

Competition Commission of India

03.09.2010

F. No. C-136/2009/DGIR

UTPE Case No.- / 2009

Travel Agents Federation of India

Complainant

v.

Lufthansa Airlines

Respondent

ORDER

This case has been received on transfer from the Office of DGIR, MRTP Commission under section 66 (6) of the Competition Act, 2002 ('the Act') on 04.03.2010.

2. Brief facts, shorn of details, are as under:

2.1 The Travel Agents Federation of India ('the complainant') has filed the instant complaint vide its letter dated 03.07.2009 addressed to DGIR, MRTP Commission against the Lufthansa Airlines ('the respondent') alleging unfair/ restrictive trade practices on the grounds of differential tariff/ fare level published/ charged for a given destination for the same inventory of seats in class(s) of service operated by the respondent.

2.2 The complainant has alleged that the respondent has published a much cheaper fare on its official website than the fare which is made available to the appointed accredited agents who are members of the informant. This, according to the complainant, amounts to unfair trade practice and the same is encouraging unhealthy competition.

2.3. The complainant has further alleged that the respondent is adopting the practice of dual or multi pricing intentionally to attract passengers directly in order to stem the legitimate earnings of travel agents who are members of the complainant association.

2.4. It has been further alleged that due to the aforesaid acts, the travel agents who are members of the complainant association would never be able to compete with the respondent in the present circumstances.

2.5 It has been alleged that the respondent has chosen to undercut the pricing below the pricing that is offered to the members of the informant which amounts to unfair/restrictive trade practice.

3. The Commission considered the matter in its meeting held on 18.06.2010 and after examining the matter, the complainant was asked to explain the matter either by giving written submissions within 3 weeks or if it so desires, by appearing before the Commission through its authorized representative on 21.07.2010.

4. On 21.07.2010, counsel for the complainant appeared before the Commission and presented his case. The Commission after taking into consideration the facts and circumstances of the case and submissions made by the counsel for the complainant, decided that the complainant be asked to furnish supporting documents relating to the matter, if any, within 4 weeks and directed the matter to be placed before the commission on 24.08.2010.

5 on 24.08.2010, pursuant to the orders of the Commission, Shri Krishna Mohan Singh, representative of the counsel for the complainant appeared and sought time of one week for furnishing supporting documents relating to the matter. The Commission granted the time as prayed for to do the needful and directed the matter to be placed on 03.09.2010.

6. On 03.09.2010 the counsel for the complainant appeared before the Commission pursuant to the aforesaid directions and presented the case along with supporting documents.

7. From the documents filed by the complainant pursuant to the directions of the Commission, it appears that the counsel for the respondent vide its letter/notice dated 27.07.2009 has replied to the letter/notice dated 03.07.2009 of the complainant whereby and where under the respondent has denied all allegations, contentions and averments of the complainant in its aforesaid letter.

8. It has been pointed out by the respondent in its reply that the sale of airline tickets through travel agents and sale of airline tickets through the websites of airlines constitute two distinct mediums and markets, each with its own dynamics and determinants. Further, it has been mentioned that different cost structures apply to the two markets and the prices of airline tickets sold through one or the other medium will reflect the difference in cost structures. Different sales mediums have different cost structures and as such the prices of tickets will vary according to the medium through which they are sold. Certain cost elements or factors are not present in the booking process when undertaken online and as such, a different and perhaps lower cost

structure applies to it. It was stated that the fares of tickets sold through the website of the respondent only reflect the cost structure of the market for online ticket purchasing which is different from the cost structure of the market in which the members of the complainant association operate.

9. It was further pointed out that the "Carrier Guaranteed Fare Quote" which is made available to the members of the complainant association incorporates several costs, including but not limited to, infrastructure costs, advertisement and marketing costs etc. It was stressed that some of these cost factors are eliminated when tickets are sold online through the website of the respondent and consequently, the benefits of the same are passed on to the purchasers, who pay a lower price. It was pointed out that the parties operate in a highly competitive market and all the stakeholders attempt to maximize sales and earnings through innovative marketing and sales strategies.

10. On going through the record, it is found that the complainant has not been able to refute the contentions raised on behalf of the respondent. The Commission is satisfied that the respondent has explained satisfactorily the differential fare structures for its tickets issued through its website and travel agents.


11. Accordingly, the Commission on consideration of the entire material available on record is of the considered opinion that the complainant has failed to make out any case of unfair/restrictive trade practice against the respondent. We may also mention that the allegations and averments made by the complainant have not been supported and corroborated in material particulars by any cogent evidence. The complainant except making vague and wild allegations has not been able to substantiate the same. Besides, the Commission is satisfied by the explanation offered by the respondent for dual pricing of tickets.

12. In view of the above, the matter is hereby closed and the Secretary is directed to inform the parties accordingly.


Member (P)


Member (GG)


Member (AG)


Member (G)


Chairperson