

Regulatory model for fixing airport charges under the incentive-based model in relation to Copenhagen Airports A/S, cf. BL 9-15, paragraph 4.2.4

1. Objective

The objective of the regulation of Copenhagen A/S' charges is to lay down incentive structures to ensure:

- a. that investments are made in airport infrastructure so that the airport capacity at all times meets Denmark's requirements for national and international, including intercontinental, traffic connections;
- b. that, in order to meet the requirements of society – including the requirements of the business sector – the airport remains a significant hub in northern Europe and thus offers a wide range of point-to-point connections in Europe and significant intercontinental connections;
- c. that the airport offers a high level of service;
- d. that the level of charges is competitive;
- e. that the rate of return to the airport on its aeronautical facilities and services does not exceed a reasonable rate of return; and
- f. that charges are to the widest possible extent fixed in collaboration between the airport and its users (airlines and others).

2. Scope

2.1 The regulatory model lays down normal terms for how charges are fixed for Copenhagen Airport, Kastrup, and Roskilde Airport.

2.2 The scope will be reviewed if the traffic pattern at Roskilde Airport is expanded to include scheduled or charter traffic which is deemed to compete with similar traffic at Copenhagen Airport, Kastrup.

3. Overall description of the model

3.1 When fixing charges, the airport and its users must first seek to reach agreement on the charges for the coming regulatory period through negotiation. See paragraph 4. If they fail to negotiate an agreement, the Danish Civil Aviation Administration will fix annual revenue caps, constituting the maximum aggregate amount which the airport can use for each of the years in the regulatory period as a basis for fixing charges for the use of aeronautical services.

3.2 In either case, Copenhagen Airports A/S will draft proposed schedules of charges to be submitted to the Danish Civil Aviation Administration who will undertake consultation among all users of the airport and subsequently approve the charges. See BL 9-15, section 5.

3.3 If the parties reach agreement on charges, they must also agree on the length of the coming regulatory period. The regulatory period is four years if the charges are not fixed by agreement between the parties.

3.4 In order to ensure coherence between the level of charges and the level of service, the airport and its users must enter into a special agreement on service levels for selected areas of significance for passenger and aircraft flows through the airport, whether or not agreement can be achieved by negotiation. See paragraph 3.1. The agreement must contain a quantification of key performance indicators (KPIs) for each of the selected areas and the principles for how they are incorporated into charges. The agreement must initially be entered into on or before 1 September 2009. The Danish Civil Aviation Administration will fix KPIs and principles for their incorporation into charges if the parties fail to reach agreement. If so, the parties are under an obligation to provide the Danish Civil Aviation Administration with the information it needs by deadlines to be fixed by the Danish Civil Aviation Administration. The agreement and later amendments thereto must be approved by the Danish Civil Aviation Administration. Incorporation into charges will take place for the first time in the charges which come into effect on 1 April 2011. The Danish Civil Aviation Administration shall prepare by 1 April 2009 an aggregate specification of requirements to the wording of the agreement.

4. Fixing of charges by negotiation

4.1 Parties to the negotiations

4.1.1 Copenhagen Airports A/S, the airport's regular users as defined in BL 9-15, section 2, and airlines which either operate 5% of the airport's total take-offs or carry 5% of its passengers may participate in the negotiations. All parties have the option of bringing in advisers. It is recommended that the parties limit participation by advisers as much as possible.

4.1.2 Copenhagen Airports A/S convenes the parties for negotiations and, if applicable, ascertains whether and, if so, when the negotiations are not successful and informs the Danish Civil Administration thereof.

4.2 The role of the Danish Civil Aviation Administration in the negotiations

4.2.1 The Danish Civil Aviation Administration may, with advisers, participate in the negotiations as an observer.

4.2.2 The Danish Civil Aviation Administration may, on its own initiative or at the request of one of the parties to the negotiations, decide to enter into the negotiations as a mediator.

4.3 Time frame

The negotiations will commence on 1 March of the year prior to the end of the current regulatory period and must be completed on or before 1 September of the same year. Copenhagen Airports A/S must then submit proposals for new schedules of charges to the Danish Civil Aviation Administration not later than on 1 December of the same year. See paragraph 3.2. The schedules of charges come into force on 1 April of the first year of each regulatory period.

4.4 Information

In order to ensure an equal and transparent process in which all parties have a sufficient basis for negotiating and in which the Danish Civil Aviation Administration has relevant material at its disposal to fix the revenue cap in the event of a breakdown of negotiations, the parties must present the following information prior to the negotiations in addition to the information required pursuant to EU directives.

