



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

**DEPARTMENT ACTION ON APPLICATION IN DOCKET DOT-OST-2019-0170
(Filed June 5, 2020)**

Joint Application of Delta Air Lines, Inc. (Delta)¹ and LATAM Airlines Group, S.A. d/b/a LATAM Airlines Group (LATAM Airlines), together the “Joint Applicants,” for blanket statements of authorization to display the “DL*” designator code of Delta on LATAM Airlines flights, and LATAM Airlines’ “LA*” designator code on Delta flights, in conjunction with foreign air transportation (1) between any point or points in the United States and any point or points in Chile (on a nonstop basis and via intermediate routings); (2) between points in the United States; (3) between points in Chile; (4) beyond the United States to any point or points; and (5) beyond Chile to any point or points.²

The Joint Applicants also request a waiver of the 45-day advance filing requirement under 14 CFR Part 212.

* Approved under assigned authority (14 CFR §385.13).

Date of Action: July 9, 2020

Acting 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.

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

*An electronic version of this document is available on the World Wide Web at
<http://www.regulations.gov>*

¹ Delta requests that its blanket statement of authorization extend to its Delta Connection regional affiliates that are operating service for Delta and carrying LATAM Airlines’ “LA*” code. Delta states that its regional affiliates currently include Endeavor Air, Inc. (Endeavor); Republic Airways, Inc. (Republic); and SkyWest Airlines, Inc. (SkyWest).

² On June 15, 2020, the Delta Master Executive Council of the Air Line Pilots Association, International (Delta MEC) filed a Comment stating that it does not ask the Department to deny the application, but seeks to make the Department aware of concerns about the Joint Applicants’ code-share use that may warrant further inquiry when the Department performs its public interest assessment of the Joint Applicants’ forthcoming request for approval of and antitrust immunity for a trans-America joint venture. We note that on July 8, 2020, the Joint Applicants filed an application for approval of and antitrust immunity for alliance agreements in Docket DOT-OST-2020-0105.

APPENDIX A

The statements of authorization granted are subject to the following conditions:

- (a) The statements of authorization will remain in effect only as long as (i) Delta and LATAM Airlines 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) Delta and/or LATAM Airlines must notify the Department no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which the service will begin. Such notices should be filed in Docket DOT-OST-2019-0170.¹
- (c) Delta and/or LATAM Airlines must promptly notify the Department (Office of International Aviation) if the code-share agreement providing for the code-share operations is no longer effective or if the carriers decide to cease operating all or a portion of the approved code-share services. Such notices should be filed in Docket DOT-OST-2019-0170.²
- (d) 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 the 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; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.
- (e) The authority to operate to third countries is subject to the condition that any service provided under the statement of authorization shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (i) nothing in the award of these statements of authorization should be construed as conferring upon Delta rights (including code-share, fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Delta notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (ii) should there be a request by any carrier to use the limited-entry route rights that are included in Delta's authority by virtue of the statements of authorization granted here, but that are not then being used by Delta the holding of such authority will not be considered as providing any preference for Delta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.³
- (f) The authority granted here is specifically conditioned so that neither Delta nor LATAM Airlines shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

¹ Pursuant to the Department's February 9, 2009 Notice in the Matter of Blanket Notification of Code-Share Service to Open-Skies Partners and Points, the joint applicants state that their application serves as a blanket 30-day notice covering new code-share service for Open Skies points. For points in non-Open Skies countries, the joint applicants state that they will comply with the standard 30-day notice condition, and provided notice in the application of their intent to serve Buenos Aires, Argentina; La Paz, Bolivia; and Santa Cruz, Bolivia. See the joint application for a full list of initial code-share points.

² We expect this notification to be received within ten (10) days of such non-effectiveness or of such decision.

³ The notice in paragraph (b) above can be used for this notification.