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

Issued by the Department of Transportation on March 2, 2001

NOTICE OF ACTION TAKEN -- DOCKET OST-2000-7734 - 5

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).

Application of American Airlines, Inc. filed 8/2/2000 and amended 8/28/2000 for:

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

Scheduled foreign air transportation of persons, property, and mail between points in the United States and points in Cyprus. American requests the right to integrate this authority with all of its existing certificate and exemption authority, consistent with applicable international agreements. American intends to operate this service under a code-share arrangement with Swissair. Initially, American plans to place its designator code on Swissair's flights between Zurich and Larnaca, Cyprus.

Cyprus Airways filed an answer opposing approval of American's application prior to the approval of its joint application with Northwest in Docket OST-99-6437 for Amsterdam-Cyprus code-share service.

American filed a reply stating that the delay in taking action on the Cyprus/Northwest application appears to be related to the fact that the Government of Cyprus has not been rated under the FAA's International Aviation Safety Assessment (IASA) program and that the American/Swissair code-share arrangement does not present that issue and its approval should not be linked to action on the Cyprus/Northwest application.

Applicant rep: Carl B. Nelson, Jr. (202) 496-5647 DOT Analyst: Linda Senese (202) 366-2367

DISPOSITION

XX **Granted** (subject to conditions, see below)

The above action was effective when taken: March 2, 2001, through March 2, 2003.

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

XX **The exemption authority granted is consistent with overall aviation relations between the United States and Cyprus, and the aviation agreement between the United States and Switzerland.**

(See Reverse Side)

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX Holder's certificates of public convenience and necessity**

XX Standard exemption conditions (attached)

XX Statement of authorization dated November 2, 1999 and approving American/Swissair code-share operations, and conditions therein¹

Remarks: With respect to the Cypress Airways' comments, we recognize that its application to serve the U.S.-Cyprus market by code sharing with Northwest Airlines (Docket OST-99-6437) is pending before the Department. We will continue our review of the Northwest/Cyprus Airways application based on the public interest factors relevant to that application, but are not persuaded that we should delay action on American's ripe application while that review continues. In this regard, we note that Cyprus Airways is a carrier that has not yet received initial grant of economic authority from the Department to provide the services in question. Furthermore, the two applications are not mutually exclusive. In these circumstances, we found that approval of the American application was consistent with the public interest.²

Conditions: The route integration authority granted is 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 the award of the route integration authority requested should be construed as conferring upon American rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless American notifies the Department 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 American's authority by virtue of the route integration exemption granted here, but that are not then being used by American, the holding of such authority by route integration will not be considered as providing any preference for American in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the exemption authority was consistent with the public interest; and (3) 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, we denied all requests in the referenced Docket. 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 document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp*

¹ That blanket authorization is subject to a condition that American and Swissair notify the Department of services in new markets no later than 30 days before the carriers commence service in the market. American stated in its application in Docket OST-2000-7734 that Swissair would file the required notice at a later date. On October 27, 2000, Swissair filed the requisite 30-day notice in Docket OST-99-5944.

² See Notice of Action Taken dated April 3, 2000, in Docket OST-99-6600.

APPENDIX A

U.S. CARRIER **Standard Exemption Conditions**

In the conduct of operations authorized by the attached notice, 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 requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, 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, including all FAA requirements concerning security; 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.