



## **The exchange of information between members on notifications, proceedings and decisions in the field of air transport**

### **- Procedures Guide -**

#### **I. Introduction**

1. The members of ECA set up an Air Traffic working group during the session in Athens on 15 and 16 April 2002 in order to improve cooperation between the European competition authorities in relation to their dealings with the airline industry and to seek to enhance the present degree of competition in this sector.
2. The ECA Air Traffic Working Group has been considering ways in which the enforcement of competition law in the field of air transport can be improved by closer cooperation. A prerequisite for greater cooperation between the European Competition Authorities with regard to case handling is the sharing of information about decisions taken as well as about notifications of cooperation agreements, alliances and mergers and the commencement of formal investigative measures in cases of cartels and abuses of a dominant position.
3. Air Traffic Working Group members will work towards co-operating as closely as national and other applicable legislation permits. It must be ensured that any information exchange between Working Group members does not go beyond that permitted by the applicable legislation.
4. The ECA Air Traffic Working Group suggests (has agreed on) the arrangements set out below.
5. This note may be developed further and/or be amended from time to time as the authorities' experience of these arrangements develops and if necessary, particularly in the light of the Regulation implementing Articles 81 and 82 of the Treaty<sup>1</sup> and the implementation measures of the European Commission.

#### **II. Exchange of information where the case might fall under the jurisdiction of more than one ECA authority**

6. When an ECA authority
  - (a) is informed by the notifying parties of an alliance or cooperation agreement in the field of air transport or
  - (b) commences formal investigative measures in cases of cartels or abuses of a dominant position in the field of air transport

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<sup>1</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ 2003 L 1/1.

and where the case might fall under the jurisdiction of more than one ECA authority, the relevant official (the case officer or contact person) within that authority will, as soon as possible, inform by an ECA Notice the relevant officials in the other affected ECA authorities of the notification/investigation, as permitted by the applicable legislation. (A model ECA Notice is attached as Annex A.)

7. In relation to mergers, the ECA procedures guide on the exchange of information between members on multijurisdictional mergers will apply.
8. Where an ECA authority receives a notification of an alliance or a cooperation agreement, or commences formal investigative measures in relation to a cartel or abuse of a dominant position in the field of air transport, and where the case falls under the jurisdiction of more than one ECA authority, the relevant officials will keep each other informed of developments in the case as appropriate (and as permitted by the applicable legislation).
9. Where national (or other) legislation prevents the exchange of confidential information between the relevant ECA authorities without the consent of the person(s) to whom the information relates, the authorities should consider whether to seek to obtain such consent where it is anticipated that an exchange of confidential information between the authorities will significantly assist in the investigation and/or determination of the case.

If such consent is not obtained, the relevant information cannot be exchanged (unless otherwise permitted by the applicable legislation).

### **III. Exchange of information between ECA authorities in other circumstances**

10. In order to inform the ECA authorities regularly about notifications, the institution of legal proceedings, decisions taken and other issues concerning the airline industry, the ECA Air Traffic Working Group proposes (has agreed on) setting up an 'air traffic e-newsletter'. The language of the e-newsletter will be English. The ECA authorities will appoint one authority among themselves that will be responsible for collating the relevant information and circulating the e-newsletter at regular intervals. This responsible authority will send out an e-mail, before each edition of the e-newsletter is published, reminding other authorities of the forthcoming publication and requesting contributions. The other competition authorities will send their contributions to that authority using, as far as is possible, the standardized form. (A model ECA Notice for this purpose is attached as Annex B).

**Annex A****Model ECA Notice (1)**

of the Air Traffic Working Group  
where the case might fall under the jurisdiction of more than one ECA authority

**Date:** .....

The ..... Competition Authority would like to inform you of the following notification/proceedings/decision in the field of air transport:

<i>ECA notice (1) – Air Traffic</i>	
<b><u>Type of case</u></b>	<ul style="list-style-type: none"> <li>▪ Notification of an alliance/ cooperation agreement</li> <li>▪ Commencement of formal investigative measures in the case of a cartel/ an abuse of a dominant position</li> </ul>
<b><u>Title and short summary of the case</u></b>	
<b><u>Relevant geographic area(s)</u></b> , and (where possible) relevant geographic market(s) affected (e.g. routes involved)	
<b><u>Date</u></b> (of notification or commencement of proceedings)	
<b><u>Contact details</u></b> Relevant official(s): E-Mail: Telephone:	
<b><u>Provisional deadline/timetable</u></b> (where relevant)	
<b><u>Other member state(s ) concerned</u></b>	
<b><u>Other information</u></b>	

Annex B

**Model ECA Notice (2)**  
for the  
**E-Newsletter of the Air Traffic Working Group**

**Date:** .....

The ..... Competition Authority would like to inform you of the following notification/proceedings/decision in the field of air transport; this information is to be published in the next issue (date: .....) of the E-Newsletter on Air Traffic:

<b><i>(1) Mergers, Alliances, Cartels and Abuse of Dominance cases</i></b>	
<b><u>Type of case</u></b>	<ul style="list-style-type: none"> <li>▪ Notification of an alliance/ cooperation agreement</li> <li>▪ Notification of a merger</li> <li>▪ Commencement of formal investigative measures in the case of a cartel / an abuse of a dominant position</li> <li>▪ Decision taken</li> </ul>
<b><u>Title and short summary</u></b>	
<b><u>Relevant geographic area(s)</u></b> , and (where possible) relevant geographic market(s) affected (e.g. routes involved)	
<b><u>Date</u></b> (of notification, commencement of proceedings or decision)	
<b><u>Contact details</u></b> Relevant official(s): E-Mail: Telephone:	
<b><u>Provisional deadline/ timetable</u></b> (where relevant)	
<b><u>Other member state(s) concerned</u></b> (where relevant)	
<b><u>Other relevant information</u></b>	

<b><i>(2) Other useful information</i></b>	
<b><u>Published Decisions</u></b>	
Brief details	Hyperlink to summary (in English) and full text versions or reference to attached file
<b><u>Legislative and regulatory issues</u></b>	
Brief details	References and/or contact point for further information
<b><u>Internal working papers, external studies, case studies, book reviews articles</u></b>	
Brief details	Hyperlink or reference, where available
<b><u>Information on other relevant issues</u></b>	
Brief details	References and/or contact point for further information
<b><u>Proposals and opinions</u></b>	
Brief details	References and/or contact point for further information
<b><u>Useful internet links</u></b>	
Brief details	Hyperlink

Annex C**Model E-Newsletter****Contents**

1. Mergers (standardized information)
    - 1.1 Notifications (multi-jurisdictional and national)
    - 1.2 Decisions (multi-jurisdictional and national)
    - 1.3 Other relevant issues
  2. Alliances and cooperation agreements (standardized information)
    - 2.1 Notifications (multi-jurisdictional and national)
    - 2.2 Decisions (multi-jurisdictional and national)
    - 2.3 Other relevant issues
  3. Cases of cartels and abuses of market power (standardized information)
    - 3.1 Institutions of proceedings (earliest stage of proceedings!)
    - 3.2 Decisions
    - 3.3 Other relevant issues
  4. Legislative and regulatory issues
    - 4.1 Changes in competition legislation
    - 4.2 Regulatory issues (e.g. slot allocation)
  5. Other
    - 5.1 Summary in English or full text versions of published decisions
    - 5.2 Internal working papers, external studies, case studies, book reviews articles etc.
    - 5.3 Information on relevant issues (e.g. slot allocation, FFPs, corporate discounts)
    - 5.4 Proposals and opinions
  6. Useful internet-links
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