

## **Is this the way to run an airline? BALPA Chairman Captain Mervyn Granshaw reflects on another court case lost by Ryanair.**

When Ryanair chief Michael O'Leary decided to take BALPA and the Irish Airline Pilots' Association (IALPA) to court to try to force the unions to divulge the names of some of the Ryanair pilots who had posted comments about the company on the website hosted by BALPA and IALPA he could have hardly envisaged receiving such a ringing condemnation of the airline's management practices by Mr Justice Thomas Smyth in the Dublin High Court.

As he read his judgement, for over 2 hours and most of it critical of the ethos of Ryanair, what Mr Justice Thomas Smyth was saying, in effect, was 'this is no way to run an airline.' And nor is it. The judgement is something that the European Commission, the British and Irish governments, the European Air Safety Agency (EASA), the Civil Aviation Authority (CAA) and other agencies ought to read very carefully indeed.

BALPA's position remains clear. We want Ryanair to be as successful an airline as Southwest Airlines in the USA, which was the genesis of Michael O'Leary's model. But whereas Ryanair has successfully copied Southwest's marketing and low frills operation, it has missed out on Southwest's customer care and personnel management where the airline's slogan is 'Spreading the luv!'

The way in which Ryanair, too, often treats its passengers is now well known. But the way in which it treats its staff was less well known until now and the Dublin judgement is illuminating what has been a very dark corner of global aviation.

Problems started when Ryanair decided to buy the bigger Boeing 737-800 and retire its fleet of 737-200s. The company told its pilots that the company would pay for the retraining (as any airline would) but one bizarre proviso was that if the airline had to enter into negotiations with any professional pilot association or trade union anywhere across its network bases within five years of the commencement of training then individual pilots would be liable to repay their full training costs - put at €15,000 (£10,000) per pilot. If the pilots did not accept this offer, they would become redundant as the Boeing 737-200 was to be phased out. Michael O'Leary, whose opposition to unions is well known, gave pilots just seven days to decide.

Mr Justice Smyth was scathing saying that it seemed both irrational and unjust that pilots should be penalised to the extent of €15,000 for the actions of third parties over which they had no control. In his judgement this was a most onerous condition which bore all the hallmarks of oppression.

But the oppression had only begun. To enable Ryanair pilots to 'meet' on-line and discuss amongst themselves relations with their employer, BALPA

and IALPA set up a discrete web site called the Ryanair European Pilots Association (REPA). To maintain confidentiality pilots used pseudonyms and had to use a password for access.

Ryanair management got hold of a password, entered the site and demanded to know the names of several pilots. The company alleged these pilots were threatening other pilots. BALPA and IALPA naturally refused. That was what propelled Mr O'Leary to court. After listening to all the detailed evidence, Mr Justice Thomas Smyth said that there was no threat or intimidation from the pilots; he rejected that completely. The judge said that Ryanair executives had given 'false evidence'. For instance, he rejected the evidence of Eddie Wilson (Ryanair's head of personnel no less) which he said was 'baseless and false.'

Ryanair, he said, swore on oath that it wanted to investigate the identity of the pilots on the website in order to protect other staff. 'The real as opposed to the putative purpose of the investigation was to break whatever resolve there might have been amongst the captains to seek better terms and in particular the very reasonable and justifiable concern' about the 'take it or leave it' offer which could cost the pilots €15,000 each. The judge concluded that Ryanair is 'entitled to loyalty from its workforce but not supine deference.'

We, the pilots and staff at Ryanair, the passengers, the shareholders, need to see a fresh start by the Ryanair board. For there are some nagging questions now. What do the regulators make of a company when a Judge says he has a great difficulty in believing their senior executives under oath? What do investors make of a management which may end up wasting over €1,000,000 on a court case which the judge declared to be a 'feigned' legal action? What do customers make of an airline which oppresses those who fly the aircraft in which they travel? What do governments make of an employer who denies employees the representation of their professional association and union?

And what do pilots make of an airline that aims to maximise the profit on each sector, stretches pilot "productivity" to achieve that and then pours the results down a legal drain; worse than that - it uses it to take the same income-generators to court! What a waste; talk about biting the hand that feeds you.

Ryanair is poised to become a mature responsible airline, but it will need significant new direction if it is to truly emulate Southwest Airlines and its committed workforce, its appreciative customer base and its standing with government and with the regulators in the USA. I believe Michael O'Leary will think of these things in his quieter moments; if he doesn't his shareholders may have a quiet word in his ear.

Having sat through the whole depressing case in Dublin there was one thing that shone through, and that was the honesty and integrity of the average line pilot. A string of them were brought in as witnesses by Ryanair, but

each refused to confirm that they had been intimidated by colleagues - despite facing a barrage of questioning from Counsel and staring across the court room from the witness box at their management. One pilot in particular, John Goss, has already had to go through such an ordeal in his own separate case of victimisation - which he won - and had to go through it all again. Our own Trevor Philips (who I engaged to help moderate the REPA website) was praised by the Judge for evidence that was "clear and helpful" and for carrying out his moderator duties with "scrupulous care and prudence". It is how we do things, honestly and professionally; and it is why the truth will out in the long term.

Addendum: We had an excellent result in the High Court in Dublin the following Friday 21<sup>st</sup> July - Mr justice Smyth has accepted our arguments about costs in their entirety and rejected Ryanair's case. He has awarded the Defendants their full solicitor and client "Indemnity" costs against Ryanair, for all the hearings in the case, including today's. Total costs are likely to exceed €1,000,000.

It is a significant expression of the Judge's disapproval of Ryanair's tactics in pursuing this claim.

As for the continuation of the injunction, Ryanair did make an application, which the judge rejected. He has therefore released the Defendants from the injunction and told Ryanair that they would have to go to the Supreme Court if they want to preserve it. However he could see no grounds for permitting the injunction to continue.