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THE CHARGES POLICY AT THE SPECIFIC MARKET OF AIRPORT SERVICES

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Abstract: The paper is focused on scientific research in the field of charges policy at the specific market of airport services by creation of simulation models of charges policy. The urgency solution of this problem in the field of charges policy and regulation of airport charges stems from the absence of any research in this issue in the Slovak Republic, whether in terms of theoretical analysis of the issues at home or abroad, as well as development of simulation models, which are needed to regulate the market of airport services.

Keywords: simulation model, charges policy, charges regulation, market of airport services

1. INTRODUCTION

The airport charges, the policy of airport charges and the necessity of airport charges regulation is very often discussed theme in all member states of European Union. The urgency solution of basic research in area of airport charges policy of Slovak airports results from the absence of any research, academic research of charges policy or creation of simulations models for regulation of airport charges in Slovak republic. This abroad often and preciseness study area- the economics of airports is important and necessary to research in Slovak republic, too. We need to target the theoretical analyses of airport charges policy and regulation of airport charges and need to analyse the practical experiences with the aid of simulations models. It is important to create basic research in the area of airport charges and regulation of airports in Slovakia on the theoretical analyses or practical European experience, which we can use in the Slovak condition. The priority is suggestion how could be apply the charges policy in accordance with European legislation at Slovak conditions with using of the general theory of charges policy and economic regulation of airports abroad experience and knowledge on the regulation of network industries in Slovakia.
2. THE AIRPORT CHARGES POLICY IN SLOVAK REPUBLIC

Economic regulation of airport charges in the Slovak Republic is not very famous topic of research. The resume of the only economic current journal in Slovak republic- Journal of Economics (ISSN 0013-3035) issued by the SAV (Scientific Academy of Sciences), was not even published a special scientific paper in this research. Despite the fact that we handled the issue in the world is very popular in Slovakia, the economic regulation is confined to a few experts (Goga, Čorejová, Fendeková, Fendek). Their primary focus is on economic regulation of natural monopolies, respectively network industries. With the economic regulation of network industries, the Slovak Republic has several years of legal, but also practical experience. Urgency of a comprehensive solution of the economic regulation of airports and airport charges in Slovakia is enhanced by European legislation (Directive of European Parliament and Council 2009/12/EC on airport charges). The only opinion on this subject was published in the official press and on several web portals in the form of short posts that state that Bratislava Airport is regulated airport since 2011. Equally urgent is the treatment of a portfolio of possible alternatives for economic regulation of airports in Slovakia. The most important for the project is systematization of theoretical knowledge and practical experience of countries that already have a long experience in the field of charges policy and regulation of airport charges. Equally important is the database most frequently applied models of economic regulation of airports in the EU, Latin America and Australia. The team should carry out systematic and comprehensive comparison and subsequent interpretation of the world views of recognized experts, as well as international organizations dedicated to civil aviation, whose views are relevant in establishing a regulatory framework that should have been since March 2011.

3. ECONOMIC REGULATION OF AIRPORTS IN UK

It has been over thirty years since the British Airports Authority was privatized and the regime of economic regulation put in place. Over this period there have been significant changes in the nature of the UK aviation sector including a trend towards the more commercial operation of UK airports; rapid growth at regional airports; liberalization of European and many inter-continental routes; the emergence of a range of different airline business models; and the growing use of the internet by passengers. The economic regulation of UK airports is governed by the Airports Act of 1986. Indeed, the Competition Commission’s (CC) current inquiry provides an additional potential stimulus for change in the sector, not least through the application of remedies to any features of the market for airport services that prevent, restrict or distort competition – including the issue of whether BAA’s current joint ownership of airports in the South East of England or in Scotland is having an adverse effect on competition. [1]
Under Airport Act provisions, airports charges have been capped for five yearly periods according to a CPI-X formula. In carrying out its duties of economic regulation, the Civil Aviation Authority (CAA) is required to further the reasonable interest of airports users in the UK, to promote the efficient operation of airports, to encourage investment in new facilities and to impose the minimum of restrictions consistent with the performance of its functions. For the first five years of these arrangements (1987-1991), the value of CPI-X was set for the London airports without the involvement of the CAA, by the UK Secretary of state for Transport, at CPI-1. In the second quinquennium (1992-1996), the CAA set a cap of CPI-8 for the first two years, CPI-4 for the third year and CPI-1 for the final two years. In the most recent period (1997-2002), the formula was set at CPI-3 for Heathrow and Gatwick combined, and at CPI+1 for Stansted. There was no cap set for the London airports as a system. [2]

