

To the users of Eindhoven Airport

Re:  
Notice of determination of charges and conditions

Date:  
25 October 2024

Dear users,

We are writing this letter to inform that the charges and conditions for Eindhoven Airport as of 1 April 2025 have been determined.

All documents are drawn up in Dutch and (for the most part) are translated into English. Only the Dutch documents are legally binding. No rights can be derived from the English translations. In addition to this electronic notification, the charges and conditions are available for inspection until 22 November 2024 at the office of Eindhoven Airport, located at Luchthavenweg 13 in Eindhoven.

The determination of the charges and conditions follows a consultation process with the users. After sending the proposal for the charges and conditions on 06 September 2024, the user consultation took place on 20 September 2024. All user questions and comments were answered or responded to directly or by letter dated 30 September 2024 (**appendix**) during the consultation. Users had the opportunity to submit their viewpoints in writing to Eindhoven Airport until 4 October 2024.

Eindhoven Airport received one written viewpoint from one user. This viewpoint consisted of several parts, which have been listed below. None of the (written) viewpoints, questions, opinions or comments made known to and received by Eindhoven Airport during the consultation process have given Eindhoven Airport reason to make changes to the charges and conditions proposed on 6 September 2024.

## General preliminary remarks

Eindhoven Airport has based its consideration of the submitted viewpoint below on the provisions of Article 8.40e(4) of the Aviation Act. Eindhoven Airport determines its charges and conditions at least once a year as part of a legal obligation under the Aviation Act. In doing so, Eindhoven Airport does not offset differences between estimated and actual revenues and costs. The Aviation Act also stipulates that charges need to be reasonable and non-discriminatory. As of 2018, users have been able to test this at the Netherlands Authority for Consumers and Markets (ACM).



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## Part 1 of viewpoint: The proposal is excessive and unreasonable

The user claims that the overall charges have increased excessively by more than 7%. According to the user, this represents an abuse on the part of Eindhoven Airport of its dominant position. The user refers to Article 8.40c(2) of the Aviation Act, which states that charges should be reasonable.

### Response from Eindhoven Airport

An increase in the overall charges compared to the previous year does not in itself imply that the charges are therefore unreasonable. After all, if costs increase, so too should revenues. The Dutch Trade and Industry Appeals Tribunal (College van Beroep voor het bedrijfsleven, CBb) recently considered that the regulation in the Aviation Act is designed to prevent abuse of a dominant position. The ACM oversees the provisions of the Aviation Act that are designed to prevent abuse of a dominant position as stipulated in the Aviation Act.

According to the CBb, the Aviation Act does not contain an obligation to carry out a general assessment of whether there has been an abuse of a dominant position. This does not diminish the fact that the rules are designed to prevent abuse of a dominant position. When interpreting and applying the rules, this objective may come into play. The standard of reasonableness means that charges should not be disproportionate to what is offered in return. The standard of reasonableness is included in the Aviation Act because it ensures that airport users pay reasonable charges for the various services offered. The legislative history explicitly shows that the standard of reasonableness is to be understood in light of the objective of preventing an abuse of a dominant position. Therefore the term 'reasonable' has a specific meaning in the context of competition law. (More recent) legislative history points towards an assessment based on concrete and individual charges. According to the CBb, unreasonable charges could arise in the case of 'very significant charge increases'.

The CBb ruling concerned average charge increases at Schiphol of 9%, 12% and 12% for the years 2022, 2023 and 2024 respectively. The average cumulative charge increase is 37%. While the CBb considers these 'very significant charge increases', they were not deemed to be unreasonable charges.

It is alleged by the user that the total charges at Eindhoven Airport have increased by more than 7%. This is incorrect. The combined charges per passenger (for security and passenger service) have increased by 2.9%. The basic charge for more sustainable landings and take-offs has increased by 1.5%. Therefore, no case of very significant charge increases at Eindhoven Airport exists.

The increase in charges is partly due to inflation in the Netherlands (source: [CBS](#)), which is well above the EU average, and its implications for collective wages and contractual labour costs (source: [CBS](#)). The shortages in the Dutch labour market (source: [CBS](#)) also play an important role. This also translates into higher costs. Despite the increase, Eindhoven Airport's charges are competitive compared to other (Dutch and European) airports.



## Part 2 of viewpoint: Accuracy of information presented

The user is under the impression that the information provided by Eindhoven Airport is not accurate.

