# A comparison of regulatory regimes at international airports

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# Contents




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## Figures and Tables

# Executive summary

Air New Zealand has commissioned Oxera Consulting LLP (Oxera) to identify and explain the different types of economic regulatory regimes in place for international airports, with a particular focus on those that are wholly or majority privately owned.

The Ministry of Business Innovation & Employment (MBIE) is undertaking a review of the effectiveness of economic regulation of airport services under Part 4 of the Commerce Act 1986. In the context of this review, Air New Zealand is interested in understanding the range of regulatory regimes at international airports, from lighter-touch, negotiation-based frameworks that focus on collaboration and agreements between airports and airlines, to regulatory asset base (RAB)-based regulation, which involves detailed oversight by regulators. This will help in understanding how the regulatory framework applied to Auckland, Wellington and Christchurch airports compares with international practice.

**Regulatory framework at Auckland, Christchurch and Wellington airports**

In 2002, the New Zealand Commerce Commission (NZCC) undertook a market study on the competitive dynamics of the airfield services market at Auckland, Wellington, and Christchurch airports. The NZCC found that all three airports had significant market power (SMP), which could potentially limit the ability of airlines and passengers to access services on fair and efficient terms. This finding laid the foundation for the information disclosure (ID) regime applied to the airports under the Commerce Act 1986.

Although the NZCC found that the three New Zealand airports possess significant market power, the airports are subject to a relatively light-touch regulatory regime. While the ID regime requires airports to disclose detailed financial, pricing, and performance information, it does not directly constrain airport pricing or investment. The underlying premise of the ID regime is that transparency over prices and performance may be sufficient in itself to constrain airport behaviour, particularly when paired with the potential for additional regulatory intervention.

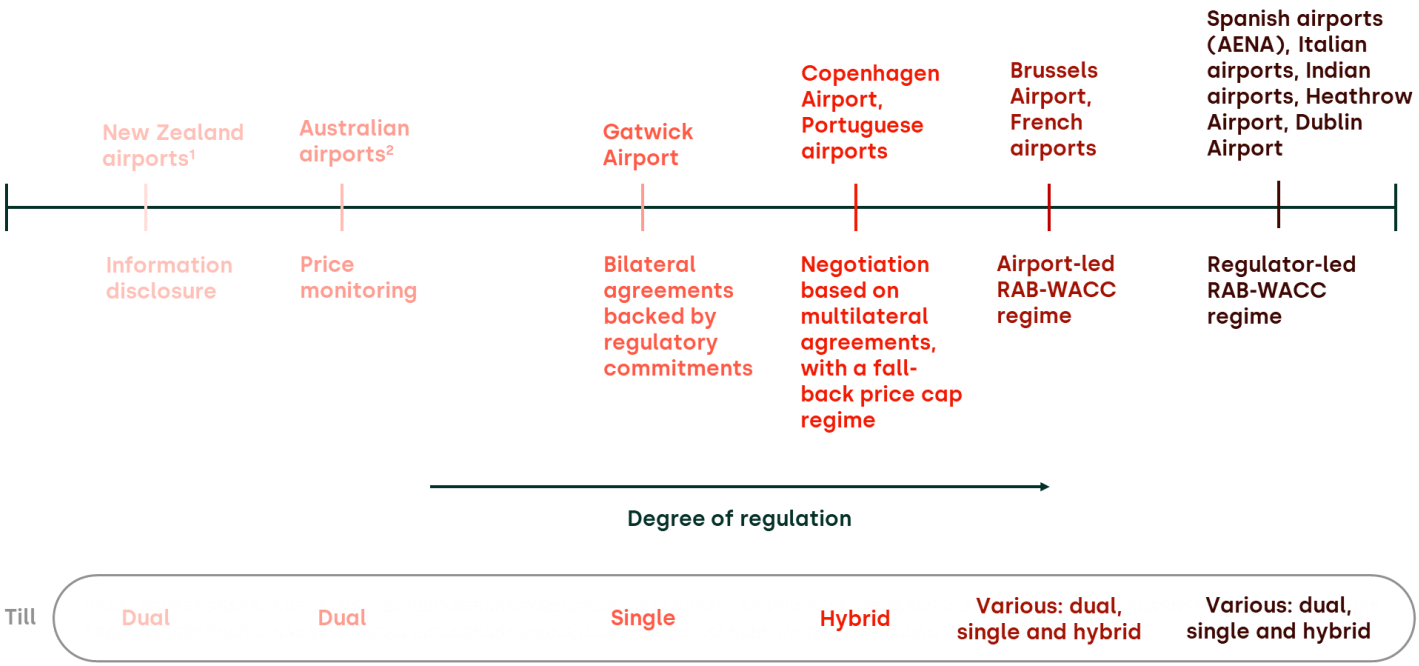
**A comparison of New Zealand's regulatory framework with international practice**

The spectrum of regulatory regimes applied to international airports is illustrated in the figure below. Each regime has different costs and benefits, and the optimal regime will ultimately depend on the context, the market power of the airport, and the regulator's duties and objectives (as set out in legislation).

To ensure that the airports considered have operational and commercial characteristics that are similar to those of the New Zealand airports, we have focused on airports in Europe and Asia-Pacific. Airports in North America were excluded from the review as almost all of them have a different ownership structure—i.e. they are owned and operated by local or state governments. Airports in South America and Africa were also excluded as many of the regulatory regimes are not well-developed and, in many cases, there is limited data or information about them.

As shown below, the regulatory approach applied to the New Zealand airports is the least interventionist of those considered, despite the airports being found to have SMP.

Spectrum of regulatory approaches for international airports




Note: [1] The airports subject to the ID regime are Auckland, Christchurch, and Wellington international airports. [2] In Australia, the airports subject to a price monitoring regime are Brisbane, Melbourne (Tullamarine), Perth, and Sydney (Kingsford Smith) airports.
Source: Oxera.

Regulatory regimes can vary significantly in their design—for example, in terms of the approaches to establishing maximum charges and how service quality requirements, risk allocation, and incentives are integrated into the regulatory framework. A key design choice is the

treatment of non-aeronautical revenues—i.e. the choice of the till regime. This determines whether, and how, commercial income (such as from retail, parking, or property) is taken into account when determining aeronautical charges, and the extent of cross-subsidy. A single-, dual-, or hybrid-till model may be adopted, each with implications for pricing, investment incentives, and efficiency. While there can be some relationship between the choice of till regime and the extent of regulation, these elements are conceptually distinct. For example, Heathrow Airport and Italian airports have a similar form of regulation, but their regulators have made different decisions about the appropriate till regime (single till at Heathrow and dual till at Italian airports).

The three approaches can be distinguished as follows.

- Under a single-till approach, all airport activities (including non-aeronautical activities) are considered to be within the regulatory perimeter when assessing efficient charges. Aeronautical charges are set to recover operating and capital costs across both aeronautical and non-aeronautical activities, but the revenues from non-aeronautical activities are then deducted to determine the aeronautical revenue requirement. Assuming non-aeronautical activities are profitable, this leads to aeronautical charges being subsidised.
- Under a dual-till approach, aeronautical charges are set based on the costs associated with aeronautical activities only (such that there is no need to deduct commercial revenue).
- The hybrid-till model blends these approaches, typically by deducting a proportion of non-aeronautical profit/revenue or applying different treatments to different revenue streams.

We note that MBIE's review of airport regulation in New Zealand is considering the merits of adopting a hybrid till as an alternative to the current dual-till model. The hybrid-till approach is often seen as a middle ground between the single- and dual-till models.

Indeed, hybrid-tills are common across jurisdictions, with several European regulators (e.g. in Denmark, Portugal, Netherlands and Switzerland) and Asian regulators (e.g. in India) adopting them. There is also a trend towards hybrid approaches, with airports such as Heathrow potentially moving to exclude some commercial activities from the till, and the French airports being permitted to implement a hybrid- rather than a single-till if they sign a multi-annual agreement.

To better understand how the regulatory and till regime applied in New Zealand compares to international practice, this report presents six

case studies. These case studies were chosen to ensure that the airports have operational and commercial characteristics similar to those of the New Zealand airports and that they have a history of regulation, as follows:

- **Gatwick Airport** operates under a system of bilateral contracting with users, within a framework of commitments that are approved and monitored by the regulator;
- **Copenhagen Airport** is governed by a multilateral contracting process, supported by a regulator-determined hybrid-till price cap as a backstop in case agreement cannot be reached;
- **Portuguese airports** are subject to an airport-user consultation agreement, supported by a regulator-determined hybrid-till price cap in case agreement cannot be reached;[1]
- **Brussels Airport** follows an airport-led dual-till RAB-based regulatory model;
- **Indian airports** are subject to a regulator-led hybrid-till regime, based on a building-block approach.[2]
- **Heathrow Airport** operates under a regulator-led single-till RAB-based framework.

For each case study, this report summarises the regulatory framework, the process for setting or approving charges, and key design features. The differences in these regimes will lead to different implications for airports, airlines and other stakeholders—e.g. in terms of flexibility, predictability, and direct and indirect costs.

**Tailoring economic regulation to the extent of competitive constraints**

In several jurisdictions, the application and design of economic regulation is directly linked to the extent of competitive constraints faced by the airport. For example, the Civil Aviation Act in the UK requires the Civil Aviation Authority (CAA) to undertake a market power test to determine whether regulation is required, and to tailor its approach to the degree of the airport's market power.

In this report (see Annex A2), we consider the competitive constraints faced by the airports reviewed[3] in order to consider the relationship

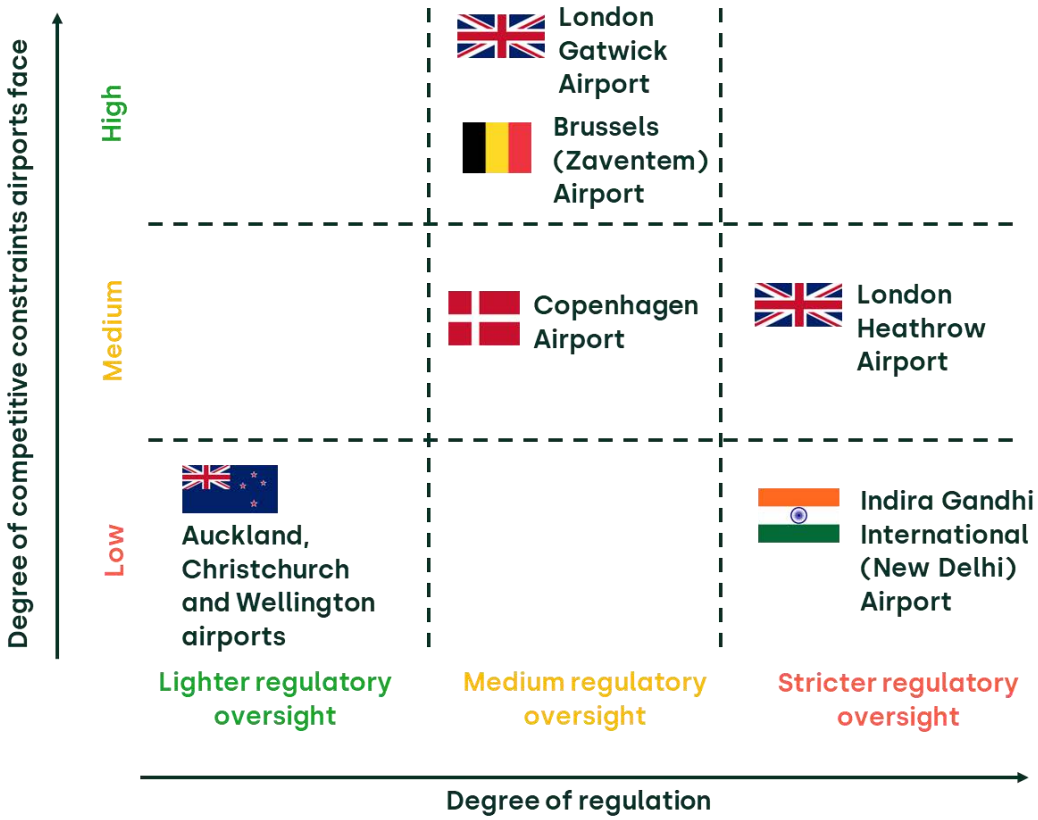
[1] This form of regulation applies to all major Portuguese airports, including Lisbon, Beja, Faro, Porto, Azores and Madeira airports.

