

Private and Confidential

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Luton, 13th February 2023

ADR' s proposal for 2023-24 regulated charges at Fiumicino Airport

Dear Fabio,

I refer to the consultation meeting of the 2nd of February 2023. Thank you for the opportunity of submitting you with easyJet's concerns and questions regarding ADR's proposal for 2023-24 regulated charges at Fiumicino Airport.

ADR's request to increase passenger charges for just one traffic cluster is a regulatory anomaly that does not fall into the existing applicable economic regulatory framework, neither in Italy nor according to Directive 2009/12/EC. We continue to have serious concerns that the Decision to selectively modify charges only to non-EU passengers is compliant with article 80 paragraph 1 of Decree Law 1/2012, ART Deliberation 68/2021, ART note n. 5689/2022, ENAC note ENAC-PROT-07/12/2021-0141697-A and the EU-UK Trade and Cooperation Agreement of 30 April 2021. We ask you in this letter to provide airport users with the required evidence of compliance with the regulatory framework.

Considering the lack of transparency and blatant anomaly of the whole process, we request ADR to suspend the current consultation and wait just a few months, until the next regulatory period, to be able to provide users with a complete overview of costs and assets allocated to the different services and clusters. Finally, we reiterate our proposal for a bilateral meeting to discuss our reasonable concerns and review together your position.

Sincerely,



Francesco Rado

Airport Regulation and Economics Specialist

easyJet plc

Annex 1: Questions for ADR

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We would take the opportunity to also submit the following list of additional questions:

1. Please explain how the decision to modify charges to non-EU passengers is consistent with ART's Deliberation 68/2021. ART provided in 2021-22 airports with two choices, either to consult airlines according to the 2017 regulatory Models or to request an *"extension of the tariffs in force at the time of the application"*:
"(...) avviare la relativa procedura ai sensi di quanto previsto dai Modelli di cui alla delibera n. 92/2017, fermo quanto previsto dal punto 2; ii. previa motivata istanza all'Autorità, proporre la proroga delle tariffe in vigore al momento dell'istanza stessa anche a valere sull'annualità successiva, adempiendo agli obblighi informativi e di trasparenza nei confronti degli utenti, di cui all'articolo 80 del d.l. 1/2012, avendo cura di fornire adeguata informazione in previsione della prima consultazione annuale utile, anche con riferimento agli eventuali meccanismi di conguaglio".
2. Please explain how the decision to modify charges to non-EU passengers is consistent with ENAC's note ENAC-PROT-07/12/2021-0141697-A which prohibits ADR to *"update charges"*:
"(...) non risultando ancora conclusa la fase di approfondimento istruttorio sui contenuti dell'Atto aggiuntivo dell'11 agosto u.s., elaborato ai sensi delle pertinenti previsioni della delibera 68/2021 dell'Autorità, non si ritiene procedibile un aggiornamento in via autonoma dei richiamati corrispettivi."
3. Please provide evidence of the claim that the implementation of the change in designation for UK is urgent and necessary.
4. Please provide evidence that there is a law or regulation that imposes AdR to move the UK destination cluster to the non-EU passenger charges in 2023-24.
5. Please explain why AdR did not consult the need to modify, for example, also Croatian destination cluster into EU passenger charges following Croatia entrance in Schengen.
6. Please to provide evidence that the methodology used to (i) move the UK destination cluster to non-EU passenger charges without a consultation with the users and (ii) calculate the differential between EU and non-EU passenger charges is compliant with the regulatory framework.
7. Please explain, why only changing tariffs for one traffic cluster is non-discriminatory and justifiable from a regulatory and legal perspective. Please provide evidence that the re-allocation of the UK cluster is fair and proportional and that UK passengers are not discriminated versus EU Schengen passengers
8. Please demonstrate how the proposed charge modification is non-discriminatory for EU passengers, whose charges are not decreased following the increase for UK passengers.
9. Please provide evidence that the re-allocation is not against the UK-EU Brexit Agreement, in particular the *'no less favourable'* treatment clause enshrined by the last sentence of Article 431(2).
10. Please explain how costs and assets of EU passengers using the non-Schengen facilities are allocated to the EU charge.
11. Please provide an overview of the cost allocation methodologies and drivers used at ADR in 2019-23.
12. Please provide evidence that the allocation keys used in 2019 are still fair, relevant and proportional in 2023-24.
13. Please explain why EU passengers' costs in Terminals 1 and 3 are resp. 82% and 45%, while BHS1 are 84% and BHS3 44%.
14. Please explain why EU passengers (non-Schengen) do not use Boarding areas E and pier and T3 bag drop, while 45% of EU pax use T3.
15. Please provide evidence that UK passengers, as a result of Brexit, have incurred an increased cost of operation from Pier E?

16. Please explain why 100% of Pier E is allocated to non-EU passengers when there are EU countries that are not in the Schengen area and use Pier E?
17. Please provide a table for the gates used for (i) EU Schengen, (ii) EU extra-Schengen, (iii) extra-EU and the relative walking times from T1 and T3?
18. ADR provided 2019 data on the average number of bags per passenger for Schengen, Non-Schengen EU, and UK. Can you provide evidence that 2022 service level has changed after Brexit and can you include data for non-EU passengers as well?
19. The differential EU vs non-EU for the charges applied in 2022 is 61%, while it decreases to the proposed 41% as per cost correlation update. Does it mean that non-EU passengers have been "overcharged" in the past?

Traduzione di cortesia

Caro Fabio,

Mi riferisco alla consultazione tenutasi il 2 febbraio 2023 per le tariffe di ADR per l'anno 2023-24.

Vi ringrazio per l'opportunità di sottoporvi le nostre preoccupazioni e le domande in merito alla proposta di ADR. La richiesta di ADR di aumentare le tariffe passeggeri per un solo cluster di traffico è un'anomalia normativa che non rientra nel quadro normativo economico vigente, né in Italia né in base alla Direttiva 2009/12/CE.

Continuiamo a nutrire seri dubbi sul fatto che la decisione di modificare selettivamente le tariffe solo per i passeggeri extra-UE sia conforme all'articolo 80 comma 1 del Decreto Legge 1/2012, alla Delibera ART 68/2021, alla nota ART n. 5689/2022, alla nota ENAC-PROT-07/12/2021-0141697-A e all' accordo sugli scambi commerciali tra l'Unione europea e il Regno Unito del 30 aprile 2021. Con questa lettera vi chiediamo di fornire agli utenti dell'aeroporto le prove di conformità alla normativa vigente.

Alla luce della scarsa trasparenza e della palese anomalia dell'intero processo, chiediamo ad ADR di sospendere la consultazione in corso e di attendere solo qualche mese, fino al prossimo periodo regolatorio, per poter fornire agli utenti un quadro completo dei costi e degli asset allocati ai diversi servizi e cluster. Infine, ribadiamo la nostra proposta di un incontro bilaterale per discutere le nostre ragionevoli preoccupazioni ed esaminare insieme la vostra posizione.