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<b>MEDIA RELEASE</b>		
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<b>CCM PUBLISHES THE EXECUTIVE DIRECTOR’S REPORT FOR INVESTIGATION ON TRAVEL AGENTS’ SERVICE FEES</b>		

The Competition Commission of Mauritius (CCM) has today publicly released its report for the Investigation on Travel Agents’ Service Fees. The report has been published on the CCM website. The Executive Director of the CCM found that Air Mauritius Ltd. (Air Mauritius) and The Mauritius Association of IATA Travel Agents (MAITA), which is an association grouping some 25 IATA Accredited travel agents in Mauritius, have infringed Section 41 of The Competition Act 2007 (The Act), which prohibits collusive agreements.

The Executive Director of the CCM found that Air Mauritius and MAITA jointly agreed on the service fee level they will charge for various categories of tickets. The service fee is the price charged for the reservation, booking and ticket issuing facilities offered by Travel Agents. However, this took place prior to the establishment of the Act, thus, this agreement was not a breach at that time. Sales Data was analysed to establish whether this agreement continued to have its effect on the market after the coming in force of The Act. The Executive Director found that there continued to exist a clustering at that price, at least for certain destinations.

The Executive Director found that the agreement resulted in a higher price in the market and there continues to be a common understanding in the market and thus found Air Mauritius and MAITA to be in breach of Section 41 of The Act.

Upon the issue of a Provisional findings report earlier, both Air Mauritius and MAITA provided the CCM with their responses. Within their response were measures that both Air Mauritius and MAITA took, which may mitigate the breach in investigation.

The Final Report of the Investigation was sent to the Commissioners, Air Mauritius and MAITA on 30<sup>th</sup> July 2010. It is up to the commissioners to decide if any breach has occurred and on the remedies and / or penalties to be imposed.

Air Mauritius and MAITA will have the opportunity to request for a Hearing by the Commission, should they wish.

John Davies, Executive Director said “This is an unusual case, in that some of the behaviours we are looking at occurred before the Competition Act came into effect in November 2009. Air Mauritius and MAITA came to an agreement on service fees long before the Act came into force. Of course, no breach of the Act can have been committed before that date. However, my investigation found that prices charged to consumers continued to reflect this agreement after the Act came into effect, and I therefore found that the agreement continued.”

“It is up to the Commission to decide whether it agrees with these findings, and if so what to do about it. However, in the very unusual circumstances of this case, I am recommending no further action. Financial penalties might not be appropriate, because they can be imposed only for an intentional or negligent breach of the Act, and we have not found evidence of an intentional breach in the period since the Act came into force. Air Mauritius and MAITA have already taken steps to try to remove the continuing effects of the agreement, soon after receiving the provisional version of this report for comment. There does not therefore seem to me to be any further action that could usefully be taken under the Act to remove the agreement. However, that is for the Commission to decide.”

“As the Act has been in force for an increasing period, these particular circumstances will not recur. Other businesses which discuss prices with their competitors should not assume that they will escape penalties. On the contrary, for intentional or negligent breaches of the prohibition on price-fixing, businesses can expect financial penalties of up to 10% of their turnover over up to five years. The law allows a heavy penalty, to reflect the seriousness of such behaviour. This case is unique, in that the Act has only recently come into force, so an established agreement continued to have effects in the market.”

“As I say in the report:

The agreement clearly had as its object the fixing of prices in the market. Furthermore, this agreement seems to have been effective, at least partially. It does not seem unreasonable to suppose that Air Mauritius’s own service fees and those of many travel agents would have been much lower - closer to the initial levels proposed by Air Mauritius - had the agreement not been in place. Thus, for example, many Mauritian travelers in economy class will have paid Rs. 250 more for each medium-haul trip and Rs. 750 more for each long-haul trip, over the course of the last few years. In its blatant object and its substantial effect, the agreement

between Air Mauritius and MAITA to raise service fees would have been a very serious breach of the Act had the Act been in effect at the time that agreement was concluded, and it would seem appropriate to recommend the strongest penalties.”

## **Background for editors:**

### ***The Competition Act:***

The Competition Act 2007 came fully into effect on November 25th 2009, and is enforced by the Competition Commission of Mauritius, the CCM. Sub-parts I of Part III of the Competition Act 2007, cover restrictive practices described under ‘Collusive agreements’.

To take action, the CCM must find that the conduct of enterprises in a particular market forms collusive agreements and restricts, prevents or distorts competition. Where the Executive Director has reasonable grounds to believe that collusion is occurring, he may launch an investigation.

### ***Collusive Agreements:***

Section 41 to 43 of the Competition Act, prohibit agreements between enterprises, which are considered collusive, unless excluded under the Act. An “agreement” may be in any form, whether or not legally enforceable and includes an oral agreement, a decision by an association of enterprises and any concerted practice. A Concerted practice means “a practice involving contacts or communications between competitors falling short of an actual agreement but which nonetheless restricts competition between them.”

An agreement is considered collusive under the Competition Act 2007, if it exists between enterprises that supply or acquire goods and services of the same description; prevents, restricts or distorts competition and the object and effect of which is, in any way, to:

- Fix the selling or purchase price of goods and services;
- Share markets or sources of supply of the goods and services;
- Restrict the supply or acquisition of the goods or services

The CCM takes the view that, in most markets, free competition is an effective guarantor of the interests of consumers and is likely best to promote the efficiency, adaptability and competitiveness of the economy of Mauritius. Significant weakening of competition will therefore have adverse effects.

Consequently, if the CCM finds evidence of behaviour that is preventing, restricting or distorting competition, on the part of enterprises that have collusive agreements, it will normally expect that such behaviour will have adverse effects on consumers or the economy as a whole.

Following an Investigation, the CCM has the power to force changes in company behaviour and will consider behavioural undertakings offered by the investigated party or parties, including financial penalties.

***Further information:***

For further information see the CCM's website at [www.ccm.mu](http://www.ccm.mu), and the CCM's Procedural Rules and Guidelines: 'CCM 1 - Procedural Rules', 'CCM 3 - Collusive agreements' and 'CCM 6 - Remedies and Penalties', all available on the web site.