

REPORT

The third ICAO Air Transport Symposium (IATS) was held at ICAO headquarters in Montréal, Canada from 30 to 31 March 2016. The event, with the theme *Addressing Competition Issues: Towards a Better Operating Environment*, served as a forum for the exchange of ideas, views and information on competition matters in international air transport. The IATS 2016 format was interactive as it allowed for the exchange of information and ideas among the moderators, panellists and the audience. The event was attended by 314 participants from 68 Member States, 14 international organizations, academics and other aviation stakeholders.

Objective of the meeting

The objective of the Symposium was to provide the opportunity to examine practical solutions to competition issues including, but not limited to, the role of government under the liberalized market, the application of competition rules to international air transport, aviation-specific safeguards, the enhancement of air connectivity and competitiveness in a liberalized market. The event also assisted the Air Transport Regulation Panel (ATRP) in its ongoing work in the development of international agreements for the liberalization of market access, air cargo and air carrier ownership and control.

Opening of the Symposium

Dr. Fang Liu, ICAO Secretary General, opened the symposium highlighting the positive contributions of liberalization to the growth of international air transport and added that:

- a) air transport has continued to transform lives and societies by connecting the world, allowing access to new technologies and opening global markets for rural producers. Air transport is also playing a critical role in carrying lifesaving medicines to communities in need urgent supplies for disaster relief, and in reducing poverty;
- b) the continued growth of a safe, secure, efficient, economically viable and environmentally responsible air transport network directly benefits the world's economy, and will contribute consequently to the achievement of the United Nation's 2030 Agenda for Sustainable Development;
- c) liberalization has made the aviation operating environment more market driven, and competition among airlines and airports increasingly intensified. This has raised major challenges for regulators who must ensure a sound and orderly operating environment and fair and equal opportunity for all;

- d) the lack of regulatory convergence in competition regimes has hindered the sustainable growth of the industry. As the liberalization of air transport is pursued, stakeholders should work together for the development of greater global regulatory convergence on competition issues; and
- e) ICAO will continue to take the required steps, under the guidance of its Member States, to support the sustainable development of air transport.

Mr. Boubacar Djibo, Director, Air Transport Bureau *Set the Scene* regarding competition issues and the developments/dynamics taking place in international air transport, more specifically, the movement of the geographic centre of gravity of worldwide air transport operations. He also stated that:

- a) there is no universally accepted definition of the word *competition*, however, it may be considered as the existent or *potential* rivalry between two or more operators, carriers or groups striving for an advantage in the same market, by using price, connectivity and quality of services to achieve desired gains;
- b) beyond its definition, there are significant differences across States and competition authorities regarding approaches to competition in international air transport;
- c) regarding government support to airlines and airports, the provision of subsidies and aids may distort the market and creates welfare loss. However, some are of the view that certain circumstances may justify such aid, in particular when it produces economic and social benefits, for example by ensuring essential air services of public service nature;
- d) the resolution of competition issues is a fundamental piece of the ongoing work on the international agreement on liberalization of market access, air cargo and air carrier ownership and control, especially as it relates to safeguard measures which will ensure the effective and sustained participation of all States in international air transport;
- e) the international agreement, once finalized and implemented by our Member States, will significantly enhance air connectivity and competitiveness in a liberalized market at the global scale; and
- f) the spirit of the *Chicago Convention* should be respected when building a coherent global operating and regulatory framework of international air transport without creating any market distortions and inefficiency.

HIGHLIGHTS OF THE DISCUSSIONS AND CONCLUSIONS

Session 1 - Understanding competition in a liberalized market

This session focused on the clarification of the key concepts and terminologies related to *competition* such as “fair competition” and “a level playing field”. The following views were expressed during the discussion:

- a) there is no clear way to define *competition* and the meaning of *fair competition* in practice;
- b) it is also very difficult to establish a *level playing field* due to the natural differences that exist among States and operators’ environments;
- c) the disparity in States’ situations and stages of development may affect their liberalization process and the application of competition regimes; and
- d) aviation has some unique characteristics in term of safety, security environmental externalities which may require aviation specific competition scheme.

Session 2 - The role of government in the liberalized environment

This session discussed the policy goals of government concerning competition in the aviation industry and examined the issue of State aids and subsidies. The following views were expressed:

- a) liberalization can be considered as a process, which should take into consideration the need for *fair and equal opportunity* to compete;
- b) governments should still continue to have a role in a liberalized environment to prevent ant-competitive behaviours;
- c) the provision of State aids and subsidies may be justified if they are of public benefit. They should however, be applied in a transparent manner;
- d) the amount of subsidies provided by States are often too small to influence the market condition and its structure;
- e) States aids and subsidies sometimes do not necessarily act as incentives to encourage airlines to be more competitive;

- f) air cargo is at the forefront of a more liberal approach to market access, and passenger services should follow suit;
- g) infrastructure capacity constraints, particularly at airports, should not be used as an excuse to delay the liberalization of market access; and
- i) public ownership of commercial enterprises is justifiable in a competitive environment as long as such entities can operate under the same conditions as the privately-owned entities and are separated from the regulatory authorities.

