30.11.2015

CUTS INTERNATIONAL COMMENTS
ON
THE DRAFT NATIONAL CIVIL AVIATION POLICY 2015

- **Background**

The Indian Civil Aviation Sector aims to become the world's third largest industry by 2020. Under the Twelfth Five Year Plan (2012-17), the Government of India (GOI) has envisaged investment of US$ 11.4bn on airport infrastructure. It has opened airport sector to private participation and around six airports across major cities are being developed under the public private partnership (PPP) model. The Airports Authority of India (AAI) also targets to bring around 250 airports under operation across the country by 2020.

The Draft Civil Aviation Policy 2015 (DP) has been introduced to achieve the desired goals by the aviation industry. The Draft Policy is being applauded by the industry for its efforts towards introducing healthy competition into the sector by encouraging level playing field to various sub-sectors, including Airlines, Airports, Cargo, Maintenance Repairs and Aerospace Manufacturing. It plans to encourage the masses to take flights which would have a multiplier effect on the investments flowing into the sector, thereby promoting the growth of Indian aviation sector. The draft policy covers various issues including Code-share agreements, Aeronautical 'Make in India', Sustainable Aviation, Regional Connectivity. However, it lacks clarity on the fate of 5/20 Rule.

Consumer Unity and Trust Society (CUTS International), a leading public interest non-government organisation has been working towards improving public welfare and encouraging fair competition in the market. It is suggested that eliminating the 5/20 Rule would encourage more number of players fly abroad, thereby boosting investments into the economy. Due to the existing 5/20 Rule, India is unable to become an international hub as flights are diverted to countries like Dubai and Abu Dhabi, taking away traffic from Indian airports. Abolishment of 5/20 Rule would encourage competition by providing level playing field to the existing players as well the new entrants, thereby providing ample choices to consumers to fly. Also, capacity expansion seems to be an optimistic step that would benefit the sector significantly. Further, the present draft policy has taken care of the challenges to commercial viability as well as policy related restrictions on expanding capacity.

The suggestions provided by CUTS International are as below:

1. Regional Connectivity:

- The draft encourages regional connectivity indicating affordable flying to middle class man. Several incentives have been drafted in this regard - to bring down cost of flying i.e., ₹2500 per passenger per hour for short routes. Utilisation and operation of the huge unused asset i.e., around 400 airstrips and airports would promote regional connectivity, eventually reviving them depending on commercial demand. Encouraging regional connectivity seems to be a positive move. Also, converting few airports into no frills airports and making operational by investing ₹50cr would boost the airports to provide better infrastructure. This fund can also take care of viability gap funding indexed to APF price and inflation.
- It would be funded by a levy of two per cent on all domestic and international tickets. Funding would be shared between centre/state: 80/20. It is suggested that the states must promote regional connectivity by reducing the tax on aviation turbine. Implementing such a scheme would enhance investments as well create jobs with the operation of new airports. Even though, effecting of two percent cess could increase fares proportionately, it would become convenient for passengers travelling from small regions to have direct access to other airports. Also, the consumers paying the increased airfare have the right to receive equivalent facilities.
- However, it has to be regularly monitored so that the money collected goes into building better infrastructure, consequently making more efficient low cost airports and lowering ground handling charges thereby enhancing the quality of amenities.

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2. 5/20 Rule:

- The draft policy has invited suggestions from public on taking a call regarding the 5/20 Rule. It has proposed three alternates on the same:
  - continue with the existing norm of five-year operation with a 20-aircraft fleet.
  - abolish this altogether.
  - airlines be allowed to fly to SAARC nations if they have earned 300 domestic flying credits and for other countries, 600 domestic flying credits.
- Continuing with the current trend i.e., allowing 5/20 policy would restrict competition, hence should be eliminated entirely. On the other hand, introducing domestic flying credits (DFCs) would allow airlines to earn credits by flying to remote areas based on number of occupied seats on an aircraft instead of total number of seats. This proposal cannot ease doing business in India, as it is confusing and creates unnecessary barriers. Further, implementation of the same would make it difficult for both, existing and new airlines to earn these crucial DFCs. Therefore, implementing DFC would make things worse. Also, for an airline to achieve 300 credits, it would take time which is not feasible and again have to wait for some time before flying abroad.
- Hence, it is suggested that the Indian civil aviation sector would benefit the most by abolishing the 5/20 rule. Such a rule puts restrictions on new airlines for flying abroad. Also, rules have to be made taking into consideration not few existing aircraft companies. Implementing the 5/20 Rule would try to restrict new airlines from spreading their wings - which can only mean foreign airlines continue to thrive as Indian carriers get stifled under protectionist rules. It also stands in the way of investment from major corporations that seek to improve both the product and infrastructure of the aviation sector in India. The financials could have improved had the domestic airlines been allowed to launch international routes earlier. Lifting of this restriction would surely permit air carriers such as Air Asia India, Go Air, Vistara and other prospective start-ups to operate overseas, leading to an increased number of players interested to invest in the country's aviation industry, eventually making the sector commercially coherent. Accordingly, this would also reduce excess capacity in the domestic market and result in an improved aircraft utilisation.