4.4.1 By 1 March in the year prior to the end of the regulatory period, at the latest, Copenhagen Airports A/S must provide the following information:

- a. A ten-year plan for the development of the airport, both in terms of traffic and capital expenditure.
- b. An annual statement of the additional return on aeronautical and commercial services respectively, including the amount of revenue, operating costs, depreciation and the return on invested capital. The statement must cover the reference year and the three years immediately preceding that year. The statement must correlate to the audited annual reports and specify the principles applied to allocate revenue, operating costs and depreciation to the aeronautical and commercial activities.
- c. Documentation for budgeted depreciation of aeronautical assets in the year immediately preceding the coming regulatory period and for each of the four years of the coming regulatory period.
- d. The documentation for the amount of budgeted invested capital for aeronautical assets in the coming regulatory period made up as of the end of each of the four years of the regulatory period.
- e. Documentation of efficiency gains, including relevant key figures.
- f. Documentation of costs subject to regulation.
- g. Documentation that KPIs for the level of service have been met. See paragraph 3.4.
- h. An account of known future changes to the airport's cost level.
- i. The airport's proposal for new charges including motivation for the method applied in the calculation of the airport charges.

4.4.2 The airlines which, pursuant to paragraph 4.1.1, can participate in the negotiations must, by 1 January prior to the expiry of the regulatory period, at the latest, provide the information necessary to procure the information Copenhagen Airports A/S must provide, see paragraph 4.4.1, including

- a. three-year traffic forecasts (EU, non-EU, Schengen, non-Schengen, domestic);
- b. ten-year fleet forecasts;
- c. a statement of capacity- and quality-dimensioned service targets;
- d. specific requirements for new facilities.

4.4.3 The parties must sign a confidentiality agreement before participating in the negotiations, see paragraph 4.1.1, and before receiving information, see paragraph 4.4.1 and paragraph 4.4.2.

4.5 Costs relating to regulatory requirements

4.5.1 Existing costs relating to compliance with regulatory requirements, including with respect to security, safety and environmental matters, will be included on the same terms as other costs when charges are fixed by negotiation between the parties.

4.5.2 A negotiated solution must contain provisions on how to handle costs incurred to comply with regulatory requirements that may arise during the coming regulatory period.

5. Charges are not agreed on by the parties (fall back)

5.1 Fall-back model

5.1.1 If charges are not fixed by negotiation between the parties, the Danish Civil Aviation Administration will set revenue caps. The revenue caps will be set as annual caps for each of the years of the revenue cap period. The revenue caps will be set with a view to covering operating costs, depreciation and a rate of return based on efficient operation of the airport. Copenhagen Airports A/S will prepare a proposal for charges for the regulatory period based on the revenue caps. The proposal will be approved by the Danish Civil Aviation Administration. See paragraph 3.2 and BL 9-15, section 5.

5.1.2 The annual revenue caps for the aeronautical facilities and services are composed of the sum of the following amounts:

- a. A cost cap fixed with a view to covering operating costs adjusted for any requirements for efficiency improvements, see paragraph 5.2.3, and regulatory requirements, see paragraph 5.2.4.
- b. A cost cap fixed with a view to covering depreciation and impairment of non-current assets.
- c. An amount for return on equity and debt.
- d. A transfer of additional return from the commercial area (will be deducted from the revenue cap).

5.1.3 The parts of the revenue cap that have not been reflected in charges can be transferred to the subsequent regulatory period.

5.2 Fixing of the cost cap for aeronautical facilities and services

5.2.1 The part of the cost cap that is fixed with a view to covering operating costs will be fixed to comprise the airport's operating cost in the reference year, adjusted for any abnormal costs in the reference year. The calculated operating costs will be adjusted by an average of the index increase/decrease from and including the second quarter of the year after the reference year and four years back. The index increase/decrease is determined on the basis of an index of weighted

components consisting of 70% salaries and wages and 30% materials. The index of salaries and wages is the index of Statistics Denmark on salaries and wages in the private sector (ILON2). The index of materials is the index of Statistics Denmark for domestic supply of goods (PRIS10).

5.2.2 The part of the cost cap that is fixed with a view to covering depreciation and impairment is composed of the expected annual depreciation and impairment charges for non-current assets in the revenue cap period. Depreciation is determined on the basis of the recognised cost of the assets. The recognised cost of the assets is calculated exclusive of any accounting revaluation of the assets to a higher value. Depreciation charges on assets planned to be brought into operation during the revenue cap period will be included in the cost cap with effect from the date they are expected to be brought into operation.

5.2.3 The Danish Civil Aviation Administration has the power to demand efficiency improvements relative to the cost cap. Efficiency requirements will be fixed as a percentage of the cost cap. When assessing the necessity and, if relevant, the size of the efficiency requirement, the Danish Civil Aviation Administration will take into account an evaluation of estimated efficiency potential. This may include comparisons with other European airports.

5.4.4. Where regulatory requirements in the coming regulatory period involve increased or reduced costs as compared with the reference year, the cost cap for each year of the regulatory period will be adjusted. Costs for material and unforeseen regulatory requirements that may arise during a regulatory period will be treated in accordance with the provisions of paragraph 6.

