
EUROPEAN PARLIAMENT

Working Documents

1979 - 1980

11 February 1980

DOCUMENT 1-724/79

Report

drawn up on behalf of the Committee on Economic and Monetary Affairs

on restrictions of competition in the air transport sector

Rapporteur: Mr R.-G. SCHWARTZENBERG

12.1



EUROPEAN PARLIAMENT

C O R R I G E N D U M

to the English version of the report
by Mr R.-G. SCHWARTZENBERG
(doc. 1-724/79)

Page 5, paragraph 3

The word "deregulation" should be within quotation marks.

Page 7, paragraph 19, line 4

The word "vital" has to be omitted.

28.2.1980



During the plenary sitting of 7 July 1978 the Bureau of the European Parliament referred to the Committee on Economic and Monetary Affairs the motion for a resolution tabled by Mr Kofoed (Doc. 235/78) pursuant to Rule 25 of the Rules of Procedure, on restrictions of competition in the air transport sector.

On 20 June 1978 the Committee on Economic and Monetary Affairs appointed Mr Haase rapporteur. On 31 October 1979 it appointed Mr Schwartzberg rapporteur in place of Mr Haase.

The Committee on Economic and Monetary Affairs considered the draft report at its meetings of 31 October 1978, 6 April 1979 and 23/24 January 1980.

At its meeting of 24 January 1980 it adopted the motion for a resolution by 13 votes to 9 with 5 abstentions.

Present: Mr Delors, chairman; Mr de Ferranti, vice-chairman; Mr Schwartzberg, rapporteur; Mr Beazley (deputizing for Mr Balfour), Mr Beumer, Mr von Bismarck, Mr Bonaccini, Mr Damseaux, Mr Delorozoy, Mr Fernandez, Mr Giavazzi, Mr Herman (deputizing for Mr Tindemans), Mr Hopper, Mr Lange (deputizing for Mr Caborn), Mr J. Moreau, Sir David Nicolson, Mr Nyborg, Mr Petronio, Mr Purvis (deputizing for Miss Forster), Sir Brandon Rhys Williams, Mr Rogers, Mr Sayn-Wittgenstein-Berleburg, Mr Schinzel, Mr Seal (deputizing for Mr Ruffolo), Mr Wagner, Mr Walter and Mr von Wogau.

The opinion of the Committee on Transport is attached.

C O N T E N T S

	<u>Page</u>
A. <u>MOTION FOR A RESOLUTION</u>	5
B. <u>EXPLANATORY STATEMENT</u>	9
I. THE PRESENT SITUATION IN THE COMMUNITY	
AIR TRANSPORT SECTOR	9
(a) Nature of the restrictions of competition in air transport in the Community	10
- Inflexibility of the market	10
- Fare structure	11
(b) The effects of restrictions of competition.	12
II. MEANS OF STIMULATING COMPETITION	13
(a) Opening up the markets	13
- scheduled air services	13
- non-scheduled services	14
(b) Making the fare structure more flexible ...	14
(c) The elimination of technical and admin- istrative barriers to air transport	15
III. PROCEDURES FOR IMPLEMENTING THE COMPETITION RULES IN THE AIR TRANSPORT SECTOR	15
(a) The disadvantages of total competition	15
(b) Procedure for increasing competition in air transport	16
- exceptions to the application of the rules on competition	16
- the progressive establishment of the rules on competition	17
(c) The legal machinery necessary for applying the rules on competition	17
IV. CONCLUSION	18
 <u>ANNEX</u> : Motion for a resolution tabled by Mr Kofoed	19
 Opinion of the Committee on Transport	21

A

The Committee on Economic and Monetary Affairs hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

on restrictions of competition in the air transport sector

The European Parliament,

- having regard to the motion for a resolution (Doc. 235/78)¹,
- having regard to the memorandum from the Commission to the Council concerning the contributions of the European Communities to the development of air transport services (COM (79) 311 final),
- having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Transport (Doc. 1-724/79),

1. Notes that recent developments in air transport, principally in the United States and on the North Atlantic routes, are leading to 'deregulation' and increased competition between airlines ; notes, moreover, that, as far fare fixing is concerned IATA was obliged to change its structure and procedures to take account of those developments at the Montreal Conference;
2. Points out that especially since 4 April 1974, when the Court of Justice of the European Communities ruled that the provisions on competition contained in the EEC Treaty were applicable to air transport, the European Parliament has repeatedly called for competition policy to be extended to this sector;
3. Approves, therefore, the principle underlying the Commission's submission of a memorandum on the development of air transport services in the Community, which contains various proposals for measures aimed at increasing competition in this field and urges the Commission to work for a steady process of deregulation;
4. Notes that the present organization of air transport in the Community, which is based primarily on bilateral agreements concluded between the airlines of the Member States, has the general effect of paralysing the market and producing a fare system that lacks transparency and is too costly, whereas the objective should be accessibility to rapid and cheap air transport;

¹ Motion for a resolution tabled by Mr Kofoed (see Annex)

