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Information and Notices

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EN

I

(Information)

COMMISSION

Ecu ⁽¹⁾

17 September 1998

(98/C 290/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,4713	Finnish markka	5,97392
Danish krone	7,48027	Swedish krona	9,11000
German mark	1,96187	Pound sterling	0,691085
Greek drachma	336,858	United States dollar	1,16952
Spanish peseta	166,634	Canadian dollar	1,77382
French franc	6,57892	Japanese yen	155,196
Irish pound	0,784073	Swiss franc	1,61102
Italian lira	1938,76	Norwegian krone	8,71353
Dutch guilder	2,21239	Icelandic krona	81,4807
Austrian schilling	13,8050	Australian dollar	1,97956
Portuguese escudo	201,123	New Zealand dollar	2,29904
		South African rand	7,18379

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day. Users of the service should do as follows:

- call telex number Brussels 23789,
- give their own telex code,
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ecu,
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

Note: The Commission also has an automatic fax answering service (No 296 10 97/296 60 11) providing daily data concerning calculation of the conversion rates applicable for the purposes of the common agricultural policy.

⁽¹⁾ Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ L 379, 30.12.1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ L 189, 4.7.1989, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ L 349, 23.12.1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ L 349, 23.12.1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ L 345, 20.12.1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ L 345, 20.12.1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ L 311, 30.10.1981, p. 1).

COMMISSION DECISION**of 8 September 1998****on the replacement of two members of the Advisory Committee on the opening-up of public procurement**

(98/C 290/02)

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Decision 87/305/EEC of 26 May 1987 setting up an advisory committee for the opening-up of public procurement ⁽¹⁾,

Having regard to Decision 87/560/EEC of 17 July 1987 ⁽²⁾, which increased the maximum number of members of the Committee from 24 to 25,

Having regard to the Decision of 10 April 1997 ⁽³⁾ appointing the members of this Committee,

Whereas two members of the committee, Mr Paolo Mengozzi and Mr Emilio Gabaglio, have submitted their resignations and it has consequently been necessary to proceed with the appointment of new members after consultation in the appropriate quarters,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Francesco Caruso and Mr Jan Cremers are appointed as members of the Advisory Committee on the opening-up of public procurement, replacing Mr Mengozzi and Mr Gabaglio, for the remainder of their term, that is, until 1 April 1999.

⁽¹⁾ OJ L 152, 12.6.1987, p. 32.

⁽²⁾ OJ L 338, 28.11.1987, p. 37.

⁽³⁾ OJ C 119, 17.4.1997, p. 3.

STATE AID

C 54/96

Italy

(98/C 290/03)

(Text with EEA relevance)

*(Articles 92 to 94 of the Treaty establishing the European Community)***Commission communication concerning the second instalment of aid for the restructuring of Alitalia approved by the Commission on 15 July 1997**

The following is the text of the letter by which the Commission notified Italy of its position, adopted on 3 June 1998, on the second instalment of State aid for the restructuring of the Italian air carrier Alitalia:

‘On 15 July 1997, the Commission adopted a Decision (hereinafter referred to as “the Decision”) to the effect that the aid granted by Italy to the company called Alitalia Linee Aeree Italiane SpA (hereinafter “Alitalia”) is compatible with the common market and the EEA Agreement (hereinafter “the Agreement”) pursuant to Article 92(3)(c) of the Treaty and Article 61(3)(c) of the Agreement. This Decision was notified to your Government on 31 July 1997 and was published in the *Official Journal of the European Communities* ⁽¹⁾. The aid consists of a capital injection totalling ITL 2 750 billion, to be paid in three instalments:

- an initial instalment of ITL 2 000 billion,
- a second instalment of ITL 500 billion, to be paid in May 1998,
- a third instalment of ITL 250 billion, to be paid in May 1999.

