

NEW



U.S. Department of  
Transportation

Office of the Secretary  
of Transportation

## NOTICE OF ACTION TAKEN

May 8, 1998

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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.

Application of Continental Airlines, Inc., filed 4/15/98 in Docket OST-98-3744 for:

**XX** Exemption under 49 U.S.C. 40109 to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between any point or points in the United States, and any point or points in France and its territories, directly and via intermediate points, and beyond France to any point or points in third countries, and to integrate this authority with Continental's existing certificate and exemption authority. Continental intends to operate this service pursuant to a code-share arrangement with Air France. Continental has requested the authority for an indefinite duration.**

The City of Houston and The Greater Houston Partnership and The Regional Business Partnership (Newark) filed answers in support of Continental's application. United Airlines filed an answer stating that it did not oppose the application, but that the public interest would be best served if all requests for broad U.S.-France exemption authority be subject to the condition that intermediate and beyond points may be served on a blind-sector basis only. Continental filed a reply opposing such a limitation, arguing that a specific condition is not necessary since under the authority granted all operations must be consistent with the U.S.-France agreement and the Agreement makes clear that such intermediate and beyond services may be operated on a blind-sector basis only (except where specifically authorized).

Applicant rep: R. Bruce Keiner (202) 624-2500 DOT Analyst: Sylvia Moore (202) 366-6519

### DISPOSITION

**XX** Granted in part (see below)

**XX** Balance dismissed (*i.e.*, request for longer-term authority)

The above action was effective when taken: May 8, 1998, through May 8, 2000

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

**XX** The authority granted is consistent with the April 8, 1998 Memorandum of Consultations between the United States and France.<sup>1</sup>

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)

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**Special Conditions:** The authority granted was made subject to the following conditions:

(a) The authority to operate via intermediate points and beyond France to third countries shall be limited to operations on a blind-sector basis only and 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.

(See Reverse Side)

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<sup>1</sup> On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also provided that each Party would permit operations consistent with the new Agreement on the basis of comity and reciprocity, pending finalization of the Agreement.

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

(c) The code-sharing operations conducted under this authority 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; 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; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

(d) The U.S.-France combination services operated by Continental must be operated within the level of services authorized Continental for U.S.-France combination services.

**Remarks:** Consistent with our standard practice for this type of application, we granted Continental's exemption authority for a period of two years, and dismissed its request for longer-term authority.

We decided to impose a condition regarding intermediate and beyond services, concluding that doing so would enhance the clarity of our decision without in fact detracting from the authority awarded to Continental.

*An electronic version of this document is available on the World Wide Web at:  
<http://dms.dot.gov/general/orders/aviation.html>.*