The legal frameworks have been substantially updated, notably through the Utilities Act 2000, the Communications Act 2003 and more recently through “Better Regulation” initiatives. The UK competition law framework has been substantially revised, through the Competition Act 1998 and the Enterprise Act 2002, as well as following the EC Modernisation Regulation (1/2003). After these can be say, that everything is continually changing in economic regulation and ways of it cannot be foreseen. Nowadays in UK the best way to meet the principles of better regulation, and ensure that the economic regulation applied to each individual airport is targeted and proportionate. Is important to adopt the latter approach, subject to the caveat that the adaptation of regulation to changing circumstances is governed by clear principles, so as not to introduce undue regulatory uncertainty. In practice, to reflect the diversity of individual airport characteristics and the potential for change, which could involve:

- broadening the range of powers available to the CAA – enabling it to choose between a package of potential remedies that would include price caps, prohibitions on certain conduct and requirements to release information;
- giving the CAA the flexibility to adapt its regulatory processes, perhaps building on airline-airport negotiation or providing the ability to intervene more quickly as any significant consumer detriment emerged;
- reflecting this more flexible approach, removing the obligation to apply a price cap over a fixed period and on a prescribed set of fees charged by certain airports; and
- providing the CAA with concurrent competition powers, to allow the CAA to balance sector-specific (ex ante) tools with general (ex post) competition tools.

Everything depends on the type of regulation which is preferred. Sometimes is regulation not necessary, if there are relying on competition rather than regulation to protect consumers. We know that airports can, and do, compete for airlines’ business. The UK airport market is not characterised by natural monopoly. Rather, the degree of competition varies between airports, meaning that they do not necessarily need to be regulated (unlike network utility businesses). In principle, economic regulation should be applied only if other remedies (e.g. structural) have been fully considered, and found not to provide adequate protection to consumers against the risk of abuse (taking into account the existence and effectiveness of competition law, and the relative costs and benefits of economic regulation). It follows that to the extent that the Competition Commission is able to remedy to a sufficient degree those features of the airports market that are likely to have adverse effects on competition, there could be a case for withdrawing from sectorial
regulation (perhaps after a period of transition), and relying on competition – and competition law – to protect the interests of consumers. This can be a logical consequence of reforms that made the airports market more closely resemble other sectors of the UK economy that operate free from such regulation and is important to take account the requirements of EC legislation, including any additional obligations introduced by the Directive of Airport Charges. [1]

4. ECONOMIC REGULATION OF AIRPORTS IN AUSTRALIA AND NEW ZEALAND

Most of the major airports in Australia and New Zealand were privatized in the late 1990s. There are two types of airport in Australia and New Zealand - Sydney airport and rest. Sydney is a capacity constrained, congested airport with little room for expansion, whereas the rest are uncongested and have the scope to handle additional traffic quite readily. Privatization of Australian airport was quite straightforward and subsequent regulation has not been controversial, at least in terms of its structure. This regulation has raised a number of issues for resolution (such as whether the dual till in Australia should be replaced by a single till), and the Australian experience (for example, with the dual till) is of relevance elsewhere. The incentives facing most of the owners of Australia’s airports are likely to encourage profit maximization. Most of the owners are private companies, though some consortia include government owned airports. The airport has the incentive to use the market power they possess to increase profits, and thus price regulation was needed if they are to be restrained from doing it. The New Zealand approach of no formal regulation is of interest of itself. It is less “light handed” form or regulation than it seems. As with congested airports elsewhere, the issues for ownership and regulation at Sydney are of a different nature and order of complexity from those at the others. There were problems to do with price levels, price structures and the allocation of capacity, as well as with how to deal with substantial new investment, particularly for a second Sydney airport. [3]

