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## **Competition in the aviation sector: the European Commission's approach**

*Check Against Delivery*  
*Seul le texte prononcé fait foi*  
*Es gilt das gesprochene Wort*

Conference celebrating the twentieth Anniversary of the International Institute of Air and Space law (IIASL) Leiden University

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Ladies and Gentlemen,

I am very pleased to have this chance to speak to you today on this, the 20th birthday of the International Institute for Air and Space Law. I had the privilege to be here for the opening of this Institute in 1986. In twenty years it has evolved into one of the world's leading research and teaching institutes for air and space law. Congratulations!

But it is not just the Institute that is celebrating twenty years of success. It is also twenty years since the European Union became actively involved in the air transport field. During this time, the EU has played a pivotal role in creating a single internal market for air transport - opening it up to competition to the benefit of consumers.

Today, all European airlines can fly between any two Community airports and can freely decide fares, new routes and capacity. Dynamic and entrepreneurial airlines are shaking up the industry and bringing prices down. Citizens can choose between more airlines and more routes when travelling within Europe.

The benefits of the liberalisation process are self-evident. Fares for air travel within the European Union have fallen by 30% since 1992. The number of non-stop city pairs served within the EU has more than doubled. Europe's citizens really can celebrate twenty years of success in the internal aviation market.

### **The emergent EU external aviation policy**

But while the internal aviation market has been successfully opened up, the liberalisation of the external aviation market is still in its infancy.

Air transport between the EU and third countries is still governed by a constellation of air services agreements, many of which are subject to a considerable degree of public interference. These agreements regulate and restrict market access or pricing or both, preventing the full play of market forces. Less competition means less pressure on airlines to improve their operations and efficiency. Prices are therefore higher - to the detriment of both consumers and Europe's overall competitiveness.

The European Commission is committed to playing a leading role in opening up international aviation markets. The 'Open Skies' judgements have paved the way for the emergence of an external EU aviation policy which aims to create a more competitive environment in the heavily regulated international air transport markets.

The Open Aviation Area agreement between the US and the EU is the flagship initiative in this respect. If approved, it will open up the most important international air transport market in the world, and cut excessive regulation. A report by US consultants, the Brattle Group, has estimated that an EU/US Open Aviation Area would generate upwards of 17 million extra passengers a year. That means consumer benefits of at least \$5 billion a year, as well as more jobs on both sides of the Atlantic. The agreement has the potential to be an unprecedented leap forward. Therefore, I wholeheartedly hope that the Open Aviation Area agreement will be adopted soon.

And looking beyond this key bilateral advance, the Agreement has the potential to provide new momentum to the liberalisation of the whole international aviation sector. Such a process will provide our airlines with unprecedented opportunities for growth: passenger aviation alone is expected to grow by half between 2000 and 2010 and to double by 2020. The European Commission is committed to creating the necessary framework to allow our airlines to exploit this growth potential.

## **The role of EC competition policy in international aviation**

Now, let me turn to competition policy. Competition is crucial to any liberalisation process. Competition policy aims to provide and maintain a level playing field where economic actors can freely and fairly compete, to the benefit of the consumer. This is particularly important in a liberalisation process where regulatory authorities retreat and economic agents take over.

As Commissioner for Competition, my role in the liberalisation of the air transport sector is twofold. Firstly, through the enforcement of competition rules, I ensure that the benefits of liberalisation are not cancelled out by anti-competitive mergers, agreements or practices. And secondly, I promote regulatory frameworks that enhance competition, through competition advocacy and screening.

### **Competition advocacy & screening**

Let me start with the second. I'd like to demonstrate why advocacy and screening matter by mentioning three specific examples:

Firstly, I come back to the Open Aviation Area agreement between the EU and the US. The Commission has advocated the institutional design of this agreement and has insisted that the 'voice of competition' be present throughout all stages of the process. And let me say that similar pro-competitive aviation agreements should be our goal for the future. This would, of course, require Member States to give the Commission further mandates for negotiating air transport liberalisation with other countries.

A second example of our competition screening role within this sector is to scrutinize international air service agreements that are concluded by the Member States. And to take the necessary steps to ensure that they do not encourage, authorize or require airlines to engage in practices such as price or capacity fixing. In air services agreements, such provisions are clearly anti-competitive by intent. As such, they infringe Community law, not least because they may allow companies to argue that the competition rules applicable to airlines are rendered ineffective. Following the determined action taken by the Commission, in close cooperation with Member States, we are now well on track to seeing these provisions amended or abolished.