3. Increase in FDI in airlines

- In India, the aviation industry is witnessing a competitive phase, where both the legacy and the newly entered low-cost carriers are engaged in fierce competition in terms of adding capacity, adding routes, adding features and products and dropping airfares. Increasing FDI in the aviation sector to above 50 per cent would only pave way for strategic investments by foreign carriers. This seems to be an optimistic move as it would not only promote technology transfer but also provide tremendous opportunities in India. Currently, India is looking forward to engage with the US on jet engine technology and conduct technology transfer to which Keith Webster, Director and International Cooperation Office of the Under Secretary of Defence for Acquisition, Technology and Logistics opined that limiting the FDI to 49 per cent could hinder the transfer of high-tech defence technologies involving intellectual property rights.
- Currently, it does not allow direct or indirect equity participation by foreign airlines in Indian carriers. There is a restrictive foreign ownership in the Airline industry intended to protect the Indian carriers from being targeted by foreign carriers for acquisition; and using bilateral air service rights to their advantage. However, India allows 100 per cent FDI in green field airports which is a good example of both proactive government policy and deep focus on 'national priorities'.
- Given the experience in numerous other sectors of the economy such as manufacturing, telecom, banking among others, foreign investment is desirable as it leads to efficiency and scale gains. FDI not only encourages competition by lowering prices but also accords choice of the consumers. Liberalisation in foreign direct investment rules allows domestic companies to diversify and explore investment opportunities in other markets. Foreign direct investment in airlines would thus create a platform in India that offers access and makes foreign ownership allowance, without reciprocity from others.

- Lastly, India should go ahead and seek for reciprocal opening of Airline industry in other countries, in return allowing open access of its market to foreign carriers. While open skies is a desirable long-term outcome, it cannot be achieved by a single nation alone. This would lead to more foreign aircraft carriers to invest in India, providing more choice to passengers in terms of services, price, routes etc., ultimately enhancing investments into the sector.

4. Code Share Agreements (CSA)

Code sharing Agreements would be quite beneficial for a country like India that wants its presence to be felt in global scenario. It would be very convenient for passengers to fly to various cities. As the airlines have to intimate regarding the code share flight details, the same could be shared with Ministry of Civil Aviation (MoCA) subsequent to the launch. Also, a review of such code sharing agreements after every five years seems quite a long gap, hence, it is suggested that the same could be reviewed every two to three years and later extended to be reviewed every five years.

5. Route Dispersal Guidelines (RDG)

It is proposed in the draft policy that all routes with annual traffic of five lakh passengers, average seat factor of 70 per cent and flying distance beyond 700kms have to be considered under Category I. As a result, these routes would witness a massive rise in number which would affect the deployment on Category II, IIA and III routes, which may not be a valuable proposition for the airlines**.** It is suggested that there could be a capping on maximum number of routes which can be included in Category I so that other routes are not adversely affected.

6. Airports developed by State Govts, Private or in PPP Mode

Significant investment in airport infrastructure is required for the development of the aviation sector. There is also a need to apply reasonable user charges on airlines, which makes airports financially viable. Airport infrastructure can be developed through public-private partnership as the policy has proposed. It is suggested that there must be proper guidelines clearly bifurcating the responsibilities and risk sharing mechanism between private developers and the government after analysing such projects.

To improvise the existing PPP model, Committee on Revisiting & Revitalizing the PPP Model of Infrastructure Development has been constituted in May, 2015 headed by Dr Vijay Kelkar which aims to extemporise the PPP policy, propose design modifications and measures to enhance capacity building for effective implementation. The final report is yet to be published under public domain.

7. Airport Ground Handling

Rising traffic in the airports has clearly indicated the inadequacy of airport infrastructure in the country due to which Indian airports have been not able to level with international standards. Airlines carrying out airport ground handling services are overburdened, particularly at metro airports such as New Delhi and Mumbai. Therefore, there is a need to assign ground handling to independent companies, and not be self-handled by Airlines. In Canada, independent ground handlers have depicted better efficiency by providing good quality of service in terms of safety and security to travelling passengers.

It is suggested that the independent agencies must be allowed to provide ground handling services, however, these entities must fulfil the requirements of IATA Standard Ground Handling Agreements and other necessary requirements provided by the Ministry of Civil Aviation, India. Also, opening ground handling of airports to independent companies would surely enhance fair and healthy competition into the sector, thereby providing better quality of service and business excellence at a competitive price to the consumers.

8. Miscellaneous

Apart from the above suggestions, it is important to note few issues related to consumer rights that has not been addressed in the Draft Civil Aviation Policy 2015.

- A passenger should be made aware of facilities being provided by the airlines through their respective website.
- On one hand, airlines claim additional cost for the extra baggage from the customer, there are no provisions provided to compensate for the delay caused in flights. Therefore, the Airlines companies must take onus for payment of compensation due to the cancellations and delays caused.
- There has to be facilities provided in case of cancellations or delay in flights including stay and meals. With the airfares paid by the consumers, they have the right to such services.
- If the passengers are denied to board the flights against their will, the airline must recompense for the loss and reimburse the ticket fare immediately without delaying it any further.

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