Aviation Startups: Policy and Legal Challenges

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Scheme of Discussion

- Background of Startups-Global and National
- Eco-system of the Startups--What is Start-Up? Nature of Start-ups, Growth of Start-Ups, Advent of Start-ups in India, Future Scope
- The legal framework regulating business including (i) the Incorporation and establishment of Company (ii) Labour Policy (iii)Free and Fair competition/ Protectionist regime (iv)Scheme of rehabilitation and Revival (v) Dispute Resolution
- Company and Allied Laws Applicable to Aviation Startups, Business Models for Start-Ups, Formation of Business Entity in India, Financing Models for Start-ups
- Other Regulations including Environmental Law, IP Law, RBI Regulations, Labour Laws, GST Laws
- START-UPS IN AVIATION SECTOR--Advent of Aviation in India; Types of Aviation businesses: Conventional: Airlines, Airports, MRO, and Unconventional: Air Taxies, Air Ambulances, Drones

LPG and Its Impact on Civil Aviation

- Privatization, cross-border acquisitions, market alliances, merger and restructuring of airlines in the wake of liberalization of air transport and deregulation are all leading towards market oriented international aviation environment.
- Airlines of many countries including India are in various stages of privatization.
- Airports Privatization is happening in many parts of the world including developing countries.
- The Asia/Pacific region offers abundant opportunities as the fastest growing aviation region in the world.
- The reasons for this optimism includes the strong economic expansion, significant ethnic ties with various countries, increase in leisure time, moves towards air transport liberalization and vigorous efforts to promote tourism to/from the region.

Recent Positive Changes for Startups

- India is **third world country** but India is becoming the **third-largest economic power of the world in near future**.
- 21st Century-Knowledge Revolution in which India is going to pay a major role in the comity of Nations
- "We no longer discuss the future of India. We say the future is India". India in the 21st century has some unique challenges and Business opportunities to become a Super Power.
- FDI coming to India and opening up new sectors and generating various employment opportunities
- India is moving from agrarian base to service base
- The future of India is bright but there are challenges of over population, poverty, food, health, education, employment, urbanization, resources and constant risk of religious violence
- Recent initiatives like Make in India, Made in India, Standup up India, Digital India, Skill India etc., have lot of Impact on Indian Business and Startups

What is Startup?

- Starting a new business involves a number of criteria's, one such criterion is knowing the **correct procedure and laws relating to startups in India.**
- As per new legal norms, a business entity is identified as a startup for up to five years from the date of its incorporation which needs to meet following criteria set by Department of Industrial Policy & Promotion (DIPP) to access government benefits:
  1. Its turnover should not exceed Rs. 25 Cr in the last five financial years
- 2. Its headquarters should be located in India
- 3. It must work towards innovation, development, deployment and commercialization of new products, processes, or services driven by technology or intellectual property.

What is Startup?

- As an example, the Government of India (GoI's) Startup India program defines a "startup" as a company (PIB 2017) that is:
- 1. Headquartered in India with not more than ten years since incorporation or registration
- 2. Having an annual turnover of less than INR 1 billion (roughly $14 million) (Startup India 2019)
- **Following a revision in 2019, Startup India has updated its list of benefits (Startup India 2019) to include income tax exemptions on capital gains and investments above fair market value, options for self-certification on various compliances, fast-tracking of patent applications at a discounted rate, the ability to sell to the government, and the ability to wind up a failed company within 90 days.**
- Registering with Startup India provides exemptions from Angel Tax, access to a Knowledge Bank, partnered services, online courses, and innovation challenges.
- The program has recognized nearly 27,000 startups (Startup India 2019).

Why Startup India?

