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

Issued by the Department of Transportation on April 2, 2003

NOTICE OF ACTION TAKEN -- DOCKET OST-2002-13760 - 4

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 United Air Lines, Inc. filed 03/13/2003 for:

XX Waiver from dormancy condition:

By Notice of Action Taken dated November 22, 2002, in the above-referenced docket, the Department allocated United Air Lines seven combination frequencies for fifth-freedom U.S.-Hong Kong service as a continuation of an existing flight operated between Chicago and Tokyo. That award was subject to the condition that if United did not begin service with the allocated frequencies by April 6, 2003, each unused frequency would automatically revert to the Department for reallocation.¹

United states that absent the requested waiver the seven frequencies would revert to the Department on April 7, 2003. United states that it is restructuring and realigning its operations in response to the severe and ongoing economic downturn affecting the industry. It is not in a position to commence additional fifth-freedom Tokyo-Hong Kong operations in the current soft market, but hopes to do so when the market strengthens and United's reorganization has been implemented. United maintains that no other carrier will be adversely impacted by grant of the requested waiver and notes that no other carrier applied for any of the 28 fifth-freedom frequencies newly available under the October 2002 Memorandum of Understanding. In these circumstances, United seeks a waiver of the dormancy condition for a period of one year. United states that the Department should grant the requested waiver to facilitate United's efforts to develop and expand its Hong Kong operations as part of its recovery.

Applicant rep: Jeffrey A. Manley, 202-663-6670 DOT analyst: Linda Senese, 202-366-2367

DISPOSITION

XX Granted.

The waiver from the April 6, 2003 startup condition was effective when taken: April 2, 2003, through April 2, 2004,²
(See Reverse Side)

¹ United's authorization also said that if any frequencies are not used for a period of 90 days (once inaugurated), the allocation as to each of those frequencies will expire automatically and the unused frequencies will revert to the Department for reallocation. Since United has not inaugurated service, the waiver it seeks is, technically, not a waiver from this 90-day dormancy condition, but rather a waiver from the April 6, 2003, startup condition. We are treating it accordingly.

² United's waiver from the startup condition is effective through April 2, 2004, or until the date on which United begins service with each of these frequencies, whichever occurs earlier. As to any frequency with which United does not begin service by April 2, 2004, its frequency allocation with respect to that frequency expires automatically.

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

Remarks: We find that grant of United's request, in the particular circumstances presented, is in the public interest. However, we are putting United on notice that there should be no expectation that an additional request will similarly be granted. As is our policy in considering such waiver requests, we reserve the right to reexamine whether grant of this waiver continues to be in the public interest. Any future request to extend the waiver for the frequencies at issue here will have to be considered in light of the specific arguments offered and responses thereto, and in the context of the circumstances present at that time, including whether another carrier seeks to use the frequencies at issue.

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) grant of the waiver was consistent with the public interest. To the extent not granted, we denied all requests in the references 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 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 document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp*