Study on Competition between Airports and the Application of State Aid Rules

Final Report
Volume 1

September 2002

European Commission
Directorate-General Energy and Transport
Directorate F - Air Transport

Air Transport Group
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With:

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**Executive Summary**

In general terms, the principal objective of this Study is to provide the Commission with information and analysis necessary to update the approach towards the application of State Aid Rules to the public financing of airport infrastructure.

The Final Report, which should be read in conjunction with the Interim Report, is split into two volumes. Volume 1, of which this is part, has concentrated on four main areas.

The first of these (Chapter 2, supplemented by Annex A) is a legal overview of current legal legislation in the European Union including an introduction to EC law on State aids and the application of EC law on State aids to airports. Denton Wilde Sapte has prepared this overview as their contribution to the Study.

Chapter 3 concentrates on airport ownership and includes an analysis of the different types of airport ownership in Europe including national government, regional / local government chambers of commerce and privatised entities. This is followed by Chapter 4 that examines airport competition including definitions of different types of competition and individual airport views on airport competition including catchment areas and competing airports.

Chapter 5 deals with airport finance and includes discussion on aeronautical charges, the economic viability of airports, the financing airport capital expenditure, subvention (subsidies) and Accession countries.

Volume 2 of the Final Report supplements this Volume and includes data, for each of the countries examined, collected during the course of the Study including a brief discussion on government policy, airport traffic data for the country, an overview of the airline market and detailed information about each of the airports that were interviewed.

The overall conclusions of the Study are set out in Chapter 7 but the salient points are reproduced below.

Airports are happy to be part of a competitive market. The only proviso is that competition is on a level playing field as general concerns have been expressed about the relative level of airport charges, taxation loop-holes and elements of state-funding that are sometimes inconsistent (new security measures, for example).

There are many airport ownership models in Europe ranging from 100% privatisation to an airport network still under the control of the national Civil Aviation Authority. Most models publish financial performance data, details of accounting practices and tax regimes for
individual airports. The exceptions to this are those airport networks controlled by the
national CAAs.

Airport charges are published in the public domain. In general the charges follow the overall
recommendations of ICAO. The services for which charges are incurred are generally
consistent from one airport to another. Environmental (emissions) charges are still
uncommon. The relative level of charges can vary from one airport to another. In some cases
this is because of economic regulation on a national airport network basis. In other cases,
individual airports are regulated in recognition of their natural monopoly. Concerns have been
expressed about the application of discounted airport charges and route support grants.
Differential charges between airports have little impact on airport competition with the
exception of the low-cost market.

Funding for airport infrastructure can come from several sources including cash flow, retained
profits, government grants and loans and other sources such as the European Union TEN-T
programme of the European Investment Bank. Current Commission policy is that in general
the funding of airport infrastructure does not constitute State aid due to congestion at existing
airports. Similarly, the current development of the Community Trans European Transport
Network would allow the construction of transport related surface infrastructure to an airport
without being classified as State aid.

Depreciation periods used were fairly consistent and in line with normal industry practice. For
example, the depreciation period for runway was up to 50 years, terminal buildings 30 to 50
years, and mobile equipment 5 to 10 years and the shortest depreciation periods are normally
for information technology systems. Most airports are currently paying corporation tax, the
rates varying between 28 and 40% of the taxable profits.

The transition point for an airport to become profitable appears to be in the order of about
500,000 WLUs per annum (without cargo, this would be equivalent to about 500,000
passengers per annum.

Many airports have limited or no natural competitors, for example, remote airports will
compete only with their nearest neighbour (if at all) and international hubs will tend to
compete only with other international hubs. The main area of airport competition is between
the regional airports. For example, large regional airports will compete with each other and
the nearest hub airport and smaller regional airports will compete with each other. Airports
will compete with each other according to the common market that both airports wish to
serve.

Competition between two airports can be judged by comparing attributes. These can include
congestion, surface access and airport charges. It is suggested that a first step towards airport
classification in terms of competition would be to develop a matrix system.
In general, it appears that, while there may be some concerns by individual airports on unfair competition due to differential airport charges and taxation, in general the airports feel that they are operating in a reasonably competitive environment and that the main threats to fair competition are those of congestion and environmental constraints both of which impact on airport operations in different ways that can vary from one country to another and even one neighbouring airport to another.
1 Introduction

1.1 Background

Changes in the airport industry over the last decade are such that airports are no longer just infrastructure providers but, in many cases, are now also operating in a competitive environment.

The degree of competition between or at airports, or perception thereof, can take many forms. Some of these have been identified by ACI Europe\(^1\) and may include competition:

- To attract new passenger and freight services
- Between airports with overlapping catchments
- Between hub airports and medium / long-haul transfer traffic
- Between airports within the same urban conurbation
- The provision of services at individual airports
- Between different terminals at an individual airport

In addition, competition can also include the attraction of funds, subsidies (including tax alleviation), grants or other monies from central or regional government under the overall umbrella of what might be considered to be State aid. This is particularly important as a number of test cases have been brought to the attention of the European Commission in which it has been claimed that State aid in one form or another to a particular airport has in fact resulted in unfair competition or an unwarranted level of subsidisation.

At the same time, the Commission’s policy on state aid for airport infrastructure has been set out in the guidelines on State aid in the aviation sector\(^2\), according to which the construction and enlargement of airport infrastructure represent general measures of economic policy that cannot be controlled by the Commission under the Treaty Rules on State aids. This traditional view is increasingly challenged by the commercial evolution and the appearance of competition. Indeed, this approach is based on the implicit assumption that competition between airports is not an issue. In the present situation, as long as the provision of airport facilities is a European-wide commercial activity open to competition, the application of State aid...

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\(^1\) European Airports: A Competitive Industry, October 22nd, 1999
\(^2\) The Commission’s Guidelines for State Aid in the aviation sector set out that the construction or enlargement of aviation infrastructure projects financed by the public sector represents a general measure of economic policy that cannot be controlled by the Commission under the Treaty Rules on State Aid, insofar as it is aimed at meeting planning needs or implementing national transport policies. Nevertheless, since possible aid elements may result from preferential treatment of specific companies when using the infrastructure, the validity of the is general principle is subject to the condition that the infrastructure concerned is accessible to all users on the basis of objective and non-discriminatory criteria.
aid rules targeting certain practices can no longer be ruled out and the current approach may require updating.

The whole aspect of competition is indeed now becoming very complex with different models of airport ownership, different charging policies, different roles and vastly differing ranges of passenger and freight traffic. Taking also into account requirements to minimise costs to the users and accounting transparency then it is not surprising that the Commission has found it necessary to examine the current state of the airport industry.

1.2 Study Objectives

In general terms, the principal objective of this Study is to provide the Commission with information and analysis necessary to update the approach towards the application of State Aid Rules to the public financing of airport infrastructure.

The instrument for this will be the Final Study Report that will:

- Analyse the evolution of the airport industry in recent years, focusing in particular on the development of competition between airports

- Examine the different forms of state resources granted to airports, with a view to assessing whether and to what extent they come within the scope of Article 87 of the Treaty.

- Provide an in-depth understanding of:
  - How public financing is provided to airports across the EU
  - The economics of airport competition
  - Whether, to what extent and under which circumstances different forms of public financing can be considered as being necessary for the achievement of public service objectives
  - What type of parameters and criteria (e.g. size thresholds, geographical location) could be used to classify airports on the basis of the contestability of their markets? Such a classification should make it possible to identify airports

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3 The reference documents setting out the current Community policy are the Guidelines for the application of Articles 87 and 88 of the EC Treaty and 61 of the EEA Agreement to state aids in the aviation sector (OJEC no. C350 of 10.12.1994). Further background material has been provided by the decisions on Manchester Airport and Aereiba.
for which it can be assumed that competition is an issue of limited or no relevance (e.g. small, regional and peripheral airports)

1.3 Final Report Structure

The Final Report has been split into Volumes 1 and 2. The main text of the Report has been included in Volume 1, this having five main chapters. The Final report should also be read in conjunction with the Interim Report.

Denton Wilde Sapte (One Fleet Place, London) is responsible for Chapter 2, and Annex A; this Chapter provides a legal overview of current legal legislation in the European Union including:

- An introduction to EC law on State aids
- The application of EC law on State aids to airports

Chapter 3 discusses airport ownership including:

- Historical development of airport ownership in the European Union
- Types of airport ownership
- National government ownership
- Regional / local government ownership
- Chambers of commerce
- Privatised airports

This leads into Chapter 4 that examines airport competition including:

- Definitions of different types of competition
- Views on airport competition from airport interviews including catchment areas and competing airports

Chapter 5 examines airport finance covering:

- Aeronautical charges
- Economic viability of airports
- Financing airport capital expenditure
- Subvention (subsidies)
- Accession countries

Chapter 6 seeks to draw together the findings of Chapters 2 to 5 with the intention of analysing of the interplay between public financing and inter-airport competition including:
- The economics of the European airport industry, especially on competition between airports
- Ownership structure patterns
- Different types of public financing and impact on airport charges
- Airport charging practices and impact on competition
- Fiscal practices, and the legal implications of 'harmful tax competition'
- Financing the provision of services of general economic interest
- The development of criteria to classify airports on the basis of competition to which they are exposed
- Implications for the Accession countries
- Legal implications drawn from the analysis in Chapter 2

From the analysis undertaken in Chapter 6, supported by data from the Interim Report and Volume 2 of the Final Report, it is hoped that the Commission will be provided with an understanding of:

- How public financing is provided to airports across the EU
- The economics of inter-airport competition
- Whether and to what extent and under which circumstances different forms of public financing may be negatively affect competition between airports and the market for corporate property and control of airport infrastructure
- Whether, to what extent and under which circumstances different forms of public financing can be considered as being necessary for the achievement of public service objectives
- What type of parameters and criteria (e.g. size, location) could be used to classify airports on the basis of the contestability of their market.

Volume 2 of the Final Report includes data collected during the course of the Study and set out on a country-by-country basis. For example, for each of the EU countries and a selection of Accession countries, there is a brief discussion on government policy, airport traffic data for the country, an overview of the airline market and detailed information about each of the airports that were interviewed including:

- Traffic data including a split into domestic and international traffic
- Accounting policies including tax and depreciation policies
- Airport charges including policies on discounts and environmental charges
- Airport competition, for example, primary competitors for different types of traffic
- Ownership structure, balance sheets
- Past and future capital investment including funding sources
2 Legal Overview (Summary)

Note: For the complete text of this legal overview, as prepared by Denton Wilde Sapte, please refer to Annex A of this Report (Volume 1).

2.1 Introduction to EC law on State aids

Article 87 of the EC Treaty provides that:

Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market.

A measure will, therefore, constitute a State aid if the following elements are shown to exist:

(i) an advantage;
(ii) granted by a Member State or through State resources;
(iii) favouring certain undertakings or the production of certain goods;
(iv) distorting competition; and
(v) affecting inter-State trade.

A measure comprising all of the above will be declared incompatible with the common market by the Commission, unless the measure falls within the automatic or discretionary exemptions provided under Article 87(2) and (3) or the block exemption regulations relating to de minimis aid, training aid and aid to small and medium-sized enterprises ("SMEs").

While Article 87 defines State aid, Article 88 and Regulation 659/99 detail the procedural rules which govern notification of new aids, Commission investigation of aids and repayment of unlawful aids.

It should be noted that in addition to the application of the State aid rules, the European Commission may also apply in relevant cases the principles of Articles 81 and 82 of the EC Treaty relating to anti-competitive agreements and abuse of a dominant position when investigating the relationship between airports, or between airports and airlines.

4 Article 69 of the EC Treaty empowers the Council of the European Union to make appropriate procedural and block exemption regulations to govern the application of Articles 87 and 88.
2.2 Application of EC law on State aids to airports

There are no specific guidelines from the Commission on the application of State aid rules to airports. Much of the current policy stems from Commission decisions made over recent years and to some extent has developed from the application of the principles and guidelines established in relation to the air transport sector generally.

2.2.1 Commission Guidelines on State aids in the aviation sector

The Commission has published a statement of its policy in the aviation sector (the Guidelines), which is derived from and continues to be applied in its decisions, and the main principles of which are set out below. The Guidelines relate predominantly to the provision of State aids to air carriers rather than airport operators but they are expressed to cover any activities accessory to air transport, direct or indirect subsidisation of which could benefit airlines such as flight schools, duty free shops, airport facilities, franchises, airport charges, within the limits defined in the Guidelines.

Tax measures – The reduction or deferral of fiscal or social contributions will be seen as State aid if they confer a competitive advantage on specific undertakings by relieving them of costs they would normally have to bear themselves out of their own financial resources. This would include, for example, exemption from, reduction in or deferral of corporation tax by airport operators.

The market economy investor principle – This principle will apply to public capital injections, loan financing (particularly with regard to interest rates and security) and guarantees in relation to the aviation industry.

Restructuring aid for airlines - Such aid will be allowed subject to a number of conditions: in particular, the aid must be exceptional and temporary, there must be a comprehensive restructuring programme which provides for capacity reductions where necessary, and the airline must be run on commercial lines, that is to say without State interference. A "one-time last-time" rule applies to such aid.

Privatisation - There is no State aid component in a privatisation if the airline is sold to the highest bidder following an open and non-discriminatory public invitation to tender. However, certain trade sales may require notification, as set out under Section 2.1 above.

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Operating subsidies – The Guidelines refer to these in the context of operating subsidies for airlines required to carry out the public service obligation of maintaining specified routes, which they would not normally operate on economic grounds. These will only be accepted in two cases:

(i) In the context of a public service obligation, as defined in Council Regulation 2408/92, and subject to the detailed provisions concerning such obligations, i.e. if it serves to reimburse a carrier selected by public tender for performing the required public service;

(ii) Where the subsidy constitutes aid of a social character granted to specific categories of passengers on a route granted without discrimination on the grounds of the carrier operating the services.

Regional aid – Article 87(3)(a) and (c) apply in relation to undertakings established or investing in disadvantaged regions. The Guidelines specifically refer to its application in relation to aid to undertakings financing the building of a hangar in such regions. However, Article 87(3)(c) cannot be used to exempt operating aids (though subparagraph (a) may do so in exceptional cases where an undertaking is established in an eligible region and the measure counterbalances particular difficulties).

Concession of exclusive rights - The concession of exclusive rights (e.g. to operate duty free concessions at airport terminals) is also referred to in the Guidelines to deal with the possibility of an airline receiving considerable financial advantages by obtaining from the State, or the entity that operates the airport on behalf of the State, exclusive concessions for a market price lower than their actual market value. Though the exclusive concession may be granted to an airline for a price lower than its market value, an aid element will exist where the airline pays no rent for the exclusivity or a rent which is lower than would be paid under normal commercial conditions.

2.2.2 Analysis of State aids to airports

In relation to the provision of State aids to airports, the main elements that must be present in order to constitute State aid are set out below. A more detailed note of the cases referred to in this section is set out in Section 2.4.

2.2.2.1 Advantage

There is no definition of "aid", but the European Court of Justice ("ECJ") takes the concept to mean any advantage conferred, directly or indirectly, on a firm by public authorities, without payment, or against a payment which corresponds only to a minimal extent to the figure at which the advantage can be valued – has the recipient of the aid received a benefit it would not normally have received in the ordinary course of business? In essence, the aid must
confer an unearned competitive advantage on the recipient which improves its financial position or reduces the costs which would otherwise have been borne by the recipient.  

Financial support is generally granted to airports at two main levels: infrastructure aids and operating aid. The nature of the advantage granted may vary, but tends to be in the form of direct subsidy, capital injection, special tax treatment, loans on preferential terms and state guarantees.

However, it is clear that airports can also themselves be the grantees of State aids, as was made clear in the *Manchester Airport* case. Competition between airports to attract new airline services has led many of them to offer support through joint promotional campaigns and, in some cases, reductions in airport charges and subsidies to airlines. In principle, so long as these advantages are made on transparent and non-discriminatory principles, there is no reason why the State aid rules should apply as the airport is not "favouring" a particular undertaking.

In this regard, the Commission's concerns about the granting of State aids to airports are twofold: first, that direct or indirect subsidisation of airports can distort competition between airports themselves; and second, that the subsidisation of the airports could indirectly benefit airlines, thereby distorting competition between airlines, to the extent that the aid enables an airport to favour specific airlines through, for example, lower airport charges.

The following types of advantages, and the manner in which they have been treated under the State aid rules, can be identified from decisions made by the Commission to date:

**Funding of airport infrastructure** – Commission Guidelines and recent case law suggests that the funding of airport infrastructure do not amount to a State aid where it is in line with national or EC transport policy. This is primarily due to the shortage of airport facilities, both at national and Community levels, which requires some form of State intervention to relieve increasing congestion at existing airports. This could include, for example, the financing of the construction of a new terminal, runway or airport, tax-free subsidies to purchase property adjacent to the airport for noise abatement purposes, extension of an apron at an airport, etc.

In particular, the case law applies the Commission's Guidelines on State aids in the aviation sector in relation to state infrastructure investments, which provide that the construction or enlargement of airports, motorways, bridges, etc. represent general measures of economic policy which cannot be controlled by the Commission under the Treaty rules relating to State aids. The Commission states that infrastructure development decisions fall outside the scope...
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of application of the Guidelines in so far as they are aimed at meeting planning needs or implementing national environmental and transport policies.

This principle was followed specifically in the Aerelba case, where the Commission ruled that a grant for the purpose of financing the modernisation of the airport of the island of Elba did not constitute State aid to the extent that it was intended for the carrying-out of an infrastructure project in the collective interest and that the infrastructure in question was open, without discrimination, to all Community airlines.

In the Piedmont Airports case, it was stated that such funding may also fall within the exemption under Article 87(3)(c), as a measure targeting the development of the management of airport facilities. Assistance was justified in this case on the ground that the airports themselves could not invest in the necessary themselves. Air traffic growth forecasts may necessitate improved and expanded airport facilities, which the airport may not be able to finance itself through the normal capital market.

However, as was also made clear in the Manchester Airport case, the Commission has made it clear in its Guidelines that any preferential treatment of specific undertakings when using the infrastructure may in itself constitute State aid. The Commission may therefore evaluate activities carried out inside airports which could directly or indirectly benefit airlines.

This means, for example, that the financing of the construction of a new airport by a Member State would not appear to come within the scope of the State aid rules so long as access to and use of the airport facilities is available to all Community airlines on a non-discriminatory basis.

These principles would also appear to cover, for example, preferential shareholder loans made for infrastructure development where interest on these loans is payable only if the company is profitable even where other airports may see this as an unfair competitive advantage. As long as the airport is open for use by all airlines on a non-discriminatory basis no action is likely to be taken under the State aid rules. Alternatively, the discretionary exemption under Article 87(3)(c) may be applied, as the Commission proposed in the Piedmont Airports case, i.e. the development of a particular economic activity, namely, management of airport facilities. The assistance may therefore be seen as in line with the common interest.

Airport charges – Discounts offered to airlines by airport operators (as public undertakings or undertakings controlled by the State) may amount to State aid if they discriminate against particular airlines. In the Manchester Airport case, the Commission confirmed that discounted landing fees would not constitute State aid where they were applied for a limited
Competition between Airports and the Application of State Aid Rules


In many cases, discounted airport charges are the result of agreements between airport operators and airlines or the independent application of a discriminatory policy by the airport operator and, therefore, Articles 81 and 82, as opposed to Article 87, have been used to challenge discriminatory airport charges.\footnote{Air Transport Group, School of Engineering, Cranfield University}

The Commission's Guidelines on State aids in the aviation sector refer to these in the context of subsidies for airlines required to carry out the public service obligation of maintaining specified routes which they would not normally operate on economic grounds. These will only be accepted in two cases:

(i) In the context of a public service obligation, as defined in Council Regulation 2408/92, and subject to the detailed provisions concerning such obligations, i.e. if it serves to reimburse a carrier selected by public tender for performing the required public service;

(ii) Where the subsidy constitutes aid of a social character granted to specific categories of passengers on a route granted without discrimination on the grounds of the carrier operating the services.

For example, a fuel subsidy by a state-owned airport to airlines would clearly be an advantage conferred by a State entity on those airlines. Following the reasoning put forward by the Commission in the Manchester Airport case, the subsidy is likely to be seen as a State aid as an operating aid unless it could be shown that is made available on a non-discriminatory basis to all airlines in the same market.

In this regard, it may be noted that the Commission is currently undertaking an investigation of various inducements offered by the Belgian authorities to Ryanair. The inducements were offered by Brussels-Charleroi Airport, part-owned by the Walloon regional authority, to encourage the low-cost airline to use the airport as one of its continental hubs.

Another example of potential aid to an airline is where landing and infrastructure costs would be set at a low rate or at zero for certain types of aircraft. If this is applied in a non-discriminatory way to all airlines, no undertaking is favoured and, in principle, there is no State aid. However, if a particular airline is effectively the only airline capable of meeting the objective criteria for the reduced charges and dominates use of the airport facilities to the
exclusion of other airlines, it may be viewed as receiving an advantage notwithstanding the non-discriminatory application of such criteria.

Cross-subsidisation – Cross-subsidisation by a profitable part of a public group of undertakings of any unprofitable part, which carries on an activity open to free competition, could potentially amount to an aid, subject, however, to the application of the market economy investor principle. This would apply to airport operators, given that many are State-owned.

For example, in principle, cross-subsidisation by BAA plc in the London airports system may amount to State aid if the UK government was seen to control BAA’s conduct by exercise of a power of supervision or determining influence over it (which may be through a shareholding). Alternatively, BAA may be seen as abusing its dominant position (as a monopoly undertaking in the London airports system) by cross-subsidising its less profitable airports or services in such a way as to restrict competition. However, in 1993, Luton Airport complained to the UK’s Civil Aviation Authority (CAA) regarding the pricing policy being adopted by BAA at Stansted Airport. The CAA found that BAA’s airport charges at Stansted Airport were set at below cost and that this was adversely affecting business at Luton Airport. However, it decided not to take any further action on the basis that, as a relatively new airport, it would have been unreasonable to expect the airport to be recovering its costs and that the airport was minimising its losses through raising charges where it was feasible to do so and that there was no predatory policy designed intentionally to damage Luton Airport.

The Schiphol Airport case suggests that airport management and the provision of essential airport facilities involves the performance of a service of general economic interest and, therefore, the derogation under Article 86(2) may be applicable in the case of cross-subsidisation by a publicly-owned airport operator of unprofitable services which it is required to maintain. Where aid is granted to an undertaking (public or private) to assist its performance or an unprofitable service of general economic interest, there must be no cross-subsidy effect for the benefit of the competitive activities carried on by that same undertaking.

Subsidies towards security/anti-terrorist measures – In response to the terrorist attacks in the United States on 11 September 2001, the Commission clarified its policy in relation to State aids in the aviation sector. In essence, the Commission confirmed that measures taken

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to compensate for the costs and losses incurred as a result of the attacks would be viewed as compatible with the common market under Article 87(2)(b), subject to various conditions.

Particular reference was made to the resulting increase in insurance premiums, the requirement for additional security measures and the costs incurred (by airlines only) as a result of the temporary closure of American airspace.

Insurance – The temporary mechanisms introduced by the Member States to provide liability insurance cover for airlines and airport operators immediately after the attacks were classified as aid, but were found to be compatible with the common market under Article 87(2)(b), subject to the following:

(i) It was to apply to all companies in the Member State;
(ii) It was to be limited to one month (since extended); and
(iii) It provided compensation for the extra costs resulting from the events of 11 September only, i.e. the failure of the commercial insurance market.

Security obligations – The Commission stated that the new security requirements should be borne by the Member States, even though, traditionally, such costs are borne by the air transport industry. This view was taken on the basis that the requirements were for the protection of society as a whole and not simply for the industry players and therefore the new measures imposed should be financed by public authorities and should not be seen as operating aid. This suggests that subsidising the cost of standard security measures may in certain circumstances amount to State aid.

Corporation tax exemptions/rebates – As stated above, tax measures may constitute State aid and this will apply equally in the aviation sector. The Schiphol case confirmed that an exemption from corporation tax for the operator of an airport constituted a State aid as the exemption applied specifically to publicly-owned enterprises and gave Amsterdam-Schiphol Airport a competitive advantage against other Community airports in the market.

Privatisation of airports involving the write-off of existing debts – When privatisation of any State-owned undertaking, including any State-owned airport, is effected by the sale of shares on the stock exchange, the presumption is that the sale is on market conditions and does not involve State aid.17 Debt may be written off or reduced before flotation without giving rise to a presumption of aid if the proceeds of the flotation exceed the reduction in debt. If the company is privatised by a trade sale, there will be no State aid if:

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(i) a competitive tender is held that is open to all comers, transparent and not conditional on the performance of other acts such as the acquisition of assets other than those bid for or the continued operation of certain businesses;

(ii) the company is sold to the highest bidder; and

(iii) bidders are given enough time to and information to carry out a proper valuation of the assets as the basis for their bid.

However, privatisations in sensitive sectors and trade sales involving the following must be notified:

(i) sales after negotiation with a single prospective purchaser or a number of selected bidders;

(ii) those preceded by the writing-off of debt by the State, other public enterprises or any public body;

(iii) those preceded by the conversion of debt into equity or capital increases; and

(iv) sales on conditions that are not customary in comparable transactions between private parties.

Moreover, any such privatisation may still require notification, even if it satisfies the conditions for a presumption against State aid, because the aviation industry may well be viewed by the Commission as a sensitive sector.18

With regard to the transfer of airport infrastructure from the State to an airport operator, the Commission held in the Aer Rianta case that it would not constitute a State aid where the transferee is state-owned and carries out the same activity, from a functional point of view, as the part of the public administration from which the resources were transferred.19

Airport ownership arrangements – The fact that a state owns a shareholding in an airport company will not normally constitute a State aid, as Article 295 of the EC Treaty states that the Treaty will not prejudice the rules in each Member State governing the system of property ownership. However, if the shareholding is aimed at helping an undertaking to overcome temporary difficulties, it may be viewed as State aid.20

The European Court of Justice has recently clarified the ability of national governments in the EU to retain "golden shares" in the context of the privatisation of companies. In three joined cases, the Court ruled that the shares, which allow national governments to veto foreign takeovers, are never legal if all key decisions are subject to prior Member State approval. Such a restriction that dissuades other Member States' national from investing is a restriction on the free movement of capital in the EU contrary to Article 58 of the EC Treaty. They may be justified, however, if they enable a government to intervene when a clearly defined national interest is under threat. The Commission has already initiated proceedings against the UK over the privatisation of the British Airports Authority (BAA plc). The BAA's articles of association grant the UK transport minister to veto anyone buying more than 15% of the company. The case is still pending.

Regional aid – Local, regional or national government measures to assist airports may fall within Article 87(3)(a) if the location is within an eligible region. This type of aid may be particular relevance for regional airports, and the criteria for the application of this type of aid is set out in detail in Section 2.2.1 above.

Funding for transport links – As with the funding of airport infrastructure, this type of measure is more likely to fall within the Commission's Guidelines on finance for infrastructure, which includes motorways, as long as such infrastructure is open to all potential users without discrimination. Assistance from the Community Trans European Transport Networks (TEN-T) budget to several airports for improving inter-modal links – though in line with Community transport policy, these improved transport connections may extend an airport's catchment area and thus improve its competitiveness. However, such funding would not constitute State aid as it does not involve a Member State conferring an advantage on an undertaking – the funds derive from central EU funding. Therefore, the construction of a high-speed rail link, rail-air station and a people-mover link to an airport terminal is unlikely to be considered a State aid.

2.2.2.2 Granted by a Member State or through State resources

For a measure to amount to State aid the advantage must be both conferred by the State and provided directly or indirectly through State resources.

It is clear that the rules on State aid apply irrespective of the type of ownership of the recipient, whether public or private, and therefore aid to all airport operators, whether they are privately, partially or wholly publicly owned, could constitute State aid for the purposes of Article 87. As mentioned in Section 2.2.1 above, in order to constitute State aid, the financial


Air Transport Group, School of Engineering, Cranfield University
support may come from any level of government, central, regional or local or separate public or private bodies established or appointed by the State to administer the measure.

In the *Aer Rianta* case, the Commission ruled that the transfer of airport infrastructure from the State to a State-owned undertaking (at a price alleged to be below market value) was merely a change in the legal form under which the State operates the same activity and not as a transfer of State resources – Article 87 could not be used to prevent a State from using State resources to set up and own a firm.

Airports are viewed as public bodies if they are owned by the State, or are private bodies entrusted with the exercise of monopoly rights, as they can therefore facilitate the indirect provision of State resources to, for example, airlines (e.g. reduced airport charges). This will be the case where the State is exercising some power of supervision or determining influence over the airport operator in the case of a minority shareholding in an airport company. Such airports can themselves be the grantees of State aids.

2.2.2.3 Affecting inter-State trade

In order to constitute a State aid, it is necessary to show that the measure has an affect on trade between Member States. The Commission does not assess whether or not the measure has a material effect on inter-State trade, only that it has at least some effect on or is capable of affecting such trade.\(^{24}\)

The very nature of the air transport industry means that an advantage conferred on any airline is likely to have an effect on inter-State trade\(^{25}\) - airlines are geared to international trade since, on the whole, they provide transport between airports situated in different Member States and compete with airlines established in other Member States.\(^{26}\)

This is not necessarily the case with regard to advantages conferred on airports. The Commission's view up until recently had been to view airports as non-competing entities at the Community level, but with the advent of liberalisation of the air transport sector in the EU, Community airports clearly now compete with each other for air traffic at various different levels, for example, to attract new airline services (passengers and freight), as hub airports and for transfer traffic between hubs, and between airports with overlapping hinterlands (which may cross Member State boundaries).

In particular, the *Schiphol Airport* case identified several areas in which inter-State trade could be affected in relation to airports. The first involved an analysis of the competitiveness of the airport itself vis-à-vis other Community airports, by examining its geographical


\(^{25}\) See Sabena and Schiphol Airport cases below.

location, the type and volume of traffic handled and its function within the transport network. The Commission found that the location of Amsterdam-Schiphol airport (overlapping catchment area with airports in neighbouring Member States) and its activity as a major hub airport handling a great deal of interchange traffic meant that it was in a position to compete with other Community airports.

Secondly, the Commission suggested that the corporate property market would be affected (and competition within it distorted) where the airport does and has further plans to take "financial and operational participation in other airports, both within and outside the European Union".

Lastly, it was stated that fiscal advantages conferred on an airport could eventually lead to lower airport charges, thereby affecting the competitiveness of airlines operating from the recipient airport, which, as stated above, would have a clear affect on inter-State trade.

The _Piedmont Airports_ case also focused on the need to identify whether or not the recipient airports competed with other Community airports for either interchange or origin/destination traffic. In relation to the former the Commission found no evidence that the airports do or will (once they are developed into the Piedmont Airport system) compete with other Community hub airports. Competition for the latter type of traffic was dismissed on the grounds that the geographic location of the airports effectively precluded the overlap of catchment areas of other Community airports.

