
DEPARTMENT OF TRANSPORT

CHIEF DIRECTORATE : CIVIL AVIATION

THE DOMESTIC AIR TRANSPORT POLICY

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THE DOMESTIC AIR TRANSPORT POLICY

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Chapter 1

INTRODUCTION

The Chief Directorate: Civil Aviation of the Department of Transport initiated an investigation to review the Air Services Act, 1949 (Act No 51 of 1949), in May 1988. This investigation was carried out under the guidance of a steering committee, appointed by the then Minister of Transport Affairs, and with the assistance of a consultant from the private sector, Van Wyk and Louw Inc. The investigation was, in accordance with the approved programme, concluded in September 1989.

The Steering Committee's recommendations resulting from this investigation, as well as the Government's view on the recommendations, are set out in this policy document.

1.1 THE NEED FOR AND THE PURPOSE OF THE INVESTIGATION

The need to review the Air Services Act, 1949, resulted from the fact that the implicit policy towards air transport embedded in this Act, is clearly no longer in line with the Government's current economic policy.

The purpose of the investigation was as follows:

- To review the existing underlying domestic air transport policy in South Africa within the framework of the Government's current economic policy and other Government directives.
- To propose new principles for a domestic air transport policy
- To evaluate the effects of these new principles on the international air transport policy of the Government
- to draft a new Air Services Bill to embody these new principles

1.2 THE PURPOSE OF THIS DOCUMENT

The purpose of this document is as follows:

- To set out the recommended new domestic air transport policy for South Africa
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- To set out the recommended actions and programme required to implement the new policy
 - To state the Government's view on the recommendations of the investigation

(The recommended Air Services Licensing Bill is contained in a separate document.)

1.3 THE APPROACH FOLLOWED IN THE EXECUTION OF THE INVESTIGATION

1.3.1 METHODOLOGY

In executing the investigation, a systems analysis approach was followed. This approach consists of a number of steps and provides a systematic framework for the definition of problems and the resolution of these problems.

In Step 1, the policy framework within which a new domestic air transport policy had to be formulated, was described. For this purpose various White Papers and other Government publications and pronouncements, including the White Paper on National Transport Policy as well as on Privatisation and Deregulation, were reviewed.

Step 2, consisted of a detailed description of the current state of the domestic air transport market, as it pertains to matters contained in the Air Services Act, 1949, and primarily matters relating to the regulation of competition and privatisation. The purpose with this description was to facilitate an understanding of the current situation, to assist with the definition of problems and to enable a reasonable evaluation of options generated to resolve the problems.

In Step 3, problems with the current situation were formally defined. This amounted primarily to an assessment of the current domestic air transport policy against the general Government economic policy framework.

In Step 4, the air transport policy developments in selected overseas countries were reviewed with a view to assessing the implications of a deregulated domestic air transport market under a variety of conditions. For this purpose, the policies of the USA, New Zealand, Australia, Britain and the European Community were reviewed.

This led to Step 5 in which various options to resolve the problems in South Africa were generated. These options were evaluated in the light of the policy framework established under Step 1 and the ability of the option to resolve the problems as defined in Step 3.

The last step in the process, Step 6, consisted of the formulation of recommendations on the policy to the implemented and the implementation thereof. This included the drafting of the recommended Bill.

1.3.2 THE POLICY PROCESS

After each of the above steps, interaction took place with the industry and the users of air services through the Steering Committee. The Steering Committee, appointed by the Minister of Transport Affairs, was constituted as follows:

Mr J J Smit (Chairman)	Chief Director: Civil Aviation
Mr L J S Booyse	Chief Directorate: Civil Aviation
Mr M W G Visser	Chief Directorate: Civil Aviation
Mr M G Willemse	South African Airways
Mr N Vlok	South African Airways
Mr P van Hoven	Airlines Association of South Africa
Mr D R White	Airlines Association of South Africa
Mr C Z A Beek	Commercial Aviation Association of Southern Africa
Mr A J B Loots	Commercial Aviation Association of Southern Africa
Mr P J Hugo	Association of Chambers of Commerce and Industry
Mr R F Haywood/Mr D E Ackerman	South African Federated Chamber of Industries
Mr J Vermooten	Afrikaanse Handelsinstituut
Mr S V F Thomas	South African Tourism Board
Mr T J Markman	South African Co-ordinating Consumer Council
Mr P J M Corbin	Transport Consultative Committee

A Report was produced after each step of the methodology as set out above, and was submitted to the Steering Committee. The Functions of the Steering Committee were as follows:

- To evaluate the contents of the report for factual correctness as far as possible
- To evaluate and comment on the conclusions drawn in the reports
- To advise the Department of Transport and the consultant on any further relevant facts to be considered

This led to an iterative process of consultation, especially regarding Step 5 and Step 6 of the methodology where options and final recommendations were discussed.

