

# Evaluation of Directive 2009/12/EC on airport charges

## Final Report

Report

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## DISCLAIMER

Our work has been performed and this report has been produced for the European Commission for use in relation to its study into the Mid-term evaluation of Directive 2009/12/EC.

This analysis is based on data supplied by our client/collected by third parties. This has been checked whenever possible; however Steer Davies Gleave cannot guarantee the accuracy of such data and accepts no liability to third parties for any inaccuracies.

## Executive Summary

### *Context*

1. The air transport market in Europe has undergone many significant changes since the progressive implementation of the single aviation market began in 1992. Airports have an important role to play in the development of the market. Their charges account for a significant proportion of airlines' costs and airport services are an increasingly important part of the airline offer as the airlines continue to differentiate themselves through the level of service they provide to passengers.
2. With the advent of deregulation driving fundamental changes in the structure of the airline industry and the development of different airline business models, alongside the change in ownership models for European airports: different approaches to regulation of service quality and charges have developed.
3. Furthermore the airport ownership model is becoming increasingly diverse as private sector management, financing and ownership become more prevalent. Competition between airports has increased with the liberalisation of the air transport market in Europe, but it is patchy and often airports hold considerable market power in all or some of their market segments. Accordingly some form of regulation is often needed to protect users from potential abuse of market power.
4. This combination of the airlines' increased need for differentiated levels of service, and for market protection led the European Parliament and Council to adopt Directive 2009/12/EC on airport charges in March 2009. The Directive was to be transposed by Member States by March 2011.
5. The Directive includes obligations on Member States to:
  - Allow airport managers to offer differentiated services to airlines;
  - To ensure airport managers increase transparency in their justification of charges, consult with their airline customers on charges, levels of service and infrastructures investment;
  - To ensure that airport users (i.e. airlines) supply planning data to airports; and
  - To establish independent supervisory authorities.
6. The objective of the Directive was to establish a common framework regulating the essential features of airport charges and the way they are set, applying to the busiest airport in every EU country and all airports with more than 5 million annual passengers. Key features of the framework include:
  - Non-discrimination (Article 3) between airport users, although allowing for charges to reflect environmental and general policy objectives;
  - Common and transparent charging systems across airport networks (Article 4), and across airports serving the same city or conurbation (Article 5);
  - Regular consultation of airport users by airport managers (Article 6) on the operation of the system of charges, the level of charges and quality of service; and the right to seek the intervention of the Member State's Independent Supervisory Authority (ISA), with exceptions;
  - Transparency by the airport manager over the basis for setting charges (Article 7) including requirements for information flow to and from the airport users;

- Consultation of airport users on plans for new infrastructure (Article 8);
- The agreement of quality standards through consultation between the airport managers and the joint airport users at the airport (Article 9);
- Flexibility to allow airport managers to offer differentiated services to airlines (Article 10); and
- The establishment of national independent supervisory authorities to ensure the correct application of the Directive's measures (Article 11).

### *Objectives and methodology*

7. Steer Davies Gleave was appointed in January 2013 to conduct a mid-term evaluation of Directive 2009/12/EC on Airport Charges. The objectives of this evaluation were described by the Terms of Reference as to:
  - Collect data and examine a series of questions that will allow the Commission to evaluate progress made in attaining the objectives of the Directive; and
  - Where appropriate, make any suitable proposal for a revision of the Directive.
8. The methodology developed for the study was based upon:
  - **An empirical analysis:** we collected and analysed published data, to ascertain whether there had been a change in airports' charging practices following the implementation of the Directive; and
  - **A programme of stakeholder engagement:** we ascertained which elements of the framework have been implemented and we obtained stakeholders' views on the Directive. Stakeholders included Member States, airports and airline users.

### *Findings*

9. The main achievements of the Directive have so far included improved consultation processes and greater transparency of information. Airlines, airports and Member States value the clarity provided by Article 7 of the Directive. The flexibility in the type and characteristics of the regulatory framework provided to Member States by the Directive is also valued. However, other impacts of the transposition of the Directive have been, for the time being, limited. The increased number of appeals by airlines shows that consultation has not always led to agreement. Whilst better and more transparent consultation is a "step in the right direction" for airlines, they want more and are keen for their views to be heard, not just listened to. On the other hand, airports feel that airlines have not provided the information and type of engagement required of them under the Directive and believe that this needs improvement.
10. There appears to have been little material impact of the Directive on the structure and level of airport charges. Although stakeholders welcomed clarification regarding the non-discrimination of charges between users, which resulted in greater transparency of differentiation and modulation of services. Whether this is as a direct result of the Directive or driven by a general trend for airports' services being offered "à la carte" is difficult to prove. Airline users have pointed out that there remains some discriminatory practices across the EU with the legacy airlines in generally highlight issues such as "access to low-cost facilities" and low-cost airlines highlight issues

- relating to transfer passenger discounts or greater application of passenger-related charges rather than aircraft-related ones.
11. The Directive 2009/12/EC was written using the ICAO principles and has the benefit of enshrining these into EU law. However the principle of cost-relatedness is only mentioned in the preamble of the Directive, and cannot be found in any Article. This has led to confusion and should be addressed. The Directive also allows airport networks to operate across the EU with a common charging system, enabling cross-subsidisation across airports in a network: which appears in contradiction with the principle of cost relatedness.
  12. Two years since the expiry of the time period allowed for the transposition of the Directive into national law, significant issues and gaps remain at a Member State level, particularly in the countries constituting some of the largest aviation markets in the EU. Whilst the Netherlands and the UK have been repeatedly quoted as “best in class”, but not beyond improvement, with independent and strong Independent Supervisory Authorities (ISAs) and regulatory frameworks, the situation in Spain and Italy is problematic, and inconsistent with the general policy objectives of ICAO and the Directive. In Germany, it is difficult to understand how the multitude of Lander based ISAs can be the best approach to establish a common framework to benefit airline users and their passengers. These shortcomings in the implementation of the Directive raise the question as to whether or not the introduction of the Directive has been for the benefit of its user airlines, but also ultimately their passengers.
  13. Competition across European airports has changed significantly since the adoption of the Directive, certainly becoming stronger especially in the light of tough economic conditions and, reduced traffic growth, and regulatory intervention including the forced separate ownership of the three main London airports. Ideally the Directive should consider the competitive pressures in order to assess which airports should be subject to economic regulation rather than the current blanket threshold of 5 million passengers per annum and the largest airport in each Member State. However, this requires ISAs to be independent and able and willing to carry out market power tests (as is already the case in two Member States). In practice, reviewing the current organisational and resourcing levels of the ISAs, this does not seem possible. Lowering the threshold to 3 or even 1 million passengers per annum may be fairer than what is currently in use, and some airlines have encouraged this change, however it would create a significant administrative burden upon small and medium airports and on Member States for oversight activities without contributing to addressing better compliance with the Directive and the current airports in scope. Therefore we recommend that the threshold remains as currently drafted.
  14. Additionally the ISA oversight and associated safeguards, provided for by the Directive, have been slow to be fully implemented in Member States where they did not already exist for other reasons. Furthermore, appeals procedures are not always possible when airport charges are set in the law or in concession agreements and where Member States have transposed Article 6 (5) appeals to challenge ISA decisions are not always available.
  15. Pre-Directive, there were wide differences in airport charges regulation across the EU Member States. This appears to remain the case, and we have found no trend towards a reduction of these differences, with Member States continuing to operate within their national regulatory environment. Even though it is expected that EU-wide, ISAs are all facing similar issues, we have not been made aware of any exchange of best practices or

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joint approaches. It appears that no Member State has made use of the provisions of Article 11 (2) allowing for the delegation of regulatory responsibilities to ISAs located in other Member States.

16. Overall the Directive has had little impact on changing the views of stakeholders which remain close to those that were expressed in the pre-legislative process. Airports advocate less, no, or self-regulation, while airlines advocate more regulation.
17. Airport capacity issues in Europe are frequent and will require increased investment. With no specific rules in the Directive except to a reference to ICAO principles (which are themselves vague), pre-financing of new infrastructure remains a source of contention between airports and airlines as it is not specifically forbidden in all Member States but the Netherlands and Portugal.
18. A positive point has been the generally low impact of higher administrative requirements: we have not been told that the implementation of the Directive resulted in increased administrative burden for Member States or airports.
19. Finally, it appears that it is still frequently difficult or impossible as well as potentially expensive for passengers to obtain reimbursement of the airport charges levied for their planned use of airport facilities in the case when they do not finally travel.

### *Recommendations*

#### *Consultation*

20. All airlines and their representatives (including AOCs, User Committees and trade associations) should be invited to attend stakeholder consultation, not just selected or a limited number of their representatives.
21. In order to improve transparency so that users can understand the basis for charges, there should be an increased level of granularity to the information provided.
22. Aviation is by its nature international, especially within the EU. Consultation should be held in English, so that the information is available to all stakeholders in the most transparent manner. At the suggestion of an airline stakeholder, at the very least, all consultation information should be provided in English as well as in the local language if requested by users or by law.
23. Airlines should have stronger incentives to provide meaningful information to airports as per Article 7 (2).

#### *Cost-relatedness and transparency*

24. Whilst an increase in the perceived level of transparency is one of the early successes of the Directive, some additional transparency requirements could be further improved for airport data in order to offer a higher degree of transparency and hold meaningful consultation processes. Information that could be considered in Article 7 (1) beyond the existing requirements may include:
  - a. Financial data: commercial revenues, information on the assumptions used, audited financial statements, productivity metrics;
  - b. Operational data: service levels, customer satisfaction;

- c. Planning data: master planning assumptions and business cases to support infrastructure development.

#### *Airport networks*

25. The concept of network charging systems is inconsistent with the principle that airport charges should be cost-related. Airports that are above the 5 million passengers' threshold should be separated (i.e. ring fenced) from any smaller ones and charges and proven cost-relatedness should be site-specific. This would potentially impact negatively in the short and medium term on the other airports of the network. The proposed revised guidelines on state aid rules by the European Commission, if adopted, would allow operating aid for a transitional period of 10 years under certain conditions in order to give airports time to adjust their business model. The path would depend on the financial situation of each airport. Additionally rules on state aid for investment in airport infrastructure could be revised to allow maximum permissible aid intensities depending on the size of an airport, as opposed to the eligible cost of a project as per current guidelines.

#### *Appeals*

26. It should be possible to appeal against decisions of ISAs in all Member States to an authority or a Court effectively independent from the ISA, the CAA or the Government. Poor or no appeal processes across Europe do not encourage price transparency and user consultation.
27. All airlines and all representatives should be able to appeal, and not just the dominant airlines at a given airport.
28. We believe that based on these requirements Article 7 (2) may need to be reviewed, the right to appeal should not be linked to attendance or engagement in the consultation especially in the light of a lack of common consultation procedures across European airports. However a reasonable deadline to appeal could be introduced and allowing pricing decisions to go ahead in the presence of an appeal considered in order to stop airlines appealing as a way to slow down or postpone the charge increase process.

#### *Independent supervisory authority*

29. The Italian Independent Supervisory Authority should be appointed immediately.
30. ISAs should be more proactive in ensuring that all parties fulfil their consultation requirements for provision of information and providing adequate time for consultation responses.
31. The ISAs should be encouraged to attend consultation meetings where possible and obtain information from all parties on a regular basis, and not just in the case of a dispute.
32. Perceived lack of independence of the regulators or appeal institutions undermines the Directive and it should be ensured that these are effectively independent.

33. An annual report of activity of ISAs should be issued as the activity of most ISAs started more than 18 months ago.
34. Regular meetings gathering all European ISAs should be taking place in order to identify best practices and ensure an adequate exchange of information.

### *Changes in economic regulation framework*

35. The Directive leaves total freedom to Member States on any forms of economic regulation and the tills basis used to set aeronautical charges. There are a variety of models in use in Europe that are all compatible with the Directive. The granting of concession agreements or introduction of a new aviation law has, in some cases, provided the opportunity for Member States to change the regulatory framework without proper user consultation.
36. The purpose of the Directive was never stated as prescribing consultation on a change to the regulatory framework but instead to increase transparency in airport charges, cost-efficient operations at airports and improved consultation procedures between airports and airport users. However it would seem an anomaly that the Directive only prescribes consultation requirements to airports with users and not to Member States with users where relevant.

### *Pre-financing of new infrastructure*

37. Member States should be made to explicitly state their rules on pre-financing of new infrastructure.
38. The need for additional airport capacity in Europe to be delivered in due course in some key locations should be recognised. Therefore we recommend no changes to the current pre-infrastructure rules.

### *Transposition*

39. There have been some significant gaps or delays in transposition of the Directive in some Member States. Legal reasons were sometimes used by Member States as an excuse not to implement some of the articles of the Directive (such as appeals in Sweden or drafting of concession agreements), however these loopholes should be rectified and all Articles of the Directive should be transposed in all Member States without delay.

# 1 Introduction

## Background

- 1.1 The air transport market in Europe has undergone many significant changes since the progressive implementation of the single aviation market began in 1992. Passenger traffic in the Euro Area has grown by an average +11% pa over 1999-2010<sup>1</sup>, stimulated by new airline business models, a wider choice of air services, and lower fares. Airports have an important role to play in the development of the market. Their charges account for a significant proportion of airlines' costs and airport services are an increasingly important part of the airline offer as the airlines continue to differentiate themselves through the level of service they provide to passengers.
- 1.2 With the advent of deregulation driving fundamental changes in the structure of the airline industry and the development of different airline business models, alongside the change in ownership models for European airports: different approaches to regulation of service quality and charges have developed.
- 1.3 Furthermore the airport ownership model is becoming increasingly diverse as private sector management, financing and ownership become more prevalent. Competition between airports has increased with the liberalisation of the air transport market in Europe, but it is patchy and often airports hold considerable market power in all or some of their market segments. Accordingly some form of regulation is often needed to protect users from potential abuse of market power.
- 1.4 This combination of the airlines' increased need for differentiated levels of service, and for market protection led the European Parliament and Council to adopt Directive 2009/12/EC on airport charges in March 2009. The Directive was to be transposed by Member States by March 2011.
- 1.5 The Directive includes obligations on Member States to:
  - Allow airport managers to offer differentiated services to airlines;
  - To ensure airport managers increase transparency in their justification of charges, consult with their airline customers on charges, levels of service and infrastructures investment;
  - To ensure that airport users (i.e. airlines) supply planning data to airports; and
  - To establish independent supervisory authorities.
- 1.6 The objective of the Directive was to establish a common framework regulating the essential features of airport charges and the way they are set, applying to the busiest airport in every EU country and all airports with more than 5 million annual passengers. Key features of the framework include:
  - Non-discrimination (Article 3) between airport users, although allowing for charges to reflect environmental and general policy objectives;

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<sup>1</sup> Eurostat, Air passenger transport by reporting country (avia\_paoc), accessed 5 October 2011

- Common and transparent charging systems across airport networks (Article 4), and across airports serving the same city or conurbation (Article 5);
- Regular consultation of airport users by airport managers (Article 6) on the operation of the system of charges, the level of charges and quality of service; and the right to seek the intervention of the Member State's Independent Supervisory Authority (ISA), with exceptions;
- Transparency by the airport manager over the basis for setting charges (Article 7) including requirements for information flow to and from the airport users;
- Consultation of airport users on plans for new infrastructure (Article 8);
- The agreement of quality standards through consultation between the airport managers and the joint airport users at the airport (Article 9);
- Flexibility to allow airport managers to offer differentiated services to airlines (Article 10); and
- The establishment of national independent supervisory authorities to ensure the correct application of the Directive's measures (Article 11).

### *A changing competitive landscape for airlines...*

- 1.7 The greatest revolution in airline business models in Europe has been the development of low cost airlines. Airlines operating this model want a basic, reliable service from their airports to facilitate the fast turnaround of their aircraft at low cost. They do not require elaborate passenger services at the airport and will tolerate basic gate lounges (with standing room only) and prefer access to aircraft across the apron (rather than using airbridges) as it allows two doors to be used for passenger embarkation and exit. They offer point-to-point services and therefore have no interest in transfer baggage facilities or transfer passenger services. Accordingly, they wish to reduce airport charges by minimising their use of airport services and facilities.
- 1.8 At the other extreme, the role of airline alliances (Star, oneworld, Skyteam) between full service carriers has increased in importance. Where previously the transfer market at an international airport was largely generated by the home carrier and its network and hub strategy, the major alliances now have a presence at national gateway airports. They seek a high standard of lounges to suit their commercially important passengers (CIPs), and efficient transfer baggage and passenger handling facilities and services.
- 1.9 This tension for different sets of services has largely been resolved in the past by airports adopting specialist roles to meet the needs of one market segment or the other. This approach has been supplemented by bilateral private negotiations between the airline and airport which has led to accusations of unequal treatment and a lack of transparency.
- 1.10 The Directive recognises that airports have to be more flexible as the 'one size fits all' model for airport charging is no longer relevant. Moreover, to ensure transparency, a 'menu-based' approach is appropriate where the service/price choices available for airlines are explicit and are not reliant on negotiation.

*...and airports too*

1.11 The proliferation of airlines and rapid market growth has also substantially changed the competitive landscape in which airports operate. Traditionally, airports were local monopolies, with specific roles as, say, national or regional gateways serving national carriers operating under rigid bi-lateral agreements. Competition between airports was largely limited to supporting their base airlines to attract transfer passengers.

1.12 Now competition between airports arises in several areas:

- Traffic growth means there is a higher level of demand, encouraging point-to-point services bypassing major hubs.
- Barriers to entry for new airlines are lowest on peripheral routes and at uncongested airports.
- Low cost airlines are prepared to compete in established markets by providing services to alternative airports, which may be some distance from the advertised destination.
- Low cost airlines have little loyalty to airports, and low levels of investment in facilities at airports, and can move routes and even airports where they base their aircraft overnight at short notice.
- Freedom of airline choice of routes, Intra-EU is facilitated by the EU aviation area, combined with airlines' ability to move aircraft discussed above this leads to uncertainties regarding longer term investment decisions.

1.13 This has shifted bargaining power towards the airlines. However, many larger airports still have a significant degree of market power, particularly where they serve major cities and where airlines have invested in facilities at the airport, and where there are capacity constraints as compared to demand for use of their facilities (i.e. they are slot co-ordinated through Regulation 95/93).

*Changing airport business models*

1.14 Through a combination of changing ownership models, or an increasing need to make a positive contribution to public sector finances, airports are ceasing to behave as public utilities, and more as commercial businesses, seeking to achieve a financial return for their owners. This change from a public service to a commercial ethos has given rise to a change in airports' typical business models, for example:

- Airports are under greater shareholder pressure to increase charges to be revenue-maximising.
- Airport managers seek to expand non-aviation sources of revenue, often putting pressure on operational space with the terminals.
- There is a greater incentive to "sweat" the airport's assets rather than build capacity in advance of demand.
- Airport managers are more likely to be customer-friendly and seek to meet airlines' needs cost-effectively, rather than provide under-used and under-valued services and facilities.

1.15 This means that there is a greater incentive for airlines and airports to work together to make sure that the airport owner's limited capital is prioritised and

that investments are focussed on the right areas and are timely. This requires effective consultation, good information flow and positive collaboration.

### The need for this study

- 1.16 The Directive also obliges the Commission to submit a report on its application to the Council by 15 March 2013. This report should assess progress made in attaining the Directive's objectives, as well as any proposals for a revision of the Directive.
- 1.17 This study will assist the Commission to fulfil this obligation by carrying out an evaluation on the application of the Directive.
- 1.18 To assess whether the Directive's objective has been met, the evaluation will need to answer the following questions:
- Have the obligations placed on Member States under the Directive been met? I.e. have they put in place the specified elements of the airport charging framework?
  - Have the implemented elements of the framework actually been used and have they been effective? I.e. is there greater transparency and flexibility in charging, does it meet airport users' needs and support public policy objectives? Has airport cost-reflectiveness increased, and has consultation with users improved?
  - Are the measures covered by the Directive necessary? If so, have they been cost-effective?

### The study

- 1.19 Steer Davies Gleave was appointed to conduct a mid-term evaluation of Directive 2009/12/EC on Airport Charges. The objectives of this evaluation were described by the Terms of Reference as to:
- Collect data and examine a series of questions that will allow the Commission to evaluate progress made in attaining the objectives of the Directive; and
  - Where appropriate, make any suitable proposal for a revision of the Directive.

### Structure of this document

- 1.20 The remainder of this document is structured as follows:
- Chapter 2 covers the specific objectives of the evaluation and its associated methodology;
  - Chapter 3 provides the analysis of the key issues highlighted in the Terms of Reference;
  - Chapter 4 provides the qualitative analysis of the Directive;
  - Chapter 5 presents a factual overview of the situation in the Member States; and
  - Chapter 6 presents our Conclusions and Recommendations.

## 2 Methodology

### Objectives

2.1 This section provides a summary of the research methodology used in the study. As presented in the Introduction, the objectives of the study were both qualitative and quantitative, which required us to undertake the study in two main parts:

- **Empirical analysis:** we collected and analysed published data, to ascertain whether there had been a change in airports' charging practices following the implementation of the Directive; and
- **Stakeholder engagement:** we ascertained which elements of the framework have been implemented and we obtained stakeholders' views on the Directive.

2.2 These tasks are described in more detail below.

### Empirical analysis

#### *Data collection and review of documentation*

2.3 We carried out desk research to collect relevant information from previous studies, and industry sources for reporting airport charges tariffs schedules and revenues collected.

2.4 The desk research allowed us:

- To identify data sources;
- To review the key issues highlighted by previous studies, their recommendations, as well as common themes in the legislation in order to be able to identify gaps and areas with a lack of clarity; and
- Understand the earlier views and opinions of the stakeholders.

2.5 The data we collected for the study, its sources and current status is provided in Table 2.1.

**TABLE 2.1 DATA SOURCES**

Source	Data	Status
DG MOVE	2006/2007 Impact assessment of proposed Airport Directive	Provided to SDG by DG MOVE
DG MOVE	Transposition into national law and English translation for 27 Member States	Provided to SDG by DG MOVE
DG MOVE	2006 Impact Assessment on the Proposal for a Directive on Airport Charges	Provided to SDG by DG MOVE
Industry	IATA Airport Charges Manual, October 2009 and August 2012	Collected by SDG
Industry	ATRS Airport Benchmarking Report, 2012	Collected by SDG
Industry	Airport Annual Reports (for year ending in 2009 and most recent report)	To be collected by SDG
Industry	ACI study on airport competition, 2012	Provided to SDG by DG

Source	Data	Status
		MOVE
Industry	An inventory of measures for internalising external costs in, 2012	Provided to SDG by DG MOVE
Industry	Comparing and Capping Airport Charges, study for the UK CAA, 2012	Collected by SDG
Eurostat	Airport passenger volumes	Collected by SDG
ICAO	Case Studies on Commercialization, Privatization and Economic Oversight of Airports and Air Navigation Services Providers, 2013	Collected by SDG

***Analysis of airport charges and airport reports***

- 2.6 The Terms of Reference asked a number of questions that we addressed through an analysis of published airport charges and revenue collected as reported in annual financial statements from airports.
- 2.7 The analysis of published airport charges was based on data from IATA Airport, Air Traffic Control and Fuel Charges Monitor (also referred to as “IATA airport charges manual” in the remainder of this document) for October 2009 and August 2012. It is a database of all aeronautical charges, including landing, lighting, aircraft parking, passenger service, security, terminal navigation, emissions, noise, overflight charges and taxation. Where this data was not sufficient or required clarification we obtained individual airport’s charges manuals directly from the airport management. For airports not included in the IATA manual, we requested directly from them a copy of their published airport charges. In some cases, the specific calculations of environmental or noise charges required detailed airline operational data not available to us. We asked the airports for this data.
- 2.8 There are a very large number of variations and possible combination of charges (winter/summer, on-peak, off peak, precise time of the day, aircraft on “bonus” lists, etc.). Therefore in order to provide results that are meaningful, we defined 4 representative airline-aircraft scenarios for the calculation of charges as outlined below:
- SCENARIO 1: A320-200 with a 45 minutes turn-around time, at a peak-hour, contact stand, passenger load factor of 70%, 20% transfer passengers, flight to the EU. This is to model costs for a legacy airline flying an EU short-haul flight;
  - SCENARIO 2: B777-200 with an early morning 3 hr. turnaround, contact stand, flight to the US, passenger load factor of 80%, 35% transfer passengers. This is to model a legacy airline flying long-haul;
  - SCENARIO 3: B737-800, 30 minutes turn-around day-time, summer, remote stand, flying to a EU country, passenger load factor of 85%, no transfer passengers. This is to model a LCC flight; and
  - SCENARIO 4: Bombardier Q400, 45 minutes turn-around at peak-hour, contact stand, domestic flight, 20% of transfer passengers. Pax load factor of 65%. This is to model a regional airline flight.

- 2.9 We also analysed annual financial accounting reports from airports or airport groups in order to answer questions about their cost-relatedness and the contribution that airport charges made to the airports' total revenues.
- 2.10 Please note that in the case of airport networks, it was sometimes not possible to obtain separate financial reports for each airport, and hence revenues were only available for the whole network. Financial reports for publicly owned or non-listed airports were not always available.

### Stakeholder consultation

- 2.11 In order to gain an understanding of any issues that had arisen with the implementation of the Directive, in agreement with the Commission we defined a programme of stakeholder consultation with the following objectives:
- Collect stakeholder views on the outcome and impact of the Regulation;
  - Discuss issues arising with the application of the legislation and any possible shortcomings, redundancies, overlaps, inefficiencies or inconsistencies;
  - Understand if an administrative burden was created by the introduction of the Regulation and the options to reduce it (if any);
  - Obtain information in order to answer the detailed questions of the Terms of Reference (from 1 to 25);
  - Collect stakeholder views on whether the Directive is still fit for purpose and any suggested amendments.
- 2.12 The consultation involved the following organisations:
- **Member States (MS)** on whom the Directive's primary obligation of setting up the regulatory framework is placed, and who have an obligation to cooperate with this evaluation process, "*particularly as regards the collection of information for the report*" (Article 12.2). The representatives of Member States may be found in Department for Transport policy departments as well as other government bodies including Civil Aviation Authorities (CAAs) and Independent Supervisory Authorities (ISAs).
  - **Airport managing bodies (AMB)** who have the responsibility of operating within the airport charges Directive framework. They will have views as to whether the framework has been properly set up by the Member States and whether it has influenced their behaviour.
  - **Airport users**, who are intended to be the prime beneficiaries of the Directive. They will have a valuable perspective on whether the framework is effective in achieving its objective and efficient in the use of airlines' resources.
- 2.13 The next section explains the choice of stakeholders within each category we consulted, and is followed by a summary of the process adopted when engaging with each organisation.

### *Stakeholder selection process*

- 2.14 In agreement with the Commission, Steer Davies Gleave decided to contact all 27 Member States. In some Member States the CAA is not the same entity as the Independent Supervisory Authority (ISA).
- 2.15 Based on 2011 air traffic data from Eurostat, we estimated that the Directive applied to 70 airports in the European Union Member States, and an additional 5 in States from the European Economic Area. A stakeholder engagement programme was defined with a sample of 31 airports, in addition to meeting ACI Europe “the voice of airports in Europe”, representing over 400 airports in 44 European countries.
- 2.16 The airport sample has the following characteristics:
- 10 are part of a network, whilst 20 are not;
  - The majority of airports are under public ownership whilst nearly half are managed by a private or public-private airport managing group;
  - At least 8 of these airports can be described as airports with an overwhelming majority of “low-cost” operations, 11 are “hub” airports and the rest operate a mix of services;
  - At 4 of these airports traffic was below 5 million passengers in 2011, with a third between 5-15 million and nearly 30% with more than 30 million passengers;
  - A majority of EU15 airports and 1 airport from a non-EU Member State.
- 2.17 The principles that drove the choice of airport managing bodies was:
- Selecting the largest European airports;
  - Selecting airports that serve the largest urban populations of Europe;
  - Some “low-cost” airports as there may be specific airport charging issues;
  - Some airports below the 5 million passengers per annum threshold to understand specific issues around the threshold level.
- 2.18 The airport users that were contacted consisted of the airline associations and the Airline Consultative Bodies also called Airline Operators Committee (AOCs) specifically located at each of the sample airports.
- 2.19 We also received a number of unsolicited responses from organisations which had taken an interest in the study. These comprised:
- Iberia;
  - easyJet; and
  - The German Airlines Association (BDF).

### *Questionnaires*

- 2.20 The questionnaires were designed in order to help understand:
- Opinions and views of stakeholders on the Directive;
  - How the implementation of the Directive took place and any changes in airport charges as a result of the Directive’s transposition into national law;
  - A factual assessment of the situation in each Member State;

- The establishment and practices of the Independent Supervisory Authority; and
  - Any suggested changes to the Directive.
- 2.21 A tailored questionnaire was developed for each of the four categories of respondents. Some questionnaires were further refined to address the precise circumstances of the respondents when we were aware of any particular issues before the questionnaire was sent. The respondents were given 4 weeks to provide their responses.
- 2.22 The questionnaires as issued to stakeholders are included for reference in Appendix A.
- 2.23 A list of stakeholders who participated in the study is presented in Appendix B.

### 3 Key Issues

#### Introduction

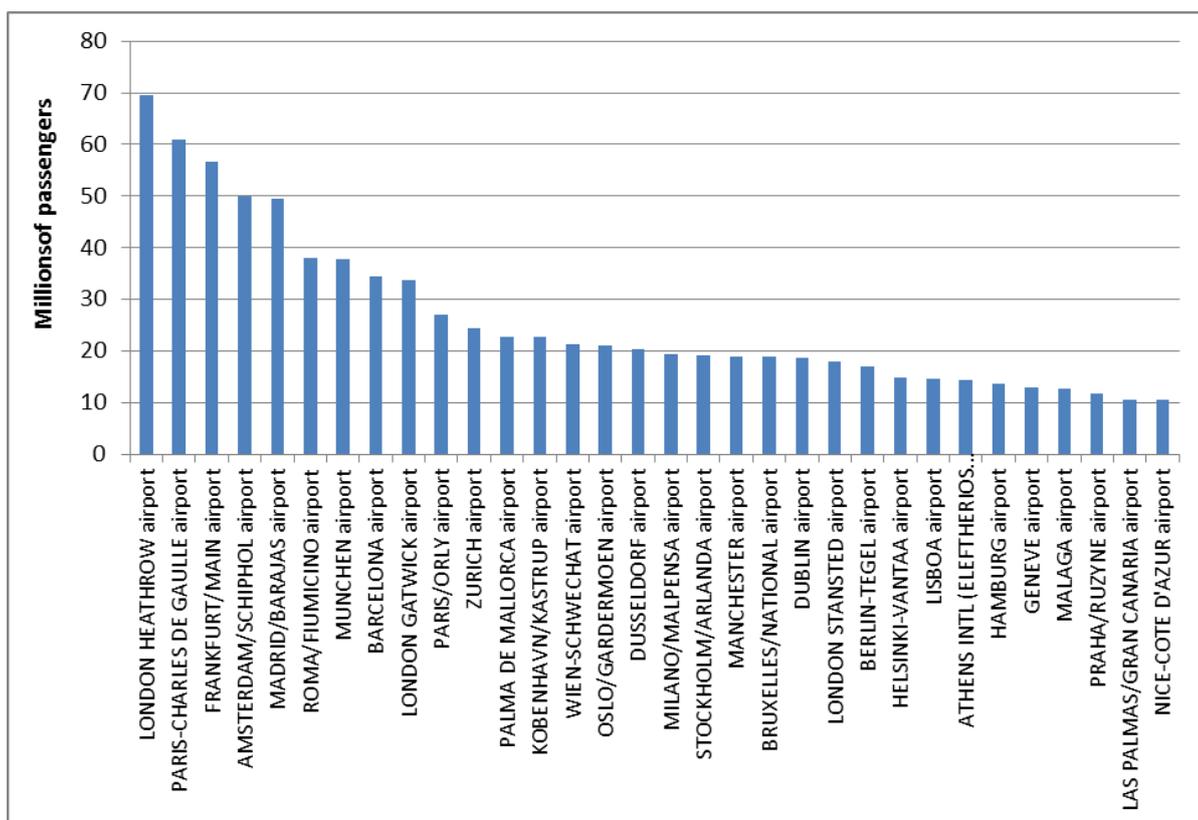
3.1 In this section we present our findings based on the analysis of published airport charges, analysis of airport annual financial reports and analysis of the stakeholder responses received by April 2013. We also assess progress made on achieving the objectives of the Directive, namely increased transparency in airport charges, cost-efficient operations at airports, inclusion of environmental and other public policy objectives in the airport charging system, and improved consultation procedure between airports and airport users.

#### Current overview and scope of the implementation of the Directive

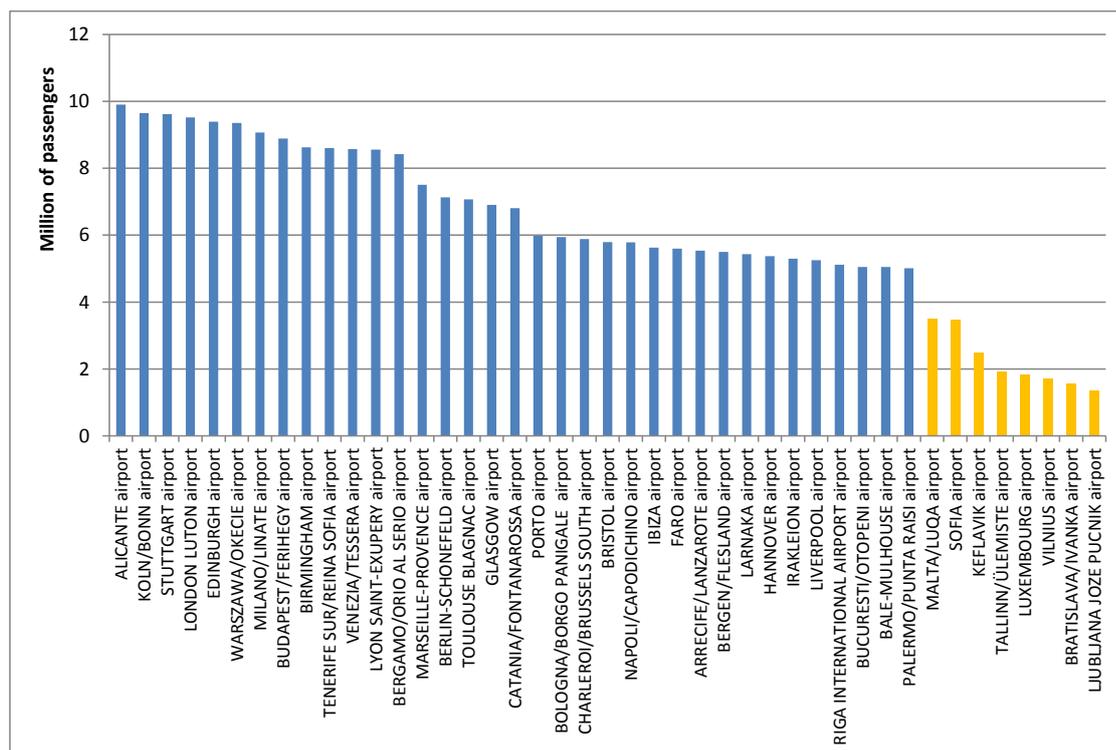
##### Number and type of airports covered by the Directive (Q1a)

3.2 Based on the latest full-year airport passenger data available from Eurostat (2011), we have estimated that 75 airports in Europe are in scope for the application of the Directive, 70 of these in EU Member States and another 5 in EEA/EFTA countries.

FIGURE 3.1 AIRPORTS IN SCOPE FOR THE DIRECTIVE (2011)<sup>2</sup>



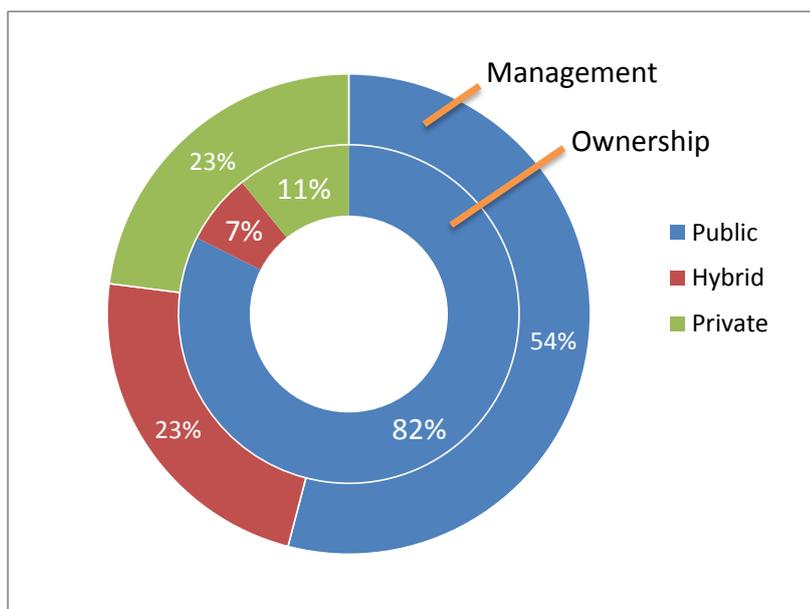
<sup>2</sup> Directive 2009/12 on airport charges has been incorporated into the EEA-Agreement by Decision No 64/2012 of 30 March 2012.



Source: Steer Davies Gleave analysis of Eurostat data for 2011 passenger traffic (latest available year for all airports). Figures in Chapter 5 come from airports' annual reports and refer to 2012 instead.

- 7 of these airports are under the 5 million passenger threshold, but qualify as being the largest airport in the Member State or EEA country (Malta, Sofia, Keflavik, Tallinn, Luxembourg, Vilnius, Bratislava and Ljubljana airports);
- Few of the airports above the 5 million threshold belong to New Member States: Prague, Warsaw, Budapest, Larnaka, Riga and Bucharest airports.
- 39% of these airports are part of an airport network and weighted on passenger traffic, 52% of the traffic is operated through airports that are part of a network;
- There are some differences in the ownership and management of the airports. Whilst more than three quarters of airports are under public ownership whether from central, regional or municipal government), around half are managed by the private sector or by consortium made of public and private owners. Airport charges and most other economic activities of the airports would be under the responsibility of the managers unless defined in agreements between the airport owners and airport managers. Ownership and management structure of the airport in scope for the Directive is illustrated below:

FIGURE 3.2 OWNERSHIP AND MANAGEMENT OF AIRPORTS IN SCOPE (2011)



Source: Steer Davies Gleave analysis of Eurostat data

**Airport charges in scope and not in scope**

- 3.3 There are a variety of charges that the industry incurs at airports across Europe. These include charges levied by airports for the use of their infrastructure as well as taxes and other charges collected by airports on behalf of public authorities and third party providers of terminal navigation (for Air Traffic Control services), fire rescue, security, safety, noise pollution abatement, ground handling, supervisory services etc.
- 3.4 The Directive does not apply to all these charges, but only to a subset which are described in the rest of this report as “in-scope” charges whilst other charges, fees or taxes are described as “not in-scope”.

TABLE 3.1 CHARGES IN SCOPE

In scope charges	Not in-scope charges, fees, taxes
Landing and take-off charge;	Passengers with Reduced Mobility charge (PRM);
Lighting and parking of aircraft charge;	Security charge;
Processing of passenger: passenger charge, boarding bridge charge, check-in charge, infrastructure charge;	Navigational aid charge (an Air Traffic Control Charge);
Processing of cargo: cargo charge;	Ground handling;
Noise charge and emission charges;	Baggage charges;
	Taxes; and
	Any other remaining charges

**Forms of economic regulation in use in Member States (TOR Q25)**

3.5 There are different forms of airport economic regulation in use in Europe. We present below a brief explanation of the different models taken from *The Regulation of Airports*<sup>3</sup>.

- I** Rate of return regulation (ROR) is a traditional form of utility regulation and involves allowing a rate of return on an allowed rate base. The airport can set prices using whatever structure they wish, provided the revenues less the costs do not result in a return on capital that exceeds the specified allowed return. Here the key questions are firstly what constitute a 'fair' return on capital invested and secondly, what capital invested should be included in the 'allowed rate base'? This form of regulation is very time intensive and generally involves lengthy regulatory hearings. As Trethewey (2001) points out ROR regulation tends to be complex, unresponsive and expensive to administer. Another criticism of this model is that it allows the airport to fully pass through all its costs to its users, and that it incentivises over-investment and gold-plating of assets, by shielding the airport from market risk (Dunki, 2011). Rate of Return regulation is used at some airports in Europe, including Athens, Brussels and Nice.
- I** Price cap regulation was introduced to overcome the problems associated with rate of return regulation. It was designed to lower the overall costs of regulation when it is deemed necessary and provide the incentives for firms to act in a way to improve economic welfare. Price cap regulation involves setting an allowed average price increase plus or minus a value 'X' where 'X' is generally some measure of expected productivity growth. The allowed average price increase is commonly set according to a widely available price index such as the consumer price index (CPI). This is referred to as the RPI-X formula where RPI is the price increase and 'X' is the limiting offset. The value of X is determined by the regulator based on a range of criteria including, for example, whether the industry is high or low productivity, the performance of the firm in the previous regulated period and whether the regulator wishes to incentivize the firm to reduce costs. RPI-X is the dominant form of regulation in the UK and it is used in other airports such as Budapest, Dublin and Madrid.
- I** There are some variations of price cap regulation, with "pure" price caps (as described above), and "hybrid" price cap regulation. They differ in the way in which the X in the price cap formula is set; a pure price cap sets X without reference to the costs of the airport regulated but may set it with reference to a broad airport benchmarked cost, while hybrid price caps set the X with reference to a regulated cost base (hybrid price cap regulation differs to cost based regulation because it is forward looking while cost plus regulation relies on historic costs). Hybrid price caps provide fewer incentives for cost reductions. For European airports none of the regulators have developed a pure price capping system. As an example, the price caps at Aéroports de Paris (ADP), Copenhagen and Dublin are based on costs.
- I** Other models are also used: at some EU airports, predominantly in Germany, revenue sharing agreements are in place and often relate the level of charges

<sup>3</sup> David Gillen, Working Paper, 2007

to the passenger growth over a certain period. These so called “sliding scales” can be combined with price cap regulation as in the case of Hamburg (Immelmann, 2004) and Vienna.

***Is the single till a legal requirement in some MS/regions? Is there a correlation between the traffic at an airport and the application of single-till or dual-till approach by its managing body? At which airports are the different systems in force? (TOR Q8)***

- 3.6 When airports are subject to economic regulation, the calculation of the authorised levels or rates of prices (tariffs) and profits are made according to a number of “till” models. A single till refers to the use of all airport revenues, including from non-aeronautical commercial sources (such as retail, food and beverages revenues, advertising, real estate, car parking, etc) are directly considered when setting airport charges.
- 3.7 Alternatively, the dual till system splits the aeronautical and non-aeronautical business into distinct income and expenditure accounts. This ensures that income from the aeronautical side of the business (such as landing fees, security costs, passenger charges and departure fees) are used for aeronautical expenditure (such as runway repairs and terminal development), leaving the non-aeronautical income to provide for non-aeronautical expenditure (building new car parks and expanding retail sections of a terminal). There are also some hybrid models whereby some categories of non-aeronautical income are used to cover a proportion of aeronautical expenditures for instance.
- 3.8 There are different views within the air transport industry on the relevance of the two models. Airlines tend to favour single till systems by claiming they are “*the fairest mechanism of charging airline users because airport charges derived using the single till approach are likely to be lower than they would under a dual till because of the sharing of profits generated by commercial activities*” (IATA) whilst airports favour dual tills advocating that “*a dual-till structure allows the ‘monopolistic’ part of an airport’s business - the provision of core aeronautical activities - to be regulated, while ensuring that the other parts of the business can be run using the normal marketplace competition rules*” (ACI, 2007).
- 3.9 A review of regulatory practices at European airports indicates that a variety of mechanisms are in place. Single tills have been implemented at regulated airports in the UK per UK CAA requirements whilst hybrid tills are in place, inter alia, at Copenhagen and Paris airports. Dual till regulation is implemented at Amsterdam Schiphol, Warsaw and Portuguese airports among others.
- 3.10 The following table presents the systems of economic regulation at the airports covered by the Directive in the EU27 Member States and in Switzerland.

