



## **Proposed Maximum Levels of Aviation Terminal Services Charges**

Draft Determination and Explanatory Memorandum

Commission Paper CP11/2001

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## **1. Executive Summary**

The Commission wishes to commence the period of statutory consultation for the overall limit on the level of aviation terminal services charges provided for in Section 35 of the Aviation Regulation Act, 2001 ('the Act').

In accordance with CP4/2001, one purpose of this paper is to allow interested parties and the public to ascertain in general terms the impact or effect of the proposed determination. The Commission sets out the scope of aviation terminal services charges in section 3. A further purpose is to inform interested parties and the public of the Commission's degree of reliance on each of the statutory factors. That analysis is set out in Section 4, followed by Section 5, which details the proposed maximum, which in turn is explained in Section 6. By way of further assistance to interested parties and the public, the Commission has also published, in Section 7, the nature of the information and other inputs relied upon by the Commission in making the proposed determination. The Irish Aviation Authority CAPEX programme is set out in summary form in Annex I.

The Commission wishes to draw the attention of interested parties and the public to the steps leading to the determination. Annex II to the paper sets out the strict conditions which will apply to the receipt of statutory representations.

The proposals contained herein are preliminary in nature, and based, inter alia, on the information that the Commission has received and accepted to date. In particular, the Commission notes that there is uncertainty as to the reliability of existing traffic forecasts. The Commission will endeavour to ensure that its final determination is based on the best information available at that time. The Commission has made no final conclusions, and none will be made until the Commission has considered any and all representations which it receives, and has decided to either accept or reject them.

William Prasifka  
Commissioner

## **2. Consultation Process to-date**

CP4/2001 announced the process that would be used by the Commission in connection with the making of its determination on maximum levels of aviation terminal services charges. It also announced the Commission's intention to give notice of its proposed determination by publishing a draft determination and explanatory memorandum.

In CP5/2001, the accompanying paper to CP4/2001, the Commission discussed a number of approaches to economic regulation of aviation terminal services charges, as well as the range of factors to which the Commission must have due regard to under Section 36 of the Act. In response to CP5/2001, the Commission accepted and published submissions from Aer Lingus and the Irish Aviation Authority on the Commission's website [www.aviationreg.ie](http://www.aviationreg.ie).

### 3. Scope of Aviation Terminal Services Charges

Section 2 of the Aviation Regulation Act, 2001 states that "terminal services" should have the meaning assigned to it by the Irish Aviation Authority Act 1993 (the "1993 Act"). The 1993 Act defines terminal services as *"the air navigation services provided for aircraft landing at or taking off from an aerodrome or while in the vicinity of an aerodrome before landing at or taking off from that aerodrome"*

Air navigation services is another defined term and it is defined by the 1993 Act as including *"services providing, giving or issuing information, directions or instructions, or other facilities, for the purposes of or in connection with the navigation or movement of aircraft"*.

It is clear from recommendations and charging principles of the International Civil Aviation Organisation (ICAO) and Eurocontrol that the provision of air navigation services are generally divided between 3 main phases of a flight as follows;

1. Aerodrome control
2. Approach control, which includes approach and departure of flights.
3. En route.

It is also clear, from ICAO principles and recommendations, that terminal services comprise air navigation services provided to an aircraft in the aerodrome control and approach control phases of a flight.

Under Irish legislation, and in particular having regard to the definition of terminal services in the 1993 Act, aviation terminal services comprises air navigation services provided by the Irish Aviation Authority to an aircraft landing at or taking off from an aerodrome and while in the vicinity of an aerodrome before landing at or taking off from that aerodrome. While the

concepts of landing at or taking off from an aerodrome do not present any difficulty as regards interpretation of the legislation, the question of what constitutes the “vicinity of an aerodrome” is less clear cut.

In CP5/2001 the Commission outlined a proposed approach to the interpretation of “vicinity of an aerodrome”. This was based on the current Eurocontrol en route charging rule, which exempts the 20 kilometres of flight closest to the airport from en route charges. As a result of this rule aviation terminal service charges must be set in such a manner so as to recover the cost associated with flights entering or leaving a 20 kilometre radius from the airport. In CP5/2001 it was noted that the Irish Aviation Authority currently applies this 20 kilometre rule, however, reference was also made to a report of PricewaterhouseCoopers recommending that the Eurocontrol rule should be amended to extend the 20 kilometres.

