

21st December, 2001

Mr. William Prasifka
Commissioner
Commission for Aviation Regulation
36 Upper Mount Street
Dublin 2

**Re: Proposed Maximum Levels of Aviation Terminal Services Charges
Draft Determination and Explanatory Memorandum
Commission Paper CP11/2001**

Dear Mr. Prasifka

I refer to the above Commission Paper and wish to respond for the Irish Aviation Authority, as follows.

The Authority welcomes the publication of the paper that it sees as promoting worthwhile public debate on this particular aspect of aviation transport services, which plays a vital role in promoting tourism and other business activities in Ireland.

The response adopts the same numbering and headings used in CP11/2001 and is preceded by a brief commentary on the current state of the International Aviation Environment, in the aftermath of the 11th of September last, together with the Authority's assistance to its airline customers operating in that environment.

THE INTERNATIONAL AVIATION ENVIRONMENT

The International aviation industry has experienced severe problems as a result of the tragic events in the United States on the 11th of September 2001. Prior to that date, many of the Authority's airline customers were already experiencing difficulties due to the contraction of the US economy in the technology sector of industry. The expectation of continuing aviation traffic growth that existed since the latter decade of the last century, and since then, was beginning to erode.

During the last three months many of our major customers have announced significant reductions in North Atlantic traffic, while other airline customers are in serious financial difficulties. Almost all have been obliged to make severe cost cuts including retirement or redundancy of large numbers of staff. North Atlantic traffic accounts for over 82% of the Authority's revenue and the Authority expects to be seriously affected by this fall in traffic.

Over the past few weeks, for example, en route traffic has fallen by over 10% and our current projections are that our North Atlantic traffic will fall by at least this amount during 2002 also. However, these projections are tentative, based on information from our customers, other service providers and Eurocontrol.

We also expect a fall in terminal revenue, particularly at Shannon and Cork, as the reduction in North Atlantic traffic also impacts on European and domestic operations. The reduction in terminal traffic at Shannon will be greater than that at the other State Airports because of its dependence on flights to and from the Americas, which also has a greater effect on the revenue of the Authority because of the heavier individual aircraft weights operating to and from Shannon. However, it is extremely difficult to forecast traffic levels for 2002 in the current environment with any degree of confidence. Also, other determinants than the business cycle also arise.

Due to this uncertainty in forecasting reliable traffic levels for 2002, the Authority has taken measures to assist to the airline industry, which are detailed below.

THE IRISH AVIATION AUTHORITY'S ASSISTANCE TO ITS AIRLINE CUSTOMERS

In view of the current economic climate in which the airlines are operating, the Authority believes that it is in the interest of all stakeholders to ensure that the industry recovers quickly. In order to play its role in this recovery, the Authority has taken steps to reduce its cost base by approximately €7 million in 2002. This reduction has been possible because of exceptional measures taken by the Authority in the light of the reduction in traffic.

In addition, the Authority has frozen the level of its en route charge at 2001 levels for the first three months of 2002, in order to provide some financial respite to its customers during that period. The under-recovery that will arise during the first quarter of 2002 will be recovered during the remaining period of that year.

The Authority has also frozen the level of its Shanwick and terminal charges for the first quarter of 2002 at 2001 levels, with both charges to be reviewed in March 2002. This means that the proposed charge for terminal services will be €1.00 per tonne for the first quarter of 2002.

The Authority is hopeful that the measures proposed will enable all stakeholders to emerge from what we hope will be a short-term slow down, in a strong position to take advantage of future growth opportunities.

Scope of Aviation Terminal Services Charges (para. 3 et seq. CP11/2001)

I pointed out in our earlier submission to the Commission on 2nd July last, that the 20 km radius for charging is an arbitrary arrangement, arrived at historically, and does not reflect a particular point, either in terms of aircraft operation in flight or the control of aircraft as they approach or depart from an airport. Nevertheless, this 20 km radius remains as the accepted criterion by Eurocontrol for differentiating between en route and terminal services for charging purposes. Any extension of the distance beyond the 20 km radius, for the purposes of charging for terminal services, would be out of line with what applies generally in Europe, may well be unacceptable to Eurocontrol and could extend the terminal area at Dublin well into United Kingdom airspace.

