

CONCOMITANT WITH DEREGULATION OR LIBERALIZATION. THIS IS AN EMERGING PROBLEM, AND INDEED ICAO HAS PUT FORWARD GUIDELINES TO DEAL WITH THIS. WE HAVE YET TO SEE HOW THE EC COUNCIL WILL DEAL WITH THE CONSEQUENTIAL IMPLICATIONS OF THE SAEED CASE WHERE THE ECJ RULED AGAINST CONCERTED PRACTICES BETWEEN AIRLINES GOVERNED BY AGREEMENTS BETWEEN A MEMBER STATE AND A NON-MEMBER STATE. AS I UNDERSTOOD THE ADVOCATE GENERAL OF THE ECJ IN HIS ANSWER TO A QUESTION ON THE POSSIBLE EXTRATERRITORIAL APPLICATION OF THE COURT'S RULING, THE COMMUNITY'S COMPETITION LAWS APPLY TO FARES CHARGED BY THIRD COUNTRY CARRIERS IN RESPECT OF SERVICES WITHIN THE COMMUNITY: THAT WOULD MEAN FIFTH FREEDOM TRAFFIC, IF NOT, AS YET THIRD AND FOURTH FREEDOMS. IF CONCERTED PRACTICES ARE DISALLOWED, THIS WILL CERTAINLY RAISE PROBLEMS WHERE THIRD COUNTRIES WISH TO PROTECT THEIR AIRLINES WITH RESPECT TO FARES TO POINTS IN THE COMMUNITY, CAPACITY OR POOLING ARRANGEMENTS. IT WILL ALSO HAVE IMPLICATIONS FOR COUNTRIES SUCH AS CANADA WHICH PREFERS CONSULTATIONS BETWEEN AIRLINES PREPARATORY TO A NEGOTIATION.