**TABLE 3.2 ECONOMIC REGULATION OF AIRPORTS IN THE EU-27**

Member State	Airport	Regulatory oversight	Till regulation
Austria	Vienna	Price cap	Regulated: dual
Belgium (Brussels)	Brussels	Rate of Return	Regulated: hybrid

Member State	Airport	Regulatory oversight	Till regulation
Belgium Wallonie	Charleroi	No regulation	Free to set their own prices
Bulgaria	Sofia	No regulation	Free to set their own prices
Cyprus	Larnaka	Concession fixing charges	Unclear
Czech Republic	Prague	No regulation	Free to set their own prices
Denmark	Copenhagen	Price cap	Regulated: hybrid
Estonia	Tallinn	No regulation	Free to set their own prices
Finland	Helsinki	No regulation	Free to set their own prices
France	Paris Roissy CDG	Price cap	Regulated: hybrid
	Paris Orly	Price cap	Regulated: hybrid
	Nice	Rate of Return	Free to set their own prices
	Lyon	Rate of Return	Free to set their own prices
	Marseille	Rate of Return	Free to set their own prices
	Toulouse	Price cap	Regulated: single
	Bâle-Mulhouse (*)	Rate of Return	Free to set their own prices
Germany	Frankfurt Main	Rate of return(**)	Regulated: dual
	Munich	Rate of Return	Regulated: dual
	Düsseldorf	Price cap	Regulated: dual
	Berlin-Tegel	Rate of Return	Regulated: dual
	Hamburg	Price cap	Regulated: dual
	Stuttgart	Rate of Return	Regulated: dual
	Cologne / Bonn	Rate of Return	Regulated: dual
	Berlin Schönefeld	Rate of Return	Regulated: dual
	Hanover	Rate of Return	Regulated: dual
Greece	Athens	Rate of Return	Regulated: dual

## Final Report

Member State	Airport	Regulatory oversight	Till regulation
Hungary	Budapest	Price cap	Regulated: dual
Ireland	Dublin	Price cap	Regulated: single
Italy	Rome Fiumicino	Price cap	Regulated: hybrid
	Milan Malpensa	Price cap	Regulated: dual
	Milan Linate	Price cap	Regulated: dual
	Bergamo (Orio al Serio)	Concession fixing charges	Regulated: dual
	Venice	Price cap	Regulated: dual
	Catania	Price cap	Regulated: single
	Bologna	Price cap	Regulated: single
	Naples	Price cap	Regulated: single
Latvia	Riga	Price cap	Free to set their own prices
Lithuania	Vilnius	Unclear	Unclear
Luxembourg	Luxembourg Findel	No regulation	Free to set their own prices
Malta	Malta International	No regulation	Free to set their own prices
The Netherlands	Amsterdam Schiphol	Rate of Return	Regulated: dual
Poland	Warsaw	Rate of return (based on cost base defined by the ministry)	Regulated: Hybrid
Portugal	Lisbon	Price cap	Regulated: dual
	Porto	Price cap	Regulated: dual
	Faro	Price cap	Regulated: dual
Romania	Bucharest	No regulation	Free to set their own prices
Slovakia	Bratislava	No regulation	Free to set their own prices
Slovenia	Ljubljana	No regulation	Free to set their own prices
Spain	Madrid	Price cap	Gradual shift from single to double over 5 years from
	Barcelona	Price cap	

Member State	Airport	Regulatory oversight	Till regulation
	Palma de Mallorca	Price cap	2013
	Malaga	Price cap	
	Gran Canaria	Price cap	
	Alicante	Price cap	
	Tenerife Sur	Price cap	
	Ibiza	Price cap	
	Lanzarote	Price cap	
Sweden	Stockholm	No regulation	Free to set their own prices
United Kingdom	Heathrow	Price cap	Regulated: single
	Gatwick	Price cap	Regulated: single
	Stansted	Price cap	Regulated: single
	Manchester	No regulation	Free to set their own prices
	Luton	No regulation	Free to set their own prices
	Edinburgh	No regulation	Free to set their own prices
	Birmingham	No regulation	Free to set their own prices
	Glasgow	No regulation	Free to set their own prices
	Bristol	No regulation	Free to set their own prices
Switzerland	Zurich	No regulation	Free to set their own prices
	Geneva	No regulation	Free to set their own prices

Source: Steer Davies Gleave analysis of stakeholder responses and desktop research. For some Member States it has not been possible to assess precisely the existence and type of economic regulation. (\*)According to the DGAC-FOCA Protocol that was signed by the French and Swiss authorities in May 2013 as a first step to implement the Directive into the bilateral convention that rules the airport, the relevant ISA is a bi-national entity formed by the "Direction du Transport Aérien" inside the French DGAC and FOCA. The new tariffs are to be submitted to each of the two supervisory authorities. If one of them objects within a month, the airport has to submit a new proposal within 15 days. Otherwise the tariffs enter into force. (\*\*) Regulatory mechanism as defined by the ISA (Hesse Ministry). Airline associations would classify the regulatory arrangements at Frankfurt Main as a price cap, however lacking CPI integration.

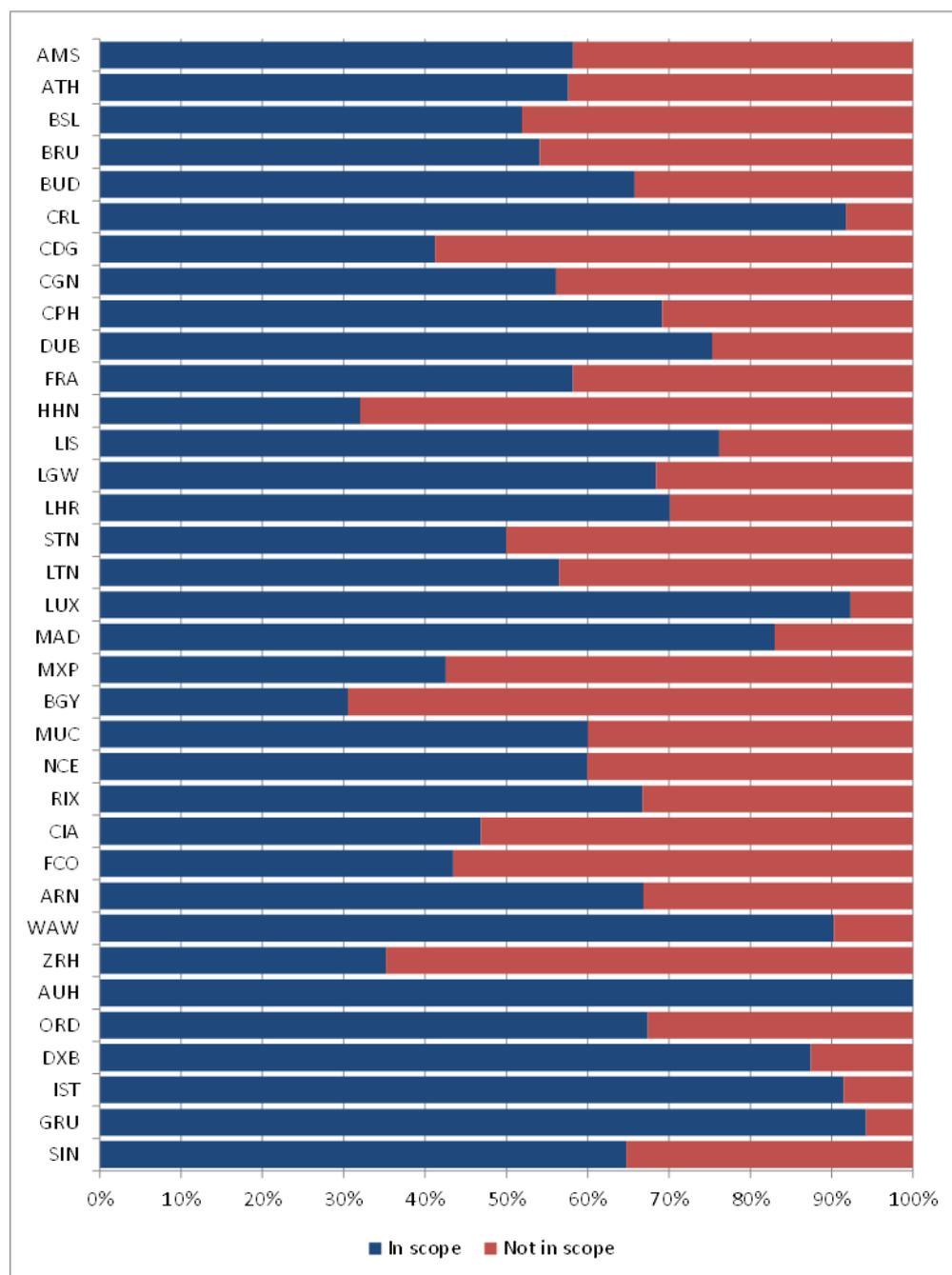
### ***Proportion of airport charges in airline total operating costs***

- 3.11 Responses from stakeholders varied depending on the business model of the airline. According to IATA/AEA in 2011 airport and Air Traffic Control (also called Navigational Aid charges in the IATA Airport charges manual) charges represented around 14.5% of the total cost of transport (worldwide) whereas the figure quoted was higher for a low-cost airline with airport costs (including ground handling) accounting for about 30% of total operating costs.
- 3.12 In 2007 ACI stated that airport charges accounted for between 4% and 8% of the major EU air carriers' operation costs. No updated figure was available, but thought that in 2008 the European Airlines Associations (AEA) had stated that airport charges typically accounted for 3.5% of a network carrier's total operating costs. For low-cost carriers, ACI Europe expected this proportion to be higher.

### ***Proportion of airport charges in total airport specific turnaround charges for airlines (TOR Q1b)***

- 3.13 Turnaround charges for airlines relate to all charges associated with their operations at a given airport, from when the aircraft touches the runway to when it takes-off. For airlines, turnaround charges include all charges levied by airports for the use of their infrastructure, as well as taxes and other charges collected by airports on behalf of public authorities and third party providers of terminal navigation (for Air Traffic Control services), fire rescue, security, safety, noise pollution abatement, ground handling, supervisory services etc. Of all these charges, those that are specified as an "airport charge" by the Directive have described as "in scope charges".
- 3.14 The proportion of airlines' total turnaround charges that are covered by the 'airport charges' definition in the Directive varies greatly between airports. Figure 3.3 below illustrates this variation for aircraft Scenario 1 in 2012. Here, "in scope charges" form as little as 31% of turnaround charges at Bergamo/Milan Orio al Serio to as much 92% at Charleroi - both low cost airports with similar characteristics.
- 3.15 More broadly, airports with the lowest proportion of charges in scope include Frankfurt Hahn (32%), which is similar to Bergamo, but also Zurich (35%) and Charles De Gaulle (41%). At the other end of the scale, European airports where over 80% of turnaround charges are in scope include the aforementioned Charleroi, but also Luxembourg (92%), Warsaw (90%) and Madrid (83%).
- 3.16 The proportion of charges that would be considered in scope at the sample of international airports, outside the EU, analysed was at least 65%, with the charging scheme at Abu Dhabi providing 100% of its fees in scope.

**FIGURE 3.3 MIX OF TOTAL TURNAROUND CHARGES - SCENARIO 1, AUGUST 2012**



Source: Steer Davies Gleave analysis of IATA airport charges, August 2012

3.17 The mix of in-scope and not in scope charges depends on the aircraft scenario tested, however the range of mixes of in scope and not in scope charges continues to vary significantly between airports. Table 3.3 below summarises the proportion of total turnaround charges at European airports that are covered by the Directive.

TABLE 3.3 PROPORTION OF TOTAL TURNAROUND CHARGES (2012) IN SCOPE

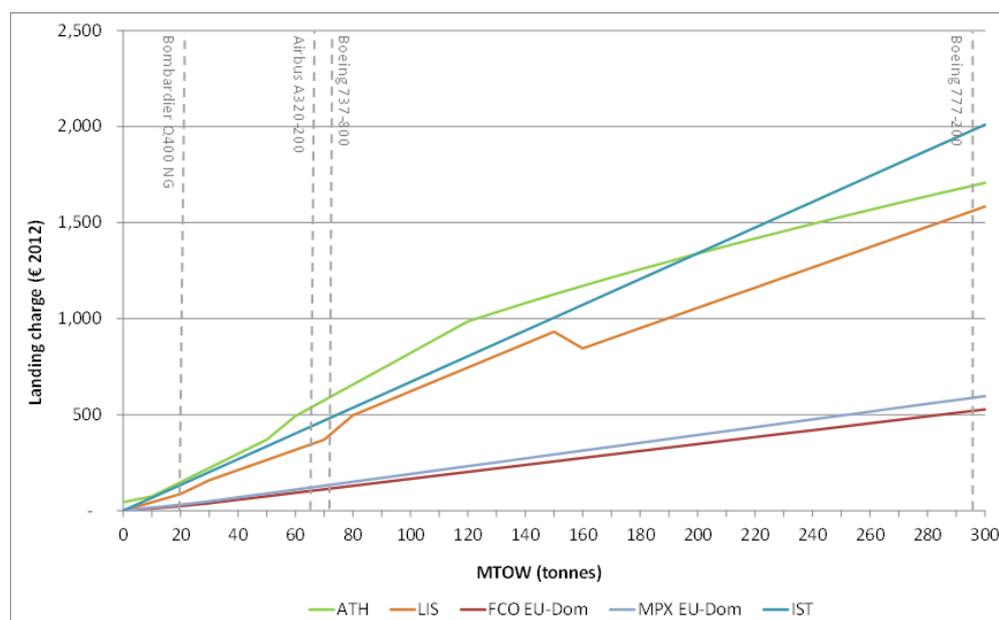
	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Max	92%	98%	92%	92%
Average*	59%	48%	54%	60%
Min	31%	16%	20%	29%

(\*) Note: Passenger traffic weighted average: for each of the scenario the turnaround charges were calculated for each airport and weighted according to their 2012 passenger traffic. Max shows for each scenario the proportion of in-scope charges at the airport with the highest in-scope vs. all charges ratio. Similarly Min shows the lowest ratio of in scope vs. all charges.

Source: Steer Davies Gleave analysis of IATA airport charges, August 2012

- 3.18 The proportion of charges in scope depends on a number of factors including the number of passengers for each aircraft scenario. Security fees and airport taxes both lie outside of the Directive's scope and are normally applied per departing passenger, with the result that a smaller proportion of charges remain in scope as aircraft capacity increases.
- Are there significant differences among airports in how they structure their charges (e.g. balance between passenger and runway charges; application of weight/noise criteria for landing charges?) (TOR Q3 main)***
- 3.19 Charges are structured differently across the airports analysed. This can be observed where the balance between landing, parking, passenger and other charges varies significantly.
- 3.20 Overall, it appears that airports have not changed their approach to defining the structure of their charges as a result of the Directive's introduction. All of the European airports sampled for this study continued to set out their charges in the way they had done historically. This is not to say that charges have not changed between 2009 and 2012, but instead to highlight that airports have not fundamentally changed their airport charging frameworks.
- 3.21 Charging schedules vary greatly in the way they categorise costs and define the airport's approach to charging users. Landing charges may be a flat rate per tonne (MTOW), follow a stepped charging structure, use a formula (as at Athens) designed to incentivise larger aircraft or a flat charge per movement (as at Heathrow where the charges are set at a level that discourages smaller aircraft). Figure 3.4 below shows the progression of landing charges for increasing aircraft weight (MTOW) at Athens, Lisbon, Rome Fiumicino and Milan Malpensa for EU/Domestic flights and Istanbul.

FIGURE 3.4 EXAMPLES OF LANDING CHARGES VS. AIRCRAFT WEIGHT



Source: Steer Davies Gleave analysis of IATA airport charges, August 2012

- 3.22 As can be seen above, landing charges at the Italian airports and Istanbul increase linearly with MTOW, although at very different rates. Athens and Lisbon on the other hand demonstrate more complex charging regimes that offer discounted rates to larger aircraft compared to those in the middle weight range.
- 3.23 As with landing charges, parking and noise charges vary significantly in the way they are calculated between airports.
- Many airports offer free parking for an initial period, but the time allowed and subsequent charges levied differ from one airport to another.
  - Where present, most noise charging regimes are based on classifying aircraft into noise categories (usually aligned to ICAO Annex 16 Chapter 3), however the application of charges once again varies greatly between airports. Noise charges may be applied to landing, take-offs or both. Some airports include the noise charges implicitly in the landing charges, other define landing charge noise multipliers, and others set out fixed charges by category - all of which might in turn vary by the time of day and season.
- 3.24 Passenger and emission charges, on the other hand, tend to be more uniform in their definition.
- Passenger charges are usually levied on a per passenger basis with some variation often introduced between point-to-point and transfer passengers that relates to the extent to which these travellers use the airport's infrastructure. This variation extends to the route flown, with passengers on domestic or Schengen routes priced differently to non-Schengen and international passengers which bear greater immigration and security requirements. While it is straightforward to recognise the different levels of service provided for, say, Schengen and international travellers, it is not as clear what the differences might be between the services provided to domestic and Schengen passengers.

Nonetheless three of the sampled airports levy different fees for domestic passengers and Schengen passengers even when they share common infrastructure (see Table 3.4).

**TABLE 3.4 EXAMPLES OF AIRPORTS WITH DIFFERENT DOMESTIC AND SCHENGEN PASSENGER CHARGES**

Airport	Passenger charges
Athens	International and domestic charges. No EU or Schengen specific charge. -30% reduction for domestic passengers compared to international passengers
Cologne-Bonn	International, EEA and domestic charges. -15% reduction for domestic passengers compared to EEA passengers
Stockholm Arlanda	International and domestic charges. No EU or Schengen specific charge. -42% reduction for domestic passengers compared to international passengers
AENA Spain	Charges at non-peninsular airports receive reductions for flights to the peninsula of (15%) or inter-islands of (70%). In 2009, the discount on flights to the peninsula was increased from 15% to 30%.

Source: Steer Davies Gleave analysis of IATA airport charges, August 2012

- Emission charges are mostly calculated using a flat rate per kg of NOx emitted based on engine certification.

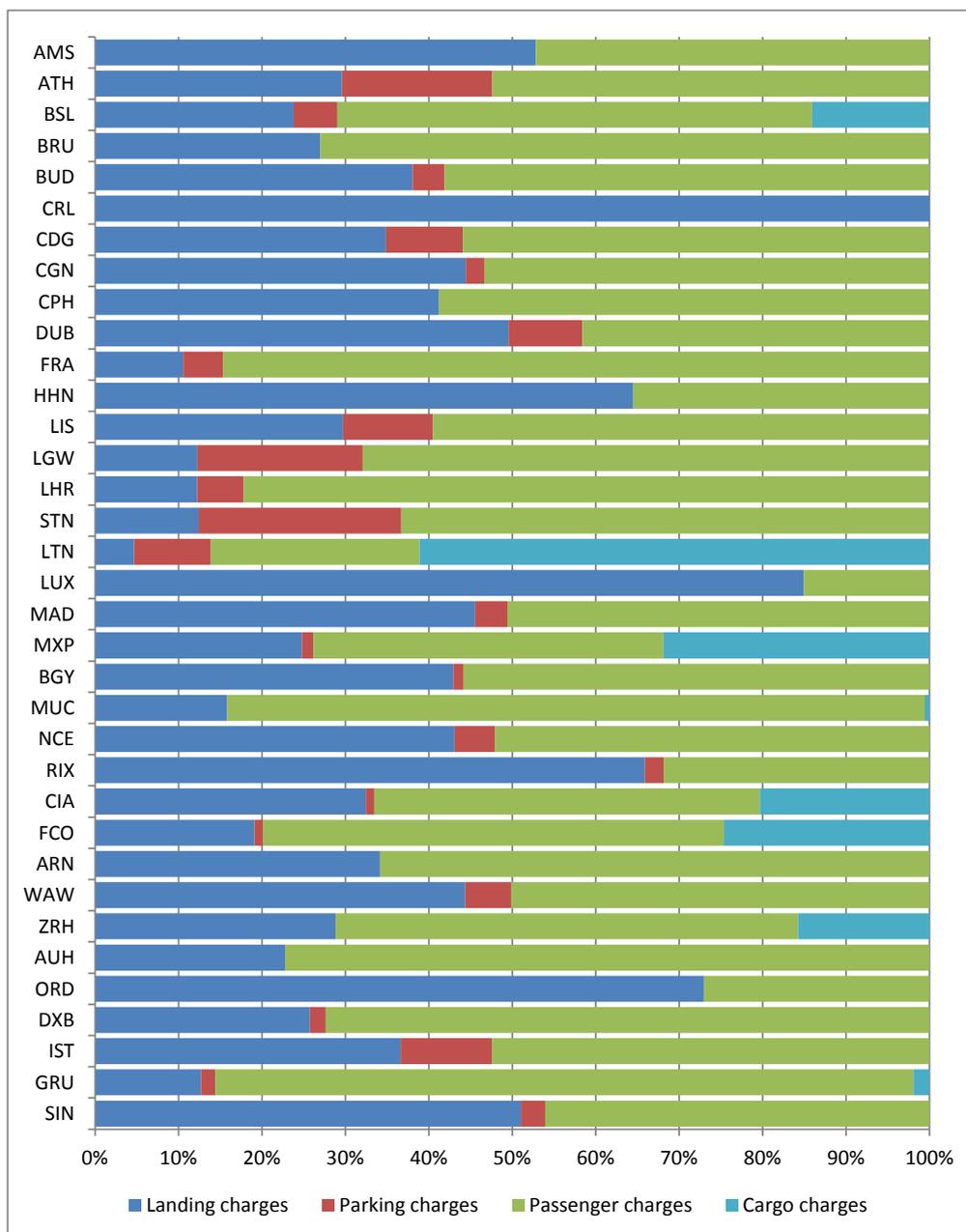
3.25 The 2012 report on “*measures for internalising external costs in transport*” for DG MOVE examined environmental emissions. It stated that there were large differences with respect to noise and emission charges among the airports studied. At a few airports, no charges were levied at all regarding noise or emissions.

- At the airports that levy noise charges, noise charges are differentiated for the different noise levels produced by individual aircraft. Most are based on the noise chapters from ICAO, however, the number of noise categories per airport differs substantially. In France (Charles De Gaulle and Paris-Orly airport), 6 acoustic groups have been distinguished, which are based on the effective perceived noise decibel (EPNdB) at landing and take-off. In Germany (Frankfurt and Munich airport) there are 12 noise categories, depending on aircraft type and engine type, while Schiphol airport has only 4 noise categories (A, B, C, MCC3). In general, there are three ways in which the airports studied levy their noise charges: noise charge directly related to noise category of the aircraft (Prague airport, Munich and Frankfurt airports), noise charge related to landing charge (UK, ADP, AENA airports), and noise charge related to noise-threshold (used at Stockholm Arlanda, Helsinki Vantaa airport and Vienna airport).
- Only a limited number of airports levied an emission charge. In most cases, this is at airports where noise charges are also levied. The emission charge is in all

cases based on the emission values of nitrogen oxide equivalent (NO<sub>x</sub>) and hydrocarbon (HC) in the landing and take-off cycle. The charge is levied per kg of NO<sub>x</sub> emitted. According to the study, for the airports in London and Stockholm the rates are close to the external cost of NO<sub>x</sub> air pollution (based on national average rates). In Copenhagen and Frankfurt and Munich airports, the rates are considerably lower than the external costs.

- 3.26 Aircraft Scenarios 1, 3 and 4 tested often do not attract parking charges, given the short turnaround periods these sorts of flights would typically have and airports often offering free parking for an initial period. Figure 3.5 below illustrates the mix of charges that aircraft Scenario 2 would, which includes some parking charges. It has not been possible to estimate noise and emission charges consistently across the sampled airports. In some cases, noise or environmental charges are very complex and calculating them requires detailed operational and technical knowledge only really known to airlines or airports. This is the case for instance for the airports where emission-based charges are calculated using the ERLIG formula.

**FIGURE 3.5 MIX OF IN SCOPE TURNAROUND CHARGES, SCENARIO 2, AUGUST 2012**



Source: Steer Davies Gleave analysis of IATA airport charges. Note that Charleroi airport, according to IATA Airport Charges Manual, does not charge any other charge than landing charge. We have not been able to confirm this from the airport management.

3.27 As can be seen above, passenger charges tend to be the dominant in scope charge, followed by landing charges. As noted, it has not been possible to estimate noise and emission charges consistently across the sampled airports given the complexity of the relevant calculations, therefore Figure 3.5 does not include noise and emission charges unless there charges are combined with other charges (as is the case at Heathrow and Basel/Mulhouse airports).

- 3.28 Only eight of the sampled airports specified charges for handling cargo (such as Luton airport), although several others varied other charges (e.g. landing, parking and infrastructure) between passenger and cargo/mail flights.
- 3.29 Table 3.5 below shows how the (simple) average mix of in scope charges varies for each of the scenarios tested.

**TABLE 3.5 EUROPEAN AIRPORT AVERAGE MIX OF IN SCOPE CHARGES PER TURNAROUND, SCENARIOS 1-4, 2012**

	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Landing charges	24%	27%	20%	29%
Parking charges	2%	7%	1%	2%
Passenger charges	68%	55%	76%	61%
Noise charges	4%	4%	4%	6%
Emission charges	0%	0%	0%	0%
Other in scope charges	2%	7%	0%	2%

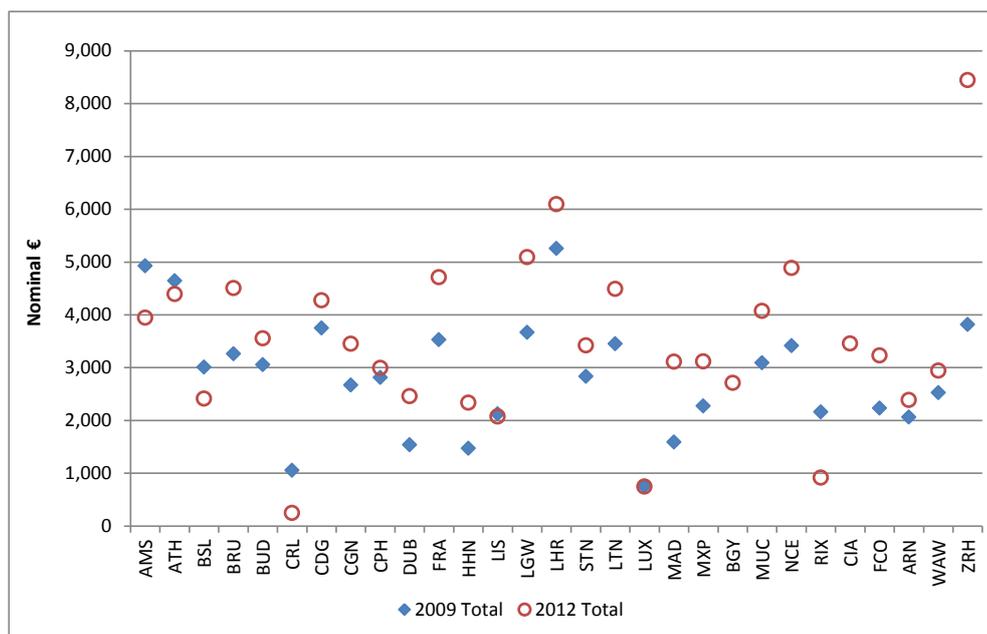
Source: Steer Davies Gleave analysis of IATA airport charges, August 2012. Note: it has not been possible to estimate noise and emission charges consistently across the sampled airports given the complexity of the relevant calculations.

- 3.30 Passenger charges form the largest share of in scope turnaround costs for all four aircraft scenarios. Over three quarters of the low-cost, short turnaround scenario (Sc. 3) costs are formed by passenger charges. This proportion decreases in line with the number of passengers and the longer turnarounds for the short-haul, legacy and regional scenarios (Sc. 1 and 4), however, it also continues to decrease against increasing passengers assumed for the long-haul, wide-body scenario (Sc. 2) - a fact that indicates the extent of the additional charges (e.g. landing & noise, parking & boarding bridge) incurred by long-haul, wide-body operations compared to short-haul ones.

***Levels and evolution of airport charges at airports covered by the Directive (TOR Q2). Can a trend be observed? What other factors (e.g. recession) influence the level of the airport charges?***

- 3.31 There has been little consistency in the way charges have evolved since the introduction of the Directive in 2009. Broadly, in scope charges have changed relatively little in nominal terms compared to charges not in scope, which have been more volatile across the sampled airports with most of them increasing. Figure 3.6 shows the level of charges for aircraft Scenario 1 in both 2009 and 2012.

FIGURE 3.6 TOTAL TURNAROUND CHARGES, SCENARIO 1, 2009 & 2012



Source: Steer Davies Gleave analysis of IATA airport charges, October 2009, August 2012

3.32 Average total charges increased by +22% in nominal terms at European airports between 2009 and 2012 for aircraft Scenario 1 illustrated in the figure above. This increase was driven by a relatively modest increase of +10% from in scope charges and a +45% increase from not in scope charges.

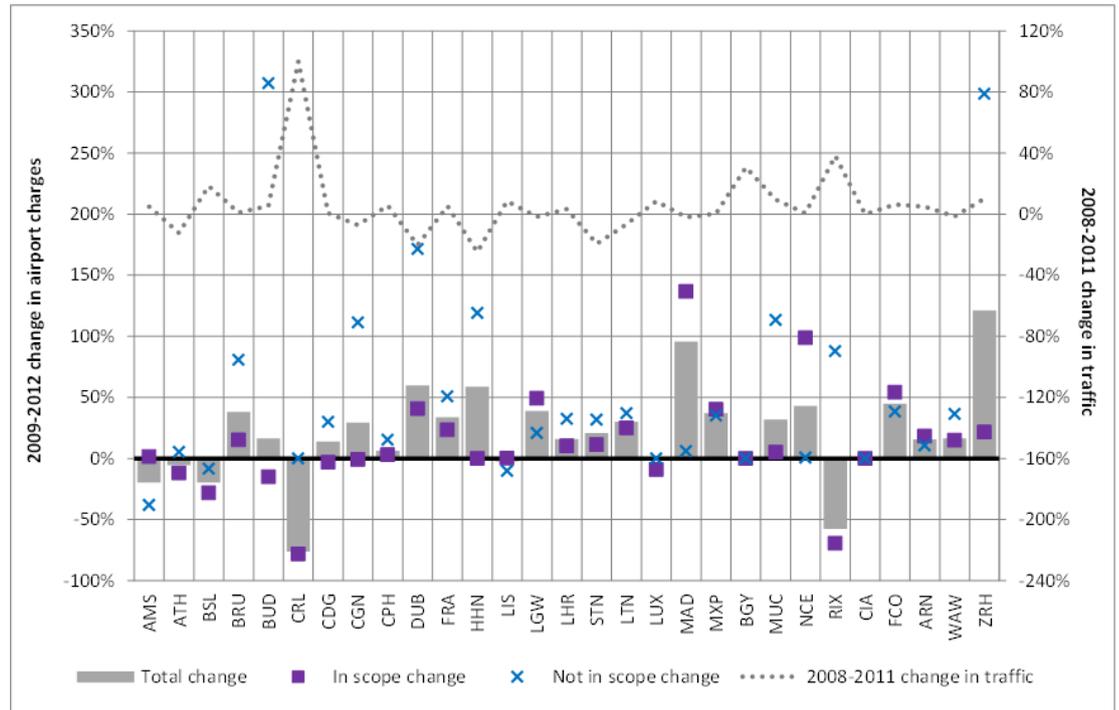
TABLE 3.6 AVERAGE NOMINAL CHANGE IN CHARGES AT EUROPEAN AIRPORTS, SCENARIOS 1-4, 2009-2012

	Scenario 1	Scenario 2	Scenario 3	Scenario 4
In scope charges	+10%	+9%	+7%	+24%
Not in scope charges	+45%	+73%	+43%	+46%
Total charges	+22%	+34%	+21%	+33%

Source: Steer Davies Gleave analysis of IATA airport charges, October 2009, August 2012

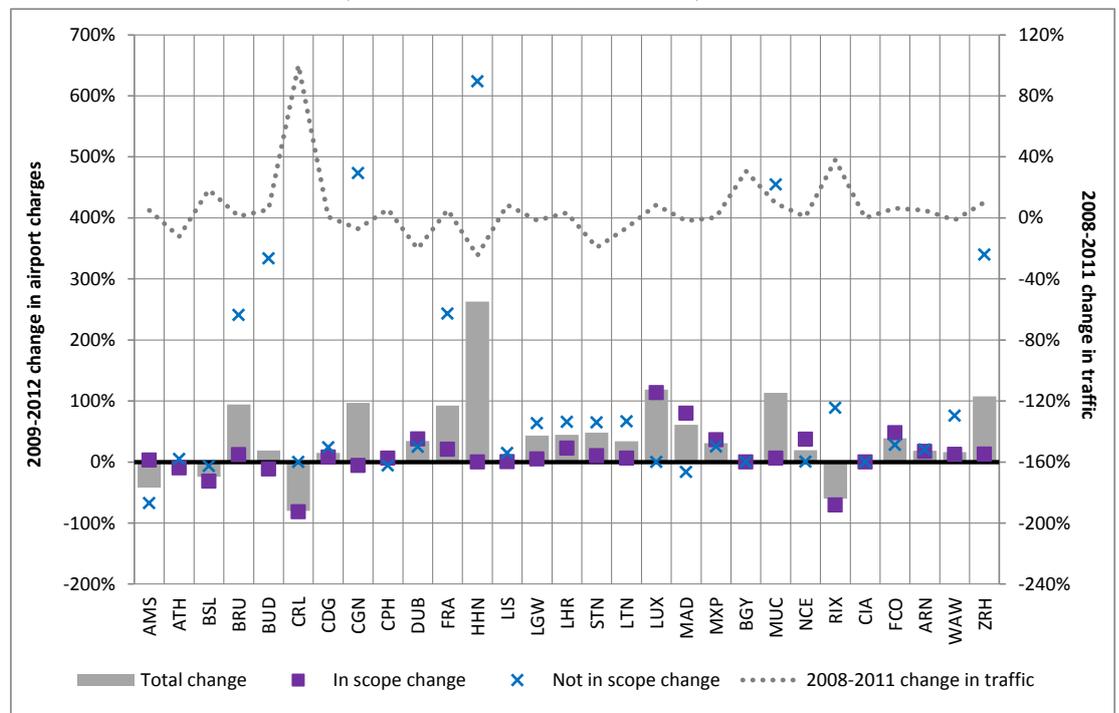
- 3.33 The very large increases in charges not covered by the Directive will mainly have been the result of introductions and or increases in passenger taxes, followed occasionally by increases in security charges.
- 3.34 The figures below show the changes in charges between 2009 and 2012 for all four scenarios tested, along with the corresponding changes in passenger traffic at each airport over the same period.
- 3.35 The grey bars indicate the change in total charges. This is then broken down into the changes of their in scope and not in scope components: the purple square points show the movement of in scope charges, the blue cross points show the movement of not in scope charges. The change in passenger traffic is shown by the dotted line which refers to the secondary axis.

**FIGURE 3.7 CHANGE IN TOTAL, IN SCOPE AND NOT IN SCOPE CHARGES, SCENARIO 1 (A320, SHORT-HAUL, LEGACY), 2009-2012**



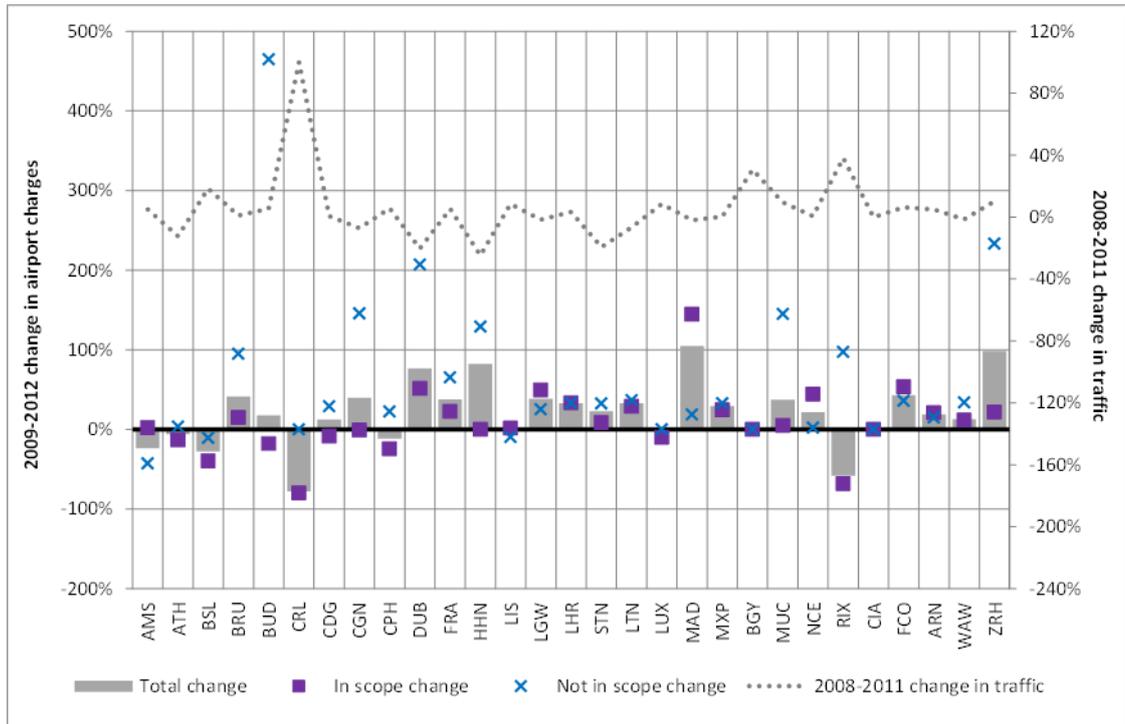
Source: SDG analysis of IATA airport charges, October 2009, August 2012. Note: while security charges in Madrid have trebled in 2012, navigational aid charges have also decreased as a result of changes in the pricing structure of AENA, therefore the “not in scope” charges have, overall, decreased.

**FIGURE 3.8 CHANGE IN TOTAL, IN SCOPE AND NOT IN SCOPE CHARGES, SCENARIO 2 (B777, LONG-HAUL, LEGACY), 2009-2012**



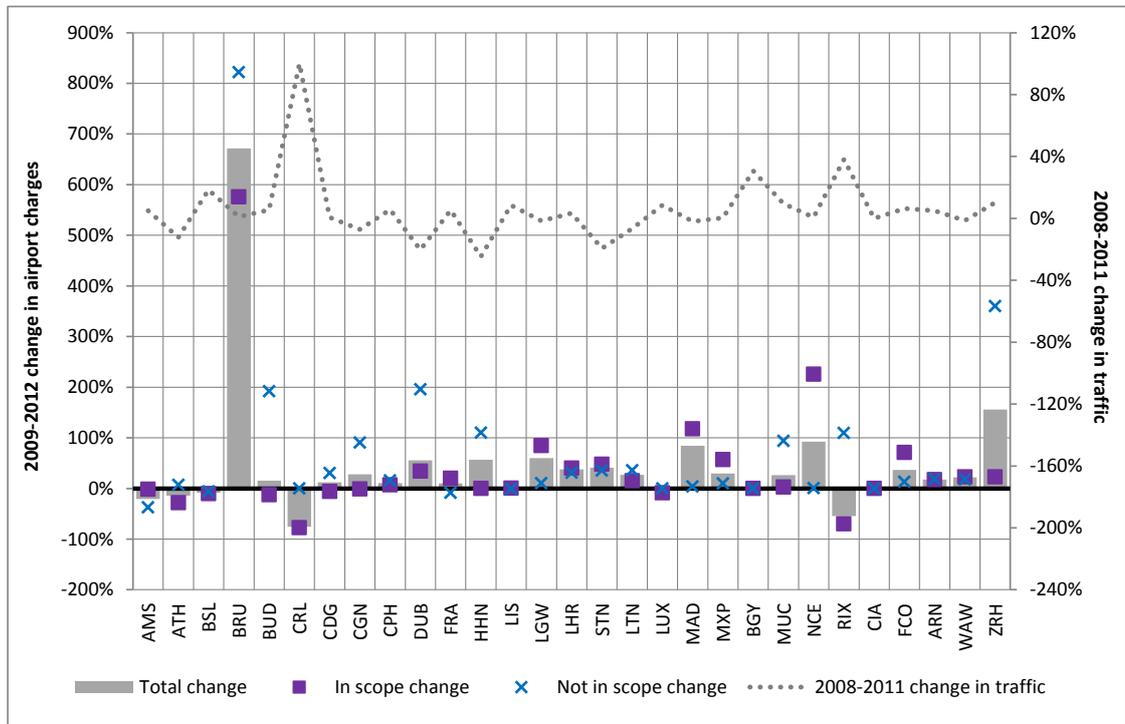
Source: SDG analysis of IATA airport charges, October 2009, August 2012

**FIGURE 3.9 CHANGE IN TOTAL, IN SCOPE AND NOT IN SCOPE CHARGES, SCENARIO 3 (B737, SHORT-HAUL, LOW COST), 2009-2012**



Source: SDG analysis of IATA airport charges, October 2009, August 2012

**FIGURE 3.10 CHANGE IN TOTAL, IN SCOPE AND NOT IN SCOPE CHARGES, SCENARIO 4 (Q400 NG, REGIONAL, REGIONAL AIRLINE), 2009-2012**



Source: SDG analysis of IATA airport charges, October 2009, August 2012

- 3.36 The graphics show:
- Falling traffic at Dublin and Frankfurt Hahn coincided with substantial increases in total airport charges, through increases in both in scope and not in scope charges in the case of Dublin, and not in scope charges alone at Hahn.
  - A doubling of traffic at Charleroi between 2008 and 2011, led to almost equivalent decrease in the charges set for 2009 and 2012.
  - London airports all behaved very similarly despite traffic at Gatwick and Heathrow remaining fairly stable while traffic at Stansted and Luton decreased.
  - The extent to which the change is felt depends on the type of flight operated. Notably from the above, the sharp increase in charges for aircraft Scenario 4 at Brussels (BRU), resulted from the introduction and increase of passenger charges and taxes which together dwarf the relatively small landing charges levied on a small aircraft.

### Differences in airport charges

*Is price differentiation of charges at a given airport the rule or the exception (TOR Q4a)? What are the criteria for price differentiation of airport charges at a given airport (e.g. number of passengers, level of services, peak/off-peak hour use, first mover/anchor airline status, etc.)? (TOR Q4c)*

- 3.37 The criteria for price differentiation at airports include:
- Level of service provided;
  - Annual passenger volumes by airline - some airports offer rebates or discounts on check-in charges for example when given thresholds are reached (e.g. Athens);
  - Peak capacity constraints (usually runway capacity as opposed to apron or terminal capacity);
  - Airline bargaining power and historical/legacy arrangements;
  - Aircraft characteristics - MTOW, wingspan, noise & emission certification.
- 3.38 Price differentiation of charges does not tend to be the rule across the sample of airports considered for this study. Only about half (14) of the airports differentiate their charges based on the level of service provided in terms of stands and air bridges, while just five of them modulate their charges based on the quality of service offered by different terminals: Budapest; Charles De Gaulle; Copenhagen; Rome Fiumicino; and Warsaw as illustrated in Table 3.7 and Table 3.8.
- 3.39 Specific terminals are dedicated to domestic and international routes, or low-cost and full-service operations. For example, Copenhagen and Budapest both have Low Cost Terminals that are 23-36% cheaper than their full-service equivalents, respectively. Similarly, just over half (17) of the airports differentiated charges depending on take-off and/or landing noise levels, while just over a third (11) of them also applied charges for emissions. These are summarised in
- 3.40 Table 3.11.

*To what extent have airports made use of the provisions of Article 10 of the Directive allowing them to vary the quality and scope of particular airport services, terminals or parts of terminals and to differentiate the level of airport charges according to the quality and scope of such services (e.g. low-cost terminals, etc.)? To what extent do airports set basic charges and what services are included in such basic charges (e.g. air bridges, distant stands)? (TOR Q21)*

3.41 The table below presents the list of airports included in our sample that offer a modulation of airport charges based on distinct quality of service.

**TABLE 3.7 QUALITY OF SERVICE MODULATION**

Quality of service modulations - Terminals	2009		2012	
	Applies to	Cost difference	Applies to	Cost difference
<b>Budapest</b>	Passenger charge	Terminal 1 is ~26% cheaper than other terminals (for pax charge)	Passenger charge	Terminal 1 is ~36% cheaper than other terminals (for pax charge)
<b>Copenhagen</b>	-	-	Passenger and handling charge	Terminal 1 is ~55% cheaper than terminals 2 & 3 and Swift terminal is 23% cheaper than terminals 2 & 3 (for pax charge)  Terminal 1 is ~50% cheaper than terminals 2 & 3 (for handling charge)
<b>Warsaw</b>	-	-	Passenger charge	Terminal A is ~70% cheaper than VIP Aviation terminal (for pax charge)

Source: Steer Davies Gleave analysis of IATA Charges Manuals

3.42 We note from the table above, the development of service modulation in the most recent years. It does not always apply to the passenger service charge. There have been a number of airports in Europe that whilst serving legacy airlines have built terminals targeting low-cost carriers and where the quality of service would be inferior to those terminals designed for legacy airlines:

- Marseille airport which was the first airport in France and Europe to open a dedicated low-cost terminal (mp2) opened in 2006;
- Bordeaux airport: low-cost terminal Billy, opened in June 2010;
- Lyon airport: low-cost Terminal 3 opened in 2012;
- Nice airport: low or “middle-cost” terminal planned for 2019;

- Copenhagen airport: new low-cost pier CPH Go. It is connected with the international terminals with which it shares check-in facilities, security and shopping areas. It opened in October 2010;
  - Budapest: terminal 1 re-opened from 2005;
  - Basel: a side part of the main terminal is dedicated to low-cost operations;
  - Sofia: terminal 1 is used as a low-cost terminal in recent years;
  - Tampere: low-cost terminal opened in April 2003;
  - Gatwick airport is also considering lower cost-facilities.
- 3.43 An interview about Marseille airport published on ACI-Europe website in 2009 explains that according to the airport management *“there is a strong differentiation between the level of charges applied at mp1 (the full-cost terminal) and mp2, with the passenger charge in the low-cost facility 70% lower; the landing and parking fees, meanwhile, are the same. Operational costs are lower at mp2, as it is a true low-cost offer, with no push back of the aircraft and no air bridges”*.
- 3.44 According to Marseille airport management, *“for the French Civil Aviation Authority (DGAC), the low-cost terminal was a completely new project - they were surprised that we were offering a lower service with a lower rate. The only airline that reacted was Air France, claiming that we were not applying the correct charge and that the full-service carriers were subsidising this. To solve that, the French DGAC had to spend three months at the airport from June 2008, during which time they checked our cost accounting and they testified that the way we were charging was correct. We have a very clear idea of what the correct cost is for each terminal.”*
- 3.45 IATA also commented that in at least three cases, airports have not been able to justify that these charges are cost-related or non-discriminatory. The Conditions of Use applied for the access of these terminals/piers/areas are problematic as well.
- 3.46 The table below shows that only a minority of airports do not use the possibility to modulate charges between remote or boarding bridge connected stands.

