



Groupement des Unions Nationales des  
Agences et Organismes de Voyages de  
PUE  
Group of National Travel Agents' and  
Tour Operators' Associations within the  
EU



ASSOCIATIONS INTERNATIONALES SANS BUT LUCRATIF

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**European Commission  
DG for Competition  
Unit A1 – Antitrust policy and strategic support  
Abuse of Dominance Review  
B-1049 Brussels  
COMP-Abuse-of-dominance@cec.eu.int**

Brussels, 29 March 2006

Dear Sir,

**Re: Discussion paper on the application of Article 82 of the treaty to exclusionary abuses**

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Further to DG Competition discussion paper on the application of Article 82 of the Treaty to exclusionary abuses, published in December 2005, we wish to communicate our observations.

ECTAA, the Group of National Travel Agents' and Tour Operators' Associations within the EU, counts among its membership the national associations of travel agents and tour operators of 23 Member States, the national associations of the candidate countries and of Norway and Switzerland.

GEBTA, the Guild of European Business Travel Agents, represents the interests of travel management companies of Germany, Ireland, Italy, the Netherlands, Portugal, Spain, and United Kingdom.

All together, ECTAA and GEBTA represent the interests of about 80,000 businesses in Europe, and they are recognized by the European Institutions as important interlocutors.

The Members of ECTAA and GEBTA welcome the discussion paper on the application of Article 82 of the Treaty to exclusionary abuses, which provides a comprehensive overview of the issues at stake and of some specific exclusionary abuses. ECTAA and GEBTA believe that there is a need for more legal certainty in the assessment of exclusionary abuses by dominant undertakings, thereby ensuring effective competition between all market players, to the benefit of final consumers.

Regarding the specific issues raised in the discussion paper, ECTAA and GEBTA wish to make the following comments:

- Collective dominance.

ECTAA and GEBTA wish to refer to the assessment of the notion of collective dominance by the Court of First Instance in case T-193/02 Piau v. European Commission. In its judgment, the CFI ruled that an association of undertaking may, through its Member undertakings, hold a collective dominant position on a specific market, if its Member undertakings are the actual purchasers on that specific market. This case law, which strengthens the definition of collective dominance, is of major importance for our industry.

- Predatory pricing.

ECTAA and GEBTA believe that a dominant undertaking may apply predatory pricing to foreclose competition not only on the upstream market, but also on the downstream market, where that dominant undertaking is also active.

For instance, travel agents are active on the market for the sale of air transport services and they charge their customers for remuneration of their services. Airlines have now very much developed their direct sales and are thus also active on the market for the sale of air transport services. Development of direct sales entails important costs that in a normal business environment would be passed on to the consumers.

If an airline is dominant on a market for air transport services and, when acting on the downstream market for the sale of air transport services, it does not charge any fees to its customers who make direct purchases, this practice should be considered as a predatory pricing aiming at foreclosing the market for the sale of air transport services.

We trust that our observations will be useful and we remain at your disposal for any further information that you may need.

With best regards,

Michel de Blust  
Secretary General