

NEW ETTSA COMPLAINT RELATING TO AN ABUSE OF DOMINANT POSITION BY LUFTHANSA

QUESTIONS AND ANSWERS

The European Technology and Travel Services Association (ETTSA) and the Verband Internet Reiservertrieb are filing a complaint before the European Commission (DG COMP) targeting recent practices of the Lufthansa Group (LH), focused initially on Germany but also quickly expanding to other countries.

IS IT RELATED TO THE EXISTING ETTSA COMPLAINT BEFORE DG MOVE?

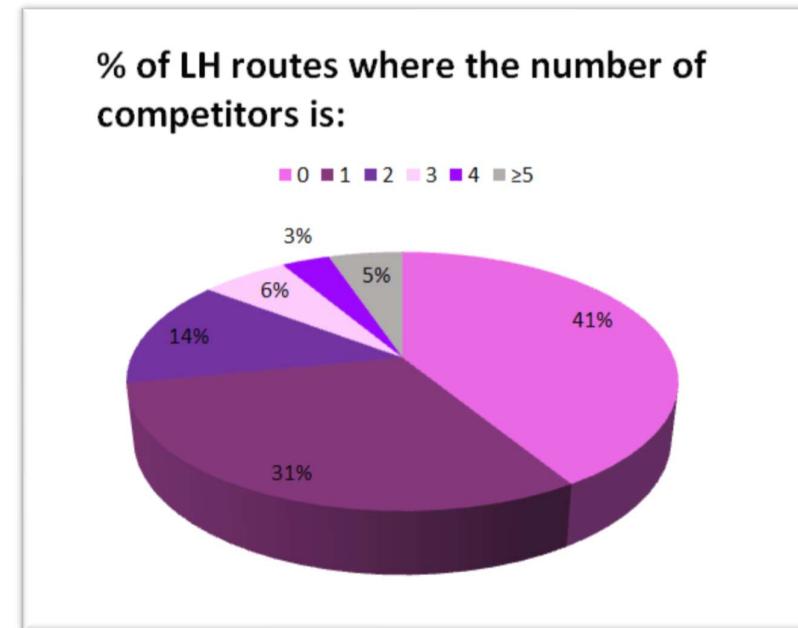
This complaint is distinct from the existing complaint filed with DG MOVE in 2015 regarding the imposition of a 'Distribution Cost Charge' (DCC) for all flights operated by LH in Europe, allegedly to recover costs associated with distribution through GDSs. The LH practices targeted in this new complaint are unrelated to distribution costs and limited to certain markets and routes.

WHY IS THE COMPLAINT FILED WITH DG COMP?

The LH measures targeted in this complaint leverage its dominant position in certain local markets (e.g. the German market) or certain airports / routes to impose additional discriminatory measures. Those measures place travel agents under significant pressure to only use LH's direct distribution channel to book flights rather than a neutral and transparent GDS. **The complaint is therefore targeting an abuse of dominance by LH in violation of EU competition rules.**

For example, one measure applies to flights with a point of commencement ('POC') in Germany (where LH now holds a clear dominant position) and a POC in the UK (with the exclusion of London, where LH faces strong competition). The other measures apply to flights from LH's main hubs (Munich, Frankfurt, Vienna and Zurich) where again LH enjoys a very strong market position.

LH has a monopoly or quasi-monopoly position in relation to over 70% of routes from Austria and Germany



WHAT ARE THE DISCRIMINATORY MEASURES TARGETED?

Two types of conduct are covered by this new ETTSA complaint, concerning all LH carriers (Lufthansa, Brussels Airlines, Swiss International Airlines and Austrian Airlines):

- **For the routes specified, Lufthansa group is not distributing its cheapest fare classes through indirect distribution channels (GDSs) but only through its 'direct distribution channels'.** This means that is no longer possible to book a 'basic' ticket (i.e. without any additional services such as a checked luggage or a reserved seat) on certain Lufthansa Group flights through a travel agency.

As the next cheapest tickets are regularly around 20 percent more expensive than those reserved to LH's direct channels, this measure has the effect that when a consumer searches on a price comparison site, LH.com always appears as the cheapest option.

This measure has already been put in place for all European flights with a POC in Germany since 9 October 2018. It was extended from 1 December 2018 to all European flights with a POC in the UK (except London airports) and will be from the 1 January 2019 for flights with a POC in Switzerland.

- **Over the past 18 months, Lufthansa Group has imposed multiple additional and opaque surcharges on bookings made on indirect distribution channels, in particular on flights to / from its main hubs** (cf. list in annex). For instance, since 5 April 2018, for every return ticket departing from Lufthansa hubs in Frankfurt, Munich, Vienna and Zurich (where LH Group is dominant) and booked through the indirect distribution channel, LH has imposed a 20 euro surcharge on its cheapest Economy fares. The only way to avoid paying such a surcharge is to book on LH direct distribution channels.

WHAT DOES LUFTHANSA HOPE TO ACHIEVE BY LEVERAGING ITS DOMINANCE IN THIS WAY?

By forcing travel agents to switch to direct distribution channels controlled by the airline, LH further reduces competition. Ticket purchases via direct distribution are carried out in a non-competitive and biased environment, so the consumer can be sold tickets and ancillaries without the effective possibility to compare with other airlines.

Please note that if LH's strategy fails in relation to certain consumers, LH will still reap profits from its current strategy as it will be in a position to levy very high surcharges from such consumers. It has been calculated by ETTSA that LH has already levied surcharges for more than 1 billion Euro from consumers that did not want or could use its direct distribution channels.

CAN'T CONSUMERS JUST USE PRICE COMPARISON WEBSITES TO FIND THE BEST DEAL?

