

Pakistan International Airlines

Excessive & Discriminatory Pricing in the Matter of Flight Rescheduling and Cancellation Charges

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Officers of the Monopolies and Trade Abuses Department have conducted an investigation into allegations of excessive pricing and price discrimination by Pakistan International Airlines on the matter of charges levied on rescheduling and cancellation of flights by PIA passengers.

Contents

A. BACKGROUND	1
B. THE ISSUE	1
C. ANALYSIS	1
Relevant Market	1
Dominant Position	2
Abuse Of Dominant Position	4
D. RECOMMENDATIONS	6

A. Background

1. A number of oral and anonymous complaints were received by the Competition Commission of Pakistan (hereinafter “CCP” or “the Commission”) regarding the charges levied by Pakistan International Airlines (hereinafter “PIA”) in the matter of rescheduling and cancellation of flights. It was alleged that PIA levied such charges based on a percentage of the ticket fare instead of a fixed amount which was excessive and discriminatory.
2. We verified PIA’s policy from its customer services department which supported the complaints received by the Commission. To establish the national, regional and international industry standards, we looked at the official websites of Airblue and Shaheen Air, both domestic operators, as well as those of the US Airways, Delta Airlines, British Airways, Easy Jet, Ryan Air, Thai Air, Gulf Air, Jet Airways, and Air India Express. These airlines represent a cross-section of airlines in Asia, Europe, and North America.
3. On 18 June 2009, we requested PIA to explain their rationale for using a percentage of ticket fare as the basis for ticket refunding and rescheduling charges, as opposed to the industry standard of charging a fixed fee, highlighting the following facts:
 - a) PIA charges “ticket refund and rescheduling fees in proportion to the ticket fare,” in direct contrast to the industry standard – both in Pakistan and internationally – of a fixed rate;
 - b) During ticket rescheduling, “PIA charges the customer the difference between the old ticket and the newer, rescheduled one, in addition to above mentioned fees.”
4. PIA responded on 02 July 2009 stating that their cost structure model is based on their social responsibilities as the national carrier of Pakistan which necessitated operating in non-profitable routes. PIA claimed that:
 - a. “...being the national carrier [PIA] operates on profitable as well as socio economic non-profitable routes”
 - b. “PIA is charging only Rs. 400/ as refund/change of booking charges 48 hours prior to flight departure whereas Airblue and Shaheen is collecting Rs. 500/ per ticket”
 - c. “PIA with the spirit to offer competitive fares to our valued passengers has introduced Revenue Management System”
5. On 16 July 2009, an Enquiry Committee comprising Mr. Ahmed Qadir and Umair Javed was tasked to look into the matter and prepare a report.

B. The Issue

6. Whether PIA’s policy of charging rescheduling fee and cancellation charges as a proportion of the ticket fare amounts to a contravention of Section 3.

C. Analysis

RELEVANT MARKET

7. Section 2(1)(k) of the Ordinance which defines relevant market is reproduced below:

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' characteristic, 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 neighbouring geographic areas because, in particular, the conditions of the Competition are appreciably different in those areas.

8. In this case, there are two identifiable relevant markets. The first market relates to the domestic operations of PIA, wherein the product market is the market for scheduled commercial domestic air transport. This includes scheduled operation on all the domestic routes within the country. Due to time and price involved, air travel cannot be interchanged with other modes of travel including road, rail and sea. Thus the first relevant product market is comprised of scheduled commercial domestic air transport service offered by licensed air carriers in Pakistan.
9. The geographic market for the first relevant product market is all of Pakistan since the same aviation policies are applicable all over the country. There is no difference as to the application of taxes on air travel and hence the conditions of competition are homogeneous in the entire country.
10. The second relevant market pertains to the international segment of air transportation in relation to Pakistan. The product market is hence defined as the market for scheduled international air transportation that originates or terminates in Pakistan. The geographic market for the second relevant market is the same as for the first (see para 9).

