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Dear Denis

**RPI STUDY ON THE IMPLEMENTATION RULES OF ECONOMIC REGULATION WITHIN THE  
FRAMEWORK OF THE IMPLEMENTATION OF THE SINGLE EUROPEAN SKY**

Please find attached ERA's comments on the above study. As you know the subject matter of the study is an area of considerable interest to ERA. I very much hope that you will be able to take our comments into account when drafting implementing rules (IRs).

At the final workshop to discuss the study it was mentioned that you would work with Eurocontrol to develop the IRs. As you are aware, the Eurocontrol Central Route Charges Office (CRCO) is currently studying various issues related to charges including lower/upper charges, fixed and variable charges, peak/off peak charges and a future reduction of the influence of aircraft weight. ERA's members would not like to see ideas developed by one stakeholder alone (CRCO) heavily influencing the development of the IRs. I hope you can assure me that the views of airline stakeholders, who pay the cost of the system, will be weighted accordingly.

Thank you for the opportunity to comment on this study.

Best regards

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## ERA COMMENTS ON THE RPI STUDY ON THE IMPLEMENTATION RULES OF ECONOMIC REGULATION WITHIN THE FRAMEWORK OF THE IMPLEMENTATION OF THE SINGLE EUROPEAN SKY (SES)

### Introduction

ERA acknowledges the study by RPI as comprehensive research that will serve as an independent guide for the EC in drafting implementing rules on the economic regulation of the SES. The evolution of the system of route charges is an item of considerable interest to ERA's members and can be seen in two main parts:

- 1 The determination of costs/charges associated with the provision of ANS (*costs*)
- 2 The means by which these costs/charges are collected (*charging mechanisms*)

On the subject of *costs*, ERA believes that the aim of the EC when developing implementing rules (IRs) on economic regulation should be to develop a regulatory framework which encourages ANSPs and states to increase productivity, lower overall costs, become more cost effective and where possible, introduce competition for the provision of services (e.g. MET).

On the subject of *charging mechanisms*, ERA believes that aircraft weight based charges represent an acceptable means by which to recover costs from airspace users. Aircraft weight is, and has been for a considerable time, well accepted and supported by the majority of users and ANSPs as a practical and fair means of charging both now and in the future.

Any regulatory framework which addresses both *costs* and *charging mechanisms* should allow for close user involvement and consultation independent of political influence and on an equal footing between users and providers.

ERA strongly believes that any change to the system of route charges should only be undertaken when it is supported with a clear and justifiable case which demonstrates that change would result in a benefit without undue cost. In other words, ERA does not support change for change's sake. ERA does believe that there is a case for change to enable greater cost efficiency amongst ANSPs.

### Summary of main comments

The following list summarises ERA's main comments on the subject of economic regulation of ANS as detailed in the RPI report:

- Supports the **further** development of a "hybrid" regulatory framework as a possible means of applying a downward pressure on ANSP/state costs associated with the provision of ANS.
- Supports the development of an enforceable regulatory framework which will enable greater cost efficiency and productivity amongst states/ANSPs whilst maintaining appropriate quality and safety standards.
- Supports greater user participation in government and regulatory processes applied to states/ANSPs in the field of economic regulation.
- Supports regulatory requirements which will enable enhanced disclosure, reporting and consultation requirements amongst states/ANSPs.

- Supports the development of a European forum, independent of states/ANSPs in which parties can engage on issues relating to charges/economic regulation.
- Supports the development of more explicit and precise indicators of performance which can be used to, *ex post*, evaluate performance.
- Has reservations on certain aspects of the development of a Revenue Recovery Imbalance Account.

On the subject of charging structures, ERA's summary comments on the subjects covered in the RPI report are:

- Strongly supports the inclusion of aircraft weight as a basis for setting charges, whether en route, origin or destination charges.
- Supports the view that any revision to existing charging structures should only be undertaken if it is demonstrated that it would have a positive effect on system performance and a consumer benefit without undue effect on system users.
- Does not support a charge differentiation between upper and lower airspace.
- Believes that the greatest priority in the development of the European ATM network should be an improvement to the structure and performance of service providers.

