

**THE PROTECTION OF COMPETITION LAW
(LAWS 207 OF 1989, 111(I) OF 1999 AND
87(I) OF 2000)**

(Order made by virtue of section 5(2))

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**THE PROTECTION OF COMPETITION LAW
(LAWS 207 OF 1989, 111(I) OF 1999 AND
87(I) OF 2000)**

Order made by virtue of section 5(2)

The Council of Ministers, exercising the powers conferred upon it under subsection (2) of section 5 of the Protection of Competition Laws of 1989 to 2000, issues this Order.

207 of 1989
111(I) of 1999
87(I) of 2000.

1. This Order shall be cited as the Block Exemptions (Agreements between Air Transports for Consultations on Passenger and Cargo Tariffs and Slot-allocation at Airports) Order of 2000.

Short title.

2. In this Order-

Interpretation.

"Committee" means the Committee of Protection of Competition established by virtue of section 8 of the Law;

"Law" means the Protection of Competition Laws 1989 to 2000.

207 of 1989
111(I) of 1999
87(I) of 2000.

3. According to the provisions of section 5 of the Law and subject to the provisions of this Order, subsection (1) of section 4 of the Law is declared inapplicable to the agreements between undertakings in the air transport sector, decisions by associations of such undertakings and concerted practices which have as their purpose-

Block exemption of joint ventures of air transport.

- (a) The holding of consultations on tariffs for the carriage of passengers with their baggage on scheduled air services between airports of the Republic and member-states of the European Community, or
- (b) the slot-allocation and the airport programming.

4.-(1) The exemption concerning the holding of consultations on passenger tariffs shall apply only if the following conditions are met:

Special provisions for consultations on passenger tariffs.

- (a) The participants only discuss air fares to be paid by air transport users directly to a participating air carrier or to its authorised agents, for carriage of passengers on a scheduled service, as well as the conditions relating to these fares and rates provided that these consultations shall not extend to the capacity for which such tariffs are to be available; and
- (b) the consultations give rise to interlining that is to say, air transport users must be able, in respect of the types of fares or rates and of the seasons which were the subject of the consultations-
 - (i) to combine on a single transportation title the service which was the subject of the consultations, with services on the same or on connecting routes operated by other air carriers, whereby the applicable fares, rates and conditions are set by the airlines effecting

carriage, and

(ii) in so far as is permitted by the conditions governing the initial reservation, to change a reservation on a service which was the subject of the consultations on to a service on the same route operated by another air carrier at the fares or rates and conditions applied by that other carrier,

provided that an air carrier may refuse to allow such combinations and changes of reservation for objective and non-discriminatory reasons of a technical or commercial nature in particular where the air carrier effecting carriage is concerned with the credit worthiness of the air carrier who would be collecting payment for this carriage; in such case the latter air carrier must be notified thereof in writing;

- (c) the passenger or cargo tariffs which are the subject of consultations are applied by participating air carriers, where the passengers are Cypriots or citizens of the European Community, without discrimination on grounds of passengers nationality or place of residence with Cyprus or within the European Community;
- (d) participation in the consultations is voluntary and open to any air carrier who operates or intends to operate direct or indirect services on the route concerned;
- (e) the consultations are not binding on participants, that is to say, following the consultations the participants retain the right to act independently in respect of passenger and cargo tariffs;

- (f) the consultations do not entail agreement on agents' remuneration or other elements of the tariffs discussed;
- (g) where filing of tariffs is required, each participant individually files each tariff which was not the subject of the consultations with the President of the Committee of the Protection of Competition and the General Manager of the Ministry of Transport, Telecommunications and Works, the filing is done either by the participant himself or through its filing agent or through its general sales agent.

(2)(a) The Committee and the Ministry of Transport Telecommunications and Works shall be entitled to send observers to tariff consultations. For this purpose, air carriers shall give the President of the Committee and the Ministry of Transport, Telecommunications and Works the same notice as is given to participants, but not less than ten days' notice, of the date, venue and subject matter of the consultations;

(b) A full report on these consultations shall be submitted to the Committee by or on behalf of the air carriers involved at the same time as it is submitted to participants but not later than six weeks after those consultations were held.

