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CASE CARD | 9 September 2026

Finnair Oyj (Dnr 111/2020)

Third-party platforms

1. CASE SUMMARY

A. Summary of facts

The Swedish Competition Authority ('SCA') investigated whether Finnair restricted online travel agencies ('OTAs') from independently promoting offers and discounts on Finnair airline tickets to consumers searching for flights online, primarily through price comparison websites. OTAs that failed to comply with Finnair's requirements risked losing their right to sell Finnair airline tickets.

B. Legal analysis

As a first step, the SCA examined whether the OTAs qualified as agents of Finnair. Article 101 TFEU, as well as its Swedish equivalent, does not apply where an agent does not act as an independent economic operator in relation to its principal. According to the SCA, the OTAs did not qualify as agents of Finnair for competition law purposes. In particular, the OTAs did not receive compensation from Finnair covering the risks associated with the sale of Finnair airline tickets. The SCA therefore concluded that Finnair and the OTAs did not operate as a single economic entity and that the OTAs should remain free to determine their own pricing.

The SCA subsequently assessed the applicability of the Vertical Block Exemption Regulation ('VBER'). Finnair argued that the OTAs provided online intermediation services and that its conduct therefore benefited from the VBER. However, the SCA disagreed, finding that the functions performed by the OTAs and their business model indicated that their role in the sale of airline tickets went beyond merely facilitating the initiation of direct transactions between third parties. Finnair and the OTAs were therefore considered suppliers and purchasers (distributors) for the purposes of the VBER. As a result, Finnair's conduct did not benefit automatically from the exemption provided by the VBER.

The SCA ultimately concluded that the restriction on the OTAs' ability to advertise lower prices for Finnair flight tickets constituted a restriction by object.

Finnair subsequently offered commitments under which it undertook not to require OTAs to display Finnair fares separately from discounts offered by the OTAs. The commitments apply to journeys beginning and ending in Sweden and regardless of the channel or platform used by an OTA when advertising Finnair tickets. The SCA accepted the commitments, which will remain in force for five years and are backed by a fine of 100 million SEK

(approximately 9.4 million EUR) in the event of non compliance.

2. QUOTES

"*[…] In conclusion, the SCA's investigation has shown that there are several circumstances which indicate that the business activities of the OTAs are to be considered as the business activities of an independent economic operator when they provide Finnair's airline tickets, rather than being an integral part of Finnair's operations*." (free translation of §108)

"*Firstly, OTAs provide airline tickets for a great number of airlines competing with Finnair and provide Finnair's tickets on metasearch websites in competition with Finnair. This circumstance means that it is less likely that the OTAs should be regarded as agents of an individual airline within the meaning of competition law*." (free translation of §109)

"*An overall assessment of the functions performed by the OTAs covered by the investigation and the business model used by these OTAs in connection with the provision of Finnair's airline tickets indicates, according to the SCA, that these OTAs play a role in the provision of airline tickets which goes beyond merely facilitating the initiation of direct transactions between two other parties*." (free translation of §150)

"*Finnair has explained in the investigation that the Policy should be understood as meaning that any discounts offered by the OTA must be indicated separately from the stated price of Finnair's tickets in order to avoid misrepresenting Finnair's price for the service. This means that OTAs are prevented from advertising Finnair's flight tickets at an overall price lower than Finnair's own price for the tickets. In this way, Finnair has controlled the minimum price at which Finnair's tickets may be advertised, and Finnair has thereby limited the ability of OTAs to independently determine the price at which they wish to market Finnair's tickets*." (free translation of §160)

3. RELEVANT LEGISLATION

- Chapter 2, Section 1 of the Swedish Competition Act
- Article 101 TFEU
- Regulation 2022/720

4. PRACTICAL SIGNIFICANCE

This case constitutes the SCA's first major investigation into a vertical restriction analysed under the VBER since

the *Booking.com* case (SCA case no. 596/2013), which was concluded through commitments in 2015.

The case is also noteworthy because it constitutes the SCA's first decision under the revised VBER framework. It therefore provides valuable insight into the SCA's interpretation of the block exemption in the context of online sales and distribution. In particular, the decision contains important observations on the assessment of vertical restrictions in an online environment.

The case is significant because of the limited guidance currently available on the concept of online intermediation services. The SCA's preliminary assessment that the OTAs should be regarded as distributors rather than providers of online intermediation services provides useful insight into how this concept may be interpreted in future cases.

Another important issue in the case was whether the OTAs should be regarded as agents of Finnair for competition law purposes. Given the limited Swedish case law on the concept of agency, the decision provides useful guidance on the interpretation of this concept.

Finally, an interesting aspect of the case is that the restriction did not directly concern the OTAs' ability to determine resale prices as such. Rather, it concerned the OTAs' ability to advertise discounts and lower overall prices for Finnair airline tickets. The case therefore illustrates that restrictions affecting price advertising may also give rise to resale price maintenance concerns.