

BEFORE THE
COMPETITION COMMISSION OF INDIA
CASE NO. RTPE 09/2008

DATE OF DECISION: 17.11.2011

IN THE MATTER OF

M/s. FCM Travel Solutions (India) Limited,
JC-43, Khirki Extension, Malviya Nagar,
New Delhi - 110017

..... Informant

1. Travel Agents Federation of India,
509, 'The Avenue'
International Airport Road,
Opp. Hotel Leela, Andheri East,
Mumbai – 400059

2. IATA Agents Association of India,
C/o Speedwings Travel & Cargo (P) Ltd.
II Floor, Oxford Business Centre,
Sreekandath Road,
Ravipuram Cochin - 682016

3. Travel Agents Association of India,
2-D, Lawrence and Mayo House,
276, Dr. D.N.Road, Fort,
Mumbai – 400001

..... Opp. Parties



ORDER UNDER SECTION 27 OF THE COMPETITION ACT, 2002 (Dissenting)

(As per R. Prasad, Member & M.L. Tayal, Member)

1. We have gone through the majority order of the Commission in the present matter. It is noted that the facts of this case as well as issues involved therein are identical to the facts and issues of case no. 03/2009 in which we had passed a dissenting order under section 27 of the Act dated 04.10.2011. In that case we had held that only TAFI, TAAI & IAAI were found to have contravened the provisions of section 3(3) (b) read with section 3(1) of the Act, whereas three other non-IATA travel agents associations namely, Indian Association of Tour Operator (IATO), Association of Domestic Tour Operators of India (ADTOI) and Enterprising Travel Agents Association (ETAA) were not found guilty of contravening provisions of the Act differing with the majority order in case no. 03/2009 to that extent only. In para 28.14 of the dissenting order in case no. 03/2009, the following findings have been recorded by us on this issue:

"28.14 Before proceeding further it is pertinent to mention that on the direction of Commission the DG also investigated the role of three other non-IATA travel agents associations namely, Indian Association of Tour Operator (IATO), Association of Domestic Tour Operators of India (ADTOI) and Enterprising Travel Agents Association (ETAA) in the alleged anti competitive decision to boycott the sale of Singapore Airlines tickets. The DG after making thorough investigation has come to the conclusion that no evidence other than appearance of names and logos of ETAA, ATDOI and IATO on various emails issued by TAFI, TAAI and IAAI and other advertisements was found which could establish the involvement of these non-IATA travel agents associations in the alleged anti competitive conduct. On the basis of responses filed by these associations before the DG as well as the statements of President of ETAA, Shri Karl Dantas, President of ADTOI, Shri Rakesh Lamba and President of IATO, Shri Rajesh Mudgil, DG has given the finding that members of these associations are not engaged in issuing tickets of any airlines and therefore, are incapable of boycotting the sale of Singapore Airlines tickets. The DG has also concluded that these associations had not given their consent for use of their names or logos in e-mails and advertisements issued by TAFI, TAAI and IAAI. The DG has further stated that none of these associations participated in the meetings held with Singapore Airlines or in the proceedings before DGCA or any Court. The findings of DG have been discussed in para 14 of this order.




These three associations have reiterated their respective stands taken before the DG in their replies filed before the Commission in response to the notice issued to them. In the absence of any evidence to the contrary the Commission finds no reason to disagree with the findings of DG report in this respect. Therefore, we dissent with the main order of the Commission dated 04.10.2011 finding ETAA, ATDOI & IATO in contravention of the provisions of the Act."

2. Since the majority order in this case also is based on the majority decision in case no. 03/2009, we in the absence of any new evidence to the contrary differ with the majority order in this case only to the extent that ETAA, ATDOI & IATO are not found to have contravened the provisions of the Act.

Sd/-
Member (T)

Sd/-
Member (T)

Certified True Copy


S. P. GAHLAUF
24/XI/2011
ASSISTANT DIRECTOR
Competition Commission of India
New Delhi