- The objective of this initiative is to **make India a nation of 'Job creators' instead of being a nation of 'Job seekers'.**
- The 19-point Action Plan, organized by the Department of Industrial Policy & Promotion **(DIPP), focuses both on restricting hindrances and promoting faster growth by way of:**
- •Simplification and Handholding,
- Funding Support and Incentives and
- Industry-Academia Partnership and Incubation, **Further Objectives**: To Boost up/ promote Startup/ Entrepreneurship,
- To Boost up Banking Sector/ Finance,
- To Limit State Policy Dependency for New Businesses,
- To promote ST/SC – Women Entrepreneurship,
- **Core objective is to generate maximum Employment, Encourage the people who have the potential to innovate and start their own business.**
- **Problems faced by Startups: Planning • Execution • Customer acquisition & retention • Fundraising • Human Resources**

Startup Ecosystem

- Prime Minister Narendra Modi with Finance Minister Arun Jaitley and Commerce and Industry Minister Nirmala Sitharaman launched the "Startup India" action plan at Vigyan Bhawan in New Delhi on 16 JAN 2016
- PM kicked off the ambitious Startup India Movement and said it aims to fill gaps in the economy for the growth and development to boost digital entrepreneurship at the grassroots.
- The government earmark around Rs 2,000 crore for the initiative.
- The Indian startup ecosystem has expanded quite rapidly mainly through private investments including seed, angel, venture capital, and private equity funds, with technical support from incubators, accelerators, and the government.

Start-up Ecosystem

- With India pushing towards a knowledge-based and digital economy, the government is attempting to deploy ICT infrastructure and provide policy support for enhanced e-governance, investments, and technology innovation through research and higher education to support entrepreneurship and spur economic growth.
- Data suggest that the expansion in the startup ecosystem has largely been clustered in the large (Tier 1) cities and states with financial depth, and especially in IT-enabled sectors including e-commerce, transport, and finance.
- Small businesses beyond the metros are not fully aware of, or integrated into, programs that provide startups with various government incentives and tax breaks.

Start-up Ecosystem

- **Issues:** Despite the progress made so far, Indian businesses face huge challenges, such as the unorganized and fragmented nature of the market in most sectors, a lack of clear and transparent policy initiatives that startups can tap into quickly, as well as a lack of infrastructure, a lack of knowledge and exposure, and complications in doing business.
- Creating more awareness of government initiatives and incentives, credit disbursement to priority sectors, promoting outreach and network benefits to Tier 2 and Tier 3 cities
- However, Indian startup ecosystem has steadily evolved in the past few years through an increasing number of angels, VC funds, incubators, and accelerators, as well as support from government initiatives such as Digital India, Startup India, and Smart Cities that will amplify startup and investment activity across cities and new sectors.

Start-up Ecosystem

- This growth in startup investments and the number of unicorns comes in the wake of rapidly increasing spending power, mobile internet usage, access to new consumer markets, social media adoption, technological innovations, and favorable consumer demographics.
- In August 2019, startups in India raised $1.4 billion across 50 deals compared to just $182 million across 32 deals the year before (2018) – a sevenfold increase.
- **Growing Startups: IVCA-EY** (2019) estimates that India has over 50,000 startups, with 3,500 of these growing at 30% year on year, making it the world's third-largest ecosystem (behind the US and the PRC).

Accelerators startup ecosystem to grow

- **The big trend in the past 3–5 years has been various accelerator programs**
- **Accelerator and incubation programs span the following formats:**
- **Corporate accelerator programs by MNCs** such as Google and Microsoft, etc. and Indian groups such as Reliance, etc.
- **Public–Private Partnerships (PPPs)** such as T-Hub, T-Labs, Startup Village, etc.
- **Department of Science and Technology** (DST)-approved technology business incubators (TBIs), often in universities
- **College/university-based incubators in the nation's premier institutions such as IIMs and IITs**
- Industry-led incubator/accelerator programs such as NASSCOM 10,000 Startups
- Private accelerator programs, often led by VCs, such as Axilor Ventures, Sequoia Capital's Surge, and others
- Government-sponsored programs such as iStart Rajasthan and Kerala Startup Mission

Objectives of Startup Initiatives

- Objective is to reduce the regulatory burden on Startups thereby allowing them to focus on their core business and keep compliance cost low.
- θ Regulatory formalities requiring compliance with various labour and environment laws are time consuming and difficult in nature. Often, new and small firms are unaware of nuances of the issues and can be subjected to intrusive action by regulatory agencies.
- θ In order to make compliance for Startups friendly and flexible, simplifications are required in the regulatory regime.
- θ Startups shall be allowed to self-certify compliance (through the Startup mobile app) with 9 labour and environment laws.
- θ In case of the labour laws, no inspections will be conducted for a period of 3 years.
- θ In case of environment laws, only random checks would be carried out.