DOMINANT POSITION

11. Section 3 of the Ordinance, which deals with the abuse of dominance, is reproduced here for ease of reference:
 3. **Abuse of dominant position.**-(1) No Person shall abuse dominant position.
 - (2) An abuse of dominant position shall be deemed to have been brought about, maintained or continued if it consists of practices which prevent, restrict, reduce or distort competition in the relevant market.
 - (3) The expression "practices" referred to in sub-section (2) shall include, but are not limited to--
 - (a) limiting production, sales and unreasonable increases in price or other unfair trading conditions;
 - (b) price discrimination by charging different prices for the same goods or services from different customers in the absence of objective justifications that may justify different prices;
12. To determine whether PIA has violated Section 3 of the Ordinance, two basic issues must be considered: (i) whether the undertaking has a dominant position in the two relevant markets and (ii) whether it is abusing its dominance in those markets.
13. According to the data available from the Air Transport Sector Note,¹ the break-up of the domestic and international aviation market is as summarised in the following tables. There are three major domestic airlines namely PIA, Air Blue,

¹ The note has been prepared by Charles E. Schlumberger of the World Bank for the Civil Aviation component of the Second Trade and Transport Facilitation Project, Pakistan 26 to 31 January 2009.

and Shaheen Air. Aero Asia has limited operations in the country. A sizeable number of airlines, including the domestic airlines, compete in the international air transport market.

Pakistan Air Traffic 2007, 2008				
Airline	2007 - I	2008 - I	2007 - D	2008 - D
PIA	4,986,878	4,363,229	4,717,011	4,034,342
Saudi Arabian Airlines	1,345,110	1,279,278		
Emirates	1,234,844	1,187,420		
Etihad Airways	580,320	648,570		
Airblue Limited	360,282	464,880	945,256	941,382
Shaheen Air International	301,236	358,800	274,690	334,880
Thai Airways	417,612	353,106		
Qatar Airways	271,960	319,566		
Gulf Air	572,819	319,254		
Cathay Pacific Airways	232,284	295,009		
Malaysia Airline	144,248	136,656		
Singapore Airlines	179,712	134,784		
China Southern Airlines	141,960	114,400		
British Airways	117,546	113,256		
Air Arabia	81,354	108,472		
Kuwait Airways	123,682	91,962		
SriLankan Airlines	89,700	89,700		
Deutsche Lufthansa	32,760	72,800		
Turkish Airlines	61,048	64,480		
Oman Aviation Services	12,896	62,660		
Aero Asia International	238,472	53,807	383,448	95,862
Syrian Arab Airlines	58,812	48,672		
Air China International	44,512	46,696		
Mahan Airlines	46,488	46,488		
Uzbekistan Havo Yullary	31,642	43,030		
Biman Bangladesh Airlines	40,222	35,737		
Iran Air	22,568	17,186		
Indian Airlines Corporation	15,080	15,080		
Ariana Afghan Airlines	14,352	14,352		
Air Nigeria		9,815		
Air Malta	6,136	6,058		
EuroAtlantic Airways	35,672			
Kyrgyzstan Airlines	2,899			
Aerosvit Airlines	35,360			
Falcon Air AB	20,696			
Total	11,901,162	10,915,203	6,320,405	5,406,466
PIA Market Share 2007, 2008				
Total Air Traffic	11,901,162	10,915,203	6,320,405	5,406,466
PIA Air Traffic	4,986,878	4,363,229	4,717,011	4,034,342
PIA % Share	41.90	39.97	74.63	74.62
PIA Avg 2007-08 - International				40.94
PIA Avg 2007-08 - Domestic				74.63

- From the table it can be clearly seen that the market share of PIA in both relevant markets (domestic and international) is above 40 percent which puts it in a dominant position in each of the latter according to the definition given in Section 2(1)(e) of the Ordinance.