[2] This form of regulation applies to all major Indian airports, identified as airports with over 3.5mppa.

[3] We have excluded Portuguese airports from this assessment, as those operated by Aeroportos de Portugal, SA (ANA) are part of a national airport network.

between the degree of competitive constraints and the form of regulatory oversight (see figure below). In particular, we consider several factors—i.e. competition for origin and destination and transfer passengers, competition for airlines, and spare capacity / congestion—to provide an indication of an airport's degree of market influence.

The relationship between competitive constraints and the degree of regulation




Note: We note that there are likely to be differences between airports located in the same quadrant. For example, even though Gatwick, Brussels and Copenhagen airports are all identified as having medium regulatory oversight, of these three airports, Gatwick Airport has the lowest degree of regulatory intervention, while Brussels Airport has the highest degree of regulatory intervention.
Source: Oxera.

This analysis indicates that airports that face fewer competitive constraints tend to be subject to more intrusive regulatory regimes. For example, Gatwick Airport operates under a more flexible regulatory framework than Heathrow Airport due to greater potential for airline and passenger substitution and greater airline countervailing buyer power.

Despite Auckland, Christchurch, and Wellington international airports facing limited competitive pressure relative to most other airports reviewed, they are subject to the lightest form of regulatory oversight.

# 1 Introduction

## 1.1 Background

The Ministry of Business Innovation & Employment (MBIE) is undertaking a review regarding the effectiveness of economic regulation of airport services under Part 4 of the Commerce Act 1986. As part of this, Air New Zealand is interested in understanding the range of regulatory regimes at international airports, ranging from lighter-touch, negotiation-based frameworks that focus on collaboration and agreements between airports and airlines, to regulatory asset base (RAB)-based regulation, which involves detailed oversight by regulators. There are costs and benefits associated with each regime, and the optimal regime will ultimately depend on the context, the market power of the airport, and the regulator's duties and objectives (as set out in legislation).

The objective of this report is to show how the regulatory framework applied to Auckland, Wellington and Christchurch airports compares to regimes at international airports. As such, we first present an overview of the regulatory regime currently in place for Auckland, Wellington and Christchurch airports, before setting out the international case studies. As part of this overview, we also examine the till models in place, given that one area of focus as part of MBIE's review is the choice of till and, specifically, how non-aeronautical revenues (such as retail, parking, and property income) are treated in the setting of airport charges.

## 1.2 Economic regulation of Auckland, Wellington and Christchurch airports

In 2002, the New Zealand Commerce Commission (NZCC) investigated whether Auckland, Wellington, and Christchurch international airports (AIAL, WIAL, and CIAL respectively) held significant market power (SMP) in the airfield services market. The investigation focused on whether adequate competitive constraints—both structural and behavioural—were present. The NZCC assessed several criteria to determine whether these constraints existed, including:[4]

1 the potential competition between airports or from other modes of transport;
2 the potential for new entry;
3 the countervailing power of airlines;

[4] New Zealand Commerce Commission (2002), 'Executive summary: Part 4 inquiry into airfield activities at Auckland, Wellington, and Christchurch international airports', p. 18.

4 the existing regulatory environment (including requirements to consult on charges and the possibility of further regulation);
5 competition from off-airport sources of supply.

The NZCC ultimately concluded that all three airports had substantial market power. In particular, it found the following.[5]

- The high barriers to entry for major airport facilities, such as those at Auckland, Wellington, and Christchurch, resulted in very little competition from new entrants.
- While there was some potential for supply-side substitution in general aviation, this was not applicable to larger commercial aircraft, as there were few alternative airports or entrants that could compete effectively for domestic or international traffic.
- Alternative transport modes were unlikely to constrain airport operators' behaviour, and airfield services at one airport were not seen as substitutes for those at another, as passenger demand is driven primarily by destination.
- Airlines' countervailing power was limited, with demand for flights being the primary factor influencing airlines' decisions on which airport to use, rather than the cost of the services provided.

This conclusion provided the basis for implementing a regulatory regime whereby the airports are subject to economic oversight by the NZCC. The NZCC has previously noted that the information disclosure (ID) regime adopted is the most light-handed regulatory instrument available to it under the Commerce Act 1986.[6]

Under this framework, the NZCC monitors airport performance and prices, providing guidelines on financial reporting, service quality, pricing, asset valuation, cost allocation, and taxation. While airports are not required to follow these methodologies when setting prices, the NZCC uses them to assess performance.[7]

The Civil Aviation Act in New Zealand also mandates consultations with major airline customers on aeronautical charges every five years, and allows airports to make investments based on airline consultation. The difference between outturn and forecast investment is monitored through disclosure of forecast and actual capital expenditure (CAPEX).

[5] Ibid.

[6] Commerce Act (1986), part 4.

[7] Ibid.

The airports operate under a dual-till regime, whereby only the aeronautical activities are subject to economic regulation and the non-aeronautical activities are unregulated.[8]

This regulatory framework is one of the least-interventionist approaches compared to the approaches adopted for regulated airports internationally. While it imposes certain transparency obligations and enables the NZCC to monitor performance, there is no specific constraint on pricing or investment. The NZCC has recently noted that the ex post form of regulation applied in New Zealand is less amenable to addressing issues such as airports' capital investments, as it can be difficult or costly to alter an investment once it is under way.[9]

### 1.3 The choice of till

Regulatory regimes can vary significantly in their design, particularly in how they incorporate service quality standards, allocate risk, and establish incentives for efficiency and investment. A critical element of this design is the choice of till, the method used to determine how non-aeronautical activities are treated when setting airport charges.

The till model adopted—single, dual, or hybrid—has important implications for pricing outcomes, the distribution of risk between airports and airlines, and the incentives for airport operators to invest and operate efficiently.

- Under a single-till approach, all airport activities (including non-aeronautical activities) are considered to be within the regulatory perimeter when assessing efficient charges. Aeronautical charges are set to recover operating and capital costs across both aeronautical and non-aeronautical activities, but the revenues from non-aeronautical activities are then deducted to determine the aeronautical revenue requirement. Assuming non-aeronautical activities are profitable, this leads to aeronautical charges being subsidised.
- Under a dual-till approach, aeronautical charges are set based on the costs associated with aeronautical activities only (such that there is no need to deduct commercial revenue).

[8] Charges that fall under the regulated aeronautical till include landing charges; airfield parking charges; domestic, regional, international or transit passenger charges; check-in charges; and dedicated charges for specific leases and services such as the VIP airside lounges. Revenue that is considered non-aeronautical includes retail income, rental income, car park income, and other income (i.e. revenue from utilities provided to tenants).

[9] Commerce Commission of New Zealand (2025), 'Review of Auckland Airport's 2022-2027 Price Setting Event', 31 March.

- The hybrid-till model blends these approaches, typically by deducting a proportion of non-aeronautical profit/revenue or applying different treatments to different revenue streams.

Table 1.1 compares the till regimes used across selected international airports. While there can be some relationship between the choice of till regime and the extent of regulation, these elements are conceptually distinct. The examples below illustrate significant variation in the choice of till across regulated airports.

Table 1.1 Till regimes at regulated airports

| Jurisdiction | Regulated airports | Till regime |
|---|---|---|
| **Australia** | Brisbane, Melbourne, Perth, Sydney | **Dual till** |
| **Belgium** | Brussels | **Dual till** |
| **Denmark** | Copenhagen | **Hybrid till** with 40% contribution if multilateral negotiations with users fail |
| **France** | Eight airports: Aéroports de Paris (Charles de Gaulle, Orly, Le Bourget), Nice-Côte d'Azur and Cannes-Mandelieu, Bâle-Mulhouse, Bordeaux-Mérignac, Aéroports de Lyon (Saint-Exupéry and Lyon-Bron), Marseille-Provence, Montpellier-Méditerranée, Strasbourg-Entzheim, Toulouse-Blagnac | **Dual till:** Aéroports de Paris, Nice-Côte d'Azur, Cannes-Mandelieu<br><br>**Single till with the option of applying a hybrid till under an economic regulation contract**: six other regulated airports, including Lyon |
| **Ireland** | Dublin | **Single till** with specific exclusion of land and buildings associated with Dublin Airport Central, a business hub with office space, shops and services adjacent to Terminal 2 |
| **Italy** | All Italian airports (according to different models: model A for airports with more than 1 million passengers per annum (mppa), and model B for others) | **Dual till** applied under conditions of transparency with users on the sales margin |
| **Netherlands** | Amsterdam-Schiphol | **Hybrid till** with mandatory contribution from commercial activities |
| **New Zealand** | Auckland. Christchurch, Weillington | **Dual till** |
| **Portugal** | ANA (all major Portuguese airports) | **Hybrid till** if multilateral negotiation with users fails |
| **Spain** | Aena (all Spanish airports) | **Dual till** |
| **Switzerland** | Geneva, Zurich | **Hybrid till** with minimum 30% contribution from commercial activities if negotiations with users fail |

| Jurisdiction | Regulated airports | Till regime |
|---|---|---|
| **UK** | Heathrow and Gatwick | **Single till** |

Source: Oxera based on regulatory and legislative documents.

### 1.4 Structure of this report

Against this backdrop, the following sections examine a range of regulatory approaches, from lighter-touch frameworks to more intrusive models. In particular, we focus on the regulatory regimes at:

- London Gatwick Airport;
- Copenhagen Airport;
- Portuguese airports;
- Brussels Airport;
- Indian airports, and;
- London Heathrow Airport.

For each airport we set out the regulatory framework, the regulatory process—including any considerations of competition in setting the form of regulation—and details of the regulatory regime. We also look briefly at some implications of each regulatory regime for stakeholders.

Annex A1 provides a summary of the regulatory regimes across the airports reviewed, while Annex A2 considers the relationship between competitive constraints and regulation at these airports.

# 2 London Gatwick Airport

## 2.1 Background

London Gatwick Airport's Contracts & Commitments (C&C) regime has been in place for over a decade, replacing the previous regulatory regime at the airport. Until 2014, the form of economic regulation was based on a RAB-weighted average cost of capital (WACC) model, with the UK Civil Aviation Authority (CAA) setting maximum airport charges based on detailed information and analysis of Gatwick Airport Limited's (GAL) costs and revenues.

