



EUROPEAN COMMISSION
Single European Sky Unit
Mr. Denis HUET
Rue Demot 24
1040 Bruxelles

5 September 2003

Message transmitted by Mail

Re: ECONOMIC REGULATION STUDY – ref TREN/f2/28-2002

Dear M. Huet,

In response to the draft Final Report of RPI, our organisation would like to address our comments. Further comments will certainly reach you by our members directly and we will also have the opportunity to address the study at the planned workshop.

1. Introduction and General Comment

- 1.1. CANSO considers this study as being an important contribution, especially for the rulemaking in economic regulation, where the input of experience in other industries is certainly appropriate.
- 1.2. It is also felt by the service providers that the description of present situation is done in a pragmatic and balanced way.
- 1.3. CANSO considers that it is interesting to pursue that economic regulation and charging would be treated together based on common principles and interpretations.
- 1.4. It would be of interest that the impact of any new regulations on economic regulation and charges would also be considered, especially for the ECAC countries.

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2. Review of restructuring issues (section 2)

- 2.1. The Consultant refers to the restructuring of the upper level with potential lower charges. One must however admit that economies of scale have not been demonstrated until now in European ATM; and it would certainly be of interest to study why this is the case.
- 2.2. The assumption that services in upper airspace would have lower charges would have to be confirmed by an analysis of the costs allocated between upper and lower level. This has not been done. But in chapter 7.1. the consultant comes to the conclusion that lower charges in the upper airspace will have an effect on higher charges in the lower and/or terminal charges, with no overall network improvement.
- 2.3. CANSO fully supports the idea expressed that overall performance will come from the integration (and/or close coordination) of upper and lower airspace management. This is already obvious in less congested regions at skirts of Europe. The ANSPs consider that overall performance improvements will mainly be guaranteed if the restructuring of airspace comes from the initiative of the service providers that work under cooperative agreements, and not from centralized bodies or pure regulations;

3. Review of the Theory and Practice of Price Regulation (section 3)

- 3.1. The consultant rightly explains that the economic regulator will have to make a balance between the necessity to ensure safety and capacity, which require long term investments, and the cost effectiveness of the service provision.

The description of the different existing systems is found to be balanced and pragmatic; the only comment is that the description of the UK system does not entirely integrate the present adjustments to the system, whereby the risk to income of traffic downturn is shared with the users.

- 3.2. The recommendation of a hybrid system between the traditional cost plus system and the price cap system is interesting but not sufficiently described. It will need to be modeled to confirm its viability.

CANSO fully agrees that it would be appropriate to have common rules on the different characteristics applicable to national authorities, such as :

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- 3.2.1. definition of common objectives
 - 3.2.2. clearly defined outputs in terms of quality of service, capacity,
 - 3.2.3. well defined consultation mechanism with users, in terms of subjects that need to be covered by the consultation, frequency of meetings, data to be transmitted
- 3.3. An economic regulation system that puts strong requirements on the service providers and makes them responsible for the results, requires on the other hand that service providers would be in a position to manage their organisation independently and following modern management approaches. If on the contrary service providers are subject to direct political influence, credibility is likely to remain an issue.
- 3.4. The consultant presents safety as a threat in a price-cap regulation system. CANSO believes that the ATM business is a highly regulated sector with strong supervisory mechanisms. There is an important culture on safety in the service providers. There are today excellent references of safety indicators with current business-oriented ANSP's. CANSO believes that private as well as public entrepreneurship focuses on long term periods that requires investments in people and technology. Safety is number one priority in air traffic management, whatever the institutional form of operation of a specific service provider. CANSO therefore cannot accept that safety is a threat in whatever price regulation system.
4. Contractualisation and Service Provision Arrangements (section 4)
- 4.1. The study confirms correctly that commercial contracting approaches between services providers and users are difficult. It is interesting that the consultant comes to this conclusion after having discussed with service providers and users/airlines.
 - 4.2. The contractual arrangements in the regulatory framework (p.54) is an interesting proposal, if following adaptation are taken into consideration:
 - 4.2.1. the target levels used in the consultation process, such as capacity targets and delay figures, can be defined at a European level; of course the definition of specific standards has to take into consideration local differences.
 - 4.2.2. wherever data exist already, that cover same subjects, same data should be used, as for example the capacity and traffic data introduced for LCIP planning purpose in Eurocontrol, or financial data transmitted to the CRCO or PRU

