

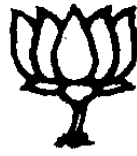
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October 20, 2008

The Chairman
MRTP Commission
Govt. of India
New Delhi

Sub: Jet & Kingfisher Alliance & Consumer Protection

Dear Sir,

Announcement made by the authorities of Jet Airways and King Fisher Airlines regarding alliance needs to be verified in detail. I am approaching the Commission/authorities as a responsible person to protect the interest of common man/consumer/air traveler.

I beg to draw your attention that I have represented the people of Mumbai North East in Lok Sabha and Mulund/Mumbai in Maharashtra Legislative Assembly. I have approached various judicial authorities, Commission on behalf of citizens/Mumbaikars/Small Investors. As the President of Investors' Grievances Forum, SEBI recognized body, we had approached the Mumbai High Court in several cases including NBFC, Plantation Companies, UTI to protect the interest of Small Investors.

Mumbai High Court had appreciated my efforts in Public Interest Petition to protect Mithi River, root cause of 26th July 2006 deluge.

I urge your attention towards :

- Alliance may result in cartelization/monopoly
- May result into exploitation of the customer/air traveler
- Jet Airways had acquired another big Airline – Sahara Airways in 2007. King Fisher had acquired another big airline – Deccan Air. In the last 2-3 years, third major Airline, Air India's market share has come down from 30% to 14%
- These 2 Airways have in the last 2 years acquired other 2 major Airways and actually created monopolistic situation

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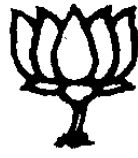
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- Low cost Airways Deccan Air has been acquired by King Fisher and Sahara Airways by Jet Airways. In the last 12 months, both Jet Airways and King Fisher have raised/hiked their fares aggressively
- The exploitation has already started in the last one year
- These 2 Airlines, i.e. Jet Airways and King Fisher now account for more than 60% market share.
- There is no other, i.e. third competitor in the market
- All other Airways are very small having less than 10% share with comparatively very few aircraft and routes
- In the last 2 years, these Airlines have consolidated the market share and are becoming main air carriers of India
- Both the Airlines are owned by major Corporates/promoters, who are cash-rich
- Jet Airways Public Issue has come out 2 years back at the rate of Rs.952/1125 per share. Today's price of its share is Rs.244.
- Small Investor has been in a way cheated by Jet Airways?
- The cost savings, seats sharing, etc., may result into virtual price control.

Before I present my views, let me discuss the scope and ambit of the alliance which is scheduled to include the following areas;

- Code-shares on both domestic and international flights subject to DGCA approval.
- Interline/Special Prorate agreements to leverage the joint network deploying 189 aircraft offering 927 domestic and 82 International flights daily.
- Joint fuel management to reduce fuel expenses.
- Common ground handling of the highest quality.
- Cross selling of flight inventories using the common Global Distribution system platform.
- Joint Network rationalization and synergies.
- Cross utilization of crew on similar aircraft types and commonality of training as also of the technical resources, subject to DGCA approval.
- Reciprocity in Jet Privilege and King Club frequent flier programmes.

The respective airlines have blatantly represented that such alliance will help both carriers to significantly rationalize and reduce costs and provide improved standards of service and a wider choice of air travel options to consumers with

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immediate effect. It is represented that the two airlines will be able to rationalize their operations and derive the maximum synergies and thereby offer the best possible fares for the benefit of the consumers. And this arrangement is stated to be operative while maintaining the separate legal entities and brand entities of both Jet Airways and Kingfisher Airlines, who will also examine co-branding opportunities for which they have formed a core committee of senior management personnel from both companies.

I must reproduce the comment of Mr. Naresh Goyal, Chairman of Jet Airways on the aforementioned alliance, which reads as under;

“All over the world Airlines have formed alliances in order to become more efficient, improve revenues and provide seamless travel opportunities for their customers. India has witnessed tremendous growth in the past which has slowed down considerably. In this environment the Jet Airways – Kingfisher alliance represents a completely new industrial model for aviation in India which would be based on an unprecedented depth of cooperation between the two companies. There will be huge cost savings and revenue enhancement opportunities arising from this alliance.”

Similarly I reproduce the comment of Dr. Vijay Mallya, Chairman, Kingfisher Airlines, which reads as under;

“This is a quantum leap forward in the evolution of Indian aviation which will benefit customers by delivering the most comprehensive integration in the industry. Both Jet and Kingfisher fully realize that better understanding of supply and demand in this capital and labour intensive industry is the key to profitability and enhancement of shareholder value. I look forward to this alliance delivering superior quality, cost savings, flexibility and enhanced consumer value which is the hallmark of all successful alliances.”

