



ACCESS FEES TO AIRPORT INSTALLATIONS

DECISION ON THE REQUEST FOR APPROVAL FOR THE
APPLICATION OF AN ANNUAL ADJUSTMENT FOR
INFLATION IN RESPECT OF CHECK-IN DESKS FEES AT
DUBLIN AIRPORT

Commission Notice 8/2005

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DECISION ON THE APPLICATION OF AN ANNUAL ADJUSTMENT FOR INFLATION IN RESPECT OF CHECK-IN DESK CHARGES AT DUBLIN AIRPORT

1. BACKGROUND

Council Directive 97/67/EC (the "Directive") on Access to the Groundhandling Market at Community Airports was transposed into Irish law by Statutory Instrument 505 of 1998, European Communities (Access to the Groundhandling Market at Community Airports) Regulations 1998 (the "S.I."). Under section 9(2) of the Aviation Regulation Act 2001 (No. 1 of 2001), the functions vested in the then Minister for Public Enterprise in respect of this S.I. were transferred to the Commission for Aviation Regulation (the "Commission") on its establishment in February 2001. This transfer of responsibility made the Commission the competent authority in the State for all matters relating to the Directive as transposed. Section 14(3) of the S.I. provides that -

"where access to installations gives rise to the collection of a fee, the latter shall be determined by the managing body of the airport and approved by the Minister in advance in accordance with relevant, objective, transparent and non-discriminatory criteria."

The functions ascribed to the Minister in respect of the approval of fees therefore fall to be carried out by the Commission by virtue of the 2001 Act.

On 6th October 2004, following a consultation process with the industry, (conducted as CP5/2004) the Commission published **CP8/2004** which set out its decision to approve the collection by the Dublin Airport Authority (DAA) of a rental fee (both annual and hourly rates) in respect of check-in desks at Dublin, Shannon and Cork Airports as requested by the DAA under Section 14(3) of the S.I. At that time, approval was also granted to the DAA to collect a "per passenger fee" in respect of the use of the CUTE (Common User Terminal Equipment) facility at Shannon airport. A summary of the fees approved are set out in the table below:

| | Dublin | Shannon | Cork |
|-----------------------------|---------|---------|--------|
| Annual Check-In Desk Rental | €16,718 | €8,000 | €7,846 |
| Hourly Check-In Desk Rental | €20.90 | €20 | €20 |
| CUTE | | €0.23 | |

The approval granted in respect of check-in desk rental charges at Shannon and Cork airports also allowed for an annual adjustment to be implemented on July 1st each year, to reflect changes in the Consumer Price Index (CPI) during the previous calendar year. At the time, the airport authority did not request approval for an annual adjustment for inflation in respect of check-in desk charges at Dublin airport.

2. REQUEST FOR APPROVAL

On 13th October 2005, the DAA requested approval for an annual CPI adjustment to be implemented on January 1st each year (commencing in 2006) to reflect changes in inflation during the 12 months to July 2005 in respect of the annual and hourly check-in desk rental fees at Dublin Airport. The proposed check-in desk rental fees for Dublin Airport for 2006 have been calculated by the DAA as follows:

| | Dublin |
|-----------------------------|------------|
| Annual Check-In Desk Rental | €17,119.20 |
| Hourly Check-In Desk Rental | €21.40 |

The Commission has confirmed the proposed increases of 2.4 per cent against the level of inflation for the relevant period. The value of the CPI has increased from 108.7 in July 2004 to 111.3 in July 2005. Inflation for the twelve months, is the percentage change in the value of the index, which is 2.4%.

Although the request from the DAA did not constitute a request for the approval of a new fee, in the interests of transparency and line with the Commission's general policy on consultation, the Commission decided to

consult with the industry and, to that end, published Commission Notice 7/2005 on its website on 28th October 2005. Views were invited from all interested parties by 11 November 2005.

The Commission was advised by the DAA that they had already given notice to the Dublin Airport Users Committee on this proposal as part of the consultation process on the finalisation of the Miscellaneous Fees and Charges applicable at Dublin Airport in 2006 and that no submissions on this particular issue had been received from users.

