COMMISSION REGULATION (EC) No 1083/1999

of 26 May 1999

amending Regulation (EEC) No 1617/93 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

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 3 thereof,

Having published a draft of this Regulation [2],

Having consulted the Advisory Committee on Agreements and Dominant Positions in Air Transport,

(1) Whereas Regulation (EEC) No 3976/87 empowers the Commission to apply Article 81(3) ex Article 85(3) of the Treaty by regulation to certain categories of agreements, decisions and concerted practices in air transport falling under Article 81(1), which cover, among others, joint planning and coordination of airline schedules, consultation on tariffs for the carriage of passengers and baggage and of freight on scheduled air services, joint operations on new less-busy scheduled air services, and slot allocation at airports and airport scheduling;

(2) Whereas by Regulation (EEC) No 1617/93 [3], as last amended by Regulation (EC) No 1523/96 [4], the Commission granted a block exemption for the aforementioned matters; whereas that Regulation was applicable until 30 June 1998;

(3) Whereas before 30 June 1998 the Commission initiated extensive investigations with the aim of verifying the extent to which the four subject matters of air transport covered by Regulation (EEC) No 1617/93 should continue to be exempted; whereas the economic operators concerned were requested to take stock of the practices in which they arre currently engaged in each of the four areas covered by that Regulation and to communicate the extent to which it is possible for new entrants to enter the markets;

(4) Whereas the results of this investigation and the consultation of the economic operators currently available allow for the conclusion that an extension of the block exemption for agreements on joint planning and coordination of schedules as well as agreements on joint operations is not advisable; whereas this conclusion follows from the finding that such agreements, particularly in the case of alliances, comprise a wider commercial such as bilateral consultation on tariffs which could not be exempted pursuant to Regulation (EEC) No 1617/93; whereas the applicability of Regulation (EEC) No 1617/93 should therefore not be extended for these two matters, without prejudice to the possibility whereby the undertakings may apply for an individual exemption pursuant to Article 81(3);

(5) Whereas the investigations on agreements and concerted practices on consultations on tariffs for carrying passengers and their baggage on scheduled air services and slot allocation at airports could not be completed in time for the adoption and publication of a new regulation before 30 June 1998;

(6) Whereas, in the interests of legal certainty for the undertakings concerned, and in order to draw conclusions from the current investigations with a view to a new regulation to be adopted by 30 June 2001, it is appropriate to extend until that date the applicability of the provisions of Regulation (EEC) No 1617/93 on tariff consultations for passengers with baggage and slot allocations at airports;

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

[1] OJ L 374, 31.12.1987, p. 9.
[2] OJ C 369, 28.11.1998, p. 2.
[3] OJ L 155, 26.6.1993, p. 18.
[4] OJ L 190, 31.7.1996, p. 11.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1617/93 is hereby amended as follows:

1. in Article 1, the first and second indents are deleted;
2. Articles 2 and 3 are deleted;
3. in Article 6, point (ii) is deleted;
4. in Article 7, '30 June 1998' is replaced by '30 June 2001'.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the european Communities*.

It shall apply with effect from 1 July 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 May 1999.

For the Commission

Karel VAN MIERT

Member of the Commission