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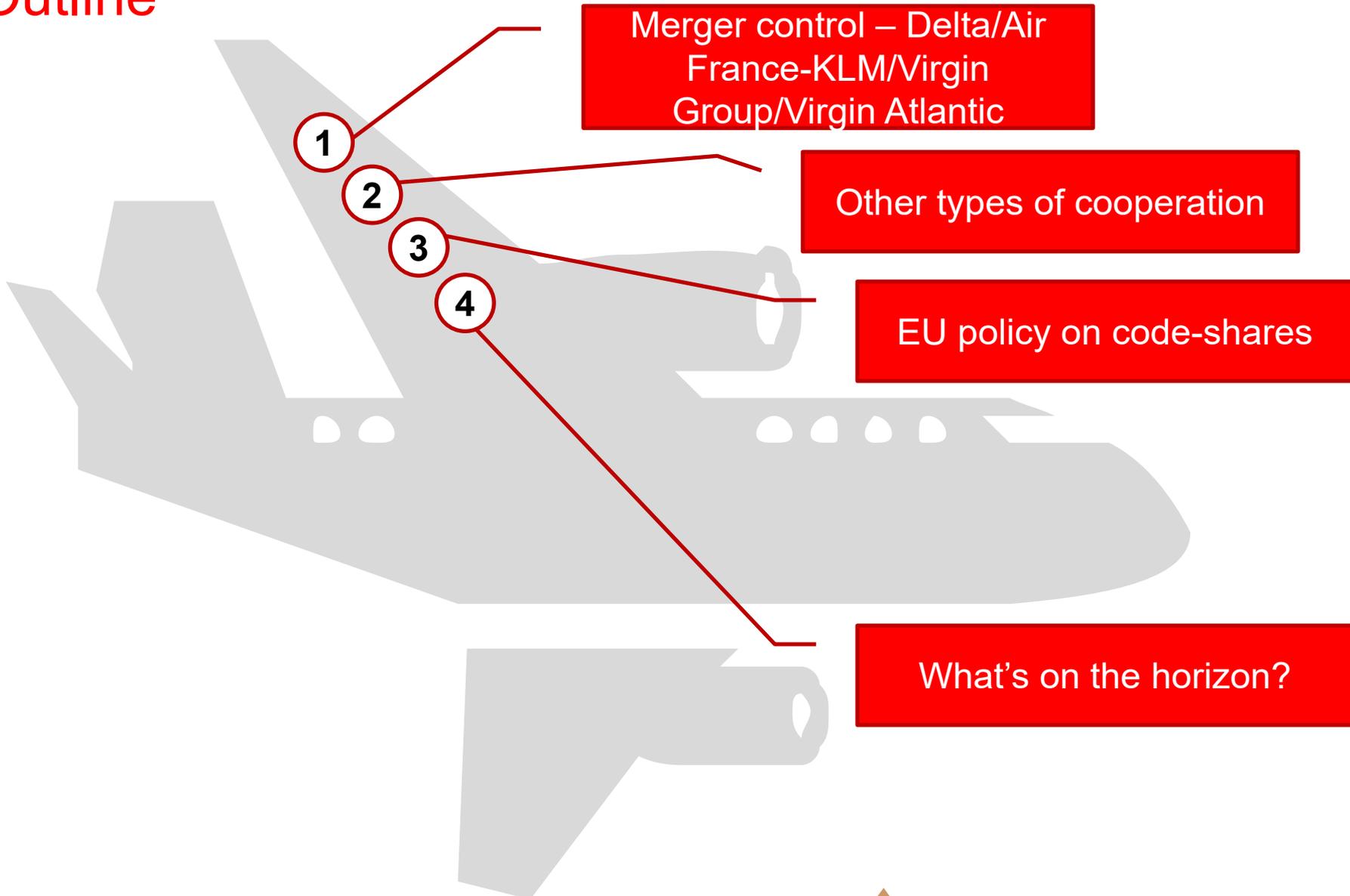
# Mergers, alliances and code-sharing: Latest developments