Charging principles for the provision of air navigation charges have been established by the International Civil Aviation Organisation (ICAO).

In its publication "ICAO Policies on Charges for Airports and Air Navigation Services, Sixth Edition 2001, it states:

"Any charging system should, so far as possible, be simple, equitable, and with regard to route air navigation service charges, suitable for general application at least on a regional basis"

In the ICAO publication "Conditions of Application of the Route Charges System and conditions of Payment, Doc. No. 00.60.02 January 2000" it states in Article 5:

"The distance to be taken into account shall be reduced by twenty (20) kilometres for each take-off from and each landing on the territory of a Contracting State"

The Contracting States to the Eurocontrol Multilateral Agreement, relating to Route Charges, have agreed to adopt a common policy in respect of the calculation of the charges and of their cost base. The ICAO charging principles apply.

In the circumstances, it would be inappropriate to oblige the Authority to comply with charging principles that differed in a material way from those applicable in the area covered by the Eurocontrol Multilateral Agreement.

I note that the Commission proposes to adopt the definition of terminal services as contained in the Irish Aviation Authority Act, 1993 and which adopts the 20 km radius.

The Statutory Objective and the Proposed Degree of Reliance on Statutory Factors (para. 4 et seq. CP11/2001)

a. the relevant charging principles of the International Civil Aviation Organisation (ICAO) and Eurocontrol”

The implementation of the Multilateral Agreement is only a small part of the remit of Eurocontrol. It is primarily concerned with developing and co-ordinating the European Air Traffic Management Plan (EATMP) which is necessary to meet the needs of the civil and military air transport community in the coming decade.

The Authority believes that the airline community strongly favours the principle that aircraft weight be taken into account in the charging structure, rather than a movement-based formula. It has been given effect through the inclusion of maximum take-off weight (MTOW), modified in the case of en route services, in the charging formula. Historically, ability to pay has been a factor in determining charges for air navigation services.

The Authority favours the continuation of a direct weight factor for terminal charges. If, however, this were to be changed, the application of the en route modifier would be the preferred option. This option is widely understood, and would be cost effective, as it would not require major changes to the charging system.

A change in the present system would result in a “rebalancing” of the terminal cost base which would require compelling justification if it were to be accepted by other airlines which might find themselves at a disadvantage.

Eurocontrol has conducted studies into possible charging mechanisms including economic and marginal pricing. The conclusion of these studies is that the present weight-based charging mechanism provides the most equitable compromise between cost incurred, value of service provided and ability to pay.

I note that the Commission does not consider the Central Route Charges Office “*Principles for establishing the cost base for route facility charges and the calculation of the unit rates*” as relevant for the purposes of making a determination in respect of the maximum levels of aviation terminal service charges. These principles are based on the ICAO charging policies, have been tried and tested over many years, are universally accepted and understood and I would, therefore, very strongly question whether they should be readily discarded.

The principal function of Eurocontrol is the safe and efficient control of air navigation in European airspace, not the operation of a common route charges system. It does, through the Central Route Charges Office, provide such a service, but it is not correct to describe this service as the principal function of Eurocontrol.

“b. the level of investment in aviation terminal services by the Authority, in line with safety requirements and commercial operations, in order to meet current and prospective needs of the airline industry”

I note that the Commission has undertaken an independent assessment of the Authority's CAPEX programme and that while this review has not been fully completed, the Commission is of the view that no excessive redundancy or capacity was observed in the systems currently in use by the Authority or in the CAPEX programme.

Fundamental to the Authority's philosophy with regard to its CAPEX programme is that it does not become engaged in systems development. The Authority instead, seeks to provide a “commercial off the shelf” (COTS) solution, which has a proven operational track record, to its systems requirements.

A very pertinent example of this is the Air Traffic Management (ATM) system known as Civil Aviation Integrated Radar Display Equipment (CAIRDE) currently in operation. This system was specified in 1988 before the European Air Traffic Control Harmonisation and Integration Programme (EATCHIP) was formalised at Eurocontrol. It has, with selected enhancements, satisfied all EATCHIP requirements that have emerged up to the present day. The CAIRDE system was implemented on time and within budget.

