

Netherlands Competition Authority

No.: 200057/76.BT37

Case: N.V. Luchthaven Schiphol

DECISION

of the Board of the Netherlands Competition Authority, pursuant to the application by N.V. Luchthaven Schiphol for approval of its system for allocating costs and revenues, in accordance with section 8.25g(1) of the Aviation Act [*Wet luchtvaart*].

1. Introduction and background

1. On 20 July 2006, N.V. Luchthaven Schiphol (hereinafter "Schiphol"), the operator of the airport of the same name,¹ submitted its system for allocating costs and revenues, in accordance with section 8.25g(1) of the Aviation Act, in respect of the activities, as referred to in section 8.25d(1) of the Aviation Act, to the Board of the Netherlands Competition Authority (hereinafter "the Board") for approval.
2. These so-called "aviation activities" are categorised and summarised in section 2 of the Schiphol Airport Operation Decree [*Besluit exploitatie luchthaven Schiphol*] (hereinafter "the Decree").²

These categories are:

1. the taking off and landing of aircraft,
2. the parking of aircraft,

¹ See section 8.1(g) of the Aviation Act, as recently amended by the Act of 29 June 2006 amending the Aviation Act in relation to the operation of Schiphol Airport, *Netherlands Bulletin of Acts and Decrees (Staatsblad)* 2006 331, pursuant to the Decree of 7 July 2006 determining the moment at which the Act of van 29 June 2006 comes into force, *Netherlands Bulletin of Acts and Decrees (Staatsblad)* 2006, 332, which came into force on 19 July 2006.

² Decree of 7 July 2006, relating to rules in relation to the operation of Schiphol Airport (Schiphol Airport Operation Decree), *Netherlands Bulletin of Acts and Decrees (Staatsblad)* 2006, 333.

3. the handling of passengers of aircraft and their baggage in relation to the taking off and landing of aircraft;
 4. implementing security in respect of passengers and their baggage, including border control facilities (hereinafter "security activities" or "security").
3. In determining the tariffs of the above-mentioned activities, Schiphol is required to take into account the revenues attributed to its other activities, which relate directly to the aforementioned aviation activities.³ These so-called aviation-related activities are summarised in the Decree.⁴
4. Pursuant to the Aviation Act, the tariffs which Schiphol charges users⁵ for aviation activities are required to be cost-oriented.⁶ This applies to all these activities in their entirety. With regard to compliance with this requirement of cost orientation, the Aviation Act stipulates, for instance, that Schiphol is required to submit its system for allocating Schiphol's costs and revenues from its aviation activities to the Board for approval.⁷
5. In summary, the allocation system contains the calculation methods⁸ used to determine which part of the total costs and revenues of the airport are attributed to the aforementioned aviation activities. As such, the system of allocation is an important basis for the periodic determination of the tariffs of the aviation activities. This system must be distinguished from the periodic application thereof, whereby the costs and tariffs are calculated as such.⁹ The quantitative outcomes of these cost calculations, as well as the envisaged use of the airport may change

³ See 8.25d(5) of the Aviation Act

⁴ See section 2(2) of the Decree. The aviation-related activities relate to (a) the granting of a concession for the supply of fuel for aircraft (b) the granting of a concession for catering for aircraft (c) utility services and (d) activities by or on behalf of the operator of the airport attributed to the aviation activities and which are charged to third parties.

⁵ See section 8.1, preamble and (i), of the Aviation Act. Users are defined as an airline companies, as well as natural persons who and legal persons which carry out flights, other than airline companies.

⁶ See section 8.25d(3) and (4) of the Aviation Act. Subsection (4) stipulates that tariffs for security activities in their entirety must be cost-oriented.

⁷ Section 8.25g(1) of the Aviation Act

⁸ In the Act and the Decree, a number of conditions and requirements are described with which these methods of calculation must comply.

⁹ This means, for instance, that with regard to the allocation key for the simultaneous allocation of the costs of production factors for shared activities in relation to aviation and other activities, an assessment is only made to ascertain whether these allocation keys represent a correct yardstick by which to express the performance of production factors used to realise Schiphol's services.

over time. With the annual amendment of the system, the tariffs may accordingly also be subject to change.

2. Procedure

6. After taking cognizance of the system of allocation, which Schiphol submitted together with its application of 20 July 2006, the Board reached the conclusion that the system contained insufficient data on which to base an assessment. Schiphol was informed of this during a meeting on 31 July 2006 and in a letter of 2 August 2006 and was requested to supplement the system. In a letter of 19 September 2006, Schiphol met this request by submitting a more extensive version of the allocation system.¹⁰
7. Subsequently, in the period up until 1 December 2006, a series of meetings were held between employees of the Netherlands Competition Authority (hereinafter "NMa") and Schiphol in relation to the allocation system submitted on 19 September 2006. In the aforementioned period, Schiphol also provided additional information on various occasions. Furthermore, employees of NMa made physical observations on location at Schiphol Airport to obtain a clear impression of the cost allocation principles applied by Schiphol.
8. In a letter of 20 December 2006, Schiphol submitted a supplemented allocation system to NMa. The Board drew up a draft decision to be adopted by it in respect of the application for approval of the system which had accordingly been supplemented.
9. In accordance with section 8.25g(6) of the Aviation Act, the provisions of section 3.4 of the General Administrative Law Act apply to the preparation of decisions such as this decision. In accordance with the aforementioned provisions, the Board was required to provide users and/or (other) interested parties with the opportunity to present their opinions on the draft decision. Partly on the basis of these opinions, by means of this decision the Board takes a decision on the application.
10. By means of publication in the *Netherlands Government Gazette (Staatscourant)* of 3 January 2007 and by means of an announcement on NMa's website, the Board gave notice of the draft decision. On the same date, the Board made the draft decision and the documents relating to this available for inspection.

¹⁰ In the light of this, the term for processing the application, in accordance with section 4:5, read in conjunction with section 4:15, of the General Administrative Law Act has been suspended for the period from 2 August 2006 up to and including 19 September 2006.

11. Koninklijke Luchtvaart Maatschappij N.V., established in Amstelveen (hereinafter "KLM"), the International Airport Transport Association, established in Geneva, Switzerland (hereinafter "IATA") and the Board of Airline Representatives in the Netherlands, established in Bloemendaal (hereinafter "BARIN") presented their opinions with regard to the draft decision verbally during a hearing held on 6 February 2007. KLM and IATA also presented their verbal opinions to NMa in writing.
12. The aforementioned parties also presented written opinions. BARIN's written opinion was also signed by the Schiphol Airport Operating Committee (SAOC). The respective opinions were submitted on time.
13. KLM is deemed to be a user, in terms of section 8.25g(7) of the Aviation Act. IATA, BARIN and SAOC provided NMa on request with their articles of incorporation and provided NMa with insight into their actual activities. On the basis of this information the Board is of the opinion that the three parties mentioned last may be deemed to be interested parties, in terms of section 1:2(3) of the General Administrative Law Act. KLM, IATA, BARIN and SAOC shall hereinafter, both severally and jointly, be referred to as "users".
14. Schiphol was given the opportunity to respond to each of the opinions submitted. In the period from February/March 2007, Schiphol availed itself of this opportunity.
15. The opinions (hereinafter "the users' opinions") are set out in Addendum I "Users' opinions and the assessment of the opinions by the Board of Directors" (also referred to as "Addendum I") of this decision, whereby the opinion of the Board is given in respect of each point submitted. In so far as the opinions have given cause for this, this decision has been amended relative to the draft decision granting approval. The aforementioned addendum constitutes an integral part of (the assessment contained in) this decision.
16. In a letter of 17 April 2007, Schiphol stated that it wished to see several corrections made to the allocation system. These were corrections to minor items which did not result in amendments to the principles contained in the allocation system. The respective corrections are set out in Addendum II (hereinafter also referred to as "Addendum II") of this decision. This addendum constitutes an integral part of (the assessment contained in) this decision.
17. In addition to the points raised by the users, the Board requested Schiphol to provide a further explanation of several aspects of the allocation system in order to provide sufficient clarity on the principles applied in the cases in question. The points were accordingly included by Schiphol in the allocation system. These points are also set out in Addendum II of this decision. This addendum constitutes an integral part of this decision.

18. In the same letter of 17 April 2007, Schiphol notified the Board that it had amended its system for allocating costs and revenues in relation to a number of points mentioned in this decision, also in the light of the opinions presented.

This decision of the Board relates to the allocation system supplemented on 20 December 2006, including the amendments set out in the aforementioned letter of 17 April 2007.

3. Financial and administrative structure of the allocation system

19. Schiphol's allocation system contains methods of calculation, on the basis of which the costs and revenues of the aviation activities are allocated. The calculation methods and the financial and administrative embedding of the system are set out in the description of Schiphol's allocation system.¹¹ To increase the readability of this decision, a brief explanation is given below of the steps taken in the financial and administrative allocation of costs.

20. The financial administration runs parallel to the functional organization. In other words, it is based on the departments and the organisation of Schiphol's activities, and results in a number of intermediate steps in the allocation of costs and revenues at the level of four clusters of activities (Business Areas). A Business Area (hereinafter "BA") is a cluster of a number of Product Market Combinations (hereinafter "PMCs"), based on the external supply of a specific product, to a specific customer group, size (turnover, return, asset), risk profile and regulations.¹² The results of the aviation activities are clustered within the system in the BA Aviation, which is subdivided into the PMC Aviation and the PMC Security.