1.3.3 REPORTS PRODUCED DURING THE COURSE OF THE INVESTIGATION

The following reports were compiled in the course of the investigation and accepted by the Steering Committee:

- “Proposed approach to the review of the Air Services Act, 1949”, dated 8 July 1988
- “Review of current Government economic policy relevant to air transport policy”, dated 16 September 1988 (Covering Step 1 above)
- “Review of air transport policy in New Zealand”, dated 9 December 1988 (covering Step 4 above)
- “Review of air transport policy in Australia”, dated 9 December 1988 (covering Step 4 above)
- “Air transport policy in the United Kingdom and in the European Community”, dated 9 December 1988 (covering Step 4 above)
- “Air transport policy in the United States of America”, dated 3 March 1989 (covering Step 4 above)
- “The South African air services industry”, dated 11 April 1989 (covering Step 2 and Step 3 above)
- “A new air transport policy: Options”, dated 3 March 1989 (covering Step 5 above)
- “A new air transport policy: Description and evaluation of options”, dated 2 June 1989 (covering Step 5 above)
- “A response to comments on: ‘A new air transport policy: Description and evaluation of options’”, dated 4 August 1989 (covering Step 5 and Step 6 above)
- “Air Services Licensing Bill”, dated 15 September 1989 (covering Step 6 above)

1.4 MAJOR CONCLUSIONS

A large number of detailed findings and conclusions were made in the course of the investigation. These are all contained in the above reports. The salient conclusions can briefly be summarised as follows:

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- The regulation of air services as provided for in the Air Services Act, 1949, cannot be reviewed in isolation of the regulation of auxiliary services to air transport, such as air traffic services, the services at airports and the provision and operation of airports themselves.
 - It is the Government's policy to privatise and deregulate under certain specific conditions and in accordance with certain criteria. In terms of these criteria, it would appear that the provision of air services and related activities, the provision and operation of airports and air traffic services as well as the services at the airports could all be considered for privatisation and/or deregulation.
 - Although the domestic air transport industry in South Africa is a relatively small industry, the two major routes for passengers compare favourably in size with some of the major international routes in Europe. As a result of the current regulatory measures, based on non-competition, the market is dominated by south African Airways (SAA) which generated 81% of the total revenue of the domestic air services industry, and conveyed 94% of all passengers and 97% of all freight on its scheduled services during 1987/88.
 - It is clear from the evidence regarding the deregulation of the domestic air transport markets in several overseas countries that deregulation has in several cases substantially benefitted consumers through lower average fares, higher frequencies and better service by more efficient operations. This conclusion applies to conditions ranging from the most heavily trafficked routes in the USA through to small low density routes in South Australia, as well as to a regional market smaller than that of South Africa, as exemplified by New Zealand.
 - It is also evident from overseas experience that the abandoning of economic control measures should be accompanied by other measures and a clear programme for implementation to ensure effective and equitable competition and to protect the safety of the public. Functions relating to the provision of certain services (such as airlines, airports and air traffic services) were generally reallocated to newly established state-owned or privatised corporations, while functions relating to the setting, monitoring and enforcing of safety standards were strengthened to become the major functions of government departments.
 - It would thus appear that competition in the South African domestic air transport market could be possible economically and could be beneficial to the consumer and the country as a whole, provided that sufficient steps are
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taken to ensure equitable competition and to protect the safety of the public.

1.5 OUTLINE OF THIS DOCUMENT

This document consists of four chapters, the first of which contains the introduction.

The recommended new domestic air transport policy for South Africa as well as the Government's view on the recommendation is set out in Chapter 2. Recommendation regarding the implementation of the new policy and the Government's view on these recommendations are set out in Chapter 3. A summary is presented in the final chapter of this document.

Chapter 2

THE RECOMMENDED NEW SOUTH AFRICAN DOMESTIC AIR TRANSPORT POLICY

The purpose of this chapter is to set out the recommended new domestic air transport policy for South Africa.

