



REPUBLIC OF ALBANIA
COMPETITION COMMISSION

DECISION

No. 308 of 21 February 2014

Recommendations on increasing competition in the air transport market

The Competition Commission, composed of

Ms. Lindita Milo (Lati)	Chair
Ms. Rezana Konomi	Deputy Chair
Ms. Servete Gruda	Member
Mr. Koço BROKA	Member
Ms. Iva Zajmi	Member

in its meeting of 21 February 2014 reviewed the Case with:

Subject-matter: Recommendations on increasing competition in the air transport market.

Legal basis: Law No. 9121 of 28 July 2003 “On Competition Protection”—Articles 24 (d) and 70.

After reviewing the Working Group report on monitoring the air passenger transport market submitted by the Secretariat,

THE COMPETITION COMMISSION NOTES THAT:

I. Market Regulation and General Analysis

1. The air passenger transport market consists of two basic services that are complementary to, and interdependent on, each other: airport services and airline services. Those services are regulated by the relevant regulatory authorities.
2. Airport services are rendered to airline companies by *Aeroporti Ndërkombëtar i Tiranës* (Tirana International Airport), therefore TIA is the only operator in the airport service market, which means it has the dominant position in that market, and airline companies do not have any other options for such services.

3. Low cost companies, which are known for providing services at a low cost, are not provided with access to any secondary or another low-cost airports in the country targeting low cost airlines.
4. “Nënë Tereza” Airport fees last changed in 2007. Under the Concession Law¹ the fees have to change every three years; therefore, their revision is long overdue, since they had to be revised in 2010.
5. There is not a methodology or a regulation approved by the Authorized State Body with regard to the airport fees. The airport service market has a single operator, and in these conditions the Regulator should exert its influence on the regulation of fees by orienting them towards cost in order to prevent any abuse of the dominant position in the market².
6. Under Article 11(4) of the Air Transport Code, the Civil Aviation Authority takes all the necessary measures for preventing discriminatory fees and practices, abusively high prices resulting from a dominant position, and too low prices resulting in abuse.
7. When it comes to the evaluation of the abusively high prices/fees resulting from a dominant position and abusively very low prices, the Competition Authority notes that it is necessary to have a methodology/regulation, which is currently lacking. The Civil Aviation Authority automatically approves the company tariffs that are communicated to it; however, this is done without a cost analysis or methodology for evaluating those tariffs.
8. There is also the risk of double tariffing, i.e. the same services might be billed by both the air companies and airports, as reflected in passenger tickets; therefore, a tariff approval methodology would eliminate the risk of double tariffing³.

I.1. The key players in the air passenger transport market are:

9. The main airline companies include Austria Airline 1 destination, Lufthansa (Munich), Alitalia 2 destinations, Airone 2 destinations and Turkish Airline 1 destination.
10. *Aeroporti Ndërkombëtar i Tiranës* (TIA-Tirana International Airport) is the only airport in the country that may be used by airline companies. The “Nënë Tereza” Airport operates as an air company under a concession agreement with a validity period of

¹ Paragraph 19(2)(a) “Airport service fees and independent economic evaluation” of the Concessionary Agreement states that the “*Authorised State Body and the Company shall revise airport service fees every three years...*”.

² ICAO Manual, Paragraph 2.25 “... *The framework for economic oversight that governments might put in place in order to protect users from potential monopoly abuse, while ensuring that the costs of such oversight are kept to the necessary minimum, could take different forms depending, for example, on whether it would be applied to public or private entities and the degree of market power of those entities...*”

³ GENERAL PRINCIPLES, Position Paper on Airport Charges, Association of European Airlines (AEA), June 2007

20 years. Tirana International Airport has been managed by Tirana International Airport SHPK, a private company, since April 2005. The “Nënë Tereza” International Airport (TIA) is the only airport in the Republic of Albania where companies licensed as passenger airlines may operate.

11. Other airports, at various stages of construction, exist in Albania, such as Kukes Airport and Saranda Airport; however, they still lack the infrastructure required for international (or even national) flights. The main reason for the non-operation/prohibition of those airports in terms of international flights is the concessionary agreement on “Nënë Tereza” Airport, which grants exclusive rights for international flights to the concessionary company. Under Article 2.3(c) of the concessionary agreement, the Albanian Government may not license, authorise or operate any other international commercial (cargo and passenger) airports.

I.2. The key regulatory in the air passenger transport market are:

12. The **Civil Aviation Authority** has the mission to provide efficient, secure and safe aviation services. It aims at establishing an air transport system that is suitable for the new developments and economic demands in Albania. Its vision is to develop a network of airports that will meet most of the requirements of the Albanian aviation community and the general public. It will achieve this in an efficient way that provides safety and value for money.⁴
13. The **Albanian National Air Traffic Agency** (ANTA) mission is to provide air navigation services in the Albanian territory (FIR), in line with international safety and quality standards. In line with ICAO recommendations and European Commission regulations on the operation of air navigation service providers, ANTA is implementing the integrated management system.
14. The **Authorised Government Bodies**—Ministry of Economy and Ministry of Transport and Telecommunications—monitor the implementation of the concessionary agreement in behalf of the Council of Ministers of the Republic of Albania, in accordance with the legislation in force.