In summary, the Commission has viewed competition between airports, and hence the likelihood of advantages conferred on them affecting inter-State trade, as an increasing possibility. The analysis of whether a recipient airport competes with other Community airports for either interchange traffic or origin/destination traffic is a question of substitutability. The extent to which services from different airports are in competition with each other depends on a number of factors relating to the passenger and the journey being undertaken. These factors include: the price; the type of journey, whether direct or connecting; the origin and destination of the traveller; the type of passenger, whether travelling for business or leisure; the type of flight, whether long-haul or short-haul; and the frequency of services on the route. For example, for point-to-point travellers, the choice of airport and service can be influenced by the relative proximity of the airports (in terms of the preferred method of land transport) and perceptions about the ease of use of the airport and services provided. This is reflected in the catchment areas for each airport.

2.2.2.4 Market Economy Investor Principle

The question of whether a measure constitutes an advantage may sometimes be decided by considering whether a private investor acting in a free market would participate in the
transaction. Public funds provided to an undertaking (whether through a loan, capital injection or purchase of shares) will only be an aid if the terms on which they are provided go beyond those that a private investor, operating under normal market economy conditions and having regard to the information available and foreseeable developments at that time, would find acceptable when providing funds to a comparable private undertaking.

Application of the principle requires examination of whether there will be an acceptable return on the provision of funds within a reasonable period of time. The behaviour of Member States will be compared to that of private holding companies or groups taking a longer view of profitability, rather than that of private investors taking only a short-term view. This principle applies in relation to all enterprises whether profitable or loss making and also to capital injections made as part of a restructuring and modernisation plan.

This is an important principle to be considered in the context of State aids to airports given that airports competing to attract new airline services may wish to offer financial support to airlines, say, through reductions in airport charges. In principle, there is no reason why such a form of subsidisation would not fall within the scope of the private market investor principle in circumstances where an airport considers that it needs to make an investment in order to attract airlines to operate new services from the airport since this may enable the airport to build the volume of traffic necessary to create the economies of scale that would generate an acceptable return on the provision of funds within a reasonable period of time.

2.2.3 Favouring certain undertakings or the production of certain goods

The measure must be selective in order to constitute State aid, affecting the balance between the firm receiving the advantage and its competitors as opposed to measures giving general economic support to all firms in all sectors within a Member State. Advantages granted, or which have the effect of being granted, to one undertaking or all undertakings in one region or industry within a Member State, will satisfy this element. However, activities which are subject to different regulatory and economic conditions may be treated differently without such selectivity constituting an advantage.

See also: Commission paper on the application of Articles [87] and [88] to public authorities' holdings, Bulletin EC 9-1984, a copy of which is contained in Competition law in the European Communities, Volume III, Rules Applicable to State Aid (1999) European Commission, pages 133-136; and Commission Communication on the application of Articles [87] and [88] of the [EC] Treaty and of Article 5 of Commission Directive 80/723/EEC to public undertakings in the manufacturing sector, OJ C 307, 13/11/1993 0003-0014, which states that the principle should be applied, inter alia, to any cross-subsidisation by a profitable part of a public group of undertakings of any unprofitable part, except where there is net benefit to the group as a whole or good hopes of a long-term gain (paragraph 29).

The recipients of aid may operate in any of the activities or economic sectors covered by the Treaty, which includes all gainful activity, and may be public as well as private enterprises, though Article 86(2) (discussed below) may apply in relation to the former.

2.2.4 Distorting competition

The measure must be shown to be capable of distorting or threatening to distort competition. This element is satisfied where the measure strengthens the position of an undertaking compared with other undertakings competing in intra-Community trade,\(^34\) confers an advantage on a competitor in a market experiencing economic difficulties,\(^35\) or confers an advantage on a competitor operating in a sector with intense competition.\(^36\) The fact that other competitors are receiving State aid does not imply that a State aid to another competitor operating in the same sector does not distort competition (i.e. the argument that it effectively neutralises the other distortions of competition).\(^37\)

Though the Commission assumes that a distortion of competition will necessarily flow from the selective application of a measure conferring an advantage, the ECJ has stated that an analysis of the recipient undertaking's position in the relevant market must be carried out nonetheless.\(^38\)

The relevant product market will be the market for goods or services provided by the assisted undertaking and all substitutable products and services. The geographic market need not be a substantial part of the common market.

2.2.5 Assessing compatibility of aid with the common market: exemptions

If a measure is found to constitute a State aid, it is necessary to consider whether any of the automatic or discretionary exemptions under Article 87(2) and (3) will apply.

2.2.5.1 Article 87(2)

Aid falling within the scope of this article will be considered compatible with the common market. Though the Commission lacks discretion to refuse the grant of such aid, the measure must still be notified. Automatic exemption applies to the following types of aid:

(a) **aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned.**

(b) aid to make good the damage caused by natural disasters or other exceptional occurrences;

(c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.

2.2.5.2 Article 87(3)

Aid falling within the scope of this article may be considered compatible with the common market. The Commission has discretion to allow or refuse the grant of such aid, which, again, must be notified. The following types of aid may be considered compatible:

(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;

(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;

(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;

(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest;

(e) such other categories of aid as may be specified by decision of the Council acting by qualified majority on a proposal from the Commission.

Once an aid is found to fall within the scope of Article 87(3), the Commission must exercise its discretion following an assessment of the economic and social considerations in the Community as a whole. Such an assessment should include the following:

(i) whether or not the aid promotes development which is in the interests of the Community as a whole (national interests alone are not enough);

(ii) whether the aid is necessary to bring about that development; and

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(iii) whether the particular features of the aid are compatible with the importance of the objective of the aid (i.e. consideration should be given to the intensity and duration of the aid and the degree of distortion of competition that it entails).

In addition, the Commission generally requires the recipient to contribute to the achievement of the objective sought, for example, by restructuring or self-financing. Generally, operating aids which are not linked to restructuring do not benefit from Article 87(3), as they merely allow survival of the recipient undertaking during difficult times. The most important types of aid in relation to case law and implementing legislation are those falling within points (a) and (c) above and it is in relation to these that the Commission has developed particular rules.

2.2.5.3 Regional aid

These rules relate to tackling regional problems, i.e. where the standard of living is abnormally low or where there is serious unemployment and to facilitate the development of certain economic areas which are disadvantaged compared to the national average. For aid to qualify under these rules it must generally be aimed at development, such as aid towards initial investment and, therefore, is unlikely to cover operating aid.42

Regions are deemed eligible for regional aid by application of principles established by the Commission which focus on the level of income per inhabitant and the level of unemployment.

3 Airport Ownership

3.1 Patterns of Airport Ownership in the EU – Historical Development

Historically, most civil airports across the EU developed under public ownership with the major international airports under national government ownership / management and regional airports either under national, regional or local government control. Airports were either managed together as a national group or at an individual level. Although this model operated for several decades up to the 1970s, in many instances, airport development was restricted due to government spending constraints.

From the 1970s onwards a range of different ownership models have emerged, based on government policy for the ownership and operational control of airports. Some countries (eg France, Spain, Greece, Sweden and Finland) have retained their airports under national control. Others, notably the UK and Germany, have sold all or part of their airports to the private sector.

British Airports Authority (a group of three London and three regional airports) became the first privatised airports company following its flotation on the London Stock Exchange in 1987. During the 1990s, other airports in the UK and in other EU Member States followed BAA’s lead, including Copenhagen, Vienna, Rome and Frankfurt. The trend toward the privatisation of regional airports within the EU has been less marked. Some regional airports in the UK have been privatised through long term operating concessions, although the local authority retains ultimate ownership of the airport land and infrastructure. A similar pattern is now emerging in Germany and Italy.

Although many EU and Accession country airports have plans to privatise at some future date, there are other airports that are likely to continue under public ownership for some time ahead. The regional airports in France seem to be a special case in that the local Chamber of Commerce and Industry manage most of them, although their infrastructure is ultimately owned by the French state.

In Section 3.2, the various types of airport ownership are broken down into eight separate categories. These categories are described further in Sections 3.3 – 3.5 and are illustrated with typical examples within the airport sample investigated in the study.
3.2 Types of Airport Ownership

3.2.1 Classification

As discussed above, due to differing historical and political perspectives in the EU Member States and the Accession countries, a range of different airport ownership types have evolved.

In terms of classification, we have broadly grouped EU and Accession country airports into eight ownership categories. It should be noted, however, that there are a number of 'hybrid' types, partially in terms of the types and proportions of public/private ownership (e.g. levels of national and local government involvement). The eight airport ownership categories are as follows:

- National government
- Regional/local government owned
- Other state sector ownership (e.g. state holding company)
- Chamber of Commerce
- Privatised airport/airport group
  (i) (Majority government ownership)
  (ii) (Minority government ownership)
  (iii) (No government stake holding)

The 50 airports selected for interview in this study are generally believed to be representative of the various types of airport ownership within the EU and Member States. Table 3.1 overleaf shows the category of ownership for each of these airports.

3.2.2 Operating Concessions

It is important to distinguish between airport ownership in terms of its land and/or infrastructure and the airport as a business. In many cases, a government body (or a group of government bodies) may ultimately own the land and/or some or all, of the airside or landside infrastructure, but an operating (or management) concession has been granted to a private company or consortium (or another organisation e.g. Chamber of Commerce).

The precise nature of individual airport operating concessions varies considerably between different airports and has not been evaluated in detail in this study. Although there are some examples of shorter-term management contracts in the EU (e.g. Ostend Airport in Belgium and Southend Airport in the UK) these are usually only appropriate for smaller region airports in Europe. Longer-term operating concessions (25 years or more) can involve both infrastructure development e.g. the construction of a new terminal through a build operate transfer (BOT) scheme and/or the day-to-day operation of the airport itself.
## Table 3.1: Ownership Structure of Selected Airports

<table>
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<tr>
<th>State</th>
<th>Airport</th>
<th>National government</th>
<th>Regional / Local government</th>
<th>Other state sector</th>
<th>Chamber of Commerce</th>
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# Table 3.1: Ownership Structure of Selected Airports (continued)

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<td>Palma de Mallorca</td>
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<td>Sweden</td>
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<td>Stockholm Arlanda</td>
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<td>Stockholm Bromma</td>
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Table 3.1: Ownership Structure of Selected Airports (continued)

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<tr>
<th>State</th>
<th>Airport</th>
<th>National government</th>
<th>Regional / Local government</th>
<th>Other state sector</th>
<th>Private sector</th>
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<tbody>
<tr>
<td>Switzerland</td>
<td>Basle / Mulhouse</td>
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<td>Zurich</td>
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<td>United Kingdom</td>
<td>Belfast City</td>
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<td></td>
<td>Belfast International</td>
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<td></td>
<td>Birmingham</td>
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<td>Bristol</td>
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<td>Cardiff</td>
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<td></td>
<td>Liverpool</td>
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<td>London Gatwick</td>
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<td>London Heathrow</td>
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<td>London Luton</td>
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<td>London Stansted</td>
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<td>Manchester</td>
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<tr>
<td></td>
<td>Newcastle</td>
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<td>51%</td>
<td>49%</td>
</tr>
</tbody>
</table>
Normally concessions are awarded as a result of a tender offered by the ultimate owner, with a fee paid by the successful bidder for the right to operate the concession. In France, the local municipality owns the land at many regional airports but the airport is operated by the local Chamber of Commerce under a long-term concession contract (up to 50 years). Similar concepts apply at certain UK regional airports, such London Luton (ultimately owned by Luton Borough Council but operated by TBI plc under a 30 year management concession) and Newcastle (49% owned by Copenhagen under long-term management contract).

Examples of BOT concessions include a 30-year concession awarded to the Hochtief consortium to build and operate the new Athens (Spata) airport and a similar 25-year concession currently tendered by the Cyprus government to build and operate new passenger terminals at Larnaca and Paphos airports. The new Berlin Brandenburg airport is also to be constructed through a BOT concession awarded to the Hochtief /ADV consortium.

### 3.3 National Government Ownership

#### 3.3.1 Airport Groups

Several EU Member States retain full ownership and management of its airports through their national governments (or an organisation directly reporting to the national government). These are often organised as airport groups and are managed centrally within the country's Civil Aviation Authority or other state-owned organisation. Examples of such airport groups can be found in Spain, Portugal, Greece, Spain, Ireland, Finland and the Accession countries. Given their structure as airport networks, there is likely to be considerable cross-subsidisation between individual airports within the group, with the more profitable international airports often supporting smaller regional airports.

**Spain (AENA)**

In Spain, AENA (Aeropuertos Españoles y Navegacion Aerea) was established as a Public Enterprise Organisation in 1990 to own and operate the 47 major international and regional airports as well as provide air traffic control and slot coordination management. As a result, airport development in Spain is centrally planned and controlled, with the system developed as a network with some cross-subsidisation of infrastructure expenditure between individual airports. AENA reports directly to the Spanish Ministry of Public Works and the Economy and is self-financing through its airport and ATC revenues. Although AENA has expanded into overseas markets (e.g. through the purchase of shareholdings in Mexico, Columbia and Cuba), it has no plans to privatise in its own right.
Portugal (ANA)

Seven international and regional Portuguese airports (including Lisbon) are owned and managed as a group by ANA (Aeroportos de Portugal). ANA is a government owned state company and was formed in 1998 with the de-merger of Empresa Publica Aeroportos e Navegacao Aerea, ANA, EP into separate airport and air traffic management organisations. In 1991 ANA handled a total of 17.8 million passengers. It has been suggested that ANA might be privatised in 2003 or 2004 - although this may depend on the future structure of the planned new Lisbon Airport (Ota).

Greece (HCAA)

Some 42 civil airports in Greece are all owned and managed centrally by the Hellenic Civil Aviation Authority (HCAA), which operates as a separate body within the Greek Ministry of Transport. (This represents all civil airports in Greece with the exception of the new Athens Spata airport). In terms of infrastructure planning and development, the airports are regarded as a network, with all airport revenues pooled centrally into an Airport Development Fund (ADF). Currently some 80% of the ADF is redistributed for airport infrastructure development (with some cross-subsidisation between individual airports), with the remainder set aside for the State government. All new airport development is subject to consultation with local government and ratification by the Ministry of the Interior. There are tentative plans to privatise 3 - 4 airports, although the many of the airports in the network are not financially viable on an individual basis.

France (ADP)

Aéroports de Paris (ADP) is responsible for the construction, operation and development of all airports within a 50-kilometre radius of Paris. A Public Corporation (Establissement Public) formed in 1945, it is under the authority of the Minister for Civil Aviation and is controlled by the Ministry of Finance.

ADP is responsible for two major international airports, Paris Charles de Gaulle and Paris Orly and 12 light aircraft/general aviation aerodromes in the Paris area including the business airport at Le Bourget and the Paris heliport in Issy-les-Moulineaux. It also has significant overseas interests including management contracts in China, Mexico, Cambodia and Belgium (Liege). Although financially autonomous, the French government supports the group and privatisation is not on the agenda in the immediate future.

Ireland (Aer Rianta)

Aer Rianta is a Public Limited Liability company incorporated under Irish company legislation and has responsibility for the operation, management and development of Dublin,
Shannon and Cork Airports in accordance with the provisions of the Irish Air Navigation and Transport (Amendment) Act, 1998. It also has minority shareholdings in Düsseldorf, Hamburg and Birmingham International Airports, a hotel group (Great Southern Hotels) and several management contracts for retail activities at overseas airports.

Although operating as a financially independent body, the Irish government is required to approve all major capital expenditure programmes. Recently a EUR 250m Eurobond issue to fund new airport infrastructure was launched on the Dublin and London Stock Exchanges. There are tentative plans to privatise the company, probably through an IPO, although these are currently on hold.

_Finland (FCAA)_

The Finnish Civil Aviation Administration (FCAA) owns and operates 25 airports in Finland including the main international gateway, Helsinki-Vantaa. Although a state owned organisation, it operates as a commercial enterprise financed by its users and it determines its own operations, financing and investments independently. The Finnish Council of State sets out the general operational and profit targets for the Civil Aviation Authority. It is understood that there are no currently no plans to privatise any of the airports in the network.

_Sweden (Luftfartsverket)_

The Swedish Civil Aviation Authority (Luftfartsverket) has responsibility for the development and operation of 19 civil airports in Sweden including the main international gateway, Stockholm Arlanda. (This represents all scheduled service airports except for Stockholm Skavsta (operated by the UK Company, TBI plc) and Vasteras).

Luftfartsverket continues to put significant funding into the airport infrastructure development at Stockholm Arlanda. It also has a 50% stake in a joint venture to finance a new rail link between the airport and the city centre.

_Accession countries_

Nearly all of the major civil airports in the Accession countries are currently owned and operated by the national government or by an interdependent state organisation, although in several cases, long-term operating concessions have been granted to private sector companies in order to finance new infrastructure. In several Accession countries, civil airports are operated as a single group including both the major international gateway airport(s) and smaller regional airports although, in some instances, the major airport is corporatised in its own right. These airport groups are normally structured within the Civil Aviation Authority (or a similar body), which may also be responsible for aviation policy and regulation and also air traffic management. Whilst nominally independent, the Civil Aviation Authorities in most
Accession countries are strongly linked to national governments particularly in terms of overall funding.

Examples of Accession countries in which airports are operated as a single group include Poland and Cyprus. In the latter case, the Cyprus government is currently in the process of awarding a build operate transfer (BOT) concession to construct and operate two new passenger terminals at its two main airports at Larnaca and Paphos.

3.3.2 Individual Airports

A number of individual airports remain effectively under government ownership, but have been corporatised as single entities, often with the government as the single shareholder. These include some 'mini groups' such as Amsterdam Airport Schiphol, which is based around a major international airport but also includes Rotterdam and Lelystad Airports and various other interests, and individual government owned airport. Some examples are described below.

Amsterdam Airport Schiphol

Amsterdam Airport Schiphol (AAS) is jointly owned by the Netherlands government (75.8%), the Municipality of Amsterdam (21.8%) and by the Municipality of Rotterdam (2.4%). AAS wholly own two regional Dutch airports, Rotterdam and Lelystad and have a 51% shareholding in the airport company managing and operating Eindhoven Airport. AAS also has a 16% shareholding in Brisbane Airport in Australia, an operating contract at New York Kennedy Airport and other overseas interests. It has also part of the Pantares alliance (with Fraport and AdRoma).

Although AAS is financially independent, the Dutch government (and, to a lesser extent, the Municipal Authorities) are involved in major policy decisions eg the siting of the proposed fifth runway. There has been some discussion about the possible privatisation of AAS amongst the main coalition parties following the recent government elections in the Netherlands. Subject to further investigation, the parties have agreed that a 'balanced proportion' (probably 49% of the shares) of AAS should be floated on the Amsterdam AEX Stock Exchange.

Brussels International Airport

Following the merger in 1999 between Brussels Airport Terminal Company (BATC) and RVA, a new company, Brussels International Airport Company (BIAC) was formed to manage and operate the airport. BIAC is a public company limited by shares, and is 63.56% owned by the Belgian state. Other major shareholders (with an equity stake of more than 4.0%) include P&V Assurances, Group Brussels Lambert SA, Ackermans and Van Haaren,
KBC Bank SA, Dexia Bank and FB - Assurances SA. The total share capital in 2000 amounted to BEF 3,575 million.

Although BIAC's main activity is the management and operation of Brussels International Airport, it has future plans for expansion both within the Belgian market and further afield. It was recently short-listed for a management contract at either Ostend or Antwerp airports.

**Athens Spata Airport**

The new Athens Airport at Sparta, which opened in March 2001, has been developed through a 30 year build operate transfer (BOT) concession awarded to a consortium led by Hochtief. Under the terms of the concession, the Hochtief consortium owns 45% of the shares in the airport, with Greek government retain a 55% share. The airport development was funded through a combination of loan finance (from the European Investment Bank), grants from the European Commission and the Greek State, the Greek Airport Development Fund (ADF) and equity finance provided by the Hochtief consortium.

It is possible that the stake held by the Greek government could be sold though an Initial Public Offering (IPO) at some future date.

**Oslo Airport**

Oslo (Gardermoen) Airport is owned and operated by Oslo Lufthavn AS (OSL), a wholly owned subsidiary of Luftfartsverket (Norwegian Air Traffic and Airport Management - NATAM). OSL was established in 1992 to plan, build and operate a new airport at Oslo Gardermoen, and in 1997 also took over responsibility for the existing operations at the Gardermoen and Fornebu airports. Although state-owned, OSL is a public limited company and is financially self-sufficient. The new Oslo airport was financed directly through commercial funding (from Norges Bank) rather than through the State budget.

**Other Airports**

A number of other international airports in the EU and the Accession countries continue to be fully or partially owned by national governments or an individual rather than a group basis. Examples in the EU include the main German airports at Frankfurt, Munich and Berlin (see Section 4.3) and Luxembourg Findel Airport. In the Accession countries, state-owned corporations manage Tallinn, Budapest and Ljubljana Airports, although in the latter two cases, this is supported by some private sector investment.
3.4 Regional/Local Government Ownership

3.4.1 Structure

Regional and local governments have full or partial ownership of several European airports, although the pattern is changing as private sector funding is increasingly being used to finance new infrastructure investment. In some cases, regional and local governments have sold part of their shareholding to raise funds for other activities. In other instances, the government authority may wish to retain their interest to influence airport policy eg for the purposes of economic regeneration etc. Examples of airports under the control of regional and/or local government are described below.

3.4.2 United Kingdom

Historically, many regional airports in the UK were owned and operated by one or more local councils. Some of these have now been sold outright (e.g. Bristol Airport) or are technically still owned by local authorities but are now managed through an operating concession (e.g. London Luton and Birmingham International). Manchester City Council (55%) and nine other Greater Manchester District Councils jointly own the Manchester Airport Group (which includes Manchester International, Bournemouth, East Midlands and Humberside Airports together with some support service companies). Other major local authority owned airports in the UK include Newcastle (where 51% is held by seven local authorities, with the remaining shares held by Copenhagen Airport) and several smaller regional airports.

3.4.3 Germany

Traditionally all the German civil airports were established as limited liability companies (GmbH) owned by the Land, Kreise and/or Stadte/Gemeinden, often using the community's own public utility holding company (Stadtwerke) or transport undertaking (Verkehrsgesellschaft) as the vehicle. The Federal government (Bundesrepublik Deutschland, BRD) still, however, has a minority shareholding in Frankfurt, Munich and in the Berlin airports.

The pattern of airport ownership is changing rapidly in Germany, with a particular emphasis on introducing private sector funding for future infrastructure development. Following its partial privatisation through an IPO in 2000, Frankfurt is jointly owned by the regional government (Land Hesse) - 32%, the local authority (Stadte Frankfurt) - 21%, BRD - 18% and by private sector investors - 29%. Its holding company, Fraport AG Frankfurt Airport Services Worldwide, has control over at least 15 companies including Frankfurt-Hahn and Saarbrucken airports, and has a 30% shareholding in Hanover and in various overseas airports. In November 2000, Fraport AG and NV Luchthaven Schiphol (the holding company for Amsterdam Schiphol Airport) launched a special joint venture, the Pantares Alliance, for
cooperation in a range of operational and business areas. To date, this has primarily involved the acquisition of shareholdings in airports outside Europe.

Munich Airport (Flughafen Munchen GmbH) share capital is jointly owned by BRD (26%), Freistaat Bayern (51%) and by Stadt Munchen (23%). Stadt Munchen is reported to be ready to sell its shares to a private investor. Düsseldorf Airport is 50% owned by its local authority (Landeshauptstadt Düsseldorf) and 50% by the private sector (Hochtief AirPort GmbH - 30% and Aer Rianta Cpt - 20%). It holds some 70% of the share capital of a neighbouring airport, Mönchengladbach (Düsseldorf Express Airport Mönchengladbach). Berlin Brandenburg Holding GmbH, who currently operates the three Berlin airports (Tegel, Tempelhof and Schönefeld), is also jointly owned by Federal (26%) and regional government authorities (74%). This ownership structure, however, is likely to change following the anticipated award of a BOT contract for the development of Schönefeld to a consortium involving Hochtief, Fraport and Flughafen Wien.

Examples of other regional German airports owned by a combination of Federal and/or regional governments and district/local authorities include Köln/Bonn airport (BRD - 30.1%, regional government (Land) - 30.1%, local authority - 37.2% and district government (Kreise) 0.9%), Nürnberg airport (owned by the regional government - 50%, local authority - 50%) and Mitteldeutsche Flughafen (the holding company for Leipzig/Halle and Dresden airports) - which is predominately owned by the regional authority (Freistaat Sachsen - 67%). There are significant opportunities for growth at some regional German airports, particularly those suitable as a low-cost airline destination. In several instances, the local authority owner(s) has expressed interest in selling their shareholding to the private sector although, to date, some airport operators have been reluctant to acquire a minority stake rather than a controlling interest.

3.4.4 Belgium

Four regional airports in Belgium, Liege, Charleroi, Ostend and Antwerp are fully or majority owned by regional governments. Liege is jointly owned by Walloon government, local municipalities and the French airport group ADP (Aéroports de Paris). SAB (Société de Development et de Promotion de l'Aéroport Liege Bierset) operate the airport under a management contract. Charleroi (Brussels South) Airport is a public company which is majority owned by the Walloon government through a holding company, Sambrinvest SA. It is understood that the Walloon government has no plans to sell this stake. Ostend and Antwerp airports are wholly owned by the Ministry of the Flemish Community and are operated under a management contract.
3.4.5 Italy

The regional / local authority ownership model is also followed by several airports in Italy, although like Germany, airports are increasingly being privatised, albeit on an incremental basis. Both Milan airports (Malpensa and Linate) are owned by a holding company, SEA, which itself is predominantly owned by the Municipality of Milan - 84.6% and the Province of Milan - 14.6%. SEA also holds management contracts at Bergamo, Rimini, Naples and Turin airports. The company was scheduled to be partially privatised (30% of the total shareholding) at the end of 2001, but this was delayed due to the impact of September 11. The proposed new date for privatisation is now October 2002. Despite the trend towards privatisation, some Italian airports, such as Pisa, continue to be fully owned by their local authority.

3.5 Chambers of Commerce

3.5.1 Structure

Most of the regional airports in France as well as some airports in Italy (e.g. Bologna) are technically owned by the national government (in terms of infrastructure) but are operated by the local Chamber of Commerce.

3.5.2 French Regional Airports

Historically, most of the French regional airports (outside the Paris region) are managed by the local Chamber of Commerce and Industry (CCI). This includes the major regional airports at Lyon, Marseilles, Strasbourg and Bordeaux as well as smaller airports such as Grenoble and Montpellier. The overall responsibilities of the CCI vary slightly between airports, but normally the Chairman of the Board of Directors is also the Chairman of the local CCI. In addition to its overall management role, the CCIs also play an important role in airport marketing and its impact on regional development.

3.6 Privatised Airports

3.6.1 Structure

As indicated above, a substantial number of civil airports in the EU and the Accession country have been fully or partially privatised in terms of outright ownership or in terms of a long term operating contract. There are a range of possible privatisation models including quoted airport groups such as BAA plc, Fraport AG and TBI plc, though to smaller groups, consisting of a major international airport, and perhaps one or two regional airports, though to
individually privatised airports with airport operators and investment groups as the major shareholders.

Examples of those airport groups and individual airports, which are fully privately owned or under majority control, are described in Sections 3.6.2 – 3.6.7 inclusive. Examples of those airport groups with a minority private shareholding have already been discussed in Sections 3.3 – 3.4.

3.6.2 BAA plc

BAA plc owns and operates seven airports in the UK, London Heathrow, London Gatwick, London Stansted, Glasgow, Edinburgh, Aberdeen and Southampton. It also has management contracts at eleven airports overseas include Naples in Italy.

Until 1965, the UK Ministry of Civil Aviation controlled all UK airports. In 1965, a government organisation, the British Airports Authority (BAA), was created to operate the UK's main airports. The BAA was privatised in 1988 through an IPO on the London Stock exchange with a capitalisation of £1255 million. The UK government has, however, retained a 'golden share' in the company, primarily to prevent a take-over by overseas interests.

As a private company, BAA plc is independently financed through its own earnings and normal commercial loans. The UK government, however, still plays an important role in airport policy (e.g. the location of new runways in south-east England). Recently there has been some discussion as to whether BAA plc should be split up to promote competition between neighbouring airports (e.g. the three BAA London and two Scottish airports). This, however, seems unlikely in the near future.

3.6.3 Aeroporti di Roma SpA (AdR)

Aeroporti di Roma SpA (AdR) owns and operates Rome's Leonardo da Vinci and Ciampino airports and is a shareholder in ACSA, the holding company for South Africa's civil airports. The Italian government in 1990 privatised AdR. Leonardo SpA now owns some 93.5% of its total shareholding, the former being part of a consortium led by investment group Gemina that bought a 51.5% stake from the Italian state in June 2000 and in November 2000. AdR has recently joined the Pantares Alliance with Amsterdam Airport Schiphol and Fraport AG (see Section 3.4.3). In September 2002 regulators gave the green light to the Macquarie Airports Group (MAG)-led acquisition of joint control of Rome airport authority Aeroporti di Roma. The €480 million ($476 million) acquisition by Macquarie Airports Luxembourg (MALS), a consortium comprising a number of the Australian financial institution's units, was announced in July. Under the deal, Leonardo Holdings is maintaining a 51.2% shareholding in the company. The Italian consortium consists of four Italian companies; Gemina, Falck, Compagnia Italpetroli and Impregilo.
3.6.4 Kobenhavns Lufthavne A/S (Copenhagen Airport)

In October 1990, Kobenhavns Lufthavne A/S took over the ownership and operation of the two Copenhagen airports at Karstrup and Roskilde. Until then, the airports had been owned by the Danish government and operated by the Copenhagen Airport Authority, a public corporation under the Danish Ministry of Transport.

The Danish government initially wholly owned the public limited company, but in 1994 the government sold 25% of its shares to private investors. The shares of Copenhagen Airports A/S were concurrently listed on the Copenhagen Stock Exchange. In 1996 and 2000, the Danish government sold a further 24% and 17% respectively, of its shares in the company. Today, Copenhagen Airports A/S has a share capital of DKK 910 million with the Danish Government retaining a 33.8% stake. Recently the company took a 49% shareholding in the Newcastle Airport in the UK.

3.6.5 Unique Airport Zurich

Zurich Airport is owned and operated by Unique (Flughafen Zurich AG), a semi-limited public company formed in June 2001 following a public referendum in the City of Zurich through the reverse take-over of Flughafen-Immobilien-Gesellschaft (FIG) and Flughafendirektion (FDZ). Some 51% of shares are in public ownership quoted on the Swiss stock market and 49% remain with Canton Zurich. There are plans to release a further 16% of Canton Zurich's shareholding to the private sector at some future date. In addition to operating Zurich airport, Unique have recently invested in airports in Chile and India. A Board of Directors manages the company. Three of the seven board members represent Canton Zurich and other regional and local government organisations.

3.6.6 Flughafen Wien AG (Vienna Airport)

Flughafen Wien AG (Vienna Airport) is public limited liability company which is 20% owned by the Province of Lower Austria, 20% by City of Vienna, 50% by private investors and 10% by the company's own employees. The company is quoted on the Austrian stock exchange. The total share capital is EUR 152 million. Vienna Airport is currently the most easterly major international airport within the EU and acts as a hub for eastern Europe/CIS traffic.