21. The costs and revenues of the first three categories of aviation activities, referred to in paragraph 2 of chapter 1 of this decision, as well as the activities directly related to aviation activities, are allocated to the PMC Aviation.¹³ The costs and revenues of the security activities are allocated to PMC Security.

22. The allocation of costs and revenues to the aforementioned PMCs occurs on the basis of the following three steps:

1. *Primary registration:*

Financial transactions, such as the payment of salaries and wages are coded according to their cost and revenue categories and are then allocated to cost centres. A cost centre coincides with a department or with specific activities of a department.

¹¹ The description of the allocation system has been made available for inspection as an addendum to this proposed decision.

¹² See chapter 4 of the description of Schiphol's allocation system.

¹³ See footnote 4 of chapter 1 of this decision.

2. *Onward charging*

Part of the costs and revenues of the aforementioned cost centres are allocated amongst cost centres by means of so-called onward charging. Onward charging relates to internal deliveries of goods and services between cost centres on the basis of an agreement or contract between departments.¹⁴

3. *Allocation:*

The final step in the allocation process relates to the allocation of amounts after they have been charged by operating units¹⁵ to the PMCs,¹⁶ the so-called allocations. In this step, the costs of production factors, which are used (for efficiency reasons) by numerous PMCs, are once again allocated.

¹⁴ In the description, Schiphol states in detail the situations in which it allocates costs and revenues by means of onward charging.

¹⁵ Schiphol's cost centres are clustered at the level of operating units for participations, referred to as 'operating units (OU)'. One of the operating units is the Aviation operating unit. This operating unit includes both the cost centres which focus entirely or partially on security activities and the first category of aviation activities, described in paragraph 2, and the activities described in footnote 4 of chapter 1 of this decision, which are directly related to aviation activities.

¹⁶ Allocation to PMCs occurs directly from the cost centres within the operating units.

The allocation structure described above can be represented schematically as follows:

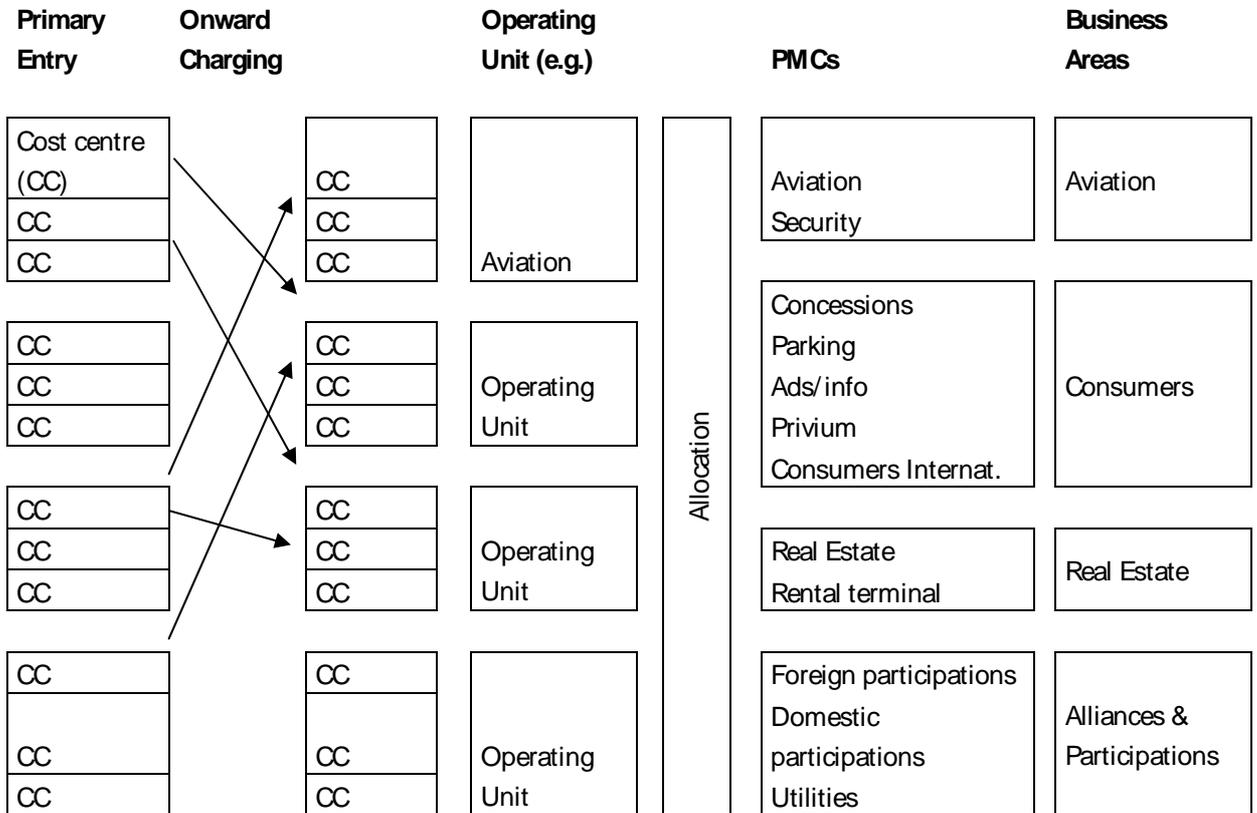


Figure 1: Schematic representation of Schiphol's allocation system

4. Legal framework

23. Section 8.25g(1) of the Aviation Act stipulates, for instance, that the operator of the airport shall determine a system for allocating the costs and revenues of the activities, referred to in section 8.25d(1), which complies with the criteria of market conformity, proportionality and intergrality. Section 8.25g(5) of the Aviation Act stipulates, for instance, that further regulations shall be determined with regard to the structure of the allocation system in accordance with or pursuant to a Decree. The main criteria which the allocation system must meet are described below. More specific rules will be discussed in the assessment made in this decision.

24. The regulations with regard to the allocation system is laid down in sections 8 and 9¹⁷ of the Decree, in its addendum and the Explanatory Memorandum. Section 8(2) of the Decree, stipulates that the allocation system sets out the *principles* on the basis of which the extent to which production factors are used for aviation activities is determined. The allocation system relates both to the principles applicable to simultaneous and sequential allocation of the costs and revenues of aviation activities.
25. The three criteria set out in section 8.25g(1) of the Aviation Act, namely integrity, proportionality and market conformity, with which the allocation system must comply, may therefore be considered to be requirements made in accordance with the principles mentioned in the previous paragraph. These three requirements are explained in the Explanatory Memorandum¹⁸ to the Aviation Act and in section 1.2 of the Explanatory Memorandum to the Decree.¹⁹ The explanations are summarised briefly in paragraphs 26 up to and including 29 below.
26. The requirement of *integrity* means that all costs of production factors incurred for aviation activities must actually be allocated to them and that this allocation takes place in accordance with acceptable accounting principles. To avoid prohibited cross-subsidisation, it is stipulated that the costs of other production factors, not used for aviation activities, may not be allocated to aviation activities.
27. The requirement of *proportionality*, with regard to the principles applied to the allocation system, entails, in short, that the costs must be allocated in proportion to the use of the production factors for aviation activities and non-aviation activities.²⁰ As was stated above, the Board discusses below the way in which the legislator implemented this more specifically in the regulations.²¹
28. According to the Explanatory Memorandum to the Aviation Act, the requirement of market conformity entails "*that the allocation takes place in accordance with generally accepted standards of accounting in this regard and that the charges for deliveries within the company are also in accordance with usual market practice (partly in the light of the shared use of production factors for aviation activities and other activities). This also applies to the compensation for capital costs. The*

¹⁷ Section 9 of the Decree declares that section 8 applies *mutatis mutandis* to the security activities.

¹⁸ Proceedings of the Lower House of the Dutch Parliament, 2001-2002, 28074, No. 3.

¹⁹ See the Decree, *Netherlands Bulletin of Acts and Decrees (Staatsblad)* 2006, No. 333, Explanatory Memorandum, pp. 20 and 21.

²⁰ Proceedings of the Lower House of the Dutch Parliament, 2001-2002, 28074, No. 3. p. 12.

²¹ See paragraph 83 in chapter 5 of this decision and section 8(1), preamble and (d), of the Schiphol Airport Operation Decree [*Besluit exploitatie luchthaven Schiphol*].

system must therefore guarantee an allocation of the cost of both shareholders' equity and debt capital in a manner which is in line with the market."

29. The usual norm which serves as the basis for valuing costs used in the market is worked out in more detail in the Explanatory Memorandum to the Decree by applying the general requirement that the yardstick of the historic cost price is applied to the tangible fixed assets used for aviation activities, in line with the common practice of airports.²² According to the Decree, the requirement of market conformity also gives rise to the requirement that the (net) revenues of aviation-related activities must be taken into account as revenues when determining tariffs and conditions.

5. Assessment

5.1 Introduction

30. The central question in this assessment is whether Schiphol's allocation system meets the above-mentioned requirements of integrality, proportionality and market conformity. Within the framework of these requirements, the Decree stipulates a number of further regulations with regard to the allocation system. In the paragraphs which follow, an assessment is made to ascertain whether the system meets the three statutory requirements. In each case, prior consideration is given to the aforementioned further regulations with which the system must comply.
31. As was stated above, the allocation system comprises the principles in accordance with which an assessment is made of the extent to which production factors are utilised for aviation activities. This assessment therefore relates exclusively to the methods used to allocate costs and revenues to aviation activities and not to the actual application of these methods. This is inherent in the fact that the allocation system, in principle, will be used for a period extending over numerous years. The actual (partial) use of production factors for aviation activities may be subject to change in this future period. The actual allocation of costs and revenues therefore only arises in relation to the periodic determination of tariffs and retrospective financial reporting.
32. A further starting point for the assessment is that the allocation system, with regard to costs and revenues, must result in the most accurate possible reflection of the costs and revenues which must be allocated to the aviation activities.²³

²² See also section 8(6) of the Decree.

