

Irish Congress of Trade Unions

Submission to the Commission for Aviation
Regulation.

Maximum Level of Airport Charges at Dublin Airport 2020-2024 Draft
Determination.

July 2019

1. Introduction.

2. The Commission for Aviation Regulation (CAR) has a statutory function to set the maximum level of airport charges that can be applied by the Dublin Airport Authority (daa) at Dublin Airport. The CAR carries out this statutory function by determining the level of charges every five years. The current regulatory cycle ends in 2019 and in the autumn of this year, CAR will issue its fifth determination on the maximum level of airport charges at Dublin Airport to take effect from 1 January 2020.
3. The process employed by the CAR in determining the maximum level of airport charges involves consultation with relevant stakeholders as well as commissioning expert advice on the performance of the daa in areas such as operational expenditure efficiency at Dublin Airport. In May 2019, the CAR published a draft determination which proposes to reduce the maximum level of airport charges in 2020 by 15% from €8.68 per passenger to €7.50 per passenger. It is proposed that for the years 2021, 2022, 2023 and 2024, the maximum charge would be maintained at €7.50. The proposed reduction continues a trend of reducing charges at Dublin Airport. **Table one** shows the maximum airport charge per passenger since 2015 and the proposed maximum airport charge per passenger over the coming five-year regulatory control period. The reduction from €10.30 to €7.50 represents a reduction of 27% over this period.

Table One

Maximum Airport Charges Per Passenger									
2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
€10.30	€9.87	€9.45	€9.06	€8.68	€7.50	€7.50	€7.50	€7.50	€7.50

4. The work of the CAR, in determining the maximum level of airport charges is occurring at a time when very significant developments are taking place at Dublin Airport. Dublin Airport continues to be very successful resulting in significant employment growth with all of the knock-on benefits to the wider economy and to the exchequer. The number of passengers travelling through Dublin Airport has increased significantly. In 2018, 31.5 million passengers travelled through the airport - an increase of 6% on 2017. According to the CSO¹ 6.48 million passengers travelled through Dublin Airport in the first quarter of 2019 which is a 7.3% increase on the same period in 2018. It should be noted that in its 2014 determination the

¹ <https://www.cso.ie/en/releasesandpublications/er/as/aviationstatisticsquarter12019/>

CAR significantly underestimated the growth in passenger numbers that would occur over the five-year period to 2019. The CAR estimate for passenger numbers in 2018 was 24.1 million and they estimated 24.8million passengers for 2019. Based on the recently available data from the CSO it now seems that actual passenger numbers in 2019 will be well in excess of the CAR estimate. Alongside the growth in passenger numbers significant infrastructural development is taking place at Dublin Airport. This development is essential for the efficient management of the additional passenger numbers but also to facilitate further growth and the achievement of the ambition in the Government's National Aviation Plan to transform Dublin Airport into a 'secondary hub airport'.

5. It is noteworthy that in making its determination CAR is required to take into consideration three statutory objectives. Two of these key objectives focus on the efficient development of Dublin Airport to meet the requirement of users and to protect reasonable interests of current and prospective users. The third objective involves enabling the daa to operate and develop Dublin Airport in a sustainable and financially viable manner. Section 10 of the Aviation Regulation Act 2001² provides that the CAR is required to take account of any direction given by the Minister. The CAR has issued four determinations to date and on each occasion the Minister has directed the CAR to have regard to, amongst other things, the National Aviation Policy, the requirement for additional infrastructure and capacity at Dublin Airport, the need to improve the quality of service, the obligation on the State to implement enhanced security arrangements, enhancing Ireland's connectivity and the requirement that the Dublin Airport Authority make an annual dividend payment. Congress notes that the Department of Transport, Tourism and Sport wrote to the CAR on the 20 July 2018 advising the CAR of the requirement to have regard to the Government's National Aviation Policy.

