



Review of Determination on Maximum Levels of Aviation Terminal Services Charges and Report

Commission Paper CP4/2004

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TABLE OF CONTENTS

DETERMINATION

1.	REVISED DETERMINATION	3
1.1	Definitions	3
1.2	Regulatory Period 26 March 2002 to 25 March 2003	5
1.3	Regulatory Period 26 March 2003 to 25 March 2004	5
1.4	Regulatory Period 26 March 2004 to 25 March 2005	6
1.5	Regulatory Period 26 March 2005 to 25 March 2006	7
1.6	Regulatory Period 26 March 2006 to 25 March 2007	8
2	EXPLANATORY MEMORANDUM	10
2.1	The Existing Price Cap Formula in CP3/2002	10
2.2	The Operation of the Correction Factor: Algebra	11
2.3	The Operation of the Correction Factor: Numerical Examples	14
2.4	The Operation of the Correction Factor: Actual Values.....	19

REPORT

3	FOREWORD.....	21
4	MATTERS INCLUDED IN THE REVIEW	22
5	ACCEPTANCE AND/OR REJECTION OF REPRESENTATIONS	23

1. REVISED DETERMINATION

1.1 Definitions

In this Determination unless the context otherwise requires:

“aircraft operator’s fleet of the relevant aircraft series” means all aircraft owned and certified by the aircraft operator of the same series as the departing aircraft;

“aircraft series” is a category of aircraft model. By way of example, the Boeing 737-300, the Boeing 737-500 and the Boeing 737-800 are three different aircraft series;

“air navigation services” has the meaning assigned to it by section 2 of the Irish Aviation Authority Act, 1993 and includes 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;

“average revenue per tonne” means the revenue from aviation terminal services charges divided by the total weight of aircraft departing from Dublin, Shannon and Cork airports;

“Authority” means Irish Aviation Authority established pursuant to the Irish Aviation Authority Act, 1993;

“aviation terminal services charges” means charges levied in respect of 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 after taking off from that aerodrome;

“MTOW” means Maximum Certified Take Off Weight;

“total weight of aircraft departing from Dublin, Shannon and Cork airports” means the sum of the weight of aircraft departures, where the weight of an aircraft departure is the average MTOW of the aircraft operator’s fleet of the relevant aircraft series;

Other defined words, phrases or formulae shall have the meaning assigned to them where indicated, which meaning shall apply to that part of the determination in which such words, phrases or formulae are defined.

1.2 Regulatory Period 26 March 2002 to 25 March 2003

The Authority shall ensure that, for the regulatory period 26 March 2002 to 25 March 2003, the average revenue per tonne yielded by way of aviation terminal services charges levied per aircraft departing from Dublin, Shannon or Cork airport shall not exceed:

$$Y_{02/03}^{Iaa} = \text{€}1.34$$

where

$Y_{02/03}^{Iaa}$ is the maximum average revenue per tonne of aircraft departing from Dublin, Shannon or Cork Airport in the regulatory period 26 March 2002 to 25 March, 2003.

1.3 Regulatory Period 26 March 2003 to 25 March 2004

The Authority shall ensure that, for the regulatory period 26 March 2003 to 25 March 2004, the average revenue per tonne yielded by way of aviation terminal services charges levied per aircraft departing from Dublin, Shannon or Cork airport shall not exceed:

$$Y_{03/04}^{Iaa} = YU_{03/04}^{Iaa} + W_{02/03}^{Iaa} + K_{03/04}^{Iaa}$$

where

$Y_{03/04}^{Iaa}$ is the maximum average revenue per tonne of aircraft departing from Dublin, Shannon or Cork Airport in the regulatory period 26 March 2003 to 25 March 2004;

$$YU_{03/04}^{Iaa} = Y_{02/03}^{Iaa} \left(1 + \frac{\Delta CPI_{02/03} + X^{Iaa}}{100} \right);$$

