

Press Releases

LCQ3: Reduction in commission for travel agents by airlines

Following is a question by the Hon Paul Tse and a reply by the Secretary for Transport and Housing, Ms Eva Cheng, at the Legislative Council meeting today (November 4):

Question:

It is learnt that Air France (AF) and KLM Royal Dutch Airlines (KLM) have since October 1, 2009 reduced the commission paid to travel agents in Hong Kong in respect of air tickets sold from 5% to 3%, and plan to reduce such commission further to zero starting from April 1, 2010. According to the respective Air Services Agreements between the HKSAR Government and the French and Dutch Governments, airlines' tariffs (including airfares and commissions paid by airlines to the agents selling air tickets for them) are subject to the approval of the Civil Aviation Department (CAD) of Hong Kong. In this connection, will the Government inform this Council:

(a) whether CAD has received, vetted and approved applications from AF and KLM for the aforesaid reduction in commission paid in respect of air tickets sold or for the relevant airfare adjustment; if it has, of the reasons for CAD to approve the applications concerned by AF and KLM; in the course of vetting and approving applications, whether it has considered that the reduction in commission paid in respect of air tickets sold would deal a heavy blow to registered travel agents in Hong Kong and that consumers may need to pay additional service charges to travel agents as a result; if it has not received the applications concerned, whether CAD will take the initiative to request AF and KLM to submit applications, in order that the reasonable returns of travel agents and consumers' interests are protected;

(b) whether CAD has formulated policies, procedures and measures in respect of vetting and approving applications concerning airlines' tariffs, and whether it has set up any redress mechanism, so as to enable travel agents to lodge complaints about the commission paid in respect of air tickets sold; if it has, of the specific handling procedure and steps; if not, whether it can set up such a mechanism expeditiously; and

(c) whether it has assessed the specific impact of the reduction in commission by AF and KLM and other airlines following suit in the future on the travel agent sector and consumers in Hong Kong; if it has, of the relevant impact; if it has not, whether it will conduct such an assessment immediately?

Reply:

President,

(a) At present, the air services provided by airlines between Hong Kong and other areas are governed by the bilateral Air Services Agreements (ASAs) that Hong Kong has entered into with its aviation partners (including France and the Netherlands). The purpose of the ASAs is to promote the development of air services between the respective areas and to provide a legal basis for such services. The ASAs provide for the principles, policies, regulatory framework and the specific operational arrangements and requirements concerning the provision of air services, as well as requirements concerning aviation safety, security and related matters.

On economic regulation, the ASAs generally specify the principle for operating the agreed services, i.e., there shall be fair and equal opportunity for the airlines of both Contracting Parties to operate the agreed services on the specified routes. The ASAs further provide that the designated airlines of a Contracting Party should avoid affecting unduly the services provided by the designated airlines of the other Contracting Party on the same routes. The ASAs also provide for the taking of necessary measures by the aeronautical authorities of the Contracting Parties to ensure that the airlines of both sides will provide scheduled air services on a fair basis and having regard to the interests of passengers, with a view to promoting the development of tourism, economic and trade ties between the two areas.

According to the ASAs, the tariffs to be charged by the airlines for air services (including the fares charged for the carriage of passengers, the rates charged for the carriage of cargo, the charges and conditions for services ancillary to the carriage, and the rate of commission paid to an agent in respect of air tickets sold for carriage on scheduled air services) shall be those approved by the aeronautical authorities of both Contracting Parties and shall be established at reasonable levels, due regard being had to all relevant factors. Such requirements aim to prevent airlines of either Contracting Party from adopting such practices as dumping and discriminatory or predatory pricing, which distort normal market operations and affect air services, to the extent of adversely affecting the interests of passengers.

Air France (AF) and KLM Royal Dutch Airlines (KLM) applied to the Civil Aviation Department (CAD) in August 2009 to reduce the rate of commission payable to travel agents from 5% to 3% with effect from October 1, 2009. CAD approved the applications in accordance with the ASAs, having regard to the justifications provided by the airlines and relevant factors.

As the mechanism and remuneration arrangements concerning the sale of tickets are a commercial matter to be decided between the airlines and travel agents, it should be determined by the airlines and travel agents. Hence, CAD will not take the initiative to intervene by asking the airlines to apply for any proposed adjustment of commission.

As for passengers, it is a commercial decision of individual travel agents as to whether they would impose a service charge on passengers following the reduction in the rate of commission by the above two airlines. Passengers may choose to purchase air tickets through travel agents or other channels (such as the websites of the airlines) as they see fit.

(b) The ASAs have provided for the policies, procedures and measures for handling tariff applications. Generally speaking, airlines are required to file their tariff applications with the relevant aeronautical authorities not less than 60 days before the proposed effective date of the new tariffs. The aeronautical authorities concerned will consider the applications in accordance with the ASAs, taking into account the relevant factors. The proposed tariffs may be approved by the aeronautical authorities of either Contracting Party at any time and shall be deemed to have been approved unless, within 30 days after the date of filing, the aeronautical authorities of either Contracting Party raises objection.

According to the ASAs, the aeronautical authorities of both Contracting Parties shall use their best endeavours to ensure that airlines conform to the tariffs approved and that no airline rebates any portion of such tariffs by any means,

directly or indirectly. Hence, should airlines fail to pay travel agents commission at the approved rate, the latter may lodge a complaint with CAD.

(c) Individual airlines will set their tariffs, including the rate of commission for travel agents, based on their own circumstances. The impact of a reduction in the air ticket commission on travel agents and consumers depends on whether the airlines will alter the modes of distributing and selling air tickets, travel agents' responses to the change, channels for consumers to buy air tickets and the choices of airlines and flight routes available to consumers. We are not in a position to predict if other airlines would follow the example of some airlines to reduce the rate of commission. Hence we are unable to make an assessment.

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