It is recommended that the new South African Domestic air transport policy be based on the following four basic principles:

- R.1 The first principle: Safety is of paramount importance, and the quality of operators regarding those aspects which affect operational safety should be enhanced as far as possible.**
- R.2 The second principle: Economic decisions should, as far as possible, be left to the market to resolve subject to the general controls over economic activity applicable to all industries.**
- R.3 The third principle: Users' interests and views should explicitly be taken into account.**
- R.4 The fourth principle: All participants in the air transport market should be treated equally before the law. This means that all operators should be subject to the same rules.**

These principles are discussed individually in the following paragraphs in accordance with the following structure:

- The motivation for the principle under discussion
- Recommendations regarding the practical application of the principle
- Recommendations regarding the implementation of the principle

2.1 THE FIRST PRINCIPLE : SAFETY

The first principle is that safety is of paramount importance, and the quality of operators regarding those aspects which affect operational safety should be enhanced as far as possible.

2.1.1 MOTIVATION

Safety in aviation is of paramount importance. The current regulatory measures regarding aviation safety should therefore be continued and be enhanced to ensure that air services are operated in a safe manner. Furthermore, steps should be taken to ensure that aviation safety is not undermined by inexperienced, financial unsound or incompetent operators seeking to take advantage of the relaxation of economic restrictions.

The experience gained in overseas countries indicates that safety aspects were either specifically addressed in conjunction with deregulation, or steps have been taken after deregulation to improve safety. In most of the cases which were studied, specific actions were taken to ensure that aviation safety is not neglected after deregulation, for instance, in Australia functions such as the setting of safety standards and the monitoring thereof were institutionally separated to ensure that aviation safety is enhanced.

2.1.2 RECOMMENDATIONS REGARDING THE PRACTICAL APPLICATION OF THE SAFETY PRINCIPLE

With respect to the safety principle, the following is recommended:

- R.5 The equipment to be used in rendering an air service should be safe and should continuously be kept in a safe condition.**
- R.6 The persons operating, i.e., flying and maintaining, the above equipment should be properly trained and should operate such equipment in a safe manner.**
- R.7 The operator should operate his business in a safe manner. To achieve this, the operator of an air service should be recognized as an entity and be monitored as such.**
- R.8 To achieve the above, a set of safety standards with regard to the equipment used and the persons operating and maintaining such equipment should be set.**
- R.9 Any new entrant should be judged against these standards as well as other criteria with a view to ensuring that such a new entrant would be able to render a safe and reliable service and sustaining compliance after entry.**
- R.10 Safety aspects should be monitored on a continuous basis to ensure compliance with standards. To this effect, a quality system should**

be introduced to support the monitoring and enforcement of safety standard with a view to enhancing voluntary compliance.

R.11 Air traffic services and airports should be operated efficiently and safely and the responsibility for the provision of these services should be structured so as to ensure that this can be done.

2.1.3 RECOMMENDATIONS REGARDING THE IMPLEMENTATION OF THE SAFETY PRINCIPLE

With respect to the implementation of the safety principle, the following is recommended:

R.12 The implement recommendations R.5, R.6 and R.8, the current set of safety standards regarding aircraft, their maintenance, pilots, other aircrew and maintenance personnel and organisations, as contained in the Aviation Act, 1962, and the Regulations made under it, should be retained as the minimum standard and should be revised on a continuous basis.

R.13 In view of the imminent abolishment of the National Transport Commission (NTC) in terms of the Transport Deregulation Act, 1988, the functions of the NTC regarding the administering of the Aviation Act, 1962, should be transferred to the Minister of Transport.

R.14 To implement recommendations R.7, R.9 and R.10, the Department of Transport should introduce a new licensing system, based on safety-related entry criteria, which should make provision for the licensing and control of operators.

R.15 To implement recommendations R.9 and R.14, the Department of Transport should establish a new statutory body, the Air Service Licensing Council, to judge prospective entrants against the entry criteria to ensure that such entrants would be able to render a safe and reliable service and to sustain compliance with the criteria after entry.

R.16 To implement recommendations R.11, the Department of Transport should preferably not be involved in the rendering of services, such as the provision and operation of airports, services at airports and air traffic services. The Department of Transport's role should be to set, monitor and enforce safety standards in this regard.

2.2 THE SECOND PRINCIPLE: MARKET-RELATED ECONOMIC DECISIONS

The second principle is that economic decisions should, as far as possible, be left to the market to resolve, subject to the general controls over economic activity applicable to all industries.