Current investment in new systems and expansion in capacity should be seen in the context of:

- the historic failure by air navigation service providers to ensure adequate long term ATM capacity to meet more rapidly generated market demand;
- the Authority's identified strategic need, in the context of the EU Single European Sky, to capitalise on market opportunities.

“c. the efficient and effective use of all resources by the Authority”

Studies carried out across European ATM service providers, by the Performance Review Commission of Eurocontrol, showed that the Authority's costs were 20% lower than expected in 1998 and 22% lower than expected in 1999.

These studies took account of factors such as size and complexity of airspace and also volume of traffic managed. The studies included consideration of the major cost drivers for ATM service provision. The cost drivers include, inter alia, distance flown, traffic density, average route length, percentage of overflights and time in the system. Sixteen countries in 1998 and eighteen countries in 1999 were compared and in each year only one surpassed the “percentage below predicted cost” achieved by the Irish Aviation Authority. I believe that these studies clearly demonstrate that the Authority is making efficient and effective use of its resources.

I believe that the determination of the maximum terminal charge must take account of the projected level of demand. The Authority is a service provider to the airport operator and must meet its requirements, including provision of a minimum level of service during periods when traffic levels are too low to meet the cost of doing so. This is a public service/political requirement that the Authority carries without identifying the offsets between peak and trough traffic periods. For a variety of reasons, but principally due to the uncertainty created by the events on the 11th of September 2001 and the expected tourism slump, there are no reliable short to medium term forecasts of traffic levels for terminal services. In these circumstances the application of a “cap” on terminal charges that cannot be reviewed in the light of developments, would not be in the interest of any of the stakeholders.

The Commission, in proposing the maximum aviation terminal services charges, for the period 2002–2007, on the current level of the Authority’s charges does not appear to take account of the level of demand.

“d. the level of the Authority’s income from aviation terminal services and other revenue earned by the Authority generally”

The Authority’s en route charges are determined by it and not by Eurocontrol, under the ICAO charging policies which provide for 100% cost recovery and are set in consultation with the customers and their representative organisations.

The Commission is correct in its assessment that only a small proportion of en route flights land or take-off from Shannon, Dublin or Cork Airports.

“e. operating and other costs incurred by the Authority in providing aviation terminal services”

The Authority believes that, in the current international aviation economic environment, it is impossible to determine the level of charges for the period 2002–2007.

No reliable forecasts for traffic levels over the short to medium term, from two to five years, are likely to be available by the time the final determination of the Commission will be made (February 2002). The absence of precision on these demand-side inputs will make the whole process difficult and increase the financial risk exposure for all stakeholders. It is primarily for this reason and, in order to give a measure of financial respite to the Authority's airline customers, that the Authority has sought to freeze the charging rates for at least the first quarter of 2002. This will provide an opportunity to review the traffic forecasts later in 2002 when, hopefully, a more stable aviation environment may exist.

“f. the level of quality of aviation terminal services, and the reasonable interests of the users of these services”

The Authority recognises and welcomes the fact that the influence of our airline customers on its core air navigation business is increasing each year. Customers are more focused on costs and service levels than previously, with airline operating margins remaining very tight in a highly competitive market.

The Authority, some years ago, launched its “customer care programme” aimed at communicating with its major customers on a “one-to-one” structured basis. The customer care programme involves senior decision-makers from the airlines and all meetings are held at the Authority's customers' corporate headquarters, to ensure the most senior level of participation. During 2000, for example, airline customers representing 73% of the Authority's turnover participated in this programme.

The customer care programme discusses and encourages feedback on the following issues

- a. IAA air navigation services
- b. IAA capital projects and future plans
- c. IAA costs and performance
- d. Strategic developments
- e. Technology issues
- f. Operational issues relating to the customer

The Authority has received feedback from the customer care programme and other customer consultation processes that it actively supports, indicating that terminal services' customers are satisfied with the present service levels and charges. The Authority is always willing to react to issues that are of concern to its customers. There are effectively no departure delays at State Airports attributable to the Authority. I refer to this matter in more detail in the response to Annex III of CP11/2001, below.

There is, at present, no agreed methodology that enables delays in terminal areas to be accurately attributed to the various service providers. Work is in

progress, including at Eurocontrol, aimed at developing appropriate metrics. Until such time as this work has been satisfactorily completed, it is most unlikely that generally acceptable performance indicators will emerge which can be used for benchmarking purposes.