## SPECIFIC COMMENTS ON THE RPI STUDY

- 1 **Multilateral arrangements for consultation (page 49).** ERA has lost confidence in the existing process for multilateral consultation with users for the purposes of route charges in Europe. The existing forum, the Enlarged Committee for Route Charges (Encom) is wholly ineffective as a means of consultation. The recently published *PRR-6 report by the Eurocontrol Performance Review Commission (PRC)* highlighted a number of failures/criticism of the Encom which are also detailed in the RPI report. ERA would support the development of a multilateral consultation body which is independent of Eurocontrol, states/ANSPs and political influence in which air operators (or their representative bodies) are considered as equal partners rather than observers. Such a forum must offer meaningful involvement for users in face to face discussions with states/ANSPs at an equal level.
- 2 **Disclosure of information (page 55).** Existing arrangements for information disclosure do not require ANSPs and states to submit forward looking data to the extent that meaningful benchmarking comparisons between ANSPs/states can be undertaken. The recently published *ATM Cost-effectiveness 2001 Benchmarking Report by the Eurocontrol PRC* shows the possibilities where effective information disclosure is made mandatory. ERA would support the development of comprehensive information disclosure requirements and a means of enforcement to disclosure.
- 3 **Revenue recovery imbalance account (RRIA) (page 109).** Under the current cost recovery system the potential for significant swings in charge levels due to traffic volatility has been demonstrated clearly since 2001. A means of stabilising such swings is desirable for users, however the means by which this is achieved is a point of debate. The proposal for a revenue imbalance account could be open to exploitation by states during stable traffic periods by the consistent under estimations of traffic levels. In this way states could be assured of always maintaining a positive balance in an RRIA.

Historically, using the existing “n+2 adjustment mechanism” certain states can be seen to have consistently under-forecast traffic growth to ensure an over recovery year on year. Were an RRIA to be imposed, it would be important to prevent this kind of abuse by monitoring and controlling forecasting. A better solution may be to investigate the possibility of lines of credit (possibly secured through a state/EU account funded from the EU TENS funding process) which would be open to ANSPs as a means of stabilising rate fluctuations in the short term with the credit repaid in the long term at low rates of interest.

- 4 **Charge differentiation**  
Much work has been conducted on charging schemes, most recently by Eurocontrol through the Possible Pricing Mechanisms Task Force (PPMTF). Much of the work on charges has focused on enabling more cost reflectivity through the application of economic theory. Unfortunately theory rarely stands up to practical implementation and it is interesting to see that the RPI study acknowledges this on page 120 under discussion of marginal cost pricing. The RPI study goes on to identify two tests in para 7.2.2 which should be applied to any proposed differentiated charging scheme. ERA supports both these tests. Furthermore ERA supports the statements made on page 11 (section 2.3.2 (b)) of the RPI study in relation to the effects of a re-allocation of costs to users and the potential effects on both businesses and services to the regions.

ERA strongly believes that the demand side response to a change in pricing should be carefully examined to assess what the implications are for users and consumers of air transport resulting from a change in pricing. Any change must be justified with an impact assessment showing costs, effects and benefits to industry as a whole.

Ultimately the aim of a charging system must be to recover costs, but a practical aim must also be to allow the user industry to continue to operate profitably in a manner which allows

satisfactory services to be provided to customers by way of flight frequencies and aircraft choice flexibility. Such an approach can be seen as a reflection of the fact both users and ANSPs work in the same industry and that it is in our mutual interests to see the continued growth of air travel which provides revenue to both users and ANSPs.

The work of the PPMTF reached no conclusion other than to retain the existing system and this is indicative of the general user and provider satisfaction with the current system of en route charging.

With the above in mind, ERA supports the statements in the RPI report on cost reflectivity and the need for prices/charges to be set in ways which best guides service users and providers to more efficient outcomes.

## **5 Use of weight based charges**

ERA supports the statements in the report on page 124 of the RPI report and the conclusion that **there is not a strong case for changing the weight exponent in the charging formula**. In addition, ERA supports the use of weight for all charges related to ATM.

It is worth recalling that a choice of aircraft is driven by a number of factors, but ultimately operational, economic and commercial suitability for a route network given a certain passenger demand will drive aircraft choice. Within the regions of Europe physical airport constraints will also limit the type of aircraft which can be used. The extensive hub and spoke system in Europe relies heavily on smaller aircraft feeding passengers from the regions to connect onto long haul services. The growing popularity of hub bypass services which link regions to regions without the need to transit via a congested hub can often only be performed by smaller aircraft. These routes play a vital role in promoting the regions and relieving congestion at hubs.

