





## FOREWORD

### 2001-2009

The Commission for Aviation Regulation reached its tenth anniversary in February 2011. This Foreword offers a retrospective view of aspects of our work during that time.

In the first years of the office, the priority was to place and secure a price cap on the aeronautical charges of Dublin, Cork and Shannon airports. The first price cap was made in 2001 and was successfully defended in a costly and protracted legal action in the High Court taken by Aer Rianta (now the DAA) which concluded in June 2003. In 2004, the legislative mandate of the office was revised. Previously, the Commission regulated charges at the three largest airports, but since 2004 Dublin airport alone is price-capped. Furthermore, the original requirement was to set a price cap to facilitate the development and operation of cost-effective airports which would meet user requirements. Since 2004, there are three objectives. The price cap must now facilitate the efficient and economic development and operation of Dublin Airport which meet the requirements of current and prospective users; protect the reasonable interests of those users; and enable DAA to operate and develop Dublin Airport in a sustainable and financially viable manner. During the preparation of each airport price cap and the 2007 interim review, a policy direction was received from the Minister for Transport.

In the early years of the Commission, we were also engaged in implementing the range of licensing functions transferred from the Department of Transport, along with the task of deciding the runway scheduling status at Irish airports. While the justification for price regulation and licensing should derive from their contribution to consumer protection, the role of the office was explicitly widened in this direction in the middle of the decade through an enforcement role for air passenger rights.

The buoyancy of the Irish economy and a thriving aviation industry had by the middle of the decade begun to be reflected in signs of congestion at Dublin Airport. As runway congestion increased, the Commission, following analysis and consultation, changed the slot scheduling regime from a voluntary arrangement to one where airlines were obliged to make changes required by the scheduler.

At this time, the Commission also had to consider how the price regulatory system should address the need to expand the capacity of Dublin airport. Beginning in early 2007, shortly after it received the DAA's investment plan for a second terminal and related infrastructure ('T2'), we published a series of papers related to the T2 investment plan. In particular, in January 2007, a Commission Paper (CP1/2007) laid out a number of key questions and emphasised the need for all parties to understand the risks associated with a major capital project. Subsequently, the Commission finalised its approach to the DAA's investment plan which was implemented in the 2009 price determination. That determination was also the first to create an explicit link between the level of the price cap and the quality of service provided at Dublin airport. Since 2009, should the DAA fail to meet various service quality targets, the annual price cap may be lower by as much as 4.5%. The Commission monitors compliance with the quality targets, and adjusts the price cap as necessary.

In addition to carrying out statutory functions, my priority as Commissioner was to make time to review and where possible improve the way we carry out our work. To that end, we substantially increased the analytical scope of our regulatory determinations, thoroughly reviewed our oldest (travel trade) licensing regime and implemented changes within our power, and recommended improvements to the scope of ground-handling regulations. If the office is given sufficient resources, we would contribute to a reconsideration of the other EU aviation rules (e.g. runway slot and air carrier regulations).

2008 brought a sudden and sharp weakening in the air travel business. Twenty-five travel companies that participate in the bonding scheme administered and operated by the Commission have since closed down. The Commission processed the resulting claims for financial redress and in 2008 organised 11 special flights to repatriate passengers.

With the economic downturn, the staff of the office responded in a serious way to the requirement to reduce costs. Our total expenditure has been close to static in my time as Commissioner, at or just below €4m per annum until 2009, before falling below €3m in 2010. To contain costs while maintaining services, we redeploy staff between different teams to match resources to workload and to seek to prevent long backlogs from arising. In addition, in 2009 and 2010, we developed an online licensing and consumer complaint facility that has allowed our licensing teams to expand our analysis of licence holders, without requiring an increase in staffing, and to allow our consumer rights team to seek to manage spikes in passenger complaints without an unreasonable backlog developing.

Thus, in the past decade, the Commission made three full and two interim determinations on airport charges and two determinations on the IAA's terminal charges; we have responded to the reports of four aviation appeal panels; we have been the subject of 12 legal challenges mainly judicial reviews and we initiated 10 successful prosecutions for unlicensed trading in the travel industry. Each year we have issued hundreds of licenses to the travel industry and since 2005 we have enforced a passenger rights regime annually for members of the public. With the support of temporary agency staff, we have processed since 2008 over 7,000 claims for financial reimbursement, to a total of €9.8m, and repatriated about 1500 passengers, arising from the closure of 25 travel agencies or tour operators. Selected data from the work of the Commission over the past decade is contained in Appendix 3 of this report.

## 2010

In 2010 our work again included dealing with a legal challenge to the 2009 price determination at Dublin airport; on this occasion, the Commercial Court refused leave to proceed to the applicant and awarded the Commission its costs. We also responded to a report by an Appeal Panel, set up by the Minister for Transport, which found sufficient grounds to refer seven aspects of the 2009 determination back to the Commission for review. In response, the Commission made a number of variations to the price cap that increased the maximum airport charge at Dublin airport over the five-year period to 2014 by an average of €0.10 per passenger (in 2009 prices), or about 1 percent. Two

consultation papers dealing with aspects of airport regulation were also issued by the Commission in 2010, as well as an initial paper with the purpose of consulting on how the Commission should set a new price cap for the IAA. Last year the Commission also conducted a tender to choose a new schedules facilitator when the current contract expires in 2011. During 2010, we issued 280 travel trade licences and at the end of last year there were 18 holders of air carrier licences issued by the Commission and 50 approved ground-handlers. Nearly 250 eligible complaints were received regarding air passenger rights, and thousands of queries from the public were dealt with, especially following the disruption to European air space caused by the volcanic ash problem. Following difficulties in renewing travel agents' licences earlier in the year, the Commission issued two Notices in December, clarifying the timetable and licensing process that would be applied in 2011.

### Possible Conclusions

I draw four conclusions from the experience of the past decade.

First, except for travel trade licensing, the functions of this office derive from European Union law. Not all regulatory and licensing initiatives are equally valuable as consumer-protection measures, and some might not produce a net benefit. It is essential that the stock of existing regulations, and proposals for new rules, be subject to rigorous scrutiny and, where justified, a quantitative estimate made of net benefits relative to other uses of the resources that are or would be consumed. A hard-headed stock-taking of the regulatory 'acquis' could make a worthwhile contribution to national economic recovery. For its part the Commission has sought to stimulate as well as to contribute to such exercises.

Second, regulatory cost management depends in part on the legal and judicial environment, where Ireland may be something of an international exception. Abroad, court challenges to economic regulatory decisions are relatively uncommon (e.g., the UK airport regulator has been challenged once in the courts in 25 years) whereas in the ten years of the Commission's existence, it has been subject to eight judicial review challenges, seven launched by the same entity. I believe that it would be beneficial generally for regulation to be conducted in a more constructive and less adversarial fashion. Ireland should seek a 'regulatory settlement' whereby industries that can convincingly be demonstrated to run better under regulation, are made subject to a regulatory regime that stands a reasonable chance of acceptance and engagement by all concerned. Recourse to the courts should then be very exceptional.

Third, it may be possible for regulation to contribute to the quality of investment planning. For instance, I believe the Commission's approach in the 2007 interim review to the proposed second terminal at Dublin airport has stood the test of time. Following careful analysis of the DAA's investment plan, the Commission concluded that the proposed T2 was larger than might be necessary. This judgment has not been shown to have been mistaken. But at the time, only the independence of the office allowed it to resist demands from most quarters for a simple pass-through of the investment costs

into the price cap. Instead, the Commission decided to allow the DAA to recover the costs of this investment, but to set three caveats:

- Charges would increase to fund the facility only after it had been built; current users would not pay for a facility to benefit future users;
- The charging profile would seek to smooth the impact on users, so that users at all dates contribute roughly the same towards the cost of T2, rather than users in earlier years having to pay a significantly larger amount; and
- Users would be protected from having to pay should T2 prove to be larger than was needed. Only if passenger numbers using the two terminals exceed 33 million passengers per annum would the DAA be able to recover the full costs of the investment; otherwise the DAA will only be able to recover some of the costs.

In 2009, the Commission allowed a significant increase in charges once T2 was ready to open, due more to the substantial fall in passenger traffic after 2008 than to the increase in capital costs, given the commitments made in 2007.

Finally, consolidation of public agencies, including regulators, continues to be a significant issue in the political world and generally. But starting with the current stock of agencies and considering plans to close or restructure them may not necessarily be the best approach. An alternative would be to draw up a list of the functions that happen to be carried out across the public sector, estimate which are of current value to the public, and then decide what agencies and bodies are needed to carry out the functions that are to continue. On this approach, the institutional result, as well as the net public benefit, could be quite different to taking existing agencies as the starting point and then considering restructuring and consolidation.

The assessment of the net impact on the Irish public of the existence of a public agency is something that must be undertaken outside that office; we cannot be the judge in our own affairs. Nonetheless, for an office with an allowed staff complement of 22 persons, recently reduced to 18, with three of those positions currently vacant, I consider the above output to be a very respectable record, for which the credit, needless to say, goes to my current and former colleagues.



Cathal Guiomard  
Commissioner

## PRICE REGULATION

### The Commission's Role

The Commission:

- sets a price cap limiting the total revenues per passenger that the DAA can collect from airport charges at Dublin airport;
- sets a price cap limiting the total revenues that the IAA can collect from aviation terminal services charges at Dublin, Cork and Shannon airports;
- has to approve charges airports levy on airlines to fund services for passengers with reduced mobility; and
- has to approve any changes to the fees charged by the airport authorities at Dublin, Cork and Shannon airports for access to installations needed to provide ground handling services.

The Commission has no power to regulate other charges, including:

- car park charges at airports, and more generally non-aeronautical charges (except those levied for access to installations needed for ground handling services at Dublin, Cork and Shannon airports);
- en route air traffic charges the IAA sets; and
- charges at Knock, Kerry, Galway, Waterford, Donegal and Sligo airports.

### Airport Charges

In the first half of 2010, much of the Commission's work relating to price regulation concerned challenges to its 2009 determination governing airport charges. The 2009 annual report, in outlining work for 2010, had signalled this possibility.

In February 2010, Ryanair sought leave from the Commercial Court for a judicial review of the determination. Ryanair's application was heard before Mr Justice Peter Kelly in the Commercial Court division of the High Court. The Commission lodged a number of affidavits opposing Ryanair's application on the basis that the Ryanair's grounds for a review would be more appropriately heard by a regulatory appeals panel. The DAA, as a notice party to the case, also opposed the leave application. The application by Ryanair was refused leave by the Court. The Commission was awarded its costs.

Separately the Minister for Transport established a regulatory appeal panel to hear the appeals of Ryanair, Aer Lingus and DAA concerning the determination. The parties were able to appeal individual aspects of the determination. Ryanair raised nine grounds for appeal, Aer Lingus five, and the DAA four; in some cases an individual ground for appeal itself raised a number of different objections to the determination. The Commission provided factual submissions to the panel in response to each of the appeals but did not comment on their merits.

The Appeal Panel was free to make its own arrangements for considering the appeals. It decided not to invite other parties to comment on appeals: each appellant made its case to the Panel as to why the grounds they had identified warranted a referral without any other party present. The Panel considered that sufficient grounds were established in seven instances and these were referred back to the Commission to review; two from the Ryanair appeal, one from the Aer Lingus appeal and four from the DAA appeal.