2.2.1 MOTIVATION

The second principle is derived from the Government's policy that regulatory controls which may prevent free competition should not be allowed, and that effective competition as well as user's choice should be enhanced, as far as it is practically possible. In view of the conclusions on the effect of deregulation in overseas countries together with the Government's stated preference for more competition in the domestic air transport market, this principle is put forward.

2.2.2 RECOMMENDATIONS REGARDING THE PRACTICAL APPLICATION OF THE ECONOMIC PRINCIPLE

With respect to the economic principle, the following is recommended:

- R.17 Detailed economic regulatory control over entry into the market, air fares, capacity, frequencies, etc, should be abandoned.**
- R.18 Steps should be taken to prevent the providers of air services to conduct practices which could jeopardise the user's right to exercise an effective choice. In this regard developments which are structurally anti-competitive, e.g. monopoly formation or overconcentration, should be prevented. Practices such as predatory pricing, benefits to frequent flyers, interlining, code sharing, etc, should be monitored and, if found to be anti-competitive, be prevented.**
- R.19 Auxiliary services such as the provision and operation of airports, airport services and air traffic services, should be rendered on a commercial basis and the principle of user-charging should be applied, as far as possible, for all these services to ensure that users pay for the benefits they receive.**

2.2.3 RECOMMENDATIONS REGARDING THE IMPLEMENTATION OF THE ECONOMIC PRINCIPLE

With respect to the implementation of the economic principle, the following is recommended:

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- R.20** To implement recommendation R.17, the recommended new licensing system (recommendation 14) should not contain any elements of economic control or regulation.
- R.21** To implement recommendation R.18, the Maintenance and Promotion of Competition Act, 1979, should actively be applied to the air transport industry to ensure that user's interests are taken into account during the deregulation process and to prevent anti-competitive practices by participants in the market. The Department of Transport should inform the Competition Board on the implications of this recommendation and the issues involved.
- R.22** To implement recommendations R.16 and R.19, the Department of Transport should investigate the possibility of commercialising or privatising airports (either individually or jointly), services at airports, air traffic services or other services rendered and equipment owned or operated by the Department.

2.3 THE THIRD PRINCIPLE : USER PARTICIPATION

The third principle is that user's interests and views should explicitly be taken into account.

2.3.1 MOTIVATION

In principle and by design, the full implementation of the other principles will be in the interest of the users of air transport. Nevertheless, users' interests and views should be explicitly taken into account where and when required, since the policy is ultimately to benefit the user.

2.3.2 RECOMMENDATIONS REGARDING THE PRACTICAL APPLICATION OF THE USER-PARTICIPATION PRINCIPLE

With respect to the user-participation principle, the following is recommended:

- R.23** The users' views and interests should, as far as possible, be taken into consideration with respect to the benefits of competition, the safety and reliability of services, the provision of insurance and the degree of foreign ownership of domestic operators.
- R.24** The deregulation process as well as developments during the post-deregulation period should be monitored with a view to ensuring that the new principles are implemented as recommended and keeping the users and other interest groups informed on the progress of deregulation.
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2.3.3 RECOMMENDATIONS REGARDING THE IMPLEMENTATION OF THE USER-PARTICIPATION PRINCIPLE

With respect of the implementation of the user-participation principle, the following is recommended:

- R.25 To implement recommendation R.23, the recommended new licensing system (recommendation R.14) should make provision for entry criteria aimed at satisfying users' needs and protecting their interests, such as adequate insurance cover, reliability of services and restrictions on the degree of foreign control over domestic operators.**
- R.26 To implement recommendation R.24, the Department of Transport should monitor the delegation process as well as development during the post-deregulation period with a view to ensuring that the new principles are implemented as recommended and keeping the users and other interest groups informed on the progress and results of deregulation. To this end, the Department of Transport should establish the necessary mechanisms through which liaison and consultation with the air transport industry and users could take place in order to ensure the highest attainable degree of unanimity and mutual understanding during the implementation process and thereafter.**

2.4 THE FOURTH PRINCIPLE : EQUAL TREATMENT

The fourth principle is that all participants in the air transport market should be treated equally before the law. This means that all operators should be subject to the same rules.

2.4.1 MOTIVATION

The principle of equal treatment implies that all participants should be treated equally in terms of legislation, rules, opportunities, etc.

To attain effective and especially equitable competition, it is important to treat all operators equally. This principle is specifically applicable in a situation where a government enterprise is competing with a private enterprise in the same market. The need for equal treatment is often referred to as the need to "level the playing field" and is generally considered to be of extreme importance. It was found in overseas countries that this principle was applied in all cases where the air transport market was economically deregulated.