$\Delta CPI_{02/03}$ means the percentage change (whether of a positive or negative value) in the Consumer Price Index between that published in January 2002 and January 2003;

$$X^{Iaa} = 7;$$

$W_{02/03}^{Iaa}$ is the difference between the Commission for Aviation Regulation's actual costs and expenses and budgeted costs and expenses, both expressed on a per tonne basis, recoverable through aviation terminal

services charges levied on aircraft departing from Dublin, Shannon and Cork airports during the regulatory period 26 March 2002 to 25 March 2003;

$K_{03/04}^{Iaa}$ is the correction per tonne to be made in the regulatory year 26 March 2003 to 25 March 2004, which is derived from the following formula:

$$\left(Y_{02/03}^{Iaa} - Y_{02/03}^{*Iaa} \right) \left[1 + \frac{I_{02/03}}{100} \right]$$

in which

$Y_{02/03}^{*Iaa}$ is the actual average revenue per tonne of aircraft departing from Dublin, Shannon or Cork Airport in the regulatory year 26 March 2002 to 25 March 2003;

$I_{02/03}$ means the average of the rate (expressed as an annual percentage interest rate) on three-month commercial paper issued between March 2002 and February 2003 by the National Treasury Management Agency.

1.4 Regulatory Period 26 March 2004 to 25 March 2005

The Authority shall ensure that, for the regulatory year 26 March 2004 to 25 March 2005, the average revenue per tonne yielded by way of aviation terminal services charges levied on aircraft departing from Dublin, Shannon or Cork airport shall not exceed:

$$Y_{04/05}^{Iaa} = YU_{04/05}^{Iaa} + W_{03/04}^{Iaa} + K_{04/05}^{Iaa}$$

where

$Y_{04/05}^{Iaa}$ is the maximum average revenue per tonne of aircraft departing from Dublin, Shannon or Cork Airport in the regulatory period 26 March 2004 to 25 March 2005;

$$YU_{04/05}^{Iaa} = YU_{03/04}^{Iaa} \left(1 + \frac{\Delta CPI_{03/04} + X^{Iaa}}{100} \right)$$

$\Delta CPI_{03/04}$ means the percentage change (whether of a positive or negative value) in the Consumer Price Index between that published in January 2003 and January 2004;

$$X^{Iaa} = 7$$

$W_{03/04}^{Iaa}$ is the difference between the Commission for Aviation Regulation's actual costs and expenses and budgeted costs and expenses, both expressed on a per tonne basis, recoverable through aviation terminal services charges levied on aircraft departing from Dublin, Shannon and Cork airports during the regulatory period 26 March 2003 to 25 March 2004;

$K_{04/05}^{Iaa}$ is the correction per tonne to be made in the regulatory year 26 March 2004 to 25 March 2005, which is derived from the following formula:

$$\left(Y_{03/04}^{Iaa} - Y_{03/04}^{*Iaa} \right) \left[1 + \frac{I_{03/04}}{100} \right]$$

in which

$Y_{03/04}^{*Iaa}$ is the actual average revenue per tonne of aircraft departing from Dublin, Shannon or Cork Airport in the regulatory year 26 March 2003 to 25 March 2004;

$I_{03/04}$ means the average of the rate (expressed as an annual percentage interest rate) on three-month commercial paper issued between March 2003 and February 2004 by the National Treasury Management Agency.

1.5 Regulatory Period 26 March 2005 to 25 March 2006

The Authority shall ensure that, for the regulatory year 26 March 2005 to 25 March 2006, the average revenue per tonne yielded by way of aviation terminal services charges levied on aircraft departing from Dublin, Shannon or Cork airport shall not exceed:

$$Y_{05/06}^{Iaa} = YU_{05/06}^{Iaa} + W_{04/05}^{Iaa} + K_{05/06}^{Iaa}$$

where

$Y_{05/06}^{Iaa}$ is the maximum average revenue per tonne of aircraft departing from Dublin, Shannon or Cork Airport in the regulatory period 26 March 2005 to 25 March 2006;

$$YU_{05/06}^{Iaa} = YU_{04/05}^{Iaa} \left(1 + \frac{\Delta CPI_{04/05} + X^{Iaa}}{100} \right)$$

