
Commission accepts commitments by Renfe opening up competition in online rail ticketing in Spain

2024/01/17 12:35 στην κατηγορία INTERNATIONAL

The European Commission has made commitments by Renfe legally binding under EU antitrust rules. The commitments address the Commission's preliminary competition concerns relating to Renfe's refusal to supply all its content and real-time data related to its passenger rail transport services to rival ticketing platforms.

The Commission's preliminary concerns

Renfe, the Spanish state-owned rail incumbent operator, competes with companies providing online ticketing services to customers through apps or websites. These third-party ticketing platforms need to have access to Renfe's full content and real-time data displayed on Renfe's own digital channels to tailor their offers to the customers' needs and compete effectively with Renfe's online distribution channels.

In [April 2023](#), the Commission opened a formal investigation over concerns that Renfe may have abused its dominant position in the Spanish passenger rail transport market by **refusing to provide** rival ticketing platforms with: (i) **full content** concerning its range of tickets, discounts and features; and (ii) **real-time data** (pre-journey, on-journey or post-journey) related to its passenger rail transport services.

The Commission preliminarily found that Renfe's refusal to provide its full content and real-time data may have prevented rival platforms from competing with Renfe's own direct digital channels to the detriment of consumers. Such behaviour may breach EU competition rules, which prohibit the abuse of a dominant position (Article 102 of the Treaty on the Functioning of the European Union ('TFEU')).

The Commitments

To address the Commission's preliminary concerns Renfe offered certain commitments. [Between 26 June and 8 August 2023](#), the Commission market tested those commitments and consulted all interested third parties to verify whether the commitments would remove its competition concerns. In light of the outcome of this

market test, Renfe amended the initially proposed commitments and offered the following:

- To **make available** to third-party ticketing platforms, irrespective of the channels they use to access Renfe content and real time data, **all the current and future content and real-time data** displayed on any of its own online channels. Renfe's commitment will therefore be dynamic and not limited to content or real-time data already provided through its own online channels.
- To make available all its current content or real-time data by, at the latest, **29 February 2024**, with some limited exceptions. The exceptions concern content and real-time data for which Renfe is required to launch a tender procedure to grant access.
- To **require** from third-party ticketing platforms a **maximum monthly average Look-to-Book ratio** ('L2B') of no less than either 600, 200 or 140, depending on the number of availability requests made by the platforms. L2B is the ratio between the number of availability requests related to the sale of tickets ("look") made to Renfe's ticket sales system and the number of actual sales ("book") during a given period of time. Renfe will be allowed to temporarily suspend a rival platform's access to its sales system only if it exceeds the applicable maximum L2B ratio, and this either negatively affects Renfe's sales system or immediately threatens to impede sales of Renfe's tickets. This mechanism effectively ensures that Renfe can operate seamlessly while preserving the competitiveness of third-party ticketing platforms. At the same time, it guarantees **parity** between third-party ticketing platforms and Renfe's own platforms regarding the applicable maximum L2B and the consequences in case of non-compliance.
- To **not exceed a maximum Error Rate** ('ER') of 4% as of 2024 and a **maximum monthly Unavailability Rate** ('UR') of 1% as of 2025. ER is the ratio between the number of failed reservation requests and the total reservation requests, while the UR relates to the level of availability of Renfe's sales system between 06:00 and 23:00 hours. These commitments will ensure that third-party ticketing platforms will benefit from high quality IT services from Renfe.



The commitments contain a non-circumvention clause whereby Renfe commits not to use any unfair, not reasonable or discriminatory **technical** or **commercial** measures that would impede or hamper access to and distribution of Renfe's content and real-time data.

The Commission concluded that the final commitments would address its preliminary competition concerns over Renfe's alleged abuse of dominant position in the Spanish online passenger rail ticket distribution market. It therefore decided to make them legally binding on Renfe.

The commitments offered by Renfe will remain in force for an indefinite period. Their implementation will be monitored by a monitoring trustee appointed by Renfe who will report to the Commission for a period of 10 years.

Background

[Article 102 TFEU](#) prohibits the abuse of a dominant position that may affect trade and prevent or restrict competition. The implementation of this provision is defined in the Antitrust Regulation ([Regulation No 1/2003](#)), which can also be applied by the national competition authorities.

The Commission opened a formal antitrust investigation into Renfe's behaviour in [April 2023](#). In parallel to the opening of proceedings, the Commission adopted a Preliminary Assessment summarising the main facts of the case and identifying its preliminary competition concerns.

Article 9(1) of the [Antitrust Regulation](#) enables companies investigated by the Commission to offer commitments in order to meet the Commission's concerns and empowers the Commission to adopt a decision to make such commitments binding on the companies. Article 27(4) of the Antitrust Regulation requires that before adopting such decision the Commission shall provide interested third parties with an opportunity to comment on the offered commitments.

If the market test indicates that the commitments are a satisfactory way of addressing the Commission's competition concerns, the Commission may adopt a decision making the commitments legally binding on Renfe. Such a decision would not conclude that there is an infringement of EU antitrust rules but would legally bind Renfe to comply with the commitments it has offered.

If Renfe does not honour such commitments, the Commission could impose a fine of up to 10% of the company's worldwide turnover, without having to find an infringement of the EU antitrust rules.