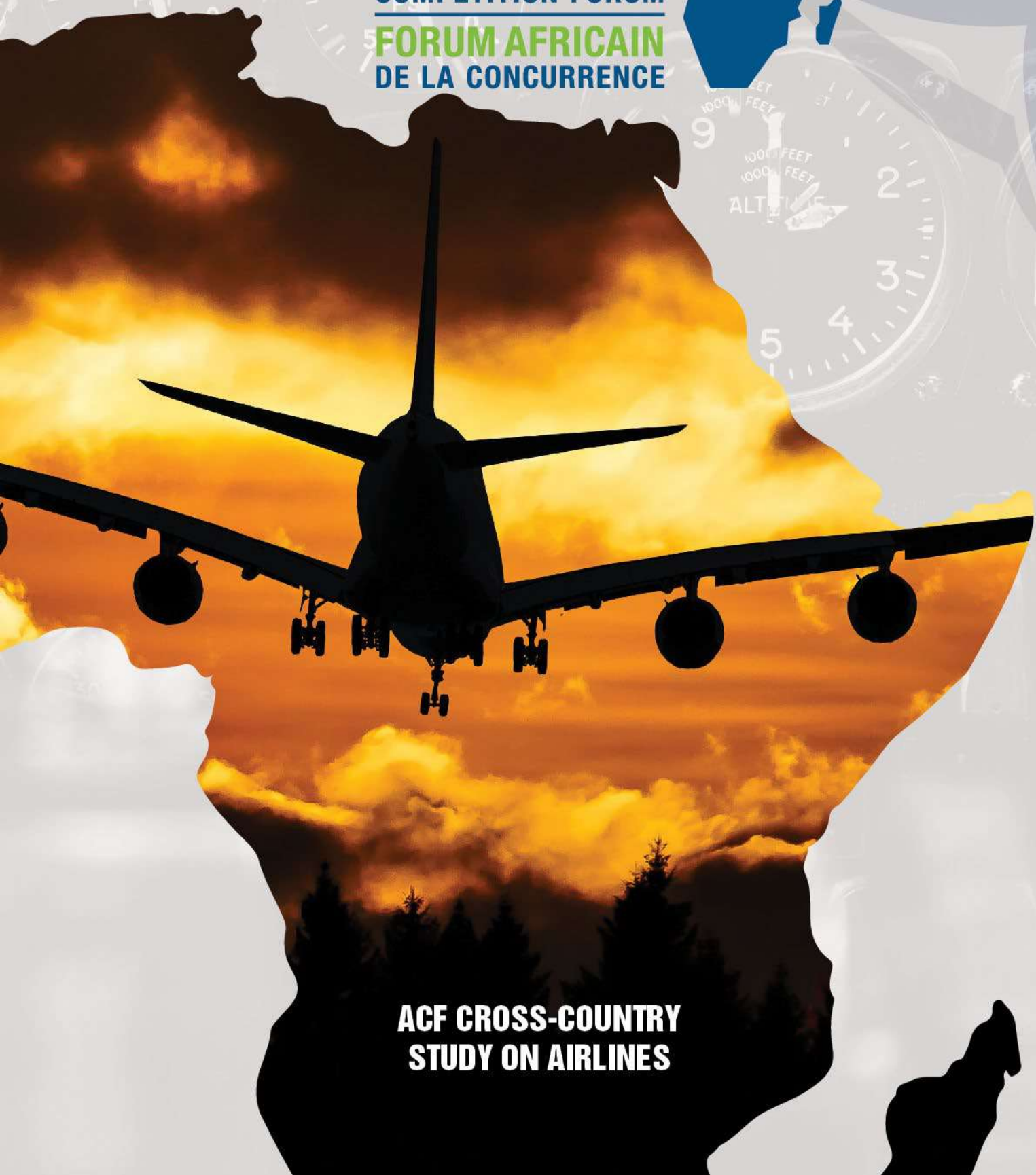




**AFRICAN**  
**COMPETITION FORUM**  
**FORUM AFRICAIN**  
**DE LA CONCURRENCE**



**ACF CROSS-COUNTRY  
STUDY ON AIRLINES**



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## FOREWORD

### **Chairperson of African Competition Forum and Commissioner of Competition Commission, South Africa Tembinkosi Bonakele**

Aviation is a key part of the economic lifeblood of South Africa, transporting people and goods across and outside the country, and stimulating economic activity, job creation, tourism and trade. The airline industry is an essential element in supporting regional and even continental integration.

There are 8 ACF member countries in the study and the Competition Agencies are from South Africa, Kenya, Zambia, Nigeria, Angola, COMESA, Mauritius and Gambia. The objective of the ACF cross-country study of the airline industry on the continent is threefold:

First, to get an understanding of the market structure, alliances, state involvement and regulatory setting for the airline industry in the different ACF member countries, with a particular focus on regional and international services that impact on continental trade and tourism.

Second, to get an understanding of the type of competition concerns that exist in respect of the airline industry in the different ACF member countries.

Third, to provide a platform for identifying regional and continental priorities in respect of the airline industry in order to address existing competition concerns but also ensure the development of a more competitive airline industry that promotes regional and continental integration and the flow of trade and persons within the continent, and to / from the continent

The airline industry in SA looks vastly different today than it looked like at the beginning of the year 2020 and prior. South African air transport sector has witnessed significant changes in its competitive landscape and the pandemic has brought in new competitive landscape into force and it is indeed worth watching for further developments. Except for COMESA and Nigeria, all the participating agencies have documented the impact of Covid 19 on the Airline industry in their respective countries. I believe that this document is a rich source of information that studies the evolution of competition and its landscape in the Airline industry and I am thankful for all participating agencies for providing resources, commitments and enthusiasm to complete such an enriching study and I wish, we, as ACF, conduct more such collaborative studies to the benefit of all.



## **Deputy Chair of African Competition Forum Deshmuk Kowlessur**

The completion of this collaborative African Competition Forum (ACF) airlines cross-country study comes at a time when the global aviation industry is facing unprecedented challenges owing to the Covid-19 pandemic and its pronounced adverse economic and social consequences. In the given circumstances, it is almost a necessity to re-engineer the various sectors of the economy to adapt to the new normal. The aviation industry is not an exception. In fact, it is among the industries which have been most affected with significant reduction in air passenger traffic and revenue. In consequence, many airlines are facing financial turmoil with some simply have gone bankrupt and exited the market.

As we tend to cope and adapt to the current situation, it is crucial to continually review and promote conditions of competition in the various markets to optimise resource use and bring economic efficiency. In this regard, the ACF airlines study can serve as a reference document that can be used in devising and subsequently implementing the regional airline revival strategy. The study provides for a competitive analysis of the various regional air passenger

transportation markets for the pre-Covid-19 period as well as the impact of the pandemic in those underlying markets. It thus contains some interesting insights on the various competitive aspects of the markets and potential areas for policy reforms to promote competition in the regional airline industry.

I am confident that this publication of the ACF would be very useful in the formulation of pro-competitive policies for the revival and development of the aviation industry in Africa. Such initiative will support the efforts for the achievement of our development agenda for increased regional trade and movement of people to enhance economic welfare.

# OVERARCHING CHAPTER



## CONTEXT

1. Regional integration can be viewed as issues of “market access” (Edwards, 2007:257) as it facilitates both trade and mobility between and within countries. Assuming consumers prefer to spread consumption over a wide variety of a certain good, a concentrated trade pattern will be observed, and market forces intervene to make the market more accessible. From the perspective described above, markets become more integrated into regional ecosystem when markets are more accessible<sup>1</sup> and hence a greater proportion of trade in similar goods and services, may indicate greater competition, and therefore a wider product range for consumers to choose from.<sup>2</sup> Assessing competition from a regional perspective would typically involves an investigation of not only the tariff barriers, but also an investigation into the non-tariff barriers that impeded trade in goods and services.<sup>3</sup>
2. There is no country in Africa that is not a part of at least one regional grouping. Regional Integration has the potential of enhancing economic growth, based on geography of comparative advantage, and assist in income distribution in a country (Omilola, 2011). Thus, through regional integration and enhanced international trade, new opportunities and new markets are created and continue to do so. This has the effect of increasing competition within regional and continental groupings. As a result of increased integration, a greater degree of competition is observed that results from wider scale interactions from market participants, and ultimately generates efficiency gains.<sup>4</sup>
3. With respect to multilateralism, international trade may encompass several challenges for developing countries. One of the often cited challenges is the increased competition from dominant foreign Multi-National Corporations.<sup>5</sup>
4. Africa is characterized by weak trade integration,

especially with the rest of the world. The reason for this is because of high trading costs, which are both tariff and non-tariff measures, as well as other trade costs; namely administrative border costs and documentary compliance. Due to the existing trade barriers, African countries tend to suffer from a lack competition in relevant markets. The growing trade introversion in Africa can be explained to a large measure by the loss of competitiveness relative to the rest of the world.<sup>6</sup>

5. We note that the economic performance of most African countries has been low compared to other developing countries. This can be attributed to many different factors<sup>7</sup>, including “the inability for most African countries to secure access to larger markets, inherent high trade costs, among neighbours, lack of an effective framework for regional cooperation and resource pooling, and the pressure from development partners pursuing their own foreign policy objectives in the continent” (Kamau, 2010:150).<sup>8</sup> Further, most countries in Africa are too small to individually to negotiate with large trading blocs, which has led to an increased interest in regional economic integration. Regional integration leads to more liberalized trade among member states, through increased interaction amongst these member states and ultimately leads to increased economic growth.<sup>9</sup>
6. Aviation is a key supporting leg of the transportation system. It has been used by and large as a means of transportation for social and business purposes. Air transportation is also critical for the import and export of goods and services, and ultimately fostering regional economic development within the African continent. The Aviation industry is a highly commercialized industry and can supplement the efforts currently being made by the freight rail, together with the ports industries. In 1999, the African Union developed the Yamoussoukro Decision, which urges all African nations to move towards liberalising their air transport markets. The Decision also recognizes that liberalizing

1. T. Huw Edwards, *Measuring Global and Regional Trade Integration in Terms of Concentration of Access*, *Review of World Economics*, 2007, Vol. 143(2): 256-276.

2. Babatunde Omilola, *To what extent are regional trade arrangements in Africa fulfilling the conditions for successful RTAs*, *Journal of African Studies and Development* 2011, Vol. 3(6): 105-113.

3. *Ibid.*

4. *Measuring the Dynamic Gains from Trade*, *World Bank Economic Review*, 2001, Vol. 15(3): 393 – 429.

5. Babatunde Omilola, *To what extent are regional trade arrangements in Africa fulfilling the conditions for successful RTAs*, *Journal of African Studies and Development* 2011, Vol. 3(6): 105-113.

6. Antoine Bouët, Lionel Cosnard and David Laborde, *Measuring Trade Integration in Africa*, *Journal of Economic Integration*, 2017, Vol. 32(4): 937-977

7. Njoroge Lucas Kamau, *American Journal of Social and Management Sciences, The impact of regional integration on economic growth: empirical evidence from COMESA, EAC and SADC trade blocs*, 2010, Vol. 1(2): 150-163

8. *Ibid.*

9. *Ibid.*

African air transport and adopting an open skies regime will be beneficial to all African nations.<sup>10</sup> Africa is home to 15% of the world's population, yet the continent only accounts for less than 3% of the world's total air traffic.<sup>11</sup>

7. Although there exist great potentials, the airline industry continues to face going concerns. To illustrate and according to international Air Transport Association (IATA) estimates, revenues generated by the South African's airline market significantly fell by \$3 billion (about ZAR55 billion) in 2020, 56% below 2019 levels. That puts at risk more than 250,000 jobs and \$5.1 billion (about ZAR 93bn) of South Africa's GDP, which is generated by aviation directly and by air transport-dependent tourism.
8. The airline industry on the continent fulfils a critical role in facilitating trade and tourism between countries and is an essential element in supporting regional and even continental integration. The airline industry across African economies has undergone a significant evolution in the past two decades, from a protectionist approach supportive of a single national airline towards a more liberalised and de-regulated open skies regime. This has resulted in the emergence of privately owned domestic and regional airlines, as well as greater contestability on inter-country regional and international routes, albeit that this has been uneven across the continent.
9. The airline industry poses some unique challenges for competition authorities, given both the history and economic features of the industry. This is especially the case where the historic state incumbents have faced increasing competition from new, leaner business models such as low-cost carriers, but also well-resourced national airlines from other countries. A broad summary of common competition concerns that arise in most markets and across many routes include:

- 9.1 Regulatory barriers to entry and expansion:
  - The extent of liberalisation across countries varies and in many countries there exist restrictions on entry and/or expansion on

particular routes. This is especially the case with inter-country routes where the historical arrangements of bilateral arrangements persist today. These limit both the airlines that may compete on those routes but also the frequency and type of service. These arrangements will also determine the associated rights of airlines on those routes, such as fifth freedoms to take passengers on onward domestic routes or third country routes.

- 9.2 Ongoing state support: - A further common feature of airline markets is the ongoing state support for national airlines within a more liberalised environment. This is in part because national airlines are required to fulfil non-market functions such as opening up trade routes and supporting internal integration. As a result, countries have a desire to support the ongoing operation of the national airline. This support may take the form of subsidies or occasional financial bailout, which itself may impact on competition with other airlines. In addition, the support may also take the form of support in other ways, such as preferential airport fees/ access to airport slots or support on competitive routes to balance out costs incurred in support of state objectives.

- 9.3 Dominant national airlines: - In many countries across the continent there exists a national airline which has historically been a monopoly and which remains dominant today, despite some degree of liberalisation of the skies. The experience in a number of countries is that this market position is frequently abused by the state-owned airline in order to retain its market position in competition to newer, leaner business models such as low cost airlines. Such abuse is also sometimes made possible by the forms of state support or historic advantages such as loyalty schemes, international route rights and key hub operators at the primary international airport. These economic features of airlines provide a form of network or portfolio effect benefits, and also provide scope for loyalty rebates and other exclusionary strategies. Airline economics also lends itself to price wars

10. <https://www.sadc.int/themes/infrastructure/transport/air-aviation/>. Accessed on [29/01/2020].

11. <https://www.uneca.org/es-blog/giving-wings-africa%E2%80%99s-regional-integration>. Accessed on [29/01/2020].

in periods of lower demand or new entry and excess capacity on the route. At the same time, such price wars may also take the form of predatory behaviour by the incumbent in order to fight off sustained entry and fight for own existence in the market.

9.4 Horizontal alliances and cartels: - A further complexity in the airline industry is the emergence of horizontal cooperative alliances and code-sharing which are sometimes justified on enhancing objectives such as improved connectivity and improved consumer experience. These arrangements can be quite extensive and include the exchange of information on airfares and discounts that alliance members will offer; routes and flying schedule coordination with other members of the alliance; cooperation in marketing, sales and distribution of joint products, including joint bids for government and corporate contracts; and participation in reciprocal frequent flyer programs. These arrangements have the potential to benefit consumers, but may also be used to limit competition. At the same time, the boom and bust nature of the airline industry has incentivised widespread actual cartel behaviour outside of alliance arrangements. These include route division, airfare coordination and coordination on certain charges such as fuel surcharges.

10. These challenges are often complicated in the context of regional and international routes on the continent, as the routes will involve airlines from other countries and the behaviour may also be subject to regulatory action by both countries' competition authorities. In this context, there may be increasing benefit to cooperation across competition authorities to deal with continental airline routes. This is particularly the case given the scope for differential outcomes to the assessment of behaviour under enforcement action. For example, differences in legal regimes may also result in differences in the power to investigate state-owned enterprises, but also differences in the basis for assessment, including whether economic development objectives may be taken into account or not. However, but where there is a common enforcement outcome,

there may be differential views on remedial action across jurisdictions by the competition agencies.

11. In 2005, three Regional Economic Communities (RECs), the Common Market for East and Southern Africa (COMESA), East African Community (EAC) and the Southern Africa Development Community (SADC), established a Tripartite Task Force (TTF) of the CEOs of the Secretariats to spearhead the harmonisation of programs as well as the process for establishing an Institutional framework for cooperation.<sup>12</sup> This culminated in the COMESA-EAC-SADC Tripartite Summit of Heads of State and Government on 20 October 2008 in Kampala, Uganda that established an institutional framework comprising the Tripartite Summit, Council and Sectoral Ministers through a Memorandum of Understanding (MoU) signed by the Chairpersons of the three regional economic communities (RECs).
12. The Tripartite Summit agreed on a programme of harmonisation of trading arrangements amongst the three RECs, free movement of business persons, joint implementation of inter-regional infrastructure programmes as well as institutional arrangements on the basis of which the three RECs would foster stronger cooperation.
13. Further, the Yamoussoukro Decision (YD) based on Abuja Treaty, came into force on 12 August 2000 and its primary objective is to pool resources among African States and their airlines with a view to enhancing operation of air services by African airlines through multi-designation of air carriers, deregulation of frequencies, capacity and tariffs, removal of restrictions on traffic rights including 5th Freedom<sup>13</sup>. YD also intends to create a multilateral Executive Agency geared to supervise and enforce liberalization at same time placing responsibility on RECs to implement the principles of YD.
14. The Joint COMESA-EAC-SADC meeting at Matola, Maputo in 2001 agreed on co-operation in developing

*12. Project: A Framework for the Operationalisation of the COMESA EAC-SADC Joint Competition Authority (JCA), 31/5/2013 (Note that South Africa did not participate in the project).*

*13. With reference to air, also known as a fifth freedom right, this refers to the right or privilege of scheduled international air services, granted by one state to another state to put down and to take on, in the territory of the first state, traffic coming from or destined to a third state (See Schlumberger, Charles E. "Open Skies for Africa: Implementing the Yamoussoukro Decision", 2010, p.4, The World Bank, Washington D.C.).*

- Competition Regulations and implementation of YD for their integrated market. The common Regulations for Competition of Air Transport Services within COMESA-EAC-SADC were adopted by the Joint COMESA-EAC-SADC meeting of Ministers of Transport at Pretoria in September 2002. The three RECs adopted the Unified Competition Regulations through their respective policy organs in 2004. The guidelines, provisions and procedures for the implementation of the Competition Regulations and the Joint Competition Authority (JCA) were adopted during the 3rd Joint meeting of Ministers of transport in Harare in November 2006. The Policy Organs of COMESA, EAC and SADC adopted the Guidelines in 2007.
15. During the Tripartite Summit of Heads of State and Government on 20 October 2008 in Kampala, Uganda, the JCA was launched to oversee the full implementation of the Yamoussoukro Decision on Air Transport in the three RECs commencing January 2009.
  16. The JCA is charged with the overseeing the full implementation of YD in the three RECs as provided for in the Regulations for Competition in Air Transport Services, 2004, and the Guidelines, Provisions and Procedures for the Implementation of the Regulations for Competition in Air Transport Services within COMESA, EAC and SADC in 2006.
  17. The JCA which comprises seven members - two members each from EAC, COMESA and SADC plus a chairperson on a rotational basis - is being established as a joint Committee operating on the authority of the three RECs Councils. The Secretariat to support JCA technical work and administrative processes is hosted at the SADC Secretariat. The Roadmap with key milestones for the operationalisation of the JCA has been prepared and agreed upon.
  18. Article 7 of the JCA looks at the compliance with the regulations for competition in Air Transport Services within the three regional economic communities (REC). The article stipulates, "Each Member State undertakes to implement within its territory the Regulations for competition in air transport services within COMESA, EAC, and SADC of 2004 to promote and guarantee free and fair competition within the three RECs".
  19. At the regional level COMESA, EAC and SADC as leaders of the implementation monitoring process signed Joint Competition Regulations in 2002. The Authorities of these institutions approved the rules in 2004. Unfortunately, the operationalisation and execution has been delayed due in part to the absence of an active monitoring institution.
  20. In January 2018, the African Union Heads of State launched the Single African Air Transport Market ("SAATM"). The SAATM agreement is formed under open skies principles and is an African policy concept that calls for the liberalization of the rules and regulations of commercial aviation industry in order to create a free-market environment for the airline industry. The initiative is geared at creating a single unified air transport market in Africa through the liberalization of civil aviation in Africa. SAATM is seen as an impetus to the continent's economic integration agenda.
  21. For the African continent, the Yamoussoukro Decision is a landmark initiative to develop the aviation industry. The development of the industry is sought to be encompassed through the removal of barriers to trade/entry, by promoting the liberalization of the industry and providing guidelines on policy harmonization.

## STUDY OBJECTIVES

22. The objective of the ACF cross-country study of the airline industry on the continent is threefold:
  - 22.1 First, to get an understanding of the market structure, alliances, state involvement and regulatory setting for the airline industry in the different ACF member countries, with a particular focus on regional and international services that impact on continental trade and tourism. Domestic market structure is also examined as it is relevant to regional dynamics, but similarly the involvement of non-domestic airlines operating on routes into the member country. The mapping of the airline industry also seeks to appreciate the regional and international dynamics that are of primary relevance to the member country, such as the existence or not of regional hubs, the primary

flows of passengers and state aid to domestic and competing regional airlines.

22.2 Second, to get an understanding of the type of competition concerns that exist in respect of the airline industry in the different ACF member countries. This would include actual complaints, investigations and prosecutions, but also the perceived limitations to competition on regional and continental routes. These limitations may be of a market structure or strategic behaviour perspective, including state aid and the support for the national airline (both domestically but also regional airlines that operate to the country), but may also be regulatory in nature such as limitations for entry and expansion based on bilateral arrangements.

22.3 Third, to provide a platform for identifying regional and continental priorities in respect of the airline industry in order to address existing competition concerns but also ensure the development of a more competitive airline industry that promotes regional and continental integration and the flow of trade and persons within the continent, and to / from the continent. Such priorities would be set out in terms of merger control, unilateral conduct enforcement, cooperation on airline alliances and cartel investigations, as well as advocacy in respect of industry regulation.

## METHODOLOGY AND SCOPE

23. The scope of the study is limited to air passenger transport in the respective countries. The study does not cover chartered flights, cargo air transportation and airstrips. Given that air transport markets are analysed as city pairs, the report focuses on major origin-destination pairs in the (i) domestic air passenger services, (ii) intra-Africa passenger services and (iii) out of Africa routes passenger services.

24. The selection of specific flight destination pairs was prioritized. The prioritization of the city pairs in the report was based on the busiest flight movements and trends of passenger movement in the previous years.

25. The price comparison data was gathered in October 2019 from airline websites for twelve (12) dates between November 2019 and March 2020. To ensure consistency of the data, the prices for each route was collected from the websites on the same day for all the airlines operating in the selected routes. Given that the collected data were passenger ticket price projections, prices for some of the airlines were captured for the price comparison period, even though a couple of them exited a number of routes in the early 2020 either due to pandemic or non-pandemic issues.

## EXTENDED CHAPTER ON IMPACT OF COVID-19 ON THE AIRLINE INDUSTRY

26. The main objectives of the Extended ACF cross-country study of the airline industry are to account for significant changes that the competitive landscape has been subjected to due to Covid-19 pandemic. Apart from this, the study also takes note of the impact of Covid-19 in the regional space.

27. The widespread financial distress the pandemic has precipitated means that markets may look very different from how they have looked in the past, in particular those that are likely to be subject to long-term effects. Therefore, backward looking assessments of competition may no longer be as informative about future competitive dynamics (e.g. past concentration levels). For instance, mergers in airline industries would warrant close scrutiny. This is especially where acquirers have already benefitted from the exit of firms in the same relevant market (e.g. because they were close competitors to the exiting firm(s) or because they purchased its strategic assets post-liquidation). We should also point out that the findings / recommendations in this report provide one of the clearest benchmark against which impact assessment of the covid-19 on the airline industry across Africa can be conducted, as well as the post-crisis recovery measures.

## AGENCY PARTICIPATION

28. There are 8 ACF member countries who participated in the study and the Competition Agencies are from South Africa, Kenya, Zambia, Nigeria, Angola, COMESA, Mauritius and Gambia.
29. To cover the impact of Covid-19 on the airline industry, however only 6 of the 8 Competition Agencies participated and the Competition Agencies are from South Africa, Kenya, Zambia, Angola, Mauritius and Gambia.
30. Hence, this report covers both Initial Study and Extended Study for 6 ACF member countries (South Africa, Kenya, Zambia, Angola, Mauritius and Gambia) and only initial study for 2 ACF members' countries (i.e. COMESA and Nigeria).

## STRUCTURE OF THE REPORT

31. The remainder of this airline study report is structured as follows: Chapters 1 and 2 cover both Initial and Extended Study from South Africa and Kenya, respectively. Chapter 3 covers both Initial and Extended Study from Zambia, and Chapter 4 has both Initial and Extended Study from Angola. The next Chapter 5 contains both Initial and Extended Study from Mauritius and followed by Chapter 6 which covers both Initial and Extended Study from Gambia. Finally, Chapters 7 and 8 cover the Initial Studies from Nigeria and COMESA, respectively.

# CHAPTER 1: SOUTH AFRICA

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2106	D01	11:05am	On Time
4547	B12	11:15am	Boarding
780	C03	1:30pm	On Time
4649	E83	11:05am	Boarding
5296	E83	3:00pm	On Time
6729	E83	2:00pm	On Time
7383	D09	11:00am	Boarding
166	E70	11:10am	On Time
	B7	11:09am	On Time
			Boarding

## CONTEXT

1. Regional integration can be viewed as an issue of “market access” (Edwards, 2007:257). Assuming consumers prefer to spread consumption over a wide variety of certain goods, a concentrated trade pattern will be observed, and market forces intervene to make the market more accessible. From the perspective described above, markets become more regionalized when markets are more accessible<sup>1</sup> and hence a greater portion of trade in similar goods and services, which may result in greater competition, as well as a wider product range for consumers to choose from.<sup>2</sup> Assessing competition from a regional perspective involves an investigation of not only the tariff barriers but also involves an investigation into the non-tariff barriers that impeded trade in goods and services.<sup>3</sup>
2. No country in Africa is not a part of at least one regional grouping. Regional Integration has the potential of enhancing economic growth and assist in income distribution in a country (Omilola, 2011). Thus, through regional integration and international trade, new opportunities and new markets are created. This has the effect of increasing competition within regional and continental groupings. As a result of increased integration, a greater degree of competition is observed. The greater degree of competition results from wider-scale interactions from market participants, which ultimately generates efficiency gains.<sup>4</sup> Concerning multilateralism, international trade may encompass several challenges for developing countries. One of the challenges highlighted by Omilola (2011) is the increased competition from dominant foreign Multi-National Corporations.<sup>5</sup>
3. Africa is characterized by weak trade integration, especially with the rest of the world. The reason for this weak trade integration is because of high trading costs, which are both tariff and non-tariff measures, as well as other trade costs, namely administrative border costs and documentary compliance. Due to the trade barriers identified, African countries suffer from a lack of competition in relevant markets. The growing trade introversion in Africa can be explained by the loss of competitiveness relative to the rest of the world.<sup>6</sup>
4. The economic performance of most African countries has been low compared to other developing countries. The low economic performance of countries in Africa can be attributed to many different factors.<sup>7</sup> These factors include the inability for most African countries to secure access to larger markets, inherent high trade costs, among neighbours, lack of an effective framework for regional cooperation and resource pooling, and the pressure from development partners pursuing their foreign policy objectives in the continent (Kamau, 2010:150).<sup>8</sup> Most countries in Africa are too small to negotiate with large trading blocs, which has led to an increased interest in regional economic integration. Regional integration leads to more liberalized trade among member states, through increased interaction amongst these member states and ultimately leads to increased economic growth.<sup>9</sup>
5. Aviation is a key supporting leg of the transportation system. Aviation has been consistently used as a means of transportation for social and business purposes, air transportation is also critical for the import and export of goods and services, and ultimately fostering regional integration and economic development within the African continent. The Aviation Industry is highly commercialized and can supplement the efforts currently being made by the freight rail, as well as port industries. In 1999, the African Union developed the Yamoussoukro Decision. The Yamoussoukro Decision urges all African nations to move towards liberalizing their air transport markets. The Yamoussoukro Decision recognizes that liberalizing African air transport and adopting an open skies regime will be beneficial to all African nations.<sup>10</sup> Africa is home to 15% of the world's population yet the continent only accounts for less

1. T. Huw Edwards, *Measuring Global and Regional Trade Integration in Terms of Concentration of Access*, *Review of World Economics*, Vol. 143(2): 256-276

2. Babatunde Omilola, *To what extent are regional trade arrangements in Africa fulfilling the conditions for successful RTAs*, *Journal of African Studies and Development* 2011, Vol. 3(6): 105-113.

3. *Ibid.*

4. *Measuring the Dynamic Gains from Trade*, *World Bank Economic Review*, 2001, Vol. 15(3): 393 – 429.

5. Babatunde Omilola, *To what extent are regional trade arrangements in Africa fulfilling the conditions for successful RTAs*, *Journal of African Studies and Development* 2011, Vol. 3(6): 105-113.

6. Antoine Bouët, Lionel Cosnard and David Laborde, *Measuring Trade Integration in Africa 2017*, *Journal of Economic Integration*, Vol. 32(4): 937-977

7. Njoroge Lucas Kamau, *American Journal of Social and Management Sciences* 2010, *The impact of regional integration on economic growth: empirical evidence from COMESA, EAC and SADC trade blocs* Vol. 1(2): 150-163

8. *Ibid.*

9. *Ibid.*

10. <https://www.sadc.int/themes/infrastructure/transport/air-aviation/>. Accessed [29/01/2020].

than 3% of the world's total air traffic.<sup>11</sup>

6. The airline industry on the continent fulfils a critical role in facilitating trade and tourism between countries and is an essential element in supporting regional and even continental integration. The airline industry across African economies has undergone a significant evolution in the past two decades, from a protectionist approach supportive of a single national airline towards a more liberalized and de-regulated open skies regime. This has resulted in the emergence of privately owned domestic and regional airlines, as well as greater contestability on inter-country regional and international routes, albeit that this has been uneven across the continent.
7. The airline industry poses some unique challenges for competition authorities, given both the industry history and economic features. This is especially the case where the historic state incumbents have faced increasing competition from new, leaner business models such as low-cost carriers, but also well-resourced national airlines from other countries. A broad summary of common competition concerns that arise in most markets and across many routes include:
  - 7.1 Regulatory barriers to entry and expansion:
    - The extent of liberalization across countries varies and in many countries there exist restrictions on entry and/or expansion on particular routes. This is especially the case with inter-country routes where the historical arrangements of bilateral arrangements persist today. This limits both the airlines that may compete on those routes but also the frequency and type of service. These arrangements will also determine the associated rights of airlines on those routes, such as fifth freedoms to take passengers on onward domestic routes or third country routes.
  - 7.2 Ongoing state support:- A further common feature of airline markets is the ongoing state support for national airlines within a more liberalized environment. This is in part because national airlines are required to fulfill non-market

functions such as opening up trade routes and supporting internal integration. As a result, countries have a desire to support the ongoing operation of the national airline. This support may take the form of subsidies or occasional financial bail out, which itself may impact competition with other airlines. In addition, the support may also take the form of support in other ways, such as preferential airport fees/ access to airport slots or support on competitive routes to balance out costs incurred in support of state objectives.

- 7.3 Dominant national airlines:- In many countries across the continent, there exists a national airline that has historically been a monopoly and which remains dominant today despite some degree of liberalization of the skies. The experience in several countries is that this market position is frequently abused by the state-owned airline to retain its market position in competition to newer, leaner business models such as low-cost airlines. Such abuse is also sometimes made possible by the forms of state support or historic advantages such as loyalty schemes, international route rights, and key hub operators at the primary international airport. These economic features of airlines provide a form of network or portfolio effect benefits, but also provide scope for loyalty rebates and other exclusionary strategies. Airline economics also lends itself to periods of price wars in times of lower demands or new entry and excess capacity on the route. At the same time, such price wars may also take the form of predatory behaviour by the incumbent to fight off sustained entry.
- 7.4 Horizontal alliances and cartels: - A further complexity in the airline industry is the emergence of horizontal cooperative alliances and code-sharing which are sometimes justified on enhancing objectives such as improved connectivity and improved consumer experience. These arrangements can be quite extensive and include the exchange of information on airfares and discounts that alliance members will offer; routes and flying

11. <https://www.uneca.org/es-blog/giving-wings-africa%E2%80%99s-regional-integration>. Accessed [29/01/2020].

schedule coordination with other members of the alliance; cooperation in marketing, sales, and distribution of joint products, including joint bids for government and corporate contracts; and participation in reciprocal frequent flyer programs. These arrangements have the potential to benefit consumers, but may also be used to limit competition. At the same time, the boom and bust nature of the airline industry has incentivized widespread actual cartel behaviour outside of alliance arrangements. These include route division, airfare coordination, and coordination on certain charges such as fuel surcharges.

8. These challenges are often complicated in the context of regional and international routes on the continent, as the routes will involve airlines from other countries and the behaviour may also be subject to regulatory action by both countries' competition authorities. In this context, there may be increasing benefits to cooperation across competition authorities to deal with continental airline routes. This is particularly the case given the scope for differential outcomes to the assessment of behaviour under enforcement actions. Differences in legal regimes may also result in differences in the power to investigate state-owned enterprises, but also differences in the basis for assessment, including whether economic development objectives may be taken into account or not. However, but where there is a common enforcement outcome, there may be differential views on remedial action.
9. In 2005, three Regional Economic Communities (RECs), the Common Market for East and Southern Africa (COMESA), East African Community (EAC), and the Southern Africa Development Community (SADC), established a Tripartite Task Force (TTF) of the CEOs of the Secretariats to spearhead the harmonization of programs as well as the process for establishing an Institutional framework for cooperation.<sup>12</sup>
10. This culminated in the COMESA-EAC-SADC Tripartite Summit of Heads of State and Government on 20 October 2008 in Kampala, Uganda that established

an institutional framework comprising the Tripartite Summit, Council, and Sectoral Ministers through a Memorandum of Understanding (MOU) signed by the Chairpersons of the three RECs.

11. The Tripartite Summit agreed on a program of harmonization of trading arrangements amongst the three RECs, free movement of business persons, joint implementation of inter-regional infrastructure programs as well as institutional arrangements based on which the three RECs would foster cooperation.
12. Yamoussoukro Decision (YD) based on Abuja Treaty, came into force on 12 August 2000 and its primary objective is to pool resources among the African States and their airlines to enhance the operation of air services by African airlines through the multi-designation of air carriers, deregulation of frequencies, capacity and tariffs and removal of restrictions on traffic rights including 5th Freedom. YD also intends to create a multilateral Executive Agency geared to supervise and enforce liberalization at the same time placing responsibility on RECs to implement the principles of YD.
13. The Joint COMESA/EAC/SADC meeting at Matola, Maputo in 2001 agreed on co-operation in developing Competition Regulations and implementation of YD for their integrated market. The common Regulations for Competition of Air Transport Services within COMESA/EAC/SADC were adopted by the Joint COMESA/EAC/SADC meeting of Ministers of Transport at Pretoria in September 2002. The three RECs adopted the Unified Competition Regulations through their respective policy organs in 2004. The guidelines, provisions, and procedures for the implementation of the Competition Regulations and the Joint Competition Authority (JCA) were adopted during the 3rd Joint meeting of Ministers of transport in Harare in November 2006. The Policy Organs of COMESA, EAC, and SADC adopted the Guidelines in 2007.
14. During the Tripartite Summit of Heads of State and Government on 20 October 2008 in Kampala, Uganda, the JCA was launched to oversee the full implementation of the Yamoussoukro Decision on Air Transport in the three RECs commencing January 2009.

*12. Project: A Framework for the Operationalisation of the COMESA EAC-SADC Joint Competition Authority (JCA), 31/5/2013 (Note that South Africa did not participate in the project).*

15. The JCA is charged with overseeing the full implementation of YD in the three RECs as provided for in the Regulations for Competition in Air Transport Services, 2004, and the Guidelines, Provisions, and Procedures for the Implementation of the Regulations for Competition in Air Transport Services within COMESA, EAC, and SADC in 2006.
16. The JCA which comprises of seven members, two members each from EAC, COMESA, and SADC plus a chairperson on a rotational basis is being established as a joint Committee operating on the authority of the three REC Councils. The Secretariat to support JCA technical work and administrative processes is hosted at the SADC Secretariat. The roadmap with key milestones for the operationalization of the JCA has been prepared and agreed upon.
17. Article 7 of the JCA looked at the compliance with the regulations for competition in Air Transport Services within the three regional economic communities (REC). The article stipulates, “Each Member State undertakes to implement within its territory the Regulations for competition in air transport services within COMESA, EAC, and SADC of 2004 to promote and guarantee free and fair competition within the three RECs.”.
18. At the regional level COMESA, EAC, and SADC as leaders of the implementation monitoring process signed Joint Competition Regulations in 2002. The Authorities of these institutions approved the rules in 2004. Unfortunately, the operationalization and execution have been delayed due in part to the absence of an active monitoring institution.
19. In January 2018, the African Union Heads of State launched the Single African Air Transport Market (“SAATM”). The SAATM agreement is formed under open skies principles and is an African policy concept that calls for the liberalization of the rules and regulations of the commercial aviation industry to create a free-market environment for the airline industry. The initiative is geared at creating a single unified air transport market in Africa through the liberalization of civil aviation in Africa. SAATM is seen as an impetus to the continent’s economic integration agenda.
20. For the African continent, the Yamoussoukro Decision

is a landmark initiative to develop the aviation industry. The development of the industry is sought to be encompassed through the removal of barriers to trade/entry, by promoting the liberalization of the industry and providing guidelines on policy harmonization.

## STUDY OBJECTIVES

21. The objective of the ACF cross-country study of the airline industry on the continent is threefold:
  - 21.1 First, to get an understanding of the market structure, alliances, state involvement, and regulatory setting for the airline industry in the different ACF member countries, with a particular focus on regional and international services that impact continental trade and tourism. The domestic market structure will also be examined as it is relevant to regional dynamics, but similarly the involvement of non-domestic airlines operating on routes into the member country. This mapping of the airline industry would also seek to appreciate the regional and international dynamics that are of primary relevance to the member country, such as the existence or not of regional hubs, the primary flows of passengers, and state aid to domestic and competing regional airlines.
  - 21.2 Second, to get an understanding of the type of competition concerns that exist in respect of the airline industry in the different ACF member countries. This would include actual complaints, investigations, and prosecutions, but also the perceived limitations to competition on regional and continental routes. These limitations may be of a market structure or strategic behaviour perspective, including state aid and the support for the national airline (both domestically but also regional airlines that operate to the country), but may also be regulatory in nature such as limitations for entry and expansion based on bilateral arrangements.
  - 21.3 Third, to provide a platform for identifying regional and continental priorities in respect of the airline industry to address existing competition

concerns but also ensure the development of a more competitive airline industry that promotes regional and continental integration and the flow of trade and persons within the continent, and to/from the continent. Such priorities would be set out in terms of merger control, unilateral conduct enforcement, cooperation on airline alliances and cartel investigations, as well as advocacy in respect of industry regulation.

## METHODOLOGY & SCOPE

22. The scope of the study is limited to air passenger transport in South Africa. The study does not cover chartered flights, cargo air transportation, and airstrips in South Africa. The study largely covers passenger aircraft movement within the 9 airports maintained by ACSA.
23. Given that air transport markets are analysed as city pairs, the report focused on five (5) origin-destination pairs in the domestic air passenger services, eight (8) intra-Africa and eleven (11) out of Africa routes.
24. The prioritization of the city pairs in the report was based on the busiest flight movements and trends of passenger movement in the previous years.
25. The price comparison data was gathered in October 2019 from airline websites for twelve dates between November 2019 and March 2020. To ensure consistency of the data, the prices for each route were collected from the websites on the same day for all the airlines operating in the selected routes. Given that they were passenger ticket price projections, prices for airlines such as SAA which were still in operation in October 2019 were captured for the price comparison period, even though SAA exited several routes since 29 Feb 2020.

## BACKGROUND

26. The airline sector has undergone a significant evolution in the last four decades. The focal point of this evolution is the widespread shift from regulation to liberalization and de-regulation that has taken place in various parts of the world. This shift has transformed the structure of

the airline sector and has, in many ways, affected its competitive intensity.

27. On the one hand, low-cost carriers have entered the market, triggering a sector-wide evolution in airlines' business models and have increased competition in the industry. On the other hand, diverse forms of horizontal cooperation have flourished, mostly through alliances, which increased the consolidation of the industry. These are typically used to reduce costs and spread operational risk. However, any kind of horizontal co-operation between airlines, be it a basic interlining agreement or a full horizontal merger may produce anti-competitive effects.
28. In addition, many airlines (in particular incumbent carriers) may still have the ability and incentives to abuse the dominant position they inherited from the period preceding liberalization. Barriers to entry moreover remain and evolve, resulting from limited infrastructure (such as airport slots) and airlines' strategies (loyalty inducing strategies such as frequent flyers programs, retroactive rebate schemes). These changes and current industry features raise challenges and affect the assessment that competition authorities must carry out.
29. The air transport industry, including airlines and its supply chain, is estimated to support US \$5.2 billion of GDP in South Africa. Spending by foreign tourists supports a further US \$4.3 billion of the country's GDP, totalling the US \$9.4 billion. In total, 3.2 percent of the country's GDP is supported by inputs to the air transport sector and foreign tourists arriving by air.<sup>13</sup>
30. Airlines, airport operators, airport on-site enterprises (restaurants and retail), aircraft manufacturers, and air navigation service providers employ 70,000 people in South Africa. In addition, by buying goods and services from local suppliers the sector supported another 113,000 jobs. On top of this, the sector is estimated to support a further 48,000 jobs through the wages it pays its employees, some or all of which are subsequently spent on consumer goods and services. Foreign tourists arriving by air to South Africa, who spend their money in the local economy, are estimated to support an additional 241,000 jobs. In total 472,000

13. IATA, "The importance of Air Transport to South Africa."

jobs are supported by air transport and tourists arriving by air.<sup>14</sup>

31. The Air transport market in South Africa is forecasted under the “current trends” scenario to grow by 102% in the next 20 years. This would result in an additional 21.4 million passenger journeys by 2037. If met, this increased demand would support approximately US \$19.1 billion of GDP and almost 797,410 jobs.<sup>15</sup>
32. Aviation is a key part of the economic lifeblood of South Africa, transporting people and goods across and outside the country, and stimulating economic activity, job creation, tourism, and trade.
33. There are 135 licensed airports in South Africa, 10 of which are international airports and 9 are provincial government airports located throughout the country. The 10 major airports are situated in six of the nine provinces. 9 are owned and managed by ACSA, with Lanseria Airport, north of Johannesburg being privately owned. Most other public airports are owned by local municipalities although there are also a significant number of privately owned airports. Some South African Air Force bases share the airfields of public airports. In the case of Air Force Base Hoedspruit, part of the base has been leased to a private company as a public airport.
34. In this study, we have focussed only on 9 airports that are managed by ACSA. Tables 1 and 2, show passenger traffic for both departure and arrivals for the period 2014/15-2018/19. Of the 9 airports under consideration, ORTIA stands out largest in terms of both departure and arrivals with around 9-10 million passengers arriving and departing through it. In terms of percentage, this stands out at over 50% of passengers for both departure and arrivals. CTIA stands out second largest with around 25%-26% market share for both arrivals and departure, followed by KSIA with around 13%-14% for both arrivals and departure. PLZ stands at 4th position and has around 4% market share for both arrivals and departure.
35. Tables 3 and 4 show aircraft movement for both departure and arrivals across 9 airports considered for

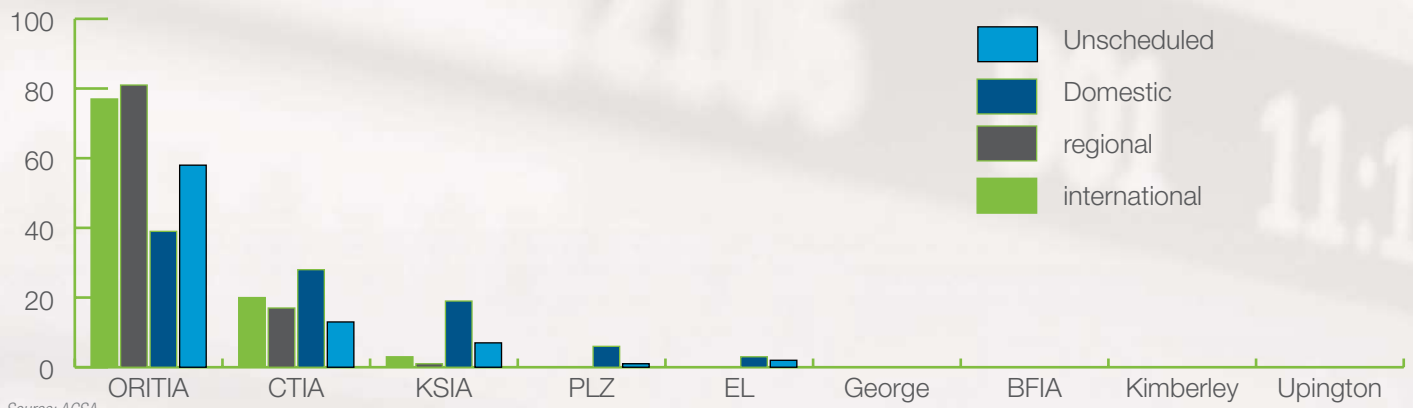
the period 2014/15-2018/19. Of the 9 airports under consideration, ORTIA stands out largest in terms of both departure and arrivals with over 100, 000 aircrafts arriving and departing through it. In terms of percentage, this stands out at over 40% of aircraft movement for both departure and arrivals. CTIA stands out second largest with around 18% market share for both arrivals and departure, followed by PLZ with slightly over 10% for both arrivals and departure. KSIA stands at 4th position and has slightly below 10% market share for both arrivals and departure. George and EL share 5th and 6th position respectively.

36. Figures 1 and 2 below show passenger type in terms of international, regional, domestic and unscheduled for both departure and arrivals across 9 airports considered for the period 2018/19. Of the 9 airports under consideration, ORTIA stands out largest in all categories for both departure and arrivals. ORTIA handles, over 77% of international passengers; over 80% of regional passengers; over 39% of domestic passengers, and over 58% of unscheduled passengers. For international and regional passengers, ORTIA has a significant market share and a large chunk of the remaining is with CTIA (17%-20%) and some less than 3% is with KSIA. For domestic passengers, CTIA and KSIA stand at 2nd and 3rd largest with 28% and 19% market shares respectively, for both departure and arrivals.
37. Figures 3 and 4 below show Aircraft movement types in terms of international, regional, domestic and unscheduled for both departure and arrivals across 9 airports considered for the period 2018/19. Of the 9 airports under consideration, ORTIA stands out largest in all categories, except for unscheduled, for both departure and arrivals. Unscheduled aircrafts for ORTIA remain less than 17%. ORTIA handles, over 83% of international aircrafts; over 78% of regional aircrafts, and over 41% of domestic aircrafts. For international and regional aircrafts, ORTIA has a significant market share and a large chunk of the remaining is with CTIA (14%-20%) and some less than 3% is with KSIA. For domestic aircrafts, CTIA, KSIA, and PLZ stand at 2nd, 3rd, and 4th position with 25%, 16%, and 6% respectively for both arrivals and departure. For unscheduled aircrafts, George has the largest market

14. *ibid.*

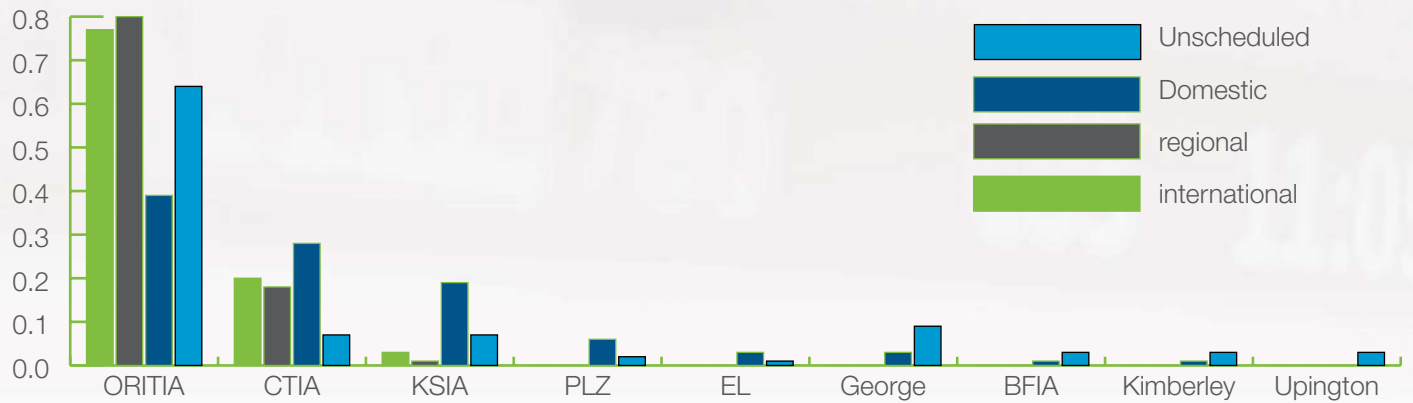
15. *ibid.*

Figure 1: Passenger Traffic- Departure (2019)



Source: ACSA

Figure 2: Passenger Traffic- Arrival (2019)



Source: ACSA

Table 1: Passenger Traffic- Departure

Passenger Traffic- Departure					
	2014/15	2015/16	2016/17	2017/18	2018/19
ORTIA	9 588 887	10 204 939	10 375 712	10 662 440	10 686 913
CTIA	4 387 344	4 849 661	5 128 236	5 404 706	5 437 295
KSIA	2 265 811	2 474 863	2 624 072	2 819 458	3 007 573
PLZ	673 841	804 215	793 232	821 735	848 298
EL	319 559	363 927	399 776	411 373	425 402
George	308 834	361 301	371 434	398 511	422 978
BFIA	182 922	197 106	198 311	199 095	178 386
Kimberley	80 413	84 105	89 237	86 415	80 782
Upington	36 939	34 212	31 955	33 113	30 637
Total	17 844 550	19 374 329	20 011 965	20 836 846	21 118 264

Market Shares					
	2014/15	2015/16	2016/17	2017/18	2018/19
ORTIA	54%	53%	52%	51%	51%
CTIA	25%	25%	26%	26%	26%
KSIA	13%	13%	13%	14%	14%
PLZ	4%	4%	4%	4%	4%
EL	2%	2%	2%	2%	2%
George	2%	2%	2%	2%	2%
BFIA	1%	1%	1%	1%	1%
Kimberley	0%	0%	0%	0%	0%
Upington	0%	0%	0%	0%	0%

Source: ACSA

**Table 2: Passenger Traffic- Arrival**

Passenger Traffic-Arrival					
	2014/15	2015/16	2016/17	2017/18	2018/19
ORTIA	9 546 206	10 170 059	10 317 068	10 569 070	10 627 030
CTIA	4 368 528	4 809 928	5 083 154	5 347 540	5 386 442
KSIA	2 259 083	2 455 292	2 895 930	2 804 855	2 985 588
PLZ	676 903	800 166	789 261	819 658	841 510
EL	318 453	362 122	394 056	404 781	414 823
George	306 854	357 580	367 207	402 969	412 928
BFIA	180 973	196 365	197 824	197 630	176 666
Kimberley	80 029	82 855	87 853	85 518	80 386
Upington	37 358	34 588	33 337	33 861	31 862
	17 774 387	19 268 955	20 165 690	20 665 882	20 957 235

Market Shares					
ORTIA	54%	53%	51%	51%	51%
CTIA	25%	25%	25%	26%	26%
KSIA	13%	13%	14%	14%	14%
PLZ	4%	4%	4%	4%	4%
EL	2%	2%	2%	2%	2%
George	2%	2%	2%	2%	2%
BFIA	1%	1%	1%	1%	1%
Kimberley	0%	0%	0%	0%	0%
Upington	0%	0%	0%	0%	0%

Source: ACSA

**Table 3: Aircraft Movements- Departure**

Aircraft Movements- Departure					
	2014/15	2015/16	2016/17	2017/18	2018/19
ORTIA	108 835	112 014	110 547	110 358	109 828
CTIA	45 559	50 094	49 673	51 504	49 328
KSIA	24 662	26 223	27 523	27 025	25 560
PLZ	30 878	31 812	31 196	26 290	22 261
EL	15 901	15 009	15 039	13 525	12 465
George	27 710	28 763	25 406	15 910	21 507
BFIA	8 284	8 579	8 892	9 729	9 178
Kimberley	5 905	5 051	4 947	4 449	5 099
Upington	4 694	5 282	6 420	3 648	3 584
Total	272 428	282 827	279 643	262 438	258 810

Market Shares					
ORTIA	40%	40%	40%	42%	42%
CTIA	17%	18%	18%	20%	19%
KSIA	9%	9%	10%	10%	10%
PLZ	11%	11%	11%	10%	9%
EL	6%	5%	5%	5%	5%
George	10%	10%	9%	6%	8%
BFIA	3%	3%	3%	4%	4%
Kimberley	2%	2%	2%	2%	2%
Upington	2%	2%	2%	1%	1%

Source: ACSA

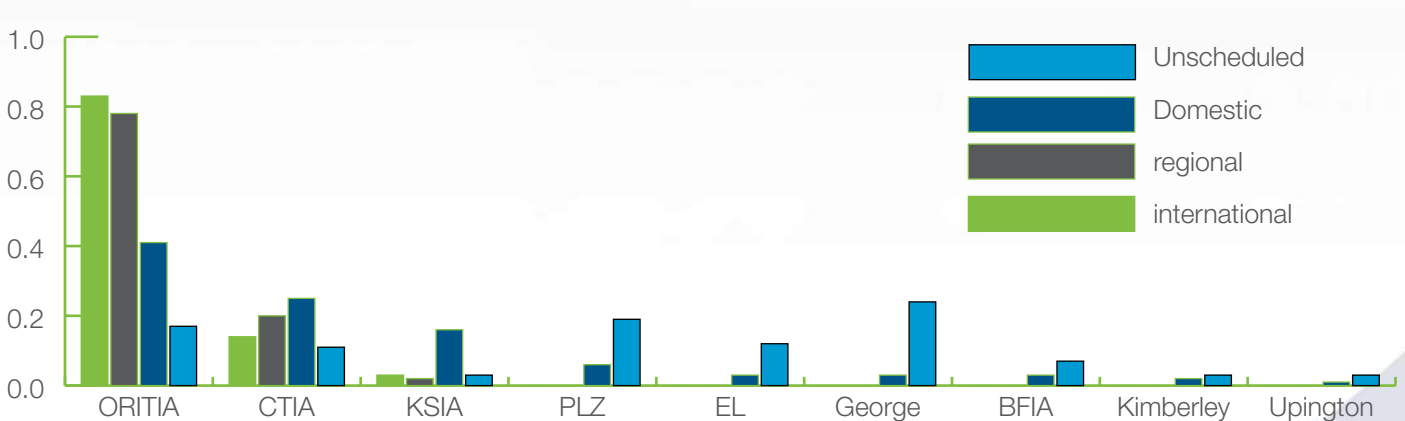
Table 4: Aircraft Movements- Arrival

Aircraft Movements -Arrival					
	2014/15	2015/16	2016/17	2017/18	2018/19
ORTIA	108 792	112 177	110 387	110 286	109 758
CTIA	45 511	50 127	49 663	51 497	49 338
KSIA	24 693	26 254	27 512	27 058	25 571
PLZ	31 716	32 516	31 734	26 992	22 655
EL	15 897	14 998	15 004	13 521	12 427
George	27 722	29 161	25 999	17 051	21 509
BFIA	8 418	8 780	9 053	9 936	9 440
Kimberley	5 914	5 044	4 851	4 439	4 892
Upington	4 598	5 292	6 504	3 671	3 579
Total	273 261	284 349	280 707	264 451	259 169

Market Shares					
	2014/15	2015/16	2016/17	2017/18	2018/19
ORTIA	40%	39%	39%	42%	42%
CTIA	17%	18%	18%	19%	19%
KSIA	9%	9%	10%	10%	10%
PLZ	12%	11%	11%	10%	9%
EL	6%	5%	5%	5%	5%
George	10%	10%	9%	6%	8%
BFIA	3%	3%	3%	4%	4%
Kimberley	2%	2%	2%	2%	2%
Upington	2%	2%	2%	1%	1%

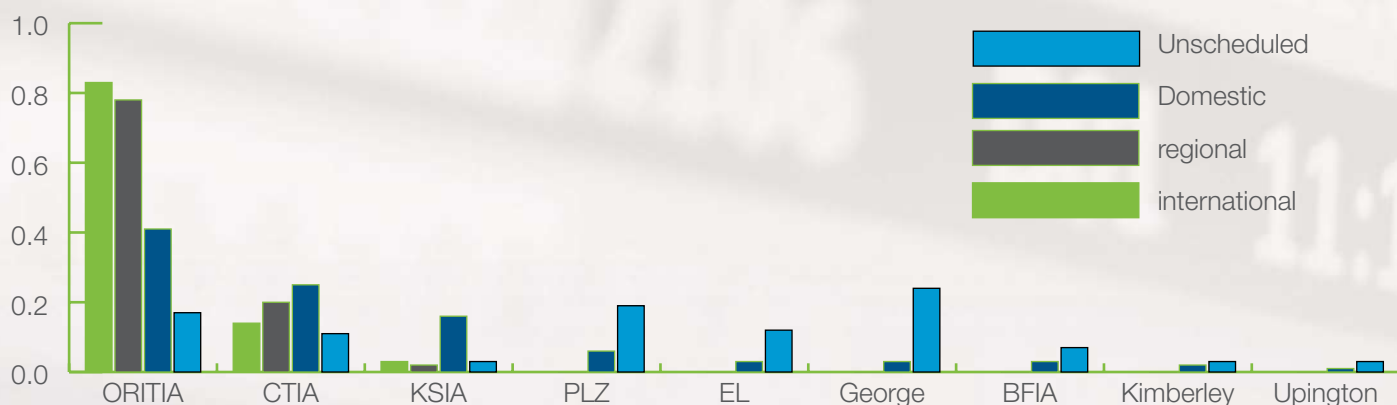
Source: ACSA

Figure 3: Aircraft Traffic-Departure (2019)



Source: ACSA

Figure 4: Aircraft Traffic-Arrival (2019)



Source: ACSA

share of 24%, followed by PLZ with 19% and ORITIA with 17%, and CTIA with 11% for both departure and arrivals.

38. On the other hand, the national carrier South African Airways (SAA) is experiencing an extremely volatile and controversial period and is confronted by numerous challenges, including poor governance and maladministration. At the same time, its subsidiary, South African Express had been grounded by regulators for various reasons, before it commenced its operation again. SAA recently received a R5 billion guarantee from Government effective from 1 September 2012 to 30 September 2014.<sup>16</sup> The effect of this support is to reduce the cost of borrowing for SAA to below market levels and to reduce SAA's perceived risk. The first challenge is that government support for only one airline may distort the playing field. A second challenge is that government support may increase inefficiencies overall, as it sends a strong signal that inefficient airlines can be rescued. This challenge consists of determining whether the adverse consequences of letting a carrier fail, outweigh the risks of un-levelling the playing field and of inducing potential long-run inefficiencies.
39. Added to these problems are the competition from low-cost carriers and rapidly increasing costs which include higher oil prices and high labour costs. Of concern to local players is the emergence of big players on the African continent which has harmed SAA's role as a

travel hub into Africa. African players such as EgyptAir, Ethiopian Airlines, and Kenya Airways are taking market share on the continent, while international players such as Qatar Airways, Etihad, and Emirates pose a more serious threat.

40. Globally, the airline industry is famous for several distressed firms, bankruptcies, and market exits. In the case of South Africa, six domestic carriers have exited the market in recent times, post-2000 (Nationwide, 1Time, Velvet Sky, Fly Go Air, Skywise, and Blue Crane). All of these were privately owned airlines that operated between 1995 to 2008, 2004 to 2012, 2011 to 2012, 2012 to 2015, 2015(March) to 2015 (Dec), and 2015 to 2017 respectively.

## REGULATORY/ INSTITUTIONAL/ LEGAL FRAMEWORK<sup>17</sup>

41. South Africa's aviation services are premised on the work of the South African Civil Aviation Authority (SACAA), the Air Traffic Navigation Services (ATNS), and the Airports Company South Africa (ACSA). These three entities must ensure aviation safety and that airport security infrastructure development and air navigation services are efficiently carried out.
42. Access to markets is somewhat restricted by regulation, perceived unfair treatment for state-owned airlines and nationality laws, as well as high fuel costs and airport tariffs, which are generally reported as being among the 10 most expensive in the world. The development of international air services continues to be determined

16. Several news articles capture further assistance to SAA of R5 Bill in 2018/19 FY. <https://businesstech.co.za/news/government/279603/saa-to-get-r5-billion-bailout/>  
Another capture SAA received government financial assistance of a staggering R57.8 billion since 1999. <https://businesstech.co.za/news/government/282900/government-has-plugged-r57-billion-into-saa-and-counting/>

17. Sean Gates (2014), *The Aviation Law Review (South Africa Chapter)*, Second Edition, Law Business Research Ltd.

- by the bilateral air services framework.
43. Protective and restrictive measures in favour of national airlines continue despite efforts to liberalize African skies under the Yamoussoukro Decision, although alliances and cooperation agreements are increasing.
  44. The Air Traffic and Navigational Services Company (ATNS) is currently conducting the slot coordination function in South Africa within the confines of a limited legislative framework. To address the limited legislative framework, as well as the outlook for slot coordination in the medium term, the Slot Coordination Working Group under the leadership of the Department of Transport was established. South Africa ratified the Cape Town Convention in 2007.
  45. The government's domestic air transport policy includes fostering a competitive domestic air transport market to level the playing field and ensure equal treatment of state-owned airlines in a competitive market as opposed to a market that is reserved for a state-owned and controlled monopoly.
  46. The Air Service Licensing Council is responsible for the licensing and control of domestic air services, while the International Air Services Licensing Council is responsible for the licensing and control of international air services.
  47. The provision and operation of air navigation infrastructures, air traffic services, or air navigation services fall under the Air Traffic and Navigation Services Company Limited, while the Airports Company of South Africa owns and regulates activities at company airports and levies airport charges (with the permission of the Regulating Committee established by Section 11 of the Airports Company Act).
  48. In South Africa, the conduct of state-owned enterprises (SOEs) is subject to the Competition Act. The Competition Act No. 89 of 1998 is the legislation utilizing which competition is regulated.
  49. South Africa is a party to the following important international aviation treaties:
    - 49.1 the Convention on International Civil Aviation (the Chicago Convention);
    - 49.2 the International Air Services Transit Agreement (the Transit Agreement);
    - 49.3 the Convention for the Unification of Certain Rules relating to International Carriage by Air (the Warsaw Convention);
    - 49.4 the Protocol to amend the Warsaw Convention for the Unification of Certain Rules relating to International Carriage by Air (the Hague Protocol);
    - 49.5 the Convention on the International Recognition of Rights in Aircraft (Geneva 1948);
    - 49.6 the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules relating to Carriage by Air Performed by a Person other than the Contracting Carrier (Guadalajara);
    - 49.7 the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention);
    - 49.8 the Convention on Offences and Certain other Acts Committed on Board Aircraft (the Tokyo Convention);
    - 49.9 the Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague Convention);
    - 49.10 the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. (Montreal 1971); and
    - 49.11 the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on Matters Specific to Aircraft Equipment (the Cape Town Convention).

## LICENSING OF OPERATIONS

### Licensed activities

50. The provision of an air transport service by an aircraft for reward may only be undertaken if licensed in accordance with the terms and subject to the conditions

in Air Services Licensing Act No. 115 of 1995 and the International Air Services Act No. 60 of 1993. An air transport service is a service by aircraft for the carriage of passengers or goods for reward and includes such service on charter terms.

51. Exemptions may be granted for the provision of an air service on a non-profit basis for purposes incidental to social welfare or charity, or purposes of salvage on humanitarian grounds, or where the service will assist in saving lives.

### **Authorisation for an international air service license**

52. An application for an international air service license is made in accordance with the provisions of the International Air Services Act No. 60 of 1993 and must be accompanied by:

- 52.1 documents to the satisfaction of the Council that the applicant will be actively and effectively in control of the international air service;
- 52.2 a plan setting out in detail the manner in which the applicant will ensure that a safe and reliable international air service is operated;
- 52.3 proof that the applicant is financially capable of operating such international air service; and
- 52.4 a certified true copy of:
  - 52.4.1 the existing license held by the applicant (where applicable); and
  - 52.4.2 in the case of a company: (1) its memorandum of incorporation; and (2) the authorizing resolution concerned.

### **Domestic air service license**

53. Operating a domestic air service is subject to the provisions of the Air Services Licensing Act.

- 53.1 An application for a domestic license must be accompanied by:
- 53.2 documents to establish, to the satisfaction of

the Council how the applicant will be actively and effectively in control of the air service;

- 53.3 a plan setting out in detail the manner in which the applicant will ensure that a safe and reliable air service is operated, containing full particulars and information on the following aspects in respect of the air service to be provided:

- 53.3.1 the description and objectives of the air service to be provided;
- 53.3.2 the full name and surname, qualifications and experience of each of its principal officials;
- 53.3.3 a statement of the responsibility and accountability for the duties of each official, and a written acceptance thereof by such official;
- 53.3.4 a line management diagram indicating to whom each official reports and the subordinate managerial positions;
- 53.3.5 an outline of the engineering, maintenance, and flight operation management practices;
- 53.3.6 the management practices indicating how procedures will be updated; and
- 53.3.7 proof that the applicant is financially capable of operating an air service;

- 53.4 in the case of a company, a certified true copy of its memorandum of incorporation and certificate to commence business, and the authorizing resolution concerned; and

- 53.5 where the applicant will use an aircraft that is not registered in its name in the operator of the air service, a certified true copy of the agreement under which the applicant is entitled to use the aircraft.

54. To maintain a license an applicant who applies for a license to operate a class I air service (scheduled public air transport service) must additionally:

- 54.1 submit, to the satisfaction of the Council, a consumer guarantee for the total sum of cash receipts as envisaged in the plan referred to above for services in respect of the transport of passengers or cargo, where such services have already been sold but not yet rendered by the applicant and that the Council deems to be a fair representation of that component of the applicant's projected cash flow; and
- 54.2 at all times make its financial accounting system available to the Council for inspection, provided that the details concerning such financial accounting system shall not be made public without the consent of the applicant.

personal assets and liabilities together with acceptable documented proof of adequate cash resources that will be available at the outset to fund the air service. In the case of an application to operate a scheduled public air transport service, full particulars concerning the following aspects must be provided:

- 57.1 projections of the income statement, including the proposed tariffs; forecast revenue; forecast yields, passenger numbers, and cargo volumes, if applicable; and flying hours;
- 57.2 a cash-flow statement including revenue; trading costs by main category and receipts by operation; fixed assets expenditure; and debtor, creditor, and stock assumptions; finance raised and repaid; financing costs and taxation; and opening and closing balances;
- 57.3 a balance sheet in respect of the air service to be provided and the assumptions on which the projections are based, for a period of 12 months following the date of application, including, in relation to sources of finance: equity; short, medium, and long-term loan facilities; securities for finance; and encumbered assets;
- 57.4 in relation to the company's shares, details as to shareholders and proposed shareholders; the nationality of shareholders and proposed shareholders; types of shares; and number and value of issued shares;
- 57.5 in relation to its assets, (including aircraft, engines, and spares), the capital costs; financing arrangements, including deposit, amount of finance and repayments; and leasing arrangements; and
- 57.6 a sensitivity analysis of the assumptions used concerning possible adjustments and the consequences that such adjustments may have on the projections referred to in that subparagraph.

## OWNERSHIP RULES

- 55. Foreign ownership of domestic airlines is controlled in terms of aviation legislation rather than the Competition Act. If the applicant is not a natural person resident in the Republic, at least 75 percent of the voting rights of a domestic carrier must be held by residents of the Republic, and the aircraft that will be used in operating the air service is a South African registered aircraft. The voting rights in respect of a South African licensed international carrier need to be substantially held by residents of South Africa, and the aircraft that will be used in operating the air service is a South African registered aircraft.
- 56. No shareholding restrictions or limitations are imposed on international air carriers operating in South Africa except for the license requirements discussed above. To satisfy the Council that the applicant is financially capable of operating the air service concerned, an applicant must submit to the Council a set of audited accounts of the most recently completed financial year including a certified pro forma balance sheet reflecting the opening balances as at the projected date of commencement of the air service together with explanatory notes that shall refer to the operating capital and the cash resources available to the applicant at the outset.
- 57. If the applicant is an individual or a partnership, the applicant must provide a certified statement of

## INSURANCE

58. In respect of domestic air services, a licensee must at all times be insured for the following minimum amount, irrespective of the class of license held:
- 58.1 in respect of passenger liability, 1 million rand per seat, irrespective of the category of aircraft, excluding a microlight airplane, for the total number of seats authorized by the certificate of airworthiness applicable to the aircraft concerned, except where the license held by the licensee does not authorize the transport of any passenger for reward; and
  - 58.2 in respect of cargo liability, 50 rands per kilogram of cargo calculated according to the total possible mass of cargo that can be carried by the aircraft concerned, except where the license held by the licensee does not authorize the transport of any cargo for reward.
59. In respect of international air services, a licensee who operates an international air service under an air carrier's license shall at all times be insured for the following minimum amount, irrespective of the class of license held:
- 59.1 In respect of passenger liability: 1 million rands per seat, irrespective of the category of aircraft, for the total number of seats authorized by the certificate of airworthiness applicable to the aircraft concerned.
  - 59.2 Mandatory third-party insurance provisions apply as follows:
60. Domestic air services:
- 60.1 in relation to an aircraft with a maximum certificated mass exceeding 20,000 kilograms, 50 million rands per aircraft;
  - 60.2 in relation to an aircraft with a maximum certificated mass exceeding 5,700 kilograms but not exceeding 20,000 kilograms, 20 million rand per aircraft;
  - 60.3 in relation to an aircraft with a maximum certificated mass exceeding 2,700 kilograms but not exceeding 5,700 kilograms, 10 million rand per aircraft;
  - 60.4 in relation to an aircraft with a maximum certificated mass of 2,700 kilograms or less, excluding a microlight airplane, 2.5 million rands per aircraft; and
  - 60.5 in relation to a microlight aeroplane, 500,000 rand per microlight aeroplane.
  - 60.6 The total of the minimum amounts of coverage required for passengers and cargo and third-party liability may be insured for a combined single limit of insurance per any one occurrence.
61. International air services:
- 61.1 in relation to an aircraft with a maximum certificated mass exceeding 20,000 kilograms, 50 million rands;
  - 61.2 in relation to an aircraft with a maximum certificated mass exceeding 5,700 kilograms but not exceeding 20,000 kilograms, 20 million rand;
  - 61.3 in relation to an aircraft with a maximum certificated mass exceeding 2,700 kilograms but not exceeding 5,700 kilograms, 10 million rand; and
  - 61.4 in relation to an aircraft with a maximum certificated mass of 2,700 kilograms or less, 2.5 million rands.
  - 61.5 The minimum amounts of coverage required for passenger and third-party liability may be insured for a combined single limit of insurance per any one occurrence. There is no provision for exemption from the minimum insurance requirements; however, the licensing council shall advise the Minister of Transport every three years on the desirability of revising the minimum amounts.

**Table 5: Airport Infrastructure**

Airport Name	Domestic and/or International	Number of Parking Bays		Number of Runways
		Contact Bays	Remote Bays	
Cape Town International	Domestic & International			2
OR Tambo International	Domestic & International			2
King Shaka International	Domestic & International			1
Port Elizabeth International	Domestic & International			2
Upington International	Domestic & International			2
East London	Domestic			2
George	Domestic			1
Kimberley	Domestic			2
Bram Fischer International	Domestic & International			2

Source: ACSA

## COMPETITION DYNAMICS IN THE AIRLINE INDUSTRY

### Airports infrastructure

62. Airport capacities and ancillary services have a direct effect on the demand for domestic-international services in an airport and can give an airport dominance concerning the passenger capacity handled, thus capacity utilization.
63. The concept of the Aerotropolis, whereby a range of manufacturing, logistics, and commercial facilities, complemented by hotels, retail outlets, entertainment complexes, and offices are clustered around an airport is likely to further accelerate the core role of our airports, particularly for the King Shaka International Airport and its associated Dube Trade Port and the drive for an Aerotropolis surrounding O.R. Tambo International, which is directed by Ekurhuleni Metropolitan Municipality.
64. ACSA's nine airports are registered on the largest worldwide Airport Service Quality (ASQ) program, under the auspices of Airports Council International, which represents 98 percent of the world's airports. These airports are major generators of direct and indirect employment and business opportunities, providing the core of development nodes in South Africa.
65. ACSA airports have once again been ranked as some of the best in Africa in the annual Airports Council International's (ACI) 2015 (ASQ) Awards. Upington Airport achieved top honors with 1st place in the Best Airport by Region – Africa (under 2 million passengers per year) category. Cape Town International Airport and King Shaka International Airport tied for 2nd place in the category, Best Airport by Region – Africa for those airports handling over 2 million passengers per year. OR Tambo International Airport was ranked third.
66. ACSA plans to revamp the International Terminals of the three International Airports, OR Tambo, King Shaka, and the Cape Town International Airport, including the realignment of the Cape Town runway and its domestic arrival terminal. There are also plans to expand parking at both the O.R. Tambo and the Cape Town International Airport.
67. As a result of ACSA's sustainable growth in cargo air transportation, the O.R. Tambo Airport will also pride itself on an additional cargo terminal. To gain maximum benefit from these exceptional airports, ACSA continues to focus on service quality, which includes the improvement of passenger service experience through the introduction of the E-gate technology, which will replace the current system where passengers pass through an official who books them in before boarding.
68. In line with the President's Nine-Point Plan, especially concerning the matter of addressing the Energy Challenge, ACSA as a SOC produced its plan for energy security, ACSA introduced the usage of solar energy involving extracting power from the sun which is dichotomized into Solar Photovoltaic (PV) and Concentrated Solar Power (CSP). To this extent, the roll-out was completed at the George, Kimberley, and the Upington Airports.

## State of Competition in South African Airline Industry

69. Trials are underway at O.R. Tambo International Airport for self-bag-drop, which allows passengers to self-check-in their luggage. Simultaneously, ACSA is working on a new SMART security system that aims to create a conducive environment for passengers to proceed through security with minimal inconvenience. The SMART security system allows for electronic security facilitation, where passengers put their hand luggage onto a conveyer belt, then move through X-Ray body scanners without having to interact with security personnel. ACSA's Strategy 2025 reaffirms its vision statement of being the most sought-after partner in the world for the provision of sustainable airport management solutions by 2025.
70. The next 25 years in the life of ACSA will be built on the foundations of the "run, develop, grow" strategy. All three of these strategic pillars will require additional world-class airport infrastructure. ACSA is a major role player in the implementation of the government's National Transport Master Plan 2050. This master plan is essential to creating the foundation for economic growth for decades to come.
71. At the heart of this vision is digitalization. The company has embarked on a R2 billion (\$150m) digitalization strategy to enable it to achieve its strategic objectives by leveraging technology. ACSA will focus on four digital dimensions of passenger processing, business intelligence and analytics, social and mobile technology, and digital infrastructure.
72. While rapid advances in technology represent an opportunity for operational efficiency and passenger experience, the aviation industry continues to be highly exposed to a threat of business disruption and cyber-crime. To address this, ACSA has developed an IT security strategy to strengthen its IT skills and governance to ensure a secure and sustainable digital environment.
73. The next few years will, indeed, be key for the development of the company, while it continues to maintain its competitive edge on the African continent and grows its vision to become a global player within the aviation space.
74. Within the broader market for scheduled air passenger services, there are currently eight passenger operators in the South African airline industry. Of the eight airline operators, half are affiliated with SAA, either via a bilateral agreement (SA Express and SA Airlink) or because it is wholly owned by it (FlyMango). Of the remaining four operators, British Airways and Kulula form part of Comair in South Africa; Comair is a franchisee of British Airways and uses its livery, and Kulula was launched by Comair in 2001. The only independent airlines in the industry at present are FlySafair and Comair. Below we outline brief profiles of airlines that are active in South Africa.
- 74.1 South African Airways ('SAA') is a national carrier that owns or/and holds business interests in other airlines like Mango, SAX, and Airlink. The SAA Group has a fleet of 64 aircraft.<sup>18</sup> The Group flies to 8 domestic destinations. Out of 8 domestic destinations, SAA 5, Mango 7, with some markets served by both airlines. Beyond South African borders, the Group flies to 25 regional destinations, SAA 24, Mango 1, and 8 international destinations served by SAA only.<sup>19</sup>
- 74.2 SA Express ("SAX") first took off to the skies in April 1994. And has since expanded its fleet significantly.<sup>20</sup> SAX caters to both business and leisure travelers by offering flights to most destinations within South Africa and services between Botswana, Namibia, the Democratic Republic of Congo, Zambia, and Zimbabwe.
- 74.3 Airlink is SAA's privately-owned partner that serves as a link between smaller airports and SAA's large city hubs. The airline carries more than a million passengers on 35, 000 flights operated within South Africa territory as well as to 35 international destinations in 9 Southern

18. SAA owns 52, Mango 10, and SAA Cargo 2.

19. SOUTH AFRICAN AIRWAYS GROUP Integrated Report for the year ended 31 March 2017. Page 4.

20. SA Express has expanded its fleet which includes two Q400 turbo-prop aircrafts, the 50-seat Canadair Regional Jet (CRJ) and DeHavilland Dash 8-Series 300-turbo-prop aircraft which are available on certain routes operated by the airline. more information available on <https://www.flysaa.com/about-us/partner-airlines/south-african-express>. Accessed [27/01/2020].

African countries.<sup>21</sup> Airlink has grown its service to strategically important regional destinations and offers service to various destinations throughout southern Africa - Zimbabwe, Zambia, Swaziland, Mozambique, Botswana, Madagascar, Lesotho, and other regional destinations.<sup>22</sup>

74.4 Mango Airlines is an LCC that targets leisure travelers and price-sensitive business passengers in the domestic and regional market. The Airline is a full subsidiary of SAA and it is known for having been a success from the moment it took to the skies on 15 November 2006. Mango has grown from the original 4 Boeing 737-800's to a fleet of 10 aircraft – 9 Boeing 737 -800's and 1 Boeing 737- 300 – serving 8 South African destinations and Zanzibar which is a regional destination.<sup>23</sup>

74.5 FlySafair is also a Low-cost passenger airline. The Airlines was established in 2013 with only 2 aircrafts operating between Johannesburg and Cape Town. The airlines have since expanded its fleet to 14 passenger planes operating in approximately 7 major airports in South Africa.<sup>24</sup> In 2017, FlySafair accounted for just less than 30% of the then-available seat compacity among LCC operating in the Country.<sup>25</sup>

74.6 CemAir is the smallest Airline in South Africa. This airline specializes in flying to small regional airports which include among others, Sishen, Bloemfontein, Plattenburg, Margate, Richards Bay, Hoespruit, and others. CemAir flies to a total of 9 destinations with a fleet of 6 aircrafts.<sup>26</sup>

74.7 Comair Limited (the “Group”) is a South African Airline Group that operates Kulula and

British Airways Brands in South Africa, sub-Saharan Africa, and the Indian Ocean Islands. The Group operates under its low-fare airline brand, kulula.com, as well as under the British Airways livery, as part of a license agreement with British Airways PLC. The Group entered into a Licence Agreement with British Airways PLC during 1996, in terms of which it was granted a license to operate flights using BA intellectual property and in accordance with the BA style of business, tweaked to meet local conditions.<sup>27</sup> The group has a broad airline network at domestic, regional, and international levels. During the 2019 financial year, the Group operated 44 185 fights with a fleet size of 25 aircraft and carried 6 million passengers.

74.7.1 British Airways (“BA”) brand serves the higher end of the market and competes for head-on with SAA on domestic, regional, and international markets. BA route Network includes London, Spain, Doha, Livingstone, Victoria Falls, Harare, Hong Kong, Mauritius, Windhoek, Durban, Port Elizabeth and Cape Town. British Airways’ main focus and growth comes from the corporate and public sectors, as well as in the inbound tourist markets.

74.7.2 Kulula is one of the prominent market players in the LCC market. It has become one of South Africa’s famous consumer brands.<sup>28</sup> Kulula Route network includes; (Code shared routes: France, Amsterdam, Kenya, Abu Dhabi), Lenasia, O R Tambo, Durban, East London, George, and Cape Town.

75. The airline operators differ in terms of the routes they operate on, the size of their aircraft, the services they offer, and the customers they serve.

76. SA Express, SA Airlink, and Cemair are types of FSCs called Regional Service Carriers (“RSCs”) which predominantly operate on thin feeder routes at a

21. About Airlink. available at: <https://www.flysaa.com/about-us/partner-airlines/airlink>. Accessed [27/01/2020].

22. Airlink destination list include Botswana: Gaborone, Kasane, Maun. Lesotho: Maseru. Madagascar: Antananarivo, Nosy Be. Mozambique: Beira, Nampula, Pemba, Tete, Vilanculos. Namibia: Walvis Bay, Windhoek. South Africa: Bloemfontein, Cape Town, Durban East London, George Hoedspruit, Johannesburg, Kimberley, Mthatha Nelspruit, KMA, Phalaborwa, Pietermaritzburg, Polokwane, Port Elizabeth Richards Bay, Sishen, Skukuza, Upington. St Helena, Jamestown. Eswatini (Swaziland) Sikhuphe. Zambia: Livingstone, Lusaka, Ndola. Zimbabwe: Bulawayo, Harare, Victoria Falls.

23. See: <https://www.flysaa.com/about-us/partner-airlines/mango>. Accessed [27/01/2020].

24. See: <https://www.timeslive.co.za/sunday-times/business/2019-02-10-well-grounded-flysafair-flying-high/>. Accessed [27/01/2020].

25. See: [https://www.flysafair.co.za/upload/Landing\\_Page/FlySafair%20Company%20Factsheet.pdf](https://www.flysafair.co.za/upload/Landing_Page/FlySafair%20Company%20Factsheet.pdf). Accessed [27/01/2020].

26. See: <https://www.flycemair.co.za/>. Accessed [27/01/2020].

27. Comair annual report 2019. Page 23.

28. Comair annual report 2019. Page 4.

high frequency. Their fleet consists of smaller aircraft ( $\leq 90$  seats) with load factors of around 60%. They predominantly target business and time-sensitive customers.

77. Mango, FlySafair, and Kulula are LCCs that predominantly service dense trunk routes. They use large aircraft (100-220 seats) and usually achieve higher load factors of around 75-80%. They offer a no-frills service (e.g. it includes charges for food) and do not sell business class tickets. They also predominantly target leisure price-sensitive time-insensitive customers.
78. SAA and BA are FSCs that primarily operate on dense trunk routes. Unlike LCCs, they provide full on-board services to their customers. They also sell business class tickets and predominantly target business time-sensitive customers. Load factors on FSCs are 90-100% in Business and First Class and 60-65% in Economy.

### Overlap of airline operators in domestic routes

79. Although there are eight airline operators in the domestic airline industry, there are just one to five operators on each route. Further, if we account for the groupings of airlines (as per agreements), there are only ever as many as three competitors on any particular domestic route.
80. Table 6 below shows the number of operators and

groups of airlines on each domestic route in South Africa. Nine routes contain three competing groups of airlines even though the number of operators ranges between three and five. Six routes contain two competing groups of airlines. In the case of four routes, although there are two operators, they are from the same group of airlines.

81. The tables below provide a slightly different representation of the above table identifying the competitors on those routes. Concerning the 12 routes operated by FlySafair, we observe that the airline holds a monopoly position on the Lanseria - George city-pairing (i.e. HLA - GRJ). Further, FlySafair faces competition from only one other party (namely, SAX) on the CPT - ELS, and DUR - ELS routes. SA Airlink holds a monopoly position on 22 routes on which it operates.

### Entry and Exit<sup>29</sup>

82. The first airline to enter the market after deregulation was Flitestar in October 1991. Flitestar chose to challenge SAA and to price its services similar to those of SAA; the airline targeted the business market and the upper end of the leisure market. Comair, however, held back and operated on the trunk routes, leaving Flitestar to challenge SAA on its home ground. However, with a long-standing influence in the industry, strong existing relationships with airports and suppliers,

29. See Steyn and Mhlanga, "The aviation industry in South Africa: A historical overview", *African Journal of Hospitality, Tourism and Leisure* Vol. 5 (4) - (2016), for details.

**Table 6: Number of operators and groups on domestic routes**

Routes	Number of routes	Number of operators	Number of groups
JNB-CPT, JNB-DBN, JNB-PLZ	3	5	3
JNB-GRJ, CPT-DBN, JNB-ELS	3	4	3
HLA-CPT, CPT - PLZ, DBN - PLZ	3	3	3
JNB-BFN, JNB-HDS, JNB - SIS, HLA-DBN, CPT-ELS, JNB-KIM	6	2	2
CPT-BFN, CPT-HDS, DBN- ELS, JNB RCB	4	2	1
JNB-MGH, JNB- UTT, JNB - NLP, JNB - PHW, JNB - PZB, JNB- PBZ, JNB - PTG, JNB - SZK, JNB- UTN, HLA-GRJ, CPT-GRJ, CPT-KIM, CPT - NLP, CPT - PZB, CPT - PBZ, CPT - SZK, CPT - UTN, DBN-BFN, DBN-GRJ, DBN - NLP, PTA - CPT, PLZ-ELS	22	1	1

Notes: MBD - Mahikeng, MGH - Margate, HDS - Hoedspruit, SIS - Sishen, UTT - Mthatha, NLP - Nelspruit, PHW - Phalaborwa, NTY - Pilansberg, PZB - Pietermaritzburg, PLZ - Port Elizabeth, GRJ - George, ELS - East London, HLA - Lanseria, JNB - OR Tambo International Airport, DBN - King Shaka International Airport, BFN - Bloemfontein, KIM - Kimberley, PBZ - Plettenberg Bay, PTG - Polokwane, RCB - Richard's Bay, SZK - Skukuza, UTN - Upington.

Source: Commission's compilation.

Table 7: Overlaps on routes flown

Origin	Destination	Safair	SA Airlink	SAA	SA Express	Mango	British Airways	Kulula	Cemair	Number of operators	Number of groups
Johannesburg (JNB)	Cape Town	✓	-	✓	-	✓	✓	✓	-	5	3
Johannesburg (JNB)	Durban	✓	-	✓	-	✓	✓	✓	-	5	3
Johannesburg (JNB)	East London	✓	-	✓	✓	-	-	✓	-	4	3
Johannesburg (JNB)	George	✓	-	-	✓	✓	-	✓	-	4	3
Johannesburg (JNB)	Port Elizabeth	✓	✓	✓	-	✓	✓	-	-	5	3
Johannesburg (HLA)	Cape Town	✓	-	-	-	✓	-	✓	-	3	3
Johannesburg (HLA)	Durban	-	-	-	-	✓	-	✓	-	2	2
Johannesburg (HLA)	George	✓	-	-	-	-	-	-	-	1	1
Cape Town	Durban	✓	-	-	-	✓	✓	✓	-	4	3
Cape Town	East London	✓	-	-	✓	-	-	-	-	2	2
Cape Town	Port Elizabeth	✓	-	-	✓	-	✓	-	-	3	3
Durban	East London	✓	-	-	✓	-	-	-	-	2	2
Durban	Port Elizabeth	✓	-	-	✓	-	✓	-	-	3	3
Johannesburg (JNB)	Kimberley	-	✓	-	✓	-	-	-	✓	3	2
Johannesburg (JNB)	Mthatha	-	✓	-	-	-	-	-	-	1	1
Johannesburg (JNB)	Nelspruit	-	✓	-	-	-	-	-	-	1	1
Johannesburg (JNB)	Phalaborwa	-	✓	-	-	-	-	-	-	1	1
Johannesburg (JNB)	Pietermaritzburg	-	✓	-	-	-	-	-	-	1	1
Johannesburg (JNB)	Richard's Bay	-	✓	-	-	-	-	-	-	1	1
Johannesburg (JNB)	Margate	-	-	-	-	-	-	-	✓	1	1
Johannesburg (JNB)	Polokwane	-	✓	-	-	-	-	-	-	1	1
Johannesburg (JNB)	Port Elizabeth	✓	✓	✓	-	✓	✓	-	-	5	3
Johannesburg (JNB)	Sishen	-	✓	-	-	-	-	-	✓	2	2
Johannesburg (JNB)	Plettenburg Bay	-	-	-	-	-	-	-	✓	1	1
Johannesburg (JNB)	Skukuza	-	✓	-	-	-	-	-	-	1	1
Johannesburg (JNB)	Upington	-	✓	-	-	-	-	-	-	1	1
Johannesburg (JNB)	Bloemfontein	-	✓	✓	-	✓	-	✓	-	2	2
Johannesburg (JNB)	Hoedspruit	-	✓	-	-	-	-	-	-	1	1
Cape Town	Bloemfontein	-	-	✓	-	✓	-	-	-	1	1
Cape Town	George	-	✓	-	-	-	-	-	-	1	1
Cape Town	Hoedspruit	-	✓	-	-	-	-	-	-	1	1
Cape Town	Kimberley	-	✓	-	-	-	-	-	-	1	1
Cape Town	Nelspruit	-	✓	-	-	-	-	-	-	1	1
Cape Town	Pietermaritzburg	-	✓	-	-	-	-	-	-	1	1
Cape Town	Skukuza	-	✓	-	-	-	-	-	-	1	1
Cape Town	Plettenburg Bay	-	-	-	-	-	-	-	✓	1	1
Cape Town	Upington	-	✓	-	-	-	-	-	-	1	1
Durban	Bloemfontein	-	✓	-	-	-	-	-	-	1	1
Durban	George	-	✓	-	-	-	-	-	-	1	1
Durban	Nelspruit	-	✓	-	-	-	-	-	-	1	1
Pretoria	Cape Town	-	✓	-	-	-	-	-	-	1	1
Port Elizabeth	East London	-	✓	-	-	-	-	-	-	1	1

Source: Commission's own compilation.

**Table 8: The history of airlines in the South African domestic market on a timeline**

AIRLINE	OPERATIONAL	
	From	Until
Union Airways Ltd	August 1929	February 1934
SAA	February 1934	Still operating
Comair	February 1946	Still operating
Link Airways	April 1978	May 1992
SA Airlink	March 1992	Still operating
Bop Air	July 1979	September 1992
Flitestar	October 1991	April 1994
SA Express (SAX)	April 1994	Still operating
Sun Air	November 1994	August 1999
Phoenix Airways	December 1994	August 1995
Atlantic Airways	August 1995	October 1995
Nationwide Airways	December 1995	April 2008
Kulula.com	August 2001	Still operating
1time	February 2004	November 2012
CemAir	March 2006	Still operating
Mango	October 2006	Still operating
Velvet Sky	March 2011	February 2012
Fly Go Air	February 2012	October 2015
FlySaFair	October 2014	Still operating
Skywise	March 2015	December 2015
Fly Blue Crane	September 2015	February 2017

Source: Steyn and Mhlanga, "The aviation industry in South Africa: A historical overview", *African Journal of Hospitality, Tourism and Leisure* Vol. 5 (4) - (2016)

SAA was somewhat insulated from the worst effects of deregulation on its bottom line. SAA continued to control airports and allocated landing slots to other airlines, which made it very difficult for new airlines entering the market.

83. Access to air transport infrastructure and related facilities was identified as an advantage to SAA, due to the airline's dominant position in the domestic market for so many years. New entrants had to be satisfied with less than ideal positions, for example, the allocation of landing slots. Furthermore, SAA was the only airline that had a license to operate the luggage conveyer belts at South African airports.
84. At the time Flitestar entered the domestic market, SAA was the only airline authorized to conduct ground handling services at airports. New entrants, like Flitestar, had no choice but to enter into an agreement with SAA for the ramp handling of all its flights. In 1992, Flitestar filed a complaint with the Competition Board accusing SAA of unfair competition. The Competition

Board found that since Flitestar's entry into the market the pricing policy of SAA appreciably affected Flitestar's profitability and viability. This had the effect of restricting Flitestar's entry into the market and therefore restricting effective competition between the two airlines. SAA reduced airfares to below levels where its competitors could not operate profitably. Furthermore, SAA did not decrease its seating capacity but increased the number of flights that were scheduled in close proximity to those of Flitestar. This excess capacity created by SAA was also regarded as anti-competitive behavior. Consequently, in April 1994 Flitestar ceased to operate mainly due to high costs caused by a weakening exchange rate since the aircraft lease agreement was settled in US dollars.

85. After the demise of SA Airlink and Flitestar, four new airlines, SA Express (SAX started by SAA), Sun Air, Phoenix Airways, and Nationwide Airlines started operations in April, November, and December 1994 and December 1995, respectively. In 1996, three privately-owned domestic airlines (Sun Air, Phoenix Airways, and Nationwide Airlines) filed a complaint

- with the Competition Board against SAA, accusing the airline of predatory behavior. The three airlines argued that SAA's large capacity increases on a number of domestic routes, combined with pricing policies, were clearly below cost and constituted predatory behavior on the part of a dominant player.
86. Phoenix Airways began services in December 1994 but survived less than a year and the result was a take-over by the charter service airline Atlantic Airways in August 1995. After a few months in operation, Atlantic Airways also ceased operations. Furthermore, Sun Air could also not sustain its operations and was wound up in 1999. In 1992 it was noted that the control of air transport infrastructure and related facilities by SAA was giving the airline an unfair advantage over its competitors. It was therefore recommended that these facilities and services be transferred to a separate company that would be in a more 'neutral' position to provide such services to both SAA and other private sector participants on an unbiased/equal basis.
  87. The result was the introduction of the Airports Company of South Africa (ACSA) in 1993. The objectives of ACSA were the acquisition, establishment, development, provision, maintenance, management, control, and/or operation of an airport, or part of an airport, or a facility or service at an airport crucial to the functioning of such an airport. SAA eventually lost control of the major airports when the Airports Company Act of 1993 established ACSA in 1993. Consequently, over these periods, of the seven airlines that had the potential to challenge SAA's dominance three had failed, two were in alliance with it and only Comair and Nationwide remained to provide real competition both on international and domestic route networks.
  88. The deregulation of the South African airline industry in 1991 paved the way for the entry of many low-cost carriers (LCCs) into the domestic air transport environment. The first low-cost carrier to enter the market was Kulula.com, established by BA/Comair. Kulula.com began operations in August 2001. In 2002, Sun Air was revived and started operating, while in October 2006, SAA launched its low-cost airline, Mango Airlines.
  89. In 2004, another low-cost airline, 1Time, started operations while Sun Air was liquidated. In March 2006, CemAir started operations, while in April 2008 Nationwide was forced to cease all flight operations. In March 2011, another low-cost airline, Velvet Sky, started operations, before being forced into liquidation in February 2012 after less than a year of operation. In February 2012, Fly Go Air started operations, while in November 2012 1Time collapsed. In October 2014, another low-cost airline, FlySafair, started operations. Skywise and Fly Blue Crane started operations in March and September 2015 respectively. However, a few months later, in December 2015, Skywise ceased operations and in Feb 2017 Blue Crane exited.
  90. Consequently, of the 17 airlines to enter the industry between 1991 and 2016, only eight are still in operation. Other privately owned airlines such as Nationwide, Velvet Sky, and 1Time, operating from 1995 to 2008, 2011 to 2012, and 2004 to 2012 respectively, had exited even after remaining in the market for significant periods. The national carrier, SAA, had also suffered losses over the past decade, requiring several government bailouts and guarantees, including one in January 2015 and the most recent in September 2016.
  91. From Table 1 above it is clear that during the development of the airline industry in South Africa from 1991 to date (early 2017), 17 airlines entered the airline industry, nine collapsed and eight are still operational. Only two airlines, namely SAA and Comair, have been operating for a lengthy period while the majority each had a very short lifespan, some of them surviving for only a matter of months.

## **COMPETITION CONCERNS IN THE SOUTH AFRICAN AIRLINE INDUSTRY**

### **Alliances/Exemptions**

92. SAA/Qantas – The Commission first dealt with the issue of alliances in the SAA/Qantas exemption application to codeshare in 2000. Essentially, SAA requested that it be permitted to co-ordinate its commercial passenger airline activities with Qantas in respect of the direct routes between South Africa and Australia to maintain or promote exports. The Commission has exempted

this codeshare agreement on six occasions since then (2000, 2002, 2005, 2007 2010, and 2012).

93. Etihad Airways PJSC (“Etihad”) and Alitalia Societa Aerea Italiana S.p.A (“Alitalia”) – Etihad and Old Alitalia entered into a Transaction Implementation Agreement, Commercial Co-operation Agreement, and various other related transaction documents that relate to routes between South Africa and Italy. The exemption was denied because the proposed arrangement if exempted, would constitute prohibited practices of price-fixing and market allocation in contravention of Section 4(1)(b)(i) and (ii) of Chapter 2 the Act.
94. South African Airways (SOC) Limited (“SAA”) and Etihad Airways PJSC (“Etihad”) – SAA and Etihad filed a joint exemption application with the Competition Commission (“Commission”) to ally themselves. The alliance between SAA and Etihad incorporates, amongst others, (i) a free-sale codeshare agreement and (ii) a commercial cooperation agreement that governs their commercial relationship. SAA and Etihad sought an exemption for a range of practices, which include joint pricing and schedule coordination both on the primary and secondary routes. The exemption was sought for five (5) years and is based on the premise that the free-sale codeshare agreement is required to obtain the objectives contained in sub-section 10(3) (b)(i) the Act, being the maintenance or promotion of exports. The investigating team concluded that SAA and Etihad are firms operating in the same line of business and it is for this reason that the practices as contained in the free-sale codeshare agreement were evaluated in terms of section 4(1)(b)(i) & (ii) of the Act.
95. The investigating team recommended that the Commission grant SAA and Etihad an exemption of the free-sale code share agreement on the trunk route for five (5) years. Furthermore, the team recommended that the Commission refuse to grant SAA and Etihad an exemption of the free-sale code share agreement on the secondary routes on the basis that the conduct contravenes the Act.
96. Similarly, Germany’s Air Berlin PLC & Co. Luftverkehrs KG (“Airberlin”) and Etihad’s joint exemption application also related to (i) a free-sale codeshare agreement and (ii) a commercial co-operation agreement which governs their commercial relationship. The applicants sought an unconditional exemption on the primary routes located between Germany and South Africa for 5 years. The application satisfied the maintenance or promotion of exports objective, however, there was no evidence indicating a declining airlines industry. The exemption was granted subject to conditions.
97. South African Airways (Pty) Limited (“SAA”) applied to the Commission for an exemption to extend its membership of the Star Alliance. The Star Alliance is an alliance between several regional and international airlines and is one of three major global airline alliances, others being Oneworld and Skyteam. SAA would be engaging in information exchange, which includes but is not limited to: information on airfares and discounts that alliance members will offer to delegates; routes and flying schedule coordination with other members of the alliance; cooperation in marketing, sales, and distribution of joint products, including joint bids for government and corporate contracts; and participation in reciprocal frequent flyer programs. It was found that SAA’s participation contributes towards the maintenance and/or promotion of exports in South Africa and as such the investigating team recommended that the Commissioners grant SAA five years conditional exemption.
98. The main controversy around airline alliances revolves around their ability to promote and maintain exports, deliver efficiencies, and increase consumer surplus. There is growing skepticism about whether alliances truly have the potential to benefit consumers and whether any form of competition exemption remains necessary and justified.
99. On 18 December 2018, SAA and Air Mauritius Limited (“MK”) filed a joint application for an exemption. The application for an exemption was the first exemption application between the parties. The Applicants sought to establish a commercial agreement in the form of a codeshare and Joint Venture (JV) agreement between the parties. The commercial agreement is expected to give rise to certain synergies and efficiencies, including expanding networks, creating efficiencies, and increasing consumer benefits. The exemption was sought for 5 years from the date of commencement of the commercial agreement.

100. In terms of the conduct sought to be exempt, the Applicants intended to add to the existing cooperation between SAA and MK by entering into a JV agreement on the JHB-MRU route as well as other routes between South Africa and Mauritius. Under the JV the applicants will require a level of coordination on revenue management and schedules, as well as requiring a revenue/cost-sharing arrangement. In this regard, the parties will look for opportunities to synchronize passenger and cargo capacity, including joint decisions in terms of scheduling and the gauge of aircraft needed to satisfy the demand for passenger and cargo services.
103. In July 2010, the Commission referred a complaint relating to the fixing of fuel surcharges and cargo rates in international airline freight services to the Tribunal for adjudication. The respondents in this matter were SAA Cargo, British Airways, Air France-KLM, Alitalia Cargo, Cargolux, Singapore Airlines, Martinair, and Lufthansa. The airlines involved are all members of the International Air Transport Association (IATA), an international trade association for major passenger and cargo airlines.
104. On the 28th of September 2016, the Commission initiated a complaint against South African Airlink (Pty) Ltd ("SA Airlink"), South African Express Airways SOC Ltd t/a SA Express ("SA Express") and South African Airways SOC Ltd ("SAA") (collectively referred to as 'the Respondents'). The Commission alleged that the respondents entered into an agreement and/or concerted practice to allocate flight routes. The alleged allocation of flight routes between SA Airlink and SA Express was facilitated by SAA through its booking system code. The Respondents were competitors in the market for domestic and regional passenger air services. In its investigation, the Commission found that the respondents met regularly and discussed flight routes, which would be divided between SA Express and SA Airlink. The Respondents agreed to allocate certain routes using the SAA booking code. The agreements by the airlines amounted to a contravention of section 4(1)(b)(ii) of the Act. The case is currently before the Tribunal.

## Cartels

101. In the course of evaluating the SAA/Qantas application, the Commission discovered that SAA had entered into several other bilateral agreements, for which no exemption had been sought. A separate investigation was opened against these pre-existing agreements. The Commission found that one of these older bilateral agreements regulated the relationship between Lufthansa and SAA, including meetings and communications relating to price changes and fare harmonization on flights which they both operated between Cape Town/Johannesburg and Frankfurt. In 2006, the Commission concluded against SAA and Lufthansa's bilateral agreement and through settlement agreements, the Competition Tribunal imposed sanctions.

102. In January 2008, the Commission initiated a complaint against SAA, Singapore Airlines, and Malaysian Airlines for their involvement with Cathay Pacific in a cartel to fix airfare increases on both economy and business class flights into and out of South Africa to the Far East Asia. The Commission found that local representatives of these firms fixed airfare rates or prices in South Africa on several occasions during 2004, 2005, and ending February 2006. Cathay Pacific received immunity for its role in the conduct as per the Commission's corporate leniency policy. Singapore Airlines and SAA have settled the case and paid administrative penalties for their participation in the cartel. SAA settled this case in the same settlement agreement in which it settled the international air cargo surcharges cartel case.

## Abuse of dominant positions

105. In July 2005, the Tribunal found that SAA contravened the Competition Act because it had engaged in prohibited practices in the period from October 1999 to May 2001 (SAA I). The Tribunal found that the travel agent commission payment scheme implemented by SAA during this period was anticompetitive. This was primarily because this scheme had a retroactive (or "back to Rand") structure. For this conduct, the Tribunal imposed an administrative fine of R45 million.
106. However, various similar agreements remained in place beyond 2001. Comair lodged a complaint with the Commission about these post-2001 agreements in October 2003. The complaint was referred by the

Commission to the Tribunal for adjudication in October 2004. Shortly after the SAA I, SAA's agreements were changed. The elimination of the retroactive design of the incentive contracts, applicable from April 2005, then formed part of a settlement agreement with the Commission. The Tribunal confirmed the settlement agreement in December 2006. SAA agreed to pay an administrative fine of R15 million.

107. The settlement agreement did not contain an admission of liability on the part of SAA for the period between May 2001 and March 2005. As a result, Comair and Nationwide chose to continue to fight the case at the Tribunal. A finding of contravention is a prerequisite for the institution of an action in the High Court for damages. In February 2010, the Tribunal found that SAA had abused its dominant position during the period between May 2001 and March 2005. The SAA cases represent a clear example of why rivals in the market were not able to profitably match the incentive schemes of SAA which led to their foreclosure in the domestic market.

108. On the 12th of February 2018, the Commission referred to the Tribunal a case leveled against South African Airlink (Pty) Ltd ("SA Airlink") ("the respondent"). The referral comes as a result of three separate complaints ("the Complainants") to the Commission by customers using passenger airline services. The complainants allege that Airlink is the only airline that operates on the Johannesburg – Mthatha ("JHB – UTT – JHB") route, and as such has a monopoly over the route. The Complainants further allege that, as a result of the respondent's monopoly on the JHB – UTT – JHB route, Airlink charges exorbitant prices to passengers on the route. The Commission thus investigated the complaints concerning the following contraventions to the Act; excessive pricing, in terms of Section 8(a) and predatory pricing in terms of Section 8(d)(iv) or 8(c).

109. Regarding the assessment of the market definition, the Commission is of the view that there is a single market for the provision of scheduled air passenger transport services on the JNB – UTT – JNB route. This definition is consistent with both precedent and the facts specific to this route that were considered by the Commission. In its findings, the Commission found that the respondent had indeed contravened

the abovementioned sections of the Act and thus referred the case to the Competition Tribunal. The case is currently before the Tribunal and as at the time of writing, no decision had been taken by the Tribunal.

## Merger Control

110. On 28 November 2017, the Commission received notice of an intermediate merger between SA Airlink (Pty) Ltd ("SA Airlink") and Safair Operations (Pty) Ltd ("Safair"). In terms of the proposed transaction, Airlink will acquire from Safair Holdings (Pty) Ltd ("Safair Holdings") the entire issued share capital for a maximum value of R150 000 000. In addition, the merging parties will finalize two additional agreements that will result in Airlink ultimately holding 100% of the issued shares of Safair. These agreements involve the purchase by Airlink of the shares held in Safair by Safair Investment Trust (SIT) and NdizaSafair (Pty) Ltd (NdizaSafair). In its investigation, the Commission found that the relevant market was the market for the provision of scheduled passenger services on each origin and destination (O&D) city-pair. On 22 February 2018, the Commission prohibited the merger. The Commission found that the merger would lead to a substantial lessening of competition, the Commission further found that there would be significant competition concerns in terms of both unilateral and coordinated effects. The merger was later abandoned by the merging parties before the hearing dates before the Tribunal.

## PROFITABILITY

111. The profitability of airlines around the globe is affected by factors such as the price of Brent Crude, passenger numbers, environmental legislation, and geopolitical factors to name a few. Crude oil is used as a raw material for the production of aviation fuel. Aviation fuel is a form of kerosene, sold exclusively to airlines.<sup>30</sup> The volatility in the international price of Brent Crude has a significant effect on the determination of the price of airline tickets. Thomson Reuters expects the price of aviation fuel to rise in 2019 and succeeding years, and thus leading to pressure on airlines to either absorb the

30. Competition Commission Cartel investigation. Case No.: 2009Nov4223.

**Table 9: SAA Alliance EBITDA**

Operator	2013/14	2014/15	2015/16	2016/17	2017/18
SAA	(374 m)	(2 915 m)	(522 m)	(2 760 m) <sup>1</sup>	-
SAX	(66 m) <sup>2</sup>	(176 m)	(270 m) <sup>3</sup>	-	-

Source: SAA annual reports

**Table 10: Comair Net Profit After Tax<sup>1</sup>**

Operator	2014/15	2015/16	2016/17	2017/18	2018/19
Comair	-	193 m	296 m	326 m	897 m

Source: Comair annual reports.

<sup>1</sup> Comair integrated annual report 2019. Page 3

cost or pass the costs on to customers.<sup>31</sup> One of the macroeconomic causes of the volatility in oil prices is intensified geopolitical risks, as well as pressure from governments and environmentalists on new aviation fuel regulations.<sup>32</sup>

112. In the 2019 financial year, the Comair groups earnings before interest, tax amortization, and depreciation (EBITDA) increased by 175% from the previous year. The surging increase in Comair's EBITA may likely be attributed to the Competition case that the airline won against SAA. Comair was awarded a settlement of R1.1 Billion from the Supreme Court of Appeal.<sup>33</sup> The settlement was paid by South African Airways for anticompetitive conduct in contravention of section 8(d)(i) of the Act. The amount of R1.1 Billion is payable by South African Airways in installments commencing on the 28th of February 2019 and ending on the 28th of July 2020.<sup>34,35</sup> In terms of the judgment, the South Gauteng High Court ordered SAA to pay a settlement to British Airways for SAA's contravention of section 8(d)(i) of the Act. SAA then appealed the order at the Supreme Court of Appeal, and Comair simultaneously lodged a cross-appeal to recover the full amount of its damages and interest charges. Before the hearing of the appeal, SAA and Comair settled the matter and the settlement agreement was made an order of the Court.<sup>36</sup>

31. [http://share.thomsonreuters.com/assets/newsletters/Inside\\_Oil/IO\\_06112019.pdf](http://share.thomsonreuters.com/assets/newsletters/Inside_Oil/IO_06112019.pdf). Accessed [30/01/2020].

32. Environmental concerns such as the need for lower-sulfur fuels in ships cuts into the available supply for similar distillates like diesel or jet fuel.

33. Comair Group 2019 Integrated Results, page 13. <https://www.comair.co.za/Media/Comair/files/2018/comair-annual-report-2018-final.pdf>. Accessed [31/01/2020].

34. Comair Group 2019 Integrated Results, page 14 available at: <https://www.comair.co.za/Media/Comair/files/2019/annual-report/comair-annual-report-2019.pdf> Accessed [31/01/2020].

35. Comair Group 2019 Integrated Results, page 14 available at: <https://www.comair.co.za/Media/Comair/files/2019/annual-report/comair-annual-report-2019.pdf>. Accessed [31/01/2020].

36. Comair Group 2019 Integrated Results, Accounting Note 8, pg.131 available at: <https://www.comair.co.za/Media/Comair/files/2019/annual-report/comair-annual-report-2019.pdf>. Accessed [31/01/2020].

113. To provide a comparative earnings analysis, we assess Comair's normalized earnings (excluding the settlement). Comair's normalized profit before tax is R 111,2 Million, thus depicting a 76% decline from the 2017 financial year. Comair's revenues grew by 9% but were however not enough to outweigh the 16% increase in operating expenses largely driven by an impairment of goodwill of R 29 Million.<sup>37</sup> Comair is a public JSE listed company. During the 5-year period 2015 to 2019 Comair's share price was R5.86 at the beginning of 2015 and peaked at R6.54 per share during April 2018 and has now dropped to R2.80 per share.

114. Upon assessing SAA's financial performance, SAA's revenues were relatively stable from 2015 to the 2017 financial year's revenues. SAA's 2017 revenues peaked at R30.742 Billion, showing an increase of 0.08% from the 2016 financial year. Similarly, operating costs remained stable over the 2015 to 2017 period. Fuel and energy costs make up the bulk of the SAA's operating costs were 31%, 24%, and 24% of SAA's operating expenses during the 2015, 2016, and 2017 financial years respectively. The second-largest contributor to SAA's operating expenses were employee benefit expenses. Employee benefit expenses were 17%, 19%, and 18% of operating expenses during the 2015, 2016, and 2017 financial years. Maintenance costs were another large contributor to the operating expenses of SAA and were 12%, 14%, and 15% of operating expenses during the 2015, 2016, and 2017 financial years. In conclusion, Fuel & Energy; Employee Benefits, and Maintenance expenses accounted for between 57% and 60% of SAA's operating expenses.

37. Comair Group 2019 Integrated Results, pg. 106 available at <https://www.comair.co.za/Media/Comair/files/2019/annual-report/comair-annual-report-2019.pdf>. Accessed. [31/01/2020].

115. SAA's long-term loans increased by 57% in the 2016 financial year. As a result of SAA's increased borrowings, SAA's net interest expense grew from 2% of revenue in 2015 to 5% of revenue in 2017. The increase in interest expense has had a further negative effect on the SAA's profitability. SAA made losses during the entire period of analysis and these losses ranged between R 6.1 Billion to R5.5 Billion.

116. Upon assessing SA Express's profitability and financial performance, it is evident from SA Express's income statement that during the 2016 financial year, SA Expresses that operating profits increased more than 53%. SA Express's profitability was further assisted by the 62% decrease in impairment charges for the airline. The increased comprehensive income for SA Express led to SA Express recovering from the prior year's deficit of R 94 Million and stabilizing at an R 28 Million surplus.

117. The 2016/17 National Treasury Annual Report indicated that during the same financial year, the South African government provided SAA with a going-

concern guarantee of R4.7 Billion, increasing its total accumulated guarantees to R19.1 billion.<sup>38</sup> This was followed by additional R10 Billion Rands guaranteed in 2017. An additional 3.5 Billion loan was allotted in January 2020. the total accumulative bailouts, loans, or guarantees amounts to over R39.3 Billion since 1999.<sup>39</sup> In December 2019, SAA was voluntarily placed under business rescue in a desperate attempt to save the ailing Airline.<sup>40</sup> As part of the business rescue plan, the airline announced on 10 January 2020 that it would be canceling a considerable number of regional and domestic flights. The airline indicated that the list of flights and routes to be canceled was derived from routes that the airline deem to have low demand.

118. On 6 February 2020, SAX, another state-owned airline was forced by courts to undergo the business rescue process. On a separate event, SAX airline was grounded by ACSA in 2019 for failing to pay Airport fees. The series of events in these two state-owned

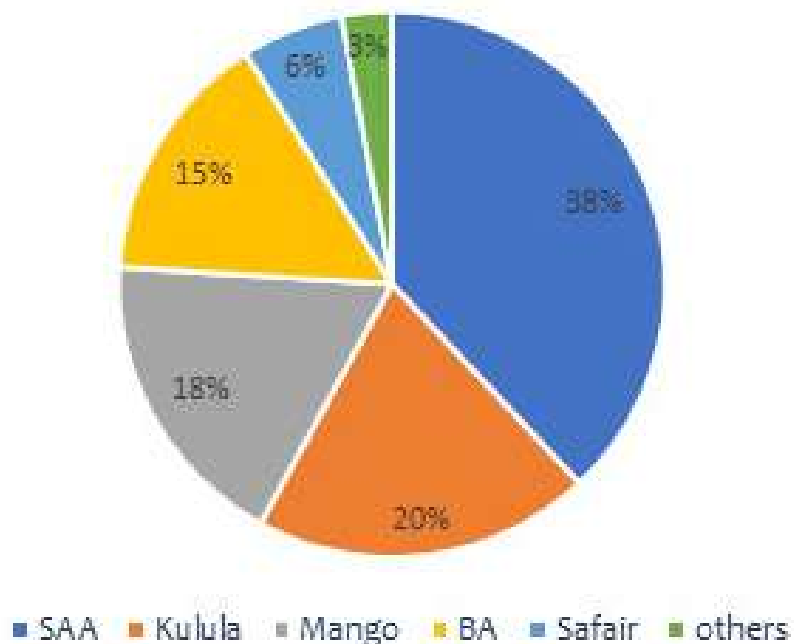
38. 2016/17 National Treasury Annual Report. Page 47.

39. SAA: Here's how much has been spent on their bailouts since 1999. Available on: <https://www.thesouthafrican.com/news/saa-bailout-how-much-last-20-years/>. Accessed [10/02/2020].

40. What it means for SAA to be in 'business rescue'. Available on: <https://www.iol.co.za/news/politics/what-it-means-for-saa-to-be-in-business-rescue-39670271>. Accessed on [10/02/2020].

Figure 5: Market Shares in terms of seat capacity<sup>1</sup>

### Market Share in terms of seat capacity (2015)



Source: Vilakazi, Thando, et al (2016), "BTE of low-cost carriers in the South African Airline Industry: Competitive Dynamics, Entry, Expansion, and Exit of 1time Airline", CCRED, Sept 2016.

1. Source: Vilakazi, Thando et al (2016), "BTE of low-cost carriers in the South African Airline Industry: Competitive Dynamics, Entry, Expansion and Exit of 1time Airline", CCRED, Sept 2016.

Table 11: Market shares in terms of fleet size (2019)

Company	Employees (Est.)	Revenue	Africa	Low cost	International	Charter Company	Fleet Size (Est.)	Fleet Size Market Shares
Cem Air (Pty) Ltd	260					x	12	6%
Comair Ltd	2,193	R7,125.64m	x	x			25	12%
t/a kulula.com / British Airways Domestic & Regional	(Group)	-2019						
		(R6,700.9m – Airline)						
Mango Airlines SOC Ltd	800		x	x			10	5%
t/a Mango								
SA Airlink (Pty) Ltd	1,55		x				55	26%
Safair Operations (Pty) Ltd	1,131		x	x			22	10%
South African Airways (SOC) Ltd	5,752	R30,742.0m	x		x		64	30%
t/a SAA	(Group)	-2017						
In Business Rescue		(R29,273.0m - Airline Revenue: R19,653.0m - Passenger; R1,794.0m - Freight & Mail; R705.0m - Technical Services)						
		Latest financials						
South African Express Airways (SOC) Ltd	1,036	R2,391.27m	x	x			24	11%
t/a SA Express		-2016						
		Latest financials						
<b>Total</b>							<b>212</b>	<b>100%</b>

Source: WOW Report (2019), Air Transport and Ground Handling services.

airlines are indicative that they are both in a dire financial position.

## MARKET SHARES

119. Fig 5 below shows the market shares of domestic operators in terms of seat capacity for the year 2015. SAA has the largest market share of 38%, followed by Kulula with 20%; Mango with 18%; BA with 15%; Safair with 6%, and others with 3%. WOW, 2020 report states different market share figures for domestic operators, however, it doesn't report on the measure variable. The numbers look as follows: Mango – 22%; BA – 19%; Kulula – 18%; Saifair – 18% and SAA – 16%.<sup>41</sup>

120. Table 11 below shows the market shares of domestic operators in terms of Fleet size for the year 2019.

41. Source: WOW Report (2020), Air Transport and Ground Handling services, page 6 and 7.

SAA has the largest market share of 30% with fleets, followed by Airlink with 26% (55 fleets);<sup>42</sup> Comair (Kulula and BA) with 12% (25 fleets); SAX with 11% (24 fleets); Safair with 10% (22 fleets); Cem Air with 6% (12 fleets) and Mango with 5% (10 Fleets).

## PRICE COMPETITION

121. Routes chosen for price comparison exercise for domestic, regional, and international are as follow:

122. All participating agencies in the study agreed to a set of pre-determined dates for price comparison exercise that cater to features such as peak, off-peak, and holiday seasonality. Researchers conducted searches

42. Market shares based on fleet size are likely to be overestimated for smaller size aircraft airlines as often other large size aircrafts are twice as large as smaller aircrafts. For example, SA Express, SA Airlink, and Cemair are types of FSCs called Regional Service Carriers ("RSCs") with smaller aircrafts (≤90 seats). Mango, FlySafair, and Kulula are LCCs with large aircrafts (100-220 seats).

No.	ROUTE	RATIONALE
DOMESTIC		
	CPT-JNB4	Rationale. These are the main routes that connect major cities in South Africa. The top five domestic destinations for 2018 comprised Cape Town (CPT), Johannesburg (O.R. Tambo Airport), Durban (DUR) and Johannesburg (Lanseria Airport), and Port Elizabeth (PLZ). In addition, Forbes listed Cape Town – Johannesburg as the number 11 busiest regional route in the world with over 33,708 flights. The high-frequency flights between CPT/DUR-JNB are warranted by the fact that OR Tambo (ORTIA) has more international destinations than any other international airport in South Africa. This means that other domestic international airports feed to ORTIA. Cape Town (CPT) and King Shaka International Airports (DUR) also have a considerable list of international destinations, we nevertheless note that some of the listed international destinations are seasonal.
	DUR-JNB5	
	CPT -DUR6	
	JNB-PLZ7	
	JNB-ELS8	
REGIONAL		
	JNB-LUN9	Rationale. In the recent past, there has been a surge in bookings for various regional destinations. Flights to regional destinations such as Windhoek and Harare increased by 51% and 118% respectively in between 2014-2017. International routes between Cape Town and Namibia have seen noticeable increases since 2014. CPT – WDH bookings increased by 107% between 2014 and 2017. CPT – WVB bookings increased by 219% between 2014 and 2017. Regionally, the Southern African Development Community (SADC) markets are important 'volume' source markets for South Africa with 74.3 percent of all tourists arriving in South Africa coming from the SADC region. The South African National Tourism Sector Strategy (NTSS) 2016-2026 indicated that African markets (including certain SADC markets) that are also important in terms of high spend (or value) from tourists and their potential for growth include Nigeria, Angola and Democratic Republic of Congo (DRC).
	JNB-NBO10	
	JNB-GBE11	
	JNB-WDH12	
	JNB-LAD13	
	JNB-HRE14	
	JNB-MRU15	
	JNB-LLW16	
INTERNATIONAL		
	JNB-GRU17	Rationale. Flights to London Heathrow from Johannesburg increased by 88% between 2014 and 2017. International routes between Cape Town and the UK have been on a noticeable increase since 2014. CPT – LHR bookings increased by 62% between 2014 and 2017. King Shaka International Airport (DUR) has in the recent past attracted more international carriers, thus the numbers of outbound passengers have increased with Dubai (+273%) and London (+118%) showing a significant growth between 2014 and 2017. US, Germany, and France are listed as among significant arrivals for the country's tourism strategic plans. The list of selected international routes also strategically comprises international routes that are shared or contested by different Airlines. In selecting international routes to be assessed for this study, we also deliberately selected some routes that were subject to the Competition Authority's examination in the recent past.
	JNB-PEK18	
	JNB-JFK19	
	JNB-FRA20	
	JNB-CDG21	
	JNB-DXB22	
	DUR-DXB	
	CPT-DXB	
	JNB-LHR23	
	JNB-PER and JNB-SYD.	

for all the routes, all the dates, all the operators in that route simultaneously to assess pricing dynamics for near to date, mid to long run dates.

### JNB-GBE

123. This route is operated by two operators, Air Botswana and SAA. 12 flights per day departs from JNB for GBE. SAA operates 8 flights and Air Botswana provides 4 flights on daily basis.<sup>43</sup> Prices charged by the two

## Price competition for all selected routes

### Regional Routes

<sup>43</sup> Air Botswana on average provides a weekly frequency of 28 flights and SAA provides 46. All flights are direct. Flight frequency data was captured on 19 February 2020 for the week 24 February to 01 March 2020. There may be changes in scheduling depending on demand and other relevant factors such as capacity.

airlines are not far from each other. On average, the difference between Air Botswana and SAA Economy class price is R276 irrespective of time slots. The price difference for business class on average is R214, with SAA charging the highest price in all instances. Time slot allocations for this route suggest that SAA has a time advantage in the morning hours compared to Air Botswana. The first four flights of the day are operated by SAA. Air Botswana starts flying at 11:45 midday. However, despite facing competition from Air Botswana after 11:45 midday when Air Botswana starts flying, SAA hardly reduces prices. SAA charges almost the same price throughout the day. There are slight changes in the business class fare for SAA, however, the difference is negligible. Air Botswana business class and economy category fares appear to be time insensitive as they hardly fluctuate except on one occasion as indicated in the figure below. Overall, prices between two competitors, for both classes remain close to each other.

124. SAA on average charges R5.51/km for the economy class category, while Air Botswana charges R4.95/km for the same economy category. These figures are indicating that SAA on average charges more for economy class throughout the period under review. SAA kept business class prices fluctuating between R2420,43 and R2590,43 throughout the period. On the other hand, Botswana kept a consistent price of R2655,43. This information is indicative that this route is less time/price sensitive. In addition, these trends indicate that these prices are likely to remain the same for people who booked weeks or months before the departure date. Air Botswana kept prices for economy class constant in the entire period covered. Both SAA

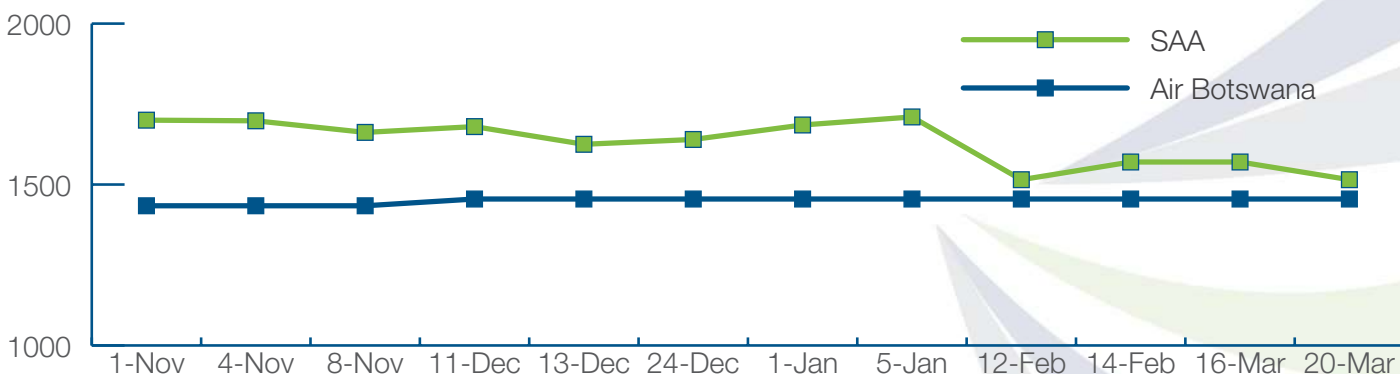
and Air Botswana prices do not demonstrate any significant seasonal inflicted price changes.

## JNB-NBO

125. The JNB-NBO route is operated by two operators as well, Kenya Airways and SAA. This route has 4 flights in total on almost all dates selected for this assignment. Kenya Airways provides 3 flights while SAA provides 1 flight per day.<sup>44</sup> SAA only added one more flight on the 5th of January 2020. This might be because of anticipated demand when holidaymakers make their way back home. Kenya Airways kept a consistent number of flights throughout the period under review.
126. Prices charged by two operators in this route are visibly different for both economy and business class categories. Kenya Airways prices are 21% higher than SAA prices for economy class tickets. For business tickets, SAA prices are significantly higher than Kenya Airways prices. Kenya Airways on average charges R14 089.00 for a business class ticket, while SAA charges R22 954.93 for the same class. SAA's upper-end tickets sell at around 39% more than Kenya Airways prices.
127. Prices for this route do not fluctuate for both airlines almost for the entire period of this study. It is however important to note that ticket prices only changed once, and that was in December 2019. This might be a result of anticipated demand for the December holidays.

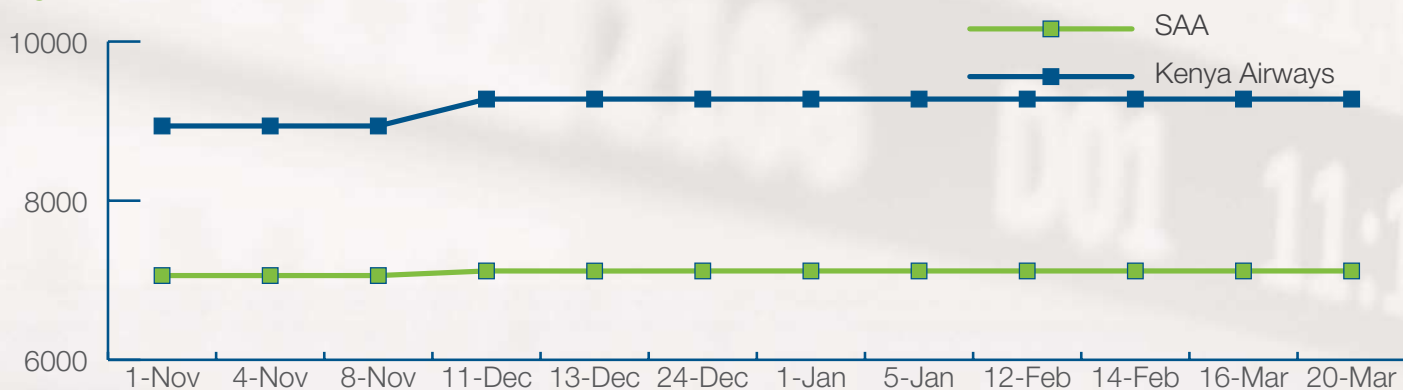
44. Kenyan Airways provides 21 flights on weekly basis and SAA provides a weekly frequency of 8 flights. There are no connecting flights for this route. Flight frequency data was captured on 19 February 2020 for the week 24 February to 01 March 2020.

Figure 6: JNB-GBE Price trends



Source: Commission's own compilation.

Figure 7: JNB-NBO Price trends



Source: Commission's own compilation.

From the 11th of December, prices for Kenya airways went up by 4% while the price increase for SAA only changed by 1%. From 11 December onwards to 20 March, the last date for this study, prices for both operators did not change their ticket fares.

128. Prices for this route further indicate that it is time-insensitive, or price competition is completely mute. Price trends depict minor price changes. Post-December holiday season, both operators did not reduce prices in a quest to compete for holidaymakers who are making their way back home. Price changes do not seem to follow traditional seasonal pricing mechanisms. Thus, price changes toward the end of the year may be as a result of price adjustment for expected inflation or any other future anticipated costs. Kenya Airways charges an average of R 3.17/km. On the other hand, SAA charges R2.45/km on economy class.

## JNB-HRE

129. The JNB-HRE route is operated by four different operators, Air Zimbabwe, British Airways, FastJet, and SAA. From South Africa's point of view, this is one of the most contested regional routes in Southern Africa routes. All operators kept the same number of flights for almost every selected date save for the early days of January 2020. This route has 11 flights departing from Johannesburg to Harare every day. Air Zimbabwe and British Airways provide 1 flight each. FastJet and SAA provide 4 and 5 respectively.<sup>45</sup>

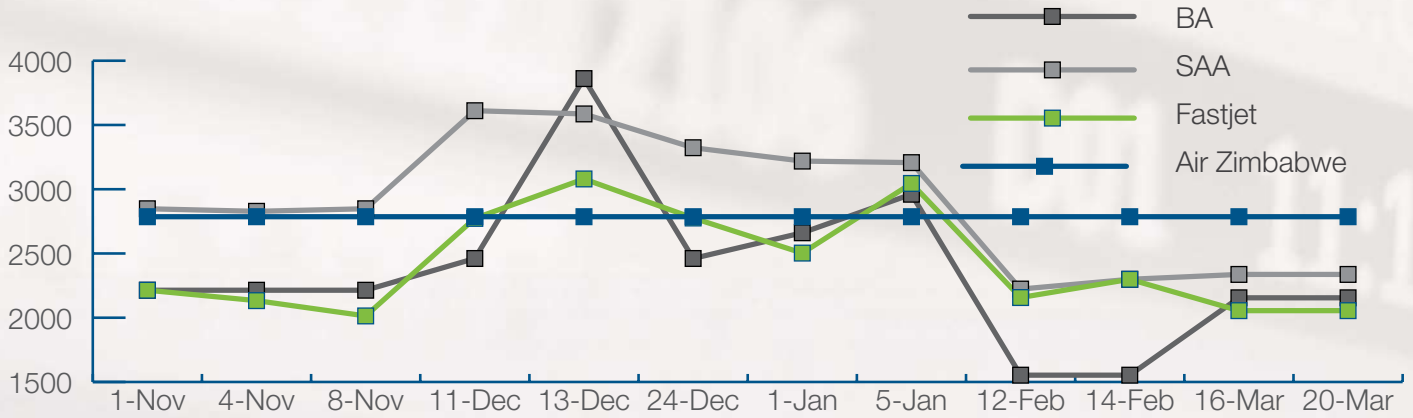
45. SAA provides an average total of 31 flights per week, FastJet provides 23 flights. Both British Airways and Air Zimbabwe provide 7 flights per week. There are no connecting flights for this route. Flight frequency data was captured on 19 February 2020 for the week 24 February to 01 March 2020.

130. Prices for this route are evidently different and far apart from each other. SAA prices are much higher than other operators. The most expensive economy flight cost R 3 817,93. The cheapest economy flight is operated by British Airways and it costs R 2 461,00. This amounts to a 36% price gap between the most expensive and the cheapest in the economy group. Air Zimbabwe offers the most expensive Business class in this route followed by SAA. SAA charges on average R 1 000.00 higher than British Airways. For the business class category, the difference between the most expensive ticket and the cheapest is roughly 44%. In this regard, time slots do not seem to impose competitive constrain on SAA's prices. The first flight of the day is [6:25; SAA; R 3 817,93], Second flight [8:30, FastJet, R 2 591,33], Third flight [9:30, British Airways, R2 461.00] and forth flight [10:30, SAA, R3 629,93].<sup>46</sup> SAA charges higher prices even though there are flights that are in close proximity in terms of time slots that are occupied by 3 competitors flying to the same destination.

131. Price trends over time indicate that all operators hardly change their business class prices whereas the economy class prices fluctuate more frequently. There are sharp price increases for economy class prices in November 2019. In December 2020, most airlines reduced their prices. SAA reduced their prices by an average of 6 to 16%. British Airways reduced their prices by approximately 36% for the lower end class. The reduction in prices extends until March 2020. The combined average price per Kilometre for this route is R2.74. This is much lower than other routes with fewer operators like JNB-GBE and JNB-NBO routes. In our view, this indicates a robust price competition between relevant operators. For the economy class category,

46. Data for 13 December 2019. Economy class prices.

Figure 8: JNB-HRE Price trends



Source: Commission's own compilation.

SAA and Air Zimbabwe charge an average of R3.02/km and R2.92/km respectively. FastJet charges an average of R2.52/km, and British Airways charges the lowest rate of R 2.48/km.

R544.00, with SAA charging a higher price. We view this to suggest that these two airlines may have seat-sharing agreements hence time slots are the same but at different prices. Such incident was also witnessed between SAA-Mango as well as BA-Kulula alliances in the domestic market. These two operators hardly change the prices of their Business class offering and they are kept constant for all direct flights.

### JHB-LAD

132. JNB-LAD route is operated by TAAG Angola Airlines (TAAG) and SAA and it has 5 consistent direct flights. TAAG provides 3 flights and SAA provides 2 flights.<sup>47</sup> Flights that are provided by SAA offer one class or category offering and this suggests that the SAA alliance uses smaller aircrafts that are operated by Airlink and SAX. In addition to direct flights, SAA further provides 5 more connecting flights.<sup>48</sup>

133. Price comparison indicates that flight fares for this route are closer to each other for both economy and business class groups. Both Airlines offer a ratio of R3.38/km for Business class. SAA charges an average of R1.86/Km for economy class while TAAG Angola charges R1.88/Km. This route appears to be time-insensitive. Both TAAG and SAA offer direct flight to LAD at the same time, 9:45 Am. For the Economy class, TAAG charges R5685.00, and SAA costs R4 609.00. There is a notable difference in excess of R1 000.00. On another occasion, both airlines offer direct flight to LAD at 16:35. For this time slot, SAA charges R4 609.00 and TAAG changes R4 065.00. For this specific time slot prices, there is a price difference of

### JNB-LLW

134. This route has two direct flights and two connecting flights. It is operated by Malawian Airlines and SAA. Malawian Airlines offer 3 flights and SAA operate one direct flight.<sup>49</sup> Price data collected indicates that there is a wide gap between prices charged by these two airlines in both economy and business class categories. In November 2019, prices for SAA were much higher than prices offered by Malawian Airlines. In this period, for economy class, SAA charges R6 777.93 and Malawian Airline costs R3 710.00.<sup>50</sup> There is a notable difference of R3 067.93 between the two prices. On the business class side, SAA charges R11 546.93 and Malawian Airlines charges R6 820.00. The gap between business class prices is approximately R4 726.93. AS it can be seen from the figure below, Price difference converged, and price competition became evident. On average, Malawian Airlines charges a rate of R2,54/Km and SAA charges R2.80/km for economy class.

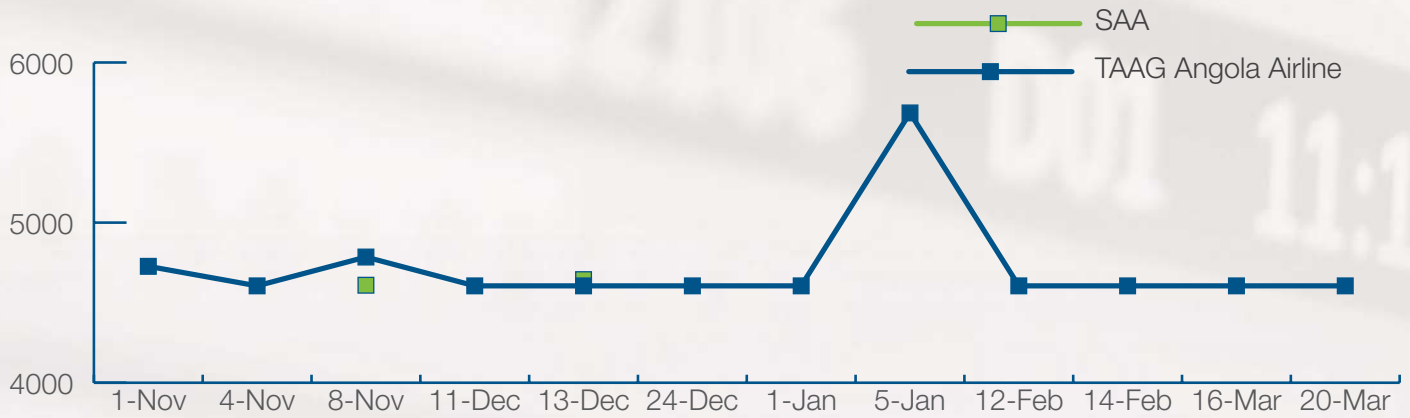
47. SAA offers 7 weekly direct and 25 connecting flights. TAAG Angola offers an average of 14 flights per week. Flight frequency data was captured on 23 February 2020 for the week 9 March to 15 March 2020.

48. Connecting flights are not assessed in this study.

49. SAA provides an average weekly frequency of 7 direct flights. Malawian Airlines provides an average total of 7 direct flights and 4 connecting flights. for the purpose of this price comparison assessment, we consider direct flights only. Flight frequency data was captured on 23 February 2020 for the week 9 March to 15 March 2020.

50. Prices for 04/11/2019.

Figure 9: JNB-LAD Price trends



Source: Commission's own compilation.

### JNB-WDH

135. JNB-WDH amongst the busiest routes in Southern Africa. It has approximately 10 departing flights every day. It is operated by SAA, Air Namibia, and British Airways. SAA provides 7 flights; Air Namibia provides 3 and British Airways provides one flight on daily basis.<sup>51</sup>

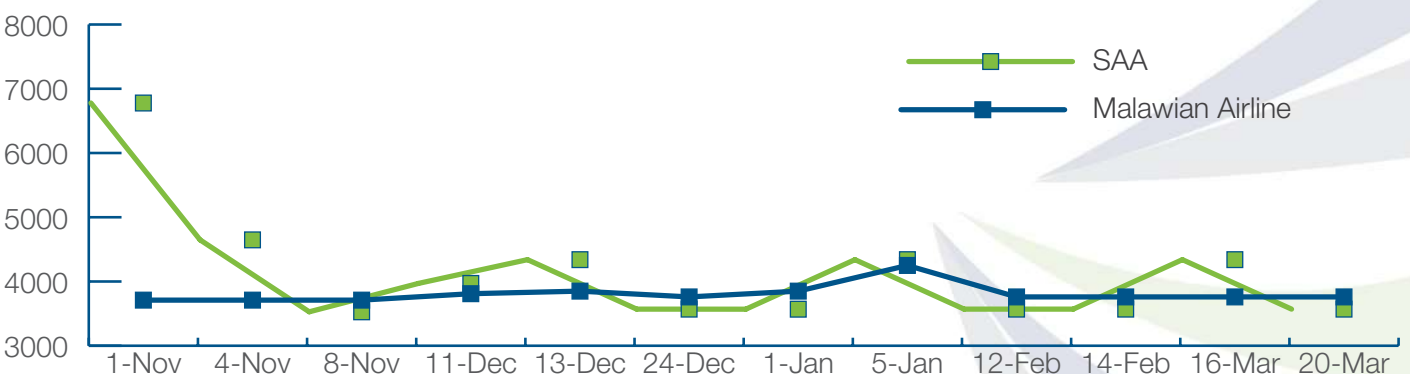
136. Notably, even though that this route is contested by three different airlines, prices are visibly different for both economy and business class offerings. SAA charges the highest prices in both groups. SAA also charges higher prices irrespective of having competitors with time slots in close proximity. For instance, for the 19:30 time slot, SAA charges R 3 832.04, the next time slot is at 20:00 and it is operated by Air Namibia. Air Namibia charges R 1922.00 on this time slot and this is R 1 910.04 cheaper than the SAA adjacent earlier

flight. SAA further operates the 20:20 time slot, 20 minutes after Air Namibia departs. SAA charges R 3 984.04 for this flight and this is R 2 062.04 higher than the previous Air Namibia flight. The same trends are true for the business class offering, where SAA consistently charges higher prices than its close competitors in terms of time slots.<sup>52</sup> This suggests that SAA's pricing is not constrained by having competitors in closer proximity in terms of time slots. These airlines only offer one flight class and their prices are mostly equivalent to business class fares. Prices for these flights are much higher than the economy fares offered by SAA, at the same time, they are much closer to business class prices offered by their parent company SAA which provides bigger aircrafts. This indicates that prices charged by SAA subsidiaries can be compared to business class fares, although they are sold as standard or entry-level tickets.

51. SAA provides approximately 14 direct, and 31 connecting flights per week. Air Namibia provides a weekly frequency of 14 direct flights while British provides 7 direct flights per week. Flight frequency data was captured on 23 February 2020 for the week 9 March to 15 March 2020.

