

# Competition and Regulatory Deficit in Civil Aviation Sector in India



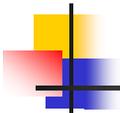
**Mukesh Kacker (IAS)**  
**Director General**



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## Structure



- Importance of Civil Aviation in India's Growth
- Civil Aviation Sector in India – Investment Needs
- Civil Aviation Sector – Interfaces of Regulation
- Civil Aviation Sector – Development Policy Framework
- Competition and Regulatory Issues in Civil Aviation Sector – Interface between Airports and Airlines
- Market Structure – Market Share of Scheduled Domestic Airlines
- Competition Issues in Civil Aviation Sector – Possibilities of Anti Competitive Practices
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## Importance of Civil Aviation in India's Growth

- Transport sector is the lifeline of an economy. The growth and development of an economy depends on the growth of its transport sector to a great extent.
- The transport sector consists of roads and highways, railways, civil aviation and water space.
- Currently, in terms of modal share, air space currently occupies the third and fourth place in India with respect to passenger movement and freight movement respectively. In terms of passenger movement (passenger kilometre), the share of the air space is after that of roads and railways whereas in terms of freight movement (tonne kilometre), its share is after that of roads, railways and water transport.

**Growth of airport sector is extremely crucial for the overall growth of the transport sector and the economy of the country.**



## Civil Aviation Sector in India – Investment Needs

- India has more than 130 airports. These consist of International Airports, Domestic Airports, Customs Declared Airports and Civil Enclaves at Defence Airfields.
- 124 airports are owned and operated by the Airports Authority of India (AAI), which includes 12 International Airports, 81 Domestic Airports, 8 Customs Declared Airports and 23 Civil Enclaves.
- AAI also provides Communication, Navigation and Surveillance Infrastructure and Air Traffic Management (CNS-ATM) at 10 other airports which are not managed by them. These are International airports in Delhi, Mumbai, Bangalore, Hyderabad, Cochin and domestic airports viz. Lengpui, Diu, Puttaparti, Jamshedpur and Vidyanagar airports. (Annual Report 2008-09, Ministry of Civil Aviation)
- The sector has a huge investment potential and investment need because of favourable demographics and rapid economic growth.
- Major opportunities are there in the modernisation and upgradation of the metro airports and Greenfield airport projects.
- The investment requirement for airport development in the country is projected at Rs. 30,968 crore for the Eleventh Plan Period. It consists of investment in the four Metro airports, 35 specific non-Metro airports, Greenfield airports, North-East airports and upgradation of CNS-ATM and other equipments. Out of the total investment, the projected shares of public and private sector investment are roughly 30% (Rs. 9,338 crore) and 70% (Rs. 21,630 crore) respectively.

**Investment to the tune of INR 21,630 crore is to come from private sector.**

## Civil Aviation Sector in India – Investment Needs Contd.

- Projected Investment in the Airports Sector during the Eleventh Plan:

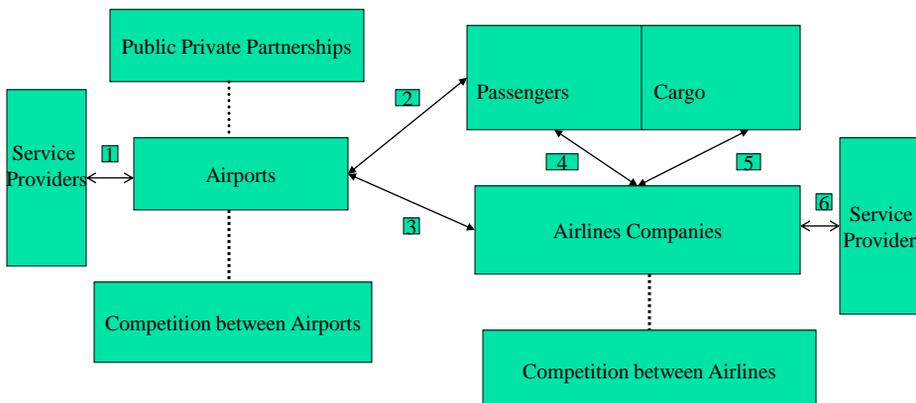
Categories	Total Projected Investment (Rs. Crore in 2006-07 prices)
Metro Airports	13,097
Non-Metro Airports	4,220
Greenfield Airports	10,753
North-East Airports	519
CNS-ATM and Equipment	2,559
<b>Total</b>	<b>30,968</b>

Source: Committee on Infrastructure, Planning Commission, Government of India. August 2008.