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# Outline



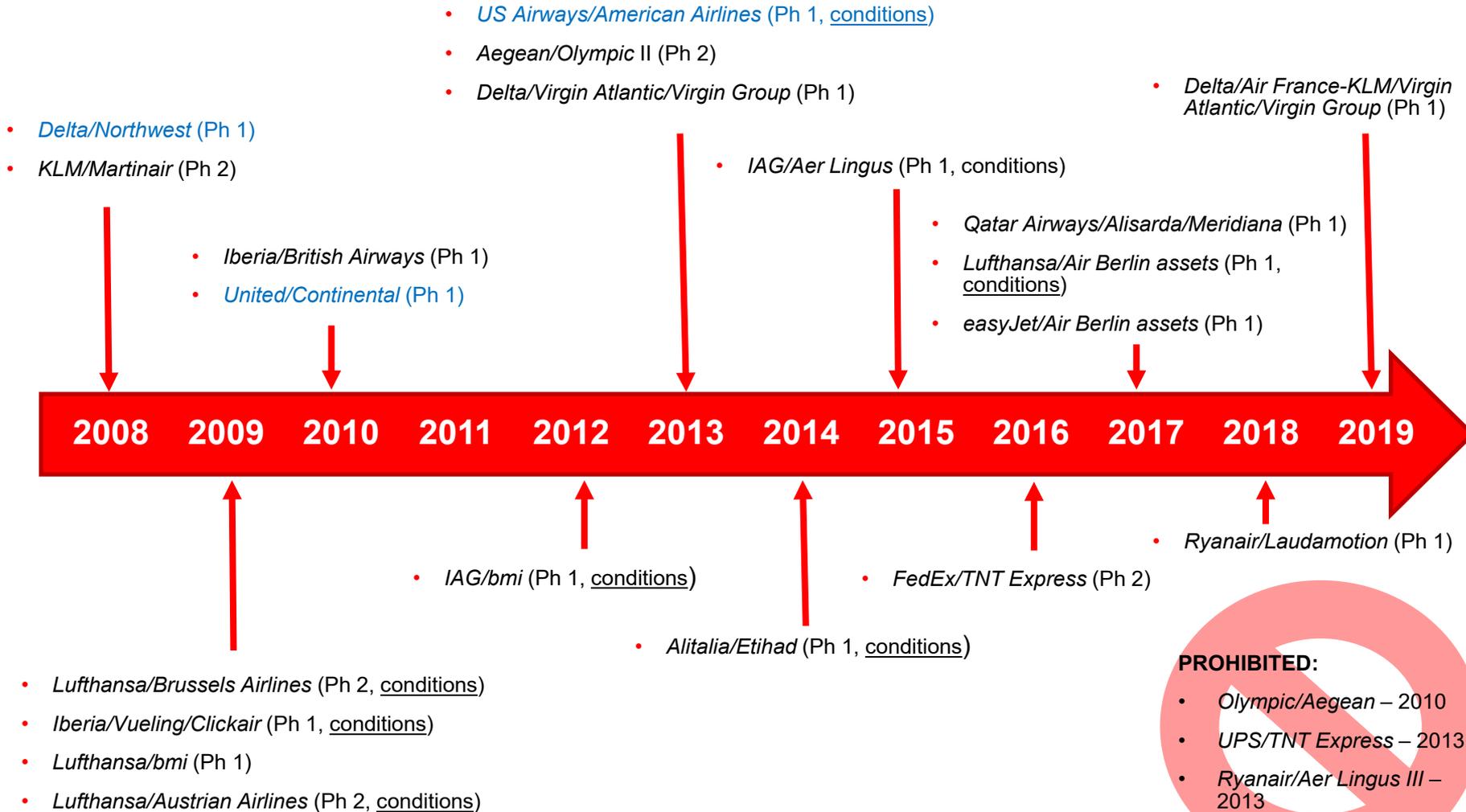
# (1) Merger control

# Recent EU merger reviews\*



6 main US carriers in 2008  
reduced to 3 in 2013

\*Dates and whether Phase 1 or Phase 2 clearance and subject to conditions based on European Commission merger decisions