The aid scheme accompanies a restructuring plan for Alitalia (hereinafter “the plan”) aimed at restoring the company’s economic and financial balance during the period 1997 to 2000. The positive nature of the Decision was subject to Italy meeting 10 conditions derived from undertakings given by the Italian authorities. The undertakings are:

1. To adopt the behaviour of a normal shareholder towards Alitalia; to enable it to be managed in accordance with commercial principles only and not

to become involved in its management for reasons other than those strictly related to the Italian State’s status as a shareholder.

2. Not to grant Alitalia any further capital payment or any other aid in any form, including loan guarantees.
3. That, until 31 December 2000, the aid will be used by Alitalia solely for the purposes of restructuring the company and not for acquiring new shareholdings in other air carriers.
4. Not to give Alitalia priority in any way over other Community companies, in particular as regards the allocation of traffic rights (including those relating to countries outside the European Economic Area), slot allocation, ground-handling assistance and access to airport facilities where preferential treatment would be contrary to Community law.

In particular, the Italian authorities confirm that they will not apply any provision contrary to Community law and guarantee that:

- (a) they will immediately start, and no later than 31 December 1998 complete, the procedure for the revision of Convention No 4372 of 15 April 1992, approved by Decree of 16 April 1992 (hereinafter “the Convention”) to bring it into line with Community regulations, in particular as regards the “right of priority”, “government interference”, “compatibility with the regulations on the liberalisation of air transport” and “airport privileges”;
- (b) a *de facto* revision of the Convention has already been made as regards the abovementioned points following an exchange of letters with Alitalia on the basis of Article 50 of the Convention according to which the latter applies only if it is compatible with Community law;

⁽¹⁾ OJ L 322, 25.11.1997, p. 44.

- (c) Alitalia renounces the right of priority deriving from Article 3 of the Convention;
- (d) in coordinated or fully coordinated Italian airports, they will designate, before the start of the 1997 to 1998 winter season, a coordinator having no link whatsoever with Alitalia and acting completely independently of it.
5. That, until 31 December 2000, the capacity available on aircraft operated by Alitalia or other carriers in a way which poses a commercial risk to Alitalia (wet leasing, block space, joint venture agreements, etc.) will not exceed the following limits:
- (a) the number of seats available will not exceed 28 985, including 26 350 for Alitalia's own fleet;
- (b) the growth in the number of seat-kilometres available for each calendar year:
- within the European Economic Area, excluding Italy, and
 - within Italy will not exceed 2,7 %, on the understanding that any growth will not be used if the growth in the corresponding markets remains below 2,7 %. However, if the level of growth in the corresponding markets exceeds 5 %, the supply may be increased, above 2,7 %, by the percentage increase above 5 %.
6. That Alitalia has an analytical accounting system that makes it possible to determine, in the short term and for each route, a profitability ratio defined as the ratio between the full revenue and the full costs (the full cost equivalent to the sum of the variable costs and fixed costs) for the particular route.
7. That, until 31 December 2000, Alitalia will refrain from offering fares lower than those offered by its competitors for an equivalent service on the routes which it operates.
8. That Alitalia will dispose of its shareholding in Malev.
9. That Alitalia will continue with the full implementation of the restructuring plan, in particular as regards meeting the objectives in terms of productivity, profitability and financial restructuring.
10. To submit to the Commission, by the end of March 1998, March 1999, March 2000 and March 2001, an annual report on the progress of the restructuring plan, Alitalia's economic and financial situation, and the compliance with these conditions. The report will contain a description (stating the particulars of co-contractors) of the commercial or operational agreements concluded by Alitalia during the previous year.

Article 2 of the Decision also provides that Italy must submit a report to the Commission at least 10 weeks before the release of the second and third instalments of aid. For 1998 and 1999, this report is that provided for in the 10th abovementioned condition. Under the same Article, the Commission, assisted by an independent consultant, will examine the report to verify that the plan has been properly implemented and the results expected have been achieved, in particular as regard certain cost and productivity ratios, and that the 10 abovementioned conditions have been complied with. The Italian authorities have also pointed out that the payment of the second and third instalments of the capital increase was subject to compliance with their undertakings and to the proper implementation of the plan and the achievement of the expected results.

