



Autorita di Regolazione dei Trasporti
Prof. Andrea Camanzi
Via Nizza 230
10126 Torino
Email: pec@pec.autorita-trasporti.it

26 May 2017

Ref: “Indizione consultazione pubblica per la revisione dei Modelli di regolazione dei diritti aeroportuali approvati con delibera n. 64/2014.

Dear Prof. Camanzi

Many thanks again to you and your team for the opportunity that was kindly granted to the representatives of our Associations to express views, obtain clarifications and at the same time exchange information during the meeting held in Turin on May 23rd.

We appreciate that the Authority intends to carry out an extensive overhaul of the current regulatory model in 2018/2019 which, as we noted in our response to the Call for Input, requires strengthening in relation to the regulation of monopoly airports. Achieving airport charges which are based on efficient costs will require a change to parameters such as pre-set elasticities and depreciation rates, a return to single till and the application of the Thessaloniki Forum’s guidelines on consultation and cost of capital which we broadly support.

In the meantime, we understand that the present revision of the Models is limited in scope and that it is aimed primarily at clarifying certain elements whilst ensuring continuity in the regulatory framework.

Even in this somewhat transitional scenario, whilst confirming the contents of our letter dated October 14th, 2016 in reply to the Authority’s Call for Input, we believe it will be useful to provide here below our observations on the Draft Models attached to the Authority Resolution 62/2017.

Finally, in acknowledging that administrative proceedings are to be compliant with the National Law and related documents submitted in Italian by both parties, we would still recommend the Authority to consider providing Courtesy Translations in support of a broader and constructive participation to the process from all stakeholders.

AOO AUTORITA DI REGOLAZIONE DEI TRASPORTI
Protocollo Arrivo N. 3607/2017 del 29-05-2017
Copia Documento

<p><u>3.1.6</u></p> <p>Comments :</p>	<p>In addition to the consultation on the level of airport charges, service quality and freight, consultation on investments (short-and long-term) are subject to consultation in line with Art. 8 of the Airport Charges Directive.</p>
<p><u>3.2</u></p> <p>Comments :</p>	<p>In the case of multi-year agreement, unless otherwise agreed between the Airport Managing Body and the Users, an annual review of the development of the costs, investments undertaken, the service quality and related level of charges should be undertaken.</p>
<p><u>3.3</u></p> <p>Comment</p>	<p>In addition to the notification of the start of a consultation on the Authorities website, users should be informed directly through the airport managing body and/or the Authority.</p>
<p><u>3.4.2.2</u></p> <p>Comments :</p> <p><i>Suggestion :</i></p>	<p>a) At all Airports, there is a long list of Carriers with marginal/seasonal operations and a WLU weight well below 2%.</p> <p>b) Not all the Carriers employ a local representative at all Airports and chose instead to monitor the ground operations directly from their Head Offices.</p> <p>c) Any form of Association among Carriers based in different parts of the world, and possibly even unknown to each other, is indeed a difficult undertaking and would prevent, rather than simplify, active participation in the voting procedures.</p> <p>d) Not all the Carriers are Members of an Industry Association</p> <p>e) The Carriers operating at an airport may find it inappropriate, for competitive reasons, to delegate another Carrier</p> <p>f) Certified Email (PEC) is not commonly used or available outside Italy</p> <p><i>This paragraph should be deleted</i></p>
<p><u>3.4.2.6</u></p> <p>Comments:</p> <p><i>Suggested Text:</i></p>	<p>With the present wording, the Associations do not seem to be entitled to express their views during the Auditions.</p> <p><i>The words "Right of intervention" should be cancelled</i></p>
<p><u>3.4.2.9-10</u></p> <p>Comments :</p>	<p>We strongly oppose the present voting mechanism , allegedly devised to prevent opportunistic behaviour by the Users (Attach. B , to Resolution 62/2017 p. 25). The experience of the past two years of consultations confirms that the Users and their Associations have been consistent dependable and constructive parties to the procedures.</p>