TABLE 3.8 QUALITY OF SERVICE MODULATION-AIR BRIDGES, REMOTE STANDS

Quality of service modulations - Air bridges, remote stands	2009		2012	
	Applies to	Cost difference	Applies to	Cost difference
<b>Amsterdam</b>	Landing charge	Connected and disconnected handling differ with time	Landing charge	Connected and disconnected handling differ with time
<b>Athens</b>	Parking charge, power supply charge, boarding bridge charge	Remote stands are ~30% cheaper for parking, remote stands have additional power supply of at least €35.16, contact stands have boarding bridge charge of at least €116.01	Parking charge, power supply charge, boarding bridge charge	Remote stands are ~30% cheaper for parking, remote stands have additional power supply of at least €35.16, contact stands have boarding bridge charge of at least €116.01
<b>Basel/Mulhouse</b>	Bus charge, boarding bridge charge	Remote stands have a bus charge of at least €16.80, contact stands have saving of 58%-73% compared to a stand with a jetway	Bus charge, boarding bridge charge	Remote stands have a bus charge of at least €35.70, contact stands have saving of 58%-73% compared to a stand with a jetway
<b>Brussels</b>	-	-	-	-
<b>Budapest</b>	Parking charge	Remote stands have free parking for 30 mins with variable savings depending on tonnage	Parking charge	Remote stands have free parking for 30 mins with variable savings depending on tonnage
<b>Charleroi</b>	-	-	-	-
<b>Charles De Gaulle</b>	Parking charge	Garage parking ~60% cheaper than remote parking	Parking charge	Savings of garage parking dependent on length of parking and tonnage
<b>Cologne</b>	-	-	-	-
<b>Copenhagen</b>	Parking charge	Numbered stands vastly more expensive than other areas depending on	Parking charge	Numbered stands vastly more expensive than other areas depending on length

Quality of service modulations - Air bridges, remote stands	2009		2012	
	Applies to	Cost difference	Applies to	Cost difference
		length of parking and tonnage		of parking and tonnage
Dublin	Parking charge, passenger charge, boarding bridge charge	Remote parking ~72% cheaper than contact stand parking, remote pax ~37% cheaper than contact stand pax, minimum boarding bridge charge of €5.85	Parking charge, passenger charge, boarding bridge charge	Remote parking ~72% cheaper than contact stand parking, remote pax ~33% cheaper than contact stand pax (season dependent), minimum boarding bridge charge of €7.35
Frankfurt	Parking charge	Surcharge for pier stands (size dependent)	Parking charge	Surcharge for pier stands (size dependent)
Frankfurt Hahn	-	-	-	-
Lisbon	Boarding bridge charge	Minimum Boarding bridge charge of €3.14 per minute	Boarding bridge charge, power supply charge	Minimum Boarding bridge charge of €3.14 per minute, minimum power supply charge for remote stands of €1.11 per minute
London Gatwick	Passenger charge	Remote stand rebate on all flights that saves ~22% on international flights	Passenger charge	Remote stand rebate on all flights that saves ~22% on international flights
London Heathrow	Passenger charge	Remote stand rebate on all flights that saves ~16% on international flights	Passenger charge	Remote stand rebate on all flights that saves ~13% on international flights
London Stansted	Passenger charge	Remote stand rebate on all flights that saves ~21% on international flights	Passenger charge	Remote stand rebate on all flights that saves ~23% on international flights
London-Luton	Parking charge	Remote parking ~21% cheaper for parking length up to 12 hours	Parking charge	Remote parking ~18% cheaper for parking length up to 12 hours

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Quality of service modulations - Air bridges, remote stands	2009		2012	
	Applies to	Cost difference	Applies to	Cost difference
Luxembourg	-	-	-	-
Madrid	Boarding bridge charge	Minimum boarding bridge charge of €49.34	Boarding bridge charge	Boarding bridge calculation based on weight and time connected
Milan Malpensa	-	-	Boarding bridge charge, power supply charge	Minimum boarding bridge charge of €111.10, minimum power supply at remote stands of €21.54
Bergamo/Milan Orio al Serio	-	-	-	-
Munich	Passenger charge	Additional charge for aircraft boarding at the terminal	Passenger charge	Remote boarding reductions for all flights and ~3% cheaper for international flights
Nice	Boarding bridge charge	Fixed boarding bridge charge of €39.37	Boarding bridge charge	Fixed boarding bridge charge of €39.37
Riga	-	-	-	-
Rome Ciampino	-	-	-	-
Rome Fiumicino	-	-	Boarding bridge charge, power supply charge	Variable boarding bridge time dependent on time, length and number of bridges, minimum remote power supply of €11.88
Stockholm Arlanda	-	-	-	-
Warsaw	-	-	Boarding bridge charge	Variable boarding bridge charge of €105 for the first 2 hours

Quality of service modulations - Air bridges, remote stands	2009		2012	
	Applies to	Cost difference	Applies to	Cost difference
Zurich	-	-	-	-

**Drivers for price differentiation of charges at a given airport (airline bargaining power, competitive pressure from nearby airports/other EU airports, etc.)? (TOR Q4b)**

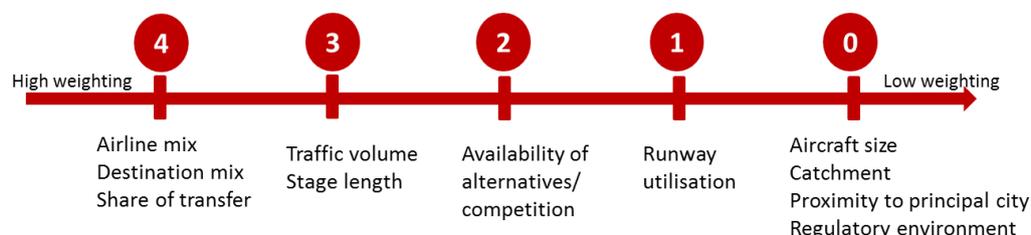
3.47 A study on “Comparing and Capping Airport Charges” undertaken for the UK Civil Aviation Authority by Leigh Fisher in 2012 examined the correlation between possible drivers of price differentiation and aeronautical revenue per passenger. The possible drivers that were retained included:

- Criteria categorised as “inherent”: Catchment area size, runway utilisation, regulatory requirements, access time to the principal city;
- Criteria categorised as “structural”: mix of airline served, mix of destination served, average aircraft size, distribution of short and long haul destinations, share of transfer, total passenger traffic, nature of airport ownership, the extent to which competition is available;
- Criteria categorised as “systemic”: airport objectives related to service offering, fixed assets/pax, growth, profitability, etc; and
- Criteria categorised as “realised”: indices related to operating processes, productivity, load factors and commercial revenues.

3.48 Some criteria such as service quality were not included because the study estimated that data was not widely available, and furthermore what mattered more was how the service quality matches the expectations of the airport customer. The criteria were also weighted according to their relative impact on aeronautical revenue per passenger.

3.49 The study found some level of correlation between some of the criteria as displayed below.

**FIGURE 3.11 CORRELATION TO AERONAUTICAL REVENUE PER PASSENGER**



Source: Comparing and Capping Airport Charges study for the UK CAA, 2012

3.50 It is interesting to note the medium correlation between airport competition and aeronautical revenue per passenger as well as the limited influence, according to

the study, between the regulatory environment and aeronautical revenue per passenger. On the other hand, structural criteria such as airline mix, destination mix and share of transfer passengers seem to be the most significant drivers for aeronautical revenue differentiation.

***What could be (an) appropriate index/appropriate indices to benchmark and compare overall airport charges as well as to benchmark and compare airport charges for different market segments? (TOR Q4 main)***

- 3.51 We believe that an appropriate benchmark for airport charges should follow some of these principles:
- It should include airports that are in-scope and out of scope of the Airport Charges Directive;
  - It should seek a representative sample of aircraft services (such as the 4 scenarios used in this study);
  - It should form a comparable time-series over time;
  - Where possible, it should seek to reflect any discounting and incentive regimes on offer;
  - It should group airports on the basis of size, economic regulation conditions or other drivers for price differentiation.
- 3.52 The Swiss Federal Office of Civil Aviation (FOCA) has set out guidelines for comparing airports and their charges. It proposes that benchmarking studies should include at least 5 airports - all members of the European Aviation Safety Agency - with similar characteristics (traffic volume, point-to-point/transfer mix, airline user mix). Benchmarking ought to cover landing, parking and passenger fees (all in scope of the Directive), as well as other infrastructure charges relating to passengers including security charges and State passenger taxes that are used to subsidise the airport.
- 3.53 FOCA highlighted that in addition to adjusting for socioeconomic differences (relative resource prices, cost of labour, inflation and exchange rates) to ensure a fair comparison, any such analysis should also consider the following and exclude airports that deviate significantly from the sample average based on:
- The level and quality of service provided;
  - The share of environmental costs borne by airports compared to the State;
  - The share of security costs taken on by the airport or the State;
  - airport capacity;
  - The regulatory framework; and
  - Infrastructure and capital expenditure plan and funding arrangements.
- 3.54 Moreover, in any benchmarking exercise it is important to define and isolate the relevant airport activities and costs in order to ensure that the underlying organisational, regulatory and funding structures are similar enough for such a comparison to be valid.

***Has potential discrimination between airlines operating to the same airport decreased? (3)***

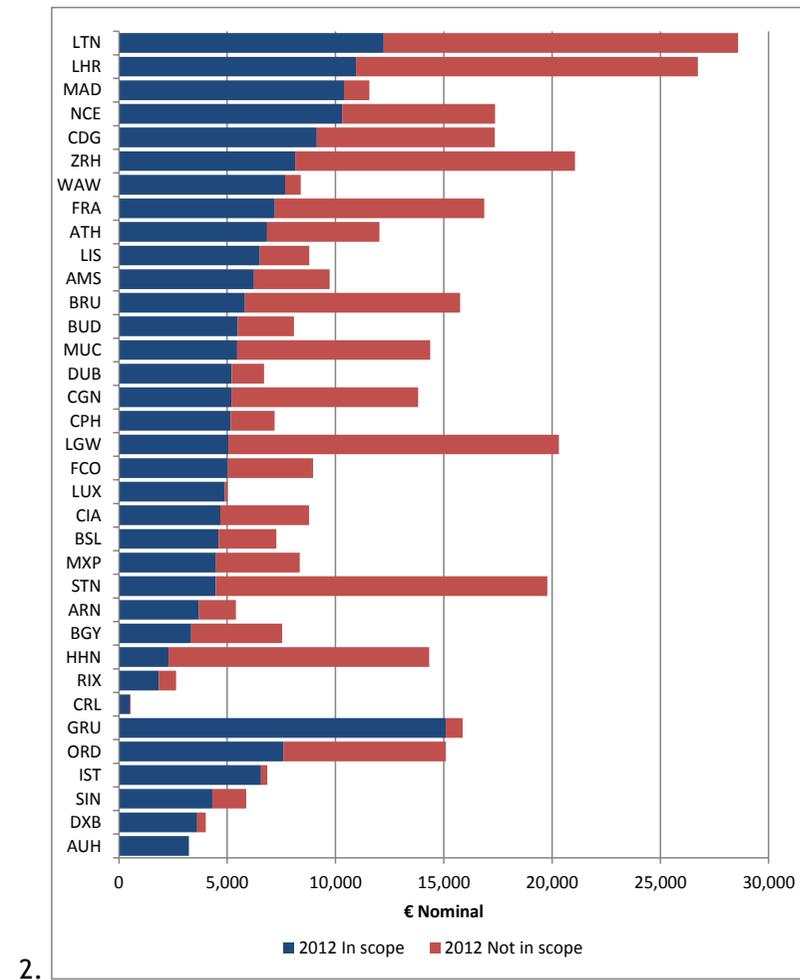
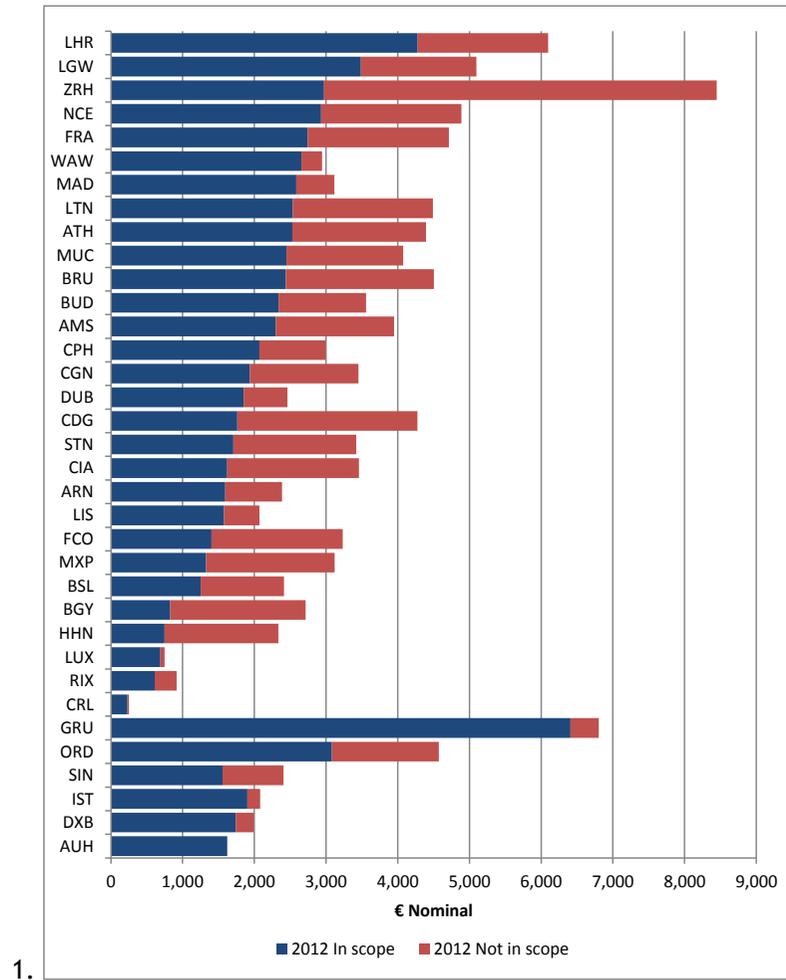
- 3.55 Stakeholders have not indicated whether possible discrimination between airlines at a given airport had changed as a result of the Directive's introduction. Besides, it is unlikely that airports would readily admit to previously discriminating actively between users, while airlines on the other hand would not be likely to reveal previous arrangements of such type.
- 3.56 All airport operators explained that they did not discriminate between users. Only one airport viewed its incentive scheme as a form of charge differentiation and discrimination, although, as noted previously, this was seen as a commercial/business development scheme that lies outside regulatory requirements. Three airports (CPH, LHR, ARN) indicated that that they do differentiate between users and different types of traffic. They did not consider this differentiation as discriminatory since it is transparently based on objective factors, for example aircraft noise or emission certifications. Another airport (MUC) pointed out that charges are not differentiated or discriminatory since all users have access to the same facilities.
- 3.57 In contrast to the position of airport operators, airlines felt that discrimination between users at a given airport was the norm. This contrasting perspective was the flipside to airports' application of "common" and "non-discriminatory charges". Where airports viewed this as fair, given that in most cases all users had access to the same facilities, airlines felt that in practice this was not true as they did not all use airport facilities and services in the same way.
- 3.58 For example, one low cost carrier (easyJet) highlighted how it could never benefit from discounted transfer passenger charges and how it had to pay blanket charges that did not relate to its short-haul operations (e.g. high-risk charges at Amsterdam that cover the additional security requirements for certain long-haul destinations). Further, the same low cost carrier and IACA claimed that the usual structure of charges implicitly favours services with lower seating densities and/or load factors given the dominance of passenger charges (charged on a per pax basis) in the mix of total turnaround costs.
- 3.59 IACA also thought that many features developed by airports may easily discriminate between airlines or business models. For instance, a high surcharge imposed on all aircraft parked at an airport (Lisbon) for longer than 18 hours may not only be disproportionate, but also be discriminatory against operators with a fleet based at the airport.
- 3.60 IATA added that there had been discrimination in terms of access to service and specifically in the eligibility criteria for using low cost terminals, the pricing discounts at which were not always readily justified. IATA was also concerned by distance or route-based charges, which we also detected in our analysis.
- 3.61 Here, we saw that airport charges were occasionally differentiated according to the route operated without recourse to the extent facilities or services were used. Most prominently, Italian airports differentiated their landing charges for intra-community flights and international flights. This does not appear to be justifiable since the use of runway capacity is not related to the route being operated. The

increased likelihood of international flights being operated by larger aircraft is already accounted for in the charging schedules which set out landing rates per MTOW. A similar charge differentiation was observed at Athens where passenger charges were uniform for all EU passengers despite the increased security, immigration and customs requirements for EU States that are not part of the Schengen area.

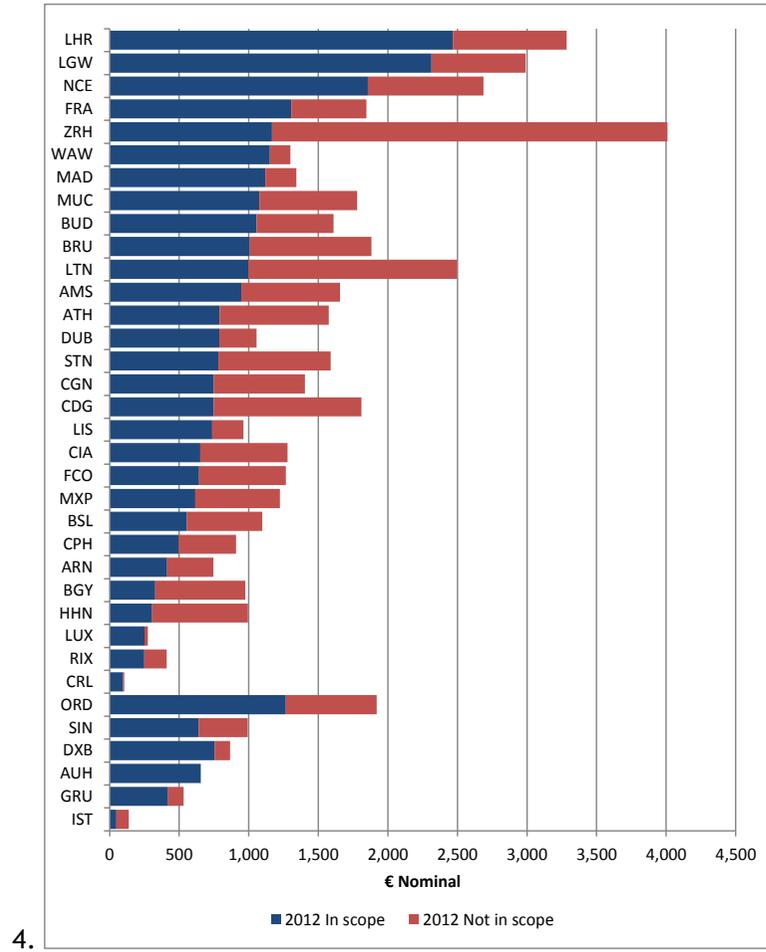
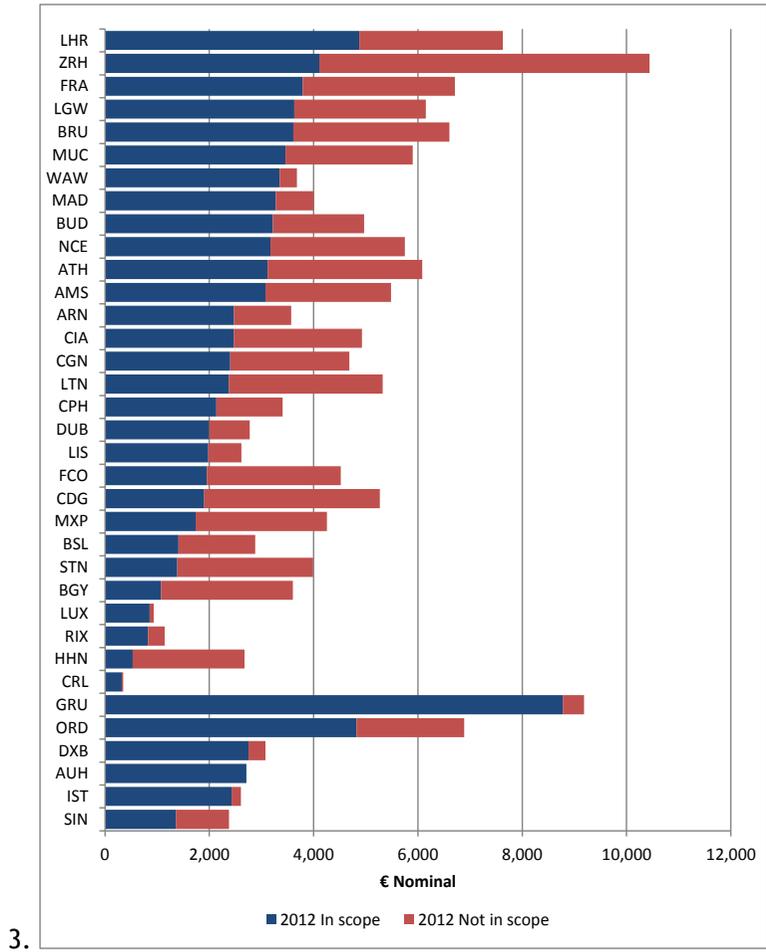
***How do charges at EU airports compare with those in the US, Asia and other regions? To what extent are airport charges in the US, Asia and other regions cost-related? (Q TOR 5)***

- 3.62 Airport charges differ very significantly across the European airports sampled for this study. The differences arise from variations in both in scope - charges covered by the Directive - and not in scope charges. Table 3.13 below illustrates the extent to which charges vary between airports for the four types of turnarounds tested by our scenarios. The four charts have a common scale for all four scenarios, but the order of airports changes between them - the ones with the highest in scope charges are always at the top. International airports are ranked separately at the bottom.

FIGURE 3.12 AIRPORT CHARGES IN EUROPE AND INTERNATIONALLY, SCENARIOS 1-4, 2012



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Source: Steer Davies Gleave analysis of IATA airport charges, August 2012. Note that Guarulhos charges are very high due to very high international charges.

- 3.63 As can be seen above, London Heathrow, Frankfurt and Zurich are consistently placed in the most expensive airports for all scenarios with respect to in scope charges. At the other end of the scale, Charleroi, Frankfurt Hahn and Riga are consistently Europe's cheapest airports.
- 3.64 Despite Heathrow's in scope charges being greater than Zurich's for all short-haul scenarios (1, 3 and 4), Zurich's significantly higher not in scope charges make it more expensive overall.
- 3.65 The most expensive airport for the long-haul scenario (2) is Luton. This is a marked change in Luton's position from the other scenarios, especially the low-cost scenario 3 where Luton is ranked 16<sup>th</sup>. This is the result of Luton's charging regime, which on application, appears aligned to the airport's general business model of catering for low-cost and charter operations with short turnarounds.
- 3.66 High Air Passenger Duty (this UK tax is also called APD) pushes all of the UK up towards the more expensive end of these charts.
- 3.67 Even when considering in scope charges alone, no particularly clear trend emerges from the above. In scope charges at Nice, for example, are very similar to those at Heathrow in scenario 2, but much closer to those at Athens for scenario 1.
- 3.68 As discussed previously, the drivers of differences in airport charges across Europe are related to:
- Business strategy/market development;
  - Regulatory environment;
  - Capacity constraints; and
  - Competition.
- 3.69 Some of the large international airports included in our sample, Sao Paulo Guarulhos (GRU) and Chicago O'Hare (ORD) are just as expensive as some of the most expensive European airports, while Dubai, Abu Dhabi, Istanbul and Singapore are all comparable to some of the cheapest. These international airports all handle similar traffic to the five major European hubs of Heathrow, Charles De Gaulle, Frankfurt, Amsterdam and Madrid. Table 3.9 below compares the average charge for these hubs weighted according to their 2012 total passenger traffic with the equivalent average charge at the international airports.

**TABLE 3.9 COMPARISON OF AVERAGE CHARGES AT EU AND INTERNATIONAL HUBS, SCENARIOS 1-4, 2012, NOMINAL €**

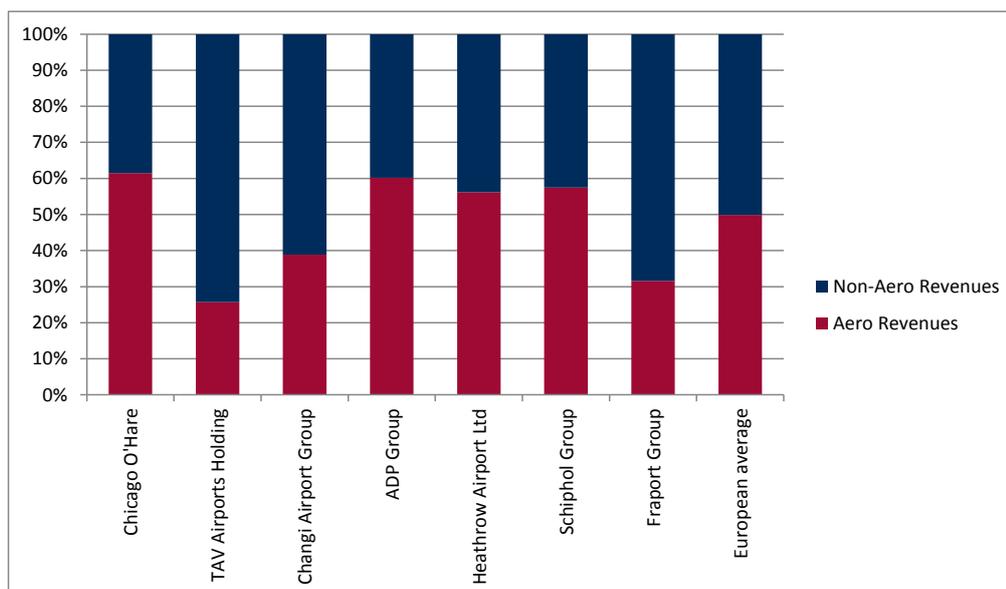
		In scope	Not in scope	Total
Scenario 1	EU hubs	2,801	1,744	4,545
	Int'l hubs	2,715	687	3,402
	Difference	-3%	-61%	-25%
Scenario 2	EU hubs	8,910	8,296	17,207
	Int'l hubs	6,942	2,484	9,426
	Difference	-22%	-70%	-45%
Scenario 3	EU hubs	3,439	2,506	5,945
	Int'l hubs	3,751	884	4,635

		In scope	Not in scope	Total
	Difference	9%	-65%	-22%
Scenario 4	EU hubs	1,374	692	2,067
	Int'l hubs	669	291	960
	Difference	-51%	-58%	-54%

Source: Steer Davies Gleave analysis of IATA airport charges, August 2012. We used a sample of European hubs including London Heathrow, Paris Charles De Gaulle, Frankfurt, Amsterdam and Madrid because of their high share of connecting traffic, whilst international hubs include airports of Chicago O'Hare, Sao Paulo Guarulhos, Istanbul, Dubai, Abu Dhabi and Singapore.

- 3.70 As the table above shows, the international hubs are overwhelmingly cheaper than their European equivalents, driven primarily by much lower charges that would not be deemed in the Directive's scope. The only instance where international charges are higher than those in Europe is for in scope fees levied on low-cost carriers, as in aircraft scenario 3. This is not surprising, given that a much greater proportion of these international airports' fees would be considered in scope of the Directive. International not in scope fees for scenario 3 are then much lower (-69%) than at the European hubs, once again resulting in lower overall costs.
- 3.71 However, it is important to remember that a straight forward comparison between EU airports and their international counterparts is not always possible:
- European hub airports face a wider set of policy challenges when competing against their non-European equivalents: for instance more stringent planning frameworks which ensure capacity development are longer and more expensive than for some of their non-EU counterparts;
  - An absence of concerns surrounding public funding and distortion of competition in some non-EU countries;
  - Significantly cheaper labour costs in some non-EU countries (Turkey);
  - In some cases, direct non-EU government support for the wider aviation industry in their countries.
- 3.72 Therefore it is difficult to isolate the specific impact of the Directive on such competition comparison.
- 3.73 We also examined financial reports at the sample of international airports. We have not been able to obtain any financial statements for airports in the Middle-East (Dubai and Abu-Dhabi) and South America (Sao Paolo). Revenue data from Singapore airport (Changi) is available, but data on costs is not comparable to the European airports of our sample. Therefore our international comparison is mostly based on the analysis of data from Chicago O'Hare, TAV Group (Turkish Airports and other small airports across Europe and North Africa) and, in part Singapore airport.
- 3.74 Figure 3.13 shows that the ratio of aeronautical versus non-aeronautical revenues does not particularly differ for international airports with those large EU hubs they compete against. For instance, revenue levels at Chicago mirror those of larger European hubs while the lower charges in Singapore and Turkey result in a proportionately lower reliance of these airports on aeronautical revenues to cover their costs.

FIGURE 3.13 INTERNATIONAL BENCHMARK OF REVENUES, 2011



Source: Steer Davies Gleave analysis of airport annual reports

- 3.75 No conclusive results were found regarding the structure of the costs of these international airports versus the European airports of the sample.

#### Airport charges transparency and the way airport charges are set

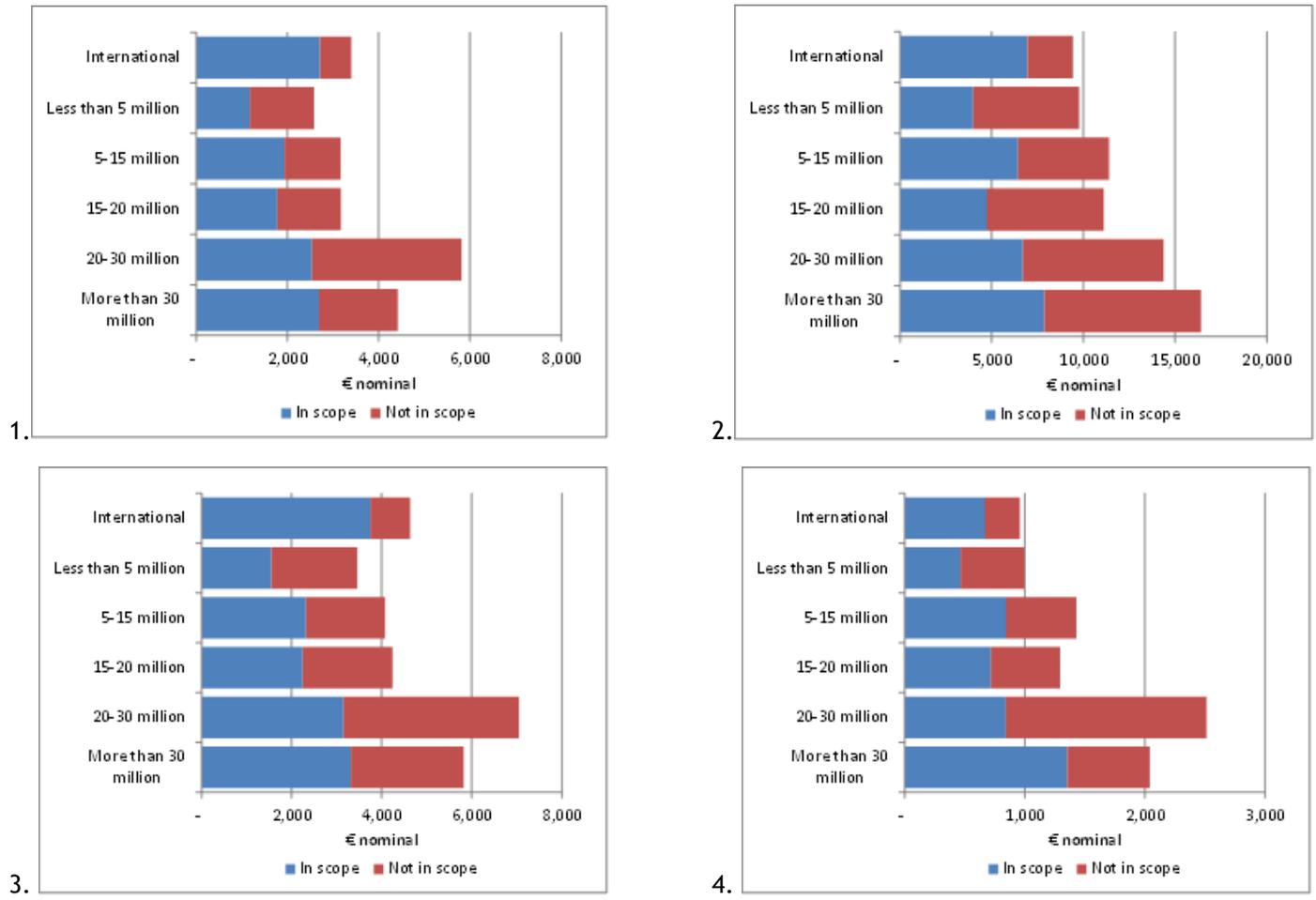
##### *Is there a correlation between the size of the airport and the level of airport charges? (TOR Q6a)*

- 3.76 As illustrated in Figure 3.14, there is no clear correlation between the size of the airport and the level of airport charges for any of the aircraft scenarios tested. However, airport charges do tend to be higher for airports of greater than 20 million passengers than below 20 million.

##### *Are there any other airport specific criteria that correlate with the level of airport charges? Does (partial) private ownership of the airport have an impact on the level of airport charges? (TOR Q6b)*

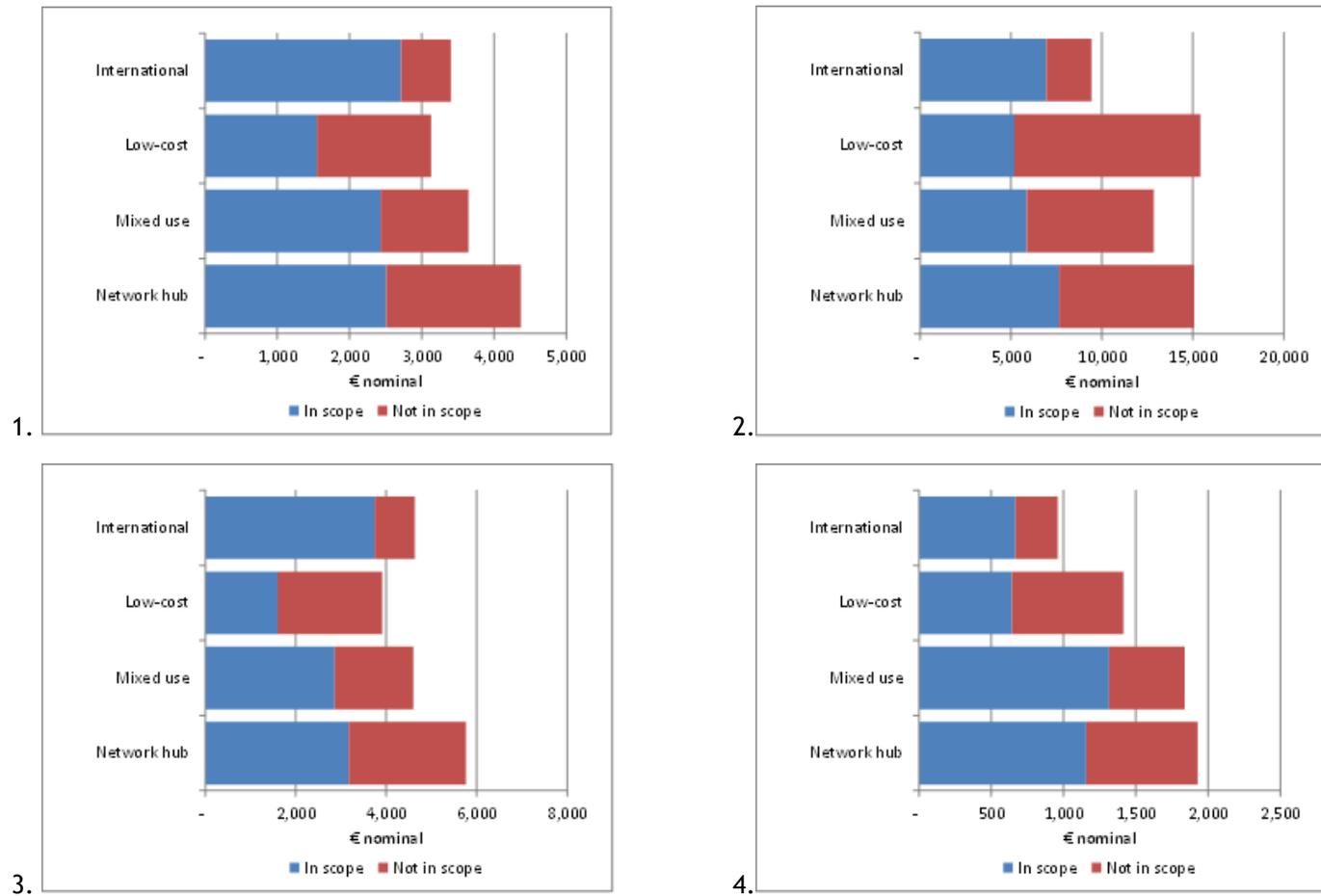
- 3.77 As illustrated in Figure 3.15 below, the network hubs tend to have the highest charges in each of the aircraft scenarios described above. It also appears that the type of management does impact the level at which charges are set perhaps reflecting the required return on their investments and less opportunity for cross-subsidisation, but also may reflect size as many of the largest European airports are under private management. However, other patterns are difficult to find.

FIGURE 3.14 AIRPORT CHARGES BY SIZE OF AIRPORT, SCENARIOS 1-4, 2012



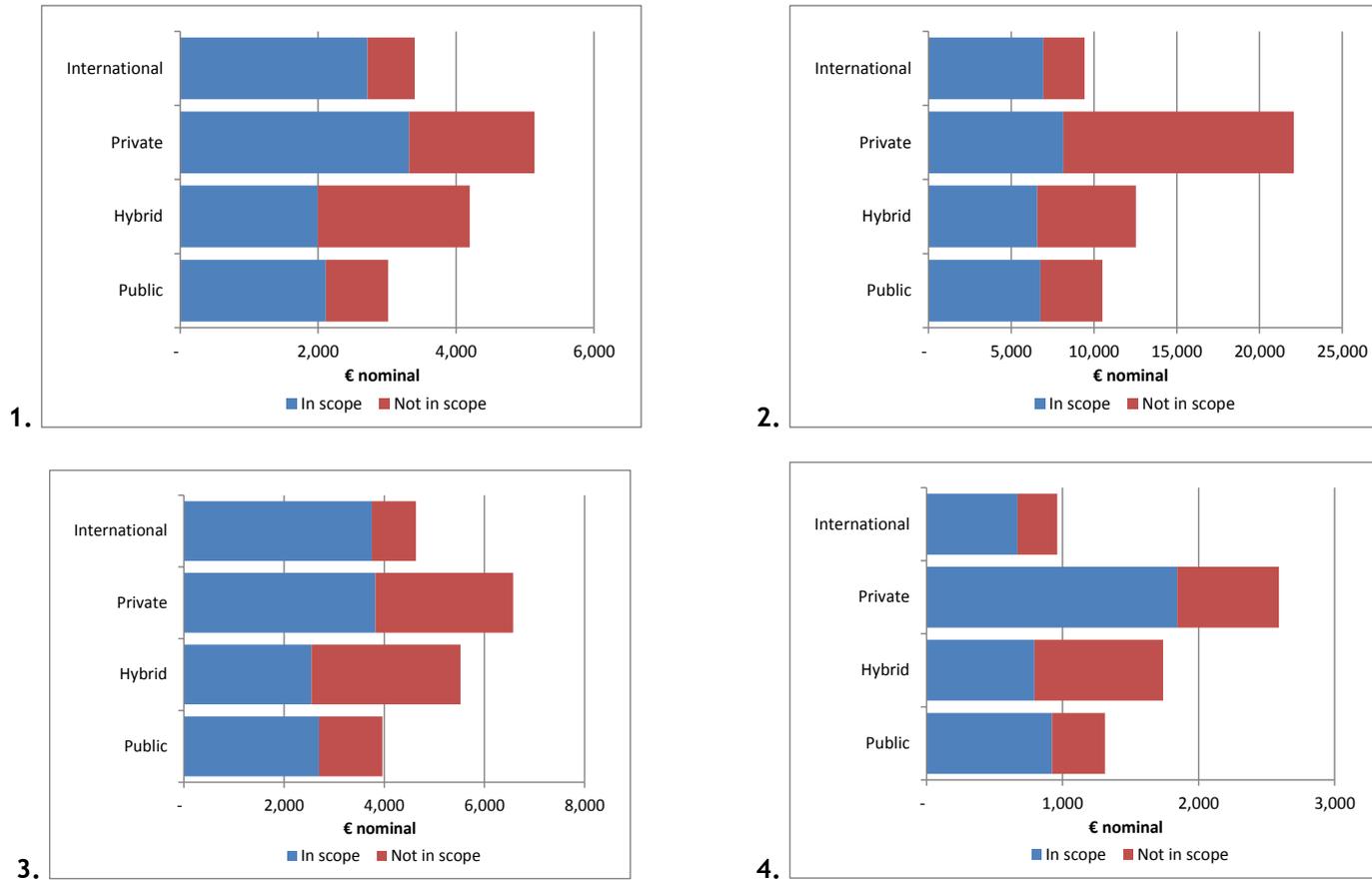
Source: Steer Davies Gleave analysis of IATA airport charges, August 2012

FIGURE 3.15 AIRPORT CHARGES BY TYPE OF AIRPORT, SCENARIOS 1-4, 2012



Source: Steer Davies Gleave analysis of IATA airport charges, August 2012

FIGURE 3.16 AIRPORT CHARGES BY TYPE OF MANAGEMENT, SCENARIOS 1-4, 2012



Source: Steer Davies Gleave analysis of IATA airport charges, August 2012

*Has the Directive had any impact on airports' incentive schemes (e.g. volume discounts, discount for new airlines, etc.)? Are the incentive schemes transparent and known to all airport users? Who benefits from the incentive scheme? How many airlines can reach the highest bracket? (TOR Q10)*

- 3.78 Table 3.10 displays the basic criteria for airport incentive schemes in 2009 and 2012.
- 3.79 In 2009, prior to the Directive, there were 9 of the sampled airports with incentive schemes acknowledged in the IATA charges manual, growing to 16 by 2012. The majority of these incentives are based on new routes, increased frequency on current routes and consistently high, or growing, passenger load factors.
- 3.80 However there are different interpretations across the EU on the “transparency” of the incentive schemes. Some airports publish the full details of their scheme online: this is the case for Amsterdam and Athens airports for instance. This is what a “Yes” in the far right column of Table 3.10 indicates. In other cases, airports do publicly mention that an incentive scheme is available but details will only be available upon the application of the individual airline. This is the case at Gatwick and Luton airports.

**TABLE 3.10 INCENTIVE SCHEMES FINDINGS**

Incentive Scheme	2009		2012		
	Acknowledgment of scheme in IATA's manual	Based on	Acknowledgment of scheme in IATA's manual	Based on	Transparent to all users?
Amsterdam	No	-	Yes	'Airline Reward Programme' and 'Freighter Reward Programme' - contact Schiphol for details	Yes
Athens	Yes	Landing charge- given in attachment	Yes	Sustainability, transfer niche routes and load factor incentives	Yes
Basel/Mulhouse	Yes	Landing charge- given in attachment	Yes	Creation of new passenger and cargo destinations, Passenger charge adjustment according to volume	Yes
Brussels	No	-	Yes	New destinations, Additional frequencies	Yes
Budapest	Yes	Landing charge- given in attachment	Yes	Creation of new routes, Recovery of recently terminated routes <sup>4</sup> ,	Yes

<sup>4</sup> Malév, the flag-carrier of Hungary was declared insolvent in 2012

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Incentive Scheme	2009		2012		
	Acknowledgment of scheme in IATA's manual	Based on	Acknowledgment of scheme in IATA's manual	Based on	Transparent to all users?
				Seasonal routes, Additional flights	
Charleroi	No	-	Yes	Reduction of landing charge to yearly charges per carrier	Yes
Charles De Gaulle	No	-	No	-	Yes
Cologne	Yes	Cargo aircraft landing at certain times, 80% yearly load factor on passenger charges	Yes	Cargo aircraft landing at certain times, 80% yearly load factor on passenger charges	Yes
Copenhagen	No	-	No	-	Yes
Dublin	No	-	Yes	Growth, Transfer, New route incentives	Yes
Frankfurt	Yes	Passenger charge refunds for high annual load factors	Yes	Passenger charge refunds for high yearly load factors	Yes
Frankfurt Hahn	No	-	No	-	No
Lisbon	No	-	No	-	Yes
London Gatwick	No	-	No	-	No
London Heathrow	No	-	No	-	No
London Stansted	No	-	Yes	Landing charge -contact STN for incentive scheme	No
London-Luton	No	-	Yes	Fixed Base Operator traffic leading to passenger charge reduction	No
Luxembourg	No	-	Yes	Volume discount on landing and lighting charges	No

Incentive Scheme	2009		2012		
	Acknowledgment of scheme in IATA's manual	Based on	Acknowledgment of scheme in IATA's manual	Based on	Transparent to all users?
Milan Malpensa	No	-	No	-	No
Bergamo/Milan Orio al Serio	No	-	No	-	No
Munich	No	-	No	-	No
Nice	No	-	No	-	Yes
Riga	Yes	Passenger charge-given in attachment	Yes	New routes and increased frequencies - contact Riga for details	No
Rome Ciampino	No	-	No	-	No
Rome Fiumicino	No	-	No	-	No
Stockholm Arlanda	No	-	Yes	New destination discount, Passenger increase, Air cargo discount	Yes
Warsaw	Yes	Landing charge- given in attachment	Yes	New route, Increased passenger/transfer traffic, Boarding bridge discount for regular usage.	Yes
Zurich	Yes	50% landing charge reduction for incoming Swiss flights	Yes	50% landing charge reduction for incoming Swiss flights	No

Source: Steer Davies Gleave analysis of IATA Charges Manuals, Airport websites

- 3.81 We observed that more schemes appear to be publicly available in 2012 than were in 2009. It is not clear whether this is as a result of improved transparency or simply that more schemes have been introduced in the intervening years, perhaps in an attempt to attract more users in the recent market conditions.
- 3.82 Airports have suggested that the Directive has not generally had any impact on the availability and the transparency of incentive schemes. They tend to agree that such schemes are in place for business development and/or capacity optimisation, and that they lie outside regulatory requirements. According to airports, incentive schemes will always be made available to all airlines in a non-discriminatory manner. At some airports these schemes are part of the consultation process,

whereas at others they are excluded. Incentive schemes allow airports to increase traffic and as a result reduce user charges.