On 1 April 1998, the Italian authorities sent the Commission a report with details of the implementation of the plan, the results obtained and the compliance with their undertakings. For its part, the Commission appointed an independent expert, the law firm Ernst & Young (hereinafter "the expert") to assist it in examining the report from the Italian authorities. The expert set out the results of its work in a draft report sent to the Commission on 18 May 1998. This report was forwarded the same day to the Italian authorities for comments and the expert's final report is dated 27 May 1998.

On the basis of all of the information in its possession, the Commission is in a position to make the following comments:

1. With regard to the implementation of the plan and the company's results

It appears that the results recorded by Alitalia in 1997 have on the whole been in conformity with the plan and that its implementation is being satisfactorily pursued. This assessment is the result of the following comparison between the main figures and ratios shown as the plan's objectives and those actually found by the expert during his work:

	1996	1997 (forecast in the plan)	1997 (found) ⁽¹⁾	Difference compared with the plan
Turnover (ITL billion)	7 834	7 966	8 258	+ 3,7 %
Operating result (ITL billion)	— 24	165	167	+ 1,2 %
Net result (ITL billion)	— 1 291	175	199	+ 13,7 %
Net debt (ITL billion)	4 268	3 077	2 924	— 5,0 %
Available tonne-kilometres (ATK) (million)	7 118	7 014	6 993	— 0,3 %
Number of employees	17 390	16 677	16 329	— 2,1 %
Number of aircraft	157	143	144	+ 0,7 %
Investments (ITL billion)		443	408	+ 8,6 %
Financial ratios				
$\frac{\text{Operating result}}{\text{Turnover}}$		2,1 %	2,0 %	— 5 %
$\frac{\text{Debt}}{\text{Equity}}$ (gearing)		2,1	1,9	+ 10,5 %
Productivity ratio				
$\frac{\text{ATK}}{\text{Number of employees}}$		425	428	0,7 %
Cost ratios				
$\frac{\text{Operation costs}}{\text{ATK}}$		1 112	1 136	2,1 %
$\frac{\text{Staff expenditure}}{\text{Operating costs}}$		23,7 %	23,5 %	0,8 %
$\frac{\text{Cabin crew}}{\text{Operating costs}}$		5,5 %	5,4 %	— 1,4 %
$\frac{\text{Cockpit crew}}{\text{Operating costs}}$		6,4 %	6,6 %	3,7 %

⁽¹⁾ Some figures have been adjusted by the expert to ensure consistency with the reference data.

The differences compared with the figures given in the plan are mainly due to the fact that the economic situation was generally better than expected and that production costs were not sufficiently reduced.

Alitalia has benefited from the very favourable economic situation which has characterised the air transport sector during the last year. Worldwide, the number of passengers carried rose by 7,5 % in 1997. In Europe, the rise was 9,7 %, while available capacity increased by only 6,7 %, which enabled the occupancy rate to exceed 72 %. In Italy itself, the figures available show a significant increase in traffic, with civil aviation benefiting in particular from higher GDP than expected. Alitalia's turnover therefore exceeded the forecasts in the plan. The company carried 24,5 million passengers in 1996, 0,5 million more than initially envisaged. In terms of passenger-kilometres carried, the growth was 4,2 % as against 3,6 % forecast in the plan. With the supply expressed as available tonne-kilometres remaining stable, Alitalia's occupancy rate rose from 68,9 % to 71,8 % (71,1 % forecast in the plan). Despite this growth, unit receipts were 1,7 % higher than expected. These results are in no small part due to the company's strategy on commercial agreements.