6. The Irish Congress of Trade Unions (Congress) is the largest civil society organisation on the island of Ireland representing over 800,000 workers. In the aviation sector our affiliated unions represent workers in all of the airports in the Republic of Ireland, in the major airlines including Aer Lingus and Ryanair and in the majority of the companies providing services to airports and airlines. We have reviewed the draft determination published by the CAR on the 9 May 2019. We have come to the view that certain assumptions underpinning the draft determination need to be re-considered and we have serious concerns regarding the conclusions the CAR has reached in relation to the number of employees required at Dublin Airport.

² <http://www.irishstatutebook.ie/eli/2001/act/1/enacted/en/pdf>

7. In this submission we will focus on:

- the conclusions reached by the CAR in relation to pay at Dublin Airport and the comparators used by the CAR in reaching their conclusions;
- the process involved in determining pay and conditions of employment at Dublin Airport and in particular the role played by external independent bodies such as the Workplace Relations Commission and Labour Court in this process;
- the conclusions reached by the CAR in relation to the number of employees required at Dublin Airport over the regulatory control period; and
- the likely overall impact of the proposal to reduce the maximum airport charges at Dublin.

8. Operational Expenditure at Dublin Airport and Pay

9. One of the main building blocks underpinning the CAR draft decision to reduce the maximum level of airport charges by 15%, is the conclusion that operational expenditure (OPEX) is inefficient and that there is significant scope to reduce OPEX immediately and over the five years to the end of 2024.

10. In coming to this conclusion, the CAR has relied, in the main, on the conclusions of an assessment carried out, on their behalf, by CEPA and TAYLOR AIREY Consultants (the consultants). The CAR has published a redacted version of this assessment and the comments of Congress are based on the material that has been made available on the CAR website. We have not had sight of the full report.

11. The OPEX assessment reviewed in great detail payroll costs and in particular the rates of pay at Dublin Airport. This assessment found that payroll costs for some staff were inefficient and that they could not be justified. It is important to understand how this conclusion was arrived at. In the first instance the consultants acknowledge that they could not find any external comparator for many of the roles at Dublin Airport. In light of this, they chose to use the pay rates of employees hired since 2010 in Dublin Airport as a proxy for pay in the economy in general and compared the rates of pay of those hired before 2010 to the rates of post 2010 employees. Based on this comparison they concluded that over the course of the coming period pay movement should be regulated so all employees would migrate to the 'more efficient' post 2010 pay rates.

12. They further concluded that pay at Dublin Airport has increased at a much faster rate than pay in the economy generally. They claim that average earnings in the

Irish economy, have grown by 3.4% between 2014 and 2017, compared to earnings at Dublin Airport which they assess have grown by 11.6%. This in their view, provides justification for a significant slowing in the rate of pay movement between 2020 and 2024 and in particular they recommend that the pay of staff hired before 2010 should grow at half of the rate of growth of newer staff hired after 2010.

13. We strongly believe that the consultant's analysis of pay and pay progression at Dublin Airport is deeply flawed and should not be relied on by the CAR. We say this for the following reasons:

- The measurement of pay growth across the economy, relied on by the consultants, includes the public sector where pay growth has been much slower than pay growth in the private sector.
- Dublin Airport is not a party to the public sector pay agreement³ and employees do not enjoy the pension or other benefits of employment that apply in the public sector.
- Dublin Airport is a commercial entity and pay progression, similar to private sector companies is subject to the capacity of the organisation to meet pay demands.
- As the consultants point out some of the pay growth at Dublin Airport arises from the recommendations of the Workplace Relations Commission⁴ and the Labour Court⁵.
- The proposal to increase pay for pre-2010 employees at a slower rate than those hired since that date is naive and has no regard to the process of collective bargaining and wage determination at Dublin Airport or in the economy as a whole. We will briefly comment on the process of collective bargaining and pay determination in paragraph 14 of this submission.

