



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on December 10, 2002

NOTICE OF ACTION TAKEN – DOCKET OST-2002-11615

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).

Application of **Continental Airlines, Inc.** filed **11/07/2002** for:

XX **Waiver of the dormancy conditions applicable to certain of its U.S.-Ecuador and U.S.-Brazil frequency allocations.**

By Order 2002-4-19 and Notice of Action Taken dated March 22, 2002, in this docket, the Department granted Continental waivers through December 31, 2002, of the dormancy condition applicable to one-and-a-half (1.5) of its U.S.-Ecuador frequencies and four (4) of its U.S.-Brazil frequencies.

Continental now requests an extension of its waivers through December 31, 2003. Specifically, Continental requests a waiver of the dormancy condition applicable to one-and-a-half (1.5) of its U.S.-Ecuador frequencies for service between Houston and Ecuador; and four (4) of its U.S.-Brazil frequencies for service between New York (Newark) and Rio de Janeiro, Brazil. Continental states that, due to economic conditions and limited demand, it requires an extension of its existing waivers of the dormancy conditions in these markets.

American Airlines filed an answer. American states that the Department should deny Continental's extended waiver request since Continental has not indicated any firm plans to resume service. In this connection, American maintains that the unused frequencies should be returned to the unallocated pool, where they will be available to interested carriers.

Applicant rep: **R. Bruce Keiner (202) 624-2615**

DOT Analyst: **Michael D. Bodman (202) 366-9667**

DISPOSITION

XX Denied (see remarks below).

The above action was effective when taken: **December 10, 2002.**

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

Remarks: When we last issued Continental a waiver for these frequencies through December 31, 2002, we placed the carrier on notice that "there should be no expectation that an additional request will similarly be granted." (Order 2002-4-19 and Notice of Action Taken dated March 22, 2002, Docket OST-2002-11615) In the circumstances presented now, and taking into consideration the record before us, we find that the public interest would be best served by reassigning these frequencies to the unallocated pool of frequencies so that whenever Continental or another carrier has firm plans to use them, it may apply for the frequencies accordingly.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; and (2) denial of the waiver was consistent with the public interest.

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 seven (7) 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 order is available on the World Wide Web at
http://dms.dot.gov/reports/reports_aviation.asp*