$\Delta CPI_{04/05}$ means the percentage change (whether of a positive or negative value) in the Consumer Price Index between that published in January 2004 and January 2005;

$$X^{Iaa} = 7$$

$W_{04/05}^{Iaa}$ is the difference between the Commission for Aviation Regulation's actual costs and expenses and budgeted costs and expenses, both expressed on a per tonne basis, recoverable through aviation terminal services charges levied on aircraft departing from Dublin, Shannon and Cork airports during the regulatory period 26 March 2004 to 25 March 2005;

$K_{05/06}^{Iaa}$ is the correction per tonne to be made in the regulatory year 26 March 2005 to 25 March 2006, which is derived from the following formula:

$$\left(Y_{04/05}^{Iaa} - Y_{04/05}^{*Iaa} \right) \left[1 + \frac{I_{04/05}}{100} \right]$$

in which

$Y_{04/05}^{*Iaa}$ is the actual average revenue per tonne of aircraft departing from Dublin, Shannon or Cork Airport in the regulatory year 26 March 2004 to 25 March 2005;

$I_{04/05}$ means the average of the rate (expressed as an annual percentage interest rate) on three-month commercial paper issued between March 2004 and February 2005 by the National Treasury Management Agency.

1.6 Regulatory Period 26 March 2006 to 25 March 2007

The Authority shall ensure that, for the regulatory year 26 March 2006 to 25 March 2007, the average revenue per tonne yielded by way of aviation terminal services charges levied on aircraft departing from Dublin, Shannon or Cork airport shall not exceed:

$$Y_{06/07}^{Iaa} = YU_{06/07}^{Iaa} + W_{05/06}^{Iaa} + K_{06/07}^{Iaa}$$

where

$Y_{06/07}^{Iaa}$ is the maximum average revenue per tonne of aircraft departing from Dublin, Shannon or Cork Airport in the regulatory period 26 March 2006 to 25 March 2007;

$$YU_{06/07}^{Iaa} = YU_{05/06}^{Iaa} \left(1 + \frac{\Delta CPI_{05/06} + X^{Iaa}}{100} \right)$$

$\Delta CPI_{05/06}$ means the percentage change (whether of a positive or negative value) in the Consumer Price Index between that published in January 2005 and January 2006;

$$X^{Iaa} = 7$$

$W_{05/06}^{Iaa}$ is the difference between the Commission for Aviation Regulation's actual costs and expenses and budgeted costs and expenses, both expressed on a per tonne basis, recoverable through aviation terminal services charges levied on aircraft departing from Dublin, Shannon and Cork airports during the regulatory period 26 March 2005 to 25 March 2006;

$K_{06/07}^{Iaa}$ is the correction per tonne to be made in the regulatory year 26 March 2006 to 25 March 2007, which is derived from the following formula:

$$\left(Y_{05/06}^{Iaa} - Y_{05/06}^{*Iaa} \right) \left[1 + \frac{I_{05/06}}{100} \right]$$

in which

$Y_{05/06}^{*Iaa}$ is the actual average revenue per tonne of aircraft departing from Dublin, Shannon or Cork Airport in the regulatory year 26 March 2005 to 25 March 2006;

$I_{05/06}$ means the average of the rate (expressed as an annual percentage interest rate) on three-month commercial paper issued between March 2005 and February 2006 by the National Treasury Management Agency.

2 EXPLANATORY MEMORANDUM

2.1 The Existing Price Cap Formula in CP3/2002

The price cap in the first year of a Determination is stated as a nominal monetary amount. Call this Y_1 . In subsequent years, the cap is calculated according to a formula. The formula for the year 2 cap, Y_2 , is:

$$Y_2 = Y_1 \left(1 + \frac{\Delta CPI - X}{100} \right) + W_1 - K_1 \quad (1)$$

where

$$K_1 = (Y_1^* - Y_1) \left[1 + \frac{I}{100} \right].$$

The price cap in years subsequent to the first is, therefore, the sum of three terms.

