



COMPETITION COMMISSION OF INDIA

Case No. 108 of 2015

In Re:

**Air India Limited
Airlines House,113
Gurudwara Rakab Ganj Road
New Delhi - 110001**

Informant

And

**InterGlobe Aviation Limited
Ground Floor, Central Wing
Thapar House, 124, Janpath
New Delhi - 110001**

Opposite Party

CORAM

**Mr. Devender Kumar Sikri
Chairperson**

**Mr. S. L. Bunker
Member**

**Mr. Sudhir Mital
Member**

**Mr. Augustine Peter
Member**



Mr. U. C. Nahta
Member

Mr. M. S. Sahoo
Member

Justice G. P. Mittal
Member

Order under Section 26(2) of the Competition Act, 2002

1. The information in the present case has been filed by Air India Limited (the '**Informant**') against InterGlobe Aviation Limited (the '**Opposite Party**') under section 19(1)(a) of the Competition Act, 2002 (the '**Act**') alleging, *inter alia*, contravention of the provisions of section 4 of the Act
2. The Informant is a merged entity comprising of the erstwhile 'Air India' and 'Indian Airlines'. It is a company of the Government of India, incorporated under the Companies Act 1956. The Opposite Party is stated to be the largest passenger airline in India.
3. It is stated in the information that the Informant has facilities to provide complete in-house training to its newly recruited pilots who hold a Commercial Pilot License ('**CPL**') and enables them to achieve advanced Airlines Transport Pilot License ('**ATPL**') after complying with the requirements of requisite hours of flying and training. Further, after procuring the ATPL license, additional training is provided to them so as to make them Pilot in Command ('**PIC**'). It is stated that the cost for training a pilot is up to Rs.30-35 lakhs depending on the amount of flying hours required by a pilot to complete the required number of flying hours and to clear the requisite training.



4. The Informant has submitted that it has been investing heavily for training its pilots through stimulator and also training them in flight with an instructor. It is stated that enormous expenditure has been incurred for purchasing simulators to train the pilots which are essential equipments for training the pilots. The Informant also provides its pilots with '*familiarization flights*', '*recency flights*' and '*training flights*' on regular planes to enable them to carry out actual flight operations. For this purpose the Informant incurs substantial costs averaging about Rs. 6-10 lakhs per hour per flight. Cumulatively, the costs incurred for the training of a pilot as a type rated pilot is up to Rs. 30 lakhs.
5. It has been alleged that the Opposite Party has systematically indulged in predatory recruitment of trained pilots of the Informant for its proposed expansion and inducing them to breach contractual and other obligations, which results in cancellation and delays of the Informant's flights. As per the Informant, such a systematic and voluminous action in concert by the Opposite Party is causing an appreciable adverse effect in the provision of airlines services in India. It is further alleged that the Opposite Party, by virtue of alluring the Informant's trained pilots on its exponentially expanding fleet of A320 aircrafts and indulging in unlawful predatory recruitment practice, has acquired a 52% market share in the non-metro to non-metro flight sector, making it a monopoly in that sector. The Informant has averred that the Opposite Party avoids training costs by indulging in unlawful predatory recruitment and poaching exercise of the Informant's type rated pilots thereby, adversely affecting the Indian aviation market by inducing a shortage of pilots of its competitors.
6. In addition, the Informant has stated that the Director General of Civil Aviation (DGCA) has made it mandatory for pilots to obtain '*No Objection Certificate*' and has also mandated that all Airlines must ensure that the pilots



hired by them have to serve the required six month notice period. It is alleged that the Opposite Party continues to disregard this direction of DGCA.

7. The Informant has also alleged that the Opposite Party retains sixteen pilots per aircraft which is considerably higher than the Informant and the industry standard of eleven pilots per aircraft. Further, it is averred that several recruited pilots of the Opposite Party are sitting idle and it is unable to provide them flying hours whereas, the Opposite Party has recruited pilots who are yet to give a valid six months' notice to their employer *i.e.* the Informant.
8. Based on the above averments, the Informant has prayed to the Commission to appropriately intervene for ensuring free and fair competition in the aviation industry. The Informant has also prayed to the Commission to *inter alia* impose penalties on the Opposite Party for engaging in alleged abuse of dominant position and pass any other appropriate orders.
9. The Commission has perused the information and other material available on record.
10. The Commission notes that the issues raised by the Informant arise from the alleged predatory hiring /recruitment/ poaching of trained pilots of the Informant by the Opposite Party. Further, it has been alleged that the Opposite Party has lent systematic support to those pilots who have served a six month notice period, but are still to complete their obligations to the Informant as per the service bond requirement. Thus, the Informant is primarily aggrieved by the conduct of the Opposite Party in recruiting the pilots of the Informant.
11. At the outset, it appears that the Informant, which is a Government of India company, has its own pilot training institute namely, the Central Training Institute, Hyderabad. It is a DGCA approved evaluation center *i.e.* Type Rating Training Organisation for pilot training courses for A320 aircraft



family. It is stated to be an essential training imparted to CPL holders enabling them to acquire ATPL. It is the grievance of the Informant that the Opposite Party has been recruiting the pilots trained by their institute. That it has invested heavily in training those pilots for their own operations on A320 aircrafts and the conduct of the Opposite Party to recruit their institute's trained pilot is alleged to be unlawful. Further, the Opposite Party is avoiding training costs by indulging in such unlawful predatory recruitment and poaching exercise of the Informant's type rated pilots thereby, adversely affecting the aviation market in India. Because of the said conduct of the Opposite Party, the Informant has lost considerable amount of flying hours or productivity hours that each such pilot was supposed to provide during the tenure of the services. It is also alleged that the Opposite Party is not complying with the applicable rules and regulations as well as other lawful requirements.

12. The Commission observes that the allegations leveled against the Opposite Party do not seem to raise any competition concern in the market. An airline recruiting another airline's pilots will not bring about structural changes in the operations of the market. Further, the same has already been dealt with by the DGCA *vide* letter dated 07.04.2015 wherein it is stated that airlines are to seek 'No objection Certificate' from the concerned airline from whom the pilot is being recruited. In this case, the Informant has alleged that the Opposite Party is violating this direction issued by DGCA. The Commission observes that there is no bar on the Informant or any other airlines from recruiting pilots belonging to other airlines after seeking 'No objection Certificate' from them, which indicates that there exists a flexibility with respect to the pilot recruitment. Furthermore, this seems more of an employment issue than a competition issue. Therefore, the issues alleged herein do not raise any competition concern within the meaning of the Act.



13. In the light of the above analysis, the Commission finds that no case of contravention of the provisions of section 4 of the Act is made out against the Opposite Party in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.

14. The Secretary is directed to inform all concerned accordingly.

Sd/-
(Devender Kumar Sikri)
Chairperson

Sd/-
(S. L. Bunker)
Member

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member

Sd/-
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(Justice G. P. Mittal)
Member

New Delhi

Date: 10.02.2016

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