

**Mr. Cathal Guiomard,
Head of Economic Affairs,
Commission of Aviation Regulation,
Floor 3,
Alexandra House,
Earlsford Terrace,
Dublin 2.**

4th July 2003

Dear Cathal,

Aer Lingus welcomes the opportunity to participate in the proposed review by the Commission of its Determination on the Maximum Levels of Airport Charges. Given the importance of strategic issues such as the second terminal and possible segregation of responsibility for the airports at Dublin, Cork and Shannon this review is indeed appropriate.

We have set out below and number of areas which we consider should be included by the Commission in this review. We also reserve the right to comment on those issues raised by other interested parties.

Maximum Take-Off and Landing Charges

In the appeal process, Aer Lingus and other users submitted that the basis adopted by the Commission for determining off-peak take off and landing charges at Dublin Airport resulted in a number of anomalies in the charges applicable to certain aircraft types. As a result of the appeal submissions, certain adjustments were made to the aircraft categories. However, we consider that deficiencies remain in this classification. We are aware that Airbus has submitted a detailed paper concerning the classification of their aircraft for off-peak charges. In view of this new evidence, we believe that this issue should be considered as part of the review.

Recoverable Capex

In the recent judicial review proceedings in which Aer Lingus participated as a notice party, Aer Lingus supported the Commission's Determination to the extent that it disallowed elements of Aer Rianta's proposed capital expenditure plan on the ground that it had failed to engage in meaningful consultation with airport users. Aer Lingus considers that meaningful consultation requires airport users to be provided with sufficient information and details about Aer Rianta's proposed CAPEX plans and their effect on airport charges.

Since the Determination, Aer Lingus has endeavoured to engage in a consultation process with Aer Rianta on capital projects such as the redevelopment of Cork Airport and Pier D. However, these efforts have largely been frustrated as Aer Rianta has stated that it is not in a position to specify the effects of such projects on airport charges due to the fact that they are unable to identify from the Determination those elements of the projects which have been deemed recoverable by the Commission. In order to facilitate a meaningful consultation process, we believe that the Commission should consider clarifying their findings in relation to Aer Rianta's capital expenditure programme. The Commission should also indicate the assumptions made by it relating to the opex and revenue (aeronautical and other) associated with these projects.

Single Till

We believe that the Commission should review the assumptions made by it regarding the single till contribution. For instance, Aer Rianta has recently introduced significant increases in fees and charges for miscellaneous services at its airports. It has been acknowledged by Aer Rianta that these increases are not cost justified. Nevertheless, Aer Rianta has claimed that airlines are protected from the effects of such increases by the single till approach. However, as it appears that such increases in single till revenue will not be relevant to the calculation of airport charges until the next review period, i.e. post September 2006, users are exposed to the effects of these increases until then. This situation is clearly unacceptable and the Commission should review its findings regarding the single till in light of developments since the Determination.

Moreover, certain issues have arisen in relation to precisely which revenues are covered by the single till and which constitute airport charges and, as such, are subject to the maximum cap. For instance, Aer Lingus considers that services such as fire services, policing, security and refuse disposals are generally considered to fall within the scope of airport charges and should therefore fall within the cap (see Appendix 1 of CP/2001 setting out services and facilities covered by BAA airport charges in London). The Commission should provide clarification in this regard.

Security Services

The issue of security services has been the source of ongoing dispute between Aer Rianta and users since the Determination. However, we believe that the Commission must look at this issue generally as we believe that Aer Rianta has imposed excessive charges for security services which bear no relation to cost and which would have generated revenue up to the value of approximately €57m at Dublin Airport alone in 2002 (based on 15 millions passengers at €3.80 per passenger).

In addition to charging the Airport Security Charge, Aer Rianta have imposed additional charges for other passenger related security services (e.g. passenger profiling, secondary searches). Aer Lingus has no objection to paying for necessary, cost effective, cost justified and quality security services but considers that these constitute airport charges and should therefore fall within the cap.

Opex and Discontinued Services

The Commission should provide for a mechanism to adjust the opex provided for in the Determination where a service has been discontinued services. For instance, Aer Rianta has recently written to the AOC indicating that it is considering terminating its contract with SITA regarding the use of CUTE. If this were to happen, the opex allowed by the Commission relating to this facility should be reviewed and a mechanism should be introduced to allow this to happen.

Yours sincerely,

**Niall Walsh
Procurement Director**