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

Order 2001-5-4

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on the 7th day of May, 2001

**U.S.- TURKEY THIRD-COUNTRY
CODE-SHARE OPPORTUNITIES**

Docket OST-2001-8781 - 17

ORDER TO SHOW CAUSE

SUMMARY

By this order, we tentatively select Northwest Airlines, Inc., and United Air Lines, Inc., to serve Turkey under code-share arrangements with third-country carriers, and we tentatively award each carrier seven weekly frequencies to perform these services.

BACKGROUND

The U.S.-Turkey aviation agreement, signed May 3, 2000 (the Agreement), permits U.S. carriers to provide third-country code-share combination service on a phased-in basis over a three-year transition period.¹ Pursuant to our award of authority for the first year of the transition period, Delta, Northwest, and United provide service between the United States and Istanbul under code-

¹ The rights are provided for in a March 22, 2000 U.S.-Turkey Memorandum of Consultations (MOC) that sets forth the text of an *ad referendum* open-skies agreement. The MOC provides that the respective aviation authorities will permit operations consistent with the terms of the agreement on the basis of comity and reciprocity from the date of signature of the agreement, pending its entry into force. In addition to the third-country code-share services at issue here, the agreement provides for direct services and for bilateral code-share services. Currently Delta Air Lines and Turkish Airlines (THY) provide direct scheduled service between the United States and Turkey, with Delta providing seven weekly flights and THY providing fifteen weekly flights. Both carriers provide daily service between New York and Istanbul. In addition, THY serves the Istanbul market with five weekly flights from Chicago and three weekly flights from Miami. American Airlines offers service in the U.S.-Turkey market from New York, Chicago and Miami under its code-share arrangement with THY on flights operated by THY. See Statement of Authorization approved July 20, 2000, Docket OST-2000-7151. There are no limitations on bilateral code-share services.

share arrangements with third-country carriers via various points in Europe, with each carrier offering seven weekly code-share frequencies.²

The Agreement provides that during the second year of the transition period, effective April 1, 2001, two additional airlines may be authorized for third-country code-share service and 14 additional frequencies will be available to all authorized airlines for a total of five airlines and 35 weekly frequencies.

By Notice dated January 31, 2000, we invited applications from U.S. carriers interested in using the third-country code-share opportunities available in the second year of the transition period.

APPLICATIONS

Applications were filed by American, Delta, Northwest, and United. American proposes to inaugurate new, daily code-share service with its partner, Swissair, via Zurich. The other applicants propose to expand their existing code-share services between the United States and points in Turkey by adding more frequencies with their existing partners: Delta with Air France, Northwest with KLM and United with Lufthansa. Each seeks seven weekly frequencies to add a second daily flight for services between the United States and Istanbul via their current European intermediate points. In addition, United also seeks seven weekly frequencies to inaugurate daily service to Ankara via Munich. All the carriers have stated that they will begin service as soon as all the necessary government approvals are received. The proposals are summarized in the attached Appendix.

RESPONSIVE PLEADINGS

All of the applicants filed answers and replies. In addition, the Houston Parties filed a reply supporting the selection of Northwest and United.³

Each of the carriers argues that its proposal will provide competitive benefits in the market and provide better service opportunities to Turkey from numerous U.S. cities. Further, American states that its proposal to provide code-share service with Swissair will provide a new code-share partnership with important benefits to consumers and competition with the other third-country code-share services. Delta states that it needs the additional frequencies to compete with the greater access of American in the U.S.-Turkey market, and that it should not be "punished" for being the only U.S. carrier operating its own service in the market.⁴ Northwest states that it needs a second award to compete with the "superior" services of American/THY and Delta and also that three of its gateways (Minneapolis, Memphis and Seattle) do not receive overlapping service from other carriers.⁵ Finally, United states that its proposal is superior in terms of most U.S. cities served and elapsed times and that United's service to Istanbul and Ankara, using all 14

² See Orders 2000-7-25 and 2000-8-17.

³ The Houston Parties consist of the City of Houston and the Greater Houston Partnership.

⁴ See Reply of Delta dated February 20, 2001 at 2.

