

(c) *Specific time limit for submission of claims for market economy status*

Duly substantiated claims for market economy status, as mentioned in paragraph 5(1)(d) of this notice, must reach the Commission within 21 days of the date of publication of this notice in the *Official Journal of the European Communities*.

7. Written submissions, questionnaire replies and correspondence

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified), and must indicate the name, address, e-mail address, telephone and fax, and/or telex numbers of the interested party.

Commission address for correspondence:

European Commission
Office: TERV — 0/13
B-1049 Brussels
Fax (32-2) 295 65 05
Telex COMEU B 21877.

8. Non-cooperation

In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the Basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available.

9. Schedule of the investigation

The investigation will be concluded, according to Article 6(9) of the Basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Communities*. According to Article 7(1) of the Basic Regulation, provisional measures may be imposed no later than 9 months from the publication of this notice in the *Official Journal of the European Communities*.

Notice pursuant to Article 5 of Regulation (EEC) No 3975/87 of 14 December 1987 ⁽¹⁾ concerning case COMP/38.284/D2 (Air France/Alitalia)

(2002/C 111/06)

(Text with EEA relevance)

1. The application lodged by Société Air France (Air France) and Alitalia Linee Aeree Italiane SpA (Alitalia)

By letter of 12 November 2001, Air France and Alitalia notified to the Commission a number of cooperation agreements and applied for negative clearance under Article 3(2) of Regulation (EEC) No 3975/87 or exemption under Article 5 of the same Regulation.

2. Main content of the agreements

The cooperation agreement and its implementing agreements are a key step for Alitalia to join the Skyteam Alliance.

Through their cooperation, which is being implemented progressively, the parties seek to establish a far-reaching, long-term strategic bilateral alliance, the main objectives of which are as follows:

- *Creation of a European multi-hub system* based on the parties' hubs at Paris Charles de Gaulle, Rome Fiumicino and Milan Malpensa airports, in order to interconnect their worldwide networks,

- *Coordination of the parties' passenger service operations*, including extensive use of code-sharing, coordination of their scheduled passenger network, sales, revenue management, mutual recognition of the respective Frequent Flyer Programmes, marketing coordination and share of lounge usage,

- *Cooperation in other areas*, such as cargo operations, passenger handling, maintenance, purchasing, catering, information technology, fleet development and purchase, crew training and revenue accounting.

As the aim of the alliance between Air France and Alitalia is to create a multi-hub system in order to interconnect their worldwide networks, the cooperation will be closer on the France/Italy 'Bundle' which includes all the routes between France and Italy operated by Air France and/or Alitalia, excluding beyond and behind flights, whether domestic or international. Section 2.1 describes the 'basic' cooperation that the parties will implement as regards the air transport of passengers. The 'enhanced' cooperation within the bundle is described in section 2.2.

⁽¹⁾ OJ L 374, 31.12.1987, p. 1.

2.1. General cooperation regarding the transport of passengers

Code-sharing, network coordination and route cooperation

Air France and Alitalia will make extensive use of code-sharing on scheduled services worldwide.

The parties will use reasonable efforts to coordinate their flight schedules in order to minimise the waiting times of connecting passengers.

Cooperation on pricing and sales

Price coordination will be implemented where possible and the parties will identify the key markets for which common pricing will be developed.

The sales forces of the parties will remain separate in their respective markets, but their policies will be coordinated. They will develop together new tools for sales and customer service such as internet sites, electronic ticketing and airport kiosks.

Mutual recognition of the respective Frequent Flyer Programmes (FFPs)

The parties have signed two mutual recognition agreements for their respective FFPs. These two mirror agreements allow the members of the FFP of one of the parties to earn and redeem points when flying with the other party.

2.2. Cooperation on the France/Italy bundle as regards the transport of passengers

On the France/Italy Bundle, in addition to the parties' overall cooperation described above, the parties also agree on frequencies and share their capacities and their earnings.

Sharing of capacities and agreement on the frequencies

The parties will share passenger capacity on the bundle. A Business Plan lays down the details of the capacity adjustments between the parties over the next four years, both as regards the frequencies of the flights and the size of the aircraft operated by each carrier on each flight.

