

One sector, three regulators

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Quality regulatory outcomes in any sector depend on three factors: (a) clear, coherent and transparent regulatory policies that promote competition; (b) independent regulators vested with substantive powers to control operations; and (c) a clear demarcation of jurisdiction among different regulators. Seen from this perspective, it is not hard to fathom why India's aviation sector gives an impression of growth amidst chaos.

Across the spectrum of its stakeholders, the sector has seven regulatory interfaces—service providers and airports, passengers and airports, cargo and airports, airlines and airports, airlines and passengers, airlines and cargo, and finally, airlines and service providers. These seven interfaces are regulated by three regulatory authorities—the Airport Authority of India (AAI), the Directorate General of Civil Aviation (DGCA) and the Airport Regulatory Authority of India (Aera)—in a manner that leaves much to be desired. AAI is essentially an operator. However, since it predates other regulatory authorities, it has always functioned as a regulator, even after Aera has been set up. Functional from May 2009, Aera has been empowered to regulate 'aeronautical services' in 'major airports' only. Thus, AAI continues as the de facto economic regulator for all airports that it operates that are not 'major airports'. Apart from this limited mandate, Aera has no powers to enforce service standards on quality, continuity and reliability of airport services; it can only 'monitor' them, whatever that means.

Then there are three economic issues that ideally should have been brought under Aera's purview. The first is the allotment of slots, the most important being the 'economic right' in aviation. At present, slots are allotted either by AAI or private operators, as the case may be, in coordination with the DGCA, Air Force etc. According to a recent report, the civil aviation ministry now coordinates the allotment of slots.

Ideally, this scarce economic right should be allocated by an independent regulator like Aera. The slot allocation system itself is based on 'grandfather rights' and the 'use it or lose it' rule (in case of merger & acquisitions) is a major entry barrier to new players and encourages abuse of dominance.

Though this is the prevailing system in most parts of the world, pressure is mounting in the developed world to free up slots and allow them to be auctioned. The European Commission had also asked Nera, an economic consultancy, to make a cost-benefit analysis of alternative allocation systems. In India, such economic research and the consequent switch over to a competition-friendly system is not possible unless the deciding authority is an independent regulator.

Secondly, route is also an 'economic right' and, therefore, route allocation should be managed by an authority like Aera. At present, routes are allocated according to the ministry's route dispersal guidelines, which, though intended to promote aviation in less developed areas, end up as being an entry barrier for new airlines with less financial muscle.

Thirdly, Aera is supposed to regulate two economic interfaces— what the airport operator charges from airlines and from users. But the third interface—what the airlines charge from users—is not under any regulatory surveillance. It was recently reported that the DGCA was working on a new regulation to target fictitious bookings, artificial scarcity of seats and consequent higher ticket prices. While welcome in itself, the question arises as to why the DGCA, essentially a safety regulator, should do this. This area is a natural domain of Aera.

However, it is in the area of air safety that the regulatory deficit is most stark. Surprisingly, the deficit is not due to a lack of regulations, but due to the capacity constraints of DGCA and its lack of coordination with the airport operators/AAI. The complete chaos during the winter months, the inability of airlines to use the CAT-III system, the shocking collapse of radar systems and the haphazard shutdown/opening of runways, particularly in Delhi, are enough evidence that DGCA is out of its depth as the safety regulator. The fact that it is an attached office of the ministry is an added roadblock in any reform process.

After a couple of good policy initiatives—the open sky policy and the PPP route to modernise airports—the ministry seems bereft of ideas to make the aviation sector soar. The PPP initiative was good but the concession structured for the Delhi operator has proved to be a disaster. Aera is a half-baked regulator and DGCA is totally unable to cope with the increased demands of air safety. The government must awake to this reality and put its aviation house in order.

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