

# U.S. official backs Discovery

## Says airline's operating authority shouldn't be revoked

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A U.S. transportation official said yesterday that Discovery Airways' operating authority should not be revoked, even if the department decides not to accept an agreement he worked out earlier with Discovery officials.

Kenneth G. Caplan, the Public Counsel for the Department of Transportation, said yesterday that "if the consent order is not approved, there are numerous questions of law and material fact that must be resolved before Discovery's authority is revoked. These questions, in our view, can only be resolved after an oral evidentiary hearing is held."

Pending the outcome of such a hearing,

Caplan said, Discovery should be allowed to continue operating under the temporary authority it was granted in March. If, however, the transportation department's decisionmaker decides that a hearing is not needed, Caplan added, he should "take any action deemed warranted."

Caplan's comments came in response to statements made earlier this week by an administrative law judge within the transportation department.

Discovery has been attempting to resolve questions surrounding its ownership and errors in some of the documents it has filed with the government regarding its application for permanent operating authority.

Caplan and Discovery officials worked

out an agreement that would include majority shareholder Philip Ho selling most of his stock in Discovery. (Ho is president of Nansay Hawaii, an American subsidiary of a Japanese company; Nansay Hawaii also provided most of Discovery's start-up financing. Ho's, and his company's, involvement have been challenged under federal law that restricts foreign ownership or control of an American airline to 25 percent or less.)

That agreement, in the form of a consent order, was passed up to Yoder, who sent it on up the federal ladder to the department's decisionmaker. Yoder withheld his approval, however.

He said that he was concerned about

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what seemed to an admission in the consent order that the airline had been operating as a foreign airline; about the airline's "cloudy" citizenship status; about the role of vice president Franco Mancassola, an Italian citizen, and about errors in Discovery's past filings.

Caplan said in his response yesterday that, in light of Ho's close relationship with Nansay Corp. and Kenchu Yokeno, its head, the airline was indeed not controlled or owned by U.S. citizens under the terms of the Federal Aviation Act. But when Ho transferred his stock to former U.S. Sen. Hiram Fong through a voting trust, legal control of the airline reverted to U.S. citizens and has remained under the control of U.S. citizens since then, Caplan said.

Having Ho sell most of his stock, as he has agreed to do, will resolve the issue, Caplan added.

Caplan's response was released by Discovery at a press conference called yesterday by president Don Straight, who said all Discovery wants "is a fair chance to compete in the



**Philip Ho**  
Agreed to sell his stock

marketplace."

At one point Straight held up an American passport, saying, "This is Mr. Ho's passport; it's a U.S. passport" and added that even though Ho is an American citizen he has still agreed to sell his stock. (Straight said that he did not know if Ho had received any offers yet.)

Straight also said that Mancassola's citizenship should not be an issue, and as the founder



**Don Straight**  
"I'm not going to tell ..."

of the airline he has a right to a seat on the board, whose other members are all U.S. citizens. Mancassola has been in management positions at other U.S. airlines without questions of foreign control being raised, he added.

Straight declined to disclose additional sources of funding that Discovery has said it has sought out, or to specify how long Discovery can hold out under the current circumstan-

es without additional money. "I'm not going to tell ... my competitors what day, what hour, what minute I'm going to die. I'm not going to commit suicide."

Straight added that if the Department of Transportation doesn't reach a decision that would be acceptable to the unnamed lenders Discovery is negotiating with, however, the financing arrangements "will fall apart."

Discovery is continuing to meet its payrolls, he said, and has not had to undertake cost-cutting measures — although it has delayed delivery of two additional planes scheduled to arrive this month. (Due to delays at the factory, the planes already were going to be a month late, Mancassola said, so the airline decided it might as well wait an additional month since the planes would now be arriving after summer peaks.)

Straight conceded that there have been inaccuracies in some of Discovery's filings with the Department of Transportation but said these were errors in paperwork by people who, while they're familiar with running an airline, don't know a great deal about the paperwork involved in starting one.