In 2012, in line with the introduction of the Civil Aviation Act (which replaced the Airports Act 1986), and a new three-part test for determining whether to apply economic regulation, the CAA undertook market power assessments for each of Gatwick, Heathrow, and Stansted airports.[10] The three tests are as follows:

- **Test A** considers whether the airport operator has SMP now or in the future;
- **Test B** considers whether competition law is sufficient to address any abuse as a result of the airport's market power;
- **Test C** considers the need for regulation (whether the benefits of regulation outweigh the costs).

If all three tests are met, the airport operator is required to hold an economic licence and is subject to economic regulation.

In its market power assessment, the CAA evaluated a number of factors, including: market shares in the provision of air services, the strength of airline buyer power, barriers to entry, and the potential for competition through new market entrants or the expansion of existing operators.[11]

A key strength of the Civil Aviation Act is its regulatory flexibility. Unlike previous legislation, it does not prescribe a fixed regulatory framework. Instead, the Act empowers the CAA to tailor its regulatory approach as needed, without requiring further legislative changes. Indeed, the application of these tests—particularly the market power determinations as part of Test A—formed the basis for justifying distinct regulatory approaches for each of Heathrow, Gatwick and Stansted

[10] Civil Aviation Authority (2012), 'Heathrow, Gatwick and Stansted – market power assessment', January.

[11] Civil Aviation Authority (2014), 'Market power determination in relation to Gatwick Airport – statement of reasons', April, para. 5.6.

airports based on their respective levels of market power. In relation to Heathrow and Gatwick, the CAA noted that:[12]

> [...] the airport does not appear to enjoy a level of market power similar to that at Heathrow – there is certainly a degree of competitive pressure at the airport. However, on the basis of the evidence currently available, there are some areas in which Gatwick appears to still hold SMP [significant market power].

Consequently, a more flexible regulatory approach was adopted at Gatwick Airport compared to Heathrow. At Gatwick, this approach was based on price and service quality commitments negotiated directly between the airport and its airline customers, rather than the regulator-imposed price cap model used at Heathrow.

In the following subsection, we set out the regulatory regime introduced by the CAA for Gatwick Airport, following its market power determination (MPD).

### 2.2 Form of regulation

In early 2014, the CAA published its MPD,[13] which stated that GAL had 'substantial market power in the provision of airport operation services to passenger airlines at Gatwick'. The CAA's conclusions were based on a number of factors, including:

- significant switching costs for airlines;
- tightening capacity constraints across London airports, which reduced options for switching;[14]
- a lack of credible supply alternatives, with north London airports (Stansted, Luton) being clearly less preferred by airlines, and Heathrow having high barriers to entry and little to no spare capacity;
- Gatwick being considered by many airlines as the default airport for holiday flights because of its large catchment area, tour operator connections, and brand associations;
- a lack of countervailing buyer power for airlines;

[12] Civil Aviation Authority (2012), 'Heathrow, Gatwick and Stansted – market power assessments', January

[13] Civil Aviation Authority (2014), 'Market power determination in relation to Gatwick Airport – statement of reasons', p. 6, para. 2.4.

[14] In 2014, the CAA thought it highly unlikely than any new capacity would be introduced before 2025.

- the potential for GAL to profitably increase airport charges as neither airlines nor passengers would switch in sufficient numbers to erode GAL's revenues and render such a decision unprofitable.

The conclusion that Gatwick had SMP, along with considerations that competition law would not provide sufficient protection against the risk of abuse of this market power, and that the benefits of regulation outweighed the costs, meant that GAL met the market power test (MPT) and would require a licence to operate.

However, the CAA ultimately decided to replace the RAB-based regime at Gatwick with licence-backed commitments for a seven-year period. The CAA considered that this would make use of the flexible and pragmatic forms of regulation intended with the introduction of the Civil Aviation Act, while still ensuring oversight to protect airlines and passengers.[15]

Since then, GAL has operated under this lighter-touch regulatory framework designed to encourage bilateral contracts with airlines. This framework is based on a single-till approach, meaning that both aeronautical and non-aeronautical revenues are considered when setting prices. GAL makes a number of legally binding contractual commitments relating to a cap on the average level of airport charges, service quality targets, and minimum levels of investment. Subject to complying with these commitments, GAL is able to form bilateral deals with airlines, which may include further discounts or airline-specific services and investments.

The system is underpinned by an economic licence, and the CAA retains the authority to decide whether to accept GAL's proposed commitments for a multi-annual period. The core elements of the legally binding contractual undertakings that form the basis of the C&C regime are set out in

[15] Civil Aviation Authority (2014), 'Economic regulation at Gatwick from April 2014: final proposals'.

Table 2.1 below, along with examples of these commitments for the next regulatory period.

Table 2.1 Overview of Gatwick Airport's C&C regime

| | Commitment | 2025–29 (G7 regulatory period) |
|---|---|---|
| Price | Price below a defined ceiling (RPI/CPI ± X) | CPI - 1% (2025/26 and 2026/27) and CPI + 0% (2027/28 and 2028/29), subject to the maximum gross yield not reducing in nominal terms in the first two years of the extension period |
| Service standards | Core service standards (CSS) require Gatwick to compensate airlines through rebates if targets are not met | Wide range of performance metrics, including passenger satisfaction measures, security, passenger operational measures, airline operational measures, baggage, and IT measures<br><br>If Gatwick misses these targets, the airport commits to providing rebates to airlines. Where metrics are influenced by third parties (e.g. airlines), there are joint performance incentives such that airlines do not receive the rebates if they do not meet their commitments |
| Investment | To maintain airport infrastructure and a minimum level of investment over the period. GAL consults with airlines about planned investments at different stages of their development, and publishes a capital investment programme (CIP) annually summarising actual expenditure and material differences with previous forecasts | £120m per year on average in 2018/19 prices over the term (extension of previous commitments, measured over the period 2019–29) |
| Continuity of service plan, operational and financial resilience | To set up an operational resilience plan to ensure continuity of service, particularly during times of disruption, and consult annually on it | Formal percentage targets for average on time departure punctuality; investment in operational incentives and financial incentives for airlines and/or their ground handlers; report to airlines on the punctuality performance, and if below target, consult users and develop an improvement plan, updated until the targets are met. |

Source: Civil Aviation Authority (2014), 'Economic regulation at Gatwick from April 2014: Notice granting the licence', and (2025), 'Economic regulation of Gatwick Airport Limited: Final proposals on extending the current commitments', February, pp. 45–53.

At the time of the introduction of the C&C framework, the CAA identified the expected benefits of the approach compared to a RAB-based price control, as follows:[16]

[16] Civil Aviation Authority (2014), 'Economic regulation at Gatwick from April 2014: Notice granting the licence'.

- a closer relationship between GAL and airlines, as the commitments are to airlines rather than to the CAA. This reduces coordination costs and management distraction;
- less distortion to investment incentives compared to a RAB-based regime;
- the C&C approach encourages rather than crowds out more commercial agreements. The CAA acknowledged that a RAB approach could discourage commercial agreements in some cases;
- lower costs of regulation for GAL, and a reduced administrative burden for the CAA.

The initial commitments introduced in 2014 were subject to a mid-term review by the CAA in 2016 in order to determine whether the regime was working well for consumers. At the time, the CAA found that many aspects of the framework were working effectively—e.g. the bilateral agreements with airlines covered 85% of traffic, there was an increase in traffic and passenger satisfaction, prices remained below benchmark, and service quality targets were mostly met by the airport.[17] The CAA also noted that none of the airlines consulted was requesting a return to the previous regulatory regime. However, the CAA also identified a few areas of concern, such as delays in airfield investment projects, certain operational challenges (e.g. on-time performance), and some aspects of GAL's relationship with airlines.

The CAA concluded that no specific changes to the commitments regime were required at the time, though it would closely monitor some of the challenges raised by the review as part of its ongoing monitoring of Gatwick's performance.

As the initial commitments were set to expire in 2021, GAL engaged with stakeholders and, in 2020, proposed a new set of commitments covering the 2021–25 period. Although the CAA's review was delayed due to the COVID-19 pandemic, in February 2021 it ultimately modified GAL's licence to incorporate the new commitments. The CAA has since approved a further set of proposals from Gatwick for the next regulatory period (2025–29).

### 2.3 Summary

Compared to the previous RAB-based regime, the C&C approach reduces the regulatory burden for both Gatwick and stakeholders. This approach reflects the CAA's view that, while Gatwick holds a degree of

[17] Civil Aviation Authority (2016), 'Economic regulation: A review of Gatwick Airport Limited's commitments framework - Findings and conclusion', pp. 3–4.

market power, a lighter-touch regulatory framework was considered to be more proportionate and appropriate.

Under this regime, there are legally binding contractual commitments, such as a cap on airport charges, minimum service standards, and a commitment to investment, which are intended to protect users. The airport must compensate airlines through rebates for any shortfalls in meeting agreed service quality targets.

GAL also frequently consults with airlines on its capital investment programme to agree on emerging issues/projects and to track major projects or those with significant operational impacts. This process ensures that GAL continues to invest in areas that are important for service quality and efficiencies are delivered to users.

At the same time, the airport enjoys a degree of regulatory flexibility to negotiate specific deals, including further discounts or tailored services for airlines. This fosters a more collaborative relationship between the airport and its users, and may lead to more innovation and investment.

# 3 Copenhagen Airport

## 3.1 Background

Copenhagen Airport is regulated based on a framework defined by Regulation BL 9-15, which was introduced in the early 2000s. This regulation outlines provisions regarding charges for airports in Denmark that are open to commercial air traffic and handle passenger traffic exceeding 5mppa. As such, Copenhagen Airport is subject to this regulation due to its passenger volume surpassing the specified threshold.[18]

The introduction of this regulatory regime was not preceded by a formal market power assessment; rather, the passenger threshold serves as a proxy, to identify airports that are likely to hold some degree of market influence.

Copenhagen Airport is currently operating under a four-year charges agreement effective from 1 January 2024 to 31 December 2027. The previous regulatory period was in effect from 1 April 2019 to 31 December 2023.

## 3.2 Form of regulation

The Danish regulatory model places the primary responsibility for determining airport charges on negotiations between the airport and its users. There are multilateral negotiations between airlines and the airport with the aim of agreeing prices, service levels, and investment plans. These consultations are open to users physically based at the airport, as well as to those who individually or jointly represent at least 3% of the airport's passenger traffic or air traffic movements (ATMs).[19] The Danish Civil Aviation and Railway Authority (DCARA) may attend negotiations as an observer or mediator, and it has powers to require information disclosure to ensure transparency.

As part of this process, airport users submit forecasts for traffic volumes and aircraft fleet composition, along with their development plans and the resulting capacity or service requirements. In parallel, the regulatory authority provides its own traffic forecast and, after initial

[18] Danish Civil Aviation and Railway Authority (2023), 'BL 9-15: Provisions on payment for the use of airports (Airport charges)', March.