3.83 Airline organisations and IATA in particular strongly disagreed with this point. They insist that airports should focus on reducing their overall costs instead of offering targeted schemes to increase traffic. Legacy airlines were particularly opposed to volume rebates. They acknowledged that incentive schemes tended to be sufficiently transparent, but noted that often the schemes’ structures were implicitly discriminatory by potentially favouring certain routes or types of traffic above others. They also pointed out that while the terms of the incentive schemes tended to be advertised, the details of individual arrangements were not readily available, eroding trust and potentially undermining competition.

*To what extent are airports modulating their charges for environmental or other reasons (e.g. congestion, noise) as permitted under Article 3 of the Directive? If airports do not make use of the possibility to modulate their charges for environmental or other reasons, what are the reasons thereof? (9)*

3.84 There is a significant variation in the use of environmental charges, and in their modulation. Whilst there has been an increase in the number of airports that have included environmental charges to their airport charges, approximately half of the airports in our sample do not include any form of environmental charging.

**TABLE 3.11 ENVIRONMENTAL MODULATION OF CHARGES**

Environmental Modulation	Noise		Emissions	
	2009 Description	2012 Description	2009 Description	2012 Description
Amsterdam	Multiplier on landing charge	Multiplier on landing charge	-	-
Athens	-	-	-	-
Basel/Mulhouse	Multiplier on landing charge	Multiplier on landing charge	Multiplier on landing charge	Multiplier on landing charge
Brussels	Multiplier on take-off, landing and Navaid charge	Multiplier on take-off, landing and Navaid charge	-	-
Budapest	Aircraft type and time of day	Aircraft type and time of day	-	-
Charleroi	-	-	-	-
Charles De Gaulle	Multiplier on landing charge	Multiplier on landing charge	-	-
Cologne	Additional charge per landing	Additional charge per landing	Charge based on engine NOx	Charge based on engine NOx

Environmental Modulation	Noise		Emissions	
	2009 Description	2012 Description	2009 Description	2012 Description
Copenhagen	-	-	-	Charge based on engine NOx
Dublin	-	-	-	-
Frankfurt	Base charge with additional night surcharge	Base charge with additional night surcharge	Charge based on engine NOx	Charge based on engine NOx
Frankfurt Hahn	-	-	-	-
Lisbon	-	-	-	-
London Gatwick	Landing charges applied by noise category of aircraft	Landing charges applied by noise category of aircraft	Charge based on engine NOx	Charge based on engine NOx
London Heathrow	Landing charges applied by noise category of aircraft	Landing charges applied by noise category of aircraft	Charge based on engine NOx	Charge based on engine NOx
London Stansted	Included in the landing charge	Included in the landing charge	Unexplained in IATA manual	Unexplained in IATA manual
London-Luton	Multiplier on landing charge	Multiplier on landing charge	Charge based on engine NOx	Charge based on engine NOx
Luxembourg	-	-	-	-
Madrid	Multiplier on landing charge	Multiplier on landing charge	-	-
Milan Malpensa	Not implemented	Not implemented	-	-
Bergamo/Milan Orio al Serio	-	-	-	-
Munich	Additional charge based on noise category	Additional charge based on noise category	Charge quoted from the airport	Charge quoted from the airport
Nice	Multiplier on landing charge	Multiplier on landing charge	-	-
Riga	-	-	-	-
Rome	-	-	-	-

Environmental Modulation	Noise		Emissions	
	2009 Description	2012 Description	2009 Description	2012 Description
Ciampino				
Rome Fiumicino	Not implemented	Not implemented	-	-
Stockholm Arlanda	Calculation based on noise levels	Calculation based on noise levels	Charge based on engine NOx	Charge based on engine NOx
Warsaw	Based on noise certificate for each landing	Based on noise certificate for each landing	-	-
Zurich	Additional charge by noise category	Additional charge by noise category	Emissions multiplier	Emissions multiplier

Source: Steer Davies Gleave analysis of IATA Charges Manuals

- 3.85 Of the airports that have emission charges, only in Germany does it seem to be a legal requirement. The other airports with emission charges explained that such charges were levied in an effort to incentivise more environmentally friendly aircraft and minimise the local impact of the airport.
- 3.86 Among the airports that do not modulate charges according to environmental factors, Athens airport suggested that this was because it is schedule coordinated and do not need to apply noise charges (presumably for night-time flights) because the schedule has already been shaped to minimise this, while Dublin and Riga airports explained that there had been no need for such charges yet: long-term planning at Dublin airport meant that the airport location and layout have allowed for a mitigation of its impact on local communities and the environment.
- 3.87 Just five of the sampled airports varied their charges by time of day or season in an attempt to manage capacity. These, unsurprisingly, include some of the most capacity constrained airports and are shown in Table 3.12 below, along with Istanbul, the only of the international airports to differentiate its charges in this way.

**TABLE 3.12 PEAK/OFF PEAK VARIATION IN CHARGES**

Airport	Type of Peak	Scale of charges
London Heathrow	Time of day & Season	+50% peak surcharge
London Gatwick	Time of day & Season	~ +200% peak surcharge
London Stansted	Season	~ -25% off-peak discount
London Luton	Time of day	~ -33% off-peak discount
Dublin	Season	~ -43% off-peak discount

Istanbul	Season	-50% off-peak discount
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Source: SDG Source: Analysis of IATA airport charges, August 2012

## Airport networks

### ***Do the managing bodies of airport networks comply with the transparency requirements under Article 7(1) of the Directive for each airport in the network?***

- 3.88 Some airport network stakeholders detailed their transparency plans:
- ANA explained that in Portugal transparency was ensured by the provision of the information at consultation process in line with the requirements of Article 7 and that Information was available for each price cap. However, with Lisbon grouped with other island airports as part of the so-called “Lisbon group”, this statement by ANA does not appear to mean that information is provided for each airport as per Article 7.
  - ADP explained that it provides airline details of the Profit and Loss statements for aeronautical fees for each airport as well as assets immobilised.
  - Swedavia said that information was available at a network level, whilst for Stockholm Arlanda airport information on aviation costs and revenues was also made available to the extent required under Article 7.
- 3.89 Member States ensured that the charging systems were transparent “through the consultation” (Finland), through the “economic regulation model” (Portugal) whilst the Spanish authority said that “Law 21/2003 requires that all the information referred to in Article 7 is made public, for the whole airport network, when conducting the transparency and consultation procedure”.
- 3.90 Airlines noted that the concept of network charging systems was inconsistent with the principle that airport charges should be cost-reflective. Some asked for this part of the Directive to be reformed.
- Has the Directive had any impact on the operation and functioning of airport networks? Have there been changes as to the level of cross-subsidisation between airports in an airport network? (12)***
- 3.91 Airports have generally reported no impact upon the operation or the functioning of airport networks: this was stated by AENA, ANA (Aeroportos de Portugal), ADP (Aéroports de Paris), Swedavia. The main reason for this, according to ACI Europe is that airport charges at airports subject to the Directive were already “*primarily driven by wider market forces*”, or by “*more extensive economic regulation at a Member State level*”. In the absence of a change of airport charges at regulated airports, the wider network of operation and functioning as well as the level of cross-subsidisation also remained unchanged. Airport network operators stated that they maintain the operation of smaller airports via commercial revenues and via normal profits generated by these airports. DAA (Dublin Airport Authority) also stated that because of the economic regulation it is under, airport charges are not cross-subsidized at Dublin airport with the rest of the network. Swedavia also explained that the cross subsidisation in the network of airports was entirely

financed by the non-aviation surplus on network level under the single-till approach. Swedavia also stated that it was considering the possibility to be formally designated by the Authority as an "airport network" in accordance with the definition in Article 2.5 of the Directive.

### Cost relatedness

- 3.92 We have analysed the annual reports and financial statements of 30 European airports. However, we note that:
- Some airports are managed by a single Group (such as all the Spanish airports part of AENA, the Portuguese airports ANA (recently sold to Vinci), the two Paris airports part of ADP, etc) and only a group annual financial report was publicly available.
  - Some airport managing bodies (AMBs) do not have publicly available financial information and the relevant requests to access financial data by Steer Davies Gleave have been not been successful. This was the case for Luxembourg and Riga airports.
- 3.93 The analysis of AMBs was carried out for the calendar year ending 31st December 2011. This is the year for which the latest data is available in most cases. However there were exceptions to this (e.g. UK financial year ending 31st March for Gatwick airport).
- 3.94 The data collected was used to compare revenue and costs structures across airports and to calculate averages against which to benchmark. Data from 2009 Annual Reports was also used in order to extrapolate trends and compare the main results before and after the implementation of Directive 2009/12/EC in most Member States.
- 3.95 Data on revenues from the airport charges definition used in the Directive, was only available for a sample of 13 airports. Therefore, we based our analysis on the wider definition of aeronautical revenues<sup>5</sup>, including out of scope sources of revenue in order to study a wider sample of airports. Ground handling activities are generally not included in the definition of aeronautical revenues, except for Munich airport.
- 3.96 Non-aeronautical revenues, on the other hand, usually represent the total revenues coming from commercial activities at a given airport within a financial year. However, for some airport group accounts (notably DAA and ADP), a portion of the revenues appearing in annual reports come from other operations generally taking place overseas for instance deriving from investments in other airports. This impacts total non-aeronautical revenues at these airports.

### ***What is the proportion of airport charges in the overall turnover of airport managing bodies? (TOR Q1c)***

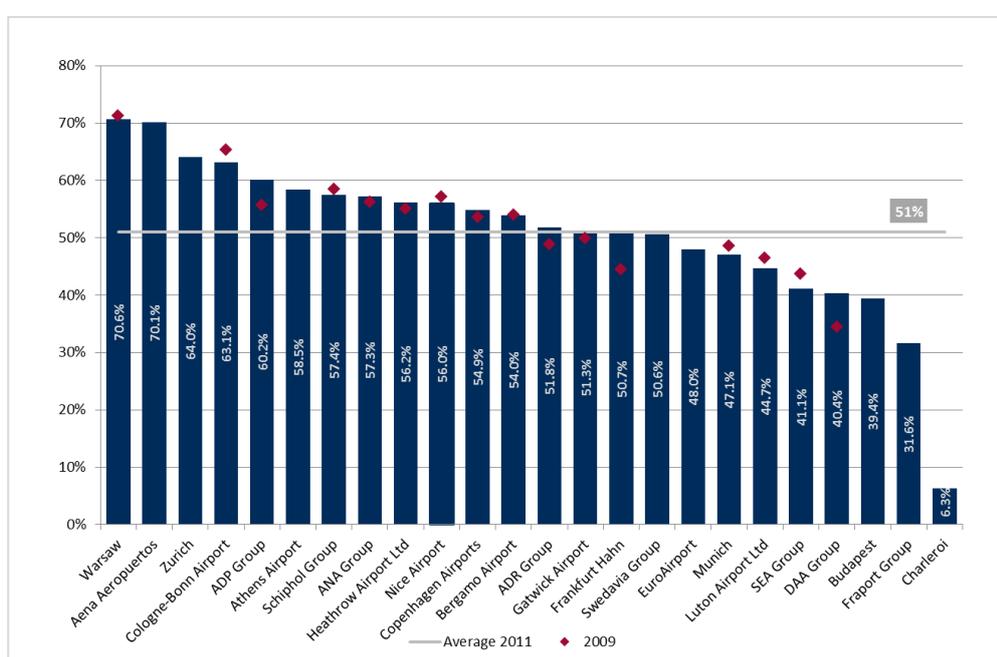
- 3.97 Results are presented below and show that:

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<sup>5</sup> Revenues from activities that deal with one of the following: facilitating aircraft movements, providing passenger facilities or processing cargo movements - as opposed to other revenues from commercial activities (such as duty-free sales, food and beverages, other retail activities, car parking, real estate, advertising, and other particular activities) at airports.

- On average, aeronautical revenues make up around half of total turnover in the sample analysed.
- There has only been limited changes for most AMBs between 2009 and 2011: the share of aeronautical revenues grew from 34% to 40% of the total at DAA Group (Ireland), and from 45% to 51% of the total at Frankfurt Hahn (Germany), whilst it decreased from 44% to 41% at SEA Group (Italy);
- Overall, the average proportion of aeronautical revenue was slightly lower in 2011 (50%) than in 2009 (52%);
- However there are some wide variations in the proportion of aeronautical revenues, from 6% at Charleroi (Belgium) to 70% for Warsaw Airport (Poland) and AENA Aeropuertos (Spain);

FIGURE 3.17 AERONAUTICAL REVENUES AS A PROPORTION OF TURNOVER



Source: Steer Davies Gleave analysis of airport annual reports. Note for Athens airport aeronautical revenues have been defined as airport charges + Airport Development Fund (ADF) which is a tax.

3.98 Looking at the factors that may have an impact on the share of aeronautical revenues in the airport turnover, the nature of the management seems to have an impact: in privately-run airports, aeronautical revenues cover a lower proportion of total revenues, indicating a greater impact of commercial activities.

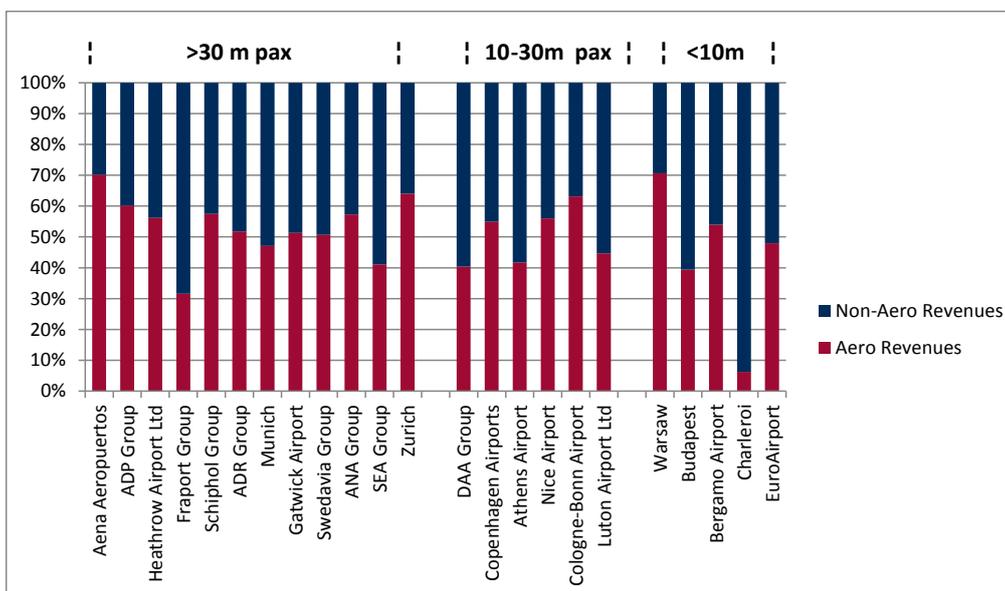
**TABLE 3.13 EXPLANATORY FACTORS FOR THE SHARE OF AERONAUTICAL REVENUES AS OF TURNOVER, 2011**

Ownership	Proportion in revenue	Passenger traffic	Proportion in revenue
Public	51%	>30 million pax	53%
Hybrid	55%	10-20 million pax	51%
Fully private	47%	<10 million pax (*)	51%

Source: Steer Davies Gleave analysis of airport annual reports. Note (\*) excluding Charleroi airport

3.99 Excluding Charleroi airport, which we consider here as at outlier, the analysis of this sample is not conclusive on the reliance of airports from revenues coming from non-aeronautical activities based on traffic size.

**FIGURE 3.18 RELATIVE SHARE OF AERONAUTICAL AND NON-AERONAUTICAL REVENUES, BY AIRPORT SIZE, 2011**



Source: Steer Davies Gleave analysis of airport annual reports

***To what extent are total costs, capital costs (annual depreciation of infrastructure and airport equipment including the costs of financing) and operating costs of the airport managing bodies covered by the airport charges? (TOR Q3a)***

3.100 Figure 3.20 provides an interesting illustration of the comparison between the revenue structure and cost structure of the airports in the sample. It shows that:

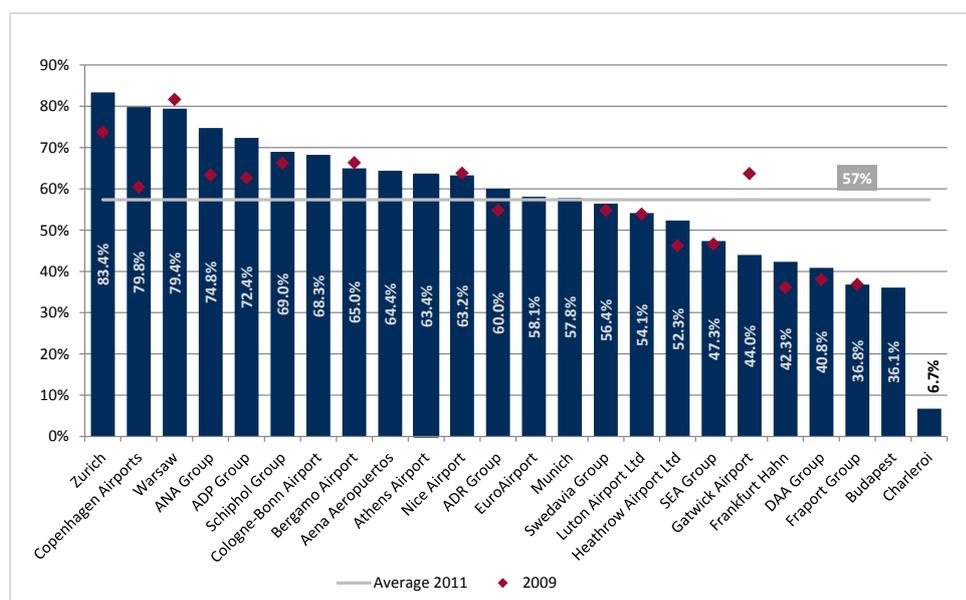
- Most European airports have covered their costs in 2011. Exceptions include Frankfurt Hahn and AENA.
- On average, aeronautical revenues cover around 57% of the total costs (operating costs, costs of financing and depreciation) in the sample analysed.

- On average, aeronautical revenues make up more than two thirds of operating costs in the sample analysed.
- Aeronautical revenues were higher than capital costs (calculated as depreciation and costs of financing) for all airports in the sample except Budapest in 2011.

3.101 Figure 3.19 shows that for total costs:

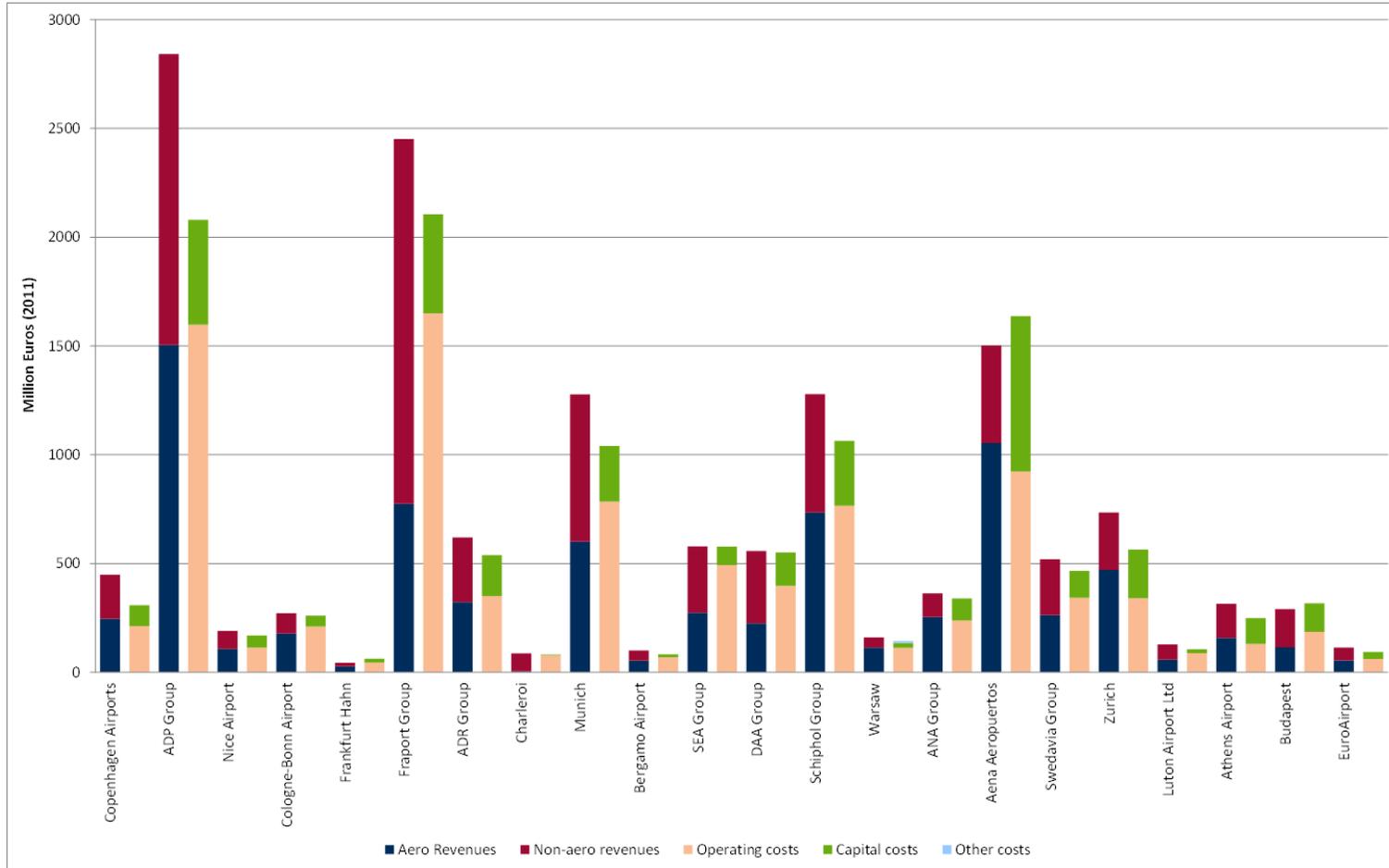
- However there is a significant amount of discrepancy, with aeronautical revenues covering 6.7% of total costs for Charleroi airport (Belgium) up to 83.4% for Zurich airport (Switzerland).
- Some AMBs have seen a substantial increase in the relative share of aeronautical revenues between 2009 and 2011, notably 19% rise in cost-coverage at Copenhagen (Denmark), and 11% at ANA Group (Portugal). The variation at Copenhagen was triggered by changes in the structure and level of airport charges, as well as a marginal decrease in costs between 2010 and 2011.
- A decrease has been witnessed at a few airports, such as Athens airport (-4%).
- Overall, aeronautical revenues have covered a slightly smaller share of total costs at European airports in 2011 than in 2009. The average cost-coverage has decreased from 57.6% to 57.3%.

**FIGURE 3.19 AERONAUTICAL REVENUES AS A PROPORTION OF TOTAL COSTS, 2009-2011**



Source: SDG analysis of airport annual reports

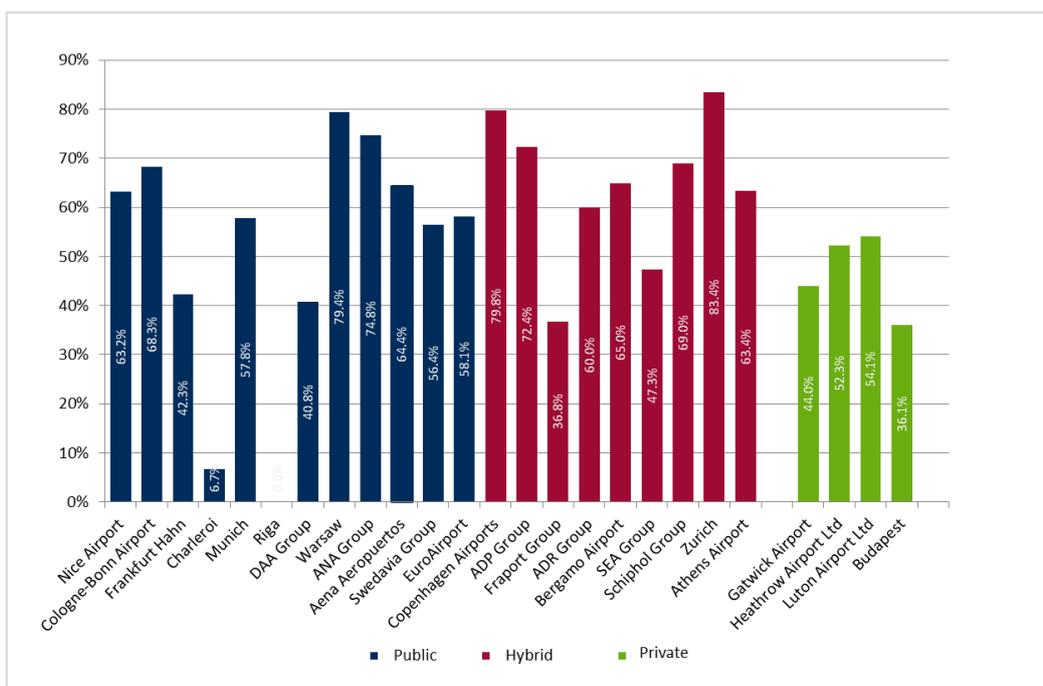
FIGURE 3.20 COMPARISON OF REVENUE AND COST STRUCTURES AT SELECTED EUROPEAN AIRPORT GROUPS, 2011



Source: SDG analysis of airport annual reports. Note: the figure below includes for DAA and ADP revenues from other operations generally taking place overseas which impacts total non-aeronautical revenues

3.102 No specific differences emerge from further analysis by geographical location. Ownership seems to have a small impact: in privately-owned airports, aeronautical revenues cover a lower proportion of total costs, indicating a greater reliance on commercial activities as a revenue source. No significant trends emerge from looking at the share of costs covered by aeronautical revenues in terms of airport size.

**FIGURE 3.21 AERONAUTICAL REVENUES AS A PROPORTION OF TOTAL COSTS, BY OWNERSHIP, 2011**

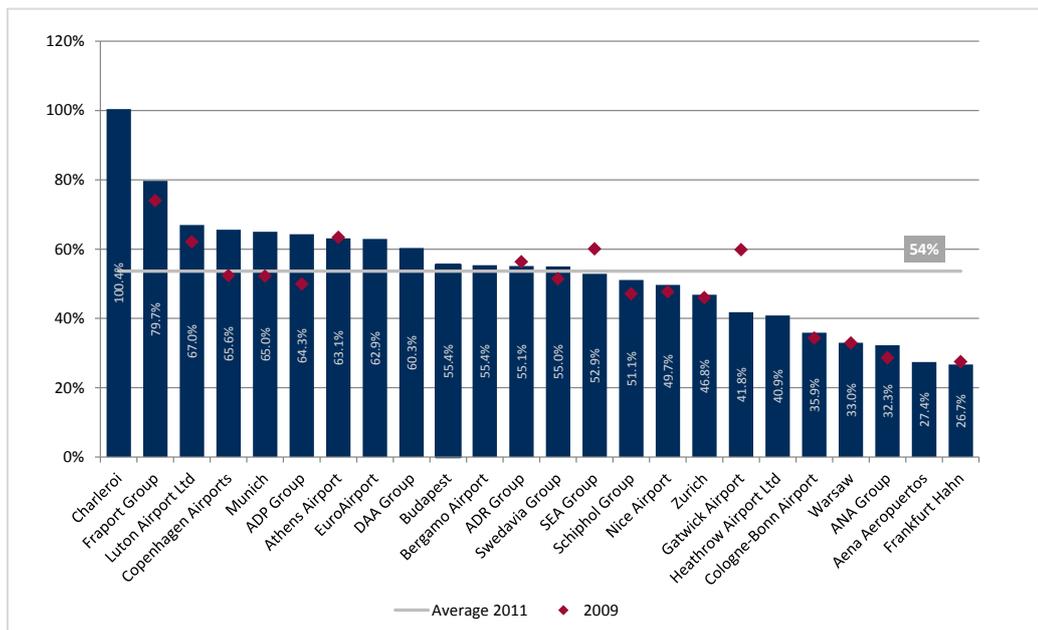


Source: Steer Davies Gleave analysis of airport annual reports

***To what extent are costs covered by other commercial revenue (car parks, shops, rental revenue, etc.)? (TOR Q3b)***

3.103 The proportion of non-aeronautical revenues as of total costs is displayed in Figure 3.22. It shows that for most airports across Europe, non-aeronautical revenues are necessary to balance their costs.

**FIGURE 3.22 NON-AERONAUTICAL REVENUES AS PROPORTION OF TOTAL COSTS, 2011**



Source: SDG analysis of airport annual reports

**What is the impact of non-commercial activities (safety, security, etc.) on airport cost coverage? (TOR Q3c)**

3.104 Not enough information was available to carry out a detailed analysis in response to this question. However Table 3.14 shows the share of security activities for a sample of Airport Managing Bodies.

**TABLE 3.14 OPERATING COSTS COVERED BY SECURITY CHARGES, 2011**

Airport	Year	Share of operating costs
AENA Aeropuertos	2011	13%
ANA Group	2011	20%
ADP Group	2011	20%
Zurich	2011	38%

Source: SDG analysis of airport annual reports

**How cost-related are the airport charges? (7a) Do airport charges recover full aeronautical infrastructure costs? (TOR Q7b)**

3.105 This question is not simple to answer without going into a detailed cost allocation process between an aeronautical till (operating and capital costs), and commercial till. The analysis above has generally shown that revenues from aeronautical charges are making a substantial contribution to the costs of running the airport. However, there are some exceptions such as Charleroi. Frankfurt has a high

percentage of non-aeronautical revenues, whilst this is the opposite for Spanish airport operator AENA.

***Can any trends be observed as regards the cost-relatedness and the recovery of aeronautical infrastructure costs through the airport charges? (TOR Q7c)***

- 3.106 The ICAO principle of cost-relatedness has been enshrined in the Directive. The views of the stakeholders to cost-relatedness were polarised with significant differences in views between the airports and the airlines. Whilst airlines agreed on most points, there was also a difference in view between the network airlines and the low-cost airlines.
- 3.107 The responses of the airports were broadly similar according to their model of economic regulation, as well as the impact of the competition from other airports.
- i) Airports operating under a single-till system explained that aeronautical charges did not reflect the full costs of providing the services and infrastructure, because non-aeronautical revenues also contributed to total airport income. In the case of airport networks, Swedavia explained that airport charges in the network (including Stockholm Arlanda) were set below cost with the deficit financed under the single-till.
  - ii) Airports operating under a dual-till explained that whilst total charges had to be cost related, they followed the local requirements of the dual or hybrid till for the allocation of costs.
  - iii) Some airports also explained that airport charges were based on what the market could bear, not based on costs. This was particularly the case for airports that operate in an aggressive competitive environment (such as in the London airport area).
- 3.108 Airports also often noted that some charges, such as the landing charge was set below its real cost so that the share of passenger-related charges could be higher than the share of aircraft-related charges in the total airport turnaround costs for the airlines. This is an approach favoured by network airlines, but a low-cost carrier disagreed with it because it felt that LCCs who generally operate with higher load factors and passenger densities than network airlines were penalised by this structure of airport charges. In addition, it also felt that the way charges were structured was not cost-related since a passenger charge may include a number of components which are used to varying degrees by different airlines (i.e. some airlines may be paying for services they do not use, effectively subsidising those airlines that use those services).
- 3.109 Warsaw airport also remarked that on cost-relatedness, the Directive was less strict than the current national regulations, where for a given service the charge should reflect the relevant cost level. EuroAirport of Bâle-Mulhouse observed that its charges were cost related by having analytical bookkeeping.
- 3.110 Airlines and their associations' most recurrent complaint was that the requirements of Article 7 c "*the overall cost structure with regards to the facilities and services which airport charges relate to*" could potentially be interpreted as a single number to be provided. They felt that the information provided at some airports was being delivered at an extremely aggregated level

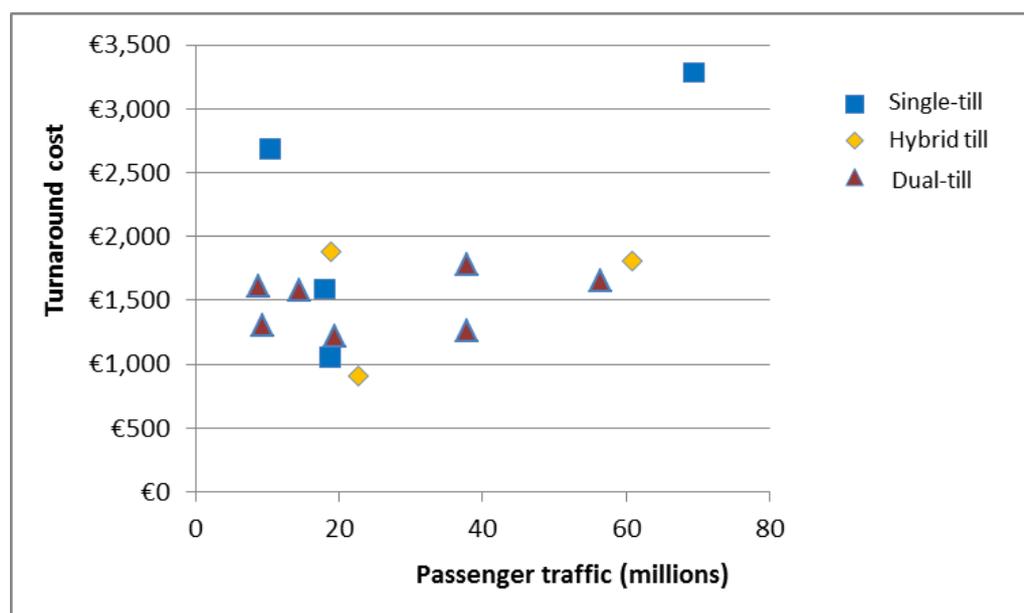
and sometimes did not even refer to the relevant time period for which the approval of charges was been required.

- 3.111 Based on the information provided, users said that they could hardly identify whether increases in charges were cost related and were, as a result, subject to the airport's goodwill for providing more detailed information. They also regretted that the transparency requirements did not specify airports to provide information about their commercial activities, not allowing users to have a full picture of the finances of the airport, particularly to understand the contribution of aeronautical activities, nor did it allow users to see how assets were allocated between aeronautical and commercial activities. A significant number of airports were quoted by users as having charges not cost-related (or where there was not enough information to make such analysis). They included Italian airports, Spanish airports, German airports, Poland, Greece, Cyprus, Latvia, Austria, Swedish airports, Hungary, Bulgaria, Cyprus, Finland, France and Denmark.
- 3.112 Airlines also commented that in their views comparison between the level of inflation and airport proposals to change airport charges was not enough to justify the level of charges (as has been the case in Cyprus, Sweden or Czech Republic). In Sweden in particular we understand that there is an oddity in the transposition of the Directive which means that users can only appeal against charges when there is a change in the structure of charges. In practice users cannot request a change in the level of charges when there may be factors justifying a reduction in charges (such as an increase in traffic, etc). As a consequence, this situation leads to charges that are not cost-related.
- 3.113 Airlines also felt that only a handful of regulators or ISA were actually able to assess the cost-relatedness of charges, because information asymmetry for regulators and/or airlines as well as passive behaviour from authorities.
- 3.114 Charges across the networks of Spain, Portugal, Sweden and Finland were repeatedly quoted as possibly being cost-related across the whole network but not for individual airports where airports with higher traffic may subsidise cost at smaller but higher-cost airports. This situation was also thought to be even worse when in countries like in Spain or Sweden charges at their main airports were significantly higher than the charges collected at the rest of the airports in the network.

***Has the Directive had any impact on the use of the dual-till and single-till systems for the setting of airport charges? Have there been changes as to the level of cross-subsidisation between aeronautical and non-aeronautical activities at an airport? (TOR Q8)***

- 3.115 In recent years, there has been a trend towards hybrid and dual-till systems in Europe, and a trend away from the single-till. This is allowed under the Directive which leaves Member States free to decide the type of economic regulation it wishes to implement. We found no real pattern between traffic levels and the use of single or dual tills as shown on the graph below.

FIGURE 3.23 TRAFFIC VS TILLS



Source: Steer Davies Gleave, 2011 traffic vs 2011 turnaround costs.

- 3.116 However, there is a pattern of changes in the till system occurring during changes in the capital structure of airports, with the notable exception of the UK. For instance ADP adopted a hybrid till system in 2005 and a dual-till system was also created during the 2012 privatisation process of ANA. AENA Aeropuertos are also going to be operating as part of a double-till whilst the Spanish government works toward privatisation of its airports.
- 3.117 Stakeholders disagreed whether this was as a result of the transposition of the airport charges directive. Airports thought that there was an underlying trend towards dual-till anyway. However airlines claimed that in some instances governments took advantage of the transposition of the Directive into national law and introduced significant changes to the way charges are calculated, quoting Spain and Bulgaria as two examples where this had been the case.
- 3.118 The introduction of double tills has an impact on the level of cross- subsidisation between aeronautical and non-aeronautical activities, since with a dual till system both activities are accounted for separately. In some cases hybrid models have been introduced in order to reflect that some subsidisation of airport charges with commercial revenues is essential if an airport wishes to maintain and expand traffic levels. This is the case at Aéroports de Paris (ADP), Brussels and Copenhagen airports.
- Can any conclusions be drawn on the application of Article 6 (5) (a) and Article 6 (5) (b)? Are charges which are set in a mandatory procedure as described in Article 6 (5) (a) cost-related and non-discriminatory? (Q14)***
- 3.119 Article 6 (5) (a) introduces the possibility for Member States to establish a mandatory procedure whereby airport charges or their maximum level is determined or approved by the independent supervisory authority and to not apply

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paragraphs 3 and 4 of Article 6 of the Directive. Table 3.15 below summarises the situation in each Member State.

- 3.120 Airport charges are approved under national law by an Independent Supervisory Authority in a number of Member States including the Netherlands, France, Denmark, Germany and Poland. In the UK and Ireland, this is the case for “designated” airports (that is Heathrow, Gatwick, Stansted and Dublin). In Spain, the Civil Aviation Authority checks that the proposed charges are in accordance to caps described in the law.
- 3.121 In Switzerland, which is not a Member State but where the Directive is now being implemented, airport charges are also approved by the FOCA. In Belgium, Brussels airport charges are ultimately approved by the Ministry of Transport. At Budapest and Cyprus airports, lengthy concession agreements restrict the scope of airport charges changes.
- 3.122 Article 6 (5) (b) introduces a mandatory procedure where the independent supervisory authority examines whether airport are subject to effective competition. The CAA in the UK undertakes market power assessments for Heathrow, Gatwick and Stansted. The Dutch competition authority together with the Ministry of Infrastructure and Environmental Affairs has also carried out a market power assessment of Schiphol Airport in 2009/10.

**TABLE 3.15 ARTICLE 6 (5)**

Member State	Application of art 6(3) and 6(4)	Application of art. 6(5)(a)	Application of art. 6(5)(b)	Unclear
Austria		✓		
Belgium	✓ (Charleroi)	✓ (Brussels)		
Bulgaria	✓			
Cyprus		✓		✓
Czech Republic	✓			
Denmark		✓		
Estonia	✓			
Finland	✓			
France		✓		
Germany		✓		
Greece	✓			
Hungary		✓		
Ireland		✓		
Italy				✓
Latvia	✓			

Member State	Application of art 6(3) and 6(4)	Application of art. 6(5)(a)	Application of art. 6(5)(b)	Unclear
Lithuania				✓
Luxembourg	✓			
Malta	✓			
Netherlands		✓	✓	
Poland		✓		
Portugal	✓			
Romania	✓			
Slovakia	✓			
Slovenia				✓
Spain				✓
Sweden	✓			
United Kingdom		✓	✓	

Source: Steer Davies Gleave analysis. Note it has not been possible to establish the situation in some Member States based on a review of the transposed texts or based on responses from stakeholders.

- 3.123 Issues with the application of Article 6 (5), rather than 6 (3) and 6 (4) were raised in two Member States: Ireland and Germany.
- 3.124 For Ireland, ELFAA claimed that the Commission for Aviation Regulation (CAR) which regulates the setting of airport charges at Dublin airport was subject to mandatory directions from the Minister for Transport, regularly intervening in the setting of airport charges, to ensure that CAR’s determinations reflected government policy. This was denied by CAR. ELFAA also claimed that the lack of independence of CAR meant that even though CAR’s determinations are subject to appeal by an expert Appeal Panel, CAR can ignore the Appeal Panel’s decisions.
- 3.125 In the case of Germany, stakeholders complained that the Supervisory Authorities granted no legal rights for users in the mandatory procedure, as well as the approval decisions and notifications being given in a very different manner: from “one page” notifications stating “the concerns of the users have been taken into account adequately” to slightly more detailed notifications in which the Supervisory Authority gives answers and comments on the airlines concerns in a slightly detailed way. The German airline associations noted that up to now no Supervisory Authority had ever rejected or amended an airport demand for increase in airport charges.
- 3.126 Based on the responses from stakeholders, we found no real difference in their views for countries who transposed Article 6 (3) and 6 (4) and those countries with Article 6 (5). The two countries that currently use the provisions of Article 6 (5 ) (b), the Netherlands and the UK, were consistently quoted by stakeholders as having an economic regulation of high quality with cost-related charges and good consultation at Amsterdam airport in particular. However this is not as a

consequence of the transposition of Article 6 (5) (b), but rather as a result of a clear economic regulation mandate in the country.

- 3.127 Airlines also complained that Article 6 (5) does not necessarily allow for an appeals procedure should charges be determined or approved by an Independent Supervisory Authority. Whilst appeals are possible in some Member States (for instance the Civil Aviation Act in the UK has introduced the right to appeal to the Competition Appeal Tribunal), this is not the case in some other States. ELFAA also emphasized that even in Member States with an appeal process like Ireland, some airlines were not satisfied with the independence of the Appeal Panel. Furthermore, IACA noted that charges set by Statute in Spain could not be subject to appeal.

### User consultation

#### *Do airports provide information in accordance with Article 7 (1) of the Directive? (TOR Q16a)*

- 3.128 Transparency was perceived differently at different airports. Users were generally satisfied with the process in place at UK airports and at Amsterdam Schiphol where the local airport users stated that information was provided in a transparent manner and on a regular basis in accordance with Art. 7(1). The UK CAA mentioned that it was aware of one airline that considered that some airports had not always met the requirements in Articles 7 and 8 in full on every occasion; however the CAA stated that it not received complaints from airport users that airports have not been complying with the Directive.
- 3.129 Where users were not satisfied, they indicated the lack of detailed cost data as the main problem regarding information provided by airports. For instance, users were not satisfied with the transparency of information provided in Italy, Hungary, Belgium, Germany, Greece, Cyprus, Latvia, Sweden, Finland and specifically at the airports of Budapest, Sofia, Aéroports de Paris, Copenhagen, Warsaw and Vienna among others. All airlines and their associations quoted Spain as the most problematic of all Member States for transparency.
- 3.130 Airlines and their associations believed the Directive does not provide a strong enough incentive to share the data that would be necessary to assess the cost-relatedness of charges. They also thought that the requirements of the Directive are too general and the level of detail to be provided subject to misinterpretation by airports: for instance, the requirement in Article 7c “*the overall cost structure with regards to the facilities and services which airport charges relate to*” could potentially be interpreted as a single number to be provided. Based on this information users can hardly identify whether charges increases are cost related. This situation leaves users being subject to the airport’s goodwill for providing more detailed information.
- 3.131 They also noted that the requirements of the Directive do not require airports to provide information about their commercial activities, which does not allow users to have a full picture of the finances of the airport, asses how much is being used

as a contribution to aeronautical activities, or allow users to see how assets have been allocated between aeronautical and commercial activities.

- 3.132 In order to improve transparency, so that airlines can fully evaluate the basis for charges, airlines therefore recommended there would need to be a higher level of disclosure of costs associated to each service line. This would require an increased level of granularity over and above the guidance provided in the Directive.
- 3.133 Stakeholders also noted that in many cases, consultations were held in the local language. This ignores the international nature of the aviation business and hinders the participation of airlines' technical experts (where English is the common language denominator). Ideally, consultations should be held in English. At the very least, all consultation information should be provided in English as well as in the local language if requested by users.

***Do airlines provide information in accordance with Article 7 (2) of the Directive and do the airport managing bodies consider this information to be useful? (TOR Q17)***

- 3.134 Airports were generally not satisfied with the participation of airlines to the consultation process, almost all stating that only a limited number of airlines seemed to engage in the process. Examples of poor participation were quoted by the airports in Portugal, Switzerland and some airports serving low-cost airlines.
- 3.135 A frequent problem quoted was the lack of information provided by airlines ahead or during the consultation, as confirmed by ACI Europe. In addition, airports were disappointed with the quality of the information provided. In some cases airport complained that one-line responses such as *“traffic at the airport will be in line with that recorded in the previous year”* was not satisfactory as well as absence of fleet composition information.
- 3.136 Some airports such as DAA, Riga or Gatwick were concerned that in the absence of information about the long-term development of airlines, planning for airport infrastructure becomes very difficult and somehow hazardous.
- 3.137 On the other hand airlines and their associations noted that growth forecasts were also linked to the level of airport charges. Another airline association stated that airport managers were reluctant to receive information that would contradict their pre-conceived beliefs, as to how to charge airlines at their airports.
- 3.138 Examples of good practice have also emerged. Airports such as Nice and Heathrow (where according to the airport around 60% of users provide a response) reported good levels of participation by airlines. The UK CAA also confirmed that in general consultation and transparency arrangements at the larger airports (Heathrow, Gatwick, Manchester and Stansted) were working well. The UK CAA was aware that not every airport user at every airport had been providing the information required by Article 7(2). However, no airport had raised this as an issue with the CAA. At regulated airports in the UK, we understand that national law provides a £5,000 penalty for users who fail to provide information to the airport operator as part of the airport charges consultation process.
- 3.139 Amsterdam Schiphol airport explained that although not all airlines formally submit information, the airport collect information from the hub carrier and

related carriers on their expected route and volume development, and that these numbers gets supplemented by input from other carriers on their expected route developments during the year (via the airline marketing department). The resulting total volume forecast was presented and discussed in pre-consultation with all airline users.

