



Commission Notice 2/2006

Notice regarding request from the Dublin Airport Authority for approval for a revised charge for check-in desk rental and also for CUTE on check-in desks at Cork Airport

1. BACKGROUND

Council Directive 97/67/EC (the "Directive") on Access to the Groundhandling Market at Community Airports was transposed into Irish law by Statutory Instrument 505 of 1998, European Communities (Access to the Groundhandling Market at Community Airports) Regulations 1998 (the "S.I."). Under Section 9(2) of the Aviation Regulation Act 2001 (No. 1 of 2001), the functions vested in the then Minister for Public Enterprise in respect of this S.I. were transferred to the Commission for Aviation Regulation (the "Commission") on its establishment in February 2001. This transfer of responsibility made the Commission the competent authority in the State for all matters relating to the Directive as transposed. Section 14(3) of the S.I. provides that -

"where access to installations gives rise to the collection of a fee, the latter shall be determined by the managing body of the airport and approved by the Minister in advance in accordance with relevant, objective, transparent and non-discriminatory criteria."

The functions ascribed to the Minister in respect of the approval of fees therefore fall to be carried out by the Commission by virtue of the 2001 Act.

On 6th October 2004, following a consultation process with the industry, (conducted as CP5/2004) the Commission published **CP8/2004** which set out its decision to approve the collection by the Dublin Airport Authority (DAA) of a rental fee (both annual and hourly rates) in respect of check-in desks at Dublin, Shannon and Cork¹ Airports as requested by the airport authority under Section 14(3) of the S.I. At that time, approval was also granted to the DAA to collect a “per passenger fee” of €0.23 in respect of the use of the CUTE (Common User Terminal Equipment) facility at Shannon airport.

2. REQUEST FOR APPROVAL

On 3rd August 2006, the DAA submitted an application to the Commission for approval for a revised charge for check-in desk charges and a charge for CUTE on check-in desks at Cork Airport as required by Article 14 (3) of S.I. 505 of 1998.

As part of the consultation process on the new terminal at Cork Airport, which opened to all arrivals and departures on 15th August 2006, the DAA held consultation meetings with the Airport Operators Committee (AOC) at Cork Airport and with individual users at which the check-in desk allocation process and rental mechanisms were discussed.

Both airport management and the users at Cork Airport were anxious to ensure that as much flexibility as possible is built into check-in operations in the new terminal in order to avoid the bottlenecks that were experienced at the old terminal building. The new terminal building at Cork includes 30 check-in desks compared to 21 in the old terminal building. All desks are equipped with Common User Terminal Equipment (CUTE) that enables their use by any handler (existing or new).

Following a process of consultation with the AOC at Cork Airport and also with individual users, agreement was reached with the airlines and handlers on the new charging structure for check-in desks. Due to the level of further engagement required on the part of the Commission in examining the DAA submission, the applicable dates for the proposed charging structure submitted by the DAA have been amended as follows:

¹ Annual check-in desk rental approved at Cork Airport was €7,846 per annum, Hourly check-in desk rental of €20 also approved.

Annual Charge for use of "Preferred Desk"²:

Period for which charge is applicable	Annual Charge
From opening of New Terminal to 31 December, 2006 (existing charge)	€ 7,846 p.a.
From 1 January, 2007 to 31 March, 2007	€ 10,500 p.a.
From 1 April, 2007 to 31 December, 2007	€ 12,500 p.a.

Half Hourly Charge for use of "Additional Desks"³:

Period for which charge is applicable	Charge per half hour (or part thereof)
Opening of New Terminal to 31 December, 2007	€ 5.00

In its submission to the Commission, the DAA have sought permission to levy the above charging structure to 31st December 2007 with an annual adjustment for inflation to be implemented on 1st January each year thereafter, adjusting for changes in the Consumer Price Index (CPI) in the 12 months to the preceding 30th September.

By way of a separate submission, the DAA also requested the approval of the Commission to introduce a charge for CUTE on check-in desks at Cork Airport.

² The 'Preferred Desk' charge entitles the user to use the equivalent of one desk for a year for the fixed annual charge. The desk can be used by another handler when not in use by its primary user.

³ The half hourly charge will be applied to the usage of 'Additional Desks' (over the number of 'Preferred Desks' rented) for each half hour or part thereof.

CUTE is a common hardware/software platform for distributing airline applications. Airlines can access their own proprietary departure control system applications from shared desktops and terminals located at any gate or check-in desk.

CUTE is installed on the check-in desks and boarding gates at Cork Airport's new terminal. As part of the consultation process on facilities to be provided at the new terminal, the Cork airport terminal management agreed with the users to explore the possibility of installing a CUTE system as part of the design of the new facility. Cork Airport went through an open tender process for CUTE and the firm of ARINAC were selected as the preferred supplier. In subsequent discussions, agreement was reached with the AOC on a CUTE charge at €0.24 per embarking passenger. CUTE costs are not recovered within the actual charge for check-in desks. There is discretion on the part of the users to operate a manual check-in if they do not wish to use CUTE.