ABUSE OF DOMINANT POSITION

15. The flight rescheduling and cancellation policy of PIA was compared to the domestic and international aviation industry standards in order to determine whether it has abused its dominant position in applying unreasonable ticket rescheduling fees and cancellation charges.
16. It would be helpful to know some of the technical terms used in relation to tickets and fares:
 - a. **Full Fare** (hereinafter “normal”) Ticket – A ticket which entails non-discounted fare that usually offers the benefits of flight change, cancellation, or re-routing with little or no cost
 - b. **Discount Fare** Ticket – A ticket which is normally only available from a travel agent. These tickets are heavily discounted. However, they usually have stipulations, such as travelling dates, significantly higher fees for changes to the ticket, and other such restrictions.
 - c. **Non-refundable** Ticket – A ticket that cannot be refunded if a passenger does not avail it.
17. All three major domestic airlines have the same categorisation for ticket refund and rescheduling:
 - a. Refunds made and/or rescheduling done before 48 hours of the flight;
 - b. Refunds made and/or rescheduling done within 48 hours of the flight;
 - c. Refunds made and/or rescheduling done after the flight departure;
18. The table below exhibits the rescheduling and refund charges model for domestic airlines. In addition to these charges, the passenger also has to pay a difference in the ticket fare due to change in class or flight demand, if any, while rescheduling. The model is true for both rescheduling and refunds.

CATEGORY	PIA	Air Blue	Shaheen Air
Before 48 Hours of Flight	400	500	500
Within 48 Hours of Flight	30 % of Ticket Fare	1,200	1,000
After Departure of Flight	50 % of Ticket Fare	2,000	2,000

19. As the table shows, PIA’s pricing model for the *Within 48 Hours of Flight* and *After Departure of Flight* categories is different than the industry standard, as it charges a percentage of the ticket fare as opposed to a set amount of fee. Air Blue and Shaheen Air charge a fixed rate for these same two categories. Thus the more expensive a PIA ticket is, the more costly it is to have it cancelled or rescheduled—and this holds true both for normal and discounted fares.
20. The issue that we feel besets PIA’s policy is that no distinction is made between full fare and discounted tickets. Customers who pay a full fare are discriminated against *vis-à-vis* those who purchase tickets at lower fares.
21. PIA’s practice also runs counter to the international industry practice. Airlines in the United States normally impose fixed rescheduling and refund charges that go up to two hundred and fifty dollars.² This fee is applicable on discounted non refundable ticket fares; normal refundable tickets are refunded without charge.

² Information gathered from many airline and airline policy review websites including:
http://www.purdue.edu/Travel/Transportation/Air_Travel/airlinenonrefundable.html
<http://a.abcnews.com/Business/PersonalFinance/Story?id=6528673&page=2>
<http://www.usairways.com/awa/content/traveltools/specialneeds/ticketingpolicies/default.aspx>
http://www.delta.com/traveling_checkin/ticket_changes_refunds/ticket_changes/index.jsp

Moreover, the fee is normally lower for domestic flights and higher for international flights.³ Many airlines e.g. US Air and North West do not charge a rescheduling fee for a same day earlier standby flight.

22. The table below exhibits the ticket refund and reschedule fees for major airlines in the US domestic market. Unlike PIA, these airlines apply fixed charge rates.

RESCHEDULE/REFUND FEES FOR US DOMESTIC FLIGHTS⁴				
Free	\$40	\$50	\$100	\$150
Southwest	Virgin American	Jet Blue	American Airlines, Delta Airlines, Midwest Airlines, Northwest Airlines, US Airways	United Airlines, Continental Airlines

23. Similarly, regional airlines follow comparable policies. Many regional airlines impose fixed refund and reschedule fees, including Thai Air,⁵ Singapore Airlines,⁶ Gulf Air,⁷ and Jet Airways.