Simplifying the startup process

- A startup will be to able to set up by just filling up a short form through a mobile app and online portal. mobile app launched through which startups can be registered in a day.
- There will also be a portal for clearances, approvals and registrations. Towards these efforts, the Government shall introduce a Mobile App to provide on-the- go accessibility for:
- Registering Startups with relevant agencies of the Government.
- A simple form shall be made available for the same.
- The Mobile App shall have backend integration with Ministry of Corporate Affairs and Registrar of Firms for seamless information exchange and processing of the registration application.
- Tracking the status of the registration application and anytime downloading of the registration certificate. A digital version of the final registration certificate shall be made available for downloading through the Mobile App.
- Filing for compliances and obtaining information on various clearances/ approvals/ registrations Required.

Creation of a corpus of Rs 10,000 crore

- In order to provide funding support to startups, the government will set up a fund with an initial corpus of Rs 2,500 crore and a total corpus of Rs 10,000 crore over four years.
- The fund would be managed by private professionals drawn from the industry while LIC will be a co-investor in the fund.
- The Fund of Funds shall contribute to a maximum of 50% of the stated daughter fund size. In order to be able to receive the contribution, the daughter fund should have already raised the balance 50% or more of the stated fund size as the case maybe.
- Credit Guarantee Fund A National Credit Guarantee Trust Company is being envisaged with a budgetary allocation of Rs 500 crore per year for the next four years.
- Exemption from Capital Gains Tax Currently, investments by venture capital funds in startups are exempt from this law. Now, the same is being extended to investments made by incubators in startups.

Business Reform Action Plan 2017

- The Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry, in partnership with the World Bank Group, released the Business Reform Action Plan (BRAP) 2017 for implementation by States and Union Territories.
- The Plan included 405 recommendations for reforms on regulatory processes, policies, practices and procedures spread across 12 reform areas, including environmental registration enablers and single window system
- Gujarat proved to be one of the best performers when it came to implementation of these practices, especially in the area of environmental regulations.
- The Telangana State Industrial Project Approval and Self-Certification System (TS-IPASS) Act, 2014 was enacted by the Telangana government under the Business Reform Action Plan under which not only where the online approval and self-certification system were developed.
- The online system also aims for transparency, more accountability and faster approvals.

Government Initiatives

- When the Startup India program was launched in January 2016, the GoI also announced a Fund of Funds for Startups (FFS) at the Small Industries Development Bank of India (SIDBI) with a corpus of INR 100 billion to be allocated to alternative investment funds (AIFs).
- The government has also set up various other initiatives that tie into supporting startups and entrepreneurship
- A look at the industry-academic-government linkages in patents, for example, shows that India is emerging as a patent hub, especially with newer government initiatives such as the Startup Hub at the Ministry of Electronics and Information Technology (MeitY), which helps strengthen 51 incubation hubs through fast-track patent clearances, with India known to have far fewer international patents filed vis-à-vis other countries like the Republic of Korea and Japan.

Key Areas of Law Involving Startups

- Starting a business is an exciting and potentially rewarding journey both intellectually and financially.
- Corporate Law
- Tax Law
- Intellectual Property
- Contract Law
- E-Commerce
- Securities
- Real Property
- Employment Law
- Corporate Financing

Incorporation and Establishment of Company

- Laws such as the Indian Companies Act, 2013 (read with relevant provisions of Indian Companies Act, 1956),
- Partnership Act, 1932 and the Limited Liability Partnership Act, 2008 provide a legal framework of commencing a business through various structures.
- Further the said laws also lay down the regulations and the rules that have to be adhered to by the incorporated entities to conduct their business.
- One of the key features to conduct business in accordance with law is to operate within the framework of regulations laid under aforesaid laws.

Steps To Be Followed for the Incorporation

- STEP-1: Select Name of Person - Under Section-149(1) (a) of Companies Act, 2013.
- STEP-2: Apply for Digital Signature Certificate (DSC).
- STEP-3: Apply for Director Identification Number (DIN)
- STEP 4: Filing the Proposed Name of Company for Approval to the Registrar of Companies (ROC)
- STEP-5: Drafting of Memorandum of Association (MoA)
- STEP-6: Drafting of Articles of Association (AoA)-
- STEP-6: Drafting of Articles of Association (AoA)-
- STEP-8: Commencement of Business
- STEP-9: Registered Office

Labour Policies:

A sound labor policy would facilitate removal of inequalities in profit sharing and wealth distribution.

