

30 May 2025

**COMESA COMPETITION COMMISSION COMMITTEE ON INITIAL DETERMINATION
SUMMARY DECISION ON**

**INVESTIGATION INTO ALLEGED FALSE AND MISLEADING REPRESENTATION AND
UNCONSCIONABLE CONDUCT AGAINST CONSUMERS BY ETHIOPIAN AIRLINES**

1. The COMESA Competition Commission ("the Commission") launched an investigation in May 2021, into alleged misleading representation and unconscionable conduct by Ethiopian Airlines following receipt of a complaint from the National Consumer Protection Agency of Sudan on behalf of four passengers. It was reported that, upon arrival at Khartoum Airport on different Ethiopian Airlines flights between 17 November 2020 and 13 December 2020, the passengers' checked-in luggage had allegedly been opened, and damaged and their property was missing.
2. It was further alleged that, while other affected passengers were compensated, staff from Ethiopian Airlines informed the four passengers that they did not qualify for compensation since they had carried valuables and fragile items (i.e., mobile phones) in their check-in luggage, which should have been declared as required in its Terms and Conditions.
3. The Commission was concerned that the conduct of Ethiopian Airlines was possibly misleading and a likely violation of Article 27 (1) (k) of the COMESA Competition Regulations ("the Regulations"), which provides that: *"A person shall not, in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services: (k) make a false or misleading representation concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy"*. The Commission was concerned that Ethiopian Airlines may have misled the passengers when it failed to secure their baggage and refused to compensate them for their losses despite the fact that they had entrusted the Airline to transport their baggage in a safe and secure manner and where that fails, the Airline would provide a remedy as provided under its Conditions of Carriage dealing with the Notice of Baggage Liability Limitations.
4. The Commission was further concerned that Ethiopian Airlines may also have acted in an unconscionable manner and possibly in violation of Article 28(1) as read together with Article 28(2) (a) and (d) of the Regulations which provides that:

28(1) "A person shall not, in trade or commerce, in connection with the supply or possible supply of goods and services to a person, engage in conduct that is, in all the circumstances unconscionable"

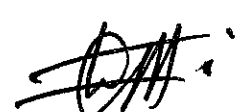
28(2) In determining unconscionable conduct, the Commission will have regard to:

(a) The relative strengths of the bargaining positions of the person and the consumer;



(d) "whether any undue influence or pressure was exerted on, or any unfair tactics were used against, the consumer or a person acting on behalf of the consumer by the person acting on behalf of the person in relation to the supply or possible supply of the goods or services."

5. The Commission's concern was that the condition by the Airline of failing to compensate the passengers for lost property had the effect of forcing them to forego their property. The condition was also not supported by its Terms and Conditions, and was not necessary, to protect the Airline's legitimate interest which may therefore make the conduct engaged in by the Airline unconscionable.
6. Ethiopian Airlines, in its submissions, indicated among others that:
 - i. Mobile phones are considered valuable items by the Airline due to their fragile nature, and therefore unsuitable for checked in luggage;
 - ii. Its Terms and Conditions require that passengers who wish to carry valuable items (which include mobile phones) should make a special declaration of interest in delivery at the point of checking in;
 - iii. The passengers' claims in this case were occasioned by non-compliance to established Terms and Conditions of carriage for safety and risk reasons;
 - iv. It denies all/any liability in respect to the allegations contained in the Commission's Notice of Investigation; and
 - v. It strictly adheres to and complies with international standards and practices as stipulated and recommended by IATA and ICAO, including in the case at hand.
7. The Commission further contended that the conduct of Ethiopian Airlines was not in line with Article 18 of the Montreal Convention for the Unification of Certain Rules for International Carriage by Air, which provides that airlines are liable for damage to passengers' cargo during the carriage by air.
8. The Commission observed that the Terms and Conditions on Ethiopian Airlines website listed electronic devices that are not allowed in the check-in baggage, with mobile phones clearly indicated, for the US and Canada routes. The Terms and Conditions, however, did not elaborate on what was prohibited for other routes, including the COMESA Region, and only provided an overarching condition that fragile and valuable items were not allowed in the check-in baggage. The Commission alleged that the conduct of providing detailed information to passengers to the US and Canada while providing less information to those traveling to other routes, was discriminatory and possibly unconscionable.
9. Prior to the conclusion of the investigation, Ethiopian Airlines indicated that it wished to cooperate with the Commission and agreed to compensate the four passengers. The Airline subsequently reached out to the passengers and was successfully able to compensate two of them for their lost phones while the other two were unreachable due to the prevailing war situation in Sudan. In addition, Ethiopian Airlines pulled down the Terms and Conditions which did not explicitly stipulate the fragile items which are not allowed in the Check-in baggage, indicating that they had been uploaded on their website erroneously, and that, passengers could make reference to their overall Conditions of Carriage instead.
10. Having regard to the Airline's actions to compensate the affected passengers and amend its terms and conditions, the Commission recommended to the Committee Responsible for Initial Determinations (CID), that the investigation against Ethiopian Airlines be closed in view of the fact that Ethiopian Airlines has addressed its concerns and complied with its directives.
11. The CID was satisfied with the manner in which Ethiopian Airlines addressed the Commission's concerns, in particular, by compensating the affected passengers and



ensuring that their terms were in compliance with the Regulations. After the hearing of the matter, the CID determined to close the investigation.

12. The Commission shall continue to monitor the market operations of the aviation sector to ensure that consumer rights are upheld.
13. Any consumer or interested party requiring further information regarding the Commission's Decision on this matter, may contact Mr. Steven Kamukama, Director Consumer Welfare and Advocacy Division on Email: skamukama@comesacompetition.org



Dr. Willard Mwemba
Chief Executive Officer