



**Review of
Consultation and Transparency
under the
Airport Charges Directive
at
Dublin Airport**

Commission Paper 7/2017

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1. Introduction

- 1.1 We are examining how well the regular consultation required by the Airport Charges Directive 2009/12/EC is working in the annual setting of airport charges at Dublin Airport.¹ This paper seeks the views of interested parties.
- 1.2 The aim of the review is to assess if there are any areas which could work better and what improvements, if any, could be made. If deemed necessary, the Commission will produce guidelines to improve the annual consultations on airport charges required by the Directive at Dublin Airport.
- 1.3 This review is timely for two reasons. First, the Directive has been applicable at Dublin Airport since the annual setting of charges for 2012, following its transposition into Irish legislation by the Dublin Airport Charges Regulations S.I 116 of 2011.² This legislation requires Dublin Airport to set annual airport charges following consultation with airlines and in a transparent way.
- 1.4 The annual consultation required by the Directive is valuable because it informs airlines and takes into account their views in the setting of individual airport charges for each service/infrastructure provided at Dublin Airport. This information is additional to the global price cap set in our determinations, which currently does not include any sub-caps for different services.
- 1.5 Second, the EU Commission tasked the Thessaloniki Forum of airport charges regulators with making recommendations on the principles of consultation and transparency for a better implementation of the Directive, which were published in 2016.^{3 4} The Commission for Aviation Regulation, as the Irish Independent Supervisory Authority (ISA) for the purposes of the Directive, is required to supervise the compliance of the annual setting of airport charges by Dublin Airport using the requirements on consultation and transparency set by the Directive. The recommendations of the Thessaloniki Forum reflect the principles that the ISAs seek to apply in exercising this supervisory role.
- 1.6 The Thessaloniki Forum recommendations are divided into six categories, one applies to the Commission (role of ISA in consultation process), four to the airport (process for consultation, what is consulted on, new infrastructure, transparency for consultation process – airports), and one to the airlines (transparency for consultation process – airlines). The recommendations should be read alongside the Irish transposition of the Directive.
- 1.7 This document compares the 2017 consultation on the annual setting of airport charges at Dublin Airport with the 2016 guidelines on consultation and transparency issued by the Thessaloniki Forum. We invite interested parties to make submissions to this consultation in accordance with Section 8. The Commission is also available to meet with interested parties to discuss the questions raised. Respondents are asked to support any views expressed in submissions with relevant evidence where possible and to take account of the time factor for Dublin Airport setting annual charges in a timely manner and linkages between the annual process for setting airport charges and the multi-year determination process.

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:070:0011:0016:EN:PDF>

² <http://www.aviationreg.ie/fileupload/13070->

[SI NO 116 OF 2011 EUROPEAN COMMUNITIES DUBLIN AIRPORT CHARGES REGULATIONS 2011-0.PDF](#)

³ <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3084>

⁴ <http://www.aviationreg.ie/fileupload/ACD/Thessaloniki%20Forum%20Consultation%20Dec%202016.pdf>

- 1.8 The following sections summarise the recommendations in each category, the 2017 consultation of airport charges at Dublin Airport and the assessment of compliance of the recommendations. Where appropriate, we highlight areas that may be improved in future consultations. We have presented consultation questions to guide the responses. The recommendations on consultation and transparency of the Thessaloniki Forum of airport charges regulators are annexed to this document.

2. Role of ISA in Consultation Process

ISA Guidelines

Thessaloniki Forum Recommendations

ISAs may provide guidelines for consultations and transparency in situations where:

- The national framework relating to airport charges is not sufficiently detailed;
- It is requested to do so by an airport or airport user;
- The ISA is of the opinion that the current process is not working as well as it could;
- Consultation is working well but the ISA believes the guidelines are necessary to ensure that continues to be the case; or
- An airport has significant market power.

2017 Consultation

- 2.1 To date we have not provided guidelines on the implementation of the Directive. This review assesses the 2017 consultation of airport charges at Dublin Airport. As a result of it and our consultation with stakeholders, we will evaluate the need to provide guidelines for consultation and transparency at Dublin Airport.

