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## **ECONOMIC REGULATION OF AIRPORT CHARGES IN EUROPE AFTER DIRECTIVE 2009/12/EC**

**Abstract:** This paper is about situation on the Air Transport market, especially about economic regulation of airports. After Directive 2009/12/EC on airport charges, the EU advises to regulate airports, which annual traffic is over five million passenger movements and to the airport with the highest passenger movement in each Member State. Is this the right way?

**Keywords:** economic regulation, airport, airport charges, air transport market, directive

### **1. ECONOMIC REGULATION**

What does it mean economic regulation? Is it necessary? Stephen Littlechild (1983), who was father of price cap regulation said: “Regulation is essentially a means of preventing the worst excesses of monopoly; it is not a substitute for competition. It is a means of holding the fort until the competition arrives.”

### **2. SITUATION ON THE AIR TRANSPORT MARKET**

The Air Transport Market or airline industry is young but difficult. In this so short history, we can find many significant boundary stones as strong regulated market with strict tariff rates, liberalisation process, new kinds of airline companies and idea of regulation on deregulated market.

Everything depends on currently situation and policy. One hundred years ago civil aviation was dependent on state and government policy. In these days it is EU policy. European Union- European Parliament and Committee are working on the single market for air transport in EU not only for Member States, but for different countries of Europe too.

More than 500 bilateral agreements had been brought into conformity with EU law by mid-2007, covering nearly 100 partners countries. In June 2006 was signed an agreement establishing the European common aviation area. This agreement integrates partner countries in the south-east Europe (Albania, Bosnia and Herzegovina, Croatia, Serbia and so on...) into the single market. These countries are adopting EU air transport laws and regulations. In parallel, the air transport markets are gradually being liberalised. Next step, EU hopes to extend the common aviation area to include Ukraine. There is an emerging aviation market with high growth potential. In the end, all countries neighbouring the EU on both its eastern and southern borders are invited to be part of one aviation area. [1]

For many years, since the beginning of the 20-th century was Air Transport Market regulated. In the year 1986 started liberalisation process. In the air transport market, three successive deregulation packages agreed between 1987 and 1993 created the condition for opening up the competition in the European market. In particular, uniform criteria have been introduced for operating licences, full cabotage is now available, allowing airlines to fly and pick up passengers on any European route, and controls on fares have been removed. [2]

## **2.1. Privatization process on the airports**

Airports have traditionally been owned by states, national or local governments. Situation changed, when BAA plc. started with the privatization of the three airports in the London area (Heathrow, Gatwick, and Stansted) and four other airports in the UK in 1987.

Privatization is defined as the transfer of more than 50 percent of the ownership of a business from the public sector to the private sector. Privatization came to be seen like method of creating a private sector in economies where all enterprises had traditionally been in the hands of the state. Now is the era of full private ownership of airports, which is more effective. This put pressure on airports to get more efficient airport services. Airports have always been recognized as an essential component of the national aviation system, they were only considered as being a platform providing the necessary services to airlines operations, without having a specific role in the air transport market development. As a consequence, commercial activities were not much developed by airports. This explains why airports property was always publicly managed while commercial activities, when needed, were outsourced to private companies. [3]

Many other European airports have already been or are in the process of being privatized. The majority stakes of Vienna International Airport, Copenhagen Kastrup International Airport, Rome's Leonardo Da Vinci Airport and 49% of Schiphol Airport have been sold to private owners. Around the world were privatized many other airports as a large number of major Australian airports, Auckland International Airport and Wellington International Airport in New Zealand. Argentina, Mexico and many Asian countries and countries in South Africa, are also in the process of privatizing their airports.

In Slovak republic was preparing the privatisation process for Airport Bratislava, but after short time was cancelled. Airport Košice are since the 25-th of October 2006 in the hand of private owner- KSC Holding (Airport Vienna and Raiffeissen ZentralBank Gruppe) with 66% share of company and 34% share of company are still in state ownership represented by The Ministry of Transport, Posts and Telecommunications of Slovak republic.

### **3. ECONOMIC REGULATION OF AIRPORT CHARGES**

The basic idea of business is effort of achieving a profit. There has to be balance and suitability between the expenses and revenues. The fundamental cost items are staff costs, maintenance expenses, depreciation, amortization and impairment (operating expenses). The fundamental revenue items are airport taxes, parking fee, security fee, handling revenue, landing fee, financial revenue and other commercial revenues. But the airports are in special situation because of their localization. Many experts on airports economic declare that airports are nature monopolies. But is it true? The true is that, they are local or geographic monopolies. This position is very important. Competition from other airports is at best limited if not non-existent. Market power enables airports to raise their prices, and to extract rents from the customers. Therefore the rationale for regulating airports has seldom been questioned. Regulation aims at controlling costs and prices, and quality of services. The aeronautical services include runway facilities for aircraft landing and take off, terminal buildings for passenger traffic, technical services to the aircraft such as fueling and maintenance, and navigational services, etc. [4] The non-aeronautical services are concession revenues (rents- from banks, bars, parking cars...). For the past two decades, concession revenue has grown faster than aviation revenue; as a consequence, concession operations are now significant sources of revenues and profits for many major airports in the world. The same situation is on the Airport Košice, but Airport Bratislava has only small parts of the revenues from commercial activities.

Many airports are under price regulation in order to prevent them from abusing market power. The form of price regulation varies from country to country. We know regulation mechanism as price cap regulation, rate of return regulation, cost plus regulation, yardstick regulation, sliding scale regulation, default regulation and light- handed regulation.