5. Emphasizes that the comparatively wide freedom enjoyed by the airline companies in the various Member States and the United States provides greater choice for users and has resulted in considerably lower fares; the prime movers in this development have been the independent operators;
6. Feels that efforts must be made to bring about a real increase in competition in air transport in the Community, which will benefit users, while promoting the productivity and competitiveness of the airlines and the economy of the Community as a whole;
7. Hopes that access to the scheduled air transport market in the Community will be liberalized, so that airlines already designated or new airlines may freely offer new services or lower fares and benefit, subject to certain safeguards specified in the memorandum, from protected traffic rights, if necessary over a period of years;
8. Hopes also that access to the market for non-scheduled carriers will be liberalized and that, in particular, the field covered by the agreement concluded by the European Civil Aviation Conference will be extended and that the State of destination will automatically accept certain categories of service such as the package tours operated by charter companies;
9. Emphasizes that, in the interests of users, the fare structure should be simplified and made more transparent;
10. Approves the proposals in the Commission's memorandum for making the fare structure generally more flexible, for example through:
 - the introduction of special rates on condition that the fare is paid in advance,
 - the introduction of an off-season rate,
 - the introduction of a ticket covering the journey alone, without additional services,
 - the creation of a European round-trip ticket,
 - the general application of standby rates;
11. Takes the view that the following measures should be immediately adopted for the benefit of charter aircraft with a view to remedying the unfair conditions of competition under which the independent operators are working:
 - relaxation of restrictions of a geographical nature or relating to frequency of operations,
 - relaxation of requirements concerning the size of groups, reservations and payment in advance,

- equal rights for scheduled airlines in respect of the simultaneous carriage of freight and mail,
 - authorization for the sale of a specific number of seats in the aircraft irrespective of additional requirements concerning length of stay, flight booking, payment for hotel accommodation, etc.;
12. Recommends that the Commission should endeavour to find ways of eliminating technical and administrative barriers to air transport operations, which are a source of additional costs and distortions of competition;
 13. Considers that any extension of the rules on competition to the air transport sector must be a gradual and judicious process and that, to avoid the risk of undermining the competitiveness of air transport on the Community and intercontinental markets, the companies should be given sufficient but strictly defined time in which to make the necessary adjustments;
 14. Urges the Commission to institute a system of full transparency of airline finances and statistics, especially with regard to route profitability;
 15. Insists that, for the purpose of exercising control over State aid, account must be taken of abnormal costs which are directly related to the operation of routes provided by airline companies in the public interest;
 16. Calls upon the Commission, as guardian of the Treaties, to adopt as quickly as possible, in accordance with Article 87 of the EEC Treaty, the implementing regulation it needs if it is to act more effectively than it can on the basis of Article 89 of the Treaty and ensure the correct application of the rules of competition to the airline companies, irrespective of their own legal arrangements;
 17. Urges the Commission to evaluate the implications and benefits of moving towards a common air space and common route licensing policy, on the basis of freedom of supply throughout the Community;
 18. Notes that a comparison between the tariffs of the European airline companies and those applied in the United States must, to be fair, take account of the specific geographical, social, ecological and energy constraints peculiar to the European Community;
 19. Accepts that the necessary moves towards deregulation and increased competition should not cause a disruption of air transport services which would be prejudicial to users and to the European and international Community as a whole; notes in this connection, the vital role that IATA

can play in the efforts to obtain an equitable multilateralization of relations between the parties involved in the air transport industry;

20. Emphasizes that an increase in competition must not, in particular, have the effect of lowering the quality of the services provided or of eroding the social rights of airline personnel, but, on the contrary, if it is to be acceptable, must remain compatible with maximum protection of users and of the environment, air transport safety and the future of company employees;
21. Stresses, finally, that, in view of the complexity of the interests at stake, efforts to increase competition in the air transport industry must, if they are to be fully successful, form part of an overall Community policy for air transport and for transport in general;
22. Calls upon the Commission to pursue energetically the objectives it has set itself in the memorandum and to keep the European Parliament informed of its progress, so that it may take an active and vigilant part in what is essentially a European task,
23. Instructs its President to forward this resolution to the Council and Commission and to the parliaments of the Member States.

EXPLANATORY STATEMENT

1. In its judgment of 4 April 1974 in Case 167/73 the Court of Justice expressly laid down that, although, under Article 84(2) of the EEC Treaty, air and sea transport is excluded from the rules relating to the common transport policy so long as the Council has not decided otherwise, it remains, on the same basis as other modes of transport, subject to the general rules of that Treaty. It follows that Articles 85 to 90 in particular, which lay down the rules governing competition between undertakings, are applicable to sea and air transport.

2. Since this judgment was handed down the Committee on Economic and Monetary Affairs has regularly asked, at the time of the annual review of the report on competition policy, that the Commission submit suitable proposals, in particular with regard to the air transport sector, and see to it that the competition rules are properly applied.

3. The unsatisfactory operation of air transport services in the European Community has more than once been the subject of debate in Parliament, for example prior to adoption of the resolutions of 6 July 1978 and 13 October 1978. The problem has now become urgent and the Commission's memorandum on the development of air traffic services (COM(79) 311 final), forwarded to the Council on 12 July 1979, has long been awaited. This report covers a broad range of subjects since, in addition to the inherently complicated problems of competition, it deals with industrial policy, transport policy, and matters of regional economic development and commercial policy.