Consultation Question

Q.1 Do you think Commission guidelines are needed for the annual consultations on airport charges at Dublin Airport?

Attendance at Consultations

Thessaloniki Forum Recommendations

ISAs recognise that it can be beneficial to attend consultations, however, this is not necessary in all situations. In general, ISAs may attend if explicitly requested to do so by the airport managing body, airport users or an airline association. When attending consultations, ISAs should be, preferably, an observer. Where appropriate, ISAs may play a facilitator role to encourage consultations to be accountable, transparent, and collaborative among all parties.

2017 Consultation

- 2.2 The Commission attended the 2017 consultation as an observer and clarified questions related to the economic regulation in place.

Consultation Question

Q.2 What do you think is the appropriate role for the Commission to play to encourage effective consultations on airport charges at Dublin Airport?

Evaluation

Thessaloniki Forum Recommendations

If there are any concerns identified about the consultation process by any attending airport users, an evaluation of the process by the ISA may be appropriate. The timing of any such evaluation would need to be mindful of appeals if applicable. The ISA may evaluate the issues raised taking into account the reasons of the airport not to implement the views of the interested users.

2017 Consultation

2.3 This is the first evaluation of the consultation process conducted by the Commission.

Consultation Question

Q.3	In what circumstances should the Commission evaluate the annual consultation process?
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3. Process for Consultation

Timeline

Thessaloniki Forum Recommendations

The consultation timeline and introduction of charges should be in line with the timelines in the Directive. Detailed consultation documentation should be provided in advance of any consultation meeting in sufficient time to allow airport users analyse the information. There should be sufficient opportunity for preparation of comments and to seek clarifications.

2017 Consultation

3.1 It is the Commission’s view that the 2017 consultation conducted by Dublin Airport, illustrated below, complies with the timeline requirements as transposed from the Directive by the Dublin Airport Charges Regulations (S.I. No. 116):

- Dublin Airport submitted its proposed modification to the level/system of airport charges to each airline on 16 November 2016 which is at least 4 months before the modifications are scheduled to come into operation (from 26 March 2017).
- Dublin Airport published its decision at least 2 months before it is scheduled to come to operation (3 months before).

Chart 3.1: Timeline of 2017 Airport Charges Consultation at Dublin Airport



Source: Consultation Document on 2017 Airport Charges of 16 November 2016, Dublin Airport.

3.2 Although the 2017 Consultation complies with the timelines in the Directive, the Commission notes that:

- the publication of the decision by Dublin Airport is about 3 months ahead of their implementation, compared to the minimum 2 months required,
- the time given between the circulation of briefing document and the consultation meeting is only 2 weeks,
- between the deadline for written submissions and the publication of the decision, when Dublin Airport is considering the views of users on the proposed charges, there is slightly less than 1 week, and
- for budgeting, December may not be the best time of the year to notify airlines of charges for the coming year.

3.3 During the 2017 consultation, a user “requested that Dublin Airport endeavour to issue pricing proposals six months in advance of the implementation of any changes to assist airlines in

having adequate time to implement such changes to taxes and charges to advance bookings.”

- 3.4 Dublin Airport responded on the 20 December 2016 that it would not be feasible to issue the pricing proposals 6 months in advance, but expressed that they would consider starting the 2018 pricing consultation process 1-2 weeks earlier.
- 3.5 To support its claim, Dublin Airport argued that in order to develop pricing proposals for the following year, it requires a passenger forecast for that year which is informed by the traffic volume in the peak period of the current year and the slot filings made by airlines for the following year. According to Dublin Airport, it cross-checks the forecast with the traffic forecast provided by airlines for the following year submitted as part of the consultation. It further stated that the development of a passenger forecast for the following year commences in September after the peak summer traffic period, and the development of pricing options are dependent on the finalisation of the passenger forecast and subject to approval of the Board of Directors of daa plc prior to issue, in a process that takes 8-10 weeks to conclude.⁵
- 3.6 The Commission also notes that Dublin Airport uses the October CPI to adjust the base price cap and inform its consultation, however it may be possible to use the September CPI and correct for the change in CPI in October after it is published.

