



**Consultation Paper on the Implementation
of the Levy pursuant to Section 23 of the Aviation
Regulation Act, 2001**

CP 7/2007

15 October 2007

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1. PURPOSE OF THE CONSULTATION PAPER

The Commission for Aviation Regulation (the "Commission") has reviewed the application and effect of the current method of recovering the operating costs of the Office and has concluded that in the light of its experiences over the past five years of operation, there is a need to revisit its approach to recovering its costs from the Irish aviation sector. The purpose of this Paper is to set out the background to the current system and to outline the Commission's proposal for a revised fee and levy regime. The new method of cost recovery is designed to address the difficulties presented by the current approach and will implement a more comprehensive system to reflect the increased range of the Commission's responsibilities and the continuing requirement to fund the defence of legal challenges to its decisions.

1.2 Background

Section 23 of the Aviation Regulation Act 2001 ("the Act") provides that

"For the purpose of meeting expenses properly incurred by the Commission in the discharge of its functions under this Act, the Commission shall make regulations imposing a levy ("levy"), to meet but not to exceed the estimated Operating costs and expenses of the Commission... The Commission may make regulations to provide for the following—

- (a) the keeping of records and the making of returns by persons liable to pay levy,*
- (b) the collection and recovery of levy, and*
- (c) such other matters as are necessary or incidental to the procurement of the payment of levy."*

In 2002 the Commission consulted on how it might set a levy to recover its costs (CP4/2002) and published its final decision in August 2002 (CP5/2002).

Annual levies have to date all been set in the manner outlined in CP5/2002. The Commission's principal functions at that time were regulating airport charges and aviation terminal services charges (ATSC), implementing Ireland's obligations under EU slot allocation legislation, licensing Irish air carriers and ground handling service providers and the licensing/bonding of tour operators and travel agents in Ireland.

In the interim, the Commission has been assigned a new statutory consumer protection role in the area of complaint investigation and enforcement of air passenger rights and in that regard it now also has responsibility for two additional

EC Regulations. At the very least, therefore, the Commission needs to resolve how it is to fund its new functions in this area. The 2002 consultation on the levy did not consider this function. In regard to the new function, the Commission wrote to all airports and airlines serving Irish airports advising them that it would bring forward proposals to address the funding requirement for consumer protection.

There has been a high level of activity across all the Commission's functional areas since its establishment. In addition, the continuous need to anticipate and provide adequate funding for the defence of legal challenges to its decisions (six Judicial Review challenges to date, many concurrent and five by one Irish airline) has placed a heavy financial burden on the Commission's resources and has in part prompted this review of its cost recovery methodology.

In observing how the current arrangements worked over time the Commission has concluded that the current system has had the following effects:

1. The strict linkage of annual revenues and costs by function has resulted in significant and unpredictable variations in individual levies; and
2. The current methodology for cost recovery has resulted in some functions not generating sufficient revenues to cover their costs by a significant margin.

1.3 Summary of Proposals

1. To cover the costs associated with its new consumer protection role, the Commission proposes to introduce a new levy that it will charge to all airports (State and regional). The amount levied on each individual airport will be based on the proportion of passengers in the State flying through that airport in the latest year for which there are published passenger numbers . In this way, the Commission expects that the costs of its consumer protection function will ultimately be borne by all passengers in the State, and not just those flying through Dublin Airport, as has been the case in the last two years.
2. To avoid potentially large annual fluctuations in the levies charged to the DAA, IAA and Irish airlines to cover the Commission's costs of regulating airport charges, Aviation Terminal Services Charges and complying with EC slot allocation legislation, the Commission proposes to change the charging

- regime. The levies for these areas will be set with a view to expected costs, with no annual adjustments made where actual costs allocated to a function differ to the forecast costs allocated to that function. Only where there is a difference between the aggregate costs and revenues of the Commission in a given year will there be a subsequent adjustment, and this will be confined to the levy charged to all airports.
3. The Commission proposes increases in the fees charged to licensed air carriers and approved ground handlers to recover the directly attributed costs of these functions. This decision follows a review of how costs are recovered between functions. The Commission also proposes to increase fees for late and incomplete applications and late submission of financial statements charged to travel agents and tour operators.