“g. the cost competitiveness of aviation terminal services with respect to international practice”

The application of the CPI-X formula assumes that there is room for productivity and, indeed, this is the case for most monopoly providers. However, when the position of the Authority is examined it is apparent that it is one of the most cost-effective service providers not only in the area covered by the Eurocontrol Multilateral Agreement but also globally. It has, *inter alia*, consistently succeeded in maintaining an extremely low en route charge and has a cost base some 22% lower than predicted by the Eurocontrol Performance Review Commission. While there is less comparative information available on terminal charges, the Authority charges are significantly lower than those at comparable airports in the United Kingdom where terminal services have been subject to competition for many years. The Authority is very conscious that changes in the institutional arrangements in Europe will lead to a rationalisation of air navigation service provision in the short to medium term and that it will have to compete for business if it is to survive and prosper. For this reason alone, it is most anxious to maintain and improve its present competitive position. Having regard to all the circumstances and not least to its present excellent economic performance, the application of economic regulation should support the Authority in its efforts survive and prosper as provider of terminal services. Doing so is in the interest of all the stakeholders.

I have referred to the studies carried out, on the efficiencies achieved by the Authority and other European service providers, by the Performance Review Commission of Eurocontrol under item 4.c. above. Those studies showed that in relation to its en route costs the Authority's costs were 20% lower than expected in 1998 and 22% lower than expected in 1999.

The Authority has consistently been one of the best value-for-money service providers within the Eurocontrol charging area. The Authority took over the direct billing for terminal services on 1st January 1996, and since that time the terminal unit rate has been reduced by over 49% from £1.97 in 1996 to £1.00 per tonne by 2001.

I note the Commission's comment concerning the conclusion of the Economic Regulation Group of the UK Civil Aviation Authority *that over the 1990s regulated firms in the UK had achieved annual cost efficiencies (in addition to average productivity growth economy-wide) of between 2% and 5% of total costs with some companies achieving greater gains...*

The Authority would, in the light of its performance to date, strongly refute the applicability of such a general conclusion to it. The operations, performance and track record of the Authority have delivered significant benefits and cost savings to its airline customers since it was established in 1994, without any independent economic regulation.

The Authority is committed to providing, on a sound commercial basis, safe, efficient and cost-effective air navigation and regulatory services which meet the needs of its customers. The Authority will continue to seek improved efficiencies and productivity with, or without, independent economic regulation because it believes that the present cost recovery system meets the interests of the Authority and those of its customers once operated in a cost effective manner – which we believe to be the case.

The Authority's focus on enhanced services and cost effectiveness was recognised in 1998 by the International Air Transport Association (IATA), which presented the Authority with its inaugural IATA Partnership in Productivity Eagle Award for air navigation service providers. The award recognised the Authority as a cost-effective, quality service provider that had demonstrated that cost control and productivity initiatives work to the benefit of all, and particularly the ultimate customers, the travelling public.

At the award ceremony in Montreal, the Director General of IATA, Mr. Pierre Jeannot, stated that in winning the award – against competition from a worldwide field of airport and air navigation service providers – the Irish Aviation Authority is recognised as being the service provider who has taken particularly positive steps to control costs, given quality service and value for money to airline customers.

Draft Determination (para. 5 et seq. CP11/2001)

The Authority would **strongly disagree** with the Commission's draft Determination.

The Authority believes that the current aviation economic environment is so critical for the airlines and, due to the current uncertainty in forecasting reliable traffic levels, that no determination on the maximum level of terminal charges be made until 2003/4 at the earliest.

Notwithstanding this, the Authority has frozen the level of its terminal charges for the first quarter of 2002 at 2001 levels, with the charge to be reviewed in March 2002. This means that the proposed charge for terminal services will be €1.00 per tonne for the first quarter of 2002. The Authority will do all in its power to endeavour to freeze the terminal charge at this level for the remainder of 2002 subject to its review in March 2002.

