

# Organisational Structures

Thursday 11 May 2017: Module 12

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8 - 13 May 2017

### **Key types of organisational structures in the aviation industry:**

- Agencies
- Partnerships
- Corporations
- Associations
- Alliances
- Joint Ventures (JVs)



## A. Agencies

- **3 Parties:**
  - Principal
  - Agent
  - 3<sup>rd</sup> Party



- The ***agent*** is **authorised** by the ***principal*** to create binding contractual relations with a ***third party***
- This arrangement recognises the **commercial reality** that parties often conduct their business through other persons

## B. Partnerships

### Partnership

- Association of 2 or more parties carrying on a business
- Essentially underpinned by the **laws of contract**, with some special provisions particular to partnerships
- The rights, obligations and liabilities of the partners are essentially governed by the **partnership agreement** (contract)

## **Rights and liabilities** between Partners

- Partners = fiduciaries of each other, creating a duty of loyalty (no self-dealing)
- Partners = agents of partnership
  - Bound by contracts entered into by partners
  - Partners liable for breach on contracts with 3<sup>rd</sup> parties
- Partners share profits, losses and management
  - Each partner has equal control

**Laws** regulating partnerships are complex and vary between **jurisdictions**. In some jurisdictions

- Contribution of capital/services in return for share of profits/services creates presumption that partnership exists
  - Overlay of statutory law providing for limitations on the liability of partners
  - Partnerships are not independent legal entities (unlike a company) and so cannot enter into contracts in their own name
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- **Common?**
    - YES in the legal, medical and accountancy industries
    - NOT in the aviation industry

## C. Corporations

- **Corporate Structures**

- Various possibilities flexible to meet airline's strategy and adapt to new business opportunities
- Proprietorships & Partnerships possible, but most airlines opt for corporations
- Depending on the size of the airline, various structural models are possible



- Legal Significance of Corp
  - Separate legal entity
  - Stakeholders NOT liable for Corp debts
- Piercing Corp Veil
  - To avoid fraud & unfairness
- Foreign Corp
  - Corporation from another state must file:
    - Certificate of Authority from any other state in which they want to do business, including
    - All info required in the Articles

## Subsidiaries

- What?

- An airline owned (>50% voting shares = majority of share ownership) and thus controlled by a larger and more recognizable airline

- Mission

- Can be totally different from that of the airline
- Managements of the subsidiary and that of the larger airline can both focus on competitive strengths, so the enterprise can prosper in its business segment
- Examples of subsidiaries of major airline operating in specific market segment, but complementing airline's activities:



## D. Associations



### Legal forms:

- Legal form of a company (*ie* “incorporated”)

or

- “Unincorporated”

- The “unincorporated” are not a legal entity

- Can NOT enter into contracts in its own name

- **Typically** the structure of choice for **non-profit** organisational structures

- Eg: IATA

- Eg: pilots/aircraft owners/flight instructors associations

## E. Alliances

- Globalization has led to the industry organising itself into “alliances”
- Major carriers are members of one of the 3 most significant alliances:



## Alliances are essentially

- Not only a natural response to increasing globalization & consolidation
- But also a means of cooperation between airlines
  - Codeshare
  - Linking of frequent flyer programmes
  - Deeper collaboration

## A common response to globalisation & consolidation

- In most industries:

- Merger & acquisition (“M&A”): unifying different businesses within a single legal entity

- But the airline industry:

- Subject to complex governmental rules governing foreign ownership and control of airlines, making M&A difficult/costly/impossible

So strategic alliances between airlines are often formalised as ***joint ventures***

## F. Joint Ventures

- **What?**

- The coming together of 2 businesses in collaborative partnership
- As opposed to their merging, or the take-over by one of the other

In aviation, 'JV' refers to anti-trust immunised, metal-neutral arrangements

## Commission's recent ruling on JV agreement in aviation (2017)

### • Concern:

- Aviation market between Europe & N America dominated by 3 large groups of airlines
- >70% market covered by JV of:
  1. Lufthansa, United & Air Canada
  2. Air France, KLM & Delta
  3. British Airways, Iberia & American

• No competition among JV parties, while these exploit dominant position versus non-aligned airlines as LOT Polish Airlines



## Commission's recent ruling on JV agreement in aviation (2017)

### •Commission:

- No objection about cooperation if compliant with EU competition rules; no negative effects on competition to detriment of customers
- Transatlantic JV's already investigated in the past within 3 global alliances (Oneworld, Star & Skyteam) & mergers on these routes
- Members of the JVs offered commitments, such as release of slots at identified airports in order to remedy competition concerns
- Network and low-cost could then launch new services and/or obtain access to concerning routes

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