

GROUNDING OR SOARING? LEGAL DYNAMICS OF COMPETITION IN THE INDIAN AVIATION MARKET

Shreyas Srinivas

5 Ba Llb
'B' Section

ABSTRACT

In many ways, the civil aviation industry in India has changed from a monopoly controlled by the government to one of the fastest-growing in the world. However, there have been some significant obstacles to this evolution, among them being those related to regulatory overlap and competition law. This study challenges the widely held belief that the aviation industry is actually "soaring," instead investigating whether long-standing structural and regulatory issues still choke the industry. A critical analysis of the basic legal frameworks governing competition within Indian aviation reveals a landscape held by complexity. High barriers to entry and market concentration pushes towards limiting people's choices and putting less competition upfront in the market.

The Competition Commission of India has taken action on multiple fronts, addressing instances of alleged fare collusion and confirmed cartelization within cargo fuel surcharges. Sector-specific regulations like Rule 135 of the Aircraft Rules¹ allow the Directorate General of Civil Aviation to intervene in predatory pricing and oligopolistic conduct cases. This duality that exists in jurisdiction results in regulatory overlaps, raising questions about the entire idea of oversight. The recent mergers and market exit that have taken place have moved the market towards a duopolistic structure. This trend is a threat to the consumers, who may face rise of prices, reduced service quality and a drop in options. Only through measures that push for competition and prevents oversight, can industry's growth be translated into genuine welfare, innovation and true competition.

KEYWORDS

Indian Aviation, Oligopoly, Cartel, Competition Commission, Competition Law.

¹ Aircraft Rules, 1937, r. 135, No. 8, Acts of Parliament, 1937 (India).

1. INTRODUCTION

“Competition is not only the basis of protection to the consumer but is the incentive to progress.” – Herbert Hoover²³

The Indian civil aviation sector, initially was a tightly regulated state monopoly, has now become one of the fastest-growing aviation markets in the world, and might become the third-largest globally. Liberalization, the entry of low-cost carriers, and infrastructure expansion have together transformed the industry completely from a service of luxury to a mass transportation mode. Beneath this story which seems to be successful, lies the problematic nature of high entry barriers, market concentration and regulation.⁴

By structure, the Indian Aviation markets exhibit an oligopoly structure⁵, where is a small number of dominant firms, with massive service offers and similar cost structures driven largely by ATF prices. Such conditions set up fertile grounds for collusion posing risks of fare manipulation, fuel surcharge coordination and capacity control. This structural vulnerability has drawn the attention of the Competition Commission of India to enforce the Competition Act.

This paper critically examines these legal and market dynamics, exploring how India’s statutory framework, enforcement and judicial decisions interact to promote or impair genuine competition in aviation. Through a study of the market, it seeks to address the central question of whether Indian aviation is truly soaring on the wings of competition or are its ambitions grounded by structural constraints and regulatory shortfalls?

STATEMENT OF PROBLEM

India's aviation industry seems to be controlled by a small number of companies and beset by competition issues, despite its quick expansion and liberalization. There are now fewer competitors due to high entry barriers and frequent industry crises, creating an oligopoly where there is always a chance of coordinated behavior, whether overt or covert. It is difficult for regulators to differentiate between legitimate market reactions (like matching a competitor's fare increase) and unlawful collusion, and to step in without killing the very competition they are trying to hold.

If they don't put a stop to anti-competitive tactics, the people who suffer are the ones who buy their services, when airlines in the Indian market compete with each other. And if all the airlines keep undercutting each other in a way that isn't financially sustainable, the stability of the market can be compromised. Well-known issues are threatening the existing laws that keep the airline market competitive in India, which makes this study ask, what's wrong with the current setup, and are the existing laws really doing their job? It’s also delving into sub-issues such as whether the laws we already have are

² “Competitive Economies,” Bearing Consulting, <https://bearing-consulting.com/tag/competitive-economies/>

³ CCI – A Key Player for Consumer Welfare, Indian Bar Association (Feb. 2013), <https://indianbarassociation.org/wp-content/uploads/2013/02/CCI-A-key-player-for-consumer-welfare.pdf>

⁴ Indian airlines carried 14.5 million passengers in March; 8.79% higher YoY: Directorate General of Civil Aviation (DGCA), India Brand Equity Foundation (Apr. 29, 2025), <https://www.ibef.org/news/indian-airlines-carried-14-5-million-passengers-in-march-8-79-higher-yoy-directorate-general-of-civil-aviation-dgca>

⁵ Press Information Bureau, Airfare (July 21, 2022), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1843408>

adequate and how we can learn from the past cases of anti-competitive behavior. Does the market structure itself encourage competition or is it vulnerable to collusion? What is the practical impact on consumers?

RESEARCH QUESTIONS

The paper addresses a couple of key questions that could arise in this landscape:

- 1) How do general competition laws (Competition Act, 2002⁶) merge with sector-specific rules (aviation regulations) in this domain?
- 2) What might be the ways through which the oligopolistic structure of the Indian airline market manifests, and what are its implications for competition?
- 3) How do these oligopolistic market conditions make enforcement tough?
- 4) How have cases of alleged cartelization, abuse of dominance, or anti-competitive agreements been decided?
- 5) What does the evolving market mean for consumer welfare? What is the international view of this landscape?

SIGNIFICANCE OF RESEARCH

This study holds significance on couple of levels i.e academic, regulatory, and practical. Academically, it fills a clear gap that exists within the literature by providing a comprehensive and up-to-date analysis of competition dynamics in India's civil aviation sector. While earlier research has focused on some definite discrete issues like fare regulation or particular cartel cases, this study combines legal, economic, and comparative viewpoints to provide a comprehensive assessment of how competition law operates in an oligopolistic, dynamic market.

This research is definitely done within relevance in time and policies as India's airline market is going towards a duopoly, creating new enforcement challenges for the CCI and sectoral regulators. Looking at the laws and regulations that govern the airline industry, the analysis delves into judicial precedents and real-world enforcement. It not only brings to the fore the ongoing challenges in regulatory coordination and the difficulty in proving tacit collusion, but also the real-world effects of merger approvals. Furthermore, it is practical in offering suggestions on the enhancement of investigative processes, remedial measures and is quite vocal about the larger consumer welfare issues in the airline industry. It helps to outline the structural aspects of the airline markets to people, showing that the initial benefits of liberalisation, including cheaper fares and improved connections, may start to disappear if competition weakens, resulting in higher fares, less consumer choice and a drop in service quality. It does this by looking at international examples and benchmarking them, giving a picture to decision-makers and players in the industry, of both the problems that lie ahead and the goals to be achieved. Equipped with the knowledge, the regulators in India have the capacity to pump up the competitiveness of the aviation sector, and prevent the problems that arise from fundamental structural and regulatory issues.

⁶ Competition Act, 2002, No. 12, Acts of Parliament, 2002 (India).

SCOPE AND LIMITATION OF RESEARCH

The economic and legal aspects of competition in India's civil aviation industry are covered in this study. Its scope includes a doctrinal analysis of the Competition Act, 2002⁷, the Aircraft Rules (notably Rule 135)⁸, and other relevant regulatory policies affecting airlines and airports. It reviews major decisions of the Competition Commission of India (CCI), appellate bodies and courts relating to anti-competitive practices, predatory pricing, cartelisation, abuse of dominance, and merger control in the aviation sector. The study also examines the market's structural evolution, from liberalisation to the current duopoly-like scenario, to evaluate its implications for consumer welfare. In addition, it draws comparisons with international practices (particularly in the US and EU) to highlight best practices and cautionary lessons for Indian regulators and industry stakeholders.

The research is subject to certain limitations. It relies mainly on some publicly available information, including statutory texts, reported case law, regulatory orders, policy papers and industry data; confidential CCI investigations or internal airline pricing algorithms were not accessible. The analysis focuses on the civil aviation market up to 2025 and does not attempt to predict future market shares or policy changes beyond this timeframe. While it incorporates quantitative indicators such as market share and penalty amounts where available, it does not undertake an econometric assessment of pricing or consumer welfare. Further, the study is limited to competition law and regulatory issues and does not address other aspects of aviation law such as safety, environmental impact or labour relations except where they intersect with competition policy.

OBJECTIVE OF RESEARCH

The research studies competition in India's aviation sector, with a focus on five connected goals. It looks at laws and rules that shape competition examining the Competition Act of 2002⁹ plus particular aviation policies. This describes the legal basis for promoting competition and addressing anti-competitive actions. It studies difficulties competition authorities, especially the CCI but also the DGCA but also AERA, experience when enforcing those law, this includes proving cartels overlapping authority, but also slow legal processes that lessen the power of regulatory actions. A critical look at important court cases and administrative decisions about anti-competitive behavior, such as charges of fare price fixing, surcharge cartels, claims of dominance abuse, as well as merger reviews.

The analysis helps to understand how Indian law has application and interpretation in the aviation sector. In addition, the research investigates the causes plus implications of the oligopolistic market structure which characterises Indian aviation. This involves examination of market concentration, entry and exit trends, but also policy decisions which have shaped competition. It evaluates how such legal and structural dynamics affect consumers in terms of airfare levels, service quality along with choice. Through tying together legal as well as economic analysis, the study determines whether the industry's current trajectory benefits consumer welfare and what that implies for future competition policy. Such objectives form the

⁷ Ibid.

⁸ Aircraft Rules, 1937, r. 135, No. 8, Acts of Parliament, 1937 (India).

⁹ Competition Act, 2002, No. 12, Acts of Parliament, 2002 (India).

basis for the detailed discussion, case law analysis in addition to empirical evidence which appear in the following sections.

RESEARCH METHODOLOGY

This study utilizes a doctrinal legal research methodology combined with an economic-analytical approach. It also includes a detailed review of the major statutes, rules, regulatory policies, and case law relevant to competition in aviation.¹⁰ The Competition Act, 2002¹¹, forms a main source. Other main sources are the Aircraft Rules, 1937, especially Rule 135, as well as orders of the CCI and appellate tribunals. Judgments from the High Courts but also Supreme Court in aviation competition matters also provide information. For market structure and consumer impact, the research reviews secondary sources. As an example, law review articles, policy papers from organizations such as the OECD, government reports along with industry analyses are useful.

The approach is analytical and comparative. It critically analyzes enforcement actions by the CCI, examining factual findings and legal reasoning in major cases, to evaluate how competition law has been applied in aviation and with what success. It also compares India's regulatory approach and market outcomes with international experiences (for instance, competition regimes in the EU/US aviation sectors and global cartel cases) to identify best practices or cautionary tales.

The data from qualitative sources, for example, case details or regulatory provisions, receive support from quantitative indicators. As an example, market share statistics, the number of competitors through a period or penalty amounts sometimes provide data. The research is current as of 2025, incorporating the latest developments (like the Tata–Air India/Vistara merger clearance in 2023¹² and the near duopoly market shares of 2025) to ensure an up-to-date analysis. By combining legal doctrinal analysis with a proper understanding of industry economics, the methodology allows for an overall idea of whether India's aviation sector is actually competitive and what reforms or interventions might be needed to address the identified problems.

2. LITERATURE REVIEW

Shrivastava and Gupta (2014)¹³ provide a foundational law-and-economics perspective on cartels in oligopolistic sectors such as aviation. Their article explains how the Competition Act, 2002, prohibits both

¹⁰ Bambang Sugeng Ariadi Subagyo et al., Regulatory Framework on Ocean Threats – Transportation Law Analysis to Multiple Oil-Spill Cases in Indonesia, *Transactions on Maritime Science*, Vol. 13, No. 2 (July 20, 2024), <https://doi.org/10.7225/toms.v13.n02.w08>

¹¹ Competition Act, 2002, No. 12, Acts of Parliament, 2002 (India).

¹² Reuters, India antitrust body examining Air India-Vistara merger: source (June 28, 2023), <https://www.reuters.com/business/aerospace-defense/india-antitrust-body-examining-air-india-vistara-merger-source-2023-06-28>

¹³ Pritanshu Shrivastava & Anurag Gupta, Legal and Economic Review of Cartels in Airline Industry – A Critical Analysis, 1 *Indian Competition L. Rev.* 1, 1-25 (Mar. 2014), <https://iclr.in/wp-content/uploads/2024/03/ICLR-Volume-1-Article-1-pp-1-25.pdf>

horizontal and vertical agreements¹⁴ that have an appreciable adverse effect on competition, with particular attention to the risks of cartelisation in markets with few players and high entry barriers. They argue that Indian aviation displays precisely these structural conditions, making fare coordination, surcharge cartels and capacity manipulation plausible. They also critique the CCI's enforcement strategy, calling for stronger detection tools, such as data-driven monitoring of parallel pricing, and tougher deterrence measures to counteract the incentives for collusion in airline markets.

On the same line, the Competition Commission of India's own "Study on Competition Issues in the Domestic Segment of the Air Transport Sector"¹⁵ provides an official empirical mapping of the market. The study identifies concentrated market shares, flags anti-competitive practices such as coordinated fare increases, and evaluates how effectively the CCI has intervened through its orders and policy advocacy. By combining market data with legal analysis, the CCI report underscores the tension between deregulation and the natural tendency towards oligopoly in aviation, and highlights areas where inter-agency coordination (particularly between the CCI and the DGCA) could be improved to protect consumers.