Consultation Questions

- Q.4 In your view, is the documentation provided by Dublin Airport in sufficient time to allow airlines analyse the information? Is there sufficient time allowed for preparation of comments and obtaining clarification?
- Q.5 Is it feasible for Dublin Airport to commence the consultations earlier and if so when?
- Q.6 Were the consultation process to start earlier, how would you suggest that the points raised by Dublin Airport in paragraph 3.5 be addressed?

Language

Thessaloniki Forum Recommendations

Consultation meetings and documents should be in the national language or in the national language and English. If English is not the national language but is requested by an airline or airline association, then, at a minimum, the key issues of the consultation and the key documents should be translated into English. Translations of documents should be regarded as unofficial, with documents in the national language taking precedence.

2017 Consultation

- 3.7 The 2017 Consultation was conducted in English.

Participation in Consultation

Thessaloniki Forum Recommendations

All users of the airport should be able to attend the consultations on airport charges. Airline associations should be allowed to attend if representing a particular airline that operates at the airport. It should be made clear which airlines are members of the association and who it is speaking for at the consultation.

⁵ Charges Consultation Decision Document of 20 December 2016, Dublin Airport.

2017 Consultation

- 3.8 All the 41 airlines currently operating at Dublin Airport were invited to the 2017 consultation meeting. The meeting was attended by 7 airlines representing 84% of the total passenger traffic at Dublin Airport in 2014.

Rounds of Consultations

Thessaloniki Forum Recommendations

The consultation process should involve as many rounds as necessary, although in general, one round of consultation should be sufficient. In any case, if the final proposals differ substantially from the initial proposals or from those discussed at the consultation meetings, an additional round of consultation may be conducted. The timeline of the process should respect what is defined in the Directive.

2017 Consultation

- 3.9 The 2017 consultation had one round. Final proposals did not differ from initial or discussed proposals.

Consultation Question

Q.7 In what situations, if any, do you consider that additional rounds of consultation be conducted at Dublin Airport?

Airport Users' Comments

Thessaloniki Forum Recommendations

The airport should show how it took account of the comments of airport users in its final decision on charges. Where comments were not adopted a reason should be given by the airport in writing to all users.

2017 Consultation

- 3.10 After the 2017 consultation meeting, Dublin Airport summarised in writing to all users the comments received from 2 users and the Airport's responses. However, the Commission notes that there was no written response to all users giving a reason for not adopting the comments made by one user before the consultation meeting relating to the minimum levels of transparency of information on airport and PRM charges to be supplied prior to the meeting.

Consultation Question

Q.8 Are you satisfied that Dublin Airport took sufficient account of the comments of airport users in its final decision on charges? Are you satisfied that Dublin Airport provided sufficient written reasons to all users where comments received were not adopted? If not, what reasonable level of detail would you expect to be provided with?

4. What is Consulted on?

Level and Structure of Charges – Aeronautical Revenue

Thessaloniki Forum Recommendations

The level and structure of charges should be consulted on. Linkages should be provided between the structure of charges, the cost of services, the projected revenue and the investment plans.

2017 Consultation

- 4.1 The Commission is of the view that while the 2017 consultation is compliant with providing the level and structure of airport charges, it did not provide the linkages of airport charges to available outturns of cost of services, projected revenues and investment plans. Users asked Dublin Airport at the consultation meeting to provide such information including an update on the completion of the capex projects of the CIP 2015-2019.

Consultation Question

Q.9 Should linkages between the structure of charges, the cost of services, the projected revenue and the investment plans at Dublin Airport be provided? If so, what level of reasonable detail should the above information have?

Incentive Schemes – Rebates and Discounts on the Normally Payable Charges

Thessaloniki Forum Recommendations

Incentive schemes resulting in rebates or discounts on the normally payable charges should be consulted on. Consultation and transparency on these schemes is required to discourage discriminatory schemes. Airports should show how the incentive schemes affect the charges payable by the generality of users. In general, incentive schemes should be funded from the benefits generated from them, that is, the costs should not be allocated to other users who do not benefit from the incentives. An analysis of the incentive's effectiveness and feasibility of covering the costs should be provided by the airport.

