

21 January 2009

Mr. John Spicer,
Head of Economic Affairs,
Commission for Aviation Regulation,
3rd Floor Alexandra House,
Earlsfort Terrace,
Dublin 2.

By facsimile : 01 661 1269

Re: Response of Aer Lingus to the Consultation on the Decisions of the 2008 Aviation Appeal Panel (Commission Paper 1/2009)

Dear Mr. Spicer,

Firstly Aer Lingus is mindful of the time constraints applying to the Commission and consequently the airport users on this matter. This response is therefore necessarily brief given the time period allowed for responses and the period which would be required to consider a large amount of documentation prior to making a fully detailed submission.

Aer Lingus is of the view that the matters referred to the Commission by the Appeals Panel are both valid and pressing. Therefore (and rather than come to a rush judgment in response to the decision of the Appeals Panel) we suggest that the Commission should decide all of these matters after proper consideration in the current determination. However, Aer Lingus would have concerns as to how the Commission proposes to address the matters referred by the Appeals Panel as no framework or process is set out in Commission Paper CP1/2009 other than an indication that the original determination might be either affirmed or varied.

Whereas Aer Lingus considers that it might well set an undesirable regulatory precedent for the Commission to adjust the existing price control, in our view the appropriate response is to overturn the decision which fixes the total amount of costs associated with and allowed for Terminal 2 and the respective amounts allowed for Box 1 and Box 2 before the current price review is completed. Furthermore, given the importance of these issues we also think it would be incorrect for the Commission to re-determine these matters solely on the basis of submissions made by interested parties up to 2007.

Rather, the Commission should commit to re-determining these values during the current price review once it has had time to consider all matters properly and taking into account the most up to date information. Whereas the Commission has sought to firmly establish certain parameters for the 2009 review (e.g. the total values attributable to Terminal 2 in the Regulatory Asset Base (RAB), when such amounts enter into the RAB, the values attributable to Box 2 and the point in time when Box 2

is triggered) these matters are now appropriate to re-examination in light of recent developments in the market.

Aer Lingus is available to the Commission for further clarification at any time.

Yours sincerely,

DERMOT KILBANE
LEGAL ADVISOR