I. THE PRESENT SITUATION IN THE COMMUNITY AIR TRANSPORT SECTOR

4. A striking feature of the Community air transport sector is its lack of flexibility, both in market terms and as regards its system of tariffs. This contrasts with present developments in the United States, where a process of 'deregulation' is taking place in the sector in question. A total 'deregulation'¹ in terms of traffic rights, tariffs and capacity has been achieved in the freight sector and substantial progress along the same lines has already been made in the passenger transport sector. Both within IATA and the Community the establishment of greater freedom of competition is recognized as being necessary as much by users as by the airline companies themselves. Air transport has for too long been organized exclusively in accordance with the principles, established during the Chicago Convention

¹'Airline Deregulation Act' of 1978

shortly after the Second World War, of intergovernmental cooperation; these principles are no longer consistent with developments in the industry, which call for a greater measure of competition.

5. The motion for a resolution tabled by Mr KOFOED (Doc. 235/78), which underlies the present report, refers specifically to the problem of restrictions of competition in the air transport sector. Consequently, we shall first analyse - as briefly as possible, since the matter has already been frequently debated by Parliament - the nature and the effects of the factors restricting competition. In the light of this analysis, we shall draw up, primarily on the basis of the points raised in the Commission's memorandum, a number of proposals for remedying the situation and helping to bring about an improvement in the operation of air transport services in the Community.

(a) Nature of the restrictions of competition in air transport in the Community

- Inflexibility of the market

6. Despite some improvement in recent years, competition in the Community's air transport industry is still often partial, not to say inadequate, in certain sectors and on certain routes.

Moreover, the structure of the air transport market varies very considerably according to the type of transport considered and depending on whether flights are on domestic, international or intercontinental runs.

In the case of domestic air transport, competition exists only between the various types of transport available: road, rail, air, air taxi and sea transport. For the carriage of freight, rail and road transport have a decided competitive edge. Scheduled air services are normally operated by a single carrier; in most cases a national carrier is given the overall concession and the smaller carriers operate with its permission.

There is no competition between scheduled companies in intra-Community air transport since the tariffs are mostly negotiated by the companies and are approved or imposed by the governments. Competition between scheduled airlines and charter operators exists only on the longer routes and on the holiday travel market and, even then, tends to be confined to the services offered, i.e. types of aircraft, frequency of flights, etc.

Finally, on the intercontinental network, there is competition between the scheduled airlines and the charter operators, especially since the implementation of the American 'deregulation' policy. Thus, for example, Laker Airways has been granted the right to charge reduced fares for its

service between New York and London. Nearly thirty airlines are at present competing on the North Atlantic market.

It is mainly within the Community itself that the absence of competition is most noticeable. This is due to the existence of 'concerted monopolies' between the national airlines. The inflexibility of the market, organized as it is on the basis of bilateral agreements, has resulted in the creation of countless single-destination routes, whereas in the United States, for example, airlines find it far easier to create a network linking up a variety of cities in different States. As a result, the aircraft utilization rate in the United States is far higher than in the Community. In general, competition on the various routes is also appreciably reduced by the bilateral agreements concluded within the Community.

- Fare structure

7. The fare structure in the Community's air transport industry is equally unsatisfactory. The most striking feature of this structure is its excessive complexity.

In its opinion, the Committee on Transport calls attention to the immense complexity of the present structure of air fares and reports that British Airways alone stopped counting its different types of fare at 1,000 and has, for example, 60 types of excursion and 10 distinct ways of calculating the length of stay¹.

Such a complex system is expensive to operate and stands in the way of price transparency. The problem is compounded by the practice of manipulating exchange rates when the rates approved or imposed by the governments are not brought up to date and into line with the exchange rates applicable on the market.

However, the main problem is that air fares in the Community are too high. If, moreover, a comparison is made between fares charged within the Community and those charged outside, anomalies of one sort or another often come to light. One such anomaly, to which Mr MOORHOUSE recently drew attention in the House, is that it is almost as economical to fly from London to Copenhagen via New York².

¹Opinion drawn up by Mr CORRIE on behalf of the Committee on Transport - point 2

²Sitting of 23 October 1979 - Debate on the report by Mr SEEFELD (Doc.1-341/79). See also point 2 of Mr CORRIE's opinion: 'it is only marginally more expensive to fly from London to Copenhagen via New York rather than directly'.

(b) The effects of restrictions of competition

8. The restrictions of competition affecting air transport in the Community are detrimental both to users and to the Community as a whole. The excessively high fares charged by the scheduled airlines place a strain on the European economy and hinder the development of trade within the Community, even though Article 2 of the Treaty of Rome specifies that one of the general objectives of the European Community must be 'to promote closer relations between the States belonging to it'. The maintenance of certain national barriers on the basis of the bilateral agreements reduces the scope for introducing new tariffs and types of service and for creating new routes. The Community needs an air transport industry that is both competitive and responsive to the requirements of increased economic integration.

