

Airport Charges

Annual Progress Report

Tyynelä Markku

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1 Introduction

Airport charges are paid by airport users for the use of airport facilities. They are related to landing, take-off, lightning and parking of aircraft, and processing of passengers and freight. These charges fund in part the provision of runways and associated areas and passenger and cargo terminal areas. Although they are levied on airlines, the cost is ultimately borne by the passenger or freight customer since these charges form part of the final price which they pay.

The Airport Charges Directive (2009/12/EC), which the Member States were required to transpose to national law, is a specific EU legal framework for airport charges at all airports in the European Economic Area and Switzerland with more than 5 million passenger movements per year and at least the largest airport in each Member State.

Key features of the framework include:

- Non-discrimination between airport users, although allowing for charges to reflect environmental and general policy objectives
- Common and transparent charging systems across airport networks and across airports serving the same city or conurbation
- Regular consultation of airport users by airport managers on the operation of the system of charges, the level of charges and quality of service
- 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 including requirements for information flow to and from the airport users
- Consultation of airport users on plans for new infrastructure
- The agreement of quality standards through consultation between the airport managers and the joint airport users at the airport
- Flexibility to allow airport managers to offer differentiated service to airlines
- The establishment of national independent supervisory authorities to ensure the correct application of the Directive's measures.

The Act on the Airport Network and Airport Charges (210/2011, later A/C Act) came into force on 15 March 2011 (latest amendment 126/2013). The A/C Act implemented European Directive (2009/12/EC) on airport charges into Finnish law.

The A/C Act applies to any airport open to commercial traffic:

- 1) whose annual traffic is over five million passenger movements; or
- 2) which has the highest passenger movement in Finland.

Only Helsinki-Vantaa meets these requirements.

This Act applies to the airport network, airport services and airport charges that are maintained for the purposes of state and military operations. With the exception of consultations with airport users, this act also applies to other airports in the airport network.

The A/C Act shall not apply to the pricing of air navigation services or ground handling services, or to the charges levied for the funding of assistance to disabled persons and persons with reduced mobility.

2 ISA and Airport Managing Body (AMB)

The ISA role is granted to the Finnish Transport and Communications Agency (Traficom)¹. If an airport user disagrees with the airport managing body's pricing decision as described in the A/C Act the decision can be referred to the Traficom for processing. Traficom will study the pricing decision and especially the justifications.

Finavia Corporation is the Airport Managing Body for a network of 21 airports in Finland. It is a company fully owned by the Finnish State.

Finavia is in principle free to set their charges i.e. there is no *ex ante* approval of the charging system and/or the level of charges implemented in the A/C Act. The AMB shall arrange consultations on the proposed changes with the airport users and take their views (any requirement and other statements presented) into account before the decision is taken. In general, charges shall be cost-related, non-discriminatory and transparent. Costs shall be calculated transparently based on a sound accounting and economic principles.

Finavia is free to choose the regulatory till (single till, dual till or hybrid till). However, transparency of the used till is required. It has to be clearly described which costs are included and to what extent non-aeronautical revenues are being used to offset aeronautical costs.

In 2017 (April) Traficom has published recommendations (latest update: Instructions 2019) on Consultation and Transparency and for the calculation of the WACC based on the recommendations from the Thessaloniki Forum of Airport Charges Regulators². These instructions from the Thessaloniki Forum have been modified to take into account how the Directive has been implemented in Finland. The instructions form a set of acceptable practices and do not in any way change the requirements of the Act on the Airport Network and Airport Charges. They deal with some areas where instructions have been considered to be useful. The instructions also guide Traficom when resolving disagreements.

The A/C Act allows for the incentive schemes (typically taking the form of rebates or discounts) on the normally payable charges. Charges may be differentiated or modulated. Schemes shall be objective, transparent, non-discriminatory and equal. More information can be found from the recommendations/instructions mentioned above and from the recommendations from the Thessaloniki Forum of Airport Charges Regulators "Non-Discrimination under the Airport Charges Directive" published in November 2018² (where applicable this document also guides Traficom when resolving disagreements in addition to instructions).

In Finland, no additional regulatory measures beyond the minimum requirements of the Directive have been implemented. Traficom does not approve the charging system and/or the level of charges *ex ante*. If the pricing decision is referred to Traficom for processing, Traficom will examine if the decision complies with the Act on the Airport Network and Airport Charges.

The general law concerning public administration is the Administrative Procedure Act, which forms the basis for independent and transparent public decision-

¹ From 1.1.2019 the Finnish Transport Safety Agency Trafi has been Finnish Transport and Communication Agency Traficom.

² See: 5 Bibliographic

making in Finland. Traficom and its officials apply this law in their decision-making. Decisions of Traficom can be appealed to the Market Court.

3 Finnish Transport and Communications Agency's activities

The activities described below covers the period from 1st January 2014 to 19th August 2019.

3.1 2014

During 2014 Trafi had the following activities:

- Informal meeting with Finavia, KLM, SAS, Flybe and IATA (June). It is in the interest of the Trafi to be proactive in ensuring that all parties improve their consultation requirements for provision of information and providing adequate time for consultation responses. In this meeting, for example the requirements for information flow to and from airport users were discussed.
- Trafi participated in Finavia's information meetings concerning Helsinki airport development program (14th May, 4th September and 18th December).
- Trafi participated in airport charges consultation meeting (26th September).
- Trafi did not receive any disagreements from users concerning the pricing decision.
- Trafi participated in the Thessaloniki Forum of Airport Charges Regulators meeting (13th June).
- During this period Trafi has been in contact for example with Commission, Finavia, airport users, IATA and authorities from other Member States concerning airport charges.