Tripathi and Srivastava (2019)¹⁶ reinforce this picture by focusing on concrete cases in which the CCI investigated airline collusion, such as actions by the Federation of Indian Airlines. They show how oligopolistic conditions enable repeated attempts at cartelisation, and they outline the evidentiary standard for proving such behaviour under Section 3¹⁷ of the Competition Act. Krishna Ramanathan's (2020)¹⁸ paper similarly uses case studies to argue that, despite regulatory activism, structural features of the industry, high fixed costs, slot constraints, and transparent pricing, continue to make coordinated behaviour likely. Both studies recommend more sophisticated investigative techniques, quicker adjudication, and greater use of economic analysis to differentiate legitimate parallel conduct from illegal collusion.

Finally, if we broaden out, articles such as in the Economic & Political Weekly (2025) article on "Exploring the Existing Challenges and Hurdles in the Indian Aviation Industry"¹⁹ and Dwivedi's (2023) "Navigating the Skies: An Overview of Aviation Law in India"²⁰ place these issues within the wider legal and regulatory context. They go ahead and talk about entrenched market power, overlapping jurisdictions, and the difficulties that the people who regulate face in balancing competition law with sector-specific oversight. All in all, these sources show a pretty converging narrative: India's aviation market has evolved

¹⁴ Stéphane Dionnet & Frédéric Pradelles, Vertical Agreements & Restriction of Competition by Object: What's New in Europe, McDermott Will & Emery (July 11, 2023), <https://www.mwe.com/insights/vertical-agreements-restriction-of-competition-by-object-whats-new-in-europe/>

¹⁵ Administrative Staff Coll. of India, *Competition Issues in the Air Transport Sector in India* (Competition Comm'n of India & Investment Climate Advisory Serv. (FIAS) of the World Bank Grp. Mar. 2009), <https://www.cci.gov.in/images/marketstudie/en/docs1652440130.pdf>

¹⁶ Shikha Tripathi & Rishika Srivastava, Cartelization in Indian Aviation Industry: A Critical Analysis, 5 *Commonwealth L. Rev. J.* 412, 412-24 (2019), <https://thelawbrigade.com/wp-content/uploads/2019/07/Shikha-Tripathi-Rishika-Srivastava.pdf>

¹⁷ Competition Act, 2002, § 3, No. 12, Acts of Parliament, 2002 (India).

¹⁸ Krishna Ramanathan, Cartelization of Aviation Industry (Apr. 2020), SSRN, <https://ssrn.com/abstract=3766800>

¹⁹ Siddharth Chaturvedi & Himanshi Srivastava, Exploring the Existing Challenges and Hurdles in the Indian Aviation Sector, 60 *Econ. & Pol. Wkly. (Special Articles)* Issue No. 17 (Apr. 26, 2025), <https://doi.org/10.71279/epw.v60i17.38801>; <https://www.epw.in/journal/2025/17/special-articles/exploring-existing-challenges-and-hurdles-indian.html>

²⁰ Poonam Dwivedi, *Navigating the Skies: An Overview of Aviation Law in India*, 5 *Int'l J. Multidiscip. Research (IJFMR)* Issue 6, Nov.–Dec. 2023, <https://doi.org/10.36948/ijfmr.2023.v05i06.11387>

into a concentrated duopoly structure that pushes the limits of the Competition Act's enforcement model. The literature therefore frames the present research as filling a gap by integrating legal doctrine, case analysis, and market-structure evidence to assess whether India's aviation sector can sustain fair competition and consumer welfare as it consolidates.

3. SCHEME OF STUDY

STATUTORY AND REGULATORY FRAMEWORK FOR COMPETITION IN INDIAN AVIATION

The primary statute that governs competition, not just in aviation, but in all sectors is the Competition Act, 2002. One of the most important provisions in it is Section 3²¹, that prohibits anti-competitive agreements. Now, these agreements includes ones that could give rise to cartels among airlines or collusive decisions by airlines associations. It also prohibits abuse of dominant position as per Section 4²², which could be of enterprises such as a dominant airline or even an airport operator. It also regulates combinations (that could be mergers, acquisitions, joint ventures) under Section 5²³ and 6²⁴, empowering the CCI to approve, condition or block mergers that could lead to an appreciable adverse effect on competition (AAEC). No sector specific exemption exists for airlines as the Act completely applies. In total clarity, several cases decided by the CCI and its appellate bodies have involved airlines confirming that the aviation sector is subject to general competition law.²⁵²⁶

The structure works like this, the CCI is the adjudicatory body at first instance, with appeals earlier going to the Competition Appellate Tribunal (COMPAT) and now to the National Company Law Appellate Tribunal (NCLAT), and ultimately to the Supreme Court. The CCI has within it a Director General's office that investigates complaints (called "information") and submits reports.

The entire tariff regulation in aviation was deregulated in 1994 as the Air Corporations Act got repealed. The DGCA retains limited oversight powers over airline pricing through the Aircraft Rules, 1937. Rule 135²⁷ of these rules lay down guiding factors for airfare that every scheduled airline must "*establish tariff having regard to all relevant factors including the cost of operation, characteristics of service, reasonable profit and the generally prevailing tariff*"²⁸. So, basically the fares are to be market-determined but with an expectation of it being reasonable to the people, in light of costs. Clause 4²⁹ of this section allows for the DGCA to intervene if it finds the pricing excessive as it says "*where the DGCA is satisfied that any*

²¹ Competition Act, 2002, § 3, No. 12, Acts of Parliament, 2002 (India).

²² Competition Act, 2002, § 4, No. 12, Acts of Parliament, 2002 (India).

²³ Competition Act, 2002, § 5, No. 12, Acts of Parliament, 2002 (India).

²⁴ Competition Act, 2002, § 6, No. 12, Acts of Parliament, 2002 (India).

²⁵ .L.A. Pasrich & Co., Q&A: Competition Law and State Aid for the Aviation Sector in India, LEXOLOGY (Oct. 3, 2019), <https://www.lexology.com/library/detail.aspx?g=0176bb89-877d-479f-9cd7-88d8661be092#:~:text=Do%20sector.rules%20apply%20to%20aviation>

²⁶ Norton Rose Fulbright, Cybersecurity Law in the Aviation Sector, NORTON ROSE FULBRIGHT (Aug. 2019), <https://www.nortonrosefulbright.com/en/knowledge/publications/fc813c25/cybersecurity-law-in-the-aviation-sector>

²⁷ Aircraft Rules, 1937, r. 135, No. 8, Acts of Parliament, 1937 (India).

²⁸ Press Information Bureau, Ministry of Civil Aviation, Airfare, in Normal Circumstances, Is Market Driven and Is Neither Established Nor Regulated by the Government, Press Release No. 1843408 (July 21, 2022), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1843408#:~:text=With%20the%20repeal%20of%20Air,and%20the%20generally%20prevailing%20tariff>

²⁹ Aircraft Rules, 1937, r. 135, cl.4, No. 8, Acts of Parliament, 1937 (India).

airline has established excessive or predatory tariff under sub-rule (1) or has indulged in oligopolistic practice, the DGCA may, by order, issue directions to such airline”³⁰. This clause did not come along with the Act, it was inserted in 2010 when there were peak concerns of predatory pricing and coordinated fare hikes, giving the DGCA a regulation role. They have a TMU (Tariff Monitoring Unit) that monitors fare movements to flag either predatory prices or even extortionate prices. If an airline ends up suddenly selling tickets at near-zero prices to drive out competitors, DGCA could direct it to stop such pricing.³¹ In the same way, if all airlines end up charging high, they can question.

It is noteworthy that the law purposely avoids direct price control in normal circumstances, government statements affirm, as said by the Ministry of Civil Aviation that “airfare, in normal circumstances, is market driven and neither established nor regulated by the Government”³². Instead, the approach is hands-off until there is some trigger point of market failure, at which time DGCA and CCI both could potentially act. Here is why the questions are raised: CCI addresses the issue ex post (penalizing anti-competitive conduct after investigation), whereas DGCA’s Rule 135³³ power is ex ante (allowing it to order an airline to modify its pricing). If the situation is ideal, this entire process was supposed to be complementary, like DGCA ensuring immediate protection for consumers and competitors, and CCI imposing deterrent penalties for proven law violations. As of now, there is no statutory requirement for one to defer to the other. There have been instances where the Ministry referred cases to CCI and it was found that the fare similarity alone cannot be held to be illegal.³⁴

Other than these that are the general law, there are also other policies. The Foreign Direct Investment policy was long restrictive, foreign airlines were barred from investing in Indian carriers until 2012. Now they can own up to 49%, which enabled entrants like AirAsia India and Vistara via foreign JV partnerships. More open FDI would definitely increase competition by bringing in capital and expertise, though it also facilitated tie-ups such as Etihad’s stake in Jet did really spark some concerns about foreign influence creeping into the market. (e.g., coordinating schedules with a foreign partner airline).³⁵ Route Dispersal Guidelines (RDG), as mentioned, impose operational obligations that incumbents can bear more easily than new entrants, arguably disadvantaging new, smaller airlines and thus indirectly affecting competition. Slot allocation rules at congested airports typically follow IATA worldwide guidelines, incumbents have historical rights and new entrants get a small portion of any pool of available slots.³⁶ This means new competitors often struggle to secure convenient slots at major airports, a structural barrier that competition law by itself cannot remove (unless anti-competitive intent or abuse is shown in slot governance).

AERA (Airports Economic Regulatory Authority) regulates airport fees and charges. While AERA’s domain is airports (which are often monopolies in their city), it occasionally touches airlines also because

³⁰ India: Airfare, in normal circumstances, is market driven and is neither established nor regulated by the Government, MENA Rep., (2022), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1843408>.

³¹ Swati Ketkar, Airfares Issue Heats Up in Rajya Sabha; Government Responds!, MATHRUBHUMI (Dec. 19, 2024), <https://english.mathrubhumi.com/news/india/india-airfare-prices-government-response-ab2d6c15#:~:text=Airfares%20issue%20heats%20up%20in,with%20Rule%20135%20of>

³² Press Information Bureau, supra note 28.

³³ Aircraft Rules, 1937, r. 135, supra note 27.

³⁴ Reuters, CCI Finds No Proof of Cartelisation Among IndiGo, SpiceJet and Others, VCCIRCLE (Feb. 19, 2020), <https://www.vccircle.com/anti-monopoly-body-finds-no-cartelisation-among-indigo-spicejet-and-others>

³⁵ Organisation for Economic Co-operation and Development, DAF/COMP/WD(2014)71, Competition Issues in the Airline Industry (Nov. 2014), [https://one.oecd.org/document/DAF/COMP/WD\(2014\)71/En/pdf](https://one.oecd.org/document/DAF/COMP/WD(2014)71/En/pdf)

³⁶ Ibid.

the ground handling or even fuel infrastructure are charges that the airlines pay. AERA's mandate is not competition per se but ensuring no abuse by airports themselves, in the view, high airport charges can impact airline competition. CCI had once found that, in a case with BIAL in question, with regard to abuse of dominance in ground handling, they found no violation.³⁷

The modern era however, pushed for the Bharatiya Vayuyan Adhiniyam, 2024 (Act 16 of 2024)³⁸ which is to replace the Aircraft Act, 1934³⁹ and Airports Authority of India Act, 1994⁴⁰. It puts everything under one ambit such as design, manufacture, licensing, safety and security of the matter. Sections 3 to 7⁴¹ formally lays down the Directorate General of Civil Aviation, Bureau of Civil Aviation Security and the Aircraft Accidents Investigation Bureau with defined powers to issue binding directions as per Section 4⁴² and 6⁴³. It goes ahead and also introduces a dedicated compensation mechanism and multi-tier appeal structure, with a rule-making facility to implement the Chicago Convention (Section 11⁴⁴). By contrast, the Airports Authority of India Act, and the Airports Economic Regulatory Authority Act, confine themselves mainly to airport operation and tariff regulation. As noted by Shrivastava & Gupta (Indian Competition Law Review, 2014)⁴⁵ and the CCI's own "Study on Competition Issues in the Domestic Segment of the Air Transport Sector,"⁴⁶ fragmented regulation was a recurring problem; the 2024 Act addresses this by centralising oversight and aligning Indian practice more closely with international standards. However, The Act leaves considerable discretion with the Central Government across multiple provisions, for instance, in delegating powers (Section 21)⁴⁷, reviewing DGCA/BCAS orders (Section 9)⁴⁸, and imposing emergency restrictions (Section 15)⁴⁹, without creating clear statutory coordination mechanisms with the Airports Economic Regulatory Authority (AERA) or the Competition Commission of India. These criticisms echo those in the Economic & Political Weekly (2025) "Exploring the Existing Challenges and Hurdles in the Indian Aviation Industry,"⁵⁰ which warns that entrenched market power and regulatory overlap may persist despite formal consolidation of functions.

