4th November 2004 : On-line travel deals - The Conseil de la concurrence rejects a request for interim measures submitted by the company Lastminute.com, but pursues the investigation of the case on the merits

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On 25th June 2004, the Conseil de la concurrence received a complaint from the French subsidiary of the British group Lastminute.com, regarding practices by the French national railway company SNCF, the companies GL e-commerce, Voyages-sncf.com, Expedia Inc and GL-Expedia, in the sector for on-line travel deals. This referral on the merits of the case was accompanied by a request for interim measures.

In a decision dated 4th November 2004, the *Conseil de la concurrence* indicated that there were no grounds for granting interim measures, and referred the case back for an investigation on the merits.

Lastminute.com's complaint

In its complaint, Lastminute.com disputes the legality of the decision to set up the joint venture GL-Expedia, accuses SNCF of granting illegal cross-subsidies to Voyages-sncf.com, GL-Expedia and Expedia Inc., and alleges discriminatory anticompetitive practices on the part of SNCF, which it claims are intended to give Voyages-sncf.com an advantage. Lastminute.com alleges that **these practices prevent it from accessing the market for distributing rail tickets, and serve to create anticompetitive effects in the sector for on-line travel deals.** Claiming serious and immediate harm to its activity and to the sector,

Lastminute.com asked *the Conseil* to hand down interim measures aimed at re-establishing neutral competition between the various on-line operators.

Request for interim measures rejected

The *Conseil* observed that there were no grounds for ruling out the possibility that "the national market for distribution of rail tickets in the leisure segment constitutes a distinct market and that, in this market, SNCF holds a dominant position", and that "the sale of travel tickets and reservations on-line constitutes a distinct market, connected to the market for distribution of rail tickets". The *Conseil* subsequently took the view that the conditions required to hand down interim measures were not met.

The "e-tourism" market to which the on-line travel agency sector belongs is a healthy one (with an annual growth rate of 32%). For Voyages-sncf.com, the share generated by the sale of combined offers including rail tickets remains marginal (0.5% of its volume of business). Finally, in several recent statements, Lastminute has announced improved financial results. Consequently, the ***Conseil* took the view that the practices in question are not liable to cause serious and immediate harm to the on-line travel deals sector or the situation of the complainant company.**

Investigation on the merits to continue

However, the *Conseil* does emphasise the following point: "at this stage of the investigation, there are no grounds for ruling out the possibility that the practices disputed by the complainant, and in particular the practices it alleges are discriminatory and by which SNCF gives its subsidiaries Voyages-sncf.com and GL Expedia an advantage over competing on-line travel agencies, may contravene the provisions of articles L.420-1 and L. 420-2 of the code de commerce (French code of commercial law), as well as articles 81 and 82 of the EC Treaty". The case therefore remains open and the practices in question will be examined during the course of a full investigation on the merits.