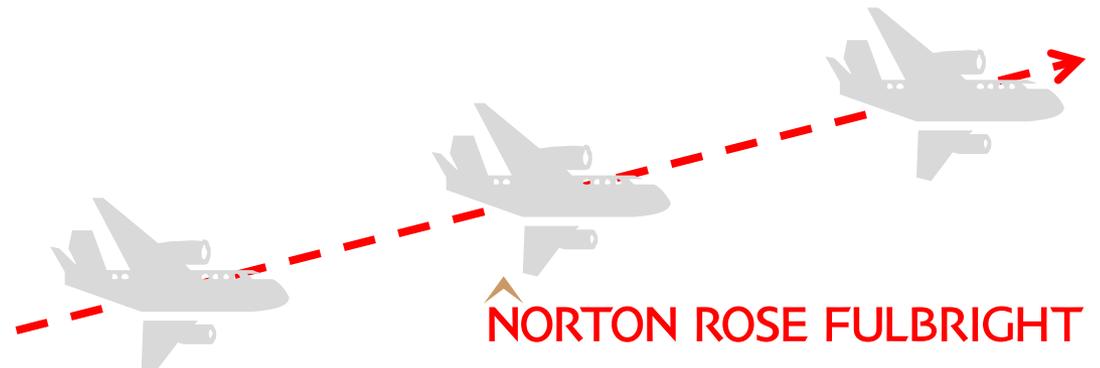


**PROHIBITED:**

- Olympic/Aegean – 2010
- UPS/TNT Express – 2013
- Ryanair/Aer Lingus III – 2013

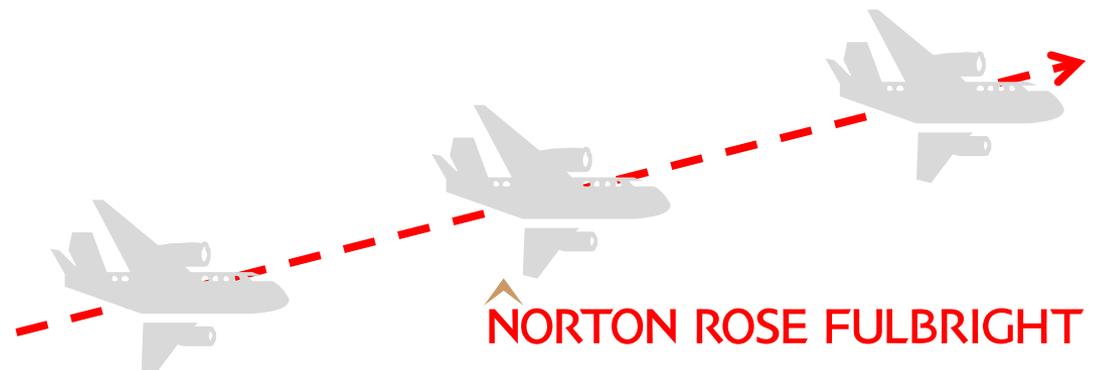
# M.8964 Delta/AFKL/Virgin Group/Virgin Atlantic

- Air France-KLM taking 31% in Virgin Atlantic
- Consolidating two pre-existing joint ventures
- On O&Ds, relatively straightforward – no direct/direct overlaps and small increments
- European Commission cleared 12 Feb 2019
- Other regulatory processes ongoing



