
**SUMMARY DECISION OF THE COMMITTEE RESPONSIBLE FOR INITIAL
DETERMINATIONS WITH REGARD TO INVESTIGATION INTO UNCONSCIONABLE
CONDUCT BY ZAMBIA AIRWAYS (2014) LIMITED**

1. On 16 September 2024, the COMESA Competition Commission (the "Commission") initiated an investigation against Zambia Airways (2014) Limited ("Zambia Airways") for engaging in a possible unconscionable conduct by refusing to reroute passengers to their destinations and to provide them with accommodation and meals in Lusaka after they missed their connecting flights due to a flight delay from Livingstone. This followed reports that on 23 August 2024 Zambia Airways flight No. ZN 418 delayed departure from Livingstone to Lusaka for over 6 Hours leading to four passengers missing their connecting flights from Lusaka to their destinations.
2. The Commission became aware that following the announcement of the flight delay at Livingstone Airport, Zambia Airways was informed that four (4) passengers would miss their connecting flights in Lusaka as a result of the delay and would therefore require accommodation, meals and reconnections to their destinations. In its response, Zambia Airways informed the passengers that it was unable to facilitate their reconnections or provide them with accommodation but would however, refund if the Livingstone-Lusaka tickets were not utilized or rebook them to the next available Zambia Airways flight from Livingstone to Lusaka.
3. In view of the response from Zambia Airways, the passengers were forced to find ways to rebook connecting flights and secure accommodation and meals in Lusaka.
4. Following the review of the conduct, the Commission issued a Notice of Investigation to Zambia Airways on 16 September 2024. The concern of the Commission was that the conduct by Zambia Airways of refusing to rebook passengers to the next available connecting flights to their destinations out of Lusaka and to provide them with accommodation and meals in Lusaka was likely unconscionable conduct in a possible breach of Article 28(1) of the COMESA Competition Regulations (the "Regulations") as it involved unfair tactics and refusal to handle legitimate complaints considering that the delay was occasioned by Zambia Airways.

5. In consideration of the above, the Commission was concerned that as a result of the flight delay from Livingstone, the affected passengers urgently needed flight reconnections services from Lusaka to their destinations. They also urgently required accommodation and meals as they waited in Lusaka for their reconnecting flights the following day since they were not in their usual places of abode. In this regard, the passengers were in a vulnerable and weak position to bargain with Zambia Airways. Thus, the refusal to facilitate reconnection of the passengers, meet associated costs or provide legitimate redress was considered unconscionable and a likely violation of Article 28(1) covered under part 5 of the Regulations.
6. Zambia Airways, following receipt of the Notice of Investigation responded regretting the incident and stating that:
 - i. All affected passengers were informed, in line with Article 16(b) (i) and (ii) of the Yamoussoukro Decision following the delay of the Zambia Airways Flight No. ZN418.
 - ii. Flight No. ZN418 was a domestic service and not part of the international carriage and therefore Articles 19 and 36 of the Montreal Convention are inapplicable under the circumstances.
 - iii. Zambia Airways denied having engaged in unconscionable conduct in violation of the Regulations and that it was not liable under the cited provisions.
7. The Commission's investigations included the review of Zambia Airways' responses, vis-a-vis the relevant legal provisions, relevant stakeholder views, relevant case precedents, international conventions governing the aviation sector as well as international best practices. The Commission was convinced that Zambia Airways had the responsibility to ensure the welfare of passengers was safeguarded for it was at their instance that the passengers would miss the connecting flights out of Lusaka to their respective destinations. The offer by Zambia Airways that it would refund the passengers if the Livingstone-Lusaka tickets were not utilized or rebook them to the next available Zambia Airways flight from Livingstone to Lusaka would not resolve the problem as the concern was not getting a flight out of Livingstone but missing their connecting flights from Lusaka to their destinations. Therefore, the problem was in Lusaka where Zambia Airways should have provided the passengers with meals and accommodation and rebook them on the next available connecting flights to their destinations.
8. During the process of investigation, the Commission consulted different stakeholders including African Civil Aviation Commission ("AFCAC") which observed the need to address the Commission's concerns not only regionally but also at the continental level and stressed the need for cross jurisdictional collaborations. The Commission also made reference to various conventions governing the Airline industries and jurisprudence on the subject all of which



supported the conclusion that Zambia Airways had engaged in unconscionable conduct which is a breach of Article 28 (1) of the Regulations. In this regard, on 22 April 2025, the Commission, issued its Statement of Concerns (SOC) to Zambia Airways affording it an opportunity to comment on its findings and recommendations.

9. The Commission was not satisfied with responses by Zambia Airways to its SOC and informed them that it would submit its report to the CID with a recommendation to fine Zambia Airways for a breach of Article 28 of the Regulations. Zambia Airways was once again afforded an opportunity to review the Commission's concerns and respond. However, Zambia Airways elected not to respond despite the several reminders that the matter would be submitted to the CID without any further reference to them if they continued not to respond to the Commission.
10. In view of the above, the Commission brought the matter to the attention of the CID during its seating of 21-23 September 2025 for consideration and decision making.

Determination:

11. Premised on the foregoing and pursuant to Article 8(4)(d) of the Regulations which empowers the Commission to impose fines and penalties for breaches of the provisions of the Regulations, the CID determined to fine Zambia Airways 2% of its annual turnover derived from COMESA Member States for breach of Article 28(1) of Regulations.
12. The CID further directed Zambia Airways to submit its financials (audited accounts for the year 2023) for the Commission to determine its turnover in the Common Market for purposes of computing the fine. Failure by Zambia Airways to submit its audited accounts for the year 2023 shall be considered as a separate offence under the Regulations and the antecedent fines thereunder shall be applicable separately.
13. The CID also directed Zambia Airways to review and publish its operating procedures to align them with the requirements of the Regulations.

Dr. Willard Mwemba
Chief Executive Officer

