

BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

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Joint Application of :  
 :  
 DELTA AIR LINES, INC. :  
 and : Docket OST-00-8207  
 CZECH AIRLINES :  
 :  
 for a statement of authorization pursuant to :  
 14 CFR Part 212 (United States-Czech Republic :  
 codesharing) :  
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ANSWER OF  
CONTINENTAL AIRLINES, INC.

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November 7, 2000

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ANSWER OF  
CONTINENTAL AIRLINES, INC.

Continental does not oppose the joint application of Delta<sup>1</sup> and CSA (“Joint Applicants”) for a blanket statement of authorization for broad U.S.-Czech Republic-beyond codeshare authority so long as the Department applies its standard condition requiring the Joint Applicants to provide notification before instituting third-country codeshare service, invites competing applications for limited-entry routes, and institutes competitive carrier-selection procedures to determine which carriers should be authorized to provide codeshare service on limited-entry routes such as the France routes where Delta and CSA propose to codeshare.

Continental states as follows in support of its position:

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<sup>1</sup> Common names are used for airlines.

1. In their October 27, 2000 application, the Joint Applicants request extensive third-country codeshare authority, including authority to provide service between the United States and the Czech Republic and third countries. (See Joint Application of Delta and CSA at 2, paragraphs (1) and (2)) Although Continental does not object to the Joint Applicants' request to serve open entry routes, the Joint Applicants have not voluntarily accepted the Department's standard condition that they provide notification before instituting third-country codeshare service to limited-entry markets so the Department can invite competing applications and, if necessary, institute comparative selection proceedings.<sup>2</sup>

2. The Joint Applicants' failure to accept voluntarily the Department's standard condition limiting codeshare service to open-entry routes is explained, at least partially, by the Joint Applicants' request for limited-entry codeshare authority to provide third-country codeshare service beyond the Czech Republic to Lyon and Paris, France, both limited-entry points. Under Annex V of the U.S.-France bilateral aviation agreement, designations for third-country codesharing

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<sup>2</sup> The Department has traditionally granted blanket codeshare authority subject to the following condition: nothing in the award of this blanket statement of authorization should be construed as conferring upon [the applicant carrier] rights (including code-share, fifth-freedom intermediate and/or beyond rights) to serve markets where the U.S. carrier rights are limited unless [the applicant carrier] 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." (See, e.g., Department Action on Application in Docket OST-99-5944 (American/Swissair), November 2, 1999, paragraph (e), (i))

between the U.S. and France via intermediate countries are limited through 2003, and all the designations are currently taken. Currently, the three carriers designated under the bilateral are United, Northwest and American, and an additional designation does not become available until April 1, 2001.<sup>3</sup>

3. Since only a single additional U.S.-France third-country codeshare designation is available through 2003, it is imperative that the Department at least invite competing applications for this opportunity.<sup>4</sup> More importantly, the Department must not grant any limited-entry opportunities to Delta and CSA pursuant to their blanket codeshare authority without first imposing upon them the Department's standard notice requirement and conditioning their authority so other carriers will have the opportunity to apply for the same limited-entry rights.

For the foregoing reasons, Continental urges the Department to impose upon the Joint Applicants the Department's standard condition requiring them to provide

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<sup>3</sup> Two U.S.-France third-country codesharing designations became available in 1998, a third designation became available in April 1999 and a fourth designation becomes available in April 2001. (See U.S.-France Air Transport Agreement, Annex V, section II, paragraph 1.) Order 98-6-5 and Notices of Action Taken February 3, 2000, in Dockets OST-99-6537 and OST-99-6540.

<sup>4</sup> Under the Department's standard blanket codeshare conditions, approval of the Joint Applicants' application would not provide Delta with any advantage in a competitive carrier selection proceeding to allocate the final U.S.-France third-country codeshare designation. (See, e.g., Department Action on Application in Docket 99-5944 (American/Swissair), November 2, 1999, paragraph (e), (ii).) Delta already has access to all of France through its SkyTeam partner, Air France.

notification before instituting any third-country codeshare service so the Department can invite competing proposals and institute any necessary competitive carrier-selection proceedings to determine which carrier should be authorized to provide the additional U.S.-France codeshare service which becomes available in April 2001 and on any other restricted-entry routes the Joint Applicants propose to serve.

Respectfully submitted,

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November 7, 2000

CERTIFICATE OF SERVICE

I certify that I have this date served a copy of the foregoing document on counsel for Delta and CSA and all persons served with their Joint Application in accordance with the Department's Rules of Practice.

/s/ R. Bruce Keiner, Jr.

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November 7, 2000

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