The absence of competition quite obviously affects the customer. Hence, the necessary reduction of air fares in Europe must be aimed at a democratization of air transport services, which would then become genuinely accessible to everyone. With the present fare structure, the ordinary, uninformed, passenger is all too often penalized through being unaware of information that might enable him to make very substantial savings. In its opinion, the Committee on Transport also notes that 60% of air passengers are subsidizing the remaining 40%¹.

Finally, with the regulations being as they are at present and with fare levels being entirely under government control, it is difficult for the Commission, which is not vested with the requisite legal powers, to intervene in the event of infringements of the rules on competition.

The memorandum on the development of air transport services reflects the Commission's desire to see to the adoption of certain measures that would make for greater competitiveness in the Community's air transport industry. It is on the basis of this document and of the many proposals it puts forward that we shall now study the means of stimulating competition and the rules to which such competition should be made subject. This problem has become urgent and the Community has no choice but to respond to the developments that have taken place in the world about it, as for instance the 'deregulation' measures in the United States, the increased competition on the North Atlantic and the IATA decision at the Conference of Montreal to authorize its members to liberalize their fare structures. Laker Airways and British Caledonian have recently pressed vigorously for authorization to open up new routes and to create new services in the Community. It is essential for the initiatives already taken by certain companies and the changes to be made on the air transport market to be integrated forthwith into as coherent a policy as possible.

¹Opinion drawn up Mr CORRIE on behalf of the Committee on Transport - point 14

II. MEANS OF STIMULATING COMPETITION

(a) Opening up the markets

9. While total liberalization of the conditions of access to the market can only be a long-term objective, measures aimed at progressive liberalization could perhaps be introduced now. The end result of opening up the markets in this way should be an improvement in services and a reduction in fares. It seems necessary, in this connection, to draw a distinction between scheduled and non-scheduled services:

- scheduled air services

As the Commission suggests in its memorandum, an airline company should be able to apply for the grant of traffic rights with a view to opening an intra-Community route, operating a new type of scheduled service or providing a new service on an existing route at a substantially lower fare, unless the designated airlines agree to offer a similar service or fare.

It could also be agreed to relax the rules governing the operation of scheduled services under the bilateral agreements. Thus, for example, there could be an arrangement whereby the offer of an airline company to operate a new route or to provide a new type of service may not, after a period of consultation, be rejected by the countries of destination.

Such liberalization measures would have to be applied gradually and with due caution. If the Community were suddenly to introduce widespread competition without taking the necessary precautions, it would in all likelihood be faced with serious disruptions, and the customer would be the first to suffer. Consequently, the criteria recommended in the memorandum should be approved. Thus, a new carrier should be required to furnish proof of the profitability of his new operation and the authorities issuing licences should be required to satisfy themselves that the airlines have the resources needed to cope with an expansion of their activities. Moreover, the tariff reductions justifying access to the market would have to exceed a certain minimum amount.

These precautions could be accompanied by protection measures. Thus, a limit could be placed on the number of new traffic rights that a carrier could obtain each year and these rights could be protected for a limited number of years. Though it is not spelt out in the memorandum, steps would have to be taken to ensure that the grant of these licences and the application of the above-mentioned criteria do not give rise to distortions of competition.

- non-scheduled air services

The procedures for authorizing non-scheduled intra-Community air services should be made more flexible in the interests of the consumer, who would then benefit from a wider range of services and, more importantly, a wider range of cheap fares. The provisions of the ECAC (European Civil Aviation Conference) agreement could be extended and could be improved by the automatic acceptance by the States of destination of at least certain types of service (e.g. the package tours operated by charter companies). Such automatic acceptance would not only enable the airline companies to plan their activities and investments better, but would also be to the benefit of their customers.

(b) Making the fare structure more flexible

10. Intra-Community fares are criticized for being higher than those charged in the United States. Certain mitigating factors must, however, be taken into account. A proportion of the difference between the European and American rates is beyond the control of carriers in the Community. Fuel costs and landing fees, for instance, are higher in Europe than in the United States. Moreover, the generally shorter distances flown in Europe mean that aircraft tend to take off and land more frequently. Finally, as already noted, the aircraft utilization rate is much reduced and transport costs are pushed up by the conditions under which air services must operate in Europe under the bilateral agreements. Fare levels in the Community are also influenced, and quite rightly so, by social, environmental and safety considerations.

Notwithstanding these factors, a more flexible fare structure is essential. Admittedly, there is a great variety of fares on offer and such variety is desirable to suit the needs and the pockets of the different categories of users. However, while there is an abundance of fares on certain routes, on others the choice is extremely limited. As a general principle, it is necessary to introduce a far wider range of cheap fares within the Community. The following are some of the measures which would make for a more flexible fare structure:

- the introduction of special tariffs on condition that the fare is paid in advance,
- the introduction of an off-season tariff,

- the introduction of a ticket covering the journey alone, without additional services,
- the creation of a European round-trip ticket,
- the general application of standby tariffs.

(c) The elimination of technical and administrative barriers to air transport

11. The list of priority objectives adopted by the Council in June 1978 include: the establishment of common rules to restrict the emission of pollutants by aircraft, the application of uniform technical standards for aircraft, the mutual recognition of licences (for air crews and ground staff) and improvements in the working conditions of airline personnel. The administrative and technical differences between the regulations of the Member States have tended to push up costs and create distortions of competition. It is to be hoped, therefore, that the Commission will be able to make some progress towards the attainment of its objectives as soon as possible.

