

Smart Skies, Legal Horizons

The Developing Landscape of Aviation Regulations - A two-day, international conference connected to the activities of the Air Transport Observatory of the Luiss School of Law in collaboration with ENAC.

12 June 2025

The Dome 2, Luiss Campus at Viale Romania 32, Rome

5:00 pm Registration and Welcome Coffee

5:30 pm Opening Speeches

Aristide Police Dean, Luiss School of Law and Professor of Administrative Law, Luiss University, Italy

Laura Pierallini Name Partner at Pierallini Studio Legale, Luiss University, Italy

5:50 pm Navigating Aviation Disputes Along Italian and European Waves

David Bartlett Legal Solution Provider at Aerial, United Kingdom

Cyril-Igor Grigorieff Partner at Bournonville Grigorieff and Adjunct Professor of Air Law, Université Paris Saclay

Andreas Zettergren Partner at Mannheimer Swartling, Sweden

Diego Ferrari Senior Partner at Cambiaso & Ferrari, Argentina

Gabriella Muscolo Of Counsel at Rucellai & Raffaelli Studio Legale, former Judge at the Court of Rome and former Commissioner at the Italian Antitrust Authority - AGCM - Autorita' Garante della Concorrenza e del Mercato, Italy

Gianluigi Ascenzi Partner at Pierallini Studio Legale, Italy


Marco Marchegiani Partner at Pierallini Studio Legale, Italy

Roland Kuesters Senior Underwriter & Senior Legal Counsel, Syndic at Munich RE, Germany

RECENT DEVELOPMENTS OF THE ITALIAN COMPETITION AUTHORITY CASE LAW IN THE AVIATION SECTOR

Lawyer Gabriella Muscolo, Of Counsel Rucellai&Raffaelli

In recent years, the Italian Competition Authority (AGCM) has significantly intensified its enforcement and advocacy activities in the aviation sector.

Among the most relevant cases is case A568, which concluded with a finding of abuse of dominant position by Ryanair DAC. The airline had prevented online travel agencies from directly accessing its reservation system, thereby restricting supply and reducing transparency for consumers. The AGCM found that this practice amounted to an unjustified restriction of intermediation services, in breach of Article 102 TFEU 

Under AGCM decisions PS11865, PS11830, and PS11821 further intervention targeted unfair commercial practices adopted by Ryanair, easyJet, and Volotea in the post-pandemic context. The airlines were fined for promoting flights that were later cancelled or significantly altered, without providing adequate information to consumers and omitting the possibility of refunds or rebookings. These practices were found to violate the Consumer Code.² Notably, in February 2025, the TAR Lazio upheld the sanction imposed on easyJet, rejecting the airline's appeal and confirming the legitimacy of the AGCM's enforcement action.³

Another relevant case involved an investigation concluded in November 2024 against Ryanair, regarding the imposition of surcharges on passengers who did not print their boarding passes in advance. The conduct was deemed aggressive and misleading. By decision no. 31360/2024 (PS12689), the AGCM accepted binding commitments from the airline, including automatic reimbursements of up to €55 for affected consumers.⁴

In parallel with these enforcement actions in 2023, the AGCM launched a sector inquiry (IC56) into the functioning of the passenger air transport market on routes to and from Sicily and

¹ AGCM, Decision No. 30772 of 14 September 2023 – Case A568 “Ryanair – Online travel agencies”.
Available at:

<https://www.agcm.it/dotcmsCustom/getDominoAttach?urlStr=192.168.14.10%3A8080%2F41256297003874BD%2F0%2FE86F5E949BE2F054C1258A3500344CB2%2F%24File%2Fp30772.pdf>.

² AGCM, Decisions PS11865 (Ryanair), PS11830 (easyJet), PS11821 (Volotea) of 4 June 2021 – Unfair commercial practices post-COVID.

