

**COMPETITION COMMISSION OF PAKISTAN**

---

**ENQUIRY REPORT**

*(Under Section 37(2) of the Competition Act, 2010)*

**IN THE MATTER OF COMPLAINT FILED BY SHAHEEN AIR INTERNATIONAL  
LIMITED AGAINST PAKISTAN INTERNATIONAL AIRLINES FOR ALLEGED  
PREDATORY PRICING**

**Maliha Quddus | Irfan ul Haq | Aqsa Suleman**

**Dated: 5<sup>th</sup> July, 2019**

*MQ*

*IH*

*AS*

## Background

1. The Competition Commission of Pakistan (the '**Commission**') received a complaint (attached as Annexure 'A') from Shaheen Airline (the '**Complainant**') on 6<sup>th</sup> October, 2017 against Pakistan International Airlines (PIA), (the '**Respondent**') in respect of alleged predatory pricing on ticket rates charged to passengers by PIA for its passenger flights from Islamabad to Manchester and vice versa.
2. The Complainant alleged that it had commenced flight operations on the Islamabad to Manchester and Manchester to Islamabad sector ('the sector' or 'the route') in March 2016 and began promotional and marketing activities for the operations in February, 2016. According to the Complainant, before commencement of flight operations by it for the mentioned route, PIA was selling tickets at much higher prices and charged three times higher rates that were deliberately reduced by PIA due to entry by the Complainant. It is alleged that adult economy ticket sold one way for Islamabad to Manchester was at PKR 85,530 on 1<sup>st</sup> January, 2016 which reduced to Rs. 26,816 on 12<sup>th</sup> February, 2016.
3. The complainant ended its operation on Islamabad to Manchester and vice versa on 15th February, 2017 after suffering huge losses. After exit of the Complainant, PIA increased its fare to PKR 119,300 which clearly shows predatory pricing by PIA.
4. The complainant stated that it was unable to sustain competition in view of the cost selling market for long, which is an effective private carrier compared to a government owned and run legacy carrier that can easily take on debt without a problem.
5. It is further submitted that no other airline in the world including any airline from Pakistan operates flights directly from Islamabad to Manchester. PIA has a complete monopoly on this sector and is in a dominant position with respect to the market share.



6. The Complainant further stated that the largest source of fuel for PIA's aircraft is PSO to which PIA is indebted in the sum of approximately PKR 5 billion. PSO, being a government company, has not taken any legal or other recovery action against PIA as they are both run by the government of Pakistan. Aviation Fuel constitutes approximately 40% of all the cost of an airline.
7. It is alleged that same predatory pricing behavior was exhibited by PIA with respect to the complainant's first venture to Kuala Lumpur, Malaysia from Lahore and Karachi. Flights to Kuala Lumpur were introduced for the first time by the Complainant in April, 2016. Unfortunately, flights to Kuala Lumpur were stopped some four months later after suffering huge financial losses due to drastic reduction by PIA in sale of tickets below cost/ predatory pricing.
8. In view of the submissions made by the Complainant, on 12<sup>th</sup> October, 2017, the Commission initiated an enquiry under section 37(2) of the Competition Act, 2010 and appointed Syed Umair Javed, Director (C&TA), Zulfiqar Ali, Management Executive (C&TA) and Aqsa Suleman, Management Executive (C&TA) as enquiry officers (herein referred as '**Enquiry Committee**') to investigate the matter and submit a report to the Commission. Subsequently with the resignation and of Zulfiqar Ali and deputation of Syed Umair Javed, Irfan ul Haq, Deputy Director (C&TA) and Maliha Quddus, Joint Director (C&TA) were replaced as Enquiry officers.
9. Letters were written to PIA and Shaheen on 16<sup>th</sup> October, 2017 requiring them to provide actual class wise fare charged by them for each passengers on Islamabad to Manchester route and back. However PIA did not submit its response despite of several reminders to them. On 7<sup>th</sup> December, 2017 special order under Section 36 of the Competition Act, 2010 was issued to PIA.
10. In its response to the subject complaint, submitted vide letter dated 6<sup>th</sup> December 2017, the Respondent stated that like all other airlines, it operates through a revenue management system under which fares increase closer to the flight whereas lower fares are available when there is substantial time in flight departure. The Respondent



submitted that it was offering a fare higher than Shaheen. It was Shaheen that drove the market towards lower fares and spoilt the pricing dynamics overall. PIA reduced its fares as a consequent of Shaheen Air's pricing as it has the maximum capacity floated for this route. (Annex 'B').

11. The Respondent further stated that the product (an airline ticket) was a package of both fare and baggage allowance and when Shaheen commenced operations the prevailing fares were much higher with reasonable baggage allowance offered by other airlines including the Respondent. Shaheen entered the market with impossibly low fares and a very high baggage allowance, setting a trend of operating below operating costs.
12. According to the Respondent: "*It is to be noted that PIA fares despite reduction always remained higher than Shaheen Air; therefore, in our view the Complainant's allegations are unjustified*".

### **ISSUES**

13. The questions before the Enquiry Committee are as follows:
  - a. Whether the Respondent holds a dominant position in the relevant market; and
  - b. If yes, whether its actions constitute abuse in terms of Section 3 of the Act.