Similar concerns could arise from bilateral contracts (agreements on charges, quality and/or infrastructure between the airport and one airline) and the general criteria applicable to these agreements. Users not subject to bilateral contracts should be made aware of the existence of bilateral contracts, while respecting their confidential nature. Airports should endeavour to set their general charges schemes and incentives as if the bilateral agreements were not present. The airport should be able to justify that bilateral agreements do not breach Article 3 of the Directive.

Article 3 of the Directive states that Member States shall ensure that airport charges do not discriminate among airport users, in accordance with Community law.

2017 Consultation

- 4.2 The 2017 consultation informed users at Dublin Airport that incentive schemes would continue to be in place or would be renewed or extended. It is the view of the Commission that the incentive schemes at Dublin Airport comply with the ICAO principles of non-discrimination, transparency (of purpose, criteria and objectives), and time limitation⁶ :

⁶ http://www.icao.int/sustainability/Documents/Doc9562_en.pdf

- non-discrimination (the incentives are open to all carriers);
- transparency of purpose, criteria and objectives (the incentives are public); and
- time limitation of schemes for new routes (these incentives are between 2 and 5 years depending on the category).

4.3 In relation to the ICAO principle of no cross subsidisation, the Commission notes that during the 2017 consultation Dublin Airport did not disclose the cost associated with incentive schemes and how the incentive schemes affect the airport charges that are payable by the generality of users, that is the effectiveness of incentive schemes and their ability to cover their costs was not discussed. Later in 2017, the Commission will hold a separate consultation addressing the regulatory treatment of incentive schemes.

4.4 If deemed necessary, Dublin Airport could engage its airline users in future airport charges consultations to review the proposed incentives, and establish:

- clear and measurable objectives related to incentive schemes,
- the benefits/disadvantages due to incentive schemes, and
- the operational impact and network effect on aviation stakeholders of incentive schemes.

4.5 To the best of the Commission's knowledge, there are currently no bilateral contracts between Dublin Airport and its users.

Consultation Questions

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| Q.10 | Do you think the incentives' effectiveness and their ability to cover their costs should be consulted on? Should incentive schemes, their objectives, benefits/disadvantages, operational impact/network effect be consulted on with airlines? |
| Q.11 | Are you aware of any bilateral contracts between Dublin Airport and its users? If there are, should the users that are not subject to these contracts be made aware of their existence and the general criteria applicable to them (respecting their confidentiality)? |

Quality of Service

Thessaloniki Forum Recommendations

The quality of service or service level agreements should form part of the consultation process. When consulting on service level options, the airport should provide the cost implication to users to help inform decisions. Aspects of quality of service may be dealt with also in other forums, for example in ground handling agreements.
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2017 Consultation

4.6 As far as the Commission is aware, quality of service levels and their costs were not discussed during the 2017 consultation at Dublin Airport and considers that while minimum quality of service targets are set in the 2014 Determination, users may be concerned about other metrics or the targets.

Consultation Question

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|------|--|
| Q.12 | Do you think Dublin Airport should include options on quality of service levels as part of the consultation process? |
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5. New Infrastructure

Process

Thessaloniki Forum Recommendations

In general, the relevant parts of the above process should apply to consultations on new infrastructure. Consultations on new infrastructure can be separate or part of the consultation on airport charges. When presented with capital investment projects airport users should be made aware of the effect they will have on charges. In some cases, the effect will be multifaceted as new infrastructure will have a direct effect on capital costs but may also reduce or increase operating costs, commercial revenues and total aeronautical revenue.

2017 Consultation

- 5.1 The Commission observed that the 2017 consultation was related to airport charges only and notes that Dublin Airport complies by having a separate consultation for new infrastructure.
- 5.2 Dublin Airport develops a 5-year capital investment plan as part of the price cap determination process. The sequencing of this may be relevant to the annual consultations.

Consultation Questions

Q.13 Do you think the annual consultations on airport charges should include capital investment plans? If so, what detail should be provided and for what purpose?