Available at:

<https://www.agcm.it/dotcmsCustom/getDominoAttach?urlStr=192.168.14.10%3A8080%2FC12560D000291394%2F0%2F54CACC5C721669EBC12586DF00532F03%2F%24File%2Fp29665.pdf> ;
<https://www.agcm.it/dotcmsdoc/bollettini/2021/21-21.pdf>.

³ TAR Lazio, Section I, Judgment No. 3151/2025, 15 February 2025, General Registry No. 202106884, ECLI:IT:TARLAZ:2025:3151SENT.

⁴ AGCM, Decision No. 31360 of 5 November 2024 – PS12689 “Ryanair – Ancillary service fees”.

Available at:

<https://www.agcm.it/dotcmsCustom/tc/2029/11/getDominoAttach?urlStr=81.126.91.44%3A8080%2FC12560D000291394%2F0%2FDAF463B27A4FF19BC1258BD900523DBE%2F%24File%2Fp31360.pdf>.

Sardinia, with a particular focus on the use of dynamic pricing algorithms. This initiative was prompted by a sharp increase in ticket prices during peak demand periods, raising concerns about the level of competition and the impact of automated pricing on consumer choices.

The preliminary findings, published in November 2024 by decision no. 31376, highlighted critical issues in the algorithmic strategies employed by leading carriers and called for enhanced public oversight and greater transparency in fare-setting mechanisms.⁵ The inquiry aligns with broader European scrutiny of AI-driven pricing in regulated digital markets.

In this evolving context in 2023, the Asset Decree (Law No. 136/2023)⁶ granted the Authority the power to adopt structural or behavioral measures following a sector inquiry under Article 12 of Law No. 287/1990⁷, where needed to eliminate market distortions in the aviation sector, even without a breach of Articles 101 or 102 TFEU.

On 29 January 2024⁸, the Council of State clarified that this new power is general and cross-sectoral, and should not be interpreted as limited to the aviation market, despite the decree's immediate context⁶. The AGCM's subsequent Communication of 13 May 2024⁹ laid down the procedural framework for the exercise of this power, structured in two distinct phases: an initial fact-finding phase, followed by a remedial phase. Importantly, the Communication also introduced the obligation to consult the relevant sector regulator before adopting binding remedies.

This so-called new competition tool (NCT) marks a significant paradigm shift in the Agency activity, aligning with the logic of ex ante regulation developed at EU level, but with general applicability beyond sector-specific regimes and no asymmetric nature.

The newly conferred power is not punitive in nature: it does not sanction unlawful conduct, but instead allows the Authority to intervene in structural distortions of competition, even when such distortions arise from lawful business practices¹⁰. This is particularly relevant in cases of tacit oligopolies, informational asymmetries, or non-transparent algorithmic pricing.

⁵ AGCM, Decision No. 31376 of 26 November 2024 – Sector inquiry IC56 on the use of pricing algorithms on routes to/from Sicily and Sardinia.
Available at: <https://www.agcm.it/.../p31376.pdf>.

⁶ Decree-Law No. 136 of 9 October 2023 (published in the Official Gazette No. 236, 09/10/2023), converted with amendments by Law No. 136/2023.
Available at: <https://www.gazzettaufficiale.it/eli/gu/2023/08/10/186/sg/pdf>.

⁷ Article 12 of Law No. 287/1990.

⁸ Council of State, First Chamber, Plenary Session, opinion No. 01388/2023.
Available at: https://portali.giustizia-amministrativa.it/portale/pages/istituzionale/visualizza?nodeRef=&schema=consul&nrg=202301388&nomeFile=202400061_27.html&subDir=Provvedimenti.

⁹ Communication on the application of Article 1, paragraph 5, of Decree-Law No. 104 of 10 August 2023, converted with amendments by Law No. 136 of 9 October 2023 – AGCM Decision No. 31190.

¹⁰ Digital Markets Act, Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828.
Available at: <https://eur-lex.europa.eu/eli/reg/2022/1925/oj/eng>.

The measures that the AGCM may impose—without any finding of illegality—can still significantly affect companies' economic freedom, by either limiting business conduct (behavioral remedies) or altering their market structure (structural remedies).