<p><i>Suggested Text:</i></p>	<p>Voting can be used to document the users' views during the consultation process and in this case should be based on the WLUs of the average of two IATA seasons preceding and following the consultation instead of WLUs of the base year. This information should be provided to the users as part of the consultation documents prior to the meeting.</p> <p>The vote should not reflect an agreement of the charges proposal as such. We further recommend splitting the voting process (for documentation purposes) into the main elements subject to consultation such as CAPEX, level of charges, quality indicators and the SLA which should be documented in the meeting minutes.</p> <p>We strongly disagree that nonattendance to the meeting reflects approval of the charges proposal. (3.4.2.10).</p> <p>3.4.2.9 <i>The quota of votes in favour to declare that an agreement on the charges proposal has been reached is equal to 50% (+1) of the WLU attending, either directly or by proxy, the audition</i></p> <p>3.4.2.10: <i>To be deleted or changed into wording outlining that users who are not able to attend the meeting, shall be able to submit their comments in writing. Nonetheless nonattendance of the consultation does not reflect an acceptance of the proposal.</i></p>
<p>3.4.2.12</p> <p>Comments :</p> <p><i>Suggestion</i></p>	<p>Based on past experience, the two working days deadline to approve the minutes is too short and should be extended to at least 4-5 working days starting from the time of distribution of the draft minutes and not from the end of the audition. As an additional protection for all parties involved (including the Authority) a recording should always be arranged. Written observations submitted by the Users and/or their Associations must be attached to the minutes.</p> <p><i>The signature of the minutes must take place within 5 five working days from the distribution of the draft minutes. A recording of the audition must be arranged by the Airport Manager.</i></p> <p><i>Written observations submitted by the Users or their Associations during the consultation procedure must be attached to the minutes of the first audition following their despatch and shall be considered an integral part thereof.</i></p>
<p>3.4.2.13</p> <p>Comments :</p> <p><i>Suggested Text:</i></p>	<p>a) Right of appeal should be granted to all Users, regardless of their physical presence at the Audition.</p> <p>b) The existence of an overlying right of appeal by the Users should be clarified.</p> <p><i>It is always possible for a User to lodge an appeal with the Authority on the level of airport charges in line with Article 11 of the Airport Charges Directive and Article 37.3 (g) of DL 201/2011</i></p>

<p><u>6.3.1.2</u></p> <p><i>Suggestion:</i></p>	<p><i>By default the Airport charges should remain unchanged, without any transitory adjustments for inflation, until the final decision of the Authority.</i></p>
<p><u>6.3.1.3.b)</u></p> <p><i>Comment:</i></p>	<p>This refers to our comment made earlier, that appeals should be allowed for all users, independent of their attendance to the consultation meetings.</p>
<p><u>7.3.1 – 7.4.1</u></p> <p><i>Suggestion:</i></p>	<p><i>In order to allow an adequate level of analysis by the Authority and the Users , Airport Systems and Airport Networks should provide within the Consultation documents detailed information for each airport that is part of the system/network.</i></p>
<p><u>8.3.1.2</u> (Model 3)</p> <p><i>Comment:</i></p>	<p>It has to be explained what simplified criteria for the calculation of capital costs include.</p>
<p><u>8.4.3</u></p> <p><i>Comment:</i></p>	<p>We reiterate our comments in our response to the Call for Input that the use of pre-determined elasticities does not encourage efficiency. We note in paragraph 8.4.3.2.2 that the values of the elasticities may be redefined and urge the Authority to do so. In the meantime, airlines will have to continue paying for inefficiencies which cannot be in line with the objective of the regulatory framework.</p>
<p><u>8.4.3.3.</u></p> <p><i>Comment:</i></p> <p><i>Suggested text</i></p>	<p>The Authority should consult on its methodology for updating the elasticities, in particular the use of international benchmarking. Any benchmarking exercise should use a sample which is relevant to the airport in question.</p> <p><i>The following text is inserted: “The Authority will update the elasticities in consultation with stakeholders.”</i></p>
<p><u>8.4.4.</u></p> <p><i>Comment:</i></p>	<p>The Authority has not provided any explanation for its efficiency goals. These should be set for specific airports and determined through a detailed examination of operating costs and investments and discussed within the consultations.</p> <p>We note for Model 3 that the efficiency factor is set at 0 with the Authority explaining, in the Relazione Illustrativa (Section A1, page 11) that this is due to the bargaining power of large carriers. As far as we are</p>

	<p>aware, the Authority has not conducted any market power analysis and therefore we see no basis for any conclusions on the bargaining power of airlines at specific airports.</p>
<p><u>8.5.13 and 8.5.14</u></p> <p>Comment</p>	<p>Pre-funding of investments should not be accepted as part of the cost base, including a premium for planning and management of the work. Once the work has been conducted and investments are in operation, they can be included as part of the asset base and depreciation considered in the calculation of airport charges.</p>
<p><u>8.6</u></p> <p>Comment:</p>	<p>We note that the Authority has made no change to the depreciation rates. These should be specific to the asset lives at each airport and consulted with the users.</p>
<p><u>8.8.2.</u></p> <p>Comment:</p> <p><i>Suggestion :</i></p>	<p>We do not support the fixing of WACC parameters in the framework and therefore welcome the proposed changes to the fixing of the risk free rate. The previous level of 3.9% within the model has led to the setting of excessive WACCs.</p> <p>However, the Authority proposes to fix the equity risk premium at 5.5%, compared to 5% previously. We note that this increase has been presented without explanation, other than the reference to Dimson, Marsh, Staunton and Wilmot. As set out in the Thessaloniki Forum guidelines, parameters of the WACC should be fully justified and set in consultation with users</p> <p><i>The ERP should not be fixed in the model but set in consultation with users.</i></p>
<p><u>8.8.3.2 and 8.8.4 (Model 2 & 3)</u></p> <p>Comments</p>	<p>As outlined above we don't support fixing of WACC parameters, this equally applies to the notional gearing fixed with 30% and the debt premium set as 2 percentage points.</p>
<p><u>8.8.5.9</u></p> <p><i>Suggested text:</i></p>	<p><i>A sample of comparable airports should be used when estimating the equity beta, excluding any outliers and airports that are thinly traded. The level should reflect the actual level of risk of the specific airport. When dual till is applied, the risk of non-aviation activities should not be reflected in the beta.</i></p>