5. NEW ZEALAND

New Zealand aims for light handed economic regulation of its airports in order to minimize the costs of regulation for taxpayers and the aviation industry. There is no direct regulation of airport charges. Airlines and airport users are judged strong enough to bargain successfully with airports about prices and other aspects of airport operations. In support of this approach, there is a statutory obligation on airports to consult with users, backed up by a legal obligation on airports to disclose to users detailed information about airport costs and revenues. Where such negotiation is judged to have failed, the Commerce Act of 1986 in certain circumstances allows the imposition of price controls on airport
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charges. This approach to airport economic regulation has been criticized on the grounds that it overstates the power of airlines to bargain with a local airport monopoly. The approach can generate substantial albeit indirect costs of regulation, as well as regulatory uncertainty, in the form of legal challenges to airport decision. Also, without an expert body to adjudicate on the appropriate price ceiling, the power to impose price controls may be difficult to implement. In 1995, the New Zealand government undertook a review of airport regulation that led to measures to strengthen the consultation process and to widen the disclosure requirements on airports. In 1998 and in line with the provisions of the Commerce Act, the New Zealand government requested the Commerce Commission to investigate by December 1999 whether controls should be introduced on certain aviation charges at a number of New Zealand airports.

6. AUSTRALIA

The broad approach to airport regulation in Australia falls between the UK and New Zealand approaches. Institutionally, there is a single body charged with promoting competition and performing sectorial economic regulation. It is the Australian Competition and Consumer Commission (ACCC). During 1997/1998, the Australian federal government granted long-term leases on most large Australian airports. The regulatory regime to apply to the privatized airports was laid down in the Airports Act of 1996. This focused on the essential facilities nature of airports and the need to ensure access by airlines and airport users to such facilities on reasonable terms and conditions. In addition a CPI-X price cap applies to aeronautical charges and there is a procedure for monitoring aeronautically related services. The Airport Act provides for a dual approach to access. Airports may offer an access undertaking specifying terms of access and setting out a process for negotiation and dispute resolution. If the undertaking is acceptable to airlines, the ACCC may either endorse or reject it within 4 months. As an alternative, an airline may seek to have an airport services declared a “bottleneck” service, in which case the airline has a legal right to negotiate terms of access or, if negotiations fail, to seek binding independent arbitration. The intention of Australian legislation is to give an incentive to offer reasonable terms of access to airport users and thereby to save the time and expense of negotiation and dispute resolution. However, if this approach fails, there is recourse to arbitration before an expert body. As an additional safeguard, under the Prices Surveillance Act of 1983, the ACCC also has a role in the surveillance of the most important aeronautical services- aircraft movements and passenger services- which are price capped for core airports. Non-aeronautical services such as shops, banks and parking are neither price capped nor subject to price surveillance. Moreover, price caps are seen as a temporary measure to apply for an initial five years to be replaced afterwards by direct negotiations supported by dispute arbitration. In early 1998, Sydney Airport applied to the ACCC under the Price Surveillance Act to raise its airport charges. The ACCC’s draft decision was issued in February 2001. [2]
7. THE MAIN MODELS OF ECONOMIC REGULATION OF AIRPORTS

There are four main models through which airport charges can be regulated:

- rate of return regulation
- price cap regulation
- default price cap regulation
- reserve regulation (light handed approach).

