



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

Joint Application of )  
)  
)

UNITED AIR LINES, INC. )

and )

AIR NEW ZEALAND LIMITED )

) Docket OST-99-  
)  
)

for Statements of Authorization pursuant to )  
14 CFR Part 212 (U.S.-New Zealand Code Sharing) )  
)

**DATED: July 22, 1999**

**JOINT APPLICATION OF UNITED AIR LINES, INC. AND  
AIR NEW ZEALAND LIMITED  
FOR STATEMENTS OF AUTHORIZATION**

United Air Lines, Inc. ("United") and Air New Zealand Limited ("ANZ") hereby jointly request issuance of blanket Statements of Authorization pursuant to 14 CFR § 212.10, to enable them to offer code-share services on certain of each other's flights as identified herein. These Statements of Authorization should be issued for an indefinite period subject to the standard conditions applicable to such indefinite authority.

In support of this joint application, United and ANZ state as follows:

1. United requests a blanket Statement of Authorization to display ANZ's designator code on flights operated by United in the following markets (UA/NZ\*):

(a) Between any point or points in the U.S. and any point or points in New Zealand, either nonstop or via an intermediate point or points in third countries;

- (b) Between any points in the U.S., in conjunction with code-share services held out by ANZ between New Zealand and the U.S.;
- (c) Between any point or points in New Zealand and any point or points in any third country; and
- (d) Between any point or points in the U.S. and any point or points in any third country.

On all of these flights, United will also sell seats under its own designator code.

2. ANZ requests a Statement of Authorization to display United's designator code on flights operated by ANZ in the following markets (NZ/UA\*):

- (a) Between any point or points in New Zealand and any point or points in the U.S., either nonstop or via an intermediate point or points in third countries;
- (b) Between any points in New Zealand, in conjunction with code-share services held out by United between the U.S. and New Zealand;
- (c) Between any point or points in the U.S. and any point or points in any third country; and
- (d) Between any point or points in New Zealand and any point or points in any third country.

On all of these flights, ANZ will also sell seats under its own designator code.

3. United has the underlying authority to provide service in the markets identified. See United's Certificates of Public Convenience and Necessity for Routes 115 and 130 issued by Order 92-3-8, and as subsequently amended, and its route integration exemption issued by Notice

of Action Taken, dated April 8, 1999. ANZ has the underlying authority to provide service in the markets identified above by exemption authority, as amended, authorizing it to operate scheduled services from points behind New Zealand via New Zealand and intermediate points in the South Pacific to points in the United States and beyond. See Order 98-7-13.

4. The services for which United and ANZ request authority to code share are fully consistent with the United States-New Zealand Air Transport Agreement ("U.S.-New Zealand Agreement") signed June 18, 1997. United and ANZ may code share on all services each carrier operates between the U.S. and New Zealand as well as services between either of those countries and third countries intermediate to or beyond the U.S. or New Zealand. The only bilateral requirement for such services is that each carrier hold the appropriate authority and meet the requirements normally applied to such services. U.S.-New Zealand Agreement, Article 8(7). As noted previously, each carrier has the necessary underlying authority from the U.S. to offer the code-share services in all U.S.-New Zealand and third-country markets.

With respect to third-country markets, the carriers will accept the usual restrictions that their services must be consistent with all relevant international agreements. Moreover, where there are entry restrictions on U.S. carriers for code-share services in a particular third-country market, United and ANZ will accept a condition requiring them to give adequate notice of such service to enable the Department to resolve any carrier selection issues that may arise as a result of such entry limits. United and ANZ understand that the statements of authorization they are

seeking do not include effective authority in such limited-entry third-country markets until such notification and selection procedures have been completed. See Order 98-4-8 at 6.<sup>1</sup>

5. The Joint Applicants have previously submitted copies of the relevant code-share agreement for the Department's review and approval.<sup>2</sup>

6. United and ANZ already hold five statements of authorization between them, including three blanket statements of authorization,<sup>3</sup> see Schedule A attached hereto. As the Joint Applicants demonstrate below, grant of this application would enable United and ANZ to expand code-share services consistent with the Open Skies Agreements between the U.S. and

<sup>1</sup> United's participation in its code-share arrangements with ANZ will not affect its participation in the CRAF program.

<sup>2</sup> On June 22, 1999, United was granted a renewal of its Statement of Authorization #98-80 and ANZ was granted a new Statement of Authorization, #99-072. In the June 22, 1999, notices, the Department states that it has reviewed the contract between United and ANZ with respect to exclusivity in light of the policy adopted in Order 99-5-2. Based on that review, the Department decided that no condition was needed with respect to United/ANZ exclusivity. In Order 97-5-7, which was issued two years prior to the adoption of the policy on exclusivity in Order 99-5-2, a condition partially restricting enforcement of the exclusivity provision was imposed, and the authority granted in that order was renewed by Statement of Authorization #98-134 for an indefinite period. The blanket statement of authorization will replace the conditional authority granted by Order 97-5-7. United and ANZ urge the Department to clarify in the blanket statement of authorization that there is no longer any condition on the enforcement of their exclusivity agreement consistent with the actions taken on June 22, 1999.

