



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on June 10, 1998

NOTICE OF ACTION TAKEN -- DOCKET OST 96-1144

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Applicant: **Kendell Airlines (Aust) Pty. Ltd.**

Date Filed: May 13, 1998

Relief requested: RENEW exemption from 49 U.S.C. 41301 and statement of authorization pursuant to 14 CFR 212 of the Department's regulations to display the airline designator code of United Air Lines, Inc., on flights operated by Kendell between Sydney and Canberra, Australia, for a period of two years.

If renewal, date and citation of last action: June 6, 1997 (Confirmed in Order 97-8-12)

Applicant representative: Jeffrey Manley 202-637-9057

Responsive pleadings: None

DISPOSITION

Action: Approved in part; Remainder dismissed ¹

Action date: June 10, 1998

Effective dates of authority granted: June 10, 1998 - June 10, 1999

Basis for approval (bilateral agreement/reciprocity): U.S.-Australia Air Transport Agreement

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated:

Standard exemption conditions (attached) Foreign air carrier permit conditions (Order - -)

Special conditions: The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted, and are 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 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.

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

We found that the applicant was qualified to perform its proposed operations.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted or dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:
<http://dms.dot.gov/general/orders/aviation.html>.*

¹ We dismissed that portion of the carrier's application to conduct the operations beyond June 9, 1999, without prejudice to refileing at a later date. The duration of this authority is consistent with our usual policy in cases such as that presented here (*see*, for example, Notice of Action Taken dated April 29, 1998, in Docket 97-3209).