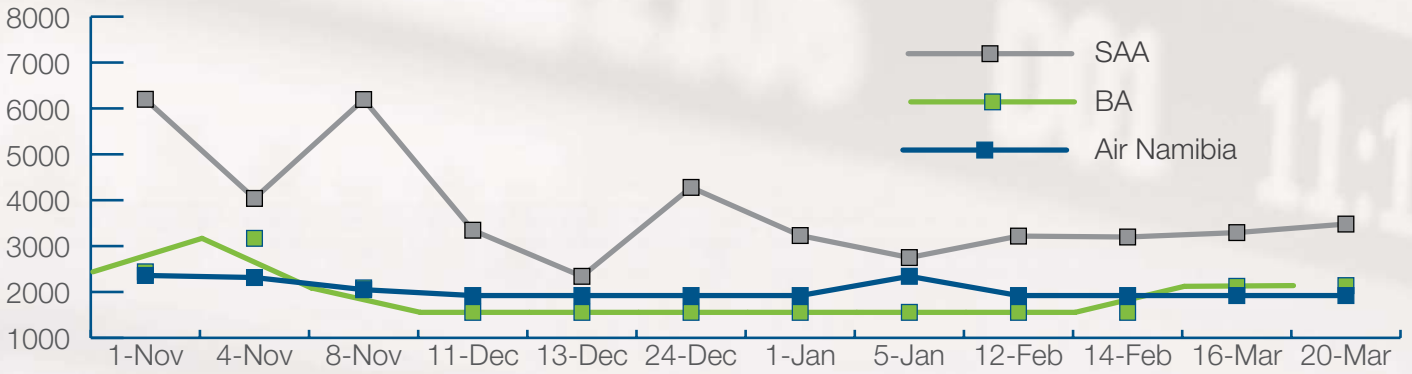
52. Prices for 11/12/2019.

Figure 10: JNB-LLW Price trends



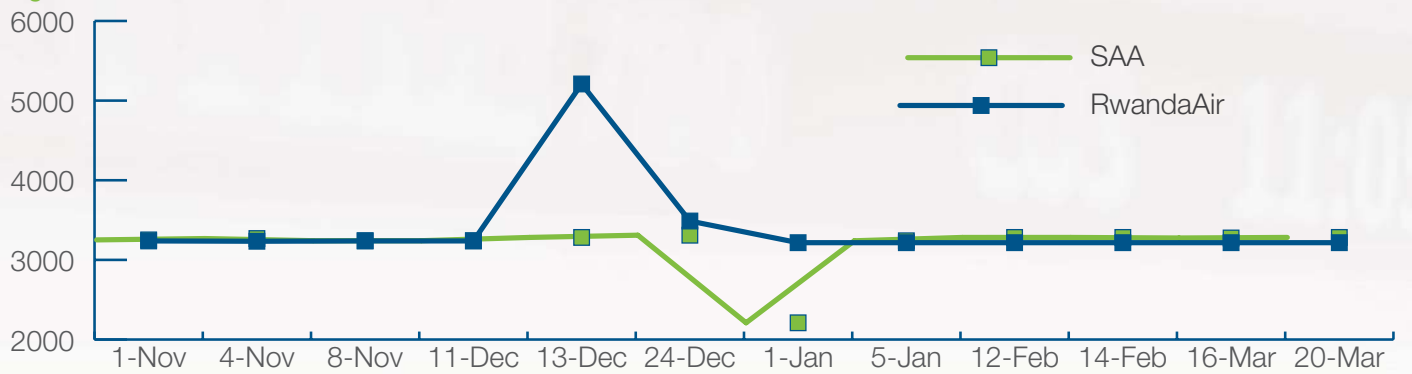
Source: Commission's own compilation.

Figure 11: JNB-WDH Price trends



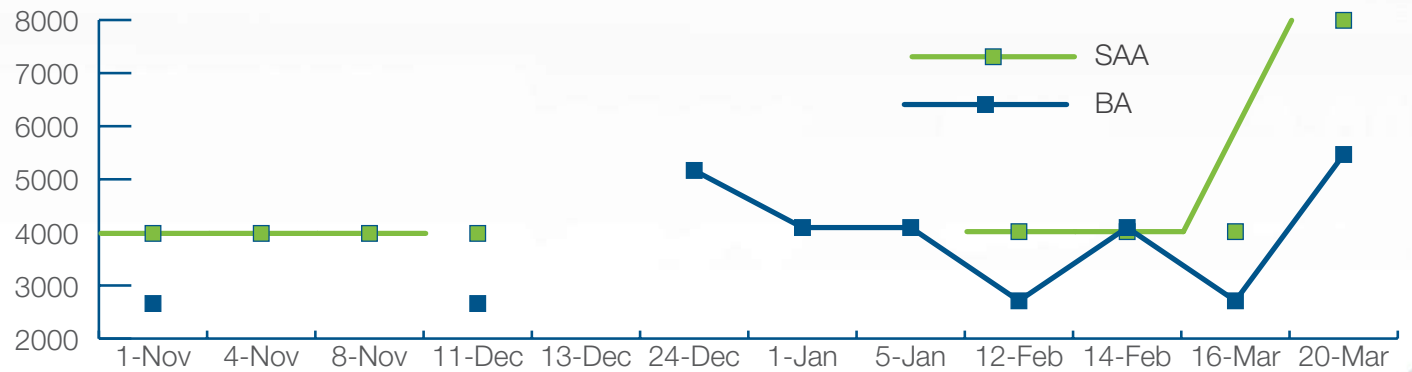
Source: Commission's own compilation.

Figure 12: JNB-LUN Price trends



Source: Commission's own compilation.

Figure 13: JNB-MRU Price trends



Source: Commission's own compilation.

137. Price data collected for the period under review indicate that price competition is limited in this route even though it is operated by 3 different Airlines. Prices charged by Air Namibia and BA are however closer to each other. SAA appears to be setting prices freely without having to worry or consider competing airlines. For the Economy class, SAA's price per kilometers sits at an average of R 2.94/km, Air Namibia and British Airways' ratios are R1.71/km and R1,63/km respectively.

### JNB-LUN

138. The JNB-LUN route is operated by two airlines, SAA and RwandAir. 7 flights are departing from JNB for LUN daily. SAA provides 5 and RwandAir provides 2 flights.<sup>53</sup> Prices for the Economy class are closer to each other. There is however a notable difference on the business class side. For the economy class, Air

53. SAA provided an average of 33 flights direct flights per week. RwandAir provides 4 direct and 4 connecting flights per week. Only direct flights are considered in our price comparison assessment. Flight frequency data captured on 23 February 2020 for the week 9 March to 15 March 2020.

Rwanda charges an average price of R 3238.33 and SAA charges an average of R 3 267.63.<sup>54</sup> The difference between these two prices is small and negligible. Prices are however visibly different on the business side category. RwandAir charges R 7 427.75 while SAA charges a flat fare of R 10 066.93 throughout the period under review. This amounts to a difference of R 2 639.18. Both airlines do not change prices over time, they remain constant until the last date of this study.

139. The figure above demonstrates price competition for economy class, except on one occasion where SAA prices were significantly higher than RwandAir fares. For economy class, RwandAir on average charges R2.85/km, SAA charges R2.73/km for the same. This ratio affirms close rivalry for economy class ticket prices.

### JNB-MRU

140. Mauritius is one of the famous holiday destinations in Africa. This route is operated by SAA and British Airways. Both the airlines provide one flight per day. Pricing data indicates that both airlines do not frequently fly to this destination as prices were not available for most of the selected dates. For the purpose of this study, most adjacent dates were selected to source pricing information.

141. Price data depicts significant seasonal price changes over time, more especially during the December

season.<sup>55</sup> For instance, the price change from 8 November 2019 to 11 December 2019 was 50% for one of the SAA flights. On the same flight, SAA reduced prices by 66% from 24 December 2019 to 01 January 2020. This route demonstrates robust price competition. Both Airlines drastically increased prices during March 2020 period.

### International routes

142. Durban to Dubai and Cape Town to Dubai were recently added to the South African aviation network. In this study, we examine these routes together with an erstwhile older route that departs from Johannesburg. All routes that depart for Dubai are operated by Emirates Airlines. Emirates provides one flight from Durban (DUR), two from Cape Town (CPT), and 4 from Johannesburg (JNB). In all these routes, Emirates airline is uncontested.<sup>56</sup>

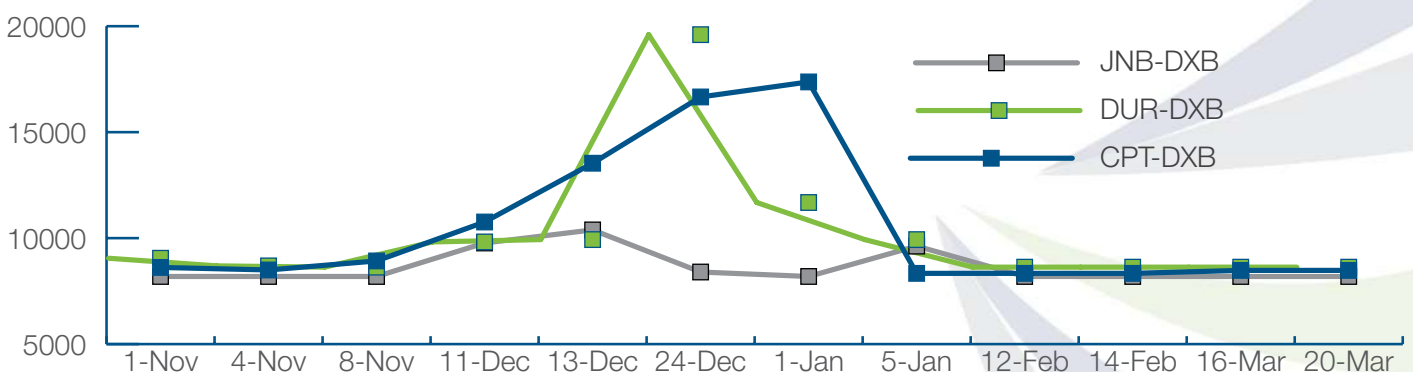
143. Throughout the term covered in this study, prices for economy class were kept the same for both flights departing from Cape Town, except on few occasions where there was a small insignificant difference. In terms of time slots, both early and late flights are likely to cost the same prices more especially for the economy class. There is however significant price difference

55. SAA provides 14 flights per week. British Airway's flight availability fluctuates and doesn't seem to have a stable trend that can be captured with a high degree of certainty. Flight frequency data was captured on 23 February 2020 for the week 9 March to 15 March 2020. There may be changes in scheduling depending on demand and other relevant factors such as airline capacity.

56 Emirates offers direct flights only. 14 weekly flights from CPT, 7 from Durban and 28 flight per week from Johannesburg. Flight frequency data was captured on 23 February 2020 for the week 9 March to 15 March 2020.

54. Prices for 01/11/2019.

Figure 14: CPT/DUR/JNB-DXB Price trends



Source: Commission's own compilation.

for business class tickets for flights that depart on the same day. In most cases, a late flight cost higher than the earlier flight of the day. For instance, on 13 December 2019, the later business class flight cost R 13 260 higher than the earlier flight.

144. Pricing patterns indicate a mix of price changes. For the same date, Emirate would reduce prices for business and increase prices for economy tickets during the period leading to the December holidays. Prices drop significantly post 05 January period.

145. Durban prices were not far off from Cape Town's (CPT) prices. Pricing movements observed in the Cape Town route are also evidenced in the Durban (DUR) route. The Johannesburg (JNB) route also appears to be time-insensitive since ticket fares do not vary with time. The Johannesburg route also demonstrates, to a limited extent, mixed price changes between economy and business tickets. Again, there is a significant price change post 05 January 2019 period for this route. Overall, price trends indicate significant seasonal price hikes during December to January period.

### JNB-CDG

146. The Johannesburg to France route is operated by Air France and it is uncontested in this route. There is one flight every day.<sup>57</sup> Like most airlines, Air France increased prices significantly during the December season. Between 11 and 13 December 2019, the Airline increased prices by 94% for the economy category.

57. As indicated above, Air France does not have any competition on the routes. The Airline provides 7 direct and 68 connecting flights per week. Flight frequency data was captured on 23 February 2020 for the week 9 March to 15 March 2020.

This was preceded by a 13% increase between 8 to 11 November 2019. On the Business class category, Air France had an increase of 148% between 04 and 08 November 2019, this was followed by an 11% price cut on 11 November 2019. Air France charges an average price of R1.61/Km for the economy class offering.

### JNB-FRA

147. JNB-FRA route is operated by Lufthansa and SAA. Lufthansa provided two flights and SAA provided one flight.<sup>58</sup> For economy tickets, SAA charges on average R 9 858.68 and Lufthansa charges R 13 949.76.<sup>59</sup> There is a significant price gap between the two competitors in the economy class. For business class tickets, SAA charges an average of R 54 104.93 while Lufthansa charges R 46 426.11 for the same. Over time, both Lufthansa and SAA hardly change their prices. This is an indication of limited price competition. The average price per kilometer for SAA is R1.14/km, and Lufthansa charges R1.14/km.

### JNB-GRU

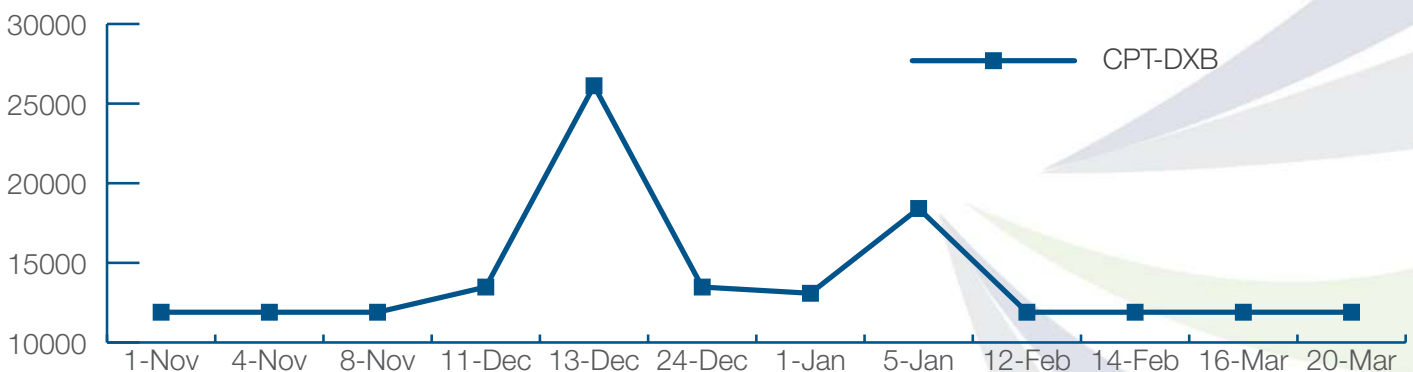
148. The JNB-GRU route is operated by two Airlines, SAA and Latham Brazil. It has two flights departing from Johannesburg every day, each operator providing one flight per day.<sup>60</sup> From the economy class point of

58. SAA provides 13 direct flights and 33 connecting flights per week. Lufthansa provides 7 direct flight and 108 connecting flights. Connecting flights stops once or twice. For the purpose of this assessment, we only consider direct flights. Flight frequency data was captured on 23 February 2020 for the week 9 March to 15 March 2020.

59. Prices for 01/11/2019.

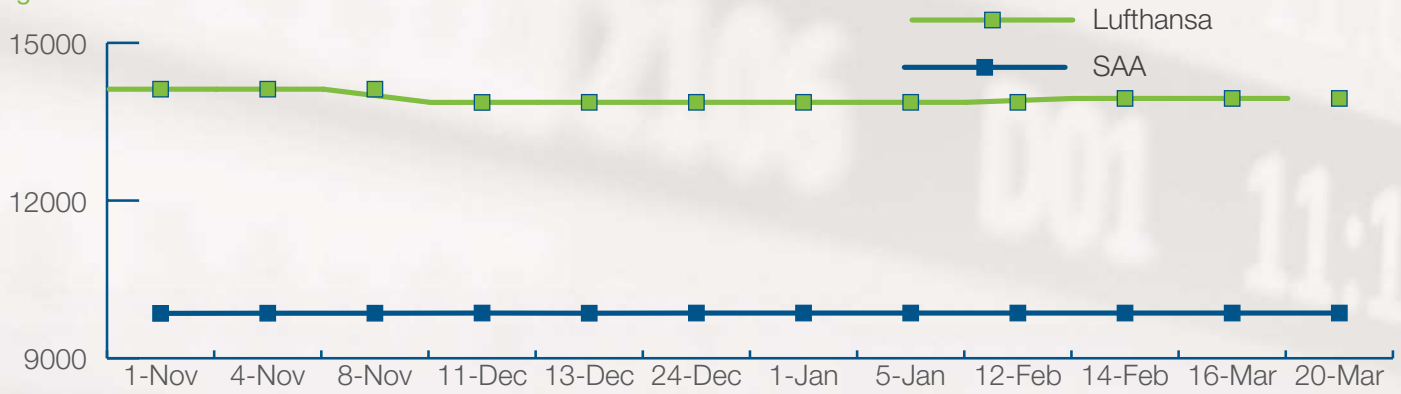
60. SAA provides 7 direct flights and Latam Brazil provides 5 flights per week. There are no connecting flights for this routes that are offered by these two service providers. Flight frequency data was captured on 23 February 2020 for the week 9 March to 15 March 2020.

Figure 15: JNB-CDG Price trends



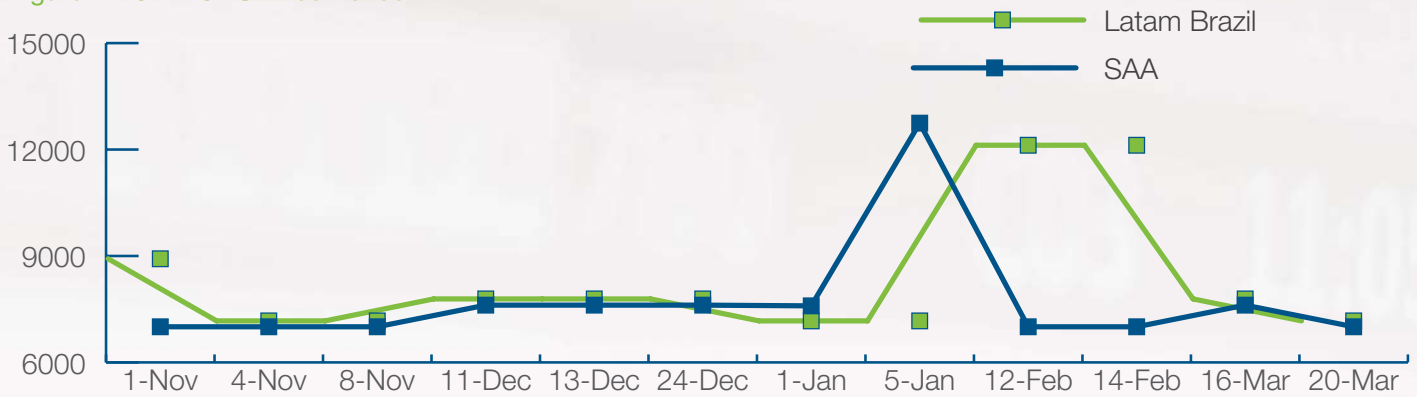
Source: Commission's own compilation.

Figure 16: JNB-FRA Price trends



Source: Commission's own compilation.

Figure 17: JNB-GRU Price trends



Source: Commission's own compilation.

view, this route appears to possess an effective price competition between the two operators. SAA charges an average of R 7 734.76 and Latham charges an average price of R8 347.15. For business class, ticket prices are also closer to each other, SAA charges roughly R 23 693.93, and Latham in most instances' charges R 26 082.95.<sup>61</sup> Over time, both airlines are cautious about changing prices for economy class. On the other hand, there are significant price fluctuations in the business class category. Between 24 December 2019 and 01 January 2020 Latham increased its ticket prices by 130% for business class and SAA only increased their prices by 2%. In the next cycle, between 01 January 2020 and 05 January 2020, SAA increased its prices for business class by 134% while Latham decreases theirs by 39%. Prices are closer to each other and it does appear that there is strong price competition on this route. SAA's price per kilometer ratio is R 1.04/km while Latham Brazil charges R 1.12/km. These are the second-lowest price pair per kilometer ratio out of all routes selected for the purpose of this study.

61. Prices for 01/11/2020.

## JNB-HKG

149. The JNB-HKG route is operated by two Airlines, SAA and Cathay Pacific. It has two flights departing from Johannesburg daily. Each operator provides one flight per day.<sup>62</sup> There is a notable price difference between these two airlines. In some instances, SAA would charge a price that is much higher than Cathay, and in some instances, Cathay would charge more than SAA for the economy class tickets. This trend is also prevalent in the business class ticket price patterns. Overall, prices charged by both operators remain close to each other and this can be seen in the figure below. This is different from other routes where there is a huge gap between ticket prices offered by different operators.

150. Both airlines increased their ticket prices significantly between November 2019 and December 2019. The biggest increase was during the 11 November to 13 December period 2019. SAA increased their business

62. Weekly frequency data for this week could not be obtained due to changes in scheduling and cancelation of flights arising from the outbreak of deadly Coronavirus in China.

class ticket by 94% and Cathay increased theirs by 38%. Ticket prices were gradually reduced post 5 January 2020 period. SAA on average charges R0.65/km and Cathay Pacific charges R0.77/km. This is the lowest price per kilometer ratio in this study.

international routes departing from the Johannesburg airport. This route is serviced by three different Airlines. Both British Airways and Virgin Atlantic providing 2 flights each per day while SAA provides 1.<sup>64</sup> Prices are extremely close to each other. However, for the business class category, SAA always charges the most expensive prices compared to all its competitors, albeit the difference is trivial. British Airways and Virgin Atlantic each charge constant prices for their flights irrespective of time slots for both economy and business class categories.

### JNB-JFK

151. This route is operated by SAA and the airline flies once a day.<sup>63</sup> Like most airlines, SA increased economy ticket prices for the economy class by 21% between 11 November to 13 December period. The business class offering increased by 24%. Ticket prices dropped sharply post 5 January period for the business class offering. SAA's Price/distance ratio for this route is R1.36.

153. Time slots are closer to each other and this may explain why there is robust price competition between these airlines. Spikes in BA prices during mid of December 2019 and the beginning of Jan 2020 indicate holiday demand for BA tickets. SAA business class prices hardly change. During the November to December 2019 period, SAA reduced its business class price by 1% on average, and 0% for British Airways. On

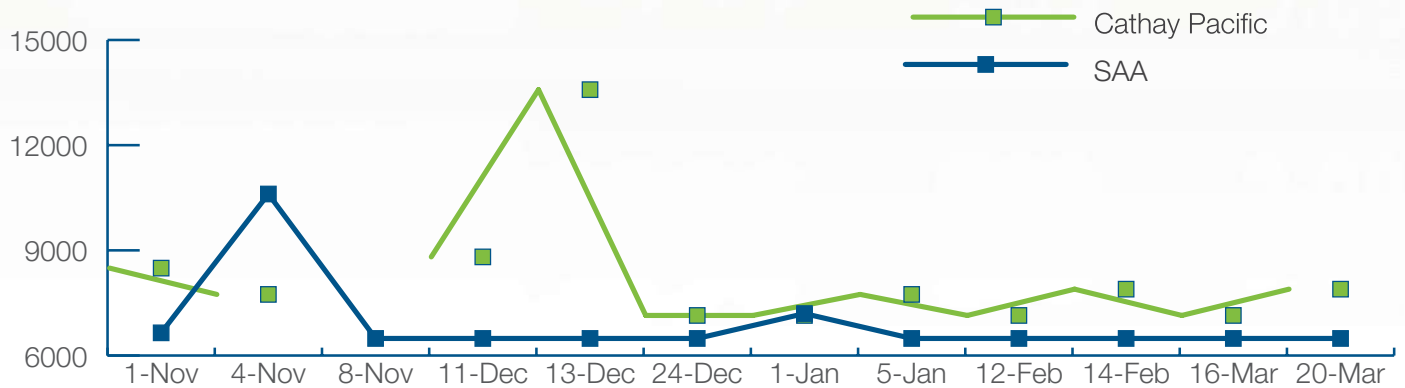
### JNB-LHR

152. JNB-LHR is one of the most heavily contested

64 All operators in this route provides direct flights only. SAA provides 7, British Airways provides 14 and Virgin Atlantic provides 14 flights per week. Flight frequency data captured on 23 February 2020 for the week 9 March to 15 March 2020.

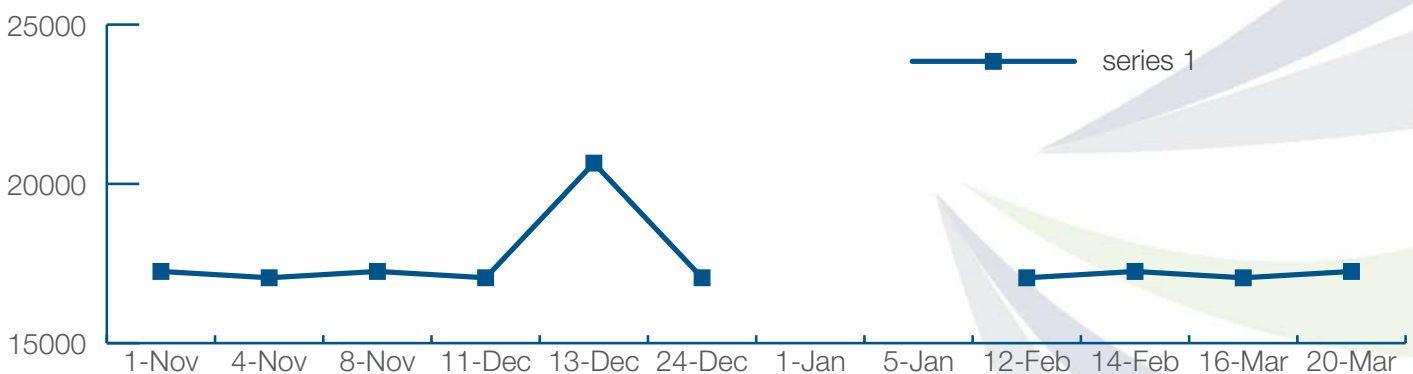
63 SAA provides 7 direct flights per week and no connecting flights. SAA is uncontested in this route.

Figure 18: JNB-HKG Price trends



Source: Commission's own compilation.

Figure 19: JNB-JFK Price trends



Source: Commission's own compilation.

average, SAA's price per kilometer ratio is R1.20, BA and Virgin Atlantic charge R1.31/km and R1.14/km respectively.

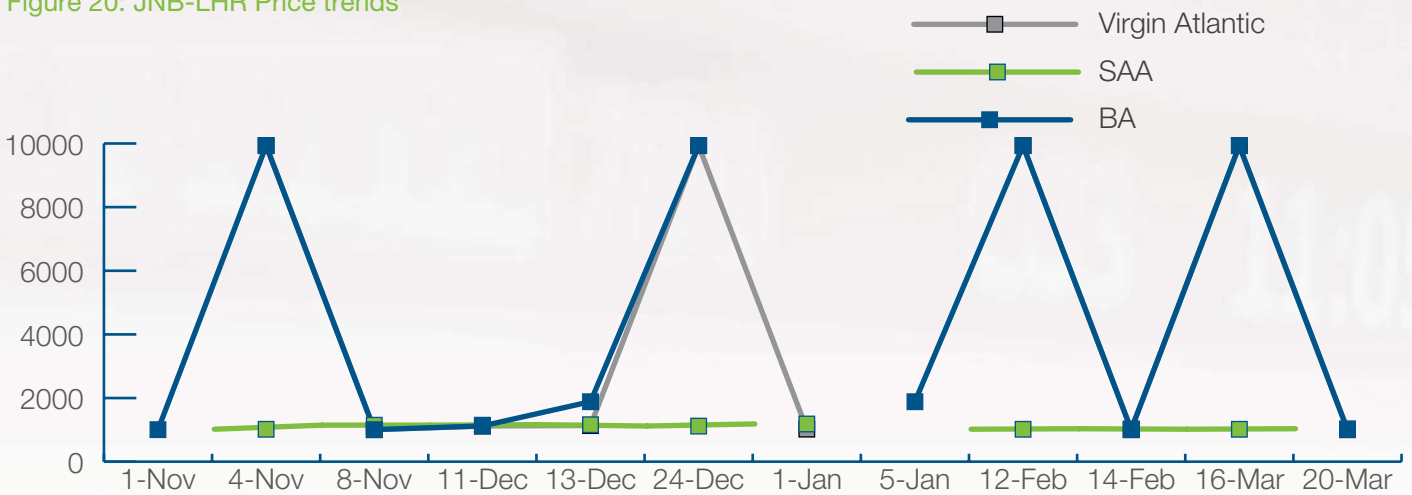
the prices of its tickets during the December season and reduce them post 5 January 2020 period for both economy and business class categories. The price per kilometer ratio for this route is R1.44/km.

## JNB-PER

154. JNB-PER route is operated by SAA. SAA flies to Perth once a day.<sup>65</sup> Like most Airlines, SAA slightly increased

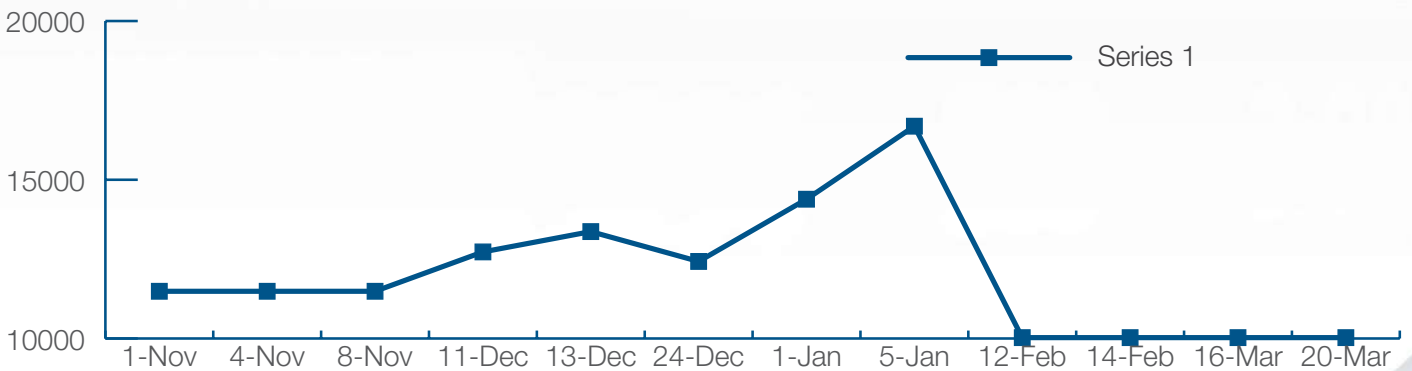
<sup>65</sup>. SAA provides weekly frequency of 7 direct flights. There are no connecting flights for this route. SAA is uncontested in this route.

Figure 20: JNB-LHR Price trends



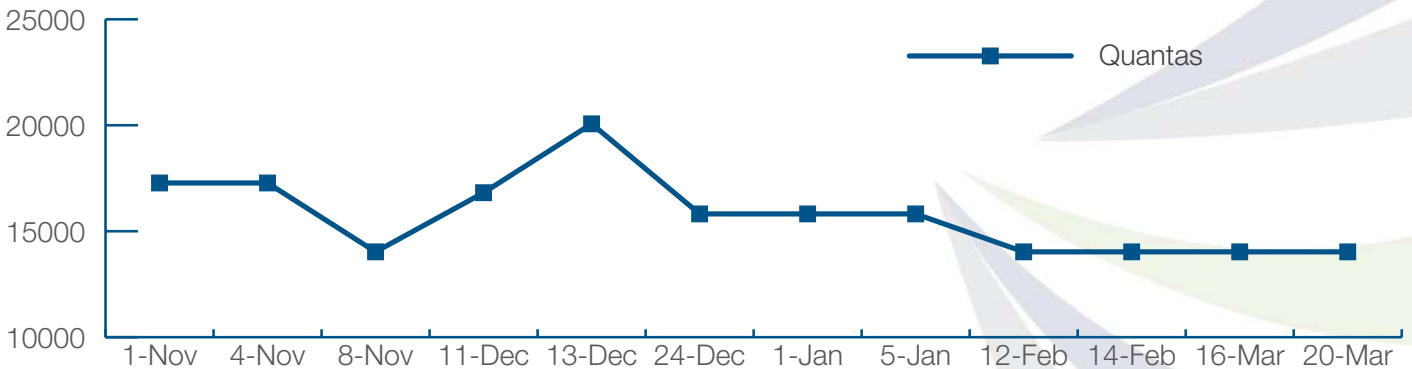
Source: Commission's own compilation.

Figure 21: JNB-PER Price trends



Source: Commission's own compilation.

Figure 22: JNB-SYD Price trends



Source: Commission's own compilation.

## JNB-SDY

155. JNB-SDY route is operated by Qantas. The airline flies to Perth once a day.<sup>66</sup> Like most Airlines, Qantas slightly

<sup>66</sup>. Qantas provides an average of 6 direct weekly flights. Qantas remain uncontested in this route and there are no connecting flights. Flight frequency data captured on 23 February 2020 for the week 9 March to 15 March 2020.

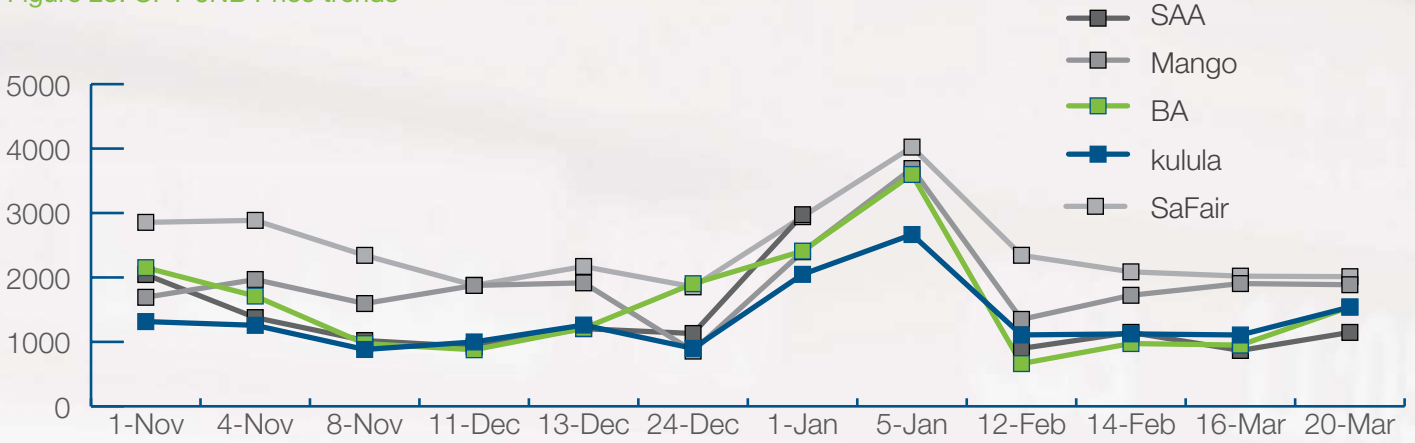
increased the prices of its tickets during the December season and reduce them post 05 January 2020 period for both economy and business class categories. The airline changed its business class ticket price twice during the period under review. In many instances, Qantas charges R40 447.00 for the business class ticket. Economy class fluctuates more often and does not signal that the airline has a fixed price range as

opposed to the business class category. The price per kilometer ratio for this route is R1.43/km.

### Domestic Routes

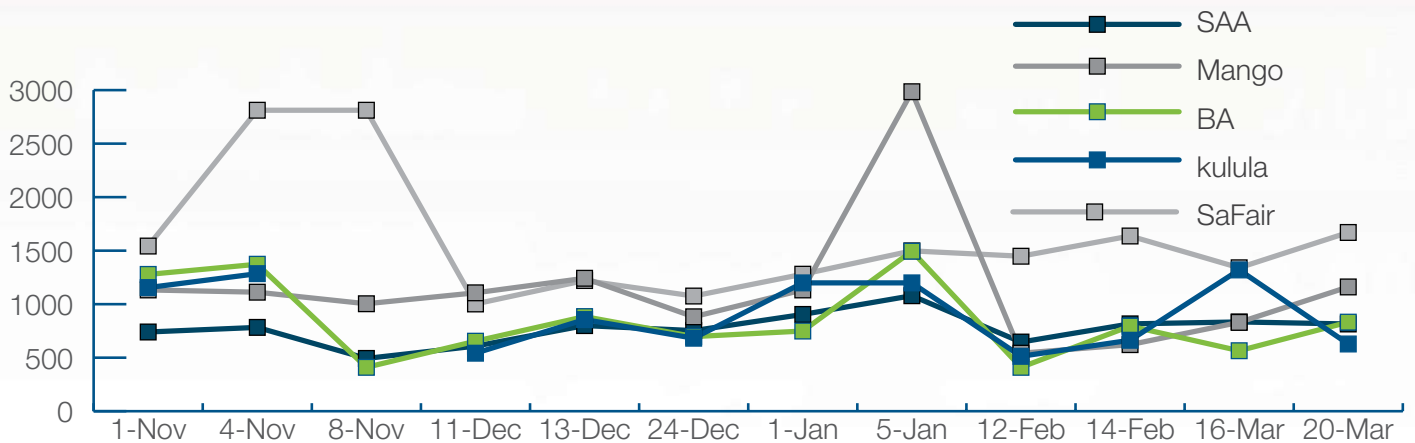
156. Price data collected for this project indicates that ticket prices for small aircraft are sometimes higher than business class prices of large aircraft. Small aircraft

Figure 23: CPT-JNB Price trends



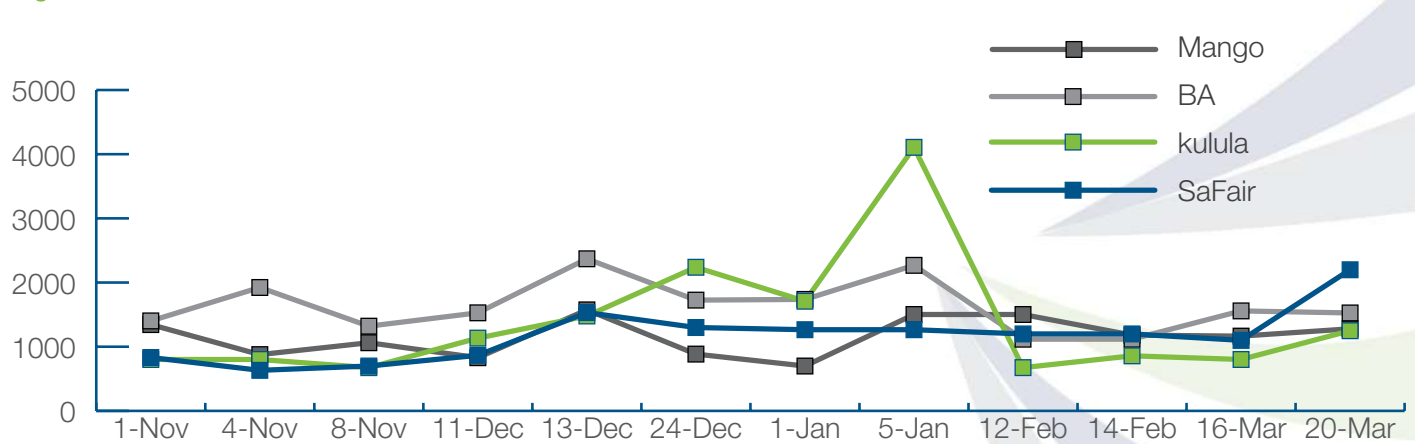
Source: Commission's own compilation.

Figure 24: DUR-JNB Price trends



Source: Commission's own compilation.

Figure 25: CPT-DUR Price trends



Source: Commission's own compilation.

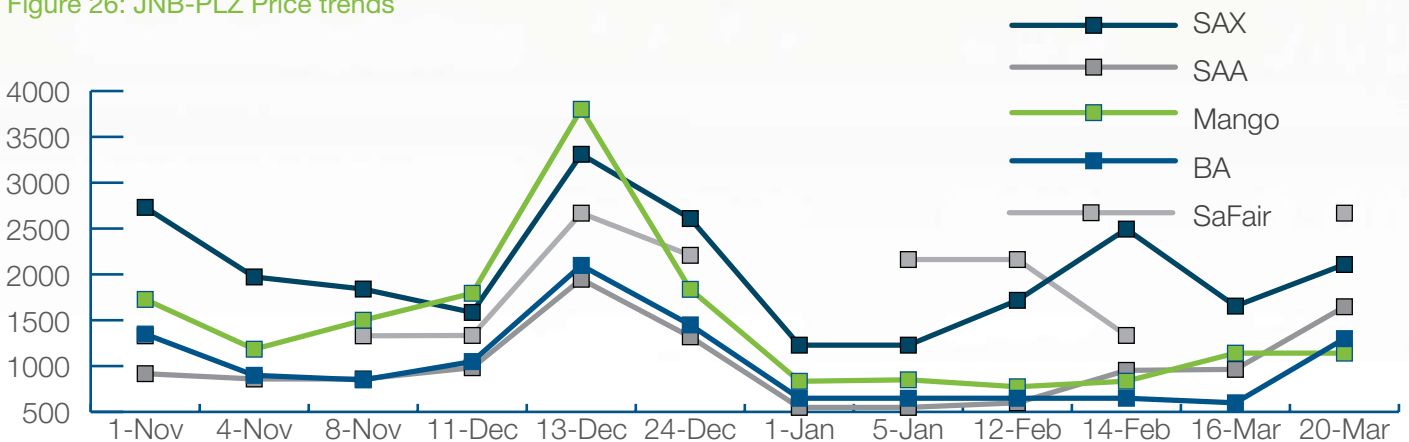
operators charge higher prices irrespective of having competition from competitors operating in time slots that are in closer proximity. This suggests that small aircrafts operated by Airlink, SAX, and CemAir target business class customers who are not price sensitive. This same is true for some regional flights as indicated above. For instance, Airlink prices for JNB-WDH route are closer to business class prices offered by their parent company SAA. In the domestic market, Airlink prices are sometimes higher than SAA business class prices for flights departing for the same destination. Generally, Airlink and SAX offer a better in-cabin experience with wide seats, a greater level of comfort, and enough legroom. For the purpose of this study, we are of the view that it is necessary to consider Airlink's and SAX ticket prices as equivalent to business class fares.

SAA as a parent company would market and sell some tickets with a description "operated by Mango". This means customers would buy a flight ticket from SAA but fly Mango. In these instances, data indicate that Mango under being LCC, would offer lower prices meanwhile flight tickets bought under the SAA banner would cost higher. This incident may possibly be a result of seat-sharing agreements between two operators. A Typical example of a seat-sharing agreement is where Mango would sell 150 seats and SAA would sell 50 for an aircraft that accommodates 200 passengers. SAA sells tickets at their prevailing rates despite Mango being the actual carrier. Departing time, the destination for this flight would be the same but different prices.

157. For some domestic routes, there are discrepancies in prices for flights that are operated in the same alliance group. For example, Mango as an LCC markets its flight tickets on its website and other marketing platforms.

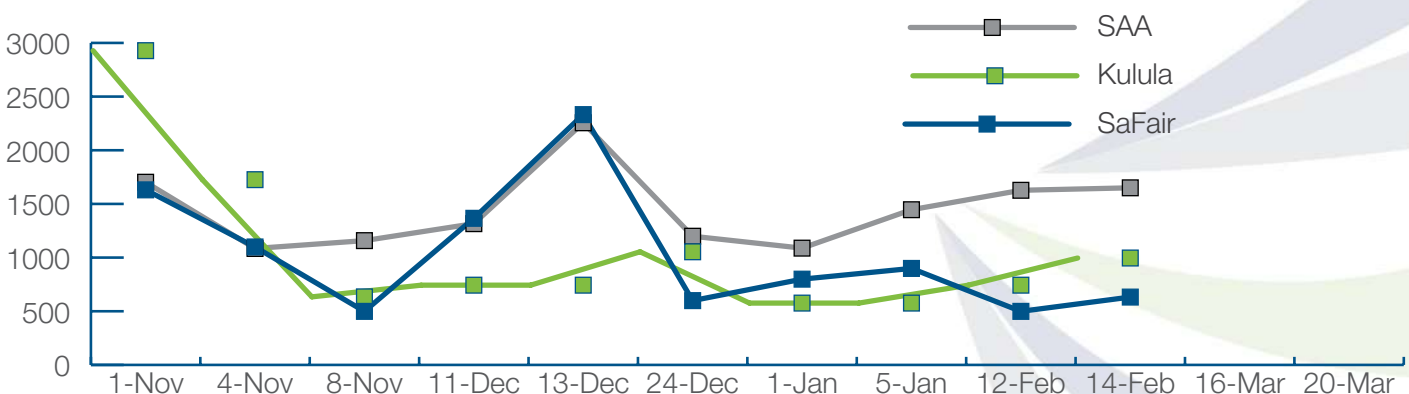
158. By a way of example, on 01 November-2019, for JNB-PLZ route, Mango sold a 15:30 flight ticket for R996.50. For the same route, SAA (operated by mango) listed a 15:30 ticket for R1502.11. This is the same aircraft but at different prices. Below we review competition dynamics for all 5 selected domestic routes.

Figure 26: JNB-PLZ Price trends



Source: Commission's own compilation.

Figure 27: JNB-ELS Price trends



Source: Commission's own compilation.

159. South African airports that can accommodate large aircraft have various operators competing for business. Competition economics literature generally assumes that prices are usually at a competitive level when many market players are competing for business and where customers are free to make their own choices. The table below lists operators who are operating in different routes as well as the number of flights that they approximately offer per day, depending on anticipated demand and scheduling.

**Table 12: Number of Flights per day**

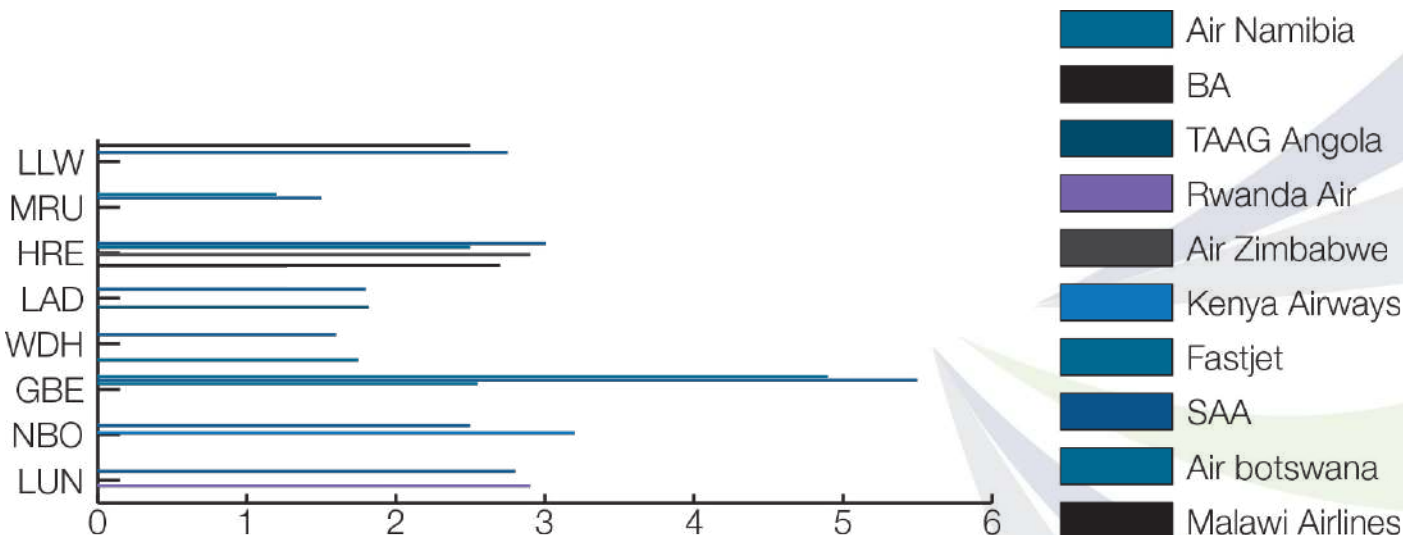
Origin	Destination	Safair	Kulula	BA	Mango	SAA24	SAX	Airlink	TOTAL
JNB	CPT	8	7	13	7	12	-	-	47
JNB	DUR	7	4	8	9	6	-	-	34
CPT	DUR	3	1	5	5	-	-	-	14
JNB	PLZ	2	-	6	2	2	1	1	14
JNB	ELS	3	2	-	-	3	-	-	8

Source: Commission's own compilation.

160. In our view, the competitive landscape and dynamics in various domestic routes are effective save for regional routes. The Commission's recent prohibition of the Airlink/Safair was a deliberate move to keep relevant markets as comparative as possible.

161. In South Africa, regional airports are usually located in places that are isolated from the economic hubs of the country. In other words, regional airports are located in areas where fewer economic activities are happening in those regions. By virtue of being regional aviation facilities, these airports are small and

**Figure 28: Regional Average PPPK per Route per Airline**



Source: Commission's own compilation.

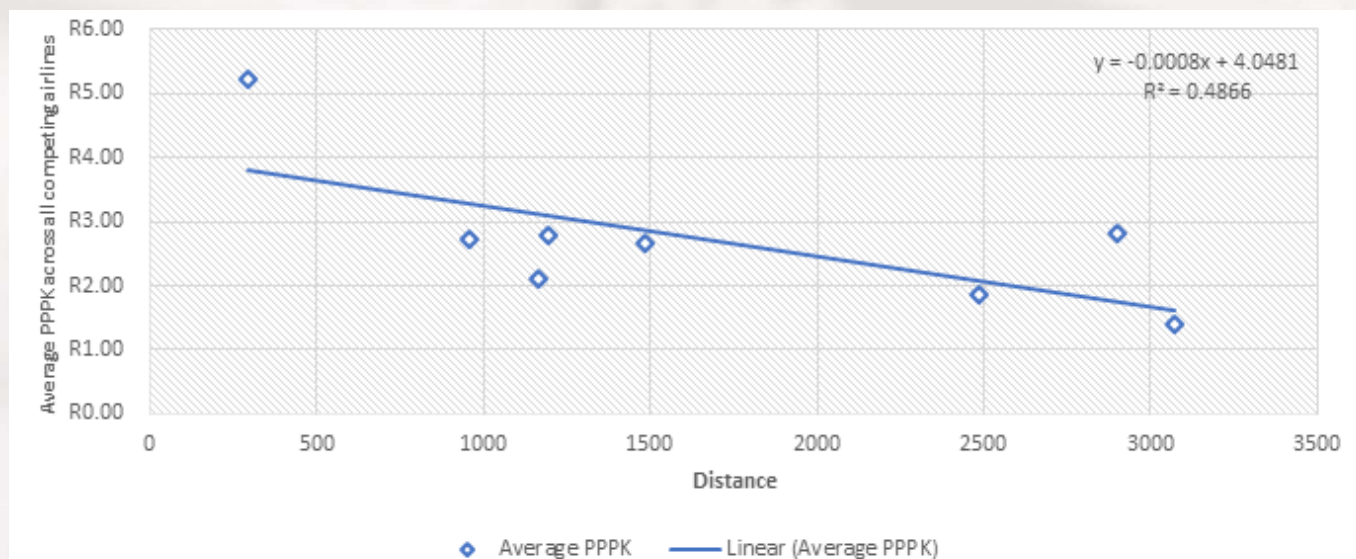
consequently cannot accommodate large aircrafts. This manifestation leaves operators that use small aircrafts. Companies that operate smaller aircrafts are few and there is a general view that these operators are charging exorbitant prices, worse to customers who are not financially well-off because of being isolated from economic activities. As indicated above that prices that are charged by Airlink and SAX can be interpreted to be equivalent to business class fares in various routes. Customers who wish to fly to small regional airports are thus subjected to the alleged exorbitant prices with limited alternatives.

**Analysis of average price per passenger per km (PPPK)**

162. We have calculated the average prices per passenger per km (PPPK) for the selected routes. These prices are averaged across all dates and across all the slots per day for that particular route. As shown in Fig 28 (and Table 13) below, of the 8 regional routes chosen, 6 of them have 2 operators flying directly between Origin – Destination pair. JNB-MRU route shows the lowest PPPK average price despite a long distance (3070 km) compared to others. While JNB-GBE route shows the costliest PPPK average price despite it being close to JNB (293 km).<sup>67</sup> JNB-WDH and JNB-LUN routes directly comparable in terms of distance, and SAA seem to offer a similar average PPPK between these routes, however, BA offers service on the JNB-WDH

67. SAA utilizes Airlink and SAX on these routes and hence average prices on this route is not directly comparable to other routes.

Figure 29: Regional Distance-Price Relationship



Source: Commission's own compilation.

route provides significantly lower average PPPK. Air Rwanda remains close to SAA prices on the JNB-LUN route. Despite having 4 operators on JNB-HRE route, and for a shorter distance, the average PPPK remain over R2.7 for all the operators. While JNB-LAD route, has 2 operators and the average PPPK remains less than R1.8 for both operators despite the distance being more than twice of JNB-HRE. From the above, it is clear that distance is not proportional to the average PPPK.

163. Fig 29 below shows the estimated relationship between distance and average price per passenger per KM for regional routes. Regional routes are represented by their distinct distance and prices are averaged across all competitors for that specific route. The relationship clearly, demonstrates that prices are negatively related to distance, implying that the airlines charge a higher price for a shorter distance compared to a long haul. This may largely be due to many factors including the use of most fuel-efficient and larger aircraft for longer distances.<sup>68</sup> However, in the case of SAA, it is not consistent with the above. The furthest regional route considered in our analysis is JNB-MRU and the distance being 3070 km. The second and third furthest routes considered are JNB-NBO and JNB-LAD and distances being 2900 km and 2485 km respectively. But the average PPPK is not consistent with distances traveled. SAA charges R1.55 for 3070 km, R2.45 for

2900 km, and R1.86 for 2485 km for MRU, NBO, and LAD routes respectively. And SAA utilizes similar/same aircraft on most of these routes. For instance, SAA utilizes the same aircraft on JNB-NBO, JNB-HRE, JNB-LLW, JNB-WDH, and JNB-LUN i.e., Airbus Industrie A 320-100/200. On JNB-MRU, SAA uses Airbus Industrie A 350-900. While on JNB-LAD SAA uses TAAG: Boeing 777-300 and for JNB-GBE, SAA uses Airlink and SAX. Except for JNB-LAD and JNB-GBE, all other regional routes considered use the same aircrafts and hence argument around fuel-efficient body type and negative relationship with distance cannot be justified. It can easily be speculated as either load factor or competition dynamics (lack thereof) that is prevailing on each of these routes.

164. As shown in Fig 30 (and Table 14 above), of the 11 international routes chosen, SAA offers the cheapest average PPPK on JNB-HKG route and is the cheapest among all international routes compared to its competitors. Surprisingly, SAA average prices PPPK are way below its average prices PPPK on regional (and domestic routes). And SAA offers lower average prices PPPK compared to its competitors on all routes, except for JNB-LHR route where Virgin Atlantic provides the cheapest followed by SAA and BA.

165. Fig 31 below shows the estimated relationship between distance and average price per passenger per KM for international routes. International routes are represented by their distinct distance and prices

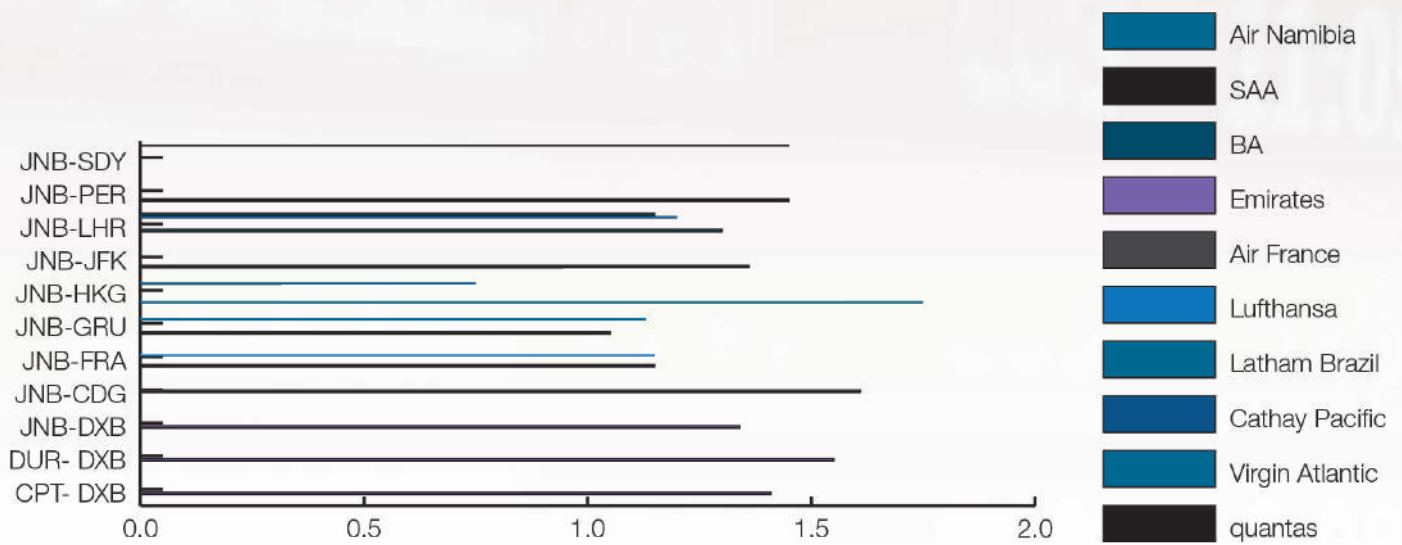
68. Other factors may include fixed costs associated with ground handling, loading, landing and other regulatory fees that gets distributed to smaller distance and smaller aircrafts.

are averaged across all competitors for that specific route. The relationship clearly, demonstrates that prices are negatively related to distance. SAA utilizes similar/same aircrafts on these international routes. For instance, SAA uses Airbus industrie A350-900 on JNB-FRA and JNB-JFK routes, Airbus industrie A330-200 on JNB-GRU route, Airbus Industrie A330-300 on JNB-LHR route, and Airbus Industrie A 340-300 on JNB-PER route. The furthest route considered in the analysis is JNB-JFK route with 12,825 km and the second and third furthest routes are JNB-SYD (11,044 km) and JNB-HKG (10, 671 km). However, the average PPPK for JNB-HKG is the lowest compared to SYD

and JFK. Moreover, SAA has no competitors on SYD and JFK routes and has one competitor on HKG route in Cathay Pacific. Hence, the negative relationship between average PPPK and distance is not reasonable but for competition.

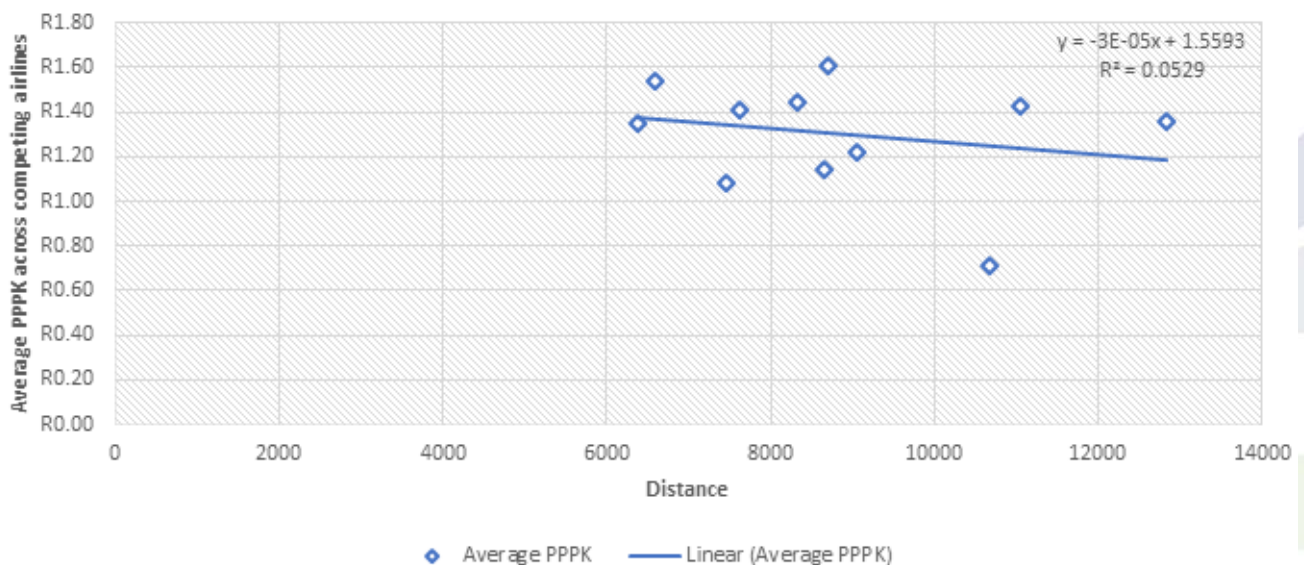
166. As shown in Fig 32 below (and Table 15 above), among the 5 domestic routes chosen, Mango offers the lowest average prices PPPK followed by Safair. The lowest average prices PPPK are charged by Mango (R0.91) and Safair (R0.92) on CPT-DUR route. The busiest routes such as JNB-CPT and JNB-DUR have 5

Figure 30: International Average PPPK per route per Airline



Source: Commission's own compilation.

Figure 31: International Distance-Price Relationship



Source: Commission's own compilation.

Table 13: PPPK for Regional Routes

Origin	Destination	Operators											Distance
		SAA	BA	RwandAir	Kenya Airways	Air Botswana	Air Namibia	TAAG Angola	Air Zimbabwe	FastJet	Malawian Airlines		
JNB	LUN	R2,73	-	R2,85	-	-	-	-	-	-	-	-	1197
JNB	NBO	R2,45	-	-	R3,17	-	-	-	-	-	-	-	2900
JNB	GBE	R5,51	-	-	-	R4,95	-	-	-	-	-	-	293
JNB	WDH	R2,94	R1,63	-	-	-	R1,71	-	-	-	-	-	1166
JNB	LAD	R1,86	-	-	-	-	-	R1,88	-	-	-	-	2485
JNB	HRE	R3,02	R2,48	-	-	-	-	-	R2,92	R2,52	-	-	955
JNB	MRU	R1,55	R1,22	-	-	-	-	-	-	-	-	-	3070
JNB	LLW	R2,80	-	-	-	-	-	-	-	-	-	R2,54	1484

Source: Commission's own compilation.

Table 14: PPPK for International Routes

Origin	Destination	Operators											Number of operators	Distance
		SAA	BA	Emirates	Air France	Lufthansa	Latham Brazil	Cathay Pacific	Virgin Atlantic	Qantas				
CPT	DXB	-	-	R1,41	-	-	-	-	-	-	-	1	7620	
DUR	DXB	-	-	R1,54	-	-	-	-	-	-	-	1	6601	
JNB	DXB	-	-	R1,35	-	-	-	-	-	-	-	1	6390	
JNB	CDG	-	-	-	R1,61	-	-	-	-	-	-	1	8707	
JNB	FRA	R1,14	-	-	-	R1,14	-	-	-	-	-	2	8658	
JNB	GRU	R1,04	-	-	-	-	R1,12	-	-	-	-	2	7452	
JNB	HKG	R0,65	-	-	-	-	-	R0,77	-	-	-	2	10671	
JNB	JFK	R1,36	-	-	-	-	-	-	-	-	-	1	12825	
JNB	LHR	R1,20	R1,31	-	-	-	-	-	R1,14	-	-	3	9045	
JNB	PER	R1,44	-	-	-	-	-	-	-	-	-	1	8325	
JNB	SDY	-	-	-	-	-	-	-	-	R1,43	-	1	11044	

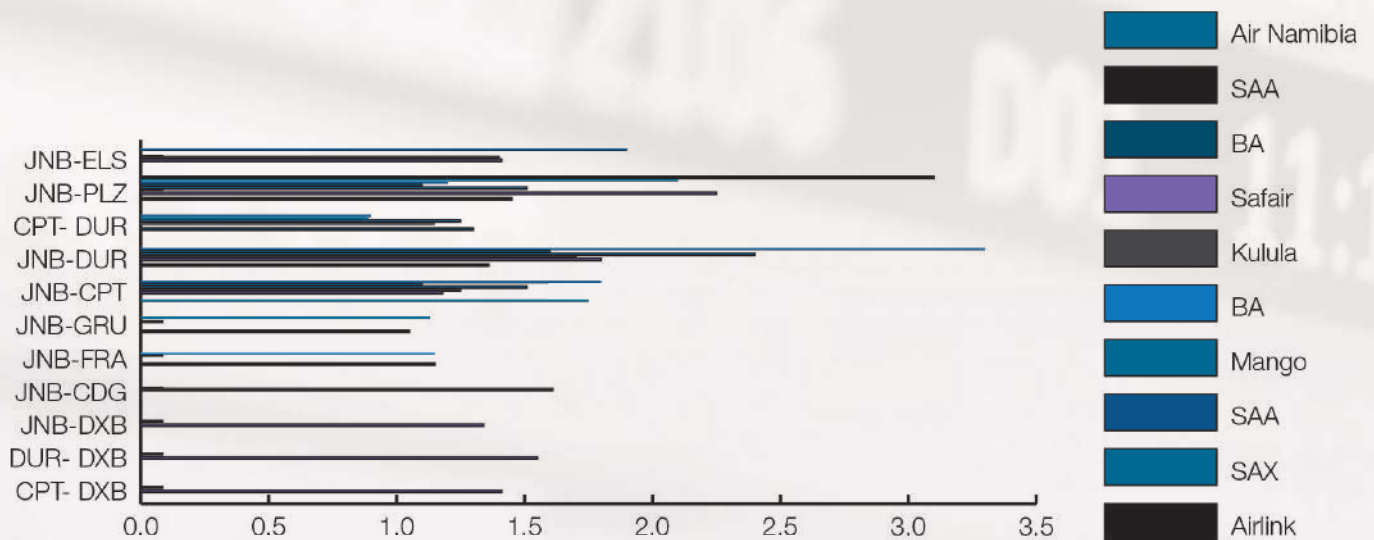
Source: Commission's own compilation.

Table 15: PPPK for Domestic Routes

Origin	Destination	Operators							Distance	
		Safair	Kulula	BA	Mango	SAA	SAX	Airlink		
JNB	CPT	R1,06	R1,23	R1,52	R1,03	R1,91	-	-	5	1271
JNB	DUR	R1,92	R1,77	R2,40	R1,61	R3,29	-	-	5	477
CPT	DUR	R0,92	R1,08	R1,24	R0,91	-	-	-	4	1278
JNB	PLZ	R1,12	-	R1,51	R1,07	R2,25	R2,11	R3,11	6	906
JNB	ELS	R1,41	R1,40	-	-	R1,94	-	-	3	766

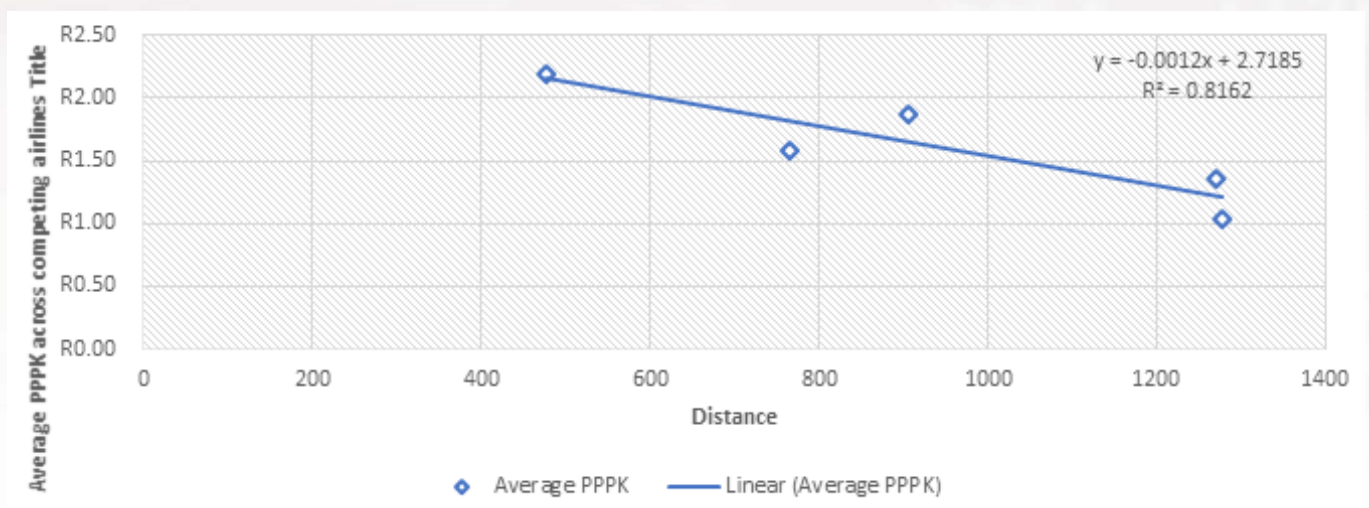
Source: Commission's compilation.

Figure 32: Domestic Average PPPK per route per Airline



Source: Commission's own compilation.

Figure 33: Domestic: Distance- Price Relationships



Source: Commission's own compilation.

operators and average prices are close to each other, depending upon business models (LCC, FSC) adopted by the operators. On average, prices PPPK are lower on JNB-CPT route than JNB-DUR route and especially, SAA and BA charge less than R2 PPPK on JNB-CPT route and charge more than R2 on JNB-DUR route. CPT-DUR route is comparable to JNB-CPT route in terms of distance, but CPT-DUR route shows lower average prices PPPK with 4 competitors compared to JNB-CPT route with 5 operators.

167. Fig 33 below shows the estimated relationship between distance and average price per passenger per KM for domestic routes. Domestic routes are represented by their distinct distance and prices are averaged across all competitors for that specific route. The relationship, again, demonstrates that prices are negatively related to distance. SAA uses Airbus industrie A 350-900 and Airbus industrie A 320-100/200 aircrafts on domestic routes as well, while Mango uses Boeing 737-800 aircraft. A negative relationship between price and distance is not solely due to distance but for competition.

168. Price comparator analysis reveals that some routes are competitive while some are not within each group of domestic, regional, and international routes. Domestic routes considered with 7 operators and with several flights per day seemed competitive, subject to the business models adopted by the operators. International routes, despite long distances, show competitive average PPPK. Both domestic and international routes reveal that they have competitive PPPK when compared to regional routes.

## **IDENTIFYING REGIONAL AND CONTINENTAL PRIORITIES IN RESPECT OF THE AIRLINE INDUSTRY TO ADDRESS EXISTING COMPETITION CONCERNS**

169. Air Transport Strategy 2019-2024 of DOT has been approved for submission to Cabinet. In its annual report 2018-19 FY, DOT states the following:<sup>69</sup>

169.1 “To date, South Africa has deregulated air services with thirty-nine (39) out of the fifty-five (55) the African States. A total of twenty-six (26) countries have declared their Solemn Commitment to the implementation of the Yamoussoukro Decision (YD) in support of the creation of the Single African Air Transport Market (SAATM). The YD and SAATM, of which South Africa is a signatory, provides for the full liberalization of market access between African states, free exercise of traffic rights, elimination of restrictions on ownership, and full liberalization of frequencies, fares, and capacities”.

170. This is significant in the sense that South Africa, being the signatory of YD and SAATM, clearly envisions for fully liberalized air transport market and has vouched for the complete elimination of restrictions on ownership and full liberalization of frequencies, fares, and capacities.

171. In its first 20-year passenger growth forecast, the International Air Transport Association (IATA) report stated that passenger numbers are expected to reach

7.3 billion by 2034 and it is projected that in the next 20 years approximately 65 billion will be using air transport. Furthermore; in its Future Growth Trend Highlights, IATA predicted that eight of the ten fastest-growing markets in percentage terms will be in Africa, with the continent expected to grow by 4.7%.<sup>70</sup> The report predicts that by 2034, Africa will see an extra 177 million passengers a year for a total market of 294 million passengers.<sup>71</sup>

172. Considering that to date the African continent is made up of 54 countries, 1 500 to 2 000 languages and approximately 1.1 billion individuals, the potential effect of such growth on the economy of the continent and both our countries is staggering.<sup>72</sup>

173. On the other side, the joint Business Rescue Practitioners (BRPs) of SAA on 6th Feb 2020 announced further initiatives to support the airlines' transformation into a sustainable and profitable business.<sup>73</sup> Following the SAA's liquidity challenges, the BRPs identified a couple of routes that SAA will close from 29th Feb 2020 and those are Abidjan via Accra, Entebbe, Guangzhou, Hong Kong, Livingston, Luanda, Munich, Ndola, and Sao Paulo. These developments are already indicating that regional integration as an idea from a South African perspective is dampening.

174. Historically, South Africa had not restricted private operators from participating in BASA with various countries in Africa. For instance, BASA between South Africa and Namibia allowed Comair (to WDH) to fly 7 flights a week along with SAA and SAX, with seat restrictions;<sup>74</sup> BASA between South Africa and Mauritius allowed Comair to fly 3 flights a week along with SAA;<sup>75</sup> BASA between South Africa and Zambia allowed Nationwide (JNB- Livingstone) to fly 11 flights a week along with SAA and SA Airlink;<sup>76</sup> and BASA between South Africa and Zimbabwe allowed Comair

70. IATA's estimation of 4.7% is faster than regional markets in North America and Europe whose growth is forecast at 3.3% and 2.7%, respectively. <https://www.competition.org.za/review/2015/5/25/muted-battle-for-the-regions-skies-competition-in-the-airline-industry> Accessed on [12/02/2020].

71. Minister of Transport during the signing of the bilateral agreement with Chad on 20 January 2017. <https://www.arrivealive.co.za/news.aspx?i=28827&s=0&page=minister-of-transport-during-the-signing-of-the-bilateral-agreement-with-chad> Accessed on [12/02/2020].

72. *Ibid.*

73. <https://www.sanews.gov.za/south-africa/saa-business-rescue-cuts-flights-limits-job-losses> (Accessed on 25/02/2020).

74. <https://www.comair.co.za/Media/Comair/files/level-playing-field/6-DOT-Airlift-Policy-JUL06-6.pdf> (Accessed on 25/02/2020).

75. *Ibid.*

76. *Ibid.*

69. Department of Transport, Vote No 35, Annual report, 2018/19 Financial Year. [https://www.transport.gov.za/documents/11623/41419/DoT\\_AnnualReport\\_30\\_09\\_2019.pdf/dfb6bce5-e5f0-4f8d-85d7-2cbcd66e6a](https://www.transport.gov.za/documents/11623/41419/DoT_AnnualReport_30_09_2019.pdf/dfb6bce5-e5f0-4f8d-85d7-2cbcd66e6a) (Accessed on 25/02/2020).

to fly 14 flights a week (7 each on JNB-HRE and JNB-Vic Falls routes) along with SAA and SA Airlink.<sup>77</sup>

175. This indicates that historically, certain BASAs, although small in number, had permitted commercial operators to operate. However, South Africa has BASA with 14 SADC countries; 17 West African countries; 5 Central African countries; 7 East African countries, and 8 North African countries. Often these BASAs have unutilized licenses and hence many are not operational.

176. Given the current climate (and clout) regarding SAA's business rescue, and the uncertainty around SAA's future, it is imperative that there is a risk (potential) of reduction in regional integration without SAA and/or with its withdrawal from several routes. As indicated in its annual report 2018-19, DOT has vouched for the elimination of restrictions on ownership and full liberalization of frequencies, fares, and capacities. This should mean, depending upon market forces, any player in the market for air transport should be able to provide air passenger transport services on any viable route and this may even be imperative as we see more and more of SAA's operations are ceased/withdrawn.

177. Based on the above, we envisage the following priorities for South Africa:

177.1 Encourage the full implementation of SAATM as per YD. Implementation of fully liberalized air transport market with complete elimination of restrictions on ownership and full liberalization of frequencies, fares, and capacities.

177.2 Collaboration with Aviation Authorities to assess price competition concerns. In some routes, there is no price competition, which is a factor that determines the demand for passenger air transport.

177.3 Tourism and Ease of entry to continental passengers. On regional routes, the load factor seems to be playing a significant role in pricing than competition alone. Most operators operate connecting flights and without these stopovers, it may not be commercially viable

for operators to operate on these routes. The same is true for direct flights where available. Hence, it is reasonable to believe that the most important reason for higher regional prices and less connectivity within the regions/continent is the LOAD factor. Unless Africa invests in attracting tourism and encourage air travel for passengers to move across the continent with fewer immigration/visa restrictions, the load factor cannot be improved. Without a commercially viable load factor, connectivity is going to be low and prices high.

177.4 Improvement of airport infrastructure. This is essential in increasing the airport capacity, as it is a determinant of landing and take of slots. As per forecast numbers of IATA, the air transport market in South Africa will grow by 102% in the next 20 years and this would result in 21.4 million passenger journeys by 2037. In addition, there is a need to review the current rules on slot allocation to allow for the trading of slots and ensuring that the allocated slots are utilized. This is much needed in South Africa, as its top 3 airports are already capacity constrained in terms of slots and flight schedules. This will exert pressure on the players to increase flight frequency or trade them with other players, thus increasing competition to various destinations. Airport congestion impacts flight schedules and operational activities. Not only can this lead to delays, but there is also a socio-economic cost, through a lowering of the number of offered destinations and flight frequencies. In some cases, congestion may lead to higher costs of flying due to the negative impact that capacity constraints have on competition between carriers. The decrease in air connectivity also affects the levels of trade, tourism, and investment, with potentially adverse effects on economic growth.

77. Ibid.

## CONCLUSION

178. According to the United Nations Economic Commission for Africa (“UNECA”), open skies agreements have been beneficial in other parts of the world. UNECA found that in Europe, open skies agreements increased competition within the region. In Europe, open skies agreements led to an increased number of routes as well as a 34% decline in ticket fares.<sup>78</sup> UNECA further states that where African nations have liberalized their air markets, either within Africa or with the rest of the world, positive benefits have resulted.<sup>79</sup> Examples listed by UNECA include the agreement of a more liberal air market between South Africa and Kenya in the early 2000s that led to a 69% rise in passenger traffic;<sup>80</sup> the 2006 Morocco-EU open skies agreement which led to a 160% rise in traffic<sup>81</sup> and; the allowing of a low-cost carrier to operate between South Africa and Zambia (Johannesburg-Lusaka) resulted in a 38% reduction in fares and 38% increase in passenger traffic.<sup>82</sup> Fastjet’s entry into the Southern African market has contributed to a 20% increase in the size of the market, and an even higher increase in the number of first-time flyers in the Tanzanian domestic market.<sup>83</sup> It is evident that an open skies policy and increased competition would drive the cost of tickets down and increase the number of passengers.

179. Costs have also been high relative to those in other regions. Airlines in Africa appear to pay particularly higher relative ticket and fuel taxes which significantly increases their expenses. The airlines are charged much higher taxes than established airlines in Europe. Globally, fuel accounts for about 36% of an airline’s operational costs however in Africa the range goes up to between 45% and 55%. Passenger taxes in Africa can average up to \$66 while the average tax in other major cities is \$10. Furthermore, it costs African airlines more to lease planes than airlines in other continents. For instance, while it might cost a

European airline \$180 000 per month to lease a 5-year old Boeing 737, it costs a Nigerian airline \$400 000 for the same plane. This is linked to the continent’s poor safety record and delays concerning dealing with bankruptcies of national carriers.<sup>84</sup>

180. Mozambique is a clear example of a conflict between the interests of tourists and those of the national airline. The Mozambican government has recognized the importance of tourism to its national economy, however, it continues to protect the national airline, LAM, by restricting competition on international routes. The negative effect of these restrictions is apparent in excessive fares: return flights to Maputo from Johannesburg are 163% more expensive than return flights to Durban from Johannesburg, despite a similar distance between the country-pairs.<sup>85</sup>

181. Price comparator analysis reveals that some routes are competitive while some are not within each group of domestic, regional, and international routes. Domestic routes considered with 7 operators and with several flights per day seemed too competitive, subject to the business models adopted by the operators. International routes, despite long distances, show competitive PPPK. In fact, both domestic and international routes reveal that they have competitive PPPK when compared to regional routes. For some regional routes such as JNB-GBE, the PPPK are exorbitantly high. This vindicates the need for regional integration with open skies that have no restrictions on ownership and full liberalization of frequencies, fares, and capacities.

182. Market shares for domestic routes and PPPK reasonably indicate a competitive landscape for the market for air passenger transport services. Although there are many cases that the Competition Agency has investigated and prosecuted previously, it is imperative to maintain the current competitive landscape to the benefit of all and continuously watch for firm-specific strategic behavior that may violate competition laws. Furthermore, in South Africa as in several other countries, the national carrier is backed by state funding which grants the airline certain advantages

78. <https://www.uneca.org/es-blog/giving-wings-africa%E2%80%99s-regional-integration>. Accessed [29/01/2020].

79. *Ibid.*

80. *Ibid.*

81. *Transforming Intra-African Air Connectivity: The Economic Benefits of Implementing the Yamoussoukro Decision*, 2014. Available at: <https://www.iata.org/en/iata-repository/publications/economic-reports/transforming-intra-african-connectivity-the-economic-benefits-of-implementing-the-yamoussoukro-decision-report2/>. Accessed [29/01/2020].

82. *Ibid.*

83. *Muted Battle for the Region’s Skies: Competition in the Airline Industry*. <https://www.competition.org.za/review/2015/5/25/muted-battle-for-the-regions-skies-competition-in-the-airline-industry>. Accessed on [12/02/2020].

84. *Ibid.*

85. Mhlanga, Steyn & Spencer (2018), “Liberalisation initiatives of the airline industry in southern Africa: Progress achieved and hindrances to implementation”, *African Journal of Hospitality, Tourism and Leisure*, Volume 7 (1).

over the other airlines including financial support and bailouts.

183. Load factor plays a significant role in pricing, and a lot more than the competition dynamics. Most operators operate connecting flights and without these stopovers, it may not be commercially viable for operators to operate on these routes. Africa needs to invest in attracting tourism and reduce visa restrictions to encourage air travel by passengers to move across the continent. This may boost the commercially viable load factor.

## RECOMMENDATIONS

184. Regionally, low levels of rivalry were linked to the existence of bilateral service agreements and high costs. Bilateral service agreements in air transport are effective contracts between governments that restrict travel. Despite the calls for liberalization contained in the Yamoussoukro Declaration (YD) of 1988 and the Yamoussoukro Decision of 1999, as well as the demonstrable benefits of liberalizing air travel markets, a majority of countries still maintain bilateral agreements aimed at protecting their national carriers.

185. Liberalizing air travel markets in Africa has become a popular position of policymakers and incumbent operators and removing agreements of this nature is an important step towards this. However, this needs to be coupled with efforts to reduce the regulatory barriers in the form of bureaucratic processes involved in entering airline markets. Fastjet struggled to enter the South African market due to 'red tape' that caused several delays in the launch of the airline. The airline is yet to enter the Kenyan market, Tanzania's neighboring country for the same reason. The countries that Fastjet found relatively easier to enter were Tanzania and Zambia that, interestingly, do not have a national carrier of their own.<sup>86</sup>

186. Based on the above, we envisage the following recommendations for South Africa:

186.1 Encourage the full implementation of SAATM as per YD. Implementation of fully liberalized air

transport market with complete elimination of restrictions on ownership and full liberalization of frequencies, fares, and capacities.

186.2 Commercial viability – Capacity, frequency, and equipment. Sound economic operation is one of the tenets of any open skies treaty. The commercial aviation industry needs to provide fair returns to its investors. Hence, nations in their capacity as providers of license, approvals, must bear in mind the larger picture of the competitive air transport market including taxes and fees that are exorbitantly high compared to others.

186.3 Level playing field. Competition policy aims to provide and maintain a level playing field where economic actors, in this case, the nations, can freely and fairly compete and that will ensure different nations do not engage in practices that would put any other nation at a disadvantage. These principles must apply to commercial operators as well when it comes to competition between national carriers and commercial operators. States must also ensure that there are no distortions to competition (red tape, state aid).

186.4 Dispute resolution. There is a need to put in place a working governing body that is empowered to resolve disputes among member states.

186.5 Collaboration with Aviation Authorities to assess price competition concerns. In some routes, there is no price competition, which is a factor that determines the demand for passenger air transport.

186.6 Improvement of airport infrastructure. This is essential in increasing the airport capacity, as it is a determinant of landing and take of slots.

186.7 Consumer rights. It is essential to put in place clear regulation that ensures no infringement harms the interest of consumers in any of the member states and gives competent authorities the right to conduct a simultaneous investigation and enforce measures.

<sup>86</sup>. *Ibid.*

186.8 Encourage Tourism and Ease of entry to continental passengers. Load factor plays a significant role in pricing, and a lot more than the competition dynamics. Most operators operate connecting flights and without these stopovers, it may not be commercially viable for operators to operate on these routes. Africa needs to invest in attracting tourism and reduce visa restrictions to encourage air travel by passengers to move across the continent. This may boost the commercially viable load factor. Without a commercially viable load factor, connectivity is going to be low and prices high.

# CHAPTER 1: SOUTH AFRICA

(COVID-19 ADDENDUM CHAPTER)



## OVERALL IMPACT OF COVID-19 ON THE AIRLINES' INDUSTRY

1. In response to increasing cases of Covid-19 cases in South Africa, The South African Government announced one of the world's strictest lockdowns on the 27 of March 2020. Strict lockdown regulations imposed a shutdown of all airports in the country, effectively restricting all local, regional, and international flights. The table below describes airline industry-related events that occurred post the announcement of strict lockdown in South Africa.
2. Grounding of Airlines comes with the inevitable tragedy of reducing business activities for airline companies which directly translated to reduced profits. IATA estimates that revenues generated by airlines in the South African market will fall by \$3 billion (about ZAR55 billion) in 2020, 56% below 2019 levels. That puts at risk more than 250,000 South African jobs and \$5.1billion (about ZAR 93bn) of South Africa's GDP, which is generated by aviation directly and by air transport-dependent tourism.<sup>1</sup>

1. IATA 02 June 2020. South African aviation needs financial relief. Available at: <https://airlines.iata.org/news/south-african-aviation-needs-financial-relief>. Accessed on [15/09/2020].

## AGENCY PREPAREDNESS

3. The Competition Commission is cognizant of the significant impact that the pandemic has caused on Air Transport Industry in South Africa and elsewhere. Some of the recent developments have indicated that the industry structure locally has changed substantially in terms of the number of players operating on various routes, the viability of routes, load factors, financial distress and viability as faced by operators, business rescue processes that some of the operators are going through and government's recovery plans to rebuild the industry.
4. The widespread financial distress the pandemic has precipitated means that markets may look very different from how they have looked in the past, in particular those that are likely to be subject to long-term effects. The Commission has considered the airline industry as the one which would have long-term effects. Therefore, backward-looking assessments of competition may no longer be as informative about future competitive dynamics (e.g. past concentration levels). For instance, mergers in airline industries would warrant close scrutiny. This is especially where acquirers have already benefitted from the exit of firms in the same relevant market (e.g. because they were close competitors to the exiting firm(s) or because they purchased its strategic assets post-liquidation).

**Table 1: Timelines of Airline related events in South Africa**

Date	Description of events
27-Mar-20	The country was put under one of the world's strictest lockdowns, effectively banning all commercial passengers' flights.
01-Jun-20	South Africans were only allowed to fly for business purposes under "level 3" of the country's coronavirus lockdown. Leisure travel by air was still banned. Local airlines were permitted to offer flights for business travelers on the main trunk routes linking JNB (OR and Lanseria) CPT and DUR.
05-Jun-20	CemAir restarts flights
08-Jun-20	Airlink resumed on June 8 from OR Tambo, Cape Town, and King Shaka international airports
15-Jun-20	Mango and FlySafair resumed Flights.
01-Jul-20	The government announced that from July 1, Bram Fischer Airport in Bloemfontein, Kruger Mpumalanga International Airport, Pietermaritzburg Airport, Port Elizabeth Airport, Skukuza Airport, Richards Bay Airport, and Upington Airport in Northern Cape to reopen for passenger flights.
18-Aug-20	South Africa entered lockdown level 2, which allowed travelers to travel domestically for leisure purposes, this included flying between provinces.
01-Oct-20	International flights from approved countries are allowed but listed 50 no-fly countries, including the US, UK, France, Brazil, and India. Emirates flight EK772 from Dubai arrived just after 1 pm on 01 October, followed by Ethiopian Airlines ET 847 at 1.30 pm, with more carriers, including Qatar, signaling a commitment to continue to fly to Cape Town.
11-Nov-2020	The red list of countries came to an end. Travelers from all over the world were welcome in South Africa, provided they have a negative COVID test.

Source: Commission's own compilation

5. Covid-19 came at the time when state-owned SAA are SAX was going through a financial rough patch. State-owned regional airline SAX is already in provisional liquidation and its provisional liquidator has indicated that it does not foresee it resuming flights in its current situation. State-owned airline SAA is also in business rescue. On 28 October 2020, the South African government announced the release of 10.5 billion rands (\$638 million) needed to fund a rescue plan for struggling state-owned airlines.
6. Similarly, JSE-listed Comair, which operates Kulula.com and British Airways locally, is in business rescue and has said it does not foresee operating flights before October or November. The Comair board placed the company under business rescue on 5 May 2020 because it did not have enough working capital to pay expenses and debt obligations. The consortium's offer is approved by creditors of Comair, the company will delist from JSE and have new management and board. Comair is expected to resume flights by 1 December 2020 after it was grounded by the lockdown regulations.<sup>2</sup>
7. In November 2020, the South African airline industry seen an entry of a new LLC Airline, LIFT. The airline will operate three Airbus A320 aircraft and is a collaboration between Kulula founder Gidon Novick, and ex-Uber executive Jonathan Ayache. Bookings opened for flights to Cape Town (CPT) and George (GRJ), on 09 November 2020 and it is scheduled to take off to the skies on 10 December 2020. The airline plans to operate 1X-daily between JNB and GRJ, and with a dynamic flight schedule of up to 6X-daily between JNB and CPT. This entry may be seen as a response to the ongoing difficulties faced by South African Airways, South African Express, and Comair, which presented LIFT with the opportunity to enter and seize some market share in the two routes.<sup>3</sup>
8. In terms of service differentiation and offering, the airline plans to offer flexibility to customers, as well as competitive pricing. In Addition, LIFT will offer fully flexible tickets wherein customers will be able to change their flight as many times as they want to without fees. The airline, however, does not plan to undercut competitors or start a race to the bottom, it is premised on adding value, not cutting prices.<sup>4</sup> Travelers will also be treated to “proper coffee” from Vida e Caffè on morning flights. Afternoon flights will feature wine tasting featuring a selection of South Africa’s top wine estates.<sup>5</sup>
9. A new entity called “Fly SAX”, founded in August 2020 by a group of SA Express workers recently emerged as successful in the SA Express sale process. In its bid, Fly SAX teamed up with Uprise. Africa, which calls itself a “crowdfunding, private-equity platform”. Fly SAX and Uprise. Africa plans to raise an undisclosed amount of money for SA Express through Uprise. Africa’s crowdfunding platform – funds that will be used to pay SA Express creditors, buy aviation assets, and restart the airline.
10. Fly SAX however wants to only purchase SA Express’s flight routes, landing rights, and aviation-related licenses. Most of SA Express’s value lies in its aviation licenses because, without them, the troubled airline will not be able to restart its operations. Fly SAX’s buyout offer excludes SA Express assets including its aircraft fleet, engine parts, and spares for the aircraft. These assets will be sold through a public auction on 18 November by GoIndustry DoveBid Africa, an operator of online auctions that was hired by the team of SAX provisional liquidators.<sup>6</sup>
11. Besides the three mentioned airlines who are having operational difficulties, their competitors were ready to resume operations when the South African government announced that they are allowed to take off to the skies.

2. Daily Maverick, 26 August 2020. Consortiums table multimillion-rand offers to buy Comair. Available at <https://www.dailymaverick.co.za/article/2020-08-27-consortium-tables-r500m-offer-to-buy-comair/>. Accessed on [05/10/2020]

3. Lift to launch with two routes from Johannesburg. Available at: <https://www.routesonline.com/news/29/breaking-news/294709/lift-to-launch-with-two-routes-from-johannesburg/>. Accessed on [13/11/2020].

4. South Africa's new airline is ready to fly – will start taking bookings this week. Available at: <https://businesstech.co.za/news/business/446726/south-africas-new-airline-is-ready-to-fly-will-start-taking-bookings-this-week/>. Accessed on [13/11/2020]

5. See: <https://lift.co.za/about/About-Us>. Accessed on [13/11/2020]

6. Successful SA Express Bidder cherry-picks airline's aviation assets. Available at: [https://www.dailymaverick.co.za/article/2020-10-22-successful-sa-express-bidder-cherry-picks-airlines-aviation-assets/?t\\_inbound=1&tl\\_groups%5b0%5d=80895&tl\\_period\\_type=3&utm\\_medium=email&utm\\_campaign=Business%20Maverick%20Friday%202023%20October%202020%20-%20Prescient&utm\\_content=Business%20Maverick%20Friday%2023%20October%202020%20-%20Prescient+CID\\_a3d58cd6cc6c7d5a99920ee40acfc2d7&utm\\_source=TouchBasePro&utm\\_term=Successful%20SA%20Express%20bidder%20cherry-picks%20airlines%20aviation%20assets](https://www.dailymaverick.co.za/article/2020-10-22-successful-sa-express-bidder-cherry-picks-airlines-aviation-assets/?t_inbound=1&tl_groups%5b0%5d=80895&tl_period_type=3&utm_medium=email&utm_campaign=Business%20Maverick%20Friday%202023%20October%202020%20-%20Prescient&utm_content=Business%20Maverick%20Friday%2023%20October%202020%20-%20Prescient+CID_a3d58cd6cc6c7d5a99920ee40acfc2d7&utm_source=TouchBasePro&utm_term=Successful%20SA%20Express%20bidder%20cherry-picks%20airlines%20aviation%20assets). Accessed on [23/10/2020]

12. South African Airlines have however taken a varied approach to the restart, depending on their capacity and resources. Privately owned regional airline Airlink has launched a limited scheduled domestic air service from 8 June 2020, with flights on the JNB-CPT and JNB-DUR trunk routes. CemAir was the first airline to fly out of OR Tambo, with a flight to Cape Town on 5 June 2020. Traditionally, Airlink and CemAir would not fly trunk routes because of the size of the Aircraft The number of other entrenched airlines which operated larger aircraft. It was operationally impossible for small aircraft operators to compete with companies that operate larger aircrafts in trunk routes. In Addition, CemAir launched a series of regional flights to various destinations. These destinations include Lubumbashi (DRC), Dar Es Salaam (Tanzania), Lagos (Nigeria), and Luanda (Angola). The resumption of Airlines operation during the pandemic in South Africa saw the small players taking advantage of its competitors who remained grounded because of business rescue processes and possibly low load factors that may not suit larger aircraft operators.
13. Low-cost airline FlySafair has announced that it would offer between 20 and 26 flights per day from mid-June. This business strategy will be interesting to watch unfold. FlySafair seemingly used its advantage of owning a large fleet of aircraft and secured as many routes as possible when their competitors remained grounded. It remains to be seen whether FlySafair will be able to use Covid-19 disruption to its advantage by being a first-mover among the biggest airline operators in the country. FlySafair could be in an advantageous position to win customer trust and a position of market share where there were previously small before Covid-19. This could change the market dynamics altogether, even when SAA and Comair may restart flying.
14. On 14 and 20 October 2020, Airlink signed interline agreements with Qatar Airways<sup>7</sup> and UAE flag carrier Emirates. These agreements will provide travelers seamless connectivity via Johannesburg and Cape Town to connect onwards to 20 destinations, such as Bloemfontein, George, Upington, Nelspruit, Hoedspruit, and Port Elizabeth in South Africa. This partnership will also open up 25 more across the Southern African region as a whole, such as Gaborone, Kasane, Vilanculos, Maun, Victoria Falls, Maputo, Windhoek, Harare, Lusaka, Ndola, Bulawayo, and Livingstone, through Airlink's international network.<sup>8</sup> The Announcement of these new agreements followed a decision by Airlink to terminate its franchise agreement with SAA after the national airline went into business rescue. In this regard, this may be viewed as a switch for Airlink from its former partner SAA to Qatar Airways and Emirates airways.
15. In Addition, Emirates airlines further announced an interline agreement with FlySafair to strengthen travel options in South Africa. According to Emirates, this agreement will open connections for customers to selected routes on FlySafair's network in South Africa. These routes include the three gateways – Johannesburg, Cape Town, and Durban to domestic points such as Port Elizabeth, East London, and George.<sup>9</sup>
16. In June 2020, domestic airlines took to the sky for the first time since the announcement of strict nationwide lockdown. The table below shows the number of passenger and aircraft movements for the 3 largest airports in South Africa. In June, OR Tambo recorded a total of 30210 passengers that arrived and departed from the Airport. This figure increased to 147165 in August, this is equivalent to a 387.14% change. Aircraft movements increased by 172.76%.
17. The number of passengers for Cape town international airport increased by 270.08% between June and August, while King Shaka recorded a 255.91% increase during the same period. The number of aircraft movements increased by 138.15% in Cape Town international airports and King Shaka international airport registered an aircraft movement increase of 103.9% between June and August.

7. Qatar Airways signs interline agreement with Airlink. Available at: <https://www.flyairlink.com/news/154>. Accessed on [13/11/2020].

8. Emirates expands reach in Southern Africa via interline agreement with Airlink. Available at: <https://www.emirates.com/media-centre/emirates-expands-reach-in-southern-africa-via-interline-agreement-with-airlink/>. Accessed on [13/11/2020].

9. Emirates partners with FlySafair to strengthen travel options in South Africa. Available at: <https://www.emirates.com/media-centre/emirates-partners-with-flysafair-to-strengthen-travel-options-in-south-africa/>. Accessed on [16/11/2020].

**Table 2: Passenger and Aircraft Movements**

Passenger Movements			
OR Tambo	Jun	Jul	Aug
Arrival	15083	41244	73420
Departure	15127	41633	73745
Total	30210	82877	147165
Cape Town	Jun	Jul	Aug
Arrival	14176	33044	53218
Departure	14298	32671	52159
Total	28474	65715	105377
King Shaka	Jun	Jul	Aug
Arrival	9627	23102	34613
Departure	10161	23623	35814
Total	19788	46725	70427
Aircraft Movements			
OR Tambo	Jun	Jul	Aug
Arrival	274	564	747
Departure	273	562	745
Total	547	1126	1492
Cape Town	Jun	Jul	Aug
Arrival	172	315	412
Departure	174	317	412
Total	346	632	824
King Shaka	Jun	Jul	Aug
Arrival	116	198	235
Departure	115	198	236
Total	231	396	471

Source: ACSA

18. These figures indicate that domestic airlines start low in June, however, air traffic increased significantly in a space of two months. Most importantly, an increase in air traffic and aircraft movements in the country happened while two big airline companies, SAA and Comair remained grounded. In hindsight, this indicated that Airlink, Mango, FlySafair, and Comair utilized and stretched their fleet to take advantage of the void left by SAA and Comair.
19. Tables 3, 4, and 5 below summarise the frequency of domestic flight operators that took to the skies when the Government gave domestic airlines to fly again. These numbers were recorded for Domestic trunk routes, Domestic larger routes, and domestic thinner routes.<sup>10</sup>

<sup>10</sup> Flight frequency in all specified routes were captured in August 2020.

**Table 3: Domestic Trunk Routes**

Route	FlySafair	FlyMango	Airlink
JNB-CPT-JNB	M-F, Sun: 3/day Sat: 2/day	Sat, Sun, T, W: 1/day M, Th, F: 2/day	M: 3/day T-F: CPT-JNB 2/day T-F: JNB-CPT 3/day Sat: 1/day Sun: CPT-JNB 1/day Sun: JNB-CPT 2/day
LNS-CPT-LNS	M-Sun: 1/day		
JNB-DBN-JNB	Sun, M, Th: 2/day Sat: 1/day T, W, F: 3/day	Sat, Sun, T, W: 1/day M, Th, F: 2/day	
LNS-DBN-LNS	M, Th, F, Sun: 1/day		
CPT-DBN-CPT	M-Sun: 1/day	M-F, Sun: 1/day	

Source: Commission's own compilation

20. In domestic trunk routes, just three airlines were operating on these routes in August 2020. Whereas previously FlySafair, Mango, and Kulula operated Lanseria-Cape Town flights and Mango and Kulula operated the Lanseria-Durban route, and there was just one operator on those routes in August– FlySafair. Previously there were 5 operators on the OR Tambo-Durban route and 4 operators on the CPT-Durban route. Presently just Mango and FlySafair operated these routes.
21. There were three operators on the JNB-CPT route post strict lockdown, which previously accommodated five operators. With the suspension of British Airways, Kulula, and SAA on this route, Airlink started offering services. Although the flight frequency of Airlink is on par with FlySafair, its carriers are significantly smaller. Flight frequency overall reduced drastically. There were 47 flights per day on the JNB-CPT route pre-Covid, there were between 4-8 flights altogether per day during August.

**Table 4: Domestic Larger Routes**

Route	FlySafair	Airlink	CemAir
JNB-EL-JNB	M-Sat: 1/day	Sun, T, F: JNB-ELS 1/day M, W, Th: JN- ELS 2/day M-Th ELS-JNB 2/day F, Sun: ELS-JNB 1/day (24 Aug)	
JNB-PE-JNB	M-Sun: 1/day		
CPT-EL-CPT	M, F: 1/day		
CPT-PE-CPT	M, Th, F, Sun: 1/day	M, W, F: 1/day	
DBN-PE-DBN	Th, Sun: 1/day		
JNB-GRJ-JNB	M, F, Sun: 1/day		M, Th, F, Sun: 1/day

Source: Commission's own compilation

22. In larger domestic routes, flight frequency also declined drastically as well. In August, there were just one or two operators on the routes involving ELS and PE which previously accommodated four to five operators. Three of these routes have just FlySafair operating and two involve two – Airlink and FlySafair by end of August. There were previously four operators on the Durban EL route but there were none in August 2020. Flight frequency overall has also declined dramatically. Whereas there were about 14 flights per day on the JNB -PE route, this changed to just one per day. Previously Mango, Kulula, and FlySafair operated the JHB-George route – three low-cost airlines, only FlySafair continued to operate on that route of the three. CemAir entered the route to fill the void.
23. Although thinner routes usually only accommodate fewer airlines, there was a significant reduction in the number of airlines on these routes: Previously, 3 airlines operated on the first four routes (JNB-KIM, JNB-MQP, JNB-BFN, CPT-BFN) in the table below. The CPT-BFN and JNB-KMB routes had two operators and the remaining have just one – Airlink.

**Table 5: Domestic Thinner Routes**

Route	Airlink	CemAir
JNB-KIM-JNB	M, W, F: 2/day (17 Aug)	T, Th: 2/day (18 Aug)
JNB-MQP-JNB	M-F: 2/day	
JNB-BFN-CPT	M-F: 2/day	
CPT-BFN-CPT	M-F: 1/day	M, W: 2/day F: 1/day
CPT-GRJ-CPT	M, W, F: 1/day	
CPT-KIM-CPT	T, Th: 1/day (18 Aug)	

Source: Commission's own compilation

24. The table below shows air traffic month-on-month changes for domestic trunk routes, for a corresponding period of January to August 2019 and January to August 2020. These figures were obtained From ATNS and they represent the number of times specific airlines flew specific routes.
25. Air traffic percentage change for trunk routes was largely positive between January and February 2020. This would mean, airlines made more trips in January and February 2020 compared to January and February 2019. As expected, air traffic dropped significantly in March 2020 when the lockdown was announced. Air traffic percentage changes remained negative until August 2020. This means that while domestic traveling was allowed in June 2020, Air traffic has however not risen to the level it was in 2019 during the same period.
26. FlySafair had the least percentage change between June and August, albeit the percentage change remained negative. FlySafair recorded -87% in June 2020, this reduced to 58% in August 2020 for JNB-DUR route. Mango recorded -92% and -83% for the same period. Comair group and SAA have not serviced this route since the announcement of lockdown. These numbers indicate that FlySafair is gaining traction in this route compared to its competitors. For JNB-CPT, FlySafair recorded -90% in June and -68% in August. FlySafair also recorded -74% in June and -53% in August 2020 for CPT-DUR route.
27. Air traffic movements were also significantly reduced in domestic thin routes. This is shown in the table below. The table below indicates the availability of FlySafair in most domestic thin routes. Interestingly, Airlink recorded a positive percentage change for JNB-PLZ

Table 6: Month on Month Percentage change for Domestic trunk routes

Domestic trunk routes	Airline	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
JNB -CPT	SAA	0%	-2%	-71%	-94%	-99%	-99%	-100%	-100%
	BA								
	FlySafair	23%	13%	-22%	-100%	-100%	-90%	-75%	-68%
	Mango	-9%	-12%	-32%	-100%	-100%	-90%	-76%	-78%
	Kulula	7%	0%	-24%	-100%	-100%	-100%	-100%	-100%
JNB-DUR	SAA	-18%	-9%	-100%	-100%	-100%	-100%	-100%	-100%
	BA								
	FlySafair	51%	47%	-24%	-100%	-100%	-87%	-62%	-58%
	Mango	-7%	-4%	-28%	-100%	-100%	-92%	-80%	-83%
	Kulula	4%	0%	-15%	-100%	-100%	-100%	-100%	-100%
CPT-DUR	SAA								
	BA								
	FlySafair	10%	7%	-29%	-100%	-100%	-74%	-62%	-53%
	Mango	10%	1%	-25%	-100%	-100%	-90%	-83%	-85%
	Kulula	17%	22%	-13%	-100%	-100%	-100%	-100%	-100%

Source: ATNS

Table 7: Month on Month Percentage change for Domestic thin routes

Domestic thin routes	Airline	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
JNB-BFN	SA Express	-31%	-21%	-73%	-100%	-100%	-100%	-100%	-100%
	Airlink	16%	23%	-4%	-100%	-100%	-100%	-71%	-70%
	FlySafair								
JNB-PLZ	SA Express	-72%	-71%	-96%	-100%	-100%	-100%		
	Airlink	4%	-4%	-32%	-100%	-100%	-100%	23%	100%
	FlySafair	25%	5%	-12%	-100%	-100%	-100%	-65%	-37%
JNB-PTG	SA Express								
	Airlink	-100%	-100%	-100%	-100%	-100%	-100%	-100%	-100%
	FlySafair								
JNB-ELS	SA Express								
	Airlink								
	FlySafair	62%	43%	-24%	-100%	-100%	-100%	-92%	-63%
JNB-GRJ	SA Express								
	Airlink	0%	-100%				-100%	-100%	-100%
	FlySafair	81%	69%	8%	-100%	-100%	-100%	-92%	-41%

Source: ATNS

Table 8: Number of flights per day, 2019 >> 2020 Comparison

Origin	Destination	2019 >> 2020				Total 2019	Total 2020
		FlySafair	Mango	Airlink	CemAir		
JNB	CPT	8 >> 12	7 >> 4	0 >> 8	0 >> 1	47	25
JNB	DUR	7 >> 9	9 >> 4	0 >> 3	0 >> 1	34	17
CPT	DUR	3 >> 2	5 >> 2	0 >> 0	0 >> 0	14	4
JNB	PLZ	2 >> 3	2 >> 1	1 >> 3	0 >> 0	14	7
JNB	ELS	3 >> 3	0 >> 0	0 >> 3	0 >> 0	8	6

Source: Commission's Own Compilation

route. This would mean that it has flown more times in July and August 2020 compared to July and August 2019.

28. Slow domestic travel demand resulted in airlines cutting back on flight frequency. This was even though the largest airlines in South Africa remained grounded during this period. The table below shows changes in flight frequency between 2019 and 2020.

29. As indicated above, airlines that operate small aircraft started flying routes that would not fly under normal economic circumstances. Airlink entered the JNB-CPT route and the airline was providing 8 flights per day as of 06 November 2020. CemAir also entered JNB-CPT and JNB-DUR routes and there were providing 1 flight per day. FlySafair increased its flight frequency from 8 to 12 in the JNB-CPT and 2 to 3 in JNB-PLZ route. Mango decreased its flight frequency for all routes. In

2019, the total daily flights in the JNB-CPT routes was 47, this figure drastically dropped to 25 in November 2020.

30. The table below shows a price comparison between 08 November 2019 and 13 November 2020. November 2020 prices were captured on 06 November 2020 and 2019 prices were captured for the initial ACF Airlines industry chapter.

31. As indicated in the table above, prices for November 2020 were significantly higher than they were in 2019. For the JNB-CPT route, the percentage price change for FlySafair tickets was 69% higher than the previous year around the same period. Mango was 48% higher in the same route. For the JNB-DUR routes, mango was 69% higher while FlySafair was 30% higher compared to the previous year around the same time.

**Table 9: Price change between November 2019 and November 2020**

Route	Airline	November 2019	November 2020	% Change
JNB-CPT	FlySafair	R882,33	R1 493,25	69%
	Mango	R1 020,67	R1 514,98	48%
JNB-DUR	FlySafair	R1 155,00	R1 499,22	30%
	Mango	R739,89	R1 250,60	69%
CPT-DUR	FlySafair	R699,00	R2 447,00	250%
	Mango	R1 062,34	R2 043,98	92%
JNB-PLZ	FlySafair	R849,00	R1 088,67	28%
	Mango	R859,00	R1 008,98	17%
JNB-ELS	FlySafair	R449,00	R688,33	53%

Source: Commission's Own Compilation.

**Table 10: PPPK: 2019 >> 2020 comparison**

Route	Safair	Mango	Airlink	CemAir	Operators	Distance
JNB- CPT	R1,05 >> R1,34	R1,02 >> R1,34	0 >> R1,54	0 >> R1,88	5 >> 4	1280
JNB-DUR	R1,83 >> R2,38	R1,53 >> R2,25	0 >> R3,00	0 >> R3,49	5 >> 4	500
CPT-DUR	R0,92 >>R1,61	R0,91 >> R1,47	0 >> R1,89	-	4 >> 2	1277
JNB-PLZ	R1,13 >> R1,46	R1,08 >> R1,29	R3,13 >> R1,45	-	6 >> 3	900
JNB-ELS	R1,42 >> R1,54	-	0 >> R1,45	-	3 >> 2	760

Source: Commission's Own Compilation

32. Slow demand and contracted flight frequency resulted in changes in 2019 and 200 PPPK (price per person per kilometer) ratios as indicated in the table below. These ratios show entry of Airlink and CemAir on routes that they did not fly pre-Covid-19. PPPK ratios also confirm that 2020 prices are slightly higher compared to 2019. Most routes' prices are higher in 2020, except for Airlink in the JNB-PLZ routes. The PPPK ratio for this route decreased from R3.13 in 2019 to R1.45 in 2020.

## REGIONAL INTEGRATION

33. The South African Tourism Sector Recovery plan notes that with many airlines unlikely to survive the crisis and much more certain to scale back operations, schedules will be reset, and new incentives and agreements will have to be concluded. This is more likely given the fact that most airlines around the world are now reviewing their networks, frequency of services, and specific aircraft types that are being operated. In addition, airline companies are identifying routes that will provide the greatest opportunity for continued and successful operation in the recovery phase from COVID-19 and equally, markets and routes that are at the greatest risk.<sup>11</sup>

34. In this regard, the CAPA center for aviation noted that Africa continues to lag behind the rest of world aviation. It has the fewest annual seats, the smallest fleet of narrowbody and widebody jets, the lowest number of aircraft on order, and the weakest passenger load factor of all world regions. It also has the second smallest ratio of intra-regional to intercontinental seats (after the Middle East, where transfer traffic boosts intercontinental capacity).<sup>12</sup> This shows that African airlines are likely to undergo restructuring or a rigorous rescheduling process.

35. Before the Covid-19 pandemic, South Africa was the

largest aviation market in Africa, ranked 32nd in the world with 600 000 scheduled airline seats a week in January 2020. However, the geographic location of South Africa makes the country to be an isolated long-haul destination that many rationalized carriers may struggle to service. The national carrier, SAA, is in business rescue along with domestic airlines, Comair, and SA Express. The possibility of significantly constrained air service post-crisis is, therefore, a real one.<sup>13</sup>

36. The possibility of air service crises post Covid-19 is not exclusive to South Africa. The risk matrix below provides an insight into the financial risk profiles and levels of stakeholder support for the thirty largest international airlines operating in South Africa in 2019.<sup>14</sup> Of the thirty airlines, three are rated Low/High in terms of risk (Emirates, Lufthansa, Singapore), whilst six are considered High/Low risk (Namibia, TAAG Angola, Virgin Atlantic, Air Mauritius, Fastjet Zimbabwe, and Air Seychelles). Of those four, Air Mauritius has already entered administration and Virgin Atlantic's fragile position has received wide coverage.<sup>15</sup>

37. Drawing on the discussion on regional integration, both SA carriers present on regional routes are in business rescue at the moment.<sup>16</sup> Based on SA's tourism recovery plan, several other African airlines face high financial risk. These airlines are in the high-risk category with either conditional or no support. Airlines listed below are at high financial risk yet have conditional support, as shown in the figure above;

- 37.1 Kenya Airways
- 37.2 Air Botswana
- 37.3 Air Zimbabwe
- 37.4 Rwanda Air
- 37.5 Lam (Mozambique)

38. Airlines listed below are at high financial risk yet have no support;

11. South Africa Tourism Sector Recovery Plan. Covid-19 response. August 2020. Page 62.

12. CAPA. Centre for aviation. 06 December 2019. African Aviation Outlook 2020: Performance lags, pending integration. Available at: <https://centreforaviation.com/analysis/airline-leader/africa-aviation-outlook-2020-performance-lags-pending-integration-504774>. Accessed on [06/10/2020]

13. South Africa Tourism Sector Recovery Plan. Covid-19 response. August 2020. Page 62.

14. Martin, O., Naaman, J., & Klassen, G. (2020). Rebuilding South African Air Access Where Now For Airlift? Twenty31.

15. Martin, O., Naaman, J., & Klassen, G. (2020). Rebuilding South African Air Access Where Now For Airlift? Twenty31.

16. As of 23 October 2020.



**Table 12: Selected African Airlines Capacity share vs Network Capacity 2019**

Carrier Name	Network Capacity 2019	South Africa Capacity	% Share of Airlines Network
Air Botswana	427 699	138 856	32.5%
Air Zimbabwe	473 718	116 319	24.6%
Air Namibia	884 934	191 775	21.7%
FastJet Zimbabwe	478 488	70 250	14.7%
TAAG Angola Airlines	2 224 142	186 937	8.4%
LAM (Mozambique)	1 090 512	90 673	8.3%
Air Seychelles	652 035	50 896	7.8%
Air Mauritius	2 424 119	160 154	6.6%
Rwandair	1 065 873	63 540	6.0%
Kenya Airways	6 794 288	29 145	4.3%
Ethiopian Airlines	21 184 718	401 575	1.9%
EgyptAir	13 122 415	60 039	0.5%

Source: Tourism Sector Recovery Plan Covid-19 response

the pandemic is expected to affect different African economies in varying ways. Regional growth is likely to be impacted by Covid-19. United Nations Economic Commission for Africa (“UNECA”) however identifies the opportunity for African countries to cooperate to benefit from disruptions in the supply chains. UNECA is of the view that over the Mid-to long-term, disruption in supply chains (particularly with China) could lead to filling that gap by regional producers. This stresses the need to urgently implement African Continental Free Trade Area (“AfCFTA”).<sup>18</sup>

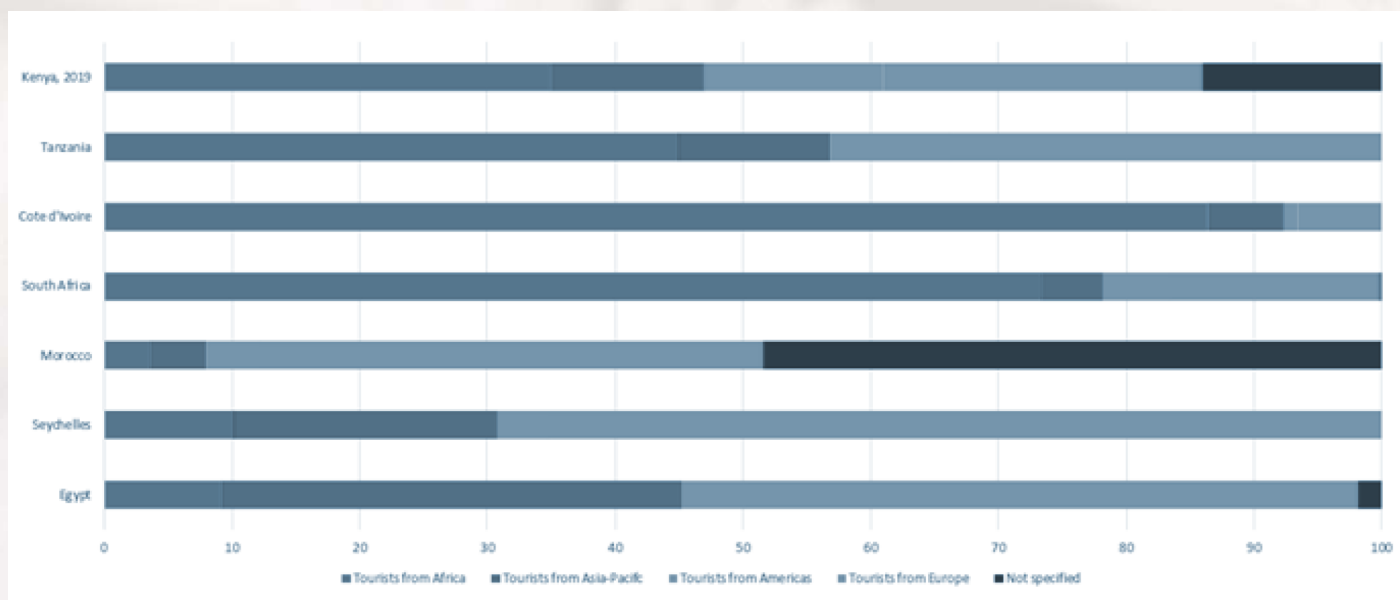
43. The table below indicates that South Africa, Egypt, and Morocco are top three African tourism destination that generates highest tourism GDP in terms of value. These three countries also generate the highest visitor exports and have the highest international arrivals as indicated in the table below. The tourism sector in Mauritius accounts for 24% of total GDP in 2019. The tourism sector in Morocco and Tunisia accounted for 19% and 16% respectively in 2019.
44. The figure below shows the distribution of tourists by region of origin. Countries like Kenya, Tanzania, Cote d’Ivoire, and South Africa derive a significant portion of tourists from other African countries. The figure indicates that more than 70% of tourists in South Africa come from the African region. Cote d’Ivoire and Tanzania derive in excess of 80% and 40% respectively from the African region. While significant losses in the

tourism sector may have arisen already because of Covid-19, any drastic changes in regional airlines, in terms of flight schedules and seat availability might pose a threat to the African tourism and related sectors shortly.

45. Equally important, UNECA impact of coronavirus on East Africa report details several African countries that derive substantial revenue from Air transport through movements of goods. The figure below shows that Ethiopia, Morocco, and Egypt were there leading African economies that derive the highest revenues through Air transport. While the figure does not indicate whether goods were carried by African Airlines or other international airlines, what is notable however that Africa is as a continent needs a competitive, and efficient airline system for economic growth and development.
46. The tourism sector is one of the important sectors in the South African and other African economies given its contribution to countries’ GDP. Figures 1 and 2, above indicate that the South African Tourism sector heavily relies on African integration since a significant number of South African Tourists come from the African region. This advent reiterates the importance of integration in Africa, and the aviation industry is crucial to revive and maintain the tourism industry to the level it was before Covid-19. At a broad regional economic development, it is clear that air transport plays a crucial role in African economic development through movements of goods.

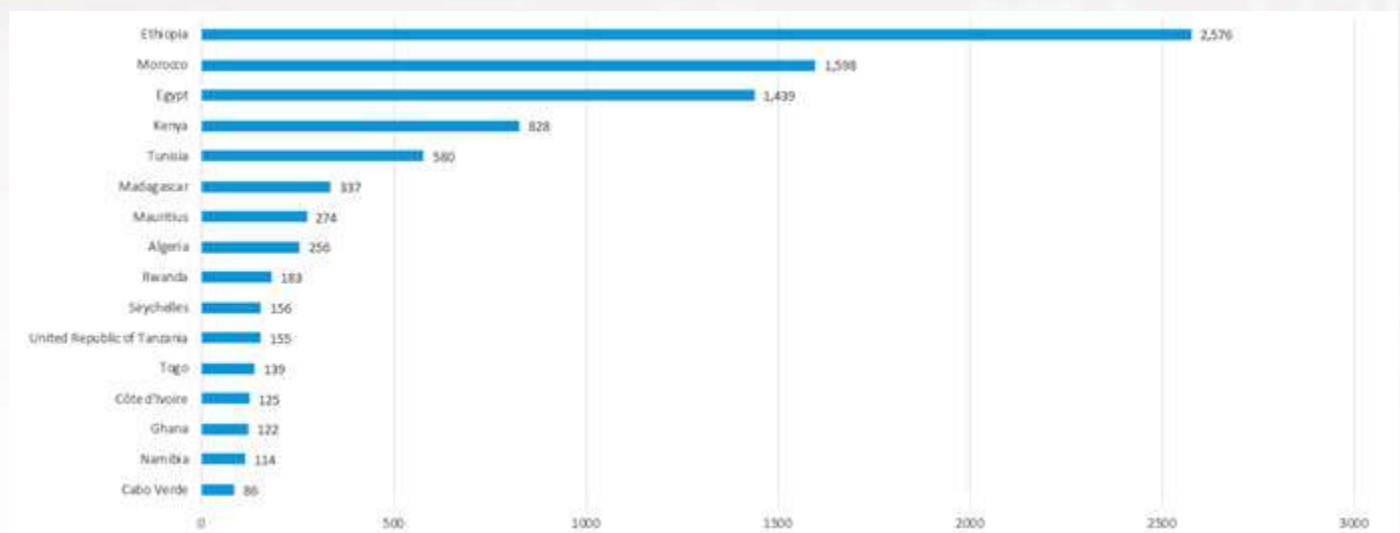
18. United Nations Economic Commission for Africa. *Impact Assessment of Covid-19. The case of Eastern Africa.*

Figure 1: Distribution of Tourists by region of origin (in%)



Source: Impact Assessment of Covid-19. The case of Eastern Africa.

Figure 2: Top African Air transport Exports, USD Millions, 2017



Source: Impact Assessment of Covid-19. The case of Eastern Africa.

47. The table below shows how regional air traffic for selected regional routes was affected by Covid-19 regulations in South Africa. Our data indicates regional flights have not resumed fully. Most regional airlines that are part of the sample for this study had not made more than 10 trips to ORTIA between June and August 2019, with the only exception for Kenya Airways. We note that our data further indicate that Kenya Airways was active in JNB-NBO route during the lockdown period, our view is that these could have been cargo flights as opposed to passenger flights.

48. At present, there is a limited number of airlines operators, in the selected routes that fly direct from South Africa to the intended destination, although, there are more

connecting flights. With limited pricing information at our disposal, there is an indication that different airlines employed different business strategies when they took off to the skies upon removal of restrictions.

49. For instead, in the JNB-GBE route, in 2019, Air Botswana used to provide 4 flights per day, Airlink would provide 6. As of 06 November 2020, Air Botswana was providing 1 flight per day and Airlink provided 2. The percentage change between prices for 08/11/2019 and 13/11/2020 was -4% for Airlink and 118% for Air Botswana.

**Table 13: Contribution of the Tourism sector in Some Top tourism destinations in Africa**

Country	GDP (USD bn)	% share of GDP	Visitor (mn)	exports	% share of ex-ports	International arriv-als (mn)
South Africa	32,1	9	9,7		9	10,5
Egypt	29,6	12	12,2		27	11,3
Morocco	22,7	19	9,6		20	12,3
Nigeria	18,6	5	1,6		3	-
Kenya	8	9	1,7		15	1,5
Ethiopia	7,4	9	2,5		38	0,9
Tanzania	6,7	12	2,5		28	-
Tunisia	6,5	16	2,2		11	8,3
Cote d'Ivoire	4,6	10	0,5		4	1,8
Mauritius	3,5	24	2,2		37	1,4

Source: Impact Assessment of Covid-19. The case of Eastern Africa.

**Table 14: Month on Month Percentage change for selected regional routes**

Regional Routes	Airline	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
JNB-LUN	RwandAir	-14%	-20%	-43%	-100%	-100%	-100%	-100%	-100%
	SAA	-2%	6%	-30%	-97%	-99%	-100%	-100%	-100%
JNB-NBO	Kenya Airways	1%	2%	-26%	-83%	-86%	-82%	-74%	-77%
	SAA	-10%	6%	-63%	-100%	-91%	-100%	-100%	-100%
JNB-GBE	AirBotswana	-21%	-36%	-45%	-100%	-96%	-100%	-100%	-100%
	SAA								
JNB-WDH	Air Namibia	11%	-6%	-29%	-95%	-91%	-100%	-100%	-100%
	SAA	7%	2%	-38%	-100%	-100%	-100%	-98%	-97%
JNB-LAD	British Airways								
	TAAG Angola Airlines	11%	20%	-31%	-100%	-98%	-94%	-87%	-85%
JNB-HRE	SAA	21%	70%	-100%	-100%	-100%	-100%	-100%	-78%
	AirZimbabwe	-50%	-62%	-65%	-100%	-96%	-86%	-95%	-95%
JNB-MRU	SAA	1%	7%	-37%	-100%	-100%	-100%	-100%	-100%
	FastJet	-7%	-3%	-34%	-100%	-99%	-95%	-95%	-96%
JNB-LLW	British Airways								
	SAA	-3%	4%	-38%	-100%	-100%	-100%	-97%	-94%
JNB-MRU	British Airways								
	SAA	-3%	4%	-38%	-100%	-100%	-100%	-97%	-94%
JNB-LLW	Malawian Airlines				-100%	-100%	-100%	-100%	-100%
	SAA	7%	7%	-39%	-100%	-100%	-91%	-88%	-94%

Source: ATNS

**Table 15: Price comparison for Regional Routes**

Regional routes	08/11/2019			13/11/2020			% Change
	Airline	Frequency	Ave Price	Airline	Frequency	Ave Price	
JNB-GBO	Airlink	6 times	R1 664,60	Airlink	2 times	R1 598,80	-4%
	Air Botswana	4 times	R1 434,43	Air Botswana	Once	R3 128,00	118%
JNB-HRE	Airlink	2 times	R2 847,93	Airlink	3 Times	R2 559,63	-10%
	FastJet	4 times	R2 014,13	FastJet	3 times	R2 090,47	4%

Source: Commission's Own Compilation

50. For, JNB-HRE routes, Airlink provided 2 flights per day in 2019, and 3 flights in 2020. FastJet provided 4 flights per day in 2019, this changed to 3 times per day in 2020. The 2019-2020 percentage change in prices is -10% for Airlink and 4% for FastJet. In 2020, Air Zimbabwe and British Airways were active in this route, they are however not operational in November 2020. It does appear that in 2020 Airlink is charging lower prices than they were charging on regional routes.
51. Changes in PPPK ratios confirm that some airlines have increased prices while others settled with reducing prices. PPPK ratio for AirBotswana in JNB -GBE route increased from R7.96 in 2019 to R19.19 in 2020. However, it is important to note that for 2020, there were two observations (dates) compared to 12 dates that were proposed by ACF member counties for the initial study. The ratios also increased for Airlink in the JNB-LUN route and decreased in JNB-GBE, JNB-HRE, and JNB- WDH. Notably, the PPPK ratio for Kenya Airways in the JNB-NBO route also decreased.
52. Comparing 2019 and 2020 PPK ratios for limited Airlines that are permitted to Fly South African routes, it is evident that the majority of international Airlines reduced their prices as PPPK ratios are lower than what they recorded in 2019. For instance, BA in JNB-LHR reduced from R1.31 in 2019 to R0.84 in 2020. Emirates also reduced for DUR and CPT routes and increased from 2.16 to 3.38 in the JNB-DXB route. In Addition, the Lufthansa PPPK ratio increased from R1.13 to R1.54 in the JNB-FRA route.

Table 16: PPPK ratios regional routes

Origin	Destination	Airlink	BA	RwandAir	Kenya Airways	Air Botswana	Air Namibia	TAAG Angola	Air Zimbabwe	FastJet	Malawian Airlines	Number of Operators
JNB	Lusaka (LUN)	2,73 >> 3,64	-	2,85 >> 3,76	-	-	-	-	-	-	-	2 >> 2
JNB	Nairobi (NBO)	-	-	-	5,05 >> 4,99	-	-	-	-	-	-	2 >> 1
JNB	Gaborone (GBE)	8,88 >> 8,78	-	-	-	7,96 >> 17,19	-	-	-	-	-	2 >> 2
JNB	Windhoek (WDH)	2,96 >> 2,03	-	-	-	-	1,72 >> 2,15	-	-	-	-	3 >> 2
JNB	Luanda (LAD)		2 >> 0									
JNB	Harare (HRE)	3 >> 2,60	-	-	-	-	-	-	-	2,51 >> 2,60	-	4 >> 2
JNB	Mauritius (MRU)		2 >> 0									
JNB	Lilongwe (LLW)		2 >> 0									

Source: Commission's Own Compilation

Table 17: PPPK ratios for international routes

Origin	Destination	SAA	BA	Emirates	Air France	Lufthansa	L a t h a m Brazil	Cathay Pa- cific	Virgin Atlan- tic	Qantas	Number of operators
CPT	CPT- Dubai (DXB)	-	-	1,41 >> 1,22	-	-	-	-	-	-	1 >> 1
DUR	DUR- Dubai (DXB)	-	-	1,53 >> 1,48	-	-	-	-	-	-	1 >> 1
JNB	Dubai (DXB)	-	-	2,16 >> 2,38	-	-	-	-	-	-	1 >> 1
JNB	France (CDG)	-	-	-	1,61 >> 1,11	-	-	-	-	-	1 >> 1
JNB	Germany (FRA)	-	-	-	-	1,13 >> 1,54	-	-	-	-	2 >> 1
JNB	Brazil (GRU)	-	2 >> 0	-	-	-	-	-	-	-	
JNB	Hong Kong (HKG)	-	2 >> 0	-	-	-	-	-	-	-	
JNB	US New York (JFK)	-	1 >> 0	-	-	-	-	-	-	-	
JNB	UK London (LHR)	-	1,31 >> 0,84	-	-	-	-	-	1,14 >> 0,84	-	3 >> 2
JNB	Perth (PER)	-	1 >> 0	-	-	-	-	-	-	-	
JNB	Sydney (SDY)	-	1 >> 0	-	-	-	-	-	-	-	

Source: Commission's Own Compilation

## GOVERNMENT SUPPORT TO REVIVE THE INDUSTRY

53. IATA indicated that the African airlines' air traffic sunk 98.7% in April, nearly twice as bad as the 49.8% demand drop in March. Capacity contracted 87.7%, and load factor dived 65.3 percentage points to just 7.7% of seats filled, the lowest among all regions in the world. IATA found that the average aid in Africa is around 1% (\$0.8 Billion) of the 2019 revenues of all airlines on the continent compared to about 25% of their 2019 revenues received in aid by North American airlines, 15% received by European airlines and 10% of revenues received by airlines in the Asia-Pacific region.<sup>19</sup>

54. Lockdown regulations, in different parts of the African continent, forced airlines to stop operation and

grounded airlines for a protracted period. During the period in which airlines were not in operations, a series of airlines went through difficult financial problems and Governments had to intervene to keep airlines afloat. To mitigate the effects of the outbreak, Governments have stepped in to achieve specific public policy objectives. Such policy interventions aim to guarantee the supply of critical goods and services at a time when supply chains are logistically disrupted, and to protect national carriers and jobs in the sector.<sup>20</sup>

55. In this regard, governments had varied relief mechanisms that they could implement to help the aviation industry. Such relief mechanisms at the government's disposal include differed and waiver of taxes and statutory charges as well as user fees for airports, air navigation and weather service, loans and loan guarantees to enable the raising of debt in

19. Fin24. 03 June 2020. Open more airports, routes if SA airlines are to survive-industry body. Available at: <https://www.news24.com/fin24/Companies/Industrial/open-more-airports-routes-if-sa-airlines-are-to-survive-industry-body-20200603>. Accessed [08/10/2020]

20. Competition policy International (CPI). 28 July 2020. Up in the air: Airlines and Competition Policy in Times of Covid-19. Available at: <https://www.competitionpolicyinternational.com/up-in-the-air-airlines-and-competition-policy-in-times-of-covid-19/>. Accessed [25/09/2020]

the markets, direct aid with wage subsidies and cash injections to help industry players cover unavoidable costs during the restart phase.<sup>21</sup>

56. Aviation experts strongly emphasized that state interventions that are meant to address the impact of COVID-19 in the aviation industry may also increase risks of anti-competitive firm behavior, as well as unlevel the playing field. Distortion of the level playing field can happen in various ways. First, some interventions may give more room to collude to ensure the continuous supply of goods, which may result in higher prices for consumers or quantity restrictions. Second, airlines may engage in exploitative practices vis-à-vis passengers that had already acquired tickets. Third, Governments may step in to aid airlines in financial need to keep national carriers afloat and to protect jobs in the sector – this can also generate distortions if aid is not designed in a way that minimizes discrimination among the recipients. Fourth, Governments may create regulatory exceptions for airlines, such as allowing them to grandfather slot rights regardless of compliance with “use-it-or-lose-it” rules. This may result in the preservation of inefficient airlines in the market and the crowding-out of the most efficient companies with limited access to State funding.<sup>22</sup>

57. An analysis of State aid measures adopted worldwide in support of the air transport sector shows most countries intervene to support their national (or in some cases regional) airlines.<sup>23</sup> To avoid unintended and anti-competitive consequences, governments must ensure that bailout packages or any state aid packages should not exclusively and unnecessarily favor dominant air carriers or state-owned national carriers.

58. Governments worldwide have so far issued at least USD 90 billion in State aid to compensate the air sector for damages caused by the outbreak as shown in the figure below. This includes providing support to airlines, airports, as well as suppliers like maintenance

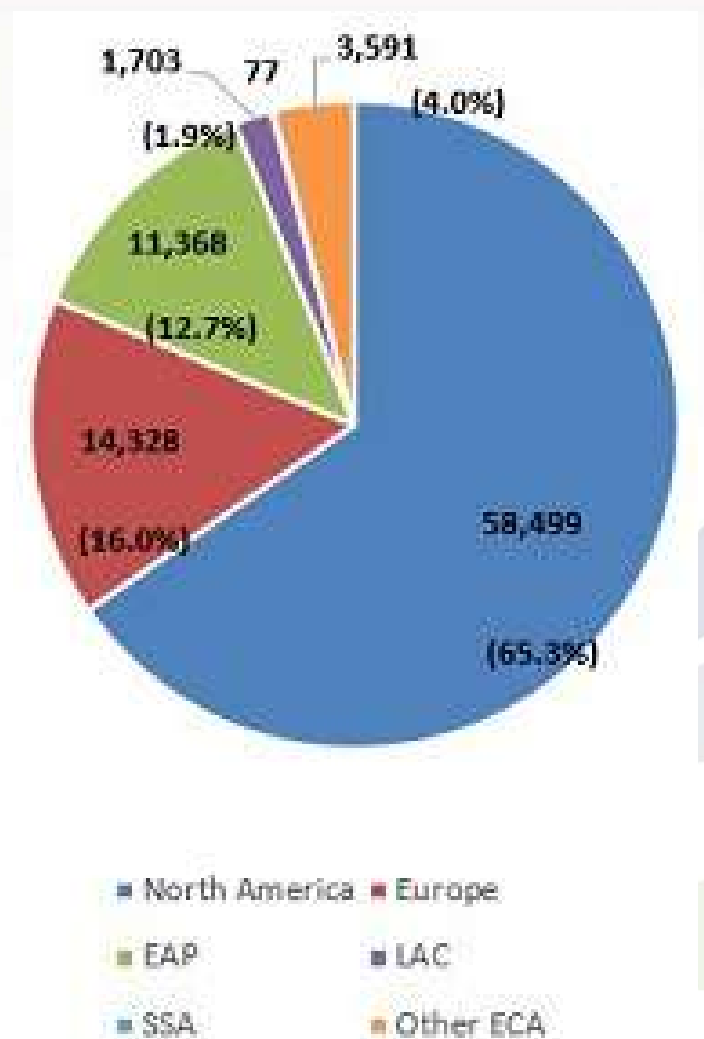
companies and caterers.<sup>24</sup>

59. The figure shows that subsidies and State aid schemes involving air transport have been prevalent in North America (around USD 60 billion), Europe (around USD 14 billion), and East Asia Pacific (around USD 11 billion). State aid in other regions is lower, notably in Eastern Europe and Central Asia (around USD 3.5 billion), Latin America, and the Caribbean (around USD 1.7 billion). State aid in Africa is so minuscule in comparison that it is not even visible on this pie chart. In total state support on the continent summed to 77 million USD, just 6% of the overall state aid granted in air transport.<sup>25</sup>

24. Competition policy International (CPI). 28 July 2020. Up in the air: Airlines and Competition Policy in Times of Covid-19. Available at: <https://www.competitionpolicyinternational.com/up-in-the-air-airlines-and-competition-policy-in-times-of-covid-19/>. Accessed [25/09/2020]

25. Competition policy International (CPI). 28 July 2020. Up in the air: Airlines and Competition Policy in Times of Covid-19. Available at: <https://www.competitionpolicyinternational.com/up-in-the-air-airlines-and-competition-policy-in-times-of-covid-19/>. Accessed [25/09/2020]

Figure 3: State aid in the air transport by region, in USD millions.



21. Fin24. 03 June 2020. Open more airports, routes if SA airlines are to survive-industry body. Available at: <https://www.news24.com/fin24/Companies/Industrial/open-more-airports-routes-if-sa-airlines-are-to-survive-industry-body-20200603>. Accessed [08/10/2020]

22. Competition policy International (CPI). 28 July 2020. Up in the air: Airlines and Competition Policy in Times of Covid-19. Available at: <https://www.competitionpolicyinternational.com/up-in-the-air-airlines-and-competition-policy-in-times-of-covid-19/>. Accessed [25/09/2020]

23. Competition policy International (CPI). 28 July 2020. Up in the air: Airlines and Competition Policy in Times of Covid-19. Available at: <https://www.competitionpolicyinternational.com/up-in-the-air-airlines-and-competition-policy-in-times-of-covid-19/>. Accessed [25/09/2020]

60. Coming closer to home, South African authorities have provided some support. Airport slot use rules have been temporarily suspended and the validity of personnel licenses and certifications has been extended.<sup>26</sup>
61. The airline industry in SA looks vastly different today than it looked at the beginning of the year. SA Express has been liquidated after financial troubles spanning many years. SAA has been in business rescue since 6 December 2019 and is currently not operating any domestic flights. To this effect, any government intervention to save state-owned airlines would be a response to historical financial debacles if not for the Covid-19 pandemic. In South Africa, there has not been airline-specific Covid-19 relief packages.

## CONCLUSION

62. The airline industry in SA looks vastly different today than it looked like at the beginning of the year. With LIFT entering, Safair expanding, Airlink & Cemair flying dense routes, the South African air transport sector has witnessed significant changes in its competitive landscape. Moreover, with SAA not operating, Comair at business rescue operations, SAX being liquidated, the pandemic has brought in a new competitive landscape into force and it is indeed worth watching for further developments.

26. IATA 02 June 2020. South African aviation needs financial relief. Available at: <https://airlines.iata.org/news/south-african-aviation-needs-financial-relief>. Accessed [15/09/2020]

# CHAPTER 2: KENYA

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## EXECUTIVE SUMMARY

1. Kenya is a signatory to the Yamoussoukro Declaration (YD) which came into force in 2000. The YD aims at liberalising the African airspace and curing the protectionist regulatory regime brought about by Bilateral Air Service Agreements (BASAs) by African states. In this regard, the African Union lists the Single African Air Transport Market (SAATM) as one of its flagship projects. The SAATM aims at increasing connectivity in the African continent. Kenya is a signatory to more than 30 BASAs. The competitive functioning of the passenger air transport industry is important to the economy as the earnings from the sector contribute to the GDP of the country and employment, which is a priority to Kenya.
2. The objective of the study was to understand the market structure, alliances, state involvement and regulatory setting for the domestic, regional and international market for Kenya; to identify competition concerns and to identify regional and continental priorities for Kenya in the air passenger transport.
3. The study gathered information from secondary sources, including; study reports, industry reports, airline websites, Kenya National Bureau of Statistics data and from the Kenya Civil Aviation Authority. The prioritized routes were identified based on: the busiest/highest flight arrivals into Kenya for international flights; the countries that enjoy free movement of persons particularly those in the EAC; and the routes that serve countries that are our major tourist source markets.
4. The study established the following;
  - 4.1 The international air passenger transport market is oligopolistic in nature.
  - 4.2 There is coordination of regulation of competition matters in the sector by the KCAA and the Authority;
  - 4.3 The regulatory regime of Kenya's aviation sector does not restrict competition in the industry as it does not discriminate in the licensing of aviation personnel and aviation operators;
  - 4.4 Kenya has made deliberate efforts to improve infrastructure for aerodromes in the country to increase the air passenger capacity.
  - 4.5 The Kenyan market has free entry and exit in all the routes;
  - 4.6 There is no dominant player in Kenya's domestic air passenger market;
  - 4.7 There are no price competition concerns in the routes analyzed save for the Nairobi Addis Ababa (NBO-ADD), Nairobi –Kigali (NBO-KGL), Nairobi – Johannesburg (NBO-JNB) and Nairobi – Mogadishu (NBO-MGQ) routes where there is no price competition amongst operators; and
  - 4.8 Growth of low cost carriers (LCCs) beyond the domestic market is key to open up the regional and continental markets.
5. The study recommends the following to increase competition in the routes prioritized by the study;
  - 5.1 Review the existing bilateral arrangements in order to ensure consistency with the Yamoussoukro Decision framework;
  - 5.2 Encourage partnerships mergers and consortium within African Airspace;
  - 5.3 Collaboration with Aviation Authorities to assess price competition concerns; and
  - 5.4 Improvement of airport infrastructure is essential in increasing the airport capacity, as it is a determinant of landing and take of slots.