⁵ See Answer of Northwest dated February 15, 2001 at 3 and 4; and Reply of Northwest dated February 20, 2001 at 1 and 2.

frequencies, would provide greater public benefits than using all the available frequencies to provide more service to Istanbul alone.

Delta, Northwest, and United argue that American already has better code-share opportunities under its bilateral arrangement with THY via three U.S. gateways; that its proposed service with Swissair duplicates and is inferior to its existing code-share service with THY; and that there are no frequency limits on bilateral code-share services, which enables American to increase its services with THY. Delta further states that American provides the most online service to Turkey and that it has the option under its code-share arrangement with THY to serve Turkey via European gateways, if it so chooses. Consequently, the carrier states that awarding American the frequencies here would waste limited bilateral rights and would preclude competition from other carriers.

American, Northwest, and United argue that Delta would offer no new service benefits, since it already serves the market with two daily flights (a nonstop flight with its own aircraft and a third-country code-share service via Paris with Air France), and that the U.S. cities to be served with its proposal here have better connecting service using Delta's own flight from New York or the current Delta/Air France code-share flight. Northwest and United also argue that Delta already has more access to Turkey than either Northwest or United. American states that Delta is the leading carrier serving Turkey, with five times more bookings than all of the other U.S. carriers combined. In addition, United argues that Delta's proposal here offers poor elapsed times between its U.S. cities and Istanbul and that Delta's proposal serves only 11 cities while United's proposal serves 14 cities.

American and United argue that Northwest's service proposal is the weakest, since it has the longest elapsed times and its existing code-share service provides better connecting service than what it is proposing here. In addition, they contend that Northwest would offer new service in only one direction, except for new roundtrip service to New York and Detroit, while American and United would offer roundtrip service to 10 and 14 U.S. cities, respectively. Delta further states that Paris is a "more important business and cultural center than Amsterdam" and, thus, "more passengers would take advantage" of Delta's stopover benefits compared to Northwest's proposal.⁶ Northwest replied that the only relevance here of the European points is their attractiveness as a connecting point and, in this regard, Amsterdam is one of the best.

American, Delta, and Northwest state that United should not receive all 14 frequencies as that would decrease competition in the market. Northwest asserts that it would have to compete against double daily service at a minimum by all other U.S. carriers serving the market and even triple daily service in United's case. American and Delta further argue that Ankara is a considerably smaller market than Istanbul (less than one-tenth the size) and should not be awarded service before increased services at Istanbul. American argues that United defaulted on last year's award by not fulfilling its proposal, instead using connections with a less well-timed Lufthansa flight. Thus, American argues that United does not need an additional award here, since it could provide improved connections by simply switching the connecting flight currently used at Frankfurt for its code-share service.

⁶ See Answer of Delta dated February 15, 2001 at 6.

The Houston Parties state that both Northwest and United would offer efficient connections to Houston and would benefit shippers and passengers from Houston as well as the surrounding regions. They further state that Houston has developed important trade with Turkey, founded on Houston's preeminent position in the energy industry.

TENTATIVE DECISION

We have tentatively decided to (1) select Northwest and United to serve Turkey under their respective third-country code-share arrangements, and (2) allocate each of them seven weekly frequencies to provide its service. As we propose to allocate United seven frequencies instead of the 14 that it had requested, we will permit the carrier the option to use its award for either its Istanbul or its Ankara service.

The 2000 U.S.-Turkey aviation agreement provides valuable opportunities for U.S. carriers to operate code-share services between the United States and Turkey. Currently, Delta is the only U.S. carrier serving the market with its own aircraft. In addition, as a result of last year's agreement, Delta provides daily service in the U.S.-Istanbul market under its code-share arrangement with Air France, and American operates bilateral code-share operations in the market with THY. Northwest and United also provide third-country code-share service with their respective partners between the United States and Turkey via European points. Thus, implementation of the next phase of transitional third-country code-share rights under the agreement represents an important opportunity to expand U.S. carrier services in the market and to provide the traveling public with more service options.

