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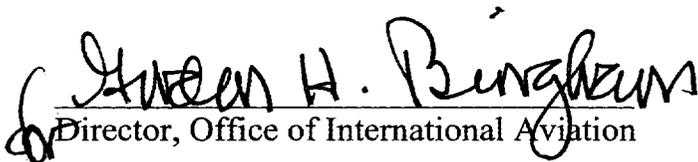
U.S. Department of
Transportation
Office of the Secretary
of Transportation

DEPARTMENT ACTION ON APPLICATION IN DOCKET OST-2003-16219 -2
(filed September 23, 2003)

Joint application of Spanair, S.A. (Spanair) and US Airways, Inc. (US Airways)¹ for statements of authorization to permit (a) Spanair to display US Airways' designator code (US*) on Spanair flights between Madrid, Spain, on the one hand, and Barcelona, Malaga and Palma de Mallorca, Spain, on the other hand,² and (b) US Airways to display Spanair's designator code (JK*) on US Airways flights (1) between Philadelphia, Pennsylvania, on the one hand, and Madrid, Spain, on the other hand; and (2) between Philadelphia, on the one hand, and Atlanta, Boston, Baltimore, Washington, D.C. (Reagan National), Denver, Dallas/Ft. Worth, Houston, Las Vegas, Los Angeles, New York (LGA), Orlando, Miami, Minneapolis, New Orleans, Chicago, Phoenix, Pittsburgh, San Diego, Seattle, San Francisco and San Juan, on the other hand.³

Approved under assigned authority (14 CFR § 385.13).

Date of Action: November 17, 2003


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 seven 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.

*An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp*

¹ US Airways' request includes its affiliated carriers, Allegheny Airlines, Inc., MidAtlantic Airways, Piedmont Airlines, Inc. and PSA Airlines.

² On November 17, 2003, we contemporaneously approved a related request by Aerolineas de Baleares, S.A. (AeBal), a foreign air carrier of Spain, for an exemption and statement of authorization to the extent necessary to permit AeBal to wet lease aircraft to Spanair, for use by Spanair on Spanair flights between Madrid, Spain, on the one hand, and Barcelona, Malaga, and Palma de Mallorca, Spain, on the other hand (limited to the carriage of US Airways' and Spanair's U.S.-Spain traffic). See Docket OST-2003-16468.

³ US Airways' services beyond Madrid will be offered on a blind-sector basis. Similarly, Spanair's services beyond Philadelphia will be offered on a blind-sector basis.

Docket OST-2003-16219

(filed September 23, 2003)

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

(a) The statements of authorization will remain in effect only as long as (i) Spanair and US Airways 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) Spanair and/or US Airways must promptly notify the Department if the code-share agreement providing for the code-share operations is no longer effective or the carriers decide to cease operating any or all of the approved code-share services. Such notices should be filed in Docket OST-2003-16219.⁴

(c) The code-sharing operations conducted under this authority must comply with 14 CFR Part 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; and that the passenger liability of the operating carrier be unaffected. Further, the operating carrier shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs or transits the airspace of any area whose airspace the Federal Aviation Administration has issued a flight prohibition.

(d) The authority granted here is specifically conditioned so that neither carrier shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

(e) We may amend, modify, or revoke the authority granted at any time without hearing at our discretion.

⁴ We expect this notification to be received within 10 days of such non-effectiveness or of such decision.