The Commission undertook a two-month review of its determination following these referrals. An initial consultation paper was published on 8 June 2010 inviting parties to give their views as to whether the Commission should vary or affirm its determination. In response to CP1/2010 the Commission received submissions from the following nine parties: Aer Lingus, Chambers Ireland Air Transport Users Council (ATUC), Cityjet, the DAA, Dublin Chambers of Commerce, the International Air Transport Association (IATA), the Irish Business and Employers Confederation (IBEC), the Irish Tourist Industry Confederation (ITIC), and Ryanair. The Commission also gave parties an opportunity to comment on the responses received. Only the DAA and Ryanair provided such comments. The Commission met with the three parties that appealed its 2009 Determination to discuss their subsequent responses.

For all seven issues referred back, there were respondents who thought that the Commission should vary its determination and respondents who thought it should not. Having considered the points referred back to it by the appeal panel and the submissions received in response to consultation, the Commission decided to vary the 2009 Determination. It varied the forecast of commercial revenues and capital costs that it relied on for the purposes of estimating the price cap having reconsidered:

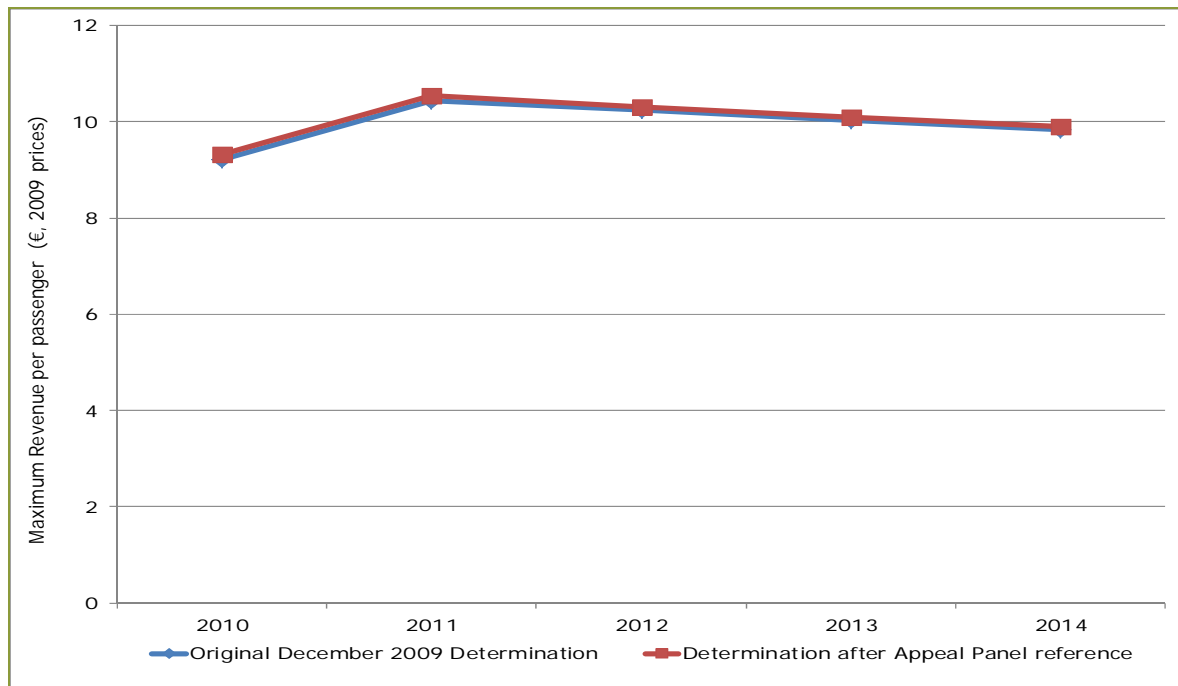
- The incremental retail revenue attributable to T1X;
- The treatment of PRM revenues;
- Its treatment of 2009 deflation in reconciling outturn capital costs from 2006-2009 with the 2005 determination allowance;
- The disallowance of TFL and Pier D fit-out costs; and
- The disallowance of certain Pier D costs.

The Commission decided not to vary its Determination to reflect the referrals relating to differential pricing and a claim of increased overheads associated with over-specified T2 retail space.

The decision to vary forecasts for commercial revenues and capital costs had the effect of increasing the maximum charge that may be levied at Dublin airport over the five-year period 2010-2014 by an average of €0.10 per passenger (in 2009 prices). CP2/2010 provides more details on the decision.



Figure 1.1: Cap on Airport Charges before and after Appeal Panel reference



*Note: Calculations control for Terminal 2 opening on 18 November 2010 and assume that the DAA satisfies all service quality targets. .*

On 30 November 2010 the Commission for Aviation Regulation published two consultation papers which may have implications for airport charges regulation. The first invited comments on whether the Commission should continue considering revenues and costs of non-aeronautical services at Dublin airport when deciding on the maximum level of airport charges. This issue – a choice between “single till” and “dual till” regulation – has long attracted interest in discussions about how airport charges should be regulated. At the time of the 2009 determination, the Commission committed to initiate a review of this approach in 2010 after both the DAA and Ryanair indicated an interest in considering a change from the current single-till approach used by the Commission.

The second consultation paper published in November invited comments on whether and in what form the DAA and IAA should prepare regulatory accounts. These regulatory accounts are distinct from the statutory accounts the two bodies produce, and relate to those activities that are subject to price regulation. The consultation paper invites parties to consider what purpose they think such accounts might usefully serve (and indeed whether they are even necessary), and whether the current formats agreed in 2001/2 are still appropriate almost 10 years later.

Responses to both papers are not due until 23<sup>rd</sup> March 2011. How the work subsequently proceeds will depend in part on the responses the Commission receives. It is possible that the Commission will conclude that no change of approach is necessary.

## Aviation Terminal Services Charges

On 29<sup>th</sup> October 2010 the Commission published an Issues Paper on terminal air traffic control charges levied by the IAA. The Issues Paper was the first output in the process leading to a new determination on air traffic control terminal service charges at Dublin, Shannon and Cork Airports from 2012. The purpose of the Issues Paper was to consult with all parties on how the Commission should proceed to determine the next price cap for the IAA. There are a wide range of issues that can potentially influence the final Determination and the Commission sought to hear from all parties on these matters at an early stage.

Some key themes raised in the Issues Paper included:

- How developments under the Single European Sky II package, including recent regulations on charging and performance schemes, may affect the determination;
- Risk sharing between the IAA and its users when traffic outturns differ from forecasts;
- The treatment of over and under recovery against the allowed cap;
- Operating cost efficiency; and
- How capex underspend during the current determination period (2007-2011) should be treated

The IAA, IATA and Aer Lingus responded to this Paper. The Commission is currently reviewing these submissions.

It is also seeking to understand from the Department of Transport how recent European regulatory developments might affect regulation of aviation terminal service charges in Ireland. As recently as December 2010, a new regulation was passed in Europe - Commission Regulation (EC) No 1191/2010 – which appears to have direct implications for the level of aviation terminal service charges that the IAA may levy.

It is possible that these developments will affect the forthcoming determination, including the planned timetable leading to the next determination illustrated in the box below. The Commission will maintain an up-to-date timetable on its website. The final determination, which must be made by end-2011, is currently planned for September.

**Table 1.1: Timetable for the 2011 aviation terminal service charges determination**

Date	Milestone
February 2011	IAA to provide latest out-turn and forecast data on operating and investment costs and demand. IAA to provide a copy of its capital investment programme for the next five years
April 2011	Publication of draft determination
June 2011	Responses to draft determination
September 2011	Publication of determination

As referred to in the section on airport charges, in November 2010 the Commission published a consultation paper inviting comments on the form of regulatory accounts that the IAA and the DAA should prepare, if any. For the first time, the Commission placed the IAA's regulatory accounts on its website in 2009.

### Compliance and Quality of Service Monitoring

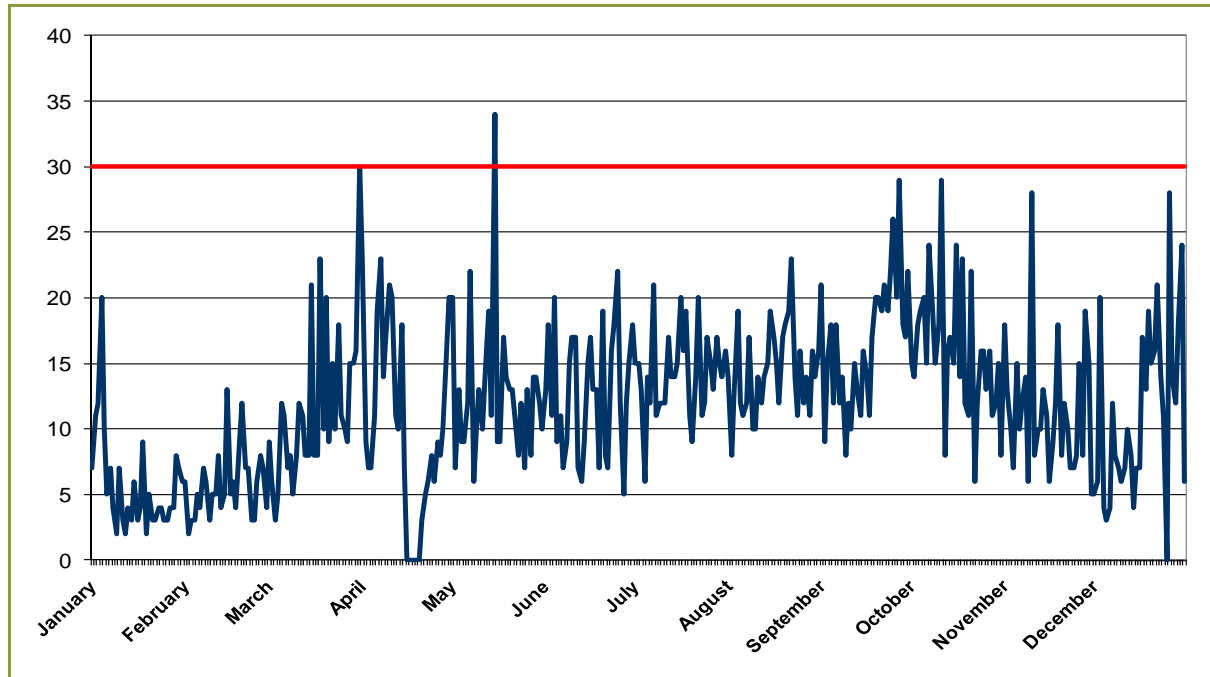
Throughout 2010 the Commission monitored the compliance of both the DAA and IAA with their respective price caps.

In September 2010, the Commission published a compliance paper verifying that the IAA had complied with the price caps for 2009. The report also published an up to date forecast of the expected price cap for 2010 and guidance on a possible cap in 2011. The uncertainty as to a price cap in a given year arises because the current formula specifying the revenues that the IAA may collect from aviation terminal services varies according to the actual total volumes at those airports in the year. It is only once total traffic is known, at the end of the year, that the Commission will know for certain the cap on revenues that the IAA is allowed to collect for that year. The Commission maintains an up to date price cap estimate on the ATSC page of its website which is periodically adjusted as new information becomes available.

