



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

Issued by the Department of Transportation on February 3, 2000

NOTICE OF ACTION TAKEN – DOCKETS OST-99-6537 and OST-99-6540

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).

Applications of **Northwest Airlines, Inc.** filed **11/19/99** in Docket **OST-99-6537**; and
American Airlines, Inc. filed **11/22/99** and
amended **12/20/99** in Docket **OST-99-6540** for:

XX Allocation of U.S.-France third-country code-share opportunities to provide the following services:

Scheduled foreign air transportation of persons, property, and mail between the United States and France. Northwest intends to operate its services via Italy pursuant to a code-share arrangement with Alitalia. American intends to operate its services via the United Kingdom and Brussels, Belgium, pursuant to code-share arrangements with British Airways and Sabena, respectively.¹

Northwest Airlines filed an answer to American's application and American filed a reply.² Northwest opposes American's application until the Department has granted the application of Northwest and Alitalia to conduct U.S.-France third-country code-share services.³ American responded that nothing prevents the Department from granting the applications of American and Northwest at the same time.

Applicant reps: **Megan Rae Rosia (202) 842-3193 for Northwest;** and
Carl B. Nelson, Jr. (202) 496-5647 for American

DOT Analyst: **Michael D. Bodman (202) 366-9667**

DISPOSITION

XX Granted, in part (see below).

XX Balance deferred (see below).

The above action was effective when taken: **February 3, 2000.**

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

¹American initially applied for a third-country code-share opportunity to provide service in the U.S.-France market with British Airways only. Subsequently, American amended its application to include Sabena as an additional code-share partner.

²American's reply was accompanied by a motion for leave to file an otherwise unauthorized document. We granted the motion in the interest of a complete record.

³Northwest is currently designated to provide U.S.-France third-country code-share services with its partner KLM. The application of Northwest referenced above would add an additional partnership between Northwest and Alitalia to Northwest's current code-share services.

XX The authority granted is consistent with the aviation agreements between the United States and France, the United States and Italy, and between the United States and Belgium.⁴

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 Statement of Authorization dated November 2, 1999, in Docket OST-99-5943 authorizing American/Sabena code-share services, and conditions therein.⁵

XX Statement of Authorization dated January 5, 2000, in Docket OST-99-6501 authorizing Northwest/KLM/ Alitalia code-share services, and conditions therein.

Remarks: Under the U.S.-France aviation agreement, as of April 1999, the United States may designate a third U.S. carrier to provide code-share operations in the U.S.-France market via third countries.⁶ In addition, as of April 1999, among the three designated U.S. airlines, two additional partnerships may be added with third-country airlines for code-share operations.

We have decided to allocate Northwest one of the two additional partnerships currently available for allocation to designated U.S. carriers, so that Northwest can provide third-country code-share service in the U.S.-France market with its partner Alitalia.⁷ In addition, we have decided to allocate to American the third designation available for U.S.-France third-country code-share services with its partner, Sabena.⁸ Both of these requests are within the scope of authorities available under the U.S.-France aviation agreement and will expand the range of service options available to consumers. Our authorization in this notice of Northwest's U.S.-France code-share services with Alitalia addresses the concern raised by Northwest in its answer to American's application.

As a result of our authorizations here, one additional code-share partnership opportunity remains available for allocation among the three U.S. carriers designated to provide third-country code-share service in the U.S.-France market.

In this regard, we have deferred action on American's application to the extent that it seeks allocation of the remaining code-share opportunity to provide service in the U.S.-France market with British Airways.

⁴The U.S. and Italian aeronautical authorities have stated their intent to permit operations consistent with the terms of their agreement signed in Chicago on December 6, 1999, on the basis of comity and reciprocity, pending an exchange of diplomatic notes.

⁵Separate from American's application here, Sabena has submitted, as required by the November 2, 1999 Statement of Authorization, a notice in Docket OST-99-5943 regarding American and Sabena's intent to serve new markets, including the U.S.-France services that are the subject of this notice.

⁶Currently, two U.S. carriers -- Northwest and United Air Lines -- have been designated to provide U.S.-France third-country code-share services, with KLM and Lufthansa respectively.

⁷Northwest holds all the necessary underlying economic authority to operate these services. See Order 98-6-5 granting Northwest broad exemption authority to serve the U.S.-France market, and Notice of Action Taken dated December 7, 1999, in Docket OST-99-6496 granting Northwest broad exemption authority to serve the U.S.-Italy market and route integration authority. In addition, on January 5, 2000, the Department authorized code-share services by Northwest and Alitalia that encompass the services authorized here. Northwest/Alitalia have submitted the required notice regarding their intent to provide the U.S.-France services that are the subject of this notice.

⁸American holds all the necessary underlying economic authority to operate these services. See Order 96-5-9 granting American broad U.S.-Belgium authority, and Orders 91-4-47 and 95-5-17 as well as Notice of Action Taken dated May 5, 1999, in Docket OST-97-2336 granting American broad U.S.-France authority and broad route integration authority. In addition, on November 2, 1999, the Department authorized code-share services by American and Sabena that encompass the services authorized here. See also footnote 5 above.

American's request is contingent upon approval by the Department of a related application of American and British Airways in Docket OST-99-6507 to engage in code-share services, including services in the U.S.-France market. That application is currently pending.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; and (2) 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 or deferred, we denied all requests in the referenced Dockets. 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*