

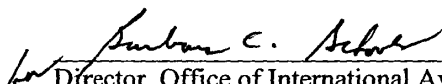


**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

DEPARTMENT ACTION ON APPLICATION IN DOCKET OST 2000-6792
Joint Application of Malaysia Airlines (MAS) and Northwest Airlines

Approved, in part, under assigned authority (14 CFR §385.13);
Remainder deferred. (See Remarks below.)

Date of Action: AUGUST 24, 2000



Director, Office of International Aviation

This action is subject to the conditions attached. Persons entitled to petition the Department for review of this action under the Department's regulations, 14 CFR §385.30, should file their petitions within ten days of the date of this action. This action is effective immediately, and the filing of a petition for review will not alter its effectiveness.

Remarks:

On April 5, 2000, MAS and Northwest amended their application in this docket to request authority to provide code-share services to Vietnam. Also, on April 5, the Department issued a Notice in Docket OST-2000-7194 inviting U.S. carriers to apply for available third-country code-share opportunities in the U.S.-Vietnam market. On April 14, United Air Lines, Inc., filed an answer opposing approval of the Vietnam portion of the MAS-Northwest application, to the extent that approval would preclude grant of United's pending application to code share with Thai Airways in that market.

We are deferring action on that portion of the MAS-Northwest request which seeks authority to provide code-share services to Vietnam, pending final disposition of the Department's proceeding in Docket OST-2000-7194.

Attachment - Docket OST 2000-6792

The code-share operations authorized here are subject to the following conditions:

(a) The statement of authorization will remain in effect only as long as (i) Malaysia Airlines and Northwest Airlines continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect;

(b) Malaysia Airlines and/or Northwest Airlines must notify the Department no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which the service will begin. Such notices should be filed in Docket OST-2000-6792;

(c) Malaysia Airlines and/or Northwest Airlines must notify the Department immediately if the code-share agreement under which these code-share services are operated is no longer in effect or if the carriers decide to cease operating all or a portion of the code-share services under the agreement. We expect this notification to be received within 10 days of such non-effectiveness or of such decision. Such notices should be filed in Docket OST-2000-6792;

(d) The code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition;

(e) The authority to operate to third countries is subject to the condition that any service provided under the statement of authorization shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (i) nothing in the award of this blanket statement of authorization should be construed as conferring upon Malaysia Airlines and Northwest Airlines rights (including code-share, fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier rights are limited unless Malaysia Airlines and Northwest Airlines notify us of their 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;¹ and (ii) should there be a request by any carrier to use the limited-entry route rights that are included in the authority of Malaysia Airlines and Northwest Airlines by virtue of the blanket statements of authorization granted here, but that are not being used by Malaysia Airlines and Northwest Airlines, the holding of such authority will not be considered as providing any preference for Malaysia Airlines and Northwest Airlines in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue; and

(f) The authority granted here is specifically conditioned so that neither Malaysia Airlines nor Northwest Airlines shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

We may amend, modify, or revoke this authority at any time without hearing.

The filing of a petition for review shall not preclude the effectiveness of this action.

¹ The notice in paragraph (b) above can be used for this notification.