The Commission has received no representations from interested parties submitting that an alternative to this 20 kilometre rule should be adopted by the Irish Aviation Authority. Furthermore, the Commission does not have any information at present to support adopting an alternative approach. The Commission therefore proposes interpreting the definition of terminal services as contained in the 1993 Act as comprising air navigation services provided to aircraft landing at or taking off from an aerodrome and air navigation services provided to aircraft while within a 20 kilometre radius of an aerodrome, before landing at or taking off from that aerodrome.

#### 4. The Statutory Objective and the Proposed Degree of Reliance on Statutory Factors

##### Statutory Objective

Under Section 36 of the Act, in making its determination, the Commission is obliged to “aim to facilitate the development and operation of safe, cost-effective terminal services which meet international standards”.

Based on the analysis of this statutory objective offered in CP5/2001, the Commission has concluded that the objective is concerned with productive and dynamic efficiency, subject to the constraint of safety and the requirement to meet international standards. Once safety and international standards are met, economic welfare tends to be maximised where the above efficiencies are observed and where prices are cost-reflective and assume an efficient structure.

Accordingly, in having due regard to each of the seven factors specified in Section 36, the Commission has sought to determine the extent to which reliance on each of the statutory factors maximises economic welfare from aviation terminal services.

##### Statutory Factors

- a. *“the relevant charging principles of the International Civil Aviation Organisation and of Eurocontrol,”*<sup>1</sup>

The Commission, in setting the maximum levels of aviation terminal service charges must have due regard to the ICAO and Eurocontrol principles which are relevant to discharging this function. The Commission is of the view that having regard to such principles that are relevant should facilitate the achievement of the statutory objective set out in section 36 of the Act.

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<sup>1</sup> Section 36(a)

At the outset therefore, the Commission must consider which of those principles are relevant in the context of this determination. In deciding which principles are relevant the Commission will in turn have regard to its own views on the scope of aviation terminal service charges as outlined in Section 3.

The Council of ICAO has issued principles in respect of charges for airports and aviation services.<sup>2</sup> These principles treat air navigation services provided in respect of approach and aerodrome control separate to those provided in respect of the en route phase of a flight. Furthermore these principles recommend that, *“where charges for approach and aerodrome control are levied, the charge... could take aircraft weight into account but less than in direct proportion”*.

In respect of Eurocontrol, although the principal function of Eurocontrol is the operation of a common route charges system pursuant to a multi-lateral agreement relating to route charges, Eurocontrol also offers member states a calculation, billing and collection service for terminal charges. The Irish Aviation Authority has entered into a bi-lateral agreement with Eurocontrol entrusting Eurocontrol with the calculation, billing, accounting and collection on its behalf of charges for the use of terminal services in accordance with the laws and regulations in force in Ireland. Pursuant to this agreement and in accordance with the recommendations of ICAO, Eurocontrol have published *“Rules governing Terminal Charges in Ireland”*<sup>3</sup>

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<sup>2</sup> ICAO's policies on charges for airports and air navigation services, 6<sup>th</sup> Edition – 2001 Doc 9082/6.

<sup>3</sup> These rules are incorporated in a document titled “ Information Circular - effective 1<sup>st</sup> January 2001 (Ref EI 2001/01) Terminal Charges in Ireland



Article 3 of these rules states that the terminal charge (**R**) shall be calculated in accordance with the following formula:

$$R = t \times N$$

Where (**t**) is the unit rate of charge and (**N**) is the number of service units corresponding to terminal services used or made available.

Article 4 of these rules states that "for a given departing flight, the number of service units in respect of terminal charges, designated (**N**) shall be equal to the maximum certified take-off weight (MTOW) for the aircraft concerned..."

As indicated in CP5/2001 the Irish Aviation Authority at present applies the average MTOW of each airline's fleet for the purpose of charging those airlines for aviation terminal service charges. The Commission does not propose to specify the maximum levels of aviation terminal services charges according to alternative principles. However, the Commission, prior to its final determination, will consider the optimality of alternative charging structures such as, movement-based versus weight-based charging structure.