The good overall performance of the Italian national carrier must be considered more closely on the basis of the markets. Stimulated by the fall in fares, the Italian domestic civil aviation market is expanding rapidly and Alitalia is largely profiting from this development. The growth in traffic recorded by the company is also strong on short-haul and medium-haul international routes, in particular because of network rationalisation and the better use being made of the fleet. These factors also explain the results for the carriage of freight being better than forecast. On intercontinental routes, however, Alitalia's results are disappointing and worse than the forecasts, mainly because of the high level of competition on trans-Atlantic routes. In this respect, however, the development of Malpensa airport and the alliance with KLM should in time enable the undertaking to recover its competitiveness in view of the expected synergies, the complementarity of the networks and the experience of the Dutch carrier on intercontinental routes.

While the general economic situation has been favourable, Alitalia was, however, unable to reduce its production costs in 1997 as much as foreseen in the plan. First of all, the personnel costs were about ITL 56 billion higher than the forecasts due mainly to the delay in reducing staff and labour costs. It is true that the early retirement programme was carried out in full, Alitalia's staff fell by 958 in 1997 and the number of employees at the end of 1997 was, as a full-time

equivalent, in conformity with the plan's forecasts. This overall finding, however, hides differences as regards the different categories of staff. While the number of ground staff fell more than forecast, the numbers of cockpit crew and above all cabin crew staff did not fall in the same way and are still higher than forecast in the plan. The importance of training programmes for newly recruited pilots is one of the main reasons for this. Furthermore, the earnings of the latter categories of staff have increased while the productivity rises attached to pay increases have not been fully achieved and cockpit crew productivity has even slightly deteriorated. It should in particular be noted that the transfers of cockpit crew to the new, low-cost company Alitalia Team, the development of which is one of the priority ways of cutting costs and boosting productivity in the restructuring process, have been slightly delayed. Staff costs have therefore not fallen far enough. It nevertheless cannot be denied that there has been a real improvement compared with the situation in 1996.

The changes in the cost of other production factors have, in absolute terms, been less favourable than provided for in the plan. Therefore, the development by Alitalia of self-handling at Italian airports is still at a standstill at the moment. However, the savings made by renegotiating ground-handling contracts in Italy are more or less in keeping with the plan. The projects for restructuring the commercial network and developing direct selling have also not been implemented as foreseen. Nevertheless, the efforts made with regard to yield management are bearing fruit, in particular thanks to the introduction of the new integrated information system "Proviso". Lastly, it should be stressed that, as a percentage of turnover, the costs of production factors other than staff costs are lower than the forecasts in the plan, given the increase in turnover. This latter point is evidence of a certain improvement.

What is more, the fall in interest rates in Italy following the decrease in the rate of inflation has reduced the cost of debt. In general terms, Alitalia has fully benefited from the fall in inflation.

Finally, the positive and negative differences described above as compared with the forecasts in the plan are on the whole in balance and Alitalia's operating result in 1997 is in conformity with these forecasts.

In financial terms, the company has profited from the capital injection of ITL 2 000 billion authorised by the

Commission. It has reduced its debt by more than the amount foreseen in the plan. The company's debt will therefore be ITL 2 924 billion at the end of 1997 instead of ITL 3 077 billion as forecast thanks to the repayment of short-term debts and, secondly, the early repayment of medium-term and long-term debt. However, the balance sheet liabilities still include a large provision for restructuring due to the funding of the early retirement programme and the delays encountered in the early retirement of cabin crew and above all the staff's holding in the company's capital now planned for June 1998. On the other hand, Alitalia has in particular not yet given up its headquarters (la Magliana) [...]⁽²⁾. The company has, however, sold its shares in Alfa Romeo Avio, Galileo International, Air Europe, Malev and the managing companies of some Italian airports in conformity with the plan.

In the light of the foregoing, the Commission considers the progress made in the restructuring of Alitalia and the results already obtained to be satisfactory. It notes the good social climate which seems to exist within Alitalia and the continuing cooperation between the trade unions and the company management, as shown by the recent transfer of the MD-11 aircraft to Alitalia Team. The Commission has not, however, failed to see the favourable conditions from which the Italian carrier has benefited in 1997. Against this background, it stresses the need to catch up on reducing costs, in particular the costs of flying personnel, to avoid any further serious deterioration in the company's position should the economic situation change.