### **UNDERTAKINGS**

14. 'Undertaking' as defined under Section 2(1)(q) of the Act means:

*"any natural or legal person, governmental body including a regulatory authority, body corporate, partnership, association, trust or other entity in any way engaged, directly or indirectly, in production, supply, distribution of goods or provision or control of services and shall include an association of undertakings"*.



15. While assessing whether an entity is an undertaking for the application of Section 3, the key consideration is whether it is engaged in commercial or economic activity in the relevant market. The Respondent and Complainant are engaged in the business of commercial flight operations on various routes and therefore are undertakings in terms of Section 2(1) (q) of the Act.

### **RELEVANT MARKET**

16. Section 2(1)(k) of the Act defines "relevant market" as:

*"Relevant market" means the market which shall be determined by the Commission with reference to a product market and a geographic market and a product market comprises of all those products or services which are regarded as interchangeable or substitutable by the consumers by reason of the products' characteristics, prices and intended uses. A geographic market comprises the area in which the undertakings concerned are involved in the supply of products or services and in which the conditions of competition are sufficiently homogenous and which can be distinguished from neighboring geographic areas because, in particular, the conditions of competition are appreciably different in those areas;"*

17. In light of this definition relevant market entails a relevant product market and a relevant geographic market. In assessing the relevant product market we need to identify: the range of products that are considered as substitutes by the consumer. Considering price, intended use, quality, and other significant characteristics. What alternative products can others supply, and under what circumstances will they do so? It is important to see whether other suppliers can switch to supplying the particular product in a relatively short period of time.

18. Demand-side substitution relates to the possibility of a customer switching to alternative products that are already available on the market. This is an essential



consideration whether other suppliers may decide to enter a new market and what costs they are therefore willing to pay.

19. During the period Shaheen operated flights on the Islamabad-Manchester-Islamabad route, the following airlines operated flights on the same route:

- a. **Direct flights:** PIA operated 06 weekly direct flights Islamabad-Manchester-Islamabad. Prior to the entry of Shaheen it was the only airline operating non-stop flights on the route. British Airways had not commenced flight operations from Pakistan during the impugned period.
- b. **Layovers:** Other foreign airlines operated flights with layovers at the respective airlines' hub. Emirates operated flights from Islamabad to Manchester via Dubai, Etihad via Abu Dhabi, Turkish Airlines via Istanbul, Oman Air via Muscat, Qatar Airways via Doha, and Saudi Arabian Airlines via Jeddah. The flight duration depends upon the time of layover of the respective airline.

20. For the purpose of determining the relevant market in the instant matter a determination would have to be made regarding the substitutability between direct flights and flights with layovers. It is noted that an airline flying directly substantially lowers its costs since hub/layovers are expensive as they entail payment of airport taxes, handling charges etc. Secondly, a direct flight also reduces fuel consumption which in a time of rising fuel prices keeps fuel cost in check. Another advantage of direct flights over flights with layovers is that for example, for Emirates, on the Islamabad to Dubai leg passengers travelling to Manchester have to vie for available seats with passengers travelling to destinations all over the world and on the Dubai to Manchester leg they have to vie for seats with passengers travelling from destinations all over the world. Hence, demand and prices are driven by multiple factors. Therefore, generally speaking an economy class ticket on a direct flight would be cheaper than a flight with a layover(s). However, airline ticket pricing also depends on supply and in the short-term on any given route, seat capacity is limited and in case of PIA the problem is

compounded by the fact that it has limited airplanes in its fleet and so its capacity is limited.

21. A key question in determining the relevant market is: would the marginal consumer switch from direct flights to any of the abovementioned airlines in response to an increase in fares by PIA or vice versa? Although data on number of passengers carried via flights with layovers is unavailable there is evidence, after the entry of Shaheen, of passengers switching from indirect flights to direct flights. Table 1 below shows the number of passengers carried by PIA before the entry of Shaheen and Table 2 shows the number of passengers carried by PIA and Shaheen during the period Shaheen was in operation on the impugned sector. The data shows that not only was Shaheen able to attract customers but PIA was also able to increase its customers. This is an indication that PIA and Shaheen were able to attract customers from other airlines operating indirect flights.

<b>Month</b>	<b>No. of PAX</b>
August-15	12,285
September-15	10,486
October-15	10,623
November-15	11,753
December-15	11,702
January-16	12,768
February-16	10,719

*Source: Calculations made based on data submitted by PIA*

<b>Month</b>	<b>No. of PAX PIA During</b>	<b>No. of PAX Shaheen</b>
Mar-16	13,659	3,254
Apr-16	17,078	8,668
May-16	14,359	8,209
Jun-16	10,092	5,246
Jul-16	12,401	9,801
Aug-16	15,946	11,622
Sep-16	13,671	11,196

Oct-16	14,581	10,431
Nov-16	14,832	7,398
Dec-16	13,482	9,821
Jan-17	12,740	9,689
Feb-17	15,029	5,330
Total	167,870	100,665

Source: Calculations made based on data submitted by PIA & Shaheen

22. Therefore, that the relevant product market is *prima facie* the market for air travel on the Islamabad-Manchester-Islamabad route. With respect to the relevant geographic market it is noted that Islamabad-Manchester-Islamabad is a unique sector and passengers would generally not substitute travel from other stations e.g. Lahore (for Pakistan) and London (for Manchester) due to the distance involved. The relevant geographic market, therefore, is the market for air travel from Islamabad to Manchester and vice versa.