[19] Airlines that do not meet the 3% threshold may still participate through collective representation by an association, such as IATA.

consultations with the airport and users, sets out the applicable WACC for each of the aeronautical and commercial activities.

The airport contributes to this process by submitting a ten-year investment plan, including detailed cost estimates, covering planned developments in aeronautical and commercial infrastructure. This plan is informed by traffic forecasts, fleet mix assumptions, and the long-term development plans of its airline users. It also prepares an annual historical statement detailing any excess returns generated from aeronautical and commercial operations.[20]

The airport then develops proposals, which include a breakdown of current and future airport charges, provisions for handling significant changes in underlying assumptions, and mechanisms for resolving disputes related to the agreement. For there to be an agreement on proposed tariffs, a certain percentage of airlines need to agree to the proposal.[21] If successful, such agreements can last up to six years and are subject to formal approval by DCARA. The Authority ensures that charges are cost-related, non-discriminatory and transparent, and that there is a clear link between the level of charges, the level of service, and the airport's capacity plans.

If the parties cannot reach agreement, the Authority imposes a two-year regulatory period with a revenue limit, determined based on forecast operating expenditure (OPEX), depreciation, CAPEX, and a fair return on capital as determined by the WACC. A key feature of this regulatory fall-back model is the deduction of 40% of any excess commercial returns—those exceeding the calculated reasonable return—from the revenue base used to set aeronautical charges.

The process for determining the core elements of the regulatory regime for Copenhagen Airport is summarised in Table 3.1 below.

[20] This statement includes figures for revenue, operating expenses, depreciation, and the rate of return on invested capital. It also explains the methodology used to allocate revenue, costs, and depreciation between aeronautical and commercial activities, in an attempt to ensure transparency and accountability in how charges are determined.

[21] This percentage is determined as part of each negotiation by the regulator. There is no formal percentage target included in the regulation.

Table 3.1 Summary of the determination process for the regulatory settlement for Copenhagen Airport

| | Negotiations succeed | Negotiations fail |
|---|---|---|
| Tariff setting | Tariffs are negotiated multilaterally between the airport and airlines based on elements including: traffic forecasts, a commercial and aeronautical WACC, the CAPEX programme, and OPEX | The Authority intervenes to set a cap, which is based on OPEX, depreciation, CAPEX, and a fair return on capital, determined using the WACC |
| Till regime | Hybrid till. The airport must inform users of its excess returns prior to the negotiations. This then informs the negotiated settlement | Hybrid till. From the calculated cap, the Authority explicitly deducts a portion (40%) of any excess return generated from the commercial area—defined as returns exceeding what is considered reasonable based on separate commercial and aeronautical WACCs set for the airport |
| Service standards | Service quality targets are agreed between the airport and users, determining relevant key performance indicators (KPIs). These targets are enforced through performance-based incentives, with compensation payable to airlines if the airport does not meet minimum standards | The regulator sets KPIs. These targets are enforced through performance-based incentives, with compensation payable to airlines if the airport does not meet minimum standards |
| CAPEX programme | The airport sets a CAPEX plan based on users' reported needs. All proposed CAPEX must be justified in terms of its necessity for maintaining or expanding airport capacity. CAPEX is subject to further regulatory scrutiny under the fall-back regime. The airport bears the risk associated with delivering the plan, including retaining the underspend if it manages to be more efficient | |
| Risk mitigation mechanisms | A revised agreement can be reached at any time during the regulatory period if significant changes occur, e.g. due to traffic, OPEX/revenues, evolution of CAPEX. This is upon request of the airport or the users. The Authority may also demand/impose such a change if no agreement has been reached | |

Source: Danish Civil Aviation and Railway Authority (2023), 'BL 9-15: Provisions on payment for the use of airports (Airport charges)', March.

In addition to the multi-annual consultations, Copenhagen Airport must hold regular consultations with airport users to discuss the functioning of the charges system, including service quality levels and infrastructure plans. These consultations occur:

- at least once per year, unless a different frequency is agreed upon during the most recent consultation; or
- in accordance with the terms of any applicable multi-annual agreement.

### 3.3 Summary

The regulatory regime governing airport charges at Copenhagen Airport encourages collaboration between the airport and its users while

minimising direct regulatory intervention. This framework has consistently delivered stable outcomes, with all charge agreements to date reached through negotiation rather than resorting to the fall-back mechanism. Even during COVID-19, the airport and its users were able to agree on charge adjustments.[22]

The primary risk to both parties arises when negotiations fail. In such cases, the regulator steps in to impose a cap based on a RAB model (OPEX, depreciation, CAPEX, and WACC), with deductions for excess commercial returns. However, because neither party can be certain that a regulator-imposed outcome would be more advantageous than a negotiated one, there is a strong mutual incentive to reach agreement.

Recently, airlines have agreed to significant charge increases to support critical infrastructure investment.[23] For instance, in 2024, charges rose by 28%. This was part of a four-year agreement to ensure stability for both the airport and airlines, and to foster future investments, route development, and operational improvements.

[22] Copenhagen Airports A/S (2021), 'CPH and airlines team up to restart traffic', March.

[23] Copenhagen Airports A/S (2023), 'Agreement on future airport charges at Copenhagen Airports A/S (CPH)', August.

# 4 Portuguese airports

## 4.1 Background

In 2013, VINCI Airports acquired Aeroportos de Portugal, SA (ANA), the national airport operator, taking on both operational and investment responsibilities under the existing concession agreement.[24]

The economic regulation of Portugal's airports is governed primarily by Decree-Law no. 254/2012, enacted on 28 November 2012.[25] This legislation established a unified legal framework for the airport public service concession granted to ANA and ANAM (for the Madeira archipelago).[26]

The law and associated concession agreements form the foundation of economic regulation, outlining the permissible revenue from regulated activities, the principles of price-setting, and the mechanisms for quality monitoring and user engagement.[27]

## 4.2 Form of regulation

ANA has a price cap regulatory model applied per passenger terminal. The model is set out in the concession contracts, which define the price cap mechanics and permissible annual adjustments.[28] Regulation is activity-based, meaning that only certain airport services—e.g. landing, take-off, lighting, parking, and passenger-handling—are subject to the price control. However, the concession agreements may extend regulation to other services.

The regulatory framework distinguishes between different groups of airports. The Lisbon Group—which includes the airports of Lisbon and Beja, and those located in the Azores and Madeira—is treated as a single entity for regulatory purposes. In contrast, Faro and Porto airports are regulated separately from the other airports, with their own distinct provisions and oversight mechanisms.

From 2023, a dual-path mechanism for determining the maximum regulated average revenue (MRAR) was introduced for the Lisbon Group

[24] VINCI (2013), 'VINCI signs for the acquisition of ANA, the Portuguese airports concession company', February.

[25] Government of Portugal (2012), 'Decree-Law No. 254/2012 of 28 November', Diário da República, 1st Series, No. 230, pp. 6779–6797.

[26] Airports with over 5mppa are also governed by the European Airport Charges Directive.

[27] Autoridade Nacional da Aviação Civil (ANAC) (2012), 'Contrato de Concessão de Serviço Público Aeroportuário nos Aeroportos situados em Portugal Continental e na Região Autónoma dos Açores',

[28] Ibid, Annex 12.

and Madeira airports. The new model allows the MRAR to be set in one of two ways for each five-year period:

- **supported proposal path:** the airport operator can propose a five-year MRAR framework based on operational or investment needs. The proposal must be supported by airport users representing at least 65% of traffic;
- **mechanic formula path:** if the airport operator does not submit a supported proposal or fails to reach the required 65% airline support, the MRAR is updated automatically using a predefined formula, based on: (i) the CAPEX-to-EBITDA ratio over the previous five years (i.e. a performance factor); and (ii) the HICP (Harmonised Index of Consumer Prices) as a base indexation factor.

Under the supported proposal path, proposals for changes to regulated charges—including landing fees, passenger service fees, and persons with reduced mobility charges—must be presented at least 120 days before implementation. During the consultation, the airport manager must provide users (or their representatives) with comprehensive information, including service details, cost structures, forecasts, and the expected outcomes of major investments. During a consultation period, airlines can submit objections to the regulator, ANAC,[29] which reviews the proposals for compliance with regulatory standards such as cost-orientation, non-discrimination, and transparency. ANAC can suspend or amend tariff changes if the proposals do not meet these standards. [30]

At Faro and Porto airports, increases to the MRAR are automatically capped based on an HICP-indexed adjustment. However, ANA may seek approval for a higher increase if it can provide adequate justification. Such justification may be grounded in regulatory compliance obligations, the need to improve service quality, requirements for expanded infrastructure, or if the proposal has the support of airlines representing at least 65% of the airport's passenger traffic over the previous 12 months.

The MRAR adjustments that occur mechanically build upon the MRAR levels set during the 2014–22 period, which were determined using a

[29] ANAC is the Portuguese Civil Aviation Authority.

[30] In 2022–23, a disagreement between ANA and ANAC led to delays in approving airport charges. This situation highlighted the regulator's role in ensuring compliance with legal requirements and its ability to suspend proposals if they do not meet those standards. Specifically, there were disagreements about the calculation of regulated revenue for 2023 and the methodology of competitiveness studies. Aeroportos de Portugal (2022), 'Management report & accounts 2022', p. 22.

hybrid-till approach. This approach incorporated aeronautical revenues and a portion of non-aeronautical revenues, particularly airside retail revenues. Since the current CPI (or CPI-X) mechanism continues to be applied to these historical values, it suggests that the hybrid-till structure remains, at least to some extent, embedded in the automatic adjustment process.

Service quality is monitored through the Airport Service Quality Regime (RQSA). Under this regime, ANA and/or ANAM is required to meet defined minimum service levels, which cover aspects such as infrastructure availability and passenger satisfaction. Failure to comply with these standards results in financial penalties, and the regulator, ANAC, plays an active role in monitoring performance and can require corrective measures.

Any proposed CAPEX must align with regulatory standards and is subject to ANAC's oversight. This ensures that investments focus on improving service quality while adhering to the broader regulatory framework.

For Lisbon Airport, the concession contract also includes a tariff benchmarking mechanism, through which tariffs are compared to those at a group of comparable airports. If significant discrepancies are identified, adjustments may be made.[31] In addition, the airport operator may request a revision of the MRAR in exceptional circumstances—as defined under the concession agreement—without the need for airline support. In such cases, the regulatory authority may conduct an extraordinary review to determine new charges.

### 4.3 Summary

ANA's regulatory model is based on a price cap determined either through formula-based updates or airline-supported proposals. Through user consultation and oversight by ANAC, the system strives to balance investment incentives, service quality, and passenger protection. The framework is also tailored to local conditions through specific concession contracts.

[31] If the biannual benchmark test shows that the charges for regulated activities at Lisbon Airport are 15% below the median of the reference group, the MRAR may be increased annually by up to CPI + 2%, until the rates return to within ±15% of the median, or for a maximum of two consecutive years. If the benchmark shows that the rates are 15% above the median, they must remain nominally unchanged until they fall back within the 15% band, or for a maximum of two consecutive years.

