

NEW



**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

December 3, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applications of **Delta Air Lines, Inc.** filed **10/27/97** in Docket **OST-97-3051 and Undocketed** 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 Atlanta, New York, and Miami, on the one hand, and Antigua and St. Lucia, on the other. Delta requests authority to integrate this exemption with all of Delta's existing certificate and exemption authority, consistent with international agreements. Delta intends to operate this service under a code-share arrangement with Air Jamaica Limited on flights operated by Air Jamaica.

XX *Statement of Authorization under 14 CFR Part 207 for two years to:*

Display Air Jamaica's "JM" designator code on Delta flights between Atlanta, on the one hand, and Boston, Cincinnati, Hartford, Memphis, and San Francisco, on the other, on a blind-sector basis for carriage of Air Jamaica's Caribbean-U.S. traffic.

Delta plans to begin placing its code on Air Jamaica flights effective January 15, 1998, and Air Jamaica plans to begin placing its code on Delta flights effective March 28, 1998.

No answers to the application were filed.

Applicant rep.: **Robert E. Cohn 202-663-8060** DOT analyst: **Linda Senese, 202-366-2367**

DISPOSITION

XX *Granted, in part, subject to conditions. (See below)*

XX *Balance Dismissed.*

*The above action was effective when taken: **December 3, 1997** through **December 3, 1998***

XX *Under assigned authority (14 CFR 385) by:*

Paul L. Gretch, Director

Office of International Aviation

*(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.*

*Filing of a petition shall not stay the effectiveness of
this action.)*

XX **Authority granted is consistent with the aviation agreements between the United States and Antigua and St. Lucia and the grant of the statements of authorization for code-share services is consistent with the overall aviation relationships between the United States and Jamaica, Barbados, Antigua and St. Lucia.**

(See Reverse Side)

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

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

Special Remarks: The authority granted is coextensive with the duration of the statement of authorization and exemption granted Air Jamaica on December 3, 1997.

Dismissal: We dismissed Delta's application to the extent that it requested authority for a two-year period. It is our standard practice to grant such initial applications for a period of one year, and we followed that policy here. Our dismissal is without prejudice to Delta's filing for renewal of the authority at the appropriate time.

Conditions: The code-sharing operations authorized herein must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere, and that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger.

The route integration authority requested is granted subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in our award of route integration authority requested should be construed as conferring upon Delta rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Delta notifies us of its 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 Delta's authority by virtue of the route integration exemption granted here, but that are not then being used by Delta, the holding of such authority by route integration will not be considered as providing as preference for Delta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

U.S. Carrier
Standard Exemption Conditions

In the conduct of the operations authorized by the attached order, 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 the requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) 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; 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.