The most famous and exploited in United Kingdom of Great Britain and Northern Ireland is price cap regulation. It is considered to be more convenient as it provides the regulated company with incentives to reduce costs.

Rate of return regulation was practised in Netherlands and on some airports in Germany like München and Berlin. This model is traditional for monopolies regulation. The aim is to prevent regulated entities from setting prices that are not related to costs. Thus a certain ROR is stated and prices can be increased when there is an increased in costs. The disadvantage of this model is that it provides no incentives to reduce the cost. But the advantage is that it ensures the prices are related to costs.

Light-handed regulation is named reserve regulation too. This approach means that the regulator is being involved in the price-setting process if the airport's market power is abused or if the company or customers cannot reach agreement. This is more a threat of regulation rather than actual regulation. [5] This type of regulation is typical for New

Zealand and Australia. The airports in Australia started with price cap and RoR regulation, but after 10 years they change their system on light-handed mechanism of regulation.

Very important and interesting are two approaches within the regulatory regime with regards to scope of regulated activities:

- single till approach
- dual till approach.

Single till is used when all airports activities and revenues are included in the regulatory pricing regime. This regime was traditionally accepted by ICAO (International Civil Aviation Organization) in its charging recommendations. The reason is that without aeronautical activities there will be no market for commercial activities. But the airport industry itself represented through ACI (Airports Council International Administration) argues that single till is less incentive to develop commercial operations to their full potential and preferred dual till, it means that just the aeronautical side of the airports operation is under the regulatory pricing regime.

### **3.1. Two views on Directive 2009/12/EC on airport charges**

The European Commission proposes to have a single regulatory system all over the EU, with an independent regulator in each country. In March 2009 the Directive of the European Parliament and of the Council on Airport Charges was issued. This Directive establish a common framework regulating the essential features of airports charges and the way they are set, as in the absence of such a framework, basic requirements in the relationship between airport managing bodies and airport users may not be met. Such a framework should be without prejudice to the possibility for a Member State to determine if and to what extent revenues from an airport's commercial activities may be taken into account in establishing airport charges. This Directive sets common principles for the levying of airport charges at Community airports. This Directive shall apply to any airport located in a territory subject to the Treaty and open to commercial traffic whose annual traffic is over five million passenger movements and to the airport with the highest passenger movement in each Member State. In addition, in a Member State where no airport reaches the minimum size for application Directive, the airports with the highest passenger movements enjoys such a privileged position as a point of entry to that Member State that it is necessary to apply this Directive to that airport in order to guarantee respect for certain basic principles in the relationship between the airport managing body and the airport users, in particular with regard to transparency of charges and non-discrimination among airport users. The ICAO Council has considered that an airport charge is a levy that is designed and applied specifically to recover the cost of providing facilities and services for civil aviation, while a tax is a levy that is designed to raise national or local government revenues which are generally not applied to civil aviation in their entirety or on a cost-specific basis. Airport charges should be non-discriminatory.

A compulsory procedure for regular consultation between airport managing bodies and airport users should be put in place with the possibility for either party to have recourse to an independent supervisory authority whenever a decision on airport charges or the modification of the charging system is contested by airport users. In order to ensure impartial decisions and the proper and effective application of this Directive, an

independent supervisory authority should be established in every Member State. Member States shall guarantee the independence of the independent supervisory authority by ensuring that it is legally distinct from and functionally independent of any airport managing body and air carrier.

It is vital for airport users to obtain from the airport managing body, on a regular basis, information on how and on what basis airport charges are calculated. Such transparency would provide air carriers with an insight into the costs incurred by the airport and the productivity of an airport's investments. To allow an airport managing body to properly assess the requirements with regard to future investments, the airport users should be required to share all their operational forecasts, development projects and specific demands and suggestions with the airport managing body on a timely basis. Member States shall take the necessary measures to allow the airport managing body to vary the quality and scope of particular airport services, terminals or parts of terminals, with the aim of providing tailored services or a dedicated terminal or part of a terminal. The level of airport charges may be differentiated according to the quality and scope of such services and their costs or any other objective and transparent justification.

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 March 2011.[6]

But the second view on this situation is completely different. In last decade the economists have been rethinking the economic regulation of airports. Studies on country-specific options and experiences include Forsyth (1997, 2002a, b), Beesley (1999), Kunz and Niemeier (2000), Starkie and Yarrow (2000), Starkie (2001), Tretheway (2001), and Gillen and Morrison (2001). Beesley (1999) argues that the price cap regulation is inappropriate in the case of Heathrow. Tretheway (2001) points out that the ROR regulation tends to be complex, unresponsive and expensive to administer. Kunz and Niemeier (2000) argue that the cost-based ROR regulation used in Germany is inefficient and results in the misallocation of resources. Starkie (2001) further concludes that ex-ante regulation for airports might be unnecessary because the airports are unlikely to abuse their monopoly power due to the existence of a complementarity between the demand for aviation services and the demand for concession services.

#### **4. CONCLUSION**

So which view is better? Who is on the right way? Now in Slovakia, we have big problem, because the Directive order to regulate Airport Bratislava like the biggest airport in Slovakia, but experts on economic regulation think that is unnecessary, because this airport is not local monopoly and close to this airport (only 60 kms by highway) is Airport Vienna. So what we can do? We have to respect principles of EU and its Directive, this airport has to have airport charges very low, because it wants to compete Airport Vienna. The complicated administration, which is very expensive can be the end for it. For this type of airports is enough soft regulation- light- handed regulation. I hope, that we can apply it and haven't to implement hard regulation (Price cap or RoR).

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