•Laws that are exempted from application to Start-ups

oThe Building and Other Constructions Workers' (Regulation of Employment & Conditions of Service) Act, 1996

oThe Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979

oThe Payment of Gratuity Act, 1972

oThe Contract Labour (Regulation and Abolition) Act, 1970

oThe Employees' Provident Funds and Miscellaneous Provisions Act, 1952

In furtherance of insuring a good labor police, laws such as the Factories Act 1948, the Industrial Disputes Act, 1947, the Minimum Wages Act, 1948, the Employees State Insurance Act, 1948 etc have been enacted to protect the interest of the labors.

RBI Regulations:

- The following regulatory changes for easing the cross-border transactions, particularly relating to the operations of the start-up enterprises are made.
- i. Enabling start-up enterprises, irrespective of the sector in which they are engaged, to receive foreign venture capital investment and also explicitly enabling transfer of shares from Foreign Venture Capital Investors to other residents or non-residents;
- ii. Permitting, in case of transfer of ownership of a start-up enterprises, receipt of the consideration amount on a deferred basis as also enabling escrow arrangement or indemnity arrangement up to a period of 18 months;
- iii. Enabling online submission of A2 forms for outward remittances on the basis of the form alone or with document(s) upload/submission, depending on the nature of remittance; and
- iv. Simplifying the process for dealing with delayed reporting of Foreign Direct Investment (FDI) related transaction by building a penalty structure into the regulations itself.

Free and Fair competition:

- Free and fair market can be established only by regulation of law and not otherwise.
- Post 1991 Liberalization Policies including replacement of FERA with FEMA, Abolitions of the MRTP act with Competition Act.
- To uphold and implement this principal, laws such as the Competition Act, 2002,
- the laws protecting IPRs (Patents, Copyrights, Trade Mark),
- Consumer Protection Act, 1986 and CP Act, 2019
- Real Estate (Regulation and Development) Act, 2016 etc have been enacted and put to force to curb unhealthy trade practices that would hamper free and fair trade.

Dispute Resolution:

- To ensure efficient bargain there is a need for creating an effective dispute settlement mechanism to resolve all disputes arising between companies doing business in India.
- The Companies Act, 2013 has simplified the appellate procedure, by limiting the number of appellate authorities to two.
- An aggrieved person against the order of NCLT may appeal to appellate tribunal i.e., NCLAT and all appeals from the NCLAT shall be directly filed with the Supreme Court against any question of law.
- A sound judicial setup has been created in form of Courts (Judicial & Quasi Judicial) to resolve issues arising out of trade.
- Acts such as Arbitration and Conciliation Act, 1996 which was enacted during the liberalized phase of Indian economy, played an important role by providing expeditious alternate dispute resolution mechanism to resolve all trade disputes.

Environmental Clearances and Startups

- Under the Start-up India Action Plan, compliance norms relating to environmental laws have been eased to reduce the regulatory burden on start-ups so that they can focus on their core business and keep compliance costs low.
- The industries falling under ‘White’ category, as categorized by the Ministry of Environment and Forests (MoEF) will now be able to self-certify compliance under three major environment acts:
- Procedures to be followed
- The industries/projects categorized as Red, Orange and Green have been covered under Consent Management for obtaining prior Consent to Establish (CTE) and Consent to Operate (CTO) under Water Act, 1974 and Air Act, 1981.
- The validity of period of Consent to Operate for industrial sectors/projects under the Water Act, 1974 and Air Act, 1981, are different for each category: 5 years for Red Category, 10 years for Orange Category and 15 years for Green Category

Tax exemption for startups

- Income tax exemption to startups announced for three years. Innovation is the essence of every Startup.
- Young minds kindle new ideas every day to think beyond conventional strategies of the existing corporate world.
- During the initial years, budding entrepreneurs struggle to evaluate the feasibility of their business idea. Significant capital investment is made in embracing ever-changing technology, fighting rising competition and navigating through the unique challenges arising from their venture.
- With a view to stimulate the development of Startups in India and provide them a competitive platform, it is imperative that the profits of Startup initiatives are exempted from income-tax for a period of 3 years.
- This fiscal exemption shall facilitate growth of business and meet the working capital requirements during the initial years of operations.
- The exemption shall be available subject to non- distribution of dividend by the Startup.