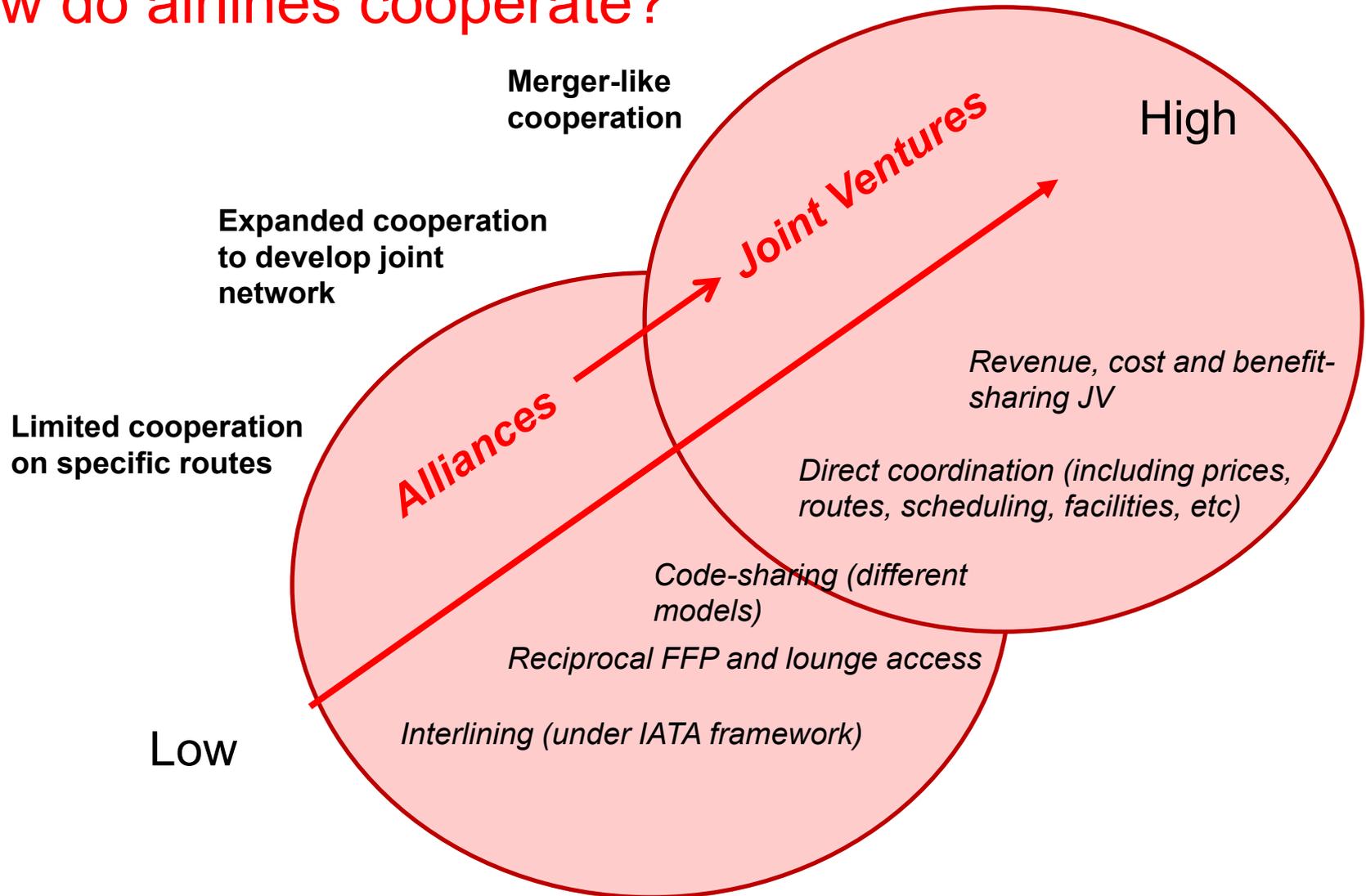
# Issues in the deal

- Interaction of JV with acquisition of control
- Interaction with ownership and control rules
- Role of airport dominance?
- Correct data source?
- Commission processes/timetable



## (2) Other airline cooperation

# How do airlines cooperate?



Source: Transatlantic Airline Alliances: Competitive Issues and Regulatory Approaches – A report by the European Commission and the United States Department of Transportation, 16 November 2010 – Airline industry presentations, DOT

# Why do airlines cooperate?

- Ownership and control rules
- Sharing risk and better customer offering
- Framework of analysis: possible ATI or EU commitments decision

- M&A transactions complex for airlines
- Risks that structure may impact flying rights

- High cost sector susceptible to global demand trends
- Eliminating double marginalisation
- Enhanced network, connections, frequencies, lounge access, FFPs, etc

- Similarities to merger “clearance”
- Established methodology for review
- But changes afoot?