2.4.2 RECOMMENDATIONS REGARDING THE PRACTICAL APPLICATION OF THE EQUAL-TREATMENT PRINCIPLE

With respect to the equal-treatment principle, the following is recommended:

- R.27 All operators should be treated equally regarding the rules relating to entry into the market, capacity, air fares, routes, exit from the market, etc.**
- R.28 All operators should be treated equally with regard to access to state-owned aviation infrastructure such as airports and airport facilities, on the land-side as well as on the air-side. This should also apply where the infrastructure is owned by a private company in which the state holds the majority of shares, or where an airport which is currently publicly owned, is privatised, unless explicit provision is made otherwise.**
- R.29 All operators should be treated equally with regard to safety requirements.**
- R.30 All operators should be treated equally with regard to applicability of general economic and other legislation.**
- R.31 All operators should be treated equally by the Government as far as Government contracts, financial support, reciprocal privileges, the rendering of uneconomical services, the strategic value of aircraft, etc, are concerned.**
- R.32 The following conditions regarding SAA should apply:**
- R.32.1 SAA should be able to operate autonomously, free from political interference. This implies that it should be able to decide on routes to be served, equipment, capacity, frequencies, airfares, personnel aspects, etc.**
- R.32.2 SAA should be prevented from subsidising its domestic air services with profits made on international air services and *vice versa*. As long as SAA is part of the South African Transport Services (SAT), cross-subsidisation between SAA and the rest of the SAT should also not be allowed.**
- R.32.3 SAA should be relieved of any obligations to render any service to the Government below actual cost. Any**
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reciprocal agreements in this regard, formal or informal, should be terminated.

R.32.4 SAA should pay full taxes, licence fees, landing fees, airport charges, etc, if it is not already the case.

R.32.5 SAA should not enjoy any privileges, as a result of its vested position, regarding the use of facilities at airports.

R.32.6 SAA should not enjoy any privileges in terms of any legislation or practice as a result of it being part of the SAT or as a result of it being a government enterprise, such as state-guaranteed loans.

2.4.3 RECOMMENDATIONS REGARDING THE IMPLEMENTATION OF THE EQUAL-TREATMENT PRINCIPLE

With regard to the implementation of the equal-treatment principle, the following is recommended:

R.33 To implement recommendation R.27, the recommended new licensing system (recommendation R.14) should not discriminate between the various operators in the market.

R.34 To implement recommendation R.28, the Department of Transport should ensure that, where it is not already the practice, persons rendering air services be treated equally with regard to -

R.34.1 access to airport and airport facilities owned and operated by the Department;

R.34.2 other services rendered by the Department such as air traffic services; and

R.34.3 the payment of fees and charges for services rendered by the Department.

R.35 To implement recommendation R.34, the Department should draw up a set of rules and a procedure according to which terminal space, parking and time slots, apron services such as passenger, baggage and freight handling, and air traffic services are allocated and rendered on a fair and equitable basis, where it is not already the practice. This should be implemented, as far as possible, within the

limitations of the current infrastructure and in consultation with the affected interest groups.

- R.36** In the case where any of the services mentioned in recommendation R.35 are rendered by another person on behalf of the Department of Transport in terms of a licence or concession issued to that person by the Department, the Department should review and renegotiate the conditions of such licence or concession to ensure that such person adheres to the equal-treatment principle. (In this regard reference is made, for example, to the current arrangement whereby SAA is rendering apron services at major airports.)
- R.37** In the case where an airport is owned or operated by a government institution, other than the Department of Transport, the Department should also ensure that the equal-treatment principle is applied at that airport by means of including conditions to this effect into the licence issued by the Department to that authority to operate that airport.
- R.38** Should the Department of Transport or any other government institution decide to commercialise or privatise an airport or an air traffic service, or any other related service, facility or equipment (in terms of recommendation R.22), it should be a condition of commercialisation or privatisation that the new enterprise responsible for operating such airport, facility or equipment or rendering such a service should also apply the principle of equal treatment in future. To give effect to this recommendation, it is recommended that such enterprise should adhere to the following conditions:
- R.38.1** It should not have any interest (directly or indirectly) in the provision of any air service as such.
- R.38.2** It should treat all users of aviation infrastructure equally, irrespective of the ownership of such users or the types of services they render.
- R.38.3** It should implement a “cost-related and user pays” charging structure with the purpose of ensuring the charges for services are economically efficient, financially adequate, commercially sound and administratively straightforward.
- R.39** To implement recommendation R.29, the Department of Transport should ensure, in applying the Aviation Act, 1962, that all operators
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are treated equally, irrespective of the type of service rendered, the ownership of an operator, or the extent of operations.

