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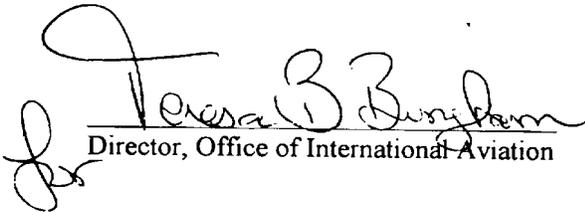


**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

DEPARTMENT ACTION ON APPLICATION IN DOCKET OST 2001-9715 - 4
(filed May 17, 2001)

Approved under assigned authority (14 CFR §385.13).

Date of Action: **June 14, 2001**


Director, Office of International Aviation

This action is subject to the conditions attached. Persons entitled to petition the Department for review of this action under the Department's regulations, 14 CFR §385.30, should file their petitions within ten days of the date of this action. This action is effective immediately, and the filing of a petition for review will not alter its effectiveness.

(1) **Application of United Air Lines, Inc., for a Statement of Authorization to display "MX" designator code of Compania Mexicana de Aviacion, S.A. de C.V. (Mexicana), on flights operated by United Air Lines, Inc. (Chicago-London) (Blind-Sector) (Docket OST-2001-9715) (filed May 17, 2001)**

(2) **In the matter of authority for Compania Mexicana de Aviacion, S.A. de C.V. (Mexicana) under 14 C.F.R. Part 216 (sua sponte) (Mexico City-Chicago-London) (Blind Sector)**

The authority granted is subject to the following conditions:

- (a) The statement of authorization will remain in effect only as long as (i) United Air Lines, Inc., and Compania Mexicana de Aviacion, S.A. de C.V. (Mexicana), continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect.
- (b) United Air Lines, Inc., and Compania Mexicana de Aviacion, S.A. de C.V. (Mexicana), must promptly notify the Department (Office of International Aviation) if the code-share agreement providing for the code-share operations is no longer effective or if the carriers decide to cease operating all or a portion of the approved code-share services. Such notices should be filed in Docket OST-2001-9715¹
- (c) The code-sharing operations conducted under this authority must comply with 14 C.F.R. Part 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provision in the contract between the carriers, our approval here is 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 responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected;
- (d) The authority granted here is specifically conditioned so neither United Air Lines, Inc., and Compania Mexicana de Aviacion, S.A. de C.V. (Mexicana) shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions; and
- (e) We may amend, modify, or revoke the authority granted at any time without hearing at our discretion.

Remarks: American filed an objection to United's application, stating that the application should be denied until the Department has granted final approval of American's proposed code-sharing arrangement with British Airways in Docket OST-99-6507. American argues that the Department's repeated grants of code-sharing authorizations to the Star Alliance for expanded services, while the Department continues to deny the American/ British Airways application, contravenes the Department's policy of encouraging the development of competing global alliances.

In its reply to American's objection, United states that the reasons for deferral of the American/British Airways application are unrelated to United's application here to code share with Mexicana.² United argues that the United/Mexicana code share does not involve U.S.-U.K. traffic but, rather, Mexico-U.K. traffic, and that both the U.K. and Mexican governments have approved similar operations involving blind-sector code-share operations.

¹ We expect this notification to be received within 10 days of such non-effectiveness or of such decision.

² United accompanied its reply with a motion for leave to file an otherwise unauthorized document. We will grant the motion.

We note that American has raised these same arguments before. In considering them, we have stated (see, e.g., Order 2000-7-27, at 4, Order 2000-12-15 at 4, and Notice of Action Taken dated January 26, 2001, in Dockets OST-2000-6954 and OST-2000-6842), that the subject American/British Airways application is under consideration on its own merits in Docket OST-99-6507, that we did not see a public interest basis to withhold the authority then being requested until we reached a decision in the American/British Airways case, and that we did not believe that competitive considerations justified linking the case then before us to the pending American/British Airways code-share application. We find nothing in the record of this case that would lead us to reach a different conclusion.

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