²³ See the Decree, explanation per section, in relation to section 8.

5.2 Requirement of integrality

5.2.1.1 Introduction

33. As was stated above, the integrality requirement entails, for instance, that all the costs of production factors (including tangible fixed assets) which are incurred for aviation activities must, in fact, be allocated to these. In the explanation of the integrality requirement, the Decree also states that in order to prevent prohibited cross-subsidisation, the costs of other production factors, which are not used for aviation activities, may not be allocated to aviation activities.
34. The above-mentioned requirements imply, in brief, that neither too many nor too few costs may be allocated to aviation activities. The application of the principles contained in Schiphol's allocation system must therefore result in a compliant splitting or allocation of costs between aviation activities and non-aviation activities.
35. With regard to the integrality requirement, a further condition is that cost allocation to aviation activities must take place in accordance with acceptable accounting principles.²⁴ The Board notes that this requirement cannot be considered in isolation of the above. Applying acceptable accounting principles, after all, results in a compliant splitting of the costs between aviation activities and non-aviation activities. The latter also applies to the proportionality requirement which, in brief, stipulates that costs must be allocated in proportion to the use of the production factors utilised for aviation activities and non-aviation activities. The assessment of the accounting principles therefore also arises when discussing the proportionality requirement.
36. In assessing whether the principles used in the allocation system give rise to a compliant splitting of the costs between aviation activities and non-aviation activities, the Board first investigated whether the structure of the allocation system is consistent with the system for allocating the costs and revenues of aviation activities, prescribed in accordance with or pursuant to the Aviation Act, including the specific requirement that costs are allocated directly or, if this is not possible, as directly as possible.²⁵ The statutory allocation system should result in a situation where the tariffs of the aviation activities as well as certain categories within these activities are cost-oriented.²⁶ The assessment of these requirements is discussed in section 5.2.2.

²⁴ See the Decree, *Netherlands Bulletin of Acts and Decrees (Staatsblad)* 2006, No. 333, Explanatory Memorandum pp. 20 and 21.

²⁵ See section 8(10)(a) of the Decree.

²⁶ See section 8.25d of the Aviation Act.

37. In addition, the general accounting principles described in the allocation system are considered in the discussion of the integrality requirement in paragraph 5.2.3, such as the determination of the principles on the basis of which the capital and result of the aviation activities are calculated and the method of calculating depreciation costs and the invested capital, on the basis of which the cost of capital attributable to aviation activities is calculated.
38. The question as to whether Schiphol applies acceptable accounting principles to the allocation of costs, as was mentioned above, also arises in relation to the assessment of the allocation keys in accordance with the proportionality requirement. As was stated above, in accordance with the proportionality requirement the costs must be allocated in proportion to the use of the production factors for aviation activities and non-aviation activities. The accounting principles, which apply in this regard, relate primarily to the way in which the costs to be allocated are calculated and to whether the allocation keys applied to the allocation of these costs provide a correct yardstick for determining the production factors.
39. The requirement that the costs of other production factors, which are not used for aviation activities, may not be attributed to aviation activities in order to prevent cross-subsidization is explicitly stated in section 8(1)(c) of the Decree. The assessment of this principle, in addition to the submissions made in the opinions submitted by the users in this regard, returns, in particular, in the allocation of the so-called strategic purchase of land. The assessment of the above-mentioned provision is dealt with in section 5.2.4.²⁷
40. An assessment of Schiphol's allocation system is given below on the basis of the requirement of integrality. A number of opinions were also submitted by users in relation to the requirement of integrality. See paragraphs 1 up to and including 66 of Addendum I of this decision

²⁷ As has been stated, there is an overlap between this and other requirements. Whether prohibited cross-subsidisation exists in accordance principles applied in the allocation system, partly arises in relation to the above-mentioned assessment of the structure of the allocation system and the acceptability of the accounting principles applied. If, for instance, Schiphol were to state in relation to the structure of the allocation system that it would also allocate the costs of consumer parking (i.e. a non-aviation activity) to the regulated aviation activities, this would not only be in conflict with the statutory structure, but would also constitute prohibited cross-subsidisation. In the case of an allocation key in relation to the cost of the shared use of a production factor, which does not correspond to the actual use of the production factor, this may result in a situation where too great a proportion of the costs of the production factor are allocated to the regulated activities. In other words, if the principles contained in the allocation system result in a situation where the costs and revenues are allocated in accordance with the statutory system and the principles applied in the allocation system are acceptable in accounting terms, on the basis of the structure and the principles contained in the allocation system, prohibited cross-subsidisation does not occur.

"Opinions of users and assessment by the Board of Directors" for the opinions and the Board's assessment of these. This assessment in Addendum I is a supplement to the assessment below by the Board.

5.2.2 *Structure of the allocation system*

5.2.2.1 *Consistency with the prescribed statutory system for allocating costs and revenues*

41. Section 8.25d of the Aviation Act contains a system from which it follows that the tariffs of the first three categories of aviation activities, referred to in paragraph 2 of chapter 1 of this decision, namely (1) the taking off and landing of aircraft, (2) the parking of aircraft and (3) the processing of passengers of aircraft and their baggage in relation to the taking off and landing of aircraft, must be entirely cost-oriented. In addition, the tariffs for the fourth category, namely security activities, must be entirely cost-oriented.
42. Schiphol's allocation system relates firstly to the allocation of Schiphol's costs and revenues as a whole, including the consolidated figures for investments. As was stated in paragraph 21 of chapter 3 of this decision, separate registration takes place within the allocation system of amounts that can be allocated at the level of the PMC Aviation and the PMC Security. In the description of the allocation system, the activities which belong to these PMCs are specified. These activities comprise the aviation activities stipulated in the Aviation Act and the subdivision complies with the structure that is legally prescribed. The respective PMCs are referred to in this decision as "aviation PMCs".
43. Schiphol allocates the amounts which can be allocated to the so-called aviation-related activities to the PMC Aviation.²⁸ By allocating these amounts in this way, Schiphol complies with the requirement stated in section 8.25d(5) of the Aviation Act.
44. The costs charged for aviation activities are calculated for the respective aviation PMCs as a result after the allocation of services delivered internally. In the statement of operating income and expenditure of the respective aviation PMCs, in several cases the costs and revenues of services provided externally to non-users, in terms of the Aviation Act, are also included in the calculations. The costs and revenues of the Fire Department at Schiphol Airport form an example of this. In so far as these activities relate to the combating of fires in buildings, this is a task of the Municipality of Haarlemmermeer and is not an aviation activity. The combating of these fires is carried out by Schiphol's Fire Department, for which the Municipality of Haarlemmermeer pays Schiphol a fee. Both this fee and the costs attributable to combating

²⁸ See the description of Schiphol's allocation system: Allocation key A6 OU Aviation.

fires in buildings are reported in the statement of operating income and expenditure of the PMC Aviation. The security activities of the railway station are another example.

45. The Board has assessed all these cases, as expressed in the allocation system, and deems this method of allocation acceptable. Firstly, Schiphol has provided an insight into the way in which it calculates the costs and revenues of these non-aviation activities. In addition, this method of allocating costs and revenues—and the internal allocations—is consistent with Schiphol's organisational structure. From the point of view of efficiency, for instance, it would be suboptimal to split Schiphol Airport's Fire Department organisationally into a separate Fire Department for combating fires in buildings and a separate Fire Department for combating fires in aircraft. In general, the organisational structure of Schiphol is the result of the fact that Schiphol carries out other activities in addition to aviation activities. As a consequence of this, joint departments exist (or have arisen) which also provide services for non-aviation activities.
46. Above all, it is important to note that the tariffs of the respective activities are calculated on a cost-effective basis²⁹ and in accordance with the principles, so that the allocation of costs to aviation activities is sound. In other words, in accordance with these principles no costs of the respective activities are allocated to the first three categories of aviation activities and the tariffs for providing security, and the tariffs of these activities are entirely cost-oriented in accordance with these principles.
47. With regard to the attributable costs and revenues of assets for automatic border crossing, a situation has arisen where the costs of these assets are attributed to security activities and revenues are generated from this service, which are attributed to PMC Privium.³⁰ These revenues are attributable to the activity "automatic border crossing". In this regard, Schiphol applies a correction to the allocation system by deducting the revenues attributable to the PMC Privium from these costs. As a result, on balance no costs for automatic border crossing are charged to users. In allocating the revenues attributable to PMC Privium, the respective revenues are therefore assumed to be equal to the costs of the production factors for automatic border crossing.
48. The Board is of the opinion that the above-mentioned method of allocation is in accordance with the above-mentioned prescribed statutory system for allocating costs and revenues.

²⁹ In this regard, see the assessment of the proportionality requirement in this decision.

³⁰ This relates to the service provided to aircraft passengers by Schiphol. Subject to payment, passengers may make use of facilities, such as automatic border crossing and preferential parking.