23. The next step is to determine dominance which is defined in clause (e) of sub-section (1) of Section 2 of the Act, as follows:

'Dominant Position' of one undertaking or several undertakings in a relevant market shall be deemed to exist if such undertaking or undertakings have the ability to behave to an appreciable extent independently of competitors, customers, consumers and suppliers and the position of an undertaking shall be presumed to be dominant if its share of the relevant market exceeds forty percent'.

24. In terms of direct flights operated the number of passengers carried by PIA and Shaheen on the impugned in the one year period March 2016 to February 2017 are as follows:

- a. PIA – 167,890 passengers;
- b. Shaheen – 100,665 passengers;

PIA carried an average of 364 passengers per flight and barring the initial inaugural flights Shaheen carried an average of 365 passengers per flight. Month wise passengers carried by PIA and Shaheen during the period Shaheen was in operation on the sector are represented in Table 2 above and reproduced in Figure 1 below.

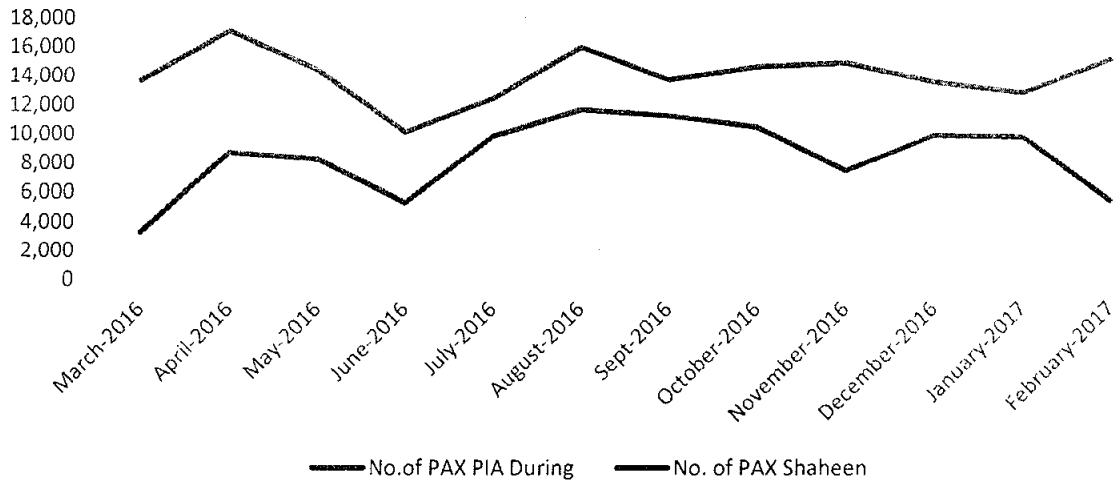
*M*

*l*

*AS*



Figure 1: No. of Pax Isb-Man-Isb  
March-16 to February-17



25. Based on number of passengers carried via direct flights on the impugned route, PIA's market share in the period March 2016 to February 2017 (when Shaheen was operational on the route) is 62.5 percent and Shaheen's market share was 37.4 percent. Before the entry and post exit of Shaheen, PIA's market share for direct flights on the impugned route was 100 percent. We further look at the frequency of flights operated by airlines on the impugned route which is as follows:

- a. PIA 6 flights per week;
- b. Shaheen 4 flights per week;
- c. Emirates 21 flights per week Dubai-Manchester-Dubai (3 daily flights) and 10 flights per week Dubai-Islamabad-Dubai.
- d. Qatar 7 flights per week Doha-Manchester-Doha and 7 flights per week Doha-Islamabad- Doha.
- e. Etihad 14 flights per week Abu Dhabi-Manchester-Abu Dhabi and 14 flights per week Abu Dhabi-Islamabad-Abu Dhabi.

26. Precise data on the number of passengers carried by foreign airlines on the sector is unavailable however, on the Dubai-Islamabad leg Emirates will be carrying passengers

*AL*

*l*

*AS*

who may be travelling to multiple destinations and on the Dubai-Manchester leg it would be carrying passengers from multiple destinations. Hence, high frequency of flights does not necessarily translate into dominance. PIA on the other hand, operates 6 weekly flights with all passengers primarily travelling from Islamabad-Manchester-Islamabad and so it appears that PIA flying directly that would carry the most passengers. The number of passengers flying via indirect flights, would then be divided amongst Emirates, Qatar, Etihad and Turkish Airline. Therefore, it appears that since PIA carries the highest quantum of passengers on a monthly basis 13,989 on average and has 100 percent share on the direct sector it also holds dominance in the overall relevant market.

