



Case Study

on Commercialization, Privatization and Economic Oversight of Airports and Air Navigation Services Providers

Netherlands

Background

N.V. Luchthaven Schiphol operates Amsterdam-Schiphol airport under the 'Schiphol Group' trade name. It was corporatized as a limited company in the early 1950s under the form of a public company owned by the Dutch Government and the municipalities of Amsterdam and Rotterdam. Schiphol Group also controls the second and third busiest Dutch airports, respectively Rotterdam and Eindhoven. But the latter handle less than one million passengers annually, versus more than 45 million for Amsterdam-Schiphol.

The Schiphol Group used to be dispensed from paying the corporation tax applied in the Netherlands. A complaint by the European Commission arguing that this exemption was an unfair advantage given to the Dutch airport in comparison with its European competitors led the Dutch government to change this policy in 2002.

Air navigation services provision is ensured by Luchverkeersleiding Nederland (LVNL), which was traditionally an agency within the Dutch Civil Aviation Administration.

Commercialization/privatization: Airports

There have been talks and consultations to privatize Schiphol Group during the past 20 years, and the necessary legislation to make this effective has been implemented. But these did not result in the effective privatization of Schiphol (see section on economic oversight of airports), which remained owned by the State of the Netherlands (76 per cent) and the cities of Amsterdam and Rotterdam (22 per cent and 2 per cent respectively) until the late 2000s.

The Schiphol Group started with the pursuit of strategic alliances with other major European hub airport operators. In 2000, Schiphol created the Pantares company with Fraport AG, in order for the two airport operators to join in a number of operational activities. The objective was to cooperate in terminal and retail management, in handling of aircraft and cargo, in facility management, in information technology, and in international joint ventures. In addition, the two airports agreed not to compete directly against each other on international contracts. However, the expectations resulting from the formal alliance between the Schiphol Group and Fraport AG did not materialize: only a few actions were taken by Pantares, and the alliance is not mentioned by analysts anymore.

Subsequent to the failure of Pantares, and to the merger of Air France and KLM under a single holding, Schiphol engaged a new alliance in 2008 with Air France's hub operator Aéroports de Paris (ADP). The alliance has three objectives: a) improving the competitiveness of the two airport companies through dual hub and best-in-class service provisions; b) increasing retail, real-estate and telecom activities through exchange of best practices; and c) emphasizing international airport developments with a key focus on strengthening the dual hub within the SkyTeam network. Finally, each company acquired an 8 per cent stake in the other.

The ownership structure of the Schiphol Group is thus as follows: State of the Netherlands, 70 per cent, Aéroports de Paris, 8 per cent; and the cities of Amsterdam and Rotterdam, 20 per cent and 2 per cent, respectively. It is worth mentioning that the Dutch

government allowed the merger between Air France and KLM on the condition that a hubbing strategy is secured between Amsterdam-Schiphol and KLM in the medium term.

Finally, the Schiphol Group has commercialized its savoir-faire worldwide. In 1997, the financing, building and management of the new international arrivals building at New York John Fitzgerald Kennedy airport were given to a private consortium which includes the Schiphol Group. It also holds the management contract for Brisbane airport facilities (Australia) as well as 19 per cent of the Brisbane Airport Corporation Ltd.

Commercialization/privatization: ANSP

The Dutch ANSP was fully corporatized in 1993: the civil aviation administration delegated the provision of ANS to Luchtverkeersleiding Nederland (also known as Air Traffic Control – The Netherlands). LVNL has been given a legal personality and a corporate status, but still remains within the Dutch Government structure. The Government of the Netherlands is the sole owner of LVNL. Its mandates are to develop ANSP from a commercial perspective and apply business principles in its operations. It is supervised by a board appointed jointly by the Minister of Transport and the Minister of Defence.

Economic oversight: Airports

Traditionally, the Minister of Transport was in charge of reviewing and approving all aeronautical charges at Dutch international airports, with the objective to ensure their conformity with the ICAO principles of non-discrimination, transparency, and cost-relatedness. But, in the absence of clearer mechanisms and policy, this framework created some frictions between the Dutch airport operator and its users, which felt that their voice was not heard in the regulatory process. At the end of the 1990s, airlines began to criticize the increases in charges, especially at Amsterdam-Schiphol, that they considered to be an abuse of dominant position by the airport operator. These critics were further expanded by several judicial decisions which accused the Dutch public authorities for approving alleged abuse of monopoly power by the airport operator. The Minister of Transport thus decided in 1999 to resume all plans to privatize Schiphol Group and asked for a fundamental revision of the economic oversight of airport charges.

The new regulatory framework designed and implemented in the 2000s builds on the Dutch “negotiated access” or “regulated access” principle implemented for other network industries. The Amsterdam Airport Schiphol Operations Decree enacted in 2006 states that aeronautical charges are being set to give a return to those Amsterdam Airport’s assets that are identified as being used for aviation purposes only. The approval and the application of the allocation methodology remains the sole prerogative of the Dutch government (through its Competition Bureau: the NMa). The maximum return may not exceed the weighted average cost of capital for aviation activities which is calculated using the CAPM (Capital Asset Pricing Model), meaning that Schiphol is limited in its ability to set the level of the aeronautical charges it bills to its users. Once the charges are proposed, the airline customers can respond and any dispute is referred to the Dutch competition authority. Schiphol airport operates under the dual-till and non-aeronautical activities are not subject to economic regulation.

Economic oversight: ANSP

The LVNL is subject to strict regulations, reporting and oversight by the Ministry of Transport, which remains the regulator of ANS while the Minister of Transport assumes the political responsibility for its provision and for aviation safety. In addition, the government regulates capacity and noise related issues. LVNL has no shareholders. Capital investment is funded through bank loans, revenues are derived from terminal charges and en route

charges. Fees for air navigation service provision are proposed by the supervisory board and subject to approval by the Ministry of Transport.

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