2. Compliance with undertakings given by the Italian authorities

The Commission, assisted by the expert, has verified compliance with the 10 abovementioned conditions appearing in Article 1 of the Decision.

First, it is not in possession of any information which makes it doubt that the government has adopted the behaviour of a normal shareholder toward Alitalia or that it has interfered in the company's management.

Second, Alitalia also does not seem to have received any additional aid in any form, including loan guar-

antees. In particular the leasing contract signed with Cofiri, a subsidiary of IRI, and the renegotiation of certain medium-term and long-term loans with Cofiri appear to be in conformity with prevailing market conditions.

Third, the capital injection of ITL 2 000 billion authorised by the Decision has been used by Alitalia to reduce its debt as stated above. The company has not acquired any new shares in other air carriers in 1997.

Fourth, as regards the absence of discrimination, the Commission does not have any specific evidence showing that the Italian authorities have given Alitalia priority treatment as regards slot allocation, ground-handling assistance and access to airport facilities since the date of the Decision. With regard more especially to slot allocation, Italian Ministerial Decree No 44/T of 4 August 1997 entrusts this task to the association Assoclearance, which was set up for this purpose on 25 July 1997, half of whose members are air carriers and half airport managers. The same Decree provides that Assoclearance must perform its task in an impartial, transparent and non-discriminatory manner in accordance with the provisions of Regulation (EC) No 95/93⁽³⁾. The coordinator's duties in airports designated as coordinated or fully coordinated are exercised by the chairman of the Association who "must be a particularly competent person independent of the managers and carriers and without any link or consultancy or other tie with the managers and carriers". While Alitalia and its subsidiaries are members of Assoclearance, they do not at this stage seem to be able to influence that body's decisions to the detriment of its competitors.

The Commission's attention has, however, been drawn several times, up to January 1998, to the fact that Alitalia continues to enjoy priority treatment as designated carrier on routes between Italy and countries outside the European Economic Area and that the discriminatory provisions of Convention No 4372 of 15 April 1992, approved by the Decree of 16 April 1992, continue to apply. The Commission has informed the Italian authorities about this, in particular by letter of 1 December 1997. This issue was raised together with other difficulties mainly concerning compliance with the condition of the absence of price leadership. The matter was discussed

⁽²⁾ Business secret.

⁽³⁾ OJ L 14, 22.1.1993, p. 1.

in detail between the Commission and the Italian authorities, in particular in Brussels on 4 and 5 February 1998.

Following these discussions, Mr Burlando, Italian Minister of Transport, sent a letter to Mr Kinnock, Member of the Commission, on 6 February 1998 in which he gave several undertakings to resolve the difficulties encountered. With regard to non-discrimination, the undertakings given in this correspondence are as follows:

"The Italian authorities undertake to grant, by 10 February 1998 at the latest, the requests for traffic rights to third countries received by 31 January 1998, provided the bilateral agreement applicable does not pose any obstacle to this and the third country concerned does not object. In other cases, the Italian authorities will provisionally designate the companies whose request has not yet been granted and will approach the third countries concerned by the end of February 1998 to find out whether these countries are prepared to accept such designation, without prejudice to the outcome of such approaches.

The procedure for the designation of Italian companies to third countries, based on neutral, non-discriminatory selection criteria, will be fully operational as soon as possible before the submission of the first report provided for in condition No 10 of the Decision of 15 July 1997. This report will show the selections made as regards the requests received by 31 January 1998 and the outcome of the above-mentioned approaches."

Mr Burlando also made it clear that, within the next few days, he would be sending the Commission a copy of the Decision withdrawing from Alitalia the operating rights for a series of routes included in the Convention of 15 April 1992, routes which Alitalia had finally not operated and were also already open to competition from other carriers who so requested.