In a nutshell, the framework is multi layered. CCI provides the competition law enforcement, DGCA remains to be the sector specific oversight and AERA regulates airports that support the sector. The statutory framework might seem adequate on paper, but the true test lies in how these laws are enforced.

³⁷ I.L.A. Pasrich & Co., Q&A: Competition Law and State Aid for the Aviation Sector in India, LEXOLOGY (Oct. 3, 2019), <https://www.lexology.com/library/detail.aspx?g=0176bb89-877d-479f-9cd7-88d8661be092>

³⁸ Bharatiya Vayuyan Adhiniyam, 2024 (Act No. 16 of 2024), 2024.

³⁹ Aircraft Act, 1934, No. 22, Acts of Parliament, 1934 (India).

⁴⁰ Airports Authority of India Act, 1994, No. 55, Acts of Parliament, 1994 (India).

⁴¹ Bharatiya Vayuyan Adhiniyam, 2024 (Act No. 16 of 2024), § 3,7 (India).

⁴² Bharatiya Vayuyan Adhiniyam, 2024 (Act No. 16 of 2024), § 4 (India).

⁴³ Bharatiya Vayuyan Adhiniyam, 2024 (Act No. 16 of 2024), § 6 (India).

⁴⁴ Bharatiya Vayuyan Adhiniyam, 2024 (Act No. 16 of 2024), § 11 (India).

⁴⁵ Pritanshu Shrivastava & Anurag Gupta, Legal and Economic Review of Cartels in Airline Industry – A Critical Analysis, 1 Indian Competition L. Rev. 1, 1-25 (Mar. 2014), <https://iclr.in/wp-content/uploads/2024/03/ICLR-Volume-1-Article-1-pp-1-25.pdf>

⁴⁶ Administrative Staff College of India, Study on Competition Issues in the Domestic Segment of the Air Transport Sector in India (Competition Commission of India 2009), <https://www.cci.gov.in/images/marketstudie/en/docs1652440130.pdf>.

⁴⁷ Bharatiya Vayuyan Adhiniyam, 2024 (Act No. 16 of 2024), § 21 (India).

⁴⁸ Bharatiya Vayuyan Adhiniyam, 2024 (Act No. 16 of 2024), § 9 (India).

⁴⁹ Bharatiya Vayuyan Adhiniyam, 2024 (Act No. 16 of 2024), § 15 (India).

⁵⁰ Siddharth Chaturvedi & Himanshi Srivastava, Exploring the Existing Challenges and Hurdles in the Indian Aviation Sector, 60 Econ. & Pol. Wkly. (Special Articles) Issue No. 17 (Apr. 26, 2025), <https://doi.org/10.71279/epw.v60i17.38801>; <https://www.epw.in/journal/2025/17/special-articles/exploring-existing-challenges-and-hurdles-indian.html>

ENFORCEMENT CHALLENGES IN REGULATING COMPETITION IN AVIATION

Enforcing competition law in the aviation sector is definitely a complex task. There are couple of reasons to this:

- 1) **Tacit Collusion:** By nature, aviation tends toward oligopoly i.e high fixed costs and the need for scale mean only a few players often survive. In an oligopoly, firms may engage in tacit collusion without any explicit agreement, simply by recognizing their mutual interdependence. Airlines monitor each other's fares real-time by using GDS (Global Distribution System), travel portals etc. and often move prices in parallel especially in response to common cost changes (like fuel). CCI faced this issue in 2015 in a case. It so happened that all major airlines posted similar fares on certain routes, suspicion of a cartel arose.⁵¹ However, investigators found that each airline had in fact used their own revenue management algorithm and there was no evidence of secret arrangement. The fare movements could be explained by things like high demand and similar pricing logic, and does not have to be collusion. Thus, differentiating this parallelism from a cartel is a difficult challenge. The CCI eventually closed the case stating that there was no evidence found and that the algorithms did not indicate any illegal communication of sorts.⁵² This shows how if there is no "smoking gun" (emails, meetings, etc.), competition authorities are reluctant to declare parallel pricing in an oligopoly as illegal. Tacit collusion, which is one of the major lack point in Section 3⁵³ (since it mandates an agreement) can lead to supra-competitive prices.
- 2) **Evidence Gathering and Delay:** Airlines use yield management software, detailed demand forecasts and competitive intelligence. CCI's investigators had to analyse pricing algorithms and data to figure out the fare cartel case which required expertise.⁵⁴ The investigation even went to the extent of understanding seat allocation patterns and algorithmic outputs to determine if pricing was independently set.⁵⁵ Such complexity can prolong investigations (the fare case probe took multiple phases over 2015-2020).⁵⁶ By that time, enforcement action is ready, the market in itself might have changed (airlines exit, fares normalize). This timing mismatch can blunt the remedy. For example, by 2020 when CCI was ready to close the fare case with no charges, the airlines were struggling with a slowdown due to COVID, turning into a survival concern.
- 3) **Procedural and Appellate Hurdles:** Even when the CCI finds a violation and imposes penalties, appeals can delay or even overturn decisions on technicalities. A telling example is the cargo fuel surcharge cartel case. In its 2015 order (Express Industry Council case)⁵⁷, CCI imposed heavy penalties on Jet, IndiGo, and SpiceJet for colluding on cargo fuel surcharges.⁵⁸ However, on appeal, the COMPAT in 2016 set aside the order not only because it found no cartel, but also because CCI had not followed proper procedure in giving the airlines a further opportunity to

⁵¹ Reuters, CCI Finds No Proof of Cartelisation Among IndiGo, SpiceJet and Others, VCCIRCLE (Feb. 19, 2020), <https://www.vccircle.com/anti-monopoly-body-finds-no-cartelisation-among-indigo-spicejet-and-others>

⁵² Ibid.

⁵³ Competition Act, 2002, § 3 (India).

⁵⁴ Reuters, supra note 51.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Express Industry Council of India v. Jet Airways (India) Ltd., Case No. 30 of 2013, Competition Commission of India (Nov. 17, 2015).

⁵⁸ I.L.A. Pasrich & Co., Q&A: Competition Law and State Aid for the Aviation Sector in India, LEXOLOGY (Oct. 3, 2019), <https://www.lexology.com/library/detail.aspx?g=0176bb89-877d-479f-9cd7-88d8661be092>

respond to certain findings (natural justice grounds).⁵⁹ Although CCI in 2018 again concluded there was collusion and re-imposed penalties, the process took nearly three extra years. Such delays can be fatal to enforcement if, for instance, the offender goes bankrupt in the meantime, which did happen: Jet Airways, one of the penalized airlines, collapsed financially in 2019, raising doubt about recovering any fines. Indeed, enforcement in a financially fragile industry is tricky, regulators fear that huge fines might push an airline into distress, yet too lenient an approach fails to deter anti-competitive conduct. Finding the balance is difficult. (It is notable that CCI often uses a percentage of turnover from the affected segment for fines; in the 2018 cargo cartel decision the fines totalled ₹54.4 crore, scaled down perhaps considering the airlines' financial conditions).

- 4) Regulatory Coordination: Both CCI and DGCA can address pricing issues. There is potential for either conflicts or gaps. For example, if airlines were suspected of an oligopoly price-fixing, should DGCA act first (to cap fares or penalize predatory pricing) or should CCI? In practice, DGCA has seldom exercised its punitive power under Rule 135(4)⁶⁰ publicly. It more often issues warnings or seeks explanations from airlines during fare spikes. The CCI, on the other hand, conducts a quasi-judicial process that can result in a definitive finding of cartel and fines. A lack of formal mechanism to coordinate means it is left to inter-agency consultation. The pilot strike in 2011 had caused increase in fares, DGCA and the Ministry were alarmed and referred matter to CCI,⁶¹ while DGCA also examined the fare data. Ultimately, CCI found no cartel (just price-hike)⁶², and DGCA's fare monitoring bore that out. Now, if CCI had found out that there was wrongdoing, DGCA might have had to issue corrective directions too. The challenge is ensuring that both regulators throw a single voice and not cross purpose.
- 5) Defining Relevant Market – Air travel is not a clear cut commodity, that brings the question on whether it should be analysed route-wise (called as city-pair markets) or the nation as a whole? The answer varies. For abuse of dominance under Section 4, one has to define the market to measure an airline's share. In travel agent commission cases, CCI and COMPAT have wrestled on this. In Travel Agents Association of India (TAAI) vs Lufthansa & Ors (2010-12)⁶³, travel agents argued that a set of airlines jointly dominant in “the market for air travel ex-India” abused their dominance by cutting commission (effectively acting like a cartel)⁶⁴. The CCI rejected the argument, rejecting the city-pair market definition (treating all airlines together) and found no Section 4⁶⁵ violation.

The COMPAT upheld this, saying the airlines did not act in concert or hold collective dominance. In essence, establishing dominance by a single airline in India's domestic market has been rare, historically market shares were fragmented among several carriers. Even IndiGo, now at ~60% share, might be considered dominant in domestic air travel services if that market is taken as the

⁵⁹ Ibid.

⁶⁰ Aircraft Rules, 1937, r. 135(4), No. 22, Acts of Parliament, 1934 (India).

⁶¹ PTI, CCI Rejects Complaints of Cartelisation Against Private Airlines, ECONOMIC TIMES (Jan. 14, 2012), <https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/ci-rejects-complaints-of-cartelisation-against-private-airlines/articleshow/11481833.cms>

⁶² Ibid.

⁶³ Travel Agents Association of India v. Lufthansa German Airlines, Case No. 30 of 2010, Competition Commission of India (Dec. 7, 2012).

⁶⁴ I.L.A. Pasrich & Co., Q&A: Competition Law and State Aid for the Aviation Sector in India, LEXOLOGY (Oct. 3, 2019), <https://www.lexology.com/library/detail.aspx?g=0176bb89-877d-479f-9cd7-88d8661be092>

⁶⁵ Competition Act, 2002, § 4 (India).

relevant one. But no case has yet tested IndiGo's conduct under Section 4. One can anticipate difficulties: if relevant market is defined narrower (economy class air travel, or air travel on metro routes, etc.), it may change the dominance analysis. And if dominance is found, proving abuse (like predatory pricing or unfair conditions) requires showing intent and anti-competitive effect, which is non-trivial. For example, a smaller airline might allege IndiGo floods a route with capacity to undercut them (predatory pricing), but IndiGo could argue it's matching competition and operating efficiently. Without clear standards (CCI recently issued draft guidelines on predatory pricing assessment⁶⁶), enforcement here is challenging.

- 6) Public Interest – Aggressive competition enforcement could, in theory, destabilize an already fragile industry (eg. imposing heavy fine on loss-making carrier will just make it exit the market, reducing competition). Regulators are mindful of this, but err in taking caution. After Kingfisher and Jet Airways' collapse, the government has focussed on sector health. For example, when Jet and Kingfisher was about to form an alliance, but they struggled financially, no enforcement pursued and indeed CCI later noted that it did not involve price fixing or market allocation.⁶⁷ Authorities refrain from intervention if it harms the market as a whole.
- 7) International Jurisdiction and Alliances: Air travel often involves international routes where foreign airlines compete with Indian airlines. Cartels or anti-competitive agreements could be international. The CCI's jurisdiction extends to conduct that affects Indian markets, so it could, for instance, scrutinize an international airline alliance if it impacted India (perhaps via code-sharing agreements affecting routes or fares). A case in point: International Air Transport Association (IATA) vs Air Cargo Agents Association of India (2017)⁶⁸, where IATA (on behalf of airlines) complained that a cartel of cargo agent associations in India was boycotting certain airlines' cargo services. CCI examined it and ultimately found no sufficient evidence of agreement or coercion by the association (hence closed the case). The challenge here was partly obtaining evidence of meetings/decisions possibly scattered across many agents. When foreign entities are involved (IATA is international, though the agents were Indian), coordination with foreign regulators or getting documents across borders can be tough. Fortunately, many foreign airlines and IATA comply or cooperate out of business sense, but legal tools (like Section 32 of Competition Act⁶⁹ allows CCI to investigate foreign cartels with effect in India) remain untested vigorously.

To sum it up, the enforcement landscape is very difficult. The CCI's track record is of hits and misses, it has shown willingness to pursue cases yet pragmatic to close cases where evidence falls short.

⁶⁶ Akanksha Nagar, CCI Notifies New Norms to Assess Predatory Pricing Practices, STORYBOARD18 (May 8, 2025), <https://www.storyboard18.com/digital/ci-notifies-new-norms-to-assess-predatory-pricing-practices-64948.htm>

⁶⁷ Organisation for Economic Co-operation and Development, DAF/COMP/WD(2014)71, Competition Issues in the Airline Industry (June 2014), [https://one.oecd.org/document/DAF/COMP/WD\(2014\)71/En/pdf](https://one.oecd.org/document/DAF/COMP/WD(2014)71/En/pdf)

⁶⁸ Competition Commission of India, Case No. 29 of 2017, International Air Transport Association v. Air Cargo Agents Association of India, Order dated Sept. 12, 2017.

⁶⁹ Competition Act, 2002, § 32 (India).

