C.; the U.S. Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration (AFS-220).

By:

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

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