COMMISSION REGULATION (EC) No 1105/2002

of 25 June 2002

amending Regulation (EEC) No 1617/93 as regards consultations on passenger tariffs and slot allocation at airports

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3976/87 of 14 December 1987 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector [1], as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 2 thereof,

Having published a draft of this Regulation,

After consulting the Advisory Committee on Agreements and Dominant Positions in Air Transport,

Whereas:

(1) Commission Regulation (EEC) No 1617/93 of 25 June 1993 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices concerning joint planning and coordination of schedules, joint operations, consultations on passenger and cargo tariffs on scheduled air services and slot allocation at airports [2], was last amended by Regulation (EC) No 1324/2001 [3], to extend the block exemption in respect of consultations on passenger tariffs until 30 June 2002 and the block exemption in respect of slot allocation and airport scheduling, until 30 June 2004.

(2) In February 2001 the Commission initiated a consultation on whether the block exemption for consultations on passenger tariffs should be maintained in its current form. The Commission received responses from Member States, airlines, travel agents and consumer groups.

(3) The vast majority of the respondents held the view that the International Air Transport Association (IATA) passenger tariff conferences secure an important benefit in the form of interlining and that this benefit was unlikely to be replicated by any alternative, less restrictive system. While most respondents acknowledged that withdrawing the block exemption for the passenger tariff conferences would not mean the end of interlining altogether, many felt that without the tariff conferences, consumers would have a smaller choice of flexible fares and smaller airlines might have fewer interlining opportunities and as a result find it harder to compete. However, some respondents argued that, as alliances develop, at least in the longer-term alliance or bilateral products might offer similar benefits to the benefits of IATA interlining.

(4) The airline industry is currently facing particular difficulties and might therefore find it difficult to make the investments necessary to develop an alternative system of interlining at this time.

(5) The block exemption for passenger tariff conferences should therefore be extended for three years, until 30 June 2005. In order to facilitate the Commission's re-examination whether the block exemption should be further extended after that date, an obligation should be added to the exemption, requiring air carriers participating in conferences to collect, for each IATA season and starting as from 1 September 2002, data on the relative use of the passenger tariffs set in the conferences and their relative importance for actual interlining. A period of three years will allow for a series of data over a sufficient representative period.

(6) Regulation (EC) No 1324/2001 extended the block exemption for slot allocation and airport scheduling pending the adoption of the proposed amendments to Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports [4], as amended by Regulation (EC) No 894/2002 of the European Parliament and of the Council [5]. Since those amendments have not yet been adopted, it is appropriate to extend that block exemption by a further year, until 30 June 2005.

(7) Regulation (EEC) No 1617/93 should therefore be amended accordingly,

[1] OJ L 374, 31.12.1987, p. 9.
[2] OJ L 155, 26.6.1993, p. 18.
[3] OJ L 177, 30.6.2001, p. 56.
[4] OJ L 14, 22.1.1993, p. 1.
[5] OJ L 142, 31.5.2002, p. 3.