Price comparison websites do not offer full information on products, so rankings are very often comparing apples and pears. For example, price comparison sites typically do not allow for a comparison of tickets with (or without) a checked in luggage.

The consumer is lured onto LH's dedicated site with what seems like the cheapest offer, but then must add ancillaries on to build the product (s)he needs. The result can end up being more expensive than the competition.

WHAT IS THE IMPACT ON EUROPEAN CONSUMERS?

The impact on consumers is already very significant and will only get worse:

- **Consumers using indirect distribution channels have already paid more than one billion euros in surcharges imposed by the LH Group airlines.**
- **Consumers are being restricted in their ability to compare prices when booking flights.** Consumers are being pushed to purchase tickets through Lufthansa-only channels due to the manipulation of price comparison site search results resulting from the above measures. Once on LH's site, customers will be proposed flights and other products (e.g ancillaries) which may not be the cheapest ones available to fulfil their needs.
- **Ultimately, the LH practices will lead to reduced competition and higher prices on all the routes where LH already enjoy a dominant position.**

WHO ELSE IS IMPACTED BY THOSE DISCRIMINATORY MEASURES?

Lufthansa's practices have a serious impact on travel agents (many of them being SMEs):

- their costs are directly increased (e.g. through surcharges and additional administrative burdens);
- their ability to search for the best fares for their customers is undermined, leading to increased search time and costs for travel agencies and ultimately higher prices, reduced choice and worse service for consumers.

This explains why ECTAA, the European Travel Agents Association, is supporting the ETTSA initiative.

Lufthansa's practices also seriously limit the ability of **smaller airlines and new entrants** to compete fairly:

- Without any possibility for consumers to compares fares on neutral and transparent marketplaces, other airlines cannot present their better offers in a cost-efficient way, significantly raising the costs for reaching new customers.

IS IT ONLY THE LUFTHANSA GROUP?

These practices concern only LH at this stage. However, it is worth remembering that the DCC introduced in 2015 was also initially imposed only by LH. In that instance, the absence of any reaction by regulators, despite ETTSA's complaint before the European Commission's Directorate-General for Transport (DG MOVE), led the other major EU airline groups, IAG and Air France/KLM, to follow suit. Further such inaction in this case, will likely embolden other carriers to follow LH's lead again.

WHAT ARE THE NEXT STEPS?

It is now up to the Commission to take a decision on the opening of an investigation, based on the elements present in our complaint.

Annex

List of surcharges and disincentives for bookings made through GDS channels

- (a) From 1 June 2017, Lufthansa introduced a new family pack bundled fare on Lufthansa, SWISS International and Austrian Airlines flights, which included free advanced seat reservation for children, only available through LH-NDC channels.
- (b) From 13 June 2017, Lufthansa applied a **five euro surcharge** on checking bags and booking seat ancillaries, per leg, on Lufthansa Airlines tickets not purchased via an LH-NDC channel.
- (c) From 1 April 2018, Lufthansa also introduced a permanent **five euro surcharge**, per seat, for advanced seat reservations on each segment of long-haul Lufthansa Airlines flights not booked via an LH-NDC channel.
- (d) From 1 April 2018, Lufthansa launched its 'Miles and More' action, under which flights booked by an LH-NDC channel attract extra-mileage credits than a flight booked by a neutral GDS.
- (e) From 5 April 2018, Lufthansa introduced the "NDC Smart Offer" consisting of a **20 euro surcharge**, 10 euros each way, on Economy Light and Economy Classic fares **for European flights departing from Lufthansa hubs in Frankfurt, Munich, Vienna and Zurich, not booked via an LH-NDC channel**.
- (f) From 1 May 2018, Lufthansa also extended the NDC Smart Offer with a **20 euro surcharge**, 10 euros each way, on Economy Light and Economy Classic fares from Milan and Rome to Lufthansa hubs in Frankfurt, Munich, Vienna and Zurich, not booked via an LH-NDC channel.
- (g) From 1 May 2018 till the end of 2018, LH offered a special incentive of one euro per-coupon for agents in Germany, UK, Ireland and Nigeria who sign up with SPRK (free web-based NDC solution operated by Farelogix). Applicable on Lufthansa, SWISS International and Austrian Airlines flights.

In September 2018, this initiative was extended to agents in UAE.
- (h) From 24 May 2018, Lufthansa extended the NDC Smart Offer to the UK with a **17 pound surcharge**, nine pounds each way, on Economy Light and Economy Classic fares from London, Manchester and Dublin to Lufthansa hubs in Frankfurt, Munich, Vienna and Zurich, not booked via an LH-NDC channel.
- (i) From June 2018, ETTSA understands that LH may be offering large signing bonuses (up to 50.000 euro) and other additional funds (up to 50.000 euro) to key agencies in certain markets, intended to cover system set-up costs incurred by moving to LH Direct Connect bookings. ETTSA has no hard evidence of this conduct at this stage.
- (j) From 9 July 2018 through to the end of 2018, Lufthansa has introduced a temporary 50 per cent discount on children's tickets booked via an LH-NDC channel, **reduced to a 25 per cent discount** if the ticket is booked by other means.
- (k) From 9 October 2018, Lufthansa and Swiss International Airlines lounge access, and inflight internet vouchers for intercontinental flights operated by them, were made available exclusively through NDC channels. Inflight internet vouchers for short-haul flights operated by Austrian Airlines, were also made available exclusively through these channels.
- (l) From 1 January 2019, LH will introduce a one euro per-flight incentive for travel agencies each time their consumers fly on a ticket booked through NDC-enabled channels.