The remainder of this document has the following structure.

Section 2 describes the levies and fees that the Commission currently charges.

Section 3 describes how the Commission proposes to estimate levies and fees in the future, and the rationale for changes to previous policy.

Section 4 presents the specific levies and fees that the Commission proposes charge in 2008.

Section 5 concludes by inviting interested parties to provide comments on these proposals.

An Appendix to the Paper provides more detail on how the Commission has allocated costs for the purposes of setting charges.

2. CURRENT POLICY AS PER CP5/2002

The Commission sets its budget annually. This budget then forms the basis of the levy to be charged for that year. Specific costs of the Commission are allocated to each of the six principal areas as set out in Section 5 of The Levy Consultation Paper CP4/2002, each of which will be dealt with below.¹

2.1 Airport Charges

Dublin Airport Authority (the DAA) is charged an annual amount based on the Commission's expected costs for regulating airport charges at Dublin Airport for each year. Subsequent levies consider, with a two-year lag, any under or over recovery of costs in any one-year.

The amount of the Levy is included when calculating the maximum level of airport charges that the DAA may charge users, so that the DAA is allowed to treat as a "pass through" the operating costs of this Office.

2.2 Aviation Terminal Services Charges

The Irish Aviation Authority (the IAA) is charged an annual amount based on the Commission's expected costs for regulating aviation terminal services charges at Dublin Airport for each year. Subsequent levies consider, with a two-year lag, any under or over recovery of costs in any one-year.

The amount of the Levy is included when calculating the maximum charges that the IAA may charge for terminal services, so that the IAA is allowed to treat as a "pass through" the operating costs of this Office.

The Levy is included when calculating the maximum level of aviation terminal services charges that the IAA may charge users.

2.3 Slot Allocation

The DAA and the Irish registered airlines that operate through Dublin Airport are each charged 50% of the Commission's estimated costs of implementing slot allocation at Dublin airport. The 50% of the cost born by the airlines is allocated amongst the Irish airlines in proportion to their air traffic movements at Dublin

¹ All Commission papers are available from the Commission's website www.aviationreg.ie

airport during the relevant period. Subsequent levies consider, with a two-year lag, any under or over recovery of costs in any one-year.

The charge levied on the DAA will be included when calculating the maximum level of airport charges that the DAA may charge users.

2.4 Ground handling

There are a number of fees that the Commission levies on ground handlers:

- (i) an application fee in the sum of €1,600 in respect of application for a new approval,
- (ii) an annual fee of €800 associated with the monitoring of certain compliance issues by approved handlers,
- (iii) a renewal fee of €1,600 (the annual fee is also charged in the year of the renewal, which occurs every five years), and
- (iv) a licence amendment fee of €800.

The intention has been that the fees should recover the administrative costs to the Commission of the approval process. These fees were increased in 2004, as previously the costs allocated to this function exceeded the revenues collected. Despite the increase, the revenues have continued to lag the costs allocated to this function.

2.5 Air Carrier Licensing

There are a number of fees that the Commission levies on licensed air carriers:

- (v) an application fee in the sum of €6,000 in respect of an application for a new Category A Air Carrier Operating Licence,
- (vi) an application fee in the sum of €2,000 in respect of an application for a new Category B Air Carrier Operating Licence,
- (vii) an annual fee of €3,000 associated with the monitoring of approved Category A air carriers,
- (viii) an annual fee of €1,000 associated with the monitoring of approved Category B air carriers,
- (ix) a renewal fee of €3,000 in respect of Category A air carriers, which is charged in the year of the renewal, which occurs every five years after the Licence has been granted. The annual fee will also be charged in the year of the renewal.

- (x) a renewal fee of €1,000 in respect of Category B air carriers, which is charged in the year of the renewal, which occurs every five years after the Licence has been granted. The annual fee is also being charged in the year of the renewal.

The intention has been that the fees should recover the administrative costs to the Commission of the licensing process. These fees were increased in 2004, as previously the costs allocated to this function exceeded the revenues collected. Despite the increase, the revenues have continued to lag the costs allocated to this function.