JUDICIAL SCRUTINY AND CASE LAWS ON ANTI-COMPETITIVE PRACTICES IN AVIATION

Over the past decade and a half, a number of cases go before the CCI, the former COMPAT, NCLAT and sometimes the courts, which have shaped antitrust in India. Reviewing these precedents provide insight into what kinds of conduct have been under scrutiny.

Cartels Allegations:

One early case followed the 2011 Air India pilots' strike⁷⁰, during which other airlines sharply hiked fares. The Ministry referred this to CCI eventhough allegations that private airlines colluded to capitalize on Air India's temporary exit. After investigation, the CCI in 2012 dismissed the complaints, concluding that while fares of all airlines did rise "together" during the high-demand, low-capacity period, this appeared to be a normal market response, not a secret agreement.⁷¹ The CCI noted a pattern of fare increase due to more tickets selling in higher fare buckets when load factor rose, which happens in any peak season. It explicitly held there was no violation of Section 3(3)⁷² (cartel provision) based on available evidence. The DGCA's inputs, that the fare hike was due to peak season plus Air India's capacity removal, supported this outcome.⁷³ This case set an important precedent: parallel price movements in airlines, especially during known seasonal or shock events, are not enough to infer a cartel. There must be evidence of an agreement or concerted practice beyond just simultaneity of behaviour.

Jet Airways and Kingfisher Airlines announced a wide-ranging "alliance" in October 2008 to code-share flights, pool some resources, and coordinate on frequent flyer programs, amid both facing losses. This raised eyebrows as the two were otherwise fierce competitors. The matter reached the CCI (likely via an information alleging this could be a cartel or AAEC). In its analysis (not publicly detailed in early orders), the CCI did not find a violation because the alliance did not entail price-fixing, output restriction or market allocation, it was more of a cost-saving joint venture in nature.⁷⁴ The OECD noted that while the two airlines made a "pact" on fuel management, ground handling, network rationalization, etc., it didn't amount to an anticompetitive agreement under Section 3⁷⁵. The case was closed. This established that strategic alliances or cooperation between airlines are not per se illegal, especially if aimed at efficiency and not eliminating competition on price or routes. (It's akin to how code-sharing or interline agreements are generally permitted unless they involve coordination on fares or capacity).

Express Industry Council of India v. Jet Airways & Ors (2015, 2018)⁷⁶: This is perhaps the most significant cartel decision in Indian aviation. Express Industry Council (a courier/cargo association) complained that in 2008, domestic airlines introduced a uniform Fuel Surcharge (FSC) for cargo, all on

⁷⁰ Press Trust of India (PTI), CCI Rejects Complaints of Cartelisation Against Private Airlines, ECONOMIC TIMES (Jan. 14, 2012), <https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/cci-rejects-complaints-of-cartelisation-against-private-airlines/articleshow/11481833.cms>

⁷¹ Ibid.

⁷² Competition Act, 2002, § 3(3) (India).

⁷³ Press Trust of India (PTI), Supra note 70.

⁷⁴ Organisation for Economic Co-operation and Development, DAF/COMP/WD(2014)71, Airline Competition—Note by India (June 3, 2014), [https://one.oecd.org/document/DAF/COMP/WD\(2014\)71/En/pdf](https://one.oecd.org/document/DAF/COMP/WD(2014)71/En/pdf)

⁷⁵ Competition Act, 2002, § 3 (India).

⁷⁶ Express Industry Council of India v. Jet Airways & Ors, Case No. 30 of 2013, Competition Commission of India (Nov. 17, 2015; appeal dismissed 2018).

the same date and at the same rate, and later increased it in lockstep even when fuel prices fell.⁷⁷ The facts strongly suggested a classic cartel: simultaneous action with no obvious individual rationale. The CCI investigated and in November 2015 found that Jet, IndiGo, SpiceJet (and possibly others initially named) “acted in concert” to introduce and raise the FSC, thereby indirectly fixing cargo transport prices⁷⁸. It ruled this a violation of Section 3(3)(a) (price-fixing cartel) and imposed heavy penalties: reportedly totalling around ₹258 crore (approximately \$40 million then) across the airlines⁷⁹. This was a bold move and signalled that the CCI will come down hard on collusion that directly hits consumers (here, shippers and ultimately consumers of shipped goods). However, as noted earlier, the airlines appealed to COMPAT. In April 2016, the COMPAT set aside CCI’s order on procedural grounds, faulting the CCI for not giving the airlines a further opportunity to rebut the Director General’s conclusions (i.e., violation of natural justice in the process). Importantly, COMPAT did not exonerate the airlines on merits; it was a remand. After rehearing with proper procedure, the CCI on 7 March 2018 issued a fresh order reaffirming the cartel finding. The order noted a “clear pattern” of coordinated FSC revisions, minor lags notwithstanding, which was deemed a “stragem...to mask the collusive conduct”. effectively, the CCI was wise to how cartels sometimes insert slight delays to pretend competition. The CCI held collusion was the only plausible reason for identical surcharge increases by Jet, IndiGo, SpiceJet and thus they violated Section 3(3)(a)⁸⁰. Penalties were imposed again (the Reuters report says ₹398m on Jet, ₹94.5m on IndiGo, ₹51m on SpiceJet)⁸¹. The case also demonstrated how appeals can cause re-evaluation; presumably the second order’s careful reasoning has withstood subsequent appeals (though one notes the snippet that airlines have appealed the 2018 order too⁸², outcome of which as of 2020 was pending).

The Shikha Roy v. Airlines case⁸³ (the entire fare cartel period), was when a consumer alleged collusion in passenger ticket pricing. We touched on it under enforcement challenges: CCI’s final decision (~2020) was that no cartel was proven⁸⁴. It’s worth noting the legal precedent: it shows the burden of proof on the informant/CCI in cartel cases. Despite suspicion (similar fares on same routes and times by different airlines), the CCI required concrete evidence of a conspiracy. The DG’s report in 2016 found none, and even after additional analysis (including checking if the airlines’ revenue management software interacted – it didn’t), CCI gave benefit of doubt to the airlines. This precedent might make it harder to prosecute fare cartels unless there is “smoking gun” evidence (like an email or chat proving coordination). It also highlighted the concept of algorithmic pricing: the informant in that case (Shikha Roy) argued that even without human agreement, the use of similar algorithms could lead to collusion (sometimes called “tacit algorithmic collusion”). The CCI’s stance was essentially that parallel algorithm outcomes are not illegal

⁷⁷ I.L.A. Pasrich & Co., Q&A: Competition Law and State Aid for the Aviation Sector in India, LEXOLOGY (Oct. 3, 2019), <https://www.lexology.com/library/detail.aspx?g=0176bb89-877d-479f-9cd7-88d8661be092>

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Competition Act, 2002, § 3(3)(a) (India).

⁸¹ Press Trust of India (PTI), India’s Jet Airways, Indigo, SpiceJet Fined for Fuel Surcharge Cartel, REUTERS (Jan. 6, 2018), <https://www.reuters.com/article/world/indias-jet-airways-indigo-spicejet-fined-for-fuel-surcharge-cartel-idUSKCN1GJ1TU>

⁸² Reuters, CCI Finds No Proof of Cartelisation Among IndiGo, SpiceJet and Others, VCCIRCLE (Feb. 19, 2020), <https://www.vccircle.com/anti-monopoly-body-finds-no-cartelisation-among-indigo-spicejet-and-others>

⁸³ Shikha Roy v. Jet Airways (India) Ltd., Case No. 32 of 2016, Competition Commission of India (June 3, 2021).

⁸⁴ Reuters, *Supra* note 82.

absent an agreement or common guiding mind⁸⁵. This aligns with global antitrust practice as of now, though the debate continues.

A series of cases between 2009 and 2012 involved travel agents' associations and airlines like the case of TAAI v. British Airways (2010)⁸⁶ which was dismissed as British Airways was not dominant in India so an abuse claim failed. Another case of Uniglobe Mod Travels v. Travel Agents Federation of India & Ors (2011)⁸⁷ where a travel agent (Uniglobe) complained that travel agent associations colluded to boycott airlines that cut their commissions. Whereas airlines had shifted to an actual 0% commission model, travel agents were unhappy and through TAFI and TAAI they agreed to stop selling tickets of some airlines. CCI found this a blatant cartel by agent associations in violation of Section 3(3)(b)⁸⁸ as it was limiting supply. CCI in Oct 2011 penalized them for this conduct.⁸⁹

Abuse of Dominance:

The case of Turbo Aviation v. BIAL⁹⁰ with regard to ground handling at Bangalore Airport, turbo Aviation, a ground handling company, alleged that Bangalore International Airport Ltd (which operates Kempegowda Intl Airport) abused its dominant position by not allowing multiple ground handlers and favoring its own or few handlers, thus also an allegation of anti-competitive agreement with its joint venture partner. CCI defined the relevant market as “the provision of ground handling services at Bangalore airport” and found BIAL dominant (since an airport is a monopoly in its own premises). However, it did not find abuse – presumably because the restriction on ground handlers might have been as per government policy or tender (at that time, ground handling policy in India limited the number of service providers for security reasons). CCI held no contravention⁹¹. The takeaway is that airports, though dominant in their sphere, may have justifications for certain restrictions, and dominance per se is not illegal – only abuse is. This is one of the few dominance cases in aviation; others involving airlines as dominant did not succeed (as seen with BA, Lufthansa cases where dominance wasn't established).

Although not a CCI case, a notable episode was when private airlines accused Air India of predatory pricing on domestic routes.⁹² Air India, being government-funded, sometimes set fares below cost. The Ministry acknowledged private carriers' concern that Air India's bailouts let it price below cost, hurting others⁹³. The private airlines through FIA even proposed a regulatory mechanism to prevent both predatory and excessive pricing. While this did not translate into a formal CCI case (perhaps because proving Air

⁸⁵ Ibid.

⁸⁶ Travel Agents Association of India v. British Airways, Case No. 11 of 2010, Competition Commission of India (2010).

⁸⁷ Uniglobe Mod Travels Pvt. Ltd. v. Travel Agents Federation of India, Case No. 03 of 2009, Competition Commission of India (Oct. 4, 2011).

⁸⁸ Competition Act, 2002, § 3(3)(b) (India).

⁸⁹ Abir Roy & Vivek Kumar, Cartel in India, 21 INT'L J. OF RSCH. & ANALYTICAL REVS. 687, 688 (2020), <https://ijrar.org/papers/IJRAR19D1195.pdf>.

⁹⁰ Turbo Aviation Pvt. Ltd. v. Bangalore International Airport Ltd., Case No. 02 of 2015, Competition Commission of India (Jan. 7, 2016).

⁹¹ Shreya T, Competition Law Challenges and Regulatory Oversight in India's Aviation Sector, 7 INT'L J. FOR MULTIDISCIPLINARY RSCH. 1 (2025), <https://www.ijfmr.com/papers/2025/4/54985.pdf>.

⁹² Air India Ltd., Case No. 01 of 2010.

⁹³ Smita Aggarwal, Beaten by Price War, Airlines Want Govt to Regulate Fares, The Indian Express (Nov. 26, 2011), <https://indianexpress.com/article/news-archive/web/beaten-by-price-war-airlines-want-govt-to-regulate-fares/#:~:text=%C2%93In%20intense%20competition%20among%20airlines%20Clot.be%20present%20at%20Saturday%20%92s%20meeting>

India's dominance in a route or intent would be complex, and politically sensitive)⁹⁴, it led to DGCA's Tariff Monitoring⁹⁵ and later the inclusion of "predatory pricing" language in Rule 135⁹⁶. The absence of a decided case here means there does not exist a direct legal precedent on predatory pricing by an airline in India.⁹⁷ However, in other jurisdictions like the EU, predatory pricing in aviation was alleged in the 1990s (e.g., British Airways, Lufthansa were accused of predatory behavior against low-cost entrants, though formal findings were few). In India, if IndiGo's market power grows, this precedent gap might be tested if a smaller airline complains.

Merger/Combination Cases:

The Jet-Etihad Combination⁹⁸ is a memorable one, as it was the first high-profile merger review in aviation by CCI. Etihad Airways, a UAE carrier, sought to acquire a 24% stake in Jet Airways and certain additional rights (Jet's slots at London Heathrow, joint operations on some routes). The CCI in 2013 approved the deal, with a majority finding it did not have an AAEC. A former Air India Executive Director challenged this approval, concerned it may lessen competition (Jet and Etihad had a substantial share on India–Middle East routes). In March 2014, the COMPAT⁹⁹ dismissed the appeal, largely on locus standi grounds – the appellant was not an enterprise or consumer who suffered, hence had no standing to appeal. Thus, the CCI's approval stood. The substantive reasoning was that post-acquisition, Jet and Etihad would collaborate mainly on international routes; and since foreign carriers were anyway not under Indian competition law for operations entirely outside India, the deal's impact on Indian domestic market was nil.¹⁰⁰ It set a precedent that equity alliances with foreign airlines can be allowed if they don't substantially lessen competition in India. Jet-Etihad did involve cooperation on flights between India and Abu Dhabi, but regulators perhaps viewed those as pro-competitive (feeding passengers into each other's network) rather than anti-competitive, given other carriers (Emirates, etc.) were also active.

