

What liability for the airport concessionaire?

Isabelle Lelieur

Partner - Chevrier Avocats

McGill University/PEOPIL Conference on
INTERNATIONAL AVIATION LAW

Dublin – October 2018

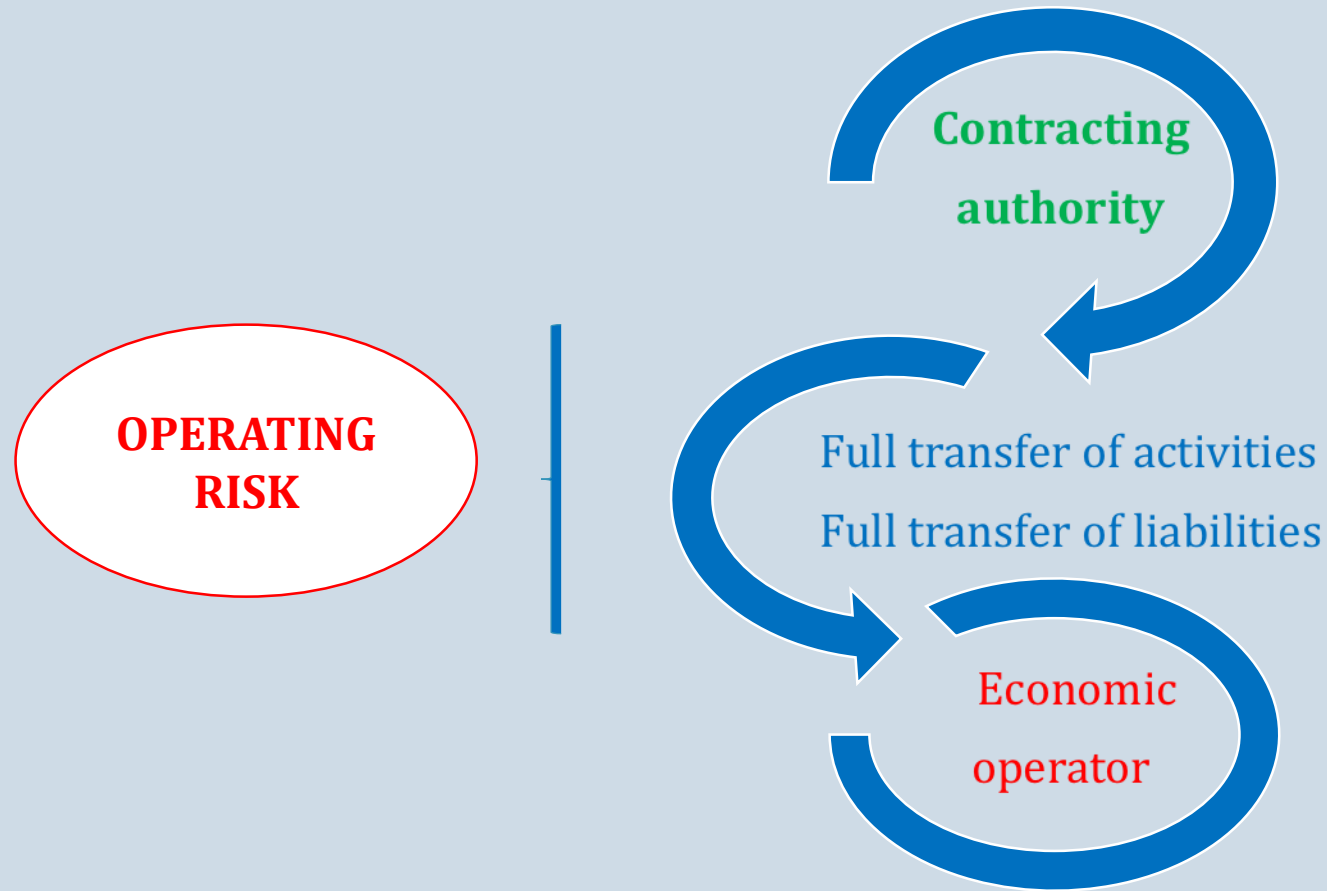
Liability of Airports, ANSPs and Maintenance Providers



The concession: a worldwide picture



The concessionaire “at risk”