3.2 2015

During 2015 Trafi had the following activities:

- Trafi participated in Finavia's information meetings concerning Helsinki airport development program (20th May, 17th September and 20th December).
- Trafi participated in airport charges consultation meetings (30th September and 1st October).
- KLM Royal Dutch Airline and Thomas Cook Group Airline disagreed with the Finavia's pricing decision and referred the decision to the Trafi for processing. KLM and Thomas Cook were of the opinion that a difference in passenger charges for passengers travelling to Schengen and Finnish domestic destinations is not allowed under EU legislation.
- In the final decision (16th March) Trafi requested Finavia to revise its airport charges policy at the appropriate consultation process.
- Trafi participated in the Thessaloniki Forum of Airport Charges Regulators meeting (9th December).

3.3 2016

During 2016 Trafi had the following activities:

- Trafi participated Finavia's information meetings concerning Helsinki airport development program (10th May and 13th October).
- Trafi participated to the 4th meeting of the Thessaloniki Forum of Airport Charges Regulators (6th October).
- Trafi participated airport charges consultation meeting (7th September).
- KLM Royal Dutch Airline disagreed with the Finavia's pricing decision and referred the decision to the Trafi for processing. KLM was of the opinion that differentiated PSC charges should be abolished immediately and not during two years transition period and apply a revenue neutral change in the charges structure.
- In the decision (19th December) Trafi decided that the Finavia's pricing decision was justified according to requirements and the pricing decision was in compliance with the requirements of the Act on the Airport Network and Airport Charges.

3.4 2017

During 2017 Trafi had the following activities:

- Trafi participated Finavia's information meetings concerning Helsinki airport development program (4th May and 29th November).
- Trafi participated airport charges pre-consultation meeting (6th June).
- Trafi participated airport charges consultation meeting (13th September).
- Trafi participated to the 5th meeting of the Thessaloniki Forum of Airport Charges Regulators (17th November).
- Thomas Cook Airline disagreed with the Finavia's pricing decision and referred the decision to the Trafi for processing. Thomas Cook's appeal concerned Finavia's WACC calculation.
- In the interim decision on 20th December Trafi asked Finavia to revise their WACC calculations.

3.5 2018

During 2018 Trafi had the following activities:

- In the final decision (on 8th March) to the Thomas Cook's disagreement Trafi decided that the revised WACC calculation was in compliance with the Act on the Airport Network and Airport Charges and with the Trafi's recommendations for the setting and estimation of the WACC. The decisions did not restrict the use of airport charges included in the pricing decision.
- Trafi participated Finavia's information meetings concerning Helsinki airport development program (13th March and 27th September)
- Trafi participated airport charges pre-consultation meeting (6th June).
- Trafi participated airport charges consultation meeting (13th September).
- Pobeda Airlines Limited Liability Company disagreed with the price increase and referred the decision to the Trafi for processing on 5th November.

- KLM Royal Dutch Airline disagreed with the long haul growth incentive (claiming that it is discriminating the airport users) and with the illiquidity premium used in WACC calculations and referred the decision to the Trafi for processing on 27th November.
- On 19th December Trafi made a final decision where the claim from Pobeda Airlines was rejected.
- On 21st December Traficom made an interim decision which included a final decision on WACC issue (claim from KLM was rejected) and a denial to use the long haul incentive before the final decision is made by the Trafi.

3.6 2019

During 2019 Traficom had the following activities (until 19th August):

- Traficom participated Finavia's Helsinki Airport Development Program & Masterplan - Consultation and Information Meeting on 24th April.
- On 24th April Traficom made a final decision to the KLM's disagreement. The claim made by KLM was accepted. Traficom's decision has been appealed by Finavia to the Market Court.
- Traficom participated airport charges pre-consultation meeting (21st May)
- On 2nd July the Market Court made an interim decision where the Court decided that there is no need to deny the enforcement of the Traficom's decision before the Market Court has made the final decision.

4 Summary of disagreements (since 2014)

year	Company	Subject	Result
2015	KLM Royal Dutch Airline, Thomas Cook Group Airline	PCS charges (difference in Schengen and domestic charges)	Accepted
2016	KLM Royal Dutch Airline	PCS charges (difference in Schengen and domestic charges)	Rejected
2017	Thomas Cook Group Airline	WACC calculation	Accepted
2018	KLM Royal Dutch Airline	Discrimination	Accepted (appealed to the Market Court by Finavia)
2018	KLM Royal Dutch Airline	WACC calculation	Rejected
2018	Pobeda Airlines Limited Liability Company	Price increase	Rejected

5 Bibliographic

Recommendations from the Thessaloniki Forum of Airport Charges Regulators:

- "Recommendations on Consultation and Transparency",
- "Recommendations for the Setting and the Estimation of the WACC of Airport Managing Bodies" and
- "Non-Discrimination under the Airport Charges Directive"

Instructions (2019) from Traficom:

- "Traficom's Instructions on Consultation and Transparency" and
- "Traficom's Instructions for the setting and estimation of the WACC"

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