<p><u>8.9</u></p> <p>Comment:</p>	<p>There is no justification for applying an incremental WACC as any airport specific risks will already be covered in the asset base. The possibility to apply an incremental WACC, even in exceptional circumstances should be removed. The concept of the WACC is a complete and comprehensive methodology, proven in many regulatory decisions and we are not aware that any other country has approached the WACC by adding an incremental WACC. This approach again is unique as it is wrong, not in line with the concept and it would be to our surprise if this is supported by the EU.</p>
<p><u>8.10.2</u></p> <p>Comment:</p>	<p>The Authority should ensure and confirm that the costs listed under parameter V will be duly subject , after the first year, to efficiency adjustments (unclear at the moment).</p>
<p><u>8.11</u></p> <p>Comment:</p> <p><i>Suggested text:</i></p>	<p>The Authority has maintained within the models the right to examine the commercial margins at airports. We note that it has not as yet used this right to verify the treatment of commercial revenues and their impact on profitability and airport charges. Notwithstanding our position on Single Till, we urge the Authority to do so.</p> <p><i>The Authority will verify how the application of dual till affects the level of profitability and airport charges.</i></p>
<p><u>8.13.1</u></p> <p>Comment:</p>	<p>Any revenue surplus deriving from higher-than-forecasted yearly WLU variations should be returned to the Users and not set aside for future infrastructure investments, as the transparency on the utilization of those investments in infrastructure will be difficult to maintain and all investment decisions and prioritization should be subject to the normal consultation process and included in the cost base through depreciation when they materialize.</p>
<p><u>8.14.2.1.</u></p> <p>Comment:</p> <p><i>Suggested text:</i></p>	<p>Quality indicators should be set in agreement with users, with cost implications examined within the consultation.</p> <p>The methodology for measuring performance against these indicators should also be set in agreement with users.</p> <p><i>“Quality indicators, measurements and targets should be discussed and set in agreement with users, with the cost implications and methodology for measuring performance against the indicators also agreed during the consultation process”.</i></p>

<p>8.14.4.</p> <p>Comment:</p>	<p>We disagree that airports should be entitled to bonus payments, in addition to the agreed airport charges, for delivering services which airlines have paid for through airport charges (especially taken into account the one-sided target setting process currently applied).</p>
<p>9.1</p> <p>Comment:</p> <p><i>Suggested Text:</i></p>	<p>As reported by Art. 5.1.2 of the present Model , art. 9 of the Directive 2009/12/CE and Art. 78 of Law Decree 1/2012 state that a Service Level Agreement is “ an Agreement that determines the level of service to be rendered by the Airport Manager in return for the airport charges collected”.</p> <p>Consequently we strongly oppose the intended introduction of a principle of reciprocity in an Airport-User SLA context , for which there is no legal basis.</p> <p>With regard to financial penalties, we would ask the Authority to put in place a mechanism to ensure that such penalties are not part of the cost base</p> <p>a) <i>Service Level Agreements provide for performance obligations by the Airport Manager to be identified in consultation with the Users, within the context of an assertive cooperation among the parties involved.</i></p> <p>d)...<i>(and viceversa) to be deleted</i></p> <p>e)<i>penalties are not to be reimbursable through charges</i></p>

Sincerely,



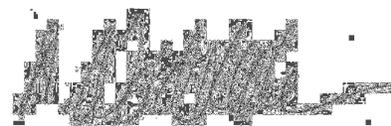
Luciano Neri
IBAR
Secretary General

Tel: +39 335 7019282
seg.gen@ibarair.it



Thomas Reynaert
A4E
Managing Director

Tel: + 32 2 79 30 912
thomas.reynaert@a4e.eu



Andrea Wächtershäuser
IATA
Director Airport Infrastructure &
Regulatory Affairs
Tel: +41 22 770 2845
wachtersa@iata.org