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Order 2000-6-13

Posted: 6/16/2000
4:20 p.m.



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Served: June 21, 2000

Issued by the Department of Transportation
on the 16th day of June, 2000

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|---|---|----------------------|
| Agreements adopted by the Tariff | : | |
| Coordinating Conferences of the | : | |
| International Air Transport Association | : | Docket OST-98-4339-8 |
| relating to passenger fare matters | : | R-6 |
| | | Docket OST-98-4870-5 |

ORDER

By Order 99-11-2, November 2, 1999, the Department deferred action on IATA fare selection criteria proposed in agreements OST-98-4339 (Resolution 017h) and OST-98-4870 (Resolution 017I). These resolutions would establish uniform, mechanistic default criteria for selecting the carrier whose fares would be used for certain fare construction purposes. Insofar as travel to/from U.S. points is concerned, where several carriers have transatlantic or transpacific fares on file, the criteria require that the fares of the carrier that is the "overwater" (i.e., the airline operating between TC1 and TC2) carrier be used.^{1/} Where several carriers have Western Hemisphere fares on file, the criteria require that the fares of the carrier operating on the sector into or out of the U.S. be used. Finally, where several carriers have fares for travel between the U.S and Asia via a transatlantic routing, the criteria require that the fares of the carrier operating on the first sector which crosses from one area to the other be used.

Our order also noted that IATA adopted a separate resolution for travel within Europe under which two different selection criteria are compared, and the lower fare selected.^{2/} The minutes of the Conference indicated that this was done to address concerns of the

^{1/} To illustrate, both BA and TW have NYC-ATH fares on file for a routing NYC-TW-LON-BA-ATH. In this example, TW's fare would be used since it is the "overwater" carrier.

^{2/} The process under the European method is as follows: a) select the fares of the carrier on the first international sector; b) select the fares of the most significant carrier by ticketed point mileage; c) compare the fares of the selected carriers from steps a and b; and d) select the lower fare for the class of service used.

European Commission that due to the selection criteria applied by some CRSs, lower fares of some carriers were being ignored. We expressed similar concerns, and stated that without more concrete information that would satisfactorily alleviate these concerns, we could not conclude that the less flexible criteria adopted by IATA for the United States as well as for other world areas are appropriate.

Accordingly, we requested that IATA supply us with some real-world comparisons, using published fare levels and plausible routings involving transportation to/from U.S. points, of results under the proposed fare selection criteria versus results under alternative criteria. In addition, each of these constructions was to clearly explain how application of the fare selection criteria at issue produced the selected fare level.

In response, IATA has supplied several examples. Our analysis indicates that the fare selection criteria IATA proposes for U.S. travel produce fares that range between two and seven percent higher, depending upon fare type, than those produced using the European selection criteria. Generally speaking, it appears that the European method will usually produce a lower price for the consumer because it forces a comparison between two sets of fares. In these circumstances, we are not prepared to approve the fare selection criteria proposed in agreements OST-98-4339 (Resolution 017h) and OST-98-4870 (Resolution 0171) for travel to/from U.S. points.

While we are disapproving IATA's proposed criteria, we are not requiring that it adopt the European method for the U.S. There may be criteria, other than first international carrier or longest mileage carrier, that would be better suited for travel to/from the United States yet would provide for a meaningful comparison of the fares of the participating carriers. In any event, like the European Commission, we are concerned with selection criteria that ignore lower fares of other carriers. Accordingly, we urge IATA to develop a better system for the United States that takes our concern into account.

Acting under Title 49 of the United States Code (the Code), and particularly sections 40101, 40103, 41300 and 41309:

We find that the following resolutions, which are incorporated in the agreements in Dockets OST-98-4339 and OST-98-4870, as indicated, to be adverse to the public interest and in violation of the Code.

| <u>Docket</u> | <u>IATA</u> | <u>Title</u> | <u>Application</u> |
|---------------|-------------|-------------------------|-----------------------------|
| OST-98-4339 | No | | |
| R-6 | 017h | Fare Selection Criteria | 1;2;3;1/2; 2/3;3/1;1/2/3 |

| <u>Docket</u> | <u>IATA No</u> | <u>Title</u> | <u>Application</u> |
|---------------|--------------------|---|-----------------------------|
| OST-98-4870 | .017i | Fare Selection Criteria for Fare Construction Checks | 1;2;3;1/2; 2/3;3/1;1/2/3 |

ACCORDINGLY, .

1. We disapprove that portion of the agreement in Docket OST-98-4339 and the agreement in Docket OST-98-4870, as set forth in finding paragraph one above.

By:

A. BRADLEY MIMS
Deputy Assistant Secretary for Aviation
and International Affairs

(Seal)

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