

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

Application of

AMERICAN AIRLINES, INC.

**under 49 U.S.C. 40109 for U.S.-India exemption
authority and third-country codesharing designation
(services with Swissair and Sabena)**

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) **Docket OST-2000-7537**
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**ANSWER OF
DELTA AIR LINES, INC.**

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June 30, 2000

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**ANSWER OF
DELTA AIR LINES, INC.**

Delta Air Lines, Inc. ("Delta") hereby answers the application of American Airlines, Inc. ("American") filed on June 16, 2000, for an exemption and codeshare designation to provide U.S.-India third-country codeshare service. Delta opposes American's application to the extent it contemplates the reallocation or reconsideration of Delta's duly-awarded India codeshare designation, pursuant to which Delta will be offering third-country codeshare service in conjunction with Air France. Should the Department find that TWA's codeshare designation is dormant,¹ Delta would have no objection to American using that available designation.

Delta's India designation will not "soon be dormant" as asserted by American. To the contrary, Delta and Air France have notified the Department that they will begin codeshare service to

¹ TWA was awarded codeshare authority to conduct cooperative services with Royal Jordanian over two years ago (Order 98-3-1), but never operated any service pursuant to that authority.

India via Paris (CDG) commencing on July 22, 2000. Delta is in the process of ending its codeshare alliance with Swissair, which will cease on August 5, 2000. In the meantime, Delta has been working actively with its SkyTeam alliance partner, Air France, to ensure the orderly transition of codeshare operations, such as Delta's third-country India service.

Contrary to American's assertions, there is no requirement for Delta to seek authority to "transfer" its existing codeshare authority from Swissair to Air France. This is because, under the provisions of the U.S.-India air transport agreement, there are no limitations on the number of third-country carriers or third-country routings over which a duly designated carrier, such as Delta, may operate.

The Department has already twice correctly concluded that Delta's expansion of third-country India codeshare services with other foreign codeshare partners does not raise limited entry issues. Thus, the Department has allowed Delta to use its existing designation authority to codeshare not only with Swissair, but also with Austrian Airlines (see Notice Dated April 8, 1998), and then with Air France (approved August 6, 1998 (#98-303) with respect to Paris-Delhi service). In neither case did the Department find that limited entry concerns were raised requiring further Department action, and, for the same reasons, such concerns are not applicable here.

The flexibility for designated carriers to add or change codeshare partners, increase frequencies, and offer alternative routings are important bargained-for rights which U.S. carriers enjoy under the U.S.-India bilateral. And, as described above, it has been the Department's policy to allow designated carriers to freely add new India codeshare services. The type of unnecessary and intrusive review urged by America with respect to the Delta/Air France codeshare operations would be contrary to

Department policy and would defeat the important bilateral flexibility provisions the United States specifically negotiated to benefit designated carriers.² As noted by the Department, “the U.S.-India third-country codeshare opportunities . . . represent valuable operating rights that the United States obtained in exchange for rights for Indian carriers. We concluded that the public interest calls for use of those U.S. carrier rights.” Order 97-2-26 at 4.

² By letter dated February 17, 2000, Delta advised the Department that it was requesting permission to transfer certain limited entry codeshare routes involving Cairo, Bucharest and Kiev from Swissair to Air France. But, unlike the U.S.-India bilateral, which permits designated carriers unfettered discretion in adding frequencies, routing, and partner carriers, those bilaterals provide no such flexibility to designated carriers. Thus, the situation here is fundamentally different than that which applied to the Cairo and Bucharest routes, which the Department determined should receive further consideration.

Accordingly, Delta's India codeshare designation is not dormant, nor, by virtue of the unrestricted opportunities afforded to designated carriers under the U.S.-India bilateral (and Department precedent), would the announced Delta/Air France India codeshare service be subject to any "transfer" requirement.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of June, 2000, served the foregoing Answer of Delta Air Lines, Inc., upon those persons listed on the attached service list by depositing copies thereof in the U.S. mail, postage prepaid.

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