RESCHEDULE/REFUND FEES FOR INTERNATIONAL FLIGHTS (Some Airlines are listed twice as the ticket change fees depends on the specific flight route) ⁸				
Free	\$50	\$100	\$200	\$250
	Air Canada	Singapore Airlines	Air Canada, British Airways, Air France, Qantas Airlines	United Airlines

24. It is clear from the above that PIA is following a refund and rescheduling fee structure that is at odds with domestic, regional, and international industry standard and violates Section 3 of the Ordinance.
25. PIA's has not answered in unequivocal terms as to why it charges a percentage of the air fare when passengers reschedule or cancel their flights. The undertaking has asserted that since it flies on un-profitable routes, it is justified to charge a percentage-based refund and rescheduling fee from passengers to subsidise these flights. It has further stated that, due to bad weather conditions on some domestic destinations, it is forced to fly multiple times and, hence, is justified in recovering costs from passengers through excessive and discriminatory refund and rescheduling fees. It is unreasonable and exploitative to charge passengers exorbitant refund and rescheduling fees to cover costs of unprofitable routes and rescheduling of flights because of bad weather. This is tantamount to abuse of dominance.
26. PIA has said that it charges a lower fee than other domestic competitors in the *Before 48 Hours of Flight* category. The fact that PIA is pricing competitively in

³ US Airline, for example, charges \$150 for domestic and \$250 for international flight changes.

⁴ See footnote 4

⁵ Please see Thai Air's website available at <https://www.thaiair.co.kr/eng/reservation/rule.html>. Also see http://www.thaiair.com/Promotions/Special_Fares_Promotions/youth_fare.htm

⁶ Read report titled *Long Wait for Refunds* available at <http://www.asiaone.com/Travel/News/Story/A1Story20081211-107079.html>

⁷ Booking details of Gulf Air available at <http://www.gulfair.com>.

⁸ Search conducted on the website 'www.bestfares.com'

one of three categories is not, in our opinion, sufficient justification to charge discriminatory and excessive fees in the other two categories.

27. PIA also claims that its tickets are valid for six months, as opposed to the one month period offered by the other two airlines, and hence its policy of charges pertaining to rescheduling and refunds is reasonable and justified. Moreover, PIA claims that revenue loss due to rescheduling on high demand flights justifies the offsetting of the same with collection of more charges; passengers availing lower fares on low demand flights can avail lesser charges.
28. The issue at hand is neither the validity period of the ticket nor the demand factor of flights. The issue is the discrimination brought about by charging different amounts of fee from passengers on basis of the fare paid. Due to this policy, two people booked on the same flight may pay different charges for rescheduling or cancellation simply by being in different classes, *i.e.*, business class vs. economy class. The same principle of cancelling or rescheduling charges being based on the difference in fares would be applicable to two people travelling on the same route hence bringing about price discrimination.
29. This policy of linking rescheduling and cancellation ticket price-tied fees followed by PIA does not seem to have any justification and appears to be contrary to domestic, regional and international practices. The policy does not distinguish between normal and discount fares, making it an example of excessive pricing by a dominant undertaking. This action is an unfair trade practice, which is a violation of Section 3(1) read with Section 3(3)(a) of the Ordinance.
30. Moreover, the rescheduling and cancellation fee levied on discounted tickets is also counter-intuitive and discriminatory. Normally, if a lower fare is provided, a higher change or refund fee is taken. In case of PIA, the opposite is true: one who pays a higher fare incurs a higher fee to reschedule or cancel his flight. This sort of price discrimination, where there is no justification of charging more fees from a customer who is already paying more, in contrast to a customer who pays less due to a lower existing fare, is tantamount to a contravention of Section 3(3)(b) of the Ordinance, which proscribes price discrimination.

D. Recommendations

31. Ensuring the competitive process is a matter of public interest, as the law is underpinned by the notion that competition serves as a powerful means to achieve a level playing field and a desirable public end.
32. PIA being the dominant actor in the scheduled commercial domestic and international air transportation markets, *prima facie*, appears to be in breach of Section 3(1) and 3(2) of the Ordinance read with Section 3(3)(a) & (b) of the same.
33. Therefore, we recommend that a show cause notice be issued to PIA under Section 30 of the Ordinance, allowing the latter an opportunity to explain why action should not be taken against it for the abuse of dominance.

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