
EXPLANATORY NOTE

(This note is not part of the Order)

Following the judgment of the Court of Appeal in *R v Secretary of State for Trade and Industry ex parte Thomson Holidays* (handed down on 9th December 1999), whereby an order of certiorari was issued to quash Articles 3 and 4 of the Foreign Package Holidays (Tour Operators and Travel Agents) Order 1998, this Order revokes (Article 5) that Order and substitutes the following provisions.

Article 2 prohibits travel agents (and those tour operators in a group of companies which includes a travel agent when the tour operator sells directly to the public) from discriminating in the price charged for a foreign package holiday, or by imposing an additional charge, against a person who does not buy travel insurance in respect of that holiday from the agent or tour operator.

Article 3 prohibits tour operators from entering into or carrying out an agreement (whenever made) which requires the travel agent to comply with a most favoured customer requirement except where the tour operator is required to compensate the travel agent for the value of the inducements required to be offered by the travel agent as a result of such a requirement.

Article 4 prohibits tour operators from withholding supplies or threatening to withhold supplies of foreign package holidays from, or discriminating in respect of the supply of foreign package holidays to, a travel agent as a result of the failure of the travel agent to enter into or comply with an agreement which is or would be unlawful under Article 3.

Copies of the report of the Monopolies and Mergers Commission on which the Order is based (Cm. 3813) may be obtained from the Stationery Office.

A Regulatory Impact Assessment has been drawn up by the Department of Trade and Industry and is available from the Competition Policy Directorate of the Department of Trade and Industry, Room 618, 1 Victoria Street, London SW1H 0ET, telephone 020 7215 6125. Copies have been placed in the libraries of both Houses of Parliament.