

AVIATION LAW UPDATE

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Two interesting decisions have recently been rendered at European level. The first one deals with consumers' protection and the type of information that have to be displayed by a computerized reservation system. The second decision relates to European competition law and the functioning of the European network of competition authorities.

A COMPUTERISED BOOKING SYSTEM MUST, FROM THE OUTSET, INDICATE THE FINAL PRICE TO BE PAID FOR EACH FLIGHT FROM AN EU AIRPORT IN RESPECT OF WHICH THE FARE IS SHOWN

By a reference for a preliminary ruling, the Bundesgerichtshof (the Federal Court of Justice, Germany) has asked the European Court to interpret EU legislation on the pricing of air services from a EU airport and, in particular, on the price that must be shown by a computerized booking system.

The facts of the case are as follows: the German Federal Union of Consumer Organisations and Associations challenged before the German courts the way in which Air Berlin presented its air fares through its computerized booking system.

The booking system of Air Berlin showed a table of possible connections once the consumer had selected the date and airports of departure and arrival. The booking system indicated the final price payable per person only for the connection pre-selected by Air Berlin or selected by the customer. The booking system did not show the final price per person for every connection shown on the screen.

The Federal Union of Consumer considered that this practice did not comply with the requirements of EU law regarding price transparency of air services. The Federal Union of Consumer acted against Air Berlin and obtained an injunction subsequently upheld by the courts of first instance and of appeal. Air Berlin appealed then to the German Federal Court of Justice. That court referred a question to the Court of Justice asking the Court to interpret EU legislation on the pricing of air services from an EU airport.

On 15 January, the Court issued its decision (C-573/13) indicated that the final price to be paid by the consumer must be indicated for each and all flights shown by a computerized booking system such as the one used by Air Berlin. This entails that the computerized booking system must show the final price of the flight not only for the flight selected by the consumer, but also for each air service which is shown for the first time.

The full text of the decision of the Court (C-573/13) is available here:

<http://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=c-573/13&td=ALL>

**THE GENERAL COURT PROVIDES CLARIFICATION
AS TO THE FUNCTIONING OF THE EUROPEAN NETWORK OF COMPETITION AUTHORITIES**

On 21 January, the General Court issued a decision that clarifies the position of the Court in relation to decisions taken by national competition authorities.

The facts of the case are as follows: in 2008, easyJet lodged complaints with the Netherlands competition related to the passenger and security service taxes charged by the operator of Schiphol airport.

The Dutch competition authority rejected the complaints on the basis of national procedural rules. Following such decision, easyJet lodged a complaint with the Commission, on the grounds that the charges applied by Schiphol were discriminatory and excessive and amounted to an abuse of a dominant position in the internal market. easyJet mentioned the complaint lodged with the Dutch competition authority and it considered that that authority had not taken any final decision on the merits the complaint under competition law.

The Commission rejected the complaint considering that the Dutch Competition authority had already dealt with it. The Commission rejected the complaint on the basis of the provisions of Regulation No 1/2003 which provide that the Commission may reject a complaint if that complaint has already been dealt with by a competition authority of a Member State. EasyJet challenged this rejection of before the General Court of the European Union.

On 21 January, the General Court decided that “the Commission may reject a complaint which has previously been rejected by a competition authority of a Member State on priority grounds. This may be inferred from a literal interpretation of the provision concerned, which is capable of including all cases of complaints which have been examined by another competition authority, whatever may have been the outcome. This interpretation is also consistent with the general scheme of Regulation No 1/2003. Indeed, the Commission may reject a complaint where another competition authority of a Member State is dealing with it. It therefore appears that what is important is not the outcome of the review of the complaint by that competition authority, but the fact that the complaint has been reviewed by that authority”.

The full text of the decision of the Court (T-355/13) is available here:

<http://curia.europa.eu/juris/documents.jsf?num=T-355/13>