More recently, CCI approved Tata Sons' acquisition of Air India in 2021, and in 2023 approved the merger of Vistara (Tata SIA Airlines)¹⁰¹ into Air India, with Singapore Airlines taking a minority stake in the combined entity. The 2023 approval came with "voluntary commitments"¹⁰² offered by the parties, implying CCI had some competition concerns (likely goes upon certain domestic routes where both Vistara and Air India operated). The commitments likely involved surrendering some flight slots or

⁹⁴ Govt Not to Regulate Airfares: Patel, BUS. STANDARD (Dec. 10, 2010), https://www.business-standard.com/article/economy-policy/govt-not-to-regulate-airfares-patel-110121000042_1.html.

⁹⁵ Directorate Gen. of Civil Aviation, Air Transport Circular 02 of 2010 (Dec. 17, 2010), <https://www.dgca.gov.in/digigov-portal/jsp/dgca/common/view-documents.jsp?docId=30113063>.

⁹⁶ Aircraft Rules, 1937, r. 135 (India).

⁹⁷ Raghav Bajaj & Ishan Dhingra, Cartelization and Predatory Pricing in the Indian Skies, 12 NUALS L. J. 1, 10-14 (2018), <https://nualslawjournal.com/2021/08/11/12-nuals-l-j-1-2018/>.

⁹⁸ Jet Airways (India) Ltd. & Etihad Airways PJSC, Combination Registration No. C-2013/11/151, Competition Commission of India (Nov. 12, 2013).

⁹⁹ Jitender Bhargava v. Competition Comm'n of India, Appeal No. 01 of 2014 (Comp. App. Trib. Mar. 25, 2014).

¹⁰⁰ Anisha Chand, Cleared for Take-Off: An Analysis of the CCI's Order in the Jet-Etihad Deal, 5 INDIAN J.L. & TECH. 165 (2014).

¹⁰¹ Competition Comm'n of India, Press Release, CCI Approves Merger of Tata SIA Airlines into Air India (Sept. 1, 2023), https://cci.gov.in/images/media/press_release/en/pr01092023.pdf.

¹⁰² Press Information Bureau, Ministry of Civil Aviation, CCI Approves Merger of Tata SIA Airlines into Air India, and Acquisition of Certain Shareholding by Singapore Airlines in Air India, Press Release No. 1954178 (Sept. 1, 2023), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1954178>

maintaining capacity in certain city-pairs to alleviate monopoly concerns.¹⁰³ The exact conditions weren't published in the press release beyond noting their existence. These cases underscore CCI's approach to consolidation: it has so far not blocked any airline merger, recognizing perhaps the financial realities. However, it does seek behavioral or structural remedies if needed. With Air India/Vistara merger, the combined entity plus AirAsia India (also acquired by Tata) would have been significant in some markets, but still second to IndiGo.¹⁰⁴ The CCI probably concluded the merger wouldn't dominate the market given IndiGo's presence, and that efficiencies of combining full-service carriers were considerable. This sets a precedent favoring consolidation for viability so long as it does not create a single dominant firm sans competition.

In summary, judicial precedents have focussed on the area of cartels more often than dominance in itself. The CCI has shown willingness to penalize cartels with solid evidence and to refrain where evidence is weak. The appellate decisions emphasize due process but have not over turned CCI on substantive findings. On dominance, the main lesson is the difficulty of establishing dominance in a market where multiple airlines operate, until recently no single airline clearly dominated nationwide.

OLIGOPOLISTIC MARKET STRUCTURE OF INDIAN AVIATION

The structure of India's airline industry has a profound impact on competition. As of mid-2020s, the market can be characterized as a tight oligopoly, trending towards a duopoly, after successive waves of consolidation and exits.

In the early 2000s, India had a fragmented market with state-owned Indian Airlines/Air India and private carriers like Jet Airways, Air Sahara, Deccan, Kingfisher, SpiceJet, etc. Liberalization allowed many entrants between 2003–2006 (Air Deccan, Kingfisher, SpiceJet, GoAir, Indigo, Paramount), but by 2010 a consolidation began – Jet acquired Sahara (becoming JetLite), Kingfisher acquired Deccan, Indian merged into Air India. Financial stress took out Kingfisher by 2012. Indigo's rapid growth made it the largest by mid-2010s. Jet Airways collapsed in 2019, and the pandemic dealt a blow to weak players. The result by 2023–25 is stark: IndiGo (InterGlobe Aviation) controls roughly 55–60% of the domestic market, and the Tata-owned Air India group (including Vistara, AirAsia India, Air India Express) about 25–30%.¹⁰⁵ Minor players include SpiceJet (~5-7% and struggling), and new entrant Akasa Air (~5%)¹⁰⁶. According to official DGCA data for March 2025: IndiGo held 64% share and the Air India group 26.7%, with SpiceJet 3.3% and Akasa 5%¹⁰⁷. That means the top two control ~90%. The Herfindahl-Hirschman Index (HHI) in such a scenario is very high (IndiGo's squared share alone ~4096, Air India group ~713,

¹⁰³ Dhruv Aggarwal & Prisha Sharma, Navigating Competition Crosswinds: An Analysis of the Air India-Vistara Merger, INDIA CORP. L. (Oct. 12, 2023), <https://indiacorplaw.in/2023/10/navigating-competition-crosswinds-an-analysis-of-the-air-india-vistara-merger.html>

¹⁰⁴ Sameer Dixit, CCI Approves Air India-Vistara Merger, Tatas to Have India's Biggest Int'l & 2nd Biggest Domestic Airline, THE PRINT (Sept. 2, 2023), <https://theprint.in/economy/cci-approves-air-india-vistara-merger-tatas-to-have-indias-biggest-intl-2nd-biggest-domestic-airline/1744186/>.

¹⁰⁵ Indian Brand Equity Foundation, Indian Airlines Carried 14.5 Million Passengers in March; 8.79% Higher YoY: Directorate General of Civil Aviation (DGCA), Indian Brand Equity Foundation (Apr. 29, 2025), <https://www.ibef.org/news/indian-airlines-carried-14-5-million-passengers-in-march-8-79-higher-yoy-directorate-general-of-civil-aviation-dgca>

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

total HHI well above 5000) – a virtual duopoly by competition standards. This concentration far exceeds what existed a decade ago (in 2013, the largest share was ~30% and five airlines had meaningful shares).

Barriers to entry are a major problem¹⁰⁸. The reasons are listed as below –

- **Capital and Cost Requirements:** Starting an airline requires heavy investment in aircraft, maintenance, skilled staff, IT systems, and compliance. Operating costs, especially fuel (which constitutes 30-40% of costs in India), are largely non-negotiable and subject to high taxes domestically. New entrants often start small but then struggle to achieve cost-efficient scale before cash reserves deplete. The failure of entrants like Air Pegasus, Air Costa (regional players) and the difficulties of newer ones like Akasa (needing to quickly induct more planes to lower unit costs) illustrate this.
- **Regulatory Hurdles:** Historically, India's 5/20 rule served as an entry barrier to international routes – giving incumbents a long head-start in lucrative foreign sectors. Even though it was relaxed to "0/20" (no years, but 20 aircraft required) in 2016, new airlines still must reach a fleet size of 20 to go international¹⁰⁹. This means initial years restricted to domestic where incumbents might engage in aggressive response. The fleet requirement itself (having at least 5 aircraft to start, per DGCA norms, and 20 for international) is cited as limiting smaller niche entrants¹¹⁰.
- **Slots and Infrastructure:** At major airports like Mumbai and Delhi, peak hour slots are almost fully taken. Incumbent airlines enjoy historical rights. While there is a slot allocation guideline (following IATA's first come, first serve and historic precedence rules)¹¹¹, new entrants find quality slots (morning/evening peaks) hard to obtain. Without good slots, they cannot offer competitive schedules, putting them at a disadvantage.
- **Network Effects and Loyalty:** Large incumbents have FFP (Frequent Flyer Programs) and corporate tie-ups that lock in a chunk of demand. E.g., Air India's Star Alliance membership or IndiGo's corporate deals. A new airline has to overcome passenger switching costs from loyalty benefits. The OECD noted frequent-flyer programs as potentially raising entry barriers by fostering customer loyalty to incumbent networks¹¹² (though CCI has not had a case on this yet).
- **Economies of Scale and Scope:** Incumbents like IndiGo have huge fleets (>300 aircraft) and large order books, yielding volume discounts, better leasing rates, and more efficient training and maintenance per unit. This cost advantage makes it easier for them to price competitively (or even below smaller rivals' costs) on contested routes, a predatoriness that is hard to legally pin down but a factual barrier.
- **Government Policies and Influence:** The government tends to support incumbents, especially Air India historically (through bailouts) and also by policies like RDG (Route Dispersal Guidelines) which force all airlines to do unprofitable routes but incumbents manage via scale.

¹⁰⁸ Sakshi Malik, Barriers to Entry in the Indian Airline Industry, 3 INT'L J. OF RSCH. & ANALYTICAL REVS. 900, 902-03 (2016), http://ijrar.com/upload_issue/ijrar_issue_20542861.pdf.

¹⁰⁹ Organisation for Economic Co-operation and Development (OECD), DAF/COMP/WD(2014)71: Airline Competition Issues in India, OECD (Nov. 2014), [https://one.oecd.org/document/DAF/COMP/WD\(2014\)71/En/pdf](https://one.oecd.org/document/DAF/COMP/WD(2014)71/En/pdf)

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Ibid.

Also in times of crisis, government has nudged banks to help airlines or set fare bands that often benefit larger airlines (which can more easily handle price floors and ceilings due to scale).

Even with all of this, with few players, the temptation and ease of collusion increase. The Indian market has seen both explicit collusion (as in the cargo surcharge case) and allegations of tacit collusion (fares moving in tandem). A small number of airlines can coordinate more easily, especially via industry bodies like the Federation of Indian Airlines (FIA). FIA's meetings have to be cautious, in 2011 when FIA members were accused of fare cartel during Air India's strike, that likely stemmed from airlines exchanging information under the FIA umbrella.¹¹³ Since then, competition compliance is presumably tighter; nonetheless, oligopolists can align interests without direct contact by observing each other. For instance, if IndiGo raises fares and sees others follow, it gets confidence to lead future hikes. If one deviates (price cuts), others respond fiercely, teaching a lesson. Over time, a price leadership model may emerge, where the dominant airline sets the trend and others follow, achieving stable, higher margins for all. Indeed, many analysts suspect that post-consolidation¹¹⁴, Indian fares will rise because "rational pricing" replaces ruinous competition. There is evidence already of higher fare levels after 2019 and 2022, as capacity shrank and two big players emerged (though part of that is fuel cost rises and pent-up demand).

Indian consumers are price-sensitive on average, which historically led airlines to keep fares low and compete on price, contributing to losses. However, in premium segments or last-minute travel, demand is less elastic, and airlines have engaged in price gouging when possible (leading to the public outcry in events like festival seasons or after Jet's exit)¹¹⁵. In an oligopoly, the ability to gouge is higher because fewer alternatives exist. A duopoly could implicitly divide the market (not formally, but by understanding), for example focusing on their strengths (one on metro-to-metro business traffic, another on tier-2 leisure routes, etc.) and not overly encroaching on each other's turf. This sort of market allocation tacitly can arise, though in India, it is not clearly observed yet as both major players compete across the board.¹¹⁶

Another structural aspect is relationships with suppliers/distributors. Most tickets are sold online now via airline sites or online travel agents (OTAs). Airlines have bargaining power over OTAs (some tried to cut OTA commissions recently, and OTAs briefly boycotted selling their tickets, a reverse situation). Also, major airlines can forge exclusive partnerships (e.g., loyalty program tie-ups with banks). If the top two airlines both gain such clout, it may marginalize smaller players further (e.g., if an OTA knows 90% of demand is Indigo or Air India, they might not promote SpiceJet as much).

Historically, Air India, as a state player, distorted market dynamics, sometimes underpricing due to subsidies (hurting private players), other times being inefficient/high cost (allowing private players to undercut it). Now Air India is privatized under Tata, which might make it a more aggressive commercial

¹¹³ In re: Express Indus. Council of India, Case No. 30 of 2013 (Comp. Comm'n of India Feb. 17, 2016).

¹¹⁴ Aneesh Phadnis & Arindam Majumder, Indian Skies Become More Expensive as Duopoly Spurs Rational Pricing, *BUS. STANDARD* (Aug. 1, 2023), https://www.business-standard.com/industry/transport/indian-skies-become-more-expensive-as-duopoly-spurs-rational-pricing-123080100268_1.htm

¹¹⁵ Rhik Kundu, A Fine Balance Between Low Fares and Profitability, *MINT* (Nov. 29, 2022), <https://www.livemint.com/industry/aviation/a-fine-balance-between-low-fares-and-profitability-11669659353273.html>.

