

**BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

Motion of)	
)	
DELTA AIR LINES, INC.)	Docket DOT-OST-2016-0048
)	
in the matter of 2019 U.S.-Haneda)	
Combination Services Allocation Proceeding)	

**ANSWER OF AMERICAN AIRLINES, INC.
IN CONDITIONAL SUPPORT OF THE MOTION OF DELTA AIR LINES, INC.**

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American supports Delta’s request that the Department grant gateway flexibility to all U.S. carriers that hold slots at Tokyo’s Haneda International Airport (HND),¹ but only on the following two conditions:

1. The Department grant the same gateway flexibility to all carriers that hold U.S.-China Zone 1 combination frequencies.²
2. Flexibility becomes effective only after a carrier operates service for a period of two years on the route originally awarded by the Department.

With these conditions, the Department’s grants of flexibility on China and Haneda routes will enable carriers to maximize public benefits by responding swiftly and effectively to changes in the market and in the competitive landscape. At the same time, these conditions will ensure that the Department’s awards of service at specific gateways are implemented, and that its findings in favor of awarding those services are not undermined by premature exercises of gateway flexibility.

¹ Motion of Delta Air Lines, Inc., Docket DOT-OST-2016-0048 (Dec. 19, 2018). Common names are used for all carriers.

² American filed a motion requesting the grant of U.S.-China route flexibility earlier today. Motion of American Airlines, Inc. for U.S.-China Route Flexibility, Dockets DOT-OST-2004-19077 and DOT-OST-2007-28567 (Jan. 7, 2019).

American has consistently supported the grant of greater flexibility to U.S. carriers awarded international frequencies and other limited rights.³ Demand for international services is rarely static except in the most mature markets. When carriers cannot respond effectively to market changes, consumers suffer. Routes with rising demand may go underserved, while declining demand on other routes may force carriers to operate suboptimal services or return their frequencies. Returned frequencies may go unused for prolonged periods during reallocation proceedings, while demand in other markets remains unmet. With route flexibility, however, carriers can adjust their services to address market changes and thus meet the evolving demands of their passengers.

The grant of the same route flexibility for China Zone 1 that Delta seeks for Haneda would create consistent rules in both markets and, more importantly, reflects sound and even-handed policy. American's ability to compete against Delta and United in the U.S.-China market is hampered by its distinction as the only U.S. carrier without any flexibility to change its China Zone 1 routes. Granting Delta's request for Haneda flexibility, while leaving in place the two-tiered licensing regime governing China Zone 1 frequencies, would exacerbate a competitive imbalance in the U.S.-Asia market. For this reason, American respectfully requests that its motion for China flexibility filed earlier today be granted at the same time as any grant of Haneda flexibility.

³ *E.g.* Motion of American Airlines, Inc. for the Removal of the U.S. Gateway Conditions Applicable to All U.S.-Cuba Frequencies, Docket DOT-OST-2016-0021 (Sept. 28, 2018) (requesting U.S.-Cuba gateway flexibility); Answer of American Airlines to Motion of Delta Air Lines, Inc. for Flexibility to Change Gateways, Docket DOT-OST-2010-0018 (July 31, 2012) (supporting Delta's request for U.S.-Haneda gateway flexibility); Answer of American Airlines, Inc., Docket DOT-OST-2010-0285 (May 9, 2012) (requesting U.S.-China route flexibility); Objection of American Airlines, Inc. to Notice Inviting Applications, *In the Matter of 2004 Combination Frequencies (U.S.-China)*, Docket DOT-OST-2004-18469 (same); Petition of American Airlines, Inc. for Reconsideration of Order 2000-1-21, *U.S.-China Air Services (2001)*, Docket DOT-OST-1999-6323 (Feb. 2, 2000) (same).

I. The Grant of U.S.-China Flexibility to All Carriers Should Be a Prerequisite for the Grant of Delta's Motion for U.S.-Haneda Flexibility

American shares Delta's desire "for market principles to be applied to support fairness and consistency."⁴ No frequencies are subject to more inconsistent or unfair rules than the U.S.-China Zone 1 combination frequencies held by American, Delta, and United. Delta and United enjoy broad flexibility to shift many of their China Zone 1 frequencies to new routes without Department approval, while all of American's China Zone 1 frequencies require Department approval to be moved. Preserving this regulatory imbalance while bestowing flexibility on Haneda slots would subvert the fair application of market principles that is integral to effective competition.

The conditions at Haneda that Delta calls "asymmetrical, anticompetitive, and contrary to the public interest" exist to an even larger degree in China:⁵

First, Beijing, Shanghai, and Guangzhou ("China Zone 1"), like Haneda, are essentially "restricted [destinations] in what is otherwise an Open Skies country."⁶ Although the United States and China do not have an open skies agreement, service between the United States and points in China outside of Zone 1 is unrestricted in practice.⁷

Second, like the "highly restrictive numerical slot caps" at Haneda,⁸ the restrictive cap on U.S.-China Zone 1 frequencies prevents U.S. carriers from commencing new services to Beijing, Shanghai, and Guangzhou.⁹

⁴ Motion of Delta Air Lines, Inc., Docket DOT-OST-2016-0048 (Dec. 19, 2018), at 4.

⁵ *Id.* at 8.

⁶ *Id.* at 2.