- 3.140 The participation of airlines was also incentivised at Luton airport in the UK because the airport adjusts its capital expenditure plan according to traffic forecasts presented by airlines. The airport noted that in this way, it witnesses greater participation and transparency of information from airlines, whereas in other aspects of the consultation the answers received were limited.

***What is the degree of satisfaction of airport users with transparency of airport charges? (TOR 16b)***

- 3.141 As detailed in paragraph 3.106 on the transparency of charges and cost-relatedness, airport users are frustrated by the lack of transparency of information. Airlines felt that more efforts are necessary in order to provide adequate level of transparency in order to have meaningful consultations.

***What is the degree of satisfaction with the consultation procedures provided for in Article 6 of the Directive (possible survey of airport users)? (TOR 13)***

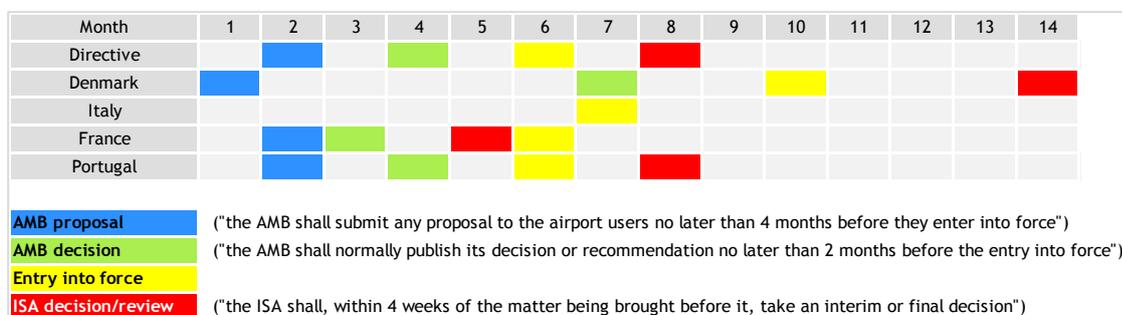
- 3.142 Our review of Airport Managing Bodies' answers suggests that:

- Larger airports with a wider base of airport users (Amsterdam Schiphol, Heathrow, ADP, Fraport) are satisfied with the consultation process as outlined by the Directive and find it useful to have codified guidelines at the European level.
- Smaller airports and those operating in very competitive environments such as the UK and Ireland believe that the process is instead too formal and poses a considerable administrative burden to them.
- Airports operating in very competitive environments also stated that they felt there was a higher risk of obstruction or litigation, partly linked to the low levels of participation by airlines: some of them suspect that airlines are much more active in challenging decisions rather than in engaging to reach them.
- Airports also felt that there was no time limit for airlines to bring appeals on airport charges and that this brought uncertainty to the business. This is viewed as particularly detrimental in conjunction with the fact that in several Member States new charges do not apply until these appeals are cleared.
- Consultation processes have not changed drastically following the introduction of the Directive at most airports, especially at those airports where consultation was already in place; however the timetabling and the format of consultation has improved at some airports as a result of the Directive, including at Riga, Copenhagen and Basel.

- 3.143 Overall, the airports satisfaction with the consultation procedures provided by the Directive is mainly influenced by the length of the timeline (once consultation and appeal procedures are added) and by the lack of transparency as detailed in response to Q16a. Otherwise, airports are generally satisfied with the provisions of the Directive.

- 3.144 The airport users of larger airports in the UK and the Netherlands are generally satisfied with the consultation process. Several stakeholders have given positive responses with respect to the timelines, format and transparency of consultation. Airports located in Spain or Italy were judged to be problematic by most airlines. Many of them complained about not having enough time to respond and about the fact that consultation sessions often take the form of information provision rather than dialogue (in Spain and Italy, but also in Greece or Hungary).
- 3.145 With respect to the timelines of consultation, airlines noted that to ensure a meaningful consultation it would be helpful to receive relevant information and transparency with sufficient time prior to the meeting (i.e. 2 or 3 weeks in advance), while in reality they have to request the details during the consultation meetings and might receive feedback after the meeting. This requires additional effort and additional meetings in order to consult meaningfully with the appropriate information.

**FIGURE 3.24 CONSULTATION TIMELINES**



Source: SDG analysis of stakeholder responses

- 3.146 Overall, airport users appear satisfied with the consultation procedures as outlined by the Directive. The main issues for them relate to the interpretation of the meaning of “consultation” (“engagement” versus “information provision”), the lack of transparency (see above) and the timeline.

***To what extent do the airport managing bodies and the representative or associations make use of the provisions of Article 9 to enter into negotiations with a view to concluding a service level agreement with regard to the quality of service provided at the airport? (TOR 20)***

- 3.147 Only a limited number of airport users and AMBs have negotiated a Service Level Agreement as described in Art. 9 of the Directive: Manchester, Brussels, Copenhagen airports and airports in France. At regulated airports in the UK and Ireland, service agreements, or quality of service requirements were implemented by the regulators following consultation with users and the airports, and are generally part of the price control reviews and decisions for those airports. We understand that Amsterdam airport is currently working with users in order to implement an SLA. German stakeholders mentioned that in Germany relevant Service Level Agreements do not exist between airports and airlines, which, according to them is an indication that only binding requirements of the Directive were transposed.
- 3.148 ACI Europe explained limited use of Article 9 to date for a number of reasons:

- It noted that in some cases the possibility to conclude SLAs had been superseded by detailed schemes introduced by national economic regulators.
- Airports also believed that the only effective SLAs will be those that recognise that all parties (as in not just the airport) have responsibilities, and incentivise players accordingly. It complained that some airlines see SLA agreements as unilateral - i.e. imposed upon the airport only, primarily as a means to reduce airport charges.
- In some instances, airports also consider that airlines are reluctant to specify desired service levels.
- Finally, the principle of non-discrimination also hindered the introduction of SLA schemes. Individual airlines often have differing service level requirements. Providing an explicit differentiation of service levels in a manner compatible with the principle of non-discrimination, would require different levels of airport charges for different users. This is something for which airports feel it has been particularly difficult to obtain consensus on within the context of multilateral consultation with rival airlines as required by the Directive.

### Pre-financing of new infrastructure

#### *Are there any examples for the application of Article 8 of the Directive for new infrastructure projects? (TOR 18)*

- 3.149 The specific and explicit transpositions of provisions contained in Art. 8 (a duty for airports to consult users before plans for new infrastructure projects are finalised) has occurred in most Member States, although the applicative measures vary considerably across the EU.
- 3.150 In most cases, this is due to factors not directly related to the Directive. For example, airports subject to economic regulation have been required to consult users regarding investment plans before the Directive came into force. Therefore it is not surprising that stakeholders in several Member States, including Belgium (Brussels), France (ADP), the Netherlands (Schiphol), Portugal (ANA) and the UK (regulated London airports) have all indicated that consultation takes place regularly as part of the planned discussions between AMBs and users.
- 3.151 In other Member States such as Slovakia and Luxembourg, it is not possible to assess the practical application of Art. 8 yet, given the recent transposition into national law. Although the provisions of Art. 8 are laid out in national law, infrastructure projects across Europe have been delayed as a result of the unfavourable economic environment and thus consultation has not been required.
- 3.152 Nevertheless, we have asked the ISAs which measures are in place to ensure that airports consult airport users. Several authorities (including Finland, Slovakia, Hungary and Estonia) have responded that the obligation to consult is enshrined in national law and reflects the provisions of the Directive. However some Member States have added a further layer of control:
- In Lithuania and Romania, approval by the ISA is needed to finalise infrastructure plans;



*circumstances, after having allowed for possible contributions from non-aeronautical revenues, where this can assist in financing long-term, large-scale investment*". The following strict safeguards need to be in place:

- Effective and transparent economic regulation of user charges and the related provision of services, including performance management;
- Comprehensive and transparent accounting, with assurances that all aviation user charges are, and will remain, earmarked for civil aviation services or projects;
- Advance, transparent and substantive consultation by providers and, to the greatest extent possible, agreement with users regarding significant projects being pre-funded;
- Application for a limited period of time with users benefiting from lower charges and from smoother transition in changes to charges than would otherwise have been the case once new facilities or infrastructure are in place.

3.156 Some of the Member States confirmed that their national laws contain provisions that reflect ICAO policies, while others have indicated that no specific rules apply at their airports which we have interpreted as meaning that pre-financing is allowed. In nine Member States, specific rules have been detailed as follows:

- In the UK and Ireland, price-cap regulation applies and infrastructure investment (CAPEX) provisions are generally included in the regulatory framework. In both Member States, current practice is that pre-financing is only allowed for projects under construction during the control period;
- In France and Belgium, pre-funding is only allowed for projects under construction or, in the case of France, for "major" investment planned within the coming 5 years;
- Germany and Poland further define the type of infrastructure that can be pre-financed, namely "*infrastructure that provides improved performance or lower costs to the users*" in Germany and "*large scale investment involving the expansion/reconstruction of existing infrastructure, or the construction of new infrastructure significantly affecting the capacity of particular elements, such as runway and passenger terminal*" in Poland;
- In the Netherlands, pre-financing of airport infrastructure is prohibited as well as in Portugal. In Italy, while there are no specific provisions at the national level, pre-financing is not allowed at Milan airports operated by SEA.

3.157 According to the Member States representatives interviewed, the Directive has not had any specific impact on the financing of airport infrastructure except at Riga airport where the Member State representative stated that the decision to pre-fund central infrastructure emerged from the consultation on airport charges.

3.158 Table 3.16 summarises the current practice in Member States with regard to pre-financing of infrastructure.

TABLE 3.16 PRE-FINANCING OF INFRASTRUCTURE

Country	Pre-financing allowed?	Comments
Austria	Yes, there are no specific rules on pre-financing in Austria	
Belgium	Yes, with specific requirements	Only projects under construction are pre-financed, for the part already built but not yet in operation
Bulgaria	Yes, there are no specific rules in Bulgaria on pre-financing	
Cyprus	Yes, there are no specific rules in Cyprus on pre-financing	
Czech Republic	Yes, there are no specific rules in the Czech Republic on pre-financing	
Denmark	Yes, there are no specific rules in Denmark on pre-financing	
Estonia	There appears to be no specific rules on pre-financing in Estonia (*)	
Finland	Yes, there are no specific national rules in Finland on pre-financing	
France	Yes it is allowed whilst built, in some cases for large future projects	Only for infrastructure under construction or for major investment planned within next 5 years
Germany	Yes it is allowed, but requirements are strict	Only if the infrastructure provides improved performance or lower costs to the users. Charges-financed investment must be used exclusively for planned construction for a limited time.
Greece	There appears to be no specific rules on pre-financing in Greece (*)	
Hungary	Yes, there are no specific national rules in Hungary on pre-financing	
Ireland	As in Directive	However current price-cap (2010-2014) forbids the levying of charges for infrastructure not under construction
Italy	Yes, there are no specific national rules in Italy on pre-financing, however it is prohibited for SEA	Specific agreements should be in place at different airports based on specific " <i>Contratti di</i>

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Country	Pre-financing allowed?	Comments
	airports	<i>Programma”</i>
Latvia	Yes, there are no specific rules in Latvia for pre-financing	Only for centralised infrastructure
Lithuania	Yes, there are no specific rules in Lithuania for pre-financing	
Luxembourg	There appears to be no specific rules on pre-financing in Luxembourg (*)	
Malta	There appears to be no specific rules on pre-financing in Malta (*)	
Netherlands	No, it is prohibited by legislation.	Costs of assets can only be attributed to charges after assets have been put to use for aviation purposes.
Poland	Yes, it is allowed.	General provision allows airports to raise funds for large-scale, long-term projects
Portugal	No, it is prohibited by legislation.	The regulatory model does not allow any pre-financing of new infrastructure
Romania	Yes, there are no specific rules on pre-financing in Romania	
Slovakia	There appears to be no specific rules on pre-financing in Slovakia (*)	
Slovenia	There appears to be no specific rules on pre-financing in Slovenia (*)	
Spain	Yes, there are no specific rules for pre-financing in Spain	
Sweden	Yes, there are no specific rules for pre-financing in Sweden	
United Kingdom	Yes, pre-financing is allowed but it is price regulated	Subject to CAA's regulatory framework
Switzerland	Yes it is allowed with specific rules (as per Art 14 of Ordinance) for a limited period and for investment in air activities.	Revenues for pre-financing to be kept in a separate account

Source: Steer Davies Gleave analysis of responses from stakeholder consultation. (\*)Note it has not been possible to establish the situation in some Member States based on a review of the transposed texts. With no specific rules prohibiting pre-financing it has been assumed that it is allowed.

## Independent Supervisory Authorities

- 3.159 We provide below a summary of the answers provided by the Member States about their ISAs. In most cases, the ISA functions have been granted to the national Civil Aviation Authorities, which are already in charge of several aviation matters in Member States. Some countries have instead granted ISA functions to existing independent regulators (Belgium, Luxembourg) or competition and regulation commissions (Netherlands, Estonia, Ireland). In Denmark, Finland and Sweden the national transport authorities now have ISA functions. Finally in Germany, federal governments retain competence over regional aviation and as such they have been designated as the ISAs, while referring to the central Ministry for policy matters. In Italy, no ISA has been formally appointed - the CAA (ENAC) is performing its functions temporarily as part of its regulatory activities. Details are provided in Table 3.17.
- 3.160 Therefore no Member States have “established” an ISA ex-novo, but rather have assigned its functions to existing entities. On average, one full time equivalent is employed in each authority to deal with matters related to the Directive, mainly consultation, oversight and dispute resolution procedures. Other resources such as legal and economic experts working for the designated organisation are involved when necessary. Hence the additional administrative cost imposed by the Directive is considered minimal in all Member States.
- 3.161 Most ISAs are financed through state/federal budgets. However some Member States make use of the provisions of art. 11(5) and have a mechanism in place for levying charges on airport users and airport managing bodies. This is the case in Belgium, Denmark, Finland, Luxembourg, Portugal and the UK. Other Member States (Ireland, Latvia, Lithuania and Romania) fund the ISA through a mix of government funding and fees. Details are provided in Table 3.18.
- 3.162 The level of activity at ISAs has been low, with respect to the specific functions contemplated by the Directive. However several ISA representatives have been involved in consultation sessions in their respective Member States. These meetings took place either as part of the reformulation of economic regulatory measures in some Member States (UK, Ireland) or as part of the annual consultation mandated by the Directive (Czech Republic, Romania).
- 3.163 Only in some Member States (Austria, France, Netherlands, Finland) have specific complaints related to airport charges been received, although most MSs have established, in principle, a procedure for resolving disagreements as per art. 11(6) of the Directive. This is probably due to the fact that most ISAs have only been established recently, as detailed in Table 3.19. The information submitted by Member States to Steer Davies Gleave on the outcome of these complaints and the time taken to resolve disputes has been limited. Details are provided in Table 3.20.
- Who are designated as the ISAs and persons in charge?***
- 3.164 Responses from the stakeholder consultation indicate the following Independent Supervisory Authorities:

**TABLE 3.17 INDEPENDENT SUPERVISORY AUTHORITY**

Member State	ISA name	Persons in charge	Responsibilities	Also in charge of airport regulatory measures?
Austria	Austrian CAA	Ms. Elisabeth Landrichter	Interpretation of regulatory law to stakeholders, decision making in case of disagreement	Yes
Belgium	Brussels: Service de Régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles-National	Serge Drugmand (Director)	Not answered directly	No
Bulgaria	Bulgarian CAA	No contact provided	Responsibilities defined by the Directive	Yes
Cyprus	Department of Civil Aviation	No contact provided	All relevant CAA activities	No
Czech Republic	Ministry of Transport - Civil Aviation Department	Ms. Eva Rutarova	Publishing the price list and components on request of an air carrier, forming part of the consultation process	No
Denmark	Danish Transport Authority	Niels Remmer	Not answered directly	Yes, but only capacity and ground handling issues
Estonia	Estonian Competition Authority	Not answered	Solving disputes between airport managers and airport users	No
Finland	Finnish Transport Safety Agency	Johan Skjal	Liaising with the airport operator and the airlines, attending the consultations, addressing	Yes

Member State	ISA name	Persons in charge	Responsibilities	Also in charge of airport regulatory measures?
			complaints	
France	Direction du Transport Aérien (part of DGAC)	Paul Schwach (Director), Yves Tatibouet	Approvals of tariffs control that procedures are followed by airports, advice of the transport administration during negotiation of multiyear regulation contracts, cost accounting audits.	Yes
Germany (ISAs are Authorities in each Federal State)	Hesse: Ministry of Economics, Transport, Urban and Regional Development (HMWVL)	Not answered	Authorises airport charges and monitors relevant procedures	Yes
	Niedersachsen: Ministry of Economics, Labour and Transport	Not answered	Authorises airport charges and monitors relevant procedures	Yes
	Brandenburg: Ministry of Infrastructure and Agriculture	Not answered	Authorises airport charges and monitors relevant procedures	Yes
	Northrhine-Westfalia: Ministry for Building, Living, Urban Development and Transport (MBWSV)	Not answered	Authorises airport charges and monitors relevant procedures	No
Greece	No answer submitted			
Hungary	Aviation Authority division of the National Transport Authority	András Farkas (Head of Aviation Authority)	All relevant CAA activities	Yes
Ireland	Commission for Aviation Regulation	John Spicer	Regulating revenues collected from airport charges, ensuring parties comply with their obligations from the Directive	Yes

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Member State	ISA name	Persons in charge	Responsibilities	Also in charge of airport regulatory measures?
Italy	Not formed yet. ENAC fulfils the role for now.	Not answered	Approvals of charging systems and levels of charges from year to year, economic regulation and supervision	Yes
Latvia	Latvian Civil Aviation Agency	Ms. Inta Dambe (Head of Economic un Planning Division)	No ISA specific responsibilities so far since Riga Airport has made no changes related to the Directive	Yes
Lithuania	Lithuanian CAA	Not answered	Not answered	Yes
Luxembourg	Institut Luxembourgeois de Régulation (ILR)	Mr. Prost	Recently established, so currently holding meetings to set this. Solely responsible for the implementation of the Directive.	No
Malta	No answer received submitted			
Netherlands	Dutch Authority for Consumers and Markets (ACM)	No contact provided	Approving tariff costs allocation, investigating violations of the Dutch Aviation Act, handling complaints with regard to differentiation of services.	No
Poland	Polish CAA	President of the CAA	All relevant CAA activities	
Portugal	INAC - Portuguese CAA	Luís Trindade Santos	Economic regulation's supervision, monitoring the compliance of quality services' target and analysing the users' complaints on changes on airport charges, as well as the quality of service	Yes

Member State	ISA name	Persons in charge	Responsibilities	Also in charge of airport regulatory measures?
			provided.	
Romania	Romanian Civil Aeronautical Authority	Head of Performance Analysis, Statistics and Environment Department	Establishing airports that fall under the Directive, establishing disputes procedures, ensuring compliance with the Directive	Yes
Slovakia	CAA of the Slovak Republic - Aerodrome and Building Authority Department	Mr. Ludovit Gabris (Head of Department)	Not answered	Yes
Slovenia	No answer submitted			
Spain	<p>2012 charges consultation: DGAC performed this role until the Commission of Airport Economic Regulation (CREA) was created.</p> <p>2013 charges consultation: Railway and Airport Regulatory Committee (ad interim)</p> <p>After 2013 charges consultation: National Commission of Markets and Competition (CNMC)</p>	No contact provided	Supervision of airport charges and compliance with the transparency and consultation procedure. Submission of a proposal for revised charges to Ministry of Finance and Public Administrations	Yes, the CNMC will be in charge
Sweden	Swedish Transport Agency	Mr. Anders Bäckstrand	Not answered	Yes
United	UK CAA	Mr. Rod Gander	Safety regulation, economic regulation,	Yes

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Member State	ISA name	Persons in charge	Responsibilities	Also in charge of airport regulatory measures?
Kingdom			consumer protection, airspace policy	

Source: Steer Davies Gleave analysis of responses from stakeholder consultation

***What is the level of resources deployed (in terms of staffing, expertise and financial means) by the independent supervisory authorities? (22c)***

3.165 Responses from the stakeholder consultation indicate that the level of staff resources at the ISA in respective Member States is small. Less clarity was available regarding the budget required to perform the ISA responsibilities.

**TABLE 3.18 ISA RESOURCES**

Member State	Staffing level	Financial means	Revenues from specific charge?
Austria	1 FTE	Not answered	No, exclusively by federal budget
Belgium	Brussels: No specific airport charges staff mentioned. 9 FTE in the whole organisation Wallonie: Not answered	Brussels: Fee paid by airport users. Annual budget of €1,000K, with €200K for airport regulation Wallonie: not answered	Brussels: Fees paid by airport users based on respective traffic Wallonie: not answered
Bulgaria	Not answered	Not answered	No, exclusively by state budget
Cyprus	1 FTE	Not defined yet	Not defined yet
Czech Republic	1 FTE	Not answered	No, exclusively by state budget
Denmark	4 FTE	Mainly fee funded	No.
Estonia	1 FTE	Not answered	No, exclusively by state budget
Finland	No specific airport charges staff mentioned. 520 FTE in the whole Trafi	Not specified	Financed by a 1.2 euros levy per departing passenger
France	3 FTE	Not answered	No
Germany	Hesse: Not answered	Part of a ministry, so under jurisdiction of the federal government	No
	Niedersachsen: Not answered	Federal Ministry	Not answered
	Brandenburg: Not answered	Not answered	Not answered
	Northrhine-Westfalia: 3-4 FTE	Federal Ministry	Not answered
Greece	No answer submitted		

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Member State	Staffing level	Financial means	Revenues from specific charge?
Hungary	3 FTE	Not answered	No, exclusively by federal budget
Ireland	2-3 people directly involved in airport charges (of 15-18 FTE)	Annual budget of €2m for the whole CAR	No, mix of levy and license fees.
Italy	None, since the authority has not yet been formed. No current answer.	None, since the authority has not yet been formed. No current answer for ENAC	No
Latvia	No specific airport charges staff mentioned. 64 FTE in the whole CAA.	Funds acquired for provision of public services, provision of safety of aircraft flights and from a revenue share of air navigation services. Annual budget of approximately €3.8m for the whole CAA	Not clear
Lithuania	1 person is directly involved but has other responsibilities too	State budget with additional budget for the Directive implementation, charges for air navigation services and use of airports. Annual budget of approximately €1.4m for the whole CAA	Not clear
Luxembourg	2 FTE	No financing for ISA specifically. This will be available in the next budget	No
Malta	No answer submitted		
Netherlands	2 FTE	From April 2013 funding by Schiphol airport will be considered. Budget for 2 FTE plus 50K Euro to 100K Euro material budget.	No
Poland	No specific airport charges staff mentioned. 358 FTE in	Annual CAA budget:	State budget

Member State	Staffing level	Financial means	Revenues from specific charge?
	the whole CAA.	53 m PLN	
Portugal	Not specified	Annual CAA budget: 40 m Euros	Yes: 27.5% security charge and other fees levied on operators and professionals
Romania	1 FTE	No specific budget, so CAA funds.	Yes, charge levied on airport managing bodies/airport users per disagreement investigation
Slovakia	3 people are directly involved, but have other responsibilities, so equate to under 1 FTE	Not answered. There has been negligible cost for the ISA so far.	No
Slovenia	No answer submitted		
Spain	To be determined for CNMC. For 2013 charges 3 FTE.	DGAC, CNMC and Railway and Airport Regulatory Committee funded by state budget	No
Sweden	0.5 FTE	The ISA function is funded by the state budget.	No
United Kingdom	Less than the equivalent of 1 FTE	Levies on the aviation industry. Costs for the Directive work was less than £50k each year.	No

Source: SDG analysis of responses from stakeholder consultation

***What is the level of activity of the independent supervisory authorities? (22a)***

- 3.166 Responses from the stakeholder consultation indicate that most ISAs have only been operating for one of two years. It appears that in Italy, no ISA is formally in place.
- 3.167 The level of activity of each ISA diverges. Only a handful of annual reports have been published but the situation should improve in subsequent years.

TABLE 3.19 LEVEL OF ACTIVITY OF ISA

Member State	Officially created	Last annual report published	Level of activity
Austria	1st July 2012	None yet. First report due by 1 <sup>st</sup> July 2013	Unclear. Did not mention that the level of resourcing was an issue
Belgium	Brussels: 23 <sup>rd</sup> May 2011 Wallonie: 14 <sup>th</sup> July 2011	Brussels: None yet. Only mandatory since Dec 2012 Wallonie: no reports produced	Brussels: Fully responsible for the implementation of the Directive Wallonie: none yet
Bulgaria	October 2011	No reports produced	Unclear. Did not mention that the level of resourcing was an issue
Cyprus	April 2013	No reports produced	None yet
Czech Republic	1 <sup>st</sup> July 2011	2012 report	Unclear. Did not mention that the level of resourcing was an issue
Denmark	8 <sup>th</sup> March 2011	2011 report	Unclear. Did not mention that the level of resourcing was an issue
Estonia	2011	None yet. First report expected 1 <sup>st</sup> May 2013	Unclear. Did not mention that the level of resourcing was an issue
Finland	1 <sup>st</sup> March 2011	General annual report	Some complaints received and handled
France	Dec 2011 (ruling n° 2011-1965 of the 23rd of December 2011, art.1-VI)	None yet. 2012 Annual Report to be published shortly	Unclear. Did not mention that the level of resourcing was an issue
Germany	Hesse: was created significantly before the Directive was implemented	Not answered	Involved in thematic working groups on airport charges
	Niedersachse: was created significantly before	Not answered	Involved in thematic working groups on

Member State	Officially created	Last annual report published	Level of activity
	the Directive was implemented		airport charges
	Brandenburg: was created as the Directive was implemented in German law, but no specific date provided	Latest report submitted in 2012 to the Federal Ministry	Unclear. Mentions involvement in consultation over airport charges.
	Northrhine-Westfalia: was created significantly before the Directive was implemented	Not answered	Unclear. Mentions involvement in consultation over airport charges.
Greece	No answer submitted		
Hungary	9 <sup>th</sup> November 2011	None yet. The 2012 report is in progress.	Unclear. Did not mention that the level of resourcing was an issue
Ireland	2011	Annual reports are produced, but no further information	Unclear. Unable to be specific with the exact size of the department
Italy	Not formed yet	None yet, since the authority has not yet been formed.	Unclear. ENAC is a temporarily performing the role of the ISA for regulation
Latvia	July 2011	No reports about the ISA activities have been produced	Unclear. Did not mention level of resourcing at all
Lithuania	19 <sup>th</sup> December 2010	No reports produced	Unclear. Unlikely to be a wide scope considering there are no full time staff
Luxembourg	23 <sup>rd</sup> May 2012	None yet. Powers only granted in May 2012	Unclear. There seems to be minimal activity due to the ISA being set up only recently
Malta	No answer submitted		
Netherlands	NMa was given responsibility in May 2011 for Directive.	NMa: 2012 report ACM: no report yet	NMa: Dispute resolution procedures ACM: no activity reported yet

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Member State	Officially created	Last annual report published	Level of activity
	ACM created in April 2013		
Poland	23 <sup>rd</sup> January 2012	2012 report	Supervision and approval of charges
Portugal	04 September 2009	Not yet	None yet
Romania	3 <sup>rd</sup> January 2011	Included in the Romanian CAA annual reports	Unclear. A detailed list of responsibilities is provided
Slovakia	1 <sup>st</sup> September 2011	No reports produced	3 staff are involved, but cumulative working time is less than the equivalent of 1 FTE
Slovenia	No answer submitted		
Spain	DGAC: was already in operations and was given interim responsibility since 2011 CNMC: officially active from Oct 2013 per June 2013 law establishing CNMC.	DGAC: 11 <sup>th</sup> September 2012 report produced, but it has not been published yet. CNMC: no report yet	DGAC: Difficulty in providing sufficient resources for the consultation process CNMC: no activity reported yet
Sweden	August 2011	2011-2012 report	Unclear, the annual report was not yet published at the time this report was written
United Kingdom	November 2011	2012 report	Costs for the Directive work was less than £50k each year

Source: SDG analysis of responses from stakeholder consultation

***How many complaints have been handled by the different independent supervisory authorities? (22b) Can a reduction in the number of complaints to the authorities been observed? (16c)***

3.168 Responses from the stakeholder consultation show two important findings. On the one hand newly appointed ISAs where there was no formal role previously, have had only a small number of complaints. This could be because they have just started operating and are unknown by airport users.

On the other hand, in Member States where there was already a regulator in charge, such as France or the Netherlands, a significant number of complaints have been received.

3.169 In France, it should be noted that the ISA is not an appeal body since Art.6 (5) of the Directive applies. However in 2012, the ISA did not approve the charges proposed by airports in five cases, and requested that airports to modify their charges due to the following reasons:

- The justifications for modulating charges were unspecified or not explicit enough. According to Art. 224-2-2 of the French Civil Aviation Code, prior to the introduction of new modulation of charges, the airport operator must justify the “general interest”, set the period of application of the modulation, define monitoring indicators and evaluate the projected impact of these variations on the conditions of use of the airfield;
- The increases in charges were excessive or insufficiently justified. While the law ensures that airports receive a fair return on the capital invested, charges must be set taking into account traffic growth forecasts, service quality, productivity of the airport, forecasts in revenues, investment programmes and their financing plan;
- The landing and parking charges were not set according to the principle of cost-relatedness and non-discrimination: the airport proposed charges based on the origin of the flight, which is not compliant with the legislation;
- The charges discussed by the users during the stakeholder consultation were different from those submitted to the ISA. According to the Directive, consultation is a key regulatory process and airport users must be properly consulted.

3.170 In the Netherlands, the Competition Authority investigated several complaints since 2006. In 2009 it ruled that Schiphol airport needed to lower its airport charges (which had been in effect since April 1<sup>st</sup> that year) by €3.5 million, because it had wrongfully included in the airport tariffs part of the construction costs of a noise barrier. Under the Dutch Aviation Act, constructing a noise barrier is not considered an aviation activity, and its costs can therefore not be passed on to the airlines. In addition, Schiphol had also wrongfully included in the tariffs the recruitment and training costs of baggage-handling employees. As these are not considered aviation activities, their costs cannot be included in the tariffs. Finally, Schiphol was not allowed to include in its new tariffs the costs of an accountant's report that related to an earlier tariff discussion.

3.171 The NMa also ruled in 2009 against the complainants on several other counts, because it found that Schiphol had correctly applied the law and the NMa-

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approved cost-allocation system. easyJet also filed a complaint with the NMa which was dismissed after 3 months stating that there was no evidence that Schiphol discriminates against airlines carrying point-to-point passengers in favour of those carrying transfer passengers.

- 3.172 Similarly, the regulator dismissed easyJet's claim that charges for point-to-point passengers were unreasonable after carrying out a benchmarking study with other international airports. easyJet also maintained that the AMB was setting charges in a non-transparent way. The regulator held that, under the Aviation Act, Schiphol was not required to disclose the make-up of every single tariff and that it was meeting all the requirements set by the law on this matter.

TABLE 3.20 ISA COMPLAINT HANDLING

Member State	Complaints received in 2012	Outcome	Time taken for resolution
Austria	5 cases received	Final decision has been made but no mention of the outcome of the cases	All decided between August and December 2012, but no mention of when the complaints were received.
Belgium	None received		
Bulgaria	None received		
Cyprus	None received		
Czech Republic	None received		
Denmark	None received		
Estonia	None received		
Finland	2 complaints received	Dismissed	1-3 weeks
France	Five refusals of tariffs in 2012, mostly because of airport non-compliance with non-discriminatory and cost related criteria.	In four cases out of five, the airports have submitted an amended tariff regime to the ISA. In one case, the previous regime has been extended in the absence of a second notification by the AMB.	Not answered
Germany	Hesse: Not directly answered. Any disagreements have been resolved between users and airport managing bodies	Not answered	Not answered

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Member State	Complaints received in 2012	Outcome	Time taken for resolution
	Niedersachse: None received		
	Brandenburg: None received		
	Northrhine-Westfalia: None received		
Greece	No response submitted		
Hungary	None received		
Ireland	Not answered		
Italy	None, since the authority has not yet been formed. There are no official procedures in Italy for resolving disagreements		
Latvia	CAA has not been involved in the disagreements process		
Lithuania	Not answered	Not answered	Not answered
Luxembourg	None received		
Malta	No response submitted		
Netherlands	Since July 2006 there have been 9 procedures and 3 are pending.	Not answered directly	Not answered, but users stated it took less than 6 months in total.
Poland	None received		
Portugal	Not answered	Not applicable	Not applicable
Romania	No formal complaints received	Not applicable	Not applicable
Slovakia	None received		

Member State	Complaints received in 2012	Outcome	Time taken for resolution
Slovenia	No response submitted		
Spain	Not answered	A new package of incentives was created as a result of airline consultations	Not applicable
Sweden	At least two complaints received	One dispute was settled and one rejected on formality	The dispute was settled within four months and the interim decision in four weeks. The rejected case was finalised within four weeks
United Kingdom	None received. The CAA is aware that one airline considers that some other airports have not always met the requirements in Articles 7 and 8 in full on every occasion. However, the CAA has received no complaints from airport users that airports have not been complying with the Directive. The CAA is also aware that not every airport user at every airport has been providing the information required by Article 7(2). However, no airport has raised this as an issue with the CAA.		

Source: Steer Davies Gleave analysis of responses from stakeholder consultation

*Independence of the authorities*

3.173 Assessing the independence of the authorities in detail was not possible in this report, so we only present below a comparison of the responses provided by stakeholders as regards to the independence of the ISA. The independence of Supervisory Authorities has been challenged by the airport users in some cases, particularly in Spain, Ireland, Hungary and Germany for reasons specified below.

**TABLE 3.21 ISA INDEPENDENCE**

Member State	Steps in place to ensure independence, according to MS	Independence according to airport consulted	Independence according to airlines consulted
Austria	Public officers must comply with code of discipline	No airports consulted	No comments received
Belgium	No specific measures. ISA is independent from airport users and management, but not from government. Final decisions on charges are made by the Minister rather than ISA	Yes, according to Brussels airport	Independently minded, but limited with how much they can challenge airports' cost bases (IATA/AEA)
Bulgaria	No specific measures. ISA is a financially and organisationally independent entity	No airports consulted	No comments received
Cyprus	Legal requirement for functional independence of ISA from AMB and airlines	No airports consulted	No comments received
Czech Republic	Not answered	No airports consulted	No comments received
Denmark	"Denmark shall ensure that the ISA exercises its powers impartially"	Yes, according to Copenhagen airport	No comments received
Estonia	ISA is a separate state institution from the Ministry of Economic Affairs and Communications	No airports consulted	No comments received
Finland	Impartiality and transparency are ensured through the Administration Act and the Act on Openness in the Public	No airports consulted	No comments received

Member State	Steps in place to ensure independence, according to MS	Independence according to airport consulted	Independence according to airlines consulted
	Administration.		
France	Representatives of the Ministry of Economy and Finance cannot interfere with regulation. ISA does not have a representative at the board of airports	Yes, according to ADP and Nice. No opinion for Basel-Mulhouse airport.	No comments received
Germany	No mention of independence. The authority is part of the ministry under jurisdiction of the federal government	Yes, according to Cologne, Frankfurt, Frankfurt Hahn, Munich airports	Conflict of interest as the Federal States exercise ISA functions while being airport shareholders (BDF) Supervisory authority is part of the advisory board (IATA/AEA)
Greece	No answer received	The ISA is not legally or functionally independent from Hellenic Civil Aviation Authority (HCAA), which is the operator of all Greek Airports (with the exception of Athens Airport) and all employees and managers of the ISA are HCAA employees.	No comments received
Hungary	ISA is part of the CAA, which has no ownership of airports, airport managing bodies or air carriers	No answer received	Doubts over whether the ISA is effectively independent from the Airport Managing Body
Ireland	ISA does not belong to the Ministry. The Commissioner (head of CAR) can only be renewed once.	Yes, according to DAA	Some airlines claim that ISA (CAR) is subject to interference by the Irish government through statutory directions from the Minister for Transport. CAR's determinations on airport charges at Dublin airport reflect government policy. Other airlines believe ISA is independent.

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Member State	Steps in place to ensure independence, according to MS	Independence according to airport consulted	Independence according to airlines consulted
Italy	None, since the authority has not yet been formed.	The interim ISA (ENAC) is not completely independent according to SEA	Not effectively independent from Ministry (AEA/IATA) Independent according to Milan Malpensa AOC
Latvia	No specific measures. CAA is legally distinct from and independent of Riga International Airport Authority and air carriers. CAA Director participates in Airport User Committee meetings	Yes, according to Riga airport	No comments received
Lithuania	No specific measures. CAA is legally distinct from and independent of airport managing bodies and air carriers.	No airports consulted	No comments received
Luxembourg	ILR is independent from the government. Staff may not take instructions from government bodies or have financial interest in entities under supervision of ILR. The management team may not be dismissed. Accounts are audited externally.	No comments received	No comments received
Malta	No answer received	No airports consulted	No comments received
Netherlands	Independence determined by law (Act of Parliament). Decisions of NMa Board can be challenged in court.	Yes, according to Amsterdam airport	Yes (ERAA, IATA/AEA)
Poland	No specific measures. The CAA is a central national administration body and is institutionally and functionally separated from ANSPs and airport	Yes, according to Warsaw airport	Yes (IATA/AEA)

Member State	Steps in place to ensure independence, according to MS	Independence according to airport consulted	Independence according to airlines consulted
	managing bodies.		
Portugal	No specific measures. The regulator is independent and autonomous entity in relation to airports and air carriers.	Yes, according to ANA	No comments received
Romania	Independence determined by law. CAA or its employees must not hold shares in Romanian airports or carriers, or be involved in their management or administration	No airports consulted	No comments received
Slovakia	No specific measures. CAA is independent of all airport operators and separate from the Ministry	No airports consulted	No comments received
Slovenia	No answer received	No airports consulted	No comments received
Spain	DGAC “independence is based on the same grounds existing in the case of other charges supervisory authorities of other Member States” The CNMC has the maximum guarantees of independence in their legal system.	Yes, according to AENA	No (ALA <sup>6</sup> , ACETA, Iberia, easyJet, ELFAA, IATA/AEA)
Sweden	No specific measures. “The ISA is supposed to act impartially”	Yes (Swedavia)	Yes, but limited with how much they can challenge airports’ cost bases (IATA/AEA)
United Kingdom	CAA is independent of UK government and prohibited from owning, managing or operating airports by law.	Yes (Gatwick, Heathrow, Stansted)	Yes, according to all airline stakeholders apart from IACA who stated that because of its relationship with the UK Government it was totally independent

<sup>6</sup> ALA: Spanish Association of Airlines; ACETA: Spanish Airline Association is the association of Spanish-owned airlines;

Source: SDG analysis of responses from stakeholder consultation

### Airport charges transparency

*Is the level of the passenger airport charge that airlines indicate to the passenger at the time of the purchase of the ticket consistent with the level of the passenger airport charge actually levied by the airports concerned?*

- 3.174 To answer this question, we examined the composition of ticket prices quoted by airlines on a selection of one-way flights and compared the results with our analysis of airport charges on the same one-way routes. We selected routes between airports included in our sample database and ensured that the flights booked were operated with similar aircraft types to the 4 types covered in our analysis of airport charges. The fare data was selected for flights operated by a selection of representative EU airlines, for travel on Thursday 6<sup>th</sup> June 2013, one-way, direct flights only. In all cases, the research was performed on the airline own website.
- 3.175 The analysis of the prices displayed by the airlines show that most airlines include a segmentation of the total ticket price with air fare on one hand and other charges, fees and taxes on the other hand. This is available during the booking process.
- 3.176 In the most frequent case where airlines provide segmented fare information, our research shows that there are some significant differences between what is quoted by airlines. The charges, fees and taxes that we found were quoted by airlines during our research included:
- Tax;
  - Tax and surcharge;
  - Fuel surcharge;
  - Fee, administrative fee or booking fee;
  - Airport passenger service charge;
  - International surcharge;
  - Security charge;
  - Environmental charges such as ETS levy, Netherlands noise charge;
  - EU 261 Levy; or
  - Web check-in fee.
- 3.177 We observe that in general legacy airlines provide ticket price information that is segmented in a similar manner: air fare, fuel surcharge if applicable, taxes, fees if applicable and airport charges and with security charge if applicable. We assume that this is because legacy airlines participate in CRSs and are required to display charges, fees and taxes in a standardised manner.
- 3.178 Low-cost airlines display of fare information varies significantly: an airline segments its prices between air fare and “fee”, with the value of the fee based on the payment method. Another low-cost airline display prices in a way that is close to the model in use by legacy airlines with air fare, fuel surcharge and “airport taxes” (which we assume is an airport passenger service charge). Another low-cost

airline displays a ticket price structure which is very different from all other airlines, and does not include any item that could be considered to be an airport charge.

- 3.179 We checked the fare data obtained for each of the flights above against the analysis of airport charges undertaken using the IATA manual. We found the following points:
- For most low-cost airlines, it is impossible to relate what is quoted to the passenger with what should in theory be charged by the airlines. This is because the breakdown of information provided by the low-cost airlines does not cover airport charges;
  - For the network airlines, the airport charges quoted were within a range of 60%-120% of the airport charge as detailed by IATA and under the assumptions on load factor, seat capacity detailed for each of the four scenarios considered. Whilst a 60% range may appear large, it has to be acknowledge that at the time of booking airlines offer a fixed price to the passengers, even though the airport charges have an aircraft-related component that should be distributed among passengers. Therefore because the airlines do not know at that time what the exact passenger numbers will be, we expect some variation.

***In case the passenger does not take the flight for which he/she purchased the ticket, what is the practice of the airlines with respect to the reimbursement of the passenger airport charge to the passenger? (Q24)***

- 3.180 We obtained a limited number of responses to this question from airline stakeholders:
- ELFAA refused to comment, as it felt it was a question not relevant to the discussion on airport charges;
  - ERAA and IATA/AEA stated that passenger airport charges will be reimbursed in accordance with each carrier's conditions of carriage and their tariff regulations;
- 3.181 With no passenger or consumer right organisation consulted we also looked at a selection of airline websites to understand the practice of the airlines.
- 3.182 We observe the following points:
- Most network airlines of our sample distinguished between the case of involuntary cancellations (that is when the airline is responsible for the cancellation) and voluntary cancellations (at the request of the passenger); in the case of involuntary cancellations, these airlines should refund the full fare to the passenger. In other circumstances a service/cancellation/administrative fee applies (which ranges between 0€ to €50 when stated on the website as it is not always very clear what the fee would be).
  - Low-cost airlines procedures vary:
    - Apart from the APD which is a UK tax (and subject to a cancellation fee of a value in most cases higher than the APD charge itself), one of the low-cost does not reimburse any charges, fees or taxes to the passengers;

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- A low-cost airline reimburses the APD tax for free, but offers no other refunds 24hrs after booking;
  - Another low-cost airline appears more generous than its counterparts but the cancellation fees and fees for “other service” are so high, that it is unlikely that passengers will be able to get their money back.
- █ It is sometimes unclear to understand if airlines will reimburse airport charges and if so, the amount of administrative fee that will be charged.
- █ In many cases the administrative fee that is charged for processing the refund of airport charges may be higher than the value of the airport charge, fee or tax. This means that in practice passengers will not always be able to be reimbursed.
- 3.183 There is always the possibility that airport charges vary between the time that the ticket was booked and the flight was operated.
- █ In most cases, airlines reserved the right to ask passengers to pay for any increases in the amount of charges, fees and taxes, even after the ticket was purchased.
- █ Some airlines stated that in the opposite case (where charges, fees and taxes were reduced between ticket purchase and date of travel), passengers were entitled to a refund. In this case, for the airlines sampled, our research indicates that it is the responsibility of the passenger to request this refund.
- █ It is unclear to us if a service fee would be levied.
- 3.184 Additionally few passengers are aware that even a “non-refundable” ticket should be cancelled before the travel date otherwise it could be deemed as a “no show” or “missed flight”. Some airlines have different charges for “cancellation charges” and “missed flights”.

### *Involving the passengers*

- 3.185 An airport stakeholder mentioned that absence of specific reference to the views of passengers was a gap in the Directive, since passengers are airport direct customers too. This stakeholder felt that in some cases airlines views do not always exactly align with those of the passengers, particularly concerning long-term investments. For instance, a large UK airport reported that its airlines disagreed with investments plans to upgrade check-in areas and decrease check-in queues because the time spent queuing was not an airline problem (whereas the cost of the investment would) and because it would water down the service segmentation offered by the airlines at this particular airport. The decision rest with the ISA, but the airport expressed the view that in this case passengers may have disagreed with the view of the airline.

## 4 Qualitative assessment

### Introduction

In this Chapter we provide some findings from the desktop research and responses from stakeholders in order to provide a balanced view on these questions.

### The case for the airport charges Directive

*What was the objective of the airport charges directive? Was there an actual need to legislate?*

- 4.1 The overall objective of the Airport Charges Directive was (and remains) to “contribute to an increased commonality of the charging systems” across Europe, through:
- I Increased transparency in airport charges:**
    - At the time, the charging system at airports lacked transparency with regards to the calculation of charges.
    - Additionally, no common charging mechanism was in place in Europe for the airport sector (although overall guidance on charging was provided by ICAO), with notable differences exist with respect to the application of the cost basis for individual charges and methods of calculation.
  - I Cost-efficiency operations at airports:** because of their market position and the limited competition on their home markets, charging at the largest hub airports was at the time already subject to some form of economic regulation. However, the cost efficiency of these airports differed significantly and there was sometimes a lack of incentives for cost efficiency or possible excessive investments.
  - I Inclusion of environmental objectives in the charging system:** there was no consistent and clear environmental consideration previously, therefore airport charges did not always reflecting the full economic cost to society.
  - I Improved/accepted consultation procedures between airports and users:** in some Member States, there were only limited possibilities for users to contest the level of charges, and there were also some significant discrepancy regarding user consultation practices across Europe.
  - I Other public policy objectives such as:**
    - In countries where airport networks were operated, major airports in these networks may have been cross-subsidising the provision of aeronautical services and facilities at smaller airports in the network, meaning that airlines using the smaller airports would have been receiving an indirect subsidy to their operating costs.
- 4.2 Without legislation, the air transport users would have either continued to operate as previously or under self-regulation by the sector. With no change to the previous situation, wide variations between airports and Member States would have continued to exist, with different impacts and cost-efficiencies, not allowing

for a level playing field for airlines and increasingly airports. Transparency of airports charges might not have been improved and consultation of users might have remained weak and with a number of gaps.

