



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

**Served: March 19, 2004**

**NOTICE**

**Docket OST-2004-17373**

**U.S.-UKRAINE THIRD-COUNTRY CODE-SHARE SERVICES**

By this notice we invite U.S. certificated air carriers interested in using the service opportunity available in the U.S.-Ukraine market to file applications as specified below in the captioned docket.

Under the U.S.-Ukraine Air Transport Agreement designated airlines of each Party may operate a total of four code-share opportunities pursuant to code-sharing arrangements between an airline of one Party and an airline of a third country over intermediate points and to destinations specified in Annex I of the Agreement. A code-sharing opportunity is defined in the Agreement as a combination of one pair of code-share partners and one city-pair. Operations by the selected U.S. carriers are limited to a total of 18 round-trip frequencies per week for combination services.<sup>1</sup>

In addition to the designation limitations, third-country code-share authorizations are limited under the Agreement to service to two Ukraine points, Kiev and Odessa, via a total of four European intermediate points, up to a total of four Europe-Ukraine city-pair markets. Four U.S. carriers have been selected by the United States to provide scheduled combination service on a code-share basis with specified third-country carrier partners, via specified intermediate points, to Kiev (American with Swiss via Zurich; Northwest with KLM via Amsterdam; Delta with Air France via Paris, and United with Lufthansa via Frankfurt).<sup>2</sup> However, Swiss notified the Department on August 1, 2003, (Docket OST-2002-12001) that it and its partner American would cease operations in the U.S.-Ukraine third-country market as of October 26, 2003. As a result, and for the reasons set forth in a Notice of Action Taken being issued concurrently in Dockets OST-2003-15021 and OST-2002-12550, the fourth code-sharing opportunity is available.

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<sup>1</sup> Under the U.S.-Ukraine agreement, frequencies operated under the code-share arrangements with third-country carriers count as one-half a frequency.

<sup>2</sup> Northwest, Delta, and United collectively now operate 10.5 weekly frequencies in the market.

We request that all U.S. air carriers interested in making use of the one available designation as described above, file applications with the Department no later than March 26, 2004.<sup>3 4</sup> Answers to such applications should be filed by March 31, 2004. Replies to answers should be filed by April 5, 2004.

Carriers without the requisite operating authority should file exemption and/or designation applications and/or requests for statements of authorization, if applicable, to serve the affected markets in conjunction with the foreign code-share carrier(s) involved. Carriers with the requisite underlying authority need only file the information requested below of all applicants. All applications should include, at a minimum, the following information: (a) the proposed startup date; (b) the markets to be served, including the number and identity of U.S. cities that would receive nonstop-to-nonstop connections in the U.S.-Ukraine market, and the total elapsed travel time (including layover time) for each flight between each initial point of origin and each final destination in both directions (*i.e.*, provide a total elapsed round-trip travel time for each city pair and break-out subtotals for the elapsed times on the U.S. to Ukraine flights and the Ukraine to U.S. flights); (c) the number of frequencies to be provided between the U.S. and Ukraine and the duration of service if not provided on a year-round basis for each leg of the flights; (d) type of aircraft, including the number of seats to be used between the U.S. and the intermediate point(s) and between the intermediate point(s) and Ukraine; (e) the third-country code-share carrier involved, and the city and country of the specific intermediate point(s) and destination point(s) in the Ukraine to which the services will be provided, and which carrier would be operating each leg of the flights; (f) existing authority held to conduct the operations, if applicable; and (g) assurance that the U.S. air carrier applicant has provided or will provide the Department with the Compliance Statement referred to in Section IV of the DOT *Code-Share Safety Program Guidelines* (issued February 29, 2000) concerning a safety audit of the foreign air carrier(s) involved. In addition, carriers must provide as a part of their applications, copies of the relevant cooperative service arrangements, if applicable, if not already on file with the Department. Applicants are free to submit any additional information that they believe will help us in making our decision.

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<sup>3</sup> We note that American and United have already filed applications, in Dockets OST-2002-12550 and 2003-16445, respectively, for the available designation. We will consolidate these applications and any responsive pleadings into the proceeding established by this Notice. These carriers, however, are free to supplement or amend their applications by the date specified in this Notice for new applications.

<sup>4</sup> American filed a request for a waiver from the 90-day dormancy condition in order to preserve its Ukraine third-country code-share authority until the Department acts on its request to transfer its U.S.-Ukraine third-country code-share designation and 2.5 weekly frequencies in Docket OST-2002-12550. By Notice of Action Taken issued concurrently with this Notice, we determined that American's authority had ceased, and we dismissed as moot its request for a dormancy waiver.

Except for the procedural dates, exemption applications should conform to Part 302, Subpart C of our regulations (14 CFR Part 302). All applications (for operating authority and/or designation) should be filed with the Department of Transportation in the established docket, Dockets Operations, M-30, Room PL-402, 400 Seventh Street, SW, Washington, DC 20590.<sup>5</sup>

We intend to award the available opportunity based on the applications and responsive pleadings filed previously or in response to this notice. Since comparative selection procedures are necessary, we intend to make our decision using written, show-cause procedures in accordance with Part 302 of our regulations (14 CFR Part 302).

We will authorize service of documents by facsimile and by electronic mail. Carriers that are interested in such service, however, should state if they want service by email and should provide interested parties with their fax number and/or email address.

We will serve this Notice on all U.S. certificated air carriers operating large aircraft, the Air Transport Association, and the National Air Carrier Association.

By:

PAUL L. GRETCH  
Director  
Office of International Aviation

(SEAL)

Dated: March 19, 2004

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

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<sup>5</sup> The original submission is to be unbound and without tabs on 8 1/2" x 11" white paper using dark ink (not green) to facilitate use of the Department's docket imaging system. In the alternative, filers are encouraged to use the electronic submission capability available through the docket/DMS Internet site (<http://dms.dot.gov>) by following the instructions at we site.