2.6 Travel Trade Licensing

Tour operators and travel agents pay fees in accordance with the Tour Operators (Licensing) Regulations, 1993 (S.I. No. 182 of 1993) (as amended) and the Travel Agents (Licensing) Regulations, 1993 (S.I. No. 183 of 1993) (as amended). The fees are imposed on the industry under Travel Trade Statutory Instruments. The existing fees are as follows:

Travel Agents:

New Applications	€ 600
Renewal of Travel Agent's Licence	€ 300

Tour Operators:

The fees will be determined on the basis of "licensable turnover" according to the following scale: -

<i>Licensable Turnover</i>	<i>Fee</i>
€635,000 or less	€ 300
€635,001 but not exceeding €1,270,000	€ 600
€1,270,001 but not exceeding €3,810,000	€1,550
€3,810,001 but not exceeding €6,350,000	€2,150
€6,350,001 but not exceeding €12,700,000	€3,100
€12,700,001 but not exceeding €25,400,000	€7,800
For every €1,270,000 or part thereof in excess of €25,400,000	€ 300
Additional fee for new applicant	€ 300

Travel Agent's application - licence wanted within 2 months	€ 625
Travel Agent's application - licence wanted within 1 month	€1250
Tour Operator's application - licence wanted within 2 months	€1250
Tour Operator's application - licence wanted within 1 months	€2500
Late Accounts Fees:	
Travel Agent:	€ 625
Tour Operator:	€1250
(If both licences held both fees are applicable)	
Licence Amendment Fees	
Travel Agent	€ 30
Tour Operator	€ 150

The intention has been that the fees should recover the administrative costs to the Commission of the licensing process.

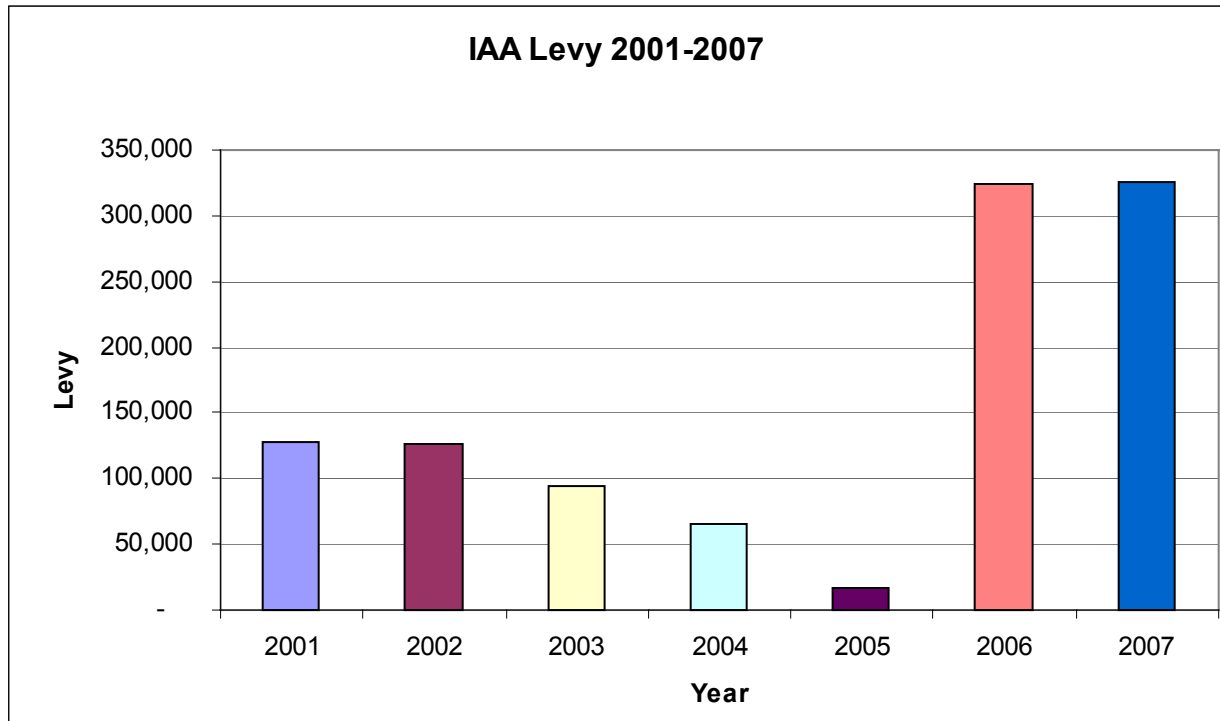
3. REFORMS TO THE GENERAL APPROACH

This section describes the Commission's proposed reforms to its methodology for estimating levies and fees, and the rationale for the proposed changes. The Appendix provides more details on what the Commission has included within "directly attributed costs".