The Commission is currently engaged on a study - primarily in connection with its multiannual programme for the achievement of the customs union and fiscal harmonization - of the means necessary to simplify the procedures followed with regard to the international transport of goods. It is also preparing measures applicable to passenger traffic. Lastly, it has proposed to the Council that it should consider the possibility of harmonizing technical standards for aircraft, which would help to reduce substantially air-line development costs.

The creation of a more flexible tariff structure and, more generally, the liberalization of the conditions of access to the market and elimination of technical barriers could well deter abuses of dominant positions, while encouraging the lowering of tariffs and the elimination of the obstacles that persist owing to the right of veto of the Member States. These, then, are some of the preconditions of a competitive air transport industry.

III. PROCEDURES FOR IMPLEMENTING THE COMPETITION RULES IN THE AIR TRANSPORT SECTOR

(a) The disadvantages of total competition

12. In its judgment of 4 April 1974 the Court of Justice of the European Communities rightly concluded that the competition rules contained in the EEC Treaty apply in particular to air transport. The rules on competition

cannot, however, be applied immediately and without safeguards to this sector because of its extreme complexity. Moreover, the Community's air transport industry brings into play a multitude of conflicting interests: those of travellers, the various regions and the communities located in the vicinity of airports, for instance. Furthermore, as the memorandum points out, the state has a monopoly interest in the air transport sector, whose activities are closely bound up with those of the aeronautical industry. Finally, far from being the sole province of the Community, air transport services are inseparably bound up with international relations and inevitably affect and are affected by the multilateralization scheme which IATA can play an important part in promoting.

It is apparent, therefore, that the application of the rules on competition to the air transport sector calls for special procedures. To allow total and unbridled competition would simply jeopardize air safety, the future of airline personnel and the competitiveness of air transport in the Community. Indeed, an excessive liberalization of the Community market could seriously detract from the competitive position of European carriers on the intercontinental market.

(b) Procedures for increasing competition in air transport

13. The application of the rules on competition to air transport would have to be a flexible and progressive process.

- exceptions to the application of the rules on competition:

The Commission memorandum rightly points out that companies which are responsible for the management of services of general economic interest and which are unlikely to pursue an independent commercial policy should be entitled to individual exemption from certain provisions that are not consistent with the customary criteria applicable to the rules on competition.

Similarly, it is highly desirable for the Commission to define - as is its declared intention - a common approach to the application of Articles 92 and 93 of the EEC Treaty concerning the grant of State aids, since these aids are admissible only when deemed to be in the common interest, i.e. when they help provide a public service. Public service schemes are essential, particularly insofar as they relate to regional development, to which air services can make a substantial contribution.

- the progressive establishment of the rules of competition:

The introduction of greater competitiveness in the air transport sector will have to be a gradual process to allow the airlines to adjust. It is with this in mind that the memorandum recommends controls over the issue of air traffic licences. Furthermore, some time will have to elapse before the rules concerning the right of establishment (see Article 52 of the Treaty) can be implemented, even though they are directly relevant to the air transport sector.

(c) Legal machinery necessary for applying the rules on competition

14. The Commission has repeatedly pointed out that it does not possess the legal instruments required to enforce compliance with the competition rules laid down by the Treaties. Only the transitional provision of Article 89 of the EEC Treaty allows the Commission to investigate, at the request of a Member State or on its own initiative, cases of suspected infringement of the rules in question. However, there are no arrangements for penalizing and, hence, putting a rapid end to illegal practices. To make good this deficiency, the Commission must therefore adopt an implementing regulation laying down the procedures, the decision-making powers and the sanctions needed to ensure compliance with the rules on competition applicable to air transport services. This regulation, which would apply to private undertakings and to those public undertakings able to pursue an independent commercial policy, would enable proceedings to be instituted in all cases of illicit agreements or abuses of a dominant position on the air transport markets, where the liability of the State concerned was not proven.

In the case of services predominantly under State control, greater competition will ensue from the measures adopted with a view to opening up the markets and creating more flexibility in the structures of the civil aviation industry.

As the Commission itself makes clear, it will also have to draw up proposals for the coordination of State aids to air transport companies. It should be added that these transactions will inevitably be affected by the forthcoming proposal for a regulation concerning the transparency of financial dealings between the Member States and public undertakings.

IV. CONCLUSIONS

15. It is essential to eliminate restrictions of competition in the air transport sector, but with the following objectives in mind: maximum protection of consumers, satisfactory arrangements for air crews and ground staff, who must be consulted, and increased productivity in the airline companies. The present lack of competition is not merely damaging to the interests of consumers; it also adversely affects the competitiveness of the air transport industry and the European economy as a whole.

It will be realized that the aim of making air transport in the Community a more vitally competitive industry really calls for the implementation of a common air transport policy. The Member States must reach agreement on common objectives, for otherwise no proper basis will exist for a thorough appraisal for the development of air transport over the next few decades. This also holds true for the aircraft construction industry, since the placing of orders for aircraft is closely bound up with decisions relating to routes and capacity.

