

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

Joint Application of)	
)	
DELTA AIR LINES, INC.,)	Dockets OST-97-2344
AUSTRIAN AIRLINES, ÖSTERREICHISCHE)	OST-97-2972
LUFTVERKEHRS AG and)	OST-99-
TYROLEAN AIRWAYS, TIROLER LUFTFAHRT AG)	
for renewal of exemption and code-share authority)	

**JOINT APPLICATION OF DELTA AIR LINES, INC.,
AUSTRIAN AIRLINES, ÖSTERREICHISCHE
LUFTVERKEHRS AG and TYROLEAN AIRWAYS,
TIROLER LUFTFAHRT AG FOR RENEWAL**

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March 1, 1999

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Delta Air Lines, Inc. (“Delta”), Austrian Airlines, Österreichische Luftverkehrs AG (“Austrian”) and Austrian’s regional partner, Tyrolean Airways, Tiroler Luftfahrt AG (“Tyrolean”) (collectively, the “Joint Applicants”) hereby apply, pursuant to 14 C.F.R. Part 212, 49 U.S.C. § 40109, and Subpart D of the Department’s Procedural Regulations, for renewal of the Joint Applicants’ blanket authority to engage in code-share operations consistent with the U.S.-Austria Open Skies Agreement,¹ and Delta and Tyrolean’s related exemption authority, as follows:

- (1) A Statement of Authorization under 14 C.F.R. Part 212 (formerly Part 207) to enable Delta to continue to display Austrian’s “OS” designator code on any flight operated by Delta

¹ This renewal application will have no impact on Delta’s CRAF commitments.

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between (a) any points within the United States, in conjunction with Alliance services held out by Austrian between Austria and the United States, (b) any point or points in the United States, on the one hand, and any point or points in Austria, on the other hand (either nonstop or over any intermediate point or points in any country), (c) any point or points in the United States, on the one hand, and any point or points in any third country, on the other hand, and (d) any point or points in Austria, on the one hand, and any point or points in any third country, on the other hand;

- (2) A Statement of Authorization under 14 C.F.R. Part 212 to enable Austrian to continue to display Delta's "DL" designator code on any flight operated by Austrian between (a) any points within Austria, in conjunction with Alliance services held out by Delta between the United States and Austria, (b) any point or points in Austria, on the one hand, and any point or points in the United States, on the other hand (either nonstop or over any intermediate point or points in any country), (c) any point or points in Austria, on the one hand, and any point or points in any third country, on the other hand, and (d) any point or points in the United States, on the one hand, and any point or points in any third country, on the other hand;
- (3) A Statement of Authorization under 14 C.F.R. Part 212 to enable Tyrolean to continue to display Delta's "DL" designator code on any flight operated by Tyrolean (in conjunction with Alliance services held out by Delta) between (a) any points within Austria and (b) any point or points in Austria, on the one hand, and any point or points in any third country, on the other hand;
- (4) An exemption to Tyrolean under 49 U.S.C. § 40109 to the extent necessary to permit Tyrolean to continue to display the "DL" designator code of Delta on flights operated by Tyrolean between points that are outside the United States that may connect to Alliance operations to and from the United States; and
- (5) An exemption to Delta under 49 U.S.C. § 40109 to enable Delta to continue to engage in scheduled foreign air transportation of persons, property, and mail between a point or

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points in the United States and a point or points in Austria, and to integrate such authority with existing certificate and exemption authority.²

In filing this renewal application, Delta and Austrian hereby invoke the automatic extension provisions of the Administrative Procedure Act (“APA”), 5 U.S.C. § 558(c), as implemented by 14 C.F.R. Part 377. This application is timely filed pursuant to Section 377.10(c).³

The Delta/Austrian blanket code-share authority was granted by Statement of Authorization dated April 30, 1997, and subsequently amended by Order 98-4-8. Delta’s U.S.-Austria exemption authority was granted by Notice of

² Consistent with the Department’s determination in Order 98-9-3 (pp. 4-5) with respect to the scope and applicability of route integration authority, Delta believes that blanket U.S.-Austria authority is already encompassed by its certificate authority for Route 616, Segment 3, as renewed by Order 95-3-25, in conjunction with its blanket route integration exemption authority granted most recently by Order 97-7-16. Out of an abundance of caution, however, Delta is herein seeking renewal of its U.S.-Austria exemption authority, which was granted prior to the Department’s route integration determination.

³ Tyrolean’s exemption and Statement of Authorization were granted on December 16, 1998, and expire on April 30, 1999 (coextensive with the duration of the Delta/Austrian blanket Statement of Authorization). Because Tyrolean’s authority is valid for a period of less than 180 days, Tyrolean is unable to invoke the automatic extension provisions of the APA to continue its authority in effect pending final Department action on this renewal application. **Accordingly, the Joint Applicants urge the Department to act on this renewal application prior to the April 30, 1999 expiration date so that existing code-share services will not be disrupted.**

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Action Taken dated May 2, 1997, as confirmed by Order 97-6-26.⁴ These authorities were granted for a two year period expiring April 30, 1999.

Coextensive with the authority granted to Delta and Austrian, Tyrolean was granted a Statement of Authorization and exemption authority to authorize intra-Austria and third-country code-share operations (Notice of Action Taken dated December 16, 1998 (Docket OST-97-2972)). The Joint Applicants request renewal of these authorities for a period of indefinite duration, consistent with recent Department practice with respect to non-controversial requests for code-share authority. See Order 98-4-8.

⁴ Delta remains fit, willing, and able to perform the U.S.-Austria services authorized by its exemption and requests that the Department take official notice, pursuant to Rule 24 of the Department's Rules of Practice, of all data on file with the Department necessary to establish Delta's fitness.

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Approval of this renewal application meets the standards applicable to grants of Statements of Authorization under 14 C.F.R. Part 212 and exemption authority under 14 C.F.R. Part 302.⁵ In addition, renewal of this blanket code-share and exemption authority is in the public interest and consistent with the United States' international aviation policy because it will enable Delta and Austrian to continue to provide enhanced on-line international service to travelers and shippers, thereby increasing competition, expanding price and service options for consumers, and maximizing the rights available under the U.S.-Austria Open Skies Agreement.

The Joint Applicants will continue to comply with all applicable Department rules and conditions relating to code-share service, including the special conditions and notification requirements applicable to their blanket code-share authority.

⁵ The information submitted by Tyrolean in support of its exemption application in Docket OST-97-2972 dated October 3, 1997 (updated most recently on November 13, 1998), which Tyrolean incorporates herein by reference, remains substantially unchanged. Tyrolean continues to be operationally and financially qualified to conduct the proposed services displaying the "DL" designator code. In addition, the carrier remains properly licensed by its homeland and substantially owned and effectively controlled by citizens of Austria.

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WHEREFORE, Delta, Austrian and Tyrolean respectfully request that the Department renew, on an indefinite basis, the code-share and exemption authority described herein, to enable the carriers to continue to provide code-share services that are consistent with their underlying international authority and with applicable international agreements, and grant such other and further relief as the Department determines to be in the public interest.

Respectfully submitted,

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