### **ANALYSIS**

27. Shaheen in its representation to the Enquiry Committee has specifically alleged the following with regards to predatory pricing by PIA:

*“During the month of January 2016, the Undertaking (PIA) was selling tickets at much higher prices which continued till the Complainant’s entry into the market was in public knowledge in February 2016. Based on the Complainant’s information, tickets were being sold by the Undertaking, in some cases as high as three times (3) times. One example is an adult economy ticket sold one way Islamabad to Manchester for as much as PKR 85,530 on 1<sup>st</sup> January 2016. This can be compared with the same ticket (adult one way Islamabad to Manchester, economy class) at PKR 26,816 sold on February 2016. The abovementioned price is indeed well below even average variable costs, and being an airline flying this sector, the Complainant is best placed to determine such costs....*

*The Complainant ended operations from Islamabad to Manchester and vice versa on 15<sup>th</sup> February 2017 after suffering huge financial loss to the tune of billions of rupees. On 12<sup>th</sup> March 2017, the price of tickets sold by the Undertaking (PIA) (one way, Islamabad to Manchester, economy*

*class) was PKR 119,300 which clearly shows and proves predatory pricing”.*

28. Before an analysis of the fares charged by PIA and Shaheen it would be pertinent here to give a brief description of the revenue management system or some variation of it, deployed by airlines around the world. A primary goal of revenue management systems, in the airline industry, is to determine optimal seat allocations by booking class in order to maximize revenue. Under such a system fares depend upon a number of factors which *inter alia* include: time prior to flight bookings are made (bookings made closer to the time of flight attract higher fares and vice versa), demand (peak, off-peak season<sup>1</sup>), supply (number of flights and capacity on a given route), own tariffs, tariffs of competitors and costs.

29. In order to ascertain the facts PIA was asked to provide the actual fares charged from each passenger (exclusive of taxes) on the Islamabad- Manchester and Manchester-Islamabad route, between August 2015 and September 2017. Shaheen Air was also asked to provide the same for the period March 2016 to February 2017 (the period it undertook operations on the route). This data was used to calculate:

- a. PIA’s month-wise average fares prior to the entry of Shaheen;
- b. PIA’s month-wise average fares during the period Shaheen was in operation compared with Shaheen’s month-wise average fares in the same period;
- c. PIA’s month-wise average fares post-exit of Shaheen from the impugned route.


30. The data provided was in the following format:

- a. Not segregated class-wise for PIA; Shaheen ran an all economy operation whereas, PIA offered business class, economy plus and economy<sup>2</sup>.

---

<sup>1</sup> PIA, in its response to the Enquiry Committee, has noted that UK region traffic influx is driven by three seasons: lean, shoulder and peak. Fares vary with respect to seasonality based on the equilibrium set by the demand and supply forces in the market. Ex-Pakistan the peak season begins at the end of December and carries on till third week of January. The lean season for the aviation industry is February, May and November where demand and hence fares are the lowest.

<sup>2</sup> According to PIA it does not maintain class-wise fare data.



- b. For both airlines the data contained a lot of zero values which corresponded with tickets issued to staff;

Therefore, in order to make the data more comparable between the two airlines, the zero values were eliminated and for PIA in order to exclude business class fares the trimmean function was used which excluded the top 10 and bottom 10 percent values while calculating the average fares.

<b>Table 3: Average fares of PIA &amp; Shaheen</b>				
<b>(PKR)</b>	<b>March 2016 to February 2017</b>			
	<b>ISB-MAN</b>		<b>MAN-ISB</b>	
	<b>PIA</b>	<b>Shaheen</b>	<b>PIA</b>	<b>Shaheen</b>
Average Fare	23,537	20,769	22,492	20,882

31. As Table 3 above shows the average fares of PIA are higher than Shaheen on the Islamabad to Manchester and Manchester to Islamabad route for the duration of Shaheen's operation. A round trip economy class ticket on PIA exclusive of taxes would cost PKR 46,029 and the same would cost PKR 41,651 on Shaheen thus making PIA approximately 10.5 percent more expensive than Shaheen. In order to account for changes in fares based on seasonality, PIA's average fares are compared with Shaheen's average fares on a month wise basis in Table 4 below:

<b>Table 4: Average Fares March 2016 to February 2017</b>				
<b>Month</b>	<b>ISB-MAN</b>		<b>MAN-ISB</b>	
	<b>PIA</b>	<b>Shaheen</b>	<b>PIA</b>	<b>Shaheen</b>
Mar-16	27,811	15,378	38,410	30,471
April-16	34,405	21,658	19,362	17,122
May-16	21,898	17,028	15,023	11,348
June-16	18,414	15,620	17,818	14,288
July-16	19,647	15,062	38,648	32,374
August-16	31,389	25,972	22,509	20,436
September-16	30,522	24,795	19,684	18,433
October-16	18,653	18,998	16,982	15,004
November-16	16,122	18,614	13,750	13,885
December-16	17,035	19,688	28,113	29,731

*M*

*h*

*AS*

January-17	26,750	26,219	17,235	14,515
February-17	20,195	17,091	22,770	18,442

Apart from November and December 2016, for each month it is observed that, PIA’s fares are either higher than Shaheen’s or in a few cases equivalent to Shaheen. Shaheen in its complaint had alleged that while Shaheen was in operation on the impugned route, PIA charged “PKR 26,816 for a one way economy class ticket which was below its (PIA’s) variable costs and *the Complainant is best placed to determine such costs*”. Data for average fares of Shaheen (Table 3) shows that it was charging an average fare of PKR 20,769 (ISB-MAN) and PKR 20,882 (MAN-ISB). In some months Shaheen was charging fares as low as PKR 15,378 (refer to Table 4). This would then imply that Shaheen itself was pricing below costs. PIA in its reply has stated:

*“Product is a package of both fare and baggage allowance. It is pertinent to mention here that when Shaheen Air commenced operation, the prevailing fares were much higher with reasonable baggage allowance offered by other airlines including PIA. Interesting fact is that the complainant, M/s Shaheen Air International entered the market with impossibly low fares and a very high baggage allowance, setting a new trend of operating below operating costs”.*

32. Table 5 below shows PIA’s average fares prior to the entry of Shaheen were PKR 32,684 (ISB-MAN) and PKR 30,200 (MAN-ISB). Note that information viz. PIA’s fares prior to the entry of Shaheen is available only for the 07 month period i.e. August 2015 to February 2016 which incidentally includes 2 peak seasons August, December and January which results in higher average fares. Table 6 compares the month-wise average fares of PIA prior to the entry of Shaheen and during the period Shaheen was in operation. Both Tables 5 and 6 indicate that the entry of Shaheen on the sector exerted a downward pressure on fares.

<b>Table 5: PIA’s fares prior to entry of Shaheen</b>		
<b>(PKR)</b>	<b>August 2015 to March 2016</b>	
	<b>ISB-MAN</b>	<b>MAN-ISB</b>

1

AS

Average Fare PIA	32,684	30,200
------------------	--------	--------

<b>Table 6: PIA Month-wise Average Fares Prior to entry of Shaheen vs. PIA fares in months Shaheen was in operation</b>				
(PKR)	Avg. Fare Prior (Aug 2015-Feb-2016)		Avg. Fare During (Aug 2016-Feb-2017)	
	ISB-MAN	MAN-ISB	ISB-MAN	MAN-ISB
Aug	40,921	34,152	31,389	22,509
Sep	36,646	38,185	30,522	19,684
Oct	29,696	31,314	18,653	16,982
Nov	27,367	27,155	16,122	13,750
Dec	30,967	36,069	17,035	28,113
Jan	37,578	26,159	26,750	17,235
Feb	28,273	29,290	20,195	22,770

33. It appears that Shaheen's strategy was to attract customers via low fares and a baggage allowance of 60 kgs. At the inauguration of flights on the impugned route a representative of Shaheen Air states:

*"We are pleased to offer a fantastic service at the lowest fare and maximum baggage allowance of two piece 60 kgs<sup>3</sup>".*

PIA in its reply to the Complaint notes:

*"Further, it is also clear that PIA reduced its fares as a consequent of Shaheen Air International's pricing as PIA had and still has the maximum capacity floated for the subject route having 6 weekly frequencies for Islamabad and two for Lahore".*

34. Therefore, it appears that Shaheen's entry on the impugned route reduced fares as: (a) entry of a new player with a strategy of offering low fares stimulated price competition and (b) there was an increase in overall seat capacity on the impugned route. Airline

<sup>3</sup> Raza Channa, UK Country Manager for Shaheen Air, "Shaheen Air to commence flights between Manchester and Islamabad", Asia Image, 22<sup>nd</sup> February 2016.

economics dictates that if a competitor reduces fares on a given route a carrier with unsold tickets has two options:

- a. Meet the competitor's price and lose money; or
- b. Keep its price firm and lose more money.

This is because once aircraft are purchased, flight crews trained and departures scheduled costs are disproportionately fixed and so the marginal costs of adding an additional passenger to a scheduled flight are nil<sup>4</sup>.

35. We now look at the fares of PIA immediately after the exit of Shaheen from the route presented in Table 7. Note that PIA's average fares are available only for a 04 month period i.e. March to June 2017 and are on the lower side since they include the lean period.

<b>Table 7: PIA's fares after exit of Shaheen</b>		
<b>(PKR)</b>	<b>March 2017 to June 2017</b>	
	<b>ISB-MAN</b>	<b>MAN-ISB</b>
Average Fare PIA	27,116	26,692

36. Shaheen has alleged that the fares immediately after its exit from the impugned route rose exponentially and a one-way economy class ticket from in March 2017 was sold for as high as PKR 119,300. Month wise breakdown of PIA's fares (Table 8) after the exit of Shaheen reveals that for March and April the fares charged actually fell as compared to the corresponding fares when Shaheen was in operation. Even in the other months the rise in fares is not as high as alleged by Shaheen.

<b>Table 8: PIA Month-wise Average Fares Post Shaheen Exit</b>				
<b>(PKR)</b>	<b>Avg. Fares After (Mar-June 2017)</b>		<b>Avg. Fares During (Mar-June 2016)</b>	
	<b>ISB-MAN</b>	<b>MAN-ISB</b>	<b>ISB-MAN</b>	<b>MAN-ISB</b>

<sup>4</sup> Introduction to Airline Economics, Paul Stephen Dempsey, McGill University Institute of Air & Space Law, 2017.