- 4.3 Self-regulation by the sector would have increased the transparency of the cost allocation and the justification of charge levels. However, it would have required the voluntary co-operation of a large number of actors (airports, airlines, Member States) which might have compromised the chances of success. Additionally, the diverging views of airports and airlines would have rendered the implementation of this option hazardous.
- 4.4 The consultation that was undertaken in 2006 indicated that about 2/3<sup>rd</sup> the Member States regulators that were consulted thought that there was a need for the EC to intervene. Airlines supported this view, whilst airports argued that there was sufficient competition in place to prevent them from acting as monopolies and that no legislation was needed.

### *Were ICAO guidelines respected before the airport charges directive?*

- 4.5 ICAO guidelines are the international guidelines to airport operators and countries for setting their charges. These guidelines are not binding but serve as recommended practices. They incorporate four key charging principles of non-discrimination, cost-relatedness, transparency and consultation with users as laid down in ICAO document 9082 (ICAO's Policies on Charges for Airports and Air Navigation Services).
- 4.6 The ICAO recommendations on airport charges pre-Directive served in many cases as the backbone of the national legislation, but the 2006 Impact Assessment found that they were not considered to be always transposed properly in national legislation in every EU Member State:
- The principle of transparency of accounts for airports was already an ICAO principle. However minimum accounting standards differed and did not always allow for enough insight on cost structures.
  - The principle of mandatory consultation procedure was already valid in ICAO principles at the time, however there were EU airports where this was not the case at the time.
  - However the principle of non-discrimination which existed in ICAO guidelines was found to be already well established in the EU through legislation and treaties (Treaty of Rome, Chicago convention, European competition law, courts).
- 4.7 At the time of the proposals for the Airport Charges Directive, the Commission considered that EU framework legislation that would reflect the ICAO recommendations would be appropriate, although there would not be a significant impact because most principles were followed in most EU Member States.
- 4.8 In the table below we provide the views of the respective Member State Authorities as to whether their State was following the ICAO guidelines before the Airport Charges Directive.

TABLE 4.1 ICAO GUIDELINES PRE-DIRECTIVE

Member State	Were ICAO guidelines implemented pre-Directive?
Austria	Yes
Belgium	Yes
Bulgaria	Yes, at international airports
Cyprus	Yes
Czech Republic	Yes
Denmark	Yes, implemented 19 <sup>th</sup> October 2008
Estonia	Yes
Finland	Yes voluntarily, but there was no specific legislation
France	Yes, “tariffs of all state airports were already set on a cost-related, transparent and non-discriminatory basis”. The procedure for the fixation of airport charges in place applied to 13 airports.
Germany	Yes
Greece	No response submitted
Hungary	Yes
Ireland	Not answered
Italy	Yes (according to Member State), but an airport stakeholder disagreed: before signing the multi-annual agreement (Sept 2012) ICAO guidelines were not respected
Latvia	Yes, “principles of ICAO guidelines on airport charges were considered”
Lithuania	Yes
Luxembourg	Not answered
Malta	No response submitted
Netherlands	Yes, “Dutch legislation in Dutch Aviation Act ('Wet Luchtvaart') was already ICAO-compliant”
Poland	Yes, provisions in force before the Directive included ICAOs guidelines
Portugal	Yes
Romania	Yes
Slovakia	No, the initiative of implementation by the Ministry of Transport some years ago was unsuccessful (according to Member State)
Slovenia	No response submitted
Spain	Yes

Sweden	No (according to Member State), yes (according to airport)
United Kingdom	Yes, certainly with regard to price regulation of Heathrow, Gatwick and Stansted and with regard to complaints against airport conduct

Source: Steer Davies Gleave analysis of responses from stakeholder consultation

- 4.9 We can see that there were some discrepancies with some States such as Slovakia where the use of the ICAO Guidelines was problematic. It is also unclear in some States whether the ICAO principles were implemented with disagreements in Sweden and Italy.
- What has been the main outcome and impact of the airport charges directive?***
- 4.10 All stakeholders were in agreement that the main outcome of the airport charges Directive has been improved transparency and consultation processes between airports and users. However, the directive has had little impact on the level of airport charges.
- 4.11 Many Member States acknowledged that the Directive was appropriately addressing the issues it was meant to. Some States explained that not enough time had elapsed since the Directive transposition to be able to assess its impact, while others (e.g. UK, Netherlands) have suggested that the introduction of the Directive has had no impact since equivalent national regulations were already in place. One Member State in particular (Czech Rep.) welcomed the legal definition of ICAO guidelines and the formalisation of appeal and dispute settlement procedures.
- 4.12 None of the Member States attributed any potential cost savings or efficiencies realised to the Directive. This was aligned with the responses of airports, the majority of which agreed that the introduction of the Directive did not impact their charges, but did encourage consultation with airlines. Zurich was the only airport to suggest that application of the Directive would lead to an adjustment of its cost base and accounting processes in the coming years.
- 4.13 Airlines were the most critical stakeholders of the Directive introduction. They too welcomed the consultation and transparency requirements it put in place, but considered that the inconsistent transposition and implementation of the Directive across Member States was problematic. In spite of the Directive, airlines claimed that charges had generally increased at airports in scope, and that these increases had been accompanied by a proliferation of incentive schemes, which in most cases are commercial arrangements that lie outside the perimeter of regulatory requirements and may lack transparency. Airlines were critical of the increased adoption of dual-till regimes that inhibit users from potential benefits of commercial activity at airports. The network charging arrangements and cross-subsidisation in place in Spain as well as the dual-till system were commented by all airline stakeholders in the strongest terms.
- 4.14 Overall, stakeholders thought that although the Directive improved transparency and communication between airports and users, it has had little material impact on the level of charges levied.

### How significant is the administrative burden compared to the situation before, and could it be reduced?

- 4.15 The responses received from Member States representatives suggest that the administrative burden incurred in the transposition of the Directive has been limited. Three main categories of administrative costs can be identified, depending on the institutional frameworks in place in each Member State before the implementation of the Directive:
- in Member States with long-standing regulatory regimes for the airports falling under the Directive (e.g. UK, Ireland, Germany, Netherlands, France) the main additional costs incurred have been related to the transposition of the Directive into national law - estimated in one Full Time Equivalent's work for a year;
  - in Member States where the ISA functions have been incorporated into existing entities such as the national CAA, the administrative cost related to the implementation of the Directive's provisions is, on average, equal to one additional FTE employee per entity;
  - in Member States where the ISA has not been set up yet, the administrative costs cannot be estimated.
- 4.16 Overall, Member States stakeholders did not believe that these costs were disproportionate. Only some representatives from the first category of Member States pointed out that the burden might have been too high considering the neutral effect in their aviation sectors.
- 4.17 In the case of Airport Managing Bodies, half of the respondents stated that the Directive had not added any administrative costs, while the other half claimed that they had incurred some implementation costs compared to the previous situation. The bulk of these costs arose from the documentation requirements in the Directive. Seven AMBs maintained that an indirect cost of the Directive had been the delay the implementation of new charges which could be pursued by airlines through procedural obstacles.
- 4.18 Airlines do not believe that any additional costs have resulted from the implementation of the Directive. The only additional burden has been the requirement to provide traffic forecasts as part of the consultation. Overall, airlines welcomed the consultation opportunity and were prepared to bear a greater administrative burden it increased the flexibility and transparency of the pricing structures.
- 4.19 It should be noted however that many stakeholders reported a high level of judicial review and court cases in relation to airport charges. This is the case in Italy where the ISA has not been formally established, as well in Member States where the decisions taken by the ISAs have been challenged (Spain, Ireland). It is difficult to quantify the exact costs of litigation as well as the relationship between the introduction of the Directive and the occurrence of these cases. Nevertheless the Directive has provided further grounds for judicial appeals especially for airport users.

**Would self-regulation be a more effective alternative and what has been the EU added value?**

- 4.20 ACI Europe and all the airports that expressed a view believed that competition was more effective than regulation in protecting and promoting consumer interests. They also argued that airports would be disciplined by competitive pressures and the threat of re-regulation. Airports would be free to adopt more commercial and efficient approaches. Self-regulation would also be cheaper.
- 4.21 However, the airports also recognised that in circumstances where an airport has substantial market power, some regulation may be appropriate, but this should be developed on a case-by-case basis. An airport also thought that in cases where no negotiated agreement on charges could be reached between an airport and its users, then regulation could mitigate this.
- 4.22 The Member States who responded to this question all agreed that voluntary agreements or self-regulation at the sector level was not a suitable alternative in cases of supply side dominance of airports. Another respondent also thought that legislation gives a more equal approach to users. Sweden and Poland thought that a Regulation could be more effective across the EU Member States and there was scope to consolidate economic regulation. However Portugal disagreed with that view stating that questions of economic regulation must remain in the competence of Member States.
- 4.23 Airlines supported the view of Member States, that self-regulation would not be effective. An airline association thought that in some cases *“airports were monopolistic providers of essential services and could be inclined to misuse their dominant position if they remained unregulated”*. Both IATA/AEA and IACA thought that an EU Regulation would be more appropriate due to discretion allowed through the Directive.

**The 5 million passenger threshold (Q23)**

- 4.24 A very large majority of Member States representatives were not in favour of lowering the five million passenger threshold to one million. They believed that the five million threshold was appropriate and that lowering it would impose higher costs for smaller airports, where for many this regulation would be redundant given the level of competition present in that market. The CAA of one Member State believed the threshold should be lowered, while another (Cyprus) suggests that all international European airports ought to be covered by the Directive. Italy stated that it had already lowered the threshold for its airport to one million in order to increase the proportion of traffic that is covered by the Directive.
- 4.25 Likewise, ACI Europe agreed that the threshold should not be lowered. The airport trade association explained that *“in light of the lower turnover and tighter margins, the increase in costs associated with regulation would have a correspondingly larger impact upon the airport and its users”*. The individual airports consulted shared this view, apart from one. A large share of airport stakeholders also went a step further by proposing to replace the threshold with an assessment of competitive pressures or market power tests. Market power tests

were also argued for by Member States, notably Ireland and the Netherlands. Stakeholders remarked that “*the size of airport should not be seen as a determining factor in deciding if an airport competes with other airports, as competition may occur at any airport of between operators irrespective of their size*”. Two airports that supported an assessment of competition are Athens and Warsaw airports which are the only airports in their countries that the Directive applies to, placing them in their views at a competitive disadvantage in national markets with multiple alternatives.

- 4.26 The opinion of airport users on the topic was not as uniform: some airlines, usually regional airlines or low-cost airlines who tend to fly to many airports under the 5 million threshold believed it would be beneficial to lower the threshold since the interests of a wider number of passengers would be covered. ERAA advocated for all airports with commercial activity to be covered by the threshold, whereas ELFAA thought that lowering the threshold to 3 million passengers per annum would be enough. Most legacy airlines did not think it should be lowered. Several airline associations made the point that the focus of policy makers should be on the correct application of the Directive in its current form, before any modifications are made.

### Issues with the Directive

#### *Have some regulatory measures shown to be redundant, overlapping, ineffective or inconsistent?*

- 4.27 A significant number of stakeholders thought that it was too early to draw definitive conclusions on the Directive. Notwithstanding wider issues with the Directive, stakeholders did not consider that there are technical issues such as inconsistencies and overlaps which would undermine the impact of the Directive. The significant issues raised are listed below.

#### **Consultation**

- 4.28 The Directive provides useful guidance, generally welcomed by all stakeholders. However a number of issues have been highlighted. For the airlines the issues are:
- Full consideration of the views of the users must be ensured. What is meant is that their views should be taken into account, not just heard.
  - With respect to the timelines of consultation, airlines noted that to ensure a meaningful consultation it would be helpful to receive relevant information and transparency with sufficient time prior to the meeting (i.e. 2 or 3 weeks in advance).
  - Additionally airlines thought that all users should be invited to consultation, not a selection or airline organisations;
- 4.29 Whilst the airports welcomed greater clarity on the consultation process required, they complained that while the Directive provided guidance on what information airlines are obliged to provide to airports, airlines were not providing this information. ACI Europe thought that in light of this, enforcement was required to ensure that airlines respect their reporting obligations. On Article 7 (2):

- France found that it was difficult for users to fulfil their information duty, partly because of the instability and volatility of their business model. It recommended lightened provisions of Article 7 (2) in order to be more efficient;
- The UK thought that if the purpose of Article 7.2 is that every airport user should submit information then this is unnecessary: large airports such as Heathrow do not need such detailed information from each of its hundreds of airlines to plan its future.

### ***Transparency and cost-relatedness***

- 4.30 Up to now, only a handful of airports have been disclosing enough information to evaluate costs according to the airline stakeholders.
- 4.31 The principle of cost-relatedness is mentioned in preamble (9) of the Directive, but not in the Articles of the Directive. This seems to be a gap in the Directive that we recommend should be addressed. The French State also noted that it was a competitive disadvantage for airports located in States where cost-relatedness is a requirement by law.
- 4.32 A Member State also thought that some guidelines should be issued regarding the assessment of capital costs.
- 4.33 Another significant issue lies with Article 6 (5): charges which are set in a mandatory procedure as described in Article 6 (5) (a) are not necessarily always cost-related and may also remain discriminatory. Only in the case of a truly independent ISA with a strong background in regulatory and competition practice is this the case.

### ***Airport networks***

- 4.34 The concept of network charging systems appears to airline stakeholders as inconsistent with the principle that airport charges should be cost-reflective.

### ***Discrimination***

- 4.35 Some airlines believe that there are still some examples of discriminatory charges in place in the EU: the structure of the charges geared towards passenger-related charges, but also possible discounts for inter-islands or domestic flights or facilities, high-risk flight charges, transfer discounts or parking discounts.
- 4.36 Additionally airlines thought that the Directive did not provide enough provisions on how incentives should be treated.

### ***Appeals***

- 4.37 The possibility of appeals of decision remains patchy. In some Member States the decisions of the Independent Supervisory Authority cannot be challenged further. This is a significant concern especially for those States that did not transpose Articles 6 (3) and 6 (4).
- 4.38 On the other hand, the increased in appeals procedures by airlines to the ISA or further was highlighted as a concern by many airports especially in the light of poor consultative engagement by the airlines as per Article 7 (2). ACI Europe recommended to:

- i) require ISAs to take into account the quantity and quality of an airline's engagement in consultation, when considering that airline's appeal;
- ii) require ISAs to take into account an airline's fulfilment of its transparency obligations, when considering that airline's appeal;
- iii) create a deadline for airlines to submit appeal - e.g. X weeks after a final pricing decision has been made;
- iv) allow pricing decisions to go ahead, even in the presence of an appeal, and require a retrospective clawback should the appeal be upheld and a lower level of charges prevail.

#### ***Dual till***

- 4.39 The Directive appears to have had no impact on the trend to move from a single till based economic regulation to a dual till based one, it was a trend that existed before and is likely to remain. The Directive allows all models of economic regulation to be implemented. Most airline users oppose a dual till, and have complained that in many cases the privatisation processes have provided an opportunity for Member States to sell their assets with a dual-till system (which is generally favoured by airport investors) without offering airline users the opportunity to be consulted.

#### ***Independent Supervisory Authority***

- 4.40 Stakeholders, predominantly airlines and Member States (Spain, Belgium) thought that the definition of the independence of the ISA was vague and that in some cases there was no mandatory independence from the Government. This was particularly a concern in the case of Member States with public capital airports where a Ministerial department may act as the Independent Supervisory Authority. Additionally airline stakeholders have questioned the passive role of some ISAs based on a possible lack of expertise, ability or human resources.

#### ***Pre-financing***

- 4.41 There is an inconsistency regarding Article 8 which requires that new infrastructure should be consulted with the airport users before the finalization of the plans, whereas section 17 outlines that pre-financing may occur and could be established based on the own safeguards of the Member States.
- 4.42 Airports and airlines disagree on the question of pre-financing. Without any precise rule on pre-financing, the Directive has had no impact on this matter and the current disagreement remains. Only in the Netherlands and Portugal is pre-financing forbidden.
- 4.43 Furthermore in Spain in particular, there has been no consultation on infrastructure projects which have been announced by the Ministry of Transport, which seems to contradict Article 8.

#### ***Transposition***

- 4.44 Chapter 5 has shown that there have been some significant gaps or delays in transposition of the Directive in some Member States. A stakeholder believed that *“many of the positive aspects of the Directive got lost during the decision making process when implementing the Directive into national law”*.

### *Other minor issues*

4.45 Some other minor issues with the Directive were highlighted:

- The Italian Member State thought that consultation should include all categories of airport users, not just airlines;
- The Spanish Member State thought the Directive not to be clear in respect of the role that quality standards should play. It wondered if charges and quality standards should be negotiated jointly or not;
- Finally the Spanish Member State thought that it would be advisable for the Directive to explicitly define "level", "system of charges" and "structure of airport charges" as per Article 6 (5) and 11 (7).
- IATA thought that Article 6.3 was unclear, because the directive was also meant to address whether existing charges levels are appropriate and justified. It suggested that the word "modified" in Article 6.3 should be removed and instead the text should read "*proposed system or the proposed level of airport charges*" in order to make it clear that all decisions/proposals are covered.
- The fluctuation in passenger numbers (to be updated annually) may prove to be difficult in practice in an economically challenged context where airports reach and fall under the threshold.

## 5 Country factual overview

- 5.1 In this section, we present the factual overview for each of the EU Member States and Switzerland which consist of a description of the situation in each State and a summary presented in a standardised table.
- 5.2 Each table presents the form of national transposition texts of Directive 2009/12/EC, the specific arrangements for consultation and pre-financing that have been selected for each Member State, present the name and type of ISA and details whether or not any airport systems have been designated by the State. The table then describes the airports above the Directive threshold (5 million passengers per annum) and details for each of them the form of economic regulation and till systems in use. This is based on desktop research and stakeholder information exchange, but in some limited cases we have not been able to fully clarify the exact nature of economic regulation in use at airports.
- 5.3 Note that Article 6 (5) (a) refers to the possibility for Member States to establish a mandatory procedure whereby airport charges or their maximum level is determined or approved by the independent supervisory authority and to not apply paragraphs 3 and 4 of Article 6 of the Directive. Article 6 (5) (b) introduces a mandatory procedure where the independent supervisory authority examines whether airports are subject to effective competition.

### *Austria*

- 5.4 Currently, the only airport covered by the Directive is Vienna International Airport with 22.2 million passengers in 2012. The second largest Austrian airport is Salzburg with 1.7 million passengers in 2012. Vienna airport is subject to economic regulation in the form of a “sliding-scale” price-cap. This means that the maximum amount of airport charges is set by a formula which takes into account traffic growth and inflation.
- 5.5 Austria transposed Directive 2009/12/EC through the Federal Act BGBl. 41/2012 on the setting of airport charges (also called “Airport Charges Act” or “FEG” in German) which came into force on 1 July 2012. The Act also granted the Austrian CAA the powers and responsibilities of the Independent Supervisory Authority.
- 5.6 Consultation takes place as part of the regulatory process under national law, as well as dispute procedures. The Users Committees of several regional airports presented a complaint to the Austrian CAA in August 2012 related to security charges. The CAA investigated this complaint and reached a decision in December 2012 which resulted in lower charges at one of the regional airports. Following disagreement with the CAA ruling, the appellants have taken the case to the Austrian High Court and a decision is pending.

TABLE 5.1 AUSTRIA OVERVIEW

Austria				
Transposition texts	Federal Act BGBl. 41/2012			
Consultation and pre-financing	6.5.a: Yes 6.5.b: No	Pre-financing allowed? Yes		
ISA	Austrian CAA		Type: CAA	
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Vienna	22.2 m	Price cap	Dual

Source: Steer Davies Gleave analysis.

### **Belgium**

- 5.7 In Belgium, the Directive was implemented in 2011 and 2012 through a number of different legal instruments at the federal and regional level. Brussels South Charleroi Airport is under the responsibility of the Walloon Region, whilst Brussels National Airport is regulated at a federal level.
- 5.8 Transposition at federal level was done via amendments (dated 12 May 2011) to 2 instruments: Arrêté Royal of 21.06.2004 (A1) on the granting of an operating licence for Brussels National Airport to BIAC (Brussels International Airport Company); and Arrêté Royal of 27.05.2004 (A2) on the transformation of BIAC into a société anonyme and airport installations.
- 5.9 For Brussels airport, the powers of the Independent Supervisory Authority were granted in May 2011 to the *Service de Régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles-National*. There is a system of economic regulation as foreseen in Article 6(5) of the Directive, with the independent authority involved in determining/approving the charges. However, the possibility for the authority to look into disagreements is restricted. It does not take part in the consultations and does not have powers to hear appeals. It can only cancel tariff agreements if some mandatory information is not communicated or it is communicated incorrectly. Final decisions on airport charges are not taken by the ISA, but by the Transport Minister.
- 5.10 Regarding other Belgian airports, the Walloon government issued a Ministerial Decree in 1994 establishing the framework for setting user charges for Walloon airports, and it established an airport economic oversight authority in charge of approving airport charges at Brussels South Charleroi Airport in 2011. The Flemish Government also issued a Ministerial Decree on 10 December 1999 establishing the

framework for determining airport charges for Flemish airports, subsequently amended on 16 December 1999.

- 5.11 The ISA for Charleroi is therefore different to that of Brussels airport and is the *Autorité aéroportuaire de supervision indépendante de Wallonie*. Since there has been no change in airport charges at Charleroi airport in the last 2 years, the Authority has not yet been involved in any consultation.
- 5.12 Several issues remain unresolved in Belgium with the independence of the regulator a matter of concern. According to many stakeholders the ISA for Brussels airport, financed by airport fees and not by state budget, is not independent from the Federal government which is also a shareholder of the airport (75% of the Brussels airport shares are held by a consortium of private investors, whilst the Belgian State has an interest in the remaining 25% of the shares); at Charleroi airport, stakeholders are also concerned that the ISA members are nominated by the Federal and regional governments, the latter being the owner of the airport.
- 5.13 The default consultation period is on an annual basis unless specifically provided for in a multiannual consultation/agreement. Currently, Brussels Airport operates within a framework of an agreement on the charges over the period 4/2010-3/2016. In this period, there is an annual information round with airport users on the evolution of the charges, linked to the level of infrastructure development. From 2016, a new period will start with annual consultation meetings. However, there are a number of issues raised about the annual consultation process:
- Investment plans with impact on price regulation are deemed accepted unless at least 2 non-linked airlines representing at least 25% of pax movements disagree; under the current market segmentation of the airport traffic, this is a significant barrier to contest for most airlines.
  - Changes to charges and the charging system need the approval of at least 2 non-linked airlines representing at least 75% of pax or Air Traffic Movements traffic.

**TABLE 5.2 BELGIUM OVERVIEW**

Belgium		
Transposition texts	Federal: 12 May 2011 amendments to Arrêté Royal of 21.06.2004 and Arrêté Royal of 27.05.2004 Wallonia: decree dated 14.07.2011 and Decree dated 08.09.2011	
Consultation and pre-financing	6.5.a: Yes (Brussels only) 6.5.b: No	Pre-financing allowed? Yes, under specific rules
ISA	Brussels: Regulatory Service for Railway Transport and for Brussels Airport Operations	Type: Other
	Charleroi: Autorité aéroportuaire de supervision	Type: Other

	indépendante de Wallonie			
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Brussels	18.9 m	Rate of return	Hybrid
	Charleroi	6.5 m	No	Free to set their own prices

Source: Steer Davies Gleave analysis

### **Bulgaria**

- 5.14 Sofia airport which is the largest airport in Bulgaria with passenger traffic of almost 3.5 million in 2012, is the only airport to which the Directive applies.
- 5.15 The Bulgarian Authorities transposed Directive 2009/12/EC by modifying the Civil Aviation Act. Charges are determined by the Airport Managing Body following consultation with airlines. Any potential disputes between the airport operator and the airport users are considered and decided by the ISA which is the Civil Aviation Administration Directorate General, which only recently began operations (from February 2013).
- 5.16 Since 2012, two new charges (security and noise charges) have been collected separately at Bulgarian airports as per amendments to the Civil Aviation Act adopted in October 2011 by the Bulgarian Parliament. Before this date, these charges were included in the other airport charges (landing, parking and passenger charge for departing passengers). This separation was probably enacted in order to provide greater transparency and cost-relatedness information to airport users.

**TABLE 5.3 BULGARIA OVERVIEW**

<b>Bulgaria</b>				
Transposition texts	Modification of the Civil Aviation Act			
Consultation and pre-financing	6.5.a: No 6.5.b: No		Pre-financing allowed? Yes	
ISA	Bulgarian CAA		Type: CAA	
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Sofia	3.5 m	No regulation	Free to set their own prices

Source: Steer Davies Gleave analysis

**Cyprus**

- 5.17 Currently, only Larnaka airport is in scope for the application of the Directive, being the largest airport in Cyprus with a traffic of 5.1 million passengers in 2012. The next largest airport, Pafos hosted 2.2 million passengers in 2012. The Cyprus CAA informed us that airport charges are fixed for 25 years under the BOT (Build-Operate-Transfer) Concession Agreement signed in 2006 between Hermes Airport Ltd and the Ministry of Communications and Works for the construction and management of Cyprus two largest airports, Larnaka and Pafos. Any request for changes or introduction of new airport charges has to be approved by the State and in particular the Department of Civil Aviation and the Grantor's Representative for the application of the Concession Agreement which would be a government employee at the Ministry of Communications and Works. Therefore, we understand that most of the provisions of the Directive are not likely to be applied before 2031.
- 5.18 In Cyprus, no "airport networks" have been designated by the CAA. However, Larnaka and Pafos airports are operated by the same owner (Hermes Airport Ltd) and use the same airport charging tariffs for landing, parking and passenger charges. Only air bridge, power supply and pre-conditioned air charges vary. The Cyprus CAA indicated that the directive applied to Pafos airport even though it is below the 5 million passenger threshold.
- 5.19 The Civil Aviation Act was modified by the Cypriot government to transpose the Airport Charges Directive, in particular Articles 50 to 54. The ISA is to be formed in April 2013 under the Department for Civil Aviation, with powers of appeal to examine the justifications for the modification of the system or the level of airport charges. However, because airport charges have been agreed in the 2006 Concession Agreement and cannot be changed, in practice we understand that very little change can be expected.

**TABLE 5.4 CYPRUS OVERVIEW**

Cyprus				
Transposition texts	Civil Aviation Act, Articles 50 to 54			
Consultation and pre-financing	6.5.a: Yes	Pre-financing allowed?		Yes
	6.5.b: No			Yes
ISA	Department for Civil Aviation		Type: CAA	
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Larnaka	5.1 m	Concession fixing charges	Unclear

Source: Steer Davies Gleave analysis

**Czech Republic**

- 5.20 In the Czech Republic, the only airport under the scope of the Directive is Prague airport with annual passenger traffic of 10.8 million in 2012.
- 5.21 The Airport Charges Directive has been transposed into Czech law by the amendment of Art. 42.f of Act No. 49/1997 Coll. civil aviation. The text mandates annual consultation between the Airport Managing Body and air carriers.
- 5.22 The ISA that was designated in July 2011 is the Civil Aviation Department which belongs to the Ministry of Transport. It is financed directly from the state budget, and published an annual report describing its 2012 activities.

**TABLE 5.5 CZECH REPUBLIC OVERVIEW**

Czech Republic				
Transposition texts	Amendments of Art. 42.f of Act No. 49/1997			
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Yes		
ISA	Civil Aviation Department	Type: CAA		
Airport networks	No	-		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Prague	10.8 m	No regulation	Free to set their own prices

Source: Steer Davies Gleave analysis

**Denmark**

- 5.23 The only airport in scope for application of the Directive in Denmark is Copenhagen airport. Copenhagen airports manages two airports: Copenhagen and a small airport Roskilde. It operates a “*dual-airport strategy with focus on differentiated passenger related charges based on piers*”. Copenhagen Airports apply a hybrid till system.
- 5.24 The provisions of Directive 2009/12 were, to a large extent, already implemented in Denmark prior to 2011 (The BL 9-15 of 19th October 2008). The third edition of BL 9-15 (of March 2011) was modified to reflect the provisions of the Directive and entered into force on the 15th of March 2011.
- 5.25 ISA powers were granted to the existing Danish Transport Authority in March 2011 for the regulation of Copenhagen Airport.
- 5.26 When setting its airport charges, the airport and its permanent users must first seek to reach agreement on the charges for the next regulatory period through negotiation as detailed in national law. Participation in the meeting is open to airlines which have either 5% of movements or 5% of passengers at the airport. If it is not possible to reach an agreement, the Danish Transport Authority will fix

annual revenue caps, constituting the maximum aggregate amount which the airport can use for each of the years in the regulatory period as a basis for fixing charges for the use of aeronautical facilities and services.

- 5.27 In this case, part of the revenue cap will be set to cover aeronautical cost and investment, while another part will be set to cover depreciation and a rate of return based on the efficient operation of the airport. Depending on the outcome of negotiations, or alternatively on the model set by the Transport Authority, the regulatory approach at Danish airports can thus be regarded as hybrid.
- 5.28 There are no specific rules regarding the pre-financing of infrastructure in Denmark.
- 5.29 Comments received from stakeholders suggest that they are satisfied with the consultation process and the requirements over transparency and information exchange in Denmark. However the current regulatory period runs from 2009 to 2015. Discussions on the level of charges will be only held at the end of the period.

**TABLE 5.6 DENMARK OVERVIEW**

Denmark				
Transposition texts	The BL 9-15 of March 2011			
Consultation and pre-financing	6.5.a: Yes 6.5.b: No	Pre-financing allowed? Yes		
ISA	Danish Transport Authority	Type: Other		
Airport networks	Yes	Copenhagen Airports (Kastrup and Roskilde)		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Copenhagen	23.3 m	Price cap	Hybrid

Source: Steer Davies Gleave analysis

### ***Estonia***

- 5.30 In Estonia, only Tallinn International Airport (2.2 million passengers in 2012) is covered by the Directive.
- 5.31 Article 50 of the Aviation Act has been amended in Estonia to transpose the Directive at national level in 2011. The Estonian Competition Authority has been nominated as the ISA, with the task of settling disputes between the airport manager and airport users. Its first report is expected in May 2013.

TABLE 5.7 ESTONIA OVERVIEW

Estonia				
Transposition texts	Aviation Act, article 50			
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Yes		
ISA	Competition Authority		Type: Other	
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Tallinn	2.2 m	No regulation	Free to set their own prices

Source: Steer Davies Gleave analysis

### **Finland**

- 5.32 Finavia Corporation is the Airport Managing Body for a network of 25 airports in Finland and also manages the air navigation system covering the entire country. It is a company fully owned by the Finnish State. The only airport covered by the Directive in Finland is Helsinki-Vantaa airport, with a passenger traffic of 14.9 million in 2012; the remaining 24 Finnish airports have a total traffic of 4 million passengers.
- 5.33 Finland transposed Directive 2009/12 into national legislation through Law 210/2011. The ISA role was granted to the Finnish Transport Safety Agency (Trafi). Users can file complaints concerning airport charges to Trafi. Decisions of Trafi can also be appealed in court. Two complaints have been brought to Trafi - both have been dismissed.
- 5.34 As part of the government's transport policy review, a working group at the Ministry of Transport and Communications started examining the profitability of the airport network in January 2013 and is due to be completed by the end of 2014<sup>7</sup>. According to this official press release *"In Finland, airports are maintained according to the so-called network principle. This means that the profits and losses of different airports are cross-subsidised"*.
- 5.35 The press release also established that in 2011, *"regional airports made a network deficit of some €22 million. Airport operations are profitable only at Helsinki-Vantaa airport and at three airfields used for military aviation"*. A survey carried out in 2011 for the Ministry of Transport and Communications indicated that maintenance and air navigation services of regional airports are funded by profits generated by commercial services, *"which means that a cross-subsidisation system is in place between Helsinki-Vantaa and the other airports"*. The survey also

<sup>7</sup> Official press release of the Ministry: [www.lvm.fi/web/en/pressreleases/-/view/4137766](http://www.lvm.fi/web/en/pressreleases/-/view/4137766)

established that income statements do not sufficiently take into account investments necessary for the functioning of the airport network. According to the same source, full cost-relatedness would mean that the unit rates in the low-volume parts of the network (i.e. the regional airports) would grow 2 to 4 fold.

**TABLE 5.8 FINLAND OVERVIEW**

Finland				
Transposition texts	Law 210/2011			
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Yes		
ISA	Finnish Transport Safety Agency	Type: Other		
Airport networks	Yes	Finavia (24 airports)		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Helsinki Vantaa	14.9 m	No regulation	Free to set their own prices

Source: Steer Davies Gleave analysis

### **France**

- 5.36 The two largest French airports, Paris Roissy Charles De Gaulle (CDG) and Paris Orly (ORY) as well as a number of business airports are operated by Aéroports de Paris (ADP). It is the only airport network in France. Both airports have a common charging system and there is only one user consultation for both airports.
- 5.37 The economic regulation of Aéroports de Paris (ADP) is based on multiyear economic regulation agreements, which establishes a cap on the airport fee increases in light of the planned investment programme, and sets quality of service objectives as well as a related system of financial incentives. Under the provisions of Article R. 224-3-1 of the French Civil Aviation Code, these will be based on the application of a fair return on capital employed, calculated on a “regulated scope of activities”. The cap is negotiated between Aéroports de Paris and the Government and involves user consultation. The results of the negotiations are formalised in an economic regulation agreement between the two parties before being made public.
- 5.38 ADP indicated that it operated under a single till during the first Economic Regulation Agreement period (2006-2010) and under a hybrid till during its second Economic Regulation Agreement period (2011-2015). From January 2011, retail and non-aeronautical real estate activities are excluded from the regulated scope of activities.
- 5.39 In France the law of 20 April 2005 and its subsequent application decrees reformed the French regulatory regime. An ICAO report on economic oversight of French

airports from February 2013 indicates that “before the Law 2005-357 of 20 April 2005, the economic oversight of French airports was assumed by the General Directorate for Civil Aviation, along with the General Directorate for Competition Policy, Consumer Affairs and Fraud Control. They calculated together the level of airport charges and fees on an annual, cost-plus basis and submitted their proposition for approval to the Minister of Transport and the Minister of Economy”.

- 5.40 The 2005 Law also maintained the existence of the Economic Advisory Committees (*Commissions Consultatives Economiques* also called *CoCoEco*) that are present for each airport and are responsible for issuing a non-binding opinion on the annual rate of airport charges. These commissions are composed of representatives of airlines, professional organizations and the airport management. In addition, the Law created the Airport Consultative Committee (*Commission Consultative Aéroportuaire*, also called *CoCoAero*) responsible for issuing non-binding opinions on economic regulation contracts.
- 5.41 Article R. 224-4 of the French Civil Aviation Code defines the procedure for setting airport charges.
- For airports that have signed an economic regulation contract with the State (ADP and Toulouse), the contract determines the conditions of fee increases, including the maximum average rate of change over a five year period, after consultation with users and referral opinion of the CoCoAero. Rates are set annually thereafter by the operator in accordance with the contract ceiling included in the economic regulation contract, after consultation with users and referral opinion of the CoCoEco. These rates are then tacitly or explicitly approved by the supervisory authorities, namely the Directorate General of Civil Aviation (DGAC) and the Directorate General for Competition, Consumption and Fraud Control (DGCCRF).
  - An ICAO case study on the economic oversight of airports in France of February 2013 stated that “in March 2009, Toulouse-Blagnac airport became the first major regional airport to sign an economic oversight contract with the French government”. The contract allows a maximum charge increase of 2.5% plus inflation for the first year, 1% for the second year, and then 1.9% for 2011, 2012, and 2013. Other major regional airports are still completing their transformation into companies and negotiating the parameters of their economic regulation contracts with the State.
  - For all other state airports in France (Lorient, Mayotte, Cayenne, Nouméa, Toulon, Strasbourg, Tahiti, Montpellier, Martinique, Pointe-à-Pitre, Réunion, Nantes, Bordeaux, Marseille, Lyon, Nice), according to the French ISA there is a mandatory procedure under national law whereby airport charges or their maximum level, shall be determined or approved by the independent supervisory authority. Nice airport explained that in practice, there are consultation meetings taking place via the CoCoEco meetings where charges are negotiated between the airport and its users. Only in the case of a disagreement is the ISA involved and decides on airport charges. If the ISA refuses the tariffs proposed, according to Art. R.224-4-1, §II and III of the Civil Aviation Code, the airport can make a new tariff proposal within one month

without any new consultation of the users. If the ISA refuses again the new proposal within 2 weeks, the previous tariffs apply. However, if those two consecutive refusals result in the freeze of the tariffs for a time period greater to 2 years, the ISA can fix new tariffs for the airport.

5.42 The French Competition Authority (*Autorité de la Concurrence*) highlighted in an opinion<sup>8</sup> issued in February 2010 some significant issues regarding the economic regulation of the Paris airports as well as concerns regarding the independence of the role of regulator as organised by the French State. The issues were focussed on:

- A confusion of the role of the State between its role as a shareholder and its role as a regulator. In 2013 in France, the French State owned 15.9% of Air France and 51.2% of ADP (with the same proportion of voting rights). In 2010, the Authority thought that this share of capital may give rise to conflicts of interest in determining the level and evolution of airport fees: the decisions of the State as a regulator do have an impact on the value of the companies of which the State is a shareholder.
- The creation of the Airport Consultative Committee (*Commission Consultative Aéroportuaire*, or *CoCoAero*), composed of independent persons, cannot alone overcome the potential conflicts of interest, since its opinions are purely consultative. For instance, the opinion of the Committee on the draft contract regulating ADP for the 2006-2010 period was not followed by the authorities: where the Committee recommended limiting the price increase to 2.5% per year, the regulation contract of ADP authorised annual price increases of 3.25% above inflation. For the 2011-2016 period, the average annual increase in airport charges equates to 1.38 % plus CPI.
- The issue of the lack of clarity in roles of the State as a regulator and those of the State as a shareholder had already been criticised in July 2008 by the French Court of Auditors (*Cour des Comptes*). The Court also attributed the high rate of airport fee increases (although according to the limit set by the Economic Regulation Agreement) in part to the low productivity efforts made by ADP.
- A lack of transparency: a regulatory mechanism, involves knowledge of the costs of the regulated operator, and in this case of airports management companies. This information is provided to the regulatory authority by managers inevitably raises the issue of information asymmetry. The Authority judged that the first experience of economic regulation of ADP was not fully satisfactory.
- A lack of independence: the Authority stated that “*compliance with the requirements of legal and functional independence of the regulator as laid down by Article 11 of the Directive is not obvious, since the State also retains the majority of the capital of ADP, whose participation is managed by the Minister of Economy and Finance via the Agency for State Holdings (Agence des participations de l’Etat) and ownership of large regional airports.*” Note that, in the context of the opening up to competition of public network services, the

<sup>8</sup> Avis n° 10-A-04, <http://www.autoritedelaconcurrence.fr/pdf/avis/10a04.pdf>

Court of Justice of the European Communities considered in particular that *"different directions of the same administration cannot be regarded as independent of other"* (judgment of 27 October 1993, *Taillandier*, C-92/91, *Rec.*, 1993, p. I-5398). *In any event, the allocation of a supervisory role in ministerial departments would not put an end to the conflict of interest caused by the confusion of the roles of the regulatory state and the state shareholder"*.

- 5.43 The French authority transposed the Directive through a number of legislative documents: decree n°2011-1965 of 23 December 2011, Ordinance n°2011-1300 of 14 October 2011 and Decree of 16 January 2012. Some of the Directive's provisions did not need any transposition as they already existed under French Law, but transposition was needed for Articles 2.5, 5, 6.1, 7 and 9. Articles 5 (common charging system) and 7 (transparency) are in the course of being adjusted.
- 5.44 The French ISA, the Direction du Transport Aérien (part of DGAC), was officially designated by the ruling n°2011-1965 of the 23rd of December 2011, art.1-VI. Its first report of activity (covering year 2012) will be released in 2013. It observed that *"since the Avis n°10-A-04, several regulations have been taken in order to transpose the Directive, addressing the Autorité de la Concurrence's recommendations"*.
- 5.45 On the issue of independence between the role of the State as a regulator and as a shareholder, the French ISA noted that the Ministry of Economy and Finance that has representatives at the board of ADP as a shareholder of the airport company cannot interfere with regulation matters. Reciprocally the ISA does not have any representatives at the board. ADP also thought the Independent Supervisory Authority was effectively independent.
- 5.46 An airline stakeholder complained that in France there is no effective appeals process in case of disagreement with DGAC approval of charges. The same stakeholder also complained that differential pricing of facilities was restricted by Article R224-2 of the Civil Aviation code, for airport facilities built before 2005. The same article imposes cost-relatedness of airport charges to airport managing bodies.
- 5.47 According to Article R.224-2-1 of the Civil Aviation code, capex of new infrastructure being built can be taken into account in the tariffs. In the case of major investments to be constructed within 5 years, future capex can also be taken into account.
- 5.48 ADP is the only network of airports in France. The objective of the French authorities for a network of airports is to foster investment, therefore increasing global capacity where it is needed and having a greater user base to share the cost of the network. ADP explained that for most airport charges, tariffs are still the same for Paris-CDG and Paris-Orly airports.

TABLE 5.9 FRANCE OVERVIEW

France				
Transposition texts	Decree n° 2011-1965 of 23 December 2011 Ordinance n° 2011-1300 of 14 October 2011 Decree of 16 January 2012			
Consultation and pre-financing	6.5.a: Yes 6.5.b: No	Pre-financing allowed? Yes under specific rules		
ISA	Direction du Transport Aérien, part of DGAC		Type: CAA	
Airport networks	Yes		Aéroports de Paris (Roissy CDG and Orly)	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Paris Roissy CDG	61.5 m	Price cap	Regulated: hybrid
	Paris Orly	27.2 m	Price cap	Regulated: hybrid
	Nice	11.1 m	Rate of Return	Free to set their own prices
	Lyon	8.4 m	Rate of Return	Free to set their own prices
	Marseille	8.3 m	Rate of Return	Free to set their own prices
	Toulouse	7.5 m	Price cap	Regulated: single
	Bâle-Mulhouse(*)	5.3 m	Rate of Return	Free to set their own prices

Source: Steer Davies Gleave analysis. According to the DGAC-FOCA Protocol that was signed by the French and Swiss authorities in May 2013 as a first step to implement the Directive into the bilateral convention that rules the airport, the relevant ISA is a bi-national entity formed by the "Direction du Transport Aérien" inside the French DGAC and FOCA. The new tariffs are to be submitted to each of the two supervisory authorities. If one of them objects within a month, the airport has to submit a new proposal within 15 days. Otherwise the tariffs enter into force.

### Germany

- 5.49 An ICAO case study on the economic oversight of airports in Germany of February 2013 states that “*until the early 1990s, at most airports in the Federal Republic of Germany, ownership has traditionally been shared between Lander (States), Kreis (county), and/or Stadt (city)*”. For reasons of expediency, the operation of airports was corporatized as limited liability companies (GmbH) or, as in the case of Frankfurt Airport, as joint stock companies (AG). The Federal Government also owned shares in Cologne/Bonn, Frankfurt, Hamburg and Munich airports, as well as West Berlin’s Tegel and Tempelhof airports. In the spring of 1991, Tegel, Tempelhof and East Berlin’s Schönefeld were pooled within a single holding company, the Flughafen Berlin Brandenburg GmbH (FBB), which was owned by the Federal Government (26%) and the States of Berlin and Brandenburg (37% each).
- 5.50 Airports were required to submit their charges (take-off, landing, passenger facilities and aircraft parking charges) to the competent regulatory authority for approval under Section 43 of the Air Traffic Licensing Regulations. The State Governments normally regulated airport charges, with the Federal Government retaining a right of supervision. The law did not define exactly how airport charges should be regulated, but there was a common practice. In general, a single till approach was applied with regulation on a cost based rate of return regulation.
- 5.51 Although Federal legislative, policy and supervisory functions are vested in the Ministry of Transport, Building and Housing (Bundesministerium für Verkehr-, Bau- und Wohnungswesen), administration and regulation are significantly devolved to the States. Under Section 43 of the Air Traffic Licensing Regulations, airport charges remain subject to traditional cost-based regulation with a single till approach. At a few airports involving private interest, however, incentive-based regulation has been implemented.
- 5.52 In January 2000, Germany’s first price cap regulation was introduced for Hamburg Airport (a temporary price cap had been implemented for Berlin airports since the late 1990s and planned for the new BBI Airport, but was abandoned due to the termination of privatization). As the Federal Government refused to change the legal structure, price cap regulation was included in a public legal contract between Hamburg Airport and the Ministry of Economic Affairs of Hamburg. Both parties agreed to the first five-year price cap period from January 2000 to December 2004 for landing fees, passenger handling fees, noise level charges and aircraft parking fees. Upon the extension agreement, the second five-year price cap period commenced in January 2005. A third agreement was signed in January 2010, similar in form to the previous ones. Dusseldorf airport is the other large airport where price-cap regulation is in place. This is based on a long-term agreement and a formula that considers passenger growth as well as the inflation rate in determining tariff increases.
- 5.53 At other airports, regulatory arrangements are complex. These can be broadly categorised under the “Rate of return” type of regulation and often involve revenue-sharing agreements between the airport and the airlines. A specific

characteristic of airport regulation in Germany is that a dual till system is in place at all major airports covered by the Directive.

- 5.54 Against this background of long-standing regulation, the Directive was transposed in Germany by the 14th Act to modify the Air Traffic Act (Luftverkehrsgesetz - LuftVG) which came into force on 9 May 2012. The ISA powers were granted to the Transport Ministries / Aviation Authorities in each of the 16 Federal States. In Hesse the ISA is the Ministry of Economics, Transport and Regional Development (HMWVL), whilst in Brandenburg it is the Ministry for Infrastructure and Agriculture. All German authorities who were consulted believed that the implementation of the Directive had not led to any specific changes in the consultation practices at German airports. They also reported that all disputes had been solved bilaterally by the airports and its users and that the two parties had not resorted to the ISA for dispute resolution.