An overall liability

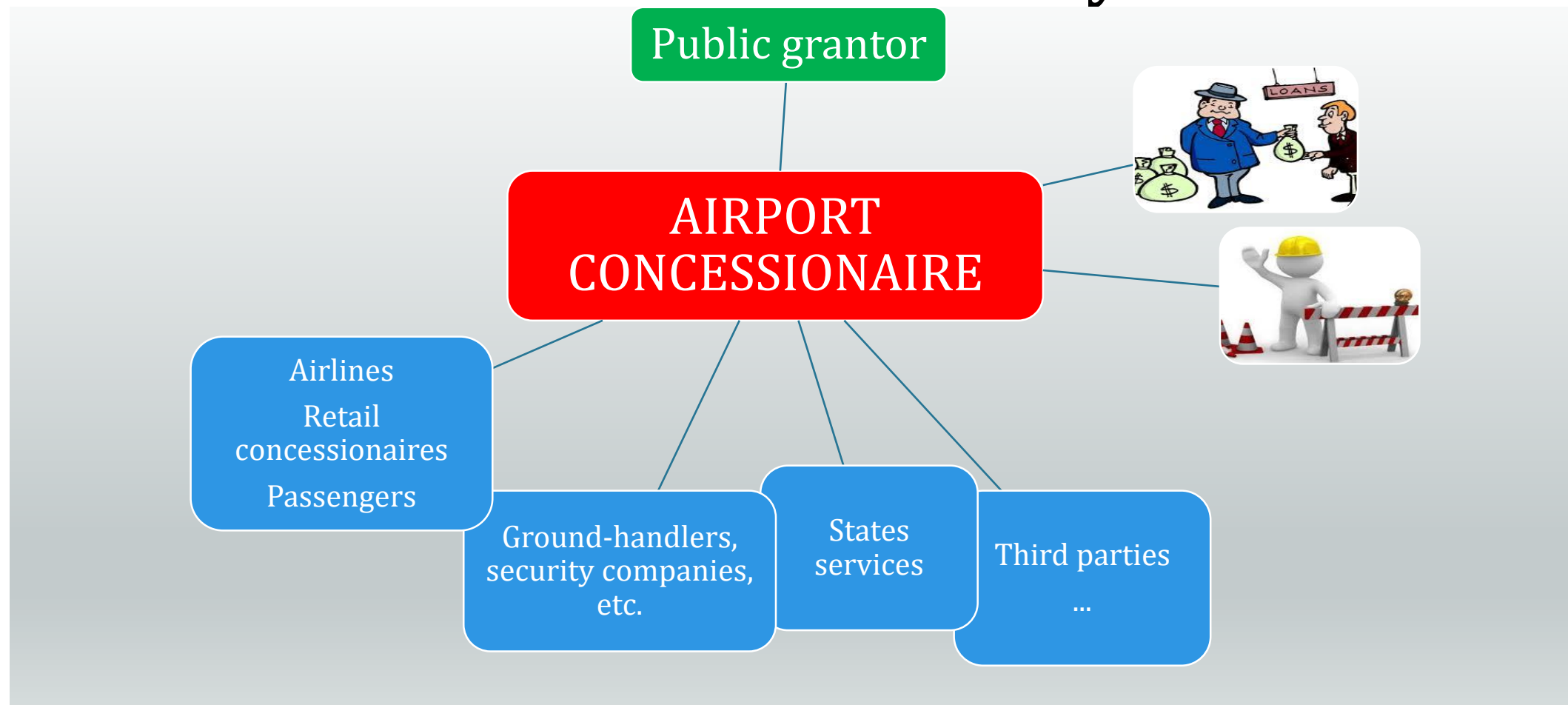


A systemic approach

- ↪ all airport stakeholders and the airport operator are inter-connected
- ↪ if one chain link fails, it impacts the whole chain

➔ *High legal exposure of the airport*

An overall liability



Typical allocation of responsibilities

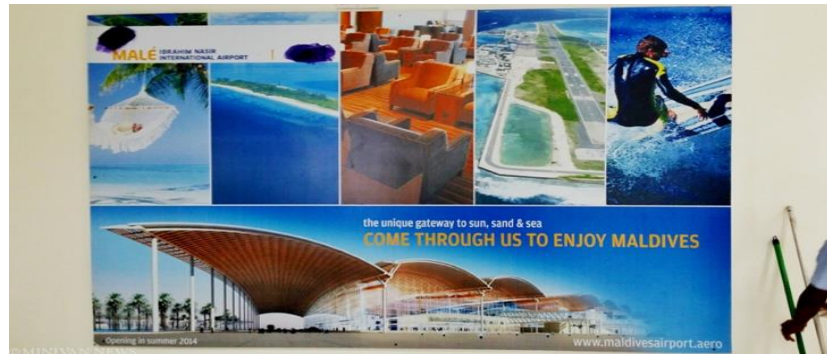
The grantor	The concessionaire
Owns the asset	Takes care of the asset and develops it
Defines and maintains the policies	Implements the policies
Sets the economic regulation	Optimizes the asset performance and shares the value
Provides a favorable contractual / institutional background	Raises private funding (debt and equity)
Adapts to external necessities and national constraints	Proposes solutions
Monitors and benchmarks the performance	Reports and analyses

High legal exposure in case of breach

Examples of abusive termination by the grantor



Philippine court sets \$510.3 M payment to airport builder Piatco



US\$271M paid by the government of Maldives in damages to Indian infrastructure firm, GMR

Insurance

Legal obligation

in most jurisdictions

Contractual obligation

- Mandatory insurance policies

i.e. Property liability insurance, Third-party liability insurance

- Warranties

Several beneficiaries

All concession risks, reasonably foreseeable, shall be covered

Reliable insurers of international standing are required



Thank you for your attention

Isabelle Lelieur

Partner

Avocat au barreau de Paris



CHEVRIER Avocats - 1 rue Brémontier - 75017 PARIS
Tél : 33 (0) 1 53 41 81 01 - Fax : 33 (0) 1 53 41 81 09
email : isabelle.lelieur@chevrier-avocats.com