The removal of weight related charges would impose a high cost burden on smaller aircraft operators and would imbalance the complex interdependence between small and large aircraft operators. In some instances (i.e. a single air carrier or ANSP) the mix of traffic or the fleet makeup may indicate that a move to non weight related charges would be beneficial by way of revenue optimisation for the ANSP or overall charge reductions to an airline. **But for the system and industry as a whole the benefits of a move away from weight related charges do not outweigh the commercial cost to the industry of such a move**. Indeed, restricting the development of these routes would be contrary to the aim of the EU in its deregulation policy as stated in the preamble to the Third Package, namely “... *a significant justification for the liberalisation of air transport is to stimulate the social and economic development of Europe’s regions...*”

Finally, for the reasons outlined in the RPI report, ERA does not support using specified intervals for weight as a basis for charging primarily due to the reasons of discontinuity between costs and charges at the edges of each “step”.

## **6 Two part tariffs**

ERA does not support two part tariffs for the reasons proposed in the PRI study in section 7.4 on page 126. The points listed include the effect on competition, barriers to entry, and the impact on flight frequency. ERA views two part tariffs as a very serious threat to the viability of services using smaller aircraft and the arguments stated in ERA’s comments on weight related charges equally apply to two part tariffs.

## **7 Congestion related charges**

ERA does not support congestion based charges. ERA’s members offer services to meet passenger demand. Scheduled services are timed to meet this passenger demand and offer flights at convenient times of the day. 57% of the passengers carried on ERA’s airlines in 2002 were business passenger. The elasticity of demand to travel amongst

these passengers is very high and the ability to re-time services outside the peak is low. The cost of delays in itself is a greater motivator to avoid congestion than any charge would be. Consequently, it is ERA's belief that congestion charges will not lead to a reduction in congestion. Any traffic (e.g charter/leisure) that is able to move its time of operation is likely to have already moved away during periods of congestion. For the remainder of carriers who operate in congested airspace, congestion charges will simply represent additional costs with no overall benefit.

Congestion charges would also serve to restrict services to the regions that may be forced to operate at a congestion peak to offer convenient services between the regions and the major centres of Europe. Restricting these services would again be contrary to the aim of the EU in stimulating the social and economic development of Europe's regions through the liberalisation of air transport as part of the Third Package of deregulation.

A better solution to relieving congestion would be to look to operational solutions to match capacity with demand during peak periods to avoid congestion occurring.

#### **8 Point of origin, en route, destination charge**

The existing structure of terminal (TNC) and en route charges is similar in principle to a point of origin, en route and destination charge. Currently terminal charges are not harmonised across Europe in the same way in which en route charges are levied. ERA supports a harmonisation of TNC charges across Europe and in particular a better allocation of costs between en route and terminal. For the same arguments posed above the cost burden on smaller aircraft operators or short haul operators arising from fixed origin and destination charges would be detrimental to those routes served by these aircraft/operators. ERA therefore argues for a harmonised weight formula to be considered as part of an origin or destination charge. It is noteworthy that the RPI report does not specifically argue for the introduction of fixed charges as part of an origin, en route, destination charge.

#### **9 Upper lower airspace charges**

ERA does not support a division in charges based on upper/ lower airspace for the reasons highlighted in section 8.4.3 (b) on page 146 of the RPI study. Such an arbitrary split of charges at a particular flight level does not represent a clear differentiation of costs for an ANSP. In addition, the overall effect of such a charge on users would be questionable. More significantly, such a system would clearly favour non EU carriers who proportionally spend more time in upper airspace.

#### **10 Charging structures vs charge level regulation**

ERA supports the statements made in section 8.6 of the RPI study which states that it is *....unlikely that the structure of charging for ANS, by and of itself, will have substantial effects on overall ANS performance. The main pressures for performance improvements are much more likely to come from a combination of more effective regulation of charge levels (rather than charge structures).*

It is a simple solution when reviewing the European ATM charging system to look at pure charging structures. A change to the charging structure is likely to have a limited or positive effect on an ANSP where revenues are concerned, but a significant effect on users by way of cost reallocation. Experience of recent studies/work in this area has shown the ease with which these subjects are discussed without any clear assessment neither of the effect of a change on users nor of the benefit of a change for airspace users or consumers of air transport. A more challenging approach is to look at the ways in which charges are constructed, in other words how costs are reduced and efficiency improved. ERA believes that the development of IRs for the economic regulation of the SES presents an opportunity to introduce a regulatory framework which exerts a downward pressure on ANSP costs while allowing users to develop their business to the benefit of both the travelling public and ANSPs through a fair charging scheme.