

This document contains only the most important comments of LVNL regarding the Economic Regulatory Study.

In general a broad range of relevant issues and interesting options is dealt with, some of which are however treated rather theoretical. The report doesn't provide a coherent practical framework of options yet and it is very difficult to estimate the consequences of various options for LVNL.

### **Restructuring process**

LVNL acknowledges the shortcomings of the current 'full cost recovery' system. Also it is known that a pure 'price cap' mechanism has some disadvantages too. The idea of a hybrid arrangement seems to be more appropriate in the context of the Single European Sky initiative. No matter what system will be implemented it is very important to determine in advance the implications and consequences of such a system in order to prevent unintended effects. A more detailed description / design of the hybrid system is needed in order to do so.

In the opinion of LVNL at least the following issues should be taken into account:

- To define target levels is possible and will support the ANSP's to improve their business on a continuously basis. However first it is very important to determine the critical performance indicators that should be used. Second it is very important to determine the target levels / goals. There always exists the risk of undesirable trade offs between for example safety, capacity, environmental performance, economic performance. One should understand the dynamics between those indicators and decide upon performance indicators and target levels only if the effect on the behaviour of ANSP's can be predicted.
- If target levels are combined with a risk/reward system it is important that the financial framework supports such mechanism. In the current full cost recovery system bonus and malus will have to be assed through to the users. So actually there is no incentive. Also ANSP's do not have the financial reserves / provisions to absorb a penalty.
- Risk sharing implicates also that you have a clear mutual understanding which risks can be controlled by which party and which risks should be considered to be uncontrollable. This again is important in defining target levels and determining the consequences of achieving these levels or not. LVNL can only take responsibility for risks that are reasonably controllable by LVNL and bear the financial consequences only if the current financial framework will be subject of a redesign.

### **Contractualisation**

LVNL also considers a growing user participation in – as you call it network governance - almost to be a natural development. There is a potential positive effect on both efficiency and effectiveness of business operations. We think that the development of the SES will enforce this development.

However it is important to determine the degree of participation considering for example:

- The fact that various stakeholders (even within the category 'airlines') have various interests and that ANSP's face the challenge to manage the trade offs;
- The obligation to provide services on a non-discriminatory basis;
- The responsibilities of ANSP's
- The influence of regulatory bodies

LVNL has some concerns with the idea of setting targets at a system level. In our opinion local conditions should be taken into account and therefore local targets should be set. These can be set from a system wide perspective. The local target setting should be the responsibility of ANSP's themselves together with local regulatory bodies / the states and other stakeholders. In addition a certain level of standardisation / harmonisation in the way this is to be done should be in place.

### **European Infrastructure and Network Manager**

In general LVNL is not in favour of creating new international bodies and has concerns about the cost effectiveness of such bodies. However in the context of SES it is inevitable that to some extent there will be international bodies for coordination purposes. It should be clearly defined for what areas and

central coordination is necessary and to what extent these bodies should be in control (advisory body, decision making, legislative body, etc.). LVNL considers it to be very important that there is enough local autonomy to optimise local operations, of course from a system perspective. At last it is important to evaluate the effectiveness of current international organisations that could fulfil the necessary international coordination functions.

LVNL recognises the potential economies of scale of central development and implementation of infrastructure. Again LVNL is in favour of standardisation and harmonisation in order to achieve interoperability where necessary but considers local autonomy a key success factor for implementation and optimising local infrastructure. In the philosophy of LVNL the ATM-system is build up from three building blocks (men, machine, and procedure) that always should be looked at from an integral approach. Designing your ATM-system - most certainly for lower airspace providers - requires that local conditions are taken into account. We therefore are not in favour for a strict organisational division of service provision and infrastructure provision when the ATM-system is concerned. Despite this we think there is a case for looking at both elements different from a financial perspective due to the fact that costs related to these elements have different dynamics.

Another aspect that should be dealt with concerns the fact that in optimising the European ATM system it will be inevitable that some 'elements' of the system will have to bring offers. Whether or not these 'elements' will be prepared to do so is depending on the extent to which they will be compensated. We have not read concrete solutions for this issue in the report.

#### **Risk and rewards, charging principles / options**

Regarding the creation of a Revenue Imbalance Account we are in the position to have limited, but positive experience with such a facility. We have a so-called a settlement fund (only for terminal!) with clearly defined boundaries. This fund intends to achieve a tariff stabilization for our users for a limited period of time. In current circumstances (11/9, Irak, SARS, economic downturn) however such a fund will never be sufficient.

The challenge however will be the funding of such an account as well as the management of the resources.

We are in favour of allowing some flexibility in the adjustment process. However this requires some additional measures. One example is the ability to create financial reserves / provisions. Also this mechanism should not only work positive for the users; meaning in difficult times giving them some release, but also in the good times contribute to the funding of reserves.

Regarding to charging mechanisms it is of utmost importance that consequences for ANSP's and airlines are determined in depth. Previous studies have proven that only minor changes can have a tremendous effect. Also providers should never be tempted by the charging mechanism to deteriorate its performance on critical quality attributes of the service (e.g. safety, noise, etc.). Here also the regulatory bodies have to take their responsibility.

If any further explanation is needed we will be quite happy to answer your questions. We are looking forward to the workshop.

Regards,

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