

1.2 Statement of Problem

The air transport sector in India has undergone massive changes in the last decades. For many years, air travel in India was perceived as an elitist activity and there was restricted growth in the industry. In 1986, private sector players were permitted as air taxi operators. This led to entry of Jet, Air Sahara, NEPC, East-West & Modiluft. With the passing of the Air Corporation Act 1994, this sector was opened up and private carriers were permitted to operate scheduled services. While six operators were granted license only Jet and Air Sahara were able to start their services. However, the year 2003 marked a watershed in the history of civil aviation in India with the entry of Low Cost Carriers (LCC) like Air Deccan and Spice Jet. This was followed by entry of other private airlines, large and small on to the market, including Kingfisher Airlines, Paramount and Go Air.

From the year 2003, onwards the perception of air travel changed. Aviation became more affordable. There has been a large increase in passenger traffic. Also, there has been intense price competition that has resulted in discounted fares, promotional offers and introduction of flights to newer destinations. The co-existence of Full Service Carriers (FSC) and Low Cost Carriers (LCC) has also given the consumer a wide choice of service on the market.

However, this intense price competition led to losses for the airlines. In the quarter ending September 2013, all airlines in India made a combined loss of 1800 Crs ¹⁶. The market share as on 2013 is depicted below.

¹⁶ Bhadra, Aniruddh. 2014. "An Assessment of the Impact of Increase in FDI Cap in the Civil Aviation Sector in India." *Asia Pacific Journal of Management & Entrepreneurship Research*

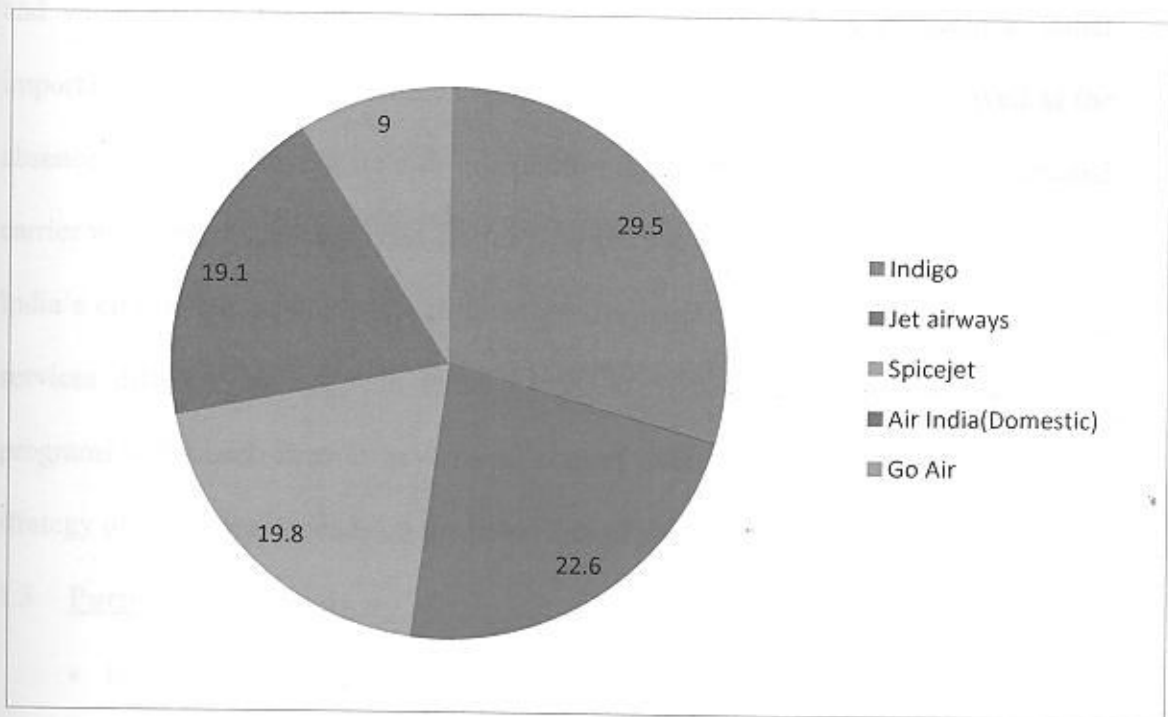


Figure 3: Market Share by Airlines¹⁷

A small number of large carriers such as Air India, Go Air, Indigo, Spice jet and Jet airways dominate this industry. Currently, India's civil aviation sector is made up of just five domestic air carriers with each maintaining a market share of at least five percent. The top four firms' concentration ratio adds up to 91 %. This type of market concentration can be defined as a tight oligopoly, where India's four firms hold more than 60 % of the market share.

Barriers to market entry in India's civil aviation sector include a high mortality rate within the airline business with respect to both regular and low cost private carriers. Additionally, during the gestation period, a private carrier needs adequate staying power to buy aircraft and capacity in order to absorb initial operating losses. Furthermore, to succeed, new market entrants must be able to absorb market entry costs

¹⁷ Website of Director General of Civil Aviation. www.dgea.nic.in

and withstand the incumbents' response to the entry of a new competitor. Other important barriers to entry include capacity and investment constraints, as well as the absence of a level playing field or competitive neutrality with respect to the national carrier which impedes the private carrier's freedom to compete on a route.