Concurrently with the liberalization of the Community market, negotiations would have to be held within the relevant international bodies with a view to protecting the interests of the Community vis-à-vis third countries. Community solutions would have to be found to problems such as the saturation of certain air zones and air corridors, which can be harmful to competition, or the establishment of landing rights. Incidental though it may seem in the present context, there is, finally, the crucial problem of the rising price of energy, which will exert an obvious influence over future decisions concerning transport.

To find satisfactory solutions to these various problems, which bring conflicting interests to the fore, challenge established customs and compel close coordination by the national administrations and the Commission of their respective services, will be a formidable task - a task that calls for the utmost cooperation from the European Parliament.

ANNEX

MOTION FOR A RESOLUTION (Doc. 235/78)

tabled by Mr KOFOED

pursuant to Rule 25 of the Rules of Procedure

on restrictions of competition in the air transport sector

The European Parliament,

- having regard to the fact that the rules on competition laid down in Articles 85-93 of the EEC Treaty also apply to air transport,
 - mindful of the fact that the Commission is in the process of drawing up detailed rules for the aviation sector,
 - having regard to complaints about restrictions of competition in favour of the scheduled airlines,
1. Recognizes the need for reliable and safe scheduled air services but considers fares for scheduled services within the Community generally to be unreasonably high when compared, for example, with the situation in the USA;
 2. Feels that competition is being undermined by the existence of innumerable differing fare schemes;
 3. Is of the opinion that, in the charter sector, government-controlled airline companies appear to enjoy special advantages in the matter of taxes, subsidies, flying concessions, etc., when compared with certain private aviation companies;
 4. Wishes to strengthen the links between the Member States in the field of transport;
 5. Notes the growing need for international travel;
 6. Opposes a situation where the losses incurred in operating the Atlantic routes are passed on to users of the Community's internal routes;
 7. Feels that, within the Community, the organizational efficiency of the scheduled airlines is substantially lower than in the USA;
 8. Notes with regret the absence in the Community both of a common aviation policy and of effective cooperation between the Member States in this field;

9. Calls for increased collaboration in the aviation industry;
10. Requests the Commission to carry out as soon as possible a survey of the competition situation in the aviation sector;
11. Requests the Commission, wherever discrimination can be observed on the basis of existing data, to ensure equal competition between publicly-owned and private airlines, particularly as regards charter companies;
12. Requests the Commission to draw up as soon as possible a comprehensive common aviation policy;
13. Urges the Commission to help create increased opportunities for the establishment of skytrain services within the Community;
14. Requests the Commission to report on its plans regarding aviation policy by submitting to the Council as soon as possible a communication on these plans and by passing this information to the European Parliament;
15. Instructs its President to forward this resolution to the Commission and the Council of the European Communities.

OPINION OF THE COMMITTEE ON TRANSPORT

Draftsman: Mr J. CORRIE

On 31 January 1979 the Committee on Regional Policy, Regional Planning and Transport appointed Mr Corrie draftsman of the opinion.

The committee considered the draft opinion at its meetings of 27 and 28 March 1979 and 24 April 1979 when it was adopted unanimously.

Present: Lord Bruce of Donington, chairman (deputizing for the rapporteur, Mr Corrie); Mr van Aerssen (deputizing for Mr Starke), Mr Bertrand (deputizing for Mr Ligios), Mr Brugger, Mr Fuchs, Mr Mascagni, Mr Noè, Mr Normanton (deputizing for Mrs Kellett-Bowman), Mr Schyns, Mr Tolman, Mr Wawrzik (deputizing for Mr McDonald).

1. In the course of preparing this opinion, the Committee on Regional Policy, Regional Planning and Transport had discussions with the following representatives of certain aspects of the air transport sector: Mr ERIKSEN, Secretary-General of the European Assembly of the International Air Carriers Association (EURACA); Mr PUGH, Managing Director of British Caledonian Airways; Mr RATTIER, Vice Director-General of Air France; Mr WELBURN, General Manager on Tariffs and Industry Affairs, British Airways; and Sir Freddie LAKER of Laker Airlines.

The draftsman would like to take this opportunity of expressing the gratitude of the committee to these gentlemen, whose evidence has made so important a contribution to this opinion.

2. The first thing which became clear to the committee from the evidence we heard was the immense complexity of the present structure of air fares. In addition to the well-known but still startling oddities such as it being only marginally more expensive to fly from London to Copenhagen via New York rather than directly, the Committee learned with surprise that British Airways alone stopped counting its different types of fare at one thousand and has, for example, sixty types of excursion and ten distinct ways of calculating the length of stay; in view of this, it is hardly surprising that it costs IATA one million dollars a year to publish their tariffs!