GST and Aviation Startups

- India adopted a new financial regime of 'One Nation, One Tax' through the Goods and Services Tax on July 1, 2017.
- This comprehensive tax replaced most indirect taxes at the state and central levels such as sales tax, value added tax (VAT), service tax and central excise tax. However, the basic customs duty levied on imports still remains.
- The GST regime is a 'Dual GST' levied by the Central and State governments. The Central GST (CGST) is levied by the Centre on inter-state supply of goods and services while the State GST (SGST) is levied by each state on the intra state supply of goods and services.
- The Integrated GST (IGST), though levied by the central government on the inter-state supply of goods and services, is distributed between the Centre and the destination State.
- These are governed by 4 legislations namely the CGST Act 2017, IGST Act 2017, GST (Compensation to States) Act 2017 and the Union Territory GST Act 2017 (UTGST Act). SGST is governed by legislations passed by respective state governments

GST and Startups

- Under the GST regime which has introduced state-level tax structures, there are complications going to arise for the start-ups operating in the aviation sector. Moreover, the decision to keep aviation turbine fuel from the GST regime will further add confusion to the present regime, thereby increasing costs for the start-ups operating in the aviation sector.
- **Common registration**:: The other feature of the GST is that it offers common registration. Unlike earlier, wherein the start-ups had to register at multiple levels for various taxes or different states. Under the present GST regime, Startups need to register only once on GST system and they can do business in any part of India with no problem.
- the government has exempted GST on import of aircrafts, aircraft engines and other aircraft parts since they were facing a dual levy on leasing with 5% IGST at the time of import and another 5% GST on services at the time of payment of lease rental.
- However, it is inexplicable why the large part of aviation sector would be governed by the earlier service tax regime as it is only causing much more confusion.

Protection of Intellectual Property in Startups

- Every startup has IP Rights, which it needs to understand and protect for excelling in its business.
- Every startup uses trade name, brand, logo, advertisements, inventions, designs, products, or a website, in which it possesses valuable IP Rights.
- While starting any venture, the startup also needs to confirm that it is not in violation of the IP Rights of any other person to save itself from unwarranted litigation or legal action which can thwart its business activities.
- Further, startup ventures should be proactive in developing and protecting their intellectual property for many reasons like improving the valuation of its business, to generate better goodwill, to protect its competitive advantage, to use intellectual property as a marketing edge and to use the IP Rights as a potential revenue stream through licensing.

Protection of Intellectual Property in Startups

- The IP Rights usually give the creator an exclusive right over the use of his/her creation for a certain period of time.
- With the rapid increase in the globalization and opening up of the new vistas in India, the "Intellectual Capital" has become one of the key wealth drivers in the present era
- IP Rights protect several aspects of a business and each type of IP Right carries its own advantages.
- The scope of IP Rights is very wide, but the prime areas of intellectual property which are of utmost importance for any startup venture are as follows:
- • Trademarks
- • Patents
- • Copyrights and Related Rights
- • Industrial Designs
- • Trade Secrets

Challenges Faced by Startups in India

- It is still early days for the Indian startup ecosystem and scaling challenges include
- Indian startups, like their global counterparts, struggle with a high failure rate with technology venture success rates at lower than 5% worldwide
- Many Indian startups want to expand globally but face issues of credibility, except for software as a service (SaaS players) players, and even such entrepreneurs cannot tap into a global market as they are often unaware of global market opportunities.
- India also struggles with a lack of innovation, lagging behind Japan, the PRC, and the Republic of Korea in international patents.

Challenges Faced by Startups in India

- A lack of skilled workforce, inadequate formal mentoring, and poor business ethics with over 70% of India's engineering graduates being considered "unemployable."
- New emerging industries such as deep-tech and deep-science startups that are technology based are hampered by the lack of specialized talent (PhDs, researchers, etc.).
- Even though MeitY and the DST are forging institutionalized industry-academic-government linkages and collecting the data on Indian startups,
- a lot more work is needed in this space, in producing a conducive environment and providing much needed support for startups.

