



Commission for Aviation Regulation Welcomes Today's High Court Decision to "dismiss in its entirety" Ryanair's Challenge to Airport Charges Regulation

Commission calls on Aviation Industry to Engage Constructively and to Reconsider Wasteful Policy of Serial Litigation

Failed Legal Challenges Add Millions of Euros of Legal Costs onto Passengers

The Commissioner for Aviation Regulation, Cathal Guiomard, today (Tuesday 20th May, 2008) welcomed the High Court judgment to "dismiss in its entirety" Ryanair's legal challenge to the Commission's 2007 Interim Review of the price cap at Dublin Airport.

This judgment relates to a Ryanair legal challenge to the Commission's decision of July 2007 on the regulatory treatment of the costs of Dublin Airport's 2006-2009 capital investment plan, the bulk of which arises from the cost of building a second terminal ("T2") at the airport.

Ryanair failed to demonstrate to the Court that the Commission's 2007 decision suffered from legal flaws or a lack of process or any of the other claimed defects.

Court challenges to economic regulatory decisions are relatively uncommon (e.g., the UK airport regulator has never been challenged in the courts in 25 years) but in the seven years of the Commission's existence, it has received six challenges, five launched by Ryanair. All have failed except for one that is currently on appeal to the Supreme Court.

Date	Case	Plaintiff	Outcome
2001	Judicial Review of 2001 Airport Price Cap	Aer Rianta	Aer Rianta case dismissed
2004	Judicial Review of Ground Handling Fees	Ryanair	Ryanair case dismissed
2005	Judicial Review of 2005 Airport Price Cap	Ryanair	Ryanair withdrew case before the matter commenced
2005	Judicial Review of First Landing Slots Determination	Ryanair	High Court Decision for Ryanair (subject to Appeal to Supreme Court)
2007	Judicial Review of second Landing Slots Determination	Ryanair	Ryanair withdrew after 1 year and before Hearing date set
2007	Judicial Review of 2007 Price Cap	Ryanair	Ryanair case dismissed

The legal costs to the Commission of the Ryanair cases alone will approach €2million. Legal costs, as with other operating costs, are financed in the first instance through the levy the Commission applies to the industry. When legal costs are recovered the levy is adjusted; however, the Commission does not retrieve from the instigator of the action the significant in-house costs that arise from defending the action, including the significant time, energy and resources that is spent in defending these claims. This distracts from other important regulatory activities as well as being an overall drain on the High Court's own time and resources.

The Commission believes that it would be beneficial generally for regulation to be conducted in a more constructive and less adversarial fashion. The Commission believes that it would be useful to explore alternative arrangements, which would have the impact of a judicial judgment but in a non-judicial setting. The Commission also believes that the interests of airport users are best served by participation in the Commission's regulatory work; in that regard, the Commission has placed on its website the draft timetable for its work towards the next Dublin Airport price cap, due at the end of 2009. See http://www.aviationreg.ie/ER_AC_Work_Programme.HTML

Mr Guiomard said: *"The legal record includes the judgments made by Justices of the High Court in 2003, in 2006 and now in 2008, which found that the regulatory work of the Commission has been carried out in a proper way and in accordance with the law.*

"We will continue to devote our efforts to our day-to-day work, including preparations for the next price cap due next year.

"Despite recent media statements by some parties that they will 'continue to judicially review every single decision [the Regulator] makes'. I would urge all parties to participate constructively in this work in order to serve the interests of passengers and to contain costs for everyone."

Ends

**Issued on behalf of The Commission for Aviation Regulation, by
Whelan Communications**

Contact:

Brian Whelan

01 645 4130

086 817 7178