## BACKGROUND

6. The Yamoussoukro Decision ("YD") remains the single most important air transport reform policy initiative by African Governments. It was adopted out of the realization that the restrictive and protectionist intra-African regulatory regime based primarily on Bilateral Air Services Agreements ("BASAs") hampered the expansion and improvement of air transport on the continent.

7. One of the vital parts of the Decision was air service liberalization, which was viewed as a means to develop air services in Africa and stimulate the flow of private capital into the industry. The YD entered into force in 2000 evolving from the Yamoussoukro Declaration of 1988. In essence, the YD is a multilateral agreement between the 44 African signatory States which allows the multilateral exchange of up to fifth freedom air traffic rights<sup>1</sup> between African Yamoussoukro Decision Party States, using a simple notification procedure<sup>2</sup>. However, over the years, the full potential of the YD is yet to be realized.
8. Towards this end, the African Union agenda 2063 lists the Single African Air Transport Market (SAATM) as one of its flagship projects. This aims at increasing connectivity within Africa as low cost carriers (LCCs) will be allowed to operate across borders. Kenya committed to establishing the SAATM.
9. Kenya is a Partner State in the East Africa Community (EAC) and Member State of the Common Markets of Eastern and Southern Africa (COMESA), which have liberalised markets. This therefore, implies that the aviation industry facilitates the movement of persons and cargo as envisioned in the treaties in and out of Kenya. In 2017, Kenya developed a policy of providing visa on arrival for African countries that are not visa Exempt<sup>3</sup> and this has played a big role in increasing arrivals to the country from Africa.
10. Kenya has a potential to increase its supply of commercial air passenger within Africa and following the recent growth in its visitors using air transport, the demand for the services is also likely to grow over time. Therefore, the competitive functioning of the airline market in Kenya is essential to achieving its commitments in the SAATM and increasing its airline connectivity to more destinations.

## OBJECTIVES OF THE STUDY

11. The main objective of ACF cross-country study of the airline industry is to identify potential competition concerns in the airline industry with a view of

*1. This right allows an airline to carry revenue passengers from one's own country to a second country and from that country to the third country and so on.*

*2 <https://www.iata.org/contentassets/77c0831feaf64dc8b8782f11754f0a6c/single-african-air-transport-market.pdf>*

*3 43 countries are visa exempt.*

ameliorating them, while the specific objectives of this airline study are:

- 11.1 Mapping of the airline industry to appreciate the regional and international dynamics that are of primary relevance to the member country;
- 11.2 To understand the market structure, alliances, state involvement and regulatory setting for the airline industry in the different ACF member countries;
- 11.3 To understand the market structure, alliances and state involvement and regulatory setting on regional and international services that impact on continental trade and tourism;
- 11.4 To get an understanding of the type of competition concerns that exist in respect of the airline industry in the different ACF member countries; and
- 11.5 To provide a platform for identifying regional and continental priorities in respect of the airline industry.

## METHODOLOGY AND SCOPE

12. Given that air transport markets are analysed as city pairs, the report focused on nine (9) origin-destination pairs in the domestic air passenger services (13 routes), eleven (11) intra-Africa and ten (10) out of Africa routes (See Annexure 1 for detailed list). The prioritization of the city pairs in the report has been based on:
  - 12.1 The busiest/highest flight arrivals into Kenya for international flights;
  - 12.2 The countries that enjoy free movement of persons, particularly those in the EAC; and
  - 12.3 The routes that serve countries that are country's major tourist source markets.
13. The study collated information on these routes from secondary sources, including study reports, industry reports, airline websites, Kenya National Bureau of Statistics data and information requests from the Kenya Civil Aviation Authority.

14. The price comparison data was gathered in October 2019 from airline websites for twelve dates between November 2019 and March 2020. To ensure consistency of the data, the prices for each route was collected from the websites on the same day for all the airlines operating in the route. Given that the data was on passenger ticket price projections, prices for airlines such as Silverstone Air which were still in operation in October 2019, even though they exited the market in November 2019, were captured for the price comparison period.
15. The scope of the study was limited to air passenger transport in Kenya. The study did not cover chartered flights, cargo air transportation and airstrips in Kenya.

## OVERVIEW OF AIR PASSENGER TRANSPORT IN KENYA

16. The indicators of airline industry growth for Kenya's supply side can be categorised into growth of licensed aviation personnel, growth in the number of players with operational licenses and the aerodromes available for landings and take-offs. The demand side growth for air passenger transport can be indicated by the visits for international travel, the domestic and regional departure seats.
17. The air passenger supply side factors in Kenya has grown over the years. As at 2018, Kenya's air transport industry had 79 scheduled airlines and was connected to sixty seven (67) international destinations<sup>4</sup> (see Table 1). The aviation personnel licenses for the industry have been increasing, whereby Commercial Pilot

Licence (CPL) increased from 1,394 in 2014 to 1,641 in 2018 (about 18% over 4 years), Cabin Crew Member Certificate (CMC) consistently increased from 1,814 in 2014 to 2,140 in 2018, the Aircraft Maintenance Engineers licenses increased from 604 in 2014 to 775 in 2018. Kenya has had 8 international class A and 23 domestic class B aerodromes for the last 4 years.

18. Visits to Kenya increased from 1,671, 900 in 2014 to 2,027,700 visits in 2018<sup>5</sup>. In 2018, Jomo Kenyatta Airport was the main point of entry for 1,342,513 visitors, Mombasa International Airport accounted for 118,113 visitors and other airports 29,488. The purposes of visits in 2018 were mainly as follows; 73.9% were for holiday purpose, 13.3% for business purpose and the remaining 13.1% were for other purposes, as elaborated in Table 2. The source markets for visits to Kenya by region indicate that Africa accounted for 825,489 (40.76%), Europe for 611,969 (30.22%), 282,624 from Asia (13.96%) and the rest was from other regions in the world. Kenya's domestic capacity was 5.18 million departure seats in 2018, while international capacity was 5.1 million<sup>6</sup>.
19. The biggest international markets for Kenya by departure seats as at 2018 are: Tanzania (666,104), United Arab Emirates (548,935), Ethiopia (396,857), Uganda (340,302), South Africa (289,713), Netherlands (231,374), Qatar (204, 633), United Kingdom (2014, 633), France (136, 140) and Rwanda (150,091).
20. Kenya's aviation industry contributes 4.6% of the Gross Domestic Product (GDP) and supports 410,000

4. IATA, *Aviation benefits beyond borders 2018*, report.  
5. *Tourism Sector Performance Report 2018*. Ministry of Tourism and wildlife.  
6. OAG Scheduler data.

4. IATA, *Aviation benefits beyond borders 2018*, report.

Table 1: Aviation Industry indicators, 2014-2018

	2014	2015	2016	2017	2018
Scheduled Airlines	76	77	77	79	79
Commercial Pilot Licence (CPL)	1,394	1,517	1,563	1,607	1,641
Cabin Crew Member Certificate (CMC)	1,814	1,906	1,942	2,090	2,140
Aircraft Maintenance Engineers (AMEL)	604	618	694	738	775
Aircraft with Valid Certificate of Air Worthiness (COA)	705	751	763	749	804
Air Operator Certificates (AOCs)	78	70	70	87	98
Approved Maintenance Organisations (AMOS)	118	122	139	143	161
Aerodrome International-Class A	8	8	8	8	8
Aerodrome Domestic (Regional)- Class B	23	23	23	23	23

Source: Economic Survey 2018, KNBS

**Table 2: Purposes of visits to Kenya, 2014-2018**

Purpose	2014 ('000)	2015 ('000)	2016 ('000)	2017 ('000)	2018 ('000)
Holiday	1208.1	1043.2	1196.8	1217.8	1497.7
Business	207.3	196.2	224.0	244.7	257.2
Transit	111.5	82.0	88.9	104.8	97.1
Other	144.9	138.0	156.3	211.2	175.8
<b>TOTAL</b>	<b>1,671.9</b>	<b>1459.5</b>	<b>1666.0</b>	<b>1778.4</b>	<b>2027.7</b>

Source: Economic Survey 2019, KNBS

jobs. The earnings from visits to Kenya have increased from Ksh. 87.1 billion in 2014 to Ksh. 157.4 billion in 2018. Over the next 20 years the Kenyan market could more than double in size, resulting in an additional 11.3 million passenger journeys, over 449,000 more jobs and a US\$11.3 billion boost to GDP by 2037<sup>7</sup>. The Kenyan government supports local airlines by giving tax exemption for own use spare parts.

21. Based on the above, the airline industry is clearly important to the economy as it growth supports the earnings from the sector which contribute to the GDP of the country and employment, which in turn is a priority to Kenya.

## REGULATORY FRAMEWORK

22. The Civil Aviation Act, 2013 (CAA) is the primary regulation for the Aviation industry in Kenya, which provides for the control, regulation and development of the aviation sector. The CAA creates two institutions to implement the provisions therein; that is, the Kenya Civil Aviation Authority (KCAA) and the National Civil Aviation Administrative Review Tribunal (the Tribunal). KCAA is mandated to, among others, license and certify aircraft service providers and air safety, security, consumer protection and technical regulation of the civil aviation among other enforcement roles.

23. The Tribunal hears and determines disputes arising from the decisions of the KCAA. Kenya has also ratified a number of conventions and protocols in the aviation sector, which have provisions on slots, traffic and transit rights. These have been domesticated through the International Interests in Aircraft Equipment Act, 2013, which gives the High Court of Kenya jurisdiction on matters provided for in the conventions or protocols.

24. The CAA confers powers to the Cabinet Secretary responsible for Transport, Infrastructure, Housing and Urban Development to make regulations to prescribe the provisions of the Civil Aviation Act. In order to provide Air Navigation services<sup>8</sup>, it is mandatory to get an Air Navigation Service Providers Certificate from the KCAA<sup>9</sup>. The certification requires the applicant to have the technical and financial ability, as required by KCAA.

25. For an individual or a body corporate to provide internal air services, it is mandatory to have a license from the KCAA<sup>10</sup>. A license may be issued for any category of air services, provided that the applicant is a Kenyan citizen and in the case of a body corporate, at least 51% of voting rights are held by the state, a Kenyan citizen or both. KCAA may, however, grant exemptions based on special nature of air services. In addition, the applicant must be able to show their financial ability to operate for twenty-four (24) months without relying on revenues they have generated from their operations. The Authority also requires air service providers to notify them of any change in the control, ownership and key personnel in operation as they may require new licensing application. The procedure to obtain a license or right to operate a particular route requires an application to be made to the KCAA detailing, the air service schedule, the details on the aircraft, the maximum and minimum fares, among others.

26. International air services are guided by bilateral or multilateral agreements to which Kenya is a signatory. KCAA requires the aircrafts operating in Kenya to be duly registered in Kenya and may accept foreign registered aircrafts for as long as they meet the technical and operational standards in Kenya. The operation of a franchise in Kenya also requires approval from KCAA.

7. IATA (2019). *The Importance of Air Transport to Kenya*.

8. This includes Air Traffic Management, Communication navigation and surveillance systems, meteorological services for air navigation, search and rescue and aeronautical information management.

9. *The Civil Aviation (Certification of Air Navigation Service Providers) Regulations, 2018*.

10. *The Civil Aviation (Licensing of Air Services) Regulations, 2018*.

27. Licensed air services providers are permitted to freely determine and apply reasonable tariffs taking into consideration operational cost, service characteristics, commission rates and reasonable profits.
28. Aerodromes in Kenya are licensed by the KCAA in accordance with the Aerodromes Regulations. The licensing of aerodromes applies to those available for use by domestic air traffic and helicopters only, and excludes those available for use by both international and domestic air traffic. The licensing system involves making an application to the KCAA in a prescribed form, together with the required supporting documents such as the aerodrome manual, site plan, approvals from any relevant authorities and proof of financial capability.
29. All air service providers are required to have insurance with a locally registered insurer and can only be exempt by the Commissioner of Insurance. Local insurers can also reinsure liability with foreign reinsurers. This requirement is guided by the Insurance Act 2016, which covers provisions on insurance or reinsurance of aircrafts registered in Kenya.
30. Air services personnel are required to have certification and licenses from KCAA in accordance with the Civil Aviation (operation of aircraft for commercial aviation) regulations, 2018. In addition, the Labour Laws of Kenya guide on the constitutional rights, statutory rights, rights dictated by collective agreements and individual labour contracts.
31. The airports in Kenya are managed by the Kenya Airports Authority (KAA) established by the Kenya Airports Authority Act, 1991. KAA is mandated to, construct, operate and maintain, administer, control and manage aerodromes and approve the establishment and control of operations of private airstrips. The Act provides for equal access to these facilities by prohibiting subjection to undue disadvantage or undue preference for a particular person or body. An operator must apply for slots using an online system, through a preferred ground handling agent.
32. The Consumer Protection Act, 2012 provides for consumer rights protection when seeking air services. The CPA, focuses on protecting the rights of passengers with respect to handling of consumer complaints, notification of delays, cancellations, overbooking, and baggage concerns among others. It provides for a penalty of Kenya shillings one million, imprisonment term not exceeding 5 years or both in the event a contravention of the provisions is established. The Act established the Consumer Protection Committee under the Cabinet Secretary responsible to Trade and Industry, who may prescribe regulations.
33. The Competition Act, 2010 regulates market conduct and market structure. It contains provisions on restrictive trade practices, regulation of mergers, abuse of a dominant position and consumer welfare. It also establishes the Competition Authority of Kenya (the Authority) which is the regulatory body on matters relating to competition and it also established the Competition Tribunal which hears and determines appeals on the Authority's decisions. The Authority grants exemptions to the provisions of the Act under specified considerations.
34. KCAA and the Authority have a Memorandum of Understanding on how to deal with competition and consumer protection issues in the aviation industry and details how the two organisations can cooperate and collaborate on competition and consumer protection matters.
35. Internationally, Kenya is party to the following conventions relevant to the aviation sector:
  - 35.1 Convention on International Civil Aviation Chicago;
  - 35.2 Convention on the International Recognition of Rights in Aircraft Geneva; Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface Rome;
  - 35.3 Convention for the Unification of Certain Rules relating to International Carriage by Air Warsaw;
  - 35.4 Convention for the Unification of Certain Rules for International Carriage by Air Montréal;
  - 35.5 Convention on Offences and Certain Other Acts Committed on Board Aircraft Tokyo;

- 35.6 Convention for the Suppression of Unlawful Seizure of Aircraft The Hague;
  - 35.7 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation Montréal;
  - 35.8 Convention on the Marking of Plastic Explosives for the Purpose of Detection Montréal;
  - 35.9 Convention on International Interests in Mobile Equipment Cape Town;
  - 35.10 Convention on the Privileges and Immunities of the Specialized Agencies among others
36. Lastly, the Environmental Management and Coordination (amendment) Act, 2015 prescribes noise levels and emission standards applicable to aircrafts.
37. The regulatory regime of Kenya's aviation sector does not restrict competition in the industry as it does not discriminate in the licensing of aviation personnel and aviation operators. In addition, there is coordination of regulation of competition matters in the sector by the KCAA and the Authority.

## Airport Infrastructure

39. Airport capacities and ancillary services have a direct effect on the demand for domestic-international services in an airport and can give an airport dominance with respect to the passenger capacity handled, thus capacity utilization.
40. Kenya's Vision 2030 identifies aviation infrastructure as an enabler for the goals identified in its social, economic and political pillars. There are four international airports, namely the Jomo Kenyatta International Airport (JKIA), Moi International Airport, Mombasa (MIAM), Eldoret International Airport and Kisumu International Airport (KIA). Kisumu and Eldoret Airports are yet to receive international passenger flights. JKIA, has the longest runway of 4.1 km – 5.5 km in comparison to Kisumu, Mombasa and Eldoret international Airports which have runways of 3.3 - 3.4 km.
41. To this end, Kenya has undertaken expansion and modernization of its aviation facilities in a number of airports, including JKIA, Kisumu International Airport (KIA), and a number of air strips countrywide. Further, JKIA, which is a regional hub, was revamped to separate the arrivals and departures terminals. This was with a view of boosting the airport security and has since raised the airport's annual capacity from 2.5 million in 2015 to 7.5 million passengers in 2018.
42. Kisumu International Airport's runway was extended to 3.3 km with a new passenger terminal building and facilities constructed. The expansion raised its capacity from 80,000 passengers in 2005 to 400,000 in 2018. Table 3 gives a profile of the Airports in Kenya and notably, the JKIA is the main airport in Kenya, has the longest runways and can handle bigger planes compared to the other seven airports. On average, the other airports have one to two runways ranging from 1 km to 3.5 km.
43. JKIA accounts for majority of passenger traffic in International and Domestic arrivals and departures. The large share in international arrivals and departures can be attributed to the fact that it is a regional hub, the size and number of runways that is able to accommodate bigger flights compared to the other airports and the capacity of passengers it can handle.

## COMPETITION DYNAMICS IN THE AIRLINE INDUSTRY

### Airlines Profile Overview

38. Kenya Airways (KQ), Kenya's national carrier, operates from its hub at the Jomo Kenyatta International Airport (JKIA) in Nairobi to over 50 destinations across the world. The airline's shareholding is; Government of Kenya (48.9%), KQ Lenders Company Limited (38.1%), KLM (7.8%) and others (5.2%). Kenya Airways is a 100% owner of Jambo Jet a low cost carrier. KQ has a 41.2% shareholding in Precision Air, which offers scheduled and chartered air passenger and cargo transportation services with domestic flights within Tanzania and regional flights to Nairobi and Moroni, Comoros. Kenya Airways is a domestic regional and international full service carrier with a fleet size of 40 air crafts: 4-116seater, 8-145seater, 3-Leased to Turkish airlines, 8-234seater, 15- 96seater and 2- Cargo. Table 3 gives a summary of the other passenger service airlines.

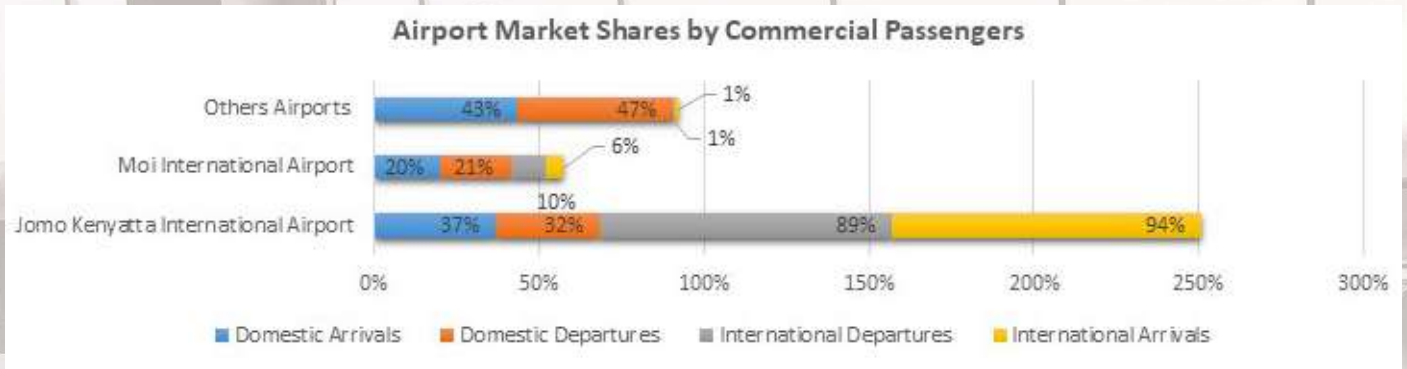
**Table 3: Airport capacities and other services in Kenya**

Airline name and IATA flight code	Owners (including the state) and their stake (%)	Domestic and/or International	Type of carrier	Aircraft fleet
Kenya Airways-KQ	Government of Kenya-48.9% KQ Lenders Company 2017 Ltd-38.1% KLM-7.8% Private owners-5.2%	Domestic, Regional and International	Full Service Carrier/ Regional Service Carrier	40 Fleets (4-116seater, 8-145 seater, 3-Leased to Turkish airlines, 8-234 seater, 15- 96 seater 2-Cargo)
Fly540-5H	Partly owned by Lonrho Plc ( No percentage share available)	Domestic and Regional	Low Cost Carrier	5 Fleets *No number of seats breakdown*
African Express Airways-XU	No ownership information available.	Domestic, Regional and International	***	7 Fleets (2-148 seater, 2-100 seater, 2-30 seater, 1-50 seater)
Airkenya Express-P2	Abbeydale Holdings Limited (99%) Other individuals (1%)	Domestic and Regional (Tanzania)	Low Cost Carrier	10 Fleets (1-37 seater, 4-11seater, 3-18 seater, 2-50 seater)
Jambojet- JM	Subsidiary of Kenya Airways	Domestic & Regional (Better Part of Africa)	Low Cost Carrier	7 Fleets (7-78 seater)
Silverstone Air -H1	No ownership information available.	Domestic	Low Cost Carrier	11 Fleets (6-50 seater, 5-Not specified)
Bluebird Aviation	1.Yusuf Adan 25% 2.Hussein Farah 25% 3.Hussein Mohammed 25% 4.Mohammed Abdikadir 25%	Regional (East and Central African )	***	12 Fleets
Safarilink Aviation Limited-F2	No ownership information available.	Domestic & Regional(Tanzania)	Low Cost Carrier	11 Fleets (1-37 seater 1-52 seater, 9-13 seater)
Skyward Express	Owned by Mohammed Abdi Mohammed (50%) Issack Somo Ahmed (50%)	Domestic & Regional	Low Cost Carrier	

**Table 4: Profile of Airports in Kenya, as at 2019**

No.	Airport name	I A T A CODE	Domestic and/or international	# Runways	Distance
1	Jomo Kenyatta International Airport	NBO	Domestic and International	2	1- 4117m 2- 5500m
2	Wilson Airport	WIL	Domestic and International	2	1- 1 540m 2- 1462m
3	Moi International Airport	MBA	Domestic and International	2	1- 3350m 2- 1363m
4	Kisumu International Airport	KIS	Domestic and International	1	3300m
5	Eldoret International Airport	EDL	Domestic and International	1	3475m
6	Malindi Airport	MYD	Domestic	2	1- 2500m 2- 1082m
7	Isiolo Airport		Domestic	1	2500m
8	Wajir Airport	WJR	Domestic	1	2795m

Figure 1: Market shares of airports by commercial passengers in 2018, KCAA



44. In the domestic air commercial passenger market, the JKIA has the largest share with 32% domestic departures, 37% domestic arrivals, 94% international arrivals and 89% international departures. MIAM accounts for 20% and 21% of domestic arrivals and departures, 6% and 10 % international arrivals and departures respectively as illustrated in Figure 1.

45. Kenya has made deliberate efforts to improve infrastructure for aerodromes in the country to increase the air passenger capacity. This is important in increasing competition by making it possible for airlines to increase their destinations within Kenya.

**Routes Overview**

46. Airline route networks can either be using the point-to-point model or hub and spoke model (Figure 2).

47. The point-to-point model is used in the domestic

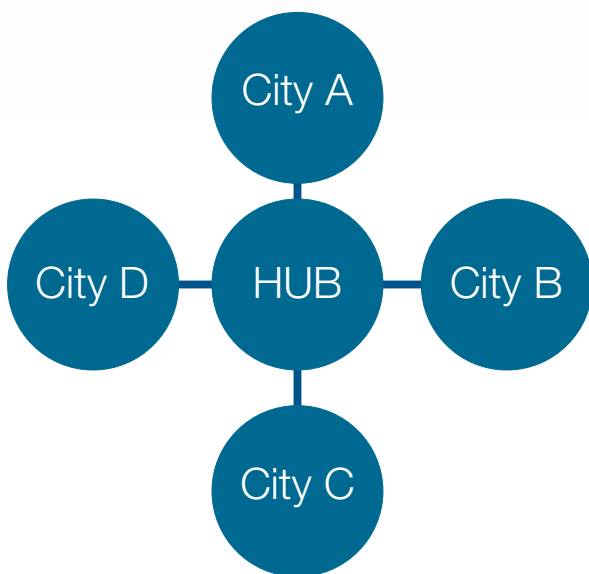
market in Kenya whereby airlines operate between city pairs. In the hub and spoke model, the airline operates between city pairs via the airlines hub airport, and this is used in regional and international air passenger routes connecting city pairs. The hub and spoke network is normally used by members of an airline alliance.

**Alliance**

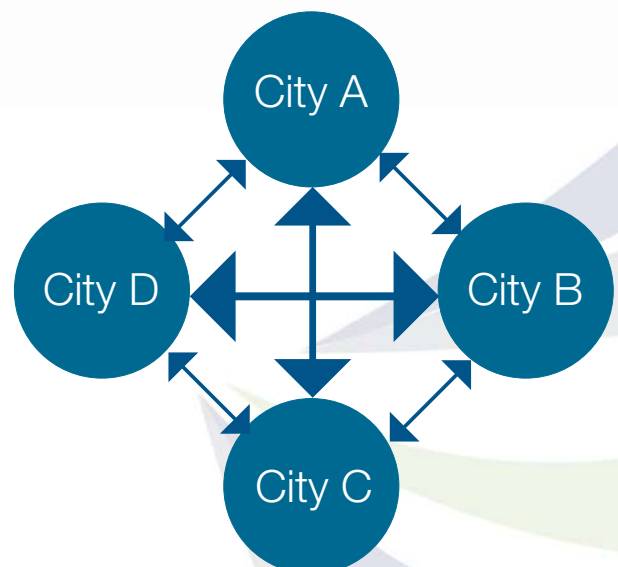
48. Since the late 1990s, network airlines worldwide have been enrolling in one of the three current Global Airline Alliances (GALs)<sup>11</sup>, Oneworld, Star Alliance and SkyTeam. Star Alliance was founded in 1997, which brought competing airlines to form Oneworld in 1999 and SkyTeam in 2000. Jomo Kenyatta International Airport is the Hub for the Sky Team members in Africa. Table 4 below show flag carriers of different countries operating in the Kenyan space, their alliances and respective hubs.

<sup>11</sup>. See Annexe 2 with full membership for all alliances

Figure 2: The hub and spoke, and the Point-to-point model



Hub and spoke network



Point-to-point network

Table 5: Flag carriers of different countries operating in Kenya

Airline	Alliance	Hub(s)
Kenya Airways (KQ)	SkyTeam	Nairobi
KLM		Amsterdam
Air France		Charles De Gaulle, Lyon–Saint Exupéry
China Airlines		Kaohsiung International, Taichung International, Sultan Babullah
Turkish Airlines	Star	Istanbul
South African Airways		Johannesburg
Lufthansa		Frankfurt
Air India		Delhi, Mumbai
Ethiopian Airlines		Addis Ababa
Qatar Airways	Oneworld	Doha
British Airways		Heathrow
Etihad Airways	None	
Emirates		
Condor		
Air Mauritius		
LAM Mozambique		
Uganda Airline		
Precision Air		
Rwanda Air		

49. There is no international body regulating entry into and exit from the three major alliances. The individual alliances have own set of requirements for membership. Nevertheless, the alliances have similar prerequisite for membership consideration. In order to become an official member of any of the three alliances, aspiring members first need to meet strict measure in regards to Safety, Quality, IT and Customer Service Standard, Security Standards and Set Financial limit. Additionally, the ability of an airline to join an alliance may be restricted by the country's' laws and regulations or subject to approval by authorities. The alliances also seem to not admit members from the same country.
50. The top three city pairs in the domestic markets by capacity in 2019<sup>12</sup> were: Nairobi - Mombasa (1,137,926); Nairobi – Kisumu (495,521), and Nairobi - Eldoret (256,492). These are trunk routes connecting the three International Airports in Kenya. The top three regional city pairs by capacity in 2019 were: Nairobi - Entebbe (348,247); Nairobi - Addis Ababa (339,898); and Nairobi – Johannesburg (276,455). The top three international city pairs were Nairobi – Dubai (381,541); Nairobi - Amsterdam (229,922); and Nairobi – Doha (226,542).
51. France is in the top ten international destinations, which has 177,869 seats departing for France in 2018 compared with 64,896 in 2014. A major driver for the growth has been Air France, which relaunched its Paris – Nairobi operation in March 2018.

## Airline Route Analysis

### Domestic

52. There are a total of four hundred and sixty six (466) flights to the domestic routes of focus in this report; Kenya Airways and Jambo Jet operate two hundred and five (205) flights; Silverstone Air eighty one (81) flights; Skyward Fifty two (52) flights, Fly 540 Fifty one (51) flights and seventy seven (77) flights by the other airlines (See Table 6 and Figure 3.)
53. The Nairobi – Mombasa city pair is served by nine (9) groups offering one hundred and fifty (150) weekly flights. Kenya Airways and Jambo Jet operates one hundred and four (104) flights; Fly 540 operates eighteen (18) flights in the JKIA - Mombasa route. Silverstone and skyward offer fourteen (14) weekly flights each in the Wilson – Mombasa route.

12. OAG Schedules analyzer

54. The Nairobi - Kisumu city pair is served by five (5) groups and ninety three (93) weekly flights. Kenya Airways and Jambo Jet operate fifty three (53) flights and Fly 540 operates five (5) flights on the JKIA – Kisumu route, while Silverstone operates twenty one (21) flights and Safarilink fourteen (14) flights in the Wilson - Kisumu routes.
55. There are four (4) groups of operators providing a total of fifty one (51) weekly flights in the Nairobi – Eldoret city pair. Jambo Jet operates twenty one (21) flights and Fly 540 operates four (4) flights in the JKIA – Eldoret route. Silverstone operates twenty one (21) flights and Skyward operates twelve (12) flights in the Wilson - Eldoret route.
56. The holiday destination routes like Nairobi - Amboseli have only fourteen (14) flights weekly by two Operators - Air Kenya and Safarilink (seven flights each). The Nairobi Lodwar route is served by Fly 540 (seven flights), Safarilink (seven flights), Silverstone (seven flights) and Capital Airlines.
57. The frequency of flights to the routes assessed under the study indicate competition amongst the players in the domestic market for the major domestic routes, which are served by 4 or more groups of operators save for Nairobi- Lodwar route. The airlines operating in the holiday destination routes seem to have similar number of flight frequencies.
58. The Tanzania market has three routes from Nairobi to Zanzibar (twenty eight flights per week), Dar-es-Salaam (84 eighty four flights/ week) and Kilimanjaro (forty nine flights/week). This market is served by Kenya Airways and Precision Air who offer fourteen flights each to Zanzibar, forty two flights each to Dar-es-Salaam and twenty five flights each to Kilimanjaro. The two players have a code share agreement. Zanzibar and Kilimanjaro and mainly holiday and business travellers respectively.
59. The regional routes are served by four or less groups of operators save for the Mogadishu- Nairobi route which has 10 operators. Kenya Airways, Precision Air and Ethiopian Airways have the largest number of flights to the destinations they serve in the regional market.

## Regional

58. There are a total of three hundred and fifty-five (355) flights to the regional routes focused on in this report. Kenya Airways operates two hundred and one (201) flights; Precision Air eighty (80) flights; RwandAir twenty eight (28) flights, Uganda Airline eighteen (18) flights and twenty eight (28) flights by the other airlines (See Table 7 and Figure 4).
59. Nairobi – Entebbe (NBO-EBB) is one route which is served by four operators offering sixty three (63) weekly flights; thirty eight (38) flights by Kenya Airways, eighteen (18) flights by Uganda Airlines and seven flights by Rwanda Air. Nairobi – Addis Ababa (NBO – ADD) is served by one route, which has two operators with forty four (44) weekly flights; twenty eight (28) flights by Ethiopian Airways and sixteen (16) flights operated by Kenya Airways. Nairobi - Johannesburg (NBO-NJB) is served by one route, with two operators providing thirty (30) weekly flights; twenty (20) flights by Kenya Airways and ten (10) flights by South African Airways.
60. The Nairobi – Dubai route has three operators; Kenya Airways, Emirates and Ethiopian Airways. Kenya Airways and Emirates offer direct flights while Ethiopian Airways offers connecting flights via Addis Ababa. Kenya Airways and Emirates each offer fourteen (14) weekly flights.
61. The Nairobi – Amsterdam route has three operators with KLM and Kenya Airways which have a code share agreement offering fourteen weekly flights each and Emirates offering twelve weekly flights.
62. In the international routes, the routes of focus had either one or two operators who had a code share agreement, apart from the Nairobi - Amsterdam city pair.
63. The Nairobi – Doha route has three operators; Qatar Airways which offers twenty one direct weekly flights, Oman Air and Ethiopian Airline which offer connecting flights to Doha.

Figure 3: Domestic flight frequency per week

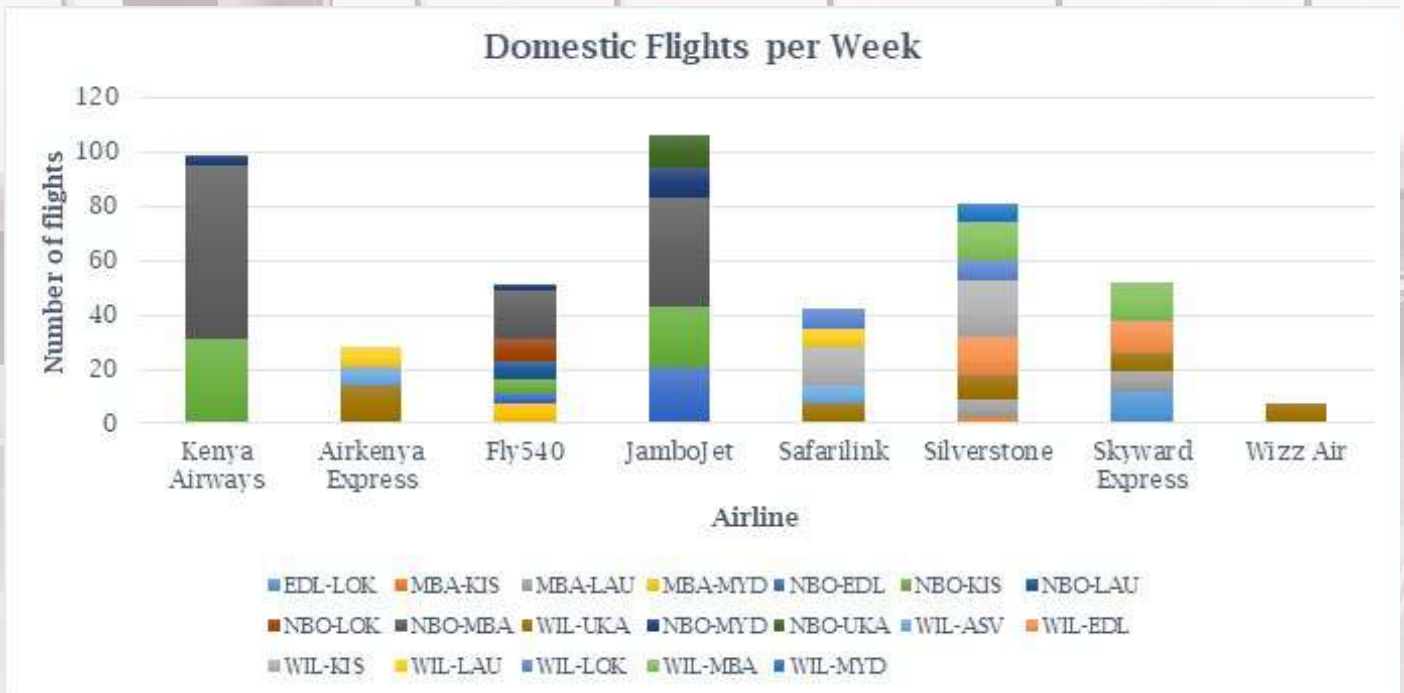


Table 3: Domestic routes and number of operators

Origin	Destination	Routes	Number of Routes	Number of Operators	Number of Groups
Nairobi	Kisumu	NBO-KIS, WIL-KIS	2	6	5
Nairobi	Mombasa	NBO-MBA, WIL-MBA	2	10	9
Nairobi	Lamu	NBO-LAU, WIL-LAU	2	7	6
Nairobi	Malindi	NBO-MYD, WIL-MYD	2	6	5
Nairobi	Eldoret	NBO-EDL	1	4	4
Nairobi	Ukunda	WIL-UKA	1	5	4
Nairobi	Lodwar	WIL-LOK	1	2	2
Nairobi	Amboseli	WIL-ASV	1	4	4

Figure 4: Regional flights frequency per week

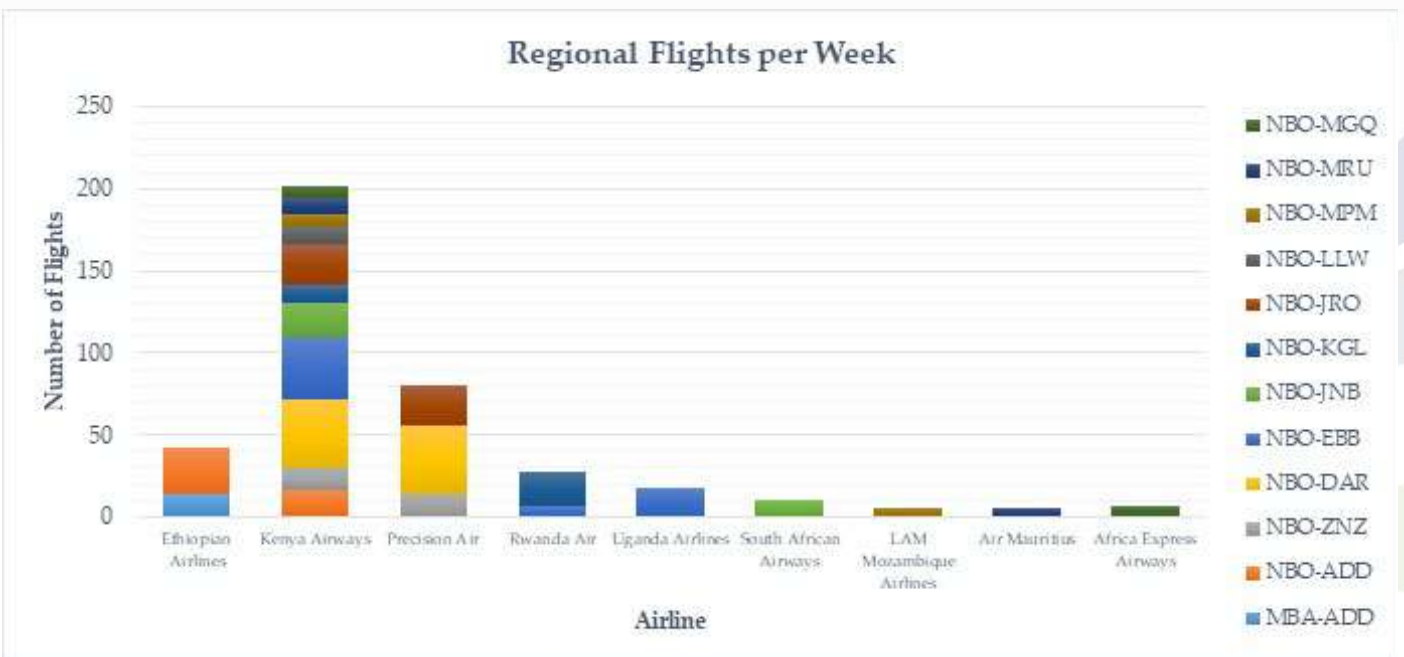


Table 7: Regional routes and number of operators

Destination	Origin	Routes	Number of Routes	Number of Operators	Number of Groups
Entebbe	Nairobi	NBO-EBB	1	4	3
Dar-es-Salaam	Nairobi	NBO-DAR	1	4	4
Kigali	Nairobi	NBO-KGL	1	3	2
Kilimanjaro	Nairobi	NBO-JRO	1	4	3
Addis Ababa	Nairobi	NBO-ADD	1	2	2
Zanzibar	Nairobi	NBO-ZNZ	1	3	2
Mogadishu	Nairobi	NBO-MGQ	1	10	10
Johannesburg	Nairobi	NBO-JNB	1	2	2
Maputo	Nairobi	NBO-MPM	1	1	1
Lilongwe	Nairobi	NBO-LLW	1	2	2
Port Louis	Nairobi	NBO-MRU	1	2	1

Figure 5: International flights frequency per week



Table 8: International routes and number of operators

Destination	Origin	Routes	Number of Routes	Number of Operators	Number of Groups
Dubai	Nairobi	NBO-DXB	1	3	3
Guangzhou	Nairobi	NBO-CAN	1	1	1
Geneva	Nairobi	NBO-GVA	1	1	1
Doha	Nairobi	NBO-DOH	1	3	3
Istanbul	Nairobi	NBO-IST	1	1	1
Amsterdam	Nairobi	NBO-AMS	1	3	3
London	Nairobi	NBO-LHR	1	2	2
Paris	Nairobi	NBO-CDG	1	2	2
Abu Dhabi	Nairobi	NBO-AUH	1	1	1
Mumbai	Nairobi	NBO-BOM	1	2	2

66. Nairobi – Paris has two operators; Kenya Airways and Air France that offer eighteen and twelve direct weekly flights respectively. British Airways, Lufthansa, KLM, Egypt Air and Turkish Airlines offer connecting flights. Kenya Airways and Air France have a code share agreement on this route (See Table 6 and Figure 5).
67. The international routes under review had three or less operators offering flights. Kenya Airways had the highest number of flights to these destinations, followed by Turkish Airlines and Qatar. The international routes exhibit oligopolistic traits as they are mostly served by three operators who in some instances have code share agreements or only two operators.
69. Silverstone Air was one of the lead competitors of Jambo Jet - a low cost carrier in the domestic market. Table 9 below provides a summary of the airline entries and exits in Kenyan market.
70. The Competition Authority of Kenya (the Authority) has a mandate in regulating market structure and market conduct in all sectors of the economy in Kenya. To this end, it has analysed and taken decisions on a number of cases in the aviation sector, which have mainly been application for exemption of joint ventures.

## COMPETITION CONCERNS IN THE AIRLINE INDUSTRY IN KENYA

### Entry and Exit

68. The Kenyan market has free entry and exit in all the routes. Entry into the Kenyan market is subject to licensing by KCAA. Exit in the industry can either result from players own decision or withdrawal of operation license by KCAA.
71. Joint ventures are considered mergers within the definition of section 41 of the Competition Act if they are full function ventures. This assessment is usually guided by section 26(3) of the Act and the transaction is considered to likely result in benefits to the Public that outweigh the detriment to competition. The Authority has not made any determinations arising from complaints amongst players in the industry (see Table 10).

Table 9: Summary of Entries and Exits in the Kenyan Market

International	Entry	Kenya Airways launched the Nairobi – New York route in October 2018. Tui Fly charter airline began operations from Netherlands to Moi International Airport Mombasa in 2018. Royal Air Maroc began passenger airplane services in March, 2019, serving the Nairobi-Casablanca. Kenya Airways launched the Nairobi-Geneva-Rome route in June 2019. Air India, began operations in the Nairobi-Mumbai route in November 2019 offering four direct flights per week. Kenya Airways and Oman Air expanded their code share agreement beyond Muscat and Nairobi to include Entebbe and Johannesburg routes for Oman airline passengers going beyond Nairobi.
	Exit	From October 2017, Kenya Airways stopped its flights to Hong Kong and Hanoi and began serving its customers on those routes through its partners Hong Kong Airlines and Vietnam Airlines respectively via code share agreements. Thomas Cook Charter flights stopped operating into Mombasa in 2019 due to liquidation. Korean Air suspended operations in 2014, following the Ebola Outbreak in West Africa. Kenya Airways exited the Nairobi Jeddah route in 2014.
Regional	Entry	Air Uganda ceased operations in July 2014. It had been serving the Entebbe - Mombasa route. It resumed operations in August 2019 after the airline relaunched operations. It now has three weekly flights to Mombasa. In 2016, Jambo Jet received the regulator’s approval to operate 16 new routes within Africa from Nairobi including; Addis Ababa, Entebbe, Dar-es-Salaam, Zanzibar, Kilimanjaro, Mwanza, Kigali, Juba, Bujumbura, Hergeisa, Mogadishu, Goma, Kisangani and Moroni. It begun operations to Entebbe in February 2018, Kigali and Mogadishu in November 2019.
	Exit	Kenya Airways exited two routes in West Africa, i.e. Gabon and Benin in October 2019. In 2013, Jet link exited the Nairobi – Juba route due to liquidation
Domestic	Exit	Silverstone in November 2019 ceased its domestic scheduled passenger air services to all domestic routes, following a revocation of their license by the Regulator.

Table 10: Details of the Approved Joint Ventures Applications in Kenya

Parties	Applicable section	Details
KQ and KLM	Section 21	<p>The JV Agreement was aimed at enhancing the existing cooperation between the parties. The aim was to formalize the previous operations and includes provisions regarding among other things, settlement of costs and revenues and governance of the JV. It was approved on the following considerations;</p> <ul style="list-style-type: none"> <li>• Enhancing its regional network and market position and by exploiting the possibilities of KLM's global network via connections route structure;</li> <li>• KLM using its global marketing, distribution and sales force to sell KQ as a strategic partner worldwide;</li> <li>• KLM to share its expertise in revenue management with KQ to improve the bottom line results of both carriers;</li> <li>• Joint training program for service employees in order to improve customer service;</li> <li>• KLM providing access to all its information technology systems capacities; and</li> <li>• KLM evaluating the level of KQ's IT system and assist in the formulation of a detailed IT strategy.</li> </ul>
KQ and Precision Air Services	Section 21(3) (b)	<p>The purpose and objective of the JV was to enhance and improve the quality of the Air services offered to customers through cost reduction, capacity rationalization and scheduling of the air services. It was approved on the following considerations;</p> <p>Facilitating KQ to be a more formidable competitor to the upcoming alliances between RwandAir and Ethiopian Airlines;</p> <ul style="list-style-type: none"> <li>• Enhanced KQ's penetration into Tanzania as evidenced by increase in the number of total seats it offered due to opening of more routes by Precision; and</li> <li>• Harmonizing the term of exemption granted to the JV in Kenya with that granted in Tanzania will create business certainty and planning.</li> </ul>
KQ, KLM and Air France	Section 21	<p>The exemption was supplemental to the previous one between KQ and KLM. It was approved on the following considerations;</p> <ul style="list-style-type: none"> <li>• Improved connectivity between Nairobi and Paris and over 212 improved destinations from CDG Airport including Amsterdam, London, Berlin, Brussels, Kiev, Montreal, Detroit among others leading to the enhancement of access to markets and trade between Kenya and these regions;</li> <li>• Widened offer to the airlines customers in terms of choice of destinations with more frequency and a wider range of schedules through the enhanced passenger connection on the sky alliance;</li> <li>• Harmonized ground handling and in-flight services through enhanced convenience for passengers and cargo under one brand and seamless services through ordinated arrival and departure schedules;</li> <li>• Possibility of lower fares for interlinking passengers resulting from economies of traffic densities, and</li> <li>• Strengthening KQ's recovery as a national carrier to profit making following a prolonged period of loss.</li> </ul>

## PROFITABILITY

### Kenya Airways

72. Kenya Airways began its loss making in 2013 (see Figure 6). Following continuous losses, in 2015 due to the poor performance of the tourism industry, the government extended a loan of Ksh. 4.2 billion (USD 4.1 million) to the flag carrier airline of Kenya. In 2017, a number of commercial banks bailed out Kenya Airways' existing loans amounting to \$243 million debt plus accrued interest, and would convert it into equity<sup>13</sup>. In 2019, the government set out plans to nationalise Kenya Airways, as the airline needed a capital injection of Ksh.45 billion (USD 443 million) to get it back to profitability<sup>14</sup>.

73. In May 2015, a Senate Committee of Parliament probed into the activities of Kenya Airways and discovered five major challenges;

73.1 Poor investments decisions by management of buying and leasing aircrafts, and fuel hedging, under arrangements which are not profitable to the company, thereby leading to sky rocketing indebtedness,

73.2 Expensive ticketing which are non-competitive in the market leading to loss of passengers as well as revenue,

73.3 Routing arrangements and partnerships which may account for massive losses of revenue,

particularly due to lack of expansion of KQ flights in the African routes,

73.4 Problematic human resources policy and practices causing long drawn industrial unrest detrimental to establishing a healthy business environment in the company and,

73.5 Frequent cancellation of flights causing inconvenience and poor relationship with passengers, who consequently abandon using the airline.

74. Kenya Airways (KQ) has continued its focus on the turnaround programme. Substantial management changes have been made with the objective of ensuring financial and operating sustainability. The airline has undertaken many actions including the following:<sup>15</sup>

74.1 Key focus on boosting revenue and improving the customer journey;

74.2 Network expansion through introduction of new routes;

74.3 Senior management changes; and

74.4 Organizational changes.

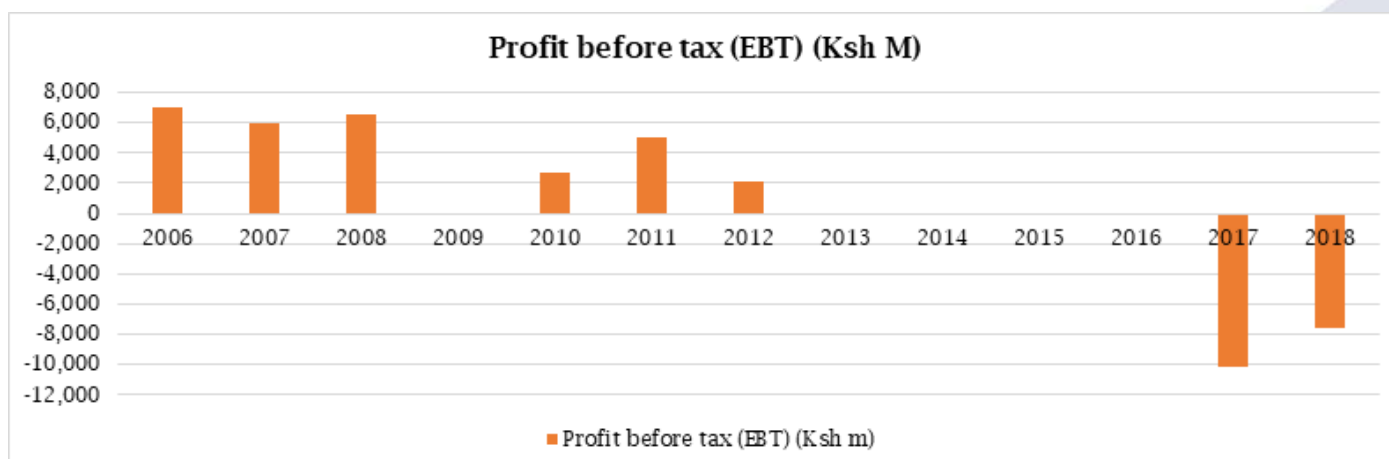
75. In July, 2019, Parliament voted for the nationalization of Kenya Airways, Kenya's national airline. This is after the legislators rejected the airline's Private Initiated Investment Proposal dated 18 June 2019 to take over Jomo Kenyatta International Airport as part of a plan to improve its revenue.

13 <https://www.businessdailyafrica.com/corporate/companies/KQ-bailout-raises-Kenyas-commercial-Sh725bn---/4003102-3976768-srv4du/index.html>

14. <https://www.ch-aviation.com/portal/news/85220-govt-prepares-another-bailout-for-kenya-airways>

15. [https://corporate.kenya-airways.com/uploadedFiles/Content/Investor\\_Information/KQ\\_Annual\\_Report\\_for\\_43rd\\_Annual\\_General\\_Meeting.pdf](https://corporate.kenya-airways.com/uploadedFiles/Content/Investor_Information/KQ_Annual_Report_for_43rd_Annual_General_Meeting.pdf)

Figure 6: Kenya Airways Profits



## MARKET SHARES AND PRICE COMPETITION

### Domestic Market Shares

76. The nationalization will entail the formation of an Aviation Holding Company to run the country's aviation sector. The holding company will consist of four subsidiaries including the Kenya Airports Authority (KAA), Kenya Airways (KQ), Jomo Kenyatta International Airport (JKIA), and a centralized aviation college. Still, major ownership of the airline will remain with the government, with the state owning 48.9% of the company. Other owners include Air France KLM with 7.8% and local banks who own 38.1% of the Airline's stake.
77. Parliament's consent to nationalize KQ is anticipated to make the airline more competitive, allowing it to challenge players like Ethiopian Airlines, a state-owned airline, among other competitors. Additionally, the move will save the airline from its debt quicksand, cut its stemming losses, and provide financial muscle to acquire more fleets.

78. The domestic market passenger airline service is served by sixteen airlines. The flag carrier – Kenya Airways – accounted for 978,529 (19%) domestic departure seats, while its subsidiary Jambo Jet accounts for 857,064 departure seats (17%). Air Kenya Express, which majorly served leisure destinations, accounted for 591,040 (11%) passenger seats in 2018, while Silverstone accounted for 550,722 (11%) departure seats before its exit. See Figure 7.

Figure 7: Domestic Airlines by capacity (2018), OAG Scheduler

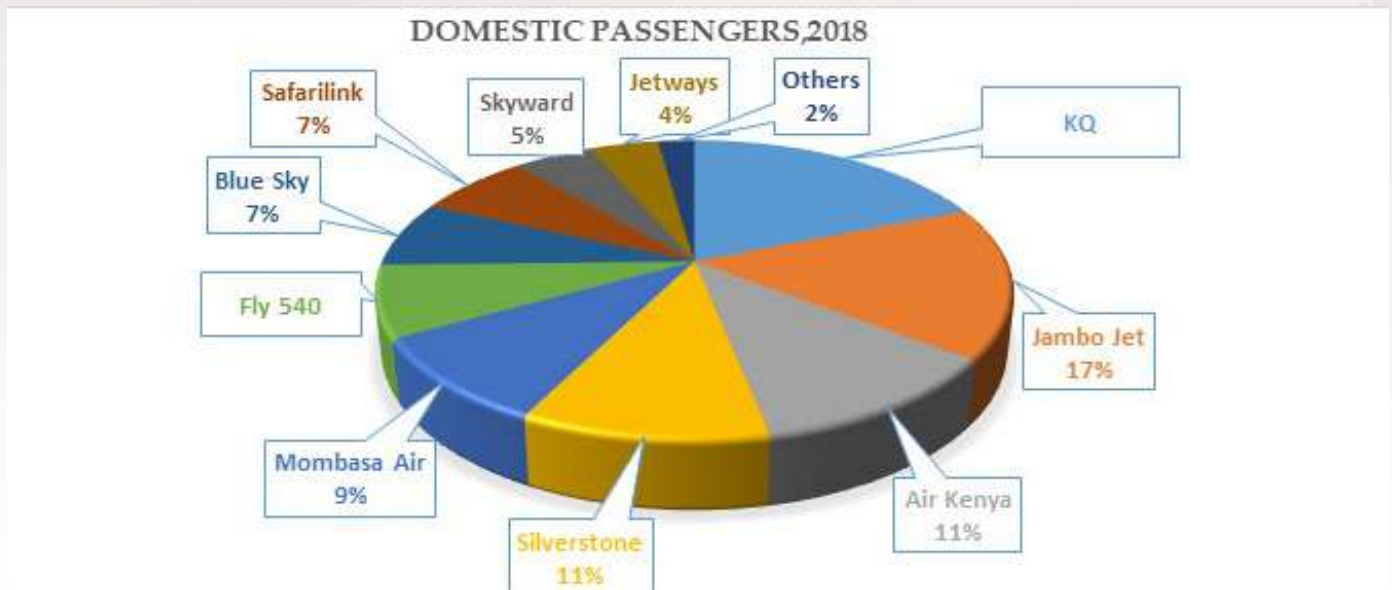
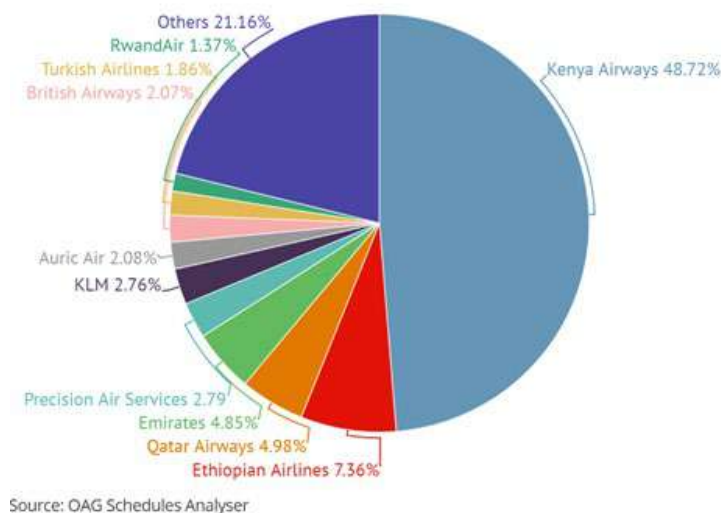


Figure 8: International Airlines Market share 2018



## International Market Shares

79. In the international market<sup>16</sup>, Kenya Airways has the largest market share by departure seats in the Kenyan Market, with a share of 48.72%, followed by Ethiopian Airlines with a share of 7.36% and Qatar Airways with a market share of 4.98% (See Figure 8). Tanzania's Precision Air has a share of 2.79%, as it serves the Tanzania market. The market to France is likely to increase the total number of departure seats following the entry of Air France in the NBO-CDG route.

## Price Competition

80. The study compared average daily price per route for each airline. The time slots were categorized into; early morning (0001hrs-0600hrs), morning (0601hrs-1200hrs), afternoon (1201hrs- 1800hrs), and evening (1801hrs-0000hrs). The time slot categories were used to get average daily price per time slot per day. The prices compared are for economy class passenger tickets.

81. For there to be price competition, it is expected that the prices will vary over time and they will become cheaper as dates go further towards March 2020. Secondly, it is expected that the more frequent the number of flights and operators in a route, the cheaper the prices will be. Third, it is expected that comparable distances will have similar pricing, which may vary depending on number of flights and number of operators in a given route.

82. The Nairobi - Kisumu city pair is served by five (5) groups and offering ninety-three (93) weekly flights. NBO-KIS has 58 weekly flights and WIL-KIS has 35 weekly flights. The prices for the NBO-KIS route change overtime for each operator in comparison to the WIL-KIS route where the prices remain constant.

83. The Nairobi – Eldoret city pair has two routes: WIL-EDL which has 26 weekly flights and NBO-EDL which has 25 weekly flights. The price for WIL-EDL flights are constant and do not vary with time, while those for NBO-EDL vary over time for Jambo Jet and Fly 540.

84. The four routes indicate that the NBO-KIS and NBO-EDL routes have more price competition in comparison to the WIL-KIS and WIL-EDL routes. This can partly be attributed to the number of players in the NBO-EDL and NBO-KIS which are more than the players in the WIL-KIS and WIL-EDL routes. In addition, JKIA accounts for the most departure seats in the domestic market and therefore, there is more demand in the JKIA routes in comparison to the WIL routes.

85. The Nairobi – Mombasa city pair is served by nine (8) groups offering one hundred and fifty (150) weekly flights. The NBO-MBA route has 122 weekly flights in comparison to the WIL-MBA route which has 28 weekly flights. The prices for the two routes vary overtime and the three players –Jambo Jet, Kenya Airways, Fly 540 and Silverstone changed prices at the same time in the same direction. The prices on this route increase with increase in demand as all players increase the prices during the holiday season and Mombasa is one of the holiday destinations. The Nairobi- Lamu city pair is served by four (4<sup>17</sup>) offering fourteen (14) weekly flights. The prices charged by Safarilink (WIL-LAU) and Fly 540 (NBO-LAU) have sharp increases and decrease over time, and are steady in February and March which are off peak holiday seasons.

86. Nairobi – Entebbe is served by one route, NBO-EBB, which is served by four operators offering sixty-three (63) weekly flights; the operators offering direct flights are Uganda Airlines and Kenya Airways. The prices for the prices for the route by the two airlines have an average price difference of Ksh. 10,000, with Kenya Airways charging the higher price. This could be attributed Kenya Airways being the only player with direct flights since 2014 to early 2019.

87. The prices for NBO-MYD, NBO-UKA, WIL-MYD and WIL-UKA varied across time. The NBO-MYD route is however served by one group that is Kenya Airways and its subsidiary Jambo Jet and their prices on the route are quite similar, despite one being a full service carrier and the other a low cost carrier. The prices vary during the peak holiday season that begins in mid-November up to the end of December. Similarly, time slot has an effect on the prices, morning flights are more expensive relative to afternoon and evening

16. <https://www.routesonline.com/news/29/breaking-news/286894/analysis-kenyas-evolving-aviation-market/>

17. Prices for other players not available online

flights. In the Nairobi - Malindi route, only Jambo Jet has morning and evening time slots.

- 88. The NBO-DAR has 84 weekly flights, NBO-JRO route has 49 weekly flights and the NBO-ZNZ route has 28 weekly flights served by Kenya Airways and Precision Airways. The price difference for the two operators is less than Ksh. 1,000, on average. This may possibly be attributed to the joint venture agreement they have on these three routes.
- 89. The NBO-KGL route has 32 weekly flights served by Kenya Airways and Rwanda Air. The prices for Rwanda Air are constant over time in comparison to Kenya Airways. Their price difference is on average less than Ksh. 2,000. Rwanda Air is the flag carrier for Rwanda.
- 90. The Nairobi- Addis Ababa city pair is served with forty-four (44) weekly flights, with 2 operators serving the route. NBO-MGQ has 14 weekly flights with one operator. The prices seem constant over time for Ethiopian Airline and African Express Airways. This may be attributed to their prices not being driven by demand factors. There is a constant price difference between Kenya Airways and Ethiopian Airways of Ksh. 2000. The prices for the NBO-ADD and NBO-MGQ route are quite similar, as expected given that their distance is comparable.

- 91. The NBO-JNB route is served by two operators Kenya Airways and South African Airways, with 30 weekly flights. The prices for the two operators do not change with time and their price difference is on average Ksh. 3,000. The NBO-DOH route which is served by Qatar Airways with 21 weekly flights has lower prices in comparison to the NBO-JNB route whose distance is comparable and have similar number of weekly flights.
- 92. The NBO-AMS, NBO-CDG and NBO-LHR routes, which have comparable distances, have varied prices across time and the operators seem to be competition on prices as their prices increase and decrease during particular peak and off peak seasons, as would be expected. KLM charges Ksh. 49,000 more than Kenya Airways on average. In some instances, their prices are the same as was the case in January 2020 and November 2019. The NBO- CDG route is served by Air France and Kenya Airways, their prices have a difference of Ksh. 5,000, Kenya Airways price being more. The prices do not seem to be affected by time much as the change in price seems to spike in some months and then remain constant which might be explained by changes in demand.

Figure 9(a): Average Airline Domestic Price, per day

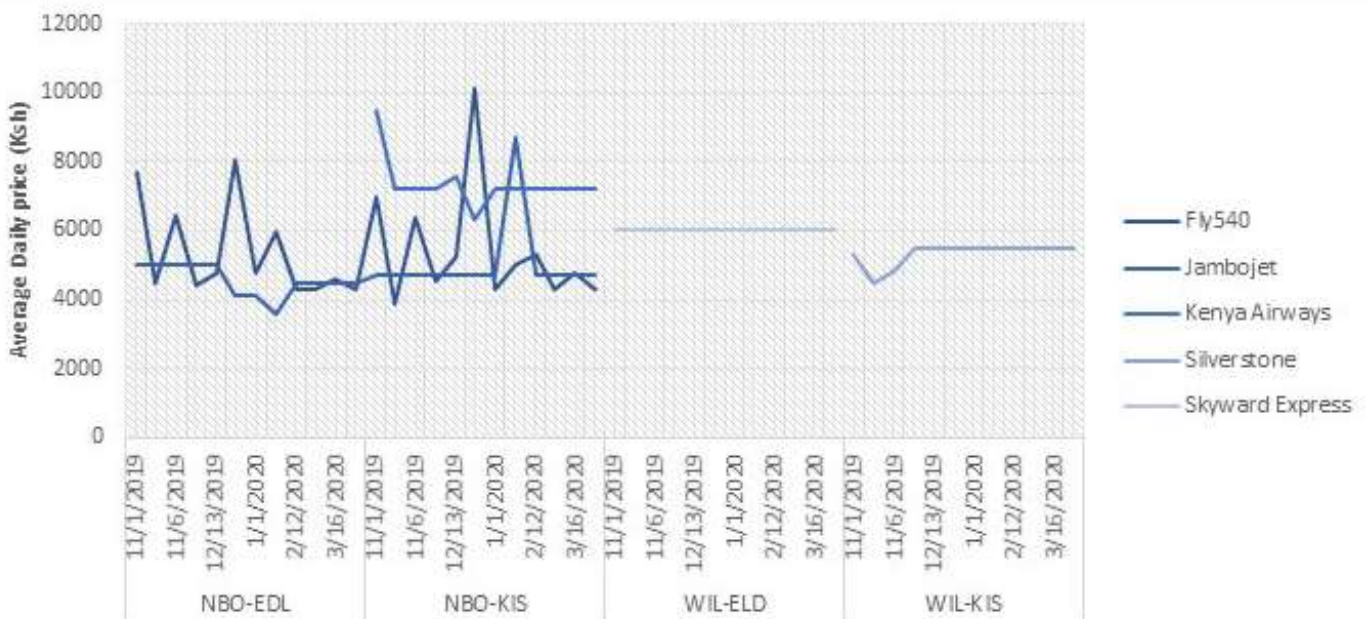


Figure 9(b): Average Airline Domestic Price, per day



Figure 10(a): Average Airline Regional Price, per day

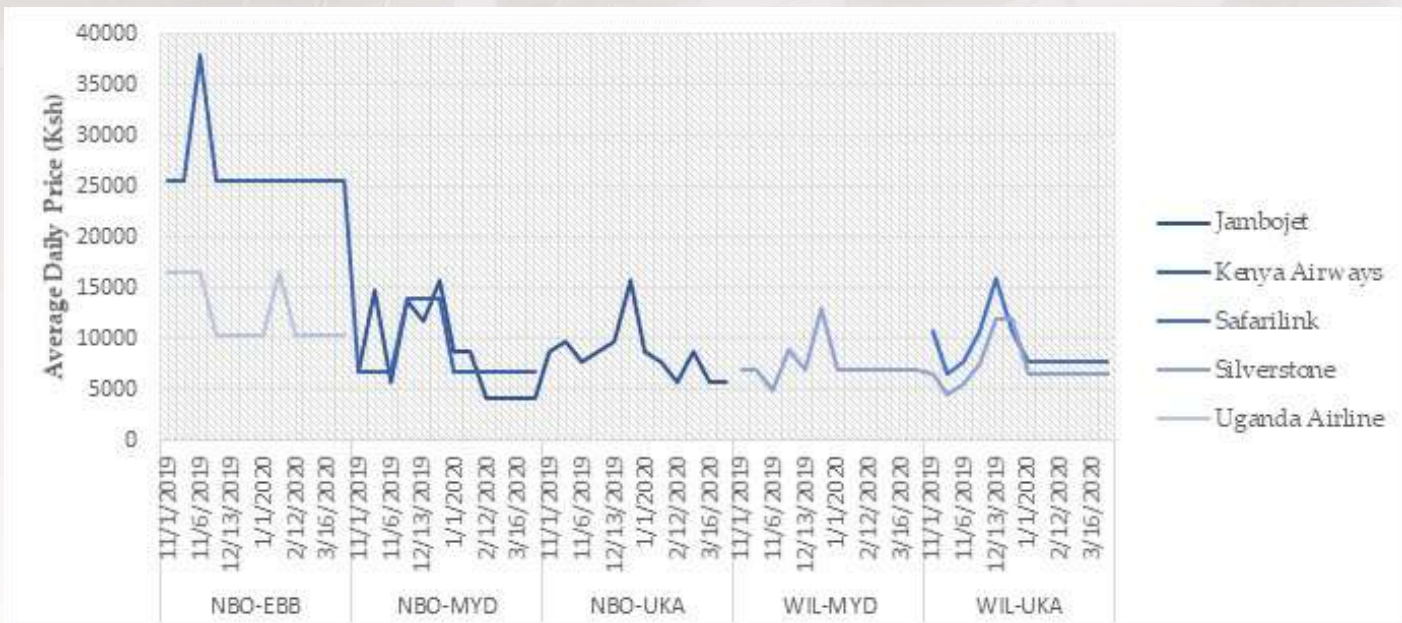


Figure 10(b): Average Airline Regional Price, per day

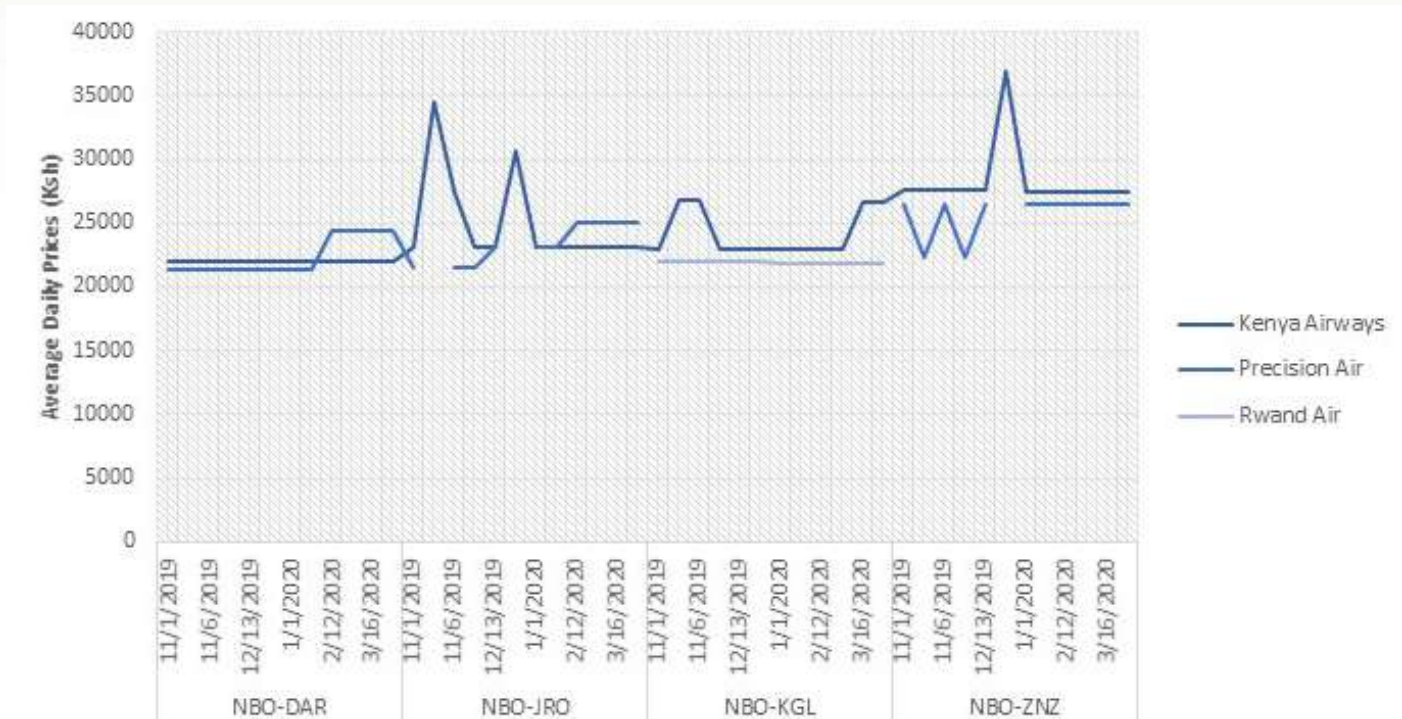


Figure 10(c): Average Airline regional Price, per day

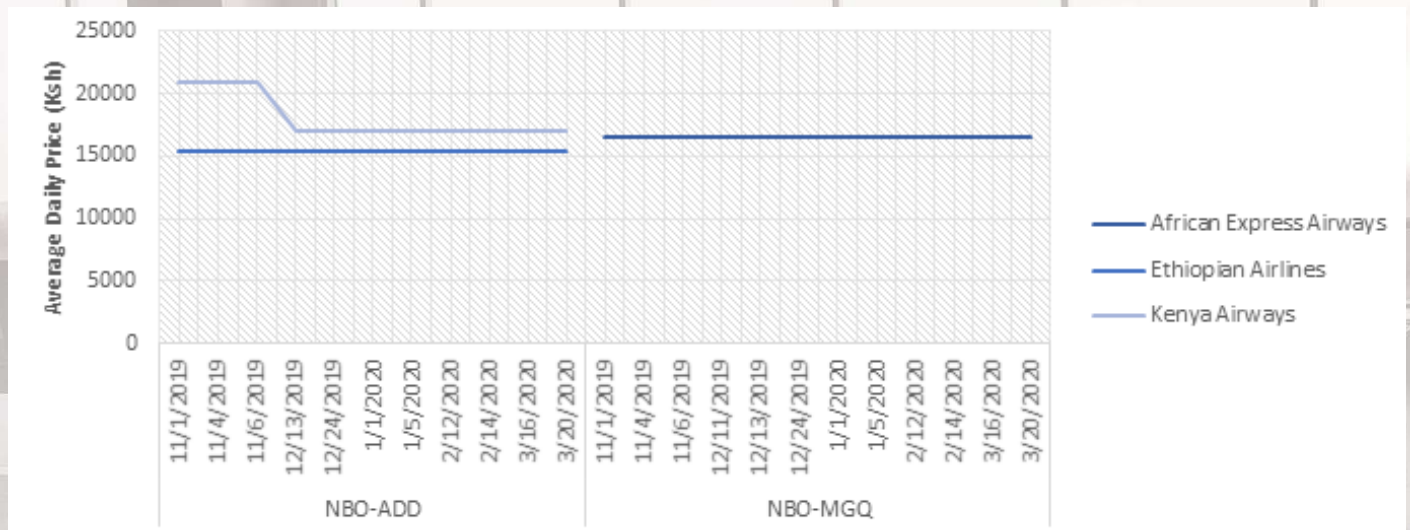


Figure 11(a): Average Airline International Price, per day

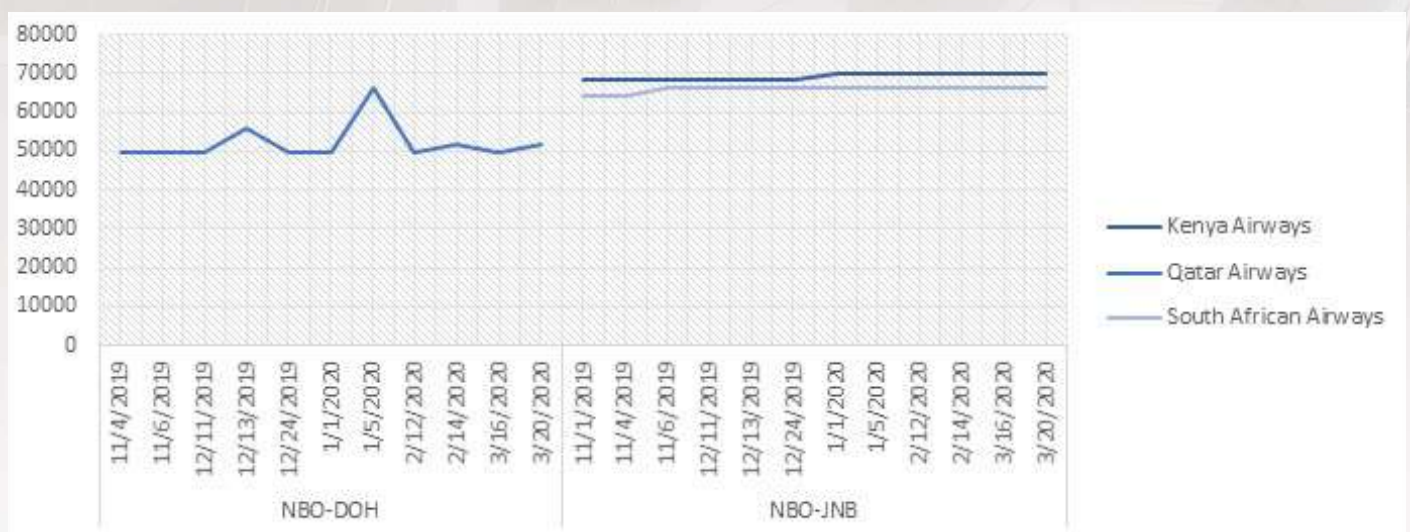
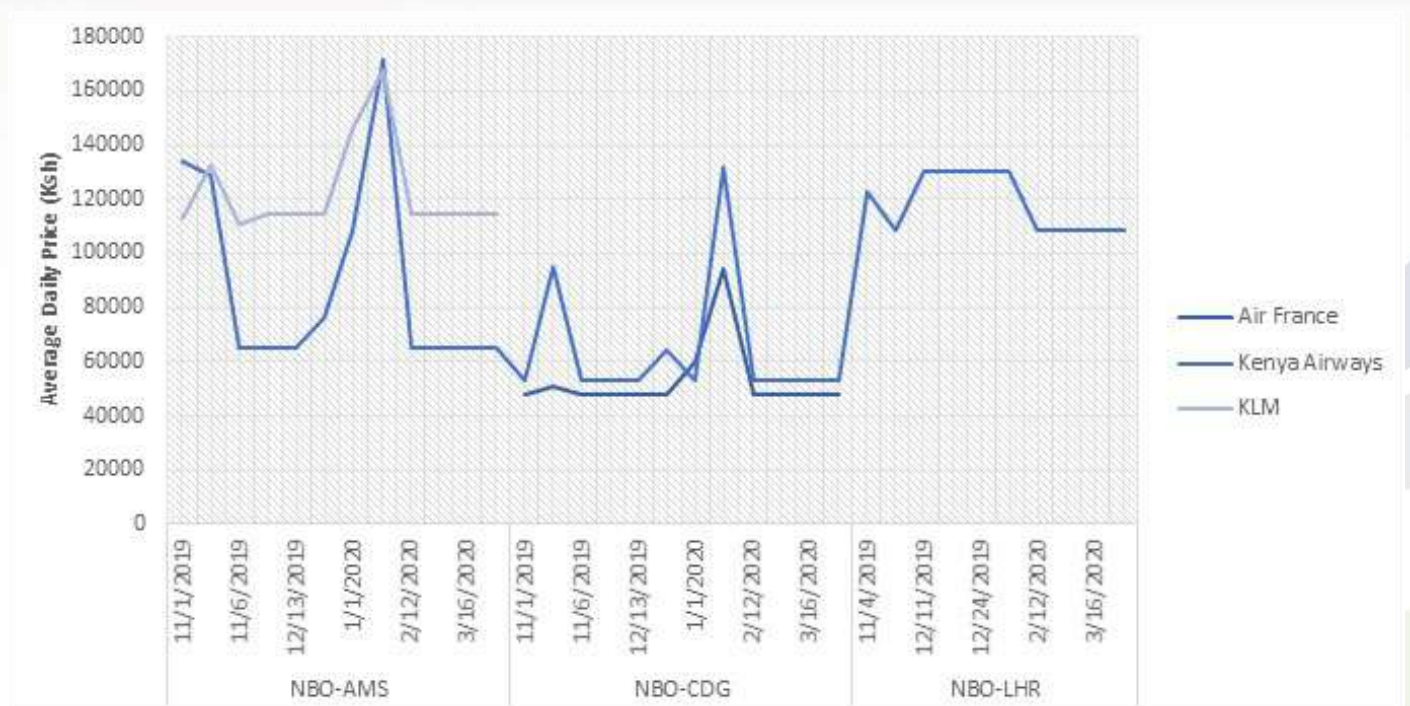


Figure 11(b): Average Airline International Price, per day



## Average Passenger Price per Kilometre (APPK)

93. The average passenger price per kilometre (APPK) shows the relationship between distance and the average price per passenger per Kilometre for domestic, regional and international routes. They are all represented by their respective distances and prices are averaged across routes. Figure 12 gives comparison of average prices by airline during the study period.
94. Kenya Airways has the highest APPK for all its domestic, regional and international routes. In addition, the routes for the Tanzania markets from Nairobi have higher APPK than international routes, which are longer distances.
95. The international routes such as NBO-AMS, NBO-BOM, NBO-CDG, NBO-DOH, NBO FRA, NBO LHR notably have an APPK of below Ksh. 20 which is lower than the APPK for the regional routes which are between Ksh. 21 and Ksh. 40. This may be attributed most probably to the larger aircrafts used in the international routes, and therefore greater efficiency for the airlines.

96. The Tanzania market has a monopoly and this is made apparent by the prices being charged as illustrated by the APPK in Figure 12 above. The APPK for NBO-JRO is above Ksh. 100 for the two airlines operating in the route, while noting that KQ has a stake in Precision Air too.
97. In the domestic market, there is a negative relationship between average passenger price and distance, as illustrated in Figure 13.
98. In the regional markets, there is a negative relationship between average passenger price and distance, as illustrated by Figure 14.
99. In the international market, there is a positive but very low relationship between price and distance, as illustrated by Figure 15.

Figure 12: Average Passenger Price (Ksh.) per Kilometre for All routes

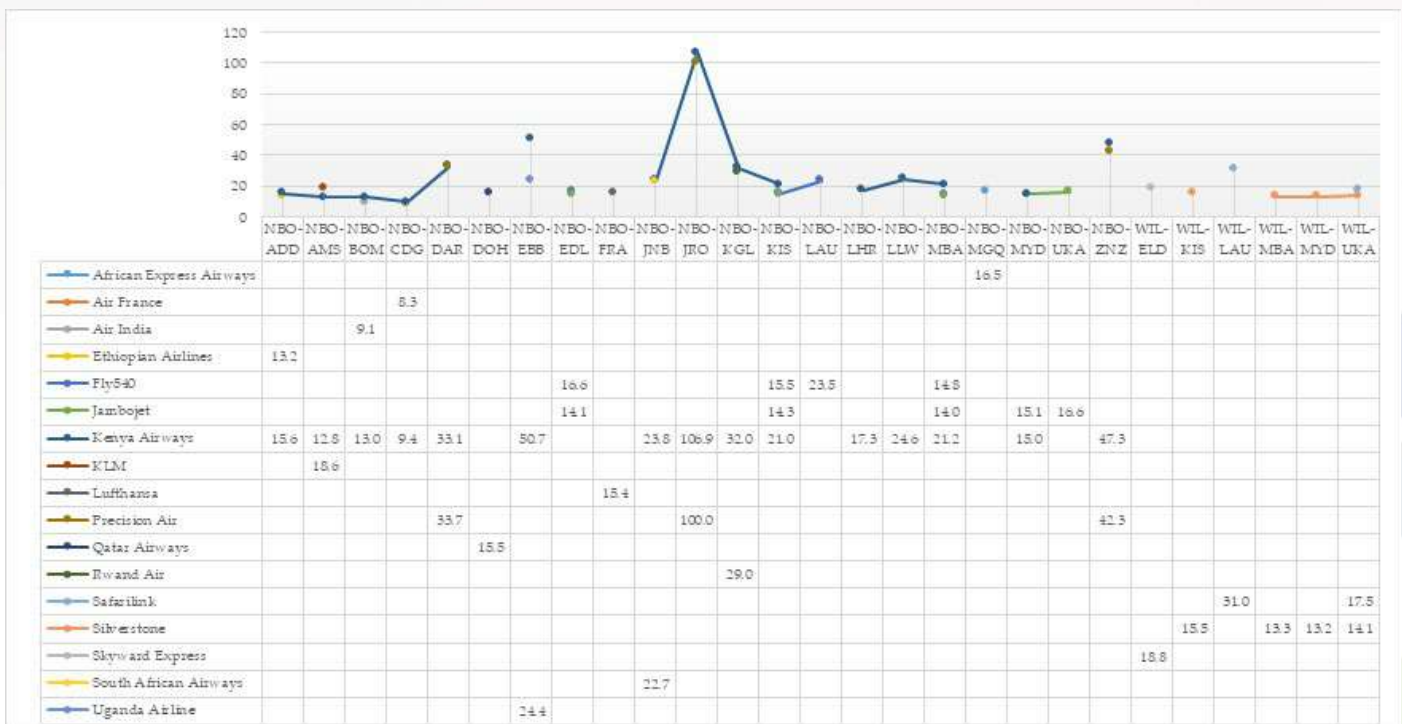


Figure 13: Domestic APPK

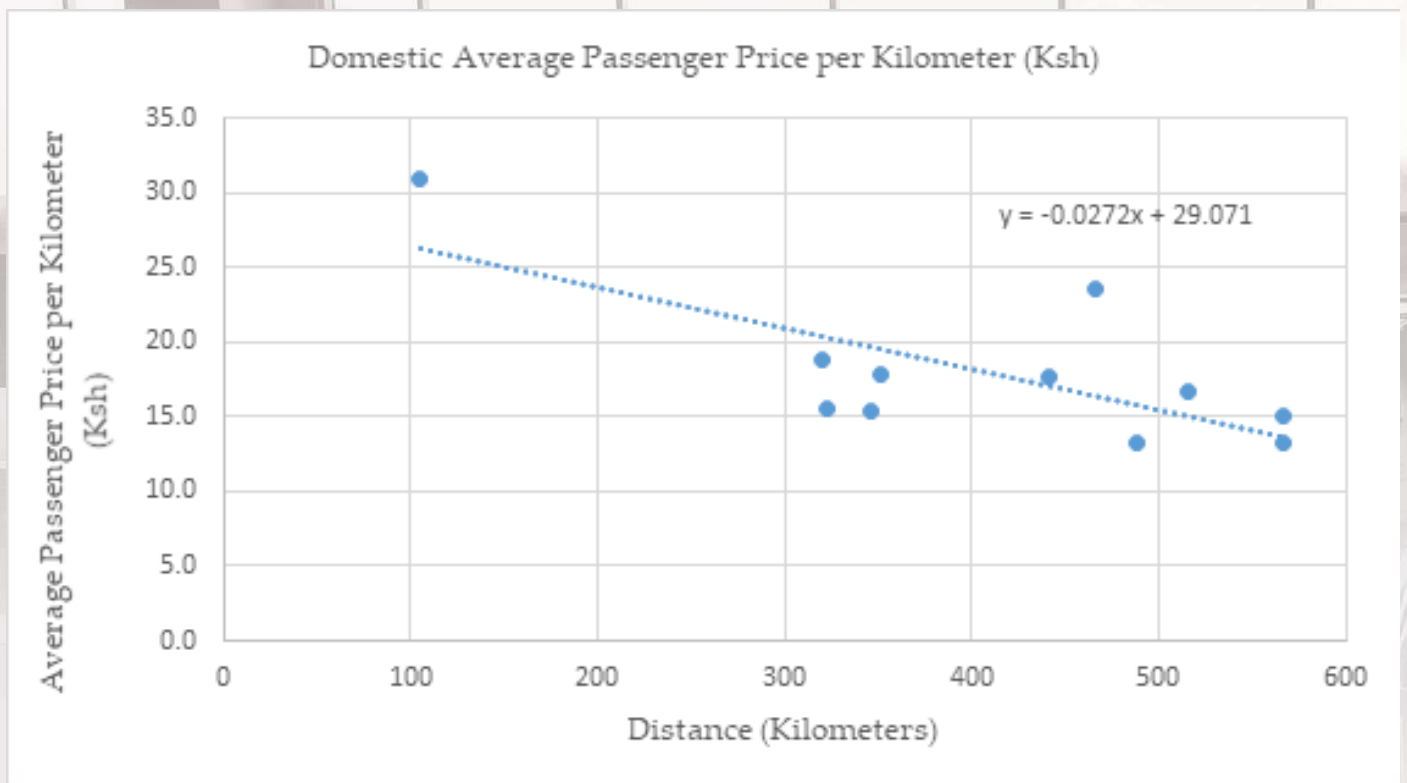


Figure 14: Regional APPK

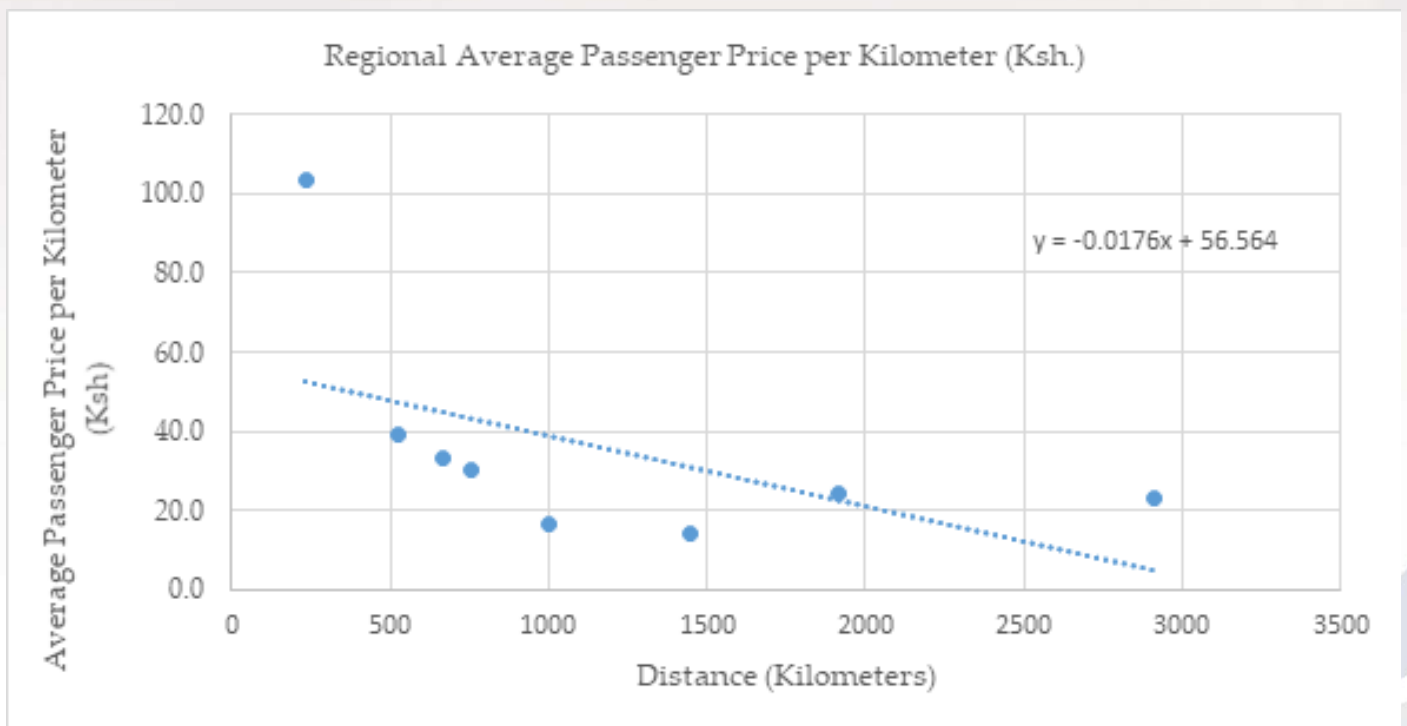
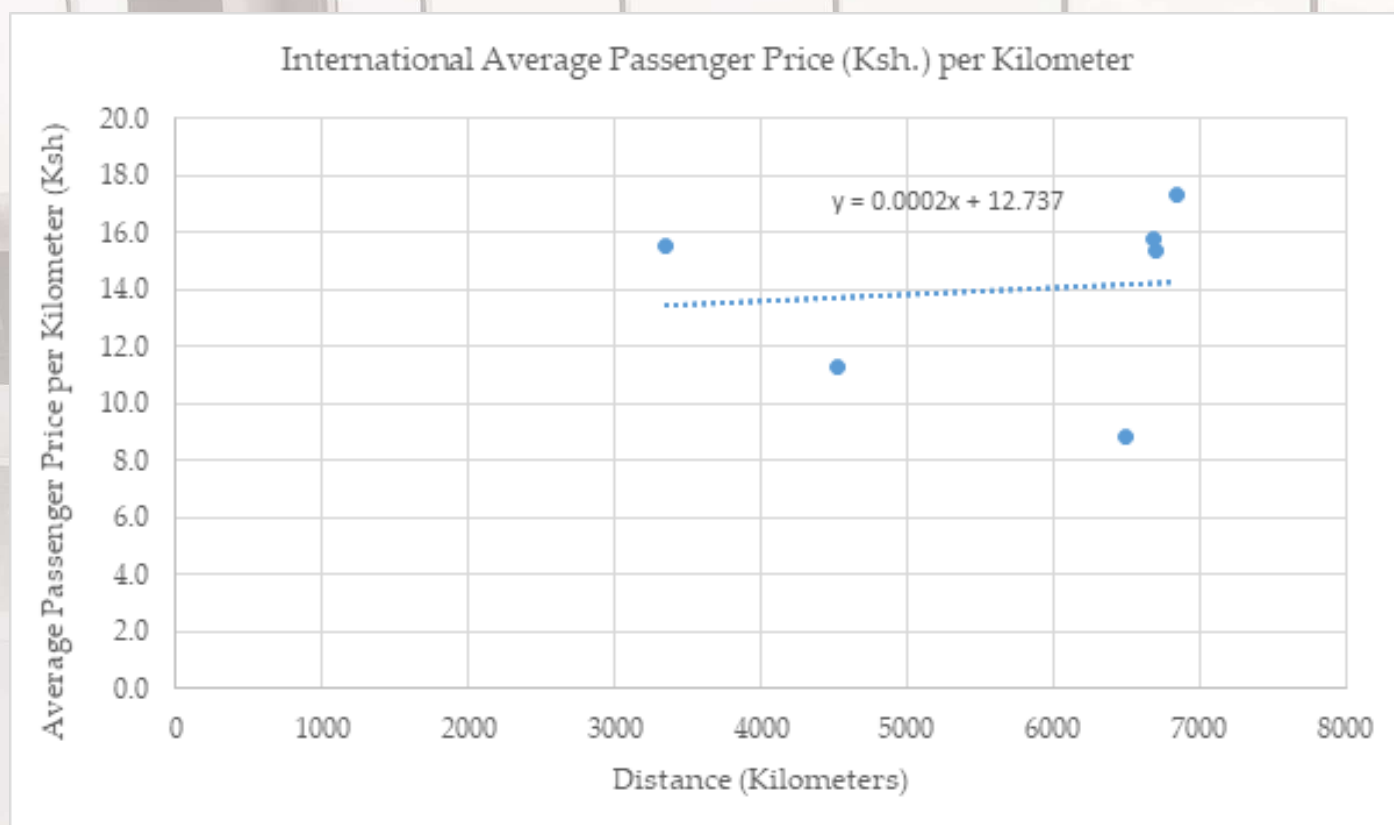


Figure 15: International APPK



## REGIONAL AND CONTINENTAL PRIORITIES TO ADDRESS EXISTING COMPETITION CONCERNS

100. Encourage partnerships mergers and consortium within African Airspace. The future of Air transport in Africa is heavily reliant on the initiatives that will be undertaken by Aviation regulators and Competition Authorities in order to promote a climate of cooperation among African carriers through partnerships, mergers and consortiums. The joint venture applications by Kenya Airways have enabled them gain more access to destinations around the world. Promoting such partnerships and mergers in the African Air space can increase the supply of passenger air transport.
101. Collaboration with Aviation Authorities to assess price competition concerns. In some routes, there is no price competition, which is a factor that determines the demand for passenger air transport.
102. Improvement of airport infrastructure. This is essential in increasing the airport capacity, as it is a determinant of landing and take of slots. In addition, there is need to review the current rules on slot allocation to allow for trading of slots and ensuring that the allocated

slots are utilized. This will exert pressure on the players to increase flight frequency or trade them with other players, thus increasing competition to various destinations.

## CONCLUSIONS

103. The Kenya Aviation industry have been growing steadily as indicated by the growth in the number of licensed aviation personnel and the operational licenses that have been issued by KCAA.
104. There is free entry and exit of players in the air passenger transport for domestic, regional and international markets.
105. There is no dominant player in Kenya's domestic air passenger market. However, Kenya Airways and its subsidiary Jambo jet have the largest share by departure seats of 18.8% and 16.5% respectively.
106. In the domestic routes; namely, NBO - MBA, NBO - EDL and NBO - KIS, the prices vary depending on the date and time slots. For example, the Morning flights are more expensive relative to afternoon and evening flights. Similarly, routes pricing is dependent

on demand with significant price increase in December which is normally a holiday season, when the demand is high. The price amongst the low cost carriers on these routes is similar.

107. There are no price competition concerns in the routes analyzed save for the NBO-ADD, NBO-KGL, NBO-JNB and NBO-MGQ routes. In other words, the prices in these four routes are not responsive to changes in time, frequency of flights and number of operators and also remain quite similar. Notably, the players in the NBO-ADD and NBO-JNB routes are flag carriers.
108. The air passengers (consumers) in the Tanzania market are faced by very high average passenger price per Kilometer (APPK), which is notably higher than similar price for longer distances within Africa. This may be attributed to the existence of only one group service in the NBO- JRO and NBO-ZNZ routes.
109. The joint venture that Kenya Airways has with Precision Air, KLM and Air France have facilitated their market share growth in the respective regional and international markets. There is little to no price competition among members of these joint ventures. Therefore, these routes are monopolistic in nature.
110. Landing and take-off time-slots have an effect on the average daily prices in the domestic market. Therefore, equitable allocation of time slots is essential for price competition. Jambo Jet and Kenya Airways have more morning slots in comparison to other players in the domestic market, which raises competition concerns.
111. Growth of LCCs beyond the domestic market is key to opening up of the regional and continental markets. The entry of Jambo Jet, an LCC, is likely to increase competition in some regional routes which are only served by two to three operators. However, given that the airline is owned by Kenya Airways, there is need to encourage more LCC groups with options to enter the regional market.
112. The international routes assessed in the study are oligopolistic in nature with only two operators providing commercial passenger services, or two operators with code sharing agreements offering these services.
113. Airport infrastructure and related services play a key

role in increasing the demand for an Airport. Two of the four international airports assessed in the study are receiving international passenger arrivals and departures. There is need to improve the Eldoret and Kisumu International Airport to enable each handle international passenger flights. This is in line with the Kenya Civil Aviation Air Space Master Plan.

## RECOMMENDATIONS

114. Improve air transport infrastructure to accommodate the future growth of air traffic in collaboration with users by improving operational efficiency at Jomo Kenyatta International Airport and to ensure that it remains a competitive connecting hub and East Africa's main air passenger hub;
115. Implement the Single African Air Transport Market (SAATM) in order to open Africa's skies by making its regulatory framework statutory; this can be achieved by encouraging partnerships in the African Air space; and,
116. Review the existing bilateral arrangements to ensure consistency with the Yamoussoukro Decision framework. This may be necessary as some of the bilateral agreements between Kenya and other partners in the EAC, such as Tanzania, has limits on the frequencies and destinations that can be served, which have a detrimental effect on competition in passenger air services.

# **CHAPTER 2: KENYA**

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**(COVID-19 ADDENDUM CHAPTER)**



## OVERALL EFFECT OF COVID-19 ON THE ECONOMY

1. The Covid-19 pandemic has had adverse negative effects on the Kenyan economy including, transport and logistics, livelihoods, housing, labour force, trade, among others. According to the World Bank Economic Update No. 21, Kenya is likely to have a worst case scenario of GDP growth rate of 1.5% in 2020, in its baseline scenario projection due to COVID-19 Pandemic. It further notes that food inflation increased to 10.6% by March 2020 in comparison to 2.8% in March 2019.
2. Further, the Kenya National Bureau of Statistics quarterly labour force report established that the rate of unemployment rose to 10.4% by June 2020 compared to 4.7% in the same period in 2019.

## GOVERNMENT'S RESPONSE TO COVID-19

3. In an effort to manage the effects of the pandemic, the Government constituted a National Emergency Response Committee on Coronavirus (NERC), whose key role is to assess the impact of the virus and propose feasible recommendations for the recovery of the economy.
4. Figure 1 below presents the actions taken by the Kenyan government to reduce and manage the effects of the pandemic.
5. To aid in economic recovery, the Government came up with various fiscal and monetary measures to mitigate the impact on businesses especially SMEs. The government has introduced a series of stimulus

measures, including<sup>1</sup> ;

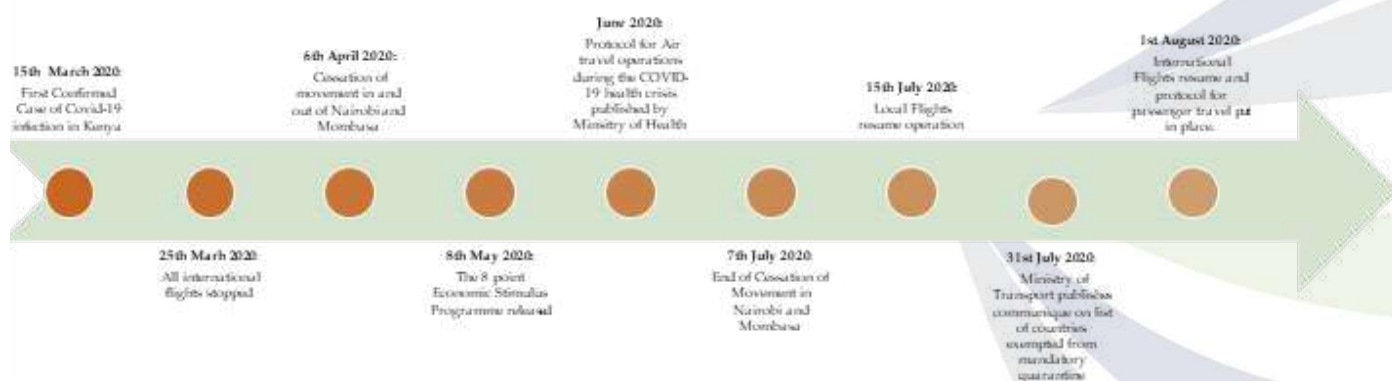
- 5.1 Reduction of the resident corporate tax rate from 30% to 25%. This measure is aimed at reducing the corporate tax of SMEs in all sectors and increases the distributable profits to SMEs owners and shareholders;
- 5.2 Reduction of the turnover tax rate from 3% to 1%. The reduction of the turnover tax rate assist traders whose businesses are hard hit by the measures taken to curtail the spread of the virus;
- 5.3 Reducing value-added tax from 16% to 14%. This measure aims to improve the cash flow of businesses due to reduced outflow and reduced credits/refunds;
- 5.4 Allocation and release of Ksh. 10 billion to facilitate payment of SMEs pending dues and VAT refunds to assist businesses with managing their cash flow; and
- 5.5 A temporary suspension of adverse listings in the Credit Reference Bureaus for Micro, Small and Medium Enterprises (MSMES) and corporate entities where loans fall overdue or in arrears<sup>2</sup>.
6. Further, through the Central Bank of Kenya the government introduced measures to enable SMEs afford loans for businesses<sup>3</sup>. The measures include the reduction of the Central Bank Rate from 8.25% to

<sup>1</sup> President of the Republic of Kenya, "The Seventh Presidential Address on the Coronavirus Pandemic: The 8-Point Economic Stimulus Programme," Saturday, 23rd May, 2020

<sup>2</sup> Central Bank of Kenya press release, April 14, 2020, the Credit Reference Bureau Regulations, 2020 and Additional Measures on Credit Information Sharing.

<sup>3</sup> *ibid*

Figure 1: Government intervention in dealing with Covid-19 spread



7.25% and the Cash Ratio Reserve (CRR) from 5.25% to 4.25% to increase liquidity in the banking sector. This liquidity is meant to increase the credit available to SMEs in the economy under the prevailing corona crisis.

7. Moreover, through the Ministry of Industry, Trade and Cooperatives, SMEs received Ksh. 5 billion stimulus package from the government with emphasis on those making Personal Protective Equipment (PPE) owing to the increased cases of the coronavirus disease<sup>4</sup>. Government has also allocated Ksh. 3 billion capital to operationalize the SME Credit Guarantee Scheme. Under the guarantee scheme, the government will pay part of the loans taken by SMEs, thus enabling banks to extend more loans to small businesses at lower rates<sup>5</sup>.
8. In addition to the measures discussed above, the government through the Central Bank of Kenya and in agreement with the commercial banks, restructured debts owed to banks by SMEs facing financial instability due to Covid-19. This is necessarily aimed at ensuring businesses remain afloat during the difficult time of the pandemic. Through this effort, SMEs can also make larger mobile money transfers and removal of charges on lower transaction ranges. Further, the Government ministries and departments were directed to pay at least Ksh. 13 billion of the supplier debt since majority of the suppliers are SMEs.

## EFFECT ON THE AVIATION SECTOR

9. As illustrated above, all international flights into the country were halted in March following the high cases of confirmed infection within Nairobi and Mombasa, which are the main hubs for international passenger flights. Total passenger transport declined by 66% between January and September 2020, while international passenger travel declined by 69% between January to September 2020 when most countries had either halted air passenger travel or put stringent measures in an effort to curb the spread of the virus.
10. In addition, cessation of movement into and out of Nairobi and Mombasa to contain the spread was put

in place, including halting domestic air travel. Domestic passenger travel declined by 62% between January and September 2020 compared to the same period in 2019. Domestic travel resumed in July once the protocol on airport operations were in place. These included digital screening of passengers, markings and announcements which ensure sanitation of check-in and immigration stations and use of antimicrobial screens. Domestic travel in September 2020 improved slightly from April albeit dismal performance in comparison to September 2019.

11. There was an improvement in passenger travel following the opening up of international skies from 1st of August 2020. Kenya published a list of nineteen (19) countries<sup>6</sup> that were exempt from mandatory quarantine, one of the protocols put in place for re-opening of international air transport. Further, in order to attract tourists, Kenya was awarded the World Travel and Tourism Council Safe Travel Stamp in recognition of the country's adoption of the global health and hygiene standardized protocols dubbed 'Safe Travels' in the wake of the Covid-19 pandemic.
12. There is a notable increase in confirmed COVID-19 cases since the containment measures were relaxed, including resumption of domestic and international passenger travel (See Figure 2).

## GOVERNMENT SUPPORT TO REVIVE AVIATION INDUSTRY

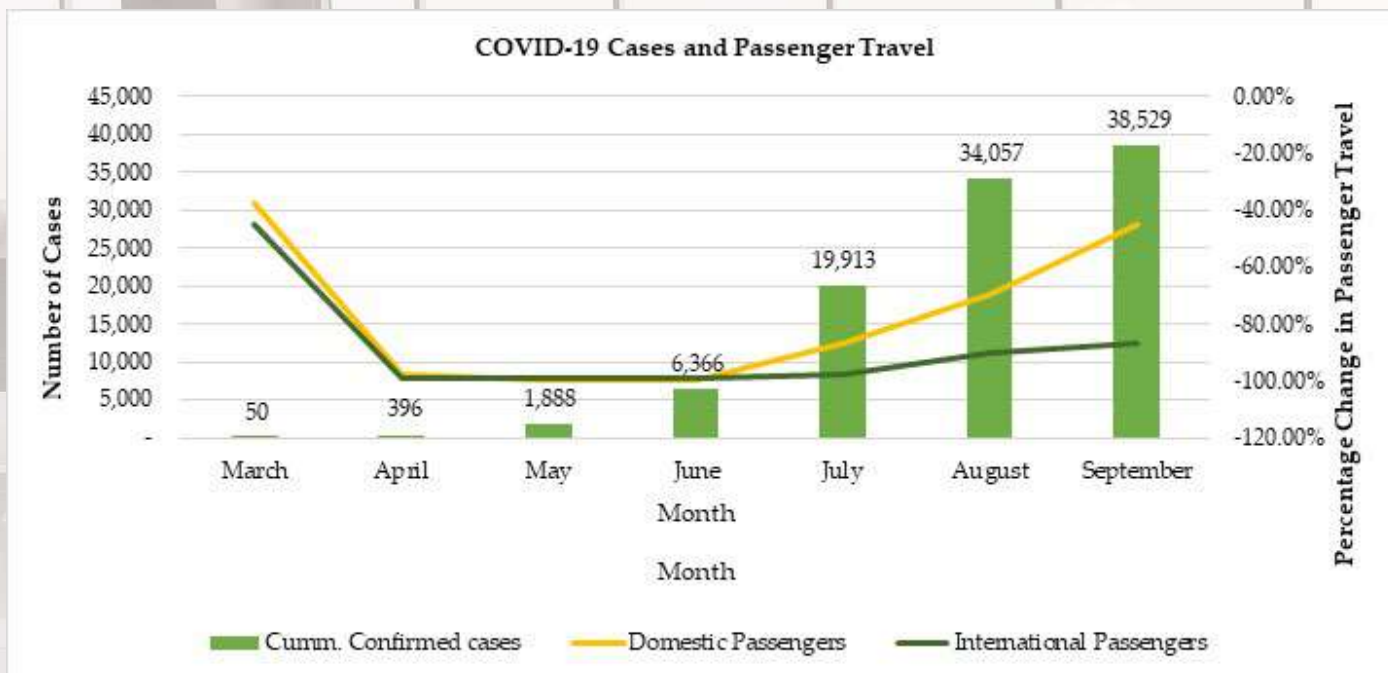
13. The government is currently reviewing the National Aviation Management Bill 2020, responsible for integrating policies relating to the aviation sector and the other sectors of the economy. This effort is aimed at enabling all the national organs and the sectors of the economy requiring access and support of the civil aviation sector to cooperate and work with the sector to ensure the effective performance of its mandate. It also aims to assess and appraise, the objectives, commitment and the risks to the country in respect of actual and potential civil aviation capabilities. The bill proposes the Civil Aviation Council which is responsible for developing and integrating policies relating to the

4 President of the Republic of Kenya, "The Seventh Presidential Address on the Coronavirus Pandemic: The 8-Point Economic Stimulus Programme," Saturday, 23rd May, 2020.

5 The Public Finance Management (Amendment) (No.2) Bill, 2020.

6 As at 31st July, the Communiqué on the Resumption of International Air Travel by the Ministry of Transport included: Canada, South Korea, Namibia, Uganda, China, Rwanda, Morocco, Japan, Zimbabwe, Ethiopia, Switzerland, the United States of America (except for California, Florida and Texas), United Kingdom, France, Germany, Netherlands, Qatar, United Arab Emirates and Italy.

Figure 2: Confirmed Covid-19 infections and Deaths



aviation sectors with a view of enabling access to and support from the civil aviation sector.

14.4 Collaborating with key aviation stakeholders to develop the Aviation Policy to aid in the recovery of the industry.

## AGENCY PREPAREDNESS

14. The Competition Authority of Kenya ('the Authority') is currently reviewing its block exemption guidelines aimed at boosting confidence among consumers and businesses and experiencing the benefits of competition by striking a balance of cushioning key economic sectors from the shocks of COVID-19 and ensuring that the merits of competition are not undermined. The sector regulator, Kenya Civil Aviation Authority, has been supporting the reopening of the sector by;

- 14.1 Expediting approvals and certification of air operator's personnel that may have lapsed during the suspension of air travel period in order to get more players operating;
- 14.2 Supporting the air cargo operation which are directly linked to the flower and horticulture industry to access foreign markets;
- 14.3 Collaborating with the Kenya Airports Authority to ensure that proper systems are maintained at the airport for effective screening of passengers; and

## EFFECT ON REGIONAL INTEGRATION IN THE EAST AFRICAN COMMUNITY

15. In order to reduce the negative effects of COVID-19, the Ministers responsible for Health and EAC from the Community held a meeting on 25th of March 2020. During this meeting they took cognizance of the WHO response strategies to reduce the spread of the virus and took the decisions on collaborating in contact tracing, access to testing kits, research on COVID-19, communication and collaboration amongst the relevant institutions within EAC on matters relating to COVID-19 among others. In an effort to promote integration while minimizing the risks of the virus, the council of ministers agreed to;

- 15.1 Directing all partner states to implement mandatory quarantine and screening at all border points;
- 15.2 Minimizing movement of people while facilitating movement of goods; and
- 15.3 Collaboration and coordination amongst EAC and National institutions in the implementation of the EAC COVID-19 response plan.

## CONSUMER PROTECTION

16. The Government put in place a protocol on air travel operations which guided the reopening of the skies and ensuring the safety of passengers, air operators' crew and ground staff. These measures were on the following;
17. Airport Management- this includes procedure for screening passengers, markings and announcements which ensure sanitation of check-in and immigration stations, use of antimicrobial screens and screening of passengers.
18. Passenger Management- this details procedure that ensure passengers maintain social distance in the check in procedure, and waiting areas. Passenger screening and tests are done with protocols that encourage online check-in.
19. Air operators' crew and ground staff management – this details procedures on sanitization to be maintained by staff and crew on the ground, during technical stops or turnaround as well as their conduct while staying in hotels.
20. Cargo compartments and Aircraft cleaning and sanitization- this details cleaning, disinfection and preventive measures to be taken when cleaning the cargo compartments and aircraft.

# CHAPTER 3: ZAMBIA

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## BACKGROUND

1. During the 1990s, the airline industry in Zambia had a few players in the market, which included Zambia Airways. Zambia Airways was the pride of Zambia and had one of the best aircraft in the region and assets in London, New York, Tokyo, Nairobi, Johannesburg, Dar-es-Salaam, Rome, and Frankfurt. The airline closed in 1994 during the Zambian privatization and commercialization period.
2. The government acknowledges the opportunities that come with the re-establishment of Zambia Airways. The re-establishment of a national carrier is being done in partnership with Ethiopia Airlines, with an initial investment of US\$30 million<sup>1</sup>. Under the partnership, Government will own 55 percent while Ethiopia Airlines will own 45 percent share.

## INTRODUCTION

3. Zambia is yet to fully liberalize its skies and has only granted fifth freedom rights on selected routes. Fifth freedom allows an airline from one country to carry passengers or cargo between two foreign states as part of services connecting that airline's country. While practical experiences have revealed an increase in passenger volumes and frequencies on liberalized routes, granting fifth freedoms could open the national airline to a lot of competition. Complete liberalization of Zambia's skies would lead to the loss of business for local airlines as they would have to compete with firmly established foreign carriers even on local routes<sup>2</sup>.
4. Zambia's Seventh National Development Plan for the period 2017-2021, highlights the need for improvements to the country's international and provincial airports and the creation of a national airline. Zambia's main airports are Lusaka, Livingstone, Ndola, and Mfuwe. These airports are receiving further developments and will not be financially self-sustaining without additional commercial development and expansion of traffic<sup>3</sup>.

1. \$30 million is Government of Zambia's contribution to share capital

2. Zambia Institute for Policy Analysis and Research, Memorandum on Zambia's Preparedness to Re-establish a National Airline

3. Ibid (2018)

5. At present, Zambia's airports and air traffic services are managed and operated by Zambian Airports Corporation Limited (ZACL) rather than operating autonomously as two separate bodies. While this may be the preferred model and is enshrined in the Law, it sometimes creates competition problems across ground/cargo handling markets as the airport facility operator is also a competitor in the segment open to participation by other players<sup>4</sup>.

## THE AVIATION SECTOR IN ZAMBIA

6. The Zambian air transport sector has grown strongly over the past decade. This is principally the result of an increase in the number of flights by overseas-based carriers facilitated by Zambia's 'open skies' policy in line with the Yamoussoukro Decision (YD). Traffic at the country's four largest airports (which represent over 98% of all traffic in the country) rose from 1.1 million passengers in 2010 to 1.62 million passengers in 2016. This represents an annual average growth of 6.9%<sup>5</sup>. For the 2013-2018 period, both domestic and international passengers grew by an average of 5% while total paying passengers grew by an average of 4%. Domestic paying passengers accounted for 46% of total domestic passengers and grew by an average of 3% while international paying customers which represented 33% of international customers over the 2013-2018 period grew by an average of 8%<sup>6</sup>. The table below shows the number of both domestic and international passengers for the 2013-2018 period.
7. Forecasts indicate that Zambia's air traffic could increase from 1.6m passenger movements in 2017 to 4.0m passenger movements by 2030 under a 'most likely' case, depending on the future structure of the aviation market, the extent of competition, the effects of input costs (e.g. fuel) on air fares, action on business environment constraints and improvements to the tourism product.

4. Ibid (2018)

5. <https://assets.publishing.service.gov.uk/media/5c7e8ce5e5274a3f8a84b471/Zambia-Aviation-Sector-BE-Assessment.pdf>

6. Statistics compiled from the Zambia Airports Corporation Annual reports from 2013-2018

**Table 1: Domestic and International Passengers**

	2018	2017	2016	2015	2014	2013
Total Passengers	1,931,827	1,748,200	1,622,263	1,586,516	1,574,242	1,543,144
Domestic passengers	374,479	305,115	274,344	295,608	314,679	300,055
International passengers	1,557,348	1,443,085	1,347,919	1,290,908	1,259,563	1,243,089
Paying Passengers	680,965	612,275	572,084	566,803	572,957	561,052
Domestic paying	188,521	145,071	126,431	127,586	131,343	133,436
International Paying	492,444	467,204	445,653	439,217	441,614	427,616
Total Aircraft Movements	58,595	53,687	58,425	66,393	67,047	66,238

8. The country benchmarking analysis shows that Zambia is not alone in facing challenges to the development of its aviation sector. Apart from Ethiopian Airlines and Comair, most if not all national airlines in Sub-Saharan Africa have suffered continuous financial losses with substantial calls on the national budget. Malawian Airlines is yet to reach breakeven after four years in partnership with Ethiopian Airlines. Nevertheless, East African states have given financial support to their national airlines, airports, and air traffic services to promote economic growth and jobs.
9. The development of the aviation sector in Zambia is constrained by a relatively small but growing tourist market dependent on African (largely Southern African) visitors, which in turn is constrained by inadequate tourism infrastructure and product choices; lack of a fully liberalized air traffic market, high airfares and operating costs (the consequence of low passenger numbers); a shortage of foreign exchange and unstable exchange rate; a shortage of trained aviation personnel particularly in specialist occupations; business environment constraints affecting private sector investment in the aviation sector and in direct/indirect value chain opportunities; in the longer term, further constraints may apply, including the potential impact of carbon-offset costs across the aviation sector.
10. Expansion of airline capacity through 'open skies' competition and/or a new national airline is likely to stimulate economic growth. If airline capacity is developed on a liberalized and sustainable basis and a national carrier is introduced into the carrier mix with adequate long-term public-private finance, professional management (in partnership with a major international airline), and devolution of government control, the risk of premature failure could be averted. The effect on competition, particularly the threat of 'crowding-out' of the private sector, should be thoroughly assessed.
11. Zambia's airports and air traffic services are likely to remain under government control, although some elements of commercialization are possible at the larger airports involving, for example, concessions for airport retail, lounges, hotels, etc. Further opportunities exist to promote private sector participation in air cargo, airport ground handling, and aviation training. There could be opportunities for wider industrial and commercial development around some airports e.g. special economic zones.

## STUDY OBJECTIVES

12. The objective of the ACF cross-country study of the airline industry on the continent are:
  - 12.1 Mapping of the airline industry to appreciate the regional and international dynamics that are of primary relevance to the member country.
  - 12.2 To understand the market structure, alliances, state involvement, and regulatory setting for the airline industry in the different ACF member countries
  - 12.3 To understand the market structure, alliances and state involvement, and regulatory setting on regional and international services that impact continental trade and tourism.
  - 12.4 To get an understanding of the type of competition concerns that exist in respect of the airline industry in the different ACF member countries.

## SCOPE OF THE STUDY

13. The scope of this study is restricted to airlines or aviation services with an effect in Zambia when compared to other countries within the region. In undertaking the aviation sector, this market study gathered information from the following stakeholders:

- 13.1 The airlines operating in Zambia
- 13.2 Zambia Airports Cooperation Limited
- 13.3 Civil Aviation of Zambia

14. Apart from the above stakeholders, a comprehensive literature review of similar studies was undertaken to provide secondary information to the study.

## REGULATORY FRAMEWORK

15. The Zambian Government has always provided strong support to its aviation sector in recognition of its key role in promoting its economy and its tourism sector. As in most African states, its aviation sector has historically been under public sector control, with its national airline, airports, and air traffic service provider supported by financial subsidy. The Government continues to seek opportunities to re-establish a national airline<sup>7</sup>.

## LEGAL FRAMEWORK

16. The legal framework governing the aviation industry consists of several legislations and international conventions. The Civil Aviation Act No. 5 of 2016, the Civil Aviation Authority Act No. 7 of 2012, and the Air Passenger Services Charges Act (Chapter 450 of the Laws of Zambia) are among the key legislations that govern the operation of the domestic aviation industry. The Civil Aviation Act No. 7 of 2012 established the CAA and spells out the Authority's mandate and powers while the Civil Aviation Act No. 5 of 2016 reforms the Zambia Airports Corporation Limited (ZACL) and prescribes its mandate and power. ZACL is a government-controlled company whose function is to provide aviation ground services.

17. The Air Passenger Services Charges Act regulates commercial aspects of aviation operations such as air ticket costs, fees, and fines, baggage and cargo specifications. The legislation also guides the handling of travel documents (e.g., passports), and customs inspections for air passengers.

18. The Patents and Companies Registration Agency Act of 2010 provides for the registration of companies to operate within the Zambian business territory. This includes companies in the aviation industry. The national airline was incorporated in Zambia in 2015 under this Act as 'Zambia Airways 2014 Limited' owned by the Government of Zambia. So, the airline is already legally established; what is remaining is its operationalization.

19. Zambia is a signatory to the Chicago Convention, which established ICAO and prescribes rules for international civil aviation services. Therefore, to participate in international civil aviation Zambia's aviation industry its aviation laws, policies and practices are expected to conform to ICAO's SARPs<sup>8</sup>.

20. In addition, the country has Bilateral Air Services Agreements (BASAs) with several countries. BASAs allow party countries to establish and operate international air services to specified destinations in each other's territories. These agreements are negotiated, administered, and implemented through MTC. Zambia currently has 21 BASAs of which thirteen are with African countries and eight are with other countries as shown in Table 3 below (ICAO, 2017).

21. Further, Zambia is a signatory to the Yamoussoukro Decision (YD) of 1988 signed by 44 other African states<sup>9</sup>. Through the declaration, the African Union aspired to create "an open sky policy" throughout Africa by 2002. YD was expected to supersede all bilateral agreements between countries and create a liberalized air market in Africa. However, the declaration has yet to be implemented by many countries including Zambia that have up to date not signed the 'solemn commitment' to an 'open sky policy'<sup>10</sup>.

7. <https://assets.publishing.service.gov.uk/media/5c7e8ce5e5274a3f8a84b471/Zambia-Aviation-Sector-BE-Assessment.pdf>

8. Forbes & Wilson, 2018

9. Ministry of Transport and Communications (MTC)

10. Forbes & Wilson, 2018

**Table 2: Nations with which Zambia has bilateral air services agreements**

#	With African Countries	#	With other Countries
1	Angola		China
2	Botswana		Cyprus
3	Congo DR		India
4	Ethiopia		Netherlands
5	Kenya		Russian Federation
6	Lesotho		United Arab Emirates
7	Malawi		United Kingdom
8	Mauritius		United States
9	Namibia		
10	Rwanda		
11	South Africa		
12	Tanzania		
13	Zimbabwe		

Source: ICAO website

## MANAGEMENT OF THE AVIATION SECTOR

22. MTC is responsible for the country's civil aviation policy. The Minister, through Part 2 of the Aviation Act of 1989 (CAP 444) designated the then National Airports Corporation Limited (NACL) now ZACL to be responsible for the management and operation of the country's four largest airports at Lusaka, Livingstone, Ndola, and Mfuwe and the provision of the country's ANS through a specialist division within ZACL. Until February 2015, the MTC was also responsible for aviation safety and security oversight through the DCA, although this is now provided by the autonomous CAA.
23. The Ministry is responsible for maintaining all BASAs with other African and third countries, including 'fifth freedom' rights. It also issues Air Service and Foreign Carrier Permits, subject to certain financial and insurance requirements. MTC is also technically responsible for civil aviation Search and Rescue (SAR) operations and for air accident investigations. In practice, SAR would be undertaken by a Disaster Management and Mitigation Unit coordinated by the President's office. Provision for air accident investigation is currently limited although the Ministry has an MOU with South Africa and other neighboring states to provide the necessary support and assistance. MTC is also responsible for the management of the Zambian Air Services Training Institute (ZASTI), which was formally under the control of the Ministry of Education.

In addition, through the Department of Transport, the MTC has established an Aviation Unit responsible for the management of Provincial and District Aerodromes that were formally operated by the DCA.

## CIVIL AVIATION AUTHORITY

24. Zambia has recognized that a fully independent CAA would be needed to meet ICAO requirements. This was endorsed by ICAO in its Universal Safety Oversight Audit Program (USOAP) Comprehensive Systems. Following an ICAO audit carried out in 2009 as part of the organization's aviation safety and security audit procedures for the Member States, a Corrective Action Plan was put in place to correct the deficiencies identified. With support from an EU-funded technical assistance project, a corrective program was instituted which resulted in an improved level of effective implementation score of 70% in comparison with the global average of 72.3%. As a result, the ban on Zambian-registered airlines flying in EU airspace, which had been imposed by the European Commission, was lifted in early 2017<sup>11</sup>.

## DESIGNATED AIRPORTS

25. Airports in Zambia are wholly owned by the Government of the Republic of Zambia and managed by the Zambia Airports Corporation Limited (ZACL) which is a Limited Company, wholly owned by the Government of the Republic of Zambia. ZACL was established by an Act of Parliament No. 16 of 1989 as an amendment to the Civil Aviation Act CAP444 of the Laws of Zambia, and has now been repealed and replaced by the Civil Aviation Act No. 5 of 2016 of the Laws of Zambia. ZACL is a Company limited by shares and registered under the Companies Act, No.10 of 2017.

## Kenneth Kaunda International Airport<sup>12</sup>

26. Kenneth Kaunda International Airport (KKIA) is situated in Chongwe District, 27 kilometers from the main business district of Lusaka. Due to its central location, the Airport is ideal for setting up as a hub airport in

11. <https://assets.publishing.service.gov.uk/media/5c7e8ce5e5274a3f8a84b471/Zambia-Aviation-Sector-BE-Assessment.pdf>

12. <https://www.zacl.co.zm/airport-section/airports/kkia>

the SADC region. Opened in 1967, the airport provides services for Domestic, Regional, and International flights following the standards and recommended practices (SARPS), developed by the International Civil Aviation Organization. The Airport has a 3.9km runway with a width of 45m and an orientation 10/28, one parallel taxiway and several taxiway links. The runway can land up to a maximum of a B747. The airport currently has twelve parking bays. Construction of the Kenneth Kaunda International Airport is advanced and likely to be operational by end of 2020.

## Types of flights that land at KKIA

### Simon Mwansa Kapwepwe International Airport<sup>13</sup>

27. The Simon Mwansa Kapwepwe International Airport formerly called Ndola International Airport was originally set up as a Military base for the Royal Air Force (England). It was built in 1938 to service the British army during the Second World War and was only converted into a civilian Airport in the 1950s. It is located approximately 3 kilometers south of the Ndola City central business district. The terminal building structure has been left intact with a few ancillary buildings added.

13

<https://www.zacl.co.zm/airport-section/airports/smkia>

Table 3: International Flights at KKIA

AIRLINE	AIRCRAFT TYPE	DESTINATION	WEEKLY FREQUENCY
South African Airways	B738/A319/A320	Johannesburg	21
South African Airlink	EMB135/RJ85	Johannesburg	12
Kenya Airways	B737/B767/E190/EMB170	Nairobi	21
Ethiopian Airlines	B767/B757/B788	Addis Ababa	9
Air Namibia	A319	Windhoek	4
South African Airways Cargo	B732	Johannesburg	3
KLM/ Martin Air Cargo	B747-400	Harare/ Amsterdam	1
Euro Cargo Aviation	B747-400	Johannesburg	1
Angolan Airlines	B737	Luanda	3
Emirates Airlines	A330	Dubai	7
Emirates Airlines	A330	Harare	7
Air Tanzania	A220	Dar-es-salaam	3
Malawian Airlines	DH8D	Lilongwe	6
Turkish Airlines	A330-200	Istanbul/ Dar-es-salaam	2
Rwandair	A330/B737	Kigali	7
Rwandair	A330/B737	Johannesburg	7
Proflight	JS41/JS31	Lilongwe	6
Proflight	JS41/CRJ/B737-500	Harare	4
Proflight	CRJ200	Durban	3

Source: ZAFL 2019

Table 4: Domestic Flights at KKIA

AIRLINE	AIRCRAFT TYPE	DESTINATION	WEEKLY FREQUENCY
Proflight	CRJ100/Embraer	Ndola	25
Proflight	CRJ100/Embraer	Livingstone	15
Proflight	CRJ100/Embraer	Mfuwe	15
Proflight	Jet stream/Embraer	Solwezi	15
Mahogany	EMB120	Livingstone	3
Mahogany	EMB120	Ndola	12
United Air Charters	B1900	Kalumbila	5
Proflight	Jet stream/Embraer	Kasama	3

Source: ZAFL 2019

**Table 5: SMKIA International and Domestic**

AIRLINE	AIRCRAFT TYPE	DESTINATION	WEEKLY FREQUENCY
Proflight	EMB120/JS32/CRJ2	Lusaka	25
South African Airlink	BAE146/EMB135	Johannesburg	12
Mahogany	EMB120	Lusaka	12
Proflight	EMB120/JS32	Solwezi	5
Proflight	CRJ100	Johannesburg	3
Kenya Airways	B737 -700	Nairobi	7
South African Airways	A319	Johannesburg	4
Ethiopian Airlines	B737	Addis Ababa	7

Source: ZAFL 2019

28. This structure is dominated by Niston Huts, Typical of Military structures. Plans are however underway to build a modern structure. The Airport has a 2.5 km runway with a width of 46 meters and one secondary runway which is 1.2 km long and parallel to the main runway. There is also a parallel taxiway on the northern side of the runway. The main runway can land aircraft of up to a maximum of a DC 10. The airport currently has three parking bays. The Simon Mwansa Kapwepwe International Airport will be a green field airport to be constructed at a location away from the current airport.

### Harry Mwaanga Nkumbula International Airport<sup>14</sup>

29. Harry Mwaanga Nkumbula International Airport (formerly Livingstone International Airport) brings you closer to the magnificent ‘Smoke that Thunders’ - The Victoria Falls Mosi-oa-tunya. A stone through away from one of the Seven Wonders of the World, Harry Mwaanga Nkumbula International Airport is the second oldest airport after Simon Mwansa Kapwepwe (Ndola) but stands out as the pride of the country due to its rehabilitated facilities.

30. With a new terminal building, runway, apron, and apron lights, the airport is the focus of the Corporation. Livingstone International Airport is situated 5km from Livingstone town, the tourist capital, in the Southern Province and perhaps more significantly, 15 km from Victoria Falls. The Airport was built in 1950 for a predominantly domestic market, but the airport infrastructure has been considerably upgraded through major redevelopment programs undertaken by the Corporation. The airport has a runway measuring 3 km long and currently has twelve parking bays.

14. <https://www.zafl.co.zm/airport-section/airports/hmnia>

### Mfuwe International Airport<sup>15</sup>

31. Mfuwe International Airport was opened in the mid 70s as a domestic airport to service the South Luangwa National Game Park, which is one of the largest national game parks in Zambia. The airport gained its International status in 1995 when it was gazetted as a port of entry and exit. The airport serves over twenty lodges and campsites. It has a runway measuring 2.2 km long and has four parking bays.

32. Its' location in the middle of the South Luangwa National Park makes it convenient for flight connections to most tourist destinations in Zambia and in the region. There are daily flights from Lusaka to Mfuwe and direct flights from Mfuwe to Lilongwe. There are plans to provide for additional connections with other tourist destinations like Mombasa, Victoria Falls, Kariba, Harare and Johannesburg. The terminal building can handle 100,000 passengers per year.

15. <https://www.zafl.co.zm/airport-section/airports/mia>

**Table 6: Livingstone International and Domestic Flights**

AIRLINE	AIRCRAFT TYPE	DESTINATION	WEEKLY FREQUENCY
Proflight	EMB120/JS32/CRJ2	Lusaka	15
Mahogany	EMB120	Lusaka	3
Comair	B733/B734/B732	Johannesburg	7
South African Airways	A319	Johannesburg	7
South African AirlinK	EMB135/JS41	Mpumalanga	5
Kenya Airways	EMB 190	Nairobi	3
Kenya Airways	EMB 190	Cape Town	3

Source: ZACL 2019

**Table 7: Flights at Mfuwe Airport**

AIRLINE	AIRCRAFT TYPE	DESTINATION	WEEKLY FREQUENCY
Proflight	EMB120/JS32	Lusaka	15

Source: ZACL 2019

## COMPETITION DYNAMICS IN THE AIRLINE INDUSTRY

### Market structure, alliances, state involvement, and regulatory setting for the airline industry in Zambia

#### Introduction

33. There are twelve airline operators in the Zambia Airline industry which include Proflight, Mahogany Air, Ethiopian Airlines, RwandAir, Malawian Airlines, Turkish Airlines, TAAG Angola, South African Airlines, Kenya Airways, Emirates, Air Namibia, and Air Tanzania. Proflight and Mahogany are the only airlines that offer domestic flights. Proflight also offers regional flights to Harare and Durban. Ethiopian Airlines, RwandAir, Malawian Airlines, Turkish Airlines, TAAG Angola, South African Airlines, Kenya Airways, Emirates, Air Namibia, and Air Tanzania fly regional and international routes using the hub system of feeding into their respective hubs.

### Profiles of Airlines operating in Zambia

#### Proflight

34. Proflight Zambia operates the largest fleet of aircraft within Zambia operating both scheduled and chartered flights. The airline was founded in 1991 and formed an alliance with Zambezi airlines in 2009 which was authorized by the then Zambia Competition Commission (now the Competition and Consumer

Protection Commission). Proflight offers full-service carrier with a target load factor of 65% for each route. Proflight offers both domestic and regional routes. Domestic destinations offered are Livingstone, Mfuwe, Lower Zambezi, Ndola, Solwezi, Kafue National Park and Kalabo. Regional flights cover Lilongwe-Malawi, Durban, Johannesburg and Cape Town in South Africa. The typical passenger profile consists of business and time sensitive passengers. The air route type is feeder, primarily.

35. Proflights has agreements with Kenya Airways, Emirates, Ethiopian Airlines and Kulula Airlines, a South African based airline.

#### Mahogany

36. Mahogany is privately owned and does not receive any state support. The airline started its operations in 2014 and flies locally to Ndola, Mansa, and Livingstone. The Airline has recently started flying to Lubumbashi in the Democratic Republic of Congo. Mahogany offers full-service carrier with a target load factor of 75% for each route type. The Airline has no international agreements with any airline. Mahogany flies both truck and feeder route types.

#### South African Airlines

37. South African Airlines (SA) is a South African airline wholly owned by the Government of the republic of South African. The South African Government is the guarantor for the SA, additionally, SA receives

the BASA support from the Government. SA offers domestic flights within South Africa and regional and international flights in other jurisdictions. In Zambia, SAA offers flights to and from Lusaka, Ndola and Livingstone from and to Johannesburg respectively. The Airline offers full service carrier. Targeted load factors for Lusaka, Ndola and Livingstone are 80%-85%, 65%-70% and 100% respectively.

## Kenya Airways

38. Kenya Airways is partly owned by the Kenyan Government who are the major shareholders. The Kenyan Government offers indirect support and is the guarantor of the airline. Kenyan Airlines flies 55 regional and international destinations. From Zambia, the airline flies to Nairobi, Capetown (via Livingstone) and Ndola. The Airline offers full service carrier for both regional and international flights. Majority (60% - 70%) of customers are business travellers.
39. Kenya Airways has joint ventures with France, KLM, Delta and JAV. On certain routes where the Airline has no joint venture, Codeshare and Special Prorate Agreements are used. For instance, Kenya airline has a SPA with Proflight to fly to Solwezi and Ndola.
40. Kenya Airways uses the hub concept where they feed from the hub. Kenya Airways flies into Zambia 20 times weekly.

## Emirates

41. Emirates connects the world to, and through, their global hub in Dubai. The airline operates modern, efficient and comfortable aircraft and have a culturally diverse workforce who deliver services to their customers across six continents every day. Emirates is a corporation established in accordance with Decree No. 2 of 1985 (as amended). The corporation has no share capital, it is wholly owned by the Government of Dubai. The airline does not receive any state support in Zambia. In Zambia Emirates does not operate domestic or regional routes, it operates international and regional routes to Dubai and Harare on a daily basis. The corporation offers passengers the opportunity of accessing more than 140 destinations

through their hub by offering full service carriers. The corporation's latest financial year ending 31st March, 2019, Emirates network seat factor was at 76.8% with a typical passenger profile of business, leisure, time-sensitive and non-time sensitive passengers.

42. The corporation has many agreements with other airlines however, Emirates does not have a codeshare with any airline in or out of Zambia. The airline operates both trunk and feeder routes.

## Ethiopian Airlines<sup>16</sup>

43. Ethiopian Airlines is 100% owned by the Ethiopian Government. It receives state support through non-payments of Value Added Tax (VAT) from the Ethiopian Government while it does not receive any government support from the Zambian government.
44. Ethiopian Airlines flies on regional and international routes in the Zambian market. The airline flies to 122 destinations across the globe. In the Zambian market, the airline flies from Addis Ababa to Lusaka then proceeds to Harare; and it also flies from Addis Ababa to Ndola.
45. Ethiopian Airlines has three designated planes that fly to Zambia which include a Boeing 777 (260 seats), Boeing 787 (268 seats) and Airbus A350 (316 seats) which all have a load factor of 80%.
46. The airline's typical passenger profiles are business and leisure passengers. The airlines has several international agreements which include codeshare, interline agreements and it's a member of Star Alliance. The airline runs a feeder route type in the Zambian markets as it feeds into its hub in Addis Ababa from other regional destinations. The airline has daily flights to Lusaka and 4 flights in a week to Ndola.
47. The airline submitted that the airline industry in Zambia is competitive with a market dominated by non-African airlines for international routes.

<sup>16</sup>. Interview held with Ethiopian Airways on 4th February 2020

## RwandAir<sup>17</sup>

48. RwandAir Limited is the flag carrier airline of Rwanda. RwandAir began operations on 1 December 2002 as the new national carrier for Rwanda under the name RwandAir Express (with passenger air transportation as the core activity). In 2016, RwandAir received International Air Transport Association's Safety Audit for Ground Operations (ISAGO).
49. The airline flies to 29 destinations across the globe for both domestic and international services to East Africa, Central Africa, West Africa, Southern Africa, Europe the Middle East and Asia, from its main base at Kigali International Airport in Kigali.
50. RwandAir is 51% owned by the Government of Rwanda. The airline is also owned 49% by Qatar Airways. The Airline receives government subsidies and support from the Rwandese Government.

## Air Tanzania<sup>18</sup>

51. Air Tanzania Company Limited (ATCL) is the flag carrier airline of Tanzania based in Dar es Salaam with its hub at Julius Nyerere International Airport. Air Tanzania is wholly owned by the Government of Tanzania. As of 30 June 2011, its share capital was about TZS 13.4 billion.
52. As of December 2019, Air Tanzania serves six international destinations including regional routes and India. Air Tanzania also operates in ten domestic destinations from its hub at Dar es Salaam's Julius Nyerere International Airport.

## Turkish Airlines<sup>19</sup>

53. Turkish Airlines is the national flag carrier airline of Turkey. As of August 2019, it operates scheduled flight services to 315 destinations in Europe, Asia, Africa, and the Americas, making it the largest mainline carrier in the world by number of passenger destinations. The airline serves more destinations non-stop from a single airport than any other airline in the world, and flies to

126 countries, more than any other airline. With an operational fleet of 24 cargo aircraft, the airline's cargo division serves 82 destinations.

54. Istanbul Airport in Arnavutkoy is the airline's main base, and there are secondary hubs at Istanbul Sabiha Gökçen International Airport and Ankara Esenboğa International Airport. Turkish Airlines has been a member of the Star Alliance network since 1 April 2008.

## Malawian Airways<sup>20</sup>

55. Malawian Airlines Limited is the flag carrier airline of Malawi, based in Lilongwe and with its hub at Lilongwe International Airport. It was established in 2012 after the liquidation of Air Malawi, the former national airline. Ethiopian Airlines operates it under a management contract and owns 49% of the airline after it emerged as the winner following competitive bidding.
56. The shareholders of the airline are the Government of Malawi (51%) and Ethiopian Airlines (49%). The airline flies to 7 destinations which include Kenya, Malawi (Blantyre), Malawi (Lilongwe), South Africa, Tanzania, Zambia, and Zimbabwe.

## Angolan Airways<sup>21</sup>

57. TAAG Angola Airlines E.P. is the state-owned national airline of Angola. Based in Luanda, the airline operates an all-Boeing fleet on domestic services within Angola, medium-haul services in Africa and long-haul services to Brazil, Cuba, China, and Portugal. The airline was originally set up by the government as DTA – Divisão dos Transportes Aéreos in 1938, rechristened TAAG Angola Airlines in 1973, and gained flag carrier status in 1975. It is now a member of both the International Air Transport Association and the African Airlines Association.
58. Originally set up within a government department, TAAG Angola Airlines remains 100% owned by the government of Angola. TAAG is itself the sole owner of Angola Air Charter, also based in Luanda that operates cargo charters in Africa.