3. The committee also heard interesting evidence on the historical evolution of civil aviation since the Second World War, and it was argued that from the start emphasis was placed on cooperation rather than on competition in the interests of restarting the industry, which of course was only in its infancy. IATA was set up at the invitation of national governments, and a regulatory system was imposed on the airlines with a system of bi-lateral agreements and obligations on the airlines, such as maintaining a high frequency of operations.¹ A further, and very significant point is that after the war the fare structure was the simplest possible, consisting of only one class. Since then, this single class has remained the base line, as it were, and the fare structure has evolved by making reductions of various kinds from this base until a fares structure as complex as that described in paragraph 2 above has come into existence. Whether this structure is really for the convenience of the public is open to question, and it is certainly difficult for the ordinary passenger to gain easy access to information which might save him a considerable amount of money. The draftsman will return to this crucial point in paragraphs

¹ It would appear that in such bilateral agreements, detailed arrangements are made determining the frequency of operations, the number and types of aircraft, the tariffs etc. on a fifty-fifty basis between the respective airlines.

6 and 7 below. When it was suggested that a single fare structure would have considerable advantages, it was countered that there was such a wide range of consumers that a single simple facility would satisfy very few people. British Airways have, in fact, identified six main profiles of users with very different needs, ranging from the businessman who wants complete flexibility for his travel arrangements, to the grandmother who may have made arrangements to visit her grandchildren in another continent a long time in advance, and who requires cheapness rather than flexibility. Against this, it was pointed out by Sir Freddie Laker that only 14% of all air travellers book tickets less than fourteen days before departure.

4. Naturally, in view of the terms of Mr Kofoed's motion for a resolution, the committee paid particular attention to the high cost of air travel in Europe, and the following points summarise the reasons for this as put forward by our witnesses.

In the first place, as far as travel in Europe is concerned, the short distances, the large number of landings and take-offs, the smaller size of aircraft as compared with air travel in the United States mean that costs are bound to be far higher in Europe than they are in America. In addition, the particular geopolitical situation in Europe has no relationship to that of the United States; a situation that could surely be partially remedied within the Community if a genuine common air transport policy were created. (see paragraph 12 below).

Secondly, it was argued that in real terms the cost of air travel in Europe has in fact fallen by 25% since 1965, but there was general agreement that while significant economies could be affected by the use of wide-bodied airplanes, most European routes did not have enough passengers to justify their use.

It was clear that the representatives of the regular airlines did not feel that any substantial reduction of European fares was possible, given the factors mentioned above. On the other hand, the independent operator, Sir Freddie Laker, stated that if he were able to operate, for example, on the London-Paris route, he would be able to do so offering very much lower fares than those at present being asked.

5. The explanation for this disparity in the view of the representatives of the IATA airlines was that they feel obliged to offer frequent services and to operate uneconomic routes, and that they offer a range of services which are not provided by independent operators, who also are not obliged by the constraints which are imposed on the IATA operators by national governments.

6. It is at this stage that the draftsman wishes to return to the point touched on in paragraph 3 above, concerning the present fare structure. It was pointed out there that air fares are based on a certain price and that reductions are made from the base price according to a very wide range of circumstances.

7. The Committee on Regional Policy, Regional Planning and Transport believes that this structure is the wrong way around, and that a considerable improvement would be achieved by inverting it, so that the basic price was the lowest possible economic price per passenger kilometre, and that passengers who wished particular services such as booking on a certain flight, interchangeability of tickets, money back on tickets not used and so on, would pay extra for those particular services. It is significant that the Laker Skytrain service across the Atlantic is becoming more sophisticated in the services it offers, but this is on the basis of the passenger paying for what is extra to the basic service. The Committee feels that this is altogether a more equitable system, and is, moreover, one which would encourage more people to make use of air travel, and they therefore urge the regular airlines to give very serious consideration to the possibility of structuring their fares in this way.

8. Even if, as the Committee on Regional Policy, Regional Planning and Transport believes to be the case, it would be possible to make considerable improvements to the present fare structure in Europe by means of a radical re-assessment of the way in which it is structured, this would not in itself solve all the problems raised in Mr KOFOED's motion for a resolution. The preamble to the resolution reads: '- having regard to the fact that the rules on competition laid down in Articles 85-93 of the EEC Treaty also apply to air transport'. The draftsman associates himself entirely with this statement, but at the same time the risks of disorder which a completely deregulated system would bring about in this sector must be born in mind, even if they should not be exaggerated, bearing in mind experience in the United States since the Airline Deregulation Act of 1978.

9. It has already been pointed out in paragraph 3 above that the basis of the development of international civil aviation in the post-war period was cooperation rather than competition,¹ and that the present regulating system and the use of bilateral agreements on scheduled services are part of this historical development. It was suggested to us by the representative of British Caledonian Airways that widescale deregulation in

¹ According to Sir Freddie Laker, real competition between national airlines only exists in the meals they offer and the expensive prestige offices they have in the main streets of the main towns and cities.

Europe would in the short run result in lower fare charges, but that the fall in price would lead to a need for increased load factors which might not be achieved, and would necessitate government subsidies to cover the risk of failures by the carriers, on the abandonment, for example, of marginal off-peak services. In short, it was argued that the removal of price controls might in the long run lead to price increases.