Definition of New Infrastructure

Thessaloniki Forum Recommendations

Agreement should be reached between airports and airport users on the size of projects requiring consultation, unless it is already set in the national legislation. As a principle, any investment project which has a material impact on the charges should be considered.

2017 Consultation

- 5.3 The Commission notes that all capital expenditure gets consulted on as part of the 5-year capital investment plan.

Masterplan

Thessaloniki Forum Recommendations

The investment plan related to the regulatory period and the masterplan if applicable, should be periodically consulted on with the airport users in the context of the annual capital expenditure requirements. However, given the timeframe of masterplans it should not be reopened annually.

2017 Consultation

- 5.4 Dublin Airport is currently reviewing its masterplan but it was not discussed with users at the meetings of the 2017 consultation on airport charges.

Consultation Question

Q.14 Do you think Dublin Airport should consult on its masterplan with stakeholders? If so, how would you see this process working (and in what detail) and how would it link in with the capital investment plan process?

6. Transparency for Consultation Process – Airports

Services Provided

Thessaloniki Forum Recommendations

Airports should provide users with details of the services covered (or not covered if easier) by airport charges.

2017 Consultation

- 6.1 The Commission considers that the 2017 Consultation complies with transparency of information relating to the services covered by the airport charges.

Consultation Question

Q.15 Do you have any suggestions related to the details of services covered by airport charges provided by Dublin Airport?

Operating Costs and Commercial Revenues

Thessaloniki Forum Recommendations

Airports should provide airport users with detailed historic and forecast information on costs and commercial revenues. The exact requirements will depend on the level of market power, and furthermore depend on whether it is single, hybrid or dual till. Historic costs and revenues from recent years should be provided for comparison. As a general principle, the information should be detailed enough to allow users make a full assessment of the costs and should include the methodology used to calculate the commercial costs and revenues as well as the forecast. Drivers of costs and revenues should also be provided.

2017 Consultation

- 6.2 The Commission notes that during the 2017 Consultation, Dublin Airport did not provide airlines with detailed historic or forecast information on costs or commercial revenues; rather providing a high-level percentage breakdown of outturn operational expenditure for 2015.
- 6.3 The multi-year determination process sets allowances and targets for operating costs and commercial revenues. Outturn costs and revenues do not alter the price cap.

Consultation Question

Q.16 Do you think Dublin Airport should provide historical and forecast data of the main opex and commercial revenue categories, along with their derivation methodology and drivers? If so, can you provide detail including the period the data should cover and the level of detail required?

Q.17 How do you see this linking in with the multi-year determination process?

Cost of Capital

Thessaloniki Forum Recommendations

Details on the estimation and setting of individual parameters should be provided and not just the overall cost of capital. Justification should be provided for the values of the parameters and the methodologies used. The value of the parameters that should be provided include, but are not limited to, the cost of equity, the risk free rate, the equity market risk premium, the equity beta, the cost of debt, the corporate tax and the capital structure or gearing.

2017 Consultation

- 6.4 The Commission sets the cost of capital at the time of a determination and provides details on the estimation and setting of all individual parameters.

Consultation Question

Q.18 Do you think that, given that the cost of capital is set at the time of a determination, additional information is required at annual consultations and if so, what level of detail would you suggest?

Traffic Forecasts

Thessaloniki Forum Recommendations

Traffic forecasts and the methodology used to obtain them should be provided and the underlying traffic development model should be substantiated.

2017 Consultation

- 6.5 The Commission notes that Dublin Airport did not provide an updated traffic forecast during the 2017 consultation.

Consultation Questions

Q.19 Do you think up-to-date traffic forecast [with various scenarios] and its methodology (model and variables) should be provided by Dublin Airport for its airport charges consultations? If so, what detail and period should be covered?

Revenue from Airport Charges

Thessaloniki Forum Recommendations

Forecasts of expected total aeronautical revenues and the methodology used to calculate them should be provided.

2017 Consultation

- 6.6 Historical data of aeronautical revenues up to 2015 was available in Dublin Airport's published regulatory accounts. However, Dublin Airport did not provide its 2016 forecast on aeronautical revenues in the 2017 consultation.