17. <https://en.wikipedia.org/wiki/RwandAir>

18. [https://en.wikipedia.org/wiki/Air\\_Tanzania](https://en.wikipedia.org/wiki/Air_Tanzania)

19. [https://en.wikipedia.org/wiki/Turkish\\_Airlines](https://en.wikipedia.org/wiki/Turkish_Airlines)

20. [https://en.wikipedia.org/wiki/Malawian\\_Airlines](https://en.wikipedia.org/wiki/Malawian_Airlines)

21. [https://en.wikipedia.org/wiki/TAAG\\_Angola\\_Airlines](https://en.wikipedia.org/wiki/TAAG_Angola_Airlines)

59. As of October 2014, TAAG Angola Airlines serves 31 destinations, including 13 domestic, 11 in Africa, three in Latin America, two in Schengen Europe, and three in the Middle East and the Asia-Pacific region.

## Air Namibia<sup>22</sup>

60. Air Namibia (Pty) Limited, which trades as Air Namibia, is the national airline of Namibia, headquartered in Windhoek. It operates scheduled domestic, regional, and international passenger and cargo services, having its international hub in Windhoek Hosea Kutako International Airport and a domestic hub at the smaller Windhoek Eros Airport.

61. As of December 2013, the carrier was wholly owned by the Namibian government. Air Namibia is a member of both the International Air Transport Association and the African Airlines Association. As of June 2018, the route network for Air Namibia comprised 18 destinations and 19 airports in nine different countries in Africa and Europe, with seven of these destinations being domestic ones. Air Namibia codeshares with Condor Flugdienst, Ethiopian Airlines, Kenya Airways, and Turkish Airlines.

62. The Government of Zambia has withheld air travel which has ultimately affected the economy and business. As a result of reduces spending, revenues have shrunk. Jet fuel is expensive in Zambia compared with other African countries. Harare being cheaper is a preferred refueling point than Zambia. The number of taxes paid is overwhelming; taxes include Passenger tax, Passenger safety tax, Navigation tax, Landing tax, Security... Other countries do not have as many taxes, for instance, there are no landing taxes in other countries. All the charges are paid in United States Dollars (USD). Agreements on charges are made in USD yet sales are made in Kwacha. This has proved to be a challenge.

## Comair<sup>23, 24</sup>

63. Comair Limited is an aviation company that was founded in 1946 and based in South Africa, managed

and owned by South Africans. The airline operates within Southern Africa for more than six decades now. Since 1996, Comair joined British Airways as a franchise partner and became known as British Airways Comair. The airline has since been operating local and regional services within Southern African under the British Airways livery as part of the license agreement with British Airways Plc and launched South Africa's first low-fare airline, kulula.com in 2001. Its main base is OR Tambo International Airport, Johannesburg, and has focus cities at Cape Town International Airport and King Shaka International Airport.

64. Comair offers flights to five destinations in the Southern Region and six destinations under the Kulula airline which flies within the Southern Region as well as in east London. Comair connects Zambia through its seven flights to Livingstone weekly.

65. Comair has codeshares with, Air France, Cathay Pacific, Etihad Airways, Kenya Airways, KLM and Qatar Airways. Comair operates 26 Boeing 737 aircraft, across its two airline brands, British Airways and kulula.com.

## Airlink<sup>25, 26</sup>

66. Airlink's origins are rooted in three small airlines, Magnum Airlines, Border Air and City Air, which merged to form Link Airways in the '80s. Subsequently, Link Airways was liquidated in 1992, after which the airline was acquired and named Airlink. The airline has developed into South Africa's first feeder network, specifically aimed at linking the smaller towns, the regional centres and hubs throughout South Africa.

67. In 1997 SA Airlink joined South African Airways and South African Express in a powerful strategic alliance which led to the establishment of the leading aviation network in Africa. Airlink is the largest independent regional airline in southern Africa.

68. Airlink flies to twelve countries with 42 destinations. The airline connects Zambia to South Africa through Livingstone and Lusaka. For the Zambian market, the Airline utilizes EMB135/RJ85.

22. [https://en.wikipedia.org/wiki/Air\\_Namibia](https://en.wikipedia.org/wiki/Air_Namibia)

23. <https://www.comair.co.za/about-us/the-comair-story>

24. [https://en.wikipedia.org/wiki/Comair\\_\(South\\_Africa\)](https://en.wikipedia.org/wiki/Comair_(South_Africa))

25. <https://www.flyairlink.com/profile/airlink-profile>

26. <https://en.wikipedia.org/wiki/Airlink>

**Table 8: Aircraft Fleet for airlines operating in Zambia<sup>27</sup>**

Airline	Aircraft
Proflight (PO)	Bombardier CRJ100 Bombardier Dash 8 Q300 British Aerospace Jetstream 41
Mahogany Air (KT)	Embraer 120 Beechcraft 1900D
Ethiopian Airlines (ET)	Boeing 777 (260 seats), Boeing 787 (268 seats) and Airbus A350 (316 seats)
RwandAir (WB)	A330/B737
Malawian Airlines (3W)	DH8D
Turkish Airlines (TK)	A330-200
TAAG Angola (DT)	B737
South African Airlines (SA)	Airbus A319 Airbus A320 B738
Kenya Airways (KQ)	Embraer E190 Boeing 737 Boeing 738
Emirates (EK)	B777-300ER A380 B777-200LR A330
Air Namibia (SW)	A319
Air Tanzania (TC)	A220
Air Link (4Z)	EMB135/RJ85
Comair (OH)	B733/B734/B732

## CHALLENGES FACED BY THE AIRLINES

27. Covers fleet that is used for the Zambian market

**Table 9: Airline Destinations**

Airline	Number of destinations	Destinations
Proflight (PO)	11	Chipata, Durban, Harare, Kasama, Kasanka, Lilongwe, Livingstone, Mfuwe, Ndola, Solwezi, Jeki (lower Zambezi)
Mahogany Air (KT)	4	Mansa, Livingstone, Ndola, Lubumbashi
Ethiopian Airlines (ET)	3	Addis Ababa, Harare,
RwandAir (WB)	3	Johannesburg, Kigali,
Malawian Airlines (3W)	2	Blantyre, Lilingwe
Turkish Airlines (TK)	2	Istanbul,
TAAG Angola (DT)	2	Luanda,
South African Airlines (SA)		Johannesburg, Ndola, Livingstone, Harare
Kenya Airways (KQ)	3	Nairobi, Cape town (via Livingstone), Ndola
Emirates (EK)	2	Dubai, Harare
Air Namibia (SW)	1	Windhoek
Air Tanzania (TC)	1	Dar es Salaam
Air Link (4Z)	2	Mpumalanga, Johannesburg
Comair (OH)	1	Johannesburg

69. The Government of Zambia has withheld air travel which has ultimately affected the economy and business. As a result of reduces spending, revenues have shrunk. Jet fuel is expensive in Zambia compared with other African countries. Harare being cheaper is a preferred refueling point than Zambia. The number of taxes paid is overwhelming; taxes include Passenger tax, Passenger safety tax, Navigation tax, landing tax, Security. Other countries do not have as many taxes, for instance, there are no landing taxes in other countries. All the charges are paid in United States Dollars (USD). Agreements on charges are made in USD yet sales are made in Kwacha. This has proved to be a challenge.

## Airline Route Overlaps

70. 14 airlines are flying from and to Lusaka. The majority of flights are operated by the following carriers with their number of destinations;
71. Two intercontinental flights are operating in Zambia from Kenneth Kaunda International Airport which is between Lusaka and the Middle East, specifically to Dubai (DXB) via Emirates and to Istanbul (IST) via Turkish Airlines (Star Alliance). There are no direct services between Lusaka and Europe, the United States, Canada, Southern America, Central America, the Caribbean, Southern Asia, China, Japan, Eastern Asia, South-Eastern Asia, Central Asia, or Oceania. Essentially, flying to these destinations require connection flights.

Table 10: Route Overlaps

Origin	Destination	PO	KT	ET	WB	3W	TK	DT	SA	KQ	EK	SW	TC	4Z	OH	# of operators
Lusaka	Ndola	X	X						X	X						4
Lusaka	Livingstone	X	X						X							3
Lusaka	Kasama	X														1
Lusaka	Chipata	X														1
Lusaka	Mfuwe	X														1
Lusaka	Solwezi	X														1
Lusaka	Jeki	X														1
Lusaka	Mansa		X													1
Lusaka	Kasanka	X														1
Lusaka	Lilongwe	X				X										2
Lusaka	Harare	X		X					X		X					4
Lusaka	Durban	X														1
Lusaka	Lubumbashi		X													1
Lusaka	Addis Ababa			X												1
Lusaka	Kigali				X											1
Lusaka	Johannesburg				X				X					X		3
Lusaka	Blantyre					X										1
Lusaka	Istambul						X									1
Lusaka	Luanda							X								1
Lusaka	Capetown									X						1
Lusaka	Nairobi									X						1
Lusaka	Dubai										X					1
Lusaka	Windhoek											X				1
Lusaka	Dar es salaam												X			1
L/stone	Johannesburg								X						X	2
L/stone	Mpumalanga													X		1
L/stone	Nairobi									X						1
L/stone	Cape Town									X						1
L/stone	Lusaka	X	X													2
Ndola	Lusaka	X	X													2
Ndola	Johannesburg	X							X					X		3
Ndola	Solwezi	X														1
Ndola	Nairobi									X						1
Ndola	Addis Ababa			X												1
Mfuwe	Lusaka	X														1

Proflight (PO), Mahogany (KT), Ethiopian (ET), RwandAir (WB), Turkish Airlines (TK), Malawian Airlines (3W), TAAG Angola (DT), South African Airlines (SA), Kenya Airways (KQ), Emirates (EK), Air Namibia (SW), Air Tanzania (TC), Airlink (4Z), Comair (OH).

## ROUTE ANALYSIS

### Domestic Route Analysis

72. Analysis of price averages for the Lusaka-Solwezi Route was conducted for Mahogany Air and Proflight based on figure 1 below. Analysis of data for MA showed that the price average for a direct flight was priced at \$272.06 across the flight dates under observation.

Alternatively, PF price average for a direct flight was priced between \$223.00 and \$259.50 across the flight dates under observation.

73. Further analysis between the two airlines s showed that the ticket prices for Mahogany were higher than the prices offered by Proflight.
74. Analysis of price averages for the Lusaka-Ndola Route was conducted for Mahogany Air and Proflight based

Figure 1: Price Averages on the Lusaka-Solwezi Route

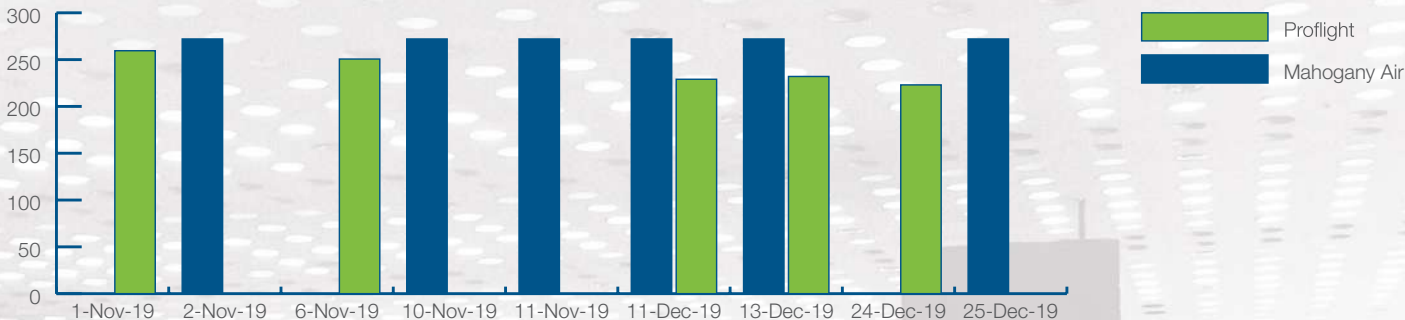
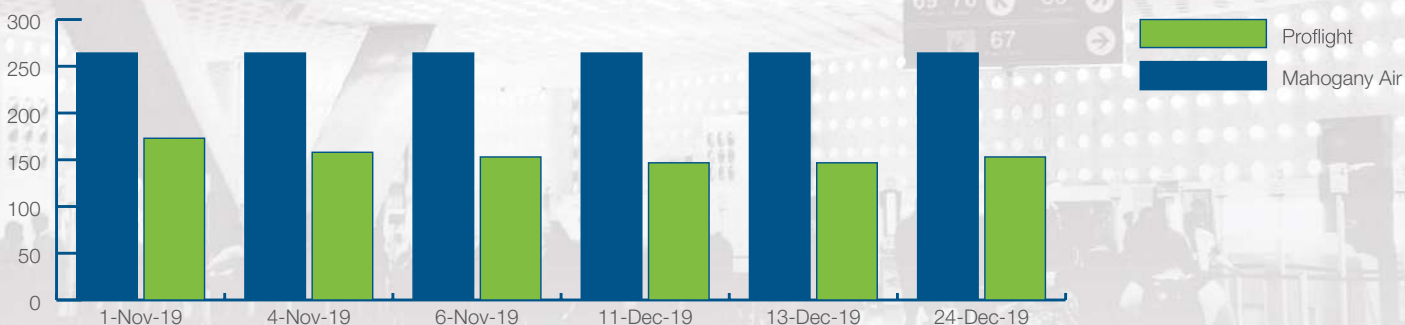


Figure 2: Price Averages on the Lusaka-Ndola Route



on figure 2 below. Analysis of data for Mahogany showed that the price for a direct flight was constant at \$264.13 across the flight dates under observation. Alternatively, Proflight price averages for a direct flight were priced between \$146.75 and \$173.00 across the flight dates under observation.

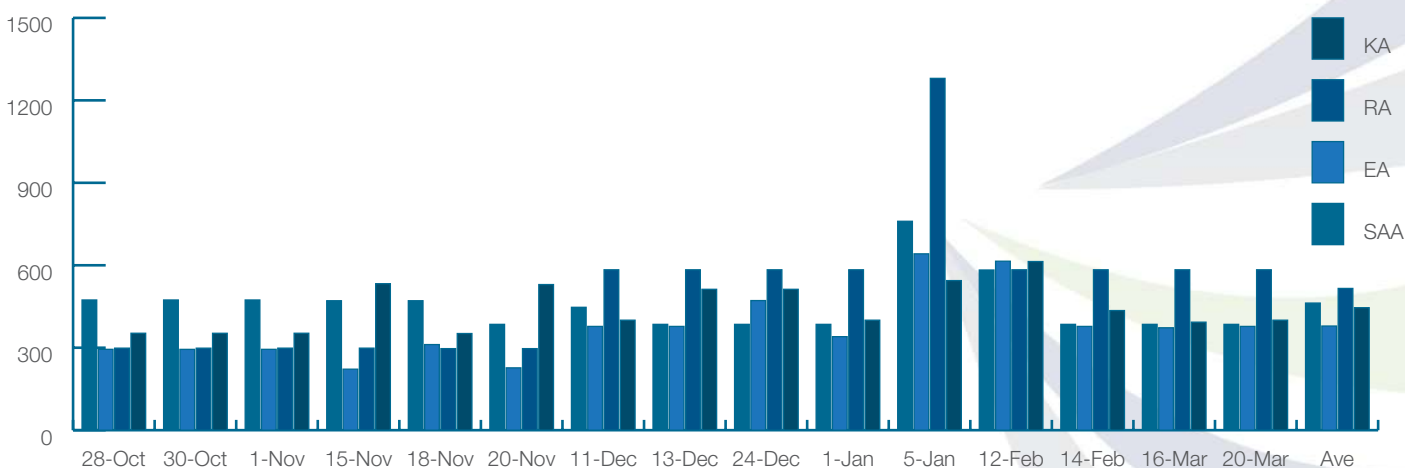
- 75. Further analysis between the two airlines showed that the ticket prices for Mahogany were higher than the prices offered by PF. In addition, it was observed that the ticket prices on the Lusaka-Solwezi Route were higher than the ticket prices on the Lusaka-Ndola Route. It was, therefore, inferred that the price variations were positively affected by distance for both airlines.

### Regional Route Analysis

#### Lusaka – Mauritius Route

- 76. Analysis of price averages for the Lusaka-Mauritius Route was done for four airlines which include South African Airways, Ethiopian Airlines, Kenya Airways, and RwandAir as shown in figure 3 below.
- 77. Analysis of data for South African Airlines showed that the price average for their flight was priced between \$385.08 and \$473.73; the price average for Ethiopian Airlines was tagged between \$221.95 and \$471.58; the price average for Kenyan Airlines was tagged between \$352.60 and \$544.28; and the price average for RwandAir was tagged between \$296.75 and \$583.58.

Figure 3: Price Averages on the Lusaka-Mauritius Route



78. A comparison of average flight prices of the four airlines showed that RwandAir had the highest average price of \$515.74, which was followed by Ethiopian Airlines with a price of \$462.49; the third airline was Kenyan Airlines with a price of \$445.64; and the lowest airline was Ethiopian Airlines with a price of 378.92. It was therefore inferred that the prices across the four airlines were tagged with a similar range.

## International Route Analysis

79. The prices for each number of flights per airline on a specific date and route were averaged to generate the price summaries shown in figure 4 below. The price averages were further categorized by the number of connecting flights which ranged from two to four possible connections depending on the airline.

### Lusaka – London Route

80. Analysis of price averages for the Lusaka-London Route was done for South African Airways and Ethiopian Airlines based on figure 1 below. Analysis of data for South African Airlines showed that the price average for a flight with two connections was ranging from \$529.88 to \$534.45 across the flight dates under observation. Alternatively, Ethiopian Airlines' price average for a flight with two connections was ranging from \$404.00 to \$537.58 across most of the flight dates under observation except for one extreme price of \$870.00.

81. Further analysis between the two airlines for two connecting flights showed that the price gap between them was not large. Generally, it was observed that the ticket prices for South African Airlines were higher than the ticket prices offered by Ethiopian Airlines. The higher prices on South African Airlines may be attributed to the longer flight distance (10,242 km) that the airline covers as it connects from Lusaka-Johannesburg and then Johannesburg-London. Alternatively, there is a shorter flight distance of 8846 km covered by Ethiopian Airlines to fly from Lusaka-Addis Ababa and then proceed from Addis Ababa-London.

82. In addition, Ethiopian Airlines also had flights with three connections on the Lusaka-London route whose flight path was Lusaka-Lilongwe, Lilongwe-Addis Ababa and Addis Ababa-London with a total flight distance of 9,090 km. It was also observed that the flights with three connections were much more costly than those with two connections. The average price range for flights with three connections was from \$591.00 to \$1,163.00. Therefore, it could be inferred that the cost of flights increases as the number of connections increases.

### Lusaka – Mumbai Route

83. Analysis of price averages for the Lusaka-Mumbai Route was done for three airlines which include Ethiopian Airlines, Kenya Airways, and Air Tanzania as shown in figure 2 below. Ethiopian Airlines had flights ranging from 2 to 4 connections on the Lusaka-Mumbai route while Kenya Airways and Air Tanzania had two connecting flights each on the route.

Figure 4: Price Averages on the Lusaka – London Route

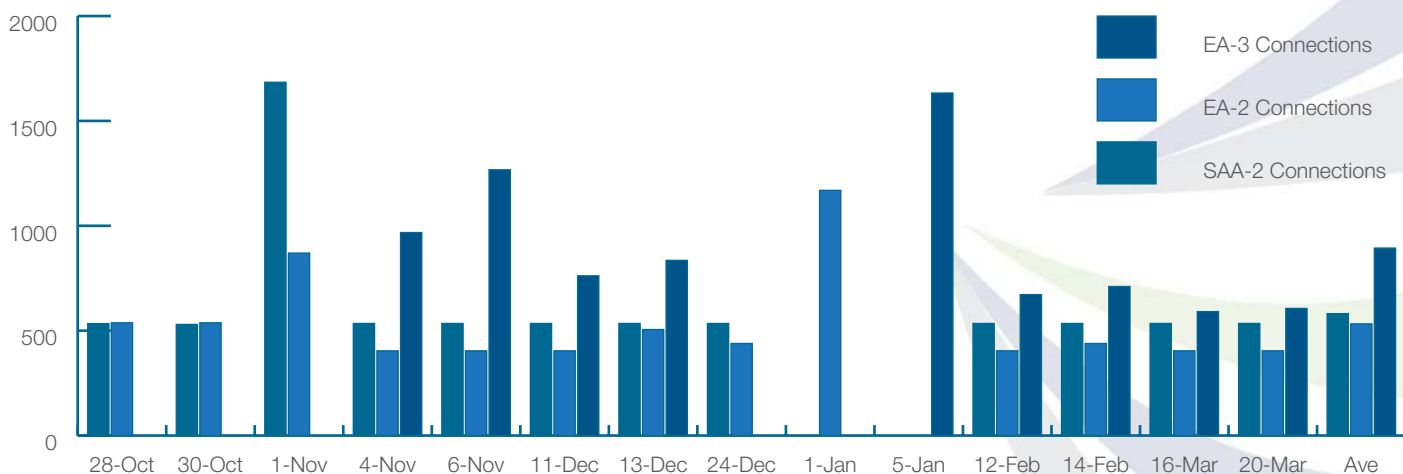
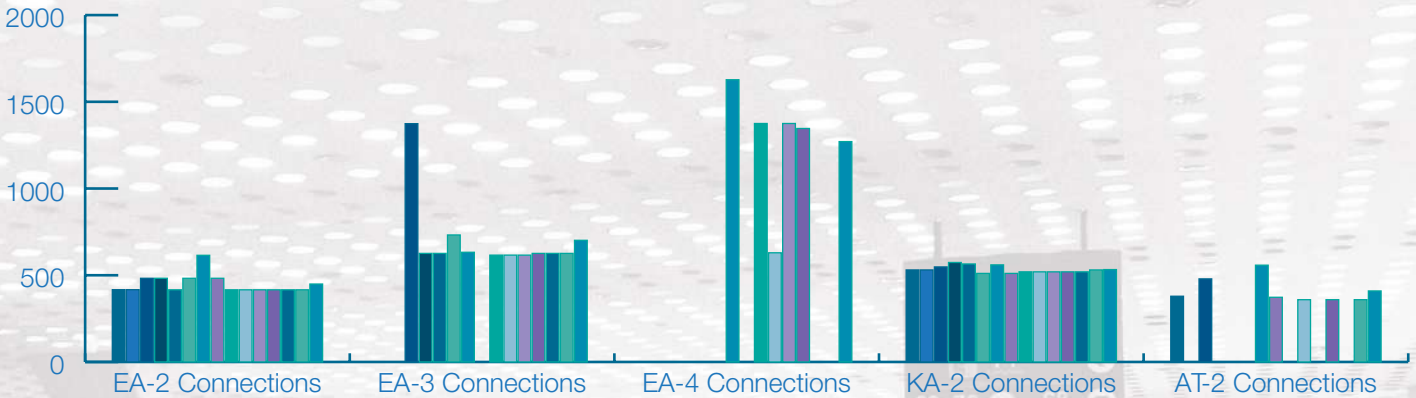


Figure 5: Price Averages on the Lusaka – Mumbai Route



84. Analysis of data for Ethiopian Airlines showed that the price average for a flight with two connections on the route under observation was ranging between \$416.00 and \$482.50 with a total flight distance of 6,770 Km; a flight with three connections was ranging between \$616.00 and \$701.52 with a total flight distance of 7,028 km, and a flight with four connections was ranging between \$1,270.58 and \$1,627.25 with a total flight distance of 7,022 Km.

85. Therefore, observations showed that the prices of airline tickets increased as the number of connections increased from 2 to 4. The price increase could mainly be attributed to the increase in total distance covered as the number of connections increase from 2 to 4. Furthermore, it was inferred that an increase in distance covered directly increases the cost of fuel which ultimately translates into an increase in ticket prices. Other parameters that may contribute to an increase in price could include the landing and handling costs at each Airport during connections.

86. Alternatively, Kenya Airways price average for a flight with two connections was ranging from \$404.00 to \$537.58 with a total flight distance of 7535.28 km. Air Tanzania's price average for a flight with two connections was ranging from \$373.00 to \$558.58 with a total flight distance of 6,655 Km.

87. A comparison of the average flight distance covered among the three airlines for flights with two connections showed that Kenya Airways covered the longest distance of 7,535.28 km, which was followed by Ethiopian Airlines which covered 6,770 km and lastly Air Tanzania which covered 6,655 Km. Furthermore, a look at the average prices of the three airlines with two connecting flights, it was observed that Kenya Airways

had the highest average price of \$532.65, which was followed by Ethiopian Airlines with a price of \$449.30 and lastly Air Tanzania with a price of \$409.43. The average prices coupled with the distance covered show the positive relationship that exists between the increase in distance and the proportionate increase in ticket prices.

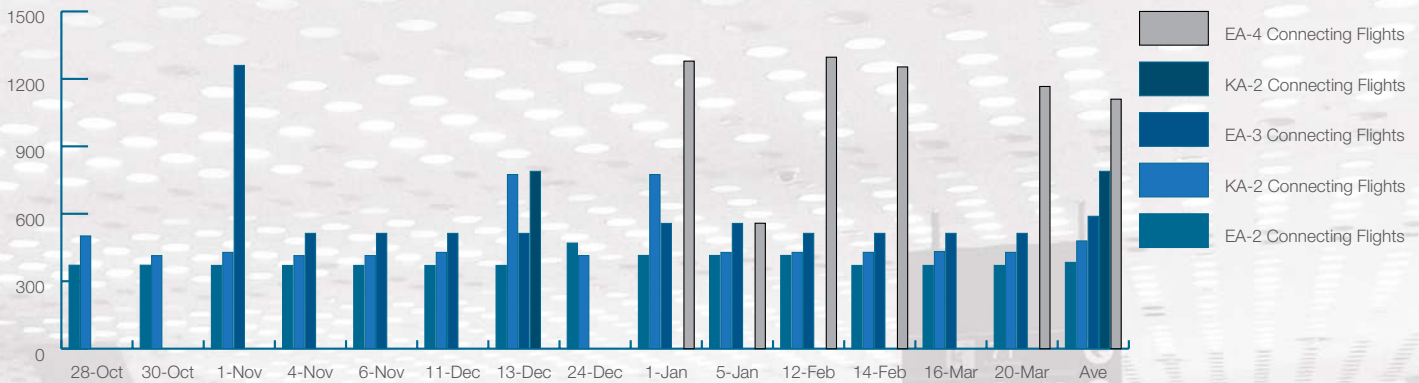
### Lusaka – Dubai Route

88. Analysis of price averages on the Lusaka-Mumbai Route was done for two airlines which include Ethiopian Airlines and Kenya Airways as shown in figure 3 below. Ethiopian Airlines had flights ranging from 2 to 4 connections on the Lusaka-Mumbai route while Kenya Airways had flights with 2 and 3 connections on the same route.

89. Analysis of data for Ethiopian Airlines showed that the price average for a flight with two connections on the route under observation was priced between \$370.33 and \$469.67 with a total flight distance of 5,436 km; a flight with three connections was priced between \$512.83 and \$588.91 with a total flight distance of 5,692 km, and a flight with four connections was priced between \$1,109.80 and \$1,296.50 with a total flight distance of 5,701 km.

90. Observation of the figures above showed that the prices of airline tickets increased as the number of connections increased from 2 to 4. The price increase could mainly be attributed to the increase in total distance covered as the number of connections increase from 2 to 4. Furthermore, it was inferred that an increase in distance covered directly increases the cost on fuel which ultimately translates into an increase in ticket prices. Other parameters that may contribute

Figure 6: Price Average on the Lusaka – Dubai Route



to an increase in price could include the landing and handling costs at each Airport during connections.

91. Alternatively, Kenya Airways price average for a flight with two connections was ranging from \$413.94 to \$501.36 with a total flight distance of 5,362 km. Kenya Airways had one flight with three connections in the period under observation which was priced at \$788.87.

92. A comparison of the average flight distance covered among the two airlines for flights with two connections showed that Ethiopian Airlines covered the longest distance of 5,436 km and Kenya Airways covered a flight distance of 5,362 km. Furthermore, analysis of the average prices of the three airlines with two connecting flights, it was observed that Kenya Airways had the highest average price of \$532.65, which was followed by Ethiopian Airlines with a price of \$449.30 and lastly Air Tanzania with a price of \$409.43. The average prices coupled with the distance covered show the positive relationship that exists between the increase in distance and the proportionate increase in ticket prices.

## MARKET STRUCTURE OF THE AIRLINE INDUSTRY

93. The Zambian Airline Industry is characterized by several players who carry the majority of Zambia's international passengers and cargo traffic. Airline industry players in Zambia include Proflight, Mahogany Air, Ethiopian Airlines, RwandAir, Malawian Airlines, Turkish Airlines, TAAG Angola, South African Airlines, Kenya Airways, Emirates, Air Namibia, and Air Tanzania. The players vigorously compete on prices and services to attract the consumer market. The airlines face competition in diverse product forms. Comprehensive marketing

strategies are utilized which chiefly comprise pricing, scheduling, advertising, ticket and cargo sales, and reservation and customer service. The success of an airline, therefore, depends on its ability to provide services that meet the expectations of its customers, both in respect of price and quality. Airlines consequently have a strong incentive to satisfy their customers fully, locally, and internationally.

94. Zambia conforms to international airline regulations. According to the United Nations on Trade and Development, Zambia is one of the contracting states to International Air Conventions which include the Warsaw Convention, The Hague Protocol, and the Guadalajara Convention. All the above-mentioned conventions and protocols are domesticated in Zambia under the Air Services Act and the Carriage by Air Act. Domesticating the International Air Law Conventions is necessary for effective National implementation.

95. Zambia is a member of the International Civil Aviation Organisation (ICAO) whose responsibilities include ensuring safety, registration, and airworthiness, prevention of economic waste, fair competition, standardization and aviation Law. The airline industries are guided by air transport policies whose regulation stretches to reducing State's costs in performing its economic regulatory functions, increase consumers' benefits and choices, improve air connectivity and creating more competitive business opportunities in the marketplace.<sup>28</sup> One of the principles of the Convention on International Civil Aviation (Chicago Convention) is equality of opportunity. Each ICAO member state has the right to have a fair opportunity to operate an international airline and to non-discrimination between the Member States. Therefore, the reduction of controls

28. <https://www.icao.int/sustainability/Pages/economic-policy.aspx>

within the air transport industry through liberalization has fostered competition between air carriers. The liberalized market may however introduce the risk of anti-competitive behavior.<sup>29</sup>

96. Individual airlines also conform to international regulations that regulate international air travel. One of them is the International Air Transport Association (IATA), whose primary concern is to ensure that airlines all over the world provide quality services to their clients. One of the main objectives of an airline company is to set fares that maximize revenue from each flight and at the same time provide adequate discounts to customers. This is done through yield, inventory or revenue management. Due to volatile market conditions, pricing is never static, fares, for instance, differ depending on the season, exchange rate, time lapse between ticket purchase, time of travel, distance and route.
97. Domestic flights are exclusively offered by Proflight Zambia as well as Mahogany, the two Zambian air service providers. Domestic airfares in Zambia are more expensive than in several other countries in the region, estimated at double those in Kenya and Botswana.<sup>30</sup> There is thus no competitive pressure on price. Additionally, there is a limit on the number of routes and flights, resulting in an adverse impact on convenience and price. Domestic air travel faces a lack of competition contributing to high airfares.<sup>31</sup>
98. The airline industry is not insulated from other laws and regulations such as the Competition and Consumer Protection Act No. 24 of 2010 (CCPA). If there are inconsistencies in the Air Services Act that affect competition and consumer welfare, the CCPA takes precedence as it cuts across all sectors of the economy.

## IMPACT ON CONTINENTAL TRADE AND TOURISM

99. Aviation is one of the world's greatest connectors of people, trade and tourism, a driver of sustainable development and supporter of jobs. Aviation provides

the only worldwide transportation network, which makes it essential for global business and tourism. By facilitating tourism and trade, it generates economic growth and increases revenues from taxes. The Aviation sector enhances the prosperity of communities it serves and provides skills and opportunities, ultimately playing a vital role in facilitating economic growth, particularly in developing countries.

100. Tourism makes a significant impact on the Zambian economy. Zambia is home to natural resources and other tourism assets needed to attract a significantly larger number of tourists. The iconic Victoria Falls and outstanding National Parks and other Wildlife attractions, which include including 19 National Parks and 34 Game Management Areas covering over 22.4 million hectares<sup>32</sup> have attracted many tourists. Additionally, the rich culture and heritage assets add to the major natural attractions.
101. Zambia is a unique tourism destination that is positioned at the center of the region sharing borders with eight (8) other countries and offering opportunities for regional linkages. The non-existence of a national airline has affected the tourism, commerce and trade potential of the country as it has had to rely on foreign airlines, which are expensive and are characterized by connectivity challenges. Domestic tourism has not fully developed due to connectivity.
102. Zambia accounts for a small share of the regional and global tourism markets. The number of visitors to Zambia increased eightfold between 1995 and 2007, when it reached 897,413 international visitors, although visitor numbers have since declined. In 2009 Zambia received 709,948 international visitors, equivalent to a 12.5 percent decline from 2008. Two-thirds of the visitors were from Africa, the majority of which were from other countries in Southern and Eastern Africa. Business/conference visitors accounted for almost half of arrivals and holiday visitors for one-quarter.<sup>33</sup> Traders in goods account for a large portion of visitors to Zambia. There is however increased competition from Zambia's regional neighbors. For instance, South Africa is by far the largest market in the SADC region,

29. <https://www.icao.int/sustainability/Pages/Competition-in-air-transport.aspx>

30. UKaid, The World Bank, July 2011, WHAT WOULD IT TAKE FOR ZAMBIA'S TOURISM INDUSTRY TO ACHIEVE ITS POTENTIAL?

31. UKaid, The World Bank, July 2011, WHAT WOULD IT TAKE FOR ZAMBIA'S TOURISM INDUSTRY TO ACHIEVE ITS POTENTIAL?

32. UKaid, The World Bank, July 2011, WHAT WOULD IT TAKE FOR ZAMBIA'S TOURISM INDUSTRY TO ACHIEVE ITS POTENTIAL?, page 3

33. [http://siteresources.worldbank.org/INTZAMBIA/Resources/zambia-tourism-summary-notes-\(online-copy\).pdf](http://siteresources.worldbank.org/INTZAMBIA/Resources/zambia-tourism-summary-notes-(online-copy).pdf)

accounting for 44 percent of visitor arrivals. Botswana, Tanzania, and Namibia are the other major competitors in the Southern African Development Community, with Kenya an important competitor in the wider region. Recent economic and political difficulties have to some extent suppressed competition from Zimbabwe, the country that shares Victoria Falls with Zambia. However, Zimbabwe's tourism products, which are similar but better-developed, are competitively priced. Zimbabwe also benefits from a strong skill base and effective infrastructure.<sup>34</sup>

103. Tourist travel in Zambia is mainly facilitated by tour operators who are affiliated with local and international airlines. There is no limit to the number of airlines that a tour operator can be affiliated with. The roles of tour operators include offering ticket issuance, offering air travel services, tour packages, car hire, hotel bookings, and insurance.

104. A well-functioning airline industry contributes to sustainable economic development and to the expansion of trade and tourism. Zambia's geography requires that airlines pick customers from Zambia to feed into their respective hubs. Analysis shows that distance of travel is one of the major factors in price decisions for airlines. Traveling to Zambia requires that tourists pass through an airline's hub before they are flown to Zambia, and the opposite is true. Thus making Zambia a comparatively more expensive tourist destination than other tourist destinations like South Africa, Namibia, Tanzania, Kenya, and Zimbabwe. Traveling to Zambia, therefore, accounts for longer travel time as compared to other tourist competing nations. Inadequate and/or inconvenient travel options constrain tourists' choices of itineraries and long travel times reduce the time spent seeing sights or participating in activities.<sup>35</sup> Lack of competition in domestic air travel, high costs of jet fuel, and the use of small aircrafts and the lack of economies of scale contribute to high fares resulting in having low numbers of tourists. With regards to international travel, international airfares to Zambia are mid-range in the region, but consistently higher than those to Kenya,

Tanzania and South Africa, destinations that compete with Zambia as tourist destinations.<sup>36</sup>

105. Zambian tourism is underperforming, both in relation to other countries in the region and in relation to its own potential. Given its fundamental endowments and despite having a strong nature tourism attraction, Zambia receives significantly fewer tourists than might be expected and trails many competing nations in the number of visitors, the average length of stay and average visitor expenditure. For instance, neighbouring Botswana has around three times the number of visitors of Zambia, and Zimbabwe more than twice as many. Zambia's average visitor stay, which is at the low end of the range, is also in decline.<sup>37</sup>

## ENTRY AND EXIT OF AIRLINES IN THE ZAMBIAN AVIATION SECTOR

### Entry

106. Zambia has had several Airlines that have entered the aviation sector over the past 20 years. Among the airlines that have entered the Zambian market include: Fly Emirates, South African Airways, Ethiopian Airlines, RwandAir, Kenya Airways, Air Namibia, Air Tanzania, Proflight and Mahogany Air as shown in Table 8 below. Of the above, only two airlines Proflight and Mahogany Air are localized while the remaining airlines are foreign and state-owned by other country.

### Exit

107. Zambia has had three major airlines exit the aviation industry in the past 20 years. These include Zambian Airways, British Airways and KLM Royal Dutch as shown in Table 9 below. British Airways and KLM Royal Dutch were foreign airlines while Zambian Airways was an indigenous Zambian Airline. The airlines exited the sector based on unsustainability and low profit contributions towards their businesses.

34. UKaid, The World Bank, July 2011, WHAT WOULD IT TAKE FOR ZAMBIA'S TOURISM INDUSTRY TO ACHIEVE ITS POTENTIAL?

35. UKaid, The World Bank, July 2011, WHAT WOULD IT TAKE FOR ZAMBIA'S TOURISM INDUSTRY TO ACHIEVE ITS POTENTIAL?

36. UKaid, The World Bank, July 2011, WHAT WOULD IT TAKE FOR ZAMBIA'S TOURISM INDUSTRY TO ACHIEVE ITS POTENTIAL?

37. UKaid, The World Bank, July 2011, WHAT WOULD IT TAKE FOR ZAMBIA'S TOURISM INDUSTRY TO ACHIEVE ITS POTENTIAL?

**Table 11: Entry into Zambia**

Airline	Date of entry	Owners (including the state) and their stake (%)	Aircraft fleet size (number of seats) at entry	Routes at entry	Domestic/ regional/ and or International
Emirates	2012	Private (100%)	A 330-200 B777 (380-434 seats)	Lusaka - Dubai	International
South African Airways		State (100%)	Airbus Industries A320-100/200 (138 Seats)	Lusaka - Johannesburg	Regional/ International
Ethiopian Airlines		State (100%)	Boeing 777-200LR (312 Seats) De Havilland DHC-8 Dash 8 (67 Seats)	Lusaka – Addis Ababa	Regional/ International
RwandAir	2015	State (100%)	Boeing 737-800 – 157 Seats	Lusaka - Kigali	Regional
Kenyan Airways	2011	State (100%)	Embraer E-190 (96 Seats)	Lusaka - Nairobi	Regional
Air Namibia	2013	State (100%)	Airbus A340 – 375 Seats	Lusaka – Windhoek	Regional
Air Tanzania	2019	State (100%)	Airbus A220-100 (100-150 Seats)	Lusaka – Dar es salaam	Regional
Mahogany	2013	Private (100%)	EmbraerEMB-120 (30 Seats)	Lusaka - Ndola	Domestic

**Table 12: Exit from Zambia**

Airline	Date of exit	Owners (including the state) and their stake (%)	Domestic / regional and/or International	Type of carrier (Full Service Carrier/ Regional Service Carrier/ Low Cost Carrier)	Route type(s) (trunk/ feeder/ both)	Typical passenger profile (e.g. business vs leisure, time sensitive vs non time sensitive)
British Airways	2013	State (100%)	International	Full Service Carrier	Both	All
KLM Royal Dutch	2014	Private (100%)	International	Full Service Carrier	Both	All
Zambia Airways	1995	State (100%)	Domestic/ International	Full Service Carrier	Both	All

**Table 13: Zambia Airport Profiles**

Airport name	Owners (including the state) and their stake (%)	Domestic and/or international	Number of parking slots	Number of Runways
Kenneth Kaunda International Airport	Government (100%)	Domestic & International	12	1
Simon Mwansa Kapwepwe International Airport	Government (100%)	Domestic & International	6	1
Harry Mwaanga Nkumbula International Airport	Government (100%)	Domestic & International	6	1
Mfuwe International Airport	Government (100%)	Domestic & International	3	1

108. Market analysis on entry and exit of airlines in the Zambian aviation industry shows that the major barriers to entry in the market include high start-up and operational costs when setting up an airline. Entry and exit into the industry is further determined by the level of competition and profitability that is present in the market.

## COMPETITION IN THE AVIATION INDUSTRY

109. Whilst the aviation sector remains relatively underdeveloped, air travel has to a large extent become a commodity and air services have become market-driven. Driven by lower prices and growing income, air traffic for passengers and cargo has grown exponentially. Airlines have started offering lower fares to consumers under the pressure from increasing competition, which was spurred by the liberalisation of the air transport sector. While many agree that overall the evolution of the sector has produced significant benefits to consumers, concerns about anti-competitive behaviours remain<sup>38</sup>. One of the most striking features of the international air transport sector is the variety and number of co-operation arrangements between airlines. These are typically used to reduce costs and spread the operational risk. However, any kind of horizontal co-operation between airlines, be it a basic interlining agreement or a full horizontal merger, may produce anti-competitive effects. In addition, many airlines (in particular incumbent carriers) may still

have the ability and incentives to abuse the dominant position they inherited from the period preceding liberalization. Given the nature and scope of air transport activities, the lack of a level playing field, as well as harm from anti-competitive transactions or behaviours in the airline sector, may have a deleterious effect on other sectors as well as the economy as a whole<sup>39</sup>.

## Players in the Aviation Industry

- 110. Zambia has two scheduled privately-owned Zambian-registered airlines. The first is Proflight which provides international services to Lilongwe and Durban, with domestic services between Lusaka and Livingstone, Ndola, Mfuwe, Kasama and Solwezi. Most outbound air cargo (predominately fruit and flowers) is carried as ‘bellyhold’ on passenger aircraft and is flown to the major cargo hubs at Johannesburg, Nairobi and Dubai.
- 111. The second is a new entrant plying mostly domestic routes. It is a privately-owned Zambian-registered carrier, Mahogany Air which started operating services on the Lusaka-Ndola route in June 2017 and plans to expand to other domestic routes.
- 112. Fastjet, a privately owned African low-cost carrier, which operates from Dar es Salaam to Lusaka, has stated its intention to expand in the Zambian market but faces potential competition from a new Zambian national airline and has experienced regulatory difficulties<sup>40</sup>.

38. <https://assets.publishing.service.gov.uk/media/5c7e8ce5e5274a3f8a84b471/Zambia-Aviation-Sector-BE-Assessment.pdf>

39. <https://assets.publishing.service.gov.uk/media/5c7e8ce5e5274a3f8a84b471/Zambia-Aviation-Sector-BE-Assessment.pdf>

40. <https://assets.publishing.service.gov.uk/media/5c7e8ce5e5274a3f8a84b471/Zambia-Aviation-Sector-BE-Assessment.pdf>

Figure 7: Market Shares for International Airline and Domestic Airlines in Zambia

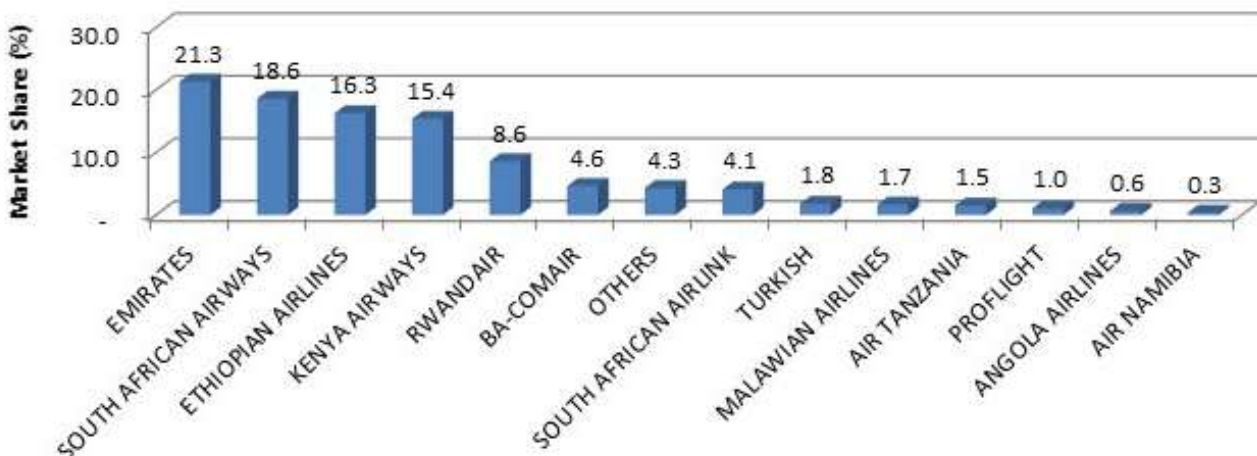
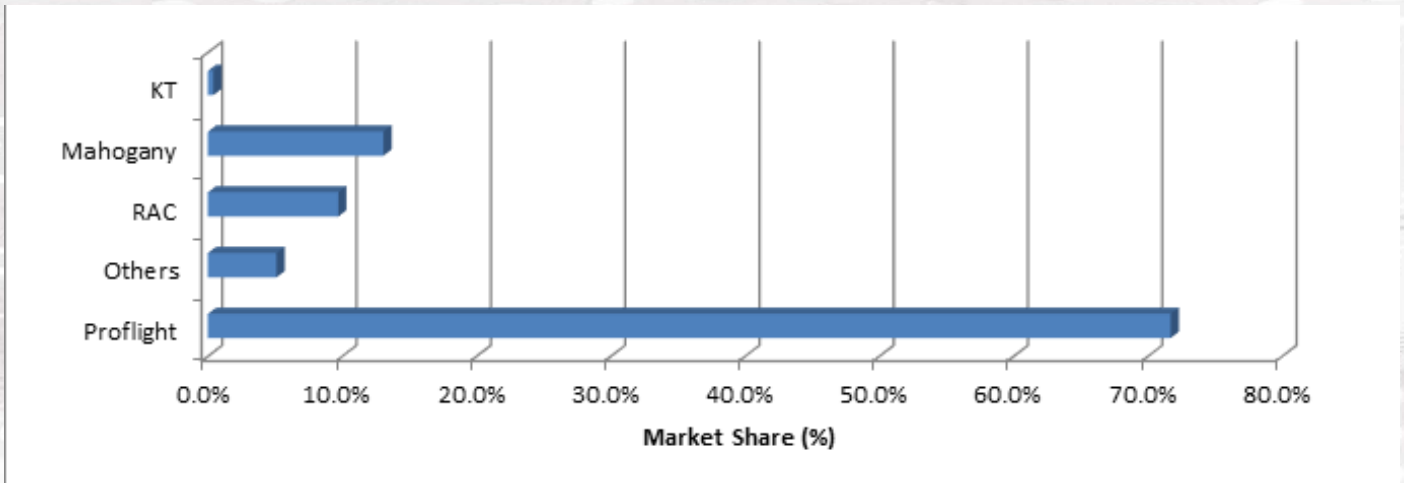


Figure 8: Domestic Airline Market shares



113. In addition to the above, Zambia is serviced by a number of network carriers that operate international flights out of Zambia: Emirates, Kenya Airways, Ethiopian Airlines and South African Airways and two major local airlines that operate within Zambia. While they are a number of other airlines such as Air Zimbabwe and Angolan Airways, the major players and their market shares are as listed in the table below. Zambia is currently served with fourteen (14) international scheduled passenger airlines.

similar Western destinations. The Commission in its investigations found that there were pricing differentials on the same airline from different locations in the sub-region and that the prices from Lusaka to various destinations consistently seemed to be the highest.

116. Further, the investigation also revealed that airline operational costs incurred in Zambia were generally higher than those incurred in Zimbabwe. Jet A1 fuel was higher than Zimbabwe by about 46.9%. The landing charges were higher in Zambia by an average of 58.3%. The cost of Jet A1 fuel constituted the major cost that airlines incurred in the provision of airline services. In the case of Emirates, it accounted for about 40% of its operating costs. The impact of such high prices and charges were passed on to consumers who ended up buying tickets at higher prices.

## INVESTIGATIONS/COMPLAINTS/ PROSECUTIONS

### Discrimination by Emirates

114. In 2015, a possible case of abuse of dominance by United Arab Emirates Airlines (Emirates) was initiated by the Competition and Consumer Protection Commission (“the Commission”) following a complaint made by the Ministry of Tourism.

115. The facts of the complaint were that the airfare prices obtaining in Zambia were high compared to those obtaining in Zimbabwe despite the proximity of the two countries. Further, the Emirates aircrafts that operated on the routes from Zambia and Zimbabwe to countries in the Western world were the same and the aircrafts were the same (A340-300 and A380-800)<sup>41</sup>. Despite the use of similar planes on these routes the prices from Lusaka to Western countries were more expensive in the majority of cases than the fares from Harare to

### Abuse of Dominance by Zambia Airports Corporation Limited

117. In 2015, the Commission fined Zambia Airports Corporation Limited (ZACL) and directed it to cease certain behavior. ZACL is a designated Airport facility operator and also participates in ground handling which is open to participation by other companies. ZACL resorted to using margin squeeze techniques and restricted its closest competitor access to essential facilities such as water and waste dump sites. The increased charges by ZACL to its competitors were passed on to airline clients making the cost of service expensive.

41. Folio 2 on CCPC/AOD/001

## Excessive pricing allegations against Proflight

118. In 2011, concerns of possible excessive pricing in the domestic air fares by Proflight Zambia prompted the Commission to institute investigations. Observations were that flights from Lusaka to Livingstone by Proflight were more expensive than flights from Lusaka to South Africa by other airlines. Although Proflight was in a dominant position with regards to domestic routes market, its pricing was not excessive. The airline was subject to several regulatory charges such as landing fees which were generally high coupled with high cost of fuel. Recommendations were made to the relevant institutions to consider addressing these operational challenges caused by regulation.

## Limitations in the Aviation Market

119. The development of the aviation sector in Zambia is limited by several factors. Zambia has a relatively small but growing tourist market dependent on African (largely Southern African) visitors, which in turn is constrained by inadequate tourism infrastructure and product choices. Zambia further suffers from a lack of a fully liberalized air traffic market as the country is yet to commit to the YD. further, the country generally has high airfares and operating costs (the consequence of low passenger numbers). The collapse of the national carrier resulted in a shortage of trained aviation personnel particularly in specialist occupations such as aircraft maintenance.

## Profitability

### Pricing in the Airline Industry

120. High service costs affect prices in the airline industry because firms tend to have prices that are high to cover the costs of service provision.<sup>42</sup> Typically, airlines use the Dynamic pricing system. Dynamic pricing<sup>43</sup> is a pricing strategy in which businesses set flexible prices for products or services based on current market demands. Businesses can change prices based on algorithms that consider competitor

pricing, supply and demand, and other external factors in the market. Dynamic pricing is a common practice in several industries such as hospitality, travel, entertainment, and retail. Each industry takes a slightly different approach to reprice based on its needs and the demand for the product.

121. In a survey carried out by the Commission, it was found that airlines partitioned their cabins of travel: first class, business class and economy class. Each cabin was split into a number of fare bands and each band was further divided into sub products that differed by price and/or conditions of travel. Each fare product was influenced by market conditions, including customer preferences. The following were some of the factors that influenced price;

- 121.1 Availability of seats
- 121.2 Day of week
- 121.3 Length of flight
- 121.4 Length of trip
- 121.5 Airports served
- 121.6 How far in advance a passenger books
- 121.7 Time of the year/Season
- 121.8 Fare rules and restrictions (e.g. whether ticket is refundable)
- 121.9 Airline Competition

122. In an investigation that was carried out by the Commission it was observed that the Zambian Domestic scheduled market was very small in comparison to most of Zambia's neighbours. In 2011, one named airline carried a total of 93,000 domestic passengers for the entire year; by comparison to the Johannesburg-Cape Town route in South Africa which averages over 800,000 per month. This meant that the airline had to use a stream 29 seaters. The unit cost per seat drops as one uses a bigger aircraft and that their market could sustain 100 seaters<sup>44</sup>.

123. Furthermore, aviation was a capital-intensive industry. Due to the shortage of medium-term finance in Zambia, locally-owned airline companies had to rely on leasing aircraft from foreign leasing companies which was an expensive way of operating. In this regard, leasing costs had taken up a considerable percentage of

42. Why do high production costs have any impact on what pricing should be. 2012

43. Tucker Cummings (2013) "Everything You Need to Know about Dynamic Pricing". Hospitality Net.

44. A comparison of air ticket prices in the Sub-Saharan region.

the airline's direct operating costs. This was because Zambia experienced so many airline failures since 1994, leasing companies charged inflated rates to Zambian Airlines as they were perceived to be "high risk". Further, it was partly the reason why local banks were reluctant to offer finance to local Airlines.

### Higher cost of aviation fuel Jet A-1<sup>45</sup>

124. The determination of the price of wholesale petroleum products including Jet A-1 in Zambia is calculated by using the Cost-Plus Model (CPM). The CPM operates on the principle that the final price of petroleum products should cover all costs in the supply chain. Since, the CPM is applied to every cargo, the fuel prices are reviewed each time a feedstock cargo is imported. If the proposed change in the price is less than 2.5%, the change is not effected for the wholesale price of Jet A-1.

125. The cost of product, freight, pocket margin, and depot fixed cost account for the largest component of the Posted Airfield price of Jet A-1. The cost of product accounts for 45.6%, 43.5% and 41.9% of the price of Jet A-1 in Lusaka, Ndola and Livingstone respectively. The freight accounts for 17.1%, 16.3%, and 15.7% of the price of Jet A-1 in Lusaka, Ndola and Livingstone respectively. The pocket margin accounts for 22.9%, 22.4%, and 19% of the price of Jet A-1 in Lusaka, Ndola and Livingstone accordingly. The depot fixed costs accounts for 9.4%, 11.2%, and 16.2% of the price of Jet A-1 in Lusaka, Ndola and Livingstone accordingly.

126. Information obtained from an investigation by the Commission observed that fuel accounted for about 37% of a certain named airline's direct operating costs. The price for Jet A1 fuel in Zambia was one of the highest in the region and that the high fuel cost hurdle was coupled with fuel not being widely available. For instance, there was no JET fuel in Mansa, Kasama, Solwezi and Chipata and the supply to Mfuwe had been very erratic for years. This resulted in the airline having to carry return fuel on these routes thus reducing available payload and thus reducing the airline's efficiency.

### Comparison of Pricing of jet a-1 in Zambia to other countries in the Region

127. As at June 2016, the price of Jet A-1 was US\$0.93/litre in Zambia, US\$1.00/litre in Malawi, US\$0.96/litre in Botswana, US\$0.87/litre in Tanzania, US\$0.78/litre in Zimbabwe and US\$0.72 in Namibia. As of June 2016, the prices of Jet A-1 in Zambia and other countries that were studied are shown below;

Table 14: Comparison of Jet A-1 in Zambia and other countries

Country	US\$/litre
Zambia	0.93
Malawi	1
Namibia	0.72
Botswana	0.96
Zimbabwe	0.63
Tanzania	0.87

128. The price of Jet A-1 is the third highest in Zambia compared to all the other countries studied. The highest is Malawi at US\$1.00, followed by Botswana at US\$0.96 and the lowest is Zimbabwe at US\$0.63. Table 5 shows the comparison of prices of Jet A-1 for selected African countries in June 2016.

Table 15: Comparison of Jet A-1 Prices for Selected African Countries – June 2016

Country	Other Countries US\$/litre	Zambia US\$/litre	Variance Absolute US\$/litre	Variance
			US\$/litre	
Zambia	0.93	0.93	0	0%
Malawi	1	0.93	0.07	7%
Namibia	0.72	0.93	-0.21	-29%
Botswana	0.96	0.93	0.03	3%
Zimbabwe	0.63	0.93	-0.3	-48%
Tanzania	0.87	0.93	-0.06	-7%

129. Fares for some airlines operating on selected routes within the region included turboprop routes and jet operated routes. On high density jet operated route like Johannesburg to Cape Town, the cost per kilometre dropped to as low as \$0.14c. Further, a look at turboprop routes in Kenya and South Africa compared favourably in terms of cost per kilometre despite the fact that fuel prices was 30% lower in those countries<sup>46</sup>.

45. AVIATION FUEL IN ZAMBIA – Report by Competition and Consumer Protection Commission 20th July, 2016

46. A comparison of air ticket prices in the Sub-Sahara region. See Annex 1

# **CHAPTER 3: ZAMBIA**

**(COVID-19 ADDENDUM CHAPTER)**



## INTRODUCTION

1. The Corona Virus (COVID-19) pandemic has had an extreme negative impact on civil aviation, particularly commercial passenger airline operations. While the pandemic and the response to the pandemic continues to evolve, the aviation industry has faced a broad array of challenges to keep airline employees and passengers safe, mitigate the spread of the disease, and respond to dramatic shifts in demand for air travel.
2. Considering the Zambia scenario, the country recorded its first Corona Virus (COVID-19) case in March 2020. As cases began to increase across the country, the Zambian Government through the President's National Address on COVID-19, suspended nonessential foreign travel, particularly, to countries which had confirmed COVID-19 cases<sup>1</sup>.
3. Additionally, all international flights to and from Harry Mwaanga Nkumbula, Simon Mwansa Kapwepwe and Mfuwe International Airports were suspended. Instead, all international flights were required to land at and depart from Kenneth Kaunda International Airport only, to ensure efficient and effective screening of travelers.
4. By April 2020, all commercial airlines except Ethiopian Airways had grounded their international flights to and from Zambia. Being the only commercial airline flying to Zambia at the time, Ethiopian Airways was operating on four international routes namely Addis Ababa, Frankfurt, London and Washington DC<sup>2</sup>. However, the number of scheduled flights had reduced to four (4) flights per week due to low demand caused by the pandemic.

## GOVERNMENT SUPPORT TO REVIVE THE AVIATION SECTOR IN ZAMBIA

5. The Aviation Industry has highly been affected by the COVID-19 pandemic. This was due to suspension of flights as well as closure of airports not only in

Zambia, but around the world. Fortunately, a number of countries including Zambia have decided to reopen and revive the aviation sector and several measures have been implemented by Government aimed at reviving the sector<sup>3</sup>.

6. In June 2020, during the Nation Address on COVID-19, the President of the Republic of Zambia announced the re-opening of the three International Airports that were previously closed in March 2020<sup>4</sup>. This was done in an effort to ease the restrictions on travel and also to boost the economic activity in the aviation industry. Furthermore, the President announced the opening up of the tourism sector as a way of revamping the aviation sector. This is because a significant number of airline passengers include tourist<sup>5</sup>.
7. As a way of ensuring the safe operations of the aviation industry, health guidelines on travel were put in place by Government in an effort to allow the smooth operation of the aviation sector.

## AGENCY PREPAREDNESS

8. Zambia has put in place specific control and preventive measures to curb the spread of the COVID-19 pandemic in the aviation industry. The following are a list of measures that were setup to manage the spread of the pandemic:
  - 8.1 Travelers arriving in Zambia from any country with confirmed COVID-19 cases are required to self-quarantine for a minimum of 14 days, and to inform Zambian health officials if they develop symptoms.
  - 8.2 All travelers coming into Zambia are required to provide a negative COVID-19 (SARS-CoV-2) PCR test results. The test should have been conducted within the previous 14 days prior of arrival to Zambia. Travelers that do not meet the requirement are not allowed into Zambia

1. First National Address on the COVID-19 Pandemic by His Excellency, Dr. Edgar Chagwa Lungu, President of the Republic of Zambia – Available online at: [https://www.sh.gov.zm/?wptfb\\_dl=213](https://www.sh.gov.zm/?wptfb_dl=213)

2. Information as provided on the Airline Website in April 2020.

3. <https://travel.economictimes.indiatimes.com/news/aviation/international/zambia-opens-airports-as-tourism-sector-is-set-to-return-to-work/76637337>

4. Fourth National Address on the COVID-19 Pandemic by His Excellency, Dr. Edgar Chagwa Lungu, President of the Republic Of Zambia – Available online at: [https://www.sh.gov.zm/?wptfb\\_dl=254](https://www.sh.gov.zm/?wptfb_dl=254)

5. <https://travel.economictimes.indiatimes.com/news/aviation/international/zambia-opens-airports-as-tourism-sector-is-set-to-return-to-work/76637337>

8.3 The Government of Zambia had suspended all tourist visas in March 2020, but the suspension was later lifted owing to the measures put up to promote the tourism sector.

8.4 Health screening is conducted at all entry points.

9. Following strict adherence to public health guidelines on the prevention of the COVID-19 pandemic, all the four (4) International Airports were opened to facilitate travel, trade and tourism. Since the removal of the suspension on International flights in June 2020, only six (6) airlines were operational as at 1st October 2020. These include Rwanda Airways, Ethiopian Airways, Kenya Airways and Emirates Airways, Proflight and Mahogany Air. Table 1 below shows the anticipated resume periods for some airlines that suspended their flights to Zambia.

**Table 1: Anticipated Resume Period for grounded flights to Zambia<sup>6</sup>**

Name of Commercial Airline	Anticipated Resume Period
Air Tanzania	October
Air Namibia	November
Malawian Airways	November
South African Airways	November
ComAir	April (2021)

## EFFECTS OF COVID-19 ON BILATERAL AGREEMENT

10. Before the prevalence of the COVID-19 pandemic, there were fourteen (14) foreign international airlines that flew to and from Zambia<sup>7</sup>. These airlines included South African Airways, Emirates, Ethiopian Airways, RwandAir, Kenya Airways, Air Namibia, Malawian Airways, TAAG Angola Airlines, Air Tanzania, Air Zimbabwe, Air Botswana, Airlink, Comair Limited and Turkish Airways. However, following the breakout of the pandemic in other regions of the Africa and the world at large, most passenger airlines that flew to Zambia grounded their international flights in an effort to manage the spread of the pandemic.

<sup>6</sup> The data is based on the information found on the individual airline websites.

<sup>7</sup> Zambia Airports Corporation Limited Website - <https://www.zacl.co.zm/airport-section/flights-1>

11. Regardless of the measures that were instituted to control the spread of the pandemic, this has had no effects on the Bilateral Air Services Agreements (BASAs) entered into by Zambia and other countries. Zambia still maintains the same existing bilateral agreements with the countries as listed in Table 2 below. The BASAs allow party countries to establish and operate international air services to specified destinations in each other's territories. These agreements are negotiated, administered and implemented through Ministry of Transport and Communication (MTC)<sup>8</sup>.

**Table 2: Nations with which Zambia has bilateral air services agreements<sup>9</sup>**

#	With African Countries	With other Countries
1	Angola	14 China
2	Botswana	15 Cyprus
3	Congo DR	16 India
4	Ethiopia	17 Netherlands
5	Kenya	18 Russian Federation
6	Lesotho	19 United Arab Emirates
7	Malawi	20 United Kingdom
8	Mauritius	21 United States
9	Namibia	
10	Rwanda	
11	South Africa	
12	Tanzania	
13	Zimbabwe	

## EFFECTS OF COVID-19 ON REGIONAL INTEGRATION

12. The COVID-19 pandemic has devastated African economies and brought air connectivity across the continent to a virtual standstill. The economic consequences resulting from a disconnected continent are severe. Millions of jobs and livelihoods are at risk in family-run enterprises and large corporations along the entire travel and tourism value chains.

13. In order to contain cross-border transmission of the virus, countries have introduced various restrictions to cross-border and transit freight transportation. Out of a total of fifty-four (54) African states, fifty (50) countries had to a differing degree suspended international

<sup>8</sup> <https://www.icao.int/Meetings/SUSDEV-AT/CountryProfiles/Zambia.pdf>

<sup>9</sup> <https://www.icao.int/Meetings/SUSDEV-AT/CountryProfiles/Zambia.pdf>

flights, introduced 14-day quarantine for entrants into the country, and closed land or maritime borders<sup>10</sup>.

14. This has had to some degree a negative impact on the economic activities among member states belonging to Regional Economic Communities (RECs). Various RECs have responded promptly to preserve trade, transport and aviation agreements that exist among member states. Below is a non-exhaustive list of regional responses by RECs that Zambia is a signatory to.

### **Common Market for Eastern and Southern Africa (COMESA)<sup>11</sup>**

15. Managing the pandemic has generated a unique blow to the COMESA region, simultaneously affecting supply, demand and trade. Supply has been affected directly through the suspension of operation of economic units across multiple activities. This has led to redundancies and suspensions, which have directly affected demand through dampening income expectations.
16. Therefore, following the prevalence of the pandemic, there was a resolve by COMESA member states to ensure that the principle of market integration and regional cooperation between the Member States do not get severely affected. To ensure that Common Market policies on the movement of goods, services and persons continue, COMESA Member States adopted guidelines to facilitate the movement of Goods and Services across the COMESA Region during the COVID-19 Pandemic.
17. With regard to air transport, the following measures were deployed by Member States:

- 17.1 Member States were to allow transportation of the COVID-19 medical equipment and medicines using passenger aircraft to provide

additional airfreight capacity.

- 17.2 Member States were to encourage collaboration between aviation and logistics partners to provide transport essential services for emergency medical supplies and food aid in support of the COVID-19 relief effort.
- 17.3 Member States were to exempt airfreight operations from any COVID-19 related travel restrictions to ensure that essential goods and services and medical equipment and supplies are transported without restrictions.
- 17.4 Exempt air cargo crew members, who do not interact with the public and are confined to their hotels, from mandatory quarantine requirements.

### **Southern African Development Community (SADC)<sup>12</sup>**

18. Southern African countries have introduced various lockdown measures and travel restrictions to fight COVID-19. Border posts have put in place stringent measures to contain the spread of the virus and customs administrations have activated risk management systems. Most processes have been moved online to reduce direct contact and exposure to the virus, and the physical examination of goods has been suspended.
19. More than 80 per cent of imported and exported goods in the SADC region are transported through the road network. COVID-19-related lockdowns in member States and the associated public health measures have resulted in significant delays in the movement of vehicles and subsequently in the delivery of essential medical and food supplies to the point of use.
20. The overall slowdown in cross-border trade and inconsistent border responses have spurred efforts to align processes and procedures in the SADC region. On 6 April 2020, the SADC Council of Ministers adopted

<sup>10</sup> United Nations - Economic Commission for Africa (July 2020). Facilitating cross-border trade through a coordinated African response to COVID-19. Available online at: <https://www.tralac.org/documents/resources/COVID-19/regional/4003-facilitating-cross-border-trade-through-a-coordinated-african-response-to-COVID-19-uneca-august-2020.html>

<sup>11</sup> COMESA, (14th May 2020). Guidelines for movement of goods and services across the COMESA region during the COVID-19 pandemic. Available online at: <https://www.tralac.org/documents/resources/COVID-19/regional/3639-guidelines-for-the-movement-of-goods-and-services-across-comesa-region-during-COVID-19-pandemic-may-2020.html>

<sup>12</sup> United Nations - Economic Commission for Africa (July 2020). Facilitating cross-border trade through a coordinated African response to COVID-19. Available online at: <https://www.tralac.org/documents/resources/COVID-19/regional/4003-facilitating-cross-border-trade-through-a-coordinated-african-response-to-COVID-19-uneca-august-2020.html>

regional guidelines for harmonizing and facilitating the movement of critical goods and services across the region during the COVID-19 pandemic. Similar to the guidelines developed by other regional economic communities, the SADC guidelines (SADC, 2020d and 2020f) are aimed at the following:

- 20.1 Limiting the spread of COVID-19 through transport across borders;
  - 20.2 Facilitating the implementation of transport-related national COVID-19 measures in cross-border transportation;
  - 20.3 Facilitating flow of essential goods such as fuel, food and medicines;
  - 20.4 Limiting unnecessary mass movement of passengers across borders;
  - 20.5 Harmonizing and coordinating transport-related national COVID-19 policies, regulations and response measures.
21. The guidelines call for the simplification and automation of trade and transport facilitation processes and documents, and information sharing, and provide guidance on the services to be provided by Governments, transport operators and transport operators associations during the COVID-19 pandemic.

### **Tripartite of COMESA, EAC and SADC**

22. In a bid to facilitate transportation and trade while contain the spread of COVID-19, the Tripartite Member/Partner States adopted guidelines outlining trade procedures during the pandemic. The guidelines are the minimum uniform regulations, procedures and standards setup to reduce the spread of the corona virus and minimize disruptions in the supply chain and to facilitate movement of goods and services across the region during the COVID-19 Pandemic.
23. The guidelines are intended to safeguard the existing trading arrangements (regional and global supply chains) in order to minimize the disruption to cross-border trade in goods and services, whilst striking the balance between primarily ensuring public health on one hand and the need to sustain national economies,

livelihoods of citizens and food security.

24. The measure specifically relating to air transportation of goods involved the Screening and testing all drivers/pilots and their crew before departure at designated/accredited testing facilities. In order to ensure continued safe movement of goods and services in the region, the following measures were recommended:

- 24.1 Immediate isolation of any persons, including drivers/pilots/crew, that exhibit symptoms or test positive in line with set national Guidelines and treat those with symptoms in accordance with the COVID-19 protocols under the supervision of the Health Authorities;
- 24.2 If a driver or crew member is showing signs or symptoms of COVID-19 and tested positive, the truck will be decontaminated before it is allowed to continue to its final destination and the driver or crew Member must be referred to a treatment center at operator's cost (unless the costs are waived by the host Member/ Partner State). The driver or crew will be isolated at the government designated facilities at the operator's cost (unless the costs are waived by the host Member/ Partner State); and
- 24.3 In the event that crews are isolated or quarantined while in transit, truck owners/operators shall make necessary arrangements for a backup crew to ensure that the goods are delivered to the intended destination. Member/ Partner States shall expedite the movement of backup crews after they have been cleared by Health Officials;

### **The Africa Continental Free Trade Agreement (AfCFTA)**

25. In March 2018, the African Union Commission (AUC) launched the Africa Continental Free Trade Agreement (AfCFTA) whose objective is to accelerate regional economic, political and social integration through the establishment of a free trade area aimed at substantially removing all restrictions to trade and investment on the African continent. Zambia signed the AfCFTA

agreement on 10th February 2019<sup>13</sup>. However, due to COVID-19 the aviation sector has not benefited from the AfCFTA agreement during COVID-19 this has been as a result of the movement restrictions of people and goods and closure of regional borders<sup>14</sup>.

## THE IMPACT OF COVID-19 ON AIRLINE LOAD FACTORS

26. According to the International Civil Aviation Organization (ICAO), it is anticipated that there could be four (4) scenarios that may affect the load factors of airlines globally during the COVID-19 pandemic. The assumptions are that load factors of airlines will decrease by 50% in 2020 compared to 2019 based on air traffic measured in Revenue Tons Kilometers (RTKs) for both international and domestic flights. The table below shows the anticipated reduction in airline load factors across the globe during the COVID-19 pandemic.

<sup>13</sup> <https://cuts-lusaka.org/zambias-preparedness-of-the-afcfta/>

<sup>14</sup> <https://www.garda.com/crisis24/news-alerts/340751/zambia-government-closes-borders-with-tanzania-from-may-11-update-6>

**Table 3: Anticipated break-even weight load factor for airlines during the pandemic period<sup>1</sup>**

	Scenario A Weight load factor = 70%	Scenario B Weight load factor = 60%	Scenario C Weight load factor = 50%	Scenario D Weight load factor = 45%
	Load factor remains high, rebound of demand in Q3 and Q4 with severe capacity cuts	Load factor moderate high and rebound during Q4, with capacity cuts in all regions	Low load factor and moderate return of normal capacity in Q3 and Q4	Low load factors (social distancing) and airlines increase capacity in Q2 2020
Total capacity reduction	-51%	-42%	-31%	-23%
Fuel costs (USD, billion) Oil price: 49% decrease compared to 2019 levels	46	54	65	72
Break-even weight load factor (excluding depreciation and amortization costs)	70.5%	63.1%	55.8%	52.1%

ICAO estimates based on ICAO Statistical Reporting

<sup>1</sup> <https://www.icao.int/sustainability/Documents/COVID-19/ICAO%20COVID%202020%2005%2026%20Economic%20Impact.pdf>

# CHAPTER 4: ANGOLA

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## EXECUTIVE SUMMARY

1. Civil aviation is one of the most relevant and dynamic sectors of the global economy, as it is characterized as an industry with permanent transformations (technological and operational) and with many benefits for societies, mainly with regard to the acceleration of economic and social development.
2. Thus, within the scope of compliance with the guidelines of the African Competition Forum (ACF) to the member states, the Competition Regulatory Authority of Angola (ARC) developed the present study, which was reflected in the assessment of competition in the civil aviation sector in Angola, integrating the macro study around the sector on the African continent.
3. The study fundamentally analyzed the segments of the regular and low-cost domestic markets, as well as regional and international. The involvement of the State, the agreements between airlines flying over Angolan airspace, public aid granted to national air operators, barriers to the entry of new companies, competition concerns and the effects caused by the pandemic COVID 19 on the market, taking into account the closure of air borders, for commercial flights, between the months of March and June 2020 were also analyzed.
4. From this analysis, ARC found that only 8 (eight) companies operate in the domestic air market, with TAAG, S.A. having the monopoly of the regular modal, since it is the only one that operates flights of this nature. Furthermore, 11 (eleven) foreign airlines operate in Angola, 8 (eight) of which have code sharing agreements with TAAG, S.A.
5. Barriers to entry and expansion in the market, the progressive exit of 18 airlines from the market during the decade of 2008 to 2018, the ban on frequent advertising of flights of non-scheduled airlines, among others, are the main competitive concerns identified in the market under analysis.
6. According to the data collected, it was concluded that the sector is experiencing a difficult moment, characterized by an uncompetitive or attractive market for investors. Against this background,

ARC recommended promoting the emergence and competition of airlines in the regular segment, eliminating all barriers to entry and expansion of companies in the market, promoting, in the medium and long term, participation of the private sector in the creation and management of some airport infrastructures and that the current fee and tariff regime be revised in order to adapt it to the reality of the national market, especially the domestic one.

## INTRODUCTION

7. The present study results from the cooperation established between Competition Regulatory Authority of Angola (ARC) and the African Competition Forum (ACF), a multilateral organization of a regional nature that incorporates characteristics of technical cooperation and institutional exchange, from the perspective of the African continent.
8. The Study encompasses the analysis of the domestic, regional and international markets and is essentially limited to the period 2008-2018, in accordance with the data from the current statistical reports of the National Institute of Civil Aviation (INAVIC), as a basis for the analysis of the main variables of the air transport market.
9. However, for the entry and exit of airlines from the market, the study analyzes the period from 1946 to 2020, considering the available data, however, for the understanding of the operators' routes, the years 2019 and 2020 are considered, however, for the perception of the effects of COVID 19 in the sector, only the first three months of the pandemic (March to June 2020) were considered.
10. Thus, according to the guidelines issued by the ACF, framed at the national level, this study aims to achieve the following objectives:  
**General objective:**
11. Understand the competition in the Angolan domestic air transport market and its impacts, radiographing its players and respective mapping of destinations, HHI index, difficulties / barriers to entry and expansion,

as well as recommending competitive measures to overcome market weaknesses.

### Specific objectives:

12. Understand the market structure, alliances, State involvement and the regulatory scenario of the civil aviation sector in Angola, as well as their impacts on national trade and tourism;
13. Understand existing competition concerns in the Angolan air transport sector;
14. Identify the priorities in relation to the airline sector, in order to address existing competition concerns and ensure the development of a more competitive airline sector that promotes national integration and the flow of people and businesses.
15. On the other hand, the study results from the identification of a range of factors that effectively motivated its elaboration, namely:
16. The performance of the national airline industry in facilitating trade and domestic tourism, as an essential element in supporting national integration;
  - 16.1 The significant evolution of the aviation sector in the Angolan economy over the past two decades, from a protectionist approach by a single national airline to a more liberalized regime;
  - 16.2 The emergence of privately owned airlines and contestability on domestic, regional and international routes;
  - 16.3 The challenges of the Competition Regulatory Authority with regard to the air sector, considering its history and available economic resources;
  - 16.4 Competition and new business models, such as non-scheduled carriers, as well as airlines with reasonable resources compared to state-owned companies.
17. Furthermore, there are a number of other competition concerns in this sector that ACF considers common

to most markets in Africa. In this sense, the present study intends to answer, at national level, the problems indicated below:

- 17.1 Regulatory barriers to entry and expansion: the entry of airlines into the civil aviation market is likely to encounter barriers, as well as their expansion on specific routes. This is especially one of the issues to be addressed in the Angolan market, that is, the limitations on competition between airlines, on entry and on existing routes, which can affect the frequency and quality of service;
- 17.2 Permanent public aid: a common resource of the airline markets is the continued support of the State to national airlines (mainly flag carriers) in a more liberalized environment. This may be partly because domestic airlines are required to fulfill non-market functions, such as opening trade routes and supporting internal integration as part of governance policies.
- 17.3 National airlines with dominant position: in Angola, TAAG is the national airline that historically has the dominant position in the market, despite some degree of liberalization in it, which makes it imperative to assess whether that position is frequently abused in order to maintain it and keep competition away, being that in some countries these abuses also occur through forms of state support or due to economic advantages granted, such as loyalty schemes, international route rights and major hub operators at the primary international airports;
- 17.4 Horizontal alliances and cartels: an additional complexity in the airline industry is the emergence of horizontal cooperative alliances and the sharing of codes that are sometimes justified to improve objectives, such as greater connectivity and a better consumer experience. These agreements can be quite extensive and include exchanging information about airfares and discounts that alliance members will offer, coordinating routes and flight times with other alliance members, cooperation in joint

## BACKGROUND

- marketing, sales and distribution of products, including joint proposals for government and corporate contracts and participation in reciprocal frequent flyer programs. This concern also deserved special attention in the Angolan context, as there may be agreements that potentially benefit consumers, but they can also be used to limit competition.. On the other hand, the study also looked at possible generalized behavior of cartels in the national market, outside the alliance agreements, including the division of routes, the coordination of air fares and the coordination of certain fees, among others.
18. It is necessary to emphasize that some domestic conditions may interfere in the market, especially: the government management model adopted, the regulation promoted by the sector's regulatory agency, the legal guidelines referring to civil aviation and the transportation of passengers and cargo in national territory, determining the competitive dynamics, especially internally (CADE, 2017, p. 8).
  19. In the Angolan context, the Angolan State has implemented some reformist measures in the sector, with emphasis on the approval of Law No. 14/19, of 23 May (Civil Aviation Law), with the aim of accepting in the domestic legal order the norms and practices of mandatory compliance emanating from the International Civil Aviation Organization (ICAO) and consequently guaranteeing the supervision of the operational safety of civil aviation. However, it is necessary to understand the competitive impact of legislation on the market under analysis.
  20. Thus, for the preparation of this study, a mixed methodology was used, that is, combining qualitative and quantitative research, using documentary techniques, content analysis, questionnaires and interviews.
  21. The sources of information used are varied, taking into account the specific characteristics of the sector, namely: reports from the regulatory body, airline accounts reports, legal diplomas transversal to the civil aviation sector, instructions, books, sector studies of other countries, articles, institutional magazines, etc.
  22. The background of this study is limited to the evolution of the civil aviation sector in Angola , starting from the period 1918 - 1920, when the Loanda aerodrome was built, the first airport infrastructure in Angola (ENANA, 2016, p. 39), opening doors to a succession of events.
  23. In 1938, by Decree-Law of the General Government of Angola, the DTA - Air Transport Division of Angola, the first Angolan airline was created, which also had the task of administering air services. Two years later, with a fleet of five small planes, Dragon Rapid, Klemen and Leopard Moth, the first regular lines between Luanda - Moçamedes (now Namibe) and Lobito were activated and the first regional flights (Luanda – Ponta Negra).
  24. In 1951 construction began on the first international airport in Angola, called Belas Airport, completed in 1954. This year, the Civil Aeronautics Service (SAC) was created, under Decree-Law No. 39,645, the main tasks of which were registration of aircrafts, licensing of pilots and the resolution of air traffic requirements (ENANA, 2016, p. 39).
  25. In 1973 the DTA became TAAG – (Angolan Air Transport - Transportes Aéreos de Angola, S.A.R.L.) with mixed capital (majority from the Government, 30% to TAP and the rest shared by private companies). During this period TAAG explored domestic flights and initiated regional careers to Sao Tome and Windhoek.
  26. After the National Independence, TAAG – Angolan Airlines was created and negotiations started with TAP for their integration on the Luanda-Lisbon flights. The first Luanda-Lisbon flights began operation by TAP planes with the acronym DT of the Angolan Airlines . In 1976 the first Boeing 737 was purchased.
  27. In 1980 the Angolan Airlines Company was created, U.E.E. (TAAG), by Decree no. 15/80, of 19 February , and the National Airport Exploration and Air Navigation Company - State Economic Unit (ENANA-U.E.E), by Decree No. 14/80, of 13 February (ENANA, 2016, pp. 45-46).
  28. Later, in 1991, the Angolan Air Charter companies were created, for cargo and passenger charter

- flights, and SAL, Sociedade de Aviação Ligeira, (Light Aviation Society), for the air taxi service and specialized firefighting and disinfection flights amongst others.
29. On February 16, 1998, SonAir, a subsidiary of the Sonangol Group, was created, operating domestic flights. Luanda-Houston ("Houston Express") was its only international route. In the following years, other private airlines emerged.
  30. In 2005, the INAVIC was created, through Presidential Decree no. 4/05 (Series no. 8, of 19 January), aimed at ensuring coordination of civil aviation activities in Angola.
  31. On September 29, 2014, TAAG signed a concession agreement with Emirates Airlines, for its management, which started in 2015. However, on 10 July 2017, Emirates broke the agreement due to the continued difficulties in repatriation of its revenues.
  32. In 2018, TAAG became a Public Limited Company, through Presidential Decree No. 276/18, of 26 November. On the other hand, by Presidential Decree No. 207/19, of 1 July, ENANA was transformed into a National Airport Management Society (SGA, S.A.), in order to manage and operate airports and aerodromes, as well as, by Presidential Decree No. 206/19, of 1 July, the National Air Navigation Company (ENNA, E.P.) was created, which now manages air traffic.
  33. Therefore, it is urgent to note that, regardless of constant changes, without the Civil Aeronautics Service and the Air Transport Service, Angola, certainly would not have advanced in some socio-economic domains and its populations would be more isolated.
  35. In turn, Pinto (2008) refers that the concept of Civil Aviation is a broad one which encompasses a set of activities:
  36. The most important segment is that of air transport, which is divided into passengers, cargo and mail, also known as "commercial aviation". Air transport is divided into regular and low-cost. The first covers permanent lines, while the second has sporadic character, including charter flights and air taxi.
  37. In Angola, civil aviation is a sector institutionally integrated into the Ministry of Transport, the ministerial department charged with proposing and implementing the Executive's policies in the field of transport, in the light of article 2 of its organic statute, approved by Presidential Decree no. 25/18, of 31 January.
  38. In its organic structure, the Ministry of Transport contains 4 (four) oversight bodies, of which the INAVIC, created by Presidential Decree No. 4/05, of 19 January.
  39. Under the terms of article 1 of the aforementioned Decree, INAVIC is a public institution endowed with legal personality, financial and patrimonial autonomy, with the task of coordinating, guiding, controlling, supervising, licensing and regulating all activities related to the civil aviation sector developed in Angola or in airspace under its jurisdiction.
  40. However, the sector's regulation underwent some reforms, with emphasis on the creation of the new Civil Aviation Law - Law No. 14/19, of 23 May, through which the National Civil Aviation Authority was created. (ANAC), under the terms of subsection 1 of article 9, which will culminate in the extinction of INAVIC as soon as ANAC's organic statute is approved. This measure was based, among other reasons, on the need to provide greater autonomy to the institution in the regulation and monitoring of civil aviation in the Angolan market.

## **REGULATORY, INSTITUTIONAL AND LEGAL FRAMEWORK**

34. To begin, we must first define civil aviation under the article 7 of the Civil Aviation Law terms, which states that it is a "set of activities and services linked to the use of a civil aircraft, including issues related to operational safety and security against acts of unlawful interference".
41. ANAC will be responsible for proposing policies on the sector to the Executive and for inspecting civil entities operating in the aviation sector, including institutions dealing with aeronautical and para-aeronautical sports, pursuant to subsection 1 of article 10 of the same law.

42. Accordingly, civil aviation in Angola is regulated by a set of national legal instruments and some international provisions ratified by the Angolan State, in order to guarantee the organized, safe and efficient functioning of the market in this sector. Thus, over the past decades Angola has approved several legal instruments on civil aviation, the description of which is presented below.

### **Civil Aviation Law - Law No. 14/19, of 23 May**

43. From a chronological point of view, the Law in question was preceded by the following legal instruments (repealed): i) Law No. 3/00, of 20 April - Civil Aviation Law; ii) Law no. 1/08, of 16 January - Civil Aviation Law, that established the rules and principles to be observed in air services and other aspects related to civil aviation; and iii) Law no. 4/15, of 10 April - Civil Aviation Amendment Law, which was intended to assign a new wording to articles 7.º, 72.º, 98.º, 100.º, 102.º, 103.º, 104.º e 105.º of Law no. 1/08, of 16 January.

44. One of the main differences between Laws No. 1/08, No. 4/15 and No. 14/19 is that, in its article 102.º, Law No. 1/08 establishes that all persons must make declarations to the Aeronautical Authority in the event of an investigation of air accidents, and Law No. 4/15 states that such declarations must be made specifically to the body responsible for investigating air accidents . Whereas Law No. 14/19, in its articles 109.º and 110.º, mentions that declarations and reports of this nature, when requested, must be sent to ANIPAA (National Authority for Investigation and Prevention of Air Accidents), becoming the responsible body for those purposes.

45. This new body, ANIPAA, has the autonomy to conduct, on behalf of the State and without restriction, the investigation of all air accidents occurring in national territory, in accordance with section 3 of article 12 of Law no. 14/19 (Civil Aviation Law), and its operationalization is dependent on the approval of its organic statute and, consequently, on the extinction of GPIAA, current Office responsible for this matter.

46. It is important to note that the new Civil Aviation Law, Law No. 14/19, of 23 May in its article 1 establishes: (...) The principles and rules to be observed in air

services, auxiliary services, aeronautical infrastructures, certification of aeronautical equipment and personnel, as well as an organization and the exercise of the powers of aeronautical authority, in the field of civil aviation.

47. Article 14 of Law No. 14/19 obliges companies and related institutions to request prior authorization to fly over Angolan airspace, going through a process of investigation by the National Civil Aviation Authority, ANAC, whose duties are currently carried out by INAVIC, in the absence of approval of ANAC's organic statute.

48. The aforementioned law, in Article 46 (1), further determines that Air Transport Services include the transport of passengers, cargo and mail, whether regular or not, domestic or international. For the purposes of the same law, in its article 58, aeronautical infrastructures are classified in:

- 48.1 Aerodromes and airports;
- 48.2 Aeronautical easements;
- 48.3 Systems and means for preventing, rescuing and fighting fires in aircraft;
- 48.4 Clearance facilities, including ancillary services;
- 48.5 Facilitation and security systems and services.

49. With regard to the mandatory use of routes, this law prohibits airlines from deliberately practicing any routes, under the terms of article 20, and must always be previously authorized by ANAC, which may prohibit or restrict air traffic in a certain parcel of the Country (article 16).

50. In addition to the law that we briefly describe, the sector is governed by complementary and no less important decrees and regulations, among which we highlight some.

### **Regulation on Access and Exercise of Air Transport Activity - Presidential Decree No. 217/16, of 31 October**

51. In Angola, the regulatory framework for allocating a flight operation license is governed by the Regulation on Access and Exercise of Air Transport Activity

(Presidential Decree No. 217/16, of 31 October), in conjunction with Presidential Decree no. 364/19, of December 30th.

52. These legal diplomas are applicable to all transport companies legally constituted in Angola, which are dedicated to the provision of domestic and / or international (regular and low-cost) air transport services.

53. Private companies under Angolan law, owned by Angolans or foreigners, may only have access to the exercise of the activity of regular domestic air transport, through a Concession Contract, provided that they demonstrate the technical and financial capacity for that purpose, under the terms of No. 2 of article 11 of Presidential Decree No. 217/16, of 31 October.

54. In accordance with subsection 4 of article 11 of the above-mentioned Regulation, companies that request the conclusion of the said contract must fulfill the following requirements:

54.1 Have legal capacity under current legislation;

54.2 Have as the main objective the activity of air transport;

54.3 Have equal or greater share capital, in kwanzas, equivalent to US \$ 80,000.00 (eighty thousand United States dollars);

54.4 Have a head office in national territory;

54.5 Proof of economic and financial capacity by submitting a feasibility study;

54.6 Enter into liability insurance and accidents at work contracts;

54.7 Documentary proof of the regularization of the social security contribution situation;

54.8 Regularize the tax situation before the State.

55. The activity of non-scheduled domestic air transport can be performed by Angolan companies, through a license issued by INAVIC, which must comply with the requirements of article 11 of the Regulation. However, for cases of applicants for non-commercial air transport

activity, the Regulation requires that they only comply with the lines a), d), f) and h) of Article 11 (4).

56. Concessions or license applications are dealt with by INAVIC, under the terms of Law. After the instruction, the process is sent to the Ministerial Department holder, who must make the final decision, within a period not exceeding 60 (sixty) days, counting from the date on which the instruction was concluded (article 22 of Decree no. 217/16). To enjoy the rights resulting from the license or concession, companies need an Air Operator Certificate (COA).

57. For this purpose, according to article 23, requests for the issuance of the COA must be made 120 (one hundred and twenty) days in advance of the intended date for the start of the operation, except for pilot air taxi operations. These must be requested 60 (sixty) days in advance. Furthermore, the decision to assign the COA must be made within a period not exceeding 90 (ninety) days from the date of completion of the process and remittance to INAVIC.

58. The international scheduled air transport service is authorized only for transport companies included in the bilateral / multilateral agreements of which the Angolan State is a party, in the light of article 4 of the Regulation on Access and Exercise of Air Transport Activity, mentioned above.

### **Amendment to the Regulation on Access to and Exercise of the Air Transport Activity - Presidential Decree No. 364/19, of 30 December**

59. This Decree arises from the need to adjust Presidential Decree No. 217/16, of October 31, to Law No. 10/18, of June 26 (Private Investment Law)). One of the main changes is to eliminate the condition / barrier related to the requirement that at least 51% of the share capital must be held by Angolan citizens, for the purpose of awarding a concession contract to private companies.

60. The other highlight change refers to the specification that applicants for non-scheduled domestic air transport services must comply with the provisions of article 11 of the Regulation. In summary, the Decree amends articles 10, 11, 13, 30 and 31 of the Regulation.

61. Regulation on the Passenger Data Transmission Obligation by Air Carriers - Joint Executive Decree no. 441/15, of 18 June

62. This Decree is applicable to all air carriers operating in Angola and enshrines the following obligation in its article 3: All air carriers are obliged to transmit, until the end of the boarding record, the information related to passengers transporting to the Angolan territory, whether those coming from the initial boarding point, as well as those from the airport stopover.

63. The data includes:

- 63.1 Full name;
- 63.2 Date of Birth;
- 63.3 Nationality;
- 63.4 Number and type of travel document used;
- 63.5 Shipping code;
- 63.6 Time of departure and arrival of transport;
- 63.7 Initial boarding point;
- 63.8 Border crossing point when entering national territory.

### **Table of Rates for Certifications, Licensing, Approvals, Inspections, Exams and Authorizations - Joint Executive Decree No. 158/18, of 6 August**

64. Decree on the rates of certifications, licenses, approvals, inspections, examinations, authorizations and other services provided by the INAVIC.

### **Airport Fare Regulation - Joint Executive Decree no. 494/15, of 24 July**

65. This Decree establishes the rules applicable to the determination of the tariffs to be charged by ENANA (current SGA, S. A.), Which result from the occupation of land or use of airport areas and other infrastructures to support air navigation and beyond, in the light of its Article 1.

66. One of the most relevant aspects of this Decree is found in article 6, which establishes that tariffs must be set in US dollars, but for tax residents payment must be made in Kwanzas at the exchange rate on the day of payment.

### **Technical Normative 4: concerning the owners and flight operators of aircraft registered in Angola**

67. This is the regulation that applies to owners and flight operators of aircrafts registered in Angola, as well as to the people and organizations that provide maintenance services for these aircrafts. According to this decree:

- 67.1 Certification of aircrafts and aeronautical parts;
- 67.2 Issuance of Airworthiness Certificates and other certificates for aeronautical products;
- 67.3 Continuity of Airworthiness of the aircrafts and aeronautical parts;
- 67.4 Reconstruction and modification of aircrafts and aeronautical parts;
- 67.5 Preventive maintenance of aircrafts and aeronautical parts;
- 67.6 Aircrafts inspection;
- 67.7 Flight operators, maintenance and inspection personnel.

68. Still within the regulatory framework and within the scope of international relations, with a view to aligning Angola with the rules and procedures established by international civil aviation organisations, the State has ratified several instruments on civil aviation, with emphasis on the following:

- 68.1 Resolution no. 7/96, of 17 May: under which Angola approves the Agreement on the Establishment of a Southern African Regional Air Transport Authority (SARATA);**
- 68.2 Resolution no. 10/97, of 7 April: by which Angola adheres to the 1948 Geneva Convention, relating to the international recognition of aircraft rights;**
- 68.3 Resolution no. 13/97, of 9 April: through which Angola adheres to the 1970 Hague Convention, for the suppression of illicit seizure of aircraft;**
- 68.4 Resolution no. 13/04, of 30 March: approving adherence to the Protocols relating to the amendment 3-Bis of Article 3 of the Convention on International Civil Aviation,**

to the amendment to Article 50 (a) of the Convention on International Civil Aviation, to Amendment 83-Bis of Article 83 of the Convention on International Civil Aviation and approves for ratification the Protocol relating to the amendment to Article 56 of the Convention on International Civil Aviation, signed in Montreal on 6 October 1989;

**68.5 Resolution no. 23/05, of 29 August: on accession to the Protocol for the Suppression of Unlawful Acts of Violence at Airports providing Services to International Civil Aviation, complementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed in Montreal on 24 February 1988 which is an integral part of this resolution;**

**68.6 Resolution no. 27/10, of 17 December: approves accession to the United Nations International Convention for the Suppression of the Financing of Terrorism;**

**68.7 Resolution 18/17, of 2 May: approves the ratification of the new Constitution of the African Civil Aviation Commission (AFCAC) adopted on 16 December 2009.**

69. AFCAC aims to achieve the following main objectives:

69.1 Coordinate civil aviation issues in Africa and cooperate with ICAO (International Civil Aviation Organization) and with all other relevant organizations and bodies involved in the promotion and development of civil aviation in Africa;

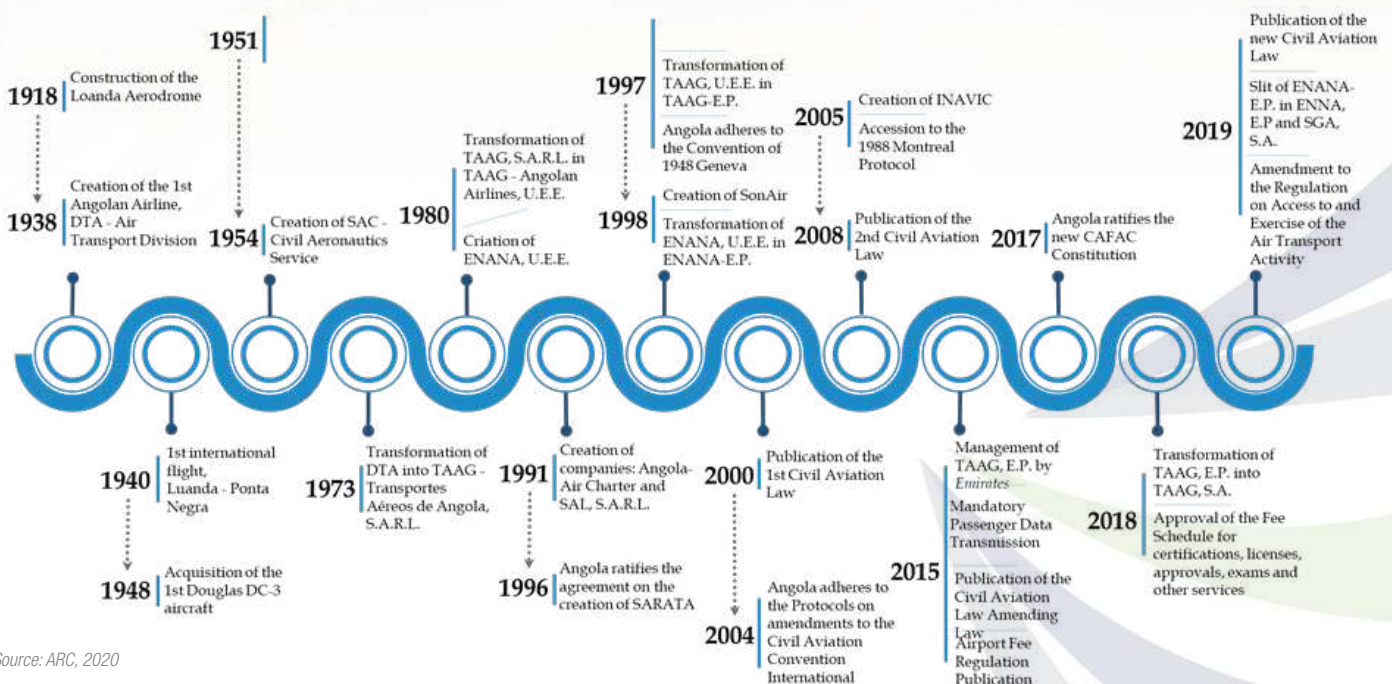
69.2 Facilitate, coordinate and ensure the effective implementation of the Yamoussoukro decision;

69.3 Formulate and apply the appropriate rules and regulations that provide fair and equal opportunities for all stakeholders and promote fair and just competition.

## DYNAMICS OF COMPETITION IN THE CIVIL AVIATION SECTOR

70. Analyzing the dynamics of the civil aviation market in Angola presupposes, in addition to analyzing the evolution of the market during the last decade, the appreciation of other indicators, namely companies intervening in the market, as well as the number of seats offered and sold by them, passengers and cargo carried, frequency of flights, the dimension of market share, code sharing agreements, issues related to airport infrastructure, among others.

Figure 1 – Historical and Legislative Evolution of Civil Aviation in Angola



Source: ARC, 2020

71. Therefore, it is necessary to map the market, in order to understand its current structure, the alliances and the involvement of the State, the inflows and outflows of airlines, the routes practiced and the impact of the sector.

## Market Structure, Alliances and State Involvement

72. With regard to the market structure in Angola, TAAG is currently the only company with a license to operate regular domestic flights, however, its routes do not cover the entire national territory, leading consumers to travel to the nearest province or city, with availability of these regular services, in order to have access to the flight they want.

73. Regarding the frequency of domestic flights, TAAG performs 120 flights per week, which indicates that in this market segment, in addition to having a natural monopoly on scheduled flights, the company maintains a domination of the market domestically in relation to other airlines. described below, which operate non-scheduled flights, namely:

73.1 Until November 2019, SonAir operated flights to Cabinda, Lubango, Catumbela and Soyo, however, it currently only operates flights to and from Luanda, Cabinda and Soyo;

73.2 SJL is a private airline that operates flights to Dundo, Saurimo, Luena, Huambo, Soyo, Cabinda, Kuito, Lubango and Catumbela. It should be noted that SJL is the company with the most domestic routes, in the segment of non-scheduled flights, and on the Cabinda - Soyo route it has 3 (three) daily frequencies;

73.3 Aero Jet operates flights to Dundo, Lubango, Catumbela and Saurimo, through an agreement with the company FlyAngola, owner of the aircraft for which these flights are made. Under the agreement, FlyAngola works as a travel agency, being responsible for the sale of flights, while Aero Jet is responsible for operating them. Aero Jet also operates flights to CATOCA (this under contract with the management of the local energy project);

73.4 Air Jet is a private airline that is in financial difficulty, so it only has one aircraft in operation and makes daily flights to the province of Cabinda, departing from Luanda.;

73.5 Heliang, Bestfly and Heli Malongo are air carriers of freight flights, which travel to various national, regional and international destinations, as requested by their customers. It is important to note that Bestfly is the only one, in this regime, that performs regional and international flights and Heli Malongo operates its flights, specifically, for oil companies that operate in the Cabinda and Soyo regions, generally, departing from Luanda.

74. In the chapter on frequent destinations, as shown in the figure below, we can infer that, in general, air operators travel to 12 provinces, departing from Luanda.

75. In this case, they do not fly to Malanje, Cuanza Norte, Uíge, Cuanza Sul and Bengo, as shown in the figures below. However, these provinces are likely to receive charter flights, as they have airport infrastructure for this purpose.

76. Currently, in the Angolan air market, considering the origin of domestic flights, 3 (three) routes are identified with monopolies, all from TAAG, that is, the national flag airline is the only one that performs flights on routes that involve Ondjiva, Namibe and Menongue; and 2 (two) routes with duopolies, namely on flights departing from Luena and Huambo, locations where TAAG and SJL operate.

77. In January 2020, the data remained similar, except for SonAir's departure from the oligopoly seen on flights departing from Catumbela and Lubango, as well as SJL's departure from the duopoly it maintained with TAAG on flights originating in Kuito.

78. However, in the figure and graph below, the flights of Bestfly, Heliang and Heli Malongo were not considered, as they are companies that do not operate carrier flights and are not available on the same weekly frequency.

79. The domestic market was also mapped by the frequency of weekly flights per airline, during the last quarter of 2019 and the first month of 2020, based on

the OD perspective (origin - destination), regardless of the modal (regular and low-cost), in order to understand the incidence of the companies on the routes, which will allow a comparative analysis between them and the changes in the routes in this period.

80. Thus, it was observed that: i) There is a low frequency of weekly flights on most routes, which TAAG and SJL have a monopoly; ii) the Cabinda - Luanda route presents itself as the most crowded, with a total of 46 (forty-six) flights per week, spread over 3 (three) companies; iii) there is no route on which more than 3 (three) airlines operate simultaneously; iv) TAAG is present on all routes, with the exception of Cabinda - Soyo and Luena - Huambo.

81. Accordingly, until October 2019, TAAG operated 132 weekly flights (all regular), within the scope of the so-called summer hours. However, from November of the same year, it switched to winter hours, which lasted until March 2020, where 122 weekly flights were performed. Therefore, TAAG is the airline with the largest number of domestic flights.

82. SonAir operated 75 weekly flights until November

2019. However, due to its corporate restructuring, it reduced to 56 weekly flights from December of the same year, meaning a reduction of 19 weekly flights.

83. SJL, until October 2019, operated 60 weekly flights and from November to January 2020 increased its flight frequency to 70 weekly flights, registering an increase of 10 weekly flights.

84. Air Jet operated until October 2019 an average of 1 flight per day, making a total of 7 weekly flights, but increased to 2 flights per day and 14 weekly, representing an increase of 100%. In the same period, the said company had a fixed average of 38 non-scheduled weekly flights.

85. This statistic does not include Bestfly, Heli Malongo and Heliang, as they essentially charter flights and consequently their weekly flight averages are not available. On the other hand, the flights of non-scheduled operators are subject to change, causing them to not always strictly comply with the flight program.

86. As for the frequency of airlines' flights per day, TAAG

Figure 2 – Domestic Career Flight Destinations in 2019



Source: ARC, 2020

stands out with an average of 18 flights, followed by SJL with 14, SonAir with 8, Aero Jet with 5 and Air Jet with four (4).

87. After mapping the market, it seems important to clarify two (2) key concepts in the competitive approach to civil aviation (alliances and code sharing):

87.1 Air alliances: consists of a generic term to signal different levels of integration between airlines. These alliances can be either of low level of integration (interlining or code-sharing) or of high degree of integration (constitution of direct coordination, merger-like or even the establishment of joint ventures, joint business agreements and merger or acquisition). In another perspective, alliances can also be classified as tactics – based on isolated and isolated agreements between few companies to address local network - or strategic deficiencies - formed by a large number of companies interested in promoting synergies and common interests (European Commission & USDOT, 2010, p. 4–10, apud CADE, 2017, pp. 9-10).

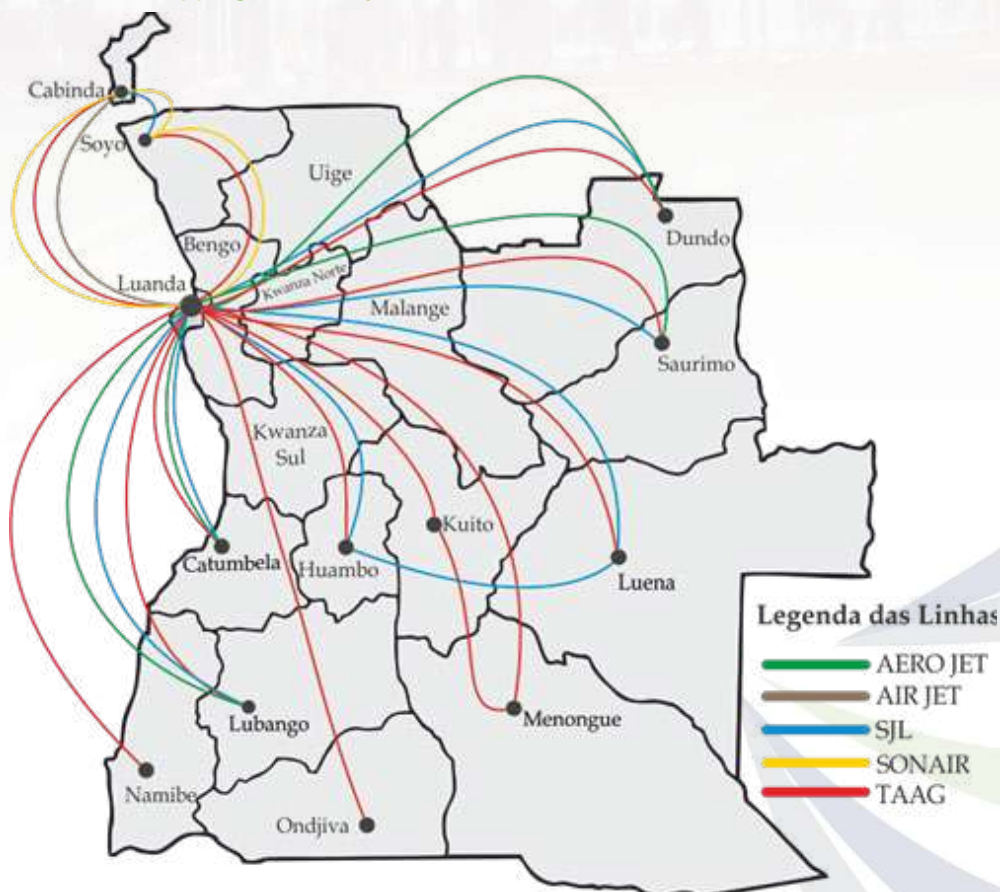
87.2 “A flight is considered to be codeshared when the airlines responsible for its operation and marketing may be different” (Ito & Lee, 2006, p. 145, apud CADE, 2017, p. 9). Eg: a flight operated by company A (on the Luanda-Johannesburg route) is marketed by company A and also by other companies, usually on computer reservation systems (better known by the English acronym CRS, i.e., Computer Reservation Systems).

88. Thus, the structure of the air passenger transport market in Angola is characterized by different variables, namely:

88.1 The operation of a single airline that operates scheduled flights, we refer to TAAG, the main state-owned passenger transport company, which flies over national, regional and international airspace;

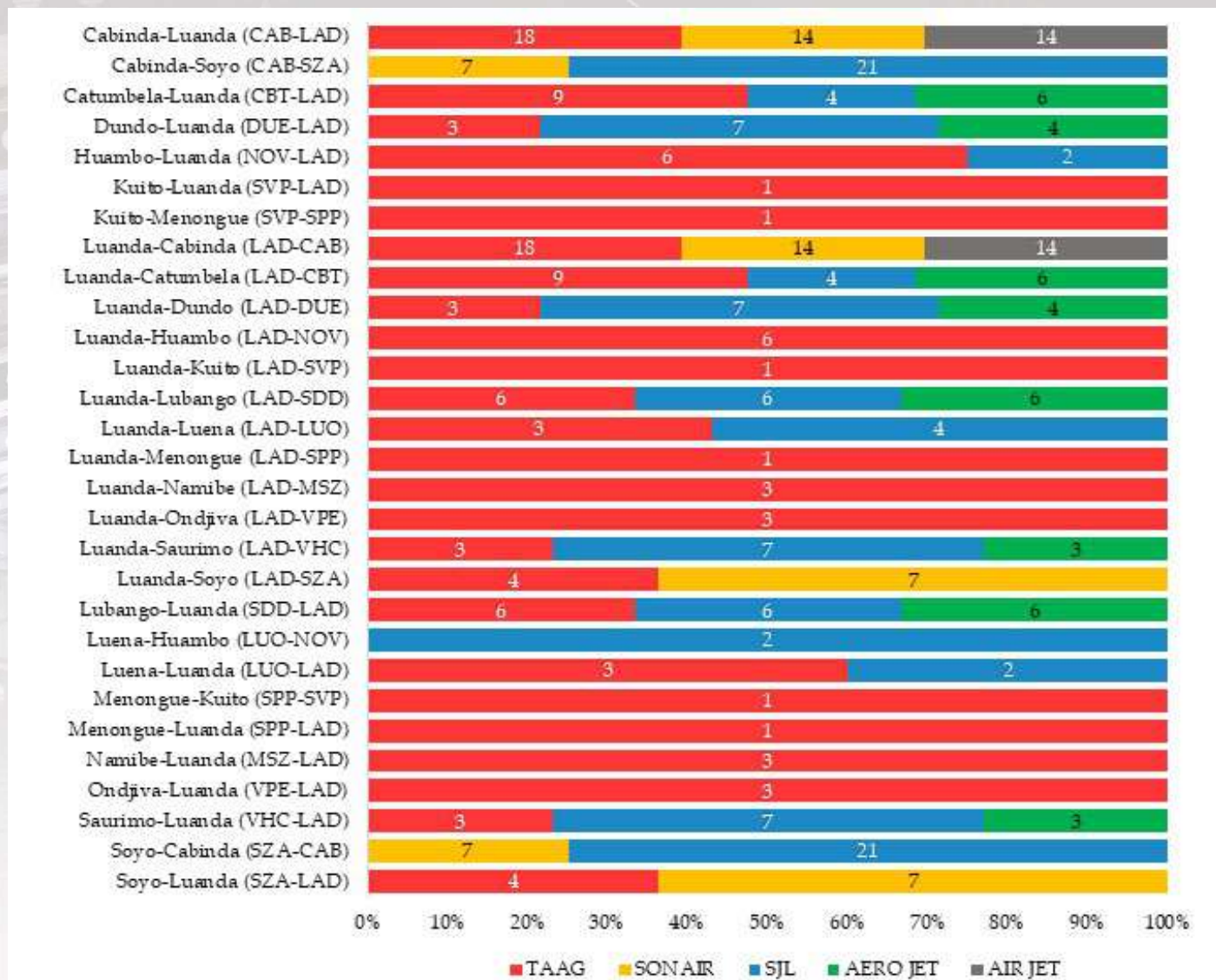
88.2 Currently, there are only 7 (seven) low-cost airlines licensed by INAVIC to operate flights;

Figure 3 – Domestic Routes Mapping in January 2020



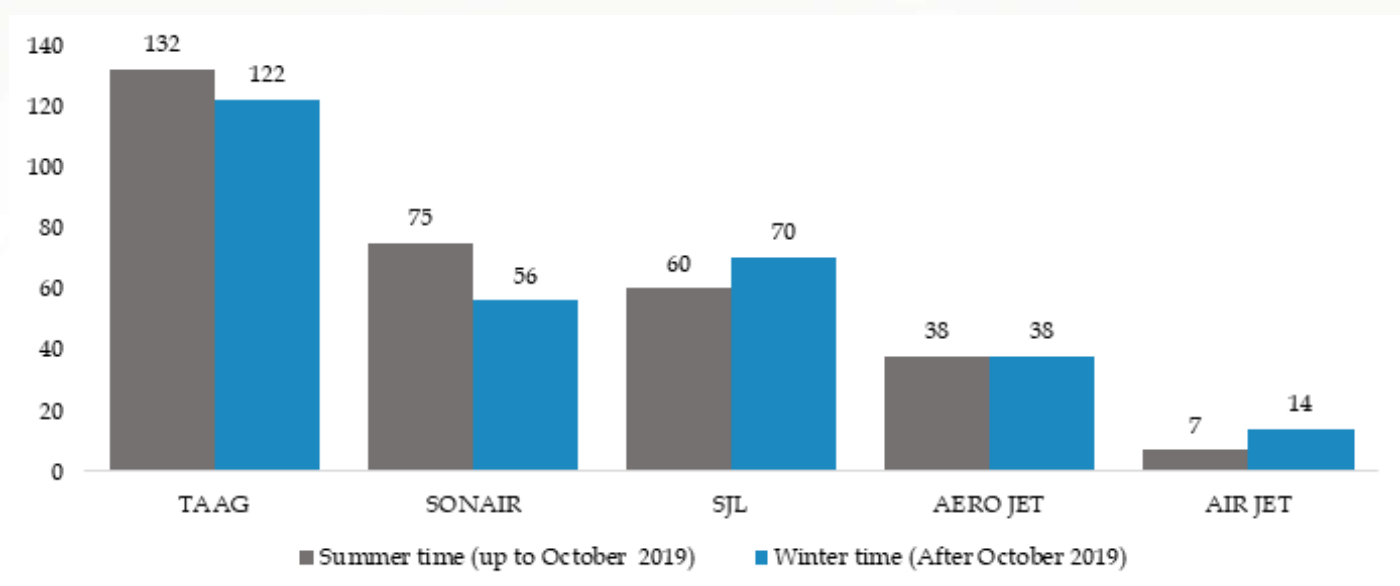
Source: ARC, 2020

Graphic 1 – Frequency of Weekly Domestic Flights by Routes, January 2020



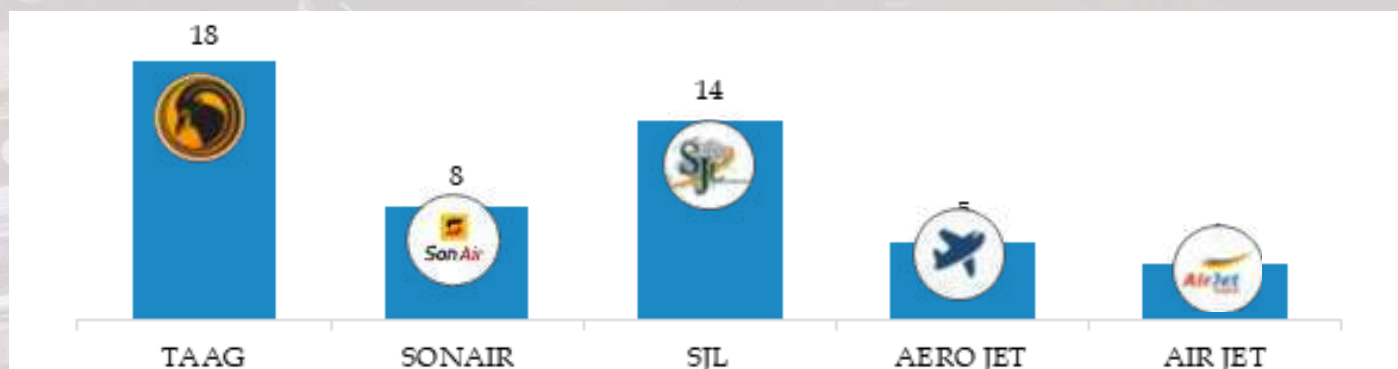
Source: TAAG, SonAir, Air Jet, Aerojet, SJL

Graphic 2 – Frequency of Weekly Domestic Flights by Airline



Source: TAAG, SonAir, Air Jet, Aerojet, SJL

Graphic 3 – Frequency of Daily Domestic Flights by Airline



Source: ARC, 2020.

- 88.3 In this market 12 (twelve) foreign airlines operate, 8 (eight) of which have code sharing agreements with TAAG;
- 88.4 State participation in airlines is effective at TAAG and SonAir (through Sonangol), and currently TAAG is open to private capital, as it has recently been transformed into a public limited company;
- 88.5 The State is the owner of all airport infrastructures and companies that operate in this field, namely the SGA, S.A., responsible for the administration and operation of airports and aerodromes, as well as the ENNA, E.P., which manages air traffic, both of which are within the public domain.
89. On the other hand, national airlines are not part of any alliances. However, at national level some of them have operational management agreements for aircraft from other companies, for example, according to the information obtained during the preparation of this study, Heliang, Bestfly and Aero Jet operate flights from their aircraft and from other institutions.
90. TAAG is the only airline that has codeshared agreements with foreign airlines, on some regional and international routes. In general, these agreements aim to increase the presence on some regional and international routes, to guarantee greater mobility of people and goods, as well as to improve the financial returns of the companies involved, taking into account the costs that imply the accomplishment of these types of trips.
91. Since TAAG is the flag company in Angola, its international agreements obey a protocol that respects the institutional hierarchy of the Government, that is, the Holder of the Ministerial Department of Transports signs the cooperation agreement with the counterpart of the State involved, the partnership is subsequently signed between the state airlines of both countries, after a technical and operational assessment.
92. Thus, TAAG has 4 (four) code sharing agreements on regional routes, namely: Luanda - Johannesburg and Johannesburg - Luanda, with South African Airways-SAA (flights DT5054 and DT5055); Luanda - Sal and Sal - Luanda, with Cape Verde Airlines (flights DT5683 and DT5684); Nairobi - Luanda and Luanda - Nairobi, with Kenya Airways (flight DT5772); and Luanda - Casablanca and Casablanca - Luanda, with Royal Air Maroc (flights DT5290 and DT5291).
93. Furthermore, TAAG also has 4 (four) code sharing agreements on international routes, namely: Luanda - Paris and Paris - Luanda, with Air France (flights DT6928 and DT6929); Luanda - Frankfurt and Frankfurt - Luanda, with Lufthansa Airline (flights DT6560 and DT6561); Luanda - Amsterdam and Amsterdam - Luanda, with KLM Royal Airlines (flights DT65775 and DT6576); and Luanda - Brussels and Brussels - Luanda, with Brussels Airlines (flights DT6359 and DT6360).
94. In this manner, it appears that the majority of foreign airlines operating in the Angolan market do so through code sharing agreements with TAAG, except Emirates Airline, TAP, Arik Air Nigeria, Air Namibia, Ethiopian Airlines and more recently, Qatar Airways.
95. Another relevant aspect for our study is the participation or involvement of the State in the air transport market, which is quite striking at various levels, without

prejudice to all the initiatives carried out by the State in recent years, with a view to ensuring greater openness in that market for private investors.

- 96. Starting with airport infrastructures, contrary to what occurs in some western countries, in Angola the State is the owner and manager of all airports, a situation that can be understandable, considering the country's history and socio-economic transformations recorded in the post-independence period, which hindered, somehow, the insertion of the private sector at this level.
- 97. However, with the new Private Investment Law and other measures aimed at giving more openness to the private sector, within the current governance paradigm, there is an urgent need to accelerate the transformation of the airline business model.
- 98. The State is also the owner of the two largest public commercial civil aviation companies in Angola (TAAG and SonAir) and, consequently, dominates the air transport market.
- 99. However, the participation of the State in the market may take as an example the fixing of the air fare and the attribution of price subsidies on the Cabinda route, as it is a province whose access by land is very time-

consuming and expensive, which makes air travel the most efficient alternative.

- 100. This State participation took place through Joint Executive Decree No. 3/18, of 22 January, which adjusts air passenger fares for that route, in order to adapt it to the purchasing power of the inhabitants of that parcel of the country, through the subsidy to the price for passengers.
- 101. In this sense, by this Decree, the reference price of a return airfare, in the economic class, was set, in accordance with subsection 1 of article 2, and should not be higher than Kz 27 726.00 (twenty-seven thousand seven hundred and twenty-six Kwanzas) per passenger. Article 5 of this Diploma, states that the value of the Airfare Price Subsidy on that route corresponds to the difference between the value fixed by the Government, for a return trip, in Economy Class and the costs determined, under the terms of No. 3 of article 3 of Executive Decree no. 77/16, of 25 February, which defines the following:
- 102. Whenever the fixed price is lower than the real cost of the good or service provided, the Executive guarantees, through competent structures, the due subsidy by presenting information on the quantities sold, in accordance with the excise tax paid..

Figure 4 – Map of Routes Resulting from Code Sharing Agreements



Source: TAAG, ARC, 2020

103. It is based on this policy that TAAG started to benefit from this subsidy. Furthermore, under the terms of article No. 3 of Executive Decree No. 3/18, of 22 January, fares for charter flights and business class are not subsidized by the State, the latter being part of the services under Supervised Price Regime.

104. Other relevant information is the fact that the Angolan State fails to allocate subsidies for the purchase of fuel to TAAG, as a flag company.

## Air Transport Market and its Impact on Trade and Tourism

105. Civil aviation plays a crucial role in the development of trade and tourism in the country, as it drives both sectors through the air transport of passengers and cargo, although air transport is not the favorite for some types of goods, the usual alternative for intercontinental transport is ships and at national and regional levels, trucks.

106. In addition to the tons of cargo transported, air travel shortens distances, allows for the exploration of the touristi potential of countries, carry out cultural exchange, as well as contributes to the dynamization of the economy.

107. In the specific case of Angola, as recent data is not available, we must mention that, according to data from the Ministry of Tourism, the number of tourists who entered the national territory between the years 2016 and 2017 reached the figure of 658 thousand people<sup>1</sup>:

108. The year of 2016 with 53.6%, represented the greatest weight in terms of tourist arrivals to national borders. By continents, Europe was the main tourist emitter market in 2016, with a weight of 53.6% (...). In relation to 2017, the weight of tourist arrivals at national borders stood at 39.6%. This year, Europe with 51.5% was the biggest tourist emitter market (MINTUR, 2018, p. 10).

Table 1 - Tourist Arrivals by Continents

Continentes	Years		Total
	2016	2017	
Africa	52 686	40 769	93 455
America	61 731	33 809	95 540
Asia	60 518	46 863	107 381
Australia	1 261	730	1 991
Europe	213 051	134 456	347 507
Middle East	8 238	4 334	12 572
General Total	397 485	260 961	658 446

Source: MINTUR, 2018

109. In general, the flow of tourists arriving at national borders in the 2016-2017 biennium, by continents, detailed that Europe (50%) and Asia (17%) constituted the main continents sending tourists. It is important to mention that the African continent, with 16%, occupied the fourth (4th) position, after the American continent (idem).

110. This data indicates that despite the general retraction, when analyzing the period 2016 - 2017, it can be affirmed, on a perpetual basis, that without civil aviation it would not be possible for Angola to reach 658 446 tourists during the biennium in reference.

111. Even in terms of domestic tourism, civil aviation continues to have a great preponderance for the provinces furthest from the country's capital, especially those that have many natural beauties and reasonable hotel potential.

112. However, it is worth recognizing that a combination of efforts is necessary for tourism to achieve better indicators and aviation to be integrated into these efforts, namely the availability of accommodation (hotels, inns, resorts at attractive prices), mobility conditions, development complementary infrastructures, holding international events to attract national and foreign tourists and researchers annually, making available various options for routes and slots, not forgetting the conservation of major national tourist references. Accordingly, civil aviation may have a greater impact on tourism in Angola.

1. MINISTRY OF TOURISM (2018). *Tourism Statistical Yearbook: Biannual 2016-2017*. Available at: <[https://ine.gov.ao/images/Populacao\\_Sociedade/ANUARIO\\_TURISMO\\_v\\_DID\\_1903\\_2019.pdf](https://ine.gov.ao/images/Populacao_Sociedade/ANUARIO_TURISMO_v_DID_1903_2019.pdf)>. Consulted on 16 January 2020

## Entry and Exit of Airlines into the Market

113. It is imperative to highlight that, as a result of market dynamics, the current financial crisis, the economic, technical and functional situation of each airline, among other factors, resulted in the inoperability, for a period of more than 1 (one) year<sup>2</sup>, for some companies and, as a result, had their AOCs canceled by INAVIC and others requested cancellation, on their own initiative<sup>3</sup>.
114. Private airlines spent more than 500,000 Kwanzas per day on flight operations, at the rate of 15 million Kwanzas per month, which led 9 operators to request cancellation of the activity license with INAVIC. In the meantime, over the years several airlines have entered and exited.
115. Over the past 12 (twelve) years, 19 airline companies entered the national market, with a drastic departure of 25. This negative balance raises enormous concerns about the dynamics and attractiveness of the Angolan air market, as well as public policies in the concerned sector of the country.
116. In general, from 1990 to 2020 22 (twenty-two) airlines entered the domestic air transport market and 14 (fourteen) left, with currently only 9 (nine) companies operating, including TAAG. During this period, 9 (nine) regional and 10 (ten) international airlines entered the market, with 5 (five) regional and 7 (seven) international airlines, as shown in the figures below.

## AIRPORT INFRASTRUCTURES

117. Another essential variable in the analysis of the civil aviation market is airport infrastructure. For a more technical analysis of infrastructures, from a competitive point of view, it is necessary to understand that they determine the number of airlines that can operate at an airport and, consequently, have access to their routes, as well as the number and dimensions of aircraft and passengers that can be allocated by them, so,

complementarily, it can be said that:

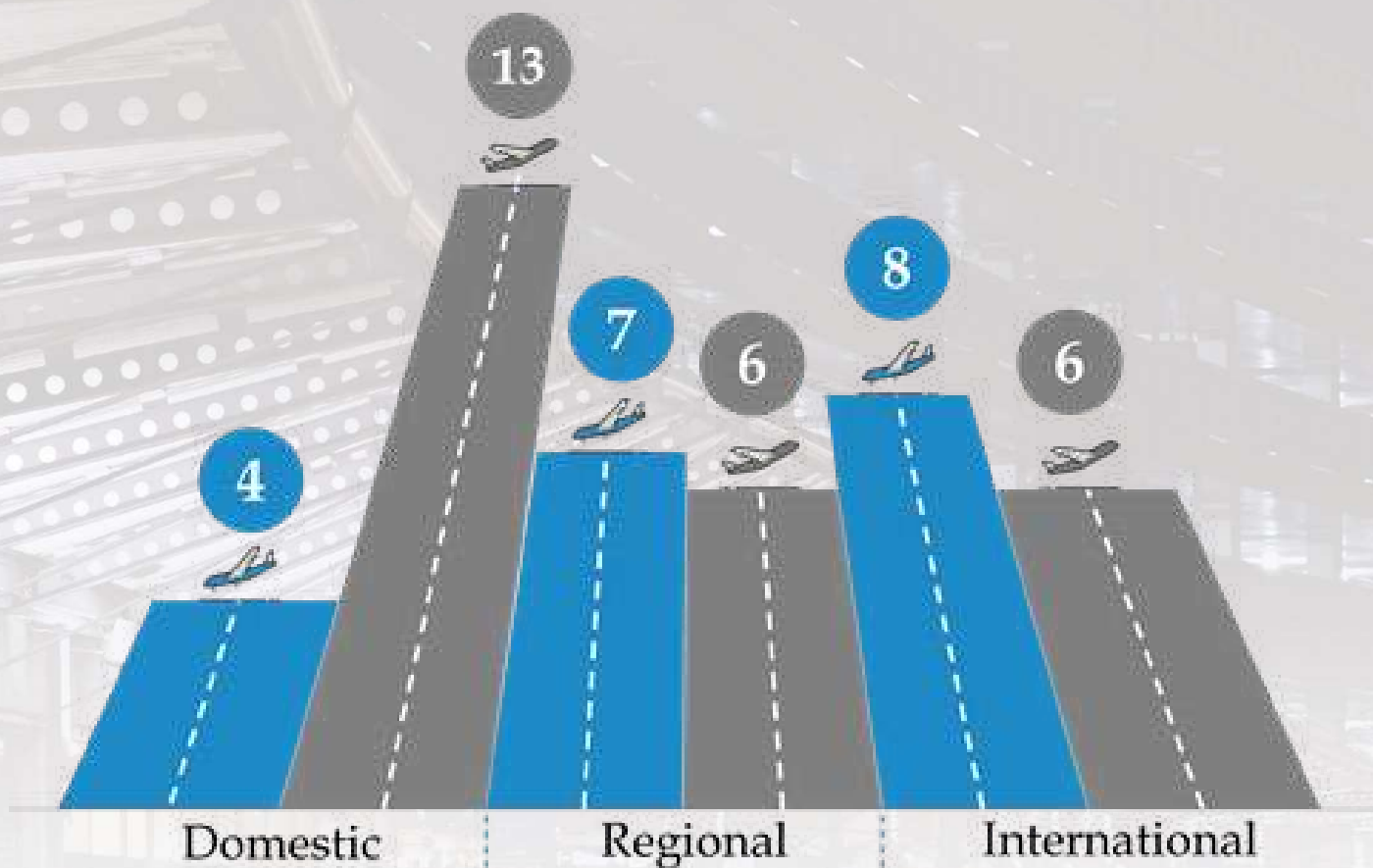
118. The degree of performance of an airline at an airport is characterized by its access to slots and gates. A slot is the time available for an aircraft to arrive and depart at an airport. Gates are boarding gates to which airlines have access to board and disembark passengers (Ministry of Tourism / Brazil, s.d., p. 15)<sup>4</sup>.
119. Thus, airports are the main infrastructures in the civil aviation sector, which justifies a thorough mapping of them, with Angola having 54 licensed aerodromes.
120. For this purpose, they were classified into four categories, established by Joint Executive Decree No. 494/15, of 24 July, for the purpose of defining airport tariffs, with 4 de Fevereiro Airport being the only one classified in category 1, as can be seen below.
121. With regard to the behavior of passenger movement during the period from 2008 to 2018, there was a slight decrease of around 2%, despite an estimate of growth of this variable in the following years.
122. As for cargo transport, the situation is more worrisome, since in this period the movement fell by about 64% and it is estimated that such a drop will persist in the following years, as illustrated below.
123. The 4 de Fevereiro Airport has an average number of movements (boarding and disembarking) of passengers, cargo and mail superior to every other national airport, and is the only one which has, simultaneously, runways for domestic and international flights.
124. In this sense, in the period from 2008 to 2018 this airport had more than half of the passenger movements carried out in all Angolan airports, as shown in the graphs below.
125. It is important to emphasize that a New International Airport is being built in the eastern region of Luanda, whose degree of execution of the construction work

<sup>2</sup> In the light of article 36 of Presidential Decree No. 217/16, of 31 October, which approves the Regulation on Access and Exercise of Air Transport Activity, the owner or air operator is punishable by cancellation of the license, to interrupt, after its technical certification, the exercise of aerial activity, for a period exceeding one year, among other conducts.

<sup>3</sup> JORNAL NOVA ÁFRICA. Operating costs dictate companies' bankruptcy. Published on April 27, 2018. Available at <<https://www.novafica.co.ao/economia/custos-operacionais-ditam-a-falencia-das-companhias/>>. Consulted on December 26, 2019.

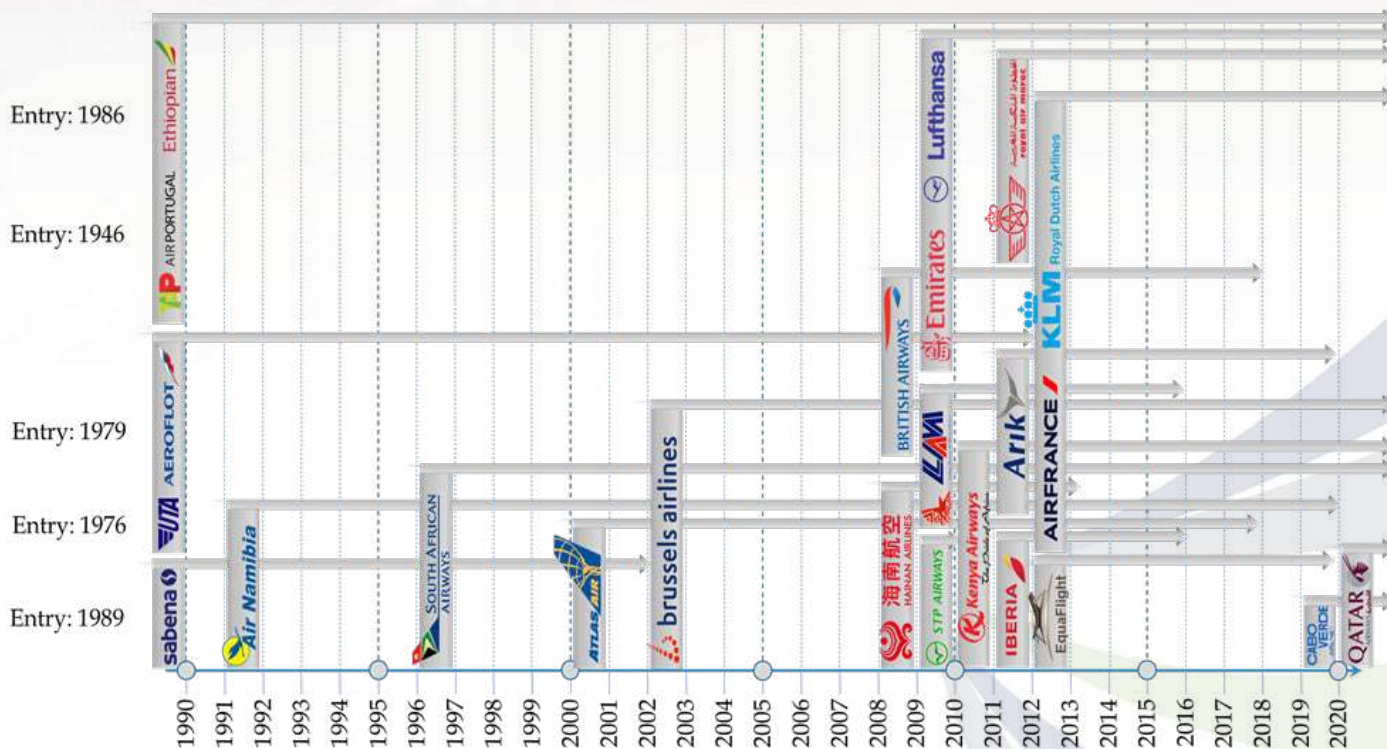
<sup>4</sup> MINISTRY OF TOURISM OF BRAZIL (s.d.). Competitiveness Studies of Brazilian Tourism. Air Transport in Brazil: Overview, Competitiveness Assessment and Public Policy Proposals for the Sector. Campinas: IE / Unicamp. Available at: <[https://www.eco.unicamp.br/Neit/images/stories/arquivos/Q\\_TRANSPORTE\\_AEREO\\_NO\\_BRASIL\\_PANORAMA\\_GERAL\\_AVALIACAO\\_DA\\_COMPETITIVIDADE\\_E\\_PROPOSTAS\\_DE\\_POLITICAS\\_PUBLICAS\\_PARA\\_O\\_SETOR.pdf](https://www.eco.unicamp.br/Neit/images/stories/arquivos/Q_TRANSPORTE_AEREO_NO_BRASIL_PANORAMA_GERAL_AVALIACAO_DA_COMPETITIVIDADE_E_PROPOSTAS_DE_POLITICAS_PUBLICAS_PARA_O_SETOR.pdf)>. Consulted on December 24, 2019.

Figure 5 – Entry and Exit of Companies in the Angolan Air Transport Market (2008-2020)



Source: ARC, adapted

Figure 6 – Entries and Exits of International and Regional Airlines in the Angolan Air Transport Market



Source: INAVIC, ARC, 2020.

exceeds 60%<sup>5</sup>, an infrastructure of greater national scope, designed to be a hub in the southern region of Africa, and more compatible with internationally required standards.

126. With regard to cargo, the 4 de Fevereiro International Airport carried 79% of the cargo movements that occurred in the set of Angolan airports, from 2008 to 2018, representing, as in the passenger segments, more than half of the total movements of the item in reference.

## EXISTING COMPETITION CONCERNS IN THE AIR SECTOR

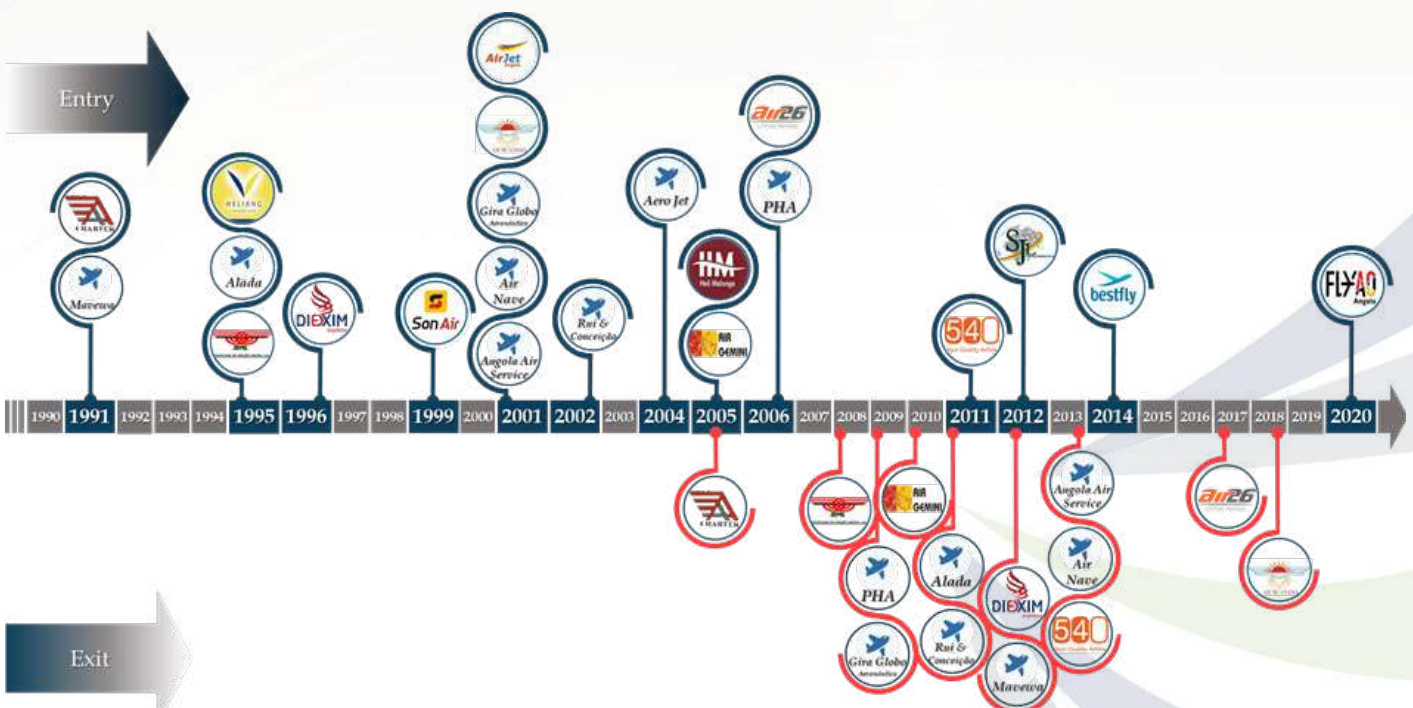
127. After the global analysis of the data collected, through documentary research, meetings and interviews with airlines, the regulatory body and other entities operating in the sector, some competition concerns were identified in the Civil Aviation Sector in Angola, such as:

### The existing monopoly in the segment of scheduled domestic flights

128. Without prejudice to being considered a natural

<sup>5</sup> JORNAL FOLHA 8 (2020). *Bursts at the Chinese Target*. Published on February 11, 2020. Available at: <<https://jornal8.net/2020/rajadas-no-alvo-chines>>. Consulted: on March 23, 2020.

Figure 7 – Entrances and Exits of Domestic Airlines in the Angolan Air Transport Market



Source: INAVIC, ARC, 2020

monopoly, the existence of only one company that operates regular domestic flights has competitive implications in the market, since consumers are in a situation of dependence on the company, whenever they want to make an urgent trip or non-planned one, as the other operators do not have a license for scheduled flights, which allows them to be postponed whenever necessary.

129. From a competitive point of view, the concern results from the fact that there are no other companies operating in the scheduled flights segment, giving the possibility that the company that holds the monopoly manage prices in the market, regardless of the quality of its service.

130. The non-mandatory compliance with schedules motivates companies that operate non-scheduled (career) flights to have a preference for this type of license, given the fluctuation in demand and the opportunity cost found in the air transport business.

131. This scenario is worrisome insofar as the realization of public interest may be compromised, as it is in the hands of an airline, which implies that in a situation of unavailability on regular TAAG services, the principle of continuity of public service provision is affected and, directly and automatically, the market is affected,

with emphasis on consumers, as they will not have immediate and equitable alternatives for the service sought.

b), prohibits, among other actions, non-scheduled air transport companies from disclosing flights following a certain frequency, under penalty of being punished civilly or with a fine corresponding to the equivalent in Kwanzas, to the minimum of US \$ 8 800.00 (Eight thousand eight hundred US dollars) and a maximum of US \$ 31 680.00 (thirty-one thousand six hundred and eighty US dollars).