14. In making its determination it is important that the CAR understands how we expect pay to be determined over the period between 2020 – 2024. In 2020 the current, collectively bargained, pay agreements at Dublin Airport will expire. The unions representing staff will lodge pay claims and we anticipate that daa management will engage with the unions to negotiate a new pay agreement. It is normal that such pay agreements are multi-annual in duration. It is probable that an agreement on pay will not be reached in direct negotiations and it is likely that assistance of the Workplace Relations Commission and the Labour Court will be required before agreement is reached. Assuming that the matter is referred to the

³ <https://www.gov.ie/pdf/?file=https://assets.gov.ie/6618/394821552e784f17aa5407e8af32e410.pdf#page=1>

⁴ <https://www.workplacerelations.ie/en/>

⁵ <https://www.labourcourt.ie/en/>

Labour Court, the recommendation of the Court will be in a large measure be based on pay movement in comparable sectors and employments. It will also take account of the rate of price inflation and productivity growth. In the case of the daa the comparable sector will be the private sector in general, and in particular, the transport sector and the aviation sector. In making recommendations relating to a general pay, it is the normal practice of the Labour Court to recommend, that any pay increase, be applicable to all workers on the same basis. In making its determination, we believe, that it is crucially important that the CAR does not make impede or impair the normal functioning of the agreed collective bargaining process within the daa. To do otherwise, would undoubtedly have serious industrial relations implications for the company.

15. In the view of Congress, the CAR should adjust its draft determination to reflect the normal functioning of collective bargaining and the likely movement in pay in comparable sectors and employments. We have provided in table two below a list of some recent pay settlements as guidance. However, it should be noted, that the recently published Government Summer Economic Statement⁶ noted, ***‘that average weekly earnings grew by 3.4 per cent in the first quarter of 2019, driven mainly by average hourly pay growth. Given the tightness of the labour market, an acceleration in the pace of earnings growth is expected over the medium term’.***

Table Two

Employer	Commencement Date	Expiry Date	Cumulative Percentage Increase
Dublin Port Company	1/1/2017	31/12/2019	8%
Lufthansa Technic	1/1/2018	31/12/2019	6%
Aer Lingus	1/4/2017	30/6/2020	8.5%
Irish Rail	1/12/2017	30/11/2020	7.5%
Port of Cork	1/1/2018	31/12/2020	8%
Port of Galway	1/1/2018	31/12/2020	8%
Shannon Foynes Port Company	1//1/2015	31/12/2019	10%
OCS (Dublin Airport)	1/3/2019	31/12/2021	8%
Knock Airport	1/1/2017	31/12/2020	9%

⁶ <https://assets.gov.ie/10498/79569b9ea87b4be5bd077bb622c2d1ff.pdf>

16. Operational Expenditure and Staff Numbers

17. In their report the consultants examine in great detail the number of staff working across all of the main operational area in Dublin Airport. As part of their work they have recommended the number of full-time equivalents (FTE's) that should be employed in each year from 2020 – 2024.
18. In consideration of our submission we requested data from the daa on the current number of FTE's employed at Dublin Airport.
19. In table three we have listed the number of FTE's employed by the daa in 2018 and 2019. This portion of the table is shaded in green. This information has been supplied to us by the daa and they have agreed that we can use this data in this submission. The numbers for the years 2020 – 2024 are the consultant's proposal for staff for the 2019 determination. This portion of the table is shaded in blue.

Table Three

Dublin Airport Staff Numbers (FTE's) (OPEX) – Current and Projected						
2018	2019	2020	2021	2022	2023	2024
2638	2776	2559	2568	2574	2574	2576

20. On page 23 of their report the consultants compare the average headcount of a selected number of airports. The comparison is based on number of employees per million passengers. Congress is aware that in a number of the comparator airports many of the functions carried out by direct employees at Dublin Airport have been outsourced.
21. Assuming that the data in table three is accurate, in order for the daa to comply with the draft determination they would have to reduce the staff in Dublin Airport by 217 by the end of 2019.
22. This proposition gives rise to a number of questions which will require to be answered by the CAR in making its final determination. These include:
- How is it possible for the daa to reduce staff numbers at a time when passenger numbers at Dublin Airport is growing at a rapid rate (7.3% in the first quarter of 2019)?