### Response from Eindhoven Airport

In 2017, more than 5 million passengers visited Eindhoven Airport for the first time. Since 2018, Eindhoven Airport has set its charges and conditions at least once a year. In all determinations to date, transparency has been applied in the same way in each case as prescribed in the Airport Charges Directive, the Aviation Act and the Charges and Conditions for Other Airports Decree [Besluit tarieven en voorwaarden van overige luchthavens]. In the presentations (**appendices**) for the informal pre-consultation and the formal consultation, all information was provided in line with and in a similar manner to previous years.

The methodology for determining the charges remained the same as in all previous years. Capital costs are allocated to the security charge and the passenger service charge based on the percentage distribution of the book value of assets. As Eindhoven Airport is a co-user of Eindhoven Military Airport and the Ministry of Defence owns the runway, the investments and maintenance of the runway are carried out by the Ministry of Defence. The costs are charged to Eindhoven Airport in the form of co-use charges and are part of the basic charge for more sustainable landings and take-offs. As a result, the capital costs of these investments made by the Ministry of Defence are indirectly factored in through the basic charge for more sustainable landings and take-offs via the co-use charge. This means that the revenue streams related to the basic charge for more sustainable landings and take-offs and the parking charge are cost-reflective.

A cost increase does not necessarily mean that all charges will increase by the same percentage; this may vary, depending in part on (related) cost developments. The parking charge is such a small component of the total revenue and total costs (0.28%) that no increase is required for this charge to cover the related costs.

## Part 3 of viewpoint: Lack of transparency – WACC

The user has made a general request for information on the WACC applied by Eindhoven Airport.

### Response from Eindhoven Airport

WACC (Weighted Average Cost of Capital) is the average weighted cost of all shares and debt. The WACC is a key figure (expressed as a percentage) that represents the costs incurred by Eindhoven Airport for the capital used to finance the company. Passing on the WACC is in line with the system of airport charges as levies that are specifically established and applied to cover costs. The WACC is not regulated for Eindhoven Airport.

Determining the WACC requires both arithmetical and factual accuracy in setting the level of the WACC as well as an assessment of whether the chosen interpretation of the parameters is consistent with acceptable principles of business economics. Eindhoven Airport has already explained the interpretation of the main parameters that led to the increase in the WACC during the pre-



consultation, and provided further clarification at the user's request in the letter of 30 September 2024.

Eindhoven Airport has fulfilled all of its obligations. The user has received the explanation for the increase regarding the two parameters mentioned above and has left the content unaddressed in her viewpoint.

Eindhoven Airport is under no obligation to share its calculation of the WACC (**appendix**), and it does so voluntarily. Eindhoven Airport is of the opinion that its WACC is arithmetically and factually accurate and that it is in line with acceptable principles of business economics.

#### **Part 4 of viewpoint: Lack of transparency – Differentiation of charges**

The user accuses Eindhoven Airport of a lack of transparency, referring to Article 8.40c(3) of the Aviation Act: *“Charges may be differentiated for reasons of public interest, including protection of the environment. The criteria used for this charge differentiation must be able to justify the differentiation and be objective and transparent.”*

##### Response from Eindhoven Airport

The charge differentiation proposed and adopted with this letter is unchanged from the previous year. The user provides no justification as to why the criteria presented for the charge differentiation would violate Article 8.40c(3) of the Aviation Act.

#### **Part 5 of viewpoint: The proposal is not cost related**

The user argues that Eindhoven Airport has not followed the principle of cost-relatedness, citing Recital 9 of the Airport Charges Directive: *“The Council of the International Civil Aviation Organisation (the ICAO Council) in 2004 adopted policies on airport charges that include, inter alia, the principles of cost-relatedness, non-discrimination and an independent mechanism for economic regulation of airports”*. The user argues that total revenues (already) slightly exceed total costs, with (according to the user) excessive operating costs and pessimistic traffic and transport forecasts, which the user claims to be unreasonable. The user does not substantiate her statements. Specifically, the user addresses the increase in the passenger service charge. The user accuses Eindhoven Airport of a lack of transparency as it is implausible, according to the user, that the parking charge has remained unchanged.

##### Response from Eindhoven Airport

As previously justified, the methodology used by Eindhoven Airport for determining charges and conditions has not changed since commencement of the obligations under the Aviation Act in 2018. With this determination, the principle of cost-relatedness has been implemented in the same way for the seventh consecutive year.