The Commission has also had regard to principles published by the Central Route Charges Office of Eurocontrol entitled "*Principles for establishing the cost-base for route facility charges and the calculation of the unit rates*". These principles are based on those described in the "*Statements by the Council to Contracting States on Charges for Air Route Navigation Facilities*" as contained in ICAO document 9082/5 and in the "*Manual on Air Navigation Services Economics*" contained in ICAO document 9161/3. These Eurocontrol principles were adopted pursuant to the Eurocontrol multi-lateral agreement relating to route charges. These charging principles advocate 100% financial cost recovery for the provision of en-route air navigation services. These

principles also state that any contracting party wishing to adopt independent economic regulation, deviating from the principles, must do so in accordance with the set of guidelines in Appendix VII to the principles and subject to certain conditions.

The Commission does not consider that these principles issued by the Central Route Charges Office of Eurocontrol are relevant for the purpose of making a determination in respect of the maximum levels of aviation terminal service charges. These principles relate to the en route phase of a flight. The Commission has outlined its preliminary view in section 3 that the scope of aviation terminal services as defined under Irish law does not include the en route phase of a flight which is regulated by 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"<sup>4</sup>*

An assessment of the required capital expenditure (CAPEX) of the Authority in relation to the provision of aviation terminal services is a necessary prerequisite in order to have due regard to this factor. The Commission proposes that by allowing the maximum charges to recover the cost of a CAPEX programme, which is designed to meet international standards in regard to safety and cost effective terminal services, both productive and dynamic efficiency are enhanced and encouraged, and to that extent, the statutory objective is furthered.

Separately, the Commission has been supplied with details of the Irish Aviation Authority's planned CAPEX programme for the period of the first determination. The Irish Aviation Authority's CAPEX programme is set out in summary form in Annex I. The Commission has undertaken an independent assessment of that CAPEX programme.

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<sup>4</sup> Section 36(b)

That assessment is not yet complete. However, based on information received to date, the Commission has formed the view that no excessive redundancy or capacity was observed in the systems currently in use by the Irish Aviation Authority or in the CAPEX programme. This preliminary conclusion will need to be tested and verified after further information has been received from the Irish Aviation Authority.

c. *“the efficient and effective use of all resources by the Authority”*<sup>5</sup>

Given the centrality of efficiency in the statutory objective<sup>6</sup>, the Commission is of the view that reliance upon this factor promotes the achievement of that objective. Accordingly, the Commission has considered, in a preliminary fashion, a variety of information to evaluate the efficiency and the effectiveness of the use of all of the Irish Aviation Authority’s resources. Some of this information was specific to aviation, other information related to regulated businesses abroad. The aviation information included the reports of the Performance Review Group (PRG) of Eurocontrol. Other information included studies of the performance of UK companies after privatisation and the introduction of independent economic regulation. These are discussed more fully in connection with statutory factor (g) (international cost competitiveness).

The Commission has not reached a position on the scope for annual operational efficiency improvements in aviation terminal services in Ireland. It will continue to investigate the matter with a view to reaching a decision in time for the Commission’s final Determination. In the meantime, the views of interested parties are sought during the period of the statutory consultation that has begun with the issue of

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<sup>5</sup> Section 36(c)

<sup>6</sup> “In making its Determination, the Commission shall aim to facilitate the development and operation of safe, cost-effective terminal services which meet international standards”, Section 36

this draft determination. Similarly, the appropriateness of the Irish Aviation Authority's investment programme will be further investigated by the Commission, and the views of interested parties are invited on this matter also.

Accordingly, the Commission has based its proposed maximum aviation terminal services charges, for the first period of price regulation (2002-2007), on the current level of the Irish Aviation Authority's terminal services charges. In the circumstances, the maximum may be subject to revision to take account of the Commission's final views on the scope for operational and capital efficiency improvements.

*d. "the level of the Authority's income from aviation terminal services and other revenue earned by the Authority generally"*<sup>7</sup>

In respect of this factor, the Commission must assess what are the appropriate revenues to be taken into account in determining maximum levels of aviation terminal services charges so that economic welfare is enhanced. The Irish Aviation Authority must be given the correct incentives in relation to the future development of its services and users should benefit from economic activity, which they, in part, generate for the Irish Aviation Authority.