3.1 Ending Volatile Levies

By design, costs of regulating airport charges and ATSC and implementing Ireland's obligations under EC slot allocation legislation have been fully recovered from the levies charged, subject to a lag. This outcome is achieved by annually adjusting the charges levied to include a reconciliation item that equals the net surplus or deficit between revenues raised and costs incurred for that functional area in the latest set of audited accounts.

This approach has resulted in volatile levies; the chart below shows the evolution over time of the levy for ATSC that the IAA pays. The volatility arises because forecast costs and the difference between actual and forecast costs (the reconciliation item) for each function can oscillate significantly between years. The Commission's policy of allocating overhead costs in proportion to the annual person hours of work in each function has magnified the size of the oscillations attributable to differences between forecast and actual costs of each function – if Commission staff are required to spend more time than expected carrying out duties relating to a given function this increases both the actual costs recorded for this function and also the share of actual overhead costs allocated to this function.



The Commission is keen to reduce the volatility of these levies. The Commission currently avoids annual revisions in the fees ground-handlers; air carrier licensees, tour operators and travel agents have to pay. Instead, it has set the fees to recover the expected costs in a typical year and not sought to adjust the fees annually, taking the view that over time any annual deviations from expected costs will be offset in other years. The Commission proposes to adopt the same policy for the levies it charges for regulating airport charges and ATSC and implementing Ireland's obligations under EU slot allocation legislation.

These levies will be set to recover expected average costs – the levies for airport charges and ATSC will not jump in years when there is a Determination, since additional expected costs in such years will be recovered over the life of the Determination. Nor will the levies be revised upwards in years when there is a Judicial Review, removing a major contributing factor in the past to the volatility in the levies for airport charges and schedules facilitation. Instead the Commission proposes to recover legal costs and expenses from a central levy, described below.

3.2 Recovering Directly Attributed Costs

Even though the intention is not to revise levies or fees each year (other than for the effects of inflation), the Commission will monitor the revenues individual fees or levies generate and compare these with the costs of the associated function. If there is an enduring discrepancy between costs and revenues in a functional area, the Commission will propose changing individual charges. In setting this year's Levy, the Commission has undertaken such an exercise for its ground handling, air carrier licensing, travel agent and tour-operator fees.

The costs of licensing air carriers and ground handlers have exceeded the revenues raised from fees charged to these licensees by a significant margin. This is despite the increase in these fees implemented in 2004, when an earlier review found that the licence fees were insufficient to cover the costs of these functions. The current fees are unlikely to generate sufficient revenues to recover even the most obvious examples of directly attributed costs, such as staff-related costs allocated according to time spent in each area. An increase in revenues from the air carrier licence and ground handler licence fees of 120% and 30% respectively would be required just to recover these directly attributed costs from these areas. Even larger fee increases would be necessary to recover some share of office overhead costs from these fees, increases sufficiently large that there would be serious concerns about the ability of smaller licensees to continue in that sector. Consequently, the Commission proposes to reset the fees it charges air-carrier and ground-handler licensees with a view to increasing the revenues it collects from these parties by 120% and 30% respectively.

Fees and levies for other functional areas will be set with a similar goal in mind of, recovering the expected directly attributed costs for a given functional area. For those functional areas where the Commission sets fees in advance of knowing how many parties will ultimately pay the fee, this requires a judgement about the likely revenues that these fees will generate. Past trends suggest that in terms of directly attributable costs fees from travel agents and tour operators are likely to yield revenue in excess of the costs directly attributed to licensing them. This current proposal replaces the conclusions an earlier initiative of the Commission to recover the costs of undertaking its travel trade functions, reached in June 2006 (Commission Paper CP4/2006, "A Proposal to increase Travel Agents' and Tour Operators' Licence Fees"). In that Paper, where the Commission – in line with the 2002 cost recovery policy - sought to secure recovery of its travel trade costs from