¹¹⁶ Gireesh Chandra Prasad, The Coming Duopoly in India's Skies, *MINT* (Sept. 9, 2022), <https://www.livemint.com/business/aviation/the-coming-duopoly-in-indias-skies-11662659312273.html>.

competitor.¹¹⁷ However, under common ownership, Tata's four airlines merging into two reduces competitive encounters that would occur if they were separate. For example, Vistara and AirAsia India used to compete with each other on some domestic routes (one full-service, one low-cost), post-merger under Air India Group¹¹⁸, that entire intra-group competition vanishes. The group strategy will likely be to allocate segments (Air India as full-service, Air India Express/AIX Connect as low-cost for domestic and short-haul international). That could make the Air India group more efficient and formidable against IndiGo, but it also means one less independent player in each segment.

An interesting structural factor, ATF (fuel) prices in India are high due to taxes, and affect all airlines similarly. This uniform cost push can be a coordination focal point: airlines often cite fuel hikes to justify fare hikes. In a competitive market, one might try to not fully pass on to gain share, but in an oligopoly, passing on costs uniformly can be a silent agreement. The CCI's cargo surcharge case effectively caught airlines doing exactly that, adding a fuel surcharge together¹¹⁹. The transparent nature of fuel price changes (published monthly) makes it easy to coordinate on fuel-related surcharges or fare hikes ("everyone raise fares by ₹200 because fuel went up").¹²⁰

When Kingfisher failed, others filled the gap fairly quickly. But if, say, SpiceJet (a smaller one) fails now, its ~5% share is easily absorbed by big two – not a big impact. But if one of the big two were to falter, the other's dominance would be nearly unchallenged. This may force the government's hand to support an airline (the way the U.S. wouldn't let all legacy carriers fail during consolidation). We saw a hint: when Jet Airways collapsed in 2019, the government facilitated competitors taking over Jet's slots and flights to minimize disruption, but also made attempts to resurrect Jet under new investors (though that floundered by 2023 with Jet facing liquidation). The outcome of a duopoly is that each big player becomes quite integral; regulators might be less harsh on them to avoid a collapse that leaves a monopoly.

A potential upside often claimed is that large airlines can invest in new technology, better planes, and improve connectivity (which smaller fragmented players might not manage). For instance, IndiGo's scale let it open many regional routes (using ATR aircraft) under the government's UDAN scheme (subsidized regional connectivity). Air India under Tata is set to induct 470 new aircraft, which could vastly improve service and network. So, oligopoly does not automatically mean stagnation, sometimes a duopoly can compete vigorously (like Airbus vs Boeing in aircraft manufacturing, which, while a duopoly, still innovate furiously). The key is whether IndiGo and Air India decide to compete intensely (on service, loyalty programs, schedules) or reach a comfortable co-existence. If competition authorities remain vigilant (e.g., discourage any cozy arrangements or information sharing, scrutinize any attempt at capacity

¹¹⁷ Tata regains Air India control in privatisation victory for Modi, Reuters (Jan. 27, 2022), <https://www.reuters.com/world/india/tata-group-takes-control-air-india-2022-01-27/>.

¹¹⁸ Air India and Vistara Complete Merger, StockGro (Apr. 28, 2025), <https://www.stockgro.club/blogs/trending/air-india-vistara-complete-merger/>.

¹¹⁹ Express Industry Council of India And Jet Airways and Others, CUTS Institute for Regulation & Competition, at 3 (2015), https://cuts-ccier.org/pdf/Edition-9-Express_Industry_Council_of_India_And_Jet_Airways_and_Others.pdf.

¹²⁰ COMPAT Stay Order Against the CCI: Analysis of the Fuel Surcharge Cartel Case, Competition Law Observer (Jul. 8, 2016), <https://competitionlawobserver.wordpress.com/2016/07/09/compat-stay-order-against-the-cci-analysis-of-the-fuel-surcharge-cartel-case/>.

coordination or alliance between them), the duopoly could still yield competitive outcomes. But the history of airline markets globally suggests that without the threat of new entrants, two giants often prefer stability over price wars.

The entire oligopolistic structure came as a result of economic factors and all the past policy, It risks the idea of collusion, potentially reducing consumer choice. High barriers mean we cannot expect a flood of new airlines to challenge the big two, at best, probably a niche carrier here or there. Therefore, the onus is on the regulators to keep the oligopoly “honest”.

IMPACT ON CONSUMERS AND THE DYNAMIC NATURE OF THE AVIATION MARKET

The purpose of promoting competition is to benefit consumers, through lower prices, better quality and more choices. The Indian aviation market’s dynamic evolution has brought mixed effect. In the initial years of liberalization, consumers undoubtedly benefited from dramatically lower airfares. The entry of low-cost carriers (LCCs) like Air Deccan (2003)¹²¹ was a game-changer, it pioneered ₹1 fares and ultra-cheap tickets that enabled a whole new segment of the population to fly. This “competition dividend” meant air travel grew at 15-20% annually in the 2000s. Even into the 2010s, intense competition, especially between IndiGo, SpiceJet, and Jet, kept India’s average domestic fares among the lowest per kilometer in the world. From a consumer surplus perspective, this was positive. However, these fares were often below cost, leading to airline financial stress. The problem from a competition policy view is that unsustainable pricing can be a precursor to exit, and when Kingfisher collapsed, or Jet later, fares spiked as supply shrank. Thus, consumers enjoyed a period of cheap fares but then faced sudden fare hikes when competition reduced. For example, after Jet Airways’ shutdown in April 2019, spot ticket prices on many routes jumped by 20-40% due to capacity crunch. Regulators like DGCA had to step in with advisories to airlines not to profiteer, and even considered fare caps.

The government’s response during the COVID-19 recovery period was to impose temporary fare bands (minimum and maximum fares on each route based on flight duration) from 2020 to mid-2022, to prevent both predatory undercutting and gouging. While not a long-term solution, this was an extraordinary measure for extraordinary times. It protected consumers from exploitative pricing when flights resumed in limited capacity, but it also took away the cheapest fares that competition might have offered. The removal of fare caps in August 2022 restored full pricing freedom. Consumers since then have faced higher fares, partly due to fuel costs and partly due to the more concentrated market structure. So the dynamic nature, external shocks like a pandemic, can swing regulatory stances between laissez-faire and intervention, all with consumer interest in mind.

Competition doesn’t only manifest in price; it also improves service and choices. Indian consumers have seen improvements like new aircraft, better on-time performance (IndiGo’s punctuality pushed others to improve), and more flight options including to smaller cities. A competitive environment drove innovations: for example, SpiceJet introduced a dedicated cargo service (SpiceXpress) recognizing a market, Vistara brought a premium economy class option. However, consolidation can diminish some of these choices. The merger of Air India and Vistara will phase out the Vistara brand, consumers who

¹²¹ Pritanshu Shrivastava & Anurag Gupta, Legal and Economic Review of Cartels in Airline Industry – A Critical Analysis, 1 Indian Competition L. Rev. 1, 1-25 (Mar. 2014), <https://iclr.in/wp-content/uploads/2024/03/ICLR-Volume-1-Article-1-pp-1-25.pdf>

preferred Vistara's service might worry if Air India will maintain that standard. Similarly, when Jet shut down, its renowned service and network went away, and not fully replaced until perhaps Air India's revival under Tata. A market with just one full-service carrier (Air India) and one major LCC (IndiGo) may inadvertently lead to service homogenization, less pressure to differentiate if each has its captive market segment. The counterargument is that these two will still compete for the middle-class segment that swings between low-cost and full-service, thus ensuring both try to offer value.

Consumers also benefit from competitive carriers opening new routes. In a healthier competitive era, airlines frequently launched new routes to gain first-mover advantages. Now, route expansion might slow if one or two carriers dominate and focus only on profitable routes. However, thus far IndiGo has been expanding aggressively to tier-2 and tier-3 cities, partly to preempt competitors and partly thanks to its cost structure that can develop new markets.

Often overlooked are consumers of air cargo services, essentially businesses and indirectly retail consumers who see price effects. The proven cartel on cargo fuel surcharge¹²² meant higher logistics costs that likely passed on to consumers of shipped products. Breaking that cartel (through CCI's action) presumably saved shippers money and improved transparency. The presence of a new cargo airline or two could further help (e.g., Bluedart DHL is in cargo, and SpiceXpress was spun off). But if main belly cargo providers (like IndiGo, AI) collude, it harms Indian businesses. So competition in cargo is also important for consumer welfare broadly. The CCI's vigilance there was beneficial.

It is also worth noting that the aviation sector has separate consumer protection regulations (for flight cancellations, delays, lost baggage compensation etc., under DGCA's CARs). Those are more direct protections. Competition indirectly helps here too: if a passenger has choices, a consistently delay-prone or customer-unfriendly airline will lose business, pushing airlines to maintain good service. Consumers have also been affected by certain pricing practices that drew regulatory ire, like charging for extras (seat selection, baggage). The government allowed unbundling of services¹²³ to let airlines charge separately for things like preferred seats, meals, baggage, etc. This was pro-competition in that it allowed low base fares. But if all airlines decide to charge similarly high ancillary fees, consumers have no escape (a form of parallel behavior if not outright collusion).

Globally, the U.S. airline industry offers a cautionary tale: post consolidation into four mega-carriers, airfares in the US domestic market stopped falling and in many cases increased, and fees proliferated; customer satisfaction often wanes when competition wanes. Europe likewise saw higher fares on some routes after mega-mergers (Air France/KLM, Lufthansa group, IAG group). Indian consumers could face a similar fate if Indigo and Air India do not vigorously compete. On the other hand, competition can also go to destructive lengths – the collapse of three major Indian carriers in a decade (Kingfisher, Jet, GoFirst) led to disrupted travel for consumers (flight cancellations, stranded tickets). Stability also matters to consumers. There is an argument that a slightly oligopolistic but stable market might serve consumers better than a hyper-competitive market where airlines routinely go bankrupt, causing chaos. Of course, the ideal is a competitive yet stable equilibrium – achieved by prudent management and possibly some

¹²² Reuters, India's Jet Airways, IndiGo, SpiceJet fined for fuel surcharge cartel, REUTERS (Mar. 7, 2018), <https://www.reuters.com/article/world/indias-jet-airways-indigo-spicejet-fined-for-fuel-surcharge-cartel-idUSKCN1GJ1TU>

¹²³ Nitin Sarin, Aviation Regulation Comparative Guide – India, MONDAQ (Sept. 30, 2024), <https://www.mondaq.com/india/transport/1122866/aviation-regulation-comparative-guide>

cooperative practices that are not anti-consumer (e.g., common safety standards or interline agreements to honor each other's tickets in case of disruption, which help consumers).

In conclusion, the evolving aviation market has produced a double-edged sword for consumers. When competition was fierce, consumers got cheap fares and innovation, but also faced instability and abrupt service disruptions from airline failures. As the market consolidates, consumers may face higher fares and fewer choices, though potentially more reliable service from stronger airlines. The role of competition law and policy is to ensure that consolidation does not turn into complacency or exploitation – that airlines do not abuse their market power through collusion or anti-consumer practices. The CCI's actions (like breaking the fuel surcharge cartel) have directly saved consumers money¹²⁴, and its mere presence acts as a deterrent against blatant collusion that would really harm consumers (for instance, one can imagine without CCI, airlines might be tempted to form open cartels to raise fares in a downturn, but knowing CCI's eye, they avoid explicitly doing so).

INTERNATIONAL AND COMPARATIVE PERSPECTIVES

The US deregulated airlines in 1978¹²⁵; the ensuing competition led to lower fares and more routes (similar to India's post-2003 phase). However, by the 2000s, the US industry consolidated through mergers (Delta-Northwest, United-Continental, American-US Airways¹²⁶) into four major carriers controlling ~80% of the domestic market. The US Department of Justice (DOJ) Antitrust Division has occasionally intervened – for example, it sued to block the American-US Air merger in 2013 but settled with conditions (slot divestitures). Despite high concentration, US regulators allowed mergers on efficiency grounds (preventing airline bankruptcies). Recently, the DOJ is challenging an alliance (Northeast Alliance) between American and JetBlue as anti-competitive. Tacit collusion concerns in the US have been noted; a famous example was in the early 1990s when DOJ investigated airlines for signaling fare increases through a shared computer reservation system. They settled with a consent decree banning that practice. The US experience shows that consolidation can reduce competition – studies found fares rose on routes where only 3 or 4 legacy carriers remained from previously 5 or 6. The US relies on entry (Southwest, JetBlue¹²⁷ as new competitors) to discipline the market. India parallels this trajectory: from open competition to possible duopoly. The lesson is to keep avenues for new entry and ensure incumbents don't erect artificial barriers.

The EU also saw consolidation (e.g., Lufthansa Group owning Swiss, Austrian, Brussels Airlines; IAG owning British Airways, Iberia; Air France-KLM, etc.). EU competition law is stringent on cartels e.g., it fined a global air cargo cartel (21 airlines) a total of €776 million in 2010 (reissued in 2017)¹²⁸, which included many international airlines.¹²⁹ Interestingly, Air India was among those fined by the European Commission for collusion on cargo surcharges in routes to/from the EU, showing that even state carriers can collude internationally. The EU also has state aid rules: governments giving bailouts to airlines need

¹²⁴ Reuters, Supra note 122.