3.6.7 Other Privatised Airports

Several regional airports within the EU are now fully owned by the private companies or are majority owned within the private sector. In the UK, this trend is fairly advanced as local authorities have seen the sale of their airport assets as an important method of raising their own funds. Examples of privatised regional airports in the include Liverpool (owned by Peel
Holdings plc), Belfast International, Cardiff and London Luton (owned by TBI plc), Bristol (jointly owned by Macquarie Airports, an Australian fund management group and the Spanish airports group, Cintra) and Belfast City (owned by the Canadian company, Bombardier).

Although there are some examples of fully or majority owned privatised regional airports in other EU Member States e.g. Bergamo in Italy and Waterford in Ireland, most airports remain in some form of public ownership.
4 Airport Competition

4.1 Definitions

4.1.1 Introduction

Airports sell their aeronautical services (i.e. the provision of runways, taxiways, aprons and terminals) principally to commercial airlines. The airlines in turn sell seats to passengers, and cargo space to shippers. Airports, or their concessionaires, also sell services such as shops and car parks, directly to passengers.

In countries where airports have been privatised, the UK and Australia, there has been a considerable amount of discussion concerning which airport services are competitive, and which are by their nature monopolies. Those airports that are monopolies would need regulation. Consumers would be protected from monopolistic behaviour only where there was existing competition from other service providers, or at least the threat of such competition.

The Australian government report entitled ‘Price Regulation of Airport Services’ concluded that Australian airports appeared to have ‘significant market power’, but went on to say:

‘However, it is important to note that the essence of an airport’s monopoly is spatial or locational in nature. A direct competitor may not emerge in the same city, but an airport in another city may provide some competition. The degree to which this type of competition could emerge can only be assessed by examining the demand characteristics of particular locations and airports.’

In assessing airport competition, it is first necessary to define the relevant market. All airport services, both aeronautical and commercial, depend on the airlines offering flights at the airport, which bring passengers who consume commercial services, and cargo that required other facilities.

Thus the relevant market would be the demand for services by airlines, or slots. In assessing airline competition, one can include all markets or airports that are related insofar as a price or service quality change by one airport will have a measurable affect on airline activities at another. Thus Amsterdam/New York and Paris/New York could be included in that a reduction in air fare on one might lead to a decline in traffic on the other, other things being equal and depending on the price elasticities of demand.

Thus for airports the relevant markets would be determined by the degree to which the demand for slots at one airport (say Amsterdam) was affected by the change in airport charges.
associated with a slot at another airport (say Paris CDG). If one airport was, for example, subsidised by its government, and was able to offer much lower airport charges, an airline might move from another airport to take advantage of these lower charges.

Alternatively, the airlines at the lower airport charge airport might experience an increase in passenger traffic at the expense of airlines at other airports, if the reductions were passed on in lower airfares. This would be more likely to happen where two airports have overlapping catchment areas. In practice it would be very difficult to determine if such diversion had taken place, since air traffic would also change through:

- Changes in other airline costs
- Economic and social developments
- Changes in frequency or other aspects of service quality
- Competitive developments in surface transport

This point was also made in the UK Monopolies and Mergers Commission (MMC) 1997 report on Manchester Airport:

'2.15 ....... Higher charges at many airports, most noticeably Heathrow, would in practice have very little effect on demand, given that airport charges account for a very small proportion of air fares and can be significantly below the value to the airlines of the facilities used. In addition, prices higher than cost are ruled out by international agreements.'

It is dangerous to assume that airlines will automatically pass on the charges to their customers. In reality airlines may react to the increased airport charges by:

a) Passing them to consumers, resulting in loss of revenue
b) Absorbing them, resulting in an increase to their costs
c) Absorb the increase in charges partially and pass on the rest to their consumers

The airlines' response will depend on a number of factors including:

- Passengers demand price elasticity
- Mix of business and leisure passengers
- Airline cost structures
- Response of competitors to the changes in airport charges

Different categories of air traffic have different degrees of sensitivity to changes in airport charges, the most sensitive being:

- Traffic carried by 'low cost' airlines
- Charter traffic
- Transfer passenger traffic
- Air cargo (which in Europe is often transferring from truck to aircraft or vice versa)

The first three are all more price sensitive and also less time sensitive. In the case of the first two, passengers will often drive considerable distances or use public surface transport to take a flight. The third category will take an indirect flight, also involving more time than the non-stop flight (or nearer airport).

The responses from the airports support the above categories and types of traffic, and will be discussed later.

ACI Europe identified different forms of competition, or ‘perceptions of competition’ between airports: 43

1. Competition to attract new airline services – passengers and freight
2. Competition between airports with overlapping hinterlands
3. Competition for a role as a hub airport and for transfer traffic between hubs
4. Competition between airports within urban areas
5. Competition for the provision of services at airports
6. Competition between airport terminals

The first four of these forms will be discussed in turn, the last two not being directly relevant to this study.

4.1.2 Competition between airports to attract new services

The ACI Europe paper describes the airport’s role in attracting new services through ‘marketing and increased competition to attract airline services’ They are referring here principally to services catering for point-to-point or origin/destination traffic, since other types of service and traffic are dealt with under their other headings.

There are many factors that cause an airline to introduce air services to new city-pair markets, and the airport’s role can certainly be important in stressing the attractions of the airport infrastructure and surrounding area for business and leisure travellers.

However, the price and quality of the airport services per se are only a small part of the input to the airline decision, which also depends on:

- Availability of slots (at slot constrained airport)

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- Availability of traffic rights
- Potential traffic and yield at each end of route
- Existing competition offered by other airlines on route and indirect routings
- Availability of aircraft
- Operating costs other than dependent on airport operator

The airport operator can influence the decision directly through offering good facilities (parking, surface access, check-in, lounges, shopping, gates, and sometimes handling services), and the cost of landing and take-offs. Indirectly, the airport can influence the costs of services provided by firms with concessions for providing other services at the airport.

If there is another airport serving the same catchment area, the airport's offer can rightly be considered to play a part in the airline's decision to introduce the service at all, and to use that airport in particular.

The example given by ACI Europe in their paper was Continental Airlines wishing to use one of their available long-haul aircraft for new transatlantic air services in 1998. Here, the competition would better be described as between cities (Dublin and surrounds versus the other European gateway cities), rather than between airports, as asserted by ACI Europe. It is doubtful whether Continental even considered either Cork or Belfast International airports as alternatives to serve the Dublin area.

These types of long-haul service are much less dependent on specific airport factors, and more linked to the other factors listed as bullet points above. On the other hand, charter and low cost short-haul services do give the airport operator a much greater role in competing with other airports. These are addressed in the next section below.

4.1.3 Competition between airports with overlapping hinterlands

In contrast to new long-haul services discussed above, for short/medium haul services, alternative airports are often considered as possibilities. This is especially important for short-haul services serving the more price sensitive market segments. Charter and low cost services fit this category, and some leisure oriented scheduled flights (although these generally off-peak use of aircraft otherwise employed at an airport for flights aimed at business passengers).

Given a sufficient number of potential city-pairs with existing or potential volume of traffic, airports compete with each for new air services principally in terms of price, which assumes a much larger share of total airline operating costs. The competition will be for one or more aircraft being based at the airport, offering flights to a number of different cities.
For existing services, an airport that is able to offer lower airport charges would allow airlines benefiting to pass them on in lower airfares, which could result in traffic being diverted from airlines at other competing airports. This has, to some extent, happened as a result of the low cost airline phenomenon, focused on South-east England. But, first, this diversion of traffic has come about because of the significant reductions in total airline costs achieved, only partly explained by lower airport charges.

A 1997 study compared a low cost airline with a scheduled airline (British Midland), and found that the low cost airline’s operating costs were 30% below British Midland. Airport charges were also about 30% lower for the low cost airline, but because their weight in the total was 16%, airport charges only accounted for just under 5% of the 30% difference.

Second, the significantly lower airport charges offered to low cost airlines have usually been based on marginal cost pricing. An under-utilised airport such as Stansted or Luton has offered airport charges that produce marginal revenues that exceed the very low marginal costs of handling an additional flight.

These marginal revenues would be generated from the retail expenditure that the new passengers bring to the airport, and thus aeronautical charges could be set at zero without any consideration of capital costs at all. Indeed, such capital costs are treated as ‘sunk costs’, and may have been financed many years ago as part of government’s defence expenditure (e.g. Hahn, Stansted, Newquay, and some French provincial airports).

A subsidy problem would arise, however, where an airport receives an operating subsidy. This might enable it to either set lower aeronautical charges and / or pay money to an airline to establish a base there. This could take various forms, which have been referred to in connection with Charleroi Airport. In such a case, marginal revenues could be less than marginal costs.

4.1.4 Competition for a role as a hub airport and for transfer traffic between hubs

Airports see themselves as competing for the role as a transfer hub, which is Europe consists of traffic transferring mainly from domestic and intra-European flights to long-haul or intercontinental flights.

It is unlikely, however, that airports themselves will have much influence on this, apart from the provision of sufficient runway, apron and terminal capacity. Hubs demand a significant amount of runway capacity to accommodate their waves or banks of arriving and departing flights, and airlines which are faced by constrained runway capacity usually look elsewhere for a secondary hub, while continuing to operate their primary (constrained) hub. Examples
of this are Lufthansa setting up Munich as a secondary hub, and British Airways with Gatwick.

It is the airlines that establish and operate the hubs, and in Europe the primary hubs in Europe have been established historically at the main base of the former national flag carrier. In most cases this was at the capital city airport.

Airports also try to assist the hub carrier in the smooth operation of the hub by offering them sufficient gates in close proximity to each other and well-located business lounges. Baggage transfer also needs to be efficient, and minimum-connecting times reduced to the minimum.

Airports located in the same urban area are in the best position to compete with each other. This is because of their proximity to the commercial and residential centres of the city, and their close association with the city.
In Europe, such competition is more often than not ruled out through the common ownership of the major airports within the urban area:

- London Heathrow, Gatwick and Stansted (BAA)
- Paris CDG and Orly (Aéroports de Paris)
- Milan Linate and Malpensa (SEA)
- Rome Fiumicino and Ciampino (Aeroporto di Roma)

Limited competition is possible from Luton and London City airports in the London area, and Beauvais in Paris. Luton and Stansted competed strongly for the new low cost market when both airports had a good deal of spare capacity, but both are now becoming more congested, and focus more on improving margins from existing operators.

In the UK, the BAA have always argued that, even if Heathrow and Gatwick were owned by separate companies, there would be limited scope for them to compete with one another. This position is also maintained by ACI Europe, who add that:

'passengers are so wedded to the primary airports at cities that many administrations and airport authorities actually close an old airport when they develop a new one to ensure the viability of the new facility as happened at Hong Kong, Denver and Oslo.'

Kuala Lumpur would have been a better example than Hong Kong, since the latter was closed principally for safety and environmental reasons.

4.2 Survey Results

4.2.1 Catchment area

The concept of catchment is used to define the area within which most of the existing or potential traffic of an airport lies. Its relevance here is the identification of overlapping catchment areas, where two or more airports (or rather airlines operating at those airports) compete for the same traffic.

Catchment area depends principally on the nature of traffic under consideration, the total length of trip, and the airline service and fares offered at each airport.

For the survey of airports undertaken for this study (summarised in Table 4.1) inclusive, the first two points were to some extent addressed by requesting separate data for:

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- Scheduled domestic
- Scheduled international (origin/destination)
- Scheduled international (transfer)
- Charter
- All cargo

Catchment area would be expected to be larger for longer haul trips, where the surface access time can be longer without being too high a proportion of the total duration of the journey. International trips, especially those involving a transfer, would thus widen the area for an airport.

Passengers who value time least (leisure rather than business travellers) would also be prepared to travel further to an airport. Charter passengers (and low cost airline customers) would fit this category.

Airports whose airlines offered a large choice of destinations, high frequencies and low fares would also be expected to have much larger catchment areas than those that didn’t.

Unfortunately, the survey did not provide very useful information on the degree of overlap of catchment areas. First, many airports were unable to provide this data. Some major airports such as Heathrow, Gatwick, Paris CDG and Orly are included here.

Second, the definition of catchment area differed considerably, in spite of suggesting a common definition (percent of population within a one hour driving time of the airport). Airports can be grouped into those that gave the percentage of their existing traffic (or absolute passenger numbers) that had origins or final destinations within a specified distance:

- Copenhagen
- Frankfurt
- London Luton
- Waterford

There were others who used a similar definition, but using time rather than distance:

- Cologne-Bonn
- Lisbon
- Malmo
- Rome
- Turin

Some did not give percentages, but just driving time:
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- Basel
- Brussels
- Dublin, Shannon
- Milan

And finally some gave urban or country areas: Stockholm and suburbs (Bromma), Athens area (Athens, domestic), whole country (Helsinki, domestic, Tallinn and Luxembourg), Rotterdam Randstad (Rotterdam), Nordrhein Westfalia (Düsseldorf), and North-west (Manchester).

4.2.2 Airport perception of major competitors

Airports were asked to rank their major competitors, and assign one or more of the following categories of traffic to each one:

- Low cost airline services
- Scheduled long-haul and transfers
- Scheduled short-haul
- Charter
- All cargo

Tables 4.2 and 4.3 summarise their responses for primary and secondary competitors respectively, although some airports not specifying a traffic category.

For the low cost airline traffic category, the following competitors were ranked first:

- Charleroi for Brussels
- Brussels for Charleroi
- Brussels for Amsterdam
- Madrid for Lisbon
- Copenhagen for Malmo
- Geneva for Zurich
- Belfast International for Belfast City
- Luton for Stansted

Airports ranked the following competitors second:

- Malmo and Goteborg for Copenhagen
- Londonderry for Belfast City

Interestingly, no airport mentioned competition for a low cost carrier basing aircraft at a new 'hub'. Examples of this might have been Skavsta, Hahn or Charleroi.
For long-haul and transfer flights, the following competitors were ranked first:

- Munich for Vienna
- Paris for Brussels
- Heathrow, Frankfurt, Paris CDG and Amsterdam for Copenhagen
- Copenhagen for Tallinn
- Munich for Frankfurt
- Frankfurt for Munich
- Dortmund for Mönchengladbach
- Düsseldorf for Cologne-Bonn
- Frankfurt, Paris CDG, Brussels and Amsterdam for Düsseldorf
- Frankfurt for Nürnberg
- Prague for Budapest
- Milan Linate for Bergamo
- Milan Malpensa for Rome
- Milan Malpensa for Turin
- Brussels for Luxembourg
- London airports for Amsterdam
- Berlin for Warsaw
- Madrid for Lisbon
- Copenhagen for Malmo
- Copenhagen for Stockholm Arlanda
- Frankfurt for Zurich
- Paris CDG for London Heathrow and Gatwick
- Heathrow for Manchester

In some cases, an airport’s main competitor also perceived the same airport to be its main competitor (e.g. Frankfurt and Munich). In other cases, the two differed (e.g. Munich for Vienna, and Frankfurt for Munich, or Paris CDG for Heathrow, and Heathrow for Amsterdam).

For scheduled international short-haul flights, the following competitors were ranked first:

- Munich for Vienna
- Paris for Brussels
- Paphos for Larnaca
- Billund for Copenhagen
- Thessaloniki for Athens
- Prague for Budapest
- Belfast International for Dublin
- Cork for Waterford
- Milan Linate for both Bergamo and Malpensa
- Brussels for Luxembourg
- Frankfurt for Amsterdam
- Amsterdam for Rotterdam
- Berlin for Warsaw
- Madrid for Lisbon
- Graz for Ljubljana
- Barcelona for Gerona
- Copenhagen for Malmo
- Copenhagen for Stockholm Arlanda
- Stockholm Arlanda for Bromma
- Strasbourg for Basel
- Frankfurt for Zurich
- Heathrow for Bristol
- Manchester for Heathrow and Gatwick
- Heathrow for Luton
- Birmingham for London Stansted
- Munich for Nürnberg
- Frankfurt, Paris CDG, Brussels and Amsterdam for Düsseldorf
- Düsseldorf for Cologne-Bonn

Most of these are within close proximity to one another, and have good road and transport links with the area.

In addition to the above pairs of airports, competition for charter flights was mentioned by the following:

- Brussels for Charleroi
- Cork for Shannon
- Verona for Bologna
- Zurich for Basel
- Manchester for Liverpool

Finally, specific all-cargo competition was ranked first as follows:

- Paris for Brussels
- Luxembourg for Liège
- Frankfurt, Hahn, Maastricht, Paris CDG and Liège for Cologne-Bonn
- Liège for Luxembourg
- Liège for Amsterdam
- Madrid for Lisbon
- Copenhagen for Malmo
4.3 Summary

The results of the survey indicated that airports saw themselves as competing for all the categories of traffic discussed in the first part of this chapter. There was some consistency as to views on the major hub airport competition (Amsterdam, London Heathrow, Paris CDG and Frankfurt), although some secondary hubs such as Copenhagen were also cited.

Liège was seen as the major competitor for all cargo services, presumably because of the support that carriers receive, its central location and few environmental restrictions. Former air force bases, now marketed as air cargo airports (e.g. Vatry in France), have not been at all successful, and were not mentioned by other airports in the survey.

Surprisingly few airports mentioned low cost airline competition at ‘alternative’ airports. In this respect, only two airports mentioned Brussels, while Charleroi, Hahn, Berlin, Stansted and others were each mentioned once. Perhaps, as these types of service become more popular in Europe, airports will see them, and the airports they use, in a more competitive light.

The survey also showed large differences in their perception of other airports competing for origin / destination scheduled traffic. This was sometimes reflected in large distances between the competitor and themselves. This would have been expected for the more price sensitive charter flight, but the longest distance was the 180 miles between Frankfurt and Zurich, the others being much closer together.

The degree to which competition actually takes place between airports for their prime customers, the airlines, must be limited. Pricing at one airport has little affect on long haul traffic distribution between airports, and obviously only those airports which have sufficiently long runways can actually compete for such traffic. Hub traffic competition is also generally for long-haul traffic transferring to/from short or long haul flights, and price again can play little part. Facilities may help, but so far passenger hubs have been restricted to a limited number of airports by history and air services agreements.

The potential for competition is greatest for short-haul charter flights, low cost airlines and cargo. For charter flights, the passenger is still more often than not purchasing a package (and thus hotel and total package price become large in relation to origin airport charges), and variations in airport charges do not drive airline decisions as to where to base aircraft.
Low cost airlines tend to use under-utilised airports, which can offer significantly lower charges based on low marginal costs. While these charges may not affect the choice of the airport as a destination, they may influence the low cost airline on choice of operating base (e.g. Charleroi and Hahn).

Finally, all cargo operators also need a base at which they would operate their hub, feeding longer haul flights from trucks and vice versa. Good ground facilities are important, and airport and ground charges are more significant a part of total costs than for the passenger business. Thus airports can be considered to compete for these operators, especially if they do not have too many environmental constraints.
## Table 4.1 Catchment Areas - Questionnaire Responses

<table>
<thead>
<tr>
<th>State - Airport</th>
<th>Sched. Domestic</th>
<th>Scheduled International (O/D)</th>
<th>Scheduled International Transfer</th>
<th>Charter air services</th>
<th>All-cargo flights</th>
<th>Not specified</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Vienna</td>
<td>300 km</td>
<td>300 km</td>
<td>n/a</td>
<td>300 km</td>
<td>800 km E., 300 km W.</td>
</tr>
<tr>
<td>Belgium</td>
<td>Brussels</td>
<td>no domestic</td>
<td>1.5 hr drive time</td>
<td>N-S route in EU</td>
<td>2.0 hr drive time</td>
<td>route defined</td>
</tr>
<tr>
<td></td>
<td>Charleroi</td>
<td>no domestic</td>
<td>3.0 hr drive time</td>
<td>n/a</td>
<td>southern Belgium</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td>Liege</td>
<td>no domestic</td>
<td></td>
<td>n/a</td>
<td>Belgium/Holland/Rhine</td>
<td></td>
</tr>
<tr>
<td>Cyprus</td>
<td>Larnaca</td>
<td>no domestic</td>
<td>whole country</td>
<td>other E.Med hubs</td>
<td>whole country</td>
<td>whole country</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Prague</td>
<td>no domestic</td>
<td>whole country</td>
<td>little transfer traffic</td>
<td>whole country</td>
<td>whole country</td>
</tr>
<tr>
<td>Denmark</td>
<td>Copenhagen</td>
<td>majority 1 hour</td>
<td>90% within 2 hrs</td>
<td>90% within 2 hrs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estonia</td>
<td>Tallinn</td>
<td>whole country</td>
<td>whole country</td>
<td>n/a</td>
<td>whole country</td>
<td>n/a</td>
</tr>
<tr>
<td>Finland</td>
<td>Helsinki</td>
<td>whole country</td>
<td>whole country</td>
<td>South Finland</td>
<td>whole country</td>
<td>Depends on AY</td>
</tr>
<tr>
<td></td>
<td>Livolo</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>France</td>
<td>Lyon</td>
<td></td>
<td></td>
<td></td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Paris C de Gaulle</td>
<td></td>
<td></td>
<td></td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Paris Orly</td>
<td></td>
<td></td>
<td></td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>Germany</td>
<td>Berlin Brandenburg</td>
<td>Not defined; broadly Berlin &amp; Brandenburg</td>
<td></td>
<td></td>
<td>no data</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cologne Bonn</td>
<td>45-60 minutes</td>
<td>&gt; 60 minutes</td>
<td>No transfer</td>
<td>HAM/NUE/STR (O/D)</td>
<td>Isochrones used</td>
</tr>
<tr>
<td></td>
<td>Düsseldorf</td>
<td>Survey shows 92.2% of o/d passengers NRW, 5.8% other Germany, 3% Benelux</td>
<td>No data</td>
<td>Surveys used</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Frankfurt</td>
<td>50km (80% of passengers)</td>
<td>50km (50% of passengers)</td>
<td>worldwide</td>
<td>50km (40% of passengers)</td>
<td>Survey based radii</td>
</tr>
<tr>
<td></td>
<td>Leipzig</td>
<td>100 to 150 km target area, generally west of Chemnitz</td>
<td></td>
<td></td>
<td>Radii used</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mönchengladbach</td>
<td>No data</td>
<td>No data</td>
<td></td>
<td>No data</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Munich</td>
<td>Core area established by passenger surveys; Hof/ Linz/ Bolzano/ Stuttgart&gt; 60% of o/d passengers</td>
<td></td>
<td></td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Nuremberg</td>
<td>88% within 100km</td>
<td>89% within 100km</td>
<td>70% within 100km</td>
<td>No data</td>
<td>Survey based radius</td>
</tr>
<tr>
<td>Greece</td>
<td>Athens</td>
<td>Athens area</td>
<td>mainland Greece</td>
<td>whole country</td>
<td>whole country</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td>Chania</td>
<td>eastern Crete</td>
<td>n/a</td>
<td>n/a</td>
<td>eastern Crete</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td>Iraklion</td>
<td>whole Crete</td>
<td>n/a</td>
<td>n/a</td>
<td>whole Crete</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td>Naxos</td>
<td>whole island</td>
<td>n/a</td>
<td>n/a</td>
<td>whole island</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td>Paros</td>
<td>whole island</td>
<td>n/a</td>
<td>n/a</td>
<td>whole island</td>
<td>n/a</td>
</tr>
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</table>
### Table 4.1 Catchment Areas - Questionnaire Responses (continued)

<table>
<thead>
<tr>
<th>State Airport</th>
<th>Sched. Domestic</th>
<th>Scheduled international (O/D)</th>
<th>Scheduled International Transfer</th>
<th>Charter air services</th>
<th>All-cargo flights</th>
<th>Not specified</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hungary</td>
<td>Budapest area</td>
<td>whole country</td>
<td>whole country</td>
<td>whole country</td>
<td>whole country</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(transatlantic)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ireland</td>
<td>Cork</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>33% of catchment pop, overlaps with other airports</td>
</tr>
<tr>
<td>Dublin</td>
<td>1.5 hours</td>
<td>2.5 hours</td>
<td>2.5 hours</td>
<td>2.5 hours</td>
<td>2.5 hours</td>
<td></td>
</tr>
<tr>
<td>Shannon</td>
<td>1.5 hours</td>
<td>2 hrs</td>
<td>n/a</td>
<td>1.5 hours</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>Waterford</td>
<td>100,000 within</td>
<td>no domestic</td>
<td>whole country</td>
<td>none</td>
<td>whole country</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 hr</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Italy</td>
<td>Milan Bergamo</td>
<td>30 mins driving</td>
<td>60 mins driving</td>
<td>60 mins driving</td>
<td>up to 2 hours</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Milan Linate</td>
<td>30 mins driving</td>
<td>60 mins driving</td>
<td>60 mins driving</td>
<td>up to 2 hours</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Milan Malpensa</td>
<td>30 mins driving</td>
<td>60 mins driving</td>
<td>60 mins driving</td>
<td>up to 2 hours</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rome Fiumicino</td>
<td>1 hour (3 mn)</td>
<td>2 hours (12 mn)</td>
<td>n/a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Turin</td>
<td>51.5% within 1 hr</td>
<td>12.8% within 1 hr</td>
<td>27.2% within 1 hr</td>
<td>7.9% within 1 hr</td>
<td>17.8% within 1 hr</td>
<td></td>
</tr>
<tr>
<td>Luxembourg</td>
<td>Luxembourg</td>
<td>no domestic</td>
<td>whole country</td>
<td>none</td>
<td>whole country</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>route specific</td>
</tr>
<tr>
<td>Netherlands</td>
<td>Amsterdam</td>
<td>no domestic</td>
<td>80% from Randstad</td>
<td>alliance-based</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rotterdam</td>
<td>no domestic</td>
<td>Rotterdam/Randstad</td>
<td>no flights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Norway</td>
<td>Oslo Gardermoen</td>
<td>n/a</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Prague</td>
<td>50% within 1 hr</td>
<td>50% within 1 hr</td>
<td>50% within 1 hr</td>
<td>80% within 1 hr</td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td>Ljubiana</td>
<td>n/a</td>
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<td>Spain</td>
<td>Gerona</td>
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<td></td>
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<td></td>
<td>Madrid</td>
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Air Transport Group, School of Engineering, Cranfield University
Table 4.2 Competing Airports - Questionnaire Responses (First Competing Airport)

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Air Transport Group, School of Engineering, Cranfield University
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Air Transport Group, School of Engineering, Cranfield University
5 Airport Finance

5.1 Aeronautical Charges

5.1.1 Structure

All airports included in the sample apply a charge for aircraft usage of the runway. This is either described as a landing or take-off charge. These charges are based on formulas that set charges, at the simplest level, on the basis of a unit rate per maximum take-off weight of the aircraft (MTOW). At Irish airports for example, all operators pay the same unit rate. At some airports aircraft departures to international destinations are charged at a higher rate than to domestic destinations. In order to comply with EU law, airports set landing charges for services to EU destinations at the same rate as those set for services to domestic airports. For example, Paris Charges De Gaulle applies the same unit rate to all aircraft departures.

At the BAA-owned London Heathrow and Gatwick airports, landing charges are based on a fairly unique but simple formula. Instead of a unit rate based on MTOW, there are flat-rate fixed charges differentiated by peak and off-peak rates originally designed to reflect higher costs of operating infrastructure during peak periods and as an incentive to airlines to use off-peak slots. There are also different levels of fixed charge depending on the noise classification of the aircraft.

Most airports set a passenger facility charge which has traditionally been used to recover costs associated with the processing of passengers through the terminal. At most airports the basis of the passenger facility charge is departing passengers with typically a fee per departing passenger paid by the airline and included in the ticket price. Differentiation by destination is more apparent in passenger facility charge formulas than in landing charge structures mainly because airports can justify different unit rates on the basis of differences in the cost of handling different types of passenger. For example, In Denmark, Copenhagen airport has separate charges for passengers departing to international destinations, domestic destinations and passengers both transiting and transferring between flights though the airport.

Lower transfer passenger charges are currently offered at Amsterdam and Frankfurt while passengers transferring between flights on the same day are exempt from the passenger charge at Brussels. Lower charges for transfer passengers are an incentive to encourage air carriers to establish hub and spoke operations at the airport. This is particularly important in the competitive long-haul scheduled air service market where passengers across the European Union in accessing long-haul services will often have a range of international gateways to chose from. Interestingly no discounted transfer passenger charges exist at London Heathrow or Paris Charles de Gaulle.
Security costs at airports can also be recovered through separate passenger-based security charges. While at some airports security is a separate charge, for example at Stockholm Arlanda. At other airports, it is incorporated in the passenger facility charges (London Heathrow, Copenhagen). In some countries, security services are provided by government agencies. In Portugal for example, the Directorate of Civil Aviation levies a passenger-based security charge at Lisbon.

Terminal navigational aid charges exist at many airports to recover the costs associated with providing air traffic control approach facilities and services. In some countries, air navigation service providers provide this. In the United Kingdom, National Air Traffic Services (NATS) Ltd offers this service at the three BAA London airports and recovers costs by setting an airport user charge (terminal navigation charge). At Manchester, however, the airport operator sets a Terminal navigational aid fee and collects the revenue and sub-contracts air traffic control service provision to NATS. In Portugal and Spain, the airport operator is also responsible for air navigation services while this is also the case in Norway where the costs of providing airport terminal navigational aid facilities are recovered through en-route charges. The types of charges vary from simple aircraft-weight based fees as applied at Irish Aer Rianta-owned airports to more complex formulas levied at airports in Germany and France.

Most airports apply an aircraft parking charge, which is usually based on aircraft weight and time. However, in the majority of these cases, there is a free period that can range from three to six hours. The exceptions are at London Heathrow; where there are no free periods and parking charges are higher during peak intervals.

An increasing number of medium-sized and large airports set boarding bridge charges. At Italian airports, where at present all charges are set by the Directorate of Civil Aviation. The one area of discretion is in boarding bridge charges that are set at Milan Malpensa and Linate. At Paris Charles de Gaulle and Lisbon, airport operators also levy boarding bridge charges. At Lyon in France, the airport operator levies a boarding bridge charge that is based on time, as are the boarding bridge charges at Madrid, Malaga and Barcelona.

Environmental charges have now become quite widespread at airports across the European Union, particularly at Category 1 airports. In some instances environmental charges (noise and emissions) are manifested as surcharges or discounts on the aircraft landing or take-off charge at Amsterdam, both the airport operator and the national government levy noise-related charges while at Stockholm there are emissions-related surcharges on the landing fee and there is a separate noise charge based on a specific formula.

Other charges set by airport operators include ground handling-related infrastructure fees that have been adopted by Stockholm Arlanda and Frankfurt, lighting surcharges that are applied at Paris Charles de Gaulle and Orly and set on a per movement basis. Fuel throughput charges are also set at some airports and classified as aeronautical charges. However at other
airports, separate concession-type or non-aeronautical charges are applied in relation to fuel throughput.