The 2009 Airport Charges Determination was the first to include an explicit link between the level of the price cap and the quality of service provided at Dublin airport. Should the DAA fail to meet various service quality targets, the annual price cap may be lower by as much as 4.5% (3.5% in 2010). There are twelve measures of service quality in the monitoring scheme for which there is a financial incentive for the DAA to meet the target. The DAA is responsible for collecting the data under each of these measures, although the Commission has sought to satisfy itself that the reported data can be relied

upon. This has included occasional visits to the airport to record independently security queue times.

**Figure 1.2: Maximum daily security queues (in minutes) at Dublin airport in 2010**



Source: DAA.

In 2010 there were two instances when the DAA failed to meet its targets for service quality: in the first quarter it failed to achieve the performance target for survey results measuring satisfaction with its communication/telecom/e-facilities; and on 15<sup>th</sup> May 2010 a security queue exceeded the thirty minute performance limit. As a result the price cap in 2010 was reduced by just over 0.1%. All other service quality targets during 2010 were met.

The Commission produced two quality of service reports during 2010. The first report covered the period January to May and the second reported on performance from July to October. A report in February 2011 gave the results for the period October to December 2010. The Commission will publish such reports quarterly in the future, about six weeks after the quarter to which they relate ends.

## Regulated Price Caps and approved charges

**Table 1.2: Summary of regulated price caps**

Type of price cap	2011 price cap
Airport charges at Dublin airport	Should not exceed €10.43 per passenger at Dublin Airport <sup>1</sup>
Aviation terminal services charges (ATSCs) at Dublin, Cork and Shannon airports	Should not exceed €3.86 per tonne of maximum take-off weight of departing aircraft <sup>2</sup>

In 2010 the Commission did not receive any applications from the DAA for approval of charges in relation to 'access to airport installations' (also known as ATI charges) at Dublin, Cork or Shannon airports. The levels of charges that have previously been approved, updating for inflation where appropriate, are given below.

**Table 1.3: Summary of approved charges**

Type of access charge (ATI)	Approved ATI charges as of 1 January 2011
Dublin Airport annual check-in desk fee Flexible hourly rental check-in desk	Annual fee: €24,539 per desk per annum Hourly rental: €29 per hour (or part thereof)
Shannon Airport annual check-in desk fee Flexible hourly rental check-in desk	Annual fee: €9,238 per desk per annum Hourly rental: €23 per hour (or part thereof)
Cork Airport annual check-in desk fee Flexible half-hourly rental check-in desk	Annual fee: €12,815 per desk per annum Hourly rental: €5.13 per hour (or part thereof)
CUTE fees at Shannon Airport	€0.30 per embarking passenger
CUTE fees at Cork Airport	€0.24 per embarking passenger

<sup>1</sup> Assuming that all service-quality targets are met.

<sup>2</sup> Assuming that aggregate demand, measured in tonnes of maximum take-off weight, is 7,367 million tonnes in 2011.

## Work Programme for 2010

The primary focus for the work programme on price regulation in 2011 will be on making a determination governing aviation terminal service charges at Dublin, Cork and Shannon airports. As indicated earlier in this section, the Commission commenced this work stream in the latter half of 2010 when it published an Issues Paper and invited comments. It remains to be seen how the implementation of various European directives affect this work.

Two other projects that may involve significant work relate to consultations that the Commission commenced in 2010 concerning regulatory accounts and the choice of regulatory till. How the Commission proceeds will depend on the responses to those two papers that it received, but both have the potential to become significant projects.

The Commission will continue to monitor compliance with existing price caps. It will also provide quarterly updates on the results for various quality of service metrics included in the current Determination governing airport charges at Dublin airport.

Goal	Actions to achieve goal
Make a new determination capping aviation terminal service charges at Dublin, Cork and Shannon airport	<ul style="list-style-type: none"> <li>➤ Publish a draft determination and go to consultation in May</li> <li>➤ Make a final determination in autumn</li> </ul>
Monitor compliance with existing price caps	<ul style="list-style-type: none"> <li>➤ Publish DAA annual compliance report</li> <li>➤ Publish IAA annual compliance report</li> <li>➤ Publish quarterly reports on service quality measures at Dublin airport</li> </ul>
Review and, if appropriate, change regulatory reporting requirements	<ul style="list-style-type: none"> <li>➤ Review responses to consultation paper on regulatory accounts (CP5/2010) and proceed accordingly</li> </ul>
Re-examine the existing approach to making determination for Dublin airport charges, identifying those areas, if any, where changes might be required	<ul style="list-style-type: none"> <li>➤ Review responses to consultation paper on regulatory till (CP4/2010) and proceed accordingly</li> </ul>

## SLOT ALLOCATION

### The Commission's Role

The Commission:

- Designates the scheduling status of Irish airports under the Slot Allocation Regulations, and
- Where necessary, appoints a schedules facilitator or co-ordinator.

### Coordination activities at Dublin Airport

Dublin airport remains the only slot-coordinated airport in Ireland. The Commission designated it as slot co-ordinated in February 2007.

The airport coordinator is Airport Coordination Limited (ACL), appointed by the Commission. ACL has day-to-day responsibility for slot coordination at Dublin airport. It interacts daily with air carriers as well as attending bi-annual meetings at Dublin airport. The Commission also attends these meetings.

ACL's contract expires in March 2011. Consequently, in 2010 the Commission undertook a procurement exercise to select an airport coordinator for the next five years. As part of the process, the Commission consulted with the airlines, the DAA and the IAA. Ultimately, the only party to submit a tender was ACL.

The two scheduling seasons for Dublin airport are Winter (31<sup>st</sup> October to 26<sup>th</sup> March) and Summer (27<sup>th</sup> March to 30<sup>th</sup> October). The 2011 Summer schedule will be finalised in March or April 2011.

In both seasons, the number of movements at Dublin airport fell again in 2010 relative to the 2009 movements. This is illustrated in the two tables below.

**Table 2.1: Air traffic movements at Irish airports: Winter 2010**

Airport	Total aircraft movements		
	Winter 2009	Winter 2010	% difference
Dublin, Cork and Shannon Airports	78,704	71,148	-10%
Dublin Airport	61,996	57,757	-7%
London Heathrow	193,762	190,055	-2%
London Gatwick	96,939	90,331	-7%
Stansted Airport	59,607	50,660	-15%
Manchester Airport	58,333	57,934	-1%

*Note: The Winter 2010 season ran from October 2010 to March 2011. 'Total aircraft movements' refers to the start of the scheduling season.*

**Table 2.2: Air traffic movements at Irish airports: Summer 2010**

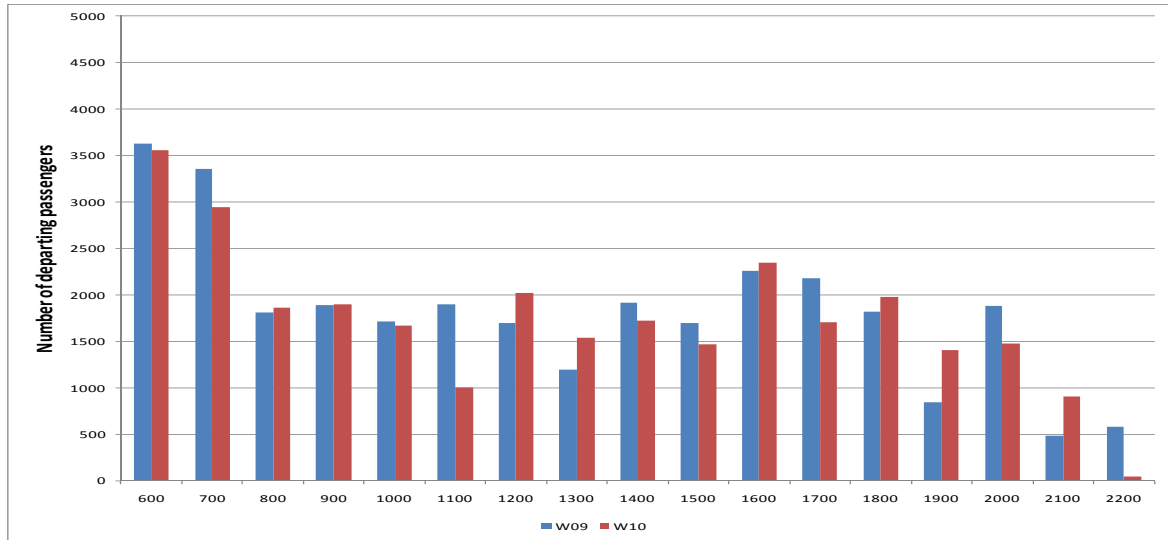
Airport	Total aircraft movements		
	Summer 2009	Summer 2010	% difference
Dublin, Cork and Shannon Airports	135,020	124,693	-8%
Dublin Airport	104,572	101,425	-3%
London Heathrow	278,274	289,304	4%
London Gatwick	163,643	165,210	1%
Stansted Airport	99,555	98,239	-1%
Manchester Airport	108,722	104,870	-4%

*Note: The Summer 2010 season ran from March 2010 to October 2010. 'Total aircraft movements' refers to the start of the scheduling season.*

Nevertheless, the volume of departing passengers in peak hours of the day continues to remain relatively high. The chart below show that the passenger flow in the busiest hour has barely changed. The point-to-point business models of the two largest carriers at Dublin airport (Aer Lingus and Ryanair) rely on high levels of aircraft utilisation, and consequently give rise to an early morning peak.



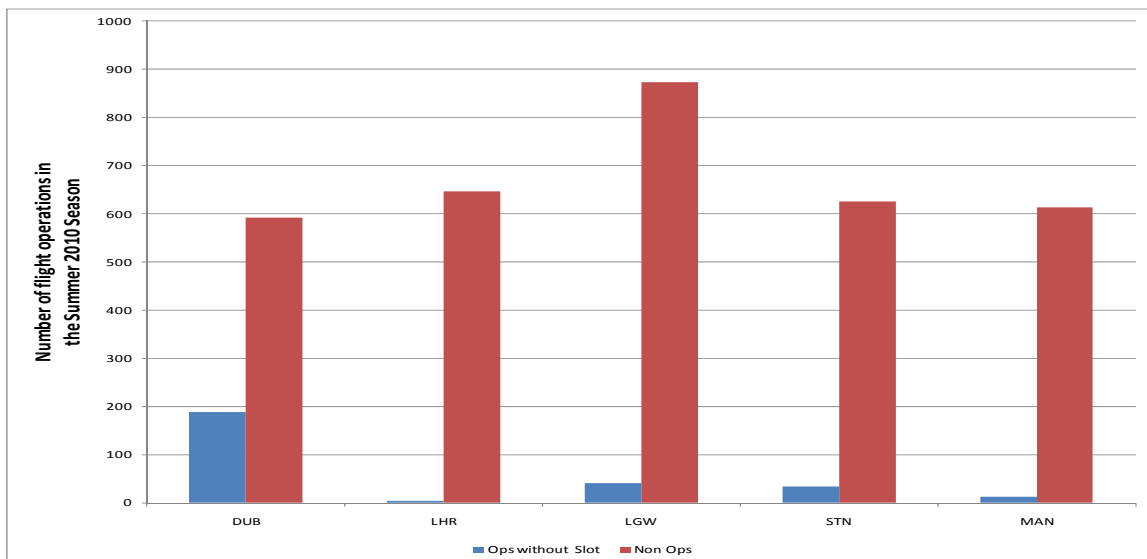
**Figure 2.1: Dublin airport total demand across the day (passengers), Winter 2010 (W10) versus Winter 2009 (W09)**



### Enforcement actions

Dublin airport continues to experience more instances of air carriers operating without a slot than various UK airports with similar regimes. The chart below shows the number of flight operations in the 2010 summer season when air carriers operated “off slot” or chose not to operate in an allocated slot at Dublin, three London airports and Manchester.