Mar	23,362	29,622	27,811	38,410
Apr	33,389	26,622	34,405	19,362
May	25,934	19,345	21,898	15,023
June	23,453	23,149	18,414	17,818

37. Furthermore, it has been pointed out by PIA that Shaheen increased the frequency of its flights from three to four as a result of good loads. As per the data on number of passengers flown, it is noted that had Shaheen faced predatory pricing from PIA it would not have increased the frequency of its flights.
38. Shaheen has claimed that due to alleged predatory pricing by PIA, it suffered huge losses and was forced to exit the impugned route. It would be pertinent here to look at other possible factors that may have caused the exit of Shaheen. First of all Shaheen had an unrealistically high baggage allowance of 60 kgs which is unusually high for international standards. For example PIA's baggage allowance on the route is 40 kgs while Emirates has an allowance of 35 kgs for economy class passengers 40 kgs for business class and 50 kgs for first class passengers. In the airline industry higher baggage allowance is costly as it means more weight on the aircraft which increases fuel consumption and reduces space available for other cargo.
39. Secondly, Shaheen had entered the impugned route when jet fuel costs were at an historical low USD 0.97 per gallon in February 2016 which then rose to USD 1.55 per gallon in February 2017 an increase of 59 percent<sup>5</sup>. Therefore, it appears that other factors such as high fuel costs, high baggage allowance coupled with a low fare strategy could have contributed to Shaheen exiting the impugned route.
40. Based on the foregoing, it appears there is no predatory pricing by PIA as the fares charged by PIA on the impugned route were higher than Shaheen (except for November and December 2016 where PIA was marginally cheaper than Shaheen). It appears that the entrance of Shaheen on the impugned route brought fares down as (a) there was an

<sup>5</sup> U.S. Gulf Coast Kerosene-Type Jet Fuel Spot Price FOB, US\$ per gallon, <https://www.indexmundi.com/commodities/?commodity=jet-fuel&months=60>



increase in overall seat capacity on the impugned route; (b) entry of a new player with a strategy of offering low fares stimulated price competition. Furthermore, it was alleged that post exit of Shaheen that PIA was recouping its losses by charging very high fares. The Enquiry Committee finds no *prima facie* evidence of this recoupment as an analysis of fares shows that in March and April 2017 the fares charged actually fell as compared to the corresponding fares when Shaheen was in operation. Even in the other months the rise in fares is not as high as alleged by Shaheen. Furthermore, it appears that there were other factors, apart from its strategy of low fares that could have contributed to Shaheen's losses on the impugned route such as its policy of a generous baggage allowance of 60 kgs and the rise in jet fuel prices.

### **CONCLUSION & RECOMMENDATIONS**


41. Based on the findings of paragraphs 17-22 the relevant product market is *prima facie* the market for air travel on the Islamabad-Manchester-Islamabad route. With respect to the relevant geographic market it is noted that a passenger wishing to travel from Islamabad-Manchester-Islamabad is a unique sector and passengers would generally not substitute travel from other stations e.g. Lahore (for Pakistan) and London (for Manchester) due to the distance involved. Relevant geographic market, therefore, is the market for air travel to Islamabad to Manchester and vice versa.
42. Based on the findings of paragraphs 24-26 it appears that PIA carries the highest quantum of passengers on a monthly basis 13,989 on average and has 100 percent share on the direct sector therefore, it also holds dominance in the overall relevant market.
43. Based on the findings of paragraphs 27-40 there was no *prima facie* predatory pricing on part of PIA during the period Shaheen was operational on the impugned route i.e. March 2016 to February 2017. A comparison of average one way economy class fares (Islamabad-Manchester; Manchester—Islamabad) of PIA and Shaheen showed that, except for November and December 2016 where PIA was marginally cheaper than

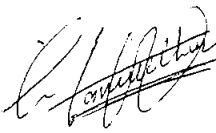
Shaheen, PIA's fares were higher than Shaheen. It also appears that the entry of Shaheen exerted a downward pressure on fares due to the following reasons:

- a. Increase in overall seat capacity on the impugned route; and
- b. Entry of a new player with a strategy of offering low fares stimulated price competition.

44. The Enquiry Committee finds no *prima facie* evidence of alleged recoupment by PIA post exit of Shaheen by way of charging excessively high fares as an analysis shows that in March and April 2017 the fares charged by PIA actually fell as compared to the corresponding fares when Shaheen was in operation. Furthermore, it appears that apart from Shaheen's low fare strategy there were other factors that may have contributed to its making a loss on the impugned route. These include an unrealistically generous baggage allowance of 60 kgs per passenger and an increase in jet fuel costs by 59 percent between February 2016 and February 2017.

45. Considering the facts and circumstances of the case as presented above, no *prima facie* violation of Section 3 of the Act is made out by PIA in the instant matter.

  
Maliha Quddus  
Enquiry Officer

  
Irfan ul Haq  
Enquiry Officer

  
Aqsa Suleman  
Enquiry Officer



**MOST URGENT**

THROUGH COURIER  
AND ONLINE COMPLAINT

September 22, 2017

Discreet courier  
Please put up  
DOCCETA  
29/9  
29/9

**Ms. Shaista Bano**  
Director General (Cartels & Trade Abuses)  
Competition Commission of Pakistan ('CCP')  
7<sup>th</sup> Floor, South, ISE Towers, 55-B  
Jinnah Avenue, Islamabad, Pakistan

**COMPLAINT AGAINST PAKISTAN INTERNATIONAL AIRLINES U/S 37(2) OF COMPETITION ACT 2010**

Dear Madam

M/s Shaheen Air International Limited registered under the laws of Pakistan ('Complainant') being aggrieved hereby lodges this complaint under section 37(2) of the Competition Act 2010 against **Pakistan International Airlines Corporation** ('Undertaking') for its indulgence into predatory pricing:

1. The Complainant is a Pakistani airline (2<sup>nd</sup> National Carrier) based in Pakistan with its head office in Karachi and operating domestic as well as international flights. It has approximately 3000 employees and a fleet of 21 aircraft.
2. Recently, the Complainant, a competitor of the Undertaking, had entered into the market to provide direct air transportation services to Manchester, United Kingdom from Islamabad and vice versa.
3. The said service by the Complainant officially commenced on 15<sup>th</sup> March 2016 whereas promotional and marketing activities of this new sector had begun by 6<sup>th</sup> February 2016.
4. During the month of January 2016, the Undertaking was selling tickets at much higher prices which continued till the Complainant's entry into the market was in public knowledge in February 2016. Based on the Complainant's information, tickets were being sold by the Undertaking, in some cases, as high as three (3) times. One example is an adult economy ticket sold one way Islamabad to Manchester for as much as PKR 85,530/- (Pak Rupees Eighty Five Thousand Five Hundred Thirty Only) on 1<sup>st</sup> January 2016. This can be compared with the same ticket (adult, one way, Islamabad to Manchester, economy class) at PKR 26,816/- (Pak Rupees Twenty Six Thousand Eight Hundred Sixteen only) sold on 12 February 2016. The above-mentioned price is indeed well below even average variable costs, and being an airline flying on this sector, the Complainant is best placed to determine such costs.

Office of the DG (C&TA)  
Competition Commission of Pakistan

Dy. No. 888 Date 25-09-17

5. It was impossible for the Complainant to sustain competition in view of above-mentioned below cost selling market for long, which is an efficient private carrier compared to a government owned and run legacy carrier that can easily take on debt without a problem.
6. The Complainant ended operations from Islamabad to Manchester and vice versa on 15<sup>th</sup> February 2017 after suffering huge financial losses to the tune of billions of rupees. On 12<sup>th</sup> March 2017, the price of tickets sold by the Undertaking (one way, Islamabad to Manchester, economy class) was PKR 119,300/= which clearly shows and proves predatory pricing by the Undertaking.
7. It is important to note that no other airline in the world including any airline from Pakistan operates flights directly from Islamabad to Manchester. The Undertaking therefore had/has a complete monopoly on this sector and is in a dominant position with respect to the market share of this 'product' i.e. air transportation service from Islamabad to Manchester. The relevant market therefore, is the Islamabad to Manchester sector, which is a unique sector not easily substitutable with another. It is this monopoly that the Undertaking intended at all times to maintain that resulted in its engagement in predatory pricing.
8. The Undertaking is a public limited company, with its majority shares owned by the government of Pakistan. As such, it is in receipt of hand outs and bail out packages by the government despite being in debt to the tune of billions of rupees. In effect it is subsidized by the government, since they are irregular at best on their collection and submission of Federal Excise Duty on air tickets, which effectively amounts to some 40% of the final ticket price. Since it is viewed by the government as taking funds from one pocket and placing it in another, no serious enforcement action is taken against it for its tax/duty defaults and this results in the tax/duty collection acting as working capital for the Undertaking again a form of indirect subsidy.
9. Further still, by far largest source of fuel for the Undertaking's aircraft is Pakistan State Oil ('PSO'), to which the Undertaking is indebted in the sum of approximately PKR 5 billion. PSO, being a government company, has not taken any legal or other recovery action against the Undertaking as they are both run by the government of Pakistan – the entire board of directors of PSO is appointed by the government. Aviation Fuel constitutes approximately 40% of all costs of an airline. Again, this political interference is a form of indirect subsidy to the Undertaking.
10. Furthermore, despite being deeply indebted to the tune of billions of rupees, the Undertaking also has no problems securing private financing from Banks since it is owned by the government and the Banks know that the government will not let it collapse. Given the Undertaking's financials, no bank would lend to it except that it is owned by the government.
11. Exact same predatory pricing behaviour was exhibited by the Undertaking with respect to the Complainant's first venture to Kuala Lumpur, Malaysia from Lahore and Karachi. Flights to Kuala Lumpur were introduced for the first time by the Complainant in April 2016. Unfortunately, the Complainant had to close all flights to Kuala Lumpur some four (4) months later after suffering huge financial losses due to the Undertaking's drastically selling below cost / predatory pricing that drove the Complainant out of the market. As this was a short while earlier to the Manchester

incident, the Complainant is in the process of further substantiating this claim with data. The Complainant requests the CCP to solicit the relevant information regarding predatory pricing from the Undertaking which will undeniably confirm the Complainant's aforesaid position and grievance against the Undertaking.

12. It is undeniable fact that the above-mentioned anti-competitive behaviour by the Undertaking distorts the market and results in lack of choice and poor services for the travelling public of Pakistan, the consumers; hence this complaint for your necessary action, please.
13. Kindly note that despite every possible reasonable efforts made by the Complainant, the crucial data of Undertaking pertaining to its predatory pricing as envisaged in this complaint could not be located by the Complainant due to its inaccessibility. You are therefore humbly requested to kindly call upon the Undertaking, pursuant to your powers under section 36 of the Act 2010, and require the Undertaking to furnish its data pertaining to this complaint.
14. This Complaint is being lodged in good faith and in the best interest of all the airlines operating in Pakistan as well as passengers/consumer, and the Complainant shall assist the CCP with any data within its reach and looks forward to hearing from the CCP sooner.

