

2nd July, 2001

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

Dear Mr. Prasifka

1. Introduction

I refer to your recently published consultation paper, CP 05/2001, on the Maximum Levels of Aviation Service Charges to be levied by the Irish Aviation Authority under the Aviation Regulation Act, 2001.

As you are aware, the Authority has responded to your requests for information, particularly your Statutory Request dated 11th May 2001.

The Authority welcomes the publication of the consultation paper which it sees as promoting worthwhile public debate on this particular aspect of aviation transport services and related charges.

The initial and fundamental point that is reflected in the consultation paper is that "Terminal Services" are not a separate section of flight that can be operationally disconnected from the Enroute phase of flight view. The Authority strongly concurs with this.

2. Provision of Air Navigation Services by the Authority

The Authority complies with the charging principles that Ireland has accepted as a member of the International Civil Aviation Organisation (ICAO). Also, as Ireland is a Member State of Eurocontrol, the Authority is obliged to account for its Enroute cost base in accordance with standards developed by Eurocontrol

and to collect its Enroute charges through its Central Route Charges Office (CRCO).

The Authority is satisfied that its Terminal Service Charges are a fair and pragmatic system under which its functions are discharged, on a cost recovery basis, for the services provided. The division of all costs, including indirect costs, between the three main elements of the air navigation services:–

- Enroute
- Terminal, and
- Shanwick

represents a fair balance for and between all the interests concerned. At all times the Authority has striven to provide safe, efficient and cost-effective air navigation services that accorded with the needs of its customers. In the latter regard, the Authority has also aimed to ensure that its services and charges facilitated the development and operation of safe cost-effective air transport services.

Over the years, in response to a wide variety of influences ranging from normal operational requirements to Government policy to facilitate access to Ireland, the Authority and its predecessors have invested adequately in personnel, equipment and procedures to ensure that airspace, control capacity, approach and landing systems continue to be at a level that enables the airports, where we provide Terminal Services, to make optimum use of their infrastructure.

3. The European Situation

As is mentioned in CP 05/2001 the European Commission has also recently published “A Study on Terminal Service Charges” which it commissioned from an international consultancy house, Price Waterhouse Coopers (PWC). This study complements three other studies carried out for the EU Commission which are designed to address, inter alia, significant economic issues involving the regulation of, access to, capacity in and operation of airspace in the European area. They are as follows:

- STUDY FOR THE EUROPEAN COMMISSION ON THE REGULATION OF AIRSPACE MANAGEMENT AND DESIGN.
- STUDY ON AIR TRAFFIC MANAGEMENT (ATM) MARKET ORGANISATION.
- STUDY ON THE ECONOMIC REGULATION OF AIR TRAFFIC MANAGEMENT SERVICES MARKET ORGANISATION.

Recent statements by the EU Commission indicate that its intention is to concentrate on the areas covered by the latter studies and to promote regulations relating to European enroute airspace. It will return to the issue of Terminal Services at a later stage. As will be understood, there will be

considerable discussion, consultation and negotiation at international level before the final format of the EU Regulations are arrived at and implemented.

The Authority attaches considerable significance to developments at a European level as these developments could fundamentally affect the future profitability of airlines and also have an impact on the Authority, as an air navigation services provider in European airspace. These developments are also important as they must also be viewed with regard to:

- the network nature of the complete European Air Traffic Management (ATM) system;
- the integration of all ATM services under the Gate-to-Gate concept;
- the need to ensure and facilitate access between Irish and European destinations;
- delays to air traffic in and out of Ireland due to congestion in UK and European airspace (Enroute and Terminal);
- the implications for the Authority arising from expected EU Regulations that will apply to air navigation services both at national levels and throughout the Community.

4. General Comments

Whilst the statutory and consultative processes will, no doubt, be largely complementary, they do raise issues of concern for the Authority which has a number of roles in addition to the provision of Terminal Services. Briefly these are:

- a) Enroute Services Provision.
- b) Safety Regulation of the air transport industries and Air Navigation (Terminal and Enroute) Service Provision.
- c) Providing expert technical advice and recommendations to the Minister for Public Enterprise in relation to national and international air navigation services matters.
- d) Participation in various roles with other international Regulatory and Service Provider organisations.

The Authority is of the view that its role nationally must be seen in the context of related developments at a European level.