# 5 Brussels (Zaventem) Airport

## 5.1 Background

In Belgian federal law, two Decrees govern the regulation of Brussels Airport:

1) the Royal Decree of 27 May 2004 on the conversion of Brussels International Airport Company (BIAC) into a public limited company governed by private law and concerning airport facilities (referred to as the 'Transformation Decree'); and
2) the Royal Decree of 21 June 2004 on the granting of an operating licence for Brussels Airport (the 'License Decree' or hereafter simply 'the Decree').

As an airport with traffic exceeding 5mppa, Brussels Airport is also subject to European Directive 2009/12/EC[32] on airport charges, which provides a general framework for the economic regulation of European airports.

The Royal Decree of 21 June 2004 specifies regulatory obligations applicable to Brussels Airport covering different aspects of its activities, including tariff-setting, the airport's environmental impact, security and safety provisions, and capacity expansion. With regard to economic regulation specifically, the Decree requires Brussels Airport to submit a tariff proposal and consult with airlines ahead of each regulatory period. It also gives powers to the regulator (the Regulatory Body for Railway Transport and Brussels Airport Operations) to adjust or revise this proposal in case of disagreement between Brussels Airport Company (BAC) and its airline customers.

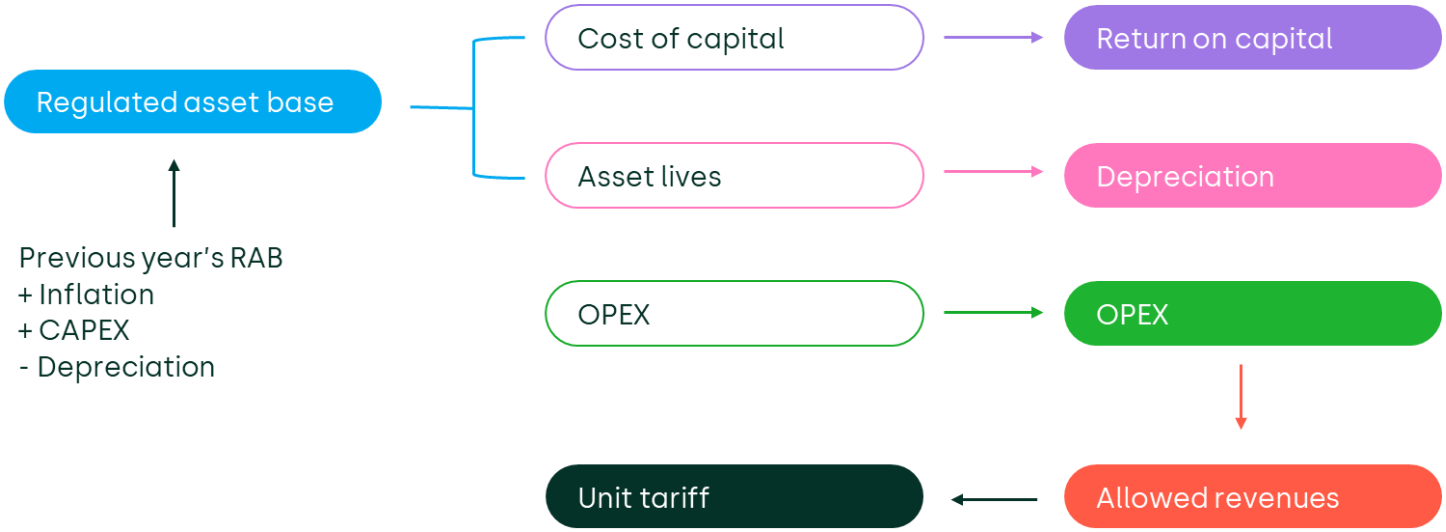
## 5.2 Form of regulation

The regulatory framework for Brussels Airport is based on a five-year cycle, referred to as a 'quinquennium' (QQ). The airport is currently in QQ4, which runs from 1 April 2023 to 31 March 2028. QQ3 was initially set for the period from April 2016 to March 2021, but was extended to March 2023 due to the COVID-19 pandemic. The framework mandates that Brussels Airport submit a development plan detailing its proposed tariff system, traffic projections, and planned operational and capital expenditures (OPEX and CAPEX).

[32] Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges.

The regulatory regime is based on a RAB-WACC building-block approach (see Figure 5.1 below), with the Decree specifying that the proposed tariff formula should allow the airport to cover its costs plus a fair margin (defined such that its return on capital employed (ROCE) is equal to its WACC over the regulatory period).[33]

Figure 5.1 RAB-WACC building blocks




Source: Oxera.

Between QQ1 and QQ3, Brussels Airport transitioned from a single- to a dual-till regime, fully adopting the dual till by the start of QQ3. As a result, costs and revenues from non-aeronautical activities are now excluded from the calculation of regulated tariffs. This shift was made based on a comparison of the airport's charges with comparator airports, and a comparison of its ROCE to its WACC. This transition has led to debates with airlines regarding the appropriate allocation of costs between aeronautical and non-aeronautical activities.

The Decree requires the airport to make its development plan available to users (defined as the airlines operating at the airport) and to notify all airlines about the plan and upcoming consultations.[34] The regulator attends these consultation meetings as an observer. Importantly, the

[33] Decree Article 50 §1–2 specifies that the return on regulated activities is defined as the ROCE and a fair value of the return on invested capital is assessed on the basis of market references using the WACC method.

[34] Decree Article 52 specifies that, in general, the consultation process is required to start nine months ahead of a new regulatory period, and end five months before the start of the period, and the new tariff determination needs to occur at the latest three months before the new QQ.

Decree mandates that Brussels Airport consult with users, rather than negotiate with them. This means that, while BAC must consider user feedback and explain why it has not incorporated such feedback, there is no obligation to modify proposals based on user arguments. However, BAC may be incentivised to negotiate to avoid appeals. In cases of airline appeals, the regulator can intervene in the particular areas where there is disagreement.

During the consultations with users, Brussels Airport does not necessarily provide detailed information about all CAPEX projects, but for large projects it provides significant detail. It is also required to consult users twice a year on CAPEX, and may hold interim consultations or ad hoc meetings. There is also some regulatory oversight on CAPEX; in the past two regulatory reviews, the regulator has disallowed certain CAPEX, and therefore these costs have not been permitted to enter the RAB.

The Decree lists two types of situations that could be characterised as disagreement on the airport's proposals:

(i) the airport did not conduct the consultation appropriately (e.g. there was a lack of information disclosure/transparency);
(ii) the tariff proposals do not comply with the Decree's requirements and are rejected with justification by at least two airlines which each represent a minimum of 1% of ATMs or 1% of passengers, and jointly a minimum of 25% of ATMs or 25% of passengers at the airport in the last calendar year before the consultation.

The Decree and the regulator's guidelines[35] regarding complaints on the tariff consultation specify that airline appeals need to be filed within 30 days of the notification of the airport's final proposals. The regulator then needs to notify BAC of the appeal within seven days and the airport has 30 days to respond. The regulator must consult the parties before coming to a decision and allow them to respond to each other's comments.

Within four weeks of receiving the appeal, the regulator must issue a provisional decision regarding the entry into force of the change in airport charges, unless it can make a final decision in the same period.

[35] See Regulatory Service for Railway Transport and for Brussels Airport Operations, 'Tariff Consultations Brussels Airport: Guidelines for Filing a Complaint.

The regulator is required to make a final decision within four months of receiving the appeal, which can be extended by two months.

In the context of an appeal, the regulator's main role is to assess whether the airlines' arguments are admissible (i.e. they respect the consultation process guidelines) and are founded (i.e. they are justified in their appeal; there is merit in the argument). The regulator mainly relies on the parties' (airport and airlines) disclosure, assessing whether the airport's disclosure was adequate and sufficiently responded to the airlines' concerns. If the regulator considers the airlines' appeal arguments to be (even partially) justified, it will make a determination and amend BAC's proposals.

During past appeals the regulator has undertaken some high-level analysis on traffic based on historical and industry data, and it has undertaken some more detailed analysis for the WACC. However, the regulator has clarified that the Decree does not allow it to conduct an independent audit of BAC's OPEX or the cost allocation model, so its assessment needs to be made on the basis of information that is already available (e.g. parties' disclosure, historical or industry data).

### 5.3 Summary

Brussels Airport is required to develop a detailed plan including forecasts for CAPEX, OPEX, and WACC, and to set prices according to a RAB-based model. Consultations with airlines focus on more granular issues than, for example, at Gatwick Airport. Additionally, as part of any appeal process, the regulator may analyse certain parameters, such as traffic forecasts and the cost of capital.

Nevertheless, the regulatory regime is less intrusive than other RAB-WACC regimes (e.g. see section 7 for Heathrow), as:

- the regulator's intervention is limited to areas where there is disagreement between BAC and the airlines; and
- in some of those areas, the regulator's role is focused on checking whether sufficient information has been provided, rather than whether the airport's forecasts are robust.

Therefore, in practice, the regulatory regime is more airport-led than regulator-led, with the airport developing a business plan on the basis of forecasts of the various building blocks. The regulator intervenes only in the case of substantiated airline objection to the proposals, either by requiring that another consultation takes place, or by adjusting, revising, or validating the airport's proposals.

# 6 Indian airports

## 6.1 Background

Until the early 2000s, India's airports were operated exclusively by the public sector, primarily through the Airports Authority of India (AAI). However, with the rapid growth in air traffic and increasing demand for improved infrastructure, the government recognised the need for private sector participation to modernise and expand airport facilities. This led to the privatisation of key airports such as Delhi and Mumbai in 2006, granting private operators significant responsibility for airport development and operations.[36]

To address growing concerns about market power at major airports, and to ensure transparency in tariff-setting, the Airports Economic Regulatory Authority (AERA) was established in 2008 as an independent statutory body under the Airports Economic Regulatory Authority of India Act 2008 ('the AERA Act').[37] AERA, in its assessment of market dynamics, highlighted that the 12 major airports under its purview did not have competing airports in their respective catchment areas. According to AERA, this created an environment where the major airports in India are likely to be in a position to be able to exert market power.[38]

AERA was tasked with determining tariffs and regulating aeronautical services at major airports, initially defined as those with over 1.5mppa, and later raised in 2019 to a threshold of 3.5mppa.[39]

## 6.2 Form of regulation

The regulatory framework is an incentive-based regime that uses a RAB-WACC model with a price cap. It reflects principles common to other RAB-based regimes globally, while incorporating some local adaptations. Tariffs are set for a five-year period, with mechanisms for mid-period adjustments.

Airport operators must provide a five-year traffic forecast, CAPEX and OPEX plan, as well as views on depreciation, cost of capital, and taxation. AERA assesses each component of the proposal, including

[36] Airports Economic Regulatory Authority of India (2010), 'Regulatory Philosophy and Approach in Economic Regulation of Air Navigation Services', February, p. 12.

[37] Ibid. p. 4.

[38] Ibid. p. 25.

[39] Airports Economic Regulatory Authority of India (2021), 'Guidelines for determination of tariff for regulated services', August, para. 1.1.6.

evaluating the necessity, timing, and cost-effectiveness of the proposed investments. It conducts a detailed efficiency review and publishes a consultation paper to gather feedback from stakeholders, including airlines and government agencies.

AERA ultimately approves, rejects, or recommends alternatives to the airport's proposals. Stakeholders who disagree with the determination may appeal to the AERA Appellate Tribunal, with further recourse available through the Supreme Court. While tariffs are set for a five-year period, AERA retains the ability to review and adjust them annually to account for material changes.

