PASSenger FACILITY CHARGES & RATES AND CHARGES WORKSHOPS

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Legal and regulatory framework for rates and charges

A brief introduction

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View from 30,000 feet
Views of airport rates and charges
Or perhaps?
Umbrella concepts

- Aeronautical Rates - Charges
- Non Aeronautical Rates - Charges
- Not Unjustly Discriminatory
- Self Sustaining
- Fair Market Value
- No Subsidy
- Reasonable
Legal hierarchy

- Federal Law
- FAA Rates and Charges Policy
- Grant Assurance Obligations
- FAA Revenue Use Policy
- FAA Compliance Manual
- Rulings and Precedents
Federal law and regulations

• Anti Head Tax Act 49 USC 40116

• AIP Act of 1982 49 USC 47107

• Disputes under Grant Assurances – FAR Part 16

• Disputes over carrier charges – FAR Part 302
Rates and Charges Policy (1996)

- Required by federal law 49 USC 47129
- Provides "guidance" on the legal requirements for airport fees
- Not formally regulatory but practically really important
- Many principles, few specifics
Grant Assurances

- Vehicle for mandating applicability of Rates and Charges Policy
- Independent requirement for reasonable, not unjustly discriminatory rates and fees
- Compliance Handbook – considerable guidance
Principles of federal regulation
Principle #1
Closed Fiscal System
Principle #2
Self Sustainability
• Corollary of ‘closed fiscal system’ principle
• Goal, not requirement
• Charges must be reasonably designed to make the airport self-sustaining
• Airport can recover costs of providing aeronautical facilities and services
• Local subsidy never required
Uses of airport revenue

Incentives, off-airport mitigation; collateral development; intermodal transit

General economic development

Capital and operating costs of airport
Principle #3
Non-discrimination
Principle #4
Reasobleness

KEEP CALM
AND
BE
REASONABLE
Determining reasonableness

Permissible bases for charges
- Weight
- Number of operations
- Amount of space (rent)
- Revenue (concessions)
- Fuel consumption

What is the burden on the airport?

Compensatory or residual
- **Compensatory** - charging aeronautical users their allocated share of the airport sponsor’s actual cost to build, operate, and maintain the airport facilities they use.
- **Residual** - designating a particular airport user group (typically airlines) to be responsible for making up any shortfall in revenue so that airport revenues equal airport expenses.

Deriving rates and charges

Compensatory

Hybrid

Residual
Permissible bases for charges

Weight
Number of operations
Amount of space (rent)
Revenue (concessions)
Fuel consumption

What is the burden on the airport?
Impermissible bases (examples)

- Noise
- Origin, destination or owner of aircraft
- Local preference (fuzzy line)
- Perceived or actual off-airport benefits or impacts
Deriving rates and charges
Compensatory or residual

- **Compensatory** = charging aeronautical users their allocated share of the airport sponsor’s actual cost to build, operate, and maintain the airport facilities they use.

- **Residual** = designating a particular airport user group (typically airlines) to be responsible for making up any shortfall in revenue so that airport revenues equal airport expenses.
Principle #5
Local Determinations
Principle #6
Subsidies are complex

- Aeronautical uses sometimes can subsidize each other
- NO subsidy of non-aeronautical users
- Subsidies of carriers (another session)
Principle #7
Scope and application of FAA policies
• Policy does not apply to general aviation fees or GA airports
• Policy does not apply to non-aeronautical fees, except
  – self-sustaining requirement
  – fair market value requirement
• Not intended to constrain agreed-upon rates
Principle #8
Principles are hard to apply
• Highly fact specific
• FAA provides only limited airport-specific fact-specific guidance
• Few broad interpretative rulings
• Knowledge of prior cases and rulings is critical to predict FAA position
Homework
Remember 3 phrases:

REASONABLE NON-DISCRIMINATORY CLOSED FISCAL SYSTEM

Consult informally with ADO

Read rates and charges policy

This will be on the final exam!

Study comparable airports and their rates/charges
Questions?
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