I sincerely believe that the alliance as above noted is a blatant example of monopolizing the Indian skies. The two airlines put together corner about 60 % of the air travel market. Such reposition of power in the hands of two companies is not only against the law but also against the interest of common Indian. The statements of the heads of two companies are nothing but an eye wash and an attempt to camouflage the reality underlying.

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Let me elaborate on the provisions of Competition Act which define an anti-competitive agreement as an agreement having appreciable adverse effect on competition and includes:-

- agreement to limit production and supply
- agreement to allocate markets
- agreement to fix price
- bid rigging or collusive bidding
- conditional purchase/sale (tie-in arrangement)
- exclusive supply/distribution arrangement
- resale price maintenance
- refusal to deal

The mere appreciation of the provision of law cited above brings to fore the fact that the alliance between Jet Airways and Kingfisher Airlines shall have an adverse effect on competition and shall permit the companies to limit production and supplies, allocate markets/sectors, fix price and do all such acts that are mandatory to rig the air travel market in India in their favour.

Agreed that the M. R. T. P. Commission has undertaken suo-motu cognizance of the alliance but any investigation shall take time and till then the agenda of the two companies shall be very conveniently addressed in their favour and against the interest of common Indian. I borrow heavily from the management web blog of Mr. Avinash Narula, where he records his doubts in respect of the alliance as under;

- (a) Raise funds temporarily to tide over the short term situation. Make the customers pay for their short-term requirement of funds by creating a short-term monopoly.*
- (b) With reduced competition, they will reduce their service levels as well as raise their prices. They already planned to sack 2000 employees. Hindustan Times has already speculated that the prices will go up as a result of their alliance.*
- (c) Even if their agreement is against the MRTP Act, it will take time for MRTP to investigate. All they need is just 5-6 months.*

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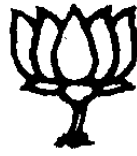
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- (d) *What about government action? Government has already been neutralized. The Ministry has stated that if DGCA does not have any objection, he will not have any objection.*

By permitting such alliance to go ahead and being a silent spectator, Government of India is permitting the two companies to become dominant players in air travel market and have a position of strength to operate independently of competitive forces or to affect its competitors or consumers or the market in its favour. Imparting such dominant position to the two companies shall expose the consumer to an **abuse of dominant position** by the two companies by impeding fair competition between firms, exploiting consumers and making it difficult for the other players to compete with the dominant undertaking on merit. Needless to say that abuse of dominant position includes imposing unfair conditions or price, predatory pricing, limiting production/market, creating barriers to entry and applying dissimilar conditions to similar transactions. And in the present facts and circumstances, the Indian air travel market is headed towards further gloom, if the alliance under reference is allowed to take effect.

Apart from the above any alliance of the nature as made between Jet Airways and Kingfisher Airlines shall lead to **Unfair Competition** which means adoption of practices such as collusive price fixing, deliberate reduction in output in order to increase prices, creation of barriers to entry, allocation of markets, tie-up sale, predatory pricing and discriminatory pricing.

Many Indians who find vent on the Internet have been voicing their concerns about the goings on in the Indian Air Travel market. Industry analysts have pointed out that reduction in maintenance costs, at least, would be "minimal" and are a mere eye wash as Jet Airways has a largely Boeing fleet when Kingfisher Airlines operates a largely Airbus fleet. It is believed by many that such excuses are given only to achieve the underlying sinister goal of becoming the dominant player in the market to suit and achieve the aims of the two companies.

Given the dominant status, the Jet Airways had acted tough by throwing out its employees, only to take them back under pressure. Immediately thereafter, Jet Airways has been mulling the deferral of the salary payments. Such cost cutting measures which are blatantly against the spirit of law are a result of the confidence generated in the said companies by virtue of their dominant player status which squarely emanates from the alliance under question.

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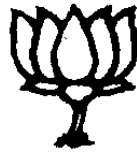
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I deem it my duty to forewarn the state against the deplorable business tactic being adopted and passively approved by the Government of India. Any governmental impotence in handling such scenario will spell much trouble for the common Indian in every sector of economy as such practice shall take cancerous roots everywhere.

I believe that this a wrong business model and a step in a direction which shall wreck Indian Economy. The law of the land is enough to proscribe such alliances, which are against the spirit of law and against the interest of common Indian. I therefore implore you to take urgent notice of the above discussed facts and take immediate action prohibiting such alliances and de-constructing the effect of the alliance under reference.

In the above situation, I pray :

1. To order detailed inquiry and investigation
2. To investigate the main objective of the alliance
3. Exploitation, i.e. aggressive increase in fares have been resorted to in the last 12 months by these Airlines
4. Impact on the air fares after the acquisition of Deccan Air and Sahara Airways
5. To study the impact due to this alliance
6. To give stay till the detailed study, inquiry is over
7. To issue such directive to protect the customer.

Request to give personal hearing & do the needful.

Thanking you,

Yours truly,

DR. KIRIT SOMAIYA – Ex MP

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