

**55th CONFERENCE OF
DIRECTORS GENERAL OF CIVIL AVIATION
ASIA AND PACIFIC REGIONS**

*Denarau Island, Nadi, Fiji
22 — 26 October 2018*

**AGENDA ITEM 6: ECONOMIC DEVELOPMENT OF
AIR TRANSPORT**

**RECOMMENDED PRACTICES ON TRANSPARENCY AND
CONSULTATION WITH AIRLINES IN SETTING AIRPORT
CHARGES**

Presented by the Airports Council International

SUMMARY

Transparency and consultation with users are fundamental principles embodied in the ICAO's Policies on Charges for Airports and Air Navigation Services (Doc 9082). As such, airport operators are committed to ensuring the right level of transparency when charges are set, carrying out consultations with aircraft operators in a structured and meaningful way and build the right level of trust with all stakeholders. ACI elaborated its position and provided its view on the process of consultation as well as the right level of transparency when consulting users in its Recommended Practices on Transparency and Consultation with Airlines released in 2017.

REFERENCES

ACI's Technical Guidance Document: Recommended Practices on Transparency and Consultations with Airlines on Setting Airport Charges (2017).

RECOMMENDED PRACTICES ON TRANSPARENCY AND CONSULTATION WITH AIRLINES IN SETTING AIRPORT CHARGES

1. INTRODUCTION

1.1 The economic sustainability of the airport industry is dependent on the capacity of airports to recover their aeronautical costs from the users, in line with national legislation and ICAO's Policies on Charges (Doc 9082). As such, airport operators are committed to ensuring the right level of transparency when charges are set and to carrying out consultations with aircraft operator in a structured and meaningful way.

1.2 With the objective of giving airport operators guidance in optimizing their results in effective charges consultation with their airline customers, ACI jointly with its members developed guidelines on transparency and consultation with airlines in 2017, structured around five sections:

- a) Defining and clarifying consultation;
- b) Describing the key elements of the consultation process;
- c) Discussing the right level of transparency when consulting users;
- d) Highlighting the importance of providing the costs base for charges for airport systems and networks; and
- e) Providing guidelines on large capital expenditure, about which airport operators should share information.

2. DEFINITION

2.1 Consultation is not synonymous with negotiation. The aim of a consultation is to reach a consensus with users on airport charges whenever possible. However, there is no legal obligation to enter into agreement with airlines, and airport operators are always entitled to introduce charges even without agreement. Rather, the airport should always retain its autonomy to set charges, considering, to the maximum extent possible, feedback provided by airlines.

2.2 Despite being a positive commercial practice to ensure transparency, in no instances should airport operators be expected to disclose information that might impair either their competitive effectiveness or their freedom to set and meet their strategic objectives.

3. CONSULTATION ON AIRPORT CHARGES

3.1 Consultation process should consider the following factors:

- a) Timeline. A clear timeline should be provided with sufficient notice to airlines, outlining all the relevant dates.
- b) Eligibility to participate in the consultation. All airlines operating at the airport have the responsibility to engage actively and constructively in the consultation process. Participation of the representative bodies for airlines (Airline Operators Committee, Board of Airlines Representatives, regional, national or international airlines associations) as well as any other representatives subject to providing a mandate to act on behalf of and account to the specific airline(s) they represent.
- c) Language and minutes of the meeting.
- d) Appeal mechanisms.

4. TRANSPARENCY FOR CONSULTATION

4.1 The degree of transparency should be proportionate to the market power and the market situation of the airport.

4.2 Transparency applies equally to both airport operators and users, who should both be committed to provide relevant information in the consultation.

5. CAPITAL EXPENDITURE AND NEW INFRASTRUCTURE

5.1 Airports should share information with airlines about the largest capital expenditure financed by airport charges for new facilities and/or higher quality of service, new capacity creation or compliance with new regulatory provisions.

6. ACTION BY THE CONFERENCE

6.1 The Conference is invited to:

- a) Take account in their deliberations of the ACI's position on transparency and consultation contained in this paper;
- b) Note ACI's technical guidance document on transparency and consultation with airlines presented in the Appendix to this paper.

