

	<p>TRIBUNAL DE PRIMERA INSTANCIA DE LAS COMUNIDADES EUROPEAS Soud prvního stupně Evropských společenství DE EUROPÆISKE FÆLLESSKABERS RET I FØRSTE INSTANS GERICHT ERSTER INSTANZ DER EUROPÄISCHEN GEMEINSCHAFTEN EUROOPA ÜHENDUSTE ESIMESE ASTME KOHUS ΠΡΩΤΟΔΙΚΕΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES TRIBUNAL DE PREMIÈRE INSTANCE DES COMMUNAUTÉS EUROPÉENNES CÚIRT CHÉADCHÉIMENA GCOMHPHOBAL EORPACH TRIBUNALE DI PRIMO GRADO DELLE COMUNITÀ EUROPEE EIROPAS KOPIENU PIRMĀS INSTANCES TIESA</p>	<p>EUROPOS BENDRIJŲ PIRMOSIOS INSTANCIJOS TEISMAS Európai Közösségek Elsőfokú Bírósága IL-QORT TAL-PRIMI INSTANZA TAL-KOMUNITAJIET EWROPEJ GERECHT VAN EERSTE AANLEG VAN DE EUROPESE GEMEENSCHAPPEN SĄD PIERWSZEJ INSTANCIJ WSPÓLNOT EUROPEJSKICH TRIBUNAL DE PRIMEIRA INSTÂNCIA DAS COMUNIDADES EUROPEIAS SÚD PRVÉHO STUPŇA EURÓPSKÝCH SPOLOČENSTEV SODIŠČE PRVE STOPNJE EVROPSKIH SKUPNOSTI EUROOPAN YHTEISÖJEN ENSIMMÄISEN OIKEUSASTEEN TUOMIOISTUIN EUROPEISKA GEMENSKAPERNAS FÖRSTAINSTANSRÅTT</p>
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Press and Information

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Judgment of the Court of First Instance in Case T-177/04

easyJet Airline Co. Ltd v Commission of the European Communities

THE COURT OF FIRST INSTANCE UPHOLDS THE COMMISSION DECISION CONCERNING THE MERGER BETWEEN AIR FRANCE AND KLM

It finds that the pleas put forward by easyJet do not prove that the Commission committed manifest errors of assessment in declaring the merger compatible with the common market

On 11 February 2004, the Commission adopted a decision under the merger regulation ¹ declaring a merger between the airlines Air France and Koninklijke Luchtvaart Maatschappij NV ('KLM') to be compatible with the common market, subject to compliance with the undertakings offered by the parties to that merger.

easyJet Airline Co. Ltd ('easyJet'), a low-cost airline, sought the annulment of that decision before the Court of First Instance of the European Communities.

The Court rejects easyJet's pleas in their entirety

First, the Court finds that the market definition adopted by the Commission, that each route between a point of origin and a point of destination is a separate market, is the correct one. It further finds that easyJet has failed to demonstrate to the requisite legal standard that the Commission committed a manifest error of assessment by not taking into account the markets in which there is no overlap between the operations of Air France and those of KLM, because easyJet does not clearly identify them. Accordingly, the creation or reinforcement of a dominant position and the consequent restriction of competition on those markets has not been made out.

¹ Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (OJ 1989 L 395, p. 1, as rectified, OJ 1990 L 257, p. 13, and amended by Council Regulation (EC) No 1310/97 of 30 June 1997 (OJ 1997 L 180, p. 1).

Second, the Court finds that easyJet has not shown that the Commission committed a manifest error of assessment in failing to analyse the strengthening of the merged entity's position on the market for the purchase of airport services. Furthermore, it considers that easyJet has adduced no evidence to prove that Air France and KLM could influence Aéroports de Paris in some way, particularly as regards the allocation of slots.

Third, it finds that easyJet has put forward no cogent evidence to show that the Commission committed a manifest error of assessment in finding that the airports of Roissy-Charles-de-Gaulle and Paris-Orly are substitutable.

Fourth, the Court finds that the Commission did not commit a manifest error in assessing the effects of the merger on potential competition. Given the centralisation of the operations of Air France and KLM in two geographically distinct hubs at Paris and Amsterdam respectively, it finds that easyJet has not shown that, but for the merger, KLM would be able to exert genuine competitive pressure from Paris on Air France.

Fifth and finally, the Court finds that easyJet has failed to demonstrate that the undertakings given, including the undertaking by Air France and KLM to release various slots for an unlimited period, were not sufficient to dispel the serious doubts harboured by the Commission as to the compatibility of the merger with the common market.

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance within two months of its notification.

Unofficial document for media use, not binding on the Court of First Instance.

Languages available: FR, CS, DE, EN, ES, EL, HU, IT, NL, PL, SK, SL

The full text of the judgment may be found on the Court's internet site
<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-177/04>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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