As per the National Civil Aviation Policy in 2016, major airports now follow a hybrid-till model, where 30% of non-aeronautical revenue is deducted from the Aggregate Revenue Requirement (ARR).[40] In the period leading up to 2016, there was some regulatory flexibility for airports regarding the treatment of non-aeronautical revenues. For instance, Bengaluru International Airport (BIAL) moved from a single-till regime to a 40% shared-till arrangement during its first control period. Although this interim model was implemented with a clawback mechanism to preserve the long-term economic intent of the single-till approach, it temporarily allowed BIAL to retain a greater share of non-aeronautical revenues, in support of private investment and ongoing capital expansion. This was eventually replaced by the formal requirement for a 30% hybrid-till model introduced by the National Civil Aviation Policy.[41] The AAI has previously noted that the introduction of the hybrid model increases revenues for airports, which enables further development and capital investment into airport infrastructure.[42]

The National Civil Aviation Policy also introduced the Regional Connectivity Scheme (UDAN) to boost regional air connectivity by developing and reviving airports. Airfares on select routes are capped, with the shortfall covered through viability gap funding (VGF), awarded to airlines through a bidding process. The subsidy is funded by a levy on major routes and shared between central and state governments. Airlines also receive operational concessions, including exemptions on landing and parking fees and reduced fuel taxes.[43]

[40] Ministry of Civil Aviation (2016), 'National Civil Aviation Policy 2016. Ministry of Civil Aviation', p. 17.

[41] India Ratings and Research (2024), 'India Ratings Upgrades Bangalore International Airport's NCDs and Bank Loans to "IND AAA/Stable"', October.

[42] Majumder, A. (2016), 'Hybrid till model to boost AAI's revenues', Business Standard, June.

[43] Ministry of Civil Aviation of India (2024), 'Regional Connectivity Scheme', November.

The AERA Act requires that tariff determinations take service quality into account. The central government sets these standards, and AERA's role is to monitor airport performance against them. These standards include both objective measures—such as baggage delivery times and the availability of check-in counters—and subjective measures, such as cleanliness and overall passenger satisfaction. These benchmarks are primarily informed by the Airport Service Quality (ASQ) framework developed by the Airports Council International (ACI).[44]

The regulatory regime also includes several mechanisms to manage uncertainty and ensure long-term viability for operators while protecting users. These mechanisms include:[45]

- **tariff adjustments**: although control periods last five years, provisions exist for mid-term revisions due to exceptional changes;
- **traffic risk-sharing**: forecast correction mechanisms mitigate the impact of significant deviations from forecasts. If actual volumes fall outside a predefined band, the operator and users share the burden/gain;
- **OPEX pass-through**: AERA allows cost pass-through for mandated, uncontrollable OPEX items (e.g. security), subject to verification. There is also a proposal to fully align passenger service fees with security costs;
- **inflation management**: AERA adopts a nominal post-tax WACC, incorporating inflation expectations. Adjustments are generally based on the consumer price index (CPI) or Wholesale Price Index (WPI) forecasts, such as those published by the Reserve Bank of India.

### 6.3 Summary

The regulatory framework for Indian airports, which is based on a RAB-WACC model, provides a structured system for tariff-setting and cost recovery. The regulatory framework places a significant burden on airport operators, requiring extensive analysis and detailed submissions covering traffic, CAPEX, and OPEX forecasts.

In recent years, the extent of CAPEX has been substantial, with operators committing significant funds to upgrade and expand airport infrastructure. For example, in FY 2022/23, the AAI allocated ₹5,175 crore

[44] Airports Economic Regulatory Authority of India (2010), 'Regulatory Philosophy and Approach in Economic Regulation of Air Navigation Services', February, paras 9.08–9.66.

[45] Airports Economic Regulatory Authority of India (2016), 'In the matter of Determination of Aeronautical Tariffs in respect of Sardar Vallabhbhai Patel International Airport, Ahmedabad for the first and second Control Period (01.04.2011 – 31.03.2021)', March, section 10.

($621m) in CAPEX, its highest-ever investment to date.[46] Additionally, private operators such as Delhi International Airport (DIAL) have proposed CAPEX of ₹5,625 crore ($675m) to enhance capacity and service quality.[47]

[46] BL New Delhi Bureau (2023), 'AAI spent the highest ever CAPEX of ₹5,175 crore in FY 2022-23', April.

[47] Forum Gandhi (2025), 'Delhi airport lays out Rs 5,625 crore capex flight path: Plans to use capital for increasing handling capacity', February.

# 7 London Heathrow Airport

## 7.1 Background

As discussed in section 2 regarding Gatwick Airport, the Civil Aviation Act 2012 determines whether UK airports need regulatory oversight based on their market power, and if so, what form that regulation should take.[48] Like Gatwick, Heathrow Airport was found to meet all three statutory tests, with the CAA concluding that Heathrow holds a strong market position amounting to SMP. However, unlike Gatwick, where the CAA favoured a more flexible regulatory regime, Heathrow's higher degree of market power led the CAA to adopt a more stringent form of regulation to protect consumers and ensure fair outcomes.

## 7.2 Form of regulation

Heathrow Airport Limited (HAL) is subject to a building-block approach under a RAB-WACC model, in which the CAA sets a cap on the average yield per passenger (the 'price cap') that the airport can charge.[49]

The CAA conducts price reviews on a five-year cycle. HAL is currently in the H7 price control period, which covers the years 2022 to 2026. In preparation for each regulatory period, the airport operator submits its views and plans for the upcoming period, including forecasts, investment proposals, and service expectations. The CAA reviews this input alongside submissions from users and other interested parties. Similar to the regime for Indian airports, the approach taken at Heathrow is more regulator-led: the CAA undertakes detailed analysis and makes determinations on key inputs including traffic forecasts, OPEX, CAPEX, the value of the RAB, and the WACC. It then issues its initial proposals for the forthcoming price control.

These proposals are subject to public consultation, allowing stakeholders to comment on the CAA's approach. After reviewing all responses, the CAA refines its analysis and publishes its final proposals. Both the airport operator and users can appeal the final decision to the Competition and Markets Authority (CMA).

[48] Civil Aviation Authority (2012), 'Market power assessment for Heathrow Airport', January.

[49] Civil Aviation Authority (2022), 'Economic regulation of Heathrow Airport: H7 Final Proposals', June.

Throughout the regulatory period, the CAA monitors compliance with the established regulatory conditions and has provisions to intervene in exceptional circumstances.

HAL has a single till, where both aeronautical and non-aeronautical (commercial) revenues are taken into account when setting airport charges. For the next regulatory period (H8), the CAA is currently consulting on excluding certain activities from the regulated till (e.g. off-airport car parks and property).

To set the cap, OPEX is projected based on expected traffic volumes and inflation, with efficiency targets applied to incentivise cost control. CAPEX levels are established by the regulator using data provided by the airport, while traffic forecasts are informed by submissions from both the airport and airlines and then approved by the CAA. Depending on their classification—core or development—CAPEX projects are subject to varying levels of regulatory scrutiny, with each project needing delivery obligations agreed with airlines that specify the expected outputs, quality standards and timelines. These components are then fed into a pricing formula used by the CAA to calculate the maximum level of airport charges that HAL is permitted to levy.

The CAA also defines mechanisms for sharing traffic risk and incentivising capital efficiency. The traffic risk-sharing mechanism is designed to moderate the financial impact of deviations in passenger volumes, distributing the risk between the airport and its users. The CAPEX incentive framework encourages HAL to deliver investment efficiently by sharing under-/overspend with users. In particular, any under-/overspend against an agreed project's budget will be subject to an incentive rate of ±25%—i.e. HAL will benefit from or bear the burden of 25% of any under- or overspend (provided that it meets its delivery obligations).

The CAA establishes service standards and HAL is subject to performance-based incentives. Penalties of up to 7% in the form of rebates can be applied for underperformance, while rewards of up to 1.44% are available for exceeding service expectations.

The regulatory framework also places obligations on HAL to consult regularly with airport users during the price control period. These consultations must cover a range of topics, including proposed charges and capital investment plans, ensuring that stakeholders remain actively involved in key aspects of airport planning and operations.

### 7.3 Summary

HAL's regulator-led model, based on a RAB-WACC framework and single till, has been in place for many years. The process of establishing a new price control is lengthy, technical, and resource-intensive, requiring HAL to produce extensive documentation, respond to multiple rounds of consultation, and engage in detailed financial and operational modelling. While this regulatory model is fairly stable, it can be less adaptable to market shocks or rapid shifts in demand. Adjustments, such as interim reviews, are possible, but they tend to be slow, limiting the airport's ability to react swiftly to emerging challenges or opportunities.

The CAA's oversight ensures that capital investment plans are scrutinised and that performance standards are enforced. Airlines also benefit from traffic risk-sharing mechanisms and service quality incentive schemes, which provide financial compensation in cases of underperformance.

# A1 Summary of regulatory regimes at international airports

Table A1.1 below presents a summary comparison of the case studies discussed in this report across a range of key dimensions. These include ownership structure, regulatory process, consideration of competition, form of regulation, choice of till, tariff-setting procedures, service quality measures, CAPEX planning and approval mechanisms, and risk-mitigation features embedded within the regulatory framework.

## Table A1.1 Regulatory regimes at international airports

| | Gatwick Airport | Copenhagen Airport | Portuguese airports | Brussels Airport | Indian airports | Heathrow Airport |
|---|---|---|---|---|---|---|
| **Ownership** | Privately owned | Currently majority privately owned, but Danish state set to acquire majority controlling stake[1] | Major Portuguese airports are privately owned, with Madeira and Porto Santo airports being majority privately owned | Majority privately owned, Belgian government retains a 25% stake[2] | Major Indian airports are majority privately owned; however, the state retains a minority stake through the Airports Authority of India | Privately owned |
| **Regulatory framework** | Legally binding contractual commitments, which are approved by the regulator. The airport can form bilateral deals with airlines | Multilateral agreements between the airport and airlines. If negotiations fail (fall-back), DCARA sets a cap | Based on negotiation between the airport and users. If negotiations fail, ANAC sets a price cap | Airport consults on development plans with users, gathering feedback, with the regulator intervening if airlines appeal | Airports submit tariff proposals, the Authority reviews them, consults with users, and issues tariff determinations for the control period | Airport submits proposals, the CAA reviews them, consults with users, and issues tariff determinations for the control period |
| **Consideration given to competition**[3] | The CAA must determine whether the airport has SMP, and weigh the benefits and costs of regulation before deciding whether regulation is needed | Not explicitly considered | Not explicitly considered | Not explicitly considered | A market power assessment was conducted when the regulatory regime was introduced in order to justify the need for economic regulation | The CAA must determine whether the airport has SMP, and weigh the benefits and costs of regulation before deciding whether regulation is needed |
| **Form of regulation** | Contracts and commitments regime | Multilateral negotiation by default; price cap otherwise | Multilateral negotiation by default; price cap otherwise | Airport-led RAB-WACC regime | Regulator-led RAB-WACC regime | Regulator-led RAB-WACC regime |
| **Choice of till** | Single till | Hybrid till (explicitly so when the Authority sets the price cap). Separate commercial and aeronautical WACCs set for the airport | Hybrid till (explicitly so when the Authority sets the price cap) | Dual till | Hybrid till | Single till |



