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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 March 27, 2002

NOTICE OF ACTION TAKEN -- DOCKET OST-98-3419- 258

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 TWA Airlines LLC filed 9/26/2001 for:

XX Waiver of dormancy condition:

By Order 98-5-17, the Department granted certificate authority to TWA Airlines LLC to provide service between St. Louis, Missouri, and Tokyo, Japan, and allocated it 7 weekly frequencies to operate this service. The frequencies are subject to the condition that they will expire automatically and revert to the Department for reallocation if they are not used for a period of 90 days. The Department has previously granted a waiver of the dormancy condition for the St. Louis-Tokyo service. Under the terms of this waiver, the frequency allocation would have expired November 30, 2001, but it was extended through March 31, 2002 by Order 2001-11-15. The application seeks a further waiver of the 90-day dormancy condition for an indefinite period or, alternatively, for a period of one year because the required slots at Tokyo's Narita Airport are not available now for the inauguration of its service.

No objections to the request were filed. Delta filed an answer to several applications, including the one here, that seek waivers of Japan dormancy conditions. Delta states that allowing carriers to hold frequencies facilitates route planning and promotes the introduction of service when market conditions improve. Delta, therefore, states that it has no objection to the waiver requests of other carriers as long as the Department acts favorably on Delta's pending request seeking similar relief. See application filed February 26, 2002, Docket OST-2002-11706.

Applicant rep.: Carl B. Nelson, Jr., (202) 496-5647 DOT analyst: Gerald Caolo, (202)-366-2406

DISPOSITION

XX Granted, for one year (see remarks below)

XX Balance dismissed (i.e. request for longer term waiver, see below)

The above action was effective when taken: March 27, 2002, through April 1, 2003.¹

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

¹ The waiver of the dormancy condition is effective through April 1, 2003, or until the date on which the carrier begins service with these frequencies, whichever occurs earlier. The 90-day dormancy period will begin on the date the service begins. As to any frequency which is not used by April 1, 2003, the frequency allocation with respect to that frequency expires automatically.

Remarks:

By Order 2001-11-15, following the events of September 11, 2001, the Department granted all U.S. carriers a blanket waiver from the dormancy conditions related to their international route authorities through March 31, 2002. The Department stated that it would entertain applications to extend the dormancy waiver beyond March 31 for specific city-pair, limited-entry services where carriers can demonstrate that circumstances warrant. While we have granted the request here,² as in the public interest, based on the circumstances stated in the request, there should be no expectation that an additional request will similarly be granted. Any future requests to extend the dormancy waiver for the frequencies at issue here will have to be considered in light of the specific arguments offered in support of the request and any comments that might be filed in response, and in the context of the circumstances present at that time. Furthermore, should another carrier seek to use the frequencies at issue here, we reserve the right to reexamine whether the waiver granted here continues to be in the public interest.

We are acting on Delta's request for a waiver of the dormancy condition on its Japan frequencies (Docket OST-2002-11706) by separate notice.

Dismissal:

Consistent with our standard practice for this type of application, we granted the waiver for a limited term, and dismissed the request for a waiver of unlimited duration.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; and (2) grant of the waiver was consistent with the public interest. 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 seven (7) 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 document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp.*

² This authority was originally granted to Trans World Airlines, Inc. The Department subsequently transferred most of Trans World's authority, including the authority at issue here, to American Airlines and its newly formed subsidiary, TWA Airlines LLC. See Order 2001-4-7, issued April 6, 2001.