

58417

DEPARTMENT OF TRANSPORTATION
99 JAN 26 PM 4:57

BEFORE THE
DEPARTMENT OF TRANSPORTATION DOCKET SECTION

WASHINGTON, D.C.

Application of :

CONTINENTAL AIRLINES, INC. :

Docket OST-99-

5849-1

for an exemption and a frequency allocation :
(U.S.-Russia code-sharing) :

APPLICATION OF CONTINENTAL AIRLINES, INC.
FOR AN EXEMPTION AND A FREQUENCY ALLOCATION

Communications with respect to this document should be sent to:

Rebecca G. Cox
Vice President, Government Affairs
CONTINENTAL AIRLINES, INC.
1350 I Street, N. W.
Washington, D.C. 20005

R. Bruce Keiner, Jr.
CROWELL & MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 624-2615

Hershel I. Kamen
Staff Vice President, International
and Regulatory Affairs
CONTINENTAL AIRLINES, INC.
2929 Allen Parkway
Houston, Texas 77019

Counsel for
Continental Airlines, Inc.

January 26, 1999

NOTICE: Answers supporting or opposing this application are due on or before
February 10, 1999.

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of	:	
CONTINENTAL AIRLINES, INC.	:	Docket OST-99-
for an exemption and a frequency allocation	:	
(U.S.-Russia code-sharing)	:	

APPLICATION OF CONTINENTAL AIRLINES, INC.
FOR AN EXEMPTION AND A FREQUENCY ALLOCATION

Continental¹ applies under 49 U.S.C. § 40109 and Rule 401 of the Department's Rules of Practice for an exemption from 49 U.S.C. § 41101 authorizing Continental to provide scheduled foreign air transportation of persons, property and mail under a code-share arrangement with Air France between Houston and Newark, on the one hand, and Moscow and St. Petersburg, Russia, on the other hand, via Paris. Continental also applies for allocation of seven weekly U.S.-Russia code-share frequencies from among those now unused by American, Baltia, Delta and United and available for reallocation.

Continental states as follows in support of its application:

1. Continental asks for allocation of seven weekly U.S.-Russia frequencies to enable it to place its code on seven weekly Air France flights between

¹ Common names of carriers are used.

Paris and Moscow and seven weekly Air France flights between Paris and St. Petersburg.² Awarding seven of the unused weekly U.S.-Russia frequencies to Continental will enable the Department to promote code-sharing between the U.S. and Russia under the new U.S.-Russia bilateral aviation agreement. Continental will be able to compete for the first time with U.S. and Russian carrier services and with U.S.-Russia code-share arrangements involving other carriers. By authorizing Continental to code-share with Air France between the U.S. and Russia, the Department will maximize the services available to the public under the new annexes to the U.S.-Russia bilateral aviation agreement and make available to the public a wide range of service options pursuant to the new, expanded bilateral regime.

2. The proposed Continental/Air France service between the U.S. and Russia will provide significant benefits to the traveling public. The proposed code-share service will enable Continental to offer on-line U.S.-Russia service for the first time and increase the travel and shipping options available to the U.S. traveling public. Because Continental and Air France will price their services independently, Continental will bring additional competition to U.S.-Russia routes now served by

² Paragraph A, Section 2, Annex V, of the new annexes to the U.S.-Russia bilateral aviation agreement says "[c]ode-share services operated between the territories of the Parties authorized under this Annex shall count for one-half of one frequency with respect to the non-operating airline of a Party . . ." (See Annex V of the U.S.-Russia Memorandum of Consultations (the "1999 U.S.-Russia MOC"), January 22, 1999, at 2) The U.S. and Russian governments have implemented the new annexes on the interim basis of comity and reciprocity until their entry into force. (See the 1999 U.S.-Russia MOC at 2)

Air France and other airlines. Benefits to consumers will include one-stop check-in, frequent flyer program enhancements, improved interline services for baggage and more convenient, coordinated connections for U.S.-Russia passengers at Continental's Houston and Newark hubs. In sum, the new travel options Continental can offer through this arrangement, combined with the efficiency of code-sharing on Air France operations, will maximize the use of valuable bilateral rights available under the U.S.-Russia bilateral aviation agreement and introduce Continental as a new competitor on U.S.-Russia routes.

3. To utilize the frequencies it seeks, Continental applies under 49 U.S.C. § **40109** and Rule **401** of the Department's Rules of Practice for an exemption from **49** U.S.C. § **41101** authorizing Continental to provide scheduled foreign air transportation of persons, property and mail between Houston/Newark and Moscow/St. Petersburg under a code-share arrangement with Air France.³ Continental intends to commence the proposed code-sharing covered by this application as soon as possible, and Continental asks that the Department grant Continental exemption authority on an expedited basis to enable Continental to engage in necessary advance sales and marketing activities.