the regulated industry it was suggested that travel trade fees needed to increase to cover the costs of this work. The Commission's revised position, set out in this Paper, arises because the Commission is proposing to cease collecting a share of its overhead costs from travel agents and tour operators. The difference between forecast revenues and directly attributed costs for the travel trade licensing function is approximately equal to the revenues collected from late application and compliance fees, paid by travel agents and tour operators. The Commission is working with the industry to reduce the number of late applications and hopes that such fees will cease to be a significant source of revenue in the future. Consequently, while the Commission does not propose to change the annual fees it charges travel agents and tour operators, it does intend to reset, at a much higher level than in the past, fees that will be payable in the event of failure by licensed entities to comply with the licensing regimes i.e. late submission of applications or of accounting data or of other materials required by the Commission in order to issue licences or approvals. The intention behind these higher fees is not to raise any revenue for the Commission but rather to discourage late or non-submission of materials. As in the past timely submissions of materials will only incur normal fees.

3.3 New Levy on Airports

The proposed reforms outlined above would leave the Commission with a budgetary shortfall in most if not all years for the following reasons:

- there is no fee or levy in place to recover the directly attributed costs of implementing EC Regulations on air passenger rights;
- the proposed fees and levies will in future not recover overhead costs and legal fees;
- there is no proposed mechanism for reconciling differences between expected and annual total costs and revenues of the Office.

The Commission proposes a new levy on all airports in the State that addresses these concerns. The authority for implementing such a charge comes from the Act.

To date, the levy charged to the DAA has included the Commission's costs associated with protecting passenger rights, meaning that indirectly passengers using Dublin Airport have been paying for a service available to all passengers in the State. The Commission is keen for this situation to end, and for all passengers to share in the

costs of enforcing EC Regulation 261/2004. For practical reasons, it is not feasible to impose the charge on individual passengers directly. Consequently, the Commission proposes to charge all airports in the State a levy to recover these costs, pro-rating the charge according to the percentage of passengers in the State flying through each airport in the latest year for which there are published passenger numbers .

The Commission also proposes that all airports pay an additional “central levy” sufficient to cover the Commission’s overhead costs and legal expenses, adjusted for any aggregate surpluses or deficits that the Commission reported in its most recent set of accounts. Again, the central levy would be charged according to the proportion of passengers in the State using each airport.

Recovering overhead costs from all passengers in the State, albeit indirectly through a levy on airports, means that the ultimate intended beneficiaries from all of the Commission’s functions pay for these costs.

Adjusting the levy charged to airports to reconcile any aggregate budget deficit or surplus satisfies the Commission’s statutory requirement that it only recover revenues necessary to meet but not exceed its estimated operating costs and expenses. Because the reconciliation is limited to the total budget, rather than by functional area, the Commission believes that differences should be relatively small – to date, aggregate costs have been more predictable than the costs of individual functions.

4. PROPOSED FEES AND LEVIES FOR 2008

This section details the levels of fees and levies that the Commission proposes to collect in 2008. The Levy figures for 2008 are estimates, based on a provisional 2008 Commission budget, although the Commission expects that the final figures will be close to those provided below.

In future years, the Commission intends to alter these fees and levies in line with changes to the Consumer Price Index (CPI), with the exception of the central levy charged to airports which will be set annually so as to ensure that the Commission complies with the statutory requirement that it not collect more revenues than it needs to perform its functions.

4.1 Airport Charges

The levy charged to the DAA to cover the costs of regulating airport charges is estimated at €776,221 in 2008. This equals the expected directly attributed costs to the Commission of regulating these charges, including an allowance for 20% of what the Commission expects to spend on consultancy support over a five-year period (the expected length of Determinations).

This charge does not include any costs that the Commission expects to incur in legal challenges relating to its regulation of airport charges. The Commission will recover such costs from the central levy.

The cap on airport charges at Dublin Airport will be adjusted to allow the DAA to recover the costs of this Levy.