**Inflow of both investment and technology is crucial for development of civil aviation in India.**

## The Civil Aviation Sector – Interfaces of Regulation

The civil aviation sector can be represented in terms of regulatory interfaces by the following structure: arrows denote interfaces.





## Civil Aviation Sector – Development Policy Framework

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- **PPP Policy:**

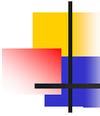
This has been undertaken through Public Private Partnership (PPP) in major Metro airports viz. Delhi, Mumbai, Bangalore and Hyderabad.

- **FDI Policy:**

→100% FDI is permissible for existing airports but beyond 74%, Foreign Investment Promotion Board (FIPB) approval is required.

→100% FDI under automatic route is permissible for Greenfield airports.

→49% FDI is permissible in domestic airlines under the automatic route but this can not come from foreign airline companies.



## Civil Aviation Sector – Development Policy Framework Contd.

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- **Taxation Policy:**

There is provision of 100% tax exemption for airport projects for a period of 10 years.

- **Open Sky Policy:**

‘Open Sky’ policy of the Government and rapid air traffic growth have resulted in the entry of several new private airlines in the industry in recent years and also increased frequency of flights of international carriers.

**FDI policy in terms of exclusion of foreign airlines adversely affects development of the sector.**

## Competition and Regulatory Issues in Civil Aviation Sector – Interface between Airports and Airlines - 1. Access Condition:

- For airports managed by Airport Authority of India (AAI), the AAI allocates the slots. For private airports not managed by AAI, the slots are allocated by the concerned SPV in coordination with AAI.
- All domestic airlines who want to operate at an airport, file for the landing or take off slots with the Directorate General of Civil Aviation (DGCA) and the respective airport operators such as AAI, Air Force, Navy and SPV in Delhi, Mumbai, Bangalore, Hyderabad and Cochin airports.
- The slot requests are analysed vis-à-vis airport capacity parameters viz. runway, apron and terminal building. Based on the analysis, all airport operators either approve the slots in respect of the airports or generate a list of alternate offers. These approved and offered slots are discussed in a meeting where all the airlines, DGCA, BCAS (Bureau of Civil Aviation Security) and airport operators are present. After the meeting, the approved slots are conveyed to DGCA for approval of the flight schedule.

## Competition and Regulatory Issues in Civil Aviation Sector – Interface between Airports and Airlines: Access Condition Contd.

- Slots are allocated twice a year, for summer season and winter season, where each season is a period for six months.
- Allocation of slots is based on (i) “Grandfather Rights” and (ii) “Use it or Lose it” rule in case of mergers and acquisitions of domestic airlines.
- ‘Grandfather Rights’ means slots allocated to a particular carrier in the previous season and which were used to a significant extent, are reverted to the same carrier. This policy accounts for allocation of a large majority of slots, particularly at peak times.
- In the context of mergers, according to the domestic air transport policy, the airline which is merging with or acquiring another airline, is allowed to take control of the airport infrastructure, including slots of the latter. ‘Use it or Lose it’ rule implies that this right will be available with the airline that takes over till such time as the infrastructure/rights are under use. If the concerned infrastructure is not used, the airline will lose the user rights over the infrastructure including the slots.
- As per the slot allocation policy, after allocation of slots on the basis of ‘grandfathering’ and ‘use it or loose it’ basis, 50% of the left over slots are allotted to the new airlines. There are no charges for peak and non peak slots in the policy.

## Competition and Regulatory Issues in Civil Aviation Sector – Interface between Airports and Airlines: Access Condition Contd.

### Implications:

- Slot is, therefore, a key asset for the airlines in the air space sector. It gives an airline an advantage since it helps them to capture the market. In this regard, the process of grandfathering of slots acts as a major entry barrier as it means that the slots allocated to a particular carrier in the previous season and used to a significant extent, will be reverted to the same carrier.
- This entry barrier is particularly significant for new airlines which will find it difficult to capture peak hour slots, as those would already go to the large players in the market.
- The allotment of peak hours slots should ideally be a competitive outcome.
- The process of allocation involves many agencies. It should be regulated by an independent regulator.

