

СЪД НА ЕВРОПЕЙСКИТЕ ОБЩНОСТИ
TRIBUNAL DE JUSTICIA DE LAS COMUNIDADES EUROPEAS
SODNÍ DVŮR EVROPSKÝCH SPOLEČENSTVÍ
DE EUROPÆISKE FÆLLESSKABERS DOMSTOL
GERICHTSHOF DER EUROPÄISCHEN GEMEINSCHAFTEN
EUROOPA ÜHENDUSTE KOHUS
ΔΙΚΑΣΤΗΡΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ
COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES
COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH
CORTE DI GIUSTIZIA DELLE COMUNITÀ EUROPEE
EIROPAS KOPIENU TIESA



EUROPOS BENDRIJŲ TEISINGUMO TEISMAS
AZ EURÓPAI KÖZÖSSÉGEK BÍRÓSÁGA
IL-QORTI TAL-GUSTIZZJA TAL-KOMUNITAJIET EWROPEJ
HOF VAN JUSTITIE VAN DE EUROPESE GEMEENSCHAPPEN
TRYBUNAŁ SPRAWIEDLIWOŚCI WSPÓLNOT EUROPEJSKICH
TRIBUNAL DE JUSTIÇA DAS COMUNIDADES EUROPEIAS
CURTEA DE JUSTIȚIE A COMUNITĂȚILOR EUROPENE
SÚDNY DVOR EURÓPSKÝCH SPOLOČENSTEV
SODIŠČE EVROPSKIH SKUPNOSTI
EUROOPAN YHTEISÖJEN TUOMIOISTUIN
EUROPEISKA GEMENSKAPERNAS DOMSTOL

Press and Information

PRESS RELEASE No 23/07

15 March 2007

Judgment of the Court of Justice in Case C-95/04 P

British Airways plc v Commission of the European Communities

THE COURT OF JUSTICE DISMISSES BRITISH AIRWAYS' APPEAL

The judgment of the Court of First Instance, dismissing the action against the Commission's decision fining British Airways EUR 6.8 million for abuse of a dominant position, is confirmed

Following a complaint lodged by Virgin Atlantic Airways about agreements between British Airways (BA) and travel agents relating to commissions and other financial incentives for the sale of BA tickets, the Commission commenced a detailed investigation.

BA then adopted a new performance reward scheme applicable from 1998. Nevertheless, Virgin lodged a second complaint with the Commission against that new system of financial incentives.

By a decision of 14 July 1999, the Commission condemned the agreements and incentive schemes established by BA as an abuse of its dominant position on the United Kingdom market for air travel agency services and fined it EUR 6.8 million. According to the Commission, the performance reward scheme had the effect of inciting United Kingdom travel agents to maintain or increase their sales in BA tickets, in preference to those of competitor airlines.

In December 2003, the Court of First Instance dismissed BA's action against that decision¹. BA lodged an appeal against that judgment before the Court of Justice of the European Communities.

The Court of Justice has today dismissed the appeal as in part inadmissible and in part unfounded.

The Court has stated that, in an appeal, it is not the function of the Court of Justice to substitute its own assessment of market data and the competition situation for that of the Court of First Instance. The appeal must be limited to questions of law. The assessment of facts is not a question of law which can be submitted to the Court of Justice for review. As a result, the pleas in which BA challenges assessments of facts and evidence by the Court of First Instance are inadmissible.

¹ Case T-219/99 British Airways, see Press Release 116/03
(<http://www.curia.europa.eu/en/actu/communiqués/cp03/aff/cp03116en.htm>)

The Court of Justice has further confirmed that the Court of First Instance did not make any error of law in dismissing BA's action.

The judgment of the Court of First Instance is therefore upheld.

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

Languages available: BG CS DE EN EL FR HU IT NL PL RO SK SL

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-95/04>

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

For further information, please contact Christopher Fretwell

Tel: (00352) 4303 3355 Fax: (00352) 4303 2731