Why Aviation Startups?

- Civil aviation industry in India is experiencing a new era of expansion driven by factors such as low cost carriers, modern airports, foreign direct investments in domestic airlines, cutting edge information technology interventions and growing emphasis on regional connectivity.
- India is the 9th largest aviation market in the world with a size of around US$ 16 billion and is poised to be the 3rd biggest by 2022-23.
- India aviation industry promises huge growth potential due to large and growing middle class population, rapid economic growth, higher disposable incomes, rising aspirations of the middle class and overall low penetration levels.
- The growing aircraft fleet size, strategic location advantage, rich pool of engineering expertise, and lower labour costs have huge potential to be a global MRO hub.

Why Aviation Startups? Cont..

The various segments in the aerospace industry, including civil and military aviation and space, are showing a significant level of growth.

The factors driving growth in the manufacturing sector of the aerospace industry include both macro and micro factors that provide attractive fiscal benefits for developers and manufacturers:

- a. growing domestic aircraft demand, b. liberalization of civil aviation policies,
- c. offset requirements, d. a strong domestic manufacturing base,
- e. cost advantages, talent pool, and f. a liberal SEZ law,
- g. globalization of Maintenance, Repair and Overhaul (MRO) services,
- h. manpower cost competitiveness, i. availability of talent,
- j. locational advantages, k. use of technologies such as increased use of composites, modern engine technology etc.,

Aviation Business Startups

- Aviation business is strongly dependent on the general economy.
- Business Opportunities in Aviation Industry including India is poised to experience a rapid upswing in the business aviation sector due to its strategic geographic location, favourable demographics and robust economic growth.
- The projected future growth of aviation in India has been driven by the strong economic growth which witnessed in the last five years.
- Air travel was once considered a luxury for both business and private needs.
- This perception has now changed as savings in travel time, comfort and convenience and higher reliability compared to other modes of travel.

Aviation Business Startups

- The poor connectivity between the metros and smaller cities is why more and more passengers are gradually branching out to use private jets and helicopters.
- The business avenues in civil aviation are vast and diverse and given the increasing human dependency on civil aviation, it has become a very crucial aspect of the economic development of any country and Indian is no exception in this trend.
- The country has witnessed a significant growth in the number of non-scheduled airline operators with the total number of operators having crossed 400 in 2018 from a mere 36 in 2000

Business models in Aviation Sector

- It is important to explore and understand the full range of options available to an entrepreneur.
- The choice of legal structure in India can either be a for-profit entity (i.e. a sole proprietorship or a company or a partnership firm or a limited liability partnership etc.)
- or not-for-profit entity (i.e. a society or a trust or a company registered under Section 25 of the Indian Companies Act, 1956/2013 etc.)
- or even a hybrid structure (i.e. affiliate for-profit and not-forprofit entities functioning together as a cohesive business unit).
- General Business Model:
- Partnership, Company (Public, Private and Joint Venture), LLP
- Business Models in Aviation Sector:
- Government Owned and Operated, PPP (Public-Private Partnership), Partial/Full Privatization Model, PPI (Public Private Investor) Peoples Airport

Civil Aviation and its Legal Frame work in India

- General: Constitution of India, Article 246- Union list- state list and Concurrent list, Schedule VII- item 29,30
- **Specific Acts on Civil Aviation:**
- Aircraft Act, 1934 & Aircraft Rules, 1937 --Governs Regulation of Aircrafts
- Airport Authority Act, 1994 ---Regulation of Airports
- Airports Economic Regulatory Authority of India Act, 2008 -- Tariffs & Disputes between Airport Service Providers
- Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982--Defines Offences in Relation to Civil Aviation
- Anti Hijacking Act, 2016 --Provides for Penalties against Hijacking
- Carriage by Air Act, 1972 and Carriage by Air Act, 2009--Defines Liability of Airlines in Case of Damage or Injury
- Other National Regulations including : Directorate General of Civil Aviation (DGCA) --Regulates Safety & Operations of Aircrafts, BCAS--Regulates airport and airline security standards CAR, AIS, Circulars

National Civil Aviation Policy, 2016 (NCAP- 2016)

- The first version of the civil aviation policy was released in November 2014, but was vehemently opposed to by the industry which prevented its implementation.
- After revamping the original policy based on stakeholder suggestions, the Government released the NCAP, 2016 which focuses on to creating safe, secure, affordable and sustainable air travel that can be accessed by the masses across India.48 A few of the key changes implemented by the NCAP 2016 are outlined below:
- A. Regional Connectivity
- The NCAP 2016 introduces a new Regional Connectivity Scheme ("**RCS**") which is to come into effect in the second quarter of 2016-2017. Under the RCS, the MCA targets an estimate airfare of INR 2,500 per passenger for flights travelling on RCS specified routes for a distance of approximately 500kms – 600kms.