While all airports will issue a published set of tariffs, it is not completely uncommon for some airlines to be able to negotiate separate aeronautical charge agreements with airport operators. This appears to be quite prevalent in the low cost no-frills airline sector where air carriers are able to leverage separate deals involving typically the airline paying a fee per departing passenger in return for use of the airport’s facilities and services rather than the published tariffs. For example, according to the press reports\textsuperscript{46}, easyJet and Luton airport reached an agreement on extending their 5-year agreement on aeronautical charges in August 2001, which required easyJet to pay EUR9.17 per departing passenger rather than the published set of tariffs levied by the airport operator.

5.1.2 Economic Regulation

In the majority of EU member states, the setting of aeronautical charges is usually subject to some form of economic regulation by either national or regional government designated regulatory institutions. However, the extent, scope and features of regulation applied are very different between member states. Only in Finland and Italy (until recently) is there a clear absence of any formal economic regulation of airports. In the case of Italy, the Directorate of Civil Aviation (ENAC) had set aeronautical charges without any consideration for local demand, supply and financial circumstances of each airport. Airports are now (May 2002) allowed to set their own charges but still within specified guidelines set out by ENAC.

Economic regulation can be different in many ways. For example, the number of airports included, the scope of airport activities and services that are regulated, the precise method of regulation and duration of review periods.

In some countries only a limited number of airports are subject to formal processes of economic regulation (United Kingdom, Ireland, Denmark, Austria, Netherlands) although airport charges in general may still be subject to approval. In Spain, Portugal and Sweden, as there exists entities than manage multiple airport networks most if not all airports in those countries are subject to economic regulation. Germany is unique, as the economic regulation of airports is undertaken by the regional governments (Lander).

Typically the scope of economic regulation in terms of airport services and functions covered focuses on aeronautical services (landing, passenger facility charge, aircraft parking charges). In some countries, however, the scope of regulation extends to what are traditionally classified as non-aeronautical activities. For example, in Lisbon, the Portuguese regulator must approve changes in rental fees for the use of check-in desks and offices. In the United Kingdom, where the method of economic regulation is presently under review, one issue

\textsuperscript{46} Financial Times August 31 2001, Page 18

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Currently being debated is which activities should be subject to regulation. Traditionally regulation has encompassed aeronautical services, but there is now a growing realisation that regulation would be more effective at achieving its objectives (cost minimisation / dynamic efficiency) if it was focused on those activities where the airport was deemed to possess significant market power. At present within most member states, aeronautical charges are regulated within the context of a single-till where the aeronautical charges are set taking into account the non-aeronautical revenues of the airport.

The UK CAA, which proactively regulates charges at four airports within its jurisdiction (but has an approval process for other airports), is presently recommending that the single-till system be replaced by a dual-till where aeronautical charges would be set strictly in relation to aeronautical costs. The CAA argues that such a system would to some extent deal with congestion and excess demand for slots that exists by setting prices that reflect both the costs and to some extent better reflecting the scarcity of slots. Furthermore, it is also argued that adoption of dual-till pricing within a regulatory framework provides the correct incentives to invest in additional capacity.

Regarding different methods of economic regulation, price-cap regimes are currently in place at the Aer Rianta airports (Dublin, Cork and Shannon) at the three London BAA airports and Manchester in the UK and at Hamburg in Germany. Price cap regulation effectively forces an airport operator to set charges within limits prescribed in the formula RPI-X or RPI+X with the X factor incorporating and representing the efficiency gains expected of the airport operator and RPI defined as the change in the retail price index. In both the Irish and UK cases the price cap applies for a 5-year period. Formulas are also applied to Vienna airport and to the Swedish CAA airports. In the case of Vienna, the price-cap is also related to traffic growth while in Sweden charges are linked to the Consumer Price Index.

Less formal regimes exist in France, Spain and Portugal. In both Spain and Portugal the airport operators will submit their proposed set of charges to the regulator who following a consultation period then makes a decision on the proposed level of charges. Denmark operates a unique system of economic regulation usually referred to as reserve power regulation. At Copenhagen, the airport operator is required to reach an agreement with the airlines collectively on the level and structure of charges for a three-year period. In the event of failure to reach an agreement, the regulator (Ministry of Transport) establishes a price-cap not too dissimilar to that in place in Ireland and the UK.

The question now arises as to whether regimes of economic regulation substantially affect competition between firstly those airports that are regulated and those that are not and secondly whether there is any impact on competition between those airports that are regulated in different ways.

The clearest example is in the UK where fairly heavy-handed economic regulation, which,
since 1987, has required that BAA and Manchester, year-on-year achieve real-terms reductions in aeronautical charges, has had a significant effect on competition between airports. In the case of London Heathrow and Gatwick, economic regulation has had the effect of on the one hand generating very low aeronautical charges compared to comparable airports across the European Union but on the other hand sending. Had aeronautical charges been set to reflect scarcity value of slots at London Heathrow, and then this may have set a clear signal to operators to make use of airports that were firstly, less congested and secondly cheaper to operate to. In contrast, the regulatory system effectively ensured that aeronautical charges bore no relation to cost (internal and external) thus preventing competing airports from attracting traffic away from London Heathrow such as Birmingham and to a lesser extent Manchester.

5.1.3 Cross-subsidisation across airport networks

Where there exists a large number or network of airports under the ownership and management of one organisation, smaller airports within the network are more likely to be cross-subsidised by large more profitable airports in the group. Within the European Union, large networks of airports are to be found in Sweden, Spain, Finland and Portugal where the Directorate of Civil Aviation or designated airport authorities own and operate networks of airports. Cross-subsidisation could even occur where there exists even just two airports under common ownership, particularly if one of them is very profitable and the other small and unprofitable. As a consequence of globalisation and consolidation in airport management, there has been a growth in the number of multiple airport networks. For example, FraPort's ownership of Frankfurt-Main and Frankfurt Hahn and Copenhagen's ownership of Karstrup and Roskilde and the growing world-wide networks of the major airport operating companies (Hochtief, TBI, BAA, AdP, Aena)

In countries where there are a large number of small remote airports such as in Finland and Sweden, the rationale for establishing a network of airports under single ownership is strong since many of these small airports, due to the presence of significant economies of scale would be fundamentally uneconomic as stand-alone business entities. Therefore, in order to pursue broader socio-economic and regional policy goals, small airports are supported financially from profits generated at the larger airports within the network. In Spain, landing charges at smaller airports within the Aena system (Classes 2 and 3) are lower than at Class 1 airports which includes Madrid and Barcelona. According a recent press report 47, 12 out of the 33 airports within the Aena network are profitable. Furthermore, the Spanish government has apparently rejected calls for the privatisation and break-up of the system claiming that it is a valid and efficient model. Without a cross-subsidy from the larger airports in the system and perhaps from other non-aeronautical sources, landing charges and indeed other aeronautical charges would probably have to be set at a very high level to recover operating costs. Of course, such a course of action would mean that those small airports, many of them

47 Article in ATI, June 10 2002
performing vital social and economic functions for their local economies, would be pricing-out air services which are vital for development purposes. However, air carriers have over the years criticised those airport operators who engage in the practise of cross-subsidisation of revenues between airports. For example, the Spanish airline association AECA has criticised the airports operator Aena for its cross-subsidisation policy, claiming that it is unnecessarily driving up costs at profitable airports. Indeed this issue was partly addressed by the 1997 EC proposed directive on airport charges where it was proposed that financial support granted to small airports should be from non-aeronautical sources at the large airport. In those countries where there exists more fragmented ownership structures and therefore very limited scope for cross-subsidisation, the only means of sustaining competitive user charges at small airports is through national or regional government subvention. However, decisions regarding the level and scope of subvention can in many instances be subject to political pressures and budgetary constraints.

Cross-subsidisation of airport revenues, a strategy, which can indirectly contribute to sustaining rural economies, can be defended and justified on socio-economic grounds. However, there may be issues of distortions to competitive markets where airports are in direct competition with overlapping catchment areas. In 1993, Luton Airport Ltd complained to the United Kingdom Civil Aviation Authority about the pricing policy adopted by BAA at London Stansted airport. Following an investigation into the complaint, The CAA found that BAA aeronautical charges were set at levels below costs at London Stansted and that this strategy was adversely affecting business at Luton airport. However, it decided to take no further action on the basis that, as a relatively new airport, it would have been unreasonable to expect the airport to be recovering its costs and that it was satisfied that the airport was minimising its losses through raising charges were it was feasible do so.

Furthermore, the CAA expected that incentive schemes based on discounted aeronautical charges would eventually be phased out and that the pricing policy was driven more by the need to attract services away from congested Heathrow and Gatwick rather than any predatory strategy designed to intentionally damage Luton. After a period of phenomenal growth in air traffic fuelled largely by low-cost carriers, London Stansted airport is now fully recovering costs and generating a profit.

The CAA in Sweden, which operates a network of large and small airports, management has stated that there is no cross-subsidisation of aeronautical charges (i.e. a proportion of revenues from aeronautical charges at Stockholm Arlanda is being used to cover losses at smaller airports). Instead the CAA uses revenues from non-aeronautical sources support the smaller regional airports.

In Ireland, Aer Rianta operates three airports (Dublin, Shannon and Cork) where aeronautical charges are very similar. In order to reduce the ability of Aer Rianta to cross-subsidise...
aeronautical revenues between Dublin and the other airports, the regulator set an aggregate price cap (value of X) for Aer Rianta in addition to a separate price cap for Dublin airport with a higher X-value.

5.1.4 Discounts / incentives

Many airports offer aeronautical charges discounts to airlines seeking to operate new services from the airport often to new destinations. Discounts are generally offered at airports where there is sufficient spare capacity. At large airports such as London Heathrow, Frankfurt and Paris Charles de Gaulle no incentive discounts are stated in their published tariffs.

Typically discounts come in the form of rebates or reductions on the published tariffs over a period of time sometimes up to 3 to 4 years from the commencement of operations. Usually, the discounts apply to a service offered to a new destination. For example, one of the most generous discounts schemes is that provided by Aer Rianta where carriers that commence services to new destinations from Cork and Shannon airports pay no airport charges for 4 years and from Dublin, the exemption runs for just 3 years. Other incentives offered to air carriers is marketing or route development support either in addition to a user charges discounts or just offered as the only incentive. In Germany, there are few examples in the full service airports of user charges discounting, but some airports such as Koln/Bonn offer marketing support to carriers offering new service. Indeed, marketing support or route development assistance is probably a more effective incentive mechanism than airport charge discounts. This is because a fully funded promotion and marketing programmes may be much more effective at attracting traffic on a new route than a discount on airport charges.

It is believed that some airports engage in discounting aeronautical charges although these are not published or incorporated in a transparent structure of tariffs. This implies that discounts are often negotiated between airlines and airports, the larger airlines being likely to be able to leverage more discounts compared to smaller carriers. This raises quite serious questions regarding issues of transparency and discrimination. For example, it is widely accepted and known that some airlines (low-cost) have secured heavily discounted airport charges agreements with regional airports. However, no discounts are offered in the published tariffs, which suggests that the scale of discounts is subject to negotiation.

On the other hand, Liverpool airport, which mainly handles low cost airline easyJet, states in its tariffs publication\[49\] the following in relation to the route development incentives for the period April 2001/2002:

"In order to provide this increased choice and convenience for passengers, Liverpool airport actively encourages airlines and tour operators to introduce new service and destinations and to develop and grow their existing operations from the airport. To support this growth and

\[49\] Fees charges and conditions of use at Liverpool Airport (effective April 2001)
development, the airport offers discounts on its published fees and charges. Discounts are available to all existing and potential airlines and tour operators wishing to increase their service or commence operations from the airport.”

Therefore, without stating the precise nature of these discounts, airports charges are then subject to negotiation between airlines and the airport which then makes it possible for airlines to secure volume-related discounts. Indeed, the European Commission in 1997 ruled that published volume-related discounts on the landing charges offered by ANA of Portugal at Lisbon airport were discriminatory and incompatible with EU competition law. The European Commission instructed Brussels airport in 1995 to dismantle its volume related charges that favoured its largest carrier, Sabena.

One recent example was the decision by SAS in Sweden to submit a complaint to the Swedish competition authority that Ryanair was paying “unreasonably” low charges at Vasteras. The competition authority decided eventually that it had no reason to investigate the complaint.

In terms of offering discounts to new routes or new carriers, there is also an issue of how long the discounts should last in that at what point does a start-up incentive discount become a discriminatory agreement which is distorting competition. The difficulty is that in an environment where there is little transparency in the setting of aeronautical charges and charges are set as a result of secret negotiations between airline and airport, then it is inevitable that volume-based discounting and therefore discriminatory pricing will ensue.

Two examples of discounting have recently surfaced in both France and Belgium. In France, according to a press report, Bergerac Chamber of Commerce that manages Bergerac airport, agreed to help pay the marketing costs of a new service to London Stansted operated by Buzz. The deal involved the Chambers of Commerce paying the equivalent of €2.1 million over 5 years in marketing expenditure combined with discounting airport charges. In another example, there is an EC state aid investigation into the situation where the Walloon regional government, in order to entice Ryanair to set up a hub operation at Charleroi airport, agreed to offer the following incentives:

(i) €0.16 million for each of the first 12 routes launched from Charleroi
(ii) €0.77 million to subsidise the recruitment and training of pilots and cabin crew
(iii) Aeronautical charges set at a rate of €1 per passenger (2001-2005), €1.13 per passenger (2006-2009) and €1.30 per passenger (2010 onward).
(iv) Free offices
(v) Up to €0.25 million towards Ryanair’s hotel and subsistence costs

50 Article in The Guardian (March 11 2002) 51 Article in The Observer (December 16 2001)
The Walloon Regional Government claimed that such incentives are open to all air carriers but the critical question is whether the agreement, which has a fairly long-term time horizon (2001-2010), goes beyond a start-up incentive agreement and more towards a separate and permanent negotiated agreement covering use of Charleroi airport. Indeed, it is not clear whether a new entrant airline seeking to operate from Charleroi but at much lower frequency than Ryanair will be offered the same charges. Furthermore, the Chief Executive of Ryanair was quoted as saying that “free office space and incentives to open new routes were 'not at all unusual' in agreements between airlines and lesser-known airports”\(^\text{52}\). This suggests that the practise of using large discounts and marketing incentives is quite widespread.

In any case, discounted airport charges, and in particular (but not exclusively) those applied to low cost carriers that are able to obtain good deals from regional airports, can not only be affected by the state aid rules of the EC Treaty but in some cases may also constitute an abuse of the dominant position of the airport. In this respect it should be borne in mind that discriminatory pricing falls under Article 82 of the EC Treaty.

For small regional airports with high fixed costs, there is effectively a financial and economic requirement to offer incentives, which involve heavily discounted aeronautical charges especially since over the past few years low cost airlines have managed to achieve significant traffic growth at these airports which should have a major economic boost to regional economies. As many of these airports are owned and in some cases operated directly by the public sector, there is no alternative but to use state aid or public funds to cover deficits incurred from below average-cost pricing.

5.2 Economic Viability of Airports

5.2.1 Introduction

One of the characteristic features of the airport industry is the presence of significant economies of scale. Profitability in the industry is to a large extent dependent on the volume of passenger and freight traffic throughput. Airports are associated with high fixed costs given the need to provide a basic and necessary level of infrastructure to support even the most minimal levels of air traffic. In theory, as traffic throughput at an airport increases over time, two developments should occur; declining unit costs and increased levels of profit.

As traffic throughput increases, the impact on aeronautical revenues should be positive as additional air transport movements contribute to aeronautical revenue streams through payment of aeronautical charges. In terms of non-aeronautical revenues, as passenger traffic increases, there should be additional opportunities for airports to provide either directly or

\(^{52}\) Article in The Observer (December 16 2001)
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indirectly (through concessionaires) commercial services such as shops, catering outlets, car parking, car rental and advertising etc, which are typically highly profitable activities for airports compared to aeronautical services. Similarly, increased freight volumes should provide opportunities to develop and lease space and facilities to freight forwarders, airlines and in some cases companies seeking to locate industrial units close to airport facilities. In short, as traffic throughput increases, revenue streams become more diverse and more profitable.

According to Doganis\textsuperscript{53} early studies have shown that unit costs fall sharply as traffic throughput increases to between 0.5 and 2 million passengers per year. As traffic increases beyond this point, unit costs flatten out and there appears to be little variation between unit costs and traffic throughput. Furthermore, there has been little or no evidence to date of any diseconomies of scale over the long-term, which would increase unit costs at very high levels of traffic. In the short-term, however, unit costs may increase sharply as a result of a major capital expenditure project. If it is correct that there is a very close relationship between output and profitability, at what level of output should one expect an airport to become profitable?

Using 1999/2000 financial statistics from airports in the United Kingdom, Sweden and France, it is possible to identify approximately the threshold level of traffic whether marked differences exist in thresholds between the different countries. It must be pointed out at this stage that no account has been taken for any differences in the operational and management profiles of the airports selected in each country. When evaluating and interpreting results, one would need to bear in mind that operational differences between airports in different countries may have an effect on comparisons of the financial performance of airports both within and between countries.

5.2.2 United Kingdom

Figure 5.1 plots for a selection of regional airports in the United Kingdom, workload units\textsuperscript{54} achieved in 1999/2000 fiscal year with revenue-expenditure ratio\textsuperscript{55}

The relationship between revenue-expenditure ratio and workload units is shown to be non-linear. Airports generate profits if the revenue-expenditure ratio exceeds 1 while they incur loses if the ratio is below 1. For those airports that generate low levels of traffic the gains in profitability that can be achieved by increasing output can be quite significant. Indeed, from the two million-throughput mark upwards there appears to be little variation in revenue-expenditure ratio between airports. For example, London Stansted airport generates a ratio of 1.6 at 12,000,000 WLUs, as does Bristol, which handles just under 2,000,000 WLUs.

\textsuperscript{53} Economics of European Airports, Polytechnic of Central London. 1983

\textsuperscript{54} Work load units are a measure of airport output which combines passenger and freight volumes. 1 passenger is equivalent to 100kg of freight.

\textsuperscript{55} Operating revenue as a % of operating expenditure (excluding asset depreciation)
Differences at this level of output are likely to be as a result of other factors such as mix of traffic, organizational /ownership structure, quality of management and the ability to successfully exploit non-aeronautical revenues.

**Figure 5.1: Revenue-expenditure ratio vs Work Load Units 1999/2000 UK Regional airports**

What is very interesting is the comparatively low revenue-expenditure ratios for London Stansted, London Luton and Liverpool. Indeed, when including depreciation, Liverpool in 1999/2000 incurred an operating loss. The common feature of all three airports is that they are established bases for low cost carriers. In recent years, many small under-utilised airports have successfully managed to lure low cost airlines with the promise of high passenger traffic growth. These airports, in many instances, have offered very generous incentives such as discounted aeronautical charges with the expectation that high passenger traffic volumes will contribute to non-aeronautical revenue streams through spending on airport shops, catering outlets, car parks and other commercial services.

In the case of Luton and Liverpool, very generous aeronautical charge discount schemes where negotiated with easyJet which meant that lost revenue has not been fully offset by the additional spend induced by higher traffic growth carried by the low cost carriers. Interestingly, Edinburgh airport, which handles approximately the same throughput of WLUs to Luton generated a rev-ex ratio of 1.8, mainly due to a different mix of traffic (large proportion of full-service carriers) and reluctance on the part of the owners BAA to offer comparable aeronautical charges discounts. Liverpool faces the problem of recovering costs
associated with a new terminal building while at the same time honouring its aeronautical charges discounts to easyJet. As a privately-owned airport, the losses incurred are being financed from its parent company (Peel Group).

At lower levels of output, Figure 5.2 appears to suggest that the threshold level of WLUs appears to be in the region 300,000 to 400,000. Humberside, Exeter and Bournemouth who all have annual WLU throughputs of around 350,000 generate ratios greater than 1. However, Inverness, which had a similar WLU throughput in 1999/2000, incurred heavy losses with a ratio of 0.69. Clearly, there must be significant differences in the way these airports are organised managed.

Figure 5.2: Revenue-expenditure ratio vs Work Load Units 1999/2000 UK Regional Airports (less than 2,000,000 WLUs)

In the case of Inverness, it is managed by government-owned Highlands and Islands Airports Ltd, which also operates other smaller airports across the North of Scotland. In all these cases, the airports themselves are incurring financial losses, due in part to high fixed costs in relation to output and below average cost pricing of aeronautical services (landing, passenger facility charges).

While a cross-sectional analysis can provide some indication as to the threshold WLU level or profitability, a time-series analysis of how traffic growth at an airport over time affects profitability can be useful, particularly an analysis of those airports that in recent years have experienced significant growth in traffic.
Figure 5.3 contrasts rev-ex ratio versus workload units for the years 1994 to 2000 reported by London City, Glasgow Prestwick and Bournemouth airports.

**Figure 5.3: Revenue-expenditure ratio vs Work Load Units London City, Glasgow Prestwick, Bournemouth (1994-2000)**

Both London City and Glasgow Prestwick have experienced considerable traffic growth over the past seven years with the former passing the 1 million WLU point between 1996 and 1997. Glasgow Prestwick is poised to achieve 1 million WLUs in 2001. In contrast Bournemouth airport has experienced very little growth over the same period. What is interesting is that with regard to London City and Glasgow Prestwick, positive rev-ex ratios were reported when WLUs increased from around 500,000 to 800,000 WLUs suggesting that a common threshold level of WLU exists. However, Bournemouth, which handled just over 400,000 WLUs in 2000, generates a positive rev-ex ratio of 1.20. Indeed over the period 1996 to 2000, despite the loss of a low cost resident airline (Euroscot Express) Bournemouth still managed to generate profits at quite low levels of output.

This suggests that while one can with a degree of confidence assert that the threshold level of profitability is around 500,000 to 700,000 WLUs, there may be exceptions to the rule as is the case within the UK regional airport sector. The reason as to why Bournemouth and also Southend that reported (rev-ex ratio of 1.09 in 1999/2000 on the basis of just 6,970 WLU) is that these airports derive a high percentage of revenue from non-aeronautical activities. Almost exclusively derived from tenants occupying real estate outside the terminal such as maintenance companies and flying clubs. Indeed, Bournemouth is known to have
considerable space for real-estate development hence the high proportion of non-aeronautical income for its size. It may also be that Bournemouth handles for its size, a not insufficient level of freight traffic that allows for the sale and lease of land to freight forwarders and associated companies. This is not the case with Inverness, which is almost exclusively dominated by passenger traffic and hence reliant on a very high proportion of its revenues from aeronautical charges.

5.2.3 Sweden

Figure 5.4 below plots rev-ex ratio against workload units for a selection of regional airports located in Sweden. Due to lack of data, all non-CAA operated airports, run by local government, are not included. The sample just includes those airports managed by the CAA and Stockholm Skavsta, the latter being privately owned. Data was obtained from the 2000 Annual Report of the Swedish CAA. When computing rev-ex ratios for each airport, depreciation is included for each airport’s expenditure. This may affect the comparisons between Swedish airports, particularly if there have been very recent capital developments.

Gothenburg, being the airport with the highest WLU throughput achieves a rev-ex ratio of just over 1.60. A similar pattern to the UK airports appears to have emerged in that there is a strong non-linear relationship between rev-ex ratio and output. At very low levels of output such as that achieved at Visby. As the size of airport increases, the increase in rev-ex ratio is quite marked up to around the 1,000,000 WLU point where there is broadly little difference in rev-ex ratio between the airports. Interestingly, the relationship between rev-ex and workload units appears to be closer in the Swedish sample compared to regional airports in the UK. The one key explanation for this is that all the airports, with the exception of one, are owned by the same organisation (Swedish CAA) and as such operate management practices that are broadly common across each airport. In the UK, the fragmented ownership structures of regional airports means that at very similar levels of work load units, the financial performance of one airports will vary quite significantly from other. It is of course also the case that the mix of traffic and characteristics of the market at most of the smaller Swedish CAA airports are quite similar (dominance of domestic scheduled traffic), compared to UK airports where traffic is much more heterogeneous.

Figure 5.5 provides the same information as Figure 5.4 except that the sample includes all airports with the exception of the four largest.
The financial break-even WLU threshold appears to be between 500,000 and 600,000 WLU per annum. Interestingly Angelholm and Ronneby achieved rev-ex ratios of 1.2 and 1 respectively, which is much higher than other comparable sized airports within the sample. This is particularly so for Angelholm where Sundsval and Ostersund, both of which handle
larger traffic throughout but both fail to achieve financial break-even. Similarly, compared with Ronneby that just breaks even, Visby although handling a higher traffic throughout could only achieve a ratio of 0.75.

One key explanation of these apparent discrepancies in performance is the fact that the Swedish Air Force has a presence at Angelholm, Ronneby and Luleå. Joint civil and military operations will probably imply that the air force will be responsible for a number of functions and services at the airport, such as runway maintenance and air traffic control. Therefore, the Swedish CAA are likely to be responsible for only civil air traffic-related facilities such as the passenger terminal which will make the operations at those airports more profitable than if the CAA has control and management of other aeronautical functions.

5.2.4 France

In France, regional Chambers of Commerce operate all airports, as long-term concessions from the French state, with the exception of those managed by AdP.

Figure 5.6 below plots rev-ex ratio (excluding depreciation) against workload units for all French airports excluding (Paris airports, Nice, Basle, Marseille, Bordeaux, Lyon and Toulouse.

Figure 5.6 Revenue-expenditure ratio vs Work Load Units 2000 French regional airports

Source: Activité des Aéroports Français 2000
For French airports, the gains to be made in rev-ex ratio are quite significant as WLU output increases to about 400,000 to 500,000 WLU. Thereafter gains in WLU do not generate any significant increase in rev-ex ratio. Indeed rev-ex ratios achieved by the busiest airports at Strasbourg and Nantes are broadly similar to those generated by Lille and Ajaccio, both of whom handle roughly half the volume of WLUs achieved by Strasbourg and Nantes. Figure X above also features statistical anomalies such as very high rev-ex ratios generated by Figari and Châteauroux in relation to the traffic handled and correspondingly very low rev-ex ratios generated on similar traffic levels at Grenoble and Limoges.

The point at which French regional airports become profitable entities lies between 150,000 and 200,000 WLU. There are however exceptions to this such as Grenoble and Châteauroux.

**Figure 5.7 Revenue-expenditure ratio vs Work Load Units 2000 French regional airports with less than 450,000 WLU**

What is immediately apparent from these trends is that French regional airports are generally able to break-even at a lower level of output compared to equivalently sized airports in both the UK and Sweden. Although it is difficult to compare with the Swedish airports since their rev-ex calculations include depreciation.

Figure 5.8 contrasts work load units plotted against rev-ex ratio for French and UK airports handling less than 1,000,000 WLU in 2000.
While the French sample includes a greater number of airports, Figure 5.8 does show that the threshold level of output where the airport breaks even is lower in the case of French airports than is that achieved by UK airports. Disregarding the few exceptions, French airports appear to break-even at around 200,000 WLU compared 400,000 WLU in the case of UK regional airports. In terms of identifying possible explanations for differences in the break-even threshold, it is probably mainly due to differences in airport cost structures between both countries. In France, the DGAC (Directorate of Civil Aviation) provides air traffic control services at all regional airports whereas at most of the UK regional airports, these services are provided by the airports themselves, either directly or sub-contracted to competent service providers. There may also be other functions and services within French regional airports that are provided by other state agencies, which in the UK are the responsibility of airport operators.

These issues serve to illustrate significant differences in operational characteristics, not just between airports in France and the UK but also differences between airports in all member states which makes it difficult to draw definitive conclusions on airport economic performance. The influence of ownership structures, government policy, subsidy, management of various airport services and functions will to a large extent influence economic performance, hence the fact that there exists very wide differences in performance between airports that handled quite similar volumes of traffic.

**Figure 5.8: Revenue-expenditure ratio vs Work Load Units 2000 French and UK regional airports with less than 1,000,000 WLU**

[Graph showing Revenue-expenditure ratio vs Work Load Units for French and UK regional airports]

Source: *Activité des Aéroports Français 2000, UK CAA, CRI*
It is probably the case that airports handling at least 800,000 WLU per annum should be generating profits before taking into account depreciation. One should also bear in mind the very distinct differences in the legal status of those organisations managing airports in the UK and France. In the UK most regional airports are managed by limited companies and therefore subject to company law and corporation tax. In contrast, chambers of commerce manage French airports where the distinction between the airport and other activities of the chambers may in some instances become blurred.

5.3 Financing Airport Capital Expenditure

5.3.1 Government grants and loans

In financing airport capital expenditure, grants and loans from national, regional and local levels of government are made available and have been used in a number of member states. Public sector grants and loans have are cheaper than private sector sources of finance such as commercial loans and debt and equity issues. As far as grants are concerned, the airport can avail itself of the need to self-finance capital expenditure while as far as loans are concerned, these are often secured at very low or favourable rates of interest often in addition to generous re-payment requirements and payback periods. However, there are significant differences in the availability of public sector finance across the European Union. Results from the airport survey have shown that finance from the public sector is fairly widespread in Germany, France, Ireland and Italy.

In Ireland, regional airports have received finance for capital expenditure projects from the national government through the Department of Public Enterprise. Under the 2000 to 2006 National Development Plan approximately €14 million has been budgeted for in grant assistance for infrastructure projects at Irish regional airports. Under this framework, airports bid for various projects and a special selection committee grants awards. Aer Rianta airports (Dublin, Cork, Shannon), as they are financially self-sustaining as a group, do not receive national government support for capital expenditure. Examples of national government assistance to regional airports include a 1998 award from the national government to Galway airport in the West of Ireland which amounted to €3.9 million to extend the runway, upgrade lighting and install new navigational aid facilities.

In terms of the implications of these investment grants have the market for air services in Ireland and the extent to which they distort competition is debatable. The level of competition between Aer Rianta and the regional airports is probably limited to Waterford versus Cork in the South. All other regional airports essentially serve very remote communities where there is very little overlap in catchment areas with Aer Rianta airports.
In the United Kingdom, national government support for financing airport capital expenditure projects has almost exclusively been awarded to remote airports in the Highlands and Islands of Scotland. Local government has traditionally had a more significant role in airport capital expenditure financing. However, given the spread of privatisation in the United Kingdom, the role of local government in financing is now almost negligible. However, prior to privatisation, local government-owned airport companies were restricted from accessing private capital due to central government borrowing restrictions. These restrictions were eventually removed in 1999. Most regional airports in the United Kingdom either secure finance internally or from shareholders and financial institutions.

In contrast to the United Kingdom, airports in Germany have received a greater degree of assistance from regional government in terms of financing capital expenditure. This to a large extent is to be expected since almost all major German airports are either wholly or partly-owned by public sector shareholders such as city councils and regional authorities (Lander). Therefore, in many cases, financing from regional government and city councils is equivalent to shareholder finance in the private sector.

In Germany, three different forms of public sector financing were identified; shareholders funds, loans and grants.

As all major German airports have public sector shareholders, city, region federal government, the application of shareholders funds to finance capital investment can be interpreted as being a form of state aid. In all of the cases cited, either city or regional governments provided funding.