The rate of return regulation is also known as cost-based or profit control regulation. This model is traditional for monopoly regulation. The aim is to prevent regulated entities from setting prices that are not related to costs. Thus, a certain ROR is stated and prices can be increased when there is an increase in costs. The disadvantage of this model is that it provides no incentives to reduce the cost. But the advantage is that it ensures the prices are related to costs. This is the indirect way of controlling prices because prices above the competitive prices will result in an above-normal ROR of the sector. [4] The price cap regulation is an alternative regulatory model overcoming the shortcomings of the ROR regulation. It is considered to be more convenient as it provides the regulated firm with incentives to reduce costs. Simultaneously, this model controls price increases. It works by establishing the following formulas:

\[
\text{price cap} = \text{CPI} - X \quad \text{or} \quad \text{price cap} = \text{RPI} - X
\]

CPI is the consumer price index and RPI is the retail price index. X is the efficiency gain target. If airports are regulated through price cap, the question is which facilities and services are to be considered? This type of regulation is easier to be administered as a company can change the level and structure of prices as long as it conforms to the price cap. The default price cap system is based on a price cap that is available to all users. However, individual users are allowed to set up alternative contracts with the airport operator outside the price cap conditions if both parties agree. This mechanism can overcome the problem of quality of service that is another field of major concern within any regulatory framework. Independent arrangements could therefore be established relating to levels of service quality. Any users wishing for a different level of service can negotiate this with the airport operator and these contracts can have different duration for different users.

The reserve regulation or the light-handed approach means that the regulator is being involved in the price-setting process if the airport’s market power is abused or if the company or customers cannot reach agreement. This is more a threat of regulation rather than actual regulation. [4]

There are two approaches within the regulatory regime with regards to scope of regulated activities: single till approach and dual till approach.

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

8. APPROACH OF EU TO THE AIRPORTS CHARGES POLICY

Within the EU economic regulation is very important. After three long years they issued the fundamental Directive on airport charges. However, the Directive only highlights the necessity of regulation and does offer any set way to achieve this. The Directive aims to be without prejudice, to represent the right of each Member State. This right is the ability to apply additional regulatory measures that are not compatible with this Directive or other relevant provisions of Community law with regard to any airport managing body located in its territory. This may include economic oversight measures, such as the approval of charging systems and/or the level of charges, including incentive-based charging methods or price cap regulation. The methods of implementing this Directive and how it ought to be regulated depend on each Member state.

The Directive is applied to any airport located in a territory subject to the Treaty and open to commercial traffic whose annual traffic is over five million passenger movements. It is also applied to the airport with the highest passenger movement in each Member State, as it enjoys a privileged position as a point of entry to said Member State. It is necessary to apply the Directive to these airports in order to guarantee respect for certain basic principles in the relationship between the airport managing body and the airport users. In particular with regards to transparency of charges and non-discrimination amongst airport users.

The ICAO Council has considered that an airport charge is a levy that is designed and applied specifically to recover the cost of providing facilities and services for civil aviation. In addition to this they consider tax to be a levy that is designed to raise national or local government revenues which are generally not applied to civil aviation in their entirety or on a cost-specific basis. Airport charges should be non-discriminatory.

The Directive stipulates that a compulsory procedure for regular consultation between airport managing bodies and airport users should be put in place. There should also be the possibility for either party to have recourse to an independent supervisory authority whenever a decision on airport charges or the modification of the charging system is contested by airport users. In order to ensure impartial decisions and the proper and effective application of the Directive, an independent supervisory authority should be established in every Member State. Member States shall guarantee the independence of the independent supervisory authority by ensuring that it is legally distinct from and functionally independent of any airport managing body and air carrier. Further, it is vital for airport users to obtain from the airport managing body, on a regular basis, information on how and on what basis airport charges are calculated. Such transparency would provide
air carriers with an insight into the costs incurred by an airport and the productivity of an airport’s investments. To allow an airport managing body to properly assess the requirements with regard to future investments, the airport users should be required to share all their operational forecasts, development projects and specific demands and suggestions with the airport managing body on a timely basis. Member States shall take the necessary measures to allow the airport managing body to vary the quality and scope of particular airport services, terminals or parts of terminals, with the aim of providing tailored services or a dedicated terminal or part of a terminal. The level of airport charges may be differentiated according to the quality and scope of such services and their costs or any other objective and transparent justification. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 March 2011. [5]