5.3 Fixing of an amount for return on invested capital (a reasonable rate of return) for aeronautical facilities and services

5.3.1 The rate of return incorporated into the revenue cap is fixed using the basis for calculating the rate of return, which consists of the budgeted invested capital in the revenue cap period. The budgeted invested capital is determined based on the carrying amount of non-current assets as at 31 December of the reference year plus expected investments and less expected depreciation in the subsequent year and budgeted investments and depreciation in the revenue cap period. The carrying amounts of non-current assets and budgeted depreciation are determined exclusive of any accounting revaluation of the assets to a higher amount.

5.3.2 The Danish Civil Aviation Administration fixes the rate of return to be applied on the calculation base. The rate of return is fixed at the cost of capital based on the CAPM method considering, among other things, wishes for investments in the airport's infrastructure and development in general.

5.4 Determination of transfer of additional return from the commercial area

5.4.1 The transfer of additional return from the commercial area is fixed as a share of the actual additional return from the commercial area. The share is fixed taking into account the aim of retaining the airport's relative charges level for the aeronautical activities relative to comparable European airports and of developing the airport's aeronautical activities. The minimum transfer will be 10% of the additional return, subject to a maximum of 50% of the additional return.

5.4.2 The calculation of actual additional return is made on the basis of the reference year, adjusted for any abnormal revenue and costs in the reference year.

5.4.3 In the calculation of the actual profit, revenue from any sale of business areas allocated over a number of years will be included.

5.4.4 The transfer shall not be greater than a level where the airport achieves a reasonable return on its commercial activities. In the calculation of the reasonable return, the calculation base will be invested capital as at 31 December of the reference year. The Danish Civil Aviation Administration fixes the rate of return to be used for the calculation. The rate of return is fixed as the cost of capital based on the CAPM method taking into account, among other things, wishes for investments in the development of the commercial area and the estimated risk involved in such investments.

5.5 Fixing of charges

Copenhagen Airports A/S will prepare a proposal for charges based on the revenue caps and expected traffic developments in the revenue cap period. The proposal for charges must, as a minimum, include the following information:

- a. a specification of charges for each charges area for each of the four years of the regulatory period;
- b. documentation that the expected revenue from aeronautical services does not exceed the revenue cap for each of the years;
- c. specific motivation if different growth percentages are proposed for each of the charges areas and/or any other a change of the charges structure.

5.6 Time frame

If, as leader of the negotiations, Copenhagen Airports A/S has ascertained that charges for the coming regulatory period cannot be fixed by negotiation, the Danish Civil Aviation Administration will set revenue caps for each of the years of the coming revenue cap period by 1 November of the same year. See paragraph 5.1. Copenhagen Airports A/S must then submit proposals for new schedules of charges to the Danish Civil Aviation Administration not later than on 1 December of the same year. See paragraph 3.2. The schedules of charges come into force on 1 April of the first year of each regulatory period.

6. Changes, if any, to charges during the regulatory period

In addition to the situations regulated in BL 9-15, section 6, the Danish Civil Aviation Administration may from time to time, on its own initiative or at the request of either Copenhagen Airports A/S or the users, approve or demand changes to the airport charges if changes occur during the regulatory period either to the assumptions on which the agreement on charges by the parties is based or to the revenue cap fixed by the Danish Civil Aviation Administration applying the fall-back model, including, but not limited to, changes in:

- a. the airport's level of activity or operating costs;

- b. the demand for investments in the airport's infrastructure, service facilities or other development; and
- c. the airport's compliance with its capital investment plans.

Any changes to the airport charges pursuant to the above shall be fixed upon consultation with the parties.

7. Evaluation of the model

The regulatory model, including the terms and conditions fixed, will be evaluated by the Danish Civil Aviation Administration at the end of each regulatory period, so that the outcome thereof can be included in relation to the subsequent regulatory period.

8. Transitional provisions

8.1 The provisions in section 4 on the fixing of charges by negotiation will not apply the first time the model is used. The charges will be fixed in accordance with the provisions of paragraph 5 or in any other manner with a view to meeting the objective of the Danish Civil Aviation Administration for the regulation of charges.

8.2 The first time the model is used, the regulatory period will deviate from the provisions in paragraph 3.3, as the period will be one year.

8.3 The first time the model is used, the time frame will deviate from the provisions in paragraph 5.6, as a revenue cap for the coming regulatory period will be fixed by 15 January 2009, at the latest. See paragraph 5.1. Copenhagen Airports A/S must then submit proposals for new schedules of charges to the Danish Civil Aviation Administration not later than on 1 February 2009. See paragraph 3.2. The schedules of charges will come into force on 1 April 2009 irrespective of BL 9-15, paragraphs 7.1 and 7.2.