As is reflected in the Commission's consultation paper, the Eurocontrol Enroute charging mechanism is the most widely used charging mechanism in the European area. To a large extent the establishment of the Eurocontrol Enroute Charging system has influenced the later introduction by various States of Terminal Service Charges.

Useful reference is made in the consultative document to the economics, frameworks of regulation of Terminal Service and how charging systems might best be regulated e.g. by reference to SRMC/LRMC methodologies. The Authority, whilst noting the issues raised by the Commission, would suggest that it might initially take a somewhat less complex and more pragmatic approach to the charging mechanisms/systems as have been and should continue to be applied in Ireland.

The Authority would be particularly concerned should the Aviation Regulation Commission adopt a model or schemes currently being proposed and debated at a European level before they have reached a stage of maturity or agreement with all the interests at the European level – the EU Commission, the States, the Air Navigation Service providers.

For example, in relation to the scope of Terminal Service Charges, reference is made in the Commission's Consultative document to the split between the Enroute and Terminal phases which is made at the 20 km. point for charging purposes. This is a purely arbitrary arrangement, arrived at historically, and does not reflect a particular point in terms either of the aircraft operation in flight or the control of the aircraft as it approaches/departs an airport. It remains, nevertheless, the ICAO accepted criterion for differentiating between Enroute and Terminal services. The proposed 80 km range for the terminal charge area would also present difficulties in that it would be out of line with what applies generally in Europe, may well be unacceptable to Eurocontrol and would extend the terminal area at Dublin well into United Kingdom airspace.

It is noted that the Consultation document adverts to similar considerations and issues that arose in the report on Terminal Service Charges completed for the European Commission by the consultants, PWC, and the recommendations which the latter made. From the Authority's viewpoint the PWC Report and recommendations are a considerable distance from decision, much less implementation.

It will be seen from the foregoing that the Authority's participation in and contribution to the consultative process is, and must be, at a broad policy level rather than in response to particular or specific details. Subject to the latter considerations, the Authority is nevertheless anxious to assist in any way it can to promote and enlighten the public debate and discussion in relation to terminal service charges.

5. Conclusions

As indicated earlier, the Authority would be concerned that some of the concepts or proposals being discussed in Europe might be prematurely incorporated in a Commission determination. The Authority would also be concerned that a determination would be made which "disconnected" the Terminal Services Charges system from that for Enroute in such a way that the customers availing of the Authority's terminal services could be forced to bear additional cost.

The Authority is of the view that its charges represent competitive value for money and that the revenue earned is appropriate to the services provided.

The Authority is satisfied that the 1993 Eurocontrol cost allocation model remains a fair and pragmatic basis for the charging system. The Authority accepts however that there are a number of different foundations or viewpoints on which the Terminal Service Costs could be allocated and the Charges could be alternatively levied. Indeed it is also accepted that an alternative basis could result in either a reduction or an increase in charges to some of the Authority's customers – though it would, of course, be consistent for all air carriers in the particular Enroute or Terminal Service category. What would be undesirable would be a situation where Irish Terminal Service Customers, to their cost, would be cast in a prototype role for development of new systems still under discussion and negotiation in Europe.

The Authority also accepts, of course, that the approach, which it adopts, may be seen differently by any or all of the stakeholders. The Authority therefore welcomes the work of the Commission for Aviation Regulation which will help to elucidate the issues involved.

Whilst welcoming the work of Commission for Aviation Regulation, the Authority also recognises that a determination in relation to Terminal Service Charges which the Commission is statutorily obliged to make, could have very significant implications for this Authority. In these circumstances, the Authority is of the view that its role nationally, must be seen in the context of related developments at a European level.

The Authority also feels it is necessary to distinguish between what it sees as the consultative and the statutory processes initiated by the Commission.

From this Authority's viewpoint the Commission for Aviation Regulation has, in effect, instituted what appears to be two parallel processes viz.

- a) the consultation exercise initiated by CP 05/2001, and

- b) the work required to make a determination in relation to Terminal Service Charges within 12 months.

The Authority considers that, overall, its main response, as the Terminal Services Provider must be to supply the Commission with the information which it requested under b) above. Thus, in so responding, this Authority believes it is fully in compliance with its primary statutory obligation to the Commission and will, assist in addressing the various questions posed throughout the consultation paper.

On a minor point, the use of the acronym "ATS" to describe aviation terminal services is somewhat unfortunate given that the same acronym has been used in an aviation context for many decades to mean "Air Traffic Services".

Yours sincerely

B.D. McDonnell
Director and Chief Executive