

By registered mail

Dutch Competition Authority
Office of Transport Regulation
Attn. Mr P. J. Plug
PO Box 16326
2500 BH The Hague

30 April 2010

Dear Mr Plug,

Re: Comments in relation to the NMA's draft decision on changes to the Cost Allocation System effective from 1 January 2011

Please find attached our comments in relation to the NMA's draft decision to approve the proposed changes to the Cost Allocation System for Amsterdam Schiphol Airport, effective from 1 January 2011.

You will see much of our response focuses on wider issues which although outside the scope of your consultation are central to the cost allocation mechanism.

Your draft decision includes various issues easyJet is not in favour of. However, as your approval process is based solely on the question whether the Cost Allocation System is compliant to the Aviation Act, we do not see any potential that our comments would change your decision. Instead, we think this shows once again that it is the Aviation Act itself - or rather the complicated procedures it prescribes - that need changing, and we would like to submit the following comments on that topic.

I trust that these comments will provide a starting position in a discussion towards a potential change to the Aviation Act. Please let us know if you require any further details or information.

Yours sincerely,



Holger Wieck
easyJet Airport Negotiator

Attachment

easyJet comments in relation to the NMA's draft decision on changes to the Cost Allocation System for Schiphol Airport effective from 1 January 2011

Luton, 30 April 2010

These comments focus on the wider issues than just the draft decision on changes to the Cost Allocation System, but are nevertheless a reflection of the imperfections the current cost allocation and approval scheme brings about. As the NMA approval process is focussing on the question whether the Cost Allocation System is compliant to the Aviation Act, we do not see any potential that our comments would change your decision. Instead, we think this shows once again that it is the Aviation Act itself - or rather the complicated procedures it prescribes - that need changing, and we would like to submit the following comments on that topic.

1. "Unuity Method"

easyJet is concerned by the plans to extend the special "Unuity Method" from the Polderbaan to other investments. The privilege to reassess both the cost of capital and the depreciation value every five years over the useful life of the asset opens significant room for manoeuvre on financial valuations. Due to the large financial volume of these projects, this could have substantial impact on airport charges. To write a free cheque to changing these values seemingly arbitrarily as required from time to time is too large a lever for adjusting airport charges for long periods of time to be approved without prior consultation and review.

2. Determination of the WACC and Regulated Charges Period

In the current system, Schiphol is obliged to re-assess its WACC every year, and also to review the charges annually. easyJet believes that charges (and therefore the WACC) should be set for a much longer period. This reflects the underlying economics of the airport and the situation in competitive markets, where airlines often agree long-term price agreements with airports.

Airports have assets with a very long life span and it is only sensible that the regulatory framework reflects this. In addition, the WACC should reflect the risk associated with the business of operating an airport, and this does not fundamentally change when assessed over periods of multiple years, and thus should not require readjustment on a short-term basis.

Furthermore, in terms of the period the airport charges are fixed, providing airlines with a more reliable planning horizon with regards to their cost base, would enable them to make longer term volume commitments and investment decisions at an airport.

3. Dual Till system

In principle, easyJet consider that the dual-till method of regulation employed at Schiphol is inefficient when compared to the single-till structure used elsewhere. Regulation is designed to mimic competition, but competitive companies do not allocate their costs in this way. Airlines, for example, have in recent years developed commercial revenue streams aside from traditional ticket sales – and have used these to great effect, offsetting airfares, while deligering significant social and economic benegits in the process. This is standard practice for airlines operating to and from Schiphol and it is incongruous that the airport, the owner of the monopoly infrastructure, should be able to leverage its monopoly power in favour of its narrow commercial interests, over and above those of passengers, airlines and the wider economy. easyJet therefore considers the dual-till system not to be in compliance with the requirements of market conformity, proportionality and integrity.

easyJet believes that the sighificantly higher returns earned from the commercial till, compared to those of the aviation till, suggest that the cost allocation system is flawed. We have not seen any evidence that the commercial till is subject to significantly greater risk than the aviation till, which might justify such a disparity, and therefore we can only conclude that the cost allocation system is insufficiently allocating cost to the commercial till.

Alongside distortions in the allocation of operating costs there is a potential significant distortion created by the movement of assets between aeronautical and commercial tills. This arises particularly when performance varies over time: for example, in the years during and shortly after construction, many assets will require considerable investment and it is in later years, once these are depreciated and capacity is more fully utilised, that the value of the investment is realised. Clearly, in this example, were assets to be moved in time from the aeronautical till to the commercial till, it is likely that airlines and passengers would provide finance for development, but would be excluded from sharing the value, once the asset had been placed in the commercial till.