# Transatlantic joint ventures



- **Case opened:** January 2012
- **EU commitments:** May 2015
- **Routes of concern:** (i) Paris-New York (premium only); (ii) Amsterdam-New York; and (iii) Rome-New York
- **Remedies:** (i) slots (Amsterdam-New York; Rome-New York); (ii) fare combinability; (iii) SPAs; and (iv) FFP access



- **Case opened:** April 2009
- **EU commitments:** July 2010
- **Routes of concern:** (i) London-Dallas; (ii) London-Boston; (iii) London-Miami; (iv) London-Chicago (premium only); (v) London-New York (premium only); and (vi) Madrid-Miami (premium only)
- **Remedies:** (i) slots (London-Boston; London-Dallas; London-Miami; London-New York); (ii) fare combinability; (iii) SPAs; (iv) FFP access; and (v) regular data reporting
- **New CMA investigation:** October 2018 (also including Finnair)



- **Case opened:** April 2009
- **EU commitments:** May 2013
- **Route of concern:** Frankfurt-New York (premium only)
- **Remedies:** (i) slots; (ii) fare combinability; (iii) SPAs; and (iv) FFP access

## (3) EU policy on code-shares

# Lessons from Brussels Airlines

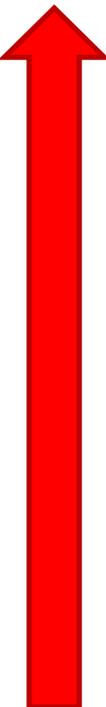


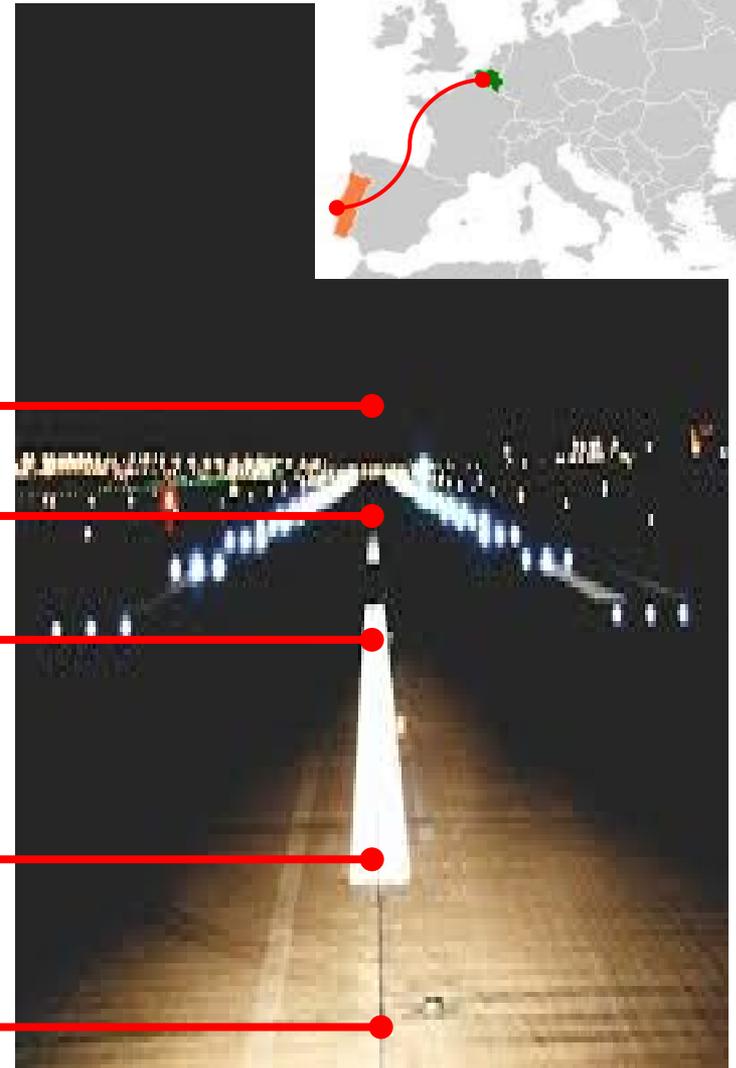
7 year investigation



But ultimately no finding of infringement



- 
- **October 2018:** Case closed
  - **May 2017:** Oral hearing
  - **October 2016:** Statement of Objections sent to Brussels Airlines and TAP Portugal, but Lufthansa/Turkish Airlines case closed
  - **December 2011:** Dawn raids at Brussels Airlines and TAP Airlines premises
  - **February 2011:** European Commission initiates separate proceedings against: (i) Brussels Airlines and TAP Portugal; and (ii) Lufthansa and Turkish Airlines