**Figure 2.2: Operations without a slot and non-operation of slot – Summer 2010**



As mentioned in previous Annual Reports, the Commission does not have enforcement powers. It is limited to determining the airport's scheduling status and, where necessary, appointing a co-ordinator. The co-ordinator can "take back" or not re-allocate grandfathered slots to carriers that break the allocation rules. In contrast, in the UK there is a formal slot sanctions regime with penalties on parties that break the allocation rules.

### Work Programme for 2011

Unless the Department decides to introduce a sanctions regime, the Commission does not currently envisage 2011 requiring any significant amounts of work over and above its general role ensuring that the current regime works as intended.

Goal	Actions to achieve goal
Ensure continued smooth operation of the current scheduling regime at Dublin airport	<ul style="list-style-type: none"> <li>➤ Attend the bi-annual Dublin Airport Co-ordination Committee meetings</li> <li>➤ Interact with ACL to monitor traffic trends at Dublin airport</li> </ul>

## AIR CARRIER LICENSING

### The Commission's Role

The Commission is responsible for issuing the Operating Licence which authorises the holder to engage in the transport by air of passengers, mail and/or cargo for remuneration and/or hire.

In order to be eligible for an Operating Licence, an applicant must have its principal place of business in Ireland. It must also satisfy certain ownership and business requirements, including financial fitness and insurance cover. The Commission monitors compliance with these requirements on an ongoing basis and every two years conducts a more in-depth review.

There are two categories of licence-holder:

- Category A permits transport of passengers, cargo and/or mail on aircraft with 20 seats or more;
- Category B permits transport of passengers, cargo and/or mail on aircraft with fewer than 20 seats or less than 10 tonnes maximum take-off weight.

The Commission is not responsible for safety regulation. This is a function of the Irish Aviation Authority (IAA). Air carriers involved in commercial air transport operations who require an Operating Licence must first secure an Air Operators Certificate (AOC) which is issued by the IAA.

### Licensing Activity and Compliance

At the end of 2010, 18 airlines held licenses from the Commission, the same number as in 2009. During the year, the Commission issued one new licence and extended a second, while another operator ceased trading. Two operators were subject to a two-year review – both retained their Operating Licence. All licence holders were monitored for compliance with the relevant legislation concerning insurance cover, ownership and control, and financial fitness.

During 2010, the Commission issued a new Category B licence to Bond Air Services (Ireland) Limited, whilst Premier Aviation Limited voluntarily surrendered its Category B licence citing a fall in the demand for helicopter charter operations in Ireland.

Eight of the 18 airlines licensed in Ireland at the end of 2010 held Category A licences permitting them to carry passengers, cargo and/or mail on aircraft with 20 seats or more. The remaining ten operators held Category B licences, permitting them to carry passengers, cargo and/or mail on aircraft with fewer than 20 seats and/or less than ten tonnes maximum take-off weight. The table below lists all licensed Irish airlines at 31<sup>st</sup> December 2010, which is kept up to date on the Commission's website.<sup>3</sup>

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<sup>3</sup> [http://www.aviationreg.ie/Passenger\\_Guidance/Default.216.html](http://www.aviationreg.ie/Passenger_Guidance/Default.216.html)

**Table 3.1: Operating Licence Holders**

Category A Licence Holders	Category B Licence Holders
➤ Aer Lingus Limited	➤ Bond Air Services (Ireland) Limited
➤ Air Contractors (Ireland) Limited	➤ CHC (Ireland) Limited
➤ Airlink Airways Limited T/A Private Sky	➤ Executive Helicopter Maintenance Limited
➤ CityJet Limited	➤ Gaelic Helicopters Limited
➤ Comhfhorbairt (Gaillimh) T/A Aer Arann	➤ Galway Aviation Services Ltd T/A Aer Arann Islands
➤ Ryanair Limited	➤ Irish Helicopters Limited
➤ Starair (Ireland) Limited	➤ Metro Helicopters Limited
➤ Westair Aviation Limited	➤ Premier Executive Jets Limited
	➤ Premier Helicopters Limited
	➤ Sky West Aviation Limited ( <i>Licence in suspension</i> )

The Commission examined and approved an application from Air Contractors (Ireland) Limited to commence passenger transport operations under the operating licence already held by the company which, prior to that, was involved solely in cargo operations. Early in 2011, the Air Operator's Certificate of Sky West Aviation Limited, which had been in suspension, was revoked by the Irish Aviation Authority. In line with the relevant provisions of EU legislations, the Commission also revoked the Operating Licence of the company.

### Aer Arann Examinership

On 26<sup>th</sup> August 2010, an Interim Examiner was appointed by the High Court to Comhfhorbairt (Gaillimh) T/A Aer Arann. The company's financial performance in 2008 and 2009 had been impaired by the economic downturn and financial turmoil, high oil prices and unfavourable foreign exchange movements. The company responded with a cost reduction programme and a franchise agreement with Aer Lingus. However, following the closure of airspace due to volcanic ash, restructuring and new investment were sought through the Examinership process. An Examiner was formally appointed on 8<sup>th</sup> September 2010. Work commenced on a Scheme of Arrangement to be agreed with the company's creditors, and to secure equity investment to ensure the survival of the company. On 5<sup>th</sup> November 2010, the High Court confirmed the proposals of the Examiner for a Scheme of Arrangement and the company exited Examinership.

The Commission was a Notice Party to these proceedings. Regulation (EC) 1008/2008 sets out the powers of the licensing authority in relation to the continuation of a licence in the context of financial difficulties. In such circumstances, the Commission must carry out its own examination of the company's finances and on that basis review the status of the operating licence. The Commission's position was that it had no objections to the

Examinership and would await the relevant financial information required to carry out its role. That exercise was completed during 2010 and did not result in any change to the status of the Operating Licence held by Aer Arann.

As a result of new investment in the company, the ownership structure of Aer Arann was examined by the Commission under the ownership and control requirements of the Regulation. This review commenced following the conclusion of the Examinership process. Further information requirements were sent to the company in order to assist with this review which was ongoing at the end of 2010.

### **Other developments**

The launch of the Commission's online licence application system was delayed, and is now planned for 2011. The Commission agreed a process with the IAA to document and share information. An updated procedures document for the granting, suspending and revoking of operating licences was published in 2010 and work was done extending the current guidance note on ownership and control issues<sup>4</sup>.

The Commission also participated in a study by consultants, Steer Davies Gleave, for the European Commission looking at possible options to improve passenger protection in the event of airline insolvency, which has yet to be published.

### **Licence Discs**

At the end of 2010, the Commission issued display licence discs to all small aircraft and helicopter operators, as part of a public awareness campaign.

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<sup>4</sup> [http://www.aviationreg.ie/fileupload/Image/AL\\_OandC\\_Note\\_Oct08.pdf](http://www.aviationreg.ie/fileupload/Image/AL_OandC_Note_Oct08.pdf)

**Sample of the Commission’s Licence Disc**



**Work Programme for 2011**

The Commission plans to extend its online licensing system to air carriers in 2011.

Goal	Actions to achieve goal
Introduction of online licensing facility	<ul style="list-style-type: none"> <li>➤ Complete “user acceptance testing” and launch new system in 2011</li> </ul>
Ensure licence holders meet requirements of legislation	<ul style="list-style-type: none"> <li>➤ Requirement on certain Category A licence holders to provide regular updates on financial fitness to the Commission</li> <li>➤ Compliance checks in relation to the ownership and control requirements</li> </ul>
Promote greater understanding of the licensing regime amongst licence holders and the general public	<ul style="list-style-type: none"> <li>➤ Publish enhanced guidance note on the ownership and control requirements</li> <li>➤ Issue licence discs for all helicopter and small aircraft operators</li> </ul>

## GROUNDHANDLING APPROVALS

### The Commission's Role

The Commission grants approvals to companies engaged in ground-handling activities at Dublin, Cork and Shannon airports. Ground-handling broadly comprises all those services required by an aircraft between landing and take-off, e.g. marshalling aircraft, loading/unloading, refuelling, baggage handling, passenger handling and aircraft maintenance. An airline may choose to provide services for itself (self-handling) or contract with another company (third-party handling), whether an airline or a ground-handling firm.

A company must obtain prior approval from the Commission before engaging in ground-handling operations. Approvals are issued for a period of five years. Holders must satisfy certain conditions such as financial fitness, having the necessary insurance, and technical competence. After five years, ground-handling approvals can be renewed following completion of a renewal process.

The Commission has no responsibility for dealing with passenger queries about lost or damaged baggage or more generally to arbitrate in instances of consumer dissatisfaction with a ground-handler.

### Approvals and Compliance

At the end of 2010, there were 13 airlines approved to provide ground-handling services (self-handlers) and 37 other approved suppliers (or third party handlers) operating at Dublin, Cork and Shannon airports. This was three fewer than the number of approved operators at the end of 2009. Of the self-handlers, four are also approved to provide services to third parties. During 2010, the Commission granted two new self-handling approvals and two new third-party approvals. Seven companies voluntarily surrendered their approvals: one self-handler and six third-party handlers. Approvals are for a period of five years. During 2010, groundhandling approvals held by 16 companies expired and were successfully renewed by the relevant airline/handling companies.

During 2010, the Commission granted a new self-handling approval to Etihad Airways PJSC and to Bond Air Services (Ireland) Limited, and a new third party handling approval to Aer Lingus Limited and to DHL Supply Chain (Ireland) Limited. Irish Helicopters Limited voluntarily surrendered its self-handling approval as the company was no longer operating at Dublin Airport. Third party handling approvals held by five companies were also voluntarily surrendered for a range of different reasons: three companies were no longer engaged in any groundhandling activities required to be approved by the Commission (Airport Ticketing and Travel Service Limited, Greencaps Limited and Nayak Aircraft Service Netherlands BV), one company did not renew its groundhandling approval (ATRS Limited), and another third party approval holder closed its Dublin operation (FBO Dublin Limited). Finally, Bond Air Services (Ireland) voluntarily surrendered its third-party approval to allow a self-handling approval to be issued following the granting of an Irish Operating Licence to the company.

Groundhandling activity in 2010 is summarised in the following table.

