



CONFERENCE ON THE ECONOMICS OF AIRPORTS AND AIR NAVIGATION SERVICES

Montréal, 15 to 20 September 2008

Agenda Item 1: Issues involving interaction between States, providers and users 1.1: Economic oversight

ECONOMIC OVERSIGHT

(Presented by the International Air Transport Association (IATA))

SUMMARY

This paper outlines the need for economic oversight to be applied at all airports and air navigation service providers through the application of basic ICAO policies.

Economic regulation should be applied where competition does not exist to protect users from potential monopoly abuse.

Action by the Conference is in paragraph 5.

1. INTRODUCTION

1.1 All airports and air navigation service providers must be subject to ICAO's policies in setting user charges. This should include as a minimum transparency, consultation, non-discrimination and cost-relatedness.

1.2 However, robust independent economic regulation of user charges is required as the only practical means of preventing abuse by monopoly suppliers. Economic regulation is required regardless of whether the airport or air navigation service provider is publicly or privately owned.

2. DISCUSSION

2.1 Aviation is a major contributor to economic growth, tourism and business development and its users need to be protected from possible abuse of dominant service providers.

2.2 Airport and air navigation service providers are for the most part still natural monopolies. Market forces do not discipline natural monopolies: economic regulation is needed. Even where there is

limited competition between airports, this competition often only applies to parts of the total customer base.

2.3 A review of the consultation process with major providers showed that in 41% of the reviewed service providers there was no consultation with users. This clearly shows the monopolistic position that airports still have in a majority of the world.

2.4 Regulation is the only alternative to effective competition and it is both valuable and necessary for users and consumers in the absence of such competition.

2.5 A well-designed and effective regulatory framework can provide benefits for both users and for regulated companies. An incentive-led process helps to improve efficiency and the business investment planning process, through consultation with users who can provide constructive help.

2.6 Independent and transparent economic regulation can reduce uncertainty for both parties, helping to reduce investor risks and financing costs. The stability provided by an effective regulatory framework can also attract longer-term investment finance into the industry, avoiding potential volatility in infrastructure asset prices driven by short-term speculative finance.

2.7 ICAO Secretariat's WP/4 reaffirms that economic oversight is a State's responsibility. However it generates a confusing distinction between oversight and regulation and the use of competition law.

2.8 Competition law is neither sufficient nor cost effective and cannot replace economic oversight.

2.9 IATA encourages States to implement two levels:

2.9.1 As a minimum compliance with ICAO's Policies on Charges for Airports and Air Navigation Services (Doc 9082) through economic oversight.

2.9.2 Where a provider has a dominant position, robust independent economic regulation with an Independent Regulator should be established by the State.

3. CONCLUSIONS

3.1 Economic oversight should be applied to all service providers regardless of the degree of competition as this is a State responsibility. The minimum oversight should comprise Doc 9082 and should be applicable to all airport and air navigation service providers, irrespective of their size.

3.2 Market forces do not discipline natural monopolies, only economic regulation does. Robust independent economic regulation should therefore be applied where competition does not exist.

3.3 Minimum requirements for economic regulation:

- a) a continuous user consultation process;
- b) minimum auditable transparency requirements;
- c) cost benefit analysis for major investments;

- d) cost efficiency targets set by the regulator;
- e) non-discrimination between users;
- f) no cross-subsidisation between user groups; and
- g) establishment of an Independent appeal body / dispute mechanism.

4. PROPOSED AMENDMENT OF POLICIES

4.1 IATA recommends the following text to replace the new paragraphs before article 15 as proposed by the ICAO Secretariat in WP/4 (shown in track-change mode):

Economic oversight

xx. The Council recommends that with the continued trend towards commercialization and privatization in the provision and operation of airports and air navigation services, economic oversight should ~~seek to be~~ applicable to all providers to achieve a balance between the efforts of the autonomous or private entities to obtain the optimal effects of commercialization or privatization and those public policy objectives that include, but are not limited to, the following:

i) Prevent airports and providers of air navigation services from anti-competitive practices or from abusing their dominant position;

ii) Ensure non-discrimination and transparency in the application of charges;

iii) Provide incentives for airports and providers of air navigation services, as well as users, to reach agreements on charges and service levels;

iv) Ensure that appropriate performance management systems are developed and implemented by airports and providers of air navigation services; and

v) Assure investments in capacity to meet future demand.

yy. The Council also recommends that States should ~~keep~~ implement robust economic regulatory regulation interventions at a minimum and as required. When deciding whether economic oversight beyond competition is necessary when the Provider has market dominance, to be enforced by an independent Regulator. In this decision the degree of competition, the costs and benefits related to alternative oversight forms, as well as the legal, institutional and governance frameworks should be taken into consideration. It is in the interest of all interested parties that economic ~~oversight~~ regulation is set up in a transparent, efficient and cost-effective manner.

5. **ACTION BY THE CONFERENCE**

5.1 The Conference is invited to:

- a) Review and adopt the conclusions in paragraph 3; and
- b) Adopt the changes as listed in paragraph 4 to the Secretariat's proposed amendments of ICAO Doc 9082.

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