5.2.2.2 Direct allocation of costs and revenues

49. A second point—in addition to consistency with the statutory structure—in assessing the structure of the allocation system is whether the costs are attributed to aviation activities directly or, if this is not feasible, as directly as possible.³¹ This means that the costs of aviation activities must be attributed to the separate PMCs, namely Aviation and Security, without intermediate steps or with as few as possible.
50. The Board notes firstly that the allocation system has been set up in such a way that a large portion of the costs and revenues are allocated directly to aviation activities. This structure has been set up in such a way that a large portion of the attributable costs and revenues are registered directly with (administrative) departments (within the Aviation operating unit), of which the costs and revenues are allocated to the operation of aviation activities. Within the Aviation operating unit, a clearly visible distinction is made between (administrative) departments, the costs and revenues of which are attributed to the first three categories of aviation activities (PMC Aviation), or the security activities (PMC Security), referred to in paragraph 2 of this decision.
51. Secondly, the Board notes that part of the costs are sometimes allocated to aviation activities through several intermediate steps. In this regard, it sometimes occurs that departments, referred to as part of the Aviation operating unit, deliver services partly to departments outside this operating unit. The costs of the latter departments are then separately attributed directly or indirectly once again in the statement of income and expenditure of the aviation activities. The costs of the lockable spaces in the terminal complex used for aviation activities are an example of this. These costs are partly charged by the Aviation operating unit to Schiphol Real Estate (SRE), after which the Aviation operating unit, in fact, rents the premises back from Schiphol Real Estate. The reason that the costs are not charged directly relates to the way in which Schiphol is managed. The costs of real estate, operated by SRE, are made transparent from a management point of view in SRE and are then attributed to aviation activities.
52. The Board deems this method of allocation to be in accordance with the provisions of section 8 of the Decree, due to the fact that the way in which Schiphol is managed relates to the *de facto* multidisciplinary nature of Schiphol's activities and due to the fact that Schiphol has stated that by doing so it is possible to ensure that the entries are traceable in the financial administration.

³¹ See the Decree, section 8(10)(a).

5.2.2.3 Interim conclusion

53. In accordance with the above, the Board concludes that the structure of the allocation system corresponds to the provisions in this regard in the Aviation Act and the Decree, as stated above.

5.2.3 Accounting principles for determining and allocating costs

54. As was stated above, in assessing whether the system of allocation meets the integrality requirement, the question also arises as to whether the principles for determining and allocating costs to aviation activities, described in the allocation system, as such may be regarded as acceptable from an accounting point of view. As was stated in paragraphs 37 and 38 of this chapter, in the discussion of the integrality requirement in this decision, all the relevant principles described in the allocation system are discussed except the principles applied to the allocation of jointly used production factors. The latter principles will be dealt with in the discussion of the allocation keys on which these costs are based in relation to the proportionality requirement.
55. A common feature of the principles discussed in this part of the decision is that they serve as a general basis for calculating the costs and revenues of aviation activities in this allocation system or relate specifically to the sequential breakdown of costs. The assessment of this part of the decision on the basis of the accounting principles discussed may be subdivided into two main issues: (1) the principles used to determine the capital and result of aviation activities and (2) the principles used to calculate the costs of durable production factors and, closely related to this, the capital invested in this (the so-called 'regulatory asset base' or RAB). Finally, with regard to the acceptability of the cost allocation, attention is paid to the onward charging of costs for aviation activities for which third parties submit claims to Schiphol.

5.2.3.1 General principles for determining the capital and the result

56. With regard to the general principles for determining the capital and the result, Schiphol states in the description of the allocation system for aviation activities that it applies the principles which it uses for its external annual accounts, which are based on International Financial Reporting Standards (IFRS), such as the principle of continuity, the principle of permanence of methods, and the accrual principle and the causation principle.³² Schiphol also states that in the event that these principles conflict with conditions explicitly stated in the Aviation Act, the Aviation Act prevails when determining tariffs and reporting on these. The Board deems the

³² As explained in more detail in chapter 5 of the description of Schiphol's allocation system.

application of these principles by Schiphol to be correct for the purposes of economic regulation within the framework of the Aviation Act.

5.2.32 *Depreciation and the Regulatory Asset Base*

Depreciation

57. In assessing the allocation system, NMa paid considerable attention to the principles applied to the sequential determination of the cost of durable production factors used for aviation activities (depreciation costs). This is entirely in line with the legislation and regulations which, in addition to the general requirement that costs should be determined and allocated on the basis of generally accepted accounting principles, stipulate that considerable attention should be paid to the way in which the costs of durable production factors are calculated. For instance, section 8(6) of the Decree states that tangible fixed assets, allocated to aviation activities, must be depreciated using a method of depreciation stated by the operator which is consistent with generally accepted accounting principles.
58. Bearing in mind the above-mentioned principle, in assessing the calculation of depreciation costs, NMa assessed the allocation system in relation to the following aspects: (1) the acceptability in accounting terms of the depreciation methods applied and the principles on the basis of which the depreciation terms are determined, (2) the acceptability in accounting terms of Schiphol's reasons for deviating from the methods of appreciation and (3) the way in which any changes to the depreciation methods and terms are reflected in the depreciation costs and the invested capital. The three assessment criteria mentioned above are based on the general principle that the level of depreciation costs must correspond to the use of the asset over time.
59. Schiphol states that it depreciates its durable production factors, which are subject to technical or economic obsolescence, by means of the straight-line method and, in the case of the fifth runway, on the basis of the "unuity" method prescribed in the Decree.³³ Schiphol applies a system of standard depreciation terms, which are based on the economic life of the tangible fixed assets. The standard depreciation terms are applied to a refined categorisation of the material fixed assets and assets are depreciated separately. In the case of a number of

³³ See the Decree, section 8(7) and see chapter 5 of the description of the allocation system. The Decree describes this method of depreciation as follow (Article 1 sub g): "[...] the method used for depreciating tangible fixed assets characterised by initial overcapacity (projected capacity less the expected demand for Airport air traffic, transport of passengers and cargo), in such a way that this results in a maintained amount of depreciation and cost of capital per unit of use for their expected useful life, as anticipated at the time of the investment decision."

important assets, the assets are also broken down into components. These are parts of an asset which clearly have a different economic life.

60. With regard to the assessment of the depreciation terms applied, the regulations on the basis of which the Board assesses the allocation system do not, as such, contain explicit criteria. Nevertheless, the Board has carried out an assessment of these terms,³⁴ albeit a marginal assessment. The depreciation terms, after all, partly determine the calculation of the costs of the aviation activities. The principle applicable to the above-mentioned assessment is that the terms must be generally accepted from an accounting point of view. The assessment based on this principle has shown that there is no indication that any of the depreciation terms applied deviate from generally accepted accounting principles.
61. The aforementioned finding is supported by the following. The depreciation terms included in the allocation system correspond to the depreciation terms used for Schiphol's external annual accounts,³⁵ which have to comply with IFRS standards. The drawing up of the external annual accounts in accordance with these principles is subject to an independent audit. In relation to the depreciation terms to be applied, the following IFRS provisions (IAS 16) are relevant: (1) paragraph 51: "The residual value and the useful life of an asset should be reviewed at least at each financial year-end." and 2) paragraph 57: "The estimate of the asset's useful life is a matter of judgement, based on the experience of an entity with similar assets.". These provisions of IFRS imply that the depreciation terms may also be the subject of annual audits by Schiphol's independent auditor. Together with the principle mentioned above, namely that Schiphol's depreciation terms are based on the economic life of the assets, this provides sufficient guarantee that the depreciation terms, as included in the allocation system, are based on principles which are acceptable in accounting terms.
62. In its allocation system, Schiphol states in a number of specific cases that it may deviate from the standard depreciation term. An exhaustive list of the respective reasons is given in the description of the allocation system.³⁶ In the event of a change in the depreciation method in the interim, the historic depreciation is not adjusted, but the a correction is only made in respect of future depreciation. In the event of a change in the depreciation method in the interim, the depreciation costs, according to the new method, are based on the book value at the moment that the method changes.
63. In addition, Schiphol has stated that the calculation of the depreciation costs of production factors for aviation activities only commences at the moment that these are actually utilised and

³⁴ See Addendum 1 of the description of the allocation system.

³⁵ See chapter 5 of the description of Schiphol's allocation system.

³⁶ See chapter 7 of the description of Schiphol's allocation system.

that the allocation of depreciation costs to aviation activities ceases as soon as they are no longer used for this purpose.³⁷ This principle is in accordance with section 8(3) of the Decree in which it is stated, for instance, that tangible fixed assets may only be allocated to aviation activities after the moment at which their utilisation for that purpose commences.

64. The above-mentioned principles ensure that the method of allocating depreciation costs corresponds to the sequential use of the assets. The Board therefore deems these principles acceptable from an accounting perspective and is accordingly of the opinion that they comply with the provisions of the Aviation Act and the Decree.

Regulatory Asset Base

65. The determination of depreciation costs bears a close relationship to the level of the book value of the capital invested in the respective assets, namely the Regulatory Assets Base (RAB).³⁸ An adequate determination of the RAB is important because the RAB represents the amount on which the cost of capital of the aviation activities have to be calculated in accordance with the system set out in the Decree. The level of the invested capital is also determined by the production factors used for aviation activities which are not depreciated (such as land).
66. To reach a conclusion on whether acceptable accounting principles have been applied in calculating the RAB, it is not only necessary that depreciation costs are calculated according to acceptable accounting principles. It is also important to establish the criteria which Schiphol applies in deciding which assets are included in the RAB. In addition, it is important to ascertain the method according to which the amount to be capitalised in the RAB is calculated in its entirety, in addition to the calculation of depreciation costs discussed above. This is necessary to assess whether the method of calculation of the RAB meets specific rules set out in the Decree and to ascertain whether the method of calculation is acceptable in accounting terms, in the sense that the method of calculation ensures that the size of the RAB corresponds to the capital actually used for aviation activities.
67. With regard to the question as to which assets are included in the RAB, Schiphol states that only tangible fixed assets are included in the RAB of the aviation activities after their use for this purpose commences.³⁹ These are assets whose future economic advantages are likely to accrue to Schiphol, the cost price of which can be determined reliably and of which the entire cost price

³⁷ See chapter 7 of the description of Schiphol's allocation system.