All rights reserved.

For and on behalf of  
**Shaheen Air International Limited**

**M. Naeem Shahid**  
(Barrister-at-Law)  
Deputy Legal Advisor



Copy to: Chief Executive Officer, Chief Legal Officer – Shaheen Air International

ADC/ 243884 /2017  
6<sup>th</sup> December, 2017.

ANNEX-13

Mr. Muhsin Ali  
Section Officer,  
Cabinet Secretariat (Aviation Division)  
Islamabad

Complaint Against PIA U/S 37 (2) of Competition Act, 2010

Dear Sir,

This is in reference to your letter dated October 16, 2017 regarding complaint lodged by Shaheen Air International against PIA regarding abuse of dominant position by way of predatory pricing on route from Islamabad to Manchester and back.

At the outset, it is stated that the complaint is not maintainable under the Competition Act, 2010 as the aviation industry is being regulated by Pakistan Civil Aviation Authority.

Without prejudice to the above, it is stated that prices are based on multiple factors, inter alia period of the year etc.

It is surprising that the complainant has logged a complaint against PIA, 08 months after pulling out of the market instead of complaining when they were allegedly facing the, "predatory pricing" from PIA.

Anyhow, first of all some background to the region will enable the enquiry officers to carry out an enquiry without prejudice to either of the parties.

UK region traffic influx is driven by three seasonalities; lean, shoulder and peak. The fares vary with respect to each seasonality based on the equilibrium set by the demand and supply forces in the market.

During the lean season the demand is low and hence the operating carriers strive to manage the demand by offering competitive fares while during the peak the same fares are increased manifold. This phenomenon is true not only for PIA but for all the airlines in the aviation industry worldwide.

Ex-Pakistan the peak season begins at the end of December and carries on till third week of January. February is considered as the lean season. In fact in the aviation industry three months; February, May and November are considered the lean of the lean months where the demand is the lowest and consequently the fares of the airlines also hit rock bottom.

Product is a package of both fare and baggage allowance. It is pertinent to mention here that when Shaheen Air commenced operation, the prevailing fares were much higher with reasonable baggage allowance offered by other airlines including PIA. Interesting fact is that the complainant, M/s

Shaheen Air International entered the market with impossibly low fares and a very high baggage allowance, setting a new trend of operating below the operating costs.

Furthermore, Shaheen Air had initially started with three weekly frequencies and as result of good loads; the weekly frequency was increased from three to four.

Pertinent to mention here that like other global airlines, PIA has a revenue management system in place whereby the fares increase closer to the flight whereas lower fares are available when there is substantial time in flight departure.

PIA fare analysis Vs. M/s Shaheen Air International's operation on ISB-MAN-ISB route.

M/s Shaheen Air International commenced operation w.e.f. **Mar 15, 2016** and discontinued on Feb 15, 2017.

\*fares for both airlines are minimum fares inclusive of taxes.

ROUTE	DATE	SEASON	FARE OW (PKR)		BAGGAGE ALLOWANCE	
			PK	SHAHEEN	PK	SHAHEEN
ISB-MAN	01-Jan-16	Peak	50,860	-	40KG	-
	12-Feb-16	Lean	44,560	-	40KG	-
	15-Mar-16	Lean	44,560	33,750	40KG	40KG
	15-Feb-17	Lean	38,160	32,265	40KG	50KG
	12-Mar-17	Lean	38,160	-	40KG	-

\*OW-one way

ROUTE	DATE	SEASON	FARE RT (GBP)		BAGGAGE ALLOWANCE	
			PK	SHAHEEN	PK	SHAHEEN
MAN-ISB	01-Jan-16	Lean	453	-	40 KG	-
	12-Feb-16	Lean	453	-	40 KG	-
	15-Mar-16	Peak	580	545	40 KG	60 KG
	13-Aug-16	Lean	488	348	55 KG	60 KG
	15-Feb-17	Lean	520	348	55 KG	60 KG
	12-Mar-17	Lean	520	-	45 KG	-

\*RT- Return

Most of the traffic originating from Pakistan and also that the complainant has referred one way fares, therefore, analysis for ISB-MAN route has been done on one way fares for both the airlines while majority of the traffic Ex-Manchester comprises of return traffic hence return fares have been made part of the analysis for MAN-ISB route.

It is evident from the above analysis, that at all times, PIA was offering a fare higher than M/s Shaheen Air International and instead of PIA, it was the complainant who drove the market towards lower fares and spoilt the pricing dynamics overall.

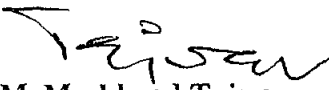
- ISI -

Further, it is also clear that PIA reduced its fares as a consequent of Shaheen Air International's pricing as PIA had and still has the maximum capacity floated for the subject route having 06 weekly frequencies for Islamabad and two for Lahore.

It is to be noticed that PIA fares despite reduction always remained higher than Shaheen Air; therefore, in our view the complainant's allegations are unjustified. The complaint has been filed with malafide and ulterior motives and has concealed the material facts.

Therefore, in view of the above, the complaint of Shaheen Air International is not maintainable.

Yours Sincerely,

  
M. Mashhood Tajwar  
General Manager  
Coordination