Sharing of earnings

Air France and Alitalia intend to share the earnings derived from the bundle. A convergence plan has been agreed so that, after three years, a 50/50 share will be in place.

2.3. Cooperation on cargo operations

The parties will also cooperate in the field of cargo transport worldwide. A short-term work plan has been agreed in order to address their schedule and capacity coordination and the development of hub links aimed at improving the parties' cargo load factors, joint pricing and sales and the feasibility and convenience of a common point of contacts for customers.

2.4. Cooperation as regards ground-handling

The parties will develop all possible synergies as regards their ground-handling operations. They will strive to handle each other when economically acceptable, to rationalise their respective structures, to co-locate their station premises and coordinate their actions in order to achieve scale benefits.

3. **Arguments invoked by the parties in support of their application**

3.1. Improvements in the provision of airline services and promotion of economic progress

The parties argue that their networks are highly complementary:

- Air France's base of operations is Paris Charles de Gaulle. Alitalia is headquartered in Rome, where its operations are based on the Fiumicino hub, and also has a significant operation in Milan based on the Malpensa hub. The geographic complementarity of these hubs and their catchment areas would enable the parties to allocate their resources better to ensure 'natural flows over natural hubs', both within and beyond Europe. For example, passengers travelling from Scandinavia to Greece will be able to choose the most convenient flight routed through any of the three hubs,
- In addition, Air France's network presence is stronger on routes between Europe and North America, the Far East, and Sub-Saharan Africa. In addition to its large number of destinations in Southern Europe, Alitalia's network is more focused on routes between Europe and North Africa, the Middle East, and Latin America.

The parties also argue that a multi-hub system presents benefits in comparison with a single-hub system. A single hub limits the benefits that may be achieved in terms of optimising traffic density and/or the range of destinations: considering the finite availability of infrastructure access and industrial capability, every hub carrier has to make a choice between adding new destinations or adding new frequencies to existing destinations. In contrast, the alliance between Air France and Alitalia, which combines networks based on different hubs, should bring 'economies of density'. These are generated when higher traffic density justifies the use of larger aircraft and load factors are increased, thereby reducing the airlines' per-passenger costs.

One of the alliance's goals is to achieve cost reductions to remain competitive. In particular, the parties anticipate that the alliance will generate considerable synergies and cost savings in the area of stations activities (including ground services, passenger services, and lounges) and sales.

On existing routes, the parties expect to increase frequencies and/or aircraft size. In the medium term, the parties expect to add new routes. The number of connecting opportunities and of origin/destination pairs available with a seamless on-line connection will also be increased. With the efficient use of high-frequency connecting flights between hubs and working with their regional partners, the parties expect to build critical mass on their hubs.

According to the parties, even on short-haul routes such as those between France and Italy, the primary effect of the transaction will be increased efficiency through shared best practices and elimination of duplication.

3.2. Consumers will share the benefits from the cooperation agreement

According to the parties, the alliance will benefit passenger transport and cargo customers in at least four areas:

- *wider choice of destinations and connections*: Air France will add 110 new destinations to Alitalia's network, not only in France, but also in the United Kingdom, the Caribbean, the Far East and Africa. Alitalia will add 21 new destinations to the Air France network. In addition to many Italian cities, this list also includes new destinations in Africa, the Middle East, and south-eastern Europe,
- *lower fares*: since the alliance will bring about cost reductions resulting from the parties' improved operating efficiency, passengers will benefit from lower prices for the alliance's services,
- *benefits derived from frequent-flyer programmes*: the alliance will allow the Alitalia and Air France frequent-flyer programme members to benefit from the frequent flyer programmes of both companies, increasing their opportunity to enjoy promotions and free tickets,
- *more convenient, seamless service*: the alliance will enable the parties to optimise flight schedules, particularly on the France/Italy bundle, providing a better distribution of frequencies and timings. This will result in more choice and more convenient scheduling for customers. Customers will gain access to a greater choice of routes to reach a given destination (i.e. connecting through different hubs) as well as a greater choice among scheduled flights and more on-line connections. Also, simplified booking, check-in, and baggage-handling procedures will speed up the travel process and improve the customer's experience. Rationalisation of services will remove the need for passengers to move between terminals at connecting airports. Lounge access will be improved.

