

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

In the matter of :
 :
U.S.-COLOMBIA COMBINATION : Docket OST-00-7655
SERVICE PROCEEDING :
 :

Applications of :
 :
CONTINENTAL AIRLINES, INC. : Docket OST-00-7186
DELTA AIR LINES, INC. : Docket OST-00-7104
 :
for allocation of U.S.-Colombia frequencies :
 :

Application of :
 :
DELTA AIR LINES, INC. : Docket OST-97-3218
 :
Under 49 U.S.C. §41102 for a certificate of :
Public convenience and necessity :
(Atlanta-Bogota) :
 :

OBJECTIONS OF
CONTINENTAL AIRLINES, INC.

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July 24, 2000

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Continental¹ objects to the Department's precipitous, tentative decision to award Delta certificate authority and seven frequencies to operate duplicative U.S.-Bogota service via Atlanta. The Department's failure to institute full comparative proceedings to consider the relative merits of Continental's Houston-Cali proposal and Delta's Atlanta-Bogota proposal reflects a "don't confuse me with the facts"

¹ Common names are used for airlines.

attitude which has resulted in factual errors and omissions in the Department's tentative decision which can be cured only by instituting an evidentiary proceeding to give Continental and Houston the full consideration they deserve and to base the Department's final decision on a fully-developed factual record.

Continental objects as follows to the Department's order to show cause in this proceeding:

1. Although the Department says it seeks "to develop the U.S.-Columbia market and to expand the range of service options available to consumers," (Order 2000-7-19 at 2), it has proposed awarding authority to Delta which would neither develop the U.S.-Colombia market nor significantly expand the range of service options available to consumers. The Department cites 51 weekly U.S.-Bogota frequencies which already operate today (See Order 2000-7-19 at 5), while in fact 68 weekly U.S.-Bogota frequencies are currently operated.² Either way, adding seven additional frequencies would neither significantly develop new U.S.-Bogota traffic nor expand the range of service options available to consumers other than the small number of Atlanta consumers who would receive nonstop Bogota service for the first time. Atlanta passengers already have daily nonstop-to-nonstop online connecting

² Continental operates seven weekly Bogota frequencies each at New York (Newark) and Houston; Avianca operates seven weekly frequencies each at New York (JFK) and Miami; American operates 21 weekly frequencies at Miami; ACES operates seven weekly frequencies at Miami; and Lan-Chile operates two weekly frequencies at Miami. In addition, Avianca offers four weekly Los Angeles-Bogota flights, and LACSA offers six.

services on American via Miami as well as online Continental connections via Houston or Newark and interline connections via Miami. Nonetheless, Atlanta-Bogota traffic is minimal.

2. Underlying the Department's decision is another incorrect factual conclusion. The Department says that because "U.S. [Bogota] services are now provided by U.S. carriers from only two U.S. cities, the addition of a new gateway will increase significantly the service options for Colombia passengers." (Order 2000-7-19 at 5). In fact, Continental offers nonstop U.S.-Bogota service through its New York (Newark) and Houston hubs, and American offers nonstop U.S.-Bogota service through its Miami hub.³ With hubs at New York (Newark), Houston and Miami offering competitive online connecting service for U.S.-Bogota travelers and shippers and nonstop service at JFK, the addition of a single daily frequency at an additional hub serving the same traffic would provide only marginal service benefits by giving passengers already offered two daily online connections via Continental at its hubs and three daily online connections via American at its Miami hub with a sixth daily online option. The Department tentatively has refused, however, to hold a full comparative proceeding to find out how much traffic would be benefited on either route proposed.

³ The Department also errs in suggesting that Delta has served Venezuela "on a continuous basis." In fact, Delta abandoned its Caracas service for many years before reinstating it recently.

3. As the Department notes, “American operates the majority of its services to Bogota, Continental operates all of its services to Bogota, and the Colombian carriers serve Bogota on over half of their services.” (Order 2000-7-19 at 5). Although the Department recognizes that “Continental’s service would expand U.S. traveler access to other cities in Colombia” and provide “competition to American’s daily Miami-Cali service,” it inexplicably decides tentatively to perpetuate American’s total monopoly on U.S.-Cali service. Clearly, Continental’s Houston-Cali service would “offer valuable intergateway competitive benefits for connecting passengers with the services of American at Miami” (Order 2000-7-19 at 6) just as Delta would at Atlanta. Significantly, however, no other airline today competes with American for U.S.-Cali traffic while five other airlines offer U.S.-Bogota Service.

4. In the Department’s rush to judgment, it has reached factual conclusions which are erroneous, as noted above, and failed to develop a sufficient factual basis for its decision to add a seventh carrier to U.S.-Bogota routes rather than a second carrier to U.S.-Cali routes. Thus, the Department must, at the very least, institute further proceedings to develop a factual record on the benefits of the two proposals before it. Had the Department held a full comparative proceeding, it would have before it actual numbers of passengers who would receive their very first online Cali service and their first competitive online Cali service to compare with the minimal number of passengers who would receive their first online Bogota service or their first competitive online Bogota service. Similarly, the Department

could compare the number of Bogota seats available per passenger with the number of Cali seats available per passenger to evaluate which new competition would provide more significant benefits. Although the Department is well aware of the effects of monopolies in air transportation generally, a full proceeding would enable it to consider the actual adverse effects of continuing American's monopoly on U.S.-Cali service. Without evaluating such factors, the Department cannot reasonably conclude that Delta's proposal would provide greater benefits. Thus, the Department's conclusion that there are "no unresolved issues of relevant fact that would benefit from further evidentiary procedures" (Order 2000-7-19 at 7) is simply incorrect.

5. Although the Department cites two orders on U.S.-London (Gatwick) service as precedent for proceeding directly to a show cause order, that case presented none of the complex issues raised by the Colombia route proposals. In the case of London, the only issue was which of two incumbent carriers would receive an additional U.S. gateway. One applicant was a carrier which already operated the largest number of U.S.-London flights, including flights at each of its hubs, and proposed service at a point where it offered no relevant connecting flights. The other carrier held authority to operate only a few U.S.-London flights, proposed new flights at a hub where it had been precluded from offering service, and proposed to offer numerous connecting opportunities.

The choice on London was clear. The choice on Colombia is not. In the case of Colombia, two different foreign gateways are proposed, two different new U.S.

gateways for service at those foreign gateways are proposed, both carriers are proposing hub services, and neither carrier dominates U.S.-Colombia services. Moreover, the Department has not allowed parties to analyze the impact of the fact that Atlanta is surrounded by the New York (Newark and JFK), Miami and Houston gateways providing competitive U.S.-Bogota service as well as access to three U.S. hubs for travelers and shippers while the only Cali service is at Miami. The Department should give Continental and Houston the opportunity to demonstrate the relative benefits of adding competition for American at a Colombian monopoly gateway as opposed to a Colombian gateway already served by six airlines.

6. In the absence of clear standards for distinguishing decisions which can be based only on applications and answers from decisions which must be based on direct and rebuttal exhibits as well as full briefing, the Department must not grant Delta U.S.-Colombia authority without granting Continental full comparative consideration. Thus, the Department's refusal to provide a full evidentiary proceeding for the Colombia case should be reversed on further consideration.

For the foregoing reasons, Continental objects to the Department's Order 2000-7-19 and urges the Department to establish further procedures for comparative consideration of the Continental and Delta Colombia proposals and to grant Continental's request for seven frequencies to offer daily nonstop Houston-Cali service.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that I have this date served the foregoing document on all parties served with the Department's Order 2000-7-19 in accordance with the Department's Rules of Practice.

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July 24, 2000

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