



# CONGESTION PRICING AT NEW YORK AIRPORTS: RIGHT IDEA, BUT CAN WE REALLY START HERE AND NOW?

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Airline deregulation is one of the most successful policy changes in the last 50 years. It has transformed flying from a luxury to an accessible necessity, bringing families and the country together, fostering economic growth, and giving ordinary people access to a wealth of experiences previously reserved for the upper middle class. In fact, one can say that in some ways it has been too successful, because it has presented the federal and local governments with challenges that they so far have failed to meet. Congestion, caused by demand far in excess of airport capacity, and the constraints of a strait-jacket air traffic control system, has put a heavy tax on the convenience and utility of air travel. Late planes, long waits for takeoff, in-air holds for landing, and long taxi-in delays have made air travel an ordeal for many and wasted huge sums of money for airlines.

Nowhere have the problems been worse than in New York, where congestion has reached alarming and prodigiously wasteful levels at Kennedy and LaGuardia, and is scarcely better at Newark. Spurred on by these developments, the prospect of their being duplicated elsewhere and the demand that it “do something” about them, the Department of Transportation is proposing to

introduce congestion charges at New York’s LaGuardia and Kennedy airports.

On the face of it, this is a great idea. As far back as 1969, it was recognized that the right remedy for airport congestion was to abandon the idea of airport landing fees based on aircraft weight, rather than on the economic cost of imposing delays on other airport users. Allowing airport charges that reflect the scarcity of the chosen landing or takeoff time would force all operators, airline and general aviation alike, to consider whether they value use of the runway at that time enough to pay for the costs they impose on others. The principle should be the same for air traffic control. Congestion in the terminal area calls out for a system of charges that makes the aircraft operator ask “How much do I value this trip at this time? Would saving money by rescheduling it make sense? Is this trip necessary?” Collecting congestion charges would both assign existing capacity to use by those who value it most and signal that more capacity was needed-- valuing capacity expansion and funding it.

Virtually all economists who have studied congestion, whether in the air or on the ground, believe in this principle. Theatres, movie exhibitors, hoteliers, restaurants, parking lots, and many other businesses

implement peak/offpeak pricing (a form of congestion charges) every day. Much opposition to a regime of congestion charges at airports comes from people who don't understand the economics or who have decided that they are prepared to accept some delay for their flights while imposing large amounts of delay on the totality of other users.

As a very early and continuing proponent of congestion pricing at airports, I might be expected to enthusiastically support the DOT's proposal. It pains me that I cannot. Under the particular conditions of New York, there are reasons to be very concerned that the proposed project will not just fail and do economic damage, but will develop a political constituency that would make it very hard to undo. The reasons for thinking so are institutions and legislation already in place (discussed below) that don't make sense economically but, in concert with the proposal, will create even more perverse incentives. These incentives could make the congestion problem worse, not better. In the process, the concept of airport congestion pricing could be discredited as a way to promote economic efficiency. Instead, such prices would become just another tax—an inefficient source of politically useful funds.

We need to fix the impediments to successful congestion charges that exist at important airports around the country, and particularly at airports with extensive aircraft operations by foreign airlines and general aviation, before we implement congestion charges. If we can do so successfully, no one will cheer more loudly than I. But I am worried that we won't, but will go ahead with pricing anyway.

Legislated public monopolies control all air-carrier airports (or, in cases like New York, all such airports capable of supporting long-haul operations) in the most important metropolitan markets in the country. While in most places the effects of these monopoly city departments or public authorities are constrained by legislation and regulations that limit charges and the uses to which airport revenues can be put, that is not universally the case. An important handful of these monopolies—including the Port Authority of New York and New Jersey, along with Boston, Chicago, Seattle, San Francisco, Oakland and others—have “grandfathered” exemptions from many of those restrictions. In addition, the FAA and the Department of State have



interpreted our obligations under international bilateral aviation agreements as requiring them to exempt foreign carriers from congestion-relieving airport measures that might impede foreign carrier exercise of their bilateral rights at particular airports, even if the regulations apply non-discriminatorily to U.S. carriers. Finally, political and congressional advocates for general aviation and for service to smaller communities have carved out exceptions to previous congestion-limiting measures, designed to mitigate their impact on those constituencies and concentrate the impact on other U.S. airlines.

Does this mean that airport congestion pricing is a bad idea? Not at all. It's an excellent idea. But to make congestion pricing work in a way that promotes rather than impedes economic efficiency, several key problems must be addressed.

### 1. There must be no exemptions.

Exemptions for foreign carriers to accommodate bilateral concerns, or for general aviation aircraft, or for service to small communities will be both inefficient and discriminatory. There is no reason to believe that the exempted operations value the use of the runway more than those who are charged, so exempting them creates economic inefficiency. There is no reason to believe that if the exempted users are free to increase aircraft operations while those who are charged reduce theirs, that this backfilling by those exempted won't recreate congestion, thus further raising the congestion prices to U.S. airlines. This would create a vicious cycle until the final degenerate equilibrium is reached when U.S. airline operations, most of which are at least as valuable if not more valuable than those exempted, have been minimized, not optimized, and replaced by



less valuable uses. As well as being a great waste of scarce and valuable airport capacity, the discrimination against U.S. airlines would be obvious and should be unacceptable.