4.2 Aviation Terminal Services Charges

The levy charged to the IAA to cover the costs of regulating ATSC is estimated at €48,897 in 2008. This equals the expected directly attributed costs to the Commission of regulating these charges, including an allowance for 20% of what the Commission expects to spend on consultancy support over a five-year period (the expected length of Determinations).

The cap on ATSC will be adjusted to allow the IAA to recover the costs of this Levy.

4.3 Slot Allocation

The levy charged to the DAA and Irish-registered airlines to cover the costs of implementation of EC regulations relating to slot allocation is estimated at €326,058 in 2008. This equals the expected directly attributed costs to the Commission of regulating these charges. The charge does not include any costs that the Commission expects to incur in judicial challenges relating to its implementation of schedules facilitation at Dublin airport. The Commission will recover such costs from the central levy.

As previously, 50% of this levy will be collected from the DAA and 50% from the Irish airlines (in proportion to their air traffic movements at Dublin airport during the last year for which complete data is available).

4.4 Ground handling

The proposed fees to be charged to ground handlers in 2008 are set out below:

Application Fee	€1,800
Annual Fee	€1,800
Licence Amendment Fee	€ 800
Late fees	€2,000

The proposed fees are set with a view to recovering approximately €84,000 in 2008.

At the same time the Commission has taken this opportunity to change the structure of the fees. The Commission proposes ceasing to collect renewal fees. These have had the effect of creating uncertainty and volatility in the revenue that the Commission collects from ground-handling fees year to year, while also generating spikes in what ground handlers must pay to the Commission each year in fees, given renewal fees are only due once every five years. The statutory obligation on ground handlers to renew their licences every five years remains.

The Commission proposes to charge a late fee to approval holders who fail to submit to the Commission relevant financial information within six months of the company's year-end. Section 5 (1) of the European Communities (Access to the Groundhandling Market at Community Airports) Regulations, 1998 requires that

"Where the managing body of an airport, an airport user or a supplier of groundhandling services provides groundhandling services to third parties, that body shall separate the accounts of its groundhandling activities from the accounts of its other activities, and shall produce audited annual accounts in respect of its groundhandling activities which shall be submitted to the Minister (now the Commission) within six months of the end of the bodies accounting year."

4.5 Air Carrier Licensing

The proposed licence fees chargeable to air carriers in 2008 are set out below:

Application Fee	€7,500 for a new Carrier A Air Carrier Operating Licence €2,500 for a new Carrier B Air Carrier Operating Licence
Annual Fee	€7,500 for monitoring approved Category A air carriers €2,500 for monitoring approved Category B air carriers
Additional Approval Fee	€2,000
Late Fee	€2,000

The proposed fees are set with a view to recovering approximately €97,000 in 2008.

At the same time the Commission has taken this opportunity to change the structure of the fees. The Commission proposes ceasing to collect renewal fees.

It also proposes to charge a late fee to licensees who submit required financial information more than six months after year-end. Article 5(6) of Council Regulation No 2407/92 requires that

An air carrier shall provide to its licensing authority every financial year without undue delay the audited accounts relating to the previous financial year. At any time upon request of the licensing authority an air carrier shall provide the information relevant for the purposes of paragraph 5 and, in particular, the data referred to in part C of the Annex.'

The Annex to the Regulation referred to the information existing licensees are to provide for the purposes of assessing continuing financial fitness. It requires that audited accounts be provided "not later than six months after the year end of the relevant period"

Finally, the Commission will charge an additional approval fee to users that make a notification under Article 5(3) of Council Regulation No 2407/92 requiring the

examination of a business plan and to users that require processing of a waiver application under Article 8(3) of Council Regulation No 2407/92.

4.6 Travel Trade Licensing

In June 2006 the Commission published CP4/2006 "A Proposal to Increase Travel Agent's and Tour Operator's Licence Fees" which set out a higher level of fees to be charged to Travel Agents and Tour Operators. Following discussions with the industry, approval was sought for these revised fees from the Minister for Transport and Minister for Finance. In 2007, while awaiting sanction for these fees, the Commission undertook a wider review of its revenues, which has resulted in the present paper. The revised proposals in this paper, in particular, the intention to collect in fee income only the directly allocated costs of each functional area, no longer requires the Commission to proceed with all of the proposals set out in CP4/2006.

