



COMMISSION FOR THE PROTECTION OF COMPETITION (C.P.C)

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COMMISSION FOR THE PROTECTION OF COMPETITION DECISION

Relating to a proceeding under sections 4 and/or 6 of Law 207/89

(Case No.: 11.17.29/2004)

Decision dated: 16/12/2004

Before: Christodoulos Tselepos- Chairman
Costis Efstathiou- Member
Andreas Demetriou-Member
Elias Theodorou-Member
Leontios Pericleous-Member

Having regard the Protection of Competition Law 207/89 as amended, having regard the complaint filed by Helios Airways Ltd against Cyprus Airways Ltd, the Commission for the Protection of Competition (hereinafter «C.P.C») in its meeting 16/12/2004 unanimously decided as follows:

1. On the 19 August 2004, the company Helios Airways, (hereinafter «Helios») submitted to the C.P.C a complaint according to section 28 of the Protection of Competition Law, as amended (hereinafter «Law»), against the Cyprus Airways Ltd (hereinafter «Cy.A»), claiming that the incentive schemes of the travel agents offered by Cyprus Airways had as a result the restriction of competition.
2. On the 6 September 2004, the C.P.C. instructed the Service of the C.P.C., to conduct an investigation in relation to the complaint submitted by Helios against Cy.A. The Service of the C.P.C. acting according to the instructions of the C.P.C, conducted an investigation and prepared an investigative report that then submitted before the C.P.C. on the 6 November 2004.
3. The C.P.C. on the 11th of November 200, having taken into consideration the investigative report prepared by the Service, all the information and documents collected by the Service during its investigation, the information provided by the parties, and all the other documents and information included in the case file, unanimously decided that *prima facie* there is an infringement of section 6(1),(2) (a), (b), (c) of the Law on behalf of Cyprus Airways.
4. On the basis of the above, on the 17th November 2004 a statement of objection was served to Cyprus Airways, inviting it to attend the meeting dated 23rd November 2004,

personally, either with a lawyer or by an authorised lawyer to set their views and objections.

5. At the C.P.C.'s meeting dated 23/11/2004 attended on behalf of Cyprus Airways, the Lawyer Mr. P.Poliviou and on behalf of Helios, the Lawyer Mr. A. Economou. The C.P.C. having presented the Statement of Objection, gave the floor to the lawyers. Mr Poliviou admitted that his clients had announced the enforcement of the incentive schemes for the travel agents as from 1/1/2003, which was in violation of the Law and specifically of sections 6(1), (2) (a) (b) (c).
6. Subsequently, Mr. Poliviou stated the reasons for the mitigation of the fine and he *Inter alia*, noted:
 - (a) The airline sector was only liberalised on the 1/5/2004. The sector up to that point was regulated with Cyprus Airways being the only operator.
 - (b) The said incentive scheme come into force 17 months before the liberalisation of the specific sector and without having the intention to restrict competition.
 - (c) Cyprus Airways are nowadays facing serious economic problems and there are uncertainties on whether they will be able continue their operations.
 - (d) he further stated that his clients are ready to withdraw this incentive scheme and bring to an end any practices that restrict competition and specifically, the provisions section 6 Law.
7. Cyprus Airways intention to comply with the instructions of the C.P.C. were completed at the meeting Directors General's, whereby they decided to issue a statement that was then communicated to all tourist agents on 29/11/2004 by which they withdrew the under investigation scheme. A copy of the statement was today also communicated to the C.P.C.
8. The C.P.C. in its meeting dated 16/12/2004, having taken into consideration the information and documents included in the investigative report of the Service and the positions of the Cyprus Airways Lawyer for the purpose of the fine and pursuant to section 22 of the Law, unanimously decided:
 - (a) To judge Cyprus Airways with every leniency, taking into account the fact that they immediately brought to an end the infringement and therefore only issue a prohibition decision.
 - (b) In case where it is noted that the said infringement continues, then the C.P.C. will imposed a penalty of CY 3000 pounds for every day the infringement continues.

Christodoulos Tselepos
Chairman of the Commission
for the Protection of Competition