**Table 4.1: Breakdown of Groundhandling Activity**

	Self-handlers	Third party handlers
Situation 1 January 20010	12	41
New approvals issued	2	2
Revocations	0	0
Voluntary surrender of approval	1	5
Approval expired and not renewed	0	1
Situation as at 31 December 2010	13	37

The Commission ensured that all ground-handlers provided proper financial information in 2010. Ground-handling companies providing services to third parties submitted separated accounts. All ground-handlers provided updated insurance details to show they had the required insurance cover. A list of ground-handling operators approved by the Commission at 31 December 2010 is set out in the table below.

**Table 4.2: Approved Groundhandlers as at 31<sup>st</sup> December 2010**

Third party handlers	Self-handlers
ACA Air Cargo Associates Limited	Aer Lingus Limited*
Aer Lingus Limited	Air Contractors (Ireland) Limited*
Air Atlanta Aero Engineering Limited	Bond Air Services (Ireland) Limited
Air Contractors (Ireland) Limited	CHC Ireland Limited
AirOps	CityJet Limited
Alpha Flight (Ireland) Limited	Comhfhorbairt (Gaillimh) T/A Aer Arann
Delta Airlines Dublin Limited	Delta Airlines Inc.
Derichebourg Multiservices Limited	Etihad Airways PJSC
DHL Express (Ireland) Limited	Jet2.com Limited
DHL Supply Chain (Ireland) Limited	Ryanair Limited
Dublin Aerospace Limited	Starair (Ireland) Limited
EFG Inflight Limited	Thomson Airways Limited*
Fingal Aviation Services Ltd.	Westair Aviation Limited*
Gate Gourmet Ireland Limited	
Hoyer Ireland Limited	



## Ground-handling Approvals

Third party handlers	Self-handlers
ICTS (UK) Limited	
Knights Cleaning Services Limited	
Monarch Aircraft Engineering Limited	
Oceanbridge Groundhandling Ltd (Universal Aviation)	
OCS One Complete Solution Limited	
Servisair (Ireland) Limited	
Shannon Aerospace Limited	
Shell Aviation Ireland Limited	
Signature Flight Support Dublin Limited	
Signature Flight Support Shannon Limited	
Sky Handling Partner (Cork) Limited	
Sky Handling Partner (Shannon) Limited	
Sky Handling Partner Limited	
South Aer Services Limited	
Specialist Airport Services (Ireland) Limited	
Tedcastles Aviation Fuels Limited	
Thomson Airways Limited	
TNT Express (Ireland) Limited	
United Parcel Service of Ireland Limited	
US Alliance Flight Support Limited	
Westair Aviation Limited	
Worldwide Flight Services (Ireland) Limited	

*(\*) Air carriers who are approved to engage in self-handling and also to provide groundhandling services to third parties.*

The Commission responded to a request for information from the European Commission on the operation of the current national approval system.

### Work Programme for 2011

Goal	Actions to achieve goal
Continue to licence and monitor Groundhandling companies	<ul style="list-style-type: none"> <li>➤ Scrutinise financial and insurance information provided annually by existing Approval holders to ensure compliance</li> <li>➤ Renew expiring 11 groundhandling approvals as appropriate</li> </ul>

## TRAVEL TRADE LICENSING

### The Commission's Role

Tour operators and travel agents are required to be licensed and bonded to sell or offer to sell overseas travel originating within the State to destinations outside the State.

The Commission:

- licenses travel agents and tour operators selling overseas travel;
- administers a bonding scheme for travel agents and tour operators;
- processes claims for refunds and repatriation in the event of a travel agent or tour operator going out of business;
- investigates instances of alleged illegal trading and, when necessary, prosecutes illegal traders.

The Commission's role does not encompass:

- licensing travel arrangements for domestic travel in Ireland;
- handling consumer complaints about travel agents, tour operators, hotels, luggage or airlines;
- handling complaints about advertising (except where it relates to possible illegal trading).

### Licensing Activity and Compliance

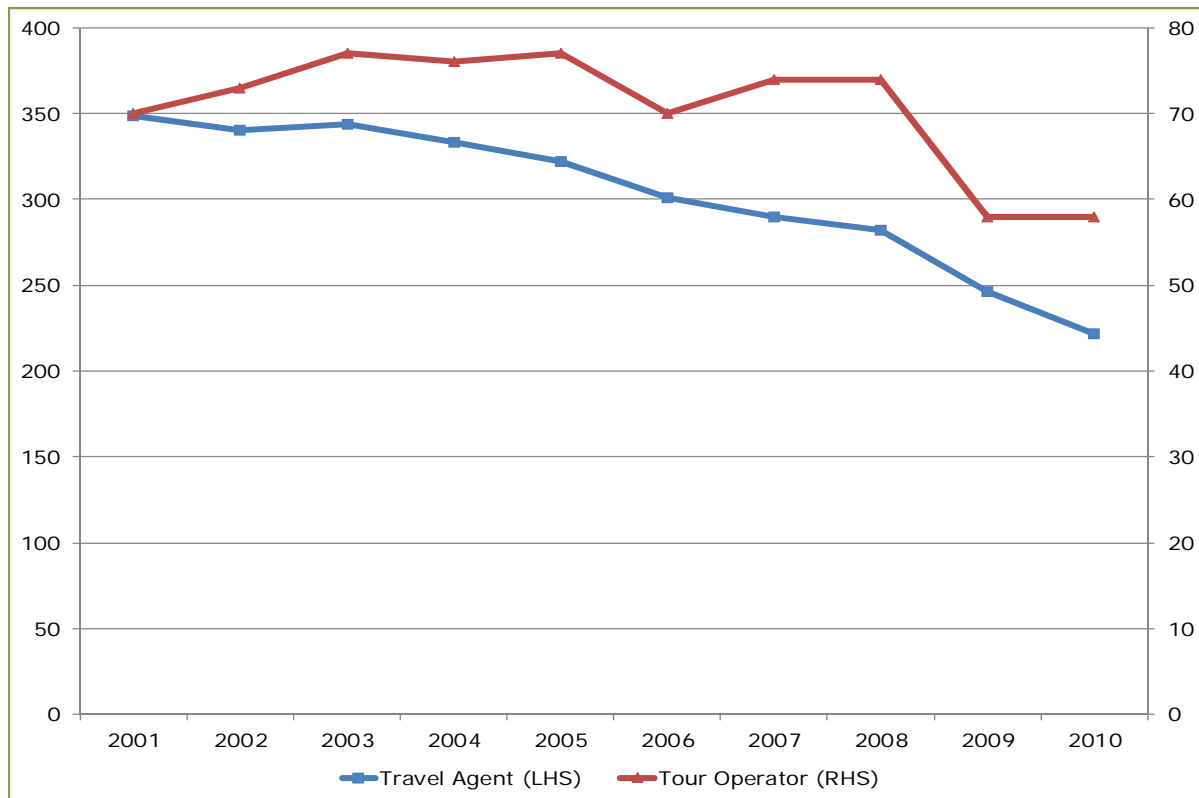
In 2010, 280 firms were granted licences by the Commission, compared with 304 in 2009 and 356 in 2008, a reduction of 76 or 21% in two years. Despite this overall downward trend, licenses continue to be granted to new entrants, 17 in 2010. Table 5.1 details entry and exit from the industry in 2010.

As part of its licensing work, staff of the Commission visited 17 firms in 2010. Companies' records were inspected and their technology and business systems assessed.

**Table 5.1: Breakdown of travel-trade licensing activity in 2010**

	Travel Agents	Tour Operators	Total
Licence-holders as at 1 Jan 2010	246	58	304
New licences	9	8	17
Non – renewals	-30	-8	-38
Travel trade company failures	-3	0	-3
Licence-holders as at 31 Dec 2010	222	58	280

**Figure 5.1: Number of travel trade licence-holders 2001 - 2010**



## Legal developments in the Travel Trade Licensing area

### Fáilte Travel Limited

The Commission petitioned the High Court in early 2009 to appoint a Liquidator to wind up Fáilte Travel Limited, a collapsed tour operator, on the basis that it owed the Travellers’ Protection Fund (TPF) over €1.4m. The High Court appointed Mr. Declan Taite of FGS as Liquidator. The Liquidation continued in 2010 and the Commission received €17,016 of its costs from the liquidation. The final report from the Liquidator is awaited.

### **Manorcastle Limited trading as United Travel**

The Commission has been granted two High Court Orders for costs against Manorcastle Limited (trading as United Travel) in respect of appeals taken by the company against the Commission's refusal in 2008 and 2009 to grant the company a licence. Despite repeated demands, Manorcastle Limited has failed to pay the relevant costs (which total €140,000 approximately), or to engage in any meaningful discussion regarding payment of the costs. Work continued in 2010 in the cost recovery process and the Commission is exploring all remaining legal options.

### **Budget Travel Limited**

Following the decision by Budget Travel Limited in late 2009 to enter voluntary liquidation, the Liquidator abandoned two sets of legal proceedings which the company had initiated against the Commission's refusal of a licence to the company. In March 2010 the Commission was awarded its costs for both actions. The costs have now been agreed with the Liquidator, and the Commission ranks as an unsecured creditor in the liquidation process.

### **Travel Trade Review and EU Directives**

In December 2010, the Commission issued two statutory instruments (S.I. 659 and S.I. 660). From 2011, most firms that qualify under company law for an audit exemption will no longer have to produce audited accounts to be eligible for a travel trade licence. As part of its review of the travel trade licensing regime, provided to the Minister for Transport in 2008, the Commission had recommended this change. In December 2010, the Commission published a Notice setting out a procedure to allow companies to apply for an audit exemption.

The Services Directive was transposed into Irish law in November 2010. The Commission has continued to liaise with the Departments of Transport and Enterprise, Trade and Innovation (ETI) to analyse the impact on existing travel trade legislation.

In 2010, the European Commission held a number of meetings and workshops regarding a possible reform of the Package Holiday Directive.

### **Cessation of Trading**

Since mid-2008, a large number of claims have been made to the Commission arising from travel firms going out of business. Information for recent years is summarised in Table 5.2; values for 2008 and 2009 are audited and those for 2010 are draft figures.

**Table 5.2: Summary of the claims activity 2008-2010**

Year	2008	2009	2010
Number of Claims Received	2,087	4,979	191
Number of Claims Paid	1,639	4,438	174
Value of Claims Paid	€3,582,282	€6,019,605	€215,215
Administration costs incurred	€295,656	€602,456	€21,263
Bonds drawn down	€2,417,180	€6,152,597	€59,080
Claim on TPF	€1,585,577	€1,316,840	€110,816
Administration ( % of claims paid)	8.3%	10%	9.9%

The difference between the total number of claims received (7,257) and claims paid (6,251) is accounted for by passenger repatriations (which were paid for directly by the Commission) and claims ultimately paid for by third parties (such as credit card companies).

In 2010 three firms ceased trading in circumstances where it was necessary to draw down the company's bond to refund customers. This was a substantial reduction on the 19 entities that had involuntarily gone out of business in 2009. The 2010 outcome brings the cumulative total for failures since the establishment of the Commission in 2001 to 47. The number and value of claims arising from the three closures of 2010 are set out in Table 5.3.

