



STUDY ON PASSENGER REPRESENTATION IN AIRPORT CHARGE DETERMINATIONS AT DUBLIN AIRPORT

COMMISSION FOR AVIATION REGULATION (CAR)

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CEPA RESPONSES TO CONSULTATION SUBMISSIONS

Submitted by:

Cambridge Economic Policy Associates LLP (CEPA)



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1. CEPA RESPONSE TO CONSULTATION SUBMISSIONS

1.1. Introduction

This short report is presented to provide CEPA's responses to the submissions made by stakeholders in response to the Commission for Aviation Regulation's ("the Commission") consultation on passenger engagement that [was published](#) on September 7th 2017. The Commission's consultation paper was published alongside reports produced by CEPA, which presented analysis on the issue of passenger engagement.

In the consultation on passenger engagement, the Commission made a number of proposals:

- Develop guidance to Dublin Airport.
- Explore (a) some form of a financial incentive; particularly arrangements that do not reward Dublin Airport for doing things that it should already be doing; and (b) consider if non-financial incentives are useful, say, to fast-track certain decisions depending on the quality of the consumer-related evidence supporting the airport's submission.
- Initially, establish an informal panel to seek the views of different types of passenger on an ad-hoc basis to inform our decision-making processes.

Three questions were asked in the consultation paper:

Q1: Do you agree with the Commission's assessment that the level of customer engagement in our decision making could be improved? If not, please provide your views.

Q2: Do you agree with the selection of criteria chosen by the Commission to assess any customer engagement mechanism? If not, please provide the criteria you think should be applied.

Q3: Do you agree with the Commission's proposals to (a) provide guidance to Dublin Airport about how to involve passengers in certain aspects of their business plans; (b) some form of incentive arrangement to underpin the guidance; and (c) establishment of an ad hoc panel to inform our decisions? Please provide any relevant evidence to support your views either in favour with the proposals or otherwise.

1.2. Responses

Responses to the consultation were received from the following three stakeholders:

- Aer Lingus
- Dublin Airport
- Ryanair

CEPA has reviewed each of the three responses. We have summarised the main comments in the table below alongside our responses.

Table 1: Summary response to consultation submissions.

#	Comments in submissions	CEPA response
Aer Lingus		
1	State that the current model of customer engagement is fit for purpose.	The final report concludes that there are gaps in the Commission’s existing passenger engagement framework. Overall, the Commission does not receive evidence directly from passengers when it is making its determinations. This may reflect a lack of passenger engagement, but also reflects the fact that the consultation responses and submissions made to the Commission do not clearly show that they are based on sufficient passenger research. We have not been convinced to change the findings of our final report based on these arguments.
2	State that one of the criteria that should be considered for the different options presented is whether it will lead to benefits for passengers and not just improve the perceived quality of passenger representation.	The final report includes an evaluation of the different options presented. The summary Table 6.1 includes a consideration of the potential for each option to improve passenger outcomes.
3	Whilst they state that no changes to the status quo are warranted they state that if any changes are made they should go no further than guidance. They also provide suggestions on specific issues that should be included in the guidance.	The Commission will take all suggestions into consideration when drafting guidance proposals.
4	Aer Lingus does not agree to the introduction of incentives as it would reward Dublin Airport for something that it should already be doing, and something that the airline is doing.	Please note that the options presented in our report clearly state that incentives could take the form of either penalties or rewards.

