

## The Impact of the COVID-19 pandemic on air transport industry with a particular focus on Thailand

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### Synopsis

- The COVID-19 outbreak has significantly affected the air transport industry due to the travel ban policies and the decline in demand among domestic and international travellers.
- The significant reduction in the number of travellers has brought about a substantial drop in the number of flights, which enormously diminished incomes for airlines, leading to financial disruption. This research thus provides an analysis of the demand and supply of Thai aviation services and an estimation of future demand in the post-COVID-19 era.
- Owing to the significant fall in their revenues, Thai airlines are encountering a multitude of legal ramifications. This research explores the options for airlines under international laws and Thai laws when facing potential liabilities arising from financial disruption during and after the COVID-19 pandemic.
- This research suggests some forms of government support measures to the air transport sector in Thailand following the outbreak of the COVID-19.

The outbreak of coronavirus has had a devastating effect on Thailand's aviation industry. Both international and domestic flights have dramatically diminished or stopped altogether. The regulatory scheme governing air transport is in a state of fluctuation as the COVID-19 pandemic progresses. A myriad of legal issues may arise due to the administrative containment measures imposed by the relevant public authorities. In addition, the airlines may likely encounter difficulties in balancing passenger rights and safety. Thus, they must take precautionary steps in demonstrating that their actions conform to the laws and regulations under these unprecedented circumstances. For instance, in accordance with the declaration of a state of emergency in Thailand on 25 March 2020, foreigners were restricted to enter Thailand effective 26 March 2020. Moreover, the Civil Aviation Authority of Thailand announced that Thai nationals wishing to return to Thailand must present a travel certificate issued by the Embassy of Thailand, the Consulate General of Thailand, or the Ministry of Foreign Affairs within 72 hours before traveling. However, in this case, whether the passengers have the rights to refund if he or she fails to present such a certificate is still uncertain.

This research investigates the impacts of the COVID-19 pandemic on the demand and supply for air transport in Thailand. Moreover, the study attempts to identify structural perspectives of the aviation industry which could shape the future scenario of other related impacts and further present recommendations for the air transport sector to prepare for the recovery period. At the same time, this study explores the legal challenges facing air carriers

caused by the pandemic. The challenges include the potential liabilities of air carriers for the delay or failure to transport passengers and cargoes. Furthermore, the research explores the viable options for aircraft lessees and lessors available under the Thai laws in case of lessees' default owing to the lack of cash flow.

The supply and demand in air transport are measured by flight volumes and the number of passengers in domestic and international markets. In Thailand, the number of passengers which represents the demand for Thai aviation drastically decreased by approximately 99% in both markets due to the extension of a temporary ban on all international flights. In general, domestic travel has recovered faster than international travel. From the experiences of the United States and China, the countries or regions which contain a greater percentage rate of domestic passenger traffic may recover faster. Thai domestic aviation can also be applied to this case as the share of domestic passenger traffic in Thailand is 56% of the overall passengers. In addition, domestic passengers started to recover at the end of August at the rate of 43% compared with the beginning of the year after the deregulation of cross-provincial travel measures.

Although the number of passengers is increasing due to the gradual rise in demand for air travel, the government still limits the number of flights per day. As a result, most seats on a flight are occupied, and many air passengers have to reserve their flights in advance for over two months. This case makes the supply of air transport recover for only 29.45%.

With reference to the air freight market in Thailand, air freight has played an essential role in supporting the trade driven by e-commerce. However, owing to the COVID-19 pandemic, the online demand for products increases significantly. Considering that the government still partially limits the number of air services, the number of freight services is the same as that in passenger services because air cargo is mostly delivered together with the passengers.

As a consequence of the significant decrease in demand, a vast majority of air carriers are encountering a substantial fall in their revenues. The aviation industry is facing a myriad of legal issues as a result of the financial disruption, including potential air carrier liability for claims by passengers and others under a variety of scenarios, such as the airlines' liability for the failure or delay to transport freight or passengers. For passenger delays, the Montreal Convention allows the air carriers to make two defenses: (1) the passenger is similarly at fault for such a delay, or (2) the airline has taken necessary measures that could reasonably prevent the damage. As for the cases of the failure to transport passengers and cargoes, the airlines might be able to invoke *force majeure* excuses stipulated under their contracts of carriage.

At the same time, during the financial crisis, the aircraft lessees may not be able to fulfil rental and maintenance reserve payment obligations. In this circumstance, the aircraft lessors and lessees have several alternatives under Thai laws. The alternatives include payment restructuring, repossession upon lessee's default, or litigation for monetary damages against lessees. The lessees may call upon *force majeure* to temporarily relieve their payment obligation. Last, it should be noted that the lessors should prepare for the circumstances where the lessees use bankruptcy law and join the rehabilitation process.

The research essentially finds that to mitigate the impacts of the COVID-19 outbreak on the airline industry, the government must provide some sector-specific mechanisms to ensure that the industry would survive. In Thailand, the government has employed some mechanisms to support the financial crisis of the airlines through this unprecedented time.

The mechanisms implemented by the government include reduced parking fees, lower air navigation charges for domestic and international flights, discounted arrival and departure fees, and discounted jet fuel excise for domestic flights. In addition to these specific mechanisms for aviation, the government has implemented an assistance package, such as loan payment holidays and delicate advances.

To further support the industry, the government has numerous options to additionally consider, including the following:

- The direct grant of financial support to air carriers to compensate for decreased revenues and liquidity caused by movement restriction measures imposed owing to the COVID-19.
- The extension of the scope of eligibility of corporate bonds to provide access for a broader range of corporations.
- The support of the airlines' initiative to repurpose their passenger planes to fly cargo-only.
- The temporary waives of ticket taxes and other types of levies charged by the government.