



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

Agenda Item 1.3: Consultation with users

CONSULTATION WITH USERS

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

SUMMARY

This paper seeks to inform the Conference of the need to further strengthen the policies on consultation with users. Although existing ICAO's material is already strong, users still experience a complete lack of consultation and transparency in many States in the world. States can make a difference by endorsing the ICAO Secretariat's WP/6 and implementing its recommendations into national legislation or economic regulation.

Action by the Conference is in paragraph 5.

1. INTRODUCTION

1.1 Airlines, operators and eventually their passengers are among those that are mostly affected by aviation policy changes and investment plans by airports, air navigation service providers (ANSPs) and governments. Airport and air navigation services charges have a significant impact on airlines and passengers. There is evidence that the lack of effective communication between all stakeholders results in unnecessary and expensive investments, capacity or safety issues and cost increases for airlines and their passengers.

1.2 WP/6 submitted by the ICAO Secretariat contains a proposal on new guidance that is supported by the airline community; we however do feel there is a need for further strengthening of the text.

2. DISCUSSION

2.1 Airlines should be fully engaged in the decision-making process from an early stage and continue to be engaged throughout its development and implementation. Effective consultation with users should ensure that airlines and their associations will be involved in major policy decisions, capacity planning and investment plans.

2.2 Despite the existing ICAO's policies on consultation with users, airlines and their associations experience great difficulty in achieving even the most basic level of consultation with the service providers. A review of the consultation process with major service providers in 189 States showed in 78 of the reviewed situations that there was no consultation between users and service providers at all. This is 41 per cent of the reviewed service providers, a clear indication of the significant market power airports have.

2.3 With 68 of the reviewed service providers there was some form of consultation but it was not mandated by law or any other form of regulation.

2.4 States should ensure that user consultation is mandated through economic regulation, an independent economic regulator or national legislation to ensure that ICAO's policies are followed by, often independent, service providers.

2.5 Airports and ANSPs should provide their users with transparent data on their operational and financial performance. In most countries it is mandatory that companies comply with international accounting standards and publish annual reports, this should also apply to airports and ANSPs.

2.6 Investments should only be made when there is a clear business case supported by a thorough and positive cost benefit analysis on the impact on stakeholders.

2.7 All possible steps should be taken to reach consensus before proceeding with major changes. With proper involvement of the customer the chance of success for any major policy change or investment will be much higher as the change will become an integral part of the total air transport system.

2.8 When agreement cannot be reached, a decision should not be imposed. States should ensure that there is the ability to escalate any disagreement if there is no proper economic regulation available that would allow for legal review.

3. CONCLUSIONS

3.1 Despite the existence of ICAO's policies on consultation, experience shows that these are not applied in a large number of ICAO Contracting States.

3.2 ICAO's policies should be endorsed and actively supported by Contracting States.

3.3 It is essential that States adhere to the ICAO's policies through:

- a) economic regulation;
- b) an independent regulator;

- c) regulations that require consultation with users; and
- d) minimum transparency and accounting requirements.

4. PROPOSED AMENDMENTS OF POLICIES

4.1 We recommend the following changes to the proposed modifications by the ICAO Secretariat's WP/6, that will replace paragraphs 31-33 and 49-51 of *ICAO's Policies on Charges for Airports and Air Navigation Services* (Doc 9082); the replacements should be placed immediately after the existing paragraph 17 (shown in a track-change mode):

Consultation with users

Charges

xx. The Council emphasizes the importance of consultation with airport and air navigation services users before changes in charging systems or levels of charges are introduced. The purpose of consultation is to ensure that the provider gives adequate information to users relating to the proposed changes and gives proper consideration to the views of users and the effect the charges will have on them. The aim should be that, wherever possible, providers and users reach an agreement. Failing such agreement, the provider would continue to be free to impose the charges concerned, subject to users having the right of appeal to a body independent of the provider, ~~where applicable,~~ but the appeal process should be consistent with the form of economic oversight adopted in the State concerned. If there is not an appeal mechanism in place it is even more important that providers and users make every effort to reach an agreement on any changes in charging systems or levels of charges before they are introduced.

Airport and air navigation services planning

yy. The Council also considers it important that users or their representative organizations be consulted concerning capacity development and investment plans. The purpose of such consultation is to ensure that the developments concerned meet the needs of users, and ~~that users~~ these are aware of the ~~financial implication of the~~ resulting charges they would have to pay. Equally, in order that airport entities and providers of air navigation services may better plan their future financial requirements, users, particularly air carriers, should for their part provide advance planning data to individual airport entities and providers of air navigation services on a 5- to 10-year forecast basis relating to future types, characteristics and numbers of aircraft expected to be used, the anticipated growth of aircraft movements, passengers and cargo to be handled, and other relevant matters.

Permanent, regular consultation mechanism

~~zz. Where there are no provider/users cooperative arrangements in place that are acceptable to all parties concerned, the~~ The Council encourages States and their airport entities and providers of air navigation services to establish a permanent, regular consultation process with all user categories and/or their representative organizations operating at the airport or in the particular airspace. Specific procedures for effective consultation should be determined on a case-by-case basis taking into account the form

of economic oversight adopted in the State concerned. The procedures at individual airports and airspaces will also need to take into account the size and scale of the airport's and the provider of air navigation services' activities. Subject to these considerations, the Council recommends that (the same as WP/6)

First resort mechanism

xy. The Council considers (the same as WP/6)

5. ACTION BY THE CONFERENCE

5.1 The Conference is invited to:

- a) review and adopt the conclusions in paragraph 3; and
- b) review and endorse the modifications to the proposed amendments to Doc 9082 from WP/6, as provided in paragraph 4.

— END —