## The ban on frequent advertising of flights by non-scheduled airlines

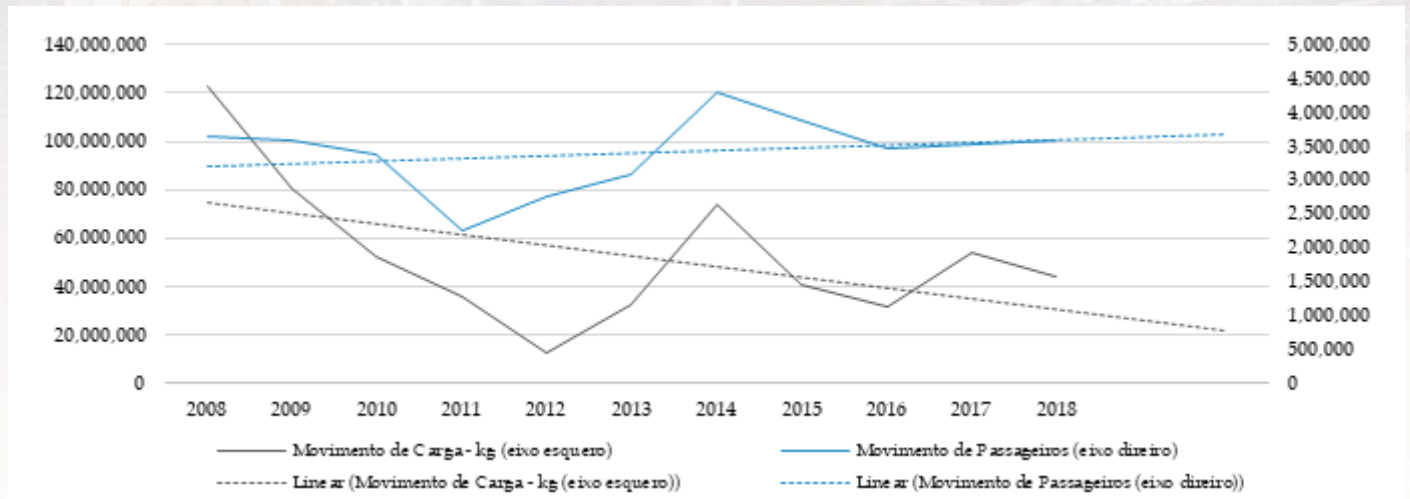
132. Law no. 24/15, of 14 September - Law on Crimes against Civil Aviation, in its 19th article, subsection

Table 2 – Aerodrome Characteristics by Categories

Characteristics	Category 1 aerodrome	Category 2 aerodrome	Category 3 aerodrome	Category 4 aerodrome	Non-Categorized Aerodrome
No. of Airports	1	7	11	23	12
Average Altitude (m)	74,0	n/a	864,1	1 327,0	n/a
Average No. of Tracks	2	1	1	1	1
Average runway length (m)	3 094,5	2 953,0	2 351,0	2 201,0	1 814,0
Average track width (m)	42,5	45,0	38,2	46,0	n/a
Parking Area (m <sup>2</sup> )	117 306	18 664	17 502	32 150	n/a

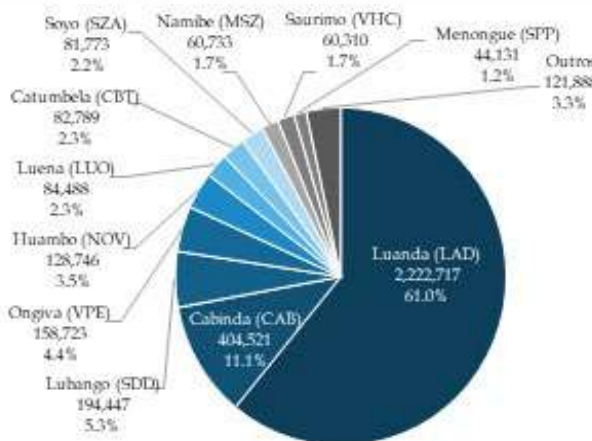
Source: SGA, S.A., 2019

Graphic 4 – Evolution of the Passenger and Cargo Movement, from 2008 to 2018



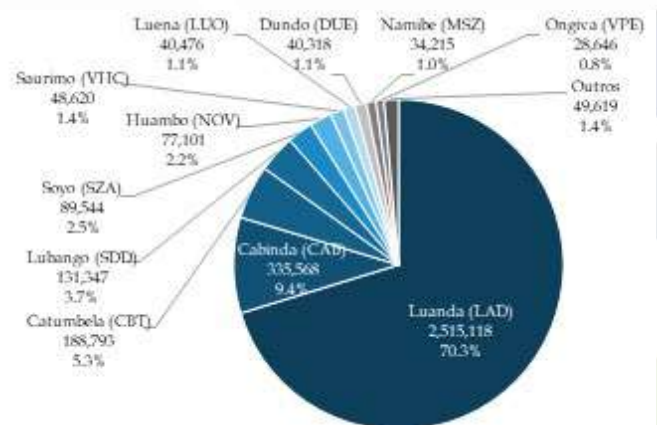
Source: SGA S.A., ARC, 2020

Graphic 5 – Passenger Movement at Airports, in 2008



Source: INAVIC, 2019

Graphic 6 – Airport Passenger Movement in 2018



Source: INAVIC, 2019

Figure 8 – Illustration of the New Luanda International Airport



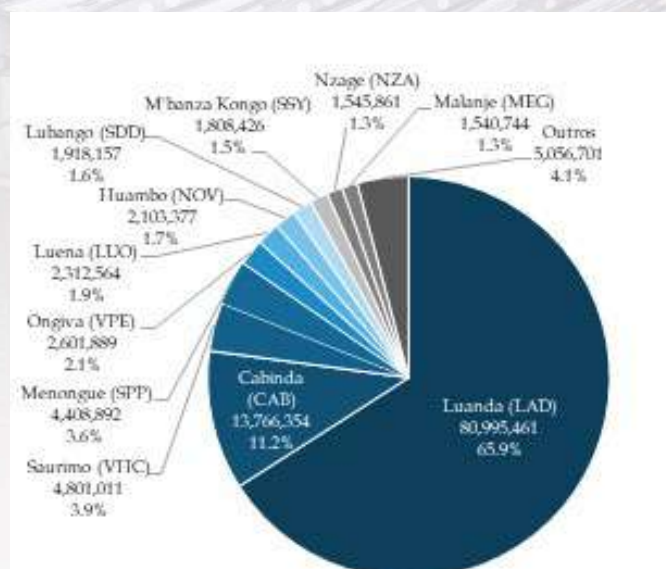
Source: Sapo News, 2020

Figure 9 – Works on the New Luanda International Airport



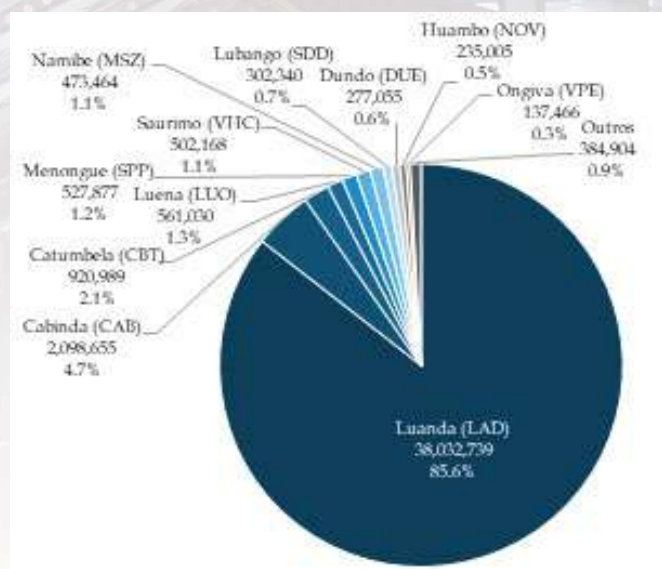
Source: Jornal de Angola

Graphic 7 – Cargo Movement (Kg) at Airports, in 2008



Source: INAVIC, 2019

Graphic 8 – Cargo Movement (Kg) at Airports, in 2018



Source: INAVIC, 2019

133. It is clear that this prohibition merely took into account aspects related to the nature of air activity licenses and the need for scrupulous compliance, in the light of the principle of legality.
134. However, from a competitive point of view and from a cost / benefit analysis for the market, this is a ban with a negative impact on the providers of these services and their consumers.
135. This measure limits the ability of companies to compete with each other, as TAAG and foreign companies that have a Regular License, freely advertise their services without any restrictions and have an advantage over others, especially low-cost operators operating in the market: In many cases, the limits imposed on advertising and marketing are too broad, resulting in

undue restriction of competition. These restrictions mainly harm potential market entrants, who are prevented from freely informing consumers of their presence in the market, as well as the nature and quality of the goods and services they propose to provide (OECD, 2011, p.54).

136. For this reason, some companies consider that the ban on disclosing their flights, as non-scheduled carriers, negatively affects their transport operations and subsequently their income.
137. On the other hand, consumers need to know the various flying services widely available, in order to choose the one that best suits their needs and financial capacity.

138. For this reason, price is an important comparative variable, which consumers will only have access to if companies freely disclose their flight services. In this regard, the Organization for Economic Cooperation and Development (OECD) refers:

139. An issue of particular concern is that of restrictions on comparative advertising, especially with regard to price comparison. Since price is a substantial element in the consumer choice equation, restricting the possibility for consumers to be informed of prices for a minimum cost can clearly reduce market efficiency (OECD, 2011, p.54).

140. In the market analysis, according to the OECD, generally the regulation that restricts the advertising and marketing of services and products aims to prevent misleading advertising, as well as to prevent consumers from having potential loss, in cases where the products or services prove to be harmful under certain circumstances (see OECD, 2011).

141. However, the nature of non-scheduled air transport services, per se, does not fit in these situations, which reinforces the need to eliminate this restriction. In appreciating the aforementioned article, we recognize that the ban on non-scheduled airlines announcing scheduled flights is valid, as their license does not allow nor is part of their core business.

142. Therefore, there is a certain ambiguity in the ban on the disclosure of flights with a certain frequency, as it is not very precise and can lead to extensive or restrictive interpretations, as if any and all disclosure of air services in this segment.

143. Regardless of this reflection, it must be emphasized that in many cases “ advertising restrictions merely result in a reduction in the information available to consumers and, at the same time, a decrease in competition and an increase in prices ”(OECD, 2011, p.53).

144. In truth, these restrictions associated with financial difficulties are potential factors that influence the lack of advertising and marketing of the services of non-scheduled airlines, in general, so they are not very well known in the market, they do not have a flight reservation system, do not have billboards or massive presence on digital platforms, not even television

and radio spots. This situation does not promote competition in the market, nor does it offer options to the consumer for a better choice of services.

145. In this case, a balance can be found between the need to comply with the license and the promotion of competition in the market, prohibiting only misleading advertising, as recommended by the OECD, that is, it is proposed to remove this restriction, allowing that low-cost airlines freely disclose their services, as long as they emphasize that their flights are not regular, but depend on demand, therefore, fixed hours. In fact, we believe it is necessary to encourage them to permanently disclose their services, as long as they do so with truth.

### **SonAir's exit from the carrier airline market**

146. On August 20th of this year (2020), SonAir confirmed its exit from the carrier air transport market. Said exit is a competitive concern, as it is the second largest national company and TAAG's major competitor, with regard to the domestic market.

147. Thus, SonAir ceases to operate fixed wing flights (airplanes), and dedicates itself only to supporting the oil industry, through mobile wing flights (helicopters), as a result of its restructuring. In this way, the market loses competitiveness, and consumers, in particular, the services of this company on the routes Luanda-Lubango, Luanda-Catumbela, Luanda-Cabinda, Cabinda-Soyo and Soyo-Luanda.

148. Given that SonAir was a reference on these routes, despite not having a license for scheduled flights, it built a relationship of trust with its customers to the point of having regularity in the fulfillment of flight schedules, its exit from this market translates in strengthening TAAG's share, as the dominant company in this segment, as it lost its main competitor and won two (2) Boeing 737 aircraft formally delivered by SonAir<sup>6</sup>.

6. JORNAL DE ANGOLA. SonAir Delivers two Boeing 737s to TAAG. Published on August 20, 2020. Available at: <<http://jornaldeangola.sapo.ao/economia/sonair-entrega-dois-boeing-737-a-taag>>. Consulted on 15 October 2020.

## **The progressive exit of 18 airlines from the market, during the period from 2008 to 2020**

149. Of the 25 (twenty-five) companies that left the market, 13 (thirteen) are national, 6 (six) are regional and 6 (six) are international, exceeding the total of operators that entered the market in that period.
150. These exits are a concern, as competition between several airlines brings advantages, a fact that has been proven in several countries, both American and European. However, if there is a decrease in competition, the benefits that come from it are compromised:
151. Competition between companies improves production efficiency and the emergence of new and better products for consumers, through innovation, increasing economic growth and the well-being of consumers. In general, competition between suppliers leads to lower prices and greater variety of choice (OECD, 2011, p. 21).

## **The current airport infrastructure management model**

152. In the current airport management model, SGA SA, is the only company responsible for providing the service to ensure the departure and arrival of aircraft boarding, disembarkation and routing of passengers, cargo and mail at airports and other infrastructures, airport structures, as well as studying, planning, operating and developing new civil airport infrastructures and airport management that may be built by the Government, in the light of article 4 of its Organic Statute, approved by Presidential Decree No. 207/19 of 1 January.
153. In this model, the State maintains the responsibility for the management of all airport infrastructures, a factor that limits the ability to fully respond to market demands, especially with regard to the creation of operational conditions at all airports and the guarantee the required quality of airport services.
154. The involvement of the private sector in the management of some infrastructures can reduce the weight of the State in airport business and generate competition between management companies. This model is in force in certain countries with positive results,

namely in Brazil, where the mandatory participation of Infraero has been eliminated, as a public manager, in the administration of certain airports, being currently managed by consortiums<sup>7</sup> (Silveira and Quintilhano, 2019, pp. 99-100).

155. However, it is essential that effective economic regulation is strong, in order to balance interests (Juniac apud Silveira and Quintilhano, 2019, p. 108).

## **The advantage granted to public companies under Presidential Decree No. 217/16 of 31 October**

156. The aforementioned Decree, in section 2 of its article 11 (referring to scheduled domestic air transport), establishes that companies that are not part of the public sector are granted the exercise of the activity through a concession contract.
157. Therefore, it is understood that public companies are exempt from paying fees, namely from the monthly operating fee (provided for in the 7th clause of the model of the concession contract) and from fees inherent to the Contract, as well as from indemnification to INAVIC in case of withdrawal, provided for in section 4 of article 41, corresponding to 4 (four) months of rate equal to that paid in the month prior to the notice of withdrawal from the contract.
158. This advantage attributed to public companies opens up an enormous possibility for private companies that apply for the license of regular domestic flights to be at a competitive disadvantage, in this regard, it may even constitute, in a way, a disincentive to them.

## **The advantage granted to TAAG in defining flight routes and schedules**

159. TAAG is one of the shareholders of SGA SA, representing the State, which can be seen as a competitive advantage, insofar as the company can have access to information of a strategic nature, for example, in the definition of routes and opening hours of flights, as it is a permanent guest of the Technical Group for the definition and concession of slots, and other companies do not have this possibility.

7. Infraero (Brazilian Airport Infrastructure Company) is a Brazilian federal public company of indirect administration linked to the Ministry of Infrastructure, responsible for the administration of the main airports in the country.

## The conditions of some airport infrastructures

160. Some companies point out the poor operational conditions of some aerodromes as a barrier to their expansion in the market, which are not able to receive flights, especially at night, due to the lack of lighting and other basic equipment to support navigability.
161. In fact, some Angolan aerodromes serve only for takeoff and landing during the day, without any support instrument. The competitive concern is also related to the fact that there are inoperative airports and only one that receives international flights.

## Barriers to entry in the civil aviation market

162. Regarding the access of air transport companies to the market, despite the free competition legally established, there are some inherent barriers to a market that is in transformation and that for a long time had a marked level of State interventionism.
163. Barriers to entry for companies in the market<sup>8</sup> can be identified as co-regulators of conduct and performance of business activities (Bain, p. 1956). In this perspective, the entry barrier is a structural condition that determines the internal adjustments of an industry or sector (Yada, s.d.).
164. Therefore, these barriers in the civil aviation market can be seen in several perspectives, but it is necessary to assess the actual occurrence in the Angolan context, since the markets have different natures and characteristics, always imposing relativism and contextualization.
165. One of the barriers is related to the bureaucracy inherent in the licensing and operational certification process, typical of a sector that requires high security, organization and capital to support the high costs of the market.
166. Despite this, the process tends to be long, as some companies stated that they have difficulties in complying with all requirements in a timely manner and authorization is not always granted within the

established deadline, and Presidential Decree No. 217/16, of 31 October, determines that the licensing goes through an instruction phase (60 days) and must be decided up to 60 (sixty) days and certification up to 90 (ninety) days, without forgetting that the order for the issue of the COA must be made with 120 (one hundred and twenty) days before the date on which the candidate intends to start operations, under the terms of articles 22, 23 and 25 of the aforementioned Decree, totaling approximately 1 year.

167. The difficulties referred to in the previous paragraph are intrinsic to the detailed understanding of the COA licensing and attribution process, as we found that some companies send the process for licensing, however after INAVIC's analysis it is found that it is incomplete or contains shortcomings.
168. Therefore, the incoming company receives a letter informing the deficiencies of the process, causing it to lose a few days, even weeks, to reorganize it and send it again.
169. The files are then again appreciated by INAVIC one more and if inconsistencies are detected, the respective correction can be requested by the company, making the process more prolonged.
170. After INAVIC's technical opinion paper, the decision-making phase for granting a license falls to the Ministerial Department holder responsible for the sector, which is currently considered the Aeronautical Authority in Angola, and, according to paragraph 6 of Presidential Decree No. 217/16, of October 31, the decision must be taken within a period not exceeding 60 days.
171. However, for various reasons, in some cases, this deadline is not observed, and adding the technical certification period (mentioned above) by INAVIC, makes it become an even longer process, which makes the need to implement the National Civil Aviation Authority (ANAC) imperative by giving it the autonomy to make these decisions and others, especially those concerning the domestic market.
172. In this regard, the Organization for Economic Cooperation and Development (OECD) stresses that the requirement for licenses or authorizations, as activity

8. "For Porter (1991), there are six main sources of barriers to entry: Economies of Scale, Product Differentiation, Capital Need, Costs of Change, Access to Distribution Channels and Government Policy", Apud Daniella Yada, s.d., in *Overcoming Barriers to Entry into the Competitive Market: Analysis of Small Business Strategies*, São Paulo.

requirements, restricts the entry of new operators into the market. That is why it is necessary to ensure that these requirements do not become more demanding than necessary to achieve the intended regulatory objectives (OECD, 2011, pp. 10-11).

173. Still, the licensing requirement in the Angolan civil aviation sector is deemed necessary, given its nature, as long as the process does not become excessive.

## Airport fares

174. It is important to note that, in addition to the assessment of the Decree in question, it was necessary to conduct a field survey with the airlines and SGA S.A., in order to verify its modus operandi with regard to airport fares.

175. Two highlights of this research stand out, namely:

175.1 National air operators have been compelled, by SGA SA. (Adding operational reasons), to pay airport fares before take-offs, contrary to the provisions of subsection 1 of article 28 of the Decree, which establishes that payment, in the case of national airlines, it must be processed within fifteen days after receipt of the respective invoice;

175.2 SGA, SA., operates the collection of tariffs at a weekly exchange rate of the commercial banks with which it works and not specifically at the exchange rate of the day, as required by the Decree, in its article 6.

176. Another factor that hampers the permanence and expansion of airlines in the market are the costs of purchasing fuel and maintenance of aircrafts, whose values are considered high.

177. However, it should be noted that the Government has recently eliminated, through Presidential Decree No. 364/19, of 30 December, the requirement that at least 51% of the share capital be held by Angolan citizens, for the purposes of attribution of a regular domestic license concession contract to private companies, in order to align investments in the sector with the new Private Investment Law (Law No. 10/18, of 26 June).

178. These concerns allow us to consider that the civil aviation market is experiencing a difficult time from a competitive point of view, as there is no significant competition and there is a growing departure from companies with non-scheduled flight licenses, resulting from the factors mentioned above.

## Flight cancellations during the COVID-19 pandemic

179. Due to the measure to close the national airspace, in order to avoid the spread of COVID 19 in Angola, competition was almost non-existent in the market, as only a few companies were authorized, exceptionally, to carry out freight flights to support activities of the Interministerial Commission for the Prevention and Combat of COVID 19, humanitarian aid, support for the oil and diamond industry, among others considered essential for the period of social confinement.

180. This deficit can cause a lot of effects on the market, namely:

- 180.1 closure of airlines (which translates into reduced supply),
- 180.2 collective dismissal of employees,
- 180.3 company mergers,
- 180.4 need for public aid, especially financial, to TAAG, among others.

**Table 3 – Main Airport Fees (in Kwanzas)<sup>1</sup>**

Fee Type	Angola	South Africa	Botswana	Mozambique	Namibia	Zimbabwe
Takeoff (per ton)	5 183,72	n/a	n/a	n/a	n/a	n/a
Landing (per ton)	5 183,72	5 922,96	2 116,11	3 578,67	3 516,19	5 669,76
Parking (per ton / hour)	162,67	510,53	275,31	108,44	665,34	1 410,58

Source: ARC, 2020

1. Amounts converted at the average exchange rate of the 29 January 2021 primary market. Prices in other countries refer to the tariff calculated based on a weighted average of aircraft weights, in accordance with the tariff regulations of these airports. As for South Africa and Namibia, a single landing fee is charged, with no take-off charge.

## MARKET SHARE, COMPETITION AND PRICES

181. On the other hand, there may be a decrease in demand, as many consumers have lost their purchasing power and others will tend to avoid air travel for fear of contagion from the corona virus.

### PROFITABILITY

182. As previously mentioned, the civil aviation sector represents a strategic weight to leverage and accelerate Angola's economic growth, taking into account the high rate of employability, both directly and indirectly, in addition to ensuring the country's visibility abroad.

183. According to National Institute of Statistics (INE), the aggregate of transport and logistics activity contributed 3% of GDP in the third quarter of 2019, with a positive variation of around 2.4% in relation to the same period in the previous year.

184. In view of the unavailability of data relating to the income of some companies operating in the national civil aviation sector, the chapter below shows the amount of income from TAAG, Heli Malongo, Bestfly and ENANA, for the years 2017 and 2018.

185. Although it was not possible to present data related to Air Jet, the above indicators allow us to evaluate the operating results of the air operators that dominate the civil aviation sector, as being generally negative.

186. For clarification purposes, it is important to highlight that the analysis of the civil aviation market shares was essentially limited to the assessment of domestic and international air traffic, referring to the extreme years of the decade 2008-2018, taking into account the data provided by the INAVIC.

187. This is an assessment of the air transport market in four variables, namely: i) low-cost domestic air traffic, ii) regular domestic traffic, iii) low-cost international and iv) regular international.

188. On the other hand, it was not possible to differentiate the structure of the regional and international market, nor to make the assessment of concentration in these terms, since the data received from INAVIC did not distinguish between regional and international traffic.

189. For a better understanding of the functioning of the offer in passenger transport, it is necessary to keep in mind that the offer of seats in airplanes constitutes a variable for adjusting the passenger market, which results in the main measures of that market. (Gomes & Fonseca, 2014, pp. 134 e 139 apud CADE, 2017, p. 15).

190. Comparing non-scheduled air traffic, it can be seen that in 2008 13 operators operated in the market and in 2018 only 8. On the other hand, SonAir was the company that carried the most passengers in this

Table 4 – Financial Results in the National Air Sector (in thousands of Kz)

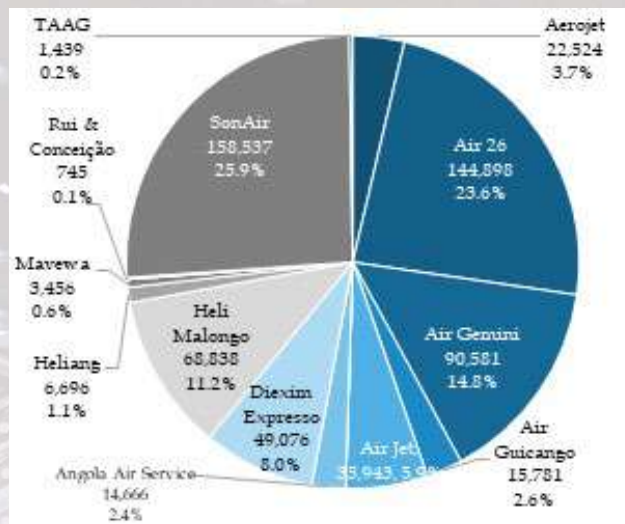
Company	Total Operating Income		Total Operating Costs		Operating Results	
	2017	2018	2017	2018	2017	2018
Aero Jet	454 540,28	544 575,13	658 994,66	1 021 213,81	-204 454,38	-476 638,68
Air Jet	n/d	n/d	n/d	n/d	n/d	n/d
BestFly	247 529,00	418 315,00	211 600,00	378 833,00	35 929,00	39 482,00
ENANA	25 512 295,00	35 641 056,00	19 539 030,00	22 996 925,00	5 973 265,00	12 644 131,00
Heli Malongo	6 736 588,00	6 441 635,00	6 045 252,00	5 891 883,00	691 336,00	549 752,00
Heliang	447 883,47	397 205,00	475 994,10	429 200,06	-28 110,63	-31 995,06
SJL	283 917,94	360 276,07	500 758,66	567 452,60	-216 840,72	-207 176,53
SonAir	24 211 136,19	23 047 771,68	43 822 519,49	41 928 310,26	-19 611 383,30	-18 880 538,58
TAAG	102 642 729,00	116 305 097,00	114 512 763,00	173 072 322,00	-11 870 034,00	-56 767 225,00
Total	160 536 618,88	183 155 930,88	185 766 911,91	246 286 139,73	-25 230 293,03	-63 130 208,85

Source: IGAPE, Heli Malongo, Bestfly, Aero Jet e Heliang.

segment in 2008, followed by Air 26, with 24%, and in 2018 SonAir achieved a dominant position, rising from 26% to 57%.

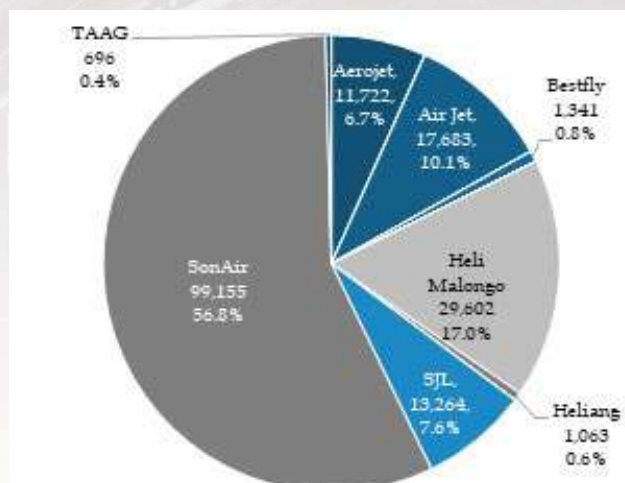
## Low-Cost Domestic Traffic

Graphic 9 – Passengers Transported in 2008



Source: INAVIC

Graphic 10 – Passengers Transported in 2018



Source: INAVIC

191. It is important to note that in this period TAAG had a very low percentage of passengers transported in non-scheduled air transport, as it is an airline with scheduled flights, occasionally carrying out some non-scheduled flights when the situation requires.

## Market Share in Domestic Air Traffic

192. In the global analysis of scheduled and non-scheduled domestic air traffic, TAAG was the airline with the highest percentage points in most indicators, followed by SonAir.

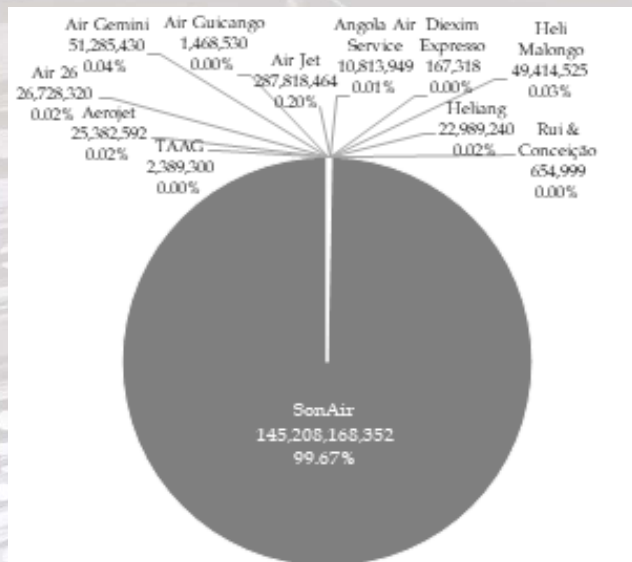
193. The regular air transport modal was, over the years under analysis, the least competitive, with few companies with this type of license, being that from 2013 to 2019 only TAAG operated scheduled flights, which reiterates its monopoly in this segment.

194. In 2008 SonAir transported 26% of passengers due to low-cost domestic traffic, followed by Air Nave with 24%, Air Gemini with 15% and Heli Malongo with 11%, with the other percentages shared among the other companies. , which revealed some competition in the market, with 13 airlines competing, including TAAG, which in the same year made some regular flights. However, in 2018 it reduced the number of companies to 8, and, consequently, the competition, leaving SonAir with a dominant position, with 57%.

196. In 2008 SonAir was the airline with the largest offer of seats, reaching around 99% in the “offered seat kilometers” index. However, in 2018 SJL assumed this position, holding 69% of the offers, followed by Air Jet with 17%.

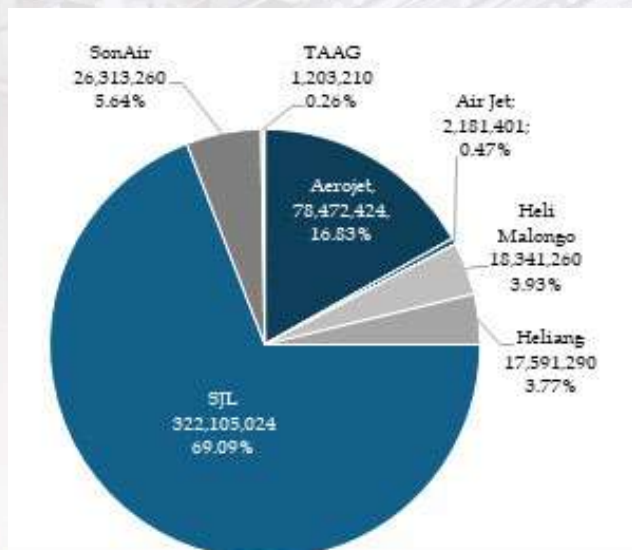
197. It is important to point out that having a higher percentage of passengers transported does not necessarily imply a dominant position, with regard to the seats-kilometers offered, since, to calculate this indicator, the capacity of the aircraft must be multiplied by the distance covered, that is, small distances traveled several times represent a greater number of seat-kilometers offered.

Graphic 11 – Places-Kilometers Offered in 2008



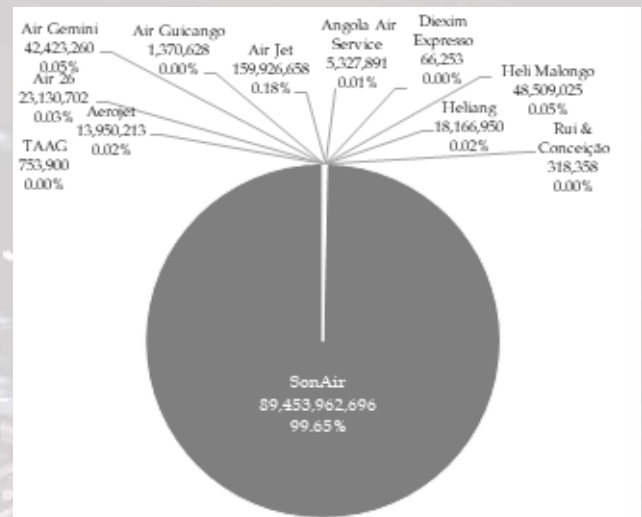
Source: INAVIC

Graphic 12 – Places-Kilometers Offered in 2018



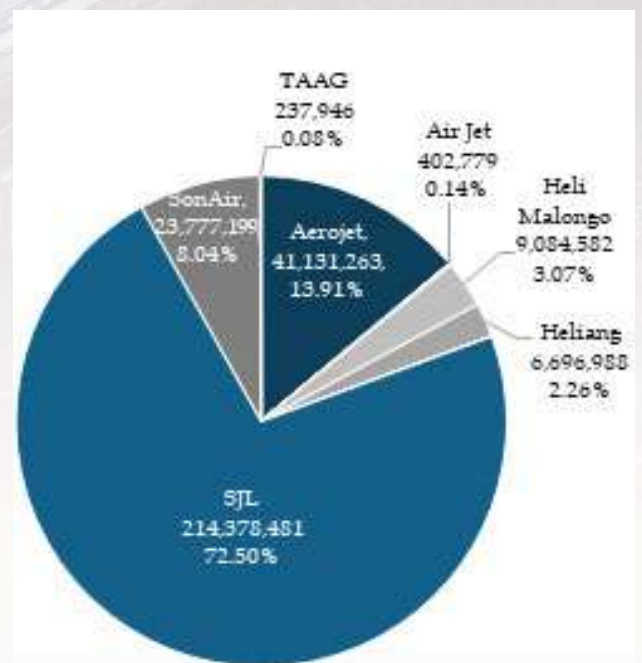
Source: INAVIC

Graphic 13 – Seat-Kilometers Sold in 2008



Source: INAVIC

Graphic 14 – Seat-Kilometers Sold in 2018



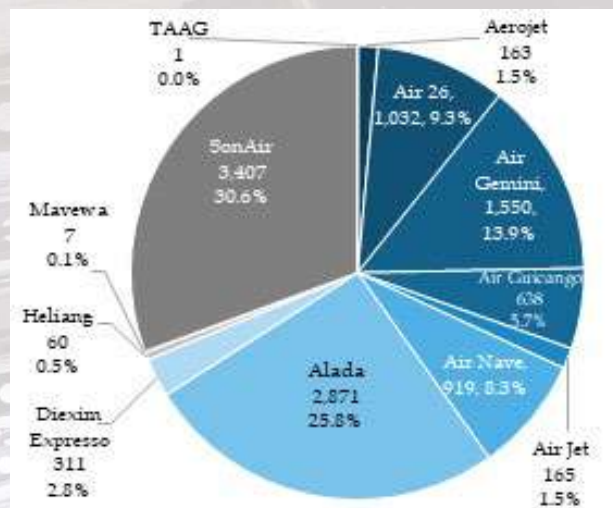
Source: INAVIC

199. As for the number of kilometers sold, it maintained the same trend, that is, SonAir's dominant position in 2008 and SJL's in 2018, with small percentage changes.

201. In 2008 there was a balanced competition in non-scheduled air transport, with respect to cargo transport, with SonAir having the highest percentage point (31%), followed by Alada (25%) and Air Gemini (14%).

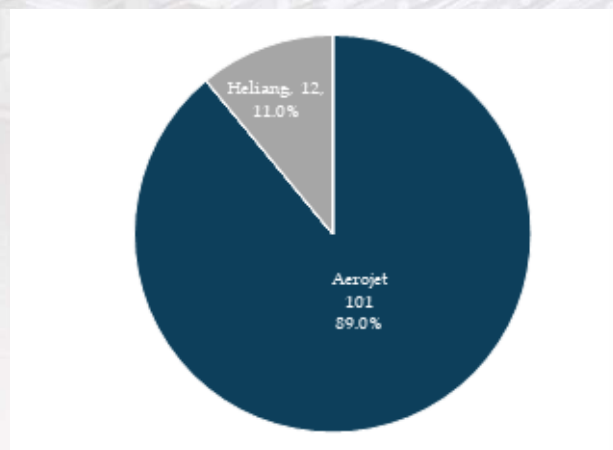
202. In 2018, the market changed completely, Aero Jet reached a dominant position, with around 89% and Heliang had only 11% of non-scheduled air cargo transportation, significantly reducing competition in this segment, as only two companies acted, having a very dominant position.

Graphic 15 – Cargo Transported in 2008 (tons)



Source: INAVIC

Graphic 16 – Cargo Transported in 2018 (tons)

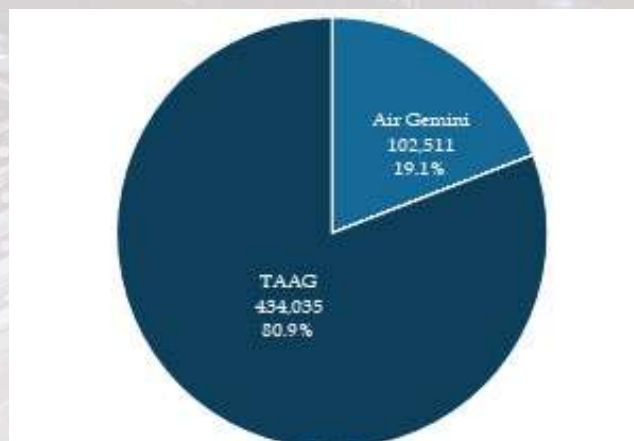


Source: INAVIC

## Regular Domestic Traffic

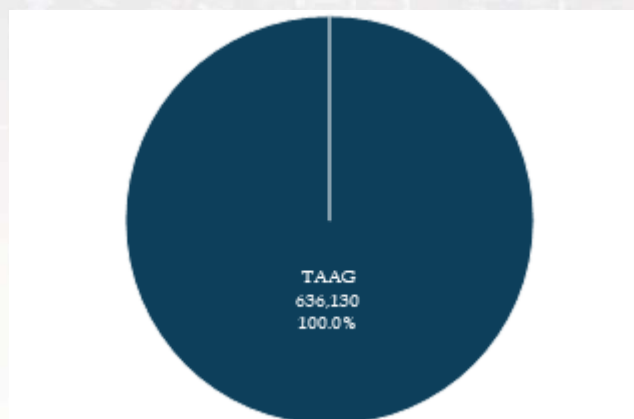
207. In 2008, regular domestic traffic had only two airlines (TAAG and Air Gemini), in which TAAG had a dominant position (81%), with regard to passengers carried, and Air Gemini, 19%. While in 2018 TAAG had a monopoly in this segment.

Graphic 17 – Passengers Transported in 2008



Source: INAVIC

Graphic 18 – Passengers Transported in 2018



Source: INAVIC

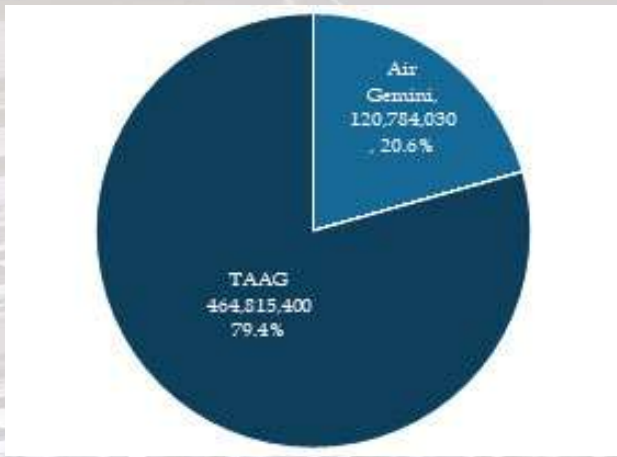
204. In accordance with the data presented, we can conclude that, in terms of concentration, the low-cost domestic air market in Angola had the following characteristics:

205. In 2008 there was a moderate concentration of passengers transported with an HHI of 1,697.04. Whereas, in 2018, the market also had a moderate concentration, registering a significant increase in HHI to 8,534.72 compared to 2008;

206. The market had a moderate concentration with respect to the transported cargoes, registering an HHI of 1,995.68 in 2008, however, in 2018, it was highly concentrated, with an HHI of 8,043.56, which shows an increase in the HHI. Therefore, with Air Jet dominant.

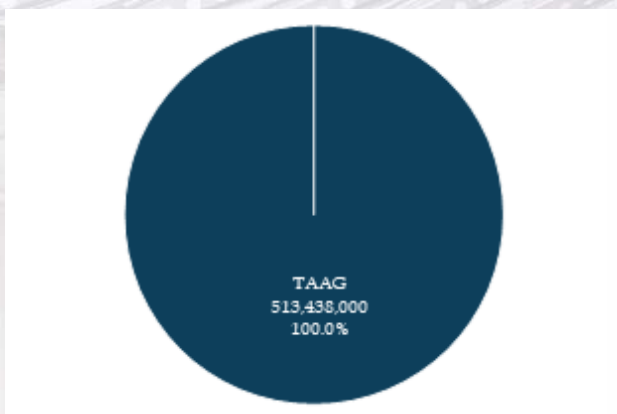
209. In the same period, the data trend regarding the seat kilometers offered was maintained, that is, in 2008 TAAG made available more than 79% of the seats and Air Gemini had 21%, with TAAG's monopoly in 2018.

Graphic 19 – Places-Kilometers Offered in 2008



Source: INAVIC

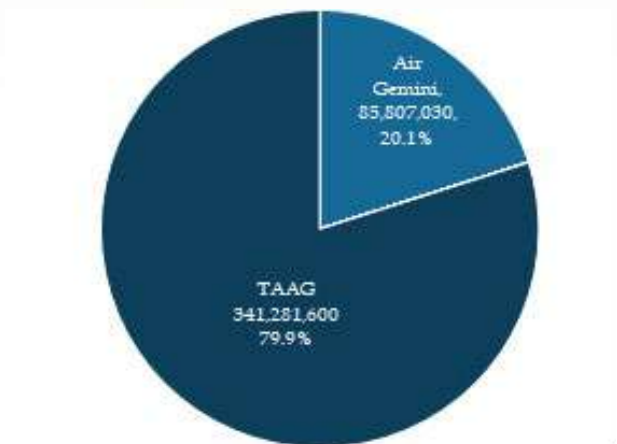
Graphic 20 – Places-Kilometers Offered in 2018



Source: INAVIC

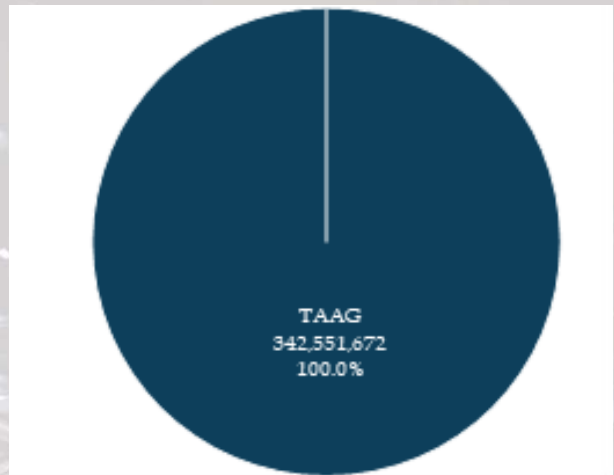
211. Regarding the seat kilometers sold, TAAG had a dominant position in 2008 (80%) and Air Gemini had 20% that year. Whereas, in 2018, TAAG had a monopoly on seats sold on scheduled domestic flights, as it is the only airline with a License to perform flights of this nature.

Graphic 21 – Seat-Kilometers Sold in 2008



Source: INAVIC

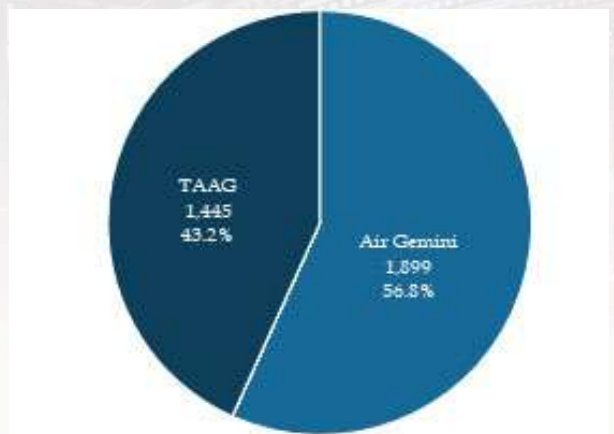
Graphic 22 – Seat-Kilometers Sold in 2018



Source: INAVIC

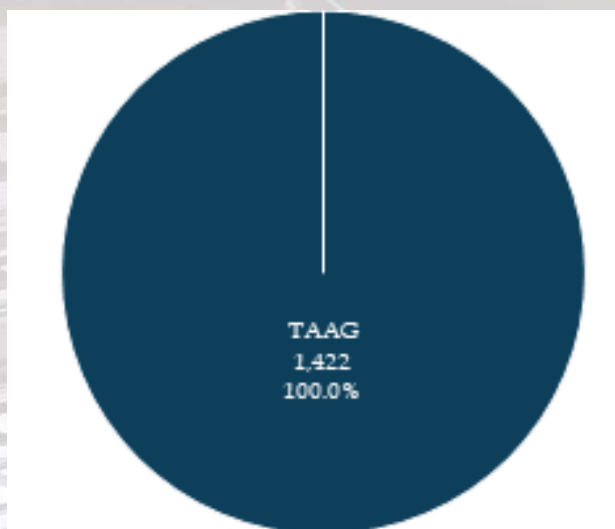
213. As for cargo transported, Air Gemini had a dominant position in 2008 (57%) and TAAG had 43%. In 2018, TAAG had a monopoly, for not having any national competitor in this service.

Graphic 23 – Cargo Transported in 2008 (tons)



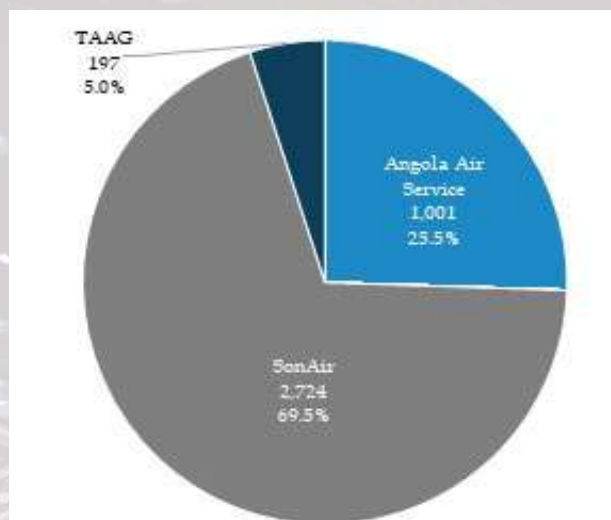
Source: INAVIC

Graphic 24 – Cargo Transported in 2018 (tons)



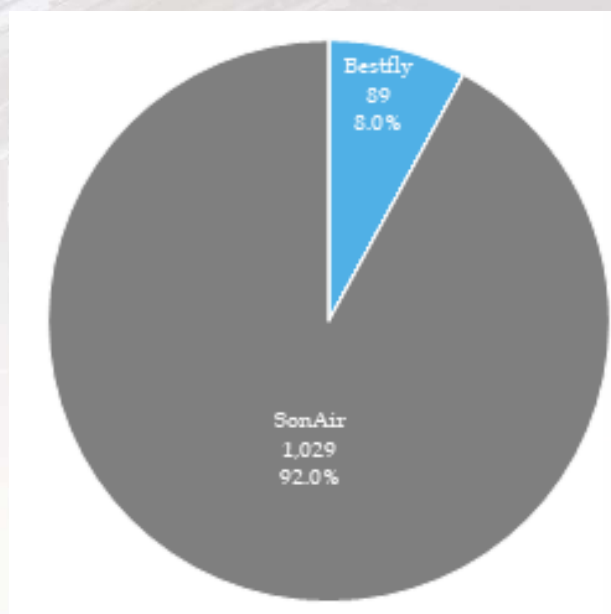
Source: INAVIC

Graphic 25 – Passengers Transported in 2008



Source: INAVIC

Graphic 26 – Passengers Transported in 2018



Source: INAVIC

215. According to the data presented, we can identify the following characteristics of the regular domestic air market in Angola, in terms of concentration:

- 215.1 In 2008, the market was highly concentrated and had an HHI of 6 909.62 (for passengers transported), 6 789, 22 (for seat kilometers sold) and 5 092.21 (regarding the transported cargo). This year, TAAG did not have a dominant position in scheduled air cargo transport.;
- 215.2 In 2018 TAAG had a monopoly on the all analyzed segments, so there was no competition.

### Market Share in International Air Traffic

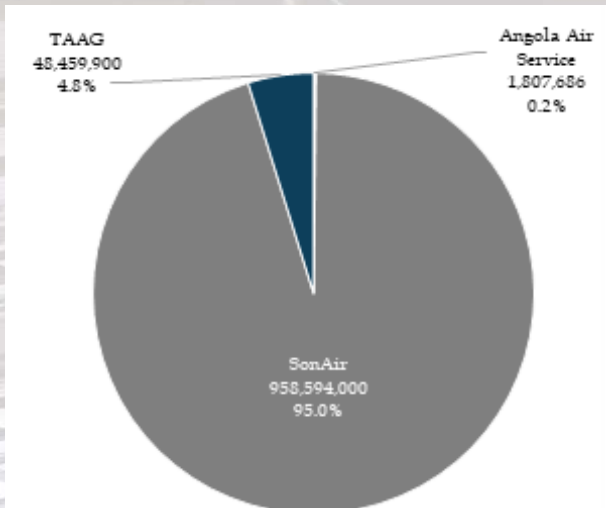
216. Regarding regular and non-scheduled international air traffic, no data on the air movements of regional and foreign companies were provided, so the following analysis contains only information from national operators that performed international flights in the period in reference.

### Low-Cost International Air Traffic

217. In 2008, SonAir had a dominant position (69%) in terms of passenger transport on non-scheduled international flights, followed by Angola Air Service (26%). On the other hand, in 2018 SonAir strengthened its dominant position (92%) and Bestfly reached 8% of passengers carried.

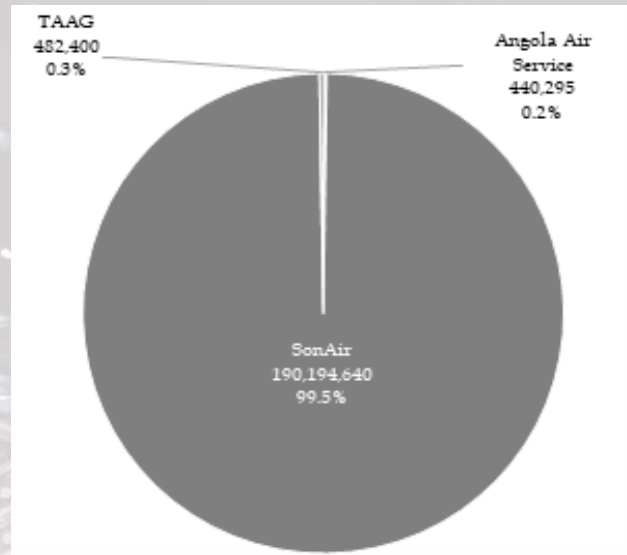
219. As for the seat kilometers offered, in 2008 SonAir made 95% of the seats available, followed by TAAG, which offered around 4.8% of seats on non-scheduled international flights. However, in 2018 SonAir dominated this index.

Graphic 27 – Seats-Kilometers Offered in 2008



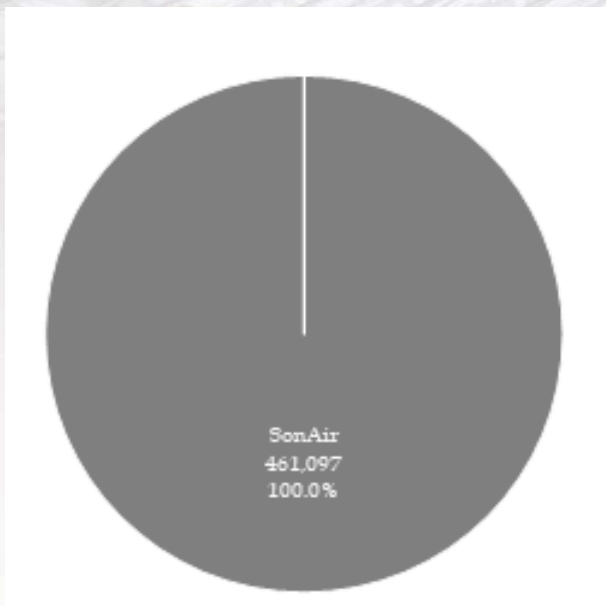
Source: INAVIC

Graphic 29 – Seats-Kilometers Sold in 2008



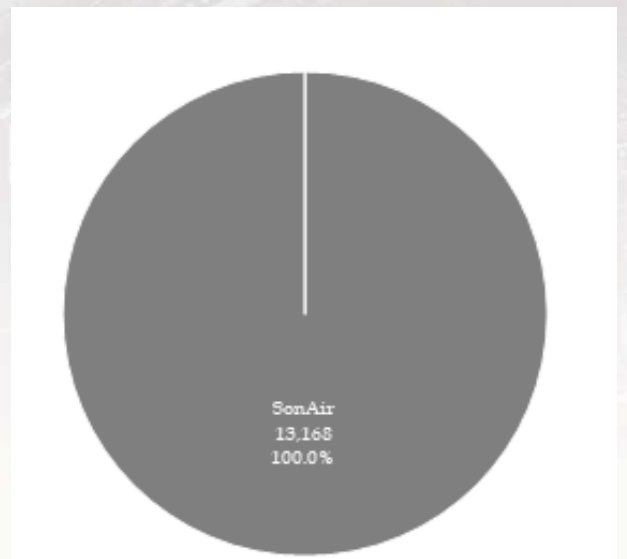
Source: INAVIC

Graphic 28 – Seats-Kilometers Offered in 2018



Source: INAVIC

Graphic 30 – Seats-Kilometers Sold in 2018

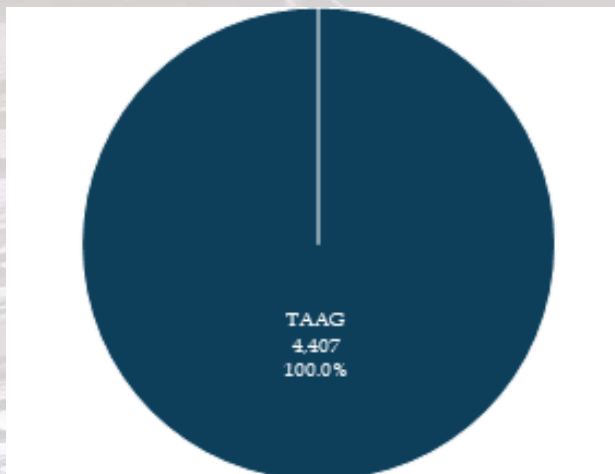


Source: INAVIC

221. As for seats-kilometers sold on non-scheduled international flights, in 2008 SonAir had a dominant position (99.52%), therefore almost monopolistic.

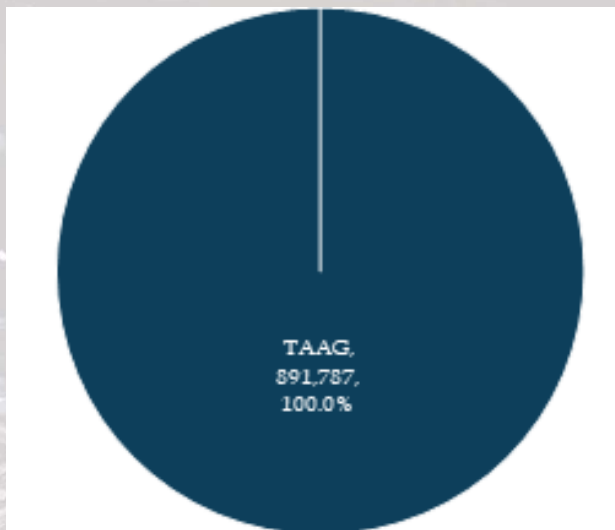
222. With regard to non-scheduled international cargo air transport, TAAG had a monopoly in 2008, as it was the only one that performed this type of service. While data for the same variable in 2018 were not made available.

Graphic 31 – Cargo Transported in 2008



Source: INAVIC

Graphic 33 - Passengers Transported in 2018



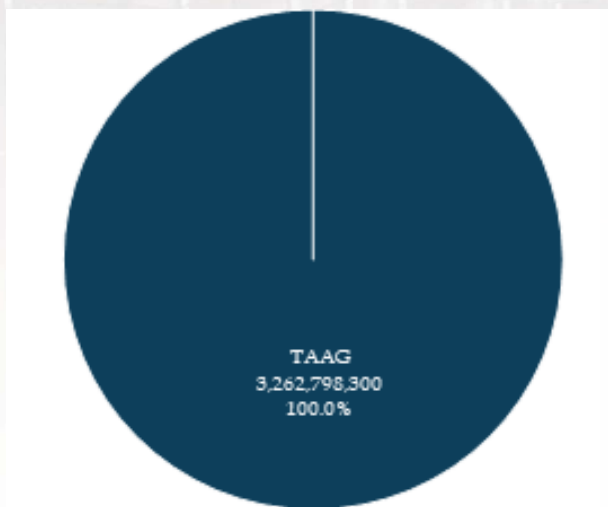
Source: INAVIC

223. In synopsis, the non-scheduled international air transport segment was highly concentrated in terms of passengers transported, seat kilometers offered and sold, both in 2008 and in 2018, with an HHI of 10 000.00, with SonAir having a monopoly on the 3 (three) variables from the last year.

226. As for the seat kilometers offered, TAAG had a monopoly, both in 2008 and 2018, as can be seen below, being the only national company that offers this type of service.

224. Meanwhile, TAAG had a monopoly in the provision of international cargo transport services in 2008, but in 2018 there were no such movements.

Graphic 34 - Seat-kilometers offered in 2008

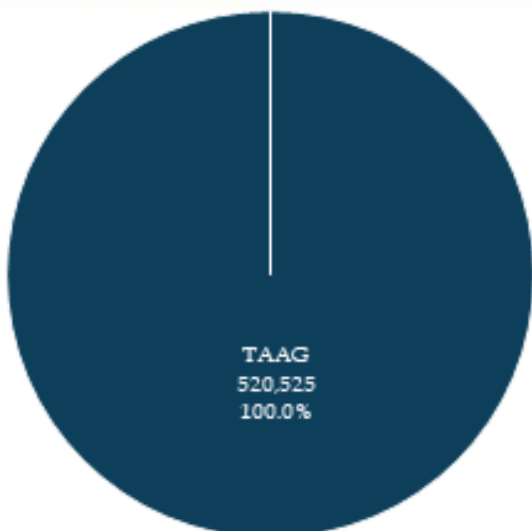


Source: INAVIC

### Trafego Internacional Regular

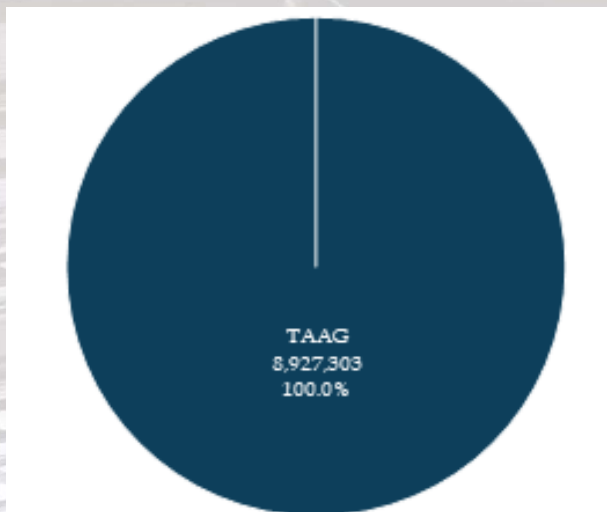
225. Não tendo dados sobre o movimento aéreo regular das empresas estrangeiras, cabe-nos afirmar que, em termos de passageiros transportados, a TAAG teve monopólio, tanto em 2008, como em 2018.

Graphic 32 - Passengers Transported in 2008



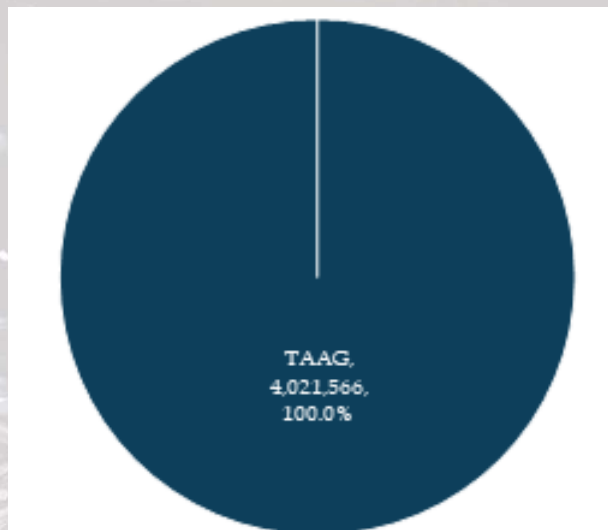
Source: INAVIC

Graphic 35 - Seat-kilometers offered in 2018



Source: INAVIC

Graphic 37 - Seat-Kilometers Sold in 2018

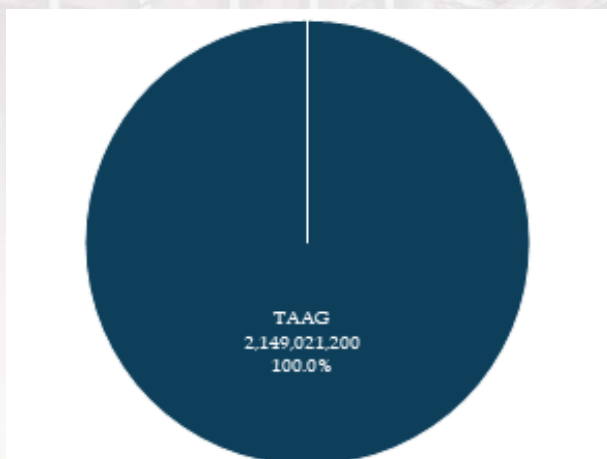


Source: INAVIC

227. Regarding the seat kilometers sold, TAAG maintained its monopoly during the decade under review.

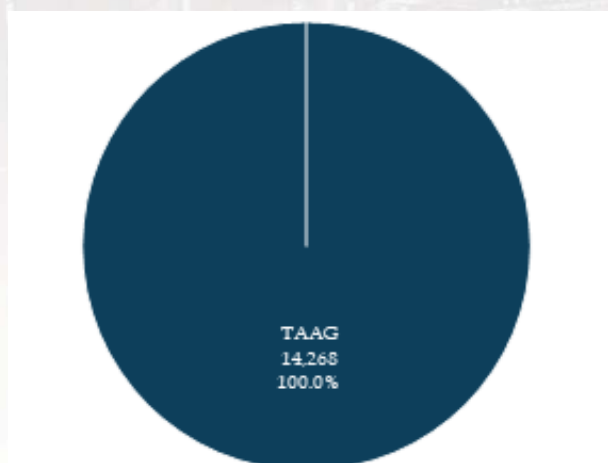
228. In 2008 and 2018, TAAG continued to dominate in the international air market, specifically cargo, having a monopoly in both years.

Graphic 36 - Seat-Kilometers Sold in 2008



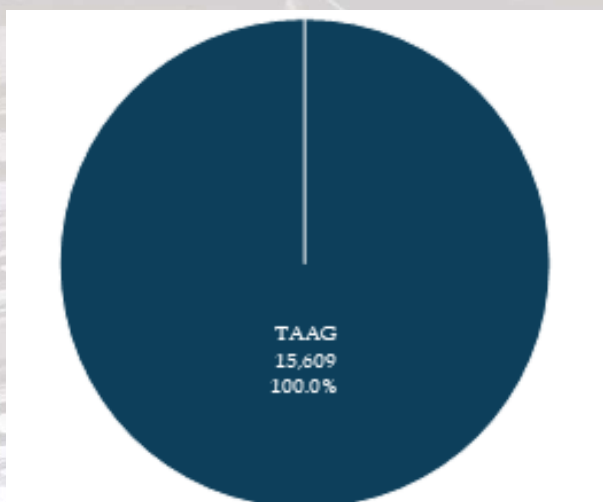
Source: INAVIC

Graphic 38 - Cargo Transported in 2008 (tons)



Source: INAVIC

Graphic 39 - Cargo Transported in 2018 (tons)



Source: INAVIC

229. From these data it can be concluded that TAAG had a monopoly on the four (4) variables assessed, both in 2008 and in 2018, which means that the market was highly concentrated and had an HHI of 10 000.00 in passengers transported, seats-kilometers offered, seat-kilometers sold and cargo transported.

230. This context of domestic and international air traffic raises some competitive concerns, as it identifies a dominant position of TAAG in most of the market evaluation criteria and tends to consolidate, taking into account that every year airlines are decreasing. in the market.

231. This scenario was aggravated by the reduction of SonAir's fleets and routes at the end of 2019, at the initiative of the State, within the scope of the restructuring of the aforementioned company.

## Price Analysis

232. Competitiveness, regarding the prices charged by airlines, is an important variable in the market analysis. In this regard, some non-scheduled airlines have so far not made available information on prices on different routes, so in the domestic flights segment only the prices of TAAG, SonAir, SJL and Aero Jet were analyzed, for the month of January 2020.

233. Thus, comparing the prices practiced by these airlines, in the economic class, it was found that there is not much variability, in accordance with the following graph.

234. The prices charged by SJL are lower than those of TAAG and Aero Jet, having a monopoly on the Lubango-Catumbela and Huambo-Kuito routes, where it strategically operates. TAAG also has a monopoly on the Luanda-Namibe, Luanda-Menongue and Luanda-Ondjiva routes.

235. TAAG is the only airline that, in addition to economy class, sells business class tickets on all routes, and therefore has no competition in this category, as can be seen below.

236. Considering the distance traveled (in air kilometers), an important factor in the definition of ticket prices, it is important to understand whether competition in this sector is extended to the price/distance factor. To this end, the degree of relationship between these variables was analyzed, as well as the dispersion of these prices by companies, through the linear regression line..

237. There is a strong relationship between price and distance traveled domestically, that is, about 57% of the change in ticket prices in this market is made taking into account the distances to be covered.

238. The highlight (in red) of TAAG prices, as the only airline that operates scheduled flights, reveals that its prices are generally above the regression line, meaning that the price adjustments of other companies, in order to approximate them to those of TAAG, the slope of the straight line will increase, that is, it will increase the determination of the price by the distance to go.

239. Following the same pattern, regional and international routes and respective prices were also appreciated. The data indicates that TAAG is naturally the airline that carries out more regional and international flights from Luanda and Lubango, currently having 13 regional routes and 7 international routes.

240. Having made the analysis, it is concluded that the relationship between ticket prices and distances, in kilometers, for regional flights is a moderate one, that is, there is a relationship between the two variables, although not very strong, since only 32% of the variation in prices is explained by the variation in the distances to be covered.

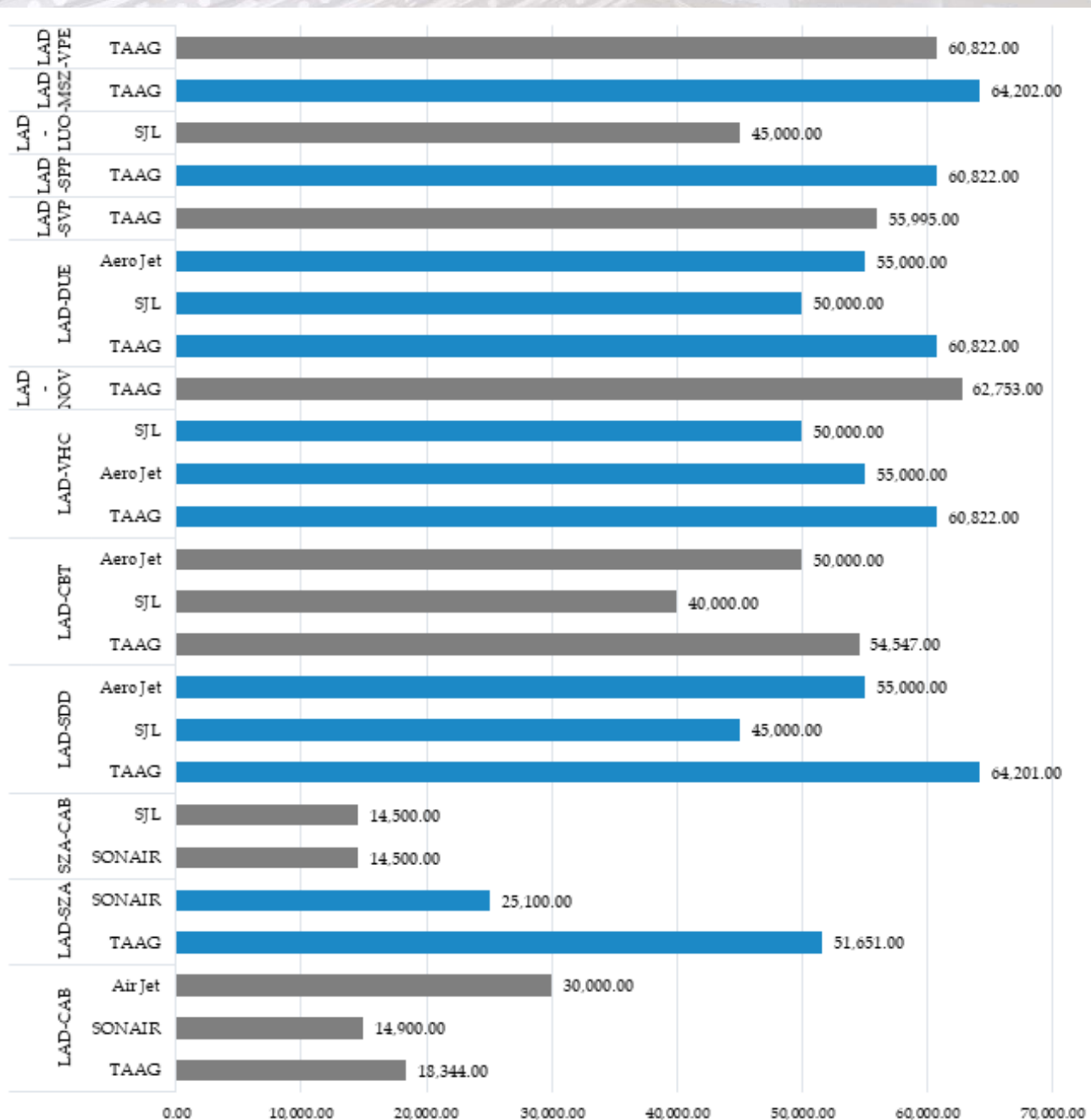
241. The relationship between ticket prices and the distance, in kilometers, of international flights is very weak, that is, we cannot show that price variations depend significantly on variations in distances, since only 2% of the variation in prices is explained by the variation in distances. Thus, it is understood that other variables significantly influence the definition of prices.

242. As for the price analysis, it appears that, on average, the prices charged by TAAG are lower compared to those of foreign companies, on most routes.

243. On the other hand, it appears that on some routes there are at least two companies operating, namely: Luanda - Johannesburg, Luanda - Nairobi, Luanda - Cape Town, Luanda - Casablanca, Luanda - Lisbon, Luanda - Frankfurt and Luanda - Paris.

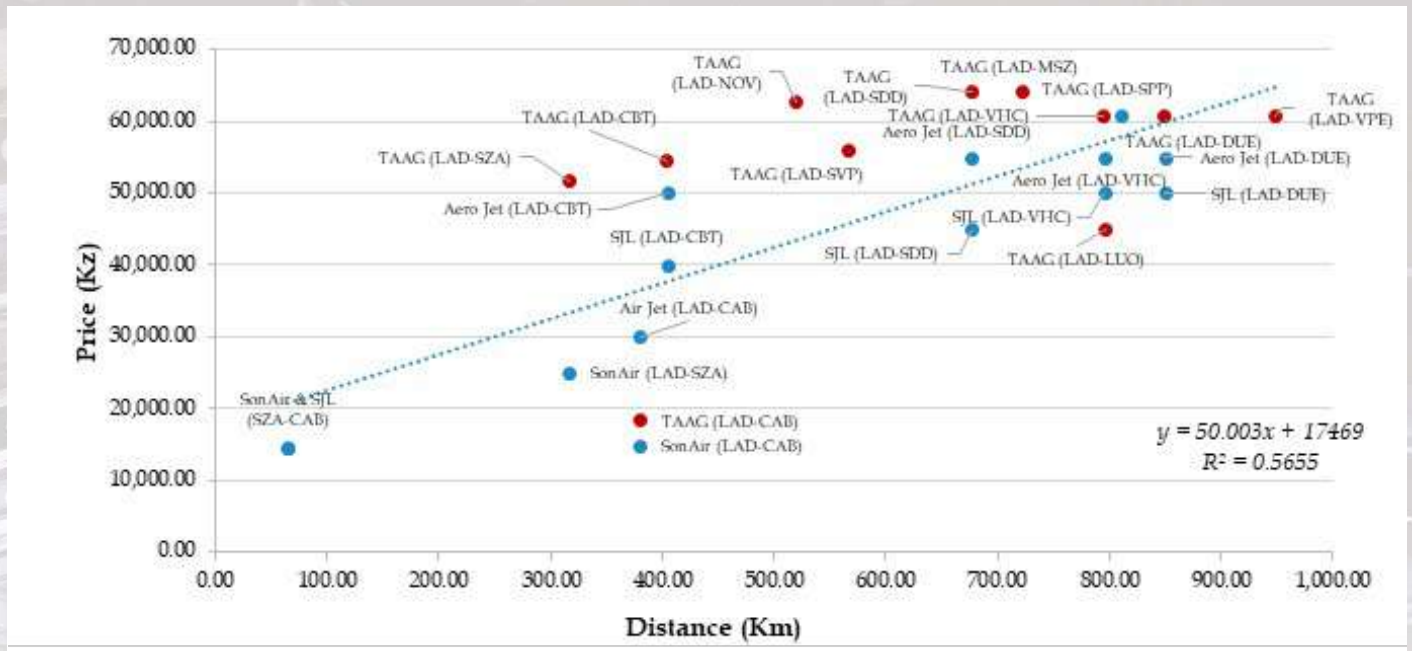
244. In general, analyzing the prices foreseen for trips from Luanda, from March to July of the current year, it is observed that the prices practiced on the regional routes vary between Kz 58 258.00 and Kz 659 324.80. However, on international routes they vary between Kz 192 146.00 and Kz 1 177 852.67.

Graphic 40 - Economy Class Ticket Prices (one way) on Domestic Routes in January 2020 (in Kz)



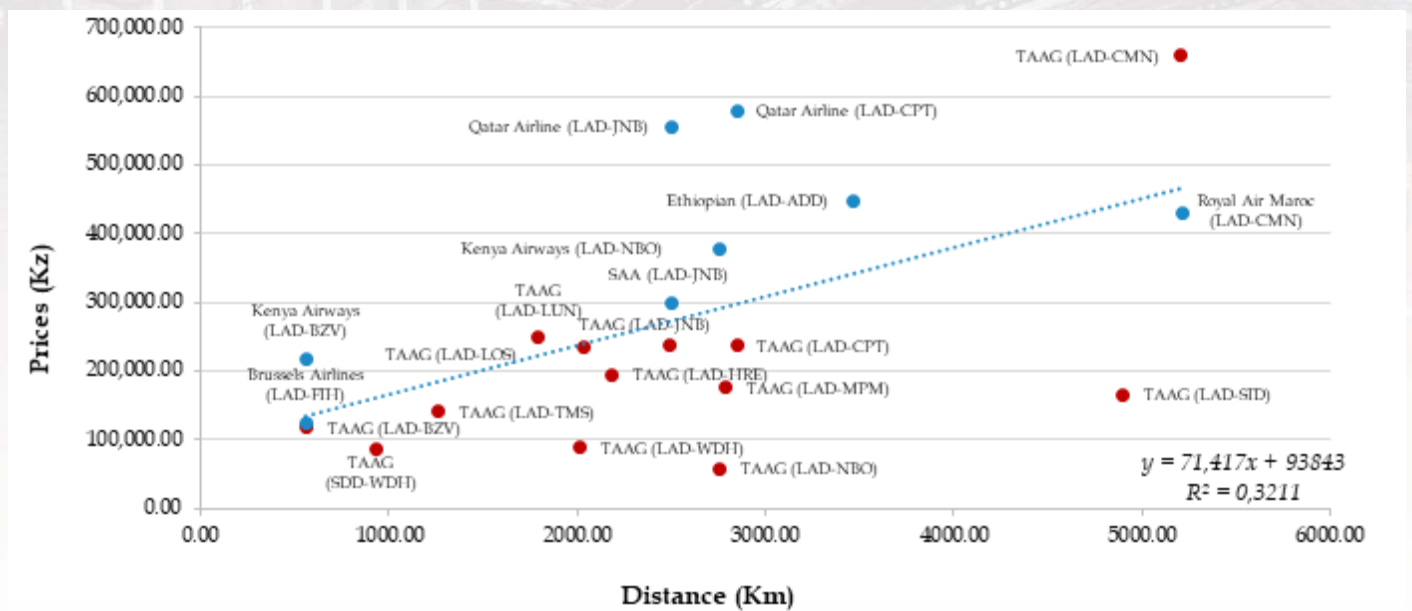
Source: ARC, 2020.

Graphic 41 – Price / Distance Ratio on Domestic Routes



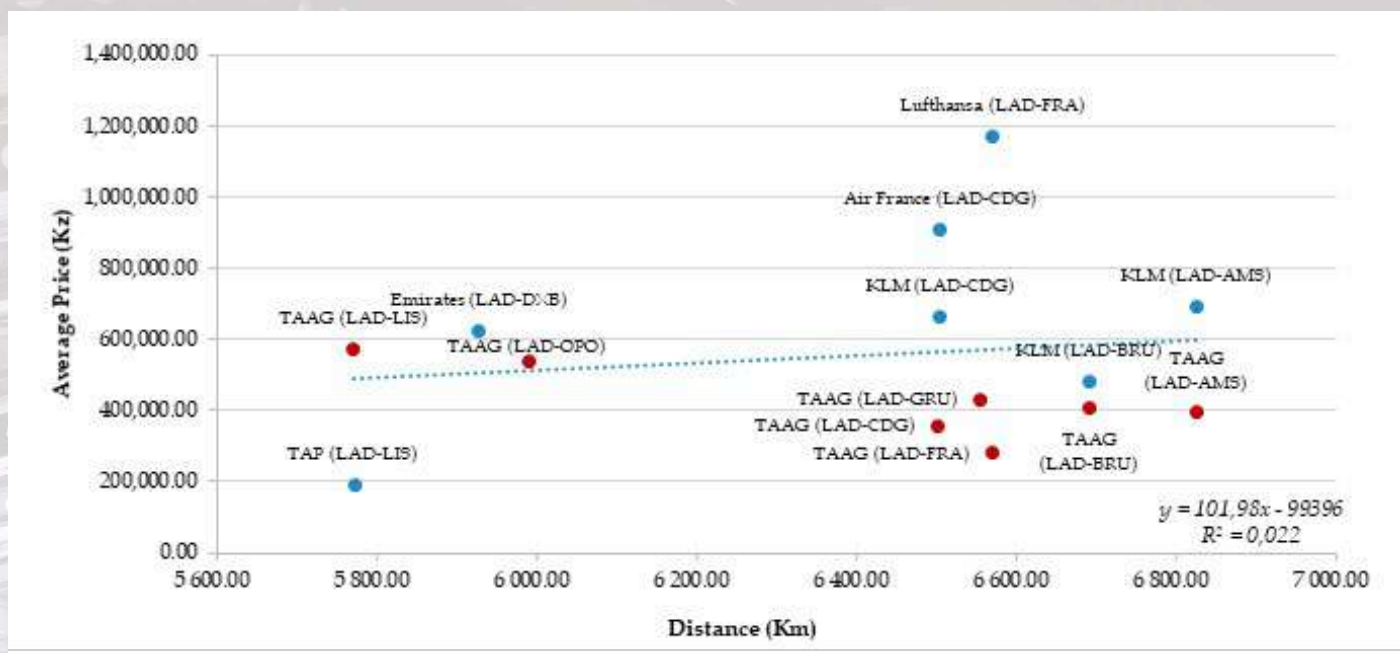
Source: ARC, 2020.

Graphic 42 – Price / Distance Ratio on Regional Routes



Source: ARC, 2020.

Graphic 43 – Price / Distance Ratio on International Routes



Source: ARC, 2020.

## IMPACTS OF COVID-19 ON THE CIVIL AVIATION SECTOR

245. In the first instance, it is imperative to state that the COVID-19 pandemic is an acute respiratory disease caused by the coronavirus of severe acute respiratory syndrome 2 (SARS-CoV-2). The disease was first identified in Wuhan, Hubei province, People's Republic of China, on December 1, 2019<sup>9</sup>.

246. COVID-19 spread to Asia, Europe, America and Africa, leading the World Health Organization (WHO) to declare it as a pandemic and, consequently, many countries have declared a “state of emergency” in order to prevent and counter the levels of the spread of the virus among citizens, as, until 21 May 2020, at least 4 968 689 cases of the disease were confirmed in more than 188 countries and territories<sup>10</sup>.

247. In Angola, His Excellency, President of the Republic, began by establishing urgent preventive measures to safeguard the health and life of the Angolan population, through Provisional Presidential Legislative Decree No. 1/20, of 18 March, among which stand out enshrined in numbers 1 and 3 of the aforementioned Decree:

247.1 All commercial and private passenger flights from Angola to abroad are suspended from 00:00 (zero hours) on March 20, 2020 and vice versa for 15 (fifteen) days, extendable for an equal period of time, due to the global behavior of the COVID-19 pandemic;

247.2 The provisions of the previous number do not cover cargo flights, or those that are indispensable, for humanitarian reasons, or that are at the service of the execution of Angola's foreign policy.

248. Subsequently, if necessary, as in several countries, the President of the Republic reinforced the measures cited, declaring the State of Emergency on 27 March this year, renewed every 15 days (three consecutive times), culminating in the Declaration of the Situation of Public Disaster, through Presidential Decree No. 142/20, of 25 May, which maintains the prohibitions of internal and external flights.

## Supply and Demand During the Pandemic

249. As a result of the ban on flights within and outside national borders, except in the situations provided for and exceptionally authorized by government authorities, the civil aviation market started to experience a critical

9. WIKIPÉDIA - FREE ENCYCLOPEDIA (2020). COVID-19 pandemic. Available at: <[https://en.wikipedia.org/wiki/Pandemia\\_de\\_COVID-19](https://en.wikipedia.org/wiki/Pandemia_de_COVID-19)>. Accessed on: May 21, 2020.v

10. Ibid.

situation, exacerbating the difficulties of airlines, which were already high.

250. The market was divided into two segments, namely:

250.1 Companies without any air movements: SJL and Air Jet;

250.2 Companies with some air movements: TAAG, SonAir, Heli Malongo, Bestfly, and Aero Jet.

251. As for companies without any air movements, in this period, they have shown a considerable drop in income, since carrier flights have been banned, which has caused numerous economic consequences, as airlines maintain some expenses and are unable to generate revenues, including finding it difficult to pay employees' wages, causing social constraints for them.

252. Among the airlines that have the privilege to carry out some air movements, namely humanitarian flights, in support of the Intersectoral Commission for Preventing and Combating the COVID-19 Pandemic, or even in support of oil activities, TAAG stands out, which even has carried out some international flights in search of biosafety materials and others mandated by the Government of Angola.

253. As for SonAir, Heli Malongo and, surprisingly, Bestfly, these companies have excelled in carrying out flights in support of the oil industry. This list includes Aero Jet, which sporadically performs some flights to support the mining industry, and Heliang, in support of agricultural activities through a contract with a commercial bank.

254. In order to understand more deeply the effects of COVID-19 in the civil aviation market, until June this year, we used four (4) indicators provided by airlines:

254.1 Immediate consequences of COVID 19 and loss estimates;

254.2 Contingency strategies of companies vis-à-vis COVID 19;

254.3 Additional information on the current situation and others around the impacts of COVID-19;

254.4 Contributions to improve market conditions, impacted by the current pandemic.

### Immediate Consequences of COVID-19 and Loss Estimates

255. With the exception of Bestfly, which during this period foresees revenues exceeding expenses, the activities of the other airlines were deeply affected by COVID-19, which clearly affected its economic results, since some of them had no revenues during the period in analysis and others had a considerable reduction in their income.

256. For companies that have completely paralyzed their activities, the entire staff had to remain confined to their homes, with only movements regarding essential maintenance services for aircraft preservation, with estimated global losses in the order of Kz 483 415 376 457,00 (Four hundred and eighty-three thousand, four hundred and fifteen million, three hundred and seventy-six thousand, four hundred and fifty-seven Kwanzas).

257. On the other hand, some contracts were suspended, such as those for aircraft management, resulting in a

**Table 5 – Estimates of Financial Losses During the State of Emergency (in Kwanzas)**

Companies	March	April	May	Total
Aero Jet	150 000 000,00	150 000 000,00	150 000 000,00	450 000 000,00
Air Jet	n/d	n/d	n/d	n/d
Bestfly	0,00	0,00	0,00	0,00
Heliang	3 856 996,00	3 856 996,00	3 856 996,00	11 570 988,00
Heli Malongo	112 999 094,00	112 999 094,00	112 999 094,00	338 997 282,00
SJL	93 222 509,00	93 222 509,00	93 222 509,00	279 667 527,00
SonAir	148 460 000,00	148 460 000,00	148 460 000,00	445 380 000,00
TAAG	160 629 920 220,00	160 629 920 220,00	160 629 920 220,00	481 889 760 660,00
Total	161 138 458 819,00	161 138 458 819,00	161 138 458 819,00	483 415 376 457,00

Source: ARC, AeroJet, Heliang, Heli Malongo, SJL, SonAir, TAAG, 2020

total absence of revenue, with strong effects on the difficulty of paying employees' salaries.

258. Even for companies that were able to continue their activities during the pandemic, despite being limited and conditioned to the measures imposed by government authorities, it is estimated a further 50% decrease in hours flown, which will certainly have an impact on the next results operational.

259. For this reason, and allied with the difficulties of the airlines before COVID 19, there is no expectation of improvements in their activities, in the short and medium terms, as, according to the operators, it will take a few years for the industry to recover from the accumulated losses.

### **Companies Contingency Strategies In Lieu of COVID-19**

260. According to the data collected, it appears that the airlines are preparing a strategic and economic contingency plan to face the impacts of COVID-19.

261. The strategy is to guarantee the financial subsistence of companies, in order to maintain customer contracts and employees' jobs, reducing, as much as possible, the fixed costs inherent to their activities (which involves cutting some non-priority expenses), as well as the readjustment of prices to be charged.

262. However, these plans are not yet concluded, as the air operators still have some inaccuracies resulting from the uncertainties and prolongation of the restrictions imposed to contain the spread of the pandemic and, consequently, of the national and international sanitary fence, which makes it difficult to conclude the calculations of losses, especially in terms of operating results, as well as to outline the appropriate strategies and perspectives to resolve the damages caused.

263. In this context, each company created only an immediate contingency plan, in order to prevent and ensure the safety of its employees and users, following the recommendations of the Ministry of Health. This Plan establishes the procedures for all stakeholders: passengers, crews, visitors, among others.

264. Companies that have not stopped their activities have adopted periods of worker turnover, so that groups of people are not crowded, as well as hygiene and safety measures through the provision of cleaning and sanitizing products for workers, namely, distribution of masks and gloves for aircraft with disinfection after each flight.

265. In summary, to face the situation imposed by COVID 19, companies had to reorganize and equip themselves with means, such as biosafety equipment and procedures, that would allow them to continue their activities, while the pandemic is taking place..

### **Additional Information on the Current Situation Regarding COVID-19**

266. Additionally, the companies reported the following:

266.1 The seriousness of the situation in the air transport market and as a result of the impacts of COVID 19, opens the possibility of making adjustments to its workforce;

266.2 Some companies feel manifestly impaired in terms of flight authorization during the current period, especially with regard to flights to support the mining industry, as some operators have authorization in a short time and others do not, which appears to be a disadvantage for these;

266.3 Some companies have not been provided with flights of a humanitarian nature or of transporting non-expendable materials or biosafety, nor even of support to the Inter-sectoral Commission for Prevention and Combating COVID-19, being certain that extraordinary gains are essential to the survival of companies;

266.4 Some companies are considering final closure or winding down;

266.5 Companies continue to assess the impact of the situation described above in their activity, to find the most appropriate strategies, since the pandemic continues in the country and with no forecast for its eradication.

## Contributions to Improve Market Conditions Impacted by the Pandemic

267. For a better approach on the topic, the opinions of the market players themselves were given priority, where the following contributions were obtained:

- 267.1 It is important to analyze aid to companies, both in terms of obtaining financing and market conditions. Accordingly, there should be a greater availability for financing, as well as to help in the reduction of fixed costs, namely with leases (including the hangar), airport charges and related to the activity of companies, expenses with supplies, payments abroad with suppliers (which must be in foreign currency), among others;
- 267.2 It would be very useful for the State to intervene in facilitating tax credits and benefits for airlines;
- 267.3 It is essential that there is equal treatment in the authorization of flights to be carried out, both in terms of the nature of the flight itself and in terms of obtaining authorization;
- 267.4 Airlines must take all necessary measures to ensure the safety of their employees and passengers, so that they can perform their activity safely;
- 267.5 A joint effort by the State, airlines, financiers, consumers and airport operators is necessary to ensure reasonable market conditions and to avoid a drastic decrease in supply and demand;
- 267.6 It is of great relevance that airport fees and tariffs be reviewed and revised, with a view to their adaptation to the prices practiced in the domestic market and the reduced margins of the airlines;
- 267.7 State intervention in the global communication and marketing process with the population will be necessary in order to restore confidence and security in the sector, in the reopening of the market;

267.8 Prevent monopolies in order to promote competition in the approached market and improve services to the population.

## Public Policies for Economy Recovery and Stabilization

- 268. In view of the declaration of a state of emergency, as a result of the COVID 19 pandemic, and considering its negative effects on the national economy, especially for economic agendas, the Angolan Government approved a package of Immediate Measures to Relieve Negative Economic and Financial Effects caused by the Pandemic of COVID 19, through Presidential Decree No. 98/20, of 9 April.
- 269. This legal diploma has as its main focus the real economy, subdividing the measures in 2 (two) prisms, namely: i) for the productive sector (companies) and for the families and ii) and for the informal sector of the economy.
- 270. Accordingly, the extraordinary public policies now created were not restricted to the civil aviation sector, but to the real economy in general, encompassing several sectors.
- 271. In order to ease the pressure on the treasury with tax obligations and with the payment of Social Security contributions, the following main measures were adopted:
  - 271.1 Extension, until 30 June of the current year, of the deadline for the final settlement of the Industrial Tax declaratory obligations for companies;
  - 271.2 Allocation of a 12-month tax credit for companies on the value of VAT (Value Added Tax) to be paid on imports of capital goods and raw materials that are used to produce the goods, referred to in Presidential Decree no. 23/19, of January 14 (Regulation of the Commercial Chain of Supply of Goods from the Basic Basket and Other Priority Goods of National Origin);
  - 271.3 Deferral of the payment of the Social Security

Contribution (contribution of 8% of the total payroll) for the second quarter of this year is authorized, for payment in six monthly installments, from July to December 2020, without interest.

## Public Aid and its Impacts on Competition

272. Following the previous measures and under the same Decree, the Government has secured financial support, budgeted at about 488 Billion Kwanzas, in order to guarantee the minimum maintenance of the activity levels of the micro, small and medium enterprises in the Productive Sector.

273. The funds come from and are distributed on a subsidized credit basis by the following institutions:

- 273.1 Development Bank of Angola (BDA);
- 273.2 Agrarian Investment Support Fund (FAIA);
- 273.3 Active Venture Capital Fund (FACRA).

274. Most of the credit to be granted goes to the agricultural and fisheries sector, in the extension of its value chain, without forgetting a portion reserved for women and young entrepreneurs in this and other areas of the economy.

275. In this public policy, there is a lack of direct support established for civil aviation, despite being a sector of capital importance to the economy and very negatively affected by COVID 19.

276. However, as a plan of immediate measures, the Government is preparing other measures to minimize the effects of the pandemic in the sector, as stated by the Honorable Minister of Transport, Dr. Ricardo de Abreu: "At this moment, the State has prepared a package of economic measures to support the business sector, be it public or private, we have been in dialogue with companies in the sector, in order to ensure that they are able to access these resources"<sup>11</sup>.

277. On the other hand, in view of TAAG's financial difficulties, before the effects of COVID 19, being the flag company, and sharpening its capacity during the

pandemic, the State plans to provide financial support in order to deal with the situation.

278. Thus, it is under analysis "the support that needs to be given to TAAG, both from the point of view of its financial recovery and from the point of view of its capitalization"<sup>12</sup>, according to the head of the ministerial department mentioned.

279. When TAAG's financial assistance is made, we will be faced with a measure with a competitive impact, although understandable and exceptional, which may harm competition as the other airlines will not receive the same support, regardless of being able to compete for others types of aid to be established.

280. In any case, the guarantee of this support to TAAG will reinforce its advantageous and dominant position in the market, while the other operators will remain at the same levels of financial and operational difficulties, including some running the risk of closing.

281. Thus, it is essential that the Government, as the central entity of economic policies, draws a balanced and assertive plan, aiming to mitigate the effects of COVID 19 in the sector, considering the principles of competition and the advantages for consumers. However, as soon as the economic measures plan for the sector is released, a more exhaustive and objective competitive analysis will be carried out.

282. Furthermore, due to the unavailability of information on possible public aid and / or contracts with airlines, within the scope of authorized exceptional flights, no considerations will be made about this variable.

283. Still within the scope of public aid granted during the pandemic, it should be noted that, considering that TAAG intends to acquire six (6) Havilland-Dash-8 aircraft, in the context of diversifying and restructuring its fleet, as well as the need to if a State guarantee is granted to the financing operation for this purpose, the President of the Republic approved, pursuant to Presidential Decree No. 49/20, of 1 April, and under the terms of paragraph d) of article 120 and of no. 5 of article 125, both of the Constitution of the Republic of Angola (CRA), combined with article 38 of Law

<sup>11</sup> ANGOLA NEWSPAPER. Covid-19: Ministry of Transport guarantees financial support to TAAG. Published on: April 27, 2020. Available at: <<http://jornaldeangola.sapo.ao/economia/covid-19-ministerio-dos-transportes-garante-apoio-financieiro-a-taag>>. Consulted: June 8, 2020.

<sup>12</sup> Ibid.

no. 1/14, of 6 February, which approves the Legal System of Issuance and Direct and Indirect Public Debt Management, the following: (...) The concept of State guarantee (Sovereign Guarantee) to the financing agreement between TAAG - Linhas Aéreas de Angola, SA, and the Banking Union represented by ABSA Bank Limited, as Agent, in the total amount of US \$ 118 000 000,00 (One hundred and eighteen million United States dollars).

## **IDENTIFICATION OF PRIORITIES TO MEET EXISTING CONCERNS WITH COMPETITION IN THE AIR SECTOR**

284. Taking into account the competitive concerns in the air transport market in Angola, the priorities to address them were identified, namely:

### 284.1 In the short term

284.1.1 The creation of attractive conditions in the sector, in order to capture the interest of investors in the market for the operation of scheduled domestic flights and thus mitigate or reduce the existing monopoly on several routes;

284.1.2 The elimination of all the disadvantages that private airlines have in relation to TAAG, imposed by legislation or by operational decision, mainly, the payment of compensation to INAVIC for withdrawal of the concession contract and the definition of the slot concession;

284.1.3 The annulment of the ban on frequent advertising of flights by non-scheduled airlines, by amending Law no. 24/15, of 14 September - Law on Crimes against Civil Aviation;

284.1.4 The creation of a specific contingency plan to deal with the effects of COVID 19 in the air transport market, involving the State, airlines and airport operators, in order to minimize the harmful losses to the market.

### 284.2 In the medium term

284.2.1 Raising the awareness of investors to bet on the air transport market, in accordance with Presidential Decree No. 364/19, of 30 December, which approves the Regulation on Access to and Exercise of Air Transport Activity and Law no. 10 / 18, of 26 June, Private Investment Law, either by creating companies with entirely foreign capital or in partnership with national companies;

284.2.2 The decentralization of airport infrastructure management, opening a public tender so that specialized private companies can compete for the management of some airports;

284.2.3 The decrease in concentration and monopoly levels in the market, reinforcing incentives for airlines to have a license for regular air activity;

284.2.4 The acceleration of the construction of the New Luanda International Airport, adding attractiveness, both from a tourist and commercial point of view, for customers and airlines, both national and foreign, as well as other sectors that compete for the provision of airport services;

284.2.5 The improvement of the operational conditions of the airports, in order to allow the airlines, national and foreign, to have direct access to the various locations and in all shifts.

## **CONCLUSIONS**

285. In conclusion, we must mention that the civil aviation sector, in Angola, is experiencing a difficult moment, characterized by an unattractive market for investors, associated with an economic crisis that is plaguing the country, which has affected the financial capacity of companies and the purchasing power of consumers.

## About the domestic air market structure

286. According to the data collected, the regular domestic air market in Angola is highly concentrated, with the following indicators in the years 2008 and 2018:

286.1 In 2008, the market was highly concentrated in terms of the number of passengers and cargo transported, as well as the seats per kilometers offered and sold index;

286.2 Still in 2008, TAAG had a dominant position in all market segments, except in scheduled air cargo transportation;

286.3 In 2018 TAAG had a monopoly on the four air services analyzed, so there was no competition whatsoever.

286.4 The low-cost domestic air market, in the period 2008-2018, was highly concentrated in most services, especially in 2018: In 2008 and 2018 the specific passenger transport market had a moderate concentration;

286.5 Regarding the transported cargo, this segment had a moderate concentration in 2008, but in 2018 it was highly concentrated.

287. However, when comparing the variables of the regular and low-cost domestic air market, in the period under analysis, it appears that TAAG has a dominant position, reinforced by the departure of SonAir in the segment of cariar flights, as well as the difficulties of other operators competing directly with the national flag company, resulting from high costs and lack of investments.

## As for the performance of the airlines on routes

288. Generally, the national air carriers travel to 12 provinces of the 18 national provinces departing from Luanda, that is, they do not fly to Malanje, Cuanza Norte, Uíge, Cuanza Sul and Bengo.

289. TAAG is the only Angolan airline with a license to operate scheduled flights, but its routes do not cover the entire national territory, this reason consumers

have to travel to their nearest province or city in order to have access to the flight they desire.

290. Currently, there is a monopoly structure on 6 domestic routes, namely: Luanda-Ondjiva, Luanda-Namibe, Luanda-Kuito, Kuito-Menongue, Luanda-Menongue (carried out by TAAG) and Huambo-Luena (carried out by SJL).

291. The Cabida - Luanda route is the most popular route, with a total of 46 (forty-six) flights per week, spread over 3 (three) companies. On the other hand, there is a low frequency of weekly flights on most routes.

292. There is no route on which more than 3 (three) airlines operate simultaneously. TAAG is present on all routes, with the exception of Cabinda - Soyo and Luena - Huambo.

293. Up to October 2019, TAAG operated 132 weekly flights and in March 2020 it carried out 122 weekly flights, followed by SonAir with 75 weekly flights until November 2019. However, until January 2020 SJL increased its frequency of flights to 70 weekly flights, becoming the company with the second most daily flights and consequently, weekly flights too.

294. In addition, TAAG is the only one that operates scheduled regional and international scheduled flights, generally competing with foreign companies. The other national company that performs regional and international flights is Bestfly, but on a freight basis and sporadically.

295. TAAG's monopoly on scheduled domestic flights and SonAir's departure from the airline career market have a profound impact on the sector, as they make the flag carrier's prices a benchmark for non-scheduled domestic flights, given that the companies operating in this segment are at a disadvantage of capital and fleet (in number and size of aircrafts).

296. This context leads companies to create penetration strategies, reducing their frequency on the routes operated by TAAG and with low demand, in order to take advantage of the small routes that TAAG does not undertake. This positioning is associated with the great difficulties that private operators have in acquiring new aircrafts, especially medium and large ones.

297. In summary, the flight occupancy coefficients performed by the airlines during the period under analysis indicate that demand has not reached the levels desired by the companies, coupled with the fact that they need financing to meet the costs. These indicators demonstrate the trend of recession in this market.

### **As for the barriers to entry and expansion in the market**

298. The access of companies to the air transport market encounters some barriers, namely the bureaucracy inherent in the licensing and operational certification process, as it occurs it takes 330 days, 60 days for instruction of the Licensing or concession process, 60 days for deciding the licensing or concession, 120 days for certification and 90 days for final decision with a view to issuing the COA.

299. The current licensing regime of scheduled airlines constitutes a barrier induced by regulation to private operators, since they can only access the exercise of the activity of scheduled domestic air transport, through a Concession Contract, under the terms of No. 2 of article 11 of Presidential Decree No. 217/16, of 31 October. Whilst public companies do so by mere authorization from the aeronautical authority.

300. Furthermore, it appears that the payment of an exploration fee in the cases of concession and regular licenses to private companies represent a disadvantage in relation to TAAG.

301. The prohibition of non-scheduled air transport companies to advertise flights, following a certain frequency, established in paragraph b) of article 19 of Law No. 24/15, of 14 September, Law on Crimes against Civil Aviation, constitutes a barrier to the expansion of airlines in the market. This measure limits the ability of companies to compete with each other, as companies with a Regular Licenses freely advertise their services and have an advantage over others, especially low-cost operators that want to enter the market.

302. As demonstrated, the market has high levels of operating and tariff costs in some areas, mainly in the airport segment, making it more difficult for companies to expand in the market.

### **As for the entry and exit of airlines in the market**

303. During the period under analysis, there was a great movement of entries and exits, in the national market, of several national, regional and international airlines, more specifically in the last 12 (twelve) years 19 (nineteen) airline companies entered the market whilst 25 (twenty-five) have left, of which 13 are national, 6 regional and 6 international, that is, on average more than 2 companies have left the air transport market annually.

### **The State's presence in the sector**

304. The State's presence in this market is broad, with a strong participation in the airport infrastructure and in the share capital of TAAG, S.A., ENNA-E.P., SGA, S.A. and SonAir.

305. The State manages all airport infrastructures, a factor that limits the ability to fully respond to market demands, imposing the need for a paradigm shift, in order to allow the active integration of the private sector in this segment and generate competition between management companies.

### **As for agreements between airlines**

306. The agreements consigned in the market are mainly for code sharing, between TAAG and some foreign airlines, preceded by the signing of a protocol between the States involved, however, these do not show signs of a cartel, nor was any objectively identified sign of cartelization conduct in the domestic segment.

307. However, some companies manage the aircraft of other airlines that do not yet have the COA or for some other reason are not flying, as well as companies that do not belong to the civil aviation sector, but have a fleet.

## Regarding the impacts of COVID 19 on the market

308. The emergence of the COVID 19 pandemic led to the closure of national and international air borders and financial losses in the sector, estimated at 483 415 376 457.00 Kwanzas, as well as the risk of bankruptcy of some airlines.

## As for Complementary statements

309. There was no glimpse of the State's intention to monopolize the air transport market, via TAAG, or to limit competition to the flag carrier, but the data indicates that there is an institutional and legal effort by the State to promote competition in the sector, but, this process is slow and time-consuming, as the country has lived for many years without taking into account the rules of healthy competition.

310. In this context, it is important to highlight the privatization plan of TAAG, whereby the State will hold 51% of the shares, leaving the remaining shares to the private sector, as well as the legislative initiative that is taking place in order to allow the private sector to compete for the management of some airport infrastructures.

311. Thus, the creation of the Competition Regulatory Authority (ARC) is a crucial step in this process, however, in practice, anti-competitive behavior may tend to occur, due to the lack of competition culture by market players.

312. It is important to note that, so far, the Competition Regulatory Authority has not received any complaints about anti-competitive practices in the sector and has not notified or opened a process of conduct investigation in this sphere.

## RECOMMENDATIONS

313. In accordance with the data presented and the identified competition concerns, it is worth pointing out the following recommendations:

## To the Ministry of Transport

314. That the Ministry promotes, in the medium and long term, the participation of the private sector in the management of some airport infrastructures and, consequently, the implementation of an airport tariff liberalization regime. This measure will foster competition in the airport segment, where airport managers or concessionaires would compete in order to provide the best service and attract the largest number of airlines. However, it is necessary to safeguard national security issues. This measure will also enable the use of inactive airports in the country;

314.1 To propose to the legislative branch, the elimination of subsection b) of article 19 of Law No. 24/15, of 14 September, the Law on Crimes against Civil Aviation, which prohibits non-scheduled air transport companies from disclosing flights, following a certain frequency, as it constitutes a barrier to the expansion of airlines in the market and a disadvantage in relation to regular airlines, since they are allowed to freely disclose their flights.

314.2 That the integration of airport services be reinforced with other types of transport, in order to foster domestic tourism and promote entrepreneurship and the sustainability of the companies that operate and that will operate in the interconnected network;

314.3 That a clear and specific program be created to involve private investment in the sector, both in terms of improving infrastructures and in the creation of companies within the scope of Public-Private Partnerships;

314.4 That airlines be allowed to make commercial flights to support industrial activities, between the existing airports in the provinces that are not under sanitary fences, while the public calamity situation continues and safeguarding the preventive measures recommended by the WHO;

314.5 That a market recovery contingency plan be created in reference for the post-COVID-19 period;

314.6 That the Angolan State seeks to ratify Bilateral Airworthiness Agreement (BAA) or Bilateral Aviation Safety Agreement (BASA) agreements, in order to facilitate the certification of national airlines and accelerate the penetration of Angolan airlines in the foreign market<sup>13</sup>.

## To INAVIC

315. That it promotes the emergence of airlines of the regular segment, through the creation of more autonomous procedures in order to overcome the administrative embarrassments that have been verified;

316. To review the process of creating, licensing and certifying airlines, to make it less bureaucratic, going through the review of the timing for that purpose, always safeguarding the issues of international conventions, safety and efficiency of the sector;

317. Make available on its website the editable application templates and other necessary documents, as well as a check-lists of the requirements, procedures and documentation necessary for licensing and authorization, in order to speed up the selection of eligible candidates to the civil aviation market, as in other countries, for example, with the Portuguese Civil Aviation Authority<sup>14</sup>;

318. To propose, along with related bodies, the elimination of subsection 4 of article 41 of Presidential Decree No. 217/16 of 31 October, which requires regular private airlines to compensate (with a value corresponding to 4 months of the rate equal to that paid in the month prior to the notice of withdrawal from the contract) INAVIC, in case of withdrawal from the concession contract, as it constitutes a disadvantage in relation to TAAG.

## To SGA, S.A.

319. That the authorization process for the operation of international flights at Catumbela airport be accelerated, in order to contribute to direct access to the location and to the expansion of trade from Benguela;

320. That a National Master Plan for Airport Integration be developed, which includes, among other aspects, a specific program for the transportation and handling of cargo, encouraging the reemergence of exclusive airlines for this purpose, as was the case with Air Charter and Air Gemini, in order to counter the downward trend registered in cargo movements from 2008 to 2018, as well as promoting competition in this segment, to the benefit of consumers.

## To the Airlines

321. That they periodically re-evaluate the projections made in the feasibility studies, aligning them with updated information, in order to avoid premature exits of companies in the market. This recommendation is justified by the fact that the market has high costs, which require considerable investment and a more realistic forecast of cost recovery.

13. *Bilateral agreements facilitate the reciprocal airworthiness certification of imported and / or exported civil aeronautical products between two signatory countries. A Bilateral Airworthiness Agreement (BAA) or Bilateral Aviation Safety Agreement (BASA) with Implementation Procedures for Airworthiness (IPA) provides for technical airworthiness cooperation between the national Aeronautical Authority and similar civil aviation authorities.*

14. ANAC: License Grant: Requirements, Procedures and Necessary Documentation. Available at: <<https://www.anac.pt/PT/OrganizacaoeseEmpresas/OperadoresTransporteAereo/LicenciamentoOperador/concessaolicenca/Paginas/concessaodeLicenca.aspx>>. Retrieved on October 2, 2020.

# CHAPTER 5: MAURITIUS

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## INTRODUCTION

1. In the context of the African Competition Forum (ACF) cross-country airline study, the Executive Director of the Competition Commission (hereinafter referred to as the “Commission”) initiated this study of the airline industry in Mauritius.
2. The main objective of the ACF study is to provide a platform for identifying regional and continental priorities in respect of competition concerns identified in the airline industry. The ACF study aims at:
  - 2.1 Mapping of the airline industry to appreciate the regional and international dynamics that are of primary relevance to the member country.
  - 2.2 Understanding the market structure, alliances, state involvement and regulatory setting for the airline industry in the different ACF member countries.
  - 2.3 Understanding the market structure, alliances and state involvement, and regulatory setting on regional and international services that impact continental trade and tourism.
3. In this regard, this chapter on the Mauritian airline industry provides:
  - 3.1 an overview of the airline industry in Mauritius.
  - 3.2 the regulatory framework governing the civil aviation sector.
  - 3.3 an assessment of the competition dynamics and potential concerns in the airline industry.

- 3.4 the regional and continental priorities for competition and development of the airline industry.

## BACKGROUND

4. Located at about 2000 km off the southeast coast of the African continent, Mauritius is a small island state in the Indian Ocean. Given its isolation, the air transportation provides for a rapid and convenient means for connecting Mauritius with the rest of the world. The airline industry is also key to the local hospitality and tourism sector, which is an important pillar of the economy. The hospitality and tourism sector contributed to around 7.6% of the country's GDP in 2019.
5. In line with the economic agenda of the country, the Mauritian airline industry has significantly evolved over the past decades. It has progressively moved from a regulated and restricted to a more liberalized international air market in terms of both market access and ownership and control. By end of 2019, Air Mauritius, the national carrier, flew directly to 23 destinations and, in its attempt to boost the tourism sector, the Government has plans to increase the number of routes within our network.
6. In terms of passenger traffic, a total of around 4 million passenger arrivals and departures were recorded in 2019. More than 95% of the passengers traveled by air.
7. Table 1 below illustrates the passenger arrivals by type between 2017 and 2019.

**Table 1: Passenger arrivals by types for the period 2017-2019**

Type of passenger	2017		2018		2019	
	Number	%	Number	%	Number	%
Regional and International Tourists	1,371,475	73%	1,431,117	73%	1,418,296	72%
Other, incl. contract workers	116,693	6.0%	123,322	6.3%	127,794	6.5%
Mauritian residents	292,841	16%	307,848	15.7%	330,587	16.8%
Domestic (Rodrigues)	96,048	5.0%	97,739	5.0%	98,637	5.0%
<b>Total arrivals</b>	<b>1,875,057</b>	<b>100%</b>	<b>1,960,026</b>	<b>100%</b>	<b>1,975,314</b>	<b>100%</b>

Source: Digest of International Travel and Tourism Statistics, 2019

**Table 2: Tourist arrivals by country of origin (2017-2019)**

Countries	2017		2018		2019	
	Number	%	Number	%	Number	%
France	276,495	20%	288,722	20%	304,876	21%
UK	154,148	11%	155,101	11%	145,697	10%
Reunion	149,655	11%	142,539	10%	141,057	10%
Germany	124,458	9%	139,442	10%	132,859	9%
South Africa	112,954	8%	129,498	9%	119,456	8%
India	86,801	6%	86,428	6%	76,275	5%
China	73,665	5%	66,248	5%	43,421	3%
Others	393,299	29%	423,139	30%	454,655	32%
Total	1,371,475	100%	1,431,117	100%	1,418,296	100%

Source: Digest of International Travel and Tourism Statistics, 2019

**Table 3: Number of departures by country of disembarkation (2017-2019)**

Countries	2017		2018		2019	
	Number	%	Number	%	Number	%
United Arab Emirates	348,554	19%	355,902	18%	364,488	18%
Reunion Island	297,944	16%	308,894	16%	320,003	16%
France	255,049	14%	255,999	13%	262,198	13%
South Africa, Rep. of	189,782	10%	204,619	10%	200,523	10%
United Kingdom	116,296	6%	117,924	6%	115,871	6%
India	99,048	5%	104,298	5%	99,798	5%
Others	565,951	30%	609,479	31%	616,025	31%
Total	1,872,624	100%	1,957,115	100%	1,978,906	100%

Source: Digest of International Travel and Tourism Statistics, 2019

8. It can be observed from Table 1 that most of the passengers visited Mauritius for tourism purposes. 72% of the total passengers arrived in Mauritius in 2019 for tourism purposes. The tourists came to Mauritius from more than 22 countries, with France occupying first place followed by UK and Reunion Island.

9. Table 2 provides the number and percentage of passengers arriving in Mauritius by country of origin between 2017 and 2019.

10. Table 3 provides the number of departures by country of disembarkation between 2017 and 2019.

11. As seen in Table 3, the United Arab Emirates (UAE) tops the list for the country of disembarkation. For instance, 18% of the total of about 2 million passenger departures recorded in 2019 were to UAE. Reunion Island comes next with 16% of departures followed by France with 13%.

12. The airport infrastructure and the air navigation services are constantly being improved through heavy investment to serve the national and international

airlines operating in and out of Mauritius. The air access policy has also constantly been reviewed to stimulate demand from markets with high potential, induce more price elasticity in the low season through the interplay of market forces and very importantly incentivize the tourism sector.

## REGULATORY/INSTITUTIONAL/LEGAL FRAMEWORK

13. The present chapter provides an outline of the various components constituting the regulatory framework of the aviation sector in Mauritius. It examines, in succession, international conventions and treaties<sup>1</sup>, followed by regional instruments and ultimately delving into national legislations.

1. For the purposes of this market study, the Convention on International Civil Aviation of 1944 has been deemed the most relevant international instrument and is the only one discussed in detail in the present chapter. A list of the various conventions and treaties ratified and acceded to by Mauritius is provided in Annex 1.

## Convention on International Civil Aviation of 1944

14. Mauritius acceded to the Convention on International Civil Aviation (also known as the 'Chicago Convention') on the 30th of January 1970. The Chicago Convention, signed on the 7th of December 1944 by 52 states, establishes the rules under which international aviation operates.
  15. The Chicago Convention acknowledged the new international potentials of civil aviation and established an institutional structure that laid common ground rules regarding the use of airspace, aircraft registration, safety, and the framework for bilateral air service agreements governing air travel between nations.
  16. The basic principle of the Chicago Convention is sovereignty. It essentially grants contracting states exclusive and complete competencies over the airspace above their territories. In the exercise of their sovereign powers, states enter into agreements with each other as to the modalities of usage over their airspace. The Contracting States to the Chicago Convention may grant approval for access to their national airspace, and for carriage of traffic to, from, and via points in their territory, on a multilateral, regional, bilateral, or unilateral basis.
  17. Over the years, the International Civil Aviation Organisation (ICAO), a United Nations Agency, which was created by the Chicago Convention, developed a series of traffic rights, known as freedoms of the air. These freedoms, nine in total, continue to form the basis of rights exchanged in air services negotiations today.
20. Typically, BASAs contain provisions, amongst others, on:
    - 20.1 Traffic rights - the routes airlines can fly, including cities that can be served within, between and beyond the bilateral partners.
    - 20.2 Capacity - The number of flights that can be operated or passengers that can be carried between the bilateral partners.
    - 20.3 Designation, Ownership and Control - the number of airlines the bilateral partners can nominate to operate services and the ownership criteria airlines must meet to be designated under the bilateral agreement. This clause sometimes includes foreign ownership restrictions.
    - 20.4 Other clauses addressing competition policy, safety, and security.
  21. In line with the recommendations of the Master Plan for Air Transportation, Mauritius has been progressively liberalizing its air transport since 2004 through the signatures of BASAs and Memorandums of Understanding (MOUs) with the different countries.
  22. With the BASAs, the technical cooperation arising between the national civil aviation authorities helps in reducing duplication of activity and aims for the mutual acceptance of certificates. The BASAs also allow users to fly on a bigger network even though they are using the same airline.
  23. Moreover, in cases where airlines have additional infrastructure which they cannot utilize, in peak seasons, some airlines can leverage their brands to earn more money. They can rent out their infrastructure to other more established airlines.
  24. There are three categories of BASAs:

## International Bilateral Agreements

18. In line with the framework set out by the Chicago Convention, international air services between countries operate under the terms of Bilateral Air Services Agreements (BASAs) negotiated between the countries.
19. These BASAs specify which airlines could operate between the two countries, the routes carriers could operate (e.g., which airports they could fly to), traffic rights that could be exercised by the designated

airlines, limits on the frequency and capacity (seats) that the carriers could operate.

## The most restrictive BASA

25. Their basic premise is that producers, i.e., airlines, control the market. They decide on how much will be produced in terms of capacity and at what price services will be offered. Market access, capacity and pricing are pre-determined by the airlines. They are being coordinated and controlled by the aeronautical authorities of the two states party to the BASA. The purpose of such agreements is to reach a balance of benefits.

## The Bermuda 1 & 2 model

26. These models are more liberal in the way that they are designed to promote managed competition. These types of BASAs have the objective of creating “a fair and equal opportunity” to provide the agreed international air services.

## Open Skies agreements

27. Open Skies agreements contain the following liberal elements:

- 27.1 freedom of each country’s airlines to operate air transport services between any point or points in the countries of the contracting parties, including to intermediate and beyond points, subject to a third state’s approval, and customs, technical, operational, or environmental restrictions.
- 27.2 multiple designations of airlines.
- 27.3 no capacity limitations.
- 27.4 subject to government intervention designed to prevent monopolies, predatory pricing, and artificially low prices due to government subsidies, Freedom concerning pricing.
- 27.5 promotion of liberalization in the field of charter flights, cargo, and Computer Reservation Systems.
- 27.6 performance of own support functions at airports located in the territory of the other party.

27.7 The exercise of the above rights is subject to national and local rules regarding safety, customs, security, and the environment. Also, slot scarcity can place restrictions on the exercise of traffic rights.

27.8 As of date, Mauritius has signed BASAs and MOUs with 62 countries. See Annex 2 for the detailed list.

## Regional Integration

### The Yamoussoukro Declaration of 1988

28. A congregation consisting of 40 ministers overseeing civil aviation in their respective States<sup>2</sup> met in Côte d’Ivoire, Yamoussoukro, on the 17th of October 1988. Mauritius was a participatory and signatory State to this discussion. The outcome of this meeting was the adoption of a policy concerning air transportation formalized under the appellation of the “Declaration of Yamoussoukro on a New African Air Transport Policy”<sup>3</sup>.

29. It was heavily aimed at promoting pan-African cooperation and integration in terms of airlines across the various States with an implementation timeline of 8 years. While the Yamoussoukro Declaration of 1988 introduced the ground-breaking concept of liberalization of air transport along with ambitious objectives within Africa, its implementation proved to be slow and fragile.

### The Yamoussoukro Decision of 1999

30. Due to the various challenges and hurdles that the implementation of the Yamoussoukro Declaration of 1988 met, the United Nations Economic Commission for Africa initiated a conference on the 13th-14th November of 1999 to discuss these issues among the various States party to the Yamoussoukro Declaration of 1988.

2. The States were Algeria, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape-Verde, Central African Republic, Chad, Congo, Côte d’Ivoire, the Arab Republic of Egypt, Equatorial Guinea, Ethiopia, Gabon, The Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Libya, Madagascar, Mali, Morocco, Mauritius, Mauritania, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zaire (today, the Democratic Republic of Congo), and Zimbabwe.

3. Declaration of Yamoussoukro on a New African Air Transport Policy, United Nations Economic Commission for Africa, E/CA/TRANS/77A available at <https://repository.uneca.org/bitstream/handle/10855/13773/Bib-55144.pdf?sequence=1&isAllowed=y>

31. The outcome of this meeting was the adoption of the “Decision Relating to the Implementation of the Yamoussoukro Declaration Concerning the Liberalisation of Access to Air Transport Markets in Africa”.<sup>4</sup>
32. It followed up on the Yamoussoukro Declaration of 1988 whereby many of the same countries agreed to principles of air services liberalization. In 2000, the Decision was endorsed during the Assembly of Heads of State in Togo in July 2000 at the Organization of African Unity and became fully binding in 2002.
33. The primary objective of the Yamoussoukro Decision was to pool resources among African states and their airlines to enhance air services between participating African states. It seeks to achieve gradual liberalization of the scheduled and non-scheduled intra-African air transport services. The main elements are the granting to all state parties to the Decision the free exercise of first, second, third, fourth, and fifth freedom rights on both scheduled and non-scheduled passenger and freight (cargo and mail) air services performed by an eligible airline.
34. Initially, as part of the Yamoussoukro Decision, Mauritius has informally indicated during the First Ordinary Session of the Ministers Responsible for Air Transport, held by the African Union in Sun City, South Africa, in May 2005, that it was withdrawing from the Yamoussoukro Decision because of the failure of SADC countries to adopt the competition rules relating to the full liberalization of air transport. It is further gathered that notably, Air Mauritius feared that sixth freedom traffic from Europe over the hubs of Johannesburg or Nairobi would be operated as third and fourth freedom traffic under the Yamoussoukro Decision.<sup>5</sup>
35. The reason why this withdrawal is considered as being informal, according to the World Bank report titled ‘Open skies for Africa’<sup>6</sup>, is because Mauritius never formalized its withdrawal by Article 12.3 of the Yamoussoukro Decision of 1999.
36. Owing to the numerous setbacks related to the adoption of the Yamoussoukro Decision of 1999 across the various signatory States, the Single African Air Transport Market (SAATM) was adopted in 2015 but launched officially in 2018 by the African Union with the intent of fully implementing the Yamoussoukro Decision and consequently create a single market for air transport in Africa. As of March 2020, 33<sup>7</sup> out of 55 Member States of the African Union are participating in the SAATM project. Mauritius is currently not a party to this agreement and instead advocates for the grant of air traffic rights under the current Bilateral Air Services Agreement framework as part of its policy objectives.

### Civil Aviation Act 1974

37. The primary aviation legislation in Mauritius is the Civil Aviation Act 1974 (hereinafter referred to as the “Act”) which came into operation on 23rd October 1986. The enactment of the Act was the first significant step in providing a comprehensive and effective set of aviation laws consistent with the environment and complexity of the aviation activity of Mauritius as well as being compliant with the requirements contained in the Chicago Convention.
38. Echoing the aforementioned notion of ‘sovereignty, the Act applies to the land and air space of all the islands comprised in the State of Mauritius; the territorial sea and the air space above the territorial sea of Mauritius; and every aircraft and air transport service registered in Mauritius.
39. The Act sets out the general framework for the issuance of a license for the operation of an aircraft, air transport service, or flying school. Additionally, Sections 8A, 8B and 8C make provision for the levying of particular operation fees such as the Passenger fee, the Passenger solidarity fee, and the Terminal expansion fee respectively. These will be discussed in greater detail further below.

4. *Decision Relating to the Implementation of the Yamoussoukro Declaration Concerning the Liberalisation of Access to Air Transport Markets in Africa*, United Nations Economic Commission for Africa ECA/RCID/CM.CIVAC/99/RPT available at [https://afcac.org/en/images/Documentation/1yd\\_eng.pdf](https://afcac.org/en/images/Documentation/1yd_eng.pdf)

5. World Bank (2010), *Open Skies for Africa – Implementing the Yamoussoukro Decision*, pg. 58, available at <http://pubdocs.worldbank.org/en/849021434746549856/Air-Transport-OpenSkiesForAfrica.pdf>

6. *Ibid*, pg. 57

7. Signatory States includes Benin, Botswana, Burkina Faso, Cameroon, Cape Verde, Central African Republic, DR Congo, Congo, Cote d'Ivoire, Egypt, Ethiopia, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea-Bissau, Guinea, Kenya, Lesotho, Liberia, Mali, Morocco, Mozambique, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Swaziland, Togo, and Zimbabwe.

40. The Act also provides the foundation of the Department of Civil Aviation (DCA), which operates under the aegis of the Prime Minister's Office (External Communications Division) as its parent Ministry. The DCA acts as the regulatory authority of the aviation industry in Mauritius and oversees all matters related to the licensing, certification and regulation of aircraft, flight crew, aviation security and safety issues. It has the main responsibilities of:

- 40.1 Covering all matters relating to the registration of aircraft, continuing airworthiness, approval of maintenance organizations and maintenance certification of operators, licensing of maintenance personnel and investigation in case of aircraft incidents/ accidents.
- 40.2 Reporting occurrences under the Civil Aviation Regulations, incidents and accidents relating to aircraft, aerodrome, and air traffic, with operations and maintenance under the jurisdiction of the Department.
- 40.3 Setting civil aviation standards for Mauritius that meet, or exceed, the requirements of the ICAO Annexes and ensure legislation is enacted to give effect to the standards.
- 40.4 Ensuring that the certification and continued airworthiness aspects of aircraft and engines achieve the set safety standards.
- 40.5 Ensuring that flight crew, aircraft maintenance engineers and air traffic services staff are fit and qualified for their task.
- 40.6 Ensuring that the International Airport, and any other aerodromes which may be licensed, meet the requirements of the aerodrome licence and are safe for use.
- 40.7 Providing the link between ICAO and the Government on issues of aviation security and ensuring that aviation security is given high priority in the organization of civil aviation.

40.8 Planning, providing, and operating safe, orderly and expeditious air traffic services, including the provision of search and rescue coordination, in order to meet the set safety standard at a minimum effective cost to customers.

## Civil Aviation Regulations 2007

- 41. By virtue of Section 11 of the Act, the Civil Aviation Regulations 2007 (hereinafter referred to as the "Regulations") was on 3rd September 2007 and revoked Civil Aviation Regulations 1986. The updated Regulations aimed at further providing for standardized operational procedures and infrastructures, such as safety management and training systems, in conformance with the Standards and Recommended Practices contained in the Annexes to the Chicago Convention.
- 42. In this regard, Regulation 135 empowers the DCA to issue specific operating regulations about civil aviation activities as well as to make incidental and supplementary provisions as may be necessary or expedient. These include notices to airmen, aeronautical information publication, aeronautical information circular, civil airworthiness requirements, civil air navigation requirements, dangerous goods requirements, airport circular, or notice to aircraft owners and maintenance engineers.
- 43. Overall, as per the Regulations, the DCA can issue directives regarding the operation, use, possession, maintenance, or navigation of aircraft including the flight crew and aircraft maintenance engineer's license as well as the operation and maintenance of any aerodrome and air traffic control service in Mauritius.
- 44. However, the DCA can only issue directives in the interest of safety that apply any provisions or amendments of the Annexes to the Convention as issued by the ICAO with the prior approval of the Prime Minister's Office.
- 45. The Airworthiness Division of the DCA, which oversees all matters relating to registration of aircraft, continuing airworthiness, approval of maintenance organizations

and maintenance certification of operators, licensing of maintenance personnel and investigation in case of aircraft incidents or accidents, has issued the following directive and requirements:

- 45.8.1 Airworthiness Requirements.
- 45.8.2 Approval of Maintenance Organisation based on the European Union Aviation Safety Agency Part 145 directive.
- 45.8.3 Certification of Products and Articles and Design and Production Organisations, based on the European Union Aviation Safety Agency Part 21 directive.
- 45.8.4 Approval of Training Organisations.
- 45.8.5 Continuing Airworthiness Requirements based on the European Union Aviation Safety Agency Part-M regulation.
- 45.8.6 General Aviation Requirements – Aeroplanes.
- 45.8.7 Aviation Environment Protection Requirements (Carbon Offsetting and Reduction Scheme for International Aviation) based on International Standards and Recommended Practices contained in ICAO Annex-16, Volume-IV.

46. The Flights Operations Division of the DCA, which is responsible for conducting investigations for awarding Air Operator Certificate and exercising continuing surveillance and inspections of operations and issuing approval for the transportation of dangerous goods, has issued the following Flight Operations Requirements:

- 46.1 Air Operator Certificate Requirements (Aeroplanes) based on ICAO Annex 6.
- 46.2 Air Operator Certificate Requirements (Helicopters), with reference to the Joint Aviation Authorities TGL 44 - Administrative & Guidance Material and the UK Civil Aviation Authority CAP 789 - Requirements and Guidance Material for Operators.

46.3 Dangerous Goods Requirements based on International Standards and Recommended Practices contained in ICAO Annex-18.

46.4 Approved Training Organization Requirements (Cabin Crew).

46.5 Approved Training Organisation Requirements (Flight Crew).

46.6 Procedures and Guidance for Type Rating Instructors, Synthetic Flight Instructors, and associated course providers.

47. Other key requirements have been issued in relation to Aerodrome Licensing (Civil Air Navigation Requirements of Mauritius Aerodrome Design and Operations, Civil Air Navigation Requirements of Mauritius Heliports and Aerodrome licensing Manual), Personnel Licensing and Aviation Medicine. These altogether provide a sound legal framework and the flexibility for the adoption of safety standards in a timely manner.

48. In an optic of regulatory oversight, the DCA can pursue the revocation, suspension and variation of certificates, licences, and other such documents, after due inquiry, if these are found to be in breach of the Regulations. By virtue of Regulation 131, the DCA can carry out audits and surveillance to detect any contravention in any shape or form to the Regulations.

## **Levy of regulatory service fees**

49. Given the highly regulated nature of the aviation industry, the fees imposed on air service operators and passengers are also controlled.

50. Civil Aviation (Fees and charges) Act 1977

50.1 The Civil Aviation (Fees and charges) Act 1977 makes provision for the levying of a Landing fee, Parking fee, Fuel through-put charge and Route air navigation charge on all aircraft, with certain exemptions, within the territorial airspace of Mauritius operating through any aerodrome established in Mauritius by the Government.

51. Civil Aviation (Passenger Service Charge) Regulations 1999

## COMPETITION DYNAMICS IN THE AIRLINE INDUSTRY

### Market Structure

- 51.1 The Civil Aviation (Passenger Service Charge) Regulations 1999 makes provision for air service providers to levy a periodical fee on passengers in respect of the number of persons departing by each air flight payable to the relevant airport operator, namely the Airports of Mauritius Co. Ltd for SSR International Airport and Airport of Rodrigues Ltd for Sir Gaetan Duval Airport.
52. Civil Aviation (Passenger Fee) Regulations 2004, Civil Aviation (Passenger Solidarity Fee) Regulations 2006 and Civil Aviation (Terminal Expansion Fee) Regulations 2010
- 52.1 By virtue of Section 8A of the Act, the Civil Aviation (Passenger Fee) Regulations 2004 were promulgated to make air service providers levy a fee on passengers payable monthly to the Director-General of the Mauritian revenue Authority on the basis of the number of passengers departing by each air flight during that month.
- 52.2 By virtue of Section 8B of the Act Civil Aviation, the (Passenger Solidarity Fee) Regulations 2006 were promulgated to make air service providers levy a fee on passengers in respect of travel tickets issued on or after 29th October 2006. This fee is payable monthly to the Director-General of the Mauritian revenue Authority on the basis of the number of passengers departing by each air flight during that month.
- 52.3 By virtue of Section 8C of the Act Civil Aviation, the Civil Aviation (Terminal Expansion Fee) Regulations 2010 were promulgated to allow the airport operator, Airports of Mauritius Co Ltd, to claim the terminal expansion fee from the airline or its agent periodically on the basis of the number of persons departing by each air flight. The terminal expansion fee is to be adjusted on 1 April of each year on the basis of the Mauritian inflation rate for the preceding year as published by the Central Statistical Office.

53. The Mauritian airline industry is served by more than 20 airlines operating to and from numerous countries. The main airline is the national carrier, Air Mauritius. The rest are all foreign airlines namely, Air Austral, Air France, Air Seychelles, Austrian Airlines, British Airways, Comair, Condor Flugdienst, Corsair fly, Edelweiss, Emirates, Eurowings, Evelop Airlines, KLM Royal Dutch Airlines, Lufthansa, Meridiana Fly, South African Airways, Saudia, Thomson Airways, Thomas Cook, TUI Nederland and Turkish Airlines.<sup>8</sup> It must be noted that some of these airlines operate in partnership with Air Mauritius for greater destination offerings.
54. The profiles of some of the main airlines operating in Mauritius are shown below:

### Air Mauritius Ltd

55. Air Mauritius Ltd ('Air Mauritius') started its operation on the 14 June 1967 and had its first flight in 1972 when it began its inter-island services. Today, Air Mauritius provides both international and domestic scheduled air services for the carriage of passengers, freight, and mail, and the provision of ancillary services for aviation.
56. Air Mauritius is the leading scheduled international passenger airline in the Indian Ocean region. From its base, it serves 22 destinations across four continents namely, Africa, Asia, Australia, and Europe. It also offers more than 100 destinations from the hubs it operates with its partner airlines in Paris, Johannesburg, Nairobi, Kuala Lumpur, Singapore, and Perth.

### British Airways

57. British Airways ('BA') is the flag carrier airline of the United Kingdom. Based on the fleet size amounting to 279 and the passengers carried, it is the second-largest airline in the United Kingdom. British Airways

8. Information gathered from the Airport Terminal Operations Ltd website, <https://mauritius-airport.atol.aero/passengers/flights/airlines>

is a full-service global airline, offering a year-round and extensive global route network, flying to and from centrally-located airports.

58. British Airways services internationally to Europe mainly with the routes MUR-LGW and MUR- CGN, from Mauritius to the United Kingdom and Germany.

## Emirates

59. Emirates connects the world to, and through, their global hub in Dubai. The airline operates modern, efficient, and comfortable aircraft with a fleet of more than 250 aircraft across six continents every day. Emirates is a state-owned airline based in Garhoud, Dubai, United Arab Emirates. The airline is a subsidiary of The Emirates Group, which is owned by the government of Dubai's Investment Corporation of Dubai.
60. For Mauritius, Emirates services the international route to Dubai only with direct flights.

## South African Airways

61. South African Airways ('SAA') is the national carrier of South Africa and forms part of the SAA Group. It has a fleet of 64 aircraft and flies from Johannesburg, SAA's hub to over 35 destinations across Africa, the Middle East, Asia, Europe, Australia, North and South America. South African Airways serves the route between Mauritius and Johannesburg.

## Kenya Airways

62. Kenya Airways is partly owned by the Kenyan Government and is the flag carrier airline of Kenya. The company was founded in 1977, after the dissolution of East African Airways. Their head office is located in Embakasi, Nairobi, with its hub at Jomo Kenyatta International Airport. Kenya Airways has a fleet of 40 aircrafts. Kenya Airways serves the Mauritius – Nairobi route.

## Air Austral

63. Air Austral is an airline based at the Roland Garros Airport in the French overseas department of Réunion in the Indian Ocean. It operates scheduled services from Réunion to metropolitan France, South Africa, Thailand, India, and several destinations in the Indian Ocean. Air Austral has a fleet of 8 aircrafts.
64. Air Austral services the regional route for Mauritius to Reunion Islands, to the 2 airports of the island; Aéroport de La Réunion Roland Garros and Aéroport de Pierrefonds. It also serves the route Rodrigues-Reunion on a seasonal basis.

## Alliances and Partnerships

65. An airline alliance is an aviation industry arrangement between two or more airlines agreeing to cooperate on a substantial level. Alliances may provide marketing and branding to facilitate travelers making inter-airline codeshare connections within countries. This branding may involve unified aircraft liveries of member aircraft.
66. Air Mauritius continues to leverage airline partnerships, as a major strategic tool, to broaden its network and geographical reach. Furthermore, with the challenges facing airlines, creating synergies and commercial benefits among airline partners remains a priority.
67. During the financial year 2018/19, Air Mauritius consolidated its airline alliances and has initiated discussions with various partner airlines with a view to enhancing cooperation opportunities. The different airline partnerships are:

## Air Mauritius / Emirates

68. The codeshare agreement between Air Mauritius and Emirates covers the trunk route Mauritius–Dubai–Mauritius as well as beyond Dubai and beyond Mauritius destinations. Air Mauritius codeshares beyond Dubai to Cairo, Karachi, Colombo, Riyadh, Dammam, and Jeddah whereas Emirates codeshares beyond Mauritius to Antananarivo.

## **Air Mauritius / South African Airways**

69. Under the codeshare agreement, Air Mauritius, and South African Airways codeshare on each other's flights between Mauritius and Johannesburg.

## **Air Mauritius / Kenya Airways**

70. With the start of Kenya Airways operations between Mauritius and Nairobi as from June 2018, the codeshare agreement between Air Mauritius and Kenya Airways has been converted into a bilateral codeshare arrangement, whereby each airline codeshares on the other airline's flights between Mauritius and Nairobi. Furthermore, Kenya Airways codeshares beyond Mauritius on Air Mauritius operated flights on the Perth route.

## **Air Mauritius / Air India**

71. The codeshare agreement between Air Mauritius and Air India covers the Air Mauritius operated flights between India and Mauritius as well as beyond Mauritius and domestic Indian codeshare sectors. There are 8 domestic Indian destinations (Delhi, Mumbai, Bangalore, Chennai, Goa, Ahmedabad, Hyderabad, and Kolkata) onto which Air Mauritius codeshares. Air India codeshares, beyond Mauritius, to Perth, Johannesburg, and Durban.

## **Air Mauritius / Air Austral**

72. Air Austral codeshares on Air Mauritius operated flights between Mauritius-Perth- Mauritius.

## **Air Mauritius / KLM Royal Dutch Airlines**

73. The joint venture agreement with KLM covers the trunk route Mauritius-Amsterdam-Mauritius as well as beyond Amsterdam and Mauritius sectors.

## **Air Mauritius / Air France**

74. Air France and Air Mauritius are in a joint venture agreement which covers the Mauritius-Paris-Mauritius route as well as destinations beyond Paris and

Mauritius. Air Mauritius codeshares on flights operated by Air France beyond Paris to 41 destinations in 11 European countries, namely Spain, United Kingdom, Germany, Austria, Italy, Switzerland, Netherlands, Sweden, Norway, Denmark, and domestic points in France. Beyond Mauritius, Air France codeshares to Reunion (Saint-Denis and Saint Pierre), Perth, Durban, and Cape Town.

## **Air Mauritius /Singapore Airlines**

75. Singapore Airlines codeshares on the Air Mauritius operated Singapore-Mauritius - Singapore sectors and Air Mauritius codeshares beyond Singapore to Perth, Sydney, Bangkok, Hong Kong, and Shanghai.

## **Air Mauritius / Malaysia Airlines**

76. Air Mauritius and Malaysia Airlines are in a codeshare agreement on the trunk route between Mauritius and Kuala Lumpur as well as beyond Kuala Lumpur and beyond Mauritius. Air Mauritius codeshares beyond Kuala Lumpur to Langkawi, Kuantan, Penang, Kota Bharu, Johor Bahru, Beijing, Bangkok, Singapore and Hong Kong. On the other hand, Malaysia Airlines codeshares on Air Mauritius flights between Mauritius and Johannesburg.

## **Air Mauritius / Virgin Australia**

77. Air Mauritius codeshares on Virgin Australia operated domestic flights, beyond Perth, to Adelaide, Brisbane, Sydney and Melbourne.

## **Air Mauritius/ Air Madagascar**

78. The codeshare agreement between Air Mauritius and Air Madagascar allows Air Madagascar to codeshare on Air Mauritius-operated Mauritius-Antananarivo-Mauritius flights.

## **Air Mauritius / Hong Kong Airlines**

79. The codeshare arrangement between Air Mauritius and Hong Kong Airlines covers the Air Mauritius-operated Mauritius-Hong Kong-Mauritius route on which Hong Kong Airlines codeshares.

## Air Mauritius / Air Austral

80. Air Austral codeshares on Air Mauritius operated flights between Mauritius- Perth- Mauritius.

## Air Mauritius / China Eastern Airlines

81. The codeshare agreement with China Eastern Airlines, allows China Eastern to codeshare on Air Mauritius flights between Mauritius and China.

## Overlapping routes served by operators.

### Domestic

82. Air Mauritius is the only airline operating directly between Mauritius and Rodrigues.

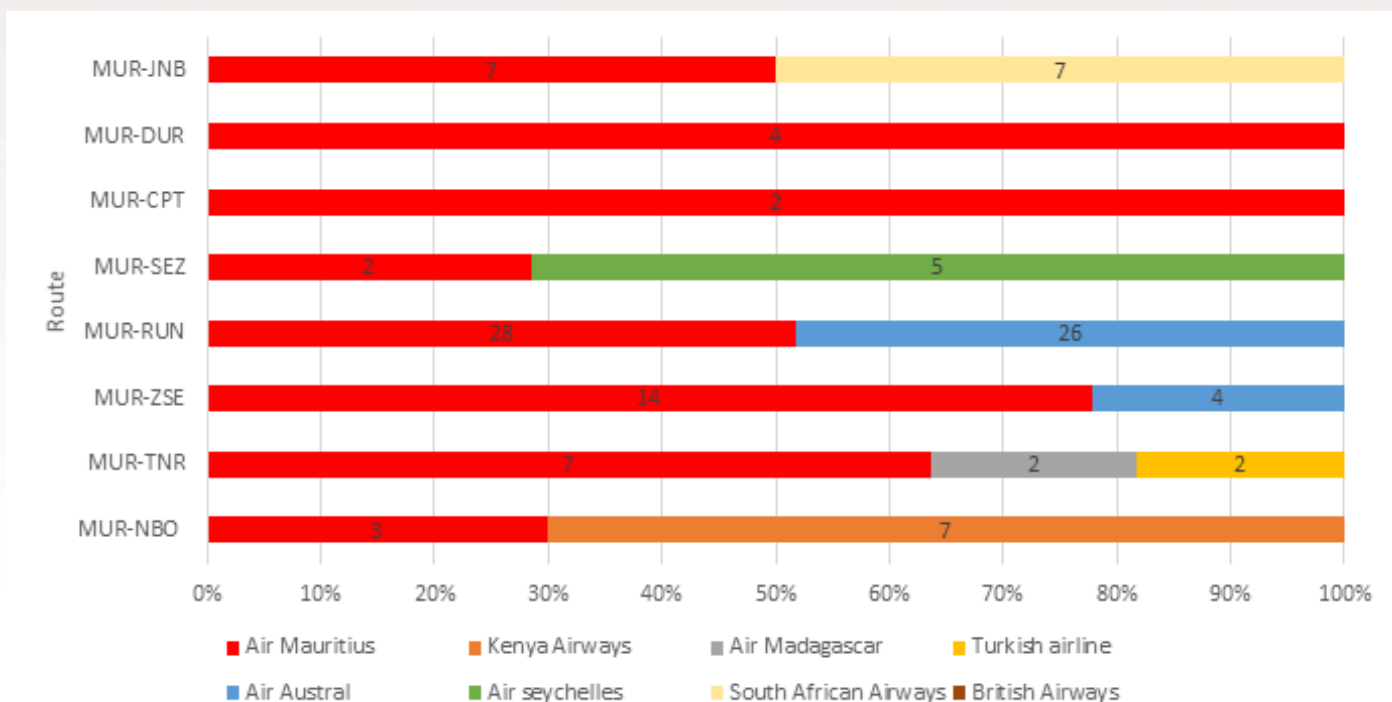
## Regional

83. There are presently 8 airlines operating at the regional level across the 8 identified routes. Figure 1 illustrates the number of weekly flights operated by the airlines on those regional routes.