— END —

[\[Appendix: Recommended Practice document\]](#)

RECOMMENDED PRACTICES ON TRANSPARENCY AND CONSULTATIONS WITH AIRLINES ON SETTING AIRPORT CHARGES



Airports have become businesses in their own right. In an increasingly competitive environment which drives airports to sophisticate their services to the airlines and their end-users, the passengers, it is essential to build the right trust between airports and airlines, by ensuring the right level of transparency and that consultations are carried out in setting charges and capital planning in a structured and meaningful way.

Adequate airport infrastructure is a core enabler of air connectivity, passenger service quality and social and economic growth. As per the “user pays principle” this needs to be paid for via airport charges. It is therefore essential that airport charges properly reflect market

realities and deliver on the longer-term needs of the ultimate end-users. Any regulatory framework must facilitate and incentivise airport investors to continue to finance airport investments.

This document is meant to provide recommendations on the process for consultation between airports and airlines. Transparency, as it relates to consultation, is also addressed. However, this guide should not be used as limitation or constraint for airport operators and/or States to apply their own methodologies when circumstances, regulation, or other factors recommend it.

CAVEATS

▲ Airports Council International (ACI) World recommended practices on transparency and consultation aim at providing guidance of global relevance on setting airport charges. Specific local legislation, practices or established charges settlement systems override or make non-applicable certain elements of these practices in certain jurisdictions. Many factors will indeed affect the applicability of certain information for a given consultation, for instance the charges methodology in place, the size of airport and number of staff available to compile and prepare analytical material, the availability of airline inputs, and various laws and regulations on budget and financial presentation. These differences should always be taken into account and the complexity of consultation processes should be proportionate to the factors above-mentioned.



▲ As the ACI World recommended practices are meant to be aspirational and not prescriptive, they are not meant to be exhaustive and in no instances, they are supposed to replace the International Civil Aviation Organization's (ICAO) policies¹ and national requirements, whenever applied.

▲ Airport competition has now become an established reality in some important aviation markets. As a result of the significant competitive pressures for the airport industry overall, regulatory frameworks on airport charges should be light-touch and proportionate. Their relevance should be assessed through sound market power test.

▲ A proportionate regulatory framework, if needed, should facilitate and incentivize commercial agreements between airports and airlines in a flexible manner, rather than burdening stakeholders with unnecessary strict rules and procedures.

▲ Commercial dynamics can limit or neutralize regulatory risk by enabling sound agreements with users, and therefore reduce financing costs and potentially limit the level of borrowing required to finance airport projects. It is a false argument to think that a commercial agreement is by default discriminatory against the airlines which have not subscribed to it, as long as this agreement is open to all potential customers according to the infrastructure available. Commercial agreements are normally set in the interest of all parties with a multiannual horizon.

▲ Whenever a multi-year agreement is signed in consultation with users, annual consultation may not be necessary or should be structured in a way to be economically viable for the airport operator.

The point above is particularly appropriate for small airports that are used to entering in simple commercial arrangements with airlines, being exposed to the dominant market power of airlines.

It has been proven² that more intrusive regulatory intervention has led to dramatic spikes in charges at airports in Europe over the past decade. In addition to increasing both risks and costs, intrusive regulatory interventions further undermine airport-airline relations.

▲ Consultation is not synonymous of negotiation. The aim of a consultation is to reach a consensus with users on airport charges whenever possible. However, there is no legal obligation to enter into agreement with airlines and airport operators are always entitled to introduce charges even without agreement. Rather, the airport should always retain its autonomy to set charges, taking into account, to the maximum extent possible, feedback provided by airlines.

¹ ICAO's Policies on Charges (Doc 9082) and on Taxes (Doc 8632) refer

² Section 3 of ACI EUROPE Analysis Paper "Leveraging Airport Investment to Drive the EU's Aviation Strategy" refers.

▲ Striking the balance between the multiple and diversified requests of airlines customers and aligning these with the airport's strategic, commercial and operational objectives to offer an adequate service to passengers and airlines is often a challenge. Therefore, it is theoretically misleading to think that an airport operator can always meet all the requests of all the airlines at the same time.

▲ With particular reference to new infrastructure, consultation with users is essential as much as the final decision on capital expenditures are to remain with the airport operator:

- To ensure consistency with a long-term investment strategy;
- To overcome potential conflicting needs at an individual airport;

- To preserve the interest of the travelling public; and
- To ensure that the benefits delivered to new entrants not using the current infrastructure are duly considered.