Consultation Question

Q.20 Do you think Dublin Airport should provide historical and forecast data of aeronautical revenues and their methodology? If so, what level of detail would you propose and how long a period should the data cover?

7. Transparency for Consultation Process – Airlines

Thessaloniki Forum Recommendations

Airport users should meet their obligations under the Directive in a timely and complete manner. While airport users' business plans may be short term in nature the information is of significant value to airports for planning purposes and to improve short term forecasting of traffic volumes.

2017 Consultation

7.1 The Directive requires airlines to submit their:

- traffic forecasts,
- forecast of composition and use of fleet;
- development projects at the Airport concerned; and
- requirements at the Airport concerned.

7.2 The Commission has information from one airline user who provided Dublin Airport with:

- its monthly forecast of composition and use of fleet,
- data relevant to calculate its passenger traffic forecast per route (aircraft configuration and load factor), and
- general requirements at Dublin Airport.
- The user did not state its intention to pursue any development project at Dublin Airport.

Consultation Questions

Q.21 In your view, how many years of forecasts should the airlines provide and at what level of detail?

Q.22 What level of detail do you think should the airlines provide on their requirements?

Additional Observations or Comments

7.3 We have covered the main issues identified by the Commission and the guidelines of the Thessaloniki Forum. Your comments and observations on the consultations on Dublin Airport charges do not need to be confined to the above topics.

7.4 In formulating your responses (in terms of the detail and range of information that should be provided), consideration should be given to the requirement for Dublin Airport to set annual charges in a timely manner, and linkages between the annual process for setting airport charges and the multi-year determination process.

8. Responding to the Consultation

- 8.1 The Commission requests the views of interested parties as outlined in this paper. Respondents are asked to support any views expressed in submissions with relevant evidence where possible. If deemed necessary, we aim to establish local guidelines to improve the annual consultation of airport charges and new infrastructure.
- 8.2 We may correspond with interested parties who make submissions, seeking clarification or explanation of their submissions. Such correspondence will not be an invitation to make further submissions.
- 8.3 Respondents should be aware that we are subject to the provisions of the Freedom of Information legislation. Ordinarily we place all submissions received on our website. We may include the information contained in submissions in reports and elsewhere as required. If a submission contains confidential material, it should be clearly marked as confidential and a redacted version suitable for publication should also be provided.
- 8.4 We do not ordinarily edit submissions. Any party making a submission has sole responsibility for its contents and indemnifies us in relation to any loss or damage of whatever nature and howsoever arising suffered by us as a result of publishing or disseminating the information contained within the submission.
- 8.5 While we endeavour to ensure that information on our website is up to date and accurate, we accept no responsibility in relation to the accuracy or completeness of our website and expressly exclude any warranty or representations as to its accuracy or completeness.
- 8.6 Responses should be titled “Response to Review of Consultation and Transparency under the Airport Charges Directive at Dublin Airport” and sent:
- By email to: info@aviationreg.ie (Preferable); or
- By post to: Commission for Aviation Regulation, 3rd Floor, Alexandra House, Earlsfort Terrace, Dublin D02 W773
- 8.7 The closing date for receipt of submissions is **5PM on Friday 4 August 2017.**

Recommendations on Consultation and Transparency

Background

The goal of the Aviation Strategy is to strengthen the competitiveness and sustainability of the entire EU air transport value network. Tackling limits to growth in the air and on the ground, in particular by boosting the efficiency of airport services, is one of the three key priorities that the Commission has identified. The Thessaloniki Forum of Airport Charges Regulators is tasked with working on and making recommendations for a better common implementation of Directive 2009/12/EC on Airport Charges (the "ACD").

The ACD requires Member States to assign responsibility for supervising the setting of airport charges to Independent Supervisory Authorities (ISAs). This role includes supervising compliance with the requirements of the ACD relating to Consultation and Transparency.

This document provides recommendations on the process for consultation between airports and airlines required by the ACD, and reflects the principles that ISAs seek to apply in exercising their supervisory role.¹ Transparency as it relates to consultation is also addressed. The Working Group is aware that the Directive provides further transparency requirements beyond the consultation process.