The Irish Aviation Authority's revenues consist of those for aviation terminal services, the control of en route movements in Irish controlled airspace, Shanwick Communications, safety regulation, exempt air traffic and commercial and training activities. The demand for aviation terminal services is a derived demand from the airline industry, in particular, from those airlines that land at and take-off from Irish airports. In deciding what are the appropriate revenues to be taken into account in determining maximum levels of aviation terminal services charges, the Commission must determine the other

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<sup>7</sup> Section 36(d)

revenue earned by the Irish Aviation Authority also as a direct consequence of those airlines landing at and taking off from Irish airports.

As regards the control of en route movements in Irish controlled airspace, only a small proportion of the controlled flights land at or take-off from Dublin, Shannon or Cork airport. En route charges are already regulated in the sense that Eurocontrol determines them on the basis of the ICAO principle of 100% financial cost recovery.<sup>8</sup> Therefore, reducing aviation terminal services charges below a level that would result in, for example, at least 100% financial cost recovery for those services (on the basis of giving some of the benefit to airlines for generating en route business) would necessitate an increase in en route charges in order to subsidise aviation terminal services and, thereby, remain financially solvent. However, the same airline is paying for the subsidised aviation terminal services charges and the increased en route charges. Therefore, although there may be a demand complementarity between a small proportion of aviation terminal services and en route services, the combination of the facts that the same agent pays for both services and that en route charges are already regulated on the basis of 100% financial cost recovery renders the application of a single till type principle redundant. It is the Commission's preliminary view that analogous arguments can be made in the case of Shanwick Communications.

In addition, the Commission's preliminary view is that there is no justification for taking into account revenues earned by the Irish Aviation Authority for safety regulation, exempt air traffic or commercial and training activities as the demand for these services bears no relationship to the demand for aviation terminal services at Dublin, Shannon or Cork airport.

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<sup>8</sup> Moreover, the Authority claims that aviation terminal services are also set on this basis.

- e. *“operating and other costs incurred by the Authority in providing aviation terminal services”*<sup>9</sup>

In making its draft Determination, the Commission hoped to be in a position to propose a maximum terminal service charge so as to cover all necessary operating and capital costs, while giving a reasonable return on investment to the service provider. In pursuit of the statutory objective, the Commission would have sought to ensure that operating costs were minimised consistent with the maintenance of safety and for a given level and quality of service, and furthermore that planned investment expenditures would be consistent with cost minimisation.

However, due to the significant disruption to many aspects of the aviation industry since the terrorist attacks of 11<sup>th</sup> September 2001, the statistical and informational basis for such an exercise is not available at this time. Therefore, as stated, the Commission has based its maximum aviation terminal services charges, for the purpose of the draft determination, on the current level of the Irish Aviation Authority's terminal services charges. In such circumstances, the maximum may be subject to revision to take account of the revised traffic forecast and the better cost and revenue information that will be available to the Commission at the time of its final Determination.

- f. *“the level of quality of aviation terminal services, and the reasonable interests of the users of these services”*<sup>10</sup>

In CP5/2001, the Commission asked users to comment on the quality and level of service of aviation terminal services provided by the Irish Aviation Authority (IAA). Aer Lingus, the only user to respond, stated that it saw, *‘no reason to establish a complex monitoring regime or a*

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<sup>9</sup> Section 36(e)

<sup>10</sup> Section 36(f)

*set of specific incentives to promote service quality*'. Aer Lingus was satisfied that the Irish Aviation Authority was providing an effective service while also improving quality. The only concern of Aer Lingus was that the reduction in separation between aircraft landing at Dublin airport should be reduced to 3 miles. The Commission understands that this change has since been introduced.

While the Commission sees merit in the views put forward by Aer Lingus on this issue, we would welcome views from other users of aviation terminal services provided by the Irish Aviation Authority and also from any other interested parties. The Commission again draws attention to the relevant questions put forward in CP5/2001.