▲ Despite being a positive commercial practice to ensure transparency, in no instances airport operators should be expected to disclose information that might impair either their competitive effectiveness or their freedom to set and meet their strategic objectives.

▲ Reciprocity is a key enabler for successful consultations: both airport operators and their users should be committed to share relevant information to each others.

CONSULTATION ON AIRPORT CHARGES

Timeline

▲ A clear timeline should be provided with sufficient notice to airlines, outlining the number and date of the meetings, as well as planned dates for the distribution of the supporting documentation.

▲ The exact length and number of meetings should be defined at the local level. In general, one round of consultation should be sufficient.

▲ Depending on local circumstances, it may be more appropriate to circulate supporting documentation either in advance of a formal consultation meeting, or else at the start of a consultation meeting itself, to ensure that the material can be fully explained and set in its proper context.

▲ Where it is decided to provide documentation at the start of the meeting, sufficient time should be provided to users to review information and provide, if any, written comments.

▲ Proposal of airport charges levels should be submitted reasonably ahead of the implementation

of change in charges. Final decision should be taken in advance of the entering into force of the change. An explanation should be provided for the airport's decisions on key comments raised by the airlines.

▲ The airport operator may decide to set additional meetings, especially in case of substantial divergence between the original proposal and the final one, but always within the timeline set at the local level.

Eligibility to participate in the consultation

▲ All airlines operating at the airport have the responsibility to engage actively and constructively in the consultation process, including by providing the airport operator with the information it needs to develop its proposal (traffic forecasts, operational needs, etc.).

▲ Associations of airlines (e.g., Airline Operators Committee, Board of Airlines Representatives, regional, national or international airlines associations) should be allowed to participate subject to providing a mandate to act on behalf of and on account on the specific airline(s) they represent.

▲ ACI and other relevant associations may be participating to the consultation when invited by the airport operator.

▲ When there are different views between the airport and the users, and between the users themselves, these should be recorded in the minutes of the meeting.

▲ All consultation meetings should be chaired by a representative of the airport operator.

▲ In some regional or local contexts, regulators or supervisory authorities may also attend as observers.

Language and minutes of the meeting

▲ Consultation meetings and documents should be in the national language, or English if accepted by the parties. If English is not the national language, the key issues of the consultation may be translated in English for information.

▲ Minutes should be taken and distributed by the airport operator.

Appeal

▲ Appeals should be justified with coherent arguments, substantiated by evidence, and lodged within a defined timeframe.

▲ Appeals should be related to items specifically raised during the meetings and reported in the minutes.

▲ Only airlines participating to the consultations should be entitled to appeal, provided that airline delegates lodging an appeal hold an express power of attorney or are duly mandated to act on behalf of and on account on their company.

▲ Associations of airlines, whenever appealing, are required to provide a mandate specifying exactly which airlines they represent in the appeal.

▲ Regulatory authorities should provide a clear and reasonable timeframe for appealing the airport operator's decision.

▲ In no circumstance the appeal should suspend the entry into force of the airport's scheme of charges.

TRANSPARENCY FOR CONSULTATION

▲ The degree of transparency should be proportionate to the market power and the market situation of the airport.

▲ Transparency applies equally to both airport operators and users, who should be both committed to provide relevant information in the consultation.

Information provided by the airlines

▲ Airport users' business plans, regardless of their time horizon, are of significant importance to the airport operator for planning purposes. Users' traffic forecasts and operational requirements are a prerequisite for airports to refine traffic forecasting analysis and analyses on services, facilities and equipment costs.

▲ Airport users are required to submit information to the airport operator before every consultation, concerning in particular:

- Forecasts as regards traffic;
- Forecasts as to the composition and envisaged use of their fleet;
- Operational plans which may affect charges and airport development plans particularly during the planning phase of major new capital projects at the airport concerned; and
- Needs and requirements, particularly with respect to terminal and runway capacity and aircraft parking infrastructure.

▲ Information provided by airlines will be treated confidentially by the airport operator.

Information provided by the airport operator³

- ▲ General elements and information:
 - Background information;
 - Description of facilities and services covered by the proposed airport charges;
 - Till model applied, whenever applicable; and
 - Methodology for determining charges, whenever applicable.

▲ Historic information versus planning and forecast information for current and forecast year related to the following items:

Traffic:

- Historic traffic information;
- Traffic forecast for the current year; and
- Additionally, details on significant deviations from previous traffic forecasts already provided may be presented.

