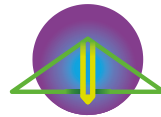


# THIRD PARTIES ACCESS TO AIRPORTS

## WALA BOLOGNA 2017



Advice & Legal



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WITHIN THE SOUL  
OF THE PROBLEM,  
LIES THE KEY  
TO THE SOLUTION

Lange Voorhout 6 The Hague

# Introduction

- Several issues within the EU lead to an ACI Legal Task Force in order to develop guidelines with regard to third parties access to airports
- In this presentation, I'm giving my personal opinion; not as member of the ACI Legal Task Force
- Airlines and groundhandlers are not considered third parties
- Focus is on retail, food and beverage, taxi, parking, hotel etc.
- General competition law applies
- Is it possible to have more specific guidelines?

# Difficulties

- There are different types of airports: private and listed, private and not listed, hybrid (private with minority/majority share of state), government owned, but privately run (with majority share of state), government owned and run
- Different types of concessions, licenses, permits, leases or nothing
- National, regional and local law are applicable
- The geographical situation (landside and terminal) is important
- These factors create a mix of variables when assessing a request from a third party who, for example, wants to open a shop in the terminal

# Examples

- Within the spectrum of airports in the EU, Spain and UK are two opposites
- Fully privatised airports in the UK, like Heathrow and Gatwick are free to contract any third party at their own will
- In Spain, AENA is fully government owned and by act it is regulated that all activities at the airport should be tendered
- In Copenhagen a third party wanted to operate a terminal on airside. Due to the fact that there is a concession for operating an airport, this request could be denied

# Personal view

- The bottom line is that whenever an airport decides to undertake a certain activity itself, it is entitled to do so
- Once the airport allows one party to perform a certain commercial activity, it seems difficult to refuse access to a following third party who wants to do the same
- My advice: develop a vision/plan which categorises the activities you want to develop, which describes how many per segment are allowed. Such practice is transparent and non discriminatory

# Concessions directive 2014/23

- Annex II, sub 4 deals with activities relating to facilities to air carriers
- Recital 25 clarifies that retail, parking and public catering are included as airport activities. Hotels and offices are not included
- Problem with recital 25: it is not binding as it is not part of the full body of the text of the directive; there are 88 recitals, so why should one recital be given more importance than the others
- It is not clear how the EU member states have transposed the directive on this issue
- Each airport has to do an own assessment

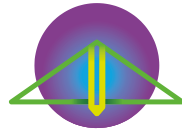
# Airport law

- I have provided a simple overview of airport law especially for non lawyers and airport managers, with the EU in mind
- There are specific (targeted at airports) and generic type of regulations
- Three levels of regulations are in force, United Nations, EU and national
- The mix of specific and generic regulations combined with the three levels leads to misunderstanding when one person refers to a specific regulation at UN level and the other applies a generic regulation at national level
- This overview can help to have a proper discussion

# THANK YOU



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