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- 4.2.3. the consultation on compensation/incentive arrangements that could apply in case of under/over-performance relative to a specific target level, should be at the discretion of the national consultation participants and not be an obligation
- 4.3. CANSO believes that the Review Body as proposed is not necessary. The requirements of Information Disclosure and transparency of information probably render the Review Body as redundant because the national regulator should have enough information to make a fair judgment.
- 4.4. What then becomes more important is that there is a level playing field and all national regulators enforce economic regulations to the same standard and consistently. If a forum for collective consultation on top of the national consultation is to be decided, for example at a later stage when big multinational OABs/ACBs exist, then CANSO supports that it would be an independent forum, that would be different for ex from the Enlarged Committee. This forum in any case should not replace the national consultation.
5. ATM co-ordination and infrastructure management (section 5)
- 5.1. The consultant proposes 2 European wide functions: the system operator with a more active role than the present CFMU, and the network infrastructure manager.
- Canso sees the need for a Network Management function like the CFMU. The present functioning of the CFMU has to be evaluated, but it is not useful to create an additional body.
- 5.2. CANSO is against a Central Network Infrastructure manager, for the following reasons:
- 5.2.1. the need for Infrastructure cooperation certainly exists but it can be done by cooperation of service providers, as is described in the study about the experience in the rail sector, where the coordination is resolved by cooperation between the infrastructure managers of the railway organisations
- 5.2.2. the Single European Sky regulations in the field of harmonization and interoperability will permit more cooperative arrangements between service providers
- 5.2.3. installing this new centralized body could go against this direction of cooperation between service providers and complicate the process and, finally, not be cost effective

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5.3. On the managing and financing of Pan-European infrastructure projects, one could question the cost efficiency with a centrally managed body, since this would not offer any guarantee on the eventual impact on ANSP's business and investment plan. Infrastructure is best procured using the internal market established under SES, where collaboration between ANSP's, with users and collaboration with system providers and common procurement is enabled and encouraged. And where sustainable investment is secured bearing in mind the cost benefits and risks. CANSO members are therefore not in favor of a new central body for procurement or investments.

6. Risk Sharing and benefit sharing in ATM (section 6)

6.1. The consultant gives an excellent description of the impact of traffic volatility and spiraling charges by the present system.

6.2. The creation of reserves is interesting and asked for by many service providers. It would introduce some stability in the charging system. It is compatible with the present cost recovery system and with any alternate mechanism that result in an allowable revenue figure. However the problem is that some States as well as users do not accept the idea of accumulating a part of the reserves over the next years, because they see it as a sort of subsidy.

6.3. Concerning the formula proposed (p.113-114), the reaction of our Members is that it looks as a theoretically nice formula but it is very difficult to put into practice. It will be difficult to establish targets and reference unit costs. The constants used in the formula are subjective. How will they be computed? By whom? When?

6.4. CANSO stresses again that any change should be thoroughly tested with simulation models.

7. The Structure of Route Charges: general principles (section 7)

7.1. The consultant has looked to different split of charges between en route and approach, upper and lower, charges per ACC... His conclusion is that none of these options would lead to improvements in network performance. This is more or less the same conclusion as the workgroup of Eurocontrol on routes charges.

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7.2. This does not mean that CANSO considers that there should be no change in the present system. But because of the complexity of situations all over Europe, any change has to be extensively discussed and tested. Systems can only be changed if they are improved for all parties.

7.3. CANSO believes that any change of the present system must:

7.3.1. respect the principles as explained by the consultant such as :

- cost reflectivity
- non discrimination
- transparency

7.3.2. take into consideration the “ability” to pay for all categories

7.3.3. maintain a simple charging mechanism, including formulas and rules, that prevents bureaucratic administrations and unpredictable side-effects

7.3.4. avoid introduction of changes that have a negative effect on the prevailing traffic patterns

7.3.5. focus more on the level of charges, rather than a differentiation of charges between different components

8. Alternative options for ATM charging structures (section 8)

8.1. Here again the formulas as proposed are theoretical, but the practical applicability is their main limiting factor

8.2. The presentation of a sort of gate to gate concept is interesting and could be further investigated.

8.3. The exemption of charging has to be regulated. Different practices exist concerning exemptions of charging of State and VIP flights which might be seen as clear discrimination between operators.

We hope that you will take these comments into consideration and are of course available for any additional information you would require.

Thanking you in advance for your interest, we remain,
Yours sincerely,



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Director European Affairs

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