<sup>3</sup> ANZ's blanket Statement of Authorization, #99-072, authorizes ANZ to display United's designator code on ANZ's scheduled services between any point or points in New Zealand and any point or points in Australia, and its blanket Statement of Authorization, #97-795, authorizes ANZ to display United's designator code on ANZ's scheduled services between Los Angeles or Honolulu and intermediate points in the South Pacific and between Auckland and intermediate points in the South Pacific. United's blanket Statement of Authorization, #98-80, authorizes United, inter alia, to display ANZ's designator code on United's scheduled services between any points within the U.S. in conjunction with code-share services held out by ANZ between New Zealand and the United States (either nonstop or via intermediate points).

New Zealand. Approval of this application will also enable United and ANZ to respond quickly to service demands and changes in the marketplace, as it will provide the carriers with the flexibility to adjust their code-share services without the need to obtain Department approval to amend their code-share authority every time they seek to add another code-share point.

Approval of these Statements of Authorization would reduce the administrative burden both on the Joint Applicants and on the Department, in that the Joint Applicants would not need to seek new or amended Statements of Authorization every time new code-share services are to be implemented to third-country points beyond the U.S. or New Zealand or to points within New Zealand and would not need to seek extensions of existing authority. If this application is granted, all of the outstanding Statements of Authorization currently held by United and ANZ would be combined into one, which would significantly reduce the administrative burden of monitoring the Joint Applicants' code-share authority.

7. Approval of this application meets the standards applicable to grants of Statements of Authorization under Part 212, and is in the public interest for the following reasons:

(a) Approval of this application is fully consistent with the terms of the U.S.-New Zealand Agreement and is supported by principles of reciprocity and comity.

(b) Grant of this application will give the Joint Applicants broad flexibility to revise and expand code-share services without the need to seek additional Department approval. The approval of blanket code-share authority would also allow United and ANZ jointly to institute new international services, including new code-share services to any third-country beyond point and to additional points in New Zealand beyond United's Auckland gateway,

offering convenient new on-line connections that would enhance international competition and service options for travelers who are seeking service between the United States and New Zealand, and beyond.

(c) In particular, approval of the blanket Statement of Authorization would enable United to list ANZ's "NZ" designator code on any flight operated by United to third-country points beyond the U.S. and New Zealand, in accordance with applicable bilateral agreements. This blanket authority would enable ANZ to expand its code-share operations on United's flights, and would enable the carriers jointly to institute new international services.

(d) Similarly, approval of the Statement of Authorization would enable ANZ to list United's "UA" designator code on any flight operated by ANZ to third-country points beyond New Zealand and the U.S. in accordance with applicable bilateral agreements and to list United's code on domestic flights beyond United's Auckland gateway to any other points in New Zealand. This blanket authority would enable United to expand its code-share operations on ANZ's flights, and, as noted above, would enable the carriers jointly to institute new international services. Approval of the blanket Statement of Authorization would also allow United to benefit from third-country code-share access to the fullest extent contemplated by current bilateral agreements, and would allow United quickly to enter new markets. The addition of United's on-line connections to international destinations would provide travelers with new service alternatives and would inject new competition between the U.S. and various foreign points.

8. Grant of the Statements of Authorization would be consistent with Department policy and precedent. See U.S. International Air Transportation Policy Statement, April 1995,

pp. 4-5. In the policy statement, the Department specifically recognizes that code-share arrangements "can provide a cost-efficient way for carriers to enter new markets, expand their systems and obtain additional flow traffic to support their operations..." Id. at 4. Based on its policy, the Department has consistently approved code-share arrangements between United and ANZ over the last two years. The granting of blanket authority in this case is uncontroversial. The Department has previously granted blanket Statements of Authorization where the applicable bilateral agreements specifically allow for broad-based code-share services. See, e.g., American/Canadian International, Notice of Action Taken dated April 18, 1996 (Docket OST-95-792 and Undocketed); United/ANA, Statement of Authorization dated August 7, 1998; Northwest/KLM, Statement of Authorization dated May 21, 1999; United/SAS, Statement of Authorization dated May 24, 1999; and ANZ/Lufthansa, Statement of Authorization dated June 2, 1999 (Docket OST-99-5490).

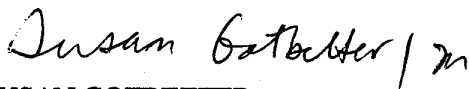
9. United and ANZ will comply with all applicable Department rules relating to code-share service and with each of the other conditions normally imposed by the Department on code-share arrangements, including notice provisions relating to authority of indefinite duration. With regard to the 30-day notice requirement for new markets, the carriers have attached to this application as Schedule B a list of the markets that they currently serve under existing authority or the markets for which they have given the Department notice of their intention to begin service. Any additional markets to be served will be indicated in subsequent notices.

10. In conclusion, by granting this application, the Department will provide United and ANZ with the flexibility to implement new code-share services quickly, resulting in more efficient

operations by the carriers and improved international service options for the traveling public, while reducing the administrative burden on the Joint Applicants and the Department.

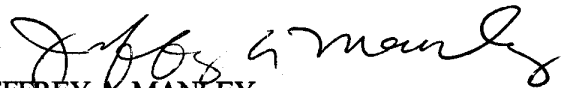
WHEREFORE, United and ANZ respectfully request that the Department grant this application for Statements of Authorization to permit United and ANZ to provide the code-share services discussed above for an indefinite period, and grant such other and further relief as the Department deems to be consistent with this application and in the public interest.

Respectfully submitted,



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