II. Competition assessment

The assessment of the air passenger market focuses on the conditions of the relevant market.

15. According to Article 3(7) of the Law the relevant market consists of “... the products that are deemed as substitutable by consumers or other clients in terms of their features, prices and functions, and which are supplied or demanded by

⁴ Refer to website www.aac.gov.al

undertakings in a geographic area under the same competition conditions that is separate from other bordering areas.”

16. *When determining the relevant market in Case M.4439 “Ryanair/Air Lingus”, the European Commission specified that there was substitutability of air transport services from two airports if the distance between them is up to 100 km or about one hour driving time. This definition can be taken into account by the Ministry of Transport when determining the catchment area (relevant geographic market) for purposes of granting or revising exclusive rights to one or several airports.*
17. The air passenger transport market analysis considers the supplementary submarkets that are indispensably related to each other, such as the civil aviation services submarket and the airport services submarket.
18. The “Nënë Tereza” Airport provides ground handling, airport parking, airplane lighting and airplane landing and take-off services.
19. The fees that TIA charges to airline companies for its services are specified in the concessionary agreement. Paragraph 19 of the concessionary agreement specifies the airport service charges, their periodic review, the interim revision of the approved operation costs and independent review if necessary. The fees on the services provided by TIA are drafted by the concessionary company and are approved by the State Authorised Body. So, under the concessionary agreement, TIA is the only airport that provides the required services and infrastructure for airline companies licensed to provide air passenger transport service, against the respective fees.
20. As already described, TIA is the only licensed airport that makes it possible for air companies to land and take-off international flights. The Concession Granting Law prohibits the operation of airline airplanes in any other airports during the concessionary agreement, unless this is necessary in emergency cases or for military purposes. Thus, TIA remains the only major international airport providing airport services to air companies operating in the Republic of Albania.
21. During the monitoring period, the Civil Aviation Agency website did not have any information on the civil aviation operator licensing conditions and criteria; however, recently such information has been published on the Agency website, as a reflection of the preliminary recommendations of the Competition Authority.

II. Conclusions

II.1. Regarding airport services

22. With regard to the fees charged by TIA on the services it provides to airline companies, those fees are specified in the concessionary agreement, which, however, does provide for their revision every three years, while failing to lay down/approve a methodology for doing so. Under the Concession Law, airport fees have to be revised every three years; however, only one revision has been made since 2007, with no changes made currently.
23. Based on the information in TIA official portal, the criterion used in setting airplane landing and take-off fees, base ground handling fees, 24-hour parking fees and lighting fees is aircraft weight. The same criterion is also used by other airports in the rest of the countries in the region. However, a comparison of fees for the respective services that airports in the countries in the region provide shows that fees charged by TIA for its services are the highest. If we compare the number of airports with other countries in the region, only Albanian and Kosovo have one airport each. Bosnia & Hercegovina has three airports, Croatia has eight airports, and Macedonia, Montenegro and Serbia have two airports each.
24. This means that any company wishing to operate in the Republic of Albania has to receive airport services only from Tirana International Airport (TIA) at the fees set by TIA. According to the information, no methodology is applied to the setting of service fees that TIA charges to airline companies, as approved by the Authorised State Body or any other regulators.
25. From a competition perspective, TIA has a monopoly position in terms of airport service provision. The Concession Law prohibits the entrance of another operator in the form of a secondary airport, which could be an option for airline companies that seek to receive services an airport other than the main national airport or for low cost companies. **TIA airport fees are higher than the same fees applied in other countries in the region.** Regulatory authorities should approve a methodology or regulation on the setting of fees, so that the single company providing this service has cost-oriented fees.

II.2. Regarding the fee approval methodology

26. When it comes to the evaluation of the abusively high prices/fees resulting from a dominant position and abusively very low prices, the Competition Authority notes

that it is necessary to have a methodology/regulation, which is currently lacking. The Civil Aviation Authority automatically approves the company tariffs that are communicated to it; however, this is done without a cost analysis or methodology for evaluating those tariffs.

FOR THESE REASONS

The Competition Commission, pursuant to Articles 24 (d) and 70 of Law No. 9121 of 28 July 2003 “On Competition Protection”, with the proposal of the Secretariat,

HAS DECIDED:

1) To recommend the following to Authorised State Body:

(a) Under Paragraph 19.2(a) of the International Airport Concession Contract, the Authorised State Body, in cooperation with the concessionary company, should revise the airport service charges every three years.

(b) Given the position of the concessionary company as a single international passenger transport service provider, the Authorised State Body should draft and adopt a methodology/regulation for airport fee setting, with fees being cost-oriented.

2) The Competition Authority Secretary-General shall notify this Decision to the Authorised State Body, the Civil Aviation Authority and interested parties.

This Decision shall enter into force immediately.

COMPETITION COMMISSION

Servete GRUDA

(_____)
Member

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Member

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