⁷ Ample frequencies are available for service between the United States and China Zone 2, and there are no frequency limitations on service between the United States and China Zone 3. *See* U.S.-China Air Transport Agreement of July 9, 2007, <https://www.state.gov/e/eb/rls/othr/ata/c/ch/114749.htm> (July 9, 2007).

⁸ Motion of Delta Air Lines, Inc., Docket DOT-OST-2016-0048 (Dec. 19, 2018), at 4.

⁹ *See, e.g.*, Answer and Application of United Airlines, Inc., Docket DOT-OST-2018-0179 (Nov. 2, 2018) (requesting the allocation of the remaining seven U.S.-China Zone 1 combination frequencies); Application of Delta

Third, like Delta, which is the only major U.S. network carrier without a Japanese partner,¹⁰ American is the only U.S. network carrier that operates China Zone 1 routes without an alliance partner in mainland China.¹¹

Fourth, at Haneda, Delta holds more daytime slots than any other U.S. carrier, while in China Zone 1, American serves the fewest China Zone 1 routes among U.S. carriers in the market.¹² Moreover, unlike at Haneda, where all slots held by U.S. carriers currently are restricted to specific U.S. gateways on an equal basis,¹³ in China Zone 1, Delta and United possess flexibility to change gateways, while American must obtain prior regulatory approval to make any gateway changes.¹⁴ In sum, Delta is significantly better positioned at Haneda than American is in China Zone 1.

American fully supports the principle of gateway flexibility, as long as it is granted on a consistent and non-discriminatory basis. If the Department grants carriers Haneda flexibility, then as a matter of consistent policy and fairness, it should grant that flexibility in both Haneda and China Zone 1.

Air Lines, Inc. for an Exemption, a Certificate of Public Convenience and Necessity, and a Frequency Allocation, Docket DOT-OST-2018-0161 (Oct. 22, 2018) (same).

¹⁰ Motion of Delta Air Lines, Inc., Docket DOT-OST-2016-0048 (Dec. 19, 2018), at 3.

¹¹ American recently began a bilateral, non-alliance relationship with China Southern. This relationship is in its infancy, however. American is decades behind Delta and United in being able to achieve the full benefits of an alliance relationship in mainland China.

¹² Final Order 2016-9-1, *2016 U.S.-Haneda Combination Services Allocation Proceeding*, Docket DOT-OST-2016-0048 (Sept. 1, 2016), at 11–12 (granting two daytime Haneda slot-pairs to Delta, while granting one to American, one to United, and one to Hawaiian).

¹³ *Id.*

¹⁴ Motion of American Airlines, Inc. for U.S.-China Route Flexibility, Dockets DOT-OST-2004-19077 and DOT-OST-2007-28567 (Jan. 7, 2019), at 1–3.

II. Flexibility Should Not Become Effective until a Carrier Operates Service on the Route Originally Awarded by the Department for Two years

Granting carriers flexibility to change their China Zone 1 and Haneda routes will ensure that carriers can better respond to changes in the public's demand for U.S.-Asia travel. Nevertheless, American recognizes the Department's desire to award frequencies to specific carriers at specific gateways based on its review of the record and its public interest determinations at the time the award is made. By requiring carriers awarded frequencies to operate service on the route originally awarded for a period of two years before being able to exercise gateway flexibility, the Department can ensure that its findings in favor of awarding service at specific gateways are not undermined and that carriers do not propose a gateway with the intent of switching it shortly after an award.

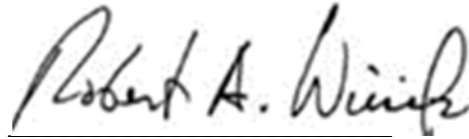
This limitation on grants of flexibility strikes the right balance between providing carriers more tools to respond to changes in the market and preserving the Department's important role in allocating frequencies and other limited rights. Should abrupt market changes warrant route adjustments before two years have elapsed, carriers could still move to transfer their frequencies to a new gateway, subject to the Department's approval.¹⁵ With American's proposed limitation, the traveling public would continue to realize the benefits envisioned by the Department in its initial awards of frequencies, and would thrive under a more dynamic regulatory climate that allows carriers to better address its evolving needs.

¹⁵ See, e.g., Final Order 2013-2-4, Docket DOT-OST-2010-0018 (Feb. 5, 2013), at 1 (granting Delta's motion to transfer its Haneda slots awarded for Detroit - Haneda service to the Seattle - Haneda route).

Conclusion

The Department's role in awarding frequencies to carriers at specific gateways is vital. But market conditions and demand change, and after an initial award, carriers are the best judges of market needs. To maximize public benefits, carriers should be granted more flexibility to respond effectively to changes to the China Zone 1 and Haneda markets. The grant of Haneda flexibility unaccompanied by the grant of identical China Zone 1 flexibility will severely advantage Delta and disadvantage American in two similar situations and markets. Accordingly, American respectfully requests that its motion for uniform route flexibility in China be granted simultaneous with any grant of Delta's motion for Haneda flexibility, and that the Department require carriers to operate service on the route originally awarded for a period of two years before exercising gateway flexibility.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on January 7, 2019, I served a copy of the foregoing Answer of American Airlines, Inc. in Conditional Support of the Motion of Delta Air Lines, Inc. by email upon the individuals listed below:

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