Session 3 - Connectivity and competitiveness in a liberalized market

The issues of the benefits of enhanced connectivity and the enablers of air connectivity were extensively discussed. The views expressed during the discussion were:

- a) air connectivity has acquired a new strategic relevance in the context of the global economic shift and the growth of emerging economies;
- b) several emerging economies successfully integrate aviation into their economic development policies;
- c) on-going efforts to liberalize international air transport should be intensified for the benefit of air connectivity and the larger economy;
- d) States should put air connectivity and the interest of the travelling public at the core of their aviation policies, based on a long-term and coherent strategic vision; and
- e) cooperation amongst aviation industry, the tourism industry and the broader economy, are critical to the advancement of air connectivity.

Session 4 - Application of national and regional competition policies to international air transport

There were discussions concerning the desirability and practicality of globally harmonized competition rules and how States could collectively foster compatible and convergent competition policies. The following views were expressed:

- a) in some States and regions, competition policies are consistent across the economy, but in other regions, an attempt to establish a harmonized competition policy for aviation cannot be implemented due to the lack of an overall competition authority;

- b) in view of the relationship between liberalization and competition, there should be an appropriate mechanism in a liberalized market prevent anti-competitive behaviours;
- c) regional harmonization of competition policies and rules are more feasible than global harmonization of competition rules in view of the varying levels of maturity and development among States;
- d) State sovereignty establishes some limitations on the scope that competition authorities can regulate. By contrast, airlines operate between static and dynamic competition markets beyond their national borders;
- e) certain competition authorities actively enforce competition law regimes whereas others adopt a more reserved stance; and
- f) continuous dialogue among competition authorities is an important aspect in building trust and resolving disputes.

Session 5 - Aviation-specific safeguards for competition

This session focused on when and where aviation-specific safeguards are justified and how these safeguards can be implemented internationally. The following views were expressed during the discussion:

- a) some States have adopted aviation-specific safeguards;
- b) the model clause on safeguards adopted by ICAO which focused on predatory pricing and abuse of dominant position should be expanded to have a wider scope include other anti-competitive practices;
- c) the existence of a strong regulatory link between the designating State and the designated carriers under air services agreements has played a key role in ensuring safety;
- d) the dispute resolution mechanisms in some air services agreements are considered inadequate to resolve competition issues;
- e) safeguards provisions in some air services agreements are sometimes perceived as being protectionist by some other parties to the agreements; and
- f) the World Trade Organization (WTO) offers important substantive and procedural lessons for international aviation but incorporating aviation

into the WTO may have implication for economic, environmental, safety and security aspects of international air transport.

Open interactive sessions

The open interactive sessions provided additional opportunities for participants to engage in the discussions which indicated that ICAO should continue to:

- a) provide a forum for fostering dialogue, cooperation, and exchange of views among all stakeholders including competition and civil aviation authorities on competition issues;
- b) update and enhance its compendium on competition;
- c) enhance dispute resolution mechanisms in the air services agreements, taking into account the ICAO dispute settlement processes as stated in Article 84 of the Chicago Convention;
- d) promote the liberalization of international air transport in line with the long term vision and encourage the convergence of competition rules, but should not pursue global competition rules; and
- e) assist States in implementing ICAO policies and guidance in their regulatory practices for the sustainable development of international air transport.

Presentation by ICAO and ICM

A study on competition and air connectivity was initiated by ICAO in partnership with the Interdisciplinary Center for Mathematical and Computational Modelling (ICM) of the University of Warsaw. It focused on air transport efficiency diagnosis in the context of air carriers' network competition using case studies of various country-pairs. The presentation explained:

- a) air transport network system has been evolving, reflecting best responses by airlines to market demand, existing regulatory framework, geographical advantages and the degree of competition;
- b) in 2014, 68 per cent of passenger took direct flights while 32 per cent chose indirect flights;
- c) air transport network efficiency can be measured by a detour factor (trip duration/distance of connecting itinerary divided by direct flight itinerary between a specific city-pair) weighted by passenger volumes;

- d) the weighted detour factor is 1.05 at the worldwide level while the number is increased to 1.40 for itineraries between Eastern and Western Africa; and
- e) further study will be conducted on the impact of competition between direct and indirect flights on passenger numbers, flight frequencies and fares.

Note – IATS participants list is available at the event website
<http://www.icao.int/Meetings/iats2016/>

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