

The rise and rise of airline M&A in Asia

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LEO FATTORINI: Well airlines are different from many other companies to the extent that they can't enter into huge cross-border mergers to create one enormous, or two or three enormous global carriers. They are restricted by domestic legislation almost globally to the extent that foreign investors can only invest normally up to a maximum of 49% in an airline in a particular jurisdiction. So for that reason in order for airlines to be able to serve their passengers who are looking to travel from anywhere to anywhere they need to be able to enter into arrangements with other carriers to allow them to broaden their scope and their reach and to best serve consumers.

Most people have heard of the three large global airline alliances – the Star Alliance, the One World Alliance and the Sky Team Alliance and I guess a lot of people will think that those amount to joint ventures themselves. In fact that's not quite right. Within each of those alliances there are joint ventures between airlines, so we know that a well-known example is British Airways and American Airlines which created a joint venture about ten years ago to service largely transatlantic routes – very beneficial for each of those airlines because they could service the transatlantic routes but also then feed those transatlantic passengers onto their networks, both in Europe in BA's case and in the US in American's case.

In Asia, we have been involved in various joint ventures as well where perhaps larger carriers are looking to, or larger full service carriers, are looking to enter into the low cost carrier market and by doing

that the best way, the quickest way because they don't have the expertise themselves is to enter into a joint venture with a low cost carrier that gives them the brand reach, gives them the culture, the ethos and so on that low cost carriers have and full cost carriers don't have. So joint ventures can be either between two large full service carriers, they can be between two low cost carriers.

The most important piece of advice is really consider what it is you are trying to achieve. There are a number of different types of joint ventures – are you looking to team up with an airline that would normally be a rival in order to try and assist both of you to increase your traffic on a particular route? Are you looking to enter into a joint venture with a larger or a smaller carrier? In that case, whose brand will you be using? How will you protect that brand? How are you going to sell tickets to passengers? Most importantly I think it's vital that airlines take competition law advice in relation to whatever they are planning to do.

Competition law is incredibly prevalent now across the aviation industry and there have been some very high profile cases of airlines getting themselves into trouble from a competition law perspective. There are numerous competition law regimes now with the US certainly, Europe as well, increasingly across Asia competition law is being developed and the eye of the competition law authorities has always historically been on aviation.

Generally speaking there has to be a real benefit for a consumer in whatever the joint venture is trying to achieve.

If it's possible to get anti-trust immunity for the joint venture in question then probably worth doing that. In any event, it is very important to consider the real competition law ramifications, how you are going to benefit the consumer, making sure you are not just carving up the market, making sure you are not having inappropriate conversations with your joint venture partner before you should or potentially without a lawyer in the room, but I would say that wouldn't I.

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