The Commission received two responses to Commission Notice 7/2005 (from Ryanair and Aer Lingus) and both responses were posted on our website on 16th November 2005.

3. ISSUES RAISED IN RESPONSE TO COMMISSION'S CONSULTATION

Many of the issues raised in response to Commission Notice 7/2005 were not related to the specific issue under review, i.e. the request from the DAA for approval for an annual adjustment for inflation in respect of check-in desk charges at Dublin airport. The following is a short summary of the main points raised in the two submissions received by the Commission.

3.1 Check-in desk and CUTE costs

Ryanair reiterated its comments, raised as part of the earlier consultation process, on the question of the DAA's costs in relation to check-in desk rental fees and in particular in relation to the treatment of the costs related to CUTE. The Commission's response on this issue was previously set out in CP8/2004 and this matter is currently the subject of Judicial Review proceedings taken by Ryanair. The Commission has no further comments to make in this regard other than to say that in respect of the DAA's check-in

desk rental fees, these remain significantly below any reasonable calculation of cost (including the addition of an annual CPI adjustment).

3.2 CPI Adjustment

It is the view of Ryanair that increases in passengers has resulted in an increase in passenger fee income and this more than covers any requirement for CPI adjustment. The Commission would like to point out that increases in other revenues earned by the airport authority are not part of the criteria which the Commission may apply in making a decision on approval of access fees. The Commission's role is confined to making a decision based on the four criteria as set out in Section 14(3) of the S.I. It is the view of the Commission that a volume increase in other revenue to the airport (aeronautical or commercial) has no material impact on the application of the four criteria set out in Section 14 (3).

3.3 Consultation by the DAA

Ryanair also alleged that no consultation has taken place between the DAA and the users on this particular request for approval. However, the DAA have advised the Commission that it did give notice to the Dublin Airport Users Committee on this proposal on 5 October 2005 as part of the consultation process on the finalisation of the Miscellaneous Fees and Charges applicable at Dublin Airport in 2006. User comments were requested by 21 October 2005. The DAA have confirmed in writing to the Commission that no submissions were received by them from the users in relation to the CPI adjustment issue.

3.4 Service Quality

Aer Lingus raised the issue of service quality in the context of check-in desk rental fees. It is the view of the Commission that the question of Service Level Agreements is not a matter which arises in the context of its role under section 14 of the S.I. i.e. the criteria which require to be examined in the context of the approval process do not encompass issues outside of the nature and basis of the fee. The Commission notes that the issue of the desired standard to be applied in respect of the provision of certain services has already been the subject of Service Level Agreements between the airline and the airport authority, the most recent of which is published on the DAA's website. On the general question of service quality at Dublin Airport, the Commission addressed this issue as part of its work on the price cap determination and its position on this point is outlined in CP2/2005 (pages 50–51) and CP3/2005 (pages 78-81).

3.5 Other DAA charges

Aer Lingus also raised the wider issue of other charges levied by the DAA. As these comments are not related to the CPI issue, the Commission will examine any issues arising from these comments separately.

4. COMMISSION DECISION

The recent request from the DAA is not *per se* a request for approval in relation to the introduction of a new fee. The check-in desk fees were previously assessed in the context of the four prescribed criteria set out in Section 14 (3) of the S.I. and approved by the Commission in CP8/2004. The Commission's previous decision in relation to check-in desk charges allowed for an annual adjustment for CPI at Shannon and Cork airports.

Given that (i) the Commission has already declared (in respect of Shannon and Cork airports) that an annual CPI adjustment is appropriate with regard to the current regime of check-in desk charges and (ii) the fact that the application of an inflation-related adjustment is in line with the general approach taken by the Commission in addressing the price cap Determination, the request from the DAA to adjust the approved rate for check-in desk fees at Dublin Airport in line with inflation on an annual basis is hereby approved.

The DAA has been notified accordingly.

William Prasifka
Commissioner

24th November 2005