Operating costs:

- Headline figures on key categories (e.g., staff, maintenance, utilities etc.) of operating costs:
- Information on costs related to the current year. The airport operator may decide to include figures related to the previous year(s) and to future years, unless differently required by law; and
- Main drivers of cost changes (e.g., staffing levels, regulatory requirements, service levels changes, etc.).

Capital costs (information on derivation of any capital charges in line with regulatory requirements):

- Depreciation of assets; and
- When applicable and relevant, Weighted Average Cost of Capital and Regulated Asset Base.

Revenue:

- General overview of aeronautical revenue related to the current year; and
- Commercial revenue shared with the users in the aeronautical till, when relevant.

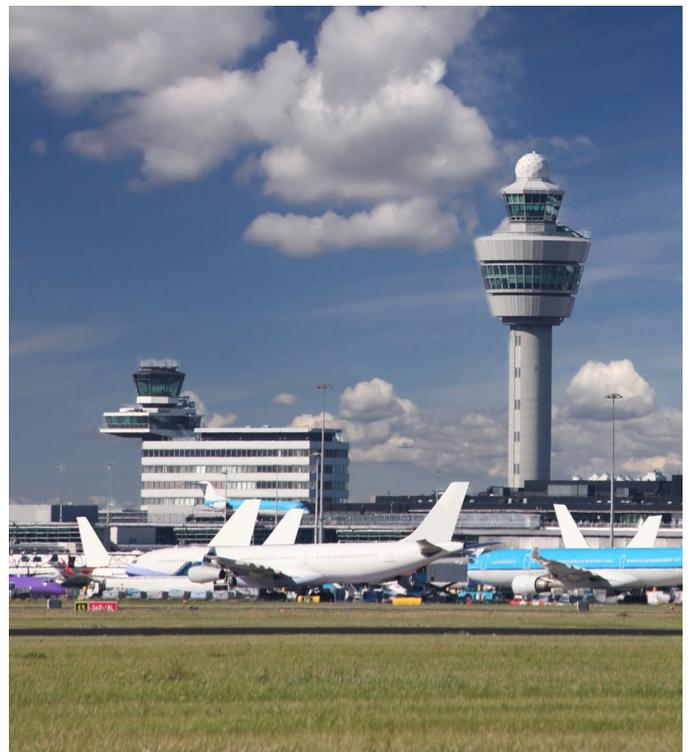
Relevant financial performance indicators:

- The airport operator may decide to include figures related to the previous year(s) and to future years.

Major performance improvements (despite not required) in terms of cost savings measures (e.g., staff increased productivity, operational improvements at runway or terminal level, etc.) may incentivize a genuine engagement in the consultation process.

▲ Justification for changes in the level and structure of charges.

▲ The airport should provide the economic, financial and/or legal justification for changes in charges and/or the methodology used to determine charges in a written form, including a general overview of relevant issues facing the airport, significant events changing the assumptions made in the prior year(s) and explanations of significant variances.



³ or in some specific cases, a regulatory body or competent authority.

AIRPORT NETWORKS AND AIRPORT SYSTEMS

▲ The airport operator designated to manage several airports in the same country or conurbation should provide the overall costs and the breakdown of aeronautical revenues for the main airport belonging to the network or to the system, as long as it is required by relevant legislative frameworks and local circumstances.

CAPITAL EXPENDITURE AND NEW INFRASTRUCTURE

▲ Airports should share information with airlines about largest capital expenditure financed by airport charges for new facilities and/or for higher quality, additional capacity creation or for compliance with new regulatory provisions, in advance of a final decision on the expenditure.

▲ This could be done during the normal process of consultation on airport charges described above or in a separate meeting.

▲ When presented with capital projects, airlines should be made aware of the effect they may have on charges.

LEVEL OF SERVICE

▲ Consultations may be additionally supported by information on the service quality levels whenever airlines and the airport have successfully concluded Service Level Agreements.

▲ It is for the individual airport operator, in consultation with the airlines, to determine locally on the value threshold of projects requiring consultation, unless already set in the national legislation.

▲ The Airport Master Plan can be presented to participants in the consultation meetings to provide the context for individual capital investment projects. However, the Airport Master Plan cannot be subject to the airport charges consultation process itself. Consultation with users on the Master Plan are relevant only in the stages where the plan is conceived or updated.

