

Issue: Boycott by travel agents of Budget Travel

Relevant provision: Section 4, Competition Act 2002 and Article 81, EC Treaty

Outcome of investigation: Case closed in January 2007 when Travelsavers Educational Marketing Services Limited gave undertakings.

Outline of case

The Competition Authority has secured undertakings from Travelsavers Educational and Marketing Services Limited ("TEAMS") that the company and its employees will comply with the provisions of the Competition Act 2002. These undertakings have been secured by the Competition Authority on foot of an investigation, commenced in January 2005, into an alleged boycott by travel agents of Budget Travel products in response to Budget Travel's decision to reduce the commission it paid to travel agents. The parties to the alleged boycott were all independent travel agent members of TEAMS.

To counteract the adverse effects of dropping its commission, Budget Travel undertook an aggressive advertising campaign in January 2005. As a consequence TEAMS' recommendation had at most a neutral effect on Budget Travel's business. (Budget Travel has since discontinued selling its products through independent travel agents.)

The evidence gathered by the Competition Authority in its investigation showed that the cited actions of TEAMS had been co-ordinated by a director of the company on his own initiative and without the knowledge of the parent company. (This fact was attested to in the course of separate High Court proceedings unrelated to the Competition Authority's investigation.)

On the basis that TEAMS had taken measures to address the behaviour uncovered by the Competition Authority's investigation, the Competition Authority agreed to accept undertakings from the company that address its concerns to resolve matters. The undertakings provided to the Competition Authority provide that TEAMS will not engage in similar conduct again and TEAMS has written to its members informing them of each member's obligations under the Act.

It is important to note that TEAMS could be held liable for the actions of its director under Section 6(6) of the 2002 Act even though they were not aware of his actions on the basis that he was acting within the scope of his employment with TEAMS.