A revised proposal is set out below. In summary, the Commission now proposes to apply an unchanged fee for licence application or renewals but to raise (as proposed in CP4/2006) fees for late applications or late receipt of financial accounts to levels intended to discourage lateness.

The proposed licence fees chargeable to travel agents and tour operators in 2008 will be:

Travel Agents:

New Applications	€ 300
Renewal of Travel Agent's Licence	€ 300

Tour Operators:

The fees will be determined on the basis of "licensable turnover" according to the following scale: -

Licensable Turnover	Fee
€635,000 or less	€ 300
€635,001 but not exceeding €1,270,000	€ 600
€1,270,001 but not exceeding €3,810,000	€1,550
€3,810,001 but not exceeding €6,350,000	€2,150
€6,350,001 but not exceeding €12,700,000	€3,100
€12,700,001 but not exceeding €25,400,000	€7,800
For every €1,270,000 or part thereof in excess of €25,400,000	€ 300
Additional fee for new applicant	€ NIL
Travel Agent's application - licence wanted within 2 months	€2000
Travel Agent's application - licence wanted within 1 month	€4000
Tour Operator's application - licence wanted within 2 months	€2000
Tour Operator's application - licence wanted within 1 months	€4000
Late Accounts Fees:	
Travel Agent:	€2000
Tour Operator:	€4000
(If both licences held, both fees are applicable)	

The proposed fees are set with a view to recovering approximately €450,000, assuming that there are no late applications. The proposed annual fees are unchanged from the current levels.

In future years, the Commission proposes that the fees and the thresholds relating to licensable turnover should change in line with changes in Consumer Price Index (CPI).

4.7 Consumer Protection

The levy charged to State and regional airports to cover the costs of implementing EC Regulations associated with air passenger rights is currently estimated at €507,645 in 2008. This equals the estimated directly attributed costs to the Commission of protecting passenger rights under regulation 261/2004. The charge does not include any costs that the Commission expects to incur in legal enforcement. The Commission is treating such costs as overheads, which it will collect from the central levy.

The levy will be charged to airports in the following proportions, based on their share of total passenger numbers at the nine airports in 2006:

Airport	Passengers, 2006	% passengers, 2006
Dublin	21,196,000	72
Shannon	3,639,000	12
Cork	3,011,000	10
Knock	633,329	2
Kerry	392,400	1
Galway	248,972	1
Waterford	82,826	<1
Donegal	56,533	<1
Sligo	34,310	<1
Total	29,294,370	100

Due to the fact that in 2006 and 2007 the Commission did not have a levy on regional airports, the DAA's levy was increased to recover the costs to the Commission of its consumer protection function. In 2008 only the Commission will adjust the levies charged to each of the airports so as to collect these costs from all airports and not just Dublin airport. This will involve increasing the charges levied on all airports except Dublin airport, where there will be an offsetting decrease.

The cap on airport charges at Dublin Airport will be adjusted to allow the DAA to recover the costs to it of this charge, insofar as the costs are those to Dublin airport (and not Cork or Shannon airports).

4.8 Central Levy

The estimated central levy to be charged to State airports is estimated at €2,338,859 in 2008; this corresponds to 8 cents per passenger using an Irish airport in 2006. This is sufficient to make up the shortfall between the Commission's expected total costs in 2008 and the income the Commission expects to collect from levies and fees on each of the functional areas, and to address a brought forward budget deficit of €381,779.

The levy will be charged to airports in the same proportions, based on their share of total passenger numbers at the 9 airports in 2006, shown in the table above.

The cap on airport charges at Dublin Airport will be adjusted to allow the DAA to recover the costs to it of this charge, insofar as the costs are those accruing to Dublin airport (and not Cork or Shannon airports).

4.9 Levy and Fee Revenues to be charged by entity in 2008

The following table summarises the total levies and fee revenues that the various classes of undertaking will be charged under the Commission's current proposals. For the airports, the table has summed the amounts due for consumer protection and the central levy. In the case of Dublin Airport, there are additional charges relating to the levy for regulating airport charges and the levy for implementing EC legislation on schedules facilitation.

