



Competition Commission of Pakistan Government of Pakistan

POLICY NOTE

***In Re:* **Entry Fee At The Benazir Bhutto International Airport Imposed
By Civil Aviation Authority****

1. Civil Aviation Authority (CAA), a public sector autonomous body created under the Civil Aviation Authority Ordinance 1982 to regulate civil aviation, operates nine international airports in the country including Benazir Bhutto International Airport (Benazir Airport) in Rawalpindi.

2. The Competition Commission of Pakistan (the 'Commission' or 'CCP') is a government organization entrusted with the mandate of fostering free competition in all spheres of commercial and economic activity and to protect consumers from anti-competitive behaviour. Keeping in mind its mandate of consumer protection, the CCP took notice of the imposition of an airport entry fee on a certain category of non-traveling people visiting the Benazir Airport, prima facie appearing in violation of Competition Act 2010 (the 'Act'). In this regard, CCP wrote to the CAA on 12 October 2010 asking the latter to provide detailed information regarding the entry fee by 18 October 2010. More specifically, CCP inquired about: (i) the rationale behind imposing the entry fee and the extent to which CAA was able to achieve its objectives; (ii) whether CAA is charging the similar fee at other airports of the country; (iii) how much revenue CAA is able to generate by imposing this fee; and (iv) what additional services or security measures are being provided to the visitors in lieu of the fee collected. CCP also inquired about the categories of visitors who were exempted from payment of such fee.

3. In its reply, CAA while admitted that there exists no policy on the matter it claimed that airport entry fee was imposed in 2008 to reduce the number of people visiting the airport due to space, security and administrative reasons. Regarding security, it claimed that the Airport Security Force personnel get burdened by the large influx of passengers and their accompanying visitors, and that airports present a soft target for miscreants to strike at will. CAA also contends that during *hajj* and *umra* seasons, a large number of people visit the airport to see off/receive their dear ones which burdens the airport management. In the same reply, CAA expressed its intention to revisit the imposition of this fee. However, it refrained from disclosing to CCP the amount of revenue it has generated so far from imposing such fee, the additional security services being provided by CAA and whether CAA was successful in curtailing the number of visitors by imposing fee or not. Based on a report published in the November 23rd 2010 issue of *The News*, the Commission has learned that the contract collecting the fee pays the CAA PKR 85,000 per day, which amounts to PKR 31.025 million paid to the CAA annually.

4. CAA, apart from being a regulator of civil aviation matters, operates all the airports in the country. By providing this service it falls under the definition of an undertaking as per Section 2(1)(q) of the Act. Being the sole operator of the airports, CAA is a dominant undertaking as per the criteria laid out in Section 2 (1) (e) of the Act. The Commission is of the opinion that imposition of the airport entry fee at Benazir Airport may constitute an abuse of dominance which would be a contravention of Section 3(3)(b) of the Act. Section 3(3)(b) relates to price discrimination and seeks to prevent price discrimination by a dominant undertaking which charges different prices for the same good or service from different customers in the absence of objective justifications that may justify different prices.

5. Regrettably, CAA has not answered most of the Commission's concerns, and has not provided objective reasons for relating the imposition of a PKR 20 nominal fee to the security at the airport to the imposition of a PKR 20 nominal fee. The arbitrary and discriminatory nature of the fee makes the likelihood of a contravention of Section 3(3)(b) probable. This finds support from various facts:

6. First, CAA has not provided any information on the additional security measures taken by it to beef up the security at the Benazir Airport in lieu of the imposition of entry fee.

7. Second, the factor of reducing risk for visitors by imposition of fee to ensure reduction in the number of visitors has not been satisfactorily explained. CAA does not impose any such fee at other airports in the country which are also thronged by people in huge numbers as well, where there would be comparable security concerns. The fact that CCP's probe reveals that no entry fee is charged for children visitors defeats the pretext of charging the fee to reduce number of visitors for their security. At the same time, without providing the intended benefit or any other security facilities, the fee discriminates against visitors of ticketed passengers who come to bid farewell to their loved ones, who are not officials or diplomats. This further weakens CAA's contention.

8. Third, by exempting a number of categories from payment of the entry fee, CAA has ensured that no meaningful deterrence takes place through the imposition of the fee. As CAA admits in its letter, Benazir Airport serves a large number of government functionaries and diplomats who are exempt from this entry fee. In fact, it is those very government functionaries and diplomats who are likely to be the target of miscreants, yet those visitors who are accompanying them to the airport are exempted from the nominal fee. Fourth, it is highly unlikely that people who have spent thousands of rupees to come from remote areas to see off

their loved ones during *hajj* and *umra* seasons would hesitate to pay PKR 20 more for the last mile.

9. In any event, CAA has provided no statistics which show that the imposition of the entry fee has reduced the number of people visiting the airport. CAA has also not indicated what enhanced security facilities have been provided to travelers and visitors in lieu of the additional fee that they pay. Such a fee might be objectively justifiable under Section 3(3)(b) of the Act if the revenue from the fee were used by the CAA to improve security barriers, install bullet proof or bomb proof glass or to make other such improvements. However, without any such improvements, and no evidence of a reduction in visitors or objectively improved security, such a fee seems arbitrary and is likely to violate the Act and also seems to benefit only the contractor and CAA at the cost of causing inconvenience to the general public.

10. In its communication with the Commission, CAA has indicated that it intends to revisit the imposition of this fee. This is a very positive development. In view of the foregoing, the Commission strongly recommends abolishment of entry fee on visitors at the Benazir Airport and CAA is hereby advised to take into consideration the contents of this note and take immediate measures in this regard. A report may kindly be submitted by CAA within 30 days of the issuance of this policy note.

Islamabad, The 1st of December 2010.