84. Two out of the 8 regional routes identified (MUR- CPT, MUR- DUR) are served solely by Air Mauritius. The MUR- TNR route is served by 3 operators and the remaining 5 routes are served by 2 operators.

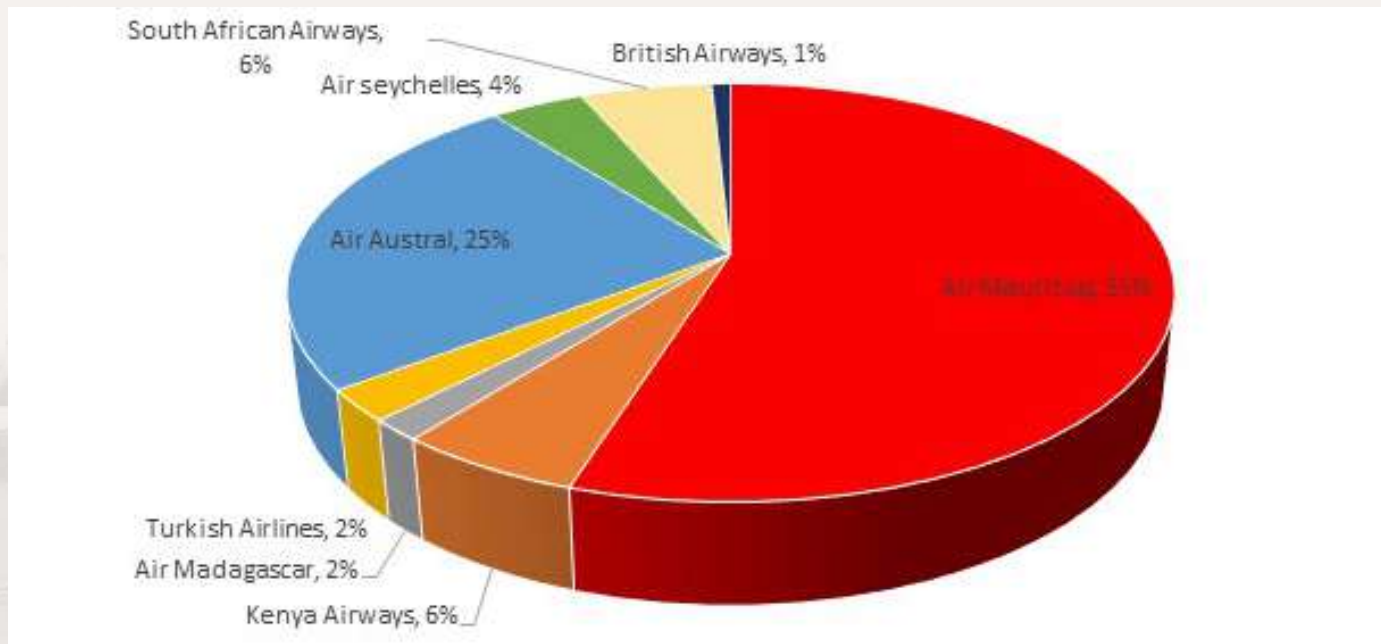
85. In terms of weekly flights across the identified regional routes, Air Mauritius has the largest percentage with 55%. Air Austral, South African Airways and Kenya Airways follow with 25%, 6% and 6%, respectively. Figure 2 shows the combined market share of operators operating on the regional routes based on weekly flights.

Figure 1: Number of weekly flights operated by airlines on regional routes



Source: Information gathered from operators' websites

Figure 2: Market share of operators on regional routes (weekly flights)



Source: Information gathered from operators' websites

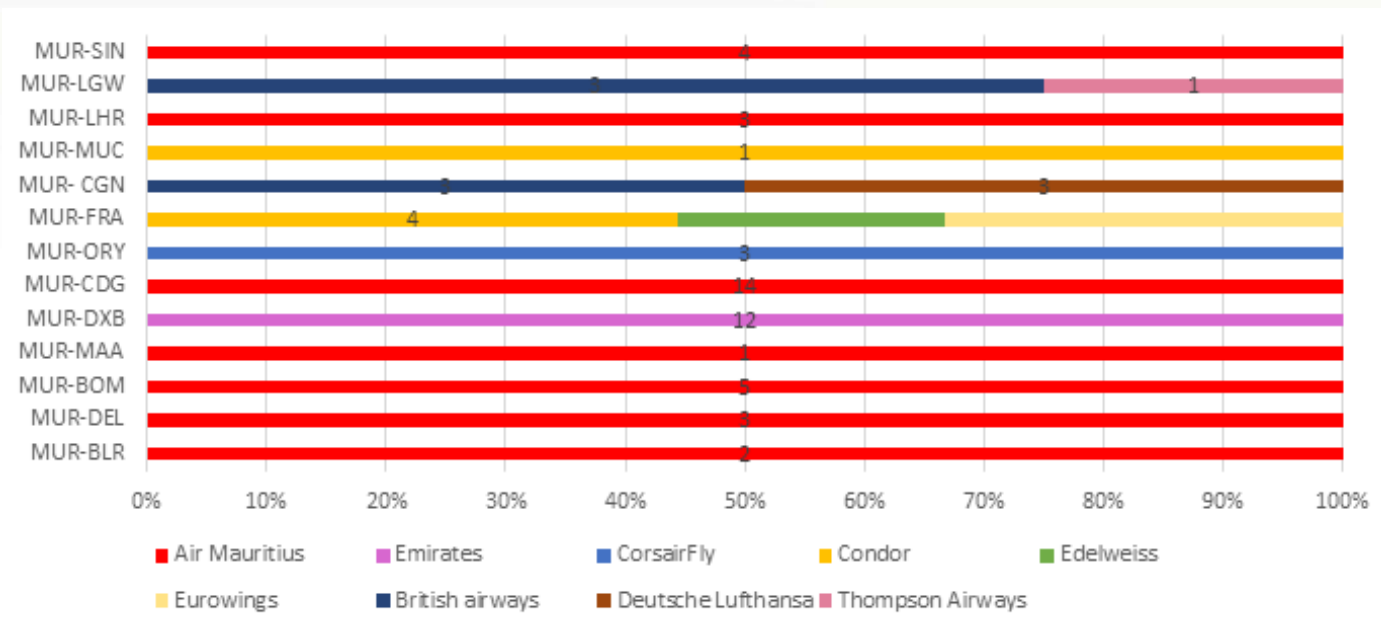
### International

86. There are presently 8 airlines operating across the various international routes from Mauritius. Figure 3 provides the number of weekly flights by operators serving those routes.

87. Ten out of the twelve routes identified are served solely by one operator. Amongst, MK serves 7 routes:

Mumbai (MUR-BOM); Delhi (MUR-DEL); Bangalore (MUR-BLR); Chennai (MUR-MAA); London Heathrow (MUR-LHR); Charles De Gaulles, Paris (MUR-CDG); and Singapore (MUR-SIN). Emirates, Condor and Corsair exclusively operate the Dubai (MUR-DXB); Munich (MUR-MUC); and Paris Orly route (MUR-ORY), respectively. The London Gatwick (MUR-LGW) and Frankfurt (MUR-FRA) are served by more than one airline.

Figure 3: Number of weekly flights operated by airlines on each international route.



Source: Information gathered from operators' websites

## Entry and Exit

88. The airline industry in Mauritius has evolved greatly over the years especially in terms of the airline operators serving Mauritius and the different routes since the construction of the airport at Plaisance in 1942. In 1945, that the Réseau de Lignes Aériennes Françaises Libres, which later became Air France, started a weekly commercial service on the route Madagascar - Reunion - Mauritius<sup>9</sup>. Then, in 1948, Qantas Airways operated its first flight from Sydney to South Africa with stopovers at Perth, Coco Islands and Mauritius.
89. In 1962, British Airways, previously known as the British Overseas Airways Corporation (BOAC), served Mauritius with stopovers in Italy, Sudan, Kenya and Madagascar. Air India followed suit in 1967 by offering service on the Mauritius-Mumbai route.
90. The national carrier, Air Mauritius, was set up on 14th June 1967 by a consortium made up of Air France, BOAC, Air India, the Government of Mauritius, and the General Sales Agent of Air France and BOAC in Mauritius, Rogers and Co. Ltd. The company first operated as a ground handling agent for other airlines. It was only in August 1972 that it flew its own aircraft and flights were limited to nearby Reunion island and Rodrigues island.
91. Further to the routes opening for commercial avenues, several airlines operated in Mauritius. Table 4 illustrates the date of entry and status of some of the airlines which have operated in Mauritius. Information is based on publicly available information.

Table 4: Status of airlines that have operated or are operating in Mauritius.

Airline	Date of Entry	Status
Air Mauritius	1967	Still Operational
Air Asia	2016	Ceased operations as at 2017
Air Austral	N/A	Still Operational
Air Edelweiss	2016	Still Operational
Air France	1945	Still Operational
Air Madagascar	N/A	End of commercial agreement as at 2019
Air Seychelles	N/A	Still Operational
British Airways	1962	Still Operational
Condor Flugdienst	N/A	Still Operational
Corsairfly	2006	Still Operational
Catovair	2005	Ceased operations as at 2008 (Defunct Mauritian Airline)
China Southern Airlines	2014	2015
EgyptAir	N/A	Still Operational
Emirates	2002	Still Operational
Lufthansa	1970	Still Operational
South African Airways	1957	Still Operational
Saudi Arabian Airlines	2017	Still Operational
Turkish Airlines	2014	Still Operational
Virgin Atlantic Airlines	2007	Ceased operation in 2009

Source: Publicly available information

9. See article "Aviation History in Mauritius" by hotspot. Available at: <http://pages.intnet.mu/fullspot/Aviation.htm>

## Airport Infrastructure

92. The Republic of Mauritius has only one international airport, the Sir Seewoosagur Ramgoolam International Airport (SSR International Airport) which is located in the South East of Mauritius and one domestic airport, The Sir Gaëtan Duval Airport, which is located in Rodrigues Island, a dependency of Mauritius.
93. SSR International Airport, owned by the Airport of Mauritius, has a landing area that comprises an aerial accessible open space and 1 asphalt runway. The terminals cover an area of 57,000 square meters and are equipped with 8 Passenger Boarding Bridges for simultaneous handling of 6 wide-bodied aircrafts and 3 Passenger Boarding Bridges for the handling of the A380 aircraft, check in desks for departing passengers, immigration counters and baggage carousels. At peak time, the Passenger Terminals can handle up to 15 flights departures and arrivals. The terminal can cater for a total of 8 million passengers.
94. The SSR International Airport has a public car park area capable of accommodating more than 1300 vehicles as well as an elevated roadway to the Passenger Terminal with two separate lanes enabling better fluidity in the dropping-off of passengers. The SSR International Airport also offers the retail of duty-free products over an area of 2200m<sup>2</sup>. All the duty-free shops are owned and operated by the Mauritius Duty Free Paradise.
95. The Sir Gaëtan Duval Airport is the only airport in Rodrigues island, located at Plaine Corail. It has an asphalt runway which measures 1,287 by 30 metres (4,222 ft × 98 ft).
96. Table 5 provides information on the number of parking bays and runways at the airports in the Republic of Mauritius.

## State Involvement

97. The Government of Mauritius has a very important role to play in the operation of the aviation industry in Mauritius. It is the main owner of the only international airport of Mauritius, SSR International Airport, and the national airline, Air Mauritius.
98. SSR International Airport is owned and operated by the Airports of Mauritius Co. Ltd (AML) where the Government of Mauritius has 99.9% stakes. The AML, incorporated in 1998 and in operation since April 1999, has three subsidiaries, namely Airport Terminal Operations Ltd (ATOL), Airport of Rodrigues Ltd (ARL) and the Mauritius Duty Free Paradise Co Ltd (MDFP).
99. ATOL is a private company incorporated in July 2008 to operate and maintain the new passenger terminal of the SSR International Airport. It is owned by the State of Mauritius via Airports of Mauritius Co. Ltd (90%) and Aéroports de Paris Management (ADPM)<sup>10</sup>, a subsidiary of PARIS AEROPORT (ADP) Group with a 10% stake in a Private/Public Partnership (PPP).
100. ARL, incorporated in February 2000, is the owner and licensed aerodrome operator of Sir Gaëtan Duval Airport previously called Plaine Corail Airport, in Rodrigues. It must be noted that the Government of Mauritius is the main shareholder of ARL through AML which owns 100% of the ARL.
101. The Mauritius Duty-Free Paradise, which is engaged in the duty-free travel retail market, owns and operates all duty-free shops, over an area of 2200m<sup>2</sup> at SSR International Airport.

*10. Aéroports de Paris Management, for its part, founded in 1990, is a fully-owned subsidiary of the Paris Aeroport Group. The company is engaged in the operation of airports around the world, has designed, built and improved more than 200 Airports around the world. Moreover, the Paris Aeroport Group operates more or less 40 Airports worldwide, representing approximately 240M Pax per year. Mauritius Airport, as a part of this wide network, uses this high level of expertise and benchmark the Best International Practice applied to SSR International Airport.*

**Table 5: Airport infrastructure**

Airport Name	Domestic and/or International	Number of Parking Bays		Number of Runways
		Contact Bays	Remote Bays	
Sir Seewoosagur Ramgoolam International Airport	Domestic & International	16	1	1
Sir Gaëtan Duval Airport	Domestic	N/A	N/A	1

102. Air Mauritius is principally owned by the Government of Mauritius. The effective shareholding of Government, i.e., direct and indirect through state-owned entities such as Air Mauritius Holding Ltd, Airports of Mauritius Co. Ltd, State Investment Corporation Ltd and the National Pension Fund, amounts to 73.05%.

**Table 6: Shareholding structure of Air Mauritius Ltd**

Shareholders	Percentage (%)
Compagnie Nationale Air France	2.20
Air India	2.02
Government of Mauritius	6.62
Air Mauritius Holding Ltd*	40.35
Airports of Mauritius Co. Ltd*	20.88
The State Investment Corporation Limited*	3.59
National Pensions Fund*	1.61
Rogers and Company Limited	3.39
The Mauritius Development Investment Trust Co. Ltd	1.01
More than 25 shareholders	18.32

Source: Registrar of companies; (\* denotes state-owned entities)

103. In its capacity as a majority shareholder, the Government of Mauritius can potentially intervene, for instance, in the provision of financial aid or other such assistance in moments of crisis. Furthermore, shareholding aside, such a potential intervention can also occur in circumstances which calls for the survival of the sole national carrier of Mauritius.

## COMPETITION CONCERNS

104. The Commission has received various complaints related to the airline industry. However, thus far, only one matter disclosed reasonable grounds that warranted the launch of a formal investigation under the competition law. The investigation, code-named INV004 and launched in December 2009, was in relation to the possible existence of a collusive agreement between the Mauritius Association of IATA Travel Agents (MAITA) and Air Mauritius to fix the service fee level to be charged to clients on tickets issued in Mauritius for travel on Air Mauritius flights.

105. Such an agreement in principle constituted a breach of section 41 of the Competition Act 2007 (hereinafter referred to as the 'Act') in relation to the prohibition on price-fixing agreements between enterprises.

A mystery shopping exercise carried out by the Commission's staff indicated that many travel agents seemed to charge the identical service fees for the same flights.

106. Further evidence gathered during the investigation, among which the minutes of meetings between the MAITA and Air Mauritius, clearly indicated discussions of service fees which concluded with an agreed level higher than that originally suggested by Air Mauritius.

107. While the communications MAITA and Air Mauritius took place prior to the establishment of the Act which was promulgated in 2009, the agreement was found to continue to exist after the introduction of the Act and had continuing effects on the market. It was found that this agreement had affected the service fee structure as set in the market. The service fees in the market were substantially higher on average than they otherwise would be because they are determined at least in part by an agreement between Air Mauritius and MAITA.

108. Responding to a provisional report and before the Executive Director issuing its final report of investigation, Air Mauritius and the travel agent association issued circulars to travel agents noting that they were free to set service fees at any rate and should not be bound by the agreement. The Executive Director submitted its final report to the Commission in July 2010, noting that a breach of the Act had occurred. However, since the parties had already taken actions to render the agreement null and void, the Commission concluded that the imposition of directions was not warranted.

109. While no other investigations have been launched since 2009 in this regard, certain areas could in principle raise potential competition concerns. These are prominently about the basis on which BASAs are instituted and their implications on a comprehensive level.

110. In essence, BASAs can benefit the aviation industry by widening the markets through access to different routes, but at the same time they can also be somehow restrictive in nature. In fact, it can be argued that an agreement, for instance a codeshare on aspects such as seat capacity and pricing, can potentially shield the airlines who are parties to this bilateral agreement from actual competitive pressure from the market as it would

have been otherwise. These bilateral negotiations can therefore be narrowly focussed on the benefits to the airlines rather than the benefits to the consumers.

111. In fact, by leveraging mostly on BASA's, such strategy may potentially bring about anti-competitive effects in certain instances. In airlines markets, the two key barriers to entry at various places and times are typically the constraints on rights to operate commercial air services contained in BASAs and limited access capacity (slots)<sup>11</sup>. BASAs, where operators coordinate pricing, seat capacity, scheduling and which cooperate in other areas, may potentially reduce competition between the carriers as it would otherwise occur in an open market. This may lead to increased concentration in the market. To the extent that existing bilateral air service agreements restrict access to add or increase air service for existing and potential airlines, they may pose a substantial barrier to entry and competition.

112. That being said, as it is the case for Air Mauritius in its capacity of the national carrier of Mauritius, bilateral negotiations of such nature with other airlines can, in certain instances, bring about improved efficiency in terms of operational costs and greater consumer choice. Additionally, there may be increased competition about airline hubs that take shape through such bilateral agreements. Further data gathering, which are outside the scope of this study, may help in qualitatively identifying issues that may be arising concerning this particular aspect.

influenced by price of jet fuel, which represents a major cost element. The financial performance of Air Mauritius is largely affected by volatility in price of fuel as well as other factors such as employee costs and passenger traffic.

114. While Air Mauritius has experienced continuous growth in its revenue between 2015 and 2018 to increase by 10%, from EUR 463M to EUR 510M, in 2019, it fell by 3% to EUR 492M. The profitability of the company has been fluctuating as can be observed from Table 7. In 2019, Air Mauritius moved from an operating profit and net profit of EUR 18M and EUR 4M to a loss of EUR 33M and EUR 22M, respectively. This represents a 213% and 119% fall in the operating and net profit, respectively in 2019 compared to the 2018 figures. In 2019, the earnings before interest, tax, amortization and depreciation (EBITDA) of Air Mauritius also fell from EUR 34 M to EUR 12M or by 64%

115. As highlighted in the annual report 2018/2019, the big loss is largely attributable to a significant increase of 8.1% in their operating expenses from EUR465M to 510M. Costs in terms of their fuel costs which hiked by 17.5% (EUR 22.6M) and employee costs which rose by EUR 9.6M. The upsurge in the employee costs was mostly due to the new wage agreements signed with the various trade unions representing the interest of its employees. Moreover, the decline in the passenger load factor together with the lease of a new aircraft also contributed to the increase in their operating expenses.

## PROFITABILITY

113. Profitability is a key indicator of the performance of any company. That of airline companies are greatly

11. See Report by the International Transport Forum, OECD "Air Service Agreement Liberalisation and Airline Alliances. Available at: <https://www.itf-oecd.org/sites/default/files/docs/14airserviceagreements.pdf>

**Table 7: Financial statistics of Air Mauritius Ltd (EUR 000's)**

Details	2015	2016	2017	2018	2019
Revenue	463,128	488,341	494,788	509,589	492,319
Operating Profit/(Loss)	(16,387)	16480	23,118	18,484	(33,322)
Net profit/(Loss) for the year	(23,721)	15,401	26,932	4,502	(21,669)
EBITDA	15,341	51,981	64,240	33,996	12,388

Source: Air Mauritius Ltd Annual Report 2018/19

## MARKET SHARES

### Market Shares - Seat Capacity

116. Based on latest figures published by CAPA, the Centre

for Aviation, Air Mauritius is estimated to have a market share of around 48%, followed by Emirates (22%) and Air Austral (11%). These three airlines together hold more than 80% of total weekly seat capacity for flights to and from Mauritius. The figures are based on the weekly seat capacity offered by the various airlines operating in Mauritius for the week 11-Jul-2016 to 17-Jul-2016.

117. Table 8 shows the market shares in terms of the weekly seats of various airlines operating in Mauritius in 2016.

**Table 8 : Market Shares - Seat Capacity**

Airline	Weekly seat	%
Air Mauritius	38,010	48.1%
Emirates Airline	17,220	21.8%
Air Austral	8,584	10.9%
South African Airways	4,116	5.2%
Air France	2,106	2.7%
British Airways	1,518	1.9%
Turkish Airlines	1,716	2.2%
Condor Flugdienst	1,494	1.9%
Air Seychelles	1,360	1.7%
Evelop Airlines	676	0.9%
Eurowings	620	0.8%
Thomson Airways	594	0.8%
Comair (South Africa)	378	0.5%
Air Madagascar	328	0.4%
Meridiana	291	0.4%
Total	79,011	100%

Source: CAPA – Centre for Aviation

118. As highlighted earlier, Air Mauritius is the main carrier in the Mauritius airline industry with a market share nearing 50%. The considerable market share of over 20% held by Emirates can be explained by the fact that this route is mostly used as a hub to connect with the rest of the world.

119. An analysis of available figures of air passenger traffic for 2019 tends to confirm the dominant position of Air Mauritius. For instance, Air Mauritius reported in its Annual Report for the financial year July 2018-June 2019 to have offered approximately 2.3 million seats with a load factor of around 78% or 1.74 million passengers transported. This represents around 45% of the total air passengers travelled to and from Mauritius in 2019.

120. Figure 4 illustrates the number of seats offered, passenger carried and load factor by Air Mauritius.

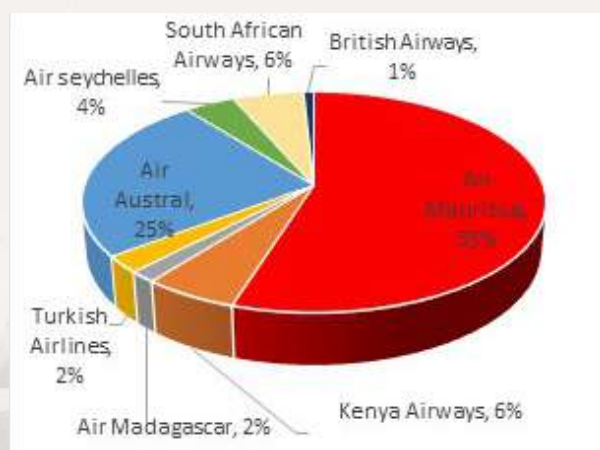
121. Similarly, an analysis of weekly flights at both the identified regional and international routes in terms of slots allocated to operators shows that Air Mauritius has over 50% total market share. Figure 5 and 6 show the combined market share of airlines operating on the regional and international routes based on weekly flights.

**Figure 4: Seats offered/passengers carried/load factor by Air Mauritius**



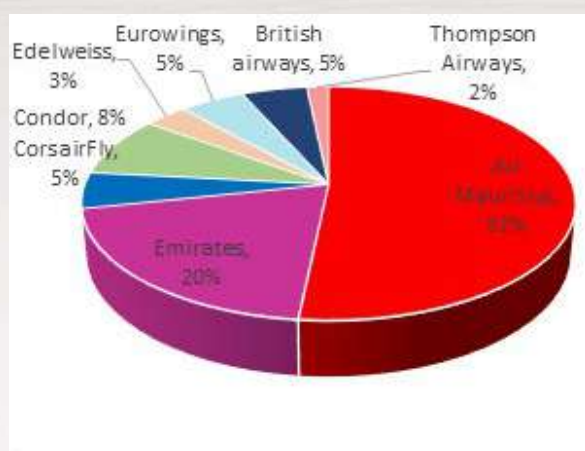
Source: Air Mauritius, Annual report 2018/19

Figure 5: Weekly slots allocated to regional flights



Source: Information gathered from operators' websites

Figure 6: Weekly slots allocated to international flights



Source: Information gathered from operators' websites

123. Based on the foregoing, it follows that Air Mauritius remains the main operator in Mauritius together with Emirates and Air Austral Airlines being significant operators in the Mauritian sky.

## PRICE COMPETITION

### Methodology

124. As of 2019, a total of 30 routes, consisting of 1 domestic route, 10 regional routes and 19 international routes, were served by the airlines operating in Mauritius. For the price analysis, 22 priority routes have been selected based on, inter alia, the share of tourist arrivals and departures by Mauritian residents. Those routes and the selection criteria are provided in Table 9.

125. A set of pre-determined dates capturing the peak and the off-peak period have been selected. The peak period dates are 1st, 4th and 6th November 2019, 11th, 13th and 24th December 2019. The off-peak dates are 1st and 5th February 2020, 12th and 14th February 2020 and 16th and 20th March 2020.

126. The price analysis is based on the outbound air fare obtained during a mystery booking exercise from the online booking portals of the various operators.

## Domestic

### MUR-RRG

127. Air Mauritius (MK), the only operator for the MUR-RRG route, offers 36 flights per week. It provides on average 6 flights every Fridays, Saturdays and Sundays and 4 flights per day for the rest of the weeks. A standard fare of USD 132 or USD 0.22/km, irrespective of flights' timing, was charged by MK to economy class (the only available class on flights in this route) for the period under consideration. Figure 7 shows the price trends for the MUR-RRG route.

## Regional

### MUR-CPT

128. The MUR-CPT route is operated solely by Air Mauritius (MK). MK offers 2 flights (1 in the morning and 1 in the afternoon) per week on Sundays and Tuesdays. On average, Air Mauritius charges USD 938 to economy class passengers and USD 906 to business class passengers.<sup>12</sup> As seen in Figure 10, airfares range between USD 911 and USD 1028 over the identified period; with the highest fare on 24th December 2019 and lowest in March 2020. During peak season, morning flights tend to be cheaper by 3%-4%

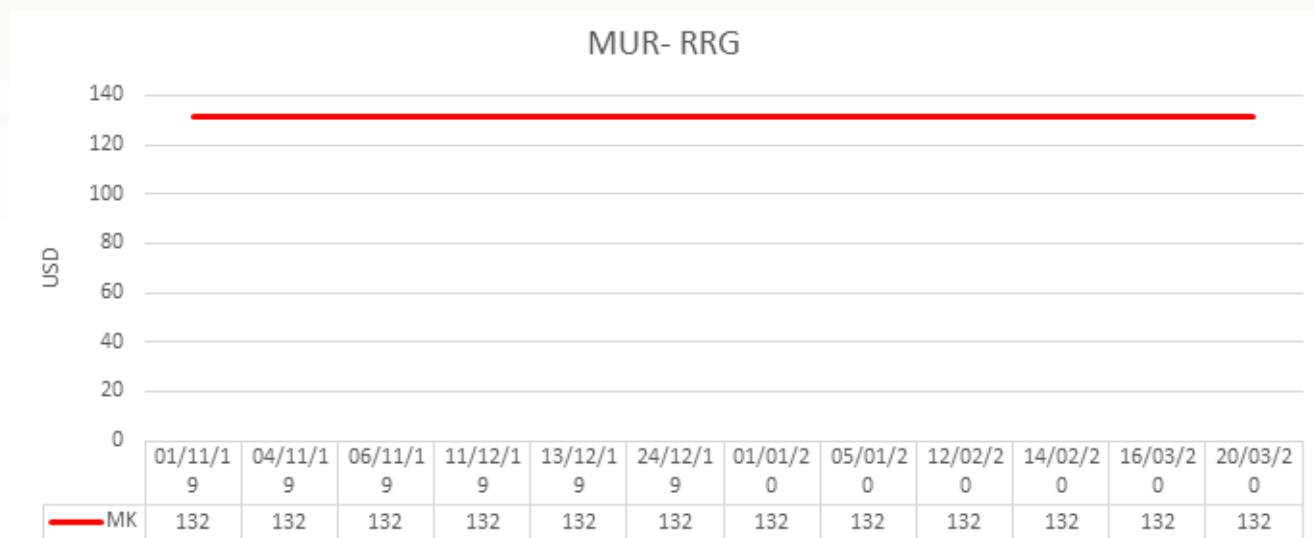
<sup>12</sup> It was observed that the price charged to the business class passengers were cheaper than that charged to the economy class passengers on the MUR-CPT route

Table 9: Priority Routes

No	Continent	Country	Destination	Route	Rationale
Domestic					
1	Africa	Mauritius	Rodrigues	MUR-RRG	This is the only domestic route, which is currently served by MK (the national airline) only.
Regional					
1	Africa	Kenya	Nairobi	MUR-NBO	We have selected 8 regional routes. These routes are served by MK and other airlines.
2	Africa	Madagascar	Tananarive	MUR-TNR	
3	Africa	Seychelles	Mahé	MUR-SEZ	
4	Africa	South Africa	Cape Town	MUR-CPT	For the first quarter of 2019, these regional routes accounted for 29% of the total tourist arrivals and 33% of the departure of Mauritian residents.
5	Africa	South Africa	Durban	MUR-DUR	
6	Africa	South Africa	Johannesburg	MUR-JNB	
7	Africa	France, Reunion	St Pierre Pierrefonds	MUR-ZSE	
8	Africa	France, Reunion	St Denis Roland Garros	MUR-RUN	
International					
1	Asia	India	Delhi	MUR-DEL	These 13 international routes have been selected based on (i) the number of departures and arrivals, (ii) frequency of flights and (iii) the potential for expansion based on the country's economic strategy. The selected international routes accounted for 52% of the total tourist arrivals and 55% of the departures of Mauritian residents for the first quarter of 2019.
2	Asia	India	Mumbai	MUR-BOM	
3	Asia	India	Bangalore	MUR-BLR	
4	Asia	India	Chennai (Madras)	MUR-MAA	
5	Asia	Dubai	Dubai	MUR-DXB	
6	Asia	Singapore	Singapore	MUR-SIN	
7	Europe	France	Paris Charles De Gaulles	MUR-CDG	
8	Europe	France	Paris Orly	MUR-ORY	
9	Europe	Germany	Cologne Bonn	MUR-CGN	
10	Europe	Germany	Frankfurt	MUR-FRA	
11	Europe	Germany	Munich	MUR-MUC	
12	Europe	United Kingdom	London Heathrow	MUR-LHR	
13	Europe	United Kingdom	London Gatwick	MUR-LGW	

Source: Competition Commission's data compilation

Figure 7: Price trend for MUR-RRG route



Source: Competition Commission's data compilation

compared to afternoon flights. In off-peak period, prices for both morning and afternoon flights are alike. On average, Air Mauritius charges USD 0.23/km on this route for economy class passenger category.

average, Air Mauritius charges USD 0.28/km for the economy class passenger category.

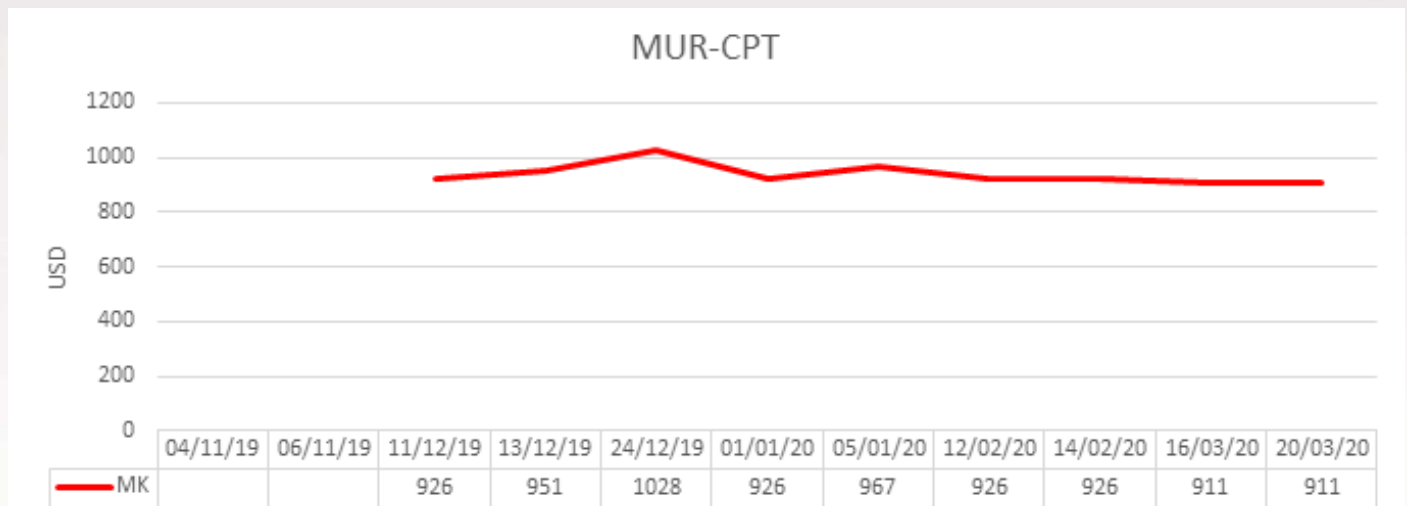
### MUR-JNB

### MUR-DUR

129. The MUR-DUR route is also operated exclusively by MK with 4 weekly scheduled morning flights. Economy class passengers were charged an average of USD 792 while business class passengers were charged an average of USD 866 over the identified period. Prices ranged between USD 736 to USD 886. In general, flights in the afternoon are found to be more expensive than the morning flights by 11%. The timing of flights and the period of the year tend to be important factors determining the pricing of the flights in this route. On

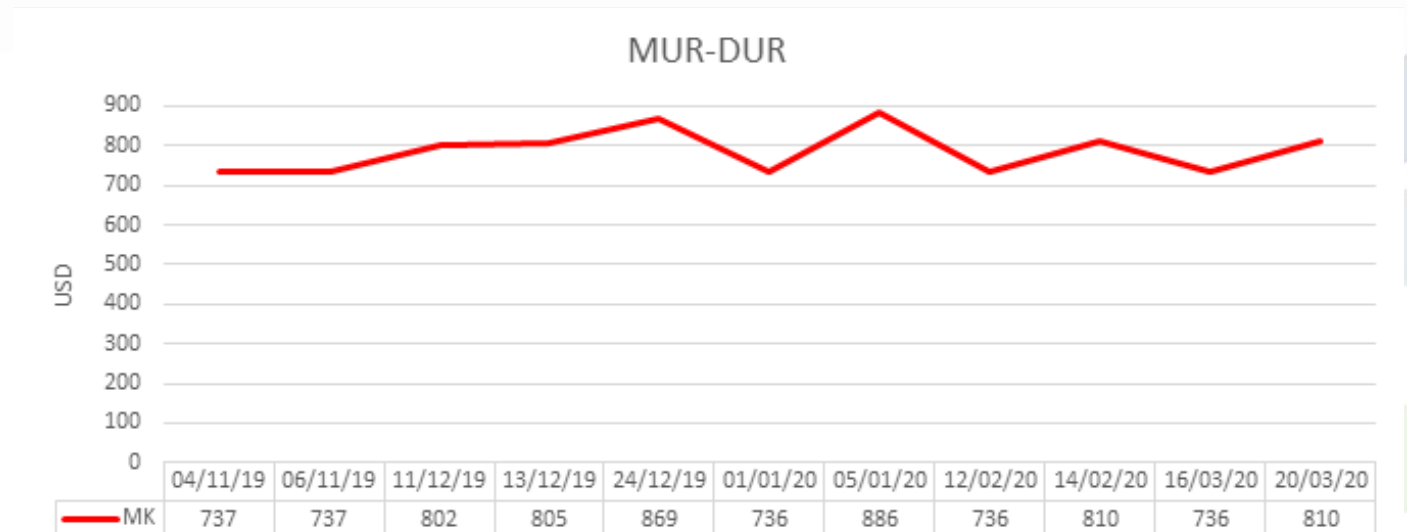
130. The MUR-JNB route is operated by both MK and South African Airways (SA). MK has one daily morning flight (around 09:30) and South African Airways has one daily afternoon flight (around 16:30). On average, MK and SA charged USD 502 and USD 416, respectively to economy class passengers and USD 859 and USD 860, respectively to business class passengers. In general, there are no major differences between the airfares charged by both MK and SA for morning and afternoon flights. However, afternoon flights tend to be more expensive than morning flights during peak periods. On average, Air Mauritius and South African

Figure 8: Price trend for MUR-CPT route



Source: Competition Commission's data compilation

Figure 9: Price trend for MUR-DUR route



Source: Competition Commission's data compilation

Airways charge USD 0.16/km and USD 0.14/km for the economy class passenger category respectively.

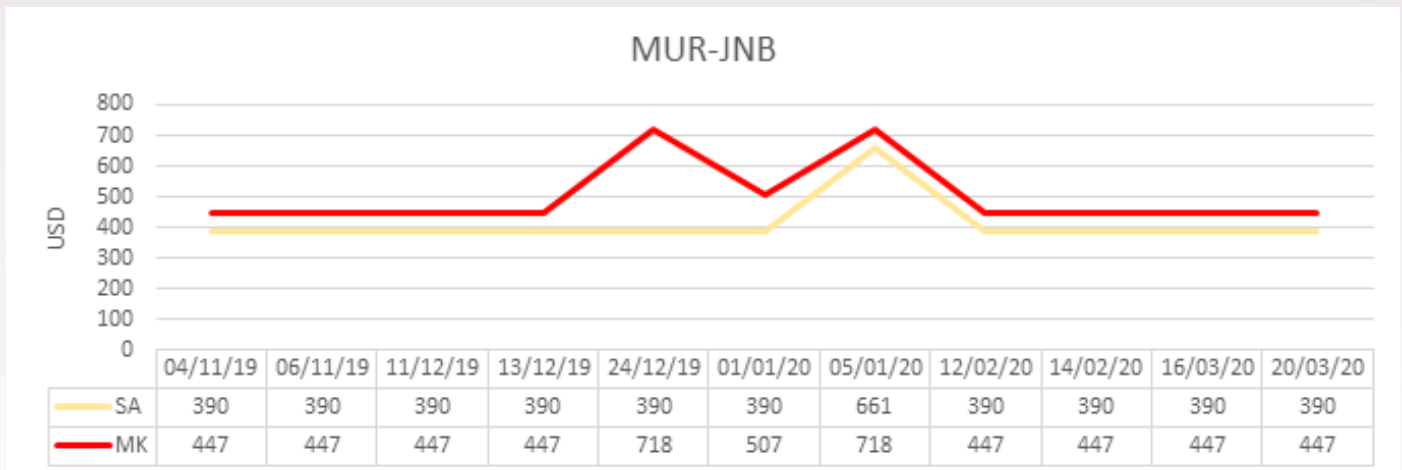
## MUR-RUN

132. The MUR-RUN route is operated by Air Mauritius (MK) and Air Austral (UU) with a total of 54 weekly flights offered. Air Mauritius and Air Austral respectively operate a total of 28 and 26 weekly morning and afternoon flights. On average, Air Mauritius charges USD 268 and Air Austral charges USD 262 to economy class passengers. This represents an average fare of USD 1.16/km for Air Mauritius and USD 1.13/km for Air Austral. There are no business class offerings on this route. The timing of flights and the period of the year does not seem to influence the airfares.

## MUR-NBO

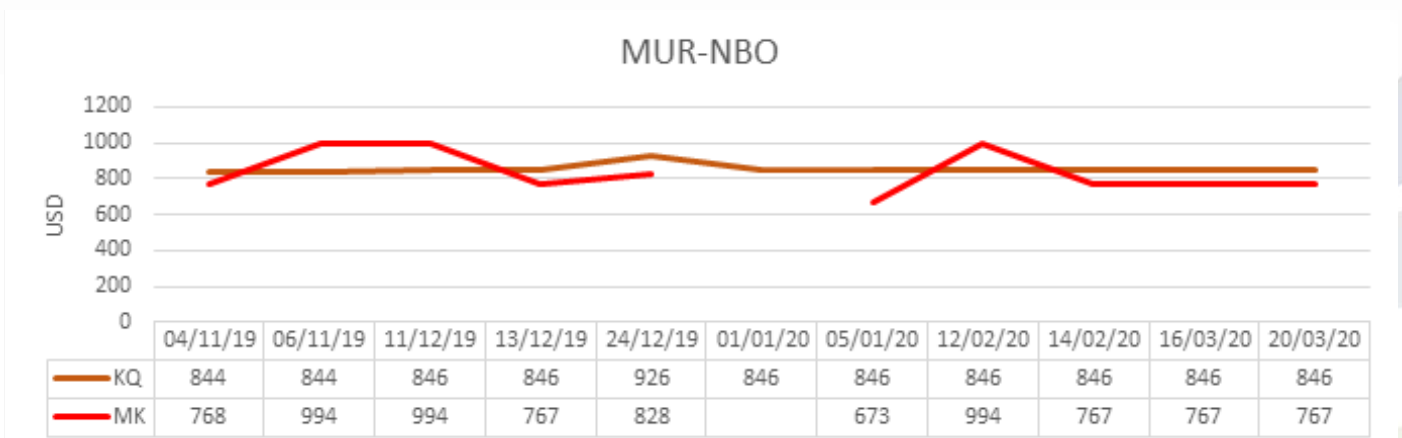
131. The MUR-NBO route is operated by MK and Kenya Airways (KQ). There are 10 weekly flights on this route, with Kenya Airways offering 7 flights on 4 days of the week and MK offering the 3 weekly flights. On average, MK and KQ charge USD 796 and USD 850, respectively to economy class passengers and USD 1,905 and USD 1,400, respectively to business class passengers. Prices charged by KQ is found to be higher than those of MK; on average by 3%. MK's prices averages USD 0.26/km and that of KQ averages USD 0.27/km for the same economy class passengers.

Figure 10: Price trend for MUR-JNB route



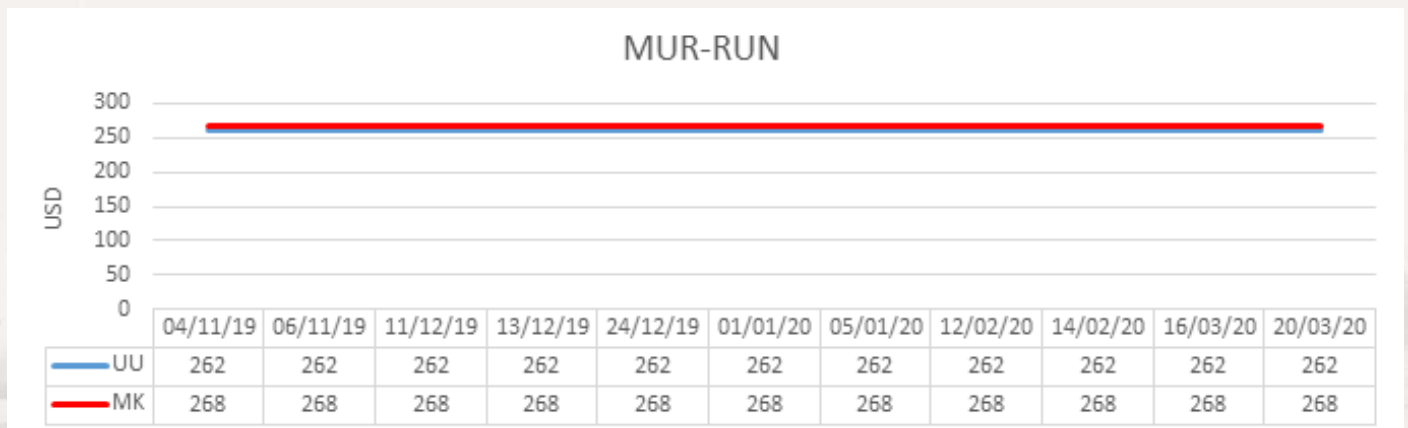
Source: Competition Commission's data compilation

Figure 11: Price trend for MUR-NBO route



Source: Competition Commission's data compilation

Figure 12: Price trend for MUR-RUN route



Source: Competition Commission's data compilation

### MUR-SEZ

133. The MUR-SEZ route is operated by MK and Air Seychelles (HM). There are flights almost every day on this route except for Saturdays. HM operates 5 out of the 7 weekly flights to Mahé. MK and HM each charges an average air fare of USD 323 to their economy class passengers and respectively USD 446 and USD 583 to their business class passengers. While the average air fares charged by MK remained constant at USD 323, the air fares of HM varied between USD 282 and USD 372. On average, Air Mauritius and Seychelles charge around USD 0.18/km for the economy class passenger category.

### MUR-TNR

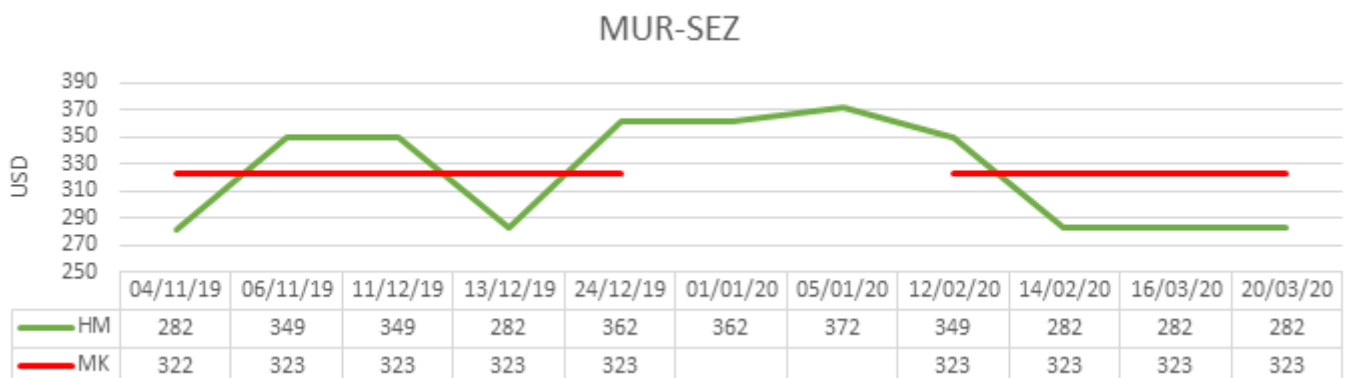
134. The MUR-TNR route is operated by MK, Air Madagascar (MD), and Turkish Airways. Price analysis for this route has been based on available data only for MK

and MD. MK has daily afternoon flights on this route. Out of the 12 weekly flights on this route, MD shares 2-morning flights and MK shares 7-afternoon flights. Comparing between the prices charged by MK and MD, on average, MK charged USD 310 to its economy class passengers and USD 749 to its business class passengers while MD charged on average USD 262 to economy classes passengers throughout the identified period with no business class offering (See Figure 16). The prices for both operators were constant over the period. The timing of flights and the period of the year do not seem to have a great impact on the prices of flights on this route. On average, Air Mauritius and MD each charge USD 0.29/km and USD 0.24/km respectively for the economy class passenger category.

### MUR-ZSE

135. The MUR-ZSE route is operated by MK and the Air Austral (UU). MK offers 14 weekly flights daily (1

Figure 13: Price trend for MUR-SEZ route



Source: Competition Commission's data compilation

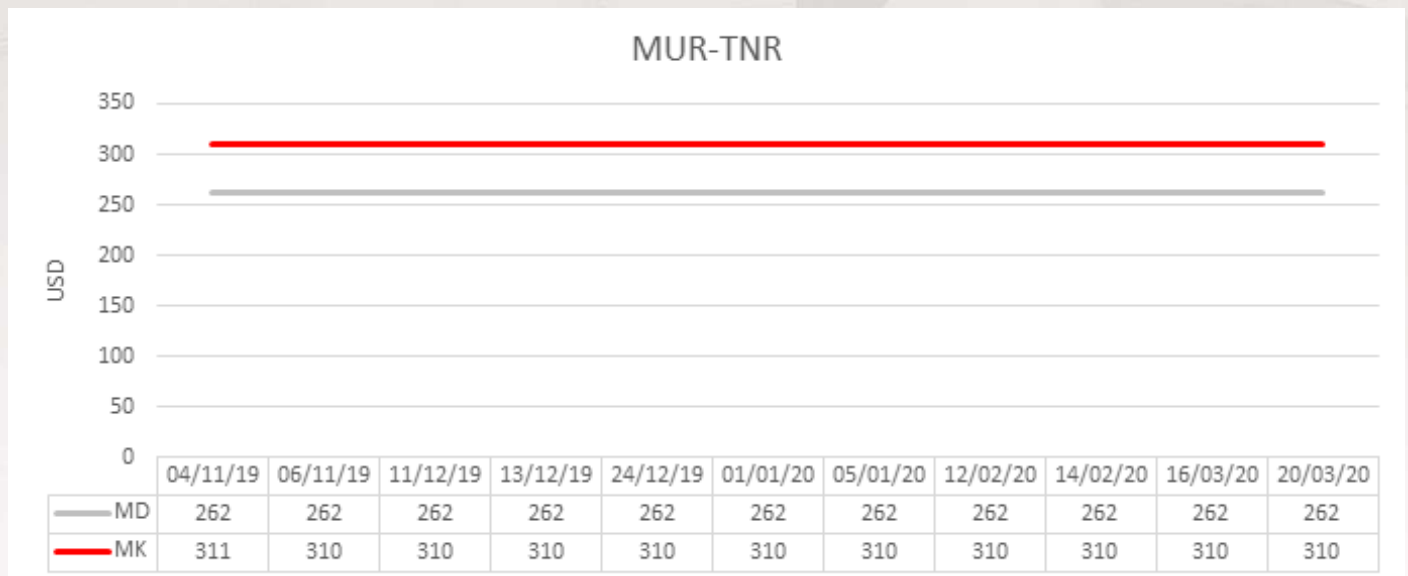
morning flight and 1 afternoon flight) and UU operates 4 weekly flights. On average, MK charged USD 268 and Air Austral charged USD 262 to economy class passengers. No business class offerings were noted for this route. The air fares for both operators were constant over the period; with that of MK being marginally higher than UU, i.e., by USD 6 or 2%. The timing of flights and seasonality does not seem to influence the air fare. MK and UU each charge an average of USD 1.05/km and USD 1.03/km, respectively for the economy class passenger category.

## International

### MUR-BLR

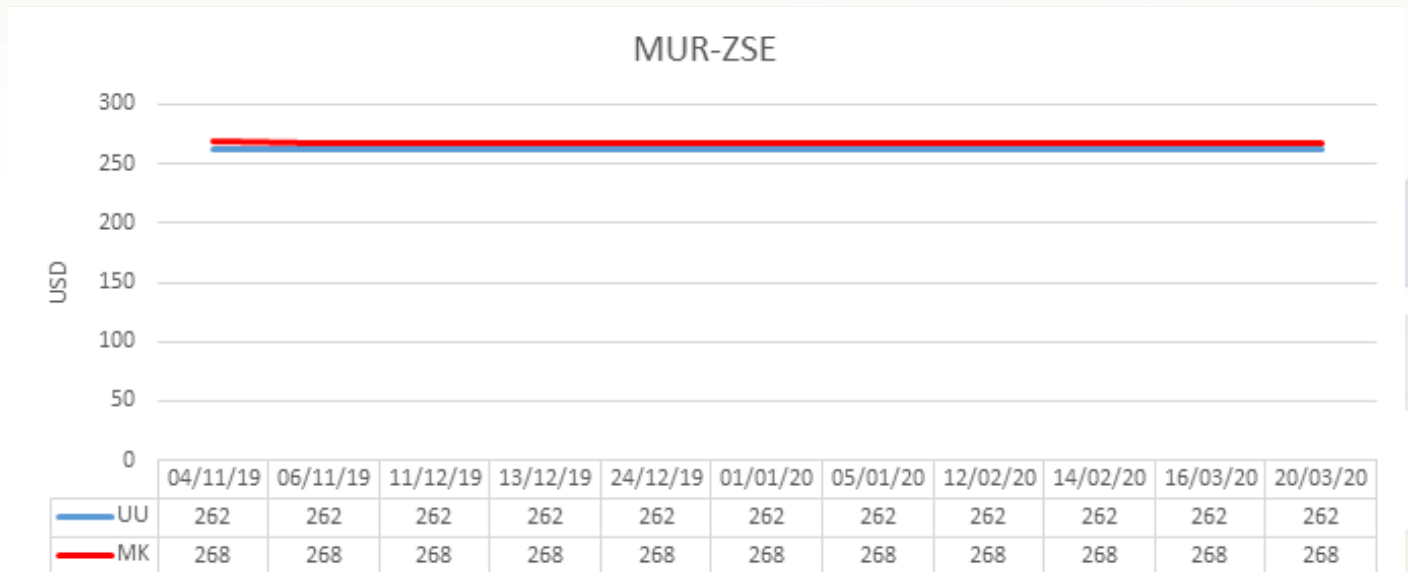
136. The MUR-BLR route is operated by MK. The latter offers 2 evening flights per week on Mondays and Thursdays. On average, MK charges its economy class passengers USD 632 and business class passengers USD 1,770. There does not seem to be much difference in air fare during peak and off-peak season. On average, MK charges USD 0.15/km for economy class passenger category.

Figure 14: Price trend for MUR-TNR route



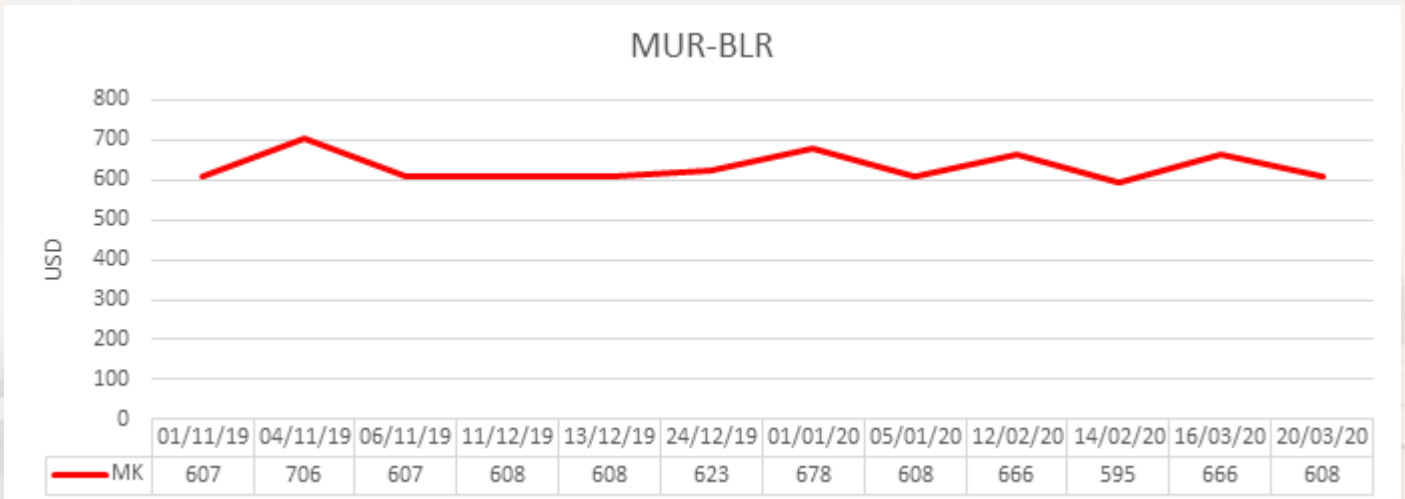
Source: Competition Commission's data compilation

Figure 15: Price trend for MUR-ZSE route



Source: Competition Commission's data compilation

Figure 16: Price trend for MUR-BLR route



Source: Competition Commission's data compilation

### MUR-BOM

137. The MUR-BOM route is operated by MK with 5 evening scheduled flights per week. On average, MK charges USD 684 to its economy class passengers and USD 1,596 to its business class passengers. Airfares were in the range of USD 651 and USD 707 with the lowest in November 2019. MK charges an average of USD 0.15/km for economy class passengers.

### MUR-CDG

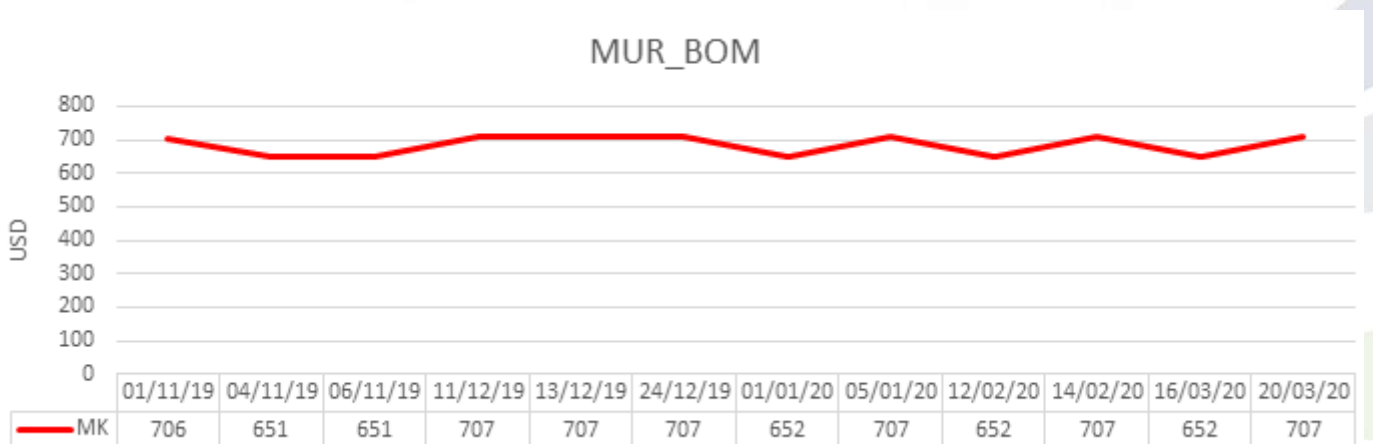
138. The MUR-CDG route is operated by MK, which has a code-sharing agreement with Air France (AF). There are 14 weekly evening flights on this route. MK charges on average USD 1,363 to its economy class passengers and USD 3,744 to the business class passenger. Air France USD 1,595 and USD 4,703 to its economy and business class passengers, respectively. In general, Air

France's prices are found to be approximately 17% higher than those of Air Mauritius. The average per Km air fare for economy class passengers amounts to USD 0.14 and USD 0.17 for Air Mauritius and Air France, respectively.

### MUR-CGN

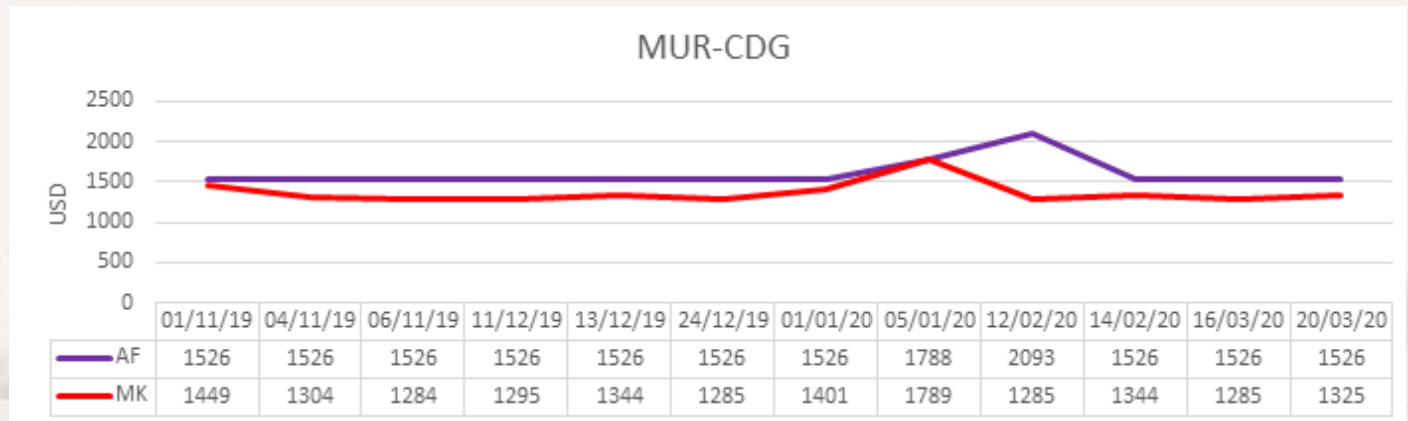
139. The MUR-CGN route is operated by British Airways (BA) and Deutsche Lufthansa AG (LH). BA and LH respectively charges an average of USD 1,463 and USD 1,620 to economy class passengers. Business-class passengers are charged on average USD 2,374 by BA and USD 4,124 by LH. As seen in Figure 19, economy class airfares range between USD 409 and USD 1,801 for BA and between USD 1,529 and USD 2,240 for LH. On average, BA and LH charge USD 0.16/km and USD 0.17/km respectively for the economy class passenger category.

Figure 17: Price trend for MUR-BOM route



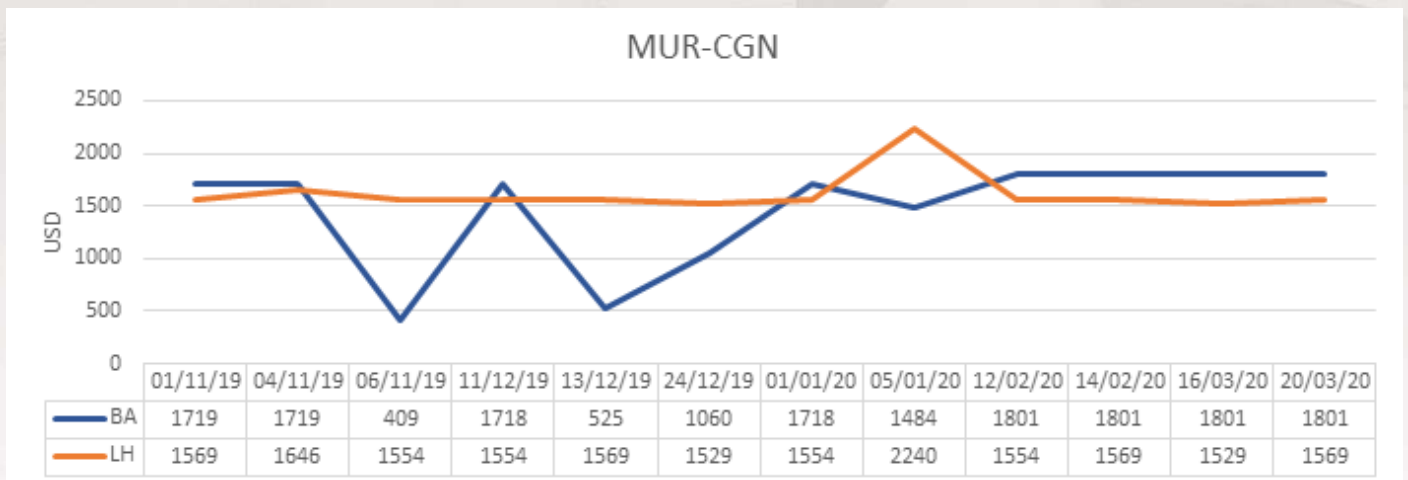
Source: Competition Commission's data compilation

Figure 18: Price trend for MUR-CDG route



Source: Competition Commission's data compilation

Figure 19: Price trend for MUR-CGN route



Source: Competition Commission's data compilation

## MUR-DEL

140. The MUR-DEL route is operated by MK with 3 scheduled evening flights per week. Economy class fares range between USD 634 and USD 761 for the period under consideration (See Figure 20) with an average of USD 698 or USD 0.12/km. The average airfare for business class passengers amounted to USD 1,670. The timing of the flights and seasonality do not seem to influence air fares on this route.

## MUR-DXB

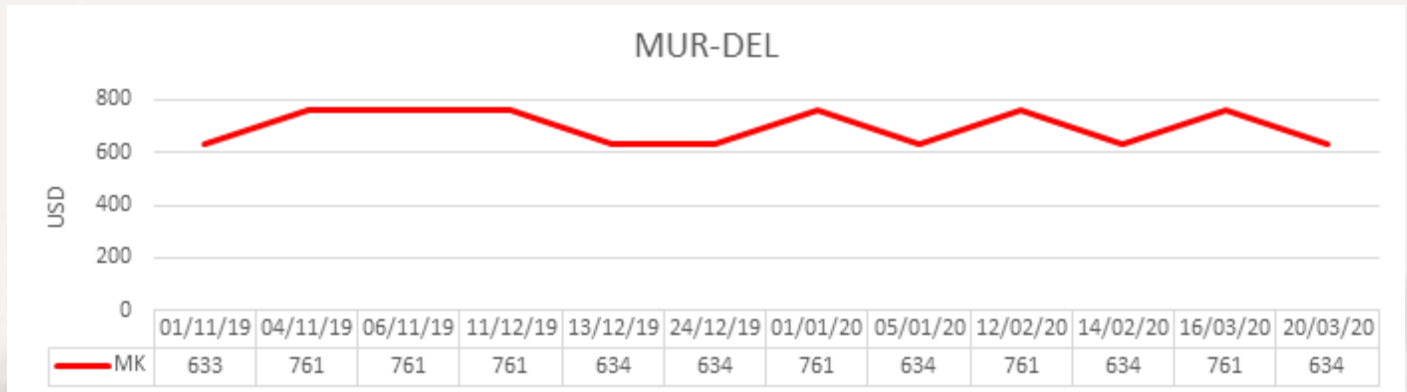
141. Emirates (EK) is the only operator on the MUR-DXB route. There are 14 weekly flights scheduled at the same time (16 45 and 23 00) daily. EK charges an average price of USD 1,050 to its economy class passengers and USD 2,010 to its business class passengers. As seen in Figure 21, the fares for the New Year period

tend to significantly higher on this route. EK charges an average of USD 0.21/km for the economy class passenger's category.

## MUR-FRA

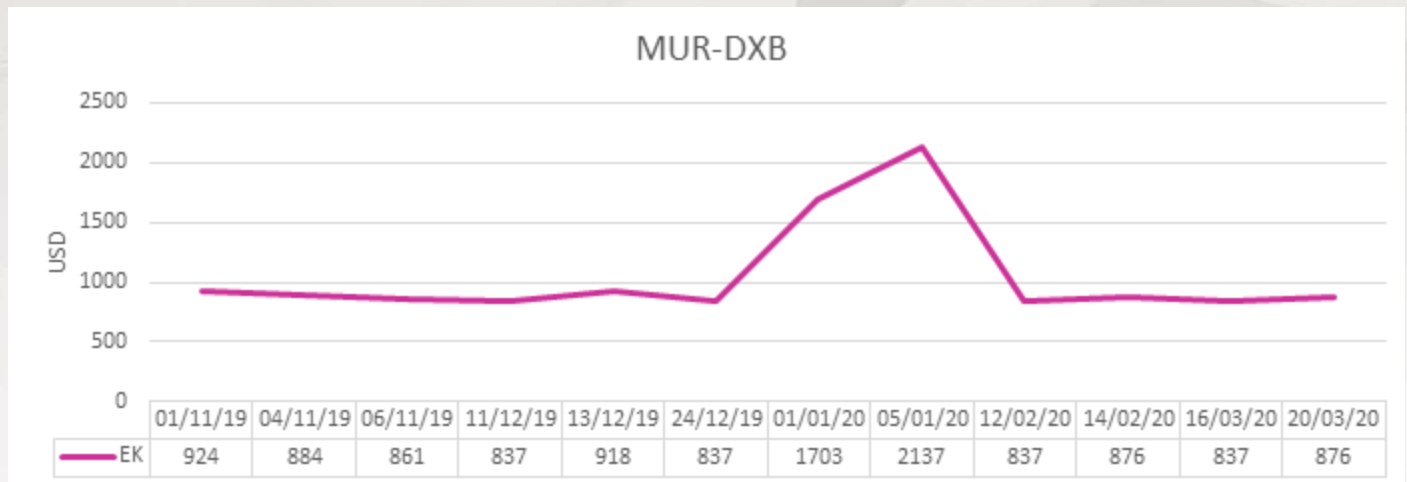
142. The MUR-FRA route is operated by Condor (DE) and Eurowings (EW) with a total of 9 morning flights per week. Economy class passengers are charged an average of USD 412 and USD 1,613 by DE and EW, respectively. While business class passengers are charged on average USD 2,161 by DE and USD 3,891 by EW. DE prices are nearly 4 times less expensive than those offered by EW (See Figure 22). DE and EW on average charge USD 0.04/km and USD 0.18/km respectively to economy class passengers.

Figure 20: Price trend for MUR-DEL route



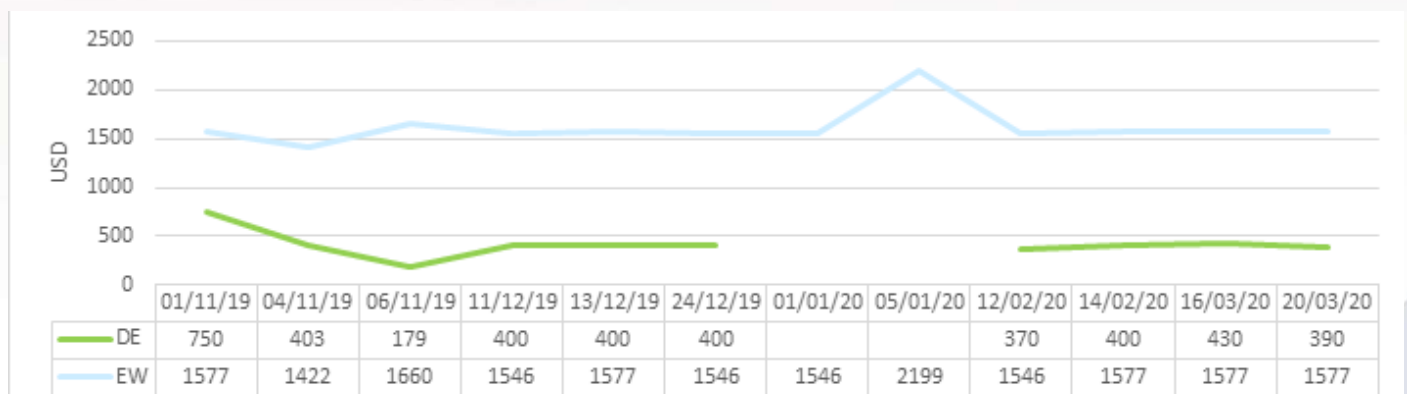
Source: Competition Commission's data compilation

Figure 21: Price trend for MUR-DXB route



Source: Competition Commission's data compilation

Figure 22: Price trend for MUR-FRA route



Source: Competition Commission's data compilation

## MUR-LGW

143. The MUR-LGW route is operated by British Airways (BA) and Thomson Airways (BY). BA serves 5 out of 6 weekly flights (both morning and afternoon). BA and BY charge an average of USD 999 and USD 420 to their economy class passengers. BA charges its business class passengers USD 3,525 on average and

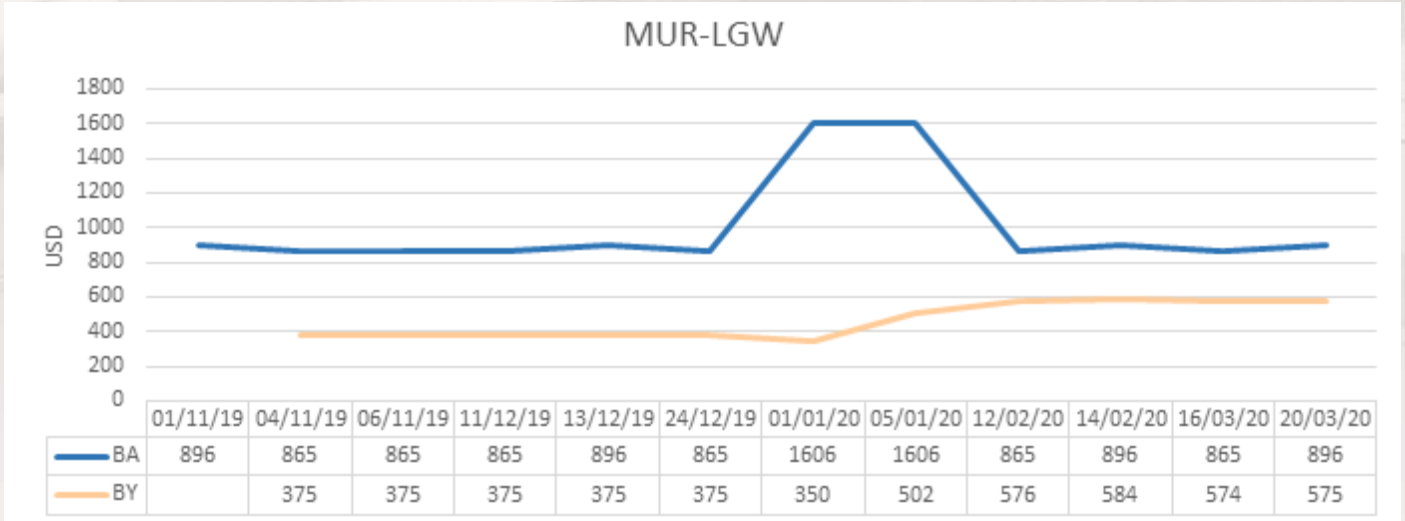
BY has no business class offerings. Prices offered by BA, which peaked in January 2020, were twice those offered by BY. BA and BY respectively charge an average of USD 0.10/km and USD 0.05/km for their economy class passengers.

## MUR-LHR

144. The MUR-LHR route is operated solely by MK with 3 evening flights per week. Economy class passengers are charged an average airfare of USD 1,513 and business class passengers USD 3,999 for the period under review. The prices ranged from USD 1336 to

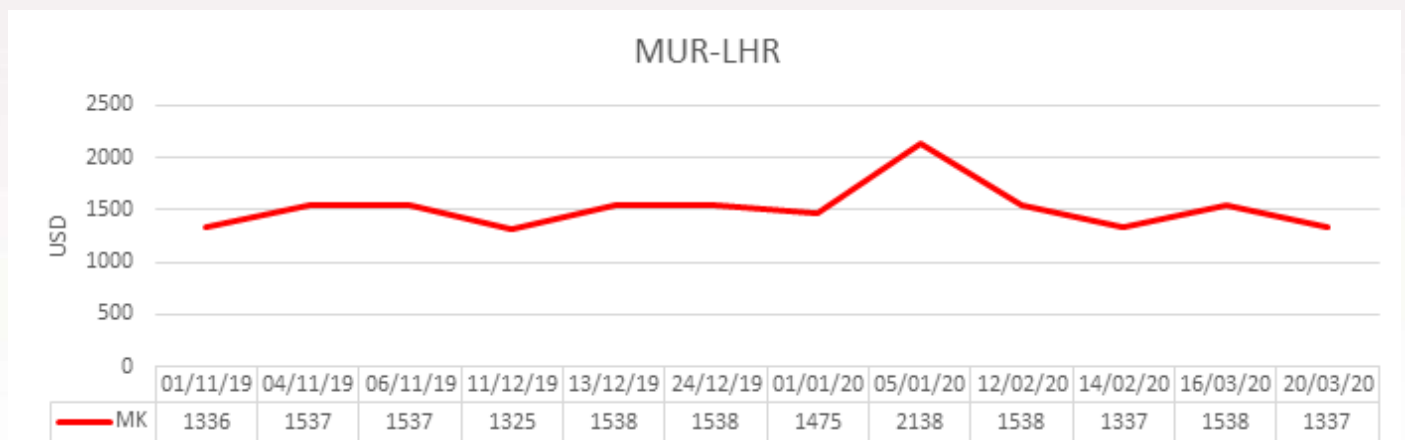
reach USD 2138 in the peak period (05/01/20). There were however slight fluctuations in the prices over the identified period as illustrated in Figure 24. Air Mauritius charges on average USD 0.15/km for the economy class passenger category.

Figure 23: Price trend for MUR-LGW route



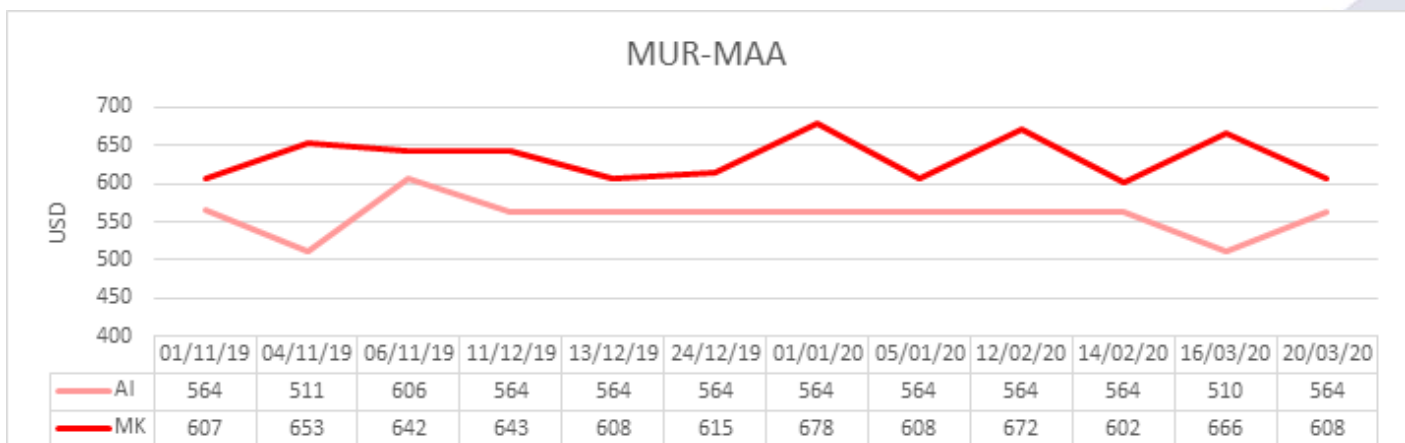
Source: Competition Commission's data compilation

Figure 24: Price trend for MUR-LHR route



Source: Competition Commission's data compilation

Figure 25: Price trend for MUR-MAA route



Source: Competition Commission's data compilation

## MUR-MAA

145. The MUR-MAA route is operated by MK under a code-sharing agreement with Air India. MK and Air India charge an average of USD 635 and USD 559 to economy class passengers, the business class passengers were charged USD 1,904 and USD 1,047, respectively. Prices of Air India, which are generally cheaper than those of MK, exhibit less variations compared to MK's prices. The timing of the flights does not appear to influence airfares on this route. On average, MK charges USD 0.14/km and Air India charges USD 0.13/KM for the economy class passengers.

## MUR-MUC

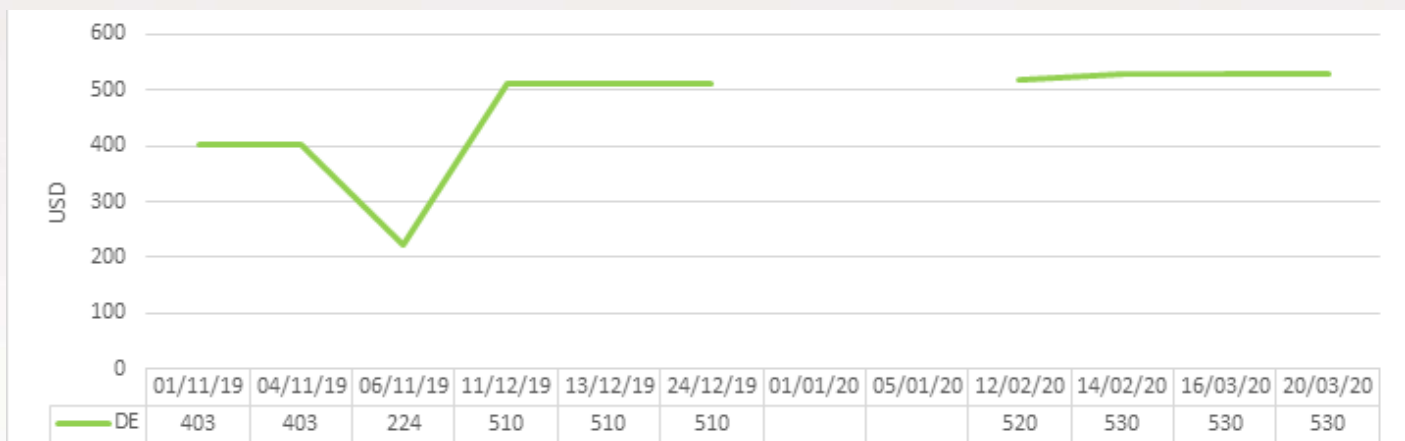
146. The MUR-MUC route is operated by Condor (DE), which offers a weekly morning flight on Sundays. DE

charges an average fare of USD 467 to economy class passengers and USD 2,183 to business class passengers. The average airfare of DE amounted to USD 0.05 per km for the economy class passenger category.

## MUR-ORY

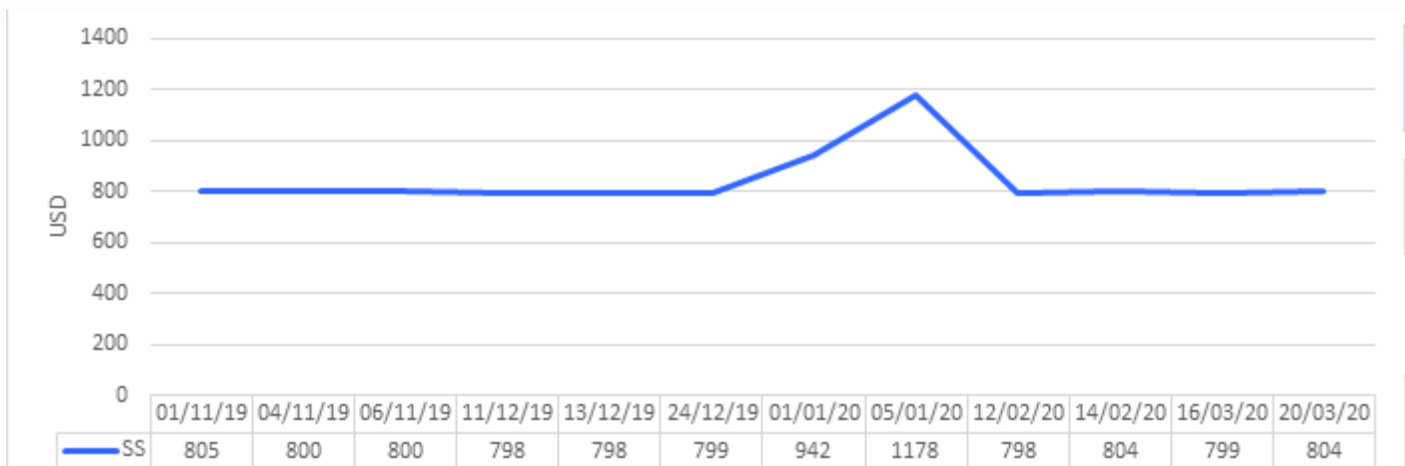
147. The MUR-ORY route is operated solely by CorsairFly (SS). SS offers 3 weekly flights with one scheduled in the morning and 2 in the afternoon. SS charged an average of USD 844 to its economy class passengers and USD 3,615 to its business class passengers. Some seasonality effect has been noted with air fares peaking in January. For instance, the economy class fare for 05th January 2020 was USD 1,178. The average airfare for economy class tickets amounts to USD 0.09 per km.

Figure 26: Price trend for MUR-MUC route



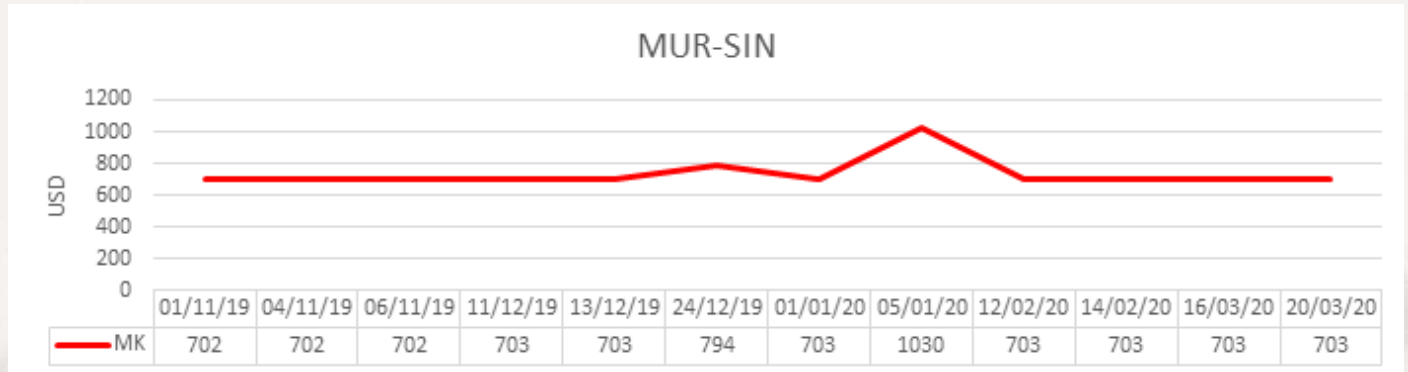
Source: Competition Commission's data compilation

Figure 27: Price trend for MUR-ORY route



Source: Competition Commission's data compilation

Figure 28: Price trend for MUR-SIN route



Source: Competition Commission's data compilation

## MUR-SIN

148. Air Mauritius is the only air operator on the MUR-SIN route. With 4 flights per week, all at the same time (20 40). MK charged an average of USD 737 to its economy class passengers and USD 2,190 to its business class passengers. Prices peaked on 05/01/20 at USD 1,030 for economy class tickets, which is 47% higher than the lowest price of USD 702, as seen in Figure 28. With all flights scheduled at the same time, the timing of year is more of a significant factor than that of the timing of the flights in determining the price on this route. Air Mauritius charges on average USD 0.13/km for the economy class passenger category.

## Analysis of average price per passenger per km (APPPK)

149. This section analyses the average price per passenger per kilometer (km) across the domestic, regional and international routes.

## Domestic

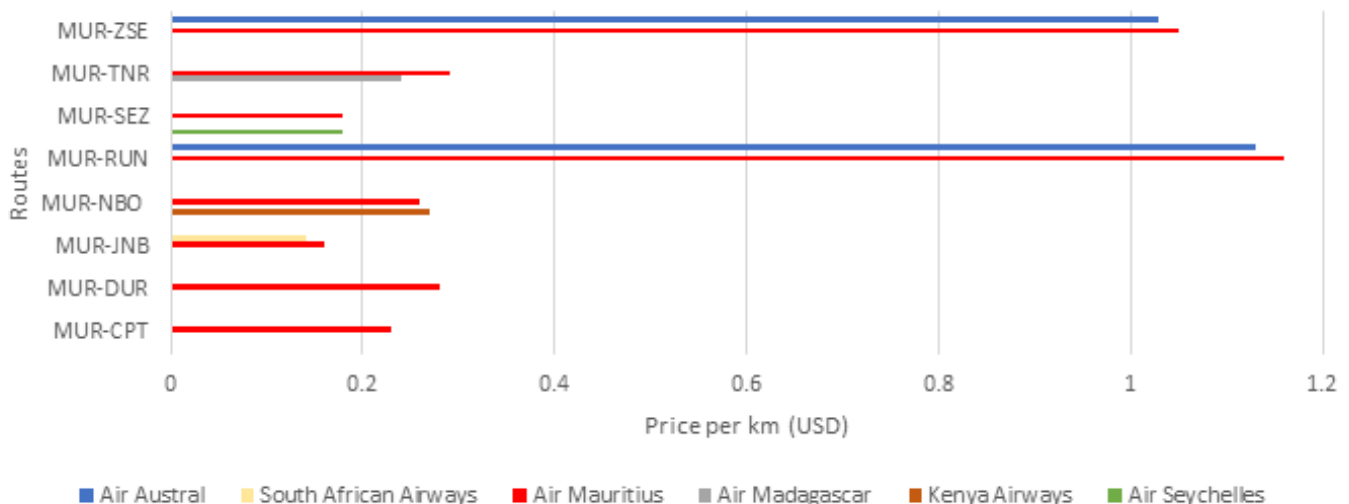
150. The only domestic route, MUR-RRG, has an APPPK of USD 0.22 per km. Rodrigues Island is 598 km away from Mauritius.

## Regional

151. The two routes to Reunion Island, MUR-ZSE and MUR-RUN, being closest to Mauritius (255 km and 232 km) have the highest APPPK of USD 1.04/km and USD 1.15/km, respectively. The MUR-NBO route, which is the furthest (3,093 km) to Mauritius has an APPPK of USD 0.27/km, as illustrated in Figure 29. On average, regional routes have an APPPK of USD 0.47/km.

152. The inverse relationship between distance and airfares is further confirmed by price-distance analysis across the different routes. It is found that the closer the route, the higher is the APPPK.

Figure 29: Regional APPPK per route per airline



Source: Competition Commission's data compilation

153. Except for the MUR-NBO route, MK is found to have higher APPPK across the various routes it operates along with other operators. Those routes are the MUR-ZSE, MUR-TNR, MUR-SEZ, MUR-RUN and MUR-JNB.

155. Like at the regional level, it is observed that airlines tend to charge higher airfares for shorter distance routes than the long haul. This is also confirmed by Figure 32 which shows the relationship between the distance and price.

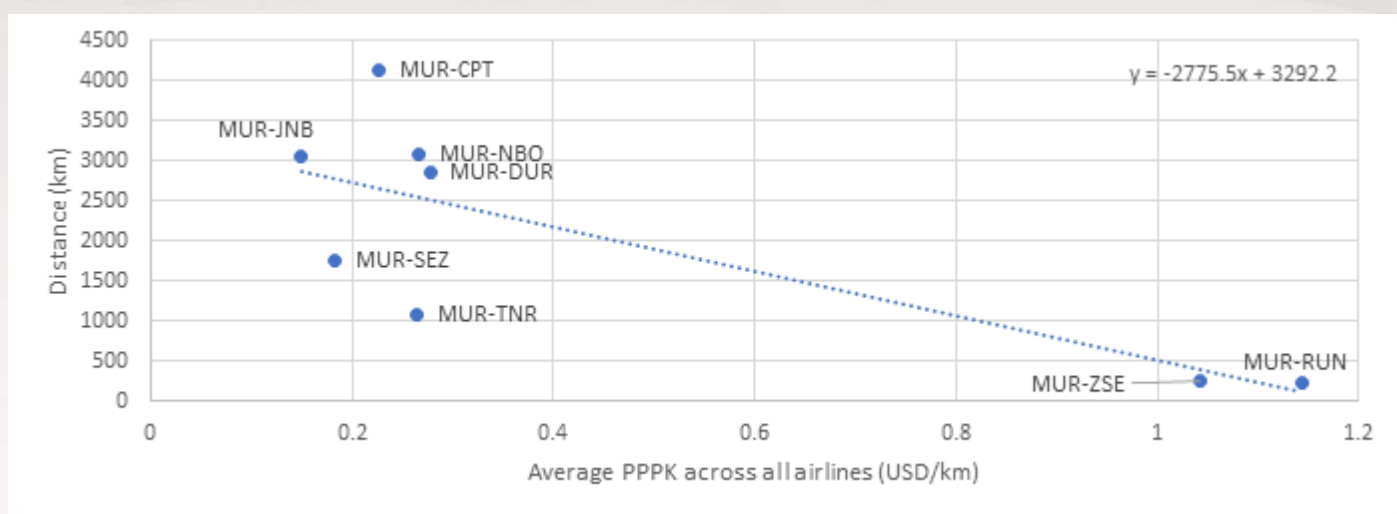
## International

## APPPK by operator

154. Out of the 13 identified international routes analyzed, the MUR-FRA route (Mauritius to Frankfurt, Germany) has the lowest APPPK of USD 0.04/km. The Dubai route MUR-DXB has the highest APPPK of USD 0.21/km. The average price per kilometer across all the international routes is USD 0.13/km.

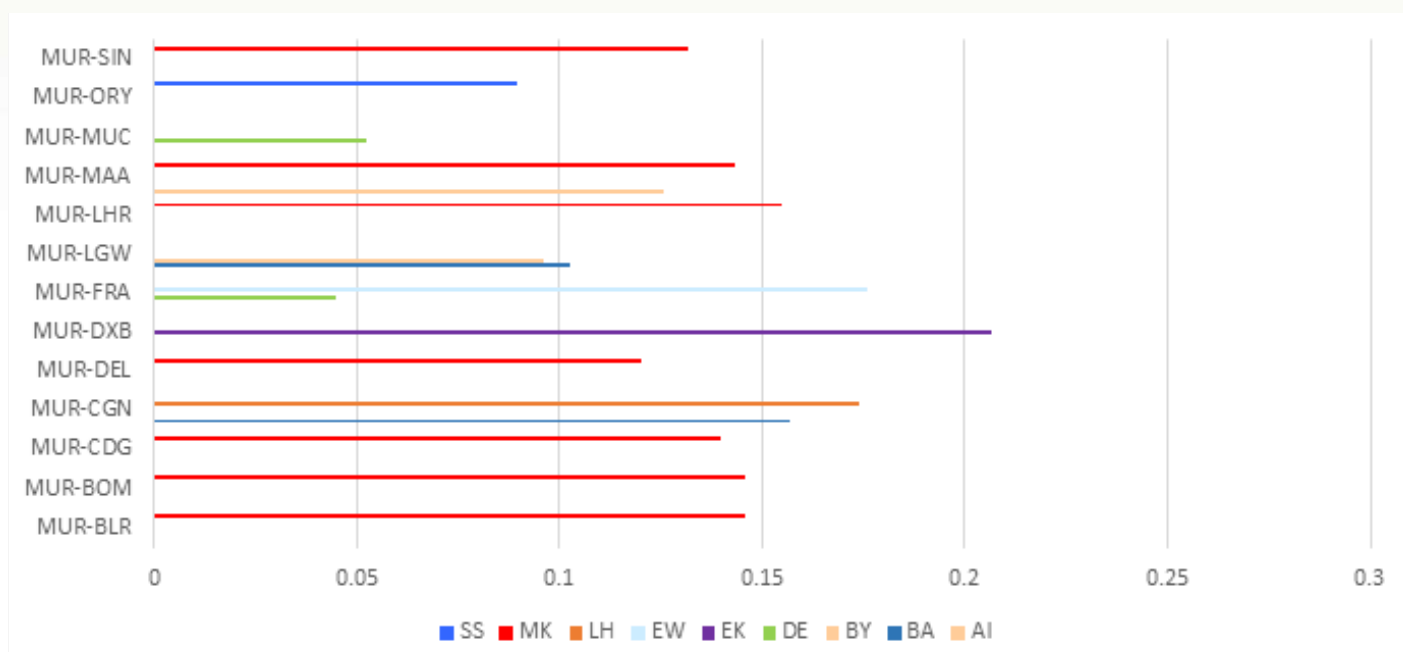
156. In terms of the APPPK by an operator, UU is found to have the highest APPPK across the 14 operators at USD 1.08/km. As illustrated in Table 10, MK and KQ then follow with an APPPK of USD 0.29/km and USD 0.27/km respectively. DE is the operator having the lowest APPPK of USD 0.05/km.

Figure 30: Regional Distance-Price Relationship



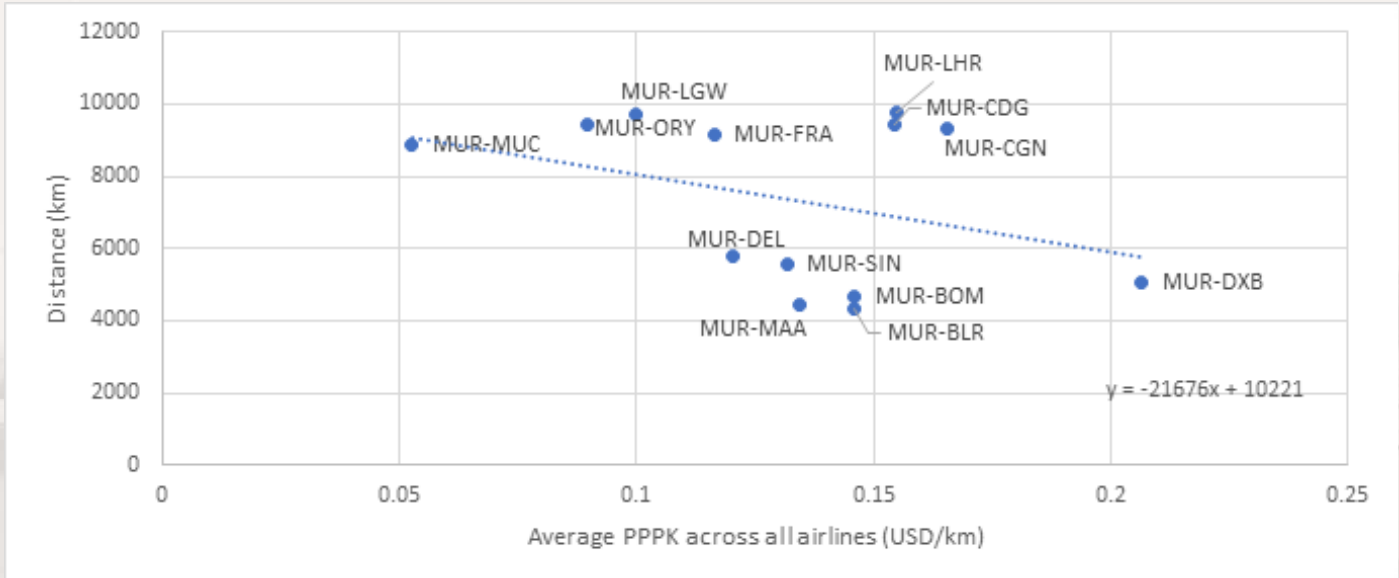
Source: Competition Commission's data compilation

Figure 31: International APPPK per route per airline



Source: Competition Commission's data compilation

Figure 32: International Distance-Price relationship



Source: Competition Commission's data compilation

Table 10: Average APPPK (USD) by operator

Operators	MK	HM	KQ	MD	SA	UU	AI
Average APPPK	0.29	0.18	0.27	0.24	0.14	1.08	0.13

Operators	BA	BY	DE	EK	EW	LH	SS
Average APPPK	0.13	0.10	0.05	0.21	0.18	0.17	0.09

Source: Competition Commission's data compilation

### Overall assessment

157. The assessment of airfares across both the regional and international routes illustrates the price dynamics across the different routes. MK which has been observed to have greater than 50% of the market share in terms of seat capacity and passengers traveling, is found to have a comparatively high APPK. UU which serves the route between Mauritius and Reunion, the closest route to Mauritius has the highest APPPK. Moreover, MK, EK, and the UK which have a considerable share of the routes, over 80%, be more expensive.

158. The only routes where MK is cheaper than other operators is the MUR-NBO at the regional level and MUR- CDG at the international level. It is however important to take into account the terms of various BASAs could be an important factor that influences airfares set by operators across the various concerned routes.

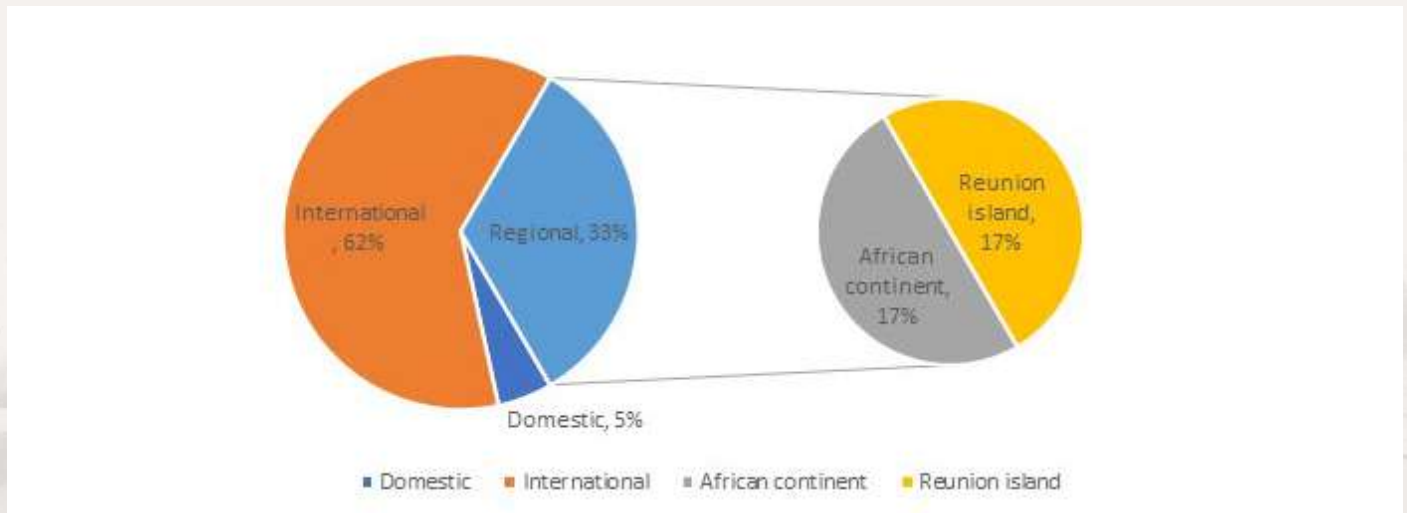
### IDENTIFYING REGIONAL AND CONTINENTAL PRIORITIES IN RESPECT OF THE AIRLINE INDUSTRY

159. As highlighted earlier, the total air passenger arrivals in 2019 for about 1.97 million. Of these, 650,000 for one-third constituted regional passengers. Half of the regional passengers traveled to Mauritius from neighboring Reunion Island and the other half of 17% of the total passenger arrivals came from Africa. Similar trends were observed for 1.98 million passenger departures for the 2019.

160. Figures 33 and 34 shows the percentage of arrivals and departures from the different domestic, regional, and international regions in 2019.

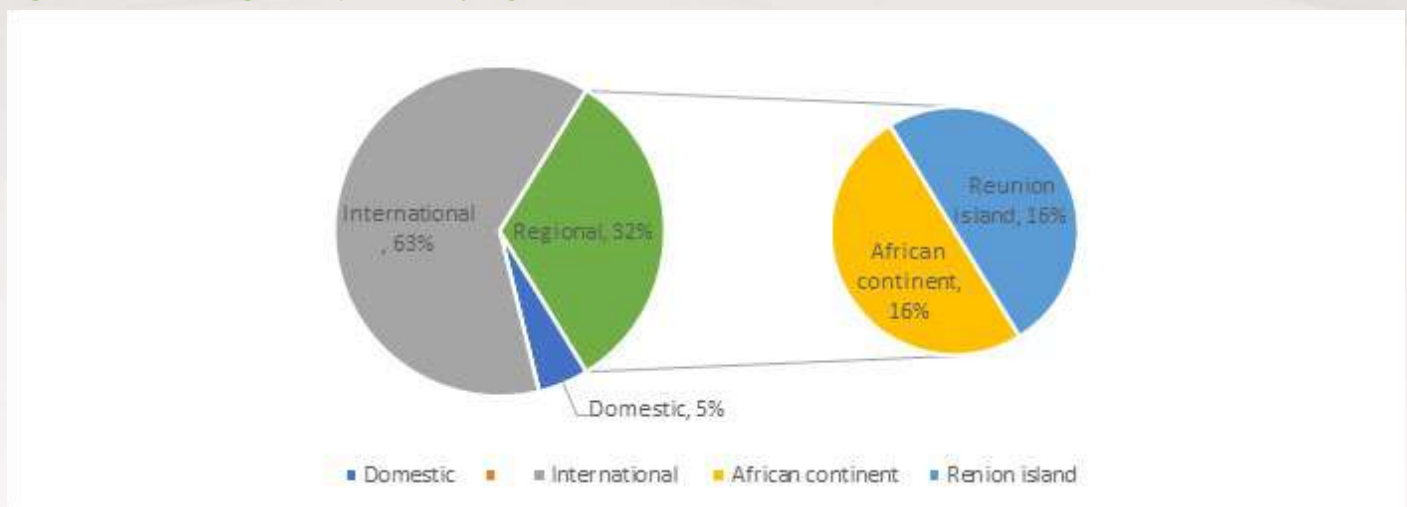
161. It follows from the above air passenger statistics that regional and continental markets are significant to Mauritius aviation and there is scope for expansion for further development for the aviation sector and competition in the region. In this optic, the African Union, COMESA, and SADC, supported by IATA and AFRAA, are actively encouraging African governments to open up their skies and implement the Single African Air Transport Market (SAATM), launched officially in 2018 with the intent of fully implementing the Yamoussoukro Decision.

Figure 33: Percentage of arrivals by region



Source: Digest of International Travel and Tourism Statistics, 2019

Figure 34: Percentage of departures by region



Source: Digest of International Travel and Tourism Statistics, 2019

162. Although Mauritius is still considering the Single African Air Transport Market, it is however constantly looking into the grant of air traffic rights under the current Bilateral Air Services Agreement framework. Up to date, 62 BASAs have been signed by Air Mauritius, out of which 21 relate to the African countries<sup>13</sup>. The BASAs are used as a strategic tool to leverage to broaden its network and geographical reach.

163. For instance, with the start of Kenya Airways operations between Mauritius and Nairobi as from June 2018, the codeshare agreement between Air Mauritius and Kenya Airways has been converted into a bilateral codeshare arrangement, whereby each airline codeshares on the other airline's flights between Mauritius and Nairobi.

13. The African countries are Botswana, Seychelles, Comoros, Republic of Congo, South Africa, Egypt, Ethiopia, Eswatini, Tanzania, Uganda, Zambia, Kenya, Zimbabwe, Madagascar, Malawi, Mozambique, Namibia, Republic of Côte d'Ivoire, Nigeria, Rwanda and Ghana.

164. As a matter of fact, on the international level, the crystallization of the joint venture between Air France and Air Mauritius has opened up routes from Mauritius to 41 destinations in 11 European countries (Spain, United Kingdom, Germany, Austria, Italy, Switzerland, Netherlands, Sweden, Norway, Denmark, and domestic points in France) through code sharing. The codeshare agreement between Air Mauritius and Emirates covers the trunk route Mauritius–Dubai–Mauritius as well as beyond Dubai and Mauritius destinations. Air Mauritius codeshares beyond Dubai to Cairo, Karachi, Colombo, Riyadh, Dammam, and Jeddah whereas Emirates codeshares beyond Mauritius to Antananarivo.

165. In the same breath, the codeshare agreement between Air Mauritius and Air India covers the Air Mauritius-operated flights between India and Mauritius as well as beyond Mauritius and domestic Indian codeshare

sectors. There are 8 domestic Indian destinations (Delhi, Mumbai, Bangalore, Chennai, Goa, Ahmedabad, Hyderabad, and Kolkata) onto which Air Mauritius codeshares. Air India codeshares, beyond Mauritius, to Perth, Johannesburg, and Durban.

166. To stimulate all-inclusive growth and reduce competitive barriers, a governmental policy under the appellation 'Vision 2030' has been elaborated. As part of this policy, the Mauritian government is aiming to attain two million tourists by 2030, increase tourism earnings to the tune of 120 billion and create 36,000 additional direct jobs in the sector. To achieve such objectives the government is implementing the following four strategies:

- 166.1 Strategy 1 - To intensify the visibility of the destination.
- 166.2 Strategy 2 - To improve accessibility to the destination.
- 166.3 Strategy 3 - To enhance the attractiveness of the destination.
- 166.4 Strategy 4 - To foster sustainable tourism development.

167. The policies and objectives generally set by the Government of Mauritius do englobe an impact on the regional countries and the African continent. For example, by intensifying the visibility of Mauritius as a world-class destination in the world (Strategy 1), Africa is also included. Moreover, Strategy 2 which seeks to improve accessibility to Mauritius has the objectives among others to encourage tourism operators to tap emerging and new markets and to enlarge the tourism source markets, and reduce dependence on Euro Zone. By reducing dependence on non-euro tourism which is presently the major region where tourists are sourced, tourist arrivals from Africa and Asia are likely to be promoted.

## CONCLUSION

168. The aviation sector, as mentioned previously, is paramount to the socio-economic development of the Mauritian market due to its geographical predisposition. For a remote island country like Mauritius, air transportation remains the most efficient

and effective way of pursuing intra-state connections, whether for leisure or business purposes. Duly acknowledged by the Mauritian government, significant policy considerations have been and are being given the growth of the aviation industry. Regulatory and structural reforms to stimulate sustained growth have been instituted.

169. These developments are geared towards expanding the number of tourist arrivals by opening access to a multitude of air routes and increasing seat capacity. To cope with the projected increased traffic, there has been enhancement in the number of terminals and improvement in the related services associated with the national airports.

170. There may be areas, however, where issues may potentially crop up. Most notably, this expansion of air access has been possible through the negotiation of BASAs, totaling 62 as of 2019. BASAs are indeed a great tool for achieving such structural and policy objectives, but they have their potential shortcomings. Simply put, a code-sharing agreement may be seen by today's passengers as a means to fly on a bigger network even though they are using the same airline.

171. Nevertheless, BASAs setting out in aspects such as seat capacity and pricing, in a restrictive manner, can potentially shield the airlines who are parties to this bilateral agreement from actual competitive pressure from the market as it would have been otherwise. Such agreement may be said to be centered on the benefits of the airlines rather than the benefits to the consumers. That being said, there may be operative justifications for opting for BASAs rather than open liberalization. These justifications can be in the form of protecting the national interests of a country regarding its national carrier, as can be presumed for the case of Air Mauritius, reduced operational costs, greater consumer choice as well as the loading factor or simply the costs for sustaining the viability of an airline.

172. Such an assertion may explain the fact why the top 3 airlines, namely Air Mauritius, Emirates Airline, and Air Austral, control such a significant share of seat capacity and market share. Comparing their airfares, their average price per kilometer per route is more expensive than the other operators. Despite Reunion

Island being close to Mauritius, Air Austral has the highest APPPK. Air Mauritius is next and is followed by Kenya Airways and Emirates.

173. One of the ways to overcome such inadequacies may reside, for instance, in implementing policies aimed at crystallizing intrinsic regional expansion and integration with the African continent. While Mauritius has taken the first few steps in terms of foreign policy by slowly striving towards a more liberalized market, there is always room to improve the current market dynamics and making the market more competitive; especially in routes where only one operator is serving. Such a course of action can only bring further competition and actual freedom of choice to the benefit of the consumers.

# CHAPTER 5: MAURITIUS

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(COVID-19 ADDENDUM CHAPTER)



## INTRODUCTION

1. The outbreak of the COVID-19 pandemic has stirred the whole world. The sudden emergence of this highly contagious and deadly virus forced most governments into adopting rapid and severe actions, including restrictions on the mobility of people. Mauritius is no exception. Upon recording its first three Covid-19 cases, the Mauritian government imposed a complete lockdown on 20th March 2020, which remained effective until 30th May 2020. This drastic measure, inter alia, involved the shutdown of our airport thereby sealing our borders from the rest of the world. Borders remained officially closed until September 2020, though some special flights were allowed for the repatriation of stranded Mauritians and transportation of cargo, in particular medical supplies.
2. With no new local COVID-19 cases since 26th April 2020, internal mobility restrictions have been removed; albeit some sanitary rules to be observed in public places. Borders are gradually being opened since 1st October 2020 and a limited number of destinations are being served by a few airline companies. Sanitary measures such as compulsory quarantine requirements are in place for all arrivals. While new imported cases have been detected in quarantine and handled accordingly, the country remains a COVID-safe destination.
3. The previous sections of the Report focussed on the assessment of the competitive dynamics in the airline industry under normal circumstances, i.e., before the COVID-19 pandemic. This section examines the impact of COVID-19 on the airline industry. It describes the prevailing situation in terms of actual trends in flights' and passenger traffic statistics and potential impact with the demand and supply shocks. The impact of the pandemic on the financial situation of Air Mauritius, the national carrier, is also discussed. Finally, some of the strategies put forward by the government to revive the aviation industry in Mauritius are highlighted.

## OVERALL IMPACT OF COVID-19 ON THE AIRLINES' INDUSTRY

4. The closing of borders between 20th March and 30th September 2020 led to a drastic drop in the number of flights and passengers. During this period, only repatriation and cargo flights were allowed.
5. As of the 1st of October 2020, travel restrictions have been eased with the phased re-opening of borders. In the first phase, designated international flights were arranged for mainly the repatriation of Mauritian residents and holders of work/occupational permits. In the second phase, which began on 1st November 2020, commercial passenger flights to and from selected destinations have resumed. Tourists can travel to Mauritius for long stays. The complete re-opening of the borders, however, remains uncertain as it will depend on the evolution of the COVID-19 pandemic<sup>1</sup> around the world.
6. Table A.1 provides international air traffic figures for the period March-August 2020. It can be observed that the number of international flights over the six month-period March-August 2020 was 280 for arrivals and 241 for departures.

**Table A.1: Air traffic for the period March-August 2020**

Month	International Flight Arrivals			Total
	Pax	Cargo	Combined	
March	44	2	19	65
April	3	7	1	11
May	1	20	7	28
June	6	42	13	61
July	9	40	10	59
August	2	42	12	56
<b>Total</b>	<b>65</b>	<b>153</b>	<b>62</b>	<b>280</b>
Month	International Flight Departures			Total
	Pax	Cargo	Combined	
March	2	14	9	25
April	3	14	0	17
May	1	23	2	26
June	3	43	12	58
July	1	47	6	55
August	4	48	9	61
<b>Total</b>	<b>14</b>	<b>189</b>	<b>38</b>	<b>241</b>

Source: Data submitted by the Civil Aviation Department

1. See article "Prime Minister announces a phased reopening of borders" by Mauritius Tourism Promotion Authority dated 1st September 2020. Available at: <https://www.tourism-mauritius.mu/en-int/mauritius/news/prime-minister-announces-phased-reopening-borders>

7. A comparison of air traffic for the period March-August 2020 with corresponding months in 2018 and 2019 clearly illustrates the negative impact of the COVID-19 pandemic on the local aviation industry.

**Table A.2: Air Traffic for period March – August 2018, 2019 and 2020**

International Flight Arrivals			
Year	2018	2019	2020
Cargo	17	12	189
Passenger (Pax)	4,808	4,893	14
Combined	0	0	38
Total	4,825	4,905	241
International Flight Departures			
Year	2018	2019	2020
Cargo	17	12	153
Passenger (Pax)	4,808	4,893	65
Combined	0	0	62
Total	4,825	4,905	280

Source: Data submitted by the Civil Aviation Department

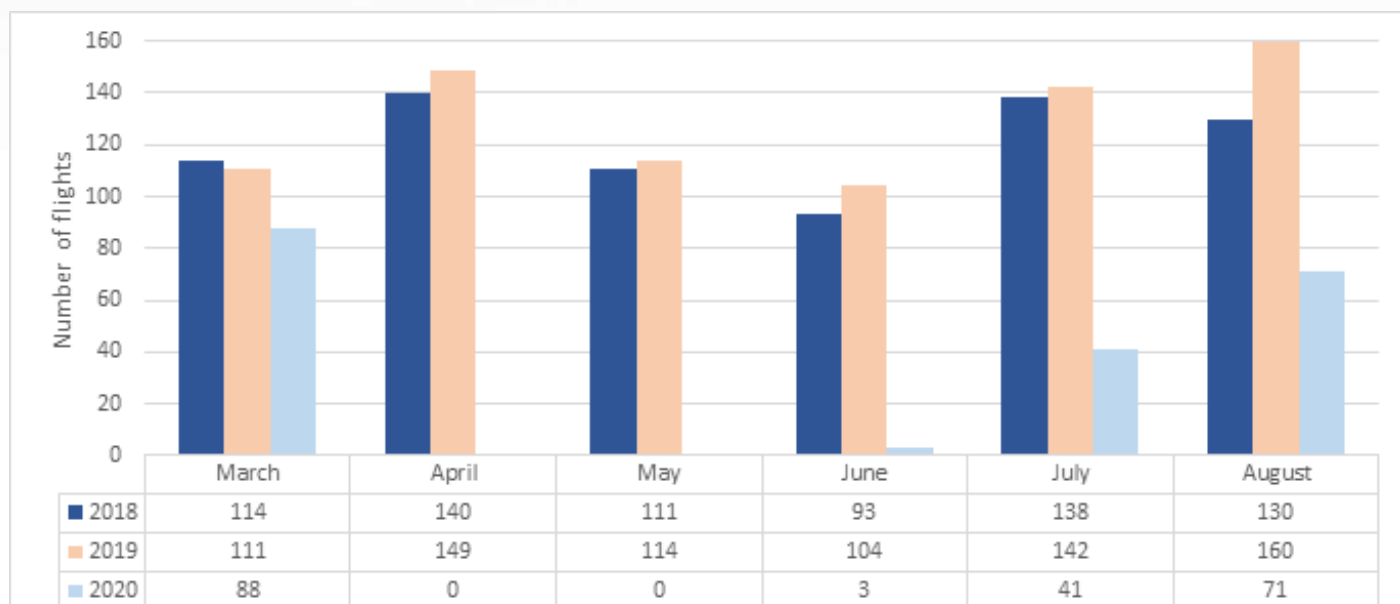
8. From Table A.2, it can be observed that flight arrivals and departures for the period March-August 2020 were significantly lower than the corresponding figures for 2018 and 2019. For instance, both flight arrivals and departures in 2019 were 4,905 each compared to only 241 and 280, respectively in 2020. While a sharp reduction in passenger flights has been noted over the period under consideration, the number of cargo and combined cargo and passenger flights are found to have increased considerably. For instance, there were

189 cargo flight arrivals during March-August 2020 compared to only 17 in 2018 and 12 in 2019. Similarly, there were 38 and 62 combined cargo and passenger flight arrivals and departures in 2020 and no such flight for the years 2018 and 2019. The increase in cargo flights can, however, be attributed to the drastic decrease in passenger flights and consequently the decrease in volume of cargo transported in the belly capacity of passenger flights.

9. The COVID-19 pandemic also severely affected the only domestic route, which connects the two main islands of the Republic of Mauritius, namely Mauritius and Rodrigues. During the lockdown period, there was no flight in April and May 2020. As of June, domestic flights have been picking up to reach 71 in August 2020. Overall, the number of flights fell drastically during the period March to August 2020 compared to the corresponding period in 2018 and 2019, as illustrated below.

10. The effect of COVID-19 can also be illustrated in terms of passenger traffic. It can be observed from Table A.3 that arrivals and departures dropped drastically from April 2020, soon after mobility restrictions were imposed by the government. The figures were negligible for the two-quarters April-June and July-September 2020 compared to the corresponding period in 2018 and 2019.

**Figure A.1: Domestic air traffic (MUR-RDG) for March and August in 2018- 2020**



Source: Data submitted by the Civil Aviation Department

**Table A.3: Air passenger traffic between January and September 2018-2020**

Arrivals			
Month	2018	2019	2020
January -March	475,175	480,875	421,732
April -June	390,341	406,912	2,395
July - September	441,854	442,424	3,224
Total	1,307,370	1,330,211	433,543
Departures			
Month	2018	2019	2020
January -March	503,879	519,741	469,483
April -June	402,393	406,055	5,267
July - September	135,666	135,444	2,952
Total	1,342,193	1,364,533	482,305

Source: Statistics Mauritius (International Travel & Tourism Statistics)

11. It follows from the above figures on air traffic in terms of flights and passengers that the COVID-19 pandemic has severely impacted the Mauritian aviation industry. The negative effect is likely to continue given the current demand and supply conditions characterizing the industry.
12. The current situation regarding COVID-19 in the main countries from which tourists traveled to Mauritius is very much unfavorable. Most of these countries, including France, the UK, Germany, Reunion Island, South Africa, and India, are still registering high numbers of COVID-19 cases, and have imposed strict mobility restrictions. For example, France, the country from which Mauritius originates the greatest share of arrivals (around 20%) has gone into its second nationwide lockdown on the 30th of October 2020 with over 1.5 million COVID-19 cases<sup>2</sup>. Similarly, the UK, which represents around 11% of tourist arrivals, is undergoing a similar situation with over 1 million COVID-19 cases. The UK government has ordered its country back in lockdown, starting Thursday 05th November 2020, as they get submerged with the second wave of this health crisis. Reunion Island, the neighboring island, which also represents around 11% of tourist arrivals has also been facing a big increase in its number of COVID-19 cases. Moreover, other countries from which tourists originate such as Germany, South Africa, and India are still suffering from the pandemic.
13. Like in any other country, there has also been a significant drop in the number of arrivals from the African region, which accounts for around 10% of total tourist arrivals. Previously, there were direct flights normally coming to and from South Africa (Johannesburg, Durban and Cape Town), Kenya, Seychelles and Madagascar. However, with the COVID-19 pandemic, only flights from South Africa have been in operation.
14. With stringent measures on mobility restrictions, the contraction of economic activities leading to massive job losses, almost no country will be spared from a substantial contraction in their GDP. In consequence, people are less likely to travel to Mauritius despite it being a COVID-safe country given their loss in purchasing power.
15. The COVID-19 pandemic is also harming the seat capacity offered. Many airlines are in financial turmoil. For instance, Air Mauritius, the national carrier with around 50% of seat capacity offered on the various routes to and from Mauritius, went into voluntary administration on the 22nd of April 2020. The coronavirus crisis led to the complete erosion of the company's revenues<sup>3</sup>. With a monthly expense of about Rs 350 million for wages and leases of Rs 250 million, in July 2020, the administrators laid off 137 workers<sup>4</sup>. According to the administrators, the company could survive if it ran with only 50% of its staff which is equivalent to around 800 to 1000 layoffs<sup>5</sup>.
16. As part of its restructuring process, Air Mauritius advertised the sale of 5 of its 13 aircraft on 7th of July 2020. These included two used A340-300 aircraft (MSN 194 and 268), one used A330-200 (MSN 1057) and two used A319-100s (MSN 1592 and 1936). The company has also seen the return of two brand new A350 aircraft which were leased out for three years to South African Airways in 2010.
17. Similarly, South Africa Airways, a state-owned enterprise, which has around 5% of the seat capacity,

2. See Article on France 24 Website "French PM details new restrictions on cusp of nation's second Covid-19 lockdown". Available at: <https://www.france24.com/en/france/20201029-french-pm-details-new-restrictions-as-country-heads-back-into-lockdown>

3. Article on "What Led To Air Mauritius Entering Administration?" by Rubeina Sawdoo dated 30th April 2020. Available at: <https://simplify.com/what-led-air-mauritius-entering-administration/>

4. See Article on "Air Mauritius: fin du voyage pour 137 employes" published on L'express.mu dated 2nd August 2020. Available at: <https://www.lexpress.mu/article/380651/air-mauritius-fin-voyage-pour-137-employes>

5. See Article on "Coronavirus between 800 and 1,000 redundancies at Air Mauritius" dated 4th June 2020 on the Archyde Website. Available at: <https://www.archyde.com/coronavirus-between-800-and-1000-redundancies-at-air-mauritius/>

has suspended all its operations as it struggles to raise a bailout of more than 10 billion rands (\$591 million)<sup>6</sup>. At the international level, British Airways which shares approximately 2% of the seating capacity has suffered a loss of £5.1 billion. The latter is planning to suspend flights from Gatwick (UK's second-biggest airport) and reduce its operations in November.

18. The operation of flights across countries is highly dependent on the degree of Bilateral Air Services Agreements (BASA) signed between Mauritius and the destination country's government. While the existing 62 BASA signed by Mauritius are still effective, international flights have tremendously declined as evidenced in Table A.1 above. In October 2020, only 4 main routes were being served: Air Mauritius serving the MUR- FRA, MUR- JNB and MRU-BOM routes, and Emirates serving the MUR-DXB route.
19. The prevailing conditions affecting both the demand for and supply of flight services remain very uncertain. The discovery of a vaccine may probably improve the situation and foster demand. Until then, air traveling from and to Mauritius and thus the airline industry remains very uncertain.

## REVIVING THE AVIATION INDUSTRY

20. As part of the recovery strategy, the government of Mauritius, in its 2020/21 Budget, has allocated Rs 9 billion for Air Mauritius<sup>7</sup>. It is also working on new tourism strategies to promote Mauritius as a safe destination. For instance, it has recently introduced a Premium Travel Visa for long stays which is valid for one renewable year. This novel initiative aims to welcome esteemed travelers i.e. any non-citizen intending to stay in Mauritius for a maximum of one year as a tourist, retiree, or a professional is welcome to bring their family and carry out business or work remotely from Mauritius, a COVID safe destination<sup>8</sup>. These measures are likely to have a positive impact on the

demand for air services and thus the aviation industry.

21. The Government is also promoting freights operations intending to turn Mauritius into a regional platform for freight carriers<sup>9</sup>.

## CONCLUSION

22. The COVID-19 pandemic has resulted in a massive loss of human life worldwide and continues to pose an unparalleled challenge to various sectors of the economy, in particular, the airline industry. With strict lockdowns being imposed across the world, the industry's prospects in much of the world have taken a dramatic turn for the worse. Traveling restrictions and border closures have spared no country and Mauritius has been so severely hit that its national airline has been placed under voluntary administration.
23. The devastating consequences of this global health crisis are manifold. Between social distancing on airplanes leading to reduced capacity and lower flight frequency, the predictability of our airline industry is very poor. While there is no visibility concerning the situation of our partner countries, our local airline is nevertheless attempting to reinvent itself. There is a re-engineering initiative being undertaken whereby Air Mauritius is converting some of its passenger planes into cargo planes to keep business afloat while ensuring sanitary regulations through the clear protocol.
24. The ongoing pandemic and the prevailing aura of uncertainty make it difficult to forecast when the situation will get back to normal. At the regional level, Mauritius is not fully geared to cope with its upcoming challenges, especially with a substantial lessening in air passenger traffic. Nonetheless, amidst positive news of an imminent vaccine, the Mauritian Government is also looking into stimulus packages to revive the industry.

6. See AP News "South African Airways suspends operations amid huge debt" by Mogomotsi Magome dated September 2020. Available at: <https://apnews.com/article/virus-outbreak-africa-business-airlines-south-africa-b6c4196eca3070025a7728d4e90606e1>

7. See Budget Speech 2020-2021, Our New Normal, The economy of Life. Available at: [http://budget.mof.govmu.org/budget2020-21/2020\\_21budgetspeechEng.pdf](http://budget.mof.govmu.org/budget2020-21/2020_21budgetspeechEng.pdf)

8. Conditions for the application of the Premium Visa is found on the EDB website. Available at: <https://www.edbmauritius.org/newsroom/posts/2020/october/mauritius-introduces-premium-travel-visa-for-long-stays/>

9. See article on Le Défi Quotidien, "Du nouveau dans le ciel mauricien", published on 14th September 2020.

# CHAPTER 6: THE GAMBIA

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## EXECUTIVE SUMMARY

1. Gambia Competition & Consumer Protection Commission conducted this study in collaboration with key stakeholders in the aviation and tourism industry namely Gambia International Airlines, Gambia Civil Aviation Authority, and Gambia Tourism Board.
2. Air Transport plays a major role within The Gambia Transport System in providing international gateways for the business community with the rest of the world and is of critical importance for the Gambia Tourism Industry. Considering the size of the country, domestic air transport has not been part of the internal transport system. Air transport in and out of The Gambia is via the Banjul International Airport (BIA), situated at Yundum, about 24 kilometers to the southeast of Banjul the only airport in the country.
3. The publication of airline market study in The Gambia gives report patterns of airline operations from 2014 to date in The Gambia. The publication is in three sections. The first section focused on the background information of airline operation, regulations or legal framework, routes for regional and international, infrastructures, competitions, and consumer complaints mechanisms.
4. The second section focused on the airline industry which provides information on different players in the airline industry and their roles e.g. airlines, travel agents, and airline local representatives. Furthermore, provision of information of factors affecting the development of the airline industry and requirements in establishing an airline company in the Gambia.
5. The final section focused on the level of state involvement and support concerning the airline industry for coordination, administration, and redressing consumer complaints received by the state agency.
6. It is hoped that the information provided in this publication will be useful to policymakers, researchers, and all other users.

## BACKGROUND INFORMATION ON AIRLINE OPERATIONS IN THE GAMBIA

7. Air transport plays a major role within The Gambia transport system in providing international gateways for the business community with the rest of the world and it's critical to the development of the tourism industry. Most tourists arrive on flights chartered by tour operators, one of which, The Gambia Experience has a year-round program with Monarch Airlines from London Gatwick.
8. Considering the size of the country, domestic air transport has not been part of the internal transport system. Air transport in and out of The Gambia is via the Banjul International Airport (BIA), situated at Yundum, about 24 kilometers to the southeast of Banjul, the only airport in the country. The Gambia Civil Aviation Authority (GCAA), established in 1991, operates the airport, manages and regulates the civil aviation industry, and is responsible for ensuring compliance with International Civil Aviation Organization (ICAO) set Standards and Recommended Practices (SARPs).
9. Currently, The Gambia has no national carrier or flag bearer. The last two flag bearers were The Gambia Bird and Fly Mid Africa. The Gambia Bird entered the market in 2012 and played the role of the country's flag bearer operating precisely on regional destinations. The EBOLA outbreak in their main destinations within West Africa affected their operations and eventually led to their exit from the market in December 2014. It is also claimed the airline was affected by the protectionism regime in some of the West African countries. They claimed to have faced enormous resistance from some countries to have a license to fly into those destinations.
10. Fly Mid Africa entered the market in 2017 and exited in 2018, due to funding issues. Fly Mid Africa entered the Gambian aviation industry as a result of USA trade sanctions against Sudan. The shareholders had an airline that was flying in Sudan with American technology but the imposition of sanction denied them access to technology thus had to relocate some of their investments to a USA-friendly country to be able to survive in the market. They strategically moved their fleets to the Gambia who is not under US trade sanction to be able to access the technology. The

quality of service and technology at their disposal gave them a competitive edge over the incumbents. The shareholders decided to pull out their investment as soon as the sanction was lifted against Sudan.

11. Since 2018, two major Airlines, Turkish Airline (2018) and TAP Air Portugal (2019) have entered the Gambia market to serve the Banjul-Istanbul and Banjul-Lisbon respectively.

## STUDY OBJECTIVES & SCOPE

12. Gambia Competition & Consumer Protection Commission (GCCPC) in line with section 15(k) of the Competition Act 2007 and 16 (1) (j) of the Consumer Protection Act 2014 conducted this study in collaboration with key stakeholders in the aviation and tourism industry namely Gambia International Airlines (GIA), Gambia Civil Aviation Authority (GCAA) and Gambia Tourism Board (GTB).

13. The objective of the ACF cross-country study of the airline industry on the continent is threefold:

- 13.1 First, to get an understanding of the market structure, alliances, state involvement, and regulatory setting for the airline industry in the different ACF member countries, with a particular focus on regional and international services that impact continental trade and tourism. The domestic market structure will also be examined as it is relevant to regional dynamics, but similarly the involvement of non-domestic airlines operating on routes into the member country. This mapping of the airline industry would also seek to appreciate the regional and international dynamics that are of primary relevance to the member country, such as the existence or not of regional hubs, the primary flows of passengers, and state aid to domestic and competing regional airlines.

- 13.2 Second, to get an understanding of the type of competition concerns that exist in respect of the airline industry in the different ACF member countries. This would include actual complaints, investigations, and prosecutions, but also the perceived limitations to competition on regional

and continental routes. These limitations may be of a market structure or strategic behavior perspective, including state aid and the support for the national airline (both domestically but also regional airlines that operate to the country), but may also be regulatory in nature, such as limitations for entry and expansion based on bilateral arrangements.

- 13.3 Third, to provide a platform for identifying regional and continental priorities in respect of the airline industry to address existing competition concerns but also ensure the development of a more competitive airline industry that promotes regional and continental integration and the flow of trade and persons within the continent, and to/from the continent. Such priorities would be set out in terms of merger control, unilateral conduct enforcement, cooperation on airline alliances and cartel investigations, as well as advocacy in respect of industry regulation.

## REGULATORY/LEGAL AND INSTITUTIONAL FRAMEWORK

### Preamble

14. The regulatory/legal framework guiding the operations of the aviation industry is under the purview of GCCPC (Competition Act 2007 and Consumer Protection Act 2014); GCAA (Civil Aviation Act 2004 and Regulation 2018); and GTB (The Gambia Tourism Board Act 2011, and Regulation 2016).

### The Competition Act 2007 and Consumer Protection Act 2014

15. The Competition Act is enforced by the Commission and The Consumer Protection Act is administered by the Commission and enforced by the Tribunal.
16. The Competition Act has the object to promote competition in the supply of goods and services by establishing a Commission, by prohibiting collusive agreements and bid-rigging, by providing for investigation and control of other types of restrictive agreements and monopoly and merger situations, by

promoting understanding of the benefits of competition and to provide for other matters connected therewith.

17. The Consumer Protection Act aims to protect consumers from unfair and misleading market conducts in all sectors of the economy.

### **Civil Aviation Act 2004**

18. The Civil Aviation Act 2004 aims to create an autonomous Civil Aviation Authority, to provide for the regulation and promotion of civil aviation in the Gambia, to foster its development, and for connected matters.
19. The Gambia Civil Aviation Authority is established by section 3(1) of the Act. The functions of the Authority are contained in section 15 of the Act. The Authority has the duty of the administration of the Act, the development of aviation, ensuring the airworthiness of aircraft, safe, secure, and efficient use of aircrafts, and general regulation of air navigation.

### **The Gambia Tourism Board**

20. The Gambia Tourism Board is the regulator mandated under section 4 of the Gambia Tourism Board Act 2011 for the coordination, administration, and marketing of tourism and connected matters.
21. A regulation has been made under section 49 of the Act for the better carrying in to effect its provisions. Section 147(i)-(ii) of the Tourism Regulation, 2016, provides that; unless it is extremely necessary, a tour operator shall not engage in both price dumping and exclusivity contracts with hotels or ground operators.
22. Similarly, section 189 of the Gambia Tourism Regulations, 2016 prohibits advertising or marketing of tourism products or services that are not available or unlicensed. This provision is also in conformity with 11 and 12 of the Consumer Protection Act (CPA) 2014 which prohibits advertising goods or services with no intention to sell them as advertised or with no intention to reasonably expected public demand, unless the advertisement discloses a limitation.

## **Yamoussoukro Decision**

### **The Purpose of the Decision**

23. One of the main reasons behind the Decision is to harmonize air transport policies in Africa to eliminate non-physical barriers that hamper the sustainable development of air transport services in Africa. Another reason stated in the preamble to the Decision is to adopt measures to progressively establish a liberalized intra-African aviation market concerning, among other things, traffic rights, capacity, frequency, and pricing. The preamble also elucidates the importance of enhancing cooperation among African airlines to stimulate the development of inter-African air transport and the need to improve the quality of service to the consumers. In formulating the Decision, consideration was also given to the different levels of air transport development in Africa and the need to adopt special transitional provisions to achieve full liberation of air transport in Africa.

### **Application of the Decision**

24. Article 2 of the Decision establishes the arrangement among State Parties for the gradual liberalization of scheduled and non-scheduled intra-Africa air transport services. Article 2 also makes it clear that the Decision has precedence over any multilateral or bilateral agreement on air services between State Parties that are incompatible with the Decision. However, it is subsequently stated in article 2 that the provisions which are included in the agreements and which are not incompatible with the Decision remain valid and are supplementary to the Decision.
25. Article 3.1 of the Decision imposes an obligation on State Parties to grant each other the free exercise of the rights of the first, second, third, fourth, and fifth freedoms of the air on scheduled and non-scheduled passenger, cargo, and/or mail flights performed by an Eligible Airline to/from their respective territories. . Article 6.1 provides that Each State Party shall have the right to designate in writing at least one airline to operate the intra-Africa air transport services by the decision. Article 6.1 goes further to stipulate that such designation shall be notified to the other State Party

in writing through diplomatic channels. Authorization may not be given under article 6.5 of the Decision if the designated airline does not meet the criteria of article 6.

26. Article 5.1 prohibits the imposition a limit on the number of frequencies and capacity offered on-air services linking any city combination between State Parties concerned. However, Article 5.2 provides that a State Party concerned may refuse to authorize an increase in capacity if such additional capacity is not in compliance with the provisions of Article 7 relating to the rules of fair competition.

### **Analysis of the Yamoussoukro Decision viz -a- viz Domestic Legislations and Regulations**

27. There are forty-four (44) signatories to the Decision including The Gambia. It is questionable to what extent the provisions of this Decision are adhered to or applied by the signatories to the Decision as some State Parties are protective of their airspace and air service market. Despite being signatories, some State Parties still restrict their air space and air service market to protect their markets. What is clear from the Decision is that, if its provisions are acted upon by all the State Parties, competition will be enhanced and maintained in the aviation industry in Africa. The Civil Aviation Act and the Regulations made under it, promote competition and encourage State Parties to come and operate in The Gambia thereby promoting intra-air space service. Therefore it is in the best interest of the Gambia to see the full implementation of the provisions of the Decision since the Gambia does not have an operating State-owned aircraft. The provisions of the Decision are compatible with the preamble to the Competition Act, 2007 of The Gambia, which emphasizes the need to promote competition in the supply of goods and services and eradicate all forms of anti-competitive practices. If competition culture is promoted and maintained by all the Parties to the Decision, it will be easy for the State Parties to operate freely in each other's jurisdiction.
28. The Decision, if implemented properly by the State Parties, will have the desired effect of promoting and maintaining competition in the aviation industry in Africa.

However, there is a huge gap between the normative claims of the Decision and its implementation or enforcement capabilities. It could also be argued that the anti-competitive practices perpetrated by State Parties by restricting other airlines of State Parties to operate from their airports and specific routes are not capable of reconciliation with the provisions of the Decision. The anticipated liberalization promotion and maintenance of competition in Africa in the aviation sector have not materialized despite the existence of the Decision. However, all these breaches are taking place despite the existence of the monitoring bodies, as stipulated in Article 9.1 of the Decision, responsible for the supervision, follow-up of the implementation of the Decision.

29. The monitoring bodies are also charged with the responsibility of ensuring that consumer rights are protected. It is debatable whether the consumer rights are being adequately protected in the African countries that are signatories to the Decision, given the volume of consumer complaints and consumer rights violations in the African countries that are signatories to the Decision.
30. It is important to state in conclusion that many State Parties are in breach of the Decision because the monitoring bodies do not have the power to impose financial penalties on State Parties who have violated the Decision.

## **COMPETITION DYNAMICS IN THE AIRLINE INDUSTRY**

### **Market Structure, Alliances and State Involvement for The Gambia Airline Industry**

#### **Market Structure**

31. There are currently seventeen (17) airlines operating in the Gambia, of these, eleven (11) of these operate all year round whilst the remaining six (6) operate during the tourist season, mainly from October to May. The Gambia Government also has its own airline company called Gambia International Airlines (GIA), which has

been operational since March 1996. It is not currently flying but is mainly responsible for the ground handling of all airline operations in The Gambia. The four revenue areas of GIA are:

- 31.1 Ground Handling Services
- 31.2 Cargo Agency Services
- 31.3 Ticketing Agency Services and
- 31.4 Pilgrimage (Hajj) Operations Services

#### Names of Airlines operating in the Gambia

2016	2017
FLY MID AFRICA	FLY MID AFRICA
ARIK AIR	ARIK AIR
BRUSSELS AIRLINES	BRUSSELS AIRLINES
BINTER CANARIAS	AIR PEACE
CORENDON	BINTER CANARIAS
ENTER AIR	CORENDON
ROYAL AIR MAROC	ROYAL AIR MAROC
TUI AIRLINES	ENTER AIR
ARCENCIEL AIRLINES	TUI AIRLINES
THOMAS COOK (Scandinavia)	THOMAS COOK
VUELING AIRLINES	VUELING AIRLINES
TITAN AIRWAYS LIMITED	TITAN AIRWAYS LIMITED
ASKY AIRLINES	ASKY AIRLINES
TUI AIRLINES (BELGIUM)	TUI AIRLINES (BELGIUM)
	ARCENCIEL AIRLINES S.A

2018	2019
BRUSSELS AIRLINES	BRUSSELS AIRLINES (Scheduled)
AIR PEACE	AIR PEACE LIMITED (Scheduled)
CORENDON	BINTER CANARIAS (Scheduled)
ENTER AIR	TAP AIR PORTUGAL (Scheduled)
ROYAL AIR	CORENDON AIRLINE (Unscheduled)
ARCENCIEL AIRLINES S.A	ENTER AIR (Unscheduled)
TUI AIRLINES	ROYAL AIR MAROC (Scheduled)
THOMAS COOK	TUI AIRLINES NEDERLAND B.V (Scheduled)
VUELING	ARCENCIEL AIRLINES S.A (Unscheduled)
VUELING	SUNCLASS (THOMAS COOK SCANDINAVIA) (Unscheduled)
TITAN AIRWAYS LIMITED	VUELING AIRLINES (Unscheduled)
ASKY AIRLINES	TITAN AIRWAY LIMITED (Unscheduled)
TUI AIRLINES (BELGIUM)	ASKY AIRLINES (Scheduled)
ARCENCIEL AIRLINES S.A	TUI AIRLINES BELGIUM (Unscheduled)
	AIR SENEGAL (Scheduled)
	TRANSAIR (Scheduled)
	TURKISH AIRLINES (Scheduled)

32. 30 registered travel agencies are operating in the Gambia. The travel agencies are normally responsible for the sale of tickets of the airlines, some of which also act as General Sales Agent (GSA) and country representatives for some the airlines e.g. Satguru Travel Agency is the GSA and country representative for Asky airlines, whilst Citi Travel is the GSA and country representative for Transair Airlines.