**TABLE 5.10 GERMANY OVERVIEW**

Germany				
Transposition texts	Air Traffic Act (Luftverkehrsgesetz - LuftVG) of May 2012			
Consultation and pre-financing	6.5.a: Yes 6.5.b: No	Pre-financing allowed? Yes under specific rules		
ISA	Regional Ministries regulate airports in their Land	Type: Ministry		
Airport networks	No	-		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Frankfurt Main	57.2	Rate of return*	Regulated: dual
	Munich	38.4	Rate of Return	Regulated: dual
	Düsseldorf	20.8	Price cap	Regulated: dual
	Berlin-Tegel	18.2	Rate of Return	Regulated: dual
	Hamburg	13.7	Price cap	Regulated: dual
	Stuttgart	9.7	Rate of Return	Regulated: dual
	Cologne / Bonn	9.3	Rate of Return	Regulated: dual
	Berlin Schönefeld	7.1	Rate of Return	Regulated: dual
	Hanover	5.3	Rate of Return	Regulated: dual

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Source: Steer Davies Gleave analysis based on the information provided by the Hesse Ministry. Airline associations however stated that they would have described the regulatory arrangements at Frankfurt Main airport as a price cap, without “CPI integration”.

### Greece

- 5.55 In Greece, only Athens airport (12.8 million passengers in 2012) falls within the scope of the Airport Charges Directive. The second largest Greek airport Thessaloniki recorded 4 million passenger traffic in 2012. Currently, all 37 regional airports are state-owned without any corporate structure and supervised by the Hellenic Civil Aviation Authority.
- 5.56 Athens International Airport (AIA) is operated by a 30-year concession company (expiring June 2026) responsible for the construction, financing, operation and maintenance of the Athens International Airport through a concession agreement (Airport Development Agreement or ADA), which was ratified as law (2338/95) as part of the privatisation in 1995.
- 5.57 Airport charges at Athens airport are set under a dual-till with a cost plus mechanism (or profit-cap mechanism) on “air activities” with a 15% return on equity cap. The airport levies two types of aeronautical charges:
- “Classic” aeronautical charges for the use of runway, parking, passenger, cargo and centralised infrastructures.
  - The “Airport Development Fund” (ADF) which was introduced into the ADA in order to fund construction of aviation infrastructure and is a tax: a “Passenger Departure Fee” is collected by the Hellenic Civil Aviation Authority, with 75% of the amount collected transferred to Athens International Airport.

**TABLE 5.11 GREECE OVERVIEW**

Greece				
Transposition texts	Law 3913/2011 of February 2011 (Article 28)			
Consultation and pre-financing	6.5.a: No 6.5.b: No		Pre-financing allowed? Yes	
ISA	Hellenic CAA		Type: CAA	
Airport networks	Unclear, because currently the arrangements for 37 regional airports are evolving		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Athens	12.8 m	Rate of return	Dual

Source: Steer Davies Gleave analysis

**Hungary**

- 5.58 The Directive has been transposed in Hungary by Decree 61/2011 (XI.25) on the principles and methods of setting the level of charges for commercial airports of the Ministry of National Development. ISA powers have been granted to the existing Aviation Authority which is part of the National Transport Authority (NTA).
- 5.59 The only airport covered by the Directive is Budapest airport, which is privately owned. It is subject to economic regulation from the National Transport Authority Aviation Directorate. A price cap applies to the airport's net sales revenues per passenger originating from regulated activities.
- 5.60 For the 2012-2016 period, the default price formula is based on the price cap in previous years, the extent of average traffic increase in the preceding two years, the actual inflation rate. However, possible modifications to the price cap may be introduced in order to pay for new investments in infrastructure, lost revenues or surplus, material change in circumstances, additional government provisions on the safety of aviation security and finance. The airport may also negotiate directly with the airline users the price cap which will be applied provided that the airport secures the agreement of at least 70 per cent of the airlines using the airport, determined on the basis of the number of passengers.
- 5.61 There is a mandatory procedure in Hungary for the consultation and remedy of airport charges (Article 6.5). Following the consultation with the airport users, the airport operator, no later than 120 days prior to the intended date of entry into force, submits the Charging Policy for endorsement by the Aviation Authority. The Aviation Authority may endorse another price-cap which is different from the default one.

**TABLE 5.12 HUNGARY OVERVIEW**

Hungary				
Transposition texts	Decree 61/2011 (XI.25)			
Consultation and pre-financing	6.5.a: Yes 6.5.b: No	Pre-financing allowed? Yes		
ISA	National Transport Authority	Type: CAA		
Airport networks	No	-		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Budapest	8.5 m	Price cap	Dual

Source: Steer Davies Gleave analysis

**Ireland**

- 5.62 The Directive only applies to Dublin Airport. There are no other airports in Ireland at which the Directive will apply in the medium term. The Irish authorities transposed Directive 2009/12/EC through Statutory Instrument No. 116 of 2011: European Communities (Dublin Airport Charges) Regulations 2011 (MNE(2011)52239) which came into force on 15/03/2011.
- 5.63 Ireland has a long-standing regulatory framework in place with respect to airport charges. The authority in charge of economic regulation, the Commission for Aviation Regulation (CAR) was also granted ISA powers when Directive 2009/12/EC was transposed into Irish law under Statutory Instrument 116 of 2011, European Communities (Dublin Airport Charges) Regulations 2011. The only regulated airport in Ireland is Dublin airport, although the airport authority (DAA) also manages Cork airport. Dublin Airport Authority is owned by the Irish state which also has a 25.1% shareholding in Aer Lingus.
- 5.64 Price-cap regulation is in force for 5-year periods (although the regulator has discretion subject to the cap lasting at least 4 years), currently running from 2010 to 2014. The setting of caps by the CAR involves consultation of the DAA and airport users. In addition the DAA organises consultations throughout the price control period in relation to quality and infrastructure investment. The maximum revenue per passenger that can be collected during the 2010-2014 price-control period is subject to the DAA achieving certain quality of service target measures that the Commission has identified as measuring important aspects of service quality at the airport.

**TABLE 5.13 IRELAND OVERVIEW**

Ireland				
Transposition texts	Statutory Instrument No. 116 of 2011: European Communities (Dublin Airport Charges) Regulations 2011 (MNE(2011)52239)			
Consultation and pre-financing	6.5.a: Yes 6.5.b: No	Pre-financing allowed? Yes under specific rules		
ISA	Commission for Aviation Regulation		Type: Other (Regulator)	
Airport networks	Not formally designated		However DAA manages Dublin and Cork airports	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Dublin	19.1 m	Price cap	Single

Source: Steer Davies Gleave analysis

**Italy**

- 5.65 The analysis of responses from Italian stakeholders suggests that there is a lack of consensus over the existing regulatory regime in place at Italian airports. As a result, the following overview reflects the different opinions expressed as well as the findings of desk research we have conducted.
- 5.66 Italy notified the Commission that the Directive has been transposed in 2012 by Law Decree n. 1/2012 only. However it would appear that it has also been converted into national law with amendments by Law n.27 of 24/03/2012, but subject to some important derogations. One of these derogations is to be found in art. 22(2) of Law Decree n.5 of 09/02/2012 stating that the application of the Directive does not apply to the “*completion of the procedures being undertaken to finalise a Contratto di Programma (CdP) with the airport managing bodies ... to be completed by the 31 December 2012*”. This derogation effectively excludes the three main Italian airports (Aeroporti di Roma, SEA and SAVE), all of which completed a CdP with the regulator (ENAC) in 2012.
- 5.67 The transposition of the five million threshold is also unclear under the current Italian laws. There is a consensus among stakeholders that there is no formal threshold in Italy for airport inclusion in the implementation of the Directive. This is interpreted by some as meaning that according to European Directive all airports above 5 million are in scope, and by others that it is for all airports above 1 million passengers (as per Law 27/2012, art. 76.6). Besides the derogation described above, a 2010 legislative act (Law 122/2010) would also appear to exempt airports above 8 million passenger traffic per annum of the requirements of European legislation, as well as those airports whose property stretches across more than one region and those which are raising finance for infrastructure projects on the capital market.
- 5.68 Given the contradiction embedded in national legislation, we have attempted to clarify this issue with the stakeholders involved with some specific questions. ENAC has responded that national law “*extended the threshold to all airports with the exception of those under 1 million passengers*”. However the AOC and Users Committee at one Italian airport believed that, given the current derogations, charges have not and will not be set in accordance with the Directive at most Italian airports. They suggested that perhaps only the airports of Bologna and Napoli will finalise their CdP by applying the Directive in the short term.
- 5.69 Several other issues have arisen from the contradictory transposition of the Directive in Italy. Stakeholders do not agree as to whether pre-financing of airport infrastructure is being allowed or not; while Law 27/2012 has been transposed literally with respect to the definition of airport networks, an official list of networks has not been published and “*common charging systems take into consideration the operating environment of specific airports managed by the same AMB*”.
- 5.70 The lack of an Independent Supervisory Authority in Italy also adds a layer of difficulty. The previous government’s plan to create or appoint an Independent Transport Authority which would have acted as the ISA in respect to airport

charges have been delayed. In the meantime, the Italian CAA (ENAC) has been carrying out ISA functions *ad interim*. Airport users have complained about its lack of independence from central government, substantiated by the fact that any CdP (including the level of charges) need to be eventually approved by the government in Italy.

- 5.71 Nevertheless, ENAC claims that it is completely independent from any airport managing bodies and that it is carrying out its functions impartially. Importantly, the CAA is also in charge of regulation as several airports (including SEA and AdR which are subject to price-cap regulation).

**TABLE 5.14 ITALY OVERVIEW**

Italy				
Transposition texts	Law Decree n. 1/2012 is the only text notified to the Commission. Other texts include: Law n.27 of 24/03/2012 Law Decree n.5 of 09/02/2012			
Consultation and pre-financing	6.5.a: Unclear 6.5.b: No	Pre-financing allowed? Yes at national level but there can be some local rules prohibiting it		
ISA	ENAC (ad interim)	Type: CAA		
Airport networks	There are effectively networks but have not been formally designated: for instance Aeroporti di Roma manages Rome Fiumicino and Rome Ciampino airports, SEA manages Milan Linate and Milan Malpensa airports.			
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Rome Fiumicino	36.9	Price cap	Regulated: dual
	Milan Malpensa	18.5	Price cap	Regulated: dual
	Milan Linate	9.2	Price cap	Regulated: dual
	Bergamo (Orio al Serio)	8.8	Concession fixing charges	Regulated: dual
	Venice	8.1	Price cap	Regulated: dual
	Catania	6.2	Price cap	Regulated: single
	Bologna	5.9	Price cap	Regulated:

				single
	Naples	5.8	Price cap	Regulated: single

Source: Steer Davies Gleave analysis

### Latvia

- 5.72 The only airport in scope of the Directive in Latvia is Riga airport.
- 5.73 The Latvian authorities transposed the Directive with two legislative documents: Regulation no.540 of the Ministerial Cabinet of 5 July 2011 regarding charging of aerodrome services, and “Amendments to the Law on aviation” of the Latvian Parliament. In July 2011 the Civil Aviation Agency was also vested with the powers of the Independent Supervisory Authority.
- 5.74 According to the CAA, consultation on airport charges takes place regularly between the Riga International Airport and the Airport User Committee, however it also stated that until now there had been no changes in airport charges at the airport.
- 5.75 At Riga airport there is a procedure for introducing new infrastructure, which according to the airport is only introduced after positive consultation results on the planned prices: the consultation process about new centralised infrastructure<sup>9</sup> starts one or two years before introduction of the service. Agreement on the infrastructure is secured as a start, with agreement on the price for the service confirmed with the users.

**TABLE 5.15 LATVIA OVERVIEW**

Latvia				
Transposition texts	Regulation no.540 of the Ministerial Cabinet of 5 July 2011 Amendments to the Law on aviation			
Consultation and pre-financing	6.5.a: No 6.5.b: No		Pre-financing allowed? Yes	
ISA	Civil Aviation Agency		Type: CAA	
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Riga	4.7 m	Price cap	Free to set their own prices

Source: Steer Davies Gleave analysis

<sup>9</sup> It is unclear whether CI in this context is intended to be as defined in the Ground handling Directive.

**Lithuania**

- 5.76 The provisions of Directive 2009/12 only apply to Vilnius International Airport (passenger traffic of 2.2 million in 2012).
- 5.77 The Directive was transposed into national law through Order No. 3-118 of 28 February 2011 (Official Gazette 2011, no. 26-1257), “*Approval of the Description of the Order of the Payment and Use of Charges for the Use of the Airport and Air Navigation Services in the Airspace of the Republic of Lithuania*”. Two other legislative texts also cover airport charges in Lithuania: Order No. 4R-60 of the Director of the Civil Aviation Administration On the Approval of the Methods for the Assessment of the Maximum Charges for the Use of the Airport of 10 March 2011 and Order of the Director of the Civil Aviation Administration No. 4R-79 On the Assessment of the Maximum Charges for the Use of the Airport of 29 March 2011.
- 5.78 The Civil Aviation Administration is in charge of airport regulation and is the national ISA. Order No. 3-118 details the procedures to be applied for setting the levels of airport charges in Lithuania.

**TABLE 5.16 LITHUANIA OVERVIEW**

Lithuania				
Transposition texts	Order No. 3-118 of 28 February 2011			
Consultation and pre-financing	6.5.a: Unclear 6.5.b: Unclear	Pre-financing allowed? Yes		
ISA	Civil Aviation Administration	Type: CAA		
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Vilnius	2.2 m	Unclear	Unclear

Source: Steer Davies Gleave analysis. For this Member State details of economic regulation could not be obtained and remains unclear.

**Luxembourg**

- 5.79 Luxembourg airport is the sole commercial airport of the country and handled passenger traffic of almost 1.8 million passengers in 2012. It is the only airport of Luxembourg to be in scope of the Directive. In 2009, the State of Luxembourg brought an action before the European Court of Justice for partial annulment of Directive 2009/12. It contested the fact that the airport of Luxembourg-Findel, was subject to the administrative and financial obligations of the directive when its annual passenger traffic was below 2 million, whereas other nearby regional airports did not fall within the scope of the directive whilst having more traffic in some cases.

- 5.80 In 2011, the European Court of Justice dismissed the arguments of unequal treatment because Luxembourg-Findel airport had to be regarded as enjoying a privileged position as the ‘point of entry’ into that Member State within the meaning of the Directive. The Court also found that for these airports under 5 million passengers being within the scope of the Directive was not contrary to the principle of equal treatment.
- 5.81 Following the Court’s judgement, Luxembourg had to comply with the Directive and transferred the ISA’s competences to the Civil Aviation Authority. However, this decision was challenged by the “Conseil d’Etat” in January 2012. The judicial authority held that the CAA was not entirely independent from the Ministry nor from the Airport Managing Bodies, given that the Ministry is a shareholder at the airport. Therefore, the national regulatory body, *Institut Luxembourgeois de Régulation* (IRL) was identified as the appropriate body and granted ISA powers by the Law of 23 May 2012. IRL is also in charge of postal services, telecom, energy and rail regulation. Since then, the IRL has been involved in talks with the airport on how best to organise future consultation session with users under its supervision. An annual activity report for the ISA will be prepared for 2012/2013.
- 5.82 There is no mention of the pre-financing of infrastructure in the Law of 23 May 2012 which transposed the Directive. The legislative text only mentions that airport managing body consults the users’ committee before the finalization of plans for new infrastructure projects.

TABLE 5.17 LUXEMBOURG OVERVIEW

Luxembourg				
Transposition texts	Law of 23 May 2012			
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Yes		
ISA	Institut Luxembourgeois de Régulation		Type: Competition Authority	
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Luxembourg-Findel	1.8 m	No regulation	Free to set their own prices

Source: Steer Davies Gleave analysis

**Malta**

- 5.83 The only airport in scope is Malta international airport with traffic of 3.65 million passengers in 2012. A private partnership of SNC-Lavalin, Vienna International airport and other private stakeholders owns 40% of the airport and is the concessionaire of Malta International Airport under a 65-year concession agreement (awarded in 2002). The Maltese government retains the remaining 60%.
- 5.84 The Maltese authorities transposed Directive 2009/12/EC through L.N. 132 of 2011 'Authority for Transport in Malta Act - Airport Economic (Amendment) Regulations 2011. The Maltese transposition introduced a unique system, where a special Board 'The Airport Charges Board' is set up for 'the determination, review and regulation of airport charges as well as the quality of service'. The board includes a Ministry representative, a CAA representative, a user committee representative and an airport managing body representative.
- 5.85 The ISA is the Authority for Transport in Malta. The Maltese CAA belongs to the Authority for Transport in Malta. No stakeholders commented on the Maltese ISA or its independence.
- 5.86 The procedure for establishing dispute resolution process as per Article 11.6 is unclear.

**TABLE 5.18 MALTA OVERVIEW**

Malta				
Transposition texts	L.N. 132 of 2011 'Authority for Transport in Malta Act - Airport Economic (Amendment) Regulations 2011			
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Yes		
ISA	Authority for Transport	Type: Other		
Airport networks	No	-		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Malta International	3.6 m	Unclear	Unclear

Source: Steer Davies Gleave analysis

**Netherlands**

- 5.87 In the Netherlands, only Amsterdam Schiphol Airport falls within the scope of the Directive, with the second largest airport being Eindhoven airport, serving around 3.5 million passengers annually. In the Netherlands no airport networks have been designated. Schiphol airport operates under the dual-till and non-aeronautical activities are not subject to economic regulation.
- 5.88 An ICAO case study on the economic oversight of airports in the Netherlands of February 2013 stated that “a 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 to users. Once the charges are proposed, the airline customers can respond and any dispute is referred to the Dutch competition authority”.

- 5.89 Against this background of longstanding regulation, the Directive came into force in Dutch legislation of the 25 May 2011 through amendments of the Dutch Aviation Act (“Wet Luchvaart”): Act of 27 January 2011 adapting the Aviation Act for the purpose of implementing Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges, Decree of 28 March 2011 amending the Decree on the operation of Schiphol Airport for the purpose of implementing Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges. Only Amsterdam Schiphol airport is regulated by the Directive.
- 5.90 Under the Aviation Act 19 July 2006, the Netherlands Competition Authority (“NMa”) was already in charge of aviation regulation and was designated as ISA in May 2011. Within the NMa, it was the Office of Transport Regulation which had the specific task of aviation regulation. From 1 April 2013, the Netherlands Authority for Consumers and Markets (“ACM”) has taken over from the NMa. From that date, ISA funding through charges collected at Schiphol Airport is under consideration. Previously the NMa was funded from the State budget of the Dutch Ministry of Infrastructure and Environment. No stakeholder has queried the independence or skills of the ISA.
- 5.91 In the Netherlands, prefinancing is not allowed. The capital and financing costs of an asset are allowed to be covered in the charges from the moment that the asset is in use for aviation activities.

**TABLE 5.19 NETHERLANDS OVERVIEW**

Netherlands		
Transposition texts	Act of 27 January 2011 adapting the Aviation Act Decree of 28 March 2011 amending the Decree on the operation of Schiphol Airport	
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Prohibited
ISA	Netherlands Authority for Consumers and Markets (ACM)	Type: Competition Authority

Airport networks	No	-		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Amsterdam Schiphol	51 m	Rate of return	Dual

Source: Steer Davies Gleave analysis

**Poland**

- 5.92 The only airport covered by the Directive is Warsaw’s Chopin Airport. There are no networks that have been designated. The Directive was transposed into Polish law in December 2012, effective from February 2013, by Regulation Item 114 and Regulation Item 134 setting out the specific requirements referred to in article 75 of the Aviation Act 2002. The Polish Civil Aviation Authority was granted ISA powers at the same time.
- 5.93 In the Republic of Poland, airport charges for the use of public airports above 5 million passengers per annum are subject to approval by the President of CAA, pursuant to Article 6(5) of Directive 2009/12/EC. For smaller airports, airport users may contact the President of the CAA if they see an incompatibility of airport charges with the applicable legislation. There are no specific rules on pre-financing, but according to regulation of Minister of Transport, Construction and Maritime Economy on airport charges from 23 January 2012 when determining the level of airport charges airport managing body can include the need to obtain funds to finance their long-term investment projects of large scale.
- 5.94 Polish law contains specific provisions to incentivise the participation of air carriers in airport-airline consultation. In particular art.6.1.5 of the Regulation holds that “*the air carrier who...did not present the information (required)...within the limit set out by this AMB, shall lose the right to participate in such consultations*”.
- 5.95 According to Warsaw airport, the level of airport charges is subject to control in relation to the cost of services. The transparency of charges at Warsaw is ensured as all charges, discounts and incentive schemes are published in a booklet distributed to all interested parties. A distinguishing feature of discounts at Warsaw is that they are based on projected traffic growth rather than current traffic volumes.

**TABLE 5.20 POLAND OVERVIEW**

Poland	
Transposition texts	Aviation Act of 3 July 2002, as amended by Regulation Item 114 and 134 of January 2013 Regulation of the Minister for Infrastructure of 29 April 2004 on airport charges
Consultation and pre-	6.5.a: Yes      Pre-financing allowed?

financing	6.5.b: No		Yes	
ISA	Netherlands Authority for Consumers and Markets (ACM)		Type: Competition Authority	
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Warsaw	9.5 m	Rate of return (based on cost base defined by the ministry)	Hybrid

Source: Steer Davies Gleave analysis

### **Portugal**

- 5.96 The airports of Lisbon, Oporto, Faro, Ponta Delgada, Santa Maria, Horta, Flores and Beja, including Madeira Airports (Madeira and Porto Santo) are managed as a network by ANA. Decree-Law n.254/2012, of 28 November 2012 transposed the Directive into national law, superseding Decree-Law n.86/2011 which had initially transposed it. The ISA in Portugal is the Civil Aviation Authority INAC.
- 5.97 The Concession Agreement between the Portuguese State and ANA was approved by the Council of Ministers in December 2012 prior to the attribution of the 50-year concession to VINCI airports in February 2013.
- 5.98 The new law and concession agreement established the model of economic regulation. Airport charges related to regulated activities are determined according to a maximum regulated average revenue per passenger (“revenue cap”) based on a fixed European benchmark. There are 3 price caps: one for Porto airport, one for Faro airport and one for the “Lisbon group” made of Lisbon airport, the Azores airports, the Madeira airports and Beja airport. According to ANA, information is made available by ANA for each of the 3 price caps, but it remains unclear to us how much information for each of the airports part of the Lisbon group is available.
- 5.99 While it is not yet possible to evaluate their work as an ISA in relation to airport charges, ANA stated that the CAA (INAC) had demonstrated impartiality and transparency in previous consultations such as PRM charges. An airline stakeholder disagreed with this view based on the following points:
- The revenue cap set in the concession agreement agreed between ANA and the Government was not subject to consultation with airport users on the charging system or level of charges. This appeared most prejudicial to this airline, since future changes to airport charges are based on the 2012 level of revenue and CPI;
  - There has been no justification for the airport benchmarking used in the model of economic regulation, such as the criteria used to select airports;
  - The revenue cap is not cost related; and

- The current consultation procedure between airline users and ANA follows the required consultation process but ANA does not take views of airline users into account.

**TABLE 5.21 PORTUGAL OVERVIEW**

Portugal				
Transposition texts	Decree-Law n.254/2012, of 28 November 2012			
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Prohibited		
ISA	Civil Aviation Authority (INAC)	Type: CAA		
Airport networks	Yes	ANA (Portuguese airports)		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Lisbon	15.3	Price cap	Dual
	Porto	6.0	Price cap	Dual
	Faro	5.7	Price cap	Dual

Source: Steer Davies Gleave analysis

**Romania**

- 5.100 The Romanian authorities transposed Directive 2009/12/EC through Government Decision no.455/2011 concerning airport charges (MNE(2011)53882) which came into force on 18/05/2011. The Civil Aeronautical Authority was granted ISA powers. The information received from the Member State representative indicates that the ISA’s tasks are wide-ranging and include: raising awareness of airport operators on the requirements of the Directive and subsequent national legislation (two conference presentations have been held); annual collection of traffic data towards establishing the airports that fall under the Directive; elaborating the procedure for solving disagreements between the airport administration body and the airport users; setting the conditions in which the ISA can be notified in regards to a disagreement; establishing the criteria against which the disagreements will be assessed for resolution; monitoring the application of the Directive and subsequent legislation through: approving the publishing of the change in charging policy, inspections, document verification, check-lists.
- 5.101 The ISA of Romania is funded from its own budget and by levying a charge on airport users and airport managing bodies for each investigation in case there is a disagreement between them. The ISA indicated that in the case of a disagreement on airport charges, any party may request, in writing, within 5 working days from the date of publication of the decision on airport's website, an investigation by the RCAA provided that they fulfil a set of conditions which include no outstanding

debts to the Romanian CAA, have no outstanding debt towards the airport (in the case of an airport user), pay the established rate for the investigation procedure.

**TABLE 5.22 ROMANIA OVERVIEW**

Romania				
Transposition texts	Government Decision no.455/2011			
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Yes		
ISA	Romanian Civil Aeronautical Authority	Type: CAA		
Airport networks	No	-		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Bucharest	7.4 m	No regulation	Free to set their own prices

Source: Steer Davies Gleave analysis

### **Slovakia**

- 5.102 In Slovakia, the only airport in scope of the Directive is Bratislava international airport. In 2012 it recorded 1.4 million passengers down from 2.2 million in 2008 following the bankruptcy of Sky Europe operations. Slovakia has transposed Directive 2009/12 through an amendment of section 33 of the Aviation Act.
- 5.103 The Slovakian authorities transposed Directive 2009/12/EC through a variety of legislative texts:
- Act 241 of 6 July 2011 amending Act No 143/1998 on civil aviation (the Aviation Act) and amending certain other acts;
  - Act 136 of 4 February 2004 on airport companies and amending Act. 143/1998 concerning Civil Aviation (Aviation Act) and amending certain laws as amended by Act no. 37/2002;
  - Act 544 of 10 September 2004 amending Act 143/2009 on Civil Aviation and other Acts; and
  - Act 143/1998 of 2 April 1998 on Civil Aviation.
- 5.104 The Slovakian Civil Aviation Authority has been designated as the national ISA since September 2011. However, due to some “regulatory barriers”, the CAA was not able to perform its powers of oversight until the end of 2012.

TABLE 5.23 SLOVAKIA OVERVIEW

Slovakia				
Transposition texts	Act 241 of 6 July 2011 amending Act No 143/1998 on civil aviation Act 136 of 4 February 2004 Act 544 of 10 September 2004 Act 143/1998 of 2 April 1998			
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Yes		
ISA	Civil Aviation Authority	Type: CAA		
Airport networks	No	-		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Bratislava	1.4 m	No regulation	Free to set their own prices

Source: Steer Davies Gleave analysis

**Slovenia**

- 5.105 The information below comes from a desk-research since no information from stakeholders from Slovenia was available.
- 5.106 In Slovenia, only Ljubljana airport is in scope of the Directive. In 2011 it recorded 1.4 million passengers. Slovenia has transposed Directive EC/2009/12 through a 2010 Act amending the Aviation Act, a 2011 Decree on airport charges.
- 5.107 The Slovenian Civil Aviation Authority (Javna agencija za civilno letalstvo Republike Slovenije) has been designated as the national ISA since March 2011. The findings from desk research suggest that the ISA has not been tasked with mandatory approval or review of airport charges as per article 6.5(a).

TABLE 5.24 SLOVENIA OVERVIEW

Slovenia		
Transposition texts	Letter of 30 March 2011 - Ministry of Transport - notification of the name, address, functions and responsibilities of the ISA Decree on airport charges (Official Gazette of the Republic of Slovenia No.17/2011) Act amending the Aviation Act (Official Gazette of the Republic of Slovenia No.62/2010)	
Consultation and pre-financing	6.5.a: Unclear 6.5.b: No	Pre-financing allowed? Unclear

ISA	Civil Aviation Authority		Type: CAA	
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Ljubljana	1.4 m	No regulation	Free to set their own prices

Source: Steer Davies Gleave analysis

### *Spain*

- 5.108 In Spain, AENA Aeropuertos manages a network of 47 airports across the country. AENA Aeropuertos is structured as a public law entity attached to the Ministry for Development, with its own legal identity, independent from that of the State and performs its business activity within the framework of the Government's general transport policy. It is the largest airport managing body in Europe with an annual traffic totalling more than 194 million passengers in 2012, therefore, all Spanish airports are covered by a single airport network under the Directive.
- 5.109 Law 1/2011 (amending Law 21/2003 of 7 July 2003 on aviation security) transposed the Directive into national legislation in March 2011 and according to airport users, it incorporated all the main aspects of the Directive. The law established a regulatory regime for airport charges based on a price cap (CPI +5%) for the 2013-2016 period, with a cost recovery formula applicable throughout the whole AENA network and a move from single till to dual till (introduced gradually over 5 years from 2014, 20% each year, according to AENA). Stakeholders complained that this was done without any consultation of users. Consultation requirements were outlined in the Law but the Law was only scheduled to enter into force in 2013. ISA powers were granted to the Directorate General of Civil Aviation (DGAC) on a temporary basis until the designated authority (CREA) would be constituted.
- 5.110 Significant changes in airport charges however took place in 2012, the year prior to the implementation of the provisions of the Law. Two airline stakeholders reported that the 2012 increase in airport charges were the highest in the history of AENA, with an overall increase of 28% compared to 2011 levels, whilst the largest increases took place at Madrid and Barcelona airports, with increases of 50% and 54% respectively. The DGAC noted however that the transparency and consultation procedure could not be applied in 2011 (for 2012 airport charges) because due to the characteristics of the Spanish case (consultations should have started in January 2011) it was not possible to undertake its application within the time limit for transposition of the Directive (which in Spain took place on 4 March 2011).
- 5.111 Royal Decree 20/2012 reduced the period of the price cap to 3 years (ending in 2015) and introduced the dual-till principle. However a stakeholder complained that this was done without consultation.

- 5.112 Since 2013, stakeholders confirmed that the process for setting airport charges has followed the provisions of the Directive, as transposed by Law 1/2011. Airline stakeholders have indicated that AENA Aeropuertos has engaged with airport users during annual meetings. Nonetheless, these stakeholders have also raised a number of issues in relation to the application of the Directive in Spain. They indicated that, according to them, the main outstanding problems were the following:
- Art. 7(1) on transparency requirements is not being applied;
  - Discriminatory pricing;
  - Service-level agreements have not been introduced;
  - Increases in airport charges are not cost-related;
  - The 2013 consultation process was limited to airline associations;
  - The appeals process is not available to some charges (as they are mandated by law); and
  - The ISA is not sufficiently independent and has insufficient resources.
- 5.113 The transparency requirement issue relates to the structure of the airport network in Spain: airline stakeholders maintain that AENA Aeropuertos only reports a single consolidated account of revenues and costs for the entire airports network ahead of user consultation. This is in contrast with the requirement to provide “*airport users with the information on the components serving as a basis for determining the level of all charges levied at each airport*” (Art. 7(1)).
- 5.114 According to these stakeholders, it is therefore impossible to establish the cost-relatedness of airport charges at each Spanish airport. This may lead to discriminatory situations where users of more profitable airports (like Madrid or Barcelona) may finance users of less profitable ones. According to an airline association the cost recovery formula introduced by national legislation is applied based on total costs for all 47 airports in the network and not at each airport, meaning that, according to this stakeholder charges at individual airports are not based on individual airport costs.
- 5.115 The Spanish DGAC stated that national law requires that all the information referred to in Article 7 is made public, for the whole airport network, when conducting the transparency and consultation procedure. Also, the Independent Supervisory Authority has recommended in its resolution of 2012 that such transparency also applies to the airports with more than five million annual passengers, while the Directive is not completely clear on this matter. Only Parliament can, however, modify the common charging system.
- 5.116 AENA detailed that it applies an ABC (Activity Based Costing) system to calculate costs and incomes of regulated services.
- 5.117 An airline stakeholder also complained that discounts for inter-islands and flights from non-peninsular territories to the Peninsula were available whilst not based on differential costs.
- 5.118 We were also informed that ALA complained to the ISA on matters about incomplete consultation, a lack of transparency regarding economic information and a lack of information over the quality of services provided by AENA

- Aeropuertos. This was corroborated by another airline stakeholder who observed that information was provided at the time of the meeting and not in advance.
- 5.119 A stakeholder also complained that consultation was only opened to airline associations. Even though this stakeholder is a Member of an association who attended the consultation, this airline thought that airlines have different views even within the same organisation.
- 5.120 Additionally the establishment of the Independent Supervisory Authority has also been subject to complaints by airport users. Government decree 11/2011 of August 2011 formally set up the Airport Economic Regulatory Commission (*Comisión de Regulación Económica Aeroportuaria, or CREA*) which was intended to act as the national ISA. However the change of Government led to the creation of a new “super regulator”, *Comisión Económica de los Mercados y la Competencia* (CNMC) in May 2013 which is set to gradually absorb a number of regulatory functions in Spain and the CREA has been abolished. However the next round of consultation (in 2013 for 2014 charges) will be overseen by a second interim regulator, the CRFA, which took over ISA responsibilities from the DGAC in early June 2013. The CNMC will in turn take over the regulatory functions definitively at the latest in October 2013. A stakeholder complained that there is no appeal process available once the ISA decision has been taken.
- 5.121 The responses submitted by AENA indicate that they are satisfied with the consultation process established by the Directive. Following the requests by airport users, AENA have introduced quarterly meetings to discuss infrastructure investment. AENA claims that 3 consultation meetings took place for the 2013 charges and the same number for the 2014 charges, however they note that information exchange is asymmetric with a poor response rate from airlines (In the 2013 consultation process, 21 responses about traffic forecast and 8 about plans were received while there are more than 700 companies that operate at AENA airports).

TABLE 5.25 SPAIN OVERVIEW

Spain				
Transposition texts	Law 1/2011 Royal Decree 20/2012			
Consultation and pre-financing	6.5.a: Unclear 6.5.b: No	Pre-financing allowed? Yes		
ISA	2012 charges: DGAC / 2013 charges: Railway and Airport Regulatory Committee / After 2013 charges: CNMC		Type: Unclear to date, but super-regulator will be active from October 2013	
Airport networks	Yes		AENA	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Madrid	45.2	Price cap	Gradual shift

	Barcelona	35.1	Price cap	from single to dual over 5 years from 2013
	Palma de Mallorca	22.6	Price cap	
	Malaga	12.6	Price cap	
	Gran Canaria	9.9	Price cap	
	Alicante	8.8	Price cap	
	Tenerife Sur	8.5	Price cap	
	Ibiza	5.5	Price cap	
	Lanzarote	5.2	Price cap	

Source: Steer Davies Gleave analysis

### Sweden

- 5.122 In Sweden, only Stockholm Arlanda airport is covered by the Airport charges Directive with 19.6 million passengers in 2012. Gothenburg airport with 4.85 million passengers in 2012 is close but below the threshold. Other Swedish airports did not record more than 2.5 million passengers.
- 5.123 The Swedish authorities transposed Directive 2009/12/EC through Lag om flygplatsavgifter (Law 866/2011 on Airport Charges) of 22 June 2011 and Forordning om flygplatsavgifter (Regulation 867/2011 on Airport Charges) of 22 June 2011, and further rules on the execution of Act 866 to be adopted (Section 4 of Regulation 867). The Transportstyrelsen (Transport Agency) was designated to act as the ISA. The Swedish ISA stated that implementation of the Airport Charges Directive was an improvement on the previous situation where there was no regulation and ICAO guidelines on airport charges were not followed.
- 5.124 Swedavia, is a state-owned group that owns, operates and develops eleven airports across Sweden, including Arlanda and Gothenburg. Swedavia is considering the possibility to be formally designated by the Authority as an "airport network" in accordance with the definition in Article 2.5 of the Directive. Swedavia indicated that the cross subsidisation in the network of airports was "*entirely financed by the non-aviation surplus on network level under the single-till approach*".

**TABLE 5.26 SWEDEN OVERVIEW**

Sweden		
Transposition texts	Law 866/2011 on Airport Charges, Regulation 867/2011 on Airport Charges and further rules on the execution of Act 866 to be adopted (Section 4 of Regulation 867)	
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Yes
ISA	Transportstyrelsen (Swedish Transport Authority)	Type: Other

Airport networks	Swedavia is not officially designated		Swedavia (owns and manages almost all Swedish airports except for Stockholm Skavsta and Gothenburg City Airport)	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Stockholm	19.6 m	No regulation	Free to set their own prices

Source: Steer Davies Gleave analysis

### **United Kingdom**

- 5.125 An ICAO case study on the economic oversight of airports in the United Kingdom of February 2013 states that “*in the United Kingdom, the CAA has statutory powers under the Airports Act 1986 and the Airports (Northern Ireland) Order 1994 for the economic regulation of airports. CAA applies a two-tier regulatory structure for airports, at which annual turnover has exceeded £1 million in two of the last three financial years. The exceptions are those in the Isle of Man and Channel Islands, those owned or managed by CAA or a CAA subsidiary, and those managed by the Government.*”
- 5.126 *The first tier is a system of “light-handed” regulation. Airports that meet the revenue threshold must apply to CAA for permission to levy charges. A key component of the system is public disclosure of airport charges and accounts. All airports holding CAA permission must provide CAA with their annual statutory accounts, schedules of airport charges and changes, if any, to the information provided in their original application. Airports do not need to seek approval before they revise their charges but must notify CAA of the charges before they take effect.*
- 5.127 *CAA has discretionary power to place additional restrictions if an airport is considered to have abused market power. In such cases, CAA can impose an accounts condition, i.e. requirement to reveal, inter alia, the revenue and costs from airport activities, other airport-related activities and non-airport activities. Besides, CAA can investigate the conduct of such airports, and if it finds that the airport operator is unreasonably discriminating between users, unfairly exploiting its bargaining position or engaging in predatory pricing, it can impose conditions to remedy the situation.*
- 5.128 *The second tier of regulation is applied only to airports designated by the Minister of State under the Airports Act 1986. The three designated three London Airports (Heathrow, Gatwick and Stansted) and Manchester Airport were designated in 1986 (Manchester was de-designated in 2008). Designated airports must adhere to two mandatory conditions, an account condition and a charges condition, in addition to those applying to airports holding CAA permission. An account condition requires airport accounts to disclose detailed information beyond that required under the Company Act. A charges condition is a price cap in*

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*the form of a retail price index (RPI) minus X formula, which is set on a revenue yield basis and in consistency with the single-till approach. The RPI-X cap limits the maximum allowable revenue yield per passenger that can be levied by way of airport charges, i.e. those associated with the landing, take-off, and parking of aircraft, and with the processing of passengers through the terminals.*

- 5.129 *The first price caps were introduced for BAA plc's three London Airports in April 1987 and for Manchester Airport in April 1988, and these caps have so far been reset every five years by the CAA in consultation with the Competition Commission (formerly the Monopolies and Mergers Commission). BAA plc also introduced the price cap for Glasgow and Edinburgh airports voluntarily. Until March 2003, CAA had used a system approach in setting caps for BAA plc's three London Airports, but this was changed to a stand-alone approach (i.e. price caps for each airport are set in relation to that airport's own assets and costs).*
- 5.130 *In addition to the CAA's two-tier regulation, airports are subject to general competition law applied by the Office of Fair Trading (OFT) (as well as the Competition Commission when the case is referred to it) and the European Directive".*
- 5.131 The Directive was transposed into national law by the Airport Charges Regulation 2011 (No. 2491) which came into force in the UK on the 10 November 2011. It covered 10 airports in 2012, the same 10 airports in 2013 and it will cover 9 in 2014, some of which are also subject to the regulatory measures described above<sup>10</sup>.
- 5.132 The Civil Aviation Authority has been designated as the ISA. It is also continuing to exercise its powers as regulator in safety, economic, consumer protection and airspace policy regulation. All the stakeholders involved in the consultation agreed that the UK CAA is an effectively independent ISA, with the exception of IACA.
- 5.133 However, the UK legislation is due to change between April 2013 and April 2014. From April 2014 the CAA will licence airport operators that have, or are likely to acquire, substantial market power, if the CAA also considers that competition law does not provide sufficient protection against possible abuses of market power by the airport operator and the benefits of regulation outweigh the adverse effects. The CAA can undertake a market power determination (i.e. a determination regarding whether or not an airport should be subject to economic regulation) when requested to do so by the airport operator or any person whose interests are likely to be materially affected by the CAA decision regarding whether an airport needs a licence. In the latter case, the CAA must undertake this determination if in the previous calendar year the airport had five million passengers and if there has been a material change in circumstances since the CAA last made a market power determination. The licence may impose a number of requirements, including price control and transparency and consultation requirements.

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<sup>10</sup> Please note that the airports displayed in the table below refer to the situation in 2012

TABLE 5.27 UNITED KINGDOM OVERVIEW

United Kingdom				
Transposition texts	Airport Charges Regulation 2011 (No. 2491)			
Consultation and pre-financing	6.5.a: Yes 6.5.b: Yes	Pre-financing allowed? Yes		
ISA	Civil Aviation Authority	Type: CAA		
Airport networks	No	-		
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:
	Heathrow	69.9	Price cap	Single
	Gatwick	34.2		
	Stansted	19.6		
	Manchester	17.4	No regulation	Free to set their own prices
	Luton	9.6		
	Edinburgh	9.2		
	Birmingham	8.9		
	Glasgow	7.1		
	Bristol	5.9		
	Liverpool	4.5		

Source: Steer Davies Gleave analysis. Note: in the UK, the Airport Charges Regulations apply to airports with more than 5 million passengers in the year two years prior to the current year. Airports with more than 5 million passengers in 2010 are, therefore, covered by the Regulations in 2012.

### Switzerland

- 5.134 Based on the bilateral contracts of Switzerland with the European Union (Air Transport Agreement), the Federal Office of Civil Aviation (FOCA) initiated a revision of the Swiss Aeronautical Law (Luftfahrtgesetz). This revision was approved by the Swiss Parliament in autumn of 2010. Article 39 of the revised Swiss Aeronautical Law stipulates that the Federal Government had to specify certain elements pertaining to airport charges in an Ordinance (748.131.3), of 25<sup>th</sup> April 2012 and entered into force in June 2012.
- 5.135 The independent supervisory authority in Switzerland is FOCA, which is an entity of the Helvetic Ministry of Environment and Transport. The Swiss State is not a shareholder of Zurich airport. Geneva airport is a local government owned airport.
- 5.136 For Zurich and Geneva, the Ordinance calls for a two-steps approach on setting airport charges:

- First, airports and its users shall intend to reach a mutual agreement on the level of the charges. At Zurich airport, the “users” include the two largest airlines, a representative from general aviation, a representative from business aviation, a representative of the freight forwarding business and a representative for scheduled and charter airlines;
  - In case no mutual agreement can be achieved, the airport operator submits a proposal to FOCA under the so-called “fall-back regulation”. After assessing the proposal, FOCA approves the proposed charges or requires adjustments.
  - The assessment of FOCA is based on criteria defined in the ordinance. Among other criteria, the airport must take into account 30% of the economic profit (operating profit less costs of capital) of certain non-regulated activities, such as its duty free stores and its car parking business. This is an adjusted dual-till process that will be in place from January 2014.
  - As an alternative, the airport operator has the option to apply to FOCA for setting airport charges based on a benchmark study with similar European peer airports. Appendix 3 of the Ordinance provides some guidance for benchmarking studies.
- 5.137 The Ordinance also calls for airport charges to be cost-related: the “operational charges” segment has to be cost-related overall, whilst the charges relating to “Centralised Infrastructure” and “User fees” have to be cost-related on their own. The Ordinance also provides details on benchmarking studies.
- 5.138 Stakeholder consultation may result in agreement for charges for a maximum period of 4 years. Negotiation lasts for a minimum of 4 months and may have an overall duration of 12 months according to an airport stakeholder.
- 5.139 Only the two largest airlines in terms of passenger numbers are allowed to attend the stakeholder consultation, alongside a representative of the scheduled airlines operating in Switzerland and other representatives for business, general and freight forwarding carriers. An airline complained that this is too restrictive.
- 5.140 An airline stakeholder also complained that there is no effective appeals process, charges are approved (or not) by FOCA, but there is no further appeals mechanism.

**TABLE 5.28 SWITZERLAND OVERVIEW**

Switzerland				
Transposition texts	No transposition as such is required for Switzerland, not being part of the European Union			
Consultation and pre-financing	6.5.a: No 6.5.b: No	Pre-financing allowed? Yes under specific rules		
ISA	Federal Office of Civil Aviation (FOCA)	Type: CAA		
Airport networks	No		-	
Airport(s) above the Directive threshold	Airport(s):	2012 pax:	Economic regulation:	Till:

	Zurich	24.8	No regulation	Free to set their own prices
	Geneva	13.9		

Source: Steer Davies Gleave analysis. Note that the bi-national airport of Basel-Mulhouse has been covered under the overview for France.

## 6 Conclusions and Recommendations

### Conclusions

- 6.1 The main achievements of the Directive have so far included improved consultation processes and greater transparency of information. Airlines, airports and Member States value the clarity provided by Article 7 of the Directive. The flexibility in the type and characteristics of the regulatory framework provided to Member States by the Directive is also valued. However, other impacts of the transposition of the Directive have been, for the time being, limited. The increased number of appeals by airlines shows that consultation has not always led to agreement. Whilst better and more transparent consultation is a “step in the right direction” for airlines, they want more and are keen for their views to be heard, not just listened to. On the other hand, airports feel that airlines have not provided the information and type of engagement required of them under the Directive and believe that this needs improvement.
- 6.2 There appears to have been little material impact of the Directive on the structure and level of airport charges. Stakeholders welcomed clarification regarding the non-discrimination of charges between users, which might be one of the reasons for greater transparency of differentiation and modulation of services in recent years. However whether this is as a direct result of the Directive or driven by a general trend for airports’ services being offered “à la carte” is difficult to prove. Airline users have pointed out that there remains some discriminatory practices across the EU with the legacy airlines in generally highlight issues such as “access to low-cost facilities” and low-cost airlines highlight issues relating to transfer passenger discounts or greater application of passenger-related charges rather than aircraft-related ones.
- 6.3 The Directive 2009/12/EC was written using the ICAO principles and has the benefit of enshrining these into EU law. However the principle of cost-relatedness is only mentioned in the preamble of the Directive, and cannot be found in any Article. This has led to confusion and should be addressed. The Directive also allows airport networks to operate across the EU with a common charging system, enabling cross-subsidisation across airports in a network: which appears in contradiction with the principle of cost relatedness.
- 6.4 Two years since the expiry of the time period allowed for the transposition of the Directive into national law, significant issues and gaps remain at a Member State level, particularly in the countries constituting some of the largest aviation markets in the EU. Whilst the Netherlands and the UK have been repeatedly quoted as “best in class”, but not beyond improvement, with independent and strong ISAs and regulatory frameworks, the situation in Spain and Italy is problematic in relation to charges transparency, consultation procedures and ISA activities (or lack thereof), and in some aspects inconsistent with the general policy objectives of ICAO and the Directive. In Germany, it is difficult to understand how the multitude of Lander based ISAs can be the best approach to establish a common framework to benefit airline users and their passengers.