The first, $Y_1 \left(1 + \frac{\Delta CPI - X}{100} \right)$, adjusts the previous year's cap for inflation

and the X-factor, the latter giving the required real reduction in prices.

The second, W_1 , is the difference between the Commission's actual and budgeted costs – recoverable through aviation terminal services charges –

expressed on a per tonne basis. The third, $K_1 = (Y_1^* - Y_1) \left[1 + \frac{I}{100} \right]$, is the

correction factor and is the difference between the per tonne yield outturn

for year 1, Y_1^* , and the year 1 maximum. That difference is subject to

interest, I , to reflect the opportunity cost to the Irish Aviation Authority (in the case of an under-collection) or to the airlines (in the case of an over-collection) of deviations from the price cap.

Note that re-expressing the correction factor as

$$K_1 = (Y_1 - Y_1^*) \left[1 + \frac{I}{100} \right]$$

would allow the year 2 cap to be expressed as

$$Y_2 = Y_1 \left(1 + \frac{\Delta CPI - X}{100} \right) + W_1 + K_1 \quad (2)$$

The sign on K_1 is now positive in equation (2), as opposed to negative in equation (1) above. This change has no purpose other than to eliminate a potential source of confusion by treating W and K symmetrically.

2.2 The Operation of the Correction Factor: Algebra

To illustrate how the price cap formulae – as expressed in CP3/2002 – were specified in such a way as to double-count error corrections from previous regulatory periods, we make some simplifying assumptions. These are:

$$\Delta CPI = X$$

$$W_1 = 0$$

$$I = 0$$

Equation (2) above – the formula for the year 2 price cap – is thereby simplified as follows:

$$Y_2 = Y_1 + K_1 .$$

In other words, the cap for year 2 is the sum of the cap for year 1 and the correction factor capturing the extent of over- or under-collection of revenues in year 1.

To see the double-counting of the error corrections, we write out the progression of price caps over the 5-year period of regulation:

Year 1:	Y_1
Year 2:	$Y_2 = Y_1 + K_1$
Year 3:	$Y_3 = Y_2 + K_2$
Year 4:	$Y_4 = Y_3 + K_3$
Year 5:	$Y_5 = Y_4 + K_4$

Double-counting is not a problem in year 2 because it is the first year for which an error correction term applied. However, using substitution for the Y s, the caps for years 3 to 5 can be re-written as follows:

$$\begin{aligned} \text{Year 3:} \quad & Y_3 = Y_1 + K_1 + K_2 \\ \text{Year 4:} \quad & Y_4 = Y_1 + K_1 + K_2 + K_3 \\ \text{Year 5:} \quad & Y_5 = Y_1 + K_1 + K_2 + K_3 + K_4 . \end{aligned}$$

As can be seen, the IAA is allowed to collect the year 1 under-collection in year 2, but also in years 3, 4 and 5. Similarly, the year 2 under-collection is allowed in year 3, but also in years 4 and 5, and the year 3 under-collection is allowed in year 4 but also in year 5.

The problem of double-counting of the correction terms can be addressed by ensuring that under-collection in any one year should only be reflected by an allowance in the price cap of the subsequent year, but not thereafter. Therefore, the correct price cap in year 3 is found by subtracting the year 1 under-collection from the year 2 cap and adding the year 2 under-collection. The progression of price caps can be re-written as:

$$\begin{aligned} \text{Year 1:} \quad & Y_1 \\ \text{Year 2:} \quad & Y_2 = Y_1 + K_1 \\ \text{Year 3:} \quad & Y_3 = (Y_2 - K_1) + K_2 \\ \text{Year 4:} \quad & Y_4 = (Y_3 - K_2) + K_3 \\ \text{Year 5:} \quad & Y_5 = (Y_4 - K_3) + K_4 \end{aligned}$$