India's civil aviation sector is a differentiated oligopoly with a few firms providing services different enough - in terms of quality, frills offered, and frequent flyer programs - for each firm to have some control over the price of their service. The strategy of each firm depends on the behaviour of rival firms.

1.3 **Purpose of the Study**

- Identify and analyze potentially competition inhibiting provisions and practices found within the regulatory framework of Indian civil aviation sector
- To make a comparative study of the competition inhibiting provisions and practices of the Indian civil aviation sector with that of a developed country and developing country as models of potential sector growth and future reforms
- To suggest recommendations and appropriate policy actions that may be taken by Competition Commission of India to promote and foster competition

1.4 **Rationale**

Liberalization of the Indian civil aviation sector in the mid to late nineties has led to a large number of private players entering the sector in addition to the two established national carriers (Air India and the erstwhile Indian Airlines). Apart from the fact that liberalization of this sector came alongside the phase of rampant economic development in India, growth of the Indian tourism industry and the ever-increasing disposable incomes of the Indian middle-class have contributed to the admirable levels of growth that the civil aviation sector has achieved in the last decade, in addition to the support provided in the form of structural reforms, airport modernizations, entry of private

airlines, adoption of low fare model and improvement in service standards. During the implementation of the Eleventh Five-Year plan (2007-2012), India has emerged as the ninth largest civil aviation market in the world with the total number of passengers handled at Indian airports, during the period growing at an annual average growth rate of 11.5 % and cargo handled at Indian airports growing at the annual growth rate of over 11 %.

As stated earlier, there are only five airlines in the civil aviation industry as on date. The top four firms' concentration ratio adds up to 91%. This type of market concentration can be defined as a tight oligopoly, where India's four firms hold more than 60 % of the market share. For a large country like India, there should be more number of players to have a better competition in the civil aviation sector. Further, the present scenario in the aviation sector is far from encouraging. In the quarter ended September 2013, all airlines in India made a combined loss of Rs 1800 Crores. In order to address the issues several policy changes need to be made which include providing a level playing field for all airlines, lowering taxes on aviation fuel, lowering airport fees and removing uncertainty in the policy regime. Thus for this reason, study of competition impeding issues in the Indian civil aviation sector regulatory framework is imperative. This study would help the policy makers in framing a comprehensive National Civil Aviation Policy and also help in formulating a strategy for competition advocacy with Government and private sectors.

1.5 Research Questions

- What are the provisions and practices found within the regulatory framework of Indian civil aviation sector that inhibit competition?

- How are the identified competitions inhibiting issues addressed in the regulatory framework of a developed country (US) and a developing country (Brazil)?
- What are the means and ways by which the advocacy efforts of Competition Commission of India can be supported further to enhance and ensure competition?

1.6 **Scope**

- The study aims to examine the provisions and practices found within the regulatory framework of Indian civil aviation sector that inhibit competition.
- The study aims to carry out a comparative study of the competition impeding the provisions and practices of the Indian civil aviation sector with that of a developed country and a developing country wherever applicable.
- The study attempts to evaluate all identified competition impeding provisions and practices according to the following parameters:
 - Limit the number and range of suppliers
 - Limit the supplier's ability to compete
 - Reduce the incentive of the suppliers to compete
 - Affect investments

1.7 **Limitations** The following are considered to be major limitations of this research:

- The research and its scope are limited by the time and available resources (in public domain i.e. academic research, discussion papers, journals and books). This aspect overbears the conduct of the study.

- Due to paucity of academic materials, the study remains confined to data obtained from secondary sources. However, all efforts will be made by the researcher in obtaining primary data by methods of questionnaires and Focused Group Discussions.

1.8 Literature Review

India has experienced extraordinary growth in civil aviation market over the past decade and is forecast to be one of the world's largest aviation markets in just a few years. India faces challenges posted by national and state policies, laws, regulations and practices. Crucial questions are presented to policy makers, regulators, business leaders and legal advisers. Thus, there is a need to have a comprehensive National Civil Aviation Policy to ensure that India is number one in the civil aviation market by the year 2030.

SL Rao, published a research article in *Economic & Political Weekly* in the year 1998 which laid down a foundation stone for an academic journey in to the competition policy. The author suggests that India needs to evaluate existing legislation, rules and procedures from the point of view of establishing whether they are supportive of competition, what exceptions if any should exist, the conditions under which competition can be fostered and ensured. He also dwells on the subject on what are the new legislations, institutions and regulatory bodies etc. that need to be created. The author discusses about the objectives of competition policy in India. The principle issue being tightly regulated environment with multiple barriers to entry and exit and thus to competition, resulting in some markets coming under absolute control of one or few firms. Some of the other issues being corporate takeovers, Mergers and Acquisitions, family control over firms, long term lending monopoly of Government owned