These shortcomings in the implementation of the Directive raise the question as to whether or not the introduction of the Directive has been for the benefit of its user airlines, but also ultimately their passengers.

- 6.5 Competition across European airports has changed significantly since the adoption of the Directive, certainly becoming stronger especially in the light of tough economic conditions and, reduced traffic growth, and regulatory intervention including the forced separate ownership of the three main London airports. Ideally the Directive should consider the competitive pressures in order to assess which airports should be subject to economic regulation rather than the current blanket threshold of 5 million passengers per annum and the largest airport in each Member State. However, this requires ISAs to be independent and able and willing to carry out market power tests (as is already the case in two Member States). In practice, reviewing the current organisational and resourcing levels of the ISAs, this does not seem possible. Lowering the threshold to 3 or even 1 million passengers per annum may be fairer than what is currently in use, and some airlines have encouraged this change, however it would create a significant administrative burden upon small and medium airports and on Member States for oversight activities without contributing to addressing better compliance with the Directive and the current airports in scope. Therefore we recommend that the threshold remains as currently drafted.
- 6.6 Additionally the ISA oversight and associated safeguards, provided for by the Directive, have been slow to be fully implemented in Member States where they did not already exist for other reasons. Furthermore, appeals procedures are not always possible when airport charges are set in the law or in concession agreements and where Member States have transposed Article 6 (5) appeals to challenge ISA decisions are not always available.
- 6.7 Pre-Directive, there were wide differences in airport charges regulation across the EU Member States. This appears to remain the case, and we have found no trend towards a reduction of these differences, with Member States continuing to operate within their national regulatory environment. Even though it is expected that EU-wide, ISAs are all facing similar issues, we have not been made aware of any exchange of best practices or joint approaches. It appears that no Member State has made use of the provisions of Article 11 (2) allowing for the delegation of regulatory responsibilities to ISAs located in other Member States.
- 6.8 Overall the Directive has had little impact on changing the views of stakeholders which remain close to those that were expressed in the pre-legislative process. Airports advocate less, no, or self-regulation, while airlines advocate more regulation. However the majority of stakeholders welcomed the Directive's impact on clarifying the regulatory framework in relation to transparency and consultation requirements for airport charges.
- 6.9 Airport capacity issues in Europe are frequent and will require increased investment. With no specific rules in the Directive except to a reference to ICAO principles (which are themselves vague), pre-financing of new infrastructure remains a source of contention between airports and airlines as it is not specifically forbidden in all Member States but the Netherlands and Portugal.

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- 6.10 A positive point has been the generally low impact of higher administrative requirements: we have not been told that the implementation of the Directive resulted in increased administrative burden for Member States or airports.
- 6.11 Finally, it appears that it is still frequently difficult or impossible as well as potentially expensive for passengers to obtain reimbursement of the airport charges levied for their planned use of airport facilities in the case when they do not finally travel.

## Recommendations

### *Consultation*

#### *Recommendation*

- 6.12 All airlines and their representatives (including AOCs, User Committees and trade associations) should be invited to attend stakeholder consultation, not just selected or a limited number of their representatives.
- 6.13 In order to improve transparency so that users can understand the basis for charges, there should be an increased level of granularity to the information provided.
- 6.14 Aviation is by its nature international, especially within the EU. Consultation should be held in English, so that the information is available to all stakeholders in the most transparent manner. At the suggestion of an airline stakeholder, at the very least, all consultation information should be provided in English as well as in the local language if requested by users or by law.
- 6.15 Airlines should have stronger incentives to provide meaningful information to airports as per Article 7 (2).

### *Cost-relatedness and transparency*

#### *Recommendation*

- 6.16 Whilst an increase in the perceived level of transparency is one of the early successes of the Directive, some additional transparency requirements could be further improved for airport data in order to offer a higher degree of transparency and hold meaningful consultation processes. Information that could be considered in Article 7 (1) beyond the existing requirements may include:
- a. Financial data: commercial revenues, information on the assumptions used, audited financial statements, productivity metrics;
  - b. Operational data: service levels, customer satisfaction;
  - c. Planning data: master planning assumptions and business cases to support infrastructure development.

***Airport networks******Recommendation***

- 6.17 The concept of network charging systems is inconsistent with the principle that airport charges should be cost-related. Airports that are above the 5 million passengers' threshold should be separated (i.e. ring fenced) from any smaller ones and charges and proven cost-relatedness should be site-specific. This would potentially impact negatively in the short and medium term on the other airports of the network. The proposed revised guidelines on state aid rules by the European Commission, if adopted, would allow operating aid for a transitional period of 10 years under certain conditions in order to give airports time to adjust their business model. The path would depend on the financial situation of each airport. Additionally rules on state aid for investment in airport infrastructure could be revised to allow maximum permissible aid intensities depending on the size of an airport, as opposed to the eligible cost of a project as per current guidelines.

***Appeals******Recommendation***

- 6.18 It should be possible to appeal against decisions of ISAs in all Member States to an authority or a Court effectively independent from the ISA, the CAA or the Government. Poor or no appeal processes across Europe do not encourage price transparency and user consultation.
- 6.19 All airlines and all representatives should be able to appeal, and not just the dominant airlines at a given airport.
- 6.20 We believe that based on these requirements Article 7 (2) may need to be reviewed, the right to appeal should not be linked to attendance or engagement in the consultation especially in the light of a lack of common consultation procedures across European airports. However a reasonable deadline to appeal could be introduced and allowing pricing decisions to go ahead in the presence of an appeal considered in order to stop airlines appealing as a way to slow down or postpone the charge increase process.

***Independent supervisory authority******Recommendation***

- 6.21 The Italian Independent Supervisory Authority should be appointed immediately.
- 6.22 ISAs should be more proactive in ensuring that all parties fulfil their consultation requirements for provision of information and providing adequate time for consultation responses.
- 6.23 The ISAs should be encouraged to attend consultation meetings where possible and obtain information from all parties on a regular basis, and not just in the case of a dispute.

- |      |   |
|------|---|
| 6.24 | Perceived lack of independence of the regulators or appeal institutions undermines the Directive and it should be ensured that these are effectively independent. |
| 6.25 | An annual report of activity of ISAs should be issued as the activity of most ISAs started more than 18 months ago.   |
| 6.26 | Regular meetings gathering all European ISAs should be taking place in order to identify best practices and ensure an adequate exchange of information.           |

### ***Changes in economic regulation framework***

#### ***Recommendation***

- |      |  |
|------|--|
| 6.27 | The Directive leaves total freedom to Member States on any forms of economic regulation and the tills basis used to set aeronautical charges. There are a variety of models in use in Europe that are all compatible with the Directive. The granting of concession agreements or introduction of a new aviation law has, in some cases, provided the opportunity for Member States to change the regulatory framework without proper user consultation.           |
| 6.28 | The purpose of the Directive was never stated as prescribing consultation on a change to the regulatory framework but instead to increase transparency in airport charges, cost-efficient operations at airports and improved consultation procedures between airports and airport users. However it would seem an anomaly that the Directive only prescribes consultation requirements to airports with users and not to Member States with users where relevant. |

### ***Pre-financing of new infrastructure***

#### ***Recommendation***

- |      |   |
|------|---|
| 6.29 | Member States should be made to explicitly state their rules on pre-financing of new infrastructure.  |
| 6.30 | The need for additional airport capacity in Europe to be delivered in due course in some key locations should be recognised. Therefore we recommend no changes to the current pre-infrastructure rules. |

### ***Transposition***

#### ***Recommendation***

- |      |  |
|------|--|
| 6.31 | There have been some significant gaps or delays in transposition of the Directive in some Member States. Legal reasons were sometimes used by Member States as an excuse not to implement some of the articles of the Directive (such as appeals in Sweden or drafting of concession agreements), however these loopholes should be rectified and all Articles of the Directive should be transposed in all Member States without delay. |
|------|--|

### Addressing Directive issues

- 6.32 With the Directive being relatively new, especially with the transposition process just finished in many Member States, it may be too early to consider a recast of the Directive or a move to a Regulation. Instead issuing guidance would appear as the most practical and logical first step in order to correct some of the issues of the Directive. However there is the risk that some Member States may not take it into consideration due to its non-binding status.

#### *Other ideas*

- 6.33 The case for a community legal act with one EU wide regulator was considered in 2008-2009, but it assumed an EU binding target level for cost-efficient operations of airports. It was thought at the time that it would have resulted in a significant cost efficiency impact, with a lowering of charges at a majority of airports. However it would also have increased the risk of overregulation and administrative burden and was rejected on these grounds.
- 6.34 Given the very different circumstances of the 27 Member States, it is unlikely that a “one size fits all” regulatory system would be easy to implement. However it should be possible to consider EU-wide comparisons in airport charges and their characteristics, allowing airports behaviour to be defined as ‘best practice’ or ‘named and shamed’ through comparison were appropriate. Central EU monitoring of the actions of the ISAs within a common framework such as what is undertaken by the Performance Review Board in the case of the Air Navigation Services’ industry performance under the Single European Sky legislation could also be considered but would be significantly more costly to implement. This would ensure that Member States have an incentive to implement the Directive according to its policy objectives and would offer airport and airline stakeholders the guarantee that there is a common independent and skilled entity in charge of European airport charges in the EU.



**APPENDIX**  
**A**  
**QUESTIONNAIRES**



## A1 QUESTIONNAIRES USED

### Member States Questionnaire

#### *General*

- A1.1 Do you publish an annual list of the airports on your Member State territory where the Directive applies as per Article 1(2)? Please send us a link or list of these airports for 2011 and 2012.
- A1.2 Please detail if any airports in your Member State are subject to economic regulatory oversight measures.

#### *Independent Supervisory Authority*

- A1.3 Please describe the name of the Independent Supervisory Authority and person in the lead for the Airport Charges Directive implementation.
- A1.4 Please describe the activities of the Independent Supervisory Authority.
- A1.5 When (month and year) was the Independent Supervisory Authority officially assigned its task and responsibilities in relation to Directive 2009/12/EC?
- A1.6 Please detail the ISA's source of funding (including any levy on airport users and airport managing bodies) and annual budget for 2011 or 2012.
- A1.7 How many full-time equivalent staff numbers did it employ in 2011 and 2012?
- A1.8 How significant was the administrative burden caused by the Directive to transpose it into national law?
- A1.9 And now that the transposition is achieved, is there a degree of administrative burden? If so, how do you suggest reducing it?
- A1.10 Have annual reports been produced by the Independent Supervisory Authority annually as per Article 11(8)? If so, please provide a copy for 2011 and 2012. If not, please explain why not.
- A1.11 Is the Independent Supervisory Authority the same entity as the entity in charge of airport regulatory measures, or is it a different one? Why?
- A1.12 Has the implementation of the Directive been delegated to other Independent Supervisory Authorities, according to Article 11(2)? If so, please explain which one and provide details.
- A1.13 Which steps have been taken to ensure that the Supervisory Authority is effectively independent? Is it legally distinct from any airport managing body and/or carrier?
- A1.14 What evidence do you have that the Independent Supervisory Authority exercise its powers impartially and transparently according to Article 11(3)? How does it ensure that its procedures are non-discriminatory, transparent and objective?
- #### *Dispute procedures*
- A1.15 Please detail which procedures for resolving disagreements between airport managing bodies and airport users are in place in your Member State.
- A1.16 Please explain under which conditions, a disagreement can be brought to the Independent Supervisory Authority.

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A1.17 Please detail the criteria that are used to settle disputes.

A1.18 Please provide detailed information on :

- number of disputes that have been brought to the Independent Supervisory Authority since it was assigned its tasks and responsibilities;
- Number of disputes that were dismissed and the reasons to do so;
- Outcome of the disputes;
- Time taken to reach decision (both interim and final);
- Whether you had to endorse airport managing body criteria for capacity constraints allocation as per Article 10.

### *Quality of service*

A1.19 How do you ensure that airport managing bodies can vary the quality and scope of their airport services?

A1.20 How do you ensure that airport users have access to these services?

### *Airport networks*

A1.21 Article 2 (5) states that ‘airport network’ means a group of airports duly designated as such by the Member State. Please could you list the airport networks of your Member State?

A1.22 Do you allow airport managing bodies of airport networks to introduce a common airport charging system to cover the airport network? Please detail which airport managing bodies are allowed to do so.

A1.23 If so, how do you ensure that the charging system is transparent?

A1.24 Have any changes regarding the charging of airport networks taken place since the Directive was transposed into your national law?

### *Common charging systems*

A1.25 Do you allow airport managing bodies to apply a common and transparent charging system at airports serving the same city or conurbation? Why?

### *Consultation*

A1.26 Please detail the consultation procedures that are in place in your Member State between the airports where the Directive applies and its airport users. How often do these consultations take place?

A1.27 How do you ensure that negotiations on quality of service can be held between airlines and airports?

A1.28 Are you aware of any issues in your Member State regarding consultation between airports and its users, such as timelines not being followed, or the transparency requirements as per Article 7 not being followed, etc?

A1.29 How do you ensure that airport managing bodies and airlines conform to their requirements as per Article 7 of the Directive?

A1.30 In the case of airport networks, do you know if the managing bodies of airport networks comply with the transparency requirements under Article (7) of the Directive for each airport in the network?

- A1.31 Are you aware of any issues in your Member State regarding consultation between airports and its users?
- A1.32 In your Member State, are there any examples for the application of Article 6 (5) (a) of the Directive on the possibility to establish a mandatory procedure whereby airport charges or their maximum level is determined or approved by the independent supervisory authority? If so, please detail.
- A1.33 In your Member State, are there any examples for the application of Article 6 (5) (b) of the Directive whereby there is a mandatory procedure for the independent supervisory authority to examine whether airports are subject to effective competition? If so, please detail.

***New infrastructure***

- A1.34 Are there specific rules in place in your Member State regarding the pre-financing of new infrastructure or do you only refer to ICAO policies? If so, please detail.
- A1.35 How do you ensure that airport managing bodies consult with airport users before plans for new infrastructure are finalised?
- A1.36 Are you aware of any issues with the consultation between airports and their users for new infrastructure?

***Looking back***

- A1.37 In your Member State, before the Directive was transposed, were the ICAO guidelines on airport charges respected?
- A1.38 Was there a need to legislate in 2009?

***Looking forward***

- A1.39 Do you find the Directive addresses the issues it is meant to address?
- A1.40 Are there any short-comings that need to be addressed? Or redundancies, overlaps, inefficiencies, inconsistencies?
- A1.41 Is the Directive still fit for purpose? Would self-regulation be more effective?
- A1.42 Should the threshold size of 5 million annual passenger movements to define the airports covered by the Directive be lowered to 1 million? If so, why?
- A1.43 Which Articles require changes? And why?

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### Airport Managing Bodies

#### *General*

- A1.1 Please can you detail whether your airport(s) offer(s) a variety in quality and scope of particular airport services, terminals or parts of terminals with the aim of providing tailored services or dedicated terminals and/or part of a terminal?
- A1.2 Do you operate under an economic regulation framework?
- A1.3 Please provide us with your official airport charges and annual financial accounts for 2009, and the latest year you have available (2011 or 2012).

#### *Implementation of Directive*

- A1.4 What has been the impact of the introduction of Directive 2009/12 into national law at your airport?
- A1.5 Has Directive 2009/12 increased your administrative burden compared to the previous situation?
- A1.6 Did your airport charges change as a result of the Directive? If so, please detail.
- A1.7 Has the Directive had any impact on airports' incentive schemes (e.g. volume discounts, discount for new airlines, etc.) and the way you publicise them in your "Conditions and Charges" report?

#### *Non-discrimination among airport users*

- A1.8 Please describe your policy and methodology with respect to setting airport charges for landing and take-off, parking and lighting, passenger and cargo charges.
- A1.9 What is your policy and methodology on other charges such as check-in charges, baggage charges, infrastructure charges, etc.?
- A1.10 In which ways do you ensure that airport charges are set in a non-discriminatory manner for airport users?
- A1.11 Are your incentive schemes transparent and known to all airport users? Who benefits from the incentive scheme? How many airlines can reach the highest bracket of discount?
- A1.12 What are your criteria for price differentiation of airport charges at your airport (e.g. number of passengers, level of services, peak/off-peak hour use, first mover/anchor airline status, etc.)?
- A1.13 Please explain the extent to which airport charges are cost-related at your airport.
- A1.14 With regards to the criteria used for modulation of airport charges, Article 3 allows for modulation based on environmental criteria (congestion, noise...). Do you make use of this possibility?
- A1.15 Why?
- A1.16 If relevant, please could you provide us with the average emission and noise charge in local currency at your airport for an A320, B737-800 and 777-200 in 2009 and 2012?

***Airport network (only ask if the airport is part of an airport network)***

- 6.35 Has the Directive had any impact on the operation and functioning of your airport network? In particular, have there been any changes to the level of cross-subsidisation between the airports in your network?
- 6.36 Please provide evidence that you comply with the transparency requirements under Article 7(1) of the Directive for each airport in the network?

***Consultation and information exchange***

- A1.17 Please detail the consultation procedures for airport charges that are in place at your airport(s) with the airport users. How often do these consultations take place?
- A1.18 Has the introduction of Directive 2009/12 in national law provided useful guidance with respect to providing information to airport users and receiving information from them?
- A1.19 In your Member State/airport, are there any examples of the application of Article 6 (5) (a) on the possibility to establish a mandatory procedure whereby airport charges or their maximum level is determined or approved by the independent supervisory authority? If so, please detail.
- A1.20 In your Member State, are there any examples for the application of Article 6 (5) (b) whereby there is a mandatory procedure where the independent supervisory authority examines whether airports are subject to effective competition?
- A1.21 If so, please detail.
- A1.22 In your experience, do your airport users submit information before every consultation as required by Article 7 (2) of the Directive?
- A1.23 Has your airport managing body entered into negotiations with airport users, with the specific objective to conclude a service level agreement with regard to the quality of service provided at the airport? If so please provide the details.
- A1.24 How satisfied are you with the consultation process and what issues remain to be addressed? Please add comments on where it is effective and how it could be improved.

***New infrastructure***

- A1.25 Are there specific rules in place in your Member State/ Airport regarding the pre-financing of new infrastructure?
- A1.26 Has the Directive had any impact on the pre-financing of airport infrastructure in your airport/Member State?
- A1.27 Please describe the consultation procedure in place at your airport with its users with respect to plans for new infrastructure. How early do you have to start the consultation?
- A1.28 If you have or are consulting with airport users, please can you detail how this has happened and any issues arising?

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### *Independent Supervisory Authority*

- A1.29 In your view is your Member State's Independent Supervisory Authority effectively independent? Is it legally distinct from any airport managing body and/or air carrier?
- A1.30 In your view does the Independent Supervisory Authority exercise its powers impartially and transparently according to Article 11(3)? Are its procedures non-discriminatory, transparent and objective?
- A1.31 Have you had to use the powers of the Independent Supervisory Authority for any disputes or other matters related to airport charges? If so, could you please describe what happened and what the outcome has been, and the time taken to reach decisions (both interim and final);
- A1.32 How satisfied are you with the activities of the Independent Supervisory Authority?

### *Looking back*

- A1.33 In your Member State/airport, before the Directive was transposed, were the ICAO guidelines on airport charges respected?
- A1.34 Was there a need to legislate in 2009?

### *Looking forward*

- A1.35 Do you find the Directive addresses the issues it is meant to address?
- A1.36 Are there any short-comings that need to be addressed? Or redundancies, overlaps, inefficiencies, inconsistencies?
- A1.37 Is the Directive still fit for purpose? Would self-regulation be more effective?
- A1.38 Should the threshold size of 5 million annual passenger movements to define the airports covered by the Directive be lowered to 1 million? If so, why?
- A1.39 Which Articles require changes? And why?

## Airline Associations

Where possible, please answer the following questions with reference to specific examples in different Member States and/or different airports within a Member State.

### *Implementation of Directive*

- A1.1 What has been the impact of the introduction of Directive 2009/12 into national law for the airlines in your association?
- A1.2 Has Directive 2009/12 increased the administrative burden of the airlines of your association compared to the previous situation?
- A1.3 Did you notice changes in airport charges as a result of the Directive? If so, please detail. Can a trend be observed?
- A1.4 On average, what proportion would airport charges account of your members' total operating costs?
- A1.5 To what extent have EU airports made use of the provisions of Article 10 of the Directive allowing them to vary the quality and scope of particular airport services, terminals or parts of terminals and to differentiate the level of airport charges according to the quality and scope of such services (e.g. low-cost terminals, etc.)?
- A1.6 To what extent do EU airports set basic charges and what services are included in such basic charges (e.g. air bridges, remote stands)?
- A1.7 Has the Directive had any impact on airports' incentive schemes (e.g. volume discounts, discount for new airlines, etc.)?

### *Non-discrimination among airport users*

- A1.8 In your experience, are airport charges in the airports where your airlines operate set in a non-discriminatory manner for airport users?
- A1.9 Do you find the criteria set out by the airport managing bodies for modulating and differentiating airport charges relevant, objective and transparent in accordance with Article 3 of Directive 2009/12?
- A1.10 Do you find that incentive schemes are transparent and known by all airport users?
- A1.11 To what extent are airport charges cost-related at the EU airports that your airlines serve?

### *Consultation and information exchange*

- A1.12 Has the introduction of Directive 2009/12 in national law provided useful guidance with respect to providing information to airport managing bodies and receiving information from them?
- A1.13 Are you aware of any Member States which apply Article 6 (5) (a) of the Directive on the possibility to establish a mandatory procedure whereby airport charges or their maximum level is determined or approved by the Independent Supervisory Authority? If so, please detail.
- A1.14 Are you aware of any Member States which apply Article 6 (5) (b) of the Directive on the possibility to establish a mandatory procedure whereby the Independent

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Supervisory Authority examines whether airports are subject to effective competition? If so, please detail.

- A1.15 To what extent do you think airport managing bodies follow the rules for consultation as detailed in Article 7 (2) of the Directive? Have the airlines in your association entered into negotiations with airport managing bodies, with the specific objective to conclude a service level agreement with regard to the quality of service provided at the airport?
- A1.16 How satisfied are the airlines of your association with the consultation processes at EU airports and what issues remain to be addressed? Please add comments on where it is effective and how it could be improved.

### ***Passenger airport charges***

- A1.17 Is the level of passenger airport charge that your airlines indicate to the passenger at the time of the purchase of the ticket consistent with the level of the passenger airport charge actually levied?
- A1.18 In case the passenger does not take the flight for which he/she purchased the ticket, what is the practice of your airlines with respect to the reimbursement of the passenger airport charge to the passenger?

### ***New infrastructure***

- A1.19 Has the Directive had any impact on the financing of new airport infrastructure?
- A1.20 What is the current practice in Member States with regard to pre-financing of airport infrastructure?
- A1.21 What has been the experience of your member airlines regarding EU airport user consultation in the case of pre-financing of new airport infrastructure since the Directive was transposed into national law?

### ***Independent Supervisory Authority***

- A1.22 In your view, are Independent Supervisory Authorities effectively independent and legally distinct from any airport managing body and/or carrier? Please refer to specific best practices or malpractices in Member States.
- A1.23 In your view, do Independent Supervisory Authorities exercise their powers impartially and transparently according to Article 11(3)? Are their procedures non-discriminatory, transparent and objective? Please refer to specific best practices or malpractices in Member States.
- A1.24 Have your airlines had to use the powers of the Independent Supervisory Authority for any disputes or other matters related to airport charges? If so, could you please describe what happened and what the outcome has been, and the time taken to reach decisions (both interim and final)?
- A1.25 How satisfied are your airlines with the activities of the EU Independent Supervisory Authorities?

### ***Looking back***

- A1.26 Before the Directive was approved, were the ICAO guidelines on airport charges respected across EU airports?

A1.27 Was there a need to legislate in 2009?

*Looking forward*

A1.28 Do you find the Directive addresses the issues it is meant to address?

A1.29 Are there any short-comings that need to be addressed? Or redundancies, overlaps, inefficiencies, inconsistencies?

A1.30 Is the Directive still fit for purpose? Would self-regulation be more effective?

A1.31 Should the threshold size of 5 million annual passenger movements to define the airports covered by the Directive be lowered to 1 million? Why?

A1.32 Which Articles require changes? And why?

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### **Airline Consultative Bodies**

#### ***General information***

- A1.33 Please provide a brief overview of your organisation/group/committee (e.g. years of activity, number of airlines participating, share of traffic at airport, etc.).

#### ***Implementation of Directive***

- A1.34 What has been the impact of the introduction of Directive 2009/12 at your airport? Did your airport charges change as a result of the Directive? If so, please detail.
- A1.35 Has the Directive had any impact on the airport's incentive schemes (e.g. volume discounts, discount for new airlines, etc.)?
- A1.36 What has been the impact of the Directive 2009/12 regarding your administrative burden compared to the previous situation?

#### ***Non-discrimination among airport users***

- A1.37 If there is an incentive scheme at your airport, do you find the incentive scheme of your airport is transparent and known by all airport users?
- A1.38 Do you know how many airlines benefit from the incentive scheme at your airport?
- A1.39 Do you think the airport charges at your airport are set in a non-discriminatory manner for airport users?
- A1.40 To what extent are airport charges cost-related at your airport?
- A1.41 Do you find that the criteria set out by the airport managing body for modulating and differentiating airport charges are relevant, objective and transparent in accordance with Article 3 of Directive 2009/12?

#### ***Consultation and information exchange***

- A1.42 Has the Directive 2009/12 provided useful guidance with respect to providing information to the airport and receiving information from the airport?
- A1.43 To what extent does the airport follow the rules for consultation as detailed in Article 7 (2)? Do they submit information before every consultation?
- A1.44 Have you entered into negotiations with the airport with the specific objective to conclude a service level agreement with regard to the quality of service provided at the airport? If so, please explain the outcome.
- A1.45 How satisfied are you with the consultation process and what issues remain to be addressed? Please add comments on where it is effective and how it could be improved.

#### ***New infrastructure***

- A1.46 What is the current practice at your airport with regard to pre-financing of airport infrastructure?
- A1.47 Has the Directive had any impact on the financing of new airport infrastructure?
- A1.48 What has been your experience regarding airport user consultation in the case of pre-financing of new airport infrastructure since the Directive was transposed into national law?

***Independent Supervisory Authority***

- A1.49 Directive 2009/12/EC required the creation of Independent Supervisory Authority (ISA). Have you used your ISA since it was set-up?
- A1.50 In your view, is your Member State's Independent Supervisory Authority effectively independent and legally distinct from any airport managing body and/or carrier?
- A1.51 In your view, does the Independent Supervisory Authority exercise its powers impartially and transparently according to Article 11(3)? Are its procedures non-discriminatory, transparent and objective?
- A1.52 Have you used the Independent Supervisory Authority for any disputes or matters related to airport charges? If so, could you please describe what happened and what the outcome has been, and the time taken to reach decisions (both interim and final).
- A1.53 How satisfied are you with the activities of the Independent Supervisory Authority?

***Looking back***

- A1.54 In your Member State/airport, before the Directive was transposed, were the ICAO guidelines on airport charges respected?
- A1.55 Was there a need to legislate in 2009?
- A1.56 To what extent is the airport charges directive an improvement upon what existed prior to 2011?

***Looking forward***

- A1.57 Do you find the Directive addresses the issues it is meant to address appropriately? For example, did the Directive improve transparency? Did the Directive improve the quality of consultation of airlines? Did the Directive have a positive impact on cost-efficiency of operations? What are the main achievements of the Directive?
- A1.58 Are there any short-comings that that the Directive did not address or not address appropriately but that would need to be addressed?
- A1.59 Do you find redundancies, overlaps, inefficiencies, inconsistencies?
- A1.60 Is the Directive still fit for purpose? Would self-regulation be more effective?
- A1.61 Should the threshold size of 5 million annual passenger movements to define the airports covered by the Directive be lowered to 1 million? Are there any particular impacts (e.g. threshold effects) arising from the 5 million passenger threshold?
- A1.62 Do you consider any provisions of the Directive as particularly problematic? If yes, please explain.



## APPENDIX

### B

#### PARTICIPATING STAKEHOLDERS



## B1 PARTICIPATING STAKEHOLDERS

In the following 4 tables we present the list of stakeholders who participated in the study.

### Member States

6.37 The list of stakeholder contacts from Member States is displayed below in Appendix Table B.1.

**APPENDIX TABLE B.1 STAKEHOLDER CONTACTS FOR MEMBER STATES**

Member State	Organisation	Responsibility
Austria	Federal Ministry for Transport, Innovation and Technology	CAA = ISA
Belgium	Service de Régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles-National	ISA
Bulgaria	Civil Aviation Administration	CAA = ISA
Cyprus	Department of Civil Aviation, Ministry of Communications and Works	CAA = ISA
Czech Republic	Civil Aviation Department, Ministry of Transport	CAA = ISA
Denmark	Trafikstyrelsen, Danish Transport Authority	CAA = ISA
Estonia	Ministry of Economic Affairs and Communications	Ministry
Finland	Civil Aviation Authority	CAA = ISA
France	Direction Générale de l'Aviation Civile	CAA = ISA
Germany	Hesse: Ministry of Economics, Transport, Urban and Regional Development (HMWVL)	ISA
	Niedersachsen: Ministry of Economics, Labour and Transport	ISA
	Brandenburg: Ministry of Infrastructure and Agriculture	ISA
	Northrhine-Westfalia: Ministry for Building, Living, Urban Development and Transport (MBWSV)	ISA
Hungary	Aviation Authority, division of the National Transport Authority	CAA
Ireland	Commission for Aviation Regulation	ISA
Italy	ENAC	CAA
	Ministero delle Infrastrutture e dei Trasporti	Ministry
Latvia	Civil Aviation Agency	CAA = ISA
Lithuania	Civil Aviation Administration	CAA = ISA

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Member State	Organisation	Responsibility
Luxembourg	Institut Luxembourgeois de Régulation	ISA
Netherlands	Nederlandse Mededingingsautoriteit	ISA (until April 2013)
	Ministry of Infrastructure and the Environment	Ministry
Poland	Civil Aviation Office	CAA = ISA
Portugal	Civil Aviation Authority	CAA = ISA
Romania	Romanian Civil Aeronautical Authority (RCAA)	CAA = ISA
Slovakia	Civil Aviation Authority	CAA = ISA
Spain	Dirección General de Aviación Civil, Ministerio de Fomento	CAA
Sweden	Transportstyrelsen	ISA
United Kingdom	Civil Aviation Authority (CAA)	CAA = ISA

## Airports

6.38 The list of stakeholder contacts from Airport Managing bodies is shown in Appendix Table B.1.

**APPENDIX TABLE B.1 STAKEHOLDER CONTACTS FOR AIRPORT MANAGING BODIES**

Stakeholder Group	Specific organisation(s)
Airport Managing Bodies	LONDON HEATHROW airport (LHR)
	Aéroports de Paris (ADP) for PARIS-CHARLES DE GAULLE airport (CDG)
	FRANKFURT/MAIN airport (FRA)
	AMSTERDAM/SCHIPHOL airport (AMS)
	AENA AEROPUERTOS
	MUNCHEN airport (MUC)
	LONDON GATWICK airport (LGW)
	ZURICH airport (ZRH)
	KOBENHAVN/KASTRUP airport (CPH)
	SEA for MILANO/MALPENSA airport (MPX)
	SWEDAVIA - Swedish airports
	BRUXELLES/NATIONAL airport (BRU)
	Dublin Airport Authority (DAA) for DUBLIN airport (DUB)
	LONDON STANSTED airport (STN)
	Aeroportos de Portugal (ANA) for the Portuguese airports
	ATHENS INTL (ELEFThERIOS VENIZELOS) airport (ATH)
	NICE-COTE D'AZUR airport (NCE)
	KOLN/BONN airport (CGN)
	LONDON LUTON airport (LTN)
	WARSZAWA/OKECIE airport (WAW)
BERGAMO/ORIO AL SERIO airport (BGY)	
RIGA INTERNATIONAL airport (RIX)	
BASEL-MULHOUSE airport (BSL or MLH)	
FRANKFURT-HAHN airport (HHN)	

### Airport users

6.39 The list of stakeholder contacts from Airline Associations is shown in Appendix Table B.2.

**APPENDIX TABLE B.2 STAKEHOLDER CONTACTS FOR AIRPORT USERS**

Stakeholder Group	Specific organisation(s)
Airline Associations	International Air Transport Association (IATA)
	Association of European Airlines (AEA)
	European Low Fare Airlines Association (ELFAA)
	European Regions Airline Association (ERA)
	International Air Carrier Association (IACA)
	EBAA (European Business Airlines Association)
	Association of Spanish Air Transport Companies (ACETA)
	German Airline Association (BDF)
Airlines	Iberia
	easyJet

### Airline Consultative Bodies

6.40 The list of stakeholder contacts from the Airline Consultative Bodies is shown in Appendix Table B.4.

**APPENDIX TABLE B.4 STAKEHOLDER CONTACTS FOR AIRLINE CONSULTATIVE BODIES**

Stakeholder Group	Airport
Airline Consultative Bodies	LONDON HEATHROW airport
	ADP (PARIS-CHARLES DE GAULLE/PARIS-ORLY airports)
	FRANKFURT/MAIN airport
	AMSTERDAM/SCHIPHOL airport
	MADRID/BARAJAS airport
	ROMA/FIUMICINO airport
	MUNCHEN airport
	MILANO/MALPENSA airport

Stakeholder Group	Airport
	BRUXELLES/NATIONAL airport
	ATHENS INTL (ELEFThERIOS VENIZELOS) airport
	LONDON LUTON airport
	BUDAPEST/FERIHEGY airport

## Interviews

6.41 Stakeholders interviewed (face-to-face or by telephone) came from the following organisations:

- ACI Europe (Economics);
- Amsterdam airport (Pricing & Regulatory Affairs);
- London Gatwick airport: (Economic Regulation);
- Dublin Airport Authority: (Regulation and Strategy);
- Luxembourg ISA;
- Rome Fiumicino AOC and Airlines;
- Luton Airport: (Financial and Business Development);
- IACA: (Industry Affairs); and
- easyJet: (Regulation Department).



APPENDIX

C

SUMMARY TABLE

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APPENDIX TABLE C.1 SUMMARY TABLE

Member State	ISA type	6.5 a	6.5 b	Pre-financing allowed?	Airport network	Airport(s) above the Directive threshold				Economic regulation		Complaints over:	
						Name and passenger traffic (mppa 2012)	Ownership	Management	Type	Till	ISA	Consultation	
Austria	CAA	Yes	No	Yes	No	Vienna	22.2	Private	Private	Price cap	Dual		
Belgium (Brussels)	Other	Yes	No	Yes under specific rules	No	Brussels	18.9	Public	Hybrid	Rate of Return	Hybrid	Yes	Yes
Belgium (Wallonie)	Other	No	No	Yes under specific rules	No	Charleroi	6.5	Public	Public	No regulation	Free to set their own prices		
Bulgaria	CAA	No	No	Yes	No	Sofia	3.5	Unclear	Unclear	No regulation	Free to set their own prices		
Cyprus	CAA	Yes	No	Yes	No	Larnaca	5.1	Public	Private	Concession fixing charges	Unclear		
Czech Republic	CAA	No	No	Yes	No	Prague	10.8	Public	Public	No regulation	Free to set their own prices		

Member State	ISA type	6.5 a	6.5 b	Pre-financing allowed?	Airport network	Airport(s) above the Directive threshold				Economic regulation		Complaints over:	
						Name and passenger traffic (mppa 2012)		Ownership	Management	Type	Till	ISA	Consultation
Denmark	CAA	Yes	No	Yes	Yes (Copenhagen airports)	Copenhagen	23.3	Public	Hybrid	Price cap	Hybrid		
Estonia	Competition Authority	No	No	Yes	No	Tallinn	2.2	Public	Public	No regulation	Free to set their own prices		
Finland	Other	No	No	Yes	Yes (all airports)	Helsinki	14.9	Public	Public	No regulation	Free to set their own prices		
France	CAA	Yes	No	Yes under specific rules	Yes (ADP airports)	Paris Roissy CDG	61.5	Hybrid	Hybrid	Price cap	Hybrid		Yes
						Paris Orly	27.2	Hybrid	Hybrid	Price cap	Hybrid		
						Nice	11.1	Public	Public	Rate of Return	Free to set their own prices		
						Lyon	8.4	Public	Public	Rate of Return	Free to set their own prices		

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Member State	ISA type	6.5 a	6.5 b	Pre-financing allowed?	Airport network	Airport(s) above the Directive threshold			Economic regulation		Complaints over:		
						Name and passenger traffic (mppa 2012)	Ownership	Management	Type	Till	ISA	Consultation	
Germany	Regional Ministry	Yes	No	Yes under specific rules	No	Frankfurt Main	57.2	Public	Private	Rate of Return	Dual	Yes	
						Munich	38.4	Public	Public	Rate of Return	Dual		
						Düsseldorf	20.8	Hybrid	Hybrid	Price cap	Dual		
						Berlin-Tegel	18.2	Public	Public	Rate of Return	Dual		
						Hamburg	13.7	Public	Private	Price cap	Dual		
						Stuttgart	9.7	Public	Public	Rate of Return	Dual		
						Marseille	8.3	Public	Public	Rate of Return	Free to set their own prices		
						Toulouse	7.5	Public	Public	Price cap	Single		
						Bâle-Mulhouse	5.3	Public	Public	Rate of Return	Free to set their own prices		

Member State	ISA type	6.5 a	6.5 b	Pre-financing allowed?	Airport network	Airport(s) above the Directive threshold			Economic regulation		Complaints over:		
						Name and passenger traffic (mppa 2012)	Ownership	Management	Type	Till	ISA	Consultation	
						Cologne Bonn	9.3	Public	Public	Rate of Return	Dual		
						Berlin Schönefeld	7.1	Public	Public	Rate of Return	Dual		
						Hanover	5.3	Public	Hybrid	Rate of Return	Dual		
Greece	CAA	No	No	Yes	Evolving	Athens	12.8	Public	Private	Rate of Return	Dual	Yes	
Hungary	CAA	Yes	No	Yes	No	Budapest	8.5	Public	Private	Price cap	Dual	Yes	
Ireland	Other	Yes	No	Yes under specific rules	Yes (DAA)	Dublin	19.1	Public	Public	Price cap	Regulated: single	Yes	Yes
Italy	CAA <i>ad interim</i>	Unclear	No	No specific rules prohibit pre-	There are effectively networks,	Rome Fiumicino	36.9	Public	Hybrid	Price cap	Regulated: hybrid	Yes	Yes
						Milan Malpensa	18.5	Public	Hybrid	Price cap	Dual		

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Member State	ISA type	6.5 a	6.5 b	Pre-financing allowed?	Airport network	Airport(s) above the Directive threshold			Economic regulation		Complaints over:		
						Name and passenger traffic (mppa 2012)	Ownership	Management	Type	Till	ISA	Consultation	
				financing at national level, but can be prohibited at local level (like at Milan)	but have not been formally designated	Milan Linate	9.2	Public	Hybrid	Price cap	Dual		
						Bergamo (Orio al Serio)	8.8	Public	Hybrid	Concession fixing charges	Dual		
						Venice	8.1	Public	Private	Price cap	Dual		
						Catania	6.2	Public	Hybrid	Price cap	Single		
						Bologna	5.9	Public	Hybrid	Price cap	Single		
						Naples	5.8	Public	Hybrid	Price cap	Single		
						Latvia	CAA	No	No	Yes	No	Riga	4.7
Lithuania	CAA	Unclear	Unclear	Yes	No	Vilnius	2.2	Public	Public	Unclear	Unclear		
Luxembourg	Competition Authority	No	No	Yes	No	Luxembourg Findel	1.8	Public	Public	No regulation	Free to set their own prices		

Member State	ISA type	6.5 a	6.5 b	Pre-financing allowed?	Airport network	Airport(s) above the Directive threshold				Economic regulation		Complaints over:	
						Name and passenger traffic (mppa 2012)	Ownership	Management	Type	Till	ISA	Consultation	
Malta	Other	No	No	Yes	No	Malta International	3.6	Public	Hybrid	No regulation	Free to set their own prices		
Netherlands	Competition Authority	Yes	Yes	No	No	Amsterdam Schiphol	51	Public	Hybrid	Rate of Return	Dual		
Poland	CAA	Yes	No	Yes	No	Warsaw	9.5	Public	Public	Rate of Return	Hybrid		
Portugal	CAA	No	No	No	Yes (ANA)	Lisbon	15.3	Public	Public	Price cap	Dual	Yes	Yes
						Porto	6.0	Public	Public	Price cap	Dual		
						Faro	5.7	Public	Public	Price cap	Dual		
Romania	CAA	No	No	Yes	No	Bucharest	7.4	Public	Public	No regulation	Free to set their own prices		
Slovakia	CAA	No	No	Yes	No	Bratislava	1.4	Public	Public	No regulation	Free to set their own prices		
Slovenia	CAA	Unclear	No	Yes	No	Ljubljana	1.4	Hybrid	Hybrid	No regulation	Free to set their own		

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Member State	ISA type	6.5 a	6.5 b	Pre-financing allowed?	Airport network	Airport(s) above the Directive threshold			Economic regulation		Complaints over:		
						Name and passenger traffic (mppa 2012)	Ownership	Management	Type	Till	ISA	Consultation	
										prices			
Spain	2013: DGAC 2014: CNMC	Unclear	No	Yes	Yes (all airports)	Madrid	45.2	Public	Public	Price cap	Gradual shift from single to double over 5 years from 2013	Yes	Yes
						Barcelona	35.1	Public	Public	Price cap			
						Palma de Mallorca	22.6	Public	Public	Price cap			
						Malaga	12.6	Public	Public	Price cap			
						Gran Canaria	9.9	Public	Public	Price cap			
						Alicante	8.8	Public	Public	Price cap			
						Tenerife Sur	8.5	Public	Public	Price cap			
						Ibiza	5.5	Public	Public	Price cap			
Lanzarote	5.2	Public	Public	Price cap									

Member State	ISA type	6.5 a	6.5 b	Pre-financing allowed?	Airport network	Airport(s) above the Directive threshold				Economic regulation		Complaints over:	
						Name and passenger traffic (mppa 2012)		Ownership	Management	Type	Till	ISA	Consultation
Sweden	Other	No	No	Yes	Not officially	Stockholm	19.6	Public	Public	No regulation	Free to set their own prices		
United Kingdom	CAA	Yes	Yes	Yes	No	Heathrow	69.9	Private	Private	Price cap	Single		
						Gatwick	34.2	Private	Private	Price cap	Single		
						Stansted	19.6	Private	Private	Price cap	Single		
						Manchester	17.4	Hybrid	Hybrid	No regulation	Free to set their own prices		
						Luton	9.6	Public	Private	No regulation	Free to set their own prices		
						Edinburgh	9.2	Private	Private	No regulation	Free to set their own prices		
						Birmingham	8.9	Public	Private	No regulation	Free to set their own prices		
						Glasgow	7.1	Private	Private	No	Free to set their own		

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Member State	ISA type	6.5 a	6.5 b	Pre-financing allowed?	Airport network	Airport(s) above the Directive threshold			Economic regulation		Complaints over:		
						Name and passenger traffic (mppa 2012)	Ownership	Management	Type	Till	ISA	Consultation	
									regulation	prices			
						Bristol	5.9	Private	Private	No regulation	Free to set their own prices		
						Liverpool	4.5	Private	Private	No regulation	Free to set their own prices		
Switzerland	CAA	No	No	Yes under specific rules	No	Zurich	24.8	Public	Private	No regulation	Free to set their own prices		
						Geneva	13.9	Public	Public	No regulation	Free to set their own prices		





## APPENDIX

### D

#### AIRPORTS: LIST OF ABBREVIATIONS



APPENDIX TABLE D.1 LIST OF ABBREVIATIONS OF AIRPORT NAMES

Abbreviation	Full name of the airport
LHR	LONDON HEATHROW airport
ADP and CDG	Aéroports de Paris for PARIS-CHARLES DE GAULLE airport
FRA	FRANKFURT/MAIN airport
AMS	AMSTERDAM/SCHIPHOL airport
AENA	AENA AEROPUERTOS
MUC	MUNCHEN airport
LGW	LONDON GATWICK airport
ZRH	ZURICH airport
CPH	KOBENHAVN/KASTRUP airport
MPX	SEA for MILANO/MALPENSA airport
SWEDAVIA	SWEDAVIA - Swedish airports
BRU	BRUXELLES/NATIONAL airport
DAA and DUB	Dublin Airport Authority for DUBLIN airport
STN	LONDON STANSTED airport
ANA	Aeroportos de Portugal for the Portuguese airports
ATH	ATHENS INTL (ELEFThERIOS VENIZELOS) airport
NCE	NICE-COTE D'AZUR airport
CGN	KOLN/BONN airport
LTN	LONDON LUTON airport
WAW	WARSZAWA/OKECIE airport
BGY	BERGAMO/ORIO AL SERIO airport
RIX	RIGA INTERNATIONAL airport
BSL or MLH	BASEL-MULHOUSE airport
HHN	FRANKFURT-HAHN airport



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