**Table 5.3: Cessation of Trading 2010 - Summary of claims activity**

Name of Firm	Number of claims	Value of claims in € (*)
Paula Coughlan T/A Foreign A Fares	153	152,249
Castle Travel Ltd	28	20,072
Solar Travel Ltd	10	42,894
Totals	191	215,215

*Note: (\*) The value of claims represents the position at 31 December 2010; some claims processing is yet to be completed, thus the final figure may change.*

Previous annual reports presented information on claims arising from closures in 2008 and 2009 using the draft financial data then available. As final audited figures are now to hand, Table 5.4 contains the cumulative 2008-2010 claims arising from all closures in 2008 and 2009.

**Table 5.4: Cessation of Trading 2008 /2009 – Cumulative Claims**

Name of Firm	Cumulative Value of Claims Paid
Dunne & King Travel Ltd T/A Letts Travel	€16,445
Mardan Ltd T/a Home & Away	€88,442
Grant Travel Ltd	€276,063
Wonder Travel Ltd	€58,554
CanAmerica	€135,398
Manorcastle Ltd T/a United Travel	€3,436
Greystones Travel Ltd	€107,446
Toolin Travel Ltd	€484,641
Analagh Ltd	€157,074
Oonagh O'Leary T/A Creation Travel	€67,058
Portlaoise Travel Ltd	€402,795
Cork's City Travel Ltd	€52,184
The Travel Collection Ltd	€187,193
Paul Buckley (Charleville) Ltd	€24,953
Turing Ltd T/A Slatterys	€1,266,160
Albemarie Ltd T/A Tony Bond Travel	€40,090
T & A Killoran T/a Killoran's Travel	€12,045
Budget Travel Ltd	€2,432,685
Donabate Travel Ltd T/A Escape2	€169,872
Delta Travel Ltd	€36,619
Fáilte Travel Ltd T/A Gerry	€1,678,526
Ronane Travel Ltd	€435,785
XL Leisure Group (Ireland) td	€1,395,118
MacLavery Travel Ltd	€62,798
Landaround Travel Ltd	€10,054
Total claims paid out	€9,601,887

### The Travellers' Protection Fund

The Commission has responsibility for the administration of the Travellers' Protection Fund (TPF), which is used to pay refunds to customers where a travel agent's or tour operator's bond has insufficient resources to do so. It is also used to pay repatriation costs in the event customers are stranded abroad, along with the reasonable expenses of the Commission in processing claims. A separate set of financial statements is prepared for the Fund, which are audited by the Comptroller & Auditor General.

A draft figure for payments from the Fund in 2010 is contained in Table 5.5. At the end of 2010, the value of the net assets reported in the draft TPF accounts was €5,084,060 compared to a figure of €5,209,784 one year earlier.

**Table 5.5: Payment of claims from the Travellers' Protection Fund**

	2010	2009
Claims paid out from the Travellers' Protection Fund	€110,816	€1,316,840

### Holiday World Fair

The Commission again took a stand at the Holiday World exhibition at the RDS. The stand facilitated interaction between the staff of the Commission on the one hand, and the travel industry and the general public on the other. The exhibition attracted more than 50,000 visitors in January 2010.

### Work Programme for 2010

Goal	Actions to achieve goal
Continue to administer the licensing and bonding scheme for the industry	<ul style="list-style-type: none"> <li>➤ Process applications using online facility in timely manner</li> <li>➤ Process claims for refunds and repatriations, where required</li> <li>➤ Investigate reports of unlicensed trading</li> </ul>
Prepare for the potential impact of EU legislation on the working of the current licensing regime	<ul style="list-style-type: none"> <li>➤ Liaise with Departments of Transport and Enterprise, Trade and Innovation</li> </ul>

## AIR PASSENGER RIGHTS

### The Commission's Role

For flights that depart from Irish airports or arrive into Ireland from another European Union country, or that arrive into Ireland from a non-EU country on an EU-registered carrier, the Commission:

- Handles complaints relating to cancellations;
- Handles complaints relating to delays of two hours or more;
- Handles complaints about denied boarding and downgrading.

The Commission enforces EU law concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

The Commission works with counterpart enforcement bodies in the EU for complaints arising at non-Irish airports.

The Commission inspects Irish airports to ensure airlines comply with EU law. The Commission can institute enforcement proceedings in Ireland against airlines infringing the Regulation. Regulation 261 refers only to airlines – travel agents and tour operators have no liability to passengers under this legislation.

Amongst other things, the Commission does not have the authority to handle complaints about:

- Baggage, taxes and airline charges, including fuel surcharges;
- Booking or ticketing errors and visa issues;
- Refunds due to illness or bereavement;
- False advertising;
- On-board services or in-flight issues;
- Late arrivals at check-in;
- Airline booking conditions and website problems;
- Safety issues.

### Online complaint form

2010 saw the introduction of the Commission's new on-line complaint facility. This allows easy submission of complaints and ensures that all relevant information is provided by passengers. The new form is available at [www.aviationreg.ie](http://www.aviationreg.ie)<sup>5</sup>. Where possible, the public is strongly encouraged to use this facility.

### Total complaints received

In 2010 the Commission received a total of 5132 requests for information and assistance from the public, representing a 105% increase on the 2009 figure of 2,495. Many queries were received around the time of the volcanic ash crisis in April and May. Commission staff focused on promptly addressing the queries raised so that passengers

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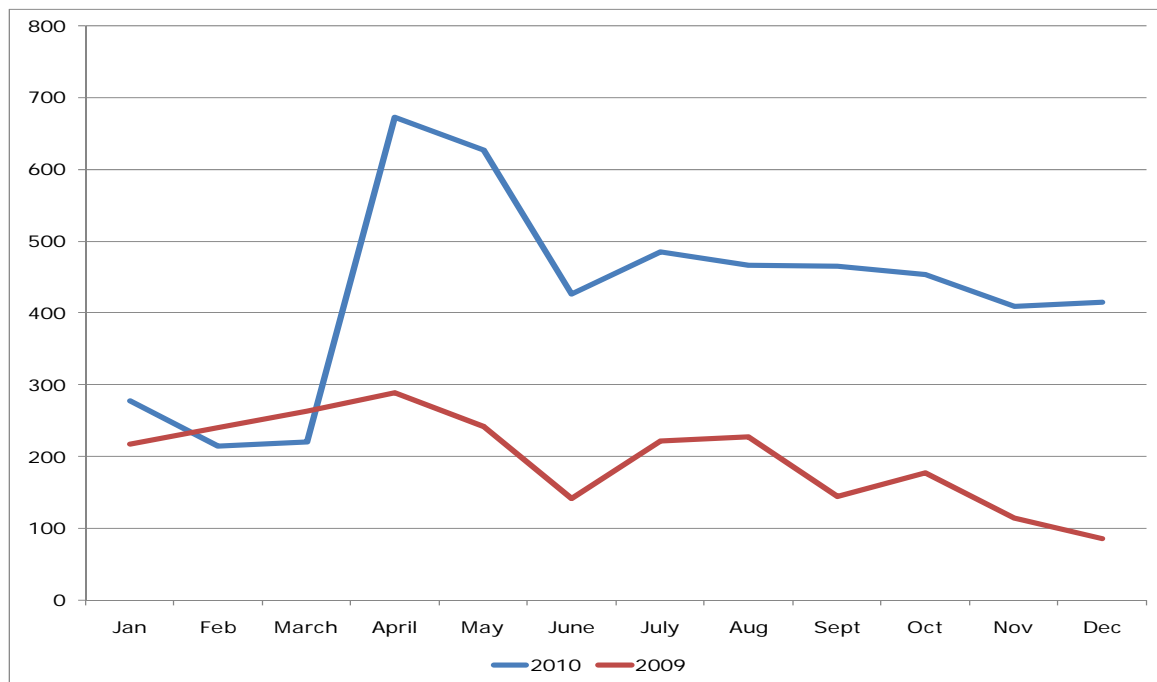
<sup>5</sup> <https://secure.aviationreg.ie/eseries/car450.xsp?envAuto=263E1C4B05ED32F3>



who found themselves stranded had the information necessary to make informed decisions about travel. A sizeable number of queries were also received by the Commission following instances of industrial action in France during the summer months, and the lengthy periods of cold weather which affected Europe in late 2010.

The table below shows the requests for information and assistance received on a month by month basis.

**Figure 6.1: Queries received by month**



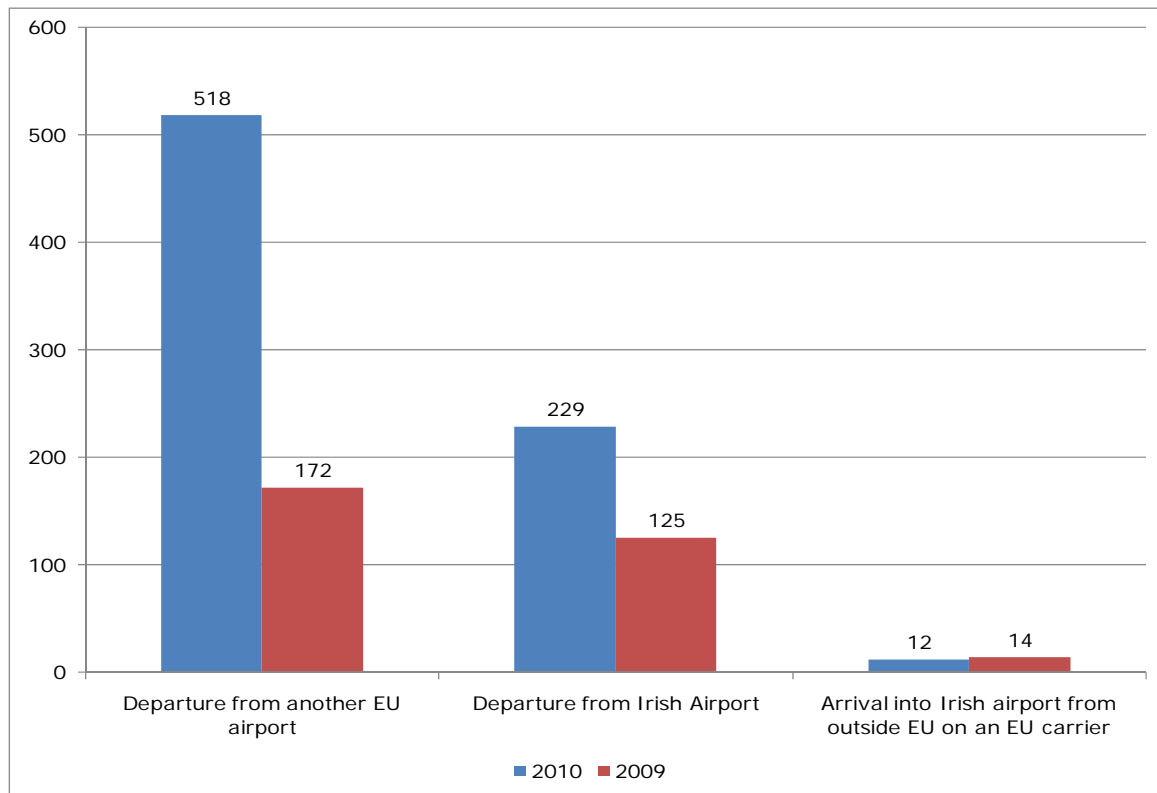
Every endeavour is made to work through all queries received as quickly as possible. At the time of writing, the Commission was processing queries received in November 2010. Consequently, the complaints figure presented later is likely to increase when submissions received in December 2010 are fully examined. In mid-2011, the Commission will publish a final report on air passenger rights work for 2010.