³⁸ The book value of the investment capital is determined, for instance, by deducting the depreciation costs from year to year from the cost of acquiring or producing the asset.

³⁹ See chapter 5 of the description of Schiphol's allocation system. This principle is in accordance with section 8(3) of the Decree.

is equal to or greater than €5,000. Schiphol also states that it includes operating software used for aviation activities in the RAB, although according to reporting rules these are intangible fixed assets and the Decree only refers to the inclusion of *tangible* fixed assets in the RAB. The Board deems the allocation of the operating software in question—to be capitalised on the basis of specific IFRS principles—and the application of the other principles referred to in this paragraph to be acceptable in accountancy terms and in accordance with the regulations.⁴⁰

68. With regard to the method of allocating the RAB of assets used for aviation activities, Schiphol applies the following principles. The book value of assets which are used partially for aviation activities are allocated according to allocation keys set out in the allocation system. The RAB is calculated as the average book value of an asset as at 1 January and 31 December of the financial year. In the case of a financial lease from a lease company affiliated to Schiphol, the lease instalments are calculated on the basis of the cost of capital of aviation activities and are also capitalised on the basis of this cost of capital, discounted as of the moment at which their utilisation commences. The above-mentioned method of calculation ensures that a cost of capital is not charged to aviation activities through internal leasing arrangements, which deviates from the cost of capital in accordance with the Aviation Act. The Board deems the application of the aforementioned principles acceptable in accounting terms and (therefore) in accordance with the regulations.

5.2.3.3 Cost of claims

69. In relation to the acceptability in accounting terms of the principles applied in allocating costs, Schiphol allocates and settles costs arising from claims submitted to Schiphol by third parties with aviation activities subject to conditions.⁴¹ The conditions are, for instance, that Schiphol does not allocate or settle administrative and criminal penalties, and penal sums with aviation activities. The same applies to liability claims, arising from gross or serious negligence of (the directors of) Schiphol or companies affiliated to it and the costs of penalties arising from agreements with customers.

⁴⁰ With regard to the inclusion of operating software in the RAB, NMa refers to the following provision in the Explanatory Memorandum to the Schiphol Airport Operation Decree [*Besluit exploitatie luchthaven Schiphol*] (pp. 23 in 24): "In its annual report, in accordance with its articles of association, the airport operator presents a statement of income and expenditure and the fixed assets of the so-called business areas (including the "Aviation business area"). Since this information focuses specifically on annual reporting, these figures may deviate in certain respects from acceptable accounting principles which serve as the basis for determining the tariffs."

⁴¹ See the description of Schiphol's allocation system, Allocation key A7b OU Aviation.

70. The Board is of the opinion that any allocation to and settlement with aviation activities of costs or expenditure of this type would not be consistent with the premise of economically sensible corporate management. The Board is of the opinion that these conditions imposed by Schiphol are therefore in accordance with acceptable accounting principles and feasible in the light of circumstances as known at present.⁴² In terms of responsible management in accordance with accounting principles, such expenditure must be avoided or should be borne by Schiphol itself and/or at the instigation of Schiphol by individual third parties (for instance, an airline company). In addition, if these costs were to be allocated to and settled with aviation activities, the disciplining effect of these financial incentives would be eliminated in advance.⁴³

5.2.3.4 Interim conclusion with regard to accounting principles

71. The Board concludes that the principles discussed above may be deemed to be acceptable in accounting terms and therefore comply with the requirements, as set out in the Aviation Act and the Decree.

5.2.4 Allocation of the costs of production factors not used for aviation activities

72. Section 8(1)(c) of the Decree states that the cost of production factors, which are not used at all for aviation activities, may not be allocated to these activities.

73. The actual meaning of this provision only becomes clear in concrete terms when Schiphol implements the allocation system. Whether Schiphol complies with this provision generally only emerges when the Board exercises in its regulatory duties, for instance in relation to financial reporting by Schiphol. Nevertheless, the allocation system must ensure in advance that the implementation of the allocation system does, in fact, take place in accordance with this provision. In general, in its description of the system of allocation, Schiphol has stated that the system of allocation complies with this provision.⁴⁴

⁴² Experience in applying the allocation system will, in any event, be taken into account in decision-making in this respect with regard to the approval of the allocation system submitted to the Board for approval in the future.

⁴³ This also means that, in fairness, the revenues from bonuses –generated in terms of the type of performance contracts which Schiphol has at present – may remain outside the allocation and settlement of the revenues of aviation activities. This applies unless these revenues have the *de facto* nature of prices differentiated according to quality.

⁴⁴ See chapter 5 of the description of Schiphol's allocation system. In this chapter, Schiphol states that it applies the principle that the cost of production factors which are only used for aviation activities are allocated entirely to these. The costs of production factors, which are partially used for aviation activities and other activities, are allocated in accordance with the *de facto* use of these production factors for these activities. In addition, these

74. The question as to whether the system meets this requirement in concrete situations arises, for instance, in relation to the allocation of so-called strategic acquisition of land. The strategic land relates to land which is currently used for growing crops, which Schiphol purchased in past years at the moment that this land was offered for sale on the market. According to Schiphol, this land was acquired to make possible the future development of both aviation activities and commercial activities. The land for aviation activities includes, for instance, land for the future development of a possible new (sixth) runway on which aircraft can land and take off and a new passenger terminal.
75. Schiphol will not allocate this land to the Regulatory Asset Base for aviation activities while the land is not used for aviation activities.⁴⁵ At the moment that utilisation of the land for aviation activities commences, Schiphol will increase the value of the land by the interest attributed which is chargeable during the construction period (capitalisation) for the five years prior to the moment at which utilisation commences, in so far as Schiphol holds the economic title to this land during this period. Capitalisation will only take place on the basis of the risk-free rate, as stated in the Decree. Any revenues generated in the respective period from this land (for instance, from agricultural leases) will be deducted from this capitalised value (and will be capitalised for the same period). The net additional capitalised value determined by this method will not be depreciated after utilisation commences. After the moment at which utilisation of the land commences, capital costs will be allocated on the basis of the net additional value, in accordance with the Aviation Act.
76. The above-mentioned method of allocation is consistent with the possibility offered by the Decree of charging interest payable during the construction period on the assets under construction.⁴⁶ By assuming a maximum period of five years, the capitalisation may be considered to be compensation for the period in which the project is actually under construction, namely the years immediately prior to completion of the project.
77. Applying the low interest-free rate for a maximum period of five years also ensures that the capitalised value is not considerably higher than the historic purchase price,⁴⁷ which Schiphol paid for the land. In this regard, it should be borne in mind that it is conceivable that Schiphol may possess land for longer than the five years mentioned above before it actually utilises this

principles have also been declared applicable specifically to the calculation of the RAB and the depreciation costs. See again the description of the allocation system in chapter 5 and chapter 7 respectively.

⁴⁵ See the description of Schiphol Real Estate's allocation key in Schiphol's allocation system.

⁴⁶ See the addendum to the Decree.

⁴⁷ See section 8(6) of the Decree. "The value of the tangible fixed assets, allocated to the aviation activities, in accordance with subsection (3), is determined on the basis of historic cost."

land for aviation activities.

78. Above all, Schiphol may not pass on capital costs to users for as long as the land is not actually used for aviation activities.
79. In addition, the Board approves the method of allocation on the grounds that Schiphol has the objective of becoming a so-called 'mainport'. If it were not to make this purchase in time, Schiphol may encounter problems maintaining the airport as a mainport and to ensure that it can continue to offer sufficient capacity for aviation in the Netherlands. The purchase of the land in this regard is also in the interests of users of the airport. This objective to become a mainport is set out in section 8.3⁴⁸ and section 8.25a^{49 50} of the Aviation Act.
80. On the above-mentioned grounds, the Board concludes that the system of allocation meets the requirements set out in section 8(1)(c) of the Decree, namely that the costs of production factors, which are not used at all for aviation activities, may not be allocated to these activities on the basis of the principles set out in the allocation system.

5.2.5 Interim conclusion with regard to the requirements of integrity

81. The Board concludes, on the grounds set out in the previous paragraphs, that Schiphol's allocation system meets the requirement of integrity.

⁴⁸ Section 8.3: "The exercise of the powers, arising from this chapter, focuses on promoting the optimal use of the airport as a high-quality intersection of national and international aviation traffic, taking into account limits which are necessary with a view to safety, noise pollution, local air pollution and odour pollution."

⁴⁹ Section 8.25a: "The airport operator is obliged to operate the airport and, in accordance with section 8.3, provides the facilities which are required for the proper handling of airport aviation traffic and the flows of persons and goods at the airport relating to this."

⁵⁰ The obligation to operate the airport, set out in section 8.25a, guarantees the public interest in the continuity of Schiphol as a mainport. The obligations imposed on the operator in this section are the obligation to operate the airport and to provide facilities necessary for the proper handling of airport aviation traffic and the flows of persons and goods at the airport relating to this. The concept of "operation" includes all action taken by the operator in the economic interests of the airport. Such action is not limited to measures to maintain the airport, such as maintenance activities, but also extend to making necessary investments or other business decisions, which benefit the operation of the airport. These include, for instance, the construction of runways for taking off and landing, terminals, access roads, parking facilities and connections to public transport facilities.

