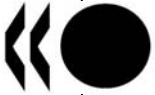


Unclassified

DAF/COMP/GF/WD(2005)22



Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

27-Jan-2005

English - Or. English

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

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Global Forum on Competition

ABUSE OF DOMINANCE IN REGULATED SECTORS

Case submitted by Senegal

-- Session III --

This case is submitted by Senegal in view of its discussion in Sub-Session 3 on Friday 18 February 2005 (from 9.30 am).

JT00177611

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English - Or. English

UNION OF SENEGALESE TRAVEL AND TOURISM AGENTS
vs.
AIR FRANCE

by Mr. M. Diawara
Chairman of the Senegalese National Competition Commission

1. The Union of Senegalese Travel and Tourism Agents (SAVTS) has 49 member agencies. These agencies sell international airline tickets for the 21 carriers serving Senegal, in exchange for commissions, as is standard practice elsewhere in the world.
2. For more than a decade, those commissions had been set at 9%. But things changed at the beginning of 2001, when Air France decided to reduce its commission rate to 7%, explaining that it was taking the action out of concern for “adapting its distribution costs to new global economic realities”.
3. This decision was not endorsed by the travel agents, which through their Union lodged a letter of complaint to the National Competition Commission. That letter, dated 29 May 2001, alleged anti-competitive practices, and in particular abuse of dominance, citing Article 27 of Act 94-63 of 22 August 1994, which prohibits such practices in Senegal.
4. It could be considered from the outset that the incriminated practice was likely to infringe the rules on competition, insofar as various companies were believed to have consulted each other before Air France cleared the way as the most powerful company in the market, or in the relevant market segment, which was flights between Senegal and France.
5. The reaction by the Union of Senegalese Travel and Tourism Agents, which contended that the decision by Air France would cause their turnover to decline by 33% and would threaten thousands of jobs (see letter of 3 April 2001 to the Minister of Trade), was accompanied by a number of other actions and correspondence on the part of travel agencies at the international and African levels [United Federation of Travel Agents’ Associations (FUAAV); Inter-State Federation of Trade Unions of Travel and Tourism Agencies of West and Central Africa (FISAVET/AOC)], meetings with the Senegalese press and retention of a lawyer.
6. In response to the complaint, the Competition Commission arranged for the selection of two investigators from the Internal Trade Directorate and appointed a *rapporteur*. It was subsequent to the inquiries and the investigation carried out by the *rapporteur*, during a session on 27 December 2002 at which both parties and their lawyers were present, that the Commission took a decision with regard to Air France.
7. The National Competition Commission found that Air France was in fact guilty of abusing a state of economic dependence, in the light of Air France’s dominance of the relevant market, and of the airline’s abuse of that position:

1. The Commission ruled that:

- Air France occupied a dominant position in the relevant market, not only because Air Afrique was no longer in business, but for other, psychological and historical, reasons as well. France was in fact the public's most popular destination, and for that reason Air France, to meet the strong demand, was serving Senegal with new 300-to-400-seat aircraft and had increased the frequency of its flights from 6 to 7 days per week.
- The travel agencies were in a state of economic dependence on Air France, which accounted for 50.72% of their combined turnover, and for between 54.79% and 86.98% of the turnover of five of the ten agencies covered by the investigation. In addition, they had no equivalent alternative. Some agencies, such as CSTT-AO, which had tried to work with other companies, could not get their customers to follow.
- Air France abused this state of economic dependence by unilaterally imposing a rate to which the travel agencies were forced to submit, and which they would not have accepted if they had enjoyed full independence.