

Submission of Aer Lingus to the Notice on PRM Charges at Dublin Airport (Commission Notice 5/2008)

A. Summary

This paper sets out Aer Lingus' response to the Commission for Aviation Regulation's (Commission) Notice on PRM charges at Dublin Airport (CN5/2008). Our overall view is that the Notice is welcome, particularly regarding the assessment of compliance by the Dublin Airport Authority (DAA) with the criteria set out in EC Regulation No 1107 of 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (the Regulation) in its setting of the per departing passenger charge in respect of PRMs.

B. Comments on the meaning of criteria in Article 8(4) of the Regulation

Aer Lingus agrees with the Commission's interpretation of the criteria as stated.

C. Comments on Commission's assessment

Aer Lingus notes and agrees with the Commission's view (i) that the DAA did not establish the charge in cooperation with airport users; (ii) that there can be no certainty that the charge is reasonable and (iii) that the charge is not transparent.

Whilst we note the Commission's assessment that the charge is cost related because there is no apparent mark-up on OCS costs being passed through to airport users, Aer Lingus is not in a position to comment on this finding as no information on OCS costs has been disclosed to airport users. The Commission has been made aware of the AOC's belief that there has been an excessive increase in the charge since the new arrangements have come into place and that this increase is not solely attributable to enhanced service levels. Furthermore, Aer Lingus believes that crucial to any assessment of the relation of the charge to costs is full transparency on whether the DAA is deriving commercial revenue from OCS by virtue of OCS using DAA premises and facilities. The DAA should also be required to demonstrate that the resources of OCS in the provision of the services are fully and efficiently engaged.

In the absence of such full information, we believe that it is not possible to make an assessment as to whether the charge is cost related.

D. Compliance with the Regulation

The Commission seeks representations as to a methodology for the fair resolution of this matter in compliance with the Regulation. Aer Lingus suggests therefore that:

1. Notwithstanding that Aer Lingus has authorised payments in respect of the provision of the services to date, the Commission issue a direction that no charge (or a substantially reduced charge) is applied until a proper consultation process has taken place which meets all regulatory requirements;
2. The Commission issue a direction that all information necessary to substantiate the proposed charge is divulged, including the commercial terms and service levels agreed between the DAA and OCS. This should include an explanation as to the apparent increase in the charge as compared to previous service providers. It is appreciated that there are augmented services specified in Annex 1 to the Regulation but it is not accepted that these warrant a marked increase in the charge;
3. Full disclosure of all procedures and documentation relevant to the tender process employed by the DAA in sourcing a service provider in order to be satisfied that best industry practices were engaged. It is noteworthy that the UK Competition Commission recorded recently¹ that at Stansted Airport, the contract for PRM services was awarded on the basis of a tendering process in which two airport users participated. Given the flawed nature of the tender process previously carried out, the Commission should issue a direction mandating a new tender process involving the airport users and setting out the proper process of consultation in determining the appropriate charge.

E. Conclusion

Aer Lingus will participate in a revised consultation and tender process which fully complies with the Regulation. It is a precondition to this participation, however, that we can rely on full disclosure of information material to the setting of the charge. As a result of this new process, the DAA should be required to refund any excess in charges which may come to light.

¹ United Kingdom Competition Commission: Stansted Airport Limited Q5 Price Control Review presented to the Civil Aviation Authority 23 October 2008 at Paragraph 9.23