Proceedings of the Lower House of the Dutch Parliament, 2001-2002, 28 074, No. 3, p. 8.

5.3 Requirement of proportionality

5.3.1 Introduction

82. As appears from the Explanatory Memorandum to the Aviation Act, the requirement of proportionality means that the costs must be allocated in proportion to the use of the production factors for aviation activities and non-aviation activities.⁵¹
83. This requirement corresponds to the requirements stated in section 8(1)(d), namely that the cost of production factors, which are partially used for aviation activities and partially for other activities, must be allocated in accordance with the actual utilisation of these production factors for aviation activities. With regard to the tangible fixed assets, which are used partially for aviation activities, section 8(5) of the Decree stipulates the requirement that these assets must be allocated on the basis of allocation keys tailored to these activities and included in the allocation system. These principles are consistent with the most important criterion for assessment in accounting terms in relation to the allocation of shared costs: the cost causality or cost causation principle.
84. To assess whether costs are allocated in proportion to the utilisation of production factors, it is important to ascertain how Schiphol has determined or calculated the costs to be allocated. For instance, when allocating the costs of production factors which are shared and permanently used by various services, in general the criterion applies that all costs relating to a particular production factor should be included in calculating the costs to be allocated to the various services and that not only the directly attributable costs should be allocated to a particular service. In the case of permanent shared use of a production factor for various services, it may be argued that all services make a permanent demand on the capacity of the production factor and that they all therefore make a causal contribution to the wastage of the respective production factor. Section 5.3.2. contains a discussion of these and other aspects relating to the allocation of costs.
85. In assessing the allocation keys contained in Schiphol's allocation system, which allocates the calculated costs of the various departments of Schiphol to the various internal and external customers of Schiphol, NMa also considered whether the allocation keys applied are an adequate measure which gives expression to the extent to which the customers make use of the services of Schiphol's respective departments. This relates, in general, to a yardstick for consumption or use of the production capacity of the production factors used by the respective departments. In this regard, NMa also paid attention to the way in which and the frequency

⁵¹ See also the Explanatory Memorandum to the Aviation Act, p. 12.

with which shared use is measured. These aspects of the allocation system are discussed in section 5.3.3.

86. It is important to emphasise that the above-mentioned aspects may be distinguished in an assessment of the proportionality requirement, but cannot be separated. The aspects weigh equally heavily in the assessment of whether costs are allocated in accordance with the principles of the allocation system in proportion to the use of the production factors for aviation activities and non-aviation activities.
87. The above-mentioned aspects are discussed in this decision in general terms. With regard to the concrete allocation keys, this decision will consider the allocation keys which Schiphol considers to be the most important allocation keys due to their volume,⁵² which were given special attention during the preparation of this decision. NMa examined all the allocation keys set out in Schiphol's allocation system in relation to the above-mentioned aspects. The conclusions drawn in this decision with regard to the proportionality requirement therefore apply to all the allocation keys.
88. An assessment of Schiphol's allocation system is given below on the basis of the requirement of proportionality. A number of opinions were also submitted by users in relation to the requirement of proportionality. See paragraphs 67 up to and including 182 of Addendum I of this decision "Opinions of users and assessment by the Board of Directors" for the opinions and the Board's assessment thereof. This assessment in Addendum I is a supplement to the Board's assessment that follows below.

5.3.2. *System of calculating allocable costs*

89. The assessment of the method of calculating allocable costs applies to all allocation keys. The first aspect in this regard relates to whether the costs are included in calculating the allocable costs.
90. In its allocation system, Schiphol applies the general principle⁵³ that the allocation of shared costs is based on the calculation of the full cost. This means that all costs of the production factors used by a subdepartment to produce a service are included in calculating the allocable cost.⁵⁴ These are the directly attributable costs, depreciation and the cost of capital of the

⁵² Most of these allocation keys – in addition to the description in the addenda – are also described in chapter 5 of Schiphol's allocation system.

⁵³ See chapter 5 of the description of Schiphol's allocation system.

⁵⁴ This principle is applied both to the internal allocation of costs and to situations in which non-users, in terms of the Aviation Act, are charged for services provided within the framework of the operation of aviation activities

respective production factor⁵⁵ and various overhead charges for the staff of the respective departments, the staff of the business area and, as appropriate, overhead charges for the cost of Schiphol's central Personnel & Organisation Department and Schiphol's Facility Services Department. In addition, throughout the allocation system, for each allocation key Schiphol has further specified the cost categories included in the calculation and the types of assets for which costs are calculated. The transparency of the calculation of asset costs is further increased by means of a general statement⁵⁶ which lists, for each category of assets, the (sub)departments with which the assets are registered, the PMC to which the costs are allocated and the allocation key by which the costs, after onward charging, are allocated to a PMC.

91. The degree of detail with regard to separate asset categories was also a separate aspect of the assessment of the way in which allocable costs are calculated. In general, it may be stated that the more refined the determination of the asset costs for the purpose of calculating the allocable costs, the better the costs calculated correspond to the use of the respective production factor. As was stated in paragraph 59 of this chapter, Schiphol has subdivided the assets into a large number of asset categories, with separate standard depreciation terms, whereby each asset is depreciated separately. This degree of detail contributes to ensuring that the level of depreciation costs corresponds sufficiently to the actual use of the production factor over time.
92. In addition, in relation to the allocation keys which provide a breakdown of the major depreciation and capital costs in relation to the various activities, Schiphol has made a separate division according to assets with a clear difference in age, purchase price and/or utilisation characteristics before these are allocated on the basis of an allocation key. This relates to the terminal building (allocation key A10 Aviation), which is subdivided prior to the allocation of depreciation and capital costs into (fourteen) separate sections of buildings and land-based

(see paragraph 44 of this chapter). In the latter situations, in several cases an exception is made in which the calculations are based on marginal costs (only the additional costs incurred in providing the service). These include, for instance, the revenues from Haarlemmermeer Fire Department and revenues from the sale of flight information from Schiphol Central Information System [*Centraal Informatie Systeem Schiphol (CISS)*] to non-aviation companies. In all these cases, the Board is of the opinion that the reasons for basing these calculations on marginal costs are acceptable in accounting terms in these specific cases.

⁵⁵ The way in which the depreciation and capital costs are allocated may differ for technical, administrative reasons. In a number of cases, depreciation and capital costs are charged during the first step in which costs are allocated (onward charging of costs). In a number of cases, these costs are charged in the second step in the allocation process to the recipient department, by means of the allocation of the capital invested in production factors attributable to the recipient department.

⁵⁶ See Addendum 1 of the description of Schiphol's allocation system.

infrastructure (allocation key A5 Aviation), which is subdivided into seven areas. Partly due to the relatively major importance of the asset value to be allocated,⁵⁷ this method of calculation makes a considerable contribution to ensuring that the costs of relatively expensive and relatively cheap infrastructure are not mixed in situations where there are demonstrable differences in the functionality of the infrastructure. This results in an allocation of costs which corresponds better to the use of the respective production factors by the various customers than would be the case if the costs were calculated at a higher level of aggregation.⁵⁸

93. In relation to operating costs, it was also noted that sufficient refinement occurs prior to the further allocation of the costs to the various uses. This applies, for instance, to the allocation of the operating costs of the terminal complex (onward charging allocation key D18 OU Aviation), one of the most important allocation keys used to allocate many operating costs. A large number of the cost categories (for instance, cleaning costs and energy costs) are first allocated to a section of the building before being allocated to separate users who make use of the respective section of the building.

5.3.3 Allocation keys as a measure of the utilisation of allocable costs

94. The central question in this section is whether the allocation keys used in the system for the costs of jointly used production factors is an adequate measure for expressing the utilisation of production factors for the realisation of aviation activities. As was stated above, not all the allocation keys are discussed in this decision. The only allocation keys discussed in this decision are those which Schiphol considers to be the most important due to their volume. NMa examined all (approximately 75) allocation keys set out in the description of the allocation system. The conclusions in this decision therefore relate to those allocation keys.

⁵⁷ The allocation of the asset value of the terminal complex and the land-based infrastructure by means of allocation keys relates to approximately 30% of the total book value of the tangible fixed assets of Schiphol Airport as a whole in 2006. See the description in Addendum 1.4. of Schiphol's allocation system.

⁵⁸ This can be illustrated by means of the following fictive example. A fictive airport has a terminal complex consisting of two sections of buildings. Building section A – measured in square metres – is used for 80% for aviation activities and for 20% for non-aviation activities. In the case of building section B, which is as large as building section A, this proportion is reversed. On average, 50% of both buildings is used for aviation activities. The annual costs of building section A (relatively old) amount to EUR 1,000, while the annual costs of building section B (relatively new) amount to EUR 2,000. If the building sections are clustered in a single calculation, EUR 1,500 is attributed to aviation activities (EUR 3,000 * 50%). In calculating the costs of the separate building sections, costs amounting to $0.8 * \text{EUR } 1,000 + 0.2 * \text{EUR } 2,000 = \text{EUR } 1200$ are allocated to aviation activities. The latter method of calculation is a better expression of the fact that a relatively large part of the aviation activities takes place in a relatively cheap building.