As also discussed in CP5/2001, the Commission is mindful that where there is price regulation, the supplier has the incentive to reduce service quality in order to increase profits. Therefore it may be important to specify certain performance standards.<sup>11</sup> Based on the information received to date, the Commission is not proposing to introduce performance standards with regard to service quality. However, the matter is still under consideration. The Commission would welcome views from interested parties on such performance standards and, indeed, any other standards that may be relevant in respect of aviation terminal services.

Lack of delay would appear to be the most important aspect in the provision of quality aviation terminal services. However, a major difficulty arises in attributing responsibility for delay to the range of parties involved in a flight, i.e. airlines, airports, air navigation services providers etc. The Commission would welcome suggestions as to the

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<sup>11</sup> See Annex III

kinds of delay for which the Irish Aviation Authority may be deemed responsible.

*g. "the cost competitiveness of aviation terminal services with respect to international practice."*<sup>12</sup>

Due regard to and reliance upon this factor, assists in assessing the comparative efficiency of the regulated firm, while also allowing the regulator to estimate the potential for efficiency gains in the event that there are inefficiencies. In that way, if, as the Commission is proposing, a price cap based on a CPI-X formula is used, then appropriate comparative efficiency analysis will contribute to the Commission's proposals on what the X factor should be for the duration of the determination. As such, due regard to and reliance upon this factor assists in furthering the statutory objective.

In order to have due regard to the cost competitiveness and operational efficiency of the provision of aviation terminal services by the Irish Aviation Authority with respect to international practice, the Commission has considered, in a preliminary fashion, a variety of information to evaluate the efficiency and the effectiveness of the use of all of the Irish Aviation Authority's resources. Some of this information was specific to aviation, other information related to regulated businesses abroad.

The aviation information included the reports of the Performance Review Group (PRG) of Eurocontrol. Other information included studies of the performance of UK companies after privatisation and the introduction of independent economic regulation.

One element of the PRG reports was research commissioned by Eurocontrol that sought to relate the costs of air navigation service

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<sup>12</sup> Section 36(g)



providers (ANSP) to the likely principal drivers of such costs.<sup>13</sup> The studies concluded that the Irish Aviation Authority's costs were 20% below the level predicted by the statistical model in 1998 and 22% lower in 1999. This places the Irish Aviation Authority as the second best-performing ANSP in each of these years.

The Commission has also reviewed evidence from the UK of the annual average productivity improvement achieved by former state-owned companies following privatisation and the establishment of independent economic regulation. Reviewing the same evidence, the Economic Regulation Group of the UK Civil Aviation Authority<sup>14</sup> concluded 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 Commission will continue to investigate the question of the international cost-effectiveness of the aviation terminal services of the Irish Aviation Authority and invites the comments of interested parties during the period of statutory consultation. When the results of these investigations are available, the Commission proposes to take them into account in setting the determination.

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<sup>13</sup> The explanatory drivers are estimated to be: the number of kilometres flown, the density of traffic, the average route length of an aircraft, and the percentage of overflights

<sup>14</sup> "National Air Traffic Services Public-Private Partnership: Setting the Charge Control for Enroute Services in UK Airspace for the First Five Years", CAA consultation paper, April 2000, available from [www.caaerg.co.uk](http://www.caaerg.co.uk)

## 5. Draft Determination

- a. The Authority shall ensure that, for the regulatory year 2002/03, the revenue yielded for the provision of aviation terminal services to flights departing from Dublin, Shannon and Cork airports shall not exceed:

$$R = t \times N$$

where  $t = 1 \text{ euro} = \text{IR}\text{€}0.787564$  and  $N$  is the number of service units.

- b. In each subsequent regulatory year during the period of operation of the determination,  $t$  will be subject to an annual CPI-X adjustment, where the value of  $X$  (which may be positive or negative) for each of those years will be determined on the basis of the Commission's consideration of a number of factors such as, for example, the scope for operational and capital efficiency improvements by the Authority and the coming into operation of the proposed ATM system upgrade, once further information, which allows a detailed evaluation, is obtained.
- c. Definitions  
"Regulatory year 2002/03" means the twelve month period beginning on 22 March 2002.

For a given departing flight, the "number of service units" ( $N$ ) shall be equal to the maximum certificated take-off weight (MTOW) for the aircraft concerned, expressed in metric tons, as shown in the certificate of airworthiness, the flight manual or any other equivalent official document.