Regional Connectivity Cont..

- This reduced airfare is intended to be achieved through a revival of un/under – served airports / routes and the development of new No-Frills Airports (*costing INR 50 – 100 crore each*) through the combined contribution of both Central and State Governments.
- These airports may also be developed through a public private partnership with State Governments. Specifically, State Governments will (*for a period of 10 years*):
- a. reduce VAT on Aviation Turbine Fuel at RCS airports to 1% or less; and b. provide land, multi-model hinterland (road rail, metro etc) connectivity, and police / fire services free of cost and as required;
- The Central Government shall also provide (*for a period of 10 years*) that: no airport charges be levied for operations under RCS; Landing, Parking and Terminal Navigation Landing charges be waived; Route Navigation and Facilitation charges be levied on a nominal basis ; service tax on tickets be levied on 10% of the taxable value ; airlines be permitted to operate ground handling services themselves at all RCS airports and airlines operating under the RCS be permitted to enter into code sharing agreements

Maintenance, Repair and Overhaul (MRO)

- The Indian Maintenance, Repair and Overhaul ("**MRO**") sector is slowly gaining momentum which is highlighted by the fact that India currently has several MRO service providers like Air Works India Engineering, Max MRO Services, Horizon Aircraft Maintenance, and Aman Aviation & Aerospace Solutions which have earned European Aviation Safety Agency ("**EASA**") approval.
- However, approximately 90% of the total MRO business of Indian carriers is still spent outside India in countries like Sri Lanka, Singapore, Malaysia, and the UAE.49 Based on India's technology and skill base, the Government is taking active steps to promote the use of domestic MRO services by carriers across Asia.To this extent, the NCAP 2016 provides that:
- a. foreign MRO experts will be provided visas promptly;
- b. foreign pilots operating an aircraft to and from India for the purpose of servicing at an Indian MRO entity will be issued Temporary Landing Permits, subject to conditions;
- c. Airport Entry Passes for MROs will be need based and not restricted if required conditions are met;
- d. the MCA will try to ensure that State Governments notify MRO activities as 'zero-rated''; e. adequate land for MRO service providers will be made in all future airport/heliport projects, where possible; and f. airport royalty and additional charges will not be levied on MRO service providers for a period of five years.

Ground Handling

- Ground Handling Services ("**GHS**") in India include services such as aircraft cleaning, cargo handling, transport services, ground support equipment, servicing/maintenance, and security.
- The NCAP 2016 provides that all domestic scheduled operators will be permitted to carry out self-handling at all airports by engaging either their own subsidiary or a third party ground handling service provider like Air India, Aviaxpert, Celebi/NAS etc. Foreign airlines continue to be prohibited from self-handling such services.
- Further, airport operators are obligated to ensure that at least three ground handling service providers are available at all major airports to ensure fair competition.
- By permitting domestic scheduled airline operators to engage non-AAI ground handling service providers, the Government has dramatically transformed the MRO sector and has opened a significantly larger market opportunity for third party providers. With air traffic in India projected to triple over the next decade CAPA expects to see India become a USD1 billion ground handling market by 2023

Aviation Startups and UAVs

- UAV operations have outpaced the law in that they are not sufficiently supported by a dedicated and enforceable regime of rules, regulations, and standards respecting their integration into the national airspace.
- With this technological frame of reference in mind, how, and under what rules, can these systems be operated in national and international airspace? This question is of considerable importance to scientists and researchers who wish to use this technology for civilian and commercial usages.
- This question is also of great importance to law enforcement agencies patrolling the borders or responding to situations where UAVs could save lives or prevent crimes such as piracy on the high seas or drug smuggling and trade in human cargo.
- Due to the lack of regulations, there are many questions pending, pertaining to complex questions such as their airworthiness certification, personnel licensing, classification, registration, collision avoidance, traffic management, communication protocols, security issues, environmental protection, legal responsibility, insurance etc

