

SUMMARY OF UNDERTAKINGS SUBMITTED BY TAP BEFORE THE PORTUGUESE COMPETITION AUTHORITY

INTRODUCTION

In the context of Procedure number Ccent. 57/2006 – TAP/PGA, the Portuguese Competition Authority approved the acquisition by Transportes Aéreos Portugueses, S.G.P.S., S.A. (hereinafter “**TAP**”) of sole control over Portugália – Companhia Portuguesa de Transportes Aéreos, S.A., under art. 37 (1) (a) and (2) of Law 18/2003, of June 11 (hereinafter “**Decision**”).

The Decision was subject to conditions and obligations, of both structural and behavioural nature (hereinafter “**Undertakings**”).

The present document is published in compliance with TAP’s obligation under Clause 2.4. of the Undertakings, according to which TAP must publish a summary of the undertakings submitted before the Portuguese Competition Authority that aim to encourage entrance by new competitors that intend to operate competing scheduled air services in Lisbon-Porto, Lisbon-Funchal and Porto-Funchal routes.

Accordingly, a summary of the following commitments is presented below:

- (i) Commitments concerning slots on Lisbon-Porto city pair,
- (ii) Frequency freeze on Lisbon-Porto city pair, and
- (iii) Interline agreements and participation on TAP’s frequent flyer programme, with regard to air service operators that initiate operations in Lisbon-Porto, Lisbon-Funchal and/or Porto-Funchal routes.

The following, however, does not constitute an exhaustive description of the Undertakings nor it affects, interprets nor alters in any way the Undertakings formally submitted by TAP and approved by the Portuguese Competition Authority. Thus, any third party potentially interested in benefiting from the undertakings described below must refer to the formally approved text of the Undertakings.

A non-confidential version of the full text of the Undertakings, as approved by the Portuguese Competition Authority (as well as of the model text for temporary slot transfer agreement once approved by the Portuguese Competition Authority) will be sent by TAP to any interested third party at its request.

SUMMARY OF THE UNDERTAKINGS

1. Commitment concerning slots on Lisbon-Porto route

TAP committed before the Portuguese Competition Authority to make slot(s) available, without any compensation and in accordance with a specified procedure, to allow a potential new entrant to operate six daily frequencies¹ on Lisbon-Porto route, preference being given to third parties requesting the highest number of frequencies if there are several interested third parties.

The conditions include *inter alia* that slots released by TAP shall be within 30 minutes (before or after) of the time requested by the interested air service operator.

TAP's obligation to release slots will depend on the verification of certain requirements, notably, that the potential new entrant's reasonable efforts to obtain slots for the Lisbon-Porto city pair through the normal workings of the slot allocation procedure (established notably by Regulation (EEC) 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports) have failed.

The interested third parties to whom slots are temporarily released under the Undertakings must use those slots exclusively for the operation of air service operations on Lisbon-Porto route and must not adopt any conduct that may in any way endanger TAP's grandfather rights under Regulation 95/93.

The release of slots pursuant to the Undertakings will be implemented by means of a temporary slot transfer agreement to be entered into between TAP and the potential new entrant.

This agreement must follow the model approved by the Portuguese Competition Authority and will, in any event, be subject to prior approval by the Authority in order to ensure that the agreement is entered into in accordance with the conditions established in the Undertakings.

The temporary slot transfer agreement shall subsequently be notified to the authority responsible for coordinating the allocation of slots ("coordinator"), in order for it to confirm the agreement, in accordance with established good practices in the civil aviation sector.

If slots are released by TAP under the Undertakings, the concerned air service operator shall renew requests for slots to the slot coordinator and to TAP for each subsequent IATA Season. In this case, TAP shall make slots available to the concerned air service operator at the same time as in the previous IATA season, unless TAP does not hold a slot at that time, in which case it shall release a slot as close as possible in time to the slot granted in the preceding IATA season, according with the conditions and procedure established in the Undertakings.

¹ In the context of the Undertakings, frequency means a roundtrip.

In the event that a new entrant in Lisbon-Porto route adequately uses slots released by TAP for the operation of that route during a period of, at least, six consecutive IATA seasons, the referred new entrant will be authorised, as from that moment, to use the slots released for the Lisbon-Porto city pair at its discretion for any other city pair (under the terms of the applicable legislation), TAP also undertaking to definitively transfer to the concerned new entrant the rights associated to the use of those slots, as from that moment.

The obligation to release slots is in force for the period of 10 IATA seasons following the IATA season in which the Decision has been adopted (i.e. Summer IATA season 2007).

