

Aviation Specific Safeguards for Competition

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States and Regions with Aviation-Specific Competition Safeguards

- ✈ U.S.
- ✈ EU
- ✈ CEEAC
- ✈ Equatorial Guinea
- ✈ Georgia
- ✈ New Zealand
- ✈ Paraguay
- ✈ Philippines
- ✈ Qatar
- ✈ Tanzania

Barriers to Entry

- ✈ Ownership & control rules
- ✈ Public ownership of infrastructure
- ✈ Access to capital

Mergers and Coordination

- ✈ Ownership & control rules prevent mergers
- ✈ Denying airlines benefits of scope and scale available to other industries
- ✈ Network effects also of outsized importance in aviation
- ✈ Inability to merge necessitates coordination behavior that would not be accepted in other industries

ICAO'S Suggested Safeguards

- A) Charging fares and rates on routes at levels which are, in the aggregate, insufficient to cover the costs of providing the services to which they relate;
- B) The addition of excessive capacity or frequency of service;
- C) The practices in question are sustained rather than temporary;
- D) The practices in question have a serious negative economic effect on, or cause significant damage to, another airline;
- E) The practices in question reflect an apparent intent or have the probable effect of crippling, excluding or driving another airline from the market and;
- F) Behavior indicating an abuse of a dominant position on the route

What's Missing?

- ✈ Subsidies
- ✈ Collusion
- ✈ Mergers
- ✈ Vertical Agreements
- ✈ Market Definition
- ✈ Dispute Resolution



Who Does International Competition Law Serve?

- Consumers?
- Industry?
- States?



What Else Can ICAO Do?

- ➔ Transparency
- ➔ Non-discrimination
- ➔ Procedural Fairness
- ➔ Model Bilateral Clauses
- ➔ Technical Assistance and Support for National Competition Authorities
- ➔ Working Group on Interaction Between Trade and Competition Policy