5.3.3.1 Allocation of the terminal complex on the basis of square metres (allocation key A10 OU Aviation)

95. The allocation in question determines the allocation of the assets costs relating to the terminal building. In general, the costs of the building are allocated as follows. The terminal complex is first divided into fourteen sections of buildings. The cost of a number of specific assets in a section of a building (including the boarding ramps) is allocated entirely to a specific user if they are used only by this specific user. If their use is shared, the purchase price and annual depreciation costs are divided on the basis of the division of the respective building based on square metres. The yardstick used for the division of the floor surface is the number of rentable square metres of floor space, applying the so-called S-NEN 2580 standard. A characteristic of this method of measurement is that certain parts of the building which are used jointly are not included in the rentable floor space (for instance, lifts and stairwells). All these spaces, which are included in the rentable floor space, are then allocated on the basis of square metres to the aviation activities and the non-aviation activities. As a result of the above-mentioned allocation system, the costs of parts of buildings which are used jointly are allocated to the aviation activities and non-aviation activities in accordance with the allocation of square metres of rentable floor space.
96. The further allocation of rentable floor space is based on a number of specific rules (developed by Schiphol). One of the main rules is that the square metres of shops in spaces used both for aviation activities and for shopping areas are calculated by determining the square metres of shopping area and—in addition to this—by attributing one additional linear metre of floor space of the adjacent part of the shared area to the shopping space.
97. Schiphol then makes several important modifications to this starting point. Rest areas, in other words, areas which can logically not be accessed due to the location of a certain commercial function and are therefore not functional for the flow, are attributed to the function which causes the inaccessibility. These include areas which are difficult to access, for instance areas between a shop and the outer wall or a passage which only serves to link commercial spaces. The latter spaces are not attributed to aviation activities.
98. Schiphol also makes a correction for the allocation of the costs of transit areas in Schiphol Plaza above the railway station. A considerable part of this area would be attributed to aviation activities if the above-mentioned principle were applied strictly. In this regard, it is noted that this area is used for numerous purposes in the sense that it is also used for non-aviation passengers in transit, such as commuters employed at the Schiphol site who do not arrive at Schiphol by aeroplane. Schiphol further allocates the costs of these spaces on the basis of counts of passers-by, in which a distinction is made between aviation and non-aviation passers-by.

99. The Board deems the above-mentioned method of allocation to be acceptable in the sense that it corresponds to the actual shared use of parts of the terminal complex used jointly and that therefore the economies of scale which arise because certain sections of the building which are used for numerous purposes are simultaneously expressed adequately in the costs of aviation activities. With regard to this consideration, passengers are not confronted with obstacles, in the sense that they have to walk demonstrably longer distances to the aircraft due to the presence of commercial activities within the sections of the building which are used jointly. This may be the case, for instance, if Schiphol were to organise the spaces accommodating shopping facilities in such a way that passengers would be obliged to take a longer route past the shops than is now the case to reach the aircraft. If in the future Schiphol were to opt for such an arrangement, this may give the Board cause to no longer approve the system of allocating the costs of the respective spaces.

5.3.3.2 Allocation of the cost of land-based infrastructure (Allocation key A5 OU Aviation)

100. For the allocation of land-based infrastructure,⁵⁹ Schiphol has included an allocation of costs in the allocation system which consists of two steps: (1) costs are allocated to various areas and (2) the costs calculated per area in relation to step (1) are broken down according to PMCs, on the basis of assumptions with regard to traffic. In calculating the allocation of costs per area in the first step, direct costs and depreciation and capital costs are allocated directly to the area where these costs are incurred, and maintenance costs and the cost of horticultural services are allocated to the areas on the basis of traffic intensity. The remaining costs are allocated on the basis of the historic purchase price per area.

101. The Board accepts this method of calculation and allocation. The costs are allocated as far as possible to the areas and the various uses of an area. With regard to maintenance costs, these are based on a contract with a customer, which applies to the entire land-based infrastructure. Schiphol does not know exactly, nor can it determine in advance, the precise areas in which activities will be carried out within the framework of these contracts. The Board deems traffic intensity to be a good yardstick for allocating maintenance costs per area because it is plausible that the level of maintenance varies to a large degree depending on the intensity of traffic in the various areas.

5.3.3.3 Allocation of costs relating to head-office staff (Allocation key A5 OU Aviation)

⁵⁹ Land-based infrastructure of the airport. This relates generally to all infrastructure situated on the outdoor areas of the airport, with the exception of land used for the landing, taking off and parking of aircraft (the runways for landing and taking off and the platforms).

102. By means of this allocation key, a breakdown is provided of part of the costs of head-office staff. This relates, for instance, to the cost of the Management Board and the Supervisory Board, the Corporate Control department and the Corporate Communication department. Schiphol allocates these costs in proportion to the allocation of costs per PMC after onward charging has taken place. This allocation key complies with section 8(10)(b) of the Decree, which stipulates that costs which cannot be allocated directly, or as directly as possible, to a certain activity, must be allocated proportionally in relation to the aviation activities' share of the total costs.

5.3.3.4 Allocation of operating costs of the terminal complex (onward charging allocation key D18 OU Aviation).

103. By means of this allocation key, the operating costs of the terminal complex are allocated to the various users of the terminal complex. This relates, for instance, to cleaning services, energy costs (gas and electricity) and the cost of water consumption. With regard to water and energy, all the costs are allocated using this allocation key (the costs of mains systems, energy transmission systems and the water itself). The energy costs are allocated on the basis of a yardstick whereby energy costs are first determined per functional area (areas in the terminal complex with equivalent energy intensity). After this, the functional areas are translated into PMCs, which make use of these functional areas, and the costs per functional area are allocated on the basis of the use made of square metres of surface area by the respective PMCs. The cost of water is allocated in accordance with the division of square metres of the entire terminal building. The cost of cleaning services is first allocated to a floor of part of a building before a breakdown is made in accordance with the allocation of square metres of the floor to users.

5.3.3.5 Method of measurement and frequency of measurement

104. During the preparation of this decision, NMa also paid attention to the way in which Schiphol measures the yardsticks used to allocate costs and the frequency with which this occurs. Schiphol has included further information in the allocation system in relation to all the yardsticks to which this is relevant.

105. Due to the level of the costs to be allocated, special attention was paid to the method and frequency with which measurements were made with regard to the allocation of square metres in the terminal complex. The allocation of square metres is used as the basis for allocating costs in the subsequent year. In the event that the tariffs are adjusted on 1 April of any year (after having been set at the latest on 1 November of the preceding year), a reference date of 1 July of the preceding year will be assumed. Schiphol has designed the system in such a way that if the tariffs are adjusted on 1 November of any year (the tariffs are determined at the latest on 1 June of the respective year), a reference date of 1 January prior to this or, if possible, a more

recent date is used. If the adjustment in tariffs on 1 November only relates to the tariffs for security activities, the measurement as at 1 July of the preceding year is used. In addition, Schiphol has included in the allocation system the requirement that the square metres of temporary displays in the terminal complex should also be included in the measurement.

106. The Board is of the opinion that the above-mentioned method and frequency of measurement provides a sufficiently up-to-date and representative picture of the total allocation of square metres in the terminal complex. The method, whereby the reference date of 1 July of the preceding year is used as the reference date for the allocation of square metres in the building complex if tariffs for security activities are adjusted on 1 November, is acceptable. This is based on the assumption that this adjustment of tariffs is generally not caused by a change in the allocation of square metres.

5.3.36 Conclusion with regard to the proportionality requirement

107. In the light of the considerations described in the above paragraphs, the Board concludes that Schiphol's allocation system meets the requirement of proportionality.

5.4 Requirement of market conformity

108. As is apparent from the Explanatory Memorandum to the Aviation Act, the requirement of market conformity means *"that the allocation takes place in accordance with generally accepted standards of accounting in this regard and that the charges for deliveries within the company are also in accordance with usual market practice (partly in the light of the shared use of production factors for aviation activities and other activities). This also applies to the compensation for capital costs. The system must therefore guarantee an allocation of the cost of both shareholders' equity and debt capital in a manner which is in line with the market."*⁶⁰

109. The usual standard applied in the market as the basis for valuing costs is worked out in more detail in the Explanatory Memorandum to the Decree by applying the general requirement that the yardstick of the historic cost price is applied to the tangible fixed assets used for aviation activities, in line with the common practice of airports (see also section 8(6) of the Decree). For the rest, the Explanatory Memorandum to the Decree also states that it follows from the requirement of market conformity that the (net) revenues from activities directly related to aviation activities (as set out in section 2(2) of the Decree) should be included as revenues. The question as to whether the allocation system meets this requirement has already been discussed in section 5.2.2.1.

⁶⁰ See the Explanatory Memorandum, p. 12.

110. The following paragraphs will pay attention to whether allocation occurs in the accounts in accordance with generally accepted standards and whether the tangible fixed assets are allocated in accordance with the principle of historic cost. Finally, attention will be paid to whether the method of determining the cost of capital proposed by Schiphol complies with the principles described in the addendum to the Decree.
111. An assessment of Schiphol's allocation system is given below on the basis of the requirement of market conformity. A number of opinions were also submitted by users in relation to the requirement of market conformity. See paragraphs 183 up to and including 184 of Addendum I of this decision "Opinions of users and assessment by the Board of Directors" for the opinions and the Board's assessment of these. This assessment in Addendum I is a supplement to the assessment below by the Board.

5.4.1 *Schiphol's accounting*

112. With regard to whether Schiphol's costs are allocated in its accounts in accordance with generally accepted standards, the Board concludes that this is the case. As is illustrated in chapter 3 of this decision, the allocation of costs occurs in the order of primary registration at the level of cost centres, followed by internal onward charging of costs between cost centres and finally to the allocation of cost centres to cost components.⁶¹ This is the usual method of allocation.
113. The allocation system therefore corresponds closely to the accounting system, which also serves as the basis for Schiphol's external annual accounts of, which have to meet the requirements of IFRS. These annual accounts, as such, are the subject of an independent audit.⁶²

⁶¹ The cost components are the services provided by Schiphol's various PMCs.