¹²⁵ Airline Deregulation Act of 1978, Pub. L. No. 95-504, 92 Stat. 1705

¹²⁶ United States v. US Airways Grp., Inc., No. 1:13-cv-01236 (D.D.C. filed Aug. 13, 2013).

¹²⁷ United States v. American Airlines Grp. Inc., 563 F. Supp. 3d 10 (D. Mass. 2023).

¹²⁸ Reuters, EU re-issues 776 mln euro fine for air cargo cartel, REUTERS (Mar. 17, 2017),

<https://www.reuters.com/article/legal/government/eu-re-issues-776-mln-euro-fine-for-air-cargo-cartel-idUSB5N1CU01T/>

¹²⁹ European Comm'n, Press Release IP/17/661, Antitrust: Commission Fines 11 Air Cargo Carriers €776 million for Price-Fixing Cartel (Mar. 17, 2017).

approval (Air India's historical bailouts would be problematic under EU law without conditions). The EU blocked the Ryanair-Aer Lingus merger¹³⁰ to prevent excessive dominance. It often imposes conditions like surrendering slots at congested airports for merger approvals. For example, when IAG (BA's parent) acquired Aer Lingus¹³¹, they had to give up slots at Heathrow to competitors. The CCI in India requiring voluntary commitments in Air India-Vistara seems analogous¹³². The EU's approach¹³³ underscores preserving competition versus preserving "national champions". India has tended more to protect the flag carrier historically, but now that it's private, a more EU-like impartial view may emerge.

Many countries have a dominant flag carrier with some competition from smaller airlines or LCCs. For instance, Australia's Qantas had near-monopoly until Virgin Australia entered; their competition regulator ACCC closely watches any coordination¹³⁴ (it sued airlines for a cargo cartel too). In Asia, markets like Japan or Korea long had duopolies¹³⁵ (ANA/JAL, Korean/Asiana), and only recently allowed LCCs; competition authorities there are waking up to possible collusion issues. China's domestic market is split among three state-owned groups which often behave oligopolistically, but enforcement is nascent.

A competitive oddity in aviation is global alliances (Star Alliance, Oneworld, SkyTeam) where member airlines cooperate on scheduling, marketing, and even fares on connecting itineraries, often with antitrust immunity from governments for international routes. Air India is in Star Alliance since 2014, meaning it coordinates with airlines like Lufthansa, Singapore Airlines on through fares and schedules. This can benefit consumers by seamless travel, but also reduce competition on those routes. Regulators approve such alliances typically with conditions (e.g., maintain capacity, allow other competition in). India's CCI has not explicitly dealt with global alliance issues yet, possibly because they are mainly international and involve foreign jurisdictions. But if, say, Air India and Vistara (Singapore Airlines affiliate) coordinate through Star Alliance in a way that affects India routes, CCI might look at it.

In conclusion, the international perspective reinforces that the balance between competition and stability in aviation is delicate. Many jurisdictions have ended up with only a few large airlines, and regulators then focus on preventing those from abusing their position. India is reaching that stage. Learning from others, Indian authorities might: Ensure merger remedies that foster a third competitor (like how the US nurtured Southwest's growth). - Be vigilant on cartels, including global ones affecting India (the cargo cartel fines show willingness¹³⁶). Potentially use creative solutions like pro-competitive slot allocation, encouraging new entrants through policy support (like easing leasing norms, reducing fuel taxes to lower cost barriers). Keep consumer interest paramount, perhaps involving consumer bodies in consultations on fare regulation or competition matters (EU often consults consumer organizations in competition cases, especially where remedies might involve service obligations).

¹³⁰ Case COMP/M.6663, Ryanair/Aer Lingus III, Comm'n Decision of Feb. 27, 2013.

¹³¹ Case COMP/M.7541, IAG/Aer Lingus, Comm'n Decision of July 14, 2015.

¹³² Competition Commission of India, CCI approves merger of Tata SIA Airlines into Air India, and acquisition of certain shareholding by Singapore Airlines in Air India, PRESS INFORMATION BUREAU (Sept. 1, 2023), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1954178>

¹³³ Consolidated Version of the Treaty on the Functioning of the European Union art. 107, Oct. 26, 2012, 2012 O.J. C 326/47.

¹³⁴ Australian Competition & Consumer Comm'n [ACCC], Press Release, Federal Court Orders Further \$41 Million in Penalties in Air Cargo Cartel Case (Oct. 31, 2014).

¹³⁵ Japan Fair Trade Comm'n, Report on the Market Study on the Airline Industry (July 1, 2020).

¹³⁶ I.L.A. Pasrich & Company, Q&A: Competition Law and State Aid for the Aviation Sector in India, LEXOLOGY (Oct. 3, 2019), <https://www.lexology.com/library/detail.aspx?g=0176bb89-877d-479f-9cd7-88d8661be092>

4. FINDINGS

The analysis presented in this paper shows that India's liberalized civil aviation market has evolved into a highly concentrated oligopoly. By 2025, IndiGo and the Tata–Air India group together command roughly 90 per cent of domestic market share, with minor carriers holding the balance. Drawing on detailed discussion of key precedents, including the Express Industry Council of India v. Jet Airways & Ors. fuel-surcharge cartel orders of 2015¹³⁷ and 2018¹³⁸, the paper finds clear evidence of explicit collusion on cargo charges and recurrent allegations of tacit fare coordination that the CCI has so far been unable to prosecute under Section 3(3)¹³⁹ of the Competition Act, 2002. It also documents the overlapping jurisdiction between the CCI and the DGCA under Rule 135 of the Aircraft Rules, 1937, and shows how this dual oversight lacks a formal coordination mechanism.

At the same time, the findings consolidated within the body of the paper reveal that enforcement remains slow and procedurally vulnerable: investigations into complex pricing algorithms take years, appeals can nullify penalties on technical grounds, and the financial fragility of airlines constrains the regulator's deterrence strategy. Abuse of dominance law is still largely untested despite IndiGo's growing market power, and consumer welfare outcomes are mixed, initial low fares and expanded connectivity have given way to higher prices, reduced choice on some routes and rising ancillary fees. Comparative material in the paper's final section underscores that without stronger safeguards, clearer predatory pricing standards, coordinated action between CCI and DGCA, and pro-entry slot and FDI policies. India risks replicating the U.S./E.U. trajectory where post-liberalization consolidation curtailed genuine competition.

5. CONCLUSION

The Indian aviation market stands at a crossroads between soaring ambitions and grounded realities. On one wing, the sector has achieved unprecedented growth, democratizing air travel and fostering innovation through competition. On the other wing, structural constraints and past regulatory choices have concentrated the market and exposed vulnerabilities to anti-competitive conduct. This comprehensive analysis reveals that competition law and policy have been and will continue to be pivotal in determining which way the balance tilts.

The statutory framework is robust, the Competition Act, 2002 provides the necessary tools to tackle cartels, monopolistic abuses, and oversee mergers, while aviation-specific rules like Rule 135 empower the DGCA to intervene against unfair pricing. However, having tools is only half the battle; using them effectively is the other half. The track record of enforcement shows both strengths and limitations. The CCI has not shied away from prosecuting blatant collusion, the successful busting of the cargo fuel surcharge cartel being a marquee achievement that sent a clear message that Indian airlines cannot treat

¹³⁷ Competition Commission of India, Express Industry Council of India v. Jet Airways (India) Ltd. & Ors., Case No. 15 of 2012, Nov. 17, 2015, <https://www.indiacanoon.org/doc/146810122/>

¹³⁸ Competition Commission of India, Express Industry Council of India v. Jet Airways (India) Ltd. & Ors., Case No. 15 of 2012, Mar. 7, 2018, <https://www.azbpartners.com/bank/cci-penalises-spicejet-jet-airways-indigo-airlines-air-india-and-go-air-over-surcharge-levy-on-cargo-transport>

¹³⁹ Competition Act, 2002, § 3(3) (India).

coordination as business-as-usual¹⁴⁰. Likewise, the Commission's actions against colluding travel agent associations upheld the principle that no stakeholder in the aviation value chain is above competition law¹⁴¹. These actions have likely deterred some anti-competitive impulses and instilled compliance awareness in the industry.

At the same time, enforcement challenges temper the impact. Cartel investigations have been painstaking and lengthy, and in the case of passenger fare collusion, inconclusive in proving wrongdoing¹⁴². The nuanced line between conscious parallelism and illegal collusion means some potentially anti-consumer pricing patterns escaped punishment due to insufficient evidence or legal standards, a reminder that competition law is not a cure-all for every pricing spike or similarity. The coordination (or lack thereof) between CCI and sector regulators can improve; a formal memorandum of understanding could help synchronize efforts so that, for instance, a DGCA tariff directive and a CCI investigation can complement rather than duplicate or contradict.

The judicial precedents analyzed reflect a learning curve. Early dismissal of the 2011 fare hike case signaled that CCI would demand hard proof for collusion claims¹⁴³, which may have encouraged airlines to keep any collusion deeply covert (perhaps a deterrent in itself). The saga of the fuel surcharge cartel, initial penalty, appellate remand, re-penalty exhibits the resilience of the enforcement process and also the procedural rigor expected¹⁴⁴. It highlights that regulatory wins can be iterative and hard-fought. Importantly, none of the judicial outcomes so far suggest any fundamental inadequacy in the law; rather, they call for persistent, well-investigated cases and adherence to due process to withstand appeals.

The oligopolistic market structure that has emerged is a double-edged sword. On one side, stronger airlines with better finances can invest in expansion, newer planes, and improved safety, all positives for consumers and the economy. On the other, fewer competitors inherently means a heightened risk of reduced competition whether through tacit understandings or simply lack of pressure to do better. India's experience echoes global patterns, but with local peculiarities. The exit of several airlines and the consolidation under the Tata group have effectively left the market in the hands of two behemoths. If these two were to compete with the zeal of the past. IndiGo leveraging its cost leadership and Air India reinventing itself for service excellence, consumers could still win. But if they choose to avoid price wars and divide market space, even without an explicit agreement, the spirit of competition suffers. It is here that the role of CCI becomes even more crucial going forward: to monitor the market for signs of coordination (e.g., parallel capacity cuts, synchronized fare hikes beyond cost justifications) and to use advocacy powers to remind industry that certain behavior will attract scrutiny.

¹⁴⁰ Reuters, India's Jet Airways, IndiGo, SpiceJet fined for fuel surcharge cartel, REUTERS (Mar. 7, 2018), <https://www.reuters.com/article/world/indias-jet-airways-indigo-spicejet-fined-for-fuel-surcharge-cartel-idUSKCN1GJ1TU>

¹⁴¹ I.L.A. Pasrich & Company, Q&A: Competition Law and State Aid for the Aviation Sector in India, LEXOLOGY (Oct. 3, 2019), <https://www.lexology.com/library/detail.aspx?g=0176bb89-877d-479f-9cd7-88d8661be092>

¹⁴² Reuters, CCI finds no proof of cartelisation among IndiGo, SpiceJet and others, VCCIRCLE (Feb. 19, 2020), <https://www.vccircle.com/anti-monopoly-body-finds-no-cartelisation-among-indigo-spicejet-and-others>

¹⁴³ PTI, CCI rejects complaints of cartelisation against private airlines, ECONOMIC TIMES (Jan. 14, 2012), <https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/cci-rejects-complaints-of-cartelisation-against-private-airlines/articleshow/11481833.cms>

¹⁴⁴ Supra note 141.

For consumers, the evolving market has been a mixed journey. They reaped the rewards of open competition in the form of cheap fares and new connectivity, and now they face the prospect of higher fares and fewer choices as competition wanes. The net effect on consumers will depend on how the remaining players behave and how regulators respond. If fares rise way beyond reasonable levels, regulators have options: DGCA's tariff control powers, CCI's cartel enforcement, or even re-regulating certain aspects. If service quality goes off, the entry (or threat of entry) of new players like Akasa Air or perhaps a revived Jet Airways can inject competitive discipline. Thus, it's in the interest of incumbent airlines themselves to not exploit their market power too far, doing so could invite stricter regulation or encourage new competition in the long run.

Critics contend that Indian competition authorities have been overly cautious in policing anti-competitive behaviour in aviation. For example, while IndiGo grew to a dominant market share, there was little formal scrutiny of possible predatory strategies, and major consolidations such as the Air India/Vistara merger were cleared with only limited conditions. Likewise and very hopefully, the government's policy reversals, such as the belated removal of the 5/20 rule and ad hoc interventions in airfare during crises, are seen as having distorted the competitive process and raised uncertainty for entrants. Together these factors have arguably accelerated the shift to a duopoly, eroding the benefits of liberalisation highlighted in the earlier sections of this paper.