The definition, adopted in the draft Determination at para. 5.c., of “number of service units” is a significant cause of concern for the Authority. This definition would place an obligation on the Authority to charge each individual aircraft on the basis of the specific weight shown on the certificate of airworthiness, the flight manual or any other equivalent official document. This would present significant logistical implementation difficulty, particularly in relation to large airline fleets, would increase the complexity in determining the billing weight, would add cost to the process, and could necessitate the removal of the billing activities from Eurocontrol and the establishment of alternative arrangements.

Currently for en route and for terminal charging, the average weight of each fleet aircraft type is used for billing purposes. This is accepted by the airlines as a fair and equitable basis for establishing the weight of aircraft availing of air navigation services.

The Authority, therefore, favours the continuation of the existing weight definition contained in the 5(2) of the Irish Aviation Authority (Terminal Charges) Regulations, 2000, i.e. “equal to the Maximum Take Off Weight (MTOW) per aircraft type calculated as an average of the maximum take off weight of all the aircraft of that type in the operator’s fleet, and this calculation in respect of each aircraft type and each operator shall be effected at least once in every year”.

Explanatory Memorandum (para. 6 CP11/2001)

The Commission refers to its preliminary view that the Authority’s charges fall below the average cost of providing aviation terminal services. I believe that this view may have been formed without taking into account the way in which the cost recovery mechanism operates, particularly in relation to the over-recovery of costs in a previous year. Costs that are over-recovered in a previous year, are deducted from the cost base in a subsequent year in arriving at the chargeable cost base for that subsequent year.

Annex III Possible Performance Standards for Aviation Terminal Services Charges (CP11/2001)

No universal method of measuring the performance of terminal Air Navigation Services (ANS) has been developed. The close interaction of ANS provider, Airport Operator, Airlines, Military airspace and environmental constraints, make the task extremely difficult. Performance measurement in the en route phase of flight, which should be less difficult because of the reduced number of entities, has not yet been developed. The three major key performance¹ areas under which ANS performance can be assessed are

¹ Performance Review Commission PRR1 – June 1999 Page 1 Executive summary

1. Safety
2. Delay
3. Cost-effectiveness

The Commission's Annex III of the draft Determination dealt with possible performance standards under the topic of delays.

The subject of delays can be addressed under many headings but perhaps a useful distinction is between delays encountered in entering the ATM system and delays experienced while in it. The major delays in entering the ATM system occur when traffic demand exceeds capacities declared by control centres along the flight route or at the airport of destination. The Central Flow Management Unit (CFMU) of Eurocontrol provides this "metering" function and restrictions imposed are in the form of a slot or "window" within which aircraft must become airborne. The centralised nature of this function means that considerable data is available on this form of delay and as a result it is the most used form of performance indicator for the ATM system.

The en route part of the Irish ATM system does not produce any CFMU delays. A minimal amount of delays in our terminal operation is administered by the CFMU. These delays predominantly occur at Dublin Airport.

The table² below shows the number of minutes that aircraft were delayed at Dublin Airport and the reported reasons during the previous 6 months.

	Jun-01	Jul-01	Aug-01	Sep-01	Oct-01	Nov-01	Total by Reason
Weather	858	456	119		3,341	2,327	7,101
ATC Capacity		403					403
Ground Operations			73	1,686			1,759
Military Activity	254					261	515
Total for month	1,112	859	192	1,686	3,341	2,588	9,778

From the above, it is obvious that the IAA part in these terminal delays is insignificant. The random nature of the demand side for the provision of ATM services (particularly at Dublin which does not have airport slot regulation) makes the efficient provision of capacity to all traffic peaks extremely difficult. Notwithstanding this constraint the terminal ATM service is operating in a very efficient manner generating only minimal delays.

Delays and less than optimal routings, within the ATM system, are more difficult to measure. Reliable and consistent data will only become available for this

² CFMU monthly report for Ireland

purpose when they are captured automatically³. The production of other relevant performance indicators such as predictability, flight efficiency and flexibility will also only become possible when such data are captured.

The performance indicators in Annex III to the draft Determination fall into this category. The data necessary to provide these indicators are not available at present and indeed the systems needed to produce them may not even be available. There is also the question of who is responsible for any delay in this very complex environment. Even if these measurements were available, the validation and interpretation of them would also be complex.

The application of unclear and un-validated operational performance indicators in Terminal ATM services would serve no useful purpose at this stage.

Yours sincerely

B.D. McDonnell
Director and Chief Executive