## List of travel agents in the Gambia and location

NO	2018	2019
1	LEEKAS TRAVEL AGENCY	LEEKAS TRAVEL AGENCY
2	THE GAMBIA EXPERIENCE	THE GAMBIA EXPERIENCE
3	SILLAH STAR TRAVEL	SILLAH STAR TRAVEL
4	CITI TRAVEL	MOBICITY LEEF AND TRAVEL
5	RELAX TRAVEL	CITI TRAVEL
6	ALKAMBA TRAVEL AND TOURS	RELAX TRAVELS
7	MAMA TRAVELS	ALKAMBA TRAVEL AND TOURS
8	CINDERELLA TRAVEL AND TOUR	MAMA TRAVELS
9	BANJUL TRAVEL AGENCY	CINDERELLA TRAVEL AND TOURS
10	FUTURE TRAVELS	BANJUL TRAVEL AGENCY
11	GAMBIA NATIONAL TRAVEL AND HAJJ	TAMAR INVESTMENT (T/A BSC TRAVEL AND TOURS)
12	TIVAOUNE TRAVEL AND TOUR	ZAMRA TRAVEL AGENCY
13	ALGS TRAVEL AGENCY	FUTURE TRAVELS
14	WAHEGURT TRAVEL AGENCY LIMITED	GAMBIA NATIONAL TRAVEL AND HAJJ
15	ALVARENG TRAVEL	TIVAOUNE TRAVEL AND TOUR
16	JAMBO TRAVEL AGENCY	ALGS TRAVEL AGENCY
17	EASY TRAVEL AND TOUR	WAHEGURT TRAVEL AGENCY LIMITED
18	ORBIT TRAVEL AGENCY	ALVARENG TRAVEL
19	PEACE AIR SERVICE LTD	JAMBO TRAVEL AGENCY
20	GAMTOURS	EASY TRAVEL AND TOUR
21	CONTINENTAL TRAVELS	ORBIT TRAVEL AGENCY
22	SENEGAMBIA TRAVELS	PEACE AIR SERVICE LTD
23	ROUMIEM TRAVELS	GAMTOURS
24	STAR TRAVEL	CONTINENTAL TRAVELS
25	AMANA TRAVELS	SENEGAMBIA TRAVELS
26	TIMA TRAVEL AGENCY	ROUMIEM TRAVELS
27	DOHA TRAVEL AGENCY	SALAM TRAVELS
28	EURO WORLD TRAVEL	STAR TRAVEL
29	CAM HAJJ TOURS	AMANA TRAVELS
30	SHEIKH KHATIB BOJANG AGENCY	SILLAH STAR

## Profiles of The Main Airlines Operating In The Gambia

### ASKY Airlines

33. It is an airline founded on the initiative of West African Governments and has its head office in Lome – Tokoin Airport. After the Pan-African Airline, (Air Afrique) went bankrupt in 2002, cross-border air transport in Africa became difficult, especially in West and Central Africa. This led to the decision in 2007 to create a private, competitive, cost-effective airline offering all guarantees of safety and security for the region.

34. Eighty percent (80%) of its shares are held by private investors, and twenty percent (20%) by public financial institutions, whose mission is to support privately-owned development institutions. ASKY Airlines serves 19 scheduled destinations throughout West and Central Africa. Its hub is at Lome. ASKY Airlines can connect flights in its network to various points in the Ethiopian Airlines network, with whom it has a codeshare arrangement via Addis Ababa and beyond to the Middle East, Far East and East Africa. It has nine (9) aircrafts in service.

## **Air Senegal**

35. It is the flag bearer of the Republic of Senegal. It was founded in 2016 and started operations on 14th May 2018. It is a state-owned airline through the investment arm Caisse de Depots et Consignation du Senegal. It is based in Blaise Diagne International Airport in Dakar, Senegal. Its fleet size is seven (7) and it flies to 18 destinations.

## **Transair**

36. Transair Senegal is a Senegalese carrier based at Dakar Yoff Airport. The carrier operates freight and passenger chartered services from Dakar to regional destinations in West Africa. It launched service operations in 2010. It currently has four aircrafts.

## **Air Peace**

37. It is a private Nigerian airline founded in 2013 with its head office in Lagos state, Nigeria. Air Peace, which provides passenger and charter services, serves the major cities of Nigeria and flies to many African destinations and Middle East. The airline also has a subsidiary, Air Peace Hopper in 2018. It flies to twenty (20) destinations and has a fleet size of twenty-six (26) aircrafts.

## **Turkish Airlines**

38. It is the national carrier of Turkey. It was founded in 1933 as the Turkish state airline and it has fleet size of three hundred and forty-nine (349) aircraft. It flies to three hundred and fifteen (315) destinations. It is the largest mainline carrier in the world by many passenger destinations.

## **TAP Air Portugal**

39. The company started operations in 1945. It is the flag carrier airline of Portugal, headquartered at Lisbon Airport which also serves as its hub. TAP (Transportes Aereos Portugueses) has been a member of the Star Alliance since 2005 and operates on average 2,500 flights a week to 87 destinations in 34 countries. The company has an aircraft fleet of 92.

40. In June 2015 the company was semi-privatized and became majority-owned (61%) by the Atlantic Gateway Consortium, led by David Neeleman, who founded JetBlue and Azul Brazilian Airlines and co-founded WestJet.

## **Royal Air Maroc (RAM)**

41. It was founded in 1957 and its fleet size is sixty-one (61). It is the Moroccan national carrier, as well as the country's largest airline. It flies to ninety-eight (98) destinations. It is commonly known as RAM. It is fully owned by the Government of Morocco, and it has its headquarters on the grounds of Casablanca-Anfa Airport. From its base at Mohammed V International Airport, the carrier operates a domestic network in Morocco, schedules international flights to Africa, Asia, Europe, and North and South America, and occasional charter flights that include pilgrimage to Mecca (Hajj) services.

## **Brussels Airlines**

42. It is the flag carrier and largest airline of Belgium, based and headquartered at Brussels Airport. Brussels Airlines was founded on the 7th November 2006 and commenced its operation in 2007. Brussels Airlines was created following the merger of SN Brussels Airline (SNBA) and Virgin Express. The former was subsequently created after the bankruptcy of Belgium's legacy national carrier, Sabena. It operates in over one hundred and twenty (120) destinations in Europe, North America, Africa, and Asia and also offers charter services, maintenance and crew training. It is a member of Star Alliance as well as the International Air Transport Association. It has a fleet size of sixty-two (62) aircrafts. It is 100% owned by SN Air holding SA/NV, a Belgian holding company. Lufthansa owns 100% of SN Air holding SA/NV.

## AIRLINE ROUTE

AIRLINES ROUTE	
BRUSSELS FLIGHT	Banjul – Brussels
AIR SENEGAL	Banjul – Dakar
VUELING	Banjul – Barcelona
ASKY	Banjul – Freetown Banjul – Monrovia Banjul – Lome Banjul – Accra
AIR PEACE	Banjul – Lagos
ROYAL AIR MAROC	Banjul – Casablanca
TUI ARKEY	Banjul – Amsterdam
BINTER CANARIA	Banjul – Las Palmas
TRANS AIR	Banjul – Freetown Banjul – Dakar Banjul - Bissau
TURKISH AIRLINE	Banjul – Istanbul
TAP AIR PORTUGAL	Banjul - Lisbon

## CHARTERED AIRLINES AND ROUTE

AIRLINES ROUTE	
SUN CLASS (Thomas cook)	Banjul – Gothenburg Banjul – Copenhagen Banjul – Helsinki Banjul - Arlanda
ENTER AIR	Banjul – London Banjul – Manchester Banjul – Birmingham Banjul - Warsaw
CORENDON	Banjul – Amsterdam
CORENDON FTI	Banjul – Munich Banjul – Leipzig Banjul – Dusseldoff Banjul - Frankfurt
TUI JET AIR	Banjul - Brussels
TITAN AIRWAYS	Banjul - London

## Alliances / Exemptions

43. Airline alliance is an aviation industry arrangement between two or more airlines agreeing to cooperate on a substantial level. Alliances may provide marketing and branding to facilitate travelers making inter-airline codeshare connections within countries. This branding may involve unified aircraft liveries of member aircraft.
44. It is important to note that unlike in South Africa and the EU, the Competition Act 2007 does not cater for firms to apply for any exemptions in relation to the application of the provisions of the Act. SN Brussels and Senegal Airlines used to have a code-sharing agreement for the Banjul-Dakar route. However, currently there are no alliances or agreements between the airlines operating in the Gambia for the Banjul route.

## Major Alliances

45. The Airline industry has many alliances and the main ones are briefly discussed below:
46. Star Alliance was the largest with 23% of total scheduled traffic in revenue passenger miles and revenue passenger kilometers. Brussels Airlines, Turkish Airlines and TAP Portugal are all members of Star Alliance. Sky Team with 20.4% and Oneworld with 17.8%, leaving 38.8% for others.
47. In 2018, by the number of passengers, Star Alliance was leading 762 million, followed by Sky Team 630 million and Oneworld 535 million.

## Benefits of Alliances

48. Benefits can consist of an extended network, often realized through codeshare agreements.
49. Cost reductions come from the sharing of sales offices, maintenance facilities, operational facilities and staff, investments and purchases.
50. Traveler benefits can include lower prices due to lowered operational costs for a given route, more departure times to choose from on a given route, more destinations within easy reach.

## Competition Concerns of Alliances

51. Airline alliances may help to facilitate cartel behavior among airlines to the detriment of consumers. It could create disadvantages for the traveler, such as higher prices and poor quality of services due to limited competition on certain routes or less frequent flights.

## State Involvement

52. The airport and Civil Aviation Authority are State-owned. The only Gambian Airline which is GIA is ninety-nine percent (99%) owned by the Government, and one percent (1%) owned by Gambia Telecommunication Company limited (GAMTEL), which is also state-owned. The Gambia Government through the Ministry of Finance paid D6 million towards the construction of its new Corporate Complex in 2018.

53. Civil Aviation Authority is the regulator of the aviation industry and also manages the airport. The authority is not subvented by the Government thus derives its revenue from various charges and licensing fees (airline, Airline Operation Certificate, and travel agents).
54. The Government has the discretion to waive charges on landing flights, in particular with Presidential flights.

55. Also, the Customs and Excise office attached to the Airport has the mandate to charge forty-percent tariff levy on new imported goods.

### Overlap of airline operators in domestic routes

Origin	Destination	Air Senegal	Transair	Air Peace	Asky	Royal Air	Maroc	SN	Brussels	Turkish	Airlines	Tap Air	Vueling	Binter	Canaria	Tui	Amsterd	Tui Belgium	Corendon	Corendon FTI	Enter Air	Titan Airways	Thomas Cook	Number of operators
Banju I	Dakar				-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3
Banju I	Freetown	-		-		-		-		-		-		-		-		-		-		-	-	2
Banju I	Accra	-	-	-		-		-		-		-		-		-		-		-		-	-	1
Banju I	Lagos	-	-		-	-		-		-		-		-		-		-		-		-	-	2
Banju I	Lome	-	-	-		-		-		-		-		-		-		-		-		-	-	1
Banju I	Bissau			-	-	-		-		-		-		-		-		-		-		-	-	2
Banju I	Conakry	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Casablanca	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Brussels	-	-	-	-	-		-		-		-		-		-		-		-		-	-	2
Banju I	Istanbul	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Lisbon	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	London	-	-	-	-	-		-		-		-		-		-		-		-		-	-	2
Banju I	Amsterdam	-	-	-	-	-		-		-		-		-		-		-		-		-	-	2
Banju I	Barcelona	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Las Palmas	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Manchester	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Birmingham	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Frankfurt	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Liepzig	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Dusseldorf	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Munich	-	-	-	-	-		-		-		-		-		-		-		-		-	-	2
Banju I	Copenhagen	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Gothenburg	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Helsinki	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1
Banju I	Arlanda	-	-	-	-	-		-		-		-		-		-		-		-		-	-	1

## Airline Entry & Exit

### Entry Requirements

56. The Civil Aviation Act 2004 provides for documents/ requirements for the establishment of an airline company. These include Air Operator Certificate (AOC), flight insurance, certificate of registration, Lease certificate, report of base inspection by flight safety, operational manual, feasibility study and product document and Composition of capital (shares).

57. All airlines at the time of entry into the Gambian are given six (6) months landing fee exemption. However, other benefits and privileges given to entry airlines are subject to contractual negotiation.

58. The Banjul International Airport ground handling is largely monopolized by GIA and this monopolistic position being enjoyed by GIA was not conferred by any legislation or regulation. As such, GIA is a de-facto monopoly contrary to section 2 of the Competition Act 2007

### Entry

Airline	Date of entry	State support (subsidies, tax breaks, etc.)	Aircraft fleet size (number of seats) at entry	Routes at entry	Regional/ and or International
SN BRUSSELS FLIGHT	23/05/07	SUBJECT TO NEGOTIATION	28B/255E	BANJUL- BRUSSELS	INT
AIR SENEGAL	4/04/16	SUBJECT TO NEGOTIATION	12B/58E	BANJUL-DAKAR	REG
VUELING	9/08/12	SUBJECT TO NEGOTIATION	189E	BANJUL- BERCELONA	INT
TUI AMSTERDAM	19/01/07	SUBJECT TO NEGOTIATION	189E	BANJUL- AMSTERDAM	INT
TUI BELGIUM	31/08/18	SUBJECT TO NEGOTIATION	189E	BANJUL- BRUSSELS	INT
TRANSAIR	15/11/18	SUBJECT TO NEGOTIATION	50E	BANJUL-DAKAR	REG
AIR MAROC	5/05/09	SUBJECT TO NEGOTIATION	12B/147E	BANJUL- CASSABLANCA	REG
ASKY	25/01/10	SUBJECT TO NEGOTIATION	16B/138E	Banju – Freetown Banjul – Monrovia Banjul – Lomé Banjul – Accra	REG
TURKISH AIR	18/09/18	SUBJECT TO NEGOTIATION	24B/255E	BANJUL- ISTANBUL	INT
TAP	31/03/19	SUBJECT TO NEGOTIATION	8B/159E	BANJUL- LISBON	INT
TITAN	29/09/15	SUBJECT TO NEGOTIATION	168E	BANUJUL- LONDON	INT
ENTER	17/05/18	SUBJECT TO NEGOTIATION	189E	BANJUL- LONDON	INT
AIR PEACE	6/03/19	SUBJECT TO NEGOTIATION	12B/124E	BANJUL- LAGOS	REG
CORENDON	31/08/12	SUBJECT TO NEGOTIATION	189E	BANJUL- AMSTERDAM	INT
CORENDON FTI	19/03/19	SUBJECT TO NEGOTIATION	189E	BANJUL- MUNICH	INT
THOMAS COOK	3/11/18	SUBJECT TO NEGOTIATION	86B/302E	Banjul – Gothenburg – Arlanda –Copenhagen – Helsinki	INT
BINTER CANARIES	22/05/13	SUBJECT TO NEGOTIATION	6B/120E	BANJUL-LAS PALMAS	INT

## Exit

Airline	Date of exit	Domestic / regional and /or International	Type of carrier (Full-Service Carrier/ Regional Service Carrier/Low-Cost Carrier)	Reason for exit (reference source of information)
GAMBIA BIRD	12/2014	REG	LCC	Political
FLY MID-AFRICA	01/2018	REG	LCC	Bankruptcy (ref. mr cham DATRAC)
ARIK AIR	2018	REG	LCC	Bankruptcy
SLOK AIR	2006	INT	FCC	Bankruptcy

## Airport Infrastructure

### Status of the Banjul International Airport Infrastructure

59. The Gambia Civil Aviation Authority (GCAA), under the Ministry of Transport, Works and Infrastructure signed a US\$31M contract with AREZKI, a Gambian-based construction company, and Greenline, a Kuwaiti company, for the implementation of phase II of Airport Improvement Project.

60. This is meant to be a continuation of the first phase of the Banjul International Airport (BIA) Project, which has the overall objective of achieving the airport master plan for 2020. The overall objective of the said Master Plan is to ensure that Banjul International Airport can handle the forecasted traffic by 2020 both in terms of space requirements, safety, security, and convenience of traveling passengers.

61. The BIA is composed of a single 3,600 meters long runway, a terminal building with the capacity to handle one million passengers annually, a Control Tower and an International Freight Centre (approximately 550 sq. metres).

62. The BIA Air Traffic Control and Navigational Aid facilities at the airport include:

- 62.1 VHF Transceivers;
- 62.2 VSAT;
- 62.3 Doppler Very High-Frequency Omni-directional Radio Range (DVOR);
- 62.4 Distance Measuring Equipment (DME);
- 62.5 Instrument Landing System (ILS);
- 62.6 Aeronautical Fixed Telecommunication Network (AFTN)/ Voice Link.

63. The above infrastructure and facilities were upgraded following the studies carried out by Belgian Airport Consultants (BEAC), in 1994; the economic part of which was updated by DHV Consultants in 1998.

64. The components and scope of this phase II areas listed below:

### Component 1

- 64.1 Airside Pavements (Apron and Taxiway)
- 64.2 Rehabilitation of existing apron;
- 64.3 Expansion of the parking apron;
- 64.4 Construction of two new taxiways;
- 64.5 Supply and installation of apron and taxiway Lighting.

### Component 2

- 64.6 Instrument Landing system
- 64.7 Rehabilitation of the ILS but maintaining the Category;
- 64.8 Change the ILS to a dual system for both runway ends.

### Component 3

- 64.9 New Fire and Rescue Station
- 64.10 Construction of a new Fire and Rescue Station for Aerodrome Cat. 9;
- 64.11 Design and construct the connecting road to the runway;
- 64.12 Procure a new fire tender.

### Component 4

- 64.13 Structural assessments (New Terminal and Control Tower)

- 64.14 Appraisal and structural assessment of the New Terminal and Control Tower;
  - 64.15 Design and Expansion of the terminal building to create more traffic space;
  - 64.16 Upgrading of equipment and facilities in the terminal and tower.
65. The vision of positioning the airport as a hub and its progression from a traditional airport model to a fully-fledged airport city has informed the implementation of the Banjul International Airport Master Plan in Phases.

## **COMPETITION CONCERNS THAT EXIST IN RESPECT OF THE AIRLINE INDUSTRY IN THE MEMBER COUNTRY**

### **Government Policy**

66. Through interviews during the study, major concerns have been raised over the monopoly GIA has on ground handling services. Some of the players are in the opinion that ground handling services will be improved if competition is introduced in the area of ground handling. GIA is not into flight operations, thus currently the main activity of the company is the provision of ground handling services at the Airport.
67. The Commission believes that the Government must liberalize ground handling and allow interested parties to compete with regards to offering ground handling services. The liberalization may likely lead to more efficiency, better services, and the creation of choices for airlines to select from. The current monopoly has been referred to as one of the main deterrence for attracting more airlines to come into BIA.
68. It is important to note that passenger handling has to be liberalized, thus it is important for Government to also do the same for ground handling which is the complement to passenger handling.
69. Hence ground handling is the main activity of GIA; if it is liberalized by the Government, it needs to ensure that it provides GIA with the necessary financial and human capital to be able to start its flight operations. Giving GIA a monopoly on ground handling is meant to keep them operational and profitable. However, their monopolization of the ground handling service

is affecting the industry and its potential has not been fully utilized by the Government. Thus unless it is fully supported to engage in flight operations and allowed to operate and compete in a free, fair, and competitive manner, the growth of the industry may likely be stagnated.

### **Policy Advise concerning Pilgrimage (Hajj) Services**

70. In 2008, the Government decided to stop all operators from carrying out Hajj-related activities and gave exclusive rights to the Gambia International Airlines (GIA), a government-owned airline, to provide the necessary services for the annual pilgrimage.
71. As a result, the Commission conducted a study in Hajj operations in line with section 15(k) of the Competition Act 2007 in the Gambia to:
- 71.1 To determine what effect limiting Hajj operations to a sole provider had on costs, quality of services, and meeting the pilgrim's quota allocated by the Saudi Arabian authorities to The Gambia;
  - 71.2 To determine whether competition can help address the challenges of Hajj operations; and
  - 71.3 To identify and propose measures that could be put in place to spur competition and bring about efficiency gains in Hajj operations.
72. The market study led to the conclusion that Hajj operations must be reformed, and the Commission recommended to Government that the re-introduction of competition in the sector is essential to enhance consumer welfare (improved quality of services at competitive prices). Currently, the Hajj operations are liberalized and up to seven (7) players are active participants.

### **Policy Advise concerning Centralizing Government Travels with GIA**

73. In 2010, the Government decided to centralize the purchase of tickets for Government officials travel through GIA to rationalize cost/expenditure on ticket

sales. The decision by the Government was reviewed by the Commission by the Competition Act 2007. After a thorough review of the policy decision, the Commission concluded that Government's decision has the effect of excluding or restricting other travel agencies from competing for the purchase of air ticket for Government travel, thereby creating a de-facto monopoly in this particular market for G.I.A. The Commission's assessment revealed that GIA has proven to be more expensive compared to players offering the same service.

## Abuse of Dominant Positions

74. The Commission conducted a market study in the tourism industry to understand the industry and assess its state of competition. The study revealed that anti-competitive practices existed in the industry in the form of exclusivity contracts by a tour operator (TUI), and some hotels, and providers of accommodation for tourists to stop Corendon (both active players in the Dutch market) from penetrating the Gambian market. The contract is viewed as an attempt to distort competition and create an entry barrier which is a contravention of Section 30 and 31 of the Competition Act 2007.
75. The Commission, in line with its mandate to ensure that the industry operates in a fair and competitive environment, issued a direction to TUI and industry players in accordance with section 50(2) of the Competition Act 2007 to desist from entering into such anti-competitive agreements.

## CONSUMER PROTECTION ISSUES IN THE AVIATION INDUSTRY

76. The Gambia Civil Aviation Authority Act 2004 provides for the objectives of creating awareness among consumers of aviation services, of their rights and redressal mechanism. The Consumer Protection Unit settles disputes between passengers and airlines, cargo operators, among airlines, airlines and other service providers.
77. On 12th May 2014, the Consumer Protection Act (CPA) was enacted to protect consumers from unfair

and misleading market practices and provides for the establishment of a Consumer Tribunal.

78. Section 16 (1)(b) of the Act provides for the Commission to conduct investigations into consumer complaints. And section 16(1)(j) provides for the Commission to research consumer protection issues. Under these provisions, the Commission has powers to conduct investigations and research on all sectors of the economy.
79. Although, the Commission has overarching competition and consumer protection mandate on the economy, section 35 (2) of the Consumer Protection Act 2014, provides that, "If a body charged with public regulation has jurisdiction in respect of any conduct regulated in terms of this Act within a particular sector, the Commission and that body shall identify and establish procedures for a management of areas of concurrent jurisdiction to promote co-operation, provide for the exchange of information and protection of confidential information and ensure consistent application of principles of this Act".

## Complaints, Investigations, and Prosecution

80. According to the above sections, the Commission and The Gambia Civil Aviation Authority (GCCA) collaborated in resolving aviation-related consumer claims at the Consumer Protection Tribunal in the areas of delayed flights and misleading representation and adverts on services provided by airlines.
81. GCAA, as the sector regulator, has resolved several consumer claims since the coming into force of the Act to date by providing passengers through the airline operators with vouchers for refreshment, hotel accommodation, and hotel accommodation with compensation or financial compensation on all delayed and canceled flights.
82. Despite the accorded reliefs provided to aggrieved consumers as per the Civil Aviation Act, section 8 (4) of the CPA stipulates that; "If the supplier or provider determines after the fact that he or she cannot meet the commitment or reservation he or she shall refund the consumer any amount paid and compensate the consumer for breach of contract and consequential

damages in an amount equal to the loss suffered".

## MARKET SHARES, MARKET CONCENTRATION AND PRICE COMPETITION

### Market Shares

83. The market share is used to determine the airline's power within a route<sup>1</sup> in the aviation sector which serves as an indication of dominance/monopoly situation under the competition Act 2007.
84. The tables below show the percentage share of each airline per annum from the period 2014 to 2019. The analysis took into account the total per route passengers of each aircraft expressed as a percentage of the total passengers from the Banjul International Airport to selected destinations. The selected routes are divided into two parts; regional and international route<sup>2</sup>.

### Regional Routes:

85. These are designated routes within Africa where passengers are airlifted to from the BANJUL INTERNATIONAL AIRPORT. Although there are many regional routes, the study focused on five routes within the region:

- 85.1 BANJUL-DAKAR
- 85.2 BANJUL-LAGOS
- 85.3 BANJUL-ACCRA
- 85.4 BANJUL-FREETOWN
- 85.5 BANJUL-CASABLANCA and
- 85.6 BANJUL-LOME.

### International Routes:

86. These are designated routes outside the African region where passengers are airlifted to from the BANJUL INTERNATIONAL AIRPORT. Due to limited international routes with many airlines, the study focused on five routes within the region.

- 86.1 BANJUL-LONDON
- 86.2 BANJUL- GRAN CANARIA
- 86.3 BANJUL- AMSTERDAM
- 86.4 BANJUL- BRUSSELS and
- 86.5 BANJUL-ISTANBUL

### Regional Route

87. Table 1 depicts the market shares of all the airlines that flew from BANJUL INTERNATIONAL AIRPORT (BJL) TO DAKAR SEDAR SENGHOR (DSS) for the period under review (2014-2019). There existed a monopoly situation in all the years as defined by section 31 of the Competition Act 2007, which states that a firm with 30% or more market share in a particular sector is deemed to be in a monopoly situation. Gambia Bird and Brussels Airline both enjoyed a monopoly situation with a significant market share of 53.8% and 42.3% respectively in the year 2014. The two combined have a whopping market share of 96.1% in 2014.
88. It is important to note that Gambia Bird, the major dominant airline of BJL-DSS route in 2014, exited the aviation sector in 2015, which naturally created the atmosphere for Brussels Airline to solely enjoy a monopoly situation for four years (78% in 2015, 95% in 2016, 77% in 2017, and 74% in 2018).
89. The resumption of operation by Air Senegal in 2019, almost kicked out Brussels Airline from the market as Air Senegal enjoyed a monopoly situation with a significant market share of 86.3%.
90. Table 2 illustrates the market shares of all the airlines that flew from BANJUL INTERNATIONAL AIRPORT (BJL) TO MURTALA MUHAMMED INTERNATIONAL AIRPORT
91. (LOS) for the period under review. It is observed that Arik Airline enjoyed a monopoly situation with a significant market share of 87% in 2014, and thereafter had a sole monopoly in 2015 and 2016.
92. Arik Airline lost its dominance following the entry of Fly Mid Africa in 2017. While both enjoyed a monopoly situation (under section 31 of the Competition Act), there was a huge variance in their market shares with Arik Airline (33%) and Fly Mid Africa (67%).

<sup>1</sup>A route .....

<sup>2</sup> The Gambia unlike many other countries does not have domestic flights due to the presence of only one airport

**Table 1: BANJUL -DAKAR**

FLIGHT\ROUTE	BJL-DSS (DAKAR)					
	2014	2015	2016	2017	2018	2019
Mauritanian Air	0.5%	5%				
Arik Air	2.9%	17%	5%	1%		
AIR SENEGAL	0.5%				7%	86.3%
Brussels	42.3%	78%	95%	77%	74%	0.1%
Gambia Bird	53.8%					
FLY MID AFRICA	–			18%	3%	
AIR PEACE	–				16%	3.2%
TRANSAIR	–			4%	1%	10.4%
TOTAL	100%	100%	100%	100%	100%	100%

Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

**Table 2: BANJUL -LAGOS**

FLIGHT\ROUTE	BJL-LOS (LAGOS)					
	2014	2015	2016	2017	2018	2019
Arik Air	87%	100%	100%	33%		
Gambia Bird	13%					
FLY MID AFRICA				67%	5%	
AIR PEACE					95%	100%
TOTAL	100%	100%	100%	100%	100%	100%

Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

93. The year 2018 and 2019 saw a dramatic shift in the structure of market shares. The sudden introduction of Air peace elbowed Arik Air from the market and left FLY MID AFRICA with a negligible market share of 5%. And Air Peace in 2019 became the only carrier in the market with a market share of 100%.
94. Table 3 shows the market shares of all the flights from BANJUL INTERNATIONAL AIRPORT (BJL) TO KOTOKA INTERNATIONAL AIRPORT (ACC) for the period under review. There existed a monopoly situation in all the years under study as defined under section 31 of the Competition Act 2007. Gambia Bird enjoyed a monopoly situation with a significant market share of 97.8% over Arik airline and ASKY in 2014. Arik Airline became the only airline operating in the route following the exit of Gambia Bird and Asky in 2015 and 2016.
95. The resumption of Asky and the entrance of Fly Mid Africa in 2017 resulted in a significant reduction in Arik Airline’s market power. Interestingly, Fly Mid Africa despite being a new entrant controlled about two-third of the market with the remaining one-third shared between Asky and Arik Airline. Fly Mid Africa also exited the market in 2019 following a huge loss of market share to Asky in 2018.
96. Table 4 illustrates the market shares of all the flights from BANJUL INTERNATIONAL AIRPORT (BJL) TO LUNGI INTERNATIONAL AIRPORT (FNA), Freetown for the period under review. Gambia Bird had a monopoly with a significant market share of 86% in 2014. Both Gambia Bird and Asky exited the market in 2015 and 2016 and this created a vacuum in 2015, with no airline plying the Banjul-Freetown route. However, the entrance of Arik air into the market in 2016 filled the vacuum and became the sole operator with 100% market share.
97. In 2017, both Fly Mid Africa and Asky Airline enjoyed a monopoly situation with significant market shares of 69% and 31% respectively in the year 2017. While the monopoly of Fly Mid Africa was short-lived and was only for 2017, Asky Airline continued to singly enjoy a monopoly situation with a significant market share of 71% in 2018 and 99% in 2019.
98. Although TRANSAIR entered the market in 2019, it only had an insignificant market share of 1%.
99. Table 5 depicts the market shares of the airlines that flew from BANJUL INTERNATIONAL AIRPORT (BJL) TO MOHAMMED V INTERNATIONAL AIRPORT (CMN) for the period under review. It is observed that Air

Maroc is the sole airline operator on this route from 2014 to 2019.

## International Route

100. Table 6 depicts the market shares of the airlines that flew from BANJUL INTERNATIONAL AIRPORT (BJL) TO LOME-TOKOIN AIRPORT (LFW) for the period under study. It is observed that Asky Airline solely operates on this route from 2014 to 2019.

101. It is also important to note that during the year 2015 to 2016, there had been no flight from BANJUL INTERNATIONAL AIRPORT (BJL) TO LOME-TOKOIN AIRPORT (LFW).

102. The international route plays a fundamental role in maintaining the operation of the airport, as it is the busiest route in terms of the number of passengers. This is invariably linked to the fact that the Gambia, as a tourism hub, which greatly impacts the airport, sourced the highest number of its tourists from its major source markets. It is for this reason that the international route is dominated by chartered flights because chartered flights are relatively cheaper.

103. Table 7 shows the market shares of airlines that flew from BANJUL INTERNATIONAL AIRPORT (BJL) TO

**Table 3: BANJUL - ACCRA**

FLIGHT\ROUTE	BJL- ACC (ACCRA)					
	2014	2015	2016	2017	2018	2019
Arik Air	2.1%	100%	100%	12%		
ASKY	0.1%			25%	96%	100%
Gambia Bird	97.8%					
FLY MID AFRICA				64%	1%	
AIR PEACE					3%	
TOTAL	100%	100%	100%	100%	100%	100%

Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

**Table 4: BANJUL – FREETOWN**

FLIGHT\ROUTE	BJL-FNA (FREETOWN)					
	2014	2015	2016	2017	2018	2019
ASKY	14%			31%	71%	99%
Gambia Bird	86%					
Arik Air			100%			
FLY MID AFRICA				69%	1%	
AIR PEACE					28%	
TRANSAIR						1%
TOTAL	100%	–	100%	100%	100%	100%

Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

**Table 5: BANJUL –CASABLANCA**

FLIGHT\ROUTE	BJL-CMN (CASABLANCA)					
	2014	2015	2016	2017	2018	2019
Air Maroc	100%	100%	100%	100%	100%	100%
TOTAL	100%	100%	100%	100%	100%	100%

Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

**Table 6: BANJUL -LOME**

FLIGHT\ROUTE	BJL-LFW (LOME)					
	2014	2015	2016	2017	2018	2019
ASKY	100%			100%	100%	100%
TOTAL	100%			100%	100%	100%

Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

**Table 7: BANJUL -LONDON GATWICK**

FLIGHT/ROUTE	BJL-LGW (LONDON)					
	2014	2015	2016	2017	2018	2019
Gambia Bird	19%					
Monarch	35%	25%				
Thomas Cook	47%	43%	50%	46%	57%	48%
Titan		16%	24%	32%	24%	26%
Small Planet		16%	26%	22%		
Enter Air					19%	23%
Smart Wings						3%
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

LONDON GATWICK AIRPORT (LGW) for the period under study. The BANJUL -LONDON GATWICK is the busiest route in terms of the number of passengers. This is linked to the fact that the Gambia as a tourism hub sourced the highest number of its tourists from the UK. It is for this reason that this route is dominated by chartered flights for the period under review-Thomas Cook, Titan, Small Planet, Enter Air, and Smart Wings. It could be observed that the only two scheduled flights, Gambia Bird and Monarch, ceased operation in 2016.

104. Table 8 depicts the market shares of the airlines that flew from BANJUL INTERNATIONAL AIRPORT (BJL) TO AEROPUERTO DE GRAN CANARIA (LPA) for the period under study. It is observed that Binter Canaria is the sole airline operator on this route from 2014 to 2019.

105. Table 9 shows the market shares of airlines in operation from BANJUL INTERNATIONAL AIRPORT (BJL) TO LUCHTHAVEN SCHIPHOL (AMS) for the period under review. All the airlines are chartered flights as the Netherlands is a main tourist source market for the Gambia. Corendon was the only airline in 2014 that enjoyed a monopoly situation with a significant market share of 71%. TUI Arkey Fly and Corendon both enjoyed a monopoly situation with significant market shares of 65% and 31% as of 2015, 67% and 33% as of 2016 respectively. It is also observed that TUI Arkey Fly was the only airline in 2017 that had enjoyed a monopoly situation with a significant market share of 71%. Corendon and TUI Arkey Fly both enjoyed a dominant position in 2018 and 2019.

**Table 8: BANJUL -DE GRAN CANARIA**

FLIGHT/ROUTE	BJL-LPA (GRAN CANARIA)					
	2014	2015	2016	2017	2018	2019
Binter Canaria	100%	100%	100%	100%	100%	100%
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

**Table 9: BANJUL - AMSTERDAM**

Airlines	BJL-AMS (AMSTERDAM)					
	2014	2015	2016	2017	2018	2019
Corendon	71%	31%	33%	29%	35%	33%
Transavia	29%	4%				
TUI Arkey fly		65%	67%	71%	65%	67%
Travel Service		1%				
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

**Table 10: BANJUL –BRUSSEL**

Airlines	BJL-BRU (BRUSSELS)					
	2014	2015	2016	2017	2018	2019
Brussels	100%	100%	94%	100%	87%	88%
TUI Jet Air			6%		13%	12%
TOTAL	100%	100%	100%	100%	100%	100%

Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

106. Table 10 above depicts the market shares of the airlines that flew from BANJUL INTERNATIONAL AIRPORT (BJL) TO LUCHTHAVEN BRUSSEL-NATIONAAL (BRU) for the period under study. It is observed that Brussels Airline is the sole dominant airline operator on this route from 2014 to 2019. While Brussels is a scheduled flight, TUI Jet Air is a chartered flight that operates only during the tourism season –hence the disparity in market share compared to Brussels.

be fragmented or non-concentrated.

109. According to the U.S. Department of Justice, an HHI of less than 1,500 represents an industry with a low market concentration. An HHI ranging between 1,500 and 2,500 represents moderate concentration. HHI values of more than 2,500 represent a highly concentrated industry. The figures below illustrate this classification.

### Market Concentration

107. Market concentration is used to evaluate a potential violation of the competition laws. The study uses the market concentration to reflect the degree of competition in the selected airline routes in the aviation sector, which will explain how high or less competitive an airline route is in an observed period.

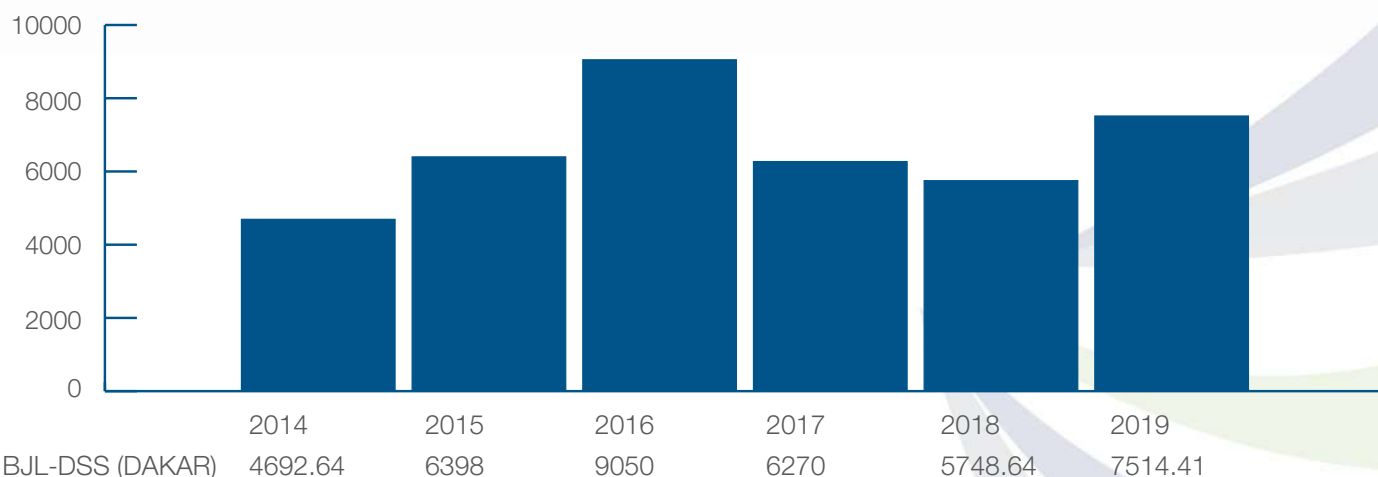
108. The study used Herfindahl Hirschman Index (HHI) to measure the market concentration, which explains that the more highly concentrated an airline route is, the less competitive it is. An airline route with a low concentration index is not dominated by any large airlines and is considered competitive. Airline routes with extremely low concentration indexes are said to

### Regional Market Concentration

110. Figure 1 below illustrates the market concentration indexes from B JL-DSS route in the year 2014 through 2019. The pieces of evidence from the data show that the index values of all the years under review are above 2,500 which indicates that the B JL-DSS route was less competitive and that only a few airlines had dominated the route.

111. The chart shows an HHI range of 4692 to 9050. This indicates that the B JL-DSS route has been highly concentrated for the period under review. It also shows a negative correlation between a number of the airline in the route and HHI. 2014 which was characterized by more airlines (5) in the route recorded the lowest HHI

**Figure 1: BANJUL INTERNATIONAL AIRPORT TO DAKAR SEDAR SENGHOR**



Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

score of 4692 whilst 2016 recorded the highest HHI score with only two airlines.

112. It is observed from figure 2 that the BJL-LOS route is less competitive because the concentration indexes are all above 2,500. This route was monopolized by only one airline operator in 2015, 2016, and 2019, as indicated by the evidence of concentration index at 10,000.

113. The BJL-ACC route concentration indexes for 2014 through 2019 were all above 2,500, which indicated that the route was less competitive as observed from the above figure 3. For the years 2015, 2016, and 2019, the route was operated solely by one airline.

114. Figure 4 depicts the market concentration indexes for BJL-FNA route from 2014 to 2019. The route was less competitive as the concentration index per year was above 2,500 as portrayed in the above figure. It is important to note that in the year 2015, there was no flight in the BJL-FNA route.

### International Market Concentration

115. Figure 5 above illustrates the market concentration indexes from BJL-LGW route in the year 2014 to 2019. The pieces of evidence from the data show that the index values of all the years under review are above 2,500 which indicates that the BJL-LGW route was less competitive and that only a few airlines had dominated the route.

Figure 2: BANJUL INTERNATIONAL AIRPORT TO MURTALA MUHAMMED INTERNATIONAL AIRPORT

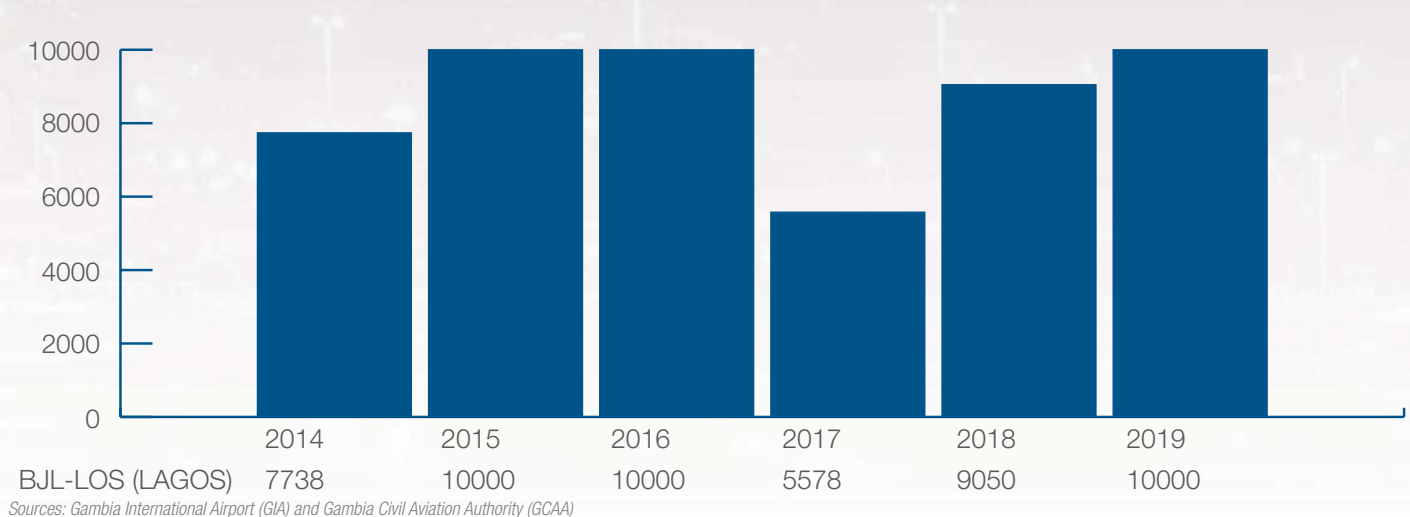


Figure 3: BANJUL INTERNATIONAL AIRPORT TO KOTOKA INTERNATIONAL AIRPORT

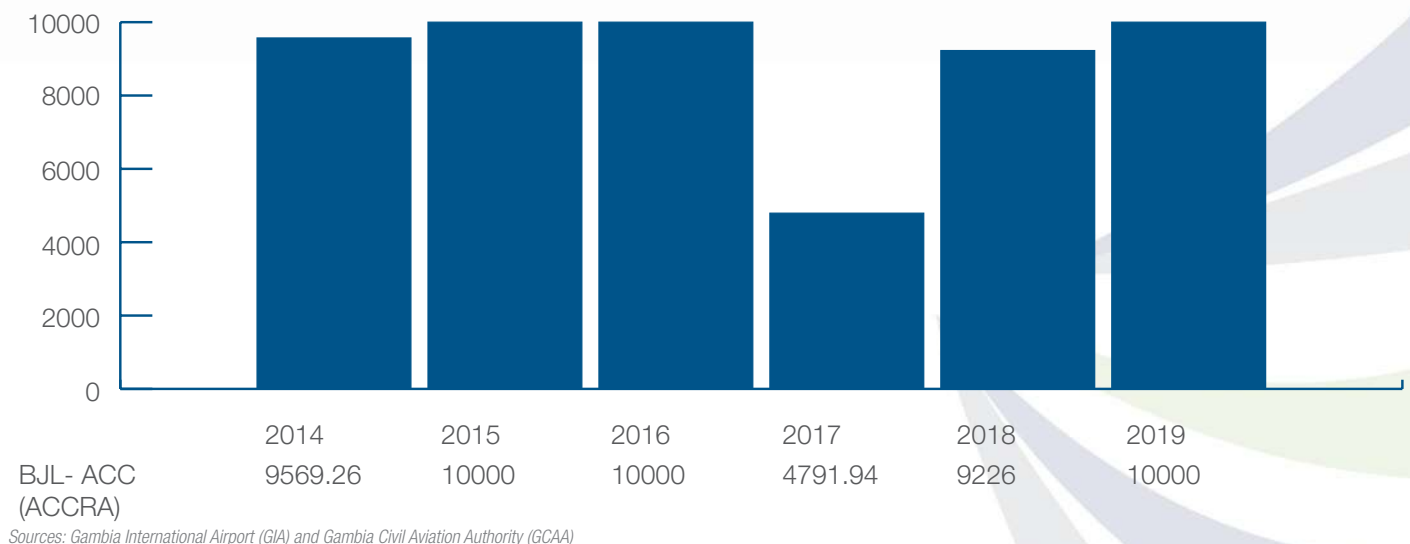


Figure 4: BANJUL INTERNATIONAL AIRPORT TO LUNGI INTERNATIONAL AIRPORT

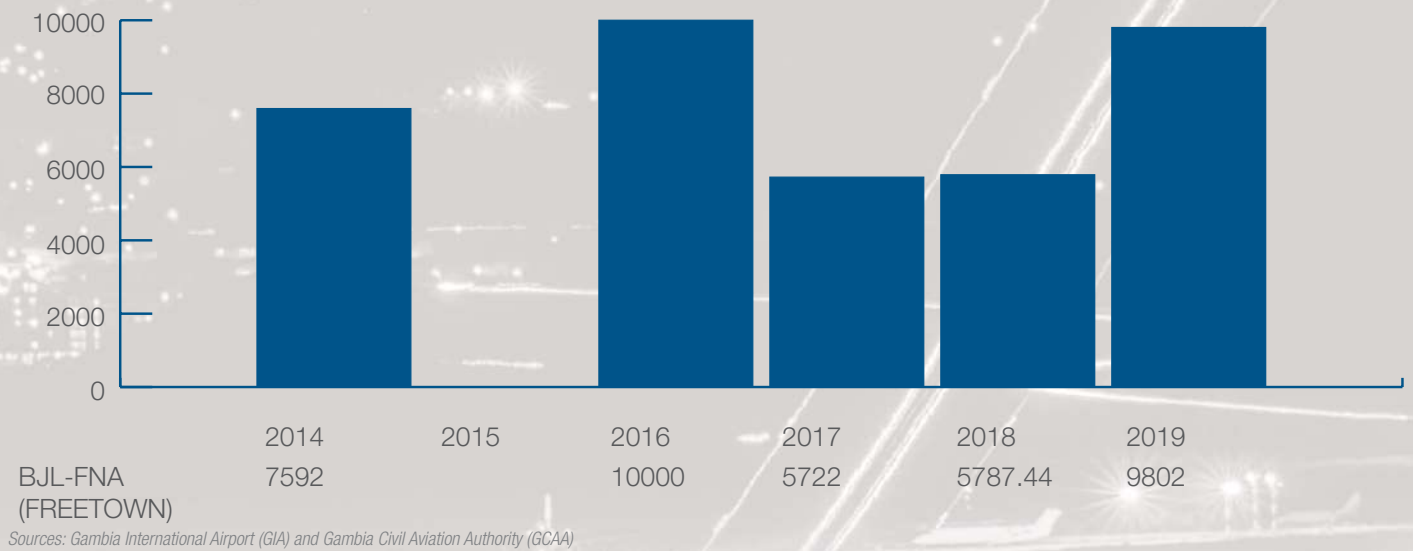


Figure 5: BANJUL INTERNATIONAL AIRPORT TO LONDON GATWICK AIRPORT

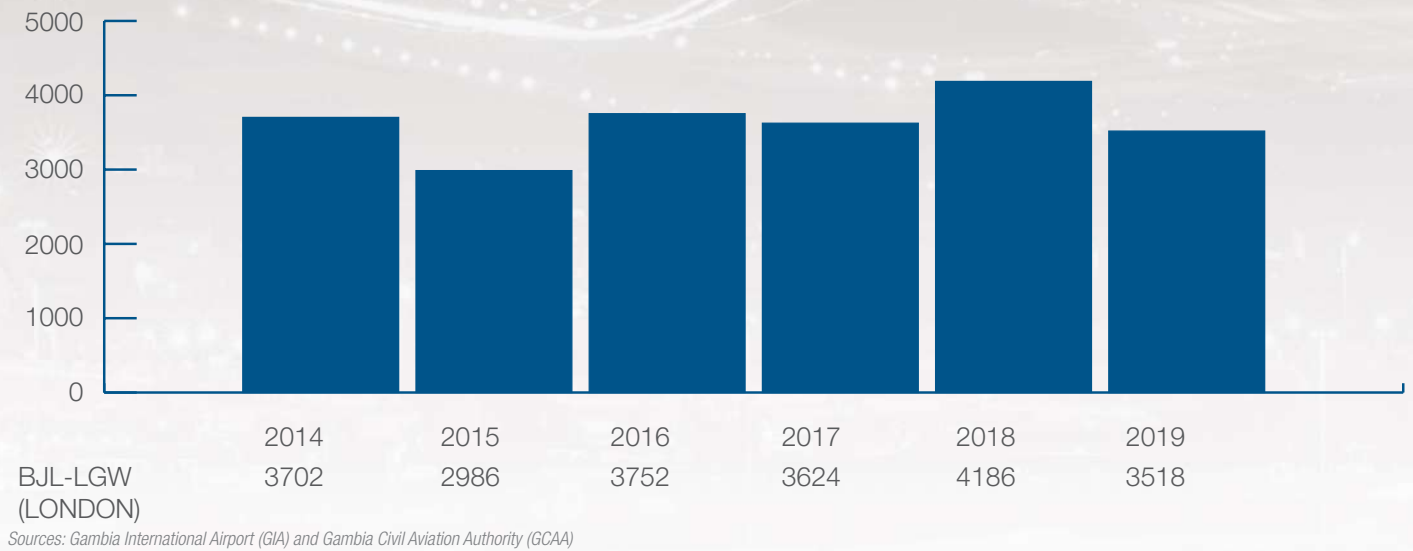


Figure 6: BANJUL INTERNATIONAL AIRPORT TO LUCHTHAVEN SCHIPHOL

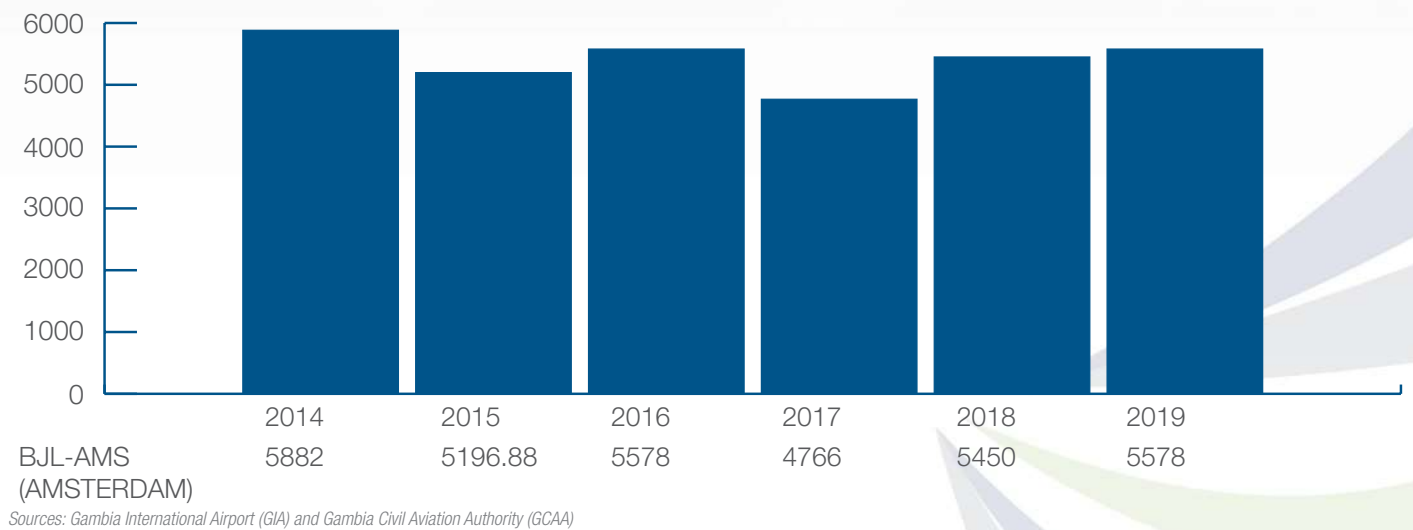
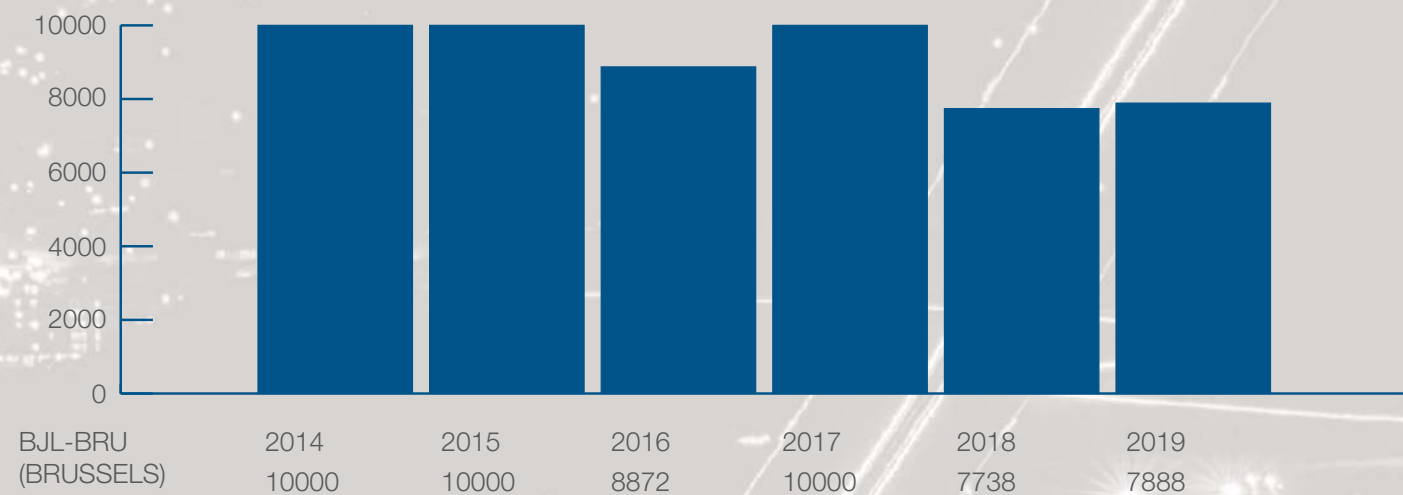


Figure 7: BANJUL INTERNATIONAL AIRPORT TO LUCHTHAVEN BRUSSEL-NATIONAAL



Sources: Gambia International Airport (GIA) and Gambia Civil Aviation Authority (GCAA)

116. Figure 6 above illustrates the market concentration indexes from BNL-AMS route in the year 2014 to 2019. The pieces of evidence from the data show that the index values of all the years under review are above 2,500 which indicates that the BNL-AMS route was less competitive and that only a few airlines had dominated the route.

117. It is observed from figure 7 that the BNL-BRU route is less competitive because the concentration indexes are all above 2,500. This route was monopolized by only one airline operator in 2014, 2015, and 2017, as indicated by the evidence of concentration indexes at 10,000.

118. NOTE: It is important to note that BNL-CMN (CASABLANCA), BNL-LFW (LOME), and BNL-LPA (GRAN CANARIA) were highly concentrated route with an index of 10,000 which indicated that each route was dominant by only one airline.

### Price Competition for All Selected Routes

119. The study focuses on the price trend in order to observe the price differences and movement of economy class and business class categories in both regional and international routes. Three periods were observed, 15th January, 15th April, and 15th August; all in the year 2020. The analysis took into account the one-way trip price of a passenger of each airline from the Banjul International Airport to selected destinations.

### International Route

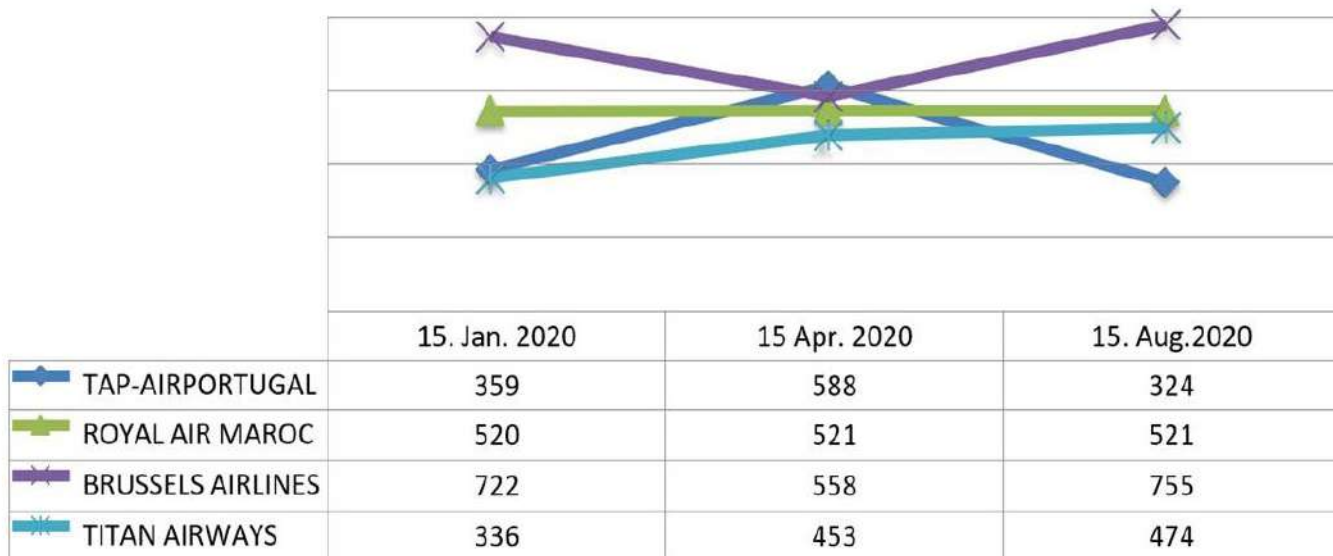
120. In The Gambia, BNL-LGW is the busiest route in terms of the number of passengers. The analysis takes into account both the direct and indirect operators. Prices for this route are slightly different and not very apart from each other. BRUSSELS AIRLINE prices are much higher than other operators in terms of both economy and business class category. On average, the most expensive economy flight cost \$678.33. The cheapest flight, on average, is operated by TITAN AIRWAYS for both economy and business and it costs \$ 421.66 and \$1232.68 respectively. This amounts to a 38% price gap between the most expensive and the cheapest in the economy group.

121. Moreover, BRUSSELS AIRLINE offers the most expensive Business class in this route followed by ROYAL AIR MAROC. BRUSSELS AIRLINES charges on average \$1994.56 whilst AIR MAROC charges \$1609.00. For the business class category, the difference between the most expensive ticket and the cheapest is also roughly 38%.

122. This route is served by two flights, BINTER CANARIA and VEUILING AIRLINE. BINTER CANARIA flies directly from BNL to LPA, whilst VEUILING AIRLINE flies connecting flights from BNL to BCN then from BCN finally to LPA.

123. BINTER CANARIA on average charges \$283.00 for economy class category, while VUELING AIRLINE charges \$506.33 for the same economy category. This figure is indicating that VEUILING AIRLINE on

Figure 8: B JL-LGW PRICES TREND



average charges more for economy class than BINTER CANARIA throughout the period under review. BINTER CANARIA kept business class prices fluctuating between \$715.45 and \$ 739.34 throughout the period.

an average of \$361.67 for economy class, whilst ASKY AIRLINE charges \$395. Overall, economy class prices between the two competitors remain close to each other. ASKY charges an average of \$778.00 for business class.

### Regional Routes

124. The route is served by three airlines but due to limitations in accessing the passenger price for Air peace, the study analyzed the price competition between Air Senegal and Transair. Price data collected for the period under review indicated that price competition was limited in this route and the two airline operators in this route maintained a consistent price difference throughout the observed period. These two airlines, AIR SENEGAL and TRANSAIR fly direct from B JL to DSS. Prices for the Economy classes are closer to each other; AIR SENEGAL charges an average price of \$98.67 and TRANSAIR charges an average of \$109.67. The difference between these two prices is small and insignificant. Both airlines do not provide a business category on this route.

125. This route is operated by two operators, ASKY AIRLINE and AIR PEACE. Prices for this route do not fluctuate for both airlines almost for the entire period of this study and are not far from each other. On average, the difference between ASKY AIRLINE and AIR PEACE Economy class prices is \$33.34. AIR PEACE charges

126. The B JL-FNA is operated by ASKY AIRLINE and TRANSAIR. The figure above illustrates that TRANSAIR maintain a consistent price of \$136.00 for economy class throughout the period under review. These trends indicate that TRANSAIR price is likely to remain the same for the entire year. On the other hand, ASKY AIRLINE charges an economy class price of \$257.00 on January 15, and decreases the price to \$215.00 in April. The price then fluctuates to \$247.00 in August 2020.

127. The Banjul to Accra route is operated by ASKY AIRLINE and it is uncontested in this route. The figure shows ASKY increasing the economy class prices from April towards August 2020. From April to August 2020, the Airline increased prices by 18% for the economy category. On the business class category, ASKY AIRLINE maintains a consistent price of \$951.00 throughout the period under review.

128. The Banjul to Casablanca route is operated by ROYAL AIR MAROC and it is uncontested in this route. Like most airlines, ROYAL AIR MAROC increases prices

from \$469.00 to \$525, January towards April 2020. From April to August 2020, the Airline increases prices to \$568.00 for the economy category. On

average, the economy class price increases by 21% from January to August 2020.

Figure 8: BJL-LPA PRICE TREND

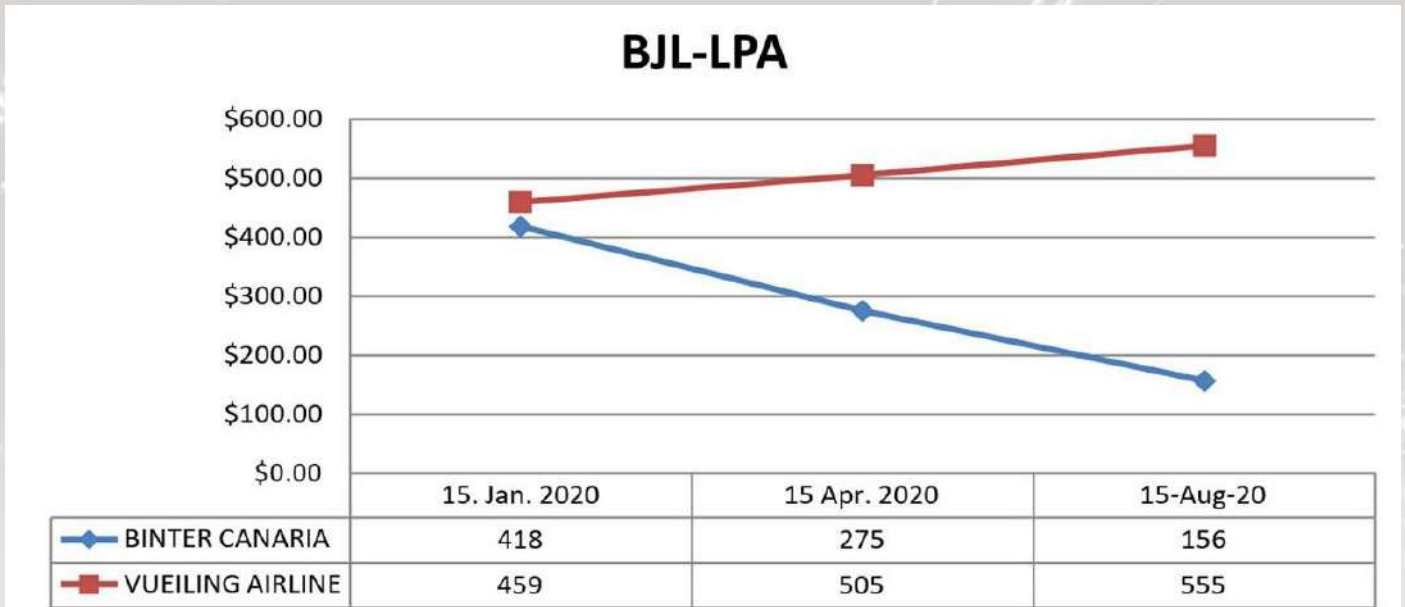


Figure 9: BJL-DSS PRICE TREND

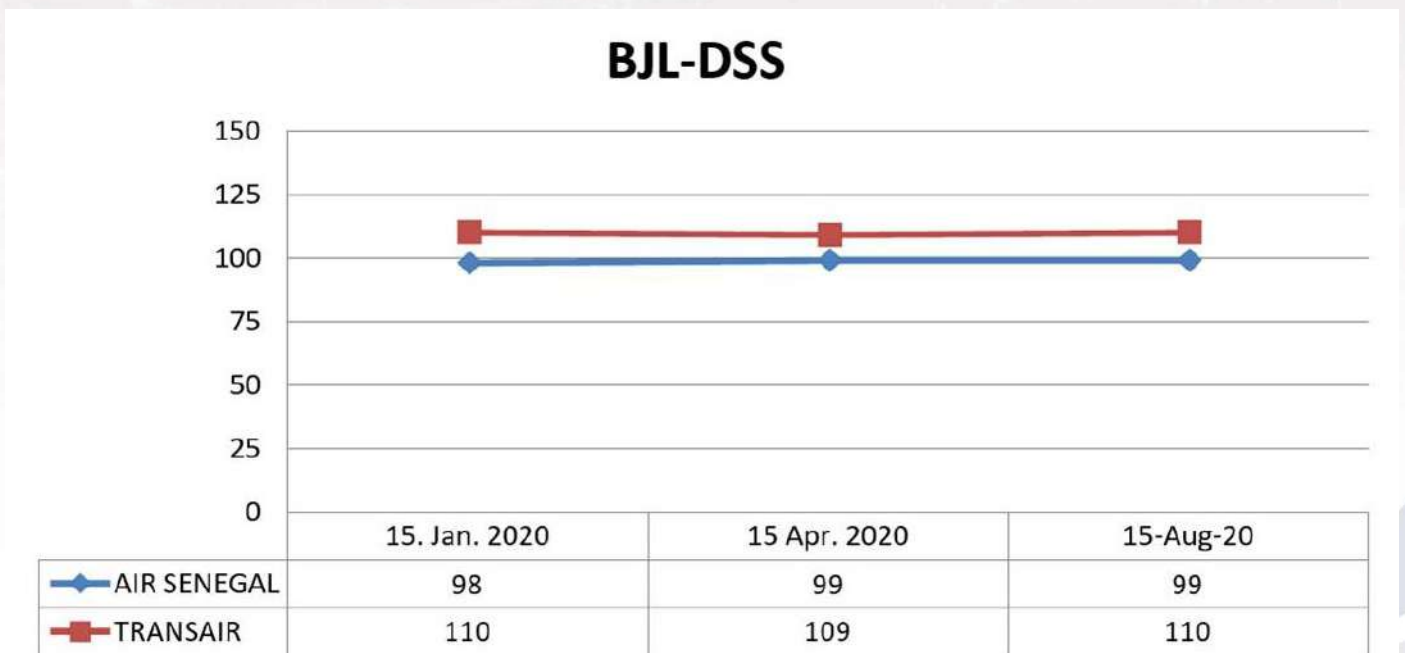


Figure 10: BJL-LOS

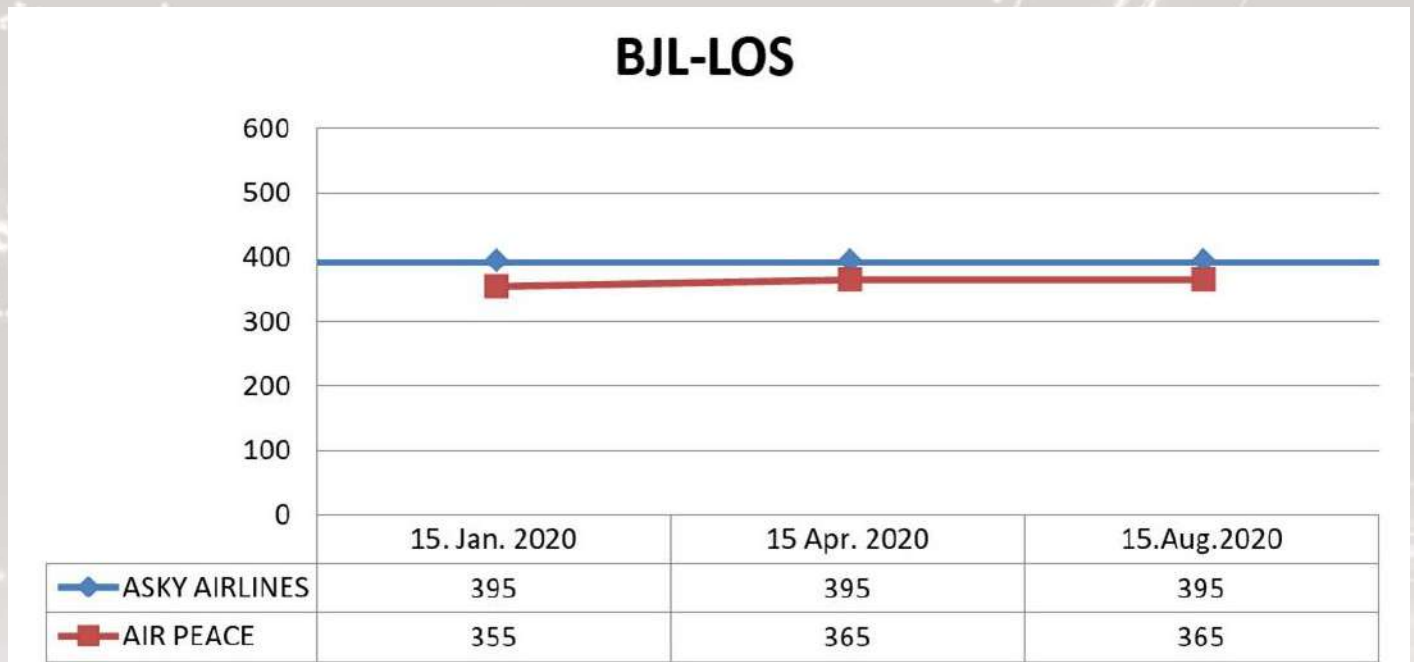


Figure 11: BJL-FNA

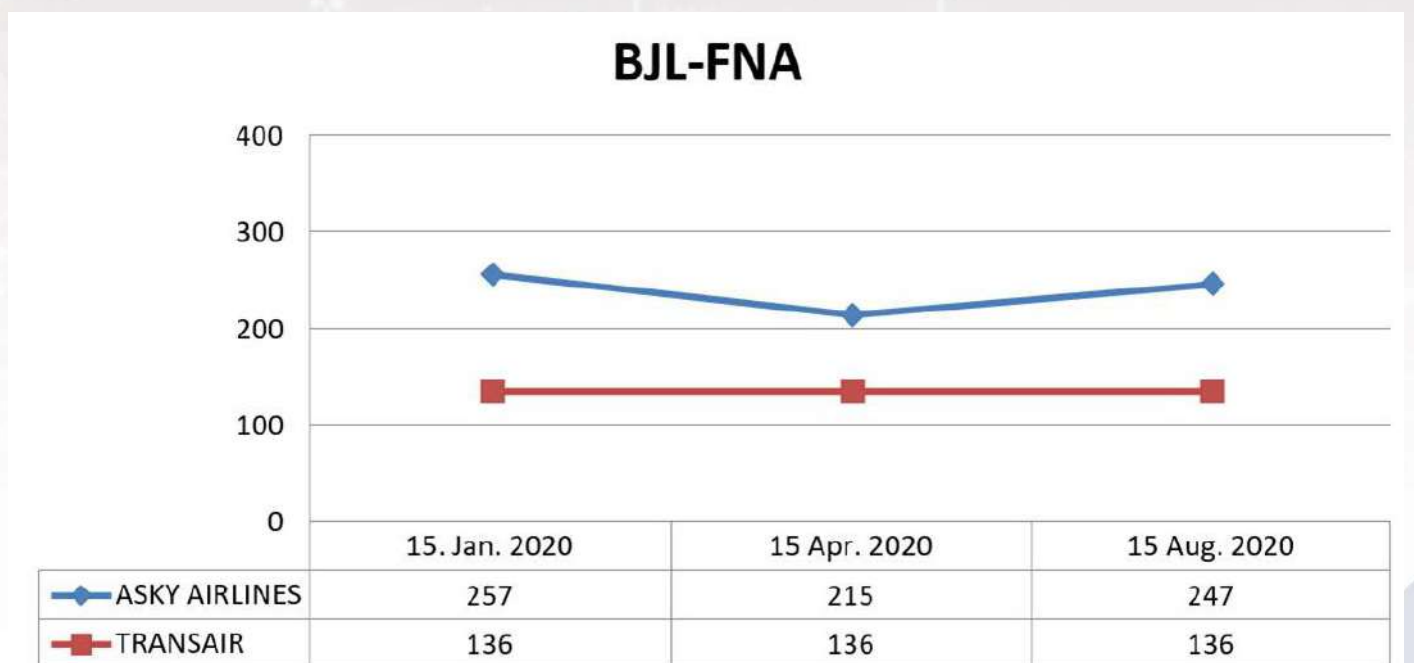


Figure 12: BJL-ACC

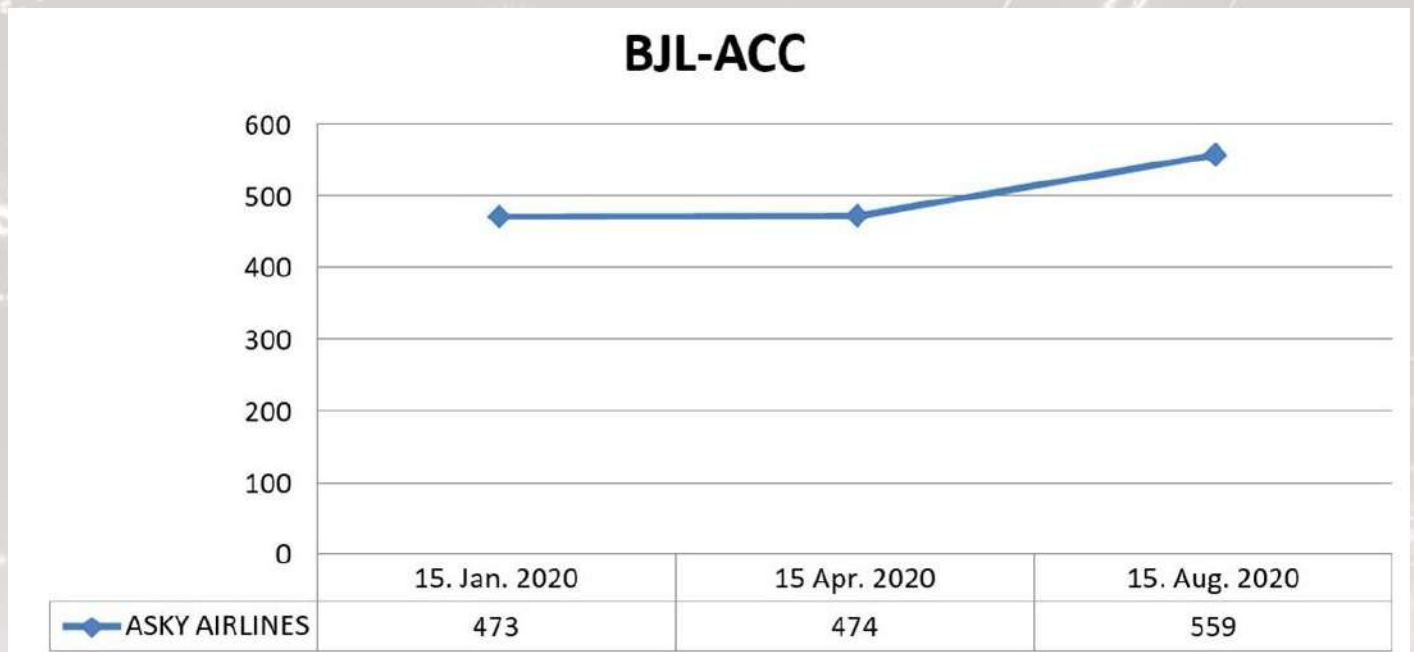
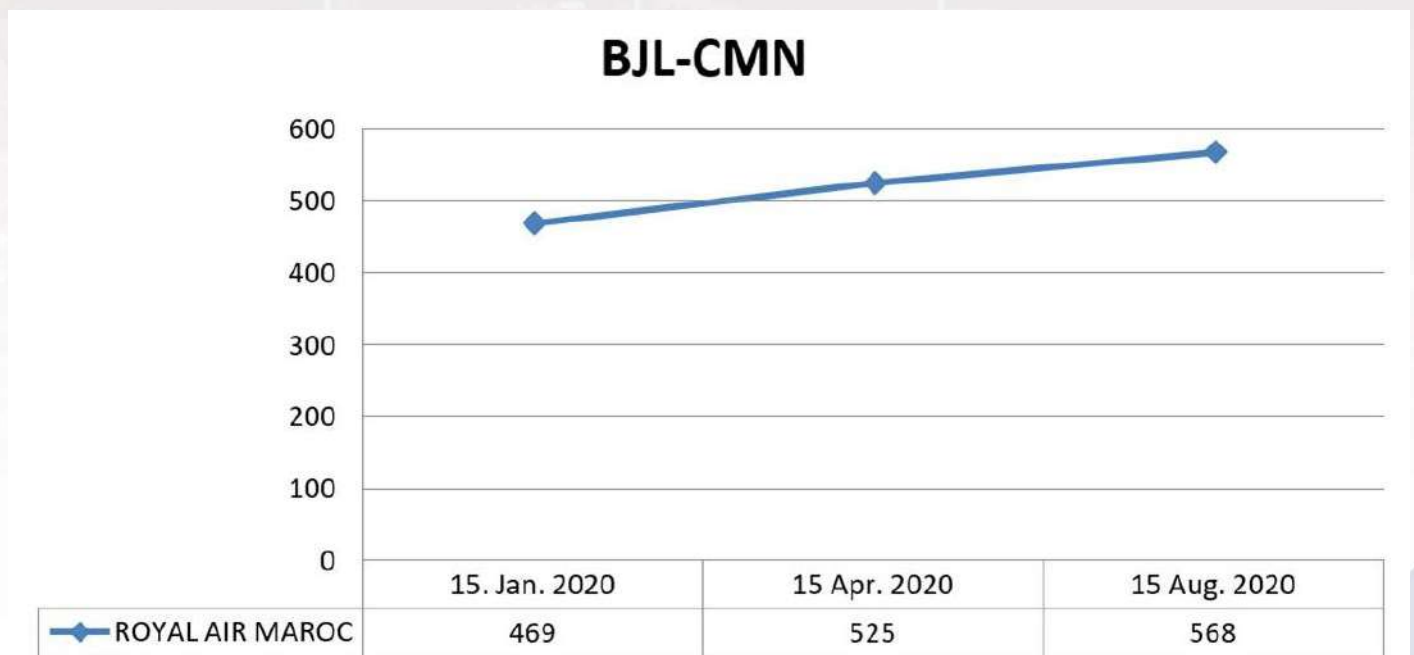


Figure 13: BJL-CMN



## REGIONAL AND CONTINENTAL PRIORITIES IN RESPECT OF THE AIRLINE INDUSTRY IN ORDER TO ADDRESS EXISTING COMPETITION CONCERNS

### Flag Bearer for the Country

129. There is no National carrier/ Flagbearer in The Gambia. Gambia International Airlines, the national carrier, has not been flying since their last joint operation with Mauritanian Airlines in 2015. Gambia Bird and Fly Mid Africa were the latest local carriers to fly the flag of The Gambia. Gambia Bird exited the market in 2014 and Fly Mid Africa in 2018.

130. In 2019, the Government has issued directives stating its intention for GIA to commence flight operations; GIA is currently working to advise the Government on the matter.

131. Once there is a national carrier/flag bearer, it will allow the airline to be part of an alliance or codeshare.

### Make BIA a Major Hub within the Sub-region

132. Making BIA a major hub is a dream that is far-fetched in the short term. A lot of factors have to be in place among which are the structure, manpower, locally registered airlines etc.

133. Though the Airport structural work is in progress, there is major doubt that a sole company can have the capacity to be able to cater to all airlines in terms of ground handling if BIA is made a major hub. Thus the liberalization of ground handling will be a key in the quest to make BIA hub.

134. In its effort to market the Banjul International Airport (BIA) as a hub, the GCAA has entered into Bilateral Air Service Agreements (BASA) with 22 countries, whose airlines can now operate commercially at BIA; 19 are already initiated, while one is a proposal under

discussion. The GCAA, in entering into BASA with any African country ensures that the fifth freedom right under the Yamoussoukro Decision is inserted. This will ensure that there is access to more routes within the region and sub-region.

## FACTORS AFFECTING THE DEVELOPMENT OF THE AIRLINE INDUSTRY

135. Challenges confronting flight operations in The Gambia include the restrictions on traffic rights, the rising cost of fuel, airport charges and taxes, lack of working capital and brain drain.

### Restriction on Traffic Rights

136. Too often, it comes down to simple protectionism, driven by fear that the national carrier won't be able to compete with the continent's big players. Although in some cases low passenger volumes may create nature monopolies; in many countries competition is artificially restricted by making it difficult for airlines to access certain routes, for Governments to support their carriers.

### Airport Charges and Taxes

137. High airport taxes and charges are inhibiting the growth and development of The Gambia air transport industry. Taxes, particularly for intra-African flights are sometimes higher than the actual fare for the flight. The country has the sixth-highest charges for regional flights and thesecond-highest for international flights in the West Africa Region.

### Lack of Working Capital

138. Airlines require access to finance both for working capital and, particularly, to obtain aircraft. The small size of most African airlines and the many difficulties

### Comparison on Total Charges and Fees per Ticket, per Passenger (US\$)

Regions	Total Charges per Ticket (The Gambia)	Total Government Taxes (The Gambia)	Total Charges per Ticket (Regional Average)	Total Government Taxes (Regional Average)
Regional	112.62	71.46	95.41	16.75
International	162.12	120.96	111.40	22.71

Source: IATA Study of Air Transport and Related Fees, charges and taxes applied in selected countries for West Africa, 2018.

in developing and operating airlines in many African countries mean that many financial institutions are unwilling to invest in African airlines or, where they do invest, charge higher rates than would be charged to airlines in other parts of the world.

## Brain Drain

139. The airline industry is a highly specialized industry and training of key personnel requires a lot of financial, time and material investment. With comparatively poor remuneration, many of Gambia's aviation professionals are leaving for greener pastures in other parts of the world.

## Passenger Flow

140. The passenger flow in West Africa is "pretty low" and this could be attributed to high ticket prices. Many Gambians cannot afford to fly because of the high cost of tickets. For instance, a thirty minutes return flight to Senegal can cost as much as \$300.

## TOURISM AND COMPETITION

141. The objective of this section is to review how the existence of possible anti-competition practices in the airline industry could affect the tourism sector in the Gambia tourism - which is one of the key sectors of the economy of the Gambia.

### Tourism in The Gambia:

142. Tourism and culture continue to be of vital importance to the socio-economic development of The Gambia; contributing significantly to the Gross Domestic Product (GDP). It is for this reason that tourism is accorded a high priority in the National Development Plan (NDP).

### Airline Competition and the Tourism Sector

143. For a sector that the country is heavily dependent on representing a huge chunk of economic activities with many economic players at stake, issues of anti-competitive practices should be an area of focus. Although there are different stages of analysis when

discussing competition vis-à-vis tourism, one key area is that which looks at how to carry the consumers from the place where they reside to their touristic destination i.e. competition issues in the aircraft operations including the airline industry airport industry. This is the main objective of this study as far as tourism is concerned.

144. The inclusion of tourism in this study is premised on the fact that tourism plays a significant role in the development of the airline industry and airport operations in the Gambia; with the potential to be affected by any anticompetitive practice in the airline industry. This, therefore, affects tourism in two folds; one being that most airlines are tourism influence and second being that literally, all passengers landing at the airport are a tourist in one way or the other.

145. Therefore, the crux of the study relating to tourism is the challenge anticompetitive practices pose on tourism by impeding our efforts to lure airlines, in particular, tourist flights and tour operators to operate in the sector. This invariably will negatively affect the passenger traffic at the airport and by extension, the economy as tourism is a vital part of the economic life of Gambians; thus the need for a level playing field for actors in the airline industry.

### Competition Issues Affecting Tourism

146. With tourism generally agreed to be the main driver of passengers at the Banjul International Airport, any anticompetitive practices or issues affecting the satisfaction of customers will adversely affect the inflow of passengers into the BIA. One major issue of anti-competitive practice which is tourism-related is the exclusivity contracts between hoteliers and international tour operators, which was investigated by the GCCPC.

147. That aside, there are no discoveries of anticompetitive concerns in the tourism sector or airline industry that may directly affect tourism. However, there is a lot of issues that affect customers at the BIA, which if not addressed would hamper the growth of tourism in the Gambia. These among others include:

## Lack of Internet Access

148. Most millennial travelers are obsessed with the internet and free Wifi is now available in all standard airports around the globe. In our efforts to target such a niche market, the BIA is not supporting such a course.
149. Hassling of tourists at the airport is another menace as far as tourism is concerned. The Airport is inundated with security forces and other personnel, most of whom add no value to the operation of the airport. By extension, extorting gifts from tourists in the name of searching items from our officials assigned to do is a cause for concern and discourages many tourists from coming to the Gambia for holidays.
150. Poor ventilation at the arrival and departure lounge exacerbated by long turn-around time is also sickening to the tourists.
151. Air access also remains a challenge for tourists planning to travel to the destination. With tourism helping the GIA to position the Gambia as a hub by increasing air traffic, the hassle of having air carriers to the Gambia continues to frustrate such efforts.
152. Frequent bird strikes have recently been another factor affecting the GIA and tourism is one of the hardest hit. This undoubtedly erodes the confidence of tourists and needless to say would affect traffic at the airport. For example, Thomas Cook airline/fleet in 2016/2017 tourist season cause panic due to a bird strike. Similarly, both Titan and Enter Airlines in 2018 were also affected.

# CHAPTER 6: THE GAMBIA

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(COVID-19 ADDENDUM CHAPTER)



## OVERALL IMPACT OF COVID-19 ON THE AIRLINES INDUSTRY

1. The COVID-19 pandemic is having an unprecedented negative impact on economies and societies around the world. The Gambia registered its first COVID-19 case on March 17th, 2020. The Government of the Gambia in line with the WHO guidelines mandated social distancing practices and instructed non-essential businesses to close and non-essential workers to stay at home to minimize the spread of the outbreak. There is significant uncertainty about the effect such measures will have on the lives and livelihoods of the populace. These measures also included the closure of all borders including air space from March to October 2020 by the Government, where to buy time to act, prepare its health services and its systems of testing, tracing, and isolating. While the demand for specific sectors such as essential commodities increased in the early weeks of the pandemic due to panic buying, other sectors such as air transportation and tourism have seen demand for their services plunged. The Tourism Industry arguably has been one of the hardest-hit industries due to restrictions on the movement of people globally. In The Gambia, there was a total shut-down in the tourism industry until October 2020, which resulted in a significant negative socio-economic impact on the industry and other industries as well, given that tourism accounts for about 20% of GDP and creates both direct and indirect employment of about 150,000 jobs.
2. This chapter discusses the analysis of the impact of COVID-19 on the airline industry focusing on the demand shock, revenue losses, and Government support to the industry among others. It examines:
  - 2.1 the demand-side looking into the changes in demand for airline services due to the COVID-19 pandemic,
  - 2.2 the revenue losses of the airlines and other stakeholders as a result of the airline industry COVID-19 regulations, and
  - 2.3 Government support to sustain the viability of the airline industry.

## DEMAND SHOCK

3. The Gambia unlike most countries has only one airport with no domestic flights thus making its airline industry volatile and prone to external shocks. The lockdown by other countries directly and immediately affected the passenger and aircraft movements in and out of the Gambia. The resumption of effective operations also largely depends on the situations in major source/destination countries.
4. The computation of the demand shock is based on data recorded by the Gambia International Airline (GIA), the Gambia Civil Airline Authority (GCAA), and the airline companies operating in the airline industry of the Gambia. The analysis compared the demand before the COVID-19 and during the COVID-19 period, focusing on the passenger movement and the number of flights per month for the selected routes in the two observed periods.
5. Table 1 shows an increase in both arrival and departure figures in January and February 2020 compared to the same period in 2019. However, this positive trend in passenger movement changed in March 2020 when the Gambia recorded its first COVID-19 case which resulted in the closure of the country's airspace. The closure was announced in March 2020 in which the recorded passenger figure dropped from 59,759 in February to 35,242 for the arrival and departure from the Banjul International Airport. This figure further dropped to an average passenger figure of 1,689 per month until November 2020 when the airport resumed operations with a total movement of 7,507. This indicates an increase in passenger movement following the resumption of services in November 2020 but 84% less than the same period in 2019.
6. The Banjul International Airport continues to record passenger movements during the COVID-19 as indicated in table 1 below. These were not scheduled or chartered flights, but rather special repatriation flights arranged by the embassies to evacuate their citizens from the Gambia. The record shows that 68% of the passenger movements during the lockdown were departures on the special repatriation flights.

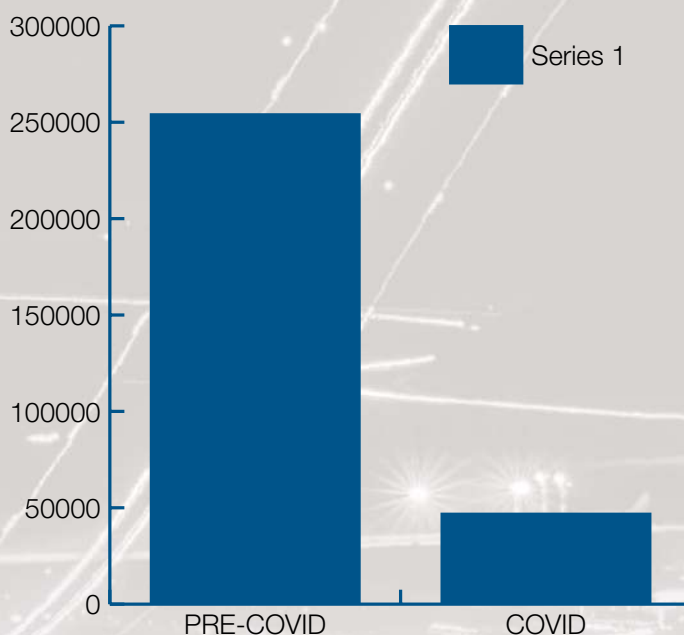
**Table 1: Total passenger movement for pre and during COVID-19**

PASSENGER MOVEMENT			
PERIOD 2019			
	ARRIVAL	DEPARTURE	TOTAL
JANUARY	30,176	32,766	62,942
FEBRUARY	26,752	28,082	54,834
MARCH	25,796	31,025	56,821
APRIL	17,354	21,540	38,894
MAY	11,668	13,758	25,426
JUNE	11,399	11,638	23,037
JULY	13,293	14,451	27,744
AUGUST	13,274	13,518	26,792
SEPTEMBER	11,439	12,334	23,773
OCTOBER	16,602	15,177	31,779
NOVEMBER	25,543	22,507	48,050
PERIOD 2020			
	ARRIVAL	DEPARTURE	TOTAL
JANUARY	31,142	34,522	65,664
FEBRUARY	28,862	30,897	59,759
MARCH	13,343	21,899	35,242
APRIL		1,271	1,271
MAY	40	521	561
JUNE	153	703	856
JULY	640	1,361	2,001
AUGUST	360	1,377	1,737
SEPTEMBER	984	1,488	2,472
OCTOBER	1,561	1,362	2,923
NOVEMBER	4,456	3,051	7,507

Sources: Author's computation from the GIA declarations

- Figure 1 highlights a significant decrease in the total passenger figure (both arrival and departure) from March to October 2020 compared to a year earlier. The figure shows a total passenger figure of 47, 063 from March to October 2020 compared to 254,266 in the same observed period in 2019. This indicates that the number of passenger movements has plummeted by 81% between March and October 2020 compared to a year earlier.
- The Banjul international airport has started receiving commercial passenger flights in early November of 2020 which shows a 157% increase in passenger movement from October the same year. It is worth noting that the opening of the airspace by the Government coincided with the second wave of COVID-19 and the imposition of travel bans by major sources and destination countries within continental Europe. This coupled with the lack of domestic flights in the Gambia has slowed

**Figure 1: Demand shock**



Sources: Author's computation from the GIA declaration

down the recovery of the Gambia airline industry even after the opening of its airspace to commercial flights.

## AIR TRAFFIC AND AIRCRAFT MOVEMENT

- A fall in demand or passenger movement has led to the minimization of air traffic and aircraft movement. Table 2 below shows the monthly air traffic and aircraft movement at the Banjul International Airport. The table indicates that the first two months of 2020 registered more air traffic and aircraft movement than in 2019. However, aircraft movements decrease from March to November upon the Government restriction of commercial passengers' flights.
- The only allowed air traffic and aircraft movements into Banjul international airport were the repatriation flights, medical and cargo flights. Many commercial airline companies have ceased operation and most of their routes were halted and are yet to resume.

**Table 2: Number of Aircraft operation in the Banjul International Airport**

NUMBER OF AIRCRAFT'S OPERATION		
Period	2019	2020
January	294	334
February	257	303
March	275	218
April	204	18
May	172	13
June	159	17
July	162	20
August	173	19
September	152	19
October	173	23
November	283	62

Sources: Author's computation from the GIA declarations

11. From March to October of 2019 a total of 991 aircraft movement while 347 aircraft movement was reported for the same period in 2020. This shows a 65% drop in aircraft movement into Banjul International Airport during the COVID-19 period.

## IMPACT OF COVID 19 ON PASSENGER MOVEMENT ON SELECTED ROUTES

12. Table 3 and 4 below shows the percentage change in the passenger movement in each designated route. The same selected routes in the first part of this report were maintained for both regional and international routes. The analysis took into account total passengers per

route for each aircraft before and during the COVID-19 expressed as a percentage change from the Banjul International Airport to selected destinations.

13. As observed in table 3, most of the airline's percentage change for regional routes was largely positive between January and February 2020. This would mean, airlines made more trips in January and February of 2020 compared to January and February of 2019. As expected, passenger movements for the selected routes dropped significantly starting in March 2020 when the lockdown was announced. It was only Transair that has recorded a positive percentage change in March for its Banjul International Airport to Lungi International Airport (BJL-FNA) route, while all the other airlines percentage changes remained negative until November 2020. The table also shows that SN Brussels was the only airline to record a positive percentage change in November 2020 with 2250% for its Banjul International Airport to Dakar Sedar Senghor (BJL-DSS) route.

14. Asky resumed operation as a commercial flight in November 2020. The company was operating on four regional routes before the COVID-19 outbreak, but has decided to operate only on three routes after the airspace was opened. The analysis of the percentage changes in the passenger movement continued in table 4, which shows the passenger movement in selected international routes. Like the observation

**Table 3: Monthly percentage change for passenger airlifted from Banjul Airport to selected regional destinations.**

ROUTE	AIRLINE	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
BJL-DSS	Air Senegal	81%	117%	-21%	-100%	-100%	-100%	-100%	-100%	-100%	-100%	-72%
	Brussels	100%	0%	0%	-100%	-100%	-100%	-100%	100%	-100%	0%	2250%
	Air Peace	-100%	-100%	0%	0%	0%	0%	0%	-100%	-100%	-100%	0%
	Transair	70%	-28%	-53%	-100%	-61%	-100%	-100%	-100%	-100%	-100%	-100%
BJL-LOS	Air Peace	-8%	67%	-48%	-100%	-100%	-100%	-100%	-100%	-100%	-100%	-100%
BJL-ACC	Asky	-23%	-13%	-60%	-100%	-100%	-98%	-99%	-98%	-100%	-100%	-79%
	Asky	-25%	5%	-46%	-100%	-100%	-100%	-100%	-100%	-100%	-100%	-37%
BJL-FNA	Transair	100%	100%	100%	0%	0%	0%	0%	0%	0%	0%	-100%
	Air Maroc	42%	155%	-17%	-100%	-100%	-100%	-100%	-100%	-100%	-100%	-100%
BJL-CMN	Air Maroc	42%	155%	-17%	-100%	-100%	-100%	-100%	-100%	-100%	-100%	-100%
BJL-LFW	Asky	1128%	52%	-41%	-100%	-100%	-100%	-100%	-100%	-100%	-100%	-35%

Sources: Author's computation from GIA declarations

**Table 4: Monthly percentage change for passenger airlifted from Banjul Airport to selected international destinations**

ROUTE	AIRLINE	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
BJL-LGW	Thomas Cook	-100%	-100%	-100%	-100%	0%	0%	0%	0%	0%	0%	0%
	Titan	52%	65%	92%	-100%	0%	0%	0%	0%	0%	0%	-100%
	Enter Air	-5%	100%	100%	-100%	-100%	-100%	-100%	-100%	-100%	-100%	0%
BJL-LPA	Binter Canaria	9%	2%	-31%	-100%	-100%	-100%	-100%	-100%	-100%	-100%	-100%
	Corendon	-18%	-48%	-55%	-100%	0%	0%	0%	0%		-100%	-100%
BJL-AMS	TUI Arkey Fly	-7%	-4%	-27%	-100%	-89%	-100%	-100%	-100%	-100%	-100%	-100%
	Brussels	21%	-8%	-41%	-100%	-100%	-100%	-99%	-68%	-100%	-100%	-57%
BJL-BRU	Tui Jet Air	26%	-16%	-13%	-100%	0%	0%	0%	0%	0%	-100%	-100%
BJL-ISN	Turkish Airline	177%	429%	-3%	-100%	0%	-100%	-100%	-100%	-100%	-100%	-64%

Sources: Author's computation from GIA declarations

for the regional routes, the international routes were also largely positive between January and February 2020. As observed from the table below, Titan and Enter Air were the two airlines that recorded a positive percentage change in March of 2020 from the Banjul International Airport to the London Gatwick Airport (BJL-LGW) route. Passenger movements for the selected routes dropped significantly starting in March 2020 when the lockdown was announced. The table has also indicated that the selected international routes have not recorded any positive percentage change since the resumption of flights in November 2020. This could be attributed to the second wave in the European continent.

## ENTRY AND EXIT

15. The selected international routes have recorded eight airlines before the COVID-19 outbreak, but only two airlines have resumed operation since the airspace was opened to commercial flights in November 2020. The two airlines that had resumed are Turkish Airlines and SN Brussels while the remaining airlines are yet to resume operations in the selected international routes.
16. The selected regional routes on the other hand, have recorded six airlines before the COVID-19, but only

three have resumed operations after the opening of the airspace in November 2020. The three airlines that have resumed operation in the selected regional routes are Air Senegal, Asky and SN Brussels airline. The report could not ascertain the status (exit or resumption date) of the remaining airlines as no official confirmation is received from the airlines on their status by the Gambia Civil Aviation Authority.

17. The study found one new entry and an exit as stated below:
  - 17.1 TUI Airline Company has announced its interest in participating in the Banjul- London Gatwick (BJL-LGW) route following the Government's lifting of the restriction on the airline industry.
  - 17.2 Asky has temporarily exited the Banjul-Monrovia route due to the severe financial losses during the restrictions.

## PRICES CHANGE BETWEEN DECEMBER 2019 AND DECEMBER 2020

18. This section focuses on the price differences for the pre-COVID-19 and the COVID-19 period to observe the percentage changes for the selected regional and international routes. Two periods were compared,

December 2019 and December 2020, to observe how the airlines have responded to the pandemic in charging their air ticket prices and taking the risk of flying to selected routes. The analysis took into account the one-way trip price of a passenger of each airline from the Banjul International Airport to selected destinations.

## Regional Route

**Table 5: Regional price change between December 2019 and December 2020**

REGIONAL ROUTE PRICES			
ROUTE	Dec-19	Dec-20	% CHANGE
BJL-DSS	104.17	148.23	42%
BJL-LOS	449.83	534.48	19%
BJL-ACC	502.30	518.75	3%
BJL-FNA	179.50	458.33	155%
BJL-CMN	520.67	664.58	28%
BJL-LFW	679.00	699.54	3%

Sources: Author's computation from data declared by the airlines and travel agencies

19. As observed from table 5 above, average prices for December 2020 were significantly higher than they were in 2019. This implies that the pandemic exposed risk to the airlines in operations and forced the prices to escalate. BJL-FNA route recorded the highest percentage change of 115% from the previous year. BJL-ACC and BJL-LFW routes recorded the lowest percentage change of 3% from the previous year. It can be argued that the slow movement of passengers and the less competition between the airlines in the selected regional routes has largely resulted in the high price changes as observed in the table above.

## International Route

**Table 6: International Price change between December 2019 and December 2020**

INTERNATIONAL ROUTE PRICES			
ROUTE	Dec-19	Dec-20	%CHANGE
BJL-LGW	510.92	630.98	23%
BJL-AMS	569.34	619.44	9%
BJL-LPA	394.67	354.17	-10%

Sources: Author's computation from data declared by the airlines and travel agencies

20. The international routes have also recorded a significantly higher price in December 2020 compared to 2019. BJL-LGW and BJL-AMS routes record a percentage change of 23% and 9% respectively. The BJL-LPA route unexpectedly recorded a price fall in 2020 of 10% less than 2019.

## EFFECTS ON BILATERAL AGREEMENT

21. The Gambia is surrounded by Senegal, except for its western coast on the Atlantic Ocean. This makes Senegal a critical stakeholder in the transit trade of The Gambia as all transit to Mali, Guinea Conakry, and Guinea Bissau passes through Senegal. Senegal on the other hand transports its products from Dakar to the southern part of the Country (Casamance) through The Gambia. The two countries incognizant of the critical relationship and by the objectives and principles of the revised ECOWAS Treaty, Convention on later-State Rood Transit (ISRT), and the Protocols establishing the ECOWAS Trade Liberalization Scheme (ETLS) signed a Trade and Transit Cooperation Agreement with the view to:

22. strengthening the economic ties between the two countries on a mutually beneficial basis
23. reduce trade barriers and increases trade between the two countries.
24. cooperate and facilitate the free movement of people, goods, and vehicles between and through their respective territories for the development of trade and transit in the two countries.
25. The agreement established a Joint Trade Committee which shall be co-chaired by the Ministers in charge of trade of the Parties. The Joint Committee shall meet bi-annually (every six months), in ordinary sessions alternately in Dakar and in Banjul of mutually agreed dates. The Committee may also meet in extraordinary sessions whenever the situation requires on the proposal of any of the parties. However, the Committees could not hold any meeting following the signing of the agreement on the 12th of March 2020 due to the COVID-19 pandemic and travel restrictions.

## EFFECT ON REGIONAL INTEGRATION

26. The pandemic warranted Governments to close their airspaces to restrict travel in and outside of their countries. This forced airlines to stop operation and grounded airlines for the closure period. This has affected ECOWAS protocols on the free movement of goods and persons. Countries developed multi-pronged response strategies to contain the pandemic. However, some of the countries would not recognize the COVID-19 test certificates from other member countries, thus requiring travelers to be tested upon arrival and before departure. COVID-19 test was also free in some countries such as the Gambia whilst others would charge citizens of the ECOWAS up to \$150 per test.
27. To promote and assure the free movement of goods and citizens in the region during the pandemic, a harmonized ECOWAS cross-border travel protocol was developed and validated by the Ministerial Coordinating Committees on Health and Transport & Trade. As directed by the Ministerial Coordinating Committee on Health, the West African Health Organisation (WAHO) collaborates with AfroChampions of Ghana, to implement the harmonized protocol using a digitized platform called PANBIOS. The Ministerial Coordinating Committee of Health also agreed that where a Member State chooses to charge a fee, that the cost for COVID-19 “test for travel within the region” should be harmonized at fifty US Dollars (\$50) only for travel originating and terminating within the ECOWAS region.
28. The ECOWAS Regional Competition Authority (ERCA) is established to implement the Regional Competition Rules adopted by the ECOWAS Authority in 2008. ERCA is at its recruitment stage to be fully operationalized. The Authority planned to recruit the service of consultants to conduct legal and economic risk studies. The legal study consultant is to develop the operational instruments and guidelines for the Authority whilst the economic study consultant is to conduct a survey on the economic outlook of the member states of the ECOWAS in order to guide the Authority in the identification of priority areas for competition market research. The recruitment process for both consultancies were halted due the travel restrictions as the consultancies require travelling to member states to gather data. The travel restriction also resulted in cancellation of ERCA’s training programmes and consultative meetings which are essential to the oversight function of the Authority.
29. ERCA in its efforts to mitigate the negative impact of COVID-19 on the regional markets strategized to:
  - 29.1 Prioritizing and intensifying monitoring and enforcement in key markets and sectors of the economy impacted by the Covid-19 pandemic such as the essential commodities market in order to avoid high market concentration and other structural competition problems that may arise which are harmful to competition;
  - 29.2 Ensure the inclusion of adequate provisions on excessive pricing, block exemptions, and merger controls that allow flexibilities during emergency situations which themselves may have altered the market environment; these flexibilities if allowed are meant to address exceptional circumstances and should be granted on a short-term basis;
  - 29.3 Promote open channels of communication between Competition Agencies, the Government and other industry agencies in order to be able to provide policy advisory support in the formulation of governmental policies; this is to ensure that competition friendly policies which can be used in emergency situations or otherwise are established;
  - 29.4 Strengthen market monitoring mechanisms in competition agencies at the regional and national levels with rapid assessment and reaction capabilities as well as the powers for the issuance of emergency guidelines for competition enforcement in distressed markets, e.g. provide guidance to competitors on lawful cooperation and rescue mergers in particular;
  - 29.5 Establish a consultative process that would lead to a harmonization of the competition regimes of ERCA and UEMOA as well as effective collaboration between the two Agencies.

## EFFECT ON EMPLOYMENT

30. The airline industry is multi-sectoral and affects key sectors of the economy. The closure of the airspace in order to curb the spread of the coronavirus had a multiplier effect on the employment status of the industry regulators, airlines, airline agencies and the tourism industry which contributes about 20% of the GDP and creates both direct and indirect employment of about 150,000 jobs.
31. As the Gambia registered its first COVID-19 case in March, the Government in line with the WHO guidelines responded rapidly by mandating social distancing practices and instructed non-essential businesses to close and non-essential workers to stay at home to minimize the spread of the outbreak. Despite these efforts by the Government, the COVID-19 has spread to reach its peak in a month, which led to the Government issuing a directive to all stakeholders in the airline industry to engage in temporal reduction or shifting of their staff and to reduce the working hours. The Government provided emergency financial support to keep the stakeholders in the airline industry afloat and to prevent or minimize job losses during the COVID-19 period. The Government wage subsidy schemes among other measures provided to the regulators of the airline industry appeared to have averted a massive unemployment in the airline industry.

## Sector Regulators

32. The sector regulator, GCAA in accordance with the Government's directive to all stakeholders in the airline industry to engage in temporal reduction or shifting of its staff and to reduce the working hours, ordered non-essential staff to stay at home in order to minimise the spread of the outbreak. The Regulator during the period maintained all staff on full salary including the non-essential staff. This resulted in no redundancy or loss of income by the employees of the Regulator.
33. GT Board, unlike the GCAA, placed its entire staff on half salary and also ordered its "non-essential staff" to stay at home. This resulted in loss of income by employees of the Board but no unemployment.

## Airlines and Travel Agencies

34. Five out of the six regional airlines selected for the purpose of this section had their offices in the Gambia whilst Transair has Citi Travel Agency as its agent. Three out of the five airlines stationed in the Gambia have resumed operations whilst the remaining two are yet to resume. The three airlines during an interview informed the research team that all their staff were maintained on full salary with no redundancy. The employment status of the remaining two could not be ascertained as no contact could be established with the airlines during the study.
35. Six out of the seven the travel agencies interviewed informed the research team that all their staff were retained but on half salary during the lockdown. The remaining proportion stated that the pandemic has caused redundancy despite the Government's vigorous efforts to avert job losses in the economy.

## Tourism Industry

36. The Government provided the same financial support and measures for the tourism industry with the aim of averting job losses in the industry. Despite the Government's bold efforts to support the industry, the tourism industry unlike the airline was adversely affected by the pandemic. The closure of airspace of the Banjul International Airport by the Government imposed both direct and indirect unemployment impact on the tourism industry.
37. The stakeholders in the tourism industry are loosely categorized into two: formal and informal businesses. The formal businesses include hotels, bars and restaurants, lodges among others. These establishments have more than one employee who has been affected by the pandemic. The informal businesses on the other hand are the individual businesses which consist of tourist taxis, craft vendors, juice pressers among others. The formal businesses have had numerous forms of direct impact on their operation ranging from job losses to closure of businesses. The Gambia Tourism Board reported that the pandemic has caused 97 establishments to experience job losses, 88 establishments' experienced

**Table 7: Impact of COVID-19 on the formal tourism industry**

TYPE OF ESTABLISHMENT	JOB LOSS	REDUCED EARNINGS	CLOSURE OF BUSINESS
HOTEL	25	20	4
CAMP	3	2	5
LODGE	9	8	5
ECO LODGE	3	1	2
MOTEL	0	0	1
APARTMENT	4	6	3
GUEST HOUSE	8	14	8
RESTAURANT	15	11	20
FAST FOOD CHAIN	1	1	0
CAFETERIA	1	0	0
BAR & COCKTAIL LOUNGE	0	0	4
BEACH BAR	5	4	12
GROUND TOUR OPERATOR	7	2	6
NIGHT CLUB	1	0	2
FOREX BUREAU	5	10	1
CASINO	1	0	6
OTHER	9	9	20
<b>TOTAL</b>	<b>97</b>	<b>88</b>	<b>99</b>

Sources: GT Board and GBOS assessment of the impact of COVID-19 on tourism and related sectors

reduced earnings, and 99 establishments closed down. Table 5 below presents the detailed distribution impact of COVID-19 on the establishments in the tourism industry.

## REVENUE LOSSES IN AIRLINE INDUSTRY

38. According to a Joint Gambia Tourism Board and Gambia Bureau of Statistics Study, the closure of business has adverse economic effects on the tourism industry. An overall amount of GMD 6,794,808,408.00 equivalent to \$135, 896,168.16 was forecasted to be lost between January and June of 2020. The hotels have reported a combined loss of GMD 6.4 billion/\$128,000.00 during the period, which relates to about 95 per cent of the total loss. Camps have a combined forecast loss of GMD 15 million equivalent to USD300, 000.00, Lodges and Eco Lodges reported a forecast loss of GMD7.7 million and GMD5.7 million equivalent to \$154, 000.00 and \$114,000.00 respectively. Restaurants envisaged a loss of GMD33.8 million/\$676,000.00 as are Beach Bars which reported a forecast loss of GMD27.6 million/\$552,000 while Ground Tours have reported GMD58.4 million/\$1,168,000. These losses were as a result of the lockdown and the closure of the airspace. Majority of the consumers of the services of the tourism

industries are tourists from the European countries, who could not have access to travel for leisure and other forms of tourism due to the lockdown and travel restrictions.

39. The State of emergency and resulting regulations has resulted in huge economic loss to the regulator of the tourism industry, GT Board and other stakeholders. The GT Board has lost about GMD35.26 Million/\$700,520 between January to August 2020 and most of the loss is attributed to the low number of arrivals.
40. The Gambia International Airline, a state-owned Enterprise responsible for ground handling at the BIA reported a total loss of \$5 million due to travel restrictions. 55.2% of the reported losses was due to the cancellation of 2020 Muslim pilgrimage to mecca (hajj) by Saudi Arabia as a result of the COVID-19 while the outstanding 44.8% were losses made from ground handling, cargo services, tickets sales among other activities that GIA engaged in.
41. The Gambia Civil Airline Authority reported a loss of GMD88.8 million or \$1,776,000 as of 2020 due to the pandemic. During the restriction imposed by the Government, the Authority incurred significant expenses on payment of staff salaries, operational and

utility cost, and the cost of maintaining the terminal coupled with limited inflows. The GCAA also projected a loss of 118.8 million/2,376,000 in 2021 considering the pattern in which the pandemic is unfolding.

42. Trans Air suffered severe financial losses, without the sale of tickets and aircrafts flying out, paying employees and leasing space at the airport were all leading to major financial losses for the company. Citi Travel Agency, the agent of Transair reported a revenue loss of over a million Dalasis as a result of the pandemic.
43. Asky reported an estimated revenue loss of over five hundred and fifty thousand Dalasis (D550, 000) equivalent to \$11,000 as a result of the pandemic. The loss was in relation to refund to its customers who had booked flights with them before the pandemic and payment of wages to their contracted employees.
44. The travel agencies that are responsible for the pilgrimage (both Christian and Islamic religious journey) indicated that the pandemic has caused them average financial losses of GMD 41,247,365.50 equivalent to \$824,947.31 due to the cancellation of the muslim pilgrimage to Mecca and the Christian pilgrimage to Rome. According to the interviewees, one third of the total passenger figure of 240 allocated for each travel agency deposited their funds in preparation for the pilgrimage before the cancellation was announced. The travel agencies had to refund these passengers despite the expenses they had incurred in making the necessary arrangements by offering the services. Other travel agencies reported a financial loss of about D1,000,000.

## **GOVERNMENT SUPPORT TO REVIVE THE AIRLINE INDUSTRY**

45. The economic disadvantages of the COVID-19 pandemic call for Government response to support various sectors in the economy. In ensuring a sustainable recovery, the Government of The Gambia embarks on fiscal measures to resuscitate the airline industry. The Government, in mitigating the effects of the outbreak, supports key stakeholders in the airline and tourism industry, namely Gambia International Airlines, Gambia Civil Aviation Authority and Gambia

Tourism Board in the following manner:

- 45.1 GIA benefitted a funding of GMD21 million corresponding to \$420,000 for its three months staff's salary.
  - 45.2 GCAA also benefitted from a funding of GMD39 million equivalent to \$780,000 for its three months staff's salary.
  - 45.3 A GMD100 million translating to \$2,000,000 funding was dished out to the whole tourism industry, of which, GMD26 million (\$520,000) was allocated to the GT Board. The Association of the Airline and Agencies received an amount of GMD650, 000 (\$130,000) from the fund, while individual agencies were allocated an amount of GMD35, 000 which equivalents \$700 each.
46. Most Governments intervene to support their national airlines, but currently The Gambia has no national carrier or flag bearer. During an interview with the airline companies operating in the Gambia airline industry, they indicated that their companies did not benefit from any Government support during the pandemic.
  47. However, the Government, in its effort to support and sustain the viability of the airline industry, deferred taxes for all businesses including GIA. This tax deferred was designed to ease the financial losses faced by businesses operating in the airline industry, but notwithstanding, the tax must be paid by the businesses post pandemic.

## **AGENCY PREPAREDNESS**

48. The Gambia Competition and Consumer Protection Commission intensified its advocacy programmes to educate stakeholders in the airline industry and the economy at large on the role of competition policy in the pandemic and on pertinent consumer issues. The GCCPC, through its advocacy programmes, developed skits on price fixing and conducted TV and radio programmes on abuse of dominance and its implications on competition and societal welfare. The Commission also, in recognition of the vulnerability of the consumers in the airline industry during the

- pandemic, intensifies its advocacy programmes on consumer protection issues. The Commission erected billboards and engaged in radio and TV talk shows with industry regulators and consumer groups to educate the populace on their consumer rights in key sectors during the pandemic including the airline industry and the redressal mechanisms available at the Commission.
49. The Commission, cognizant of the limited source of finance and the reduction of the Government subvention toward the financing of the Commission's activities, engaged development and donor partners for alternative sources of funding. The UNDP, through its entrepreneurship project supported the financing of the advocacy activities of the Commission and provided office equipment for the smooth operation of the Commission during the pandemic.
  50. The Commission utilized the opportunities presented by the pandemic to build the capacity of its staff, the Competition Department through the virtual training programmes organized by ICN, ACF, Global Competition Forum, WTO and other local and international partners. The Commission staff are trained on Merger Analysis and Investigative Techniques and other relevant thematic areas. The virtual programmes enabled the Commission to build the capacity of its staff without incurring any travel cost.
  51. The Consumer Protection Department also participated in various initiatives by The African Consumer Protection Dialogue during the pandemic. As it is aware that with each passing day, consumers find themselves confronted with deceptive marketing, false advertising, phishing scams and other abuses seeking to exploit the public's fears about COVID-19. To address this challenge, the Dialogue drafted a set of tweets that they hoped African Dialogue colleagues, together with econsumer.gov members, ICPEN participants, and other consumer authorities throughout the world, will use to alert the public to these possible threats, and encourage the reporting of related international scams to econsumer.gov.
  52. The initiative was led by Nigeria and Zambia, and it's designed to:
    - 52.1 Broaden COVID-19 consumer and business awareness.
    - 52.2 Improve market conduct by demonstrating an enforcement presence online.
    - 52.3 Assist in the promotion of fair trading by educating businesses.
    - 52.4 Raise the profile of each participating agency by promoting their involvement in collaboration with other African Dialogue member states.
    - 52.5 Facilitate further action by each agency.
  53. Below are some of the webinars the Consumer Protection staff participated in which have helped equip them to be adequately prepared to effectively and efficiently address consumer protection issues during the pandemic.
    - 53.1 On the 13th and 14th October 2020, the eleventh annual African consumer protection dialogue conference themed "protecting consumers during the pandemic and beyond" shall be done through a webinar.
    - 53.2 On the 2nd October, the ACF biennial conference which brought together competition agencies in Africa to share best practices during COVID
    - 53.3 On the 3rd June 2020, the African Dialogue organized a webinar to discuss the COVID-19 Economic Impact on Consumers and Financial Scams Information and Experience Sharing Webinar.
    - 53.4 On 29th May 2020, the Commission along with other ACF members participated in a Microsoft Teams Meeting geared towards crafting an African response to COVID-19.
    - 53.5 Similar webinars were also held in May and April to discuss African Dialogue COVID-19 Information Sharing and on African issues and experiences related to the Coronavirus pandemic.

54. The Gambia Civil Aviation Authority established a Port Health Management Office to mitigate the impact of COVID-19 and handle future outbreaks. The Public health office has been well trained and well equipped to handle COVID-19 cases as well as other contagious diseases.
55. The GIA introduced a Business Continuity Plan which involves the introduction of cost cutting activities. The Airline also engaged banks and suppliers to give moratorium on its loan repayments and for an extension on outstanding payments. The Government and International Organizations were also engaged to seek support for the funding of the airline's activities.

## **CONCLUSION**

56. The airline industry of the Gambia is among the worst hit given that all its demand depends on external factors. The country has no domestic flight hence depends on external flights to operate. The negative impact of COVID-19 on the airline industry has resulted in loss of employment, revenue and negative growth.
57. The entrance of only Thomas Cook and the suspension of flight by some of the operators will lead to high market concentration in the short to medium run. The GCCPC shall continue to monitor competition and consumer protection violations in these unprecedented times to ensure players do not take advantage of the high market concentration to form cartels or abuse their dominance positions or engage in practices that are deceptive, misleading and unfair to consumers.

# CHAPTER 7: NIGERIA

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 Waste  
Restafval





## BACKGROUND

1. The Aviation sector fulfils a critical role concerning continental integration and trade in Africa. Nigeria began its deregulation of this all-important sector in 1985 and gradually moved from a national carrier to a private carrier entirely, to encourage competitiveness/open skies in the sector, as airfares were formally deregulated.
2. The Aviation sector is a key sector for the development of the Nigerian economy, not just because of its impact on other sectors of the economy and Gross Domestic Product (GDP), but also because it is essential to facilitate international trade, therefore stimulating job creation, technological innovation, and tourism.
3. With the initiation of deregulation, and its commitment to open skies, Nigeria's aviation market was open for business and witnessed an influx of domestic and foreign carriers into the aviation space willing to compete for consumer patronage. The expected advantage of such liberalization is competitive pricing, innovation, and consumer satisfaction.
4. In addition, airlines expect a level playing field to carry on their business, they expect appropriate infrastructure and a conducive regulatory environment. Barriers to entry remain a challenge in the sector, whether it is the high capital investments, infrastructure, or as some may say repressive regulatory policies.
5. Currently, Nigeria does not have a national carrier. Indigenous airlines are privately owned, and appear to be experiencing intense competition from foreign airlines, as they are confronted with numerous challenges, including limited infrastructure, high operational costs, stifling regulatory policies such as high taxes, high cost of aviation fuel, and fierce competition for international routes.
6. Two indigenous airlines (Arik Air and Aero Contractors) are currently state-controlled. The reason for this is to prevent job losses, protect investors and ensure consumer confidence in the sector. The concern is the impact this has in the sector, the fact that an airline can be doing badly and instead of a merger or takeover, it becomes state-controlled, masking the inefficiency, and sending the message that inefficient airlines can be saved. This may not encourage other operators and investors to play their part in ensuring that their business model is efficient and profitable.
7. Further, operators have had to deal with the problem of high aviation fuel, currently, indigenous airlines are having to pay high cost for aviation fuel, specifically, operators complain that 40% of the operational cost is on aviation fuel, contrary to the 25% for their foreign competitors, in a country that has crude oil. They argue that this is anti-competitive as the playing field is not leveled and the high cost is not reflective of the price of crude oil.
8. Furthermore, domestic airlines have argued that Bilateral Air Service Agreements are one sided, due to unfavorable foreign policies, and the fact that Nigeria does not have a national carrier therefore challenge the reciprocity of such agreements. However, with the signing of the Single African Air Transport (SAAT) Market Agreement, Nigeria is experiencing more foreign airlines come into the Nigerian aviation space with incumbent ones increasing frequencies.
9. Nigeria has recorded a high level of market exits by air operators, see table below showing a list of airlines that have exited the market due to mismanagement of funds, poor safety compliance, limited infrastructure and stifling regulatory policies.
10. Nigeria joined the League of Nations with a competition legislation in January 2019 with the enactment of the Federal Competition and Consumer Protection Act (FCCPA). The FCCPA established the Federal Competition and Consumer Protection Commission (FCCPC) and the Federal Competition and Consumer Protection Tribunal; repealing the Consumer Protection Council Act. The FCCPC is mandated to ensure a competitive economy by promoting a level playing field and ensuring consumer interest receive due consideration in appropriate forums.
11. In furtherance of its mandate to protect the Nigerian Market, the FCCPC sought necessary partnerships and collaborations with both sector regulatory authorities and international agencies responsible for

competition and consumer protection, in so doing, FCCPC became a member of the African Competition Forum and volunteered to participate in this study of the Aviation sector. Below is an outline of the context and objectives of the study.

12. In this study, the FCCPC seeks to provide clarity with respect to the Aviation industry, understand the current challenges to its competitiveness and develop policies and interventions that it considers expedient in making the industry viable and competitive.

## CONTEXT

13. The airline industry on the continent fulfils a critical role in facilitating trade and tourism between countries and is an essential element in supporting regional and even continental integration. The airline industry across African economies has undergone a significant evolution in the past two decades, from a protectionist approach supportive of a single national airline towards a more liberalised and de-regulated open skies regime. This has resulted in the emergence of privately owned domestic and regional airlines, as well as greater contestability on inter-country regional and international routes, albeit that this has been uneven across the continent.
14. The airline industry poses some unique challenges for competition authorities, given both the industry history and economic features. This is especially the case where the historic state incumbents have faced increasing competition from new, leaner business models such as low-cost carriers, but also well-resourced national airlines from other countries. A broad summary of common competition concerns that arise in most markets and across many routes include:

- 14.1 Regulatory barriers to entry and expansion: The extent of liberalisation across countries varies and, in many countries, there exist restrictions on entry and/or expansion on particular routes. This is especially the case with inter-country routes where the historical arrangements of bilateral arrangements persist today. These limits both the airlines that may compete on those routes but also the frequency and type of

service. These arrangements will also determine the associated rights of airlines on those routes, such as fifth freedoms to take passengers on onward domestic routes or third country routes.

- 14.2 Ongoing state support: A further common feature of airline markets is the ongoing state support for national airlines within a more liberalised environment. This is in part because national airlines are required to fulfil non-market functions such as opening up trade routes and supporting internal integration. As a result, countries have a desire to support the ongoing operation of the national airline. This support may take the form of subsidies or occasional financial bail-out, which itself may impact on competition with other airlines. In addition, the support may also take the form of support in other ways, such as preferential airport fees / access to airport slots or support on competitive routes to balance out costs incurred in support of state objectives.
- 14.3 Dominant national airlines: In many countries across the continent, there exists a national airline which has historically been a monopoly and which remains dominant today despite some degree of liberalisation of the skies. The experience in a number of countries is that this market position is frequently abused by the state-owned airline in order to retain its market position in competition to newer, leaner business models such as low-cost airlines. Such abuse is also sometimes made possible by the forms of state support or historic advantages such as loyalty schemes, international route rights and key hub operators at the primary international airport. These economic features of airlines provide a form of network or portfolio effect benefits, but also provide scope for loyalty rebates and other exclusionary strategies. Airline economics also lends itself periods of price wars in periods of lower demand or new entry and excess capacity on the route. At the same time, such price wars may also take the form of predatory behaviour by the incumbent in order to fight off sustained entry.

14.4 Horizontal alliances and cartels: A further complexity in the airline industry is the emergence of horizontal cooperative alliances and code-sharing which are sometimes justified on enhancing objectives such as improved connectivity and improved consumer experience. These arrangements can be quite extensive and include the exchange of information on airfares and discounts that alliance members will offer; routes and flying schedule coordination with other members of the alliance; cooperation in marketing, sales and distribution of joint products, including joint bids for government and corporate contracts; and participation in reciprocal frequent flyer programs. These arrangements have the potential to benefit consumers, but may also be used to limit competition. At the same time, the boom and robust nature of the airline industry has incentivised widespread actual cartel behaviour outside of alliance arrangements. These include route division, airfare coordination and coordination on certain charges such as fuel surcharges.

14.5 These challenges are often complicated in the context of regional and international routes on the continent, as the routes will involve airlines from other countries and the behaviour may be subject to regulatory action by both countries' competition authorities. In this context, there may be increasing benefit to cooperation across competition authorities to deal with continental airline routes. This is particularly the case given the scope for differential outcomes to the assessment of behaviour under enforcement action. Differences in legal regimes may also result in differences in the power to investigate state-owned enterprises, but also differences in the basis for assessment, including whether economic development objectives may be taken into account or not. However, but where there is a common enforcement outcome, there may be differential views on remedial action.

## STUDY OBJECTIVES

15. The objective of the ACF cross-country study of the airline industry on the continent is threefold:
16. First, to get an understanding of the market structure, alliances, state involvement and regulatory setting for the airline industry in the different ACF member countries, with a particular focus on regional and international services that impact on continental trade and tourism. Domestic market structure will also be examined as it is relevant to regional dynamics, but similarly the involvement of non-domestic airlines operating on routes into the member country. This mapping of the airline industry would also seek to appreciate the regional and international dynamics that are of primary relevance to the member country, such as the existence or not of regional hubs, the primary flows of passengers and state aid to domestic and competing regional airlines.
17. Second, to get an understanding of the type of competition concerns that exist in respect of the airline industry in the different ACF member countries. This would include actual complaints, investigations and prosecutions, but also the perceived limitations to competition on regional and continental routes. These limitations may be of a market structure or strategic behaviour perspective, including state aid and the support for the national airline (both domestically but also regional airlines that operate to the country), but may also be regulatory in nature such as limitations for entry and expansion based on bilateral arrangements.
18. Third, to provide a platform for identifying regional and continental priorities in respect of the airline industry in order to address existing competition concerns but also ensure the development of a more competitive airline industry that promotes regional and continental integration and the flow of trade and persons within the continent, and to / from the continent. Such priorities would be set out in terms of merger control, unilateral conduct enforcement, cooperation on airline alliances and cartel investigations, as well as advocacy in respect of industry regulation.

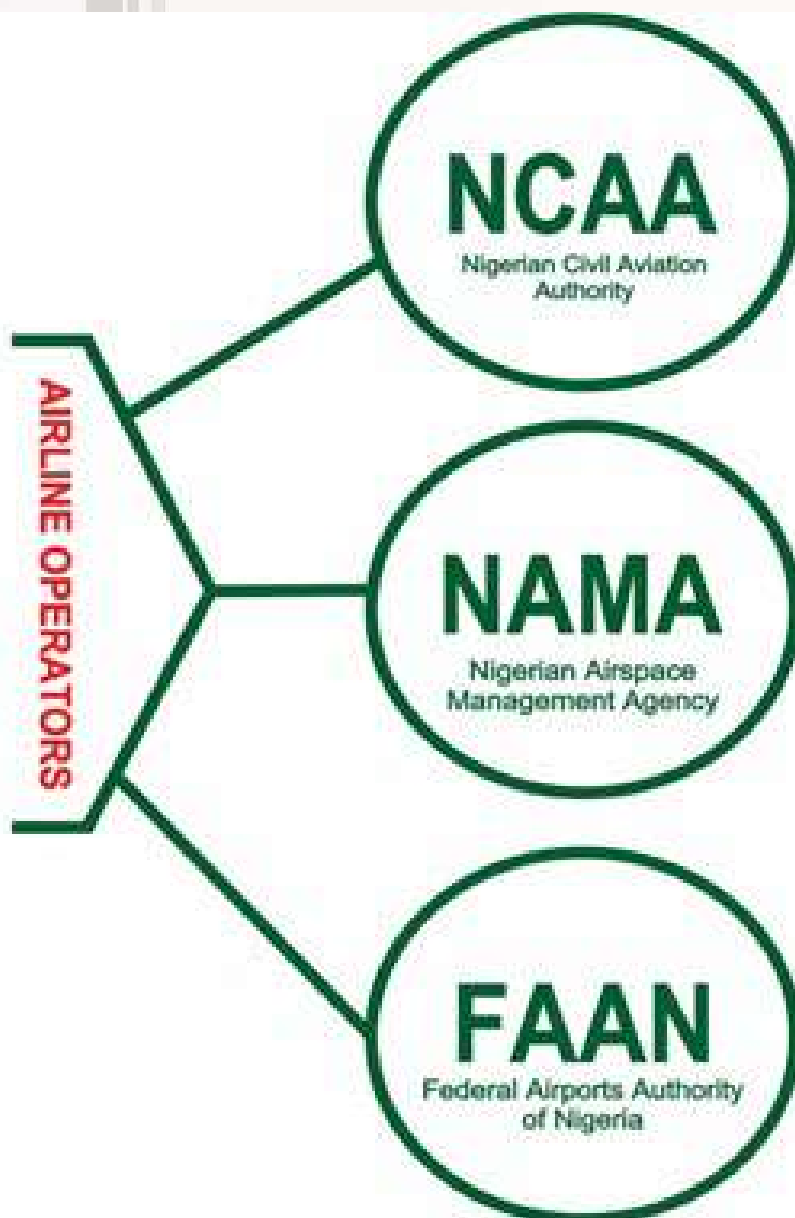
## NIGERIAN CHAPTER

19. This study was conducted by a team set up by the Federal Competition and Consumer Protection Commission, in collaboration and immense support from the Nigerian Civil Aviation Authority, specifically, Ms Ify Megwa, Mr Fagbohun Abiodun and Ms Ifueko Adulahi (NCAA team) with respect to information sharing, coordinating meetings with airline operators and airport authorities, as well as ensuring response to interrogatories. This alliance between both agencies of the Federal Government is the textbook model for regulatory collaboration.
20. The method employed for the data collected was – sending out agreed questionnaires to gain general knowledge of the industry. We sent out interrogatories to the airlines and airport authorities, to gather information about the regulatory environment, the routes, pricing methodology, load factor percentages etc., meetings were also organized by the NCAA to discuss the challenges in the sector. In addition, we relied on existing materials from different sources.
21. The data collected was interpreted and formed the basis for this report. The information gathered were vital for the commission with respect to the necessity for future collaboration with other competition authority regionally, as well as provide basis to advice government and make recommendations with respect to the aviation regulatory environment.

## REGULATORY/ INSTITUTIONAL/ LEGAL FRAMEWORK

22. The sector specific regulator in the aviation sector is the Nigerian Civil Aviation Authority established under the Civil Aviation Act (CAA), 2006. The Nigerian Civil Aviation Authority (NCAA) is responsible for promoting competition and technical competence and safety in the Aviation sector pursuant to the CAA. This includes, issuing licenses, certificates, authorisation to persons seeking to provide air transport services, regulating mergers, acquisition, restrictive agreements, and concerted practices etc., with specific reference to Part 18 of the Nigerian Civil Aviation Regulations (NCARs) 2015.

23. The Federal Airport Authority of Nigeria (FAAN) established under the Airport Authority Act 1996 is the agency of government responsible for the maintenance and management of all Airports in Nigeria. However, with respect to air traffic, the Nigerian Airspace Management Agency is the agency mandated to provide air traffic services in Nigeria. Therefore, NCAA, FAAN, and NAMA are the agencies of government seized with the responsibility of ensuring the safety, appropriate infrastructure and air traffic services are efficient.
24. In January 2019, the President of the Federal Republic of Nigeria signed into law, the Federal Competition and consumer Protection Act (FCCPA), which established the Federal Competition and Consumer Protection Commission (Commission). The Commission is the foremost agency of government seized with the responsibility of promoting competitiveness and consumer protection in the country, including the Aviation sector.
25. This has created a role change, to the effect that although the Act confers a concurrent jurisdiction on both the NCAA and the FCCPC with respect to competition and consumer protection, any matter relating to consumer protection and competition, the decisions of the FCCPA shall override (Section 104 FCCPA) that of the NCAA, while with respect to more technical aspects of the Aviation sector the NCAA remains the final authority.
26. Specifically, and in furtherance of this mandate, section 17(a) of the FCCPA confers a dual mandate of enforcing the provisions of the FCCPA as well as any other enactment with respect to competition and consumer protection. This is a significant point to be made because offenses against the provisions of the FCCPA are criminalised while the CAA imposes civil penalties.
27. Accordingly, the Commission was keenly interested in participating in this study. The significance of this study for the Commission was to provide better insight into the sector, with respect to gathering information, understanding the competitiveness or otherwise of the sector, develop policies and interventions that will aid in advising government on how to make the



1. 1

<sup>1</sup> Federal Competition and Consumer Protection Commission

- sector more competitive, provide clarity regarding ease of entry, exits, dominance and or regulatory barriers that substantially lessen competition for the purpose of regulatory interface, while seeking ways and means to promote integration and competitiveness in Africa, in collaboration with other continental competition authorities. To aid its discovery, the Commission considered certain factors, including ease of obtaining licenses, slot allocation, incentives for investment, pricing, tax breaks, and infrastructure.
28. Entry into the Aviation market in Nigeria is governed by national laws, airline responses to interrogatories confirmed that several licenses and permits are required for operations in Nigeria. For example, all air carriers must obtain air transport license and air operators' certificate from the NCAA. Foreign carriers must in

addition, obtain a foreign carrier operating permit and must be designated under the BASA agreement between Nigeria and the government of the foreign country, as well as fulfil conditions set out in part 10 of the Nigerian Civil Aviation Regulation<sup>1</sup>.

29. Financially, to operate as an air carrier in Nigeria, at a minimum, all airlines must show their financial fitness and have a paid-up share capital of N500million, N1 billion and N2 billion for domestic operations, regional operations and international operations respectively, as well as necessary insurance cover<sup>2</sup>.
30. In considering access to the market, we observed that market operators in Nigeria are not concerned with

<sup>1</sup> [www.lexology.com/library/detail.aspx?g=957fbb08-217d-4ff6-97e8-6c7e24bdf602](http://www.lexology.com/library/detail.aspx?g=957fbb08-217d-4ff6-97e8-6c7e24bdf602)  
<sup>2</sup> <https://www.lexology.com/library/detail.aspx?g=957fbb08-217d-4ff6-97e8-6c7e24bdf602>

protective or restrictive measures or the possibility of perceived unfair treatment in favour of a state-owned carrier, probably because, either all indigenous airlines are privately owned, or there is no national carrier. Essentially, FAAN is responsible for slot allocation and does so on a discretionary first come first serve basis. However, it was generally reported that the cost of operation and infrastructural deficiency are concerns for airline operators.

## COMPETITION DYNAMICS IN THE AIRLINE INDUSTRY

### MARKET STRUCTURES, ALLIANCES, STATE INVOLVEMENT AND REGULATORY ENVIRONMENT FOR NIGERIAN AIRLINES INDUSTRY

31. With the signing of bilateral agreements with several nations, and Nigeria being part of the Single African Air Transport Market Treaty (SAATM), Nigeria appears to support the open skies policy of ease of access to national airports in Nigeria by foreign airlines. It is intended that such integration will lead to more competitive aviation among member states, including 5th freedom rights (rights that allow airlines carry traffic between foreign countries from one's own country)
32. It is important to state from the onset that Nigeria does not operate a national carrier, all airlines operating in Nigeria are either privately owned or foreign carriers. Interrogatories were sent out by the Commission to find out amongst other things, the profile of the airlines.
33. There are currently about 34 airlines operating in Nigeria, 8 of which are indigenous (Nigerian) privately owned with no state support in terms of tax breaks, subsidies and exemption, while the others are non-indigenous. Of the 8 indigenous airlines 6 are wholly privately owned, and 2 are undergoing insolvency procedures. None of the indigenous airlines belong to any group or alliance. There has been clamour for the 2 insolvent airlines to be merged and converted to a national carrier, but that has been met with contest.
34. Below is a brief profile of some of the major domestic and international airlines that operate in Nigeria, all targeting both leisure and business travellers:

### Domestic Airline Profile:

35. From the tables below, there is a clear mix of domestic, regional and international travel in the Nigerian air space. This is to attest to the fact that Nigeria has entered into several Bilateral Agreements (BASAs) that allow regional and foreign airlines operate commercial air services in Nigeria on the basis of reciprocity.
36. Nigeria has signed Bilateral Air Service agreement (BASA) with 92 countries. The essence is to allow airlines that are designated operate commercial flights between the two nations. However, it has been argued that such bilateral agreements do not necessarily mean more competitive environment, on the contrary, they are sometimes assessed to stifle competition; take for example bilateral agreements signed with the South African government in 2007 that gave the government allocated slots of 3 times per week, the said agreement was later amended in 2012 and now SAA's slot allocation has increased to 21 times per week.<sup>3</sup>
37. It is argued that the challenge with these kinds of agreements is that they do not take away state control of the industry, the principles behind them are not principles of liberalisation, instead, they limit the rights of airlines to specific routes and frequencies with respect to allocations stipulated in the agreements. The real intent as argued, is to protect flag carriers.
38. Indigenous stakeholders have refused to concede to the supposed benefits of such bilateral agreements, they argue that such agreements are one sided, exploitative and portends unfair competition by foreign airlines against indigenous airlines. For example, In 2012 Arik Air announced it would no longer be flying the Abuja -London route due to restrictions on the arrival and departure slots, according to its chief executive at the time, "...we simply could not continue with the route due to the restrictions placed upon us in accessing arrival/departure slots into UK airports."<sup>4</sup>
39. However, the UK authorities in response to request for landing slots, said it is not their responsibility under a

<sup>3</sup> <https://www.competition.org.za/review/2015/5/25/muted-battle-for-the-regions-skies-competition-in-the-airlineindustry>

<sup>4</sup> <https://www.reuters.com/article/nigeria-britain-airlines/nigeria-biggest-airline-to-stop-abuja-london-routeidUSL5E8EHOC320120317>

**Table 1: Domestic Airline profile**

	Ownership	Domestic	Regional	International	Fleet Size
Air Peace 2013	Private	12	5	1	20
Arik Air 206	Private/State controlled	12	3	0	22
Dana Air 2008	Private	4	0	0	5
Aero 1959	Private/State controlled	12	0	0	7
Max Air 2008	Private	10	0	0	6
Ibom Air 2019	State Governed	3	0	0	3
Azman Air 2014	Private	11	0	0	5
Overland 2002	Private	8	0	0	8

Nigerian Civil Aviation Authority

**Table 2: Some regional/international airline profile**

Airline Profile	SAA	UAE	BA	ETA	KQ	SKK	AWA	KLM	LM	EAL
Regional	✓	-	-	✓	✓	✓	✓	-	-	✓
International	✓	✓	✓	✓	✓	-	-	✓	✓	✓
Trunk	-	-	✓	-	✓	-	✓	✓	✓	✓
Feeder	✓	✓	✓	✓	✓	✓	✓	✓	✓	-
Alliances	✓	-	✓	✓	✓	✓	-	✓	✓	✓

Nigerian Civil Aviation Authority

joint agreement between the countries; according to the authority “Nigeria is entitled to 21 flights to Britain a week but it cannot guarantee those 21 landing slots at Heathrow, other London airports have slots available.<sup>5</sup> While in response to the circumstance above, the British government may like to argue that Heathrow is privatised hence, any airline seeking slot should bid and negotiate commercially; conversely though, the real problem are grandfather rights (right of incumbent airlines to land and take-off with respect to slots they have always had, allowing them hold such rights in perpetuity, without being forced to give up or sell to other airlines) that British Airways retains over the Airport. Grandfather rights present the largest single barrier to entry and particularly experienced in congested airports like Heathrow; however, this problem is not only evident in Heathrow.