The various undertakings given in the abovementioned letter of 6 February 1998 have been met. The Italian authorities have sent the Commission a copy of their letter of 16 January 1998 officially notifying Alitalia of the loss of its traffic rights on a number of routes which were not actually being operated. This loss is consistent with the abolition of the priority right which Alitalia had pursuant to the Convention of 15 April 1992 and which the Italian authorities had undertaken to terminate. Furthermore, on 10 Fe-

bruary 1998 the Italian authorities granted Alitalia's competitor companies which had lodged the relevant application before 31 January 1998 traffic rights on routes which were not precluded by the bilateral agreement applicable and to which the third country concerned did not object. In practice, these are routes for which the traffic rights were available and for which a single carrier had applied. Where the requests were for services already being operated, further operation was authorised provisionally during the 1998 summer scheduling season pending the definition of neutral, non-discriminatory award criteria. Furthermore, by telegrams dated 25 February 1998 the Italian civil aviation authorities contacted the competent authorities of the 23 countries outside the European Economic Area affected by the submission of several concurrent requests for traffic rights to explore the possibility of multi-designation or of extending the existing traffic rights. Italy has received replies offering prospects from most of the States contacted.

Furthermore, the Italian Minister of Transport has laid down the award criteria for traffic rights already available on the routes for whose operation there were several concurrent requests on 31 January 1998 in guidelines No 04415 of 26 March 1998 issued to his departments. These include general company-specific criteria (financial, technical and organisational capability) and criteria specific to the route concerned (operating conditions, operating plan, etc.). The award procedure based on these criteria started on 8 April 1998. The traffic rights will be allocated by 31 July 1998. Compliance with the principle of non-discrimination means that the abovementioned criteria, which are *a priori* neutral and non-discriminatory in nature, must also be applied to requests for traffic rights submitted after 31 January 1998. Consequently, the procedure will also have to apply to any request lodged after the latter date, whatever the third country concerned.

At the same time, the Italian authorities have formally started the procedure for the revision of Convention No 4372 of 15 April 1992, which is *de facto* already being interpreted in conformity with Community law. In the report forwarded to the Commission on 1 April 1998, the Italian authorities have affirmed their objective of amending the Convention "as soon as possible and in any event before the autumn so as to comply with the final deadline specified in the Decision."

Fifth, and in conformity with the plan, Alitalia owned and was operating 144 aircraft at the end of 1997,

including 43 aircraft which were being operated by Alitalia Team and 13 by Alitalia Express. This amounted to 23 370 available seats, well below the limit of 26 350 laid down in the Decision. By the year 2000, Alitalia's fleet should consist of 160 aircraft with a total of 25 911 seats. In addition, Alitalia was linked in 1997 by 31 commercial agreements to Italian or foreign companies. The number of available seats for which Alitalia carried a commercial risk under the agreements, i.e. those for which the company had to bear the cost regardless of their actual occupancy, amounted at most to 2 037. The sum of the two figures is well below the threshold of 28 985 laid down in the Decision.

Moreover, as stated above, the number of seat-kilometres made available by Alitalia has remained stable throughout 1997, the company's growth being the result of a better occupancy rate. The condition that the number of available seat-kilometres must be limited has therefore been met, despite the fact that the rate of growth in the corresponding markets exceeds 5 %.

In its assessment, the Commission has taken account of the close links between Alitalia and the charter company Eurofly, in which Alitalia has a 45 % capital stake and on which it exercises a dominant influence. Eurofly, which in 1997 had six aircraft with 938 seats, also appears in Alitalia's consolidated accounts. The Commission therefore believes that all the seats made available by Eurofly should be taken into account in the same way as those provided by Alitalia Team or Alitalia Express when assessing compliance with the limits on available seats and seat-kilometres laid down in the fifth condition of the Decision. They are therefore included in the abovementioned figures.

The Commission has also noted that the agreement between Alitalia and KLM contained an express clause to the effect that it must not contravene the conditions laid down by the Decision.