These recommendations have been formulated by the Consultation and Transparency working group of the Thessaloniki forum on Airport Charges, taking into account the views of representatives of the airport and airline communities, and have been adopted by the Forum as a whole.

Caveats

The recommendations do not represent the views of the European Commission and do not in any way change the requirements of the ACD.

The recommendations form a set of acceptable practices; individual Independent Supervisory Authorities (ISAs) may have valid reasons for promoting a different process than that set out above.

These recommendations are not exhaustive. They do not repeat the requirements of the Airport Charges Directive, rather they deal with some areas where the group of ISAs considered that recommendations would be useful.

The Airport Charges Directive (ACD) covers a large group of diverse airports, as such, all of the recommendations may not be relevant in all situations. In particular, at airports where there is not substantial market power or where consultation and transparency are working well (in the opinion of airport users) then additional processes may not be required.

These recommendations will be kept under review and changed as and when deemed necessary by the Forum.

¹ Throughout this document: Airport refers to the Airport Managing Body or the Airport Authority. User or Airline refers to airlines operating or planning to operate at the airport during the period in which the charges being consulted on will be applicable (airlines planning to operate should formally notify the airport of this intention prior to the consultation). ISA refers to the Independent Supervisory Authority referred to in the Airport Charges Directive and designated by the individual Member State.

Role of ISA in Consultation Process

ISA Guidelines

1. ISAs may provide guidelines for consultations and transparency in situations where:
 - National framework relating to airport charges is not sufficiently detailed
 - it is requested to do so by an airport or airport user
 - the ISA is of the opinion that the current process is not working as well as it could
 - consultation is working well but the ISA believes the guidelines are necessary to ensure that continues to be the case
 - an airport has significant market power.

Attendance at Consultations

2. ISAs recognise that it can be beneficial to attend consultations, however, this is not necessary in all situations. In general, ISAs may attend if explicitly requested to do so by the airport managing body, airport users or an airline association.
3. When attending consultations, ISAs should be, preferably, an observer. Where appropriate, ISAs may play a facilitator role to encourage consultations to be accountable, transparent, and collaborative among all parties.

Evaluation

4. If there are any concerns identified about the consultation process by any attending airport users, an evaluation of the process by the ISA may be appropriate. The timing of any such evaluation would need to be mindful of appeals if applicable. The ISA may evaluate the issues raised taking into account the reasons of the airport not to implement the views of the interested users.

Process for Consultation

5. As a general principle, consultations should be constructive and should not merely provide information with a predetermined outcome, this is, the views of airport users should be taken into account. For many airports a collaborative approach between the airport and the airport users may be best able to define the exact process and level of transparency required.

Timeline

6. The consultation timeline and introduction of charges should be in line with the timelines in the directive.
7. Detailed consultation documentation should be provided in advance of any consultation meeting in sufficient time to allow airport users analyse the information.
8. There should be sufficient opportunity for preparation of comments and to seek clarifications.

Language

9. Consultation meetings and documents should be in the national language or in the national language and English. If English is not the national language but is requested by an airline or airline association, then, at a minimum, the key issues of the consultation and the key documents should be translated into English. Translations of documents should be regarded as unofficial, with documents in the national language taking precedence.

Participation in Consultation

10. All users of the airport should be able to attend the consultations on airport charges. Airline associations should be allowed to attend if representing a particular airline that operates at the airport. It should be made clear which airlines are members of the association and who it is speaking for at the consultation.

Rounds of Consultations

11. The consultation process should involve as many rounds as necessary, although in general, one round of consultation should be sufficient. In any case, if the final proposals differ substantially from the initial proposals or from those discussed at the consultation meetings, an additional round of consultation may be conducted. The timeline of the process should respect what is defined in the Directive.

Airport Users' Comments

12. The airport should show how it took account of the comments of airport users in its final decision on charges. Where comments were not adopted a reason should be given by the airport in writing to all users.

What is Consulted on?

Level and Structure of Charges – Aeronautical revenue

13. The level and structure of charges should be consulted on.² Linkages should be provided between the structure of charges, the cost of services, the projected revenue and the investment plans.