One case reportedly already examined by the European Commission is that of Munich. The airport company has received a €767 million shareholder loan for infrastructure development; on which interest is payable only if the airport company is profitable. Although it makes operating profits, accumulated losses brought forward have traditionally left the company in deficit. While the Commission has reportedly notified the airport that these preferential loans do not breach State aid rules, at least one other airport in Germany felt that the situation has given München an unfair competitive advantage.

Airports in Germany have also received grant assistance from regional government to finance capital expenditure projects. For example, the NordRhein-Westfalen regional government awarded €66 million toward the cost of Düsseldorf’s people mover system between the inter-city/high speed train station and the terminal; and a grant of 50% of the relatively minor cost of extending the apron at Mönchengladbach, from the same source, in 1998.

The role of the French state at national and regional levels has been quite considerable in terms of financing capital investment even at the country’s largest airports. According to the DGAC publication *Activité des Aéroports Français*, in 2000, the top six airports (excluding...
Aéroports de Paris) spent a total of €272 million. Central government and local authorities accounted for €27 million of total capital expenditure. At Lyon, which is included in the airport survey, all of year 2000 capital expenditure (€27 million) was provided by the Local chambers of commerce, which also operate the airport.

For smaller airports, i.e. those handling less than 2 million passengers annually, the role of public sector finance in capital expenditure funding is much greater. According to the DGAC publication *Activité des Aéroports Français*, in 2000, Medium-sized airports (Strasbourg, Nantes, Montpellier, Ajaccio, Lille, Clermont, Bastia, Biarritz, Brest, Hyres, Pau, Perpignan, Tarbes) secured 44% of finance from the public sector, mainly from local authorities. Interestingly all of the above airports handled in excess of 500,000 WLUs and were generating profits in 2000.

Strasbourg airport undertook a major capital expenditure increase in 2000, which involved €29 million, designed to repair the airports runway. Public sector funding for this project, according to the *Activité des Aéroports Français 2000*, accounted for over 50% of funds.

The national government owned Aéroports de Paris which operates Orly and Charles de Gaulle, has received a measure of public sector financing over the period 1996-2002. In 1996, the AdP secured a loan from the Seine-Normandie Agency of €5.36 million at 0% interest while an investment grant of €16 million was secured from the Agences de Bassin for environmental purposes. AdP also received a security grant to cover additional costs as a result of the September 11th incidents, which totalled €23 million.

In Italy, all major airports are managed by concessions as in the case of French regional airports. The concessionaires are either wholly owned by the private sector (AdR), a mix of private and public shareholders or wholly owned by public sector shareholders. At most airports, the public-sector shareholders are either the local city council or regional authority. This combination of national government ownership of land and public sector shareholding in the concessions means that the public sector’s role in capital expenditure financing is quite significant. Even at Rome Fiumicino, which handled approximately 26 million passengers in 2000, 55% of funding for capital expenditure in 2000 was secured from the Italian government.

At the airports of Turin and Bologna both the local and regional government and to a lesser extent the national government have also contributed to the financing of capital expenditure. At Bologna, the local chambers of commerce also assisted with some capital expenditure funding over the period 1996-2001.

Patterns of public sector assistance in the financing of capital expenditure across the EU is to a large extent a function of the ownership structure and to some extent culture within each member state. There are quite significant differences in the approach to public sector
assistance. In Germany, where federal, regional and municipal levels of government are shareholders of the majority of airports, then it is inevitable that public sector finance, whether it is loans or grants will be made available to finance airport development. The same is true of France and Italy. Privatisation of airports in Germany and Italy may to some extent allow for or encourage the use of private sector finance and lessen the dependency on public sector sources. It will also be the case that the public sector will always have a role in being the major source of capital for infrastructure developments at small uneconomic airports where the private sector is unable or unwilling to provide finance at an appropriate level of cost and where air transport infrastructure is absolutely vital in sustaining the local and regional economy such as in the case of Irish regional airports.

However, research as revealed that there are examples of public sector assistance in financing development at large airports. Examples include the Italian government's contribution to meeting 55% of Rome Fiumicino's capital expenditure between 1996 and 2001. In Germany, where regional governments still retain shares in their respective airports, public-sector loans and grants have been made available, particularly at Düsseldorf where the city council owns 50% of shares and the remaining 50% of the shares are held by a private company (Düsseldorf airport partners).

Where ownership is less fragmented, and member states operated multiple-airport networks, the benefits of economies of scale appear to have obviated the requirement to seek public sector sources of finance. According to the survey of airports, Spain's Aena, Sweden's Luftfartsverket (CAA) and the Finland's Ilmailulaitos (CAA) did not receive any assistance from their respective national government in terms of either grants or preferential loans.

The problem for small regional airports is that at some point in their life cycle there is a requirement to increase capital expenditure, in some cases to build a new terminal facility. Given that many of these airports, because of low traffic volumes, are unable to fully-recover costs, and given that they would be unable to secure very costly commercial loans, recourse to public sector finance is the only realistic means of financing capital expenditure. If airports are competing for traffic within the same catchment area, then the application of public sector finance for one airport to fund capital expenditure could not be justified, as it would distort competition. However, the difficulty then is how does one deal with public sector finance designed to improve rail access and inter-modality where there are clear and strong environmental; and sustainability arguments.

5.3.2 European Union finance

At EU level both grants and loans towards assisting in the funding of airport development projects are available from a number of institutions. Airports of varying size and location have made use over the years of grants from the European Regional Development Fund
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(ERDF) and Transport European Networks (TEN) programme. Airports have also accessed loans from the European Investment Bank.

ERDF funding is primarily geared towards support financing for infrastructure projects of development regions of the EU. In many cases funds co-finance projects at relatively small low-volume airports located in peripheral areas such as the West coast of Ireland and North of Scotland. However, larger airports have also managed to secure ERDF finance by virtue of the fact that some of them are located in development regions of the EU. For example, the ERDF contributed an amount equivalent to 25% of the cost of financing a new terminal at Liverpool airport and 20% of the cost of capital expenditure projects recently completed at Belfast City.

Another source of EU finance is grants awarded within the framework of the Trans-European Network Transport Programme (TEN-T), which aims to enhance the functioning of the internal market in order to reinforce social and economic cohesion through improving the interconnection and interoperability of national networks.

Under the TEN-T framework, the EU provides up to 50% of the cost of feasibility studies and up to 10% of the cost of financing the project. Environmental impact assessments and financial viability are core criterion applied in TEN-T finance.

As far as airports are concerned, TEN-T support is usually focused towards assisting in finance costs for airport infrastructure, supporting surface access/inter-modal projects and meeting some of the costs of feasibility studies.

By far the bulk of funds awarded to airports are used to co-finance the cost of inter-modal projects and feasibility studies. In Germany, Berlin, Düsseldorf, Köln / Bonn, Leipzig, München, Stuttgart have received in total €23 million since 1995 from the TEN-T budget line to support inter-modal projects. These capital subsidies in some way have improved and extended airport catchment areas thus improving airport competitiveness.

The use of TEN-T framework funding has been different across the EU. In the UK all recent TEN-T airport projects are related to inter-modal issues such as the €0.8 million contribution to the railway station extension at Manchester airport. In contrast airports in other countries have used TEN-T funding to improve airport facilities such as improved Apron at Hanover. However, the vast majority of TEN-T studies have been focused towards supporting inter-modal/airport surface access projects.

The European Investment Bank has played a significant role as a source of finance for airport development. As one of its objectives is to support European integration and economic and social cohesion, it is set-up as a not-for-profit institution offering low-cost finance for infrastructure projects. For example, the EIB has issued loans to Aer Rianta, Copenhagen
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Airport, Aena, BAA and Aéroports de Paris and has recently approved finance to support cost of a third runway at Amsterdam Schiphol airport. In the last case the finance was justified on the grounds that the new runway would increase capacity and to help solve some environmental problems.

5.4 Subvention

5.4.1 Airports

Operating subsidies awarded by governments to airports are known to exist in some member states. The study highlighted practises in Ireland (in the case of regional airports), France and Sweden. In the case of the airport network providers, Spain, Portugal, Finland and Sweden, as the airport operators are able to realise economies of scale and generate profits, there has been no requirement for government operating subsidy. In the United Kingdom, airport subsidies are limited to those awarded by the Scottish Executive to support small remote airports in the North and West of Scotland.

As discussed in Section 5.2 (economic viability of airports) larger airports, able to recover the day-to-day operating expenses incurred in managing the airports. However, smaller airports are unable to fully recover operating costs at competitive levels of aeronautical charges. Setting aeronautical charges at below average cost is for many small airports a financial imperative and as such subsidies from local, regional or national levels of government are often required to finance operating deficits that are incurred. The most obvious examples of airport subvention is to be found in the case of regional (non-Aer Rianta) airports in Ireland, small remote airports in the Highlands of Scotland, non-CAA regional airports in Sweden and regional airports in France. The nature and level of subvention does, however, vary quite markedly by country.

In Ireland, regional airports are managed by a variety of legal entities; regional governments manage some while there are privately owned airports such as Waterford. Following the effects of the Gulf-War on traffic in 1991 and subsequent withdrawal of air services to these regional airports by Ryanair and Aer Lingus, the Irish government launched an initiative to assist in the marketing of these airports. Each year, the Department of Public Enterprise awards marketing grants to Knock, Sligo, Waterford, Kerry, Donegal and Galway. These funds are granted to help those airports with advertising and promotion and in general to help with marketing assistance to make them more attractive to potential new carriers or to help promote new services from the airport.

Clearly, given where these airports are located and the critical role airports play in helping to sustain small communities, subsidy of this kind can be defended on grounds of regional development and peripherality. Table 5.1 below lists amounts in marketing grants that were awarded to each of the six regional airports. It should be noted that the allocation historically
in 2000 was higher than normal, particularly so for Kerry and Knock due to the effects of the loss of the duty and tax-free concession.

**Table 5.1 Government marketing grants awarded to Irish Regional airports in 2000**

<table>
<thead>
<tr>
<th>Airport</th>
<th>Marketing grant €</th>
</tr>
</thead>
<tbody>
<tr>
<td>Donegal</td>
<td>125,000</td>
</tr>
<tr>
<td>Galway</td>
<td>156,250</td>
</tr>
<tr>
<td>Kerry</td>
<td>562,500</td>
</tr>
<tr>
<td>Knock</td>
<td>712,500</td>
</tr>
<tr>
<td>Sligo</td>
<td>125,000</td>
</tr>
<tr>
<td>Waterford</td>
<td>193,750</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,875,000</strong></td>
</tr>
</tbody>
</table>

*Source: Irish Government Department of Public Enterprise*

However, the Irish government in a recent report on Knock airport highlighted a practise employed by managers at Knock airport to use the marketing grant in order to lower the level of aeronautical charges levied with respect to Ryanair and to a lesser extent British Airways. However, the Public Service Obligation funded Dublin scheduled service did not receive any discounted airport charges. The government stated in its report that the discounts offered to Ryanair should be phased out and it also challenged whether there was any significant value in using the marketing grants to subsidise an air carriers operation into the airport rather than being used to actively promote the introduction of new services. However, given the significant negotiating leverage that large air carriers operating to small regional possess, the government was conscious of the risk of Ryanair air withdrawing services in response to the removal of the discounts. Furthermore, there is also the issue of equity and non-discrimination in that the marketing grants is almost exclusively being applied to discount the airport charges levied to one carrier.

Regional airports in Sweden that are mainly owned and managed by local municipalities receive an annual subsidy awarded by the national government. In 2000, the total, distributed to 26 regional airports, amounted to €12.9 million. All the airports cumulatively generated a net loss in 2000 amounting to €23.5 million. The government subsidy only covers approximately 50% of the cumulative deficit incurred. It is not apparent whether the residual amount of deficit is covered by subsidies from local and municipal government authorities.

In France, where the management of non-AdP airports is highly fragmented amongst the various chambers of commerce, there is statistical evidence from the DGAC publication *Activité des Aéroports Français 2000*, that many French regional airports are receiving direct operating subsidies. The largest amounts of subsidy are mainly confined to the smallest airports as is graphically illustrated in Figure X below. Out of the 45 regional airports...
included in the sample, 15 did not record an operating subsidy. For the remaining 30 airports, Figure 5.9 below plots the level of subsidy in 2000 with the corresponding level of workload units.

**Figure 5.9  Rev-ex ratio vs operating subsidy (French regional airports) fiscal year 2000**

Source: Activité des Aéroports Français 2000

What is apparent is that there does not appear to be a statistically significant relationship between the economic performance of the airport and the level of subsidy. Although, it is generally the case that smaller airports do receive larger subsidies there are a number of inconsistencies. For example, in spite of the fact that Châteauroux achieved a rev-ex ratio greater than 1 in 2000, and is considered to be quite profitable given its volume of traffic, the airport still received an operating subsidy of €0.67million in 2000. This is in relation to an operating profit of €1.7million. Similarly large subsidies in relation to financial performance were awarded at Agen and Rodez in 1999.

Even amongst France’s largest airports such as Nice and Lyon, for 2000, both airports received operating subsidies of €0.30million and €0.45million respectively in 2000 although in both cases these figures were relatively insignificant in relation to operating revenues but it still serves to illustrate that the extent of state aid to airports in terms of operating subsidy is quite widespread in France. However, from the subsidy data reported in Activité des Aéroports Français 2000, it is not possible to identify where the subsidy originates from, i.e. whether the subsidy is from the Chambers of Commerce or from local government, therefore further analysis of the nature of the subsidy could not be undertaken.
In conclusion, operating subsidies are awarded from local, regional and national levels of government generally where there is a financial imperative to do so (i.e. small airports) and where it is necessary in order to sustain air services and attract new air services to enhance a region's economic development. This is certainly the case in operating subsidies to small regional airports in Ireland, Scotland and Sweden, where the impact on airport competition is negligible. However, where airports are financially self-sustaining business entities and where there are clearly cases where airports are competing, it is difficult to justify the application of public-sector operating subsidies, which would provide unfair advantage for one airport.

5.4.2 Subvention of air services - Public Service Obligations

The European Commission's third package of air transport liberalisation measures adopted under Council Regulation No 2408/92 in 1992 contains provisions under Article 4 which permit the imposition of a public service obligation (PSO) on scheduled air services within the European Union. This mechanism is the only legal means of providing state aid to air services in the European Union. PSOs have been adopted on air services in the following members states, UK, Ireland, Portugal, Sweden, Greece, Germany and Italy.

It is generally the case that the scheduled services that are covered by PSOs are those that link airports that are part of the international airport system or international connection points with regional airports located in peripheral regions (i.e. islands). In the majority of cases, public sector subsidies are awarded to air carriers following a tendering process for a fixed period of time (not exceeding 3 years). The subsidy in most cases covers the deficit incurred by the airline over the duration of the contract as a result of the carrier matching minimum service standards and maximum fares stipulated by the tender.

To some extent, subsidisation of air services within the PSO framework can be interpreted as an indirect subsidy to an airport. In relation to some remote airports in Scotland and Ireland they are almost exclusively reliant on subsidised PSO air services. Table 5.2 lists the number of PSOs by member state in effect at the end of October 2001.

France, by far, has made the most extensive use of PSOs although in terms of the percentage share of total seats offered on domestic routes, it accounts for approximately 14% compared to 47% in Ireland and 35% in Portugal where domestic services to the Azores and Madeira from the Portuguese mainland have PSO status. In Spain all PSOs are operational on services within the Canary Islands while in the UK, all PSO routes are in Scotland.
Table 5.2: Number of PSOs by Country

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of PSOs</th>
</tr>
</thead>
<tbody>
<tr>
<td>France</td>
<td>46</td>
</tr>
<tr>
<td>Germany</td>
<td>5</td>
</tr>
<tr>
<td>Ireland</td>
<td>5</td>
</tr>
<tr>
<td>Italy</td>
<td>6</td>
</tr>
<tr>
<td>Portugal</td>
<td>10</td>
</tr>
<tr>
<td>UK</td>
<td>12</td>
</tr>
<tr>
<td>Spain</td>
<td>13</td>
</tr>
<tr>
<td>Sweden</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: Public service obligations in Europe: a comparative study for Highlands and Islands Strategic Transport Partnership, Cranfield University, November 2001

In line with the principle of subsidiarity, policy-decisions regarding which routes qualify for PSO status are taken by individual member states. As a consequence of this, differences in the attitude towards subsidisation of air transport and to some extent commitment towards regional economic development has been reflected in the degree to which member states have adopted PSOs. For example, the French government has adopted PSOs on all scheduled routes between Paris Orly and airports on the Island of Corsica with an annual subsidy of approximately €18.3 million awarded by the Corsican Island Authority. This is in spite of the fact that the majority of routes carry relatively high traffic volumes.

For example, 382,654 passengers flew between Paris and Ajaccio in 2000 while traffic levels on other PSO routes such as Marseille-Bastia and Marseille-Ajaccio were 257,412 and 254,994 respectively in 2000. In contrast, in the UK government has chosen only to adopt PSOs on very thin mostly ultra-peripheral routes in the North of Scotland yet there are routes which on the grounds of peripherality and socio-economic considerations probably deserve to have PSO status such as routes between the regional accessibility points on the islands and mainland airports in Scotland.

The UK government has historically been less inclined to subsidise air transport, which is in contrast to France where national government policy making has been more interventionist. Indeed, this difference in attitude has already been demonstrated in the case of airports, where state aid in terms of capital expenditure is still available for all French regional airports, while in the UK, the only airports to receive capital assistance are ultra-peripheral airports in the North of Scotland.

From the following Table 5.3, which provides some information on subsidy levels on PSO routes between each member state, the average level of subsidy per passenger on Paris-
Competition between Airports and the Application of State Aid Rules

Corsica PSOs is the lowest on the sample, probably reflecting the fact that there are lower unit operating cost associated with the services provided. This level of subsidy is in contrast to the UK; here aircraft sizes are very low and average sector distances very short, aircraft utilisation is low. All these factors tend to increase unit costs hence the higher average level of subsidy per passenger in the UK.

<table>
<thead>
<tr>
<th>Table 5.3</th>
<th>Total PSO Subsidy and PSO passenger traffic by country (2000)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total Subsidy (€million)</td>
</tr>
<tr>
<td>UK</td>
<td>2.8</td>
</tr>
<tr>
<td>Ireland 2</td>
<td>4.4</td>
</tr>
<tr>
<td>Germany 3</td>
<td>2.7</td>
</tr>
<tr>
<td>Sweden</td>
<td>0.6</td>
</tr>
<tr>
<td>Portugal 1</td>
<td>28.2</td>
</tr>
<tr>
<td>France 4</td>
<td>18.3</td>
</tr>
</tbody>
</table>

1 Subsidy and passenger traffic refer to 1999
2 Dublin-Knock and Dublin-Londonderry not included
3 Only Erfurt PSOs included
4 Only Paris-Corsica PSOs included

Source: Public service obligations in Europe: a comparative study for Highlands and Islands Strategic Transport Partnership, Cranfield University, November 2001

5.4.3 Subvention in the Maritime sector

EC regulation 3577/92 of 1992 which effectively liberalised passenger ferry services within the European Union allows for subsidies to be granted to ship operators within the context of public service obligations similar to that applied to air transport. Eleven members state currently impose PSOs on ferry services. In some regions ferry PSOs co-exist with air service PSO such as in the west coast of Scotland and services between the Italian mainland and Sardinia.

According to an EC report the regulation’s provisions regarding PSOs had not been applied in its entirety and practice by the end of 2000. For example, in 1999 a case was brought to the attention of the commission regarding the payment of subsidies to Italian ferry companies where they were in competition with non-subsidised operators while in 1998, the European Commission began an investigation into irregularities in the way the Spanish government awarded a PSO contract to a ferry operator (Transmed). The investigation focussed on the length of the PSO contract and lack of an open competitive tendering process.

56 Fourth report on the implementation of council regulation 3577/92 applying the principle of freedom to provide services to maritime cabotage (1999-2000) Commission of the European Communities 2002
While the concept of public service obligations is very similar between both sectors, the regulatory requirements are much more elaborate in relation to air services than to ferry operations. For example, in the case of PSO air services, the length of contracts cannot exceed three years, while with regard to Regulation 3577/92, there is no limit on the length of a PSO maritime contract. With regard to tendering, for air services, member states must issue tender notices in the *Official Journal* and they are also required to select the successful bidder two months after the deadline date for bids. Carriers also have 1 month from notification to prepare and submit their bids. All of these provisions are absent from Regulation 3577/92, which to some extent may reflect the different operating realities of managing vessels compared to aircraft.

**5.5 Accession Countries**

The accession countries are; Cyprus, Malta, Czech Republic, Bulgaria, Romania, Turkey, Slovakia, Slovenia, Estonia, Lithuania, Latvia, Poland and Hungary. This section of the report provides a brief summary for key developments in accession states that are of particular relevance to this report. Of particular interest are any developments in airport corporatisation, privatisation and cross-subsidisation in these countries.

**5.5.1 Key developments**

The two airports in Cyprus, Larnaca and Paphos are owned and operated by the Cypriot Directorate of Civil Aviation. At present the airport system does not appear to be corporatised and there is no information on whether there are cross-subsidies between both airports. However, aeronautical charges are the same for both airports, so there may be some element of cross-subsidisation of airport revenues. The government is preparing both airports for privatisation under a BOT (Build Operate Transfer) scheme where a concessionaire will operate the airport for a 15-year period. It is expected that the Cyprus government will initially hold 70% of shares in the company.

Malta International Airport Ltd, the company that operates Malta airport was established as a limited company in 1991. Since then the airport has been consistently profitable and is currently in the process of being part privatised. A consortium led by Flughafen Wien has recently been awarded a 40% stake in the company with the remaining 60% retained by the government. The airport company is likely to be given a 65-year concession for operating the airport. In 2000, the airport achieved a net result (after tax and interest) of US$4.6 million.

The main airport operator in the Czech Republic is the government-owned Czech Airport Authority (CSL). The government is currently in the process of re-structuring the airport sector, which effectively involves ending CSL's monopoly of major airport and a privatisation programme. The government expects to create a joint-stock company to manage...
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Prague airport, which is likely to be part-privately owned with the state retaining 49% of shares. The regional airports of Brno, Ostrava and Karlovy are likely to be leased to private operators. The 35-year lease for Brno has just been awarded to a private company.

The main airport in Estonia, which handled 97% of traffic, is Tallinn. Tallinn is managed by Tallinn Airport Ltd, which is a company where the Estonian Government owns all its shares. The airport has generated an operating profit (before tax, interest and exceptional items) since its formation in 1992. Expansion projects, which included both passenger terminal and runway developments, have been part financed by loans from the European Bank for Reconstruction and Development (75%), internal funds (15%) and state grants (10%). In a government transport strategy report\(^\text{57}\) it is expected that future developments will not be financed from government sources but from the private sector and international sources.

Latvia’s main international gateway, Riga is managed by a joint-stock company with 100% of shares held by the government, there are no major issues regarding the airport within the context of Accession to the European Union.

In Poland, Warsaw airport and eight other regional airports is owned and operated by Polish Airports State Enterprise (PPL) which is a 100% national government owned airport authority. In terms of aeronautical charges policy, fees are set on the basis of classification of airport, with separate rates for Warsaw and 2 other groups of regional airports. Charges are higher with regard to Warsaw, which suggests that an element of cross-subsidisation is evident between Warsaw and the other airports. The group collectively generates a profit, but net profit is likely to be substantially lower in 20002 due to a heavy investment programme (Hotel, terminal and radar system). Terminal development involves the construction of a new international terminal.

In 2001 the Hungarian government re-structured the management of Budapest international airport. Up to that point Air Traffic and Airport management, a government –owned airport authority, managed the airport. The restructuring involved the dissolution of Air Traffic and Airport Administration and the creation of two companies; Hungarocontrol and Budapest International Airport Operations plc, which is still 100% state-owned.

The re-structuring was controversial in that the new company had, act of parliament, to assume management and control over two passenger terminals that were being operated by a private company, Airport Development Corporation. The new airport company had to dissolve its agreements with ADC as a result of new legislation which does not permit the airport company to out-source functions. According to an EBRD report\(^\text{58}\) claimed that the cancellation of the public-private partnership agreements and de facto re-nationalisation of the

\(^{57}\) Strategy paper for the transport sector, Estonian Ministry of Transport and Communications, February 2002

\(^{58}\) Transition Report Update, EBRD, May 2001

Air Transport Group, School of Engineering, Cranfield University
terminal would deter future investments in the country.

Slovenia's main international airport Ljubljana is owned and operated by a company, which has 49% of shares held by the Slovenian government and 51% of shares, traded on the Ljubljana stock exchange. Financial results from 2001 and 200 show the airport achieved an operating profit from an annual passenger traffic throughput of just fewer than 900,000. The country managed to avoid the worst excesses of the Yugoslav conflict and Ljubljana today stands as the only fully-corporatised airport in Former Yugoslavia. The Parliament passed a civil aviation act in 2001, which set out a legal framework for the regulation of the industry including airports. Maribor airport, which is Slovenia second largest, was recently sold in its entirety to a private company.

The Slovak Airports Authority manages airports in Slovakia. The authority operates Bratislava, Kosice, Piestany, Sliac and Poprad. The Slovak airports Authority is presently subsidised by the state. The government is reportedly considering privatisation options for Bratislava airport. Bratislava airport faces competition from Vienna airport, which is located in close proximity to the Austrian border. Direct public transport links to Vienna airport means that Slovak residents are able to access the much wider range of flights offered at Vienna compared to Bratislava. Vienna airport has reportedly hinted at a co-operation agreement with Bratislava or in the event of privatisation, securing an equity stake. Aeronautical charges levied by the Slovak Airports Authority appear to contain elements of cross-subsidy, with higher charges set at Bratislava, which would appear, given its size to be the most profitable airport. Charges are, in contrast substantially lower charges levied at the small airports within the system.

5.5.2 Future issues

Key issues facing accession countries are the extent to which their airport system is organised and functions can be integrated within European Union. To comply with EU law and issues of non-discrimination, accession countries would need to re-adjust aeronautical charging mechanisms in order to ensure that there is no discrimination between the charging treatment of domestic traffic from cross-border intra-EU traffic.

In terms of corporatisation and issues of subsidy, some of the accession states have already made significant progress in this direction such as Malta, Slovenia and Estonia within some countries currently in the process of privatising their airports (Cyprus). To some extent corporatisation of airports in accession countries has proceeded at faster pace than in some members of the EU. For example, all Greek airports, with the exception of Athens, are owned and operated by the non-corporatised Greek Directorate of Civil Aviation. Corporatisation would to a large extent should eliminate the requirement for state operating subsidies and create incentives for the introduction of more commercially focused management practises. In many of these countries, particularly, the Baltic states, the major airports are relatively
small in size and therefore, the ability to attract private finance to fund development is limited to either state grants or loans from the European Investment Bank and European Bank for Reconstruction and Development. Estonia, in the case of Tallinn airports has already made use of these sources.

5.6 Summary

Airports are businesses, they effectively respond to business opportunities in the same way that corporations respond in other sectors of the economy. To attract air traffic, particularly the high passenger growth low cost no-frills airlines, airports increasingly have to negotiate terms and conditions for using the airport with these airlines. These airlines are increasingly reluctant (so more than others) to accept standard terms, conditions and tariffs that are available to all air carriers. These issues are particularly crucial for small airports, often located in rural and remote areas that serve as a lifeline link for tourism and inward investment purposes.

The advantages of securing a low cost airline will be high passenger numbers and in theory additional spend in the local economy. The disadvantages to the airport, is the need to recover costs and the question of how sustainable are discounted airports charges over time. The expectation at least amongst airport managers is that the loss taken on inducing the additional traffic will be at least offset by additional spending not just in the terminal but also in the wider economy.

For small airports, particularly those located in peripheral regions, airports cannot be viewed as being isolated business-entities but necessary infrastructure that is fully integrated and serving the needs of the local economy. On policy grounds the justification for subvention from government authorities is clear. However the issue is for how long should airports be subsidised and at what point should subsidies or charges discounts be withdrawn. Research in this section as shown that there are differences between countries as to the point at which airports become profitable. This is mainly due to differences in the way airports are organised and the management of various functions.

Typically, an airport should be fully recovering costs (excluding depreciation) at or around the 1 million annual throughput of workload units. Those that do not do so, must either be offering large discounts on its aeronautical charges or these are some fundamental problems with management. Below the 1 million work load unit mark it is possible to find airports that are profitable at 300,000 WLU's and some unprofitable at 500,000 WLU. This is a feature of the industry where no airport is alike and where there exists quite different approaches to the management of airports both between and within countries.

Where countries chose to organise and structure their airports under the management of one organisation, the benefits usually come in the form of the need to avoid government subsidy.
Of the multiple airport networks in the EU, those in Spain, Portugal, Finland and Sweden are self-sustaining entities that do not receive operating subsidies, the downside of this particular structure of management is that cross-subsidisation between airports can in some instances lead to distortions in competitive markets where there is an airport which is setting charges below average costs and is being sustained by larger more profitable airports competing against an airports which is a stand-alone business entity.

To a large extent, differences in ownership structure and culture account for differences in the degree of public sector involvement in financing. While public sector financing will continue to play a role within the small and peripheral airport sector in some countries, assistance of this kind is provided even to the largest of airports. Although the bulk of assistance is in relation to issues of environment and sustainability i.e. improving surface access, they may in fact distort competition between airports, with one airports, whose surface access is financed free of charge having an advantage over another where such finance is not available. This can be important where airports are competing in similar catchment areas that over-lap territorial boundaries where differences in government policy, culture and attitudes to state aid is very apparent.
6 Discussion

6.1 Introduction

This Chapter will discuss the principal objectives of the Study based on the data collected during the course of the Study including interviews with airports, airlines and other interested parties. More specific data about individual airports and countries may be accessed in Volume 2 of the Final Report.

6.2 Airport Economics and Competition

Chapter 4 of the Final Report discusses airport competition and Chapter 5 airport finance. The airline / airport / passenger / cargo competitive market is extremely complex. Airports can range in size from the major international hubs to small social airports serving isolated communities. Airlines can range in size from the major international flag carriers to small passenger commuter services, and from low-cost carriers to cargo operators.

At the top end of the scale (in annual passenger and cargo throughout) are the major international hubs that generally compete with each other but rarely with the smaller regional airports. Competition between the hubs does not necessarily encompass all aspects of the market. Heathrow has no low-cost carrier presence and few charter operations. Its competitors therefore would only be those that offer alternative (to Heathrow) scheduled long-haul passenger services, including passenger transfers, and cargo services. In addition, Heathrow is heavily congested and new ‘competition’ from other airports may, until the completion of terminal 5, bring a sigh of relief to the BAA Board of Directors.

Not all international hubs have such a ‘protected’ status. Brussels has seen the demise of the home-based national airlines, seen the emergence of low-cost carrier competition at Charleroi, had to face international hub competition from Amsterdam and Paris and, lastly, increasing competition from high-speed rail services.

At the other end of the scale, an airport located on an island or in a remote continental region faces little competition from the nearest alternative airport and what competition there is comes primarily from often unreliable shipping services and other forms of surface transport, where applicable.