- How is it possible for the Daa to reduce staff numbers at a time when there is significant infrastructural development at Dublin Airport and at the same time maintain and improve the quality of service to airport users?
- Is the CAR suggesting that daa embark on a programme of outsourcing functions carried out by directly employed daa staff?
- How is this reduction to be brought about? Will the required redundancies be compulsory? Does the CAR draft determination provide for a negotiated severance package for those who are to lose their jobs?

23. It would seem to Congress that the proposal to reduce staff numbers by almost 8% in 2019 is ill-conceived and from our perspective cannot be implemented given the anticipated growth at Dublin Airport, the work underway to transform the airport and the requirement for enhanced security arrangements.

24. It is vital that the CAR understands that if, by reason of the CAR determination, daa is forced to make workers at Dublin Airport redundant on a compulsory basis it would have the most serious industrial relations implications and would be in total breach of the collective agreements.

25. Reducing Airport Charges – Who will benefit?

26. It is worth recalling the stated reason why Dublin Airport is subject to price cap regulation. Policy makers have concluded that Dublin Airport is the dominant provider of airport services in the Republic of Ireland and as such could potentially abuse its market power. In order prevent an abuse of market power it has been decided to give statutory authority to an external independent regulator to decide, periodically, the maximum level of airport charges which can be levied by the daa per passenger at Dublin Airport.

27. The theory underpinning economic regulation of this type suggests that by regulating entities with market power in this way, savings achieved through the process will be passed to airport users.

28. As discussed earlier the CAR is proposing to reduce the maximum airport charge at Dublin Airport by 15%. One of the main potential beneficiaries of this decision will be airlines. It will be asserted that airlines will be expected to pass this benefit on to passengers and this will result in cheaper air fares, however there is no regulatory mechanism in place to ensure that this will happen.

29. Ironically passengers travelling through Dublin Airport could see services at Dublin Airport worsen as a result of the proposed CAR determination. If, as a result of the CAR determination, the daa is unable to invest to provide enough staff and the necessary infrastructure, the quality of service at the airport could deteriorate resulting in an inferior experience for passengers. Poor quality airports could have negative implications for Ireland as a tourism destination and in turn undermine job security in that sector of the economy. It is also important to recall that one of the key considerations for foreign direct investment companies considering an investment in Ireland is the quality of the transport infrastructure in the country. If the daa is unable to make the necessary investment to upgrade Dublin Airport it could reduce the chances of Ireland securing this type of investment in the future.

30. Conclusion

31. Congress has given very careful consideration to the draft determination published by the CAR on the 9 May 2019. We have studied carefully the supporting documentation provided by CAR and in particular the published draft of the *Dublin Airport Operating Expenditure: Bottom-Up Efficiency Assessment* prepared by CEPA and Taylor Airey.

32. As set out in this submission, we have concluded that the draft determination requires adjustment to accurately reflect the likely movement in pay at Dublin Airport over the regulatory control period. The final determination should respect the collectively bargained company /union agreements which are fundamental to the orderly conduct of Industrial Relations at the Airport. Not to do so would be reckless.

33. We are very concerned about the proposed reduction in staff numbers and we see no justification for this.

34. We are hopeful that the final determination will be adjusted to take account of the concerns raised in this submission. However, the CAR should be aware that our affiliated unions will act to protect the terms and conditions of members at Dublin Airport and will resist any attempt by the daa to dismiss workers in order to comply with the determination of the CAR. The outcome of this process could result in the serious industrial relations difficulties for which the CAR will be held responsible.