3.3. The cooperation agreement does not impose on the parties restrictions which are not indispensable to the attainment of the objectives of the agreement

First, the parties argue that the alliance is necessary for themselves. Air France and Alitalia face increasingly intense competition from a larger number of European and other airlines in the context of the ongoing worldwide liberalisation of air transport. Neither Air France or Alitalia would be able, alone, to develop sufficiently by itself in order to compete effectively with other major carriers, many of whom are already part of strong alliances.

Second, the parties believe that cooperating is the only means of achieving the benefits of the alliance. The growing demand for wider networks and faster connections can only be met through the implementation of multi-hub systems, and this is not feasible without a high degree of cooperation between airlines. Only through coordinating their fleets and networks will the parties be able to increase connecting opportunities and operate profitable services on the marginal routes connecting the under-served communities. While the parties might be able to reduce costs without concluding a cooperation agreement, the alliance is likely, thanks to the pooling of substantial material, human, and financial resources, to bring about much greater savings.

Third, the in-depth cooperation on the strategically crucial France/Italy bundle is critical to the success of the alliance. The parties believe that customer benefits will be maximised through joint scheduling on the bundle and by optimisation of capacity, frequencies, and timings, irrespective of the operating carrier. In order to maximise connecting traffic, the parties need to increase capacity, offer enough frequencies and schedule flights at appropriate timings, in order to maximise connections at their respective hubs. Efficient joint scheduling and reduction of costs can only be achieved through a joint venture that involves a sharing of profits.

According to the parties, the aim of the transaction is not to improve their position with respect to passengers travelling between France and Italy. Rather, the agreement is designed to improve the parties' network coverage and efficiency, allowing both carriers to serve a wider range of destinations more effectively. The importance of France-Italy routes to the alliance lies not in point-to-point traffic but in the feeder traffic provided over each carrier's hubs to serve a range of destinations, primarily long haul. According to the parties, the route overlaps between France and Italy are incidental and inevitable by-products of this type of agreement, and their competitive significance is minimal when viewed in the context of the transaction as a whole.

3.4. The cooperation agreement does not afford the parties the opportunity of eliminating competition in respect of a substantial part of any market

The parties consider that the alliance agreements do not eliminate competition, either on the France/Italy bundle or on their combined worldwide network. On the contrary, the alliance will increase competition in Europe by enabling the parties to compete effectively with the more powerful alliances.

As regards in particular the France/Italy bundle, the parties put forward that of the nearly 70 France-Italy routes operated by at least one airline (more than half of which are operated by at least one scheduled carrier), there are only six where the parties both operate flights ⁽¹⁾. The alliance can result in no elimination of competition on the vast majority of France/Italy bundle routes. On the vast majority of France-Italy routes, the parties either do not compete against each other or face competition from other airlines. In addition, the parties believe that there is strong potential for new entry on the overlap routes as well as on other France/Italy bundle routes. These

actual competitors and potential entrants will ensure continued competition on the France/Italy bundle.

4. Conclusion

The Commission has established prima facie that the agreements in question are caught by Article 81(1) of the Treaty, but it has not taken a position as to the applicability of Article 81(3). In accordance with Article 5 of Council Regulation (EEC) No 3975/87, the Commission invites interested parties to send their comments concerning the cooperation agreement between Air France and Alitalia, within 30 days of the date of publication of this notice, to:

European Commission
Directorate-General for Competition
Unit COMP/D/2
Office J-70, 2/234
B-1049 Brussels
fax: (32-2) 296 98 12
e-mail: Eduardo.Martinez-Rivero@cec.eu.int or
Michel.Lamalle@cec.eu.int

⁽¹⁾ These are the routes Paris–Rome, Paris–Milan, Paris–Venice, Paris–Bologna, Paris–Naples and Milan–Lyon.