Using the same process of substitution, the caps for years 3 to 5 can be re-written as follows:

$$\begin{aligned} \text{Year 3:} \quad & Y_3 = Y_1 + K_2 \\ \text{Year 4:} \quad & Y_4 = Y_1 + K_3 \\ \text{Year 5:} \quad & Y_5 = Y_1 + K_4 . \end{aligned}$$

In this way, under-collection in any year results in a one-off adjustment in the subsequent year's price cap. Note also that

$$K_2 = Y_2 - Y_2^* = (Y_1 + K_1) - Y_2^*$$

so that if the IAA fails to recover the year 1 under-collection in its entirety in year 2, the remainder is rolled forward into year 3 through the year 2 correction factor. The same applies in subsequent years.

Relaxing the simplifying assumptions above and noting that the principles that apply to the K-term also apply to the W-term, would result in the following progression of price caps (the following is analogous to Annex 3 of CP1/2004):

$$\begin{aligned} \text{Year 1:} & \quad Y_1 \\ \text{Year 2:} & \quad Y_2 = Y_1 \left(1 + \frac{\Delta CPI_1 - X_2}{100} \right) + W_1 + K_1 \\ \text{Year 3:} & \quad Y_3 = (Y_2 - W_1 - K_1) \left(1 + \frac{\Delta CPI_2 - X_3}{100} \right) + W_2 + K_2 \\ \text{Year 4:} & \quad Y_4 = (Y_3 - W_2 - K_2) \left(1 + \frac{\Delta CPI_3 - X_4}{100} \right) + W_3 + K_3 \\ \text{Year 5:} & \quad Y_5 = (Y_4 - W_3 - K_3) \left(1 + \frac{\Delta CPI_4 - X_5}{100} \right) + W_4 + K_4 \end{aligned}$$

This alternative formulation of the regulatory formula amounts to a separation between the component of the formula that rolls forward the previous period's price cap - adjusting for the X-factor and inflation - and the component of the formula providing the correction terms. Denoting the former "YU" (for "unadjusted" Y), the modified set of formulae could be written, in general terms, as follows:

$$Y_t = YU_t + W_{t-1} + K_{t-1} \quad (3)$$

where

$$YU_t = YU_{t-1} \left(1 + \frac{\Delta CPI_{t-1} - X_t}{100} \right) \quad (4)$$

and

$$K_{t-1} = (Y_{t-1} - Y_{t-1}^*) \left[1 + \frac{I_{t-1}}{100} \right] \quad (5)$$

The YU term for a particular regulatory period (t) is calculated by rolling forward the previous period's (t-1) YU term and adjusting for inflation and the X-factor.

2.3 The Operation of the Correction Factor: Numerical Examples

Using this notation, we provide some numerical examples to illustrate the operation of the previous formulae and how the revised specification addresses the double-counting of correction terms. In the first example, we re-introduce the simplifying assumptions that $\Delta CPI = X$, $W = 0$ and $I = 0$, as well as introduce a new one, that the total MTOW of aircraft on which aviation terminal services charges are levied is one in each year.

Assuming a starting cap of €1, Table 1 shows the workings of the existing formulae with no under-collection. The IAA prices up to the cap every year, making $Y_t = Y_t^*$ and, therefore, $K_{t-1} = 0$ for all t (that is, in all years). Given the assumptions, $Y_5^* = \text{€1}$ (not shown in table) and the company earns total revenue (equal to $\sum_t Y_t^*$) of €5 over five years.

Table 1

Existing Price Cap Formulae - no undercollection					
Regulatory Year	2001/02	2002/03	2003/04	2004/05	2005/06
t	1	2	3	4	5
Y_{t-1}		1	1	1	1
CPI_{t-1}		-	-	-	-
X_t		-	-	-	-
$Y_{t-1} \left(1 + \frac{\Delta CPI_{t-1} - X_t}{100} \right)$		1	1	1	1
W_{t-1}		-	-	-	-
Y_{t-1}^*		1	1	1	1
I_{t-1}		-	-	-	-
K_{t-1}		-	-	-	-
Y_t	1	1	1	1	1

Next, Table 2 shows the workings of the existing formulae with a €0.05 under-collection in year 1. In each subsequent year, the IAA prices up to the cap. Having priced up to the cap in year 2, the IAA will have recovered the €0.05 under-collection from year 1. However, the cap for year 3 is defined with reference to the adjusted year 2 cap, which includes the allowance for the year 1 under-collection that has already been recovered.