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| | Gatwick Airport | Copenhagen Airport | Portuguese airports | Brussels Airport | Indian airports | Heathrow Airport |
|---|---|---|---|---|---|---|
| **Service quality** | GAL sets service quality targets, approved by the CAA. The airport is subject to penalties if service quality levels fall below agreed targets | Airport users and the airport agree on service levels and KPIs; if no agreement is reached, the Authority sets them. Airlines are compensated if targets are not met. Annual consultations with airport users are required | Concession agreements between the operator and the government set quality standards. ANAC monitors performance and applies penalties if service quality levels fall below targets | Factored into development plans. The airport incorporates user feedback following consultations | Central government sets quality standards, and the Authority monitors performance | The CAA sets service quality targets. HAL can receive a bonus or a penalty depending on its performance (the potential penalty is greater than the potential bonus) |
| **CAPEX programme** | GAL sets a minimum level of investment (on average) per annum, approved by the CAA ex ante | The airport sets a CAPEX plan based on users' needs. The CAPEX plan is subject to ex ante review and approval | The airport sets a CAPEX plan and consults with users. If users disagree, the regulator may intervene. The CAPEX plan is subject to ex ante review and approval | Airport sets CAPEX plan and consults users. If users disagree, regulator may intervene as part of the multiannual price-setting process, before the regulatory period starts | Authority reviews and approves CAPEX plan based on airports' five year programmes. The CAPEX plan is subject to ex ante review and approval | The CAA reviews and approves CAPEX ex ante. CAPEX can, however, be adjusted according to the incentive mechanisms at the end of the period. |
| **Risk mitigation mechanisms** | Factored into bilateral negotiations with airlines | A revised agreement can be made if significant changes occur. DCARA may impose changes if no agreement is reached | Charges are benchmarked against peer airports; if they fall outside a deadband, they may be adjusted or frozen. The regulator may conduct an exceptional review in cases of significant deviation or changed circumstances | Adjustment of tariffs and the RAB in the case of significant CAPEX overspends | The Authority defines traffic risk-sharing and cost-pass-through mechanisms. Provisions for adjustments in tariffs | The CAA defines traffic risk-sharing, cost pass-through and the CAPEX incentive mechanism |

Note: [1] The Danish government announced plans to acquire an additional 59.4% stake in Copenhagen Airports from Danish pension fund ATP. If the transaction is completed, this would increase the state's ownership to approximately 98.6%, effectively making Copenhagen Airport majority state-owned. Reuters (2024), 'Denmark plans to buy majority stake in Copenhagen Airports', December. [2] The Belgian federal and Flemish governments are currently considering whether to acquire an additional 30% stake in Brussels Airport, potentially gaining majority control. [3] In addition to national legislation, all airports within the EU are subject to Directive 2009/12/EC (the Airport Charges



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Directive), which provides a common framework for setting airport charges at major airports. The Directive promotes transparency, airline consultation, and non-discriminatory pricing, and applies to airports handling over 5mppa or the largest airport in a Member State.

Source: Oxera based on regulatory and legislative documents.



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# A2 The relationship between competition and the degree of regulation

## A2.1 Introduction

The decision to introduce economic regulation—and its ultimate form—should ideally be linked to whether an airport has market power and the degree of that market power.

In this report, we have examined the regulatory regimes in place at a number of international airports, each of which operates under differing degrees of regulatory intervention. Building on that analysis, this Appendix explores the relationship between the intensity of regulatory oversight and the level of competitive constraints at each of the following airports:

- London Gatwick Airport;
- Copenhagen Airport;
- Brussels (Zaventem) Airport;
- Indira Gandhi International Airport (New Delhi), as the largest airport by passenger traffic in India;
- London Heathrow Airport;
- Auckland, Christchurch and Wellington international airports.

We have excluded Portuguese airports from this assessment as those operated by ANA are part of a national airport network and therefore do not impose competitive constraints on one another.

Our findings on the competitive constraints faced by these airports are presented below, providing insight into how the design of regulation aligns with the extent of competition at each airport. We note that the competitive assessment focuses on the potential for passenger and airline substitution and is a qualitative assessment based on a range of high-level metrics. It does not reflect a full assessment of the degree (or presence) of market power, which would require a more extensive and rigorous analysis.

## A2.2 Competitive assessment

### A2.2.1 Assessment criteria

To assess the extent to which airports are subject to competitive constraints, we consider several dimensions that provide an indication of an airport's degree of market influence. Given the different ways in which airports may compete, it is important to apply a structured set of assessment criteria that capture both demand- and supply-side


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competitive pressures. In particular, our assessment focuses on three main areas:[50]

- **competition for passengers:** airports may face competitive pressure from other airports due to overlapping catchment areas. Where passengers have a choice between airports—based on factors such as pricing, destination offerings or convenience—they may switch between airports, exerting demand-side pressure. This can include both local passengers choosing between nearby airports, and connecting passengers selecting routes through different international hubs;
- **competition for airlines:** even where an airport has a relatively strong position within its local market, the market power it can exert may be constrained by the countervailing power of airlines. If one or more airlines account for a significant share of an airport's traffic, and the airlines have the flexibility to shift capacity to alternative airports in response to increases in prices or deteriorating service, this potential or actual switching can affect the airport's behaviour;
- **spare capacity and congestion:** the presence or absence of spare capacity can also affect the intensity of competition. A capacity-constrained airport may have fewer incentives to compete aggressively to attract airlines or passengers, especially if excess demand means that any vacated slots or terminal space would rapidly be taken up by other carriers. However, congestion alone is not necessarily indicative of market power—for example, if prices are kept artificially low through regulation, excess demand may result despite competitive constraints. Importantly, the competitive implications of capacity constraints also depend on the availability of capacity at alternative airports to which airlines and passengers might feasibly switch.

Together, these dimensions allow for a high-level assessment of the factors that shape competitive dynamics at each airport. They help identify whether, and to what extent, an airport may face external pressures that influence its ability to act independently when setting terms or conditions for passengers and airlines.

At the same time, we note that these factors alone do not determine whether an airport has SMP. A number of additional factors such as the

[50] These criteria draw from: Oxera' (2017), 'Market power assessments in the European airports sector', prepared for ACI Europe. 17 November.


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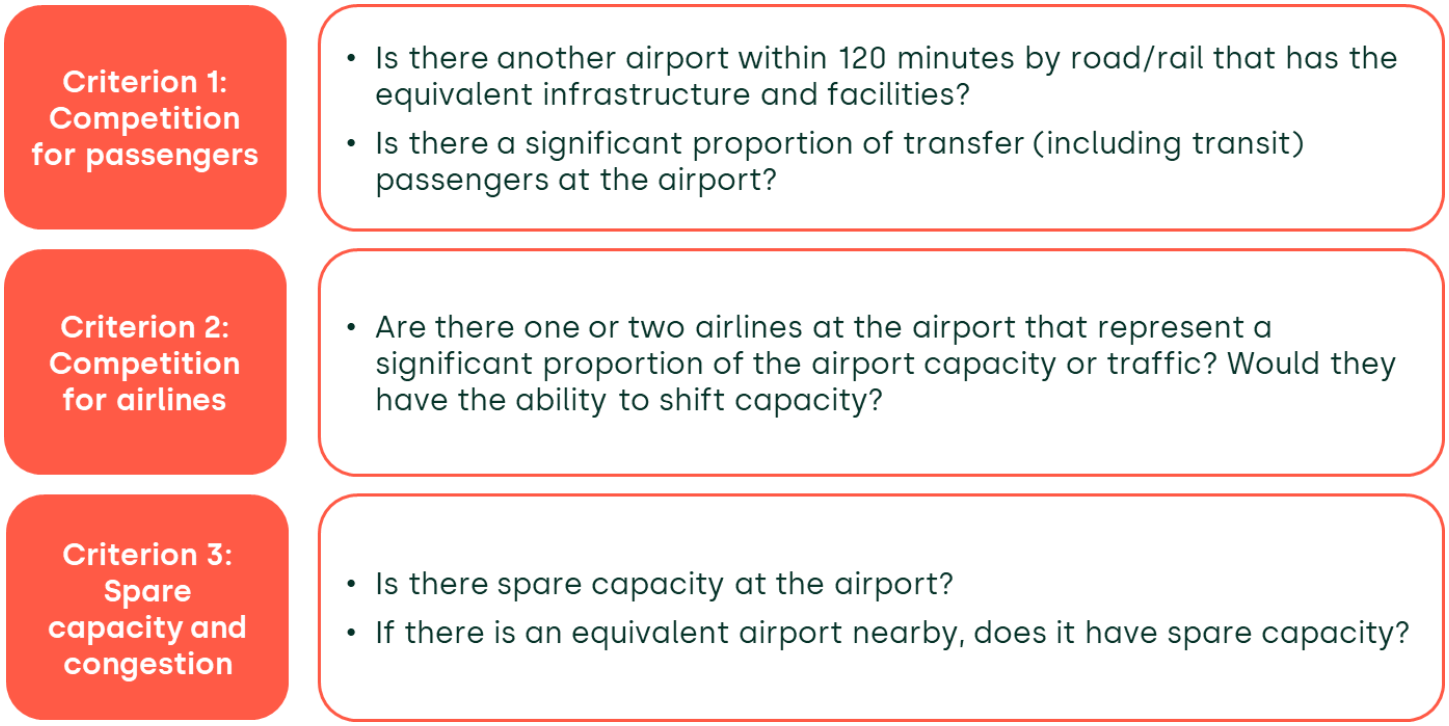
outcomes at the airport in terms of pricing, service quality, investment and profitability, as well as more detailed market share and critical loss analysis, would need to be considered as part of a detailed market power assessment.

Based on the three dimensions of competition discussed above, Figure A2.1 outlines the criteria applied in evaluating the competitive constraints at each airport considered in this study.

Figure A2.1 Criteria considered in evaluating competitive constraints




Source: Oxera.

The criteria set out above do not all need to apply in order for a competitive constraint to be present since the relevance and importance of different factors will vary depending on the specific context and business model of an airport. For instance, a small regional airport may not have substantial transfer traffic, but it could still be competitively constrained if it faces competition for origin-and-destination passengers from a nearby airport.

### A2.2.2 Assessment of competitive constraints at airports

Using the criteria described above, we have assessed the nature and strength of competitive constraints affecting each of the international airports in scope. This is summarised in Table A2.1 below.