³ Continental already holds exemption authority between Houston/Newark and Paris as well as authority to integrate this exemption authority with other authority. (See Orders 97-2-14 and **97-7-16**) If the Department believes Continental requires additional authority to combine these routes for code-sharing with Air France or prefers to issue additional authority for administrative convenience, Continental hereby applies for such authority.

4. The proposed Continental/Air France code-share service between the U.S. and Russia is fully consistent with the 1999 U.S.-Russia MOC and annexes and the U.S.-France bilateral aviation agreement, which expressly authorize such service.

5. Continental holds various certificates of public convenience and necessity and exemptions authorizing it to engage in scheduled air transportation of persons, property and mail between the U.S. and foreign countries and is clearly fit, willing and able to provide the proposed code-share service in conjunction with Air France.

6. Continental agrees to abide by the consumer notice provisions of **14** C.F.R. § 399.88. In addition, Continental agrees to accept the Department's standard condition requiring that the carrier issuing the ticket or waybill for a code-share service accept the legal responsibility for the passenger so ticketed or shipment so waybilled under that carrier's contract of carriage.

7. The proposed code-share arrangement will have no impact on Continental's Civil Reserve Air Fleet commitments.

For the foregoing reasons, Continental asks the Department to grant its application for an exemption under 49 U.S.C. § 40109 and Rule **401** of the Department's Rules of Practice and allocation of seven of the unused weekly U.S.-Russia code-share frequencies so Continental can offer code-share services between

Houston and Newark and Moscow and St. Petersburg through Paris in cooperation
with Air France.

Respectfully submitted,

CROWELL & MORING LLP



R. Bruce Keiner, Jr.

Counsel for
Continental Airlines, Inc.

January 26, 1999

1582927

CERTIFICATE OF SERVICE

I certify that I have this date served the foregoing document on the following persons in accordance with Department's Rules of Practice:

Roger W. Fones
Transportation, Energy &
Agriculture Section Chief
Antitrust Division, 530 LIB
Department of Justice
10th St. & Constitution Ave., N.W.
Washington, D.C. 20530

USTRANSCOM/TCJ5-AA
Attn: Air Mobility Analysis
508 Scott Drive
Scott AFB, IL 62225-5357

Director of Flight Standards
Federal Aviation Administration
800 Independence Street, S.W.
Washington, DC 20591

Jeffrey P. Fegan
Executive Director
Dallas/Ft. Worth Int'l. Airport
P. O. Drawer 619428
Airport Administrative Offices
3200 E. Airfield Drive
Dallas/Ft. Worth Airport, TX 75261

Richard Vacar III
Director, Department of Aviation
City of Houston
16930 John F. Kennedy Boulevard
Houston, TX 77032

Raymond Rasenberger
Zuckert, Scoutt & Rasenberger
Suite 600
888 17th Street, N.W.
Washington, DC 20006
(for City of Houston)

Gary J. Dellapa, Director
Miami International Airport
P. O. Box 59-2075, AMF
Miami, FL 33159

Vincent E. Bonaventura
General Manager
Newark International Airport
Tower Road, Building 10
Newark, NJ 07114

Samuel Crane, President
Regional Business Partnership
One Newark Center
Newark, NJ 07102

Mayor Sharpe James
City of Newark
920 Broad Street
Newark, NJ 07102

Robert D. Bullock
Executive Director
Orlando International Airport
One Airport Blvd.
Orlando, FL 32827-4399

Marshall S. Sinick
Squire, Sanders & Dempsey
1201 Pennsylvania Ave., N.W.
Suite 500
Washington, DC 20004
(for Alaska Airlines)

Carl B. Nelson, Jr.
Associate General Counsel
American Airlines, Inc.
1101 17th Street, N.W., #600
Washington, DC 20036

Steffanie J. Lewis
The International Business
Law Firm
3511 North Thirteenth Street
Arlington, VA **22203**
(for Baltia Air Lines)

Robert E. Cohn
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC **20037**
(for Delta Air Lines)

Richard P. Taylor
Steptoe & Johnson
1330 Connecticut Ave., N.W.
Washington, DC 20036
(for Evergreen International)

Nathaniel P. Breed, Jr.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC 20037
(for Federal Express)

Ted Seamon
Hewes, Morella, Gelband &
Lamberton
1000 Potomac Street, N.W.
Washington, DC 20007
(for Northern Air Cargo)

Megan Rae Poldy
Associate General Counsel
Northwest Airlines, Inc.
901 15th Street, N.W., #310
Washington, DC 20036

Richard J. Fahy, Jr.
Consulting Attorney
Trans World Airlines, Inc.
Suite 350
900 19th Street, N.W.
Washington, DC 20006

Bruce Rabinovitz
Jeffrey Manley
Kirkland & Ellis
655 15th Street, N.W.
Washington, DC 20005
(for United)



R. Bruce Keiner, Jr.