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Regulation of Airport Charges in Germany¹

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Abstract:

Airport charges policy in Germany is currently under discussion by legislation as well as airlines and airports as the new European charges directive 2009/12/EG is due to be transposed into national law by 15 March, 2011. Although airport charges regulation in Germany looks back on a 30-year tradition, its legal basis has been thin. The *Federal Regulation on Air Traffic Licensing* only mandates that airport operators have to get their tariffs approved before starting operations. The law does not mention as to *why* and *how* regulation shall be conducted by the airport authorities. It does not contain any advice regarding the standards to be applied to obtain approval and lacks information on issues like procedure and legal protection. What makes things even more complicated is the fact that charges regulation in Germany is conducted by as many as fifteen different regional airport authorities as the federal states are in

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charge of overseeing the regulation of airport charges. Although they apply each the same federal law, there are differences regarding its implementation in practice.

A structured survey among six of the most important state airport authorities revealed deficits: First, *legitimacy* is poor because the law does not state any requirements for the admissibility of charges. Second, *independence* of the state regulatory bodies is problematic since the federal states are not only in charge of running the airport authorities but also own at least a controlling stake in the airports on their territory. Finally, regulatory *cost efficiency* suffers under the fragmentation into fifteen separate authorities, each challenged with generating their own expert knowledge.

A comparison with other regulated industries in Germany reveals a potential to tackle these problems. In Germany, electricity, gas, telecommunications, postal and railway markets are regulated by a central regulatory body, the *Federal Network Agency*. It assembles expertise at a central authority and thereby increases regulatory cost efficiency and independence while promoting legitimacy by stating clear regulatory requirements. Such a centralized agency is also in a much better position to gain profound experiences across sectors, as was made evident by the drafting of a sophisticated concept for incentive regulation in the energy sector. Thus, transferring the competence of regulating airport charges to the Federal Network Agency may achieve significant improvements compared to the current situation.

Although the new EU directive *promotes* an independent supervisory authority for airport charges it does not *require* the creation of such a body. Nonetheless, airline and airport representatives are debating heatedly in favor and against such a move as a supplement to the required changes in national aviation law. While this paper neither aims to answer the question whether economic airport charges regulation is desirable at all nor which type of regulatory system yields better results (rate-of-return/incentive regulation; single/dual till etc.), the authors try to contribute to the ongoing discussions by providing transparency on the status quo of German regulation and outlining strategies to improve its organizational effectiveness.

Related topic areas:

Airport economics, policies, planning, and/ or operations; Regulation, competition and privatization of airport and other infrastructure; Air transport policy, regulation and liberalization