A third and final example is the revision of the Block Exemption Regulation for IATA's passenger tariff conference system. Such a block exemption is only justified if there is sufficient assurance that the benefits to consumers will continue to outweigh the risks inherent in restricting price competition. After an in-depth review, I am not convinced that a block exemption is still justified for tariff conferences on routes within the EU. I have therefore proposed to end the exemption by the end of 2006. As for routes to third countries, on the whole the conferences seem to remain more beneficial for passengers. I have therefore proposed that in respect of these routes a block exemption for passenger tariff conferences be granted until mid-2008. I will invite the Commission to adopt the definitive Regulation by July.

## **Competition law enforcement: Assessment of airline alliances and mergers**

So advocacy and screening matter. But I am not forgetting the 'bread and butter' of our work: the day-to-day enforcement of the competition rules in the air transport industry.

Only by guaranteeing and enforcing full compliance with the EC competition rules can we ensure that the benefits of liberalisation are not cancelled out by anti-competitive mergers, agreements or practices. I am convinced that vigorous competition at home is a key driver of productivity, growth and competitiveness of the European airline industry. And the same goes, by the way, for other economic sectors too.

The Commission's recent enforcement practice in relation to airline mergers and alliances – such as those between Air France and KLM or Lufthansa and SWISS – clearly demonstrates our generally positive attitude to industry restructuring which enhances efficiency and competitiveness. Highly complementary airline alliances and mergers can bring important benefits to passengers by connecting networks, offering new services and generating efficiencies across the aviation value chain.

However, this has to take place within a competitive environment. It is vital that the economic benefits of an airline alliance or merger are passed on to passengers. A positive starting point does not mean we can ignore the negative effects that airline mergers and alliances sometimes have on individual markets - in particular for routes connecting the hub-airports of the parties. The Commission has a duty to ensure that competition on all markets is maintained. So we usually seek to ensure continued competition on problematic routes by imposing a fairly standard set of remedies that have the effect of making new entry possible.

I am convinced that our approach, based on sound economic principles, will allow the European airline industry to grow - whether internally, by alliance or by mergers - to such a point that European competitors will become global winners. And we will also ensure that consumers benefit from improved air services and lower fares. I am therefore strongly committed to applying these principles in any case that raises similar competition concerns, such as the current review of the SkyTeam alliance under Article 81 of the Treaty.

In the SkyTeam investigation, Commission is examining the competition effects of a global airline alliance in its quasi-totality, for the first time. We are looking not only at certain intra-EU markets but also at services between the EU and third countries. This is the first opportunity for the Commission to take full advantage of its improved enforcement powers with respect to EU-third country routes. Being the first of its kind in several respects, the SkyTeam alliance case is of particular importance as it will contribute to the development of the Commission's policy in the area of global airline alliances.

## **International competition policy cooperation**

The SkyTeam alliance case has also been investigated by the US Department of Transportation, which is the competent US authority for antitrust approval of international airline alliances. It's just one good example of why we need really effective cooperation mechanisms between the Commission and the Department of Transportation. In cases of parallel competence, cooperation between competition authorities can help by promoting compatible regulatory results and minimizing differences in approach.

For airline mergers an effective cooperation agreement between the Commission and the US Department of Justice has been in place for more than a decade. But this was not the case for transatlantic alliances. The EU-US Open Aviation Area agreement therefore envisages the establishment of a broadly similar cooperation framework between the Commission and the Department of Transportation. I am sure that this framework will be as mutually beneficial as its forebear.

## **Conclusion**

Over the last 20 years the International Institute for Air and Space Law has been a privileged witness to the enormous changes that this crucial industry has been through. At the European level in particular, the situation in 2006 is radically different from that of 1986. The European Commission and the Member States can point to this transformation as one of the major success of the integration and development of the European internal market. Since November 2002, much has also been achieved in the external dimension.

But the European Community's external aviation policy is still in its infancy. In the not too distant future, we must create more competition on routes between the EU and third countries, leading to more efficient carriers and overall market growth. I will continue to strive towards this goal through enforcement of the competition rules in individual cases as well as through competition advocacy. Many challenges remain ahead of us. I can assure you that we in the Commission are determined to use all the tools at our disposal – in the interest of consumers and airlines alike - to secure an increasingly competitive European airline industry.

Thank you.