All four applicants now serve Turkey, with all offering services between various points in the United States and Istanbul. Delta offers 14 weekly flights (seven direct and seven with its code-share partner Air France) and American offers 15 weekly flights with its code-share partner THY. Northwest and United offer seven weekly third-country code-share frequencies each. We believe that, in assessing the public interest benefits of the applications before us, we must consider the proposals in light of the other services in the market and the improvement the proposed services will bring to those now being provided to consumers in the market.

Based on our review of the proposals, we tentatively find that the selection of Northwest and United would provide the greatest overall benefits in this case. Northwest and United currently offer seven weekly frequencies in the U.S.-Istanbul market via intermediate points in Europe in conjunction with their third-country code-share partners, KLM and Lufthansa, respectively. We also tentatively conclude that, given the current structure of the market, an award of all the frequencies to United would not best advance our goal to promote competition and afford the public the widest range of competitive services from all of the carriers serving the market. American and Delta operate at least twice-daily service between the United States and Istanbul. Additional awards to Northwest and United, therefore, would afford the public more competitive service options from all of the carriers serving the market. Moreover, an additional award to Northwest would enable the carrier to improve on-line services in the market. Northwest offers on-line connecting service to 14 U.S. cities, throughout the United States, but not all of the cities now receive same-day round-trip connecting services, since they can connect to only one flight between Amsterdam and Istanbul. For example, four U.S. cities (Los Angeles, Miami, Memphis and San Francisco) receive same-day service in only one direction. An additional award to

Northwest would enable the carrier to provide same-day round-trip service to all 14 U.S. cities, as there would be two KLM flights with which Northwest's flights between the United States and Amsterdam could connect.

Similarly, in the case of United, the carrier currently offers connecting service to 9 U.S. cities, but five of these (Atlanta, Detroit, Newark, Miami, and Philadelphia) only receive service in one direction. An award to United for a second Istanbul service would not only ensure same-day round-trip services for these five cities, but also provide new roundtrip service to five more U.S. cities (Denver, Dallas/Ft. Worth, Houston, Phoenix, and San Francisco), enabling United to offer 14 U.S. cities same-day round-trip service between the United States and Istanbul.⁷ Should United elect to use some or all of its frequencies for Ankara, its Ankara service would offer travelers the benefit of new service to Turkey's capital, and thus, a wider range of travel options. While we recognize that Ankara is a smaller market, as pointed out by several parties, United's service would also foster additional development of the U.S.-Ankara market.

Delta and American, on the other hand, offer at least twice daily service and twice the level of service now offered by Northwest and United. Unlike Northwest and United, however, in neither case would the proposed expanded services of American and Delta offer superior connections to those now offered by the carriers on their existing services. Six of the cities proposed by American now receive superior connections using American's code-share services with THY and four would receive comparable service. Similarly, of the 11 U.S. cities included in Delta's proposal, 10 now receive superior connections using Delta's nonstop New York-Istanbul service and one city now receives comparable service.⁸

Unlike the services of Delta, Northwest, and United, American's code-share services are not subject to any frequency limitations, nor are the services subject to any geographical restrictions. American is thus free to expand its operations in the market with THY and to offer travelers services in the U.S.-Turkey market via European points as well as on a nonstop basis. Also, American can do so without an additional award in this case, as THY offers service between Turkey and numerous points in Europe. The code-share operations of the other U.S. carriers during the transitional period, on the other hand, are strictly limited. Moreover, Northwest and United are currently limited to only seven weekly frequencies each for their code-share services. In these circumstances, on balance, we are not persuaded that American's proposal offers greater overall benefits than those of Northwest and United.

ECONOMIC AUTHORITY

Northwest and United already hold the necessary underlying authority to conduct their proposed services and, thus, additional underlying authority for these carriers would not be necessary.⁹

⁷ See Applications of Northwest and United dated February 8, 2001 (Exhibits NW-2 and UA-2, respectively) and the OAG Flight Guide, Worldwide editions, dated March and April, 2001.

⁸ See Applications of American and Delta dated February 8, 2001 (Exhibits AA-2 and DL-2, respectively) and the OAG Flight Guide, Worldwide edition, dated March 2001.