It may therefore be appropriate at this point to reiterate comments made recently about Australian airports (Section 4.1.1):
'However, it is important to note that the essence of an airport’s monopoly is spatial or locational in nature. A direct competitor may not emerge in the same city, but an airport in another city may provide some competition. The degree to which this type of competition could emerge can only be assessed by examining the demand characteristics of particular locations and airports.'

There are different ways in which airport competition might be defined. These have been outlined in Section 4.1. Probably the most dynamic of these competitive forms is the competition to attract new airline services, both passenger and freight. In recent years a number of airports (many of which would in the past be unkindly described as obscure) have seen a substantial growth in passenger throughput due to the development of the low-cost airline market. How have airports contributed this growth? Low airport user charges are not the whole story although some low-cost carriers make considerable propaganda out of this. In most cases, the secret of success has in fact been a lack of congestion at the ‘low-cost’ airport or, since 11th September, the opportunity to acquire slots formerly held by ailing airlines.

In fact, the low-cost airlines have taken advantage of the European liberalisation process and by judicious cost control measures have been able to offer lower fares (usually) on alternative ‘routes’ to those served by the scheduled carriers. This in turn has generated a new travelling market, many of who would have previously stayed at home or used alternative means of surface transport. Surprisingly, few airports mentioned low cost airline competition at ‘alternative’ airports. In this respect, during the interview process (refer to the Interim Report) only two airports mentioned Brussels, while Charleroi, Hahn, Berlin, Stansted and others were each mentioned once. Perhaps, as these types of service become more popular in Europe, airports will see them, and the airports they use, in a more competitive light.

Not all airports have rushed to embrace the low-cost market. Heathrow has neither the slots nor the interest although easyJet is now developing operations at Gatwick. Other UK regional airports, Birmingham and Manchester, appear content to let neighbouring regional airports (Bristol, East Midlands and Liverpool) embrace that particular market. Hence, the difficulties in defining competition between airports even for one part of the air transport market.

There are other ways in which competition can take place. Apart from the remote island and continental regions, there is often a considerable overlap of airport hinterlands. Probably the best case of this, only rivalled by the New York airport system, is that of London. Within the conurbation of Greater London are located Heathrow, Gatwick, Stansted, Luton, City, Southend, Biggen Hill and Northolt (military, GA airport). Do they compete with each other for all types of traffic? The answer to this is in the negative as each of these airports has a niche in a particular type of market.

General Aviation traffic operates out of Southend, Biggen Hill and Northolt. London City caters for a niche market of short-haul business centre traffic. Charter operators concentrate
their activities at Gatwick, Stansted and Luton. The long-haul scheduled market is concentrated at Heathrow and, to a lesser extent, at Gatwick. Interestingly, one way in which these airports compete with each other is surface transport from the centre of London to the airports. Most surface access to airports in Europe is funded by central government, a significant exception being the BAA-owned Heathrow Express.

In general terms, the degree to which competition actually takes place between airports for their prime customers, the airlines, must be limited. The view of Aena (Spain) is that Spanish airports do not compete with each other but are simply part of a national airport network. Pricing at one airport has little effect on long haul traffic distribution between airports, and obviously only those airports which have sufficiently long runways can actually compete for such traffic. Hub traffic competition is also generally for long-haul traffic transferring to/from short or long haul flights, and price again can play little part. Facilities may help, but so far passenger hubs have been restricted to a limited number of airports by history and air services agreements.

The potential for competition is greatest for short-haul charter flights, low cost airlines and cargo. For charter flights, the passenger is still more often than not purchasing a package (and thus hotel and total package price become large in relation to airport charges), and variations in airport charges do not drive airline decisions as to where to base aircraft but rather the origin (residence) and destination (holiday centre) of the charter market.

It has already been noted that low-cost airlines tend to use under-utilised airports, which can offer significantly lower charges based on low marginal costs. While these charges may not affect the choice of the airport as a destination, they may influence low cost airlines on choice of operating base (e.g. Charleroi and Hahn). However, it may be useful to once again refer to a comment made in the UK Monopolies and Mergers Commission (MMC) 1997 report on Manchester Airport:

'Higher charges at many airports, most noticeably Heathrow, would in practice have very little effect on demand, given that airport charges account for a very small proportion of air fares and can be significantly below the value to the airlines of the facilities used. In addition, prices higher than cost are ruled out by international agreements.'

Rigas Doganis also made a similar point in a recent report submitted by him to the Office of the Prime Minister, Ireland.

Finally, all cargo operators also need a base at which they would operate their hub, feeding longer haul flights from trucks and vice versa. Good ground facilities are important, and airport and ground charges are more significant a part of total costs than for the passenger...
business. Thus airports can be considered to compete for these operators, especially if they do not have too many environmental constraints.

Some of the above points will be revisited later in the Chapter. To conclude this section, a few general points will be made about airport profitability; more detailed comments on the economic viability of smaller airports will also be made later in this Chapter.

The country reports (Final Report, Volume 2) include financial data for many of the airports that were visited. Much of this information is in any case available from Annual Reports. The majority of airports with a passenger throughput in excess of one million passengers a year (or the equivalent in cargo) are profitable. For the larger airports much of the profit comes from commercial revenues but even smaller airports with a reasonable level of aeronautical charges and other revenue sources can be successful. From this, it can be concluded that there is no reason that day-to-day operations need to be subsidised, as the airports are in effect self-supporting. There will, of course, be occasions when major investments need to be made (runway resurfacing, new terminal etc.) after which profitability may become more marginal for a period of time especially when depreciation has to be taken into account and loans repaid. Nevertheless, even regional airports can be self-supporting.

Where do the Accession countries fit into this pattern? Some of the airports are already competing with neighbouring airports in the EU. Warsaw competes with Berlin, Budapest competes with Vienna, and Tallinn competes with Helsinki etc. Joining the EU will become an opportunity for further development of Accession country airports and, in fact, they are already part of the competitive market. The only provision is that airports in Eastern Europe will have to become as cost-conscious as their Western European rivals.

Airports are happy to be part of a competitive market. The only provision is that competition is on a level playing field as general concerns have been expressed about the relative level of airport charges, taxation loopholes and elements of state-funding that are sometimes inconsistent (new security measures, for example).

6.3 Ownership Structure Patterns

European airports have developed over the years into a wide range of ownership models but the industry as a whole, unlike airlines, is still dominated by public sector ownership. Privatisation continues to be on the agenda for a number of countries but in other countries a completely opposite attitude has been taken. Therefore, there is no consistent pattern of airport ownership in Europe but one of gradual transition from the public to the private sector. In a number of cases, individual countries have their own unique models of airport ownership and this makes it even more difficult to identify ownership trends within Europe as whole.
Competition between Airports and the Application of State Aid Rules

Discussion

The main trend towards privatisation is within the United Kingdom. In a sense this was almost inevitable once the British Airports Authority was privatised in 1987 and the financial strength and performance of UK airports in recent years (and indeed since 11th September) indicates the success of the model and that a retreat to state ownership is unlikely to occur. The extent of privatisation can be seen in Table 3.1. However, financial success is possible without privatisation as the financial performance of Manchester and Birmingham airports have demonstrated over the years. Both of these airports have demonstrated that once a sizeable traffic base is established, together with strict cost-controls, then the type of airport ownership becomes less relevant. Other countries are following the UK trend towards privatisation including Italy and the major hub airports of Austria and Denmark but it is a slow process. A major advantage of privatisation models is that it is easy to ascertain the financial performance, accounting practices and tax regimes of individual airports.

In the remaining countries of Europe, airports are generally under some form of public ownership. Not only are there different ownership models but there is also varying information about the performance of individual airports.

In a surprising number of countries the national Civil Aviation Authority (CAA) still operates both airports and provides air traffic control services under the umbrella of a single company. The major examples of this model are Finland, Greece, Spain and Sweden. With the exception of Sweden, there is little information in the public domain on the financial performance of individual airports or indeed of the airport sector as a whole. This lack of financial data should be considered for attention by the Commission, in the context of the rationale for this Study.

The airport ownership model in France is different from other European countries in that, apart from those airports operated by Aéroports de Paris, local Chambers of Commerce have the responsibility for managing the airports although the airport infrastructure still belongs to the State. It had been anticipated that financial data for French airports would be as equally elusive as for the ‘CAA’ countries but a considerable quantity of financial information was sourced from ‘Activité des Aéroports Français’.

Of the other countries perhaps Germany has the widest range of ownership models. Airport shareholdings are spread between national government, regional government, local government and the private sector. Privatisation is proceeding slowly and probably by the end of the decade most German airports will have divested a significant proportion of the public shareholding to the private sector.

As far as the Accession countries are concerned, the major airports are still under state ownership. However, there are some moves towards privatisation. Larnaca airport (Cyprus) is in the process of ownership change and Ljubljana airport (Slovenia) now has a 51% private shareholding. In any case, the Accession countries do not in general have such an extensive
airport network as those in Western Europe and the privatisation process may actually prove to be quicker than that in say Spain or Greece.

The Legal Overview in Chapter 2 includes several general references to the privatisation process. For example (Section 2.2.1) indicates that 'there is no State aid component in a privatisation if the airline (or airport, one supposes) is sold to the highest bidder following an open and non-discriminatory public invitation to tender'.

Section 2.2.2.1 discusses the privatisation of airports involving the write-off of existing debts and later in the same section, under airport ownership arrangements, it is indicated that State shareholding of an airport company is not in itself State aid unless such shareholding is aimed to overcome temporary difficulties in which case it may be viewed as State aid.

The issue of ‘golden shares’ has also attracted the attention of the Commission. The privatisation of BAA (then the British Airports Authority) and British Airways was on the basis that the UK government retained a ‘golden share’ to prevent or restrict foreign shareholding. The European Court of Justice has recently ruled that ‘golden shares’ restrict the free movement of capital contrary to Article 58 of the EC Treaty (Section 2.2.2.1 refers). This issue has yet to be resolved.

There are many airport ownership models in Europe ranging from 100% privatisation to an airport network still under the control of the national Civil Aviation Authority. Most models publish financial performance data, details of accounting practices and tax regimes for individual airports. The exceptions to this are those airport networks controlled by the national CAA, financial information in the public domain for individual airports is almost impossible to find.

6.4 Airport Charging Practices

The mechanisms for airport charges have been discussed in Section 5.1 of this Report (Volume 1). More detailed airport specific information was included in the Interim Report and is included for individual airports in Volume 2 of the Final Report. Detailed information on airport charges is published by individual airports and, for major airports, in the IATA Route Charges Manual. Airport charges should follow the recommendations of ICAO in that they should reflect the real cost of airport operations and that such charges should be transparent and applicable to all customers.

The most common airport charge applied is that for landing and, almost without exception, the charge is some function of the Maximum Take-Off Weight (MTOW) of the aircraft incurring such a charge. There are of course variations in how this is exactly calculated from one airport to another and indeed one airport group to another. There may be a differential
between peak and off-peak charges (aircraft parking for example), environmental charges may be imposed (noise rather than emissions at present). Passenger service charges reflect the cost of providing terminal facilities including security. Supplementary charges may be incurred for the use of air bridges or night operations. Charges for ground handling and air traffic control are usually paid separately to the service provider unless, such a service is directly provided by the airport.

The setting of charges is normally subject to review and approval (Section 5.1.2) by the national civil aviation authority (CAA). In those cases (Spain, Sweden) where the CAA is the airport operator then the process is straight-forward and airport charges are generally consistent throughout the airport network or have different tiers to reflect the airport size (Spain). Privatised airports (such as the BAA group) are often subject to regulation of airport charges leading to the odd situation in the case of Heathrow being a congested airport with low regulated charges.

Notwithstanding the system of published charges, negotiated discounts and incentives between an airport and airlines are sometimes occurring (Section 5.1.4); most cases seem to be linked to the emergence of low-cost airlines and their use of smaller airports, not all of which are in the State sector. In legal terms it is considered (Section 2.2.2.1) that ... discounts offered to airlines by airport operators (as public undertakings or undertakings controlled by the State) may amount to State aid if they discriminate against particular airlines.

For example, in the case of Manchester Airport, the Commission ... confirmed that discounted landing fees would not constitute state aid where they were applied for a limited duration and were available to all airlines operating from the airport (for example, for a new service to a new destination). However, the Commission has recently moved against volume discounts where the charges have been seen to favour the home-based national airline (TAP Air Portugal).

Another example of potential aid (Section 2.2.2.1) to an airline is where landing and infrastructure costs would be set at a low rate or at zero for certain types of aircraft. If this is applied in a non-discriminatory way to all airlines, no undertaking is favoured and, in principle, there is no State aid. However, if a particular airline is effectively the only airline capable of meeting the criteria for the reduced charges and dominates use of the airport facilities to the exclusion of other airlines, it may be viewed as receiving an advantage notwithstanding the non-discriminatory application of such criteria.

The events of 11th September have had an impact on airport charges and the financial performance of airports in general. The Commission consequently clarified its policy in relation to State aids in the aviation sector by confirming that measures taken to compensate for the costs and losses incurred as a result of the attacks would be viewed as compatible with the common market under Article 87(2)(b), subject to various conditions.
Competition between Airports and the Application of State Aid Rules

Discussion

For airports, particular reference was made to the requirement for additional security measures where the Commission stated that the new security requirements should be borne by the Member States, even though, traditionally, such costs are borne by the air transport industry. This view was taken on the basis that the requirements were for the protection of society as a whole and not simply for the industry players and therefore the new measures imposed should be financed by public authorities and should not be seen as operating aid. This suggests that subsidising the cost of standard security measures may in certain circumstances amount to State aid. This would apply to all airports, not just those in the public sector. However, some airports have imposed an additional security charge on passengers.

Airport charges are published in the public domain. In general, the charges follow the overall recommendations of ICAO. The services for which charges are incurred are generally consistent from one airport to another. Environmental (emissions) charges are still uncommon.

The relative level of charges can vary from one airport to another. In some cases this is because of economic regulation on a national airport network basis. In other cases, individual airports are regulated in recognition of their natural monopoly. Concerns have been expressed about the application of discounted airport charges and route support grants to selected airlines. In practice, such discounts should be available to all airlines.

6.5 Funding of Airport Infrastructure

The funding of airport infrastructure has been discussed in Section 5.3. Sources of funding for the individual airports that were interviewed are summarised in Volume 2, Country Reports.

Sources of funds can include:

- Government grants and loans
- European Investment Bank
- Trans-European Network Transport Programme
- European Regional Development Fund

How airports in Europe make use of these funds can vary quite considerably throughout Europe. Major international airports are generally cash-rich and most projects are funded from cash flow and retained profits. However, even the international hubs make use of preferential rates for loans from the European Investment Bank. However, there are a number of legal implications that may impact on competition and these are discussed in the following paragraphs.
As far as funding of airport infrastructure is concerned, current Commission Guidelines and recent case law suggests that the funding of airport infrastructure do not amount to a State aid where it is in line with national or EC transport policy. This is primarily due to the shortage of airport facilities, both at national and Community levels, which requires some form of State intervention to relieve increasing congestion at existing airports. This could include, for example, the financing of the construction of a new terminal (Liverpool), runway (Charles de Gaulle) or airport (for example, new airports to serve Paris, Madrid or Lisbon), tax-free subsidies to purchase property adjacent to the airport for noise abatement purposes, extension of an apron at an airport, etc.

In particular, the case law applies the Commission’s Guidelines on State aids in the aviation sector in relation to state infrastructure investments, which provide that the construction or enlargement of airports, motorways, bridges, etc. represent general measures of economic policy which cannot be controlled by the Commission under the Treaty rules relating to State aids. The Commission states that infrastructure development decisions fall outside the scope of application of the Guidelines in so far as they are aimed at meeting planning needs or implementing national environmental and transport policies.

Another source of finance for airport infrastructure has been regional aid. This includes local, regional or national government measures to assist airports that may fall within Article 87(3)(a) if the location is within an eligible region. This type of aid may be of particular relevance for regional airports, and the criteria for the application of this type of aid is set out in detail in Section 2.2.1. However, Article 87(3)(c) cannot be used to exempt operating aids (though subparagraph (a) may do so in exceptional cases where an undertaking is established in an eligible region and the measure counterbalances particular difficulties).

In recent years a considerable level of funding has been expended on transport links to airports (Section 5.3.2). As with the funding of airport infrastructure, this type of measure is more likely to fall within the Commission’s Guidelines on finance for infrastructure, which includes motorways, as long as such infrastructure is open to all potential users without discrimination. There has been assistance from the Community Trans European Transport Networks (TEN-T) budget to several airports for improving inter-modal links. Although in line with Community transport policy, these improved transport connections may extend an airport’s catchment area and thus improve its competitiveness perhaps at the expense of another airport with less-suitable transport access. However, such funding would not constitute State aid as it does not involve a Member State conferring an advantage on an undertaking – the funds derive from central EU funding. Therefore, the construction of a

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Air Transport Group, School of Engineering, Cranfield University
high-speed rail link, rail-air station and a people-mover link to an airport terminal is unlikely to be considered a State aid.

Sources of funding for airport infrastructure can come from several sources including: cash flow, retained profits, government grants and loans and other sources such as the European Union TEN-T programme of the European Investment Bank. Current Commission policy is that in general the funding of airport infrastructure does not constitute State aid due to congestion at existing airports. Similarly, the current development of the Community Trans European Transport Network would allow the construction of transport related surface infrastructure to an airport without being classified as State aid. However, the construction of such infrastructure may put another airport, lacking such infrastructure, at a competitive disadvantage.

6.6 Fiscal Practices

Interviews with the selected airports include some discussion on fiscal practices. Apart from the annual accounts, the questions specifically focussed on depreciation policies and the payment of corporation tax. In the case of the former, depreciation periods used were fairly consistent and in line with normal industry practice. For example, the depreciation period for runway was up to 50 years, terminal buildings 30 to 50 years, and mobile equipment 5 to 10 years. The shortest depreciation period was for information technology systems, probably due to rapid changes in the industry. Adjustments to the depreciation periods can of course enhance, or otherwise, the Annual Accounts but there was little evidence of this being common practice.

Likewise, with the apparent exception of Greek airports, all airports interviewed are currently paying corporation tax (even Amsterdam, now), the rates varying between 28 and 40% of the taxable profits. In general, an exemption from tax may constitute State aid and this will apply equally in the aviation sector. The Schiphol case confirmed that an exemption from corporation tax for the operator of an airport constituted a State aid as the exemption applied specifically to publicly-owned enterprises and gave Amsterdam-Schiphol Airport a competitive advantage against other Community airports in the market.

In addition to this, it is considered that the reduction or deferral of fiscal or social contributions will be seen as State aid if they confer a competitive advantage on specific undertakings by relieving them of costs they would normally have to bear themselves out of their own financial resources. This would include, for example, exemption from, reduction in or deferral of corporation tax by airport operators.
6.7 Support of Services in the General Economic Interest.

Although earlier in this Chapter it was inferred that the airport business is profitable, in practice there are a significant number of airports that are not profitable by virtue of low passenger and cargo throughput. These airports are in most cases classified as being social airports, that is, they are offering a means of communication where the alternative by surface transport might be either time-consuming or even impossible at certain times of the year.

At the same time, many of the remote parts of the European Union served by subsidised shipping or air transport services on what are generally described at Public Service Obligation (PSO) Routes. Section 5.2 discussed the economic viability of airports while Section 5.4 deals with airport subsidies and the PSO routes.

From an analysis of airport revenues and expenditure it can be seen that unit costs fall sharply as traffic throughput increase from 0.5 to 2 million passengers per year. From this, in general terms it might be expected that an ‘average’ airport would become profitable once a passenger throughput of about one million passengers per annum had been achieved. During the course of the Study, this transition has been examined in some detail using traffic statistics from United Kingdom, Swedish and French airports.

The WLU (Section 5.2.2) has been used as measure of passenger and cargo throughput to compare airports in the three countries. To summarise the findings in Chapter 5 it should be noted that in the United Kingdom the threshold level for profitability was in the order of 500,000 to 700,000 annual WLUs for regional airports. In contrast, the same threshold for Sweden appears to be in the range of 500,000 to 600,000 WLUs and that for French airports in the order of 200,000 WLU. Note that all airports are different and the low figure for the French airports is probably because no account is taken of infrastructure depreciation. Nevertheless, it can be shown that an airport can be profitable even with quite low levels of annual passengers and cargo.

Moving on to subsidies (Section 5.4) it is known that operating subsidies are awarded by governments to some airports in some member states, for example, Ireland and France. In other countries, for example, Spain, Finland and Sweden, profits generated by the larger
airports are used to cross-subsidise the smaller airports. In the United Kingdom, the only example is a subsidy from the Scottish Executive to the airports under the umbrella of Highlands and Islands Airports Ltd.

The subsidisation of air and shipping services has been common practice for many years. The largest number of air transport PSO routes is to be found in France, followed by Spain, the UK and Portugal. Interestingly, the level of subsidy per passenger is the lowest in France.

The legal view on operating subsidies for air routes is in the context of operating subsidies for airlines required to carry out the public service obligation of maintaining specified routes, which they would not normally operate on economic grounds. These will only be accepted in two cases:

(i) In the context of a public service obligation, as defined in Council Regulation 2408/92, and subject to the detailed provisions concerning such obligations, i.e. if it serves to reimburse a carrier selected by public tender for performing the required public service;

(ii) Where the subsidy constitutes aid of a social character granted to specific categories of passengers on a route granted without discrimination on the grounds of the carrier operating the services.

There do not appear to be any guidelines for operating subsidies of airports.

| The transition point for an airport to become profitable is in the order of about 500,000 WLUs per annum (without cargo, this would be equivalent to about 500,000 passengers per annum). Below this level of passenger throughput, a loss-making airport might be supported by central government (for example, an annual marketing support grant) or cross-subsidised by larger airports in the same airport network (CAA-operated airports). Air transport and shipping services have been subsidised for a number of years; a similar form of subsidy would be equitable for appropriate airports. |

6.8 Airport Classification in terms of Competition

Traditional models for airport classification are a function of one of the following:

- Airport size (passenger, cargo throughput, range of air services)
- Airport role (international hub, regional airport)
- Airport location (capital city, airport system)
- Airport ownership (private, public)
- Airport network (CAA)
Classification by competition is more complex. Do all airports compete? Do some airports compete for only a limited segment of the market? Do airports compete on price? Do some airports not compete at all? Do some airports compete because of their geographic location? To develop a competition classification system requires some form of comparison with their competitors; hence some form of sensible judgement is required for the natural catchment area of each airport. This may vary depending on the type of competing service (charter, cargo, long-haul) that is under consideration.

Before proceeding to a more detailed classification, the characteristics of each type of airport are briefly examined in terms of competition.

**International hub airports:** Tend to compete with similar airports for all air transport markets that are catered for. Level of competition can depend on other factors such as congestion and, subject to geographic location, competition from high-speed rail. Note that congestion can minimise the impact of certain markets, for example, Heathrow does not compete in the charter and low-cost market with Brussels and Charles de Gaulle. Price competition is unlikely to be a factor. Natural catchments can overlap for the long-haul market providing the airport is served by high-speed rail.

**Remote airports:** Do not compete with other airports except with other neighbouring airports of a similar size (overlapping catchment) and surface transport (rail, shipping). In any case, these airports have a limited market segment, primarily short-haul scheduled services and limited cargo. Possible price competition if airports under different ownership but the latter would be unusual.

**Large regional airports:** They compete with other large regional airports, international hubs and surface transport. Likely to have an overlapping catchment with their competitors, price competition is possible, the degree of congestion will determine the markets served (normally the regional airports will cater for the whole air transport market) and surface access to the airport will influence the size of the natural catchment.

**Airport networks:** These are airports operating under single, government ownership. These airports are regarded as being part of a national airport network and therefore do not compete with each other (according to Aena, for example)! In practice, there will be an element of cross-border competition, for example:

- Aena Spain v Chamber of Commerce France
- Aena Spain v Portugal
- Chamber of Commerce France v neighbouring Belgian, German and Italian airports
- CAA Sweden v Copenhagen
Perhaps the simplest way to examine airport competition and come to some form of classification is to compare airport pairs using a series of attributes. For example, consider the following attributes and compare Heathrow with Paris Charles de Gaulle.

<table>
<thead>
<tr>
<th>Attribute</th>
<th>Airport advantage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Congestion, available capacity</td>
<td>CdeG</td>
</tr>
<tr>
<td>Surface access including high-speed rail and catchment</td>
<td>CdeG</td>
</tr>
<tr>
<td>Long-haul market o/d</td>
<td>Heathrow</td>
</tr>
<tr>
<td>Charter market</td>
<td>CdeG</td>
</tr>
<tr>
<td>Low-cost market</td>
<td>No advantage</td>
</tr>
<tr>
<td>Cargo market</td>
<td>Heathrow</td>
</tr>
<tr>
<td>Short-haul, domestic market</td>
<td>Heathrow</td>
</tr>
<tr>
<td>Transfer, hub potential</td>
<td>CdeG</td>
</tr>
<tr>
<td>Airport charges including ground handling and navigation</td>
<td>No advantage</td>
</tr>
</tbody>
</table>

Noting the above table has been developed on a judgemental basis, it can be seen that Charles de Gaulle has a competitive advantage over Heathrow. There are two reasons for this. Firstly, Heathrow is congested and that reduces the markets that can be served. Secondly, surface access to Heathrow is less favourable than Charles de Gaulle resulting, partly for geographic reasons, in a small catchment being served by the airport. Other attributes could be included, for example, environmental constraints.

From this a matrix might be developed allowing some form of comparison to be made between airports and providing a quick indication of the competitive advantage of one airport over another. For example, the matrix below shows a ‘judgemental’ comparison of Heathrow, Charles de Gaulle, Amsterdam and Frankfurt. As an example, reading from the left-hand column, it is suggested that Heathrow has a competitive disadvantage (-) to Charles de Gaulle, no advantage / disadvantage (0) to Frankfurt and a competitive disadvantage (-) to Amsterdam.

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<thead>
<tr>
<th></th>
<th>LHR</th>
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<td>LHR</td>
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<td>CDG</td>
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</tbody>
</table>

The matrix could be developed for any combination of airports and would allow a quick comparison between different types of airports irrespective of size, role, location and ownership.
Many airports have limited or no natural competitors, for example, remote airports will compete only with their nearest neighbour (if at all) and international hubs will tend to compete only with other international hubs. The main area of airport competition is between the regional airports. For example, large regional airports will compete with each other and the nearest hub airport and smaller regional airports will compete with each other. Airports will compete with each other according to the common market that both airports wish to serve.

Competition between two airports can be judged by comparing attributes. These can include congestion, surface access and airport charges. For example, Birmingham and East Midlands compete in the charter market but not in the overnight package and low-cost market. In part, the reasons for this are due to fewer environmental restrictions and congestion problems at East Midlands. It is suggested that a first step towards airport classification in terms of competition would be to develop a matrix system as described above.
7 Conclusions

1. Airports are happy to be part of a competitive market. The only proviso is that competition is on a level playing field as general concerns have been expressed about the relative level of airport charges, taxation loop-holes and elements of state-funding that are sometimes inconsistent (new security measures, for example).

2. There are many airport ownership models in Europe ranging from 100% privatisation to an airport network still under the control of the national Civil Aviation Authority. Most models publish financial performance data, details of accounting practices and tax regimes for individual airports. The exceptions to this are those airport networks controlled by the national CAA; financial information in the public domain for individual airports is almost impossible to find. With the exception of the CAA airports, ownership has little impact on airport competition.

3. Airport charges are published in the public domain. In general the charges follow the overall recommendations of ICAO. The services for which charges are incurred are generally consistent from one airport to another. Environmental (emissions) charges are still uncommon.

4. Leading on from this, the relative level of charges can vary from one airport to another. In some cases this is because of economic regulation on a national airport network basis. In other cases, individual airports are regulated in recognition of their natural monopoly. Concerns have been expressed about the application of discounted airport charges and route support grants to selected airlines, in practice, such discounts should be available to all airlines. Nevertheless, differential charges between airports have little impact on airport competition with the exception of the low-cost market and the odd situation where low charges prevail at Heathrow for what is a scarce and congested resource.

5. Funding for airport infrastructure can come from several sources including cash flow, retained profits, government grants and loans and other sources such as the European Union TEN-T programme of the European Investment Bank. Current Commission policy is that in general the funding of airport infrastructure does not constitute State aid due to congestion at existing airports. Similarly, the current development of the Community Trans European Transport Network would allow the construction of transport related surface infrastructure to an airport without being classified as State aid. However, the construction of such infrastructure may put another airport, lacking similar infrastructure, at a competitive disadvantage. An example of this might be the construction of links to the high-speed rail network. In the case of Charles de Gaulle that would give a significant competitive advantage.
6. Depreciation periods used were fairly consistent and in line with normal industry practice. For example, the depreciation period for runway was up to 50 years, terminal buildings 30 to 50 years, and mobile equipment 5 to 10 years and the shortest depreciation period is normally for information technology systems. Likewise, most airports interviewed are currently paying corporation tax, the rates varying between 28 and 40% of the taxable profits. In general, an exemption from corporation tax may constitute State aid and this will apply equally to the aviation sector. As all airports (except those in Greece) are now ‘tax-payers’ there is little competitive advantage in fiscal terms.

7. The transition point for an airport to become profitable appears to be in the order of about 500,000 WLUs per annum (without cargo, this would be equivalent to about 500,000 passengers per annum. Below this level of passenger throughput, a loss-making airport might be supported by central government (for example, an annual marketing support grant) or cross-subsidised by larger airports in the same airport network (CAA-operated airports). Air transport and shipping services have been subsidised for a number of years; a similar form of subsidy could be equitable for remote-region airports.

8. Many airports have limited or no natural competitors, for example, remote airports will compete only with their nearest neighbour (if at all) and international hubs will tend to compete only with other international hubs. The main area of airport competition is between the regional airports. For example, large regional airports will compete with each other and the nearest hub airport and smaller regional airports will compete with each other. Airports will compete with each other according to the common market that both airports wish to serve.

9. Competition between two airports can be judged by comparing attributes. These can include congestion, surface access and airport charges. For example, Birmingham and East Midlands compete in the charter market but not in the overnight package and low-cost market. In part, the reasons for this are due to fewer environmental restrictions and congestion problems at East Midlands. It is suggested that a first step towards airport classification in terms of competition would be to develop a matrix system.

10. Guidelines on State aid in the aviation sector cover tax measures (corporation tax), the use of public finance, the privatisation process, and regional aid. Decisions have been made by the Commission on airport infrastructure funding, airport charges, cross-subsidisation, security charges, airport ownership and funding for transport links.
11. From the airport interviews it appears that, while there may be some concerns by individual airports on unfair competition due to differential airport charges and taxation, in general the airports feel that they are operating in a reasonably competitive environment and that the main threats to fair competition are those of congestion and environmental constraints both of which impact on airport operations in different ways that can vary from one country to another and even one neighbouring airport to another.
Annex A  Legal Overview (Denton Wilde Sapte)

1  Introduction to EC law on State aids

1.1  Summary

Article 87 of the EC Treaty provides that:

Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market.