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Table A2.1 Assessment of competitive constraints at airports

| Airport | Is there another airport within 120 minutes by road/rail that has the equivalent infrastructure and facilities? | Is there a significant proportion of transfer (including transit) passengers at the airport? | Are there one or two airlines at the airport that represent a significant proportion of the airport capacity or traffic? Would they have the ability to shift capacity? | Is there spare capacity at the airport? | If there is an equivalent airport nearby, does it have spare capacity? |
|---|---|---|---|---|---|
| **London Gatwick Airport** | Gatwick is located in close proximity to several major London airports, including Heathrow, Stansted, and London City Airport. As at 2024, Gatwick served over 43mppa, compared to approximately 84mppa at Heathrow, 30mppa at Stansted, and 3.5mppa at London City. High destination overlap with other London airports | In 2023, transfer passengers accounted for approximately 7% of total traffic. Historical average over the last decade was 9% | Gatwick is served by more than 40 airlines. In October 2024, easyJet carried 46% of the total traffic through the airport. EasyJet has a number of bases across other UK airports and airports elsewhere in Europe | Gatwick has been operating near its capacity limits in recent years, but planned expansion is expected to significantly increase its capacity | Expansions at Stansted and London City Airport have recently been approved |
| **Copenhagen Airport** | Malmö Airport in Sweden is located in close proximity (35 minutes by car from Copenhagen Airport). Copenhagen Airport serves approximately 30mppa, while Malmö Airport is much smaller, serving close to 1mppa. Both of these airports provide international services | 19% of transfer passengers in 2024, with the majority travelling to European destinations | In 2023, the two largest airlines operating at Copenhagen Airport were SAS (32%) and Norwegian (15%). Both also have significant operations at other airports—e.g. Oslo and Stockholm airports | There is spare capacity at Copenhagen Airport | Malmö has some spare capacity |


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| Airport | Is there another airport within 120 minutes by road/rail that has the equivalent infrastructure and facilities? | Is there a significant proportion of transfer (including transit) passengers at the airport? | Are there one or two airlines at the airport that represent a significant proportion of the airport capacity or traffic? Would they have the ability to shift capacity? | Is there spare capacity at the airport? | If there is an equivalent airport nearby, does it have spare capacity? |
|---|---|---|---|---|---|
| **Brussels (Zaventem) Airport** | Brussels Airport handles around 24mppa and offers a wide range of international destinations. Nearby airports—Charleroi (9mppa), Eindhoven (7mppa), and Antwerp (200,000 ppa) focus mainly on European routes. Amsterdam Schiphol, a major international hub with nearly 67mppa, is 1h 55min away by public transport. Brussels is also well-connected by train to other major European destinations (London, Paris). | 14% of transfer passengers in 2024 departing to Europe, Africa and North America | Exact shares are not publicly available. Brussels Airlines is the dominant carrier at Brussels Airport, followed by TUI Fly Belgium and Ryanair. These airlines collectively account for a significant portion of the airport's passenger traffic. Ryanair has moved some aircraft away from the airport recently in response to an increase in charges | Maximum capacity of around 30mppa, but operated below this in 2024, handling 24mppa only | Amsterdam Schiphol and Antwerp are both yet to achieve pre-COVID levels of passengers, Eindhoven and Brussels Charleroi appear to be operating close to full capacity |
| **Indira Gandhi International (New Delhi) Airport** | There are no nearby airports of a similar size or with equivalent infrastructure. The closest comparable airports are Jaipur Airport and Chandigarh Airport which are both over four hours away by car. New Delhi Airport handled close to 74mppa in 2023/24 for both international and domestic travel | The proportion of transfer passengers of total traffic in 2022/23 was 22%. Around 56% of these transfers were for onward domestic travel | In 2023, the Indian domestic airline market was dominated by IndiGo and the Air India Group, which held a combined market share of 81%[1] | Terminal 3 has reached capacity, and there is limited information available on the capacity of other terminals. However, plans are in place to expand overall capacity to accommodate up to 100mppa | There are no nearby airports with equivalent infrastructure and facilities |


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| Airport | Is there another airport within 120 minutes by road/rail that has the equivalent infrastructure and facilities? | Is there a significant proportion of transfer (including transit) passengers at the airport? | Are there one or two airlines at the airport that represent a significant proportion of the airport capacity or traffic? Would they have the ability to shift capacity? | Is there spare capacity at the airport? | If there is an equivalent airport nearby, does it have spare capacity? |
|---|---|---|---|---|---|
| London Heathrow Airport | Heathrow serves 84mppa and is near Gatwick, Stansted, and London City Airport, which handle 43mppa, 30mppa, and 3.5mppa respectively. While there is significant destination overlap, Heathrow has the highest proportion of non-European destinations | In 2023, transfer passengers made up 27% of total traffic, slightly below the decade-long average of 30% | British Airways operates around 52% of traffic, Virgin Atlantic is the second-biggest airline, with 4% of traffic as at 2023. British Airways is part of International Airlines Group, with airlines such as Iberia that have bases in Spain | Heathrow has previously indicated that it is at full capacity. However, it is seeking to build a third runway | Expansions at Stansted and London City Airport have recently been approved. Gatwick has been operating near its capacity limits in recent years, but planned expansions are expected to significantly increase its capacity |
| Auckland Airport | The closest nearby airport, Hamilton, is 1h 23min away by car and served just 370,000ppa versus Auckland's 18.5mppa in 2024, with minimal destination overlap | The proportion of international transfer passengers in 2024 was around [✂]. Domestic transfers were higher, though there are not many alternatives for these passengers | Air New Zealand represented around [✂] in 2024 | There are plans to increase capacity to 38mppa by 2047. The Master Plan of the airport indicates that runway capacity will be exceeded by 2038 if expansion does not occur | No nearby airport that is a relevant comparator |
| Christchurch Airport | No nearby comparable airports. Christchurch handled 6.5mppa in 2024 serving both international and domestic travel | Not publicly available. According to Air New Zealand, passenger transfers on its flights through Christchurch Airport account for [✂] | Public information indicates Qantas and Air New Zealand operated over 60% of traffic between December 2023 and February 2024 | The airport is yet to reach pre-COVID passenger numbers, indicating that it is not operating at full capacity | No nearby airport that is a relevant comparator |


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| Airport | Is there another airport within 120 minutes by road/rail that has the equivalent infrastructure and facilities? | Is there a significant proportion of transfer (including transit) passengers at the airport? | Are there one or two airlines at the airport that represent a significant proportion of the airport capacity or traffic? Would they have the ability to shift capacity? | Is there spare capacity at the airport? | If there is an equivalent airport nearby, does it have spare capacity? |
|---|---|---|---|---|---|
| Wellington Airport | No nearby comparable airport. Wellington Airport handled 5.5mppa in the year ending March 2024 serving both international and domestic travel | Not publicly available. According to Air New Zealand, passenger transfers on its flights through Wellington Airport account for [✂] | Air New Zealand represents [✂] | Operated at 81% of capacity between June 2023 to June 2024 | No nearby airport that is a relevant comparator |

Note: [1]We have not been able to identify statistics for New Delhi Airport specifically.
Source: Oxera analysis based on public sources and data provided by Air New Zealand for New Zealand airports.


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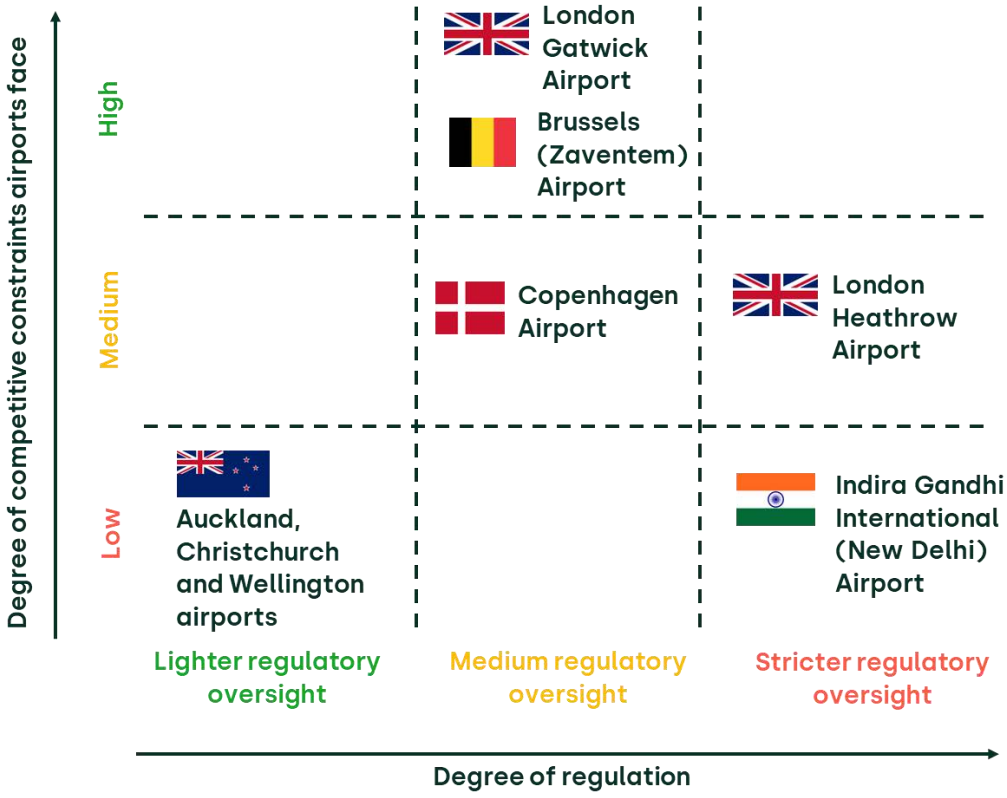
### A2.3 The relationship between competition and the degree of regulation

Based on our above assessment, we have grouped the airports into three categories (low, medium, and high) according to the relative degree of competitive constraints they face. This allows us to draw broader inferences about the relationship between the degree of competition that an airport faces and the level of regulatory oversight applied across different jurisdictions. This relationship is summarised in Figure A2.2.

We note that there are likely to be differences between airports located in the same quadrant. For example, even though Gatwick, Brussels and Copenhagen airports are all identified as having medium regulatory oversight, of these three airports, Gatwick has the lowest degree of regulatory intervention, while Brussels has the highest degree of regulatory intervention.

Figure A2.2 The relationship between competitive constraints and the degree of regulation




Source: Oxera.

As illustrated above, more interventionist forms of regulation tend to be in place at airports that face fewer competitive constraints. This relationship is not coincidental. In several jurisdictions, the decision to apply economic regulation, and its specific design, is explicitly linked to an airport's market power or ability to act independently of competitive pressure. For instance, as noted earlier, the UK CAA applies a structured market power assessment framework under the Civil Aviation Act 2012. While both Heathrow and Gatwick were found to hold SMP, the CAA implemented different forms of regulation: a more stringent price control regime at Heathrow due to its stronger market position, and a more flexible framework at Gatwick, reflecting its weaker market power and greater airline countervailing buyer power.

In India, the regulation of major airports such as Indira Gandhi International in New Delhi has similarly been justified by the absence of competition. With few or no viable alternatives for passengers or airlines, these airports are seen to hold SMP, which has led to the imposition of formal regulatory controls.

In the cases of Copenhagen and Brussels airports, although there is evidence of some competitive pressure from nearby airports, both are subject to direct regulatory oversight that is more comprehensive than the ID regime currently applied in New Zealand.

Overall, most of the airports assessed in this report face competitive constraints that are greater than those faced by Auckland, Wellington, and Christchurch international airports. However, they are subject to a greater degree of regulatory intervention than New Zealand's current ID framework.

A regulatory model that is based on the degree of an airport's market power is important in ensuring that regulation remains effective, proportionate, and aligned with the long-term interests of consumers.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