- R.40 With reference to recommendation R.31, the Government should no longer exclusively guarantee new loans to SAA or any other airline with Government interests.
- R.41 In the light of recommendation R.40, and to assist local operators in obtaining funding for large investments, the Department of Transport should investigate the possibility of ratifying the Geneva Convention, 1948, or to consider new legislation with similar objectives, i.e., for the registration of mortgages in respect of rights in aircraft.
- R.42 Also, with reference to recommendation R.31, SAA or any other airline with Government interests should not enjoy any reciprocal privileges as a result of the fact that it is part of a government-owned company and any existing arrangements in this regard should be terminated.
- R.43 To implement recommendation R.32, the Minister of Mineral and Energy Affairs and of Public Enterprises should be requested to ensure that in implementing the Legal Succession to the South African Transport Services Act, 1989, the conditions set out in that recommendation are met and that any actions taken by him in future, in terms of article 17 of the Act, should not be to the advantage or disadvantage of SAA as far as its competitive position is concerned. The Minister of Mineral and Energy Affairs and of Public Enterprises should further be requested that, in determining the value of the assets of the SAT for transfer to the statutory company in terms of article 4 of the Legal Succession to the South African Transport Services Act, 1989, the assets of specifically SAA should, as far as practically possible, be valued at realistic current market values to ensure that equitable competition could take place in future.

2.5 THE GOVERNMENT'S VIEW

THE GOVERNMENT ACCEPTS THE FOUR BASIC PRINCIPLES FOR A NEW DOMESTIC AIR TRANSPORT POLICY. IT FURTHERMORE ACCEPTS, IN PRINCIPLE, THE PRACTICAL APPLICATION OF AND THE RECOMMENDATIONS REGARDING THESE PRINCIPLES, WITH THE EXCEPTION OF RECOMMENDATIONS R.32, R.40, R.42 AND R.43 WHICH AFFECT THE POSITION OF SOUTH AFRICAN AIRWAYS IN A DEREGULATED DOMESTIC AIR TRANSPORT MARKET.

IN THE LIGHT OF A RECENT CABINET DECISION TO CONDUCT AN INVESTIGATION INTO THE MOST SUITABLE FUTURE STRUCTURE OF SOUTH AFRICAN AIRWAYS WITHIN A DEREGULATED DOMESTIC AIR TRANSPORT MARKET, THE GOVERNMENT TAKES NOTE OF THE CONTENTS OF RECOMMENDATIONS R.32, R.40, R.42 AND R.43, AND WILL COMMENT ON THESE DEPENDING ON THE OUTCOME OF THE ABOVE-MENTIONED INVESTIGATION.

Chapter 3

THE IMPLEMENTATION OF THE RECOMMENDED NEW DOMESTIC AIR TRANSPORT POLICY

In order to implement the new domestic air transport policy which is based upon the new principles as outlined in Chapter 2, the various elements of the policy must be introduced concurrently. The purpose of this chapter is to identify the elements of the new policy to be introduced, and recommend a timetable for the introduction of each element.

3.1 ELEMENTS OF THE NEW POLICY TO BE IMPLEMENTED

The new domestic air transport policy comprises the following elements:

- E.1 The introduction of a new safety-based licensing system (recommendations R.14, R.20 and R.25)
- E.2 The establishment of a licensing authority to deal with the adjudication of licensing matters (recommendation R.15)
- E.3 The introduction of amendments to current technical safety regulation matters (recommendation R.13)
- E.4 The introduction of steps to facilitate the commercialisation of, the equal treatment of operators at, and the safe operation of airports and airport facilities and services (recommendations R.11, R.16, R.19, R.22, R.28 R.32.5, R.34, R.35, R.36, R.37 and R.38)
- E.5 The introduction of steps to facilitate the commercialisation of, the equal treatment of operators in the rendering of, and the safe operation of air traffic services (recommendations R.11, R.16, R.19, R.22, R.28, R.32.5, R.34, R.36, R.37 and R.38)
- E.6 The monitoring and implementation of the recommendations with regard to the issues relating to the privatisation of the SAT and SAA, and SAA's position in a deregulated market (recommendations R.32, R.42 and R.43)
- E.7 The monitoring and implementation of corrective actions regarding harmful trade practices (recommendations R.18 and R.21)

E.8 The monitoring of the deregulation process and the post-deregulation situation regarding compliance with the four basic principles (recommendations R.24 and R.26)

3.2 IMPLEMENTATION PROGRAMME

The implementation programme addresses two aspects, namely:

- The implementation of the Air Services Licensing Bill, embodying elements E.1, E.2 and E.3 above.
- The implementation of the other elements to fully implement the four basic principles, i.e., elements E.4 to E.8 above.