Without prejudice, if a new operator in the Lisbon-Porto route that has obtained slots from TAP for a particular IATA season (covered by the undertaking's duration period), pursuant to the Undertakings, requests for the following IATA season some or all of the slots at the same times as the slots released by TAP, TAP shall remain under the obligation to make slots available to that new operator at the same time as in the previous IATA season, as described above, even if the IATA season for which slots are requested by the new operator are not covered by the above referred duration period.

2. Frequency freeze on Lisbon-Porto city pair

TAP undertakes not to add frequencies on the Lisbon-Porto city pair beyond those it has decided to operate on this city pair, for a period of six consecutive IATA seasons starting when a new air service provider begins operations on the relevant city pair.

In order to ensure that the purpose of this undertaking² is fully achieved, the moment to be taken into consideration in order to establish the maximum number of frequencies that TAP is authorised to operate on Lisbon-Porto city pair, once this commitment enters into force, is determined as described below:

- (i) In case the new operator has requested slots to TAP pursuant to the Undertakings, the relevant moment is the date in which TAP is notified of the new operator's intention of requesting slots, or
- (ii) If the new entrant operates in the Lisbon-Porto city pair using slots obtained through the standard allocation procedure established in Regulation (EEC) 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports, the relevant moment is the moment in which the new operator has publicly announced its intention to initiate operations in Lisbon-Porto city pair or in which the new operator's intention has come to TAP's knowledge by any other means, depending on which of the situations occurs first.

² I.e. to prevent the merged entity from reacting aggressively to the entrance of a competitor in the relevant city pair through a strategic increase of frequencies.

Exceptionally, TAP may initiate an additional frequency on Lisbon-Porto, subject to prior approval from the independent entity appointed to monitor TAP's compliance with the Undertakings ("Trustee")³.

3. Interline Agreement

At the request of a new air service provider that operates on Lisbon-Porto, Lisbon-Funchal and/or Porto-Funchal city pairs, TAP shall enter into an interline agreement concerning Lisbon-Porto, Lisbon-Funchal and or Porto-Funchal city pairs, respectively.

In addition, if the new competitor is a member of IATA and IATA Clearing House, at its request, TAP will enter into an interline agreement according to which it will accept travel documents issued by that operator as part of an itinerary that combines flights operated by both companies, with reference to any route operated by TAP at that moment (including long haul routes).

Without prejudice, TAP will not be under the obligation to enter into an interline agreement, or, in case it has already entered into such an agreement it will be authorised to terminate the agreement, with regard to Lisbon-Porto, Lisbon-Funchal and/or Porto-Funchal, whenever it has reasonable and well-founded fear that the counter-party is incapable of honouring its financial obligations, unless an adequate security is provided.

The obligation to enter into an interline agreement will be in force for the period of 10 IATA seasons following the IATA season in which the Decision has been adopted (i.e. Summer IATA season 2007) or, with regard to each of the relevant city pairs (Lisbon-Porto, Lisbon-Funchal and/or Porto-Funchal), until two new operators have initiated operations in the relevant city pair (Lisbon-Porto, Lisbon-Funchal and/or Porto-Funchal), depending on which of the situations occurs first.

4. Frequent flyer programme

If a new air service provider on Lisbon-Porto, Lisbon-Funchal and/or Porto-Funchal city pairs does not participate in TAP's frequent flyer programme or does not have its own comparable frequent flyer programme, TAP shall allow it, on request, to participate in its frequent flyer programme for the identified city pairs. The agreement with the new air service provider shall be concluded on reasonable and non-discriminatory conditions, including compensation for any costs incurred by TAP.

Without prejudice, TAP will not be under the obligation to enter into such an agreement, or, in case it has already entered into the agreement, it will be authorised to terminate the agreement, with regard to Lisbon-Porto, Lisbon-Funchal and/or Porto-Funchal, whenever it has reasonable and well-founded fear that the counter-party is incapable of honouring its financial obligations, unless an adequate security is provided.

³ Or, exceptionally, by the Portuguese Competition Authority.

The obligation to enter into an agreement regarding TAP's frequent flyer programme will be in force for the period of 10 IATA seasons following the IATA season in which the Decision has been adopted (i.e. Summer IATA season 2007) or, with regard to each of the relevant city pairs (Lisbon-Porto, Lisbon-Funchal and/or Porto-Funchal), until two new operators have initiated operations in the relevant city pair (Lisbon-Porto, Lisbon-Funchal and/or Porto-Funchal), depending on which of the situations occurs first.

Lisbon, June 27th 2007