"CPI" means the annual percentage change in the consumer price index.

## 6. Explanatory Memorandum

- a. The Commission proposes a single determination on maximum levels on all aviation terminal services charges.
- b. The regulatory till is limited to all aviation terminal services charges revenues.
- c. In setting its determination, the Commission has carefully examined the operating costs and capital costs (both present and future) of the Irish Aviation Authority, along with its other unavoidable costs. The Commission has considered the allocation of the Irish Aviation Authority's costs between aviation terminal services charges and other services. The Commission has reached the preliminary view that the Irish Aviation Authority's charges fall below the average cost of providing aviation terminal services. Accordingly, given the Commission's limited remit to setting the maximum level of aviation terminal services charges, it has accepted the Irish Aviation Authority's charges as the basis for its determination.

The Commission will further consider for the final determination, raising the maximum aviation terminal services charges to a level where the costs of provision of aviation terminal services charges would be fully recovered.

- d. The Commission has not considered for the purposes of this draft determination the necessity for a peak/off-peak differential for aviation terminal services charges. However, this is something that the Commission will examine prior to making its final determination and the Commission would welcome the views of interested parties in this regard.

## **7. Information Relied on to Calculate Maximum Charges**

In preparing the draft determination and explanatory memorandum, the Commission has had due regard to all of the information which it received in response to requests for information. In particular, this includes the General Ledger Accounts of the Irish Aviation Authority for the years 1995 - 2000 (the budgeted figures for 2001) and the fixed asset register of the Authority. The Commission has also reviewed details of the Irish Aviation Authority's CAPEX programme for the years relevant to the determination. The Commission has also had regard to the information contained in the submissions received in response to CP5/2001.

## **8. Remaining Elements of Consultation Process**

In accordance with Section 35(5)(c) of the Act, the Commission must allow a period, not being less than two months from the date of publication of notice of its determination, within which representations with respect to the notice may be made by interested parties or the public. That period will run until 21 December 2001, and the conditions that apply in respect of receipt of statutory representations are set out in Annex II. These conditions will be strictly applied without exception.

## Annex I

### IAA - CAPEX Programme - 31 December 2000

All figures reported in Euros

	<b>2001 €000</b>	<b>2002 €000</b>	<b>2003 €000</b>	<b>2004 €000</b>	<b>2005 €000</b>	<b>Total €000</b>
<b>Buildings</b>	3,000	2,000	-	-	-	5,000
<b>Navigational Aids &amp; Equipment</b>	13,000	21,000	16,000	12,000	3,000	65,000
<b>Administrative Systems &amp; Equipment</b>	1,000	2,000	2,000	2,000	-	7,000
<b>Totals</b>	17,000	25,000	18,000	14,000	3,000	77,000

The CAPEX programme shown above is for all Capital Projects planned by the IAA @ 31st December 2000, including all areas of the business i.e. En Route, Terminal etc

## **Annex II – Deadline for Receipt of Representations**

In paragraph 5.3.2 of Commission Paper CP4/2001 the Commission set out the meaning of deadlines imposed by the Commission in the context of its process leading to a determination on aviation terminal services charges. That paragraph states that where a date is expressly or impliedly stipulated as a deadline, the closing time for receipt of submissions is 5:00pm on the date in question. In order to ensure that the Commission acts at all times in a fair, transparent and non-discriminatory manner, the Commission is concerned to ensure that all parties making representations in respect of the proposed determination are clear about the meaning of the deadline set for receipt of such representations and the consequences of failing to meet the deadline. The deadline for receipt of representations with respect to the proposed determination on the maximum level of aviation terminal services charges is 5:00pm on the 21st of December 2001 (the “deadline”).

Any party intending to make representations to the Commission with respect to the notice of determination should note the following conditions, which the Commission will apply with respect to the receipt of representations and the meeting of the deadline. These conditions are supplemental to Commission Paper CP4/2001 and to the extent that anything contained in CP4/2001 conflicts with these conditions, these conditions shall prevail.

