



COMESA Competition Commission

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Common Market for Eastern
and Southern Africa

**NOTICE OF INVESTIGATION
CASE NUMBER: CCC/CP/02/2024
DATE: 24 January 2025**

NOTICE OF COMMENCEMENT OF INVESTIGATIONS

**THE COMESA COMPETITION COMMISSION HEREBY COMMENCES AN
INVESTIGATION REGARDING SUSPECTED VIOLATION OF THE COMESA
COMPETITION REGULATIONS BY KENYA AIRWAYS LTD.**

Notice is hereby given that pursuant to Article 8 of the COMESA Competition Regulations (“the Regulations”), the COMESA Competition Commission (“the Commission”) has commenced investigation into suspected violation of Article 28 of the Regulations by Kenya Airways Ltd (“Kenya Airways”).

Article 28 of the Regulations prohibits any person in trade or commerce, in connection with the supply or possible supply of goods or services to a consumer from engaging in conduct that is, in all circumstances, unconscionable.

The Commission became aware, through complaints raised to Kenya Airways by four passengers, that on 18th August 2024 while traveling with Kenya Airways flight no. KQ419 from Entebbe to Nairobi on their way to Livingstone, they experienced an unexpected delay of their flight at Entebbe International Airport for over six hours causing a significant disruption to their connecting flights. As a result of the delay, the passengers missed their onward connecting flights from Nairobi to Lusaka on Kenya Airways flight no. KQ706 and from Lusaka to Livingstone on Zambia Airways flight no. ZN 419 which was scheduled to depart on the same day.

It is alleged by the complainants that following the delay at Entebbe Airport, passengers arrived at Jomo Kenyatta International Airport at 8:05 am and spent over 7 hours waiting for their rebooked connecting flight no. KQ704 to Lusaka. It further alleged that Kenya Airways did not make any effort to reroute the passengers to their destination, instead the passengers, who were enroute and mid-way into their journey had to arrange for themselves through their agent to obtain a rerouting to their destination. Further, the complainants reported that Kenya Airways did not provide accommodation and meals to

the passengers on landing in Lusaka and yet their original onward connecting flight had already departed.

The Commission has further been informed that when the passengers complained formally to the Airline by email, Kenya Airways responded stating that accommodation, meals and new flight connections were outside their contract of carriage as its contract with the passengers had terminated on landing in Lusaka.

The Commission received a similar complaint from an aggrieved passenger regarding a delay of Kenya Airways Flight KQ 418 at Jomo Kenyatta International Airport (JKIA) for over six hours. The complainant stated that the flight which was scheduled to depart at 01.35 a.m. on 2nd December 2024 for Entebbe, instead departed at 07:30 a.m. According to the complainant, all passengers who had already assembled at the boarding gate were informed of the delay at the last minute and provided with refreshments and snacks.

The complainant reported that initially Kenya Airways announced that the new departure time would be 5:30 a.m. but this time passed without any further communication by the Airline. The passengers then approached Kenya Airways which informed them that the new departure time would be 6:30 a.m. According to the complainant, Kenya Airways did not provide accommodation and meals to the affected passengers and as a result some made their private arrangements while others spent the night at the airport.


The Commission is concerned that Kenya Airways may have engaged in unconscionable conduct, a possible violation of Article 28(1) by failing to rebook the four passengers to their destination and failing to provide redress to them, preferring instead to offer conditioned vouchers for the inconvenience caused following the delay of flight KQ419. Kenya Airways may have also failed to provide accommodation and meals to the affected passengers following the delays. The conduct of Kenya Airways may not be in line with the code of practice in the industry as well as other international conventions governing the aviation industry and its terms of carriage.

The Commission will, in accordance with the provisions of Part 5 of the Regulations, investigate to determine whether the alleged conduct violates the Regulations.

It should be noted that the commencement of investigations neither presupposes at this point that the conduct being investigated is an unfair business practice nor that Kenya Airways has violated the Regulations.

In view of the foregoing, the Commission hereby invites interested stakeholders, including other affected consumers, to make representations by 28 February 2025.

If you wish to make representations or seek further details and/or clarification, you may contact our **Mr. Steven Kamukama, Director, Consumer Welfare and Advocacy Division** on Tel: +265 (0)111 772466 or Email: skamukama@comesacompetition.org. and copy. compcom@comesacompetition.org.



All representations submitted to the Commission will be treated with the strictest confidentiality and will only be used for the purposes of this investigation.



Dr. Willard Mwemba
Director and Chief Executive Officer