*Code-sharing by airlines can bring benefits for passengers in terms of wider network coverage and better connections. However, we are concerned that in this particular case Brussels Airlines and TAP Portugal may have used their codeshare to restrict competition and harm passengers' interests on the Brussels to Lisbon route.*

**Margrethe Vestager, EU Competition  
Commissioner, 27 October 2016 – announcing  
Statement of Objections**



# Commission approach to code-share arrangements

- Code-shares are common but different set-ups and degrees of cooperation
- No antitrust concerns in principle if parties do not both operate on route; beneficial as extends network coverage and improves passenger connections
- But if airlines sell seats on each other's flights on same route, this may reduce competition and lead to higher prices and lower quality service for customers
- Free-flow, parallel, hub-to-hub code-shares were the focus of the *Brussels Airlines/TAP Portugal* and *Lufthansa/Turkish Airlines* investigations:
  - Parties sell seats on each other's flights on routes where they already operate their own flights
  - The routes are between the parties' hubs
  - Parties can sell as many seats as they like on their partners flights as long as there are seats available



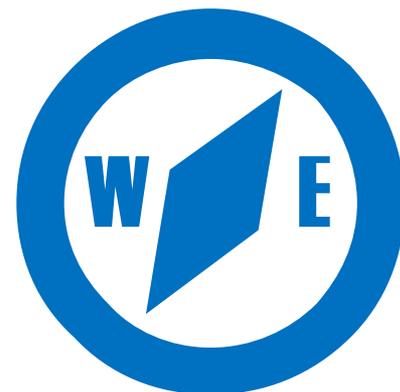
Concerns more likely if parties are the major or only operators on route



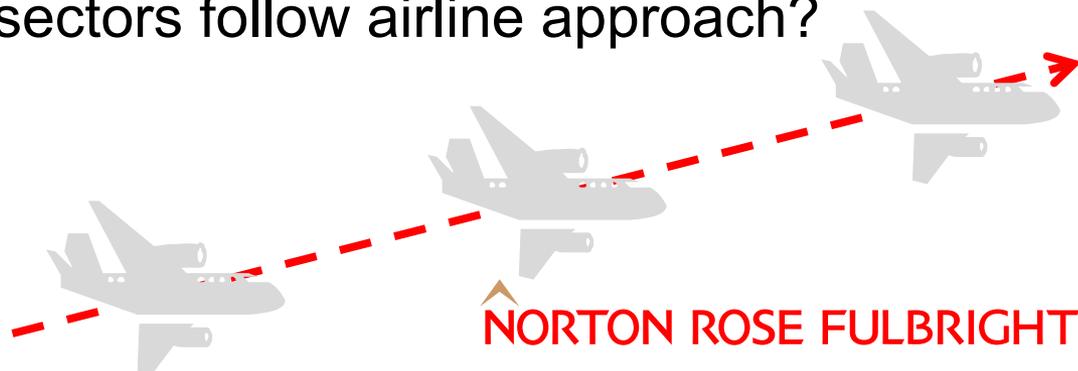
Concern: entry barriers?

## (4) What's on the horizon?

# Direction of travel



- Scope for further airline consolidation?
- Revisiting the transatlantic airline JVs – e.g. CMA investigation into BA/AA JV
- Attention on minority shareholdings and cross-ownership?
- Application of fair competition rules – relevant to JVs etc?
- Will greater public interest and foreign investment scrutiny of mergers mean other sectors follow airline approach?





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