Of the queries examined thus far, 759 indicate a possible breach of the Regulation and were treated as complaints i.e. they relate to:

- cancellations by the air carrier;
- flight delays exceeding times frames in legislation;
- instances of denied boarding;
- instances of downgrading.

Five hundred and eighteen of the 759 complaints related to flights departing from airports in other Member States and were referred to the relevant national enforcement body for further investigation. The Commission investigated the remaining 241 cases.

Figure 6.2: Breakdown of complaints received by the Commission



The table below provides a breakdown of the 759 complaints by category.

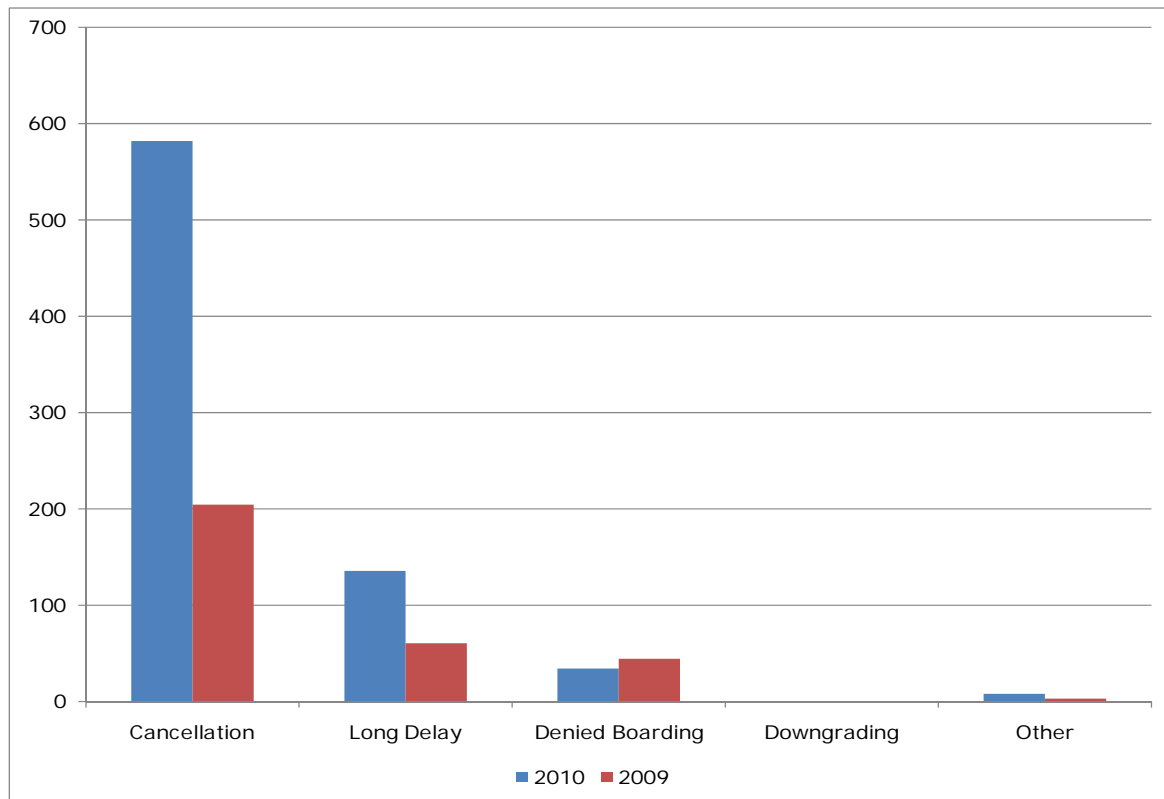
Table 6.1: Breakdown of complaints in 2010<sup>6</sup>

Type of complaint	Addressed by C.A.R	Addressed by other N.E.B	Total number of complaints	% complaints (759)
Cancellations	171	411	582	77%
Long delay	51	84	135	18%
Denied boarding	14	20	34	4%
Downgrade	0	0	0	0%
Other <sup>7</sup>	5	3	8	1%
<b>Total</b>	<b>241</b>	<b>518</b>	<b>759</b>	<b>100%</b>

<sup>6</sup> As examined by March 2011.

<sup>7</sup> The "Other" category represents complaints which appear to fall within the remit of Regulation (EC) 261/2004 but further investigation will be required by the relevant national enforcement body to bear this out.

Figure 6.3 Comparison of complaints received by the Commission by type



### Resolution of complaints

The Commission records all infringement of the Regulation to ensure that compliance is monitored on an ongoing basis. Complaints regarding non-compliance are investigated with the relevant air carrier. Of the 241 complaints received in 2010 which fell within the remit of the Commission, the investigation into 54 cases has concluded. The final outcomes of those cases were:

- in 5 cases compensation was deemed payable to the passenger and was obtained on their behalf;
- in 11 cases the air carrier was found to be exempt from paying compensation as the extraordinary circumstances exemption<sup>8</sup> was considered applicable;
- in 28 cases the Commission secured a refund of applicable expenses for the passenger;
- in 9 cases the complaint was either withdrawn by the passenger or, after investigation, the air carrier was found not to be in breach of the Regulation;
- in 1 case the Commission recorded infringements of the Regulation. However given the nature of these infringements no financial redress was payable to the passengers.

<sup>8</sup> Article 5(3) provides that an air carrier shall not be obliged to pay compensation if it can prove that the flight cancellation was the result of extraordinary circumstances which could not have been avoided even if all reasonable measures were taken.

The Commission is continuing its investigation of the remaining cases. The table below provides a summary of the above information.

**Table 6.2: Breakdown of resolved complaints in 2010**

Resolution	Number of complaints	% of total
Compensation paid by airline	5	9%
Refund obtained	28	52%
Extraordinary circumstances proven	11	20%
Complaint withdrawn or un-sustained	9	17%
Infringement recorded	1	2%
<b>Total resolved cases</b>	<b>54</b>	<b>100%</b>

### Persons with reduced mobility

In 2010, the Commission introduced a facility for complaints to be submitted online, to facilitate complaints by passengers who consider that their rights under Regulation 1107 have been infringed. This may be found at [www.aviationreg.ie](http://www.aviationreg.ie)<sup>9</sup> Where possible, the public is strongly encouraged to use this facility.

### Total Complaints Received

During 2010, the Commission received 15 queries. On examination, the majority did not constitute valid complaints. The reasons were varied: in some cases the passenger had not notified the air carrier of their requirements in the time prescribed, and in others the queries arose in advance of bookings being made.

Two valid complaints were recorded by the Commission and concerned the assistance provided to disabled persons or persons with reduced mobility by airport management bodies. The first complaint related to damage caused to mobility equipment during ground-handling, and the second concerned whether training had been provided to staff of an Irish airport. Both complaints have been concluded: in the first case the equipment was replaced and in the second case the Commission determined that appropriate levels of training had been provided.

<sup>9</sup><https://secure.aviationreg.ie/eseries/car460.xsp?envAuto=A53D47DF6F2AD4F5>

### Other work

The Commission inspected airports within the jurisdiction to ensure that air carriers display prescribed information at check-in and make available additional information to passengers affected by cancellations, long delays or instances of denied boarding.

The Commission met with other national enforcement bodies to discuss the volcanic ash crisis and air carrier responsibilities in that period. The Commission also responded to consultations by the European Commission.

The Commission took part in the Holiday World fair in the RDS, which provided a forum for promoting awareness of the rights and entitlements afforded to passengers under EU law.

### Work Programme for 2011

Goal	Actions to achieve goal
Ensure compliance with EC laws concerning passenger rights	<ul style="list-style-type: none"> <li>➤ Investigate complaints received</li> <li>➤ Inspect airports</li> <li>➤ Identify minimum standards of training in disability, equality and awareness</li> </ul>
Increase public understanding of air passenger rights issues	<ul style="list-style-type: none"> <li>➤ Provide information at suitable industry events (e.g. Holiday World Fair) and through the Commission's website</li> </ul>

## **ADMINISTRATIVE AND LEGAL FUNCTIONS**

### **Human Resources**

Since March 2009, the Commission has been subject to the moratorium on recruitment and promotion in the public sector. This has meant that no vacancies could be filled due to staff leaving the organisation. Under a new Employment Control Framework (ECF) for the public sector, the office's allowed staffing complement was reduced in late 2010 from 22 to 18. The Commission has sought the agreement of the Department of Transport to the Commission bringing its staffing back up to 18 from its present level of 15.

Salaries in the Commission are in line with government pay policy. Increments, where applicable, are paid upon satisfactory performance reviews. Three members of staff are on secondment from the Department of Transport and one from the Road Safety Authority. Their salary costs are recouped at cost plus a set charge for superannuation and centrally provided services.

The salary and pension contributions of the sole Member of the Commission totalled €195,834 in 2010. No other benefit was provided.

All full-time staff members are obliged to join the Commission's pension scheme. There was no change in the scheme's interim status in 2010, which has been awaiting the approval of the Department of Finance since 2002. An actuarial review of the pension liabilities shows a continuing deficit in the scheme of €116,174 at the end of 2010, up from €51,020 in 2009. The Commission expects to contribute €71,692 to the pension scheme in 2011.

In 2010, the Commission continued to outsource non-core administrative functions relating to media relations, IT maintenance and payroll.

### **Online licensing and passenger complaints facility**

In 2010, two rounds of licensing in the Travel Trade area were completed on the web licensing system. Applicants are no longer required to re-enter historic data in the application process. Also, the Air Passenger Rights and Persons with Reduced Mobility complaint systems were moved onto the web in 2010 to provide an easier and quicker method of filing relevant complaints with the Office. Airline licensing is planning to introduce a similar system for 2011.

### **Transparency and Freedom of Information**

The Commission aspires to carry out its functions in an open and transparent manner. Consultation papers, supporting documents, responses from stakeholders and regulatory decisions are published on our website [www.aviationreg.ie](http://www.aviationreg.ie) and hard copies are available on request. A schedule of the Commission's publications in 2010 is annexed at Appendix 1.

The Commission did not receive any requests under the Freedom of Information Acts during 2010.

### **Audit Committee**

The Audit Committee met 4 times in 2010. At each meeting the Committee was briefed in detail on progress within the Commission on the various work strands. The Commissioner attended some of these meetings to advise the Committee on developments. Staff of the Commission dealing with legal, administrative and accounting matters also attended meetings to discuss their work. Representatives of the Commission's Internal Auditors attended those elements of each meeting appropriate to their responsibilities.

In 2010, the issues the Committee focused on were:

- The risk register
- Claims processing
- Internal financial controls
- Follow up to internal audits
- The business continuity plan in an emergency, and
- The Code of Practice for the Governance of State Bodies.

The Audit Committee was satisfied with the Commission's arrangements in these areas.

