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**Common Market for Eastern
and Southern Africa**

Staff Paper No. 2016/06/JB/08

**Decision¹ of the Twenty Third Meeting of the Committee Responsible for
Initial Determination Regarding the Allegations of Misleading Adverts by
Fastjet Airlines Limited**

ECONOMIC SECTOR: Aviation

24th June 2016 – Johannesburg, South Africa

¹ In the published version of this decision, some information has been omitted pursuant to Rule 73 of the COMESA Competition Rules concerning non-disclosure of business secrets and other confidential information. Where possible the information omitted has been replaced by ranges of figures or a general description.

Information and Relevant Background

1. The Committee Responsible for Initial Determination (hereinafter referred to as "the CID") observed that on Friday, February 12, 2016, the Commission, took note of an article in the Kenya Business Daily citing a warning from the Kenya Civil Aviation Authority (the "KCAA") to Fastjet Airlines Limited (Fastjet) on the publication of misleading adverts. Fastjet advertised ticket prices that are not inclusive of taxes and other fees thereby misleading customers.
2. The CID observed that the alleged conduct is a violation of Article 27(g) of the COMESA Competition Regulations (hereinafter referred to "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 make a false or misleading representation with respect to the price of goods or services".

3. The CID observed that the conduct occurred in several Member States, namely, Kenya, Uganda, Zambia and Zimbabwe where Fastjet has operations. This allows the Commission to have jurisdiction to intervene in the matter.

Determination

4. The CID observed that Fastjet has since ceased the conduct in compliance with the KCAA directive. However, the CID noted that ceasing conduct proscribed by the Regulations does not relieve the parties from liability. However, the CID noted that Fastjet cooperated with the authorities to remedy the harmful conduct on the market and immediately ceased the conduct when approached by the authorities.
5. In view of this, the CID sternly warns Fastjet not to engage in similar conduct in the future as sanctions under the Regulations may be enforced against them.
6. This decision is adopted in accordance with Rule 24(c) of the COMESA Competition Rules.

Dated this 24th day of June, 2016.


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Commissioner Thabisile Langa (Chairperson)


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Commissioner Patrick Okilangole (Member)
(Member)


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Commissioner Chilufya Sampa