1. Subject where applicable to the specific rules set out in subsection 6 below, the time of receipt of representations by the Commission whether in electronic form or otherwise shall be the time when the representations are actually received at or in the offices of the Commission whether sent by post, courier, hand delivery, fax, e-mail or otherwise and all references to “received by the Commission” shall be construed accordingly.

2. The onus will be on the party making representations to the Commission to ensure that the representations are received by the Commission on or before the deadline.
3. The Commission accepts no responsibility and will make no allowances for delays or technical faults, which arise otherwise than as a direct result of an act or omission of the Commission, howsoever caused, and which result in representations being received by the Commission after the deadline or which result in part only of the representations being received by the Commission on or before the deadline.
4. Representations which are received by the Commission after the deadline will be deemed not to have been received by the Commission and they will not be taken into account by the Commission. If a portion of representations are received by the Commission on or before the deadline and the remaining portion received after the deadline, then only that part received by the Commission on or before the deadline will be taken into account by the Commission. The remaining part will be deemed not to have been received by the Commission.
5. In determining the time at which representations are actually received by the Commission, in accordance with the rules set out in this Annex, the Commission shall use the clock settings, time and date stamps in use in the offices of the Commission for Aviation Regulation, on its fax machine and on its information systems, as appropriate.
6. Without prejudice to the generality of the foregoing the following specific rules shall apply to the following situations:-
  - (a) Post  
Representations sent to the Commission by post shall be deemed to have been received by the Commission at the time when they were



delivered by An Post to the offices of the Commission for Aviation Regulation at 36 Upper Mount Street, Dublin 2. In the event of any disagreement as to this time, the time at which the Commission received the representations will be deemed to be the time at which they were delivered by An Post unless the party sending the representations can prove otherwise.

(b) Courier or Hand Delivery

Representations sent to the Commission by courier or hand delivery shall be deemed to have been received by the Commission at the time when they were delivered by the courier company or the person effecting hand delivery to the offices of the Commission for Aviation Regulation at 36 Upper Mount Street, Dublin 2. In the event of any disagreement as to this time, the time at which the Commission received the representations will be deemed to be the time at which they were delivered by the courier company or the person effecting hand delivery unless the party sending the representations can prove otherwise.

(c) Fax

The Commission will be deemed to have received representations sent by fax at the time of receipt by the Commission of the last page of the fax transmission containing the representations. In the event that the Commission starts to receive a fax transmission prior to the deadline and the fax transmission is not completed until after the deadline, the Commission will only be deemed to have received that portion of the transmission sent on or before the deadline. By way of example, fax sheets bearing a time stamp of 5:01p.m. on the 21<sup>st</sup> of December or later will be deemed not to have been received by the Commission.

(d) Electronic Mail

The Commission will be deemed to have received representations sent by electronic mail at the time when the electronic mail containing the representations enters the information system, which the Commission has designated for the purpose of receiving electronic communications. In this case the information system represented by the electronic mailing address [info@aviationreg.ie](mailto:info@aviationreg.ie) is the information system that the Commission has designated for the purpose of receiving electronic communications. No other address of the Commission or its staff should be used.

## **Annex III – Possible Performance Standards for Aviation Terminal Services Charges**

Five types of performance standards, and possible related compensation, are identified in a paper, '*Performance Standards*' produced for the British Air Transport Association (BATA) in January 2000 by Vector Management Limited. The Commission would appreciate any comments on these:

1. The first performance standard measures the ability of the ATC service to grant an airspace slot in accordance with the advance schedule of a flight. Can the IAA keep to the slot time advised to them by Eurocontrol? Does the IAA engage in sufficient planning to deal with their forthcoming workload? If not, should users be compensated?
2. The second performance standard is designed to compensate airlines if ATC do not grant the airlines their preferred route for a particular flight. How should this be calculated? At what extra distance should compensation be effective from?
3. The third performance standard recommended by Vector relates to the ability of ATC to get flights airborne in accordance with the slot granted by Eurocontrol. The Commission would welcome views from interested parties on the performance of the IAA with regard to this standard.
4. Performance Standard No. 4 relates to the delays users experience when landing a flight at the airport. Should an 'approach boundary' be set and the amount of time spent in this area measured? The Commission would request any views interested parties may have.
5. Finally, the fifth performance standard looks at the time taken from landing to arrival at a stand.