

# Aviation Advisory Practice

"Clients appreciate the 'excellent' team's 'comprehensive' services; they 'don't leave a stone unturned.'"

Legal 500, 2008

The international aviation industry faces a multitude of legal issues, reflecting the particular complexities of the industry.

Regulation is an ever-present feature of the business - originally because of the championing of national airlines by individual governments and more recently because access to scarce resources requires intervention to maintain adequate competition. Equally, there is an ever-increasing focus on safety regulation and environmental issues, while the rise of consumer protection in governments' agendas worldwide has also led to a significant increase in legislation to protect consumer rights.

However, regulation on its own has not been considered sufficient to promote a healthy and competitive sector and, for many years, anti-trust authorities throughout the world have taken a keen interest in the sector, seeking in particular to avoid potentially anti-competitive outcomes from collaboration between airlines.

Whether in responding directly to regulatory or anti-trust challenges or in shaping their operations to comply with the law, airline businesses need advisors who understand in depth the structure of their industry.

Barlow Lyde & Gilbert LLP is one of the few firms that has the capacity, and the technical and industry expertise needed, to advise airlines across the range of their requirements for both regulatory and anti-trust advice, and also in respect of the whole range of contracts that underpin the aviation sector. Our practice has a number of key features, all of which contribute to our market leading position.

- We have deep knowledge of the sector having acted for a wide range of airlines, infrastructure owners, aerospace manufacturers and service providers over many years. Our expertise in both regulatory and liability work is widely acknowledged and the broader advisory practice draws on this unparalleled experience.
- Our aviation advisory practice is an integrated part of the corporate and commercial practice at the firm, which enables us to ensure a comprehensive approach to finding legal solutions for our clients.
- Our business is international. We have acted for airlines in all regions, both through our growing network of international offices (in London, Asia, and Latin America), and through our extensive range of contacts with expert aviation law firms in particular jurisdictions.

Some of the particular areas in which we advise are detailed overleaf. ■

## Regulatory

"Clients agree that 'there's just no weak link at the firm,'...one of its greatest attributes is its ability 'to really listen and understand exactly what we care about.'"

Chambers & Partners, 2009

### Market access

The trend to increasing liberalisation of traffic rights is gradually eroding the traditional framework of bilateral agreements whilst, at congested airports, slot allocation and slot mobility issues often arise. For all carriers, access to their preferred routes remains crucial. Our team has extensive experience of advising on air services agreements, traffic rights, concessions, slot allocation, and secondary trading, as well as on the establishment of subsidiary operations and new routes.

### Passenger rights and travel

The last 15 years have seen an ever-increasing focus on consumer rights, and we have advised on the impact of many of these new requirements covering, for example, denied boarding, flight delays and cancellations, rights of passengers with reduced mobility and transparent pricing. Tour operators must also adapt to a changing landscape where bonding requirements and the ATOL system continue to be refined and reformed. Claims handling when things go wrong is a part of our service but as important is the compliance advice we are able to provide in order to give our clients the confidence that their systems and procedures meet the latest regulatory requirements.

### Licensing and certification

Adequate and timely licensing is key to the ability to operate - whether for airline start-ups or for established carriers. We advise on all aspects of air carrier licensing, ownership and control, nationality requirements, AOCs, flight crew licensing, maintenance and operational approvals.

### Safety

Safety is the cornerstone to a successful airline industry. Key to this is safety regulation and oversight, and the remit of bodies like EASA, FAA, and other regulators in this area is steadily increasing. International oversight and auditing, ramp inspection regimes, blacklisting of carriers, security regulations, as well as stringent continuing airworthiness and maintenance obligations all aim to further the interests of aviation safety. We advise on all aspects of safety regulation and can help guide our clients through the complex and ever-expanding framework of laws in this area.

### Environment

Aviation's impact on the environment has become a major issue in recent years. The debate, which originally centred upon how to deal with polluting emissions, noise, and soil and water contamination issues, now has climate change and emissions trading at its core. We advise on the full range of environmental regulation affecting airlines and airports, from the statutory and common law rules relating to noise and contamination, through to the new rules under the EU Emissions Trading Scheme. ■

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## Anti-trust

The impact of anti-trust law on the airline sector has never been greater. Continuing consolidation in response to economic pressures attracts close scrutiny from anti-trust regulators who also discover, with surprising frequency, collaboration between airlines which goes beyond permissible limits.

We have advised both airlines and other clients on the full range of anti-trust issues, including mergers and alliances, in the UK, EU, and elsewhere, suspected collusion and

other forms of anti-competitive behaviour, and the issues raised in the distribution of airline products. We also regularly assist clients in the preparation and delivery of anti-trust compliance programmes - an increasingly important part of risk management within many airline businesses. ■

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## Commercial

### Contracts

The airline business relies heavily on a network of commercial arrangements between carriers, their competitors and a wide range of service providers. Many of these arrangements are specific to the airline sector including, for example, code shares, carrier-to-carrier franchise arrangements, charters, airport conditions of use, global distribution systems and computerised reservation systems. We have extensive experience of advising on such arrangements as well as on a broader range of commercial agreements relating to matters such as hardware and software acquisition, outsourcing (maintenance, repair and overhaul, catering, parts lease/exchange), and general terms and conditions of purchase.

### Aircraft acquisitions and leasing

Our team has extensive experience in advising operators in connection with the sale and purchase of aircraft in various countries. We have a wide range of contacts to assist with matters pertaining to deregistration and reregistration of aircraft in many national registers. In addition to this, we have long experience in acting for lessors and lessees of aircraft (with expertise in dry, wet, and ACMI leases), and of airport ground equipment.

### Conditions of carriage

The terms on which airlines contract with their own customers are constantly evolving, partly in response to developments and methods of distribution, and partly in response to changing regulatory requirements. Our team has been at the forefront of advising the industry on issues ranging from "e-cargo" terms to website terms and conditions, and general conditions of carriage. ■

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#### SÃO PAULO

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