9. CONCLUSION

In the Slovak republic, the economic regulation of airports pays less attention to currently very topical and important issues than is deserved, but the situation is changing. As mentioned above the European Parliament and Council, after very long and technical discussions, adopted an approval process (‘11th March 2009 European Parliament and Council 2009/12/EC’) on airport charges. This expresses the need for economic regulation of airports in all EU Member States, thus also in the Slovak republic.

This Directive is the first in history issued by the ICAO that allows decisions and principles to be considered "hard law". Implementation of the Directive 2009/12/EC on airport charges also depends on strict legal interpretation, which states will have to respect. A press release from the European Parliament says: „This legislation has to prevent abuse the position of individual airports that are in the dominant market position.” Parliament stresses that any differences in airport charges must be based on objective and clear criteria. The idea is good and clearly identified, however it is not beneficial to the Slovak republic whose biggest airport, Bratislava, will face many problems. It is important to define the system of airport charges and the most important international airports in Slovak republic.

Out of a total of 8 international SK airports (Bratislava, Košice, Poprad-Tatry, Žilina, Sliač, Piešťany, Nitra and Prievidza), only two, Bratislava and Košice, could be considered for economic regulation.

Košice airport is a small regional airport, but has a great local position. This airport can be defined as a geographic monopoly, i.e. a natural monopoly. However it is too small for regulation as the Directive applies to airports that are above a minimum size (5 million passengers) because management and the funding of small airports not calling for the application of the Community framework.

Regarding Bratislava airport; the Directive requires regulation of this airport as it is the biggest airport in Slovakia. However, experts on economic regulation believe that it is unnecessary, because the airport is not a local monopoly and is located in close proximity to Vienna airport (only 60 km by highway). So what can Bratislava airport do? It has to respect principles of EU and the Directive and regulate airport charges, which may only do
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harm. Bratislava airport aspires to compete with Vienna Airport, but currently it does not have a sufficiently large passenger flow. The situation in the air transport market during the current economic crisis is complex and some airlines have stopped operating to and from Bratislava airport. It is vital to observe the approach of the Ministry of Transport, Construction and Regional Development of the Slovak Republic. This Ministry is responsible for airport charges policy in the Slovak republic and the implementation of the European legislation to national legal systems. Their approach determines the economic regulation of Slovak airports and airport charges.

The situation in Slovakia and at the Slovak airports demonstrates some differences from those in other Member states. Airports are in a special and problematic position. After research of theoretical models commonly used in Europe, Latin America and Australia a matrix or portfolio of various possibilities of alternative approaches to the application of economic regulation of the Slovak airports has been compiled and is evaluated on Figure 1.

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<th>Mechanism of Economic regulation of airports</th>
<th>Approaches of ERoA</th>
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<td>Single till</td>
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<td>Hard regulation</td>
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<td>Hybrid RoR a Price cap</td>
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Figure 1. Portfolio of various possibilities of alternative approaches to the application of economic regulation at Slovak airports

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**POLITYKA OPLAT NA OKREŚLONYM RYNKU USŁUG LOTNISKOWYCH**

**Streszczenie:** Artykuł koncentruje się na badaniach naukowych w dziedzinie polityki opłat na określonym rynku usług portowych przez tworzenie modeli symulacyjnych polityki opłat. Rozwiązanie i pełność tego problemu w dziedzinie polityki opłat i regulacji opłat lotniskowych wynika z braku badań w tym zakresie w Republice Słowackiej, zarówno pod względem teoretycznym analizy problemów w kraju lub za granicą, a także rozwój modeli symulacyjnych, które są potrzebne do uregulowania rynku usług lotniskowych.

**Słowa kluczowe:** model symulacyjny, polityka opłat, regulacja opłaty, rynek usług portów lotniczych