A measure will, therefore, constitute a State aid if the following elements are shown to exist:

(i)  an advantage;
(ii)  granted by a Member State or through State resources;
(iii)  favouring certain undertakings or the production of certain goods;
(iv)  distorting competition; and
(v)  affecting inter-State trade.

A measure comprising all of the above will be declared incompatible with the common market by the Commission, unless the measure falls within the automatic or discretionary exemptions provided under Article 87(2) and (3) or the block exemption regulations relating to de minimis aid, training aid and aid to small and medium-sized enterprises ("SMEs").

While Article 87 defines State aid, Article 88 and Regulation 659/99 detail the procedural rules which govern notification of new aids, Commission investigation of aids and repayment of unlawful aids and are discussed further below.

The above elements are now considered in detail.

1.2  "an advantage"

There is no definition of "aid", but the European Court of Justice ("ECJ") takes the concept to mean any advantage conferred, directly or indirectly, on a firm by public authorities, without payment, or against a payment which corresponds only to a minimal extent to the figure at which the advantage can be valued – has the recipient of the aid received a benefit it would not normally have received in the ordinary course of business? In essence, the aid must confer an unearned competitive advantage on the recipient which improves its financial position or reduces the costs which would otherwise have been borne by the recipient.

61  Article 89 of the EC Treaty empowers the Council of the European Union to make appropriate procedural and block exemption regulations to govern the application of Articles 87 and 88.

The advantage received can be of either limited or permanent duration. Though an advantage conferred upon an undertaking without that undertaking giving anything in return is plainly an aid, it is also possible for an advantage conferred with little or insufficient consideration given by the recipient to amount to an aid. In addition, a measure may be characterised as an advantage even where it requires the recipient to do something in return. Measures which are financed wholly or partly by contributions imposed by the administering authority and levied on the undertakings concerned may also amount to aid.

Aid is therefore defined by reference to its effects and not its causes or aims, though the aims will be considered as they may offer objective justification for the measure.

Whether the grant of an aid must consist of positive action taken by the State in the exercise of a power or discretion in order for it to be caught by Article 87 is unclear, though the Court of Appeal for England and Wales has held that this appears to be the case from a reading of Article 88(2) and (3).

The form in which the aid is granted is irrelevant, as Article 87(1) specifically refers to aid "in any form whatsoever". Forms of aid include, but are not limited to, the following: subsidies; interest rate subsidies; grants; interest rebates; tax reductions, deferrals and exemptions; interest-free and low-interest loans; soft loans; state guarantees; loan guarantees; guarantees on preferential terms; dividend guarantees; supply of goods or services on preferential terms; capital injections on terms not acceptable to a private investor; equity participations; acquisition of land or buildings either...
gratuitously or on favourable terms; indemnities against losses; cross-subsidy by a public undertaking;\(^{73}\) and other measures of equivalent effect.\(^{74}\)

**Tax measures** – The Commission will view a measure which relieves an undertaking of charges that are normally borne from its budget as an advantage.\(^{75}\)

**Privatisations** – When privatisation is effected by the sale of shares on the stock exchange, the presumption is that the sale is on market conditions and does not involve State aid.\(^{76}\) Debt may be written off or reduced before flotation without giving rise to a presumption of aid if the proceeds of the flotation exceed the reduction in debt. If the company is privatised by a trade sale, there will be no State aid if:

(i) a competitive tender is held that is open to all comers, transparent and not conditional on the performance of other acts such as the acquisition of assets other than those bid for or the continued operation of certain businesses;
(ii) the company is sold to the highest bidder; and
(iii) bidders are given enough time to and information to carry out a proper valuation of the assets as the basis for their bid.

However, privatisations in sensitive sectors and trade sales involving the following must be notified:

(i) sales after negotiation with a single prospective purchaser or a number of selected bidders;
(ii) those preceded by the writing-off of debt by the State, other public enterprises or any public body;
(iii) those preceded by the conversion of debt into equity or capital increases; and
(iv) sales on conditions that are not customary in comparable transactions between private parties.

**Land and buildings** – A sale of land and buildings by a public authority will not amount to State aid where the sale is to the highest or only bidder in a sufficiently well-publicised, open and unconditional bidding procedure comparable to an auction.\(^{77}\) Other types of sale will not involve State aid where the sale price is at or above that recommended following an independent market valuation.

**Provision of infrastructure** – This may amount to a State aid if works are carried out specifically for the benefit of one or more undertakings or of a certain type of product. However, the costs of site clearance and connection to utilities may not amount to a State aid if the undertaking pays for the use of the infrastructure through direct or indirect charges.

**State guarantees** – A State guarantee will not constitute a State aid if:

(i) the borrower is not in financial difficulty;

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\(^{73}\) See Commission reply to a Written Question on the subject of State aids, OJ [1963] Sp Ed 2235.

\(^{74}\) See Commission Notice on the application of the State aid rules to measures relating to direct business taxation, OJ C 384, 10/12/1998 0003-0009.


\(^{77}\) XXIIIrd Report on Competition Policy, 1993, points 402-403.
(ii) the borrower would in principle be able to obtain a loan on market conditions from the financial markets without any intervention by the State;
(iii) the guarantee is linked to a specific transaction, is for a fixed maximum amount, does not cover more than 80 per cent of the outstanding loan and is not open-ended; and
(iv) the market price for the guarantee is paid.

Provision of capital – This type of measure may constitute a State aid if its object is to provide financial support for a particular undertaking, rather than to produce profit. That is, the market economy investor principle (see below) will be applied. However, this will not always be the case, as State ownership is normally dictated by matters other than mere profit motive.

It follows from this that the concept of aid is extremely wide, going beyond simple subsidy, to include any form of State intervention or assistance which has the same or similar effect to a subsidy.78

1.2.1 Market Economy Investor Principle

The question of whether a measure constitutes an advantage may sometimes be decided by considering whether a private investor acting in a free market would participate in the transaction.79

Public funds provided to an undertaking (whether through a loan, capital injection or purchase of shares) may be an aid if the terms on which they are provided go beyond those that a private investor, operating under normal market economy conditions and having regard to the information available and foreseeable developments at that time, would find acceptable when providing funds to a comparable private undertaking.80

Each case must distinguish between advantages designed to attain particular economic and social objectives of a Member State and measures which are commercially justifiable in the sense that a private undertaking or investor in a similar position would adopt an equivalent measure.81 The latter are generally not viewed as State aids. For example, this would involve determining whether a public

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78 "The concept of an aid is ... wider than that of a subsidy because it embraces not only the positive benefits, such as subsidies themselves, but also interventions which, in various forms, mitigate the charges which are normally included in the budget of an undertaking and which, without, therefore, being subsidies in the strict meaning of the word, are similar in character and have the same effect." Case 30/59 Steenkolenmijnen v. High Authority [1961] ECR 1 at 19.

79 See also: Commission paper on the application of Articles [87] and [88] to public authorities' holdings, Bulletin EC 9-1984, a copy of which is contained in Competition law in the European Communities, Volume IIA, Rules Applicable to State Aid (1999) European Commission, pages 133-136; and Commission communication on the application of Articles [87] and [88] of the [EC] Treaty and of Article 5 of Commission Directive 80/723/EEC to public undertakings in the manufacturing sector, OJ C 307, 13/11/1993 0003-0014, which states that the principle should be applied, inter alia, to any cross-subsidisation by a profitable part of a public group of undertakings of any unprofitable part, except where there is net benefit to the group as a whole or good hopes of a long-term gain (paragraph 29).


81 "[Article 87(1)]...refers to the decisions of Member States by which the latter, in pursuit of their own economic and social objectives, give, by unilateral and autonomous decisions, undertakings or other persons resources or procure for them advantages intended to encourage the attainment of the economic and social objectives sought." Case 61/79 Amministrazione delle finanze dello Stato v. Denkavit Italiana Srl. [1980] ECR 1205, paragraph 31. See also Joined Cases C-278/92, C-279/92 and C-280/92 Spain v. Commission [1994] ECR I-4103, paragraphs 21-22
holding in the capital of a company is intended to earn a return or whether it has been acquired in the public interest, so that the acquisition has to be considered a form of intervention by the State in its capacity as public authority. Such a determination requires application of the market economy investor principle.

Application of the principle requires examination of whether there will be an acceptable return on the provision of funds within a reasonable period of time. However, given that the interests of Member States tend to lie in long-term profitability, their behaviour will be compared to that of private holding companies or groups taking a longer view of profitability, rather than that of private investors taking only a short-term view. A State body acting as public creditor will have its conduct compared to that of a private creditor.

This principle applies in relation to all enterprises whether profitable or loss making and also to capital injections made as part of a restructuring and modernisation plan.

1.3 "granted by a Member State or through State resources"

For a measure to amount to State aid the advantage must be both conferred by the State and provided directly or indirectly through State resources.

The distinction between aid granted by a Member State and aid granted through State resources does not mean that all advantages granted by a State, whether financed through State resources or not, constitute aid, but is merely intended to bring within the definition both advantages which are granted directly by the State and those granted by public or private bodies designated or established by the State. This would include all levels of government, whether central, regional or local and also separate public or private bodies established or appointed by the State to administer the measure. In relation to the latter the measure must be attributable to the State and financed by it. The first point will be satisfied where the State controls the body’s conduct by exercise of a power of supervision or determining influence over it. The second point will be satisfied where the aid is being financed either directly or indirectly out of State resources.

The measure must involve some direct or indirect transfer of State resources if it is to amount to an aid. Therefore, advantages conferred out of resources other than State resources will not constitute aid. This element will not be satisfied where the measure requires private undertakings to pay fixed

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82 Case C-301/87 France v. Commission (Boussac) [1990] ECR 1-0307, paragraph 39.
minimum prices for goods or services, even though the producers of such goods or services gain an advantage which is, in effect, conferred by the State. The burden on State finances arising from reduced tax receipts from the undertakings subject to the measure is viewed by the ECJ as an inherent feature of such a measure and not as a means of granting the affected producers an advantage at the expense of the State.\(^3\)

State resources may include the following: tax revenue; revenue from compulsory levies;\(^4\) private funds at the disposal of the State;\(^5\) and tax exemptions.\(^6\)

1.4 "favouring certain undertakings or the production of certain goods"

The measure must also be selective to constitute State aid, affecting the balance between the firm receiving the advantage and its competitors. Such measures should therefore be distinguished from those giving general economic support to all firms in all sectors within a Member State, which, as long as they do not have the effect of favouring a particular sector, will not constitute aid.\(^7\)

Advantages granted, or which have the effect of being granted, to one undertaking or all undertakings in one region or industry within a Member State, will satisfy this element. However, activities which are subject to different regulatory and economic conditions may be treated differently without such selectivity constituting an advantage.\(^8\)

The recipients of aid may operate in any of the activities or economic sectors covered by the Treaty, which includes all gainful activity, and may be public as well as private enterprises, though Article 86(2) (discussed below) may apply in relation to the former.

1.5 "distorting competition"

The measure must be shown to be capable of distorting or threatening to distort competition. This element is satisfied where the measure strengthens the position of an undertaking compared with other undertakings competing in intra-Community trade;\(^9\) confers an advantage on a competitor in a market experiencing economic difficulties;\(^10\) or confers an advantage on a competitor operating in a sector with intense competition.\(^11\) The fact that other competitors are receiving State aid does not imply that

\(^{7}\) See Commission Notice on the application of the State aid rules to measures relating to direct business taxation, OJ C 384, 10/12/1998 0003-0009.
a State aid to another competitor operating in the same sector does not distort competition (i.e. the argument that it effectively neutralises the other distortions of competition).\textsuperscript{102}

Though the Commission assumes that a distortion of competition will necessarily flow from the selective application of a measure conferring an advantage, the ECJ has stated that an analysis of the recipient undertaking's position in the relevant market must be carried out nonetheless.\textsuperscript{103}

The relevant product market will be the market for goods or services provided by the assisted undertaking and all substitutable products and services. The geographic market need not be a substantial part of the common market.

1.6 "affecting inter-State trade"

The ECJ does not assess whether or not the measure has a material effect on inter-State trade, only that it has at least some effect on or is capable of affecting such trade.\textsuperscript{104} This has the result of catching measures that confer an advantage on undertakings whose products are not exported, but which compete with products originating in other Member States. Even relatively small amounts of aid may affect trade between Member States in sectors with strong competition, such as the transport sector.

1.7 Assessing compatibility of aid with the common market: exemptions

If a measure, by satisfying all of the above elements, is found to constitute a State aid, it is necessary to consider whether any of the automatic or discretionary exemptions under Article 87(2) and (3) will apply.

1.7.1 Article 87(2)

Aid falling within the scope of this article will be considered compatible with the common market. Though the Commission lacks discretion to refuse the grant of such aid, the measure must still be notified.

Automatic exemption applies to the following types of aid:

(a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned.

The aid should be given directly to consumers, rather than subsidising firms for the benefit of consumers.

(b) aid to make good the damage caused by natural disasters or other exceptional occurrences;


\textsuperscript{103} Advocate General in Joined Cases 296 and 318/82 Leeuwarder Papierwarenfabriek v. Commission [1985] ECR 0809 at 824.

This would include aid to re-establish the competitive position of affected undertakings by way of compensation for loss and damage suffered as a result of such disasters or occurrences.

"Exceptional occurrences" would include: war; explosions; mining disasters; and serious internal political disturbances. However, it is unclear whether it would include disturbances of an economic nature, such as strikes.

(c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.

This will not apply to aid designed as compensation for the economic backwardness of the new German Länder following German reunification, though such aid could be considered under Article 87(3).

1.7.2 Article 87(3)

Aid falling within the scope of this article may be considered compatible with the common market. The Commission has discretion to allow or refuse the grant of such aid, which, again, must be notified.

The following types of aid may be considered compatible:

(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;

(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;

(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;

(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest;

(e) such other categories of aid as may be specified by decision of the Council acting by qualified majority on a proposal from the Commission.

Once an aid is found to fall within the scope of Article 87(3), the Commission must exercise its discretion following an assessment of the economic and social considerations in the Community as a whole. Such an assessment should include the following:

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(i) whether or not the aid promotes development which is in the interests of the Community as a whole (national interests alone are not enough);
(ii) whether the aid is necessary to bring about that development; and
(iii) whether the particular features of the aid are compatible with the importance of the objective of the aid (i.e. consideration should be given to the intensity and duration of the aid and the degree of distortion of competition that it entails).

In addition, the Commission generally requires the recipient to contribute to the achievement of the objective sought, for example, by restructuring or self-financing.

Generally, operating aids which are not linked to restructuring do not benefit from Article 87(3), as they merely allow survival of the recipient undertaking during difficult times.

The most important types of aid in relation to case law and implementing legislation are those falling within points (a) and (c) above and it is in relation to these that the Commission has developed particular rules.

1.7.3 Regional aid

These rules relate to tackling regional problems, i.e. where the standard of living is abnormally low or where there is serious unemployment and to facilitate the development of certain economic areas which are disadvantaged compared to the national average. For aid to qualify under these rules it must generally be aimed at development, such as aid towards initial investment and, therefore, is unlikely to cover operating aid.\(^{109}\)

Regions are deemed eligible for regional aid by application of principles established by the Commission which focus on the level of income per inhabitant and the level of unemployment.

1.7.4 Horizontal aid

These rules deal with aid aimed at tackling problems arising in any industry and region and include aid to small and medium-sizes enterprises,\(^ {110}\) training aid,\(^ {111}\) for research and development, for environmental protection, for the rescue and restructuring of firms in difficulty,\(^ {112}\) to employment, and for undertakings in deprived urban areas.

**Aid to SMEs** – The exemption in relation to small and medium-sized enterprises applies to aid which aims to facilitate the development of economic activities of such firms, as long as the aid does not adversely affect trading conditions to an extent contrary to the common market.

**Training aid** – There is a general exemption for financial and tax incentives to encourage firms to train their employees. Regulation 68/2001 provides that aid for "specific" or "general" training will be...

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\(^{112}\) Community Guidelines on State aid for rescuing and restructuring firms in difficulty, OJ C 288, 09/10/1999 0002-0015.
exempt from notification provided that it does not breach certain intensity thresholds set out in Article 4 of the Regulation. While Article 5 provides that the exemption will not apply where aid for one training project exceeds €1,000,000.

1.7.5 Sectoral aid

These rules define the Commission's approach to particular industries, for example, the aviation sector, discussed below.\textsuperscript{113}

1.7.6 De minimis

EC legislation now provides that aid that does not amount to more than €100,000 over any period of 3 years will not fall within the scope of Article 87(1) and need not be notified under Article 88(3).\textsuperscript{114} The limit applies irrespective of the form of the aid or the objective pursued. However, the legislation does not apply to aid granted to the transport sector, which would include the aviation industry.

1.8 Procedure

Article 88 and Regulation 659/1999 set out the procedural rules relating to the application of the EC State aid rules.\textsuperscript{115}

1.8.1 Review of existing aids (Article 88(1))

It is important to distinguish between existing aids and new aids, as the latter require pre-notification.

Existing aids are generally those that were in operation when the EC Treaty came into force and those that have or are deemed to have been authorised by the Commission. It is also defined as aid that, at the time it was put into effect, did not constitute aid, but due to the evolution of the common market and without having been altered by the State, has become aid.

The Commission reviews existing aids by obtaining all necessary information from the relevant Member State and determines whether or not the aid continues to be compatible with the common market and may propose any appropriate measures in respect of the aid, to the Member State concerned.

1.8.2 Notification of new aids (Article 88(3))

All plans for new aids must be notified to the Commission, except for those covered by the relevant block exemptions.

All aids which are notifiable must not be implemented until authorised by the Commission, which must make a decision on the aid within 2 months of receiving the notification. If the Commission

\textsuperscript{113} Application of Articles [87] and [88] of the EC Treaty and Article 61 of the EEA Agreement to State aids in the aviation sector, OJ C 350, 10/12/1994.


does not rule on the notification within this time-limit the aid is deemed to be authorised and the Member State may implement the aid after notifying the Commission that it intends to do so.

The preliminary investigation procedure does not entitle other parties to be consulted and therefore the ECJ has ruled that the Commission should make a decision within 2 months of the notification.\(^{116}\)

In relation to the Commission, failure to notify does not in itself render implementation of the aid unlawful,\(^{117}\) though the Commission may still require its suspension pending an assessment. However, the ECJ has held that national courts should rule such aid to be illegal.\(^{118}\)

1.8.3 **Formal investigation procedure (Article 88(2))**

These investigations may be initiated in relation to both existing aids and new aids.

If, following its preliminary investigation of a new aid, the Commission has doubts as to its compatibility with the common market, it must initiate the formal investigation procedure.\(^{119}\)

The procedure involves a Commission decision summarising the relevant issues of fact and law and invites a response from the Member State and all parties concerned, i.e. all those whose interests might be affected by the grant of the aid.

1.8.4 **Recovery of aids granted unlawfully**

The Commission may order interim recovery of unlawful aid pending the outcome of any formal investigation. It may also order recovery of all aid granted in violation of a notification obligation and all aid which is found to be incompatible with the common market. The order will be made to the Member State concerned to recover the payment of the aid from the beneficiary.

The Member State concerned must carry out the recovery without delay using the procedures available to it under its own national laws. The only exception to this obligation to secure repayment of illegal aid is where recovery is absolutely impossible, and this is narrowly defined, to the extent that the recipient company may need to be wound up.\(^{120}\)

2 **Relationship between EC State aid rules and other EC competition rules**

In addition to the application of the State aid rules, the European Commission may also apply in relevant cases the principles of Articles 81 and 82 of the EC Treaty relating to anti-competitive agreements and abuse of a dominant position when investigating the relationship between airports, or between airports and airlines.

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\(^{116}\) Case 84/82 **Germany v. Commission** [1984] ECR 1451.


\(^{119}\) The Commission has no discretion in this regard where there are serious difficulties in establishing compatibility of a measure, Case T-73/98 **Prayon-Rupel v. Commission** [2001] ECR II-00867.

\(^{120}\) Case 52/84 **Commission v. Belgium** [1986] ECR 89.
2.1 Articles 81 and 82: Anti-competitive agreements and abuse of a dominant position

The Commission's application of Articles 81 and 82 in relation to airports focuses on equal access, equal treatment between airlines and strengthening competitive pressures to lower prices and improve the quality of services supplied by airports.\footnote{Airports Council International - "European Airports: A Competitive Industry", ACI Europe Policy Paper, 22 October 1999.}

This focus stems from the fact that with limited airport infrastructure and the development of competition, airports may be in a position to control the supply of an essential input allowing them to influence the competitive conditions between airlines.

2.1.1 Article 81

"The following shall be prohibited as incompatible with the common market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market..."

This provision applies particularly in the area of slot allocation,\footnote{See also Council Regulation (EEC) No 3975/87, as amended, OJ L 374, 31/12/1987 0001-0008. Commission Regulation (EEC) No 1617/93, OJ L 155, 26/06/1993 0018-0022, as amended by Commission Regulation (EC) No 1523/96, OJ L 190, 31/07/1996 0011-0012 and Commission Regulation (EC) No 1083/1999, OJ L 131, 27/05/1999 0027-0028 and Commission Regulation (EC) No 1324/2001, OJ L 177, 30/06/2001 0056-0056.} though it also has a bearing on most agreements between airport operators and airlines. For example, an agreement between an airport and an airline whereby that airline benefits from favourable terms could be an agreement that has the object or effect of discriminating against other airlines.

2.1.2 Article 82

"Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market in so far as it may affect trade between Member States."

This provision could apply to some individual airport operators where they exercise control of a local monopoly over the supply of airport infrastructure and therefore have relative market power. It has been noted that this market power may in fact arise as a result of the strong airline industry preference for concentration of services on a limited number of airports to capture the benefits, including to passengers, that can arise from the economies of scale and increased service frequencies.\footnote{Airports Council International - ibid.} In addition, any such market power - particularly at large airports - can also frequently be captured airlines through their control of slots at the airport on the basis of the "grandfather rights" principle.\footnote{Airports Council International - ibid.}

However, where such market power exists, it can be abused where the airport operator discriminates in favour of particular airlines in relation to slot allocation or refuses to supply particular services or
access to infrastructure. Such discrimination may also occur in relation to discounted landing fees or the quality of services provided, for example, offering exclusive use of a particular terminal to one airline.

In relation to the former, the Commission has held that a discount system, which de facto benefited only those airlines based at the airport in question, was incompatible with Article 86(1) when read in conjunction with Article 82. The airport, Brussels-Zaventem, was run by the airways authority, a public body entrusted with the construction, development, maintenance and exploitation of the airport and associated infrastructure – a public service function to be performed in the public interest. The airways authority effectively held a legal monopoly over the provision of airport facilities in the Brussels catchment area, and was therefore in a dominant position under Article 82.

Though the discount system was based on objective criteria it had the effect of discriminating against airlines who were not based at the airport, yet which carried equivalent transactions.

A breach of Article 82 can only occur where the undertaking concerned is dominant within a substantial part of the common market. In relation to airports, the ECJ has analysed the volume of traffic and the importance of the airport(s) in question within the network of European airports to determine whether they constitute a substantial part of the common market.

2.2 Article 86: Public service obligations

"1. In the case of public undertakings and undertakings to which the Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 6 and Articles 81 to 89.

2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community."

This article provides that where the recipient of aid, whether a public or private undertaking, has been entrusted by the State with the operation of services of general economic interest, the Treaty rules should not obstruct the performance of such services. In other words, this provision could be invoked to justify the provision of State aid to particular undertakings. Such undertakings could include, for example, a nationalised industry which had been privatised, but which continued to have a protected monopoly.

However, the provision will only apply where the sole purpose of the aid is to offset the additional costs incurred in performing the particular task assigned to the undertaking and the aid is necessary for that undertaking to be able to perform its public service obligations under conditions of economic equilibrium. In this respect, the Commission will assess the general economic conditions in the reserved sector to ensure that the aid does not result in any cross-subsidy for the benefit of any competitive activities carried out by the recipient undertaking. Any such cross-subsidy or cross-subsiding effect may result in the aid falling outside the exemption provided under Article 86(2).

If the total amount of the aid is less than or equal to the additional costs borne in the performance of the public service activities, the aid is unlikely to be seen as having a cross-subsidising effect on the recipient's competitive activities.

3 Application of EC law on State aids to airports

There are no specific guidelines from the Commission on the application of State aid rules to airports. Much of the current policy stems from Commission decisions made over recent years and to some extent has developed from the application of the principles and guidelines established in relation to the air transport sector generally.

3.1 Commission Guidelines on State aids in the aviation sector

The Commission has published a statement of its policy in the aviation sector (the Guidelines), which is derived from and continues to be applied in its decisions, and the main principles of which are set out below. The Guidelines relate predominantly to the provision of State aids to air carriers rather than airport operators but they are expressed to cover any activities accessory to air transport, direct or indirect subsidisation of which could benefit airlines such as flight schools, duty free shops, airport facilities, franchises, airport charges, within the limits defined in the Guidelines.

**Tax measures** – The reduction or deferral of fiscal or social contributions will be seen as State aid if they confer a competitive advantage on specific undertakings by relieving them of costs they would normally have to bear themselves out of their own financial resources. This would include, for example, exemption from, reduction in or deferral of corporation tax by airport operators.

**The market economy investor principle** – This principle will apply to public capital injections, loan financing (particularly with regard to interest rates and security) and guarantees in relation to the aviation industry.

**Restructuring aid for airlines** - Such aid will be allowed subject to a number of conditions: in particular, the aid must be exceptional and temporary, there must be a comprehensive restructuring

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programme which provides for capacity reductions where necessary, and the airline must be run on commercial lines, that is to say without State interference. A "one-time last-time" rule applies to such aid.

Privatisation - There is no State aid component in a privatisation if the airline is sold to the highest bidder following an open and non-discriminatory public invitation to tender. However, certain trade sales may require notification, as set out under point 1.2 above.

Operating subsidies – The Guidelines refer to these in the context of operating subsidies for airlines required to carry out the public service obligation of maintaining specified routes which they would not normally operate on economic grounds. These will only be accepted in two cases:

(i) In the context of a public service obligation, as defined in Council Regulation 2408/92, and subject to the detailed provisions concerning such obligations, i.e. if it serves to reimburse a carrier selected by public tender for performing the required public service;

(ii) Where the subsidy constitutes aid of a social character granted to specific categories of passengers on a route granted without discrimination on the grounds of the carrier operating the services.

Regional aid – Article 87(3)(a) and (c) apply in relation to undertakings established or investing in disadvantaged regions. The Guidelines specifically refer to its application in relation to aid to undertakings financing the building of a hangar in such regions. However, Article 87(3)(c) cannot be used to exempt operating aids (though subparagraph (a) may do so in exceptional cases where an undertaking is established in an eligible region and the measure counterbalances particular difficulties).

Concession of exclusive rights - The concession of exclusive rights (e.g. to operate duty free concessions at airport terminals) is also referred to in the Guidelines to deal with the possibility of an airline receiving considerable financial advantages by obtaining from the State, or the entity that operates the airport on behalf of the State, exclusive concessions for a market price lower than their actual market value. Though the exclusive concession may be granted to an airline for a price lower than its market value, an aid element will exist where the airline pays no rent for the exclusivity or a rent which is lower than would be paid under normal commercial conditions.

3.2 Analysis of State aids to airports

In relation to the provision of State aids to airports, the main elements that must be present in order to constitute State aid are set out below. A more detailed note of the cases referred to in this section is set out in section 4.

3.2.1 Advantage

Financial support is generally granted to airports at two main levels: infrastructure aids and operating aid. The nature of the advantage granted may vary, but tends to be in the form of direct subsidy, capital injection, special tax treatment, loans on preferential terms and state guarantees.
However, it is clear that airports can also themselves be the grantees of State aids, as was made clear in the Manchester Airport case. Competition between airports to attract new airline services has led many of them to offer support through joint promotional campaigns and, in some cases, reductions in airport charges and subsidies to airlines. In principle, so long as these advantages are made on transparent and non-discriminatory principles, there is no reason why the State aid rules should apply as the airport is not "favouring" a particular undertaking.

In this regard, the Commission's concerns about the granting of State aids to airports are twofold: first, that direct or indirect subsidisation of airports can distort competition between airports themselves; and second, that the subsidisation of the airports could indirectly benefit airlines, thereby distorting competition between competing airlines flying from the same or different airports, to the extent that the aid enables to airport to favour specific airlines through, for example, lower airport charges.

The following types of advantages, and the manner in which they have been treated under the State aid rules, can be identified from decisions made by the Commission to date:

**Funding of airport infrastructure** – Commission Guidelines and recent case law suggests that the funding of airport infrastructure do not amount to a State aid where it is in line with national or EC transport policy. This is primarily due to the shortage of airport facilities, both at national and Community levels, which requires some form of State intervention to relieve increasing congestion at existing airports. This could include, for example, the financing of the construction of a new terminal, runway or airport, tax-free subsidies to purchase property adjacent to the airport for noise abatement purposes, extension of an apron at an airport, etc.

In particular, the case law applies the Commission's Guidelines on State aids in the aviation sector in relation to state infrastructure investments, which provide that the construction or enlargement of airports, motorways, bridges, etc. represent general measures of economic policy which cannot be controlled by the Commission under the Treaty rules relating to State aids. The Commission states that infrastructure development decisions fall outside the scope of application of the Guidelines in so far as they are aimed at meeting planning needs or implementing national environmental and transport policies.

This principle was followed specifically in the Aerelba case, where the Commission ruled that a grant for the purpose of financing the modernisation of the airport of the island of Elba did not constitute State aid to the extent that it was intended for the carrying-out of an infrastructure project in the collective interest and that the infrastructure in question was open, without discrimination, to all Community airlines.

In the Piedmont Airports case, it was stated that such funding may also fall within the exemption under Article 87(3)(c), as a measure targeting the development of the management of airport facilities. Assistance was justified in this case on the ground that the airports themselves could not invest in the

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132 N 638/98 Aerelba – Italy.
133 N 58/2000 – Italy.
necessary themselves. Air traffic growth forecasts may necessitate improved and expanded airport facilities, which the airport may not be able to finance itself through the normal capital market.

However, as was also made clear in the Manchester Airport case, the Commission has stated in its Guidelines that any preferential treatment of specific undertakings when using the infrastructure may in itself constitute State aid. The Commission may therefore evaluate activities carried out inside airports which could directly or indirectly benefit airlines.

This means, for example, that the financing of the construction of a new airport by a Member State would not appear to come within the scope of the State aid rules so long as access to and use of the airport facilities is available to all Community airlines on a non-discriminatory basis.

These principles would also appear to cover, for example, preferential shareholder loans made for infrastructural development where interest on these loans is payable only if the company is profitable even where other airports may see this as an unfair competitive advantage. As long as the airport is open for use by all airlines on a non-discriminatory basis no action is likely to be taken under the State aid rules. Alternatively, the discretionary exemption under Article 87(3)(c) may be applied, as the Commission proposed in the Piedmont Airports case, i.e. the development of a particular economic activity, namely, management of airport facilities. The assistance may therefore be seen as in line with the common interest.

