



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on August 18, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST-2004-18778

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).

Joint Applicants: COMPANIA MEXICANA de AVIACION, S.A. de C.V. Date Filed: July 30, 2004

Relief requested: Statement of Authorization under 14 CFR Part 212 to permit Mexicana to carry Iberia's designator code on Mexicana's scheduled flights between Cancun, Mexico, and Miami, Florida, for the purpose of carrying Iberia's Spain-Cancun traffic, for a duration of at least two years.

If renewal, date and citation of last action: New authority.

Applicant representative: Charles F. Donley II, 202-626-6840 DOT analyst: Allen F. Brown, 202-366-2405

Responsive pleadings: None.

DISPOSITION

Action: Approved. Action date: August 18, 2004

Effective dates of authority granted: Effective August 18, 2004, through August 18, 2006.

Basis for approval: Reciprocity with Mexico.

Remarks/Conditions: This code-share operation is subject to the following conditions – a) Mexicana and/or Iberia must notify the Department immediately if the code-share agreement under which this code-share service is operated is no longer in effect, or if the carriers decide to cease operating all or any portion of the code-share service under the agreement. We expect this notification to be received within ten days of such non-effectiveness or of such decision. This notice should be filed in Docket OST-2004-18778. b) The code-sharing operation 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 subject air 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 the service in computer reservation systems and elsewhere; that the carrier selling such transportation (that is, 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. c) The authority granted here is specifically conditioned so that the subject foreign air carriers shall not give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

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

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) the applicant was qualified to perform its proposed operations; (3) grant of the authority was consistent with the public interest; and (4) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted/deferred/dismissed, we denied all requests in the referenced 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.

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http://dms.dot.gov/reports/reports_aviation.asp*