

Decision CPC: 52/2012

Case Number

11.17.008.35

THE PROTECTION OF COMPETITION LAW, 2008

(Law N. 13(I)/2008)

Complaint by MEGA FLYPARK LTD against HERMES AIRPORTS LTD

Commission for the Protection of Competition:

Mrs. Loukia Christodoulou	Chairperson
Mr. Leontios Vryonides	Member
Mrs. Eleni Karaoli	Member
Mr. Demetris Pitsillides	Member
Mr. Costas Melanides	Member

Date of decision: 31 October 2012

SUMMARY OF THE DECISION

The case concerned the complaint of MEGA FLYPARK LTD (hereinafter "*Mega-flypark*") that was submitted to the Commission for the Protection of Competition (hereinafter "*Commission*") against HERMES AIRPORTS LTD (hereinafter "*Hermes*") regarding the practices / actions of Hermes in relation to the use of the Larnaka airport grounds.

The submitted complaint concerned the alleged obstacles / restrictions imposed by Hermes on Megaflypark for the use of the Larnaka airport grounds and the imposition of a fee for the use of some of the airport grounds, thus infringing section 6(1) of the Protection of Competition Law 2008 (Law no. 13(I)/2008).

On the basis of the evidence gathered during the investigation, in relation to the issue of short stop / parking of vehicles belonging to undertakings providing parking

services to passengers traveling abroad outside the airport grounds, the Commission concluded as follows:

(a) in relation to dropping-off passengers, the Commission concluded that the problems created can be dealt with on the basis of mutual understanding between Hermes and the car parking service companies, as both sides believe that short stops in front of the airport for dropping-off purposes are permitted. It was emphasized that the creation of incidents and fights by security guards in front of customers, affects the functioning of companies operating as competitors of Hermes in the market of the provision of car parking services to passengers traveling abroad from Larnaka airport.

(b) in relation to the boarding of customers, the Commission considered that Hermes' concerns in regards to congestion do not constitute an adequate and / or objective justification for creating obstacles to companies providing car parking services outside the airport grounds, and that it would be useful for Hermes to designate an alternative space for short stop / parking for these companies, as it has done for other categories of vehicles carrying passengers, i.e. buses, taxis and the general public.

(c) in any event, no information has been provided to demonstrate that these companies create congestion precisely by their daily business.

In relation to the restriction / ban of companies that offer shuttle / valet services from using the short-term parking area, the Commission agreed with Hermes that these companies which provide car parking services to passengers traveling abroad outside the Larnaca airport, are not to be categorized as passengers / general public. Nevertheless, the Commission concluded that Hermes' weakness / failure, as the airport management, to provide these companies with an alternative solution by designating a new parking area, places them in a disadvantageous competitive position in relation to Hermes. For these companies, short-term parking within the airport grounds constitutes an important prerequisite for operating in the market, and Hermes has not provided any objective justification for its behaviour.

In relation to the rent and exit tickets imposed by Hermes, as the airport management, the Commission concluded that the prices imposed on companies that are active in the provision of car parking services outside the airport to passengers travelling abroad, constitute arbitrary charges, as Hermes has not justified the

calculation and amount of the rent imposed by adducing accurate and/ or precise evidence.

In conclusion, the Commission concluded that Hermes, through its behaviour, its practices and the trading conditions it imposes in relation to short stop / parking, short-term parking, rent and exit tickets, aims at the exclusion of its competitors in the market of provision of car parking services to passengers of Larnaka airport travelling abroad, in violation of article 6(1)(a) of the Law. The Commission concluded that Hermes has not proved any objective justification for its behaviour, thus, the only explanation for its actions was the exclusion of competing undertakings which provide car parking services outside the airport grounds, and the strengthening of its position in the market of parking services to passengers of Larnaka airport travelling abroad.

Therefore, pursuant to section 24(a)(i) of the Law, the Commission imposed on Hermes an administrative fine of €75.000 (Seventy Five Thousand Euro).

Loukia Christodoulou
Chairperson
Commission for the Protection of Competition