## Competition Regulatory Issues in Civil Aviation Sector – Interface between Airports and Airlines: 2. Route Dispersal Guidelines

- The Ministry of Civil Aviation has divided all aviation routes in the country into three categories. Category I routes comprise Metros, Category II routes consist of North Eastern region, Jammu & Kashmir, Andaman & Nicobar and Lakshadweep whereas Category III routes comprise all routes other than those in Category I and II.
  - According to the policy, any operator which operates scheduled air transport services on one or more than one routes under Category I, will be required to deploy on Category II routes at least 10% of the capacity it deploys on Category I routes. Moreover, the operator has to deploy on Category III routes at least 50% of the capacity he deploys on Category I routes.
- Implications:**
- As the above policy implies that the uneconomical routes are served by all airlines in order to ensure equity and adequate dispersal of air transport facilities in these routes, the guidelines can create significant entry barriers for new airlines.
  - It may be uneconomical for an airline to operate flights in all the routes due to financial or technical reasons. The type of aircraft required to serve a regional route may be different from the one required to serve the Metros and this in turn, may require the creation of a different fleet.

**This boils down to centralised market allocation which is anti-competitive in essence.**

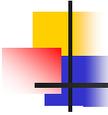
## Market Structure – Market Share of Scheduled Domestic Airlines (October 2009)

Airlines Company	Market Share
Kingfisher	20.7%
Jet Airways	19.8%
NACIL	18.6%
IndiGo	13.6%
Spicejet	12.4%
JetLite	7.9%
Go Air	5.4%
Paramount	1.5%

Data Source: The Directorate General of Civil Aviation (DGCA), Ministry of Civil Aviation

## Competition Issues in Civil Aviation Sector – Possibilities of Anti competitive Conducts

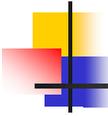
- From the market share presented, it is evident that no single airline company enjoys a dominant position currently. However, there are possibilities of (i) anti competitive agreements (especially cartels) between large players and (ii) mergers and acquisitions of airlines. The first can lead to price fixing whereas the second can lead to occupation of significant market share and consequently abuse of dominance.
- Anti competitive Agreements:**
- Significant market shares of Kingfisher and Jet Airways (the two largest players in the scheduled domestic airlines market) may indicate a tendency for price collusion. This can lead to the charging of excessive prices.
  - Recently, these two largest private carriers (Kingfisher and Jet Airways) have hiked fares, spurred by a 9% hike in aviation turbine fuel (ATF) prices from November 1, 2009. If all airlines increase fuel surcharge in the same way, it might lead to cartelisation and consumers will be left with less choices.
- Mergers & Acquisitions:**
- Recent examples of mergers and acquisitions in the Indian airlines market are the formation of NACIL (merger of Air India and Indian Airlines), acquisition of Air Sahara by Jet Airways and merger of Kingfisher Airlines and Air Deccan. All these three events took place in 2007.



## Regulatory Authorities: State of Regulation

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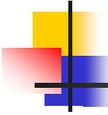
- **Airport Authority of India (AAI):**
  - The Airport Authority of India (AAI) is the operator in majority of airports.
  - The relevant statutes are The Airports Authority of India Act, 1994 and The Airports Authority of India (Amendment) Act, 2003.
  - It is the *de facto* regulator for those airports.
- **The Directorate General of Civil Aviation (DGCA):**
  - The overall functions of DGCA include regulation of air transport services to/from/within/over India by Indian and Foreign operators, registration of civil aircraft, formulation of air safety and airworthiness standards for civil aircraft registered in India and grant of certificates of airworthiness to such aircraft.
  - It oversees the licensing of pilots, aircraft maintenance engineers, flight engineers and air traffic controllers.
  - It also coordinates all regulatory functions with International Civil Aviation Organisation (ICAO).



## Regulatory Authorities: State of Regulation Contd.

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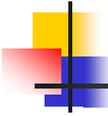
- **Airport Regulatory Authority of India (AERA):**
  - The relevant statute is the Airports Economic Regulatory Authority of India (AERA) Act, 2008.
  - The function of the authority is to determine tariffs for aeronautical services, determine development and passenger service fees in the major airports and to monitor set performance standards relating to quality, continuity and reliability of service.



## Regulatory Deficits

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- **Airport Authority of India (AAI):**
  - For those airports not under the mandate of AERA, it is both the operator as well as the regulator. An independent regulator is required.
  - It has regulatory overlap in many areas with DGCA e.g. slot allocation, height of buildings in proximity to airports etc
- **Airport Regulatory Authority of India (AERA) :**
  - Limited mandate: AERA's mandate is limited to major airports
  - It monitors service standards but has no powers of enforcement.
  - Section pertaining to establishment of Appellate Authority is not notified.
  - Slot allocation and route dispersal are economic issues and should come under AERA.



## Regulatory Deficit Contd.

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- **The Directorate General of Civil Aviation (DGCA):**
  - Overlap with AAI needs to be addressed
  - Serious capacity constraints in monitoring and regulating air safety issues.



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THANK YOU