Incentive Schemes – rebates and discounts on the normally payable charges

14. Incentive schemes resulting in rebates or discounts on the normally payable charges should be consulted on.
15. Consultation and transparency on these schemes is required to discourage discriminatory schemes.
16. Airports should show how the incentive schemes affect the charges payable by the generality of users. In general, incentive schemes should be funded from the benefits generated from them, that is, the costs should not be allocated to other users who do not benefit from the incentives. An analysis of the incentive's effectiveness and feasibility of covering the costs should be provided by the airport.
17. Similar concerns could arise from bilateral contracts (agreements on charges, quality and/or infrastructure between the airport and one airline) and the general criteria applicable to these agreements. Users not subject to bilateral contracts should be made aware of the existence of bilateral contracts, while respecting their confidential nature. Airports should endeavour to set their general charges schemes and incentives as if the bilateral agreements were not present. The airport should be able to justify that bilateral agreements do not breach Article 3 of the Directive.

Quality of Service

18. The quality of service or service level agreements should form part of the consultation process. When consulting on service level options, the airport should provide the cost implication to users to help inform decisions.
19. Aspects of quality of service may be dealt with also in other forums, for example in ground handling agreements.

² Structure of Charges: disaggregation of the level of charges into the component charges: e.g. landing, take-off, lighting and parking of aircraft, and processing of passengers and freight

New Infrastructure

Process

20. In general, the relevant parts of the above process should apply to consultations on new infrastructure. Consultations on new infrastructure can be separate or part of the consultation on airport charges.
21. When presented with capital investment projects airport users should be made aware of the effect they will have on charges. In some cases, the effect will be multifaceted as new infrastructure will have a direct effect on capital costs but may also reduce or increase operating costs, commercial revenues and total aeronautical revenue.

Definition of New Infrastructure

22. Agreement should be reached between airports and airport users on the size of projects requiring consultation, unless it is already set in the national legislation. As a principle, any investment project which has a material impact on the charges should be considered.

Masterplan

23. The investment plan related to the regulatory period and the masterplan if applicable, should be periodically consulted on with the airport users in the context of the annual capital expenditure requirements. However, given the timeframe of masterplans it should not be reopened annually.

Transparency for Consultation Process – Airports

24. In general, airports should provide historical and forecast data of airport charges, corresponding to five years preferably, as well as a detailed explanation as to how the proposed charges are derived. The level of detail should be sufficient to allow airport users to analyse how charges are derived, assess whether they are based on costs and how they take account of the infrastructure and the quality of service required by airport users. The degree of transparency should be proportionate to the market power of the airport and the significance of any changes proposed.

Services Provided

25. Airports should provide users with details of the services covered (or not covered if easier) by airport charges.

Operating Costs and Commercial Revenues

26. Airports should provide airport users with detailed historic and forecast information on costs and commercial revenues. The exact requirements will depend on the level of market power, and furthermore depend on whether it is single, hybrid or dual till. Historic costs and revenues from recent years should be provided for comparison. As a general principle, the information should be detailed enough to allow users make a full assessment of the costs and should include the methodology used to calculate the commercial costs and revenues as well as the forecast. Drivers of costs and revenues should also be provided.

Cost of Capital

27. Details on the estimation and setting of individual parameters should be provided and not just the overall cost of capital. Justification should be provided for the values of the parameters and the methodologies used. The value of the parameters that should be provided include, but are not limited to, the cost of equity, the risk free rate, the equity market risk premium, the equity beta, the cost of debt, the corporate tax and the capital structure or gearing.
28. Alongside this document, the working group has developed comprehensive recommendations on the cost of capital.

Traffic Forecasts

29. Traffic forecasts and the methodology used to obtain them should be provided and the underlying traffic development model should be substantiated.

Revenue from Airport Charges

30. Forecasts of expected total aeronautical revenues and the methodology used to calculate them should be provided.

Transparency for Consultation Process – Airport Users

31. Airport users should meet their obligations under the Directive in a timely and complete manner. While airport users' business plans may be short term in nature the information is of significant value to airports for planning purposes and to improve short term forecasting of traffic volumes.