⁶² The internal guidelines (principles), with which the recording of data for Schiphol's external reporting must comply, are set out in Schiphol's accounting manual. A number of principles in the accounting manual also apply to the allocation system within the framework of the Aviation Act. However, this is not the case in all respects. Reporting, within the framework of the Aviation Act, deviates in a number of respects from external reporting. For instance, in the system of allocation in accordance with the Aviation Act, goodwill is not recognized in the statement of income and expenditure, while this is the case in the external annual accounts. The principles relevant to the allocation system in accordance with the Aviation Act are described extensively in the allocation system because the allocation system, in accordance with the Aviation Act, ought to give rise to a separate set of principles. Schiphol's accounting manual is therefore not included as an addendum to the allocation system.

Schiphol has stated that the calculations (such as the calculation of depreciation), which are separate from the accounts, are carried out and recorded in a verifiable manner.

5.4.2 Principles applied in the valuation of tangible fixed assets

114. Schiphol has designed the allocation system in such a way that all the costs of tangible fixed assets, which are used for aviation activities, are priced on the basis of their historic costs. This also applies to the costs of tangible fixed assets which are used for aviation activities, the use of which is charged to aviation users by means of internal transfer pricing. In all such cases, Schiphol applies the principle that the book value of assets which are attributed to aviation activities is based on the purchase price or replacement price which Schiphol paid at the earliest moment in time that Schiphol acquired or produced the asset.⁶³
115. With regard to the internal transfer prices, there is one exception to the principle of pricing on the basis of historic cost price, namely the cost of using Schiphol's head office, which is partly charged to the aviation activities.⁶⁴ The costs charged to the aviation activities are calculated on the basis of 50% of the historic cost. The remaining portion is calculated on the basis of the current market value.
116. The head office is owned by a partnership limited by shares, namely Airport Real Estate Basisfonds (hereinafter "AREB CV"). Through its subsidiary, Schiphol Real Estate BV, Schiphol holds a 50% share in AREB CV. The remaining interest is in the hands of a number of investors. Up until the present, Schiphol has consolidated half of the capital and the result of this partnership limited by shares in its external financial annual report,⁶⁵ for which an unqualified auditor's report has been issued. In its external financial annual report, Schiphol also states that this method of consolidation applies to investments which may be qualified as joint ventures. According to the annual report, this relates to situations where, briefly, control is exercised jointly and unanimously by the participants.⁶⁶
117. In principle, the Board deems it acceptable that Schiphol applies the above-mentioned principle in a situation in which it does not have full *de facto* control of the head office. For instance, in this situation Schiphol is no longer in a position to determine the prices charged for use of the office itself. Under these circumstances, the respective partnership limited by shares—viewed from Schiphol's perspective—in an economic sense occupies the position, to some extent, of an external supplier, rather than an internal supplier, and it is therefore not reasonable to expect

⁶³ See chapter 5 of the description of Schiphol's allocation system.

⁶⁴ See the description of Schiphol's allocation system, Allocation keys A2 and A5 OU Staffing.

⁶⁵ See the financial annual report of the Schiphol Group for 2005, p. 107.

⁶⁶ See the financial annual report of the Schiphol Group for 2005, p. 85.

the costs to be passed on entirely on the basis of the historic cost price. A calculation based on 50% historic costs and the remainder on the basis of the market price is a good reflection of this situation.

118. Despite the fact that the consolidation in question was approved earlier or by an independent auditor, the Board nevertheless conducted a far-reaching investigation into the actual arrangements with regard to Schiphol's control of the partnership limited by shares. To do so, the Board examined the articles of association of AREB C.V. and requested Schiphol to provide a supplementary auditor's report in this respect.⁶⁷ On the basis of all of these data, there is no reason to assume that the *de facto* control relationships are different to the way Schiphol has presented them.
119. The Board is of the opinion that the principles applied by Schiphol in calculating the costs of tangible fixed assets is in accordance with the requirement of market conformity. In addition, the Board is of the opinion that recognizing the costs in this way is more consistent with the principle that internal departments, in principle, should supply internal customers as cheaply as possible.

5.4.3 *Cost of capital of aviation activities*

120. The addendum to the Decree contains a large number of conditions with regard to the way in which Schiphol is required to calculate the cost of capital of aviation activities. The Board notes that the principles described in the allocation system meet these conditions.
121. It should be noted, in particular, that the principles applied in the calculation of the cost of capital result in a robust calculation of the so-called asset beta. The asset beta is a measure of the systematic risk which providers of capital incur if they invest shareholders' equity in aviation activities. The asset beta largely sets the level of the cost of capital.
122. The calculation of the asset beta may be considered robust because firstly it is based on fixed data sources from which the beta data of the airport companies in the reference group are attained. The use of fixed data sources ensures that at various moments as much consistency is possible is achieved in the measurement. In addition, Schiphol's system is based on weekly data for a five-year reference period. Daily listings will be used for the beta data of Aéroports de Paris due to the fact that this airport company has only been listed for a relatively short period. These considerable measurement frequencies provide a sufficiently reliable estimate of beta.

⁶⁷ If Schiphol were to rent the head office from an independent party, in accordance with the Aviation Act, it would be entitled to charge the full rental (determined at its market value), in so far as the costs of the head office can be attributed to the aviation activities.

123. With regard to the composition of the reference group, the rules set out in the Decree gave rise to a situation where Schiphol is required to include as many listed airports situated in the EU as possible (at least four) in the reference group, which are as representative as possible. During the assessment, it emerged that at present there are only four listed airports within the EU that can be included. Schiphol has included these four airports in the reference group and, as a result, meets the minimum requirements of four airports.⁶⁸

124. The Board concludes that the aforementioned method of calculation developed by Schiphol complies with the applicable legislation and regulations.

5.4.4 *Interim conclusion with regard to the requirement of market conformity*

125. On the basis of the considerations set out in the sections above, the Board concludes that Schiphol's allocation system meets the requirement of market conformity.

5.5 Final considerations

126. Schiphol's allocation system—including the amendments following the submission by users of their opinions—must be regarded against the background of the following. Schiphol has presented the Board with a very detailed allocation system. This is necessary in itself to do justice to the complex nature of Schiphol's organisation, which must be viewed in conjunction with the many different activities which Schiphol carries out as a company.

127. The degree of detail of the allocation system is partly determined by the statutory norm that costs must be determined and allocated to aviation activities on the basis of "acceptable" accounting principles.⁶⁹ The allocation system and Schiphol's choices contained therein with regard to the allocation keys meets this statutory norm, in the opinion of the Board.⁷⁰

⁶⁸ A higher measurement frequency ensures that the outcome of the calculation in the dataset is not determined to too great an extent by incidental extreme values for beta at the moment at which the measurement is taken, as a result of which the outcome of the calculation would not be representative of the actual development in the value of beta over time. The effect of incidental extreme values may be countered by making use of as many observations as possible.

⁶⁹ See Decree, *Netherlands Government Gazette (Staatscourant)*, No. 333, Explanatory Memorandum, pp. 20 and 21.

⁷⁰ Taking into account the statutory norm that the allocation system must be as accurate as possible.

128. Finally, consideration must be given to the fact that where an attempt is made to achieve a greater level of detail, despite the above the question arises as to whether in this case the sector is not confronted by additional administrative burdens which exceed the advantage to users resulting from a more refined allocation of costs. The latter would not be in the interests of the sector. Avoiding unnecessarily high additional administrative burdens is not only a principle applied by the Board, but also played a role in the way in which the system of economic regulation of the tariffs and conditions of Schiphol Airport was designed.⁷¹

5.6 General conclusion

129. The Board concludes that the allocation system complies with the requirements of integrity, proportionality and market conformity in and pursuant to the Aviation Act.

6. Decision

130. The Board of the Netherlands Competition Authority hereby decides to approve the system for allocating costs and revenues, in terms of section 8.25g(1) of the Aviation Act in respect of activities, as referred to in section 8.25d(1) of the Aviation Act, as submitted to the Board by Schiphol in its letter of 20 December 2006 and amended by Schiphol in its letter of 17 April 2007, for a period of four years. Amendments to the underlying parameters, which result in changes to the allocation policies, shall not be covered by this decision granting approval .

131. Without prejudice to the above, the Board deems it to be a matter of considerable importance that the administrative burden of the sector be kept to a minimum and to approve the system of allocation for the longest possible period with a view to this. Furthermore, approval for a longer period has the advantage, in principle, that Schiphol and its users have greater certainty with regard to the management of their activities. The Board sees no reason to stipulate that the approval of the system of allocation should apply for a shorter period than the maximum period of four years applicable in accordance with section 12 of the Decree.

This decision shall come into force one day after the publication hereof in the Netherlands *Government Gazette (Staatscourant)*.

Date: 25 April 2007

⁷¹ See Decree, *Netherlands Government Gazette (Staatscourant)*, No. 333, Explanatory Memorandum, pp. 23-26.

Public version

Board of the Netherlands Competition Authority,
on behalf of the Board:

Signed

G.J.L. Zijl

Member of the Board of the Netherlands Competition Authority

Any person whose interests are directly affected by this decision may file an appeal with the Administrative Law Section of the Court of Rotterdam, P.O. Box 50950, 3007 BL Rotterdam within six weeks after publication hereof, subject to the restrictions contained in section 6:13 of the General Administrative Law Act