

**BEFORE THE
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.**

Proposed Reservation System for Unscheduled Arrivals at Chicago's O'Hare International Airport, RIN 2120-A147)))))	Docket FAA-2004-19411
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**COMMENTS OF
THOMAS COOK AIRLINES UK LIMITED**

Introduction

By Notice dated September 15, 2004, the Federal Aviation Administration ("FAA") issued a Notice of Proposed Rulemaking ("NPRM") which proposed new procedures for allocating arrival "reservations" for carriers providing non-scheduled air service to and from Chicago's O'Hare International Airport ("ORD"). Specifically, the FAA proposed to limit nonscheduled services to 4 arrivals per hour at peak hours, and to allocate arrival reservations on a "first come, first served" basis.

Thomas Cook Airlines UK Limited ("Thomas Cook") is a foreign air carrier which operates charter air services between the United Kingdom and the United States. Thomas Cook also leases its aircraft to US charter carriers on a periodic basis. It is in its capacity as an aircraft lessor and indirect participant in the public charter business that Thomas Cook submits these comments.

Discussion

The FAA has adopted a "one size fits all" approach to the various operations of non-scheduled services at O'Hare, setting forth a proposed rule that provides for the ad hoc allocation of arrival reservations for all operators of non-scheduled services. In the Economic

Assessment, Regulatory Flexibility Determination, Trade Impact Assessment and Unfunded Mandates Assessment of the NPRM, the FAA offered the following justification for its approach:¹

The operators of unscheduled flights have considerably more discretion and flexibility than scheduled operators in terms of flight planning horizon and arrival time. FAA thus expects that these unscheduled flights can easily be accommodated . . . Further, there are multiple airports within close proximity of O'Hare.

Although the NPRM portrays operators of “nonscheduled” service as a monolithic group, the reality is quite different. This single category includes general aviation, on-demand-charter operators, and public charter operators. While Thomas Cook cannot comment on the suitability of these rules for on-demand charters or general aviation, the NPRM, if made final without change, would cause a great deal of disruption and damage to the business of public charter operators, who offer “programmed charters” or “track charters” to the general public.

While public charter services are nominally “nonscheduled” in nature, the ways in which these services are planned, marketed and sold are almost indistinguishable from scheduled services. These services are treated as a special category of charters under DOT regulations (see 14 CFR Part 380). The significant differences and other non-scheduled services simply must be accounted for when setting procedures for the allocation of arrival reservations.

Operators of “programmed charters” plan their services far in advance of proposed flight dates. For example, Apple Vacations tends to plan its charter services at least a year in advance, and files a charter prospectus with the US Department of Transportation many months before the services are operated. The prospectus contains, among other things, the points to be served by each aircraft, and the proposed departure and arrival times for each flight. For example, a review of the charter prospectus on file for Apple Vacations for the charter program it offers in conjunction with Ryan International indicates that between the months of December 2004 and April 2005, Apple Vacations will be providing service between Chicago and Cancun every day except Tuesday, and will operate from Chicago to various Caribbean and Mexican

¹ NPRM, at 16.

points on Fridays, Saturdays and Sundays through these time periods. See DOT Office of Public Charters, Charter PC-04-140. The prospectus covers 495 roundtrip operations. Although the flights at issue are not published in the Official Airline Guide, they are operated on a fixed schedule, week after week, for a period of several months, in very much the same way as a scheduled carrier might offer a seasonal service to a leisure destination on a less-than-daily basis.

Just as a scheduled carrier would find the prospect of having its flight schedule “firmed up” just days before a scheduled arrival to be unworkable, so too would the operator of a programmed charter. Many of the public charter services operated with Thomas Cook aircraft have been tightly timed to bring passengers to/from their destinations on a fixed schedule, with each aircraft scheduled to perform several flight rotations per day. Under the NPRM, flight reservations could not be made more than 72 hours in advance at a planned arrival.² The disruption which would occur by having to “reorganize” planned flight arrivals due to last-minute changes required by the FAA would undermine the entire flight schedule proposed by these charter operators, and the carriers which serve them.³ Moreover, with charter passengers often at their holiday destinations for a week, the logistics of notifying passengers of any last minute “adjustments” to the times of their planned return trips to Chicago when they are at their foreign destinations would cause untold inconvenience and hardship to the travelling public.⁴

² NPRM, at 22.

³ A possible last minute “readjustment” of a flight arrival time also would likely wreak havoc an airline crew scheduling.

⁴ The notion of moving the flight to an airport other than O'Hare at the last minute, a possibility that the FAA suggests for nonscheduled service, also would be wholly unworkable for planeloads of roundtrip charter passengers, many of whom had parked their cars at O'Hare.

Another significant concern is the fact that last minute changes to ORD arrival times may force carriers to have to abandon services at certain airports. For example, slots at Cancun, Mexico are very tightly controlled. Departure times simply cannot be moved at the last minute to accommodate unforeseen changes at Chicago. Any new system must give public charter operators (and the carriers which serve them) enough lead time to deal with schedule changes on both ends of a route.

In order to eliminate the risk of the complete disruption of the “programmed charter” business, the FAA must amend the proposed regulation to permit public charter operators to reserve flight times in bulk, and well in advance of their proposed service dates. This can be done by having the FAA accept such reservations from the carrier operator of a public charter at the same time the public charter operator files its prospectus at DOT. As an alternative, a six-month window for advance reservations would also be workable. Moreover, when allocating scarce reservations, the FAA should accord priority to accommodating the arrival requests of “programmed charter” operators.

WHEREFORE, Thomas Cook Airlines UK Limited respectfully requests that the NPRM be amended as suggested herein, or be withdrawn in its entirety.

Respectfully submitted,

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