10. There may well be some truth in this argument, but it would need to be tested by experience and the Committee on Regional Policy, Regional Planning and Transport does not believe that this experience can be had without there being an element of real competition. While it was stated that independent carriers, such as Sir Freddie Laker, can operate cheaper fares on specific routes and under specific circumstances, it was accepted that the regular carriers can and have in fact reacted to such competition. While the committee was given an eloquent account of the difficulties which British Airways experienced within IATA over a number of years before they were able to introduce low-cost APEX fares on the transatlantic routes in 1978, it is surely no coincidence that the major airlines introduced low fares very quickly after the Skytrain service had started, though of course factors such as the change of attitude of the American administration also have to be borne in mind. Without effective competition, the draftsman does not believe that the national airlines will have a sufficient inducement to seek means of lowering their fares.

11. Put very simply, the case of the representatives of the airline companies which are members of IATA might be summarised as follows: the national airlines are charged with duties, which go far beyond that of simply making a profit; there has to be a high 'social content' in the services they offer, and this invariably means a level of air fares which has to be high enough to support non-economic activities, such as operating on marginal routes. They accept that there is plenty of room for improvement, but they stress that the hands of the airlines themselves are largely tied by the governments who are, for example, the contracting parties to bilateral agreements rather than the airlines themselves; on the other hand, it was stressed that it was the duty of the airlines to operate as profitably as possible in terms of the mandate they were given. Finally, change if and when it comes should be evolutionary rather than revolutionary.

12. When the representative of the Commission asked for their reaction to the Commission's proposal that a European Authority for the Regulation of Civil Aviation should be established in such fields as licensing and

the overseeing of tariffs in place of the present national authorities, the response of the representatives of Air France and British Caledonian Airways was that this was essentially a political problem, and that though the airlines could adapt to it, it would change neither the specific nature of the problems of European aviation nor the costs. This reaction was perhaps somewhat negative, and the committee believes that real advantages could follow from a more concerted approach than exists at present.

13. This is an important point because it would seem clear that a totally deregulated market with unlimited competition might well prove inoperable.¹ On the other hand, the present structure of the European civil aviation sector is undoubtedly over-regulated and suffers from lack of genuine competition. Quite apart from the benefit of differences of scale, the United States system would appear to benefit from the advantages of free competition. The committee believes, therefore, that a European Regulatory Authority in place of a number of national systems could prove of advantage, provided (a) that it was based on a system of free and fair competition, which would be subject to reasonable supervision, and (b) that part of its duties was to ensure an orderly market system to protect both the consumer and the operator.

14. On the other hand, it is quite clear that the present system has many critics, and that the public at large is not satisfied by the level of fares demanded. From the point of view of an independent operator who freely admits to being in the aviation business to make a profit, one answer is clear, namely that subsidies should only be paid to airlines at the point of need, and not on a blanket basis; in effect, it was suggested that 95% of passengers are at present being penalised to provide a social service for 5%; this figure may well be an exaggeration and it might be more realistic to suggest that 60% of air passengers are subsidising the remaining 40%. Air services, in this light, should not be considered as social services, though it should be accepted that for certain reasons, in certain cases, such as for example, the Shetland Islands or Northern Ireland, a very good case could be made out on both social and economic grounds for subsidising specific routes in the interest of the development of a region. Indeed, the Committee on Regional Policy, Regional Planning and Transport is convinced that there is a moral obligation on Member States to provide some form of subsidy for all types of transport costs if they can be shown to be damaging to the development of a region and if such subsidies are compatible with Articles 80 and 85 to 93 of the EEC Treaty.

¹

It is however clear that even with unlimited competition there is bound to be a threshold below which air fares cannot fall. The draftsman is, however, suggesting that it is at, or near, this threshold that the basic calculation of air fares should be made.

15. By and large, however, your draftsman believes that the best solution is to allow for a measure of competition on certain air routes; the type of competition permitted might vary from totally free to being subjected to various limitations such as offering a special type of service, operating at certain times and so on. This, though, should be seen as a first, cautious step, and ultimately a much freer type of competition should be envisaged, subject always to reasonable supervision. Inevitably, this will mean that a different type of service will be offered, and if the prices are very much lower, it will probably be at the price of the traditional range of services which the national airlines have offered. This will undoubtedly induce the scheduled airlines to look again at their tariffs and at the services they are offering, and the passenger is likely to benefit.

From the evidence it has heard, the committee believes that the operators do in fact recognise that changes in a system that originated in the 1940's are needed for the 1980's; some of the changes may have to be revolutionary; others should certainly be evolutionary, but without free competition change will be minimal and will come about very slowly.

16. It is conceivable that a completely deregulated market might lead to a chaotic situation, but it is not necessary to have complete deregulation. What is needed is simplification and flexibility. The advantages of free competition should be in the public interest, since it is likely in the long run that independent operators will work routes and provide types of service which the national airlines are unwilling or unable to do, while at the same time the threat of the independent operator will help to bring prices down to a minimum on many scheduled routes. There is surely room for both the national airline and the private operator, and competition can only be in the general interest.

17. Finally, the Committee on Regional Policy, Regional Planning and Transport in submitting this opinion to the Committee on Economic and Monetary Affairs would again draw particular attention to the need to give very careful consideration to the whole basis on which air fares are calculated as a preliminary to the other changes which will come about with effective competition.