5.-(1) The exemption concerning slot allocation and airport scheduling shall apply only if the following conditions are met: Special provisions for slot allocation and airport scheduling.

- (a) The consultations on slot allocation and airport

scheduling are open to all air carriers having expressed an interest in the slots which are the subject of the consultations;

- (b) the rules of priority are established and applied without discrimination, that is to say that they neither directly nor indirectly relate to carrier identity or nationality or category of service, take into account constraints or air traffic distribution rules laid down by competent national or international authorities and give due consideration to the needs of the travelling publics and of the airport concerned. Subject to subparagraph (d) of this paragraph, such rules of priority may take account of rights acquired by air carriers through the use of particular slots in the previous corresponding season;
- (c) the rules of priority once established are made available on request to any interested party;
- (d) new entrants are allocated 50% of newly created or unused slots and slots which have been given up by a carrier during or by the end of the season or which otherwise become available, to the extent that those new entrants have outstanding slot requests;

for the purposes of this sub-paragraph "new entrant" means-

- (i) the air carrier requesting slots at an airport for any day who has and to whom have been made available less than four slots at the specific airport for the specific day; or

- (ii) the air carrier requesting slots for a route without intermediate stops between two community airports or between a community and a cypriot airport when there are the maximum another two air carriers carrying out a direct route between the aforesaid airports or airports systems exactly the same day who has or to whom have been made available less than four slots at the specific airport for the specific day, for the aforesaid route without intermediate stops:

Provided that the air carrier who has more than 3% of the entire available slots during the aforesaid day at a specific airport, or more than 2% of the entire available slots during the aforesaid day to which the above mentioned airport belongs, does not consider new entrant for such airport.

- (e) air carriers participating in the consultations have access, at the time of the consultations at the latest, to information relating to-
 - (i) historical slots by airline, chronologically, for all air carriers at the airport,
 - (ii) requested slots (initial submissions) by air carriers and chronologically for all air carriers,
 - (iii) allocated slots, and outstanding slot requests listed individually in chronological order, by air carriers, for air carriers,

(iv) remaining slots available,

(v) full details on the criteria being used in the allocation.

If a request for slots is not accepted, the air carrier concerned shall be entitled to a statement of the reasons therefor.

(2) The Committee and the Ministry of Transport, Telecommunications and Works shall be entitled to send observers to consultations on slot allocation and airport scheduling held in the context of a multilateral meeting in advance of each season. For this purpose, air carriers shall give to the Committee and to the Ministry of Transport, Communications and Works the same notice as is given to participants, but not less than 10 days' notice, of the date, venue and subject matter of the consultations.

6. The Committee may, on its own initiative or after a relative accusation by any natural or legal person which has sufficient legitimate withdraw the benefit of the block exemption where it finds in a particular case that an agreement, decision or concerted practice exempted by this Order nevertheless has certain effects which are incompatible with the conditions laid down by subsection (1) of section 5 of the Law, and in particular where-

Withdrawal of the block exemption.

(1) There is no effective price competition on any route or group of routes which was the subject of tariff consultations. In such cases the benefit of this Order shall be withdrawn for the said route or group of routes and also for the air carriers which participated in the

tariff consultations concerning such routes.

- (2) the operation of paragraph 4 has not enabled new entrants to obtain such slots as may be required at a congested airport in order to establish schedules which enable those carriers to compete effectively with established carriers on any route to an from that airport, and where competition on those routes is thereby substantially impaired; in such cases the withdrawal of the benefit of this Order shall be in respect of the slot allocation at the airport in question.

7. By the publication of this Order in the Official Gazette of the Republic the Block Exemptions (Agreements between Air Transports for Joint Planning and Coordination of Schedules, Joint Operations, Consultations on Passenger and Cargo Tariffs and Slot - allocation at Airports) Order of 1998, is repealed.

Repeal of
Order.
Official
Gazette.
Third
Schedule (I):
20.2.1998.