### **Administrative Obligations**

The Commission makes every effort to operate to the highest standards of corporate governance. The Department of Finance's Code of Practice for the Governance of State Bodies<sup>10</sup> (2009 edition) sets out a number of guidelines aimed at promoting good governance. Because of the nature of its activities, as well as the structure of the Commission itself, certain aspects of the Code of Practice are not directly applicable to the Commission. The table below summarises Commission activities in respect of the Code of Practice.

Under the Code, the Commission is required to have a procedure for confidential 'whistle blowing' on financial irregularities and other misdeeds. The Commission has made a proposal to the Department of Transport as to how this requirement might be complied with.

In 2010, the Commission consumed 51,089 KWh of energy, a reduction on 2009, reflecting reduced staffing and overheads.

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<sup>10</sup> <http://www.finance.gov.ie/documents/guidelines/codepractstatebod09.pdf>

<b>Commission Code of Conduct</b>	<p>The Commission has a Code of Conduct for employees.</p> <p>Seconded staff from the Department of Transport are subject to the <i>Civil Service Codes of Standards and Behaviour</i>.</p>
<b>Internal Audit</b>	<p>The Commission appoints a firm of auditors to undertake its internal audit function. The internal auditor operates under the guidance of an external Audit Committee. Following an open tender process in 2007, Mazars were selected as the Commission's internal auditor.</p> <p>In 2010, Mazars conducted audits of the Commission's procurement processes, its follow-up to previous audits, its travel trade claims process, and a review of its Statement of Internal Financial Controls.</p> <p>These reports, reviewed by the Commissioner, Heads of Function and the Audit Committee, concluded that the management of the Commission have implemented processes and control procedures that have contributed to a transparent and accountable governance process.</p>
<b>Procurement</b>	<p>The Commission's procurement procedures comply with national and, where applicable, EC guidelines and directives. The value of the majority of the contracts is such that national guidelines tend to apply.</p> <p>The Commission has developed a procurement plan for 2011, setting out the areas in which it expects to tender for services.</p>
<b>Disposal of assets and access to assets by third parties</b>	<p>The Commission has no assets of the scale and value envisaged under the guidelines (€150,000). No asset disposals took place during 2010.</p>
<b>Diversification</b>	<p>The Commission did not make any diversification proposals to the Minister in 2010.</p>
<b>Investment appraisal</b>	<p>The Commission did not incur any significant capital expenditure in 2010, such that it came within the scope of the activities as envisaged in the <i>Investment Appraisal</i> guidelines.</p>
<b>Remuneration of senior management and director's fees</b>	<p>Please see the <i>Human Resources</i> section of this chapter for information on this area. There are no Directors and fees do not arise.</p>
<b>Reporting arrangements</b>	<p>The Commission makes such reports to the Minister for Transport as prescribed by law and as required. The Commission has a fully developed accounting system, providing detailed monthly management and financial reports to senior management. The Commission adopts International Reporting Standards for its reporting. It computes its accounts on the accrual accounting system except where specified in the notes to the financial statements. These statements are audited by the Comptroller and Auditor General, as stipulated in the Aviation Act 2001.</p> <p>The Commission has measures in place to comply with the obligation to keep proper books of account. These are kept at its sole office.</p>



<p><b>Strategic and corporate planning</b></p>	<p>The Commission's functions and responsibilities are set out in the Aviation Act 2001, the State Airports Act 2004 and the Aviation Act 2006.</p> <p>The Commission annually sets out a work plan for each functional area designed to satisfy their statutory obligations and meet the Commission's objectives. The Commission reports annually to the Minister for Transport on the manner in which those functions have been discharged in the previous year.</p> <p>In view of the October 2009 government announcement that the Commission would be merged with the National Transport Authority, the Commission, with the agreement of the Department of Transport, has not prepared a 5-year strategic plan.</p> <p>The Commission's output report, required under the Government Statement on Economic Regulation of October 2009, is attached as Appendix 2. The Commission has developed a set of key performance indicators (KPI's); collection of data commenced in 2011 and will be reported upon in the next annual report.</p>
<p><b>Tax compliance</b></p>	<p>The Commission is liable to PAYE, VAT and PSWT. The Commission has submitted all relevant tax returns for 2010 and is fully tax compliant.</p>
<p><b>SIFC</b></p>	<p>The Commissioner has confirmed in the Financial Statements for 2010 that it conducted a review of the effectiveness of the system of internal financial control. The SIFC contains a comprehensive set of policies and procedures relating to financial controls. For the purpose of Oireachtas accountability, the Commissioner is the Accountable Officer.</p>
<p><b>Code of Practice for the Governance of State Bodies Compliance</b></p>	<p>The Code of Practice for the Governance of State Bodies has been adopted by the Commission and is being complied with, as detailed elsewhere in this section of the 2010 Annual Report.</p>
<p><b>Travel Policy</b></p>	<p>Government travel policy requirements are being complied with.</p>
<p><b>Disclosure of interests</b></p>	<p>Commission staff satisfy the interest-disclosure requirements that are set out in sections 17-19 of the Aviation Regulation Act, 2001.</p> <p>A Member of the Commission is appointed following an open competition organised by the Public Appointments Service under section 11(4) of the Aviation Regulation Act.</p>
<p><b>Risk Management</b></p>	<p>The Commission maintains a risk register which is regularly reviewed by the senior management and it works with the audit committee to manage risks.</p>

## **FINANCIAL INFORMATION**

### **Levy**

Section 23 of the Aviation Regulation Act, 2001, provides that, for the purpose of meeting expenses properly incurred by the Commission in the discharge of its functions under the Act, the Commission may make regulations imposing a levy to meet but not to exceed its estimated operating costs and expenses. The levy is payable by such classes of undertakings as may be specified by the Commission.

Regulations entitled "Aviation Regulation Act 2001 (Levy No. 11) Regulations 2010" (S.I No. 611 of 2010) were made on 21 December 2010 to give effect to the Commission's Levy for 2011.

### **2009 Financial Statements**

During 2010, the financial statements for 2009 were audited by the Comptroller and Auditor General and submitted to the Minister for laying before the Houses of the Oireachtas, as required under Section 26(b) of the Aviation Regulation Act, 2001. These accounts were laid on 12 January 2011, and are available on the Commission's website.

### **Draft 2010 Financial Statements**

Financial statements for the year ended 31 December 2010 have been prepared, and were submitted for audit by the Comptroller and Auditor General on 1<sup>st</sup> March 2011. An extract from those statements is provided in the following pages.

Commission for Aviation Regulation Income & Expenditure Account for the year ended 31 December 2010
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	Notes	2010 €	2009 €
Income			
Levy Income	2 (a)	2,688,105	4,230,849
Licence Fees	2 (b)	199,828	245,090
Other	2 (c)	144,181	233,808
<b>Gross Income</b>		<u>3,032,114</u>	<u>4,709,747</u>
Transfer (to)/from Capital Account	10	6,706	11,923
Net Income		<u>3,038,820</u>	<u>4,721,670</u>
Expenditure			
Salaries	4	1,652,445	1,764,669
Pension Costs	11 (a)	123,514	128,719
Consultancy		123,209	484,809
Legal Fees		(170,771)	148,287
Advertising & Public Relations		81,629	120,871
Travel & Subsistence		8,210	7,013
Conferences		16,011	12,981
Training & Recruitment		37,515	29,181
Audit Fee		12,408	12,408
Accountancy		30,016	23,915
Web Maintenance		16,977	26,387
Rent		283,363	284,850
Cleaning		13,966	15,229
Electricity		9,930	10,852
Office Maintenance		2,797	5,443
Insurance		52,713	54,930
Office Stationery		11,929	17,606
Postage & Carriage		3,883	5,765
Telephone		21,881	25,470
Dublin Airport Schedules Facilitation		298,573	299,189
Depreciation		16,574	20,434
Service Charge		42,539	41,620
Rates		33,002	33,677
Storage Costs		8,455	9,302
Other		39,482	22,113
		<u>2,770,250</u>	<u>3,605,721</u>
Operating Surplus / (Deficit)	15	268,570	1,115,949
Balance as at 1 January		1,752,177	636,228
Balance as at 31 December		<u>2,020,747</u>	<u>1,752,177</u>

The Statement of Accounting Policies, Cashflow Statement and the Notes 1 to 19 form an integral part of these Financial Statements.

**Cathal Guiomard**  
Commissioner

1<sup>st</sup> March 2011

Commission for Aviation Regulation  
Statement of Total Recognised Gains and Losses for the year ended 31 December 2010

	Notes	2010 €	2009 €
Operating Surplus		268,570	1,115,949
Actual return less expected return on pension scheme assets	11 (c)	36,394	161,944
Experience gains/(losses) arising on pension scheme liabilities	11 (d)	129,106	114,755
Changes in assumptions underlying the present value of the pension scheme liabilities		<u>(210,284)</u>	<u>(45,862)</u>
Actuarial gain/(loss)		(44,784)	230,837
Total Recognised Gains/(Losses) relating to the Financial Year		<u>223,786</u>	<u>1,346,786</u>

The cumulative loss recognised from actuarial gains and losses arising in the last four years amounts to €93,051.

	2010	2009
Movement in Pension Reserve		
Balance at 1 January	(58,807)	(289,644)
Actuarial Gain/(Loss)	<u>(44,784)</u>	<u>230,837</u>
Balance at 31 December	<u>(103,591)</u>	<u>(58,807)</u>

The Statement of Accounting Policies, Cashflow Statement and the Notes 1 to 19 form an integral part of these Financial Statements.

**Cathal Guiomard**  
Commissioner

1<sup>st</sup> March 2011

Commission for Aviation Regulation Balance Sheet as at 31 December 2010
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	Notes	€	2010 €	€	2009 €
Fixed Assets					
Tangible Assets	5		50,423		57,129
Current Assets					
Bank Accounts	6	14,245,493		25,822,851	
Debtors and Prepayments	7	<u>1,392,834</u>		<u>1,370,529</u>	
		15,638,327		27,193,380	
<b>Creditors:</b>					
<b>Amounts falling due within one year</b>					
Creditors and Accruals	8	(294,782)		(562,039)	
Cash Bond Accounts	6	<u>(12,772,676)</u>		<u>(23,951,521)</u>	
		(13,067,458)		(24,513,560)	
<b>Net Current Assets / (Liabilities)</b>			2,570,869		2,679,820
<b>Total Assets less Current Liabilities</b>			2,621,292		2,736,949
<b>Provisions for Liabilities and Charges</b>	9		(537,539)		(935,430)
<b>Net Assets Excluding Pension Liability</b>			2,083,753		1,801,519
Net Pension Asset/(Liability)	11 (b)		(116,174)		(51,020)
<b>Net Assets / (Liabilities) including Pension Asset/(Liability)</b>			1,967,579		1,750,499
Financed By					
Income & Expenditure Account Surplus/(Deficit)			2,020,747		1,752,177
Capital Account	10		50,423		57,129
Pension Reserve			(103,591)		(58,807)
			1,967,579		1,750,499

The Statement of Accounting Policies, Cashflow Statement and the Notes 1 to 19 form an integral part of these Financial Statements.