Entity	Levy 2008
DAA	2,828,572
IAA	58,897
SLOTS - by Airlines	163,029
Shannon Airport	353,598
Cork Airport	292,576
Knock Airport	61,540
Kerry Airport	38,129
Galway Airport	24,192
Waterford Airport	8,048
Donegal Airport	5,493
Sligo Airport	3,334
Ground Handler Licensees *	83,492
Air Carrier Licensees *	96,606
Travel Agent and Tour Operator Licensees *	450,000
Total	4,122,507

* Revenues from licence fees

5. THE NEXT STEPS

The Commission invites submissions from interested parties on the issues set out in this Consultation Paper. Submissions should be sent to

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They should reach the Commission no later than **12.00 noon November 15th 2007**. The Commission's standard procedure for the treatment of submissions will apply; this is set out in Commission Paper CP1/2001.

The Commission will consider all submissions received before finalising its plans on how the 2008 Levy will be implemented. Once the Commission has made a decision the Commission will proceed to make the Levy Regulations, in accordance with section 23(3) of the Act. Interested parties wanting to receive automatic notification of updates regarding the setting of the Levy should provide the Commission with an e-mail address.

The Commission expects to finalise and set the 2008 Levy no later than **15th December 2007**.

APPENDIX: COST ALLOCATION PRINCIPLES

This Appendix provides details on how the Commission has allocated costs to functions and overheads for the purposes of setting the Levy. This exercise is separate to the Commission's approach to allocating costs and revenues for the purposes of publishing its annual accounts; the Commission will continue to publish its accounts using the same methodology it has used in the past.

Directly attributed costs

Staff costs have been allocated to the different functions following a judgement about what share of time different staff positions will spend working on tasks relating to each function. For example, the payroll and related costs of the Commissioner are allocated between the functions in the following proportions: 50% to airport charges, 10% to consumer protection, 5% to each of ATSC, schedules facilitation, and travel trade, 2.5% to both ground-handler and air-carrier licensing, and 20% to overheads (general administration). These estimates have been informed by data collected since the inception of the Office, and judgments about how the focus of the Commission's work efforts might evolve in the future.

Staff costs have been defined to include salaries, pensions, and PRSI payments, and also the costs associated with training and attending conferences. The rationale for treating training and conference costs as staff costs is that they are incurred by the Commission to maintain a workforce with the appropriate skills and industry knowledge to perform the functions of the Commission; the budgets for training and conferences are set as a percentage of payroll costs.

Consultancy fees and related costs (such as their travel costs) have been allocated to the functions – regulating airport charges and ATSC, and implementing schedules facilitation – where the Commission expects to incur such costs on a regular basis. The likely level of consultancy costs for each function has been estimated with reference to the Commission's past experience. The levies for airport charges and ATSC include an amount equal to one-fifth of what the Commission expects to spend on economic consultancy fee over a five-year cycle, rather than the economic consultancy fees that the Commission expects to incur in 2008 (which is a lower number because there is no Determination planned next year in either area). As

discussed in the main body of the text, the Commission is keen for these levies to evolve smoothly over time.

Travel costs have been directly attributed to the different functions.

Promotional costs associated with informing passenger of their rights have been directly attributed to the consumer protection function.

Other Office Expenses

The remaining costs have been included in the central levy calculation, and represent overheads and legal fees.

The overheads include a share of staff costs, corresponding to the share of staff costs attributable to general administration of the office, e.g. preparing accounts.

The Commission proposes not to treat legal fees as directly attributed costs. This avoids the need to form a view on the expected future frequency and cost of judicial reviews by function. The number of such reviews to date is high (six) the cost of even one review can be substantial and the Commission must provide for these costs upfront. Several years can potentially elapse before costs can be recovered in a successful case. The Commission is legally obliged to defend these cases and will continue to seek its costs in successful cases from parties that bring cases against it. It should be noted that in a taxation of costs exercise the unsuccessful litigant is not – in accordance with normal practice - obliged to pay all the Commission's costs associated with a particular case i.e. merely the primary legal costs and fees, therefore the continuous litigation of the Commission's main decisions does result in costs borne by all the industry and therefore the travelling public. For budgetary purposes the Commission will need to proceed on the basis that legal costs have to be recovered via the Levy, making adjustments to future levies if and when it is able to recover its costs through the Courts.