## 2. Airport monopolies must be addressed.

Most metropolitan areas have only one operator for all of their air-carrier airports, thus creating a monopoly even if there is more than one such airport; the New York metro area is a case in point. The most conspicuous exception is San Francisco/Oakland/San Jose, where inter-airport competition has contributed greatly to cost control and efficiency. Where there is an airport monopoly and the monopolist benefits financially from congestion charges, there is a financial incentive to maintain congestion, especially if runway capacity expansion is politically unpopular.

Ideally, one would break up those monopolies in metropolitan areas with more than one airport. But this is almost inconceivable. Since the monopolies have proved virtually impossible to regulate from the outside from both a political and monitoring standpoint, a mechanism must be found to link funds raised from congestion charges to expanding runway capacity or to providing substitutes that some identified users will choose. It cannot be emphasized enough that without such a mechanism, the incentives for most airport operators are all wrong, including incentives to encourage environmental objections, restrict output and create scarcity, thereby gaining revenue and reducing costs at the expense of the traveling public and the economy.

To accomplish the goal of no exemptions and especially to remove monopoly incentives, legislative changes are necessary before pricing is adopted.

These changes would be very difficult to make – they would involve the drastic modification of the statutory (grandfathered) exemptions that allow operators of airports in New York, Boston, Seattle-Tacoma, Portland, San Francisco, Oakland, and several other metropolitan markets to divert airport revenue for non-aviation uses.

## 3. Create a congestion-charge fund for capacity expansion.

To ensure that the result of congestion pricing is to expand, not restrict, capacity, it will be necessary to create a congestion charge fund that can be used only to relieve airport congestion by expanding runway capacity. This would prevent the airport operator where pricing is employed from using the new money for rental car complexes, terminal amenities that are on-airport but don't increase aircraft acceptance rates, airport access projects that are off-airport, as well as non-airport rapid transit projects that are currently permitted uses of airport-generated funds at grandfathered airports like Kennedy and LaGuardia. To create competition where there is now monopoly, it would be preferable if airports in different metropolitan areas where congestion charges were imposed could compete for money from the new fund by expanding capacity. Such legislation would be unpopular, but is necessary to avoid turning airport congestion into a "cash cow" for cities and public authorities. Off-airport expenditures that make capacity expansion possible, such as soundproofing homes or even to support schools and playgrounds would be permissible, but any off-airport expenditures would have to be linked directly to aircraft acceptance capacity expansion.

If we can't address these key points, in my view the rest of the economic policy arguments for congestion pricing become moot, and we shouldn't proceed for now. If runway congestion revenues can be used for other "worthwhile" and politically-popular public expenditures unrelated to relieving the limitations that generate them, then they are not "user charges," don't reflect congestion costs, and don't promote economic efficiency. Congestion charges would just become another economically inefficient output-distorting excise tax of a kind that economists universally deplore.

Some economists might object that even if capacity can't be expanded, congestion charges will direct valuable and limited capacity to its highest-valued use and improve social welfare. In an ideal world, this would be true. Under real-world political and economic conditions, it is not. Incentive problems from monopoly and the exemption from pricing of users like foreign carriers, general aviation, and services to small communities are so serious that it is virtually certain that a pricing system with such exemptions would not in fact maximize the economic value of airport use.

Beyond even those concerns, perhaps a much greater real-world danger is that creating a pile of money that can be expanded by increasing scarcity and be diverted to other uses will create vested interests in maintaining congestion, so as to fund projects that have constituencies and which cannot politically survive direct and transparent requests for funding. These interests will make it almost impossible to reverse the policy if it proves to be a mistake.

Perhaps the greatest concern of all is that in imposing congestion pricing at Kennedy and La Guardia without addressing the points above, the perverse incentives and results that are economically and politically distorted will discredit the concept of congestion pricing in aviation and in many other valuable uses. It will have been "tried" and will have "failed", a "fact" that will be thrown in proponents' faces whenever and wherever it is proposed under more propitious conditions.

Like any tool, congestion pricing works best in the right circumstances, which in this case means transparent and equitable pricing and efficient use of the funds generated. Until this can be assured at Kennedy and LaGuardia, congestion pricing will not be effective as a congestion-relief measure and may do harm. Meanwhile, the delays aren't getting any shorter for American air travelers.

## ABOUT THE AUTHOR

**Michael E. Levine** is Distinguished Research Scholar and Senior Lecturer at New York University School of Law. His unusual combination of experiences has involved him in the world of air transportation and its regulation as a senior airline executive, an

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