3. COMMISSION ANALYSIS

As required by Section 14 (3) of S.I. 505 of 1998 the Commission must, prior to approving a fee for access to airport installations, determine that a proposed fee meets the four criteria set out in the Directive. These criteria are: relevance, objectivity, transparency and non-discrimination. In CP8/2004, where the Commission granted approval for check-in desk rental charges at Cork Airport, it was stated that the Commission had examined the request in accordance with the four prescribed criteria and the basis for the Commission's decision was set out. Although the current request for approval, in respect of check-in desk rental charges, does not represent the introduction of a new fee as such but rather an increase on the original fee approved by the Commission in 2004, it is appropriate that the relevant criteria continue to be met. In the case of the charge for CUTE, this represents the introduction of a new fee at Cork and therefore the Commission must ensure that this charge meets the four criteria.

In that context, the Commission engaged at length with the DAA in relation to the information supplied with their request and sought further detailed information and clarification in relation to the composition of the charges and relevant costings. The Commission also directly consulted the AOC at Cork Airport in order to confirm that the users were satisfied that required consultation had taken place and that the charges set out in this document had been agreed by the users at Cork Airport.

In terms of the statutory criteria, the Commission's conclusions are set out below:

(i) Relevant

In accordance with the explanations set out in CP5/2004 and CP8/2004, this criterion was taken to mean that the charges in question should be directly related to the subject matter to which they are applied and exclude any extraneous items or costs which cannot be regarded as being reasonably related to the activity in question. The Commission examined the DAA application against these requirements and found that costs were related to check-in/CUTE facilities and did not include any unrelated items outside these activities. Therefore, it was found that the DAA complied with the relevance criterion.

(ii) Objective

This criterion has been set as requiring the airport applicant to set the charges in a fair minded manner with no motivation other than that of a commercial entity having statutory responsibilities to meet its financial obligations and conduct its affairs in the most cost-effective manner open to it. The requirement for both the increased charge for check-in desk rental and the charge for CUTE has been explained and supported by documentation and are set in the context of a commercial entity aiming to conduct its affairs in the most cost-effective manner open to it. In that regard, the Commission found that both the check-in desk charges and the CUTE service charge were set in an objective manner. It was noted that the check-in desk charges continue to be provided at less than full cost and that the Cork Airport Authority continue to make a significant contribution to the overall cost. In relation to CUTE, Cork Airport Authority also subsidise the cost of providing this facility. In all the circumstances, the Commission found that the charges were set in an objective manner.

(iii) Transparent

The question considered under this heading was: "is the basis on which the fee derived clear and evident to all, will it bear scrutiny in all its elements and can it be understood by the payees of the fees and any interested parties?"

The Commission raised a number of issues with the DAA when considering the request for approval and the quality of the DAA's consultation was a key point. We identified shortcomings in the early stages of consultation in terms of the level of information available to users but noted that users were agreeable to pay the charges by the end of the process. It has been pointed out to the DAA that obligations were placed on them in the original Decision of October 2004 in terms of the necessity for early and adequate consultation. In the context of this Decision, the DAA have been advised that if it is not evident in any future application that adequate prior consultation has been undertaken and that there is acceptable level of transparency on the

details of the costs prior to the submission of the application to this Office, then the application will not be processed until these matters are satisfactorily addressed.

(iv) Non-discrimination

The standard applied here was: "are the charges applied in an equitable manner to all and are identical or comparable situations treated the same?"

In the case of the charges under the current application, the check-in rates are levied in the same manner on each user of check-in facilities and only users of the CUTE facility are required to pay the per passenger fee. The Commission is therefore satisfied that current request for approval meets the non-discrimination condition.

4. COMMISSION DECISION

Following completion of its analysis in the context of the requirements of Article 14 (3) of S.I. 505 of 1998, the Commission hereby approves the request from the DAA for a revised charge for check-in desk rental charges on the following basis:

Annual Charge for use of "Preferred Desk"

Period for which charge is applicable	Annual Charge
From opening of New Terminal to 31 December, 2006 (existing charge)	€ 7,846 p.a.
From 1 January, 2007 to 31 March, 2007	€ 10,500 p.a.
From 1 April, 2007 to 31 December, 2007	€ 12,500 p.a.

Half Hourly Charge for use of "Additional Desks"

Period for which charge is applicable	Charge per half hour (or part thereof)
Opening of New Terminal to 31 December, 2007	€ 5.00

The above charges to include an annual adjustment for inflation to be implemented on 1st January each year thereafter, adjusting for changes in the Consumer Price Index (CPI) in the 12 months to the preceding 30th September.

In terms of CUTE, the following charge has also been approved:

€0.24 per embarking passenger applicable from 1st January 2007.

The DAA has been notified accordingly.

Commission for Aviation Regulation
22nd December 2006