

WHAT'S RELEVANT

**SALVATORE SCIACCHITANO ELECTED
NEW PRESIDENT OF ICAO COUNCIL FOR A
THREE-YEAR TERM FROM JANUARY 2020**

DIARY DATES

**CELEBRATION OF THE 75TH ANNIVERSARY OF
THE CHICAGO CONVENTION AND ICAO**

7 December 2019
Rome, Italy
Laura Pierallini, organiser

**THE EUROPEAN AVIATION CLUB
CONFERENCE**

16 December 2019
Brussels, Belgium
Laura Pierallini, speaker

EUROPEAN BUSINESS AVIATION ASSOCIATION

Air Ops Europe 2020
4-5 February 2020
Brussels, Belgium
Laura Pierallini, speaker

IATA LEGAL SYMPOSIUM

19-21 February 2020
New York, USA
Studio Pierallini, sponsor

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**HAND BAGGAGE – RECENT DECISION AGAINST
THE ITALIAN ANTITRUST AUTHORITY**

By Marco Marchegiani

On 29 October 2019, the Administrative Court of Lazio (the ‘TAR’) upheld the challenge of Wizz Air and cancelled the fines imposed by the Italian Competition Authority (the ‘AGCM’) to the airline for the hand baggage policy implemented on 1st November 2018.

The above policy provides that only a “small” hand baggage (i.e. up to 40x30x20 cm), to be stored under the passenger seat, is allowed on board free of charge, while for the larger hand baggage (i.e. up to 55x40x23 cm) an extra-fee has to be paid.

The investigation started by the AGCM, which led to the fine then cancelled by the TAR, concerned the allegedly misleading representation to consumers of the basic fare for air transport services offered by Wizz Air on its website.

In particular, according to the AGCM, following the entry into force of the new hand baggage policy, a predictable and non-avoidable charge, namely the cost for bringing on board a trolley of standard dimensions was no longer included in the final price of the air transport service. As a result, the AGCM found the said policy capable to

provide a false representation of the actual ticket cost as well as deceptive as to the characteristics and price of the air transport service offered to passengers and contrary to the standards of professional diligence

Based on the arguments raised by Wizz Air against the foregoing decision, the TAR found that the AGCM did not qualify the airline’s practice as unfair with regard to the way the ticket cost was presented, but that the issue raised by the Italian authority was rather related to the qualification of the hand baggage as a ‘unavoidable and foreseeable item’ to be included in the price of the air transport service.

According to the TAR, none of the elements provided by the AGCM show that the airline prevented passengers from bringing a hand baggage on board, imposing limits only on its size and not its weight, thus, in compliance with the Court of Justice decision in the Vueling case C-487/12.

Therefore, in absence of a general tariff regulation setting specific minimum measures, the TAR held that the airline was permitted to assess the reasonableness of the baggage size and to charge a cost element accordingly. Besides the TAR highlighted that the AGCM decision did not

contain any detailed comparison between the fares of all other airlines and those of Wizz Air for each individual route in order to find if any difference was in existence obliging the consumer to make a specific choice.

Finally, the lack of professional diligence contested by the AGCM to the airline was found not to exist, as the hand baggage policy was clear in pointing out since the very beginning the dimensions of the hand luggage allowed.

The consumers were not, as a result, required to perform any complex logical-mathematical operation to identify the final price of the ticket, since its calculation was fully illustrated also with regard to the embarkation of a second large baggage.

Therefore, the TAR upheld the airline's challenge and annulled the fine imposed by the AGCM.

ENAC - NEW DRONE REGULATION

By Francesco Paolo Ballirano

On last 11 November, ENAC approved the new drone regulation which will make easier the transition period to the new European basic regulation (EU Regulation 1139/2018), which will be applicable starting from July 2020.

Although the European legislation has already outlined a clear picture of the rules that will be definitively operational in the next few years, it tends to safeguard the prerogatives and rights acquired by the operators in the period before the entry into force of the European "drones package". Pursuant to Article 20 of the Commission Implementing Regulation EU No. 947/2019, non-homebuilt drones can continue to be used if placed on the market by 1st July 2022 in sub-category A1 (if having a maximum take-off weight less than 250g) or in category A3 (if having a maximum take-off weight of less than 25kg).

Article 21 sets forth the discipline for the transfer of the authorizations issued by each Member States under the respective national regulations to the new ones issued by EASA. The authorizations issued to UAS operators, the certificates of remote pilot competency and their UAS operator authorizations or declarations, or equivalent documents, issued on the basis of national law, remain in force until 1st July 2021. Starting from such date, Member States shall convert the nationally issued certificates in accordance with the provisions of the European legislation.

In that regard, the new Drone Regulation of ENAC, in strict compliance with the provisions laid down at European level, provides that «the certificates obtained on the basis of the national regulation maintain their validity until 1st July 2021. If their natural expiry (five years) takes place before that

date, the provisions foreseen by Regulation EU No. 947/2019, whose date of application is 1st July 2020, will be applied for the renewal. Should that expiry of the five years falls beyond the 1st July 2021, the certificates will be converted by ENAC with a certification of competency in accordance with the provisions of the Regulation EU No. 947/2019» (article 37).

The new European legislation will then become fully effective in a year and a half, a period of time granted to operators and manufacturers to get familiar with the new rules.

IATA – COMPETITIVE CONDITIONS FOR AN EFFICIENT ITALIAN MARKET

By Laura Pierallini

IATA has recently published a report on the situation of the Italian air transport market, focusing on the development that would result should conditions of greater efficiency be applied. IATA noticed that civil aviation is competitive in terms of air transport support, but airport taxes and passenger ticket taxes make Italy the seventh most expensive country on a continental level. A critical figure either in terms of market and tourism which adversely impact the attractiveness of our country.

Focusing on the issues affecting Italy, IATA pointed out that the costs for leisure and business passengers make Italy more expensive as a destination for business and less attractive for tourism. In order to maximize the economic and social benefits obtainable, IATA strongly recommends reducing the "Municipal Tax" and avoiding adopting a tax on negative externalities created by aircraft noise. Italy is also recommended to focus on the modernization of national strategies on airspace and above all to ensure a transparent and correct application of airport tariffs in line with international best practices.

Furthermore, given that export of productive enterprises, services and tourism largely depends on air transport, a reduction of the applicable taxes by the Italian government would generate the conditions for an improvement and a growth of the market as well as a betterment of air transport sector efficiency.

Also of interest is that Italian air transport currently generates 714 thousand employees and contributes for 46 billion Euros to the Italian economy, equal to 2.7% of Gross Domestic Product. Significant data for the Italian market, that - should the Government adopt some of the corrective measure described above - could lead to creating additional 200 thousand jobs and almost 20 billion Euros of GDP increase by 2037.