

# MAVCOM imposes significant financial penalties on AirAsia, AirAsia X and Malaysia Airports (Sepang)

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## Introduction

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### MAVCOM's disbandment

## Introduction

On 20 January 2020 the Malaysian Aviation Commission (MAVCOM) announced that it had imposed RM2 million fines on AirAsia Berhad (AirAsia) and its long-haul sister airline AirAsia X Berhad (AirAsia X). MAVCOM further announced that it had imposed an RM856,875 penalty on Malaysia Airports (Sepang) Sdn Bhd (MA Sepang), which is the operator of Kuala Lumpur International Airport (KLIA).

MAVCOM is the economic regulator of Malaysia's aviation industry and is empowered to impose financial penalties of varying degrees pursuant to the MAVCOM Act 2015.

## Breach of Consumer Protection Code

MAVCOM found AirAsia and AirAsia X to have contravened the Malaysian Aviation Consumer Protection Code 2016 (MACPC) from 10 August 2019 to 11 September 2019. The MACPC is a code developed by MAVCOM to ensure the protection of air travellers. Among other things, the MACPC specifies the minimum service levels and standards for airlines, which include the full disclosure of airfares and a prohibition on post-purchase ticket price increases.

The fines imposed on AirAsia and AirAsia X were for a contravention of Subparagraph 3(2) of the MACPC, which prohibits charging credit card, debit card or online banking processing fees separate from a base ticket fare.

In September 2019 both airlines were fined RM200,000 for contravening the same provision. Pursuant to Section 69(4) of the MAVCOM Act, in the event of a second case of non-compliance, MAVCOM can impose a financial penalty of 10 times the amount of the fine imposed for the first non-compliance. MAVCOM therefore opted to fine AirAsia and AirAsia X the maximum amount permissible for their latest infringement.

## Failure to meet Airports Quality of Service Framework

MAVCOM determined that MA Sepang had not met the standards specified in the Airports Quality of Service Framework (QoS) between 1 April 2019 and 30 June 2019. The QoS is a directive developed by MAVCOM to improve passenger comfort at airports and facilitate a better airport experience for airlines, ground handling operators and other airport users. At present, the QoS framework applies only to KLIA, which also includes the klia2 terminal.

Pursuant to Section 98A(3)(b) of the MAVCOM Act, in the event of non-compliance with a directive, MAVCOM can impose a financial penalty not exceeding 5% of the company's annual turnover from the preceding financial year.

MA Sepang's RM856,875 fine is the second time that the airport operator has been penalised for failing to meet QoS standards. In September 2019 MAVCOM fined MA Sepang approximately RM1.18 million for not meeting the specified standards.

## MAVCOM's disbandment

The above fines come at a time of considerable uncertainty for MAVCOM and the Malaysian aviation industry. In December 2019, the Ministry of Transport announced that MAVCOM would be

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disbanded and its functions would be transferred to the country's aviation security regulator, the Civil Aviation Authority of Malaysia.

It is anticipated that it will take at least six months for the MAVCOM Act to be repealed and for the Civil Aviation Authority of Malaysia Act 2017 to be amended. At present, it is unclear if MAVCOM's codes and directives (eg, the MACPC and the QoS) will be upheld once MAVCOM has been disbanded.

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