Table 2

Existing Price Cap Formulae - €0.05 undercollection in year 1					
Regulatory Year	2001/02	2002/03	2003/04	2004/05	2005/06
t	1	2	3	4	5
Y_{t-1}		1	1.05	1.05	1.05
CPI_{t-1}		-	-	-	-
X_t		-	-	-	-
$Y_{t-1} \left(1 + \frac{\Delta CPI_{t-1} - X_t}{100} \right)$		1	1.05	1.05	1.05
W_{t-1}		-	-	-	-
Y_{t-1}^*		0.95	1.05	1.05	1.05
I_{t-1}		-	-	-	-
K_{t-1}		0.05	-	-	-
Y_t	1	1.05	1.05	1.05	1.05

Given the assumptions, $Y_5^* = 1.05$ and the IAA earns €5.15 over the five years. The difference in revenue of €0.15 is the year 1 under-collection, which should only have been recovered in year 2, accumulated over years 3, 4 and 5 of the Determination.

The following two tables show the workings of the formulae as specified in equations (3), (4) and (5), that is, the formulae that would apply after the removal of the double-counting feature. Table 3 shows the case of no under-collection. The outcome is no different to the case of no undercollection with the existing formulae, a total revenue to the IAA of €5.

Table 3

Corrected Price Cap Formulae - no under-collection					
Regulatory Year	2001/02	2002/03	2003/04	2004/05	2005/06
T	1	2	3	4	5
YU_{t-1}		1	1	1	1
CPI_{t-1}		-	-	-	-
X_t		-	-	-	-
YU_t		1	1	1	1
W_{t-1}		-	-	-	-
Y_{t-1}^*		1	1	1	1
I_{t-1}		-	-	-	-
K_{t-1}		-	-	-	-
Y_t	1	1	1	1	1

Table 4 shows the workings of the corrected formulae with a €0.05 under-collection in year 1. Pricing up to the cap in year 2, the IAA will have recovered the €0.05 under-collection from year 1. However, the cap for year 3 is defined with reference to the unadjusted year 2 cap, which excludes the allowance for the year 1 under-collection that has already been recovered. Total revenue over the 5 years is €5.

Table 4

Price Cap Formulae post-Review - €0.05 under-collection in year 1					
Regulatory Year	2001/02	2002/03	2003/04	2004/05	2005/06
T	1	2	3	4	5
YU_{t-1}		1	1	1	1
CPI_{t-1}		-	-	-	-
X_t		-	-	-	-
YU_t		1	1	1	1
W_{t-1}		-	-	-	-
Y_{t-1}^*		0.95	1.05	1	1
I_{t-1}		-	-	-	-
K_{t-1}		0.05	-	-	-
Y_t	1	1.05	1	1	1

2.4 The Operation of the Correction Factor: Actual Values

Tables 5 and 6 below show the workings of the existing and corrected formulae for the price cap on the IAA. Given the starting cap of €1.34, there is a €0.27 under-collection in year 1 (€0.28 including interest). The resulting cap for year 2 is €1.78.

