COOPERATION AGREEMENTS (AIRLINES): THE BM CASE

Subject: Cooperation agreements
Joint ventures

Industry: Airlines

Parties: British Midland (BM)
Lufthansa
Scandinavian Airlines System (SAS)

Source: Commission Statement IP/01/366, 14 March 2001

(Note. On the face of it, an agreement of a kind likely to increase overall competition is to be welcomed: the scheme planned by the three airlines concerned is bound to offer something of a challenge to British Airways. It remains to be seen whether the Commission receives any objections from third parties and whether the Commission itself sees any drawbacks in the proposal.)

In its Statement, the Commission has published a summary of a co-operation agreement between British Midland, Lufthansa and SAS, giving interested parties the opportunity to comment before it takes a position the alliance. The Commission has not at this stage reached any conclusions on the agreement despite the fact that the three airlines have submitted undertakings to address potential competition concerns.

On 1 March 2000 British Midland, Lufthansa and SAS notified to the Commission a co-operation agreement, applying for an exemption under Article 81(3) of the EC Treaty. The airlines have entered into a Tripartite Joint Venture Agreement which, according to the parties, allows British Midland to re-organise and extend its network services out of London and Manchester to new routes within the European Union, in particular from London to Madrid, Barcelona and Rome. BM has already started flying these routes.

Germany's Lufthansa and the Scandinavian Airlines System (SAS) are members of the STAR alliance. The agreement will improve their competitive position in the United Kingdom market insofar as it enables them to sell online services between London and a number of British regional destinations, as well as between London and Dublin. It also offers them improved access to London Heathrow, Europe's largest and most congested airport. As a result, the STAR alliance expects to compete more vigorously with the OneWorld alliance of British Airways.

The notifying carriers also contend that the agreement will lead to important consumer benefits in terms of greater choice of services and better connections on a number of routes within Europe in particular from London-Heathrow and Manchester. Consumers will benefit from the parties' entry into routes which

hitherto were operated by only one alliance (for example, London-Barcelona or London-Madrid). This will increase competition on these routes generating lower fares. According to the parties, consumers will also benefit from a better connection between the services, more convenient scheduling and seamless travel. Existing arrangements relating to lounge access, through check-in etc. will be improved and will be extended to services which hitherto were not covered in the bilateral arrangements between the Parties.

Following preliminary discussions with the Commission, the companies have proposed a set of remedies to address competition concerns raised by the co-operation agreement. These remedies are detailed in the summary of the case published in the EU's Official Journal. Under the procedure laid down for air transport operations under Regulation 3975/87, the Commission has 90 days following the publication of a notice to decide whether to raise serious doubts. Third parties have 30 days to submit their views also from the publication date. If the Commission raises no objections, the joint venture will be automatically exempted for a period of six years. ■

The MAN / Auwärter Case

The Commission has decided to start a detailed second-stage investigation into the planned merger between German truck and bus manufacturer MAN Nutzfahrzeuge AG and Gottlob Auwärter GmbH & Co. KG, another bus maker also of Germany. The Commission's initial one-month review suggests there are serious concerns, particularly in relation to the companies' strong positions on the German city bus market.

MAN is an integrated manufacturer of complete lorries and buses owned entirely by MAN Aktiengesellschaft, Munich, Germany. Auwärter is a bus manufacturer, but not fully integrated. It designs and manufactures buses and coaches under the Neoplan make, but obtains some components, from suppliers such as MAN and DaimlerChrysler.

The Commission's initial review showed that the merger would have an impact on the markets for city buses, inter-city buses and coaches. The Commission is particularly concerned about the impact on the German market for city buses, iwhere the merged MAN/Auwärter will attain a market share of well over 40%, thereby matching EvoBus (DaimlerChrysler), traditionally their strongest competitor. As a result of the acquisition, the number of bus manufacturers in Germany will be reduced from three to two.

Source: Commission Statement IP/01/217, 14 February 2001.