3.2.1 THE IMPLEMENTATION OF THE BILL

3.2.1.1 Relevant factors

The recommended Air Service Licensing Bill makes provisions for the full economic deregulation of the domestic air transport industry in South Africa by means of a new licensing system and a new licensing authority.

In considering the implementation of the Bill, the following three basic options, each consisting of various sub-options, were generated and evaluated:

- Option 1: Immediate economic deregulation, i.e., the immediate abolishment of economic entry controls.
- Option 2: The discretionary option, i.e., the phasing-in of economic deregulation over a fixed period of time, with the regulating authority given the discretion to regulate on specific aspects in the interim.
- Option 3: the rules option i.e., the phasing-in of economic deregulation over a fixed period of time with a degree of discretion given to the regulating authority to regulate certain aspects, but with limits on its discretion with regard to other aspects. This limitation of discretion takes place by means of predetermined rules.

It was concluded that a transitionary period is needed before implementing the Bill and that such period should be as short as possible, due to the following reasons:

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- A period of time is needed to promulgate the Bill and for the necessary preparations and organisational adjustments to implement it.
 - Time is of the essence to allow the private sector to enter the market at the same time the SAT (including SAA) becomes commercialised in the form of a statutory company, independent of the Government, as provided for in the Legal Succession to the South African Transport Services Act, 1989.
 - It is essential that new entrants should be able to enter the market as soon as possible due to a current shortage of aircraft in the world market and the weakening of the rand, both resulting in higher prices as time passes.
 - Time should be provided for the implementation of the other necessary elements required to fully implement the new policy, especially the equal-treatment principle.

It is important to eliminate uncertainty in the market and to reduce unnecessary risks. (It was found in the USA that in keeping the transition as short as possible, the systematic risk to the industry as perceived by shareholders was significantly reduced.)

3.2.1.2 Recommendations regarding the implementation of the Bill

With regard to the implementation of the Air Services Licensing Bill, the following is recommended:

- R.44 The Air Services Licensing Bill should be submitted to Parliament during the 1990 session.**
- R.45 The Air Services Licensing Bill, providing for the full economic deregulation of the domestic air services market, should come into operation on 1 July 1991 and the current Air Services Act, 1949, should be repealed on this date as far as the provision of domestic air services is concerned.**
- R.46 The period from now until 1 July 1991 should be considered as the transitional period.**
- R.47 The current Air Services Act, 1949, should be amended to make provision for more competition during the transitional period. The purpose of the proposed amendments is to remove certain provisions from the Act restricting or prohibiting competition, especially those which prevent the NTC from issuing a licence to an**

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- applicant who applies for a licence to render a service in competition with an existing licence holder.**
- R.48 The recommended amendments to the Air Services Act, 1949, should be implemented on 1 July 1990.**
- R.49 The NTC should, therefore, retain its functions regarding the licensing of air services until the coming into operation of the Bill, i.e., until 1 July 1991, and should then be abolished as far as its aviation functions are concerned.**
- R.50 The current Air Services Act, 1949, should be retained for international air services to and from South Africa and should be renamed the International Air Services Act, 1949.**

3.2.2 THE IMPLEMENTATION OF THE OTHER ELEMENTS

3.2.2.1 Relevant factors

The implementation of the Air Services Licensing Bill should be done in conjunction with the implementation of the other elements required to fully implement the recommended new policy. These elements relate to those recommendations made in the previous chapter which are not embodied in the Bill. These are elements E.4 to E.8 identifies in paragraph 3.1.