⁹ Northwest exemption (Notice of Action Taken dated March 17, 1997, Docket OST-96-1270) and Statement of Authorization approved January 5, 2000, Docket OST-99-6501. United Routes 57 and 603 and integration

With respect to statements of authorization for the proposed code-share services, Northwest and United have blanket statements of authorization for their code-share services with KLM and Lufthansa, respectively, and consistent with those authorizations, each has filed the required notice to provide third-country code-share services in the U.S.-Turkey market. Thus, the carriers would be able begin such service upon completion of the carrier selection procedures here.

Consistent with our standard practice, we propose to subject the frequency allocations awarded in this case to our standard 90-day dormancy condition, whereby any allocated frequencies would expire and revert automatically to the Department if they are not used for a period of 90 days.

ACCORDINGLY,

1. We tentatively select Northwest Airlines, Inc., and United Air Lines, Inc., to provide scheduled foreign air transportation of persons, property, and mail in the U.S.-Turkey market under their code-share arrangements with KLM Royal Dutch Airlines (via Amsterdam), and Lufthansa German Airlines (via Frankfurt or Munich), respectively, and tentatively allocate each carrier seven weekly frequencies for these services;
2. We direct all persons to show cause why we should not issue an order making final our tentative findings and conclusions;
3. We direct interested persons wishing to comment on our findings and conclusions, or objecting to the issuance of the order described above, to file their comments or objections with the Department, Dockets, Docket OST-2001-8781, U.S. Department of Transportation, 400 Seventh Street, SW, Room PL-401, Washington, D.C. 20590, no later than 10 calendar days from the date of service of this order; answers thereto shall be filed no later than 5 calendar days thereafter;¹⁰
4. If timely and properly supported objections are filed, we will afford full consideration to the matters or issues raised by the objections before we take further action;¹¹
5. If no objections are filed to our tentative decision on the award of the three third-country code-share opportunities and frequencies, we shall deem all further procedural steps to have been waived, and will proceed to enter a final order;
6. To the extent not tentatively granted, we tentatively deny all requests in the captioned docket; and

exemption (Order 91-2-5 and Notice of Action Taken dated March 2, 2001, Docket OST-97-2126) and Statement of Authorization (Order 98-4-8).

¹⁰ The original submission is to be unbound and without tabs on 8½" x 11" white paper using dark ink (not green) to facilitate use of the Department's docket imaging system. Alternatively, we encourage filers to use the electronic submission capability available through the Dockets/DMS Internet site (<http://dms.dot.gov>) by following the instructions at the web site.

¹¹ As we are providing for the filing of objections to this tentative decision, we will not entertain petitions for reconsideration of this order.

7. We will serve this order on American Airlines, Inc.; Delta Air Lines, Inc.; Northwest Airlines, Inc.; United Air Lines, Inc.; the Houston Parties; the Ambassador of Turkey in Washington, D.C.; the U.S. Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration (AFS-220).

By:

SUSAN McDERMOTT
Deputy Assistant Secretary for
Aviation and International Affairs

(SEAL)

An electronic version of this document is available on the World Wide Web at
http://dms.dot.gov/reports/reports_aviation.asp

U.S.-TURKEY THIRD-COUNTRY CODE-SHARE APPLICATIONS

Carrier	Code-Share Partner Aircraft/ seats	Intermediate Point	Turkey Point	U.S. Points	Weekly Frequencies
American	Swissair A321/182	Zurich	Istanbul	10: ATL, BOS, CHI, DFW, LAX, MIA, NYC, EWR, SFO, WAS	7
Delta	Air France A321/172-206	Paris	Istanbul	11: ATL, BOS, CHI, CVG, DFW, WAS, LAX, MIA, NYC, PHL, SFO	7
Northwest	KLM B737/158	Amsterdam	Istanbul	14: ATL, BOS, DTW, CHI, HOU, NYC, LAX, EWR, MSP, MEM, MIA, SFO, SEA, WAS	7
United	Lufthansa 32S/150	Frankfurt	Istanbul	14: ATL, BOS, CHI, DTW, DEN, PHX, DFW, MIA, WAS, EWR, HOU, NYC, PHL, SFO	7
	32S/150	Munich	Ankara	5: EWR, IAD, LAX, CHI, SFO	7

Note: All the carriers propose to start up as soon as they receive the necessary governmental approvals.