**Airport charges** — Discounts offered to airlines by airport operators (as public undertakings or undertakings controlled by the State) may amount to State aid if they discriminate against particular airlines. In the Manchester Airport case, the Commission confirmed that discounted landing fees would not constitute State aid where they were applied for a limited duration and were available to all airlines operating from the airport, subject to their fulfilling objective criteria (i.e. starting a new service to a new destination).

In many cases, discounted airport charges are the result of agreements between airport operators and airlines or the independent application of a discriminatory policy by the airport operator and, therefore, Articles 81 and 82, as opposed to Article 87, have been used to challenge discriminatory airport charges. For example, in 1999, the Commission held volume-related discounts on landing charges offered by ANA at Portuguese airports and the differentiation of those charges according to the origin of the flight, to be discriminatory and in breach of Article 86 (now Article 82) of the EC Treaty as an abuse of a dominant position. Discrimination was found to exist because the de facto effect of the system was to favour the national carriers, i.e. TAP and Portugalia. There was no consideration of whether the discount scheme constituted State aid and the case was considered under Article 82.

The Commission's Guidelines on State aids in the aviation sector refer to these in the context of subsidies for airlines required to carry out the public service obligation of maintaining specified routes.

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134 NN 109/98 Manchester Airport – United Kingdom.
135 NN 109/98 Manchester Airport – United Kingdom.
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which they would not normally operate on economic grounds. These will only be accepted in two cases:

(i) In the context of a public service obligation, as defined in Council Regulation 2408/92, and subject to the detailed provisions concerning such obligations, i.e. if it serves to reimburse a carrier selected by public tender for performing the required public service;

(ii) Where the subsidy constitutes aid of a social character granted to specific categories of passengers on a route granted without discrimination on the grounds of the carrier operating the services.

For example, a fuel subsidy by a state-owned airport to airlines would clearly be an advantage conferred by a State entity on those airlines. Following the reasoning put forward by the Commission in the Manchester Airport case, the subsidy is likely to be seen as a State aid as an operating aid unless it could be shown that is made available on a non-discriminatory basis to all airlines in the same market.

In this regard, it may be noted that the Commission is currently undertaking an investigation of various inducements offered by the Belgian authorities to Ryanair. The inducements were offered by Brussels-Charleroi Airport, part-owned by the Walloon regional authority, to encourage the low-cost airline to use the airport as one of its continental hubs.

In this regard, the private market investor principle is an important principle to be considered in the context of State aids to airports given that airports competing to attract new airline services may wish to offer financial support to airlines, say, through reductions in airport charges. In principle, there is no reason why such a form of subsidisation would not fall within the scope of the private market investor principle in circumstances where an airport considers that it needs to make an investment in order to attract airlines to operate new services from the airport since this may enable the airport to build the volume of traffic necessary to create the economies of scale that would generate an acceptable return on the provision of funds within a reasonable period of time.

Another example of potential aid to an airline is where landing and infrastructure costs would be set at a low rate or at zero for certain types of aircraft. If this is applied in a non-discriminatory way to all airlines, no undertaking is favoured and, in principle, there is no State aid. However, if a particular airline is effectively the only airline capable of meeting the objective criteria for the reduced charges and dominates use of the airport facilities to the exclusion of other airlines, it may be viewed as receiving an advantage notwithstanding the non-discriminatory application of such criteria.

Cross-subsidisation – Cross-subsidisation by a profitable part of a public group of undertakings of any unprofitable part, which carries on an activity open to free competition, could potentially amount to an aid, subject, however, to the application of the market economy investor principle. This would apply to airport operators, given that many are State-owned.

For example, in principle, cross-subsidisation by BAA plc in the London airports system may amount to State aid if the UK government was seen to control BAA’s conduct by exercise of a power of

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supervision or determining influence over it (which may be through a shareholding). Alternatively, BAA may be seen as abusing its dominant position (as a monopoly undertaking in the London airports system) by cross-subsidising its less profitable airports or services in such a way as to restrict competition. However, in 1993, Luton Airport complained to the UK's Civil Aviation Authority (CAA) regarding the pricing policy being adopted by BAA at Stansted Airport. The CAA found that BAA's airport charges at Stansted Airport were set at below cost and that this was adversely affecting business at Luton Airport. However, it decided not to take any further action on the basis that, as a relatively new airport, it would have been unreasonable to expect the airport to be recovering its costs and that the airport was minimising its losses through raising charges where it was feasible to do so and that there was no predatory policy designed intentionally to damage Luton Airport.

The Schiphol Airport case suggests that airport management and the provision of essential airport facilities involves the performance of a service of general economic interest and, therefore, the derogation under Article 86(2) may be applicable in the case of cross-subsidisation by a publicly-owned airport operator of unprofitable services which it is required to maintain. Where aid is granted to an undertaking (public or private) to assist its performance or an unprofitable service of general economic interest, there must be no cross-subsidy effect for the benefit of the competitive activities carried on by that same undertaking.

Subsidies towards security/anti-terrorist measures – In response to the terrorist attacks in the United States on 11 September 2001, the Commission clarified its policy in relation to State aids in the aviation sector. In essence, the Commission confirmed that measures taken to compensate for the costs and losses incurred as a result of the attacks would be viewed as compatible with the common market under Article 87(2)(b), subject to various conditions.

Particular reference was made to the resulting increase in insurance premiums, the requirement for additional security measures and the costs incurred (by airlines only) as a result of the temporary closure of American airspace.

Insurance – The temporary mechanisms introduced by the Member States to provide liability insurance cover for airlines and airport operators immediately after the attacks were classified as aid, but were found to be compatible with the common market under Article 87(2)(b), subject to the following:

(i) It was to apply to all companies in the Member State;
(ii) It was to be limited to one month (since extended); and
(iii) It provided compensation for the extra costs resulting from the events of 11 September only, i.e. the failure of the commercial insurance market.

Security obligations – The Commission stated that the new security requirements should be borne by the Member States, even though, traditionally, such costs are borne by the air transport industry. This

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view was taken on the basis that the requirements were for the protection of society as a whole and not simply for the industry players and therefore the new measures imposed should be financed by public authorities and should not be seen as operating aid. This suggests that subsidising the cost of standard security measures may in certain circumstances amount to State aid.

**Corporation tax exemptions/rebates** — As stated above, tax measures may constitute State aid and this will apply equally in the aviation sector. The Schiphol case confirmed that an exemption from corporation tax for the operator of an airport constituted a State aid as the exemption applied specifically to publicly-owned enterprises and gave Amsterdam-Schiphol Airport a competitive advantage against other Community airports in the market.

**Privatisation of airports involving the write-off of existing debts** — the principles set out in point 1.2 above will apply to privatisations of airports. However, any such privatisation may still require notification, even if it satisfies the conditions for a presumption against State aid, because the aviation industry may well be viewed by the Commission as a sensitive sector.\(^{142}\)

With regard to the transfer of airport infrastructure from the State to an airport operator, the Commission held in the Aer Rianta case that it would not constitute a State aid where the transferee is state-owned and carries out the same activity, from a functional point of view, as the part of the public administration from which the resources were transferred.\(^{143}\)

**Airport ownership arrangements** — The fact that a state owns a shareholding in an airport company will not normally constitute a State aid, as Article 295 of the EC Treaty states that the Treaty will not prejudice the rules in each Member State governing the system of property ownership. However, if the shareholding is aimed at helping an undertaking to overcome temporary difficulties, it may be viewed as State aid.\(^{144}\)

In the context of the privatisation of companies, the European Court of Justice has recently clarified the ability of national governments in the EU to retain "golden shares".\(^{145}\) In three joined cases, the Court ruled that the shares, which allow national governments to veto foreign take-overs, are never legal if all key decisions are subject to prior Member State approval. Such a restriction that dissuades other Member States' nationals from investing is a restriction on the free movement of capital in the EU contrary to Article 58 of the EC Treaty. It may be justified, however, if they enable a government to intervene when a clearly defined national interest is under threat. The Commission has already initiated proceedings against the UK over the privatisation of the British Airports Authority (BAA plc). BAA's articles of association allow the UK transport minister to veto anyone buying more than 15% of the company. The case is still pending.

**Regional aid** — Local, regional or national government measures to assist airports may fall within Article 87(3)(a) if the location is within an eligible region. This type of aid may be particular relevance

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for regional airports, and the criteria for the application of this type of aid is set out in detail in section 3.1 above.

**Funding for transport links** – As with the funding of airport infrastructure, this type of measure is more likely to fall within the Commission's Guidelines on finance for infrastructure, which includes motorways, as long as such infrastructure is open to all potential users without discrimination. Assistance from the Community Trans European Transport Networks (TEN-T) budget to several airports for improving intermodal links – though in line with Community transport policy, these improved transport connections may extend an airport's catchment area and thus improve its competitiveness. However, such funding would not constitute State aid as it does not involve a Member State conferring an advantage on an undertaking – the funds derive from central EU funding. Therefore, the construction of a high-speed rail link, rail-air station and a people-mover link to an airport terminal is unlikely to be considered a State aid. The same principle would apply to funding from the European Investment Bank (EIB) or the European Regional Development Fund (ERDF).

### 3.2.2 Granted by a Member State or through State resources

It is clear that the rules on State aid apply irrespective of the type of ownership of the recipient, whether public or private, and therefore aid to all airport operators, whether they are privately, partially or wholly publicly owned, could constitute State aid for the purposes of Article 87. As mentioned in section 1.3 above, in order to constitute State aid, the financial support may come from any level of government, central, regional or local or separate public or private bodies established or appointed by the State to administer the measure.

In the Aer Rianta case, the Commission ruled that the transfer of airport infrastructure from the State to a State-owned undertaking (at a price alleged to be below market value) was merely a change in the legal form under which the State operates the same activity and not as a transfer of State resources – Article 87 could not be used to prevent a State from using State resources to set up and own a firm.

Airports are viewed as public bodies if they are owned by the State, or are private bodies entrusted with the exercise of monopoly rights, as they can therefore facilitate the indirect provision of State resources to, for example, airlines (e.g. reduced airport charges). This will be the case where the State is exercising some power of supervision or determining influence over the airport operator in the case of a minority shareholding in an airport company. Such airports can themselves be the grantees of State aids.

### 3.2.3 Affecting inter-State trade

The very nature of the air transport industry means that an advantage conferred on any airline is likely to have an effect on inter-State trade - airlines are geared to international trade since, on the whole, they provide transport between airports situated in different Member States and compete with airlines established in other Member States.

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147 See Sabena and Schiphol Airport cases below.

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This is not necessarily the case with regard to advantages conferred on airports. The Commission’s view up until recently had been to view airports as non-competing entities at the Community level, but with the advent of liberalisation of the air transport sector in the EU, Community airports clearly now compete with each other for air traffic at various different levels, for example, to attract new airline services (passengers and freight), as hub airports and for transfer traffic between hubs, and between airports with overlapping hinterlands (which may cross Member State boundaries).

In particular, the Schiphol Airport case identified several areas in which inter-State trade could be affected in relation to airports. The first involved an analysis of the competitiveness of the airport itself vis-à-vis other Community airports, by examining its geographical location, the type and volume of traffic handled and its function within the transport network. The Commission found that the location of Amsterdam-Schiphol airport (overlapping catchment area with airports in neighbouring Member States) and its activity as a major hub airport handling a great deal of interchange traffic meant that it was in a position to compete with other Community airports.

Secondly, the Commission suggested that the corporate property market would be affected (and competition within it distorted) where the airport does and has further plans to take "financial and operational participation in other airports, both within and outside the European Union".

Lastly, it was stated that fiscal advantages conferred on an airport could eventually lead to lower airport charges, thereby affecting the competitiveness of airlines operating from the recipient airport, which, as stated above, would have a clear affect on inter-State trade.

The Piedmont Airports case also focused on the need to identify whether or not the recipient airports competed with other Community airports for either interchange or origin/destination traffic. In relation to the former the Commission found no evidence that these do or will (once they are developed into the Piedmont Airport system) compete with other Community hub airports. Competition for the latter type of traffic was dismissed on the grounds that the geographic location of the airports effectively precluded the overlap of catchment areas of other Community airports.

In summary, the Commission has viewed competition between airports, and hence the likelihood of advantages conferred on them affecting inter-State trade, as an increasing possibility. The analysis of whether a recipient airport competes with other Community airports for either interchange traffic or origin/destination traffic is a question of substitutability. The extent to which services from different airports are in competition with each other depends on a number of factors relating to the passenger and the journey being undertaken. These factors include: the price; the type of journey, whether direct or connecting; the origin and destination of the traveller; the type of passenger, whether travelling for business of leisure; the type of flight, whether long-haul or short-haul; and the frequency of services on the route. For example, for point-to-point travellers, the choice of airport and service an be influenced by the relative proximity of the airports (in terms of the preferred method of land transport) and perceptions about the ease of use of the airport and services provided.

### 4 Analysis of EC cases and decisions relating to airports/air transport industry

The case law and decisions of the ECJ and the Commission have, in general, taken the view that the provision and operation of airport facilities and services has been evolving from a mainly
administrative activity carried out by government branches towards an economic activity carried out by airport operator undertakings.\textsuperscript{149}

4.1 Ostend Airport\textsuperscript{150}

Under an agreement between (a) the Flemish Region and (b) the airline Air Belgium (AB) and the tour operator, Sunair (S), AB and S undertook to implement a minimum of 36 charter flights between Ostend Airport and Majorca, Alicante and Monastir during 1994-1996. In return, the Flemish Region conferred on them the following advantages:

(i) Exemption from landing and parking fees;
(ii) Advertisement programme promoting the flights in question and the regional airports of Ostend and Antwerp;
(iii) Subsidy so that each passenger could be offered a discount compared to Brussels-National Airport (Zaventem); and
(iv) For 1994 only, a subsidy to compensate AB for the additional cost of using Ostend Airport.

Following a complaint from the Belgian Tour Operators' Association, the Commission investigated the matter. In its assessment, the Commission dealt with each of these measures in turn.

It was clear from the information supplied to the Commission that AB had paid landing and parking fees as normal for the duration of the period in question. Thus, this clause in the contract never came into effect and was ultimately withdrawn, so there was no need to examine this matter.

The advertising programme was not specifically for the benefit of AB or S but promoted the regional airports as well, although the programme was arranged by S. The owner of the airport was therefore the main beneficiary of the advantages flowing from the advertisements. Thus, this measure was held not to fall within the meaning of "State aid".

The final two measures did constitute State aid within the meaning of Article 87(1) of the EC Treaty. The action was taken by a public body (the Flemish Regional Authority); the action consisted of financial transfers in the form of direct subsidies to only two undertakings; the aids affected trade between Member States as the aid applied to two companies whose business covered several Member States; and the aid distorted competition as it was only granted to two companies who were in direct competition with others in the same market but not operating from Ostend Airport.

The Commission then went on to examine whether the aid could be declared compatible with the common market considering the provisions of Article 87(2) and (3) (now Articles 87(2) and (3)). The provisions of Article 87(2) did not apply.

Points (a) and (c) of Article 87(3) contain exemptions for aid intended to promote the development of certain regions. The aid in question had been granted by the Flemish Region, was ad hoc in nature, and could not benefit from these exemptions since it was operating and not investment aid, and it did...
not meet the eligibility criteria concerning the regional aid under point (a) of Article 87(3). Moreover, under point (c), the Commission is only prepared to grant such an exemption to aid that accompanies a company restructuring process and is intended to spur investment.

In general, the Commission limits the scope for direct aid in providing aviation services to two highly specific cases:

(i) Where a Member State invokes the provisions of Article 4 of Regulation 2408/92\(^{151}\) on public service obligations;

(ii) Where point (a) of Article 87(2) is applied, i.e. aid having a social character, granted to individual consumers without discrimination as to product origin.

Thus, the Flemish Region was ordered to cancel payments of the two subsidies to AB and S.

4.2 **Sabena**\(^{152}\)

In this case, the Commission held that aid granted by the Belgian authorities to Sabena for the training of its employees in the "technics", "cargo" and "commercial and maintenance" departments to help them adapt to structural and technological change was compatible with the framework on training aid,\(^{153}\) and therefore fell within the exemption under Article 87(3)(c).

The measure in question was found to affect trade between Member States by virtue of the fact that it benefited a company whose air transport activities, which are such as to have a direct impact on trade, covered the majority of the EEA Member States.

The Commission also stated that the part of the funding for the scheme used to cover paid training leave did not constitute aid under Article 87(1), as it was a general measure applied in all sectors of the economy throughout Belgium.

4.3 **Schiphol Airport**\(^{154}\)

In this case the Commission ruled that an exemption from Dutch corporation tax granted to Schiphol Group constituted a State aid, in the form of operating aid, and should be discontinued.

The company in question owns and operates Amsterdam Airport Schiphol, Rotterdam Airport, Leystad Airport and holds 51 per cent of the shares in Eindhoven Airport. Outside the Netherlands the company manages Terminal 4 of JFK Airport in New York and Brisbane airport in Australia. The company is owned by the State of the Netherlands (75.8 per cent), the City of Amsterdam (21.8 per cent) and the City of Rotterdam (2.4 per cent).


The company was exempted from any kind of corporation tax, which on the face of it amounted to an aid, as tax exemptions are "usually regarded by the Commission as constituting State aid".

It was pointed out by the Dutch government that the exemption resulted from general Dutch rules on corporation tax relating to publicly owned enterprises and not from any special treatment for airport management companies. However, the Commission stated that the exemption stemmed from the Dutch government's interpretation of the law and that in its view the enterprise was a normal commercial undertaking and should therefore be liable to corporation tax.

The Commission ruled that the company was carrying out an economic activity (any activity consisting of the supply of goods or services on a given market) and therefore qualified as an undertaking, regardless of its legal status and of its type of financing. It pointed out that the Court of First Instance has established that the provision of airport facilities to airlines and other service providers, in return for a fee, is an economic activity.\(^{155}\)

The Commission then went on to discuss the notion of fiscal State aid. It found that the tax exemption granted to the Schiphol Group was State aid as it conferred an advantage on the recipient and was, by definition, granted through State resources. Furthermore, the tax rules in question were not seen as a general measure, as they applied to only certain types of publicly-owned enterprises.

Specifically, it was stated that, "a major feature in the evolution of the airport industry is the emerging of competition between airports. Although airports are, in relation to part of their business, local monopolies, it appears that in the increasingly liberal and competitive environment of air transport airports, or at least the largest ones, have become commercial entities, and a certain degree of competition between them may exist". In determining whether particular airports compete with each other, the following will be taken into account:

(i) geographical location;
(ii) volume and type of traffic; and
(iii) function within the transport network.

On this basis, "inter-airport competition is likely to be a limited phenomenon in the case of small and medium airports functioning as regional connecting points or accessibility points". Using the same criteria, Amsterdam-Schiphol airport is considered as being in competition with other airports in the EU by virtue of the considerable volume of traffic handled (much of which is extra-Community), its favourable geographical location, and the fact that it is a major European hub and acts as an international connecting point. In this regard, Amsterdam-Schiphol competes in the market for connecting traffic with major hub airports located in other Member States.

The potential for competition is increased where several airports serve the same populations, and this is likely to increase, particularly on the continent, with the development of high speed train connections, thereby increasing each airport's catchment area. In this case, the catchment areas was seen to overlap with those of airports in Belgium and Germany.

In addition, it was stated that the market for corporate property and control could be affected by such aid, as the airport industry is global and the Schiphol Group competes within it and has ambitious expansion plans.

A further point raised was that the exemption, by relieving costs, could lead to lower airport charges, thereby affecting the competitiveness of airlines operating from Schiphol Group airports.

All the above points led the Commission to rule that the aid would affect inter-State trade and distort competition.

In relation to Article 86, the Commission did not find evidence that application of the normal fiscal regime to the Schiphol Group would obstruct the performance of a service of general economic interest and therefore the derogation under Article 86(2) would not apply.

The case stresses the point that the transformation of airports into commercial entities competing with each other is an example of the evolution of the common market, which can make measures lawfully granted in the past fall within the definition of existing aids.

4.4 Aer Rianta

In this case, the Commission ruled that the transfer of infrastructure from the State to Aer Rianta, a State-owned company, at below market price and the fact that Aer Rianta is concessionaire for duty free shops and multi-storey car parks are not State aids.

Aer Rianta is an Irish State-owned company (the Minister for Finance holds all the shares) that owns and operates Dublin, Cork and Shannon airports. Until 1998, Aer Rianta was the agent of the government of the purpose of managing these airports. From 1 January 1999, all land and property owned by the Minister for Public Enterprise and used by Aer Rianta for its activity as airport operator (i.e. the airport infrastructure) was transferred to Aer Rianta.

The ruling followed a complaint alleging the following:
(i) Aer Rianta's non-payment of corporation and local government taxes amounts to State aid;
(ii) The transfer of airport infrastructure at below market value amounts to State aid; and
(iii) Aer Rianta's position as concessionaire for duty free shops and multi-storey car parks also amounts to State aid.

In relation to the tax exemptions, the Commission stated that though they would have constituted State aid, the fact that they were no longer in place means they were no longer an issue.

The Commission viewed the asset transfer as merely a change in the legal form under which the State operates the same activity, as the assets were not being transferred out of State ownership. In this case the assets were being transferred from one part of the public administration to a State-owned firm whose activity, from a functional point of view, is the same. It distinguished this type of transfer from

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156 NN 86/2001 Aer Rianta – Ireland, C(2001)2967
a privatisation of Aer Rianta, where a transfer at below market value could constitute State aid in favour of the buyer.

In addition, it was stated that Article 87 cannot be used to prevent States from using State resources to set up and own a firm, which would be contrary to Article 295 of the EC Treaty, which guarantees impartiality with regard to rules governing systems of property ownership in Member States.

In relation to the concession of exclusive rights, the Commission applied Chapter VII of the Guidelines on State aid in the aviation sector.\textsuperscript{157} It viewed the operation by Aer Rianta of duty free shops and car parks as agent of the Ministry as inherent in its main task of operating the airport and therefore could not constitute State aid. Aer Rianta is effectively "the entity entrusted with the operation of airport infrastructure which may grant concessions or exclusive rights for activities accessory to air transport". The issue of State aid would therefore only arise where Aer Rianta grants an airline exclusive concessions on privileged terms.

4.5 Piedmont Airports\textsuperscript{158}

This case concerned the public financing by the Region of Piedmont of improvements to and further development of infrastructure of airports at Turin, Cuneo and Biella. The Commission ruled that such financing (in the form of subsidies) was not aid on the basis of the location of the airports and their predominantly local importance as far as economic and competition impact was concerned.

The finance was intended to promote the development of the Piedmont airport system by granting subsidies to the management companies of Turin-Caselle and Cuneo-Levaldigi airports to improve and develop infrastructures with the aim of creating a single management company for all three airports.

All three airports are publicly-owned, through local and regional authorities.

The Commission confirmed that "the construction or enlargement of infrastructures (such as airports, motorways, bridges, etc.) is a general measure of economic policy that cannot be controlled by the Commission according to the rules of the treaty on the matter of State aids".\textsuperscript{159} The finance at issue falls within this guideline.

The Commission also gave consideration to the fact that all three airports appear open to all Community carriers on the basis of fair and non-discriminatory criteria.

Again, as in other cases, it was stressed that the airport sector is involved in continuous evolution characterised by increasing competition among airports for the supply of airport capacity, i.e. airport facilities. Some substitutability among airports was seen to be possible, particularly where several infrastructures are located in the same catchment area. In this regard, the Commission stated that a potential for competition between airports exists for:

\textsuperscript{157} Application of Articles [87] and [88] of the EC Treaty and Article 61 of the EEA Agreement to State aids in the aviation sector, OJ C 350, 10/12/1994.

\textsuperscript{158} N 58/2000 - Italy

\textsuperscript{159} Application of Articles [87] and [88] of the EC Treaty and Article 61 of the EEA Agreement to State aids in the aviation sector, OJ C 350, 10/12/1994, paragraph 12.
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(i) Interchange traffic, when airports operate as hubs; and
(ii) Origin/destination traffic, when airports are located in the same catchment area.

In relation to the first point, the Commission did not view the airports as being in a position to compete for interchange traffic, either separately or as part of the Piedmont airport system. Similarly, the airports were not thought to be substitutes for other Community airports in the market for origin/destination traffic, given their geographic location and the presence of a natural barrier such as the Alps.

In addition, the Commission referred to a Community interest in fostering a better exploitation of secondary airport capacities, in order to relieve congestion problems at the main airports. It specifically refers to the need to cater for the annual growth forecasts for air traffic, which cannot be achieved by many small and medium-sized airports.

It was also considered that the finance, if it was to constitute a State aid, would benefit from an exemption under Article 87(3)(c), in that it is a measure targeted to promote the development of certain economic activities, specifically the management of airport facilities, and that it would not affect trade to an extent contrary to the common interest.

4.6 Aerelba

In this case the Commission ruled that the grant awarded by the Tuscany region to Aerelba for the purpose of financing the modernisation of the airport of the island of Elba (Marina di Campo) did not constitute State aid to the extent that it was intended for the carrying-out of an infrastructure project in the collective interest and that the infrastructure in question was open, without discrimination, to all Community airlines.

4.7 Manchester Airport

The Commission held that finance to Manchester Airport by various local authorities did not amount to State aid, as it was an infrastructure measure aimed at implementing both national and Community transport policies. In addition, various measures adopted by the airport itself and aimed at airlines did not amount to State aid.

State aid to Manchester Airport – Manchester Airport is owned by several local Councils, including Manchester City Council, which have made loans to the airport company to finance infrastructure development. These loans were alleged to amount to State aid by virtue of the preferential terms on which they were granted.

The Commission defined the provision of airport facilities as the construction, development and management of runways and terminals. Once again, it applied the Guidelines on State aid in the aviation sector to conclude that the construction or enlargement of aviation infrastructure projects financed by the public sector amounts to a general measure of economic policy and a State aid. It did,

160 N 638/98 Aerelba - Italy.
161 NN 109/98 Manchester Airport - United Kingdom.
however, point out that such a measure avoids Article 87 only if the infrastructure concerned is accessible to all users on the basis of objective and non-discriminatory criteria. This approach is based on the consideration that the development of air transport services is of basic importance for the economic and social development of any region.

It was also mentioned that the development of Manchester Airport was part of a general government policy to reduce congestion in the London airport system. There were, therefore, wider benefits envisaged than simply a return on capital and consequently the notion of the public investor, rather than a private investor, should be applied.

State aid to airlines – The complaint alleged that British Airways ("BA") was to benefit from new airport facilities, to be built for its exclusive use. The Commission found that the arrangements between Manchester Airport and BA for the use of the airport facilities did not constitute State aid.

The Commission found that the modernisation of the airport was part of general UK airports policy; that BA is the largest, but not the only user of the terminal in question, and is only in this position because it is the largest single customer of the airport and it chose not to use the other facilities available; and that there is no discrimination in favour of BA.

The complaint also alleged that Continental Airlines ("CA") benefits from reduced airport charges, in particular, reduced landing fees and a commitment from Manchester Airport to refund the airline's losses, if any, on the Manchester-Newark route in the form of reduced passenger fees.

(i) Discounted landing fees

The Commission stated that such discounts could amount to State aid where the airport manager is a public undertaking, as the revenue foregone by offering reduced airport charges would amount to State resources. Article 87 would then apply if the discounts were designed to give preferential treatment to a specific undertaking, distort competition and affect trade between Member States.

However, the Commission also stated that discounts would not fall within Article 87 if they could be considered as "measures of limited duration that do not discriminate between the users of the airport infrastructure". It then considered non-discrimination in relation to the provision of airport facilities and focused on two types of discounts: those aiming to encourage start up services to new destinations not yet linked to the airport; and those aiming to stimulate volume growth on traffic to and from destinations already linked to the airport.

The case concerned discounts for a new service to a new destination and the Commission looked at discrimination in the market for that service, i.e. the Newark-Manchester route. As no other airlines undertook the same service, no discrimination was found to have occurred, primarily because the same discounts were on offer to all airlines that chose to enter the market for that route. In addition, the duration of the discounts was limited to two years. The Commission did, however, state that such discounts could not be granted, on the basis of equality of treatment, to other airlines starting the same route after the expiry of the CA discount arrangement.

The Commission, therefore, found that the discounts did not amount to State aid, as the grant of such discounts was current practice and did not distort competition.

(ii) Discounted passenger fees

These discounts were aimed at compensating for CA's losses during the start-up period. The Commission stated that such discounts could amount to State aid as the transfer of State resources for the exclusive benefit of a specific airline and would require a detailed assessment. However, the discount arrangement expired without these discounts ever being paid and it was therefore no longer an issue.

4.8 Brussels-Charleroi Airport

The Commission is investigating whether various inducements offered by Belgian local authorities to Ryanair constitute unlawful State aid. The inducements were offered by Brussels South Charleroi Airport, part-owned by the Walloon regional authority, to encourage the low-cost airline to use the airport as one of its continental hubs and comprise the following:

(i) €160,000 for each of the first 12 routes Ryanair opens from Brussels-Charleroi;
(ii) €768,000 to subsidise recruitment and training of pilots and cabin crew;
(iii) Cheap landing tax of €1 per passenger, rising to €1.13 in 2006 and €1.30 in 2010;
(iv) Free offices; and
(v) Up to €250,000 towards Ryanair's hotel and subsistence costs while it sets up its Charleroi office.

The outcome of the investigation is not yet known. It is likely, however, that if the Commission is to follow an approach similar to that taken in the Manchester Airport case, many of the inducements listed above, number (i) in particular, may avoid an infringement under Article 87 if they are of limited duration and do not discriminate between the users of Brussels-Charleroi Airport.

4.9 Olympic Airways

The Commission is currently investigating allegations of State aid to Olympic Airways, which involves potential preferential treatment given by Greek airports to the airline.

4.10 CityFlyer Express

The case involved application of the market economy investor principle to a loan granted at a preferential rate to an airline.

Vlaamse Luchttransportmaatschappij NV ("VLM") operated flights from both Antwerp and Rotterdam to London (London City Airport). CityFlyer Express Ltd ("CityFlyer") operated flights between

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Competition between Airports and the Application of State Aid Rules


The Flemish Region had granted to VLM an interest-free loan and CityFlyer contended that it amounted to a State aid. The Commission agreed and ordered an appropriate interest rate to be charged by the Flemish Region and for VLM to repay the aid component (i.e. the interest rate that would have been applied under normal market conditions since the date the loan was granted).

The ECJ held that "where an equity injection is involved, the Commission can take the view that abolition of the advantage granted must require the repayment of the capital contributed. As regards a loan, on the other hand, if the competitive advantage resides in the grant of a preferential rate and not in the actual value of the funds made available, the Commission, instead of requiring the principal sum simply to be repaid, is justified in requiring the interest rate which would have been charged under normal market conditions to be applied and the difference between the interest which would have been paid under those conditions and the interest which was actually paid on the basis of the preferential rate to be paid".

It was also held that only if VLM could not have obtained such a loan on the private market would the principal sum have to classified as State aid.