Going forward, several measures emerge from this research to restore competitive dynamism. The CCI should strengthen its antitrust capacity in airline economics and data analytics, using proactive market studies to flag risks in an algorithm-driven pricing era. A formal coordination mechanism with DGCA and AERA is needed to streamline oversight of predatory pricing, slot allocation and other overlapping issues. Merger control should remain vigilant to preserve at least two or three effective competitors, while government policy could lower entry barriers for new carriers. Even in the absence of formal collusion, the CCI can monitor oligopoly conduct through regular reports on fare levels and cost justification, and amplify consumer voices by liaising with passenger associations. Finally, because many competition issues are cross-border, continued cooperation with foreign antitrust agencies will help India learn from global experience in tackling cartels, algorithmic pricing and market definition in aviation.

In the final analysis, whether Indian aviation is "grounded or soaring" in terms of competition depends on the choices of both regulators and industry stakeholders. The ambition is definitely to make it soar, but on genuine competitive wings, not on the artificial lift of anti-competitive agreements or state crutches. A competitive aviation sector will not only protect consumers through better prices and services but also stimulate progress, pushing Herbert Hoover's insight. The legal dynamics discussed in this paper show that India has the necessary laws and has made significant strides in enforcement. With continued vigilance, adaptability to new challenges, and a commitment to consumer welfare, the Indian aviation market just might hopefully achieve a balance where its ambitions take flight unhindered by anti-competitive turbulence.

BIBLIOGRAPHY

1. Abir Roy & Vivek Kumar, Cartel in India, 21 INT'L J. OF RSCH. & ANALYTICAL REVS. 687, 688 (2020), <https://ijrar.org/papers/IJRAR19D1195.pdf>.

2. Akanksha Nagar, CCI Notifies New Norms to Assess Predatory Pricing Practices, STORYBOARD18 (May 8, 2025), <https://www.storyboard18.com/digital/cci-notifies-new-norms-to-assess-predatory-pricing-practices-64948.htm>.
3. Air India and Vistara Complete Merger, StockGro (Apr. 28, 2025), <https://www.stockgro.club/blogs/trending/air-india-vistara-complete-merger/>.
4. Air India Ltd., Case No. 01 of 2010.
5. Airports Authority of India Act, 1994, No. 55, Acts of Parliament, 1994 (India).
6. Aircraft Act, 1934, No. 22, Acts of Parliament, 1934 (India).
7. Aircraft Rules, 1937, r. 135, r. 135(4), cl.4, No. 8, Acts of Parliament, 1937 (India).
8. Administrative Staff College of India, Study on Competition Issues in the Domestic Segment of the Air Transport Sector in India (Competition Commission of India 2009), <https://www.cci.gov.in/images/marketstudie/en/docs1652440130.pdf>.
9. Bambang Sugeng Ariadi Subagyo et al., Regulatory Framework on Ocean Threats – Transportation Law Analysis to Multiple Oil-Spill Cases in Indonesia, Transactions on Maritime Science, Vol. 13, No. 2 (July 20, 2024), <https://doi.org/10.7225/toms.v13.n02.w08>.
10. Bharatiya Vayuyan Adhiniyam, 2024, (Act No. 16 of 2024), § 3, § 4, § 6, § 7, § 9, § 11, § 15, § 21 (India).
11. “Competitive Economies,” Bearing Consulting, <https://bearing-consulting.com/tag/competitive-economies/>.
12. COMPAT Stay Order Against the CCI: Analysis of the Fuel Surcharge Cartel Case, Competition Law Observer (Jul. 8, 2016), <https://competitionlawobserver.wordpress.com/2016/07/09/compat-stay-order-against-the-cci-analysis-of-the-fuel-surcharge-cartel-case/>.
13. Competition Act, 2002, § 3, § 4, § 5, § 6, § 32, No. 12, Acts of Parliament, 2002 (India).
14. Competition Commission of India, Case No. 29 of 2017, International Air Transport Association v. Air Cargo Agents Association of India, Order dated Sept. 12, 2017.
15. Competition Commission of India, Express Industry Council of India v. Jet Airways (India) Ltd. & Ors., Case No. 15 of 2012, Nov. 17, 2015; Mar. 7, 2018, <https://www.indiacanoon.org/doc/146810122/>; <https://www.azbpartners.com/bank/cci-penalises-spicejet-jet-airways-indigo-airlines-air-india-and-go-air-over-surcharge-levy-on-cargo-transport>.
16. Competition Commission of India, Press Release, CCI Approves Merger of Tata SIA Airlines into Air India (Sept. 1, 2023), https://cci.gov.in/images/media/press_release/en/pr01092023.pdf.
17. Consolidated Version of the Treaty on the Functioning of the European Union, art. 107, Oct. 26, 2012, 2012 O.J. C 326/47.
18. Dhruv Aggarwal & Prisha Sharma, Navigating Competition Crosswinds: An Analysis of the Air India-Vistara Merger, INDIA CORP. L. (Oct. 12, 2023), <https://indiacorplaw.in/2023/10/navigating-competition-crosswinds-an-analysis-of-the-air-india-vistara-merger.html>.
19. Directorate Gen. of Civil Aviation, Air Transport Circular 02 of 2010 (Dec. 17, 2010), <https://www.dgca.gov.in/digigov-portal/jsp/dgca/common/view-documents.jsp?docId=30113063>.
20. European Comm’n, Press Release IP/17/661, Antitrust: Commission Fines 11 Air Cargo Carriers €776 million for Price-Fixing Cartel (Mar. 17, 2017).

21. Express Industry Council of India And Jet Airways and Others, CUTS Institute for Regulation & Competition, at 3 (2015), https://cuts-ccier.org/pdf/Edition-9-Express_Industry_Council_of_India_And_Jet_Airways_and_Others.pdf.
22. Express Industry Council of India v. Jet Airways (India) Ltd., Case No. 30 of 2013, Competition Commission of India (Nov. 17, 2015).
23. Express Industry Council of India v. Jet Airways & Ors, Case No. 30 of 2013, Competition Commission of India (Nov. 17, 2015; appeal dismissed 2018).
24. Gireesh Chandra Prasad, The Coming Duopoly in India's Skies, MINT (Sept. 9, 2022), <https://www.livemint.com/business/aviation/the-coming-duopoly-in-indias-skies-11662659312273.html>.
25. Govt Not to Regulate Airfares: Patel, BUS. STANDARD (Dec. 10, 2010), https://www.business-standard.com/article/economy-policy/govt-not-to-regulate-airfares-patel-110121000042_1.html.
26. India: Airfare, in normal circumstances, is market driven and is neither established nor regulated by the Government, MENA Rep., (2022), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1843408>.
27. Indian Brand Equity Foundation, Indian Airlines Carried 14.5 Million Passengers in March; 8.79% Higher YoY: Directorate General of Civil Aviation (DGCA), India Brand Equity Foundation (Apr. 29, 2025), <https://www.ibef.org/news/indian-airlines-carried-14-5-million-passengers-in-march-8-79-higher-yoy-directorate-general-of-civil-aviation-dgca>.
28. Japan Fair Trade Comm'n, Report on the Market Study on the Airline Industry (July 1, 2020).
29. Jet Airways (India) Ltd. & Etihad Airways PJSC, Combination Registration No. C-2013/11/151, Competition Commission of India (Nov. 12, 2013).
30. Krishna Ramanathan, Cartelization of Aviation Industry (Apr. 2020), SSRN, <https://ssrn.com/abstract=3766800>.
31. Nitin Sarin, Aviation Regulation Comparative Guide – India, MONDAQ (Sept. 30, 2024), <https://www.mondaq.com/india/transport/1122866/aviation-regulation-comparative-guide>.
32. .L.A. Pasrich & Co./Company, Q&A: Competition Law and State Aid for the Aviation Sector in India, LEXOLOGY (Oct. 3, 2019), <https://www.lexology.com/library/detail.aspx?g=0176bb89-877d-479f-9cd7-88d8661be092>.
33. Organisation for Economic Co-operation and Development (OECD), DAF/COMP/WD(2014)71, Competition Issues in the Airline Industry (Nov. 2014), [https://one.oecd.org/document/DAF/COMP/WD\(2014\)71/En/pdf](https://one.oecd.org/document/DAF/COMP/WD(2014)71/En/pdf).
34. Poonam Dwivedi, Navigating the Skies: An Overview of Aviation Law in India, 5 Int'l J. Multidiscip. Research (IJFMR) Issue 6, Nov.–Dec. 2023, <https://doi.org/10.36948/ijfmr.2023.v05i06.11387>.
35. PTI, CCI Rejects Complaints of Cartelisation Against Private Airlines, ECONOMIC TIMES (Jan. 14, 2012), <https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/cci-rejects-complaints-of-cartelisation-against-private-airlines/articleshow/11481833.cms>.
36. Press Information Bureau, Airfare (July 21, 2022), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1843408>.
37. Press Information Bureau, Ministry of Civil Aviation, CCI Approves Merger of Tata SIA Airlines into Air India, and Acquisition of Certain Shareholding by Singapore Airlines in Air

- India, Press Release No. 1954178 (Sept. 1, 2023), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1954178>.
38. Pritanshu Shrivastava & Anurag Gupta, Legal and Economic Review of Cartels in Airline Industry – A Critical Analysis, 1 Indian Competition L. Rev. 1, 1-25 (Mar. 2014), <https://iclr.in/wp-content/uploads/2024/03/ICLR-Volume-1-Article-1-pp-1-25.pdf>.
39. Raghav Bajaj & Ishan Dhingra, Cartelization and Predatory Pricing in the Indian Skies, 12 NUALS L. J. 1, 10-14 (2018), <https://nualslawjournal.com/2021/08/11/12-nuals-l-j-1-2018/>.
40. Reuters, CCI Finds No Proof of Cartelisation Among IndiGo, SpiceJet and Others, VCCIRCLE (Feb. 19, 2020), <https://www.vccircle.com/anti-monopoly-body-finds-no-cartelisation-among-indigo-spicejet-and-others>.
41. Reuters, EU re-issues 776 mln euro fine for air cargo cartel, REUTERS (Mar. 17, 2017), <https://www.reuters.com/article/legal/government/eu-re-issues-776-mln-euro-fine-for-air-cargo-cartel-idUSB5N1CU01T/>.
42. Reuters, India antitrust body examining Air India-Vistara merger: source (June 28, 2023), <https://www.reuters.com/business/aerospace-defense/india-antitrust-body-examining-air-india-vistara-merger-source-2023-06-28>.
43. Reuters, India's Jet Airways, IndiGo, SpiceJet fined for fuel surcharge cartel, REUTERS (Mar. 7, 2018), <https://www.reuters.com/article/world/indias-jet-airways-indigo-spicejet-fined-for-fuel-surcharge-cartel-idUSKCN1GJ1TU>.
44. Sakshi Malik, Barriers to Entry in the Indian Airline Industry, 3 INT'L J. OF RSCH. & ANALYTICAL REVS. 900, 902-03 (2016), http://ijrar.com/upload_issue/ijrar_issue_20542861.pdf.
45. Shikha Tripathi & Rishika Srivastava, Cartelization in Indian Aviation Industry: A Critical Analysis, 5 Commonwealth L. Rev. J. 412, 412-24 (2019), <https://thelawbrigade.com/wp-content/uploads/2019/07/Shikha-Tripathi-Rishika-Srivastava.pdf>.
46. Shikha Roy v. Jet Airways (India) Ltd., Case No. 32 of 2016, Competition Commission of India (June 3, 2021).
47. Smita Aggarwal, Beaten by Price War, Airlines Want Govt to Regulate Fares, The Indian Express (Nov. 26, 2011), <https://indianexpress.com/article/news-archive/web/beaten-by-price-war-airlines-want-govt-to-regulate-fares/#:~:text=%C2%93In%20intense%20competition%20among%20airlines%20Clot,be%20present%20at%20Saturday%20meeting>.
48. Stéphane Dionnet & Frédéric Pradelles, Vertical Agreements & Restriction of Competition by Object: What's New in Europe, McDermott Will & Emery (July 11, 2023), <https://www.mwe.com/insights/vertical-agreements-restriction-of-competition-by-object-whats-new-in-europe/>.
49. Swati Ketkar, Airfares Issue Heats Up in Rajya Sabha; Government Responds!, MATHRUBHUMI (Dec. 19, 2024), <https://english.mathrubhumi.com/news/india/india-airfare-prices-government-response-ab2d6c15#:~:text=Airfares%20issue%20heats%20up%20in,with%20Rule%20135%20of>.
50. Tata regains Air India control in privatisation victory for Modi, Reuters (Jan. 27, 2022), <https://www.reuters.com/world/india/tata-group-takes-control-air-india-2022-01-27/>.



51. Travel Agents Association of India v. British Airways, Case No. 11 of 2010, Competition Commission of India (2010).
52. Travel Agents Association of India v. Lufthansa German Airlines, Case No. 30 of 2010, Competition Commission of India (Dec. 7, 2012).
53. Turbo Aviation Pvt. Ltd. v. Bangalore International Airport Ltd., Case No. 02 of 2015, Competition Commission of India (Jan. 7, 2016).
54. United States v. American Airlines Grp. Inc., 563 F. Supp. 3d 10 (D. Mass. 2023).
55. United States v. US Airways Grp., Inc., No. 1:13-cv-01236 (D.D.C. filed Aug. 13, 2013).