



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

Issued by the Department of Transportation on March 7, 2001

NOTICE OF ACTION TAKEN -- DOCKETS OST-2000-8555

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).

Application of **Northwest Airlines, Inc.** filed **12/15/2000** for:

XX Exemption for two years under 49 U.S.C. §40109 to provide the following service:

Scheduled foreign air transportation of persons, property and mail between a point or points in the United States, via intermediate points, and (a) a point or points in Malta, and beyond; and (b) a point or points in Morocco, and beyond. Northwest intends to serve the U.S.-Malta and U.S.-Morocco markets via points in Italy pursuant to a code-share arrangement with Alitalia-Linee Aeree Italiane-S.p.A.

Northwest also requests authority to integrate its exemption here with all other Northwest services authorized by existing certificates and exemptions granted by the Department, to the extent permitted by international agreements.

Sun Country filed an objection¹ to Northwest's application, stating that the Department should take no action on Northwest's application until Northwest has "ceased and desisted from present and continuing anticompetitive behavior, and pledged to refrain from similar behavior against Sun Country in the future."² In response, Northwest states that the Sun Country motion should be denied since Sun Country has failed to show any relevant connection between Northwest's application here and Sun Country's allegations regarding Northwest's actions in the domestic marketplace, or any valid reason for acceptance of Sun Country's opposition long after answers were due in this case. In the event the Department accepts the motion of Sun Country, Northwest asserts that Sun Country's allegations should be pursued in an enforcement context, not here in the context of applications for expanded international authority.

Applicant rep: **Megan Rae Rosia (202) 842-3193** DOT Analyst: **Michael D. Bodman (202) 366-9667**

DISPOSITION

XX Granted, subject to conditions (see below).

The above action was effective when taken: **March 7, 2001**, through **March 7, 2003**.

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

XX The authority granted is consistent with the aviation agreements between the United States and Malta and the United States and Morocco.

¹Sun Country's objection was accompanied by a motion for leave to file an otherwise unauthorized document. We grant the motion.

²Sun Country motion at 1.

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

XX Holder's certificates of public convenience and necessity

XX Standard Exemption Conditions (attached)

XX Statement of Authorization dated January 5, 2000, authorizing Northwest/Alitalia/KLM code-share operations, and conditions therein.

Remarks: As to the domestic competition issues raised by Sun Country with respect to Northwest, we will not address them here. The Department is currently considering the allegations raised by Sun Country in an informal investigation, and they are more appropriately considered in that forum.

Conditions: The route integration authority granted is subject to the condition that such operations are consistent with the applicable bilateral aviation agreements. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon Northwest additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Northwest first notifies the Department of Northwest'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 Northwest's authority by virtue of the route integration authority granted here, but not being used, the holding of such authority by route integration will not be considered as providing any preference for Northwest in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

The authority granted to operate to third countries 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.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the exemption 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, 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.

*An electronic version of this order is available on the World Wide Web at
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.