Sixth, the Italian authorities stated the following in their abovementioned letter of 6 February 1998 with regard to the existence within the company of analytical accounts enabling the profitability ratio for each route to be determined at short notice:

"The Italian authorities confirm that Alitalia has analytical accounts as provided for in condition No 6 of the Decision of 15 July 1997. They hereby inform the Commission that Alitalia keeps these accounts at

its headquarters for inspection by Commission officials and any consultants called upon by the Commission. The Italian Government trusts that the Commission will preserve the confidentiality of any information to which it may have access."

The expert has verified the effectiveness of these analytical accounts, which make it possible to separate all revenue (income from ticket sales and freight sales) from all operational costs (mainly fuel, commercial and distribution costs, maintenance, staff costs, depreciation allowance, ground-handling) for each route. The ratio thus calculated is therefore more an operational margin than a profitability ratio since the general costs and financial expenses are not broken down route by route and are not included in the calculation. However, this system of analytical accounts is currently being further developed and should be significantly improved in 1998, in particular due to the alliance with KLM. The Commission expects the calculation in future to include all operating costs.

Seventh, with regard to the Italian authorities' undertaking not to practice price leadership, the Commission's finding is that Alitalia several times failed to comply with this condition after the Decision and up to January 1998. The company adopted the behaviour of a price leader on certain Italian domestic routes by introducing its "Ennevoli" and "weekend" fares on 22 July and 8 September 1997 respectively. The fares offered by Alitalia on European international routes during the "Prima Eurobusiness" campaign and on intercontinental routes during the "Il mondo ... lo dividiamo in due" campaign in autumn 1997 also contain price leadership features.

Several letters on this subject were exchanged by the Commission and the Italian authorities between August 1997 and January 1998. As stated above, the issue was then discussed in depth at the beginning of February 1998 in order to remedy the situation. The Italian authorities in this respect gave additional undertakings with regard to price leadership in their abovementioned letter of 6 February 1998:

"The Italian Government hereby undertakes that, as from 11 February 1998, Alitalia will stop the marketing, within the EEA, of all on-going promotion campaigns on all routes on which it is in a competitive situation. With effect from that date, it will apply the basic fare structure as coordinated within the IATA (or the carrier-coded fares where these currently exist. Alitalia will, however, still be able to align itself on the fares (meaning the fares themselves and the accompanying conditions) offered by its competitors.

It is agreed between the Commission and the Italian Government that Alitalia will not align itself on the fares offered by its competitors during promotion campaigns between 11 and 28 February 1998, even if these fares are higher than those offered by Alitalia during promotion campaigns finishing on 11 February 1998.

The Italian authorities will inform the Commission, by means of a report to be submitted at the latest on the 10th day after the end of each quarter, of the use which Alitalia has made, during the previous quarter, of the scope for alignment referred to in the first paragraph above."

The abovementioned undertakings were the subject of a press release. They have been properly implemented, so making it possible to avoid any further difficulties, and the Commission has not received any further complaint about price leadership since January 1998. The expert did, however, find that Alitalia adopted price leadership behaviour again on three domestic Italian routes at the end of March 1998, marginally and for a very short period of time, as a result of the confusion caused by the introduction of a new fare-setting system within the company. The company has itself put an end to this behaviour.

Furthermore, the unilateral freeze by Alitalia of all of its promotion campaigns between 11 and 28 February 1998 has partly remedied the adverse effects on competition of Alitalia's promotional price campaigns during the previous months. During that fortnight, Alitalia's competitors were able to reorganise their fare structure without fear of retaliation by the Italian national carrier. In addition, Alitalia's initiatives since 28 February 1998 have been limited to the possibility of alignment with its competitors' fare conditions.

Eighth, and in agreement with the undertaking given by the Italian authorities in the Decision, Alitalia gave up all of its 30 % holding in the capital of the Hungarian country Malev Hungarian Airlines in December 1997. At the same time, the Italian State company Simest gave up its 5 % holding in the same company.