Table 5

Price Cap Formulae pre-Review					
Regulatory Year	2001/02	2002/03	2003/04	2004/05	2005/06
T	1	2	3	4	5
Y_{t-1}		1.34	1.78	2.31	-
CPI_{t-1}		4.7	1.8	-	-
X_t		7	7	-	-
$Y_{t-1} \left(1 + \frac{\Delta CPI_{t-1} - X_t}{100} \right)$		1.4968	1.9366	-	-
W_{t-1}		0.0033	-0.0047	-	-
Y_{t-1}^*		1.067	1.408	-	-
I_{t-1}		3.04	1.9	-	-
K_{t-1}		0.2813	0.379	-	-
Y_t	1.34	1.78	2.31	-	-

Notice how in table 5, the amount of €1.78 (which includes the allowance for the year 1 under-collection) is rolled forward into the cap for the third year, while in table 6, the amount of €1.4968 (which excludes the allowance for the year 1 under-collection) is rolled forward. The resulting difference between the year 3 cap as calculated by the original (€2.31) and amended (€2) formulae is €0.31 per tonne.

Table 6

Price Cap Formulae post-Review					
Regulatory Year	2001/02	2002/03	2003/04	2004/05	2005/06
t	1	2	3	4	5
YU_{t-1}		1.34	1.4968	1.6285	-
CPI_{t-1}		4.7	1.8	-	-
X_t		7	7	-	-
YU_t		1.4968	1.6285	-	-
W_{t-1}		0.0033	-0.0047	-	-
Y_{t-1}^*		1.067	1.408	-	-
I_{t-1}		3.04	1.9	-	-
K_{t-1}		0.2813	0.379	-	-
Y_t	1.34	1.78	2	-	-

REPORT

3 FOREWORD

I am very pleased on behalf of the Commission for Aviation Regulation to present this report on the outcome of the Review of the Determination on the Maximum Levels of Aviation Terminal Services Charges ("Report"). This is the second statutory Report in respect of an aviation terminal services price cap.

This Report, in accordance with the statutory requirements, sets out:

- the Commission's revisions to the Determination;
- the Commission's reasons for making revisions to the Determination.

This document also sets out the Commission's position on representations received from interested parties. There was only one submission received in response to the Notice and we have responded at Section 5 of this Report to the issues raised in that submission, which were deemed relevant to the matter in hand.

William Prasifka
Commissioner

29th July, 2004

4 MATTERS INCLUDED IN THE REVIEW

The Commission decided to conduct a review of the Determination on the basis of the substantial grounds of an error in the regulatory formula. The details of the error was fully set out in CP3/2004 along with the changes it proposed to make in the Amended Determination. The Commission has now made these changes in the Amended Determination. It has made no other changes to the Determination.

5 ACCEPTANCE AND/OR REJECTION OF REPRESENTATIONS

The Commission received representations from one interested party submission - Ryanair. This submission has been published on the Commission's website. The Commission responds below to the relevant parts of the submission.

1. Ryanair does not explicitly object to the correction in the regulatory formulae proposed by the Commission.

Commission Response:

The Commission notes the position of Ryanair.

2. Ryanair propose that the price cap should be reduced by 50% immediately as a result of the review and subsequently reduced on an annual basis by 4% in real terms (i.e. inflation minus 4%). The reason given for this is that the price cap put in place by the Commission has increased since 2001, airfares have decreased in the same period, inflation has been limited to 3% during the period and the regulated firm had profits of €6 million in the last year.

Commission Response:

The Commission rejects this representation. The rationale for the price cap set by the Commission in 2002 and the basis on which it was to be rolled forward (i.e. the annual CPI-X adjustment) was fully explained in CP3/2002. The Commission set the price cap at that time following a statutory consultation process that Ryanair declined to participate in. Now, in response to the Commission's decision to conduct a review of the ATSC cap for the singular purpose of correcting a basic error, Ryanair has stated an

alternative price cap without engagement on the issues surrounding the Commission's stated rationale in 2002 and without challenging the reasons given for setting the price cap at the level it did. Accordingly, the Commission has no basis for amending the level of the price cap on aviation terminal services charges, other than for the purposes of correcting the formulaic error.

In addition, the reasons advanced by Ryanair for its own alternative price cap are not grounded in the statutory remit of the Commission for the purposes of a review of a determination, or supported by any argument or analysis which would indicate that such an alternative approach would meet the statutory obligations of the Commission in terms of substantial grounds. Therefore, on that basis, the Commission also rejects this representation.