Eindhoven Airport refers to Recital 10 of the Airport Charges Directive: *“The ICAO Council has considered that an airport charge is a levy that is designed and applied specifically to recover the cost of providing facilities and services for civil aviation, while a tax is a levy that is designed to raise national*



*or local government revenues which are generally not applied to civil aviation in their entirety or on a cost-specific basis.”*

Airport charges recover the costs of aviation activities as mentioned in Article 3 of the Aviation Act and the Charges and Conditions for Other Airports Decree. In doing so, Eindhoven Airport complies with all obligations set out in the Aviation Act and the Charges and Conditions for Other Airports Decree, including naming *“the revenues from the various charges and the total costs of the services covered by the charges”*.

On the whole, Eindhoven Airport observes that there are no indications that operating costs would be excessive. Eindhoven Airport has provided all of the information as mentioned in Article 7 of the Airport Charges Directive regarding transparency so that all users of the airport, in accordance with Recital 13 of the Airport Charges Directive, can obtain insight into the costs incurred by the airport and the productivity of the airport’s investments.

A cost increase does not necessarily mean that all charges will increase by the same percentage; this may vary, depending in part on (related) cost developments. The parking charge is such a small component of the total revenue and total costs (0.28%) that no increase is required for this charge to cover the related costs.

## **Part 6 of viewpoint: Traffic forecast is unrealistic**

The user argues that the traffic forecast presented by Eindhoven Airport is unduly pessimistic.

### Response from Eindhoven Airport

In the letter dated 10 April 2024 (**appendix**), Eindhoven Airport asked all users to provide information as described in Article 7 of the Charges and Conditions for Other Airports Decree. The information requested included projections with regard to traffic, transport volumes as well as composition and planned use of the fleet. The user did not provide any information to Eindhoven Airport.

During the pre-consultation presentation, the specific circumstances applicable to Eindhoven Airport that affect its license to operate were already mentioned. The forecasts regarding the situation of the airport in relation to traffic and transport developments are, in the opinion of Eindhoven Airport, optimistic rather than pessimistic in view of the maximum number of flight movements and maximum noise level applicable to Eindhoven Airport, restrictions which were already explained during the pre-consultation.

## **Part 7 of viewpoint: Operational costs are excessive**

The user argues that Eindhoven Airport is abusing its dominant position by passing on higher operational costs for the same passenger numbers.



## Response from Eindhoven Airport

The 4% increase in operating costs was partly driven by the circumstances already mentioned. Eindhoven Airport has previously considered that inflation in the Netherlands (source: [CBS](#)) is well above the EU average, and that there are implications for collective wages and contractual labour costs (source: [CBS](#)). The shortages in the Dutch labour market (source: [CBS](#)) also play an important role.

Eindhoven Airport is bound by European procurement law, which is partly aimed at increasing competition in the market. In principle, Eindhoven Airport awards the contracts it outsources on the basis of what Eindhoven Airport considers to be the most economically advantageous tender. The most economically advantageous tender is determined by Eindhoven Airport based on the best price-quality ratio.

There is no case of very significant charge or cost increases. As mentioned earlier, Eindhoven Airport is subject to a maximum number of flight movements and a maximum noise level. Therefore, there is no abuse of a dominant position as alleged by the user.

## **Conclusion**

The alleged charge increase of more than 7% as claimed by the user is incorrect. In view of the above considerations, the charges are reasonable and non-discriminatory. All obligations arising from the Airport Charges Directive, the Aviation Act, and the Charges and Conditions for Other Airports Decree have been met by Eindhoven Airport.

All information that users share with Eindhoven Airport within the framework of the consultation process and vice versa should be regarded as strictly confidential and economically sensitive.

We would like to thank you for participating in the consultation process.

Lastly, Eindhoven Airport refers you to the following formal dates:

|                  |   |
|------------------|---|
| 22 November 2024 | End of submission period for applications to the Netherlands Authority for Consumers and Markets (ACM) for determining whether the charges and conditions are contrary to the rules laid down in or pursuant to the Aviation Act; |
| 1 April 2025     | New charges and conditions for Eindhoven Airport come into force.   |

This notice will be sent to users only by e-mail and not by post and has been drawn up in Dutch and translated into English.

With kind regards,  
Consultation Team  
Eindhoven Airport N.V.



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Appendices:

- Letter from 10 April 2024
- Letter from 30 September 2024
- Pre-consultation presentation from 3 July 2024
- Consultation presentation from 20 September 2024
- WACC 2025 calculation



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