5	Aer Lingus do not believe that there is any justification for the additional costs and complexity associated with introducing a panel(s).	We have not been convinced to change the findings of our final report based on these arguments. The Commission will assess the costs and benefits when arriving at its final decision on panels.
Dublin Airport		
6	Dublin Airport states that it is not opposed to any guidance that clearly sets out how we can be more explicit and transparent about how we account for the needs of all passengers at Dublin Airport.	Noted.
7	Dublin Airport provides various comments on the potential content of the guidance and suggestions about how the Commission should go about developing the guidance.	As stated in response to point 6.
8	Dublin Airport states that it does not agree that there are deficiencies in the current level of passenger engagement.	As stated in response to point 4.
9	Dublin Airport encourages the Commission to consider alternative approaches that may prove to be less costly and burdensome. They reference an example from Gatwick Airport which used volunteers from the public to join its passenger advisory group, which is an independent consultative group with 16 members who volunteer at least 12 days per annum to monitor facilities at the airport and provide feedback on how consumer service can be improved.	As set out in the final report, the option of establishing a panel included the potential to make use of flexible and more cost effective approaches than used in other sectors should the Commission determine that it is the appropriate way forward.
10	Dublin Airport states that the introduction of incentives could create risks of establishing a burdensome process that lacks regulatory precedent.	We have not been convinced to change the findings of our draft report based on these arguments.
11	State that the examples included in the report are not directly comparable to Dublin Airport.	The examples in the final report and in the accompanying appendix are provided to present a comprehensive overview of the different approaches used by regulators with regards to passenger engagement.
12	Regarding the use of non-financial incentives Dublin Airport would welcome any measures that would fast track essential projects – and would welcome the Commission to explore the opportunity to fast-track decisions not based just on the quality of engagement.	The Commission is looking at the possibility of including quality consumer based evidence in its assessment of particular customer relating projects.
13	Dublin Airport states in relation to financial incentives put forward by CEPA, such as adjusting the cost of equity feeding through	The example cited by Dublin Airport refers to the approach developed by Australia's Essential Services Commission (ESC). It is

	<p>to the future calculation of the cost of capital, we would be concerned that this would undermine the objectivity of the Weighted Average Cost of Capital (WACC).</p>	<p>provided as an example of how the Commission could consider introducing a financial incentive. The recommendations presented in the final report do not state that the approach used by the ESC should be adopted by the Commission.</p> <p>Further, noting the concerns raised by Dublin Airport, if the Commission were to decide to introduce a financial incentive that adjusts the WACC the detailed design of the model would necessarily take account of the inherent trade-offs involved and would be subject to consultation.</p>
14	<p>Regarding the potential use of consumer panels Dublin Airport states that they have concerns about the level of expertise that the panel might have.</p>	<p>As noted in the final report, if the Commission were to decide to introduce a panel, one of the things that it would need to consider is the required level of expertise – which would depend on the mandate of the panel. Some of the approaches used by other regulators cited in the report make use of ‘expert’ representatives, which addresses the concern of Dublin Airport. However, the use of expert individuals can create additional costs so an alternative approach is to make use of more flexible/ voluntary resources which may then lead to more issues around expertise.</p>
15	<p>Dublin Airport cites reasoning from the Commission for Energy Regulation (CER), which decided against establishing a regular panel:</p> <ul style="list-style-type: none"> • feedback questioning the usefulness of such a consumer forum; • its resource-intensive nature; and • concern that regular discussions might weaken the written consultation process. <p>To justify its view that it is unnecessary to create a consumer panel in the context of passenger engagement at Dublin Airport.</p>	<p>The CER (renamed CRU) does have an informal customer panel that continues to meet on an ad hoc basis to discuss customer related proposals and policies.</p> <p>We have not been convinced by the argument that regular discussions with customers or their representatives weaken the regulatory process.</p>
16	<p>Dublin Airport states that if the Commission wants to establish a panel it should mitigate the various associated risks.</p>	<p>As stated in responses to points 14 and 15.</p>
Ryanair		
17	<p>Ryanair’s response presents the view that airlines are the best proxy for passenger expectations, as such the Commission should engage directly with airlines to understand passengers’ expectations.</p>	<p>CEPA has set out its response to this issue in the final report, in particular Box 2.1 of the report. This explains that whilst airlines undoubtedly have a commercial incentive to ensure that their current and future passenger</p>

		needs are met, it is not necessarily the case that the views of all passengers are represented by airlines; and also, that airlines might not represent passengers on all issues faced by airports (e.g. on issues such as airport capacity expansion).
18	States a preference for option 1 – guidance, with the need to allow stakeholders to consult on the draft guidance.	Noted.
19	States that any form of financial incentive or establishment of panels would be misguided, unnecessary and costly measures.	We have not been convinced to change the findings of our final report based on these arguments.