UAVs and Legal Issues

- UAVs are becoming popular in the recent past. As the technology is becoming cheaper, more organizations are using the same, both for civilian as well as for military purposes.
- The absence of a distinctive body of rules and regulations integrating UAV flight into the national airspace, coupled with an existing time-consuming certification process for UAV flight in the first place, is an impediment and constraint for present and future UAV development.
- Some organizations like American Civil Liberties Union (ACLU) are proposing that it should be made mandatory before deploying UAV, to obtain a warrant, if it is essential to intrude the privacy of a citizen etc.
- There are fears in certain sections of society, that UAVs may trample privacy rights of citizens if they are not properly regulated. Other issues like Liability, IPRs. Airworthiness and son.

India and UAVs

- New policies, procedures and approval processes.
- To define operational and certification requirements.
- There is an urgent need to put in place privacy laws in the country to facilitate orderly growth of the UAVs. The widespread use of UAVs by the law enforcement agencies and other organizations, has a potential of endangering the rights of citizens.
- Coordinated approach among various stakeholders required.
- Regulation is essential for healthy and sustainable commercial growth of this emerging sector in Aerospace Industry.
- In India we need UAV Policy, legislation that includes airworthiness, Certification, remote piloting of UAV, liability regime, Compliance issues etc.

DGCA and UAVs

- The Indian draft guidelines, issued in April 2016 by the DGCA, also deal with these issues. As per the guidelines, UAVs have been categorized by weight into four classes: micro, which is up to 2 kilos; mini, exceeding 2 kilos but less than 20; small, exceeding 20 kilos and less than 150; and large, exceeding 150.
- All UAVs require a Unique Identification Number (UIN) issued by the DGCA. A UIN can be granted only to a citizen of India or to a company that is incorporated and has its principal place of business in India, with substantial control vested in Indian nationals.
- The UIN is a positive security measure with which any UAV operating in India can be tracked and identified. However, permitting primarily only Indian nationals to obtain a UIN would impede economic growth and technological progress.
- DGCA must also identify specific offenses within the licensing framework for UAVs and specify punishments for the same.
- While regulations are necessary to monitor the UAS to ensure security and safety, DGCA should not intervene to such an extent that it becomes virtually impossible to commercially use the device.

Positive Environment of Aviation Startups

- The proposal to replace the DGCA with a new regulator – the Civil Aviation Authority – with financial autonomy and power to address issues relating to consumer protection and environment regulations.
- The government's proposed construction of 17 highways-cum-airstrips; 18 greenfield airports; reviving 50 un served and under-served airstrips in the next few years; starting a new regional connectivity scheme; and reviving an air services agreement with countries an agreement already having been concluded with the Netherlands to operate up to 28 flights each week).
- The Executive Devel. Programme of Rajiv Gandhi National Aviation University in collaboration with the US–India Cooperation Program to promote skills development for the senior leadership and close the gap of increasing demand for trained people in the aviation sector.
- The Requirements for the Operation of Civil Remotely Piloted Aircraft Systems, 2017, issued by the DGCA.

Positive Environment of Aviation Startups

- The MRO industry in India is likely to expand and gain expertise in the likeliness of a fully fledged MRO venture hosted by Thailand. The venture is favoured owing to the fast-growing commercial aviation market in India.
- Government has planned to enter into an ‘Open Sky’ Air Service Agreement as per National Civil Aviation Policy 2016, on a reciprocal basis with SAARC countries and countries with territory located entirely beyond a 5,000km radius from New Delhi.
- The taxes levied on the ATF be brought within the purview of GST, which will attract input tax credit enabling airlines to pass down the cost fully to passengers.
- In 2014, the DGCA issued a public notice enlisting several approvals required for civil application of an unmanned aircraft vehicle; followed by draft guidelines issued in 2016 and 2017.
- Although the drafts were not given effect, it largely announced the Government’s intention to permit the use of UAV’s for civilian purposes in the future.
- On August 27, 2018, the National Drone Policy has legalised the use of drones in India to be effective from December 1, 2018.

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