

DIARY DATES

IATA LEGAL SYMPOSIUM 2014

23-25 February 2014
San Francisco – USA
Laura Pierallini, Speaker

EAC, IIASL, LEIDEN UNIVERSITY, TEAM AVIATION SOLUTION - AIR TRANSPORT CONFERENCE

26-27 March 2014
Bucharest – Romania
Laura Pierallini, Speaker

LEIDEN SARIN INTERNATIONAL AIR LAW MOOT COURT

27-30 March 2014
Bucharest - Romania
Laura Pierallini, Judge

CONFERENCE ON “THE NEXT CHALLENGES FOR THE AIRLINE INDUSTRY: HOW TO FACE THE ECONOMIC CRISIS WITH A FOCUS ON PASSENGER RIGHTS’ PROTECTION”

organized by Studio Pierallini and LUISS University
15 May 2014, Rome – Italy

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COMPETITION AUTHORITY WEIGHS IN ON REGIONAL AIRCRAFT NOISE TAX

By Caterina Pesci

Recently, the Italian Competition Authority (Autorità Garante della Concorrenza e del Mercato) responded to concerns raised by the Italian Air Carriers Association (Assaereo), the Italian Airports Association (Assaeroporti) and Società Aeroporti di Roma S.p.A. (the management company of Rome’s Ciampino and Fiumicino airports) on the new regional tax on aircraft, issuing a communication to the Parliament and the Government under the Competition and Fair Trading Act (Law no. 287/1990), specifically regarding the competition distortions caused by the tax implementation.

The Authority noted that certain material differences in the assessment and collection of the tax in each region were not justified on technical or geographical grounds, but were merely due to a lack of proper coordination among the regions. As a consequence, such differences will inevitably and unjustifiably alter the investment return conditions of the air carriers operating in different airports. The

Authority further noticed that these circumstances will clearly have distortive consequences for competition among sector operators, as well as negative effects for passengers. Moreover, in its communication the Authority considered other important weaknesses of the regional tax regime, such as the lack of efficiency ratio in the parameters of tax calculation and collection. For instance, unlike the law of other EU member states, the Italian tax regime does not take into account the particular urban characteristics of each airport, the actual noise level of specific aircraft and the distinction between day-time and night-time flights.

In addition, the new tax does not seem to comply with its main purpose, as in some regions (e.g. Lazio) only 10% of the collected amount is assigned to the management of the social costs arising from aircraft noise (e.g. airport monitoring systems, anti-pollution measures and indemnification of communities affected by aircraft acoustic pollution). Finally, the Authority also suggested measures to be adopted at a national level to remove the risk of competition distortion and uniform standards for the implementation of the tax across the regions.

Such criteria should set the tax level on the basis of the type/characteristics of aircraft, so to avoid arbitrary discriminations among airports and air carriers. The suggested measures should be also combined with adequate provisions to ensure that the tax revenues be mainly allocated for noise decrease instruments (i.e. the intended purpose of the tax) and to accordingly justify the negative impact on the aviation sector competitiveness.

COMPLETION OF ALITALIA'S SHARE CAPITAL INCREASE

By Francesco Grassetti

By official press release Alitalia informed that the increase of share capital resolved in late 2013 was satisfactorily completed up to the amount of Euro 300 million, plus the conversion into share capital of approximately further 91 million as bond loan. As a consequence of the said operation, the new shareholding structure of the Italian leading carrier is composed by the following main shareholders: the major Italian banks Intesa San Paolo (20,59%) and Unicredit (12,99%), Immsi (10,19%), Atlantia (7,44%), Air France/KLM (7,08%) and Poste S.p.A. (19,48%), the national provider of postal services (owned by the Ministry of Economy and Finance) which injected around Euro 75 million after the decision of certain shareholders not to exert their first refusal rights on the new shares issued by the company.

It is remarkable that Air France-KLM, due to its decision not to take part to the subject share capital increase, had its stake reduced at 7,08% (compared to the previous 25% of shares held until few months ago, which resulted in the said player being the largest Alitalia's shareholder). According to the media, the position taken by Air France/KLM is a consequence of disagreements relating to the new business plan recently approved by Alitalia's BoD, providing for, inter alia, the implementation of costs savings, the reduction of mid-range routes, in favour of long-haul ones, and an improved fleet management.

Besides to the share capital increase, the Italian carrier resolved certain amendments to the company By-Laws and appointed the new BoD, now composed of 11 members representing the modified shareholding structure.

The above scenario may change in the following months, should the rumors concerning pending discussions between Alitalia and Etihad for a prospective investment of the Gulf fast-growing carrier in the Italian company (it is reported up to Euro 350 million for the 49% of the shares) be confirmed by the future events.

MISCELLANEOUS MATERIAL OF INTEREST:

AGUSTAWESTLAND AWARDED CONTRACTS BY THE UK MINISTRY OF DEFENCE

By Gianluigi Ascenzi

On 29 January 2014, AgustaWestland (a Finmeccanica company) has announced the award of two contracts by the UK Ministry of Defence, together valued at £ 760 million (approximately Euro 910 million), to convert 25 AW101 Merlin helicopters for maritime operations under the Merlin Life Sustainment Programme (MLSP) and to provide the Apache AH Mk. 1 Attack Helicopter fleet with comprehensive support and maintenance services for five years.

EASA REPORTED 2013 AS THE BEST SAFETY RECORD IN THE AVIATION INDUSTRY

By Marco Marchegiani

The European Aviation Safety Agency communicated that 2013 marked significant improvements for global aviation safety. Indeed, fatal accidents worldwide involving large commercial aircraft were lower in the past year than any other year in the last decade. Most notable, there were no fatal accidents involving large commercial aircraft in EASA member States, with approximately 6 million flights transporting over 800 million passengers.

THE NEXT CHALLENGES FOR THE AIRLINE INDUSTRY: HOW TO FACE THE ECONOMIC CRISIS WITH A FOCUS ON PASSENGER RIGHTS' PROTECTION

By Giuditta Gori

Experts, regulators, international and domestic operators, will discuss on topics concerning the next challenges for the airline industry, including the prospected revision of (EC) Regulation No. 261/2004 and related passenger rights protection, airline industry crisis and future developments, during a conference organized by University LUISS Guido Carli (the Italian university for law and economics studies promoted by the association of Italian manufacturing and services companies, "Confindustria") and Studio Pierallini.

Under the overall theme, the one day conference programme will be driven by the following key themes: 1) Airline Industry Crisis, the Role of Regulators; 2) Consequences of Airline Insolvency and Remedies; 3) Prospected Revision of Regulation 261/2004 and Related Passenger Rights' Protection; 4) Operators' Roundtable.