40. The Airline Operator of Nigeria (AON) has called on the Nigerian government to renegotiate all BASAs with the UAE also. In his statement, the Executive Chairman, Captain Nogie Meggison describes the approval of more flights to Emirates as “unfair to Nigerian airlines operating to Sharjah, UAE<sup>6</sup>

41. Therefore, indigenous airlines are asking the government to consider perceived aero politics by the protectionist approach of their foreign counterparts. This protectionist approach erodes the spirit of competition dynamics and not just with respect to grandfather rights but also with giving competitive advantages to flag carriers by state governments in form of subsidies.

42. According to the chairman Air Peace “...most Nigerian airlines have not been able to survive because of international aero politics. I call on the Nigerian government to help us play in the international aero politics. If any country unnecessarily harasses any Nigerian carrier, our government should mete out the same harassment to their own airlines. Unless this is done, they will continue to kill Nigerian airlines on the international scene... It is international aero politics. They are trying to protect their own airlines. Nigerian route is one of the most lucrative routes in the world; so, foreign carriers don't want that competition. They don't want another airline from Nigeria to do direct flights to their country; that might erode what they have been enjoying over time. Between Johannesburg and London is nine hours; while Abuja to London is about five hours. Go and find out what they pay as charges. We pay higher than those flying from Johannesburg. Why is it so? The same thing applies to other destinations;

5 <https://www.reuters.com/article/nigeria-britain-airlines/nigeria-biggest-airline-to-stop-abuja-london-routeidUSL5E8EH0C320120317>

6 <https://bizwatchnigeria.ng/airline-operators-call-for-basa-renegotiation-with-uae/>

not just London. We have to change their dynamics. Nigerians have been short-changed over time without them knowing it. Now that we want to go to Dubai, an airline from the Gulf region has started offering some mouth-watering incentives to the Nigerian passengers. They are even offering hotels for economy passengers. When airlines are using state subsidies to compete, that is an unfair competition.<sup>7</sup>

43. Arguably, and contrary to the argument for a competitive and level playing field in the aviation industry worldwide, it cannot be said that if there was a real competitive or open process, these airlines will be the preferred choice for consumers' patronage, however, protectionist states choose to use these policies to strengthen their flag carriers. Hence, granting multiple entry points to foreign airlines who are subsidized by their government, can be argued to create an unfair and unlevelled access to the sector against indigenous players.

44. Mr Onyema, the Chairman Air Peace, has called on the Federal Government to halt the grant of multiple entry point to foreign airlines, which he claims comes at a cost to domestic airlines.<sup>8</sup> The point being made is that if Nigerian airlines are unable to get landing and take-off slots based on the BASAs negotiated, or where Nigerian airlines have to pay more than their competitors, then it is against the principle of reciprocity envisaged in the BASAs with respect to certain routes.

45. According to the former Director General of the Nigerian Civil Aviation authority, "the Nigerian government was deliberately promoting a negative balance of trade by allowing foreign carriers fly multiple airports in Nigeria without any Nigerian airline enjoying similar privileges in the foreign airlines countries of origin.<sup>9</sup> Also quoting the Chief Executive Officer, Belujane Konsult, Mr Chris Aligbe, "many of the agreements had not been reciprocated since they were signed.<sup>10</sup>

46. On the contrary though, the Minister of Aviation

Senator Hadi Sirika, has said many BASA's have been reviewed to create opportunity for indigenous airlines, but are currently unutilised due to limited capacity<sup>11</sup>. For example, the Nigerian Ambassador to the United Arab Emirates (UAE) has said that Air peace is the designated carrier for Nigeria on the Lagos -Dubai route.<sup>12</sup>

47. The question is, how Air Peace intends to compete with Gulf airlines on that route? First, Air Peace only has landing slot at the Sharhar Airport, not the Dubai airport, and so passengers will be conveyed to Dubai by road; Secondly, the Gulf states are heavily subsidized by their government, unlike Air peace although designated by the government, is getting no such subsidy; Thirdly, Air peace is not in alliance, joint venture or partnership with any airline, which raises questions as to their ability to compete with any airline with respect to price, and sustain it? Finally, many have argued that the choice of international route to Dubai, may have been uninformed as passengers flying to Dubai are mainly bound for onward journeys to Europe or America, hence its decision for this route may not be a profitable choice.

48. According to the Chairman Air peace "The Federal Government has given us the right to fly to about six international countries. However, those countries have to give you landing right into their countries for you to be able to fly there. It is one thing for your government to designate you to fly to a country; it is another thing for the host country to give you landing permit. Overtime, you find out that most countries tend to stifle Nigerian airlines. I know of a country that it took them three years to even respond to our mails. This happened even after our government has given them the necessary documents to show that we have been designated to fly there. The reason is simple: They want to protect their indigenous airlines by stopping competition from Nigerian airlines..."<sup>13</sup>

49. In addition to BASAs, Nigeria being a member of the African union, along with over 25 member states, is signatory to the open sky treaty called the Single

<sup>7</sup> <https://punchng.com/international-aviation-politics-killing-nigerian-airlines-on-foreign-routes-onyema-air-peacechairman/>

<sup>8</sup> <https://nairametrics.com/2019/07/08/campaign-to-restrict-foreign-airlines-continues-as-air-peace-lagos-dubairoute/>

<sup>9</sup> <https://www.businesslive.com/multiple-entry-points-for-foreign-airlines-disastrous-destructive-to-domesticmarket-says-demuren/>

<sup>10</sup> <https://punchng.com/nigerias-bilateral-air-service-agreements-climb-to-92/>

<sup>11</sup> <https://punchng.com/nigerias-bilateral-air-service-agreements-climb-to-92/>

<sup>12</sup> <https://www.pmnewsnigeria.com/2019/07/07/basa-uae-air-peace-recognised-as-national-carrier-envoy/>

<sup>13</sup> <https://punchng.com/international-aviation-politics-killing-nigerian-airlines-on-foreign-routes-onyema-air-peacechairman/>

African Air Transport Market (SAATM). The SAATM (an offshoot of the Yamoussoukro Decision) was established in 2015 as a logical platform to “promote Africa’s integration agenda, with respect to liberalising intra-Africa air transport, through implementation of the Yamoussoukro Decision, to improve connectivity, lower fares and sustainable development of air transport in Africa and its contribution to economic growth, job creation and integration of the Continent.<sup>14</sup> With the full implementation of the SAATM, it is expected that there will be relaxed visa processes and harmonisation of BASAs between member states to remove all restrictions.<sup>15</sup>

50. Furthermore, Nigeria has signed the African Continental Free Trade Agreement (AFCTA), which seeks to liberalise trade by removing tariffs and non-tariff barriers to trade; once rectified, along with the SAATM, Nigeria is expected to host many more regional and international airlines, to effectively enhance trade.
51. Currently, at least 25 foreign airlines operate from Nigeria to several destinations but only one indigenous airline (Air Peace) operates internationally, emphasising Senator Hadi Sirika’s statement above regarding limited capacity.

## OVERLAP OF DOMESTIC AND INTERNATIONAL ROUTES

52. Currently, there are 8 airlines flying the domestic airline market in Nigeria. There are at least 12 domestic viable routes /destination.
53. Domestic routes in Nigeria are liberalised and domestic or indigenous airline operators can fly any route without a special licence, provided that they give notice of their flight schedules to the NCAA, FAAN and NAMA<sup>16</sup>. No regional or foreign airline flies any domestic routes<sup>17</sup>. Hence, there are no overlaps with respect to domestic and foreign airlines for domestic routes.
54. With respect to domestic routes, it does not appear that there is any monopoly of routes, all airlines subject

to appropriate permits are allowed to fly any domestic route. Slot allocations are given on a first come first serve basis, because there is currently no specific slot allocation framework<sup>18</sup>. However, some routes may be seen as unprofitable and underutilised with respect to concentration/ traffic, hence, most airlines may be uninterested in such route.

55. The Lagos-Abuja route is the most congested with respect to passenger traffic, followed closely by the Lagos Port Harcourt route. All domestic airlines fly these routes; however, the table below shows the frequency level.

**Table 4 Level of Frequency of most congested Domestic routes**

LOS-ABV		LOS-PHC	
Airline	Frequency	Airline	Frequency
Dana Air	6	Dana Air	1
Arik Air	7	Arik Air	4
Aero	4	Aero	1
Air Peace	8	Air Peace	3
Azman Air	3	Azman Air	1
Ibom Air	3	Ibom Air	0
Max Air	4	Max Air	0

*Nigerian Civil Aviation Authority*

56. From the table above, the Lagos Abuja route is more congested, and of the 8 airlines 7 fly this route with Air peace being dominant, followed by Arik. Within the domestic interplay, there appears to be less argument about monopolies or abuse of dominance. No foreign airline operates domestic flights and domestic air operators have insisted that the government should consider stopping the grant of multiple destinations to foreign airlines.
57. The Chief Operating Officer Air Peace stated “foreign carriers should not be allowed to conduct domestic operations within Nigeria. Government needs to stop multiple destinations to foreign carriers. This is suicidal and injurious to the survival of domestic operators in Nigeria ...government and regulatory bodies should see airlines as being their partners in progress<sup>19</sup>”

<sup>14</sup> [https://au.int/sites/default/files/newsevents/workingdocuments/33100-wd-6abrochure\\_on\\_single\\_african\\_air\\_transport\\_market\\_english.pdf](https://au.int/sites/default/files/newsevents/workingdocuments/33100-wd-6abrochure_on_single_african_air_transport_market_english.pdf)

<sup>15</sup> <https://au.int/sw/node/34356>

<sup>16</sup> <https://gettingthedealthrough.com/area/1/jurisdiction/18/air-transport-nigeria/>

<sup>17</sup> <https://gettingthedealthrough.com/area/1/jurisdiction/18/air-transport-nigeria/>

<sup>18</sup> <https://gettingthedealthrough.com/area/1/jurisdiction/18/air-transport-nigeria/>

<sup>19</sup> <https://nairametrics.com/2019/12/29/air-peace-calls-on-fg-to-bar-foreign-airlines-from-domestic-operations/>

## COMPETITION CONCERNS THAT EXIST IN RESPECT OF THE AIRLINE INDUSTRY IN THE MEMBER COUNTRY

### ENTRY AND EXIT

58. Nigeria began its deregulation of this sector in 1985 and by the liberalisation, we have seen a gradual move from national carrier to private carrier entirely, while this was intended to encourage competitiveness in the sector as air fares were formally deregulated, Nigeria's aviation sector has experienced several challenges that have led to high level of airline exits.

59. By 2012, according to Vanguard, among the airlines which have closed shop in Nigeria were Chanchangi, Bellview, ADC, EAS, Slok, Savanna, Triax, Air Midwest, Sosoliso, Oriental, Dasab, Albarka, Fresh Air, Okada, Space World, Harka and Harco etc.<sup>20</sup>

60. See the table below:<sup>21</sup>

Table 5: Entry and Exit

Airline	Entry	Exit
ADC Airlines	1984	2006
Afrijet Airlines	1998	2009
Air Nigeria	2010	2012
Bellview Airlines	1992	2010
Chanchangi Airlines	1994	2017
Virgin Nigeria	2004	2009
Axiom Air	2009	2011
Sosoliso Airlines	1994	2006
Capital Airlines	2003	2010
First Nation	2010	2018

61. From the table above, the rate of airline exit is high, no airline on the list was able to sustain its business for up to 10 years. Airlines have argued that the list below are the reasons for the high exit rate:

61.1 High operational cost,

61.2 Limited access to infrastructure,

61.3 Safety concerns,

61.4 Mismanagement,

61.5 Poor manpower

61.6 Tough regulatory environment.

62. Captain Dapo Olumide an industry expert and former managing director of Virgin Nigeria states "inability to save money for aircraft checks, poor infrastructure and lack of comprehensive maintenance facility are some of the major factors responsible for the failure of airlines in Nigeria<sup>22</sup>.

63. According to AviaDev Consult, international airlines also sometimes find operating in Nigeria challenging. It noted that while the number of Airlines providing international connections had grown, only 23 are the same airlines that were operating three years ago. In total, nine had exited the market, and thirteen were new operators<sup>23</sup>.

64. According to Mr Jimoh Ibrahim, (the then chairman of Virgin Nigeria Airways which started operations in 2004 but exited in 2012) the reason for its exit was "difficult to continue further investment in the carrier with the high level of staff disloyalty and weak business environment".

65. The foreign exchange regime has been described as volatile<sup>24</sup>. America United Airlines cited difficulties recovering dollar profits due to restrictive foreign currency control as its reason for pulling out of the Nigeria aviation market in 2016<sup>25</sup>.

66. According to Gabriel Olowo, a former Deputy General Manager, Varig, A Brazilian Airline "... we faced foreign exchange problem and the airlines were running with what was called blended rate. Various banks offered different exchange rates. Foreign airlines were faced with that. About five airlines left Nigeria. I was working for a Brazilian airline, Varig...the airline left this country because of foreign exchange. They had naira in Nigeria, but they could not repatriate their revenue

22 <https://www.thisdaylive.com/index.php/2019/02/15/why-nigerian-airlines-fall-2/>

23. <https://simpleflying.com/the-untapped-potential-for-airlines-in-nigeria/>

24 <https://www.vanguardngr.com/2017/03/richard-branson-failed-nigeria-dont-blame-nigerian-airlines-olowo/>

25 <https://qq.com/africa/906521/nigerias-government-is-taking-over-arik-air-to-save-it-from-collapse/>

20. <https://www.vanguardngr.com/2012/12/why1992-nigerian-airlines-do-not-survive/>

21. [https://en.m.wikipedia.org/wiki/List\\_of\\_defunct\\_airlines\\_of\\_Nigeria](https://en.m.wikipedia.org/wiki/List_of_defunct_airlines_of_Nigeria)

due to scarcity of foreign exchange. Iberia left, Varig, Scandinavian Airlines amongst others left<sup>26</sup>.

67. The rationale for high exits rate will be further discussed below with respect to profitability.

## AIRPORT INFRASTRUCTURE

68. All Airports are licensed by the NCAA, owned by government (Federal and State) and private entities.

69. The Muritala Mohammed International Airport (MMIA) is Nigeria's most congested airport, it is situated in Lagos the commercial hub of the nation. It has 20 parking bays and 2 runways. The Aminu Kano International Airport is located in Kano state, has 11 parking bays and 2 runways. It serves the Northern parts of Nigeria. Nnamdi Azikiwe International airport located in the capital city of Nigeria, and considered the 2nd most congested airport in the country, has 6 parking bays and 1 runway. Finally, Port Harcourt International airport, which serves the southern parts of the country, has 3 parking bays and 1 runway.

70. The international airports are open for arrival and departure for regional and international airlines. Currently, about 25 international airlines fly from Nigeria to several destinations in the world.

71. FAAN is responsible for the maintenance and management of all Airports in Nigeria, and boasts of 26 airports across the nation, with 4 currently flying regionally and internationally. Regional and international airport utilisation has increased in the last few years and the country has begun to experience increased

passenger traffic, therefore infrastructural improvement must be done to accommodate this rise and secure the industry; while the issue of man power may be subject to an airlines internal mechanism, a basic regulatory barrier to entry, is infrastructural deficit.

72. According to the Nigerian Aviation Report 2018, "challenges in the Nigerian Aviation sector: when the airports were built the population was relatively small. In the construction of MMIA2, for example it was forecasted that just about two hundred thousand people will go through the airport annually. However, Mr Tayo Ojurin, an aviation expert and CEO Aglow Aviation, estimates about 7 million people go through the international airport while 8 million go through the domestic airports each year<sup>27</sup>.

73. To this end, the Federal Government has taken to revamping the airports in Nigeria, particularly the ones that fly regionally and internationally, to improve the infrastructure. For example, in 2018, the Port Harcourt terminal renovation was completed; and the construction of the runway and a new building terminal has been opened at the Nnamdi Azikiwe International Airport.

74. Airports in Nigeria may be perceived as natural monopolies, from the table below, all international airports in Nigeria are owned by the government. In 2017 according to the National Bureau of Statistics<sup>28</sup>, The top 5 busiest airports in Nigeria are Lagos, Abuja, Port Harcourt, Owerri and Kano. Muritala Muhammed airport Lagos as the largest and busiest airport for both domestic and international, with 73% international travellers traveling from Lagos, and over 38% of

26 <https://www.vanguardngr.com/2017/03/richard-branson-failed-nigeria-dont-blame-nigerian-airlines-olowo/>

27. Nigerian Aviation industry report 2018.

28 National Bureau of Statistics- Air Transport Data 2017

Table 6: Airport Infrastructure

Airport Name	Ownership	Domestic/ International	Parking Lots	Runways
Muritala Mohammed International Airport	Government	Both	20	2
Aminu Kano International Airport	Government	Both	11	2
Nnamdi Azikiwe International Airport	Government	Both	6 international bays, while domestic wing operates open bays	1
Port Harcourt International Airport	Government	Both	3	1

domestic travellers travelling from Lagos. The second largest and busiest is the Nnamdi Azikiwe International Airport with 32.99% domestic travellers and 32.99% international travellers

75. In 2018, Nigerian airport experienced an increase in passenger utilization as seen the table below.

**Table 7: Air Transport increase**

	2017	2018	Growth rate (%)
International	4,056,717	4,438,799	9.42%
Domestic	10,383,452	12,791,639	23.19%
International Aircrafts	40,328	55,961	38.92%
Domestic Aircrafts	210,693	234,367	11.24%

76. Based on the level of concentration of the international airports and passenger utilization, Lagos and Abuja Airports appear to be the most congested and utilized, this is probably because Lagos is the commercial nerve center in the nation and Abuja is the federal capital.

77. With respect to ownership and management of the 4 international airports in Nigeria, none have private participation. The 2 most congested airports are solely because of their location to the Nations herm of affairs, rather than their marketability. In response to interrogatories, most airlines did not describe Nigeria as a hub as there is very few incentives. Therefore, although there are currently 4 international airports in Nigeria with respect to choice for passengers, there are only 2 that may be described by airlines as competitive and only with respect to the level of passenger utilization. Therefore, there is little or no competition among Nigerian airports. Airlines choice of airport is strictly based on level of passenger utilization. The airports although highly congested are lagging behind with respect to soft and hard infrastructure such as transit facilities (e.g. free WiFi).

## ALLIANCES/EXEMPTIONS.

78. The Commission sent out interrogatories to airline operators, airport authorities and regulators to provide information with respect to alliances they are part of or aware of, as well as any history of exemptions given or denied.

79. From the responses provided by both airlines and regulatory authorities, there are no alliances within the domestic Nigerian aviation air space. In the domestic market, there is no code sharing or alliances.

80. In Nigeria, most of the international flights are in one way or the other code sharing or in alliances, very few regional flights are involved in such alliances and usually only with Ethiopia Air, while there is no national carrier in Nigeria.

81. Part 18 of the NCARs 2015 contain regulations relating to anticompetitive practices such as restrictive agreements, collusion, abuse of dominance, mergers, acquisitions etc. the Commission did not receive information with respect to any alliances or code sharing applications for exemption made to the NCAA, that was approved or denied.

82. The FCCPA prohibits restrictive agreements. However, the FCCPA makes provisions for exemptions. The controversy with respect to alliances is the ability of airline operators to collude and get into anti-competitive practices. On the face of it these agreements seem beneficial to consumers but may be used to limit competition.

83. The commission recognizes the importance of alliances to the profitability of the industry. Operators need to see the importance of pulling resources together. From the responses to interrogatories, no indigenous airline is in any alliance, Air Peace which is currently designated to a few international countries is not a member of any alliance. The benefit of such alliances includes reduced cost of operation, technological innovation and better connectivity.

84. According to the public relations officer of the NCAA, "there is no airline anywhere in the world that is not facing economic challenges. It is the economic challenges that are forcing airlines all over the world to form alliances,<sup>29</sup>

85. Generally, with respect to precedence concerning cartels, restrictive agreements and merger control, there are little or no information available. The

<sup>29</sup> <https://www.premiumtimesng.com/news/more-news/330218-nigerian-airlines-need-partnership-deals-to-enhanceoperations-ncaa.html>

Commission, which is in its teething stage, is seized with the responsibility of analyzing mergers and acquisition and how they affect the market.

86. The Commission already negotiated and executed a Memorandum of Understanding with the Securities and Exchange Commission (previously ceased with the mandate of analyzing Mergers and Acquisition) and has published its threshold for calculating and notification for Mergers pursuant to section 92 – 97 of the FCCPA.
87. In addition, the commission has begun the process of consultation with some stakeholders and practitioner/experts in drafting regulations on its Merger control framework, it is conducting technical review meetings with industry players, legal and economist firms and other practitioners with respect to setting dominance thresholds.

## PROFITABILITY

88. A profitable and efficient air transport system promotes economic growth and development. The exit rate of airlines points to the fact that the sector may or may not be profitable.
89. According to the CEO of South African Airlines “Assuming we have less expensive aviation fuel, seamless visa procurement process and a harmonized taxation system, airline business in Nigeria would have been a more profitable venture<sup>30</sup>
90. The airline industry is invaluable and contributes to making the world a global village, by boosting trade amongst nations. Nigeria has recently recorded an increase in the use of air transportation. Therefore, to ensure its sustainability, the profitability factor is key. The table below shows increase in the use of air transport in Nigeria.

30. <https://www.vanguardngr.com/2018/12/challenges-facing-airlines-in-nigeria-ssa-group-ceo/>

**Table 7: Air Transport increase<sup>31</sup>**

	2017	2018	Growth rate (%)
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International Aircrafts	40,328	55,961	38.92%
Domestic Aircrafts	210,693	234,367	11.24%

91. From the table, one may observe that the number of passengers using air transport has increased, however, the issue is, whether in the light of increased patronage, the business is profitable? We considered some of the factors that affect the profitability and sustainability in the sector.
92. It is argued that the operating cost in Nigeria is very high. According to Mr Herbert Odika, the Chief Operating Officer of the Nigerian Aviation Handling Company “...operating cost coming into Nigeria is high and very high taxes obviously affect them and to remain afloat and in profit, the charges will have to be passed down to the passengers”. Consequently, as long as the airline operators are struggling with respect to profitability, consumers will have to bear the impact of it by expensive tickets; in other words, although Nigeria appears to be recording more passenger utilization, the high cost of operation is passed on to passengers. That is to say, operational cost has a linear relationship to profitability.
93. One factor that affects profitability and sustainability is the high variable costs. In Nigeria, the aviation space has proven not to be a tea party with the high rate of exits to confirm it. Owning an aircraft is capital intensive, businesses incur high manpower cost to run complex operations, the volatility in aviation fuel and exchange rate all contribute to a challenging regulatory environment.
94. Mimi Ahmed in his article – “Nigerian Aviation Industry challenges and prospects”, says “challenges such as high cost aviation fuel, high operational cost, and lack of transit facilities adversely affect the sector.<sup>32</sup>

31 <https://www.proshareng.com/news/TRANSPORTATION/Domestic-Passenger-Traffic-Grew-By-23.19Percent-YoY-in-2018---NBS/44870>

32 [http89s://www.academia.edu/35498863/Nigerian\\_Aviation\\_Industry\\_Challenges\\_and\\_Prospects](http89s://www.academia.edu/35498863/Nigerian_Aviation_Industry_Challenges_and_Prospects)

95. Take for example, the issue of Aviation fuel, (an unregulated kerosene, also known as Jet A1), one litre of aviation fuel could cost between N235- N280, a Boeing B737 carries about 10,000 litres of fuel to operate a 1-hour domestic flight, therefore an aircraft loads about N2.5million for a 1-hour flight. The challenge is the load capacity with respect to cost and the regularity in getting the aviation fuel at a predictable price. Using an average cost of ticket at N30, 000, the load capacity of about 124 seats, crew cost, refreshment, ground handling, taxes and other charges.

96. Former Managing Director Capital Airlines stated “aviation fuel constitutes 40%-45% of the cost of operating a Boeing 737 in Nigeria, ...this means all other components share 55% -60% of the cost of operations. We must remember that insurance cost has risen, cost of funding is higher, maintenance and crew cost have also risen.”<sup>33</sup>

97. Indigenous airlines have complained that the 40% arbitrarily charged on aviation fuel does not reflect the cost of crude oil. They have asked the government to review its policy on aviation fuel, with respect to supply and price<sup>34</sup>. Consequently, the volatility with respect to the price of aviation fuel has a direct impact on price determination. According to the CEO Aero, “.... these are the things that will lower the airline’s cost. When the cost of operation is lowered, the airline will definitely lower the cost of its ticket”.

98. One of the challenges considered as rationale for the high exit is the cost of flying in Nigeria with respect to infrastructure. According to Dapo Olumide, “in Nigeria, we don’t have the ability for operators to maintain their aircraft here”. So they pay the huge cost of having to fly the aircraft abroad for maintenance. That is a huge expense, so you are no longer competitive...most international carriers come from countries where they have easy access to maintenance facility and aircraft spares, that they spend less money on both... they have an advantage because they do maintenance of their aircraft right where they depart from and they don’t have to worry about visas, crew change, and

buying tickets for the crew, which cost a lot of money.”<sup>35</sup>

99. Another related challenge worth mentioning is the fact that domestic airlines use older aircrafts which require more aviation fuel and maintenance cost than the newer aircrafts. In his words, Mr Olumide says, “you hear operators say our fuel is 40% of our operating cost, yes. I would tell you why it is 40% because you are operating old aircraft...in developed countries the cost of fuel for their operation is 25%, why is it 25% and ours is 40%? It is not because of their price of fuel; it is because in that environment it is all about efficiencies”

**Table 8: Average age of aircrafts<sup>36</sup>**

Airlines	2014	2019	Average Age
Air Peace	7	26	21.1
Arik Air	21	22	12.3
Dana Air	6	8	26.7
Azman Air	2	5	21.9
Overland	3	7	26.7
Ibom Air	0	3	10.8
Max Air	2	7	21.6
Aero Contractors	11	11	26.2

100. Indigenous airlines have found it difficult leasing aircrafts for their business and also accessing credit for purchasing newer aircrafts<sup>37</sup>. This perceived discrimination against Nigerian airlines have been argued both ways. While some have argued that the lessors of aircrafts have found it difficult retrieving their aircrafts back in a situation where there is a default by the operators, some will argue that this is untrue.

101. Paragraph 8.3.1.10 of the NCAR provides regulatory clarity with respect to ownership and possession of leased aircrafts as well as liability for damages, injuries or losses that arise from operating the aircrafts. Nigeria is also party to the Geneva and Cape Town convention which recognises the interests and rights with respect to aircraft lessors and financiers. In fact, a court order is not required to repossess an aircraft by the lessor or financier where they intent to exercise their right to repossess or sell the aircraft in the case of a default subject to the contractual rights of the parties documented in the agreement.

<sup>33</sup> <https://www.thisdaylive.com/index.php/2019/02/15/why-nigerian-airlines-fail-2/>

<sup>36</sup> <https://www.planespotters.net/airline/Aero-Contractors>

<sup>37</sup> <https://allafrica.com/stories/201912200166.html>

<sup>33</sup> <https://economicconfidential.com/2019/08/local-refining-aviation-fuel-carriers/>

<sup>34</sup> <sup>41</sup> <https://allafrica.com/stories/201905170065.html>

102. The table above shows the average age of aircrafts used by domestic airlines in Nigeria.
103. Airlines inability to lease or purchase aircraft, the high cost of aviation fuel, leads to a competitive disadvantage and increase in passenger fares as demand exceeds supply due to fewer operational aircrafts.
104. Load factor is another point to make with respect to profitability of an airline. The load factor consideration is a key parameter in checking the performance of the airline. The reason for assessing the load factor is simple, if airlines don't meet the benched marked load factor they are operating at a loss. Table below shows the anticipated load factor for some of the airlines:

**Table 9: Anticipated Load Factor**

AIRLINE	LOAD FACTOR
AIR ITALY	65%
DANA	65%
LUFTHANSA	.
MAX AIR	50%
MEDVIEW	.
SOUTH AFRICA AIRWAYS	78%
AIR PEACE	.

105. From the table above, the average load factor for airlines is about 64%, running at less than 64% may be a loss. In addition to the load factor, airlines have to consider their fixed cost (flight crew, aviation fuel etc.) to determine their profitability. For example, if the load factor is below 50%, considering the fixed cost (e.g. crew cost), regardless of the fact that the flight load factor is not up to full capacity, they may run at a loss.
106. Passenger traffic has increased and while that is a good thing and may help the operators break even, airlines still have to consider the fixed and variable cost of operation as discussed above.
107. The airline sector is peculiar, usually where a business is unprofitable, it is forced out of the market or caused to consolidate or form alliances with a more successful business. However, for the airline sector, it is more difficult, and so we witness unprofitable airlines continuing to fly; the rationale being, to avoid job losses, protect investors and ensure consumer confidence in the sector.

108. In 2017 for example, the Asset Management Company of Nigeria (AMCON), began taking over the management of Arik Air, the largest airline at the time, accounting for 55% of Nigeria's passenger traffic<sup>38</sup>. Prior to that, in 2016, Aero Contractor was taken over by AMCON to save them from imminent collapse. Stakeholders continue to oppose the proposal that both airlines should be merged and converted to a national carrier, due to the liabilities incurred by the airlines<sup>39</sup>. The concern is the impact this has in the sector, the fact that an airline can be doing badly and instead of a merger or takeover, it becomes controlled by The Asset Management Control of Nigeria (AMCON), masking the inefficiency, and sending the message that inefficient airlines can be saved.

109. This may not encourage other operators and investors to play their part in ensuring that their business model is efficient and profitable.
110. Airlines cannot begin to discuss profitability without the above considerations. The combined effect of high cost of Aviation fuel, the lack of maintenance facilities in the country, the lack of spare parts in the country and the fact that indigenous airlines have to compete with international airlines with better maintenance infrastructure, credit and leasing facilities, as well as lower cost aviation fuel, has been argued to be a hindrance to profitability.

## MARKET SHARE AND PRICE COMPETITION

111. The tables above show market share with respect to airport concentration and passenger utilization. It is observed that the Lagos airport as at 2017 had a market concentration of about 60%, making it the busiest airport in Nigeria with respect to traffic. Also observed from the tables above, 90% of air traffic internationally is carried by foreign airlines, which is a competition concern for indigenous airlines and an economic disadvantage for Nigeria with respect to capital flight.

<sup>38</sup> <https://qz.com/africa/906521/nigerias-government-is-taking-over-arik-air-to-save-it-from-collapse/>  
<sup>39</sup> <https://www.thisdaylive.com/index.php/2019/11/29/stakeholders-oppose-proposal-to-convert-arik-aero-to-nationalcarrier/>

Figure 1: Market share for Airport and Passenger Utilization (2017/2019)

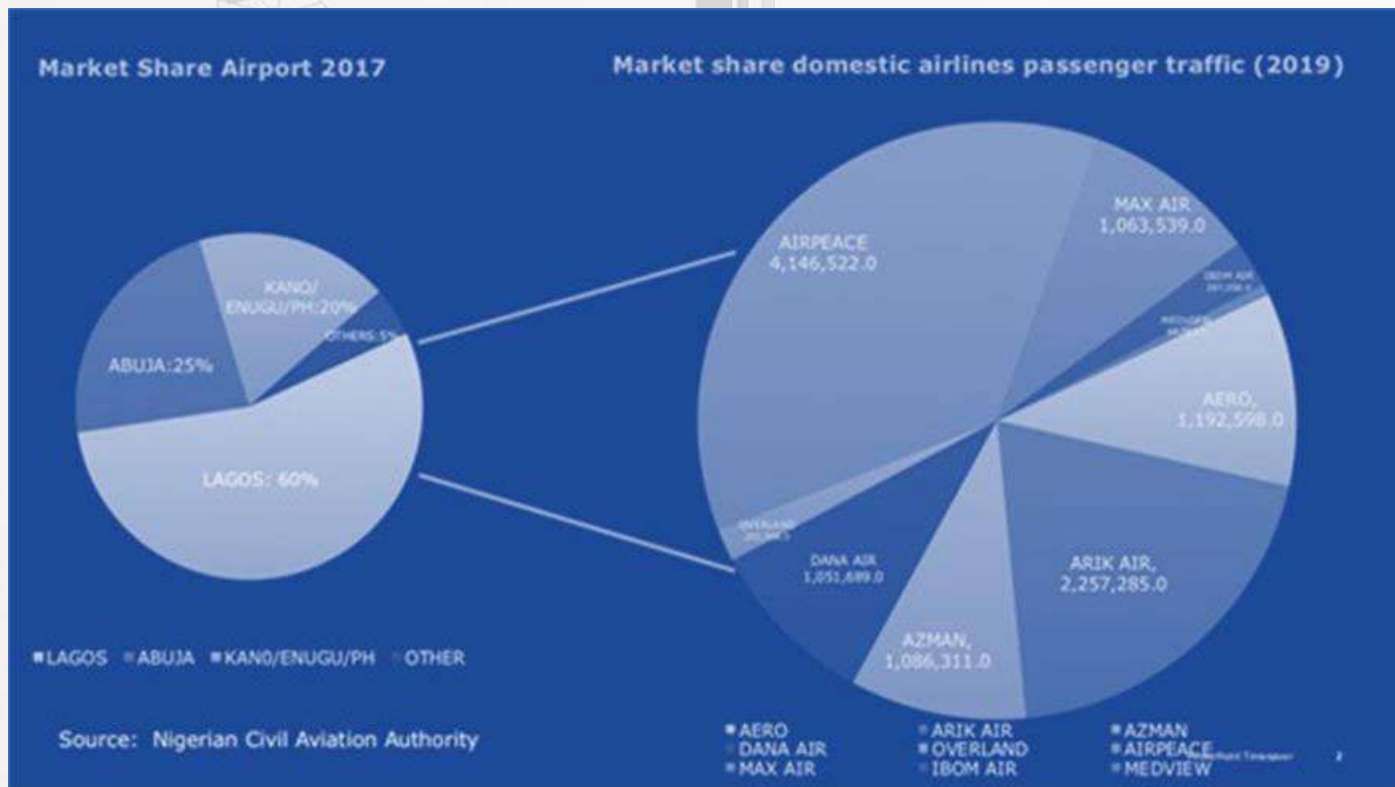
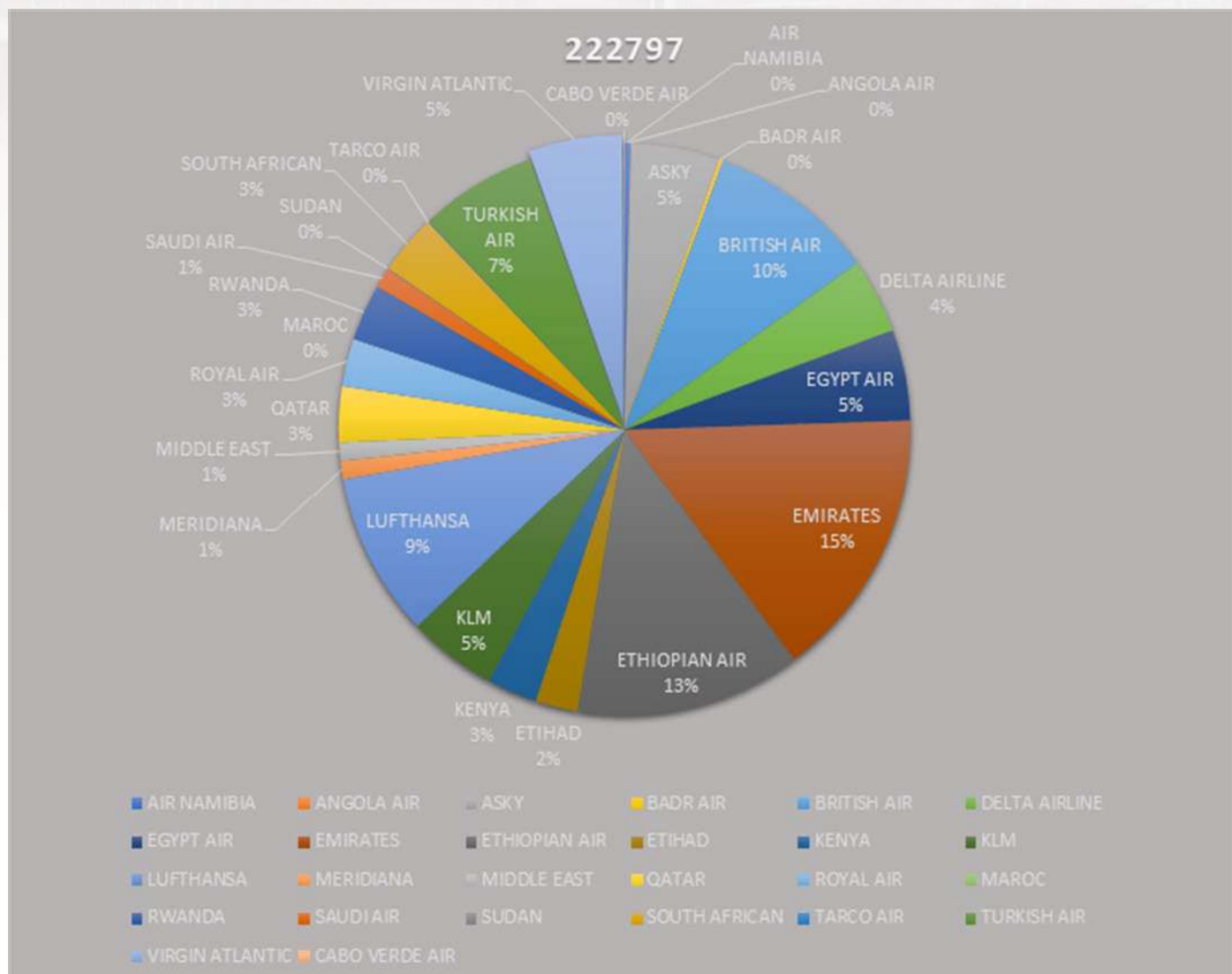


Figure 2: Market share for international Airlines Passenger Traffic (2019) (%)



## PRICE COMPETITION

112. Participating agencies of the ACF, agreed on pre-determined dates for this price analysis and comparison, to analyse prices at peak seasons, off peak seasons. Agencies chose congested routes, and top airline operators on those routes, in order to analyse the pricing dynamics for near dates, seasonal and longer periods.

## PRIORITY ROUTES

113. Routes selected for price comparison purposes with respect to domestic, regional and international include:

114. It is important to note that Section 30(4)(d) of the CAA prohibits predatory pricing, and the NCAA is mandated

to enforce the provision of the law with respect to predatory pricing. Operators are expected to inform the NCAA of any proposed price change, and NCAA may conduct economic audits on airlines where it appears that such airlines issues ticket below their cost, and where necessary impose penalties.

## PRICE COMPETITION FOR THE ABOVE SELECTED ROUTES

115. ACF participating member states agreed to a set pre-determined dates for price comparison exercise that cater to features such as peak, off-peak and holiday seasonality. Commission participated and conducted searches for all the routes, from December 2019 to March 2020, in order to assess pricing dynamics for

Route	Rationale	
<b>Domestic</b>		
Lag-Abj	All of the domestic air carriers fly the specified route with an average ticket cost of N 30,000. These are the most congested routes in Nigeria. According to the Guardian, the 50 minutes' flight from Lagos to Abuja has been ranked the 4th busiest aircraft rout in Africa as at 2017. The Lagos- PH route serves about 1,081,587 passengers making it the 3rd busiest in the country.	
Lag - PH		
<b>Regional</b>		
Lagos	Ghana	These routes were chosen based on congestion rate
Lagos	Dakar	
<b>International</b>		
Lagos	Dubai	These routes were chosen based on congestion rate
Lagos	London	

### Number of Domestic Airline Operators

Origin	Destination	Aero	Arik	A i r Peace	Dana Air	Ibom Air	Azman Air	Max Air	Overland	Medview	No. of Airlines
LOS	ABV	✓	✓	✓	✓	✓	✓	✓	.	✓	8
LOS	PHC	✓	✓	✓	✓	.	✓	.	.	.	5

### Number of regional operators

Origin	Destination	AWA	Arik	C a - mair-Co	A i r Peace	Mid Af-rica	Air Cote d'ivoire	Askyl	Cronos Air	Med - view	NO of airlines
LOS	ACC	✓	✓	.	✓	.	✓	✓	.	.	5
LOS	FNA	✓	.	.	✓	.	.	✓	.	.	3

### Number of international operators

Origin	Destination	Emirates	BA	KLM	Kenya Airways	Royal Air Maroc	Ethiopian Airlines	Rwand Air	Egypt Air	Number of airlines
LOS	DBX	✓	✓	✓	✓	.	✓	✓	✓	7
LOS	LHR	✓	✓	✓	✓	✓	✓	.	.	6

near to date, mid to longer run dates.

## LOS-ABV

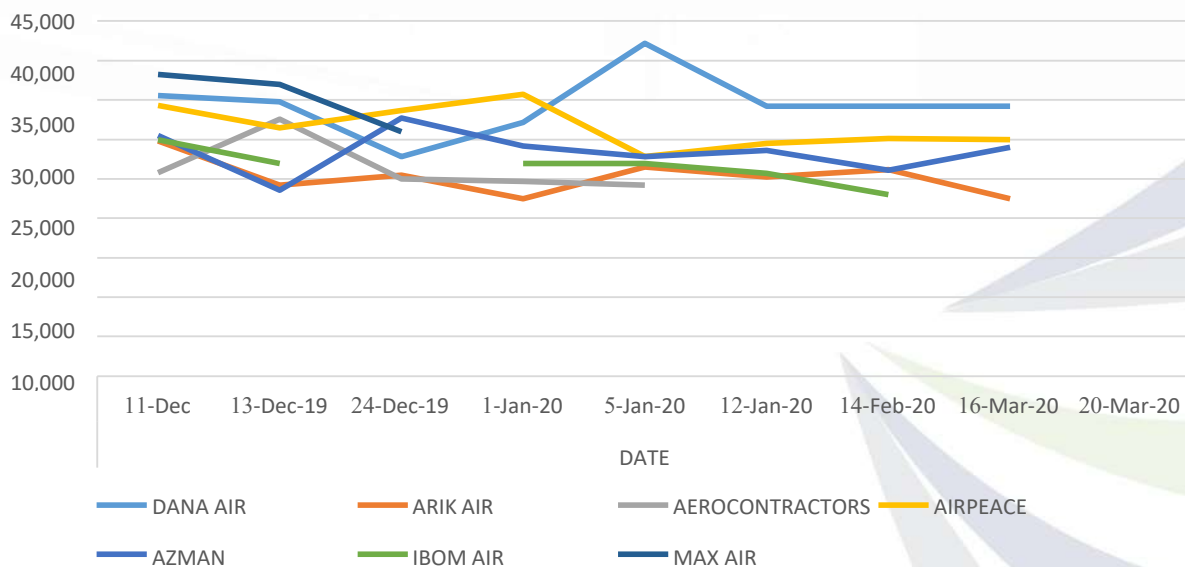
116. The route is serviced by 5 operators. There are 35 flights per day that depart Lagos for Abuja. On a daily basis Arik Air and Air Peace dominates the domestic routes with 7 flights per day, while Dana comes a close second with 6 flights.
117. The average cost of tickets between the 3 top player is about N31,500, Arik Air being the most expensive ticket of the 3. The difference between Arik Air ticket and that of Air Peace Economy ticket around the same time belt is N13,364. Time slot allocations are about the same and it is levelled for most of the airlines with maybe a difference of 30 minutes.
118. Price analysis was conducted in 2019, December 1st, 4th, 6th, December 11th, 13th, 24th, January 1st, 5th, February 12th, 14th, and March 16th, see Annexure 1 attached. From the analysis in November, Arik maintained comparatively high prices than Air Peace and Dana Air, while Air Peace and Dana maintained about the same competitive prices. In December, we see a price reduction from the usual N46,364, to

N25,454, and that price reduction is maintained till the end of the agreed period in March. Air Peace and Dana Air, on the other hand maintain the cheaper cost of ticket than Arik all through the November period, but we see a hike in price December 11th, and January 1st.

119. From the above, we recognized the hike in prices by all airlines during peak periods like the yuletide seasons. We also noticed that Arik reduced it prices as it approached the Yuletide, presumable to take advantage of consumer patronage, and to show that purchasing ticket in advance can be cheaper. While tickets are more expensive in the mornings, we noticed that on the average tickets are cheaper as the day goes and becomes more expensive by evening, showing that mornings and evenings may be peak times for time sensitive passengers.
120. The time slots of this route seems to suggest that it is equitably shared, as stated above, FAAN is responsible for slot allocations and does so on a discretionary basis of first come first serve.
121. To avoid the graph being too cumbersome, below is a graph showing the average cost for each airline per day.

## Domestic - LAGOS-ABUJA

### DOMESTIC- LAGOS - ABUJA



## LOS- PHC

122. The route is operated by 5 airlines daily. There are 10 flights per day departing Lagos to Port Harcourt. Again Arik Air and Air Peace appear to dominate the domestic air space on this route. Air Peace has 3 flights per day while Arik Air has 4 dominating the space, all other airlines that fly this route have one flight each per day. The peak period for flights on this route is from 6:48 – 7:00.
123. On the average Air Peace charges N 33,000 while Arik Air charges higher at N 51, 218, for economy class, bringing the difference to about N 18,218 in December.
124. The time slots of this route seem to suggest that it is equitably shared, as both airlines compete for peak periods. Evidence of fierce competition is seen in the price analysis. For example, Air Peace increased its price in December for economy class, which may have been due to the anticipated high demand during the yuletide season. Air Peace continue to maintain that price
125. increase till January when it reduced its prices to about N 23,000, while Arik Air about the same time reduced its price to N 22,305. Also, the difference between the business class and economy for both airlines appear to be negligible. The price of the tickets does not appear

to be time sensitive.

126. To avoid the graph being too cumbersome, below is a graph showing the average cost for each airline per day.

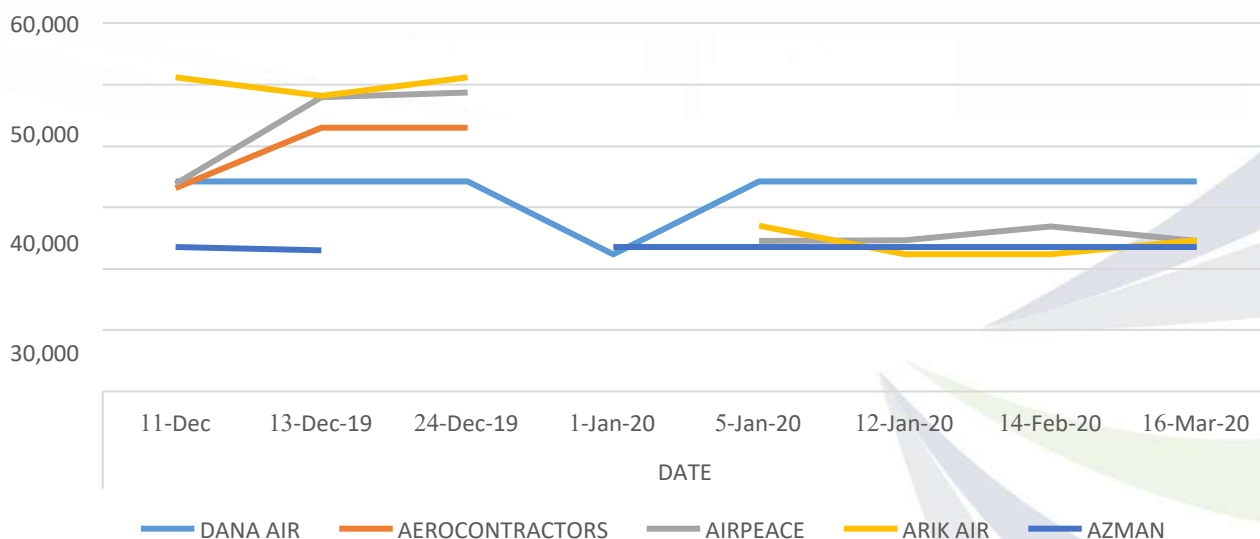
## REGIONAL ROUTES

### LOS-ACC

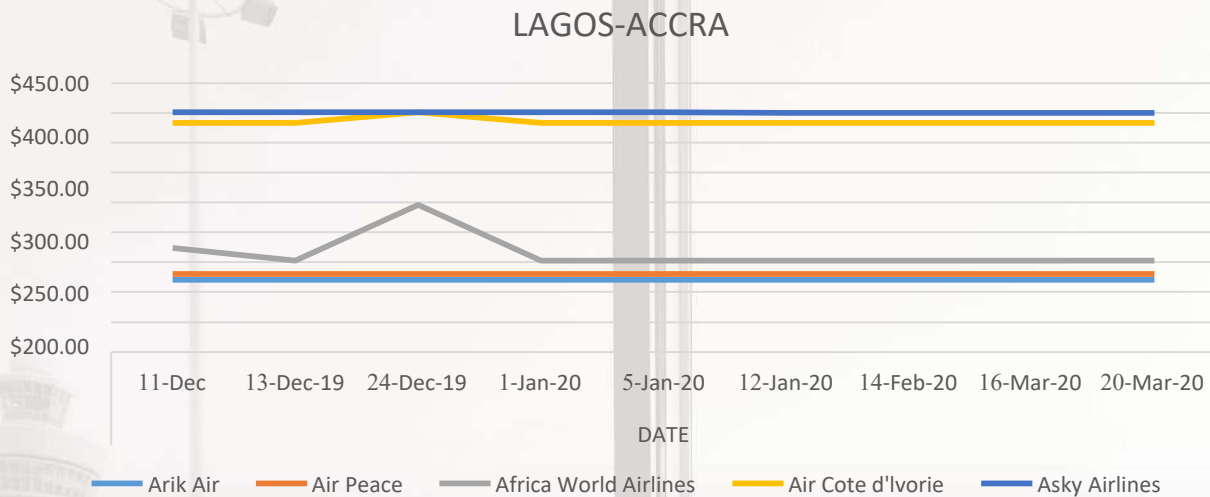
127. This route is operated by 5 operators. Arik Air, Air Peace, Africa World Airlines, Air Cote d'Ivoire and Asky Airlines. There are 5 flights per day that depart from Lagos to Accra. There is no monopoly of the route as each airline operates a single time slot.
128. The cost of the tickets ranges from \$121 to \$400, with Air Cote d'Ivoire and Asky Airlines ranging higher than the others and Arik Air and Air Peace costing cheaper than the others. Air Peace and Africa Air do not operate a business class service. Throughout the designated time frame for the price analysis, prices for this route do not fluctuate for the most part as any difference or change was negligible. Prices for this route seem to indicate that it is time insensitive, or competition is not fierce.

### Domestic - LAGOS-PHC

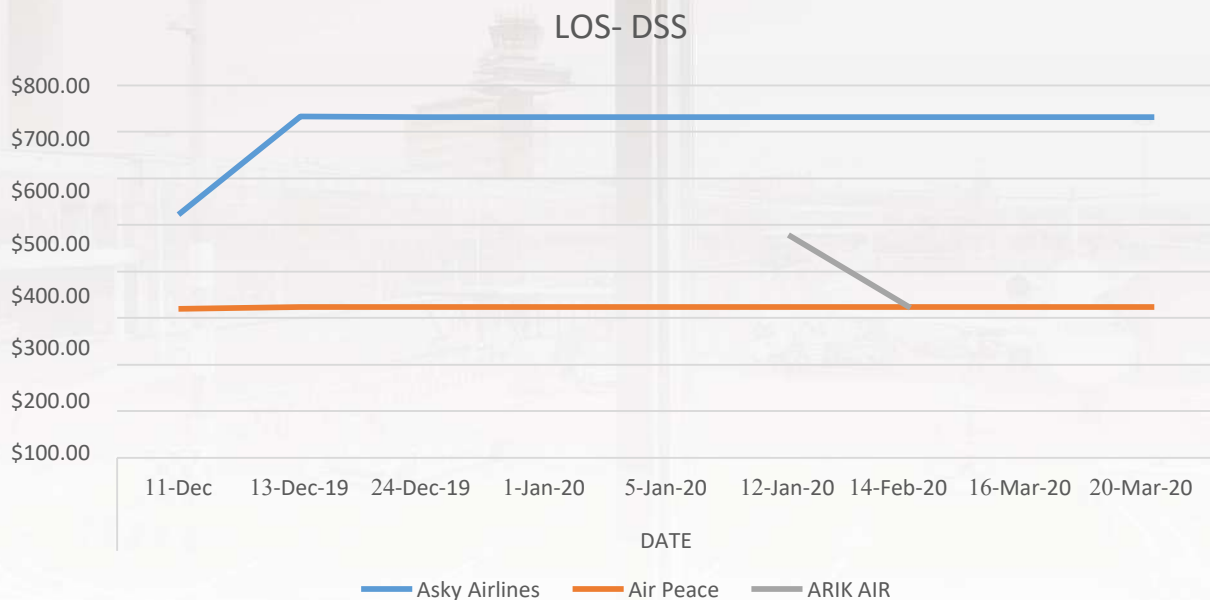
DOMESTIC  
LAGOS - PHC



## LAGOS-ACCRA



## LOS-DSS



## LOS-DSS

129. This route is operated by 3 operators. Air Peace, Arik, and Asky Airlines. There are 3 flights per day that depart from Lagos to Freetown, one flight each per operator.

130. The cost of the tickets ranges from \$323 to \$731, Air Peace and Arik Air being the cheapest and ASKY being the highest. While on the business class fares, it ranges from 836 to 1,232, Air peace does not operate a business class. Tickets appear to be lower priced by December 11th, but began to increase by the 13th of December. Throughout the designated time frame for the price analysis, the prices remain the same for the most part as any difference or change was about negligible. Prices for this route seem to indicate that it is

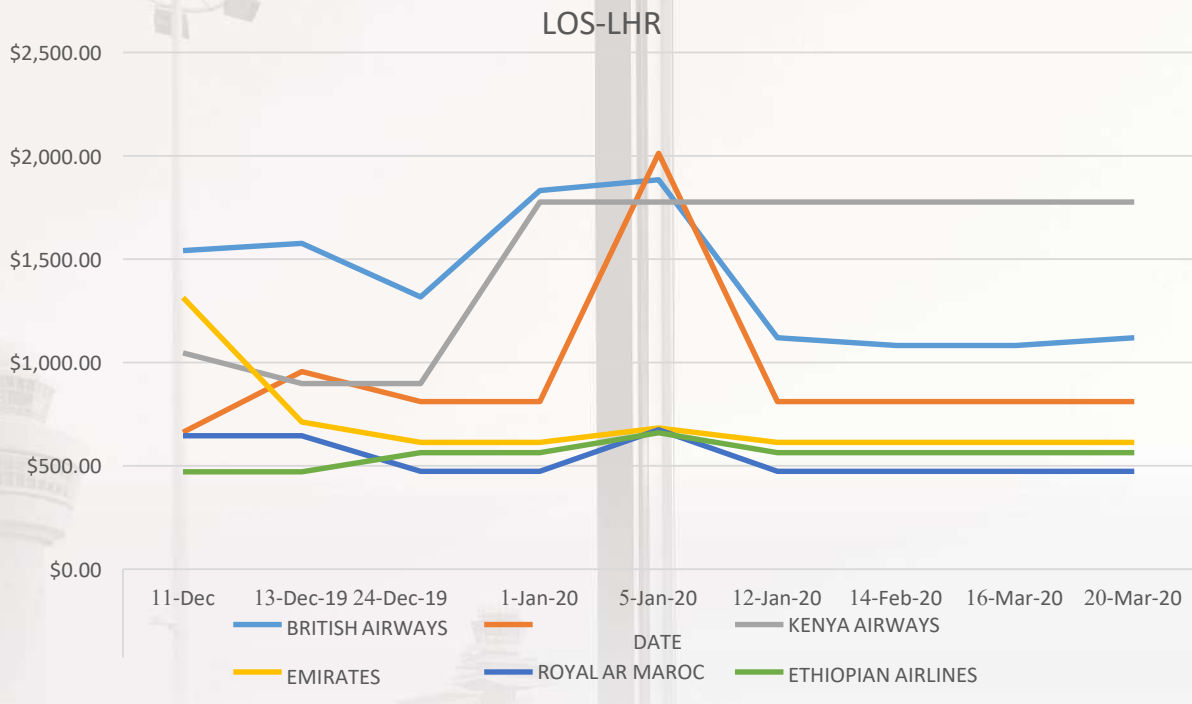
time insensitive or competition is not fierce, considering that during the peak seasons where there should be a high demand, the prices still remain the same.

## INTERNATIONAL ROUTES

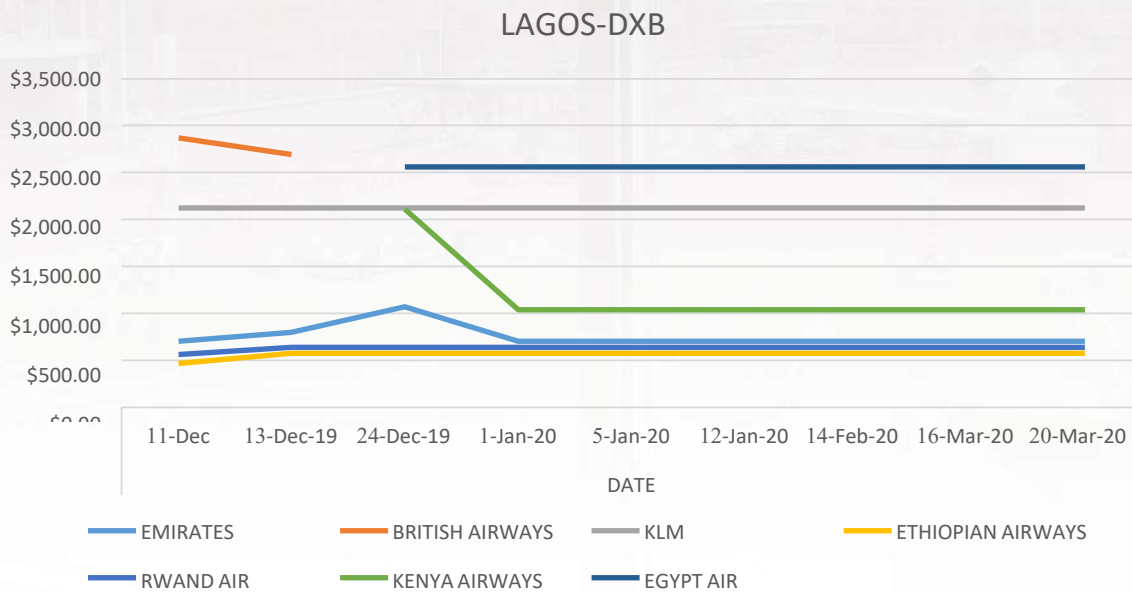
### LOS-LHR

131. This is certainly one of the most congested routes in Nigeria. The flights depart from Lagos to London Heathrow. 6 airlines service this route with one flight per airline, daily. With respect to direct flight, British Airways has a monopoly of this route and so it appears to target business passenger, considering the time of the flight, the cost of the ticket (which is high in

## LOS-LHR



## LAGOS-DXB



comparison to other airline operators). The other flight whose prices are somewhat close to that of BA, are Kenya Airways and Emirates, however, there are connecting flights with at least 20 hours compared to BA's 6 hours 35 minutes. Even in the business category, BA is still higher going up to over \$7,005.25 during peak periods

burdensome than most other countries. Emirates ticket fare considering it is a direct fare is quite cheap. In fact, KLM, and BA charge much more. 7 airlines service this route, they are Emirates, KLM, BA, Ethiopian Airlines, Kenya Airways and Royal Maroc. Air the airlines are allocated a slot per day, but with respect to time slot, and the duration of the journey, not only is Emirates a monopoly, they target the business travelers as opposed to leisure travelers.

## LOS-DXB

132. This is also a highly concentrated route, probably due to the fact that procuring a visa to Dubai is less

## IDENTIFYING REGIONAL AND CONTINENTAL PRIORITIES IN RESPECT OF THE AIRLINE INDUSTRY IN ORDER TO ADDRESS EXISTING COMPETITION CONCERNS

133. This paper has emphasized the significance of Air transport to any economy, it is a point that cannot be over emphasized. In essence, the aviation sector will drive regional and continental economic development and integration.
134. Africa with a population of over 1 billion people, is the second largest in the world, but records very poor connectivity in the continent with respect to its transportation network. Certainly a better transportation network will lead to better integration which would in turn lead to unlocking the huge economical potential in the continent, particularly as it relates to trade, job creation and tourism.
135. The challenges are vast, they include poor connectivity, poor infrastructure which impacts on economic liberalization with respect to the movement of persons and goods from place to place. It is not only difficult to move persons and goods from place to place with respect to connectivity within Africa but also very expensive.
136. A point of reference by Inter VISTAS Consulting Ltd, "in 2013 there was no direct service between Algeria and Nigeria. The most convenient routing available was via Morocco. The minimum journey time for this routing is 9 hours, but depending on connecting times could be as much as 17 hours. A direct service (which is forecast by the gravity model) would reduce the travel time between Algeria and Lagos to approximately 4.5 hours<sup>40</sup>."
137. According to Babatunde Irukera, the Chief Executive Officer of the FCCPC "Connectivity within Africa is the worst in the world. I remember going from Abuja to Banjul last year. I flew from Abuja to Ghana, from Ghana to Lomé, from Lomé I flew to Freetown, from Freetown I think we went to Monrovia, from Monrovia I got to Banjul and the fellow who was seated beside was still on board because he was going to Dakar. That's on the Western coast of Africa and that ticket was almost as expensive as flying from Abuja to London. And a direct flight from Abuja to Banjul would have put me there in 3 hours and some minutes. That's the state of the situation. And when I was thinking about how much time I had to wait, I was considering my options."
138. The possibility of a road or rail network though laudable is a far cry compared to Air transport. However, connectivity by air has been very difficult and inconvenient. Take for example Lagos to Banjul, it is not possible to get a direct flight. Instead the passenger will have to make at least one transits for a journey of 1442 miles. This is the situation across the continent, flights are infrequent, expensive and unnecessarily time consuming, sometimes to get within Africa, passengers may even need to transit in Europe or the Middle East.
139. Babatunde Irukera stated while speaking with members of the African Competition Forum, "...Aviation will be the number 1 and perhaps even the only way to move goods and people, across this continent. We can't rely on ship because not all of us have coasts. Rail system across the continent may not be a pipe dream but it is a very long-term dream. The coastal road that is going on across West Africa has been going on for 3 decades. And so, we are left with an only option- Aviation".
140. Some have suggested liberalization as the key to unlocking African's full potential of realizing economic boost and integration. The protectionist nature of African airspace market has contributed negatively to the connectivity issue. Certain governments are unprepared to allow their carriers play on a level field so they continue to restrict access through discriminatory practices which have limited liberalization, some even go as far as constantly bailing out failing carriers just to remain in the skies.
141. According to the Chairman Air Peace "The idea behind SAATM is noble. However, in the practical sense, it is a fraud against this country. Nigeria has the population and the majority of the Nigerian population are mobile. So, these countries are just making a feast out of Nigeria while at the same regional flights? It is because the charges there are exorbitant and discriminatory; charges that their own airlines are not paying. Air Peace

<sup>40</sup> <https://www.iata.org/en/iata-repository/publications/economic-reports/transforming-intra-african-connectivity-theeconomic-benefits-of-implementing-the-yamoussoukro-decision-report2/>

- has lost over N1.2bn in one year doing West Coast.<sup>41</sup>
142. Liberalization is essential, if Africa is to experience the benefits of free trade and economic integration such as, cheaper fares for passengers, greater connectivity, more route frequency, innovative competitiveness, and time efficiency. State simply, the general protectionist approach to the aviation industry must be frowned upon; and several countries have taken the right step in accepting liberalization, for example the SAATM is expected to bring about the much needed liberalization, which makes provisions for market access and economic integration, this is particularly important in the advent of the African Continental Free Trade Agreement aimed at removing trade barriers. It is expected that with the open skies treaty, there will be more coordination and integration between states.
143. However, liberalization of the aviation sector is only part of the solution. Africa makes about 16.7% of the world's population, number 2 among the regions of the world<sup>42</sup>. African is the second- fastest growing region in the world with respect to tourism with 67 million tourist visiting Africa in 2018, representing a 7% growth rate from 2017<sup>43</sup>. The International Air Transport Association has predicted that between now and 2037, Africa passenger traffic will increase by 4.6%<sup>44</sup>, yet African airlines have the lowest passenger load factor, smallest fleet and smallest ratio of intra- regional to intercontinental seats<sup>45</sup>. Therefore, the question is whether or not Africa is prepared for the liberalization envisaged, the slow level of implementation and preparedness is a challenge.
144. Africa has a combined fleet size of 690 aircrafts<sup>46</sup>, and only 257 aircrafts on order<sup>47</sup>, compare that to America airlines which has over 900 aircraft fleet<sup>48</sup> and the middle east which has 1442<sup>49</sup>.
145. Babatunde Irukera of the FCCPC, refereeing to statistics by the Centre for Aviation, on fleet size stated "...And so, the maximum in Africa right now is 257 aircrafts on order. The next smallest region, Latin America has 998 on order. And Africa has the highest number of default when it comes to aircraft order. And Egypt air is perhaps the next fastest growing from a fleet stand point to Ethiopia. And the African order is relatively depressed because the vast majority of our orders are actually the 737 Max 8 that is grounded. So, if you really think about it, the picture is grim."
146. Therefore, more passengers with fewer fleets will lead to more expensive fares, with many passengers seeking to get few seats. Apart from the lack of competitive advantage due to fewer fleet, Africa has the oldest aircrafts in the world, making its operating cost comparatively higher coupled with poor financing credit to enable then obtain aircrafts on lease.
147. Finally, with respect to continental priorities, the commission observed very poor alliances between airlines around the continent. Currently, there are no foreign airline plying the Nigerian domestic routes, Nigeria has at least 10 domestic airports, Nigeria's passenger utilization traffic has increased. One should expect to see more alliance within the region that allows for indigenous airlines to connect passengers from the region, locally.
148. Most of the top foreign airlines belong to one form of alliance or the other, the top of the includes Star Alliance, One world and Sky team. The travail with respect to operating cost, infrastructural challenges, such as aviation fuel and lack of maintenance facilities or spare parts may be solved by such alliances.
149. Nations should find a way to sustain the increased and predicted passenger traffic through coordination and will-power with respect to liberalization, by putting in place regulatory frameworks that do not stifle competition but rather make real difference to compete transparently.

41 <https://punchng.com/international-aviation-politics-killing-nigerian-airlines-on-foreign-routes-onyema-air-peacechairman/>

42 <https://www.worldometers.info/world-population/africa-population/>

43 <https://qz.com/africa/1717902/africas-tourism-industry-is-second-fastest-growing-in-world/>

44 <https://www.iata.org/en/pressroom/pr/2018-10-24-02>

45 <https://centreforaviation.com/analysis/airline-leader/africa-aviation-outlook-2020-performance-lags-pendingintegration-504774>

46 <https://www.pulselive.co.ke/bi/lifestyle/top-10-african-airlines-with-the-largest-fleet-as-of-2018/qw7hvm7>

47 <https://centreforaviation.com/analysis/airline-leader/africa-aviation-outlook-2019-change-may-be-in-the-air-atlast-457938>

48 <https://www.statista.com/statistics/1013159/airlines-worldwide-fleet-size/>

49 <https://centreforaviation.com/analysis/airline-leader/africa-aviation-outlook-2020-performance-lags-pendingintegration-504774>

## CONCLUSION/RECOMMENDATIONS

150. This study relied on both primary and secondary sources of materials to gather information on the competitiveness of the aviation industry. The findings of the study revealed that aviation industries is in dire need of funding and investors, particularly with respect to infrastructure.
151. The lack of funding gives rise to several inefficiencies (screening machines, aircraft spare parts, runways, maintenance facilities) which affect the ability of domestic airlines to compete with their regional and international competitors. Another reason for the limited competition in the aviation industry is that domestic airlines still rely on old aircrafts, which attract high operational and maintenance cost.
152. Furthermore, the study revealed that there is enough regulatory and institutional framework that makes the industry competitive but the enforcement level has been low. In general Nigeria is perceived a hub for regional and international travels.
153. The fact that the aviation industry is a strategic one for Nigeria cannot be over emphasized. This is clear from the contribution the industry makes to the Gross Domestic Product in the country, according to the minister of Aviation, the sector is projected to increase its GDP by 1% in 2020<sup>50</sup>, more than that, is the opening of the country to the world that it is ready for business.
154. To the extent that there is a regulatory regime that promotes competition in the sector, consumers will have better choices at reduced prices and businesses can become more profitable as a level playing field is one of the key features of such competitive regimes.
155. The entry and exit of businesses ought to be determined by fierce competition between airlines regardless of whether they are national carriers or not. Therefore, African nations should collaborate to ensure liberalization and implementation of the open skies treaty. Nation states should also encourage, with proper regulatory supervision, the efficiencies associated with mergers, alliances and code sharing, for better connectivity, consumer choice and integration. The study observed that domestic airlines have not embraced such global trends.
156. Domestically, few airlines fly certain routes around the country, the competitive time belts are usually in the mornings and evenings, when prices are seen to go up and passengers are seen to struggle on a first come first serve basis for those routes; and airlines could take advantage of such circumstances to abuse their dominance on such routes, knowing that for that time belt, they are the only airline flying that route, so they take a business decision to inflate prices unduly.
157. The study also observed that although there are more passengers taking advantage of air travel (for several reasons), the fare costs still remain very high, this is because the high cost of operation is transferred to the passengers. Also struggling airlines have had to result to high pricing policies to make up for the excess load capacity, if the cost of aviation fuel for example is high and not cost reflective, or predictable, and constant in terms of supply, higher prices for consumers will continue to be a concern.
158. Nation states in anticipation of the projected increase in air passenger travel should embrace appropriate regulatory framework with respect to mergers, and alliances, to curb the high level of exits of failing airlines due to mismanagement or insolvency; while providing for the infrastructural deficits that make it difficult for businesses to be profitable.
159. The task of operationalizing the FCCPC and enforcement of the FCCPA in a consistent manner that meets with prevailing global standards is as daunting as it is urgent. Considering the international nature and propensity for impact on foreign businesses, it is important to seek collaboration that will ensure a firm and consistent approach.
- 159.1 The Federal Competition and Consumer Protection Commission is currently working on:
- 159.2 Publishing regulations with respect to threshold on dominance
- 159.3 Publishing regulations with respect to restrictive

50 <https://nairametrics.com/2019/08/28/aviation-sector-to-contribute-over-n1-2-trillion-to-nigerias-gdp-by-2020/>

agreements

- 159.4 Advise the federal government pursuant to section 88 of the FCCPA on the need to consider the Aviation sector as one of the lifelines of the economy, and cap the price of aviation fuel to be reflective of market realities, for predictability, and reduced operational cost.
- 159.5 Collaborate with sector specific regulators to reduce the barriers to entry by making for better infrastructure, foreign exchange policies, and less strenuous certification process
- 159.6 Collaborate with foreign competition regulatory agencies with respect to information sharing and exchanges.

# CHAPTER 8: COMESA

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5,000 feet

1. The COMESA Competition Commission (the “Commission”),
2. Having regard to Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa (“COMESA Treaty”),
3. Having regard to the COMESA Competition Regulations of 2004 (the “Regulations”), and the COMESA Competition Rules of 2004, as amended by the 2014 Amendments to COMESA Competition Rules of 2004 (the “Rules”),
4. Submits this Chapter to the African Competition Forum (“ACF”) in accordance with Article 7 of the Regulations and Rule 42 of the Rules.

## THE ACF STUDY

5. The airline industry on the continent fulfils a critical role in facilitating trade and tourism between countries and is an essential element in supporting regional and even continental integration. The airline industry across African economies has undergone a significant evolution in the past two decades, from a protectionist approach supportive of a single national airline towards a more liberalised and de-regulated open skies regime. This has resulted in the emergence of privately owned domestic and regional airlines, as well as greater contestability on inter-country regional and international routes, albeit that this has been uneven across the continent.
6. The airline industry poses some unique challenges for competition authorities, given both the industry history and economic features. This is especially the case where the historic state incumbents have faced increasing competition from new, leaner business models such as low-cost carriers, but also well-resourced national airlines from other countries. A broad summary of common competition concerns that arise in most markets and across many routes include:

6.1 Regulatory barriers to entry and expansion: the extent of liberalisation across countries varies and, in many countries, there exist restrictions on entry and/or expansion on particular routes. This is especially the case with inter-country

routes where the historical arrangements of bilateral arrangements persist today. These limits both the airlines that may compete on those routes but also the frequency and type of service. These arrangements will also determine the associated rights of airlines on those routes, such as fifth freedoms to take passengers on onward domestic routes or third country routes.

6.2 Ongoing state support: a further common feature of airline markets is the ongoing state support for national airlines within a more liberalised environment. This is in part because national airlines are required to fulfil non-market functions such as opening up trade routes and supporting internal integration. As a result, countries have a desire to support the ongoing operation of the national airline. This support may take the form of subsidies or occasional financial bail out, which itself may impact on competition with other airlines. In addition, the support may also take the form of support in other ways, such as preferential airport fees / access to airport slots or support on competitive routes to balance out costs incurred in support of state objectives.

6.3 Dominant national airlines: in many countries across the continent there exists a national airline which has historically been a monopoly and which remains dominant today despite some degree of liberalisation of the skies. The experience in a number of countries is that this market position is frequently abused by the state-owned airline in order to retain its market position in competition to newer, leaner business models such as low-cost airlines. Such abuse is also sometimes made possible by the forms of state support or historic advantages such as loyalty schemes, international route rights and key hub operators at the primary international airport. These economic features of airlines provide a form of network or portfolio effect benefits, but also provide scope for loyalty rebates and other exclusionary strategies. Airline economics also lends itself periods of price wars in periods of lower demand or new entry and excess capacity on the route. At the

same time, such price wars may also take the form of predatory behaviour by the incumbent in order to fight off sustained entry.

6.4 Horizontal alliances and cartels: a further complexity in the airline industry is the emergence of horizontal cooperative alliances and code-sharing which are sometimes justified on enhancing objectives such as improved connectivity and improved consumer experience. These arrangements can be quite extensive and include the exchange of information on airfares and discounts that alliance members will offer; routes and flying schedule coordination with other members of the alliance; cooperation in marketing, sales and distribution of joint products, including joint bids for government and corporate contracts; and participation in reciprocal frequent flyer programs. These arrangements have the potential to benefit consumers but may also be used to limit competition. At the same time, the boom-and-bust nature of the airline industry has incentivised widespread actual cartel behaviour outside of alliance arrangements. These include route division, airfare coordination and coordination on certain charges such as fuel surcharges.

7. These challenges are often complicated in the context of regional and international routes on the continent, as the routes will involve airlines from other countries and the behaviour may also be subject to regulatory action by both countries' competition authorities. In this context, there may be increasing benefit to cooperation across competition authorities to deal with continental airline routes. This is particularly the case given the scope for differential outcomes to the assessment of behaviour under enforcement action. Differences in legal regimes may also result in differences in the power to investigate state-owned enterprises, but also differences in the basis for assessment, including whether economic development objectives may be taken into account or not. However, but where there is a common enforcement outcome, there may be differential views on remedial action.

## STUDY OBJECTIVES

8. The objectives of the ACF cross-country study of the airline industry on the continent are as follows:
  - 8.1 mapping of the airline industry to appreciate the regional and international dynamics that are of primary relevance to the member country;
  - 8.2 to understand the market structure, alliances, state involvement and regulatory setting for the airline industry in the different ACF member countries;
  - 8.3 to understand the market structure, alliances and state involvement and regulatory setting on regional and international services that impact on continental trade and tourism;
  - 8.4 to get an understanding of the type of competition concerns that exist in respect of the airline industry in the different ACF member countries.
9. The Commission participated in the study by collecting information relating to the state of play in the aviation sector on the continent. In this regard, the Commission communicated with the African Civil Aviation Commission (AFCAC), an institution of the African Union as well as collected publicly available information about Ethiopian Airlines, including information about its pricing trends on domestic, regional and international routes over the period November 2019 – March 2020.

## RELEVANT BACKGROUND

10. The journey towards liberating Africa's air traffic began in November 1988 when the respective Ministers responsible for Civil Aviation in 40 African countries agreed a declaration on African air transport policy. This declaration was signed in Cote d'Ivoire and became aptly known as the Yamoussoukro Declaration.
11. Recognizing the fragility of the air transport industry and small size of its market, the signatory African States undertook to individually and collectively work towards establishing and expanding international aeronautical activities in Africa. Hence, the objectives

- of the Yamoussoukro Declaration include the following:
- 11.1 to integrate African airlines within a period of eight years spread out in three phases during which the problems of traffic right, tariff, and improvement of the management of African airlines will be examined with a view to reaching a compromise and finding appropriate solutions;
  - 11.2 to define a common African position with regard to the computer reservation system and all new decisions on noise standards;
  - 11.3 to establish an African aircraft financing and leasing company in order to facilitate the procurement of aeronautical equipment.
12. The Yamoussoukro Declaration was revised and improved in 1999, and in its stead, the Yamoussoukro Decision was adopted. The primary intention of the Yamoussoukro Decision was to accelerate the implementation of the Yamoussoukro Declaration, especially those provisions relating to the granting of traffic rights, regional cooperation in air transportation and the role of Governments.
  13. The Yamoussoukro Decision recognized the need to adopt measures with the aim of progressively establishing a liberalized intra-African aviation market concerning the among other things, traffic rights, capacity, frequency and pricing. The Yamoussoukro Decision noted the importance of enhancing cooperation among African airlines in order to stimulate the development of inter-African air transport and the need to improve the quality of services to the consumers.
  14. However, the Yamoussoukro Decision failed to bear fruit. Consequently, in 2018, the African Ministers responsible for Civil Aviation tried, a third time, to implement the principles of the Yamoussoukro Declaration and Yamoussoukro Decision. Thus, in 2018, 23 African countries launched the Single African Air Transport Market (SAATM) with the endorsement of the African Union. To date, 28 African countries have signed up to the SAATM, representing over 80% of the existing aviation market in Africa<sup>1</sup>.
15. The objectives of the SAATM are the full implementation of the Yamoussoukro Decision:
    - 15.1 full liberalization of intra-African air transport services in terms of market access;
    - 15.2 free exercise of 1st, 2nd, 3rd, 4th and 5th freedom traffic rights for scheduled and freight air services by eligible airlines;
    - 15.3 eligibility criteria for African carriers;
    - 15.4 full liberalization of frequencies, tariffs and capacity;
    - 15.5 safety and security standards for African carriers;
    - 15.6 mechanisms for fair competition and dispute settlement and consumer protection.
  16. The SAATM will also work towards the improvement of intra-African air connectivity providing airlines with a regulatory framework that allows them to offer international services without restrictions as regards capacity and the setting of air fares (other than fair competition provisions).
  17. It is not surprising to note so many efforts aimed at liberalizing the African skies. According to Engineering News, the African aviation industry is a significant factor in the continent's economy, responsible for an estimated US\$80billion in gross domestic product (GDP) across Africa, supporting 6.9million jobs<sup>2</sup>.

## STRUCTURE OF THE AIR TRANSPORT MARKET

### Airlines

18. According to the Background Paper on Market Access/Liberalization of air transport in Africa, the largest airline in Africa, accounting for 8.0%<sup>3</sup> of the seat capacity, is Ethiopian Airlines. Within a period of 10 years, Ethiopian Airlines moved from being ranked 7th place among its African counterparts to position one, displacing South African Airways as the market leader.

1. Write up on The Single African Air Transport Market (SAATM) by IATA available at: <https://www.iata.org/en/policy/business-freedom/saatm/>

2. Campbell, R. 2018, "Open Skies?", *Engineering News* vol. 38 no. 18 pg. 18-19, 30

3. Vlardell, J.M. 2018 *Background Paper on Market Access/Liberalization of air transport in Africa*

**Table 1: Africa's top 10 airlines by weekly sear capacity January 2019<sup>4</sup>**

Rank	Airline	IATA	Weekly Seats	Share
1	Ethiopian Airlines	ET	345, 016	8.4%
2	Egypt Air	MS	229, 885	5.6%
3	Royal Air Maroc	AT	204, 346	5.0%
4	South African Airways	SA	188, 421	4.6%
5	Air Algerie	AH	175, 685	4.3%
6	Emirates Airline	EK	172, 344	4.2%
7	British Airways	BA	131, 499	3.2%
8	Kenya Airways	KQ	123, 333	3.0%
9	Saudia	SV	110,170	2.7%
10	Air France	AF	109, 836	2.7%

19. The market for African airlines providing international services within Africa has become more concentrated since 2008. In 2008, the top 15 African airlines provided 69.0% of total international services, while in 2018, these 15 airlines provided 81.9% of total international services.
20. The Background Paper on Market Access/Liberalization of air transport in Africa<sup>5</sup> estimated that there are 1700 commercial aircrafts operating in Africa. Ethiopian Airlines has the largest fleet with 126 aircrafts, while Egypt Air has 71 and Royal Air Maroc has 59 aircrafts.

## Infrastructure

21. It should be noted that the development of air transport in Africa is not comparable to other regions where liberalization has been successfully implemented. This is because the African aviation sector is faced with unique barriers to the successful development of air connectivity.
22. One of the observations of the Background Paper on Market Access/Liberalization of air transport in Africa has been that governments are reluctant to give foreign airlines access to their main airports, thus restricting direct competition to the nation flag carrier airline<sup>6</sup>. The cost of landing in many African countries is higher than the worldwide average levels due to the high airport charges and government taxes. This also has the

4. African Aviation Outlook 2019: Change may be in the air – at last available at: <https://centreforaviation.com/analysis/airline-leader/africa-aviation-outlook-2019-change-may-be-in-the-air-at-last-457938>

5. Vilardell, J.M. 2018 Background Paper on Market Access/Liberalization of air transport in Africa

6. Vilardell, J.M. 2018 Background Paper on Market Access/Liberalization of air transport in Africa

effect of making air transportation in Africa, especially intra-Africa routes, unaffordable.

23. There are few options to travel between different African regions e.g. there are no daily options to/from North-Eastern, North-Central/Western-Eastern, West/Central-Eastern and Central-Eastern air travels.
24. With regards to airports, the Commission noted that there are currently 3 hubs enjoying the highest volume of passengers on an annual basis, these are: OR Tambo International Airport in Johannesburg, South Africa (the hub for South African Airways), Bole International Airport in Addis Ababa, Ethiopia (the hub for Ethiopian Airlines) and Mohammed V International Airport in Casablanca, Morocco (the hub for Royal Air Maroc). It should be noted that Western and Central Africa do not have a regional hub serving as a major gateway between Africa and the rest of the world.
25. Additionally, many African countries lack infrastructure in that very few countries have a secondary airport to complement the main airport, which it most often than not, located in the capital. The secondary airports often do not have the capacity to handle the number of commercial flights. Hence, most African countries concentrate most of their international flights to their main airport, which sees the development focus shift to the main airports. It should also be noted that African airlines face high operating costs due to limited access to financing, high fuel costs and high ground handling costs.

## ETHIOPIA

26. The Review of Competition Policy in Ethiopia conducted by UNCTAD in 2018 recognised that Ethiopia is one of the fastest-growing economies in the world and is among the top-performing economies with an average GDP growth of 11% per annum since 2004<sup>7</sup>. According to the review, the economy of Ethiopia is largely based on agriculture which accounts for 40.2% of GDP and 85% of total employment. The major manufacturing activities are in the production of food and beverages, tobacco, textiles and garments, leather goods, paper, metallic and non-metallic mineral products, cement

7. A review of Competition Policy in Ethiopia, 2018, UNCTAD available at [https://unctad.org/en/PublicationsLibrary/ditccpl2017d3\\_en.pdf](https://unctad.org/en/PublicationsLibrary/ditccpl2017d3_en.pdf)

and chemicals. Air transport is an important part of Ethiopia's transport network. Ethiopian Airlines, founded in 1945, is Ethiopia's flag carrier and is wholly owned by the government of Ethiopia.

27. Ethiopian Airlines services both passenger and cargo transport in its international and domestic routes, and its hub is Bole International Airport situated in the country's capital, Addis Ababa.

28. The industry is regulated by the Ethiopian Civil Aviation Authority (ECAA) which has the following powers and duties:

- 28.1 regulate the legality of manufacturing, possession, operation, sale, import and export of any aircraft;
- 28.2 license aviation personnel;
- 28.3 inspect, license and regulate aerodromes;
- 28.4 license and regulate the operators of service and general aviation services;
- 28.5 determine the conditions under which passengers, goods and mail may be transported in aircraft;
- 28.6 revoke or suspend any license or certificate for good cause;
- 28.7 provide air traffic, navigation, aeronautical communication and information services within and outside Ethiopian space;
- 28.8 prescribe air traffic rules and standards governing the flight of aircraft;
- 28.9 identify air routes to be used within Ethiopia.

29. The major responsibilities of the ECAA include regulatory oversight over the sector. These include technical regulations such as registering all civil aircrafts and issuing registration marks, inspecting and issuing air worthiness certificates, specifying the type of service for which an aircraft may be used, prescribing the conditions on the maintenance and repair of aircrafts, among others.

30. The ECAA is also responsible for Economic and Air Transport Regulation which includes promoting and maintaining efficient air transport and general aviation in the country, licensing and regulating air transport and general aviation services among others.

## Bole International Airport - Addis Ababa

31. Bole International Airport ("Bole") the main hub of Ethiopian Airlines, is located in Ethiopia's capital, Addis Ababa. It is the main gateway into Ethiopia and serves as one of the major hubs of East Africa, in 2018, Bole handled over 12million<sup>8</sup> passengers.

32. There are several airlines flying to Bole<sup>9</sup> as indicated below

- 32.1 Air China – Chinese
- 32.2 Air India – Indian
- 32.3 Asiana Airlines – South Korean
- 32.4 Egyptair – Egyptian
- 32.5 Emirates – United Arab Emirates
- 32.6 Gulf Air – Kingdom of Bahrain
- 32.7 Kenya Airways – Kenyan
- 32.8 Lufthansa – German
- 32.9 Oman Air – Oman
- 32.10 Qatar Airways – Qatar
- 32.11 SAS – Scandinavian Airlines (Denmark, Norway, Sweden)
- 32.12 Saudi Arabian Airlines – Saudi Arabia
- 32.13 Shenzhen Airlines – Chinese
- 32.14 Singapore Airlines – Singaporean
- 32.15 South African Airways – South Africa
- 32.16 Sudan Airways – Sudanese
- 32.17 Turkish Airlines – Turkish
- 32.18 Yemeni Yemen Airways – Yemeni
- 32.19 Flydubai – United Arab Emirates.

33. Bole services domestic and international routes, connecting Africa to Asia, Europe, North America, South America and the Middle East.

34. Bole was recently expanded to triple its size to an annual capacity of 22million passengers. According to Quartz Africa, Bole overtook Dubai<sup>10</sup> in 2018 as the leading transfer hub for long-haul travel to sub-Saharan Africa.

## Ethiopian Airlines

35. Ethiopian Airlines has partnered with at least 14

8. About Addis Ababa Airport available at <https://www.addis-ababa-airport.com/>

9. List of airlines flying into Addis Ababa available at <https://addisairport.com/airlines-addis-ababa/>

10. Dahir A.L., Ethiopia has tripled the size of its main airport as it gets set to be Africa's gateway hub Quartz Africa, 2019 available at <https://qz.com/africa/1535255/ethiopia-addis-ababa-bole-expanded-airport-triples-size/>

countries on the continent as part of its Vision 2025 growth plan. Reuters reported that in 2013 Ethiopian Airlines acquired a minority stake in Malawian Airlines to serve as a base for its southern African operations<sup>11</sup>.

36. Ethiopian Airlines is a major shareholder in ASKY, a multinational private airline based in Togo. Ethiopian Airlines has a management contract to manage and operate ASKY services, introducing new connectivity between West Africa and the Ethiopian worldwide network. Ethiopian Airlines established its second hub in Lome, Togo.
37. In 2018 Ethiopian Airlines finalized a shareholders' agreement with the Government of Zambia for the re-launch of Zambia Airways; as well as an agreement with Guinea Airlines for strategic partnership in management, maintenance and training. Ethiopian Airlines is also a minority shareholder for the Chad national carrier after finalizing an agreement with the Government of Chad.
38. Ethiopian Airlines has also signed numerous code-share agreements with different airlines including Singapore Airlines, Asiana Airlines, Japan's leading airline group ANA, United Airlines and Austrian Airlines. Ethiopian Airlines is a member of Star Alliance, a global aviation alliance with 26 member airlines.

## ROUTE SELECTION AND PRICE ANALYSIS

39. In terms of the scope of the study, the Commission conducted an internet sweep of prices on different routes originating from Addis Ababa for specified dates between November 2019 and March 2020. The Commission collected price data on economy class airfare for Ethiopian Airlines and two (2) other airlines on the most direct route to pre-selected destinations. The data was collected for domestic routes, regional routes and international routes, as per the table below:

**Table 2: Route Selection for Price comparison**

ROUTE	RATIONALE
<b>DOMESTIC</b>	

11. Maasho A., Ethiopian Airlines to set up expansion with more deals and jets Reuters, 2018 available at <https://www.reuters.com/article/us-ethiopia-airlines/ethiopian-airlines-to-step-up-expansion-with-more-deals-and-jets-idUSKBN1181N5>

ADD-MQX (Mekelle)	These are the only domestic routes serviced by Ethiopian Airlines.
ADD-LLI (Lalibela)	
ADD – JIM (Jimma)	
ADD – GMB (Gambella)	
ADD – AXU (Axum)	
ADD – GDQ (Gondar)	
ADD – BJR (Bahirdar)	
<b>REGIONAL</b>	
ADD-LUN (Lusaka)	These destinations are the major airports in the capital cities of Member States (except Johannesburg). Moreover, these airports tend to have international connections.
ADD-LLW (Lilongwe)	
ADD-HRE (Harare)	
ADD-NBO (Nairobi)	
ADD-JNB (Johannesburg)	
ADD-CAI (Cairo)	
<b>INTERNATIONAL</b>	
ADD-DXB (Dubai)	These destinations were chosen to facilitate comparative analysis with data collected from other ACF Countries e.g. Kenya, South Africa
ADD-FRA (Frankfurt)	
ADD-CDG (Paris, Charles De Gaulle)	
ADD-IAD (Washington)	
ADD-PEK (Beijing)	
ADD-BOM (Mumbai)	
ADD-LHR (London, Heathrow)	

## Limitations

40. The Commission is aware that the African airline sector suffered shocks in November 2019, when labour action by SAA staff forced the airline to cancel some of its flights. The Commission is cognizant that some of the price data may have been reasonably have been affected by the Airline trying to recover any losses it may have suffered during the period when the flights were not operational.
41. The Commission noted that one of the limitations of the study was the comparison of data for direct routes with multi-city routes. However, the results of the study, as will be discussed in subsequent sections, showed that some observations and comparisons can be made about the sector in general even when comparing direct routes with multi-city routes.
42. The Commission noted another limitation of the study being the comparison of price data across different dates due to unavailability of flights on particular

days e.g. when there is no scheduled flight on the pre-selected date. Nonetheless, the information was collected for the next-available date and comparisons were made.

43. Furthermore, the Commission noted that internet websites' use of cookies may have affected the pricing algorithms<sup>12</sup> during the search exercise since a particular trend could be picked up from the search team's IP addresses. The following sections discuss the Commission's main observations on the domestic, regional and international routes which were pre-selected for this study.

### Domestic Routes

44. The Commission observed that Ethiopian Airlines does not offer business class options on some of the domestic routes. Typically, Ethiopian Airlines uses the "De Havilland Canada DHC-8 Dah 8" aircrafts to fly the domestic routes. The Commission observed that there are discounted routes for citizens with Ethiopian citizenship, or Ethiopian resident permits, since the price search would prompt the traveler to select the applicable option. The Commission collected data for non-resident passengers and found that on average, the ticket prices vary between USD50 and USD200 across all the domestic routes.

45. The Commission observed that in February the ticket prices to Mekelle spiked by almost three (3) times their amount over the search period. According to the

<sup>12</sup>. Pricing algorithms have been known to use cookies data to establish a browsing trend, which may affect the prices displayed by the search results.

Commission's research<sup>13</sup>, this may be due to festivities and celebrations that are concentrated in that part of the country, at that time of the year. The Commission observed that most expensive domestic route is Addis Ababa to Axum, which is reportedly the country's most holy city.

### Regional Routes

46. The Commission collected price data for ticket prices from Addis Ababa to Nairobi, Kenya; Lilongwe, Malawi; Johannesburg, South Africa; Lusaka, Zambia; Cairo, Egypt; and Harare, Zimbabwe. The Commission observed that the airlines with the most flights on the selected routes are Kenyan Airways and Emirates.

### Kenya

47. The Commission observed that KQ and ET operate scheduled flights from Addis Ababa to Nairobi. The flights to Nairobi are direct from Addis Ababa. The Commission noted that the ticket prices did not fluctuate over the selected period, they were stable as shown in figure 1.

### Malawi

48. The Commission observed that KQ and ET operate scheduled flights from Addis Ababa to Lilongwe. The ET flight is direct from Addis Ababa to Lilongwe, whereas the KQ flight transits through Nairobi. The

<sup>13</sup>. Conversation with Ethiopian citizen Jan 2019

**Table 3: Ticket Prices (USD) for Domestic Routes form Addis Ababa**

		1	-	4	-	6	-	1	1	-	1	3	-	2	4	-	1	-	5	-	1	2	-	1	4	-	1	6	-	2	0
		Nov		Nov		Nov		Dec		Dec		Dec		Jan		Jan		Jan		Feb		Feb		Feb		Mar		Mar		Mar	
Mekelle	ECO	71		73		73		64		64		64		64		64		64		64		64		177		64		64			
	BUS	154		128		128		128		128		128		128		128		128		128		128		232		128		128			
Lalibela	ECO	138		161		161		-		-		-		56		80		54		54		52		54		54		50			
Jimma	ECO	-		-		-		102		102		102		103		103		103		103		103		103		103		103			
Gambella	ECO	172		195		195		195		195		195		195		195		195		195		195		195		195		195			
Axum	ECO	213		199		199		199		199		199		199		199		199		199		199		199		199		199			
	BUS	259		259		259																									
Gondar	ECO	66		57		57		57		57		57		57		57		57		57		57		57		57		57			
	BUS	172		110		110		110		110		110		110		110		110		110		110		110		110		110		111	
Bahirdar	ECO							51		51		51		49		49		61		61		61		61		61		61			

Commission observed that, even though the KQ flight takes longer than the ET because of the Nairobi transit, the ticket prices averaged USD500 for both airlines.

13 December and 5 January.

53. Specifically, the SAA prices peaked on 24 December and 5 January, presumably because travelers were travelling to Johannesburg for the Christmas holidays. The ET and Emirates prices were respectively the highest on 5 January. The Commission also noted that, except for the period between December and January, the SAA prices were higher than those of ET and Emirates. During the December/January period, the SAA prices were lower than those of the airlines surveyed during the period.

## Zimbabwe

- 49. The Commission observed that ET, KQ and Emirates operate scheduled flights from Addis Ababa to Harare. The ET flight is direct, whereas the KQ and Emirates flights each transit through their respective hubs namely, Nairobi and Dubai respectively. The Commission noted that the transit time was shorter in Nairobi averaging about 1h45mins for refueling, whilst the Emirates transit time was much longer for about 10-13 hours.
- 50. The Commission observed that the ticket prices were stable for KQ whereas they fluctuated over the period for ET and Emirates. The Commission noted that the prices fluctuated visibly around 13 December and 5 January, presumably because these are the dates during which travelers would travel to Harare to spend their Christmas holidays.
- 51. It was interesting to note that while the ticket prices for ET around 13 December fell, the Emirates prices increased. Similarly, on 5 January, the ET prices fell, while the Emirates prices rose.

## Egypt

54. The Commission observed that ET, Emirates and Turkish Airlines operate scheduled flights to Cairo, Egypt. The Emirates flight transits through its hub, Dubai, for about 10-13 hours while Turkish Airlines transits through its hub Istanbul for about 6hours. The Commission observed that the ticket prices for Emirates and ET averaged USD330, while the prices for Turkish Airlines were slightly higher, with a significant peak in January. The Commission’s search found that the February tickets were sold out thus table 4 indicates a price of zero.

## South Africa

52. The Commission observed that ET, Emirates and SAA operate scheduled flights to Johannesburg. The ET and SAA flights are direct, while the Emirates flight transits through its hub Dubai, for about 10-13 hours. The prices for the route varied over the selected period, with significant variations in the prices between

## Zambia

55. The Commission observed that ET, Emirates and Turkish Airlines operate scheduled flights to Lusaka, Zambia. The Commission noted that Turkish Airlines transits through Istanbul, while Emirates transits through Dubai. The Commission observed that the ticket prices for Emirates and ET averaged USD330, while the prices for Turkish Airlines were significantly higher.

Figure 1: Ticket Prices (USD) to Nairobi, economy class

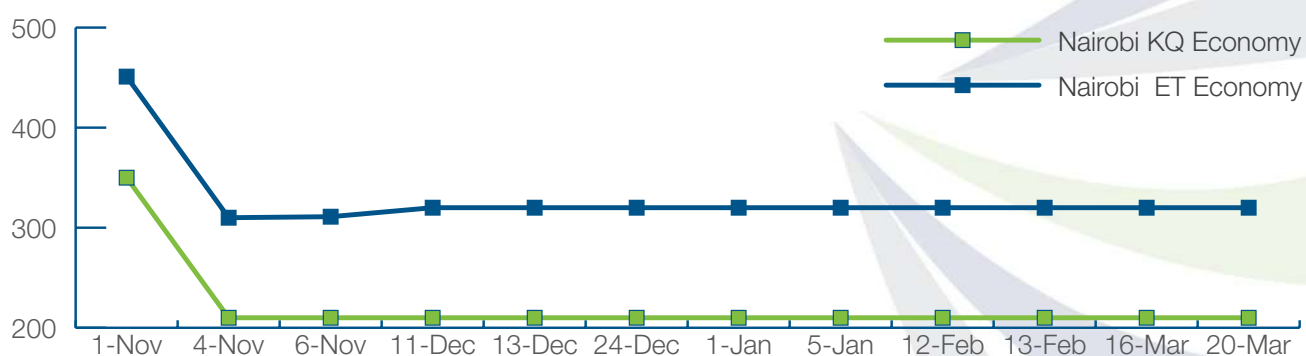


Figure 2: Ticket Prices (USD) to Lilongwe, Economy class

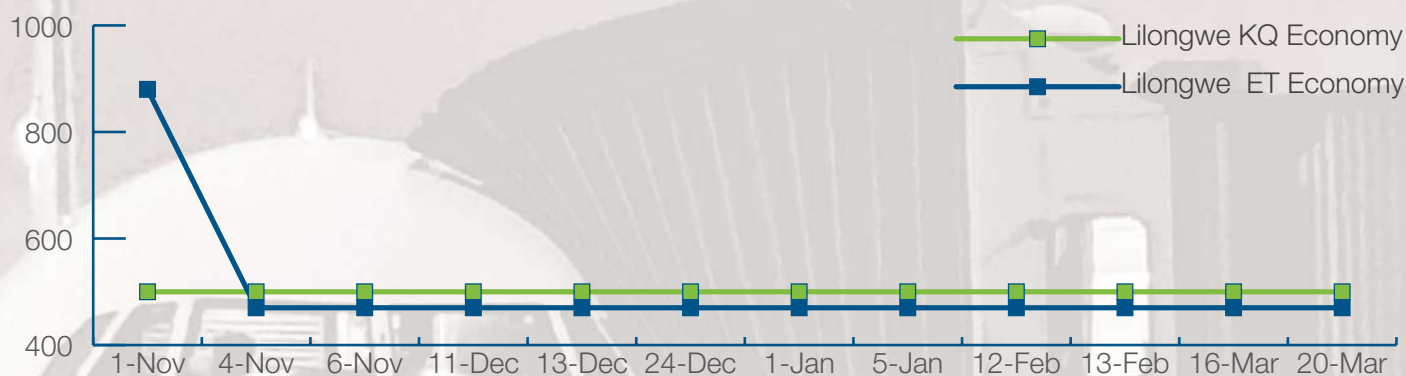


Figure 3: Ticket Prices (USD) to Harare, Economy Class

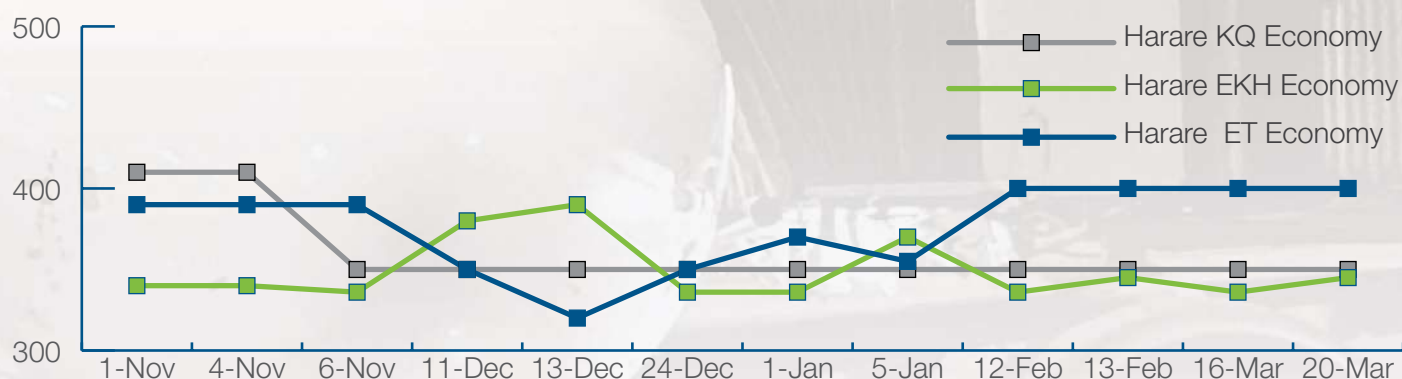


Figure 4 Ticket Prices (USD) to Johannesburg, Economy Class

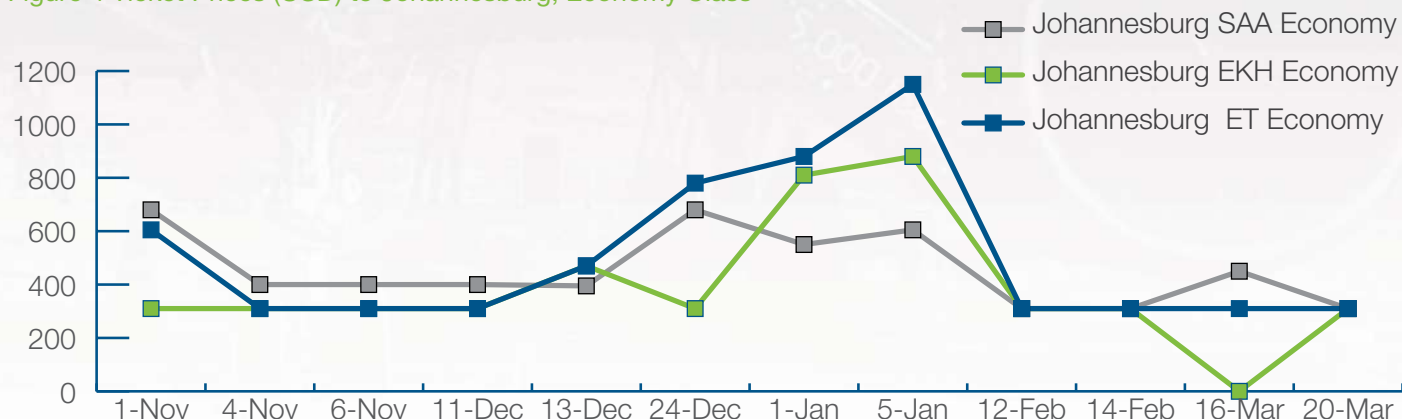


Table 4: Ticket Prices (USD) to Cairo, Economy Class

Airline	11 Dec	13 Dec	24 Dec	01 Jan	05 Jan	12 Feb	14 Feb	16 Mar	20 Mar
et	331	331	331	333	330	333	330	333	333
emirates	320	382	320	322	370	326	340	333	340
turkish	364	465	408	465	1167	-	-	346	659

Table 5: Ticket Prices (USD) to Lusaka, Economy Class

Airline	11 Dec	13 Dec	24 Dec	01 Jan	05 Jan	12 Feb	14 Feb	16 Mar	20 Mar
et	303	303	303	305	333	305	305	305	305
emirates	365	374	313	315	362	319	333	319	333
turkish	1178	1300	-	1690	1930	1178	-	1178	1178

## Conclusion

56. The Commission observed that generally ticket prices for regional destinations are similar. This is the case regardless of whether the routes are direct or connecting. The Commission generally observed that ET prices will vary or remain stable depending on other airlines flying the same route. For example, the Kenyan and Malawian routes had stable prices for all airlines operating on that route, whereas the South African prices fluctuated visibly during the search period.
57. The Commission observed that all connecting routes connect at the respective hubs of the different airlines for varying periods. For example, KQ transits in Nairobi for about 1h45mins for refueling, whereas Emirates and Turkish Airlines transit for longer periods of 10 hours and 6 hours respectively.
58. The Commission noted with concern that the ET direct flights are priced similarly to the connecting flights. The logical expectation would be for the ET direct flights to be cheaper given that they have a different set of costs associated with landing, refueling and other airport costs. Even though the transiting flights transit at their respective hubs the landing and refueling costs would be expected to form part of the ticket pricing. It therefore bears the question whether ET is a price setter for its respective routes; i.e. whether flights competing with ET would seek to price similarly to ET regardless of their route and associated costs.

## International Routes

59. The Commission collected price data for ticket prices from Addis Ababa to Paris, France; London-Heathrow, UK; Dubai, UAE; Mumbai, India; Washington, USA; and Beijing, China. The Commission observed that the airlines with the most flights on the selected routes, similar to the regional routes, are Emirates and Kenyan Airways.

## United Kingdom

60. The Commission observed that the airlines operating scheduled flights between Addis Ababa and London-

Heathrow are ET, Emirates and Lufthansa. The Commission observed that ET has a direct flight, while Emirates transits at its hub, Dubai. Lufthansa transits at its hub, Frankfurt.

61. The Commission observed a close similarity in the prices for ET and Emirates flights. The Commission observed that the ticket prices for Lufthansa were significantly higher than for Emirates and ET as shown in figure 5.
62. The Commission observed that the ET prices were equal to or slightly higher than the Emirates prices over the selected period. Again, the Commission noticed that the ticket prices peaked on 5 January, with ET almost doubling its prices.

## Germany

63. The Commission observed that the airlines operating scheduled flights between Addis Ababa and Frankfurt are ET, Emirates and Lufthansa. The Commission observed that ET has a direct flight, while Emirates transits at its hub, Dubai. The Commission observed that Lufthansa has direct flights to Frankfurt, and also operates flights that transit through Vienna.
64. The Commission observed that Lufthansa had multiple options for flights to Frankfurt with multiple stops. The major European gateway is Vienna, with connections operated by several other European Airlines including Polish Airways, Croatia Airways, and Austrian Airways among others. The alternate African route goes through Nairobi with connections operated by KQ.
65. The Commission observed that the Lufthansa flights were significantly more expensive than the ET and Emirates flights due to the multiple connections and stops. For this reason, the Lufthansa flights were also longer averaging more than 20hours of travel time. Again, the Commission noticed a peak in ticket prices on 5 January.

## United States of America

66. The Commission observed that the airlines that operate scheduled flights between Addis Ababa

and Washington are ET, Emirates and SAA. ET and Emirates transit in Dubai, whereas SAA transits in Johannesburg and has a technical stop in West Africa. The Commission noted that the flights to Washington take on average 20 hours, due to transit time, and the flight time across continents.

67. The Commission observed that the ticket prices spiked significantly in December and January, with the SAA prices doubling. The Commission observed that the ET ticket prices remained significantly lower than the Emirates and SAA prices. The Commission observed that the SAA prices are significantly higher, on average double the price, than the Emirates and ET prices.

## India

68. The Commission observed that the only airline operating scheduled flights between Addis Ababa and Mumbai is ET. Therefore, there was no price comparison analysis conducted for this route.

## United Arab Emirates

69. The Commission observed that the airlines operating scheduled flights from Addis Ababa to Dubai are Emirates and ET. The Commission observed that the ticket prices for ET are slightly higher than for Emirates. The Commission observed that the ticket prices are relatively stable, with a noticeable peak in the prices of ET tickets in December and January. On the other hand, the price of the Emirates tickets decreased slightly in December and January.

## France

70. The Commission observed that the airlines operating scheduled flights to Paris, France are ET, Emirates and Kenya Airways. The Commission observed that Emirates and KQ transit through their hubs, Dubai and Nairobi, respectively.
71. The Commission observed that the prices for ET and Emirates were similar and stable through out the selected period. The Commission observed a significant increase in the price of ET tickets on 5

January.

## China

72. The Commission observed that the airlines operating scheduled flights to Beijing, China are Emirates, ET and Turkish Airlines, as indicated in figure 10.
73. The Commission observed that the ET and Emirates' prices are similar and quite stable over the selected period. The Commission observed that the prices for ET tickets are slightly higher than for Emirates. The Commission also observed significant increases in the ticket prices for Turkish Airlines on 5th January and in the middle of February and March.

## Conclusion

74. The Commission observed that generally the ticket prices ET and Emirates are similar with the trend being that ET is slightly more expensive than Emirates. This is the case regardless of whether the routes are direct or connecting.
75. The Commission observed that there were more connecting options in Europe since the price search for flights connecting in Europe revealed more search results with very little difference in the travel time and the ticket price. However, the multiple routes were justifiably, more expensive than the more direct routes, or single connection routes.
76. The Commission also observed that the most expensive route was to Washington, which was also the longest distance travelled. The Commission noted that there were no direct flights to Washington from Addis Ababa or Johannesburg, since flights going through those hubs needed to transit. Ethiopian which originated in Addis Ababa transited in Dubai, while SAA transited in West Africa.

## CONCLUSION

77. This study was prepared using primary and secondary sources of information, on ticket prices and information

Figure 5: Ticket Prices (USD) to London-Heathrow, Economy Class

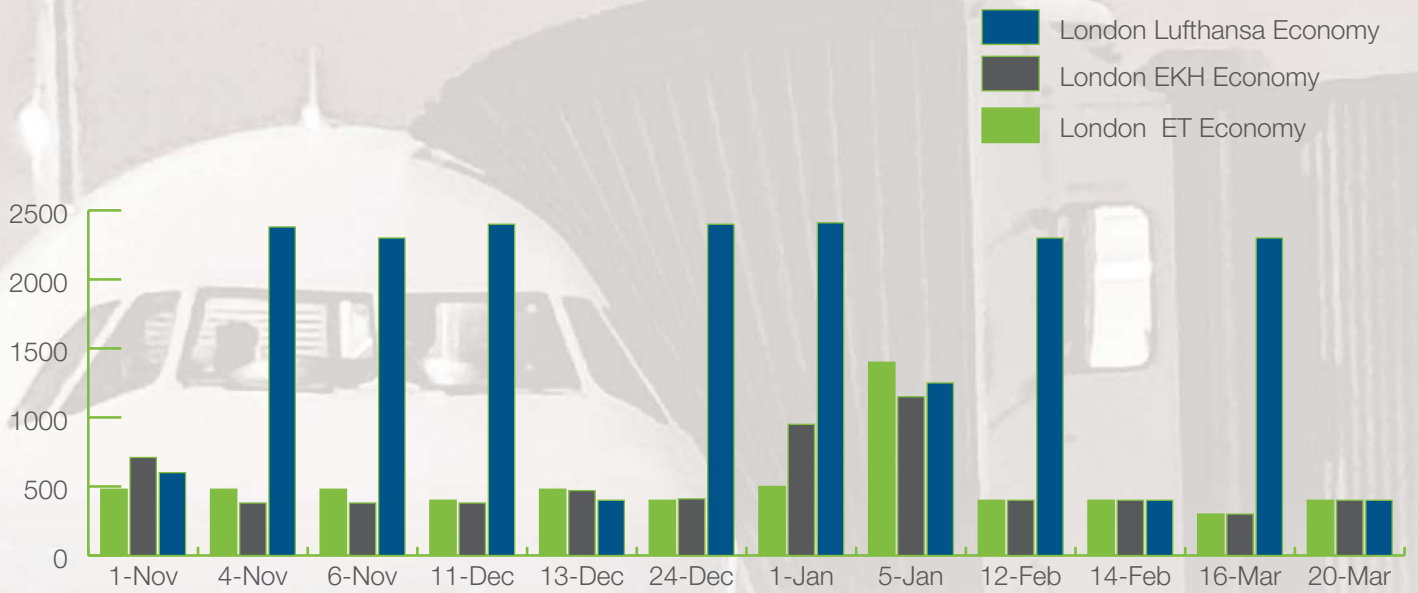


Figure 6: Ticket prices (USD) to Frankfurt, Economy Class

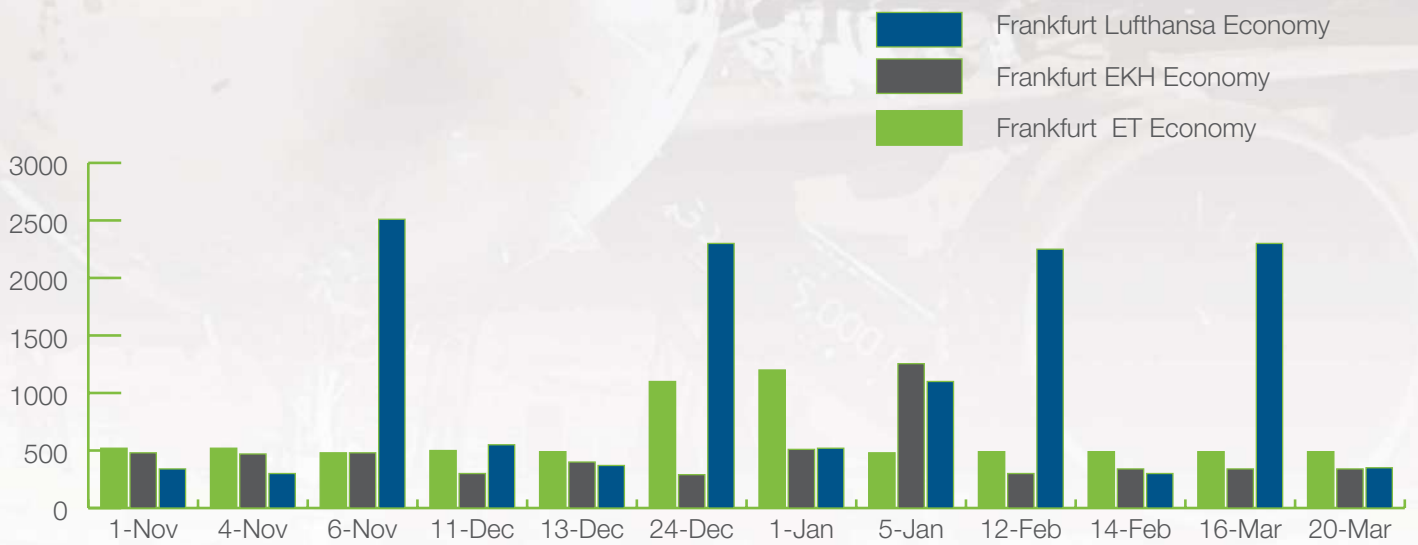


Figure 7: Ticket Prices (USD) to Washington, Economy Class

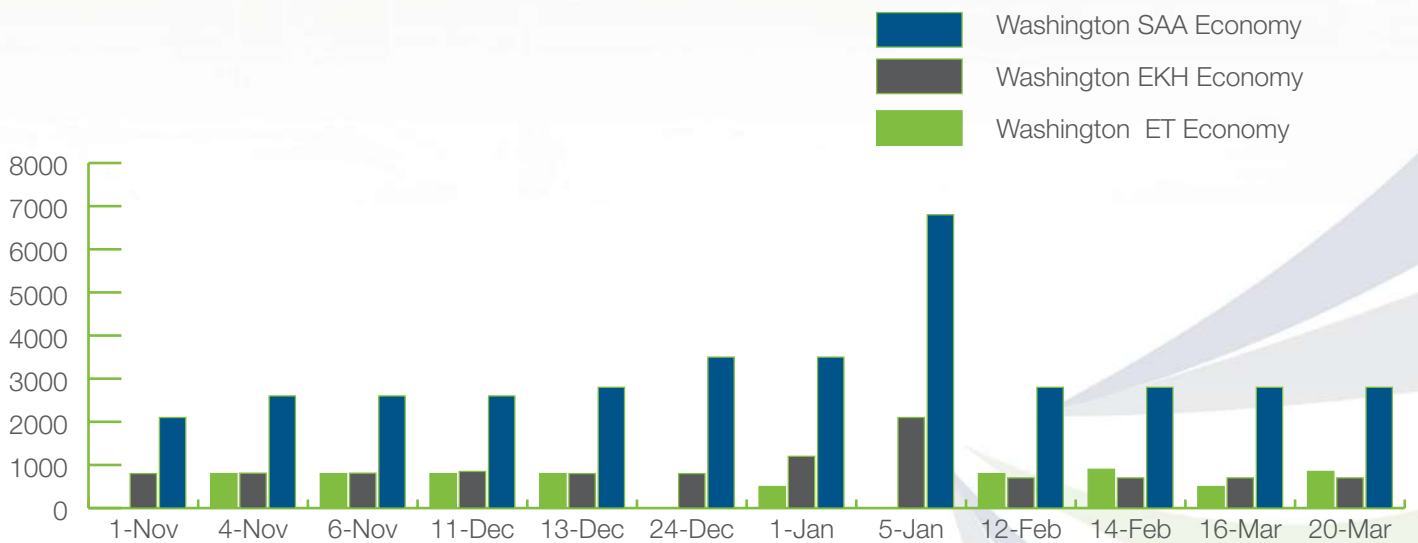
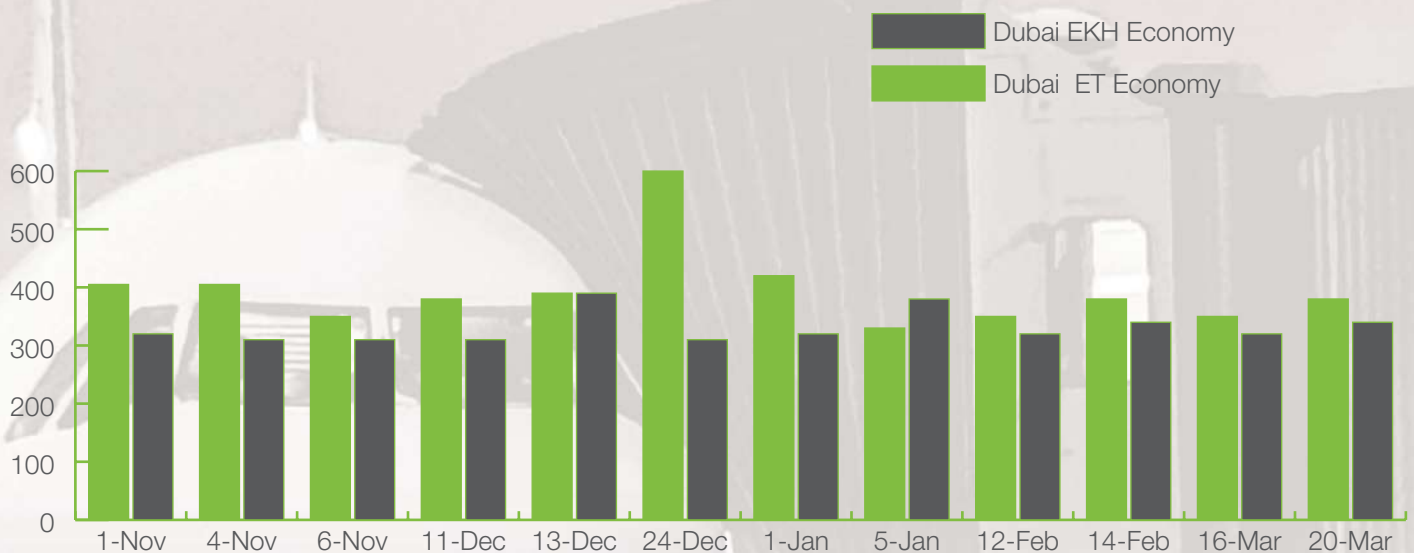


Figure 8: Ticket Prices (USD) to Dubai, Economy Class



about the African aviation industry respectively. The study has analysed ticket prices across different routes and observed similarities in the pricing trends across airlines.

price of tickets Mekelle, a domestic destination, which can be linked to the celebration of a particular festival in Ethiopia. In addition, the Commission observed an increase in the price of tickets in December and January, which is the period during which traffics tends to spike on account of passengers traveling for the Christmas season.

78. The Commission observed that the ticket prices on Ethiopian Airlines' direct routes are similar to the ticket prices for competing airlines that connect through their respective hubs. This may be an indication that there is little price competition in the sector. However, it was not established whether Ethiopian is a price leader or price taker.

79. The Commission also observed that ticket prices spiked around high traffic periods of the calendar. For example, the Commission observed an increase in the

# ANNEXURE

## ACRONYMS

ANS	Air Navigation Services	DTA	Divisão de Exploração dos Transportes Aéreos de Angola (Air Transport Exploration Division of Angola)
BASA	Bilateral Air Services Agreements	DUE	IATA code for Dundo airport
CAA	Civil Aviation Act	ECOSOC	United Nations Economic and Social Council
CUTE	Common Use of Terminal Equipment	ENANA	Empresa Nacional de Exploração de Aeroportos e Navegação Aérea (National Airport Exploration and Air Navigation Company)
CCPA	Competition and Consumer Protection Act No. 24 of 2010	ENNA	Empresa Nacional de Navegação Aérea (National Air Navigation Company)
DCA	Department of Civil Aviation	FACRA	Fundo Activo de Capital de Risco (Active Venture Capital Fund)
ICAO	International Civil Aviation Organisation	FAIA	Fundo de Apoio ao Investimento Agrário (Fund for Support to Agricultural Investment)
KKIA	Kenneth Kaunda international Airport	GPIAA	Gabinete de Prevenção e Investigação de Acidentes Aéreos (Air Accident Prevention and Investigation Office)
MTC	Ministry of Transport and Communication	HHI	Herfindahl-Hirschman Index
SADC	Southern African Development Community	IATA	International Air Transport Association
SAR	Search and Rescue	ICAO	International Civil Aviation Organization
SARPs	Standards And Recommended Practices	IGAPE	Instituto de Gestão de Activos e Participações do Estado (State Asset and Participation Management Institute)
SPA	Special Prorate Agreements	INAVIC	Instituto Nacional da Aviação Civil (National Institute of Civil Aviation)
USOAP	Universal Safety Oversight Audit Program	INE	Instituto Nacional de Estatística (National Institute of Statistics)
YD	Yamoussoukro Decision	IPA	Implementation Procedures for Airworthiness
ZACL	Zambia Airports Corporation Limited	IVA	Imposto sobre o Valor Acrescentado (Value-added tax)
ZASTI	Zambian Air Services Training Institute	LAD	IATA code for Luanda international airport "4 de Fevereiro"
7NDP	Seventh National Development Plan	LBZ	IATA code of Lukapa airport
ACF	African Competition Forum	LUO	IATA code of Luena airport
AFCAC	African Civil Aviation Commission	MEG	IATA code of Malanje airport
ANAC	Autoridade Nacional da Aviação Civil (National Civil Aviation Authority)	MINTUR	Ministério do Turismo (Ministry of Tourism)
ANIPAA	Autoridade Nacional de Investigação e Prevenção de Acidentes Aéreos (National Authority for Investigation and Prevention of Air Accidents)	MSZ	IATA code of Namibe airport
ARC	Autoridade Reguladora da Concorrência (Competition Regulatory Authority of Angola)	NDD	IATA code for Sumbe airport
BAA	Bilateral Airworthiness Agreement	NDS	IATA code of Karianga airport
BASA	Bilateral Aviation Safety Agreement	NOV	IATA code of Huambo airport
BDA	Banco de Desenvolvimento de Angola (Development Bank of Angola)	NZA	IATA code for Nzagi airport
BUG	IATA code of Benguela airport	OECD	Organization for Economic Cooperation and Development
CAB	Cabinda airport IATA code	WHO	World Health Organization
CADE	Conselho Administração de Defesa Económica do Brasil (Administration Council for Economic Defense of Brazil)	PBN	IATA code for Porto Amboim airport
CBT	IATA code of Catumbela airport	PNSAC	Programa Nacional de Segurança da Aviação Civil (National Civil Aviation Security Program)
CEO	IATA code of Wako-Kungo airport	SAA	South African Airways
CFF	IATA code of Cafunfo airport	SAC	Serviço de Aeronáutica Civil (Civil Aeronautics Service)
COA	Certificado de Operador Aéreo (Air Operator Certificate)		
CRA	Constitution of the Republic of Angola		
CTI	Código de IATA do aeroporto do Kuito Kuanavale		

SAL	Sociedade de Aviação Ligeira (Light Aviation Society)	LH	Deutsche Lufthansa AG
SARATA	Southern Africa Regional Air Transport Authority	WK	Edelweiss
SDD	IATA code for Lubango airport	EW	Eurowings
SGA, S.A.	Sociedade Nacional de Gestão de Aeroportos, Sociedade Anónima (National Airports Management Society, Limited Company)	KL	KLM Royal Dutch Airlines
SPP	IATA code of Menongue airport	BY	Thomson Airways
SSY	IATA code of Mbanza Congo airport	TK	Turkish Airlines
SVP	IATA code for Kuito-Bié airport	MT	Thomas Cook
SZA	IATA code for Soyo airport	OR	TUI Nederland
TAAG, S.A.	Angolan Airlines, Limited Company	KQ	Kenya Airways
TAP	Portuguese Air Transport		
U.E.E.	Unidade Económica Estatal (State Economic Unit)		
UNESCO	United Nations Economic and Social Council		
UAL	IATA code for Uíge airport		
VHC	IATA code for Saurimov Airport		
VPE	IATA code of Ondjiva airport		

## Air Route

MUR	Mauritius
RRG	Rodrigues
NBO	Nairobi, Kenya
TNR	Tananarive, Madagascar
SEZ	Mahe, Seychelles
CPT	Cape Town, South Africa
DUR	Durban, South Africa
JNB	Johannesburg, South Africa
ZSE	St Pierre Pierrefonds, Reunion
RUN	St Denis Roland Garros, Reunion
DEL	Delhi, India
BOM	Mumbai, India
BLR	Bangalore, India
MAA	Chennai, India
DXB	Dubai
SIN	Singapore
CDG	Paris Charles De Gaulles, France
ORY	Paris Orly, France
CGN	Cologne Bonn, Germany
FRA	Frankfurt, Germany
MUC	Munich, Germany
LHR	London Heathrow, United Kingdom
LGW	London Gatwick, United Kingdom

## Air Carrier Code

MK	Air Mauritius
EK	Emirates
UU	Air Austral
AF	Air France
SA	South African Airways
SS	CorsairFly
BA	British Airways
DE	Condor
MD	Air Madagascar
HM	Air Seychelles
OS	Austrian Airlines
MN	Comair

## Chapter 2 Priority routes

### No. ROUTE

#### DOMESTIC

1 NBI-EDL; NBI- KIS; NBI –MBA; NBO-LAU; NBO-LOK; NBO-MYD; WIL-MBA; WIL-UKA; WIL-ASV; WIL-KIS; WIL-LAU; WIL-MYD; WIL-LOK

#### REGIONAL

2 NBO – EBB; NBO- DAR ; NBO- KGL; NBO –JRO; NBO –JNB; NBO –ADD ; NBO – LLW; NBO - MPM; NBO – ZNZ; NBO – MGQ; NBO-MRU

#### INTERNATIONAL

3 NBO-DXB; NBO-CAN; NBO- GVA; NBO-DOH; NBO- IST; NBO-AMS; NBO-LHR; NBO-CDG; NBO-AUH; NBO-BOM

## GLOBAL ALLIANCES

Alliance	Launch Date	Members
Star Alliance (28 member airlines)	May 1997	Air Canada, Lufthansa, SAS, Thai Airways International, and United Airlines (founded the Alliance in May 1997), Air New Zealand (March 1999), All Nippon Airways (October 1999), Austrian Airlines (with Lauda Air and Tyrolean Airways, March 2000), Singapore Airlines (April 2000), Asiana Airlines (March 2003), LOT Polish Airlines (October 2003), Adria Airways (December 2004), Croatia Airlines (December 2004), TAP Portugal (March 2005), Swiss (April 2006), South African Airways (April 2006), Air China (December 2007), Turkish Airlines (April 2008), EgyptAir (July 2008), Brussels Airlines (December 2009), Aegean Airlines (June 2010), Avianca (Jun 2012), Ethiopian Airlines (Dec 2011), Shenzhen Airlines (November 2012), Copa Airlines (June 2012), EVA Air (June 2013), Air India (Jul 2014), Avianca Brazil (July 2015).
Oneworld (14 member airlines)	February 1999	American Airlines, British Airways, Cathay Pacific Airways, Qantas (founded the alliance in February 1999), Iberia (September 1999), Finnair (September 1999), Royal Jordanian (April 2007), Japan Airlines (April 2007), S7 Airlines (November 2010), Air Berlin (March 2012), Malaysian Airlines (February 2013), Qatar Airways (October 2012), SriLankan Airlines (May 2014), LATAM Airlines Group (March 2014).
SkyTeam (20 member airlines)	June 2000	Aeroméxico, Air France, Delta Airlines, Korean Air (founded the alliance in June 2000), CSA Czech Airlines (April 2001), Alitalia (July 2001), KLM Royal Dutch Airlines (September 2004), Aeroflot (April 2006), Air Europa (September 2007), Kenya Airways (September 2007), China Southern Airlines (November 2007), Vietnam Airlines (June 2010), Tarom (June 2010), China Airlines (September 2011), China Eastern Airlines (June 2011), Middle East Airlines (February 2011), Saudia (May 2012), Xiamen Airlines (November 2012), Aerolíneas Argentinas (August 2012), Garuda Indonesia (March 2014).

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77. Normativo Técnico n.º 4 - Proprietários e Operadores de Voo de Aeronaves Registadas em Angola.
78. Normativo Técnico n.º 12 - Requisitos para a Certificação Original e a Validade Continuada dos Certificados de Operador Aéreo (COA).
79. Normativo Técnico n.º 14 - Pessoas e Entidades que se ocupam de Operações de Transporte Aéreo Comercial.
80. Resolução n.º 18/17, de 2 de Maio - Ratificação à Nova Constituição da Comissão Africana da Aviação Civil.
81. Resolução n.º 7/96 de 17 de Maio.
82. Resolução n.º 10/97 de 7 de Abril.
83. Resolução n.º 13/97 de 9 de Abril.
84. Resolução n.º 27/10 de 17 de Dezembro.

## ANNEX CHAPTER 6

### Annex 1: Number of outgoing passengers in 2014

AIRLINE	DESTINATION								
	DSS	OXB	NOC	FNA	ACC	LFW	LOS	CMN	LPA
	OUT								
Mauritanian Air	46	-	24	-	-	-	-	-	-
Arik Air	276	-	-	-	52	-	5812	-	-
Asky	-	10	-	189	3	2	-	-	-
Binter Canaria	-	-	-	-	-	-	-	-	1491
Brussels	4078	-	-	-	-	-	-	-	-
Condor	-	-	-	-	-	-	-	-	-
Corendon	-	-	-	-	-	-	-	-	-
Gambia Bird	5191	35	-	1131	2429	-	898	-	-
Monarch	-	-	-	-	-	-	-	-	-
Air Maroc	-	199	-	-	-	-	-	10568	-
Air Senegal	49	-	-	-	-	-	-	-	-
Thomas Cook	-	-	-	-	-	-	-	-	-
Transavia	-	-	-	-	-	-	-	-	-
Travel Service	-	-	-	-	-	-	-	-	-
Vuelling	-	-	-	-	-	-	-	-	-
Total	9640	244	24	1320	2484	2	6710	10568	1491

AIRLINE	DESTINATION								
	BCN	LGW	BRU	MAN	BHX	ARN	AMS	FRA	WAW
	OUT								
Mauritanian Air	-	-	-	-	-	-	-	-	-
Arik Air	-	-	-	-	-	-	-	-	-
Asky	-	-	-	-	-	-	-	-	-
Binter Canaria	-	-	-	-	-	-	-	-	-
Brussels	-	-	15361	-	-	-	-	-	-
Condor	-	-	-	-	-	-	-	2950	-
Corendon	-	-	-	-	-	-	5559	-	-
Gambia Bird	3496	5285	-	-	-	-	-	-	-
Monarch	-	9637	-	-	-	-	-	-	-
Air Maroc	-	-	-	-	-	-	-	-	-
Air Senegal	-	-	-	-	-	-	-	-	-
Thomas Cook	-	12996	-	15899	4380	8712	-	-	-
Transavia	-	-	-	-	-	-	2225	-	-
Travel Service	-	-	-	-	-	-	-	-	2331
Vuelling	12900	-	-	-	-	-	-	-	-
Total	16396	27918	15361	15899	4380	8712	7784	2950	2331

## Annex 2: Number of outgoing passengers in 2015

AIRLINE	AIRLINE ROUTE & FIGURES FOR AIRLINES COMING IN/OUT OF BANJUL INTERNATIONAL AIRPORT								
	DKR/DSS	OXB	NKC	FNA	ACC	LFW	LOS	CMN	LPA
OUT									
Mauritanian Air	605	-	229	-	-	-	-	-	-
Arik Air	2148	-	-	-	212	-	7898	-	-
TUI Arkey fly	-	-	-	-	-	-	-	-	-
Binter Canaria	-	-	-	-	-	-	-	-	2189
Brussels	9965	-	-	-	-	-	-	-	-
Corendon	-	-	-	-	-	-	-	-	-
Titan	-	-	-	-	-	-	-	-	-
Monarch	-	-	-	-	-	-	-	-	-
Air Maroc	-	17	-	-	-	-	-	15174	-
Small Planet	-	-	-	-	-	-	-	-	-
Thomas Cook	-	-	-	-	-	-	-	-	-
Transavia	-	-	-	-	-	-	-	-	-
Travel Service	-	-	-	-	-	-	-	-	-
Vuelling	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>12718</b>	<b>17</b>	<b>229</b>	<b>0</b>	<b>212</b>	<b>0</b>	<b>7898</b>	<b>15174</b>	<b>2189</b>

AIRLINE	DESTINATION								
	BCN	LGW	BRU	MAN	BHX	ARN	AMS	WAW	PRG
OUT									
Mauritanian Air	-	-	-	-	-	-	-	-	-
Arik Air	-	-	-	-	-	-	-	-	-
TUI Arkey fly	-	-	-	-	-	-	13122	-	-
Binter Canaria	-	-	-	-	-	-	-	-	-
Brussels	-	-	22776	-	-	-	-	-	-
Corendon	-	-	-	-	-	-	6325	-	-
Titan	-	3673	-	-	-	-	-	-	-
Monarch	-	5519	-	-	-	-	-	-	-
Air Maroc	-	-	-	-	-	-	-	-	-
Small Planet	-	3553	-	-	-	-	-	-	-
Thomas Cook	-	9622	-	9035	4007	2606	-	-	-
Transavia	-	-	-	-	-	-	726	-	-
Travel Service	-	-	-	-	-	-	166	804	361
Vuelling	11483	-	-	-	-	-	-	-	-
<b>Total</b>	<b>11483</b>	<b>22367</b>	<b>22776</b>	<b>9035</b>	<b>4007</b>	<b>2606</b>	<b>20339</b>	<b>804</b>	<b>361</b>

### Annex 3: Number of outgoing passengers in 2016

ARLINE ROUTE & FIGURES FOR AIRLINES COMING IN/OUT OF BANJUL INTERNATIONAL AIRPORT									
AIRLINE	DESTINATION								
	DSS	OXB	FNA	ACC	LOS	CMN	LPA	BCN	LGW
	OUT								
Arik Air	428	-	28	2247	3856	-	-	-	-
TUI Arke fly	-	-	-	-	-	-	-	-	-
Binter Canaria	-	-	-	-	-	-	1808	-	-
Brussels	8719	-	-	-	-	-	-	-	-
Corendon	-	-	-	-	-	-	-	-	-
Titan	-	-	-	-	-	-	-	-	2997
Small Planet	-	-	-	-	-	-	-	-	3316
Air Maroc	-	142	-	-	-	12954	-	-	-
Thomas Cook	-	-	-	-	-	-	-	-	6422
Travel Service	-	-	-	-	-	-	-	-	-
Vuelling	-	-	-	-	-	-	-	12900	-
Total	9147	142	28	2247	3856	12954	1808	12900	12735

ARLINE ROUTE & FIGURES FOR AIRLINES COMING IN/OUT OF BANJUL INTERNATIONAL AIRPORT									
AIRLINE	DESTINATION								
	BRU	MAN	BHX	ARN	AMS	FRA	HEL	WAW	
	OUT								
Arik Air	-	-	-	-	-	-	-	-	-
TUI Arke fly	997	-	-	-	12203	-	-	-	-
Binter Canaria	-	-	-	-	-	-	-	-	-
Brussels	15469	-	-	-	-	126	-	-	-
Corendon	-	-	-	-	5894	-	-	-	-
Titan	-	-	-	-	-	-	-	-	-
Small Planet	-	-	-	-	-	-	-	-	-
Air Maroc	-	-	-	-	-	-	-	-	-
Thomas Cook	-	5668	2680	2129	-	-	927	-	-
Travel Service	-	-	-	-	-	-	-	-	1147
Vuelling	-	-	-	-	-	-	-	-	-
Total	16466	5668	2680	2129	18097	126	927	-	1147

## Annex 4: Number of outgoing passengers in 2017

AIRLINE ROUTE & FIGURES FOR AIRLINES COMING IN/OUT OF BANJUL INTERNATIONAL AIRPORT							
AIRLINE	DESTINATION						
	Pax IN	DKR/DSS	FNA	ACC	LFW	LOS	LOS
	OUT						
ARIK AIRLINES	1,498	104	-	278	-	1123	-
ARKEFLY	19,025	-	-	-	-	-	5812
BINTER CANARIA	2,531	-	-	-	-	-	-
BRUSSELS AIRLINES	37,278	11832	-	-	-	-	-
CORENDON	9,298	-	-	-	-	-	-
SMALL PLANET	4,928	-	-	-	-	-	-
TITAN	6,971	-	-	-	-	-	-
ROYAL AIR MAROC	20,535	-	-	-	-	-	898
THOMAS COOK	34,816	-	-	-	-	-	-
TRAVEL SERVICES	324	-	-	-	-	-	-
VUELING	6,628	-	-	-	-	-	-
TUI JETAIRFLY	3,068	-	-	-	-	-	-
FLY-MID AFRICA	7,699	2791	1383	1516	-	2250	-
ASKY	1,746	-	614	588	436	-	-
TRANS-AIR	539	595	-	-	-	-	-
TOTAL	156,884	15,322	1,997	2,382	436	3,373	6710

AIRLINE ROUTE & FIGURES FOR AIRLINES COMING IN/OUT OF BANJUL INTERNATIONAL AIRPORT						
AIRLINE	DESTINATION					
	BCN	LGW	BRU	MAN	BHX	ARN
	OUT					
ARIK AIRLINES	-	-	-	-	-	-
ARKEFLY	-	-	-	-	-	-
BINTER CANARIA	-	2895	-	-	-	-
BRUSSELS AIRLINES	-	-	-	-	27157	-
CORENDON	-	-	-	-	-	-
SMALL PLANET	-	-	-	4639	-	-
TITAN	-	-	-	6590	-	-
ROYAL AIR MAROC	19566	-	-	-	-	-
THOMAS COOK	-	-	-	9445	-	8145
TRAVEL SERVICES	-	-	-	-	-	-
VUELING	-	-	6977	-	-	-
TUI JETAIRFLY	-	-	-	-	-	-
FLY-MID AFRICA	-	-	-	-	-	-
ASKY	-	-	-	-	-	-
TRANS-AIR	-	-	-	-	-	-
TOTAL	19,566	2,895	6,977	20,674	27,157	8,145

## CONTRIBUTORS

### South Africa



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## Mauritius



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**Alhagie Sambou** works for the Gambia Competition and Consumer Protection Commission since January 2015. He took up employment with the Commission as a Consumer Protection Officer and legal Counsel and later elevated to a Consumer Protection Manager and legal counsel in 2017. In October 2019, he was re-appointed as a legal and enforcement Manager at the Legal and Enforcement Department being a newly established directorate. He

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## Nigeria



# FCCPC

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**Abdulmalik Ifueko Osayemwenre (Mrs.)** is a staff of Nigerian Civil Aviation Authority (NCAA) since November 2001. Ifueko has gained 15 plus years working experience as an aviation Consumer Protection Officer, handling and redressing aviation consumers/providers issues and ensuring compliance and enforcement of the Nigeria Civil Aviation Regulations (Part 19 NigCARs 2015). She is also, a standing member of the NCAA Regulations.

**Mr Abiodun A. Fagbohun** is the present AGM of commercial and operations unit of Air Transport Regulations at MMIA, representing the Nigerian Civil Aviation Authority. He studied Actuarial science at University of Lagos and Masters in Transport Planning and Management at the same University. He also has Diploma in IATA/UFTAA foundation & EBT and Consultant courses. He has experience in passenger ticket pricing and airlines route analysis.

## COMESA



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