3.2.2.2 Recommendations regarding the implementation of the other elements

With regard to the implementation of the other elements, the following is recommended:

- R.51 The Department of Transport should be charged with the responsibility of ensuring that the recommendations relating to elements E.4 to E.8 above, be implemented as recommended.**
- R.52 With reference to elements E.4 and E.5, ie, airports and air traffic services, the Department of Transport should do the necessary investigations and make detailed recommendations to the Government regarding the implementation of the recommendations relating to these elements before December 1990, with a view to implementing these on 1 July 1991, as far as practically possible.**
- R.53 With reference to element E.6, ie, the issues relating to the privatisation of the SAT, the Department of Transport should liase with the Minister of Mineral and Energy Affairs and of Public**
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Enterprises and with the management of the SAT and SAA to ensure that the recommendations relating to this element be implemented before the Legal Succession to the South African Transport Services Act, 1989, is fully implemented.

R.54 With reference to element E.7, ie, the monitoring of harmful trade practices, the Department of Transport should inform the Competition Board on the implications regarding this element and the issues involved as soon as possible.

R.55 With reference to element E.8, ie, the monitoring of the deregulation process, the Department of Transport should establish the necessary mechanisms to monitor the implementation process as soon as possible.

3.3 THE GOVERNMENT'S VIEW

THE GOVERNMENT ACCEPTS THE RECOMMENDATIONS REGARDING THE IMPLEMENTATION OF THE NEW DOMESTIC AIR TRANSPORT POLICY FOR SOUTH AFRICA, WITH THE EXCEPTION OF RECOMMENDATION R.53. THE DEPARTMENT OF TRANSPORT IS, THEREFORE, INSTRUCTED TO IMPLEMENT THIS NEW POLICY IN ACCORDANCE WITH THE RECOMMENDATIONS SET OUT IN THIS DOCUMENT.

THE GOVERNMENT WILL COMMENT ON RECOMMENDATION R.53, DEPENDING ON THE OUTCOME OF THE INVESTIGATION REFERRED TO IN PARAGRAPH 2.5 ABOVE.

Chapter 4

SUMMARY

4.1 SUMMARY

The recommended new domestic air transport policy of South Africa is based on four basic principles, namely:

- The first principle: Safety is of paramount importance, and the quality of operators regarding those aspects which affect operational safety should be enhanced as far as possible.
- The second principle: Economic decisions should, as far as possible, be left to the market to resolve, subject to the general controls over economic activity applicable to all industries.
- The third principle: Users' interests and views should explicitly be taken into account.
- The fourth principle: All participants in the air transport market should be treated equally before the law. This means that all operators should be subject to the same rules.

These principles have specific practical implications for the Government and the domestic air transport industry. Specific recommendations are made in this document to accommodate these implications.

The new policy consists of a package of elements to be implemented concurrently. These should all be implemented to ensure that the expected benefits of economic deregulation are attained by the consumers, the air transport industry and the country as a whole through effective and equitable competition.

More specifically, implementation requires the introduction of the following elements:

- The introduction of a new safety-based licensing system

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- The establishment of a licensing authority to deal with the adjudication of licensing matters
 - The introduction of amendments to the current technical safety regulation matters
 - The introduction of steps to facilitate the commercialisation of, the equal treatment of operators at, and the safe operation of airports and airport facilities and services
 - The introduction of steps to facilitate the commercialisation of, the equal treatment of operators in the rendering of, and the safe operation of air traffic services
 - The monitoring and implementation of the recommendations with regard to the issues relating to the commercialisation of the SAT and SAA, and SAA's position in a deregulated market
 - The monitoring and implementation of corrective actions regarding harmful trade practices
 - The monitoring of the deregulation process and the post-deregulation situation regarding compliance with the four basic principles

Regarding the new licensing system and licensing authority, it has been recommended that the new system be in full operation by 1 July 1991, with some measures to enhance competition during the transitional period to be in operation by 1 July 1990.

The Air Service Licensing Bill has been drafted to implement the above, and has been submitted under a separate cover.

4.2 THE GOVERNMENT'S VIEW

IN ACCORDANCE WITH ITS CURRENT ECONOMIC POLICY, THE GOVERNMENT ACCEPTS, IN PRINCIPLE:

- **THE RECOMMENDED PRINCIPLES FOR THE NEW DOMESTIC AIR TRANSPORT POLICY**
- **THE PACKAGE OF ELEMENTS TO IMPLEMENT THE NEW POLICY**
- **THE PROGRAMME FOR THE IMPLEMENTATION OF DEREGULATION**

THE GOVERNMENT WILL CONSIDER THE DETAILS CONTAINED IN THE AIR SERVICES LICENSING BILL ONCE THE BILL IS AVAILABLE.