

Access in Aviation: A tale of bilaterals

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Introduction:

- Need of bilaterals
- Traffic rights
- Freedom of the Air



Type of Bilateral Agreements



Bermuda 1



Bermuda 2



Open Sky Policy



The 1992 US – Netherlands Open Sky Policy



Indian open sky policy

Pre-requisite for grant of Traffic Rights



Existence of a
bilateral agreement
between the
concerned States



Designation of the
airline



Proof of Substantial
ownership and
effective control



Grant of Authorisation



Approval of Schedule

The Substantial Ownership and Effective Control Test



Every Airline has to prove that it is substantially owned and effectively controlled by the citizens of the country designating it.



Need for this requirement ?



Can this requirement be overlooked?



How to prove effective control and substantial ownership?

Sale of Air India and its conflict with Substantial Ownership and Effective Control Doctrine.



Government has recently allowed 100% equity sale in Air India



Foreign investors are also allowed to purchase Air India



Will Air India remain "Indian" if purchased by foreign investors?



Can Air India lose its bilateral rights ?

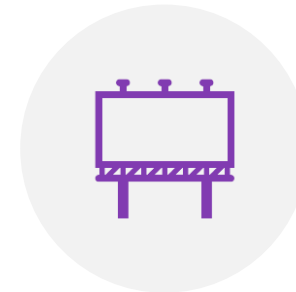
Anti-Trust Issues



TRAFFIC RIGHTS CAN CREATE
AN ENVIRONMENT WHERE
ISSUES OF COMPETITION LAW
CAN ARISE.



SLOTS?



DISTORTION OF MARKET?

Conclusion

1. Bilaterals are the basic method by which states limit access to their airspace.
2. Although now there is a convergence towards bloc bilaterals
3. In the near future, it does not appear that bilaterals are going anywhere.

Thank You

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