Ninth, the above assessment shows that Alitalia satisfactorily continued implementing the plan throughout 1997. The financial and profitability restructuring objectives have in particular been attained and in some cases even exceeded.

Finally, on 1 April 1998 the Italian authorities did indeed submit a report to the Commission with details of the progress of the plan and the compliance with the conditions attached to the Decision. This report provided the basis for the work carried out by the expert.

In the light of the foregoing, the Commission also takes note, firstly, of the proper implementation of the plan and the satisfactory results obtained by Alitalia in 1997 and, secondly, of the existence of infringements of the conditions laid down by the Decision. These infringements, during the first six months following the Decision, chiefly concern the conditions relating to non-discrimination and the prohibition of price leadership. However, in view of the new undertakings given by the Italian authorities on 6 February 1998 and the adjustments thereby made, the Commission takes the view that this temporary failure to meet two of the 10 conditions laid down by the Decision does not constitute an obstacle to the payment to Alitalia of the second instalment of aid amounting to ITL 500 billion. The Commission would, however, stress the need to continue with the proper implementation of the plan, in particular as regards the reduction of costs, and to comply strictly in future with all of the conditions of the Decision and the new undertakings given on 6 February 1998. It will pay particular attention to checking the latter aspect up to the expiry of the plan, especially during its assessment prior to the payment of the third instalment.

This Decision will be published in the *Official Journal of the European Communities*, except for any commercially sensitive information. Italy is requested to state within a period of two weeks what information it considers to be commercially sensitive.'

Authorisation for State aid pursuant to Articles 92 and 93 of the EC Treaty

Cases where the Commission raises no objections

(98/C 290/04)

(Text with EEA relevance)

Date of adoption: 3.6.1998

Member State: Austria

Aid No: N 546/97

Title: Mobil Oil Austria AG

Objective: Co-financing of a clean-up operation of a site polluted during World War II

Legal basis: 'Förderungsrichtlinien 1997 für die Altlastensanierung oder -sicherung' gemäß Umweltförderungsgesetz (UFG) BGBl. Nr. 185/1993

Budget: ATS 3,8 million (ECU 272 000)

Date of adoption: 22.4.1998

Member State: Austria

Aid No: N 507/96

Title: Kurzentrum Bad Windischgarsten GmbH & Co. KG

Objective: Investment aid

Legal basis: Allgemeine Richtlinien für Förderungen aus Landesmitteln; Allgemeine Förderungsrichtlinien des Bundes; § 51 (a) Arbeitsmarktförderungsgesetz; ERP-Kredit für die Tourismuswirtschaft

Budget: ATS 67,3 million (ECU 4,8 million)

Aid intensity: 13,8 % gross, 9,9 % net

Authorisation for State aid pursuant to Articles 92 and 93 of the EC Treaty

Cases where the Commission raises no objections

(98/C 290/05)

(Text with EEA relevance)

Date of adoption: 27.8.1998

Member State: Portugal

Aid No: N 414/98

Title: Transport aid for the residents of the autonomous region of Madeira

Objective:

- Aid granted to island residents
- Reductions on the price of tickets: 40 % for economy class fare without restrictions and for students and 33 % for other published fares on the routes covered by the above-mentioned public service obligations

Beneficiaries: Residents of the autonomous region of Madeira

Legal basis: Projecto transmitido por Portugal no quadro de obrigações de serviço público (OSP) entra a Madeira e o território continental português, bem como entre Porto Santo e Funchal

Budget: Forecast: PTE 3 500 million in 1999

Duration: Indefinite

Withdrawal of notification of a concentration**(Case No IV/M.1277 — BLG Container/Maersk/Sea-Land Service)**

(98/C 290/06)

(Text with EEA relevance)

On 3 August 1998 the European Commission received notification of a proposed concentration between BLG Container GmbH & Co., Bremerhaven, Maersk Deutschland GmbH, Hamburg and Sea-Land Service Inc., Charlotte, North Carolina, United States of America. On 25 August 1998 the notifying parties informed the Commission that they withdrew their notification.
